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SENATE—*Tuesday, June 26, 2001*

The Senate met at 9:30 a.m. and was called to order by the Honorable EVAN BAYH, a Senator from the State of Indiana.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain, Canon Pastor Lawson Anderson, of Trinity Cathedral, Little Rock, AR.

It is my privilege to notify all those present that Reverend Anderson is the uncle of our colleague, Senator BLANCHE LINCOLN of Arkansas.

PRAYER

The guest Chaplain offered the following prayer:

Gracious God, as we prepare in the week ahead to celebrate the anniversary of the founding of this Republic, we commend this Nation to Your merciful care, and we pray that being guided by Your providence, we may live securely in Your peace.

Grant to the President of the United States, to the Members of this Congress, and to all in authority wisdom and strength to know and to do Your will. Fill them with the love of truth and righteousness and make them ever mindful of their calling to serve this country in Your fear. Guide them as they shape the laws for maintaining a just and effective plan for our Government.

Give to all of us open minds and caring hearts and a firm commitment to the principles of freedom and tolerance established by our Nation's founders and defended by countless patriots throughout our history.

Help us to stamp out hatred and bigotry and to embrace the love and concern for others that You have clearly shown to be Your will for all mankind.

Bring peace in our time, O Lord, and give us the courage to help You do it.

We ask this in Your holy name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable EVAN BAYH led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, June 26, 2001.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EVAN BAYH, a Senator from the State of Indiana, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. BAYH thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

I shall take the privilege of the Chair and say that was an especially moving invocation this morning.

Mrs. LINCOLN. I thank the Chair.

I thank the Senator from Nevada and all of my colleagues for the opportunity to share with you all this morning a very special individual in my life. I have been very blessed to grow up in a very close-knit family of supportive and encouraging people. My uncle, the Reverend Lawson Anderson, is just one of those wonderful people. I grew up within walking distance of both sets of my grandparents, and on hot summer days I would walk over to his mother's home and in the cool of his house play the organ that she practiced as she was the organist for our church.

One of the most wonderful stories and I think lessons I have learned from my Uncle Lawson I would like to share with my colleagues. He did not get started in ministry. His degree is in forestry. He began as a forester. He then went into banking and figured out, in order to really make it through life, he needed the wisdom and the courage that came from the ministry, which he joined later in life. He did say, however, that one of the best lessons he learned was not necessarily from the ministry but from his time in the forest industry.

He talked about dealing with problems in life, and he said one of the best lessons he learned as a forester was when he was very young and was presented with a forest fire, a difficult problem. He was beating at that fire with a shovel, and one of the older members of the forestry team came up to him and said: What are you doing? He said: I am putting this fire out; I'm putting it out. And the wise forester, who was beyond I guess his years in wisdom, looked at Uncle Lawson and said: That is not how you conquer a problem. The way you conquer a problem and, more importantly, a forest fire is you walk around it; you approach it from the front; you evaluate the circumstances: Which way is the wind blowing? What kind of moisture is there in the area? And then you dig a hole all the way around so that you encircle your problem and you actually take care of the whole thing. You do not just beat at it, but you make sure you get in front of your problems, you assess the situation, and you face them head on.

I am honored and privileged to serve the people of our great State of Arkansas. It has been something that has certainly been incredible in my life. But when I am able to bring to the Senate and share with these individuals, these incredible individuals with whom I serve in this great body, someone who has been a major part of shaping my life and molding me into the person that I am, it is, indeed, my honor and privilege to do that and to have him with us today.

I thank the Chair.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

BIPARTISAN PATIENTS PROTECTION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1052 which the clerk will report.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

The senior assistant bill clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Pending:

Frist (for Grassley) motion to commit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions with instructions to report back not later than that date that is 14 days after the date on which this motion is adopted.

Gramm amendment No. 810, to exempt employers from certain causes of action.

Edwards (for McCain/Edwards) amendment No. 812, to express the sense of the Senate with regard to the selection of independent review organizations.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 2 hours of debate in relation to the Grassley motion to commit and the Gramm amendment No. 810, the time to be equally divided in the usual form.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, I just want to make a brief statement on behalf of Majority Leader DASCHLE. As has been indicated, the resumption of the Patients' Bill of Rights will be the order at hand today. As has been announced, there will be approximately 2 hours of closing debate in relation to the Grassley motion to commit—and I understand he wants to modify his motion.

I ask Senator GRASSLEY, it is my understanding the Senator wants to modify his motion to commit; is that right?

Mr. GRASSLEY. Yes.

Mr. REID. We would not object—and with respect to the Gramm amendment regarding employers. That debate will be ended shortly. There will be two rollcall votes at 11:30 a.m.

I met with Senator DASCHLE early this morning, and he has indicated that without any question we are going to finish the Patients' Bill of Rights before the Fourth of July break.

Now, I would say to everyone within the sound of my voice, I believe we have been on this bill a week. I think we have fairly well defined what the issues are, and I think it would be in everyone's best interests if today we would decide what those issues are and have amendments offered. If people want time agreements, fine. If they do not, debate them, complete what they want to say, and move on. Everyone has many things to do during the Fourth of July break. But this is important. This bill has been around for 5 years, and we are going to complete consideration of this legislation.

There is also a need to complete the supplemental appropriations bill. As I have indicated before, I think Senator BYRD and Senator STEVENS have done an excellent job in moving that bill along and I think we can do that very quickly. But there are going to be late nights tonight, tomorrow, and Thursday. We are going to do our best to make sure everyone is heard, but also in consideration of other people's schedules, we will do our best to complete action on this legislation as quickly as possible.

I see Senator GREGG, the ranking manager of the bill, is here. I did not see him earlier.

Mr. GREGG. Mr. President, I would like to ask unanimous consent that Senator ENZI be added as a cosponsor of the Gramm amendment which is pending.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GREGG. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I hope you will call on the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent that following the vote on the Grassley amendment, each side have a total of 3 minutes to summarize the arguments on the amendment excluding employers from liability.

Mr. REID. No objection.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Iowa.

MOTION TO COMMIT, AS MODIFIED

Mr. GRASSLEY. Mr. President, before I speak on my motion, I ask unanimous consent that the pending motion to commit be modified to reflect the referral of the bill jointly to the Committee on the Judiciary and the same 14-day timeframe that affects the Finance Committee and the HELP Committee also apply to the Judiciary Committee.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

The motion to commit, as modified, is as follows:

MOTION TO COMMIT

Mr. Grassley moves to commit the bill S. 1052, as amended, to the Committee on Finance, the Committee on Health, Education, Labor, and Pensions, and the Committee on the Judiciary with instructions to report the same back to the Senate not later than that date that is 14 (fourteen) days after the date on which this motion is adopted.

Mr. GRASSLEY. Mr. President, I thank the majority for permission to modify my motion.

Mr. President, I rise to speak in favor of my motion to commit the Kennedy-McCain bill to the Health, Education, Labor, and Pensions, Judiciary, and Finance Committees with instructions that these committees report the bill out in 14 days.

On a preliminary note, I thank the good counsel of Senators THOMPSON and HATCH. Yesterday, they reminded me that the Kennedy-McCain bill also includes a series of provisions on liability that fall under Judiciary's jurisdiction and have never been reviewed by that committee either. Thus, I have modified my motion to include the Judiciary Committee along with the HELP and Finance Committees.

I am deeply troubled that the Kennedy-McCain bill has bypassed the relevant committees and has been brought directly to the floor—without one hearing, without one markup, and without public input into this particular bill.

As I made very clear on the floor yesterday, I strongly believe that patient protections are critical to every hard-working American who relies on the managed care system. We need a strong and reliable patients' rights bill and I'm supportive of this effort 100 percent. What we do not need is a bill, like Kennedy-McCain, that exposes employers to unlimited liability, drives up the cost of health insurance, and ultimately increases the number of Americans without health coverage.

Instead, I believe we should protect patients by ensuring access to needed treatments and specialists, by making sure each patient gets a review of any claim that may be denied, and above all by ensuring that Americans' who rely on their employers for health care can still get this coverage. I'm confident these goals can be reached.

However, the very fact that our new leadership brought the Kennedy-McCain legislation directly to the floor without proper committee action, violates the core of the Senate process.

I know my colleagues on the other side will waste no time accusing me of delaying this bill, but the truth is, had the relevant committees been given the opportunity to consider the Kennedy-McCain legislation in the first place, I would not be raising these objections.

By bringing this bill directly to the floor, the message seems to me to be loud and clear: that the new chairmen under the new Democratic leadership are merely speedbumps on the road to the floor.

I guess, as a former chairman who hopes to be chairman again in the near future, I do not particularly enjoy being a speedbump. But there's something much more important at stake—process. A flawed process, more often than not, will lead to a flawed legislative product. We are seeing that point in spades on this legislation.

Does anyone really think that if we had followed regular order and gone through the committee process that the bill before us would be in worse shape? Would we still be sitting around wondering where this bill is going? Or would it be necessary to define the employer liability exception with Senator GRAMM's amendment?

I guess I have more confidence in the committees of jurisdiction than the new leadership and sponsors of this bill do. The HELP, Judiciary, and Finance Committees have the experience and expertise to deal with the important issues this bill presents. My motion simply provides these fine committees with an opportunity to do their jobs.

Now let me turn for a moment to my committee, the Finance Committee. The Kennedy-McCain legislation treads on the Finance Committee's jurisdiction in three ways that are by no means trivial—on trade, Medicare, and tax issues.

In fact, approximately one-third of the nearly $23 billion in revenue loss caused by this bill, is offset by changes in programs within the jurisdiction of the Finance Committee.

First, section 502 extends customs user fees, generating $7 billion in revenue over eight years. These fees were authorized by Congress to help finance the costs of Customs commercial operations.

Most of my colleagues know first hand the financial pressures put on the Customs Service. From Montana, to Delaware, Massachusetts, Texas, and California, there is a dire need for funds to modernize the Customs service. Yet, the Kennedy-McCain legislation diverts money intended for Customs and uses it to pay for this bill. This is not what Congress intended.

If these fees are to be extended—and I emphasize "if"—they should be done so in the context of a Customs reauthorization bill in the Finance Committee. This gives the Finance Committee the opportunity to carefully review, analyze and debate the implications of any Customs changes on the future of the Customs service and Customs modernization.

Second, section 503 of the Kennedy-McCain bill delays payments to Medicare providers, which generates $235 million to help offset the losses in the bill.

It is ironic that while many of us are spending significant amounts of our time working to improve Medicare's effectiveness and efficiency—this bill actually takes steps to exacerbate the frustrations so many providers already experience today with delayed payments in Medicare.

Any changes to Medicare need thorough evaluation and consideration in the Finance Committee—where the expertise exists to determine the implications of any changes to the program. For those who think we can just tinker with this program, they're wrong. It is much too important to our Nation's 40 million seniors and disabled that rely on it. Any change, large or small, can have a sweeping impact on seniors, providers, and taxpayers.

Finally, let me turn to the third Finance Committee policy area implicated in this legislation. I'm talking about health care-related tax incentives.

Now I know there are no tax code changes in this particular bill. However, in years past, tax incentives have been an important part of this legislation. There's good reason for this. As Senator MCCAIN recognized, tax incentives provide balance to patients' rights legislation by making health care more affordable and therefore more accessible.

I am a strong believer in health tax policy and have proposed a number of changes in the tax treatment of health care—including ways to reduce long-term care insurance and expenses, promote better use of medical savings accounts, and improve the affordability of health insurance through refundable tax credits.

But while I might agree with these policies on a substantive level, I will continue to oppose health tax amendments to the Kennedy-McCain legislation simply because the Finance Committee has never been given the opportunity to analyze, review, or discuss the implications of these provisions on the internal revenue code—a code that is the responsibility of the Finance Committee.

My motion provides the Finance Committee with its rightful opportunity to add health tax cut provisions to this legislation. There is no doubt that the Hutchinson-Bond amendment, along with a number of other good health care-related tax cuts, would be included in a package before the Finance Committee.

On that point, I want to make clear that at my urging, Chairman BAUCUS has already agreed to consider a package of health care-related tax cuts in an upcoming Finance Committee markup. So I look forward to working through these very important issues in the committee.

It is my responsibility to Iowans, my Finance Committee members, and all Senators to be vigilant on committee business. I cannot let these things just slip by. That would be easy to do, but it would also be irresponsible.

During my tenure as Finance chairman, Senator after Senator urged that the committee process be upheld regarding tax legislation. I listened and I acted.

I resisted strong pressures to bypass the Finance Committee as we considered the greatest tax relief bill in a generation. I forged a bipartisan coalition and consensus which I believe made it a better bill. Ultimately we were able to craft a bill that benefited from the support of a dozen members from the other side.

So I stand before you as someone who has seen the importance of the committee process as well the success of this process.

The new leadership and this bill's sponsors have simply tossed aside the committees of jurisdiction. As justification for these actions, the new leadership says Republicans did the same thing on their patients' rights bill in 1999, but this is simply not the case.

In 1999, the patients' rights legislation underwent a series of hearings in the HELP committee, and ultimately there were 3 days of markup—let me repeat 3 days of markup—in that committee. And only after the bill was reported out of the committee was it then brought up for consideration by the full Senate.

So let us hear no more discussion on this point. There is no justification for the conduct on this bill. It is a fact that the Kennedy-McCain bill before us today has never undergone the committee processes that the 1999 patients' rights legislation did.

What our new leadership has done is violated the rights of the members of three important Senate committees from utilizing their expertise and experience to fully evaluate the Kennedy-McCain legislation—a job these committees were designed to do.

Any members of the three committees that support this faulty process should beware. Supporting this process means that they support disenfranchising their own rights as committee members.

What my motion does is correct this faulty process, a process that has ensnared a bill that could have otherwise moved through floor debate smoothly, if the committee process had been upheld.

A vote for my motion to commit puts this bill on the right track. It lets members of the HELP, Judiciary, and Finance Committees do the jobs they were sent here to do.

These committees have good track records in this Congress. They will continue to produce legislation that is important to our Nation. Taking this bill through the relevant committees will only improve this legislation and ultimately make it better law. That's what is in the best interests of the patients were trying to protect.

I believe we are at a critical juncture in history. Through a very close election, the American people have instructed those of us who represent them in this town of Washington, DC, to get serious about legislative business.

What the Iowans have told me, and Americans have told all of us, is to work together to produce results. They want less partisanship, more action, and more thoughtful debate.

People in Iowa expect Republicans and Democrats to work together, with President Bush, to get things done. They expect us to refrain from playing partisan politics and to be serious legislators.

We have a responsibility to our constituents who have given us the opportunity to represent them. That responsibility is to legislate in a thorough, fair, and constructive fashion. That is not the way the Kennedy-McCain bill has been handled thus far.

If we are to carry out the people's business in the manner the Senate set forth—through the committee process—then we must utilize this process to produce legislation that will help improve the lives of every American.

After all, is that not what the people really want? A good law that is produced in the proper way.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield such time as the Senator from Montana desires.

Mr. BAUCUS. Mr. President, I commend my good friend from Iowa, Senator GRASSLEY, and particularly applaud his continued effort to work in cooperation and in a bipartisan and frank manner to get results. It is an approach he has taken when he was at the helm of the Finance Committee and an approach he knows works. I commend him for it.

I take this opportunity to address one of the amendments presently pending, the amendment offered by my colleague from Texas, Senator GRAMM.

While I will not vote for this amendment, I believe it is critical that we protect employers from unwarranted liability claims. But the Gramm amendment I believe goes too far. It protects employers from liability even when they are responsible for making medical decisions that result in injury or death.

Let me be clear. I do not believe employers should be held liable for medical decisions made by others, nor do I believe they should be exempt from responsibility if they are making medical decisions themselves.

This issue is very important to businesses in my State. It is very important to the people in my State. I must say it is very important to me. For that reason, I am working with my colleagues on a compromise. I have recently spoken with Senator EDWARDS. We are working together on a bipartisan compromise that will shield employers from liability when they are not involved in making decisions about medical care. It is a bipartisan compromise that will also protect patients. I believe there is a middle ground. I will be working with my colleagues to find it.

I yield the floor.

The PRESIDING OFFICER (Mr. CLELAND). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts controls 51 minutes on the motion and the amendment.

Mr. KENNEDY. Mr. President, I yield myself 15 minutes.

Mr. President, the Senate recently completed major education reform after six weeks of debate focused on accountability. We agreed that in order to persuade schools to live up to high standards, serious consequences were needed for schools that failed to improve. Republicans in particular emphasized the need for tough financial sanctions. The risk of losing funds, they argued, is an appropriate and necessary incentive to achieve high performance.

This emphasis on accountability is not new. It was also the hallmark of welfare reform, and the Senate has applied the same principle to many other programs as well. Over and over, our Republican friends have argued that increased accountability is the way to produce responsible behavior.

It is ironic that some of those who have called for accountability most vigorously in these other debates now oppose accountability for HMOs and health insurance companies when their misconduct seriously injures patients. It is irresponsible to suggest that HMOs and insurance companies should not face serious financial consequences when their misconduct causes serious injury or death. If ever there was a need for accountability, it is by those responsible for providing medical care.

The consequences can be extremely serious when an HMO or an insurer denies or indefinitely delays access to essential medical treatment. It can literally be a matter of life and death. Yet there is overwhelming evidence that access to care is being denied in many cases for financial, not medical, reasons.

And after five years of debating this issue, we've finally reached the point where very few Senators will come to the floor and openly claim that HMOs and health insurers should not be held accountable in court when they hurt people. These corporations desperately want to keep the immunity that they currently have, immunity that no other business in America enjoys. But the HMOs and insurers have behaved so irresponsibly and hurt so many people that they are finally in danger of losing it. Too many children have died, too many families have suffered, for even the HMOs' closest allies to stand here and say that they do not need to be held accountable.

So instead, the HMOs' multi-million dollar lobbyists and their allies in Congress have devised a strategy for killing this legislation without directly questioning the need to hold HMOs accountable. Indeed, some of those who repeatedly called for accountability in other areas are the very same members who are searching for ways to enable these companies to escape accountability when their misconduct seriously injures people.

The pending amendment by Senator GRAMM is a perfect example of this strategy of collateral attack—an attempt to kill this legislation by distorting what it would actually do, and by seeking to turn the focus away from HMO misconduct. Those supporting the Gramm amendment claim that all employers are endangered by this legislation. Such claims are wrong. The vast majority of employers who provide health care merely pay for the benefit. They do not make medical judgments, they do not decide individual requests for medical treatment. Thus, under our legislation, they have no liability. The only employers who would be liable are the very few who step into the shoes of the doctor or the health care provider and make final medical decisions. Our legislation only allows employers to be held liable in court when they assume the role of the HMO or the health insurance company.

By completely exempting employers from all liability no matter how closely tied the employer is to an HMO and no matter how severe the employer's misconduct, Senator GRAMM's proposal aims to break the link of accountability in this bill.

President Bush stated in the "Principles" for the Patients' Bill of Rights which he issued on February 7th: "Only employers who retain responsibility for and make final medical decisions should be subject to suit." That is consistent with what our bill does. But Senator GRAMM's amendment is directly at odds with the President's principle. The Gramm amendment would mean that "employers who retain responsibility for and make final medical decisions" could not be sued.

I'm surprised that the Senators from Texas would propose such an extreme approach—eliminating all accountability for employers no matter what they do. Under their proposal, employers are never held accountable, period, even if an employer causes the death of a worker's child by interfering in medical decisions that should have been made by doctors.

The Gramm amendment is a poison pill designed to kill this legislation. Not only does it absolve employers of liability regardless of how egregious their conduct, it also creates a loophole so enormous that every health plan in America would look for a way to reorganize in order to qualify for the absolute immunity provided by the Gramm amendment. Senator GRAMM creates a safe harbor so broad that it will attract every boat in the fleet.

We all know what would happen if this amendment became law. HMO lawyers would craft contracts that enable them to be treated as employees of the companies they serve, so HMOs could take advantage of Senator GRAMM's absolute immunity. Other employers would turn to self insurance as an obvious way to avoid accountability for the actions of their health plans.

Health insurance companies would rework their contracts to give employers the final say on benefit determinations in order to take advantage of this shield from accountability.

Today fewer than 5 percent of employers assume direct responsibility for medical decisions on behalf of their employees. But if the Gramm amendment became law, the share of employers taking on these decisions would grow enormously. By providing absolute immunity from accountability, the Gramm amendment creates a strong incentive for employers to intervene in medical decisions, despite the fact that most employers are not qualified to do so.

Employers and HMOs are free to negotiate any relationship they want, and that relationship can be detailed in writing, or it can be detailed in informal "understandings" that workers never get to see. What the Gramm amendment does is leave families completely vulnerable to the most unscrupulous HMOs and employers.

For example, an employer could demand that an HMO call it for approval before allowing any treatment that would cost over a certain amount, compromising the patient's privacy and enabling the employer to make medical decisions based on cost alone. The Gramm amendment would completely shield an employer who causes grave injury or death in this way, and the HMO might also escape liability because it could show that the employer alone made the final decision.

Subtler employers could instruct their HMOs to delay or complicate the treatment approval process for certain kinds of medical care or for certain employees. The Gramm amendment would allow an employer to require its HMO to send it all requests for mammograms, and the employer would not be accountable if it chose to delay or deny a request for a mammogram that would have timely detected breast cancer. The same employer practice can interfere with many diagnostic and treatment decisions.

As Judy Lerner discovered, there is no end to the irresponsible behavior of some unscrupulous employers. Ms. Lerner worked in Boston for over two decades as a consultant in a human resources firm that self insured, and she relied on the health benefits that the company provided. But when she broke her leg in several places and endured emergency surgery, the company simply stopped helping with her medical bills, agreeing only to pay for crutches. Despite her doctors' vigorous arguments for continued home medical care, the company abandoned her. The Gramm amendment would leave all employees like Ms. Lerner vulnerable after they have been told that their medical bills would be covered at the time they accepted employment and begin working hard. The Gramm amendment allows employers to deny necessary medical treatment any time it suddenly becomes too costly or inconvenient, regardless of how much the employee has relied on that coverage.

Most employers, of course, would not find it morally acceptable to intervene in medical decisions against their employees. But if I were a small business owner, I wouldn't want to compete in the environment created by the Gramm amendment because it gives the worst employers an economic incentive to cut corners on employee health care and frees them from all accountability when they do so. It would create an uneven playing field, allowing unscrupulous employers to gain a business advantage over their honorable competitors.

As the President says, "employers who retain responsibility for and make final medical decisions should be subject to suit." That is what President Bush wants, and that is what we want to accomplish. I am confident that the McCain-Edwards language accomplishes this, but I remain open to other ideas for writing President Bush's principle into law.

Under our language, employers have no liability as long as they do not make decisions about whether a specific beneficiary receives necessary medical care. The only employers who can be brought into court are the very few who step into the shoes of the doctor or the health care provider and make final medical decisions.

Our bill does not authorize suit against an employer or other plan sponsor unless "there was direct participation by the employer or other plan sponsor." "Direct participation" is defined as the "actual making of such decision or the actual exercise of control" over the individual patient's claim for necessary medical treatment.

Our bill directly protects employers from liability by stating: "Participation . . . in the selection of the group health plan or health insurance coverage involved or the third party administration" will not give rise to liability; "Engagement . . . in any cost-benefit analyses undertaken in connection with the selection of, or continued maintenance of, the plan or coverage" will not give rise to liability; "Participation . . . in the design of any benefit under the plan, including the amount of co-payment and limits connected with such benefit" will not give rise to liability. Our language is clear. As long as the employer does not become involved in individual cases it is immunized from suit.

Employers are very well protected by our legislation as it is written. We are pleased to consider other strategies for accomplishing President Bush's principle on this issue, but the loophole that the Texas Senators propose fundamentally contradicts the President's principle and ours.

Senator SNOWE and others are working on language to codify that principle, and I am looking forward to seeing their ideas.

The Gramm amendment is exactly the wrong medicine for America. It deserves to be soundly defeated for the sake of a level playing field for all employers, and for the good health of employees and their families.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUNNING. Mr. President, I will take the time Senator GRAMM has and yield myself as much time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUNNING. Mr. President, I rise in strong support of the Gramm amendment and ask unanimous consent to be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUNNING. Today in the United States we do not mandate that any employer or business provide health insurance. We do not force them to buy it for themselves or their employees. We let the employer make this decision.

And employers all across the United States do provide health care insurance that covers over 160 million people. These employers do not have to provide that health care. They do this voluntarily for a number of reasons. Some actually do it because they care about their employees, but most do it because it is good business—it helps attract employees to come to work for them. But regardless of why these employers offer health benefits, the important factor is that they do this voluntarily.

There is no employer mandate in America. We had that debate in 1994 during the argument about the Clinton health bill, and it was clear that everyone—the American people and American business—wanted to keep our voluntary system. But if the bill before us today becomes law, that could all change.

In spite of what the Senator from Massachusetts said, businesses—big and small—all over America would stop offering health insurance benefits to their employees. And the reason they would stop can be summed up in one word—lawsuits.

The simple fact is that the Kennedy-McCain bill would expose employers who provide health care insurance coverage to their employees to lawsuits. I have heard some supporters of this bill claim that employers are protected from lawsuits in this bill. We just heard the good Senator from Massachusetts say that. They say that this bill protects our current system. They point out that on page 144 of the Kennedy-McCain bill that there is a section in bold headline that reads: "Exclusion of Employers and Other Plan Sponsors." But what they don't tell you is that on the very next page the bill reads, as clear as day: ". . . A Cause of Action May Rise Against an Employer . . . ." After that there are four pages explaining when an employer can be sued.

That means that while this bill does exclude suits against doctors and hospitals and other providers, it does not exempt suits against employers who purchase health insurance. In fact, the bill exposes employers who provide health care insurance to both State and Federal lawsuits. It exposes them to unlimited economic damages, unlimited noneconomic damages, unlimited punitive damages in State court, and $5 million in damages in Federal court.

Ladies and gentlemen, that is an awful lot of lawsuits.

I believe that this exposure to liability in the Kennedy-McCain bill will scare employers away from providing health insurance. Instead of providing coverage, one of two things is going to happen if this bill becomes law. Employers are either going to drop their coverage altogether or they will give their employees cash or some sort of voucher and wish them well in searching for the best deal for themselves and their families they can find in health care. This would turn our entire health system on its head and would lead to serious problems.

I don't believe anybody in this Chamber really wants that. Instead, I urge support for the Gramm amendment. This amendment would apply language from the current Texas State law to specifically protect employers that provide health benefits from facing lawsuits for doing so. It is clear cut. It is a simple solution, but it is very clear in its intent.

For weeks some of my colleagues have been eager to point out that Texas has a Patients' Bill of Rights, and some of them even talk about this is a model for the Federal legislation. Now we have the opportunity to do just this and to ensure that employers cannot be sued for doing the right thing—for helping their employees. It is simple.

We know the bill before us as written will not become law, and the expanded employer liability is one of the very tough sticking points. Now we have a chance to fix it, to improve the bill, and to make it signable.

I want to vote for a Patients' Bill of Rights, a bill of rights that is going to become law. A vote today for the Gramm amendment is a critical step in that direction. A vote against the amendment means that we will probably just talk about these problems without doing anything to change them. I urge my colleagues to vote to protect employers and employees alike and support the Gramm amendment.

We do not want single-payer health insurance in the United States. It was proposed in 1994 and soundly defeated. Even though the opponents of the Gramm amendment would like to think that this is the reason they are opposing it, that it prevents liability, the basic fact is that they may want no health care benefit at all and then force the United States to have a single-payer plan at the end. We will do anything in our power to defeat that.

I urge a vote on the Gramm amendment and yield back my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I would like to speak on the Gramm amendment. I see that neither Senators GRAMM nor GRASSLEY are present. I understand there is time remaining for Senators GRASSLEY and GRAMM. I suppose the appropriate thing to do would be to ask for 10 minutes of the time on the Gramm amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. Mr. President, we are proceeding to clear the air on this issue, and that is important. It is a very important issue. One of the things Senator GRASSLEY pointed out was that this did not go through the regular committee process. It is a very complicated bill, and we are just now seeing the complications of it; one of those being the extent to which employers are liable, employers can be sued.

Unfortunately, we didn't have a chance to work all that out in committee. So now we are here in this Chamber arguing about the exposure of employers.

We are making progress because, when we first started this debate, the supporters of the McCain-Kennedy-Edwards bill basically said: We were not attempting to go after employers. That is not what this is about. Then in the fine print, yes, well, under certain limited circumstances.

I think we know now that there is, indeed, extreme exposure as far as employers are concerned and that it constitutes a significant part of the effect of this bill. We are making progress. Now we can talk about the extent to which employers should or should not have exposure and liability.

We have heard statements today that there are a lot of employers out there that will do the wrong thing; that even though they are not required to have health insurance for their employees, apparently there are employers out there that will set up health care plans and then do everything they can to disadvantage their own employees, and that that consideration is driving this provision of the bill. So we are, indeed, refining the issue; the lines are being drawn.

The response to the issue of suing employers has always been: Don't worry about that. The main thing is we are going after the big bad HMOs. You don't have to worry about anything else. When times get really tough, we bring out another picture of some poor individual who is used to demonstrate the evilness of managed care.

Our hearts go out to these people. These are people in need. But the average observer in America must be watching this and asking themselves: Why doesn't the Government just require these people to be covered for anything all the time in unlimited amounts? Why doesn't the Federal Government just take care of it? Or if the Government doesn't want to do it, why don't we make some insurance company pay somebody for any claim they make, if it is a real need, at any time for any amount? In fact, why didn't we pass the Clinton health care bill a few years ago? The average person must be asking: If that is the only issue, taking care of sick folks, then why don't we nationalize this health care system of ours? That is the logical conclusion of all that we have been hearing.

The answer, of course, is that in public policy matters, there are tradeoffs to be considered. There is never just one side of the coin.

We know, for example, that we set up managed care in this country because health care prices were rising up to the point of almost 20 percent a year. We knew that couldn't be sustained so we put in a managed care system. Some HMOs abused that and did some bad things. States passed laws. Thirty some States passed laws addressing some of these problems. The State of Tennessee has broader coverage than the bill we are considering today. It is not as though the States have been standing still. They are covered. Health care costs are going back up.

So here we come and we are going to lay on another plan that, if passed in the current form, without question, will drive up health care costs again.

My heart goes out to these poor people who are being used in this debate to demonstrate the necessity for the passage of this legislation. But I want to refer to a group of individuals myself. In fact, I want to refer to 1.2 million individuals. I don't have the space or the time or the resources to bring in pictures of the 1.2 million people who, the most conservative estimates say, will be thrown off of insurance altogether if this bill passes.

The Congressional Budget Office says that at a minimum—and there are other estimates, but that is the lowest one I have seen—1.2 million people will lose insurance altogether. Who is going to bring their pictures in here to demonstrate to the American people that they are disadvantaged by the bill we might pass that will drive health care costs up so great that these small employers that some would like to demonize or large ones, for that matter, that some would like to demonize don't have to provide health care at all?

What is going to keep them from just saying, as has been pointed out this morning, that the costs are too great, the liability is too great? We want to do the best we can. We are not perfect. We might make mistakes. But instead of setting up a system to rectify those mistakes, we will be opened up to unlimited lawsuits at any time, anywhere in the country, in any amount. Why should we have that aggravation? Why not just give the employees X number of dollars and say, you take care of it—and they may or may not take care of it with that money—or if you are a small employer, to drop insurance coverage altogether. Who is going to speak for that 1.2 million people who they say will wind up without any insurance at all?

There won't be any arguments with any HMOs because there won't be any insurance at all.

So the lines have been drawn in this debate. We have people over here needing help, needing assistance. We have set up a review process to get independent people to look to determine whether or not these employers are taking advantage of people. So far so good.

Then the proponents of this bill want to lay in a system of lawsuits on top of that. We draw the line in there and say that, yes, let's have an administrative process to see whether or not employers are taking advantage of folks. Let's have an independent doctor look at it. After that, let's not lay on unlimited lawsuits against employers who do not provide the health care and expose them to liability, when we say that what we are going after is the big bad HMOs. Why expose these people who are providing health insurance? They are not providing health care, so why expose them to liability?

The question remains, Do we want to sue employers? Do we want to have the right to sue employers or not? The proponents of this bill say yes, but only with regard to when they directly participate in decisionmaking. This gets a little technical, but it is very important. There is a certain resonance of the proposition that if somebody does something wrong, they ought to be held accountable. I have tried a few cases myself, and I believe in that principle. I think that is right. But the problem in the context of this health care debate, which we nationalize to a certain extent with ERISA for a portion of the population, and now we are going to nationalize the rest of it with this bill, the problem is we are setting it up so that, by definition, a large group of employers are going to be considered to be directly participating because they are self-insured and they have employees who are on the front end of these claims processes. They tell me that these self-insured plans are some of the best plans that we have. They don't go out and hire an HMO. They try to do it themselves, in-house, with their own people, looking out for their own employees, who they don't have to insure if they don't want to, but they do. I am told that they provide more benefits than the other plans. They are some of our better plans. But by cutting out the middleman, so to speak, and doing it themselves, they are going to be subject to liability under this bill.

The second point of exposure has to do simply with the fact that employers have settlement value. What lawyer worth his salt, if he is going to sue anybody along the line here in this process, would not include an employer as a part of this lawsuit? An employer has a chance of deciding whether or not to go to court and stand on principle because he is not liable and spend several thousand dollars defending himself or settle up front and pay the other side in order to get out of the lawsuit.

The other side says they don't want to sue employers unless they have control. I mentioned direct participation. The other key words are "or control"—to exercise control of the health care plan. The only problem with that is under ERISA law, by definition, employers are supposed to have control over these plans. So if you just look at the definitional sections of the applicable law, on day 1 you have a large number of employers that are subject to this lawsuit. So let's not kid ourselves about that.

The first part of this debate was that most employers are not covered. Most employers are not covered. Now, we know that is not true. The issue now is whether or not they should be. You say, well, what if they do something wrong? That is a good point. Why should they be any different? Why should they have immunity? We could ask the same thing about treating doctors and about treating hospitals and about any number of entities around America, including U.S. Senators. Why do we have protection for anything we say in this Chamber under the speech and debate clause? Is it because we are better than anybody else or because we don't ever go over the line and do something wrong or maybe even outrageous? No. It is because of the tradeoffs of public policy because there are other considerations, just as there are other considerations when we lash out and follow our natural instinct to sue an employer.

You are going to drive costs up; you are going to drive people out of the system; and you are going to cause more uninsured. Besides, there is accountability. There is a sense of the Senate pending today that talks about the importance of the independent evaluation that this bill creates. The employer doesn't get to make a decision to cut somebody off under this bill, and that is the end of it. It goes through an independent evaluation process. It goes through an external review process. Then, if it is a medical decision, it goes to an independent medical reviewer.

This bill spends pages on pages in setting up these individual entities, protecting them, qualifying them, having the Federal Government look over their shoulders. They are the final word. If the employer is wrong, they are the final word, and they don't have anything to do with the employer. There might be some hypothetical cases where some evil employer might sneak through the cracks somewhere. All I am saying is it is our obligation to consider both sides of this coin. If in trying to do that, if in trying to reach that hypothetical extreme case we drive up health care costs and we drive small employers out of the health care business and we do wind up with over a million more people uninsured, we are making a bad bargain.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator controls 37½ minutes.

Mr. KENNEDY. I will yield myself 2 minutes. I want to remind my good friend from Tennessee when he talks about the issues of cost, that we have heard this issue raised before by the Chamber of Commerce regarding family and medical leave. They estimated that its cost would be $27 billion a year. It has been a fraction of that. I don't hear Members wanting to repeal it. We heard about the issue of cost when we passed Kassebaum-Kennedy, which permits insurance portability, and is used particularly by the disabled. We heard that Kassebaum-Kennedy was estimated to cost tens of billions of dollars. That cost has not developed. Nobody is trying to repeal it.

We heard about costs when we passed an increase in the minimum wage. We heard that it would lead to inflation and lost wages. We have responded to that. The cost issue has always been brought up.

I will remind the Senator that we have put in the RECORD the pay for William McGuire and United Health Group, the largest HMO in the country. The total compensation is $54 million and $357 million in stock options for a total compensation of $411 million per year. That is $4.25 per premium holder. The best estimate of ours is $1.19, and you get the protections. We can go down the list of the top HMOs they are making well over $10 million a year and are averaging $64 million in stock options. We could encourage some of those who want to do something in terms of the cost, to work on this issue, Mr. President.

In the 1970s, we welcomed, as the principal author of the HMO legislation, the opportunity to try to change the financial incentives for decapitation, to keep people healthy. There would be greater profits for HMOs. It is a good concept. To treat people and families holistically is a valid concept and works in the best HMOs.

What happened is that HMOs, and in many instances, employers, started to make decisions that failed to live up to the commitment they made to the patient when the patient signed on and started paying the premiums. That is what this is about. The patient signs on and says: I am going to have coverage if I am in a serious accident. Then we have the illustration of the person who broke their leg and the employer said: Absolutely not. We are cutting off all assistance. That person was left out in the cold.

There is no reason to do that. The only people who have to fear these provisions are those employers that make adverse decisions with regard to an employee's health. It seems to me they should not be held free from accountability any more than anyone else should be.

How much time remains? I yield 12 minutes to the Senator from North Carolina and that will leave me how much?

The PRESIDING OFFICER. Twenty-two minutes.

Mr. KENNEDY. I yield the Senator from North Carolina 15 minutes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to speak after the Senator from North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EDWARDS. Mr. President, I want to speak to some of the concerns and comments that have been made by my friend and colleague from Tennessee with whom I have been working over the course of the last few days on this issue. There are a couple of issues he raised that deserve a response.

First is the general notion that an appeals process, before going to court, is adequate in and of itself. There are two fundamental problems with that logic. Remember, the way the system works under both pieces of legislation is if an HMO denies care to a patient, they can go through an internal appeal. If that is unsuccessful, they can go to an external appeal. If that does not resolve the issue and they are hurt, they can then go to court.

There are two reasons the appeal by itself does not resolve the issue.

An HMO says to a family: We are not going to allow your child to have this treatment. The child then suffers an injury as a result, and a week later, or however long it takes to complete the appeals process, the HMO's decision is reversed by an appeals board.

An independent review board says: Wait a minute, HMO, you were wrong to start with. Unfortunately, the only thing that independent review board can do is give that child the test they should have had to start with, but the child has already suffered a serious permanent injury as a result. The treatment no longer helps.

The problem is if the HMO decides on the front end they are not going to pay for some care that should be paid for, and the child is hurt as a result, and then 1 week or 2 weeks later the appeals board reverses that decision and says, yes, they are going to order the treatment, this child has nowhere to go and their family has nowhere to go.

That is the point at which—and I think the Senator and I may agree on this—we believe the HMO should be held accountable. The independent review board cannot fix the problem where the child has been injured for life. The HMO that made the decision, just as every entity in this country, should be held responsible and accountable for what they did. That is what we believe. We believe in personal responsibility.

The second reason the appeals process by itself does not solve the problem: If there is nothing beyond the appeal, it creates an incentive for the HMO, which is what I am talking about, to have a policy of when in doubt, deny the claim because the worst that is ever going to happen is they are going to finish this appeals process and some appeals board is going to order them to pay what they should have paid to start with. If they take 1,000 patients for a particular kind of treatment and deny care to those 1,000 patients, the majority of them are never going to go through an appeal, so they save money. Then they go through the appeal and the worst that can ever happen to them is with 30 or 40 of them, an appeals board orders them to go back and pay what they should have paid.

The problem is fundamental. The appeals process alone does not create an incentive for the HMO to do the right thing.

On the other hand, if the HMO knows if they make an arbitrary wrongful decision and somebody is hurt as a result, injured as a result—if that child suffers a permanent injury as a result—they can be held responsible for that as everybody else who is held responsible, then it creates an enormous incentive for the HMO to do the right thing.

That is what this legislation is about. Senator McCAIN, Senator KENNEDY, and I structured this legislation to avoid cases having to go to court, to create incentives for the HMO to do the right thing, something they are not doing in many cases around the country now.

The problem is, without both the appeals and the possibility of being held responsible down the road, we do not create the incentive for the HMO to do the right thing. We know that today around the country many families are being denied care they ought to be provided by an HMO.

There are fundamental reasons the system is set up the way it is. It is all designed not to get people to court and not even to get people into an appeals process but to get the patient the correct care, to get them the care for which they have been paying premiums.

Mr. THOMPSON. Will the Senator yield for a question?

Mr. EDWARDS. Yes.

Mr. THOMPSON. I thank the Senator for addressing the issues I raised, and I ask this as a legitimate point of inquiry and not just a debating point.

Mr. President, it occurs to me with regard to the Senator's first point, and that is coverage might be denied initially but later overruled, and in the interim—I think he used the example of a small child again—a child might be suffering damage, does not ERISA currently provide injunctive relief? It allows a person under those circumstances to go into Federal court for mandatory injunctive relief, and would that not address the concern the Senator has?

Mr. EDWARDS. I thank the Senator for his question. It is a perfectly fair question. The problem, of course, is that many times it could be a situation where it would take entirely too long to go to court and get injunctive relief. When there is a situation where they have to make a decision about a family member, whether it be a child or an adult, and the HMO says they are not paying for the care, and they are in the hospital, the last thing they are going to be talking about is: I need to hire a lawyer, go to court, and get injunctive relief. What they need is care at that moment, and in many cases, as the Senator knows from his personal experience before coming to the Senate, during the interim, during that short period of time, that window of opportunity to provide the care to that patient who may be hospitalized or may not be hospitalized is the critical time.

Mr. THOMPSON. If the Senator will——

Mr. EDWARDS. Excuse me. It is impossible during that period of time to get injunctive relief against an HMO, and I might add, the last thing in the world a family is thinking about when they have a member of their family who is in trouble and needs health care is going to court to get an injunction. Now I yield.

Mr. THOMPSON. I thank the Senator. I could not agree more with that last point. However, my experience has been that injunctive relief is designed by nature for very rapid consideration. You can get very rapid consideration, but you do have to go to court to get it.

My question is, If we are not going to avail ourselves or require claimants to avail themselves of the processes if they believe they have been wronged, does that not necessarily lead to the conclusion that we must grant all claims?

How does a person considering a claim know which one—let's assume they are dealing in good faith. In every case where there is an injury or potential injury going to occur, is the logical conclusion that we should see to it that all claims are granted regardless of whether or not the person considering the claim thinks it is clearly not covered under the agreement?

If we do not go through the processes that are in law for people to avail themselves and to show to an independent arbiter or judge that their claim is meritorious, if we say we do not have time for that, then doesn't that mean we have to grant all of them?

Mr. EDWARDS. Reclaiming my time, my response to the Senator's question is simple and common sense. For a family in a bad situation needing medical care immediately, the last thing in the world they are thinking of is hiring a lawyer, going to court and trying to get an injunction. The Senator well knows that process by itself can take enough time for something serious to happen in the interim.

As to the second issue the Senator raises, all we are saying in our legislation, in the structure of our system—internal appeal/external appeal—if that is unsuccessful and there has been a serious injury, they can be treated and taken to court the same as everyone else. We expect the HMO, which, by the way, is in the business of making these health care decisions, although of course not to cover absolutely everything, to make reasonable, thoughtful judgments about what is covered and what should not be covered.

Now back to the issue of employer liability. First of all, the answer to the Gramm amendment is that it is inconsistent with what the Republican President of the United States has said regarding our bill and the President's principle: "Only employers who retain responsibility for and make final medical decisions should be subject to suit." This is the President's written principle. That is the way our bill is designed, that only employers engaged in the business of making individual medical decisions can have any liability or any responsibility.

With that said, we are working, as I speak, with colleagues, Republicans and Democrats across the aisle, to fashion language that accomplishes the goal of protecting employers while at the same time keeping in mind the interests of the patient.

There are other legitimate issues raised. For example, one argument that has been made is that employers may be subjected to lawsuits they do not belong in, and there is a cost associated with being in those cases for too long. We are working as we speak to create better language, better protection for employers so there is no question that employers, No. 1, can be protected from liability, and No. 2, if they are named in a lawsuit improperly, they don't belong in the lawsuit and shouldn't be named, they have a procedural mechanism for getting out quickly.

The truth is, the Gramm amendment is way outside the mainstream. All the work that has been done on this issue, including the work we are doing with our colleagues, both Republicans and Democrats, is a way to fashion a reasonable, middle of the road approach that provides real and meaningful protection to employers without completely eliminating the rights of patients. That is what we have been working on. We are working on it now and are optimistic we can resolve that issue.

Mr. KENNEDY. Will the Senator yield?

Mr. EDWARDS. Yes.

Mr. KENNEDY. I yield another 2 minutes. Does not the Senator agree that the majority of employers now are doing a good job and are not interfering with these medical decisions?

Mr. EDWARDS. Absolutely.

Mr. KENNEDY. At the present time, a small number of employers are interfering with medical decisions. If the Gramm amendment is accepted, this will put the good employers at a serious disadvantage in competition with others, does he not agree? Would not the others be able to formulate a structure so they could effectively cut back on excessive costs for the health care system for their employees, while the good ones who are playing by the rules would be put at a rather important competitive disadvantage? Does the Senator not agree that for the employers working within the system and playing by the rules, this is an invitation to change their whole structure and to be tempted to shortchange the coverage and protection for their employees?

Mr. EDWARDS. In response to the question, the answer is, of course we believe employers, the vast majority of employers, care about their employees and want to do the right thing. Our legislation is specifically designed to protect those employers, just as the President of the United States has suggested needs to be done.

What we have done in this legislation, what the President has suggested, and in the work that continues as we speak on additional compromise language, all is aimed at the same principle and the same goal.

This .amendment is outside that mainstream—different from our legislation, different from the principle established by the President of the United States, and different from the compromise that is being worked on at this moment.

I remain optimistic we will be able to reach a compromise that provides real and meaningful protection to the employers of this country we want to protect. We have said that from the outset. We stand by it. We want to protect them.

If I may say a couple of things about the issue of costs which was raised a few moments ago, the CBO has not said anybody will become uninsured as a result of this legislation. What the CBO has said is there will be a 4.2-percent increase in premiums over 5 years because of our legislation and a 2.9-percent increase if the competing legislation passes, roughly 4 percent versus roughly 3 percent. The difference between these two pieces of legislation on cost is a very minuscule part related to litigation. I think the difference is less than half of 1 percent related to litigation. Rather, the differences are related to quality of care. If people get better access to clinical trials, better access to specialists, better emergency room care, a more enforceable and meaningful independent review process, if those things occur, there is a marginal cost associated with it.

We have real models. We don't have to guess about what will happen. Those models are Texas, California, and Georgia. In those States, the number of uninsured, while the patient protection laws have been in place, has gone down, not up. We have some real, although short term, empirical evidence about what happens when this patient protection is enacted.

We have to be careful. A lot of arguments being made are the same arguments that have been made by HMOs for years to avoid any kind of reform, to avoid any kind of patient protection. We are working in this legislation to give real protection to somewhere between 170 and 180 million Americans who are having problems with their HMO. We want to put the law on the side of patients and doctors instead of having health care decisions made by insurance company bureaucrats.

The PRESIDING OFFICER. The time yielded has expired.

Mr. EDWARDS. I ask to be yielded another 5 minutes.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts controls 17 minutes.

Mr. KENNEDY. I yield 5 minutes to the Senator from North Carolina and the Senator from Arizona the remaining time.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, in summary, let me speak to the two amendments we will next be addressing. First, the Gramm amendment is outside the mainstream, outside what the President of the United States has suggested, outside of what we have in our legislation, and outside of what we are working on with Senators from across the aisle.

Second, as to the Grassley motion to commit, the problem is it sends it back to a number of committees and slows down the process. We need to do something about this issue and quit talking about it. The American people expect us to do something about it. Thousands of Americans each day are losing access to the care they have, in fact, paid for while this process goes on. We need to get this legislation passed and do what we have a responsibility to do for the American people. This is an issue on which the Senate, the House, and the American people have reached a consensus. It is time to act. As to these two vehicles, I urge my colleagues to reject them.

Finally, I will talk about the story of a young woman in North Carolina. Her name is Shoirdae Henderson, from Apex, NC. At the age of 12 she was diagnosed with a rare hip condition. It made it difficult for her to walk. The Henderson family's HMO sent Shoirdae to a hospital to see specialists about her problem. The specialist in this HMO-approved hospital said she needed surgery to keep her hip from fusing and having to walk with a limp. Even though the family had taken Shoirdae to the HMO specialist, the HMO refused to listen to her doctors. They came in with excuse after excuse to keep her from getting surgery. Every one of the HMO excuses proved over time to be groundless. It looked as if she would finally get the operation her doctors had recommended to begin with. Just 2 days before she was supposed to have surgery, the HMO told her family they wouldn't pay for it. They wanted her to try physical therapy instead. Shoirdae's father spent hours dealing with the HMO, as so many families have, trying to get his daughter the care the doctors said she needed. He made call after call and faxed them. He requested an appeal. He never got an answer. The hospital finally had to cancel her surgery as a result.

After several sessions of physical therapy, another HMO doctor took one look at Shoirdae's x rays and sent her back to the hospital. She still needed the surgery. The therapy had not worked. In fact, Shoirdae's hip had gotten worse—so much worse during all of this time that now the doctors told her the surgery wouldn't work. If she had gotten the operation her doctors said she needed when they recommended it, her hip would not have fused. She might today be able to walk, run, and play without a limp. Instead, she walks with a severe limp today and she has to wear special shoes because the HMO refused to pay for what was obviously needed—the surgery. The HMO refused to do what the doctors recommended. In fact, they overruled what the doctors recommended.

Her father wrote to me and said: This has been the most horrible experience of my life. Imagine what it has done to my daughter.

This is what this debate is about. This debate is about the 170 million to 180 million Americans who have health insurance—HMO coverage—but have no control over their health care.

The HMOs have had the law on their side for too long. It is time for us to finally do something to put the law on the side of patients and doctors so that the Shoirdaes all over this country, when their doctor recommends that they have surgery, can have the surgery they need; when the doctor recommends a test, they can have the test they need.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). Under the previous order, the Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, how much time is remaining on the side of Senator GRASSLEY and on the Gramm-Hutchison amendment?

The PRESIDING OFFICER. The Senator from Texas has 9 minutes. Senator GRAMM has 7½.

Mrs. HUTCHISON. Thank you, Madam President.

I ask unanimous consent that I have 6 minutes allocated—4 minutes from Senator GRASSLEY's time and 2 minutes from Senator GRAMM's time. It is my intention to yield 4 minutes to Senator NICKLES of my 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Will the Chair notify me at the end of 2 minutes?

Madam President, I want to speak on behalf of the Grassley motion which would send this bill to committee so that it could be marked up and fully debated because while we have had great debate, bypassing the committee process I think has caused us to have to write the bill in this Chamber. I don't think that is a good way to pass legislation.

I think we all want to have a Patients' Bill of Rights that is well vented and well debated and that we know will have the intended consequences because the last thing we want to do is have unintended consequences when we are talking about the health care of most Americans.

I hope we can commit the bill to bring it back in a better form.

Second, I hope people will support the Gramm-Hutchison amendment because this is the Texas law. Senator HARKIN, on a news program this weekend, said: I would love to have just the Texas law for the entire Nation. The Gramm-Hutchison amendment is the Texas law verbatim when it applies to suing a person's employer because what we don't want to do is put the employer in the position of standing for the insurance company. The employer wants to be able to offer insurance coverage to their employees. But if they are going to be liable for a decision made by the insurance company and the doctors, then they are put in a position that is untenable. What we want is health care coverage where the decisions are made by the doctors and the patients.

The Senator from North Carolina had a picture of a lovely young woman. He said: This is what the debate is about. It is what the debate is about.

The Breaux-Frist plan would definitely address her concerns because it would give her the care she needs rather than going directly for a lawsuit and possibly delaying the health care she needs—and for other patients.

Madam President, I ask my colleagues to support the Gramm-Hutchison amendment and support the Grassley motion. Let's get a good bill that will have the effect of increasing coverage in our country and not decreasing it.

Thank you, Madam President. I yield 4 minutes to Senator NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Madam President, I thank my friend and colleague from Texas, Senator HUTCHISON, for her comments. I also wish to thank the Senator from Texas, Mr. GRAMM, for his leadership on the amendment, as well as Senator THOMPSON.

I hope employers around the country have been watching this debate. I have heard some of the proponents of the underlying McCain-Kennedy-Edwards measure say: It is not our intention to sue employers. We don't want to do that. No. We will try to fix it. I have even heard on national shows that: We don't go after employers under our bill. On the "Today Show," a nationally televised show, Senator EDWARDS on June 19 said: Employers cannot be sued under our bill. That was made on June 19. Senator HARKIN yesterday said: I would love to have the Texas law for the entire Nation.

The Texas law that Senators GRAMM and HUTCHISON have quoted says: This chapter does not create any liability on the part of an employer or an employer group purchasing organization. There is no liability under Texas law. Senator EDWARDS said: We don't sue employers. But if you read the bill, employers beware; you are going to be sued.

The only way to make sure employers aren't sued is to pass the Gramm amendment. To say we are not going to sue employers, but, wait a minute, if they had direct participation, and you take several pages to define direct participation, what you really find is that if any employer meets their fiduciary responsibilities, they will have direct participation. In other words, employers can be sued for unlimited amounts, with no limit on economic damages and no limit on noneconomic damages. That means no limit on pain and suffering. That is where you get the large jury awards. You can be sued for that amount in Federal court. You can be sued for that amount in State court with no limits—with unlimited economic and noneconomic damages.

Employers beware. If you want to protect employers, vote for the Gramm amendment.

You always hear people say: Oh, we want to go after the HMOs; they are exempt from liability, and so on. But it is not our intention to go after employers.

Employers are mentioned in this bill, and they are liable under this bill.

There was action taken in the bill to protect physicians. There is a section exempting physicians. There is a section exempting hospitals and medical providers. We are exempting them but not employers.

Senator HARKIN said, We want to copy the Texas law nationwide. Texas exempted employers. We can do that today. You can avoid going back to your State and having your employer saying, Why did you pass a bill that makes me liable for unlimited damages? You can vote for this amendment and protect employers. You can vote for this amendment and not only protect employers but employees because when employers find out they are liable for unlimited pain and suffering and economic and noneconomic damages, the net result is, unfortunately, a lot of employees—not employers—will lose their coverage.

I urge our colleagues to support the Gramm amendment.

Mr. HATCH. Mr. President, I rise in favor of the Grassley motion to commit this legislation to the Finance Committee, the HELP Committee and the Judiciary Committee.

The legislation before this body is one which will have an enormous impact on medical providers, the health insurance industry, employers and, most important, the patients. As the ranking Republican of the Senate Judiciary Committee, I have serious concerns with the liability provisions of this bill and how they will be impact employers, medical providers and patients. The McCain-Kennedy bill creates new causes of action, changes the careful balance of ERISA's uniformity rules, and has potential new adverse implications on our judicial system. Moreover, the liability provisions have been crafted without the benefit of appropriate and necessary review of the appropriate committees of jurisdiction. My colleagues, this is not the way to legislate. At the very least, the Judiciary Committee should be afforded the opportunity to review the liability provisions that will clearly have a major impact on our legal system.

Just a few months ago, when the bankruptcy reform legislation was brought to the Senate floor under rule 14, the legislation had been considered by the Judiciary Committee, the entire Senate and a bipartisan conference committee over the last 6 years. However, Democrats raised objections then that the bill needed to be reviewed by the Judiciary Committee before consideration on the Senate floor. As a result, we followed regular order and the committee reviewed the bill after which it was sent to the Senate floor for consideration.

Now the tactics of my friends on the other side is to bypass the committees altogether which is exactly what they vocally opposed on bankruptcy reform legislation just a few months ago. Moreover, we now have the third iteration of the liability provisions which is less than a week old. Clearly, the legal ramifications of these provisions are not well known, and I think it would be in the best interest of this legislation to craft language that is truly going to help patients which we all have been saying is our No. 1 priority.

The provisions in the McCain-Kennedy legislation make sweeping changes that will affect our judicial system. This bill changes Federal law and permits various causes of action in both State and Federal courts. It also changes the rules governing class action lawsuits, as well as impacting punitive damages all the while exposing new classes of individuals to open-ended liability.

I want to emphasize that these are all critical important, legal issues that must be considered carefully. The regular process of the Senate should not be circumvented for the political expediencies of my friends on the other side. Why rush this important bill through the Senate? According to the Congressional Budget Office, this legislation will cause premiums to increase by at least 4.2 percent. As a result, it is estimated that 1.3 million Americans will lose their health insurance because health premiums will become too expensive. Even worse, employers benefits altogether for fear of more expanded liability exposure under so-called bipartisan Democrat proposal.

Shouldn't we hear from experts and other legal scholars in an open forum before passing such a monumental bill that impacts so many Americans? It is very apparent to everyone in this Chamber that the trial lawyers have been principally involved in drafting these liability provisions and they have done so with their own interest in mind. And believe me, as a former medical malpractice attorney, I know what their tricks are, and I know what they are trying to do. This provisions are simply not in the best interest of the American people.

Accordingly, I urge my colleagues to support his motion to commit. It is incumbent upon us to do this right and to do this in the best interest of patients, not trial attorneys. I am confident that with a little extra time, we can make these provisions legally sound. We have spent far too many years on this issue not to do it right. We have a real opportunity to pass meaningful patients' rights legislation. Let us not squander this opportunity by acting expeditiously without the benefit of more careful and thoughtful review.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Madam President, could you tell me how much time the two sides have?

The PRESIDING OFFICER. You have 4 minutes and a half. The Senator from Massachusetts has almost 12 minutes.

Mr. GRAMM. Madam President, I would like my amendment to close out the debate.

Does Senator GRASSLEY have time?

The PRESIDING OFFICER. He has 5 minutes. You have 9 minutes. The Senator from Massachusetts has 12 minutes.

Mr. GRAMM. Let me just allow the majority to go ahead.

Mr. McCAIN. I say to the Senator from Texas, I think it is perfectly reasonable for you to have the last 5 minutes.

I ask the Presiding Officer that one of us be recognized so that the Senator from Texas has the final 5 minutes.

The Senator from Iowa wants——

Mr. GRASSLEY. Two minutes.

The PRESIDING OFFICER (Mr. REID). Did the Senator from Arizona propose a unanimous consent request that the Senator from Texas have the final 5 minutes?

Mr. KENNEDY. And that the Senator from Iowa have 2 minutes.

Mr. GRASSLEY. I thank my colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered. That will be the order.

Mr. GRASSLEY. Mr. President, I have spoken twice on the issue of committing this legislation to the committees to express the point of view that there is a lot of turmoil in working out compromises on the floor of the Senate. That is not a very good way to draft a piece of legislation.

If the leadership had not immediately brought this bill to the Senate Chamber, and the committees had done their work, this bill would have been handled in a much more expeditious way, but, more importantly, it would have been in a way in which we would have had a lot of confidence in the substance of the legislation, with a lot fewer questions asked. I think when people see a product from the Senate, they want to make sure that product is done right.

So I offer to my colleagues the motion and hope that they will vote yes on the motion to commit the legislation to the respective committees—Health, Education, Labor; Judiciary; and Finance—for the fair consideration of this legislation and a final, good product that we know serves the best interests of the people, which obviously is to make sure that everybody is protected with a Patients' Bill of Rights.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona is now recognized.

Mr. MCCAIN. Mr. President, I think it is important, because of the issue of what is happening or not happening in the State of Texas and Texas State law, that I take a few minutes to quote from a letter I just received from the President of the Texas Medical Association, Dr. Tom Hancher, who also was a key player in the formulation of the language and the legislation that passed the State of Texas in 1997.

I would like to quote from the letter that Mr. Hancher sent me:

> I have been watching the debate over the Patients' Bill of Rights and can understand the confusion over many of the issues. We, in Texas, debated managed care reforms for over two years culminating in the passage of a package of managed care reforms in Texas in 1997. Because Texas' laws have become the basis for evaluating certain aspects of proposed federal reforms, I hope I can help to clarify some areas for you. As Texas Medical Association worked closely with the sponsors of these reforms, including the managed care accountability statute, I would like to offer our experiences on this issue. . . . I will focus on the three areas of primary disagreement—employer exemption, medical necessity standards for independent review, and remedies under Texas' managed care accountability law.
>
> Much as you are seeing in Washington, our lawmakers were deluged with concerns about employers being legally accountable for the actions of the managed care plan. We believed that this was impossible given the construction of our legislation. Both the definition of a managed care plan and the action of that plan—making medical treatment decisions—prevented such lawsuits from being brought. Nevertheless, the insurers and employers continued to express their concerns that our bill would cost hundreds of citizens their medical coverage because of the fear of litigation.
>
> We agree with your approach that any entity making medical treatment decisions should be held accountable for those decisions. Texas took a different approach in 1997, however, because we knew that no state law could achieve that goal. ERISA law in 1997 was such that no state law could hold employers of large self-funded plans accountable for actions related to their benefit plans. . . .
>
> We were certain that small to medium sized employers in our state were providing health benefits through fully insured, state licensed products. Clearly, those employers were not making medical treatment decisions. While it was the intent of the Texas Legislature to hold accountable any entity making medical treatment decisions, it was our belief that because of ERISA, a blanket exemption for employers in a state law would have no practical impact on the large, self-funded employers. Therefore, we provided a broad employer exemption primarily to allay the fears of small and medium-sized, fully-insured businesses over exposure to legal liability for medical decisions.

The reason why I quote this is because that is basically the language we are using in this legislation.

> The Senate co-sponsor of the managed care accountability bill said it best on the floor of the Texas Senate: "If an HMO stands in the shoes of the doctor in the treatment room, and stands in the shoes of the doctor in the operating room or the emergency room, then it should stand in the shoes of the doctor in the courtroom." It is hard to argue why this philosophy should not apply to anyone making those direct medical decisions, HMOs or the very few employers who do this. Any employer who decides not to make these decisions very clearly is not subject to a lawsuit.
>
> Our goal in constructing the independent review (IRO) provision of our bill was a simple one: use independent physicians to evaluate disputes over proposed medical treatment. We require these physicians to utilize the best available science and clinical information, generally accepted standards of medical care, and consideration for any unique circumstances of the patient to determine whether proposed care was medically necessary and appropriate. Our standards are virtually identical with the independent review provisions in the McCain/Edwards compromise currently pending before the Senate.

I repeat, the Texas Medical Association President says: Our standards are virtually identical with the independent review provisions in the McCain/Edwards compromise currently pending before the Senate.

> Review decisions were to be made without regard for any definition of medical necessity in plan documents. The Texas Department of Insurance reviews the plan contract for specific exclusions or limitations (i.e., number of days or treatments). If there is no specific contract provision to exclude the eligibility for review, the case is submitted to the independent review organization. Medical necessity is often a judgment call. We wanted those judgments made without any conflict of interest. Medical necessity definitions created by plans will likely err in favor of the plan. An IRO's decision should be a neutral one. Using a plan definition would prevent that. Additionally, we do not define "medical necessity," but rather set forth broad standards for reviewers to make an informed decision based upon all available information. . . .
>
> Finally, there has been a great deal of confusion over damages in personal injury or wrongful death cases in our state. Currently, Texas has no caps on economic or non-economic damages. Punitive damages are calculated using the following formula: two times the amount of economic damages, plus an amount not to exceed $750,000 of any non-economic damage award. We chose to treat managed care plans as any other business. Therefore, they are accountable under general tort law and not subject to the cap on damages in wrongful death cases. The limitation on recovery in wrongful death cases applies only to health care entities and is part of a separate section of our law.
>
> The debate in Texas over patient protections was long, sometimes contentious, and ultimately successful. With over 1300 independent reviews (48% upheld the plans' determination and 52% overturned the plans' decision) and only 17 lawsuits—

I want to emphasize: Only 17 lawsuits—

> I am proud of how our laws are working for the people of Texas enrolled in managed care plans. On behalf of my colleagues and our patients, I ask that you not take any action that would undermine what we have done in our state. Best wishes in your deliberations.

It is signed: Tom Hancher, MD, President of the Texas Medical Association.

I urge all of my colleagues to read this letter from Dr. Hancher. I think it lays out the issues surrounding this particular amendment and remaining areas of dispute that we might have.

Mr. President, I cannot support the pending amendment because I believe that employers should be held accountable for medical decisions they have made if those decisions resulted in a patient's injury or death.

I do not believe employers should be held liable for the decisions made by insurers or doctors. Nor do I believe this legislation would subject employers throughout the country to a tidal wave of litigation as our opponents claim.

But if an employer acts like an insurance company and retains direct responsibility for making medical decisions about their employee's health care then they should be held accountable if their decisions harm or even kill someone.

If an employer is not making medical decisions, and very few employers do, then they will not be held liable under our legislation.

Let me repeat—employers will not be held liable or exposed to lawsuits if they do not retain responsibility for directly participating in medical decisions.

I keep hearing from opponents of our bipartisan bill that our language is vague and would subject employers to frequent litigation in state and Federal court. I don't believe this is true.

Our legislation specifically states that direct participation is defined as "the actual making of [the] decision or the actual exercise of control in making [the] decision or in the [wrongful] conduct." This language clearly exempts businesses from liability for every type of action except specific actions that are the direct cause of harm to a patient.

The sponsors of this legislation are willing, however, indeed we would welcome an amendment that helps further clarify the employer exemptions provided for in the bill. I know that Senators SNOWE, DEWINE and others are working on such an amendment.

But we cannot, in the interest of greater clarity, give employers a kind of blanket immunity when they assume the role of insurers and doctors by making life and death decisions for their employees. That is what the pending amendment would do.

Let's just step back for a moment and reflect on how the employer based health care system is structured and works. An employer contracts with an insurer to provide health care coverage for their employees. The insurer is then responsible for making the medical decisions that go with managing health insurance. That is how the system typically works and how employers want it to work.

Most businesses simply do not make medical decisions. Hank who runs a local plumbing company does not tell the HMO his company has contracted with, "We have clogged drains and need Joe Smith back at work. We can't afford for him to be laid up waiting for surgery." And Hank would not be held liable under our bill because he is not practicing medicine—he is repairing plumbing.

Now, I admit there are a small group, of mostly very large companies that have chosen to provide insurance to their employees themselves.

In these small number of cases, employers have made the decision to sell plumbing and act as an insurer that makes medical decisions.

And if the decisions they make harms or kills someone then why should they have a blanket exemption from liability as this pending amendment would provide them, a blanket exemption that we do not provide doctors or nurses or hospitals?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Senator McCain and Senator Kennedy have 3½ minutes.

Mr. KENNEDY. Mr. President, let me yield myself the time. As I understand, the Senator from Texas is going to close.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this legislation is very simple. The point of the overall Patients' Bill of Rights is to permit doctors to make the final, ultimate decision on what is in the best interest of the patient. Doctors, nurses, trained personnel, and the family should be making that judgment. However, we find that the HMOs are overriding them.

Now we have put this into the legislation. If it is demonstrated with internal and external appeals that a HMO has overridden the doctors, they are going to have a responsibility towards the patient. They are going to have to give that person, who might have been irreparably hurt, or the patient's family, if the patient died, the opportunity to have some satisfaction.

What the Gramm amendment says is, if that same judgment is made by the employers, they are somehow going to be free and clear. He can distort, misrepresent and misstate what is in this legislation, but we know what is in the legislation. What it does is hold the employer that is acting in the place of the HMO accountable. If the employer is making a medical decision that may harm an individual or patient, or may cause that patient's life or serious illness, they should bear responsibility. Under the Gramm amendment, they can be free and clear of any kind of responsibility no matter how badly hurt that patient is.

That is absolutely wrong. I can see the case where the HMO is sued. The HMO says: Don't speak to me; it was the employer that did it. And then the employer says: Look, the Gramm amendment was passed. We are not responsible at all. This amendment is another loophole. It is a poison pill. It is a way to basically undermine the whole purpose of the legislation.

Doctors and nurses should be making medical decisions and not the HMO bean counters who are looking out for the profits of the HMOs. Employers should not be making these medical decisions either. They may say, every time my employee has some medical procedure that is over $50,000, call me, HMO. I don't want to pay more than $50,000. Then the HMO calls them up and the employer says, no way, don't give that kind of medical treatment to my employee. The HMO listens to the employer, the patient does not get that treatment, and dies. Under the Gramm amendment, there will be no accountability.

I hope his amendment is defeated.

The PRESIDING OFFICER (Mrs. Carnahan). Under the previous order, the Senator from Iowa has 2 minutes, followed by the Senator from Texas.

Mr. GRAMM. The Senator from Iowa has spoken. I assume if we add up the time, I have 7 minutes. I would like to take it.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAMM. Madam President, nothing in this amendment has anything to do with HMOs. Nothing in the amendment that I have offered would in any way exempt any HMO from any liability. Both Senator Kennedy and Senator McCain talked about HMO liability. Senator McCain talked about HMOs standing in the shoes of doctors. This amendment I have offered is not about HMOs.

Senator Kennedy talks about HMOs escaping liability by blaming it on the employer. Nothing in the amendment I have offered in any way would allow that to happen.

The amendment I have offered has to do with employers. Why is this an issue? It is an issue because, in America, employers are not required to provide health insurance. Employers, large and small, all over America provide health insurance because they care about their employees and because they want to attract and hold good employees. But every employer in America has the right under Federal law to drop their health insurance.

I am concerned, and many are concerned, that employers would be forced to drop their health insurance given the liability provisions in the bill.

I have here a number of letters from business organizations endorsing my amendment. I send to the desk and ask unanimous consent that these letters be printed in the Record: an NFIB letter designating this a small business vote; a letter from Advancing Business Technology representing the AEA; the National Association of Manufacturers; the National Council of Chain Restaurants; the National Restaurant Association; and the National Association of Wholesalers and Distributors, all letters endorsing the Gramm amendment; and finally, a wonderful letter from the Printing Industry of America talking about the dilemma they would face if this amendment did not pass.

There being no objection, the letters were ordered to be printed in the Record, as follows:

National Association
of Wholesaler-Distributors,
Washington, DC, June 22, 2001.

Hon. Phil Gramm,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator Gramm: Thank you for offering an amendment to S. 1052, the McCain-Kennedy "Bipartisan Patient Protection Act," to shield employers from liability lawsuits authorized by the bill. We write on behalf of the 40,000 employers affiliated with the National Association of Wholesaler-Distributors (NAW) to express our strong support for this critically important amendment.

The vast majority of NAW-affiliated employers voluntarily offer health insurance as an employee benefit. Those employer sponsors of group health insurance benefits are already alarmed by repeated annual increases in health insurance premiums and the growing pressure health insurance costs are placing on their bottom lines. These employers are deeply concerned about the additional premium cost increases with which they will be confronted if the McCain-Kennedy bill becomes law. It is quite clear that many will manage these cost increases by terminating or, at a minimum scaling back, their plans.

NAW members are further concerned about the exposure to costly lawsuits and liability they will face if the McCain-Kennedy bill becomes law and they continue to voluntarily offer health insurance as an employee benefit. Many will manage the newly-acquired risk by terminating their plans altogether.

The proponents of the McCain-Kennedy bill have repeatedly claimed that S. 1052 shields employers from liability. As you have so clearly demonstrated, it does not, and should S. 1052 become law in its current form, the consequence of its failure in this regard will leave many Americans who today benefit from employer-provided medical coverage, without health insurance coverage in the future. This dramatic undermining of our employer-based health insurance system is clearly adverse to the interests of employers, their employees and their employees' families.

There are other serious weaknesses in the McCain-Kennedy bill with which NAW members are concerned; however, adoption of your amendment will at least mitigate one of the worst excesses of the McCain-Kennedy bill. Therefore, NAW is pleased to support your amendment, and we thank you for your leadership.

Sincerely,

DIRK VAN DONGEN,
President.
JAMES A. ANDERSON, Jr.,
Vice President-Government Relations.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, June 22, 2001.

Hon. PHIL GRAMM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAMM: As debate continues on S. 1052, the McCain-Kennedy-Edwards patients' rights bill, the National Restaurant Association sincerely appreciates your amendment to clarify the Senate's intent that employers will not be subject to liability for voluntarily providing health benefits to their employees. A vote in support of the Gramm employer liability amendment will be considered a key vote by the National Restaurant Association.

The majority of America's 844,000 restaurants are small businesses with average unit sales of $580,000. Rather than risk frivolous lawsuits and unlimited damages authorized under S. 1052, many businesses will be forced to stop offering health benefits to their employees. Even without the effect of litigation risk economists predict at least 4–6 million Americans could lose their employer-sponsored health coverage as a result of the increased costs of S. 1052. We urge you to avert this harmful situation.

By taking language from the Texas patients' rights bill, your amendment will clearly define that employers would not be subject to liability. This amendment is critical given that S. 1052 currently exposes employer sponsors of health plans to liability and limitless damages in the following ways:

Lawsuits are authorized against any employer that has "actual exercise of control in making such decision." [p. 146] This broad phrase would generate lawsuits by allowing an alleged action by the employer to constitute "control" over how a claims decision was made. ERISA's fiduciary responsibility obligates employers to exercise authority over benefit determinations.

Lawsuits are authorized for any alleged failure to "exercise ordinary care in the performance of a duty under the terms and conditions of the plan." [p. 141]. Under "ordinary care," simple administrative errors could become the basis of a lawsuit alleging harm. Because all provisions of S. 1052 would be incorporated as new "terms and conditions" of the plan upon enactment, these new statutory requirements would further expand employer liability.

Nothing in S. 1052 precludes a lawsuit against employers who will be forced to defend themselves in state and federal courts against allegations of "direct participation" in decision making. [p. 145]

Thank you for your effort to protect employees' health benefits by correcting the vague and contradictory language in S. 1052. We urge the Senate to support your amendment to ensure that employers will not be sued for voluntarily providing health coverage to 172 million workers. The Gramm employer liability amendment will be a key vote for the Association. Thank you for your leadership.

Sincerely,

STEVEN C. ANDERSON,
President and Chief Executive Officer.
LEE CULPEPPER,
Senior Vice President,
Government Affairs and Public Policy.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, June 25, 2001.

Hon. PHIL GRAMM,
U.S. Senate, Senate Russell Office building,
Washington, DC.

DEAR SENATOR GRAMM: I write in strong support of the amendment you have offered with your colleague from Texas, Senator Kay Bailey Hutchison, to the McCain-Kennedy "Bipartisan Patient Protection Act." We hope that all Senators who agree that employers who voluntarily sponsor health-coverage should be protected from liability will support your amendment.

There should no longer be any dispute that the McCain-Kennedy bill exposes employers to direct and indirect liability costs for adverse benefit determinations. Whether or not employers actively intervene into a given benefit determination, they are charged with responsibility for all aspects of plan administration under ERISA's fiduciary responsibility standard (including benefit determinations). Thus, an employer can either actively or passively meet the McCain-Kennedy bill's standard of "direct participation" (the act of denying benefits or the actual exercise of authority over the act).

The Gramm-Hutchison Amendment is the Texas Health Care Liability Act's unambiguous exemption of employers as adapted to ERISA. We certainly hope a majority of senators will agree on the need to protect employers from health care liability.

The National Association of Manufacturers will continue to oppose the underlying McCain-Kennedy bill as adding too much additional cost to the existing double-digit (13 percent on average) health-care inflation. The rising cost of health-coverage, together with the high cost of energy, is exerting a significant drag on the economy. The Senate, however, should be heard on the specific question of health-care liability for employers.

Again, we urgently ask your support for the Gramm-Hutchison Amendment (Senate Amendment 810) which will be considered for designation as a key manufacturing vote in the NAM Voting Record for the 107th Congress.

Sincerely,

MICHAEL ELIAS BAROODY,
Executive Vice President.

NATIONAL RETAIL FEDERATION,
June 25, 2001.

To the Members of the U.S. Senate:

Tomorrow morning, you will have the opportunity to vote on a critically important amendment offered by Senator Gramm to the Kennedy-McCain "Patient Protection Act of 2001" that will exempt employers from new lawsuits authorized by the legislation. On behalf of the National Retail Federation (NRF), I strongly urge you to support this amendment. The vote on the Gramm amendment will be a key vote for NRF.

At a time when retailers are struggling to deal with annual double-digit increases in health costs, subjecting employers to liability would be the breaking point for many businesses. Many employers would be forced to terminate or significantly scale back their health benefits programs rather than face a lawsuit that could bankrupt their business—leaving many working Americans without access to affordable insurance. The Gramm amendment will unquestionably help to preserve the ability of employers to provide valuable health benefits to their employees and their families.

Although passage of the Gramm amendment would address one of the most serious flaws in S. 1052, it is important to note that we remain concerned and strongly opposed to the broader liability provisions in the bill. Although NRF supports the goals of the legislation to ensure that individuals have the ability to address their disputes through an independent appeals process, allowing broad new causes of action in state and federal court for virtually uncapped damages would have dire consequences on the employer-based health care system. The costs of open-ended liability on health plans will ultimately be borne by employers and employees alike.

As background, the National Retail Federation (NRF) is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet and independent stores. NRF members represent an industry that encompasses more than 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 2000 sales of $3.1 trillion. NRF's international members operate stores in more than 50 nations. In its role as the retail industry's umbrella group, NRF also represents 32 national and 50 state associations in the U.S. as well as 36 international associations representing retailers abroad.

Again, we urge you to support the Gramm amendment, and to support future efforts to remedy the onerous liability provisions in S. 1052.

Sincerely,

———
Senior Vice President, Government Relations.

NATIONAL COUNCIL OF CHAIN RESTAURANTS OF THE NATIONAL RETAIL FEDERATION,
Washington, DC, June 25, 2001.

Hon. PHIL GRAMM,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR GRAMM: On behalf of the National Council of Chain Restaurants, I am writing to thank you for introducing your amendment to protect employers from liability lawsuits authorized by the Kennedy-McCain "Patients' Bill of Rights" currently being debated by the Senate.

The National Council of Chain Restaurants ("NCCR") is a national trade association representing forty of the nation's largest multi-unit, multi-state chain restaurant companies. These forty companies own and operate in excess of 50,000 restaurant facilities. Additionally, through franchise and licensing agreements, another 70,000 facilities are operated under their trademarks. In the aggregate, NCCR's member companies and their franchises employ in excess of 2.8 million individuals.

Although most of the nation's chain restaurant company employers offer health care benefits to their employees, these employers have become increasingly concerned with the skyrocketing costs of providing such coverage. In fact, many employers are already being forced to reevaluate whether they can continue to afford providing health care insurance to their employees. The Kennedy-McCain bill's imposition of liability on health plans will exacerbate this problem even further, as health insurers will simply pass on the costs to employers in the form of higher premiums. As costs are driven ever upward, many employers will assuredly be forced out of the market, pushing even more working families into the ranks of the 43 million uninsured.

But the Kennedy-McCain bill not only renders health plans liable to suit, it also imposes liability on employers, despite claims by bill proponents that employers are shielded. The very notion that an employer could be sued for generously and voluntarily providing health insurance to his or her employees is outrageous. Indeed, if employers are exposed to liability for their voluntary provision of health insurance to their employees, in addition to the increased premium costs resulting from health plan liability under the Kennedy-McCain bill, many employers will have no choice but to discontinue this important employee benefit.

The Kennedy-McCain bill threatens to undermine the nation's employer-sponsored health care system at a time when the economy is softening and millions of Americans are currently without coverage. Although serious problems with S. 1052 remain, your amendment would correct one of the numerous excesses of this extreme legislation.

Sincerely,

M. SCOTT VINSON,
Director, Government Relations.

ADVANCING THE BUSINESS
OF TECHNOLOGY,
Washington, DC, June 25, 2001.

Hon. PHIL GRAMM,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR GRAMM: I am writing on behalf of AeA (American Electronics Association), the nation's largest high-tech trade association representing more than 3,500 of the nation's leading U.S.-based technology companies, including 235 high-tech companies in Texas, to thank you for offering your amendment to exempt employers from the liability provisions contained in S. 1052, the Bipartisan Patient Protection Act.

An overwhelming majority of AeA member companies provide their employees, their dependents, and retirees with quality health care options. AeA and its member companies are concerned that the liability provisions in S. 1052 would threaten our member companies' ability to continue to offer health insurance benefits. It only makes sense that exposing employers who provide health insurance to their employees to unlimited legal damages will result in fewer employers offering their employees' health insurance. Unlimited damage awards against insurance companies and employers will create a powerful incentive for lawsuits against both. At a minimum, companies that offer health insurance will see their litigation costs increase. Health insurance premiums will also increase, as litigation costs are passed through to both employers and employees.

Higher health insurance premiums will mean fewer health insurance options for employees, and in some cases, the loss of insurance coverage for employees as companies drop health insurance. The liability provisions in S. 1052 will also put pressure on companies to drop their health insurance benefits, primarily from individuals and institutions that own stock in these companies. Shareholders will be reluctant to permit companies to assume liability for employer-provided health insurance and they may pressure companies to drop their health insurance in order to protect the value of their stock.

AeA and its members share Congress' concern about improving the accessibility, affordability and quality of health care services for all Americans. But AeA and its members believe that S. 1052, especially the liability provisions in the bill, will undermine that worthy objective, and ultimately lead to more uninsured workers. AeA supports your amendment to S. 1052, as the first in many needed steps to improve this legislation.

Sincerely,

WILLIAM T. ARCHEY,
President and CEO.

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
Washington, DC, June 25, 2001.

DEAR SENATOR: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I urge you to support Sen. Phil Gramm's amendment exempting all employers from liability who voluntarily offer health care to their employees.

The Kennedy/McCain version of the "Patients' Bill of Rights" exposes small business owners to liability for unlimited punitive and compensatory damages that will force many small businesses to drop coverage. For most small business owners, it only takes one lawsuit to force them to close their doors. In fact, 57 percent of small businesses said in a recent poll that they would drop coverage rather than risk a lawsuit.

Expanding liability in claims disputes could also increase health care premiums by as much as 8.6 percent at a time when small businesses are already experiencing annual cost increases in excess of 15 percent. Such increases will only force small businesses to drop coverage, adding many to the ranks of the uninsured.

Both Republicans and Democrats have said that the Texas law works. Now is the time to put those words into action. Support Senator Gramm's amendment to exempt employers from unlimited lawsuits! This will be an NFIB Key Small Business Vote for the 107th Congress.

Sincerely,

DAN DANNER,
Senior Vice President,
Federal Public Policy.

PRINTING INDUSTRIES
OF AMERICA, INC.,
Alexandria, VA, June 22, 2001.

Senator PHIL GRAMM,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR GRAMM: We are aware that the battle lines in the Patients' Bill of Rights may be so sharply drawn that there is little that can be done at this point to overcome the political issues; however, I want to outline the real world impact of passage of the Kennedy-McCain bill.

Our association is 114 years old. For a good portion of our recent history we have provided health benefits to our employees through a self-funded trust. We chose this option because we are a safe workplace and we have very good claims experience as well as a solid balance sheet. We purchase stop-loss insurance for protection of the assets of the organization above a specified limit. We provide benefits to 70 active employees, their dependents, and 14 retirees. Until 1974, we provided a retiree medical program for all our employees but rising costs forced us to drop that program, grand-fathering the employees who were hired prior to that time. We require only $50 contribution per month for our employees to include their dependents in our health care plan. We cover medical, dental and eye care through a PPO network or, at the option of the employee, a fee for service arrangement. Our prescription drug program requires an employee to pay $3.00 per generic prescription and $5.00 for brand name prescriptions. This is about the best plan available to any employee in the Washington area.

We are the ultimate decision maker in our plan. One of the benefits to self-funding is that we can and do make decisions affecting the health care of our employees. We have never made a negative decision. We have made several very significant positive decisions to help employees in very difficult health situations.

If the Kennedy-McCain bill is passed, we likely will be forced to terminate our plan and move to a fully insured plan. We currently pay almost $600,000 per year for our plan. We cannot pay any more. Moving to a fully insured plan will almost certainly reduce the benefits for our employees as we will lose the advantage of not having to pay overhead for an insurance company. We anticipate losing 25% of our benefits. Here are some of the things we will lose:

Our retiree program. When we renegotiated our plan this past year, we received proposals from insurance companies for our retiree program. We could not find one in the area who would pick up the plan.

Our prescription drug benefit. While we would not lose it, we would have to more than triple the price to $10/$20. This also is based on the proposals we received last year.

Our ability to make decisions for our employees and their dependents. We would have to be concerned that the ability to make good decisions has the other side—turning down the next employee. In other words, we could be sued for failing to make a decision. Our organization cannot expose the assets of the organization to that liability potential.

Our very small employee contribution. Employees share of the benefits will go up. The $50 per month family coverage will likely be increased to $200 per month. Co-pays and deductibles will also rise. Some coverage may have to be dropped altogether.

We have discussed this issue and other Patients' Bill of Rights issues with our employees and member firms. Many people do not understand the issues. They do not believe Congress would do something like this. Our concern is that you may not knowingly do something like this. But this is real.

We would be pleased to discuss this and other matters related to this legislation with you. We are not alone in the impact this bill would have on our employees. I am aware that we have many self-insured, jointly trusteed union plans in our industry that would also be affected in this manner but they do not understand the legislation.

Please feel free to contact me if you wish to discuss our concerns.

Sincerely,

BENJAMIN Y. COOPER,
Senior Vice President.

Mr. GRAMM. Let me review very quickly where we are. Our colleagues who support the pending bill say that the bill does not allow employers to be sued. If you look at the language of their bill, it clearly says it on line 7 on page 144, "Causes of action against employers and plan sponsors precluded." Then it says:

> Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer. . . .

That has been pointed to over and over again to say that employers cannot be sued. The problem is that on line 15, the bill goes on and says:

> CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor. . . .

Then the bill goes on for 7½ pages of ifs, ands, and buts about when employers can be sued. They can be sued if they have "a connection with;" they can be sued if they "exercise control," which is very interesting because under ERISA, which is the Federal statute that governs employee benefits provided by the employer, every employer is deemed to exercise control over every employee benefit.

The bottom line is, despite all the arguments to the contrary, in the bill before us, employers can be sued.

The Texas Legislature faced exactly this same dilemma, and they concluded that they wanted an absolute carve-out of employers. Why? Not that they believed employers were perfect; not that they believed every employer was responsible, but because they couldn't figure out a way to get at potential employer misbehavior without creating massive loopholes which would produce a situation where employers, large and small, could be dragged into a courtroom and sued because they cared enough about their employees to help them buy health insurance.

The Texas Legislature decided you ought not be able to sue an employer.

Senator McCAIN read a letter from the Texas Medical Association president, but he did not read the one paragraph in the letter that I was going to read. It is a very important paragraph. Let me explain why. Opponents of this amendment say: You ought to be able to sue employers if employers are making medical decisions. The point is, this bill—and the Texas law and every Patients' Bill of Rights proposal made by Democrats and Republicans—has an external appeal process that a panel of physicians and specialists, totally independent of the health care plan and totally independent of the employer, that will exercise the final decisionmaking authority.

How could an employer call up this professional panel, independent of the health insurance company or the HMO, and in any way intervene? They couldn't.

The line from the letter from the Texas Medical Association addresses exactly this point. It points out that the State couldn't reach into ERISA. But another reason that it wasn't necessary or advisable to try to sue employers was, from the letter:

> Additionally, we believed that utilization review—

And this is the review process—

> agents were making the decisions regarding appropriate medical treatment for employees of these self-funded plans. We contended that these state-licensed utilization review agents would be subject to the managed care accountability statute—

Which is the Texas law.

The same would be true under this bill. Under this bill, no employer can make a final decision. The final decision is made by this independent medical review.

So what is this all about? It all boils down to the following facts: If we leave this provision in the bill, which says employers can be sued and has 7½ pages of ifs, ands, and buts about suing them, and then interestingly enough says you can't sue doctors, you can't sue hospitals, but you can sue employers in its conclusion, then what is going to happen is all over America businesses are going to call in their employees.

The example I used yesterday, and I will close with it today—am I out of time?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMM. Let me wrap up by saying, all over America, small businesses are going to call in their employees and say: I want to provide these benefits, but I cannot put my business at risk, which my father, my mother, my family have invested their hearts and souls in; therefore, I am going to have to cancel your health insurance.

I urge my colleagues to vote for this amendment.

I yield the floor.

Mr. KENNEDY. Madam President, I am prepared to yield back the minute on the Grassley motion. As I understand it, Senator GRASSLEY is going to yield back his time.

I ask for the yeas and nays on both the Grassley motion and the Gramm amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 61, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—39

Allard
Allen
Baucus
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cochran
Craig
Crapo
Enzi
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Murkowski
Nickles
Roberts
Santorum
Shelby
Smith (NH)
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—61

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Hutchinson
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Sessions
Smith (OR)
Snowe
Specter
Stabenow
Torricelli
Wellstone
Wyden

The motion was rejected.

Mr. KENNEDY. I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion was agreed to.

AMENDMENT NO. 810

The PRESIDING OFFICER. Under the previous order, there will now be 6 minutes for closing debate, divided in the usual form, prior to a vote on or in relation to the Gramm amendment No. 810.

Who yields time?

Mr. KENNEDY. I understand there are 3 minutes to a side.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I yield myself a minute and a half and a minute and a half to the Senator from North Carolina.

Madam President, we have just finished the education legislation. In this legislation, we held students accountable, school districts accountable, teachers accountable, and children accountable. Now we are trying to hold the HMOs accountable if they override doctors, nurses and trained professionals regarding the care for injuries of individuals. That is the objective of this legislation.

However, if employers interfere with medical judgments, they ought to be held accountable as well. The Gramm amendment says: No way; even if an employer makes a judgment and decision that seriously harms or injures the patient, there is no way that employer could be held accountable.

We may not have the language right, but at least we are consistent with what the President of the United States has said. We may have differences with the President of the United States and we do on some provisions. However, the Gramm amendment is an extreme amendment that fails to protect the patients in this country and fails to provide that needed protection.

Mr. GRAMM. Madam President, I make a point of order that the Senate is not in order. Senator EDWARDS deserves to be heard.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from North Carolina is recognized.

Mr. EDWARDS. Madam President, this is an issue on which we have consensus. The President of the United States said, "Only employers who retain responsibility for and make vital medical decisions should be subject to suit."

Our bill provides exactly as the President describes. As Senator KENNEDY has indicated, we have consensus not only with the President of the United States but in this body and in the House of Representatives based on the Norwood-Dingell bill which was voted on before. This is an issue about which there is consensus.

We are continuing to work. Senator SNOWE and others are leading that effort. We are working across party lines to get stronger and more appropriate language so that employers know that they are protected without completely leaving out the rights of the patients.

I urge my colleagues to vote against the Gramm amendment, which is outside the mainstream, outside our bill, outside our position, outside Norwood-Dingell, and outside what the President of the United States has said.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, throughout this debate, those who are in favor of this bill have said our bill is just like the Texas bill. Look at Texas. No employers have been sued, and there have been a minimum number of lawsuits. Yet when you look at this bill, it says employers can't be sued. Then it says they can be sued. And it has 7½ pages of ifs, ands and buts.

Are employers connected with the decision? Do they exercise control? ERISA says that in any employee benefit the employer is deemed to exercise control, which would mean that every employer in America is covered. The Texas legislature did not assume that every employer was perfect. They were worried about unintended consequences.

They also concluded that no employer can be the final decisionmaker because this bill, as in our bill, has an external review process that is run by independent physicians that are selected independently of the plan. They make the final decision, not an employer.

The Texas legislature decided what we should decide here; that is, if you get into ifs, ands, and buts, what is going to happen all over America is businesses are going to drop their insurance.

If we should pass the bill without this amendment in it, it is easy to envision that we could have a small business where the business owner calls in his employees and says, Look, we worked hard to provide good health benefits, but my father and my mother worked to build their business. I have worked. My wife has worked. We have invested our whole future in this business, and I cannot continue to provide benefits when I might be sued.

Think about the unintended consequences. That is what the Texas legislature did. They concluded that employers should not be liable. They cannot make the final decision under this bill. They cannot make the final decision under Texas law because it is made by an external group of physicians. But when you make it possible to sue them, they are going to drop their health insurance, and you are going to have fancy reviews and stiff penalties, but people aren't going to have health insurance.

I urge my colleagues to look at Texas. If you want to take all the claims of the benefits of Texas, do it the way they did it. They thought you created unintended consequences by letting employers be sued. They knew that employers could not make the final decision because they had external review, just as this bill and every other bill has. By doing an employer carve-out, they guaranteed that every small and large business in the State would know they cannot be sued.

The PRESIDING OFFICER (Mr. CORZINE). The question is on agreeing to amendment No. 810. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 57, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—43

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
Domenici
Ensign
Enzi
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—57

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Torricelli
Wellstone
Wyden

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we were in the process of trying to propound a unanimous consent request, but all the parties are not here. We will do that at 2:15.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 30 minutes with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Wisconsin is recognized to speak for up to 15 minutes.

COLORADO REPUBLICAN CASE

Mr. FEINGOLD. Mr. President, on April 2 of this year, the Senate voted overwhelmingly to pass the McCain-Feingold bill and ban soft money. Even before the roll was called on final passage and 59 Senators voted "aye," the Senate's foremost opponent of reform declared that he relished the opportunity to bring a constitutional challenge to the bill. "You're looking at the plaintiff," the Senator from Kentucky announced.

Opponents of reform have consistently expressed confidence that the courts will strike down our efforts to clean up the campaign finance system. They regularly opine that the McCain-Feingold bill is unconstitutional, and, despite clear signs to the contrary in the Court's opinion last term in Nixon v. Shrink Missouri Government PAC, express great certainty that the Supreme Court will never allow our bill to take effect.

Well, in its decision yesterday morning in FEC v. Colorado Republican Federal Campaign Committee, the Court again dumped cold water on that certainty. The court held that the coordinated party spending limits now in the law—the so-called "441a(d) limits"—are constitutional. It ruled that the coordinated spending limits are justified as a way to prevent circumvention of the $1,000 per election limits on contributions to candidates that the Court upheld in the landmark Buckley v. Valeo decision in 1976. In my view, the decision makes it even more clear that the soft money ban in the McCain-Feingold bill will withstand a constitutional challenge.

The first thing to note about the Court's ruling is that it reaffirms the distinction the Court has drawn between contributions and expenditures and the greater latitude that the Court has given Congress in the case of restraints on contributions. The Court noted that the law treats expenditures that are coordinated with candidates as contributions, and the Court has upheld contribution limits in previous cases with that understanding. It agreed with the FEC that spending by a party coordinated with a candidate is functionally equivalent to a contribution to the candidate, and that the right to make unlimited coordinated expenditures would open the door for donors to use contributions to the party to avoid the limits that apply to contributions to candidates.

The Court rejected the Colorado Republican Party's argument that party spending is due special constitutional protection. Instead, the Court found that the parties are in the same position as other political actors who are subject to contribution limits. Those actors cannot coordinate their spending with candidates. The Court noted that under current law and the Court's previous decision in the first Colorado case, the parties are better off than other political actors in that they can make independent expenditures and also make significant, but limited, coordinated expenditures. The limits on coordinated expenditures have not prevented the parties from organizing to elect candidates and generating large sums of money to efficiently get out their message, the Court noted.

After determining that limits on party coordinated spending should be analyzed under the same standard as contribution limits on other political actors, the Court had little trouble in deciding that there was ample justification for those limits based on the need to avoid circumvention of the contribution limits in the federal election laws. It pointed to substantial evidence of circumvention already in the current system, and the near certainty that removing the 441a(d) limits would lead to additional circumvention. The Court held:

> [T]here is good reason to expect that a party's right of unlimited coordinated spending would attract increased contributions to parties to finance exactly that kind of spending. Coordinated expenditures of money donated to a party are tailor-made to undermine contribution limits. Therefore, the choice here is not, as in Buckley and Colorado I, between a limit on pure contributions and pure expenditures. The choice is between limiting contributions and limiting expenditures whose special value as expenditures is also the source of their power to corrupt. Congress is entitled to its choice.

So, Mr. President, I am pleased that the Court upheld Congress's right to limit the coordinated spending of the parties. But even more than that, I am pleased at the way that the Court looked at the constitutional issues in the case and the arguments of the parties. The Court's analysis demonstrates an understanding of the real world of money and politics that gives me great confidence that it will uphold the soft money ban in the McCain-Feingold bill against an inevitable constitutional challenge.

As my partner and colleague, Senator MCCAIN, pointed out to me prior to my taking the floor, of course this decision was about hard money; but if you really read it, it isn't so much about hard money or soft money, it is just about money and the corrupting influence it has on our political process.

For example, the Court noted that "the money the parties spend comes from contributors with their own interests." And the Court recognized that those contributors give money to parties in an attempt to influence the actions of candidates. The Court said:

> Parties are thus necessarily the instruments of some contributors whose object is not to support the party's message to elect party candidates across the board, but rather to support a specific candidate for the sake of a position on one, narrow issue, or even to support any candidate who will be obliged to the contributors.

This is precisely the point that we who have fought so hard to ban soft money have been making for years. These contributions are designed to influence the federal officeholders who raise them for the parties, and ultimately, to influence legislation or executive policy. The Court shows that it understands this use of contributions to political parties when it states:

> Parties thus perform functions more complex than simply electing candidates; whether they like it or not, they act as agents for spending on behalf of those who seek to produce obligated officeholders.

The Court also recognized that the party fundraising, even of limited hard money, provides opportunities for large donors to get special access to lawmakers. The Court states:

> Even under present law substantial donations turn the parties into matchmakers whose special meetings and receptions give the donors the chance to get their points across to the candidates.

In a footnote, the Court notes evidence in the record of the Democratic Senatorial Campaign Committee establishing exclusive clubs for the most generous donors.

These special clubs and receptions are even more prevalent in the world of soft money fundraising. Both parties sell access to their elected officials for high dollar soft money contributions. This week a Republican fundraiser featuring the President and the Vice President is expected to raise over $20 million.

The corrupting influence of soft money, or at least the appearance of corruption created by the extraordinary sums raised by party leaders and federal officeholders and candidates, is an argument for the constitutionality of a ban on soft money that those who support the McCain-Feingold bill would have made even if the Colorado II case had come out the other way. But the Court's decision itself is solid support for another independent reason that the soft money ban is constitutional.

Corporations and unions are prohibited from contributing money in connection with federal elections. And individuals are subject to strict limits on their contributions to candidates and parties. The soft money loophole allows those limits to be evaded. This is not just a theoretical possibility, as in the Colorado case. There is a massive avoidance of the federal election laws going on today, as there has been for over a decade. The evidence of this is overwhelming. Soft money is being raised by candidates for the parties, and it is being spent in a whole variety of ways to influence federal elections. In recent years, the parties have used soft money to run ads that are virtually indistinguishable from campaign ads run by the candidates. That is what is going on in the real world.

A soft money ban will end the circumvention of these crucial limits in the law, limits that date back to 1907 in the case of corporations, 1947 in the case of unions, and 1974 in the case of individuals. The Supreme Court's decision yesterday tells us that Congress can constitutionally act to end that evasion.

The remaining question, of course, is whether we will do it. Our vote in this body on April 2 was the first step. When the House returns from the July 4th recess it will take up campaign finance reform, and I am hopeful that it will act decisively to pass a bill that is largely similar to the McCain-Feingold bill. Then it will be up to the Senate to act quickly and send the bill to President Bush for his signature. We are getting close, Mr. President, to finally cleaning up the corrupt soft money decision. The Supreme Court's decision yesterday, unexpected as it was to many in the Senate and in the legal community, is a major boost for our efforts. The Court has spoken. Now Congress must act.

I yield the remainder of the time under my control to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. I thank the Chair. Mr. President, I add my thanks and gratitude to my good friend from Wisconsin. He has been a leader on this whole issue of campaign finance reform for so many years. He started as a young boy, and it has taken most of his life. I think progress is being made from a most unlikely source. I applaud the continued perseverance and commitment of the Senator.

HIV/AIDS EPIDEMIC

Mrs. CLINTON. Mr. President, we are in the midst of this very important debate about a Patients' Bill of Rights. I am hoping that before we break for the Fourth of July recess, the doctors, nurses, patients, and families of America will have the relief for which we have all waited for a very long time: making it clear doctors should be making our health care decisions; that nurses, not bookkeepers, should be at our bedsides; and that the Patients' Bill of Rights will be a reality.

I rise today because we have to consider our broad needs for health care not only in our country but around the world. Today as we meet and debate a Patients' Bill of Rights to make sure that Americans have access to the best health care in the entire world, there are millions of people around the world who do not have that opportunity or that right. I speak specifically of those who are suffering from HIV/AIDS.

We should be supporting vigorously the United Nations General Assembly on Meeting the Global HIV/AIDS Challenge and urging them to consider creative tools, such as debt relief, in efforts to combat HIV/AIDS.

As the general assembly is meeting in special session in New York to try to come up with a strategic blueprint for fighting HIV/AIDS worldwide, it is imperative that we in America appreciate that this worldwide epidemic has nowhere near crested. Africa is ravaged. It has just begun to affect India, China, and Russia. This is an epidemic of historic proportions, and it needs a response that is historically appropriate.

Almost 60 million people worldwide have been affected by HIV/AIDS, and over 20 million men, women, and children have died. If current trends continue, 50 percent or more of all 15-year-olds in the most severely affected countries will die of AIDS or AIDS-related illnesses.

We are in the middle of summer vacation. We have many families and young people visiting our Capitol. We are always so happy to have them here and for them to take a few minutes to see their Government in action, but it is just chilling to imagine American 15-year-olds facing bleak futures as orphans or victims because they were born to infected mothers.

Every American should be concerned with what is going on beyond our borders. We should also be concerned because when it comes to disease today, there are no borders. People get on jet planes, people travel all over the world. There is no disease that is confined to any geographic area any longer. We have to recognize that for us to worry about the HIV/AIDS epidemic in Africa and Asia is not only the right thing to do, it is the smart thing to protect ourselves and to protect our children.

It is also important to recognize that the groundbreaking drug treatments that are keeping people with HIV/AIDS alive today are not available to those who suffer elsewhere. Less than 1 percent of HIV-infected Africans, for example, have access to life-extending antiretroviral medications. The challenges facing us are great, and we should work together to combat this global emergency.

I strongly support the formation of a global fund for infectious diseases such as AIDS, but also including tuberculosis and malaria. We are seeing tuberculosis and malaria in our own country. We are seeing the spread of malaria, which used to be confined to a tropical belt, beginning to move northwards, in part, I believe, because of global warming and desertification, so the mosquitos can travel further north and find hosts who traditionally have not suffered from malaria.

Tuberculosis is becoming epidemic in many parts of the world. In Russia, drug-resistant tuberculosis is a major killer.

I believe we should have a global fund to combat these infectious diseases, and I am very pleased the United States, private donors, and some other nations have taken steps to address the need for money as articulated by Secretary General Kofi Annan. We need between $7 billion to $10 billion annually. It is my hope that through a public-private partnership we are able to continue to invest in promoting prevention, treatment, and eventually a vaccine to prevent this devastating disease.

I am old enough to remember polio as a scourge that affected my life. I can remember my mother not letting me go swimming in the local swimming pool because of polio. I remember as though it were yesterday when the announcement of a vaccine was made. What a sense of relief that spread through my house and all of our neighbors, and we all lined up to get that shot we thought would protect us from what had been, up until then, such a serious, overhanging cloud in the lives of young people, as well as older people.

HIV/AIDS extracts a severe economic toll on nations worldwide. The disease spreads so rapidly. No one is immune from it. It has grave consequences for societies, and it threatens the interest of peace and prosperity around the world.

HIV/AIDS alone will reduce the gross domestic product of South Africa by $22 billion, or 17 percent, over the next decade. That is why I believe debt relief must also be part of any conversation about a broader global HIV/AIDS strategy.

While most African countries spend less than $10 per capita on health care, they spend up to five times that amount in debt service to foreign creditors. In fact, the burdens of debt repayment have come into direct conflict with public health efforts in some instances. For example, structural adjustment programs have sometimes required governments to charge user fees for visits to medical clinics, a practice that stands in the way of effective prevention and treatment programs. As discussions of global HIV/AIDS prevention proceeds, consideration should be given to the role of international debt relief in the overall plan to combat HIV/AIDS.

I have written to the U.N. General Assembly President Harri Holkeri to express my support for his efforts and to urge inclusion of debt relief strategies in any effort that comes out of the general assembly.

I also urge our own Government to look more closely at what we can do. In the last administration, we forgave a lot of our bilateral debt for the poorest of the nations, but we should look at expanding beyond the circle of the poorest of the poor to the next poorest of the poor, and we should also look at our multilateral debt.

I am hoping I will find support on both sides of the aisle for a sense-of-the-Senate resolution I will be submitting to express the policy view that debt relief can and should be an important tool.

I have visited African countries. I have visited Asian countries. I have visited HIV/AIDS programs. I have been in places where 12-year-old girls who were sold into prostitution by their families have come home to die in northern Thailand.

I have been in programs in Uganda which have done probably the best job I know of in Africa certainly to spread the message about how to prevent HIV/AIDS. I have listened to the songs that were taken out into villages to tell villagers about this new disease that nobody really knows where it came from or how it arrived, but to warn people about its deadly consequences.

I was fortunate and privileged last year to participate in the United Nations discussion about AIDS, and I sat with AIDS orphans: A young boy from Uganda whose father and then mother died of AIDS, leaving him responsible for his younger brothers and sisters; a young boy from Harlem whose mother died of AIDS; a young boy from Thailand who was also orphaned by this terrible disease.

In some parts of Africa now, one will only find children, and most of them are orphans. The rate of infection ranges from 15 to 35 percent, and I am deeply concerned we are still in some parts of the world in a state of denial about HIV/AIDS.

Certainly, both India and China face tremendous challenges to educate their population about this disease and to avoid practices that might spread it. It is commonplace in some parts of China for very poor villagers to sell their blood to make a little money. In so doing, they are subjecting themselves to the possible transmission of this terrible disease.

In other parts of Africa and Asia, even the best intentions to immunize children against measles or other communicable diseases lead to tragedy because the sterilization is not up to par and needles are reused, leading to the infection of people with HIV/AIDS.

I have long maintained there is a deep, profound connection between the economic health of a nation and the physical health of that nation's people. That is why we have to act now to address the HIV/AIDS pandemic.

There is so much the United States can and should do. We have the finest health care system in the world. We are the richest nation that has ever existed in the history of the world. We not only should care about people in other parts of the world because of this disease, but we should act in our own self-interest because there will be many parts of the world where it will be difficult, potentially even dangerous, to travel if the entire social structure and economy collapses because of the strain of HIV/AIDS, where tourists and business people from America will be told they should not go to do business. Suppose they are in an accident or suffer injury and might need medical care and that medical care might not be deliverable because the health care system has collapsed under the weight of HIV/AIDS.

I look forward to working with my colleagues in the Senate and in our United States delegation to the United Nations General Assembly special session on these and other desperately needed proposals to halt and reverse the social and economic damage caused by HIV/AIDS and the direct and immediate threat this pandemic poses to America and Americans. I urge my colleagues and I urge our Government and the United Nations to look deeply into the concept of forgiving debt in return for nations doing what we know works to prevent, treat, and eventually find a vaccine for this terrible disease.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:52 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer [Mrs. CLINTON].

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIPARTISAN PATIENTS PROTECTION ACT—Continued

Mr. REID. Madam President, I ask unanimous consent that there be 45 minutes for debate with respect to the McCain amendment No. 812, which is pending, with the time equally divided and controlled in the usual form with no second-degree amendments in order thereto; that upon the use or yielding back of time the amendment be temporarily laid aside, and Senator GREGG or his designee be recognized to offer the next amendment as under a previous order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the time during the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. Madam President, the cornerstone of an effective patient protection program is the right to timely, fair and independent review of disputed medical decisions. This amendment reaffirms a critical element of that right—the right to an independent appeal process that is not stacked against patients by giving the HMO the right to select the judge and jury.

This is a critical difference between our approach to that issue and the approach of the alternative legislation before the Senate. Under their bill, the HMO gets to select the so-called independent appeals organization. Under our bill, neither the HMO nor the patient selects the appeals organization. Instead, it must be selected by a neutral and fair appeals process. This amendment puts the Senate on record as supporting that fair and impartial appeal process.

The approach of allowing one party to a dispute—in this case the HMO—to select the judge and jury to a dispute is so inherently unfair that it has been rejected out of hand by virtually every expert who has considered the issue. It flies in the face of every principle and precedent founded on fair play.

We don't allow it in our civil court procedures. We don't allow it in our criminal procedures. Doesn't a child with cancer whose HMO has overruled her doctor deserve at least the same basic fairness we provide for rapists and murderers?

The unfair approach of allowing one party to the dispute is not only alien to our court system, it is prohibited under the Federal Arbitration Act. It is unacceptable under the standards of the American Arbitration Association. It is rejected by the standards of the American Bar Association. Of the 39 States that have created independent review organizations, 33 do not allow it; neither should the Senate.

Do we understand, in the 39 States that have created independent review organizations, 33 do not allow the HMO to select and pay the independent reviewer; and neither should the Senate.

Under the fair external review approach we have in Medicare and in most States, the reviewer decides the plan is right about half the time and decides the patient is right about half the time. In the financial services industry, the industry gets to select the reviewer in disputes, and the industry wins 99.6 percent of the time. No wonder HMOs want that system: it makes a mockery of the whole idea of independent review. A vote for this amendment is a vote against making this bill a mockery of everything that a true Patients' Bill of Rights should stand for.

And how ironic it is that the sponsors of the competing proposal are vociferous supporters of the President's principle that we should preserve good State laws. But under this amendment, the 39 State external appeals systems currently in place would be wiped out. Do we understand? There is one provision in the two major pieces of legislation before us; that is, the McCain-Edwards bill and the Breaux-Frist bill. In the Breaux-Frist bill, their appeals provision effectively preempts all of those 39 States. They have to follow what is in their legislation. As I pointed out, that is the process by which the HMO selects the independent reviewer. They would be null and void, even where they provide greater consumer protections than the Federal standard. In all of these instances, the consumer has greater protection than even under the underlying proposal of the McCain-Edwards bill.

We have heard a lot of tragic examples of HMO abuse during the course of this debate and through the extensive discussions in the press over the last 5 years. We heard of children denied lifesaving cancer treatment by their HMO. It is wrong to let that same HMO choose the judge and jury that could decide whether those children live or die. And our amendment says it is wrong.

We have heard of women with terminal breast and cervical cancer denied the opportunity to participate in clinical trials that could save or extend their life. It is wrong to give that same HMO that overruled the treating physician and denied the care the right to chose the judge and jury that could decide whether that woman has a real chance to live to see her children grow up or is guaranteed to be dead within 3 months.

We have heard of a young man whose HMO decided that it was cost-effective to amputate his injured hand instead of providing the surgery that could restore normal functioning. It is wrong to give the HMO that made that heartless decision the right to choose the judge and jury that could decide whether that young man goes through life with one hand or two.

We have head of a policeman with a broken hip, whose HMO decided it was better to give him a wheelchair than to pay for the operation that would have restored his normal functioning. It is wrong to give the HMO that put its profits so far ahead of that patient's interests the right to choose the judge and jury that will decide whether that man ever walks again.

Last week, in discussing the issue of access to specialty care, I mentioned what had happened to Carley Christie, a 9-year-old little girl who was diagnosed with Wilms Tumor, a rare and aggressive form of kidney cancer. Her family was frightened when they received the diagnosis, but they were relieved to learn that a facility close to their home in Woodside, CA, was world-renowned for its expertise and success in treating this type of cancer—the Lucille Packard Children's Hospital at Stanford University.

The Christie family's relief turned to shock when their HMO told them it would not cover Carley's treatment by the children's hospital. Instead, they insisted that the treatment be provided by a doctor in their network—an adult urologist with no experience in treating this rare and dangerous childhood cancer. The Christies managed to scrape together the $50,000 they needed to pay for the operation themselves—and today Carley is a cancer-free, healthy and happy teenager. If the Christies had been less tenacious or had been unable to come up with the $50,000, there is a good chance that Carley would be dead today.

Under our opponents' plan, the HMO that passed a possible death sentence on little Carley Christie would have the right to choose the judge and jury to determine whether that possible death sentence should be upheld. No family should have to go through what the Christie's did.

The PRESIDING OFFICER. The Senator has used 7 minutes.

Mr. KENNEDY. I yield myself 5 more minutes, Madam President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. No HMO should behave as the Carley's did. And that HMO should certainly not have the right to choose the external review organization to decide whether Carley should get the care she needed.

Another case that I find particularly shocking is that of Melissa Yazman, right here in Washington. In May, 1997, Melissa Yazman was a second year law student at American University, going to school full-time, living in suburban Virginia, working part-time for an attorney in D.C., and taking care of her two kids while her husband traveled with his job.

In the past 4 years, much has changed for Melissa. Her dreams of law school and a career in the working world are gone, and her new career is focused on healing and living every day to enjoy the time she has with her husband and her two sons—Ben who is 11, and Josh who is 8.

In the spring, in 1997, at the age of 36, she was diagnosed with stage IV pancreatic cancer at the age of 36. Pancreatic cancer is a fairly rare cancer, and, for the majority of patients like Melissa, diagnosis is not possible until the cancer is in an advanced stage.

Melissa was told that she had 3 to 6 months to live. There are no curative treatments for pancreatic cancer. For most pancreatic cancer patients clinical trials are their only hope.

Melissa was referred to a clinical trial at Georgetown University. Her insurer refused to cover the treatment. Melissa and her husband were forced to go through lengthy and time consuming negotiations with the insurer—negotiations that took her husband away from their children for 2 to 3 hours a day—negotiations that ultimately ended in failure. She and her husband ended up paying for these costs themselves because they ran out of time waiting for a decision from her insurer.

Because she and her husband had enough money in their savings account, they were able to pay for her routine costs—costs that her insurer should have covered and would cover for a patient not enrolled in a life-saving clinical trial.

Because of the therapy she received in a clinical trial, Melissa has been able to have 4 extra years with her family and with her young boys. Without the clinical trial, she would have had 3-6 months. Every patient with incurable cancer hopes for enrollment in a clinical trial that can save or extend their life. No patient should have their hopes dashed because their insurer simply says no. And no patient like Melissa should have their right to a fair, impartial appeal voided because the HMO that said "no" gets to choose the organization that will decide the case.

For cancer patients, for women, for children—indeed, for every patient whose HMO denies critically needed cars—the right to a speedy, fair, impartial appeal should be a fundamental right. This amendment will put the Senate on record as saying that this appeal should truly be fair and impartial, that it will not load the dice and stack the deck against patients. Every Senator knows that this amendment represents simple justice, and I urge every Senator to vote for what they know to be right.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECORDING OF VOTE

Ms. STABENOW. Madam President, I want to indicate that on rollcall vote No. 197, I was present and voted "no." The official record has me listed as absent. Therefore, I ask unanimous consent that the official record be corrected to accurately reflect my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded. How much time is on both sides?

The PRESIDING OFFICER. There is no time remaining on the proponents' side, and there are 14 minutes 44 seconds on the opponents' side.

Mr. REID. I see nobody here of the opponents. If they require more time, I will be happy to give them whatever time I may use here. I ask unanimous consent that I be allowed to speak, and if the opponents of this sense-of-the-Senate amendment desire more time, they can have whatever time I use.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Did the Senator from New Hampshire hear the request?

Mr. GREGG. No.

Mr. REID. We have no more time left. You have 14 minutes. I said I would like to speak. If you want more time, whatever time I use, you can have that in addition to the 14 minutes.

Mr. GREGG. I am not aware of any speakers. We are waiting for people to return from the White House before we get really started.

Mr. REID. I want to direct a question to the Senator from Massachusetts. I say to my friend from Massachusetts, we heard a lot of talk about how this legislation has an adverse effect upon the business community. Has the Senator heard those comments?

Mr. KENNEDY. Yes, I certainly have.

Mr. REID. I received an e-mail from Michael Marcum of Reno, NV. Here is what he said. I would like the Senator to comment on this communication I received from one of my constituents:

> DEAR SENATOR REID, as a small business owner, and as a citizen I urge you to support the upcoming bill commonly known as the "Patients' Bill of Rights." I also would like to state that I support your and Senator McCain's version of the bill. If the HMO's can afford to spend millions on lobbyists and advertisements then they can afford to do their job correctly, preventing the lawsuits in the first place . . . .
>
> I am willing to pay to know that what I am purchasing from my HMO will be delivered, not withheld until someone is dead then approved post mortem (AKA a day late and a dollar short). While a believer in the market and freedom, I feel that we need a better national approach to health care. As the richest nation in the world, as the only real super-power, why do so many Americans get third world levels of health care, even when they have insurance.
>
> Thank you for your time—Michael Marcum (Reno, NV).

Will the Senator acknowledge that Michael Marcum is one of the hundreds of thousands of small business people who do not have the money to run these fancy ads; that their only way of communicating with you and me is through e-mails and communicating through the standard means, not through these multimillion-dollar advertising campaigns? In short, will the Senator acknowledge there are a lot of Michael Marcums, small business people, in America who support this legislation?

Mr. KENNEDY. I thank the Senator for bringing two matters to the attention of the membership. One is the example the Senator referred to, and the other point is the fact we have heard so much during the course of the debate that if these protections are put in place, it is going to mean millions of insured individuals as a result of this legislation will become uninsured.

Yet it is apparent, as the Senator has pointed out, that the HMOs have millions of dollars to spend on these advertisements—millions of dollars that ought to be spent on either lowering premiums or giving patients the protections they need. Evidently, it is an open wallet for the HMOs because they have been on the national airways and have been distorting and misrepresenting the legislation, as the Senator has just pointed out, distorting what its impact would be on average families in this country.

I am wondering if the Senator is familiar with the Texas Medical Association letter we just received. It confirms that the Texas law mirrors the letter and spirit of the McCain-Edwards-Kennedy bill. This is from the Texas Medical Association. They point out that the Texas Medical Association and President Bush agree that any entity making medical decisions should be held accountable for those decisions. This is not only the position of the Texas Medical Association but is exactly what President Bush called for in a Patients' Bill of Rights.

We resolved that issue earlier today. The Texas Medical Association believes it is consistent with the intent of the Texas law to hold any entity, whether employer or insurer, accountable if they make a medical decision that harms a patient or results in death. We upheld that today.

The Texas law was never designed to exempt from accountability businesses that made harmful medical decisions. It was suggested earlier, the Senator remembers, that it would be, rather, a clarification that the liability provisions did not apply to small- and medium-sized businesses that purchased traditional insurance.

That is interesting to hear because we heard a great deal earlier about where the Texas Medical Association was. This is a clarification.

The Senator is pointing out we spent a good deal of time trying to catch up with the distortions and misrepresentations, but as the Senator from Nevada knows, what this is really about is doctors and nurses making decisions on health care for their patients and not having them overridden by the HMOs or by employers who put themselves in the place of HMOs.

That is what this legislation is about: letting our doctors and nurses practice their best in medicine. We have so many well-trained medical professionals. They are highly motivated, highly committed, and highly dedicated. What is happening in too many places, as the Senator has pointed out in this debate, too many times those medical decisions are being overrun and overturned by the HMOs, and that is plain wrong. That is what this battle is about. I thank the Senator for his comment.

Mr. REID. I say to my friend from Massachusetts, yes, I am familiar with the letter from the President of the Texas State Medical Association. I believe that is his title.

Mr. KENNEDY. That is correct.

Mr. REID. I heard Senator MCCAIN read the letter word for word. I was so impressed because what has happened the last few years is that doctors, who in the past have been totally nonpolitical, have been driven into the political field because they are losing their practices, they are losing their ability to practice medicine, their ability to take care of patients they were trained to take care of. They have come into the political field and have joined together with the American Medical Association—all the different specialists and subspecialists—they have joined together saying: We as physicians of America need some help. If you want us to be the people who take care of your sick children, your sick wife, husband, mother, father, neighbor, then we need to have the ability to treat patients and give them the medicine they need.

The Senator from Massachusetts read part of this letter. Senator MCCAIN read the full text of the letter earlier today. It confirms this legislation is not being driven by a small group of fanatics but, rather, by the entire medical community. When I say "medical community," it is more than just doctors. It includes nurses. It includes all the people who help render care to patients.

I say to my friend from Massachusetts, I commend him, Senator MCCAIN, and Senator EDWARDS for their diligence in doing something the American people need. We all have had the experience of having sick people in our families and seeing if care can be rendered. We know how important a physician is. When a loved one of mine is sick, I want the doctor to have unfettered discretion to do whatever that doctor, he or she, believes is best for my loved one. That is what this Patients' Bill of Rights is all about. When a doctor takes care of a patient, let the doctor take care of the patient.

Mr. KENNEDY. I thank the Senator. He has summarized the purpose of this legislation. As the Senator knows now, we are ensuring there will be remedies for those patients if the HMO is going to make a judgment and overturn that medical decision with internal and external appeals.

Now the matter before the Senate is to make sure that appeal is truly independent and not controlled by the HMO, not paid for by the HMO. As I mentioned earlier in my presentation, 33 States at the present time do not permit the HMOs to make the determination and select the independent reviewer. That is our position. That is in the McCain amendment. We do not want to have an appeals provision that is rigged in favor of the HMO that may be making the wrong decision with regard to the patient's health in the first place and then be able to select the judge and jury to get it to reaffirm an earlier decision which is clearly not in the interest of the patient.

Mr. REID. I say to my friend from Massachusetts, the manager of this bill, before I came to Congress, I was a judge in the Nevada State Athletic Commission for prize fights. As the Senator knows, Nevada is the prize fight capital of the world. One thing they would not let the fighters do is pick the judges. They thought it would be best if some independent body selected the judges to determine who was going to sit in judgment of those two fighters.

It is the same thing we have here. We simply do not want the participants picking who is going to make the decision. That should be made by an unbiased group of people who have nothing to gain or lose by the decision they make.

This is very simple. This sense-of-the-Senate resolution says that if there are going to be people making a decision, they should be unbiased; they should be people who have nothing in the outcome of the case. Is that fair?

Mr. KENNEDY. I agree. Senator, as you may know, the language in the alternative legislation not only permits the HMO to select the reviewer and to pay that, but also it preempts all the other States that have set up their own independent review, and 33 of the 39 that have set up their reviews have chosen a different way from this process, a truly independent review. They would effectively be usurped or wiped off the books.

We hear a great deal about State rights and not all wisdom is in Washington. This is a clear preemption of all of the existing State appeals provisions. It is done in a way that permits the HMO to be the judge and jury. That is why the McCain amendment—which says there will be an independent selection of review, and we will not preempt the States—makes a good deal of sense.

Mr. REID. If I could refer a question to the Senator from New Hampshire, our time under the agreement is just about out. Are you arriving at a point where you might offer the other amendment?

Mr. GREGG. I hoped we would be. Some of the Senators involved in that amendment are at the White House, so we are waiting for them to return. When they return, we will be ready to proceed.

Mr. REID. I have been told they probably won't return until about 3:30.

Mr. GREGG. I suggest we divide the time between now and 3:30 between the two sides equally.

Mr. KENNEDY. I don't know at this time of other amendments on this side. We are making good progress dealing with this legislation. We are eager to address these other matters. There are continued conversations on some of the issues. We certainly welcome ideas that can protect the patients. Looking at this realistically, we have several Members who want to address the Senate and have spoken to me several times that they would like to make comments about the legislation. We can use the time productively, but we indicate we are ready to deal with amendments and we look forward to receiving them. We want to continue business.

We thank the Senator from New Hampshire for his cooperation. I will notify my colleagues who might want to speak.

Mr. REID. We have no objection to the request of the Senator from New Hampshire.

Mr. GREGG. I ask that the time between now and 3:30 be equally divided between myself and Senator KENNEDY, and any quorum calls be divided between each side.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

Mr. REID. Mr. President, I have been reading into the RECORD names of organizations that support this legislation. I will read some of the names into the RECORD. If someone from either side desires to speak, I will cease.

I have been through the A's, B's and C's of organizations supporting this legislation, hundreds of names. I begin with the D's:

Daniel, Inc.; Denver Children's Home; DePelchin Children's Center in TX; Developmental Disabilities; Digestive Disease National Coalition; Dystonia Medical Research Foundation; Easter Seals; Edgar County Children's Home; El Pueblo Boys' and Girls' Ranch; Elon Homes for Children in Elon, College, NC; Epilepsy Foundation; Ettie Lee Youth and Family Services; Excelsior Youth Center in WA; Eye Bank Association of America; Facing Our Risk of Cancer Empowered; Families First, Inc.; Families USA; Family & Children's Center Counsel; Family & Children's Center in WI; Family & Counseling Service of Allentown, PA; Family Advocacy Services of Baltimore; Family and Child Services of Washington; Family and Children's Service in VA; Family and Children Services of San Jose; Family and Children's Services in Tulsa, OK; Family and Children's Agency Inc.; Family and Children's Association of Mineola, NY; Family and Children's Center of Mishawaka; Family and Children's Counseling of Louisville, KY; Family and Children's Counseling of Indianapolis; Family and Children's Service of Minneapolis, MN; Family and Children's Service in TN; Family and Children's Service of Harrisburg, PA; Family and Children's Service of Niagara Falls, NY; Family and Children's Services in Elizabeth, NJ; Family and Children's Services of Central, NJ; Family and Children's Services of Chattanooga, Inc. in TN; Family and Children's Services of Fort Wayne; Family and Children's Services of Indiana; Family and Community Service of Delaware County, PA; Family and Social Service Federation of Hackensack, NJ; Family and Youth Counseling Agency of Lake Charles, LA; Family Centers, Inc.; Family Connections in Orange, NJ; Family Counseling & Shelter Service in Monroe, MI; Family Counseling Agency; Family Counseling and Children's and Children's Services; Family Counseling Center of Central Georgia, Inc.; Family Counseling Center of Sarasota; Family Counseling of Greater New Haven; Family Counseling Service in Texas; Family Counseling Service of Greater Miami; Family Counseling Service of Lexington; Family Counseling Service of Northern Nevada; Family Counseling Service, Inc.; Family Guidance Center in Hickory, NC; Family Guidance Center of Alabama; Family Resources, Inc.; Family Service Agency of Arizona; Family Service Agency of Arkansas; Family Service Agency of Central Coast; Family Service Agency of Clark and Champaign counties in OH; Family Service Agency of Davie in CA; Family Service Agency of Genesse, MI; Family Service Agency of Monterey in CA; Family Service Agency of San Bernardino in CA; Family Service Agency of San Mateo in CA; Family Service Agency of Santa Barbara in CA; Family Service Agency of Santa Cruz in CA; Family Service Agency of Youngstown, OH; Family Service and Children's Alliance of Jackson, MI; Family Service Association Greater Boston; Family Service Association in Egg Harbor, NJ; Family Service Association of Beloit, WA; Family Service Association of Bucks County in PA; Family Service Association of Central Indiana; Family Service Association of Dayton, OH; Family Service Association of Greater Tampa; Family Service Association of Howard County, Inc. IN; Family Service Association of New Jersey; Family Service Association of San Antonio, TX; Family Service Association of Wabash Valley, IN; Family Service Association of Wyoming Valley in PA; Family Service Aurora, WI; Family Service Center in SC; Family Service Center in TX; Family Service Center of Port Arthur, TX; Family Service Centers of Pinell; Family Service Council of California; Family Service Council of Ohio; Family Service in Lancaster, PA; Family Service in Lincoln, NE; Family Service in Omaha, NE; Family Service in WI; Family Service Inc. in St. Paul, MN; Family Service of Burlington County in Mount Holly, NJ; Family Service of Central Connecticut; Family Service of Chester County in PA; Family Service of El Paso, TX; Family Service of Gaston County in Gastonia, NC; Family Service of Greater Baton Rouge; Family Service of Greater Boston; Family Service of Greater New Orleans; Family Service of Lackawanna County, in PA; Family Service of Morris County in Morristown, NJ; Family Service of Norfolk County; Family Service of Northwest, OH; Family Service of Racine, WI; Family Service of Roanoke Valley in VA; Family Service of the Cincinnati, OH; Family Service of Piedmont in High Point, NC; Family Service of Waukesha County, WI; Family Service of Westchester, NY; Family Service of York in PA; Family Service Spokane in WA; Family Service, Inc. in SD; Family Service, Inc. in TX; Family Service, Inc. of Detroit, MI; Family Service, Inc. of Lawrence, MA; Family Services Association, Inc. in Elkton, MD; Family Services Center; Family Services in Canton, OH; Family Services of Cedar Rapids; Family Service of Central Massachusetts; Family Service of Davidson County in Lexington, NC; Family Service of Delaware Counsil; Family Service of Elkhart County; Family Service of King County in WA; Family Service of Montgomery County, PA; Family Service of Northeast Wisconsin; Family Service of Northwestern in Erie, PA; Family Service of Southeast Texas; Family Service of Summit County in Akron, OH; Family Service of the Lower Cape Fear in NC; Family Service of the Mid-South in TN;

Family Service of Tidewater, Inc. in VA; Family Service of Western PA; Family Services Woodfield; Family Services, Inc. in SC; Family Services, Inc. of Layfette; Family Services, Inc. of Winston-Salem, NC; Family Solutions of Cuyahoga Falls, OH; Family Support Services in TX; Family Tree Information, Education & Counseling in LA; Family Violence Prevention Fund; Family Means in Stillwater, MN; Federation of Behavioral, Psychological & Cognitive Sciences; Federation of Families for Children's Mental Health; FEI Behavioral Health in WI; Florida Families First; Florida Sheriffs Youth Ranches; and Friends Committee on National Legislation.

Mr. President, this is a partial list of the hundreds of names of organizations that support this legislation.

This is the fourth day that I have read into the RECORD names of hundreds of organizations supporting this legislation. This list was prepared for me more than a week ago. It has grown since.

When I finish this list, I hope we will have completed this legislation. But if we haven't, I will come back and read the new names.

This is legislation that is supported by virtually every organization in America. It is opposed by one umbrella group—the HMOs. They are the ones paying for these ads. They are the ones that are running the advertisements in newspapers and television and now even radio ads the reason being that they have made untold millions of dollars while we delay this legislation.

Every day that goes by is a lost opportunity for physicians to tell a patient what that patient needs and not have to refer to someone in an office in Baltimore, MD, as to what a patient is going to get in Las Vegas, NV.

When I have my income tax done, every year I have an accountant do that. When myself or a member of my family needs to be taken care of, I don't want an accountant doing that. I want a doctor to do that.

That is what this legislation is all about. I am so happy that we have a bipartisan group that the HMOs are not going to be able to stop.

We are going to pass this legislation, send it over to the House, the conference committee will meet, and we will send a bill to the President that he will sign.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DAYTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota is recognized.

Mr. DAYTON. Thank you, Mr. President.

Mr. President, I rise today in support of S. 1052, the McCain-Kennedy-Edwards Patients' Bill of Rights legislation. Minnesota, my home State, has one of the largest concentrations of HMO providers in the country. In fact, 90 percent of Minnesotans who are covered by their employers also receive their health care services through HMOs. Also, historically, the HMO concept originated in Minnesota by a Minnesota physician who has now renounced what HMOs have become.

Originally, HMOs were going to herald in a new age of health care, with greater emphasis on prevention, on primary care, more efficient referrals, coordinated and integrated medical care, all leading to a better quality of medical services for patients at lower overall costs to our health care system.

Integral also to their arguments was their conceit that the private sector always does it better than the public sector, that the large public health systems of Medicare and Medicaid, and other public reimbursement programs, were largely the ones to blame for these skyrocketing health costs, and that private-sector HMOs and insurance companies could manage health care dollars so much better than Government and provide better quality for less quantity of dollars.

However, once they got into the profession, they found that it was not quite that easy, that quality care costs money. There is always some con artist in this country who claims we can have something for nothing, or at least more for less. But the reality is, quality health care costs money. Well-qualified, highly trained, life-saving doctors, nurses, and attendants deserve to be well paid; and that costs money. Advanced lifesaving diagnostic equipment costs money. State-of-the-art, well-staffed hospitals and clinics cost money. And providing enough of all of the above, to take care of all the patients across this Nation, costs money, more money than most of these health care delivery or insurance systems wanted to spend.

So HMOs became what I call them "HNOs": The way to save money became to say no; deny care; deny treatments; deny claims. Health care providers became health care deniers. As these HMOs became larger and larger, business operations—whether for-profit or nonprofit—their "no" bureaucracies became bigger and more important. Stock prices, executive compensations, retained earnings all became dependent on their ability to grow and to say no, deny patient care to produce profits at cost savings, to grow to produce ever more profits.

The PRESIDING OFFICER. The time of the majority has expired.

Under a previous agreement, the time until 3:30 was to be equally divided between the majority and minority. The time of the minority has expired.

Mr. GREGG. Mr. President, how much time does the Senator think he needs to make his statement?

Mr. DAYTON. I say to the Senator from New Hampshire, another 10 minutes. But I will return to speak another time.

Mr. GREGG. No. We have no speakers at this time. I am happy to yield 10 minutes to the Senator from Minnesota. And I ask unanimous consent for 10 minutes to be added to our time.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I wonder if I might be able to have the floor to speak.

Mr. GREGG. What amount of time does the Senator from West Virginia need?

Mr. BYRD. Thirty minutes.

Mr. GREGG. I have no problem with that on my side, as long as our side will receive an equal amount of time. So that would be 40 minutes; 10 minutes to Senator from Minnesota, 30 minutes to the Senator from West Virginia; and then 40 additional minutes to be added to our side's time. And the Senator from West Virginia be recognized after the Senator from Minnesota.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Minnesota.

Mr. DAYTON. I would be happy to yield the floor to the Senator from West Virginia.

The PRESIDING OFFICER. Does the Senator from Minnesota wish to conclude his remarks?

Mr. DAYTON. I yield to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for up to 30 minutes.

Mr. BYRD. Mr. President, I thank both Senators.

(The remarks of Mr. BYRD are located in today's RECORD under "Morning Business.")

Mr. DAYTON. Mr. President, I thank the great Senator from West Virginia for his erudite discourse on the trade agreement which gives me remarks as I shall present them to my constituents in Minnesota. I thank the distinguished Senator.

Mr. BYRD. Mr. President, I thank my colleague. I thank him very much.

Mr. DAYTON. Mr. President, to continue where I left off, a great American once said that a house divided against itself cannot stand. Our Nation's health care providers unfortunately are fundamentally divided against themselves. Their avowed purposes are to provide health care to their members, their clients, and their patients. Yet their financial success depends increasingly on not providing health care to their members, their clients, and their patients, and their members, clients, and patients are increasingly the victims of their own health care providers.

Why do we even need a Patients' Bill of Rights to protect us from our own health care providers?

The fact we even need this legislation, the fact we are debating it in the Senate today, says how badly our Nation's health care system has deteriorated. A Patients' Bill of Rights, even if necessary, should consist of two words: Doctors decide. Doctors decide what diagnostic procedures, what treatments, what surgeries, hospitalizations, and rehabilitation therapies are needed. The health care providers provide them, and the insurer pays for them. It is that simple. It is that sensible. It is that lawsuit free.

Our distance from it today is a measure of our social insanity. It is the measure of our health care idiocy. But that is where we are today.

There is a term used in sports these days, trash talking. There is a lot of trash being talked about this legislation: It will explode the costs of health care; it is going to cost employees their health care coverage; it will drive businesses into bankruptcy. Those are the same smears and scare tactics that were used against Social Security, against Medicare, against workers' compensation, against unemployment compensation, and against family leave. Is there anything that is good for the American people that is not bad for American business?

I don't entirely blame them, because those business men and women have been talked trash to, as well, by their partners in these health care enterprises. Many businesses across this country are bedeviled by increasing costs of their health care. They want to do the right thing for their employees, but they are not in the business of administering health plans. I am sympathetic to this. But I say to those big leaders, if you want to get out of the business of providing health care coverage for your employees, then you need to actively support a better alternative, a separate system of true national health care which is devoted to providing care, not to avoiding costs.

Last Saturday in Minnesota, along with my distinguished colleague from Minnesota, Senator WELLSTONE, and our majority leader, Senator DASCHLE, we heard from several families who expressed their support for their legislation and the critical need for it from their life experiences. There was a father who spoke eloquently and powerfully about his 4-year-old daughter named Hope. Hope was born with spina bifida. As part of her treatment, six doctors—six physicians—including one at the Mayo Clinic, prescribed certain physical therapy treatments for her. Yet her HMO was unwilling to provide or pay for those prescribed treatments. It took 8 months of banging their heads against this bureaucratic wall, paying for the treatments that they could afford out of their own pockets, forgoing other treatments that they knew were in the best interests of her young life, until they finally were able to break through and get the care she needed.

A mother spoke of her 21-year-old daughter who died of an eating disorder. As she so powerfully stated last Saturday in St. Paul, MN, young people aren't supposed to die of eating disorders. But her insurance company refused to pay for the necessary evaluation of her daughter's illness, it refused to refer her to a specialist who might have made the correct diagnosis, and that young woman is dead today. Her life has been snuffed out, taken away from her family. Her mother set up a foundation just for this purpose, to advocate for the care that should be provided for anyone else in that situation. What a horrible way for a parent to be pulled into this debate, by losing a daughter unnecessarily to a disease, an illness that should not have been fatal except for the lack of proper medical care, medical care that was available in our country and was not made available to her by her insurer.

Finally, we heard from the wife of a husband and father of five children, a healthy, active, middle-aged man who suddenly, over the course of just a few months, was caught with some debilitating disease and confined to a wheelchair. For 8 months she and her husband tried to get their primary physician at an HMO to make a diagnosis that could lead to successful treatment. For 8 months this primary physician at the HMO was unable to make the diagnosis and refused to refer this man to a specialist elsewhere for that evaluation. He finally said to this patient, father of five, devoted husband: "Maybe there is something you need to confess."

Can you believe the absurdity of that? "Maybe there is something you need to confess"—as though there were some religious curse. This was a primary physician at an HMO. They could not escape the vice, the trap of that bureaucracy.

Finally, on their own initiative, the wife was so desperate, they decided to risk their entire life savings and drove to the Mayo Clinic in Rochester, world renowned clinic, and signed papers saying they would pay personally for the costs of whatever treatments were necessary. The physician there made a diagnosis of a viral disease, an invasive disease, prescribed the necessary treatments, medications, and this man is now at least partially recovered. He tires easily and cannot stand for extended periods of time but is out of a wheelchair and hopefully back to a full recovery. It cost this family $25,000 out of their own pocket to get the medical care they needed. The HMO finally agreed to pay 80 percent of that cost.

This legislation is not about lawsuits, it is about lives. It is not about trial lawyers but people, patients, mothers, fathers, children. I am not interested in lawsuits. I hope there is never a lawsuit as a result of this legislation because that would mean there would never be the need for them. It would mean all Americans were receiving the health care they need, the health care they deserve, the health care for which they paid.

I support this legislation, and I strongly urge my colleagues to support this as well.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, we encourage and invite colleagues who have amendments to come to the floor. Having talked with Senator GREGG and others, I anticipate we will have an amendment dealing with the issue of medical necessity. That is an issue which is of very considerable importance in the legislation. It was the subject of a good deal of debate the last time we debated this legislation. It was the subject of a good deal of debate when we were in the conference. It was actually one of the few issues that were resolved in the conference.

At this time, we have language in the McCain-Edwards legislation, of which I am a cosponsor, as well as in the Breaux-Frist measure, which is virtually identical. There are some small differences in there, but they are effectively very much the same. There will be an amendment to alter and change that issue. I will take a few moments now to speak about the importance of what we have done with the underlying legislation, and hopefully the importance of the Senate supporting the construct we have achieved.

It is my anticipation that the amendment will probably be offered at about 5 o'clock this evening. We will have debate through the evening on that measure. Hopefully, we will have a chance to address it. There are several other amendments dealing with the issue of the scope of the legislation, as well as on liability. I understand we may very well have the first amendments on liability a little later this evening as well.

This issue on medical necessity is of very considerable importance. I want to outline where we are and the reasons for it for just a few minutes.

The legislation before the Senate closes the door against one of the most serious abuses of the HMOs and other insurance plans, and the ability of a plan to use an unfair, arbitrary, and biased definition of medical necessity to deny patients the care their doctor recommends.

My concern is that the amendment we are going to see before the Senate is going to open that possibility again. We closed it with McCain-Edwards and also with the Breaux-Frist measure.

The issue before us is as clear as it was when we started the debate 5 years ago; that is, who is going to make the critical medical decisions—the doctors, the patients, or HMO bureaucrats?

It is important for every Member of the Senate to understand how we got where we are on this issue. We started out by placing a fair definition of medical necessity. The plan would have to abide by the Patients' Bill of Rights itself. It was a definition that was consistent with what most plans already did.

Every Democratic Member of the Senate voted for that approach. I still think it has much to commend it. But we heard complaint after complaint from the other side that putting a definition into law would be a straightjacket for health plans, it would prevent them from keeping pace with medical progress, and so on.

So Congressmen JOHN DINGELL and CHARLIE NORWOOD changed that provision. They removed the definition of medical necessity from the law. Instead, they said, let the plans choose the definition that works best for them. But if a dispute went to an independent medical review, the reviewers would need to consider that definition. But they would not be bound by it in cases involving medical necessity; that is, they would be able to use in the review their own judgment in terms of the medical necessity. They would make the decision based on the kind of factors all of us would want for ourselves and our families—the medical condition of the patient, and the valid, relevant, scientific and clinical evidence, including peer-reviewed medical literature, or findings, including expert opinion.

Mr. GREGG. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. GREGG. I understand the Senator's time has expired. I ask unanimous consent that whatever time the Senator consumes, an equal amount of time be added to our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, at the time of these appeals, they would make the decision based on the kinds of factors all of us would want for ourselves and our families—the medical condition of the patient, and the valid, relevant, scientific and clinical evidence, including peer-reviewed medical literature, or findings, including expert opinion.

Those factors essentially say that the independent medical reviewer should strive to make the same recommendation that the best doctor in the country for that particular condition should make. It is a fair standard. It is a standard all of us hope our health plan would follow.

The Senate should understand that this was not only a bipartisan compromise between Congressmen JOHN DINGELL and CHARLIE NORWOOD, it was a compromise on which every member of our conference signed off in the last Congress, from DON NICKLES and PHIL GRAMM to JOHN DINGELL and myself. In fact, this concept of letting the external reviewer consider but not be bound by the HMO's definition of medical necessity is also included in the Frist-Breaux bill endorsed by the President.

On this issue, the legislation before the Senate is clearly the middle ground. It is the fair compromise. But my concern is that the amendment we will face will tilt us away from that compromise and more to the HMO's.

Now the authors of this amendment claim that they have just provided a safe harbor for HMOs that want to be able to maintain a fair definition of medical necessity throughout the entire process. But our list of the factors that must guide the external reviewers' decision is already consistent with every fair definition of medical necessity. The fact is that this amendment may create a safe harbor for HMOs, but it tosses patients over the side into the storm-tossed seas. It would allow HMOs to adopt some of the most abusive definitions ever conceived. It ties the hands of the independent medical reviewers. It puts HMO bureaucrats in the driver's seat—and kicks patients and doctors all the way out of the automobile and is not in the interest of the patient.

Our concern is that the amendment we anticipate will be offered will say that HMOs could adopt any definition used by a plan under the Federal Employees Health Benefits Program that insures Members of Congress and the President, by a State, or developed by a "negotiated rulemaking process." Each of these approaches is fatally flawed, if our goal is to protect patients.

The Federal Employees Health Benefits Program plans can change their definitions every year. An administration hostile to patient rights can accept any unfair definition it chooses. To be perfectly frank, even administrations that support a Patients' Bill of Rights have not paid much attention to these definitions, because they have so many other controls over the way the plans behave. And Senators and Congressmen can always get the medical care they want, regardless of the definitions in the plan's documents, but ordinary citizens cannot.

So the Federal employees' plan can change these definitions. It is important that we establish the definitions so it is very clear to the patients about how their interests are going to be protected.

States often provide good definitions of medical necessity, but sometimes they do not. Do we really want, after the tremendous struggle we have gone through to pass this legislation, for consumers to have to fight this battle over this definition again and again in every State in the country year after year? I do not believe so. Administrative rule-making is only as fair as the participants. An administration hostile to patients' rights and sympathetic to plans can appoint any unfairly stacked set of participants that it wants.

And finally, under the amendment, the plan gets to choose any one of these options. That is what we anticipate of the format of the amendment. So it could seek out the worst of the worst. But consumers get no comparable rights to demand the best of the best.

If we look at the options that would be immediately available to health plans under the amendment, it is obvious why the disability community, the cancer community, the American Medical Association, and other groups who understand this issue are so vehemently opposed to that as an alternative—and why it is supported by no one but the health plans.

There are no health groups that support that option—none, zero. All of the health groups effectively support what was worked out in the compromise last year and has been included in the legislation before us which, as I mentioned, I think is the real compromise.

One Federal plan defines "medical necessity" as "Health care services and supplies which are determined by the plan to be medically appropriate." That is a great definition. If the plan determines the service your doctor says you need is not appropriate, you are out of luck. There is nothing to appeal, because the plan's definition of "medical necessity" controls what the external reviewers can decide.

Another plan uses different words to reach the same result. It says, medical necessity is "Any service or supply for the prevention, diagnosis or treatment that is (1) consistent with illness, injury or condition of the member; (2) in accordance with the approved and generally accepted medical or surgical practice prevailing in the locality where, and at the time when, the service or supply is ordered." Doesn't sound so bad so far, but here is the kicker. "Determination of 'generally accepted practice' is at the discretion of the Medical Director or the Medical Director's designee." In other words, what is medically necessary is what the HMO says is medically necessary.

Among those who have been most victimized by unfair definitions of "medical necessity" are the disabled. Definitions that are particularly harmful to them are those that allow treatment only to restore normal functioning or improve functioning, not treatment to prevent or slow deterioration.

That is a key element in terms of the disabled community. Most of these definitions, even for Federal employees, say that they will permit the treatment just to restore the normal functioning or to improve functioning. So many of those who have disabilities need this kind of treatment in order to stabilize their condition, in order to prevent a deterioration of their condition; or if there is going to be a slow deterioration, to slow that down as much as possible.

The only definition that really deals with that is the one which is in the McCain-Edwards and the Breaux-Frist legislation, which was agreed to because it does address that. That is why the disability community is so concerned about this particular amendment.

Every person with a degenerative disease—whether it is Parkinson's, Alzheimer's, or multiple sclerosis—can be out of luck with this kind of definition.

For example, in the clinical trials, you have to be able to demonstrate that the possibilities, by participating in the clinical trial, are going to improve your condition. There are other kinds of standards as well, but that happens to be one of them: to improve your kind of condition. We find that the Federal Employees Health Benefits Program uses language that is very similar to that.

As I mentioned, when we are talking about those that have some disability—when you are talking about Parkinson's disease, Alzheimer's disease, multiple sclerosis—you have the kind of continuing challenge that so many brave patients demonstrate in battling those diseases, but you want to make sure that your definition of "medical necessity" is going to mean that really the best medicine that can apply to those particular patients, based upon the current evolving development of medical information, is going to be available to those patients.

Another issue which should be of concern to every patient, but especially to those with the most serious illnesses, is the allowing cost-effectiveness to be a criterion for deciding whether medical care should be provided. The question is always, cost-effectiveness for whom, the HMO, or the patient? It was cost-effective for one HMO to provide a man with a broken hip a wheelchair rather than an operation that would allow him to walk again. It was cost-effective for another HMO to amputate a young man's injured hand, instead of allowing him to have the more expensive surgery that would have made him physically whole. It may be cost-effective for the HMO to pay for the older, less effective medication that reduces the symptoms of schizophrenia but creates a variety of harmful side effects rather than for the newer, more expensive drug that produces better cures and less permanent damage—but is it cost-effective for the patient and her family? Is this really the criterion we want applied to our own medical care or the care of our loved ones?

And on a practical level, how in the world is an independent review organization ever supposed to judge cost-effectiveness. Its members under all the bills are health professionals, not economists. They have the expertise to decide on the best treatment for a particular patient, but they cannot and should not be asked to evaluate its cost-effectiveness. To paraphrase our opponents, when your child is sick, you want a doctor, not an accountant. But here we have one of the State plans saying, in its definition of medical necessity, "cost-effective for the medical condition being treated compared to alternative health interventions, including no intervention."

I urge my colleagues to stay with us on this definition and to resist an amendment to alter and change it. The amendment that we anticipate will reverse a bipartisan compromise broadly supported by Members of both parties. It is included in the bill the President has endorsed. The anticipated amendment will stand the whole goal of this legislation on its head.

I think this is very likely to be a litmus test on the whole issue for the Senate. What we want to do is to make sure ultimately that it is the doctors who are going to make the best medical decisions, based on the information that they have available to them. That is what this legislation does, the McCain-Edwards, as well as in the Breaux-Frist. We do not want to change that. That has been basically supported by the President. It was supported in the conference. It represents basically the mainstream of the views of the Members of this body. We should resist any alteration or change of that particular provision.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent I be permitted to speak as in morning business on the time of the Republicans.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Let me begin by thanking my colleague, the senior Senator from Massachusetts, for his extraordinary leadership on this critical issue for our country with respect to the Patients' Bill of Rights. That is without any question the most important business before the country and the most important business before the Senate. I will return to the floor of the Senate either later today or tomorrow to share some thoughts with respect to that.

(The remarks of Mr. KERRY are located in today's RECORD under "Morning Business.")

Mr. KERRY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, we have some time to speak on the bill on this side; is that correct?

The PRESIDING OFFICER. The minority controls the next 41½ minutes.

Mr. THOMAS. I thank the Chair.

Mr. President, we have been on this bill now, it seems, for a very long time. It is very important, and indeed we should be on it. On the other hand, we also ought to be making some progress. It appears we are not. We hear all this talk about how we can get together, let's put it together, and we can agree. But I see nothing of that nature happening. It seems to me we continue to hear the same things coming forth. I hear a recitation of a great many people who are opposed to the bill listed off name by name. I suppose we can do that for the rest of the day.

Here is a list of people opposed to the Kennedy bill. There are over 100 names of businesses and organizations. I could do that, but I don't know that there is great merit in doing that. We have talked about what we are for, and I think, indeed, we Republicans have certain principles, and we have talked about that: Medical decisions should be made by doctors; patients' rights legislation should make coverage more accessible, not less; coverage disputes should be settled quickly, without regard to excessive and protracted litigation.

Most of us agree that employers that voluntarily provide health coverage to employees should not be exposed to lawsuits. That is reasonable. Congress should respect the traditional role of States in regulating health insurance. That is where we have been and what works. We intend to stand by those principles. I don't think that is hard to agree with. We have talked about the President's conversations with some of the people on the other side of the aisle who apparently say he wants a bill and they think we can get together. But I don't see any evidence of that.

It seems to me if we are going to do that, we ought to do it. Instead, it seems we are in this kind of bait and switch sort of thing that we hear. I think the McCain-Edwards-Kennedy bill, as described by the sponsors, is a far cry from what is written. How many times have we been through that? The sponsors promise it would shield employers from lawsuits, that it would uphold the sanctity of employer health care contracts, and require going through appeals before going to court. However, when you look at the language of the bill, that is not what is there.

One of the sponsors says: We actually specifically protect employers; employers cannot be sued under the bill. Yet you find in the bill itself exclusions of employers and other plan sponsors, and it again goes into causes of action. And then, unfortunately, the next provision says certain causes of action are permitted, and then it goes forward with how in fact they can be sued. They say, first of all, we specifically protect employers from lawsuits. Then it says in the bill that certain causes of action are permitted to sue them.

So we don't seem to be making progress and meeting the kinds of agreements we have talked about. What we simply do is continue to get this conversation on the one hand, which is endless, and it isn't the same as what is in the bill. I don't know how long we can continue to do that.

I am hopeful we can come to some agreement. I think people would like to have a Patients' Bill of Rights that ensures that what is in the contract is provided for the patient. I think we can indeed do some of those things. However, I have to say it seems to me if we intend to do it, we need to get a little more dedicated to the proposition of saying, all right, here is where we need to be on liability and let's see if we can work out the language to do that. We have been talking about it now for a week and a half. It is not there. All right. We are talking about the opportunity for holding to the contract, not going outside the contract. We need to have that language.

So I think most of us are in favor of getting something done here, but we are getting a little impatient at the idea of continuing to recite the same things over and over again when in fact the bill does not say that. We ought to be making some propositions to be able to make the changes that indeed need to be made if that is our goal.

Frankly, Mr. President, I hope that it is.

I see other Members in the Chamber. I will be happy to yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I yield back such time as I might have at this point.

The PRESIDING OFFICER. The Senator's time is yielded back.

Mr. REID. If the Senator will yield for a brief statement, there are efforts being made now to work out what some deem to be better language on the McCain amendment. If that is not possible, the Senator from New Hampshire and I have said we might be able to voice vote that anyway. I personally do not expect a recorded vote on that, but time will only tell.

I ask unanimous consent that the McCain amendment be set aside and the Senator from Missouri be recognized to offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

AMENDMENT NO. 816

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 816.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: to limit the application of the liability provisions of the Act if the General Accounting Office finds that the application of such provisions has increased the number of uninsured individuals)

On page 179, after line 14, add the following:

SEC. . ANNUAL REVIEW.

(a) IN GENERAL.—Not later than 24 months after the general effective date referred to in section 401(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine of the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the amendments made by this Act, on the number of individuals in the United States with health insurance coverage.

(b) LIMITATION WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted under subsection (a), determines that more than 1,000,000 individuals in the United States have lost their health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 302 of this Act shall be repealed effective on the date that is 12 month after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide for such funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences under this section.

Mr. BOND. Mr. President, it is clear that all of us agree that protection for patients of health care delivery systems is very important. Patients need to get quick, independent second opinions when their insurance company or their HMO denies care. Women need unimpeded access to obstetricians or gynecologists. Children need pediatric experts making decisions about their care and providing them care. Patients need to go to the closest emergency room and be confident that their insurance company or HMO will pay for the care.

Those things ought to be understood as the basis on which we all agree. To say, as some have, that those of us on this side of the aisle are not concerned about patients is just flat wrong.

I have spoken in the past about patients who are employees of small business, who are owners of small businesses, who are the families of small business owners. They do not get patient protection because they cannot afford insurance. They cannot even be patients because they do not have the care.

We need to figure out how we can assure patient protections, get more people covered by health care insurance, health care plans, HMOs, and give them the protections they need within those plans.

This bill is about balance. As we provide patient protections, we need to be concerned about how much we increase the cost of care because at some point these costs will start to bite. At some point, employers, particularly small business employers, will not be able to offer coverage to anyone so their employees cannot be patients. In addition, as prices go up, the employees or patients may not be able to afford their share of the insurance costs. The results: Fewer people with health care.

It is generally understood that for every percent increase in the cost of health care, we lose about 300,000 people from health care coverage. It is a fact of life. No matter what we do here, no matter how much we expound and gesticulate and obfuscate, we cannot repeal the laws of economics. When something gets more expensive, you are going to get less of it. The question is, How far do you go? How much is too much?

The folks on my side of the aisle have said we need to give patients basic, commonsense protections, such as the ones I mentioned in the beginning: Independent second opinions, access to emergency care, access to OB/GYN care, access to pediatric care, and many more. But that is not enough. Some of our friends on the other side have insisted on going forward. In addition to the consensus patient protections, they want to add an expensive new right to sue that poses a huge threat to runaway health care costs.

There are some people who are very interested in the right to sue. Those people are called trial lawyers, and they do really well at bringing lawsuits. They get a lot of fees from winning those lawsuits, particularly if the judgment is high and they have a good contingency fee contract. At the same time, those costs ultimately can deny people health care coverage because to pay these judgments, the companies involved have to raise costs.

As we have debated this legislation, I have tried to focus on what patient protections are needed and on the other crucial questions: What will this bill do to employers' ability to offer health care insurance to their employees? How many health care patients might lose their coverage?

I know proponents of this version of the bill do not want to talk about the people across America, the patients, who will lose their health insurance because this bill as a whole, including the new lawsuits, may cost more than a million people their health care coverage. We need to talk about it. We need to focus on it because over 1 million people who have health insurance today—men and women who are getting their annual screenings, mothers-to-be who are receiving prenatal care, and parents whose children are getting well-baby care—will be losing care because of this bill, and how many of them can we afford to lose?

We will be losing health care coverage for seniors who are taking arthritis medicines, men and women who are being treated with chemotherapy or kidney dialysis, families waiting for a loved one to have heart bypass surgery. These are the lives that will be disrupted, even devastated, as a direct result of this bill. Whom will they have a chance to sue then? What good is the right to sue a health plan if I have lost my health plan in the first place? It does not do me much good.

I have said in the past we know there are going to be people who lose their insurance coverage as a result of this bill. In the past several days, I have brought to the Chamber a chart that keeps a running total of the number of patients who will lose their health care coverage because their employers have told us that if the provisions of the current McCain-Kennedy bill with the right to sue employers are enacted into law, they will have no choice but to drop health care. They want to provide health benefits to their employees. They are important benefits, they are attractive benefits and ensure the employers get good work from employees, and they take care of the patients who are the employees and the families of the employees.

These small businesses have told me if they are faced with lawsuits from one of their employees or dependents who do not get the right kind of health care, they cannot afford to take that risk. Health care costs are too much already. Health care costs are going up. They are seeing more and more of the costs burdening their ability to provide health care.

In the past, I have read from letters from small businesses in Missouri that are fearful of losing health care coverage for their employees and their employees' dependents. These are real life examples of people who have written in, saying they are very worried about the provisions of the McCain-Kennedy bill.

I read yesterday a letter from a fabricator company. Today I have a letter from an accounting group. They are a small business, currently insuring four employees at a cost of $1,935 a month; they pay 100 percent of the premiums. Last year, their health care coverage costs went up 21 percent. They note there has been a steady increase over the past few years. They have had to pass these costs on to clients to cover the charges for their employees. At this rate, providing health insurance may become impossible. If the new Patients' Bill of Rights proposed by Senator KENNEDY expands liability and results in employers being held responsible for medical court cases, they will certainly be forced to cancel this employee benefit.

They go on to say:

> I do small business accounting every day.
>
> These are small mom-and-pop businesses that cannot exist if they are treated in the same way as large businesses with regard to employee benefits. Sometimes Congress forgets that mom-and-pop businesses of America are simply people who are working hard, day in and day out, just to maintain a moderate lifestyle. While they are not poor, they are not employers in the same sense as major corporations.
>
> Please help us keep our businesses and try to provide for our employees.

That is one thing we need to remember. As we look at things on a grand scale and look at large employers, we cannot forget the mom-and-pop businesses providing a living for mom and pop, their families, their employees, and their employees' families. We want all of them to be able to get good health care coverage. We want them to have rights that they can exercise if the HMO or the insurance company denies them coverage. But we certainly don't want to throw them out of health care coverage.

Here is another company in Missouri. They write:

> I have been doing business in Missouri for over 15 years and have been providing health insurance to my employees since November of 1993. At that time, counting myself, I insured four employees at an average cost of $78.50 a month. I now insure five at a monthly cost of $199.60, with the same high deductible coverage. My cost has increased over 250 percent, way beyond the rate of inflation and way beyond the growth of my business. I have just had to absorb this increased cost in the bottom line. This bill Senator KENNEDY has now in committee looks like a disaster ready to happen. I am not alone as a small business owner wondering if I might be able to continue to offer this benefit to my employees in view of the rising costs of the policies. If I would be legally responsible for medical court cases, I might as well just toss in the towel and close my business.

Those are the mom-and-pop operations, the small businesses, the lifeblood of our economy, the dynamic, growing engine of our economy that provides the jobs and the well-being and meets our needs for services and goods that everybody wants to talk about and everybody loves as the small businesses. But we need to be sure we are not pricing them out of business or even costing them the ability to cover their employees' health care costs.

Right now, our toll is 1,895 Missourians losing their health care coverage from what their employers have told us about the burdens they expect from the McCain-Kennedy bill. One can argue they may be wrong. I can make an argument based on reading the pages I have read before of exceptions under which an employer can be sued. But they would be well advised, if they cannot stand the costs of a lawsuit, to give up their health insurance. You can argue about it one way or the other, but 1,895—almost 1,900—employees will be thrown out of work, according to their employers who have communicated directly to us, if this measure is unamended and goes into effect.

What are we going to do about it? I hope we can work on the liability sections. I have heard people want to compromise. I haven't seen that compromise yet. So I will offer a very simple proposal. My amendment says one simple thing: At a certain point, enough is enough. If more than one million Americans lose health care coverage because of this bill, the most expensive part of this bill, the right to sue, should be reevaluated.

The beautiful thing about this amendment is, all of the disagreements that exist about how much the McCain-Kennedy bill will increase costs and how many people will lose coverage won't matter. We will never get an agreement on this floor, I don't believe, on just how many people will be knocked out. So we won't rely on predictions. All that will matter is what actually happens.

Health economists assure this analysis can be done, they say, over a 2-year period, and we will look at employment patterns, inflation, health regulations, or policy measures other than patient protections and other factors that affect employers and employees' ability to purchase coverage. Economists can estimate how many people lose coverage due to a major piece of health legislation. The Institute of Medicine has more than enough expertise and brain power at its disposal to do this.

The amendment I have proposed says not later that 24 months after the effective date, and thereafter for each of the 4 succeeding years, the Secretary of Health and Human Services shall ask the Institute of Medicine of the National Academy of Sciences to prepare and submit to the appropriate committees of Congress a report concerning the impact of the act on the number of individuals in the United States with health care insurance.

Then, if the Secretary, in any report submitted, determines more than one million individuals in the United States have lost their health insurance coverage as a result of the enactment of this act as compared to the number of individuals with health insurance coverage in the 12-month period preceding the act, then the liability section shall be repealed, effective on the date 12 months after the date on which the report is submitted. The Department of Health and Human Services is authorized to get funding for the conduct of the study, the National Academy of Sciences.

It is very simple. If it throws more than a million people out of health care coverage, then we repeal the liability section. Then Congress comes back and looks at it and says: Can we do a better job? We don't have to rely on any estimates or predictions. We can find out how many people have lost their coverage. I think a million people is a lot. But granted, anything we do is going to have a cost. What constitutes too much? I propose that as a starting point we say that 1 million people losing coverage is too much.

The two key issues in this debate are: First, access to care; second, access to coverage.

Patients need access to care without undue managed care interference. Thus, we need a patient protection bill. That is the external appeal. That is the right to see certain specialists, and the very important provisions we have in it. But the patients also need access to coverage. Are we going to get more people covered? Are we going to knock more people out of coverage?

The ability to sue HMOs sounds nice. But at what price? If the ability to sue HMOs and the ability to sue employers is too high, and if the price is 1 million Americans who lose coverage, then that price is too high.

I urge my colleagues to accept this amendment. I believe it is one way to make sure that we have a fail-safe mechanism to make sure that we observe that basic principle of medicine: first do no harm. I think a million individuals losing health care coverage is harm. That is why I suggest that we should agree to the amendment.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I rise in support of the excellent idea of the Senator from Missouri.

One of the big concerns that has been heard expressed throughout this entire debate has been the effect especially of the plethora of lawsuits which would be created under the present bill as it is structured on employers, especially small employers, and their willingness to continue to offer health insurance to their employees.

The real issue for most people is, first, do they have health insurance. When someone goes to find a job, one of the key conditions that most people look at is if that job has a decent health insurance package that is coupled with it. This is an extraordinarily big problem for not only people working at high-level jobs but especially people who work at entry-level jobs and in between.

You can take large employers in the retail industry or large employers in the manufacturing industry. In all of these areas, employees see as one of their primary benefits the pay they receive, obviously, but additionally the fact that they have good health insurance from their employers.

Then with the smaller employers, people who run small restaurants or small gas stations, or small mom-and-pop manufacturing businesses, the people who work for those folks also appreciate greatly the fact that they might have a health insurance package that is coupled with their employment. This is especially true for families. I don't think there is anything a family fears more than having a child get sick and not having adequate coverage, and not being able to get that child into a situation where they can be taken care of, or alternatively having their savings wiped out by the need to do something to take care of that child who has been sick, or a member of the family.

Quality insurance is absolutely critical.

We should not do anything that undermines the willingness of manufacturers, of employers, of small businesspeople, of mom and pop operators to offer insurance to their employees. It should almost be a black letter rule for this bill that we do not do something that is going to take away insurance because, as I have said before in this Chamber, there is no Patients' Bill of Rights if a person does not have insurance. They have no rights at all because they do not have any insurance.

So what the Senator from Missouri has suggested is a very reasonable approach. If this bill, as it has been proposed, is such an extraordinarily positive vehicle in the area of giving people rights for their insurance and is such a positive vehicle in the area of allowing people who interface with their health agencies to get fair and adequate treatment from their health agencies, then the authors of this bill should have no objection to the amendment offered by the Senator from Missouri.

Because the Senator from Missouri isn't suggesting that the bill should be changed in any way. He is simply saying, if the effects of the bill are that people are thrown out of their insurance and no longer have the ability to hold insurance because their employer says, "We are not going to insure you anymore; we can't afford it because of the number of lawsuits that are going to be thrown at us as a result of this bill," if that is the case, and more than one million people in America—and that is a lot of people—lose their insurance, then the liability section of this bill will not be effective. It does not affect the underlying issues of access and does not affect the underlying issues of the ability to go to your own OB/GYN or your own specialist or the various other specific benefits which are afforded under this bill, most all of which there is unanimous agreement on in this Senate.

All it simply says is, listen, if the liability language in the bill simply isn't going to work because it throws a million people out of their insurance and, therefore, a million people lose their rights versus gain rights under this bill, then we basically do not enforce liability provisions until that gets straightened out. The Congress can come back at that time and take another look at the liability provisions and correct them. At least nobody else will be thrown out of the works because of the liability provisions; they will essentially be put in a holding pattern by this amendment.

That is an entirely reasonable approach. Instead of saying we are going to function in a vacuum in this Chamber, where essentially we throw out ideas that we think are good but don't know what is going to happen, this is essentially saying, all right, if we think we have ideas that are good, we are going to hold those ideas to accountability.

We heard the Senator from Massachusetts talking about accountability in another section of this bill. He brought up the education bill, which we talked about for the last 7 weeks before we got to this bill. And the issue was accountability. Does it work? The education bill we passed has language in it that essentially took a look at what had happened in order to determine what would occur in the future. What Senator BOND has suggested is that we do that under this bill. It is a very practical suggestion. He is saying if a million people lose their insurance, then we will put the liability language in the bill on hold until we can straighten it out. Actually, it would be sunsetted.

The practical effect of that is, I presume, Congress would come back and say, listen, we didn't intend to have a million people lose their insurance. Our purpose in this bill was to give people more rights, not to give them less rights. You give people less rights if they lose their ability to have insurance.

So by taking this language we will be in a position of being sure that what we are doing in this Chamber, and what we are doing in the isolation of the legislative process—although we get input, we never really see the actual events—will have a positive impact. We will know that if it isn't having a positive impact, there will be a consequence. The consequence is that that part of the bill, which has created the negative impact—throwing people out of their insurance—will be held up or stopped or sunsetted until we can correct it.

So the Senator's concept in this amendment makes a huge amount of common sense. It is truly a commonsense idea. I guess it comes from the "show me" State. Nobody has used that term today on this amendment. I do not think they have described it that way. This is a classic "show me" amendment. This says: Show me how the bill works. If the bill does not work, OK, we are going to change it to the idea of having this trigger, which establishes whether or not the bill is positive or whether the bill is negative. If the bill is negative—"negative" meaning over a million people losing their insurance as a result of the effects of this bill—then we sunset the liability language.

I do think it is important to stress that this amendment does not sunset the whole bill. It just focuses on the liability sections within the bill, which sections I have severe reservations about and have referred to extensively in this Chamber, which I think are going to have unintended consequences which will be extraordinarily negative on employees in this country where a lot of people are going to lose their insurance.

This amendment just goes to that section of the bill. It doesn't go to the positive sections of the bill that there is general agreement on. It does not even go to those sections of the bill where there isn't general agreement on, such as the scope issues of States' rights or the contract sanctity issue, for that matter.

But it does go to this question of, if you have people losing their insurance because their employers are forced to drop that insurance because it has become so expensive as a result of the liability provisions of this bill, then, in that case, where that happens to a million people—a million people, by the way, is essentially the population of the State of New Hampshire. It is not the population of Missouri, but essentially we have 1,250,000 people in New Hampshire, so we are talking about not an inconsequential number of people; it is pretty much the whole State of New Hampshire. So it is a reasonable threshold.

If a million people lose their insurance because employers cannot afford it, because the liability costs have driven them out of the ability to ensure their employees, then we should stop that; we should end that liability language and take another look at it as a Congress and correct it.

So I congratulate the Senator from Missouri for offering this classic "show me" amendment. It is very appropriate that it has been offered by the Senator from Missouri, from the "show me" State. It makes incredible common sense. I also would say it is a "Yankee commonsense" amendment. So we shall claim it for New England also. I join enthusiastically in supporting this amendment.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DAYTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I rise in support of the Bond amendment. I commend the Senator for standing up and trying to mold patient protection legislation to comply with a fundamental principle that he has repeated many times today: The first order of business in medicine is to do no harm. And building on this principle, as I continue to iterate so many times when I come to this Chamber to speak, we cannot afford to ignore what I believe to be the No. 1 problem in health care today: the fact that we have anywhere between 42 and 44 million people who do not have health insurance.

I will state again for the record—and I am happy for anyone to come forward and tell me differently—there is not one thing in this bill that increases the number of insured people in America, not one thing. This is a pretty good-sized bill. It has 179 pages to it. Not one page, not one paragraph, not one sentence, not one word will cover one additional person in America.

For many of the people who are the greatest critics of the health care delivery system in this country, the paramount feature of which they are most critical is the number of uninsured in our society. If there is a criticism levied by people around the world against America's health care system, it does not have to do with quality of care. I think everyone will agree that America pretty much sets the gold standard in terms of the quality of care delivered to patients. I think most people say, yes, the best health care in the world is available here in the United States. But the critics around the world will say, it may be the best system but you have 42 to 44 million people in this country who are not insured.

Do you think the first health care bill we are considering here in the Senate should consider what most people see as the greatest problem with America's health care system? Most people in this country would say, yes, that is what we should be considering. But this bill doesn't do that. Interestingly enough, what does this bill do? It provides patient protection. That is great. I am for that. There are a group of people in this country, people who have health insurance plans that are regulated solely by the Federal Government, who have very few patient protections afforded to them because they are not covered under State patient protection laws. So we should pass a Federal Patients' Bill of Rights to cover those people. I am all for that, and we should have adequate protection.

But what this bill does, what the Senator from Missouri is trying to really focus on, is it does a whole lot of other things that will cause at least one million more Americans to become uninsured. Now, I am pleased that the President of the United States has vowed to veto this legislation should it come to his desk in its present form for signature. But if for some reason it is enacted into law, maybe over the President's objections, this will result in millions more being uninsured.

You can put all the benefits aside. Let's assume this is the greatest patient protection bill in the history of the world, that as a result of this bill, patients will be supremely protected, a notion, of course, with which I take issue. I don't believe that will occur. But let's assume it does. The result of this bill will be millions more uninsured. In particular, if the liability provisions of this bill are enacted, which allow employers to be sued—and that is really the issue that is at heart of the Bond amendment, if it allows employers to be sued, to practically an unlimited extent—you won't have a million or 2 million people who won't have insurance as a result of this bill. You will have tens of millions of people who will lose their insurance. Why? Do I say I am against employer liability because I love employers? No. Employers are nice people. Employees are nice people. They are all nice people. The question is, What is the effect of holding employers liable? The effect of holding employers liable is employers who voluntarily provide health insurance as a benefit, will simply stop providing that benefit because it will jeopardize their entire business. If they can be sued for a decision that is made with respect to a benefit they voluntarily provide one of their employees, the provision of which is not the core function of their business, they are simply going to stop providing that benefit.

That is what the Senator from Missouri is trying to get at. If we cause, as a result of the employer liability provisions, and some of the general liability provisions, and some of the contract provisions, which basically allow outside entities to rewrite contracts in litigation and in appeals, if we open up this Pandora's box of problems for employers to continue to provide insurance to their employees, employers will do what employers must do: first, protect the survival of their business. And this will be a direct threat to the survival of their business.

What is now a pleasant benefit that you can provide to your employees and something that you can help to attract employees with by providing good health care insurance will become a serious liability risk that a business simply cannot afford to take.

The Senator from Missouri is saying, very simply: We have a great patient protection bill here, but we have the very real potential of having a tremendous downside, in really hurting people.

I am very sympathetic about all the cases being brought forward, about the need for patient protection. I think you will find fairly universal agreement on this side that we want to provide those protections. But the first protection should be to preserve the possession of insurance in the first place. If we deny them that protection, all these other protections don't matter, really, if they lose their insurance. This could be a great bill, but if you don't have insurance, then this bill doesn't help you. In fact, it can hurt you because it can cause the loss of your insurance.

What the Senator from Missouri is saying is: Let's go through, and we will work on some more amendments. We will try to get this thing honed down until we have a good patient protection bill. If we can't fix the liability provisions, which I don't know whether we will be able to or not, at least let's say that if the liability provisions are what we believe they are, in other words, problematic to the point of causing devastation to millions or at least a million people in losing their insurance, then we should have a trigger.

You are seeing all of these kinds of comments by folks who are supportive of this bill and supportive of the liability provisions in the bill saying: Hey, this isn't going to hurt anybody. We are not going to cause any problems with this. No, no, no, employers aren't going to drop their coverage. Health care costs are not going to go up. Millions more won't be uninsured.

They will make that statement and have made that statement over and over again. Fine. They may be right.

What happens if they are wrong? What happens? What happens if past experience is any guide, if we are right and millions do become uninsured? Should we have to wait for an act of Congress for this body generally to realize that we made a mistake and have to come back through this whole legislative process to repeal the problem here? Should we have to wait for that? Or should we just simply have a trigger that says, look, if we made a mistake, if we made a mistake, if we were wrong, then we are going to immediately cancel that portion of the bill that is causing the problem upon recognition that we have a problem of a million uninsured.

As the Senator from New Hampshire said, a million people is a lot of folks, a lot of children, a lot of families. It is a lot of people who are going to go without health care. If what we really care about is providing good, quality health care, the first thing we should care about is to get them an insurance policy in the first place.

One of the things that strikes me most about this bill is blithe references as to how we are going to go out and get the HMOs. These HMOs are a bunch of bean counters who don't care about people. There is all these horrible cases about HMOs.

My understanding is that the liability provision that allows you to sue your employer, that allows you to sue your insurance company, does not just apply to HMOs. It applies to PPOs. It applies to all insurance contracts. Obviously, if it is a fee-for-service contract and there is no limitation on what provider you want to go to, that is one thing. But in most insurance plans today that are not HMOs, there is some limitation of some sort, certainly some limitation on procedures that are covered. But that is not what is talked about here, folks. What we talk about, when they talk about this liability provision, they are talking about these nasty HMOs.

What they don't tell you is that it ain't just the nasty HMOs that can be sued under this bill, it is any insurance company who provides any insurance product and any employer that provides any insurance product.

Oh, that is a different story, isn't it? You don't hear them up there railing against those nasty fee-for-service plans or those nasty PPO plans because they don't poll as well as going after those nasty HMOs. But this isn't just about nasty HMOs, this is about all insurance products. There is no way out of this liability provision unless, of course, you just want to say to your employees: We will cover everything. Doesn't matter what you want, where you want to go, we will just pay for everything you want. Of course, we all know what an exorbitant cost of that would entail, and so this is neither practical or realistic.

The point is, this bill has serious consequences for millions of people who are on the edge, whose employers are sitting there right now saying: Well, I have a 13 to 20 percent increase in my premiums this year. The economy is flattening out a little bit. I am looking forward. I will tighten my belt a little bit more, and we will continue to provide health insurance to our employees. Then this bill comes along, which will increase costs more and potentially expose them to liability for doing what is right by their employees and providing insurance to them.

I haven't talked to an employer yet, I have not talked to an employer yet who told me that if this bill passes and they are liable for lawsuits simply because they are providing a health benefit to their employees, I haven't talked to one employer who has told me that they will keep their insurance.

They can't. How can they? In good conscience to their shareholders or the owners of the company, how can they keep providing a benefit that simply opens up a Pandora's box of liability, 200 causes of action, in State court, Federal court, unlimited damages, unlimited punitive damages, and allow clever lawyers to forum shop all over the country so as to find that good court down in Mississippi in a small county there that is used to handing out $40 million or $50 million jury awards.

I ask you, whether you are an employer or employee, put yourself in the shoes of a small businessperson who has 20 employees, barely making ends meet, running a small business—maybe a family business—their employees are like members of the family. You have lots of businesses like that across America. They want to do well by their employees because they are like family. So they provide good benefits, good pay, and even before family and medical leave, they gave time off when their employees were sick or they needed to take care of their children who were sick at school.

Now comes this bill that says if one person has a problem with the health care system and the insurance policy that employer offered didn't give them everything they wanted, and some savvy lawyer decides he or she can get you everything you want and more, and all of a sudden that family business that employs 20 or so people in the community all of a sudden that business is on the hook. And maybe they may even prevail against a lawsuit, but how many tens of thousands of dollars is it going to take, or hundreds of thousands, simply to defend the lawsuit? We are talking about big awards. I can tell you that a lot of companies are just going to be worried about fighting the lawsuit in the first place, about being dragged into court to prove positive against the liability ambiguities in this legislation?

I am just telling you that what the Senator from Missouri has put forth is a reasonable amendment. We will have amendments on the floor dealing with employer liability. We must do something about it. I believe if we allow this employer liability provision to stand, we will destroy the private health care system in this country—the employer-provided health care system. It will go away.

I know there are some Members on the floor right now who are against the private health care system, who want a Government-run, single-payer health care system. Fine.

Mr. GREGG. If the Senator will yield, I advise Members that it is very possible we will have a vote around 6 o'clock. So Senators should be aware of that.

Mr. SANTORUM. As I was saying, I know there are many people in this Chamber who believe a single-payer health care system is the best way, the most efficient way, the most compassionate way—to use these wonderful, glorious terms—to provide health insurance in this country. Obviously, I disagree, but it is a legitimate point of view. I think we should have that debate.

We had that debate in 1994 with the Clinton health care proposal, and we had a good debate on the floor of the Senate about the kind of health care delivery system we should have. But it was a deliberate debate about how we can change the health care system by a direct act of the Congress. The problem with this legislation is that we are going to severely undermine one health care system, which is a health care system that is principally funded through employer contributions, and we are not going to replace it with anything.

You see, as many of my colleagues well know, if employers stop providing health insurance, then people are going to have to go out with their aftertax dollars and buy health care, and the costs will be prohibitive. If you don't believe me, I would ask any of my colleagues to drop their federal health insurance plan today, and to endeavor to purchase health insurance with aftertax dollars. It is very difficult.

One of the things I hope to accomplish—and maybe we can work on this in this bill—is to create refundable tax credits for those who do not have access to employer-provided health insurance, so they can get help from the Government equivalent to the subsidy that the government offers for employer-provided health insurance. We give a deduction for the business. In other words, if I am an employer and I provide health insurance to my employees, I get to deduct the cost of that off of my earnings, my income. We also subsidize it on the other end. If you are an employee and you have employer-provided health insurance, you don't have to pay taxes on the money that your employer uses to purchase that insurance. In other words, let's say it is a $5,000 family policy. That is a benefit to you. That is compensation to you. It is $5,000 of insurance costs that your employer pays for you, but you don't have to pay taxes on it. It is tax-free compensation to you. So, in that sense, we subsidize you by not taxing you on that benefit. So the employer gets subsidized and the employee gets subsidized.

But if you are an individual who does not have access to employer-provided health insurance, you have to take the money that is left after you pay all your taxes—after you pay Social Security taxes, income taxes, State taxes, local taxes, and Medicare taxes—and then you can take your money and try to buy health insurance.

That is a pretty rotten system. If we are going to do anything about the problem with the millions of uninsured in this country, we are going to have to start treating people who don't have access to employer-provided insurance the at least as well as we do with those who do have it. None of that is in this bill, there is no tax equity.

I will say it again. There isn't one paragraph in this bill that will increase the number of insured in this country. There are, unfortunately, pages and pages and pages and pages in this bill that will result in more and more and more people losing their insurance. But we can mitigate that—or at least a big part of it—if we adopt the Bond amendment.

The Bond amendment says if we have a problem, let's not wait for an act of Congress to admit our mistake. I know those who are listening might find this hard to believe, but sometimes Congress is a little slow in admitting we made a mistake. Sometimes we don't own up to the fact that it was our fault. I know some within the sound of my voice will find that to be almost an incredible proposition on my part—that somehow Congress doesn't immediately come in and say, yes, we understand we made a mistake; we are sorry America, we blew it. Everything I said the year or two before about how this wasn't going to cause a problem, you are right; it did. My mistake; we are going to repeal this.

I just ask my colleagues, when was the last time that happened? I know some in this room will remember the last time it happened. My recollection is that it happened back in 1988, when it came to Medicare catastrophic coverage. Congress tried to pass catastrophic prescription drug coverage for seniors, and quickly found out that seniors really didn't like what Congress did. Seniors rose up and screamed and hollered, and within a year or so—I wasn't there at the time, but I recall Congress repealed it. That was about 12 years ago. I can't think of any instance since and, frankly, I can't think of anything before that.

So let's just assume—I think it is a pretty safe assumption—that the people who are saying that this liability provision will not cause a problem are wrong. They will be in very good company if they go on to insist that they aren't wrong in the future—that even though we may have evidence of millions more uninsured as a result of this provision, somehow or another they will avoid blame and will point to something else that caused this problem, not the liability provisions. So it will be some sort of contest here as to whether we even take up this issue again.

The Bond amendment avoids all that. It says, look, if the GAO says this provision, the liability provision, has caused a problem of causing more than million additional uninsured, then that part of the bill sunsets, the rest of the bill stays in place. Patient protections stay in place.

Patient protections stay in place. It affects just the liability provisions. The internal-external reviews stay in place so there is patient protection. What does not stay in place are the provisions that are causing massive damage to millions of American families.

I am hopeful, No. 1, we can fix these liability provisions because we should not pass a bill that is going to cause this kind of severe dislocation, this kind of trouble for millions of American families. We should not consciously do harm to people, particularly when we understand it is the No. 1 problem facing our health care system today, which is the lack of insurance for 42 to 44 million people.

We should not do this. We should not pass flawed liability provisions. I know the Senator from New Hampshire and Senators on both sides of the aisle are trying to see if we can get a good provision. But should we not get a good liability provision, the Bond amendment is a very prudent stopgap measure so as to ensure that we do not go down the road of making what is the worst problem facing health care today even worse.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my friend from Pennsylvania for making a very compelling argument. I very much appreciate his support because we are talking about something that should be of concern to every American who wants to be sure that they and their families are covered by health insurance. If you price it out of range and lose your health care, it does not matter how many independent reviews might be provided in the law. If you do not have a plan, they do not do you any good.

The basis for our trigger, our safety valve, is, let's just see if this bill has a cost. We say that the Institute of Medicine within the National Academy of Sciences can figure it out. It has been indicated they can rely on work that has already been done by the General Accounting Office, CBO, and other congressional bodies. But for constitutional purposes, the ultimate responsibility of this study has to be in the executive branch, and that is why it is in the Institute of Medicine. We know from our work with the GAO and CBO the kind of format, the kind of approach that can be taken. We move that function into an executive branch area.

We say if this bill throws more than 1 million people out of their workplace health care coverage or their own health care coverage, then we sunset the most expensive part, the liability part.

I said earlier that the general rule of thumb is that 300,000 people will lose their health care coverage if health care costs go up 1 percent. I ought to be a little more specific and explain something. As I understand it, when the costs of this bill are calculated, it is impossible to determine how many dollars will be added to the health care costs from the liability provisions themselves. Basically, the additional responsibilities that go into the bill—setting aside the liability questions—the Congressional Budget Office estimated a previous and substantially equivalent form of this bill would raise private health insurance premiums an average of 4.2 percent. That comes from the mandates in coverage, external review, and all those other things.

This 4.2 percent would mean that over 1 million people will be thrown out of work. But that does not deal with the number of people who would lose their health care coverage because of the exposure to liability or because of the costs of liability judgments.

We probably will not have liability judgments in the first couple of years. It will take some time for cases to work their way through the court system. But you can bet if a couple of juries come in with the billion-dollar judgments that some juries are coming in with now, those costs are going to have to be factored into the health care premiums for everybody, whether it is an employer, whether it is the employee-paid provision of it, and there are going to be a lot of people who are not going to be patients because they are going to lose their health care coverage.

Then there are those, such as the small businesses I have referenced from Missouri, who say: I cannot take the chance; I cannot put my business at risk of one of these multimillion-dollar judgments, a tort action or contract action—tort action most likely—brought against me as an employer because I provide health care insurance or health care coverage or a health care plan; I am going to drop the plan.

We know what happens when they drop the plan. Most of the time the employee cannot pick up health insurance for her or his family and self. They are going to be out of business. They are going to be out of the health coverage that their employers provided. That is over and above the directly calculated costs CBO comes up with to say that a similar bill would increase health care costs by 4.2 percent.

The cost of this bill is 4.2 percent plus whatever the impact of the liability exposure would be, and we think that is much more significant even than the costs of the mandates in the bill. That is why we say if 1 million people are thrown out of health care coverage as a result of this bill—the National Academy of Sciences Institute of Medicine will make that report to the Secretary of Health and Human Services—then the liability provisions sunset in 12 months and Congress gets to review this measure and say: How can we make it work better?

That is a reasonable approach. It does not require us to make judgments, but it does say if 1 million people are thrown out, we need to revisit our work.

Mr. President, I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

Mr. REID. Madam President, what is pending before the Senate?

The PRESIDING OFFICER. The amendment of the Senator from Missouri, Mr. BOND.

AMENDMENT NO. 812

Mr. REID. I ask unanimous consent that amendment be set aside and we turn to McCain amendment No. 812.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there is no further debate on McCain amendment No. 812, the question is on agreeing to the amendment.

The amendment (No. 812) was agreed to.

Mr. REID. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, I ask unanimous consent that at 6:05 p.m. this evening the Senate vote in relation to the Bond amendment numbered 816, with no second-degree amendments in order prior to the vote; further, that following the vote, Senator Nelson of Nebraska be recognized to offer a Nelson-Kyl amendment regarding contract sanctity and there be 1 hour for debate this evening, with the time divided in the usual form; further, following the use or yielding back of time on the Nelson-Kyl amendment this evening, the amendment be laid aside and Senator ALLARD be recognized to offer an amendment regarding small employers, with 1 hour for debate this evening, equally divided in the usual form; further, that when the Senate resumes consideration of the bill at 9:30 a.m. on Wednesday, there be 60 minutes of debate in relation to the Allard amendment prior to a vote in relation to the amendment, with no second-degree amendments in order prior to the vote; further, following the vote in relation to the Allard amendment, there be 60 minutes for debate in relation to the Nelson of Nebraska-Kyl amendment, followed by a vote in relation to the amendment, with no second-degree amendments in order prior to the vote.

Mr. GREGG. Reserving the right to object, it is my understanding there will be no additional amendments this evening other than these two.

Mr. REID. I also say to my friend if any Member feels the necessity this evening to debate more, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 816

Mr. GREGG. I ask for the yeas and nays on the Bond amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 816. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mr. SCHUMER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 6, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—93

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe

Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—6

Biden
Boxer
Corzine
Hollings
Voinovich
Wellstone

NOT VOTING—1

Schumer

The amendment (No. 816) was agreed to.

Mr. BOND. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. BOXER. Mr. President, I voted against the Bond amendment. If this legislation is enacted, as I hope it will be, I believe we should review it periodically and make changes to ensure that it is working to protect Americans against the outrageous practices of some HMOs. An annual review, as required by the amendment, would be a good thing. It would give us insight into what is working and what may not be.

However, this amendment goes beyond an annual review. If the number of uninsured individuals increases by more than 1 million, the Bond amendment gives the Secretary of Health and Human Services the authority to take away a person's right to sue an HMO.

One unelected individual should not have the unilateral power to take away every American's right to hold an HMO accountable for its bad decisions. I am very supportive of efforts to increase the number of people with insurance. I think we need to address that issue. But this amendment does not do that. The problem of the uninsured will not be solved by allowing a single unelected government official to let HMOs off the hook for their actions.

The PRESIDING OFFICER. Under the previous order, the Senator from Nebraska will be recognized.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 818

Mr. KYL. Madam President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. KYL), for himself, Mr. NELSON of Nebraska, and Mr. NICKLES, proposes an amendment numbered 818.

Mr. KYL. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify that independent medical reviewers may not require coverage for excluded benefits and to clarify provisions relating to the independent determinations of the reviewer)

Beginning on page 35, strike line 20 and all that follows through line 8 on page 36, and insert the following:

(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage and that are disclosed under subparagraphs (C) and (D) of section 121(b)(1) and that are not covered regardless of any determination relating to medical necessity and appropriateness, experimental or investigational nature of the treatment, or an evaluation of the medical facts in the case involved.

On page 37, line 16, strike "and".

On page 37, line 25, strike the period and insert "; and".

On page 37, after line 25, add the following:

"(iii) notwithstanding clause (ii), adhere to the definition used by the plan or issuer of 'medically necessary and appropriate', or 'experimental or investigational' if such definition is the same as either—

"(I) in the case of a plan or coverage that is offered in a State that requires the plan or coverage to use a definition of such term for purposes of health insurance coverage offered to participants, beneficiaries and enrollees in such State, the definition of such term that is required by that State;

"(II) a definition that determines whether the provision of services, drugs, supplies, or equipment—

"(aa) is appropriate to prevent, diagnose, or treat the condition, illness, or injury;

"(bb) is consistent with standards of good medical practice in the United States;

"(cc) is not primarily for the personal comfort or convenience of the patient, the family, or the provider;

"(dd) is not part of or associated with scholastic education or the vocational training of the patient; and

"(ee) in the case of inpatient care, cannot be provided safely on an outpatient basis;

except that this subclause shall not apply beginning on the date that is 1 year after the date on which a definition is promulgated based on a report that is published under subsection (i)(6)(B); or

"(III) the definition of such term that is developed through a negotiated rulemaking process pursuant to subsection (i).

On page 66, between lines 10 and 11, insert the following:

"(i) ESTABLISHMENT OF NEGOTIATED RULEMAKING SAFE HARBOR.—

"(1) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in subsection (d)(3)(E)(iii)(IV) (relating to the definition of 'medically necessary and appropriate' or 'experimental or investigational') that group health plans and health insurance issuers offering health insurance coverage in connection with group health plans may use when making a determination with respect to a claim for benefits.

"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under paragraph (1), the Secretary shall, not later than November 30, 2002, publish a notice of the establishment of a negotiated rulemaking committee, as provided for under section 564(a) of title 5, United States Code, to develop the standards described in paragraph (1). Such notice shall include a solicitation for public comment on the committee and description of—

"(A) the scope of the committee;

"(B) the interests that may be impacted by the standards;

"(C) the proposed membership of the committee;

"(D) the proposed meeting schedule of the committee; and

"(E) the procedure under which an individual may apply for membership on the committee.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice described in paragraph (2), and for purposes of this subsection, the term 'target date for publication' (as referred to in section 564(a)(5) of title 5, United States Code, means May 15, 2003.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—Notwithstanding section 564(c) of title 5, United States Code, the Secretary shall provide for a period, beginning on the date on which the notice is published under paragraph (2) and ending on December 14, 2002, for the submission of public comments on the committee under this subsection.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall carry out the following:

"(A) APPOINTMENT OF COMMITTEE.—Not later than January 10, 2003, appoint the members of the negotiated rulemaking committee under this subsection.

"(B) FACILITATOR.—Not later than January 21, 2002, provide for the nomination of a facilitator under section 566(c) of title 5, United States Code, to carry out the activities described in subsection (d) of such section.

"(C) MEMBERSHIP.—Ensure that the membership of the negotiated rulemaking committee includes at least one individual representing—

"(i) health care consumers;

"(ii) small employers;

"(iii) large employers;

"(iv) physicians;

"(v) hospitals;

"(vi) other health care providers;

"(vii) health insurance issuers;

"(viii) State insurance regulators;

"(ix) health maintenance organizations;

"(x) third-party administrators;

"(xi) the medicare program under title XVIII of the Social Security Act;

"(xii) the medicaid program under title XIX of the Social Security Act;

"(xiii) the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code;

"(xiv) the Department of Defense;

"(xv) the Department of Veterans' Affairs; and

"(xvi) the Agency for Healthcare Research and Quality.

"(6) FINAL COMMITTEE REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the general effective date referred to in section 401, the committee shall submit to the Secretary a report containing a proposed rule.

"(B) PUBLICATION OF RULE.—If the Secretary receives a report under subparagraph

(A), the Secretary shall provide for the publication in the Federal Register, by not later than the date that is 30 days after the date on which such report is received, of the proposed rule.

"(7) FAILURE TO REPORT.—If the committee fails to submit a report as provided for in paragraph (6)(A), the Secretary may promulgate a rule to establish the standards described in subsection (d)(3)(E)(iii)(IV) (relating to the definition of 'medically necessary and appropriate' or 'experimental or investigational') that group health plans and health insurance issuers offering health insurance coverage in connection with group health plans may use when making a determination with respect to a claim for benefits.

Mr. KYL. Madam President, this amendment is offered on behalf of myself and Senator NELSON. It is an amendment that deals with the definition of "medical necessity" under the bill and is intended to provide a safe harbor for those who comply with certain requirements. I should also say this amendment is also offered on behalf of Senator NICKLES. I apologize to my colleague from Oklahoma.

First, let me offer some general views on S. 1052, the Kennedy-McCain Patient Protection Act, and then I will discuss this amendment.

As you know, President Bush has reiterated his intention to veto this legislation because, in his view, it "would encourage costly and unnecessary litigation that would seriously jeopardize the ability of many Americans to afford health care coverage." None of us wants that result. As a result, we are trying to do our best to work with the sponsors of the bill to make some changes that would make it palatable to both the President and to most of us in this Chamber.

My concerns include the fact that it will undoubtedly raise premium costs due to new lawsuits and increased regulation, that it will undermine the States' traditional role of regulating the health insurance industry and make employers who voluntarily provide health care coverage to their employees vulnerable to frivolous lawsuits, and that it will violate the terms of the contract between the employer and the health plan. This latter issue is the one the Nelson-Kyl-Nickles amendment is intended to address.

Under S. 1052, the external reviewer is "not bound by" the "medical necessity" definition contained in the plan document. And there is no substitute definition provided, so there is really no standard for review.

Let me put in context what this means. What we have provided for here is a method by which people will actually get the care they believe they have contracted for and deserve. The object is not to create a lawsuit to try to pay the money after the fact for some injury they suffered but, rather, to get the care for them upfront. That is what this should all be about.

So we have a review process by which first somebody within the company, and then an external reviewer, takes a look at the case and says: All right, this is what the contract means. This is what medical care would require under this circumstance as called for under the contract, and therefore the patient is entitled, or is not entitled, to this particular procedure.

That review process is supposed to occur quickly so that the patient receives the care he or she has contracted for and deserves under the circumstances.

In order for an external reviewer to know whether or not a particular procedure or treatment is called for, there has to be some standard by which to judge that. The Presiding Officer and the other lawyers in this body will know that anytime you ask some reviewer to determine whether or not something has to be done, you need to provide some standard upon which that reviewer can base a decision.

The bill right now contains no standard, and it needs such a standard. Our amendment supplies that standard. We believe it supplies a very fair and reasonable standard. The language in S. 1052 gives the external reviewer a free hand to disregard the definition of "medical necessity" contained in the contract and, as I say, supplies no substitute definition.

As in all of the bills, this external review requirement is the last process prior to going to court. But, as I said, the external reviewer is "not bound by" the contract's key definition of "medical necessity" or "experimental and investigational." As a result, the external reviewers can simply make up their own definition of "medical necessity."

Private contracts negotiated between the parties—insurers and employees, or insurers and individual consumers—would become virtually meaningless in this circumstance, and the financial obligations of the health plan could become totally unpredictable.

The plan or insurer could become obligated to pay for items or services based on definitions outside the contract, even potentially including contractually excluded items that were deemed to be medically necessary by the reviewer. The "not bound by" provision, therefore, would have the effect of eliminating the ability of the parties to negotiate the key terms and conditions of health insurance contract agreements.

Madam President, in addition to vitiating legal contracts, the "not bound by" language would have the following negative effects.

First, inconsistent standards: The standards used by reviewers would vary with each review panel and with each case within the same plan. We are trying to create some degree of uniformity with this legislation, but under the bill you could have the potential for a wide variety of very arbitrary decisions because of the lack of a standard.

Second, quality of care: The mere threat of contract nullification could prompt some plans to pay for all claims regardless of the cost and the impact on the quality of patient care.

Solvency and stability: The use of unpredictable outside definitions of medical necessity will impose costs for unanticipated treatments not reflected in actuarial data used to determine the amount of the health care premium.

And finally, cost increases: Solvency concerns would result in increased cost for employers and increased premiums for employees.

The net result of that, of course, will be to remove more people from the rolls of the insured.

Under S. 1052 as written, these contracts, negotiated between the parties and often approved by State insurance regulators, will be voidable, not by a judge or a court of law but by an unrelated nonjudicial third-party reviewer. This will undermine the principles of the contract as well as due process.

So, as I said, to address this problem we have sponsored an amendment that would allow the plan to adopt a widely accepted safe harbor definition of medical necessity as its contract definition. If a plan utilized this safe harbor definition, then the external reviewer would be bound by it when hearing a patient's appeal of denial of coverage.

Safe harbor definitions contained in the amendment are basically at three different levels. First, we take the definition from the Federal Employee Health Benefits Plan that currently covers about 73 percent, as best we can calculate it, of the employees under the Federal Employee Health Benefits Plan. Over 6 million Federal employees and Members of Congress are covered by this definition.

It is important to recognize—I think some of our friends on the other side misunderstood and thought we were offering an amendment that had been offered a couple years ago; I want to make it very clear—this definition is not the FEHBP or Office of Personnel Management definition for managed care plans, for HMO plans.

This definition is the definition for the fee-for-service plans. As a result, it is a more strict definition. The insurance companies are going to have to provide a higher quality of care under this definition than they would under the HMOs that provide some coverage to roughly one-fourth of the people served under the FEHBP program.

So, first of all, we have this definition. I will actually read it in just a moment.

Secondly, there are going to be some States that already have a binding State statutory definition. There are 13 of them. Of course, a legally binding State definition of medical necessity would apply to claims filed in those

States. That would constitute a safe harbor for the companies that use that definition. Obviously, it would be only prospective, not an after-the-claim adoption of the definition. So obviously that would have to apply.

Third, if there is a question about whether this first FEHBP definition works or that people like it, we have established a negotiated rulemaking process under the bill which would involve all of the stakeholders involved—the plans, the employers, providers, and consumers—and they could arrive at a definition that is different if they felt that it could be improved.

If the rulemaking failed to arrive at a definition, then, again, you either have a State definition or the FEHBP definition we provide. But if the rulemaking did achieve a definition that all agreed to, that then would supplant the FEHBP definition we have.

I will ask staff to give me the actual language now since I gave the copy of my legislation to the clerk. I would like to read the elements of this definition now. This is the definition, as I say, that already applies to, we know, about 49 percent of the employees, and we think it applies to another 23 or 24 percent as well.

First of all, the determination provides whether services, drugs, supplies, or equipment provided by a hospital or other covered provider are; No. 1, appropriate to prevent, diagnose, or treat your condition, illness, or injury—obviously, very straightforward and, No. 2, probably the most important point, consistent with standards of good medical practice in the United States. That is the key. If the employee argues that something is being denied in the way of treatment or care and good standards of good medical practice in the United States would call for that treatment, then that treatment will have to be provided under this definition. So standards of good medical practice is the same standard essentially that would be used in a court case. It is the same standard that is used for most of the Federal employees. It is obviously a good standard to use.

There are three other aspects of it. I will read each of the three. They deal with very specific situations: Not primarily for the personal comfort or convenience of the patient, the family, or the provider; No. 4, not part of or associated with scholastic education or vocational training of the patient; and No. 5, in the case of inpatient care, cannot be provided safely on an outpatient basis. That would enable the treatment to be provided on an outpatient basis if it could be done.

It is a very straightforward definition. It is one that has been used literally hundreds of times. It covers a significant portion of the 6 million people covered, and we think it is a good definition to be included in this legislation.

We think it represents a reasonable compromise on the one hand between requiring an external reviewer to be bound by a too narrow definition in a "rogue" plan contract and, on the other hand, affording a majority of the plans that operate in good faith the opportunity to adopt a widely accepted safe harbor definition of medical necessity to which the external reviewer would be bound.

Madam President, we think this is a good compromise. It is clearly important for us to include some kind of definition in the legislation. We had hoped that the sponsors of the legislation would be willing to work with us to include this definition. So far they have declined to do so. But I am hopeful that we can continue to talk with them, and perhaps we can reach some understanding that would enable us to substitute this definition for the lack of a definition in the legislation right now.

At this point, I yield time to the cosponsor of the amendment, BEN NELSON, the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Madam President, I rise today to offer, along with my colleague and friend from Arizona, Senator JON KYL, an amendment to protect the sanctity of health insurance contracts, to provide certainty and clarity so that both the issuer and the insured can know what coverage they have.

This amendment will preserve a patient's right to receive the health benefits that they paid for while keeping insurance premiums affordable. In more colloquial terms, this amendment is what is needed to see that the people who pay for health care coverage get it. It may sound extraneous, and this is anything but exciting language, but I know from my experience as a State insurance commissioner in Nebraska two decades ago that this amendment is essential for the preservation of what I believe is an extraordinarily fundamental patient right.

Before I elaborate further on this point, let me state that I think a Patients' Bill of Rights is not only a good idea; it is an excellent idea. I believe Congress should be acting in the best interests of all Americans to enact such legislation.

We need a Patients' Bill of Rights to ensure that doctors make medical decisions. We need a Patients' Bill of Rights to protect patients and federally regulated health care plans that are currently unprotected and have been unprotected for more than two decades. We need a Patients' Bill of Rights to guarantee patients' access to independent and external medical review and, only as a last resort, to guarantee them access to the courts.

There is no shortage of reasons why this legislation merits passage.

But before my support for a Patients' Bill of Rights is misconstrued as an "anything goes" approval, I want to be clear that while I believe the Senate should approve a Patients' Bill of Rights, I think that some improvements are justifiable. And right now, we have the opportunity to make those much-needed improvements which will ultimately increase the effectiveness of the Patients' Bill of Rights.

I believe the bill needs to carefully consider matters such as the issue addressed by this amendment pertaining to the sanctity of health insurance contracts. And I hope that the sponsors of the legislation will look very favorably on this matter and that we will be able to work out an arrangement or agreement to get it included as part of the bill.

First, this amendment would ensure that patients receive the care that they are entitled to under the plans to which they subscribe. External reviewers would be required to assess treatment options based on the contract that exists between the patient and the plan.

Patients would be entitled to the care outlined as a provided benefit within the contract that exists. External reviews would not be able to circumvent the contract to force employers to expand coverage for any particular patient unless the patient was entitled to the care as specified by the care contract.

This will help keep down the high cost of health care and, at the same time, will enable employers to continue to provide their employees with the best care possible.

More importantly, this amendment will provide three safe harbors for employers with respect to protecting them against unnecessary litigation over treatment. While patients will have the right to sue under this bill, this amendment will more clearly define the parameters by which treatments can be determined as "medically necessary" and thus will provide a safeguard of medically necessary standards for employers that administer their own health plans.

The McCain-Edwards-Kennedy bill contains something that I think would currently require external reviewers to abide by the standard for the determination of medical necessity included in the bill, but it doesn't bind the reviewers by the insurers' definitions for medical necessity. This is problematic as it relates to the existing contract between patient and provider and provides a great deal of unclarity and uncertainty.

So to remedy this situation, this amendment proposes to identify three separate and distinct sources of definitions that employers could choose to use in the contract by which reviewers will be bound. The three options that we create for the plans are:

One, a definition that plans are required to use by State law. This would protect the previously existing and any newly created State laws that require plans to use a definition put forward by the State.

Second, any definition used by a plan which is codified by the language in the fee-for-service agreement that is currently covering maybe 50 to 75 percent of the Federal employees under the FEHBP, or the Federal Employees Health Benefit Program, would be used by the plans covering those who would be covered under these ERISA plans. What that means is, if it was good enough for Members of Congress and Federal employees, this certainly ought to be good enough for everyone else.

Three, a definition that is to be developed through negotiated rulemaking. This option requires the Secretary of Labor to develop a rulemaking committee that will seek public comment to develop a definition of "medical necessity." In other words, State laws will be recognized and respected. Secondly, there will be a definition that is now included as a fee-for-service definition in the current Federal Employees Health Benefit Program. And in the event that a rulemaking process is negotiated through the Department of Labor, the rulemaking committee will seek public comment to develop a definition of what is "medical necessity."

The negotiated rulemaking committee, the third item of this three-pronged approach, will consist of at least one individual representing each of the following groups: Health care consumers, small employers, large employers, physicians, hospitals, other health care providers, health insurance issuers, State insurance regulators, health maintenance organizations, third party administrators, the Medicare Program, the Medicaid Program, the Federal Employees Health Benefits Program, the Department of Defense, the Department of Veterans Affairs, and the Agency For Health Care Research and Quality. That is quite a list of individuals for public comment and public input.

This committee would have until 1 year after the general effective date of the bill's implementation to propose a rule to the Secretary. The Secretary, then, would be required to publish the rule within 30 days of the receipt.

Madam President, our goal is to ensure that all patients have access to all treatment options available under their plans. We need to provide this access without undermining the integrity of the contract between the patient and the provider. Without some standard for a definition on "medical necessity," these objectives would be impossible to obtain. Both parties are entitled to certainty and predictability. This will provide it. Without passage of this amendment, there will be both uncertainty and a lack of predictability and neither party will be benefited.

I ask my friends and colleagues to consider this amendment as one that will improve the McCain-Edwards-Kennedy HMO reform bill. I ask for their support.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, I reluctantly have to rise in order to oppose the amendments of my good friends on the issue of medical necessity. I outlined earlier in the day the basic judgment and basic history of how we reached the language that we have included in our bill.

First, let us look at what will be the standard that is in both the McCain-Edwards bill, as well as in the Frist-Breaux bill. Effectively, both treat this particular issue of medical necessity the same. This is a result of the fact that this issue had been debated 21/2 years ago when we considered the Patients' Bill of Rights here and in the House of Representatives. We tried to define the test on medical necessity during that period of time. What we resolved is to permit, at the time of the external review, the kind of test that we have included in our language here and in the Frist-Breaux language. This was actually the language which was agreed to in the conference last year, a conference that never resulted in an overall outcome of the legislation. Nonetheless, we had agreed on a handful of different areas of dispute. That was agreed to by my colleagues, Phil Gramm, Don Nickles, myself, and others, after a good deal of negotiation.

It seems wise to continue that particular proposal because basically this is what we are doing. At the time of the appeal of any of these medical necessity issues, we are permitting for the standard of determination in our bill, on page 35: "The condition shall be based on the medical condition of the participant." That is obvious. No. 1, what is wrong with the patient? And then it talks about "valid, relevant, scientific evidence and clinical evidence, including peer-reviewed medical literature and findings, including expert opinion."

Basically, the reason for that is to allow for the possibility that we find out there are new kinds of discoveries, new kinds of techniques, new kinds of treatments for various health conditions. In order to not use a stagnant kind of proposal, we included that language. This language which was agreed to is supported by the American Medical Association and other medical groups.

So in the legislation that we have here in the McCain-Edwards proposal, which I support, and the Frist-Breaux proposal, which others including the President of the United States support, and in the agreement that was made by Republicans and Democrats alike, we agreed effectively to this language. This agreement occurred after considering all the different kinds of proposals. It raises questions of why we are today attempting to alter that particular proposal.

The argument is, first of all, that we can offer three different options. One would be that the administration can propose an administrative group, a commission that can make some recommendations about what that standard would be.

That may work out, but it may not work out very well if we have an administration that is not as sympathetic to the protection of patients' and doctors' decisions as we have tried to be in this undertaking. That is one way of doing it.

Second, the results of State actions can be the criteria. In some States the protections have been very good, and other States have left a lot to be desired.

I understand the basic thrust of this legislation is to establish minimum standards. If States want to have higher protections for consumers, they are welcome to do it. What we are trying to do is ensure that all Americans, all American families are protected.

In the area of scope, all Americans being protected—actually, every Republican proposal that was considered in the House of Representatives included all Americans—we were attempting to ensure that there was going to be a minimum standard. However, we can use another standard, such as the good Federal employee standard to which the Senator just referred.

It is interesting, though, that the Office of Personnel Management does not use the Federal employee standard on their reviews. What do they do? They do something very similar to what we have done. They permit the doctor to make the ultimate decision and not be bound by some definition. The reason for this is because they do not believe that that should to be the restrictive definition for all appeals.

In turn, there is a Federal employee program of which all of us are a part. In our program if there is going to be an appeal, this is a different standard. Basically, it is a standard that permits the doctors to make the judgments and decisions.

I find it difficult to be convinced at this hour. We waited a good deal of time. I know we were all pressed with the different proposals. I have had a chance to talk to my friend and colleague, Senator NELSON, on a number of different provisions. From personal experience, I can tell that this is a Senator who has spent a good deal of time on this legislation and has been willing to spend a great deal of time visiting with me and with others, and also talking extensively with the House Members who are interested in various provisions. I know a good deal of thought has gone into this matter.

My final point is the underlying commitment of this legislation to make sure that doctors are going to make the decisions. Trained medical personnel and families are going to make these judgments and decisions. It seems to me that when we have included in the legislation's language—in fact, insisted on—permitting the doctor to use the best medical information and judgment of this decision making and will permit them to also take advantage of the latest ideas, new conclusions, new consensus of the treatment of various medical conditions, this is the best way rather than a review being bound up in some process.

We do not know tonight, for example, whether the board is going to be overly sensitive to the consumers and patients. There is a wide variety of interpretations in many of the States.

This is unlike other parts of this legislation where there is a difference between what we have proposed, what is included in Breaux-Frist, and what the President has recommended. In these areas, the McCain-Edwards proposal, the Breaux-Frist proposal, the conference committee by Republicans and Democrats alike, and the President have reached similar conclusions. This is one of the most important areas of the legislation. It seems to me what we have in the underlying legislation is completely consistent with what the President has indicated would be key to this legislation.

Mr. President, I yield 10 minutes to my colleague.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I start by thanking my two colleagues, the Senator from Arizona, my good, dear friend from Arizona, for his work on this issue, and now my friend from Nebraska, with whom I have had occasion on this specific bill to work many days and many hours. As the Senator from Massachusetts has suggested, he has great expertise in this area, both in his time as insurance commissioner and his time as Governor. He and I have worked together on a number of issues, such as employer liability which we will be offering an amendment on hopefully tomorrow. We have talked about a number of other issues, such as the scope of the legislation, and medical necessity is another issue in which the Senator has been actively involved.

I specifically thank him for his work on this issue on behalf of the people of Nebraska whom he represents. He has been extraordinarily diligent and involved in this very important issue of the Patients' Bill of Rights and patient protections. I thank him very much for all of his work and will continue to work with him. He has had terrific ideas all the way through the discussion.

As to this specific amendment, I announce to my colleagues that we have negotiated during the course of the day with other Senators besides the sponsors of this amendment and have reached an agreement on a compromise that we believe accurately and adequately reflects a balance between recognizing the sanctity of the contract language while at the same time giving medical reviewers the flexibility they need to order care in those cases where the care needs to be ordered.

Tomorrow we anticipate an amendment being offered by Senators BAYH, CARPER, and perhaps others, that will reflect the results of those negotiations. We feel very pleased we were able to resolve that issue with some of our colleagues.

For that reason, we will not be able to support this particular amendment, but I believe our amendment goes a long way toward addressing the same issues that my colleagues are trying to address with this amendment. Their work is helpful and productive, and we appreciate it very much.

Tomorrow morning we will be offering the results of the work we have done with Senators BAYH, CARPER, and others which, as I indicated, properly reflects the balance between the importance of the language of the contract and showing deference to that language while at the same time recognizing that in some cases the medical reviewers will need some more flexibility to do what is necessary for a particular family or for a particular patient.

Mr. KENNEDY. Will the Senator yield?

Mr. EDWARDS. Yes.

Mr. KENNEDY. Will the Presiding Officer let us know when we have 5 minutes remaining?

The PRESIDING OFFICER. The Chair will do so.

Mr. KENNEDY. As I understand it, and I can be corrected, under one of the provisions, HHS establishes a board. At some time the board tries to work out the definition, but we do not know how that will work out, what the framework will be, or how many patients, consumers, and HMO personnel will be on the board. That board will have a meeting, and they will work out some definition of "medical necessity" which creates a degree of uncertainty.

Second, we have questions about the States, some of which have adopted various criteria about what is medical necessity.

Third, we have the Federal employees health program, which, as I mentioned, is not the standard which is used on review by the Office of Personnel Management. They don't use that. They use a standard much closer to what we have. Even on that standard, many cancer groups are very concerned about possible restrictions on palliative care, care which is enormously important to cancer patients. We have heard from a number of cancer organizations about their serious concern regarding this particular point. On the other hand, they are in support of the language we have included in the Edwards bill.

First, we know we have something that the American Medical Association, the medical professionals, patients, the doctors, and the health care delivery system have said is a good standard. Our opponents offer a standard that may turn out to be fine in the future but we don't know. And secondly, as another standard which has serious problems with the cancer community because it raises questions, doesn't the Senator agree with me, we ought to use what is now agreed to by Republicans, by Democrats? Most importantly, ought we not use the standard endorsed by those within the medical profession? If this standard does not work, we will have an opportunity to take a look down the road in terms of altering and changing. Is that a preferable way to proceed?

Mr. EDWARDS. I agree with the Senator.

As the Senator knows, the legislation offered by the Senator, myself, and Senator MCCAIN, this specific language is supported by the medical groups from around the country involved with this issue on a daily basis that have a first-hand understanding of what works and what doesn't work. We have been working with those groups to fashion this language. That is the reason that language exists. We know from the American Medical Association and all the health care groups around the country that they support the language we have in the bill.

That having been said, I say to the Senator, in order to try to address some of the concerns raised, my colleagues who are the sponsors of this amendment have been working with a group of Senators today to fashion an alteration to this language that makes it clearer that the contract language will be respected but balances that against the need for flexibility with the review panel. I believe we will have an amendment tomorrow to offer on that subject.

I end by thanking my colleagues from Arizona and Nebraska. While I will not be able to support their amendment, we understand the issue. We believe our bill is adequate on this issue, but we will have an alternative to propose tomorrow. Ultimately the point of this, of course, is to protect patients, make sure patients get the care they need. I think the language in our bill plus the language in the amendment will accomplish that purpose.

I yield the floor.

Mr. NICKLES. Mr. President, I rise in support of the amendment and I urge my colleagues to support it. I will make a couple of comments about some of the statements that were made.

I appreciate Senator EDWARDS' comments saying we are willing to have an amendment tomorrow to try to fix part of the problem. We heard that earlier today when we had an amendment to exempt employers.

There were statements made by many proponents of the language, employers can't be sued under this bill. That is a direct quote. So earlier today we tried to make sure employers couldn't be sued, and people voted against the amendment. But we heard: Well, there is an amendment coming that will protect employers.

We understand this bill language, and there is a section that deals with employers that says employers shall be excluded from liability, and then there is an exception. As a matter of fact, on page 144, causes of action against employers and plan sponsors are precluded, paragraph (A).

Paragraph (B) says:

> CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor. . . .

We tried to make sure employers would be exempted, and unfortunately that amendment didn't pass. But we did hear assurances from some of the sponsors, we have an amendment and we will protect employers. But, yes, employers can be sued because obviously the Gramm amendment didn't pass. So I just mention that.

We raised the point, and it was raised well by Senator KYL from Arizona and Senator NELSON of Nebraska, that said we are not bound by contracts, and there is all kinds of language here dealing with contracts. You don't have to have coverage for excluded benefits. That sounds very good, but there is language "except for," language that says you have to cover benefits that are excluded from a contract. Then I heard my colleague from North Carolina say we will have an amendment tomorrow to take care of that.

There are several major provisions with this bill that are wrong, one of which is the liability is far too generous and one which says the contracts don't mean anything. So we are wrestling with the liability.

We tried to exempt employers today and were not successful. Now we are working on contract sanctity. I hope all Democrats and Republicans will look at the language that is in the bill and realize how far it goes and think about what is getting ready to happen. I use for an example President Clinton's appointment of a bipartisan commission to make recommendations on this issue. They said in the report:

> The right to external appeals does not apply to denials, reductions, or terminations of coverage or denials of payment for services that are specifically excluded from the consumer's coverage as established by contract.

In other words, the report to the President by the Advisory Commission on Consumer Protection and Equality in Health Care says if it is excluded in the contract, you don't have the right to even have an appeal. That is not appealable. In other words, if the contract says don't cover it, it shouldn't be covered.

Yet in the language in the bill, did we adhere to the President's commission? No. If you look at the language on page 35 of the bill:

> NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in the plain language of the plan document—

If it stopped there, it would be great, but it doesn't stop there, if you read the additional language:

> and which are disclosed under section 121(b)(1)(C) except to the extent that the application or interpretation of the exclusion or limitation involves a determination described in paragraph (2).

In other words, you don't have to pay for an excluded benefit "except for."

Wait a minute, you have a contract, and a medical provider says, I will provide this list of contracts and I will charge so much per month to provide these contracts, and this bill says we are not going to overturn that exclusion. That is what the first part of the paragraph says. And the second part of the paragraph says "except for," and you have to ask, well, what do you mean "except for"? Start reading: except for medically reviewable decisions, and it turns out anything is a medically reviewable decision.

So anyone can say it is medically reviewable if the denial is based on medical necessity and, appropriately, denial based on experimental or otherwise based on evaluation of medical facts. The net result is, bingo, anything is covered. You have a lottery.

I heard my colleague from Massachusetts—and I have great respect for him—say we had an agreement last year and basically Senator NICKLES in the conference committee agreed to this language.

We did not. I will make a few comments to get specific on the language. We came close in a lot of areas. But I will refresh my colleagues on things we did agree to that do not appear in the bill today.

I have a document, agreed-to elements of the external appeals section, dated April 13, 2000, 6 o'clock. We agreed to many items which were not in the underlying bill. I don't think you can say we agreed to one provision—whoops, we forget to say we agreed on a lot of other things.

We agreed that a patient should have access to independent reviews for any denial of claim of benefits, No. 1, if the amount of such item or service exceeds a significant financial threshold or, No. 2, if there is a significant risk of placing the life, health, or development of the patient in jeopardy.

I see in the bill we have before us there is no such thing as a financial threshold. This clearly violates the so-called agreement that was entered into last year.

Further, the language regarding the "denial creates a significant risk of placing the life health or development of the patient in jeopardy" is not in the bill before us. It is not in the McCain-Kennedy-Edwards bill.

It is interesting; that language was in the original Senate bill, S. 6. It was also in President Clinton's report on quality. But it is not in the bill that we have before us. It is not in the McCain-Kennedy-Edwards bill. My point is, before we had included some language to try to make sure we would have some protections and that was disregarded.

In addition, last year we agreed to a $50 filing fee to discourage frivolous filings. I see this particular agreement was also absent from today's version. The bill before us has a $25 filing fee. One of the reasons why we had a $50 filing fee was because we did not want frivolous filings. We didn't want people to say:

I will appeal. Maybe I will get lucky; maybe I will have extra benefits, more coverage; maybe I can lay a predicate for lawsuits in the future. What do I have to lose? If you had a little more of a threshold, it may discourage frivolous suits.

We also agreed at one time to consider expert opinion if it was by informed, valid, and relevant scientific and clinical evidence. The language we have before us on page 35 talks about the standard for determination. It says we are going to review:

> . . . valid relevant scientific evidence and clinical evidence, including peer-reviewed medical literature and findings including expert opinion.

But it did not include everything we had agreed to in the past.

What I do recall is last year we did agree that both sides maintained there was a goal to maintain the sanctity of the contract and not establish appeals which allowed for the coverage of any excluded benefit. In fact, the very basis for today's debate is ensuring that patients are not denied promised benefits. It is not a debate to create a process to resolve and order unpromised benefits.

I think the language we have before us in the McCain-Kennedy-Edwards bill does just that. It is the legislative process that we would make where people could get unpromised benefits, to get items that in some cases are contractually prohibited to be covered benefits.

That is a stretch. Federal employees do not have that; Medicare does not have that; Medicaid doesn't have it. There is a list of covered benefits and there is also a list of excluded benefits.

I will give an example and I will put this in the RECORD. This is from CHAMPVA. It has a list of about 25 items that are excluded, specifically, from VA coverage. I will mention a couple of them: acupuncture, air conditioners, humidifiers, exercise equipment, eyeglasses, and contact lenses.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES. I ask unanimous consent to proceed for another 6 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator may proceed.

Mr. NICKLES. Health club memberships, hearings aids or hearing aid exams, homemaker services, hypnosis, massage therapy, physical therapy consisting of general exercise programs, plastic and other surgical procedures primarily for cosmetic purposes, smoking cessation programs, and several others.

My point is, here is a Government plan for veterans that has specifically excluded items that should not be covered. I will venture to say every private health care plan has excluded items as well. Under the bill we have before us, it says you don't have to cover excluded items except for—and then it opens the door. That, to me, says do not pay any attention to the contract. Contracts do not mean anything.

What is the net result of that? If people who have contracts are not bound by the contracts, then the cost of providing health care is going to go way up. There is no real definitive way of knowing how much the coverage is going to cost because it is not defined coverage. There is nothing you can bank on.

I compliment my friends and colleagues from Arizona and Nebraska for their leadership in putting this amendment together. This amendment is equally as important—maybe not quite as easy to understand but very much as important—for containing the cost of health care as anything we have considered so far. Are we going to allow people to have contracts? Are we going to live by those contracts? Or are we going to take the language in this bill and say: Contracts? We don't care. Are we going to violate what the President's Commission on Health Care said? They said you should not cover items that are excluded from contracts. Are we just going to ignore it as does the underlying McCain-Kennedy-Edwards bill? Are we going to have a medical necessity definition that is the same thing Federal employees have on their fee-for-service plans, which is a quality plan which most all of us are in and most all of us are happy with? Isn't that good enough? Can't we give some assurances that those are things that people can rely on?

Again, I compliment my colleague from Nebraska, Senator NELSON, for his expertise. He brought this to my attention when I was discussing this legislation. He was exactly right. He said this has to be fixed. We are working to fix it. We can fix it.

I urge my colleagues, let's not just be voting on remote control, on how some leaders tell us how to vote. Let's look at the language. Do you really want to have language that basically abrogates contracts, ignores contracts, no telling how much it can cost and also, incidentally, have liability?

You could have, under the McCain-Kennedy bill, a situation where somebody doesn't provide a service that is contractually prohibited and they can be sued because some expert might determine it is medically necessary. This expert might be a acupuncture specialist and they might determine that what you need to solve your back problem is acupuncture and even though your contract, as VA's, says you do not have to cover it, you have to cover it because that is a solution and under the bill it says expert opinion. So maybe it should be covered.

If you think that is a stretch, it is not a stretch. You can find experts to say almost anything in the medical field and sometimes in the legal field.

My point is this bill undermines contracts in a way in which I think we should be very, very wary. We should not do this. My colleagues from Nebraska and Arizona have come up with a good fix, a good solution. I appreciate that the Senator from North Carolina said he is amenable to fixing this problem. The way to fix it is to pass the Kyl-Nelson amendment. I urge my colleagues to vote for this amendment tomorrow morning.

I thank the indulgence of my colleagues I yield the floor, and ask unanimous consent the CHAMPVA list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OTHER MEDICAL SERVICES . . . WHAT IS NOT COVERED

(Not all-inclusive—see Specific Exclusions)

Acupuncture.

Acupressure.

Air conditioners, humidifiers, dehumidifiers, and purifiers.

Autopsy.

Aversion therapy.

Biofeedback equipment.

Biofeedback treatment of ordinary muscle tension or psychological conditions.

Chiropractic service.

Exercise equipment.

Eyeglasses, contact lenses, and eye refraction exams—except under very limited circumstances, such as corneal lens removal.

Foot care services of a routine nature, such as removal of corns, calluses, trimming of toenails, unless the patient is diagnosed with a systemic medical disease.

Health club memberships.

Hearing aids or hearing aid exams.

Homemaker services.

Hypnosis.

Medications that do not require a prescription (except for insulin and other diabetic supplies which are covered).

Massage therapy.

Naturopathic services.

Orthotic shoe devices, such as heel lifts, arch supports, shoe inserts, etc., unless associated with diabetes.

Physical therapy consisting of general exercise programs or gait analysis.

Plastic and other surgical procedures primarily for cosmetic purposes.

Radial Keratotomy.

Sexual dysfunction/inadequacy treatment related to a non-organic cause.

Smoking cessation programs.

Transportation services other than what is described for ambulance service under What Is Covered in this section.

Weight control or weight reduction programs, except for certain surgical procedures (contact HAC).

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 121/2 minutes remaining.

Mr. KENNEDY. I yield myself 4 minutes.

Mr. President, we have had a good discussion coming back, once again, to what I think is one of the fundamental aspects of this bill. We have gone through this. I have taken the time to go through this evening what the criteria were going to be for the medical officer at the time of the external appeal. Those criteria have been supported today by the overwhelming majority of the medical profession because they understand that, with those criteria, we are going to get a medical decision that will be in the best interests of the patient. That is really not challenged.

What is being suggested are three different options that might be used. The one we offer has the support of the medical community. It has the overwhelming support of the medical community. That is the first point.

With all respect to my friend and colleague from Oklahoma, regarding the provisions, when it comes down to what is and is not going to be permitted, clearly if there is an exclusion in the contract there will not be the right of the medical officer to alter and change that. Let me give an example on the issue of medical necessity under the criteria that we have, where it might very well be interpreted by a medical officer. Say a particular HMO excluded cosmetic surgery.

The question came down to a child that had a cleft palate, and the medical officer said: Well, they are excluding cosmetic surgery, but a cleft palate for a child is a medical necessity. That medical officer, I believe, ought to be able to make that judgment. Under the language that we have, that medical officer would be able to do it.

If, on the other hand, the HMO had put in the contract that they will not permit a medical procedure for a cleft palate, then clearly that would be outside of the medical judgment, and outside of medical necessity.

That is the example that is really reflected in the language which we have included. But the fact is those are exceptional cases. They are not unimportant. But the most important aspect of the case is that the judgment that is going to be made by the medical officer is going to be based on the medical needs of the particular patient and the best medical information that is available.

That is what has had the broad support. There may very well be a new commission established under HHS made up of a number of different stakeholders which may come up with some recommendation that may be a better one. That might be so. If that is the case down the road, maybe we can have the opportunity to consider it and bring some change to it. But as we have heard earlier, and as we have seen, the Federal employees standard that is used is not permitted to be used in terms of appeals procedure. The reason, evidently, is because they believe the medical officer ought to be able to use the criteria which brings into play the latest information and the latest scientific information that is available, and the best information that would be helpful to that medical profession.

Finally, there is the question, What are we going to do? Are we really going to ultimately let their judgment and decision be made by the medical professional with enough flexibility so that they can bring to bear medical judgments on this, and also consider the best information that is available to them and apply that best medical information available to benefit the patient?

I think we have a good process and a good way of proceeding. That is why I believe that we ought to stay the course with what is included in the legislation and resist the amendment.

Mr. President, I know we have another amendment that we are going to debate this evening. If there are others who want to speak on this, we welcome them.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, if this side has run out of time, I ask unanimous consent to speak for what time I might consume. But I don't expect it will be over 10 or 12 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I don't intend to object. Is this in favor of the amendment?

Mr. GRASSLEY. Yes. I am sorry I didn't say that. I am in favor of the amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I want to address what I believe is a very fundamental, fatal flaw in the legislation before us. That flaw relates to how the bill treats health plan contracts, and the precedents that this treatment sets for all contracts, not just those between health plans and employers.

As currently drafted, the bill states that specific definitions and terms in health plan contracts can be entirely thrown out in favor of another definition made up by a third party charged with reviewing a plan's decision to deny care.

This basically invalidates all contracts between health plans and employers and makes them non-binding.

Putting the terms of health plan contracts on the chopping block undercuts the very purpose of the health plan contract itself.

If these contracts are not binding, the health plan will have no way of knowing what standard it should follow in making coverage decisions, the employer will have no way of knowing what its costs will be, and the patient will have no way of knowing what kinds of items and services are covered.

In short, the contract won't be worth the paper its printed on.

How do you do business without a contract? Quite frankly it's almost impossible to imagine doing business at all without a binding agreement.

The Kennedy-McCain bill forces managed care plans to do business in a way that no other industry is forced to do—by that I mean without a binding and valid contract.

Now, let me stop here for a minute and talk about these health plan contracts.

First, contracts between health plans and employers are actually negotiated with all parties involved.

Employers, usually with the help of unions and other worker representatives, bargain for specified coverage in order to meet the unique needs of different employees. Every contract is different.

What's more, these contracts are typically reviewed and approved by state insurance regulators before they become effective. The whole process is deliberative, time consuming and, all told, is truly a "meeting of the minds."

The Kennedy-McCain bill says, in effect, to heck with that meeting of the minds. The bill gives unrelated third parties reviewing patient complaints unprecedented authority to take out contract terms that were bargained for in good faith and literally throw them in the trash.

This authority to override contracts at any time and for any reason goes far beyond the authority given even to judges, who in all but the rarest instances are obliged to apply the terms of a contract.

And where judges must explain their rationale in opinions and are generally accountable as public officials, these third party reviewers as outlined in the Kennedy-McCain legislation are private citizens and are not accountable to anyone at all.

I do believe that every patient should have a right to an independent, external review of a health plan's decision to deny care. But that right cannot be without some rationality and accountability.

Third parties charged with reviewing patient complaints should have broad discretion to thoroughly assess, and even overturn, a plan's decision so long as that authority is exercised within the four corners of the contract.

Kennedy-McCain authorizes third parties to veer far, far away from those four corners, and to tear up the contract altogether.

I encourage my colleagues to think about what it would be like if the contracts that they live by everyday contracts for life insurance, home mortgages, even car leases could be torn up and rewritten by an unaccountable third party at any time.

Moreover, I encourage my colleagues who know small business owners or who were themselves small business owners, to think about doing business without the security of a binding contract.

I believe that those of my colleagues who do think about this will come to understand that the consequences of allowing contract terms to be thrown out could be disastrous, and that all contracts, whether involving a health plan or not, deserve the deference that our laws traditionally give them.

I urge my colleagues to reject the Kennedy-McCain approach to health plan contracts and to support the Kyl-Nelson amendment—which is an approach that honors both the integrity of the contract itself, as well as the intent of the parties to it. In the end, it is the patient who wins under this amendment.

Thank you.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is to be recognized to offer an amendment.

AMENDMENT NO. 817

Mr. ALLARD. Mr. President, I call up amendment No. 817.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for himself, Mr. BOND, Mr. SANTORUM, and Mr. NICKLES, proposes an amendment numbered 817.

Mr. ALLARD. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exempt small employers from causes of action under the Act)

On page 148, between lines 23 and 24, insert the following:

"(D) EXCLUSION OF SMALL EMPLOYERS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

"(ii) DEFINITION.—In clause (i), the term 'small employer' means an employer—

"(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 50 employees on business days; and

"(II) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

"(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

"(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

"(iii) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subparagraph:

"(I) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

"(II) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(III) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

On page 165, between lines 14 and 15, insert the following:

"(D) EXCLUSION OF SMALL EMPLOYERS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

"(ii) DEFINITION.—In clause (i), the term 'small employer' means an employer—

"(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 50 employees on business days; and

"(II) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

"(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

"(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

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"(III) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

Mr. ALLARD. Mr. President, I am offering an amendment to S. 1052 that would prevent frivolous, unnecessary, and unwarranted lawsuits against small employers. That is what my amendment is all about. It exempts small employers that have 50 or fewer employees in their firm. I think this is an important provision. I plan on sharing with my colleagues in this Senate Chamber some of my experiences as a small businessman.

I have had the experience of having to start my business from scratch. I worked with fewer than 50 employees. Believe me, from personal experience, I know what happens when you are a small employer and you have too many mandates on your business and you do not have all the staff and accountants and lawyers in your firm to help you along, and you have to go to an attorney or accountant outside your business. I know the impact it can have as far as cost is concerned.

Believe you me, I know what it feels like to have taxes increased on you as a small businessman because you are in the dollar game; every dollar makes a difference on what your bottom line is going to be.

Contrary to what many Members of the Senate are trying to argue, S. 1052 does not exempt small employers from lawsuits. Under S. 1052, employees could sue their employers when an employer—and I quote—"fails to exercise ordinary care in making a decision." That is from page 140 of the bill.

Mr. President, 72 percent of small employers in the United States provide health care that Americans need. They do not have to provide that coverage, but they choose to on their own. The Senate should honor that. The Senate should respect that. S. 1052, however, undermines that.

Allowing small employers to be liable for health care decisions would unduly burden a small employer. It would force them to drop health insurance coverage for millions of America's small business employees. At the very least, it adds a new burden to the businessperson who already spends too much time dealing with Government mandates and paperwork.

Without our amendment, S. 1052 places medical treatment decisions in the hands of lawyers and judges and will trigger a plethora of lawsuits against small employers, in my view, creating a field day for trial lawyers. The Senate should not support legislation that allows unwarranted lawsuits that hurt small employers.

This year, employers are trying to cope with a 12-percent increase in health care costs that employers experienced last year. Now, as we move forward into another year, they are looking at somewhere around a 13-percent increase.

I have a recent survey that was jointly put together with the consulting firm Deloitte & Touche and the industry of business and health that reveals that health premiums increased more than 12 percent last year and are expected to increase 13 percent in both 2001 and 2002. So this is a burden with which small employers are faced.

With the passage of this bill, the Congressional Budget Office has estimated it would increase premiums another 4 percent. That would have a very adverse impact on small employers. We have heard it is likely we will have an additional 1 million who are uninsured with the passage of this Patients' Bill of Rights. I suggest to the Members of the Senate, a large part of that million is going to come from the very small employers, those with 50 employees or fewer.

S. 1052, as it is currently written, would cause further increases in health care costs for American families, workers, and businesses across the board. The Congressional Budget Office has estimated that the previous version of S. 1052, which is substantially identical to the current bill under consideration, would increase the Nation's health care costs, as I mentioned earlier, by more than 4 percent. This is above and beyond the additional 13-percent increase in health care costs employers will face this year. Moreover, this year's increase would be the seventh annual increase in a row.

If S. 1052 passes, many small employers will stop providing health care for their employees and the number of uninsured Americans will increase. The country cannot afford this. The small businesses of America cannot afford this. The country cannot afford S. 1052 in its current form.

I personally know the costs of providing health care to employees. As I mentioned earlier, for 20 years I practiced veterinarian medicine and provided health care insurance to my employees. I can speak from personal experience: Providing health care was costly. If I were still practicing veterinarian medicine as a private employer, I could not begin to imagine the burden S. 1052 would place on me, my employees, and everybody's families involved in that business.

I believe we should pass a Patients' Bill of Rights, not a lawyers' right to sue. Our bill should focus on expanding access to affordable health care for the

Nation's 43 million uninsured, not on taking steps that will cause more Americans to lose their health insurance and further burden small business.

I also bring up the point that in this particular piece of legislation there are four exemptions. There is an exemption for physicians, an exemption for hospitals, an exemption for a recordkeeping function in health care, as well as an exemption for some insurance providers.

The point I make is that if you are beginning to provide an exception for certain businesses, then why not provide that exception for those people who are going to be most adversely impacted by this particular piece of legislation? Those 1 million or so that will be uninsured are going to come out of that small business sector because small employers will have to make the tough decision as to whether they can afford it or not, and many of them are going to say: We can't afford it, so we are going to have to make some adjustments.

One of the major adjustments because of the threat of a lawsuit—and I point out to the Presiding Officer that not only is it the lawsuit itself when you happen to get a judgment against you that is such a problem; it is the threat of a lawsuit because your margin of profit is so narrow that you cannot afford to pay for the professional help, the attorneys to defend you. So small employers will make the decision not to provide health care insurance.

My amendment to S. 1052 would exclude small business employers from being the victims of frivolous lawsuits. I urge my colleagues to consider the consequences of the small employer liability provisions in S. 1052 and to support this amendment.

I think at a time when our economy in this country is struggling, and at a time when I think everybody in this Chamber understands how important it is to have a vital small employer sector—it is the small employers that have come up with new ideas; it is the small employers that are the backbone of economic growth in many of our small communities, particularly in rural areas; it is the small employers that so many of us look to, to be the leaders in our communities—I hope there remains a sensitivity to what the small employer contributes in the way of competition, in the way of developing new ideas, and in the way of making sure we have stronger family-oriented communities. It is a pool of leadership that not only strengthens our communities and our States and our Nation, but it is something around which our whole economy evolves because the importance of competition, and using the dollar and the marketplace to allow the consumer to predict the best services is an important concept in this country.

I don't want to see us lose that by moving constantly towards larger businesses and a corporate-type of society. There is no doubt that small business is important to this country. I hope Members of the Senate will join me in making sure the small employer, those with 50 employees or less, is exempted from the liability provisions in S. 1052. I ask for their support of this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the good Senator for his amendment and his thoughtful explanation of it. I will oppose the amendment. I will state briefly why this evening.

Basically, we have a number of definitions of small business. We are taking now the definition of 50 employees or less. That is about 40 percent of the workforce. It might be as high as 43 percent. So with this amendment, effectively we are undermining 40 to 43 percent coverage for all those employees across the country. If we believe in the protections of this legislation, that is a major exclusion.

What are those protections? Those protections are very simple. They are very basic and fundamental. For example, doctors ought to be making the decisions on medical care and not the HMOs. The employees who work in these businesses and where the HMOs are selling these policies are being hurt just as those who are above the 50. Excluding them from these kinds of protections is unacceptable.

Their children are going to be hurt. Their children should be able to get the kind of specialty care that others can. The wives of those who work in those plants and factories ought to be able to get into clinical trials if they have breast cancer. They ought to be able to have an OB/GYN professional as a primary care physician, if that needs to be so. They ought to get the prescription drugs they need, if a drug is not on the formulary. They ought to be able to get the continuity of care they need. This care protects expectant mothers from losing a doctor during the time of their pregnancy, if the employer drops the coverage with an HMO. These are very important kinds of protections we are discussing.

If we accept the Senator's amendment, we are effectively excluding 40 percent of the population.

The Senator makes a very good point about cost, particularly for small business. I am always amazed in my State of Massachusetts. You go down to 15, 20 employees and still the small businessmen are providing health care coverage. What is happening, they are paying anywhere from 30 to 40 percent more in premiums every single year. This occurs because they are not able to get together with other kinds of groups and get the reductions that come from the ability to contract with large numbers of employers. They are getting shortchanged in those circumstances. Many of the firms they work with are in the business one year and out of the business a second year.

The point the Senator makes about the particular challenge for small employers to offset health coverage for their employees is very real. We ought to help them. There have been a number of different proposals which I have supported and others have supported in terms of deductibility and helping those companies. That is an important way of trying to get about it. But the suggestion that is underlying the Senator's presentation is that the cost of this particular proposal is what is really going to be the straw that breaks the camel's back.

He talks about a 4-percent increase in premiums. That is a percent a year, as we have learned. The alternative percent is around 3 percent. It is 3 percent over the period of 5 years. The CBO points out that the cost of the various appeals provisions and the liability provisions are eight-tenths of 1 percent over the 5 years. And in the alternative bill, it is four-tenths of 1 percent.

I mentioned earlier in the day that the largest CEO salary of an HMO was $54 million a year, and $350 million in stock options. This constitutes a benefits package of $400 million. That adds $4.25 to every premium holder, small business premium holder, $4.25 a month. Our proposal adds $1.19 a month. That is just one individual. I am sure, in this case, he does a magnificent job. But when you are talking about the cost of this, we have also brought in the fact that the average income for the 10 highest salaried HMO CEOs is $10 million a year. Their stock options are in the tens of millions of dollars a year. The profits are 3.5 percent a year, $3.5 billion last year in profits. And still they ratcheted up their premiums 12 percent to maintain their profit margin. They made $3.5 billion.

Yet they cannot make sure that we are going to be able to provide protections for their employees. They cannot make sure that they are not going to overrule doctors in local hospitals and community hospitals, in the urban hospitals, and in rural hospitals trying to give the best medical attention to the children and the women and their workers? We can't say that we want to provide that degree of protection for them?

I just can't accept that. I would welcome the opportunity to work with the Senator in the area of small business. But that isn't what we are about this evening. The Senator's amendment, as I said, would effectively exclude 40 percent, 43 percent of all the employees. It makes the tacit assertion—more than tacit, explicit assertion—that the increased premiums that are going to be included in this bill are just going to be unbearable. I suggest there are ways of getting cost savings on this.

We have 50 million Americans now that have the kinds of protections that we are talking about. They have the liability protections. We don't see their premiums going up. We see the right to sue in the States of Texas and California, and the premiums aren't going up. There is very little distinction between the 50 million Americans now who have the liability provisions and those who do not.

We are talking about a major assurance to families all over the country. When this bill passes and families go in and pay their premiums for health insurance, they will know they are getting coverage for the kinds of sickness, illness, and serious disease. Without this legislation, they may think they are covered. Then, at a time of great tension and pressure—they may have cancer for example—they are told by their primary care doctor that even though there is a specialist, an oncologist down the street who is the best in the country and is willing to treat that child, they are told they cannot have that specialty care.

They are also told that they can't appeal that once the HMO makes that decision. They are being denied that, when we know what a difference it can make in terms of saving that child's life and in terms of that child's future.

We want to make sure every parent knows that when they sign onto an HMO, they are going to be able to get the best care that is available for their child, for their wife, for their mother, for their son, for their grandparent, and not have these medical decisions overridden by the HMO.

So it seems to me that those protections ought to be there for the 40 percent of the workers, as well as to the other 60 percent. We ought to get to the business of paying attention to, helping, and assisting the smaller businesses. One of the best ways is for these major HMOs to stop spending the millions and millions of dollars they are spending every single night, right now, in distorting and misrepresenting the truth. Evidently, they are flooded with money because they are spending so much of it in order to defeat this legislation.

This isn't an industry that is hard pressed. They are ready to open up all of their wallets and pocketbooks to distort and fight this legislation. And, they have the resources to be able to do it. They are not short on those resources. We do not see cutbacks on executive pay. We do not see cutbacks on stock options and the other hefty perks of being an HMO CEO. The idea that this particular legislation is going to be the straw that breaks the camel's back doesn't hold up. It is a smokescreen. It is not an accurate representation!

I think that those 40 percent of American workers are entitled to coverage and protection.

(Mr. CORZINE assumed the Chair.)

Mr. DURBIN. Will the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. DURBIN. I listened to the Senator from Colorado present his amendment on behalf of small businesses and employers. I recall, before my election to Congress, running a law office and buying health insurance for myself and my employees. I recall the experience when I went to one of the larger health insurance companies to cover my employees. So the belief that small businesses only do business with small insurance companies I am not sure is an accurate description. I think that small businesses often do business with large insurance companies.

If I understand the Senator from Massachusetts and the amendment of the Senator from Colorado, if one employer has 49 employees here and is doing business with a large insurance company, that large insurance company doesn't have to offer the same protections to the small business' employees that it might offer to the business next door with 60 employees. So the people who are losing are not the small business owners but the small business employees who don't get the benefit of the same protections that we are trying to guarantee to all Americans. Is that how the Senator from Massachusetts sees it?

Mr. KENNEDY. The Senator is quite correct on this. That, of course, raises competitive situations. You are going to have competition on the dumbing down of protections for employees, rather than establishing a standard in competition in terms of the quality of the product. It is a race to the bottom, so to speak.

Mr. DURBIN. So this will, in fact, limit the protections for employees of small businesses across America so that if you go to work for a small business, you just won't have the right to specialty care, to the drugs your doctor thinks are necessary to cure your disease, the right to a specialist in a critical circumstance, access to emergency rooms—all the things we are trying to guarantee in this bill. What the Senator from Colorado does is say we are not going to provide those protections if you are one of the 40 percent who works for a small business in America. Is that what the Senator understands?

Mr. KENNEDY. The Senator is correct. I will make the case tomorrow, but it is my judgment that you will find that there are greater abuses in the areas of these smaller companies, smaller HMOs, appealing to smaller companies, rather than some of the larger HMOs which are tried and tested and have the reputation within a community to try and defend. We have had many that do a credible job, but you are going to find, I believe—and I will get to this more tomorrow morning—that the workers who are the most vulnerable are going to be workers in these plants.

Mr. DURBIN. May I ask another question of the Senator from Massachusetts?

Mr. KENNEDY. Yes.

Mr. DURBIN. While I listened to the Senator from Colorado explain the increase in premiums, he suggested premiums had gone up 12 percent last year, and they anticipated they would come up 13 percent nationwide this year and the following year, which suggests that in a 3-year period of time, the Senator from Colorado tells us, we are going to see a 38-percent increase in health insurance premiums.

Going back to a point earlier, how much will the Kennedy-Edwards-McCain bill increase premiums each year over the next 5 years if we are going to have 38 percent in 3 years, just the natural increase in health insurance; how much will this legislation we are debating add to that cost?

Mr. KENNEDY. Well, according to the Congressional Budget Office and OMB it will be less than 1 percent a year over the next 5 years—much less, closer to 4 percent. So, effectively, it is 4 percent.

As we pointed out earlier in the debate, under the alternative proposal that the President supports, it is effectively 3 percent over 5 years. As the Senator is pointing out, it is somewhat less than 1 percent a year against what the Senator from Colorado mentioned—12 percent last year and 13 percent this year. That is what is happening already, without these kinds of protections.

Mr. DURBIN. I think that really addresses the issues raised by the Senator from Colorado. First, we are saying to employees of small businesses that you are not going to receive the protection of others with health insurance. Secondly, even though the cost is less than 1 percent a year to give these added protections, we are not going to ask the small businesses to accept this, even in the face of an increase in premiums, which the Senator from Colorado tells us was 38 percent over 3 years.

I thank the Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator for his helpful comments.

Mr. REID. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. REID. I know the Senator is in a rush. I just want to make two brief comments. First of all, to make it plain English so somebody from Searchlight, NV, where I was born, understands it, the Congressional Budget Office says S. 1052 would result in a premium increase of only 4.2 percent over 5 years. The cost of the average employee would be $1.19 per month.

This would be 37 cents per month more than the legislation that really gives no coverage at all on the other side.

I want to say one last thing to my friend. We were here on the floor earlier today. We know one of the things that is trying to be injected into this is that this is a terrible thing for small business. That is what this amendment is all about—that the Kennedy-Edwards-McCain legislation is bad for small business. I read to the Senator earlier today—and I am going to take 1 minute to read a communication I got from a small businessman in Nevada today:

> As a small business owner—
>
> Less than 50 employees—
>
> and as a citizen, I urge you to support the upcoming bill commonly known as the "Patients' Bill of Rights." I also would like to state that I support your and Senator McCain's version of the bill. If the HMOs can afford to spend millions on lobbyists and advertisements, then they can afford to do their job correctly, preventing the lawsuits in the first place . . .
>
> . . . I am willing to pay to know that what I am purchasing from my HMO will be delivered, not withheld until someone is dead, then approved postmortem. While a believer in the market and freedom, I feel that we need a better national approach to health care. As the richest nation in the world, as the only real superpower, why do so many Americans get Third World levels of health care, even when they have insurance?
>
> Thank you for your time. Michael Marcum, Reno, NV.

This is a small businessperson. He doesn't have millions of dollars to run TV ads, radio ads, and newspaper ads, but he has the ability to contact me, as hundreds of thousands of other small businesspeople can do. This legislation that you are supporting is good for small business, and this is only one of the other ploys to try to distract from the true merits of this legislation.

Mr. KENNEDY. I thank the Senator because in his statement he has really summarized the importance of resisting this amendment. Those 40 percent of workers deserve these kinds of protections. These are not very unique or special kinds of protections.

They are the commonsense protections we have illustrated during the course of this debate—access to emergency room care based upon a prudent layperson standard, protections of speciality care, clinical trials, OB/GYN, continuity of care and point of service. So patients are able to get the best in specialty care and formulary, the new medicines, and making sure their doctors, American doctors, are the best trained in the world. These doctors have committed their lives to benefit patients, and they are trained to do so trained to make the medical judgments.

That is what American families believe they are paying for when they pay the premiums, but we have a group of HMOs that feel they can put the financial bottom line ahead of patient interests and shortchange millions of Americans. We should not let the 40 percent that will be affected by this amendment be excluded.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I want to respond to some of the comments that were just made. The fact remains if you survey employers, half say they will drop employee coverage if exposed to lawsuits. I can understand that having been a small businessman, and I understand how one tries to deal with the bottom line of that business, usually a very marginal business.

Again, I agree with the Senator from Massachusetts when he says we are talking about 40 to 45 percent of the workforce in this country. It points out how important that small business sector is. Those were 50 employees or less. They are a vital part of our economy. We want to make sure they have an ability to attract employees into their business. We want to make sure they can meet the bottom line. We want to make sure they stay in business.

I want to share a quote with the Members of the Senate made by William Spencer, who is with the Associated Builders and Contractors, Inc. We all know many times builders and contractors are small businesspeople, sometimes, at least in my State, frequently 4 and 5-man operations, rarely over 10, particularly in the subcontracting area:

> Many of the ABC's member companies are small businesses, and thus the prospect of facing a $5 million liability cap on civil assessments is daunting. Financial reality is that if faced with such a large claim, many of our members could be forced to drop employee health insurance coverage rather than face the potential liability or possibly even shut their business down.

I think he is right on, and I agree with him. The question is, how do you respond as a small employer when you are faced with an untenable exposure from a lawsuit or costs or regulatory burden? You try to figure out a way you can move out of that liability you are facing. What I did, and I think many small employers will do, is go back to their employees and say: Look, there is no way we can cover your medical insurance. There is no way we can work with a program, whether it is an HMO or whatever, to provide you with medical insurance.

If you are a small employer such as I was—I had part-time employees working for me. Many who came to work for me had never held a job in their life. They were just out of high school, in many instances, and going to college. I was going to give them their first experience in the workplace.

I had to make a decision as to what we were going to do in a case where I had increasing costs in my small business. Many of them were as a result of insurance premiums. I decided that I was going to approach my employees and say: I would much rather pay you extra to work in my business and leave it up to you to line up your own health care coverage.

Again, they were part-time employees who we expected, in many cases, to work for us for 3 months, sometimes 2, 3 years, and then they would be moving on.

By taking this approach, I also gave them portability. In other words, when they left my business, they were not faced with the issue of what is going to happen with my insurance when I get to a new employer; what is going to happen, from the employee's perspective; what am I going to do when I am no longer working for my current employer as far as health coverage is concerned.

That is how I decided to handle it. I think most small employers will view it the same way I did. When they see that untenable exposure, they are going to decide not to have coverage for their employees. In order to stay competitive, they might decide to pay them more or some other way to compensate them for that loss in health care coverage.

The fact remains, from my own personal experience, it is not hard for me to believe that many small employers, as many as half, will elect not to provide health care coverage for their employees.

We need to do everything we can to encourage the small business sector to survive. This is not the only place where we draw a bright line, where we recognize how important the small business sector is to us. In other places in the law, we have tried to define what a small business is. In some cases, we drew it at 150 employees or less; in some cases, 100 employees or less; or maybe, in some cases, 50 employees or less. In fact, in some cases, they even tried to define the very small employer of 15 employees or less.

It is not an unusual policy for the Senate in legislation to draw a bright line to define what a small employer would be. In this particular instance, it is entirely appropriate to make that at 50 employees or less, and if you have 50 employees or less, you would be exempted from the provisions of the Senate bill that is before us.

Small businesses are important for the economic growth of this country. Small businesses are important to generate new ideas. When an American has a great idea, many times they go into business for themselves, and they try to market that idea. If it works, it may eventually grow into a large business. If it does not work, they may eventually end up having to work for another employer. But many times they are contributors to their communities. They are contributors to the employee base. They are contributors to the leadership within that community and help make that community a better place in which to live.

I believe we need to be sensitive to what small employers can contribute to our economy and the vital role they play. I believe this mandate, this bill will make it much more difficult to stay in business, and, consequently we will begin to lose that pool of talent that is so vital to the health of this country.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, under the order that is now before the Senate, if the Senator from Colorado yields back his time, we will do so and finish this debate in the morning under the time that is scheduled.

Mr. ALLARD. Is the Senator from Nevada yielding back his time?

Mr. REID. Yes.

Mr. ALLARD. I will yield back the remainder of my time.

Mr. REID. We will complete the debate in the morning. The Senator from Colorado will have an hour in the morning.

Mr. ALLARD. That is my understanding, there will be an hour.

Mr. REID. Evenly divided.

I yield back our time and the minority has yielded back their time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent there be a period of morning business, and Senators be permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENTIAL TRADE NEGOTIATING AUTHORITY

Mr. BYRD. Mr. President, I am very much concerned about our loss of direction with regard to Presidential trade negotiating authority. Many Members of the House, and some of my colleagues here in the Senate, advocate a wholesale surrender—a wholesale surrender—of Congress' constitutional authority over foreign commerce, as well as the evisceration of the normal rules of procedure for the consideration of Presidentially negotiated trade agreements.

I am talking about what is commonly known as "fast-track,"—fast track—though the administration has chosen the less informative moniker—the highfalutin, high sounding "trade promotion authority." "Trade promotion authority" sounds good, doesn't it? "Trade promotion authority," that is the euphemistic title, I would say—"trade promotion authority." The real title is "fast-track."

What is this fast-track? It means that Congress agrees to consider legislation to implement nontariff trade agreements under a procedure with mandatory deadlines, no amendments, and limited debate. No amendments. Get that. The President claims to need this deviation from the traditional prerogatives of Congress so that other countries will come to the table for future trade negotiations.

Before I discuss this very questionable justification—which ignores almost the entire history of U.S. trade negotiating authority—I think we ought to pause and consider—what?—the Constitution of the United States. I hold it in my hand, the Constitution of the United States. That is my contract with America, the Constitution of the United States.

Each of us swears allegiance; we put our hand on that Bible up there. I did, and swore to support and defend the Constitution of the United States against all enemies, foreign and domestic.

Each of us swears allegiance to this magnificent document. As Justice Davis stated in 1866:

> The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government.

Ex Parte Milligan, 71 U.S. 2 (1866). This was the case that refused to uphold the wide-ranging use of martial law during the Civil War.

Thus, Mr. President, let us review the Constitution to see what role Congress is given with respect to commerce with foreign nations. Article 1, section 8, says that "The Congress shall have power to . . . regulate commerce with foreign nations, and among the several states, and with the Indian tribes . . . ."

This Constitution also gives Congress the power "to lay and collect . . . Duties, Imposts, and Excises." The President is not given these powers. Congress is given these powers. There it is. Read it. The President is not given these powers. These powers have been given to Congress on an exclusive basis.

Nor is this the extent of Congress's involvement in matters of foreign trade. It scarcely needs to be pointed out that Congress's central function, as laid out in the first sentence of the first article of the Constitution, is to make the laws of the land. Were it not for that first sentence in this Constitution, I would not be here; the Presiding Officer would not be here; the Senator from the great State of Minnesota, Ohio, Florida, the great States, Alabama, we would not be here. Congress makes the laws of the land. Some people in this town need to be reminded of that.

For example, Congress decides whether a particular trade practice in the U.S. market is unfair. Congress decides whether foreign steel companies can use the U.S. market as a dumping ground, which they have been doing, for their subsidized overcapacity. Are we to give this authority to the President and make Congress nothing more than a rubber stamp in the process of formulating important U.S. laws? As the great Chief Justice of the United States John Marshall might have asked: Are we "mere surplusage"? Is the Senate mere surplusage?

The Founding Fathers' memories were not short. Those memories were not occluded by real-time television news, nor were they occluded by the proliferation of "info-tainment." The Founding Fathers had a vast reservoir of learning, particularly classical learning, to draw upon and a treasure trove of political experience.

Our Founding Fathers were not enamored with the idea of a President of the United States who would gather authority unto himself, as had been experienced with King George III of England. Most of the administrations that have occurred—there have been at least 10 different Presidents with which I have served; I have never served under any President, nor would any of those framers of the Constitution think well of me if I thought I served under any President. The framers didn't think too much of handing out executive power.

So this exclusive power to regulate foreign commerce was not centered upon the legislative branch by whim or fancy. There were weighty considerations of a system founded on carefully balanced powers.

The U.S. Congress tried to give away some of its constitutional authority by granting the President line-item veto power a few years back. Fie on a weak-minded Congress that would do that, a Congress that didn't know enough and didn't think enough of its constitutional prerogatives and powers and duties to withhold that power over the purse which it did give the President of the United States. Mr. Clinton wanted that power. Most Presidents want that power. Congress was silly enough to give the President of the United States that power. It was giving away constitutional power that had been vested in this body of Government, in the legislative branch.

Thank God, in that instance at least, for the Supreme Court of the United States. It said Congress can't do that. Congress can't give away that power that is vested in it, and it alone, by the Constitution of the United States.

So the U.S. Congress tried to give away some of its power. But, ultimately, as I say, that serious error was corrected by the Supreme Court. The Supreme Court saved us from ourselves. Hallelujah. Thank God for the Supreme Court. Boy, I was with the Supreme Court in that instance. Yes, sir. They saved us from ourselves.

The ancient Roman Senate, on the other hand, was successful in giving away the power of the purse. And when it did that, when the ancient Roman Senate gave away the power of the purse, first to the dictators and then to the emperors, it gave away an important check on the executive. First, Sulla became dictator in 82 B.C. He was dictator from 82 to 80. Then he walked away from the dictatorship, and he became counsel in 79. He died in 78 B.C., probably of cancer of the colon.

Then in 48 B.C., what did the Roman Senate do again? It lost its way, lost its memory, lost its nerve, and restored Caesar to the dictatorship, Julius Caesar, for a brief period. In 46 B.C., it made him dictator for 10 years. Then in 45 B.C., the year before he was assassinated, the Roman Senate lost its direction, lost its senses and made Caesar dictator for life.

Well, I don't know whether or when we will ever reach that point. But we need to understand how extraordinary, how very extraordinary this fast-track authority is that President Bush is running around, over the country, asking for—fast-track authority, but he is not calling it that. He is calling it something else.

From 1789 to 1974, Congress faithfully fulfilled the Founders' dictates. During those years, Congress showed that it was willing and able to supervise commerce with foreign countries. Congress also understood the need to be flexible. For example, starting with the 1934 Reciprocal Trade Act, as trade negotiations became increasingly frequent, Congress authorized the President to modify tariffs and duties based on negotiations with foreign powers. Such proclamation authority has been renewed at regular intervals.

What happened in 1974? At that time we relegated ourselves to a thumb's up or thumb's down role with respect to agreements negotiated on the fast track. Stay off that track. Congress agreed to tie its hands and gag itself when the President sends up one of these trade agreements for consideration.

Why on Earth, you might ask, would Congress do such a thing? What would convince Members of Congress to willingly relinquish a portion of our constitutional power and authority? What were Members thinking when they agreed to limits on the democratic processes by which our laws are made? And why, in light of the fact that extensive debate and the freedom to offer amendments are essential to effective lawmaking, would Congress decide that we can do without such fundamentally important procedures when it comes to trade agreements?

The U.S. Senate is the foremost upper house in the world today. Why? There are many reasons. But two of the main reasons are these. The U.S. Senate has the power to amend, and the U.S. Senate is a forum in which men and women are able to debate in an unlimited way—they can limit themselves; otherwise, in this forum, I can stand on my feet as long as my feet will hold me and debate. And nobody—not the President of the United States, not the Chair—can take me off my feet, not in this body. Nobody. And I am not answerable to anybody for what I say here. Our British forebears took care of that when they provided in 1689 that there would be freedom of speech in the House of Commons.

Well, we are doing it to ourselves when we pass fast track. We are saying: No amendments. You just either stamp up or down what the President sends up here.

Again, why, in light of the fact that extensive debate and freedom to offer amendments are essential to effective lawmaking, would Congress decide that we can do without such fundamentally important procedures when it comes to trade agreements?

I submit that, in 1974, we had no idea of what kind of Pandora's box we were opening. At that time, international agreements tended to be narrowly limited. Consider, for example, the U.S.-Israel Free Trade Agreement of 1985. The implementing language of that agreement was all of four pages, and it dealt only with tariffs and rules on Government Procurement.

Fast track began to show its true colors with the 1988 U.S.-Canada Free Trade Agreement which, despite its title, extended well beyond traditional trade issues to address farming, banking, food inspection, and other domestic matters.

The U.S.-Canada agreement required substantial changes to U.S. law, addressing everything from local banking rules to telecommunications law, to regulations regarding the weight and the length of American trucks. These changes were bundled aboard a hefty bill and propelled down the fast track before many Members of Congress knew what had hit them.

Most ominously, the U.S.-Canada agreement established the Chapter 19 dispute resolution procedure. This insidious mechanism, which was only supposed to be a stopgap until the U.S. and Canada harmonized their trade laws, gives the so-called trade "experts" from the two countries the authority to interpret the trade laws of the United States. We are not talking about judges now. We are not talking about persons trained in the laws of the United States. We are talking about trade "experts," frequently hired hands for the industries whose disputes are under consideration.

Moreover, unlike our domestic courts, there is no mechanism by which American companies that are adversely affected by Chapter 19 panel decisions might obtain appellate review. The system simply does not work. It goes against fundamental American principles of fairness and due process.

In short, the U.S.-Canada agreement was nothing less than a dagger pointed at the heart of American sovereignty. That agreement—and the process by which it was concluded—undermined both the legislative and judicial authority of the United States.

So where are we now? Today, American trade negotiators are faced with a completely different reality from what it was in 1974. Our trading partners know the game—shut out the people and appeal to the elite conceptions of a smoothly functioning global economy. In 1993, Lane Kirkland, then-president of the AFL-CIO, made an observation about NAFTA that is just as pertinent today as it was then, when I voted against it. Here is what he said:

> Make no mistake, NAFTA is an agreement conceived and drafted by and for privileged elites, with little genuine regard for how it will affect ordinary citizens on either side of the Mexican border . . . The agreement's 2,000 pages are loaded with trade-enforced protections for property, patents, and profits of multinational corporations, but there are no such protections for workers.

In the new world of international trade negotiations, our trading partners, frequently assisted by their American trade lawyers, place on the table their ideas for elaborate changes to U.S. law. For example, our free trade area of the American trading partners propose dozens of pages of changes to our trade laws, modifications that are intended to eviscerate those laws.

The American workers who would be displaced if those modifications were implemented are given no role in this process. None. We, their representatives, are given a minimal role, a little teeny-weeny portion. But we are not yet voiceless, not yet drowned out by the elite consensus on the virtues of free trade. Well, I am for free trade—who would not be—as long as it is fair, fair trade. But that is quite another matter.

Let the free traders come to West Virginia. Come on down, Mr. President, and talk to those steelworkers over at Weirton. Come on down and talk to the steelworkers who are being laid off in Weirton, WV. Don't go over to Weirton and burn the flag. Those are patriotic citizens over there. But they are losing their jobs. Let the free traders come to West Virginia and talk to the steelworkers, talk to their families, talk to their neighbors. Let them talk to labor leaders from North America and Latin

America. Let them try to explain why the disintegration of ways of life that give both opportunity and security is good "in the long run."

As John Maynard Keynes once wrote, "Long run is a misleading guide to current affairs. In the long run, we are all dead." I will add: dead, dead, dead.

I am getting sick and tired of these administrations, Democratic and Republican, who run to West Virginia and want the votes there and turn around and fail to take a stand for American goods, American industries, and American men and women workers.

John Maynard Keynes also wrote, "Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist."

How many Washington Post editorialists will lose their jobs if our trade laws are eviscerated? How many libertarian think tanks will be shut down when the free trade dystopia is established? Shall we take their views—the views of some defunct economist—as gospel, or shall we listen to those who earn their living by the sweat of their brow?

When God evicted Adam and Eve from the Garden of Eden, they were told to earn their bread from the sweat of their brow, and that is why we are still doing it. I say listen to those who earn their living by the sweat of their brow. Go to Weirton to the steel town; go to Wheeling to that steel town, at Wheeling-Pitt with over 4,000 workers. I believe that is right. Go over there. Say to them: Boys, get in touch with your Senator and get in touch with your House Members and tell them to vote for—they do not call it fast track. What is it they call it? It is a sugarcoated pill. Tell your Senator to vote for that, and actually they will not say it out loud, but that is fast track. Tell your Senator to vote for that.

I am for expanding international trade. Who wouldn't be. But let the trade be fair. Let us have a level playing field, and let us not neglect our responsibility in this Senate to participate meaningfully in the formulation and implementation of U.S. trade policy.

I am not saying the Senate ought to vote on every duty and every tariff on every little toothbrush and every little violin string that is sent into this country. I am saying there are some big questions this Senate ought to be able to speak to and to vote on. At least on 2, 3, 4, 5, or 6, let's have a vote by this Senate.

One way we can reassert our constitutional role with respect to foreign trade is to create a Congressional Trade Office modeled after the Congressional Budget Office.

My colleagues might recall this was one of the many ideas discussed in the report of the U.S. Trade Deficit Review Commission. Senator BAUCUS and I are working on legislation that would give us a trade office with the information resources and expertise necessary to permit us to properly discharge our oversight responsibilities.

That is what we need. We need to exercise our oversight responsibility. We cannot do it if we gag ourselves, if we cannot speak, if we cannot amend. We cannot fulfill our responsibilities under the Constitution. We cannot fulfill our responsibilities to the people who sent us here.

Can anyone guess how many trade agreements have been negotiated without fast track? The President is running around saying: Oh, I have to have this; I have to have this in order to enter into these trade agreements. Can anyone guess how many trade agreements have been negotiated without fast track since that extraordinary authority was first granted to the President in 1974? The answer is in the hundreds. We have had fast track on this Senate floor 5 times in the last 27 years, but in the meantime, hundreds of trade agreements have been negotiated, the most recent examples being the U.S.-Jordan agreement and the U.S.-Vietnam agreement.

I think we need an analysis of all the trade agreements concluded over the past 27 years. Let us try to determine if the Founding Fathers were completely off the mark when they gave Congress authority over foreign commerce.

I believe that any impartial study of this history will demonstrate that we can have trade agreements without surrendering our constitutional authority over foreign commerce. If negotiation of trade agreements is in the interests of other nations, they will be at the table. They will be at the table, in my judgment, Congress or no Congress. Is there any serious argument to the contrary?

Let me be clear. I am thinking of a Presidential nominee some years ago who said this. For the moment I have forgotten his name. He said this: I didn't say that I didn't say it; I said that I didn't say that I said it.

And then he said: Let me be clear. I didn't say that I didn't say it; I said that I didn't say that I said it.

He said then: Let me be clear—after the audience had laughed.

Let me be clear. I am not suggesting that we noodle away at a Presidentially negotiated trade agreement by considering myriad small amendments. No, Congress should not focus on the minutiae. There may, however, be a small number of big issues in such an agreement that go to the root of our constituents' interests. We must have the authority to subject those issues to full debate and, if necessary, amendment.

In closing, I reiterate that we should put our trust in this document which I hold in my hand, the Constitution of the United States—not in fast track but in the Constitution of the United States and in the people for whom it was drafted and ratified: the people of America.

Let us not give away even one piece of our national birthright, the Constitution, without at least demanding hard proof that its tried and true principles must be modified.

Let us preserve our authority as Members of Congress to participate fully in the process of concluding international trade agreements. Let us not permit the globalization bandwagon to roll over us, to weaken our voices, to sap the vigor of our democratic institutions, and to blind us to our national interests and the needs of our communities.

If we cannot uphold this banner—the Constitution of the United States which I hold in my hand—if we cannot uphold this banner, the banner of our more than 200-year-old constitutional Republic, if we cannot play a constructive role in taming the free-trade leviathan, then we are unworthy of our esteemed title.

Mr. President, I yield the floor.

IN RECOGNITION OF RAYMOND BOURQUE

Mr. KERRY. Mr. President, I would like to take a moment that I know my colleague from Massachusetts shares with me to pay special recognition and tribute, celebrating the career of one of New England's most beloved sports figures, Raymond Bourque, who announced his retirement today.

Over the course of a 22-year career in the National Hockey League, this future-certain Hall-of-Famer set a standard for all athletes—playing with a special kind of determination and grit and, above all, class that has been recognized by his fellow players and by sports fans all over this country and indeed the world.

He came to us in Boston from Canada as a teenager to play for our beloved Boston Bruins, earning Rookie of the Year honors for that first year in 1979 to 1980.

Many make a large splash with a lot of headlines in the first year, but Ray proved, even as he won Rookie of the Year, to be more marathon than sprint. Through perseverance and a deep dedication to his craft, he played his way into the hearts of sports fans across the region and throughout the league.

For over 20 years, touching literally four different decades for those 20 years, he was the foundation on which the Boston Bruins built their teams and chased the dream of bringing the Stanley Cup back to Boston. Alas, that was not to happen.

The statistics, however, of his chase speak for themselves: The highest scoring defenseman in league history; a 19-time All-Star; a five-time Norris Trophy winner as the league's best defenseman. But in many ways it was more than goals and assists and legendary defense that won him the tremendous admiration of Boston fans. It was his performance beyond the game itself.

December 3, 1987, is a day that remains indelibly imprinted in the hearts and minds of Boston sports folklore. It is next to Fisk's homer, Havlicek's steal, and Orr's flying goal. That day Bruin Hall-of-Famer Phil Esposito's No. 7 was retired and raised to the rafters of the old Boston Garden. Ray Bourque also wore No. 7 and most believed he was going to continue to wear his number for the remainder of his career.

That night, Ray touched generations of fans and nonfans by skating over to Esposito, removing his No. 7 jersey to reveal a new No. 77 that he was to wear for the rest of his illustrious career. He handed the No. 7 jersey to a stunned and emotional Esposito and said, "This is yours, big fella. It never should have been mine."

The Stanley Cup was the one thing that was missing during his years in Boston that continued to elude him and his teammates. In fact, Ray had the most games played without winning a Stanley cup—1,825. However, that distinction did not diminish him in the eyes of his fans or his teammates, the teammates who were proud to call him captain. It only made them all want to give him one last opportunity to prevail. With that in mind, Boston gave Ray his leave and he set his sights on that final goal—to win a Stanley Cup—only this time he set out to do it with the Colorado Avalanche.

Even after Ray left the Bruins in the midst of the 2000 season in search of that goal, the Boston fans never left him. His new Colorado team immediately recognized his value as a leader and they awarded him the moniker of assistant captain upon his arrival. When he finally raised the cup over his head in triumph this past season, all of New England cheered for him. In fact, in an unprecedented show of support for another team's victory, over 15,000 Bourque and Boston fans joined in a celebration on Boston's City Hall Plaza when Ray brought home the Stanley Cup earlier this month. It belonged to Ray and to Boston for those moments as much as to Colorado and the Avalanche.

Today we learned that Ray Bourque has laced up his skates as a professional in competition for the final time. He will retire and come home to Massachusetts to be with his wife, Christiane, and their three children, Melissa, Christopher, and Ryan. He will watch his eldest son, 15-year-old Christopher, as he plays hockey at a new school.

It is both fair and appropriate to say that for all of his children, as well as all young children, you could not have a better role model, not just in hockey but in life.

I have been privileged to share a number of charitable events with Ray Bourque. He is tireless in his contribution back to the community and in the leadership to help to build a better community.

If Ray's career were only measured in numbers, he would be an automatic Hall-of-Famer. But when you take the full measure of the man, he has shown to be one of those few athletes who transcends sports. He could have played a couple of years more. He could have made millions of more dollars. But he chose to go out on top and to return to his family. He felt his family had made enough sacrifices for him, and it was time for him to be there for them.

In Massachusetts, and fans everywhere, I think there is a special sense of gratitude for his success, for his happiness, and we are appreciative of all of his years with the Bruins and proud to have him back home in Massachusetts.

We wish him and his family well.

SOUTH DAKOTA NATIONAL PEACE ESSAY CONTEST WINNER

Mr. DASCHLE. Mr. President, I am honored today to present to my colleagues in the Senate an essay by Austin Lammers of Hermosa, SD. Austin is a student at St. Thomas More High School and he is the National Peace Essay Contest winner for South Dakota.

I ask unanimous consent that the essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

FAILURE IN AFRICA

Imagine how horrible living in a third world country would be during a giant civil war, and the people that are supposed to help allow death, famine and increased war. Death and war is precisely what has happened in this past decade in the warring countries of Somalia and Rwanda. Outsiders, such as the United Nations, can occasionally help in violent civil outbreaks but they are not consistent and rarely make the situation much better. Third parties should not interfere in civil conflicts unless they are well prepared, respond quickly, and benefit the country they are interfering.

Drought and famine has been the reason for civil war in Somalia since 1969, but the most recent civil war erupted between rebel and governmental forces in 1991 (Fox 90). The rebel forces seized Mogadishu, the capital of Somalia, and forced President Siad Barre to flee the country (Potter 12). The takeover which destroyed the economy also began a famine for about 4.5 million people who were faced with starvation, malnutrition, and related diseases (Johnston 5). The UN wanted to intervene; but according to the Charter, the UN can only act to stop war between nations, not civil war within a single country (Potter 26). Therefore, in December 1992 UN Secretary General, Butros-Ghali, passed Resolution 794 that permitted the UN to secure Somalia (Potter 27).

Following Resolution 794 the UN began the United Nations Operation in Somalia (UNOSOM) which monitored the new cease-fire between the rebels and the government forces while delivering humanitarian aid (Johnston 28). The cease-fire did not last long, and soon the sides were fighting again, but this time with UN peacekeepers caught in the middle (Benton 129). As the fighting grew worse, the UN soon abandoned UNOSOM (Johnston 29). A U.S. led force; the Unified Task Force (UNITAF) to make a safe environment for delivery of humanitarian aid replaced UNOSOM (Benton 133). In May 1993, UNOSOM II replaced UNITAF; but only starvation was relieved, there was still governmental unrest (Benton 136).

The U.S. decided to leave Somalia when on October 3, 1993, a Somalia rebel group shot down a U.S. helicopter, killing eighteen American soldiers (Fox 19). the U.S. was evacuated by 1994, and by 1995 all UN forces had left (Fox 22).

After the abandonment by UN in 1995, the new police force created by the UN committed numerous human rights abuses (Potter 17). Also bad weather, pests, and the UN ban on the export of livestock to the U.S. and Saudi Arabia have worsened the economy in Somalia (Johnston 56). The drop in economy has caused lowered employment and increased starvation (Johnston 60).

The UN should not have intervened in Somalia, but rather let Somalia deal with their own internal problems. While the UN was in Somalia, they made the war bigger and thus causing more starvation. After the UN was removed, the police force abused citizens, and their economy went crashing further down (Potter 30).

The United Nations should have learned from their mistakes in Somalia, but instead ignored what had happened and tried to help the civil war in Rwanda during 1994. Rwanda's population is approximately 88% Hutu and 11% Tutsi. The two groups have had bad relations since that 15th century when the Hutus were forced to serve the Tutsi lords in return for Tutsi cattle (Brown 50). Since the 15th century, a number of civil disputes have begun between the Hutus and the Tutsis (Brown 51). The latest civil war has resulted in mass genocide (Prunier 38).

The latest civil war in Rwanda started on April 6, 1994, when the plane carrying Rwandan President Habyarimana and the President of Burundi was shot down near Kigali (Freeman 22). That same day the genocide began, first killing the Prime Minister and her ten bodyguards, then all Tutsi's and political moderates (Freeman 27). This genocide, which has been compared to the Holocaust, lasted from April 6 until the beginning of July (Prunier 57). The Interahamwe militia consisting of radical Hutus, started the genocide killing up to one million Tutsis and political moderates, bragging that in twenty minutes they could kill 1,000 Tutsis (Bronwyn 4). However, militia was not the only faction to lead the genocide. A local Rwandan radio broadcast told ordinary citizens to "Take your spear, guns, clubs, swords, stones, everything—hack them, those enemies, those cockroaches, those enemies of democracy" (Bronwyn 13).

The United Nations was in Rwanda before and during the mass genocide, but did not stop the killings or even send more troops (Benton 67). In 1993, the United Nations Assistance Mission to Rwanda, UNAMIR, oversaw the transition from an overrun government to a multiparty democracy (Benton 74). As the genocide broke out in 1994, the UN began to panic; and on April 21, just days after the genocide started, the UN withdrew all but 270 of the 2,500 soldiers (Freeman 44). When the UN saw the gradual increase of the genocide they agreed to send 5,000 troops, but those troops were never deployed due to UN disagreements (Freeman 45). UNAMIR finally withdrew in March 1996, accomplishing almost nothing (Prunier 145). Jean Paul Biramvu, a survivor of the massacre, commented on the UN help saying, "We wonder what UNAMIR was doing in Rwanda. They could not even lift a finger to intervene and prevent the deaths of tens of thousands of people who were being killed under their very noses . . . the UN protects no one" (Freeman 46).

Again, just as in Somalia, the United Nations failed to bring peace in a civil war. Not only did the UN do almost nothing to stop the genocide, they also knew that there was a plan to start the genocide before it even happened (Bronwyn 12). On December 16, 1999, a press conference about the genocide brought to light new information that the United Nations had accurate knowledge of a plan to start a genocide, three months before the killings occurred (Bronwyn 13). The UN had ample time to stop a large-scale slaughter of almost a million innocent people, and did not even send more troops that could have prevented the deaths of thousands of Tutsis (Bronwyn 13). Two reasons for the reluctance to do anything in Rwanda was that Rwanda was not of national interest to any major powers, and since the problems in Somalia, the UN did not want to risk being hurt again (Bronwyn 18). The United Nations work in Rwanda is a pathetic example of how peace missions should work.

The United Nations and other international communities can intervene and help prevent violent civil conflicts in many ways. The first way to improve intervention is that the International Community needs to keep a consistent stand on how to protect victims in civil disputes. The most important step to take when war is apparent is to protect people's lives.

Second, the International Community should establish a center that informs them of any early signs of war using human right monitors to decide if conditions might worsen. The genocide in Rwanda would have been prevented if the UN notices early signs of war, and listens to reports of a genocide.

Third, make better the criminal court for genocide, war crimes, and other human right infractions so the criminals are punished right away with a sentence that fits the crime. Many times people who commit war crimes are not punished, or do not get a harsh enough sentence.

Fourth, violent methods by the International community may only be used after non-violent methods have failed, and the government is unwilling to help. The UN in Somalia tried to use military force immediately instead of trying to use non-military force when war broke out and they were in the middle (Benton 107).

Fifth, International Communities need to have stand-by troops ready when a war is apparent, and impress on the warring country that if more problems arise, more troops will be sent in to stop the war. The UN did have troops ready in case of war, but when the war did break out in Somalia, they did not send more troops to secure the situation (Fox 28).

Sixth, every country, no matter how much power or relevence in the world, needs to be helped equally. The United Nations during the Rwandan genocide did not worry about helping the victims because Rwanda did not have much international power in the world such as valuable exports or strong economies. The UN cannot be worried how they will benefit but rather how the country warring will benefit (Bronwyn 18).

Third parties such as the United Nations are not consistent in their fight to keep peace in civil conflicts, especially conflicts that have been going on for hundreds of years. In some instance, such as Somalia and Rwanda, the UN hurt the people more than they helped by causing death and famine. The International community needs to come together and create new policies that help the countries that they are trying to keep peace instead of hurting them and sending them deeper into war.

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THE REGIONAL IMPORTANCE OF ECUADOR AND PERU

Mr. GRASSLEY. Mr. President, I rise today to highlight the countries of Ecuador and Peru within the context of the Andean Regional Initiative, ARI, the FY-2002 follow-on strategy to Plan Colombia. Although the ARI encompasses 7 South American counties, I want to focus today on these two important United States allies. Our hemispheric counterdrug efforts must be viewed within a regional context, or else any successes will be short-term and localized, and may produce offsetting or even worse conditions than before we started. Narcotics producers and smugglers have always been dynamic, mobile, innovative, exploitative, and willing to move to areas of less resistance. I am concerned that spillover, displacement, or narcotrafficker shifts, from any successful operations within Colombia, has the real potential to negatively affect Peru and Ecuador. I want the United States actions to help—and not hurt—our allies and this important region of our own hemisphere.

The State Department's June 2001 country program fact sheet reports that "Ecuador has become a major staging and transshipment area for drugs and precursor chemicals due to its geographical location between two major cocaine source countries, Colombia and Peru. In recent months, the security situation along Ecuador's northern border—particularly in the Sucumbios province, where most of Ecuador's oil wealth is located—has deteriorated sharply due to increased Colombian guerrilla, paramilitary, and criminal violence. The insecurity on Ecuador's northern border, if not adequately addressed, could have an impact on the country's political and economic climate. Sucumbios has long served as a resupply and rest/recreation site for Colombian insurgents; and arms and munitions trafficking from Ecuador fuel Colombian violence."

The Ecuador fact sheet continues "[n]arcotraffickers exploit Ecuador's porous borders, transporting cocaine and heroin through Ecuador primarily overland by truck on the Pan-American Highway and consolidating the smuggled drugs into larger loads at poorly controlled seaports for bulk shipment to the United States and Europe hidden in containers of legitimate cargo. Precursor chemicals imported by ship into Ecuador are diverted to cocaine-processing laboratories in southern Colombia. In addition, the Ecuadorian police and army have discovered and destroyed cocaine-refining laboratories on the northern border with Colombia. Although large-scale coca cultivation has not yet spilled over the border, there are small, scattered plantations of coca in northern Ecuador. As a result, Ecuador could become a drug producer, in addition to its current role as a major drug transit country, unless law enforcement programs are strengthened." Finally, the State Department concludes that "Ecuador faces an increasing threat to its internal stability due to spillover effects from Colombia at the same time that deteriorating economic conditions in Ecuador limit Government of Ecuador, GOE, budgetary support for the police."

The State Department's March 2001 country program fact sheet reports that "Peru is now the second largest producer of coca leaf and cocaine base. Peruvian traffickers transport the cocaine base to Colombia and Bolivia where it is converted to cocaine. There is increasing evidence of opium poppy cultivation being established under the direction of Colombian traffickers." The fact sheet continues "[f]or the fifth year in a row, Peruvian coca cultivation declined from an estimated 115,300 hectares in 1995 to fewer than an estimated 34,200 hectares in 2000 (a decline of 70 percent since 1995). The continuing [now-suspended] U.S.-Peruvian interdiction program and manual coca eradication were major factors in reducing coca leaf and base production." In addition, "[t]hese U.S. Government supported law enforcement efforts are complemented by an aggressive U.S.-funded effort to establish an alternative development program for coca farmers in key coca growing areas to voluntarily reduce and eliminate coca cultivation. Alternative development activities, such as technical assistance and training on alternative crop production, are provided as long as the community maintains the coca eradication schedule. In Peru, activities include transport and energy infrastructure, basic social services (health, education, potable water, etc.), strengthened civil society (local governments and community organizations), environmental protection, agricultural production and marketing, and drug demand reduction."

With respect to Peru, I also encourage the Department of State to quickly report to Congress the findings on the tragic shootdown on April 20 of this year and the intended future of the air interdiction program.

I encourage my colleagues, and the public, to be sensitive to the current delicate conditions and future developments in these countries. In addition, while I support the additional United States aid for Ecuador and Peru, as requested in the President's FY-2002 budget, for both law enforcement and many needed social programs, I remain concerned that our current efforts lack coherence or clear-sightedness. I will say again that I fervently want the United States actions to help—and not hurt—Colombia, Ecuador, and Peru, on this complicated and critical regional counterdrug issue. The goal is to make a difference—not make things worse or simply rearrange the deck chairs.

PENDING FISCAL YEAR 2002 DEFENSE BUDGET REQUEST

Mr. FEINGOLD. Mr. President, here we go again. Late last week, senior Administration officials indicated that the Bush Administration plans to submit to Congress, several months late, a budget request for the Department of Defense that increases the already bloated fiscal year 2001 spending level for that department by $18.4 billion.

I find it interesting that the Administration has yet to provide the details of this request to the Congress, to the dismay of both parties, but that the dollar amount increase over last year's $310 billion appropriation is already being widely reported.

This is in addition to the $6.5 billion supplemental appropriations request that the Senate may consider later this week, most of which is for the Department of Defense.

Where will it end, Mr. President?

While I commend Secretary Rumsfeld for undertaking a long-overdue comprehensive review of our military, I also urge him to consider carefully the impact that any proposed defense increases will have on the rest of the federal budget.

We are already feeling the impact left by the $1.35 trillion tax cut that this Administration made its number one priority. That tax cut virtually ensures that there can be no defense increases without making deep cuts in other parts of the budget. And the top priorities of the American people, such as saving Social Security and Medicare and providing a Medicare prescription drug benefit, will be that much harder to accomplish.

But it appears that the Administration will propose an increase in defense spending.

I fear that this pending request, coupled with the massive tax cut that has already been signed into law, will lead us down a slippery slope to budget disaster.

A TRIBUTE TO GOLD STAR MOTHERS

Mr. CAMPBELL. Mr. President, today I take this opportunity to call to the attention of our colleagues the national convention of the American Gold Star Mothers which began on Sunday, June 24 and concludes tomorrow, June 27, 2001, in Knoxville, TN.

The Gold Star Mothers is an organization made up of American mothers who lost a son or daughter while in military service to our country in one of the wars. The group was founded shortly after the First World War for those special mothers to comfort one another and to help care for hospitalized veterans confined in government hospitals far from home. It was named after the Gold Star that families hung in their windows in honor of a deceased veteran. Gold Star Mothers now has 200 chapters throughout the United States, and its members continue to perpetuate the ideals for which so many of our sons and daughters died.

Over this past Memorial Day weekend, I participated in the Rolling Thunder rally on the National Mall to honor our Nation's veterans and remember those missing in action. During that time, I personally met some of the Gold Star mothers and was moved by their compassion, their commitment and the sacrifices they and their families have made for our country.

I ask my colleagues to join me in recognizing the Gold Star Mothers for their many years of dedicated service and congratulating them on the occasion of their national convention.

OUTSTANDING SCHOOLS HONORED FOR SERVICE LEARNING

Mr. KENNEDY. Mr. President, I welcome this opportunity to recognize a number of schools that are doing an excellent job of encouraging community service by their students. The Nation has always relied on the dedication and involvement of its citizens to help meet the challenges we face. Today, the Corporation for National Service works with state commissions, nonprofits, schools, and other civic organizations to provide opportunities for Americans of all ages to serve their communities.

Learn and Serve America, a program sponsored by the Corporation for National Service, supports service-learning programs in schools and community organizations that help nearly a million students from kindergarten through college meet community needs, while improving their academic skills and learning the habits of good citizenship. Learn and Serve grants are used to create new programs, replicate existing programs, and provide training and development for staff, faculty, and volunteers.

This year the Corporation for National Service has recognized a number of outstanding schools across the country as National Service-Learning Leader Schools for 2001. The program is an initiative under Learn and Serve America that recognizes schools for their excellence in service-learning. These middle schools and high schools have earned their designation as Leader Schools. They serve as models of excellence for their exemplary integration of service-learning into the curriculum and the life of the school. I am hopeful that the well-deserved recognition they are receiving will encourage and increase service-learning opportunities for students in many other schools across the country.

The 2001 National Service Leader Schools are: Vilonia Middle School, Vilonia, AR; Chico High School, Chico, CA; Evergreen Middle School, Cottonwood, CA; Telluride Middle School/High School, Telluride, CO; Seaford Senior High School, Seaford, DE; Space Coast Middle School, Cocoa, FL; P.K. Yonge Developmental Research School, Gainesville, FL; Douglas Anderson School of the Arts, Jacksonville, FL; Lakeland High School, Lakeland, FL; Dalton High School, Dalton, GA; Sacred Hearts Academy, Honolulu, HI; Moanalua Middle School, Honolulu, HI; Unity Point School, Carbondale, IL; Jones Academic Magnet High School, Chicago, IL; Valparaiso High School, Valparaiso, IN; Ballard Community High School, Huxley, IA; Lake Mills Community High School, Lake Mills, IA; Glasco Middle School, Glasco, KS; Spring Hill High School, Spring Hill, KS; Boyd County High School, Ashland, KY; Garrard Middle School, Lancaster, KY; Harry M. Hurst Middle School, Destrehan, LA; Drowne Road School, Cumberland, ME; Rockland District High School, Rockland, ME; Leavitt Area High School, Turner, ME; Gateway School, Westminster, MD; Millbury Memorial High School, Millbury, MA; Garber High School, Essexville, MI; Onekama Middle School, Onekama, MI; Tinkham Alternative High School, Westland, MI; Moorhead Junior High School, Moorhead, MN; Harrisonville Middle School, Harrisonville, MO; Pattonville High School, Maryland Heights, MO; Middle Township High School, Court House, NJ; Benedictine Academy, Elizabeth, NJ; Delsea Regional High School, Franklinville, NJ; Hoboken Charter School, Hoboken, NJ; Iselin Middle School, Iselin, NJ; Christa McAuliffe Middle School, Jackson, NJ; Notre Dame High School, Lawrenceville, NJ; North Arlington Middle School, North Arlington, NJ; West Brook Middle School, Paramus, NJ; Ocean County Vocational Technical School, Toms River, NJ; The Bosque School, Albuquerque, NM; Carl Bergerson Middle School, Albion, NY; Madison Middle School, Marshall, NC; Ligon Gifted and Talented Magnet Middle School, Raleigh, NC; Fort Hayes Metropolitan Education Center, Columbus, OH; Clark Center Alternative School, Marietta, OH; Ripley High School, Ripley, OH; Perry Middle School, Worthington, OH; Miami High School, Miami, OK; Alcott Middle School, Norman, OK; Yukon High School, Yukon, OK; Franklin Delano Roosevelt Middle School, Bristol, PA; Chapin High School, Chapin, SC 29036; Summit Parkway Middle School, Columbia, SC; Palmetto Middle School, Williamston, SC; Henry County High School, Paris, TN; Cesar Chavez Academy, El Paso, TX; Dixie Middle School, St. George, UT; New Dominion Alternative School, Manassas, VA; Kamiakin Junior High School, Kirkland, WA; Student Link, Vashon, WA.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 26, 1992 in Salem, Oregon. A black lesbian and a gay man died after a firebomb was thrown into their apartment. Philip Bruce Wilson Jr., 20; Sean Robert Edwards, 21; Yolanda Renee Cotton, 19; and Leon L. Tucker, 22, were charged in connection with the murders.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

TRIBUTE TO HUGH L. GRUNDY

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to Hugh L. Grundy for his many years of service to the United States. On June 30, 2001, Hugh will be honored by the City of Crab Orchard, Kentucky, for his dedication to our Nation, and I know my colleagues join me in expressing our gratitude for his many contributions.

Hugh Grundy is a true American hero and has dedicated much of his life to the cause of freedom. During World War II, he served as a Major in the U.S. Army Air Corps/Air Force. After that, Hugh went on to serve concurrently as president of the Civil Air Transport and Air America. Secretly owned by the Central Intelligence Agency, CIA, these two air transport organizations were staffed by civilians who conducted undercover missions in Asia and other parts of the world in support of U.S. policy objectives. Often working under dangerous conditions and with outdated equipment, CAT and Air America crews transported scores of troops and refugees, flew emergency medical missions, and rescued downed airmen. Hugh and the brave people he commanded played a vital role in the war against Communism and their commitment to freedom will never be forgotten.

Hugh Grundy is a native Kentuckian. Born on his parents' farm in Valley Hill, KY, he grew up helping his father raise and show yearling saddle horses. While Hugh's love for aviation and his service to our Nation caused him to be away from the Commonwealth for many years, he returned to the Bluegrass to retire. Hugh and his wife of 58 years, Elizabeth, or "Frankie" as she is known to her friends, now live on their family farm, called Valley Hill Plantation. After many years on the go, Hugh and Frankie are very content with the peace and quiet associated with farm life.

Although Hugh Grundy is now retired, his record of dedication and service continues. On behalf of this body, I thank him for his contributions to this Nation, and sincerely wish him and his family the very best.•

TRIBUTE TO JOHN P. KELTY

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to John P. Kelty of Hampton Beach, NH, for his heroic service to the United States of America during World War II.

On July 30, 2001 I will present John with the medals he so bravely earned while serving his Nation in battle. John was wounded in action while serving in the Marshall Islands where he volunteered to evacuate fallen comrades while under machine gun fire. He also participated in the battle of POI and NAMUR, Kwajalein Atoll, Marshall Islands.

John, a former Marine Private First Class, earned medals for his dedicated military service including: the American Campaign Medal, Asiatic-Pacific Medal with Bronze Stars, an Honorable Service lapel button, the Marine Corps Honorable Discharge button, a Purple Heart Medal, the Presidential Unit Citation with one Bronze Star and a World War II Victory Medal.

A family friend of John Kelty, John Taddeo, recently contacted my Portsmouth, NH office to inquire about obtaining the service medals for the former Marine. As the son of a Naval aviator who died in a World War II incident, I was proud to assist with this request to provide the medals that John so courageously earned.

I commend John for his selfless dedication to his State and country. He is an American hero who fought to preserve liberty and justice for all citizens of the United States. It is truly an honor and a privilege to represent him in the U.S. Senate.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:38 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 645. An act to reauthorize the Rhinoceros and Tiger Conservation Act of 1994.

H.R. 1668. An act to authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 161. Concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers military housing compound in Dhahran, Saudi Arabia, on June 25, 1996.

The message further announced that the House has passed the following bill, without amendment:

S. 657. An act to authorize funding for the National 4-H Program Centennial Initiative.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 1029. An act to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees during fiscal year 2001 for the manufactured housing program.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

At 2:22 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2213. An act to respond to the continuing economic crisis adversely affecting American agricultural producers.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 645. An act to reauthorize the Rhinoceros and Tiger Conservation Act of 1994; to the Committee on Environment and Public Works.

H.R. 2213. An act to respond to the continuing economic crisis adversely affecting American agricultural producers; to the Committee on Agriculture, Nutrition, and Forestry.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 161. Concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers Military housing compound in Dhahran Saudi Arabia on June 25, 1996; to the Committee on Armed Services.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 26, 2001, he had presented to the President of the United States the following enrolled bill:

S. 1029. An act to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees during fiscal year 2001 for the manufactured housing program.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SMITH of Oregon (for himself and Mr. BINGAMAN):

S. 1098. A bill to amend the Food Stamp Act of 1977 to improve food stamp informational activities in those States with the greatest rate of hunger; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH of Oregon (for himself and Mr. LEAHY):

S. 1099. A bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes; to the Committee on the Judiciary.

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BAUCUS, Mr. DASCHLE, Mr. MURKOWSKI, Mrs. LINCOLN, and Mr. KERRY):

S. 1100. A bill to amend the Trade Act of 1974 to provide trade adjustment assistance to farmers; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 1101. A bill to name the engineering and management building at Norfolk Naval Shipyard, Portsmouth, Virginia, after Norman Sisisky; to the Committee on Armed Services.

By Mr. WELLSTONE:

S. 1102. A bill to strengthen the rights of workers to associate, organize and strike, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself, Mr. DORGAN, and Mr. BURNS):

S. 1103. A bill to amend title 49, United States Code, to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates in any case in which there is an absence of effective competition, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM (for himself, Mr. MURKOWSKI, Mr. GRAMM, Mr. NICKLES, Mr. THOMPSON, Mr. KYL, Mr. HAGEL, Mr. ROBERTS, and Mr. CHAFEE):

S. 1104. A bill to establish objectives for negotiating, and procedures for, implementing certain trade agreements; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1105. A bill to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 1106. A bill to provide a tax credit for the production of oil or gas from deposits held in trust for, or held with restrictions against alienation by, Indian tribes and Indian individuals; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. Res. 117. A resolution honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mrs. HUTCHISON, Mr. DEWINE, and Mr. LIEBERMAN):

S. Con. Res. 55. A concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996; to the Committee on Armed Services.

By Ms. SNOWE:

S. Con. Res. 56. A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued by the United States Postal Service honoring the members of the Armed Forces who have been awarded the Purple Heart; to the Committee on Governmental Affairs.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. DASCHLE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 21, a bill to establish an off-budget lockbox to strengthen Social Security and Medicare.

S. 145

At the request of Mr. THURMOND, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 145, a bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age, and for other purposes.

S. 180

At the request of Mr. FRIST, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 180, a bill to facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

S. 249

At the request of Mr. REID, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 249, a bill to amend the Internal Revenue Code of 1986 to expand the credit for electricity produced from certain renewable resources.

S. 319

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 319, a bill to amend title 49, United States Code, to ensure that air carriers meet their obligations under the Airline Customer Service Agreement, and provide improved passenger service in order to meet public convenience and necessity.

S. 543

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 550

At the request of Mr. DASCHLE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 550, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 686

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 686, a bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for energy efficient appliances.

S. 706

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 706, a bill to amend the Social Security Act to establish programs to alleviate the nursing profession shortage, and for other purposes.

S. 721

At the request of Mr. HUTCHINSON, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 721, a bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes.

S. 731

At the request of Mr. NELSON of Florida, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 731, a bill to ensure that military personnel do not lose the right to cast votes in elections in their domicile as a result of their service away from the domicile, to amend the Uniformed and Overseas Citizens Absentee Voting Act to extend the voter registration and absentee ballot protections for absent uniformed services personnel under such Act to State and local elections, and for other purposes.

S. 778

At the request of Mr. HAGEL, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

S. 804

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 804, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks; to required fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight; to raise the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 827

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 827, a bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2001.

S. 836

At the request of Mr. CRAIG, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 836, a bill to amend part C of title XI of the Social Security Act to provide for coordination of implementation of administrative simplification standards for health care information.

S. 847

At the request of Mr. DAYTON, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 859

At the request of Mr. THOMAS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 859, a bill to amend the Public Health Service Act to establish a mental health community education program, and for other purposes.

S. 871

At the request of Mr. CLELAND, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 871, a bill to amend chapter 83 of title 5, United States Code, to provide for the computation of annuities for air traffic controllers in a similar manner as the computation of annuities for law enforcement officers and firefighters.

S. 873

At the request of Mr. HELMS, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 873, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 913

At the request of Ms. SNOWE, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 969

At the request of Mr. DODD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 969, a bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

S. 992

At the request of Mr. CONRAD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 992, a bill to amend the Internal Revenue Code of 1986 to repeal the provision taxing policy holder dividends of mutual life insurance companies and to repeal the policyholders surplus account provisions.

S. 1022

At the request of Mr. WARNER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1067

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 1067, a bill to amend the Internal Revenue Code of 1986 to expand the availability of Archer medical savings accounts.

S. RES. 71

At the request of Mr. HARKIN, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. CON. RES. 24

At the request of Mr. LIEBERMAN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Con. Res. 24, a concurrent resolution expressing support for a National Reflex Sympathetic Dystrophy (RSD) Awareness Month.

AMENDMENT NO. 810

At the request of Mr. ENZI, his name was added as a cosponsor of amendment No. 810 proposed to S. 1052, , a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

At the request of Mr. BUNNING, his name was added as a cosponsor of amendment No. 810 proposed to S. 1052, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH of Oregon (for himself and Mr. BINGAMAN):

S. 1098. A bill to amend the Food Stamp Act of 1977 to improve food stamp informational activities in those States with the greatest rate of hunger; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SMITH of Oregon. Mr. President, I rise today to introduce the State Hunger Assistance in Response to Emergency or SHARE Act of 2001. I introduce this bill because it is a tragedy, that in this land of plenty, people across America go to bed hungry. It is high time that Congress do something to combat this tragedy.

Over the past few years, my home State of Oregon has seen an unprecedented economic boom—as has much of the country. Our silicon forest has grown by leaps and bounds; unemployment has dropped, and our welfare rolls have been reduced by half. But this prosperity has not reached all Oregonians. Oregon has the appalling distinction of having the highest rate of hunger in the nation, according to the USDA. That means that per capita, more people in Oregon go without meals than in any other State. I think that it may surprise some of my colleagues to learn that many of their home States suffer from severe hunger problems as well.

Perhaps the most tragic aspect of America's hunger problem is that it can be prevented. Federal programs, like Food Stamps and WIC, can help families fill the gap between the size of their food bill and the size of their paycheck, but too many people don't know that they qualify for the help available to them through these programs. This is especially true in the rural areas of Oregon, which is also home to most of my State's hungry citizens. Help exists for hungry people, and I want to make sure every American knows about the resources the Federal Government has already made available to them.

The Food Stamp Act of 1977 authorized the Secretary of Agriculture to provide states with up to 50 percent of the costs of informational activities related to program outreach; however, because the remaining 50 percent of the funds for these limited outreach activities must be supplied by the State, most States do not participate.

To ensure that more Oregonians and hungry people across the country take advantage of the resources available to them, the SHARE Act will provide additional funds to the 10 hungriest states, as named by the USDA, to help those in need learn about and sign up for federal food assistance programs. The SHARE bill authorizes the Secretary of Agriculture to make grants of up to $1 million to these states for 3 years. States can use these flexible funds for outreach—anything from distributing informational flyers at community health clinics to funding staff to help people fill out application forms. In addition, the bill will allow the Secretary of Agriculture to make grants available to States with particularly innovative outreach demonstration projects, so that we can find the best ways to combat hunger.

In a country as blessed with abundance as ours, no family should go hungry simply because they lack the information they need to get help. When passed, the SHARE Act will give Oregon and other states an opportunity to devise new and innovative programs that will allow the needy in our states to get the help they so desperately need. The idea behind this legislation is not very complicated—I simply want to make people aware of the food assistance already available to them—but I believe that this bill is as important as any we will consider in the Senate this year. With the help of my colleagues, we can stem the tide of this very preventable tragedy.

Mr. BINGAMAN. Mr. President, extreme forms of hunger in American households have virtually been eliminated, in part due to the Nation's nutrition-assistance safety net. Less severe forms of food insecurity and hunger, however, are still found within the United States and remain a cause for concern. The Food Stamp Program provides benefits to low-income people to assist with their purchase of foods that will enhance their nutritional status. Food stamp recipients spend their benefits, in the form of paper coupons or electronic benefits on debit cards, to buy eligible food in authorized retail food stores. Food stamp recipients, or those eligible for food stamps, cross the life cycle. They include individuals of all ages, races and ethnicity in both urban and rural settings.

As a result of the National Nutrition Monitoring and Related Research Act of 1990, the nutritional state of the American people has been closely monitored at State and local levels. We know that food insecurity is a complex, multidimensional phenomenon which varies through a continuum of successive stages as the condition becomes more severe. As the stage of food insecurity and hunger progresses, the number of affected individuals decreases. It is important for us to identify the stages of food insecurity and hunger as early as possible and, thus, continue to avoid the more severe stages of hunger. This means that we will need to focus on a much larger population base with a less dramatic stage of the condition which may be more difficult to identify. Fortunately, current tools to document the extent of food insecurity and hunger caused by income limitations are sensitive and reliable.

We must continue developing tools to document the extent of poor nutrition attributable to factors other than income limitations, like inadequate consumption of fruits and vegetables and overconsumption of sugar, fat, and empty calories. In the meantime, The State Hunger Assistance in Response to Emergency Act of 2001 (SHARE) would take information which is already being collected by the Department of Agriculture and allow the 10 States with the greatest rate of hunger to access funds to perform enhanced outreach activities for the food stamp program.

The goal of the food stamp nutrition education program is to provide educational programs that increase the likelihood of all food stamp recipients making healthy food choices consistent with the most recent dietary advice. States are encouraged to provide nutrition education messages that focus on strengthening and reinforcing the link between food security and a healthy diet. Currently USDA matches the dollars a State is able to spend on its Food Stamp nutrition education program. This nutrition education plan is optional but participation has increased from five State plans in 1992 to 48 State plans in FY 2000.

This bill expands the allowable outreach activities for the States with the worst statistics and would allow up to $1 million per State with 0 percent match requirement. In exchange for this unmatched money, the State must submit a report that measures the outcomes of food stamp informational activities carried out by the State over the 3 years of the grant. In addition, up to five States with innovative proposals for food stamp outreach could be selected by the Secretary of Agriculture for a demonstration project to receive the same amount of money over 3 years.

I have always been proud to represent my home State of New Mexico in the United States Senate. Unfortunately New Mexico has one of the worst hunger statistics in the nation. I think it is my duty to advocate for the New Mexicans that I represent as well as all Americans who are at risk for experiencing hunger, including those from Oregon, Texas, Arkansas and Washington who share similar statistics.

By Mr. SMITH of Oregon (for himself and Mr. LEAHY):

S. 1099. A bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes; to the Committee on the Judiciary.

Mr. SMITH of Oregon. Mr. President, one of the important tasks we have in Congress is to ensure that our laws effectively deter violence and provide protection to those whose careers are dedicated to protecting our families and also our communities.

With this in mind, today I rise to reintroduce the Federal Judiciary Protection Act with my esteemed colleague, Senator LEAHY. This bill will provide greater protection to Federal law enforcement officials and their families. Under current law, a person who assaults, attempts to assault, or who threatens to kidnap or murder a member of the immediate family of a U.S. official, a U.S. judge, or a Federal law enforcement official, is subject to a punishment of a fine or imprisonment of up to 5 years, or both. This legislation seeks to expand these penalties in instances of assault with a weapon and a prior criminal history. In such cases, an individual could face up to 20 years in prison.

This legislation would also strengthen the penalties for individuals who communicate threats through the mail. Currently, individuals who knowingly use the U.S. Postal Service to deliver any communication containing any threat are subject to a fine of up to $1,000 or imprisonment of up to 5 years. Under this legislation, anyone who communicates a threat could face imprisonment of up to 10 years.

Briefly, I would like to share several examples illustrating the need for this legislation. In my State of Oregon, Chief Judge Michael Hogan and his family were subjected to frightening, threatening phone calls, letters, and messages from an individual who had been convicted of previous crimes in Judge Hogan's courtroom. For months, he and his family lived with the fear that these threats to the lives of his wife and children could become reality, and, equally disturbing, that the individual could be back out on the street again in a matter of a few months, or a few years.

Judge Hogan and his family are not alone. In 1995, Mr. Melvin Lee Davis threatened two judges in Oregon, one judge in Nevada, and the Clerk of the Court in Oregon. The threat was carried out to the point that the front door of the residence of a Mr. John Cooney was shot up in a drive-by shooting. Unfortunately for Mr. Cooney, he had the same name as one of the Oregon judges who was threatened.

In September 1996, Lawrence County Judge Dominick Motto was stalked, harassed, and subjected to terrorist threats by Milton C. Reiguert, who was upset by a verdict in a case that Judge Motto had heard in his courtroom. After hearing the verdict, Reiguert stated his intention to "point a rifle at his head and get what he wanted."

These are just several examples of vicious acts focused at our Federal law enforcement officials. As a member of the legislative branch, I believe it is our responsibility to provide adequate protection to all Americans who serve to protect the life and liberty of every citizen in this Nation. I encourage my colleagues to join us in sponsoring this important legislation.

Mr. LEAHY. Mr. President, I am pleased to join my friend from Oregon to introduce the Federal Judiciary Protection Act. In the last two Congresses, I was pleased to cosponsor nearly identical legislation introduced by Senator GORDON SMITH, which unanimously passed the Senate Judiciary Committee and the Senate, but was not acted upon by the House of Representatives. I commend the Senator from Oregon for his continued leadership in protecting public servants in our Federal Government.

Our bipartisan legislation would provide greater protection to Federal judges, law enforcement officers, and United States officials and their families. United States officials, under our bill, include the President, Vice President, Cabinet Secretaries, and Members of Congress.

Specifically, our legislation would: increase the maximum prison term for forcible assaults, resistance, opposition, intimidation or interference with a Federal judge, law enforcement officer or United States official from 3 years imprisonment to 8 years; increase the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge, law enforcement officer or United States official from 10 years imprisonment to 20 years; and increase the maximum prison term for threatening murder or kidnaping of a member of the immediate family of a Federal judge or law enforcement officer from 5 years imprisonment to 10 years. It has the support of the Department of Justice, the United States Judicial Conference, the United States Sentencing Commission and the United States Marshal Service.

It is most troubling that the greatest democracy in the world needs this legislation to protect the hard working men and women who serve in our Federal Government. Just last week, I was saddened to read about death threats against my colleague from Vermont after his act of conscience in declaring himself an Independent. Senator JEFFORDS received multiple threats against his life, which forced around-the-clock police protection. These unfortunate threats made a difficult time even more difficult for Senator JEFFORDS and his family.

We are seeing more violence and threats of violence against officials of our Federal Government. For example, a courtroom in Urbana, Illinois was firebombed recently, apparently by a disgruntled litigant. This follows the horrible tragedy of the bombing of the federal office building in Oklahoma City in 1995. In my home state during the summer of 1997, a Vermont border patrol officer, John Pfeiffer, was seriously wounded by Carl Drega, during a shootout with Vermont and New Hampshire law enforcement officers in which Drega lost his life. Earlier that day, Drega shot and killed two state troopers and a local judge in New Hampshire. Apparently, Drega was bent on settling a grudge against the judge who had ruled against him in a land dispute.

I had a chance to visit John Pfeiffer in the hospital and met his wife and young daughter. Thankfully, Agent Pfeiffer has returned to work along the Vermont border. As a Federal law enforcement officer, Agent Pfeiffer and his family will receive greater protection under our bill.

There is, of course, no excuse or justification for someone taking the law into their own hands and attacking or threatening a judge, law enforcement officer or U.S. official. Still, the U.S. Marshal Service is concerned with more and more threats of harm to our judges, law enforcement officers and Federal officials.

The extreme rhetoric that some have used in the past to attack the judiciary only feeds into this hysteria. For example, one of the Republican leaders in the House of Representatives was quoted as saying: "The judges need to be intimidated," and if they do not behave, "we're going to go after them in a big way." I know that this official did not intend to encourage violence against any Federal official, but this extreme rhetoric only serves to degrade Federal judges in the eyes of the public.

Let none of us in the Congress contribute to the atmosphere of hate and violence. Let us treat the judicial branch and those who serve within it with the respect that is essential to preserving its public standing.

We have the greatest judicial system in the world, the envy of people around the globe who are struggling for freedom. It is the independence of our third, co-equal branch of government that gives it the ability to act fairly and impartially. It is our judiciary that has for so long protected our fundamental rights and freedoms and served as a necessary check on overreaching by the other two branches, those more susceptible to the gusts of the political winds of the moment.

We are fortunate to have dedicated women and men throughout the Federal Judiciary and Federal Government in this country who do a tremendous job under difficult circumstances. They are examples of the hard-working public servants that make up the Federal Government, who are too often maligned and unfairly disparaged. It is unfortunate that it takes acts or threats of violence to put a human face on the Federal Judiciary, law enforcement officers or U.S. officials, to remind everyone that these are people with children and parents and cousins and friends. They deserve our respect and our protection.

I thank Senator SMITH for his leadership on protecting our Federal judiciary and other public servants in our Federal Government. I urge my colleagues to support the Federal Judiciary Protection Act.

By Mr. WARNER (for himself and
Mr. ALLEN):

S. 1101. A bill to name the engineering and management building at Norfolk Naval Shipyard, Portsmouth, Virginia, after Norman Sisisky; to the Committee on Armed Services.

Mr. WARNER. Mr. President, I rise today to introduce a bill that will redesignate Building 1500 at the Norfolk Naval Shipyard, Portsmouth, Virginia, as the Norman Sisisky Engineering and Management Building. I am joined by my Virginia Senate colleague, GEORGE ALLEN.

As a Navy veteran of World War II, Congressman Sisisky was proud to be a part of one of the most extraordinary chapters in American history, when America was totally united at home in support of our 16 million men and women in uniform on battlefields in Europe and on the high seas in the Pacific, all, at home and abroad, fighting to preserve freedom.

During our 18 years serving together, Congressman Sisisky's goal, our goal, was to provide for the men and women in uniform and their families.

The last 50 years have proven time and again that one of America's greatest investments was the G.I. Bill of Rights, originated during World War II, which enabled service men and women to gain an education such that they could rebuild America's economy. The G.I. Bill was but one of the many benefits that Congressman Sisisky fought for and made a reality for today's soldiers, sailors, airmen, and Marines.

His strength in public life was supported by his wonderful family; his lovely wife Rhoda and four accomplished children. They were always by his side offering their love, support, and counsel.

He worked tirelessly throughout Virginia's 4th District, however, there was always a special bond to the military installations under his charge. As a former sailor, the Norfolk Naval Shipyard was high among his priorities. He knew the workers by name and the monthly workload in the yard. In consultation with his family and delegation members, we chose this building at the shipyard as a most appropriate memorial to our friend and colleague.

I waited until the special election was concluded so the entire Virginia delegation could join together on this legislation.

Norman Sisisky was always a leader for the delegation on matters of national security. We are honored to join in this bi-partisan effort to remember Congressman Norman Sisisky and his life's work; ensuring the nation's security and the welfare of the men and women in uniform and their families.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. DESIGNATION OF ENGINEERING AND MANAGEMENT BUILDING AT NORFOLK NAVAL SHIPYARD, VIRGINIA, AFTER NORMAN SISISKY.

The engineering and management building (also known as Building 1500) at Norfolk Naval Shipyard, Portsmouth, Virginia, shall be known as the Norman Sisisky Engineering and Management Building. Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Norman Sisisky Engineering and Management Building.

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BAUCUS, Mr. DASCHLE, Mr. MURKOWSKI, Mrs. LINCOLN, and Mr. KERRY):

S. 1100. A bill to amend the Trade Act of 1974 to provide trade adjustment assistance to farmers; to the Committee on Finance.

Mr. CONRAD. Mr. President, today I am introducing legislation to bring fairness to farmers in an important element of our trade policy. I am very pleased to be joined in this effort by the ranking member of the Finance Committee, Senator GRASSLEY, who has been a true champion of this effort over the past several years.

The legislation we are introducing today would amend the Trade Act of 1974 to make farmers eligible for Trade Adjustment Assistance, TAA, so that they can get assistance similar to that provided to workers in other industries who suffer economic injury as a result of increased imports.

When imports cause layoffs in manufacturing industries, workers become eligible for TAA. Under TAA, a portion of the income these workers lose is restored to them in the form of extended unemployment insurance benefits while they adjust to import competition and seek other employment. When imports of agricultural commodities increase, though, farmers do not lose their jobs. Instead, the increased imports drive down the prices farmers receive for the crops they have grown. This drop in prices can have an impact that is every bit as devastating to the income of a family farmer as a layoff is to a manufacturing worker. In fact, it can be even more devastating. In many cases, the check that farmers get for all the hard work of growing crops or livestock for the year may not only leave the farmer with no net income, it may not even cover all the input costs associated with producing the commodity, leaving the farmer with thousands of dollars in losses. But, because job loss is a requirement for getting cash assistance under TAA, farmers generally don't get benefits from TAA when imports cause their income to plummet.

Trade is very important to our overall economy, and trade is especially important to our agricultural economy. For example, we export over half the wheat grown in the United States. That is why, historically, agriculture has been among the leading supporters of trade liberalization. However, today many farmers believe their incomes are hurt by free trade, and they have nowhere to turn for assistance when this happens.

Trade Adjustment Assistance for Farmers can not only provide badly needed cash assistance to the devastated agricultural economy, it can re-ignite support for trade among many family farmers. By giving farmers some protection against precipitous income losses from imports, this legislation will strengthen support for trade agreements.

The Conrad-Grassley TAA for Farmers Act would assist farmers who lose income because of imports. Farmers would get a payment to compensate them for some, but not all, of the income they lose if increased imports affect commodity prices.

The eligibility criteria are designed to be analogous to those that apply currently to manufacturing workers. First, just as the Secretary of Labor now decides whether there has been economic injury to workers in a given manufacturing firm by determining whether production has declined and significant layoffs have occurred, the Secretary of Agriculture would decide whether there has been economic injury to producers of a commodity by determining if the price of the commodity had dropped more than 20 percent compared to the average price in the previous five years. Second, just as the Secretary of Labor determines whether imports "contributed importantly" to the layoffs, the Secretary of Agriculture would determine whether imports "contributed importantly" to the commodity price drop.

In order to be eligible for benefits under this program, individual farmers would have to demonstrate that their net farm income had declined from the previous year, and farmers would need to meet with the USDA's extension service to plan how to adjust to the import competition. This adjustment could take the form of improving the efficiency of the operation or switching to different crops.

Farmers who are eligible for benefits under the program would receive a cash assistance payment equal to half the difference between the national average price for the year (as determined by USDA) and 80 percent of the average price in the previous 5 years (the price trigger level), multiplied by the number of units the farmer had produced, up to a maximum of $10,000 per year.

In most years, the program would have a modest cost, as few commodities, if any, would be eligible. But in a year when surging imports cause prices to drop precipitously, this program would offer a cash lifeline to give farmers the opportunity to adjust to this import competition. This legislation sends a strong signal to farmers that they will not be left behind in our trade policy, that agriculture must be a priority.

We need to be sure that we don't leave American farmers behind. I hope my colleagues will join me in supporting American family farmers as they compete in the global market place.

By Mr. WELLSTONE:

S. 1102. A bill to strengthen the rights of workers to associate, organize and strike, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. WELLSTONE. Mr. President, I rise today to introduce legislation to strengthen the basic rights of workers to organize and to join a union. This legislation, the "Right-to-Organize Act of 2001," addresses shortcomings in the National Labor Relations Act, NLRA, that, over the years, have eroded the framework of worker empowerment the NLRA was designed to ensure.

The NLRA, also known as the Wagner Act, was enacted to "protect the exercise by workers of full freedom of association, self-organization and designation of representatives of their own choosing for purpose of negotiating the terms and conditions of their employment or other mutual aid or protection." Its proponents envisioned that the commerce of the Nation would be aided by workplaces that respected and empowered workers' voices about the terms and conditions of their own employment. Its proponents envisioned that supporting workers' right to organize would help lay the basic platform for healthy economies, healthy communities, and healthy families.

Grounded in lofty notions of "full freedom of association" and "actual liberty of contract," the promise of the NLRA was a fundamentally democratic one: participatory processes as a way to guarantee basic protections and to give those affected a role in decisionmaking about issues of paramount concern to them.

That was the promise of the NLRA. Unfortunately, today that promise is far from being realized. Indeed, today the democratic foundation we have attempted to erect for our workplaces is crumbling beyond recognition.

Today, instead of celebrating the participatory voice of workers, we are faced with the stark reality that in all too many cases, workers who do participate, workers who choose to organize, workers who choose to voice their concerns about the terms and conditions of their workplace live in fear. They live in fear of being harassed, of losing wages and benefits, of being put on leave without pay, and ultimately fear of losing their jobs. In a country that celebrates democracy and freedom, the land of the free, it is unconscionable that hard working men and women can be placed in fear of losing their livelihood because they choose to exercise their legal rights to associate for the purposes of bargaining collectively and participating in decisionmaking about their own workplaces.

Today, as one organizer told me, all too many times you have to be a hero when you try to organize your own workplace. That's true. The men and women who do this—who step up to take some ownership for what's going on in their own workplaces—are doing heroic work. But that shouldn't have to be the case. That wasn't the promise of democracy and participation—of the associational and liberty of contract values this Nation endorsed in the National Labor Relations Act.

It's urgent that we take action here. Estimates are that 10,000 working Americans lose their jobs illegally every year just for supporting union organizing campaigns. The 1994 Dunlop Commission found that one in four employers illegally fired union activists during organizing campaigns. Estimates are that one out of 10 activists is fired.

This is unacceptable. This is truly one of the most urgent civil rights and human rights issues of the new millennium. Working Americans are harassed, threatened and fired simply for seeking to have a voice and be represented in their workplace. According to the Dunlop Commission, the United States is the only major democratic country in which the choice of whether workers are to be represented by a union is subject to such confrontational processes.

As Chair of the Employment, Safety, and Training Subcommittee with jurisdiction over the National Labor Relations Act, NLRA, I am introducing the "Right-to-Organize Act of 2001" to shore up the crumbling foundation of democracy in the workplace that the NLRA was intended to promote. The Act will target some of the most serious abuses of labor law that unfortunately have become all too common in recent years.

First, employers routinely monopolize the debates leading up to certification elections. They distribute written materials in opposition to collective bargaining. They require workers to attend meetings where they present their anti-union views. They talk to employees one-on-one about the dire consequences of unionization, such as the possibility that the individual employee or all employees could lose their jobs. All too often, at the same time that this flagrant coercion, intimidation, and interference is taking place often on a daily basis—union organizers are barred from work sites and even public areas.

Second, as noted above, employers too frequently are firing employees and engaging in other unfair labor practices to discourage union organizing and union representation. They are doing this sometimes with near impunity because today's laws simply are not strong enough to discourage them from doing so. As the report, Unfair Advantage noted just last year, employers intent on frustrating workers' efforts to organize can, and do, drag out legal proceedings for years, at the end of which they receive a slap on the wrist in the form of back pay to the worker illegally fired and a requirement that they post a written notice promising not to repeat their illegal behavior. "Many employers," according to this report " have come to view remedies, like back pay for workers fired because of union activity as a routine cost of doing business, well worth it to get rid of organizing leaders and derail workers' organizing efforts." We need to put teeth into our ability to enforce the legal rights that are already on the books.

Third, as part of efforts to discourage organizing, employers are able today to drag out election campaigns, giving themselves more time in some cases to harass workers through methods such as those I have described. Their hope may be that the climate of fear and intimidation will encourage workers to vote against the union seeking certification. While just across our border in Canada, elections take place on average within a week of the filing of a petition, here in the United States, it takes on average 80 days between petition and certification. That is an enormous amount of time for workers to live in fear of casting a vote to help empower their voice in the workplace.

Finally, there is a growing problem of employers refusing to bargain with their employees even after a union has been duly certified. Achieving so-called "first contracts" can often be as harrowing as the organizing effort itself.

I want to be clear. Most employers do not take advantage of their workers in this way. Indeed, in tens of thousands of workplaces across the country, employers are working together with employees and their unions, to create safe, healthy, productive, and rewarding work environments. I applaud the efforts these employers and workers are making.

Unfortunately, however, this is not universally the case. All too frequently employers are disempowering workers and undermining their rights to organize, join, and belong to a union. That is why, that I say this is one of the most urgent civil and human rights issues of the new millennium. Civil rights and human rights is fundamentally about protecting the dignity and well-being of the less empowered against excesses of the more powerful. Nothing could be more important to protecting workers' rights to advocate for themselves and their families than securing a meaningful right to organize.

The Right-to-Organize Act of 2001 is a first step in tackling some of the most serious barriers to workers' ability to unionize. In particular, the Act would do the following:

First, it would amend the National Labor Relations Act to provide equal time to labor organizations to provide information about union representation. Under this proposal the employer would trigger the equal time provision by expressing opinions on union representation during work hours or at the work site. Once the triggering actions occur, then the union would be entitled to equal time to use the same media used by the employer to distribute information and be allowed access to the work site to communicate with employees.

Second, it would toughen penalties for wrongful discharge violations. In particular, it would require the National Labor Relations Board to award back pay equal to 3 times the employee's wages when the Board finds that an employee is discharged as a result of an unfair labor practice. It also would allow employees to file civil actions to recover punitive damages when they have been discharged as a result of an unfair labor practice.

Third, it would require expedited elections in cases where a super majority of workers have signed union recognition cards designating a union as the employee's labor organizations. In particular, it would require elections within 14 days after receipt of signed union recognition cards from 60 percent of the employees.

Fourth, the bill would put in place mediation and arbitration procedures to help employers and employees reach mutually agreeable first-contract collective bargaining agreements. It would require mediation if the parties cannot reach agreement on their own after 60 days. Should the parties not reach agreement 30 days after a mediator is selected, then either party could call in the Federal Mediation and Conciliation Service for binding arbitration. In this way both parties would have incentives to reach genuine agreement without allowing either side to hold the other hostage indefinitely to unrealistic proposals.

The need for these reforms is urgent, not only for workers who seek to join together and bargain collectively, but for all Americans. Indeed, one of the most important things we can do to raise the standard of living and quality of life for working Americans, raise wages and benefits, improve health and safety in the workplace, and give average Americans more control over their lives is to enforce their right to organize, join, and belong to a union.

When workers join together to fight for job security, for dignity, for economic justice and for a fair share of America's prosperity, it is not a struggle merely for their own benefit. The gains of unionized workers on basic bread-and-butter issues are key to the economic security of all working families. Upholding the right to organize is a way to advance important social objectives, higher wages, better benefits, more pension coverage, more worker training, more health insurance coverage, and safer work places, for all Americans without drawing on any additional government resources.

The right to organize is one of the most important civil and human rights causes of the new millennium. I urge my colleagues to join me in helping to restore that right to its proper place.

By Mr. ROCKEFELLER (for himself, Mr. DORGAN, and Mr. BURNS):

S. 1103. A bill to amend title 49, United States Code, to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates in any case in which there is an absence of effective competition, and for other purposes; to the Committee on Commerce Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I am happy today to join with my colleagues Senator DORGAN and Senator BURNS, in introducing the Rail Competition Act of 2001. Very simply, the purpose of this legislation is to encourage a bare minimum of competitive practices among participants in the freight rail industry, which has undergone unprecedented concentration in recent years, to the detriment of virtually all rail customers.

This legislation is a renewed effort on the part of my colleagues and me to address an issue that has amazed and shocked us for years. The monopoly power of the railroads places pervasive burdens on so many industries important to our states and to the national economy. No other industry in this country wields as much power over its customers as the railroad industry, and no other industry has as close an ally in the agency charged with its oversight as the railroad industry has with the Surface Transportation Board, known by the abbreviation STB. In fact, no other formerly regulated industry in this country continues to maintain this level of market dominance over its customers and essential infrastructure.

Shippers of bulk commodities, like coal from mines in West Virginia and grain from the Plains states, must routinely deal with shipments that move more slowly, and at rates much higher than would normally be charged in a truly competitive market. Every company that ships its product by rail has a trove of horror stories regarding how high prices and poor service attributable to the lack of meaningful competition in the freight rail industry has affected their ability to compete in their own industries. I know this because these companies have been telling me the same types of stories since I came to Congress.

I know that other members of Congress have heard the stories, too. As many of my colleagues will remember, the point was driven home last year when more than 280 CEOs from companies covering the broadest possible spectrum of the American economy wrote to Senators MCCAIN and HOLLINGS asking them to do something to insert real competition in the freight rail industry. For the record, the STB has also heard the complaints. However, the Board's focus has been the railroads' still-weak financial health, rather than the continued service problems that are its root cause.

I want to give my colleagues an example from an industry that is very important to my State and the rest of the Nation, the chemical industry. Throughout the country, approximately 80 percent of individual chemical operations are "captive" to one railroad, meaning they are served by only one railroad, and are subject to whatever pricing scheme the railroad chooses to use. In my home State of West Virginia, where the chemical industry is one of the pillars of the State's economy, 100 percent of chemical plants are captive. Some might be tempted to just write this off as the cost of doing business, but let me impart another view: These plants produce bulk chemicals that other companies buy and turn into countless products in use in every home and business in America.

Make no mistake, while the immediate beneficiary of this legislation will be the Rail Shipper who will have the opportunity to operate with the confidence that they are getting a fair deal the true beneficiary of this legislation is the retail shopper. Every purchase of every product that began its life in a chemical plant will be cheaper when that chemical plant receives competitive rail service because of this bill. Every ingredient in your families' dinners will go down in price when the shippers of agricultural commodities see their costs go down because this bill has produced efficiencies that benefit both shipper and railroad. Every time you flip the switch, and the lights turn on at a lower kilowatt-per-hour rate, it will happen because utilities throughout the nation have a more reliable and inexpensive supply of coal because of the Railroad Competition Act of 2001.

Congress deregulated the railroad industry with the passage of the Staggers Rail Act in 1980. Many of the predicted results of deregulation came to pass in relatively short order. The major freight railroads, which were in pretty bad financial shape at the end of the 1970's, put their fiscal houses in order. In the course of these improvements, some weaker railroads were swallowed up by stronger corporations. Our Nation's rail network, which was extensive but inefficient in some respects, became more streamlined. Unfortunately, some of the benefits of competition that Congress was led to expect most notably improved service at lower cost have simply not materialized for many shippers in several parts of the country.

Indeed, rather than improving over time, the situation has grown steadily worse. The second half of the 1990's saw an unprecedented spate of railroad mergers, to the point now that the more than 50 Class I railroads in existence when I entered the United States Senate has dwindled to only six with four railroads carrying a staggeringly high percentage of the freight.

STB has considered these mergers to be "in the public interest," and I will not dispute the possibility that some of them may have been. I tend to believe that the notion that fueled many of the mergers was that somehow financially weak corporations with poor track records of service could be transformed overnight into efficient, businesslike railroads providing good service at lower costs. Meanwhile, rail shippers had to contend with newly merged railroads with monopoly power that did not seem to care any more about customer service than the separate companies that preceded them.

Before I complete my remarks, I want to address what I predict will be some of the rhetoric bandied about by the railroad industry. This bill is not an attempt to re-regulate the industry. When Congress passed the Staggers Rail Act in 1980, it did not do so with only the financial health of the railroads in mind. The Interstate Commerce Commission, and its successor agency, the STB, were supposed to maintain competition in the rail industry. Both agencies have failed miserably to contain the anti-competitive behavior of the railroads. My cosponsors and I only seek to require railroads to quote a price for a portion of a route on which they carry a company's products. This bill does not seek to give the STB more regulatory authority over the railroads, it only serves to remind the Board of the procompetitive responsibilities authorized by Congress in the Staggers Act.

Likewise, we do not offer this bill to hasten the demise of the industry. The companies that have come to us time and again for help in getting competitive rail service absolutely need a strong railroad industry. Their products, for the most part, cannot be moved efficiently via trucks or barges. The competition that will be fostered by this legislation is intended to help the railroads as much as it is intended to help shippers. Some may dispute the fundamental economic logic of this, to which I respond: Giving the railroads relatively unfettered regional monopolies with the right to engage in anticompetitive behavior has not produced the strong railroad industry the Staggers Act sought to produce. At the very least, perhaps it is time to give competition a chance to succeed.

Mr. DORGAN. Mr. President, I rise today to speak about a bill, the Railroad Competition Act of 2001, which, along with Senator BURNS and Senator ROCKEFELLER I hope will introduce a bit of competition and better service in our railroad industry. The truth is that our rail system is completely broken, deregulation has only led to a system dominated by regional monopolies and both shippers and consumers are paying the price.

Since the supposed deregulation of the rail industry in 1980, the number of major Class I railroads has been allowed to decline from approximately 42 to only four major U.S. railroads today. Four mega-railroads overwhelmingly dominate railroad traffic, generating 95 percent of the gross ton-miles and 94 percent of the revenues, controlling 90 percent of all U.S. coal movement; 70 percent of all grain movement and 88 percent of all originated chemical movement. This drastic level of consolidation has left rail customers with only two major carriers operating in the East and two in the West, and has far exceeded the industry's need to minimize unit operating costs.

But consolidation has not happened in a vacuum. Over the years, regulators have systematically adopted polices that so narrowly interpret the pro-competitive provisions of the 1980 statute that railroads are essentially protected from ever having to compete with each other. As a consequence rail users have no power to choose among carriers either in terminal areas where switching infrastructure makes such choices feasible, nor can rail users even get a rate quoted to them over a "bottleneck" segment of the monopoly system.

The negative results of this approach have been astonishing. In North Dakota it costs $2,300 to move one rail car of wheat to Minneapolis (approx. 400 miles). Yet for a similar 400 mile move between Minneapolis and Chicago, it costs only $310 to deliver that car. And move that same car another 600 miles to St. Louis, Missouri and it costs only $610 per car. Looking at it another way—An elevator in Minot, North Dakota pays $2.99 to the farmer for a bushel of wheat. The cost to ship that wheat to the West coast on the BNSF is $1.30 per bushel. At that rate, rail transportation consumes 43 percent of the value of that wheat. Not only is that totally unfair to the captive farmer, but in the long run it is unsustainable.

How has this happened? Since the deregulation of the railroad industry, it has been the responsibility of the Interstate Commerce Commission, later renamed, the Surface Transportation Board, to make sure that the pro-competitive intent of the law was being upheld. It is the STBs charge to protect captive shippers through "regulated competition."

That clearly hasn't happened. In 1999 the GAO reported on how complicated it is for a shipper to get rate relief under the "regulated competition" approach at the STB. The GAO found that this process takes up to 500 days to decide, and costs hundreds of thousands of dollars. Hundreds of thousands of dollars and about approximately two years—that's hardly a rate relief process. But it's about the only relief shippers have under the law.

The Railroad Competition Act of 2001 will reaffirm the strong role the STB should play in protecting shippers by: jump-starting competition by requiring railroads to quote a rate on any given segment; facilitating terminal access and the ability to transfer goods among railroads in terminal areas; simplifying the market dominance test; eliminating the annual revenue adequacy test; bolstering rail access by making the rate relief process cheaper, faster and easier through a streamlined arbitration process, and requiring the railroads to file monthly service performance reports with the Department of Transportation, similar to what we require of the airline industry, so that rail customers have access to the information then need to make good railroad and transportation choices.

All Americans, whether they are farmers who need to ship their crops to market, businesses shipping factory goods, or consumers that buy the finished product, deserve to have a rail transportation system with prices that are fair. It is time for Congress to stand up for farmers, businesses, and consumers by making it very clear that the STB has to be a more aggressive defender of competition and reasonable rates.

By Mr. GRAHAM (for himself, Mr. MURKOWSKI, Mr. GRAMM, Mr. NICKLES, Mr. THOMPSON, Mr. KYL, Mr. HAGEL, Mr. ROBERTS, and Mr. CHAFEE):

S. 1104. A bill to establish objectives for negotiating, and procedures for, implementing certain trade agreements; to the Committee on Finance.

Mr. GRAHAM. Mr. President, I rise today with Senator MURKOWSKI and our cosponsors to introduce the Trade Promotion Authority Act of 2001. We have stepped forward because we believe that international trade is essential to increase opportunities for U.S. producers, to support U.S. jobs, and to provide economic opportunities for trading partners who need development.

Last month the Administration released its 2001 International Trade Agenda, which outlined the President's principles for renewed trade promotion authority, TPA. At the same time, I was working with a group of pro-trade Democrats to identify our key priorities. What we discovered is that our two sets of principles had much in common.

Over the last few weeks, Senator MURKOWSKI and I have worked together to translate those two sets of principles into legislative language.

The trade debate has been virtually deadlocked for years, with voices from the "end zones" taking center-stage. In our view, this bill represents the basic architecture of a bipartisan bill on what we believe is the "50 yard line." We also look forward to the contribution that others will make before this bill is signed into law.

The fact that we introduced this bill with bipartisan support is particularly significant because this is not just a set of ideas that happened to be popular with both Democrats and Republicans. This bill took real compromise on both sides.

For my part, my contributions to this bill were based on the trade principles developed by New Democrats led by CAL DOOLEY in the House and several of my colleagues in the Senate. The New Democrat trade principles we released in May are fully incorporated into this bill.

What we introduce today is not a trade agreement. Trade promotion authority is an authorization to the President to begin negotiations. Details of a trade bill will be developed through the process established by the grant of TPA. At the end of that process, Congress will review the result of those negotiations and grant approval or disapproval to the result.

Trade promotion authority puts the will of Congress behind our trade negotiator, but it cannot and should not mandate a specific result from negotiations. We must leave it to our negotiators to reach the most favorable agreement they can.

A trade promotion authority bill is a way for Congress to communicate its negotiating priorities. Some of the priorities we put forward in this bill include: negotiating objectives on labor and environment that receive the same priority as commercial negotiating objectives; a new negotiating objective on information technologies to reduce trade barriers on high technology products, enhance and facilitate barriers-free e-commerce, and provide the same rights and protections for the electronic delivery of products as are offered to products delivered physically; adoption of measures in trade agreements to ensure proper implementation, full compliance and appropriate enforcement mechanisms that are timely and transparent; and a stronger process for continuous Congressional involvement in the process before, during, and at the close of negotiations so that the will of Congress is fully expressed in the final agreement.

I have been concerned by the views expressed by some Members that it may be better to delay consideration of TPA until next year. This would be a "major league" mistake. There is a real price to be paid for delay.

One hundred years ago the U.S. took an isolationist position with respect to our economic relations with Latin America. The result of this was that the Nations of Latin America adopted European technical standards. This has been a handicap to the U.S. economic position in Latin America ever since.

We now are in danger of repeating this mistake. The best way to avoid doing so is to negotiate and enter trade agreement with nations so that American standards become the norm and American businesses and workers can benefit.

Nothing is likely to occur in the next 12 to 24 months that will make reaching a consensus on trade promotion authority more likely. In fact just the opposite is true.

The best way to move forward is to put TPA in perspective. It seems the debate on this issue moves quickly to being a referendum on whether trade and globalization are good or bad. That, frankly, is not the question. We can't walk away from globalization and we can't shut the door to international commerce. We can't put the genie back in the bottle.

What we can do is try to shape these economic forces and define a trade agenda that addresses our priorities. The real question is, "can the United States have more influence in the trade arena with TPA or without it."

I am convinced that we will give the President a stronger negotiating position, and get the country a better result, if we pass a grant of trade promotion authority as soon as possible. That is not to say that I advocate giving the President a blank check to cash as he pleases. It also does not mean that I believe in a "free trade utopia" either.

I recognize there will be issues with our trading partners and that everyone doesn't always play by the rules. The way to address concerns with our trading partners is at the negotiating table. That makes it all the more important for us to have a strong negotiating position, and TPA is central to that.

We encourage others to contribute specific suggestions to enhance the bill's ability to contribute to its principle objective of opening markets to U.S. goods, creating new and better jobs for Americans, and allowing the world to benefit from U.S. goods and services.

Only 4 percent of the world's consumers live in the United States. If we want to sell our agriculture products, manufactured goods, and world-class services to the rest of the 96 percent around the world, we have to do it through trade. Trade promotion authority is the best way for the President to negotiate trade agreements that will open markets and improve standards of living at home and abroad.

Mr. MURKOWSKI. Mr. President, I rise today to join my colleague, Senator GRAHAM, in introducing the Trade Promotion Act of 2001. In my six and a half years on the Finance Committee, on which Senator GRAHAM and I both serve, there has always been a strong bi-partisan consensus in favor of open markets and free trade. In introducing the Trade Promotion Act of 2001 today, we continue that spirit.

This is a bill to which many members have contributed. Together, we believe that trade is the single most important catalyst for expanding jobs and opportunities here at home and encouraging economic development abroad.

The United States has always been a trading Nation. We learned the law of comparative advantage very early in our history, and became the wealthiest Nation in history as a direct result. Economic theory tells us that trade between markets expands the opportunities and benefits in both those markets. As far as trade is concerned, the whole is always greater than the sum of its parts. Our Nation's history has been the practical embodiment of this theory. Without trade, this Nation would simply not be the greatest on earth.

Yet no matter how many times we have learned this lesson, we forget it just as many times. Here we are in 2001, facing the same challenges on trade we have faced on countless occasions in the past. The champions of protectionism have become more sophisticated over the years. Still: their arguments are the same old fear-mongering and disinformation they have been peddling for 200 years.

Does trade lead to winners and losers? Yes, that's called competition, the bedrock of our society.

Does economic growth put pressures on underdeveloped societies in labor and environmental areas? Yes, it can. It did in this country too.

But do the short-term pains of competition and other pressures on society outweigh the benefits of trade? No, not now, not ever.

The United States can be leaders on trade or we can be followers. We can either shape the global economy or be shaped by it.

There are 134 free trade agreements in the world today. The United States is party to only 2 of those. To my mind, that is a shameful record. We have done a disservice to our farmers, fishermen, businesses and the working men and women of this country.

I recognize there are those who are concerned about the broader impacts of globalization. To them I say: you can't influence the outcome unless you are in the game.

Does government have a role in easing the plight of firms and individuals negatively affected by trade? Absolutely. Sound economic policy should ease the transition of individuals and their companies to more competitive areas.

Can the United States help other countries overcome short-term labor and environmental problems resulting from rapid growth? No question at all. Through technology and other means we have many tools to help the developing world.

But the only way to address these problems is for the United States to exercise leadership on trade. Without Trade Promotion Authority, such leadership will be impossible.

Senator GRAHAM and I and our colleagues believe the Graham-Murkowski Trade Promotion Act of 2001 is the right vehicle to provide those leadership tools.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1105. A bill to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National

Park, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Mr. President, I am pleased to introduce a bill today to authorize the exchange of State lands inside Grand Teton National Park.

Grand Teton National Park was established by Congress on February 29, 1929, to protect the natural resources of the Teton range and recognize the Jackson area's unique beauty. On March 15, 1943, President Franklin Delano Roosevelt established the Jackson Hole National Monument adjacent to the park. Congress expanded the Park on September 14, 1950, by including a portion of the lands from the Jackson Hole National Monument. The park currently encompasses approximately 310,000 acres of wilderness and has some of the most amazing mountain scenery anywhere in our country. This park has become an extremely important element of the National Park system, drawing almost 2.7 million visitors in 1999.

When Wyoming became a State in 1890, sections of land were set aside for school revenue purposes. All income from these lands—rents, grazing fees, sales or other sources—is placed in a special trust fund for the benefit of students in the State. The establishment of these sections predates the creation of most national parks or monuments within our State boundaries, creating several state inholdings on federal land. The legislation I am introducing today would allow the Federal Government to remove the state school trust lands from Grand Teton National Park and allow the State to capture fair value for this property to benefit Wyoming school children.

This bill, entitled the "Grand Teton National Park Land Exchange Act," identifies approximately 1406 acres of State lands and mineral interests within the boundaries of Grand Teton National Park for exchange for Federal assets. These Federal assets could include mineral royalties, appropriated dollars, federal lands or combination of any of these elements.

The bill also identifies an appraisal process for the state and federal government to determine a fair value of the state property located within the park boundaries. Ninety days after the bill is signed into law, the land would be valued by one of the following methods: (1) the Interior Secretary and Governor would mutually agree on a qualified appraiser to conduct the appraisal of the State lands in the park; (2) if there is no agreement about the appraiser, the Interior Secretary and Governor would each designate a qualified appraiser. The two designated appraisers would select a third appraiser to perform the appraisal with the advice and assistance of the designated appraisers.

If the Interior Secretary and Governor cannot agree on the evaluations of the State lands 180 days after the date of enactment, the Governor may petition the U.S. Court of Federal Claims to determine the final value. One-hundred-eighty days after the State land value is determined, the Interior Secretary, in consultation with the Governor, shall exchange Federal assets of equal value for the State lands.

The management of our public lands and natural resources is often complicated and requires the coordination of many individuals to accomplish desired objectives. When western folks discuss Federal land issues, we do not often have an opportunity to identify proposals that capture this type of consensus and enjoy the support from a wide array of interests; however, this land exchange offers just such a unique prospect.

This legislation is needed to improve the management of Grand Teton National Park, by protecting the future of these unique lands against development pressures and allow the State of Wyoming to access their assets to address public school funding needs.

This bill enjoys the support of many different groups including the National Park Service, the Wyoming Governor, State officials, as well as folks from the local community. It is my hope that the Senate will seize this opportunity to improve upon efforts to provide services to the American public.

By Mr. DOMENICI:

S. 1106. A bill to provide a tax credit for the production of oil or gas from deposits held in trust for, or held with restrictions against alienation by, Indian tribes and Indian individuals; to the Committee on Finance.

Mr. DOMENICI. Mr. President, today I am proud to introduce legislation that would provide a Federal tax credit for oil and natural gas produced from Indian lands. This legislation will serve two important purposes. It will provide an immediate boost to tribal economies, and it will provide additional domestic sources of energy to ease our growing energy crisis.

Even though Indian lands offer a fertile source of oil and natural gas, many disincentives to exploration and production exist. For example, the Supreme Court permits the double taxation of oil and natural gas produced from tribal lands, which unfairly subjects producers to both State and tribal taxation. Furthermore, tribal economies are not sufficiently diversified to allow for tribal tax incentives for oil and natural gas development. Finally, Congress has enacted innumerable incentives for energy development on Federal lands, which has made production from this land far more profitable. As a result, Indian lands are too often overlooked as a source of domestic energy.

This legislation would remedy these disadvantages by providing Federal tax credits for oil and natural gas production on tribal lands. These tax credits would be available to both the tribe as royalty owner and the producer. Tribes would benefit in two ways: they could broaden their tax base from substantially increased oil and gas production; and they could market their share of the tax credit to generate additional revenue. These additional revenues would allow tribes to strengthen their infrastructure and improve the vital services that they provide to their citizens.

Unfortunately, the recent economic prosperity has not been extended to many Indian tribes. This is the reason why these tax incentives are so crucial. They will provide a much-needed shot in the arm to tribal economic development and will compensate for the discriminatory double taxation that hinders energy production. In recent years, many people have criticized the growth of the gaming industry on reservations. However, these critics have failed to suggest viable alternatives for tribal economic development. This legislation would supply strong opportunity for entrepreneurship in a vital national industry and would bring many more tribes into the economic mainstream.

Finally, this legislation would have the added benefit of creating an additional source of domestic energy. In our efforts to craft a comprehensive energy policy for the United States, we have been searching for additional sources of domestic energy. In this search, we must not overlook tribal oil and gas production. America's energy supply is a patchwork of various domestic and international sources, and the addition of tribal lands will only strengthen the seams of this patchwork and decrease our risky reliance on foreign sources.

Therefore, I am proud today to introduce this legislation to boost the production of oil and natural gas on Indian lands and to strengthen our domestic energy supply.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 117—HONORING JOHN J. DOWNING, BRIAN FAHEY, AND HARRY FORD, WHO LOST THEIR LIVES IN THE COURSE OF DUTY AS FIREFIGHTERS

Mrs. CLINTON (for herself, and Mr. SCHUMER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 117

Whereas on June 17, 2001, 350 firefighters and numerous police officers responded to a 911 call that sent them to Long Island General Supply Company in Queens, New York;

Whereas a fire and an explosion in a 2-story building had turned the 128-year-old, family-owned store into a heap of broken bricks, twisted metal, and shattered glass;

Whereas all those who responded to the scene served without reservation and with their personal safety on the line;

Whereas 2 civilians and dozens of firefighters were injured by the blaze, including firefighters Joseph Vosilla and Brendan Manning who were severely injured;

Whereas John J. Downing of Ladder Company 163, an 11-year veteran of the department and resident of Port Jefferson Station, and a husband and father of 2, lost his life in the fire;

Whereas Brian Fahey of Rescue Company 4, a 14-year veteran of the department and resident of East Rockaway, and a husband and father of 3, lost his life in the fire; and

Whereas Harry Ford of Rescue Company 4, a 27-year veteran of the department from Long Beach, and a husband and father of 3, lost his life in the fire: Now, therefore, be it

Resolved, That the Senate—

(1) honors John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters, and recognizes them for their bravery and sacrifice;

(2) extends its deepest sympathies to the families of these 3 brave heroes; and

(3) pledges its support and to continue to work on behalf of all of the Nation's firefighters who risk their lives every day to ensure the safety of all Americans.

SENATE CONCURRENT RESOLUTION 55—HONORING THE 19 UNITED STATES SERVICEMEN WHO DIED IN THE TERRORIST BOMBING OF THE KHOBAR TOWERS IN SAUDI ARABIA ON JUNE 25, 1996

Mr. BOND (for himself, Mrs. HUTCHISON, Mr. DEWINE, and Mr. LIEBERMAN) submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 55

Whereas June 25, 2001, marks the fifth anniversary of the tragic terrorist bombing of the Khobar Towers in Saudi Arabia;

Whereas this act of senseless violence took the lives of 19 brave United States servicemen, and wounded 500 others;

Whereas these nineteen men killed while serving their country were Captain Christopher Adams, Sergeant Daniel Cafourek, Sergeant Millard Campbell, Sergeant Earl Cartrette, Jr., Sergeant Patrick Fennig, Captain Leland Haun, Sergeant Michael Heiser, Sergeant Kevin Johnson, Sergeant Ronald King, Sergeant Kendall Kitson, Jr., Airman First Class Christopher Lester, Airman First Class Brent Marthaler, Airman First Class Brian McVeigh, Airman First Class Peter Morgera, Sergeant Thanh Nguyen, Airman First Class Joseph Rimkus, Senior Airman Jeremy Taylor, Airman First Class Justin Wood, and Airman First Class Joshua Woody;

Whereas those guilty of this attack have yet to be brought to justice;

Whereas the families of these brave servicemen still mourn their loss and await the day when those guilty of this act are brought to justice; and

Whereas terrorism remains a constant and ever-present threat around the world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress, on the occasion of the fifth anniversary of the terrorist bombing of the Khobar Towers in Saudi Arabia, recognizes the sacrifice of the 19 servicemen who died in that attack, and calls upon every American to pause and pay tribute to these brave soldiers and to remain ever vigilant for signs which may warn of a terrorist attack.

SENATE CONCURRENT RESOLUTION 56—EXPRESSING THE SENSE OF CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED BY THE UNITED STATES POSTAL SERVICE HONORING THE MEMBERS OF THE ARMED FORCES WHO HAVE BEEN AWARDED THE PURPLE HEART

Ms. SNOWE submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 56

Whereas the Order of the Purple Heart for Military Merit, commonly known as the Purple Heart, is the oldest military decoration in the world in present use;

Whereas the Purple Heart is awarded in the name of the President of the United States to members of the Armed Forces who are wounded in conflict with an enemy force or while held by an enemy force as a prisoner of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force or who die of a wound received in conflict with an enemy force;

Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit or the Decoration of the Purple Heart;

Whereas the award of the Purple Heart ceased with the end of the Revolutionary War, but was revived out of respect for the memory and military achievements of George Washington in 1932, the year marking the 200th anniversary of his birth; and

Whereas the issuance of a postage stamp commemorating the members of the Armed Forces who have been awarded the Purple Heart is a fitting tribute both to those members and to the memory of George Washington: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States Postal Service should issue a postage stamp commemorating the members of the Armed Forces who have been awarded the Purple Heart; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued not later than 1 year after the adoption of this resolution.

Ms. SNOWE. Mr. President. I rise today to submit a concurrent resolution to express the sense of Congress that a commemorative postage stamp should be issued by the United States Postal Service honoring the members of the Armed Forces that have been awarded the Purple Heart.

The Purple Heart, our nation's oldest military decoration, was originated by General George Washington in 1782 to recognize "instances of unusual gallantry." Referred to then as the Badge of Military Merit, the decoration was awarded only three times during the Revolutionary War.

Following the war, the general order authorizing the "Badge" was misfiled for over 150 years until the War Department reactivated the decoration in 1932. The Army's then Adjutant General, Douglas MacArthur, succeeded in having the medal re-instituted in its modern form—to recognize the sacrifice our service members make when they go into harm's way.

Both literally and figuratively, the Purple Heart is the world's most costly decoration. However, the 19 separate steps necessary to make the medal pale in comparison to the actions and heroics that so often lead to its award. The Department of Defense does not track the number of Purple Hearts awarded, but we do know that just over 500,000 of the veterans and military personnel that have received the medal are still living. And we also know that every single recipient served this country in one form or another; a good number of the awardees even made the ultimate sacrifice—giving their lives for the liberty and freedoms that we all enjoy and often take for granted.

I am sure you will agree that these sacrifices deserve our respect and remembrance. This resolution, to express the sense of the Congress that a postage stamp honoring Purple Heart recipients should be issued by the U.S. Postal Service, is a fitting place to start. I urge my colleagues to support this effort to recognize those brave service members.

AMENDMENTS SUBMITTED AND PROPOSED

SA 813. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table.

SA 814. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 815. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 816. Mr. BOND proposed an amendment to the bill S. 1052, supra.

SA 817. Mr. ALLARD (for himself, Mr. BOND, Mr. SANTORUM, and Mr. NICKLES) proposed an amendment to the bill S. 1052, supra.

SA 818. Mr. KYL (for himself, Mr. NELSON of Nebraska, and Mr. NICKLES) proposed an amendment to the bill S. 1052, supra.

TEXT OF AMENDMENTS

SA 813. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end of the bill, add the following

TITLE ___—HUMAN GERMLINE GENE MODIFICATION

SEC. 01. SHORT TITLE.

This title may be cited as the "Human Germline Gene Modification Prohibition Act of 2001".

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering, of existing people. Its target population is "prospective people" who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as "damaged goods", while the standards for what is genetically desirable will be those of the society's economically and politically dominant groups. This will only increase prejudices and discrimination in a society where too many such prejudices already exist.

(3) There is no way to be accountable to those in future generations who are harmed or stigmatized by wrongful or unsuccessful human germline modifications of themselves or their ancestors.

(4) The negative effects of human germline manipulation would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm probably often fatal as the result of only a few instances of germline manipulations.

(5) All people have the right to have been conceived, gestated, and born without genetic manipulation.

SEC. 03. PROHIBITION ON HUMAN GERMLINE GENE MODIFICATION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"CHAPTER 16—GERMLINE GENE MODIFICATION

"Sec.

"301. Definitions

"302. Prohibition on germline gene modification.

"§ 301. Definitions

"In this chapter:

(1) HUMAN GERMLINE GENE MODIFICATION.—The term 'human germline gene modification' means the introduction of DNA into any human cell (including human eggs, sperm, fertilized eggs, (ie. embryos, or any early cells that will differentiate into gametes or can be manipulated to do so) that can result in a change which can be passed on to future individuals, including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA. The term does not include any modification of cells that are not a part of or are not used to construct human embryos.

"(2) HUMAN HAPLOID CELL.—The term 'haploid cell' means a cell that contains only a single copy of each of the human chromosomes, such as eggs, sperm, and their precursors; the haploid number in a human cell is 23.

"(3) SOMATIC CELL.—The term 'somatic cell' means a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or deceased human body at any stage of development; its diploid number is 46. Somatic cells are diploid cells that are not precursors of either eggs or sperm. A genetic modification of somatic cells is therefore not germline genetic modification.

"§ 302. Prohibition on germline gene modification

"(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce—

"(1) to perform or attempt to perform human germline gene modification;

"(2) to participate in an attempt to perform human germline gene modification; or

"(3) to ship or receive the product of human germline gene modification for any purpose.

"(b) IMPORTATION.—It shall be unlawful for any person or entity, public or private, to import the product of human germline gene modification for any purpose.

"(c) PENALTIES—

"(1) IN GENERAL.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

"(2) CIVIL PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

"16. Germline Gene Modification .... 301".

SA 814. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 179, after line 14, add the following:

SEC. ___. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant

"(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant member of the species homo sapiens who is born alive at any stage of development.

"(b) As used in this section, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

"(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

"8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.".

SA 815. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___—FAIR CARE FOR THE UNINSURED

Subtitle A—Refundable Credit for Health Insurance Coverage

SEC. ___01. REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. HEALTH INSURANCE COSTS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to the amount paid during the taxable year for qualified health insurance for the taxpayer, his spouse, and dependents.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—The amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the sum of the monthly limitations for coverage months during such taxable year for each individual referred to in subsection (a) for whom the taxpayer paid during the taxable year any amount for coverage under qualified health insurance.

"(2) MONTHLY LIMITATION.—

"(A) IN GENERAL.—The monthly limitation for an individual for each coverage month of such individual during the taxable year is the amount equal to 1/12 of—

"(i) $1,000 if such individual is the taxpayer,

"(ii) $1,000 if—

"(I) such individual is the spouse of the taxpayer,

"(II) the taxpayer and such spouse are married as of the first day of such month, and

"(III) the taxpayer files a joint return for the taxable year, and

"(iii) $500 if such individual is an individual for whom a deduction under section 151(c) is allowable to the taxpayer for such taxable year.

"(B) LIMITATION TO 2 DEPENDENTS.—Not more than 2 individuals may be taken into account by the taxpayer under subparagraph (A)(iii).

"(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of an individual—

"(i) who is married (within the meaning of section 7703) as of the close of the taxable year but does not file a joint return for such year, and

"(ii) who does not live apart from such individual's spouse at all times during the taxable year,

the limitation imposed by subparagraph (B) shall be divided equally between the individual and the individual's spouse unless they agree on a different division.

"(3) Coverage month.—For purposes of this subsection—

"(A) In general.—The term 'coverage month' means, with respect to an individual, any month if—

"(i) as of the first day of such month such individual is covered by qualified health insurance, and

"(ii) the premium for coverage under such insurance for such month is paid by the taxpayer.

"(B) Employer-subsidized coverage.—

"(i) In general.—Such term shall not include any month for which such individual is eligible to participate in any subsidized health plan (within the meaning of section 162(l)(2)) maintained by any employer of the taxpayer or of the spouse of the taxpayer.

"(ii) Premiums to nonsubsidized plans.—If an employer of the taxpayer or the spouse of the taxpayer maintains a health plan which is not a subsidized health plan (as so defined) and which constitutes qualified health insurance, employee contributions to the plan shall be treated as amounts paid for qualified health insurance.

"(C) Cafeteria plan and flexible spending account beneficiaries.—Such term shall not include any month during a taxable year if any amount is not includible in the gross income of the taxpayer for such year under section 106 with respect to—

"(i) a benefit chosen under a cafeteria plan (as defined in section 125(d)), or

"(ii) a benefit provided under a flexible spending or similar arrangement.

"(D) Medicare and medicaid.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual—

"(i) is entitled to any benefits under title XVIII of the Social Security Act, or

"(ii) is a participant in the program under title XIX or XXI of such Act.

"(E) Certain other coverage.—Such term shall not include any month during a taxable year with respect to an individual if, at any time during such year, any benefit is provided to such individual under—

"(i) chapter 89 of title 5, United States Code,

"(ii) chapter 55 of title 10, United States Code,

"(iii) chapter 17 of title 38, United States Code, or

"(iv) any medical care program under the Indian Health Care Improvement Act.

"(F) Prisoners.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

"(G) Insufficient presence in United States.—Such term shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(b)(7)).

"(4) Coordination with deduction for health insurance costs of self-employed individuals.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) for the taxable year, this section shall apply only if the taxpayer elects not to claim any amount as a deduction under such section for such year.

"(c) Qualified Health Insurance.—For purposes of this section—

"(1) In general.—The term 'qualified health insurance' means insurance which constitutes medical care as defined in section 213(d) without regard to—

"(A) paragraph (1)(C) thereof, and

"(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

"(2) Exclusion of certain other contracts.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c)).

"(d) Archer MSA Contributions.—

"(1) In general.—If a deduction would (but for paragraph (2)) be allowed under section 220 to the taxpayer for a payment for the taxable year to the Archer MSA of an individual, subsection (a) shall be applied by treating such payment as a payment for qualified health insurance for such individual.

"(2) Denial of double benefit.—No deduction shall be allowed under section 220 for that portion of the payments otherwise allowable as a deduction under section 220 for the taxable year which is equal to the amount of credit allowed for such taxable year by reason of this subsection.

"(e) Special Rules.—

"(1) Coordination with medical expense deduction.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

"(2) Denial of credit to dependents.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(3) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after 2002, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $50 ($25 in the case of the dollar amount in subsection (b)(2)(A)(iii))."

(b) Information Reporting.—

(1) In general.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

"SEC. 6050T. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

"(a) In General.—Any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

"(b) Form and Manner of Returns.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe, and

"(2) contains—

"(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

"(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage, and

"(C) such other information as the Secretary may reasonably prescribe.

"(c) Creditable Health Insurance.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 35(c)) other than—

"(1) insurance under a subsidized group health plan maintained by an employer, or

"(2) to the extent provided in regulations prescribed by the Secretary, any other insurance covering an individual if no credit is allowable under section 35 with respect to such coverage.

"(d) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

"(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

"(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

"(e) Returns Which Would Be Required To Be Made by 2 or More Persons.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).".

(2) Assessable penalties.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

"(xi) section 6050T (relating to returns relating to payments for qualified health insurance),".

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(BB) section 6050T(d) (relating to returns relating to payments for qualified health insurance).".

(3) Clerical amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

"Sec. 6050T. Returns relating to payments for qualified health insurance.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 35 of such Code".

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 35. Health insurance costs.

"Sec. 36. Overpayments of taxes.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. ___02. ADVANCE PAYMENT OF CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. ADVANCE PAYMENT OF HEALTH INSURANCE CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of an eligible individual, the Secretary shall make payments to the provider of such individual's qualified health insurance equal to such individual's qualified health insurance credit advance amount with respect to such provider.

"(b) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual—

"(1) who purchases qualified health insurance (as defined in section 35(c)), and

"(2) for whom a qualified health insurance credit eligibility certificate is in effect.

"(c) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement furnished by an individual to the Secretary which—

"(1) certifies that the individual will be eligible to receive the credit provided by section 35 for the taxable year,

"(2) estimates the amount of such credit for such taxable year, and

"(3) provides such other information as the Secretary may require for purposes of this section.

"(d) QUALIFIED HEALTH INSURANCE CREDIT ADVANCE AMOUNT.—For purposes of this section, the term 'qualified health insurance credit advance amount' means, with respect to any provider of qualified health insurance, the Secretary's estimate of the amount of credit allowable under section 35 to the individual for the taxable year which is attributable to the insurance provided to the individual by such provider.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7527. Advance payment of health insurance credit for purchasers of qualified health insurance.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

Subtitle B—Assuring Health Insurance Coverage for Uninsurable Individuals

SEC. ___11. ESTABLISHMENT OF HEALTH INSURANCE SAFETY NETS.

(a) IN GENERAL.—

(1) REQUIREMENT.—For years beginning with 2002, each health insurer, health maintenance organization, and health service organization shall be a participant in a health insurance safety net (in this subtitle referred to as a "safety net") established by the State in which it operates.

(2) FUNCTIONS.—Any safety net shall assure, in accordance with this subtitle, the availability of qualified health insurance coverage to uninsurable individuals.

(3) FUNDING.—Any safety net shall be funded by an assessment against health insurers, health service organizations, and health maintenance organizations on a pro rata basis of premiums collected in the State in which the safety net operates. The costs of the assessment may be added by a health insurer, health service organization, or health maintenance organization to the costs of its health insurance or health coverage provided in the State.

(4) GUARANTEED RENEWABLE.—Coverage under a safety net shall be guaranteed renewable except for nonpayment of premiums, material misrepresentation, fraud, medicare eligibility under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), loss of dependent status, or eligibility for other health insurance coverage.

(5) COMPLIANCE WITH NAIC MODEL ACT.—In the case of a State that has not established, as of the date of the enactment of this Act, a high risk pool or other comprehensive health insurance program that assures the availability of qualified health insurance coverage to all eligible individuals residing in the State, a safety net shall be established in accordance with the requirements of the "Model Health Plan For Uninsurable Individuals Act" (or the successor model Act), as adopted by the National Association of Insurance Commissioners and as in effect on the date of the safety net's establishment.

(b) DEADLINE.—Safety nets required under subsection (a) shall be established not later than January 1, 2002.

(c) WAIVER.—This subtitle shall not apply in the case of insurers and organizations operating in a State if the State has established a similar comprehensive health insurance program that assures the availability of qualified health insurance coverage to all eligible individuals residing in the State.

(d) RECOMMENDATION FOR COMPLIANCE REQUIREMENT.—Not later than January 1, 2003, the Secretary of Health and Human Services shall submit to Congress a recommendation on appropriate sanctions for States that fail to meet the requirement of subsection (a).

SEC. ___12. UNINSURABLE INDIVIDUALS ELIGIBLE FOR COVERAGE.

(a) UNINSURABLE AND ELIGIBLE INDIVIDUAL DEFINED.—In this subtitle:

(1) UNINSURABLE INDIVIDUAL.—The term "uninsurable individual" means, with respect to a State, an eligible individual who presents proof of uninsurability by a private insurer in accordance with subsection (b) or proof of a condition previously recognized as uninsurable by the State.

(2) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term "eligible individual" means, with respect to a State, a citizen or national of the United States (or an alien lawfully admitted for permanent residence) who is a resident of the State for at least 90 days and includes any dependent (as defined for purposes of the Internal Revenue Code of 1986) of such a citizen, national, or alien who also is such a resident.

(B) EXCEPTION.—An individual is not an "eligible individual" if the individual—

(i) is covered by or eligible for benefits under a State medicaid plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.),

(ii) has voluntarily terminated safety net coverage within the past 6 months,

(iii) has received the maximum benefit payable under the safety net,

(iv) is an inmate in a public institution, or

(v) is eligible for other public or private health care programs (including programs that pay for directly, or reimburse, otherwise eligible individuals with premiums charged for safety net coverage).

(b) PROOF OF UNINSURABILITY.—

(1) IN GENERAL.—The proof of uninsurability for an individual shall be in the form of—

(A) a notice of rejection or refusal to issue substantially similar health insurance for health reasons by one insurer; or

(B) a notice of refusal by an insurer to issue substantially similar health insurance except at a rate in excess of the rate applicable to the individual under the safety net plan.

For purposes of this paragraph, the term "health insurance" does not include insurance consisting only of stoploss, excess of loss, or reinsurance coverage.

(2) EXCEPTION FOR INDIVIDUALS WITH UNINSURABLE CONDITIONS.—The State shall promulgate a list of medical or health conditions for which an individual shall be eligible for safety net plan coverage without applying for health insurance or establishing proof of uninsurability under paragraph (1). Individuals who can demonstrate the existence or history of any medical or health conditions on such list shall not be required to provide the proof described in paragraph (1). The list shall be effective on the first day of the operation of the safety net plan and may be amended from time to time as may be appropriate.

SEC. ___13. QUALIFIED HEALTH INSURANCE COVERAGE UNDER SAFETY NET.

In this subtitle, the term "qualified health insurance coverage" means, with respect to a State, health insurance coverage that provides benefits typical of major medical insurance available in the individual health insurance market in such State.

SEC. ___14. FUNDING OF SAFETY NET.

(a) LIMITATIONS ON PREMIUMS.—

(1) IN GENERAL.—The premium established under a safety net may not exceed 125 percent of the applicable standard risk rate, except as provided in paragraph (2).

(2) SURCHARGE FOR AVOIDABLE HEALTH RISKS.—A safety net may impose a surcharge on premiums for individuals with avoidable high risks, such as smoking.

(b) ADDITIONAL FUNDING.—A safety net shall provide for additional funding through an assessment on all health insurers, health service organizations, and health maintenance organizations in the State through a nonprofit association consisting of all such insurers and organizations doing business in the State on an equitable and pro rata basis consistent with section ___11.

SEC. ___15. ADMINISTRATION.

A safety net in a State shall be administered through a contract with 1 or more insurers or third party administrators operating in the State.

SEC. ___16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to reimburse States for their costs in administering this subtitle.

SA 816. Mr. BOND proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 179, after line 14, add the following:

SEC. . ANNUAL REVIEW.

(a) In General.—Not later than 24 months after the general effective date referred to in section 401(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine of the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the amendments made by this Act, on the number of individuals in the United States with health insurance coverage.

(b) Limitation With Respect to Certain Plans.—If the Secretary, in any report submitted under subsection (a), determines that more than 1,000,000 individuals in the United States have lost their health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 302 of this Act shall be repealed effective on the date that is 12 month after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) Funding.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide for such funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences under this section.

SA 817. Mr. ALLARD (for himself, Mr. Bond, Mr. Santorum, and Mr. Nickles) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 148, between lines 23 and 24, insert the following:

"(D) Exclusion of small employers.—

"(i) In general.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

"(ii) Definition.—In clause (i), the term 'small employer' means an employer—

"(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 50 employees on business days; and

"(II) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

"(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

"(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

"(iii) Application of certain rules in determination of employer size.—For purposes of this subparagraph:

"(I) Application of aggregation rule for employers.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

"(II) Employers not in existence in preceding year.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(III) Predecessors.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

On page 165, between lines 14 and 15, insert the following:

"(D) Exclusion of small employers.—

"(i) In general.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

"(ii) Definition.—In clause (i), the term 'small employer' means an employer—

"(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 50 employees on business days; and

"(II) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

"(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

"(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

"(iii) Application of certain rules in determination of employer size.—For purposes of this subparagraph:

"(I) Application of aggregation rule for employers.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

"(II) Employers not in existence in preceding year.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(III) Predecessors.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

SA 818. Mr. KYL (for himself, Mr. Nelson of Nebraska, and Mr. Nickles) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Beginning on page 35, strike line 20 and all that follows through line 8 on page 36, and insert the following:

(C) No coverage for excluded benefits.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage and that are disclosed under subparagraphs (C) and (D) of section 121(b)(1) and that are not covered regardless of any determination relating to medical necessity and appropriateness, experimental or investigational nature of the treatment, or an evaluation of the medical facts in the case involved.

On page 37, line 16, strike "and".

On page 37, line 25, strike the period and insert "; and".

On page 37, after line 25, add the following:

"(iii) notwithstanding clause (ii), adhere to the definition used by the plan or issuer of 'medically necessary and appropriate', or 'experimental or investigational' if such definition is the same as either—

"(I) in the case of a plan or coverage that is offered in a State that requires the plan or coverage to use a definition of such term for purposes of health insurance coverage offered to participants, beneficiaries and enrollees in such State, the definition of such term that is required by that State;

"(II) a definition that determines whether the provision of services, drugs, supplies, or equipment—

"(aa) is appropriate to prevent, diagnose, or treat the condition, illness, or injury;

"(bb) is consistent with standards of good medical practice in the United States;

"(cc) is not primarily for the personal comfort or convenience of the patient, the family, or the provider;

"(dd) is not part of or associated with scholastic education or the vocational training of the patient; and

"(ee) in the case of inpatient care, cannot be provided safely on an outpatient basis; except that this subclause shall not apply beginning on the date that is 1 year after the date on which a definition is promulgated based on a report that is published under subsection (i)(6)(B); or

"(III) the definition of such term that is developed through a negotiated rulemaking process pursuant to subsection (i).

On page 66, between lines 10 and 11, insert the following:

"(i) Establishment of Negotiated Rulemaking Safe Harbor.—

"(1) In general.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in subsection (d)(3)(E)(iii)(IV) (relating to the definition of 'medically necessary and appropriate' or 'experimental or investigational') that group health plans and health insurance issuers offering health insurance coverage in connection with group health plans may use when making a determination with respect to a claim for benefits.

"(2) Publication of notice.—In carrying out the rulemaking process under paragraph (1), the Secretary shall, not later than November 30, 2002, publish a notice of the establishment of a negotiated rulemaking committee, as provided for under section 564(a) of title 5, United States Code, to develop the standards described in paragraph (1). Such notice shall include a solicitation for public comment on the committee and description of—

"(A) the scope of the committee;

"(B) the interests that may be impacted by the standards;

"(C) the proposed membership of the committee;

"(D) the proposed meeting schedule of the committee; and

"(E) the procedure under which an individual may apply for membership on the committee.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice described in paragraph (2), and for purposes of this subsection, the term 'target date for publication' (as referred to in section 564(a)(5) of title 5, United States Code, means May 15, 2003.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—Notwithstanding section 564(c) of title 5, United States Code, the Secretary shall provide for a period, beginning on the date on which the notice is published under paragraph (2) and ending on December 14, 2002, for the submission of public comments on the committee under this subsection.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall carry out the following:

"(A) APPOINTMENT OF COMMITTEE.—Not later than January 10, 2003, appoint the members of the negotiated rulemaking committee under this subsection.

"(B) FACILITATOR.—Not later than January 21, 2002, provide for the nomination of a facilitator under section 566(c) of title 5, United States Code, to carry out the activities described in subsection (d) of such section.

"(C) MEMBERSHIP.—Ensure that the membership of the negotiated rulemaking committee includes at least one individual representing—

"(i) health care consumers;

"(ii) small employers;

"(iii) large employers;

"(iv) physicians;

"(v) hospitals;

"(vi) other health care providers;

"(vii) health insurance issuers;

"(viii) State insurance regulators;

"(ix) health maintenance organizations;

"(x) third-party administrators;

"(xi) the medicare program under title XVIII of the Social Security Act;

"(xii) the medicaid program under title XIX of the Social Security Act;

"(xiii) the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code;

"(xiv) the Department of Defense;

"(xv) the Department of Veterans' Affairs; and

"(xvi) the Agency for Healthcare Research and Quality.

"(6) FINAL COMMITTEE REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the general effective date referred to in section 401, the committee shall submit to the Secretary a report containing a proposed rule.

"(B) PUBLICATION OF RULE.—If the Secretary receives a report under subparagraph (A), the Secretary shall provide for the publication in the Federal Register, by not later than the date that is 30 days after the date on which such report is received, of the proposed rule.

"(7) FAILURE TO REPORT.—If the committee fails to submit a report as provided for in paragraph (6)(A), the Secretary may promulgate a rule to establish the standards described in subsection (d)(3)(E)(iii)(IV) (relating to the definition of 'medically necessary and appropriate' or 'experimental or investigational') that group health plans and health insurance issuers offering health insurance coverage in connection with group health plans may use when making a determination with respect to a claim for benefits.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 26, 2001, to conduct a hearing on the nomination of Donald E. Powell, of Texas, to be Chairman of the Board of Directors of the Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 26, 2001, at 9:30 am on the nominations of Sam Bodman (DOC), Allan Rutter (FRA), Kirk Van Tine (DOT), and Ellen Engleman (DOT).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 26 at 9:30 a.m. to conduct a hearing. The committee will receive testimony on proposed amendments to the Price-Anderson Act (Subtitle A of Title IV of S. 388; Subtitle A of Title I of S. 472; Title IX of S. 597) and nuclear energy production and efficiency incentives (Subtitle C of Title IV of S. 388; and Section 124 of S. 472).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, June 26, 2001 to hear testimony on the U.S. Vietnam Bilateral Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 26, 2001 at 2:30 p.m. to hold a nomination hearing as follows:

NOMINEES

Panel 1: The Honorable Margaret DeBardeleben Tutwiler, of Alabama, to be Ambassador to the Kingdom of Morocco.

The Honorable C. David Welch, of Virginia, to be Ambassador to the Arab Republic of Egypt.

The Honorable Daniel C. Kurtzer, of Maryland, to be Ambassador to Israel.

Panel 2: The Honorable Robert D. Blackwill, of Kansas, to be Ambassador to India.

The Honorable Wendy Jean Chamberlin, of Virginia, to be Ambassador to the Islamic Republic of Pakistan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on June 26, 2001, at 10:30 a.m. in room 485 Russell Senate Building to conduct a Hearing to receive testimony on the goals and priorities of the Great Plains Tribes for the 107th session of the Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on the Constitution be authorized to meet to conduct a hearing on "Should Ideology Matter? Judicial Nominations 2001" on Tuesday, June 26, 2001 at 10:00 a.m. in SD226. No witness list is available yet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Tuesday, June 26, 2001, at 10:00 a.m. for a hearing entitled "Diabetes: Is Sufficient Funding Being Allocated To Fight This Disease?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 26, 2001, at 10:00 a.m., in open session to receive testimony on the Department of Energy's fiscal year 2002 budget request for the Office of Environmental Management, in review of the Defense authorization request for fiscal year 2002 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mrs. CLINTON. Mr. President, I ask unanimous consent that Dr. Mary Catherine Beach, a legislative fellow in my office, be granted the privilege of the floor for the duration of the debate on S. 1052, the McCain-Edwards-Kennedy Patients' Bill of Rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, JUNE 27, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Wednesday, June 27. Further, I ask consent that on Wednesday, immediately following the prayer and the pledge, the Journal of Proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Patients' Bill of Rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, the Senate will convene at 9:30 a.m. and resume consideration of the Patients' Bill of Rights. There is 1 hour of debate on the Allard amendment regarding small employers, followed by a vote in relation to the amendment at approximately 10:30 a.m.

Following the Allard vote, there will be 1 hour of debate on the Nelson-Kyl amendment regarding contracts, followed by a vote in relation to the amendment. Following disposition of the Nelson-Kyl amendment, we expect Senator EDWARDS or his designee to be recognized to offer an amendment regarding medical necessity.

We are going to conclude consideration of Patients' Bill of Rights, I have been told on more than one occasion today by the majority leader, this week. We will also complete the supplemental appropriations bill and the good work that has been done preliminarily by Senators BYRD and STEVENS. This is something we will be able to do without requiring a lot of time. Then we wish to complete the organizational resolution that has been pending for several weeks.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate at 8:22 p.m., adjourned until Wednesday, June 27, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 26, 2001:

DEPARTMENT OF TRANSPORTATION

JEFFREY WILLIAM RUNGE, OF NORTH CAROLINA, TO BE ADMINISTRATOR OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, VICE SUE BAILEY.

DEPARTMENT OF COMMERCE

NANCY VICTORY, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION, VICE GREGORY ROHDE, RESIGNED.

DEPARTMENT OF THE TREASURY

ROBERT C. BONNER, OF CALIFORNIA, TO BE COMMISSIONER OF CUSTOMS, VICE RAYMOND W. KELLY, RESIGNED.

ROSARIO MARIN, OF CALIFORNIA, TO BE TREASURER OF THE UNITED STATES, VICE MARY ELLEN WITHROW, RESIGNED.

DEPARTMENT OF STATE

ROGER FRANCISCO NORIEGA, OF KANSAS, TO BE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION OF AMERICAN STATES, WITH THE RANK OF AMBASSADOR, VICE LUIS J. LAUREDO.

JEANNE L. PHILLIPS, OF TEXAS, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, WITH THE RANK OF AMBASSADOR, VICE AMY L. BONDURANT.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. EARL B. HAILSTON, 8306

HOUSE OF REPRESENTATIVES—*Tuesday, June 26, 2001*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 26, 2001.

I hereby appoint the Honorable JOHN ABNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 3, 2001, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

PROJECT IMPACT

Mr. BLUMENAUER. Mr. Speaker, numerous natural events of the past few months, including the earthquake in the State of Washington and Tropical Storm Allison of just recent days in Texas and Louisiana, have underscored our need for disaster preparedness.

What we have learned from these events is that we can in fact save lives and money by making investments up front to protect our communities. What we have learned is that what we do in the beginning by hardening the sites, preparing people's responses, moving out of harm's way, has an overwhelming payback, a payback not just in money but in lives saved and injury and human misery avoided.

As was pointed out in yesterday's Washington Post, spending money in disaster mitigation pays off. It has often been cited that in the great flood of 1993, Charles County, Missouri, suffered $26 million in damages. However, the same area, after a significant buyout and a similar flood 2 years later, caused only $300,000 in damage.

Our friends at the Federal Emergency Management Agency believe that in the past 8 years the buyout programs of the Federal government have received a 200 percent rate of return in investment in disaster mitigation.

It is frustrating that, in the wake of these tragedies, the Bush administration and its Office of Management and Budget have proposed cutting funds for several of these Federal mitigation programs, including FEMA's Project Impact.

Mr. Speaker, I have had significant opportunity to interact with the men and women working with Project Impact. This was one of the creations of former Director James Lee Witt that has in fact earned him international recognition.

I have seen that, contrary to the administration's assertion that Project Impact has not proven effective, I have seen Project Impact leverage even a modest Federal investment in my own community to be a lynchpin for additional commercial investments, as well as careful planning and consideration by local government.

I had an opportunity last fall to address the Conference of Project Impact Volunteers. One of the most important aspects of this program is the development of the human infrastructure to aid in disaster mitigation. It is hard to imagine a Federal investment doing more than to produce these dedicated volunteers making the difference in making these programs work.

Project Impact is not a grant program. It provides seed money to build disaster-resistant communities. It is a commonsense approach to help communities protect themselves. It offers expertise and technical assistance. It puts the latest technology and mitigation practices into the hands of local communities, and most important, it brings people together to understand how they can solve their own problems.

Started just 5 years ago with seven pilot projects across the country, there are now 2,500 Project Impact business partners, including Federal agencies like NASA, that are working in 250 Project Impact communities.

Mr. Speaker, Joe Allbaugh, a longtime friend and Bush appointee, the new Director of FEMA, has pointed out that he is deeply impressed by the "swift and tangible results," his words, of buy-out programs and other efforts to mitigate the cost of disasters before they strike. I know from the news accounts that he has taken his budget concerns to the bean-counters at OMB who need to understand the potential benefits of continuing this program.

I must commend the Bush administration for understanding the potential of using reform in other contexts. I appreciate and applaud their putting money in the budget that signifies reform of the National Flood Insurance Program.

The gentleman from Nebraska (Mr. BEREUTER) and I for the last 2 years have been working to reform the flood insurance program so it is no longer subsidizing people to live in areas where it is repeatedly shown that it is dangerous and inappropriate.

I hope the administration will build on this notion of reform that they are proposing in flood insurance and carry it over in Project Impact. We cannot afford to lose it.

RECESS

The SPEAKER pro tempore. There being no further requests for morning hour debates, pursuant to clause 12, rule I, the House will stand in recess until 10 a.m.

Accordingly (at 9 o'clock and 8 minutes a.m.) the House stood in recess until 10 a.m.

☐ 1000

AFTER RECESS

The recess having expired, the House was called to order at 10 a.m.

PRAYER

The Reverend Lawson Anderson, Canon Pastor, Episcopal Diocese of Arkansas, Little Rock, Arkansas, offered the following prayer:

Let us pray. Gracious God, as we prepare in the week ahead to celebrate the anniversary of the founding of this Republic, we commend this Nation to Your merciful care. We pray that being guided by Your providence we may live securely in Your peace.

Grant to the President of the United States, to the Members of this Congress, and to all in authority wisdom and strength to know and to do Your will. Fill them with the love of truth and righteousness and make them ever mindful of their calling to serve this country in Your fear. Guide them as they shape the laws for maintaining a just and effective plan for our government.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Give to all of us open minds and caring hearts and a firm commitment to the principles of freedom and tolerance established by our Nation's founders and defended by countless patriots throughout our history.

Help us to stamp out hatred and bigotry, to embrace the love and concern for others that You have clearly shown to be Your will for all mankind. Bring peace in our time, O Lord, and give us the courage to help You do it.

For we ask this in Your name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ISAKSON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ISAKSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME TO REVEREND LAWSON ANDERSON, GUEST CHAPLAIN

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, it is with great pleasure that I welcome Reverend Lawson Anderson to the House floor and thank him for such an encouraging opening prayer.

Reverend Anderson is a lifelong resident of Arkansas and thousands have been blessed with his compassion and support in times of crisis. He is well-known for his wisdom, his wonderful wit, and his easy manner in any situation. After successful careers in forestry and banking, Lawson was called to the ministry and has served Episcopal congregations in Springdale, Newport, and North Little Rock.

In his life, Lawson reflects a true commitment to helping and encouraging others; from prison ministries to respite care for the elderly; from youth services to mental health; from crisis to crime prevention.

After 25 years of ministry, he continues his work. He has provided support and counseling to law enforcement officials, educators, and health professionals following the tragic school shootings in Jonesboro and the tornadoes in Central Arkansas.

He has served his community, his State, and his Nation with honor and compassion. While he reminds me that he is here today not to be praised but to pray, I am honored to have him pray with us today and to recognize the work he has done for the people of Arkansas.

THE JOURNAL

The SPEAKER. Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ISAKSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER (during the vote). The Chair would like the Members' attention.

The Chair is advised that one column of the lights on the voting display panel is inoperative at this moment but that all those Members are being recorded. Members should verify their votes.

The vote was taken by electronic device, and there were—yeas 346 nays 45, answered "present" 1, not voting 40, as follows:

[Roll No. 189]

YEAS—346

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Flake
Fletcher
Foley
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hill
Hilleary
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Paul
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Royce
Rush
Ryan (WI)
Sandlin
Sawyer
Saxton
Scarborough
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Sununu
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Traficant
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)

Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson
Wolf
Woolsey
Wynn
Young (FL)

NAYS—45

Aderholt
Baird
Bishop
Bonior
Borski
Brady (PA)
Capuano
Costello
DeFazio
Filner
Gutknecht
Hastings (FL)
Hefley
Hilliard
Holt
Kelly
Kennedy (MN)
Kingston
Kucinich
Latham
Lewis (GA)
LoBiondo
McDermott
Menendez
Moore
Oberstar
Pallone
Peterson (MN)
Ramstad
Sabo
Sanchez
Schaffer
Stupak
Sweeney
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Weller
Wicker
Wu

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—40

Boucher
Burton
Clay
Clement
Cox
Crane
Cummings
Doolittle
Doyle
Fattah
Fossella
Herger
Hinchey
Hinojosa
Istook
John
Kaptur
Largent
Larsen (WA)
LaTourette
Lipinski
Maloney (CT)
Owens
Payne
Pelosi
Platts
Price (NC)
Pryce (OH)
Putnam
Roybal-Allard
Ryun (KS)
Sanders
Schakowsky
Slaughter
Smith (MI)
Toomey
Towns
Waxman
Weiner
Young (AK)

□ 1031

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated for:

Mr. MALONEY of Connecticut. Mr. Speaker, today I was unavoidably detained and missed rollcall vote No. 189. Had I been present, I would have voted "yea" on rollcall No. 189.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 25, 2001.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a facsimile copy of a Certificate of Election received from the State Board of Elections, Commonwealth of Virginia, Mr. Linwood M. Cobbs, Chairman, indicating that, on examination of the Official Abstracts of Votes on file in that office for the special election held June 19, 2001, the Honorable J. Randy Forbes was duly elected Representative in Congress for the Fourth Congressional District, Commonwealth of Virginia.

With best wishes, I am,
Sincerely,
JEFF TRANDAHL.

SWEARING IN OF THE HONORABLE J. RANDY FORBES, OF VIRGINIA, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Member-elect and the Members of the Virginia delegation present themselves in the well.

Mr. FORBES appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are now a Member of the 107th Congress.

WELCOMING THE HONORABLE J. RANDY FORBES TO THE HOUSE OF REPRESENTATIVES

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, it is my pleasure to welcome the newest Member of the House, RANDY FORBES, of Chesapeake, Virginia.

RANDY won a hard-fought battle to represent the Fourth District of Virginia, which was represented by our former colleague and very, very good friend, Norman Sisisky, for the last 18 years.

RANDY comes to Congress with a strong legislative background. He has served in the Virginia General Assembly since 1990, first as a member of the House of Delegates, then as a State senator since 1997. He held leadership positions in both bodies.

RANDY also has served as the chairman of the Republican Party of Virginia. He had tremendous success recruiting candidates and is credited with helping Republicans take control of the Virginia House of Delegates for the first time in modern history.

While in the General Assembly, RANDY was a leader in the Commonwealth's drive to abolish parole and enact truth-in-sentencing laws. He was the chief patron of a bill that allows teachers to enforce discipline in their classrooms without fear of being sued. And he led the effort to create a school construction grants program to assist localities with the skyrocketing costs of building new schools to help reduce classroom overcrowding.

I have known RANDY for a long time. He is good, he is honest, he is ethical, he is decent, he is moral. He is a very capable legislator. I know he will be an outstanding addition to the United States Congress. He has a longstanding relationship with a number of other Members, particularly with those of us from the Virginia delegation and will have no trouble at all adapting to how things are done here in Congress.

RANDY earned his law degree from the University of Virginia and was the valedictorian of his 1974 graduating class at Randolph-Macon College. He and his wife of 22 years, Shirley, live in Chesapeake, Virginia. They have four children.

Mr. Speaker, it is my pleasure to welcome RANDY to the United States Congress. Joining us today are Senator JOHN W. WARNER and Senator GEORGE ALLEN. I, along with my other colleagues from Virginia and across the country, look forward to working with you.

EXPRESSING GRATITUDE ON ELECTION TO CONGRESS

(Mr. FORBES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORBES. Mr. Speaker, I can think of no honor greater than the privilege of joining the men and women of this body for whom I have such great respect. I want to personally thank you, the congressional leadership, and those men and women on both sides of the aisle who have been so gracious in assisting us in our quick transition to this new office.

Mr. Speaker, I am also aware that I will benefit greatly by standing on the shoulders of a great legislator, Norman Sisisky, who worked tirelessly for his constituents for over 18 years. Since he is no longer with us, and I cannot thank him personally, I would like to thank his family and his staff for the service his office has provided over the years.

Mr. Speaker, I also want to thank all the people of the Fourth Congressional District for giving me their trust and confidence. I particularly want to thank my wife, Shirley, my children, family, friends and supporters for all their help. I promise to each of you that I will give all my energy, all my ability, and all my passion to representing the ideals of this Congress and of fulfilling the hopes, dreams and needs of the people of the Fourth Congressional District of Virginia.

Mr. Speaker, last but certainly not least, I am grateful to the Lord for giving me the wonderful gift of living in the greatest Nation on the face of the earth. I will continue to pray that God will give me the wisdom and strength to serve the men and women of the fourth district and that He will continue to bless this great Nation.

REPUBLICANS TRIUMPH IN ANNUAL CONGRESSIONAL BASEBALL GAME

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, today is the day of bragging rights for the congressional baseball game. I am proud to announce that the Republican team won 9 to 1 on Thursday night. I want to thank MARTIN SABO and all the Democrat participants as well as our own team for a wonderful game. We had over 3,000 people come out to the Baysox ballpark for the game and raised over $90,000 for charity, the Washington Literacy Council and the Boys and Girls Club of Washington.

We are very, very proud of that. This is a great tradition. This is the 40th congressional game in the modern era. I want to thank everybody who participated.

I thought I would immortalize this year's game in poetry so it goes down in the literary, as well as the sports, annals and, in the process, raising the level of culture a little bit in this great Chamber.

Many of my colleagues may remember this famous poem by Gerald Hern on the old Boston Braves pitching stars, Warren Spahn and Johnny Sain. They were the team's only two reliable pitchers:

First we'll use Spahn
and then we'll use Sain.
Then an off day
followed by rain.
Back will come Spahn
followed by Sain
and followed we hope
by 2 days of rain.

With apologies to Mr. Hern, I have adapted his poem into an ode to my starting pitcher and MVP, STEVE LARGENT, the gentleman from Oklahoma.

First we'll use Largent
and then we'll pitch him again.
As long as his arm's good
we'll pitch him in sun or in rain.
Sadly, now he's retired like Spahn and like Sain
I probably won't see his likes again.
Auditioning new pitchers will be a big pain
because you know from last year
that walks drive me insane.
There's just one more honor
at which Steve can now aim,
not Governor but induction
in the Roll Call Baseball Hall of Fame.

CITIZENSHIP FOR GAO ZHAN

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, today I want to discuss the tragic story of Gao Zhan. Gao Zhan is a United States lawful permanent resident and American University faculty fellow who is currently being detained in China on charges of espionage. On February 11, 2001, while visiting relatives in China, Dr. Zhan and her family were arrested on espionage charges. The Chinese authorities did release Gao Zhan's husband and child, both United States citizens, after being separated for a month. The child, the little boy, is 5 years old. However, Gao Zhan remains in detention.

There has been no contact with her since she was arrested over 4 months ago. All attempts to locate Gao Zhan have failed. The United States embassy in China and other United States officials as well as attorneys from both the United States and China have tried to locate the whereabouts of Gao Zhan. The Chinese government has refused to share any information.

I have introduced H.R. 1385, which grants Gao Zhan citizenship in the United States without her being administered the oath of renunciation and allegiance. This bill is critical since Gao Zhan is being held against her will in China and the law provides different treatment to United States citizens than it does to United States lawful permanent residents.

Congress needs to confer this citizenship on Gao Zhan. She is one who needs to be reunited with her family.

TIME TO STOP POINTING FINGERS

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, in the past few weeks Governor Gray Davis has turned up the rhetorical heat while Californians have turned out their lights because of rolling blackouts expected to plague the State all summer long.

The Governor has left no stone unturned in his campaign to point fingers in any direction. He has blamed the Federal Government. He has blamed electric utilities. He has blamed energy companies. He has even blamed President Bush. My God. He is the Energizer bunny of bankrupt ideas.

President Bush recognizes that America faces serious energy shortages, so his administration is putting forward a comprehensive plan to protect consumers from fluctuating fuel costs using 21st-century technology to diversify our clean and affordable energy sources.

But what does Gray Davis do? He hires spin doctors at $30,000 a month paid for by the taxpayers to explain why his State is suffering. I am sure Governor Davis realizes this is an inappropriate use of tax dollars, considering he is sitting on $26 million in campaign cash.

This reminds me of another disaster, Mr. Governor, the *Exxon Valdez*. That is your administration.

MONUMENT NEEDED FOR SOME OF THE BRAVEST AMERICANS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, today is the 125th anniversary of Custer's last stand, a sad chapter in American history. To make it even worse, there is only one monument at Little Bighorn, to—General Custer!

□ 1045

Unbelievable. As the story goes, Uncle Sam took the whole Indian Nation and put them on a reservation. He took away their native tongue, taught English to their young, took away their way of life, killed their children and their wife. And even the beads they made by hand were then imported from Japan.

Beam me up. Is it any wonder that these brave warriors joined together massively for one lasting victory to be remembered throughout all of American history?

Now, Mr. Speaker, their descendants fight along with our soldiers to keep America free.

I yield back the need to build a lasting monument in tribute to some of the bravest Americans who ever lived right here in Washington, D.C.

PRICE CONTROLS MAY BE NICE POLITICS BUT THEY ARE LOUSY POLICY

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, day in and day out I hear calls for price controls on electricity, and I wonder were the 1970s that long ago, or are we just suffering from convenient amnesia? Am I the only one who remembers the gas price controls imposed by President Richard Nixon in an effort to ensure an adequate supply of gasoline at reasonable rates? Am I the only one who remembers that the resulting artificial low prices did not lower consumption, but did lower supply?

I guess I am the only one who does not look fondly back on the days of long lines at the local service station and gas rationing. Price controls may be nice politics, but they are lousy policy. The bottom line is that we are trying to meet today's energy needs with yesterday's energy infrastructure, and it is not working.

Our energy demand has increased 47 percent over the last 30 years, and yet we have half as many oil refineries, static pipeline capacity and 20 times as many mandated gasoline blends. Low energy prices through the 1980s and 1990s have lulled American consumers and producers into believing that low prices will always be there, but now we know that is not true.

MUHAMMAD ALI

(Ms. CARSON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CARSON of Indiana. Mr. Speaker, I rise today almost 1 week after the

34th anniversary of Muhammad Ali's conviction for draft evasion. Muhammad Ali sits on anyone's short list of the greatest athletes of the 20th century. In fact, Time Magazine recently listed Ali among the top 20 heroes and icons of the 20th century.

Perhaps Ali's greatest testament was the only fight in which he declined to participate. With the war in Vietnam dragging on, the draft call was expanded, and the heavyweight champion of the world was reclassified as 1A, eligible for military service.

Ali was told the news at a training camp in Miami, and, badgered all day by the press, he came out with the now famous line, "I ain't got no quarrel with them Viet Cong."

It may have been a spontaneous remark, but he stuck by his word with courage, conviction and stood out against the conflict in Vietnam. His courage to stand by his belief in the years when the war was still favored by the majority of Americans will stand as a testament to those who protested.

I would encourage, Mr. Speaker, my colleagues in joining, along with the other 40 cosponsors, in awarding Muhammad Ali a Congressional Gold Medal. Please sign up.

CONGRATULATIONS TO CHARLTON "CHEWY" JIMERSON, THIS YEAR'S OUTSTANDING PLAYER AT UNIVERSITY OF MIAMI

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I congratulate the University of Miami baseball team and its exceptional coach Jim Morris for the flawless performance that enabled them to win the College World Series. The Hurricanes celebrated their 12-to-1 win over Stanford, and this victory marks their second annual title in 3 years.

Professional teams have drafted 11 talented Hurricanes, but it is Charlton Jimerson who won this year's Outstanding Player Award.

Chewy, as he is called by his teammates, survived an unstable childhood. He was raised by his sister Lanette, who inspired confidence so that he would achieve success. By writing a letter, Chewy invited himself to play at the University of Miami, and today this fifth-round draft choice of the Houston Astros is described as the emotional fuse for a dynamite team.

I ask my congressional colleagues to join me in commending outstanding player Charles Jimerson, his talented coach Jim Morris, and the amazing University of Miami baseball team for an outstanding victory once again.

FINGERPOINTING MAY WIN POLITICAL POINTS AT HOME BUT IT DOES NOT SOLVE OUR NATION'S ENERGY CRISIS

(Mrs. MYRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MYRICK. Mr. Speaker, during this current energy situation, there has been a lot of pointing of fingers of blame in this Chamber. That may win political points at home, but it sure does not solve the problem.

President Bush has put forth a very responsible plan to solve our energy problem. He has taken the lead. It is a balanced plan that stresses conservation as well as increased supply. We, of course, want to protect the environment and be responsible with the plan. There is no question in that.

We also need to reduce our dependency on foreign sources of supply. It is time that America is in charge of our supply of energy, not Saddam Hussein.

IT IS DEMOCRATS WHO HAVE PUT CALIFORNIA INTO THIS ENERGY MESS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I am sick and tired of being sick and tired; sick and tired of hearing Democrats complain about the energy crisis. The last time I checked, the Democrat Governor Gray Davis was and is in charge of California. The last time I checked, Democrats also controlled the White House for 8 long years and did nothing. Bill Clinton and Al Gore had plenty of time to examine and solve the energy crisis in California while they were out there visiting Buddhist temples, but they did not. Instead, Democrats like DASCHLE and GEPHARDT just play the blame game.

Democrats are blaming George Bush and DICK CHENEY for the California energy problem. They must have forgotten this administration just took office. If the Democrats had been wise, they would have been drilling for oil, building new energy plants and building new transmission lines. That is what it takes to solve the problem is finding resources. In short, it is the Democrats who put California into this mess. Americans do not want, need or deserve the California energy problems.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would remind Members that it is not in order to address members of the other Chamber.

PRICE CONTROLS, THE EVIDENCE IS THEY DO NOT WORK

(Mr. PETERSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Pennsylvania. Mr. Speaker, wholesale electric price controls do not work. What better example of this than California? Leading energy experts have been saying for months that one major reason California is in its current energy mess is because of price controls. Now we have further evidence that the price controls are not the answer.

Last week the Department of Energy released a report indicating that if Governor Davis gets his way and a cost-plus-$25 price cap is implemented, Californians will be literally in the dark.

The Department of Energy report concludes that Governor Davis' price caps would result in the delay or abandonment of about 1,300 megawatts of capacity scheduled to be constructed in the State. What does this mean to Californians? It means that 90,000 additional households could be affected.

As Pennsylvania learned, deregulation can be implemented with success, but price caps and unnecessary government regulations result in shortages and higher prices. We in Pennsylvania know that. The Department of Energy concurs.

HARD-WORKING AMERICANS DESERVE ANSWERS AND THEY DEMAND A SOUND ENERGY POLICY

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, our economy over the last year has showed signs of slowing. Energy prices are already too high, and they are going higher. Much of our country faces either energy shortages, blackouts or both. Major energy shortages are expected throughout the summer for most of the West. Gas prices there top $2.25 a gallon at the pump. Hard-working Americans deserve answers, and they demand a sound energy policy.

Mr. Speaker, our Nation's energy problems demand multifaceted solutions, including increased supplies of traditional fossil fuels and alternative sources of energy as well as improving energy conservation and efficiency. It will not be easy, and it will not be quick, but we have the technology and the resources to meet our energy needs for decades, even centuries, to come, while ensuring a clean environment as a legacy for our children as well.

We need to work with President Bush to create a balanced, comprehensive national energy policy that meets our energy challenges today and provides for our needs well into the future.

ARTISTIC HOMES, A WAY TO CONSERVE OUR ENERGY RESOURCES

(Mrs. WILSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. WILSON. Mr. Speaker, on Saturday afternoon I was on the west side of Albuquerque at Artistic Homes. Artistic Homes have changed the way they build homes in order to reduce utility bills.

I met a first-time buyer family that is going to buy one of those homes. They were signing the papers that day. They currently pay $160 a month for their electric and gas bill, and they expect that bill will be $20 a month when they move into this new home.

That experience reinforces why conservation must be a part of our energy agenda. We have an energy problem in this country. It is toughest in the West, but it affects us all. There are not going to be any quick fixes. We need a balanced, long-term approach to give us the stability and the energy that we need. This is too important to do anything but the right thing.

We need to start with conservation. We have made tremendous progress in this country over the last 20 years. We are not going back, and nobody wants to. We need a balanced mix of new supplies of energy, and we have to bring on the next generation of new supplies of energy. It is time to pull together and lead, to give us real answers for our energy problems.

THE TIME HAS COME TO CHANGE THE OUTDATED DAVIS-BACON ACT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I would like attention to be directed to one of many problems on the outdated Davis-Bacon Act of 1931. As my colleagues know, this law requires the State and local construction projects receiving over $2,000 in Federal aid must adhere to the Federal prevailing wage, which on average is 17 to 22 percent higher than the State level. Because of these higher wages, State and local construction projects can cost up to 38 percent more than they would have without the act.

This enormous waste of taxpayers dollars is proof that the Davis-Bacon Act should be modernized. In the 70 years since its introduction, the act has never been adjusted for inflation and has not been amended according to current construction standards. Meanwhile, inflated Davis-Bacon costs continually hinder emergency relief efforts and federally-assisted construction projects because of the additional costs communities must pay if they receive a mere $2,000 in Federal aid.

Because this $2,000 minimum was set in 1931 and has never been adjusted, the gentleman from North Carolina (Mr. COBLE) and I have introduced H.R. 2094, the Davis-Bacon Modernization Act, which would increase the threshold from $2,000 to $100,000. While many of my colleagues believe this number is not high enough, I believe it is a good start. Let us make this law more reasonable and, above all, helpful. I urge my colleagues to help communities across the country to get more bang for their buck. Cosponsor and support the Davis-Bacon Modernization Act.

THE AGRICULTURAL SUPPLEMENTAL RELIEF ACT

(Mr. POMEROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMEROY. Mr. Speaker, it is another tough year for the farmers of this country. Commodity prices once again are below the cost of producing the crop. Imagine the frustration of investing one's heart and soul and extending virtually everything they own to grow a crop that when it is harvested and it is taken to the elevator, the money that is received does not even cover the costs they had of growing it. That is, of course, if the production season is a good one and a crop is actually gotten.

Yesterday I was in fields in North Dakota that have been totally devastated by hail. There will be no crop for these farmers. There will be no income of any kind at the elevator. I raise this to everyone's attention because in a few minutes we are about to consider the Agricultural Supplemental Relief Act. Unfortunately, the Committee on Agriculture brings forward a proposal that reduces by about 15 percent the amount of relief and support we gave to farmers last year.

Now farmers' inputs have gone up. It is costing more to grow the crop. The prices are still lousy. It is no time to cut relief for our farmers. Reject this and increase assistance.

NORTH KOREA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I recently met with a German doctor, Dr. Norbert Vollertson, and talked to him about his experiences during his 18 months living in North Korea.

□ 1100

The stories of suffering and the photos of starving children and adults were deeply moving. Dr. Vollertson made a strong statement that should spur the international community to action.

When comparing the North Korean prison camps to Nazi concentration camps, Dr. Vollertson said, "No journalist, nobody wanted to believe that Hitler is so cruel, that the German government is so cruel. I think it is my duty as a German to learn from history, to not make the same mistake twice."

He said what is happening in North Korea in the concentration camps, in his opinion, is as bad as what happened during the Second World War. It is the duty of the international community not to make the same mistake again, to ignore the plight of thousands of people in North Korea who are starving and in terrible prison situations where they are beaten and tortured and executed in horrific ways.

Mr. Speaker, I call on this body and the administration to act on behalf of the people of North Korea, to act to ensure that the regime in North Korea is no longer allowed to continue destroying its people.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later today.

RECOGNIZING OUTSTANDING AND INVALUABLE DISASTER RELIEF ASSISTANCE PROVIDED DURING TROPICAL STORM ALLISON

Mr. COOKSEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 166) recognizing the outstanding and invaluable disaster relief assistance provided by individuals, organizations, businesses, and other entities to the people of Houston, Texas, and surrounding areas during the devastating flooding caused by tropical storm Allison.

The Clerk read as follows:

H. RES. 166

Whereas during June 2001 tropical storm Allison brought catastrophic flooding to Houston, Texas, and surrounding areas;

Whereas this disaster tragically and suddenly took the lives of 21 people;

Whereas this disaster injured countless other people, uprooted families, and devastated businesses and institutions;

Whereas the State of Texas has been declared a Federal disaster area, and individuals and families in 28 Texas counties are eligible for Federal assistance;

Whereas numerous individuals and entities have selflessly and heroically given of themselves and their resources to aid in the disaster relief efforts; and

Whereas the catastrophic injury, death, and damage in Houston, Texas, and surrounding areas caused by tropical storm Allison would have been even worse in the absence of local relief efforts: Now, therefore, be it

Resolved, That the House of Representatives recognizes, for outstanding and invaluable service during the devastating flooding caused by tropical storm Allison in Houston, Texas, and surrounding areas, the following:

(1) the American Red Cross service centers located at Sunnyside Multi-Service Center, Friendswood Activity Center, Lakewood Church, and Berean Seventh Day Adventist Church, the American Red Cross shelters located at Salvation Army Community Center, Arbor Lights Men's Shelter, the B.L.O.C.K., Oak Village Middle School, Kirby Middle School, and Sweet Home Missionary Church, and the many other voluntary relief sites and shelters who rendered outstanding and invaluable assistance to the victims of the disaster;

(2) the Houston Police Department, the Houston Fire Department, and the Sheriff's Department of Harris County, Texas, who displayed great bravery and dedication in rendering assistance to the people of Houston, Texas during the disaster;

(3) Houston Mayor Lee Brown, particularly for his effort in establishing the Adopt-a-Family program and for his collaboration in the disaster relief efforts with Robert Echols;

(4) Texas Governor Rick Perry and all other State and local officials, who provided invaluable support and assistance;

(5) the Federal Emergency Management Agency, who quickly deployed and responded to the disaster;

(6) the United States Coast Guard;

(7) the Texas Army National Guard, who quickly deployed and responded to the disaster;

(8) the employees of Texas Medical Center, Memorial Hermann Hospital, and Houston Veteran's Hospital, who struggled heroically to perform their jobs amid chaos;

(9) all the volunteers, who are too numerous to name, but who made heroic efforts and special sacrifices and played a crucial role in the disaster relief efforts;

(10) the private sector, including major corporations, other businesses of all sizes, and their employees, who rapidly and voluntarily donated money and other resources to the disaster relief efforts;

(11) the many media organizations who aided the relief effort by keeping the community closely and extensively informed, requesting volunteers, and providing information regarding dangerous roads; and

(12) all the individuals and organizations who immediately and unselfishly helped the people of Houston, Texas, and surrounding areas in their time of need, took quick and decisive action for the public good, and demonstrated an ability to work together for a brighter future.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. COOKSEY) and the gentleman from Texas (Mr. LAMPSON) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. COOKSEY).

Mr. COOKSEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would first like to note that House Resolution 166 was discharged from committee consideration and expeditiously brought to the floor for immediate consideration. This is not the normal process; but in the interest of time, the committee will occasionally discharge consideration.

House Resolution 166 recognizes the dedication and tireless efforts of all of the individuals and organizations who assisted in relief efforts in Houston, Texas, during and in the aftermath of Tropical Storm Allison.

Houston is no stranger to tropical storms named Allison. In June of 1989, Tropical Storm Allison wreaked havoc on Texas and Northern Louisiana, dumping 15 inches of rain in the Houston area. Total damage from that storm was estimated at $500 million, and 11 people were killed.

This year's Allison was more focused. Between June 5 and 10, Allison inundated the city of Houston with 35 inches of rain. The storm claimed 23 lives and flooded major highways, hospitals, and homes.

According to the American Red Cross, more than 35,000 homes in the city and surrounding county were damaged or destroyed. Many hospitals and laboratories were flooded, resulting in a blood supply emergency in the greater Houston area. Current estimates place the cost of total damage to the area in excess of $2 billion.

Fortunately, countless individuals and organizations came to the assistance of Houston area residents in response to the devastation. At its peak, the Harris County 911 emergency system logged 400 to 500 calls each hour. In response, the Houston Fire Department executed 1,200 missions to rescue flood victims stranded in their homes and vehicles by high water. The Texas National Guard assisted in the response using 5-ton trucks to rescue people from their homes. National Guard and fire department efforts were supplemented by the U.S. Coast Guard's dispatch of rescue helicopters. Two hundred people were reported rescued on June 9 and 10. At the height of the storm, 15,000 people were housed in 40 emergency shelters.

Without the assistance of all those who came together to help Houston in its time of need, including FEMA, the American Red Cross, Houston's Mayor, and Texas Governor Rick Perry, the number of lives lost and damage to property from this dangerous storm would have been much greater.

I support the bill and urge my colleagues to join in support of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LAMPSON. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise today in strong support of this resolution; and I join the gentlewoman from Texas (Ms. JACKSON-LEE), the author, and all my colleagues in extending my sincere thanks and appreciation to all of the personnel throughout Southeast Texas who have devoted their lives to disaster recovery efforts.

Having walked the streets of Friendswood, Texas, I saw the heartache and loss, both fiscal and emotional, and got a chance to see a lot of that devastation. The people of Friendswood are a strong and resilient people; but without the heroics of those individuals who devote their lives to disaster recovery, the casualties and destruction could have been much worse.

This resolution recognizes the invaluable disaster relief of various agencies, organizations, businesses, and individuals who assisted the people of Houston and the surrounding areas during the devastating floods of Tropical Storm Allison. The resolution states that although 21 people died, the casualties and destruction would have been even worse, if not for the disaster relief given by American Red Cross centers, the voluntary donation of money and resources from individuals and private businesses of Texas, the heroics of the United States Coast Guard, the Houston police and fire departments, and the valiant efforts of many other hospitals and shelters. The bill also lauds the recovery actions of Houston Mayor Lee Brown and Texas Governor Rick Perry.

Looking back to Monday, June 4, when the reconnaissance aircraft first reported the development of Allison, I realized that the main impact of this storm would not be the wind, but would be the rain. Rain totals throughout Harris County and in other portions of my Congressional district exceeded 30 inches during the week-long period when the remains of Allison brought relentless flooding to the upper Texas Gulf Coast.

Of course, no words can adequately describe the devastation that the Greater Houston area felt in the wake of the storm. The Texas coast certainly had not seen flooding of this magnitude in decades. Clearly, this event was more than a wake-up call, it was a stark reminder of the impressive forces that still govern the Earth.

In the midst of the disaster and periods of chaos, there were countless individuals and organizations responded almost instantaneously to help the victims caught by the flood waters. The plight of one became the concern of many, and people displayed an enormous humanitarian spirit that transcended all barriers.

The American Red Cross placed its disaster relief plans into action and opened numerous service centers throughout Harris County and the Ninth Congressional District of Texas. The police, fire, sheriff, and emergency response teams worked quickly and without reservation to minimize injuries and render invaluable assistance.

The disaster tragically claimed the lives of now 23 individuals from practically every walk of life and every part of the city. Deaths would have been in the hundreds, were it not for the heroism, professionalism, and dedication of all those who responded.

The media broadcast around the clock to keep the public constantly informed of the dangerous situation by disseminating critical information. Volunteers, many of whom were also suffering, responded to the calls for help from the various agencies, who were critical to the response efforts.

Our friends at FEMA also did a phenomenal job in a task that was as sobering as it was frustrating. Thousands of people were affected and the recovery and damage assessments still continue.

I toured the devastation firsthand by helicopter and on the ground. The scenes were tragic: lost homes, lost businesses, lost medical research, and lost lives. Yet the human spirit continues throughout Texas, Louisiana, and across the Gulf Coast States and up the Eastern Seaboard, where Allison ravaged property and tore apart lives.

So as I stand here today reflecting on the tragedy, I am forever grateful to all who assisted; and my prayers continue for the suffering and the afflicted. The strength that all have displayed is worthy of our recognition.

Mr. Speaker, I reserve the balance of my time.

Mr. COOKSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, we have seen time and time again that the best qualities within the people that we know often emerge when the weight of a tragic event presses down upon us. In Houston, we have learned this lesson all over again. The unending rains from the Tropical Storm Allison overwhelmed our bayous, overflowed our streams, and flooded our streets and buildings and homes; but they did not dampen the vigor of Houston.

We Texans pride ourselves on maintaining the spirit of the West. It has passed down from the early generations, who fought the elements, to build a new life in Texas. They were tested, and those that stayed shared a very common quality. They had the resilience and resourcefulness to outlast Mother Nature and overcome the obstacles that she places in our path.

Part of that creed is the understanding that when nature strikes, you pitch in to help your friends and neighbors. We understand that. We understand that when we rally together, no adversity, can keep us down for very long. Houstonians demonstrated that they have not forgotten their responsibility to aid each other during Allison.

We feel deeply for all our neighbors who lost a loved one or a friend. This tragedy claimed far too many lives. Many others lost belongings and had their homes turned inside out by this storm. But we can be certain that far more people would have died if Houstonians had not responded as quickly and as vigorously as they did.

Many, many people deserve to be thanked for their efforts. We are grateful to the Coast Guard and Red Cross, to the National Guard troops, and our local police officers and fire fighters. We say thank you. For every individual citizen who lifted a hand or waded out into the flood waters to bring comfort and assistance to the others, we say thank you so very much. Your efforts make us a great community and a great place to raise a family.

All Houstonians also appreciate the swift response from the Federal Emergency Management Agency and the Bush administration. By reacting quickly, they are helping us get back on our feet.

When I stopped by the Red Cross shelter in Pearland, I saw the best and most poignant tribute to the men and women who pitched in in responding to Allison. Hanging inside the shelter was a little small sign that was written in crayon by a child, and it simply said "God bless you for helping us."

When the floodgates opened on Houston, we were ready to respond with charity, sacrifice, hard work and compassion. I hope we always stand ready to react with the same qualities.

Mr. LAMPSON. Mr. Speaker, I yield 4½ minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), the author of the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for managing the bill, and I thank him for his support. I thank all of my colleagues for supporting H. Res. 166, and I rise to support the resolution that I introduced on June 14 to recognize the outstanding and invaluable disaster relief assistance that individuals and organizations and businesses and other entities provided to the people of Houston, Texas, and surrounding areas during the devastating flood that was caused by Tropical Storm Allison, one of the worse disasters that Houston has known.

Some people would ask, what is going on in Houston, Texas? I would simply say, the greatest amount of charitable spirit, heroic efforts, friendship, love, and the ability of a community to stand up together and say yes we can. But for the heroic efforts of those invaluable volunteers, the catastrophic death, injury and damage would have been far worse.

I commend my fellow colleagues in the House of Representatives, especially my fellow Members of the Texas delegation, for joining us in encouraging those altruistic acts of selflessness and heroism.

I remember within the 24-hour time frame of being out walking in neighborhoods, flying overhead, looking at homes filled to capacity up to the roof with water, and yet hearing the tragedies of those who may have been stuck overnight, there were the encouraging words that people were saying, yes we can.

Although words cannot even begin to describe adequately the destruction that Houston and surrounding areas know, I will attempt to paint for you a visual picture.

More than three feet of rain that fell on the Houston area began June 6 and caused approximately 23 deaths. Over 20,000 people have been left at least temporarily homeless during the flooding, many with no immediate hope of returning to their homes. More than 56,000 residents in 30 counties have registered for Federal disaster aid. Over 3,000 homes have been destroyed, over 43,000 damaged. The damage estimates in Harris County, Texas, alone are about $4.8 billion.

Some of the areas that have been hit, universities in my Congressional district, like the University of Houston, Texas Southern University, and a little neighborhood known as Kashmir Gardens. You would think a place filled with flowers. It is an enclave that has a high number of senior citizens, many of whom I visited in the last weekend, some still left in their homes, stranded, possessing few resources, but yet with a strong spirit.

□ 1115

I watched this past Sunday as the Red Cross team came that we called out to see a senior citizen who had a knee that needed to have surgery, who had not been attended to; and that Red Cross team came like an S.O.S. with an angel standing behind them to help that senior citizen.

Other areas such as Sunnyside in southeast Houston, northwest Houston and around Scarborough High School. Additionally, of course, we all know a very important aspect of our community, the Texas Medical Center, has faced a very uphill battle. But I am very pleased that they are going to have the kind of support where all of the delegation members of this particular delegation will be supporting them and helping them with the millions and millions of dollars of damages, maybe in the billions of dollars of damage, to come back and be able to serve not only Texas, but to serve the Nation. Ten million gallons of water have inundated the medical center complex, and we are working to make sure that they get back on their feet.

But let me share the many personal stories, the help that the Red Cross has given, the 46 disaster centers, the Houston Police Department, the Houston Fire Department, the sheriff's department displayed great bravery and dedication in rendering assistance. Mayor Lee Brown and the Adopt-a-Family program, Judge Robert Eckles, Texas Governor Rick Perry, all of us gathered together, huddled around the Houston TransCar Center, a center that was supposed to deal with traffic; but we determined that it could be an emergency center, and all of us gathered there to design strategy to help those who were stranded.

I believe, Mr. Speaker, that this is an important resolution to be able to acknowledge, as the Houston Chronicle said, most of the countless acts of kindness and compassion, of heroism and self-sacrifice that will go unsung and the heroes that will remain anonymous, even to those they helped.

I believe it is important to mention some of those personal stories. Time will not allow me to talk about Cora Clay, a sandwich shop employee who fed an entire shelter from funds from her own pocket, or Kathleen Ross who donated two of her rental properties, or the heroic police officers who could not swim, but yet jumped in. C.R. Bean and Mike Lumpkin and Matt May who jumped in to save those who were in their car, floating. The Texas Children's Hospital, the Coast Guard and Texas National Guard.

Let me just simply conclude by saying, it gives me a special privilege to be able to thank all of those people who gave of their time, who gave of their heart. We have spirit in Houston and the surrounding areas. We have spirit in Texas, and we will overcome.

Mr. Speaker, I rise today to support H. Res. 166, a resolution I introduced on June 14 to recognize the outstanding and invaluable disaster relief assistance that individuals, organizations, businesses and other entities provided to the people of Houston, Texas and surrounding areas during the devasting flooding caused by Tropical Storm Allison, one of the worst disasters Houston has known. But for the heroic efforts of those invaluable volunteers, the catastrophic death, injury and damage would have been far worse. I commend my fellow colleagues in the House of Representatives, and especially my fellow members of the Texas delegation, for joining me in encouraging these altruistic acts of selflessness and heroism.

Although words cannot even begin to describe adequately the destruction that Houston and its surrounding areas know, I will attempt to paint for you some of havoc that the storm has wreaked. The more than three feet of rain that fell on the Houston area beginning June 6 has caused at least 23 deaths in the Houston area and as many as fifty deaths in six states. Over 20,000 people have been left at least temporarily homeless during the flooding, many with no immediate hope of returning to their homes. More than 56,000 residents in thirty counties have registered for federal disaster assistance. Over 3000 homes have been destroyed, over 43,000 damaged. The damage estimates in Harris County, Texas alone are $4.88 billion and may yet increase.

Some of the most hard hit areas include the University of Houston, Texas Southern University, and the Kashmere Gardens neighborhood, a Houston enclave that has a high number of elderly citizens and possesses the fewest resources needed to bounce back from this once in a lifetime event. Other areas such as Sunnyside and South East Houston—northwest Houston around the Scarborough High School area were also hard hit.

Additionally I note the damage which occurred at Texas Medical Center, because what has occurred affects us not just locally, or even just in Texas, but nationally. The Texas Medical Center, home to some forty medical institutions, is the largest medical center in the world. Globally, reknown medical care and research takes place here. The flood has decimated these preeminent health institutions.

The cost to restore the Center is about $2 billion, which is nearly all of the total $2.04 billion in damage at Harris County's public facilities. It serves 4.8 million patients yearly with a local economic impact of $10 billion. More than 52,000 people work within its facilities, which encompass 21 million square feet. The damage includes $300 million to Texas Methodist Hospital and $433 million to Veteran's Hospital.

The impact on the University of Texas Health Science Center at the Texas Medical Center is exemplary of how the clinical care, medical education, research and the physical structures at this medical community have been affected.

Ten million gallons of water have inundated the medical school complex, and the earliest possible start up date for the hospital is mid July, including operation of one of the two Level One trauma centers in Houston. The ability of the center to serve the Houston community will be severely compromised for at least two months. In the entire Houston area, a total of 3,000 beds are out of service.

The UT Health Science Center has incurred $52 million in physical damage to the facility and $53 million to the equipment. A total of 400 emergency personnel have been required to assist in the clean up thus far. Moreover, preparation must still also be made for 825 medical students arriving in August, and the floor used for student service functions is estimated to be nine months away from re-opening. Until that point, teaching facilities and services must be dispersed across the city.

Research has been substantially affected, destroying all animal based research due the death of all 4,000 animals. Some of these losses could take as long as three to four years to recoup, and some of the more senior graduate students may have lost their dissertation research, setting back their careers indefinitely. $105 million in sponsored research has been affected.

Yet the storm has not defeated our spirit. The citizens of Houston are facing the tragedy with the spirit of love and have displayed the true meaning of the biblical phrase the "peace in the midst of the storm." Untold numbers of individuals and organizations have risen to meet the overwhelming challenges that the storm has presented. Among those who have risen to this challenge is the American Red Cross, which at one time was running 46 disaster relief centers around the city to serve those in need, and who, along with the Salvation Army is serving thousands of meals per day. The Houston Police Department, the Houston Fire Department, and the Sheriff's Department of Harris County, Texas have displayed great bravery and dedication in rendering assistance to the people of Houston, Texas during the disaster. Houston Mayor Lee Brown, Judge Robert Eckles, Texas Governor Rick Perry and all other State and local officials have provided invaluable support and assistance.

The Federal Emergency Management Agency is onoe again successfully fulfilling its mission, having quickly deployed and responded to the disaster, and the Small Business Administration has also been on the ground providing much needed disaster assistance to families and small businesses. The United States Coast Guard and the Texas Army National Guard have bravely and rapidly served during this disaster. Houston TransCar Center was an outstanding Storm emergency center where strategy to help the victims was designed.

Many major corporations, other businesses of all sizes, and their employees have who rapidly and voluntarily donated money and other resources to the disaster relief efforts. Many media organizations have aided the relief effort by keeping the community closely and extensively informed, requesting volunteers, and providing information regarding dangerous roads.

I wish I could recognize every single hero, but time does not permit that. So I will recount for you a few stories that represent the spirit that we have seen.

There have been the ultimate sacrifices of people like Sharon Mateja of Warsaw, Missouri. Sharon was a Red Cross volunteer and member of the Board of Directors who was crushed by a van while helping another volunteer move bags of ice to a Red Cross van.

This flood has pushed ordinary people to do extraordinary things. As reported in the Houston Chronicle, "most of the countless acts of kindness and compassion, of heroism and self-sacrifice, will go unsung and the heroes will remain anonymous, even to those they helped. Those who are known insist there was nothing exceptional about their actions, that they happened to be in the right place at the right time to help someone in need."

Sgt. C.R. Bean is a Houston Police office who cannot swim. Yet he and Officers Mike Lumpkin and Matt May plunged into cold, rapidly rising water to attempt to save the lives of three young men whose vehicle had been swept off the road by the torrential waters. They spent at least an hour and a half and were able to save two. They were unable to save Chad Garren, but without the exceptional bravery of the officers, all three would have been lost. Shelters like Oak Village Elementary School and Kirby Middle School were invaluable in helping the displaced.

There have also been the seemingly simple acts of women like Cora Clay, a sandwich shop employee, who fed an entire shelter from funds from her own pockets. Kathleen Ross, who donated two of her rental properties to house families whose houses were uninhabitable due to the floor. Or Richard Hill, who, without being asked to do so, led a friend's horse for three hours through brackish water to a safe pasture. The list goes on and on.

And businesses in our community have not ignored our needs. The Houston Chronicle newspaper and television station KHOU has raised over $5 million in funds for the Red Cross relief work. Fiesta Market grocery store brought two trailers on eighteen wheelers to fed the shelters. Many other entities have given food, money and other resources quickly and without condition to our community in need.

At two hospitals in the Texas Medical Center, the Memorial Hermann Hospital and Memorial Hermann Children's Hospital, located in the Texas Medical Center, the flooding caused the loss of all utilities. The hard working employees of the hospitals along with Life Flight, the Coast Guard and the Texas National Guard struggled heroically amid chaos to evacuate successfully and safety 540 patients to other hospitals via helicopters and ambulances, some to hospitals as far away as San Antonio and Austin.

Several houses of worship have opened their doors and hearts to the community to give disaster relief assistance, including use of their buildings for FEMA disaster centers and Red Cross Service Centers. Father Enette of St. Peter Claver Church opened his doors, in the midst of his recovery from a stroke. Father Enette never complained about the sacrifice the church would incur due to the substantially increased use of electricity and water as a result of opening its doors. Paster Lewis opened the doors of the BLOCK Church for use as a full time FEMA center to provide relief for those located in the Sunnyside South Post Oak area. There is the kindness of Paster Kirby Caldwell from Windsor Village Church, who made a delivery of clothing and food to one of the shelters within our district. And there is the group known as the Baptist men, who have prepared more than 62,000 meals. Minister Robert Muhammad and Makeba Muhammed from Mosque #45 in Houston, fed over 3,000 families. Lakewood Church opened its doors to over 2,000 people during the early morning hours after the flood.

Each and every effort made to help the flood victims has been done not so for recognition and public glory, but because it is the right thing to do.

Mr. Speaker, this resolution attempts to recognize all the individuals and organizations who immediately and unselfishly helped the people of Houston, Texas, and surrounding areas in their time of need, took quick and decisive action for the public good, and demonstrated an ability to work together for a brighter future.

As much as this disaster has torn apart our city and its surrounding areas, it has also bound us together, neighbors, friends and strangers alike. While we cannot personally thank everyone, may all of you know that your courage, hard work, sacrifice and kindness are recognized. And as we recover from this disaster, let those who have suffered know that their needs are heard, their patients gratefully acknowledged and hopefully prayers answered.

Mr. COOKSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Houston, Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I want to thank the gentleman from Louisiana (Mr. COOKSEY), who has been such a good friend to Texas in all issues, including his help and response to Tropical Storm Allison. I also want to commend my Democratic colleagues, the gentlewoman from Texas (Ms. JACKSON-LEE), the gentleman from Texas (Mr. BENTSEN), the gentleman from Texas (Mr. GREEN), and the gentleman from Texas (Mr. LAMPSON), for their leadership in this effort as we jointly work together, and to the gentleman from Texas (Mr. DELAY) and the gentleman from Texas (Mr. CULBERSON), who together as a delegation have been working to try to recover and restore some sense of getting back on our feet in our region.

This storm was more than just numbers. For many of us who have lived in the area a long time, we have seen a lot of natural disasters in our part of Texas, but Tropical Storm Allison was stunning. While it caught us a bit, it did not look like it was a tough, difficult storm to start with; but the damage was remarkable. It is more than numbers.

When I look at the reports each day on the number of homes in my area, as I continue to ask for requests, and the numbers continue to go up and up. In 26 of my communities in North Harris County, in Montgomery County, in Waller and Washington County, we see now over 3,000 homes that have been flooded and need help. That is not including all of the businesses, small businesses, all the road and infrastructure damage. I look at all of the help that has been given by FEMA, the Disaster Assistance Center at Greens Point and all around our region, those people are working tirelessly. All of the volunteers, the firefighters, the police, the United Way agencies. We have wonderful emergency assistance directors in our counties that have I think been awake since the storm hit us.

For the families that are hurt so bad, this is so important, because being flooded out is a miserable experience. It is so disheartening and disruptive. And the only thing that keeps us going is the prospect of those who are stepping forward to help us through this time of need, our family, our friends, the community, even FEMA workers who I saw in the centers who had been flooded out themselves in other States, who felt the calling to help in the Houston region. It is because of all of those people that we are recovering today.

Mr. Speaker, our region is very strong. We have strong individuals and strong communities; but the assistance that has been provided, both within and without, is irreplaceable. So to all of the volunteers, to all that are helping and continue to help, I wanted to add my "thank you" and sincere appreciation for all that you do and continue to do. We cannot thank you enough.

Mr. LAMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from Houston, Texas (Mr. BENTSEN), who suffered probably the largest amount of damage there.

Mr. BENTSEN. Mr. Speaker, I rise in strong support of this resolution, and I commend the gentlewoman from Houston, Texas, for offering it.

The flood waters from Tropical Storm Allison may have receded, but the damage remains. As I tour the wreckage in my home district of Harris County, Texas, I am confronted with the many stories of tragedy and loss; but what shines through is the spirit of the people of Harris County, the sense of community that has neighbors reaching out to one another, unselfishly bestowing the ordinary blessings of compassion to less fortunate friends and neighbors. A citizenry summoned to the call of charity.

As torrential rains fell on Harris County, power outages at the Texas Medical Center meant patients had to be evacuated. Nurses, technicians, doctors, and orderlies came to the rescue and physically carried more than 540 patients down dark, wet stairways to safety. A local Boy Scout troop guided the volunteers down corridors to awaiting helicopters. Police and firefighters worked double and triple shifts to ensure public safety, even going days without sleep. These men and women who, without concern for their own flooding homes, but the interest of others ahead of their own and are those whom we recognize today.

In the trying times that have followed Allison, the true colors of the ordinary citizens and community leaders have shined. Banks and thrifts have generously offered to waive check-cashing fees and phone companies have donated cellular phones to disaster-relief shelters. More than 600 officials from the Federal Emergency Management Agency have assisted nearly 60,000 victims and the Red Cross has aided thousands more. I applaud the businesses and residents and volunteers for their efforts and commitment to transforming our city into a community.

Mr. Speaker, the devastation in Harris County is unimaginable. Billions of dollars in property have been lost. Years of critical research at the Texas Medical Center have been lost, hampering the international medical research grid; and tens of thousands of our fellow citizens have lost their personal property, including the woman I spoke to last week in the Hiram Clarke section of Houston, who lost her most prized possession, the last letter her great grandmother had written her. Having saved it from the first flooding on Tuesday, June 5, she lost it when her home flooded the second time on June 9. But what is more tragic is that 23 fellow Texans lost their lives as a result of this storm.

No Federal assistance or House resolution will ever make up the loss endured by those families, but we know with a little help from our friends from across the Nation we will be able to rebuild Houston; and with the spirit this the city has, we will endure again.

Mr. COOKSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Houston, Texas (Mr. CULBERSON).

Mr. CULBERSON. Mr. Speaker, the physical boundaries of the district I represent in west Houston, district seven, we were very, very blessed and fortunate to have escaped the flooding, in large part. We had a few very small isolated pockets of flooding, but the businesses of many of the people I represent were affected; and the entire city, of course, suffered a devastating blow as a result of the flood.

I was extraordinarily impressed to have seen firsthand the work of the emergency rescue personnel who were staging their operation out of my district in west Houston, out of Tully. The weekend the flooding began, I spent time there at the headquarters where the search and rescue teams were coordinating their efforts, bringing in resources from all over the State of Texas. The Colorado River Authority contributed personnel and equipment; the San Antonio Fire Department contributed personnel and equipment. There were resources from every corner of the State there to help the people of Houston; and it was an extraordinarily impressive operation, to see the ability of these rescue personnel to come in right away, right after the flood, to rescue people from their homes to save them from life-threatening situations.

It was also instructive for me to see as a new Member of Congress that there was, immediately after that initial period of rescuing people, a gap in services where the City of Houston, the county was unable in many cases to actually get in to some of these neighborhoods that were so devastated to help people clean up their property, take care of the day-to-day essentials of living, which had all been brought to a screeching halt.

What particularly impressed me is that in that gap, between the time the rescue services came in to pluck people off their roofs and get them to hospitals and the time when the city and the county were able to really come into those neighborhoods and help, that gap, which was largely unfilled by local government, was filled spontaneously and almost immediately by the churches of Houston, by the civic associations, by individual Houstonians stepping forward to help their own neighbors and family members.

Therefore, I ask all of my volunteers, all of the people that were gracious enough to help me throughout the last year's election campaign and the people I know throughout west Houston, to contribute their volunteer time, their money and their efforts through their local churches and civic associations, but in particular through their churches, to help relieve the flood victims. I think there is no better example of what President Bush has been talking about; there is no better example of faith-based initiatives than what took place and is taking place today in the City of Houston, with churches like Second Baptist, like our very own memorial drive of the United Methodist Church, which is stepping forward with volunteers and assistance, to help people tear out carpet, to get their homes restructured, rebuilt, their lives restructured where they do not have insurance.

That final phase of the recovery that is going on now, which will go on for months to come, is where the Federal Government can really step forward to help. That is why I am proud to be a cosponsor of this resolution. It is a very, very good example of the unity that is so necessary among the members of the Texas delegation, the Houston congressional delegation, and working together, not only through this resolution to say "thank you" to all of the rescue personnel, but, more importantly, for us all to work together to find ways to ensure that the people who have lost their homes to fill the gap between what private insurances covered and what is not covered; that the Federal Government is there to help pay for the reconstruction, the relocation of families, and to do whatever is necessary to provide every available Federal dollar to repair the damage done to homes, to the Texas Medical Center, to all that irreplaceable research that was damaged as a result of the flood. The Houston area congressional delegation, the congressional delegation from Texas is unified and focused in doing everything that we can to ensure that the damage is repaired as fast as humanly possible.

Mr. Speaker, I want to reassure the people of Houston and the people of Texas that the money will be there to rebuild, to repair, and to, for the long term, plan for and prevent future floods of this type because of the unified and focused approach of the Houston and Texas congressional delegations.

Mr. LAMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from Houston, Texas (Mr. GREEN), who toured the devastation with us.

Mr. GREEN of Texas. Mr. Speaker, like my colleagues, I represent an area that tragically succumbed to Tropical Storm Allison in northeast Harris County. I want to thank my Texas colleagues for putting this resolution together, but mainly to the hundreds and even thousands of volunteers and workers who donated their time to help Houston residents clean up.

At the top of the list would be the men and women of FEMA who literally were on the ground before the waters receded, assessing the damage and getting a head start on setting up the disaster recovery centers, three in our congressional district in the Jacinto City Community Building, Sheldon Intermediate School, and also in the Aldine School District, the M.O. Campbell Center.

To date, FEMA has received 62,000 applications for assistance, and also their recovery centers have played a role and provided a great deal of effort visiting the Red Cross Centers in our district, the FEMA neighborhood centers, and walking the streets in north and east Harris County showed the huge loss, but also the response from seeing literally people helping each other, communities pitching in and banding together, seeing people in Jacinto City and Galina Park in Aldine and northeast Houston, working together to help overcome this loss; seeing the loss at North Forest Independent School District, Sheldon ISD and also Houston Independent School District.

To date, we know that FEMA and the Small Business Administration made literally millions of dollars of loans and grants to assist Houstonians in replacing their belongings and temporary housing. I urge FEMA to keep these disaster centers open as long as necessary so that individuals can continue to have access to vital services on a personal basis.

I would also like to thank the Coast Guard and our National Guard for their effort and the many employees of the City of Houston and Harris County for their efforts to rescue people and as they go through the cleanup effort now, Mr. Speaker. As Houston and southeast Texas and other areas affected continue the long process of rebuilding, I want to express my thanks to everyone and will continue to work to make sure that the Federal funds are there to help people in disasters.

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Mr. LAMPSON. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate people coming together to focus on the heroic efforts that have taken place in Houston in the aftermath of this terrible storm, but I hope we also focus on what we can do to prevent it in the future.

We should as a Congress invest in Project Impact which helps prepare communities before disaster occurs, rather than to cut it, as has been suggested by the administration. We have need to reform the flood insurance program so it no longer subsidizes people to live in places where God repeatedly shows that He does not want them.

It is important that we not ignore global climate change, because the scientists tell us if we are not careful, global climate change is going to make these horrible events that occurred in Houston far more frequent and far worse.

Mr. Speaker, this is an opportunity for us in Congress not only to reflect on the heroism that took place and to mourn the loss, but for us to step forward to take our responsibility to make sure that we are doing everything possible so that it does not occur in the future.

Mr. LAMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I commend the gentlewoman from Texas (Ms. JACKSON-LEE), my colleague, and the other Members of the Texas delegation for introducing the resolution to recognize those who have helped the people of Texas during the recent flooding.

It is so important to take time to express gratitude to those who have brought relief to the people of Houston during the flooding and its aftermath. I know that Missourians who have experienced flooding, particularly the devastating floods of 1993 and 1995, understand what an effort it takes to recover from such a disaster.

Mr. Speaker, we must not take the contributions of volunteers for granted, for their selfless efforts often come at a great price. If I can bring to this body's attention one particular Red Cross volunteer who answered the call to help the victims of Tropical Storm Allison, Mrs. Sherry Mateja of Warsaw, Missouri, who was killed in a tragic accident last week while helping another volunteer move bags of ice from a tractor-trailer to a Red Cross van at a church in Humble, Texas.

A Red Cross volunteer since 1999, Mateja was an active volunteer with the Pettis County Chapter of the American Red Cross in Sedalia, serving in a leadership role on the chapter's board of directors. She was instrumental in providing Red Cross services in her local community, including the chapter's disaster relief and learn to swim programs.

Her assignment to help relief efforts for Tropical Storm Allison in Texas was her first national disaster assignment. Mrs. Mateja is survived by her husband, John Mateja; three sons, Marc, Nick, and Eric; two grandchildren; her brother, Charles Maggard; and her mother, Margaret Maggard.

While recognizing the work of all the volunteers helping the Houston community, I ask my colleagues to join me today in paying special tribute to Sharon Mateja, expressing our gratitude for her contributions to her community and for her selfless efforts to help the people of Texas. I send my sincere condolences to her family and to her friends.

Mr. LAMPSON. Mr. Speaker, I yield 1 minute to the gentleman from East Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, I represent 19 counties in the Second Congressional District in Southeast Texas, all of those counties were declared a disaster area during the recent tragedy of the Tropical Storm Allison.

I think we all come to the floor today with a deep sense of gratitude for the many who worked so tirelessly to help in that disaster.

I want to mention three organizations that I know were among the private sector organizations that helped the victims of Tropical Storm Allison, that is the Salvation Army, the American Red Cross, and Texas Baptist Men. Those three private organizations, in addition to literally scores of others, helped so rapidly and so efficiently and effectively along with our many State and Federal agencies during that time of crisis.

While the greatest damage was in Harris County, there was significant damage in all of the 19 counties that I represent. There has been over 63,000 contacts made to FEMA just in the last few weeks, so we all express our gratitude at this moment to the many who helped during that time of crisis.

Mr. LAMPSON. Mr. Speaker, I yield the balance of my time to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), the author of the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Texas (Mr. LAMPSON) for yielding the time to me and for managing the bill.

Mr. Speaker, I also thank the Committee on Transportation and Infrastructure. I also thank the gentleman from Louisiana (Mr. COOKSEY) for managing the bill. The gentleman has a daughter in my congressional district.

I also want to thank the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure, as well as the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure, for their accomodation in moving this legislation to the floor of the House so quickly.

Let me also thank the House leadership and say, Mr. Speaker, that many times in giving comfort in a religious setting, we will say, this, too, will pass.

I am very grateful to have authored this legislation to not pass over those whose family members were lost, or to pass over those who sacrificed in helping others.

Mr. Speaker, I again want to mention Sergeant C.R. Bean, a Houston police officer, who, as I indicated earlier, could not swim, and along with officers Mike Lumpkin and Matt May, plunged into cold rapidly rising water to attempt to save three lives. The likes of those individuals who came forward are an expression of the kind of spirit we have in Houston, Texas.

As indicated, many of us were out within 24 hours of the flood, joining the Coast Guard and joining FEMA Director Joe Allbaugh, in surveying the area. I want you to know that the religious community stood tall.

It is very important to note the Sunnyside Multi-Service Center, the Friendswood Activity Center, Lakewood Church, the Berean Seventh Day Adventist Church, the American Red Cross Centers, the Salvation Army, the Men's Shelter, the B.L.O.C.K., the Oak Village Middle School, Kirby Middle School, Sweet Home Missionary Baptist Church and Lakewood Church that opens it doors to 2,000 people right after the flood.

This was the kind of sacrifice, Mr. Speaker, that was made, Robert Muhammad and Makeba Muhammad from Mosque 45 in Houston who fed over 3,000 families.

Mr. Speaker, I would like to acknowledge the fact that we lost even a Red Cross worker; and the name is Sharon Mateja of Warsaw, Missouri. Sharon was a Red Cross volunteer and a member of the board of directors who was crushed by a van when helping another volunteer move bags of ice to a Red Cross van.

Mr. Speaker, we would like to say that this will not happen again, but we are working diligently with the FEMA resources in restoring them back into the budget and being assured, as I was on the floor of the House, as the gentleman from Florida (Mr. YOUNG), Chairman of the Committee on Appropriations, that we would not let Houston and the surrounding areas not have the dollars it needs to be restored.

We will be fighting for those dollars; and to those who are seeking to be rebuilt and to be recovered, we will continue to work with you.

We will also work prospectively to ensure that we put in place the kind of structures that help us not have such incidents occur or prevent such incidents from occurring again.

Today, what we are doing, Mr. Speaker, is simply thanking all of those who are still standing and rising to the occasion. We are here to thank the volunteers, the churches, the local officials, because the day still continues where they are recovering and seeking to recover.

It will be a long journey, but when someone asks what is going on in Houston, Texas, and the surrounding areas, I am saying great activities are going on, great people are working with others and we are doing the job to get the job done.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H. Res. 166, recognizing the outstanding and invaluable disaster relief assistance provided by individuals, organizations, and businesses, to the people of Houston, Texas, and surrounding areas during the flooding caused by Tropical Storm Allison.

During the month of June, Tropical Storm Allison brought devastating floods and damage from debris to Texas, Louisiana, Florida, and many other states. After the President declared the storm that hit Texas a major disaster, 28 counties became eligible for disaster assistance. Tragically, Tropical Storm Allison is responsible for 21 deaths, countless injuries, and major damage to homes and businesses. Yet, through it all, many individuals and groups selflessly gave of themselves and their resources to help in the disaster efforts. From the Red Cross and Salvation Army, to local churches, to the Harris County Police and Fire Department, to the Texas Medical Center, to the United States Coast Guard, to the dedicated elected officials, to name just a few; they all made special efforts and sacrifices and today, we honor them for their service and dedication to their fellow citizens.

The pending resolution calls our attention to our recent failure to ensure that we will be able to aid victims of Allison and future disasters. Just last week, while the Federal Emergency Management Agency (FEMA) was working diligently to help the victims of Tropical Storm Allison, the House passed H.R. 2216, the FY2001 Supplemental Appropriations Act, containing a provision, which many of us strongly opposed, to rescind $389 million in disaster relief funds from FEMA.

Currently, FEMA is assessing the impact of Tropical Storm Allison on Texas, Louisiana, and Florida, and it expects to request additional funds to address these pressing needs. More than 25,000 flood insurance claims are expected from that region of the country, and FEMA is projecting the flood insurance claims for Tropical Storm Allison in Texas and Louisiana alone will exceed $350 million.

The proposed rescission could preclude FEMA's ability to pay these claims and it might limit assistance to future victims of disasters and necessitate another supplemental spending bill. The rescission eliminates much of the funding needed by the agency to provide quick and effective assistance to disaster-stricken communities and victims. The most recent disasters highlight the fact that these funds could be needed by FEMA to pay for natural disasters occurring in FY2001. They should not be rescinded.

Moreover, with the increases in climate change brought on by global warming, we should begin to expect more natural disasters. According to recent data, in 1999, the United States experienced the warmest January-March period since we began keeping these records 106 years ago. Climate change and these recent warming patterns are costly to the Nation. These temperature changes can lead to more extreme weather events, including droughts, floods, and hurricanes.

Over the past decade we have seen a marked increase in natural disasters and this trend is expected to continue. FEMA data show that more frequent and severe weather calamities and other natural phenomena during the past decade required 460 major disasters declarations, nearly double the 237 declarations from the previous ten-year period, and more than any other decade on record. The increased number and severity of natural disasters has huge economic impacts on the United States. Comparing the three-year periods of 1989 through 1991, and 1997 through 1999, the federal cost of severe weather disasters rose a dramatic 337 percent in less than ten years. Of the $35 billion that FEMA has spent in the last 20 years for disaster relief, $28 billion, or 80 percent, has occurred in the last seven years alone (1993–2000). In addition, the insurance industry has paid more than $63 billion in insured losses in these seven years.

Fortunately, the Senate Appropriations Committee has reported its Supplemental Appropriations bill and it does not contain the $389 million rescission from FEMA's contingency fund. I am hopeful that the conference report on this bill will not accept the House provision on FEMA's rescission. We are all aware of the critical and fundamental support that FEMA provides for the victims of natural disasters. It is essential that we do not hinder FEMA's mission by allowing unwarranted rescissions or cuts to FEMA's budget.

Again, I commend the numerous individuals, government agencies, and groups of people in Texas who heroically gave of themselves and assisted their fellow citizens through a major disaster. They serve as an inspiration to us all and I pledge to work together with FEMA and other agencies on behalf of these victims to help them rebuild their lives and renew their spirits.

I urge all Members to support H. Res. 166.

Mr. CRENSHAW. Mr. Speaker, I rise in support of H. Res. 166, which honors the men and women, community organizations and businesses, and the government entities that provided relief and assistance to the people of Texas in the wake of tropical storm Allison.

It is truly times like these, when Mother Nature strikes suddenly and strongly, that communities must come together to help people whose homes and businesses are damaged or destroyed and who might have suffered loss of life within their families. It is a true testament to the spirit of community to see neighbor selflessly helping neighbor in these circumstances, and I commend the men and women who lent of their time, energy, money, resources, and friendship to make the flooding in Houston and its suburbs less painful for their neighbors.

While the damage was not nearly so severe, I would be remiss if I did not mention the community spirit of Floridians who helped to reduce the pain and suffering that tropical storm Allison brought to the people of Florida. For instance, local fire and rescue workers attempted to save swimmers who regrettably drowned off of Florida Panhandle beaches in the storm-tossed waters of the Gulf. They also worked to save men and women caught off guard by the flooding in Tallahassee and elsewhere in North Florida. Also, electric company and utility employees worked to keep power, water, and information flowing into people's homes and businesses as North Florida was pelted with heavy rain, 40–55 mile-per-hour winds, and 15-foot waves.

It is in their honor, as well, that I ask my colleagues to support this resolution.

Ms. PELOSI. Mr. Speaker, I rise to speak in support of H. Res. 166 and applaud Ms. JACKSON-LEE for introducing this resolution. H. Res. 166 commends the many volunteers, public safety officials, agencies, and businesses that rose to the challenge of tropical storm Allison. The storm took 22 lives and caused at least $4.8 billion in property damage.

Living in San Francisco, in an area that is prone to natural disasters, I appreciate the commitment and heroism shown by so many people in the wake of a major natural disaster. Thanks to many brave and generous individuals, Houston and the communities around it pulled through the storm and are on the road to recovery.

I came back this morning from Houston, where I had the great pleasure of meeting my 6th grandchild, who was born on Sunday. While the damage in the area is clearly visible, so are the signs of healing. For my own family and all the people who call Houston home, I was pleased to see the recovery already underway. I urge my colleagues to support this resolution.

Mr. COOKSEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Louisiana (Mr. COOKSEY) that the House suspend the rules and agree to the resolution, H. Res. 166.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LAMPSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. COOKSEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include therein extraneous material on H. Res. 166.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR ON H.R. 2149

Mr. COMBEST. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2149.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

2001 CROP YEAR ECONOMIC ASSISTANCE ACT

Mr. COMBEST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2213) to respond to the continuing economic crisis adversely affecting American agricultural producers, as amended.

The Clerk read as follows:

H.R. 2213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the "Secretary") shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agriculture Market Transition Act (7 U.S.C. 7201 et seq.).

(b) Amount.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) Supplemental Payment.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) Special Rule for Georgia.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool, and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) Base State Grants.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) Grants for Value Of Production.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000.
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $380,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) Specialty Crop Priority.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) Specialty Crop Defined.—In this section, the term "specialty crop" means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) Conditions on Payment to State.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

"(b) Conditions on Payment to State.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

"(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

"(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

"(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.".

(b) Additional Disbursements From the Indemnity Fund.—Subsection (d) of such section is amended to read as follows:

"(d) Additional Disbursement to Cotton Ginners.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

"(1) incurred a loss as the result of—

"(A) the business failure of any cotton buyer doing business in Georgia; or

"(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

"(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

"(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims.".

(c) Conforming Amendment.—Subsection (c) of such section is amended by striking "Upon the establishment of the indemnity fund, and not later than October 1, 1999, the" and inserting "The".

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. COMBEST) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. COMBEST).

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to advocate passage of H.R. 2213, a bill to provide economic assistance to farm producers for the 2001 crop year. The current farm recession, in its 4th year, ranks among the deepest in our Nation's history, along with the Great Depression, the post-World War I and II recessions and the financial ruin of the 1980s.

There are many factors that contribute to this dismal situation. First, energy prices have skyrocketed, pushing diesel fuel and fertilizer to more than twice last year's prices. Second, overseas markets continue the slump that started with the Asian financial crisis, and that has been compounded by the steadily increasing strength of the dollar abroad.

USDA estimates that the value of the dollar is up to 25 percent relative to our customers' currencies and up 40 percent relative to our competitors' currencies, making our farm commodities significantly less marketable in overseas markets. Finally, tariff charged in our agricultural exports remain high, averaging 5 times those levied by the U.S.

Clearly, additional assistance for our farmers is needed. H.R. 2213 makes a good start on providing such assistance. With the help of the Committee on the Budget, the gentleman from Iowa (Chairman NUSSLE), in this year's budget, Congress made available funding for fiscal year 2001 and fiscal year 2002 specifically to address the need for the assistance in the 2001 crop year.

The legislation before us today makes $5.5 billion available for that purpose. In my opinion, this amount is not sufficient to meet the needs of our producers, and I intend to work further as this bill moves forward through the legislative process to improve that message. But today the important point is to move the process along, because the fiscal year 2001 funds will expire unless delivered to hard-pressed farmers by the end of September, it is imperative that a bill be sent to the President for signature before the August recess.

To ensure that outcome, the House must move the legislation this week. Despite its current imperfections, farmers need House passage of H.R. 2213 today.

The Committee on Agriculture is now in the process of writing a new multiyear farm bill that will end the need for these annual emergency packages. We expect to bring that bill to the floor before the end of the year and hope to have it in place for next year's crop. But today we are dealing with the immediate crisis facing farmers in this year's crop, and that is why I am asking my colleagues to support passage of H.R. 2213.

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Additionally, Mr. Speaker, it has come to my attention that there are some misconceptions currently being spread about the bill, including one suggesting that H.R. 2213 will extend the Northeast Dairy Compact. This is simply not the case.

First of all, dairy compacts are not within the jurisdiction of the Committee on Agriculture and, therefore, are not germane to any legislation that our committee would report. Second, there are simply no dairy provisions of any kind in H.R. 2213, as amended.

When I introduced the bill originally, it did include a simple extension of the dairy price support program due to expire at the end of this year, but even that provision has been removed from the amended version.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this bill even though I, too, wished we could do more. At the outset, let me recognize the work of the gentleman from Texas (Chairman COMBEST) and state for the record that I agree with him that American agriculture is in need of immediate assistance, and that producers of our food and fiber are at risk.

Last year crop prices were at a 27-year low for soybeans, a 25-year low for cotton, a 14-year low for wheat and corn and an 8-year low for rice. Very little recovery has occurred since that time. The need for the $5.5 billion in assistance provided by this bill is so great that a doubling of this amount could easily be utilized.

Because this is the fourth year in a row that we have provided ad hoc assistance to compensate for low commodity prices, however, I consider it crucial that we provide aid with a view toward the long term.

While the budget should provide us the authority to improve our commodity programs, there are a couple of reasons why the amount made available in the budget will soon appear insufficient. First, aside from amounts in the bill before us, the budget provides $73.4 billion to add to our baseline over 10 years. During the course of the Committee on Agriculture's hearings, however, representatives of agriculture have responsibly argued for several times that amount.

Second, the budget is not ironclad. The Committee on Agriculture has a budget allocation for fiscal year 2002, but not for the succeeding fiscal years. The remaining $66 billion is only available to the extent that the on-budget surplus is greater than the Medicare surplus. Our ability to address agriculture's long-term need is now very sensitive to any deterioration in the overall budget surplus.

The reality of the tight budget situation we faced was recently made abundantly clear by a letter from the administration. Prior to the markup of this economic assistance, the OMB Director advised that, if the committee surpassed the $5.5 billion, he would recommend the President not sign the bill.

A bare majority of my colleagues on the Committee on Agriculture agreed with the gentleman from Ohio (Mr. Boehner) and me that we needed to save every penny we could to draft a responsible long-term farm bill.

I am proud to say that, by adopting our amendment, the Committee on Agriculture has faced its responsibility to prioritize agriculture's needs within the budget. Our chairman presided over a full debate with the utmost fairness. For those of us who were strong advocates for agriculture, we arrived at a difficult decision.

The bill before the House today provides a reasonable response to our producers who are suffering from the continued slump in the farm economy. Assistance is provided in a very clear way. Take the aid provided for the most recent crop and prorate the payments to equal $5.5 billion. I repeat, assistance is provided in a very clear way. Take the aid provided in the most recent crop and prorate the payments to equal $5.5 billion. Funds will be disbursed to producers quickly and simply.

While I would have preferred alternative ways to deliver this assistance, we are constrained in this manner because the assistance must be provided by September 30.

We also need to analyze all fiscal year 2002 options at the same time in order to provide the right long- and short-term policy mix. Many specialty crops that desire additional assistance over that provided in the bill can only be assisted in fiscal year 2002 money. We can provide such assistance, but it must be provided fairly and consistently in keeping with our long-term strategy.

Mr. Speaker, I cannot disagree with those who say that the $5.5 billion is inadequate; however, this is all we can afford at the moment. As we pass this bill, it is crucial that we immediately move toward an improved and reliable long-term policy that benefits farmers and taxpayers alike.

I urge the passage of the bill.

Mr. Speaker, I support this bill even though I wish we could do more.

At the outset, let me recognize the work of Chairman COMBEST and state for the record that I agree with him that American agriculture is in need of immediate assistance and that the producers of our food and fiber are at risk. Last year, crop prices were at a 27-year low for soybeans, a 25-year low for cotton, a 14-year low for wheat and corn and an 8-year low for rice. Very little recovery has occurred since that time. The need for the $5.5 billion in assistance provided by this bill is so great that a doubling of this amount could easily be utilized.

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First, aside from amounts in the bill before us, the Budget provides $73.4 billion to add to our baseline over ten years. During the course of the Agriculture Committee's hearings, however, representatives of agriculture have responsibly argued for several times that amount.

Second, the Budget is not ironclad. The Agriculture Committee has a budget allocation for FY 2002 but not for the succeeding fiscal years. The remaining $66 billion is only available to the extent that the on-budget surplus is greater than the Medicare surplus. Our ability to address agriculture's long-term need is now very sensitive to ANY deterioration in the overall budget surplus.

The reality of the tight budget situation we face was recently made abundantly clear by a letter from the Administration. Prior to the markup of this economic assistance, the OMB Director advised that if the Committee surpassed the $5.5 billion, he would recommend that the President not sign the bill.

A bare majority of my colleagues on the Agriculture Committee agreed with Mr. BOEHNER and me that we needed to save every penny we could to draft a responsible long-term farm bill. I am proud to say that by adopting our amendment, the Agriculture Committee has faced its responsibility to prioritize agriculture's needs within the budget. Our Chairman presided over a full debate with the utmost fairness and, for those of us who are strong advocates for agriculture we arrived at a difficult result.

The bill before the House today provides a reasonable response to our producers who are suffering from the continued slump in the farm economy. Assistance is provided in a very clear way: take the aid provided for the most recent crop and prorate the payments to equal $5.5 billion. Funds will be disbursed to producers quickly and simply. While I would have preferred alternative ways to deliver this assistance, we are constrained to this manner because the assistance must be provided by September 30

We also need to analyze all FY 2002 options at the same time in order to provide the right long and short-term policy mix. Many specialty crops that desire additional assistance over that provided in the bill can only be assisted with FY 2002 money. We can provide such assistance, but it must be provided fairly and consistently in keeping with our long-term strategy.

Mr. Speaker, I cannot disagree with those who say that $5.5 billion is inadequate, however this is all we can afford at the moment. As we pass this bill, it is crucial that we immediately move toward an improved and reliable long-term policy that benefits farmers and taxpayers alike.

I urge the passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. NUSSLE), the chairman of the Committee on the Budget.

Mr. NUSSLE. Mr. Speaker, I rise in strong support of H.R. 2213, the Fiscal Year 2001 Economic Assistance Act. It provides $5.5 billion in markets loss payments and other agriculture assistance.

I am pleased that the Committee on the Budget was able to work hand in hand with the Committee on Agriculture to make this bill possible.

Recognizing the needs of farmers, the Committee on Budget reported and the House passed a budget resolution that revised the allocations and budgetary totals for the current fiscal year to accommodate $5.5 billion in additional emergency agricultural assistance for the crop year of 2001. We budgeted for this emergency. This fits within the budget. It is responsible.

All the Committee on the Budget asked was that the Committee on Agriculture produce a straightforward bill that avoided accounting gimmicks and reserved sufficient funds to meet future crop year needs and permanently reform agricultural assistance programs so we can move away from this Band-Aid approach of the past 3 years. H.R. 2213 more than up holds the Committee on Agriculture's part of this bargain.

As the chairman of the Committee on the Budget, I have the privilege of reporting to my colleagues that this bill is within the budget. I commend the gentleman from Texas (Chairman COMBEST), the gentleman from Georgia (Chairman CHAMBLISS), the gentleman from Texas (Mr. STENHOLM), ranking member, for their hard work on this and all the members of the Committee on Agriculture.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in allowing me to speak on this bill.

I know it has been hard for the members of the Committee on Agriculture, but I am personally disappointed that there appears to be no funding for the conservation programs in the agricultural supplemental. This is especially troubling in light of the fact that it appears that the Committee on Appropriations plans to sharply reduce funding for our major conservation program in the next fiscal year, including the Wetlands Reserve Program, the Wildlife Habitat Incentives Program and Farmland Protection Program.

Only 5 percent of the USDA funding rewards voluntary efforts for protecting our drinking water supplies, to provide habitat for wildlife, protect open spaces.

There are many programs where farmers voluntarily want to come forward, but as a result of declining funding levels for conservation programs, three out of four farmers, ranchers and foresters are rejected when they seek cost-sharing to improve the quality of our drinking water supplies; 9 out of 10 are rejected when they offer to sell development rights to help combat sprawl and protect farmland; half of our farmers and ranchers and foresters are rejected when they seek basic technical assistance. Sadly, we are not stepping forward to help the incredibly productive farmland that surrounds our metropolitan area, the urban-influenced farmland.

Mr. Speaker, as we struggle with declining amounts of money because of some decisions that we have made, that, frankly, I think some of us are hoping that people recognize were inappropriate, we need to make sure that we are dealing with efforts to equip and ensure that we maintain the agricultural base.

This is an opportunity for a win-win to protect the environment, to enhance the vast majority of small farmers that are at risk, and to make sure that we are preserving water quality supplies. I am hopeful that we can do better in the future.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Speaker, I thank the chairman for the opportunity to speak today, and I thank him for his leadership on this and other matters relative to the agriculture community in our country.

I rise in strong support of this bill. I would say to the gentleman from Oregon (Mr. BLUMENAUER) I share the same concerns that he does about conservation, and I hope we can address that to a greater extent in the farm bill.

But what we are doing today is coming forward with a market assistance package, and I emphasize that because it is not a disaster bill. A market assistance package is necessary for our farmers because, for the fourth year in a row, we are facing low commodity prices all across the spectrum.

This bill is responsible. It addresses the needs of producers. It puts an amount of money in the pocket of producers as quickly as we can do it. Our folks need that relief now. At the same time, if the American people are going to be assured that they are going to continue to have quality food products at low-commodity prices, we need to pass this bill today.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I rise in support of this measure, but I also want to express some disappointment with the lack of any type of funding for conservation programs within this farm supplemental bill for 2001.

While there is no doubt that our Nation's farmers, ranchers and foresters are struggling financially, this measure merely continues the failed economic policies of the current farm bill, directs cash transfers that many of us believe distort the marketplace and drives commodity prices even further down.

The next farm bill, which the House is currently considering, must be more inclusive and provide creative new revenue streams to assist our Nation's family farmers. It is my hope that voluntary incentive-based conservation programs which provide landowners with much-needed revenue while also assisting them in meeting soil, air and water environmental compliance is a part of the new farm bill.

For instance, programs such as Wetlands Reserve, Wildlife Habitat Incentive Programs and the Farmland Protection Program not only help our farmers to promote preservation of open space, habitat for wildlife and improve water quality, but they also increase farm profitability.

Two-thirds of America's farmers do not benefit from any traditional income support programs under the current farm bill. Furthermore, more than 90 percent of USDA payments go to only one-third of America's farmers who produce commodity crops. For example, States such as California and Florida receive less than 3 cents from USDA for every dollar they earn. Conservation payments provide an important source of funding that allows farmers throughout all regions of the country to retain their land while providing benefits to society, including cleaner drinking water and improved recreational opportunities.

Currently, funding levels are insufficient to meet the demands of conservation programs. Three out of every four farmers, ranchers and private forest landowners are turned away when they seek to participate and help protect habitat and improve the quality of drinking water supplies through these land conservation programs.

Mr. Speaker, I hope the conservation funding aspect becomes a major feature of the next farm bill. I look forward to working with the leadership on that.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Speaker, agriculture is Montana's number one industry, but with the cost of farm production at an all-time high and farm incomes sagging, I am deeply concerned about agriculture's future in our State.

H.R. 2213 will provide much-needed help to Montana producers, but the bill fails in many ways. The assistance level provided for in this legislation is not sufficient to address needs of many families this year.

H.R. 2213 fails to address the needs of dairy farmers, sugarcane growers, those who graze their wheat, barley, and oats, as well as producers who are denied marketing loan assistance because they do not have an AMTA contract.

Members who supported the $5.5 billion in assistance at the committee level argued that a cut in funds to producers this year was necessary to save funds for the new farm bill, but I fear that many producers in my State will now have to face the reality that they may not make it for the next farm bill.

While this bill is far from perfect, it is a first step in keeping Congress' commitment to stand by American farmers and ranchers until a permanent safety net is in place.

I want to thank the gentleman from Texas (Chairman COMBEST) and the staff for all their hard work on behalf of America's rural communities.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. SHOWS).

Mr. SHOWS. Mr. Speaker, dramatic increases in energy costs have hurt everybody, especially in the agriculture industry. Today, right now, farmers in my district, a lot of them, are going bankrupt, clearly not able to keep up with their energy bills.

We need to encourage more domestic production of oil and gas, but that is for the future. We will not solve the crisis of today.

I am not really not here to point fingers, assign blame for skyrocketing energy prices, but I am here on behalf of family farmers who do seek solutions. They need our help now.

Despite repeated appeals from my colleagues and myself, this Congress, this leadership has ignored the plight of ordinary citizens who are suffering this energy crisis. Let us face the fact that some farmers and ranchers have seen their gas bills double and triple over the last year, and this is through no fault of their own.

Our economy depends on agriculture, and especially Mississippi, because we are still a rural economy.

This may not be a natural disaster like a tornado or flood, but it is a disaster just the same. It is an economic disaster that threatens the very existence of our farmers.

If we cannot see fit to address these needs through supplemental funding, I challenge the Congress to take up the issue separately.

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I have introduced H.R. 478, the Family Farmers' Emergency Energy Assistance Act, which will provide immediate and long-term emergency assistance to our farmers and ranchers, including crop and greenhouse growers and poultry and livestock producers.

H.R. 478 will authorize the Secretary of Agriculture to provide grants to help farmers and ranchers to deal immediately with financial pressures caused by this crisis. This bill would also make low-interest loans available to help deal with the energy crisis for the months ahead.

H.R. 478 defines what constitutes an "energy emergency" and lays out a formula that will work. H.R. 478 is a farm energy crisis bill that will ensure that agriculture producers suffering an energy crisis will get assistance.

I am calling upon our leaders in Congress to move this emergency assistance bill quickly to passage. In a world where reliable energy costs are tantamount to success or failure, we should remember the pain rural America is enduring while we stand here and debate.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise today to voice my support for the farmers of my home State of Mississippi and for this legislation.

Could we do more? Yes. Should we do more? I hope by the end of the day, by the time this Senate takes this up and it goes to the President, that there will be more. In terms of real dollars, Mississippi farmers are facing their 4th year of prices that have not been this low since the Great Depression.

I look forward to working with the committee and the chairman to look at ways in the farm bill that we can have long-term solutions to crises that come up, not only in our commodities and crops, but for farmers who are in other areas, such as poultry. We need to find ways so that if we do have an energy crisis or spike that we can meet those needs, whether through grants or loans, so that they too can manage their farm income in a way that is predictable and gives them certainty. We need to help our farmers avoid the bankruptcies that we are seeing today in places across my district and in the Southeast.

As we continue to get the emergency assistance and the long-term care, I look forward to working, as chairman of the Congressional Sportsmen's Caucus Waterfowl Task Force, in getting the conservation titles of the farm bill in order for the good it does both for our environment and for our farmers.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman from Texas (Mr. STENHOLM) for yielding me this time, and I want to compliment the chairman of the committee for this supplemental, which goes a long way to preserving the rural legacy of this United States, understanding the fact that every year we lose hundreds of farms all across the Nation. This injection of dollars will go a long way into helping make our farms sustainable and, to a large extent, if we work the right way, making those farms profitable.

I would also ask the Chairman, as we move through the rest of this session, to understand that not only do the AMTA payments make a difference, but the conservation title of the farm bill goes a long way into diversifying a great deal of what happens in our ag communities.

In our ag communities, there is literally an ag corridor; and we need to keep it from being fragmented. In our ag communities, there is also a habitat conservation corridor for wildlife upon which many farmers depend on diversifying their ag businesses. Whether it is hunting or fishing, the conservation title goes a long way into preserving the rural legacy of this country.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. LUCAS).

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise today to support the agricultural assistance package, but I must state flatly for the record that I was extremely disappointed last week when this much-needed package was reduced from $6.5 billion to $5.5 billion in committee. A majority of the Committee on Agriculture chose not to support me or the chairman in a package that was equal to last year's assistance. This billion dollar cut will cost Oklahoma producers 10 cents a bushel for wheat and effectively kills the LDP graze-out program for 2002. That is unacceptable.

This is the worst time to be cutting funding for agricultural producers. Commodity prices remain low, input prices are increasing and continue to increase dramatically. If anything, we should be increasing our funding for these programs. Yes, this assistance package is a good first step. It is insufficient to meet the needs of agricultural producers, especially in Oklahoma, but at least it is headed in the right direction.

I want to assure my friends and colleagues here on the floor that while I think this will help producers across the country, and particularly in Oklahoma too, that I intend to work with the other body to ensure that the cuts made last week by the Stenholm-Boehner amendment are restored and that we provide our producers with that minimum $6.5 billion.

Mr. STENHOLM. Mr. Speaker, I have no further speakers at this time, and I reserve the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, I thank the chairman for yielding me this time, and I rise to support this bill but to express my disappointment that the House Committee on Agriculture voted last week to reduce the supplemental aid to farmers in the supplemental farm package last week. I opposed the amendment by the gentleman from Texas (Mr. STENHOLM) to reduce the supplemental aid to $5.5 billion and supported the chairman's proposal to provide $6.5 billion in support; the same level as in prior years.

Our farmers are struggling, and we must provide them with the aid they need. This funding bill is better than no assistance, but we really needed that additional billion dollars to help our farmers. I consider this a first step towards ensuring that we provide our farmers the support they need.

We continue to wrestle with historically low prices, and yet this year, in our part of the country, we are having very poor planting conditions and are expecting to have lower yields than in prior years. So we need more aid to maintain the same level as prior years, not less. Now is certainly not the time to cut it, particularly with energy costs driving up the cost of fertilizer and everything else.

Mr. Speaker, I intend to help the chairman and other committee members in an effort to restore funding as the process moves forward.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I thank the chairman for yielding me this time, and I rise today for eighth district farmers in North Carolina to support H.R. 2213, the 2001 Crop Year Economic Assistance Act. I want to thank the chairman for his continued leadership and diligence in bringing assistance to our Nation's farmers who are in need.

I am supportive of this bill, though I support the $6.5 even more; and I hope it will bring some relief to our farmers plagued by low commodity prices, rising energy costs, drought, and a slow world economy. USDA estimates that without government assistance, farmers' income could drop to historical lows, so it is imperative we act now.

H.R. 2213 does not provide the same level of assistance as previous years but I urge my colleagues' support and it is my sincere hope that we can provide more adequate assistance as we move through the legislative process.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to thank him for his hard work and leadership in speeding this crop assistance package to the floor today. Family farmers across Indiana appreciate the gentleman's aggressiveness.

Mr. Speaker, by providing $5.5 billion in economic assistance, this farm bill represents a much-needed first step in keeping Congress' promise to America's farmers and ranchers, but it is only a first step.

It is said that the sower sows in expectation, and this farm bill fails to meet the expectation of American farmers in at least two respects. First, the assistance level it provides is not sufficient to address the total needs of farmers and ranchers; and, second, the bill's scope is too narrow, leaving many needs completely unaddressed.

At a time when real net cash income on the farm is at its lowest level since the Great Depression, it is not time to cut supplemental aid to farmers. Although I urge my colleagues to support this bill as a first step toward helping our Nation's farmers, I am deeply disappointed that this bill leaves out $1 billion in farm aid for only a few short-term benefits.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, let me congratulate the chairman, the gentleman from Texas (Mr. COMBEST), and the gentleman from Texas (Mr. STENHOLM) for continuing to move this process along.

We all know that we have great difficulty in ag country. We have low commodity prices, we have higher fuel costs, and the pressure is on farmers across the country and has been. Until we open more markets for our farmers, this pressure will continue to be there because our farmers continue to outproduce their competitors around the world.

There has been a lot said here about the size of this package. As the author of the amendment, along with my good friend, the gentleman from Texas (Mr. STENHOLM), I believe that the $5.5 billion, as allocated by the budget, is a sufficient amount of money for aid now. Would I like to do more? Of course, I would like to do more. But the fact is we just went through a budget process and allocated $5.5 billion for this year's emergency assistance to farmers. To go back on that now opens the door to the other body to raise the number even higher. I think what we have done here is the fiscally responsible thing to do.

Secondly, we are about to go through the new farm bill. We are going to have a major debate about how to reallocate those resources dedicated in the budget to the new farm bill. Let us not stick our fingers into the pie and take some of next year's money for this year's problems.

Mr. COMBEST. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. COMBEST) has 7½ minutes remaining; the gentleman from Texas (Mr. STENHOLM) has 8½ minutes remaining.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, American agriculture is in a predicament. Should we go to the free market system and say survival of the fittest in an international market and price for food and fiber?

It is complicated by a couple of situations. One is the fact that other countries, such as Europe, subsidize their farmers up to five times as much as we subsidize our farmers.

How interested are we in maintaining a vital agricultural economy in the United States? I would suggest to my colleagues that that ability to produce food is even more important than the production of energy for our national security. With our dependency on imported energy, we have seen what can happen when OPEC decides to hold back. Think what might happen with food.

Right now, farmers are faced with low commodity prices. A 27-year low for soybeans, 25-year low for cotton, a 14-year low for wheat and corn, an 8-year low for rice. Over the past 3 years, net cash income fell in real dollars to its lowest point since the depression.

Now is the time that we have to make the decision of standing up for the survival of American agriculture. I would just suggest that farmers need help to survive. In addition to low commodity prices we have seen increased fuel costs of $2.4 billion over the last year because of higher energy prices.

Mr. COMBEST. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Speaker, I thank the chairman for yielding me this time. It is with concern today that I rise on the House floor. This is an important piece of legislation. We have worked hard at making certain that the farmers of Kansas and across the country have access to additional resources this year to tide them over; and yet the actions of our House Committee on Agriculture last week, I think, are inadequate in reaching that goal.

I voted against the passage of this bill from the committee, and yet I know it is important for the process to continue. We have hope that additional dollars will be placed in this legislation before this bill returns from the Senate.

Two weeks ago I spoke on the House floor about the difficulties facing farmers in my State. I talked about corn prices at $1.89 and gasoline at $1.93. That does not work. Combines and custom cutters are working their way across Kansas now. Wheat prices dropped 25 cents last month; and when I looked at the board this morning, in Dodge City wheat was $2.71, down another 4 cents.

Assistance today is important. Many of my farmers will not be able to wait around and see what happens with the farm bill and the improvements that we hope to make in agricultural policy in this Congress unless they have some dollars to tide them over now. The crisis is real, and the consequences of our failure to act are significant.

I joined the chairman in supporting an increase for assistance for farmers. Our position failed by one vote, 24 to 23. So even within the House Committee on Agriculture, there is disagreement in the best way to help producers. However, I think now is not the time to hold up this bill over our previous disagreements. It is time for those of us concerned about agriculture and rural America to come together and to work on behalf of our Nation's farmers and ranchers.

I look forward to that process continuing, and I look forward to working with my chairman and the ranking member to see that good things happen in Kansas and American agriculture.

Mr. COMBEST. Mr. Speaker, I yield 1½ minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I thank the chairman for yielding me this time; and really for the benefit of some of my colleagues who are not from farm country, I thought I would like to take a minute today to talk about what is happening to agriculture here in the United States and around the world. Because it is easy for some people to say the problem is the farm bill, the problem is freedom to farm.

It may well be true that some of the problems we face in agriculture today were exacerbated by the last farm bill. But the truth of the matter is what we are into now is the 4th consecutive year of worldwide record production.

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Mr. Speaker, I think against that backdrop with any farm policy in the United States, our farmers would be facing a tough year as it relates to our commodities.

The second thing we have to appreciate, in Europe we see huge subsidies for agriculture. Beyond that, we have permitted, we have allowed our trading competitors to subsidize their exports to the tune of $6 billion while we limit ourselves to $200 million. We have put ourselves and our farmers behind the eight ball relative to our trade policy and relative to our agriculture policy. Ultimately that is all coming together.

There is a desperate need in agriculture today for some kind of help. We are here today, and the Committee on the Budget has responded appropriately. The bill in front of us today is the right answer. Ultimately there will be negotiations between the House and Senate and the White House, and hopefully this can be plussed up. There are serious problems in agriculture, most of which are not controllable by our farmers.

Mr. Speaker, I think this is a good bill, and I hope all of my colleagues on both sides of the aisle will join us in supporting this legislation today.

Mr. COMBEST. Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support this bill. I associate myself with all of the remarks saying we should do more; but I would also point out that this amount of money today is within the budget that was passed that we have agreed to live under this year. I think that is a significant point. And also, as the chairman pointed out in his opening remarks, time is of the essence.

Mr. Speaker, we must have this bill to the President for his signature by August 1 if we are to have any hope of dealing with the multitude of problems that this bill is designed to help.

Mr. Speaker, I encourage my colleagues to pass this bill today and move the process forward, and encourage the other body to do the same.

Mr. Speaker, I yield back the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the comments of the gentleman from Texas

(Mr. STENHOLM) and appreciate the good working relationship that we have. Our committee works on behalf of American agriculture, I think, on a bipartisan basis as well as any committee in the Congress.

It is vitally important, and I strongly urge my colleagues who have any reservation about the level of this funding to move forward with this suspension to allow the House to have completed its action so that we make for certain that the $5.5 billion which was established in the budget resolution is in fact eligible to be paid to farmers by the end of the fiscal year of September 30. I think it also sends a message to farmers that in fact there is some assistance on the way at a very critically needed time.

Mr. Speaker, to the Members who spoke of the committee's action in the next few weeks in reporting a farm bill, I will say that we have heard them and all others. This will be a comprehensive farm bill. It will have a strong conservation title, as some have indicated is needed. It is an area that we are looking at very carefully. It is something that we will be trying to craft to deal with all aspects of American agriculture, and we will be spending a great deal of time on it. It is the intent of our committee to report a bill by the beginning of the August recess so that consideration for a full farm bill in a much-needed sector of the American economy that is suffering tremendously can be moved forward; and that we will be able to send a message to American agriculture that there is help on the way.

Mr. Speaker, I appreciate the interest, the intensity, and passion of all of my colleagues on the committee.

Mr. BISHOP. Mr. Speaker, H.R. 2213 will provide the much needed help that my farmers in the Second Congressional District need today. The $5.5 billion is not sufficient to address all the farming needs, but it goes a long way in helping our family farmers. Input costs have skyrocketed for every one including our farming community. I hope this supplemental bill moves quickly to help alleviate some of these costs.

I am happy with the way our peanut farmers concerns have been addressed in this bill, $25.83 a ton for quota peanuts and $13.55 for additional peanuts will help ease the burden that our peanut farmers face today.

I am glad that we continue as we should standby our American farmers. This will provide immediate relief while our Committee continues to work hard on drafting the new Farm bill.

I urge my colleagues to support H.R. 2213 and speedily get these funds to our farmers.

Mr. COMBEST. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Texas (Mr. COMBEST) that the House suspend the rules and pass the bill, H.R. 2213, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. COMBEST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2213, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 178, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 178

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with "for administration" on page 13, line 24, through "section 40117;" on line 25; beginning with "Provided" on page 14, line 12, through line 20; beginning with "Provided" on page 15, line 9, through line 14; beginning with "Provided" on page 23, line 20, through page 24, line 2; "notwithstanding any other provision of law" on page 26, line 10; beginning with "together with" on page 26, line 15, through the closing quotation mark on line 16; page 31, line 9 through "as amended," on line 10; page 38, line 23, through page 45, line 2; page 50, line 22, through page 51, line 15; page 55, line 6, through line 13; page 56, line 16, through page 57, line 2. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

UNFUNDED MANDATE POINT OF ORDER

Mr. MORAN of Virginia. Mr. Speaker, pursuant to section 426 of the Congressional Budget and Impoundment Control Act of 1974, I make a point of order against consideration of the rule (H. Res. 178) because it contains an unfunded Federal mandate.

Section 426 of the Budget Act specifically states that the Rules Committee may not waive this point of order.

In the rule of H. Res. 178, and I quote: "All points of order against consideration of the bill are waived." Therefore, I make a point of order that this bill may not be considered pursuant to section 426.

The SPEAKER pro tempore. The gentleman from Virginia makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974. According to section 426(b)(2) of the act, the gentleman must specify language in the resolution that has that effect. Having met this threshold burden to identify the specific language of the resolution under section 426(b)(2), the gentleman from Virginia (Mr. MORAN) and a Member opposed will each control 10 minutes of debate on the question of consideration under section 426(b)(4).

Following the debate, the Chair will put the question of consideration, to wit: Will the House now consider the resolution?

The gentleman from Virginia (Mr. MORAN) is recognized for 10 minutes.

Mr. MORAN of Virginia. Mr. Speaker, I raise a point of order because section 343 of this appropriations act directs the local transit authority to change the name of its transit station at Ronald Reagan Washington National Airport with local funds. The cost to comply with this provision is estimated to be $405,476; but the principle being violated is far more costly.

Mr. Speaker, earlier this year the local jurisdictions which comprised the transit board elected not to change the name of the Metro station at the airport. The board determined that the estimated cost of these changes would be better spent on other priorities.

In addition to the rule that requires the request to come from the local jurisdiction in which the station is located, the regional transit board has a long-standing policy of not naming their transit stations after people, preferring instead that they be named after the location that they are serving.

At one time many Democrats wanted the RFK Stadium stop to be named after Robert Kennedy, but that suggestion was rejected because Stadium-Armory is more descriptive, and named after a place rather than a person.

☐ 1230

In my view, that was a correct use of local taxpayer resources. I have to think that if President Reagan were not tragically suffering from Alzheimer's disease, he would join the board and the local governments in resisting these heavy-handed tactics of the Federal Government in forcing the local government to act contrary to its best judgment.

In 1964 following the tragic death of President Kennedy, an overzealous Johnson administration by executive fiat renamed Cape Canaveral Cape Kennedy without consulting the local jurisdictions. Had the Johnson administration consulted the local jurisdictions, they would have learned the importance of the name Canaveral dating back to the time of the Spanish explorers and a part of the cape's identity, culture and heritage for the succeeding 400 years. For the next 10 years, the local communities resisted the Federal action, preferring instead to use the term Canaveral. In the early 1970s, the Florida State legislature showed its defiance by enacting legislation to rename the cape Cape Canaveral. By default and Federal inaction, that name still stands.

In the instance of the airport, the localities were never consulted on the 1998 act to rename the airport. Had Congress conducted hearings and allowed local elected officials to testify, it would have learned that Washington National Airport already had a name in honor of our first President, George Washington, one of our founding fathers, commander in chief of the Continental Army during the War of Independence, our first President and a resident of northern Virginia, living just down the very road that runs by the airport. The airport was literally built on land owned by George Washington's family.

Recognizing the direct relationship and strong historical roots of the property, President Roosevelt asked that the airport's main terminal, completed in 1946, be designed to resemble Mount Vernon. That resemblance is now a historic landmark.

Like the renaming of Cape Canaveral, resentment of the name change is on the minds of northern Virginia's local residents. We had a compromise proposal to rename the new terminal after President Reagan. That was rejected even though its existence bears testimony to the success of devolving the operations of the federally owned airport to a local authority. When it was under Federal control, no capital improvements were undertaken. Now the local authority has invested a billion dollars in capital improvements with non-Federal funds.

Substantial honors have already been conferred upon President Reagan and more will be. There is nearly a $1 billion Ronald Reagan building and international trade center. Other than the Pentagon, it is the largest Federal building in existence. It is just a few blocks from the White House. We have a *Nimitz* class aircraft carrier. And, of course, the naming of the airport. President Reagan's legacy will be defined by what he did as President, not by what we do for him. I am sure he would join me in opposing this provision that mandates the local transit authority rename the transit station.

In referencing the controversy of the Metro station issue in his weekly column, George Will said:

> How many ways are there to show misunderstanding of Reagan's spirit? Let us count the zealots' ways.
>
> Political freedom implies freedom from political propaganda—from being incessantly bombarded by government-imposed symbols and messages intended to shape public consciousness in conformity with a contemporary agenda. Such bombardment is unquestionably the aim of some Reaganite monument mongers. They have the mentality that led to the lunatic multiplication of Lenin portraits, busts and statues throughout the Evil Empire.

Let us resist the urge to establish Ronald Reagan's legacy by renaming everything after the former President, thereby trivializing the principles that he stood for.

I urge that we oppose this unfunded Federal mandate.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I rise in opposition to the point of order.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from New York is recognized for 10 minutes.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I would like to take this opportunity to put to rest fears that this provision would violate the Unfunded Mandates Reform Act. While a review by the Congressional Budget Office determined the requirement to rename the station to be an intergovernmental mandate under the Unfunded Mandates Reform Act, renaming the station falls well below the 2001 threshold of $56 million. In fact, this project is estimated to cost approximately $500,000. I submit CBO's findings for the RECORD.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 25, 2001.

Hon. JAMES P. MORAN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN: As you requested, the Congressional Budget Office has reviewed an amendment to H.R. 2299, the Department of Transportation and Related Agencies Appropriations Act, 2002, that was adopted by the Appropriations Committee on June 20, 2001. The amendment would require the Washington Metropolitan Area Transit Authority (WMATA) to redesignate the National Airport Station as the Ronald Reagan Washington National Airport Station, and to change all signs, maps, directories, and other documentation to reflect the new name. Our review was confined to determining whether that requirement constitutes an intergovernmental mandate as defined by the Unfunded Mandates Reform Act (UMRA) and, if so, whether the costs of that mandate would exceed the threshold established in that act.

UMRA defines an intergovernmental mandate as an enforceable duty imposed upon state, local, or tribal governments, unless that duty is imposed as a condition of federal assistance. Because the requirement to rename the station is not a condition of federal assistance, it would be considered an intergovernmental mandate under UMRA. No funding is provided in the bill to cover the costs of complying with the mandate. However, based on information from WMATA, CBO estimates that those costs would be less than $500,000, well below the threshold established in UMRA ($56 million in 2001).

If you wish further information, we will be pleased to provide it. The CBO contact is Susan Tompkins.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

My colleague may claim as he did last night in the Committee on Rules that this provision is impractical. However, in the past, Metro has made name changes to other existing stations, changes that have been just as long and in some cases longer. A station in Virginia that is George Mason University, you would see GMU University. And so we could say RR National Airport. We could look at other provisions where Metro has worked on it.

In addition, Mr. Speaker, it is important to note, as I who have always watched closely unfunded mandates to make sure that we are not saddling local government with an unfair burden. I have cited for the record the threshold of $56 million. But I also must bring out something else very important to my colleagues, that is, when we look at the report which we will consider in the rule and then following as the debate goes on the floor for the transportation appropriations committee, we will find on page 111 that under section 9, Formula Money, that the signs are eligible for funding for the $30 million that Metro will receive from the Federal Government as this year's allocation of appropriation just under section 9. That is $30 million, of which a half a million dollars is eligible for signage.

Mr. Speaker, the gentleman from Virginia helped craft the Unfunded Mandates Reform Act, and in playing such a key role in that creation, he should know that these thresholds were instilled to prevent time-consuming and unwarranted attacks on House legislation. While I appreciate my colleague's efforts to uphold the integrity of the Unfunded Mandates Reform Act, this is clearly a dilatory tactic meant to delay consideration of the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Speaker, I yield myself such time as I may consume.

First, I would just say to my friend, the gentleman from New York, that you cannot put a price tag on principle. It is a principle, Ronald Reagan's principle, in fact, that we are attempting to uphold here. It is being violated with this action.

Mr. Speaker, I yield 3½ minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of his unfunded mandate point of order.

Section 343 of H.R. 2249 orders the Washington Metropolitan Area Transit Authority to change the Metro stop at the airport to read Ronald Reagan Washington National Airport Station. This is both an unfunded mandate and legislation on an appropriations bill and should not be protected from points of order by the rule that we consider today.

The Washington Transit Authority is an interstate compact dating back to 1967. It has a specific written policy in place adopted by the board of directors covering names of its stations. The specific procedure for station name changes says in part that, one, the local jurisdiction in which the station is located shall endorse and formally request a name change to WMATA's board of directors; two, WMATA's Office of Engineering and Architecture will evaluate the proposed name change concerning length of name, other factors and provide cost estimates; three, the local jurisdiction proposing the name change shall obtain community support and bear the cost of the name change; four, the local jurisdiction shall then bring the proposal and supporting data to the WMATA board for action; and, five, the WMATA board of directors must approve the proposal.

None of this is being followed in the procedure directed in the appropriation bill. And the proposers themselves, if this Congress tried to do the same thing in their district, would scream to high heaven that we are invading local jurisdiction.

Over the last several years, a number of communities have proposed name changes, including local funding for the cost, and have built the necessary community support and received WMATA's approval. However, an equal number of name-change proposals have been rejected by the WMATA board. To cite one example, in 1996 councilman for the District of Columbia Jack Evans proposed that the Foggy Bottom-GWU Station be changed to include the Kennedy Center. The board rejected the proposal, saying in part, quote, "The board of directors considers name changes when they enhance our patrons' ability to orient themselves and circulate through the system. To rename stations affording special recognition to a specific institution in neighborhoods with many other establishments may challenge our ability to provide clear and concise public information."

Now, this is a proper exercise of local prerogative. No one has ever suggested that this decision is disrespectful to the memory of President Kennedy. Not at all. But to name a Metro stop for President Ronald Reagan meets none of the five tests outlined in the WMATA policy. The local community, Arlington, has not proposed it. In fact, they do not even support it. And they surely do not want to pay for it.

To continue the quote of commentator George Will, one of President Reagan's strongest supporters, about this Metro stop: "There is something very un-Reaganesque about trying to plaster his name all over the country the way Lenin was plastered over Eastern Europe, Mao over China and Saddam Hussein all over Iraq."

We ought not to sully the legacy of President Reagan by going against one of his fundamental principles. Leave local control to the States, to the cities. Give them due respect.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Mr. Speaker, I think it is very interesting that we hear this cry that this is an unfunded mandate. I would like to make a couple of points about that.

First of all, these same local jurisdictions that Mr. MORAN mentions are required to abide by OSHA regulations. Would the gentleman from Virginia want to oppose OSHA regulations, which are unfunded mandates? The answer is no, of course. The same is true of EPA regulations, considered an unfunded mandate. And the Americans with Disabilities Act, again complied with by the Metro authorities. Instead, we have the gentleman rising in opposition to putting a proper name of the location and a destination point on the Ronald Reagan Washington National Airport Station. It should not have to be this way. We should not be required to have a piece of legislation merely to do something correctly, such as putting the proper name on the Metro maps, on Metro designations and on the signs.

Another point I want to make is that no cost was provided here. I would like to offer a little bit of history about the Metro: the Washington Metropolitan Area Transit Authority was conceived by Congress. It has been largely funded by Congress. This year in the Transportation Appropriations bill alone, over $100 million are from U.S. taxpayers to fund the Metro. There is plenty of money to handle the cost of signs.

Let us talk more about the cost of signs. Recently there have been seven changes to the Metro in signs. These changes have occurred since President Clinton signed the law naming National Airport the Ronald Reagan Washington National Airport. That's seven changes at a cost of $713,000. I do not know where this half a million dollar figure is coming from, but Metro has made seven system-wide changes at a total cost of $713,000. So whether it is 100, $125,000, or whatever the cost, I am sure there is the necessary amount of money in the over-$100 million being provided by United States taxpayers all across this Nation.

People from the great State of Kansas who ride this Metro system when visiting or working in D.C., are helping subsidize this. I do not think it is too much to ask for Metro to list the entire name of a stop, so that when people come in from out of town they know that they are going to the Ronald Reagan Washington National Airport Station, a location, a destination on the Metro. We are not asking for a great deal.

This is a request that has been repeated many times since February 6, 1998. And in this time, there have been these seven changes. There was a letter sent in April by 22 Members of Congress asking the Metro authorities to change this. It has been completely ignored. This has been transformed into a political issue. It should not be. It should just be a simple matter of having accurate maps reflecting destination points within the Washington area Metro system.

Mr. Speaker, I think it is important that we carry forward with this. It is not an unfunded mandate. There is money there. It does not fit the definition of an unfunded mandate according to the Congressional Budget Office, as the gentleman from New York (Mr. REYNOLDS) points out.

I request that the Chair rule against this.

□ 1245

Mr. MORAN of Virginia. Mr. Speaker, I yield myself 15 seconds to share with the gentleman the fact that OSHA is exempt from the unfunded mandates law because it is a civil rights provision, and the Federal Government only contributes 6 percent of operating costs to the Metro system.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. BARR), the original sponsor of this legislation.

Mr. BARR of Georgia. Mr. Speaker, I thank the distinguished gentleman from New York (Mr. REYNOLDS) for yielding me this time.

Mr. Speaker, let us put all of our cards on the table. The other side has been irritated no end that they are in the minority, and it irritated the heck out of them 3 years ago when the name of National Airport, over which this Congress has jurisdiction, was changed by majority vote of the people of the United States of America through their representatives, was changed to reflect Ronald Reagan's name. They lost that vote. Get over it, guys. You lost it.

Not satisfied with that, not satisfied with simply playing by the rules and recognizing that the name change went through the Congress, was signed by none other than President Bill Clinton, what they are doing now is they keep trying to come in the back door. They go to their friends on the Metro board, which has never before had a problem with any name change. They have operated like any other metropolitan transit board. When there is an official name change by law, the signage and the literature is changed to reflect that official name. Yet this time it is different. The two sides over there have gotten together and they have decided, well, what we could not do fairly, let us come in through the back door.

It is time for this Congress to tell these guys to grow up, recognize reality, handle this matter the way it has always been handled in the past, when there is a name change by law, signed by the President at a Federal facility, and it relates thereafter to a Federal transit board that receives hundreds of millions of U.S. taxpayer dollars. It is time to just simply let them move on, make the name changes that are always made.

In this case there have been not one, not two, but, count them, I would say to the gentleman from Virginia (Mr. MORAN), seven name changes, comprehensive name changes of stations within the Metro system, some considerably longer than the now official name of Ronald Reagan Washington National Airport. Metro has never had a problem with any of those.

There is nothing defective in this rule. The gentleman on the other side knows that, but he is wasting the time of this Congress raising a specious unfunded mandate objection. This clearly, Mr. Speaker, is not an unfunded mandate. The Metro board receives far more, in excess of $100 million, in this upcoming fiscal year for the running of this system. This change would cost, at most, several thousand dollars. The inflated estimates that we hear from the other side are just inflated propaganda estimates. They do not reflect reality. They do not reflect the reality of any of the other name changes.

This is not an unfunded mandate. This is a proper rule, and, as I say to the distinguished gentleman on the other side, let this issue die. This has never been a problem with this or any other Metro board, I would say to the gentleman from Virginia (Mr. MORAN).

Let us move forward. There are other pressing matters that relate to the Metro board. I think the gentleman would agree with that. Yet they are stubbornly, and with the support of the gentleman, refusing to simply do what the board has done in every other instance, and every other transit board has always done, whether it is reflecting the name of John F. Kennedy or former President Eisenhower or anybody else, and simply make the changes and let us move on.

Would the gentleman agree that that makes sense, let us just move on?

Mr. MORAN of Virginia. Mr. Speaker, will the gentleman yield?

Mr. BARR of Georgia. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. No, I do not agree. The gentleman's recollection of the facts is not accurate.

Mr. BARR of Georgia. Mr. Speaker, I take back my time. That is what I suspected, and I wanted to give the gentleman the benefit of the doubt and get him on record.

The other side is not interested in just moving on. We are, Mr. Speaker. We are not asking for anything out of the ordinary, out of standard operating procedure, but to simply say the name of the airport has been lawfully changed. It was signed by a Democrat President into law over 3 years ago. It is high time that the Metro board did what they have done in every other situation. Change the name. Let us move on with this rule and move on with the adoption of the appropriations bill for the American people.

Mr. MORAN of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is certainly not in order to force name changes upon local governments when they are opposed to it.

Mr. Speaker, I yield 30 seconds to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, just to correct the record, there have been eight proposals, as I cited in my opening remarks, in which WMATA rejected renaming proposals, some of them equally as long as this one.

Secondly, the naming of National Airport was flawed in its inception. Some years ago when Senator Dole proposed changing the name of Dulles Airport, his legislation left it up to the airport authority to make the decision; did not shove it down their throats.

As for the gentleman's comment about get over it, we are not the ones proposing name changes. It is the other side. I say to the gentleman, get over it. Stop acting like a playground bully trying to shove Reagan's name down the throats of every place in this country.

Mr. MORAN of Virginia. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, I would urge this body not to force Washington's local governments to pay $400,000 with local funds to make a name change to a transit station. It does not fit in length. It does not fit with the policy of naming stations after places rather than people. In attempting to honor Reagan, we are contradicting everything he stood for. I have several quotes that I ought not to have to share with the body where President Reagan urged us to respect local government. This is not respecting local government. What is being said is, we stand by Reagan's principles as long as it suits our politics. That is not right. The principle of deference to local government is correct, and in this case it is being violated not only with the naming of the airport, but certainly with the naming of the transit station.

I would urge my colleagues to read George Will. I would urge them to read President Reagan's statements, and I would particularly urge them to abide by President Reagan's principles of recognition and respect for local government.

Mr. REYNOLDS. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, to close, we have a rule before us. The gentleman has brought a point of order. I disagree with the point of order. While very, very sensitive to local government unfunded mandates, we have a threshold. It is $56 million. This is a normal course of business, as both my colleagues, the gentleman from Georgia (Mr. BARR) and the gentleman from Kansas (Mr. TIAHRT), have pointed out in their opposition to this point of order.

Most important, I have also cited in my opening that on page 111 of the report, which we are going to consider as the rule is hopefully passed and the legislation is before the House, where $30 million under section 9 in the formula for funding will go to the District of Columbia's Metro system. That money is eligible for signs and other important aspects of how this legislation has been created within the appropriations bill.

The gentleman from Virginia (Mr. MORAN) has raised the possibility that H.R. 2299 may contain an unfunded mandate. I urge that we proceed forward so that we may continue consideration of this important legislation.

Mr. Speaker, an aye vote is a vote for continuation of the consideration of the resolution. I urge an aye vote as we move forward from the point of order on to the rule and then to the legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate has expired. The question is, Will the House now consider the resolution?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MORAN of Virginia. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 219, nays 202, not voting 12, as follows:

[Roll No. 190]

YEAS—219

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal
DeLay
DeMint
Diaz-Balart
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—12

Burton
Clement
Doolittle
Kaptur
LaTourette
Maloney (CT)
Payne
Platts
Putnam
Smith (WA)
Tauscher
Watson (CA)

☐ 1317

Messrs. BERRY, STARK, TAYLOR of Mississippi and Ms. KILPATRICK changed their vote from "yea" to "nay."

Mr. LINDER changed his vote from "nay" to "yea."

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. WATSON of California. Mr. Speaker, on rollcall No. 190, I was delayed because of constituents in my office, however, I would have voted "no" on the question of consideration.

The SPEAKER pro tempore (Mrs. WILSON). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purpose of debate only.

Madam Speaker, House Resolution 178 is an open rule that provides for consideration of H.R. 2299, the Department of Transportation and Related Agencies Appropriations for the Fiscal Year ending September 30, 2002. The rule waives all points of order against consideration of the bill.

The rule also provides for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on Appropriations.

The rule provides that the bill shall be considered for amendment by paragraph.

In addition, the rule waives clause 2 of rule XXI (prohibiting unauthorized or legislative provisions in an appropriations bill) against provisions in the bill, except as otherwise specified in the rule.

Further, the rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

Finally, the rule provides one motion to recommit, with or without instructions.

Madam Speaker, the Committee on Appropriations has worked diligently to produce legislation that meets the Nation's transportation priorities. As more and more Americans hit the airways and the highways each year, this Congress can take pride in the fact that the underlying legislation represents an increase in safety measures and resources in every area of our transportation system.

With all of the travel we do back and forth to our home districts, I am sure my colleagues can relate to the frustration of airline delays. That frustration is tenfold for countless Americans who rely on air travel for work and for pleasure each and every day.

This bill includes several provisions to address the problem of airline delays such as fully funding the "Free Flight" program and raising funding for the "Safe Flight 21" programs. These programs develop technologies to aid in the improvement of airway capacity both responsibly and prudently.

Moreover, the bill meets the funding obligation limitation in the transportation legislation known as TEA 21, the Transportation Equity Act for the 21st Century, by providing $31.7 billion in highway program obligation limitations, a 4 percent increase over the current fiscal year's level. Continuing our commitment toward investments in the Nation's infrastructure, this bill provides nearly $59.1 billion in total budgetary resources, a responsible 2 percent increase over the current fiscal year.

This bill, much like last year's, continues to improve and enhance motor carrier safety by providing $206 million for motor carrier safety grants, an increase of $29 million that is consistent with truck safety reforms enacted as part of the Motor Carrier Safety Improvement Act of 1999.

This body recently passed the Coast Guard authorization for fiscal year 2002. The Coast Guard's duties include promoting the safety of life and property at sea, enforcing all applicable Federal laws on the high seas, maintaining navigation aids, protecting the marine environment, and securing the safety and security of vessels, ports, and waterways.

The legislation before us today appropriates in the amount of $5 billion, including $600 million for the Coast Guard's capital needs and $300 million available to initiate the "Deepwater" program, which will fight the scourge of illicit drugs, provide support for offshore search and rescue, and work to protect Americans and American shores.

In addition, the bill provides $521 million for Amtrak's capital needs. This funding will cover capital expenses and preventive maintenance. This bill sustains the Federal commitment to continue in partnership with Amtrak and to help it reach its goal of self-sufficiency.

These, along with other modest increases within the bill, will allow the Department of Transportation to have greater flexibility and oversight control for both large and small projects alike. Ensuring proper funding levels ensures the ability of the Department of Transportation to do its job, making travel safer and easier for us all.

Safety should remain the Federal Government's highest responsibility in the transportation area. Clearly, whether by land, by sea, or by air, this bill addresses those needs and concerns, while maintaining the fiscal discipline that has been the hallmark of this Congress.

Madam Speaker, I would like to commend the gentleman from Florida (Mr. YOUNG), the chairman of the Committee on Appropriations, and the gentleman from Wisconsin (Mr. OBEY), the ranking member, for their hard work on this measure. I would also like to commend the Chair of the Subcommittee on Transportation and its ranking member. I urge my colleagues to support this rule and the underlying legislation.

Madam Speaker, I reserve the balance of my time.

Mr. FROST. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would first like to commend the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) for all of their hard work in bringing this bill to the floor. The members of the Committee on Appropriations Subcommittee on Transportation have brought us a good bill that funds a number of vital transportation projects, including one important to my congressional district in the Dallas-Fort Worth area.

I am pleased that the bill will provide $70 million to the North Central Light Rail Transit Extension. A bipartisan group of North Texas members worked very hard to get this funding that will more than double DART's light rail coverage and help stimulate development in the Dallas-Fort Worth Metroplex.

However, Madam Speaker, while this is a good bill overall, I cannot support the rule supported by the Republican majority because they have denied a request made by the Democratic ranking member of the Subcommittee on Transportation, who sought to offer an important amendment relating to the safety issues raised by allowing Mexican trucks to enter the United States.

I must also oppose this rule because of the issue of the Washington Metropolitan Transit Authority and the renaming of the National Airport Metro stop. Time and again over the last 6½ years, the Republican majority has selectively ignored their own mantra of local control when it suits an idealogical purpose. The renaming of this Metro stop ignores the wishes of the local authorities, as well as the Member representing this area. And for that reason, as well as the fact that the Sabo amendment was shut out by the Committee on Rules, I oppose the rule.

One of the greatest defects of this rule is the fact that the Republican leadership, working in concert with the President, has prevented the House from addressing a serious highway safety issue: the safety standards of Mexican trucks entering this country under NAFTA.

The Bush administration has lifted all restrictions on the movement of Mexican trucks on our highways effective January 1, 2002. Next year, Mexican trucks will be free to drive across the country, despite clear evidence that many are unsafe for our highways.

In May, the Department of Transportation's Inspector General found that the Federal Government needs to add dozens of additional border inspectors before lifting restrictions on Mexican trucks. The few inspectors now policing the borders found that 40 percent of Mexican trucks that are currently allowed into the U.S. were pulled out of service for significant violations of our safety standards, much higher than the percentage of violations among U.S. trucks.

So many of these trucks are deemed unsafe for our roads because they are allowed to operate in Mexico with virtually no oversight. The Committee on Transportation and Infrastructure Democrats, who address these issues on a routine basis, also expressed their deep concerns to the Committee on Rules about these trucks coming into the United States; yet their concerns were also ignored by the Republican leadership.

For example, Mexican trucks are 10 years older than U.S. trucks, on average, and do not comply with weight standards. Mexico has no hours-of-service regulations, while U.S. drivers can only drive 10 hours per shift. The gentleman from Minnesota (Mr. SABO) offered a sensible amendment that would require the Federal Motor Carrier Safety Administration to conduct a safety compliance review of each Mexican motor carrier that seeks to operate throughout the United States and to require that they be found to be satisfactory under the same standards applicable to U.S. carriers before being granted conditional or permanent operating authority.

However, the Republican leadership has refused to allow the House to vote on the Sabo amendment. I simply cannot understand why the administration and the House leadership oppose what the gentleman has proposed. The Republican leadership's refusal to recognize safety concerns related to the use of these trucks throughout the United States is nothing short of negligent, Madam Speaker.

This highway safety issue is particularly critical in Texas, as well as in my own congressional district where I35 runs through the middle of the district, since two-thirds of Mexican trucks enter the U.S. through Texas; and many of those trucks will travel on I35 to reach interior destinations. But make no mistake: this is a serious safety issue coming to highways all across America, now that the President has lifted any and all restrictions on Mexican trucks operating on American roads and highways.

This rule also prevents discussion of how to pay for relabeling Metro signs for National Airport. In 1998, over strong local opposition, the Republican leadership decided to rename Washington's National Airport in honor of President Ronald Reagan. Now, in this bill, they are requiring the already-strapped Washington Metro Authority to change all of their station signs, maps, directories, and documents to reflect the new name, but Republican leaders are not providing one single penny of the $400,000 it will cost to do this.

Madam Speaker, I served in the Congress when Ronald Reagan was President. I understand that many Republicans and Democrats want to honor him. Indeed, this Congress and this Nation have already done much to ensure President Reagan's accomplishments get the respect they deserve. But a $400,000 unfunded mandate hardly seems like a fitting tribute to President Reagan. After all, he made a career of campaigning on behalf of local control.

In my own district, we would not take kindly to the Federal Government forcing us to spend $400,000 in local funds that might otherwise have been already budgeted for health care or schools or other local priorities. I understand why this local community would resist spending $400,000 on a symbolic name change while far too many children in the District of Columbia go without food at the end of the month.

Madam Speaker, if the Republican leadership and Grover Norquist believe new Metro signs and maps are such an important priority, then they should provide the money to pay for them. It is just plain wrong to force local governments to spend this money on maps for tourists instead of meals for children. Mr. Norquist and other Republican leaders do President Reagan no favor by imposing this unfunded mandate in his name.

Madam Speaker, I believe the House should be allowed to consider and vote on the issue of the safety of our Nation's highways. These are the same roads school buses travel and people use to get to and from work.

□ 1330

Their safety should be paramount.

Madam Speaker, I urge my colleagues to reject this rule so we may go back to the Committee on Rules and find a better way to address this important issue.

Madam Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Madam Speaker, I yield 5 minutes to the gentleman from Kentucky (Mr. ROGERS), the Chair of the Subcommittee on Transportation.

Mr. ROGERS of Kentucky. Madam Speaker, I thank the gentleman from New York (Mr. REYNOLDS) for yielding me the time.

Madam Speaker, I rise in support of this rule. It is a good rule, it is a fair rule, and it needs to be adopted. At the outset, I want to advise the Members that we have worked closely and cooperatively with the Committee on Transportation and Infrastructure to resolve areas of disagreement on the bill.

The gentleman from Alaska (Mr. YOUNG) and this gentleman have been able to work out almost everything to our mutual satisfaction. We do not agree with their position on every matter, but we do not begrudge their right to assert their concerns and jurisdiction.

Under this rule, the authorizing committee will in a number of instances exercise its prerogatives under the rules of the House to remove provisions that our committee believes are important and necessary, but which fall within their jurisdiction. The rule preserves their right to do that. In a number of other cases, the authorizing committee has agreed not to object to provisions included by our committee, which, again, we believe are necessary to carry out the programs in the bill.

It is vitally important, Madam Speaker, that we adopt the rule and proceed to consider the Transportation appropriations bill. The bill contains $59 billion for highways, airport grants and other aviation programs, highway safety activities, pipeline safety programs, many other items that are critical to every State and to individual Members of the House and, of course, our people.

We are within our funding allocation and the budget resolution. The bill is balanced. It is bipartisan and deserves the support of every Member of this body.

Let me briefly discuss the issue of Mexican trucks and NAFTA. As my colleagues know, the President says that we will be opening our border pursuant to NAFTA in January of next year.

This administration has a plan to ensure the safety of Mexican carriers that transport goods beyond the commercial zones and into the interior of the United States. The administration has put money behind that plan in its budget request. We fund that plan to the penny and then some. In fact, we provide increases above the President's request for the inspection of Mexican carriers at the border. The administration requested $88.2 million above current-year spending. We include $100.2 above the current year, an 800 percent increase.

This money will pay for border inspection facilities and more inspectors. It pays for a common-sense plan that the House needs to support. In addition, our committee has included language in the committee report directing the Department of Transportation to implement a strong safety oversight program that ensures the operational safety of Mexican motor carriers who seek permission to operate in the U.S.

Madam Speaker, together these provisions ensure compliance with U.S. safety laws and regulations, while it allows free trade to go forward. It is the responsible approach, and it complies with NAFTA.

Madam Speaker, I have some serious reservations that the proposal from the other side would, in fact, violate NAFTA, subjecting the United States to severe fines.

Madam Speaker, this is a good rule. It is a good bill, and I would hope that Members would support both today.

Mr. FROST. Madam Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Madam Speaker, I simply want to rise to express my opposition to this rule because of its failure to include the right of the gentleman from Minnesota (Mr. SABO) to offer his amendment on truck safety.

Very simply, what his amendment seeks to do is to require the establishment of procedures to guarantee that Mexican trucks will be safe before they are allowed to travel all over the United States. It just seems to me that we ought to understand that right now Mexican motor carriers operate with virtually no safety oversight to date.

There are no motor carrier hours of service regulations in Mexico. There is no way at this point to check the driving records, the driving history of Mexican motor carrier drivers. The out-of-service record for those trucks in the areas where they have been checked near the border is astronomical. Those trucks should not be on the road without severe safety precautions.

It is asserted that somehow the Sabo amendment would be a violation of NAFTA. That is nonsense. NAFTA is a trade pact. It is not a suicide pact.

We are not required to put the safety of our motorists at risk in order to satisfy some international bureaucracy. We have already had a ruling that makes quite clear that the United States has the authority, whatever authority we need to exercise, in order to protect the safety of American travelers.

I find it ironic that this House will spend a lot of time on this Mickey Mouse amendment to require the renaming of a train station in the District of Columbia area and yet will not take the time to fully the debate the issue raised by the gentleman from Minnesota. I think that represents a warped set of priorities.

I also find it ironic that the Republican majority has said through legislation that when the question of worker safety is at stake, as was the case with the ergonomics regulations that the Labor Department wanted to put into effect some time ago, I find it ironic that at this point the Republican majority of this House said, "Oh, no, the regulations must wait. We are not going to worry about safety."

Yet at this point, when we are asking them again to take into account the safety considerations for American drivers, they are saying, "Damn the truck safety consequences, full speed ahead!" if I can plagiarize from Admiral Farragut.

It just seems to me that this House ought to come back to a rule of common sense. Just because the committee did not adopt the amendment in full committee is no reason this House should not have the opportunity to take whatever action is within our reach to assure the safety of American drivers on our highways.

Madam Speaker, I think the bill itself is basically a good bill, and I intend to support it, but I think it is egregiously erroneous for the House not to allow a debate on the Sabo amendment, and that is why I would vote against the rule and urge that other Members do likewise.

Mr. REYNOLDS. Madam Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. NUSSLE), the Chairman of the Committee on the Budget.

Mr. NUSSLE. Madam Speaker, first, I rise in support of the rule. I share the concern that the gentleman from Wisconsin (Mr. OBEY) is raising about Mexican trucks. This is the wrong place and the wrong way to address it, in an appropriations bill. I think there is a lot of concern over the Mexican truck issue, and we need to find a way to resolve that. This is not the place.

I rise in support of the underlying bill, H.R. 2299, making transportation appropriations for fiscal year 2002. As the chairman of the Committee on the Budget, I want to report to my colleagues that this bill is consistent with the budget resolution, and it complies with the applicable sections under the Congressional Budget Act.

H.R. 2299 provides $14.9 billion for the Department of Transportation and several transportation-related agencies. The bill includes $307 billion in rescission of previously enacted budget authority.

The bill is within the 302(a) allocations of the Committee on Appropriations, Subcommittee on Transportation and, therefore, complies with section 302(f) of the Budget Act, which prohibits the consideration of appropriation measures that exceed the appropriate subcommittee's 302(b) allocation.

Madam Speaker, I would observe that, based on the congressional scoring that we have before us, the bill would exceed the statutory caps on highways and mass transit. Under the Budget Enforcement Act, any bill that breaches its caps triggers an across-the-board sequester in programs under that cap, but I further understand that the Committee on Appropriations believes and will work to ensure that this bill will come in under the caps when it is scored by OMB. It is OMB scoring that is used to enforce the caps and trigger any sequester.

Madam Speaker, I urge that the conference committee and the chairman consider this concern and ensure that the final bill is consistent with both the budget resolution and the highway and mass transit caps.

Madam Speaker, I commend the gentleman from Kentucky (Mr. ROGERS) and support not only the rule, but the underlying bill of H.R. 2299

Mr. FROST. Madam Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Madam Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me the time.

Madam Speaker, first, let me say that this is a good bill, and I will have more to say about that later. I commend the gentleman from Kentucky (Mr. ROGERS) for producing a good bill. At the end of the day, it is a bill that deserves broad bipartisan support and should be passed by an overwhelming margin.

Madam Speaker, however, I cannot support this rule. The reason is that we have a problem, in my judgment, a serious problem, with the advent of Mexican trucks having access to the United States outside of the 20-mile commercial zone starting January 1.

This bill did not create the problem, it has been created for us, and if there is one place we can begin to deal with the remedy, that place is in this bill.

The amendment that I had offered, which would require preinspection of carrier applicants in Mexico before they receive conditional certification, would add to the safety potential that we have in this country, to go along with the additional inspectors. None of us can guarantee perfect safety, but those working together would give us some greater hope that we will have safe trucks operating in this country.

Madam Speaker, no one disputes the fact that Mexico-domiciled motor carriers operate with virtually no safety oversight today. There are no motor carrier hours of service regulations in Mexico. Even though the Mexican Government is now implementing a driver record database, there is currently no way to check the driving history of Mexico motor carrier drivers. In addition, Mexico will not finalize its roadside inspection program until October 2001.

Let me add that while we are focusing on inspection and out-of-service rates for trucks, equipment is important, but the driving capability of the driver is the most important. A greater proportion of accidents involving big trucks are driver-related rather than equipment-related.

I might add that this committee and this Congress has been seriously involved in the last several years of trying to improve the truck safety of American trucks, and then we look at what the history is of Mexican trucks coming into the commercial zones today. Let me simply say that for trucks coming into Mexico and Arizona, we find that 40 percent of the Mexican-domiciled trucks today are put out of service.

I urge a no vote on this rule so we can quickly get a new rule which makes my amendment in order.

□ 1345

Mr. REYNOLDS. Madam Speaker, I reserve the balance of my time.

Mr. FROST. Madam Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Madam Speaker, I thank the gentleman from Texas for yielding me this time, and I thank my colleague from Minnesota for raising this issue.

The Sabo-Ney amendment, bipartisan amendment, is in conformity with the February 6 ruling of the NAFTA arbitration panel on cross-border trucking services. The panel found that "inadequacies of the Mexican regulatory system provide an insufficient legal basis" to maintain a blanket moratorium on cross-border trucking. But it made it very clear that the United States could treat applications from Mexican trucking firms in a manner different from U.S. firms as long as they are reviewed on a case-by-case basis. That is what this issue is about.

We do not inspect all these trucks coming in from Mexico. Less than 1 percent of all northbound crossings at the Mexican border were subject to inspection last year. One-third of the Mexican-domiciled trucks were found unsafe, so unsafe inspectors removed the trucks or removed the drivers from service, a 50 percent higher out-of-service ratio than we have in the United States. Obvious reason, there are no permanent truck inspection facilities at 25 of 27 southern border crossings that account for 3½ million northbound trucks every year.

There is no systematic method in place to verify registration on Mexican-domiciled trucks. The inspector general of our DOT found 254 Mexican trucks operating illegally beyond the commercial zones in 24 States. Those trucks are in a position to kill our constituents. Five thousand people a year die in truck-car accidents. There are going to be half as many more deaths if we allow these Mexican trucks to come unsafely into the United States.

They have a woefully inadequate safety regime in Mexico, no systemic safety rating process, no truck weight enforcement process, no roadside domestic inspection program, no hours of service regulations in Mexico, no credible enforcement of drug and alcohol testing. We ought to defeat the rule, allow the Sabo amendment to be offered.

Mr. REYNOLDS. Madam Speaker, I reserve the balance of my time.

Mr. FROST. Madam Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. BORSKI).

Mr. BORSKI. Madam Speaker, I rise in opposition to the rule. I believe it is very, very important for this House to be able to vote on the Sabo amendment.

Madam Speaker, just last month, along with the gentleman from Wisconsin (Chairman PETRI) and the gentleman from California (Mr. FILNER) and the gentleman from Pennsylvania (Mr. HOLDEN), we paid a visit to some of the truck inspection facilities along the Mexican border.

At Otay Mesa in California, we saw an inspection system that works and works pretty well and hopefully could serve as a model for the rest of our country.

In California, they perform a comprehensive level one inspection on all trucks crossing the border at least once every 90 days and issue a certificate. If a truck does not have a certificate, it is pulled over and inspected.

The out-of-service rate in California is very similar to our experience in the rest of the United States. Around 24 percent of trucks are taken out of service, way too high in the United States, but something we can continue to work on.

The situation in Texas was an absolute nightmare. There is no inspection in Texas. At Laredo, we visited it on a Sunday, a slow day. Major Clanton of the Texas Rangers or Texas Department of Public Service told us a truck that is not inspected will be neglected. On that day Major Clanton told us he pulled five or seven or eight trucks over to inspect, and five of them were taken out of service. We asked if there were serious concerns. The answer was, yes, extremely serious, things like brakes that are not working.

Madam Speaker, the situation in Texas is very serious. We should not allow trucks to come into the United States unless they are safe, unless they are inspected.

We asked the people in Texas how soon they could put inspection stations up at the border. They told us it would take at least 18 months.

So I would strongly urge that we defeat this rule, we allow the Sabo amendment to be in order so that we can protect the safety of the traveling public in the United States. Whether one is for NAFTA or against NAFTA, we can all be for public safety on the highways.

Mr. REYNOLDS. Madam Speaker, I yield 5 minutes to the gentleman from Texas (Mr. BONILLA), a member of the Committee on Appropriations.

Mr. BONILLA. Madam Speaker, I rise today to ask my colleagues to stop attacking Mexico. I cannot quite understand what the motivation is. If we look at the issue, we are talking about trucks coming into our Nation that would be held at the same standards that American trucks would be held by. There is absolutely no discussion here about trying to put the same restrictions on Canadian trucks, for example. This simply seems to be an effort to try to discriminate and target Mexican trucks.

Again, let me emphasize that, in the State of Texas, like in my area that I represent spans 800 miles of the Texas-Mexico border. We want the trucks. We are prepared to have them come in and bring their cargo through in a safe manner, complying with American law.

Let me also tell my colleagues what free trade has meant to some of these border communities that used to have unemployment rates at 40 to 45 percent. Free trade has dropped the unemployment in border communities drastically. In some areas, like in Laredo, Texas, it has now caused it to be the second fastest growing community in America. It is a boom area, and we enjoy the fruits of free trade.

Allowing these trucks to come in would help those folks as well. So to try to talk about offering an amendment to stop these trucks from coming in not only discriminates against Mexico, but it discriminates against a lot of minority communities along the border that want these trucks to come through because it has improved the quality of life. Trade has improved the quality of life. This is part of free trade that would improve it even more.

So leave us alone. Let the border communities, the high Hispanic populations along the Texas-Mexico border, benefit from free trade. Stop discriminating against us and stop discriminating against Mexico.

Mr. ROGERS. Madam Speaker, will the gentleman yield?

Mr. BONILLA. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Madam Speaker, the gentleman represents an area of Texas I think is the largest border area of any Member of Congress.

Mr. BONILLA. The gentleman is correct, Madam Speaker.

Mr. ROGERS. So all of the gentleman's constituents live on the border; is that correct, Madam Speaker?

Mr. BONILLA. Madam Speaker, the vast majority of my constituents, although I have areas that are also several hundred miles from the border.

Mr. ROGERS. Madam Speaker, if the gentleman will continue to yield, knowing what the administration, the Department of Transportation is doing even as we speak. That is, DOT is designing a plan for the safety of the trucks coming up from Mexico, and knowing generally what the plan is, does the gentleman from Texas (Mr. BONILLA) have concerns for the safety of his constituents through which these trucks would pass to the rest of the U.S.?

Mr. BONILLA. Madam Speaker, reclaiming my time, not any more than I would have a concern about an American truck coming through.

Let me also just add, if I could, to the gentleman from Kentucky, I would challenge any Member here who continues to pursue this action against Mexico, next time they speak about this issue, and the television camera is on them, I challenge them to look that camera in the eye and tell us that they are not discriminating against Mexico and border area residents.

Mr. ROGERS. Madam Speaker, will the gentleman further yield?

Mr. BONILLA. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Madam Speaker, is the gentleman aware that the Department of Transportation, in fact the Motor Carrier Safety Administration, currently is conducting a rulemaking to lay out the specific rules about the topic of which we are talking about today—the safety of Mexican carriers coming into the U.S.? They are conducting a rulemaking procedure. Even as we speak, members of the public can register their fears, their complaints, their ideas, whatever they want to say to the Motor Carrier Safety Administration, and the comments are published in the record. If that record reveals that many, many, many people are concerned about safety, the government is required to change the rule that they adopting. Is the gentleman aware of that rulemaking?

Mr. BONILLA. Madam Speaker, reclaiming my time, I am aware of that. I am aware of that, because I know all of us are concerned about having the highest standards complied with by anyone who drives trucks in our country.

Mr. ROGERS. Madam Speaker, if the gentleman will yield, is the gentleman aware of any Members who have spoken here today that have registered a complaint with the Motor Carrier Safety Administration?

Mr. BONILLA. Madam Speaker, I am not aware of any such problems that have existed, not to create a premise on which to file any complaints. These are simply scare tactics and, as I have pointed out, targeted just against Mexico, nothing mentioned about Canada.

Mr. ROGERS. Madam Speaker, will the gentleman further yield?

Mr. BONILLA. Yes, I yield to the gentleman from Kentucky.

Mr. ROGERS. Madam Speaker, does the gentleman also realize that, if the rulemaking that will be adopted sometime this early fall is not severe enough to ensure the safety of American citizens from Mexican trucks, that Congress can always address the question at that time?

Mr. BONILLA. Madam Speaker, I am aware of that, and I am sure that that is something we would want to do in a bipartisan way.

Mr. FROST. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Madam Speaker, I rise in opposition to the rule and because of its refusal to allow the common-sense Sabo amendment on truck safety.

This gentleman represents a border community. This gentleman represents an area where 30 percent of the trucks cross the border.

The gentleman from Kentucky (Mr. ROGERS) has filed a complaint on the rulemaking. I will tell my colleagues that I know of the dangers of the trucks to our citizens and to our driving public. I know what happens when uninsured drivers have accidents. I know what happens when trucks do not have brakes. I know what happens when tired drivers are on the roads in San Diego and the rest of this Nation.

I will tell the gentleman from Texas (Mr. BONILLA) who just spoke and the gentleman from Kentucky (Mr. ROGERS) who talks about an administration plan, I live on the border. There is no evidence of such a plan. There is no national standard. I have traveled to Texas. I have looked at our border inspections in California. This is not discrimination against Mexico, Madam Speaker. This is a plea on behalf of the safety of our constituents who would be in danger.

I will tell my colleagues every State is left to itself to determine standards of inspection. We heard that the California inspection station in my district at Otay Mesa has a state-of-the-art inspection station, and they do. But do my colleagues know how many trucks they inspect of the 3,000 or more that come across every day? Less than 1 percent. They do not do anything about the insurance of the driver. They know nothing about the history of the driver or their safety or how long they have worked.

If you go to Texas, and we were in the district of the gentleman from Texas (Mr. BONILLA), who just spoke, in Laredo, there is no inspection. In fact, the Department of Transportation of Texas and the local officials in Laredo have great controversy of what kind of inspection should go on. There will not be inspection stations in there under whatever plan, I assume a secret plan that the President has, to inspect in Texas, because they cannot come to any agreement on what could happen there.

I tell my colleagues, if the gentleman from Texas (Mr. BONILLA) wants those problems in Laredo, that is fine. But let us leave them there and not go to the rest of the Nation where we have problems. I urge a no vote on this amendment. I urge we protect U.S. citizens and the driving public throughout America.

Mr. REYNOLDS. Madam Speaker, I reserve the balance of my time.

Mr. FROST. Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Madam Speaker, I thank the gentleman from Texas for yielding me this time.

President Bush's decision to open the border to Mexican trucks is wrong. A report released on May 8th from the Department of Transportation's inspector general showed the U.S. Border Patrol can only inspect 1 percent, 46,000 of the 4.5 million trucks that were crossing the border.

Three years ago, at my expense, I went to Laredo, Nuevo Laredo. I went to the border and watched the truck inspections. One person was inspecting trucks that day. Two thousand five hundred trucks were going through the border at Laredo; one inspector working for Governor George W. Bush and the Department of Public Safety in Texas.

I asked him how many trucks he inspected a day. He said 10 to 12. I said, how many trucks do you take out of service each day? He said, somewhere between about 9 to 11.

He had told us, complained that the State of Texas had not fixed the scales which had been broken for 3 months, that the State of Texas and the Government of the United States simply were not very interested in truck safety.

Whether these trucks, these 2,500 a day that were going from Nuevo Laredo to Laredo, Texas, the 4.5 million trucks a year, whether they have faulty brakes or tire failures or loads that exceed weight limits, Mexican trucks fail to meet American standards.

Mexican trucks on average are 10 years older than U.S. trucks. A truck driver in the United States cannot get a license until 21. In Mexico, the age is 18. Mexico does not have a national commercial truck driver's license information system to detect driving violations. U.S. drivers can drive only 10 hours per shift, must keep a log of their hours worked, must pass a knowledge and skills test, and must have regular medical examinations.

□ 1400

In Mexico there are none of those requirements.

Madam Speaker, President Bush is wrong on truck safety. He is wrong to open the border to unsafe trucks. The Republican leadership is wrong on this issue. Vote "no" on the rule.

Mr. REYNOLDS. Madam Speaker, I reserve the balance of my time.

Mr. FROST. Madam Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Madam Speaker, if the gentleman wishes to yield back, we will close this and move to the vote.

Mr. FROST. Madam Speaker, we had several other requests for time. The Members are not present on the floor. I would ask the gentleman whether he has any additional speakers.

Mr. REYNOLDS. No, I do not. It is obvious I have been reserving the balance of my time to close the debate on our side when the gentleman is ready.

Mr. FROST. Madam Speaker, I yield myself such time as I may consume to urge that the rule be defeated. The rule does not make in order the very important amendment offered by the gentleman from Minnesota (Mr. SABO), and the rule also did not take into consideration the objections raised by the gentleman from Virginia (Mr. MORAN).

Madam Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Madam Speaker, I yield myself such time as I may consume to close.

Madam Speaker, this is an open rule. It is a fair rule. It is a rule that allows the transportation legislation of the Committee on Appropriations to come before the House. There has been consideration, with the will of the Committee on Appropriations passing a second degree amendment to the Sabo amendment offered by the gentleman from Kentucky (Mr. ROGERS). That amendment passed 37 to 27, reflecting the will of the Committee on Appropriations in the amendment.

Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mrs. WILSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 8(c) of rule XX, this 15-minute vote on the adoption of House Resolution 178 will be followed by a 5-minute vote on the motion to suspend the rules postponed earlier today.

The vote was taken by electronic device, and there were—yeas 219, nays 205, not voting 9, as follows:

[Roll No. 191]

YEAS—219

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon

Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—205

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Burton
Clement
Hilliard
Hinojosa
Kaptur
LaTourette
Payne
Platts
Putnam

□ 1426

Mrs. MEEK of Florida, Mrs. NAPOLITANO, Ms. VELÁZQUEZ, Mrs. CAPPS, and Messrs. BECERRA, INSLEE and JONES of Ohio changed their vote from "yea" to "nay."

Mr. HOUGHTON changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING OUTSTANDING AND INVALUABLE DISASTER RELIEF ASSISTANCE PROVIDED DURING TROPICAL STORM ALLISON

The SPEAKER pro tempore (Mrs. WILSON). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 166.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. COOKSEY) that the House suspend the rules and agree to the resolution, H. Res. 166, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 22, as follows:

[Roll No. 192]

YEAS—411

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Buyer
Callahan
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Udall (CO)

Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Waters
Watkins (OK)
Watson (CA)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—22

Bryant
Burton
Calvert
Clement
Cunningham
Dooley
Duncan
Hilleary
Hilliard
Jenkins
Kaptur
LaTourette
McKeon
Miller, Gary
Payne
Platts
Putnam
Ramstad
Rothman
Turner
Wamp
Watt (NC)

☐ 1435

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS of Kentucky. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2299, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mrs. WILSON). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore. Pursuant to House Resolution 178 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2299.

☐ 1436

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, with Mr. CAMP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) each will control 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am very pleased to present to the House the Department of Transportation and related agencies appropriations bill for fiscal year 2002. This is an excellent bill that reflects not only the priorities of the budget submitted by the President earlier this year but also the important contributions of all the Members of our subcommittee and full committee and we hope now the full House.

I want to especially thank the gentleman from Minnesota (Mr. SABO) for his tireless and insightful support of transportation programs during the many hours of our hearings, deliberations, and the markup of this bill this year. I also want to thank both the gentleman from Florida (Mr. YOUNG), the full committee chairman; and the gentleman from Wisconsin (Mr. OBEY), the ranking member of the full committee, for their support of this subcommittee and the programs we oversee. I am also thankful to all the members of our subcommittee who had a part in the drafting of this bill and the full Committee on Appropriations, which had the chance to amend and correct as we went through that process. And, of course, we would not be here without our wonderful staff, both on the majority and the minority side upon whom we all so much depend.

Mr. Chairman, the bill I present today provides an increase of 6 percent in the programs and activities of the Department of Transportation. At first blush, this appears to be a healthy increase over current levels, but in fact it is barely enough to cover the 4.6 percent pay raise that will go to all Federal employees next year as well as the general cost of inflation for programs in our jurisdiction. So this is a lean bill, especially when compared with the explosive growth in needs caused by highway and air travel in this country. We are doing a lot in this bill to respond to that demand but not nearly as much as we would like. The Department of Transportation will have to economize, it will have to be more efficient, and it will have to live within the constraints of the spending limits set by the budget just like every other agency.

The bill is within our 302(b) allocation, in both budget authority and outlays. It fully funds the highway and aviation spending increases established by TEA–21 and AIR–21, and it will help relieve the congestion that is frustrating citizens on our interstates, in the skies, and in our bus and train terminals.

Our bill fully funds the Coast Guard's operating budget and provides $600 million, which is a huge increase, in their capital account. Within the capital appropriation, we have provided $300 million to kick off the Deepwater program, which will provide a vitally needed upgrade and replacement of the Coast Guard's ships and aircraft. Members should know that this is the largest acquisition program, that is the Deepwater program in the Coast Guard, ever attempted by the Department of Transportation or the Coast Guard. The Coast Guard estimates that the acquisition costs alone for the Deepwater program will cost $18 billion, and this bill allows the agency to award the first major contracts next year. This is a major step forward for the Deepwater program, and we are optimistic it will succeed. It will only succeed with careful oversight by the Coast Guard, the administration, and the Congress.

The bill also includes, Mr. Chairman, funds to address serious staffing, training, and equipment problems at our small-boat stations of the Coast Guard which were highlighted in our hearings with the Inspector General and the Coast Guard this year. I am proud that we could find a small amount of money to raise the staffing levels and the training at these stations which provide the backbone of our Nation's search and rescue capability. With an average workweek, Mr. Chairman, of 80 hours-plus, Coast Guardsmen at these stations are in desperate need of some help. We provide it in this bill.

Consistent with the provisions of AIR–21, this bill fully funds the airport grants program at $3.3 billion and fully funds FAA's capital appropriation at $2.9 billion. It also provides nearly 100 percent of the FAA's operating budget. In addition, this bill includes several initiatives that will hopefully lead to reductions in the number and severity of airline delays. Our gridlocked aviation system has been a major focus of this subcommittee, and it will continue to receive the scrutiny of our panel until we untangle it for the good of consumers and the economy. We will continue to press the aviation industry to cooperate, to come up with solutions, and to put those solutions to the test. In this bill we are doing everything possible to make sure the money is there for work and technologies that address the problem.

If we find programs and initiatives that work, we will fund them. If we find programs that fail, we will cut them off. It is that simple. We are determined to make improvements. Things will change. This bill is a start. But we will keep pressing for real action and real results in an area critical to all of us.

The bill restores proposed cuts to the essential air service program. Under the administration's proposal, 18 cities would have lost their air service next year. This bill maintains the eligibility of each of these cities in the program and provides the additional $13 million needed to maintain the program at current service levels. That will be good news to 18 cities across the country where EAS provides a necessary lifeline. In addition, the bill provides $10 million to kick off the new small community air service development pilot program authorized last year in AIR–21. This program will provide grants to small and rural communities around the country to foster air service where it does not exist and foster competition in those communities where there is monopoly service. I can personally attest to the declining air service in many smaller cities around the country. It is a tremendously needed program, and I am pleased the bill provides initial funding for it.

□ 1445

The bill includes $32.6 billion for our Nation's highways, an increase of $1.2 billion, 4 percent, consistent with the authorizations in TEA–21. This will provide for high-priority construction needs in every State of the Nation.

The bill provides $298 million for the Motor Carrier Safety Administration, an increase of 11 percent over the current year. Included in the bill is the additional $88.2 million requested by the President to maintain a high level of trucking safety on the border with Mexico as we fully open up the border next year pursuant to NAFTA. This is a very important initiative to ensure the safety of all Americans as Mexican trucks begin to drive beyond commercial zones near the border into the interior of the U.S.

I believe this funding, combined with the administration's regulatory and program activities, will ensure that we receive the benefits of greater trade with Mexico while at the same time protecting our people as we learn to share the road with our neighbors to the south.

The bill includes $419 million for the National Highway Traffic Safety Administration, a 4 percent increase above current year, essentially the same as the administration requested, and it provides the level of funding called for in TEA–21.

Amtrak, we are recommending the requested level of $521 million for Amtrak's capital needs, and we waive a limitation on funding carried for several years so that Amtrak can access those fund on the first day of the fiscal year. We have all read about and studied Amtrak's difficult cash situation. This bill will help them as much as we can next year. Ultimately, though, Congress will have to decide what to do next year if Amtrak does not meet its 5-year glide path to operational self-sufficiency mandated by Congress, soon to be 5 years ago. This bill for now meets the Federal commitment to help get Amtrak to that point. Now the debate will begin about whether or not Amtrak deserves the subsidies that will be required to keep it operating.

In transit, the bill provides $6.7 billion for transit programs, an increase of almost $500 million over the current year. For the New Starts program, where funding is very tight, the committee chose to provide a higher share of the requested amount to those transit projects which show a greater financial commitment by the local and State governments and where the Federal share is limited to 60 percent or less. This will allow the Congress to stretch the very limited amount of Federal money so as many worthy projects as possible can be conducted.

I hope all Members will appreciate that the explosive demand for transit services is far greater than we can possibly fund. By rewarding those projects with a higher local commitment, we are being good stewards of the taxpayers' money.

Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the fiscal year 2002 appropriation bill. This bill is one that historically has been developed in a bipartisan manner, and I am happy to say that this year is no different.

This is the first year that the gentleman from Kentucky (Mr. ROGERS) has chaired the subcommittee, and I congratulate him on a job well done. He has been thorough, he has been fair, and we have a bill before us that deserves the support of all Members of this House.

I would also like to thank our staff, Bev Pheto and Marjorie Duske from my staff, and the subcommittee staff of Rich Efford, Stephanie Gupta, Cheryle Tucker, Linda Muir and Theresa Kohler. They all have worked exceptionally well together and have produced an outstanding product. So this is a good bill that deserves passage by a substantial margin, and I would hope unanimous support.

The subcommittee held a number of hearings this year on aviation delays. The gentleman from Kentucky (Mr. ROGERS) should be commended for bringing the FAA, airports, airlines and other stakeholders together for frank discussions on the problems facing aviation customers. Solutions are not easy to come by, but we need a balanced approach to increase aviation system capacity with updated air traffic control technology, new runways and responsible flight scheduling.

One important factor that must not be overlooked is the fact that many communities have a legitimate concern about airport noise that results in delays or even prevent airport expansion. We currently spend tens of millions of dollars every year to mitigate noise impacts by insulating or relocating homes. To help alleviate the noise problem at its source, the bill provides an additional $20 million to increase aircraft engine noise research so that quieter airplanes can be developed sooner.

Overall, this is a great bill. We should pass it.

Let me also, however, note some concerns of our colleagues that the committee did not extend several transit, bus and New Start earmarks and would allow them to be reprogrammed in 2002. I am sure that we can work out these issues as we move forward in the appropriations process.

In closing, I believe that the merits of this bill outweigh any problems that must be addressed, and I urge support of the bill.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, to finish my opening statement, this bill is fair, it is balanced, it is bipartisan. It satisfies our national transportation needs to the best of our ability. It emphasizes strong program oversight and financial accountability, and it represents the handiwork of every Member of this subcommittee.

I want to thank all of our Members for their suggestions, their hard work, and, again, special thanks to the ranking member, the gentleman from Minnesota (Mr. SABO), for his assistance throughout the process. I urge approval of the bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. YOUNG), the very able chairman of the full committee who has been so helpful to us in the production of this bill and all of the others.

Mr. YOUNG of Florida. Mr. Chairman, I rise in enthusiastic support of this bill, and I want to compliment the gentleman from Kentucky (Mr. ROGERS) for having done an outstanding job in working with the gentleman from Minnesota (Mr. SABO), the ranking member, and the staff of the subcommittee, because they have taken a bill that has the potential for real controversy and made it a very good bipartisan bill.

That is not to say that there are not some differences, because there are some differences. That is always the case when we bring a bill to the floor. But these men have done a really good job.

I also want to compliment the gentleman from Kentucky (Mr. ROGERS), the chairman of the Subcommittee, for the tremendous relationship that he has established with the authorizing committee, the Committee on Transportation and Infrastructure, chaired by our friend and colleague, the gentleman from Alaska (Mr. YOUNG). They had some problems that had to be worked out, and they were able to do that, mostly to the satisfaction of both of them. I believe this is a good example of how legislation can be drafted to get to a good bill that can be accepted by most everybody in this Chamber.

Mr. Chairman, I rise to support the bill, to thank the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO), and to thank the chairman of the authorizing committee, the gentleman from Alaska (Mr. YOUNG) for the good work he has done in helping us to resolve some of these differences.

It is a good bill. Let us vote for it.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Michigan (Ms. KILPATRICK), a distinguished member of our subcommittee.

Ms. KILPATRICK. Mr. Chairman, I thank the ranking member, the gentleman from Minnesota (Mr. SABO) for his outstanding leadership as we brought a perfect bill to this floor.

Mr. Chairman, it has been a pleasure to work with the gentleman from Kentucky (Mr. ROGERS) on this first time on appropriations and in the subcommittee. This is a good bill. I strongly urge its adoption and that we move forward in the process.

Mr. Chairman, the chairman of our entire subcommittee spent many hours working with the airline industry because we know that cancellations, as well as late flights, are a problem for all Americans.

Mr. Chairman, I want to commend the gentleman from Kentucky (Mr. ROGERS) on his tenacity in making the airline industry come to the table and to address that problem. We have a safe industry here in America, and we are proud of that, but there is much work yet to be done as it relates to cancellations and timely departures and arrivals. With the leadership of the gentleman from Minnesota (Mr. SABO) and our chairman, I am sure we will get to the bottom of that as well.

The bill is a good one, as has been mentioned; not a perfect bill, but seldom do we have a perfect bill.

I want to mention a little bit about the motor carrier safety that we are seeing in America. Trucks are responsible for many accidents that we have in our country. We have to make sure that we have an adequately staffed motor carrier division, and this bill begins to address that.

In our NAFTA provisions that were passed a few years back, beginning January 1, as has been mentioned, many trucks coming from Canada, coming from Mexico must be inspected. Everything has to be safe and within the rules of America's transportation system. As the gentleman from Minnesota (Mr. SABO) mentioned earlier, with NAFTA many trucks now will be coming into America further than the 30 miles, coming across into our country, and sometimes they may not meet the requirements that our country has set for our own trucks. I hope we will revisit the Sabo amendment and that we make those trucks coming in from Mexico meet the very same standards that our trucks have.

Many trucks coming from Mexico do not have regular hours of service. Sometimes their inspection records are not up-to-date like ours must be. I hope we take the time in this bill to revisit that issue, to make sure that all American citizens are secure and safe as trucks move around our country.

I strongly support this bill. I ask that my colleagues support it and that we move it to the Senate as soon as possible.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 3 minutes to the gentleman from Alaska (Mr. YOUNG), the new and very able and strong chairman of the Committee on Transportation and Infrastructure, the authorizing committee, with whom I have a very close working relationship, and I appreciate his work very much and his cooperation.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of H.R. 2299, the Department of Transportation and Related Appropriations Act for Fiscal Year 2002.

I first want to again to congratulate the gentleman from Kentucky (Chairman ROGERS) for his excellent work on this legislation. He has done an outstanding job in making difficult choices with very little money and finding the funds to ensure the Nation's transportation infrastructure needs are met.

While I may not agree with every choice made in the legislation, I do recognize his leadership and hard work, and it has resulted in an excellent bill. I want to congratulate him for the work well done in his first term as chairman of the subcommittee.

At the beginning of this Congress, the gentleman from Kentucky (Mr. ROGERS) and I began a process of improving communications between our two committees, and I am hopeful that we can continue to work together to improve our communications and cooperation.

I also would like to thank the gentleman from Florida (Mr. YOUNG) and the gentleman from Kentucky (Mr. ROGERS) for reporting a bill that generally honors the funding guarantees contained in both the Transportation Equity Act for the 21st Century, TEA-21, and the Aviation Investment and Reform Act of the 21st Century, AIR-21.

However, I still have several concerns about the legislation. First, I have made it clear from the beginning of my term as chairman of Committee on Transportation and Infrastructure that I am going to ensure that the guaranteed funding provided by TEA-21 and AIR-21 are respected. These funds are essential to maintaining and improving our ground and aviation transportation systems.

The formula adopted by Congress under TEA-21 and AIR-21 guarantees that our promises are kept to the taxpayers who pay the taxes on fuels for the purpose of improving and maintaining our highways and airports.

A major guarantee of TEA-21 is that as the revenue from taxes increases, those revenues would automatically be distributed to the States through a process called Revenue Aligned Budget Authority, or RABA. Unfortunately, section 310 and section 323 both redistribute RABA funds for NAFTA-related spending in violation of the guarantee provided in TEA-21.

While I do support the object of the funding, strict safety inspections of Mexican trucks, I am concerned that opening up RABA to other purposes is not the appropriate manner in which to solve this problem. For that reason, I will object to this change in the law contained in bill.

The bill was reported with actually 50 legislative provisions that fall within this jurisdiction of the Committee on Transportation and Infrastructure. I am not objecting to the majority of these provisions, either because the appropriate consultation with my committee has taken place or because we are able to reach an agreement on the merits of certain actions. However, there will be a number, as I mentioned before, of other provisions that I will object to and raise a point of order that the committee has legislated in an area that is under the jurisdiction of the Committee on Transportation and Infrastructure.

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Finally, I want to express my strong support for the amendment to be offered by the chairman of the Subcommittee on Coast Guard and Maritime Transportation, the gentleman from New Jersey (Mr. LOBIONDO). His amendment is needed to address the significant shortfall in the appropriation to the Coast Guard. It was my understanding that the Committee on the Budget had provided a sufficient Function 400 to cover all the needs of the Coast Guard. Unfortunately, that allocation was not passed along in the Subcommittee on Transportation, which now makes this amendment necessary.

Again, I want to thank the Subcommittee on Transportation of the Committee on Appropriations for its consideration and cooperation. I want to commend the excellent staff of the gentleman from Kentucky (Chairman ROGERS) and the staff of the Subcommittee on Transportation for their hard work and willingness to work with my staff.

I look forward to continuing to work with the gentleman through this appropriation process to produce the best transportation appropriation bill possible.

Mr. SABO. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. ROTHMAN), a member of the full committee.

Mr. ROTHMAN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I wish to engage in a colloquy with our distinguished chairman, the gentleman from Kentucky

(Mr. ROGERS), on the subject of Stewart Airport.

Mr. Chairman, I thank you for joining in a colloquy with me and the distinguished ranking member, the gentleman from Minnesota (Mr. SABO), to discuss an important issue regarding air traffic in the New York-New Jersey metropolitan region.

Mr. Chairman, I am grateful for your efforts and those of our distinguished ranking member and for the work of the committee to research how to reduce the terrible problem of aircraft noise, which affects tens of thousands of my constituents in northern New Jersey.

I also want to thank the chairman and ranking member for addressing the critical problem of airline delays and for their work on the redesign of the New Jersey-New York metropolitan area's regional air space.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. ROTHMAN. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. I want to thank the gentleman from New Jersey for requesting this colloquy. I am proud to inform him of the work the committee has done in our oversight hearings and in this bill to address the serious issue of airline delays. I am also pleased to report that the bill includes $8.5 million, which the Federal Aviation Administration is to use only for the redesign of the New Jersey-New York metropolitan region's air space.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. ROTHMAN. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, the committee has also increased funding for the Federal Aviation Administration's environment and energy budget to research aircraft noise mitigation to $27.6 million, an increase of $24.1 million over fiscal year 2001, in order to speed the introduction of lower-noise aircraft technologies.

Mr. ROTHMAN. Mr. Chairman, reclaiming my time, I thank the gentlemen.

As the Federal Aviation Administration looks at ways of reducing the stress on our overburdened regional air space, particularly the air space over northern New Jersey, I would also ask the committee to work with the FAA on examining the important role that Stewart International Airport could play in accommodating general aviation aircraft that now use Teterboro Airport, located in my district in New Jersey. Such a shift from Teterboro to Stewart would reduce the aircraft noise and air traffic that affects hundreds of thousands of my constituents every day.

Mr. ROGERS of Kentucky. If the gentleman will continue to yield, I want to thank the gentleman from New Jersey (Mr. ROTHMAN) and the others for highlighting these additional ways that the FAA can reduce aircraft noise and ease air traffic congestion in the region. We will work with the gentleman on these important issues as the committee moves forward.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. ROTHMAN. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I represent the area around the Stewart Airport, and I want the gentleman to know just today we have been meeting with the FAA to emphasize the need for using regional airports, such as Stewart, to alleviate the congestion of LaGuardia Airport. I want to commend the gentleman for focusing attention on this important issue.

Mr. ROTHMAN. Mr. Chairman, reclaiming my time, I thank my distinguished colleague.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY), the distinguished ranking member of the full Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I simply want to say while we will certainly be debating a number of issues about which there is some disagreement today, including the Sabo amendment, overall, this is a very reasonable bill and it deserves to be supported. I expect to support it, and I expect a large number of Members will do the same.

I congratulate the gentleman from Kentucky and the gentleman from Minnesota for the job they have done. I appreciate their good work, as I know the House does, and we look forward to disposing of this bill in fairly short order today.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentlewoman from Missouri (Mrs. EMERSON), one of the hardest working members of our subcommittee.

Mrs. EMERSON. Mr. Chairman, I rise today in support of H.R. 2299, and want to thank the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Mr. SABO), the ranking member, for the fabulous job they have done in putting this bill together, as well as the staffs, who have worked tremendously.

I believe very strongly this bill goes a long way towards meeting our Nation's transportation priorities. I come from a rural district; and, as cochair of the Rural Caucus, there is probably nothing more critical to helping rural America than improving our infrastructure. It is probably the most important thing that we needed to address in this issue, from my perspective, and, for the first time, our legislation does fund the Small Community Air Service Development Pilot Program, which will stimulate new and expanded air service at under-utilized airports in small and rural communities.

The legislation also includes important language which strongly urges the Department of Transportation to issue rural consultation provisions which were included back when we did TEA-21 3 years ago. These important rules will ensure that our rural local elected officials have a seat at the table when our State departments of transportation are making Statewide transportation planning decisions.

So, again, I would like to thank the chairman for his tremendous hard work; and I look forward to working with him and the ranking member as we continue on with the process.

Mr. SABO. Mr. Chairman, I yield 1 minute to a distinguished member of our subcommittee, the gentleman from Arizona (Mr. PASTOR).

Mr. PASTOR. Mr. Chairman, first of all I would like to congratulate our chairman, the gentleman from Kentucky (Mr. ROGERS), and ranking member, the gentleman from Minnesota (Mr. SABO), for the fine work they have done in bringing this bill before us. It is a reasonable bill, it is a fair bill, and I congratulate them and also thank them.

I would like to thank the subcommittee for the work that they did on the issue of the borders in this bill. We have monies dedicated to building facilities that will inspect the trucks, as we have the international flow of trucks, and also we have additional personnel on the borders. This bill contains additional money for personnel on the borders that will inspect the trucks.

I would also like to congratulate the subcommittee for the work they have done in dealing with airport congestion. As the gentleman from New Jersey (Mr. ROTHMAN) talked about hubs, this subcommittee has taken on the responsibility of dealing with the congestion that we have, and I look forward to working with them to resolve that.

I would like to thank the staff for the fine work they have done. This is a good bill, and we support it.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. SWEENEY), another one of the very hardworking members of our subcommittee.

Mr. SWEENEY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I basically wanted to stand and commend and congratulate our chairman of the subcommittee, who faced a number of challenges, as well as the ranking member, the gentleman from Minnesota (Mr. SABO).

This is a comprehensive bill that moves forward the transportation needs of this Nation in a very positive way, connecting road, rail and air. They faced a great many challenges.

I come from a State that has huge transportation infrastructure needs.

For example, in the New Start program, they faced the challenge that the Federal Transit Administration account has been drawn down to dangerously low levels in the New Start program, and there are a number of programs that need funding.

We were able to secure some funding for the New York City area, which has huge and substantial needs. In addition to that, as my colleague, the gentleman from New Jersey (Mr. ROTHMAN), pointed out, this bill moves forward in a very positive way. I think it is the first tangible way that any level of government began to look at the use of Stewart Airport as one of the four major airports in the New York metropolitan area. And this is not a Northeast regional issue or problem, it is a national problem, because 30 percent of all delays in air travel come out of that region. If we are able, through the commission of a study in this bill, to find a way to ease that problem, it will have an effect nationally.

There are a number of other provisions in this bill that work to serve the Northeast and my constituents, an I–87 corridor study and many other efforts in the high speed rail area, to connect our region.

But I want to especially commend the chairman, the gentleman from Kentucky (Mr. ROGERS), and his staff for their paying attention to these problems, for taking the issues that are at hand here today and working hard with them.

In addition, I understand we are going to add some new money into the FAA's General Counsel's office to handle airport-airline complaints. All of those efforts are consumer friendly and are important to moving the agenda forward, and I want to commend the chairman for that.

Mr. PASTOR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. SERRANO), a member of the subcommittee.

Mr. SERRANO. Mr. Chairman, I rise to engage my chairman, the gentleman from Kentucky (Mr. ROGERS), in a colloquy.

Mr. Chairman, as you know, New York City is the Nation's biggest user of mass transportation. The city's transit needs are constantly growing and transit improvements and expansion are of critical importance to the city's mobility and general well-being.

One project that is vital to the transit network of the future is the Second Avenue Subway. I requested funding for this project, as did other Members of the New York delegation. However, as a member of the subcommittee, I am keenly aware of the funding limits that the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), faced in putting their bill together and of the tough decisions that they were forced to make.

One of these decisions was to limit New Starts funding to projects already in preliminary engineering. This made funding the numerous projects that are still in the alternatives analysis stage of the planning process impossible.

I would ask the gentleman from Kentucky (Chairman ROGERS) if there were any exceptions to this policy and if the decision was made without prejudice to any of the projects, especially to my great city?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. The gentleman from New York is correct. There were no exceptions to the policy and it was made without prejudice; and, I would add, the gentleman from New York has been very, very persuasive with us.

Mr. SERRANO. Mr. Chairman, reclaiming my time, I thank the chairman for those comments. I would like to close by saying this continues to be a major concern to my city and to certainly the surrounding area, the people who come in to visit. I would hope that in the near future we could move to find a way to fund this project.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I am pleased to rise in strong support of this measure, the Fiscal Year 2002 Transportation Appropriations Act. I commend the gentleman from Kentucky (Mr. ROGERS), the subcommittee's distinguished chairman, for his diligence and hard work in crafting this legislation, which appropriates over $59 billion in budgetary resources to meet our Nation's transportation needs, including almost $20 million for New York State and my Congressional district.

I am gratified to note that over $6 million has been earmarked for improving Stewart International Airport, which we have been discussing, providing funding for the construction of a new, long-needed air traffic control tower.

In addition, funds are going to be allocated to the Stewart Airport Connector Study, which will improve surface access to the airport. Moreover, I welcome Chairman ROGERS' support for Stewart by his recognition of its potential as a priority alternative regional airport for the New York metropolitan region.

Earlier today, I was pleased to host a meeting with Chuck Seliga, Managing Director of Stewart International, and with officials from the Federal Aviation Administration to review the future of Stewart Airport and how our efforts to alleviate congestion at LaGuardia should include Stewart Airport.

□ 1515

Stewart International has the infrastructure location and capability to be a viable alternative for the New York metropolitan region, and I fully support efforts to promote this underutilized airport. I commend the gentleman from Kentucky (Mr. ROGERS), the chairman of the subcommittee, for his efforts in crafting this vital legislation.

Accordingly, I urge my colleagues to fully support this important appropriations bill.

Mr. PASTOR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I would like to engage the gentleman from Kentucky (Mr. ROGERS), the subcommittee chairman, in a colloquy.

Mr. Chairman, I would like to request that a study be conducted on pier safety in navigable waters.

Currently, no Federal regulations exist requiring safety standards for piers. This deeply concerns me because there have been a great number of fatal pier accidents that could have been prevented if Federal safety standards were in place.

One such fatal accident took place on May 18, 2000, when a 140-foot portion of Pier 34 on the Delaware River in Philadelphia collapsed, killing three constituents of mine. This accident could have been avoided if Federal pier safety standards had existed.

I believe that Congress can take an active role in preventing these tragic accidents from occurring by creating safety standards for piers in navigable waters. Therefore, I respectfully ask for the chairman to support my efforts by urging the conferees to include language in the final transportation appropriations bill that calls for a study to be conducted on pier safety.

Mr. Chairman, I thank the gentleman for yielding.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, while I have not examined this particular issue in detail, I can assure the gentleman that we will seriously consider his request.

Mr. ANDREWS. Mr. Chairman, I thank the subcommittee chairman and the staff.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. WOLF), the very able immediate past chairman of this subcommittee and now the chairman of the Subcommittee on Commerce, Justice and State and Judiciary.

Mr. WOLF. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. WOLF. Mr. Chairman, I rise in strong support of the bill.

I do want to just say, though, for the membership of the body and for the administration, the gentleman from Minnesota (Mr. SABO) is right. We have to be careful on this truck issue. Five thousand people a year die in the United States from trucks. If you go out on a truck inspection of American trucks, you will be fearful when you go out on the road sometimes.

Mexico has no hours of service. None. Mexico has no drug testing. None. Mexico has no alcohol testing. None. Mexico has no commercial driver's license. None. Mexico has no truck inspection. None. Mexico uses leaded gasoline and not unleaded gasoline.

Frankly, the administration has not thought this thing through, and we do not even have an Office of Motor Carrier Administration yet on the job.

Now, I know the gentleman from Kentucky (Mr. ROGERS) said we will watch this carefully and I appreciate that. But this is an important issue. I tell the administration, you better be careful and you better handle this right, because if this is not handled right, people will die. So this is an important issue, and I appreciate the chairman's commitment to making sure that those regulations are good. I think the Congress ought to be very careful and the administration especially so, to listen to what the gentleman from Minnesota (Mr. SABO) was trying to say.

The truck safety issue is one that I advocated as the chairman of the House transportation appropriations subcommittee over the past six years. I sat in hearings and heard testimony about the widespread safety problems involving trucks from Mexico, including testimony from the inspector general at the U.S. Department of Transportation. That office issued a December 1998 audit report which "concluded that neither the Office of Motor Carriers nor the border states, with the exception of California, are taking sufficient actions to ensure that trucks entering the United States from Mexico meet U.S. safety standards."

I understand the requirements under NAFTA permitting cross-border trucking services. Nevertheless, the U.S. needs to ensure that trucks coming across our borders and traveling on our highways will meet U.S. safety standards. The Department of Transportation must establish a consistent enforcement program that provides reasonable assurance of the safety of trucks from Mexico entering the United States.

The United States and Mexico must establish, test and implement a comprehensive truck safety program at our borders. It is unacceptable to have unsafe trucks from anywhere on U.S. highways. These trucks could be traveling on I–81 through the Shenandoah Valley in the heart of my congressional district, or on I–5 in California, or on the streets of the nation's capital. We have an obligation to protect our families, our friends and our neighbors who use the nation's highway system every hour of every day.

I urge the Bush Administration to take every precaution necessary to ensure that no lives are lost because of unsafe trucks on our highways. I have spent considerable time on this issue over the past six years and believe it deserves your close attention.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 7, 2001.

Hon. NORMAN MINETA,
Secretary, Department of Transportation,
Washington, DC.

DEAR SECRETARY MINETA: I am very troubled by the news reports today that the U.S. government may be poised to allow trucks from Mexico to cross U.S. borders under the North American Free Trade Agreement (NAFTA). I am writing to urge that you tread very carefully on this issue because lives are at stake.

The truck safety issue is one that I advocated as the chairman of the House transportation appropriations subcommittee over the past six years. I sat in hearing and heard testimony about the widespread safety problems involving trucks from Mexico, including testimony from the inspector general at the U.S. Department of Transportation. That office issued a December 1998 audit report (TR–1999–034) which "concluded that neither the Office of Motor Carriers nor the border states, with the exception of California, are taking sufficient actions to ensure that trucks entering the United States from Mexico meet U.S safety standards." A copy of the report is enclosed.

I understand the requirements under NAFTA permitting cross-border trucking services. Nevertheless, the U.S. needs to ensure that trucks coming across our borders and traveling on our highways will meet U.S. safety standards. Already more than 5,000 people die every year on our roads in accidents involving heavy trucks. That number could skyrocket if unsafe trucks from Mexico are allowed on our highways. According to the December 1998 IG report, barely 1 percent of the 3.7 million trucks from Mexico crossing the border were inspected. Of those, nearly half were placed our of service because of safety violations. The Department of Transportation must establish a consistent enforcement program that provides reasonable assurance of the safety of trucks from Mexico entering the United States.

In addition, I am concerned that no drug and alcohol testing program exists for truck drivers from Mexico. Mexico also has no hours of service regulations. This means that a truck driver from Mexico could have been driving for 24 hours straight before even entering the United States. Furthermore, no database exists between Mexico and the United States to exchange information on past violations of drivers from Mexico.

The United States and Mexico must establish, test and implement a comprehensive truck safety program at our borders. It is unacceptable to have unsafe trucks from anywhere on U.S. highways. These trucks could be traveling on I–81 through the Shenandoah Valley in the heart of my congressional district, or on I–5 in California, or on the streets of the nation's capital. We have an obligation to protect our families, our friends and our neighbors who use the nation's highway system every hour of every day.

I urge the Bush Administration to take every precaution necessary to ensure that no lives are lost because of unsafe trucks on our highways. I have spent considerable time on this issue over the past six years and believe it deserves your close attention.

I would be happy to talk with you about this critical matter. Lives are at stake. Please do not hesitate to call.

Best regards.
Sincerely,
FRANK R. WOLF,
Member of Congress.

Mr. PASTOR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I want to express my appreciation to the gentleman from Kentucky (Mr. ROGERS), the chairman of the subcommittee, for putting together a very excellent bill to help us deal with the transportation needs of our country over the course of the upcoming fiscal year.

In particular, I want to thank him for his attention to our air traffic needs and particularly to the subject of air traffic safety and the need to relieve air traffic congestion in many places around the country.

The airport at the LaGuardia field in New York City is principal among them. The chairman has recognized that it is possible to relieve air traffic congestion at LaGuardia and other metropolitan airports by providing an alternative venue at Stewart International Airport, which is located just 60 miles north of Manhattan.

The chairman has expressed that by working with us to obtain an appropriation of $5.7 million for a new air traffic control tower and air traffic control system at Stewart. If we are going to be successful in attracting new carriers into Stewart, new commercial carriers, this air traffic control system, which is funded in this appropriations bill, will be absolutely essential. I thank the chairman for that.

I also want to express my appreciation to the chairman for his recognition and allowing of report language in the bill which instructs the Federal Aviation Administration to pay attention to Stewart Airport as it addresses the need to relieve congestion at LaGuardia and other airports in the metropolitan region. We have placed language, report language, in the bill which stipulates that this should occur and that the FAA and the Federal Department of Transportation in addressing these needs also pay attention to the need to provide surface transportation between Newburgh where Stewart Airport is located and the metropolitan area of New York City. That is essential if this airport is going to be used in that way, and I thank the gentleman very much for his assistance in achieving these objectives.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. GEKAS) for the purpose of a colloquy.

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding me this time.

The current bill contains a provision in which the result is a reallocation of certain funds that were appropriated for what is called Corridor One in central Pennsylvania, a very vital item in the revitalization of mass transit transportation and economic development. We want to try to reconstitute this reallocation and allow the stream of funding to continue, and we would urge the chairman, and I will yield to him for a colloquy on this. I would ask him to work with us, staff-to-staff and Member to Member, so that we can try to refashion the appropriation and restore what has been reallocated.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I appreciate the concerns of the gentleman. We would be pleased to work with him as the transportation bill moves along this year, and I assure the gentleman of that.

Mr. GEKAS. Mr. Chairman, I thank the gentleman.

Mr. PASTOR. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding me this time.

I would ask if he, on behalf of the gentleman from Minnesota (Mr. SABO) and the distinguished chairman, as well as the gentleman from New Jersey (Mr. ROTHMAN), would join in a colloquy.

Mr. Chairman, I would like to thank the gentleman from Kentucky (Mr. ROGERS), the chairman of the subcommittee, and the gentleman from Minnesota (Mr. SABO), the ranking Democrat on the committee, as well as the gentleman from New Jersey (Mr. ROTHMAN), for addressing the needs of New Jersey this year. We have received generous consideration with regard to important projects such as the Hudson-Bergen Light Rail, and I deeply appreciate that consideration.

There is, however, one particular project that would greatly benefit my district and the region which did not receive funding. I am referring to the ferry terminal and pier project located in the heart of Jersey City's growing Colgate redevelopment zone. This $10 million project was recently submitted for funding, but was not included in the subcommittee's mark; and I was wondering if the gentleman could comment on that.

Mr. PASTOR. Mr. Chairman, will the gentleman yield?

Mr. MENENDEZ. I yield to the gentleman from Arizona.

Mr. PASTOR. Mr. Chairman, I understand that the subcommittee's decision was without prejudice to the merits of the Jersey City project.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MENENDEZ. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, the gentleman is correct.

Mr. ROTHMAN. Mr. Chairman, will the gentleman yield?

Mr. MENENDEZ. I yield to the gentleman from New Jersey.

Mr. ROTHMAN. Mr. Chairman, I too wish to express my gratitude to the gentleman from Kentucky (Mr. ROGERS), the chairman of the subcommittee, and to the gentleman from Arizona (Mr. PASTOR) on behalf of the ranking member, the gentleman fro Minnesota (Mr. SABO), for the cooperation and generosity of the committee for its help on a wide range of transportation priorities in New Jersey that are included in this bill.

I understand the funding constraints under which the committee is working. I would also, however, like to point out that this new ferry hub project would provide an important transportation solution for the tri-state area, New York, New Jersey and Connecticut, as well as in particular for Jersey City. It would connect the New York and New Jersey financial districts with a 5-minute ferry ride, transport up to 30,000 passengers daily, and provide relief to the now congested PATH and Holland Tunnel interstate traffic.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MENENDEZ. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank all of my colleagues for bringing the Jersey City project to our attention. I will be glad to work with my colleagues and other project sponsors as we move the transportation bill through the process this year.

Mr. MENENDEZ. Mr. Chairman, I thank the chairman for his consideration.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I applaud the gentleman from Kentucky (Mr. ROGERS) and the committee for taking action to fight the growing gridlock that plagues northern Illinois.

For the first time in 70 years, our country is building a new commuter rail line, Metra's North Central line; and once complete, this line will pull thousands of cars off of our crowded highways and will help us meet our obligations under the Clean Air Act.

The bill also contains funding for a traffic control center in Libertyville, Illinois, the Pace Suburban Bus System that relieves the pressure for the reverse commuters and for runway construction at Palwaukee Airport that will rebuild a crumbling runway that is crucial to relieving congestion at nearby O'Hare.

I want to thank the gentleman from Minnesota (Mr. SABO) and the gentleman from Kentucky (Mr. ROGERS) for their commitment to the quality of life and environment of northern Illinois.

Mr. Chairman, I urge strong support for this bill.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), one of our colleagues on the Committee on Appropriations and an old friend.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I applaud the efforts of the chairman and the ranking member on this bill.

I rise to speak on behalf of a provision which will help the Anacostia waterfront become a vibrant community of residents and commerce, a project that will make Poplar Point a recreation destination, and to make South Capitol Street the center of a vital community and an appropriate gateway entrance into this capital city.

Last year, the gentlewoman from the District of Columbia (Ms. NORTON) shepherded through the Congress a bill to allow private development of the Southeast Federal center. Her bill was key in bringing commercial and residential growth into this community. Over the past several months, I have been working with the gentlewoman from the District of Columbia (Ms. NORTON), Mayor Williams, and a host of Federal and local agencies and all of my colleagues from the Washington metropolitan area to identify what the Federal Government's next step can be. The next step must be addressing the terrible state of the South Capitol Street entrance to the Nation's capitol.

I therefore rise in strong support of the initiative in this bill for the Transportation Department to examine how to rework South Capitol Street. The transportation study will examine ways to create better infrastructure that links the waterfront community to the existing Capitol Hill community.

Once completed, this study is certain, certain to help community residents, Federal and District officials, and entrepreneurs to combine their skills and energy to realize the Anacostia's full potential.

We in Congress, Mr. Chairman, have a duty, a duty to this great city. By supporting the South Capitol Street traffic pattern study, we will be giving our Nation's capital a critical planning tool to make a smart, balanced development decision in the next few years. We will also be sending a powerful signal to District residents and entrepreneurs that we care about Washington, D.C.'s future.

I am very pleased to support this bill and the initiative. I think it is an initiative that all of us will look back on a decade, 2 decades from now and say, this was a substantial step, not just for the capital city, but for America as well.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. FOSSELLA) for the purposes of a colloquy.

Mr. FOSSELLA. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to thank the gentleman from Kentucky (Mr. ROGERS) for giving me the opportunity to discuss an issue that is vital not just to New York, but indeed the entire country.

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As the gentleman knows, the dynamics of the Regional Airspace Redesign recently brought this issue to our attention. The FAA is currently undertaking the New York-New Jersey-Philadelphia Airspace Redesign project, which is expected to take 5 years to complete.

According to the FAA, the purpose of the New York-New Jersey Airspace Redesign project is to "increase the efficiency of air traffic flows into and out of the metropolitan area, including Philadelphia, while maintaining or improving the level of safety and air traffic services that are currently in place."

In accordance with the Federal law, the FAA must conduct an environmental review before implementing any new flight plans. A concern that I have is the environmental impacts of departure delays. Anybody on the runway of any of the major airports knows what I mean, particularly, for example, in Newark airport, where it is not uncommon to sit on the runway for 45 minutes or hour, an hour, 15 minutes in the morning.

It is something that I feel deserves more consideration while conducting the redesign. By increasing efficiency, not only will delays be reduced, but the environments of surrounding communities will see a significant reduction in air pollution. Airports are significant sources of ground-level volatile organic compounds and nitrogen oxides. In our Nation's largest and busiest airports, these idling planes can create as much, if not more, ground-level pollution as many of their large industrial neighbors.

According to a July 2000 report by Department of Transportation Office of Inspector General, at the 28 largest U.S. airports, the number of flights with taxi-out times of 1 hour or more increased 130 percent over the past 5 years, with nearly 85 percent of all delay times occurring on the ground. In addition, it was reported that the departure delays were significantly underreported, so the full environmental effects of idling planes is not known.

The area included in the redesign contains four of the Nation's 10 most delayed airports.

By encouraging the FAA to take the environmental impacts of departure delays into consideration while evaluating new departure paths, this could lead to not only more efficient airports with less delays and happier consumers, but also a cleaner environment; therefore, I respectfully ask that the gentleman include language in the committee report directing the FAA to consider these impacts while conducting its environmental review.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I want to thank the gentleman from Florida (Mr. YOUNG), the gentleman from Wisconsin (Mr. OBEY), the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) for their great work on this bill.

Mr. Chairman, $65 million for the Mission Valley East Light Rail Extension is included in this bill, and that is part of the San Diego Trolley, an area that we have been trying to improve for a number of years. Also it includes $2 million for phase 1 of the Mid Coast Corridor Extension.

Mr. Chairman, I want to thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) for their long-standing commitment to mass transit.

I also want to recognize and thank my colleagues in the San Diego congressional delegation, the gentleman from California (Mr. HUNTER), the gentleman from California (Mr. CUNNINGHAM), the gentleman from California (Mr. FILNER) and the gentleman from California (Mr. ISSA). We have worked together on this Mission Valley East Extension, and this bipartisan cooperation will make a big difference for all of our constituents in San Diego.

What does that mean? It means that we are going to be increasing the trolley ridership by 2.5 million new annual transit riders. It means that students at San Diego State University will now be connected to our light rail system. It means that patients at Alvarado Medical Center will be connected to the light rail system as well. It also means that we are going to close the gap between our blue and our orange lines, and we will take a first step towards linking the University of California at San Diego to our light rail system.

Mr. Chairman, I thank the gentleman from Kentucky (Mr. ROGERS) for the opportunity to acknowledge these needed transit improvements that will be coming to the San Diego region and the big difference it will be making for all of us.

Mr. SABO. Mr. Chairman, I yield back the balance of my time.

Mr. ROGERS of Kentucky.

Mr. Chairman, I submit the following for the RECORD.

TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF TRANSPORTATION					
Office of the Secretary					
Salaries and expenses	63,245	69,500	67,726	+4,481	-1,774
Immediate Office of the Secretary	(1,827)	(1,989)	(1,929)	(+102)	(-60)
Immediate Office of the Deputy Secretary	(587)	(638)	(625)	(+38)	(-13)
Office of the General Counsel	(9,972)	(13,355)	(11,654)	(+1,682)	(-1,701)
Office of the Assistant Secretary for Policy	(3,011)	(3,153)	(3,153)	(+142)	....
Office of the Assistant Secretary for Aviation and International Affairs	(7,289)	(7,650)	(7,650)	(+361)	....
Office of the Assistant Secretary for Budget and Programs	(7,362)	(7,728)	(7,728)	(+366)	....
Office of the Assistant Secretary for Governmental Affairs	(2,150)	(2,282)	(2,282)	(+132)	....
Office of the Assistant Secretary for Administration	(19,020)	(20,262)	(20,262)	(+1,242)	....
Office of Public Affairs	(1,674)	(1,776)	(1,776)	(+102)	....
Executive Secretariat	(1,181)	(1,241)	(1,241)	(+60)	....
Board of Contract Appeals	(496)	(523)	(523)	(+27)	....
Office of Small and Disadvantaged Business Utilization	(1,192)	(1,251)	(1,251)	(+59)	....
Office of Intelligence and Security	(1,262)	(1,321)	(1,321)	(+59)	....
Office of the Chief Information Officer	(6,222)	(6,331)	(6,331)	(+109)	....
Subtotal	(63,245)	(69,500)	(67,726)	(+4,481)	(-1,774)
Across the board (0.22%) rescission	-139	....	....	+139	....
Office of civil rights	8,140	8,500	8,500	+360	....
Across the board (0.22%) rescission	-18	....	....	+18	....
Transportation planning, research, and development	11,000	5,193	5,193	-5,807	....
Across the board (0.22%) rescission	-24	....	....	+24	....
Transportation Administrative Service Center	(126,887)	(125,323)	(125,323)	(-1,564)	....
Minority business resource center program	1,900	900	900	-1,000	....
Across the board (0.22%) rescission	-4	....	....	+4	....
(Limitation on guaranteed loans)	(13,775)	(18,367)	(18,367)	(+4,592)	....
Minority business outreach	3,000	3,000	3,000	....	....
Across the board (0.22%) rescission	-7	....	....	+7	....
Payments to air carriers (Airport & Airway Trust Fund)	....	....	13,000	+13,000	+13,000
Total, Office of the Secretary	87,285	87,093	98,319	+11,034	+11,226
ATB rescissions	-192	....	....	+192	....
Net total	87,093	87,093	98,319	+11,226	+11,226
Coast Guard					
Operating expenses	2,851,000	3,042,588	3,042,588	+191,588	....
Defense function	341,000	340,250	340,000	-1,000	-250
Subtotal	3,192,000	3,382,838	3,382,588	+190,588	-250
Across the board (0.22%) rescission	-6,967	....	....	+6,967	....
Acquisition, construction, and improvements:					
Vessels	156,450	79,390	90,990	-65,460	+11,600
Aircraft	37,650	500	26,000	-11,650	+25,500
Other equipment	60,113	95,471	74,173	+14,060	-21,298
Shore facilities & aids to navigation facilities	63,336	79,262	44,206	-19,130	-35,056
Personnel and related support	55,151	66,700	64,631	+9,480	-2,069
Integrated Deepwater Systems	42,300	338,000	300,000	+257,700	-38,000
Subtotal, A C & I (excluding rescissions)	415,000	659,323	600,000	+185,000	-59,323
Across the board (0.22%) rescission	-869	....	....	+869	....
Environmental compliance and restoration	16,700	16,927	16,927	+227	....
Across the board (0.22%) rescission	-37	....	....	+37	....
Alteration of bridges	15,500	15,466	15,466	-34	....
Across the board (0.22%) rescission	-35	....	....	+35	....
Retired pay	778,000	876,346	876,346	+98,346	....
Reserve training	80,375	83,194	83,194	+2,819	....
Across the board (0.22%) rescission	-176	....	....	+176	....
Research, development, test, and evaluation	21,320	21,722	21,722	+402	....
Across the board (0.22%) rescission	-40	....	....	+40	....
Trust fund share of expenses (ATB rescission)	-108	....	....	+108	....
Total, Coast Guard	4,518,895	5,055,818	4,996,243	+477,348	-59,573
ATB rescissions	-8,232	....	....	+8,232	....
Net total	4,510,663	5,055,818	4,996,243	+485,580	-59,573
Federal Aviation Administration					
Operations	6,544,235	6,886,000	6,870,000	+325,765	-16,000
Air traffic services	(5,200,274)	(5,447,421)	(5,494,883)	(+294,609)	(+47,462)
Aviation regulation and certification	(694,979)	(744,744)	(727,870)	(+32,891)	(-16,874)
Civil aviation security	(139,301)	(150,154)	(135,949)	(-3,352)	(-14,205)
Research and acquisition	(189,988)	(196,674)	(195,258)	(+5,270)	(-1,416)
Commercial space transportation	(12,000)	(14,706)	(12,254)	(+254)	(-2,452)
Financial services	(48,444)	(50,684)	(50,480)	(+2,036)	(-204)
Human resources	(54,864)	(74,516)	(67,635)	(+12,771)	(-6,881)
Regional coordination	(99,347)	(90,893)	(84,613)	(-14,734)	(-6,280)
Staff offices	(105,038)	(116,208)	(108,776)	(+3,738)	(-7,432)
Undistributed	....	....	(-7,718)	(-7,718)	(-7,718)
Subtotal	(6,544,235)	(6,886,000)	(6,870,000)	(+325,765)	(-16,000)
Across the board (0.22%) rescission	-14,397	....	....	+14,397	....

NOTE: FY01 rescissions included in Net total lines.

TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Facilities & equipment (Airport & Airway Trust Fund)	2,656,765	2,914,000	2,914,000	+257,235	
Across the board (0.22%) rescission	-5,845			+5,845	
Research, engineering, and development (Airport and Airway Trust Fund)	187,000	187,761	191,481	+4,481	+3,700
Across the board (0.22%) rescission	-411			+411	
Grants-in-aid for airports (Airport and Airway Trust Fund):					
(Liquidation of contract authorization)	(3,200,000)	(1,800,000)	(1,800,000)	(-1,400,000)	
(Limitation on obligations)	(3,200,000)	(3,300,000)	(3,300,000)	(+100,000)	
Across the board (0.22%) rescission	(-7,040)			(+7,040)	
Across the board (0.22%) rescission	-4			+4	
Rescission of contract authorization	-579,000	-331,000	-301,000	+278,000	+30,000
Net subtotal	(2,613,956)	(2,969,000)	(2,999,000)	(+385,044)	(+30,000)
Total, Federal Aviation Administration	9,388,000	9,987,781	9,975,481	+587,481	-12,300
(Limitations on obligations)	(3,200,000)	(3,300,000)	(3,300,000)	(+100,000)	
Total budgetary resources	(12,588,000)	(13,287,781)	(13,275,481)	(+687,481)	(-12,300)
ATB rescissions	(-7,040)			(+7,040)	
ATB rescissions	-20,657			+20,657	
Rescission	-579,000	-331,000	-301,000	+278,000	+30,000
Net total	(11,981,303)	(12,956,781)	(12,974,481)	(+993,178)	(+17,700)
Federal Highway Administration					
Limitation on administrative expenses	(295,119)	(317,693)	(311,837)	(+16,718)	(-5,856)
Limitation on transportation research			(447,500)	(+447,500)	(+447,500)
Federal-aid highways (Highway Trust Fund):					
(Limitation on obligations)	(26,603,806)	(27,042,994)	(27,197,693)	(+593,887)	(+154,699)
Across the board (0.22%) rescission	(-58,528)			(+58,528)	
Revenue aligned budget authority (RABA)	(3,058,000)	(4,341,700)	(4,486,700)	(+1,428,700)	(+145,000)
Innovative transportation solutions program (RABA)		(45,000)			(-45,000)
Alternative transportation grant program (RABA)		(100,000)			(-100,000)
Border infrastructure construction program (RABA)		(56,300)	(56,300)	(+56,300)	
Subtotal, RABA	(3,058,000)	(4,543,000)	(4,543,000)	(+1,485,000)	
Across the board (0.22%) rescission	(-6,728)			(+6,728)	
RABA transfer to FMCSA		(-22,837)	(-23,896)	(-23,896)	(-1,059)
Subtotal, limitation on obligations	(29,661,806)	(31,563,157)	(31,716,797)	(+2,054,991)	(+153,640)
(Exempt obligations)	(1,069,000)	(955,000)	(955,000)	(-114,000)	
(Liquidation of contract authorization)	(28,000,000)	(30,000,000)	(30,000,000)	(+2,000,000)	
Emergency Relief Program (Highway Trust Fund) (contingent emergency appropriation)	720,000			-720,000	
Across the board (0.22%) rescission	-1,584			+1,584	
State infrastructure banks (rescission)			-6,000	-6,000	-6,000
Total, Federal Highway Administration					
Contingent emergency	720,000			-720,000	
(Limitations on obligations)	(29,661,806)	(31,563,157)	(31,716,797)	(+2,054,991)	(+153,640)
(Exempt obligations)	(1,069,000)	(955,000)	(955,000)	(-114,000)	
Total budgetary resources	(31,450,806)	(32,518,157)	(32,671,797)	(+1,220,991)	(+153,640)
ATB rescissions	(-65,256)			(+65,256)	
ATB rescissions	-1,584			+1,584	
Rescission			-6,000	-6,000	-6,000
Net total	(31,383,966)	(32,518,157)	(32,665,797)	(+1,281,831)	(+147,640)
Federal Motor Carrier Safety Administration					
Motor carrier safety (limitation on obligations administrative expenses)	(92,194)	(139,007)	(92,307)	(+113)	(-46,700)
Across the board (0.22%) rescission	(-202)			(+202)	
National motor carrier safety program (Highway Trust Fund):					
(Liquidation of contract authorization)	(177,000)	(204,837)	(205,896)	(+28,896)	(+1,059)
(Limitation on obligations)	(177,000)	(182,000)	(182,000)	(+5,000)	
Across the board (0.22%) rescission	(-389)			(+389)	
RABA transfer from FHWA:					
Border-State grants		(18,000)			(-18,000)
State commercial driver's license		(4,837)			(-4,837)
Motor carrier safety assistance grants			(23,896)	(+23,896)	(+23,896)
Subtotal, RABA		(22,837)	(23,896)	(+23,896)	(+1,059)
Subtotal, limitation on obligations	(177,000)	(204,837)	(205,896)	(+28,896)	(+1,059)
Total, Federal Motor Carrier Safety Administration					
(Limitations on obligations)	(269,194)	(343,844)	(298,203)	(+29,009)	(-45,641)
Total budgetary resources	(269,194)	(343,844)	(298,203)	(+29,009)	(-45,641)
ATB rescissions	(-591)			(+591)	
Net total	(268,603)	(343,844)	(298,203)	(+29,600)	(-45,641)

TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
National Highway Traffic Safety Administration					
Operations and research	118,876	122,000	122,420	+5,544	+420
Operations and research (Highway trust fund):					
(Liquidation of contract authorization)	(72,000)	(72,000)	(72,000)		
(Limitation on obligations)	(72,000)	(72,000)	(72,000)		
National Driver Register (Highway trust fund)	2,000	2,000	2,000		
Subtotal, Operations and research	(190,876)	(196,000)	(196,420)	(+5,544)	(+420)
Across the board (0.22%) rescission	-261			+261	
Across the board (0.22%) rescission	(-158)			(+158)	
Highway traffic safety grants (Highway Trust Fund):					
(Liquidation of contract authorization)	(213,000)	(223,000)	(223,000)	(+10,000)	
(Limitation on obligations):					
Highway safety programs (Sec. 402)	(155,000)	(160,000)	(160,000)	(+5,000)	
Occupant protection incentive grants (Sec. 405)	(13,000)	(15,000)	(15,000)	(+2,000)	
Alcohol-impaired driving countermeasures grants (Sec. 410)	(36,000)	(38,000)	(38,000)	(+2,000)	
State highway safety data grants (Sec. 411)	(9,000)	(10,000)	(10,000)	(+1,000)	
Across the board (0.22%) rescission	(-469)			(+469)	
Total, National Highway Traffic Safety Administration	118,876	124,000	124,420	+5,544	+420
(Limitations on obligations)	(285,000)	(295,000)	(295,000)	(+10,000)	
Total budgetary resources	(403,876)	(419,000)	(419,420)	(+15,544)	(+420)
ATB rescissions	(-627)			(+627)	
ATB rescissions	-261			+261	
Net total	(402,988)	(419,000)	(419,420)	(+16,432)	(+420)
Federal Railroad Administration					
Safety and operations	101,717	111,357	110,461	+8,744	-896
Across the board (0.22%) rescission	-224			+224	
Offsetting collections		-41,000			+41,000
Railroad research and development	25,325	28,325	27,375	+2,050	-950
Across the board (0.22%) rescission	-56			+56	
Offsetting collections		-14,000			+14,000
Rhode Island Rail Development	17,000			-17,000	
Across the board (0.22%) rescission	-37			+37	
Pennsylvania Station Redevelopment project (advance appropriations, FY 2001, FY 2002, FY 2003) 1/	20,000	20,000	20,000		
Across the board (0.22%) rescission	-44			+44	
Rescission			-20,000	-20,000	-20,000
Next generation high-speed rail	25,100	25,100	25,100		
Across the board (0.22%) rescission	-55			+55	
Alaska Railroad rehabilitation	20,000			-20,000	
Across the board (0.22%) rescission	-44			+44	
West Virginia Rail development	15,000			-15,000	
Across the board (0.22%) rescission	-33			+33	
Capital grants to the National Railroad Passenger Corporation	521,476	521,476	521,476		
Across the board (0.22%) rescission	-1,147			+1,147	
Total, Federal Railroad Administration	743,978	651,258	684,412	-59,566	+33,154
ATB rescissions	-1,640			+1,640	
Net total	742,338	651,258	684,412	-57,926	+33,154
Federal Transit Administration					
Administrative expenses	12,800	13,400	13,400	+600	
Across the board (0.22%) rescission	-28			+28	
Administrative expenses (Highway Trust Fund, Mass Transit Account) (limitation on obligations)	(51,200)	(53,600)	(53,600)	(+2,400)	
Subtotal, Administrative expenses	(63,972)	(67,000)	(67,000)	(+3,028)	
Formula grants	669,000	718,400	718,400	+49,400	
Across the board (0.22%) rescission	-1,360			+1,360	
Formula grants (Highway Trust Fund) (limitation on obligations)	(2,676,000)	(2,873,600)	(2,873,600)	(+197,600)	
Across the board (0.22%) rescission	(-5,887)			(+5,887)	
Subtotal, Formula grants	(3,343,640)	(3,592,000)	(3,592,000)	(+248,360)	
University transportation research	1,200	1,200	1,200		
University transportation research (Highway Trust Fund, Mass Transit Account) (limitation on obligations)	(4,800)	(4,800)	(4,800)		
Across the board (0.22%) rescission	(-3)			(+3)	
Subtotal, University transportation research	(6,000)	(6,000)	(6,000)		
Transit planning and research	22,200	23,000	23,000	+800	
Transit planning and research (Highway Trust Fund, Mass Transit Account) (limitation on obligations)	(87,800)	(93,000)	(93,000)	(+5,200)	
Subtotal, Transit planning and research	(110,000)	(116,000)	(116,000)	(+6,000)	
Rural transportation assistance	(5,250)	(5,250)	(5,250)		
National transit institute	(4,000)	(4,000)	(4,000)		
Transit cooperative research	(8,250)	(8,250)	(8,250)		
Metropolitan planning	(52,114)	(55,422)	(55,422)	(+3,308)	

1/ Funding provided in P.L. 106-113.

TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
State planning	(10,886)	(11,578)	(11,578)	(+692)	
National planning and research	(29,500)	(31,500)	(31,500)	(+2,000)	
Subtotal	(110,000)	(116,000)	(116,000)	(+6,000)	
Across the board (0.22%) rescission	-49			+49	
Trust fund share of expenses (Highway Trust Fund) (liquidation of contract authorization)	(5,016,600)	(5,397,800)	(5,397,800)	(+381,200)	
Capital investment grants	529,200	568,200	568,200	+39,000	
Capital investment grants (Highway Trust Fund, Mass Transit Account) (limitation on obligations)	(2,116,800)	(2,272,800)	(2,272,800)	(+156,000)	
Subtotal, Capital investment grants	(2,646,000)	(2,841,000)	(2,841,000)	(+195,000)	
Fixed guideway modernization	(1,058,400)	(1,136,400)	(1,136,400)	(+78,000)	
Buses and bus-related facilities	(529,200)	(568,200)	(568,200)	(+39,000)	
New starts	(1,058,400)	(1,136,400)	(1,136,400)	(+78,000)	
Subtotal	(2,646,000)	(2,841,000)	(2,841,000)	(+195,000)	
Across the board (0.22%) rescission	-1,274			+1,274	
Discretionary grants (Highway Trust Fund, Mass Transit Account) (liquidation of contract authorization)	(350,000)			(-350,000)	
Job access and reverse commute grants	20,000	25,000	25,000	+5,000	
Across the board (0.22%) rescission	-44			+44	
(Highway Trust Fund, Mass Transit Account) (limitation on obligations)	(80,000)	(100,000)	(100,000)	(+20,000)	
Trust fund share of expenses (limitation on obligations) (ATB rescission)	(-8,492)			(+8,492)	
Subtotal, Job access and reverse commute grants	(99,956)	(125,000)	(125,000)	(+25,044)	
Total, Federal Transit Administration	1,254,400	1,349,200	1,349,200	+94,800	
(Limitations on obligations)	(5,016,600)	(5,397,800)	(5,397,800)	(+381,200)	
Total budgetary resources	(6,271,000)	(6,747,000)	(6,747,000)	(+476,000)	
ATB rescissions	(-14,382)			(+14,382)	
ATB rescissions	-2,755			+2,755	
Net total	(6,253,863)	(6,747,000)	(6,747,000)	(+493,137)	
Saint Lawrence Seaway Development Corporation					
Operations and maintenance (Harbor Maintenance Trust Fund)	13,004	13,345	13,426	+422	+81
Across the board (0.22%) rescission	-29			+29	
Net total	12,975	13,345	13,426	+451	+81
Research and Special Programs Administration					
Research and special programs:					
Hazardous materials safety	18,750	21,217	21,348	+2,598	+131
Emergency transportation	1,831	1,897	1,897	+66	
Research and technology	4,816	4,760	1,784	-3,032	-2,976
Program and administrative support	10,976	14,059	11,458	+482	-2,601
Adjustment		60			-60
Subtotal, research and special programs	36,373	41,993	36,487	+114	-5,506
Across the board (0.22%) rescission	-79			+79	
Offsetting collections		-12,000			+12,000
Pipeline safety:					
Pipeline Safety Fund	36,556	46,286	41,003	+4,447	-5,283
Oil Spill Liability Trust Fund	7,488	7,472	7,472	-16	
Pipeline safety reserve	(3,000)			(-3,000)	
Subtotal, Pipeline safety program (including reserve)	(47,044)	(53,758)	(48,475)	(+1,431)	(-5,283)
Across the board (0.22%) rescission	-19			+19	
Emergency preparedness grants:					
Emergency preparedness fund	200	200	200		
Limitation on emergency preparedness fund	(14,300)	(14,300)	(14,300)		
Total, Research and Special Programs Administration	80,617	83,951	85,162	+4,545	+1,211
ATB rescissions	-98			+98	
Net total	80,519	83,951	85,162	+4,643	+1,211
Office of Inspector General					
Salaries and expenses	48,450	50,614	50,614	+2,164	
Across the board (0.22%) rescission	-106			+106	
(By transfer from FTA)	(1,000)	(2,000)		(-1,000)	(-2,000)
Net total	(49,344)	(52,614)	(50,614)	(+1,270)	(-2,000)
Surface Transportation Board					
Salaries and expenses	17,954	18,457	18,563	+609	+106
Offsetting collections	-900	-950	-950	-50	
Net total	17,054	17,507	17,613	+559	+106
Across the board (0.22%) rescission	-37			+37	

TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Bureau of Transportation Statistics					
Office of airline information (Airport & Airway Trust Fund)		3,760			-3,760
General Provisions					
Appalachian development highway system (Sec. 326)	54,963			-54,963	
Across the board (0.22%) rescission	-561			+561	
Amtrak Reform Council (Sec. 326)	750	785	785	+35	
Across the board (0.22%) rescission	-2			+2	
Muscle Shoals, Tuscumbia, and Sheffield (Sec. 375)	5,000			-5,000	
Valley trains and tours (Sec. 376)	1,000			-1,000	
Miscellaneous highways (Sec. 378)	1,370,000			-1,370,000	
Across the board (0.22%) rescission	-2,607			+2,607	
Woodrow Wilson Memorial Bridge (Sec. 379)	600,000			-600,000	
Miscellaneous appropriations (P.L. 106-554):					
Huntsville International Airport (sec. 1104)	2,500			-2,500	
Southeast Light Rail Extension Project (sec. 1105)	1,000			-1,000	
Newark-Elizabeth rail link project (sec. 1107)	3,000			-3,000	
Commercial remote sensing products and spatial information technologies (sec. 1109)	4,000			-4,000	
Rural farm-to-market roads (sec. 1121)	2,400			-2,400	
Buses & bus facilities, A&M University (sec. 1123)	500			-500	
Highway Trust Fund, various projects (sec. 1128)	8,700			-8,700	
Across the board (0.22%) rescission	-1,333			+1,333	
Total, General provisions	2,049,310	785	785	-2,048,525	
Net total, title I, Department of Transportation	18,426,918	17,094,110	17,088,675	-1,338,243	-5,435
Appropriations	(18,326,012)	(17,425,110)	(17,415,675)	(-910,337)	(-9,435)
Rescissions	(-619,094)	(-331,000)	(-327,000)	(+292,094)	(+4,000)
Contingent emergency	(720,000)			(-720,000)	
(By transfer)	(1,000)	(2,000)		(-1,000)	(-2,000)
(Limitations on obligations)	(38,432,600)	(40,899,801)	(41,007,800)	(+2,575,200)	(+107,999)
(Rescissions of limitations on obligations)	(-87,896)			(+87,896)	
(Exempt obligations)	(1,069,000)	(955,000)	(955,000)	(-114,000)	
Net total budgetary resources	(57,840,622)	(58,948,911)	(59,051,475)	(+1,210,853)	(+102,564)
TITLE II - RELATED AGENCIES					
Architectural and Transportation Barriers Compliance Board					
Salaries and expenses	4,795	5,015	5,046	+251	+31
Across the board (0.22%) rescission	-11			+11	
Net total	4,784	5,015	5,046	+262	+31
National Transportation Safety Board					
Salaries and expenses	62,942	64,480	66,400	+3,458	+1,920
Across the board (0.22%) rescission	-139			+139	
Net total	62,803	64,480	66,400	+3,597	+1,920
Total, title II, Related Agencies	67,587	69,495	71,446	+3,859	+1,951
Grand total (net)	18,494,505	17,163,605	17,160,121	-1,334,384	-3,484
Appropriations	(18,393,749)	(17,494,605)	(17,487,121)	(-906,628)	(-7,484)
Rescissions	(-619,244)	(-331,000)	(-327,000)	(+292,244)	(+4,000)
Contingent emergency	(720,000)			(-720,000)	
(By transfer)	(1,000)	(2,000)		(-1,000)	(-2,000)
(Limitation on obligations)	(38,432,600)	(40,899,801)	(41,007,800)	(+2,575,200)	(+107,999)
(Rescissions of limitations on obligations)	(-87,896)			(+87,896)	
(Exempt obligations)	(1,069,000)	(955,000)	(955,000)	(-114,000)	
Net total budgetary resources	(57,908,209)	(59,018,406)	(59,122,921)	(+1,214,712)	(+104,515)
Scorekeeping adjustments:					
Pipeline safety (OSLTF)	-7,000	-47,000	-42,000	-35,000	+5,000
Across the board cut (0.22%)	-42,000			+42,000	
CBO/OMB adjustment	40,244			-40,244	
Total, adjustments	-8,756	-47,000	-42,000	-33,244	+5,000
Net grand total (including scorekeeping)	18,485,749	17,116,605	17,118,121	-1,367,628	+1,516
Appropriations	(18,386,749)	(17,447,605)	(17,445,121)	(-941,628)	(-2,484)
Rescissions	(-621,000)	(-331,000)	(-327,000)	(+294,000)	(+4,000)
Contingent emergency	(720,000)			(-720,000)	
(By transfer)	(1,000)	(2,000)		(-1,000)	(-2,000)
(Limitations on obligations)	(38,432,600)	(40,899,801)	(41,007,800)	(+2,575,200)	(+107,999)
(Rescissions of limitations on obligations)	(-87,896)			(+87,896)	
(Exempt obligations)	(1,069,000)	(955,000)	(955,000)	(-114,000)	
Net grand total budgetary resources	(57,899,453)	(58,971,406)	(59,080,921)	(+1,181,468)	(+109,515)

TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
RECAP BY FUNCTION					
Mandatory	778,000	876,346	876,346	+98,346	....
Discretionary:					
Highway category:					
(Limitation on obligations)	(30,216,000)	(32,202,001)	(32,310,000)	(+2,094,000)	(+107,999)
Mass Transit category	1,254,400	1,349,200	1,349,200	+94,800	....
(Limitation on obligations)	(5,016,600)	(5,397,800)	(5,397,800)	(+381,200)	....
General purpose discretionary:					
Defense discretionary	341,000	340,250	340,000	-1,000	-250
Nondefense discretionary	16,112,349	14,550,809	14,552,575	-1,559,774	+1,766
Total, General purpose discretionary	16,453,349	14,891,059	14,892,575	-1,560,774	+1,516
Total, Discretionary	17,707,749	16,240,259	16,241,775	-1,465,974	+1,516
Total, mandatory and discretionary	18,485,749	17,116,605	17,118,121	-1,367,628	+1,516

Ms. PELOSI. Mr. Chairman, I support the Sabo amendment, which would ensure that Mexican trucking companies undergo safety reviews before their trucks gain access to American highways.

Trucks are a major factor in highway fatalities. Even with safety regulations in place in the U.S., crashes involving large trucks killed 5,282 people in 1999. Of these fatalities, 363 occurred in my home state of California. Mexico's regulations are much weaker than ours. Drivers do not log their hours on the road, restrictions on hours behind the wheel are not enforced, drivers can be under 21, trucks that violate safety standards are not taken off the road, and trucks can weigh significantly more than in the U.S.

Of the nearly 4 million trucks that enter the U.S. commercial zones from Mexico annually, the U.S. inspects only 1%. Of that 1%, more than a third are removed from service because they are unsafe. This is a dismal record. We must ensure that trucks from Mexico are safe before they are allowed on every highway in the United States. I urge my colleagues to vote for the Sabo amendment.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 2299, the Transportation appropriations bill for fiscal year 2002.

This Member would like to commend the distinguished gentleman from Kentucky (Mr. ROGERS), the Chairman of the Transportation Appropriations Subcommittee, and the distinguished gentleman from Minnesota (Mr. SABO), the ranking member of the Subcommittee for their hard work in bringing this bill to the Floor.

Mr. Chairman, this Member certainly recognizes the severe budget constraints under which the full Appropriations Committee and the Transportation Appropriations Subcommittee operated. In light of these constraints, this Member is grateful and pleased that this legislation includes funding for several important projects of interest to the State of Nebraska.

This Member is particularly pleased that this appropriations bill includes $1,517,000 for preliminary work leading to the construction of bridges in Plattsmouth and Sarpy County to replace two obsolete and deteriorating bridges. The request for these funds was made by this Member as well as the distinguished gentleman from Nebraska (Mr. TERRY) and the distinguished gentlemen from Iowa (Mr. GANSKE and Mr. BOSWELL).

The agreement leading to the funding was the result of intensive discussions and represents the consensus of city, county and state officials as well as the affected Members of Congress. The construction of these replacement bridges (a Plattsmouth U.S. 34 bridge and State Highway 370 bridge in Bellevue) will result in increased safety and improved economic development in the area. Clearly, the bridge projects would benefit both counties and the surrounding region.

This Member is also pleased that the bill includes $325,000 requested by this Member for the construction of a 1.7-mile bicycle and pedestrian trail on State Spur 26E right-of-way, which connects Ponca State Park and the Missouri National Recreational River Corridor to the City of Ponca. This trail will play an important role as the area prepares for the bicentennial of the Lewis and Clark Corps of Discovery expedition and the significant increase in tourism which it will help generate. The approaching bicentennial represents a significant national opportunity and it is crucial that communities such as Ponca have the resources necessary to prepare for this significant commemoration.

The trail will provide the infrastructure necessary to improve the quality of life by providing pedestrian and bicycle access between Ponca and the Ponca State Park and increases the potential for economic benefits in the surrounding region. The trail addresses serious safety issues by providing a separate off-road facility for bicyclists and pedestrians.

This member would also like to mention that this bill provides more than $2.6 million in Section 5307 urban area formula funding for mass transit in Lincoln, Nebraska. This represents an increase of $230,753 over the FY2001 level.

Finally, this bill includes $1,976,000 for Nebraska's Intelligent Transportation System (ITS). This funding, which was requested by this Member and the distinguished gentleman from Nebraska (Mr. OSBORNE), is to be used to facilitate travel efficiencies and increased safety within the state.

The Nebraska Department of Roads has identified numerous opportunities where ITS could be used to assist urban and rural transportation. For instance, the proposed Statewide Joint Operations Center would provide a unifying element allowing ITS components to share information and function as an intermodal transportation system. Among its many functions, the Joint Operations Center will facilitate rural and statewide maintenance vehicle fleet management, roadway management and roadway maintenance conditions. Overall, the practical effect will be to save lives, time and money.

Mr. Chairman, in conclusion, this member supports H.R. 2299 and urges his colleagues to approve it.

Mr. NADLER. Mr. Chairman, today I rise in support of this bill to provide appropriations for the Department of Transportation for Fiscal Year 2002.

First, I would like to thank Chairman YOUNG, Ranking Member OBEY, Subcommittee Chairman ROGERS, and Ranking Member SABO, for including funds for the Cross Harbor Rail Freight Tunnel Environmental Impact Study in this bill. This project was first authorized in TEA–21, and received funds for a Major Investment Study, which was just completed last year. After examining numerous alternatives, the MIS recommended construction of a rail tunnel under New York Harbor to facilitate cross-harbor freight movement. The MIS confirmed that a tunnel would be beneficial in several respects. The economic return to the region would be about $420 million a year. The benefit to cost ratio is 2.3 to 1. The environmental impact would be profoundly felt, as the tunnel would remove one million trucks from our roads per year, not to mention the economic benefit produced by reduced congestion and the lower cost of consumer goods.

I would like to thank the Committee leadership for understanding the importance of this project, and including funds for the EIS phase so that we can continue the progress of the last few years and correct the freight infrastructure imbalance that exists in the region East of the Hudson of New York and Connecticut.

I do have a few concerns, however, regarding transit funding. As many of you know, New York relies heavily on public transportation, and as such, we have a number of projects which are essential to the economic stability, as well as to the environmental quality, of the city. I would like to thank the Committee for including funds for one of these projects, The East Side Access Project, to connect the Long Island Railroad to Grand Central Station in Manhattan. Unfortunately, no funds were included for the Second Avenue Subway. Both of these projects are important, and will require a greater federal investment if they are to be completed in the sufficient time frame. That being said, I hope this problem can be resolved, and I urge the Appropriations Committee to include funding for the Second Avenue Subway when this bill goes to Conference with the Senate.

I have a number of other concerns with this bill. For instance, funds should be included for the inspection of Mexican trucks operating in the United States. We must not sacrifice safety in an attempt to comply with NAFTA. Overall, however, this is a good bill, which fully funds the highway and aviation trust funds. I would like to complement Chairman ROGERS and Ranking Member SABO for all their hard work in crafting this important legislation, and I urge all my colleagues to support it.

Mr. CROWLEY. Mr. Chairman, I rise today in firm support of the transportation appropriations bill for fiscal year 2002.

I would like to commend Chairman ROGERS and Mr. SABO for crafting a bill that addresses the unique transportation needs in this country.

Though this bill takes into account the demands and constraints of the current transportation network throughout the country, I would like to make special mention of certain aspects of this bill that have a tremendous impact on my constituents in the 7th Congressional district of New York.

I want to thank Mrs. LOWEY, Mr. SERRANO, Mr. HINCHEY, and Mr. SWEENEY for their assistance in securing the inclusion of $250,000 for the Long Island City Links Project.

The LIC Links research funded in this bill will lead to a comprehensive network of pedestrian, bicycle and transit connections between Long Island City residential and business areas and new parks, retail stores, and cultural institutions.

These innovative improvements will help reduce automobile traffic and improve our neighborhood air quality.

Furthermore, this project will improve the overall social and economic conditions in Queens County.

I would also like to thank the Committee for the inclusion of $10 million for the East Side Access Project.

The East Side Access connection will involve constructing a 5,500-foot tunnel from the LIRR Main Line in Sunnyside, Queens to the existing tunnel under the East River at 63rd Street.

A new Passenger Station in Sunnyside Yard, Queens will also be constructed to provide access to the growing Long Island Business District.

The elements of this bill beneficial to my constituency is not limited to ground transportation.

As representative of LaGuardia Airport in Congress, the issue of congestion in the air and on the ground is a problem that plagues residents in and around the airport on a daily basis.

I am pleased that this bill has included two million dollars for the procurement of air traffic control equipment at LaGuardia Airport. It is my hope that these funds will help alleviate the traffic problems that plague one of the most congested airports in the country.

In that same vein, I would like to commend my colleagues in the New York and New Jersey delegation for their work with regard to airspace redesign and the diversion of traffic to Stewart Airport.

The idea of burden sharing of airports in the tri-state is essential to the future of LaGuardia Airport.

Given that LaGuardia is completely saturated, the report initiated by Mr. Hinchey to increase service at Stewart Airport will be a welcome relief for travelers and residents of Queens alike.

This is a reasonable and comprehensive bill that truly addresses the needs of Americans in the 21st century.

Therefore, I strongly urge my colleagues to vote in favor of this bill.

Mr. GREEN of Texas. Mr. Chairman, I rise today in support of this bill. While there are areas that I hope we can improve via amendments that will be offered, it is a good bill that will continue meeting the transportation needs of our constituents.

I would particularly like to praise the Committee for including funding for the Greater Harris County 9–1–1 Emergency Network from the Department of Transportation's Intelligent Transportation Systems (ITS) program. Harris County, which includes Houston, Texas, is pioneering the practical application of critical data provided by Automatic Collision Notification boxes that are beginning to be installed on late-model automobiles.

By deploying these boxes to 9–1–1 centers and trauma hospitals in Harris and Fort Bend Counties, these locations will be able to receive up-to-date information on automobile accident victims.

This information will enable 9–1–1 operators to direct appropriate levels of resources to accident locations, and will also allow doctors and nurses at hospitals the time and information that they need to prepare for incoming accident victims.

The goal of this technology is saving lives, through better distribution of emergency response personnel and a higher level of preparedness for incoming patients by emergency room personnel.

The transmitted data will include the speed of the vehicle at impact; number of times that vehicle may have rolled; the number of occupants in the vehicle; heat generation, which may indicate whether or not the vehicle is on fire; and other valuable information.

The lessons we learn in the implementation and testing of this system will serve as a model for other jurisdictions across the United States as they develop and deploy their own lifesaving networks.

Again, I support this bill, and I support the funding for this innovative program that will save lives.

Mr. FRELINGHUYSEN. Mr. Chairman, today I rise in support of H.R. 2299, the fiscal year 2002 Transportation Appropriations bill and I urge my colleagues to do the same.

First, I want to thank Chairman ROGERS and Ranking Member SABO for all their hard work in crafting this bill, and for their assistance in addressing New Jersey's transportation priorities. A special thanks to Rich Efford and the Transportation Subcommittee staff for their help.

Mr. Chairman, as we debate this important bill, thousands of my constituents back in New Jersey are struggling right now to battle traffic delays on Interstate 80, in Denville, in the heart of my Congressional District. The westbound lanes were closed last week after a fiery tractor trailer collision last week damaged the roadway beyond immediate repair.

This is a major commuter route into and out of New York City, and commuters snarled in rush hour traffic this morning learned that extensive repairs to the highway may not be completed until this October. My constituents—these commuters stuck in traffic—know only too well that New Jersey's mass transportation projects deserve our full commitment.

Because New Jersey is the most densely populated state in the nation, innovative commuter light rail projects such as the Hudson-Bergen Light Rail and Newark-Elizabeth Rail Link are vital to relieving traffic congestion in some of the most densely populated areas of our state.

I am pleased to report that these two commuter rail projects, New Jersey's top transportation priorities, have received major support and funding, within the confines of the overall budget allocation, which keeps our commitment to the Balanced Budget Agreement of 1997. I also am pleased to note that President Bush recognized the need for these projects and fully funded them in his budget request in April. I thank the President for his leadership on these top New Jersey priorities.

The Hudson-Bergen Light Rail system will result in a 21-mile, 30 station corridor connecting commuters along the Palisades and Hudson River waterfront with vital transportation arteries in and out of New York City.

The Newark-Elizabeth Rail Link will be an 8.8 mile light rail system connecting the Newark City Subway with revitalized downtown Newark and Elizabeth. It will provide an important connection between the Newark Broad Street rail station and Newark Penn Station, a major commuter hub along Amtrak's Northeast rail corridor while providing commuters who travel on NJ Transit's Morris/Essex and Boonton Lines with a connection from Newark's Broad Street Station to one of our nation's busiest airports, Newark International.

Our investment in the Hudson-Bergen and Newark-Elizabeth light rail projects will also help our state meet environmental standards as outlined in the Federal Clean Air Act and keep New Jersey on the right track so that we can ensure tomorrow's economic prosperity and environmental protection.

I am also pleased that this bill will provide a minimum of $8.5 million specifically for the ongoing Federal Aviation Administration's New Jersey/New York Metropolitan Airspace Redesign. For too long, constituents in my district have been suffering from the daily burden of aircraft noise. We have been repeatedly told by the FAA that the only way to alleviate aircraft noise in New Jersey will be through the comprehensive redesign of our airspace. That is why continued, dedicated funding for this redesign effort is vitally important, and I thank the subcommittee for its continued commitment to this vital effort.

Again, I want to thank Chairman ROGERS and Ranking Member SABO for all their hard work, and urge my colleagues to support this legislation.

Mr. WELLER. Mr. Chairman, I rise today in strong support of H.R. 2299, Making Appropriations for the Department of Transportation for Fiscal Year 2002. H.R. 2299 is an important bill for Illinois, providing much needed funding for Metra Commuter Rail Service New Start Projects and the Elgin, Joliet and Eastern Railroad Bridge reconstruction. The legislation also directs the Federal Aviation Administration to make a priority of processing the Environmental Impact Statement for the proposed South Suburban Chicago Third Airport and to help Lewis University Airport with much needed expansion.

I would like to focus on the unique needs of Lewis University Airport today. Lewis University Airport is the busiest "single-runway" airport in Illinois with 104,000 annual aircraft landings and takeoffs. Located in Will County, Illinois, it serves as the only corporate airport in Illinois' fastest growing county. The airport is home to 295 based aircraft and over 35 regular visiting customers. Jet fuel sales—an indicator of corporate aircraft use—have increased from 1,469 gallons sold in 1991 to 200,000 gallons sold in 2000. In less than a decade, jet sales have increased to 136 times the first year's sales.

The existing 12,000 square yard apron has space for only 10 aircraft. The small size of the apron limits its use to only visiting aircraft arriving at the Airport's new terminal building. The apron is regularly over-filled with visiting corporate jets. There are no spaces available for based aircraft.

To meet federal airport safety and design standards, the Airport must soon relocate 150 aircraft storage positions that are too close to the runway. The proposed terminal apron expansion will provide space for the relocation of these Airport residents.

The proposed apron is part of a multiphased development program of the Airport. The Runway 1–19 construction program is using innovative construction and land use techniques to save over $9,600,000 in federal airport development dollars. The project received recognition by the FAA with the award of one of the first projects funded under the FAA's Innovative Development Funding Program.

In addition, Lewis University Airport is by far the closest and most convenient airport to the new ChicagoLand Motor Speedway, opening July 2001. This NASCAR Winston Cup race is expected to bring 200 to 300 aircraft to the Joliet/Will County area, providing a serious need to increase the apron capacity of the airport.

Mr. Chairman, the House Transportation Appropriations Bill recognizes the importance of Lewis University Airport and encourages the Federal Aviation Administration to make its expansion a priority. This is good legislation for Illinois and the Nation's transportation infrastructure. I encourage all of my colleagues to support this bill and vote yes on the rule and final passage.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Salaries and Expenses

For necessary expenses of the Office of the Secretary, $67,726,000: *Provided,* That notwithstanding any other provision of law, there may be credited to this appropriation up to $2,500,000 in funds received in user fees: *Provided further,* That not to exceed $60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine.

Office of Civil Rights

For necessary expenses of the Office of Civil Rights, $8,500,000.

Transportation Planning, Research, and Development

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, $5,193,000.

Transportation Administrative Service Center

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $125,323,000, shall be paid from appropriations made available to the Department of Transportation: *Provided,* That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further,* That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further,* That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: *Provided further,* That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

Minority Business Resource Center Program

For the cost of guaranteed loans, $500,000, as authorized by 49 U.S.C. 332: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, $400,000.

Minority Business Outreach

For necessary expenses of Minority Business Resource Center outreach activities, $3,000,000, to remain available until September 30, 2003: *Provided,* That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

In addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $13,000,000, to remain available until expended.

COAST GUARD

Operating Expenses

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare, $3,382,588,000, of which $340,000,000 shall be available for defense-related activities; and of which $24,945,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided,* That none of the funds appropriated in this or any other Act shall be available for pay of administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation.

AMENDMENTS OFFERED BY MR. LOBIONDO

Mr. LOBIONDO. Mr. Chairman, I offer en bloc amendments.

The Clerk read as follows:

Amendments offered by Mr. LOBIONDO:

Page 4, line 25, after the dollar amount insert "(increased by $250,000,000)".

Page 5, line 16, after the first dollar amount insert "(increased by $59,323,000)".

Page 5, line 18, after the dollar amount insert "(reduced by $16,000,000)".

Page 5, line 20, after the dollar amount insert "(increased by $1,500,000)".

Page 5, line 23 after the dollar amount insert "(increased by $16,198,000)".

Page 5, line 25, after the dollar amount insert "(increased by $19,056,000)".

Page 6, line 2, after the dollar amount insert "(increased by $569,000)".

Page 6, line 5, after the dollar amount insert "(increased by $38,000,000)".

Mr. LOBIONDO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order against the amendment.

Mr. LOBIONDO. Mr. Chairman, my amendment provides increased funds for Coast Guard operations and acquisitions in accordance with the levels allocated in the fiscal year 2002 budget resolutions passed by the House and the Senate.

Earlier this year our committee worked with the Committee on the Budget to ensure that the function 400 allocation in the fiscal year 2002 budget resolution not only accommodated the TEA–21 and the AIR–21 funding guarantees, but also provided approximately $5.3 billion for the Coast Guard's appropriated programs. This represents an increase of $250 million over the President's budget. Unfortunately, the 302(b) allocations approved by the Committee on Appropriations failed to include funds that would address critical Coast Guard needs.

H.R. 1699, the Coast Guard Authorization Act of 2001, passed the House on June 7 by a vote of 411–3. H.R. 1699 conformed to the Coast Guard funding levels in the budget resolution.

The amounts authorized by H.R. 1699 would allow the Coast Guard to correct immediate budget shortfalls. Many of the Coast Guard's most urgent needs are similar to those experienced by the Department of Defense, including spare parts shortages and personnel training deficits. The funding increase contained in the budget resolution and H.R. 1699 addresses those needs, and also increases the amounts available for Coast Guard drug interdiction.

H.R. 1699 also provides for $338 million for the Coast Guard's vital Deepwater asset modernization program. I strongly believe that the Integrated Deepwater system is the most economical and effective way for the Coast Guard to provide future generations of Americans with lifesaving services.

Mr. Chairman, I want to take this opportunity to commend the men and women of the Coast Guard for their exceptional services that they provide to our Nation. All Americans benefit from a strong Coast Guard that is equipped to stop drug smugglers, support the country's defense and respond to national emergencies.

During the fiscal year 2000 and 2001, the Coast Guard has been forced to reduce, let me repeat that, they have been forced to reduce illegal drug interdiction and other law enforcement operations by up to 30 percent. Yes, that is up to 30 percent, due to insufficient funds. Without additional operational funding for the fiscal year 2002, the Coast Guard will be forced to cut drug interdiction by 20 percent, including eliminating 5 cutters, 19 aircraft and 520 positions.

Mr. Chairman, without the funding increase provided in my amendment, the Coast Guard's operating budget during the next fiscal year will again be inadequate to respond to critical missions. The law enforcement emergency concerning migrant interdiction or a surge in drug smuggling would severely degrade other Coast Guard law enforcement activities. None of us want drug smugglers to be given open access to the United States, but that is exactly what could happen if we are not careful with these funding levels.

Should my amendment not be accepted today, I would urge the House and the Senate conferees on H.R. 2299 to fund the Coast Guard at a level consistent with the budget resolution and the Coast Guard Authorization Act of 2001. I would respectfully request that the gentleman from Kentucky (Mr. Rogers), the gentleman from Florida (Mr. Young) and the gentleman from Alaska (Mr. Young) work toward that end.

I understand the Senate Appropriation Committee's Transportation 302(b) allocation is about $690 million above the House allocation. I strongly believe that the U.S. Coast Guard is the best place to allocate a portion of this funding.

Mr. Chairman, I urge the House to support my amendment and allow the Coast Guard to be funded at the levels necessary to respond to the operational emergencies.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Kentucky wish to be heard on his point of order?

Mr. ROGERS of Kentucky. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state his recognized point of order.

Mr. ROGERS of Kentucky. Mr. Chairman, sure we would have liked to have found more money for the Coast Guard, but as it is, we are 6 percent above current spending levels. We are 99 percent of the Coast Guard's request.

The supplemental that just passed the House and is headed towards the Senate would include another $92 million, and that is available throughout fiscal year 2002. This amendment would throw the bill way above the budget allocations provided to us pursuant to the budget resolution. It simply is beyond our capability.

I appreciate what the gentleman from New Jersey (Mr. LoBiondo) is trying to do. The gentleman is a great chairman. He is a great spokesman on behalf of the Coast Guard and the other matters that he represents, but this amendment is simply unaffordable. It violates the Budget Act, and we have very little choice.

For that reason, I do make a point of order against the amendment, because it is in violation of section 302(f) of the Congressional Budget Act of 1974. The Committee on Appropriations filed a suballocation of budget totals for fiscal year 2002 on June 13, 2001. This amendment would provide new budget authority in excess of the subcommittee suballocation made under section 302(b), and it is not permitted under section 302(f) of the act.

Mr. Chairman, I ask for a ruling.

The CHAIRMAN. Does the gentleman from New Jersey wish to be heard on the point of order?

Mr. LoBIONDO. No, Mr. Chairman.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. DELAHUNT. I do, Mr. Chairman.

Mr. Chairman, I have great respect for the gentleman from Kentucky (Mr. Rogers), but the reality is, is that we all claim we want the Coast Guard to stop the flow of illegal drugs into this country, and to save our depleted fisheries, and to protect the coastal environment from oil spills, to intercept illegal immigrants, to secure international ports from terrorists, to conduct ice-breaking operations so critical supplies of home heating oil can reach our constituents, and to maintain aids to navigation for commercial and recreational boaters, and, of course, to save lives.

If we want those things, we have to ante up. I understand the difficulties as articulated by the gentleman from Kentucky (Mr. Rogers), but we have to find a way.

The facts are with inexcusably inadequate resources, the Coast Guard does a heroic job of balancing their multiple responsibilities with heroic professionalism. At the same time budget constraints have been so severe and so chronic that the Coast Guard can barely keep its fleet in the water and its airplanes in the air.

The authorization bill recently passed and championed by the gentleman from New Jersey (Mr. LoBiondo) responded to those challenges by boosting the Coast Guard's operating budget for the next year by 250 million, and thus far in the appropriations process, that promise stands unfulfilled.

We have to do better. We have to find a way, otherwise we face the predictable consequences of a crippled Coast Guard, lost property, lost commerce and, of course, lost lives, both the lives of the men and women in the Coast Guard who serve us every day, as well as those who use the seas either for enjoyment or to secure a livelihood.

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Let me just finally remind my colleagues that just recently came reports that the Coast Guard recalled port security forces that were sent overseas to protect U.S. naval units after the destroyer *Cole* was attacked. Why? Because it can no longer foot the bill. That, Mr. Chairman, is simply disgraceful, and it is unacceptable.

The CHAIRMAN. Is there anyone else who wishes to be heard on the point of order?

The Chair is prepared to rule on the point of order.

The Chair is authoritatively guided under section 312 of the Budget Act by an estimate of the Committee on the Budget that an amendment providing any net increase in new discretionary budget authority would cause a breach of the pertinent allocation of such authority.

The amendment offered by the gentleman from New Jersey would increase the level of new discretionary budget authority in the bill. As such, the amendment violates section 302(f) of the Budget Act.

The point of order is sustained. The amendment is not in order.

The Clerk will read.

The Clerk read as follows:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $600,000,000, of which $19,956,000 shall be derived from the Oil Spill Liability Trust Fund; of which $90,990,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2006; $26,000,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2004; $74,173,000 shall be available for other equipment, to remain available until September 30, 2004; $44,206,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2004; $64,631,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 2003; and $300,000,000 for the integrated deepwater systems program, to remain available until September 30, 2004: *Provided*, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and made available only for the national distress and response system modernization program, to remain available for obligation until September 30, 2004: *Provided further*, That upon initial submission to the Congress of the fiscal year 2003 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the United States Coast Guard which includes funding for each budget line item for fiscal years 2003 through 2007, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget: *Provided further*, That none of the funds provided under this heading may be obligated or expended for the Integrated Deepwater Systems (IDS) system integration contract until the Secretary of Transportation, or his designee within the Office of the Secretary, and the Director, Office of Management and Budget jointly certify to the House and Senate Committees on Appropriations that IDS program funding for fiscal years 2003 through 2007 is fully funded in the Coast Guard Capital Investment Plan and within the Office of Management and Budget's budgetary projections for the Coast Guard for those years.

Environmental Compliance and Restoration

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $16,927,000, to remain available until expended.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to support the amendment offered by the gentleman from New Jersey (Mr. LoBiondo), chairman of the Subcommittee on Coast Guard and Maritime Transportation.

Our U.S. Coast Guard performs to the same high standards and faces many of the same dangers as our Armed Forces, but does not get funded in the larger Department of Defense budget. Each year they compete for funding with major agencies in the transportation budget, and for the last several years has been forced to either decrease operations or transfer money from maintenance to operations.

Just 2 weeks ago we passed a Coast Guard authorization by 411 to 3 that added $300 million more than this bill provides. Without this additional funding, the Coast Guard will be forced to reduce operations by 20 percent including deactivating two medium cutters, two TAGOS ships, and 13 Falcon jets. This is not how we should be treating the men and women who risk their lives stopping drug smugglers and illegal immigrants, protecting our ports, and performing search-and-rescue missions.

I urge our colleagues to vote yes on this amendment and support a budget for the United States Coast Guard that meets our Nation's priorities.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Alteration of Bridges

For necessary expenses for alteration or removal of obstructive bridges, $15,466,000, to remain available until expended.

Retired Pay

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $876,346,000.

Reserve Training

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $83,194,000: *Provided*, That no more than $25,800,000 of funds made available under this heading may be transferred to Coast Guard "Operating expenses" or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve: *Provided further*, That none of the funds in this Act may be used by the Coast Guard to assess direct charges on the Coast Guard Reserves for items or activities which were not so charged during fiscal year 1997.

Research, Development, Test, and Evaluation

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $21,722,000, to remain available until expended, of which $3,492,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

FEDERAL AVIATION ADMINISTRATION

Operations

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104–264, $6,870,000,000, of which $5,773,519,000 shall be derived from the Airport and Airway Trust Fund, of which not to exceed $5,494,883,000 shall be available for air traffic services program activities; not to exceed $727,870,000 shall be available for aviation regulation and certification program activities; not to exceed $135,949,000 shall be available for civil aviation security program activities; not to exceed $195,258,000 shall be available for research and acquisition program activities; not to exceed $12,254,000 shall be available for commercial space transportation program activities; not to exceed $50,480,000 shall be available for financial services program activities; not to exceed $67,635,000 shall be available for human resources program activities; not to exceed $84,613,000 shall be available for regional coordination program activities; and not to exceed $108,776,000 shall be available for staff offices: *Provided*, That none of the funds in this Act shall be available for the Federal Aviation Administration to plan, finalize, or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of the enactment of this Act: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That of the funds appropriated under this heading, not less than $6,000,000 shall be for the contract tower cost-sharing program: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further*, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: *Provided further*, That none of the funds in this Act for aeronautical charting and cartography are available for activities conducted by, or coordinated through, the Transportation Administrative Service Center.

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this heading; to be derived from the Airport and Airway Trust Fund, $2,914,000,000, of which not to exceed $2,536,900,000 shall remain available until September 30, 2004, and of which not to exceed $377,100,000 shall remain available until September 30, 2002: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That upon initial submission to the Congress of the fiscal year 2003 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2003 through 2007, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget.

Research, Engineering, and Development

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $191,481,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2004: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for administration of such programs and of programs under section 40117; for procurement, installation, and commissioning of runway incursion prevention devices and systems at airports of such title; for implementation of section 203 of Public Law 106–181; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, $1,800,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of $3,300,000,000 in fiscal year 2002, notwithstanding section 47117(h) of title 49, United States Code: *Provided further*, That of the funds limited under this heading for small airports due to returned entitlements, $10,000,000 shall be utilized only for the small community air service development pilot program authorized in section 203 of Public Law 106–181: *Provided further*, That notwithstanding any other provision of law, not more than $56,300,000 of funds limited under this heading shall be obligated for administration.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against the language found at page 13, beginning on line 24 which begins "for administration of such programs" and continuing to line 25 and ending with the words "section 40117."

The language would fund the cost of administering the Airport Improvement Program from contract authority that, under chapter 471 and section 48103 of Title 49 U.S.C., is authorized only for grants, not administrative expenses. This is an unauthorized earmark of funds.

This language clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the Rules of the House of Representatives.

Mr. Chairman, I also make a point of order against the language found on page 14, beginning on line 12 with the word "Provided" and continuing to end the end of line 20.

The language on lines 12 through 17 before the words "Provided further" would fund the cost of the Small Community Air Service Development Pilot Program from contract authority that is authorized only for AIP grants under chapter 471 and section 48103 of Title 49 U.S.C. Although I support this program, I must object to funding it with AIP grants as this would constitute an unauthorized earmark of funds.

This language clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the Rules of the House of Representatives.

Mr. Chairman, the language found at page 14, beginning on line 17 with the words "That notwithstanding" and continuing through the end of line 20 would fund the cost of administering the Airport Improvement Program from contract authority under chapter 471 and section 48103 of Title 49 U.S.C., that is authorized only for grants, not administrative expenses. This supersedes existing law and clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the Rules of the House of Representatives.

The CHAIRMAN. Does the gentleman from Kentucky (Mr. ROGERS) wish to be heard on the point of order?

Mr. ROGERS of Kentucky. Yes, I do.

The CHAIRMAN. The gentleman from Kentucky (Mr. ROGERS) is recognized.

Mr. ROGERS of Kentucky. Mr. Chairman, I will concede the point of order in just a minute, but it is unfortunate that the point of order is made. It would defer the beginning of an important and authorized program. These funds would help promote development of smaller airports and promote competition where there is none.

As I indicated, the program is authorized, just not from this particular funding source. But we believe it is appropriate to use funds otherwise available to small airports for this new program, which only benefits small airports.

But, Mr. Chairman, I concede, technically, the point.

The CHAIRMAN. The gentleman from Kentucky (Mr. ROGERS) concedes the point of order. The point of order is conceded and sustained. The provisions are stricken from the bill.

The Clerk will read.

The Clerk read as follows:

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $301,000,000 are rescinded.

AMENDMENT NO. 2 OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. DEFAZIO: Page 2, line 8, after "$67,726,000" insert "(increased by $720,000)".

Page 9, line 14, after "$6,870,000,000" insert "(reduced by $720,000)".

Mr. DEFAZIO. Mr. Chairman, this amendment, which is coauthored by the gentleman from Connecticut (Mr. SHAYS) and myself, would enable American consumers to have a centralized place to go to file complaints on a toll-free number with the Department of Transportation.

An office already exists, but in lengthy hearings last year over the delays at the Detroit airport involving Northwest Airlines, one aggrieved consumer stood up and said, you know, I spent over $100 on toll bills before I found out there was anybody at the Department of Transportation in a subcategory of the General Counsel's Office who would listen to my complaint.

This office generally has labored in obscurity merely to compile statistics with a phone recording, people leave their complaints, and sometimes to advocate on the behalf of those with disabilities.

This amendment would increase the rescission of funds on line 25 by $720,000, and it would allocate those funds in the Secretary's office to the Office of General Counsel, to the people who handle it in the Aviation Consumer Protection Division. It would be funds that could establish a 1-800 number and would also provide for some funding for staff for that number.

I have consulted with the former general counsel a number of times over this over the years and have contacted the Department. They feel that, although this is a relatively modest amount of money, that given the existing number of complaints and the complaints they feel would warrant further action by the Department of Transportation and by that office, they believe it would be adequate funds to begin to better serve aviation consumers.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. Yes, I yield to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Mr. Chairman, do I understand the gentleman's amendment is intended to provide funds which the Secretary of the Department of Transportation would be able to use to establish a hotline for consumers to complain of airline delays, cancellations, problems and so forth associated with air travel?

Mr. DEFAZIO. Yes, Mr. Chairman, the gentleman from Kentucky, the able chairman, is absolutely correct.

Mr. ROGERS of Kentucky. Mr. Chairman, in that instance, I have no objection to the amendment.

Mr. DEFAZIO. I thank the gentleman.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I am happy to yield to the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Chairman, do I understand also that the gentleman from Oregon has offset the cost of his amendment with a rescission that equals the cost of his amendment?

Mr. DEFAZIO. Yes, Mr. Chairman, the gentleman is correct.

Mr. SABO. Mr. Chairman, I think the gentleman has a good amendment.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I just want to clarify. I am sorry, I had a different number on mine. I want to make sure we all agreed on the same amendment. With that, I thank the chairman, and I thank the ranking member.

The CHAIRMAN. The Chair would note the wrong amendment was designated.

The Clerk will report the correct amendment.

The Clerk read as follows:

Amendment offered by Mr. DEFAZIO:

Page 14, strike lines 24 and 25 and insert the following:

Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $301,720,000 are rescinded.

The amount otherwise provided in this Act for "OFFICE OF THE SECRETARY—Salaries and Expenses" is hereby increased by $720,000.

Mr. DEFAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska:

Page 14, after line 25, insert the following:

SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM

For necessary expenses to carry our section 41743 of title 49, United States Code, $10,000,000, to remain available until expended.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The point of order is reserved.

Mr. YOUNG of Alaska. Mr. Chairman, my amendment restores funding for the Small Community Air Service Development Pilot Program that was stricken by my point of order.

This program will help small communities that do not have adequate, affordable commercial air service attract new service. Without reliable air service, small communities cannot sustain its economic growth.

The Small Community Air Service Development Pilot program authorized by section 203 of the Aviation Investment Reform Act for the 21st Century, AIR–21, will assist underserved airports obtain jet air service. It will also allow communities to market that service to increase passenger service.

The money provided by this program could also assist a small or midsized community by making money available to subsidize air carriers' operations for up to 3 years if the Secretary of Transportation determines that the community is not receiving sufficient air carrier service.

Mr. Chairman, this program is important to many small communities through our Nation, and I urge the adoption of the amendment.

Mr. Chairman, I also suggest, although I struck the money, I do support the program. This is an attempt to put the money back in without having tapped the sources that it originated.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. Yes, I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I supported this program as a pilot program in AIR–21 last year. In fact, Chairman Shuster and I worked together to fashion the language. I have long supported service to small communities and to initiatives of this kind.

We all know that deregulation has saved billions of dollars for air travelers, but we also know that, in the process, deregulation has cost communities air service.

What we have now is a phenomenon of the community in my district and elsewhere around the country where people are traveling by car as much as 100 miles to get adequate air service.

With the kind of initiative that we anticipated in this provision, this pilot program, we can both prevent communities from becoming essentially air service towns, where the Federal Government is coming in to support air service with direct dollar payments, and help them to advertise, undertake initiatives locally to encourage air travel from lesser-served communities and boost their air service. Such initiatives have worked in communities in my district to more than double air travel in those towns, saving their air service.

I think that this pilot program in the manner in which the chairman has proposed to fund it ought to be approved and will help increase demand in such markets to create adequate service without direct Federal assistance.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman from Minnesota for his comments. I hope to work with the ranking member and of course the gentleman from Kentucky (Mr. ROGERS), the chairman of the subcommittee, to see if we cannot get these monies somehow into this program. It is a good program.

Again, though, I think it should be coming from the general fund and not necessarily from the funds that were set aside for the improvements of these airports.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Kentucky have a point of order?

Mr. ROGERS of Kentucky. Yes.

The CHAIRMAN. The gentleman from Kentucky (Mr. ROGERS) is recognized on his point of order.

Mr. ROGERS of Kentucky. Mr. Chairman, we are in an unfortunate situation here. We had monies in the bill, as has been noted, for the small airports, which was stricken on a point of order. Now the amendment would seek to add monies back in, but we have no monies to add back in. The budget authority that we were given does not permit it.

No one is a bigger advocate for smaller airports than I am because that is all I have in my district.

☐ 1600

But I am forced to make a point of order against the amendment because it is in violation of 302(f) of the Congressional Budget Act of 1974. The Committee on Appropriations fields a suballocation of budget totals for fiscal year 2002 on June 13, 2001. This amendment would provide new budget authority in excess of the subcommittee's suballocation made under section 302(b) and is not permitted under section 302(f) of the Act. I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Alaska (Mr. YOUNG) wish to be heard on the point of order?

Mr. YOUNG of Alaska. I do. Mr. Chairman, I agree with the gentleman that one of the most unfortunate things that occurred to the Subcommittee on Transportation is the fact they do not have the money. I do think the budgeteers did a bad thing. Four percent is not enough. I said this all along. So I will continue to try to seek funding of this program as we progress with this bill and other bills to see if we cannot accomplish what we are all seeking.

I have more small airports than any place in the United States and most of my people do not have highways, so I am very supportive of this program, but we also have to make sure it is funded adequately and appropriately and I concede the point of order at this time.

The CHAIRMAN. The gentleman from Alaska concedes the point of order. The point of order is conceded and sustained. The provision is stricken from the bill.

Mr. GREEN of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take all of the 5 minutes, but I wanted to bring a point of concern to the attention of my colleagues now that we have both the Chair of our appropriations subcommittee and the Chair of our substantive committee.

Every day, in some of the busiest airports in America, hundreds of aircraft, charter planes, private jets, commercial flights, and even helicopters ferrying oil platform workers, disappear from the radar screens of our air traffic controllers. These flights are not victims of any air disaster, but rather the fact that, for a wide area of airspace over the Gulf of Mexico, we have no effective radar coverage.

In this area, the air traffic controllers at Houston; Miami; and at Merida, Mexico; who share responsibilities for coverage in the Gulf, can neither see these flights nor communicate directly with the pilots who are flying them. For 3 years, the Federal Aviation Administration, the FAA, has worked with airline representatives, pilots, controllers, and other Federal entities, like the Department of Defense, to complete a Gulf of Mexico strategic plan. This plan sets out a detailed recommendation on how to resolve the Gulf of Mexico airspace issues.

I urge the FAA Administrator Jane Garvey to act quickly and approve the solutions laid out by this working group. These solutions are inexpensive and easy to implement and would have a very real impact on the traffic jam in our skies in the Gulf of Mexico.

It will increase safety in our skies and access to Houston's Bush Intercontinental Airport, an important travel hub, especially for the growing markets in Central and South America.

Where previously controllers have had to employ oceanic nonradar separation standards, this enhanced coverage will allow better utilization of empty airspace and more effective management of air traffic. This would reduce delays and save airlines and passengers time and money. I would hope the FAA would move forward with this much-needed project.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration not to exceed $311,837,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided*, That of the funds available under section 104(a)(1)(A) of title 23, United States Code, $9,911,000 shall be available for Federal Motor Carrier Safety Administration (FMCSA) motor carrier safety enforcement at the United States/Mexico border, and $4,000,000 shall be available for FMCSA U.S./Mexico border safety audits.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against the language found at page 15, beginning on line 9 and continuing to line 14 which begins "That of the funds available under section 104(a)(1)(A) of title 23, United States Code" and ending on line 14 with the words "border safety audits."

The language is unauthorized earmark of $13.911 million of Federal Highway Administration administrative funds for Federal Motor Carrier Safety Administration in violation of clause 2 rule XXI of the rules of the House of Representatives.

The CHAIRMAN. Does the gentleman from Kentucky wish to be heard on the point of order?

Mr. ROGERS. No, Mr. Chairman.

The CHAIRMAN. Does the gentleman concede the point of order?

Mr. ROGERS. We would concede the point of order.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order. The point of order is conceded and sustained. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

LIMITATION ON TRANSPORTATION RESEARCH

Necessary expenses for transportation research of the Federal Highway Administration, not to exceed $447,500,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration: *Provided*, That this limitation shall not apply to any authority received under section 110 of title 23, U.S. Code; *Provided further*, That this limitation shall not apply to any authority previously made available for obligation.

AMENDMENT NO. 4 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

Mr. ROGERS. Mr. Chairman, on this amendment I reserve a point of order.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. JACKSON-LEE of Texas:

Page 15, line 24, before the period insert the following: ": *Provided further*, That the Secretary shall make available $5,000,000 of the amount made available in this paragraph for the operation of the control center that monitors traffic in Houston, Texas, known as 'Houston TransStar' ".

The CHAIRMAN. The point of order is reserved on the amendment.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE) for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I hope that my colleagues will see the necessity and importance of waiving the point of order.

This amendment in particular deals with current events that are happening in Houston, Texas. It is an amendment to earmark $5 million in FHWA traffic research funding for the operation of Houston TranStar, a high-tech transportation traffic control and monitoring center operated by local Houston authorities and the State of Texas. The amendment is intended to enhance the ability of the facility to deal with disaster relief efforts being conducted in the wake of flooding caused by Tropical Storm Allison.

Let me say, Mr. Chairman, that it is unusual for a focus to be placed on a high-tech center that deals with transportation in the context of a tropical storm or a disaster. The impact of not funding the expansion of the transportation emergency center, also known as Houston TranStar, would be undermining Houston's transportation system. Mr. Chairman, we cannot afford to eliminate additional multimodal transportation management functions requested by the residents of Houston and to limit the transportation emergency management functions to those now existing at the center in inadequate space.

This is not an old unit, the Houston TranStar center, but it has proven itself to be old in wiseness and usefulness. It was very effective in moderating the congestion in Houston, all over the community, but more importantly, in these last couple of weeks, Houston TranStar, that center, became the anchor, the heart of the strategy to help us recover from Tropical Storm Allison. The governor met there, the FEMA director met there, the mayor met there, the judge of Harris County met there, Members of Congress, all support staff, fire department, police department, the health department, all of those individuals were able to gather and design a strategy to help us begin to pull ourselves up.

The establishment and implementation of a temporary command post was a real element of TranStar's viability. It directed people where not to go because of the flooding in different highways and freeways. The initial action to get pumping gear at the Texas Medical Center, Southwestern Bell's main switching station, and the Civic Center garage all were part of Houston TranStar.

The coordination of shelter identification, operation of the Salvation Army and the American Red Cross occurred there. The coordination of rescue efforts in unincorporated portions of Harris County, with the Harris County Sheriff's liaison and the Harris County Fire Marshall's liaison. The relocation operation of the 911 system in unincorporated portions of Harris County, and the direction, operation and control functions of the Harris County government were pretty much housed at Houston TranStar. The transfer and operation of the Harris County Sheriff's department and the coordination of the Harris County air search and recovery unit.

Two times I lifted off in a helicopter, one a Black Hawk, to be able to survey the area; and it was from the Houston TranStar. Houston TranStar represents a major element of transportation in Houston and the surrounding areas. This is a request for $5 million for a center that has proven not only to assist Houston but also the major surrounding counties as well.

These monies come from the pool of monies that are available for this particular usage, and I would ask that my colleagues consider waiving the point of order for this funding source that is basically very necessary to continue the work that we are already doing in expanding and expediting the recovery that is going on now in Houston, Texas.

Mr. Chairman, I rise to offer an amendment that would provide $5 million in funding for the Houston TranStar program, which has been so instrumental in the response to Tropical Storm Allison.

The impact of not funding the expansion of the transportation and emergency center—also known as Houston TranStar—would be destructive to Houston's transportation system. Mr. Chairman we cannot afford to eliminate additional multi-modal transportation management functions requested by the residents of Houston and to limit the transportation and emergency management functions to those now existing at the center in inadequate space.

As we all know, Tropical Storm Allison has already been dropped an unprecedented record amount of rainfall in Houston causing homes and businesses near bayous, freeways and even the world renowned Texas Medical Center to flood. Citizens from all walks of life: rich, poor, African-American, White, Hispanic, Asian, Baptist, Catholic, Muslim, and especially the vulnerable were all impacted by the Tropical Storm Allison.

Houston TranStar was one of success stories in helping the relief effort to recover from Tropical Storm Allison. Houston TranStar began operating in 1996 as the only such center of its kind in the nation. It has functioned quietly in the background for many years providing safe and efficient transportation management around the clock in the Houston community. However, during the recent tragedy inflicted by the recent flood, Houston TranStar, the Transportation and Emergency Management center for the greater Houston region, played a major role in identifying heavy flooded areas, marshelling resources, communicating with the citizens and assisting other local, state and national agencies addressing the devastation that was Tropical Storm Allison.

Much of the success Houston TranStar has and is enjoying can be attributed to in large part to its unique partnership compromised of the City of Houston, Harris County, the State of Texas and METRO. Together, these agencies have combined their agencies and expertise to provide a greater level of immediate services to the residents in entire Houston area.

The fact that Houston TranStar is a valuable resource has never been more evident to me than in the past few weeks. To see this unique center in action is truly a pleasure. It makes you feel positive that people can and are trying to make a difference in people's lives in a tangible way. For instance, during Tropical Storm Allison and all other weather-related events, Houston TranStar serves as a one-stop shop for all agencies charged with addressing the demands of the region while ensuring a minimal loss of life and or harm to property.

Some of the recent efforts to aid and assist Houston have included the establishment and implementation of temporary command posts by the Houston Fire Department to direct rescue efforts and dispatch evacuation and rescue boats that moved more than 10,000 people, the initiation action to get pumping gear to the Texas Medical, Southwestern's Main Switching Station and the Civic Center Garage, and the coordination of shelter identification and operations with Salvation Army and the American Red Cross.

In addition, Houston TranStar assisted with the coordination of rescue efforts in unincorporated portions of Harris County with the Harris County Sheriff's Liaison and the Harris County Fire Marshall's Liaison, the direction and control functions of Harris County Government were housed at Houston TranStar, the logistical support of representatives from FEMA, the Army Corp of Engineers and all agency partner personnel working extended hours, among other valued efforts.

Despite the valiant efforts by TranStar, Tropical Storm Allison cost the Houston community 23 lives and damage to the residential and commercial structures has been assessed at more than $4.8 billion. The mere fact that Houston TranStar was able to communicate with its citizens, marshal local, state, and national resources and minimize the impact on the region, is a true testament to how effective this unique partnership is for the greater Houston region.

Let us find a way to include the $5 million funding allocation in the bill to maintain these essential funds for the entire Houston. Mr. Chairman, we cannot squander this opportunity to preserve the TranStar program. I urge my colleagues to support the Jackson Lee amendment.

POINT OF ORDER

Mr. ROGERS. Mr. Chairman, I make a point of order against the amendment because it provides an appropriation for an unauthorized program, therefore, violates clause 2 of rule XXI, which states in pertinent part, "An appropriation may not be in order as an amendment for an expenditure not previously authorized by law."

Mr. Chairman, the authorization for this program has not been signed into law. The amendment, therefore, violates clause 2 of rule XXI. I ask for a ruling of the Chair.

The CHAIRMAN. Does the gentlewoman wish to be heard on the point of order?

Ms. JACKSON-LEE of Texas. I certainly would.

Mr. Chairman, I thank the chairman very much and the ranking member. As I noted, this comes from a large pool of funding of the Federal Highway Administration, some $447 million. My point is that because of the emergency nature of this request, I am asking that the point of order be waived so that this particular unit can carry forth its emergency efforts in helping Houston recover and remain as an emergency center coordinating all forms of government effectively and helping to continue the recovery process in finding resources dealing with heavy equipment, in hosting the Coast Guard and the Army Corps of Engineers.

Mr. Chairman, we researched the question to determine authorization. It is unclear whether such has been authorized. But in any event, I would ask the chairman of the subcommittee to consider the fact of the ongoing work of Houston TranStar, its importance and vitality in bringing the city back to its feet, and also its key involvement to the transportation modules in our community and coordinating transportation in a large metropolitan area.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

The amendment proposes to earmark certain funds in the bill. Under clause 2(a) of rule XXI, such an earmarking must be specifically authorized by law. The burden of establishing the authorization in law rests with the proponent of the amendment.

Finding that this burden has not been carried, the point of order is sustained. The amendment is not in order.

The Clerk will read.

The Clerk read as follows:

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $31,716,797,000 for Federal-aid highways and highway safety construction programs for fiscal year 2002.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, $30,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

AMENDMENTS OFFERED BY MR. ROGERS OF KENTUCKY

Mr. ROGERS of Kentucky. Mr. Chairman, I offer several amendments, and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. ROGERS:

On page 16, line 12 of the bill, strike "Notwithstanding any other provision of law,";

On page 19, line 16 of the bill, strike "Notwithstanding any other provision of law,";

On page 25, line 4 of the bill, strike "Notwithstanding any other provision of law,";

On page 55, line 14 of the bill, strike "Beginning in fiscal year 2002 and thereafter,";

On page 55, line 18 and all that follows through page 56, line 2.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Without objection, the amendments will be considered en bloc.

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, I shall not take the full 5 minutes time.

This is a manager's amendment and accommodates the concerns expressed by the Committee on Transportation and Infrastructure by removing in five cases authorizing language. It has been cleared with the minority as well as the authorizing committee. I believe it is noncontroversial, and I would ask for its adoption.

Mr. SABO. Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Kentucky.

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

STATE INFRASTRUCTURE BANKS

(RESCISSION)

Of the funds made available for State Infrastructure Banks in Public Law 104–205, $6,000,000 are rescinded.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses for administration of motor carrier safety programs and motor carrier safety research, pursuant to section 104(a)(1)(B) of title 23, United States Code, not to exceed $92,307,000 shall be paid in accordance with law from appropriations made available by this Act and from any available take-down balances to the Federal Motor Carrier Safety Administration, together with advances and reimbursements received by the Federal Motor Carrier Safety Administration: *Provided*, That such amounts shall be available to carry out the functions and operations of the Federal Motor Carrier Safety Administration.

NATIONAL MOTOR CARRIER SAFETY PROGRAM

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 31102, 31106, and 31309, $205,896,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $205,896,000 for "Motor Carrier Safety Grants", and "Information Systems".

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, $122,420,000, of which $90,430,000 shall remain available until September 30, 2004: *Provided*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, $72,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2002, are in excess of $72,000,000 for programs authorized under 23 U.S.C. 403.

NATIONAL DRIVER REGISTER

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, United States Code, $2,000,000, to be derived from the Highway Trust Fund, and to remain available until expended.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 410, and 411, to remain available until expended, $223,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2002, are in excess of $223,000,000 for programs authorized under 23 U.S.C. 402, 405, 410, and 411, of which $160,000,000 shall be for "Highway Safety Programs" under 23 U.S.C. 402, $15,000,000 shall be for "Occupant Protection Incentive Grants" under 23 U.S.C. 405, $38,000,000 shall be for "Alcohol-Impaired Driving Countermeasures Grants" under 23 U.S.C. 410, and $10,000,000 shall be for the "State Highway Safety Data Grants" under 23 U.S.C. 411: *Provided further*, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That not to exceed $8,000,000 of the funds made available for section 402, not to exceed $750,000 of the funds made available for section 405, not to exceed $1,900,000 of the funds made available for section 410, and not to exceed $500,000 of the funds made available for section 411 shall be available to NHTSA for administering highway safety grants under chapter 4 of title 23, United States Code: *Provided further*, That not to exceed $500,000 of the funds made available for section 410 "Alcohol-Impaired Driving Countermeasures Grants" shall be available for technical assistance to the States.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $110,461,000, of which $6,159,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $27,375,000, to remain available until expended.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using federal funds for the credit risk premium during fiscal year 2002.

NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 U.S.C. 26101 and 26102, $25,100,000, to remain available until expended.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $521,476,000, to remain available until expended.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $13,400,000: *Provided*, That no more than $67,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds in this Act available for the execution of contracts under section 5327(c) of title 49, United States Code, $2,000,000 shall be reimbursed to the Department of Transportation's Office of Inspector General for costs associated with audits and investigations of transit-related issues, including reviews of new fixed guideway systems: *Provided further*, That not to exceed $2,600,000 for the National transit database shall remain available until expended.

FORMULA GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5307, 5308, 5310, 5311, 5327, and section 3038 of Public Law 105–178, $718,400,000, to remain available until expended: *Provided*, That no more than $3,592,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds provided under this heading, $5,000,000 shall be available for grants for the costs of planning, delivery, and temporary use of transit vehicles for special transportation needs and construction of temporary transportation facilities for the XIX Winter Olympiad and the VIII Paralympiad for the Disabled, to be held in Salt Lake City, Utah: *Provided further*, That in allocating the funds designated in the preceding proviso, the Secretary shall make grants only to the Utah Department of Transportation, and such grants shall not be subject to any local share requirement or limitation on operating assistance under this Act or the Federal Transit Act, as amended: *Provided further*, That notwithstanding section 3008 of Public Law 105–178, the $50,000,000 to carry out 49 U.S.C. 5308 shall be transferred to and merged with funding provided for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities under "Federal Transit Administration, Capital investment grants".

□ 1615

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against the language found at page 23, beginning on line 20 and continuing to page 24, line 2, which begins "Providing further, that notwithstanding section 3008 of Public Law 105–78" and ending on page 25, line 2, with "capital investment grants."

This language violates the guarantees of TEA–21 to provide funds for the Clean Fuels Bus formula grant program to the other discretionary grant program. This language supersedes existing law and clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. Does the gentleman from Kentucky wish to be heard on the point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, the point of order is conceded.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order. The point of order is conceded and sustained. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

UNIVERSITY TRANSPORTATION RESEARCH

For necessary expenses to carry out 49 U.S.C. 5505, $1,200,000, to remain available until expended: *Provided*, That no more than $6,000,000 of budget authority shall be available for these purposes.

TRANSIT PLANNING AND RESEARCH

For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $23,000,000, to remain available until expended: *Provided*, That no more than $116,000,000 of budget authority shall be available for these purposes: *Provided further*, That $5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2)), $4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315), $8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a)), $55,422,400 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305), $11,577,600 is available for State planning (49 U.S.C. 5313(b)); and $31,500,000 is available for the national planning and research program (49 U.S.C. 5314).

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 5303–5308, 5310–5315, 5317(b), 5322, 5327, 5334, 5505, and sections 3037 and 3038 of Public Law 105–178, $5,397,800,000, to remain available until expended, and to be derived from the Mass Transit Account of the Highway Trust Fund: *Provided*, That $2,873,600,000 shall be paid to the Federal Transit Administration's formula grants account: *Provided further*, That $93,000,000 shall be paid to the Federal Transit Administration's transit planning and research account: *Provided further*, That $53,600,000 shall be paid to the Federal Transit Administration's administrative expenses account: *Provided further*, That $4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: *Provided further*, That $100,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program: *Provided further*, That $2,272,800,000 shall be paid to the Federal Transit Administration's capital investment grants account.

CAPITAL INVESTMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $568,200,000, to remain available until expended: *Provided*, That no more than $2,841,000,000 of budget authority shall be available for these purposes: *Provided further*, That none of the funds provided under this heading shall be available for section 3015(b) of Public Law 105–178; *Provided further*, That notwithstanding any other provision of law, there shall be available for fixed guideway modernization, $1,136,400,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $568,200,000 together with $50,000,000 transferred from "Federal Transit Administration, Formula grants"; and there shall be available for new fixed guideway systems $1,136,400,000, together with $8,128,338 of the funds made available under "Federal Transit Administration, Discretionary grants" in Public law 105–66, and $22,023,391 of the funds made available under "Federal Transit Administration, Capital investment grants" in Public Law 105–277; to be available as follows:

$10,296,000 for Alaska or Hawaii ferry projects;

$25,000,000 for the Atlanta, Georgia, North line extension project;

$10,867,000 for the Baltimore, Maryland, central light rail transit double track project;

$11,203,169 for the Boston, Massachusetts, South Boston Piers transitway project;

$5,000,000 for the Charlotte, North Carolina, south corridor transitway project;

$35,000,000 for the Chicago, Illinois, Douglas branch reconstruction project;

$23,000,000 for the Chicago, Illinois, Metra North central corridor commuter rail project;

$19,118,735 for the Chicago, Illinois, Metra South West corridor commuter rail project;

$20,000,000 for the Chicago, Illinois, Metra Union Pacific West line extension project;

$2,000,000 for the Chicago, Illinois, Ravenswood reconstruction project;

$5,000,000 for the Cleveland, Ohio, Euclid corridor transportation project;

$70,000,000 for the Dallas, Texas, North central light rail transit extension project;

$60,000,000 for the Denver, Colorado, Southeast corridor light rail transit project;

$192,492 for the Denver, Colorado, Southwest light rail transit project;

$25,000,000 for the Dulles corridor, Virginia, bus rapid transit project;

$30,000,000 for the Fort Lauderdale, Florida, Tri-Rail commuter rail upgrades project;

$3,000,000 for the Johnson County, Kansas-Kansas City, Missouri, I–35 commuter rail project;

$60,000,000 for the Largo, Maryland, metrorail extension project;

$1,800,000 for the Little Rock, Arkansas, river rail project;

$10,000,000 for the Long Island Rail Road, New York, East Side access project;

$49,686,469 for the Los Angeles North Hollywood, California, extension project;

$5,500,000 for the Los Angeles, California, East Side corridor light rail transit project;

$3,000,000 for the Lowell, Massachusetts-Nashua, New Hampshire commuter rail extension project;

$12,000,000 for the Maryland (MARC) commuter rail improvements project;

$19,170,000 for the Memphis, Tennessee, Medical center rail extension project;

$5,000,000 for the Miami, Florida, South Miami-Dade busway extension project;

$10,000,000 for the Minneapolis-Rice, Minnesota, Northstar corridor commuter rail project;

$50,000,000 for the Minneapolis-St. Paul, Minnesota, Hiawatha corridor project;

$4,000,000 for the Nashville, Tennessee, East corridor commuter rail project;

$20,000,000 for the Newark-Elizabeth, New Jersey, rail link project;

$4,000,000 for the New Britain-Hartford, Connecticut, busway project;

$141,000,000 for the New Jersey Hudson Bergen light rail transit project;

$13,800,000 for the New Orleans, Louisiana, Canal Street car line project;

$3,100,000 for the New Orleans, Louisiana, Desire corridor streetcar project;

$13,000,000 for the Oceanside-Escondido, California, light rail extension project;

$16,000,000 for the Phoenix, Arizona, Central Phoenix/East valley corridor project;

$6,000,000 for the Pittsburgh, Pennsylvania, North Shore connector light rail transit project;

$20,000,000 for the Pittsburgh, Pennsylvania, stage II light rail, transit reconstruction project;

$70,000,000 for the Portland, Oregon, Interstate MAX light rail transit extension project;

$5,600,000 for the Puget Sound, Washington, RTA Sounder commuter rail project;

$14,000,000 for the Raleigh, North Carolina, Triangle transit project;

$328,810 for the Sacramento, California, light rail transit extension project;

$15,000,000 for the Salt Lake City, Utah, CBD to University light rail transit project;

$718,006 for the Salt Lake City, Utah, South light rail transit project;

$65,000,000 for the San Diego Mission Valley East, California, light rail transit extension project;

$2,000,000 for the San Diego, California, Mid Coast corridor project;

$80,605,331 for the San Francisco, California, BART extension to the airport project;

$113,336 for the San Jose Tasman West, California, transit light rail project;

$40,000,000 for the San Juan, Puerto Rico, Tren Urbano project;

$31,088,422 for the St. Louis, Missouri, MetroLink St. Clair extension project;

$8,000,000 for the Stamford, Connecticut, urban transitway project; and

$1,000,000 for the Washington County, Oregon, Wilsonville to Beaverton commuter rail project.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against the language found on page 26, beginning on line 9 and continuing to line 10 which states "That notwithstanding any other provision of law" and also against the language found on page 26, beginning on line 15 and continuing to line 16 which states "together with $50 million transferred from "Federal

Transit Administration, Formula grants"; this clause "notwithstanding any other provision of law" explicitly supersedes existing law and clearly constitutes legislation on appropriations bill in violation of clause 2 of rule XXI of the rules of the House of Representatives.

This language on lines 15 and 16 transferring $50 million provided by TEA–21 for Clean Fuels Bus formula grants program to the transit bus discretionary capitol investment grant program affects the total transit program outlays for fiscal year 2002, which violates section 8101 of Public Law 105–178 and supersedes existing law.

This language clearly constitutes legislation on an appropriations bill in violation of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. Does the gentleman from Kentucky wish to be heard on the point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order. The point of order is conceded and sustained. The provisions are stricken from the bill.

The Clerk will read.

The Clerk read as follows:

JOB ACCESS AND REVERSE COMMUTE GRANTS

Notwithstanding section 3037(l)(3) of Public Law 105–178, as amended, for necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, $25,000,000, to remain available until expended: *Provided*, That no more than $125,000,000 of budget authority shall be available for these purposes: *Provided further*, That up to $250,000 of the funds provided under this heading may be used by the Federal Transit Administration for technical assistance and support and performance reviews of the job access and reverse commute grants program.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against the language found on page 31, beginning on line 9 and continuing to line 10 which begins "Notwithstanding section 3037(l)(3) of Public Law 105–178, as amended."

This language waives the statutory distribution of funds specified in TEA–21 for the Job Access and Reverse Commute Grants program and explicitly supersedes existing law. This language clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. Does the gentleman from Kentucky wish to be heard on the point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order. The point of order is conceded and sustained. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $13,426,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $36,487,000, of which $645,000 shall be derived from the Pipeline Safety Fund, and of which $2,170,000 shall remain available until September 30, 2004: *Provided*, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $48,475,000, of which $7,472,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2004; and of which $41,003,000 shall be derived from the Pipeline Safety Fund, of which $20,707,000 shall remain available until September 30, 2004.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2004: *Provided*, That not more than $14,300,000 shall be made available for obligation in fiscal year 2002 from amounts made available by 49 U.S.C. 5116(i), 5127(c), and 5127(d): *Provided further*, That none of the funds made available by 49 U.S.C. 5116(i), 5127(c), and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation or his designee.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $50,614,000: *Provided*, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3) to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: *Provided further*, That the funds made available under this heading shall be used to investigate, pursuant to section 41712 of title 49, United States Code: (1) unfair or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents; and (2) the compliance of domestic and foreign air carriers with respect to item (1) of this proviso.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $18,563,000: *Provided*, That notwithstanding any other provision of law, not to exceed $950,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2002, to result in a final appropriation from the general fund estimated at no more than $17,613,000.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $5,046,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $66,400,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 2002 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 304. None of the funds in this Act shall be available for salaries and expenses of more than 105 political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision or political and Presidential appointees in an independent agency funded in this Act may be assigned on temporary detail outside the Department of Transportation or such independent agency.

SEC. 305. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 306. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 307. The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

SEC. 308. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 309. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

Mr. ROGERS of Kentucky (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 38, line 22, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there amendments to that portion of the bill?

Mr. YOUNG of Alaska. Mr. Chairman, I have a point of order on page 38, line 23.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 310. (a) For fiscal year 2002, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a)(1)(A) of title 23, United States Code, for the highway use tax evasion program for amounts provided under section 110 of title 23, United States Code, and for the Bureau of Transportation Statistics;

(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) of section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid Highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; and (8) under section 105 of title 23, United States Code (but only in an amount equal to $639,000,000 for such fiscal year).

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Equity Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943–1945).

(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds: (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and highway-related programs under chapter 4 of title 23, United States Code; and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL RULE.—Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highways and highway safety construction programs for future fiscal years.

(g) Notwithstanding Public Law 105–178, as amended, of the funds authorized under section 110 of title 23, United States Code, (other than the funds authorized for the motor carrier safety grant program) for fiscal year 2002, $56,300,000 shall be to carry out a program for state and Federal border infrastructure construction.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against all of section 310 beginning on page 38, line 23, and ending on page 44, line 2.

This language explicitly directs the Secretary of the Department of Transportation to alter the TEA-21 distribution of funds contrary to existing law. It directs the redistribution of $56.3 million of Federal Highway Revenue Aligned Budget Authority (RABA) to carry out a program for State and Federal border infrastructure construction. This is a clear violation of clause 2 of rule XXI of the Rules of the House of Representatives.

The CHAIRMAN. Does the gentleman from Kentucky wish to be heard on the point of order?

Mr. ROGERS of Kentucky. The point of order is conceded.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order. The point of order is conceded and sustained. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 311. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 312. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 313. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant: *Provided*, That, the Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by FAA in accordance with agency criteria.

SEC. 314. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Capital investment grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2004, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 315. Notwithstanding any other provision of law, any funds appropriated before October 1, 2001, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 316. None of the funds in this Act may be used to compensate in excess of 335 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2002.

SEC. 317. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Federal-Aid Highways" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Safety and Operations" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 318. Funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities pursuant to 49 U.S.C. 5309(m)(2)(B) may be used to construct new vessels and facilities, or to improve existing vessels and facilities, including both the passenger and vehicle-related elements of such vessels and facilities, and for repair facilities.

SEC. 319. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 320. None of the funds in this Act may be obligated or expended for employee training which: (a) does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties; (b) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (c) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations; (d) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; (e) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or (f) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

SEC. 321. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegraph, telephone, letter, printed or written material, radio, television, video presentation, electronic communications, or other device, intended or designed to influence in any manner a Member of Congress or of a State legislature to favor or oppose by vote or otherwise, any legislation or appropriation by Congress or a State legislature after the introduction of any bill or resolution in Congress proposing such legislation or appropriation, or after the introduction of any bill or resolution in a State legislature proposing such legislation or appropriation: *Provided*, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress or to Congress, on the request of any Member, or to members of a State legislature, or to a State legislature, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of business.

SEC. 322. (a) IN GENERAL.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

Mr. ROGERS of Kentucky (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 50, line 21, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ANDREWS. Mr. Chairman, reserving the right to object, I have an amendment that comes in at page 52 and I wonder what effect that will have on the gentleman's request. I do not intend to object other than to preserve the right to offer my amendment.

The CHAIRMAN. The Chair understands the request is to advance the reading to page 50 line 21.

Mr. ANDREWS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, I have a point of order beginning on line 22.

The CHAIRMAN. Before the Clerk reads into that section, are there any amendments to the portion of the bill now open?

The Clerk will read.

The Clerk read as follows:

SEC. 323. Notwithstanding any other provision of law, of the $23,896,000 provided under 23 U.S.C. 110 for the motor carrier safety grants program, the Secretary of Transportation may reserve up to $18,000,000 for grants to the States of Arizona, California, New Mexico, and Texas, to hire State motor carrier safety inspectors at the United States/Mexico border: *Provided*, That, such funding is only available to the extent the States submit requests for such funding to the Secretary and the Secretary evaluates such requests based on established criteria: *Provided further*, That, on March 31, 2002, the Secretary shall distribute to the States any undistributed amounts in excess of ½ of the amount originally reserved, consistent with section 110 of title 23, U.S.C., for the motor carrier safety grants program: *Provided further*, That on July 1, 2002, the Secretary shall distribute to the States any remaining undistributed amounts consistent with section 110 of title 23, U.S.C., for the motor carrier safety grants program.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against all of section 323 beginning on page 50, line 22, and ending on page 51, line 15.

This language authorizes the Secretary of Transportation to reserve up to $18 million of Federal Motor Carrier Safety Administration, RABA, for four States, Arizona, California, New Mexico and Texas, for the purpose of hiring State motor carrier safety inspectors at the U.S.-Mexican border. This explicitly waives existing law in violation of clause 2 of rule XXI of the Rules of the House of Representatives.

The CHAIRMAN. Does the gentleman from Kentucky wish to be heard on the point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, the point is conceded.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order. The point of order is conceded and sustained. The provision is stricken from the bill. Section 323 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 324. Rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department and allocated to elements of the Department using fair and equitable criteria and such funds shall be available until December 31, 2002.

SEC. 325. Notwithstanding any other provision of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 326. For necessary expenses of the Amtrak Reform Council authorized under section 203 of Public Law 105–134, $785,000, to remain available until September 30, 2003: *Provided*, That the duties of the Amtrak Reform Council described in section 203(g)(1) of Public Law 105–134 shall include the identification of Amtrak routes which are candidates for closure or realignment, based on performance rankings developed by Amtrak which incorporate information on each route's fully allocated costs and ridership on core intercity passenger service, and which assume, for purposes of closure or realignment candidate identification, that Federal subsidies for Amtrak will decline over the 4-year period from fiscal year 1999 to fiscal year 2002: *Provided further*, That these closure or realignment recommendations shall be included in the Amtrak Reform Council's annual report to the Congress required by section 203(h) of Public Law 105–134.

AMENDMENT NO. 1 OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. ANDREWS:

In section 326 (relating to Amtrak Reform Council), after the dollar amount, insert the following: "(reduced by $335,000)".

Mr. ANDREWS. Mr. Chairman, the purpose of this amendment is twofold. It is to strongly support the continued operation of Amtrak as a national passenger railroad system, and it is to save the taxpayers of our country $335,000.

This amendment strikes the amount of $335,000 from the amount appropriated for the operations of the so-called Amtrak Reform Council. I believe there are two good arguments for this. The first is that the remaining fund for the Amtrak Reform Council, which is $450,000, are more than sufficient for the council to carry on its work. When the council was first created in 1997, it was projected by the Congressional Budget Office that its annual cost of operation would be approximately $500,000. This amendment would bring the cost of operating the council back to that general level.

The second reason for this is that the Amtrak Reform Council, in my judgment, has been less about reform and more about criticism of Amtrak. The place where Amtrak's future should be decided, with all due respect, is in the authorizing committee and on the floor of this House and we can have a good debate about the future of the railroad. I do not believe that ceding our judgment to an unelected body of people, many of whom have expressed strong prejudices against the operation of Amtrak, is a wise course.

Mr. Chairman, in each of the last two Congresses, the House has approved a similar amendment, by a roll call vote in 1999 and by voice in the year 2000. I believe this is a reasonable balance. It permits the work of the Amtrak Reform Council to go on, despite the fact that many of us disagree with that work, while at the same time requiring the council to rely on the good offices already existing in the Department of Transportation, not expanding spending to outside consultants and other expenditures, which I believe the taxpayers should not be burdened with.

The amount of the cut is $335,000. I would point out that I believe this is an amendment which supports Amtrak. In turn it is supported by the transportation trades department of the AFL-CIO speaking for the men and women who are Amtrak employees.

Mr. Chairman, I would urge the adoption of the amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, we accept this amendment. It would reduce funding for the Amtrak Reform Council by $335,000. This action would be consistent with the levels of funding provided by the House for the Amtrak Reform Council for the past 2 years.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 327. None of the funds in this Act may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than three full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $1,000,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: *Provided*, That no notification shall involve funds that are not available for obligation.

SEC. 328. Section 232 of H.R. 3425 of the 106th Congress, as enacted by section 1000(a)(5) of the Consolidated Appropriations Act, 2000 is repealed.

SEC. 329. None of the funds in this Act shall be available for planning, design, or construction of a light rail system in Houston, Texas.

AMENDMENT NO. 3 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. JACKSON-LEE of Texas.

Page 53, lines 15 through 17, strike section 329.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am an eternal optimist. I believe that transportation is such a vital part of the quality of life of Americans and Houstonians and Texans, that I offer this amendment and hope my colleagues can work collaboratively with me to ultimately strike the language that removes the opportunity for planning and design and construction of light rail in Houston, Texas.

I say that because I was on the floor just previously talking about Houston TranStar which is a collaboration between city and local officials helping us move and moderate our traffic. Every major city, Houston now being known as the third largest city in the Nation, has traffic congestion. Polling in Houston suggests that not only the city of Houston, but small cities surrounding Houston are favorable toward this whole idea of light rail.

Mr. Chairman, I am hoping that I will be able to work with my colleagues, including the gentleman from Texas (Mr. DELAY), in his interest in the Houston TranStar, I hope we will be able to work together on securing that authorization and funding for TranStar.

□ 1630

At the same time, I am hoping that we can strike this language or work collaboratively so that the City of Houston can fulfill the commitment it has made to its citizens and the citizens can have the commitment made to them by the City of Houston and the county judge and the metropolitan transit authority to have light rail in our community.

Conventional wisdom also suggests that the light rail project would be immensely useful to complement the Main Street connectivity which continues to enrich the lives of countless Houstonians. Another traffic center is the Texas Medical Center, one of the largest employers in our region. We have also heard of the devastation facing the Texas Medical Center. One of the contributing factors as they recover and also as they continue to grow is the ability to move those medical professionals, nurses, technicians, and doctors into one of the most important medical centers in our country. They need light rail.

I believe that we can do this together. Working with the administration of President George Bush; working with both Houses, the Senate and the House; working with our appropriations committee; and authorization committee. Never have we seen in the history of Houston the convergence of so many supporters, business community, local and regional communities, local cities that surround Houston, Houston and Harris County, all the local officials in large part. I cannot imagine why light rail is not in the destiny of Houston, Texas. Our sister city has it. What we are asking for as we go and do focus groups is the ability to be able to secure from our citizens the design of light rail. All have been eager to participate. In fact, in my 18th Congressional District they have said, "When will it come into my neighborhood?"

I believe that there are good will people and there are people who will work with us, including members of my own delegation who will find that light rail will be able to answer many questions prospectively, today and in the future.

I would ask that my colleagues support this amendment. If we cannot have this amendment moved to a vote, I would certainly like to strike a collaborative chord with the members of the appropriations committee and the authorization committee so that we can work together to have light rail in the city of Houston.

Mr. Chairman, I rise to offer an amendment that ensures that light rail remains at least eligible from Federal funding for the City of Houston. Unfortunately, an unnecessary and destructive rider has been inserted within H.R. 2299, the transportation appropriation bill. We must strike that language in the appropriations measure in the interest of fundamental fairness, Mr. Chairman.

Last year, I joined my colleagues on the House floor to protest the lack of funding for the critical light rail project that is so important for Houston. I do not see why we should deprive the City of Houston of the light rail system. This is something that the Mayor of the City of Houston, the County Judge, the Metropolitan Transit Authority in Houston, residents and countless other interested have expressed a strong desire to see come to fruition. We need federal funding for light rail in the 18th Congressional District of Texas as we revitalize the transportation system for the 21st century.

Conventional wisdom also suggests that the light rail project would be an immensely useful compliment to the Main Street Connectivity, which continues to enrich the lives of countless Houstonians.

I have been supportive of light rail project for some years. From the outset of the planning stages of the project, it became clear to me that commuters in Houston needed to expand their options in making their days more efficient and enjoyable. The light rail project offered a formidable transportation solution that Houstonians had long awaited. It is my firm belief that light rail will significantly touch all parts of our community.

Earlier in March of this year, I was delighted to announce that a 7.5 mile METRORail line in Houston. Many individuals worked hard to make that happen. We must face the fact that the light rail project is of urgent need. Light rail will help alleviate Houston's traffic congestion problem and, among other things, significantly reduce the number of motorists that presently pollute the air with exhaust.

Like all Houstonians, I believe that nothing is more important than mobility for the region's future. For these reasons, I am part of our federal team dedicated to increasing funding for our infrastructure needs in the Houston area. Mr. Chairman, we all have the common goal of making transportation more easily accessible in the Houston area. The goal of accessibility and faster modes of transportation will inevitably lead to an improved environment and a better quality of life for all Houstonians. We can do so much together when we make a commitment to work together.

Lastly, let me say that I recognize that I will continue to work with the Administration and Congress to bring Federal assistance to the light rail project in Houston. I look forward to working with METRO and city officials to match ingenuity being shown by other transportation mechanisms utilized by other major metropolitan cities. With a continued collective effort from local, regional, and Federal resources, I believe the light rail system will help transform Houston's transportation system into one of the premier systems in America.

I know that Congress needs to move forward on this bill, and we cannot debate local issues. But I hope the Congress realizes that this is not a local issue. This is a question of equality and parity when all of the other areas of the nation are able to get dollars for light rail. I think, if a community wants light rail and meets the requirement, then this Congress should give them consideration. The 18th Congressional District of Texas deserves fair treatment regarding these matters.

I urge my colleagues to support my amendment to strike the language prohibiting funding for the light rail program in Houston.

Mr. BENTSEN. Mr. Chairman, I rise in support of the gentlewoman's amendment.

This prohibition affects a rail project in the city of Houston, a large portion of which is in the gentlewoman's district and the other portion which runs into my district. It is one of the main traffic arteries in the city of Houston. The gentlewoman mentioned the Texas Medical Center, which is the largest medical center in the world, which is located in my district, which has approximately 60 to 70 thousand people moving in and out of a very concentrated area every day of the week. This is an important project.

The gentlewoman also mentioned that this project enjoys the support of the locally elected political establishment of Houston and Harris County. The Houston Metro board is a metropolitan organization made up of appointees by the elected leadership. So it does have an indirect connection to the voters in that the directly elected officials appoint the members of this board and those members are approved by the elected members of the county commissioners court and the elected members of the Houston city council.

Finally, I would say there are some who have said that this should not go forward because there has been no direct election by the people. But the county attorney of Harris County and the attorney general of the State of Texas have ruled that there is no statute in Texas law that would grant the right for such an election. So that is sort of the basis of this. And where we stand now is because of this specific prohibition affecting the City of Houston, the City of Houston is the only metropolitan area, the only municipal area in the United States of which I am aware where the United States Congress has specifically banned the use of Federal funds for rail.

It comes down not to a question of whether you support rail or not, it comes down to a question of equity and whether or not we are going to allow locally elected officials to make the decisions or whether we are going to allow Washington to make the decisions. Unfortunately this provision in the bill has Washington telling the locally elected officials, both Republicans and Democrats and independents and nonpartisan candidates, that they cannot make the decision.

I hope that the House will adopt the gentlewoman's amendment and allow the elected officials, the locally elected officials of the City of Houston, of Harris County, to decide what they want to do with their share of the Federal funding just in the same way that locally elected officials throughout the United States are allowed to do so under this very bill without this prohibition that only affects one jurisdiction in the United States.

Mr. CULBERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in opposition to the amendment. As a representative from the city of Houston and as a former member of the Texas House of Representatives, I can say that Texas law already provides for a mechanism for the voters to have their voice heard. If the metropolitan transit authority in Houston chooses to issue debt, there is a requirement that they have an election. Having just gone through a very extensive election campaign in Houston, I can tell Members firsthand the voters of Houston want an opportunity to speak on this issue; and I know we would all welcome a chance to debate it in the public arena in Houston.

The voters of Houston have the right to have their voices heard particularly because of the extraordinary cost of any rail proposal. The numbers that we have seen indicate that it could cost up to $300 million plus to build a rail system in Houston. I can tell Members that the highest transportation priority in Harris County in the opinion of the entire legislative delegation to Austin, I know with the support of many of my colleagues here, is the expansion of the Katy Freeway. The Katy Freeway still needs another $500 million to complete its expansion. That $300 million minimum that is proposed to finish out the cost to build a rail system in Houston would virtually finish the Katy Freeway project. $300 million would build 50 miles of freeway.

We in the city of Houston have a very different type of geography. The way the city has grown is different from other cities. Our city was laid out on a salt grass prairie and those wide open spaces have enabled us to grow very rapidly in many directions. Seventy-six percent of the jobs in our city are outside Loop 610, and the city of Houston is just simply not well situated for a rail plan.

All of these factors together, the fact that the rail plan would absorb so many transportation dollars, move so few riders, have to be subsidized so heavily, and the fact that State law already provides a mechanism for a vote lead me to the conclusion that it is entirely proper, in fact essential, that there be a vote in Houston before money is spent on rail.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. CULBERSON. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding. I appreciate his recounting the needs in the Houston and surrounding areas. I support the gentleman in helping to improve the Katy Freeway, I–10 West, which goes through a number of our districts, including mine. I think it is important; and, as I note, there is money in the bill for the Katy Freeway. I think it is only fair. It is important to note that Metro has committed to an election. They are now in the process of doing focus groups, if you will, and preparing that when there is a design ready for the next extension thereof or putting in the rail, that they would be more than happy to put that plan forward. The gentleman may well know that the county attorney ruled that they could not ask for a vote on this particular seven-mile run because it was not funded by Metro.

Mr. CULBERSON. If I could reclaim my time and in response say that the Metro has indicated they are willing to have an election, but we have not seen the election occur yet. Metro moved forward very rapidly to build this rail plan from downtown Houston out to the Astrodome without asking for voter approval. They could have asked for voter approval, a simple referendum had they chosen to but did not. There are also other mechanisms to allow for a vote and they chose not to do so.

The cost of the rail plan coupled with the immense amount of subsidy that is going to be required, when you compare the cost of rail systems in other cities, the cost per rider to taxpayers is about $3,000 a year, the subsidized cost per taxpayer in Los Angeles for each rider is about 9,000 tax dollars a year and in Dallas about $4,000. The geography, the growth patterns, the work patterns in the city of Houston are such that I am not sure that we could support it. In fact every town hall meeting I have held and where I have asked questions on this issue to my constituents, the overwhelming response of my constituents is that almost all of them need their cars in order to get to work.

Because of the unique nature of our city, because of where the job centers, the economic centers of Houston are spread out around the metropolitan area, the bottom line is there must be an election and I strongly support the gentleman from Texas (Mr. DELAY) in his call for an election before any transportation dollars are spent on the construction of a rail system in Houston. I urge Members to vote against the amendment so that there can be a vote in the city of Houston.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose this amendment because the Houston Metro bureaucracy still has not resolved a primary shortcoming. They have not assembled the facts and they have not placed those facts before our community in Houston. Without the facts, how can Houstonians make an informed decision about light rail? The answer is they cannot, and I am not going to tolerate an end run around accountability.

Without a referendum on rail, Houstonians would be blindly committing billions of dollars to a vast project with an unknown price tag, unproven performance, and an undetermined impact on our most pressing problem in the Houston-Galveston area, and that is mobility. The decision to make a multi-billion-dollar transportation commitment cannot be made without the consent of the whole community. That is why I took action last year to suspend the diversion of Federal funds approved for transportation improvements from being used to fund light rail. And it is why I am asking my colleagues to continue supporting this restriction.

My constituents expect me to safeguard their tax dollars, not flit them away on an unproven concept. A light rail system is far from the most effective way for Houston to reduce congestion. In fact, Houston Metro has even admitted that the Main Street line does nothing to reduce congestion and is not even a transportation project. They themselves call it an economic development project.

The decision to build a light rail system would affect everyone in Houston. Supporters must document the ability of a rail system to reduce congestion and increase mobility. And they must take that case to the citizens of Houston to earn their support for a citywide light rail system. The people of Houston and the Houston metroplex deserve to be heard on this question and a referendum gives them that voice. But the community cannot make an informed choice without all the facts and Houston Metro is not giving them the information that they need.

The method used to build the Main Street line gives every appearance of an attempt to evade accountability. Metro is moving forward with a piecemeal construction plan much like they did in Dallas, Texas, and they are moving that piecemeal construction plan without explaining light rail's broader mobility impact on the region.

I trust the people of Houston. They can make the right choice if they have all the facts. Metro needs to prepare a comprehensive mobility plan that takes all of our needs into account. It should document all the challenges that contribute to congestion in the Houston region. It should describe all the different options to reduce congestion. And it should measure and compare the effectiveness of those options. Only then will people be able to make an informed decision about light rail.

An additional problem with the Main Street line is that it simply is not a mobility project. The Main Street line is an economic development project. We have a mobility crisis in Houston. We must spend the available transportation dollars on measures that actually target and reduce congestion.

□ 1645

In the last 2 years running, we have added over 500,000 new trips to our transportation system; and yet we are only able to come up with enough money, about $300 million, to add more capacity to our mobility plan. And guess what this little 7-mile economic development plan costs? $300 million. We could do a lot more for that $300 million in improving the mobility of Houston.

So contrary to what some people may think, the pool of Federal transportation dollars is not infinite. Spending billions on light rail will severely restrict the funds for highway improvements and other mobility improvements. Houston cannot afford to gamble on an unproven light rail system. So I ask Members to oppose this amendment and demand accountability in transportation spending.

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment strikes a prohibition in this bill that was also carried in last year's bill, which prohibits the planning, design and construction of light rail in Houston. This prohibition is necessary as proponents of light rail in Houston seek to alter an existing full funding grant agreement for a bus program. Congress has fully funded that $500 million grant agreement.

The last Federal payment was made this year. However, implementation of the work is still going on. Some in Houston would like to forego elements of the approved Houston regional bus plan, which are explicit components of the existing full funding grant agreement and instead replace these elements with light rail. The sponsors would defer the planned bus elements into the future. The committee cannot support the impact of this amendment. Under current law, funds provided for the existing full funding grant agreement are only for those regional bus plans outlined in the existing agreement. The Committee on Appropriations, authorizing committees, and the Department of Transportation all must approve an amendment of this nature.

As we have heard here today, there is dissension among the community about this project. Members within the Houston delegation are on both sides of the issue, some supporting light rail, others opposing it in favor of buses. So until agreement can be reached, Mr. Chairman, at least locally, and some semblance of consensus occurs locally, it is premature to shift this funding, away from a completed full funding grant agreement; it is too early for that to take place.

Houston has a state-of-the-art transit program, largely bus-driven. The light rail project is just one component of this larger transit program. Keeping this provision in place in our bill will not adversely impact the overall transportation system in Houston, particularly as the community has local funds that it could use to build this light rail project.

Mr. Chairman, I strongly oppose this amendment.

Mr. SABO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to my friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member, the gentleman from Minnesota (Mr. SABO), for yielding.

Mr. Chairman, I appreciate the collegiate spirit on which we are debating this issue on the floor. For me, however, this is an intense issue that impacts an inner-city district.

It is interesting, as I look through the funding and I see Chicago, Illinois, and Cleveland, Ohio; Dallas, Texas; Denver, Colorado; the Dulles Corridor; Fort Lauderdale; Largo, Maryland; Little Rock, Arkansas; Long Island Railroad, New York; Los Angeles; Maryland; New Britain, Hartford, Connecticut; New Jersey; New Orleans; Phoenix, Arizona; Pittsburgh, Pennsylvania; Portland, Oregon; Puget Sound, Washington; Raleigh, North Carolina, and others that are engaged in securing transit dollars and in particular many of them light rail projects.

Can I say, what is wrong with Houston, Texas?

I appreciate the opposition, but I am certainly disturbed that I can rise to the floor of the House and support the expansion which is in this bill, and time after time after time I cannot get colleagues that would join us in recognizing the importance of light rail. I give credit where credit is due, and I appreciate that we have been able to work together in a bipartisan way. This is not personal, but it certainly begs the question about some of the representations that have been made.

First of all, Metro is seeking out the input of the community. They have a number of mayors surrounding the area that want light rail and have expressed it verbally and have expressed it openly and publicly. This is the first time that we have a county judge, a Republican, and the Mayor of the City of Houston joined together around light rail. We are seeking to earn the support of Houstonians. We would not do to overlook their input.

The only reason that we did not have an election is because the county attorney, a Republican, said that we could not have an election because we were not offering funding from Metro in the 7-mile experimental light rail system that is in place now.

The reason why we are using other funds is because it was suggested to us to use economic development funds. I can only say that I started out by saying I am an eternal optimist, but the Texas Southern University, University of Houston, downtown Houston and out into the suburbs have all come together suggesting that light rail is a people-mover and an effective transit vehicle.

Why are we standing here in the 21st century and having Houston denied? This is a viable amendment. I believe the delegation can sit down and have the issues resolved. Metro has been given the facts. They are seeking input from others. They are planning a comprehensive plan, and I do not know why an inner city has to be ignored and prevented from having the light rail system when all of us can come together on all kinds of large highways and byways and Members from the inner city can support it; but yet an inner-city district, economically in need, cannot have the light rail system that would then generate to all parts of our community, including the suburbs. For the first time, we have friends in the suburbs. We have friends in the inner city and surrounding areas all saying that they want light rail.

I am distressed that we on the floor, this Congress, would deny Houston, Texas, the fourth largest city in the Nation, along with this long litany of other cities, the opportunity to design and construct its plan with the input of the larger body of citizens in our area. We have tried over and over again. I am going to come back here, if I am reelected, every single year and beg this House for light rail because I am appalled that Houston, Texas, would be isolated and segregated as opposed to all the rest of the people that are getting light rail.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be brief. I rise to engage the chairman of the committee in a colloquy regarding the Florida high speed rail project.

Mr. Chairman, last November 7, the voters of Florida passed a State referendum requiring the construction of a statewide high speed rail system, and that provision is now a part of our State constitution. Unfortunately, the legislature did not pass the enabling legislation in time for the subcommittee's funding deadline, which was April 6. In fact, the Florida Senate passed the High Speed Rail Authority Act on May 2 and the Florida house on May 3.

Our Florida Governor signed this measure into law just a few weeks ago, on June 1.

The State of Florida has now taken action to authorize and commit $4.5 million in State funds for high speed rail, and we respectfully ask the subcommittee's support and assistance and consideration in the future.

Mr. Chairman, I hope that the gentleman from Kentucky (Mr. ROGERS) will be able to work with my colleagues in the Florida delegation and help us identify and secure funding for this project, which also has been authorized under one of the high speed rail corridors.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, let me thank the gentleman from Florida (Mr. MICA) for offering his comment. We would be pleased to work with the gentleman as this transportation bill moves through the appropriations process, especially as the gentleman is the chairman of a very important subcommittee over there on the Committee on Transportation and Infrastructure.

Mr. MICA. Mr. Chairman, I prepared an amendment to earmark funds for fiscal year 2002 funds for the Florida project, but I will not offer that amendment today. I want to thank the chairman for his intention to work with us on this project. It is most important to the people of Florida.

Mr. ROGERS of Kentucky. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. EMERSON) having assumed the chair, Mr. CAMP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute.)

Mr. YOUNG of Florida. Madam Speaker, I wanted to announce to the membership that it is my intention to file the fiscal year 2002 energy and water development appropriations bill this afternoon, which we will do following this colloquy; that the Committee on Rules has agreed to meet this afternoon at 5:00 to receive testimony to grant a rule on that bill. The House would then consider the energy and water appropriations bill sometime midday tomorrow; and I say midday because in the morning two subcommittees of the Committee on Appropriations will mark up their bills. It will be midday before we could get to the energy and water bill.

With respect to the agriculture bill, it is my intention not to file the fiscal year 2002 agriculture, rural development, Food and Drug Administration and related agencies appropriation bill until the apples issue is resolved. If an agreement can be reached on apples, I would expect to file the agriculture appropriations bill tomorrow.

The Committee on Rules would then meet tomorrow evening to report the rule, and the House could work into the evening on Thursday night, hoping to complete that bill before adjourning for the July 4 recess.

I share the Members' desire to finish the agriculture bill by midnight Thursday or earlier if possible. In order for us to meet this ambitious schedule, it will require the cooperation of all of our colleagues in the House, and, of course, the cooperation of the Committee on Rules, which is always cooperative.

In order for the House to complete action on the agriculture bill, I would expect that the gentleman from Wisconsin and his leadership would be prepared to enter into time agreements, as we have on previous appropriations bills, and limitations on amendments to be offered on the agriculture appropriations bill. Since we all would like to get home to our districts for the 4th of July holiday, we desire not to have a hard drive into the wee hours of the morning Friday to finish the work. Rather, if necessary, we could complete the work on the agriculture bill when we return in July.

Mr. OBEY. Madam Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Madam Speaker, I thank the gentleman from Florida (Mr. YOUNG) for his statement.

Madam Speaker, essentially for the benefit of the Members, what that means is that we would expect tomorrow after the committee is finished with its work in committee to finish action on the energy and water bill, which is being filed right now, and which will be in the Committee on Rules very shortly. On Thursday, if the agriculture bill is brought to the floor, we will work out time agreements and try to get as much done as possible, hope to finish. If we do not, it can be finished whenever the leadership decides it ought to be dealt with, and that would mean that Members would have notice that we would not be in session on Friday. Is that right?

Mr. YOUNG of Florida. The gentleman is correct. It is our intention if, in fact, we are able to take up the agriculture appropriations bill that we will do the best we can to complete it Thursday night; but we will not go into, as has been referred to so many times, the dark of night to try to finish it. We would try to finish it at an early time. We will not go into 2:00 or 3:00 or 4:00 in the morning.

The gentleman is correct, the majority leader has agreed that there would be no session on Friday; that we could complete the agriculture bill, if necessary, when we return.

□ 1700

Mr. OBEY. If the gentleman will yield further, it is also my understanding, frankly, that there will be not all that extended a discussion tomorrow on the energy and water bill. I think it is relatively uncontroversial. So I understand the majority party has an event tomorrow evening, and it would certainly be our understanding we would be finished well in time for that to occur.

Mr. YOUNG of Florida. Madam Speaker, reclaiming my time, the gentleman is correct. We do not anticipate a lengthy debate on the energy and water bill, which the gentleman from Alabama (Mr. CALLAHAN) will file here very shortly. In the full committee it was handled expeditiously, and I believe the same thing would happen on the floor tomorrow. But, understand, the Committee on Appropriations has two markups in the morning, so we cannot get to that bill on the floor until those two markups are completed.

Mr. OBEY. Madam Speaker, if the gentleman will yield further, I thank the gentleman. I think that the Members will appreciate the information.

REPORT ON H.R. 2311, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

Mr. CALLAHAN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107–112) on the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to clause 1 of rule XXI, all points of order are reserved on the bill.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to House Resolution 178 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2299.

□ 1702

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, with Mr. CAMP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the bill was open for amendment to page 53 line 12, through page 53 line 17.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the last word to engage the chairman of the Committee on Appropriations Subcommittee on Transportation in a colloquy.

Mr. Chairman, I note that the subcommittee's recommendation for the New Starts program does not include any funding for the Second Avenue Subway in New York City. This is an important transportation investment planned in the metropolitan area, and it is vitally necessary to ensure fluid transit in an already over-congested metropolitan area. The project received $3 million for continued analysis and design in fiscal year 2001.

I understand that the subcommittee's recommendation provides funding for only those projects that have full funding grant agreements in place, are likely to have full funding grant agreements in place in the very near future, or are in final design. While the Second Avenue Subway does not meet this criteria, it is important that the analysis and design continue on this important project. The MTA assures me that the project will be in preliminary design by the end of fiscal year 2001.

The State and the MTA have made a major commitment for the project and have included $1.05 billion in the MTA's capital budget.

I ask the chairman that if the Senate were to include an appropriation for the Second Avenue Subway in its fiscal year 2002 Department of Transportation and Related Agencies Appropriations bill, that the subcommittee be accommodating to the greatest extent possible to ensure that Federal funding for this project is continued in fiscal year 2002.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY of New York. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I appreciate the gentlewoman's commitment to this project, and her observations about the criteria the subcommittee used in developing its recommendations are accurate. The subcommittee had an enormous number of requests for new light rail transit systems that we simply could not accommodate. We did not have the money. Unfortunately, we had to say "sorry" quite a bit this year.

I can assure the gentlewoman that should the Senate include funding for the subway in its version of the bill, that we will give it every consideration.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 330. None of the funds made available in this Act may be used for engineering work related to an additional runway at New Orleans International Airport.

SEC. 331. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

AMENDMENT OFFERED BY MR. OLVER

Mr. OLVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OLVER:

Page 54, line 7, insert before the period at the end the following: ", except that this limitation does not apply to activities related to the Kyoto Protocol that are otherwise authorized by law (including those activities authorized by the United Nations Framework Convention on Climate Change with respect to which the Senate gave its advice and consent to ratification in October 1992)".

Mr. OLVER. Mr. Chairman, I rise reluctantly, because this bill is an excellent bill, and I respect very much the work of the chairman of the subcommittee, the gentleman from Kentucky (Mr. ROGERS), as well as my ranking member on the subcommittee, the gentleman from Minnesota (Mr. SABO), but I do take exception to the language of section 331.

The language in section 331 is language which has been included several times over the last few years, at a time when it was legitimately believed by the majority that the President in charge of the executive departments would have conducted the very actions which are prescribed by section 331 in the present legislation.

On the other hand, President Bush has made it clear that he has no intention of implementing the Kyoto Protocol as it has been worked out, and has even used much stronger language, that the Kyoto protocol is "dead." So, at the very least, the language is unnecessary and shows perhaps a disbelief in the President's intentions and the President's word, which I am sure the majority does not mean to show.

I would like to point out that just slightly more than 1 month ago, that this House adopted in the Foreign Relations Authorization Act, which was passed on May 16, a sense of the Congress section relating to global warming, and that sense of Congress pointed out that global climate change poses a significant threat to national security; that most of the observed warming over the last 50 years is attributable to human activities; that global average surface temperatures have risen since 1861; that in the last 40 years the global average sea level has risen, ocean heat content increased, and snow cover and ice extent have decreased, which threatens to inundate low-lying Pacific Island nations and coastal regions throughout the world; and pointed out at that time that the United States has ratified the United Nations framework on climate change, which framework, ratified in 1992 by the Senate, was proposed for ratification by then President George Herbert Walker Bush to be ratified and was ratified by the Senate and took full effect in 1994, that, quoting from that, "the parties to the convention are to implement policies with the aim of returning to their 1990 levels of anthropogenic emissions of carbon dioxide and other greenhouse gasses," and, to continue, "that developed country parties should take the lead in combatting climate change and the adverse effects thereof."

So, in that sense, we already have adopted by this Congress the language that I have offered in the amendment, which is a clarifying amendment, the amendment merely saying that the limiting language should not relate, should not apply, to activities that are otherwise authorized by law, nor to those activities that are authorized by the United Nations Framework Convention on Climate Change with respect to which the Senate gave its advice and consent; and we have a full ratification of that treaty, the United Nations Framework Convention.

So my amendment suggests that the activities that are related to that framework convention as ratified in 1992 are in no way proscribed by the language of section 331. So it is additional language to limit the limitation or to explain that limitation.

By the way, Mr. Chairman, it is my intent at the appropriate time to withdraw this amendment. I just wanted to bring it to the attention of the House, that we have a series of activities that we should not be proscribing, that those which are previously authorized by law and those that are part of the already ratified treaty of the United Nations Framework Convention on Climate Change should not be proscribed. So I intend to withdraw the amendment at the appropriate time.

Mr. GILCHREST. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would hope that as we move through the appropriations process, that those of us who have a different opinion about climate change, for whatever reason, and continue to put language in the appropriations bills that, however you want to describe it, ties agencies' hands to discussing the issue, implementing policy that might not be related to Kyoto, but something that the United States wants to do, I would hope that Members can sit down at a breakfast, at a dinner, those of us who have different opinions on this issue, and discuss that issue, so that we can come to a more friendly agreement on how to proceed and assume and accumulate more knowledge on this issue and understand each other's positions and why.

Mr. Chairman, this country has not prospered for over 200 years because of gagged restraint on the part of its citizens and its agencies; this country has prospered because of the accumulation of knowledge and wisdom and information and initiative.

What I would like to do for the Members present is to just discuss some of the undisputed facts about climate change. One is scientifically sound. Over the last 10,000 years, the planet has warmed 1 degree centigrade every 1,000 years, except in the last 100 years, especially the last 50 years, this country has warmed 1 degree Fahrenheit in less than 100 years. So there is a dramatic shift in the warming that corresponds to the amount of CO_2 and other greenhouse gasses as a result of human activity.

The polar ice caps, in about 50 years, if the present trend continues, will be gone. The North Pole, the polar ice caps, glaciers are receding around the globe. We are releasing into the atmosphere CO_2 in decades what took nature millions of years to lock up.

□ 1715

Mr. Chairman, CO_2 is a natural greenhouse gas that deals with the heat balance of the planet, and it took millions of years to lock up a lot of this CO_2 as a result of dying vegetation and so on and so forth. Now, we have been releasing that same amount of CO_2 in decades, so it has some impact. There is more CO_2 in the atmosphere now than there has been in the last 400,000 years.

Now, just one last fact, Mr. Chairman. CO_2 makes up about .035 percent of the atmosphere. That is a tiny fraction of our whole atmosphere. Yet that tiny amount has an extraordinary effect on the heat balance of the planet. We are warm in a tiny, thin sheen of atmosphere that covers the earth.

Now, any change in that, which is fairly dramatic that we are seeing, will have an effect on the change of the climate. So basically, human activity, because of what we are doing, is having an effect on the climate and 95 percent of the international scientists and 16 scientists from the U.S. just took up overview of this situation with an international panel on climate change, and 15 out of the 16 said there is no mistake that human activity is having an effect on the climate.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I love his theory, but one thing I would ask the gentleman. Two years ago I was in New Mexico standing and overlooking a huge ice action and the gentleman with me said, you know, think about it, Congressman, 12 million years ago there was 284 feet of ice where you are standing. I never will ask how the ice got there, but it was there, and that has scientifically been proven.

But I will ask the gentleman from Maryland, what melted that ice all the way back to the North Pole when our activity is less than 4,000 years? So I want to ask the gentleman, what melted it all the way back there? It always intrigues me about the idea of how arrogant we are thinking we are the real problem for all of the problems that occur on this earth.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. GILCHREST) has expired.

(On request of Mr. YOUNG of Alaska, and by unanimous consent, Mr. GILCHREST was allowed to proceed for 1 additional minute.)

Mr. GILCHREST. Mr. Chairman, I yield to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, the oil that we are going to drill and the gentleman from Maryland is going to help me drill in Alaska if he has any wisdom at all; in fact, when we drill, we do not drill through rock up there, we drill through ferns, tree trunks, elephants, all the way down to the bottom to get to the oil.

Now, if we are to follow the gentleman's theory and there is not going to be any change and we are the fault of all of it, then why did this always occur in the past? We take a great deal upon ourselves saying it is our fault because of this global warming when, in reality, if we look at the past history of this earth, it was warm at one time, it was very, very cold at one time; and that was before mankind had anything to do with it.

So before we jump off the cliff, let us understand one thing: we may not be as important as the gentleman thinks we are.

Mr. GILCHREST. Mr. Chairman, reclaiming my time, if I could just respond to the chairman, I am going to go off that cliff in a very gentle way. I am not leaping off that cliff; I am looking to see what is at the bottom.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. GILCHREST) has again expired.

(By unanimous consent, Mr. GILCHREST was allowed to proceed for 1 additional minute.)

Mr. GILCHREST. Mr. Chairman, there has been change in the climate ever since we have been a planet and the cycle has run over many millions of years and a quick cycle would be 10,000 years. Human beings have a right to live on the planet and to improve the standard of living as best we can, but we also have a responsibility to understand the nature of our impact on the natural processes so that future generations, which will be our grandchildren and great grandchildren, will not deal with a situation that is more difficult than what we have.

In the last 10,000 years, as a natural consequence of nature, we have warmed about 1 degree centigrade every 1,000 years. But in correspondence to the internal combustion and burning fossil fuels, we have warmed almost that amount in 100 years. So simple observation, to me, says we ought to take a look at that acceleration of that warming rate.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Regrettably, I came in the middle of this debate and did not have the advantage of hearing the earlier comments. I did hear the remarks of our committee chairman, the gentleman from Alaska, and those very thoughtful remarks of the gentleman from Maryland.

There is incontrovertible scientific evidence that we are experiencing widespread climate change around the globe. The polar ice cap, the Arctic region, has shrunk by 40 percent, releasing enormous amounts of colder water into the great ocean circulating current, the great hyaline circulating current that starts in the Arctic with a volume equal to the discharge of all of the rivers of the world in a second. Mr. Chairman, 2 million cubic meters per second, moving cold water of the ocean from the Arctic all the way down the Atlantic coast of the United States, the south Atlantic, into the Pacific and then circulating back up to the Arctic. That great ocean circulating current from time to time disappears. The world enters an ice age, and it occurs on regular currents of about 100,000 years.

It also occurs with a tilt of the earth's axis a half a degree away further from the sun than it does now. That last occurrence made of the disappearance of the circulating current was followed by a warming period that ended with the great Ice Age, which itself ended over 10,000 years ago and was followed by the lesser Ice Age, the period of roughly 1,300 to 1,400 in the modern era. And then about 750 years ago we experienced another lesser ice age known as the Younger Dryas.

We are now in a period of extended warming. We are beyond those ice age periods and into a new cycle of climate. As the atmosphere has warmed and as the surface of the waters of the Pacific Ocean have warmed more than a centigrade degree since the beginning of this century, the ocean waters are expanding. As they warm, they expand, and so is it happening with the Atlantic waters. And as those waters expand and as the atmosphere is warmer, it holds for every degree of temperature 6 percent more moisture. And with more moisture in the atmosphere, more of a collision of warm and cold forces, we are seeing these violent storms. Fifteen years ago, we did not pay more than $1 billion a year in disaster assistance programs. Within the last 5 years, we have expended over $5 billion a year, and last year with the private insurance and the public funds, expended over $100 billion responding to natural disasters. It is incontrovertible that serious things are happening in our climate. And what has changed is not the forces of nature, but man's application to them.

The gentleman from Maryland said we have contributed the carbon into the atmosphere. There is more carbon in the atmosphere today than at any time in the last 420,000 years. That carbon causes warming. That is the conclusion of 500-plus scientists gathered in the U.N. in the year of the environment in a multi-volume report that was submitted.

Mr. Chairman, we cannot stick our heads in the sand and ignore these facts. We cannot ignore the relentless movement of forces in nature, the melting polar ice pack in the Arctic and the ice pack of Antarctica that are increasing the volume of the oceans by warming of the surface temperature of the Atlantic and the Pacific Oceans. They are causing warming in the atmosphere and more moisture in the atmosphere, more carbon in the atmosphere; and only we can change it, by slowing down the destruction of the tropical forests, increasing sustainable-yield forestry in the United States, and reducing our use of carbon. We ought to have that study, and we ought to have this debate. Five minutes is no serious time in which to do it.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to share with my colleagues a few facts about climate change that have not gotten much press. The main point is uncertainty. There is still a great deal that we do not know or do not well understand about our global climate. For every study that seems to tell us something, there is another that confounds the previous conclusions. Uncertainty is a normal and maybe important part of the scientific process, but it is a part that the media are not comfortable with and so rarely report on. To its credit, The New York Times ran a piece last week entitled, "Both Sides Now: New Way That Clouds May Cool," which noted that science is uncertainty, and how that uncertainty can dramatically change climate models.

Clouds have long been a source of uncertainty in climate studies. Certain gases generated by the burning of fossil fuels, such as carbon dioxide, are widely held to play a role in warming the planet by trapping heat. However, aerosols, also produced from fossil fuels, have been found to contribute to the cooling of the planet by affecting the development of clouds that reflect sunlight, and thus it reflects heat away from the planet.

Now, before we pass legislation meant to curb global warming, we need to understand better which human activities affect those and other processes. It seems, and I would suggest, the most important point to take from the recent round of reports is that our climate is a very complex system that is not well understood. As chairman of our Subcommittee on Research of the Committee on Science, we have held several hearings on this subject; and it is almost universally agreed by those testifying before our committee that scientific evidence and knowledge is lacking.

Our best intentions can very easily produce the wrong outcome. Fredrick Seitz, former president of the National Academy of Sciences, did a piece for the Washington Times last week on this very point. Let me quote from that article entitled "Beyond the Clouds of Fright." Quote: "The science of climate change today does not call for rash action that could wreak havoc with economies worldwide and even cause worse damage to the environment over time." He also cautioned that "researchers shouldn't be pressured by politics or encouraged by publicity to find a particular answer. They should be given the space, the time, the funding and the support to seek and find the truth."

So in conclusion, I would like to urge my colleagues to resist the temptation to jump on the bandwagon of climate change before we better understand the science and better know the consequences of our actions. I understand the ranking member has a perfecting amendment that might help us, help guide us.

Mr. INSLEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, modest uncertainty is not an excuse for major inaction. When the captain of the Titanic steamed out and just kept going straight at the same speed because he was not sure if there was an iceberg there, because he was uncertain if there was an iceberg there, that was a mistake. And this body, with the language in this bill, which now continues to ignore this problem of global climate change, is a major mistake.

I am just going to ask my friends across the aisle to look at two things that happened today within a quarter mile of this building. Number one, The Washington Post, headline this morning: "Penguins In Major Decline. Fifty percent of these stocks are disappearing in the Antarctic."

□ 1730

Why? Because they have had a reduction of ice in the Antarctic, a death of the crill population that penguins rely on and a potential huge collapse in a couple of their populations.

It happened today. I am just going to ask people across the aisle to not adopt the attitude of the ostrich and ignore these facts.

Number two, right now, 200 yards from now, are two fuel-cell-driven cars, one manufactured by the Ford Company, that run on fuel cells and emit water instead of carbon dioxide in their emissions.

We, and I mean we, have the potential if we get together to emphasize research in these new technologies, we are going to lead the world, instead of the laughingstock of the world, of the country that refuses to be anything but an ostrich on this issue.

Mr. Chairman, I am going to ask at some point that we work together to lead the world. We did not have to wait for the rest of the world to do a clean air bill. We did not have to wait for the rest of the world to do a clean water bill. We ought to lead the world on global climate change. That is the right approach.

Mr. Chairman, I look forward to the time we can do that on a bipartisan basis.

Mr. OLVER. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. OLVER. Mr. Chairman, I will be very brief this time. In section 331, it refers to a limitation in the use of funds in this legislation to implement in a broad way, in any kind of way, the Kyoto Protocol, which has never been ratified by the Senate of this Nation, nor by any of the other major signatories to the original Protocol for that matter.

My amendment merely says that the limitation which would remain does not include activities related to the Protocol which are otherwise authorized by law, nor activities that are authorized by the United Nations Framework Convention on Climate Change, which is the treaty that was negotiated back in 1991 and 1992, and sent to the Senate for ratification by former President George Herbert Walker Bush, and was ratified by the Senate and has the full force of law.

Mr. Chairman, it merely removes the limitation from otherwise-authorized-by-law activities in this area. It is my intent to withdraw the amendment.

Before I do withdraw my amendment, I know that we could probably generate a long discussion here, which none of us really want, but I would ask the gentleman from Kentucky (Chairman ROGERS) if the gentleman would be willing to work with the groups that are obviously showing their interest in this and come up with something that might address these concerns in the conference that will come forward.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I will be happy to consider it as time passes, but I was sort of hoping, can we have some more discussion of this?

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 332. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation or weather reporting: *Provided*, That the prohibition of funds in this section does not apply to negotiations between the agency and airport sponsors to achieve agreement on "below-market" rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control facilities.

SEC. 333. Notwithstanding any other provision of law, States may use funds provided in this Act under section 402 of title 23, United States Code, to produce and place highway safety public service messages in television, radio, cinema, and print media, and on the Internet in accordance with guidance issued by the Secretary of Transportation: *Provided*, That any State that uses funds for such public service messages shall submit to the Secretary a report describing and assessing the effectiveness of the messages.

SEC. 334. Notwithstanding section 402 of the Department of Transportation and Related Agencies Appropriations Act, 1982 (49 U.S.C. 10903 nt), Mohall Railroad, Inc. may abandon track from milepost 5.25 near Granville, North Dakota, to milepost 35.0 at Lansford, North Dakota, and the track so abandoned shall not be counted against the 350-mile limitation contained in that section.

POINT OF ORDER

Mr. OTTER. Mr. Chairman, I make a point of order against all of section 334 beginning on page 55, line 6, and ending on line 13.

The CHAIRMAN. Does the gentleman from Kentucky (Mr. ROGERS) wish to be heard on the point of order?

Mr. ROGERS. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order.

The point of order is conceded and sustained under clause 2, rule XXI. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 335. Beginning in fiscal year 2002 and thereafter, the Secretary of Transportation may use up to 1 percent of the amounts made available to carry out 49 U.S.C. 5309 for oversight activities under 49 U.S.C. 5327.

SEC. 336. Amtrak is authorized to obtain services from the Administrator of General Services, and the Administrator is authorized to provide services to Amtrak, under sections 201(b) and 211(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(b) and 491(b)) for fiscal year 2002 and each fiscal year thereafter until the fiscal year that Amtrak operates without Federal operating grant funds appropriated for its benefit, as required by sections 24101(d) and 24104(a) of title 49, United States Code.

SEC. 337. Item number 1348 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 269) is amended by striking "Extend West Douglas Road" and inserting "Construct Gastineau Channel Second Crossing to Douglas Island".

SEC. 338. None of the funds in this Act may be obligated for the Office of the Secretary of Transportation to approve assessments or reimbursable agreements pertaining to funds appropriated to the modal administrations in this Act, except for activities underway on the date of enactment of this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

SEC. 339. For an airport project that the Administrator of the Federal Aviation Administration (FAA) determines will add critical airport capacity to the national air transportation system, the Administrator is authorized to accept funds from an airport sponsor, including entitlement funds provided under the "Grants-in-Aid for Airports" program, for the FAA to hire additional staff or obtain the services of consultants: *Provided*, That the Administrator is authorized to accept and utilize such funds only for the purpose of facilitating the timely processing, review, and completion of environmental activities associated with such project.

POINT OF ORDER

Mr. OTTER. Mr. Chairman, I make a point of order against all of section 339 beginning on page 56, line 16, and ending on page 57, line 2.

The CHAIRMAN. Does the gentleman from Kentucky (Mr. ROGERS) wish to be heard on the point of order?

Mr. ROGERS. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order.

The point of order is conceded and sustained under clause 2, rule XXI. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 340. Item 642 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Washington, is amended by striking "construct passenger ferry facility to serve Southworth, Seattle" and inserting "passenger only ferry to serve Kitsap County-Seattle".

SEC. 341. Item 1793 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Washington, is amended by striking "Southworth Seattle ferry" and inserting "passenger only ferry to serve Kitsap County-Seattle".

SEC. 342. Item 576 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 278) is amended by striking "Bull Shoals Lake Ferry in Taney County" and inserting "Construct the Missouri Center for Advanced Highway Safety (MOCAHS)".

SEC. 343. The transit station operated by the Washington Metropolitan Area Transit Authority located at Ronald Reagan Washington National Airport, and known as the National Airport Station, shall be known and designated as the "Ronald Reagan Washington National Airport Station". The Washington Metropolitan Area Transit Authority shall modify the signs at the transit station, and all maps, directories, documents, and other records published by the Authority, to reflect the redesignation.

AMENDMENT NO. 5 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment no. 5 offered by Mr. TRAFICANT:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated or otherwise made available in this Act may be made available to any person or entity convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

Mr. TRAFICANT. Mr. Chairman, I would just like to say the worst thing about global warming would be a German transit system in the City of New York that focuses on the violations that occur in the Buy American Act. The language is straightforward.

Mr. Chairman, I yield to the distinguished gentleman from Kentucky (Chairman ROGERS), who has produced a fine work product.

Mr. ROGERS of Kentucky. Mr. Chairman, the Traficant amendment is a good one. We accept it.

Mr. TRAFICANT. Mr. Chairman, I yield to the distinguished gentleman from Minnesota (Mr. SABO), the ranking member.

Mr. SABO. Mr. Chairman, we accept the amendment.

Mr. TRAFICANT. Mr. Chairman, I ask for a vote in the affirmative.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment was agreed to.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the Committee on Transportation and Infrastructure for the $250,000 for the Long Island City Links project and acknowledge the importance of this project and also to express my appreciation.

Mr. Chairman, I include the following list for the RECORD of developments in this growing economy:

I am tremendously pleased that the House Transportation Appropriations bill includes $250 thousand dollars for the Long Island City

Links project, to improve transit connections and pedestrian paths in an area of New York City that is experiencing tremendous economic growth.

These improvements are a vital part of our efforts to make Long Island City not only one of the best places to work in the region, but also a beautiful and livable residential neighborhood.

Long Island City Links will immeasurably improve the quality of life for residents in the area by reducing traffic and increasing air quality and providing public parks and walkways.

Long Island City, Mr. Chairman, is one of the fastest growing regions in New York City.

Here are just a few of the recent developments in this growing economy:

BUSINESS MOVES TO LIC

MetLife brings almost 1,000 jobs to northwest Queens—MetLife recently decided to relocate almost 1000 employees in about six months to the renovated, six-story Bridge Plaza North. This move is expected to attract more businesses to this area by drawing attention to the convenient 15-minute commute to midtown Manhattan. MetLife plans to add another 550 jobs in the city during the 20-year term of its lease.

The FAA has plans to develop a new Regional Headquarters in the area.

Construction is already underway for a new FDA laboratory.

International Firms such as Citicorp and British Airways already have major operations in the borough as well as Chubb who opened a backup facility in the area for Wall Street brokerage and financial firms.

Established Companies in the area, such as Eagle Electric, Continental Bakeries, and Schick Technologies, are continually growing and expanding.

Recently welcomed retail chains include Home Depot, Tops Appliance City, Costco, Caldor, Kmart, Sears, the Disney Store, Barnes & Noble, Marshall's, Conway, Ethan Allan, Staples, Circuit City, and Bed, Bath & Beyond with a CompUSA already being planned for the near future.

With this growth in business and the economy in Long Island City it is absolutely vital that we move forward with community enhancements like public parks, transportation enhancements, and quality of life improvements for all residents in the neighborhood.

AMENDMENT OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHIFF:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds in this Act may be used for the planning, design, development, or construction of the California State Route 710 freeway extension project through El Sereno, South Pasadena, and Pasadena, California.

Mr. SCHIFF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SCHIFF. Mr. Chairman, this amendment precludes funding for a highway project in my district.

Mr. Chairman, I want to thank the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Mr. SABO) and their staff for help on this amendment.

Mr. Chairman, I urge a yes vote on the amendment which passed in prior years on a bipartisan voice vote.

Mr. Chairman, I have an amendment at the desk.

For the last 2 years, the Transportation appropriations bill has included a provision to prohibit the expenditure of Federal funds on the California State Route 710 freeway extension project in Southern California.

My amendment would extend that ban for one additional year.

The 4.5 mile freeway extension would cost more than $1.5 billion—with 80 percent of the cost federally funded.

In lieu of the 710 freeway extension, which would deliver speculative traffic benefits at a cost far too high to the communities I represent, I encourage the support of local surface traffic mitigation measures proposed by experts in the communities of Pasadena, South Pasadena and El Sereno.

In addition to $10.3 million in state funds I secured from Caltrans for local congestion relief, Congress has set aside $46 million in federal funds for these measures that will significantly and expeditiously relieve congestion in the extension corridor in Pasadena, South Pasadena, El Sereno and Alhambra.

I am also pleased to note that the Transportation bill at my request and others, includes more than 7 million in funding for the Los Angeles to Pasadena Blue Line, a light rail project that will bring congestion relief and clean air benefits to the entire region.

I urge a "yes" vote on this amendment, and I thank the Chairman and Ranking Member for their support.

Mr. CHAIRMAN. Is there anyone seeking time on the amendment?

Mr. ROGERS. Mr. Chairman, we accept the amendment.

Mr. SABO. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. SCHIFF).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SABO

Mr. SABO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SABO:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds in this Act may be used to process applications by Mexico-domiciled motor carriers for conditional or permanent authority to operate beyond the United States municipalities and commercial zones adjacent to the United States-Mexico border.

Mr. SABO. Mr. Chairman, we had a long discussion on the rule today, and the amendment I had offered I requested be made in order. It was not made in order, and the rule was not changed, so we have to offer the amendment in a different form.

This is a very simple amendment. I wish it could be more complicated, but because of the action of the Committee on Rules and the action in the House, I cannot offer a more complicated amendment.

This one simply prohibits funding to process the applications of Mexico-domiciled motor carriers for either conditional or permanent authority to operate throughout the United States beyond the current 20-mile commercial zone.

Let me say that I thought the amendment that we had earlier clearly was NAFTA-compliant. This probably is not, because it is a total prohibition, but I know of no other way for us to deal with this issue on the floor. I think we should deal with it.

Let me review where we are at this point. The Committee on Rules did not make our amendment in order. We heard a great deal about the money that we were going to make available for facilities and inspectors in this bill. A significant part of that money has been struck. Today I think close to $90 million for inspectors and facilities have been struck by points of order.

Mr. Chairman, I was a strong supporter of the action of our Chair in putting that money in the bill. I thought it was the appropriate thing to do. I thought that was a significant step forward, but not far enough. I thought the best solution to a very troubling situation was both to do preinspection of the carriers, plus add to our capacity to inspect individual trucks.

The reality is at this point in the bill, most of that money has disappeared, and I have no option to offer an amendment that calls for preinspection. I think the only way we can address this issue in the House, keep it alive for conference, indicate to the administration and to the Senate that we want to make sure that we do the utmost to protect safety, is to adopt this limitation which is strong and outright. It gives us the action from a point of strength of dealing with the issue of truck safety for all the trucks that are going to be coming here from Mexico as we move on in this process.

Let me say as it relates to some of the money that was struck, the administration plans to do 18 months review. Let me simply suggest that even if that money had stayed in the bill, particularly the money for building new facilities, probably very little of that would have been spent within the next 18 months, because it will take a significant period of time to build facilities. Clearly that money would not have been spent by January 1 of this year.

Mr. Chairman, I ask for support of this amendment. It is clear. It is straight to the point. It says that we are not going to permit these carriers to operate beyond the existing 20-mile commercial zone.

Mr. Chairman, I fully understand that as this moves through the process, this will need to be revised, but it is the only option we have to deal with this important safety question for the American people.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let us understand where we are here. I did not vote for NAFTA. I opposed NAFTA, but it passed. It is now the law of the land. It is the treaty between our neighbors and us. This provision is in direct violation of a United States treaty with our neighbors.

I am referring to a letter of June 12 from the Secretary of Transportation, who in essence says that this is a clear violation of Mexico's rights under NAFTA; that it would subject the United States to possible trade sanctions estimated to be valued at over $1 billion annually that this would expose us to.

The majority of my colleagues in this body voted for NAFTA. It passed. NAFTA says we are going to open the borders up to Mexico and to Canada.

□ 1745

This President says January of next year is when we do it. This amendment would prohibit motor carriers from Mexico to enter the United States. Period. You cannot do that. You are in violation of a treaty; in violation of the law; in violation of the majority that passed the treaty through this body.

Now, is it worthwhile to do this type of thing? Look, the Motor Carrier Safety Administration, even as we speak, is taking public comments from anybody who wants to comment, including Members of Congress, about what kind of a procedure we should have to check Mexican trucks for safety as they come into the country. The experts are working on the rule even as we speak. Should we not let them finish their work before we, who are not experts on trucking or safety, tell the experts what they should or should not do?

Give them a chance. If we do not like what they have come up with this fall, we can change the rule and make it effective. But for goodness sakes, give the experts the chance to do their work. They are making the rule right now. Make comments to the rulemaking body, not to the Congress. We can deal with this at a later time.

The administration has a plan. The DOT will be going to Mexico. For those carriers in Mexico who want to run trucks into this country, those carriers will be audited for safety, for their record, for training, for all the things that go into whether or not a safe operation of the truck could be made in the United States by that Mexican carrier.

If they pass that test, they would be given a temporary permit to drive. In the meantime, we will be inspecting the dickens out of the trucks crossing the border.

If at the end of 18 months that carrier has no record problems, all has gone smoothly, then and only then would they be given, not a conditional permit, but a permanent permit. I think it is a responsible approach. There is money in the bill for that approach.

The administration is proceeding. The rulemaking is taking place. Let us not interrupt what they are doing. But please do not vote in this Congress an amendment on to this bill that would be a direct violation of a treaty of the United States of America. Please reject this amendment.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are being told that this amendment violates NAFTA. That is like the old song that we hear so many times about the person killing both of his parents and then throwing himself on the mercy of the court because he is an orphan.

What the gentleman from Minnesota (Mr. SABO) tried to do is to bring to this House an amendment that will prevent Americans from dying by seeing to it that we have an inspection process and a review process before, not after, dangerous trucks hit the highway.

I want to remind my colleagues NAFTA is a trade agreement. It is not a suicide pact. Let me repeat that: NAFTA is a trade agreement; it is not a suicide pact. We are not required to allow unsafe trucks on American highways in order to satisfy some pencil-happy bureaucrat dealing with NAFTA.

This amendment has no choice but to, for the moment, cut off all Mexican trucks on American highways because the majority party insisted that that was the only option that could be put before this body. So they blocked the effort that the gentleman from Minnesota (Mr. SABO) tried to bring to this House, and which would have been fully consistent with NAFTA. That effort would have said you cannot have those trucks running over American highways until we have the proper review process in place to make certain ahead of time that safety standards are being met.

If this amendment technically would become a violation of NAFTA, it is because the majority has forced the House into a position where it can consider no amendment except that kind of an amendment.

Everybody on this floor knows, if you want to cut through the bull gravy at the end of the day, this amendment can be fully tweaked in conference so that it is fully consistent with NAFTA and protects the American trucker.

The rationale against this amendment keeps changing. We were told earlier in the day, oh, you have to block the Sabo amendment under House rules because the Sabo amendment was not passed by the full Committee on Appropriations. Many a time, many a time the Committee on Appropriations has chosen not to follow that logic.

We are also told, oh, we do not have to do this. We do not have to protect American motorists this way because we have got all this money in the bill for these new inspectors.

Well, let me remind my colleagues that money is now gone. It was knocked out on a point of order. So the $56 million for infrastructure improvements at the border, the $14 million for added inspections at the border, the $18 million for the State supplements for States around the border, all that money is gone.

So your excuse is gone. You have no added protection for American drivers at this point. You know what the problems are. There is no effective oversight. There is no effective oversight on Mexican motor carriers today. There are no motor carrier hours-of-service regulations in effect in Mexico. There is no way to check the driving history of Mexican motor carrier drivers.

In testimony last year, the Department of Transportation Inspector General said this: "I do not think there is any reasonable person who can say that the border is safe when you have an out-of-service rate for safety reasons in the neighborhood of 40 to 50 percent."

Now, the majority blocked the Sabo amendment that would have allowed us to deal with this issue the way it needed to be dealt with. Now because they blocked us from offering the right amendment, they are blaming us because the language of this amendment is not pluperfect.

Well, the gentleman from Kentucky (Mr. ROGERS) is a very smart man. He can easily fix it in conference. We have heard this excuse time and time again. Can fix it in conference. Can fix it in conference. Well, this is one time we are going to say that. We have full confidence in the ability of the gentleman from Kentucky to fix this in conference.

But today, we have only one option if we want to protect American motorists.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, the only option we have is to adopt this amendment, because this is the only procedural alternative left to us by a rule that prevented us from offering the amendment that should have been offered on this subject. So do not blame us for the shortcomings which the majority itself has caused.

I would simply make one other point. We have a choice. We can either insist on having an inspection regimen and a review regimen in place before these trucks are put on the highways, or we can do what the gentleman from Kentucky (Mr. ROGERS) says and wait until they are on the highways and then see what happens.

Only one difference between the approaches. There are people who will die under the second approach who will not under the first. It is just that simple.

So you have got a very clear choice. If you want to do anything at all to protect the safety of American motorists on the highways on this issue, you will vote for the Sabo amendment; and you will give the committee the opportunity to do what it has done thousands of times before, which is to tweak the language in conference so that it can satisfy the procedural niceties of people in this House who eight times out of 10 run a railroad truck over legitimate procedure.

You hide behind procedure when it suits your purpose, and you trample fair procedure the rest of the time. We are not fooled by that. American drivers are not going to be fooled by that. The only people you might be fooling are yourselves.

Mr. KOLBE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I have listened with interest to this debate. I do rise in strong opposition to this amendment.

I think that sometimes the rules of the House work to help to show the real true intent of what is involved here. I have said all along in the debate in committee and before on this, in the years that it has been before, that this is really an issue about trying to block Mexican trucks from the United States highways, that there are interest groups here in the United States that do not want under any circumstances to have Mexican trucks driving on our highways.

Well, today we see that with this amendment. Granted, as the gentleman from Wisconsin (Mr. OBEY) said, it is the only amendment that can be offered or something like this amendment can be offered under the rules. With this amendment, it is very clear. Block all trucks from coming into the United States. The heck with an inspection procedure. The heck with anything else. Block all trucks.

I might add, somehow within only in his State, 20 miles in my State is okay under this amendment, but in other areas, it is not okay. So somehow it is okay for us not to have safe trucks since he is worried about safe trucks.

So I think it is very clear what we are talking about here. We are talking about blocking trucks from coming in the United States. Let us face it, there are interest groups in the United States that do not want those trucks here. They are joined by interest groups in Mexico. The Mexican Trucking Association does not want American trucks coming down into Mexico. So they join you in this. They want to make sure there are not trucks in the United States to have an opportunity to compete there.

If we get this, we get reciprocity; and we have an opportunity to have Mexican trucks to go down there. There are Mexican truck associations that do not want us. So there are joint interest groups on both sides that do not want this.

But let us review the facts here. We adopted NAFTA. It was adopted in this body at a time in fact when the other party controlled this House. It is the law of the land that took effect on January 1, 1994. It stipulated that, by January 1, 2000, that is 18 months ago, we would allow trucks to cross at all points of the border into the United States. Here we are at June 25, and it still has not occurred.

Mexico filed a complaint against us under the terms of NAFTA for not meeting the deadline; and in February of this year, the panel concluded that the U.S. was indeed in breach of its NAFTA obligations.

The sanctions that are being talked about could be as much as $1 billion a year. That is $1 billion on American industry. That is $1 billion for American consumers that they are going to pay more.

□ 1800

I say let us stop treating our Mexican neighbors as though they are some kind of people that we should not want to do business with.

This amendment has nothing to do, by the way, with trucks coming from Canada, our other NAFTA partner. Oh no, just the trucks from Mexico somehow are suspect. So I think we should be building bridges, not barriers to our neighbors from the south.

Let us be clear about this. This issue is not about the safety of the truck, it is about paperwork. The issue as was presented earlier by the gentleman from Minnesota was about paperwork. Of course we want to be sure that all trucks traveling on our highways are safe, but the States along the border, for several years now, have said they are prepared to do that. How come the States that have the responsibility for enforcing this, along with the Department of Transportation, are prepared to do this? We have the regimen in place to check the paperwork as they come across the border, to look at the logs, to look at all these things, to make sure the bonds are there, the licenses are there, the insurance is there, and to do the actual physical inspection of the truck. Because that is after all what we are about, is it not? We want to make sure these trucks are actually safe. So the most important aspect of truck safety is the observation of the driver and the actual inspection of the truck at the border and along the highway.

The gentleman from Wisconsin said people will die. Yes, people have died in my district. Not very long ago there was a truck driver who was using amphetamines, had not slept for 18 hours, crashed into a car parked along the side of the road and destroyed all the occupants of an entire family because he was violating rules and the law in the United States. We need to inspect for that. We need to have adequate inspection to make sure it is safe in this country.

The trucks coming across the border are all going to be subject to inspection, and the percentage of them that are actually going to be physically inspected is going to be much much higher than currently are inspected traveling on our highways, American trucks traveling on our highways. So the paperwork is not the issue. If all my colleague wants to do is check the paperwork, the paperwork can be checked when the truck is down in Guadalajara, but that does not tell us whether the truck is safe.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. KOLBE) has expired.

(On request of Mr. OBEY, and by unanimous consent, Mr. KOLBE was allowed to proceed for 5 additional minutes.)

Mr. KOLBE. Mr. Chairman, let me just say this, and then I really will yield to the gentleman. This really is not about paperwork, in my opinion. It is really about whether or not trucks are going to be allowed to travel on our highways from Mexico.

I say we should treat people equally. In a study, by the way, in California, of trucks coming across the border into that border zone, shows they meet the standards on an equal basis with U.S. trucks. So there is no real difference that is there. So I say we need to treat our neighbors to the south as partners.

Those of us who live along the border understand what this partnership is all about and how important it is economically and politically to the United States, and I believe that we can make this work. It is clear the Department of Transportation is prepared to do it, the States are prepared to do it, and I would urge that we defeat this amendment.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding, and let me say he is my good friend, but I would like to read something to him and then ask him a question.

The gentleman indicated that he thought that in this case the rules had been used to bring out the true intent of the amendment before this body, implying that the true intent was to have a flat shutoff of Mexican trucks. I flatly dispute that, and I want to read something then ask the gentleman a question.

This is the text of the original Sabo amendment which the majority blocked from consideration in the House today. It reads as follows: "No funding limited in this Act for the review or processing of applications by Mexican motor carriers for conditional authority to operate beyond U.S. municipalities and commercial zones on the U.S.-Mexico border may be obligated unless the Federal Motor Carrier Safety Administration has adopted and implemented as part of its review procedures under 49 U.S.C. 13902 a requirement that each Mexican motor carrier seeking authority to operate beyond U.S. municipalities and commercial zones on the U.S.-Mexico border undergo a new entrant safety compliance review consistent with the safety fitness evaluation procedures set forth in 49 CFR Part 385 and receive a minimum rating of satisfactory thereunder before being granted such conditional operating authority."

Now, that language is pretty clear. It does not try to shut off Mexican trucks. It says they cannot operate here until they have met these standards. Does not the language of the original amendment in fact indicate what the intention of the original amendment was?

Mr. KOLBE. Mr. Chairman, reclaiming my time, I appreciate the gentleman asking the question, and I understand what the amendment did do and that this amendment now, as it is offered, is somewhat different. But I believe that the amendment that was crafted before and as offered has the effect of actually stopping any trucks from coming into the United States. That is the intent of it, I believe, to make sure they do not get into the United States.

So now that amendment not having been made in order under the rules, I would say to my good friend from Wisconsin, I think we are seeing the true intent here. It is interest groups. Look at the people that are supporting this amendment. Look at the people asking for this. It is groups that do not want trucks coming into the United States, period.

Mr. OBEY. Mr. Chairman, if the gentleman will again yield. Let me simply say that the gentleman is forgetting one thing. What the Sabo amendment attempted to do is to say that there would be no Mexican trucks on these roads until the safety requirements were met as outlined in the amendment.

I think it is blatantly ridiculous for anyone to assert that the intention of a proposal is something other than that which is quite clearly stated in the proposal. It was the majority that blocked us from being able to vote on this proposal.

Mr. KOLBE. Again reclaiming my time, Mr. Chairman, more than 2 years ago, down at the border, I went over the whole procedures with the Arizona Department of Transportation and the U.S. Department of Transportation. Everybody was prepared at that time to begin implementing this. So there is no question. We are prepared to inspect. We are prepared to look at these trucks. We are prepared to make sure they are safe. We are prepared to make sure they have their license, their insurance, the bonding that is required, and to do the physical inspection of the truck.

As I pointed out, a far greater percentage of them will be inspected than any of the trucks traveling on our highways. The gentleman must acknowledge that there are accidents occurring on our highways because of trucks not properly inspected or, more likely, because the drivers are not following the rules. In fact, there is a very interesting study I just saw the other day that states that 73 percent, I believe was the figure, of all accidents in trucks occur when there is a passenger in the vehicle as opposed to about 23 percent when there is not a passenger. So passengers' distractions have more to do with it apparently than anything else.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, the gentleman talks about who supports this amendment, or my earlier amendment.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. KOLBE) has expired.

(On request of Mr. SABO, and by unanimous consent, Mr. KOLBE was allowed to proceed for 1 additional minute.)

Mr. KOLBE. Mr. Chairman, I yield to the gentleman from Minnesota.

Mr. SABO. As I was saying, I have here a letter from the Commercial Vehicle Safety Alliance, which is an association of State, provincial, and Federal officials responsible for the administration and enforcement of motor carrier safety laws. They were writing to me to express their strong support for the amendment that I had before the Committee on Rules. They are hardly a self-interest group. Their interest is in enforcing the laws that we pass.

Mr. KOLBE. Mr. Chairman, I appreciate what the gentleman is saying, but I would say to the gentleman in response that it is very clear to me that we have the ability to do this, we have the wherewithal to do it, we have the desire on the part of both Federal and State authorities to do this checking, and they are capable of doing this.

Why is this amendment not including Canada? Why are we only including Mexico under this? Canada is a NAFTA partner. Why do we discriminate against the one? That is what makes this violative of NAFTA.

Mr. OBEY. Mr. Chairman, will the gentleman yield so we can answer that?

Mr. KOLBE. I yield to the gentleman from Wisconsin if I have time here.

Mr. OBEY. Mr. Chairman, it is very simple.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. KOLBE) has again expired.

(On request of Mr. OBEY, and by unanimous consent, Mr. KOLBE was allowed to proceed for 1 additional minute.)

Mr. KOLBE. I yield to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. The record for Canadian carriers shows that their highway safety record is virtually every bit as good as ours. The record with respect to the Mexican drivers in question demonstrates quite the opposite.

Mr. KOLBE. And I would say to the gentleman that fair is fair. If we are going to treat people fairly, we need to treat both sides in exactly the same way. With the kind of inspection regimen we are talking about installing here, we should have the same kinds of inspections for trucks coming from Mexico as we are talking about trucks that travel from Canada. Fair is fair. Treat all sides fairly here. That is all that I am saying that we should do.

Why are we singling out our neighbors to the south? Why are we singling out Mexico to say we do not trust you, we do not think your trucks are safe, we do not think you can comply with NAFTA? I think that is wrong and it sends the wrong signal to our partner, the wrong signal to NAFTA and the rest of the world, that we are going to single out this Latin American country, this neighbor to the south of us, to say that we do not believe your trucks can travel here in the United States. I think it is just plain wrong.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand in strong opposition to this amendment.

Here we go again, attacking Mexico, singling out Mexico for some reason that I cannot understand. What a farce, for anyone to argue that these trucks coming in from Mexico would not be forced to comply with the same standards as American trucks on our highways. This is simply a ploy, a naked ploy now, because it is not masked as an earlier amendment was trying to be masked as some kind of effort that is actually behind a safety issue. This is just a clear effort to try to stop these trucks from coming in all together.

Let me also say to many of my colleagues who are supporting this amendment, this is an attack on many border communities who have seen an incredible economic boom as a result of free trade over the last 20 years. To support this amendment stops the progress, stops the jobs from being created in many of the communities close to the border. I do represent almost 800 miles of the Texas-Mexico border and have seen incredible opportunities come to these neighborhoods because of free trade. These people want more opportunity that would come with allowing these trucks to drive through these communities. And we know that they would not be held to any less a standard than an American truck driving through the community.

So let us look at this for what it is, it is a discriminatory attack against Mexico. It has already been pointed out that no one else is being forced to comply with this standard. No one else would fall under this amendment. Our friends from Canada would not fall under this amendment. This is simply another effort to discriminate against our friends in Mexico who have been good trading partners and have helped create thousands of new jobs in this country. I urge defeat of this amendment for those reasons.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to attempt to bring some rationality to this debate and historical perspective. The issue is not, as previous speakers have tried to make it, no Mexican trucks in the U.S. or sinister special interest forces trying to keep Mexican trucks from entering the United States. That is not the issue. The issue is safe trucks, safe U.S. trucks, safe trucks from Canada, and safe trucks from Mexico.

In 1982, the then Committee on Public Works and Transportation brought to the House legislation to prohibit trucks from Canada and Mexico entering the United States unless the President of the United States would issue a finding lifting that legislatively imposed moratorium on truck entry into the United States. That was 1982. In 1984, President Reagan lifted the moratorium with respect to trucks from Canada but did not lift it with respect to trucks from Mexico. In 1986, 1988 the President again lifted the moratorium on Canadian trucks but not on Mexican trucks because of a finding by the Federal Motor Carrier Safety Office that those trucks did not meet U.S. safety standards.

President Bush, the first, in 1990 and again in 1992 lifted the moratorium on Canadian trucks but not on Mexican trucks simply because Canadian trucks met U.S. safety standards and Mexican trucks did not. In fact, as the gentleman from Wisconsin cited a moment ago, the out-of-service rate for Canadian trucks is lower than that of trucks in the United States. Seventeen percent of Canadian trucks are found by their and our inspection service to be out of compliance with safety standards, while 24 percent of U.S. trucks are found to be out of compliance and 36 percent of Mexican trucks. Mexican trucks, therefore, have a 50 percent higher out of service rating than do trucks in the United States, and more than twice as much as Canadians.

Well, my colleagues cannot make a rational argument that this is an anti-Mexico provision that we are offering on the floor. It is simply a safety issue, not a cross-border issue. And what we are asking for is not, as one speaker indicated, a lot of paperwork. No, no. I know safety from the aviation standpoint, from the rail standpoint, and I have looked at it for many, many years from the surface transportation standpoint, trucking issues as well. We do not just look for this or that truck that is out of compliance, we are looking for a system of safety, for a system, a structure of compliance.

□ 1815

That is why we want to have an overall review of the Mexican safety system. Canada clearly complies; Mexico does not.

The dispute resolution mechanism, the arbitration panel that reviewed this issue found "it may not be unreasonable for a NAFTA party to conclude that to ensure compliance with its own local standards by service providers from another NAFTA country, it may be necessary to implement different procedures with respect to such service providers. Thus, to the extent that the inspection and licensing requirements for Mexican trucks and drivers wishing to operate in the United States may not be like those in place in the United States, different methods of ensuring compliance with U.S. regulatory regime may be justified. In order to justify its own legitimate safety concerns, if the United States decides to impose requirements on Mexican carriers that differ from those imposed on United States or Canadian carriers, then any such decision must be made in good faith with respect to a legitimate safety concern and implement different requirements that fully conform with all relevant NAFTA provisions."

The Sabo amendment, which would have been offered, had it not been struck, would have met those tests.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. OBERSTAR) has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 1 additional minute.)

Mr. OBERSTAR. Mr. Chairman, deprived of an opportunity to offer that amendment, we are reduced to this rather stringent approach. As the gentleman from Wisconsin said earlier, it is an issue that can be tapered in conference and resolved perhaps even to meet the original Sabo-Ney language.

As for the dire warnings that ipso facto this language will put us in violation of NAFTA, there is a dispute resolution mechanism, an arbitration panel that can resolve such disputes and has shown its ability to do so. We ought to be in the mode of protecting life and addressing the life issues that are at stake.

Every year trucks kill 5,000 people in the United States. Our trucks. Trucks that are 50 percent less safe coming in from another country should not be allowed in the United States until a regime is in place to screen them out and to ensure that all those that do enter under the NAFTA will be in compliance with our safety rules. The Sabo amendment provides that opportunity.

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Sabo amendment. I, like my colleagues, regret that the Sabo-Ney amendment was not made in order. However, I do not regret being in strong support of this amendment, because I believe it is very important for this House to have a clear vote on this issue.

This issue in my view is not about NAFTA; it is about truck safety and whether we can properly inspect the trucks that are entering the United States. Not too long ago, the Subcommittee on Highways and Transit had a site visit to San Diego and Laredo. At San Diego, we found a very good permanent inspection station. That inspection station looks at all of the trucks and issues a permit that is good for 90 days. If any truck tries to enter the United States and does not have a certificate, it is pulled aside and inspected. We have found that their out-of-service rate is similar to the trucks in the whole of the United States of America, about 24 percent. Too high in my view, but similar to the rest of the country.

When we went to Laredo, Texas, we found a system that virtually does not exist. There is no permanent inspection station in Texas. I do not believe there is one outside of California. The results are pretty obvious. The gentleman from the Texas Department of Public Safety, Major Clayton, had suggested to us that a truck that is not inspected will be neglected. We were there on a Sunday, and we asked what the experience was that day. We were informed that they looked at seven or eight trucks, and took five of those trucks out of service.

I asked, What was the problem with those trucks? Were they minor little details like a light that does not work or turn signals or something of that sort?

He said, No, Congressman, these are brakes that are failing, leaking fuel lines, cracks in the undercarriage, bald tires.

Mr. Chairman, these are the vehicles that are going to be allowed come January 1 to enter the interior of the United States. This is not against NAFTA. If we want to continue allowing trucks to come into the border States, where they are traveling at presumably a very low mile-per-hour rate, if these trucks are allowed into the interior of the United States to travel anywhere in the United States of America with brakes that are failing, leaking fuel lines, cracks in undercarriage, bald tires, there are going to be major accidents in our country.

Mr. Chairman, what happens to NAFTA then? What will be the outcry in our country if a truck that was not inspected and had these kinds of violations causes a serious accident? I think that will cause a whole lot more harm to NAFTA than our insisting that Mexican trucks be inspected and inspected properly. California has done a pretty good job. They have set a model for us. They have put up the funds and have permanent inspection stations. There are no other permanent inspection stations along the border, and trucks that are unsafe will be entering our country. I strongly support the Sabo amendment.

Mr. SABO. Mr. Chairman, I move to strike the requisite number of words and see if we might inquire how many people want to speak on both sides.

The CHAIRMAN. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. SABO. Mr. Chairman, we have two additional requests for time on our side. And how many on the gentleman's side?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, we have one additional speaker.

Mr. SABO. Mr. Chairman, I ask unanimous consent that there be 30 minutes of debate, 15 minutes allocated to each side, controlled by the gentleman from Kentucky (Mr. ROGERS) and myself.

The CHAIRMAN. On this amendment and all amendments thereto?

Mr. SABO. Mr. Chairman, that is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, on behalf of my constituents, I thank the gentleman from Minnesota for his amendment.

Mr. Chairman, I represent the southern half of San Diego, California, a district which borders Mexico and which has all of the border crossings for California, at least the great majority. Thirty-five to 40 percent of all truck traffic between Mexico and the United States crosses my district, so I believe we have some sort of experience and expertise with regard to this matter.

The distinguished chairman of the subcommittee suggested that we ought to wait for experts to decide this question. Mr. Chairman, my constituents are experts. My constituents will tell the gentleman what it is like to be in an accident with a Mexican truck whose brakes have failed; in an accident where the driver did not have adequate insurance; in an accident where the truck driver was a teenager or who had just driven for 20 hours straight. My constituents are the experts on what happens when we do not have adequate inspection for the trucks to enter into the United States.

And it is clear we do not have an adequate inspection system. The gentleman from Arizona (Mr. KOLBE) talked about all of the States are ready to do this. I do not see any evidence that they are. If they are, why do they not do this? Twelve thousand trucks are crossing every day. We heard from the gentleman from Pennsylvania (Mr. BORSKI) talking about the state-of-the-art facility in San Diego where the California Highway Patrol inspects trucks. They are doing this, by the way, with their own funds, no Federal support. There is no Federal support for State inspections, and all States can do what they want. That does not strike me as a way to assure U.S. citizens of truck safety.

But the California Highway Patrol has taken on that responsibility, has paid for it, and does good inspections on the trucks they inspect. We think they inspect roughly 2 percent of the trucks that cross the border, and that inspection only deals with the safety of the chassis itself. Very little inspection is done or can be done about insurance. Papers are exchanged, but there is no standard system. There is no way to check those papers.

The driver's license may be asked for and the logs may be asked for, but there is no uniformity of those papers. There is no check or way to check on the accuracy of that data. The driver's license may or may not be a legitimate driver's license. Logs are not required to be kept by Mexican drivers, so we do not know how long the driver has driven. We do not know the safety record of that driver. There is no way to hook up the computer systems between our two nations. And even if there was, the Mexican systems do not yet meet the standards that we would expect in a DMV of any State in our union.

So even though the California Highway Patrol is state of the art, it is only inspecting a few percent of trucks, and it can only inspect for a few percent of what we would normally require to be inspected. And we are light years ahead of the other States that border Mexico. There is no such permanent facility in Arizona or Texas or New Mexico, and there are no Federal funds to set up these, and there are no standards by which they ought to operate, and there is no agreement on the kind of inspections that ought to be done in those States.

The gentleman from Pennsylvania (Mr. BORSKI) mentioned that the Subcommittee on Highways and Transit of the Committee on Transportation and the Infrastructure with our chairman was at various border crossings along the southern border. We were in Laredo, Texas, where there, and in the environs, most of the trucks apparently cross the border. They have not decided what kind of inspections ought to take place. The local border community and its mayor are very adamant about one way of doing it. The Texas Department of Transportation is equally adamant about another way of doing it.

Not only do they not have the money to do it either way, but it is going to be years before they decide how to do it. So we are years away from having an adequate inspection system. We need the Sabo amendment in order to protect our communities.

Mr. Chairman, I stand behind the Sabo amendment and truck safety.

□ 1830

Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Chairman, I rise in support of the amendment offered by my colleagues earlier that we were not allowed to have an opportunity to dialogue on.

I represent 13 counties in south Texas, two of which are along the Texas-Mexican border and part of the commercial zone already accessible to Mexican trucks. A number of the other counties contain I–35, a principal trade corridor for truck traffic from Mexico.

I recognize the importance and value of expanding trade with Mexico. We need to build upon the trade relationships with Mexico and Canada. I also recognize that the dramatic growth in truck traffic comes with a price. I know from my constituents that that price is often paid on the ground in those counties as we move forward.

The issue is not whether we should have more trade, rather, the challenge is how to protect the public while increasing trade. One should not be pitted against the other. We should just use our common sense. Road maintenance, border infrastructure improvements and border inspection in general have been the responsibility of the counties along the border, some of which are the poorest counties in the Nation. Increased truck traffic without increased inspections is a recipe for disaster.

Creating a special 18-month exemption for Mexican trucks in south Texas and San Antonio is not the appropriate way to go and is not the way that we should be doing business. It is a price we should not be asked to pay, it is a risk that we need not take, if we adopt a sensible inspection policy and then pay for it. We need to make sure that those trucks are inspected just like any other truck.

Nearly 70 percent of Mexican truck freight traffic enters the United States through Texas, which experienced 2.8 million truck crossings last year. The volume of truck is expected to increase by 85 percent. As of now, we do not have the ability to inspect and regulate these trucks. A total of 1 percent of the trucks that are crossing into Texas are now being inspected. Of those inspected, the out-of-service rate is 40 percent, nearly twice the national average for U.S. trucks. We will make the problem worse if we do not insist on inspections for Mexican trucks.

We must insist that Mexican trucks and companies meet the same safety and inspection requirements as U.S. trucks. We are not asking for anything special. We want to make sure that they also be able to go through the same guidelines. We are not anti-competitive, and we are not anti-Mexican. What we want to make sure is that those trucks get treated in the same way. They should be inspected in the same manner.

All we are asking is that Mexican carriers be subject to on-site inspections prior to being granted operating authority and permitted to travel throughout the United States. Why should we have to wait 18 months for that? When it comes to public safety, should we not be more sure? Mexico, which has no standard apparatus in place, cannot now certify the safety of its trucks, especially its long-haul fleet, or enforce a border safety inspection program of its own.

We have made modest progress in harmonizing motor carrier safety processes between our two countries. Nevertheless, the Department of Transportation's inspector general recently confirmed that serious discrepancies persist. Mexican trucks tend to be older, heavier and more likely to transport unmarked toxic or hazardous material. Mexico has not yet developed hours of service requirements for commercial drivers. Mexico does not have a laboratory certified to U.S. standards to perform drug testing. Mexico does not have a roadside inspection program.

On our side, in Texas alone, I sent a letter to then Governor Bush when he was there almost 4 years ago. At that time we had 17 workers part time doing the inspections. Now we have 37 part-time people, yet we have 70 percent of the traffic. Texas was supposed to hire 171 new commercial vehicle inspectors. They did not. They did not get the resources. The bottom line is in the existing situation, the State of Texas has not put the resources where they should be. According to the State legislative officials that we just talked to a couple of days ago, they received no additional money for this purpose because of budgetary shortfalls that the past Governor put the whole State into.

I ask Members to really look at this seriously and to make sure that we treat Mexican trucks in the same way that we treat our U.S. trucks.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 5 minutes to the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. Mr. Chairman, I hesitated to come running back, but when I started hearing many of the things that were offered up by the other side, I decided perhaps I should come back and plead for more trucks, more trucks to come here maybe and haul off an awful lot of stuff that has gathered in the well during this debate, because as I see it, Mr. Chairman, in Idaho we have got a saying, and the saying is basically this: If it walks like a duck, if it quacks like a duck, it is probably a duck.

This is the second duck that they have had here today. This is no different than their first effort to stop the free flow of traffic across our southern border. This is no different than the effort that was made much, much earlier.

But there are a few things that I would like to clear up. Earlier one of our side was questioned as to whether or not, did the majority not just block an effort, an amendment to change this, to make this right? The majority did not block that amendment. Strict adherence to the House rules that we have all agreed upon about amending appropriation bills is what killed that bill. We made you obey those rules, and in that process the amendment rightfully died.

Why, Mr. Chairman, is this here today? Why have we not since 1994 offered time after time after time similar amendments that could have begun the certification process, that could have perfected the safety on the highways and could have gotten this a long way toward accomplishment of what we are asking to do today? I suspect the reason for that is because from 1994 until last year, until this last January, we did not enjoy a trade representative and a USTR that was prepared to have equal trade on both sides of the border and equal treatment on both sides of the border as we do today and as we can expect today.

Perhaps I should have offered an amendment, too, to go along with this thinly veiled safety effort; that is, that only trucks that are made in Idaho can be run on the highways, so that I could have closed my market, so that I could have enjoyed a monopoly myself.

Mr. Chairman, in 1997, the State of Idaho petitioned the USTR to stop an unfair trade practice on our northern border, our border with Canada. We got no justification. We got no satisfaction. The result was finally our Governor said, all right, if we cannot get the United States Government to do something, perhaps we States ought to unite and do something. And so the northern tier of States did unite. We all put our police to work, our highway patrol to work and our port of entries to work.

The result was, and we heard from the ranking member the statistics about how many unsafe trucks there were. I can tell my colleagues that at that time we found 57 percent of the trucks that we put through our safety efforts on our border with Canada, almost 57 percent did not meet the standards in the State of Idaho, and so, therefore, we could halt them at the border and reject them because they did not meet our safety standards. I suspect, Mr. Chairman, that you can do just about anything that you want to with statistics.

But let me just say, this is not unusual for the United States to do this. We have airlines that cross borders. We have railroads that cross borders. We have no problem with the safety regulations and the equal treatment of both sides. The same thing with our water traffic. And so with all the foreign registry that we have, whether it is on airlines or boats or railroads, we still find that we can have that traffic, and I think that we could use that example, the same thing, on our highways.

Mr. Chairman, I think it is time that we recognize that we need to be good neighbors, we need to be fair neighbors and not be picking on those people which we assume are not prepared to meet the standards that we have in the United States. I think it is time to be fair to all sides. I certainly have sat in awe many times and listened to speeches from the other side about treating people equally and being fair. This is your chance to walk the walk instead of just talking the talk.

Mr. SABO. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon (Mr. DeFAZIO).

The CHAIRMAN. The gentleman from Oregon is recognized for 5 minutes.

Mr. DeFAZIO. Mr. Chairman, I thank the gentleman for yielding me this time.

The previous speaker in the well talked about this being a thinly veiled safety amendment. It is not thinly veiled. This is all about safety. Plain and simple that is what we are talking about, the safety of the driving American public on U.S. highways paid for with taxpayer dollars, and they can expect a little bit of protection from their Federal Government. I think. I hope.

We do inspect U.S. trucks. We do pull them off the roads when they are unsafe. We do require drug and alcohol testing. I went through that debate here on the floor of the House, and I supported that. We do require log books. We do require restrictions on duty time. And we enforce those laws. For the most part those laws do not exist in Mexico, and where they do exist, they are not enforced.

Now, no one has contested that fact. They are saying, oh, that we just do not want to be good neighbors. We want to be good neighbors, but we do not want to be good neighbors with people who are endangering the lives of the traveling public.

My district has I–5 running right through the heart of it, and that is where those trucks are going. Now, the gentleman from Texas got up earlier and said, "My people have done really well. I have such a long border with Mexico, and we have got so many jobs out of this, and you want to hurt that." No, actually he is arguing to hurt them, because if this amendment does not pass, those trucks are going to steam right through his district. Right now all those trucks have to stop in his district, and they have to reload onto safe American trucks. But when this goes into effect, those trucks are going right through his district and right up to mine. They are not going to stop. In fact, he is going to lose many jobs in his district.

I am a bit perplexed by the arguments on the other side of the aisle. For the most part they have been arguing our side, but in a knee-jerk way at the end they are going to come to a conclusion that we have just got to go ahead, that this is about NAFTA and about free trade.

We are having huge trade with Mexico, a huge and growing trade deficit with Mexico under NAFTA, although they promised us surpluses. That is not to be debated here today. That would not be impeded one wit by this amendment. But what would happen is these trucks that we know are heavier, with drivers who generally are not meeting U.S. standards for safety, for training, for drug testing, for log books, for records of offenses being kept in a central data file, perhaps for insurance, for labeling for hazardous materials, 25 percent of the trucks coming across the border carry hazardous materials; 1 in 14, 7 percent, are labeled. What is going to happen when one of those goes over somewhere on I–5 in California or in a heavily populated part of Oregon or Washington? We will not know what is in it. We will not know how to deal with it. We are going to not only put the traveling public at risk, we are going to put communities at risk. We are going to put the firefighters and the first responders at risk.

No, let us have the Mexicans adopt stringent laws for safety, then enforce those laws, and after they do that, then we will be great neighbors, and we will be happy to welcome their fully inspected, safely driven trucks into the United States of America. But until they meet those standards, no, no, no, no, no.

This will kill Americans. People will die for profit, and that is not right.

□ 1845

Mr. ROGERS of Kentucky. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. SABO).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SABO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 285, noes 143, not voting 5, as follows:

[Roll No. 193]

AYES—285

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Buyer
Calvert
Camp
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Combest
Condit
Conyers
Costello
Coyne
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doolittle
Doyle
Duncan
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Ford
Fossella
Frank
Frost
Gallegly
Ganske
Gephardt
Gilman
Goode
Goodlatte
Gordon
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hart
Hastings (FL)
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hunter
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Phelps
Pickering
Pombo
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Scott
Sensenbrenner
Sessions
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOES—143

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Bartlett
Barton
Bass
Bereuter
Biggert
Blunt
Boehner
Bonilla
Brady (TX)
Brown (SC)
Bryant
Burr
Callahan
Cannon
Cantor
Coble
Cooksey
Cox
Crane
Cubin
Culberson
Davis, Tom
DeLay
DeMint
Diaz-Balart
Dooley
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Everett
Flake
Fletcher
Forbes
Frelinghuysen
Gekas
Gibbons
Gilchrest
Gillmor
Gonzalez
Goss
Graham
Granger
Graves
Greenwood
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hinojosa
Hobson
Hostettler
Houghton
Hulshof
Hutchinson
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Keller
Kennedy (MN)
Kerns
Kingston
Knollenberg
Kolbe
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
McCrery
McInnis
McKeon
Miller (FL)
Miller, Gary
Myrick
Nethercutt
Northup
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Paul
Pence
Peterson (PA)
Petri
Pitts
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ryun (KS)
Schrock
Serrano
Shadegg
Shaw
Simmons
Simpson
Skeen
Smith (MI)
Smith (TX)
Spence
Stenholm
Stump
Sununu
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Whitfield
Wicker
Wilson
Young (FL)

NOT VOTING—5

Burton
LaTourette
Platts
Putnam
Sweeney

☐ 1909

Mrs. WILSON, Mrs. CUBIN, Ms. VELÁZQUEZ, Mr. GREENWOOD and Mr. BACHUS changed their vote from "aye" to "no."

Messrs. BAIRD, COMBEST, BUYER, JEFFERSON, FOSSELLA, PICKERING, HYDE, DUNCAN and MICA changed their vote from "no" to "aye."

Mr. HINOJOSA changed his vote from "present" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. NADLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would be remiss if I did not rise to thank the chairman of the committee, the gentleman from Florida (Mr. Young); the ranking member, the gentleman from Wisconsin (Mr. Obey); the subcommittee chairman, the gentleman from Kentucky (Mr. Rogers); and the ranking member, the gentleman from Minnesota (Mr. Sabo); for acceding to the request made by the gentleman from Connecticut (Mr. Shays) and myself to include funds in this bill for the environmental impact statement for the New York-New Jersey Cross Harbor Rail Freight Tunnel.

This project was first authorized in TEA-21 and received funds for a Major Investment Study, which was completed last year.

New York City, Long Island, and Westchester and Putnam Counties and the State of Connecticut are virtually cut off from the rest of the country's rail freight system for lack of any way for rail freight to cross the Hudson River, except at a bridge 140 miles north of New York City.

After examining numerous alternatives, the MIS recommended construction of a rail tunnel under New York Harbor. The benefit to the region will be about $420 million a year and the benefit to cost ratio is 2.3 to 1. The environmental impact will be profound as it would remove 1 million tractor trailers from off the region's roads a year. So I am gratified this was included in the bill. I am disappointed the Second Avenue Subway was not included in the bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 2002".

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. Isakson) having assumed the chair, Mr. Camp, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, pursuant to House Resolution 178, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 426, nays 1, not voting 6, as follows:

[Roll No. 194]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
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Pallone
Pascrell
Pastor
Payne
Pelosi
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Peterson (MN)
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Pickering
Pitts
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Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
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Sherman
Sherwood
Shimkus
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Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
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Spratt
Stark
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Stenholm
Strickland
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Stupak
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—6

Burton
LaTourette
Platts
Putnam
Sweeney
Woolsey

☐ 1930

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONGRATULATING REPRESENTATIVE PUTNAM AND MELISSA PUTNAM ON BIRTH OF DAUGHTER ABIGAIL ANNA PUTNAM

(Mr. CRENSHAW asked and was given permission to address the House for 1 minute.)

Mr. CRENSHAW. Mr. Speaker, I have some exciting news to share with my colleagues, and I think in a spirit of bipartisanship, we can all agree that this is, in fact, good news, because today the youngest Member of the House of Representatives, the gentleman from Florida (Mr. PUTNAM) and his wife Melissa became the proud parents of a baby girl.

Mr. Speaker, today Abigail Anna Putnam was born. She weighed 8 pounds and 4 ounces. She is 21½ inches long, and they are still looking for the first sighting of that fire-engine red hair that the gentleman carries around with him here.

Just as a word of history, I want my colleagues to know, first of all, that the mother and the daughter are doing well. The gentleman from Florida is a little shaky, but I think he is going to make it.

Abigail is the sixth generation Putnam to be born in Polk County, Florida, and her great grandfather, who is 92 years old, is so excited that he said he is probably more excited about the gentleman from Florida becoming a father than he was when the gentleman got elected to Congress.

I know that all my colleagues want to join with me in wishing the gentleman from Florida and his wife Melissa and their new baby Abigail a wonderful life together.

Mr. PENCE. Mr. Speaker, will the gentleman yield?

Mr. CRENSHAW. I yield to the gentleman from Indiana.

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding to me, and I want to add my congratulations to the growing congressional family, to Melissa Putnam for putting up with the gentleman from Florida (Mr. PUTNAM), and to the happiness. The knowledge that children are a reward from the Lord is something we are pleased to acknowledge, and we send prayers and best wishes, Mr. Speaker, to all of those who share that sentiment.

Mr. CANTOR. Mr. Speaker, will the gentleman yield?

Mr. CRENSHAW. I yield to the gentleman from Virginia.

Mr. CANTOR. Mr. Speaker, I, too, rise to extend my congratulations from the Commonwealth of Virginia to the gentleman from Florida (Mr. PUTNAM) and Melissa Putnam on the birth of their baby and wish them much strength through the next couple of months of interrupted sleep.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–113) on the resolution (H. Res. 179) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2311, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–114) on the resolution (H. Res. 180) providing for consideration of the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MAKING IN ORDER CERTAIN MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, JUNE 27, 2001

Mr. SESSIONS. Mr. Speaker, I ask unanimous consent that it be in order at any time on the legislative day of Wednesday, June 27, 2001, for the Speaker to entertain motions that the House suspend the rules relating to the following measures:

H. Res. 172, H.R. 2133 and H.R. 691.

The SPEAKER pro tempore (Mr. ISAKSON). Is there objection to the request of the gentleman from Texas (Mr. SESSIONS)?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken tomorrow.

RECOGNIZING AND HONORING YOUNG MEN'S CHRISTIAN ASSOCIATION ON ITS 150TH ANNIVERSARY IN THE UNITED STATES

Mr. OSBORNE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 172) recognizing and honoring the Young Men's Christian Association on the occasion of its 150th anniversary in the United States, as amended.

The Clerk read as follows:

H. CON. RES. 172

Whereas 2001 is the 150th anniversary of the Young Men's Christian Association (commonly referred to as the YMCA) in the United States;

Whereas YMCAs have touched the lives of virtually all people in the United States by pioneering various activities, including camping, public libraries, night schools, group swimming lessons and lifesaving, and teaching English as a second language;

Whereas YMCAs are dedicated to building strong youth, strong families, and strong communities;

Whereas YMCAs serve people of all ages, genders, incomes, and abilities through a wide variety of services designed to meet changing community and societal needs;

Whereas every day the more than 2,400 YMCAs in the United States live their mission through programs that build healthy spirit, mind, and body for all;

Whereas the YMCA invented the sport of volleyball;

Whereas YMCAs are collectively one of the largest providers of social services to the Nation's families and communities, and YMCA programs serve nearly 18,000,000 people, including 9,000,000 children, in the United States each year;

Whereas YMCAs are collectively the Nation's largest child care provider, and YMCA programs serve 1 in 10 teenagers in the United States and incorporate the values of caring, honesty, respect, and responsibility;

Whereas each YMCA is volunteer-founded, volunteer-based, and volunteer-led;

Whereas YMCAs have a long history of partnerships with other community organizations, including schools, hospitals, police departments, juvenile courts, and housing authorities;

Whereas YMCAs have provided war relief services since the Civil War, aiding millions of soldiers at home and abroad;

Whereas YMCA programs inspire a spirit of adventure and challenge individuals to learn new skills, try new activities, and explore other cultures, while being good citizens of their communities;

Whereas Father's Day in its present form was created at a YMCA;

Whereas many organizations began at YMCAs, including the Boy Scouts of America, the Camp Fire Girls, the Negro National Baseball League, the Gideons, and the Toastmasters;

Whereas YMCAs helped found the United Service Organization; and

Whereas the Peace Corps was patterned on a YMCA program: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) honors the Young Men's Christian Association (commonly referred to as the YMCA) for 150 years of building strong youth, strong families, and strong communities in the United States; and

(2) expresses support for the continued good work of the YMCA during the next 150 years.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from New Jersey (Mr. PAYNE) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. OSBORNE).

GENERAL LEAVE

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 172, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. OSBORNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring House Concurrent Resolution 172 to the floor. This concurrent resolution recognizes and honors the Young Men's Christian Association, commonly known as the YMCA, on the 150th anniversary of its founding in the United States.

YMCAs are very much a part of the American landscape and history. The organization began in London, England, in 1844. And in 1851, the first YMCA in America was established in Boston, Massachusetts. The YMCA's presence in America has grown steadily to serve nearly 18 million individuals, including 9 million children annually.

I imagine many of us have participated in or benefited from YMCA's services. Over time, the YMCA has been associated with programs, including youth camping and the creation of volleyball and racquetball. Additionally, by the late 1990s, YMCAs were providing daycare for half a million children annually. The YMCA has provided learn-to-swim programs and has been connected to pools and aquatics for many years.

Throughout all of these programs, the YMCA promotes the values of caring, honesty, respect and responsibility. Its commitment to these values can be seen in its history of wartime service dating back to the Civil War, its commitment to the physical and spiritual well-being of the poor and unemployed during the Depression, and its current efforts to teach and reinforce good character in youth through after-school sports and activities.

Mr. Speaker, I am pleased to congratulate the YMCA on the anniversary of their 150 years of existence in America. They have a long history of exemplary service, and I believe we all benefit from the YMCA's existence.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in celebration also of the 150th anniversary of the YMCA's founding in America. The organization has a special place in my heart, because I had the privilege to serve as the president of the National Council of YMCAs of the USA from 1970 to 1973 and have been involved with the organization most of my adult life, beginning with my teaching career in the late 1950s. Newark's combined YMCA and YWCA has become an integral part of all aspects of our community. In many ways, the history of the local YMCA is a perfect example of the support and stability that Ys around the globe have provided for 150 years to the world.

It seems appropriate tonight to reflect back on many years of successful involvement and rich history this organization has shared with individuals through all parts of the world.

Mr. Speaker, at this point I would like to highlight the route this institution has taken to reach this extraordinary anniversary. The YMCA was founded in London, England, on June 6, 1844, in response to unhealthy social conditions arising in big cities at the end of the Industrial Revolution, roughly 1750 to 1850. The Industrial Revolution took place in Europe.

Growth of the railroads and centralization of commerce and industry brought many rural young men who needed jobs into cities like London. By 1851, there were 24 Ys in Great Britain with a combined membership of 2,700. That same year, the Y arrived in North America. It was established in Montreal on November 25, and then in Boston on December 29 of that year.

The idea proved popular everywhere. In 1853, the first YMCA for African Americans was founded right here in Washington, D.C., by Anthony Bowen, a freed slave.

The next year, the First International Convention was held in Paris. At that time there were 397 separate YMCAs in 7 Nations with 30,369 members in total.

Then by 1866, the influential New York YMCA adopted a fourfold purpose: the improvement of the spiritual, mental, social and physical conditions of young men.

In those early days, the YMCAs were run almost entirely by volunteers. There were a handful of paid staff members before the Civil War who kept the place clean, ran the libraries and served as correspondent secretaries. But it was not until the 1880s, when the YMCA began putting up buildings in large numbers, that most associations thought they needed to have some full-time employees.

Today's YMCA movement is the largest not-for-profit provider of child care, and it is larger than any for-profit chain in the country. In the 1990s, about half a million children received care at a YMCA each year. In 1996, child care became the movement's second largest source of revenue after membership dues.

Tonight we celebrate the many years of positive change the YMCA has had on our neighborhoods, townships, States and countries. My local YMCA, in Newark, New Jersey, opened its doors in 1881. Since its inception in 1881, the Newark Y has been an integral part of the Newark community.

The programs offered by the YMCA and YMWCA assist Newark residents in their day-to-day lives. For example, the YMWCA has affordable and safe housing options, in addition to state-of-the-art fitness facilities and educational programs.

We must continue our commitment to the YMCA to make it continually strong. As my colleagues know, the triangle of the YMCA, the symbol of the Y stands for the mind, the body and the spirit. We talk about the whole person that must be developed in order for that person to take their rightful place in our society.

And so we would like to acknowledge that the YMCA of the USA in its 150 years of service has been a tremendous asset to this country, as they celebrate this 150-year anniversary this weekend in New Orleans, where people from all over the United States and the world will be celebrating in this great achievement and activities.

We have been very fortunate in our local Y, where many local leaders today in our city of Newark have come up through the YMCA's programs of youth and government and Model United Nations and trips abroad and work programs, and so it is with that spirit that I stand here proud to commend the YMCA on 150 years.

We wish them continued success in their work.

Mr. Speaker, I reserve the balance of my time.

Mr. OSBORNE. Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from Nebraska (Mr. OSBORNE) for yielding the time to me.

Mr. Speaker, I rise in strong support of H.Con.Res. 172, which I introduced with the gentleman from New Jersey (Mr. PAYNE), my colleague, to honor the YMCA.

For 150 years, YMCAs have touched the lives of communities across our Nation by pioneering so many activities that we value; camping, public libraries, night schools, swimming lessons, lifesaving courses and teaching English as a second language. Over 2,400 volunteer-based YMCA programs across this Nation dedicate themselves to building strong youth, strong families and strong communities.

In fact, YMCAs partner with local schools, hospitals, police departments, juvenile courts and housing authorities to incorporate the needs of their own communities into the programs that they offer.

In my district, Montgomery County, Maryland, the YMCAs are invaluable to parents through both after-school care and summer camp programs. My constituents can avail themselves of programs at the Bethesda-Chevy Chase YMCA, Silver Spring YMCA, the Upper Montgomery County YMCA, and Camplets, is an exemplary summer camp.

Horizons is a good example offered at the Bethesda-Chevy Chase YMCA of a program that really works. This coed program assists young people to develop more self-esteem, self-control and improved relationships with people their own age. Youth who take part in Horizons develop self-reliance skills and experience what it means to excel.

Today over a quarter of the Nation's families are headed by single parents.

☐ 1945

YMCA is often a helping hand, providing athletic activities, substance abuse programs that also deal with prevention and volunteer programs to increase the involvement of youth in community service. As the country's largest provider of after-school programs, the kids see the YMCA as a safe home away from home.

In addition to providing a supportive and compassionate environment for children and adolescents, the YMCA cultivates innovation and new ideas. Our most recent holiday, Father's Day, was first commemorated by the YMCA. Quite frankly, the Boy Scouts of America, the Campfire Girls, and the Association for the Study of Negro Lives and History, those organizations began at the YMCA. Few organizations boast such creativity and responsiveness to the needs of communities around the Nation.

The YMCA not only charters new programs, but enters into the partnerships with other organizations. Schools, hospitals, and housing authorities work closely with YMCA programs to coordinate youth activities, and millions of soldiers at home and abroad have been aided by war relief services. Such innovations and partnerships make the YMCA the largest nonprofit community service network in the United States.

The YMCA currently makes a difference in the lives of all over 17 million people. Our support for the continued good work of the Young Men's Christian Association is vital as it has provided such a positive impact throughout the last 150 years.

I urge this House to join in honoring the YMCA for its unfailingly impressive service to the United States, and I wish the YMCA well in their next 150 years of public service.

Mr. PAYNE. Mr. Speaker, I yield back the balance of my time.

Mr. OSBORNE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 172, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ANNOUNCING THE APPOINTMENT OF MEMBERS OF THE LANDS TITLE REPORT COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. OXLEY) is recognized for 5 minutes.

Mr. OXLEY. Mr. Speaker, pursuant to authority granted by section 501(b)(1)(c) of Public Law 106–569, I am announcing my appointment of the following four individuals to the Lands Title Report Commission, established by section 501(a) of that Act: Mr. Chester Carl of Window Rock, Arizona; Mr. Louie Sheridan of Lincoln, Nebraska; Mr. Bob Gauthier of Pablo, Montana; and Mr. Francis X. Carroll of Buffalo, New York.

These individuals were chosen for this appointment due to their demonstrated experience in and knowledge of land title matters relating to Indian trust lands. The Commission, and their appointment, will expire 1 year after the Commission's initial meeting.

The Commission is responsible for analyzing the system of the Bureau of Indian Affairs for maintaining land ownership records and title documents and issuing certified title status reports relating to Indian trust lands and, pursuant to such analysis, determining how best to improve or replace the system. The Commission is then required to report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its findings.

The other eight members of the Commission are appointed by the Senate and the President.

Mr. Speaker, I want to congratulate these fine individuals on their appointments, and look forward to their report.

ASKING CONGRESS TO HELP STOP JUVENILE DIABETES IN ITS TRACKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. SANDLIN) is recognized for 5 minutes.

Mr. SANDLIN. Mr. Speaker, I rise today to ask the Congress to help a young friend of mine, Anna Kate Gunn. I am also asking the Congress to help over 1 million other young children in this country who, like Anna Kate, suffer from the disease of juvenile diabetes.

I hold in my hand a book of children from all over this country, all races, all creeds, all colors, all languages, faces of hope, faces that are looking to us to try to do the right thing, faces of other children with juvenile diabetes. Our country is too strong, it is too great, it is too powerful, and it is too rich not to help our children by stopping juvenile diabetes in its tracks right now.

Mr. Speaker, the Juvenile Diabetes Research Foundation just concluded its 2001 Children's Congress here in Washington. This year, 200 delegates representing all 50 States gathered to meet with policymakers to ask our support as we make decisions about legislation that will impact funding for diabetes research. Diabetes is a chronic debilitating disease that affects every organ system in the body. Type 1 diabetes or juvenile diabetes lasts a lifetime.

Those who are stricken with this disease must take insulin just to live. However, insulin does not cure diabetes or prevent the possibility of its eventual devastating affects. Those affects include kidney failure, blindness, nerve damage, amputation, heart attack, stroke.

More than 1 million Americans have juvenile diabetes. A new case of juvenile diabetes is diagnosed every single hour in this country. Diabetes shortens the life expectancy of these children by 15 years. It is the single most costly chronic disease. It totals more than $105 billion of annual health care spending in the United States of America.

Anna Kate Gunn, my young friend from Texas, came by the office today with her parents and her grandfather, Gene Stallings, a well-known sports hero, former coach of the Texas Cowboys, of Texas A&M, of Alabama, of St. Louis.

Anna Kate was diagnosed with juvenile diabetes when she was 11 months old. Now, at age 3, she endures three insulin injections a day and 8 to 10 finger pricks a day to check her blood sugar level. Without a cure for juvenile diabetes, Anna Kate will have to live with these injections, with these finger pricks for the rest of her life.

One of the funding decisions we make in Congress will be a part that involves stem cell research, a critical part of research in this area. This breakthrough research holds great promise in the cure and treatment of many diseases afflicting Americans and many disabilities including juvenile diabetes.

There are three sources of stem cells, embryonic, fetal, and adult stem cells. Each of these types of cells is very different from the others and all are needed to advance research.

Specifically, embryonic stem cell research offers hope to the more than 1 million American children like Anna Kate who suffer from juvenile diabetes. These cells have the potential to become insulin producing cells because of their unique potential to differentiate into any human type of cell. It is necessary for researchers to understand how embryonic stem cells work before they can get the full affect of the adult stem cell research.

Federal support for embryonic stem cell research is essential to the work that scientists are doing to create therapies for a range of serious and currently intractable diseases. By impeding embryonic stem cell research, we risk unnecessary delay for millions of patients, millions of children across this country who may die or endure needless suffering while the effectiveness of adult stem cells is evaluated.

Certainly, there are legitimate ethical concerns and issues raised by this research. However, it is important to understand that the cells being used in this research were destined to be discarded. The cells used are destined to be discarded. They are destined to be discarded. Under these circumstances, it would be tragic to waste this opportunity to pursue the work that could potentially alleviate human suffering especially in our children.

For the past 35 years, many of the common human virus vaccines have been produced in cells derived from the human fetus to the benefit of tens of millions of Americans. Clearly, there is a precedent for the use of fetal tissue that would otherwise be discarded. This is not a political issue. It is an issue of human responsibility. It is an issue of human decency. It is an issue of doing what is right by our children in this country.

Furthermore, the American public overwhelmingly supports this research. In a poll conducted earlier this year, 65 percent of those surveyed said they support Federal funding stem cell research. It is the right thing to do.

Stem cell research is still in the early stages. In order to receive the full benefits of the research, there must be additional study. Federal funding of this research ensures public oversight and accountability among researchers receiving Federal grants. These researchers will be required to adhere to strict guidelines that do not govern private research. Further, Federal funding will allow many scientists to expand the research in this critical area, thus hastening the discovery of therapies.

Mr. Speaker, we fund many worthwhile projects in the United States Congress. Surely, we can advance funds to save the lives of our children in this country.

Putting an end to public support of this research would have a devastating effect on the future of research in numerous diseases. Congress and the administration should allow this important research to continue, if not for the sake of science, for the sake of Anna Kate and children all across this country that are similarly situated.

Please remember those faces looking at us, faces looking at us in trust and in hope. We cannot let them down. Mr. Speaker, let us do the right thing by America's children.

REINTRODUCTION OF THE PRIVATE BILL FOR THE RELIEF OF ADELA AND DARRYL BAILOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON of Indiana. Mr. Speaker, on May 8 of this year, I introduced H.R. 1709, legislation that would provide private relief for Adela and Darryl Bailor.

As my colleagues know, Mr. Speaker, private relief is available in only rare instances. I believe that the circumstances surrounding the Bailors' case qualifies under the rules of private legislation. I believe so firmly in the importance of this case that I have introduced this legislation the 105th, the 106th, and the 107th Congresses.

The facts surrounding this case are clear and undisputed. Adela Bailor, while working for Federal Prison Ministries in Fort Wayne, Indiana was raped on May 9, 1991 by a Federal prisoner who had escaped from the Salvation Army Freedom Center, a halfway house in Chicago, Illinois.

What makes the Bailor case special is that they were caught in a legal Catch-22. The Bailors filed suit against the Federal Bureau of Prisons and the Salvation Army which ran the halfway house to which Mr. Holly was assigned.

One of the requirements for all inmates at a halfway house is that they remain drugfree and take a periodic drug test. Mr. Holly had a history of violence and drug abuse, including convictions for possession of heroin.

On May 6, Mr. Holly was called into the Salvation Army office and was told that his drug test was positive for cocaine use. Salvation Army had the option of informing Mr. Holly of the failed drug test with a U.S. Marshal present, but chose not to. When advised of his GPO's PDF drug test failure, Holly simply announced that he was out of here and walked through the unlocked door.

In the lawsuit, the Bailors lost on a legal technicality. The 7th Circuit Court of Appeals recognized this technicality. The technicality was that, under the law, apparently no one had true custody of William Holly. The Federal Bureau of Prisons had legal custody of Holly, but not physical custody. Salvation Army had physical custody of Holly, but not legal custody.

Recognizing that this was legally untenable, the 7th Circuit Court recommended that Ms. Bailor apply to Congress for private relief.

I ask my colleagues to join in this effort to eliminate this gross injustice for Ms. Adela Bailor and Darryl Bailor. If we believe in victims' rights, then we must hold those who are responsible for the incarceration of violent criminals accountable for such conduct.

Interestingly and profoundly, Adela Bailor is an honorably discharged Marine Corps veteran. At the time of the attack, she was helping to make this country a better place. We cannot and should not turn our back on her because of a legal loophole.

The 7th Circuit has reviewed this case fully and has made the recommendation that they apply to the Congress. Although Congress is not bound by such recommendations, Congress should give a great deference to the legal analysis by the Circuit Court which has determined that Adela Bailor and Darryl Bailor fall into an unusual legal situation.

□ 2000

Mr. Speaker, I urge and encourage my colleagues to sign on to a letter to be sent to the gentleman from Pennsylvania (Mr. GEKAS), chairman of the Subcommittee on Immigration and Claims, urging him to hold a hearing on H.R. 1709. We will be in the process of sending that letter next week, Mr. Speaker.

PRESCRIPTION DRUG PRICES

The SPEAKER pro tempore (Mr. KERNS). Under the Speaker's announced policy of January 3, 2001, the gentleman from Vermont (Mr. SANDERS) is recognized for 20 minutes as the designee of the minority leader.

Mr. SANDERS. Mr. Speaker, I want to thank the gentleman from New Jersey (Mr. PALLONE) for making some of his time available to me.

Mr. Speaker, I want to tell a story tonight about what happens when an industry with unparalleled greed operates and spends huge sums of money, with the result that they are destroying the health and well-being of millions of Americans. And the industry that I am talking about, sadly enough, is the pharmaceutical industry.

Mr. Speaker, I think, as my colleagues know, millions of Americans today cannot afford the outrageously high cost of prescription drugs in this country. Some of these people will die because they are unable to purchase the prescription drugs that their physicians prescribe to them. Many of them will just continue to suffer, not being able to get the alleviation for their pain because they cannot afford those prescription drugs. Others will buy the prescription drugs by taking money out of their food budget or their heat budget and will do without other basic necessities of life in order to purchase prescription drugs.

Disgracefully, Mr. Speaker, tragically, the American people pay by far the highest prices in the world for prescription drugs. It is not even close. Several years ago, I took a number of Vermonters over the Canadian border into Montreal because they could not afford the very, very high prescription drug prices in our own country. And what we found when we went over the border to Montreal is that the same exact drugs, manufactured and sold in the United States, were sold for a fraction of the cost an hour away from where my constituents were living in northern Vermont.

Some of the women who went with me over the border were fighting for their lives against breast cancer, an affliction that affects large numbers of women in this country. And what they found when they went across the border with me is that tamoxifen, a widely prescribed breast cancer drug, was selling in Canada for one-tenth the price, 10 percent of the price, that it is sold in the United States. Imagine that, women who are struggling for their lives are forced to pay ten times more in the United States than our neighbors are paying in Canada for the same exact drug manufactured by the same exact company.

It is not just Canada and it is not just Mexico. In the southern part of our country, California, Texas, and Arizona, Americans are going across our southern borders into Mexico for the same exact reason that Americans in the northern part of this country are going into Canada. But it is not just Mexico and Canada that have substantially lower prices for prescription drugs. It is every other major country on Earth.

Mr. Speaker, for every $1 spent in the United States for a prescription drug, those same drugs are purchased in Switzerland for 65 cents, the United Kingdom for 64 cents, France for 51 cents, and Italy for 49 cents. The same exact drugs. Meanwhile, while the pharmaceutical industry rips off the American people, causes death, causes suffering, that same industry year after year is at the top of the charts in terms of profits.

Last year, for example, the top 10 pharmaceutical companies earned $26 billion in profit. Twenty-six billion dollars. Why is it that prescription drug prices are higher in the United States than in any other industrialized country? Well, the answer is pretty obvious. The pharmaceutical industry is perhaps the most powerful political force in Washington and has spent over $200 million in the last 3 years on campaign contributions, lobbying, and political advertising. Twenty million dollars in the last 3 years in order to make sure that Congress does not lower the outrageously high cost of prescription drugs and affect their profits. Two hundred million dollars.

We see that money spent. We see it in the TV ads in our homes, on our home television stations. We see it in the full page ads in the Washington papers and in papers all over this country. Amazingly, not only are they spending money on advertising, not only do they spend money on campaign contributions, but the vast majority of Members of Congress receive money from the pharmaceutical industry. The political parties receive money from the pharmaceutical industry in soft money. But even more amazing, the pharmaceutical industry has on their payroll almost 300 paid lobbyists right here on Capitol Hill. Imagine that. There are 535 Members of Congress, 100 in the Senate, 435 in the House, and they have 300 paid lobbyists, including former Senators, former Members of the House, knocking on our doors every day, saying, hey, do not do anything to lower the cost of prescription drugs. Keep our profits high, and we will make sure you get your campaign contributions.

This is an absolute disgrace to democracy and it is an outrage being perpetrated against millions of Americans who want nothing more than to be able to purchase reasonably priced prescription drugs. Mr. Speaker, year after year senior citizens throughout this country and those with chronic illnesses cry out for prescription drug reform and lower prices, but their cries and their tears go unheeded as the pharmaceutical industry and their lobbyists defeat all efforts to lower prices. Year after year those poor people come up here, bla, bla, bla, bla, bla, and year after year every effort is defeated because the pharmaceutical industry and their money machine prevents any real reform.

Well, this year it is my hope that it will be different because Congress is going to build on our successes from the last session of Congress. Last year this Congress, in a bipartisan measure, overwhelmingly passed legislation which promised the American people that they would be able to buy prescription drugs at the same low prices as do consumers in other countries through a reimportation program. And that means that the United States, in the midst of a global economy, that our prescription drug distributors, our pharmacists, should be able to purchase FDA safety-inspected drugs from any country where they can get a better price. If drugs are sold in Canada for one-tenth the price, pharmacists in the United States should be able to reimport those drugs under strict FDA safety regulations.

In the House last year, the Crowley reimportation amendment, introduced by the gentleman from New York (Mr. CROWLEY), won by a 363 to 12 vote. Unfortunately, at the end of a long legislative process, loopholes were put into the overall bill last year that made it ineffective. While the law remains on the books, it has not been implemented by either the Clinton or the Bush administrations. In an increasingly globalized economy, where we import food and other products from all over the world, it is incomprehensible that pharmacists and prescription drug distributors are unable to import or reimport FDA safety-approved drugs that were manufactured in FDA approved facilities.

The pharmaceutical industry and their supporters in Congress are sending out letters right now saying, oh, this is a dangerous idea, we are going to be poisoning the American people. This is absolute nonsense. Let me briefly read from a letter that was sent to Senator BYRON DORGAN on September 13, 2000 last year. And as many people know, Dr. Kessler is the former FDA commissioner, I believe under both former Presidents Bush and Clinton, and this is what he stated in his support of reimportation last year, and I quote.

"I believe U.S. licensed pharmacists and wholesalers, who know how drugs need to be stored and handled, and who would be importing them under the strict oversight of the FDA, are well-positioned to safely import quality products rather than having American consumers do this on their own. Second, if the FDA is given the resources necessary to ensure that imported FDA approved prescription drugs are the authentic product, made in an FDA-approved manufacturing facility, I believe the importation of these products can be done without causing a greater health risk to American consumers than currently exists. Finally, as a Nation, we have the best medical armamentarium in the world. Over the years, FDA and the Congress have worked hard to assure the American public has access to important medicine as soon as possible. But developing lifesaving medications does not do any good unless Americans can afford to buy the drugs their doctors prescribe. The price of prescription drugs poses a major public health challenge. While we should do nothing that compromises the safety and quality of our medicine, it is important to take steps to make prescription drugs more affordable."

That is Dr. David Kessler, in a letter to Senator BYRON DORGAN of September 13, 2000.

Mr. Speaker, when the agricultural appropriations bill comes up, perhaps on Thursday, perhaps next week, the gentleman from New York (Mr. CROWLEY), the gentlewoman from Connecticut (Ms. DELAURO), and others and I intend to introduce an amendment, the reimportation amendment, which is the same amendment as the gentleman from New York (Mr. CROWLEY) introduced last year that received, as I mentioned before, 363 votes.

We know right now that the pharmaceutical industry's cash register is clicking overtime. Their lobbyists are all over Washington trying to scare Members of Congress so that they will not pass this legislation. But I believe that when Members of Congress go into their hearts and when they listen to the seniors and the other people back home who are sick and tired of paying outrageously high prices for prescription drugs, who are sick and tired of having to go to Canada and Mexico to buy the drugs that they need, I believe that despite all of the scare tactics of the pharmaceutical industry and their representatives in the United States Congress, that Congress will have the guts to stand up to them and vote for the American people and pass the Sanders-Crowley-DeLauro reimportation amendment.

Mr. Speaker, when that amendment comes before the floor, it may be the only opportunity this year or next year that Members of Congress will have to vote to lower the outrageously high cost of prescription drugs. I hope and am confident that Members of Congress will ignore the scare tactics of the pharmaceutical industry and their representatives and join the gentlewoman from Connecticut (Ms. DeLAURO), the gentleman from New York (Mr. CROWLEY), and myself, and many others from both parties, in demanding that finally, after years and years of talk, we lower the cost of prescription drugs in this country and we create a situation in which American consumers do not have to continue paying far more than people throughout the rest of the world for the same exact prescription drugs.

Mr. Speaker, I want to thank my friend, the gentleman from New Jersey (Mr. PALLONE), for having yielded me his time, and I yield back the balance of my time.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New Jersey (Mr. PALLONE) is recognized for the remainder of the minority leader's hour, approximately 47 minutes.

Mr. PALLONE. Mr. Speaker, I do not know whether I will use all of that time, but I do want to discuss tonight another health care issue. I appreciate my colleague, the gentleman from Vermont (Mr. SANDERS), talking about the prescription drug issue and the reimportation issue; and that is certainly one of the major health care issues that needs to be addressed in this Congress.

I talk all the time about three health care issues that I know that President Bush said during the course of his campaign he would address and that have not been addressed. Unfortunately, what we have here in the House, with the Republicans in control, the Republican leadership so far has been unwilling to address the three major areas that I hear about most in health care. One is prescription drugs, which my colleague from Vermont just mentioned; the other is the Patient's Bill of Rights, or HMO reform; and the third is the need to try to cover those 40 to 45 million Americans who have no health insurance.

□ 2015

Mr. Speaker, fortunately, the other body is now discussing HMO reform, the Patients' Bill of Rights. I would say that the reason that has happened is because of the switch in the majority from Republican to Democrat in the other body. The first order of business that the new Democratic majority took up was HMO reform, the Patients' Bill of Rights.

Tonight I would like to discuss briefly why I think it is important to pass the Patients' Bill of Rights, and not just any Patients' Bill of Rights, but the Patients' Bill of Rights, or HMO reform, that was introduced in the other body by Senator McCAIN, Senator KENNEDY, and Senator EDWARDS, and that has been introduced in the House by the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL).

These are bipartisan bills, but I need to point out that the thrust of the bills is from the Democratic side, because the Republican leadership, even though there are some Republicans that are playing a key role on these bills, the Republican leadership has refused to bring them up in either House, or to support the Ganske-Dingell bill, the real Patients' Bill of Rights here in the House, or the McCain-Kennedy-Edwards, the real Patients' Bill of Rights in the other body.

I will not refer to them necessarily as the Democratic bills because we do have some Republican support, but they are Democratic bills in that the Democratic leadership supports them in both Houses and the Republican leadership does not support them in either House.

Why are we talking about the Patients' Bill of Rights and HMO reform. Two reasons. This comes from my constituents and from Americans from all walks of life. Increasingly, if a person is in a managed care situation, if you are in an HMO, the decision about what type of care you get, and that means whether you get a particular medical procedure, whether you can go to a particular hospital, whether you can stay in the particular hospital for a particular length of time, these types of decisions about your care unfortunately are made almost exclusively now by insurance companies, by the HMOs.

What the Democrats have been saying and what the real Patients' Bill of Rights says is that that needs to change. That needs to go back to medical decisions, what is medically necessary for you as a patient, that decision is made by your physician, your health care professional and you as a patient, not by the insurance company. That is the one major change, and the one need for reform with regard to HMOs that the Patients' Bill of Rights seeks to accomplish.

The other major issue and the other major change is the fact that today in HMOs, if a decision is made about what type of care you get, and you do not agree with that, in other words you have been denied the care that your doctor and you feel is medically necessary, you do not have any place to go. You can file a grievance with the HMO; and they will review it and say sorry, we made a decision, and we are not going to change it.

What the Democrats would like to see, what the Dingell-Ganske bill would do is turn that around and say if you want to seek a redress of grievances because you feel you have been improperly denied care, you can go to an external review board, an independent review board outside of the HMO, and they will review that decision by the HMO. They have the power to overrule it if they think that care was improperly denied and you need the care that your physician says is necessary.

Failing that, in certain circumstances you would be able to go to court and bring suit so you could have the decision of the HMO turned around, or you could even be granted damages if you were seriously injured and it was too late to correct your situation; or God forbid, you died, your estate could sue for damages.

Now, those two things, those two basic theories, the decision about what kind of care you get is made by a health care professional, not by the insurance company, and that you have some place to go to right that wrong and to turn that decision around are really at the heart of the Patients' Bill of Rights.

Mr. Speaker, I want to talk about some of the specific things that the Patients' Bill of Rights will do which I think are important. I will mention a few that apply to patients, and then I want to mention a few that apply to doctors, because I think as you know, the doctors now under HMOs feel that they cannot even practice medicine. There are a lot of restrictions on what they can do, so the decision is important for the doctors as well as for the patients.

One area is access to emergency room care. The Patients' Bill of Rights allows patients to go to any emergency room during a medical emergency without having to call a health plan first for permission. Emergency room physicians can stabilize patients and begin to plan for post-stabilization care without fear that health plans will later deny coverage.

This is a big concern that patients have. I get chest pains, I think I am having a heart attack. I cannot go to the hospital that is down the street. I have to go to one 150 miles away. I may suffer damage because I have to go to an emergency room so far away. That makes no sense. We reverse that and say if you feel, if the average person feels by having severe chest pains they need to go to the closest hospital, they have the right to go there and the insurance company has to pay for that emergency room care.

Access to needed specialists. Part of the problem now is many patients, many Americans in HMOs do not have access to a specialist. They may have access to a family physician, but if they want to go to a specialist in that particular area where they need help, they cannot obtain that through the HMO.

The Patients' Bill of Rights ensures that patients who suffer from a chronic condition or require care by a specialist will have access to a qualified specialist. If the HMO network does not include specialists qualified to treat a condition, such as a pediatric cardiologist, for example, to treat a child's heart defect, it would have to allow the patient to see a qualified doctor outside the network at no extra cost.

The Patients' Bill of Rights also allows patients with serious ongoing conditions to choose a specialist to coordinate care or to see their doctor without having to ask their HMO for permission before every visit. This is common sense.

The Patients' Bill of Rights also allows direct access to an OB–GYN. It allows the woman to have direct access to OB–GYN care without having to get a referral from her HMO. Women would also have the option to designate their OB–GYN as their primary care physician. This is very important to women.

Finally, and there are so many other patient protections, and I just want to mention a few because I want everyone to understand how important these patient protections are, the Patients' Bill of Rights says that needed prescription drugs would be available to patients. Currently, many HMOs refuse to pay for prescription drugs that are not on their preapproved list of medications. As a result, patients may not get the most effective medication needed to treat their condition.

The Patients' Bill of Rights ensures that patients with drug coverage will be able to obtain needed medications even if they are not on the HMO's approved list. If your plan does not include drugs, we are not saying that you are going to get it. But if your plan includes drugs, they cannot limit you to the preapproved list of medications.

Let me talk about some of the ways in which the Patients' Bill of Rights, the Dingell-Ganske bill and the McCain-Kennedy-Edwards bill, frees up doctors to practice medicine, because many times they feel that their hands are tied. My point is what I originally said, is that accountants and insurance company executives and staff should not be making medical decisions. It is the doctor who should be able to make medical decisions.

What the Patients' Bill of Rights says is that it prohibits insurers from gagging doctors. Patients have a right to learn from their doctor all of their treatment options, not just the cheapest. The Patients' Bill of Rights prevents HMOs from interfering with doctors' communications with patients. Doctors cannot be penalized for referring patients to specialists or discussing costly medical procedures.

People do not understand that a lot of Americans are in HMOs where they say that the doctor cannot talk to you about a preferred method of treatment. If the insurance plan does not cover a particular procedure, then they can tell the doctor that he cannot talk to you about it even if he thinks that you need it. That is the gag rule. We have eliminated it.

The Patients' Bill of Rights allows doctors to make the medical decisions. It says that doctors rather than insurance company bureaucrats will basically decide what kind of medical care you get. HMOs are prevented from inappropriately interfering with doctors' judgments and cannot mandate drive-through procedures or set arbitrary limits on hospital lengths of stay.

In addition, doctors and nurses who advocate on behalf of their patients will be protected from retaliation by HMOs. There are many patient protections in the Patients' Bill of Rights. I am not going to go into all of them tonight, Mr. Speaker. Suffice it to say the main thing is the idea that doctors will make decisions, not the insurance company; and there is some way to appeal that decision outside of the HMO.

Mr. Speaker, I wanted to go into some other areas that relate to the Patients' Bill of Rights because we know that the other body is considering it. They have done so for about 10 days, and we are hoping that it will come here to the House of Representatives eventually. Some of the arguments that are being used now against the real Patients' Bill of Rights, the Democratic bill, are that a lot of States have already enacted legislation that would protect patients, and so it is not really necessary for the Federal Government to act. I hear this from time to time.

My State of New Jersey has actually passed a fairly strong patient protection act. Some people say we have it in New Jersey, or maybe we have some form of it in other States. Why do we need to do something on the Federal level? I think that is a very important point that needs to be responded to. I just want to talk a little bit about that tonight if I can, Mr. Speaker.

First of all, the real reason we need Federal legislation is that these protections that do exist today are sort of like a patchwork quilt, and there are a lot of holes in it and a lot of differences from State to State. There are a lot of differences in the protections that are afforded to people. There are enormous differences in the way that a person can redress their grievances, what kind of external review they would have, what kind of ability to sue that they would have. Also, let me just get into basically three areas, if I could, where we see the State laws different and I can explain why we need a Federal bill.

Of the 10 areas of consumer protections that are primarily the focus of the Patients' Bill of Rights, only one State has adopted most of those protections. In a lot of States maybe half of the protections are provided and half of them are not. But even in States that have adopted specific patient protections, those laws are not applicable to many of the States' residents. So you might have in a State with no patient protections, or in a State that has some; but you might not be in a group that is covered by those patient protections. The State laws differ in terms of who is covered.

For example, some States have the prudent-layperson standard for emergency room care. If I feel as an average person because I have chest pains I should go to the local emergency room, I can go there and it will be paid for. That varies. Some States have it, and some States do not. About 43 percent of all employees who get their health care coverage through their employer are not covered by protections even in the States that have something like a Patients' Bill of Rights.

Mr. Speaker, I do not want to dwell on this forever, but the point I am making is that it is a very hollow argument for somebody to say that we do not need the Federal law because some States have enacted this because some States have, and others have not. Some people are covered in those States, and others are not; and they may have some protections, but they may not necessarily have all of the protections.

In New Jersey, which has a pretty strong Patients' Bill of Rights, there was an article just a couple of months ago in one of my local papers, the Home News Tribune, an editorial, that advocated for a Federal Patients' Bill of Rights because it said that it is very difficult in New Jersey to sue if you have been denied care.

□ 2030

That is just another example, even in a State as strong as New Jersey, where we need some Federal action.

I wanted to talk about two other things tonight, Mr. Speaker, two other areas related to the Patients' Bill of Rights, before I yield back the balance of my time.

One is that I know that in the other body, efforts are being made to weaken the Democratic proposal, the McCain-Kennedy-Edwards bill, through amendment. Fortunately, those efforts have failed. I think it is significant because it shows that even though this is primarily a Democratic bill, that we clearly have enough Republicans now that are coming over with us on these key amendments that we are forging a bipartisan coalition to support the real Patients' Bill of Rights regardless of the fact that the Republican leadership opposes the bill.

The two amendments that came up within the last week, I think, are significant. One of the amendments which was rejected by a vote of 56 to 43 proposed to exempt employers from health care lawsuits in every situation. Now, this has been a major point of contention, because some people say, well, the problem with the Patients' Bill of Rights is that employers may be sued. What we have said is there is a very limited situation where employers can be sued and that is only if they have taken direct responsibility and have been directly involved in the decision of what type of care you should get. But the Republican leadership wanted to just say that they could not be sued under any circumstances. I think that is wrong. I was glad to see that that amendment was struck down. I think actually that took place today in the other body.

The other amendment which I believe was defeated last week related basically to tax breaks. This was a Republican proposal to add a provision speeding up tax breaks to cover costs of health insurance for the self-employed. I mention that one, although it may not be as obvious why that is a bad thing, because what we have seen in the past, and this is what happened in the House of Representatives last year when we took up the real Patients' Bill of Rights, is that there was an effort to try to add all kind of things to the bill, what I call poison pills, to load it up with all kinds of unrelated ideas, if you will, or proposals so that it would never pass.

What really happened last year is that the Republican leadership was fairly successful, in that even though we passed a good Patients' Bill of Rights in the House of Representatives, they put in all these poison pills or extraneous provisions related to tax breaks, related to malpractice, related to medical savings accounts, and so that when the bill went to conference between the two Houses, it was virtually impossible to get a bill out of conference and to the President because of all these poison pills, added provisions, loading down the Patients' Bill of Rights so that it could not pass and was not a clean bill. We do not want that to happen again.

I have been very happy with what is happening in the other body because it is clear that we have a majority, albeit a slight one, between most of the Democrats and a few Republicans to try to have a bill that clearly will shift the burden so that decisions are made by doctors and there is a real way of redressing your grievances and, on the other hand, not loading this bill down with all kind of extraneous material so we can never get it out of conference and to the President's desk.

But the other development that occurred today that was disturbing, and I think I need to speak out on it because I need to expose again what the Republican leadership this time in the House is trying to do, is that the Republican leadership in the House, which so far has refused to bring up the real Patients' Bill of Rights, will not have it go through committee, will not bring it to the Committee on Rules, will not bring it to the floor, as the Republican leadership has unveiled their own HMO reform bill which, of course, you know, they are going to call the Patients' Bill of Rights, but it is not the real Patients' Bill of Rights. It is not the bill that has already passed the House, that is now being considered in the other body, that has the support of almost every Democrat and about a third of the Republicans.

I want to talk a little bit, if I can this evening, Mr. Speaker, about why this latest House Republican leadership proposal for HMO reform does not cut the mustard and is just a subterfuge to try to kill the real Patients' Bill of Rights, because what I think is going to happen is that the Republican leadership when we come back from the July 4th recess is going to try to bring up their version of HMO reform and ignore the real Patients' Bill of Rights and try to make it so that the real Patients' Bill of Rights never gets considered on the House floor.

Let me tell you a little bit about what this Republican plan that was introduced today, or they had a press conference today, is all about. I would characterize it as an HMO, an insurance company bill of rights rather than a Patients' Bill of Rights. Once again the Republican leadership is protecting managed care plans from simply being held accountable for their actions. Unlike the real Patients' Bill of rights, the Republican plan leaves the review of patient grievances in the hands of the insurance companies and still allows insurance companies the ability to dictate the services patients receive.

Now, I have said before why this is unacceptable. It is unacceptable because the core of the real Patients' Bill of Rights is the idea that the insurance companies do not make medical decisions; the doctors and the patients do. We want to see a real Patients' Bill of Rights, that is what our constituents tell us, not a phony one.

The legislation that the Republican leadership introduced today does not provide many of the assurances that I talked about tonight that the real Patients' Bill of Rights provides. It allows HMOs to choose the external appeals panel and then allows the panel to determine whether the patient can go to court without allowing the patient the right to appeal. In addition, the Republican bill provides only a narrow venue for State lawsuits which then forces all suits over improperly denied care to go to Federal court.

Now, some people may say, Well, what's the difference whether I sue in State court or Federal court? Let me tell you, it makes a big difference. What the Democratic bill says is that you can sue in State court. If the Republican bill forces you into Federal court, there are not that many Federal courts and their dockets are overcrowded and people have a much harder time suing in Federal court, and it costs you a lot more money to sue in Federal court. So there is a difference. I do not want to play it up in a major way, but I want to explain why there is a difference.

I think that what the Republican leadership did today in the House is that basically what they are trying to do is sort of outbest what the other body is doing. They know that the other body is likely to pass a real Patients' Bill of Rights, and they want to bring up a fake one here in the House that the majority of the Members, almost all the Democrats and even about a third of the Republicans are opposed to.

We will see what happens, but I think that we need to expose what is happening here and how this latest bill which was much heralded today by the Republican leadership really does not accomplish the major goal of the real Patients' Bill of Rights, which is to switch the decision about what kind of care you get to your doctor and you rather than the insurance company and that allows you to basically appeal a denial of care to an independent body outside of the HMO and ultimately to court if you do not have a fair shake.

Mr. Speaker, I just wanted to say, I know that every night this week the Democrats are using our time during Special Orders to draw attention to the Patients' Bill of Rights and why we need to pass the real bill here in the House and also in the other body. Last night we had Members of the Texas delegation get up, and I thought that was very significant because, as you know, President Bush said during the course of the campaign that he would sign a bill that was like the Texas law. Frankly, the Dingell-Ganske bill, the McCain-Kennedy-Edwards bill, the real Patients' Bill of Rights, is exactly like the Texas law. Yet now President Bush says he will veto that bill and he does not find that bill acceptable and is asking for something else. I think that is not the commitment he made during the campaign. It was not the commitment he made when he was Governor. And it certainly is a commitment that he should keep and hopefully if we send him the real bill, he will sign it even though he is now threatening to veto it.

The second thing I wanted to say is that tomorrow night, the Democrats will have some of our Members who are health care professionals, who are nurses and who are other types of health care professionals, taking to the floor.

The reason we are doing that is because I think that oftentimes it is the people that are in the health care profession, the doctors, the nurses, the technicians, these are the people that understand, I think, oftentimes even more than the patients, why it is important to have a real Patients' Bill of Rights, because they want to take care of their patients. They want to make sure they get the proper care and the care they deserve. They do not want monetary or other considerations, the bottom line, to dictate the quality of care for the average American. We will be here as Democrats every night this week and also when we return after the July 4th recess to bring up the point that the real Patients' Bill of Rights must pass. It is the highest priority of the Democrats in both Houses, and we are determined to see it through.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KERNS). The Chair would remind Members not to characterize Senators or Senate action.

ADDRESSING THE NATION'S ENERGY NEEDS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from California (Mr. RADANOVICH) is recognized for 60 minutes as the designee of the majority leader.

Mr. RADANOVICH. Mr. Speaker, I would like to take the time that I have that I have been most graciously given to begin to talk about our Nation's energy needs and the national energy policy that has been put forth by the new administration, by President Bush, and the information contained in the National Energy Policy Development Group's report on national energy policy.

I want to commend the administration for taking the leadership on what is a real challenging issue, and that is, providing energy for America's needs. Being from California, they are urgent needs now and also for the energy needs in the Nation for the future. It is a daunting task and one that needs to make up for a lot of lost time because there has not been a lot of focus on our Nation's energy needs in the last 8 years. So although it may not be popular at times, I want to commend the President for the excellent job that he is doing by tackling such difficult issues.

Why do we need an energy policy? If I may take just a few minutes to outline, it is because America faces its most serious energy shortage since the oil embargoes of the 1970s. Our fundamental imbalance of supply and demand has led to this crisis. Our future energy needs far outstrip present levels of production. Right now, United States energy needs are 56 percent dependent on other countries supplying that need. With that need growing at an ever-increasing rate, we become far more dependent on rogue nations that do not have the best interests of the United States at heart and in many, many ways leave ourselves very vulnerable. I think that it is high time that this policy has been sought after, and I applaud the President for taking steps in this direction.

Last winter, heating bills for many families in the United States tripled. Average natural gas heating costs in the Midwest rose by 73 percent last winter. New Englanders' heating bills jumped by about 27 percent. Millions of Americans are dealing with rolling blackouts, including myself, and brownouts and grayouts and threatening their homes, businesses, families and their own personal safety. Low-income Americans and seniors have been the hardest hit. While energy costs typically represent only about 4 percent of a middle-class household budget, last winter costs for average low-income households were about 14 percent of the household budget.

Drivers across America are paying higher and higher gasoline prices. In 2000, fuel prices on average rose 30 to 40 cents per gallon from a year earlier. This summer in some parts of the Nation, gasoline prices may skyrocket to about $3 a gallon. High fuel costs also are destroying many, many jobs. For example, trucking company bankruptcies are at an all-time high. Farm production costs are spiking sharply because of higher energy prices while farm income remains low. Surging natural gas prices have increased the prices of fertilizer by 90 percent since 1998.

I can read a lot of the talking points on this about a national energy policy, but I think I can speak from the heart being from California and dealing with our energy crisis and the blackouts that we have. Many, many people say that California is an example of how not to deregulate and because of that they face rolling blackouts. Gratefully and thank God there was no direct loss of life attributed to the blackouts that we have had so far, but there is no guarantee that we will not face them in the future. In California's energy problems, it was as much mismanagement of the issue from the State level as it was an energy crisis that hit this year; but had there been good management, California would have hit sooner or later because of the dramatic increase in energy needs in California and the lack of California's ability to meet those needs through increased power generation.

□ 2045

There has not been a new generation plant in California in the last 10 years.

So many, many people buried their heads in the sand thinking that the increased population was not going to have an effect on the infrastructure of California, when indeed, of course, it did, and it caught up with us in the form of these blackouts.

So I do commend the President for his desire to want to piece this thing together and diversify our energy base so that we are not so reliant on natural gas.

I have with me today a dear friend. My mom was born in his district in Arizona. The gentleman from Arizona (Mr. HAYWORTH) is here also to speak on the President's national energy policy, and I would like to yield him some time.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. RADANOVICH), for scheduling this hour to discuss the challenges at hand, and whether one resides in Mariposa County, California, or Maricopa County, Arizona, or Mecklenburg County, North Carolina, or Mecklenburg County, Virginia, for that matter, from coast to coast and beyond, in our 50 States we are confronting a serious challenge. We need a comprehensive policy, the type drafted by this administration, because we have reached a point where we must realize that this challenge is multifaceted.

We cannot conserve our way out of it. We cannot drill our way out of it. Instead, we need a calm, confident reassessment of where we are headed.

Mr. Speaker, as I stand here in the well of the United States House of Representatives and I look just behind me here to this podium, I am acutely aware that 40 years ago Jack Kennedy stood there and challenged this Congress and challenged this Nation to put a man on the moon and bring him safely back to Earth before the decade of the 1960s was completed. We were able to do that; a triumph of technology, yes, but a triumph of will and the human spirit. It will take that type of commitment. Just as we brought together the best minds and the most innovative companies to put a man on the moon, so, too, we need a national, organized effort, a strategic and financial partnership between business and government to solve the energy problems.

Am I talking about a State plan, excessive regulation program? Of course not. We need to find a reasonable, rational way to put the best minds in this country to work on this program, to take what is valuable from business, to take the strategic planning that should be part and parcel of our constitutional Republic and form a good partnership to solve the energy challenges we face.

Quite simply stated, we need less dependence on foreign oil and more attention to developing our own energy supply.

My colleague, the gentleman from California (Mr. RADANOVICH), summed it up. It is worth noting and amplifying. Early in the 1990s, the oil and gas needed by the United States, the majority of that oil and gas was produced within the borders of the United States. Some 60 percent was produced here in this United States. Foreign suppliers accounted for a distinct minority, some 40 percent. Sadly now, at the dawn of a new century, with almost a decade devoid of any energy policy, with almost a decade of the sweet by and by and we will take our risks and we will not worry about this, the situation is completely reversed. We now depend on foreign sources for almost 60 percent of our oil and gas. Simply stated, a reasonable, rational environmentally sensitive policy of exploring for more American energy is something that forms the foundation of what we need to guarantee an uninterrupted supply of energy when we need it.

It goes beyond that, as important as those products are, because when one thinks of the challenge of energy, when one thinks of what my colleague pointed out, we are talking ultimately not only about the process of exploring and ultimately consuming energy, but there is an impact to the pocketbook. The most immediate effect we think about and associate with across the country is the price at the pump.

We need to have a situation where we are no longer dependent on the Organization of Petroleum Exporting Countries, otherwise known as OPEC.

Here is one of the ironies at the outset of the 21st century: Saddam Hussein's Iraq, a nation which threatened the stability of its neighbors, attempted to invade and occupy another oil-producing state, Saddam Hussein's Iraq, a country in the early days of this administration where American war planes carried out a raid in part to try and disrupt the fiberoptic sophisticated air defense systems now being installed, here is the irony, Mr. Speaker, because of the lack of a cohesive, coherent energy policy, we now import more oil from Iraq than we did prior to the Persian Gulf War.

Mr. RADANOVICH. Mr. Speaker, I want to take the example of the gentleman from Arizona (Mr. HAYWORTH) and put an environmental approach to it, because I am in the Congress continually amazed about the hypocrisy of the extreme environmentalist movement in this Nation. I really believe that the current style of environmentalism in the United States will end when one cannot get water out of a faucet or one cannot get light out of a light switch. People tend in the United States to be very environmental everywhere else but their own backyard, and when emergencies hit like this, there is a change in perception about what we ought to be doing. It is that not-in-my-backyard approach, I think, that has led to a lot of this Nation's energy crises. It has been at the local levels of government, all across the country, but it has also been fueled a lot by the extreme environmental movement that basically puts the environment over human life, and the priorities thereof.

The reason why I wanted to bring that up, when the gentleman was mentioning this is, does the gentleman think that the environmental policies that regulate oil exploration in Iraq are much more stringent in the United States? I do not think so. Yet the United States uses 25 percent of the world's energy and only has 2 percent of the resources, and I do not know what the number is of that 2 percent that is locked up, but I guarantee it is a very, very high percentage.

We are such hypocrites in this country because we demand to use so much energy, and yet we refuse to use our own resources, where if we did that, energy demand would be much more environmentally responsible than in a Third World country.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. RADANOVICH. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I wanted to add to that point that in Russia, and I was recently in Russia, their pipelines that transport the oil, they actually use it for oil transportation as much as trucks, but they spill the equivalent of an Exxon Valdez-type spill every week just in transporting their oil.

Here we are, we could help them through aid programs trying to get these pipelines improved, which would help the environment but also our energy supply, and the gentleman said we have the best, the strictest environmental regulations in the country, and yet our environmental policies, our radical environmental policies, want to continuously pick on America.

It is interesting that in 1976, in Louisiana, that is when the last oil refinery was built in the United States of America in 1976. I bet the gentleman was cranking up his eight-track player by the time they opened that one up. In fact, the gentleman's eight-track player was probably already getting dated. The gentleman's slide rule was gone, and he was not driving his Ford Maverick anymore. That is how long ago we are talking about.

Now, unfortunately, radical environmental politics, now there are 8,000 environmental groups in the country. They generate something like $3.5 billion a year in terms of checks and revenues to them. The Sierra Club out in the great State of California pays something like $57,000 a month just on rent in San Francisco. That is how big we are talking about. So we approach so many of these things emotionally to how can I best sell my membership rather than what are we going to do to have a good, balanced approach.

Our great friend Kelly Ann Fitzpatrick talks about a poll that says if the people in America are polled, 87 percent say they want clean air. Her question is, who in the heck are the other 13 percent? What is going on here?

We want a balance. We want clean air, clean water. We want energy-efficient cars. That is a given. It is extremely important.

At this point America is not ready to throw in the keys to their internal combustion engines and say, okay, we are all going to start riding bicycles. So as long as we have cars, let us keep the supply up for gasoline.

Mr. HAYWORTH. Mr. Speaker, I cannot help but think of the distinction here. It seems that to the cynic so much of what transpires politically is theatrical. We heard in the preceding hour, and I was especially struck by our colleague, the gentleman from New Jersey (Mr. PALLONE) on another matter, just dealing with disinformation and demonization rather than solutions. It seems to me especially on this topic, which touches every American, perhaps we should pledge ourselves not to an extremist environmentalism, but to an enlightened environmentalism; not to a radical environmentalism, but a rational environmentalism; not to the environmentalism of the elite, but to the environmentalism of the enlightened.

Our President has made sense of this because he says, Mr. Speaker, that one has to cease looking at this as an either/or. It is not, well, we will have a clean environment, or we will burn fossil fuels. It is not, we will have clean air, or we will commit to motor vehicles. Indeed, there is an enlightened approach that uses the latest scientific data for clean-burning energy; for environmentally-sound exploration. Though it may not be commensurate with the theatrical politics of demonization and disinformation that drives some of the eco campaigns my colleague talks about, it is what we should do because it is the right thing to do, to provide for our economy, but at the same time protect our precious environment.

Mr. RADANOVICH. Mr. Speaker, I would like to applaud the President for just the very reason that the gentleman just mentioned, because he is taking a leadership role on this issue. The polls came out the other day in the front page of the New York Times that he is slipping now down to 53 percent. Whether one agrees with that or not, I can see where a President like this has the leadership and the desire to want to improve America, to upset a few people and ruffle a few feathers just to make things different for our country and better. I think that is what real leadership is, and that is why I want to applaud the President for doing that.

The person who spoke recently was the gentleman from Georgia (Mr. KINGSTON), a wonderful representative of that State.

We are joined now by the gentlewoman from New Mexico (Mrs. WILSON), and I would yield to her at this point.

Mrs. WILSON. Mr. Speaker, I want to thank my colleague, the gentleman from California (Mr. RADANOVICH) for yielding me the time.

Mr. Speaker, I had the privilege of having supper tonight with two friends from Roswell, New Mexico, who are in the oil and gas business. They are second- and third-generation members of their families who are in the oil and gas business. I represent the State of New Mexico, which is one of the country's providers of oil and gas and uranium and coal. We provide the fuel that lights the lights across this country.

I think all of us understand that we have an energy problem in this country. It is toughest in the West, but it affects us all, whether it is the price of gasoline at the pumps or the rising price of the things that we buy in our stores that take energy to make.

I think there is a growing consensus in this country that we need a plan. We have not had an energy policy in this country for almost 20 years. We are more dependent on foreign oil today than we were at the height of the energy crisis. Fifty-five percent of the oil we consume in this country is imported from abroad, mostly from the Middle East, from OPEC. The sixth largest source of supply for oil in this country is now Saddam Hussein's Iraq. Most Americans do not know that, know how dependent we are for our energy security on countries abroad.

California also got itself into a real tough spot over the last decade. Their growing, robust economy required about 10,000 more megawatts of power, but they only built 800 megawatts of supply.

□ 2100

Only my mother can have it both ways. You have to be able to have the supply of energy to use.

Now, I do not think there are any quick fixes that are going to solve the energy problems in this country. I think we need a balanced, long-term approach that conserves the energy we have, and also gives us more supply; that will give us the stability in prices we all want and the energy that we need.

I think that this is much too important to do anything but the right thing. I am very pleased to join my colleagues here tonight to talk a little bit about it.

I spent Sunday afternoon in the East Mountains that are right up against the city of Albuquerque. One of the reasons that my family and I love being New Mexicans is we love the great outdoors. We love taking our children there. We love the beauty of the land in New Mexico. I know my colleagues would disagree, but I happen to live in one of the richest energy States in the Nation, but I also live in the most beautiful State in the Nation.

Mr. KINGSTON. If the gentlewoman would yield, you have gone too far now.

Mrs. WILSON. My colleagues, I know my colleagues would disagree, but I think you understand my feeling for the place, and also my knowledge that this is not an either/or question; that if we are smart about it, we can provide the energy that we need to live life the way we want to live it, without damaging the country that we love. I think that is the kind of policy we want to promote, which means we start with conservation.

One of the things I thought was real interesting about the President's energy plan was some of the data that was in it. In fact, we do not take credit for how far we have come in the last 20 years in energy efficiency.

This top line in this chart shows energy use at constant energy per dollar of gross domestic product, for how much we are producing in this country. We have gotten so much more efficient since 1972, which is the baseline year. We are using less energy per dollar of GDP.

Now, part of that is we have a more information-based economy and so forth, but we are much more energy efficient now. A refrigerator, we had to buy a new one recently, thank goodness my husband was at home to get one, and the refrigerator we bought uses one-third less energy than the one that we bought in 1972 that it replaced.

Our cars are more efficient and hold the promise of being even more efficient with hybrid vehicles, which will not restrict our power and our range of those vehicles. So we do wonderful things. We have made tremendous progress with conservation.

But we cannot conserve our way out of an energy problem, any more than I can feed my family just with the leftovers. You have to have the supply too. So we need to increase and diversify our supply of energy and give a balanced mix of energy.

One of the things I am concerned about is the growing reliance on natural gas. I know that a lot of folks do not know that about half of our power plants in this country actually use coal, and we are making progress on clean coal technologies. But most of the power plants on the horizon are going to use natural gas; and within 20 years, we are going to be so reliant on natural gas that we are going to have to be importing natural gas as well. Yet we only have one port in this country that can take liquefied natural gas, which gets to the third problem we have.

We have to work on conservation, we have to increase and diversify our supply, but we do not have the infrastructure in this country that is reliable and safe and gets things they need to have in order to have a strong energy policy. We do not have the transmission grids that we need. We do not have the pipelines that are safe enough and plentiful enough.

We have not built a refinery in 20 years in America. Our refineries are working at 97 percent capacity, which means if you have a fire or safety shutdown at a gasoline refinery, you immediately create a shortage of supply. We only have one port that can accept liquefied natural gas.

So we must address conservation; increasing supply, with responsible development of domestic supply; the infrastructure needs of this country; and, finally, we have to do some government reform. It should not be possible that the Department of Interior, the Department of Agriculture, the Department of State, can make unilateral decisions that affect our energy security without having to take our energy needs into account, and the way our government is set up today they can do that. That is not right, and we need to change it.

I look forward to working with my colleagues this summer on a comprehensive energy bill that is long-term to address some of these problems.

Mr. KINGSTON. If the gentlewoman would yield, I think that you have really hit a great point. I do not want to say anything bad about the great State of California, where my mother lived and my sister lived and lots of my friends do, but I have to take on a little bit your Governor on politics, because here is a State that has grown economically, done real well, demand for electricity has gone up, and he will not increase the supply; would not permit some of the things that Mrs. Wilson has talked about that increase supply, the infrastructure.

If my hometown, Savannah, Georgia, grew, and it has been growing. As it grows we have added new schools, we have added new hospitals, we have built new roads, we have built new bridges. In fact, the State of Georgia has had about an 18 percent growth. California, I know, has had unprecedented growth. Yet as Governor Davis would do those things, he would not add on any power plants.

Now, I have to ask, common sense would say if you are going to have growth in population, certainly you have to have growth in the supply of energy. For the Governor of California to come East looking for energy, when he needs to be sitting back in Sacramento signing bills and legislation that streamlines and simplifies regulation, it is ridiculous. He is being negligent.

The Governor, I understand, is going now on David Letterman. Okay, let us be real serious about our energy policy. Going on David Letterman. It is time to put the politics aside and get back to Sacramento and do your legislation.

Mr. RADANOVICH. Being the gentleman from California, if I may, if the gentleman would yield, I think the gentleman is right on the mark. But there was a separate issue in California that brought, I think, the energy crisis in the United States to the fore.

What the problem was in California was really a crisis in leadership in an improper reaction to a flawed deregulation bill that was passed in 1995. We began to see signs of that with this "deregulation" plan, that froze the rates at which utilities could charge consumers but put 100 percent of the energy that they were able to purchase on the spot market, which fluctuated from day to day. That is half a deregulation bill, that is not a full one. If you do not go all the way with deregulation, you do not have deregulation. It caused problems beginning in May of last year.

Mr. KINGSTON. If the gentleman would yield, does Governor Gray Davis of California think he is going to get new energy ideas from David Letterman, or is he just making a charade out of this?

Mr. RADANOVICH. I will say again that the problem in California was a crisis of leadership, and I think blurred objectives; one being a blurred objective, one objective being staying in office and getting reelected, and the other being providing for the needs of California.

Mr. KINGSTON. Has not Governor Davis received over $1 million from utility companies?

Mr. RADANOVICH. The very ones he vilified, many times they have not been able to speak to him unless it was at his own fund raisers. This is the way the whole thing worked out.

But the problem could have been solved a year ago, and I will make this point: if the Governor would have allowed for a modest retail rate increase by the utilities of, say, 25 percent, it would have driven down future prices; and he could have encouraged the utilities to get into long-term contracts where the wholesale price was below the retail price. We would never have been in this situation.

It was his delay in imposing a modest increase of 25 percent that, by the time he had to impose it, grew to 48 percent, and on top of that, diverting his energies to State bio-energy, the transmission lines. I give him credit, he was working for ways to get the utilities creditworthy, but his decision was delayed and delayed for political expediency and the fear of doing something wrong that might hurt politically. That was the crisis in California.

Mr. HAYWORTH. If my friend from California would yield, because this points up the real challenge afoot. If just one-tenth of the energy that is being utilized to engage in name-calling or to go on late night television, and I do not know, do stupid gubernatorial tricks or whatever is going to be required, if that were utilized to help solve the problem, that is the measure of a man or woman in public office. Not posturing and preening for the cameras and issuing attack memos and spin, but working to solve the problem.

Mr. Speaker, I have to ask my colleague from California, I heard other reports where temporary energy stations could have been placed into commission on an emergency basis, where some regulations had been streamlined, but what I find amazing is that, apparently, Mr. Speaker, the Governor of California said if the folks employed there do not belong to a union, why, then it was not worth opening the power plant.

Now, Mr. Speaker, whatever your feeling on the right to work or collective bargaining, it seems to me the collective need for energy outweighs the political chits called in by the union bosses.

Let me address, Mr. Speaker, my colleague from California. Are those reports true? Did the Governor say he would not allow these temporary plants to come on line, these regulations to be streamlined, unless the folks were union employees at the controls?

Mr. RADANOVICH. I have no doubt that that happened during the time from a year ago beginning last May to now. I think the real crime has been the hesitancy to provide leadership on the issue. Because of that, it led to a situation that could have cost the State maybe $2 billion to one that has cost the State of California $50 billion and has eaten up about a $12 billion surplus that we had last year. It really was a hesitancy to act, and an allegiance to labor and the environment.

Mr. KINGSTON. Let me ask the gentleman, why is it that the Governor of California has enough time to come on major comedian shows like David Letterman and come out in Washington for Democratic fund raisers and come back East to raise cane about George Bush, but he does not have the time to stay at home and solve the problem? Is the problem not better solved in California, rather than blaming it on George Bush, who just unpacked his bags when the crisis began?

Mr. RADANOVICH. The solution to California's problem was within the leadership of California, in the State legislature and the Governor's office. It was clear that that is where this problem was going to be called.

After a series of mistakes, refusing to impose modest rate increases, gallivanting off, getting the State involved in energy purchasing, buying energy for seven times more than what the utilities were able to receive for that energy, led this thing into such a precarious position that the Governor could not afford then to solve the crisis, frankly, because, if he did, he then would be answering questions like what the heck did you do with our $12 billion surplus? So, unfortunately, the politics do not allow for the solution in California. Just know for a fact that there is no solution to this paying four to seven times more for the energy in California than what is being gathered up by the utilities.

The reason that that is happening is because it is not politically expedient to solve the problem in California. There is too much need to vilify the President, there is too much need to vilify Members of Congress, those of us on the Committee on Commerce, because then the issue becomes why did you wait so long to solve this, when it could have cost far less in money and in damage to the State?

Mrs. WILSON. If the gentleman would yield, I am a New Mexican. I have never met Gray Davis, I would not know him if he walked in the room, but I do know people want us to get down to solutions and stop the blame game and get some things done.

I think that this House over the next 6 weeks has got a strategy for dealing with the energy problem that really stresses four things, and they are the four important things for a long-term balanced approach to America's energy needs. Those include things like conservation, increasing supply, fixing our infrastructure and government reform.

When we talk about conservation, there are so many things that we can do. Sandia National Laboratory is in my district in New Mexico and has done some of the leading-edge research on energy conservation in areas that most folks do not think about.

About 40 percent of the electricity used in America is used to put the lights on. Yet we have made so few innovations in lighting in America, to reduce the use of energy in lighting.

□ 2115

Super conductivity. That is kind of a long word, but what it really means is that when electricity goes down the wires, whether it is the transmission wires that take electricity from New Mexico to Southern California, or even just the wiring in this building that keeps the lights on, we lose electrons as it is getting to where you want it to do the job.

In fact, one of the executives with a public service company in New Mexico told me that because California is so big and New Mexico is really kind of small in comparison as far as number of people, we actually lose more electricity. Of the amount that we send to California, we could light up the entire State of New Mexico for a year, just because of the loss in transmission. Well, if we could save that energy through superconducting materials, in other words, materials that do not lose those electrons along the way that heat up the wires in our walls or along the transmission grid, we can use that energy to actually do work and not waste it.

Mr. Speaker, we have wonderful plans for next-generation power plants that will conserve electricity and will make power plants much more efficient as they turn the raw materials, whether that is neutrons or nuclear materials or coal or natural gas, and turn that into electricity; and when we make those more efficient, we use less of that natural gas and less of that coal in order to make the electricity to light our homes. But we also have to increase supply.

I want to say something here about nuclear energy. Nuclear energy is one of the safest forms of energy. It has some of the fewest emissions of any kind of energy that we have, and it is time to take nuclear energy out of the "too-hard column" where it has languished for almost 20 years. We are going to have a hydro-licensing bill, and it will come out of the Committee on Commerce, I hope within the next month.

Hydropower is one of the cleanest powers we have, and yet there are dams in this country that have existed for 200 years and they are under State control. What most folks do not know is that as soon as you put a turbine on a dam, it comes under Federal regulators, not State law; and it is a nightmare because it takes almost 10 years to get that turbine licensed to provide power and, in the process, you can be ordered to breach your dam. So why would anyone in their right mind take the risk of putting a turbine on an existing dam that has been there for hundreds of years? And as a result, we have clean, safe energy that is going over spillways and dams in this country because we cannot get our licensing right for hydropower.

There are wonderful things we can do with clean coal technology, with natural gas, where we have natural gas on nonpark public lands that we cannot get access to because the Bureau of Land Management is no longer focused on how we steward our resources, but how to keep people off the land that we enjoy in the West.

So there are things that we will do in this House to lead the way, to stop the blame game, to give ourselves a long-term policy on energy, to conserve, to increase supply, to fix our infrastructure, and to reform our government. I am very glad that this House is focusing on those things and not on politics.

Mr. RADANOVICH. Mr. Speaker, I would like to say, continuing to defend California, it was an issue of supply I think that is at the heart of California's energy problems; but the way out of the energy crisis in California now is to, number one, get the governor out of the energy purchasing business; and, number two, work over time to get those utilities creditworthy again so that they can begin to get back into the energy purchasing business, and then get them off the spot market as much as possible. Really, that is the way out of California's energy crisis, in addition to aggressively working on new power supply in the State.

Mr. Speaker, I yield to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from California. Those of us who hail from the West and in the western power grid, 11 States, including the gentlewoman from New Mexico and the great State of Arizona, along with our friends in California, understand that the implications of this are far, far-reaching, so there is more than a casual concern when it comes to flipping the light switch.

But listening to my colleague from New Mexico, I think it is important to amplify what has transpired. When she talked about clean-burning sources of energy, I could not help but think about the Palo Verde nuclear plant outside of Phoenix that has worked well and without incident for well on 2 decades, now serving and providing power for the Nation's sixth largest city. Even as we look across the ocean to Europe, while it is true that in Germany, there has been now a hostility, the hostility of the radical environmental movement to step away from nuclear power, we see that Germany's neighbor France has relied on nuclear power for the better part of 3 decades. If the French are able to do so, with safety measures intact, it would seem that American ingenuity, American technology and the ability to streamline regulation, to bring on line new technologies, should prevail.

I listened to the gentlewoman from New Mexico talking about the role of the Committee on Commerce, not to become prideful of different committee jurisdictions, but as the first Arizonan to serve on the House Committee on Ways and Means, the committee charged with tax policy, I think I would be remiss if I did not mention the fact that as we take a look at conservation and the promotion of new technologies, there is a role to be played in tax policy.

I have sponsored a bill that again champions residential use of solar power. The fact is, when that first came online, now almost 30 years ago, another broadcaster who had gone into public office, the late Jack Williams, Governor of Arizona, at that time there was this promise of nuclear energy, but the technology had not caught up with the vision. Now, we have made changes, to the point where residentially, for heating water, for cooling our homes, we have the opportunity to look to the sun, and solar power and solar energy on a residential basis. Just as so many Americans have their own garden in the backyard, we can look to a sound alternative form of energy with technological advancements and, in the long run, not only save on power bills, but save on taxation too.

Mr. Speaker, we should look to those types of commonsense policies. We should never forget that the term "conservative" and "conservation" share the same root, the same notion, that we preserve in a commonsense fashion and, in so doing, free up other sources for those who need them. That is something we need to remember. Conservation plays a key role; not the only role, but an important part to play, just as we look at tax policy and new exploration and streamlining regulation.

Mr. KINGSTON. Mr. Chairman, if the gentleman will yield, I wanted to touch base with what he is saying in terms of nuclear energy and what the gentlewoman from New Mexico was saying. In France, 76 percent of the homes and buildings are powered by nuclear energy; in Belgium, 56 percent; in America, most people do not know this, it is 20 to 25 percent already, and it is safe.

I represent Kings Bay Naval Base and all the subs down there are nuclear submarines; yet ironically, people in that county will say, well, I am against nuclear energy; it might be dangerous. So you have more nuclear power plants in your county than most of the States in the entire country.

But nuclear energy is safe. It is low cost, it has fewer disruptions of power. One out of every five homes in America are powered by a nuclear plant. It is the second single-largest source of energy already, and it provides almost 70 percent of all emission-free energy. This is something that we cannot ignore. There are 103 operational nuclear power plants in America today, and over 3,000 shipments of nuclear fuel that were spent were moved safely in the last 40 years.

So when we talk about nuclear energy, people need to understand that this is not some bold new frontier that we are talking about. I always hear people say, well, what about Three Mile Island? Mr. Speaker, there were no people killed at Three Mile Island. That does happen with other sources of energy; but the thing is, that was over 2 decades ago.

Again, going back to the days of the 8-track tape player, technology has moved. I think in terms of just the cellular telephones, my first cellular telephone was the size of a brick, it weighed about the same amount and could hardly transmit a message past a couple of oak trees. Technology has moved on. Technology has moved on in nuclear power. I think that we are just fooling ourselves by not being a little more bold and aggressive about it. Again, 76 percent of the houses and buildings in France are nuclear powered.

Mrs. WILSON. Mr. Speaker, if the gentleman will yield, it is interesting, on this issue of conservation, on Saturday afternoon I was on the west side of Albuquerque visiting a housing development that is full of first-time homes and the builder, Jerry Wade of Artistic Homes, specializes in energy-efficient houses and they build it into the house. I met a family there who were buying their first home. They were moving from a rental house, and one of the reasons they were moving is because their electricity bill had gotten so high. They were paying $160 a month for their electric bill. In the new home, which was larger, but the payment they were going to make, in a home that cost $110,000, and it was a really nice home, but Jerry Wade guarantees their electric bill will be no more than $20 a month, because they build the energy efficiency in.

One of the things that I hope to do in our conservation bill that we are going to be working on here is to make it possible for those savings to be taken into account when people apply for their mortgages, for their federally supported home mortgage loans, so that we can take into account that the electricity bill is going to be lower. The neat thing about what I saw on Saturday was, we are not talking here about something that costs more, we are talking about something that costs less, and that can be done in homes for first-time buyers, not just people who can put on solar panels on their homes.

Talking about where we are going with solar, it used to be that we thought about solar and, gosh, it takes 10 or 15 years to get back the cost of the solar panels. We are on the verge of innovations and technology that will be just as cheap to put on solar shingles on our houses as it is to put on tar paper shingles on our houses. The difference is we hook it up to the meter, and we can actually sell power back to the power company, if we live in a sunny place like my colleague from Arizona and I are privileged to do. We have solar-powered homes, and it does not power the electricity, but it helps preheat the water, it helps keep our electricity bills lower, it helps keep the gas bill lower by preheating the house and heating a bed of rocks under the House. We can do those kinds of things, and it is going to be in the very near future just as inexpensive to do that as it is to build a home the conventional way, and we should build those incentives in to the conservation bill we hope to pass here in the House.

Mr. HAYWORTH. Mr. Speaker and my colleagues, it has been very interesting to spend this hour, not engaged in disinformation or demonization, but looking for reasonable, rational solutions at the outset.

When the gentleman from California claimed this hour of time, I reminisced about the fact that 4 decades ago, President John F. Kennedy stood at the podium behind us and challenged us to go to the Moon. We harnessed not only a triumph of will and exploration, but a triumph of applying science to a national vision to deal with that challenge. Certainly this challenge cannot be as formidable. Certainly this Nation, with the best minds at the fore, working together with sound policies that streamline regulation, to make it reasonable that look for environmentally sensitive ways to explore for new energy options, that do the research to bring online the innovative new sources of energy and that realize that our destiny is within our grasp in terms of energy self-sufficiency. Certainly that can be the watchword, the vision for us. Certainly that is what the administration offers in its energy plan.

The challenge for us, Mr. Speaker, is to abandon the theater of politics where some have been so tempted to engage in name-calling and political posturing, to truly represent the American people to find sound solutions, to reject the environmentalism of the extremists and embrace the conservation and environmentalism of the enlightened. That is our challenge. I believe we are poised to meet that challenge, just as we put a man on the Moon in the 1960s.

Mr. RADANOVICH. Mr. Speaker, I agree with my friend from Arizona. I want also to state my admiration for this President for taking on this job. I do not envy him. I mean, I was born and raised right next to Yosemite National Park.

□ 2130

Mr. Speaker, I go up and I feel in many ways closer to God in the high country at 9,000 feet. I go to Yosemite, and I hug boulders, and I love them, and I love the environment.

This country has the reputation of holding the environment so sacred. It is wonderful, especially the States we represent and the beauty that comes from those States, those are treasures that we always want to cherish. But we also have people who have needs, who need water, who need electricity.

I am not willing to say that myself or my wife or my child have more of a right towards those needs than anybody else does. Everybody has a right to equal access to this infrastructure in this country, and so we have these resources, the desire to want to be environmentally responsible and, yet, the need to use energy and water and infrastructures.

So it is not an easy job, I think, but I want to applaud the President for taking this on, because it is not a real popular thing. It not something that will shoot him up in the polls for a while, but it will be something that he is providing leadership for in this country and that we so desperately need.

Mr. Speaker, before I wrap up this hour, I will yield to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON. Mr. Speaker, I want to thank the gentleman from California (Mr. RADANOVICH) for inviting me down to join him here this evening. I think if there is one thing that I will take away from this is that it is time to end the blame game, and to pull together and to lead as a Nation and to give this country real answers to the energy problems that we face.

Mr. Speaker, I look forward to working with my colleagues to that end, and I thank the gentleman from California for yielding to me.

Mr. RADANOVICH. Mr. Speaker, I thank the gentlewoman from New Mexico for her comments.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from California, and I just want to say that I do believe we can work together for good, sound science of modern technology, of solutions, and we can get there.

We can improve our infrastructure for energy to get the power to the places that it is needed. We can promote conservation, a balanced environment. We can simplify government regulations so that we can make some progress.

I am a member of the Committee on Appropriations, and we will continue in this Congress and continue to fund research and development on alternative and renewable energy sources.

Mr. Speaker, I am very excited that Honda has on the drawing board right now a hybrid car that will get 75 miles a gallon. I am excited about these fuel cell cars that are out there that have these perpetual batteries. I believe that our government has a role in funding such research, such general research, and we are going to continue to do that.

Mr. Speaker, I also applaud the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from New Mexico (Mrs. WILSON) for your boldness in speaking out on nuclear energy, because I think it is something that Americans need to be comfortable with the dialogue.

Finally, I want to say that I think that we should continue to explore alternative uses and evaluate our own domestic resources to see what we can do to become more energy-independent and not risk our national security on the whims of Middle East dictators and kings and despots.

I thank the gentleman from California (Mr. RADANOVICH) for inviting me to be here tonight and look forward to working with the gentleman and the rest of the Congress on some very positive solutions.

Mr. HAYWORTH. Just one note in closing, Mr. Speaker. Very soon we will move past the rhetoric, and we will have to roll up our sleeves and make it happen. The administration has put out a plan.

I cannot help but think about the holiday we are about to celebrate and observe, the independence of this country. A new biography of our second President John Adams has been written. In the final year of his life and the final days, a committee of men from his home State of Massachusetts went to visit the second President, at that time his son was President of the United States, and they asked John Adams, Mr. President, would you like to propose a toast to the country you helped to found? And he stood up there, stiff-legged, still the strong voice, and he offered two words: "Independence forever." They said, Mr. President, do you want to add anything else to that? And he said, no, not a word, that suffices.

Indeed, not only in the tradition of this constitutional Republic, but for the future of a sound energy policy with an enlightened environmentalism, let that again be our cry: Independence forever.

Mr. RADANOVICH. Mr. Speaker, I want to thank the gentlewoman from New Mexico and gentleman from Arizona and the gentleman from Georgia for participating in this special order.

OPEC OF MILK

The SPEAKER pro tempore (Mr. SHUSTER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Wisconsin (Mr. GREEN) is recognized for 60 minutes.

Mr. GREEN of Wisconsin. Mr. Speaker, we will not take all that time this evening, but I wanted to talk about a subject that probably many people out there tonight have never heard of yet and, I would suggest, adversely affects millions of people.

It is something that was recently described by the Wall Street as the OPEC of Milk. It is a price-fixing cartel for milk that hurts families all over the country, especially those who are least able to pay for it.

The history of the OPEC of Milk, the Northeast Dairy Compact, is somewhat interesting. Back in 1996, a small group of New England Members of Congress formed something called the Northeast Dairy Compact. The way it was authorized was not to bring it to the floor of the House or to the floor of the Senate for a vote, but, instead, they were able to sneak it into a conference committee report under an appropriations bill.

Now, their intentions were sound. They believed back in 1996 that this cartel that they created, the Northeast Dairy Compact, would, in their words, help stop the loss of family farms in six New England States by guaranteeing a minimum price for milk. That sounds harmless enough. I was not here at the time, but had I been, those sentiments are certainly ones that we all could have supported.

I would suggest to you, Mr. Speaker, and to those who are listening tonight, that those good intentions went awry a long time ago, and that the OPEC of Milk has done tremendous damage not only to our dairy system and to dairy farmers in New England and all over the country, but also to so many families who are trying to afford the great nutrition that we have in our dairy products.

The reason that this is so timely is that the Northeast Dairy Compact is due to expire in September of this year. This compact clearly could not stand on its own merits, and so we have had some of its strongest supporters, particularly Senator JEFFORDS over in the Senate, saying that he understands how unpopular it is. He implicitly understands how bad it is, but he has said that he is bound and determined to get this reauthorized, passed in September no matter what it takes.

In fact, he told the Associated Press not 3 months ago that his goal would be to "sneak it in through the stealth of the night. And to get it through when people are not looking."

Mr. Speaker, the Northeast Dairy Compact should die a peaceful death in September. First, it has not met its goal. It has not stopped the loss of family farms, not even in the New England States that are part of this compact.

Second, as we will talk about tonight, the Northeast Dairy Compact has raised the price of milk to consumers. It is what so many people have called a milk tax.

Third, the Northeast Dairy Compact has accelerated the loss of dairy farms in other States, States like mine, Wisconsin, States like Minnesota, those whose States together have the largest number of dairy farms in the Nation.

Finally, and perhaps, in my view, most damaging, the Northeast Dairy Compact has prevented us from dealing with our dairy problems on a national basis, and we do have tremendous problems in the dairy sector. We are losing dairy farms each and every day, and we must do something, but as long as we have a policy like the Northeast Dairy Compact, which pits State against State, region against region, farmer against farmer, we will not get that national policy.

Mr. Speaker, I think it is important to understand clearly I have an interest in this. I come from America's Dairyland of Wisconsin, but it is not just me, not just those in Minnesota and Wisconsin who believe that the Northeast Dairy Compact is an abomination. It is others, analysts, journalists.

Mr. Speaker, I will read from a few, the Wall Street Journal recently said not 2 weeks ago that compacts are "basically a highly regressive tax on milk drinkers, starting with school-aged children, creating them is a tacit endorsement of the OPEC cartel."

There is the Consumer Federation of America, hardly a biased group, hardly a Republican group or hardly a Midwestern group, the Consumer Federation of America, which represents over 50 million consumers nationwide said not a month ago that regional dairy compacts give too much money to farmers who do not need the help, too little money to farmers who do need the help, and they asked consumers, especially the low-income consumers, struggling to feed their families and pay the rent to pick up the tab.

There is Americans for Tax Reform, which refers to compacts as dairy cartels.

There is the New Republic Magazine, which said that the Northeast Dairy Compact was "a system that can best be described as socialism."

There are groups like the Council for Citizens Against Government's Waste, which says that this is a regressive milk tax on Americans; or the National Taxpayer Union, which said that the Northeast Dairy Compact is "a cartel that only a robber baron could admire."

So it is not just folks from States like mine, Wisconsin. It is consumer groups, journalists, people really across the country, across the spectrum, who realize that the Northeast Dairy Compact was a bad idea. It has not gotten any better, and it should die a peaceful death.

Mr. Speaker, the gentleman from Minnesota (Mr. KENNEDY) is my good friend, and in his brief time here in the House has become a wonderful voice for dairy farmers in Minnesota. He is a true leader who I think is going to be a tremendous asset to all of us as we try to reform this outdated dairy system.

Mr. Speaker, I yield to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. GREEN) for yielding to me and thank the gentleman for his leadership on this very important issue.

People may ask, how did this ever come about? How did we get this dairy compact? The gentleman gave a little bit of the history, but the U.S. Constitution does allow States to enter into compacts upon passage of State laws and the consent of Congress. These consents have been granted in some cases to allow States to work together on parklands or transportation systems or waterways; however, there is no precedent for price-fixing compacts evidenced in this situation.

This is the only case where we have allowed a region of the country to set a price-fixing compact against other regions of the country, and how this affects us is if you have excess production of milk that you do not drink with cereal or otherwise, you generally turn that into cheese. So if there is excess production in the Northeast, they convert that into cheese.

For those major milk-producing States that include Minnesota and Wisconsin, but California, Idaho, Arizona, several others, that takes away from our cheese market. In fact, the Northeast Dairy Compact was fined $1.76 million in 1998 for the extra amount of money that the USDA had to consume in buying extra production coming out of the Northeast.

They have since instituted just recently some type of supply management in the Northeast, but if you think of how un-American this is, let us just say we decided that we do not think that Michigan should be disproportionately producing so many cars, so we are going to have, the rest of the country, a non-Michigan auto compact where we are going to produce the autos we need outside of Michigan and let Michigan only produce the cars that they can use in Michigan.

□ 2145

Orange juice. What if we decided that we are going to have an other than Florida oranges compact where we are going to produce our own orange juice and let Florida just produce the amount of orange juice that they can consume in Florida. Or movies in California. Or you can go on and on and on.

I mean, this is ridiculous. It is un-American. It undermines where we have been strong in the past and what has made America strong in the past; that we are one country, that we do not have divisions among States. Our Founding Fathers were very nervous about that happening.

Why we would let this happen and undermine our strong dairy industry in Minnesota, Wisconsin, the upper Midwest and other States around the country is something that is beyond me.

It is something that, if American people understood this issue, they would be against it. If they understood, not just that they were being taken advantage of as consumers, but that one area of the country is going and pitting against another area of the country's strength, they would be uprising and saying we want to end this. Certainly we do want to end this.

I appreciate the gentleman from Wisconsin (Mr. GREEN) reserving this hour to make sure that we can help educate the American people on this subject.

Mr. GREEN of Wisconsin. Mr. Speaker, I thank the gentleman for his comments. I think that the gentleman has pointed out what may be really the greatest tragedy from the Northeast Dairy Compact. Nobody wants to help dairy farmers more than I or the gentleman from Minnesota (Mr. KENNEDY). I mean, we come from dairy States which had the largest number of dairy farmers.

It is interesting, when we were debating dairy policy last year in this House, some of my colleagues from the northeast States got up and talked about how many dairy farms that their home States, their home districts have lost. I remember a good friend of mine from the northeast exclaim that his State had lost some 200 dairy farms last year.

I would like to put things into context for a moment. In my home State of Wisconsin, by this time tomorrow, by a quarter to 10:00 tomorrow night, Wisconsin will have lost four more dairy farms. We are losing four dairy farms each and every day. Over the last 10 years, we have lost 13,000 dairy farms. In fact, we as a State have lost more dairy farms than any other State ever had save the State of the gentleman from Minnesota (Mr. KENNEDY).

So no one, no one wants to do more for dairy than those of us who represent States like Minnesota and Wisconsin. But we understand that to fix dairy problems, to meet the challenges, to be successful, to be compassionate, we have to have a national dairy policy, one that works all across America.

The Northeast Dairy Compact rewards some dairy farmers. In fact, it encourages them to overproduce and harms others. It pits farmer against farmer, State against State, region and region. That cannot be good.

As I talked to farmers in my home State and dairy farmers from all across America, they understand that one cannot have a policy that pits farmer against farmer. We cannot meet our challenges if we are divided and fighting amongst ourselves.

The system that the gentleman from Minnesota (Mr. KENNEDY) described is Stalinesque. I mean, I think the problem that we have had, so many of us who are so opposed to the Northeast Dairy Compact, is that, when we tell people how bad it is and we describe how it is set up, they do not believe us. They do not believe that, in America today, you could have such an absurd, illogical, irrational system. I am afraid, Mr. Speaker, it is true. Believe it or not, we do have such a system. It makes no sense. It does not work. It is, to put it kindly, a great distraction as we should be taking on so very many important issues.

Mr. Speaker, I yield to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, I would like to say that this dairy compact is kind of like salt in the wounds that are already being put in place by an underlying milk marketing system that, again, hurts the natural dairy producing States of this country.

When in the 1930s we implemented milk marketing orders, that was designed to make sure that fresh milk was available all over the country. It may have made sense back then; but right now, it divides milk into four classes, all of which receive a different price.

The class 1 milk which we drink out of our glass gets 33 percent or more higher price than what we make in the cheese. Since we are primarily exporters of dairy, we convert about two-thirds of our production in our region into cheese; and, therefore, our farmers receive more than a third less already, just setting the dairy compact aside, for our milk production than those like the northeast that are producing primarily for fluid, milk.

So we are already being penalized by an archaic system that we have not been able to overcome because of the resistance of people in the northeast. We are already being penalized.

Then when they have one down, the dairy compact is really piling on. It is piling on and saying, okay, you know, you are already only getting 60 percent of what we get, but that is not enough for us. We want more. We want to take more out of your income. We want to take more of your dairy farmers and put them out of business. We want to try to prop up what we have.

It really has not had that beneficial impact. They are still losing family farms in the northeast area. They are still not really having the benefits that they speak of at the same time that they are clearly penalizing us.

As the gentleman mentioned, Minnesota and Wisconsin. Many of the people I know, I live in a rural area of Minnesota called Watertown where there are many dairy farmers that go to our church. I could name off names of dairy farmers in the last year that I know that have gone out of business. The milk marketing orders and the Northeast Dairy Compact are to blame for that.

The gentleman's father, I know, is in the medical profession; and the first rule they learn is to do no harm. It would be good for us as legislators to know, to do no harm.

Well, this is clearly something that harms Americans, harms millions of Americans, favors a very small few, and it is something that we should stand up against. It is something that Americans should stand up against.

Write your Congressman wherever they may be and say this is something I do not believe in. This is something that undermines everything that I believe about America.

I ask my colleagues to oppose the dairy compact because this is just the northeast now, but I have a map here of those areas that want to go into dairy compacts. It includes just about every State in the country that is not a producer of dairy over and above their own needs. It includes everything other than just about Minnesota, Wisconsin, Idaho, California, other large dairy producing States.

Again, I go back to my examples of cars outside of Michigan, citrus outside of Florida, movies outside of California.

What if one decided that one cannot do financing, we put a wall around New York and say all of the financing outside of New York has to be self-sufficient, and, therefore, New York can only finance New York. Do my colleagues know what would happen to Manhattan Island that could only finance loans that were being used on Manhattan Island? That is what kind of an effect this is having on Minnesota and Wisconsin and our other natural dairy States.

As the new republic says, this is a situation where we are penalizing those areas that are most suited to dairy farming. They received the lowest payments for their milk; and those from the least efficient regions received the highest. The system, by design, punishes the efficient farmers and rewards inefficient ones. This is not the way that America becomes strong and stays strong.

I urge our Members to vote against the dairy compact. I urge voters to contact their legislators and express their views on this very important subject.

Mr. GREEN of Wisconsin. Mr. Speaker, I thank the gentleman; and he has made some great points. In our States of Minnesota and Wisconsin, we have a lot of dairy farmers though the numbers are obviously dwindling. But our dairy farmers, they know they are in a tough profession. They are in a tough way of life. The hours are long. They do not have vacations. One has got to milk every day.

All they are asking for is a chance to compete. The dairy farmers I talk to say, look, you know, we understand this is a tough business. Give us a level playing field. We will compete with any dairy farmers in the world.

The problem is that, with the Northeast Dairy Compact, we do not give them that fair chance to compete. We set them up to fail right off the bat; and that is wrong.

Can my colleagues think of any other commodity that we treat like that? The gentleman from Minnesota (Mr. KENNEDY) has just run through some of the examples of how crazy it would be. But not just the compact and the milk marketing orders. Think about our pricing system that we take milk, and we offer a different price to farmers based upon the use down the line of that product. That does not make any sense. I mean, it is the same cows. It is the same fluid. Yet, we treat it differently. In States like Minnesota and Wisconsin, because so much of our milk goes into manufactured dairy products, again, our farmers are losing.

As I began this evening, I said that, when this system was created, and it was, again, sort of slipped in in the dark of night in a conference committee report, it was done by some Members who really had the best of intentions. They wanted to reverse the decline of dairy farming in New England. But the sad news is it has not worked.

So I would appeal to my friends from the northeast to reexamine their support for the Northeast Dairy Compact, because if they believe that we need to take action to help dairy farmers, this is not it.

The Boston Globe last year did a really interesting study. They studied the States of Massachusetts and Vermont, and they looked at the effect of the Northeast Dairy Compact. Their study showed that, in the 2 years before the Northeast Dairy Compact was concluded, the State of Massachusetts lost 34 dairy farms and the State of Vermont lost 117.

Interestingly, though, in the 2 years after the compact went into effect, the State of Massachusetts lost 44 dairy farms, 10 more, and the State of Vermont lost 153. The compact is not working. In fact, the loss of dairy farms is accelerating.

It is interesting. If one goes beyond those two States to the entire New England region, one will see that 25 more dairy farms went out of business after the compact than in a comparable period before the compact.

What may be most painful of all and really distressing, since the most vulnerable dairy farms in America today are the smaller ones, 50 cows or less, the compact has actually accelerated decline in those farms, the small farms, those that are most vulnerable.

The Consumer Federation of America said recently that, because compacts pay farmers on a per-gallon basis, most of the benefits of this fixed price that they have go to the larger farmers who do not really need it.

I heard earlier this evening the gentleman from Vermont (Mr. SANDERS), who loves to talk about how we should be on the side of the little guy, he talks about how corporate interest dominate this Congress. Well, the gentleman from Vermont (Mr. SANDERS), my good friend, if he wants to help the little guy in dairy farming, abolish the Northeast Dairy Compact. It punishes the family farm. It makes it worse. It makes it harder for them to get by, and it rewards the largest farmers.

So even if this started with noble intentions, the reality, the stark reality is it has not worked. It is time to end it. It is time to go to a nationwide policy that does not pit farmer against farmer. It is time for a national policy that works.

Mr. Speaker, I yield to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, I would just say that we are going to be debating foreign trade and giving our President trade promotion authority coming up here very soon. We know, many of us know the benefits that we receive from trade.

Classic economics would teach us that, if we can do something better than someone else, and we each do what we do best, we all benefit. We all benefit from having lower cost of goods. We all benefit from higher employment, higher income levels. The increased prosperity around the world has really sprung from countries opening up their markets and each focusing on what they do best.

□ 2200

If foreign trade is so beneficial to the world, if opening up markets with other countries is so beneficial to us, why should we have open markets with Europe, with Asia, if we cannot even have open markets with Vermont? Again, I have to go back to what you have said. When you tell people about this, they cannot believe it. We are used to being pitted against each other when the Packers play the Vikings, and we are used to having our rivalries; but we all come together when it comes to singing that national anthem at the beginning of our games. This does in a nonsportsman-like fashion pit one region of the country against the other in a very unfair way that undermines one region's strength and subsidizes another region that does not have those natural strengths when in fact they have natural strengths that are still benefiting them, but they are not letting us benefit from our natural strengths.

Again, this is something that I implore our colleagues to do everything they can to oppose and certainly we will continue to try to spread the message across the land, that this is something that is un-American and should not be supported.

Mr. GREEN of Wisconsin. The gentleman from Minnesota is right that our two States have football teams that are great rivals. I guess the Northeast Dairy Compact would be like giving the Packers an extra player. Maybe we deserve it, but that is another debate. I think, though, that my good friend and colleague brought up a very important point when he talks about free and fair trade and the great emphasis that we are placing as a Nation and a people on opening up markets and on trying to promote free and fair trade. I think we understand the importance of commerce and growing this economy. But does it not seem just a tad hypocritical as we send our trade representative, even our President, all around the world and we ask, we demand, that he works to lower trade barriers, at the very time when we are trying to demand that these countries drop their trade barriers, have no tariffs, allow for the free flow of our goods, we have barriers between our own States? We have tariffs between our States. How can we in all seriousness look our trading partners in the eye and tell them that they have to do more to open up their markets to our goods when it would be so easy for them to say, Mr. President, why is it that in dairy, you have barriers between your own States? It makes no sense. And at a time when we are trying to open up markets, how can we be restricting markets in our own country?

One other area I would like to touch upon briefly tonight, and I appreciate the indulgence of the listeners tonight, I come from a dairy State, the gentleman from Minnesota comes from a dairy State, this is a matter of great interest to him, of great interest to so many families who live and work in the dairy sector; but even if you are not part of the dairy sector, even if you are not from a dairy State or even an agricultural State, this will affect you.

A recent study suggested that consumers in the Northeast Dairy Compact States are overcharged for the price of milk by about $100 million each and every year. The price of milk is artificially high as a result. It is interesting. Many of our colleagues want to expand the New England compact, they want to expand it and create a southern compact. One study suggests that if a southern compact is created, it would raise the price of milk by at least 15 cents a gallon. It would cost consumers $500 million a year at the very least. That is a conservative, modest estimate.

The Northeast Dairy Compact is a tax on milk. It raises the price of milk. It takes one of our most nutritious products, one of the best things that you can possibly give to children to ensure that they have the nutrition to grow strong and fast, and it raises the price. It not only raises the price of milk, but it damages the very nutrition programs that we are struggling so hard to find money for. Families with low incomes who utilize food stamps, Meals on Wheels, the dollars that we spend for those terribly valuable programs do not go as far because of what we have done to the price of milk. We are discouraging people from consuming milk, and we are making milk more expensive for those low-income families. That is outrageous. Even if you are not from a dairy State, even if you are not from an ag State, you cannot support a tax on milk. You cannot support taking one of our most nutritious products and making it less affordable. It is just wrong. We cannot do it. We must not do it. It is the wrong thing to do, and it is something that must end.

I implore our colleagues from all around the country, we represent diverse districts, but whether you come from an ag district or not, end this outdated, foolish experiment. It has not worked. It has done so much damage. It has cost so many farmers their livelihoods. It has made milk so much more expensive. It is time to end it. It is time for it to expire. It is time for us to develop a national dairy policy. We can develop a policy that rewards farmers for what they produce, that creates competition, that raises the amount that they receive but keeps the price to consumers low and affordable. We can do it if we come together.

I appreciate the gentleman from Minnesota so much for joining me this evening. I offer him the opportunity if he has any final thoughts that he would like to share.

Mr. KENNEDY of Minnesota. I will just close by saying the gentleman has talked about the broader sense of consumers, how this is hurting consumers. But this is an example, an unprecedented example of the tyranny of a minority by the majority. Those who believe in our government, those who believe in civil liberties should not idly look aside and watch where one region of the country, just because we have fewer congressional votes here in the upper Midwest, can be penalized by another area of the country without really repute. Again I must emphasize as I began and leave as I began, when I talked about no other case is there where a State compact has been a allowed to create the cartel, the OPEC that you opened with and have price-fixing and get away with it. This sets a very bad precedent for any number of other things that can come to a State near you and hurt your local economy, hurt your consumers and undermine the very freedoms and civil liberties upon which this country was based and is based.

Again, I thank my colleague from Wisconsin for the leadership that he has taken on this issue. I pledge to work with him and our other colleagues around the country that believe very strongly that this is wrong, that this ought to be opposed. We implore our listeners and our fellow colleagues to really dig in and understand this and really understand how this is undermining America.

Mr. GREEN of Wisconsin. I appreciate the great work of the gentleman from Minnesota in this area. Again, he may be a new Member; but he is already showing great leadership, particularly in agricultural issues, and I know the issues that are important to rural Wisconsin.

I guess to summarize, what we have started tonight, Mr. Speaker, we hope is an important stride in an educational effort to help our colleagues here in this institution and the people around America to understand what this bizarre thing called the Northeast Dairy Compact really is, what has been called the OPEC of milk. It is bad because it raises the price of milk, it is bad because it does not work, it does not prop up the dairy farms of America. In fact, it accelerates their decline. Do not take our word for it. You can listen to groups like the Wall Street Journal or the Consumer Federation of America or Americans for Tax Reform, the New Republic Magazine, the National Review. How many times do you get the New Republic and the National Review to agree on something? Citizens Against Government Waste, the National Taxpayers Union. Group after group after group has said to us and we are saying to you, this is wrong, it is bad public policy, it is time for it to end so we can move forward.

PAYING HOMAGE TO A SPECIAL GROUP OF VETERANS, SURVIVORS OF BATAAN AND CORREGIDOR

The SPEAKER pro tempore (Mr. SHUSTER). Under the Speaker's announced policy of January 3, 2001, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, I rise tonight to pay homage to a special group of veterans. As all vets, all World War II survivors, they sacrificed for their country. But this is a very special group of veterans, a very special group of veterans from the Second World War. They are special in that their fight for justice continues to this day. They fought for us, but their struggle goes on and goes on. Instead of fighting the militarists of Japan, they today are forced to fight the lawyers of Japanese global business giants like Mitsubishi, Mitsui, and Nippon Steel. Instead of battling in the jungles, they are battling in the courtroom.

And the greatest irony is that instead of having the American government on their side, these heroic veterans find themselves arguing in legal battles against representatives of their own government. This is the story of the American survivors of Bataan and Corregidor, some of the most heroic of America's defenders in the Second World War. When they were captured, they were forced to serve as slave labor for private war profiteering Japanese companies. They were deprived of food, medicine, often even clean water. They were used as work animals and treated as animals. The Japanese companies that worked these Americans, they worked them often to death, violated the most basic standards of morality, decency and justice.

But most important, these Japanese corporations violated international law. They were accomplices to war crimes. Some of them even committed those war crimes. Instead of righting wrongs and admitting mistakes and putting the past behind them, like many German companies have done, these Japanese corporations have stonewalled efforts to bring justice to those they wronged. And why should they not stonewall these American heroes? The United States State Department has taken their side against that of Americans who fought and gave their lives and put their lives on the line for the United States of America in the Second World War. The State Department has taken the side of our former enemy rather than the side of our defenders.

Dr. Lester Tenney, a survivor of the death march in Bataan and of a slave labor camp says, and I quote, "I feel as if I am once again being sacrificed by our government, abandoned not for the war effort as in the past but for the benefit of Japanese big business."

I believe Dr. Tenney has a point that deserves to be heard. In the hours following the attack on Pearl Harbor, the Japanese attacked U.S. installations in the Philippines. The United States forces retreated to the Bataan Peninsula and made their historic stand. Holding off the Japanese for months, they gave America time to regroup and to rally and to come back. Our government at one point had to make the heart-tearing decision to sacrifice the brave heroes of the Philippines because they knew they could not come to save them without causing the death of many, many, many more Americans in the long run and perhaps a failure of that operation itself. So the decision was made, yes, to abandon those American heroes, tens of thousands of them there in the Philippines. MacArthur was pulled out, he was ordered by the President to pull out, and our troops were left there. They were left there, as the song of the day went, with the battling bastards of Bataan, no mama, no papa, no Uncle Sam.

□ 2215

After the fall of Bataan, American and Filipino troops were forced to walk more than 60 miles in the infamous Bataan Death March. These were men that were weakened already, without food, without water, and they were denied any type of help along the way. Some Filipino people risked their lives; not only risked their lives, but gave their lives in order to throw little bits of water or food to these men as they marched for those 3 days of the Bataan Death March.

They were beaten, and they were starved as they marched. Those who fell were bayonetted. Some of those who were not walking fast enough were beheaded by Japanese officers who were practicing with their samurai swords from horseback.

The Japanese culture at that time reflected the view that any warrior who surrendered had no honor; thus, was not fit to be treated like a human being. Thus, they were not committing these crimes against human beings. The Japanese soldiers at that time, as was mandated and dictated by their culture, felt they were dealing with subhumans and animals.

This is not a crime of the current Japanese generation. The Japanese for the past 50 years have had a strong democracy, at least for these last three or four decades have had a strong democracy, and the Japanese people are America's best friends. They have a civilized country, and none of them need ever to feel like any of the talk that is going to go on about these men receiving just compensation for what was done to them at Bataan and Corregidor and then later on in the Japanese Islands of Manchuria, the Japanese people themselves are not the target. We are not trying to make these people feel guilty. This was, after all, the culture of their day, and that culture has changed.

America had a racist culture for many years. We had slaves in the last century, and the fact is that Americans corrected that. We paid an awful price. In the Civil War, we paid a price of hundreds of thousands, of millions of our own people who died trying to correct this evil in our society.

The Japanese people of today who admit that their country in the past has done wrong need not hang their head in shame, but it will be a shame, and it will be a black spot on the Japanese people if these crimes are covered up and if wrongdoing is not admitted. That is the only accountability the Japanese people of today have.

Those people and those corporations that worked these men as slaves, they have a legal responsibility. It is through these men who were wronged and worked as slaves by these Japanese corporations that still exist, by giving justice to these men we can close this book, and we can bring this chapter to a close and close this book and move on. The Japanese people need not feel guilty after that compensation and that apology is made.

In the 3 days of the Death March, 650 to 700 Americans died. They died the worst possible death. Then after enduring this hell, many of the thousands of Americans that had survived that Death March, along with other American prisoners who had been taken prisoner in other areas of the Pacific theater, they were taken, thousands of them, in so-called hell ships to Japan and to Japanese-occupied territories. Packed into cargo holds, these POWs struggled for air, for simple air, in temperatures that reached 125 degrees. It is estimated that over 4,000 American soldiers died aboard these hell ships.

Again, the Japanese treated them like animals because at that time the Japanese were taught if anyone surrenders, they are no better than an animal because they have no honor.

Our POWs struggled to survive the harshest conditions imaginable. Toiling beyond human endurance in mines, in factories, in shipyards and steel mills, often under extremely dangerous working conditions, they were worked like animals. Company employees beat them and harangued them. Of course, the Japanese work force was all off in the army. They used these slave laborers to make sure Japan could conduct its war effort. In doing so, they treated these men, our men, our heroes, like animals, and they starved these men. They denied them medical care. These brave heroes, Americans, suffered from dysentery, scurvy, malaria, diptheria, pneumonia and many, many other diseases, yet they were not treated, and they were permitted to die. With few rations, and many rations that were simply unfit for human consumption, they worked and they were beaten. POWs were reduced to skin and bones.

Today, many of those who survived this ordeal still suffer from health problems directly related and tied to that time when they were worked as slave laborers by the Japanese militarists. When one hears the survivors tell their stories, they will never forget how much we owe these heroic individuals.

Frank Bigelow, 78 years old, from Brooksville, Florida, was taken prisoner at Corregidor. Mr. Bigelow was shipped to Japan, where he performed forced labor in a coal mine owned and operated by Mitsui. "We were told to work or die," Mr. Bigelow recalls. Injured in a mining accident, Mr. Bigelow had to have his infected broken leg amputated by a fellow POW. That leg was amputated without anesthetic. At war's end, though standing 6′4″, Mr. Bigelow weighed 95 pounds.

Lester Tenney, 80 years old, of La Jolla, California, became a prisoner of war with the fall of Bataan on April 9, 1942. He was a prisoner of the Japanese, and he survived the Bataan Death March but was then transported to Japan aboard a hell ship. In Japan, he was sold by the Japanese Government to Mitsui and forced to labor 12 hours a day, 28 days a month, in a Mitsui coal mine. "The reward I received for this hard labor was beatings by the civilian workers at that mine," he said. They worked him, and they beat him, and they treated him like an animal.

These are just a couple of the stories. The horrors they suffered at the hands of profit-making Japanese corporations can fill the pages of a book and, in fact, have filled the pages of many books.

Their case is clear. The facts cannot be denied. Their claims should not be dismissed or explained away, and their cause should be the cause of all American patriots, and especially should be the cause of the American Government, which they defended with their lives.

What makes all of this more difficult to understand is why the State Department refuses to assist these heroic veterans. It is hard to fathom why the State Department was willing to help facilitate the claims of victims of Nazi Germany but not these victims of militarist Japan.

Certainly the Germans committed atrocities during the war. Nazi Germany was a place of horrors, and the German people have admitted it and tried to make good and tried to bring justice to these claims, and we have backed them up. We have backed them up because it is the right thing to do. We have backed up those people making the claims, and we have encouraged the Germans to move forward in this way.

There is no reason on God's Earth, there is no reason in the cause of patriotism and honor, that our government should not be assisting those Americans that were used as slave laborers by the Japanese corporations. These American heroes who survived the Bataan Death March, these heroes were worked nearly to death by these Japanese corporations. There is no reason that we should not be with them 100 percent.

Instead, they fight a lonely battle. The lawyers for the State Department are allying themselves with these war profiteers in Tokyo against the Americans they victimized. The best legalese they can muster is being used to undercut the claims of our American heroes. They are erroneously claiming that the peace treaty with Japan bars these veteran heroes from making these claims against these Japanese corporations that used them as slave labor.

It is wrong, and it is utter nonsense, for a number of reasons. First, as the State Department has elsewhere conceded, the waiver claims of U.S. private citizens against the private companies of another country is not merely unprecedented in the history of the United States, it is not recognized under international law and raises serious constitutional issues under the fifth amendment.

What that means is that it is unprecedented that the United States is claiming that our own citizens cannot sue another company in another country, especially when there are human rights violations involved and international violations of law. This is unprecedented that we are saying that our people cannot even make a suit.

So it might violate the very Constitution, the constitutional rights of these heroic Americans who defended our country, who gave the greatest sacrifice, nearly gave their own lives, but saw many of their friends and loved ones give their lives. It could well be, and I believe that it is true, that this is a violation of their constitutional rights to seek legal redress for acts and crimes against them by these very same Japanese corporations.

Let us again remember, these Japanese corporations are the very same corporations that existed in World War II. They are corporate entities. As long as they themselves exist, we are not asking for some type of legal right to sue the Japanese Government, but those corporations have legal responsibilities as corporations. They have the responsibilities, just as individuals do, to pay for their crimes.

Second, if we take a close look at the history of the 1951 treaty, it reveals that negotiators considered treaty language which would have permitted POW lawsuits against Japanese companies that had exploited them. That reference, I might add, was deleted from the final draft at the demand of other allied powers who had made that agreement with the U.S. delegation. So that was part of the original language that they were going to get the right to sue.

In the end, the bottom line is this: Our POWs do not have a right to sue the Japanese Government. That is true. And the Japanese people do not have a right to sue the American Government, but certainly these corporations are responsible. Just as the individual Japanese who committed war crimes, heinous war crimes, were responsible, and those war crimes, many of them were executed, these Japanese corporations have an obligation to those people who they wronged to compensate them, yet our government is taking the other side.

I think it is fascinating to note that many more German war criminals were executed and brought to justice than were their Japanese counterparts.

□ 2030

Yet, the Japanese were clearly involved with criminal activity, with war crimes, on a massive scale, and especially against the Chinese people and against the Americans and Brits who fought against the Japanese and were captured early in the war. Why is this? Obviously we felt that Japan might be in danger of instability after the war and during the Cold War might go communist. That is clearly the reason this happened.

The Cold War is over. It is time now for justice, at the very least justice for our own people. It is time that the Japanese corporations who committed these crimes at the very least offer an apology and compensation to those Americans who survived the Bataan Death March and were worked as slaves and saw their fellow countrymen gunned down and die of starvation. The very least these heroes deserve is some type of justice for their claims before they die of old age. We deserve to stand with them, and their government should stand with them. It is a shame for our government to be on the side of the enemy which these heroes fought.

The treaty we are talking about also includes a clause which automatically and unconditionally extends to the Allied powers many more favorable terms granted to Japan than any other claim settlements. Japan has entered into the war claims settlements with the Soviet Union, for example, and Burma, Spain, Switzerland, Sweden and the Netherlands and others.

Thus, what we have here by this treaty we are talking about are other Allied powers, other countries in the world, have a right to sue, and there have been settlements, claim settlements, with the Soviet Union, people from Russia, Burma, Spain, Switzerland, Sweden, the Netherlands and others. Yet these same rights to allow the people from other countries to pursue their claims against the Japanese corporations are not being extended to the United States and our nationals.

What is that all about? Why is that? There should be no waiver provision that waives the rights of American citizens to use their constitutional rights in court to seek justice when they were treated in this way, when criminal acts were taken against them.

We side with other countries' rights, but not with the rights of the heroes of Bataan and the heroes who held the ground, who stood tall and gave us the chance to regroup and to organize and to come back and defeat the enemy that threatened the world.

The United States State Department has no answer to these legal questions. On the public record to date they simply ignore them or obfuscate the facts.

Two weeks ago, on Fox News Sunday, Colin Powell, our Secretary of State, promised to review the State Department's erroneous and unyielding stand against our heroes, our World War II heroes' right to sue their Japanese tormentors, their Japanese corporate tormentors. He provided hope to the survivors that justice will be served.

But I have yet to hear anything else from our Secretary of State. I would hope that Secretary of State Colin Powell, a man of deep feeling, a man of great honor who served in our military, but also served his country so well in so many capacities, I hope that the bureaucrats in the State Department do not get to him and have him analyze this situation with a bureaucratic approach that would just put off and put off and put off any type of action until all of these heroes die of old age and are taken by God.

This would be the gravest injustice of all. And those bureaucrats at the State Department, who never want to rock the boat, oh, we cannot rock the boat with Japan, well, the Cold War is over and we can rock the boat anywhere in the world. When Americans who have committed this type of heroism, Americans who are that solid and those people who gave so much for us, when they are being wronged, we can rock the boat anywhere in the world to see that they obtain justice.

I hope that Colin Powell, Secretary of State Powell, sees through this bureaucratic maze that has been constructed and been used to thwart justice for these survivors of the Bataan

Death March. I hope he sees through that, and I hope he listens to his heart and his patriotism.

We have another opportunity. I hope Colin Powell acts, but we also have another opportunity. In a few days a new Japanese prime minister will be coming to the United States. Again, let me say that in no way do I hold the Japanese people of today guilty for the war crimes of their ancestors. However, those corporations that existed in that day, 60 years ago, those corporations that committed those crimes are legal entities that bear the legal burden of what their corporations did 60 years ago.

But when we talk to the new Japanese prime minister and we welcome him, we should be welcoming him as a friend, and we should be talking to the Japanese people as our friends. What I say tonight is not meant in any way to be a slap at the Japanese people.

For the last few decades, by the way, the only Japanese American in this body, I guess maybe there are two Japanese Americans in this body, but one of the two Japanese Americans in this body is the coauthor of this legislation that I have brought forth to try to bring justice to these American POWs. He is not about to insult the Japanese people, just as I mean no insult, and none of us involved in this do.

The Japanese people are good friends of ours. I have many good friends in Japan. I lived in Japan as a young boy. The Japanese people now are an honorable people. Some of them are trying to cover up the mistakes, but the most honorable way to go forward is admit mistakes have been made, bring justice about, make an apology, if necessary, and then just move on. That is the way to handle it.

But, instead, our government has been playing a game, playing a game with these very same Japanese corporations that committed these crimes. When the Japanese prime minister comes this week, many people are hoping that this issue does not come up. The diplomats are hoping that it is not to be an issue addressed at the summit. They believe that this issue should be swept under the rug, and we should keep just stirring the pot and trying to keep this situation confused until it goes away. And "goes away," do you know what "goes away" means? It means those heroic men who gave their lives and sacrificed so much, those heroic men of the Bataan Death March, who served as POWs, our most heroic soldiers of World War II, that they are dead. That is when this "goes away." That is what our State Department is waiting for.

Well, the rest of us perhaps have a greater and a higher standard than that, and a higher appreciation of what that generation, that World War II generation, did for us, and we are not about to stir the pot. We are working now to have justice for these men, and it should be an issue at the summit with a new Japanese prime minister.

And it will go away. It will go away when our heroes from the Bataan Death March and the Japanese slave labor camps and the mines and the Japanese war machines and the corporations that worked our people to death, when they compensate our heroes and apologize, it is over, and it will be done, and the book will be closed. But it will not be until then.

Of the more than 36,000 American soldiers who were captured by the Japanese, only 21,000 made it home. The death rate for American POWs was 30 times greater in Japanese prison camps than in German prison camps. Let me repeat that: The death rates for American POWs were 30 times greater in Japanese prison camps than in German prison camps.

Even though Japanese companies profited from slave labor, these companies have never offered an apology or repayment. Perhaps they were being counseled. Maybe they were being counseled by our State Department. Maybe they were being counseled by lobbyists in this city. Maybe they were being counseled by people whose advice they sought and paid for.

Just like with some of the things going on with China today, what we have unfortunately seen is that some Americans, many Americans, can be bought off. Can be bought off? Can you imagine this? Can you imagine someone taking a fee from a Japanese corporation and telling them how not to apologize and not to give compensation to a survivor of the Bataan Death March, to the greatest of America's heroes? Oh, yes, there are people like that in Washington, D.C. Yes, there are.

Today there are fewer than 5,400 surviving former Japanese POWs. These survivors are pushing for justice; not just for themselves, but also for their widows and the families of those POWs who died prematurely due to the horrible conditions that they lived under while they were enslaved by these Japanese corporations.

The POWs finally have a chance, however, to win justice, but they should not and they cannot be abandoned once again by their government. These men were abandoned in 1942 by a decision by our government that our government had to make, and there were many tears, I am sure by those commanders who had to make that decision and say that these tens of thousands of Americans will be permitted to be taken, captured by the Japanese, and they were abandoned.

We will not abandon them again. If we do, if we permit this to happen, shame on us. As I say, the gentleman from California (Mr. HONDA), a Japanese American, I might say that he himself was interned during World War II as a Japanese American, he is coauthor of this bill. It is called the Justice for United States POWs Act of 2001. The bill number is H.R. 1198. I will repeat that. The bill is "The Justice for United States POWs act of 2001," and the number is H.R. 1198.

My name is DANA ROHRABACHER. I am a Republican from California. I am the author of that bill. The coauthor of that bill is a Democrat from California, the gentleman from California (Mr. HONDA). The gentleman from California (Mr. HONDA) and I have put a great deal of time and effort into this legislation, and I commend my over 100 colleagues who have signed on as cosponsors and supporters of this legislation. I would urge my fellow colleagues to do the same.

Mr. Speaker, I agree with those who say that Japan is a great strategic ally of the United States; but a true friendship requires friends to speak out when there has been an insult or an injustice. And friends must join together to address that injustice. A true friendship can only exist when apologies have been made and wrongs have been righted, when the wrongs have been corrected and recognized.

We are asking the Japanese people to be our friends, and they are our friends. Nothing damages our relationship with Japan more than the cold-hearted and unjustified refusal of these multinational corporations, acting with the support of the Japanese government, to make sure that our American hero veterans do not receive the compensation and the apologies that they deserve.

□ 2245

These POWs have asked for back pay, back pay, for a time when they were used as slave labor, and they are asking for an apology. What American could be opposed to that? I would ask, what Japanese person could oppose that? This would be a sign of good faith, and I would hope that this administration would counsel to the new Japanese Prime Minister, I hope Secretary of State Powell and President Bush counsel the Japanese Prime Minister to take a look at this bill and to reach out to the American people and to close this sad chapter. This issue must be addressed, and our State Department should hang its head in shame if it continues to try to undermine the efforts of these American POWs.

Mr. Speaker, I have been asked often why I am personally involved in this issue? Why I, along with the gentleman from California (Mr. HONDA), worked and wrote the U.S. POW Act of 2001, H.R. 1198, and it really is a very personal issue with me, a very personal issue. Mr. Speaker, at this time in my life, I am a very happy person. I am serious about the work I do here, but I am a very, very happy person. Three and a half years ago I was married after about 15 years of being a single man, and I found the woman that I love, and it was a wonderful thing. And when we were married 3½ years ago, my wife's father had passed away, he died of cancer about 6 years ago; and of course, someone had to give her away at the wedding, and her own father had died of cancer. Giving her away at the wedding, my wife, Rhonda's, Uncle Lou, Great Uncle Lou gave her away. That is the first time I ever had a chance to get to meet Uncle Lou.

Uncle Lou is not this man's real name, but everyone calls him Uncle Lou. His friends call him Lou. Uncle Lou's real name is Arthur Campbell, Army Air Corps, 1941. Uncle Lou was unfortunate enough to have been stationed in the Philippines shortly before the war broke out and was captured by the Japanese and survived the Bataan Death March, the horrific death march. He was then taken on a hell ship to Mukden, which is a prison labor camp in Manchuria. Every day he would see his fellow prisoners murdered, beaten and tortured; scientific experimentation was conducted on these men and other prisoners. This was what Uncle Lou survived.

Uncle Lou was a strapping young man who, by the time he was freed at the end of the war, was under 100 pounds. As I say, we call him Uncle Lou because Uncle Lou was called by his Japanese guards as, this man must be Lucifer, because he is so defiant. He was lucky to have survived at all with a defiant attitude, and all of the rest of the prisoners kept calling him Lou at that point, and he adopted the name. Uncle Lou told me about what happened to him, and I met with some of the fellow prisoners that served with him in the prison camp at Mukden. The stories will just tear your heart out.

We cannot permit Uncle Lou and the Uncle Lous of this world to go without justice. Uncle Lou will not live forever. Uncle Lou is in his 80s right now, and he has had a pacemaker put in; and the fact is that when he breathes his last breath and he takes a look around him, I want him to know that his country has done justice by him. I think every American should make that a goal, that the Uncle Lous of this world, that we do right by them, whether they are the survivors of the Bataan Death March or the other people who fought for this country during the Second World War.

As Tom Brokaw says, this truly was the greatest generation; and we insult them, we do them a grave injustice, we trash their sacrifice by having our own government involved with legal wrangling to try to prevent their claims against these Japanese corporations that use them as slave labor. This is sinful. We cannot permit it to go on. We must do this before these people leave the scene. We must honor them.

My father was also a veteran, a combat veteran of World War II. My father was a Marine pilot. He passed away 3 years ago. I looked into his trunk after he died and out came the Japanese battle flags and the memorabilia from World War II, and it seems that my father too fought in the Philippines. He was one of the pilots, Marine pilots that flew up and down the Philippines during the effort to recapture the Philippines from the Japanese in 1944.

He passed away 3 years ago. I remember him telling me quite often about his experiences, and let me just say I am very proud of my father and I am proud of the things he did. But he harbored no grudges against the Japanese. He fought with the Japanese, he had Japanese battle flags in his trunk; but he had many Japanese friends, and I have many Japanese friends as well. Please, no one should take this as an attack on the Japanese people, and I repeat that again. The Japanese people have tried to leave that part of their culture behind that had them treat men and women as they did. They know that heinous crimes were committed against the Chinese people, and they know that men who gave up and surrendered and were treated like animals, they know that; and they have left that behind.

They are trying to build a civilized society, a society of technology, a society of tolerance in Japan. They are trying to do that. We should help them do that by getting this behind us. We have our own haunts, our own ghosts in our past; and we too have tried to leave them behind us. We too have tried to say that we are going to not treat people in an unjust way, as we have in our society in the past.

So let us not look at this as a condemnation of the Japanese. I am sure the Japanese people, the younger ones in particular, understand that there is no malice in our hearts. We wish nothing but success for the Japanese. Our economies are tied together. America cannot have a strong economy unless the Japanese economy begins to pick up and has a strong economy. We are tied together with the Japanese, and they were our enemies. Perhaps that is one of the greatest aspects of America, is our ability to forgive. But we have got to be asked for forgiveness. The people who have been wronged, the Japanese corporations that did this to our people, have to give some compensation to those men they wronged. This is not an unreasonable request.

Finally, let me say this about the Philippines. The Philippines and the Filipino people are perhaps the best friends of the United States in the Pacific, maybe the best friends of the United States in the whole world. They like us, and we should like them. They are in a bad situation right now too. They are in a very bad situation.

Just as the Japanese militarists sought to dominate Asia and the Pacific during the 1920s and 1930s, there is another power on the march, another militaristic power that threatens the stability of the world and is an enemy to all free governments. Its militarism and expansion are alarming. Just like the Japanese Government, this government has wiped out its democratic opposition. They are expanding, just like this government of the 1920s and 1930s, this current government that threatens the Philippines and threatens all democratic countries in that region, are trying to expand into island bases in which they will be used as power bases to assert their authority and power in given areas of the Pacific. We can see that now in the Spratley Islands, and we can see it in the Paracale Islands, we can see it throughout the South China Sea.

This power that seeks to dominate the world today, or dominate Asia today is as racist as the Japanese were racist back in the 1920s and 1930s. They felt they were racially superior. The Japanese people do not believe that anymore; they want to be part of the family of nations. They have discarded that, but they had to lose the war to discard that. We liberated the Japanese people, just like we liberated the Philippines from Japanese militarism. We liberated the Japanese people the same, but today this other militaristic power is on the march. They too are racist, they are expansionary, they are militaristic, and they too understand that only the United States of America stands in their way, and that the Philippines is a friend of the United States of America.

I am talking about, of course, the Communist Chinese. I am talking about the People's Republic of China, which is now engaged today in military naval exercises off the coast of the Philippines. This is an alarming piece of news.

The security of the Pacific was won and the peace of the Pacific was won and the freedom of the Pacific was won by the blood and the sacrifice of American military personnel during the Second World War. People like Lou, my father and Uncle Lou. We cannot permit the Chinese Communists to expand their domain and to take over where the Japanese militarists left off.

During the 1930s, the Japanese sank a U.S. patrol boat, the *Panay*, U.S.S. *Panay*, killing several of the people on board. A Chinese jetfighter knocks one of our planes out of the air several months ago while it was on a routine mission in international waters, knocking it out of the air, and they took 24 American military personnel and held them as hostages for 11 days. Things are getting worse with China and in the Pacific. We must do justice to those people who fought in the Pacific by ensuring that the Pacific remains free, remains prosperous and at peace; and today, there are ominous clouds on the horizon. Yet as things get worse, as they were getting worse in Japan, corporate America still demands on doing business as usual with the Communist Chinese.

It is very similar, as we have heard so often quoted, where it is deja vu all over again; and I am afraid that this is a very frightening deja vu. The Japanese in the 1930s were insisting that America continue to sell them scrap metal and oil and aerospace, or I should say aeroplane, because there was not any "space" with it in that day, aeronautic technology. Many of the Japanese aircraft that fought against us in World War II actually were designed and were at least partially designed by American manufacturers. The scrap metal and the oil that was used to fuel their war mission can be traced back to the United States. Corporate America was willing to close its eyes to the threat that faced us in the Pacific back in the 1920s and 1930s, just as corporate America is trying to close our eyes today to the threat of Communist China.

Mr. Speaker, we do not, we do not do justice to those who defended us in the Second World War by going for short-term profit in the mainland of China, letting these big corporations make billions of dollars off their slave labor, while those Chinese Communists are using their profit from that company to build up their military, which some day will perhaps kill Americans. We have already had, we have already had a transfer of rocket technology to the Communist Chinese that makes our country so much more vulnerable to a possible nuclear attack.

It is frightening to think that American corporations, and the Cox Commission outlined how Lorell Corporation was selling technology that improved the accuracy and the capabilities of Chinese rockets.

□ 2300

There are American aerospace firms improving the capabilities and accuracy of Chinese rockets so that they could evaporate tens of millions of Americans if we get into a conflict with them.

I do not want to have any conflict with the Chinese people. I do not want to have any conflict with China at all. War is horrible. I know. My father had told me and Uncle Lou's tales are very vivid.

These people who we are trying to find justice for tonight, they certainly know how horrible war is. We do not want to have that. But the quickest way to have conflict is to seem to grovel before dictators and militarists, and that is what the Japanese knew of the United States before World War II and the Chinese Communists think the same thing of us today.

They think that we have no honor, because our own corporate leaders sell out the national security interests of our country for short-term profit. No wonder they are treating us as a degenerate culture.

We must stand firm. We must stand firm for the security of our country, and we must stand firm to keep our country a leader, a leader for world peace, yes, but also a leader for democracy throughout the world.

We must be the friend of the Japanese people, because they want democracy and we liberated them from their militarists, but we also must be the friend of the Chinese people. The Chinese people live in oppression, we must free them from the militarists that oppress them and are threatening the peace of the world.

If we do so, countries like the Philippines who are struggling now, they have no weapons that can deter the Chinese naval exercises that are violating their territorial waters right off their shore.

The Chinese grab of the Spratley Islands and the vast mineral resources, under those islands that should belong to the Philippines, but instead the Chinese are permitted to, through aggression and militarism, to steal that from the Philippine person, but they do not have the means to defend themself.

We should make sure, and I am very proud that I included in the State Department authorization this year a provision that permits us to provide obsolete weapons and the other type of gear that we would be mothballing from the American military that we can provide it to the Philippines, just as if we are providing it to any NATO ally.

So we increased the Philippines to their status in terms of receiving weapons from the United States up to a NATO ally status.

We must be strong and stand with the people who love freedom, whether it be the people of the Philippines or the people of Japan or the people of China against their own oppressors. We must insist on truth. There is an old saying, know the truth and it will make you free. It comes from the good book.

We must insist on the truth. Yes, if we have to make compromises, if we have to go at problems obliquely rather than straight on, that is what it has to be, but it should not be based on the fact that we are lying to ourselves and lying to the American people.

We need a regeneration, a rebirth of courageous leadership in this country of integrity. We had 8 years under the last administration where no one in this world, even our own people, could respect our own leaders. Many of our own leaders were just not respectable. Now we have a chance.

This new administration has a chance. I would ask people to call their congressmen and talk about this piece of legislation, helping the American POWs from World War II.

I would ask them also to contact the White House and see that the White House brings this issue up of American POWs from the Bataan Death March and to try to see what we can do to get President George W. Bush just to mention this to the Japanese prime minister when he arrives here within a few days.

These are the things that we can do and we can do this because by doing so, we honor those 3,000 or 4,000 surviving Death March survivors who are still here waiting for their day, waiting for their day in court and waiting for justice.

Tonight, I would hope all of those who are with these American POWs, I hope that they activate themselves, and I hope that our democratic process is working. I know that we are making them proud. My own father's watching down tonight and all of those who gave their lives in World War II and other all other American wars, they will be proud.

Let us make them proud of us as Americans and by doing so and having the courage to do what is right, especially for the survivors of the Bataan Death March, America's ultimate heroes.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SANDERS) to revise and extend their remarks and include extraneous material:

Mr. LANGEVIN, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. SANDLIN, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

(The following Members (at the request of Mr. OSBORNE) to revise and extend their remarks and include extraneous material:)

Mr. OXLEY, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. HERGER, for 5 minutes, June 28.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 657. An act to authorize funding for the National 4-H Program Centennial Initiative.

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 6 minutes p.m.), the House adjourned until Wednesday, June 27, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2669. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—West Indian Fruit Fly; Removal of Quarantined Area [Docket No. 00-110-3] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2670. A communication from the President of the United States, transmitting a request to make funds available for the Disaster Relief program of the Federal Emergency Management Agency; (H. Doc. No. 107-90); to the Committee on Appropriations and ordered to be printed.

2671. A letter from the Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Voluntary Conversion of Developments From Public Housing Stock; Required Initial Assessments [Docket No. FR-4476-F-03] (RIN: 2577-AC02) received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2672. A letter from the Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Section 8 Homeownership Program; Pilot Program for Homeownership Assistance for Disabled Families [Docket No. FR-4661-I-01] (RIN: 2577-AC24) received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2673. A letter from the Chairman, National Skill Standards Board, transmitting the Board's 2000 Report to Congress entitled, "Accelerating Momentum," pursuant to 20 U.S.C. 5936; to the Committee on Education and the Workforce.

2674. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Requirements for Testing Human Blood Donors for Evidence of Infection Due to Communicable Disease Agents [Docket No. 98N-0581] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2675. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—General Requirements for Blood, Blood Components, and Blood Derivatives; Donor Notification [Docket No. 98N-0607] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2676. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services (Transmittal No. 01-17), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2677. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services (Transmittal No. 01-16), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2678. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Taiwan [Transmittal No. DTC 052-01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2679. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2680. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2681. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2682. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2683. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2684. A letter from the Personnel Management Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2685. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Change of Official EPA Mailing Address; Additional Technical Amendments and Corrections [FRL-6772-2] received June 25, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2686. A letter from the Assistant Attorney General, Department of Justice, transmitting the report on the Administration of the Foreign Agents Registration Act covering the six months ended December 31, 2000, pursuant to 22 U.S.C. 621; to the Committee on the Judiciary.

2687. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Oil Pollution Prevention and Response; Non-Transportation-Related Facilities [FRL-7003-1] (RIN: 2050-AE64) received June 25, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2688. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Eligibility requirements after denial of the earned income credit [TD 8953] (RIN: 1545-AV61) received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COMBEST: Committee on Agriculture. H.R. 2213. A bill to respond to the continuing economic crisis adversely affecting American agricultural producers; with an amendment (Rept. 107-111). Referred to the Committee of the Whole House on the State of the Union.

Mr. CALLAHAN: Committee on Appropriations. H.R. 2311. A bill making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107-112). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 179. Resolution providing for consideration of motions to suspend the rules (Rept. 107-113). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 180. Resolution providing for consideration of the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107-114). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CALVERT (for himself, Mr. Lewis of California, Mr. Baldacci, Mr. Rohrabacher, and Mrs. Bono):

H.R. 2309. A bill to amend the Small Business Act to provide loans to eligible small business concerns for energy costs; to the Committee on Small Business.

By Mr. MURTHA:

H.R. 2310. A bill to increase the rates of military basic pay for members of the uniformed services by providing a percentage increase of between 7.3 percent and 10.5 percent based on the members' pay grade and years of service; to the Committee on Armed Services.

By Mr. CALLAHAN:

H.R. 2311. A bill making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

By Mr. BOUCHER (for himself, Mr. Gilchrest, Mr. Frost, Mr. Holden, Mr. Petri, Mr. Weiner, and Mr. Schiff):

H.R. 2312. A bill to provide for protection of the flag of the United States; to the Committee on the Judiciary.

By Mr. CRANE:

H.R. 2313. A bill to amend the Internal Revenue Code of 1986 to repeal the income taxation of corporations, to impose a 10 percent tax on the earned income (and only the earned income) of individuals, to repeal the estate and gift taxes, to provide amnesty for all tax liability for prior taxable years, and for other purposes; to the Committee on Ways and Means.

By Ms. GRANGER (for herself and Ms. Pryce of Ohio):

H.R. 2314. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide to participants and beneficiaries of group health plans access to obstetric and gynecological care; to the Committee on Education and the Workforce.

By Mr. FLETCHER (for himself, Mr. Peterson of Minnesota, Mrs. Johnson of Connecticut, Mr. Burr of North Carolina, Mr. Thomas, Mr. Tauzin, Mr. Boehner, Mr. Bilirakis, Mr. Sam Johnson of Texas, Mr. Cooksey, Mr. Weldon of Florida, Mr. Hayes, Mr. Pence, Mr. Platts, Ms. Pryce of Ohio, Mr. Goss, Mr. Houghton, Mr. Greenwood, Mr. Portman, Mr. Hobson, Mr. Hilleary, Mr.

Radanovich, Mr. Simmons, Mr. Crenshaw, Mr. Ballenger, Mr. Gibbons, Mr. Buyer, Mr. Collins, Mr. Pitts, Mr. Rogers of Kentucky, Mr. Simpson, Mr. Linder, Mr. Shaw, Mr. Watts of Oklahoma, Mr. Skeen, Mr. Stearns, Mr. Bachus, Mr. Kirk, Mr. Bartlett of Maryland, Mr. English, Mr. Weller, Mr. Ramstad, Mr. Otter, Mr. Sununu, Mr. Lewis of Kentucky, Mrs. Cubin, Mr. Isakson, Mr. Shays, Mr. Wicker, Mr. Pickering, Mr. McInnis, Mr. McCrery, and Mr. Camp):

H.R. 2315. A bill to protect consumers in managed care plans and in other health coverage; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HULSHOF:

H.R. 2316. A bill to make permanent the tax benefits enacted by the Economic Growth and Tax Relief Reconciliation Act of 2001; to the Committee on Ways and Means.

By Ms. MILLENDER-McDONALD (for herself, Mr. King, Mr. Oberstar, Mr. Houghton, Ms. Kaptur, Mr. Jackson of Illinois, Mr. Jefferson, Ms. Brown of Florida, and Mr. Conyers):

H.R. 2317. A bill to make permanent the provision of title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp in order to help provide funding for breast cancer research; to the Committee on Government Reform, and in addition to the Committees on Energy and Commerce, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE:

H.R. 2318. A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf in the Mid-Atlantic and North Atlantic planning areas; to the Committee on Resources.

By Mr. SANDERS:

H.R. 2319. A bill to amend the Food Stamp Act of 1977 to limit the collection from households of claims for nonfraudulent overissuance of food stamp benefits; to the Committee on Agriculture.

By Mr. TIERNEY (for himself, Mr. Serrano, Mr. Hinchey, Mr. Frank, Mr. McNulty, Mr. Kildee, Mr. Hilliard, Mr. Nadler, Mr. Murtha, Mr. Pallone, Ms. Brown of Florida, Mr. DeFazio, Ms. Kaptur, Mr. Bonior, Ms. Pelosi, Ms. Norton, Mr. Abercrombie, Mr. George Miller of California, Mr. Sanders, Mr. Inslee, Ms. Lee, Mrs. Mink of Hawaii, Mr. Evans, Mr. Rush, Mr. McGovern, Mr. Stark, Mr. Filner, and Ms. Carson of Indiana):

H.R. 2320. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; to the Committee on Education and the Workforce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TRAFICANT:

H.R. 2321. A bill to require that the General Accounting Office study and report on possible connections between the recurring incidence of violence by postal employees and workplace-related frustrations experienced by postal workers generally; to the Committee on Government Reform.

By Mr. WATTS of Oklahoma (for himself, Mr. Watkins, and Mr. Lucas of Oklahoma):

H.R. 2322. A bill to amend the Internal Revenue Code of 1986 to provide credits for individuals and businesses for the installation of certain wind energy property; to the Committee on Ways and Means.

By Mr. WHITFIELD (for himself, Mr. Boucher, Mr. Shimkus, Mr. Mollohan, Mrs. Capito, Mr. Costello, Mr. Lewis of Kentucky, Mr. Phelps, Ms. Hart, Mr. Strickland, Mr. Doyle, Mr. Tiberi, and Mr. Rogers of Kentucky):

H.R. 2323. A bill to authorize Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage new construction and the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commerical application of advanced clean coal technologies, so as to allow coal to help meet the growing need to the United States for the generation of reliable and afforable electricity; to the Committee on Ways and Means, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Mr. Hall of Texas, Ms. Jackson-Lee of Texas, Mr. Lampson, Mr. Matheson, Mr. Wu, Mr. Baca, Mr. Baird, Mr. Barcia, Mr. Etheridge, Mr. Gordon, Mr. Hoeffel, Mr. Honda, Mr. Israel, Ms. Eddie Bernice Johnson of Texas, Mr. Larson of Connecticut, Ms. Lofgren, Mr. Moore, Ms. Rivers, Mr. Udall of Colorado, and Mr. Weiner):

H.R. 2324. A bill to establish a balanced energy program for the United States that unlocks the potential of renewable energy and energy efficiency, and for other purposes; to the Committee on Science.

By Mr. LANTOS (for himself, Mrs. Morella, Mr. Shays, Mr. Wexler, Mr. McGovern, Ms. Lee, Mr. Sanders, Ms. Baldwin, Mr. Allen, Mr. Engel, Mr. Abercrombie, Mr. Delahunt, Mr. Wynn, Ms. Rivers, Mr. Weiner, Mr. Crowley, Mr. McNulty, Mr. Gonzalez, Mr. Frank, Mr. Lewis of Georgia, Mr. Pallone, Ms. Pelosi, Ms. Schakowsky, Mr. Conyers, Mr. Jefferson, Mr. Stark, and Ms. Woolsey):

H. Con. Res. 173. Concurrent resolution expressing the concern of Congress regarding human rights violations against lesbians, gay men, bisexuals, and transgendered (LGBT) individuals around the world; to the Committee on International Relations.

By Mr. UDALL of New Mexico (for himself, Mr. Largent, Mr. Skeen, Mr. Hayworth, Mr. Faleomavaega, Mr. Gephardt, Mr. Rohrabacher, Mr. Udall of Colorado, Mr. Kennedy of Rhode Island, Mr. Cannon, Mr. George Miller of California, Mr. Pallone, Mr. Rahall, Mr. Watts of Oklahoma, Mr. Bonior, and Mr. Kildee):

H. Con. Res. 174. Concurrent resolution authorizing the Rotunda of the Capitol to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers; to the Committee on House Administration.

By Ms. PRYCE of Ohio:

H. Res. 179. A resolution providing for consideration of motions to suspend the rules.

By Mr. SESSIONS:

H. Res. 180. A resolution providing for consideration of the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. Hall of Texas.

H.R. 17: Mrs. Lowey.

H.R. 24: Mr. Royce.

H.R. 98: Mr. Houghton and Mr. Herger.

H.R. 123: Mr. Ney and Mr. Wicker.

H.R. 162: Mr. Meehan.

H.R. 168: Mr. Leach.

H.R. 175: Mr. Brady of Texas, Mr. Manzullo, Mr. Sessions, Mr. Stearns. and Mr. Deal of Georgia.

H.R. 179: Mr. McDermott.

H.R. 218: Mr. Ose, Mr. McGovern, and Mr. Leach.

H.R. 264: Mr. Baird.

H.R. 265: Mr. Frank and Ms. Jackson-Lee of Texas.

H.R. 267: Mrs. Bono and Ms. Berkley.

H.R. 280: Mr. Ryun of Kansas.

H.R. 293: Mr. Waxman.

H.R. 294: Mr. Peterson of Pennsylvania.

H.R. 324: Mr. Sununu and Mr. Kirk.

H.R. 425: Mrs. Napolitano and Ms. Carson of Indiana.

H.R. 448: Mr. Sam Johnson of Texas.

H.R. 519: Mrs. Napolitano.

H.R. 602: Mr. Miller of Florida, Mr. Souder.

H.R. 612: Mr. Clyburn, Mr. Holt, and Mr. Tauzin.

H.R. 631: Mr. Hostettler.

H.R. 641: Ms. DeLauro.

H.R. 656: Mr. Pence.

H.R. 664: Mr. Hobson and Mr. Thompson of California.

H.R. 690: Ms. Jackson-Lee of Texas.

H.R. 717: Mr. Nadler, Mr. Deal of Georgia, Mr. Fossella, Mr. Green of Texas, Mr. Norwood, Mr. Doyle, Mr. Akin, Mr. Shadegg, Mr. Forbes, and Mr. Rush,

H.R. 737: Mr. Clement.

H.R. 739: Mr. LaFalce.

H.R. 744: Mr. Pickering.

H.R. 747: Mr. Wu.

H.R. 760: Mr. Doolittle and Mr. Bonior.

H.R. 774: Mr. Graham.

H.R. 777: Mr. Graham.

H.R. 778: Mr. Levin.

H.R. 781: Mr. Markey and Mr. Fattah.

H.R. 822: Mr. Hall of Ohio, Mr. Lewis of Georgia, Mr. Ballenger, Mr. Whitfield, Mr. Jenkins, Mrs. Morella, Mr. Dicks, Mr. Schaffer, Mr. Blunt, Mr. Gordon, Mr. Isakson, Mr. Pastor, Mr. Phelps, Mr. Ryun of Kansas, and Mr. Peterson of Minnesota.

H.R. 836: Mr. Hastings of Washington.

H.R. 840: Mr. Capuano, Mr. Filner, Mr. Frank, Mr. LaTourette, Mr. Manzullo, and Mr. Watt of North Carolina.

H.R. 887: Ms. Roybal-Allard.

H.R. 978: Mr. SAXTON and Mrs. CAPITO.

H.R. 1010: Mrs. EMERSON, Mr. LATOURETTE, Mr. SKELTON, Mr. LARSEN of Washington, and Mr. BAIRD.

H.R. 1032: Mr. ROEMER and Ms. MCKINNEY.

H.R. 1034: Mr. OWENS, Ms. JACKSON-LEE of Texas, Mr. ROSS, Mr. CLEMENT, Mrs. MINK of Hawaii, and Ms. MILLENDER-MCDONALD.

H.R. 1078: Mr. HORN.

H.R. 1089: Mr. MCNULTY.

H.R. 1110: Mr. LEACH, Mr. PETERSON of Pennsylvania, and Mr. BARRETT.

H.R. 1136: Mr. JENKINS and Mr. DUNCAN.

H.R. 1143: Mr. SWEENEY and Mrs. NAPOLITANO.

H.R. 1170: Mr. PASTOR.

H.R. 1171: Mr. GUTKNECHT.

H.R. 1186: Ms. ESHOO.

H.R. 1198: Mr. CLAY, Mr. HINCHEY, Mrs. MORELLA, Mr. FERGUSON, Mr. SESSIONS, and Ms. SOLIS.

H.R. 1212: Mrs. NORTHUP.

H.R. 1247: Mr. COYNE, Mr. PAYNE, and Mr. LANGEVIN.

H.R. 1256: Ms. WATERS, Ms. LOFGREN, Mr. HONDA, Mr. RANGEL, Mr. FORD, and Mr. WATT of North Carolina.

H.R. 1296: Ms. BROWN of Florida, Mr. LARSEN of Washington, Mr. MALONEY of Connecticut, Mr. ETHERIDGE, Mr. LUTHER, Mr. LOBIONDO, Mr. REHBERG, Mr. PASTOR, Mr. PRICE of North Carolina, and Mrs. CAPPS.

H.R. 1298: Mr. RAMSTAD.

H.R. 1304: Mr. GORDON.

H.R. 1305: Mr. LAMPSON.

H.R. 1307: Mr. TOWNS, Mr. DEUTSCH, Mr. FROST, Mr. HOLDEN, Mr. HALL of Ohio, and Mr. KLECZKA.

H.R. 1341: Mr. SESSIONS, Mr. SHOWS, Mr. CALLAHAN, and Mr. TURNER.

H.R. 1353: Mr. SHADEGG, Mr. MCNULTY, Mr. JOHNSON of Illinois, Mr. ISSA, Mr. FALEOMAVAEGA, Mr. LUCAS of Kentucky, Mr. HOLDEN, and Mr. JENKINS.

H.R. 1361: Mr. GUTIERREZ, Mr. FOSSELLA, Mr. PITTS, and Mr. HASTINGS of Washington.

H.R. 1367: Ms. CARSON of Indiana.

H.R. 1383: Ms. ROS-LEHTINEN, Mrs. JO ANN DAVIS of Virginia, Mr. SHADEGG, Mr. GORDON, Mr. MCDERMOTT, Mr. UDALL of Colorado, Ms. LEE, Mrs. TAUSCHER, Mr. ABERCROMBIE, Mrs. LOWEY, Mr. CUMMINGS, and Mr. HINCHEY.

H.R. 1438: Mr. HERGER.

H.R. 1444: Mr. GOSS.

H.R. 1459: Mr. CARDIN and Mr. NUSSLE.

H.R. 1506: Mr. OXLEY.

H.R. 1544: Mr. CLYBURN.

H.R. 1556: Mr. BONIOR, Mr. ISRAEL, and Mr. LARSEN of Washington.

H.R. 1581: Mr. EVERETT.

H.R. 1587: Ms. SCHAKOWSKY and Mr. MEEKS of New York.

H.R. 1592: Mr. GOODE.

H.R. 1601: Mr. SHIMKUS.

H.R. 1609: Mr. WELLER and Mr. ISAKSON.

H.R. 1644: Mr. RYAN of Wisconsin, Mr. HUTCHINSON, and Mr. ENGLISH.

H.R. 1650: Mrs. MCCARTHY of New York and Ms. WATERS.

H.R. 1657: Mr. KELLER.

H.R. 1673: Mr. TIAHRT.

H.R. 1675: Mr. ISSA.

H.R. 1682: Mr. RANGEL, Ms. LOFGREN, Ms. NORTON, Mr. GUTIERREZ, Mr. ENGEL, and Mr. BONIOR.

H.R. 1694: Mr. DEAL of Georgia.

H.R. 1711: Mr. OTTER.

H.R. 1717: Mr. BONIOR.

H.R. 1723: Mr. GILMAN, Mr. STUPAK, and Mr. GEORGE MILLER of California.

H.R. 1746: Mrs. NORTHUP, Ms. WATERS, and Mr. MCKEON.

H.R. 1795: Ms. MCCARTHY of Missouri, Mr. DEUTSCH, and Mr. SOUDER.

H.R. 1798: Mr. KING.

H.R. 1811: Mr. UDALL of New Mexico.

H.R. 1862: Mr. BARRETT, Mr. DEUTSCH, Mr. RAHALL, and Ms. SLAUGHTER.

H.R. 1873: Mr. RANGEL and Mr. WATKINS.

H.R. 1930: Mr. HILLIARD.

H.R. 1943: Mr. RILEY, Ms. BALDWIN, and Mr. CLAY.

H.R. 1948: Mr. WELLER.

H.R. 1950: Mr. STEARNS.

H.R. 1956: Mr. HILLIARD, Mr. FARR of California, Mr. BAIRD, Mr. DICKS, and Mr. SHOWS.

H.R. 1962: Mr. WICKER.

H.R. 1975: Mr. CAMP. Mr. CLYBURN, Mr. BISHOP, Mr. SPRATT, Mr. BURTON of Indiana, and Mr. OTTER.

H.R. 1979: Mr. HOLDEN, Mr. PASTOR, and Mrs. CUBIN.

H.R. 1984: Mr. BALLENGER and Mr. BUYER.

H.R. 1988: Mr. GILLMOR.

H.R. 1990: Mr. NADLER.

H.R. 1996: Mr. TOOMEY and Mr. BONIOR.

H.R. 2001: Ms. HART and Mr. THOMPSON of California.

H.R. 2059: Mr. BOSWELL, Mr. STARK, and Mr. SANDLIN.

H.R. 2063: Mr. SIMMONS, Ms. MCKINNEY, Mr. ANDREWS, Mrs. DAVIS of California, and Mr. HOEFFEL.

H.R. 2074: Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. MEEKS of New York, Ms. NORTON, Mr. UNDERWOOD, Mr. WYNN, Mr. CLAY, Ms. BROWN of Florida, Mr. RUSH, Mr. OWENS, and Mr. NADLER.

H.R. 2076: Mr. REHBERG.

H.R. 2117: Mr. LEACH and Mr. GUTIERREZ.

H.R. 2123: Ms. WOOLSEY.

H.R. 2125: Mr. HOYER.

H.R. 2128: Mr. SANDERS and Mr. MCHUGH.

H.R. 2133: Mr. BRADY of Pennsylvania, Mr. HILLIARD, Mrs. CLAYTON, Mr. FATTAH, Mrs. MEEK of Florida, Mrs. JONES of Ohio, Mr. SOUDER, and Mr. DAVIS of Illinois.

H.R. 2134: Mr. SAWYER.

H.R. 2160: Mr. BONIOR and Mr. PLATTS.

H.R. 2161: Mr. BONIOR and Mr. LAMPSON.

H.R. 2167: Ms. MCKINNEY.

H.R. 2175: Mr. BOEHNER, Mr. GILLMOR, Mr. SPENCE, and Mr. BRYANT.

H.R. 2176: Mr. FROST.

H.R. 2177: Mr. LARGENT and Mr. PAUL.

H.R. 2181: Mr. OTTER and Mr. GOODE.

H.R. 2184: Mr. FILNER and Mr. LANTOS.

H.R. 2198: Ms. WATERS.

H.R. 2207: Mr. FROST.

H.R. 2233: Mr. KUCINICH, Mr. SANDERS, and Ms. MCKINNEY.

H.R. 2240: Mr. BOYD, Mr. MILLER of Florida, Mr. BILIRAKIS, Mr. GOSS, Mr. MICA, Mr. STEARNS, Mr. DIAZ-BALART, Mr. FOLEY, Mr. HASTINGS of Florida, and Mr. KELLER.

H.R. 2243: Mr. GUTIERREZ and Mrs. JONES of Ohio.

H.R. 2248: Mr. PETERSON of Pennsylvania.

H.R. 2249: Mr. PENCE, Mr. LATOURETTE, Mr. TIAHRT, and Mr. DAVIS of Illinois.

H.R. 2250: Mr. DEMINT and Mr. STUMP.

H.R. 2259: Mr. CUMMINGS.

H.R. 2269: Mr. SHAW, Mr. PAUL, Mr. CRANE, and Mr. FROST.

H.R. 2277: Ms. JACKSON-LEE of Texas.

H.R. 2286: Mr. FROST and Mr. BALDACCI.

H.J. Res. 36: Mr. FORBES, Mr. RODRIGUEZ, Mr. GIBBONS, Ms. GRANGER, and Mr. COBLE.

H.J. Res. 40: Mr. SAWYER.

H. Con. Res. 20: Mr. HASTINGS of Florida and Ms. CARSON of Indiana.

H. Con. Res. 25: Mr. BURTON of Indiana and Mr. WAMP.

H. Con. Res. 30: Mr. SHAYS.

H. Con. Res. 42: Mrs. MCCARTHY of New York and Mrs. MINK of Hawaii.

H. Con. Res. 61: Mr. STARK.

H. Con. Res. 116: Mr. ROYCE.

H. Con. Res. 168: Mr. PITTS, Mr. BALLENGER, Mrs. JO ANN DAVIS of Virginia, Mr. MCGOVERN, Mr. ABERCROMBIE, and Mr. MENENDEZ.

H. Con. Res. 170: Mr. CULBERSON.

H. Res. 72: Mr. GREEN of Texas and Mr. LANTOS.

H. Res. 75: Mrs. EMERSON.

H. Res. 172: Mr. PASTOR and Mr. HASTERT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2149: Mr. COMBEST.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2311

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 2: In title III, in the item relating to "WEAPONS ACTIVITIES", after the aggregate dollar amount, insert the following: "(reduced by $122,500,000)".

In title III, in the item relating to "DEFENSE NUCLEAR NONPROLIFERATION", after the aggregate dollar amount, insert the following: "(increased by $66,000,000)".

H.R. 2311

OFFERED BY MR. PETRI

AMENDMENT NO. 3: In title I of the bill, strike section 103. Redesignate subsequent sections of title I, accordingly.

H.R. 2311

OFFERED BY: MR. TANCREDO

AMENDMENT NO. 4: In title I, strike section 105 (relating to shore protection projects cost sharing).

H.R.

Agriculture Appropriations Bill, 2002

OFFERED BY: MRS. CLAYTON OF NORTH CAROLINA

AMENDMENT NO. 2: At the end of the bill (before the short title), insert the following new section:

SEC. 738. The amounts otherwise provided by this Act are revised by reducing the amount made available for "AGRICULTURAL PROGRAMS—AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS", by reducing the amount made available for "AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES" (and the amount specified under such heading for competitive research grants (7 U.S.C. 450i(b)), by reducing the amount made available for "AGRICULTURAL PROGRAMS—FARM SERVICE AGENCY—SALARIES AND EXPENSES", and by increasing the amount made available for "AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES" (and the amount specified under such heading for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University), by increasing the amount made available for "AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES" (and the amount specified under such heading for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222)), and by increasing the amount made available for "AGRICULTURAL PROGRAMS—OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS", by $5,521,000, $10,000,000, and $7,007,000, respectively.

H.R. ___

Agriculture Appropriations Bill, 2002

OFFERED BY: MR. GUTKNECHT

AMENDMENT NO. 3: At the end of title VII, insert after the last section (preceeding any short title) the following section:

SEC. 7__. None of the amounts made available in this Act for the Food and Drug Administration may be used under section 801 of the Federal Foods, Drug, and Cosmetic Act to prevent an individual who is not in the business of importing prescription drugs from importing a prescription drug that is FDA-approved, is not a controlled substance, and is offered for import from a country referred to in section 804(f) of such Act.

EXTENSIONS OF REMARKS

HONORING GRANBY MAYOR DICK THOMPSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. McINNIS. Mr. Speaker, I stand before you today on behalf of Congress to pay tribute to a brave man, and a man who gave of himself to improve the lives of others. Mr. Speaker, the people of Colorado and of our nation lost an amazing man with the passing away of Granby Mayor Dick Thompson, but his heroic efforts will never be lost, because his actions and his character have helped shape his city and country in a positive way that can never be revoked.

In 1949, Dick married his wife Thelma, and eventually became a fantastic father to five children, Larry, Ron, Brenda, Gary, and Linda. A fine businessman, Dick started Thompson Excavating, and later, when his sons decided to join him in his successful business, changed it to Thompson and Sons Excavating.

Dick Thompson believed in self-reliance, freedom, and trust, and he took action to see these values implemented in his community, nation, and family. Dick learned firsthand the meaning of sacrifice at age 18 when he served in the South Pacific during World War II on the U.S.S. *Hazard*. He never forgot how to serve for the sake of the many, as he gave over 20 years on the town board without a single regret. Eventually, Dick took his political leadership skills to another level when he was elected Mayor in April of 2000. He won the community over with his common sense and his obvious interest for the well being of others. Middle Park Fair and Rodeo, who honored him as Pioneer of the Year, quotes him as saying, "We've always had a lot of good people in this country.* * * That's why I like to stay involved. I like the people." His positive energy shone through, and helped contribute to his success and to the success of Granby.

It is without a doubt, Mr. Speaker, that Dick Thompson has earned our utmost respect and thanks for his exemplary service and honesty. Today, I ask you to join me in honoring one of Colorado's finest leaders.

IN HONOR OF THE CONSECRATION OF THE MONASTERY MARCHA CHURCH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor The Consecration of The Monastery Marcha Church for the esteemed dedication by the abess, Igumanija Ana and two sisters, Sisters Anastasia and Angelina, for their remarkable service to God and the Holy Orthodox Church.

Monastery Marcha in Richfield, Ohio is erected in remembrance of the original Monastery Marcha in Serbia, built in the 17th Century, which was destroyed during the war with Austria-Hungary. Even though it was rebuilt in 1924, it was destroyed once again in 1991. However, due to the devotion of the congregants, the Monastery Marcha in Richfield became what it is today, the first monastery established for the Serbian Orthodox nuns in the United States.

The Monastery is presently located on a beautiful 82 acre tract of land, which was purchased in 1968 for the sole purpose of building a Diocesan center. The spiritual and uplifting environmental atmosphere invites all those lost souls in need of spiritual enrichment, prayer, service, moral support, and love. The Monastery graciously houses a residence and living accommodations for monastics, a heavenly Chapel, and future plans hope to include a vast area for a cemetery and a residence for senior citizens.

Each week the Holy Services are conducted by an area Orthodox priest who graciously volunteers his priestly duties to the Monastery. The nuns derive income through the generous donations but find that the main source stems from producing vestments, making candles and selling religious articles. The nuns have hospitably provided many spiritual retreats at the Monastery and have become speakers and program presenters throughout Ohio, Pennsylvania, and New York.

The nuns have taken an active part in service to the Monastery and it is well known that the doors of the Monastery are always open for all to enter.

My fellow colleagues, please join me in honoring the Monastery Marcha Church for their many contributions to the diocese and wider religious community.

GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS (GEAR UP)

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. REYES. Mr. Speaker, the President's request for Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) is $277 million for fiscal year 2002. Funding at this level puts the GEAR UP program in my district and many others at serious risk. We should do everything in our power to protect and augment programs like GEAR UP that have proven to be effective.

As you know, GEAR UP is a nationwide program to encourage disadvantaged children to have high expectations, stay in school, study hard and make appropriate decisions that will lead them on the road to a college education. With high school dropout rates so high among Hispanics, programs like GEAR UP are critical. The program directs the Department of Education to offer competitive grants that will build partnerships while creating and expanding alliances between colleges and school districts which have at least 50 percent low-income students.

Since its enactment, GEAR UP has provided a much needed service to nearly 1.2 million children. No other federal program holds more promise for middle school children in low-income schools and does more to institutionalize the necessary reforms that provide early college awareness than GEAR UP. The 73 new partnership grants and seven new state grants awarded last year brought the two-year total to 237 GEAR UP partnerships and 28 state programs. The second year competition, like that of the first year, was extremely competitive. However, due to funding limitations, only 28 percent of the partnership applications and 33 percent of the state grant applications could be awarded. There is truly a demand for more GEAR UP money.

I believe it is critically important that we remain steadfast in our commitment to GEAR UP, which sends a message to students that a college education is indeed within their reach. I urge my colleagues to support $425 million for GEAR UP in the fiscal year 2002 Labor, HHS and Education Appropriations bill to allow GEAR UP schools to continue to operate their programs.

HONORING TEEN OUTREACH THROUGH TECHNOLOGY (TOTT)

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Teen Outreach Through Technology (TOTT) for their exemplary service to their community. TOTT is a non-profit organization with an emphasis on youth delinquency prevention.

In 1986, Faye Johnson undertook an independent study at Fresno City College to explore the use of telecommunications with at-risk or troubled teens. Her study showed very positive results and shortly thereafter, a formal program was put in operation, volunteers were recruited, and TOTT became a non-profit organization. TOTT's purpose is to reduce juvenile delinquency by redirecting negative energy into a positive outcome through computer technology. Through the use of a computer network, newsletter and trained volunteer programs, youth are involved in the process of educating the public to their needs, exploring

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

solutions to their problems, and improving their understanding of themselves and others.

Mr. Speaker, I rise today to congratulate Teen Outreach Through Technology for their innovative use of technology to serve young people in the Fresno area. I urge my colleagues to join me in wishing TOTT many more years of continued success.

TRIBUTE TO CORPORAL KELLY STEPHEN KEITH

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. CLYBURN. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to Corporal Kelly Stephen Keith. Kelly Stephen Keith was born in 1978, the son of Donna Harter of Florence and Billy Keith of Cheraw, and stepson of Ronald Harter and Connie Keith. His siblings are Andy and Jay Keith of Cheraw and Dustin Brasington of Florence.

Kelly Keith joined the Marine Corps on December 17, 1996 shortly after graduating from Cheraw High School where he had received the "Spirit of the Brave Award" in his senior year. During his high school years, Kelly played in the marching band, was an avid fisherman and hunter, and enjoyed golf, music, and scuba diving. He was a Boy Scout for ten years, and a member of First Baptist Church of Cheraw.

Over the course of his first three years in the Marines, Keith was promoted four times and received numerous awards for good conduct and advanced to the rank of Corporal. He was assigned to Naval Aircrew Training, and later joined the Osprey Unit team. Before joining the Osprey Unit, Kelly was with the Marine Squadron assigned to transport the U.S. President and his staff.

Corporal Keith distinguished himself as the only Corporal, and the youngest officer, to be named crew chief on the Osprey test team. Keith was killed with eighteen other Marines on April 9, 2000 when their aircraft crashed in Arizona on a training exercise.

The South Carolina General Assembly passed a resolution on March 6, 2001 naming a portion of U.S. Highway 52 in honor of Corporal Keith. Corporal Kelly Stephen Keith was a man of integrity, honor, and respect. The service that he rendered for our nation was invaluable, and the memory of this soldier and great American should never die.

Mr. Speaker, please join me and my fellow South Carolinians in honoring Corporal Kelly Stephen Keith.

TRIBUTE TO JESSE GALLARDO

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. FARR of California. Mr. Speaker, I rise today to honor Jesse Gallardo as he recently celebrated the end of his tenure at Major Farms Inc. in Soledad, California. Mr. Gallardo retired on March 31, 2001 bringing an end to sixty-four years of service to Major Farms Inc. and the entire Soledad community.

After moving from Orange County to Soledad as a young boy, Mr. Gallardo grew up living on the property of Major Farms. When he was fourteen years old, he began working full time on the farm, which at that time was barely one year into operation. Until his retirement at the age of seventy-eight, Mr. Gallardo continued to work ten hour days, six days a week, and in distant years past, it was common practice during the spinach harvests for Mr. Gallardo to work seventeen hour days. After twenty-three years at Major, Mr. Gallardo moved into Soledad, yet continued to work at Major Farms while simultaneously raising six children.

Mr. Gallardo's dedication and hard work was not exclusively held to Major Farms, rather his positive influence has infiltrated the entire city of Soledad. To honor Jesse Gallardo's dedication to the community of Soledad, the city of Soledad presented Mr. Gallardo with a plaque and even designated a baseball park in his honor. Every Fourth of July, Mr. Gallardo participates in a softball game at Jesse Gallardo Park.

Mr. Speaker, the service of local members of the community are an asset to this nation, and I applaud Mr. Gallardo's contributions. The retirement of Mr. Gallardo signifies the end to a dedicated sixty-four years of service to Major Farms and the entire Soledad community. It is clear that Jesse Gallardo's dedication has made a lasting impact on his community, and I join the city of Soledad in honoring Mr. Gallardo.

PERSONAL EXPLANATION

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. ISRAEL. Mr. Speaker, I was absent from votes on June 21, 2001 due to my daughter's graduation. I would have voted as follows:

Roll call vote: 178 "Yea"; 179, "No", 180, "Yea", 181, "Yea", 182, "Yea", 183, "Yea"; 184, "No", 185, "Yea".

IN MEMORY OF ROBERT M. McKINNEY: 1910–2001

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. UDALL of New Mexico. Mr. Speaker, I rise before the House of Representatives today to mark the passing of an important American, Robert Moody McKinney, editor and publisher of the Santa Fe New Mexican, the west's oldest newspaper.

Over my years of serving the people of New Mexico, I came to know and respect Mr. McKinney. I saw embodied in him the principles of a dedicated public servant and many of the high standards that we expect from a newspaper editor and publisher. He was a man of great wit, humility, intelligence and integrity, and his many contributions to his country will never be forgotten.

I join many in mourning the death of Robert M. McKinney and send my heartfelt condolences to his family. I am including for the RECORD a copy of his obituary, which details his extraordinary career.

[From The Santa Fe New Mexican, June 25, 2001]

ROBERT M. McKINNEY: 1910–2001, PAPER'S OWNER DEAD AT 90

ROBERT MOODY McKINNEY, editor and publisher of THE SANTA FE NEW MEXICAN, died of pneumonia Sunday night at New York Hospital. He was 90. His daughter, Robin McKinney Martin of Nambé, was with him. He was a diplomat, corporate director, conservationist, veteran and poet.

During a distinguished career, McKinney served as assistant secretary of the U.S. Department of Interior, U.S. ambassador to the International Atomic Energy Agency at Vienna, Austria, and as U.S. ambassador to Switzerland.

McKinney purchased The Santa Fe New Mexican in 1949 and was its editor and publisher for 52 years. Due to health problems from the high altitude of Santa Fe, McKinney sold the company to Gannett Co. in 1976, retaining the right to continue as editor and publisher.

After a protracted and celebrated court battle, which he won, McKinney resumed management of the newspaper in 1987 and repurchased the property in 1989.

Through his friendship with U.S. Sen. Clinton P. Anderson, McKinney was instrumental in securing the San Juan Chama water-diversion project. He also persuaded St. John's College of Annapolis, Md., to open its western campus in Santa Fe.

As publisher, he supported John Crosby's efforts to launch The Santa Fe Opera and staged conferences in the early 1960s on the advantages of managed municipal growth in Santa Fe.

Born in Shattuck, Okla., Aug. 28,1910, McKinney grew up in Amarillo, Texas, and graduated from Amarillo High School in 1928. As a teen-ager, he was a cub reporter for the Amarillo Globe News.

He received a bachelor's degree, graduating Phi Beta Kappa from the University of Oklahoma in 1932 with a major in literature.

Upon graduation, he worked in New York City as an investment analyst at Standard Statistics, now Standard and Poor's. He served as a partner in his cousin Robert Young's investment firm from 1934 to 1950 and became financially successful by investing in bankrupt railroad stock at the depth of the Depression.

During World War II, McKinney, was,.a lieutenant junior grade in the U.S. Navy. He helped develop and manufacture the Tiny Tim rocket and participated in D–Day to observe how the devices pierced the armor of German tanks.

In 1943, he married Louise Trigg, the daughter of a ranching family from eastern New Mexico.

His career in government included appointments by five presidents.

President Harry S. Truman appointed him assistant secretary of the Department of Interior in 1951. President Dwight D. Eisenhower named him U.S. ambassador to the International Atomic Energy Commission. He was editor and principal author of a multivolume work on the peaceful uses of atomic energy.

President John F. Kennedy appointed him U.S. ambassador to Switzerland in 1961.

Under Presidents Lyndon B. Johnson and Richard M. Nixon, he held appointments in the U.S. Treasury Department. He was awarded the Treasury Department's Distinguished Service Medal.

Because of Santa Fe's proximity to the National Atomic Weapons Laboratory at Los Alamos, McKinney became interested in peaceful uses of atomic energy, became an authority in that field and published several books on the subject.

McKinney served on the board of directors of several major corporations, including the Rock Island Railroad, International Telephone & Telegraph, Trans World Airlines and Martin Marietta.

He was a classical scholar, having mastered Latin at Amarillo High School and Greek at the University of Oklahoma. He was a published poet; his book Hymn to Wreckage was rated by The New York Times as one of the 10 best poetry books published in 1947.

McKinney's hobby was landscape architecture. Farms he owned in Nambé and Middleburg, Va., were testament to his design skill.

McKinney was divorced from Louise Trigg in 1970 and later married Marielle de Montmollin, who died in 1998.

He is survived by his daughter, Robin Martin and her husband, Meade Martin; grandchildren Laura and Elliott of Nambé; stepson Laurent de Montmollin of Florida; and stepdaughter Edmee Firth of New York and her children, Marie Louise Slocum and Olivia Slocum, both of New York, and John Slocum of Newport, R.I.

Funeral services are pending.

HONORING ELMER JOHNSON FOR HIS WORK WITH COLORADO LEADERSHIP

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. McINNIS. Mr. Speaker, I stand here today to honor and remember Elmer A. Johnson, who gave of himself throughout his life to serve his country and the citizens of Colorado. Elmer was a patriot, a giving man, and a man blessed with outstanding leadership and business skills.

Elmer, a devoted husband and father, was married to Philomena Mancini for fifty years until her death. He gave his wife, his son, Robert, and his two granddaughters much to be proud of. His patriotism drove him to enlist in the Army Air Forces in 1941, where he eventually served as master sergeant in the China-Burmuda-India theater during World War II. He then began running his father-in-law's printing business and edited a weekly newspaper.

Then, in 1958, he was elected for the first of three times to the Colorado House. He earned a distinguished reputation with those who knew and worked with him there, including former state Rep. Wayne Knox whom the The Denver Post quotes as saying, "He was a very well-respected, reasonable, moderate legislator" and "a nice guy, a very good guy." Elmer had the honor of chairing the House Finance Committee and served on the Joint Budget Committee as well as on the Legislative Council.

His drive to serve didn't stop there, however. In 1963, he began working as a city official as manager of revenue and director of budget and management. He also served on the executive board of the Colorado Municipal League, and became its president in 1970. Incredibly, he also found time to serve on the executive board and as president of the Colorado Municipal League, become a board member of the Regional Transportation District, and become a member of the Sons of Norway. In addition, his leadership stretched to serving for a term as the international president of the Municipal Finance Officers of the United States and Canada.

Mr. Speaker, Elmer Johnson was a distinguished veteran, a devoted father and husband, and a selfless leader. Today, I would like pay him tribute on behalf of Congress for his lifelong dedication to honest leadership and to the people of the United States.

HONORING THE 60TH ANNIVERSARY OF THE UNIVERSITY OF TEXAS M.D. ANDERSON CANCER CENTER

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. BENTSEN. Mr. Speaker, I rise today to honor the University of Texas M.D. Anderson Cancer Center on its 60th Anniversary on June 30, 2001. Although I will not be present at this Ceremony, I would like to honor this distinguished institution which is one of the world's top tier of institutions devoted to the conquest of cancer.

Throughout its history, M.D. Anderson Cancer Center has set the standard for excellence in cancer patient care, research, education and prevention. Named for its benefactor, Monroe Dunaway Anderson, the hospital was designated one of the first three comprehensive cancer centers in the United States by the National Cancer Act of 1971, and has continued to be the model of other centers seeking such recognition. In 2000, M.D. Anderson was ranked by U.S. News & World Report magazine as the nation's best cancer hospital.

Since the first patient was registered in temporary quarters in 1944, nearly 500,000 people have been served at M.D. Anderson facilities in Houston, and patients everywhere have benefited from research-based discoveries made or inspired by the M.D. Anderson faculty and staff.

More than 40,000 physicians, scientists, nurses and health care professionals have trained at M.D. Anderson, where education is fully integrated with superb research, compassionate patient care and far-reaching cancer prevention programs.

Today, M.D. Anderson's public education and community service initiatives help thousands of people reduce their risk of cancer and learn more about the disease.

The outstanding basic, translational and clinical research conducted at M.D. Anderson has been supported in recent years with the highest number of grants awarded to any institution by the National Cancer Institute and the American Cancer Society.

Translational research that applies new laboratory findings to improve patient treatments as quickly as possible has flourished under the leadership of Dr. John Mendelsohn, a distinguished clinical scientist who became M. D. Anderson's President in 1996. Dr. Mendelsohn has recruited a visionary management team and established bold new priorities for M. D. Anderson in the 21st century.

Dr. John Mendelsohn is the third president of the institution. Dr. R. Lee Clark was named the first full-time director and surgeon-in-chief in 1946, two years after the first patient was admitted. Dr. Clark was succeeded by Dr. Charles A. LeMaistre, who was instrumental in recruiting many leading physicians and surgeons. Dr. Mendelsohn took over in 1996 after Dr. LeMaistre's retirement.

Since celebrating its 50th anniversary a decade ago, the major research accomplishments made by M.D. Anderson scientists and physicians include: The first successful correction of a defective p53 tumor suppressor gene in human lung cancer has led to pioneering gene therapy for lung, head and neck, prostate, bladder and several other forms of cancer; Identification of the defective PTEN gene is providing new ways to target therapy for a usually fatal form of brain cancer and other malignant tumors; Expanded landmark chemoprevention studies showing that drugs can prevent first or second primary cancers in individuals at high risk—and also reverse some pre-malignant lesions; Designed a rapid laboratory method to pinpoint gene abnormalities in chromosomes, thereby improving diagnosis and treatment monitoring of many diseases, including cancer; Developed a gene expression technique to predict which cancers will escape primary sites and spread to other organs of the body; Identified genetic variants of components for a common brain chemical, dopamine, that are associated with nicotine addiction; Reported the first separation of human malignant cells from normal blood cells with a technique that allows studying the intrinsic electrical properties of cells; Documented a molecular link between cigarettes and lung cancer from studies showing a carcinogen in tobacco smoke binds to key mutagenic sites in the p53 gene.

Over the years, M.D. Anderson has conducted extensive clinical trials that have led to more effective anti-cancer drugs and biologic compounds, less-invasive surgical procedures and more precise radiation techniques. Many standard cancer therapies now available around the world were originally evaluated, wholly or in part, through such clinical research studies at M.D. Anderson.

Research discoveries and inventions by M.D. Anderson faculty and staff have been responsible for important technology development partnerships with industry. Fifteen company have been created as spinoffs from M.D. Anderson research projects.

While research advances at M.D. Anderson over the past 60 years have helped turn the tide against cancer, the current outlook for better methods to diagnose, treat and, ultimately, prevent cancer is even more optimistic because of emerging knowledge about the molecular defects responsible for the disease. Last month, we learned that a clinical trial at M.D. Anderson was part of the landmark study which discovered a new treatment for a rare form of leukemia. This new drug therapy actually works to reduce the replication of cancer cells so that patients can recover. I am proud that much of this initial work was done by M.D. Anderson clinicians and their staffs.

Mr. Speaker, today I recognize with profound gratitude all of the accomplishments made at The University of Texas M.D. Anderson Cancer Center. And, I warmly congratulate the dedicated faculty, staff, volunteers and supporters on the occasion of this remarkable institution's 60th anniversary.

IN TRIBUTE TO ALFRED RASCON

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. GALLEGLY. Mr. Speaker, I rise for the second time in two years to pay tribute to Alfred Rascon, who was recently confirmed as the 10th director of the Selective Service System.

Alfred is a remarkable man. Born in Mexico, he moved to Oxnard, California, in my district, with his family when he was a small child. His family raised him there and instilled in him the values of honor, integrity, a love of his adopted land and a reverence for life and his fellow human beings.

At age 17, he left Oxnard and joined the Army. He trained to be a medic and a paratrooper. On March 16, 1966, in the jungles of Vietnam, Alfred was severely and repeatedly wounded as he crawled from comrade to comrade to render aid, to protect his comrades and to retrieve weapons and ammunition needed in the firefight they were in.

By the time Alfred was loaded into a helicopter, he was near death. A chaplain gave him last rites. He survived. Because of his efforts, so did his sergeant and at least one other in his platoon.

But the Medal of Honor Alfred was due was lost in red tape, until two years ago, when the record was corrected.

He returned to civilian life, became a naturalized citizen and rejoined the Army. After another tour of duty in Vietnam and achieving the rank of lieutenant, Alfred again became a civilian. But he continued to serve his country, with posts in the Department of Justice, where he served with the Immigration and Naturalization Service, the Drug Enforcement Administration and INTERPOL. Prior to his appointment as director of the Selective Service System, he served for five years as its Inspector General.

He is married to the former Carol Lee Richardson. They have two children.

Mr. Speaker, Alfred Rascon is a humble man who achieved greatness by quietly and unselfishly doing what he believed was right. He is the right man to head up the Selective Service System. I know my colleagues will join me in congratulating Alfred on his selection and give him our full support in achieving the goals of his new position.

A SPECIAL TRIBUTE TO ALVIN JACKSON, MD, A ROBERT WOOD JOHNSON COMMUNITY HEALTH LEADER

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to recognize Dr. Alvin Jackson of Fremont, Ohio. The Robert Wood Johnson Foundation has chosen Dr. Jackson as a 2001 Robert Wood Johnson Community Health Leader.

The Robert Wood Johnson Foundation's mission is to enrich the health and healthcare of all Americans. Their efforts promote healthier lifestyles, improved health care, and better access to health care. The Foundation seeks to ensure that all Americans have access to basic health care at reasonable cost and to improve care and support for people with chronic health conditions. The Foundation promotes health and prevent disease by reducing the harm caused by substance abuse—tobacco, alcohol, and illicit drugs.

Each year, the Community Health Leadership Program honors ten outstanding individuals who have found innovative ways to bring health care to communities whose needs have been ignored or unmet. As one of the ten recipients of this recognition, Dr. Jackson and his program have been awarded a grant of $100,000.

Dr. Jackson has been honored for his tireless efforts in providing health care to migrant workers in numerous Ohio counties. As Medical Director of the Community Health Services, Dr. Jackson travels by mobile clinic to reach the 8,500 migrant farm workers and their families. Dr. Jackson, the son of a migrant worker himself, takes the clinic from camp to camp providing medical care to those who would otherwise go without.

Mr. Speaker, Dr. Alvin Jackson is an example for us all. He has recognized a problem in his community and has worked to solve it. I ask my colleagues in joining me in applauding Dr. Jackson for his efforts and selfless dedication to the care and well being of migrant workers and their families.

IN HONOR OF MS. SUSAN CULVER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor and recognize a fine individual and exceptional teacher, Ms. Susan Culver of Olmsted Falls Middle School, for her outstanding dedication to the education of young students.

Ms. Culver has spent the past few months organizing and planning a project for her seventh grade classes at Olmsted Falls Middle School. Because of her time and dedication to enriching her students, Ms. Culver has received a grant that will enable her to analyze and research pollution in the Olmsted Falls community. Over the past few years, air and water pollution have become important issues in Olmsted Falls, and Ms. Culver has taken it upon herself to analyze this problem. With the help of 140 seventh-graders, Ms. Culver will test pH levels in local ponds, analyze animal specimens, research the food web, and so much more. This program will give students an opportunity to experience their community in a hands-on environment.

This program materialized only through hours of hard-work, planning and researching. Because of her efforts, Ms. Culver's program has been chosen to receive a G.I.F.T., Growth Initiatives for Teachers grant. With this grant, Ms. Culver is offering students a wonderful learning experience that will broaden their educational horizons. Ms. Culver is also planning on taking courses at Cleveland State University about computers and will attend numerous conferences of the Environmental Education Council of Ohio.

Ms. Culver holds a bachelors degree in middle school math/science and is working toward a masters degree in instructional technology. In 1998, she began her teaching career as a tutor at Olmsted Falls Middle School and joined the full-time faculty in 1999. She teaches science in the classroom, but her influence extends much beyond simple biology and chemistry. Ms. Culver is giving students information that is not only pertinent to where they live, but that will be relevant for their entire lifetime.

Mr. Speaker, please join me in honoring a young teacher that is touching the lives of hundreds of students, Ms. Susan Culver. She has given her time and dedication to Olmsted Falls Middle School, and has earned the respect of students, faculty, and the entire Olmsted Falls community.

READING IS FUNDAMENTAL

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. REYES. Mr. Speaker, as our First Lady Laura Bush said in April of this year "Early reading isn't just good medicine, it's an important part of a child's daily activities. Children benefit greatly from reading activities starting at a very young age." Mr. Speaker, our First Lady is absolutely right!

Unfortunately, in the 2002 budget, President Bush cut all federal funding for a 35-year-old nationwide reading program. The program which is know as Reading is Fundamental (RIF) is supported through the U.S. Department of Education's Inexpensive Book Distribution Program (IBDP). RIF provides free, new books and family literacy services to 18,000 school and community sites with the vital help of more than 310,000 local volunteers.

RIF has a proven record and should not be destroyed or altered. For 35 years, it has given free paperback books to poor children in all 50 states, the District of Columbia, and U.S. offshore territories. If the federal government gives states reading grants, as President Bush wants, there is no guarantee that this kind of program, which is badly needed, will continue.

My district of El Paso, Texas is an impoverished area of our country. Programs like Reading is Fundamental may not make much of a difference in more affluent areas, but they certainly do in El Paso. For some kids, a free book is the only access to reading that they have.

RIF programs operate in schools, libraries, community centers, child-care centers, Head Start and Even Start centers, hospitals, migrant worker camps, homeless shelters, and detention centers. Today, thanks to public-private partnerships, RIF is the nation's largest child and family literacy organization. RIF has placed more than 200 million books in the hands and homes of America's children.

Now, President Bush has proposed a five-year plan to improve young children's reading ability by cutting all funding for IBDP and consolidating the funding into state-level reading grants. This is simply not the answer. The answer is RIF.

I respectfully request that the Administration restore the RIF program in the 2002 budget. The RIF program is an example of a program that is working and making a real difference in the lives of countless children across the country. It would be a travesty to destroy it.

HONORING HIS HOLINESS KAREKIN II NERSISSIAN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor His Holiness Karekin II Nersissian, the Supreme Patriarch and Catholicos of All Armenians. Karekin II traveled to the United States last month and visited Armenian churches, schools and a retirement home in Fresno, California and surrounding communities.

Karekin II was born in the village of Voskehat, in 1951, in the Etchmiadzin Region of Armenia. He entered the Theological Seminary of the Mother See of Holy Etchmiadzin in 1965 and graduated in 1971. In 1970 he was ordained a Deacon, and in 1972 he was ordained a Celibate Priest. Karekin II then left for Germany to serve as a pastor, while continuing his theological education at the University of Bonn.

In 1979, Karekin II returned to the Mother See of Holy Etchmiadzin, and thereafter, left for Russia to study at the Theological Academy of the Russian Orthodox. In 1980, he was appointed Assistant to the Vicar General of the Araratian Pontifical Diocese. In 1983, he was appointed to Vicar General of the Araratian Pontifical Diocese. Karekin II was ordained a Bishop in October of 1983 and was granted the title Archbishop in November of 1992. In 1998, Karekin II was appointed to the Vicar General of the Catholicos.

On Wednesday, October 27, 1999, Karekin II was elected as the 132nd Supreme Patriarch and Catholicos of All Armenians. Since his ascension to the head of the Armenian Church, Karekin II has actively rejuvenated the Theological Seminary. He has been instrumental in the construction of new churches and the building of St. Gregory the Illuminator Mother Cathedral in Yervan, Armenia. Many new priests have been ordained and assigned to churches in Armenia and Diaspora under the leadership of Catholicos Karekin II.

Mr. Speaker, I urge my colleagues to join me in honoring His Holiness Karekin II Nersissian for his spiritual leadership to all Armenians.

TRIBUTE TO PAUL BEAZLEY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a dear friend, a former colleague, and fellow South Carolinian, Paul W. Beazley. On July 16th, Paul will retire from South Carolina State government. It is a retirement well deserved and he will be sorely missed.

Before coming to this august body, I served as Human Affairs Commissioner for the State of South Carolina. I was fortunate to have Paul among my support staff. Paul joined the State Human Affairs Commission in January of 1973. Upon my arrival in October 1974, I named him Director of the Technical Services Division where he served for five years before becoming Deputy Commissioner.

During my nearly 18-year tenure at the Commission, Paul was an invaluable colleague, and became an expert on the issues of equal opportunity and diversity, particularly in the workplace. He supplemented his vast experience in this area with several published works including: Think Affirmative; The Blueprint, which became the leading affirmative action planning manual in the 1970's and 1980's. He recently wrote, The South Carolina Human Affairs Commission: A History, 1972–1977; and Who Gives a Hoot at the EEOC?, a public policy case study.

An active member in his community both professionally and personally, Paul currently serves on the Board of Directors of the Midlands Marine Institute, and is president of the Alumni Association of South Carolina State Government's Executive Institute. Paul is also chairman of the State Appeals Board for the United States Selective Service System.

In addition, Paul is a member of various professional associations, and works as a volunteer for many non-profit organizations. He is also a member of the Eau Claire Rotary Club of Columbia, and has served as President and Secretary of the National Institute for Employment Equity, and as Chairman of the Greater Columbia Community Relations Council. He has also served on the Board of Directors of the Family Services Center of Columbia, the Board of Visitors of Columbia College, the Board of Directors of Leadership South Carolina and numerous task forces at the state and local level.

Prior to joining the Commission in 1973, Paul was a Presbyterian Minister. He served as a pastor, a Conference center Director, and an Educational Consultant. He has also worked as a Consultant for the University of South Carolina General Assistance Center, teaching in the field of test taking and problem-solving. He designed an experimental school and directed an experimental reading program for the Columbia Urban League.

Paul received his Bachelor of Arts degree from East Tennessee State University, his Master of Divinity from Union Theological Seminary in Virginia, and a Masters of Education from the University of South Carolina, where he also completed Doctoral studies. Paul is also a graduate of the South Carolina Executive Institute (1992), and Leadership South Carolina (1987).

Paul, a longtime resident of my current hometown, Columbia, South Carolina, is married to the former Marcia Rushworth. They have one son, Paul Derrick Beazley, who lives in Charleston. Paul is a competitive tennis player, and we share yet another common interest and pastime, golf.

Mr. Speaker, I ask you to join me in saluting one of our nation's authorities on diversity, one of my State's most highly respected professionals, one of my Community's finest citizens, and one of my good friends, Paul W. Beazley, upon his retirement. Please join me in wishing him good luck and Godspeed.

IN TRIBUTE TO STEPHEN WALPOLE

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. FARR of California. Mr. Speaker, I rise this evening to join with my friend and colleague, Congressman MIKE HONDA of the 15th District of California, in honoring a dedicated public servant. Stephen Walpole, Chief of Police for the Scotts Valley Police Department, will be retiring on July 6, 2001, bringing an end to 30 years of service to his community.

Chief Walpole is a constituent of Congressman HONDA, since part of Santa Cruz County is in his congressional district. However, Chief Walpole and I came to know each other well during my years serving in the California Assembly. His work on behalf of the residents of Scotts Valley is an amazing reminder of the importance of public service in our nation. When Chief Walpole's career began as a reserve officer in 1970 with the Scotts Valley Police Department his potential was quickly realized. He was promoted to Sergeant in 1974, Lieutenant in 1979, and Chief of Police in 1986. Besides his focus on the community of Scotts Valley, Chief Walpole has also served in several County and State-wide positions, bringing his experience and leadership to others in law enforcement and government.

Chief Walpole has also been the recipient of many awards and recognitions, including the Exchange Club Officer of the Year in 1973 and 1983; the Meritorious Service Award from the Scotts Valley City Council in 1989 for his efforts during the 1989 Loma Prieta earthquake which devastated many parts of Santa Cruz County; and was named as the Scotts Valley Chamber of Commerce Man of the Year in 1989.

Mr. Speaker, when he retires on July 6, 2001, Chief Walpole will be leaving behind a three-decade legacy of excellence and professionalism. It has been a pleasure for myself and Congressman HONDA to work with him and other members of the Scotts Valley community, and it is an honor to be able to pay tribute to him here. We wish him well in his upcoming retirement, but we know that he will always remain an active member of the community.

HONORING JORDAN HENNER

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. ISRAEL. Mr. Speaker, it is with great pride that I rise today to recognize one of New York's outstanding young students, Jordan Henner. This young man has received the Eagle Scout honor from his peers in recognition of their achievements.

Since the beginning of this century, the Boy Scouts of America have provided thousands of boys and young men each year with the opportunity to make friends, explore new ideas, and develop leadership skills while learning self-reliance and teamwork.

The Eagle Scout award is presented only to those who possess the qualities that make our nation great: commitment to excellence, hard work, and genuine love of community service. Becoming an Eagle Scout is an extraordinary award with which only the finest Boy Scouts are honored. To earn the award—the highest advancement rank in Scouting—a Boy Scout must demonstrate proficiency in the rigorous areas of leadership, service, and outdoor skills; they must earn a minimum of 23 merit badges as well as contribute at least 100 man-hours toward a community oriented service project.

I ask my colleagues to join me in congratulating the recipients of these awards, as their activities are indeed worthy of praise. Their leadership benefits our community and they serve as role models for their peers.

Also, we must not forget the unsung heroes, who continue to devote a large part of their lives to make all this possible. Therefore, I salute the families, scout leaders, and countless others who have given generously of their time and energy in support of scouting.

It is with great pride that I recognize the achievements of Jordan and bring the attention of Congress to this successful young man on his day of recognition. Congratulations to you and your family.

JIM ROPER, INDUCTEE TO THE NEW MEXICO-BROADCASTING ASSOCIATION'S HALL OF FAME

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. UDALL of New Mexico. Mr. Speaker, I rise to honor one of the outstanding citizens of the northeast corner of my home state of New Mexico—Jim Roper, who was recently inducted into the New Mexico Broadcasting Association's Hall of Fame. As a pioneer with more than 50 years in the industry, he is eminently deserving of this prestigious honor.

Mr. Roper is the chief executive officer of Raton Broadcasting and head of KRTN–AM and FM. These stations bring music and important news to the citizens of Colfax, Union, and Harding Counties as well as southeastern Colorado. In northeastern New Mexico, I cannot emphasize how important the medium of radio is as a critical news source. Mr. Roper and his team have served its citizens well.

Jim's career began in 1948, while still in high school. And it all started because the station's general manager had laryngitis. Jim and his family lived in the now abandoned town of Brilliant, not far from Raton, where radio was one of the only sources of entertainment. During a high school basketball game, Stan Brown, then the general manager of KRTN, had lost his voice and could not broadcast the game report. Jim said, "I don't know, but I'll try." One thing led to another, and soon he was spinning records at the station. In less than two decades, he was the station's owner.

Jim has seen vast changes in the radio broadcasting business since he began. Tape recorders replaced wire recorders, compact discs replaced records and satellites replaced disc jockeys. However, at KRTN on-site folks still operate the station, and despite lucrative offers to purchase the small station, Roper has refused to sell.

Jim has always been committed to providing quality service to the listeners of KRTN and capturing the essence of rural New Mexico. His dedication and commitment have made him an important part of the community. Jim has served as the city commissioner, the president of the Raton Chamber of Commerce, as a member of the city parks and recreation board and as the president for the Raton water board.

There have been two constants that have run throughout Jim's life: the radio station and his loving family. He is a proud husband and father, whose family has kept him focused and grounded.

Mr. Speaker, Jim Roper is a champion of his community and is completely deserving of being named as one of the first inductees into the New Mexico Broadcasting Association's Hall of Fame. I urge my colleagues to join me in saluting Jim Roper for his vast accomplishments.

HONORING MAYOR JOHNNY ISBELL OF PASADENA, TEXAS

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. BENTSEN. Mr. Speaker, I rise today to recognize Mayor Johnny Isbell of Pasadena, Texas. On June 30, 2001, Mayor Isbell will conclude his third four-year term as mayor of the city.

Mayor Isbell is a dedicated public servant, whose career began on the Pasadena City Council in 1969. He served on the Council until 1978 and returned from 1989–1993. He served his first term as the city's mayor in 1981 and returned to the post in 1993.

Mayor Isbell was born in San Antonio, Texas in 1938, and has lived in Pasadena for more than 55 years. He was educated at the University of Houston. He and his wife Jeanie are the proud parents of Leesa, Johnny Jr., and Kenny Isbell. In addition to his public service, Johnny serves as the President of Apache Oil Company and Chief Executive Officer of Texas Transeastern, a fuels trucking business. He is also the President of Isbell Equipment Company and Isbell Interest.

As Mayor, Johnny Isbell sought to enhance the image of Pasadena as a community of neighbors. He opened the doors of City Hall to all of the town's residents and welcomed all concerns. With an eye on the future, Mayor Isbell brought his administration online, providing constituent services via the worldwide web. During the last six years of his administration, crime rates have dropped by 30 percent and property taxes have been reduced to some of the lowest levels in the Harris County Metropolitan area.

A businessman by trade, Mayor Isbell placed a strong emphasis on the importance of bolstering local enterprise, and putting the satisfaction of his constituents at the forefront. For more than thirty years Johnny has brought his competence, dedication and lofty principle to the public purpose. Under Johnny Isbell's leadership as mayor, Pasadena has vaulted boldly into the 21st Century as a model American city. His compassion and generosity has enlivened the spirit of Pasadena. I commend Johnny Isbell for his outstanding service to our community, and wish him continued happiness as he returns to his private life with his wife Jeanie and children; Leesa, Johnny Jr., and Kenny.

IN HONOR OF TANYA PARISI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor and recognize a fine individual and exceptional teacher, Ms. Tanya Parisi of Olmsted Falls Middle School, for her outstanding dedication to the education of young students.

Ms. Parisi is one of two teachers that have organized a program that will enrich students and address concerns pertinent to the Olmsted Falls community. Within the past few years, pollution has become a growing concern for the small suburb of Olmsted Falls, and Ms. Parisi has taken it upon herself to analyze this problem. With the help of 140 seventh-graders, Ms. Parisi will be researching water and air pollution, studying water samples, researching the food web, identifying living specimens, and so much more. Throughout this entire project, students will maintain a computer portfolio of their research and publish their results online.

This program materialized only through the tireless efforts of Ms. Parisi. Her love and dedication to enriching the lives of her students has earned her the very prestigious G.I.F.T., Growth Initiatives for Teachers grant. Ms. Parisi also will be taking courses in computers and technology at Cleveland State University and attending conferences of the Environmental Education Council of Ohio.

Ms. Parisi holds a bachelors degree in education and is now pursuing a dual masters degree in science and technology. She began teaching in 1996 and has been with Olmsted Falls Middle School since 1999. She teaches math in the classroom, but her influence extends much beyond numbers and calculations. Ms. Parisi is giving students information that is not only pertinent to where they live, but that will be relevant for their entire lifetime.

Mr. Speaker, please join me in honoring a young teacher that is touching the lives of hundreds of students, Ms. Tanya Parisi. She has given her time and dedication to Olmsted Falls Middle School, and has earned the respect of students, faculty, and the entire Olmsted Falls community.

ENCOURAGING MEMBERS OF CONGRESS AND THEIR STAFFS TO HAVE SCREENINGS FOR PROSTATE CANCER

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. REYES. Mr. Speaker, as we begin to celebrate Men's Health Week, the week leading up to Father's Day, I rise today to applaud the efforts of my colleagues to bring attention to many issues surrounding men's health.

I would like to encourage my colleagues and members of their staffs to have screenings for prostate cancer. Except for lung cancer, prostate cancer is the greatest cause of cancer deaths among American men. At highest risk are African-Americans and those with a family history of prostate cancer. One in five men will develop prostate cancer in his lifetime and the American Cancer Society estimates that over 32,000 men will die from the disease this year, a mortality rate approaching that of breast cancer in women. It is recommended that men at high risk begin annual prostate cancer screenings at age 40, and that all other men begin at age 50.

As one of my former colleagues and good friend, Bill Richardson once said, "Recognizing and preventing men's health problems is not just a man's issue. Because of its impact on wives, mothers, daughters and sisters, men's health is truly a family issue." We owe it to our families to have our prostrate screenings. A tiny bit of discomfort is worth saving your life and sparing your families from the pain of an untimely death.

RECOGNIZING JOHN G. TAYLOR

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize John G. Taylor for being selected as the Person of the Year 2000 for his accomplishments in the area of religious journalism. The Muslim Public Affairs Council-Fresno will present the award to Taylor on Saturday, April 28, 2001 at their annual awards dinner.

John G. Taylor is a first-generation American. He was born in Brooklyn, New York in 1950. He worked as a reporter for a weekly newspaper and as a correspondent for the New York Times while he earned a degree in journalism at New York University. After college, he worked as a desk editor at newspapers in Hartford and New London, Connecticut.

In 1981, John and his family relocated to Fresno, where he began a 20-year career working with the community paper, the Fresno Bee. Most recently, John's reporting focused on issues of religious significance to the Fresno community, including Pope John Paul II's World Youth Day gathering in Denver and the "Stand in the Gap" million-man Christian march in Washington, D.C. He eagerly pursued stories about people and matters of faith for the Fresno Bee until January of this year. John accepted a position as a senior communications specialist/senior writer with Community Medical Centers. John and his wife Judy have six children and seven grandchildren.

I urge my colleagues to join me in praising Mr. Taylor's literary contribution to the city of Fresno and in wishing him continued success in the future.

TRIBUTE TO SAMETTA TAYLOR

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. CLYBURN. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to Sametta Alicia Taylor. Ms. Taylor recently qualified as a National Finalist in the 2001 Pre-Teen America Scholarship and Recognition Program to be held on July 3 in Baton Rouge, Louisiana. Sametta is the 12-year-old daughter of Sammie and Michelle B. Taylor of Moncks Comer, South Carolina. She will represent our state in the speech category as South Carolina's Miss Pre-Teen.

She participated in the South Carolina Pre-Teen Scholarship and Recognition Program held September 2–4, 2000 in Greenville, South Carolina. Young ladies, ages seven to twelve, were invited who have been recognized publicly for their outstanding personal achievements, volunteer services, school involvement, leadership abilities, and creative talents. State finalists were judged on similar categories including communicative ability, general knowledge, onstage expression, and acknowledgment of accomplishments.

Local participants were selected primarily from public announcements of achievements, by teachers, guidance counselors, and recommendations from past participants. Over 120 South Carolinians participated in the event.

Sametta received a $1,000 educational bond, $100 educational bond for winning the speech competition, and 4 trophies for the highest scholastic average of all the participants.

Sametta has a 10-year-old brother, Sammie Taylor, III. She is the granddaughter of Joseph and Emily J. Brown of Moncks Comer, and Sammie Taylor, Sr. and Josephine Sanders of Rembert, South Carolina. Her godparents are Carl and Altrise Weldon of Bowie, Maryland. Mr. Speaker, please join me and my fellow South Carolinians in honoring Sametta Taylor for her outstanding achievements.

IN HONOR OF JOSEPH J. GARRY, JR.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Joseph J. Garry, Jr. on his remarkable accomplishment of instilling joy and laughter through theater arts in Cleveland for over 34 years.

Joe Garry, who performs side by side with David Frazier, was just honored by the award-winning actress Patricia Neal with the Signstage Theater's annual Spotlight award, which recognizes individuals for their contributions to the arts and culture in Cleveland.

Gary and Frazier, well-known in the local and national entertainment circles, were instrumental in the success of many long-running productions. They are best known to Cleveland audiences for their landmark musical "Jacques Brel is Alive and Well and Living in Paris" which ran for two and a half years, and by supporting the restoration of the Playhouse State complex in Cleveland.

Garry, director and former professor and head of the Theater Department at Cleveland State University has written, directed, and produced plays, musicals, and operas. Together with his partner, they have actively produced 15 musicals. They have received many prestigious awards, including being inducted into The Cleveland Play House Hall of Fame for their many years as actors in repertory there, and for performing both nationally and internationally.

Recently, they have performed on the Cunard liners, QE2, Caronia and Seabourn Sea. There they sail the world first class and perform on the bill with many theater legends, while hosting a group of Cleveland friends and including them in the performances.

Joseph Garry has proved to help cultivate not only the Cleveland arts community, but locations throughout the world via his musical theatrical abilities and inspiration. I ask my colleagues to rise in recognizing this great man, Joseph J. Garry, Jr. for his remarkable contributions to the theater arts.

IN HONOR OF THE 226TH BIRTHDAY OF THE UNITED STATES ARMY

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. REYES. Mr. Speaker, on Thursday, June 14th, we celebrated the 226th birthday of the United States Army. The Army's proud tradition, which dates back to 1775, has always stood tall, both in times of peace, and times of conflict which placed American men and women in harm's way. For more than two centuries, the soldiers of the Army have been poised and ready to answer the call of duty to defend this great nation. The military is a noble profession and those who have served have demonstrated their patriotism and selflessness. The Army has always been relevant and remains relevant today. With the Transformation of the Army to a leaner, lighter, and more lethal force, the Army will continue to be relevant in the future. As we forge into the future, let us reflect on the great legacy the Army has given this nation, through the great men and women who were and are proud to be Americans.

EXTENDING APPRECIATION TO THE MEMBERS OF THE SUBCOMMITTEE ON AGRICULTURE APPROPRIATIONS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. RADANOVICH. Mr. Speaker, I wish to extend my appreciation to our fine chairman, the ranking member, and all of the members of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies for their good work on the agriculture spending bill and the accompanying report that passed the full committee on June 13th. In particular, I am thankful that the Subcommittee has recognized the important contributions made by the Valley Children's Hospital located in California's Central Valley.

Valley Children's Hospital (VCH) is the only freestanding children's hospital in a rural area in the United States. VCH serves the 10-county, 60,000 square mile region between Los Angeles and the San Francisco Bay, and it functions as a "safety-net" health care provider to all children of Central California. The facility provides services regardless of an individual's race, religion or ability to pay, with over 70 percent of its patients on MediCal.

As you can imagine, VCH faces many challenges to its ability to provide health care. These challenges include inadequate transportation, shortages of health professionals, high poverty and unemployment, and the fact that there are 93 different spoken languages and dialects in the region. Each of the 10 counties that VCH serves is federally designated as medically underserved.

In light of budget realities, we must continue to carefully define our appropriations priorities. I appreciate the Subcommittee's recognition that Valley Children's Hospital is a meritorious organization with projects that deserve special consideration.

PERSONAL EXPLANATION

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. FORD. Mr. Speaker, due to a commitment in my Congressional District, I was absent on Monday, June 25th for three recorded votes. Had I been present, I would have voted "aye" on rollcall votes, No. 186, H.Res 160, No. 187, H. Res. 99, and rollcall vote No. 188, H. Con. Res. 161.

HONORING CHARLOTTE KEYS

HON. RONNIE SHOWS

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. SHOWS. Mr. Speaker, I rise today to congratulate Charlotte Keys, who was recently honored as a 2001 Robert Wood Johnson Community Health Leader. Ms. Keys is one of only 10 individuals from around the country to receive this distinguished award, which includes a $100,000 grant to help further her work.

Ms. Keys is the founder of an organization called Jesus People Against Pollution, located in Columbia, Mississippi, which works to mobilize the community to improve health and environmental justice. Her early efforts focused on those in the community who suffered severe health problems as a result of a major explosion at a chemical plant in Columbia in 1977. She mobilized the community and advocated for them.

As a result of her activism, she was asked to leave her job and she endured threats on her life. Undaunted by this experience, and moved by the extensive health needs of her neighbors, many of whom were children or senior citizens, Ms. Keys formed Jesus People Against Pollution, or JPAP, in 1992. She created JPAP to help educate the community about environmental health threats and to advocate for cleanup and redevelopment.

Today, JPAP offers training and advocacy programs and has co-hosted a regional summit on environmental justice with participation by both the state and federal governments. In addition, Ms. Keys has become a trusted leader, and the community looks to her as a resource for assistance in other social issues, such as housing, food stamps and disability benefits.

One of her nominators described Ms. Keys as a "long distance runner who possesses a profound commitment to the cause of justice." It is my hope that she continues to run this race for justice. It is clear that she has covered quite a distance, but the road still stretches out ahead.

Mr. Speaker, it is a privilege today to honor Charlotte Keys for this well deserved leadership award. I am confident that it will help to strengthen and sustain her important work.

PERSONAL EXPLANATION

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. COBLE. Mr. Speaker, on Monday, June 25, I missed rollcall votes 186–188. Had I been present on this date, I would have voted "aye" on rollcall Nos. 186, 187, and 188. On this date, I had committed to participating in an event in my congressional district prior to the scheduling of votes.

REGARDING FAIR LAWN MAYOR DAVID GANZ

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. ROTHMAN. Mr. Speaker, I rise today as the U.S. Mint is poised to issue the 14th in a series of State Quarters that started in 1999 and which will continue through at least the year 2008.

On June 4, 2001, I read an interesting article in the The Record, the largest newspaper in my Congressional District, about the origins of the state quarter, which came about because of the legislative vision of my colleague from Delaware, Representative MICHAEL CASTLE and the tenacity of the Mayor of my hometown, the Borough of Fair Lawn, David Ganz.

Mayor Ganz is not a stranger to the congressional legislative process. In 1973, while still a student at Georgetown University here in Washington, he was admitted to the Periodical Press Gallery of the United States Senate as a Special Correspondent for Numismatic News Weekly, a hobby publication based in Wisconsin. He went on to become a member of the Board of Governors of the American Numismatic Association, a Congressionally-chartered group sometimes referred to as the National Coin Club. In 1993, U.S. Treasury Secretary Lloyd Bentsen, named him among the first six members of the newly-created Citizens Commemorative Coin Advisory Committee.

Both as President of the American Numismatic Association, and as a columnist for various coin collecting hobby publications, David had long advocated for a return to commemorative coinage [for which there had been a hiatus from 1954 until 1981], but also for truly circulating commemorative coins. He testified before the House & Senate Banking Committees on numerous occasions in the quarter century following his first appearance in March of 1974.

Mr. Speaker, bureaucracy is often afraid of change for no reason beyond the fact that it is not familiar, not predictable, or not safe. Mayor Ganz had a vision that circulating commemorative coinage would be good for our nation's coin collectors, good for our nation's coffers, and ultimately, educational to all

Americans. From the time that he joined the Citizens Commemorative Coin Advisory Committee in 1993 until he departed in January of 1996, he began a drum beat for what eventually became the American's State Quarters Program. That singular drum beat, initially opposed by the U.S. Mint and certain federal bureaucrats, eventually became an orchestra playing the same tune—and as a result of the efforts of my colleague from Delaware, Representative Castle, and others, the state quarter program was born.

Mayor Ganz recently wrote a book entitled The Official Guide to America's State Quarters, published by Random House, as a mass-market paperback which tells the compelling story of initially being a voice in the wilderness, and later finding that if defeat is an orphan, victory has a thousand fathers.

The story about Mayor Ganz which appeared in the June 4, 2001, edition of The Record is a fascinating and interesting one, and I ask that it be reprinted in the CONGRESSIONAL RECORD.

Mr. Speaker, The Record editorial about Mayor Ganz that was printed on June 5, 2001, says that one man can make a difference, and he certainly has. I am proud to call this man my Mayor, and proud to have him as a friend. I ask that this editorial be reprinted in the CONGRESSIONAL RECORD as well.

A GREAT TWO-BIT IDEA

It would be an exaggeration to say that David Ganz's achievement reflects the power of one man to change history.

But it would not be overstated to say that Fair Lawn's mayor has brightened everyone's life a little—not to mention the not inconsequential achievement of adding roughly $5 billion a year to the nation's Treasury.

Mr. Ganz, a 49-year-old lawyer and lifelong numismatist, was the engine behind all those fascinating, new quarters we've been finding in our pockets over the last two years—the ones celebrating the nation's 50 states. The commemorative coins have been issued at the rate of five a year since 1999, and the U.S. Mint will continue issuing new coins through 2008, when there will be one for each state.

The achievement has added a little adventure to the otherwise unremarkable task of handling change, and it has regenerated interest in coin collecting. By setting the Mint's presses into overtime in production of five times more quarters than usual to meet demand, the new coins have added $5 billion a year to the Treasury's coffers. Each quarter costs 3 cents to produce, leaving 22 cents as profit for the Mint.

Mr. Ganz's idea wasn't unusual. A lot of people have over the years recommended that the Mint spice up the nation's stodgy coin and currency by putting commemorative issues into general circulation. But the bureaucrats resisted, content to issue the occasional limited-production commemorative that only collectors would buy and save.

Mr. Ganz's prominence, energy, and perseverance as a member of former Treasury Secretary Lloyd Bentsen's Citizens Commemorative Coin Advisory Committee dismantled those bureaucratic hurdles. By doing so, the Fair Lawn mayor has added this sort of color to our lives: Trips to change makers at the laundromat now have possibilities of becoming serendipitous encounters with pieces of history instead of hurried chores to feed the dryer.

JA ELEMENTARY VOLUNTEER OF THE YEAR

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise to speak today about a distinguished member of my district who is being honored by an organization which has had an immeasurable impact on America. Jeannine Howard, a retired Bell Atlantic Pioneer from Rumford, Rhode Island, is Junior Achievement's National Elementary School Classroom Volunteer of the Year. She has volunteered for Junior Achievement for four years and taught 25 classes in that time. Ms. Howard always goes above and beyond her classroom duties, as she works to gradually increase the amount of programs Junior Achievement offers in Rhode Island. She even serves as the volunteer for those new programs herself, always with great enthusiasm and energy.

The history of Junior Achievement is a true testament to the indelible human spirit and American ingenuity. Junior Achievement was founded in 1919 by Horace Moses, Theodore Vail, and Senator Murray Crane of Massachusetts, as a collection of small, after-school business clubs for students in Springfield, Massachusetts.

As the rural-to-city exodus of the populace accelerated in the early 1900s, so too did the demand for workforce preparation and entrepreneurship. Junior Achievement students were taught how to think and plan for a business, acquire supplies and talent, build their own products, advertise, and sell. With the financial support of companies and individuals, Junior Achievement recruited numerous sponsoring agencies such as the New England Rotarians, Boy Scouts, Girl Scouts, Boys & Girls Clubs, the YMCA, local churches, playground associations and schools to provide meeting places for its growing ranks of interested students.

In a few short years JA students were competing in regional expositions and trade fairs and rubbing elbows with top business leaders. In 1925, President Calvin Coolidge hosted a reception on the White House lawn to kick off a national fundraising drive for Junior Achievement's expansion. By the late 1920's, there were nearly 800 JA Clubs with some 9,000 Achievers in 13 cities in Massachusetts, New York, Rhode Island, and Connecticut.

During World War II, enterprising students in JA business clubs used their ingenuity to find new and different products for the war effort. In Chicago, JA students won a contract to manufacture 10,000 pants hangers for the U.S. Army. In Pittsburgh, JA students developed made a specially lined box to carry off incendiary devices, which was approved by the Civil Defense and sold locally. Elsewhere, JA students made baby incubators and used acetylene torches in abandoned locomotive yards to obtain badly needed scrap iron.

In the 1940s, leading executives of the day such as S. Bayard Colgate, James Cash Penney, Joseph Sprang of Gillette and others helped the organization grow rapidly. Stories of Junior Achievement's accomplishments and of its students soon appeared in national magazines of the day such as TIME, Young America, Colliers, LIFE, the Ladies Home Journal and Liberty.

In the 1950s, Junior Achievement began working more closely with schools and saw its growth increase five-fold. In 1955, President Eisenhower declared the week of January 30 to February 5 as "National Junior Achievement Week." At this point, Junior Achievement was operating in 139 cities and in most of the 50 states. During its first 45 years of existence, Junior Achievement enjoyed an average annual growth rate of 45 percent.

To further connect students to influential figures in business, economics, and history, Junior Achievement started the Junior Achievement National Business Hall of Fame in 1975 to recognize outstanding leaders. Each year, a number of business leaders are recognized for their contribution to the business industry and for their dedication to the Junior Achievement experience. Today, there are 200 laureates from a variety of businesses and industries that grace the Hall of Fame.

By 1982, Junior Achievement's formal curricula offering had expanded to Applied Economics (now called JA Economics), Project Business, and Business Basics. In 1988, more than one million students per year were estimated to take part in Junior Achievement programs. In the early 1990s, a sequential curriculum for grades K–6 was launched, catapulting the organization into the classrooms of another one million elementary school students.

Today, through the efforts of more than 100,000 volunteers in the classrooms of America, Junior Achievement reaches more than four million students in grades K–12 per year. JA International takes the free enterprise message of hope and opportunity even further . . . to more than 1.5 million students in 111 countries. Junior Achievement has been an influential part of many of today's successful entrepreneurs and business leaders. Junior Achievement's success is truly the story of America—the fact that one idea can influence and benefit many lives.

Mr. Speaker, I wish to extend my heartfelt congratulations to Jeannine Howard of Rumford for her outstanding service to Junior Achievement and the students of Rhode Island. I am proud to have her as a constituent and congratulate her on her accomplishment.

TRIBUTE TO DOROTHY STEVENS ENOMOTO

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. MATSUI. Mr. Speaker, I rise in tribute to Dorothy Stevens Enomoto, the first African American woman to manage a California Department of Corrections institution. Mrs. Enomoto, one of Sacramento's most notable citizens, will receive an honorary Doctor of Humane Letters degree from California State University, Sacramento on May 25th, 2001. As her friends and family gather to celebrate Mrs. Enomoto's outstanding achievement, I ask all of my colleagues to join with me in saluting this truly remarkable citizen of Sacramento.

Born in Atlanta, Georgia, Mrs. Enomoto graduated from Booker T. Washington Senior High School, where she shared valedictorian honors with the late Dr. Martin Luther King, Jr. Mrs. Enomoto attended Clarke College, now Clarke Atlanta University, where she attained Senior status before she was forced to withdraw for family and economic reasons.

In hopes of securing a better future for herself and her children, Mrs. Enomoto moved to California. In time, Mrs. Enomoto obtained a Correctional Officer's position with the California Department of Corrections, where she rose through the ranks and became a trailblazing pioneer. During her tenure at the California Department of Corrections, Mrs. Enomoto became the first African American woman to manage a California Department of Corrections institution, the Women's Civil Addict Unit at the California Rehabilitation Center. In addition, Mrs. Enomoto was also the first African American woman to hold the position of Deputy Director in the Department.

Following her retirement, Mrs. Enomoto has remained active and dedicated to making Sacramento a better place for all. Mrs. Enomoto is currently a Commissioner on the Sacramento City and County Human Rights/Fair Housing Commission, having served as Chair in 1997. In addition, Mrs. Enomoto is also co-chair of the Greater Sacramento Area Hate Crimes Task Force. Mrs. Enomoto's considerable expertise on the issue of hate crime prevention prompted her appointment by President Clinton to a national hate crime conference.

Widely touted as one of Sacramento's most cherished and prominent citizens, Mrs. Enomoto has been recognized with numerous awards over the years. Some of these include the United Negro College Fund Frederick V. Patterson "Outstanding Individual of the Year" award in 1994 and her induction into the African American Criminal Justice "Hall of Fame" in 1994. In addition, she is the recipient of the "Bridgebuilder" award from the Jewish Community Relations Council in 1997 and the 1994 Sacramento YWCA "Outstanding Woman of the Year" award.

Mr. Speaker, as Mrs. Dorothy Enomoto's friends and family gather for the commencement exercises, I am honored to pay tribute to one of Sacramento's most honorable citizens. Her successes are unparalleled, and it is a great honor for me to have the opportunity to pay tribute to her contributions to the city of Sacramento. I ask all of my colleagues to join with me in wishing Mrs. Enomoto continued success in all her future endeavors.

HONORING JOHN S. KOZA

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. LEACH. Mr. Speaker, I rise today to introduce my colleagues to John S. Koza of Iowa City, Iowa, Junior Achievement's National Middle School Volunteer of the Year.

Over the past 12 years, John has taught 38 classes in basic business methods as a Junior Achievement instructor. His open, honest and caring teaching style creates a fun, relaxed environment in which students both learn the skills needed to be successful entrepreneurs and are imbued through John's example with the importance of giving back to your community.

John's work in the Junior Achievement exemplifies the history of program as a quintessential American success story.

As the exodus from farm to city accelerated in this country at the beginning of the 20th century, so did the need to prepare young people for the demands of a changing workplace. Junior Achievement was founded in Massachusetts in 1919 as a collection of small, after school business clubs to help meet that need, with students learning how to create business plans, to set up appropriate accounting procedures, and to learn basic manufacturing, advertising and marketing techniques.

In 1925, President Calvin Coolidge hosted a White House reception to kickoff a national fundraising drive for Junior Achievement, and by the late 1920's there were nearly 800 JA Clubs with 9,000 participants in 13 cities throughout New England.

During World War II, enterprising students in JA business clubs applied their ingenuity to aid the war effort. In Chicago, JA students won a contract to manufacture 10,000 pants hangers for the Army; in Pittsburgh, JA students developed a specially lined box to dispose of incendiary devices which was approved by Civil Defense and sold locally; elsewhere, they organized drives to obtain badly needed scrap metal.

The 1950's saw Junior Achievement increase five-fold, with President Eisenhower declaring the week of January 30 to February 5, 1955, "National Junior Achievement Week." By then, Junior Achievement was operating in 139 cities in most of the 50 states. By 1982, JA's formal curricula had expanded to Applied Economics, Project Business and Business Basics; by 1988, more than one million students were participating in its programs.

Today, through the efforts of more than 10,000 volunteers like John Koza in the classrooms of America, Junior Achievements reaches over 4 million students in grades K to 12 annually. JA International takes the free enterprise message of hope and opportunity to more than 1.5 million students in 111 countries.

Mr. Speaker, I congratulate John Koza of Iowa City for his outstanding service to Junior Achievement and the young people of Iowa. He is a wonderful example for us all.

TRIBUTE TO LOLA QUESENBERRY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. ANDREWS. Mr. Speaker, I rise today to honor Lola Quesenberry as she celebrates 19 years of service with the USDA Natural Resources Conservation Service (NRCS) through the Earth Team volunteer program. Lola has logged over 18,000 hours of service since she began volunteering in Blythe, California where she worked with the Palo Verde Resource Conservation District.

While in California, Lola assisted with the development of an intensive agricultural irrigation water management program. Her primary role was to operate a Campbell Pacific Nuclear neutron probe, which is an accurate method of monitoring soil moisture, at over 200 sites. Lola also assisted with the evaluation of over 50 irrigation systems, helping the farmers to optimize their water use and thereby conserve our precious water resources. She was also involved with the development of the McCoy Wash PL566 Small Watershed project—a project that is currently under construction.

Upon moving to New Jersey in 1987 to help care for her invalid mother-in-law, Lola continued her Earth Team involvement by volunteering for the South Jersey Resource Conservation, and Development Council. Lola's major responsibility is assisting with the development of the Resource Information Serving Everyone (R.I.S.E.) program. This fully functional program includes operation of eighteen Campbell Scientific weather stations located in seven southern New Jersey counties and four Campbell Scientific water quality stations. R.I.S.E. features a comprehensive Internet web site to disseminate irrigation scheduling to farmers, homeowners, and facilities managers, while also providing environmental education to interested organizations and schoolchildren.

Lola actively participates in numerous watershed projects in New Jersey. She attends meetings and provides a unique perspective to the NRCS-led Millstone watershed project, the proposed Repaupo Creek watershed project, and the Delaware Valley Regional Planning Commission's two projects—Crosswicks WMA20 and the Lower Delaware Tributaries WMA 18.

Lola has volunteered time to assist the Bear Creek Conservancy/Stewardship Association with the creation and maintenance of a fresh water marsh for waterfowl habitat. She also volunteers to the South Jersey Chapter of Quail Unlimited to help create upland wildlife habitat.

For over 19 years, Lola Quesenberry's volunteer spirit, together with the synergy gained from working with other Earth Team members and resource conservation professionals, has helped to conserve resources and improve the environment in California and New Jersey.

PERSONAL EXPLANATION

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. MALONEY of Connecticut. Mr. Speaker, due to business in my district, on Monday, June 25, 2001, I missed rollcall votes Nos. 186, 187, and 188. Had I been present, I would have voted "Aye" on rollcall No. 186, "Aye" on rollcall No. 187, and "Aye" on rollcall No. 188.

IN HONOR OF DAVID O. FRAZIER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. KUCINICH. Mr. Speaker, I rise today in honor of David O. Frazier, on his incredible accomplishments in the arts and contributions to theater in Cleveland.

Frazier began his musical profession the old-fashioned way by performing in a recital for his piano teacher. Little did he know that this was the starting point of an amazing career that would span more than five decades and take him around the world. Fate eventually led him to Cleveland where his professional career took off with his performance at the Cleveland Playhouse, America's oldest resident professional theater. His dedicated work kept him busy at the Playhouse for 34 years during which he performed in over 150 productions.

When Cleveland's Playhouse Square was threatened with demolition, Frazier took a leave of absence from his career to aid in rescuing it. He appeared in the record breaking production of "Jacques Brel is Alive and Well and Living in Paris", which became the longest running show. The production saved Playhouse Square. Now 27 years later, Playhouse Square has become the second largest performing arts center in America.

Together with his partner and collaborator Joe Garry, they have accomplished many awestruck performances. Recently, they have performed on the Cunard liners, QE2, Caronia and Seaboun Sea, There they sail the world first class and perform on the bill with many theater legends, while hosting a group of Cleveland friends and including them in the performances.

Frazier, being privileged to perform one man concerts at private functions for diverse people like Pulitzer Prize Playwright John Patrick, has produced plays, musicals, and operas. Together with his partner, they have actively produced 15 musicals. They have received many prestigious awards, including being inducted into The Cleveland Play House Hall of Fame for their many years as actor in repertory there, and for performing both nationally and internationally.

Mr. Speaker, I ask all members of the House of Representatives to join with me in recognizing David O. Frazier, a man who exemplifies the best that Cleveland's stages have to offer.

CONGRATULATIONS TO THE HONORABLE JOE KELLEJIAN

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. CUNNINGHAM. Mr. Speaker, I rise today to commend the Honorable Joe Kellejian, a member of the Solana Beach City Council, who recently received a President's Service and Safety Award from Amtrak. Councilman Kellejian was recognized as a State Partner, which means that he has been a leader in promoting the growth and expansion of passenger rail service at a regional and state level. Joe has been a constituent and personal friend to me for many years, and it is an honor to see him recognized for his contributions to rail service in California.

Promotion and expansion of mass transportation is an important part of the continued growth of the economy in southern California, and Councilman Kellejian has been a champion of this effort. As Chairman of the North County Transit Development Board, he played a key role in the development of the Coaster, a successful commuter service for southern California that is run by Amtrak and owned by the North County Transit District. Councilman Kellejian also serves as a member of the San Diego Association of Governments, and chaired the High-Speed Rail Task Force subcommittee, which provides recommendations for the 20-year Regional Transportation Plan for San Diego County.

As a member of these organizations and as an individual advocate for the enhancement of the passenger rail service in southern California, Councilman Kellejian has raised millions of dollars for the funding of various rail projects. Recently, Joe and I were successful in obtaining a $1 million appropriation for the Solana Beach Intermodal Transit Station Structure. This money is to be used to initiate a funding package for parking expansion and other improvements at the Solana Beach station, in order to help increase the use of the San Diego Coaster.

Since much of southern California and especially San Diego County are such large, sprawling areas, finding efficient public transportation methods proves to be a challenge. Thanks to the efforts of citizens like Councilman Kellejian, above-ground commuter rail service has flourished in recent years, providing, for less congested roads, cleaner air, a healthier environment and an overall better quality of life. I hope that everyone in the city of Solana Beach as well as the 51st District will join me in congratulating Joe for his achievements in improving rail service in San Diego County.

HOUSE COMMITTEE ON THE BUDGET HEARING ON ECONOMIC AND BUDGETARY EFFECTS OF NATIONAL ENERGY POLICY

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. CRENSHAW. Mr. Speaker, last week, the House Budget Committee held an informative hearing on the economic and budgetary effects of our nation's energy policy. Energy has always been a necessary ingredient—either directly or indirectly—to all our goods and services. Particularly as our economy becomes more and more dependent on technology, energy is increasingly the crucial ingredient.

As if to punctuate this point, the Energy Information Administration at the Department of Energy has concluded through its research that falling energy prices can enhance economic growth by about 0.3 percentage points over a 2-year period. Furthermore, stable energy prices that are not fluctuating widely may enhance growth by as much as 0.7 percentage points over 2 years. Only a few tenths of a percent can make a world of difference, particularly for small businesses, small investors, and working families.

The President began speaking about the need to develop a national energy policy that addresses both long-term and short-term problems and solutions long before the energy crisis in California became apparent. The plan of action that he has presented to the nation through his National Energy Policy Development Group is responsible, sound, and comprehensive. It includes suggested solutions to our lack of domestic energy supply and our dependence on foreign sources, as well as recommendations for the development of energy supplies for the 21st Century.

Furthermore, for the most part, the President has made a serious effort to take into account local concerns and interests where they intersect with the nation's interest in an energy policy that crosses geographic boundaries. I do, however, hope to have the opportunity to work with the President and his administration to find a compromise to the proposals to develop oil and gas exploration in the Eastern Gulf of Mexico that is consistent with the wishes of Floridians.

Florida is renowned for its pristine and beautiful beaches and oceans. Our economy relies upon that reputation remaining intact and vibrant. In fact, 40 million tourists traveled to Florida in 1999, spending $46 billion in Florida's hotels, shops, restaurants, and attractions. It is because of our commitment to the environmental and economic health of our state that Floridians have consistently opposed oil and gas development less than 100 miles off the shores of Florida. This is a position that has had the support of Republicans and Democrats alike.

There is currently under consideration within the Administration proposals to explore within this safe harbor that Florida has requested. While I am pleased by the healthy and productive ongoing debate on this matter, I remain opposed to drilling within this safe harbor. I have been encouraged by the seeming willingness of the Bush Administration to work with the State of Florida to seek further moratoriums in the Straits of Florida region by the famous Florida Keys. And, I am very hopeful that the Administration will work with the State to consider restricting lease sales in the Eastern Gulf so that oil and gas exploration can be pursued for the nation while respecting the concerns of Florida.

A TRIBUTE TO JOEL BUCKWALD, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to Joel Buckwald, a Senior Archivist in the New York office of the National Archives and Records Administration whose service to this country spans the past sixty years. Mr. Buckwald began working for the National Archives on June 3, 1941 after two weeks with the Public Buildings Administration. Hired under the first Archivist of the United States as a Junior Professional Assistant, he quickly rose to the rank of Junior Archivist before enlisting in the Navy at the end of 1942. During World War II, Mr. Buckwald was assigned to the United Nations Central Training Film Committee. Afterwards he studied at the City College of New York and in 1947 returned to the National Archives, where he has worked for the past fifty-four years.

In 1950 Mr. Buckwald moved backed to the New York area to help establish the agency's first regional records center. Thirteen years later he was a consultant to the Organization of American States in archives and records management, spending three months advising the Ministry of Foreign Affairs in Lima, Peru. In 1970 he became the first head of the archives branch for New York, New Jersey, Puerto Rico, and the U.S. Virgin Islands, a post he held for seventeen years before becoming Senior Archivist in what is now the Northeast Region of the National Archives and Records Administration.

Today the National Archives and Records Administration will honor Mr. Buckwald's distinguished career, and tomorrow Mr. Buckwald will celebrate his 84th birthday. For his many years of exceptional leadership and dedication, I congratulate and thank Mr. Buckwald, and I wish him many happy and rewarding years to come.

IN RECOGNITION OF STEPHEN K. WOODLAND

HON. DAVID D. PHELPS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. PHELPS. Mr. Speaker, today I rise to recognize the achievements of Stephen K. Woodland. Mr. Woodland is a 29 year veteran teacher, military retiree, coach, mentor, and friend to hundreds of students who have passed through his regimen of algebra, geometry, and calculus. He drives forward with an energy level undiminished by many years of hard work. For twenty one years, the math teams he has coached and/or helped prepare for state competition have finished first, second, or third. Mr. Woodland maintains the challenge is not the competition, it is the preparation. This is where teaching and learning happen.

Mr. Woodland is the first to tell students that high school math is only the beginning. He encourages students to light their torch of learning in high school and carry it on to college. Mr. Woodland refuses the spotlight but his opinion is highly respected, his integrity is beyond reproach, and his influence mighty. When he speaks, students heed his words.

Many teachers will be successful during their careers, but very few will match the level of success and expertise achieved by Mr. Woodland. He is tenacious in his pursuit of excellence. He set his goals and then drives forward. He exhibits the qualities to set himself above the crowd. Clearly, he has distinguished himself in his profession.

TRIBUTE TO MR. LARRY L. GRIMES

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. PENCE. Mr. Speaker, I rise today to honor the life of the late Mr. Larry L. Grimes, an outstanding citizen and dedicated community leader in southwest Indiana, but most importantly, a dear friend. I join his lovely wife, Nancy, and daughter, Cassie, in expressing our gratitude for his loyal service to the State of Indiana.

Mr. Speaker, Larry Grimes left this earth in November of 2000, just hours after his overwhelming election to the Warrick Circuit Court in Warrick County, Indiana. His election was a fitting tribute to the Christian character and servant's attitude that animated his life.

Mr. Speaker, I am proud to announce that this past Sunday, June 24, 2001, the town of Newburgh, Indiana held a hose cutting ceremony to dedicate its new fire and EMS stations in the name of Former Fire Chief Larry Grimes.

Mr. Speaker, it is written that a good name is more precious than rubies. The good people of Newburgh have put a good name on this new facility.

Mr. Speaker, I respectfully ask my colleagues to join me in paying tribute to this esteemed man and cherished friend who as a family man, an educator, an attorney and a fireman, made southwestern Indiana a better place for his having been there.

CALLING ON CHINA TO RELEASE LI SHAOMIN AND ALL OTHER AMERICAN SCHOLARS OF CHINESE ANCESTRY BEING HELD IN DETENTION

SPEECH OF

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 2001

Mr. PASCRELL. Madam Speaker, I thank my colleague from New Jersey (Mr. SMITH) for his laudable work in the area of human rights and injustice worldwide.

This matter we discuss today hits particularly close to home. Li Shaomin is an American citizen that China is holding hostage.

Sal Cordo, from Bloomfield, was his supervisor when Dr. Li worked for AT&T in New Jersey. Now Sal faces the unimaginable task of leading the charge to get his friend freed from a Chinese prison, where Dr. Li faces trumped up charges.

In a recent article, China's Foreign Minister stated that, "In China, observance of human rights is now in its historically best period."

If China is at its best when it is detaining American citizens without just cause, and waiting three months to press charges, then I cannot imagine them at their worst.

We granted China permanent most favored nation (MFN) status. This trade we grant China has a price. MFN for China costs our nation both our values and our dignity.

I would think they would be walking on eggshells to not act in such an offensive manner as they are by detaining Dr. Li. The Chinese government seems as determined as ever to quash expressions of personal freedom.

In yesterday's Washington Post, there was an article entitled "China Growing Uneasy about U.S. Relations."

The Chinese government should note that the people of New Jersey are not just uneasy about their actions, they are outraged!

Those in the Chinese government should note that the U.S. Congress has not forgotten about Li Shaomin.

The Bush administration should use every avenue at their disposal to encourage the Administration to place pressure on the Chinese government in asking for the release of Dr. Li and the other U.S. hostages.

Before granting annual MFN, before we decide an official position on their Olympic bid, the Administration must convince the Chinese government that it is in their best interest to do as we ask, and they do it now.

HONORING LINDA ENGELHART FOR HER WORK WITH THE ELDERLY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to commend Linda Engelhart for working selflessly to improve the lives of the elderly, especially the work she did at Columbine Manor in Salida, Colorado. Linda believes, as Arlene Shovald of the Mountain Mail quotes, that if everybody "would do one kind thing a day," then "it would be a better world." Linda, whose actions demonstrate her commitment to such kindness, has improved this world for many.

Linda, who has also worked for Area Agency on Aging, has acted as admissions and marketing director at Columbine Manor for three years. In order to ensure that each resident always has something to look forward to, Linda initiates many projects at the Manor. For instance, she holds a weekly meeting called "Conversations with Linda," to which she brings a tasty cuisine like lemon meringue pie or crab cakes to spice up the normal meal schedule. The meeting offers more than just a delicious treat, however. Each Tuesday, according to Linda, the residents "share beautiful stories about their past." In addition, she has involved herself with a committee that plans activities for residents and their families such as Operation Christmas Child, which creates shoeboxes full of gifts for small children. Also, she helps hold a party for every holiday, and a barbecue every month. Linda, always a good listener, makes sure that her events bring what her residents desire. For instance, she says, "Today, we're helping the residents make potato salad . . . . They wanted homemade potato salad, so we let them do it."

Linda has helped transform the Columbine Manor into a rehabilitation center, sending home about 40 percent of its residents within a month or two. Perhaps the rehabilitation rate at Columbine Manor is so high because Lisa has treated her job as an opportunity to increase morale, to work alongside, and to generally get to know the residents there.

As you can see, Mr. Speaker, Linda Engelhart has acted with compassion, and has served as a model for the young and old of our nation. Today, I would like to thank and honor her on behalf of Congress for all that she has done for her residents and for humanity.

INTRODUCTION OF HOUSE CONCURRENT RESOLUTION 173—THE INTERNATIONAL HUMAN RIGHTS EQUALITY RESOLUTION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. LANTOS. Mr. Speaker, today with the support of 26 of our colleagues—including both Republicans and Democrats—I introduced House Concurrent Resolution 173, the "International Human Rights Equality Resolution," a Resolution decrying human rights violations based on real or perceived sexual orientation and gender identity. We introduced this legislation Mr. Speaker, because we believe very strongly that we must send a strong message that gay, lesbian, bisexual and transgendered people must be treated with dignity and respect, not with hatred and violence.

Mr. Speaker, it is appropriate that we have introduced our Resolution today, which is the U.N. International Day in Support of Survivors of Torture. This Resolution, together with Amnesty International's newly released report, "Breaking the Silence," highlights the use of torture against people based on sexual orientation and condemns governments who perpetrate these outrageous human rights violations, or fail to do anything to prosecute the perpetrators. All around the world, unacceptable violations of human rights have taken place against individuals solely on the basis of their real or perceived sexual orientation. These ongoing persecutions against gay people include arbitrary arrests, rape, torture, imprisonment, extortion, and even execution.

The scope of these human rights violations is staggering, and for the victims, there are few avenues for relief. Mr. Speaker, some States create an atmosphere of impunity for rapists and murderers of gays and lesbians by failing to prosecute or investigate violence targeted at these individuals because of their sexual orientation. These abuses are not only sanctioned by some States, often, they are perpetrated by agents of the State.

Mr. Speaker, in Afghanistan, men convicted of sodomy by Taliban Shari'a courts are placed next to standing walls by Taliban officials and are subsequently executed as the walls are toppled upon them and they are buried under the rubble. In Guatemala and El Salvador, individuals are either tortured or killed by para-military groups because of their real or perceived sexual identity. In Saudi Arabia, Yemen, Kuwait, Mauritania, and Iran persons are summarily executed if they are convicted of committing homosexual acts. In Pakistan, individuals are flogged for engaging in sexual conduct with same-sex partners, and in Uganda and Singapore individuals engaging in such conduct are sentenced to life in prison. In Brazil, a lesbian couple was tortured and sexually assaulted by civil police. Despite the existence of medical reports and eye-witness testimony, the perpetrators of these heinous crimes are never prosecuted.

Mr. Speaker, around the world, individuals are targeted and their basic human rights are denied because of their sexual orientation. The number and frequency of such grievous crimes against individuals cannot be ignored. Violence against individuals for their sexual orientation violates the most basic human rights.

House Concurrent Resolution 173, puts the United States on record against such horrible human rights violations. As a civilized country, we must speak out against and condemn these crimes. Our Resolution details just a few examples of violence against gays and lesbians in countries as wide ranging as Saudi Arabia, Mexico, China, El Salvador, and other countries. By calling attention to this unprovoked and indefensible violence, the International Human Rights Equality Resolution will broaden awareness of human rights violations based on sexual orientation.

House Concurrent Resolution 173 reaffirms that human rights norms defined in international conventions include protection from violence and abuse on the basis of sexual identity, but it does not seek to establish a special category of human rights related to sexual orientation or gender identity. Furthermore, it commends relevant governmental and non-governmental organizations (such as Amnesty International, Human Rights Watch, and the International Gay and Lesbian Human Rights Commission) for documenting the ongoing abuse of human rights on the basis of sexual orientation. Our Resolution condemns all human rights violations based on sexual orientation and recognizes that such violations should be equally punished, without discrimination.

This legislation is endorsed by a broad coalition of international human rights groups, gay rights groups, and faith-based organizations, among others. They include: Amnesty International, International Gay and Lesbian Human Rights Commission, Human Rights Watch, National Gay and Lesbian Taskforce, Human Rights Campaign, Log-Cabin Republicans, Justice and Witness Ministries of the United Church of Christ, and the National Organization of Women.

I would also like to extend my gratitude to the United States Department of State and the United Nations for documenting the ongoing abuse of human rights on the basis of sexual orientation and gender identity.

Mr. Speaker, the protection of gender identity is not a special right or privilege, but it should be fully acknowledged in international human rights norms. I ask that my colleagues join with me in wholeheartedly embracing and supporting human rights for all people, no matter what their sexual orientation might be. It is the only decent thing to do.

COMMEMORATING THE 50TH ANNIVERSARY OF THE LAURA INGALLS WILDER LIBRARY

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mrs. EMERSON. Mr. Speaker, it is with great honor and pride that I stand before the House today in observance of the 50th Anniversary of the Laura Ingalls Wilder Library. The Laura Ingalls Wilder Library is located in Mansfield, Missouri, a small town in Missouri's Eighth Congressional District.

Many will remember with great fondness the Laura Ingalls Wilder books. In fact many of us or our children grew up reading her accounts of life in the great outdoors. She wrote simply and vividly—with such detail that her accounts of pioneer life have become the way that many of us view life on the Midwestern frontier. Through her writing, Laura Ingalls Wilder provided us with a chronology of life during the Pioneer days that has allowed us to preserve a lost era in American history.

But Laura Ingalls Wilder did more than just evoke a love for the rural way of life in her writing. Through her writing, she instilled a love of reading and over time that love of reading was translated into action as she became a tireless advocate for our public libraries.

In rural America, public libraries are not just a luxury or a convenience, they are a way of life. Most small towns don't have a Barnes and Noble and many folks don't have access to Amazon.com.

As a result, the tireless endeavors of the Laura Ingalls Wilder's of today are keeping Ms. Wilder's efforts alive. In Wright County, the community is working in a cooperative and most inspiring manner to create the Laura Ingalls Wilder Library and Community Center, an expanded library that will provide a technology and community center. The center will give folks the opportunity to embark on a journey of learning and to inspire adults and children with a love for reading.

Mr. Speaker, on this very special occasion, I ask that all of my colleagues join me in recognizing the 50th Anniversary of the Laura Ingalls Wilder Library. May the blessings of the last 50 years serve as a vision for the next 50 years.

IN HONOR OF WILLIAM E. MARTIN, PRESIDENT OF UNITED WAY OF HUDSON COUNTY, UPON HIS RETIREMENT AFTER 45 YEARS OF SERVICE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor William E. Martin, who will be recognized by the United Way of Hudson County, New Jersey. On Wednesday, June 27, 2001, the City of Jersey City will honor Mr. Martin during a dedication ceremony to rename Vroom Court the William E. Martin Way. A luncheon in honor of Mr. Martin will follow the ceremony.

William Martin began his distinguished career with the United Way Foundation in 1956, serving as President of the United Way in Hudson County, New Jersey. During his tenure, Mr. Martin was instrumental in establishing over 30 Tri-State United Way agencies. As a result of his hard work and dedication, United Way now provides social services in over 700 communities throughout the Tri-State area, lending assistance to over 8 million people a year.

Beyond his administrative duties, William Martin has also served as an ambassador for the United Way Foundation. In 1988, he was chosen by his peers to set up United Way services in Beijing, China and Hong Kong. In addition, he has assisted in the implementation of United Way services in Vietnam, Pakistan, Egypt, and the Philippines.

Youth outreach and community service initiatives have also been top priorities in William Martin's life. Prior to his tenure with United Way, he was Director of Human Services at Camp Crowder in Missouri and served as Athletic Director at the CYO Center in Jersey City, New Jersey for nine years.

Today, I ask my colleagues to join me in honoring William Martin for his distinguished service on behalf of the United Way of America and the residents of New Jersey.

MARVIN OLINSKY: VISIONARY, PUBLIC SERVANT, AND HUMANITARIAN

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. HALL of Ohio. Mr. Speaker, I rise to pay tribute to Marvin Olinsky, who is retiring after serving 14 years as chief executive of the Five Rivers MetroParks, a regional park system in Dayton and the Miami Valley, Ohio. Marvin has been an extraordinary steward of the park system and a tireless advocate for clean, safe parks for us and future generations.

Ten years ago, the park district managed 6,900 acres. Under Marvin's leadership, Metroparks has grown to an 11,000 acre system with an annual attendance of 5.6 million visitors. He increased law enforcement within the parks, expanded educational programs and recreational facilities, and made the parks cleaner. These improvements have made the park system enormously popular among residents of the Miami Valley.

Marvin has been more than a park system director to the community. He has been a true visionary, helping to make the physical surroundings in the Dayton area more attractive and friendly. He was a moving force behind the current downtown Dayton renaissance and he has actively participated formally and informally in a broad range of civic activities.

Beyond Dayton and this country, Marvin's spirit of helping stretches to the war-torn West African nation of Sierra Leone. As a private citizen, he has visited the country on a regular basis to bring much-needed books, medicine, clothing, and food. I have traveled with him to Sierra Leone on a humanitarian mission. It has been an honor to work with him in the struggle for justice in that country.

I have had the privilege of working with Marvin on other projects, including the Hope Foundation, which he chairs. This group supports needy citizens in Africa and around the world.

For me, Marvin is more than just a partner in public service. I am proud that he is my friend.

Dayton is fortunate that Marvin plans to stay in the area and continue his civic involvement. His creativity, vision, and energy can always be used here.

TRIBUTE TO THE REV. DAVID KALKE

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. BACA. Mr. Speaker, I rise to salute a constituent of mine, the Reverend David Kalke, recipient of a 2001 Robert Wood Johnson Community Health Leadership Award, for his work in creating a "safe zone" for our youth. The award is the nation's highest honor for community health leadership and includes a $100,000 program grant.

The Reverend Kalke has done remarkable work with teen health and education programs in an area of San Bernardino, CA, known to have the state's highest teen pregnancy and STD rates and marked incidents of violence. The original core of 12 teens has since grown to over 100 youths a year.

Because of these efforts, he is one of 10 outstanding individuals selected this year to receive a $100,000 Robert Wood Johnson Community Health Leadership Program award.

You know, Mr. Speaker, it is important that we give the children hope. That we give them a chance. A helping hand up. A chance to have a mentor, to have someone believe in them. Because through that confidence in them comes confidence in themselves. The Reverend Kalke has done that. I think we must all remember the role models in our lives, and remember those who inspired us to see the possibilities. So we can all understand what it is for a child to have the sort of opportunities, the sort of chance that the Reverend Kalke has given them.

The Reverend Kalke has a long history of public service and involvement with serving our youth. His deeply held beliefs that the church should be actively involved in the community began with a mission to Chile during the 1970s. He eventually returned to New York City where he led a Lutheran church congregation and initiated a broad array of community programs in the South Bronx.

In 1996, he was asked by the Lutheran church to revive a struggling church in a poverty-stricken section of San Bernardino, CA, known to have the State's highest teen pregnancy and sexually transmitted disease rates, as well as one of the highest incidences of gang-related violence.

From the beginning, his vision faced obvious risks. His church, the Central City Lutheran Mission (CCLM), was abandoned with no established community ties and a regular risk of violence from area youth gangs. To gain the neighborhood's trust, Kalke hired local teens to help clean up the site, offering to pay small salaries while they undertook peer HIV/AIDS health educator training. The original core of 12 teens has since grown to over 100 youths a year, working, learning and volunteering in what has become a gang-free, safe space in the midst of a devastated neighborhood.

Admirers have observed: "Not since Escalante worked his magic in teaching calculus to poor minority kids in East Los Angeles has anyone witnessed the dedication, caring, knowledge and skills of David Kalke in assisting 'throw away' kids in a 'throw away' neighborhood to learn ways to improve their own and the neighborhood's existence."

CCLM's programs now include: an adolescent health program which employs peer educators to teach HIV, STD and teen pregnancy prevention; an after school program for 50 children between the ages of 5–12 to help with homework and nutrition; and, a teen dayschool for suspended, expelled or home-study students. CCLM's cultural programs include art, writing and photography. Teens publish a newsletter of poems, drawings and photographs on the realities of inner city life.

The Reverend Kalke has also raised federal and city funding to rehabilitate abandoned homes and turn them into transitional housing for homeless HIV+ persons.

In order to create these programs he has effectively pulled together numerous partners including other churches, California State University at San Bernardino (Cal State) and the city council. Cal State's Social Work, Public Health and Communications Departments regularly send interns and nursing students to conduct 9-month internships at CCLM.

The CCLM programs have transformed hundreds of individual lives, giving food, shelter, education, safety and hope where there was none.

And so we honor the Reverend Kalke, and we salute him, for his achievement and his commitment to our youth.

TRIBUTE TO HUGO NEU

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. PALLONE. Mr. Speaker, I would like to ask my colleagues to join me in congratulating Hugo Neu Schitzer East, one of the largest scrap metal recyclers in New Jersey, for their proactive efforts to improve industrial recycling.

The Hugo Neu Schitzer East Company has been operating in Port Liberté, New Jersey for the last 40 years. They have invested several million dollars in research and development, attempting to find new and better ways to mine and recycle waste metal. They have done so with the goal of reducing the amount of scrap metal that needs to be disposed of in landfills.

For example, almost a quarter of the metal produced by the shredding of an automobile cannot be recycled and needs to be disposed of in a landfill. Hugo Neu is working to dispose these waste materials in a more environmentally sound manner, as well as find ways to recycle and reuse a larger portion of scrap material.

I ask to submit an article from the Business News New Jersey that better outlines Hugo Neu's efforts on behalf of the environment.

[From the Business News New Jersey, Jersey City, NJ, June 5, 2001]

SCRAPPING OLD WAYS AND LOOK FOR NEW ONES

(By Geeta Sundaramoorthy)

John Neu and Robert Kelman like to say jokingly that they are still trying to figure out how to make money after being in the scrap metal recycling business for 40 years. As part owner and general manager, respectively, of Hugo Neu Schnitzer East, one of the biggest recyclers in the region, they may only be half joking.

Jersey City-based Hugo Neu buys scrap metal from auto dealers and construction companies, then shreds, processes and ships it to customers for use as raw material in making steel. With international prices of scrap funding to historic lows and costs going up, scrap metal recyclers, including Hugo Neu, are finding it hard to keep the revenue flowing in from their core business.

The company has annual revenues of about $170 million, 225 employees, and handles 1.3 million tons of scrap annually in the New York metro region. It says it is the region's largest exporter of processed scrap.

According to Kelman, in the last 18 months scrap prices have dropped from about $130 per gross ton to less than $80, a 38% falloff. International demand for scrap has also fallen as Asian economies hit hard times, competition increased from Russia and domestic demand decreased as cheap imports of steel pushed many U.S. steel makers near bankruptcy. Strict environmental standards for the disposal of waste and higher wage and energy costs are also pushing the costs up, he points out. "We are squeezed into a box," says the 62-year-old Neu.

Their neighbors, which in Hugo Neu's case include the residents of the Port Liberté condominium complex, on the Jersey City waterfront also don't much appreciate the noise and grit associated with recycling operations.

So Neu and Kelman, as well as other recyclers, are now busy looking for ways to diversify their revenue stream. Hugo Neu is looking for ways to recycle new materials, especially the waste left behind after the current processing is done, and for new lines of business to enter.

Hugo Neu is spending $20 million to dredge the channel leading to its Claremont terminal pier facility in Jersey City to a depth of 34 feet so it can use its port and crane facilities to off load freighters carrying break bulk metal cargoes such as rods, rails and other steel products. The company is splitting the cost of the dredging project with the state and work is slated to be finished in 18 months.

Hugo Neu is not the only scrap recycler looking to diversify into break bulk cargo. Newark-based Naporano Iron and Metal, a unit of Chicago's Metal Management which is close to emerging out of Chapter 11 bankruptcy, also plans to boost its stevedoring business and handle break bulk cargo at its Port Newark facility. Last month, the company won a battle against the International Longshoremen's Association to use its own labor for loading and unloading some break bulk cargo.

John Neu's father, Hugo Neu, who is considered a pioneer in the scrap recycling industry, started the family business in the early 1960s. It split in 1994, after Hugo Neu's death, with John Neu getting the scrap metal operations and half the real estate business. John Neu, now CEO of Manhattan-based Hugo Neu Corporation, formed Hugo Neu Schnitzer East in 1998—as a 50% joint venture with Schnitzer Steel Industries of Portland, Oregon. It is now Hugo Neu's largest operation, and is run by Kelman, 38, who is Neu's brother-in-law.

Kelman concedes the scrap business is dusty and noisy and some neighbors have a legitimate grouse about noise. Port Liberty is about 1,000 feet from Hugo Neu's Claremont terminal, and is separated by a channel, where the recent dredging work has only increased residents ire. Our business involves processing and transportation. It is an environmental issue. "People say why do we need to have a scrap processing business in a residential area?" says Neu, adding that most scrap is generated in the New York metro area. "It has to get out of the city and come to the docks in the New York harbor."

Kelman says his company's port has been operating for more than 40 years, whereas the Port Liberty residents came only 12 years ago. "There is only so much we can do to minimize the impact," he says, adding the company has even built a container wall to keep the operations out of the sight of residents. The question is whose impact will be greater for the economy, ours or the residential units, he asks.

Jersey City has, in a way, answered that question by choosing to keep that part of waterfront reserved for industrial use. Anne Marie Uebbing, director of the city's department of housing, economic development and commerce, says it has supported Hugo Neu's dredging project, recognizing the importance of Claremont as an international port, especially when Hugo Neu starts bringing in more ships carrying break bulk cargo. Uebbing says the city supports industrial development that can arise around the port, including warehousing and manufacturing. "We see port activity in the New York harbor increasing. It is imperative that we maintain our competitive edge."

Hugo Neu has also invested several million dollars in research and development to find new ways to "mine" the waste metal it produces. About 25% of every automobile that is shredded can't be recycled and has to be disposed of at an environmentally approved landfill, an expensive proposition for many recyclers.

A year ago, Hugo Neu entered into a joint-venture project with Daimler Chrysler and set up a facility in Utah to do research on recycling plastics. Kelman hopes to announce the results of that research in the next two months. In addition, the company is converting waste from the auto shredding process into landfill cover that reduces its tipping fee—money charged by landfill companies for dumping waste. Kelman hopes in the next few years the company will be able to reduce its waste by 50%, with the ultimate goal of producing zero waste.

CORRIDORONE FUNDING

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. GEKAS. Mr. Speaker, I am joined in my remarks by my fellow colleagues from Pennsylvania, Representative PITTS and Representative PLATTS. We would like to take this opportunity to note that language was included in the FY' 02 Transportation Appropriations bill that reallocated unexpended funds from previous appropriations acts for various projects around the country. Much to our surprise, and disappointment, a project which is critical to the central Pennsylvania region—the CORRIDORone project—was on the list to be rescinded.

The report language from the Committee states "these sums are not needed due to changing local circumstances or are in excess of project needs." Upon further inquiry, I was informed by the Subcommittee that these funds for the CORRIDORone project were being reallocated because it was presumed the funds would not be obligated by the September 30, 2001 deadline. However, this is not the case. Capital Area Transit (CAT), the local agency responsible for the project, is proceeding through the Federal Transit Administration (FTA) approval process and is expected to obligate the funds within a few short weeks, well before the September 30 deadline. I am at a loss as to why it was thought that these funds would not be obligated. How this misinformation came to be I do not know, but it saddens me that such a vital project for the central Pennsylvania region, and one which has the support of state, local, business, and environmental leaders would suffer such a serious setback due to faulty information.

Representatives GEKAS, PITTS, and PLATTS have written to Chairman ROGERS requesting that the project be removed from the reallocation list or at the very least be granted an extension of one year in order to utilize funds already appropriated and desperately needed. We have also written to the FTA requesting an explanation of their decision to recommend that CORRIDORone's FY '99 funds be reallocated.

Mr. Speaker, if FY '99 funds were reallocated, CAT would lose half of all federal funds appropriated for CORRIDORone to date. Coupled with the fact that no additional funds were appropriated for the project this year, reallocation of half its federal funds would almost certainly prevent CAT from completing the CORRIDORone project. If central Pennsylvania is to successfully move into the 21st century, such an investment in Pennsylvania's future can not be abandoned at this crucial hour.

We look forward to working with the Appropriations Committee to rectifying the situation, but hope that FTA approval to obligate funds will satisfy the Committee and prevent reallocation.

TRIBUTE TO COLONEL JOHN COLEMAN

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. HALL of Ohio. Mr. Speaker, it is my honor to note the long-term record of selfless service by one of Ohio's own, and a member of the "greatest generation," Colonel John Coleman, United States Army, Retired. This year marks the 50th anniversary of Colonel Coleman's election as National President of the Reserve Officers Association and the 73rd anniversary of his acceptance of the oath of office as a commissioned military officer.

Mr. Speaker, few American's can claim such a rich legacy of service to country and countrymen. We all know the excellent work that is done every day by the staff of the Reserve Officers Association and their numerous volunteer members. But few of us know the significant achievements of Colonel John Coleman in his role as national president of the Reserve Officers Association.

During 1951, Colonel Coleman worked closely with the Marine Corps Reserve Association to gain passage of the Armed Forces Reserve Act of 1952 which became Public Law 476. That act provided the framework for a fully integrated and fully capable reserve force working as partner with the regulars in meeting the nation's defense needs. As a result of the legislation passed, the reserve force became a critical resource for all military engagements that followed.

Colonel Coleman's record of military service began with his commissioning as a second lieutenant of the Field Artillery in 1928. His record is marked by selfless service in numerous staff and command positions including service in combat during World War II. Among his many awards and recognition is his membership in the Honorable Order of Saint Barbara for his contributions to the Army Field Artillery.

Mr. Speaker, Colonel Coleman fully represents the spirit of the Reserve Officers Association and its model, the Minuteman. Just across the street from the East front of the Capitol building stands the Association's headquarters, the Minuteman Memorial Building: an edifice that is aptly named as it represents the acts and sacrifices of so many of its members personified in the nature and deeds of Colonel Coleman.

Just like the Minuteman, who came forward in a time of crisis to help his nation, so did Colonel Coleman come forward when his nation and his Association needed him. Mr. Speaker, I ask all Americans to join me in a grateful salute to both Colonel John Coleman and his devoted wife, Julia. We are all grateful not only for his service but also to the thousands of men and women who so admirably follow the traditions of one of Dayton, Ohio's greats: Colonel John Coleman.

TO RECOGNIZE THE TEACH OUR CHILDREN FOUNDATION AND THE THIRD ANNUAL BART OATES/RICK CERONE CELEBRITY GOLF OPEN

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Bart Oates and Rick Cerone, the cofounders of the Teach Our Children Foundation in Newark, New Jersey. On Monday, June 25, 2001, Mr. Oates and Mr. Cerone hosted their Third Annual Oates/Cerone Celebrity Golf Open at the Mountain Ridge Country Club in West Caldwell, New Jersey. This charity event raised funds for the Teach Our Children Foundation, benefiting underprivileged children living in Newark.

The Teach Our Children Foundation, a nonprofit organization founded by Bart Oates and Rick Cerone, provides educational and developmental opportunities for children living in Newark. The foundation aims to address problems children face in urban America today, including the presence of drugs, the breakdown of the familial structure, and the difficulties urban schools face in handling these and other issues.

Bart Oates and Rick Cerone are very well known throughout New Jersey for their successful careers in professional football and baseball. Bart Oates, who is a former New York Giant, graduated from Seton Hall's School of Law, and currently is Vice President for Marketing and Client Service at the Gale & Wentworth Real Estate Company. Rick Cerone is a former New York Yankee, an alumnus of Seton Hall University, and founder and president of the Newark Bears Minor League baseball team.

Today, I ask my colleagues to join me in honoring Bart Oates and Rick Cerone, along with the Teach Our Children Foundation of Newark, New Jersey, for providing children with a brighter future and real educational opportunities.

CALLING ON CHINA TO RELEASE LI SHAOMIN AND ALL OTHER AMERICAN SCHOLARS OF CHINESE ANCESTRY BEING HELD IN DETENTION

SPEECH OF

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 2001

Mr. CROWLEY. Mr. Speaker, I want to thank Mr. SMITH of New Jersey for authoring this crucial and timely resolution.

It troubles me to report that one of my constituents is among the many Chinese-Americans being held without cause by the government of the People's Republic of China.

As an author and scholar, Mr. Wu would often travel to the land of his ancestry for business and research.

However, on April 8th, Wu Jianming (Woo John-Ming) of Elmhurst, New York was detained by security forces while traveling in the People's Republic of China. He was taken to an isolated house outside the city of Guangzhou for questioning.

Chinese authorities detained Mr. Wu for nearly a week before finally notifying the American consulate of the arrest in violation of standard protocol.

Though the Consul General was finally granted access to assess the physical and emotional well being of Mr. Wu, the circumstances surrounding his captivity are simply unacceptable. He has now been held for nearly three months without being formally charged with any crime.

Chinese diplomats here in Washington argue that Mr. Wu's case is a matter of national security, and provided no further details.

Mr. Wu is a husband, a scholar, and a U.S. citizen. He is not a subversive element.

For the sake of Sino-American relations, it is essential that he be immediately and unconditionally released.

It troubles me to report that Mr. Wu's story is not an isolated incident. The recent detention of Chinese-American scholars has strained our relationship with Beijing.

As members of the international community and partners of the United States, it is imperative that they be held to the same standards as all other nations.

Therefore, I proudly join Mr. SMITH in supporting the release of these men without further delay, and I urge my colleagues to join us in that endeavor.

HERSHEY INTERMODAL CENTER FUNDING

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. GEKAS. Mr. Speaker, I would like to express my disappointment that funding for the Hershey Intermodal Center was not included in the FY 2002 Transportation Appropriations bill. Hershey, PA, is in need of a modernized central business district with a vibrant center of activity to meet the transportation and commercial realities of the 21st Century. To address this need, local government officials have been working with private concerns in a public-private partnership to renovate downtown Hershey. At the heart of the downtown improvement plan is the construction of an intermodal transportation center. This facility will link bus transit, park and ride, and transit parking in a central location. It will also provide parking for the overall downtown development and is situated to provide a stop for the commuter rail service that is envisioned in the CORRIDORone long-term plan. I strongly support this regional economic development project and believe that funding for this important project should have been included in the Transportation Appropriations bill.

Although $2.5 million was not added to this year's House version of the Transportation Appropriations bill, I plan to continue my efforts to seek funds which are seriously needed to revitalize central Pennsylvania. I hope the Senate will correct this oversight, and recognize the needs of the hard working people of our commonwealth.

TRIBUTE TO PAUL BEAZLEY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a dear friend, a former colleague, and fellow South Carolinian, Paul W. Beazley. On July 16th, Paul will retire from South Carolina State government. It is a retirement well deserved and he will be sorely missed.

Before coming to this august body, I served as Human Affairs Commissioner for the State of South Carolina. I was fortunate to have Paul among my support staff. Paul joined the State Human Affairs Commission in January of 1973. Upon my arrival in October 1974, I named him Director of the Technical Services Division where he served for five years before being named Deputy Commissioner.

During my nearly 18-year tenure at the Commission, Paul was an invaluable colleague, and became an expert on the issues of equal opportunity and diversity, particularly in the workplace. He accentuated his vast experience in this area with several published works including: Think Affirmative; The Blueprint, which became the leading affirmative action planning manual in the 1970's and 1980's. He recently wrote, The South Carolina Human Affairs Commission: A History, 1972–1977; and Who Give a Hoot at the EEOC?, a public policy case study. He played a key role organizing the State's first Human Affairs Forums, two of which were nationally televised.

An active member in his community both professionally and personally, Paul currently serves on the Board of Directors of the Midlands Marine Institute, and is president of the Alumni Association of South Carolina State Government's Executive Institute. Paul is also chairman of the State Appeals Board of the United States Selective Service System.

In addition, Paul is a member of various professional associations, and works as a volunteer for many non-profit organizations. He is also a member of the Eau Claire Rotary Club of Columbia, and has served as President and Secretary of the National Institute for Employment Equity, and as Chairman of the Greater Columbia Community Relations Council. He has also served on the Board of Directors of the Family Services Center of Columbia, the Board of Visitors of Columbia College, the Board of Directors of Leadership South Carolina and numerous task forces at the State and local level.

Prior to joining the Commission in 1973, Paul was a Presbyterian Minister. He served as a Pastor, a Conference Center Director, and an Educational Consultant. He has also worked as a Consultant for the University of South Carolina General Assistance Center, teaching in the field of test taking and problem-solving. He designed an experimental reading program for the Columbia Urban League.

Paul received his Bachelor of Arts degree from East Tennessee State University, his Master of Divinity from Union Theological Seminary in Virginia, and a Masters of Education from the University of South Carolina, where he also completed Doctoral studies. Paul is also a graduate of the South Carolina Executive Institute (1992), and Leadership South Carolina (1987).

Paul, a longtime resident of my current hometown, Columbia, South Carolina, is married to the former Marcia Rushworth. They have one son, Paul Derrick Beazley, who lives in Charleston. Paul is a competitive tennis player, and we share yet another common interest and pastime, golf.

Mr. Speaker, I ask you to join me in saluting one of our nation's authorities on diversity, one of my State's most highly respected professionals, one of my communities finest citizens, and one of my good friends, Paul W. Beazley, upon his retirement from South Carolina State government. Please join me in wishing him good luck and Godspeed.

PERSONAL EXPLANATION

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. WEINER. Mr. Speaker, I was unavoidably detained in my district on Monday, June 25, 2001 and the morning of Tuesday, June 26, 2001, and I would like the record to indicate how I would have voted had I been present.

For rollcall vote No. 186, the resolution calling on the Government of China to Release Li Shaomin and all other American scholars being held in detention, I would have voted "aye."

For rollcall vote No. 187, the resolution expressing the sense of the House that Lebanon, Syria and Iran should call upon Hezbollah to allow the Red Cross to visit four abducted Israelis held by Hezbollah forces in Israel, I would have voted "aye."

For rollcall vote No. 188, the resolution honoring the 19 U.S. servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996, I would have voted "aye."

For rollcall vote No. 189, on approving the Journal, I would have voted "aye."

IN HONOR OF THE EIGHTH ANNUAL PUERTO RICAN INTERNATIONAL FESTIVAL OF HOBOKEN, NEW JERSEY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the participants and sponsors of the Eighth Annual Puerto Rican International Festival of Hoboken, New Jersey. This dynamic event is part of a week-long celebration that pays tribute to Puerto Rican culture and the achievements of Puerto Ricans all around the globe. This year's festivals were held in Church Square Park on Sunday, June 24, 2001. The Puerto Rican Cultural Committee of Hoboken and the Hoboken Office of Hispanic and Minority Affairs cosponsored the event.

The Puerto Rican Cultural Committee of Hoboken and the Hoboken Office of Hispanic and Minority Affairs did a marvelous job in coordinating and planning this year's festivities. For years, these organizations have promoted cultural and community events in Hoboken, which showcase the heritage, pride, and uniqueness of each nationality or ethnic group in Hoboken. In addition, these two organizations provide essential social and professional guidance for Latinos in Hoboken.

This lively and spirited festival features artists and musicians from all around the world, as well as Puerto Rican music and dance. The Festival is a place where the entire family can enjoy activities, such as animal rides, a petting zoo, outdoor concerts, and over a hundred food vendors serving appetizing Caribbean cuisine.

Hoboken's Puerto Rican Community has been an integral part of the city, and has contributed economically, culturally, and socially to the well-being of our District and State.

Today, I ask my colleagues to join me in honoring the participants and co-sponsors of the Eighth Annual Puerto Rican International Festival of Hoboken, New Jersey.

INDIAN GOVERNMENT CAUGHT RED-HANDED TRYING TO BURN DOWN SIKH HOMES, GURDWARA IN KASHMIR

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. TOWNS. Mr. Speaker, in March 2000 when President Clinton was visiting India, 35 Sikhs were murdered in cold blood in the village of Chithi Singhpora in Kashmir. Although the Indian government continues to blame alleged "Pakistani militants," two independent investigations have proven that the Indian government was responsible for this atrocity.

Now it is clear that this was part of a pattern designed to pit Sikhs and Kashmiri Muslims against each other with the ultimate aim of destroying both the Sikh and Kashmiri freedom movements. The Kashmir Media Service reported on May 28 that five Indian soldiers were caught red-handed in Srinagar trying to set fire to a Gurdwara (a Sikh temple) and some Sikh homes. The troops were overpowered by Sikh and Muslim villagers as they were about to sprinkle gunpowder on Sikh houses and the Gurdwara. Several other troops were rescued by the Border Security Forces. The villagers even seized a military vehicle, which the army later had to come and reclaim.

At a subsequent protest rally, local leaders said that this incident was part of an Indian government plan to create communal riots. As such, it fits perfectly with the Chithi Singhpora massacre.

Mr. Speaker, India has been caught red-handed trying to commit an atrocity to generate violence by minorities against each other. Now that the massive numbers of minorities the Indian government has murdered have been exposed, it is trying to get the minorities to kill each other. Instead they are banding together to stop the government's sinister plan. The plan to create more bloodshed is backfiring on the Indian government.

Such a plan is a tyrannical, unacceptable abuse of power. As the superpower in the world and the leader of the forces of freedom, we must take a stand against this tyrannical, terrorist activity. First, President Bush should reconsider the idea of lifting the sanctions against India. Those sanctions should remain in place until the Indian government learns to respect basic human rights. Until then, the United States should provide no aid to India. And to ensure the survival and success of freedom in South Asia, we should go on record strongly supporting self-determination for all the peoples and nations of South Asia in the form of a free and fair, internationally-monitored plebiscite on the issue of independence for Khalistan, Kashmir, Nagalim, and all the nations seeking their freedom. This is the best way to let freedom reign in all of South Asia and to create strong allies for America in that troubled region.

Mr. Speaker, I would like to place the May 28 Kashmir News Service article on the Indian forces trying to burn the Gurdwara into the RECORD at this time for the information of my colleagues, especially those who defended India at the time of the Chithi Singhpora massacre.

[From the Kashmir Media Service, May 28, 2001]

ATTEMPT TO SET ABLAZE SIKH HOUSES IN IHK FOILED

SRINAGAR—Evil forces behind incidents like collective murder of Sikhs in Chatti Singhpora were publicly exposed when the people frustrated the Task Forces' designs to set ablaze Sikh houses and Gurdwara in Srinagar late Saturday night.

According to Kashmir Media Service, Muslims and Sikhs came out of their houses in full force and over powered five of the Indian troops who were about to sprinkle gun powder on Sikhs' houses and adjoining Gurdwara in Alucha Bagh locality with an intention to set them on fire.

The people also seized a military vehicle, the Task Force personnel were riding in. Twelve troops, however, succeeded to escape. Later, the Border Security Force personnel rescued the Task Force personnel. However, the captured vehicle was retained by the people from which, petrol, hand grenades and hundreds of tear gas shells were recovered.

Former APHC Chairman, Syed Ali Gilani led an APHC delegation, including Qazi Ahadullah and Abdul Khaliq Hanif, to the site of the incident. A protest procession was taken out in the locality. The protestors were addressed by Syed Ali Gilani, Ranjiet Singh Sodi, Sardar Bali, Qazi Ahadullah and Abdul Khaliq Hanif.

Syed Ali Gilani recalled the collective murder of Sikhs in Chatti Singhpora and said, now that India has invited Pakistan's Chief Executive General Musharraf for talks, this sinister plan had been hatched to vitiate the atmosphere by creating communal riots.

HONORING JANE E. NORTON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. MCINNIS. Mr. Speaker, I would like to take a moment to recognize a woman that has made numerous contributions to the State of Colorado and the United States. Jane Norton has served the State in various capacities over the years, and is currently being recognized by her alma mater Colorado State University for her varied accomplishments. As her friends, family and classmates gather to honor Jane Norton, I too would like to pay tribute to Jane. Clearly her hard work is worthy of the praise of Congress.

Jane Norton received her Bachelor of Science in Health Sciences from Colorado State University in 1976. She went on to earn her Masters in Management from Regis University. After graduation Jane held many positions in the government. Most notably Jane was the regional director of the U.S. Department of Health and Human Services, under the administrations of President Ronald Reagan and President George Bush. While serving as the regional director, Jane received the U.S. Public Health Service Assistant Secretary's Award for Outstanding Accomplishment for increasing immunization rates. This is only one of many awards Jane received during her tenure as the regional director of the U.S. Department of Health and Human Services.

Currently Jane runs a number of broad-based health and environmental protection programs ranging from disease prevention, family and community health services and emergency medical services and prevention. Jane is also Secretary of the State Board of Health, a Commissioned Officer for the Food and Drug Administration, and serves on the Board of Directors for the Regional Air Quality Council and Natural Resource Damages Trustee. Throughout her distinguished career, Jane has been and still is known to her friends and colleagues as a team player. Jane is not only a bright and intelligent woman, but also a woman with incredible people skills.

As Jane receives distinction among her former classmates, Mr. Speaker, I would like to take this opportunity to thank her for her service to the United States of America. She has worked hard for this country, and her hard work is deserving of the recognition of Congress.

CESAR CHAVEZ DAY OF SERVICE AND LEARNING

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today with my colleague Mr. BERMAN, to congratulate Governor Davis on the first annual Cesar Chavez Day of Service and Learning, funded through the Governor's Office on Service and Volunteerism (GO SERV).

Cesar E. Chavez, a civil rights leader and community servant, committed his life to empowering people. He championed the cause of thousands of farm workers in order to improve their lives and communities and to work for social justice. Chavez believed that service to others was a way of life, not merely an occupation of an occasional act of charity. He forged a legacy of service, conviction and principled leadership. Californians celebrate and learn about the life and works of Chavez annually through civic engagement.

On March 30, 2001, the Governor's Office on Service and Volunteerism commemorated the first annual Cesar Chavez Day of Service and Learning by involving K–12 students in service and teaching children about the life and work of Cesar E. Chavez. Individuals, business and community members, teachers and school children came together to perform meaningful service projects to honor the principles by which Chavez conducted his life. GO SERV awarded grants to 71 projects which performed community activities, such as community garden projects, mural painting, theater/teatro performances, environmental restoration projects, community beautification activities, and agricultural/farmworker projects. As a result of these partnerships, over 300,000 students engaged in service activities to honor Cesar E. Chavez.

One striking example was a program in Orange County. At the Orange County Cesar Chavez Day initiative, over 500 4th grade students participated in gleaning fields and harvesting crops. All of the food gathered was donated to the Second Harvest Food Bank which distributed the food locally. Over 25,000 pounds of cabbage, radishes, carrots, onions, romaine, iceberg and butter lettuce was gathered as a result of the program. In addition to gathering food, students planted over 800 seedlings. In June, the program will engage over 400 additional 4th grade students in the program to harvest crops for donation to the Food Bank. The activities are a fitting introduction for students to the life and work of Cesar E. Chavez.

Another program called Barrios Unidos, a nonprofit organization dedicated to violence prevention, developed Cesar Chavez service clubs to commemorate Cesar Chavez Day. Barrios Unidos commemorated the day in seven sites statewide including Santa Cruz, San Mateo, Salinas, Fresno, Santa Monica, Venice, and San Diego. Through these Cesar Chavez clubs, youth participated in community beautification projects while learning about the life and values of Chavez. In Santa Monica for example, people joined to celebrate the day by cleaning up Virginia Avenue Park and painting a 20-foot long mural depicting city life.

GO SERV worked in conjunction with Senator Richard Polanco's office, the Cesar E. Chavez Foundation, the Chavez family, and the Department of Education to promote the first annual Cesar Chavez Day of Service and Learning. We are proud of the undertakings of the first annual Cesar Chavez Day of Service and Learning and look forward to continuing to seeing the impact GO SERV will have in our community while commemorating and teaching Californians about the legacy of Cesar E. Chavez.

WOMEN AND CHILDREN IN AMERICA DENIED VITAL MEDICAL AND FOOD BENEFITS BECAUSE OF IMMIGRATION STATUS

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 2001

Mr. REYES. Mr. Speaker, I am here to convey my strong support for the "Healthy Solutions for America's Hardworking Families" package developed to provide critical health, nutrition, and protection benefits to legal permanent resident children and women. This package includes three pieces of legislation that take steps to address some of the most blatant gaps in our nation's effort to help those legally here in our country in times of greatest need.

As Chair of the Congressional Hispanic Caucus and as a Member whose district includes a large Hispanic community, one of my top priorities is to advocate for the fair treatment of hard-working, tax paying families. The Immigrant Children's Health Protection Improvement Act, H.R. 1143, gives States the option of providing basic health care coverage to legal permanent resident children and pregnant women who arrived in the U.S. after August 22, 1996. As a result of the 1996 reforms, lawfully present children and pregnant women who arrived in the US after 1996 must wait five years before they can apply for basic health care.

Because many of these recent immigrants are concentrated in low-paying, low-benefit jobs, these hard-working, tax-paying families, like so many citizens in our country, simply cannot afford private health care coverage. Thus, this vulnerable population cannot obtain proper health treatment such as preventative and prenatal care. Many are forced to delay care and rely on emergency room services to receive treatment. I believe this is an unacceptable risk for any American, as well as for current legal immigrants and their future American children.

The Congressional Budget Office estimated last year that this legislation would provide coverage to insure 130,000 children and 50,000 mothers per year who have followed the rules and are in this country legally. In light of the fact that the Hispanic population is the most uninsured in our country, with over 33 percent having no coverage, this legislation is a critical step in meeting this need.

A second component of this package is the Nutrition Assistance for Working Families and Seniors Act, H.r. 2142, which would permit qualified legal immigrants to obtain food stamps regardless of their date of entry. The majority of those impacted would be in low-income families with children and elderly. I have seen first hand, in my district, the detrimental affects of hunger and under-nutrition. Hungry children are more likely to suffer from adverse health effects and studies show that hunger has a negative impact on a child's ability to learn. Furthermore, pregnant women who are undernourished are more likely to have children with low birth weights, Likely leading to developmental delays.

This important bipartisan legislation is widely supported and endorsed by many, including the National Conference of State Legislatures, National Association of Counties, U.S. Conference of Mayors, and the National Governor's Association. Restoring this component of our nation's safety net system is not only critical step toward ending hunger in our country, it is just simply the right thing to do.

Finally, the third bill in the Healthy Solutions package is the Women Immigrant's Safe Harbor Act, H.R. 2258, which would allow legal immigrants who are victims of domestics violence to apply for critically needed safety services. These victims are frequently economically dependent on their abusers and isolated from their support networks. I believe we must do everything we can to support victims of abuse and get them on a path toward a better life.

Mr. Speaker, restoring Medicaid and SCHIP, nutrition, and protection services to this group is simply good public policy, but more importantly, the provisions in the "Healthy Solutions for America's Hardworking Families" packages can mean the difference between life and death. We cannot let these children and mothers down. I urge my colleagues to support this important package.

WOMEN AND CHILDREN IN AMERICA DENIED VITAL MEDICAL AND FOOD BENEFITS BECAUSE OF IMMIGRATION STATUS

SPEECH OF

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 2001

Mr. ORTIZ. Mr. Speaker, I commend my colleague from Texas for organizing this Special Order to bring the attention of the House of Representatives to the state of health care—or lack thereof—along the Southwest Border of the United States.

I represent a South Texas district that abuts the international border with Mexico. This part of the country is unique in so many ways, including the health needs and rampant poverty. Currently, the greatest health need in my district is the need for a comprehensive response to the rampant spread of tuberculosis in South Texas and elsewhere along the Southwest Border.

Just today, the Centers for Disease Control announced that the rate of tuberculosis cases in Brownsville, Texas, is nearly five times the national rate.

At least one doctor in the South Texas area has told me that there is a particularly frightening multiple-drug resistant form of tuberculosis that antibiotics just won't kill. I am told that this is spreading fast and is a nightmare for public health officials. It's an enormous problem. Cross-border dwellers, according to the medial community, are not good about following up on medical care and often do not finish drug therapies such as antibiotics. If you only take a little bit of antibiotics, it only takes care of a little bit of the problem and leaves the tuberculosis strong enough to come back again another day.

I supported a resolution in the House that recognizes the importance of substantially increasing United States investment in international tuberculosis control in the Fiscal year 2002 foreign aid budget, which is what it will take to deal with the problem. This resolution also recognizes the importance of supporting and expanding domestic efforts to eliminate tuberculosis in the United States and calls on local, national and world leaders, including the President, to commit to putting an end to the worldwide tuberculosis epidemic.

But as we all know, resolutions have no affect of law; they are merely words on paper on which all of us can agree. But the most fundamental job of Congress is to determine spending priorities, and we will not move forward on finding solutions to this problem without the full attention of Congress and other public policymakers.

Our migration patterns, be they associated with economic circumstances, immigration between countries or just travel between countries, have made this challenge more significant. Today it is only tuberculosis, but that may not be the case tomorrow. This portends a real crisis for health care along the border if other simple or chronic diseases become resistant to medicine we have used so far to eradicate them.

Another unique problem to the border and South Texas is the issue of safe water to drink. Often the people who are low-income and who live in the colonias, the unincorporated neighborhoods that have sprung up around municipalities, have no running water to drink. Generally, they will drink unsafe, unhealthy water and they get sick from it. These are the people least likely to have any kind of health insurance and are usually not even aware of programs like Medicaid that provide the most basic help for them.

Mr. Speaker, I would like to pay special tribute to two great women who have gone to great lengths to ensure that the patients who need medications for tuberculosis get them: Dr. Elena Marin of Su Clinica Familiar and Paula Gomez, the Executive Director of the Brownsville Community Health Center. They have been an excellent source of information to me and other Members of Congress who share an interest in matters relating to health care, and I am enormously grateful to them for their service to South Texas and the nation.

I join my colleague CIRO RODRIGUEZ in support of the "Healthy Solutions for America's Hardworking Families" agenda. No agenda can fix everything, but it takes steps to address some of the most egregious gaps in our nation's effort to help new immigrants and those who have lived here for a while along the U.S.-Mexico border.

I thank my colleague from Texas, the Chairman of the Congressional Hispanic Caucus Task Force on Health, for his diligence in bringing these matters before the House of Representatives.

HONORING THE MEMORY OF MR. KENNETH KRAKAUER

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to honor Kenneth Krakauer, whose death on June 16 is an incalculable loss to his loving family, cherished friends, and to our community. Ken touched the lives of many people through the inexhaustible energy and caring that he brought to every aspect of his life. He was a lifelong Kansas City resident and the great grandson of Bernhard Ganz, one of the first Jewish sellers in Kansas City.

Throughout his life, Ken Krakauer remained extremely dedicated to his faith, country, and community. He served in the U.S. Army Air Corps where he flew 27 missions in the European Theatre and was awarded the Air Medal with Five Oak Leaf Clusters for his bravery. He played a significant role in and was devoted to many organizations in our community, including: Director of the Menorah Medical Center for 42 years, Secretary of the Kansas City Crime Commission, Chairman and Cofounder of the Kansas City Chapter of the American Jewish Community, Co-chairman of the Kansas City Chapter of the National Conference of Christians and Jews, and a Director of the Barstow School, Visiting Nurses Association, Blue Cross and Blue Shield, UMKC University Associates, Jewish Family Services, and the Jewish Community Relations Bureau to name a few. Ken Krakauer also was an important part of the Kansas City business community. After his Presidency of the Greater Kansas City Chamber of Commerce, The Kansas City Star praised him as "an unqualified success." His grandfather, Bernhard Adler, founded Adler's in 1894, and Ken became owner and President in 1956. Adler's was the place women of all ages shopped to find the latest in fashion. It was always a special occasion for me because of the high standard of service and quality in his stores. His staff reflected his love of helping people find the uniqueness in themselves.

Ken Krakauer was instrumental in the founding of the Committee for County Progress (CCP) with community and civic leaders Bernie Hoffman, Jim Nutter, Sr., Charles Curry, Alex Petrovic, Sr., and Frank Sebree. The government reform movement in Jackson County resulted from their efforts. A charter form of government—modern, open and accessible—was created which was responsive to its citizens and inspired future generations of county leaders. I became active in the CCP, volunteering in local elections to keep the reform alive that Ken Krakauer achieved in the mid '60s as Chairman of the CCP. Through my friendship in high school with his daughter, a treasured relationship that has endured to this day, I came to revere Ken Krakauer for his sage political skills as well as his mentoring during my service in the Missouri General Assembly and my work in the United States Congress. I could always rely on his sound judgment and wisdom to assist me in sorting through the challenges I faced.

Ken Krakauer's dedication to his community was matched only by his love for golf. He was a talented golfer at the University of Missouri where he was a captain of the golf team before graduating in 1938 from the School of Journalism. His passion for golf remained undiminished throughout his life as he served in leadership capacities in the Kansas City Golf Foundation, the Kansas City Golf Association, the Missouri Golf Association, the Junior Golf Foundation of Greater Kansas City, and the Missouri Seniors Golf Association. Ken Krakauer also authored numerous golf articles in "Golf Digest" and "Golf Journal," as well as the book, "When Golf Came to Kansas City," the 1986 winner of the National Golf Foundation's Eckhoff Award. He was instrumental in sponsoring college scholarships for area caddies through his participation as a member of the Western Golf Association's Evans Scholars program.

Mr. Speaker, former U.S. Senator, Thomas F. Eagleton enjoyed Ken's friendship throughout his outstanding service to the people of Missouri. I wish to share his reflections with my colleagues:

> Ken Krakauer was a marvelous, steadfast friend. When I was young and in my first statewide race for Attorney General of Missouri, he supported me not for what I had done, but for what he hoped I might do. Later when I was in the United States Senate, he would occasionally drop me a note saying he disagreed with a certain vote I had cast. Ken Krakauer believed that an important part of friendship was candor. I have enormous affection for Ken and his wife, Jane, and for Randee and Rex. All of us will dearly miss this wonderful, intelligent man, Ken Krakauer.

Ken Krakauer loved his family and friends with a passion even death cannot diminish. Mr. Speaker, please join me in expressing our deepest sympathy to his devoted wife of 55 years, Jane Rieger Krakauer, his son and daughter-in-law, Rex Rieger and Xiaoning Krakauer, his daughter and son-in-law, Randee Krakauer Kelley and Michael J. Kelley, and his beloved grandchildren, who loved him as KK, Tyler Randal Greif and Eli Jordan Greif. Their unqualified love of "KK" was shared with neighborhood children, untold schoolmates and friends as you will find in the remarks by Georgia Lynch which follow.

Mr. Speaker, I ask unanimous consent that the attached testimonial given by Georgia Lynch at the memorial service on Tuesday, June 19th follow my statement in the CONGRESSIONAL RECORD.

OUR SWEET BELOVED UNCLE KEN, JUNE 17, 2001

For those of you whom I do not know, I am Georgia Lynch. Jim and I moved next door to Ken and Jane 27 years ago. We had two little girls Megan and Kara, ages 5 and 3, and a black lab named Ned. We had no family in Kansas City. Immediately, Uncle Ken and Aunt Jane wrapped their arms around us and for the next 27 years we had family, just across the driveway. They have always been there for us, taking the place of the family we lacked.

Our little girls stopped at their back door to ask for cookies, to show off their Halloween costumes, their Easter dresses, their prom dresses, their wedding dresses. Uncle Ken was there to talk about the problems of the day, to give advice and direction, or just to give a hug and a kiss. He was always there willing to be interviewed for school projects and essays, a wealth of knowledge on the most interesting subjects. He asked about their day, their friends, their sports, their boyfriends and was important in their lives. Dogs Megan and Charlie and then Jocko lived there too and were the girls' playmates. Our dog Ned was a problem when we first moved into our house. Our yard was not fenced and he was running the neighborhood. Uncle Ken to the rescue. He arranged for a man who lived in the country to take Ned and care for him. Uncle Ken was forever retrieving balls from his back yard that wandered over the fence, moving bicycles from his driveway, buying cups of lemonade from the girls' lemonade stands. Uncle Ken could always be counted on to buy school trash bags, flowers, candy, help with Brownie and Girl Scout projects, put a Band-Aid on a scratched knee. How wonderful to have Uncle Ken across the driveway. The girls knew he could look in our kitchen window and that he knew everything that went on in the house next door.

Ken loved the Kansas City Chiefs, and always listened with great interest and concern to Jim's tales of adventure on the gridiron. He seldom missed a game and was always there to boost our spirits when we lost or give a strong pat on the back when we won. He followed the children's little sports too, gave directions on the art of roller skating and mastering a bicycle. He could always be counted on to help perfect a golf swing. His stories on Kansas City golf history were amazing. His stories on Kansas City in general were amazing. We listened and we learned.

Our son Jake was born 19 years ago; Ken and Jane were at the door when we brought him home from the hospital. Ken asked us to reconsider calling the baby Jake, "Sounds too much like an old Jewish man rather than an Irish Catholic baby boy." Ken said. "Call him Michael or Patrick." But no, it would stay Jake.

Jake loved his Uncle Ken, as did Megan and Kara. He too would knock on the back door asking for cookies and a chat. Uncle Ken was so sweet with Jake, such a wonderful role model for our young boy. A pat on the back, a bear hug, always a "How's it going Jake?" And then, he would listen.

Most days, when Jim was out of town, my newspapers would be at my back door when I came down to the kitchen. How many many mornings did I see the top of his head walk past my kitchen window and hear the slight thump of Uncle Ken in his bathrobe, delivering the news to the kitchen door? How many times did I call him when the power went out, the alarms went off, a strange sound was heard? He would show up at my back door to see if we were OK, one time at 1:00 in the morning dressed in his trench coat over his pajamas with a butcher knife up his sleeve, ready to protect the children and me from an intruder.

Two weeks ago, Jim was babysitting our two-year-old granddaughter Morgan Grace, on a Saturday afternoon. They too, knocked on the Krakauers' back door. Aunt Jane was not home but Uncle Ken was, and of course he brought them to the kitchen table for a big chocolate brownie and milk. Papa Lynch, Uncle Ken and now our grandbaby Morgan, continuing the tradition of so many years with our next generation. Jim said, as always, Uncle Ken talked with little Morgan one on one, giving her his full and loving attention, and a great time was had by all.

What an anchor in our lives our Uncle Ken has been. He is more than a neighbor, more than a friend, he is our Uncle Ken, and we love him deeply and completely. He will always be a part of our lives. How we will miss his wave across the driveway. The last thing he ever did when entering his house was always to glance at our kitchen window before the garage door would come down. Always checking on us in his loving way. How I will miss those taillights pulling into the garage, the sound of the car door slamming, and that sweet smile and wave across the drive.

SENATE—*Wednesday, June 27, 2001*

The Senate met at 9:30 a.m. and was called to order by the Honorable Hillary Rodham Clinton, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, You give us inner eyes to see You and Your truth. Today we celebrate the birthday of Helen Keller, born on this day in 1880. Thank You for her courageous life. With Your help she overcame tremendous obstacles of being born blind and deaf. We are grateful for people like Anne Sullivan who taught her to read braille so that later she could attend Radcliffe College and eventually become a prolific author.

Our spirits are lifted today as we ponder Helen Keller's words, "I thank God for my handicaps, for, through them, I have found myself, my work, my God." We intentionally adopt for our lives four things Helen Keller urged us to learn in life: "To think clearly without hurry or confusion; To love everyone sincerely; To act in everything with the highest motives; To trust God unhesitantly." And for our work, Keller's words ring true: "Alone we can do so little; together we can do so much." Thank You, Father, for the memory of this great woman. Help us today to use all that we have to do as much good as we can in as many circumstances and to as many people as we can. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable Hillary Rodham Clinton led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Byrd).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, June 27, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Hillary Rodham Clinton, a Senator from the State of New York, to perform the duties of the Chair.

Robert C. Byrd,
President pro tempore.

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

BIPARTISAN PATIENT PROTECTION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1052, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Pending:

Kyl amendment No. 818, to clarify that independent medical reviewers may not require coverage for excluded benefits and to clarify provisions relating to the independent determinations of the reviewer.

Allard amendment No. 817, to exempt small employers from certain causes of action.

THE ACTING PRESIDENT pro tempore. Under the previous order, there will now be 60 minutes of debate in relation to the Allard amendment, No. 817, prior to a vote on or in relation to the amendment.

The Senator from Nevada.

SCHEDULE

Mr. REID. On behalf of Senator Daschle, the Senate is advised that the Senate will resume consideration of the Patients' Bill of Rights that has been called by the Chair. There is going to be an hour of debate on the Allard amendment and thereafter on the Kyl amendment. There will be votes on those two matters this morning.

Madam President, I have been advised by the managers of this bill that there has been progress made during the night. If things go as expected, we should be able to meet the deadline that has been set by the leadership; that is, we are going to finish this bill by the Fourth of July break and we can also do the supplemental bill and organizing resolution.

Mr. ALLARD. Will the Senator yield?

Mr. REID. I will be happy to yield.

Mr. ALLARD. My understanding is we have an hour for the Allard amendment equally divided between both sides; is that correct?

Mr. REID. That is true.

I would just say, Madam President, the managers of this legislation, the Senator from Arizona, Mr. McCain, and the Senator from North Carolina, Mr. Edwards, and the Senator from Massachusetts, Mr. Kennedy, have done outstanding work. Senator Gregg and the people he has been working with have been very cooperative. I think this is a good sign for this legislation and movement of this legislation generally.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ALLARD. Madam President, I would like to yield 2 minutes to the senior Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. I thank the Senator from Colorado. I will be very brief. I would just like to say to all my colleagues, on this issue I think we have made significant progress. Overnight we have the outlines of an agreement, thanks to Senators Snowe and DeWine, Nelson, Lincoln, and others, on the issue of employer liability. We hope we can get the final details of that ironed out soon. I thank those four Senators and others on this issue.

On the issue of scope, I think we are close to an agreement on that major issue.

I thank all involved, including Senator Frist and many others, for the serious negotiations that have been ongoing.

We may end up with a couple of issues that simply require votes on the floor to resolve them and the majority of the Senate will prevail. But I am very hopeful, and frankly very pleased at the progress we have made. All parties are seriously negotiating. That is the only way you can resolve an issue that has this much detail and this much complexity associated with it.

Again, I echo the sentiments of the Senator from Nevada. I think we could easily complete this in the next couple of days with the kind of willingness that has been displayed so far.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. One thing I forgot to mention, Senator Kennedy and I, late last night, spoke to Senator Judd Gregg—well, it wasn't late; it was in the evening. He indicated he would try today to get a list of amendments so we would have a finite list of amendments so we could work through those.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

If we can do that, it will be very easy to schedule what we will be doing in the next couple of days. If that doesn't happen, there is no question we will have to work late tonight and tomorrow night. Everyone should be advised Senator GREGG said he would try to get a finite list of amendments to us this morning.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. If I could just proceed for a moment, I just thank all our Members for their cooperation. We have made some progress. There is a lot of work to do on this. We are encouraged by the cooperation of all our Members. But having been around here a long time, we have a lot of work to do. We have to keep at this job. There are very important matters before us.

We ought to just recognize we have a lot of work to do and we will have a chance to see where we are as we take this step by step. We have important debates this morning, and we have some additional issues on employer liability that we will address, on medical necessity, and hopefully on the areas of scope.

Those are being worked out; I hope are being drafted. As we all know, the key is in the details. I don't want to have any false sense of anticipation. We have still some very important policy issues that have to be resolved. But we are making progress. We are very grateful to all the Members for their help and cooperation, and we look forward to this morning's debate.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. EDWARDS. Madam President, I want to echo the words of my colleagues, the Senator from Arizona and the Senator from Massachusetts.

There is certainly significant work to be done. Important issues need to be resolved. But we spent a good part of the day yesterday working on the issue of scope, making sure that every American is covered by this bill. I think we have, in fact, made great progress on that issue.

On the issue of medical necessity, which is one of the pending amendments—the Kyl-Nelson amendment—we expect to offer our own compromise amendment on that issue later today, something that was worked out yesterday through the process of discussions. As I think everyone knows, Senators SNOWE, DEWINE, and NELSON have worked very hard, along with the three of us, to work out an agreement on employer liability—all of us believing that employers all over this country need to be protected. That is not what this legislation is about. It is about giving patients rights and putting health care decisions back in the hands of doctors and patients and not in the hands of big HMOs. All of us are in agreement that in that process it is important to protect employers so they continue to provide coverage for employees all over this country.

So I echo the words of my colleagues. I do think it is true that we have made great progress. I think it is also true there is work left to be done. We will continue to work diligently with our colleagues. We have had colleagues on both sides of the aisle working on all these issues. We will continue to work on them as we go forward with these votes and this debate. But we are optimistic that we will be able to conclude this bill this week.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Colorado.

Mr. ALLARD. How much time does this side have?

The ACTING PRESIDENT pro tempore. Twenty-eight and a half minutes.

Mr. ALLARD. Madam President, I yield 18 minutes to the junior Senator from Arizona. And I would like to reserve the last 10 minutes for myself.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

AMENDMENT NO. 818

Mr. KYL. Madam President, I do not intend to take the full time right now. There may be others who wish to speak.

Senator ALLARD has been kind enough to allow those who support the Nelson-Kyl-Nickles amendment to take some of the time right now. I would like to change the subject back to that amendment which we brought before this body last night and debated for about an hour, and then we will also have an opportunity to conclude the debate on it after the vote on the Allard amendment. But now that we have a few moments, I would like to discuss that.

For those who were not in this Chamber last night to hear the debate, let me make it clear that there were two essential problems that we saw that needed resolution. We had worked with Senator KENNEDY, Senator EDWARDS, and others—and Senator NELSON had extensive conversations—about how to resolve these issues. One of the issues has apparently been resolved by agreement, although no amendment has yet been proposed to deal with it; and that all has to do with reviewing a case by the external reviewer. In other words, the insurance company has an internal review of an issue, and then if that isn't resolved, it goes to an external reviewer.

I think everybody agrees that if we can resolve the case at that stage and not have to go to litigation, it is better for everybody. So the question is, what exactly can be considered by that independent reviewer? The first problem that we saw was that the independent reviewer actually had the authority, under the bill, to order that benefits be provided to a patient that were excluded by the contract—legally excluded. The insured bought a certain set of benefits, and there were certain benefits excluded, but the independent reviewer would theoretically have the right to order excluded benefits to be provided for a patient.

I think everybody realized that was not what was intended, and it is at least the representation of those on the other side—and specifically Senator EDWARDS has made the point—that there is a way to fix that, and a very specific way, which we all understand. If that amendment is offered, then I think it will be a satisfactory conclusion to that particular matter.

The other matter that remains has to do with the other kind of issue that can come up. There is a benefit which is covered but the question is, what exactly is the appropriate medical service in this case? Here is a very simplistic example. The plan says: We are not sure exactly what is wrong with this person. We will take an x-ray to find out. But the doctor and the patient say: Look, we already had an x-ray, and the x-ray was not definitive enough. We think we need a CAT scan or an MRI.

Those are pretty expensive. The plan says: Look, we just don't think we need the MRI.

That is the dispute. There is no question that the diagnostic service is covered. The question is, which diagnostic service is appropriate or medically necessary in this particular case? So it goes to the internal reviewer. Let's say the internal reviewer says that an x-ray is good enough, but that is not what the doctor or the patient wants to hear. So they go to the independent or external review and make their case.

What is the standard for the external reviewer to decide whether or not an x-ray is good enough or whether or not there should be a CAT scan or an MRI, for example? There should be some kind of standard that is relatively uniform, unless the States have adopted a specific standard for review of plans within their particular State.

I will read the language in the bill that causes us concern because this is the deficiency as we see it. It is on page 37 of the bill. Under "Independent Determination.—":

> In making determinations under this subtitle, a qualified external review entity and an independent medical reviewer shall—

Let me read the two subparagraphs here.

> (i) consider the claim under view without deference to the determinations made by the plan or issuer or the recommendation of the treating health care professional . . .; and
>
> (ii) consider, but not be bound by the definition used by the plan or insurer of "medically necessary and appropriate" or "experimental or investigational". . . .

"Consider, but not be bound by the definition used by the plan"—of course, that could raise a question of abrogation of contract. When the insurer says: Look, this is the insurance that you bought, and here is the definition under the plan, who has the right to go in and change the definition? So we think that language is inappropriate. The independent reviewer should not be able to just ignore the definition in the plan. But that then raises the question of whether or not a plan's definition could be overly restrictive.

What we basically agreed to, at least some of us believe is an appropriate compromise, is to say: You have to use the definition of the plan, but the plan has to have a reasonable definition. What would that definition be?

First of all, if a State mandates certain language, then obviously we need to use that language. So for the 13 or so States that actually mandate language, that would have to be applied. But for the rest of the States, there would be a definition, and the definition that we use is the definition that the Federal Employees Health Benefits Plan has used, approved by the Office of Personnel Management for fee-for-service plans.

So, Madam President, you and I, and the other Members of this body have an opportunity to acquire health insurance through the Federal Employees Health Benefit Plan just as all other Federal employees do. And there are basically two standards that they use for these contracts. One is for managed care. We consider that to be insufficiently protective of the patients. The other is for the fee-for-service. It is a more strict standard. That is the standard that we use.

For 49 percent of the people who are covered by a Blue Cross-Blue Shield contract—and that language, we believe, is also used by another 23 percent. So almost three-fourths of the people are covered by very specific language. That is exactly the language we have included in the bill.

There are five specific elements of it. The one that matters the most is the second one, which is: "Consistent with standards of good medical practice in the United States."

So the reviewer—if you are in a State that does not have a mandatory definition—would then apply this definition. You might say: "Consistent with standards of good medical practice." That is pretty broad. That could be almost anything. It is not almost anything. What it is is good medical practice. And good medical practice can be determined by experts in the field, based upon the standards of the community, what literature suggests should be done in a particular case, and at least affords an opportunity for the independent reviewer to decide whether or not the patient needs the MRI or the CAT scan, in this case, whether good medical practice would ordinarily call for that, or whether, based on the circumstances of this case, it is just not that difficult and an x-ray ought to be good enough.

There are four other elements to it as well, but that is the key one.

There is a third opportunity here. If people do not like that definition, even though it covers three-fourths of us under a Federal plan, then we provide for a negotiated rulemaking procedure whereby all the stakeholders can get together and figure out a definition. I do not know what that would be. If they can all agree on a definition, we provide a mechanism for them to do so. And if they do, then that supplants this other definition. One year after that is agreed to, then this other definition is gone.

So there is an opportunity to come up with something that all of the parties agree is better if, in fact, they can do that. In the meantime, this is the definition that would apply. We think that is reasonable. We think it is an improvement on the legislation. Certainly something has to be done with this particular section.

Senator KENNEDY last night talked to both Senator NELSON and me about some possible changes in that. We are very open to that. I am hoping that in the remaining hour of debate on the Allard amendment—and then we will have the vote on the Allard amendment—and then we have an hour of debate on the Nelson-Kyl amendment—I am hoping in that 120 minutes or so we can come to an agreement as to what exactly this language should be. If we can, we are very willing to change the amendment and adopt whatever we can agree to. Senator KENNEDY had one particular idea last night that both Senator NELSON and my staff are exploring right now.

If we can do this, then we will announce it to the body. We will explain what it is, and hopefully we will have an agreement that everyone can support. If not, then obviously we will need to proceed with this language. In any event, we have identified a problem. We have a reasonable solution to the problem. If somebody has a better idea, we are open to consider what that might be.

I urge my colleagues who are interested to come to the floor and speak to it. We not only have a few remaining minutes under Senator ALLARD's time, but we have additional time when the amendment is debated after the vote on the Allard amendment.

I reserve the remainder of the time. Again, I invite anyone who is interested in speaking to this matter to come to the Chamber and address it.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Madam President, how much time do we have on our side?

The ACTING PRESIDENT pro tempore. Twenty-six minutes.

Mr. KENNEDY. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 817

Mr. KENNEDY. At the start of this discussion, we ought to understand the significance of the sort of carve-out that is offered by the Senator from Colorado. This effectively would eliminate 45 percent of all the workers in this country from the kind of coverage and protections we are trying to ensure through the Patients' Bill of Rights.

It seems to me if you work for a company that employs 48 employees and you happen to have a child who needs a specialist, you should not be denied that protection by an HMO making bottom line decisions more in the interest of profits rather than in the interest of the child and the medical decision.

That is what this issue is all about. Are we going to say if you work in a company with 49 employees, you are not covered, but if you work in a company with 51 employees, you are covered? What kind of fairness is that for the families of America?

We recognize that small business—although employing 50 is probably somewhat larger than most of the small businesses we have in our State—needs help. They pay 30 or 40 percent more in terms of their premiums. They don't deal, in most instances, with the largest of the HMOs, many of which act responsibly. They are dealing with the marginal HMOs that are more driven by profits and the bottom line rather than services to patients.

We know at the present time small businesses have additional burdens in terms of affording health insurance. We ought to address that. I am all for addressing it. But excluding them from this coverage is not addressing that particular problem. It is not going to change the premiums for this kind of coverage. That is the bottom line. If the Senator wants to give help to those small businesses in terms of additional kinds of financial incentives, or helping them get into various groups so they could purchase their health insurance at more reasonable levels, we are all for it. But first, this is not the way to go.

As the Senator from Colorado pointed out last night, the HMO's premiums have gone up 13 percent last year, 12 percent this year, with the best cost of our proposal being less than 1 percent a year. It is a gross misrepresentation and a distortion to think that this is going to solve their particular problems; it will not.

What we will be doing, if we accept the Allard amendment, is exposing working families all over the country. Families who are working should get the kind of protections we want through this legislation, the kind of protections they thought they were getting when they bought their health insurance. This amendment effectively puts these families on the sidelines and frees them from any of the protections of this legislation.

Mr. EDWARDS. Madam President, will the Senator yield?

Mr. KENNEDY. I am glad to yield to the Senator from North Carolina.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. EDWARDS. Madam President, as the Senator is aware, we are continuing to work very aggressively with Members on both sides of the aisle, led by Senators SNOWE, NELSON, and DEWINE on this issue, specifically to provide protection for employers, including small employers. As somebody who has been involved with this issue for many years, I wonder if the Senator believes we can have a real patient protection act, real Patients' Bill of Rights, if, in fact, we exempt almost half of the employees in the country from the legislation?

Mr. KENNEDY. The Senator is quite right. Of course, we cannot. That is effectively what we are doing to about 43 or 44 percent. In addition, many of those who have looked at the amendment think there will be larger companies that will break down into units of 50 or fewer in order to escape the protections of this legislation. That can go on ad infinitum. We are talking about 40, 45 employees per employer. It may be a lot more.

The Senator is quite correct: This is a position that I do not think even the President supports. In the President's list of particulars and principles, he is for holding the employers accountable that are going to be involved in making medical decisions that ultimately work to the disadvantage and the harm of the various patients. That isn't what this is all about. More likely than not, and I will let others comment on this—if you are a hardware store owner who has four employees and you are paying your premium, you are not involved in making medical judgments and decisions. That defies any kind of ordinary understanding of what is happening with small businesses. They are not the ones doing it.

The concern we have is that employers who provide HMO coverage to several hundred employees could say to the HMO: Let me know anytime there is going to be an expense over $50,000 or $75,000 because I want to know about it. When the HMO calls them up, they say: Don't provide the service. That is the real world, not the smaller business men and women.

This is an amendment which undermines a basic concept. If the good Senator can explain to me, the proponents, why should families in small companies be put at more risk? Why shouldn't the family members of a company that has less than 50 employees be able to get the specialists they need? Why shouldn't a woman worker in a smaller company be able to get to the OB/GYN as a primary care physician? Why should the wife in a smaller company not be able to get the clinical trial that will save her life from cancer?

What is the answer from the other side? What is possibly the answer from the other side? Well, the premiums have gone up.

We have talked about the issue of premiums. The President understands that. It seems to me, with the Allard amendment, we are putting the workers in these plants and factories at enormous risk. Whatever the problems are today, once we give them carte blanche, the problems are just going to increase a thousandfold. These employers are going to be immune, effectively, from any kind of action.

We are opening the barn door and inviting any employer to go with any HMO. It won't make any difference because there will not be a remedy for the workers. Is that what this whole debate and discussion is about? I don't think so.

I hope this amendment will not be accepted. It is a carve-out. As the Senator from North Carolina has stated, there are Members on both sides of the aisle who are working—Senator SNOWE and others—to tighten the language included in the basic document. We have talked about and debated the language during this time, in terms of the role of the employer and to ensure that there won't be unwarranted additional burdens on the employer. That is in the process. That is what we are dealing with as the way to go. We are going to have the opportunity to consider that later in the day.

Now we have an amendment that is going to effectively eliminate responsibility for almost half of the employees in this country. The protection for those employees is not warranted and justified with the legislation.

How much time do we have remaining, Madam President?

The ACTING PRESIDENT pro tempore. Seventeen minutes.

Mr. KENNEDY. I yield to the Senator from North Carolina.

Mr. EDWARDS. Thank you, Madam President.

I would like to speak briefly to the Allard amendment. Let me say first to my colleague, the sponsor of the amendment, who is in the Chamber, I have no doubt that his intentions in this amendment are nothing but good and he is trying to accomplish something he believes is important. The problem is this approach is extreme. It is extreme, it is outside the mainstream of all the work, essentially, that has been done on this issue.

The McCain-Edwards-Kennedy bill deals specifically with protecting small employers. The competing legislation, the Frist-Breaux bill, also deals with that issue, without this kind of extreme carve-out. The Norwood-Dingell bill that passed the House of Representatives by a wide margin did not have this kind of language in it. The American Medical Association, the medical groups from all over the country would not support this kind of carve-out. The reason is, it is impossible to have a real Patients' Bill of Rights so all patients and families across this country are protected if in fact you exclude almost half the employees in this country.

The more sensible approach, the more mainstream approach, which is the one we are taking in our legislation and as we speak, is to make sure you provide the maximum protection you can, keeping the interests of the patient in mind, for these small employers. That is the reason we are continuing, as we speak, working across party lines, to craft language that we believe is appropriate to the purpose of protecting employers in general and specifically to protecting small employers. But to exclude almost half of the employees in this country from this legislation means we have essentially left half the country out of patient protection, which I do not think anyone thinks is a sensible solution to the issue.

So I understand the concern. It is a concern we believe we have addressed in our legislation, which is to protect small employers. But we are working to go further with colleagues on both sides of the aisle, Republican and Democrat, to make sure small businesses all over the country are protected. But the solution is not to penalize almost half the families in this country and not provide them with the same rights that all other Americans would have.

It just makes no sense to have no patient protection for employees who work at a firm of 48, 49 employees and for a firm with 60 employees, in fact, the protections are there. That is just illogical; it doesn't make any sense. Most important, it is an extreme response to a legitimate issue. The legitimate issue that is raised we believe we have adequately responded to in our legislation by specifically protecting employers. But in addition to that, we are taking further steps to make sure all employers, and specifically small employers, are protected.

So I say to my colleagues, if you are concerned about employers, if you are concerned about small employers, we have protections for that group in our legislation. We are going further on that issue as we work across party lines on another amendment that will be offered, we expect, later this afternoon.

But this measure is totally outside the mainstream. It is outside what we have done. It is outside the Frist-Breaux bill. It is outside the Norwood-Dingell bill. It is outside anything the American Medical Association or medical groups across this country would ever support.

So while I understand the issue being raised by my colleague, this measure is extreme and it penalizes almost half of the families in this country and leaves them out of patient protection. Those families will still be in the same place they are today, which is HMOs can deny them coverage and they cannot do anything about it; they are simply stuck. Women will not have the right to go to their OB/GYNs; children will not have access to specialists; there will be no emergency room protection if they need to go to the nearest emergency room; and there will be no way to challenge any decision that an HMO has. That 45 percent of American families, almost half of American families, under this amendment would be totally left out. They would continue to be in the place where the HMO held complete control over their health care.

That is what we are trying to do something about. It is not the right thing to do, to exempt almost half of America from this patient protection. Not that the concern is not legitimate, because it is, but this response is extreme and totally outside the mainstream of the work and thinking that has been done by everyone in this area.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Massachusetts.

Mr. KENNEDY. Will the Senator be good enough to yield for a question?

Mr. EDWARDS. Yes.

Mr. KENNEDY. Can the Senator conceive of a situation where the employer got hold of the HMO and said: Look, I have a worker who has been hurt. I know it is going to be a costly process to bring that worker back to good health, and I don't want you to spend more than $25,000 on this. I want to put a limit on this. We are not going to spend more. I don't want you to spend more.

The HMO is going to say, if I am going to keep this as a client, I am going to follow that client.

Let me ask you this. If the Allard amendment is accepted, and the worker was seriously injured because of the failure to give the kind of medical treatment that the doctors have recommended and suggested, would that patient be able to hold that employer accountable under the Allard amendment?

Mr. EDWARDS. In answer to the Senator's question, not only under this amendment the employer couldn't be held accountable, in fact the HMO couldn't be held accountable because they would both be exempted from the legislation. So the family and the patient would be completely left out. That was my point earlier in responding to the Senator, in my comment that this is an extreme response. We have a response, both in our legislation and legislation on which the Senator has been very actively involved, that provides adequate protection, will make sure small employers are protected, but does not punish almost half the families in the country.

Mr. KENNEDY. If the Senator will yield further, this is almost an invitation, is it not, to employers, such as the mom-and-pop stores that have half a dozen employees, that basically are just paying the premium and are not making the decisions? Someone will say to them: Look, not only do you get your health insurance but you can just tell your HMO not to spend more than $10,000 or $15,000. You can do that and be completely immune and save yourself in terms of the additional premiums, although in that way you put at risk your workers. Could they not do that?

Mr. EDWARDS. Not only that, but I say to the Senator, having worked for and with small businesspeople for many years, I know they care about their employees. They care deeply about their employees, the vast majority of small businesses around this country. They do not want their employees to be in a position that they have no rights against the HMO.

To small businesspeople all over this country, their lifeblood is their employees. They need those people to come to work every day, enjoy the work, and be productive. One of the critical components of that, as the Senator well knows after all his years of work on this issue, is that they have quality health care. The small employers in this country who care about their employees—in my judgment, the vast majority—will want to make sure their employees have the best product they could possibly have. They will want them to have the same protections.

Those small employers will want to be protected from liability. That is a reasonable concern, and that is the concern, as the Senator knows, that we have addressed in our legislation and we are continuing to address with even stronger language with colleagues from across the aisle.

Mr. KENNEDY. Finally, if I may yield myself 30 seconds—under the proposal that we anticipate and support, I will make the assertion that under this proposal and Senator SNOWE's proposal later in the afternoon, which will be introduced with the good support of the now Presiding Officer, we will ensure those employees are going to be protected. That is the way to go. That is what we want to achieve, to give real protection to those employers. That is the way to proceed.

I think it is a much more effective way, efficient way for the employers, a more fair way for them, and certainly a great deal more fair for their employees.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield myself 5 minutes and then, following my 5 minutes, yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ALLARD. I think we ought to just take a little time out here and summarize where we are in this debate on whether or not we exempt businesses of 50 employees or fewer. And this is the way I want to lay it out. The Democrats are arguing that 41 percent of small business employees will lack protection from HMOs. That argument is wrong. Forty-one percent of small business employees will be subject to increased health care premiums or even losing their health maintenance insurance altogether. They will not be insured.

So this argument that there is a line being drawn between 48 and 51 employees, the fact is, when you expose small employers and small businesses to increased lawsuits when they take on a program, they are not going to take on the program. So employees will not be insured.

Moreover, an employee does not get protection from HMOs from suing their employer. If they need to sue, they should sue their HMO, not the employer, who happens to be, by the way, kind enough to offer the health insurance.

Under S. 1052, employee health costs will increase $1.19 per month. Again, I believe this argument is irrelevant, and because of S. 1052 we will see, in my view, more than 1 million Americans will lose their health insurance. At least the Senate can do something to help out small employers by exempting them from these unnecessary lawsuits. I am talking about businesses with less than 50 employees.

S. 1052 will allow a small business of five employees, for example, to be sued for unlimited economic, unlimited noneconomic damages, and up to $5 million in punitive damages. Now, that is not protecting the small businessman. That is not protecting those businesses that have 50 or fewer employees.

According to a recent survey of 600 national employers, 46 percent of the employers would be likely to drop health insurance coverage for their workers if they are exposed to new health care lawsuits, plain and simple.

I will ask to print in the RECORD a Denver Post editorial from June 21, 2001. I will quote a small section of it. It says:

> The competing Democrat bill, in our view, goes too far and includes a provision that will allow employees to sue their employers for denial of a medical request if the employer helped make the decision.
>
> We think this type of language would have the effect of encouraging more lawsuits and driving up costs instead of encouraging quick, early resolution of disputes.

It went on to say:

> We also find fault with the provisions that would authorize individual lawsuits to produce punitive damage awards in the multimillion-dollar range. Compensatory damages are one thing; punitive damage awards are quite another.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Denver Post, June 21, 2001]

WEIGHING PATIENTS' RIGHTS

As we are so often reminded, the demands for medical care are infinite while supply is not. HMOs arrived on the scene some years ago and quickly became the primary form of medical insurance precisely because they were designed to hold down medical costs. Employers, who provide the lion's share of insurance, liked them for that reason.

Now, but a few short years later, public opinion polls suggest the general public believes HMOs provide an inferior form of insurance.

Enter Congress.

The U.S. Senate is considering bills that would establish a Patients' Bill of Rights and specifically authorize a patient to sue the HMO for damages incurred when medical care is denied.

The issue for the Senate and for the nation is how wide to open the doors to the courts.

President Bush has offered what seems to be a sensible compromise. He supports a bill sponsored by Sens. John Breaux, D-La., Bill Frist, R-Tenn., and James Jeffords, former Republican turned independent from Vermont. The bill would establish an independent review process to resolve disputes before a lawsuit could be filed. Thus, a person who wants a particular medical service and is denied would be required first to submit his complaint to a review panel, which, in turn, would consider the facts and make a timely decision.

This approach recognizes the legitimate interest of the medical provider in controlling costs by delivering only necessary medical treatments. At the same time, it provides for a second set of eyes to review the quality of the decision.

The competing Democratic bill, in our view, goes too far and includes a provision that would allow employees to sue their employers for a denial of a medical request if the employer helped make the decision.

We think this type of language would have the effect of encouraging more lawsuits and driving up costs instead of encouraging quick, early resolution of disputes. We also find fault with the provisions that would authorize individual lawsuits to produce punitive damage awards in the multimillion-dollar range. Compensatory damages are one thing; punitive damage awards are quite another.

It would be nice if we could all have medical care provided on our terms alone. Somewhere a balance must be struck.

We favor something closer to the president's position than to that endorsed by the Democratic leadership, but remain optimistic that—given the high political stakes—the nation will see a bill signed this year.

Mr. ALLARD. Mr. President, the employer is not protected. In fact, he is exposed to more lawsuits—multimillion-dollar lawsuits. In order to protect himself, he is not going to provide health insurance. That means the employees will not be covered. The argument was made, why don't you provide coverage for small employers? Why don't you provide coverage for emergency service? Why don't they provide coverage for medical needs that occur in families and what not? The employer isn't going to provide that coverage if he has to face lawsuits. It is optional. He will decide not to offer health insurance.

I was a small businessman and I had to face the challenge of medical costs. We had between 10 and 15 employees. The health care costs were eating us alive. So finally we went to the employees and said what we would like to do is this: We can't afford this, so we will pay you more in a salary and then, hopefully, that will be enough of an increase that you can buy your own health insurance. We could not afford to do that. That was in times that weren't as challenging as they are today.

We are seeing horrendous increases in premiums to small business employers. Now we are going to tack on top of that these mandates and increased costs and the increased threat of a lawsuit. It is not hard for me to believe that we are going to have at least a million more workers out there who are not going to be insured if this bill passes.

Now, it is 41 percent of the workforce that we are talking about with this amendment. But I look at it a different way. I think we are helping assure that they will have health care coverage with this amendment because we are exempting them from the lawsuits.

I think this amendment is a very responsible one. It is needed. If it is not adopted, the small business community of 50 employees or less will suffer.

I yield 5 minutes to the Senator from Missouri.

Mr. BOND. Mr. President, I thank my friend from Colorado and I commend him for this amendment, which I think is very important because it goes to one of the real key areas in this Patients' Bill of Rights.

We want to make sure that people have good health care coverage and that they get what they deserve from their HMO, their insurance company. That is what this debate is all about. How do we get there? One of the most important parts of that question is how we deal with the small businesses that provide health care coverage now for their employees and who may not in the future.

My colleagues on the other side of the aisle insist that employers will not drop coverage due to the McCain-Kennedy bill. For some employers, that is probably true. Virtually all large companies offer health care, and even if we pass this legislation and dramatically increase costs, they will probably have to do so. They will have to pay more and their employees will have to pay more. But they are likely to have coverage. But from everything I am hearing from the small business community, it is much less likely that small businesses—even those who now provide health care coverage—will be able to do so.

I heard a colleague on the other side of the aisle say that the McCain-Kennedy bill has taken care of small employers—the small employers health care provision. Right. Just like a herbicide takes care of a bed of flowers, it is going to kill small business health care at the roots. I know what "taken care of" means in that context. I have sprayed herbicide; I know what they do to a flower bed or a lawn. That is how McCain-Kennedy takes care of the health care coverage of small business. They drive them out.

Small businesses are the ones that are struggling to survive. Small businesses are the ones that struggle to provide health care. They are at the heart of the problem that the McCain-Kennedy bill totally ignores—the 43 million Americans who have no health insurance. Of that 43 million Americans who have no health care insurance, approximately 60 percent are small businessowners, employees and their dependents, the family members. That is 25.8 million Americans, either small businessowners, employees, or family members, who are not covered by health insurance. They can't be a patient under the Patients' Bill of Rights. In Missouri, we have 570,000 uninsured, and 342,000 are in families headed by a small businessperson, man or woman.

If we drive more of the small businesses out of health care coverage, those numbers are going to go up. That is a disaster. That is the wrong way to go. Many small businesses do not offer coverage. Why is that? Well, there are still many barriers to small businesses providing health care coverage.

First, they have higher premium costs.

Second, they have higher annual premium increases.

Third, there are more difficult administrative hurdles. In mom and pop operations, neither mom nor pop usually has the administrative skills to set up health care and other benefit plans.

Limited deductions for the self-employed, we voted on that last week. Unfortunately, my colleagues chose to turn a blind eye to the needs of the self-employed and their families and said we are going to skip them in this bill. That is one more mistake in this bill. Here are the problems. Under McCain-Kennedy, there would be a 4.2 percent cost increase—slightly more. That is going to make health care coverage more expensive for the small business and the small business employee. That means fewer patients, because 300,000 lose coverage for every 1 percent increase.

Exposure to liability is the big one. Employers throughout Missouri are writing: we cannot afford the continuing cost increases in health care and we will not tolerate those plus exposure to liability.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. ALLARD. I yield the Senator an additional 3 minutes.

Mr. BOND. I ask for 1 minute.

Most small businesses in America are only one lawsuit away from going out of business. This lawsuit, under the multitude of causes of action provided in the McCain-Kennedy bill, could drive any single small business out of business. They are one lawsuit away from going out of business. Small businesses are smart enough to know if they are one lawsuit away from going out of business because they provide health care, they are one McCain-Kennedy bill away from getting out of the health care coverage business.

The 43 million Americans who are now uninsured—watch those numbers increase. Yesterday I noted 1,895 Missouri employees of small businesses would lose health care coverage because their small business employer could not take the risk. That number is going to be higher. It is much higher nationally.

I commend the amendment offered by my colleague from Colorado. I offer this as a suggestion: If Members care about small businesses and the health care coverage they provide their employees, vote for the Allard amendment. This is the only way to save small businesses from a knife in their back, making health care coverage for their employees unaffordable.

Mr. ALLARD. I yield 2 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I congratulate Senator ALLARD. Yesterday we had an amendment on exempting employers from being sued. That amendment was important. This amendment is important, as well.

Our basic point yesterday was, when an employer, because they care about their employees and because they want to attract and hold good employees, puts up their own money to help people buy health insurance, we should not reward that voluntary activity by making them liable to being dragged into court and sued.

The bill before the Senate is a classic bait and switch bill, make no doubt. It says you cannot sue employers, and then it says you can sue employers, and it has 7½ pages of conditions under which employers can be sued, including conditions where they exercise control, which is a little trick phrase because ERISA, the program that governs employer benefits to employees, guarantees that the employers are always deemed to be in control. So the bill before the Senate is written to guarantee every employer in America can be sued. If anybody doesn't understand that, it is because they don't want to understand it.

This amendment does not fix the problem. This amendment simply makes a plea that if you are going to force companies such as Wal-Mart to cancel their insurance—at least they have smart lawyers and they have lots of money and can figure out a way to get around this provision by changing their plans. Some of them won't. They will cancel their health insurance. And the proponents of this bill will be back a year from now, 2 years from now, saying, well, the number of uninsured has gone up and we need to have the Government take over and run the health care system.

This amendment is simply a last gasp effort to introduce some reason into this bill which says while clearly this bill is aimed at allowing employers to be sued, and clearly large employers are going to be hit with this liability and they are going to be forced either to drop their plan or change it, they have some ability to make a change. It is not smart. It is counterproductive. It is hurtful to America. But that is the way it is. That is the majority position.

The point is, this amendment says, if the company has 50 or fewer employees. We are talking about small business; we are not talking about companies that can go out and hire a legion of lawyers; we are not talking about companies that have the ability to junk their health care plan and to figure out a clever way to try to get around the devastating provisions in this bill. If you vote against this amendment, you are saying to every small business in America, we don't care if you are sued; we don't care if you provide health insurance.

It is unimaginable we would not adopt this amendment and say that while we are willing in the name of bringing lawsuits to the doorstep of every employer in America, we are not willing to destroy the ability of small business to provide health insurance, and therefore we are going to adopt this amendment. This does not fix the problem. This is an amendment that should bring out some degree of shame as to what we are willing to do. I urge my colleagues to vote for this amendment.

I yield the floor.

Mr. ALLARD. How much time remains?

The PRESIDING OFFICER. Two minutes, and the other side has 7 minutes 16 seconds.

Mr. KENNEDY. I yield myself 4½ minutes.

Mr. President, the issue is the protection of these workers. We have had 22 days of hearings; we have had this legislation for 5 years, trying to get it before the Senate; and now we have the opportunity to provide real protections to families in this country.

Now this amendment wants to say, we will provide protections for some but we will eliminate 45 percent of the protections for families in this country. What possible sense does that make?

There is a representation that somehow employers will be at risk. They will not be at risk unless they are making medical decisions that will result in harm or injury to the patient. If they are not, they are free, in spite of all the agitation we have heard from those supporting this amendment.

I have been around here long enough to realize that when we take on the special interests—and that is the HMO in this case—we hear dire consequences. When we worked on the Family and Medical Leave we heard the estimates that it would cost American business $25 to $30 billion a year. That was all malarkey. We worked on the Kassebaum-Kennedy bill regarding portability of health insurance, particularly for the disabled. They said it would increase the premiums 30 percent, it would be the end of small business and the end of the American economy. That was a lot of baloney. We worked on increasing the minimum wage. We heard it would put small business out of business, and that there would be hundreds of thousands out of work all over this country. That was baloney.

The burden we hear that would be put on small business is baloney. They have nothing to fear. They have nothing to fear in this. But the HMOs have something to fear if they are not going to permit doctors and nurses and trained personnel to provide for their patients.

The facts belie these representations that have been made. If you look at the States that have tough HMO legislation, as we have gone through repeatedly, the message should become clear. For instance, in Texas with their tough HMO law, there have been 17 cases in 5 years.

California has a tough law that has been in effect now 9 months, and no cases. No cases. Do you hear me? No cases. No small businessmen, nobody with 50 or less, none, no cases on it. And what has happened? The employees are getting the protections they need.

Now we hear, well, what about the premiums? I read into the RECORD yesterday that the total cost of this amounts to 1 percent a year over the period of the future—4.2 percent over 5 years. That amounts to about $1.19 a month. Let me tell every premium payer in this country about what is happening in terms of their premiums, why they are going up.

We have Mr. McGuire, United Health Group, who got $54 million in compensation last year and $357 million in stock options for a total compensation of $411 million. That is $4.25 a month for every premium. We are talking about $1.19 a month.

You want to do something about the increase in terms of your premiums, tell Mr. McGuire he does not need $411 million a year in annual compensation and stock options. We know what is happening. They had $3.5 billion—$3.5 billion—in profits last year. Fine. Well and good. But when you see the millions of dollars that they are spending out there on the airwaves every single day, don't cry crocodile tears in this Chamber about what is going to happen to the HMOs.

We are going to ensure that small businesses will be protected. I will join with the Senators from Colorado and Texas if they want to try to assist small business with help through the Tax Code to offset the 25 to 30 percent increase in premiums. The reason they are getting that 25 or 30 percent increase is because they are getting gouged by the major HMOs. That is the real reason. That is what we ought to be about, the real business of that, not taking it out on the injured patients in this country who are not getting the health care they need. How much time do I have?

The PRESIDING OFFICER. Two minutes forty seconds.

Mr. KENNEDY. I yield that time to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Let me just conclude from our side by saying a couple things about what the Senator from Colorado is trying to accomplish. We understand his concern about this issue. We do not believe this is the appropriate response or the appropriate measure. This is an extreme response to a legitimate issue. The legitimate issue is making sure small business people all over this country are in fact protected. We have provided in our legislation that unless they make an individual medical decision, which small businesspeople do not, then they are immune from responsibility.

No. 2, in addition to that, we are continuing to negotiate with our colleagues—Senator SNOWE, the presiding Senator, and others—on this issue, and we expect to have an amendment to offer later today that also will provide further protection for small businessmen.

I know that the Presiding Officer and many others on both sides of the aisle care deeply about this issue. This is an extreme response. It will have an extraordinarily bad effect on almost half of the employees in this country. It is outside the mainstream, outside our legislation, outside the Frist-Breaux bill, outside the Norwood-Dingell bill, not supported by the American Medical Association, not supported by any of the health care groups in this country. This is not what needs to be done. So I urge my colleagues to defeat this amendment, to vote against it, to vote with the patients, and we will continue to address the issue of ensuring that small businesses all over America are protected.

I thank the Chair.

Mr. ALLARD. Mr. President, has time expired on the other side?

The PRESIDING OFFICER. The majority has 42 seconds. The Senator from Colorado has 1 minute 50 seconds.

Mr. ALLARD. I reserve my time until the majority has used their time on the amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina.

Mr. EDWARDS. Very quickly, with the remaining 40 seconds that we have, we urge our colleagues to vote against this amendment. We are doing the things necessary to protect small businesspeople all over this country, but that can be done without leaving almost half of the families of America uncovered by the necessary patient protections that are in our legislation. For that reason we urge our colleagues to vote against the Allard amendment.

We yield back the remainder of our time.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield myself the remainder of the time.

First of all, I would like to thank my colleagues from Texas and from Missouri for their very cogent comments on small business and the adverse impact of this particular bill on small business. My particular amendment exempts businesses of 50 employees or less. This is important because what we do in this bill is we expose businesses to more lawsuits. The consequences are that businesses will not insure their employees. They will not provide health coverage. The other side is trying to make the point that somehow or the other this amendment will hurt health care coverage for employees. Just the opposite will happen. If this amendment is not adopted and the bill is passed, small employers all over America will cancel their health care coverage and turn to the employee and ask them to provide for their own health care coverage. That is not more health care coverage; that is less health care coverage.

I am a small businessman. I have had to face those tough decisions, and it is not hard for me to believe that a million employees will lose health care coverage if this particular bill is passed. I am going to ask my colleagues in this Chamber to vote for this Allard amendment because we want to make sure that we have a viable small business community in America. We want to assure that coverage for employees now covered by health plans of their small business employers continues.

If this bill passes, there is a good chance they are going to lose that coverage and that is going to mean less health care coverage for employees, not more.

This is a key amendment. It is a key vote for the small business community.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ALLARD. I ask Senators to join me in supporting the Allard amendment. It is important to the small business community. It is important to health care in this country.

The PRESIDING OFFICER. All time has expired.

Mr. ALLARD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the amendment No. 817. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. CARPER) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

The PRESIDING OFFICER (Ms. CANTWELL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—45

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
Domenici
Ensign
Enzi
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lincoln
Lott
Lugar
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—53

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Snowe
Stabenow
Torricelli
Wellstone
Wyden

NOT VOTING—2

Carper
Schumer

The amendment (No. 817) was rejected.

Mr. REID. I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, could we have order in the Senate.

Mr. STEVENS. Madam President, it is a very serious matter we would like to discuss with the Senate. I do hope the Senate will come to order.

The PRESIDING OFFICER. The Senate will be in order. Members will take their conversations off the floor.

The Senator from West Virginia.

SUPPLEMENTAL APPROPRIATIONS

Mr. BYRD. Madam President, I have asked for recognition at this time so that I might inquire of the joint leadership as to when we might expect to take up the supplemental appropriations bill. That bill was reported from the Appropriations Committee several days ago. It is on the calendar. We only have a little time left this week.

The administration has asked for this bill. The amount in the bill is within the request of the President of the United States—not one cent, not one thin dime over the President's request.

The bill has had the joint support of the distinguished Senator from Alaska, Mr. STEVENS, and myself, and our respective sides.

I will be able, at a later time, to compliment the members of the committee. Right now I want to inquire. This is a very serious matter. The administration says it wants this bill before we go out because of the need in the military for moneys for services, for training, and so forth. I do not want us to be out through this recess and have this bill hanging out there, and have it there when we get back.

Now we are ready to go. I would suggest we try to get a time agreement that would be amenable to the feelings of the two leaders and our respective sides. I think we can do that. I have every confidence we can do that. I just take the floor now to inquire as to what the chances are for us to move this supplemental appropriations bill before we go home for the Independence Day recess.

Mr. STEVENS. Will the Senator yield for one moment?

Mr. BYRD. I gladly yield.

Mr. STEVENS. Madam President, I just received word from the House of Representatives that they are scheduling two appropriations bills on the floor, and they have bipartisan agreement to finish by Thursday night. That is why this dialog right now is very important. We do have to go to conference with the House before they leave.

I join the Senator in making the inquiry.

Mr. BYRD. Madam President, I thank the distinguished Senator.

Mr. DASCHLE addressed the Chair.

Mr. BYRD. Madam President, I yield to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, I thank the distinguished chairman for yielding.

I reply that it would be my intention to complete the supplemental prior to the time we leave. I do not think we ought to leave Washington prior to the time the supplemental has been satisfactorily disposed of. I do not think we ought to take vacation until this legislation has been completed.

I have indicated, just now, to Senator LOTT that if we could reach some agreement—a finite list of amendments remaining on this bill, with an understanding of how long these amendments would require for debate—that I may be willing to enter into something I was not prepared to do earlier, which is to move to the supplemental prior to the time we complete our work on the Patients' Bill of Rights. We will complete our work on the Patients' Bill of Rights this week, and we will finish the supplemental this week, and the organizing resolution this week —or before we leave, whatever time it takes.

I hope our House colleagues will choose not to leave town until the conference has been completed and until we have been able to deal with the conference as well. It should not take long in conference. But clearly that work must be done. As I say, if we could reach that agreement with regard to a finite list, I would be prepared then to find a way with which to schedule and then perhaps take up a unanimous consent agreement that would allow us to consider the supplemental over a designated period of time.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. I yield to the Senator.

Mr. STEVENS. Madam President, the leader is correct about the timing. We should all stay until we finish this matter. But if we don't finish it by Thursday, and the House is already scheduled, I can tell you, you are not from as far west as I am, but you can't get reservations out of this place over the Fourth of July now. It is going to be very difficult for all of us and our staffs to get out of town for the Fourth of July unless we know now what we are going to be able to do. I am confident they will stay if they know we are sincere about finishing.

I am prepared to stay tonight. We have a Republican dinner tonight, but I think we can stay tonight. That would be a time when we normally would not have votes, but we can have our debates on whatever amendments might be offered and get an agreement to vote tomorrow at the leader's discretion. We have to get this bill to the House by tomorrow noon or it is not fair to ask them to stay to complete it. We should not expect them to just stay here, cancel all their reservations, not knowing whether we are going to finish by Thursday.

Mr. DASCHLE. Madam President, will the chairman yield?

Mr. BYRD. I yield to the distinguished majority leader, with the understanding I not lose my rights to the floor.

Mr. DASCHLE. I thank the chairman for yielding.

Let me just say, the whole purpose in my announcement early last week that we would have to finish the supplemental, the organizing resolution, and the Patients' Bill of Rights was to accommodate Senators who had reservations. It is not my desire to inconvenience Senators or Members of the House with regard to this schedule. I do believe that the President believes, and many of us believe, that vacations are important, reservations are important, but not as important as finishing the supplemental, not as important as the Patient Protection Act, certainly not as important as the organizing resolution. We will stay here. I hope our House colleagues will share the same view we have with regard to the importance of getting our work done on the supplemental.

I announced that last week. I don't know if people believed I was serious about it, but we are serious. We are resolute. That will be the order for whatever length of time it takes to complete our work.

I thank the chairman for yielding.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. I thank the distinguished majority leader.

I yield to my counterpart.

Mr. STEVENS. I know the Senator from Oregon wishes to have a conversation. I am prepared—I think the Senator should be prepared—to present to the Senate now our wishes with regard to the agreement.

From my own point of view, we have a very limited managers' amendment which Senator BYRD and I are working on, and I think we disclosed it with most people. But other than that, I know of only one amendment that is certain to be offered. That is an amendment of the Senator from Arizona.

I am prepared to enter into an agreement of no more than an hour on an amendment, and amendments be disclosed here by noon. We will debate them tonight and vote tomorrow.

Mr. BYRD. Madam President, may I first yield to the distinguished Senator from Oregon who has been waiting. Then I want to respond to the distinguished Senator from Alaska.

Mr. SMITH of Oregon. I thank the chairman of the Appropriations Committee. Senator BYRD does not have a bigger fan in this Chamber than I when it comes to the way he defends the people of West Virginia.

I am one of those who would like not to be holding up this bill, but I am looking at a situation in the Klamath Basin of Oregon and California that is in a drought condition. Drought is typical in the western United States. It is regular. You can count on it. Unlike past droughts, the people of Klamath Basin have had the Government magnify their drought by cutting off every drop of water. There are probably 1,500 farm families who have no income because of a Government policy which has exalted a bottom-feeding sucker fish above their welfare.

That is the Government's choice, if it wants to save the sucker fish, but my plea is that in this bill, as the President has asked, that at least the $20 million he has asked for be included or else I can't get out of the way.

I do this in the spirit of ROBERT BYRD and the way I have seen him operate. I admire it so much because I can't go home and look into the faces of these desperate people who are without now because of the Federal Government. The truth is, they need $200 million, if we want to be right by them. But the President only asked for 20. I am asking that we do at least that much.

I thank the Senator for his consideration.

Mr. BYRD. Madam President, I know about the Klamath problem. I would be happy to discuss that. I also know that the administration wants this bill. I hope the Senator will not stand in the way of final action on it. There are many things I have wanted over the years, and the Senator has every right to stand on the floor as long as his feet will hold him and speak as long as he wants. I will be here listening when he speaks. I have a sick wife. She has been in the hospital now for 10 days—9 days, but she is on the mend. I will be here as long as the Senator wants to talk. If he wants to stay in the way of the bill, I will be here listening. But we will talk about this.

I am not saying no, but I am saying that when anyone wants to stand in the way, they are going to have the administration to compete with there. The President wants this bill. And my friend TED STEVENS and I have busted a gut to get this bill to the floor and to keep it within the President's limits.

If any Senator is contemplating calling up an amendment, if it is a money amendment, that Senator ought to be ready to find an offset in the bill. That Senator ought to be ready to have the administration call that amendment an emergency on this bill. Now, if the administration wants to call it an emergency or if there is an offset, I am sure the Senator probably won't have a great deal of trouble. But I want to do what the President has asked for in this instance. This money is needed now.

That is a long story, but I say to the distinguished Senator from Oregon that he won't be by himself if he wants to hold up the bill.

Mr. LOTT. Madam President, will the distinguished Senator from West Virginia yield?

Mr. BYRD. Yes, I will.

Mr. LOTT. I apologize to my colleagues for not being here to hear the discussion earlier. I have been briefed on basically what has been said.

I commend the chairman of the Appropriations Committee and the ranking member for the work they have done on this very important defense, and other issues, supplemental appropriations bill. They have worked hard. They did bust a gut to get it out, and they held it within the area of the President's request. They have done a credible and formidable job.

I would like to get a time agreement, a tight time agreement, and a limit on amendment or amendments, and would, in spite of the fact that there is a very important conflict tonight, be willing to work with the managers of the legislation to see if we could get an agreement to do it tonight so that a conference would be possible with the House and this very important matter could be completed in the conference and the money be available for the needs of our defense and the health care of our military men and women.

I will be glad to work with the Senator from West Virginia and with his leader, the majority leader, and to work with Senators who do have concerns to make sure we address those, that they are heard.

The important thing is that we push to try to get this done. I appreciate that effort. I know the President wants it. I have spoken to him, and Senator DASCHLE has spoken to him. Clearly, we need to get this business done. I make my commitment to the Senator that I will work with him and others to see if we can't work out an agreement to handle the bill tonight and then we can do the conference tomorrow. I will be working on that and will confer with Senators as we go forward.

Mr. BYRD. Madam President, I thank the Republican leader. Let me close by urging that our respective staffs—I thank both leaders for the assurances they have given of cooperation and of desire to get the bill finished. I would like to suggest that the proposal by Senator STEVENS go forward, that our respective staffs get together, work out a time agreement, and any Senators who want to offer amendments under the constrictions that have been stated here, by which we are bound, let's have those Senators come forward by noon today and tell us about their amendments.

Mr. REID. Madam President, if the Senator has finished——

Mr. BYRD. I thank all Senators.

Mr. STEVENS. If the Senator will yield for a moment, because of my negotiations with the House, I urge that we set a time limit on when we are coming back, if that is agreeable to the leadership, and that we announce that amendments must be presented to us at the desk by noon.

Mr. BYRD. Madam President, I make that request.

Mr. REID. Reserving the right to object and I will object, I haven't had an opportunity to confer with the majority leader. He should be in on this. We will be happy to try to work something out. I object until Senator DASCHLE is apprised of this.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Madam President, I still have the floor. I don't lose it on an objection to a unanimous consent request. Let me simply say that I will just express the hope that we can know by noon. I have discussed this with our leader during the break. I certainly want to work with our distinguished whip between now and then. There hasn't been any Democratic whip in my time here that is any better, and few have been as good as Mr. REID. I am not one of those who is any better. I am one of those who hasn't been as good a whip as Mr. REID. So I thank him. I am sure that we will work together.

Mr. STEVENS. Will the Senator yield for one more inquiry?

Mr. BYRD. Yes.

Mr. STEVENS. Is there some way to set a time limit so we can go to the House and let them know? They have schedules to meet, too. I urge that we have some way to get an agreement that we have this bill called up tonight and we debate any amendments tonight and all amendments must be debated tonight and that we vote tomorrow. That seems to be agreeable with the majority leader. I hope it is. But the main thing is to get us some way that we know how many amendments are out there, I say to my good friend. I spent 8 years as a whip. I know your task is difficult. I think we have a right to ask for disclosure of the amendments that would be offered to the supplemental and have it done by a specific time today.

Mr. REID. If the Senator from West Virginia will yield.

Mr. BYRD. Yes, but I retain my right to the floor.

Mr. REID. I say to the two chairmen, I am also a member of that committee, and I would like to finish the business at hand. Senator DASCHLE has been very clear. He has stated for more than a week now that we must move forward with the Patients' Bill of Rights. We are doing that. He said this morning—and I have been in conference with Senator KENNEDY and Senator EDWARDS. I have spoken to JUDD GREGG, manager of the Patients' Bill of Rights bill. I indicated to him we need a finite list of amendments on the Patients' Bill of Rights. That seems simple. We are very interested in doing that, and that should be able to be accomplished quickly. Everybody knows the contested issues on this matter. We need a finite list of amendments.

When that is done, Senator DASCHLE said he would be happy to work with the two Senators and work out something that is fair. We can do that as quickly as possible. I think there could be a finite list given to us in the next hour. It should not be very hard to do at all.

Mr. BYRD. Madam President, I want to make sure the distinguished whip understood my request. My request was not that we take up the bill by noon. My request is only that Senators who have amendments make it known by 12 noon, that we close out after they have made it known as to what amendments they want to call up, and that we close out the amendments at that point. The leader would still retain, of course, his right to call up the bill whenever he wishes.

Having said that, might I make the request again?

Mr. REID. Madam President, as the Senator knows, I have come to him on many occasions on various bills saying we need to enter into an agreement when the amendments can be filed. We want to do this. I am saying that we will do this as quickly as possible. You need not be on the floor. I will try to get the agreement as soon as possible. We have time limited to the supplemental, but there are certain people I have to check with, and we will do that as quickly as possible.

Mr. BYRD. I yield to the Senator from Alaska.

Mr. STEVENS. My question to the distinguished whip is plain and simple. Is the Senator from Nevada saying that the finite list of amendments to the Patients' Bill of Rights must be reached before we can get the finite list for the supplemental?

Mr. REID. No. If the Senator allow me to respond.

Mr. BYRD. I yield for that purpose.

Mr. REID. We need a finite list on the Patients' Bill of Rights so a time can be arranged to do the supplemental.

Mr. STEVENS. Respectfully, that is not how I understood my discussion with the majority leader. We discussed doing this bill tonight. There will be a window. This is the night of the Republican dinner. Some of us have agreed to stay and debate the amendments on the supplemental so that it might be voted on in a very short window tomorrow and get it to the House tomorrow so they can finish it so we can get it back by Thursday or Friday. Unless we do that today, I for one am going to give up on the supplemental.

Mr. REID. If the Senator from West Virginia would allow me to answer.

Mr. BYRD. Yes.

Mr. REID. First of all, probably if you are something like me, that would be a good excuse so you would not have to go to the dinner if you had to be here.

Mr. STEVENS. Better not said, but you are right.

Mr. REID. But there is no reason that we cannot have a finite list of amendments on the Patients' Bill of Rights within the next hour or so. I am sure Senator DASCHLE would be happy to work with Senator LOTT and arrange a time. Give us a little time on this.

I repeat to my friends again, the question on the list of amendments should be filed and we will work on that very quickly.

Mr. BYRD. Madam President, I hope we have reached an understanding. I have been at this work for many years. I have learned a long time ago that when you are within reach and you have both leaders having expressed their desire for a unanimous consent request, and with the work that the Senator from Alaska and I have already done with respect to arriving at such a request, that other amendments, other Senators, and other requests can come out of the woodwork. I would like to get this nailed down by noon, or earlier, because the longer we wait, the more Senators there will be that will say, "This is my chance."

In closing, I hope we can go forward with this request soon. I yield the floor.

AMENDMENT NO. 818

The PRESIDING OFFICER. Under the previous order, there will now be 15 minutes for debate on the Kyl-Nelson amendment No. 818.

The Senator from Arizona is recognized.

Mr. KYL. Madam President, I will speak and then yield time to Senator NELSON of Nebraska, my colleague on this amendment. In discussing this proposed amendment with some of the stakeholders involved, a couple questions have been raised. I want to clarify my intention and turn the time over to Senator NELSON.

One question asked was, With respect to the external review, is this a de novo hearing? That is to say, does the external reviewer begin with whatever record is before it, but can bring in other witnesses, or consider other material or other factors or records in addition to that which may have been considered by the internal reviewer. The answer to that question is yes. I believe that is what the underlying bill provides. Our amendment intends the same. To the extent that would need to be clarified, we are willing to do that.

Secondly, there is concern that with respect to the negotiated rulemaking procedure that is provided for in the amendment, that the composition of the stakeholders be fair.

Obviously, we believe that should be fair. We believe that the providers need to have adequate representation in such rulemaking procedure, that all stakeholders should be represented.

I do not know what we can do to make our commitment any more firm, but to the extent anyone has a suggestion about how we ensure that fairness, it would certainly be our intention to do so.

In summary, we have identified a specific problem with the bill, a need to add a standard that is uniform and to ensure that the two extremes do not represent what occurs here. One extreme is that the external reviewer has no guidance and can just ignore the contract. The other extreme is that an HMO can draft a contract that is so strict that the reviewer has no ability to provide medically necessary care for the patient.

We are proposing a standard of care that can be utilized by the external reviewer to ensure that the patient receives the necessary care and that neither ignores the terms of the contract nor is so pinched that it would not be able to provide the care. That is why we have chosen the terms that apply to over 73 percent of Federal employees under the FEHBP that serves all the Members of Congress, our families, as well as other Federal employees. That is the language we have.

I ask my colleague, Senator NELSON, to speak to this. Senator NELSON has probably as much experience as anybody in this body with insurance contracts at the State level from his previous positions in Nebraska, as well as being Governor of the State of Nebraska.

It has been a pleasure for me to work with Senator NELSON who had the idea for this and brought a group together and expressed his idea. It made sense to me at the time. The more I work with him, the more sense it makes to me, and what he is proposing is desirable for us to do.

I urge my colleagues to respect the experience he brings to this issue from his perspective from the State of Nebraska which, I might add, is my State of birth. I am very pleased to have worked with Senator NELSON on this. Again, I just hope my colleagues respect the experience he brings to this particular issue.

I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I appreciate the opportunity to join with my colleague, Senator KYL from Arizona, to support and pursue the opportunity for making certain there is a definition and a standard in the Patients' Bill of Rights legislation that will give certainty and clarity to the standard by which medical claims can be submitted and the providing of medical care can be made.

There is some concern about whether or not the Federal Employees Health Benefits Plan definition of "medical necessity"—which is essentially the definition, the standard, if you will, that is being proposed in our amendment—is something where the Office of Personnel Management would be bound by the plan's determination.

We have never said that the plan, in this case the medical reviewer, would have to be bound by the plan, but they would have to be bound by the definition. That is what this is about. It is making certain there is certainty, clarity, and an understanding, a meeting of the minds, about what will be covered and to what extent, always subject to outside standards, outside review.

I support having a Patients' Bill of Rights that provides the kind of patient protections that are included within this bill. I support the opportunity for a patient to have a review from the internal side and from the external side, and I support the opportunity and the right of the patient to sue the HMO to ensure the medical decisionmaker in conjunction with any questions that are provided for in the level of support that is provided within the current bill.

It is important as the decisions are made about the claims that there is at least certainty and clarity as to a standard. I do not think even the proponents of the legislation would deny it is important to have a standard. As a matter of fact, I understand the history of this bill to some degree, and I know that in the past there was an effort to arrive at a standard. There were two groups with two different pieces of legislation, and they could not quite achieve an understanding as to what the standard should be or the definition. Perhaps out of frustration, and certainly out of not coming together, the decision was made to leave this open.

The problem with leaving it open is there is no basis of a standard; there is no way to know what the definition of "medical necessity" can be. It can be about anything. When you have a contract and when you have two parties to it, an insurer and insured, you need some degree of certainty. That is what we are asking for, so you can know of what medical necessity truly consists.

As to the question about whether or not this language, which is taken right out of OPM's definition that is included in the Federal Employees Health Benefits Plan—as to whether or not that is adequate language, it seems to me there should be no question about it. This is to what the Federal employees are subject. You and I, those who are insured, are subject to the language, the standard, and the definition that is included within this amendment.

I find that it would be unusual if somebody objected to this standard, but our plan provides, even if there is a concern about this standard, that under the rulemaking and the negotiations of regulations another standard could be arrived at with the stakeholders to this legislation. The stakeholders, about 19 of them, would all be assembled, and if they did not like this particular standard, then they could achieve, upon agreement, another standard.

This is about having a standard, and there seems to be very little concern about whether or not the current standard that is included within this amendment is an adequate standard, certainly from the standpoint of Federal employees. In other words, if it is good enough for me, it ought to be good enough for other people. If it is good enough for the thousands of Federal employees, then it ought to be good enough to be included.

What does it provide? It provides that the determination of services, drugs, supplies, be provided by hospital or other covered provider appropriate to prevent, diagnose, treat, a condition, illness, or injury, and that they must be consistent with standards of good medical practice in the United States. That is a standard we can all live by because we cannot ask for more than having care that is consistent with standards of good medical practice in the United States.

There are some other requirements as well, but they are essentially the same as what I just read.

I cannot imagine anyone would want to argue for not having a standard or having a contract that is open-ended and not know that would, in effect, leave uncertainty, a lack of clarity, and an openness that nobody wants to propose or support.

I hope my colleagues will take a look at this as we fight to keep down the high cost of health care, the availability of health care, and that we work toward making this standard the kind of standard that can be included as part of the Patients' Bill of Rights.

Anything that establishes clarity and certainty is desirable in the context of this legislation, and certainly that is included within this amendment.

There are some who thought the standard might consist of something such as a cost benefit. This does not involve any kind of cost-benefit analysis regarding medical care. There are some who were concerned about that. I would be concerned about that. This does not do that. There is some concern that somehow the plan might not be bound by the decisionmaking. It is not, but it ought to be bound by the definition.

I realize this is a very complex area that the average person is not going to deal with every day, so I apologize for the complexity, but I do not apologize for having something that will simplify it, that will give us the certainty and the clarity of having a definition and a standard that we can all understand and one with which we can agree and against which good medical care, under good medical practice in the United States, might be compared. That is what we are looking for.

There is a proposal that I understand will be coming forth for consideration this afternoon that will solve part of this problem, but it does not solve the problem of the standard of care and the definition.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON of Nebraska. I yield time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Madam President, I compliment my friend and colleague from Nebraska, Senator NELSON, for his expertise in this field. He and Senator COLLINS are probably more qualified in this field because they both worked in their respective States in their insurance departments, I think, as commissioners of insurance and they also have expertise in the field from years of experience. When Senator NELSON or Senator COLLINS talk about medical necessity, or being bound or exempt from contracts, they have a certain degree of expertise that the rest of us do not have.

I remember visiting with Senator NELSON and he brought up the medical necessity and the fact this bill before the Senate unfortunately voids contracts. It goes so far as to even say you have to cover things that are excluded.

Page 35 of the bill says: No coverage for excluded benefits.

That sounds fine.

But page 36 says: Except to the extent . . .

In other words, you don't have to cover items excluded in contracts. Except to the extent somebody considers it medically necessary—and so on, even if specifically excluded in contracts. Part of the Nelson-Kyl amendment clears that up.

On contract sanctity, I concur 100 percent. I mentioned a few things excluded under the CHAMPUS program for VA, specifically excluded in contracts under this bill someone might have to pay. They might even be sued if they do not provide a benefit specifically excluded in their contract. That sounds absurd but in reading the language, that could happen. The Nelson-Kyl amendment fixes this. Things excluded under CHAMPUS include: Acupuncture, exercise equipment, eyeglasses, contact lenses, hearing aids, hypnosis, massage therapy, physical therapy consisting of exercise programs, sexual dysfunction, smoking cessation, weight control or weight reduction programs.

The point is, almost every medical health care plan says we will pay for this list of benefits; we will not pay for these benefits. Those benefits would be excluded. This bill says they will be excluded, but maybe they should be paid for anyway and they will be subject to review. And if the reviewer says it is needed, it should be paid.

Part of Nelson-Kyl says no, we will strike the language that deals with "except to the extent," allowing contracts to be contracts that would not cover excluded benefits.

That is exactly what the Federal Government does. Many people want to model private health care after the Federal employees health care benefits. We have many different plans. They work. Employees are happy.

Federal employees cannot sue their employer, and Federal employees have to be bound by the contract. If you look at the consumer bill of rights and responsibilities, in OPM's guidelines dealing with the Federal Employees Health Benefit Program, it says if someone wants to appeal, OPM seeks to determine whether the enrollee or family member is entitled to the services under the terms of the contract. It is bound by the contract.

Blue Cross/Blue Shield, 2001, it says OPM will review your disputed claim requests and use the information it collects from you to decide whether our decision is correct. OPM will determine whether we correctly applied the terms of our contract when we denied your claim or request for service. OPM will send a final decision within 60 days. There are no other administrative appeals.

Interesting to note, the Federal Employees Health Benefits Plan, they appeal to OPM, appeal through their employer. This is not an independent review entity. Again, OPM will make their determination based on the contract.

The Senator from Nebraska and the Senator from Arizona say a contract should be a contract. We should adhere to the contract and have contract sanctity. We should have some definition, some certainty in the definition, and we even use the definition for Federal employees' fee-for-service plans as one option, as well as the rulemaking process that the Senator from Nebraska spoke about.

I think there are too many people voting "remote control," thinking, I will vote with Senator KENNEDY or with Senator MCCAIN on this issue. I hope they look at this amendment. Should you have contract sanctity? Should you look at the guidelines we use in the Federal Employees Health Benefits Plan to have some contract sanctity? It is obliterated by the underlying bill. I think so.

This is an excellent amendment, an important amendment. If you want a bill that preserves some sanctity of contract, I think it is most important we pass this amendment. I urge my colleagues to vote in favor of the Nelson-Kyl amendment.

Mr. ENZI. Will the Senator yield 4 minutes?

Mr. NELSON of Nebraska. I yield.

Mr. ENZI. Madam President, I thank the Senator from Nebraska for the care and concern that has gone into this amendment. I support it along with him. I know how important it is for businesses to be able to nail down the prices so they can provide this voluntary insurance to people. If they don't know how much it will cost, if it is going to rise astronomically, I guarantee the small businesses will bail out. That is what the discussion has been about this week and last week—how to continue to have insurance for people.

I am an accountant, the only accountant in the Senate. I like dealing with numbers. The people who really deal with numbers are the actuaries. They are the ones who have to figure out what the odds are that something is going to happen to people. The smaller the plan, the tougher it is to figure the odds. But those odds have to be calculated in order to figure out the price. If the actuary said figure the whole universe of things that could happen, normally we exclude the ones that are difficult to calculate, but you don't get to exclude those anymore. You have to figure it as though those could happen to the person, and some reviewer will charge your plan with that. So we cannot tell you what you are going to have to pay. We guarantee it will have to be a higher number because of the uncertainty.

It is extremely important we avoid the Russia syndrome or the China syndrome, where they don't have contracts worth anything. In this country we maintain the sanctity of contracts. It is time to do that again. It is time to do that, particularly to protect the people working for small businesses in this country so they will continue to have insurance.

This amendment is particularly important because it does several things. First, it allows both the employer and the employee to be certain about what benefits are covered under the health plan. If they can't know that, then what's the point of the contract. Second, the amendment will virtually guarantee that all health plan contracts will now have a great definition of medical necessity, which is the clause in a contract that's used to make many decisions on claims for benefits. If a health plan or employer chooses not to adopt a strong definition, as defined in this amendment, then they forgo their right to rely on that definition in making decisions on claims for benefits. That's achieved by allowing the independent reviewer in the external appeals process to ignore that definition if it's not among those listed in the amendment.

This amendment brings to bear two important consequence that go a long way helping this bill become law. Again, the contract, upon which not just the breadth of benefits is determined, but also the cost of health coverage to both the employer and employee is based, is made whole. And, the quality of health care in this country is set at a standard that will assure patients receive medically necessary care as determined by the standards in the best programs, namely the Federal Office of Personnel Management's definition for fee-for-service plans.

Mr. President, I again commend my colleagues for their work. Enacting this amendment is as important to preserving the employer sponsored health care system as anything else we may do on this bill. There's simply no reason why Members would vote to undo a health plan contract or against requiring that health plans adopt a strong definition of medical necessity.

Mr. NELSON of Nebraska. We reserve our time.

Mr. KENNEDY. We have 30 minutes?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I yield myself 10 minutes.

I agree with our friends and colleagues, the Senator from Oklahoma, about the competency of my good friend, Senator NELSON, as well as the Senator from Wyoming, Senator ENZI. I learned, as I worked with Senator ENZI on a number of different issues, including OSHA, about his enormous capabilities as an accountant in dealing with numbers. I have also had the good opportunity to work with Senator NELSON on this issue. I think there are few Members of this body outside the committee or inside the committee that have taken more time than the Senator to understand the details of this legislation. He has a commanding knowledge of this legislation and a very healthy understanding and respect about what is happening in the State and local communities. He has been enormously attentive to detail and concept.

We do not always agree on every provision, but I have certainly developed a deeper understanding of the impact of this legislation from my conversations with him.

Even though we differ on the substance on this particular issue, which I think is an important issue, I have enormous respect for what he has brought to this whole debate on the Patients' Bill of Rights. I value, very much, his continued involvement in this debate.

I will mention briefly what we have in the legislation and why I believe it is wise to retain the approach we have currently. It has the complete support of the American Medical Association, the cancer organizations—I will refer to those later—and the overwhelming support of the medical community. It has evolved over a period of time. I will reference that in just a moment or two as well.

But it does, I think, meet the standard that has been mentioned here about certainty, clarity, and predictability. That is what the proponents of this amendment have asked for. We have just done that on page 35, in establishing the particular details of our standard. I will give brief reasons that we ought to retain this.

The McCain-Edwards-Kennedy bill allows the doctors, not the HMO accountants, to make the important medical decisions and it prohibits the HMOs from using arbitrary definitions of medical necessity. Unfortunately, the proposed amendment would undermine this crucial protection and allow plans to use definitions of care that may harm the patients.

Our legislation asks every Senator the basic question: Do you support the doctors making the critical medical decisions or do you want the HMOs to continue to deny care based on language that puts dollars before lives?

The independent medical reviewer should consider the definition decided by the health plan. However, we should not bind their hands by arbitrary definitions by an HMO. Senators McCAIN, BAYH, and CARPER will offer an amendment later today that reflects the bipartisan belief that reviewers cannot approve services that are not explicitly covered under any circumstances. If a plan covers 30 days of hospital care, a plan cannot say they should cover 100 days. This amendment underscores the premise in our bill that a reviewer should not be bound by an unfair HMO definition of medical necessity. In circumstances where explicit coverage decisions are subject to interpretation, the reviewer should have the opportunity to weigh all the relevant medical facts.

I gave the example last evening. If the plan says "no cosmetic surgery" and there is a cleft palate on a child, I could see an independent reviewer saying as a matter of medical necessity it is imperative that we correct the cleft palate and would be justified in doing so. If, in the plan, it said "no cosmetic surgery and no cleft palate," the medical reviewer would be prohibited from doing so. So there is that degree of interpretation in terms of medical necessity, that aspect of judgment that we want to give to the doctors in dealing with this issue.

The Kyl amendment, once again, I believe gives the HMOs the opportunity to deny critical care by allowing them to use definitions of medical care that are stacked against the patients. This amendment also prevents independent reviewers from weighing all the relevant factors needed to make a fair decision. In addition, the amendment proposes to institute a complex rulemaking process to define medical necessity. However, administrative rulemaking is only as fair as the participants. If the participants are hostile to patients' rights and sympathetic to HMOs, they could undermine care for millions.

As CHARLIE NORWOOD said, if reviewers are forced to wait on regulation at the speed HCFA moves, leeches might still be considered medically necessary and appropriate.

Also, under this amendment the plan gets to choose any of the numerous definitions for medical necessity. It can seek out the worst of the worst, but consumers get no comparable rights to demand the best of the best. All you have to do is look at the range of definitions and it is easy to see why the disability community, the cancer community, the American Medical Association, and other groups are so vehemently opposed to this amendment. It fails to protect the patient and allows the health plans to continue to deny medically necessary care. That is why the overwhelming number of medical groups support our language.

Some of the standards that they could pick from say cost-effectiveness should help determine whether care should be provided. It might be cost-effective, for example, for an HMO to amputate a young man's injured hand, but what about the cost of having to spend the rest of your life without the full use of limbs? It might be effective for an HMO to pay for older, less effective medication for depression, but what about the cost to a mother trying to raise her family while dealing with the harmful side effects that could have been prevented by newer medication? Why should we subject the American people to them?

I urge my colleagues to reject this amendment. Passing it would reverse the strong bipartisan efforts we have worked out in this legislation.

Let me mention here the letter from the National Breast Cancer Coalition:

> On behalf of the National Breast Cancer Coalition and the 2.6 million women living with breast cancer, I am writing to urge you to oppose the Kyl amendment and to support the McCain-Bayh-Carper amendment on medical necessity. The National Breast Cancer Coalition is a grassroots advocacy organization made up of more than 600 organizations and 10,000 individual members all across the country who are dedicated to the eradication of breast cancer through advocacy and action. With regard to the enactment of a strong, enforceable Patients' Bill of Rights, the NBCC believes the determination about what is medically necessary must remain in the hands of physicians, not HMOs. The coalition is concerned the Kyl amendment would weaken the provisions in the McCain-Edwards-Kennedy Patients' Bill of Rights and would allow financial decisions to override the medical judgments on patient care.

Let me just mention some of the definitions which have been used. Here is a definition that is used in terms of medical necessity. As I mentioned, the history of this is that we did have a definition in the previous legislation that was passed. What we used for medical necessity at that time was this:

> Medically necessary or appropriate means a service or benefit which is a generally accepted principle of medical practice.

That is what virtually every Democrat voted for. That gives the maximum flexibility to the doctor.

When we got to the conference and began to work this out, the HMO industry said this definition was so broad and wide, in terms of interpretation, that it could mean anything. Therefore, it would completely override the contract terms of the HMOs.

Then we altered it and said: In the internal review they will use the definition of the HMO, but in the external we will use a different definition. That is what is in the legislation. That is basically what is in the Breaux-Frist, as well as in the McCain-Edwards-Kennedy.

Basically, it says "a condition shall be based on the medical condition of the participant"—therefore you look at the medical condition of the principal—"and valid, relevant scientific evidence and clinical evidence including peer review, medical literature or findings, and including expert opinion."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield myself 3 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. The expert opinion is critical. The essential element of that—which I know has been questioned—was talked about and essentially agreed to in the conference last year.

This is the concern we have. Here are some of the definitions which have been used in various HMOs, and even in Federal health insurance. The difference, in Federal health insurance is if there is an appeal of it, they leave it completely open. I asked staff to get the standard that is used. It is completely left to the doctor. That is where we want it, to the greatest extent possible. We have limited it as I have defined it. But these are some of the concerns.

This is in CIGNA, in terms of medically necessary:

> . . . that are determined by our medical director to be no more required than to meet your basic health needs.

So this definition is going to be what the plan's medical director decides. Clearly, they are going to be biased in the HMO.

This is the Hawaii State plan: Cost effective for the medical condition being treated compared to alternative health intervention, including no intervention.

Cost effectiveness is unacceptable. It is more cost effective for the HMO to put someone in a wheelchair rather than for them to have hip surgery. But it is more effective to the individual to have the hip surgery.

Here is another one:

A treatment that could reasonably be expected to improve the member's conditions or level of functioning.

Even though it is used by the Health Alliance HMO in the Federal health insurance, the problem is that for people with disabilities, the treatment may not be for a condition that can improve, but it certainly may improve the quality of life.

Here are the Pacific Care Health plans furnished in the most economically efficient manner.

"Economically efficient" is a problem.

Again, it is what procedures are the most cost effective.

We have to be very sure about what we are going to have. We have a good definition in this proposal. It is supported by McCain-Edwards and myself and is also essentially the provision in Breaux-Frist.

It has the overwhelming support of the American Medical Association, as well as the Cancer Association, and is spelled out in this legislation. So there is certainty.

If there is a change on this, we can come back and revisit it. I give the assurances to my friends that we can. But the idea that we are going to give the authority to a panel that will be set up by the Secretary—the makeup of which we don't know—which can propose something, still indicates that we don't know what is going to come out. That doesn't seem to me to be the way we ought to go in giving predictability and certainty to patients. If we are interested in that, we ought to get criteria that is sound, responsible, and gives medical professionals the ultimate ability to make judgments to protect the patient.

That is what we do in this legislation. That is why I don't believe we should alter or change the proposal.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, how much time remains on our side?

The PRESIDING OFFICER. Ten minutes.

Mr. KYL. I yield myself 2 minutes.

I am very sorry to have to say this, but the amendment that Senator KENNEDY has just proposed is not our amendment. I want to be very clear about what our amendment does. The amendment that Senator KENNEDY has been talking about was part of last year's bill.

When Senator NELSON came forward this year, he said: Let's try to come up with something new. We did that. So the language we have before us today is not the language to which Senator KENNEDY has been referring.

When he talks about the Signet language and the other plan language, that would be absolutely prohibited by what we are talking about here. That was last year. We would absolutely prohibit that. When he talks about the plans choosing from among a range of definitions that could include cost effective, that would be absolutely prohibited under our language. That was last year.

Let me again restate what we did this year.

Mr. KENNEDY. Will the Senator yield on my time?

Mr. KYL. Absolutely.

Mr. KENNEDY. What I read here is "what is determined by our medical director to be no more required than to meet your basic needs." That is in the Federal health insurance program. That would be included. The language I have read is "the treatment that can reasonably be expected to improve the member's condition or level of functioning." The Federal employees' plans are included.

The last one, "furnish in the most economically efficient manner," that is Federal employees. That is included. All three are included because the Federal employees' insurance has been included as well.

What is not included is discretion that is given to the medical doctor. The review of that is provided in the Federal employees' plans, and OPM is using it. It is not included in the underlying.

Mr. KYL. If the Senator will allow me to answer, that is a factual matter. I will not argue with his answer. I think I can explain the reason for the confusion. But the answer to the Senator's question is no. What the Senator said is not correct. That was correct a year ago because a year ago the language of the amendment was that you took the FEHBP standard. And the Senator would have been correct a year ago because it was both the fee-for-service standard as well as the managed care contract standard.

So the criticism that the Senator levels would have been correct criticism a year ago. And to some extent, I agree with the Senator from Massachusetts about that criticism. We threw that aside. Instead, we asked: What is the contract that governs the fee-for-service FEHBP plans? The contract that governs, we think, 73 percent of the people—in other words, about 6 million people—is the language that they have approved for the Blue Cross/Blue Shield fee-for-service contract, as well as some others. We didn't want to allow any discretion whatsoever. So we took the five specific provisions of that contract. Those are embodied in the legislation. There is no discretion.

If you want a safe harbor now under this amendment, you would have to write your contract with those five items, and only those five items. That is what the reviewer then would be able to review.

If I could just continue on with respect to the negotiated rulemaking, it was our idea that if anyone didn't like those five items, and all of the stakeholders would want to get together and negotiate something different, we would be very amenable to that. So we set up this voluntary rulemaking procedure.

If the Senator from Massachusetts and others think there is something wrong with that and they would not want to create that option in the bill, we are very amenable to dropping that out. We thought we were doing people a favor by putting that option in so that if somebody didn't like these five items, they could engage in this negotiated rulemaking. But anybody in the negotiations could veto it so that it wouldn't go into effect.

But if people somehow fear that, it is not our intention to try to superimpose some nonspecific standard.

If the Senator would like to engage further on that, we can certainly discuss that. I indicated to the Senator last night our willingness to discuss that. I hope I have cleared it up. I understand the reason for the confusion because that was last year's amendment.

Our amendment language was only available a couple of days ago. So it is understandable that one might not have been able to read our amendment language. But I assure the Senator that our language is very specific and very different from that which he criticized.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I understand the passion of my colleague from Massachusetts. He has done such great work in this area, and I truly appreciate and respect what he has done and the fact that he has taken a very careful look at what we are proposing.

I suspect, though, that he would maybe look at me as a person who came to the party late and wants to rewrite the invitation. You can't try to change something where there has been such a history without encountering some resistance to it. I understand there is resistance to wanting to change this because it was dealt with last year. But you don't weaken this bill by making it more certain.

I don't believe there is a problem. But if there is a problem within the Federal Employees Health Benefits Plan because there is not a good standard there, we can correct that by passing this amendment and this Patients' Bill of Rights, and make Federal employees subject to the Patients' Bill of Rights.

My colleague from Massachusetts mentioned that there is perhaps a different manner of review for Federal employees where they have to go directly to the Office of Personnel Management rather than getting an internal or external review. We can correct that. We can make that plan subject to the Patients' Bill of Rights, and we can correct that. Or we ought to take a look at that independently.

But this does not change anything that would be detrimental to those individuals my colleague from Massachusetts mentioned.

For example, of the list of people, such as a person with a cleft palate, the only question about a person with a cleft palate is whether that treatment, in the judgment of the medical professional, the doctor, would be consistent with the standards of good medical practice in the United States. That is the dynamic, and I am sure that it would. There is nothing static about this definition. It will continue to change as the good standards of medical practice in the United States change.

My good friend also mentioned something about making sure that we have our loved ones well protected. I agree with him and include the Federal employees as part of our loved ones. I think we want these standards to apply to all Americans. The way in which you can do that is by adopting this amendment on medical necessity.

What it does not do is, it does not change the doctor's decisionmaking in relation to what kind of care to provide. What it does say is that it has to be consistent with the standards of good medical practice in the United States.

I, for the life of me, do not see what the resistance to this language is, other than the fact that we tried to do it a year ago. We had the Stanford definition. We talked about other definitions a year ago. Now we have come up with a definition which I think is an excellent definition that will do it, that will establish the standard for certainty, for predictability. And now we are saying it may weaken the Patients' Bill of Rights. But certainty will strengthen this. There is no effort here to do anything that would not be consistent with—as a matter of fact, the language requires that the medical profession do something consistent with the standards of good medical practice. Whether it is an amputation, whether it is a cleft palate, whether it is deciding on cancer care, or whether it is deciding on other kinds of care, all we are saying is it ought to be subject to these standards. That is the only point that is being made.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. CARPER). The Senator from Nebraska has about 4½ minutes remaining. The opposition has 13 minutes remaining.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am glad to yield——

Mr. McCAIN. Will the Senator allow me a couple minutes of time?

Mr. KENNEDY. Yes. Absolutely. The Senator from North Dakota was looking forward to talking, but whatever.

Do you want me to yield 3 minutes?

Mr. McCAIN. How much time?

Mr. KENNEDY. I yield 3 minutes to the Senator.

Mr. McCAIN. I thank the Senator from Massachusetts, and also the Senator from North Dakota. I would be glad to wait until after the Senator from North Dakota speaks, if he prefers.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I have major concerns about the Kyl-Nelson amendment and unfortunately, must oppose it. While I certainly respect the intentions of my dear friend and fellow Arizonian, JON KYL, I respectfully disagree with him regarding this proposal.

I simply can't support mandating a Federal statutory definition of "medical necessity" that is vague and creates further confusion and barriers for patients attempting to get the medical care their doctor deems appropriate, and is covered by their HMO plan.

This amendment would put into statutory language a vague definition that allows health plans to determine whether services, drugs, supplies, or equipment are appropriate or necessary to prevent, diagnose, or treat a patient's condition, illness, or injury.

While this appears reasonable, it simply is not.

One of the major hurdles currently facing patients is the repeated denial of their medical care on the basis that it is not medically necessary based on a vague or constraining definition. The health plans are intentionally denying care to constrain costs by hiding behind cleverly crafted definitions.

This amendment would allow this practice to continue.

For example, part of the definition allows a plan to determine whether the recommended medical care is, "primarily for the personal comfort or convenience of the patient, the family or the provider . . ."

It sounds reasonable, but it is not. This is already being used to prevent patients from receiving palliative care for managing the intensive pain they encounter while battling cancer or other serious illnesses.

Another portion of the proposed definitions reads, "Consistent with standards of good medical practice in the United States . . ."

Again, appears harmless, but it isn't. Who establishes the standards of good medical practice? What basis is used for developing them? How current, considering the pace of new technology and medical research will these standards be?

Another portion of the proposed Kyl-Nelson Federal definition reads, "In the case of inpatient care, [the care] cannot be provided safely on an outpatient basis . . ."

Legally, this creates an opportunity for retrospective reviews by HMOs thereby leaving the patient and/or medical provider responsible with the incurred costs from the inpatient care that the HMO determines should have been provided on an outpatient basis.

These are just a few of the problems facing patients if this amendment is adopted.

I wholeheartedly agree with my colleagues that we can't create a method that obviates health plan contracts and that is not what our bill does.

Our bill does not empower the independent medical reviewer to override existing health plan contracts or force HMOs to cover anything and everything despite a service being specifically excluded in the contract.

Our bill relies on the independent medical reviewer to give patients a second medical opinion when such a medical opinion is necessary to interpret the plan's coverage, but it does not empower them to disregard the plan's specific coverage exclusions and limitations.

I will be offering an amendment after the scheduled vote on the Kyl-Nelson amendment that will further clarify this and protect the sanctity of the plan's contract with a patient.

I urge my colleagues to reject the Kyl-Nelson amendment and allow patients to have their medical decisions made by doctors and nurses and not by HMO lawyers or bureaucrats.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how many minutes do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts controls 10½ minutes.

Mr. KENNEDY. I yield 8½ minutes to the Senator.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 8½ minutes.

Mr. DORGAN. Mr. President, this is a well-intentioned amendment, but it must be defeated because it is aimed right at the heart of this patients' rights bill, right at the core of the bill. The question is, Who is going to make the decisions? Who will make decisions about medical care? An MBA or an MD? Who do we want to make the decisions about medical care?

The McCain-Edwards-Kennedy bill allows doctors and patients to make fundamental decisions about their care. It will be based on medical necessity and appropriateness and supported by valid, relevant scientific and clinical evidence. In other words, if an HMO makes an arbitrary decision about some kind of a treatment they believe is not medically necessary, based on its own inadequate definition of "medical necessity," the reviewers would be able to overturn that and advocate treatment.

Under this amendment put before the Senate, the patient would be bound to the HMO's decision and have literally no options; the independent reviewer would have no authority whatsoever to recommend treatment if it was needed.

The Senator from Massachusetts read a list, and he was challenged on that list. But the fact is, the list he read is absolutely correct.

Let met do this in English, if I can. The amendment, as I understand it, allows an HMO or managed care organization several different approaches to deal with the issue of what is medically necessary. How do you define medically necessary? Several different ways. One is a mechanism described by the Senator from Massachusetts. He read some of those definitions. He was accurate about that. But there are two other mechanisms by which an HMO could describe what is medically necessary.

Do any of us think the HMO will pick the more stringent approach? Of course not. They will pick the least effective approach, the approach that poses the least cost to them. They will pick the weakest of the options. That is what the Senator from Massachusetts was saying.

Give the HMO the opportunity, and they will pick the least possible option, the least costly option for themselves. That is why we are in this Chamber with this patients' protection bill. This amendment strikes a blow right at the heart of the patients' rights legislation. The reason we are in this Senate Chamber is to work on providing patients' rights, not take them away.

Let me do this in a bit more dramatic way.

One of our colleagues has used this photo from time to time. This photo shows a young baby with a cleft lip and cleft palate, which is a very severe problem. We are told that about 50 percent of the time fixing this would be described as "not medically necessary" by an HMO. Can you imagine a health care plan saying: "No, fixing this disfiguring defect is not a medical necessity, therefore, we will not cover it".

Let me describe what this child will look like with that problem fixed. This photo is of a child with reconstructive surgery. This other photo is of a child with the severe problem before it is repaired. Fifty percent of the time managed care organizations have told those requesting reconstructive surgery for a cleft lip or palate: "No, you are wrong. This is not medically necessary. And we will not cover it".

Is that how we want our health care system to operate? It will be allowed if this amendment is adopted.

Let me describe another case. I am going to describe how this case relates to this amendment.

This is a photo of Ethan Bedrick. We have spoken about Ethan before. Ethan was born on January 28, 1992. He had a partial asphyxiation during birth, a very significant problem in delivery. He has suffered from severe cerebral palsy and spastic quadriplegia, which impairs motor functions in all his limbs. At the age of 14 months, his managed care organization abruptly cut off coverage for all of his speech therapy, and limited his physical therapy to 15 sessions in a year. A doctor from his managed care organization performed a "utilization review." He said that there was only a 50-percent chance of Ethan being able to walk by age 5, which is "insignificant" and, therefore, they would restrict coverage.

So let me say that again. A 50-percent chance of being able to walk by age 5 was "insignificant" and, therefore, they would not cover the therapy.

His parents went to court 3 years later. A judge said:

> The implication that walking by age 5 . . . would not be "significant progress" for this . . . child is simply revolting.

But in the meantime, it took 3 years, and this child did not have the therapy he needed for 3 long years.

My point about this is, young Ethan Bedrick, or a young child with a cleft lip and a cleft palate, running into a plan that has a provider service saying: "These are not medically necessary procedures, and we will not cover them," will have no ability to have an independent reviewer overturn that under the amendment that is offered today.

Mr. KENNEDY. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. KENNEDY. For the benefit of the membership, we had scheduled a vote at 12:30. With the agreement of the leadership, that vote will be postponed until 2. At 1 o'clock, Senator GREGG will be here to offer an amendment for himself. At 2, it is the anticipation of the leadership that there will be two rollcall votes. We have not made the unanimous consent request yet, but that is the intention of the agreement of the two leaders. After the time expires, we will make that unanimous consent request.

Mr. REID. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. From 12:30 until 1 o'clock there will be general debate on the bill.

Mr. McCAIN. If the Senator will yield?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I note the presence of the Senator from New Hampshire on the floor. We really have an issue of scope, an amendment we need to bring up, and of course the so-called Snowe compromise amendment as well. I hope we will be able to put both of those in some kind of order in some way today.

Mr. REID. Mr. President, the Senator from Arizona is absolutely right. Progress has been made but not nearly enough. Since Senator GREGG is here, I wonder if we could restate the unanimous consent request and have that entered at this time. The only suggestion I would make to Senator KENNEDY is that we should have general debate from 12:30 to 1 on the legislation.

Mr. KENNEDY. That is fine.

Mr. GREGG. Is there a unanimous consent request pending?

Mr. KENNEDY. As I understand, the time will expire in how many minutes for the debate on this amendment?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes to go, and the other side has 4 minutes.

Mr. KENNEDY. As I understand it, there has been agreement to vote on that amendment when the time is used or yielded back; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask unanimous consent that the vote on that amendment be put off until 2 o'clock.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. It is the anticipation of the leadership that between 12:30 and approximately 1 o'clock there will then be general debate on the legislation. At 1 o'clock an amendment will be laid down by the Senator from New Hampshire or his designee. It is anticipated there will be a second vote at 2 which will be on that amendment.

Mr. GREGG. Mr. President, I can't guarantee that there would be a second vote at 2 on that amendment, unless the parties to that amendment are agreeable to that.

Mr. KENNEDY. Then I withdraw my request. I was asked to make that request; if there was going to be no objection, that was going to proceed. Otherwise, we will go ahead.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

Mr. KENNEDY. I had asked if the Senator would yield. The Senator from North Dakota has the floor.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from North Dakota has about 2 minutes.

Mr. DORGAN. Let me continue by saying, I understand that those who have framed this amendment will not agree with my assertion. But I also understand that they are trying to craft something that defines what is medically necessary in a manner that would give a managed care organization three different options to restrict care.

In my judgment, the managed care organization will clearly select the option that has the least amount of coverage or the least cost to them. That is precisely why we are here in the first instance. We are trying to see if we can create a Patients' Bill of Rights that allows a doctor and health care professionals to make judgments about what kind of treatment is appropriate. We have story after story after story about health care professionals making a decision about what kind of health care is necessary for a patient only to be told later that someone 1,000 miles away an insurance office decided, no, this was not medically necessary at all, and we won't cover it. We don't agree with the physician's decision or recommendation for treatment.

The reason the AMA and nurses and others support this legislation of ours is they believe very strongly that health care professionals ought to be the ones practicing medicine. The American Medical Association is very strongly opposed to this amendment.

I ask unanimous consent to print a letter the AMA has sent objecting to this amendment in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the American Medical Association, June 26, 2001]

AMA OPPOSES KYL-NELSON AMENDMENT THAT LETS MBAS—NOT MDS—MAKE MEDICAL DECISIONS

AFTER 7 YEARS, THE DEBATE HAS SUDDENLY COME FULL CIRCLE

WASHINGTON.—Today the American Medical Association (AMA) called on Congress to defeat a Kyl-Nelson amendment that would negate a core provision of the patients' bill of rights. This new medical necessity amendment would allow insurance company bean counters to make medical decisions.

"Today, after seven years of debate, it seems some lawmakers want to start over at the beginning, with the core question: Who should make your medical decisions—MDs or MBAs?" said Dr. Thomas R. Reardon, MD, AMA past president. "For patients and physicians there's no debate: Decisions about the health care a patient needs must be left to those who are focused on patients—not on the bottom line."

"The Kyl-Nelson amendment uses a medical necessity definition that allows health plans to determine whether services, drugs, supplies or equipment are appropriate to prevent, diagnose or treat a patient's condition, illness or injury." Dr. Reardon said. "This is a big step backward."

Insurers and business have repeatedly opposed defining medical necessity in legislation: "A federal standard of medical necessity will raise premiums, threaten quality, and jeopardize efforts to prevent abuse." (Blue Cross/Blue Shield, 2/99); "We fear a congressionally mandated definition of medical necessity, and therefore do not support it." (Ford Motor Company 2/99).

"It's clear that health plans put profits before patients when they define medical necessity as the 'shortest, least expensive or least intense level of treatment,' Dr. Reardon said. "People get health insurance so that they're not limited to the cheapest care—no matter what the outcome."

"The McCain bill allows physicians to make medical decisions and allows an independent panel of reviewers to determine disputes. AMA calls on the Senate to reject the Kyl-Nelson amendment that guts the patients' bill of rights," Dr. Reardon said.

Mr. DORGAN. They are opposed precisely because they understand this amendment absolutely unravels the central and vital section of this bill dealing with medical necessity. Our patients' rights legislation provides a structure by which doctors make decisions and then you have the opportunity for independent review if needed. But in the circumstance as proposed in the amendment up for debate, if we create definitions that allow diminishment of the level of care in terms of what is medically necessary, the independent reviewer will have their hands tied and patients will not get the care they deserve or need.

This is a very carefully drafted bill. I am not in any way ascribing mal-intent to anyone who offers this amendment. This amendment will unravel the bill in a very significant way. We must defeat this amendment. We should defeat this amendment and preserve the patients' protections legislation that we have brought to the floor of the Senate. This has been going on 5 years. This is good legislation. We ought to pass it and defeat the amendment.

I yield the floor.

The PRESIDING OFFICER. The time controlled by the manager of the bill has expired.

Mr. KENNEDY. Mr. President, I think the Senator has 2 minutes. I have 2 minutes; is that correct?

The PRESIDING OFFICER. The sponsor of the amendment has 4 minutes remaining. All time has expired in opposition to the amendment.

Mr. DORGAN. Mr. President, that cannot be the case. The Senator from Massachusetts allotted 8 minutes to me. At that point, he had 10½ minutes remaining. It cannot be the case that we have exhausted our time.

The PRESIDING OFFICER. The time of the colloquy back and forth between the Senator from Massachusetts and the Senators from New Hampshire and Nevada was charged to the manager.

Mr. GREGG. I ask unanimous consent that the Senator from North Dakota have another 10 minutes, if he desires.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I yield my time to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take the 2 minutes which I otherwise might have had if we hadn't entered into the request.

Here we go again with greater hope in our hearts that we will be successful.

After the yielding back of the time, we intended to vote on the Nelson amendment. At the request of the leadership, I ask unanimous consent that that vote be put off until 2 o'clock.

Mr. REID. Reserving the right to object, I have been informed that there will be a motion to table made on the amendment. That will be done at the appropriate time.

Mr. KENNEDY. At 2 o'clock. It is anticipated that at 1 o'clock there will be an amendment from the Senator from New Hampshire or his designee. I am informed that it will probably be the Senator from Tennessee, Mr. THOMPSON; and that we will begin the debate on that at 1 o'clock and that the time between 12:30 and 1 will be used for general debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I apologize to my friend for the interruptions because the Senator has been patient during his presentation and is typically kind and generous to permit the workings here.

I believe we have a good, solid definition in terms of medical necessity that has been reviewed, evaluated and has gotten broad support. It has bipartisan support. It also has the very, very strong support of the medical community: The American Medical Association, all of the cancer organizations, as well as the disability community. They all have great interest in what that definition is.

In too many instances in the past there have been definitions that have been offered and accepted that work to the disadvantage of patients. For example, definitions have been made that do not include palliative care for patients who have cancer or don't recognize the very special needs of the disabled.

We have a definition here. It is defined in the legislation. It has been reviewed. It is careful. It is predictable. It is certain. It does provide for doctors to exercise their best medical judgment. It is completely consistent with the purposes of the legislation.

As I mentioned, I have great respect for my friend and colleague. I think on this we should stay with the language which should be included and which has the broad support, virtually the unanimous support of the medical community.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, I appreciate the opportunity to engage in a dialog with my colleague from Massachusetts. As I indicated earlier, I respect his work and many years of effort in this field. I certainly respect his judgment. If I would disagree with him, it would be that somehow there is a standard that is currently in place. As a matter of fact, last year they tried on numerous occasions to achieve a standard. They could not come up with one where they agreed. So they agreed to disagree and left the standard out.

We have an opportunity now to come up with a standard that is good enough for Federal employees and put that in this bill. If it is good enough for Federal employees, then of course I think it ought to be good enough for the rest of America.

As to the charts that were shown, I ask, is there anybody in this Chamber today who believes that under the definition of consistent with standards of good medical practice in the United States, any doctor would not have ordered that the cleft palate be treated?

I understand the importance of having charts. I understand the importance of having faces put on the patients. But I think it is important that, as we do that, it be very clear that we understand that these cases would be treated appropriately under the standards of good medical practice in the

United States. So I think we really have an opportunity today to provide more clarity, so that doctors who will have the opportunity to make medical decisions and order care will be able to do so consistent with standards.

There is no way that this amendment today is designed to take away any of the authority of the doctor at all, or any other health care provider. All that it is aimed at providing is a standard. If they had come up with a standard last year and it were included in the bill, I would not be raising the question this year. This issue today is about whether to have the standard or not. I can't imagine we are even debating it. We ought to be debating what the standard is. That isn't the debate we have today.

As a matter of fact, some of the objections raised earlier about this amendment could be equally said of an amendment that I suspect the Presiding Officer will be supporting today a little later, and that is to make sure you don't have those exclusions from a policy, those exclusions from a contract, ignored by a medical examiner in the whole process of the review.

The important point here is that this will provide an opportunity, upon an internal or external review, for a medical reviewer to make good decisions consistent with good medical practice, consistent with the needs of the patient, so that the conditions in those pictures that were shown here—very vivid descriptions—can and will be taken care of and will not be left open without a definition, without a standard. The boundaries would be set, but they would be far broad enough to cover that and any other condition that was discussed here as an example this afternoon.

It seems to me it is important that we establish a standard, and if I wanted to oppose what I am proposing today, I would come in and I would say that it was going to do something bad, that it was not going to permit something good. But that doesn't make it so. It is important to point out the language and deal with the reality of the words of this amendment, rather than setting up a straw man to attack and say that it is doing something or it won't do something that it is in fact doing.

Mr. President, how much more time is there?

The PRESIDING OFFICER. The Senator has about 8 seconds.

Mr. NELSON of Nebraska. I ask my colleagues to support this amendment and move forward with the important work of the Patients' Bill of Rights. We can do that. This will improve it and will not detract from it.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I have the greatest respect for my good friend, the Senator from Nebraska, and I rise reluctantly, but firmly, to oppose the amendment he is sponsoring, along with Senators KYL and NICKLES, because I am concerned not only about the general issues that have been raised by other opponents, I am concerned also by the American Medical Association's very strong and vigorous opposition to this amendment, which they have made very clear to me and my office, as well as, I believe, every other Senator, because of their deep concern that this would be a step backward, permitting health plans to determine the services, drugs, supplies, or equipment necessary to prevent, diagnose, or treat a patient's condition, illness, or injury.

But I have a very specific reason for opposing it. I direct this to my good friend from Nebraska because this is something that deeply concerns me. This amendment allows health plans to define "medically necessary and appropriate" in a way that poses a great threat to all patients and families who require hospice and palliative care to treat the suffering associated with terminal illness.

The Washington Post, just a week ago, published a story outlining the various ways in which recent advances and end-of-life care have not yet reached children with terminal illnesses, causing an enormous amount of suffering for dying children and their parents and loved ones who have to watch that suffering at the end stages of a terminal illness. The article quotes one mother who says, looking back on her daughter's death, that "pain is such a huge problem."

There are two specific phrases within the safe harbor of the "medically necessary care" language in the Kyl-Nelson-Nickles amendment that directly undermines the needs of dying patients. First, the amendment declares that care provided "for the comfort of the patient" is not medically necessary care.

Any health care professional—or really any person, such as myself—who has stood at the bedside of a dying friend or a loved one knows that comfort of the patient is absolutely necessary and is often the most appropriate goal of care in those last days, weeks, and even months sometimes. At the very center of palliative care, and particularly in the hospice movement, is the belief that each of us has a right to die free of pain and with our human dignity as intact as possible.

The Institute of Medicine released a ground-breaking report in 1997 that concluded "too many people suffered needlessly at the end of life." A second Institute of Medicine report released last week also concluded that patients are suffering unnecessarily. Furthermore, studies have shown that specific types of patients—patients who are elderly, female, African-American, or children—are less likely to have their pain adequately controlled at the end of their lives.

The Kyl-Nelson-Nickles amendment is legislation that could be termed as declaring that the comfort of dying patients is not a legitimate goal of medicine. But to me, that has it backwards. Isn't the relief of suffering exactly what doctors are supposed to be concerned about?

A second and related problem is that this amendment allows plans to define as "medically necessary" care that is appropriate "to treat a medical condition, illness, or injury." This narrow definition compromises the delivery of appropriate care to dying patients by failing to recognize the legitimacy of care that focuses on the palliation of pain rather than a cure. This definition actually encourages overuse of invasive—and often futile—medical treatment and the underutilization of hospice and palliative treatment.

The Institute of Medicine report released this month concludes that "policies and practices that govern payment for palliative care hinder delivery of the most appropriate mix of services." A chapter of that report focuses on the terrible effect these policies have had on children. It found that services necessary to provide dying children and their parents with comfort and counseling are not recognized and certainly not even reimbursed by many insurance programs.

I believe the definition of "medically necessary care" proposed by this Kyl-Nelson-Nickles amendment would further obstruct access to hospice and palliative care services for patients suffering from terminal illness.

We have not done enough to relieve pain and suffering at the end of life. I served for many years on the board of a children's hospital. Back in those days, the idea of giving strong medication to a dying child was really not even considered a possibility for many reasons. People were not sure about the appropriate dosage. Some people were worried even with a dying child that the child might become addicted to strong pain relief medicine.

I have also seen friends who, at the end of their lives, had to cry out for and demand pain relief from an almost unbearable burden. They did not want to leave this wonderful life, but they knew that was going to happen and they wanted to do it in a way that relieved both them and their loved ones of the agony that comes at the end of so many devastating illnesses.

There are many wonderful hospice programs in our country, and many academic development centers are developing comprehensive palliative care programs specifically to focus on patient comfort at the end of life.

The Kyl-Nelson-Nickles amendment places the comfort of dying patients and their families beyond the language of the legislation, really rendering it illegitimate; providing this comfort would no longer be medically necessary or appropriate.

I ask unanimous consent to print in the RECORD the article I referred to earlier from the Washington Post called "Children of Denial."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 19, 2001]

CHILDREN OF DENIAL—RECENT ADVANCES IN END-OF-LIFE CARE HAVEN'T REACHED THE YOUNGEST PATIENTS

(By Abigail Trafford)

The leukemia had come back. Liza Lister, 5, leaned on her mother's shoulder. As her mother later recalled, Liza asked, "Will I die soon?" She quickly went on, "I want to die on your lap. I want to have my lullaby tape on." Just days after her fourth birthday, Liza had been diagnosed with acute lymphocytic leukemia. Now her last chance for a cure, a bone marrow transplant, had failed.

Her parents, both physicians in New York City, had access to the most advanced therapies to wage war against her disease. But when a cure was no longer possible, they found themselves outside the mainstream of modern medicine.

Hospitals had no formal support system for families caring for a child who was going to die. There was no one health professional to offer consistent guidance throughout the up-and-down course of Liza's illness. The medical team never mentioned a hospice program.

At a time when strides have been made in easing the pain of death for adults, most children who die of chronic illness do not receive state-of-the-art care at the end of their lives—mainly because no one wants to admit they're dying. The majority die in hospitals, often in intensive care units where they are hooked up to life support machines. Drugs that could ease pain go unprescribed.

Yesterday the Institute of Medicine, in a report on end-of-life cancer care, called for a stronger focus on children, for better relief of suffering, education of doctors and changes in health plans to cover supportive services.

"Kids are suffering. The ones who are sensing they are dying and haven't been told are suffering from loneliness, from a lack of permission. Kids are suffering pain because people are reluctant to give narcotic pain relief to children," said pediatric oncologist Joanne Hilden, who founded the end-of-life care task force for the Children's Oncology Group, a national network of pediatric cancer specialists.

"Parents are suffering because they feel they have failed their child. Doctors and nurses are suffering for wanting to do better in a system that is getting in the way at every turn."

THE INVISIBLE DEATH

Death in childhood can be a taboo subject in the United States. The roughly 28,000 children who die every year of chronic illness such as cancer, heart disease, degenerative disorders and congenital anomalies are like medical orphans in a health care system dedicated to cures and longevity.

"Childhood death is completely invisible," said nurse Cynda Rushton, director of the palliative program for children at John Hopkins Children's Center. "People don't want to be reminded of it. The grief is so profound, it's almost unspeakable."

The medical team generally recognizes that a child is dying several months before the parents do—but doesn't usually tell them. In a study published last November in the Journal of the American Medical Association, physicians tended to realize there was no chance of recovery nearly seven months before a child's death from cancer; parents, on the other hand, did not come to that realization until about 3½ months before. Only about half the parents learned it in a discussion with the doctor.

The communication gap between physicians and parents is a major barrier to quality end-of-life care, pediatric specialists said.

No one at the hospital could bear to discuss death with Liza Lister. She had pressed her doctors: "What will happen when I die? How will I know I'm dying?" Her oncologist promised to let her know when death was imminent. But on the final night, as she lay in her mother's arms next to her father and older sister, and everyone knew the end was near, Liza asked, "Why didn't the doctor call to tell me?"

The Listers were able to put together hospice care for Liza for the last three months of her life. But fewer than 10 percent of children who die in the United States receive such care, according to the National Hospice and Palliative Care Organization.

Palliative programs, focused on pain control and quality of life, are aimed at making patients comfortable rather than curing their disease. In addition to doctors and nurses who treat pain and other symptoms, counselors, social workers and spiritual advisers address the patient's emotional and developmental needs. The team also supports the parents and siblings, and helps the bereaved family after the child dies.

A study published last year in the New England Journal of Medicine concluded that many children with cancer "have substantial suffering in the last month . . . and attempts to control their symptoms are often unsuccessful."

Researchers interviewed the parents of 103 children who had died between 1990 and 1997 and were cared for at Boston's Children's Hospital and the Dana-Farber Cancer Institute. Nearly half the children died in the hospital—half of those in the intensive-care unit. Overall, nearly 90 percent of the children suffered "a lot," according to the parents.

Thirty years ago, when childhood cancer was generally fatal, "we were experts in end-of-life care," said oncologist Joanne Wolfe at Dana-Farber, an author of the study. Today, 70 percent of patients survive. "We have to turn our focus on the percent who are not cured," she said. "We have to focus on palliative care."

A more recent review of children who died in hospitals in Canada showed similar results. These children suffered from a range of conditions including AIDS, organ failure, cystic fibrosis, heart disease and cancer. Of the 77 patients studied, more than 80 percent died in the ICU and most were attached to tubes and ventilators. The children were rarely told they were dying, according to the report in the December issue of Journal of Pain and Symptom Management.

MOMENT OF DECISION

When a life-threatening illness is diagnosed in a child, most families start out with aggressive treatments.

Terri Wills, a single mom in the East Texas town of Newton, thought her son's swollen face was due to allergies. It turned out to be a rare, devastating kidney disease called focal segmental glomerulosclerosis.

Adam, 5, was treated with heavy doses of corticosteroids and other drugs. He gained weight from the drugs, his height was stunted, his moods were in flux. He lived for almost 10 years with his disease—and lived well, his mother said, pitching for his baseball team and trying not to "let anyone see he was sick."

In 1996, at the age of 12, Adam went into renal failure and had a kidney transplanted from his mother. The disease recurred almost immediately. A second transplant failed in 1998. At that point Wills and her son knew his death was inevitable. "I'd rather he die on a bicycle than in the hospital," she told his doctors at the Children's Medical Center in Galveston, and she took him home.

For many other children, the prognosis is not so clear. Chronic conditions are highly unpredictable. Many formerly fatal diseases are now curable. Parents are naturally eager to give their child every chance for survival.

Derrick Csati, 9, of Angola, N.Y. has been battling brain cancer since he was 2. His first surgery lasted 17 hours. Since then, he's had several relapses and more surgeries, courses of chemotherapy and radiation, experimental therapies including monoclonal antibodies and a round of stem cell transplants.

He's now on his way to Duke University to receive another stem cell transplant, his fifth in the last year. His family has declared bankruptcy and his mother quit her job to stay with him.

The Csatis are supported with home care nurses and social workers from the Center for Hospice and Palliative Care in Buffalo. They have been on the brink before. Four years ago. Derrick relapsed with tumors invading his spine, causing horrific pain. They were offered several options; one was to stop aggressive treatment and make him comfortable. They chose instead an experimental regimen of chemotherapy and radiation. The tumors disappeared.

"He's had four years of quality life," said his mother, June Csati. Derrick goes to school and has a close relationship with his older brother, Ben. His mother knows "we could always tell them we're done." But "I keep the faith. I think he could pull this off. He's willing. He's not being hurt by this."

"How can you stop? It's so worth fighting."

THE PAIN FACTOR

For many families, the crucial decision of whether to treat aggressively or let go takes place in the pediatric intensive-care unit (PIC). Doctors and nurses on the front lines remember the hard cases: The teenager with aplastic anemia who was in so much pain she couldn't be touched. The 13-month-old who was born prematurely and stayed on life-support machines virtually all her life until the technology was turned off.

"I wouldn't put my own children through what we put children through here," said Ivor Berkowitz, Director of the PICU at Johns Hopkins. "It is very wrong when you look at it in retrospect."

But he quickly adds that each case is unique and that there are no overall guidelines on how to treat patients with advanced illness in an era of expanding biomedical options. Many children survive crisis that would be fatal for adults.

"At what point do you change your goals?" Berkowitz continued. "Where do we set the bar? This is the biggest struggle in the ICUs."

"The discussions are hard," said cancer specialist Hildenof the Cleveland Clinic Foundation. "Are we going to do experimental chemo for leukemia? Or shall we stop? Do you want to go on or off the ventilator? That's the down-and-dirty stuff. That's not a 10-minute conversation."

Nor is it covered by insurance, Hilden noted. “How politically incorrect is it to say I don’t get paid to talk to parents about the death of their child?”

All the while, children with debilitating illness need the medical team to address symptoms such as fatigue, nausea, shortness of breath and depression.

Managing pain is difficult in children, especially in those who are not able to talk. Physicians get virtually no training in pediatric palliative care. Doctors and nurses watch for increasing heart rates, crying, agitation, irritability.

“It’s very hard to tell what they’re feeling,” said physician Charles Berde, director of pain treatment services at Children’s Hospital in Boston. “The parents say, ‘My child screams all the time.’ Is the child screaming from pain or something else?”

“Pain is such a huge problem,” remembered psychiatrist Elena Lister, who described her daughter’s death in the March issue of the Journal of Pain and Symptom Management. Liza, who died four years ago, suffered severe bone pain even in her skull.

When Liza was in the hospital, one of the doctors raised the concern that narcotic pain medicines are addictive. “To me—who the hell cares?” said Lister. “She is going to die. The pain is such an inhibitor for any remaining pleasure.”

CONTINUITY OF CARE

Several studies have shown that the involvement of the same physicians and nurses from beginning to end helps to minimize a child’s pain and suffering.

“Continuity of care was key. To which I say, ‘Duh?’ ” said neonatologist Suzanne Toce, director of the palliative Footprints program at Cardinal Glennon Children’s Hospital. Whether a child is cured or succumbs to a life-threatening condition, “we need to integrate palliative care into mainstream medicine,” said Toce.

Sometimes when parents want to stop aggressive therapies before their physician does, they have to change doctors—accelerating their sense of isolation and abandonment at a crisis point in the child’s illness.

That’s what happened to Kevin and Brandi Schmidt of St. Augustine, Fla. When their daughter Kourtney was 4 months old, she was diagnosed with a severe form of spinal muscular atrophy, a rare inherited disease. The Schmidts quickly learned that such children die within a year. As the muscles weaken, the child can’t eat, swallow, cough, even breathe.

Kourtney underwent surgery to have a feeding tube inserted. She received extra oxygen to breathe. She was revived several times.

But the Schmidts did not want to put Kourtney on chronic ventilation. “We went to see a little boy. He was 2 years old and hooked up to a machine. We couldn’t see doing that to Kourtney,” said Brandi Schmidt. “We wanted her to have a better quality of life. We didn’t want to do any measures that would only extend her life.”

The low-tech approach did not sit well with their physicians, especially the lung specialist. “It was like all or nothing,” said Schmidt. “He wanted to take the big guns out.”

When the Schmidts refused to use more technology to take over Kourtney’s breathing, the lung specialist withdrew from the case, “I don’t have the knowledge and experience to counsel the family,” he said, and he recommended hospice care.

That meant the Schmidts had to find a new physician. The local hospice program was not geared to children. The hospice nurse was afraid to touch Kourtney. After negotiating a special arrangement with their health insurance, the Schmidts were able to keep their home care nurse and still receive hospice benefits.

Kourtney died in her parents’ king-size bed. She was 8 months old. “She wasn’t in any pain,” said Schmidt. “It was very peaceful.”

FOCUS ON CHILDREN

In a national survey by oncologist Hilden, bereaved parents were asked what they most wanted from their doctors in a palliative care program. She summed it up:

“Tell us exactly what different options mean. . . . Some parents, for example, didn’t know that patients could talk on a ventilator. . . . Tell us you can control pain, even at home. . . . Tell us that not pursuing curative therapy is okay. . . . Tell us the truth about prognosis. . . . Tell us you won’t abandon us. . . . Tell us how to prepare for the funeral.”

The American Academy of pediatrics called last summer for regulatory changes in Medicare, Medicaid and private health plans to improve access to end-of-life services for children. Several comprehensive programs have been developed in such cities as St. Louis, Seattle, Buffalo, Boston and Baltimore. These programs offer supportive care from the time of diagnosis and follow some children for years. A study on end-of-life care for children is underway at the Institute of Medicine.

“We have to acknowledge that some kids are going to die,” said Houston pediatrician Marcia Levetown, founder of the palliative Butterfly Program in Texas.

Research suggests that when children have an opportunity to discuss death, they are less anxious and feel less isolated from their parents and caregivers.

“What Liza taught us was not only can you talk about this, you must,” said psychiatrist Lister. “Otherwise, the child dies and there’s never been a chance for intimacy.”

For many families, the intimate bonding that can occur during the dying process is what constitutes a “good” death.

Teenager Adam Wills of Texas lived another year and a half after the second kidney transplant failed. “When I die, you wear hot pink or bright red,” he told his mother. He got a new bike. He made friends at the dialysis center. Just before he died, he gave an elderly man at the center a harmonica. Then he ordered a lemon tree for his mom.

“He was saying his goodbyes,” said Terri Wills. Adam suffered a massive stroke in October 1999, and was rushed to Children’s Hospital in Galveston, where he died in his mother’s arms in the Butterfly room. “It was the most beautiful thing I’ve ever experienced,” she said. At Adam’s funeral, the elderly man from the dialysis center played the harmonica. Four months later, the lemon tree arrived.

Mrs. CLINTON. Mr. President, I urge my colleagues to oppose this amendment not only for all the reasons others have enumerated but for this very specific issue. We are at the beginning of work that needs to be done in hospice care and palliative care, and I would hate to see us turn back the clock before we really started the race to determine what we should do to care for those who are in the last stages of life.

I urge all of my colleagues to join me in opposing this amendment and to support the ongoing efforts to provide more pain relief, more palliative care and, yes, more comfort to those who are leaving this life.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to make two points. One has to do with a colloquy that was underway when I had to leave to introduce someone in committee about moving to the Defense supplemental appropriations and an effort to tie limitation of amendments on this bill to that effort. I also want to address the underlying amendment.

It never ceases to amaze me that when we debate these issues, we talk all around the issue, but we never get to the heart of the issue and why it is important. We have 1,001 examples of terrible things that happen to good people, but we never talk about what is the issue.

Let me make it clear that I am going to vote for the pending amendment. I think there is a better way of fixing this problem than the way they fix it. I am working on what might hopefully be a compromise to fix the problem, but I want to be absolutely certain that it is clear to anyone who has any intent to be objective that there is a big time problem with the bill on this issue. Let me clearly define the problem.

The question is: For example, I have entered into a contract on behalf of my family with standard option Blue Cross/Blue Shield. I could have bought the high option, but I looked at cost and benefits. I made what I thought was a rational judgment, and I decided not to pay more to get the extra coverage. I made a decision, and it involved cost and benefits.

Every day in America, people enter into contracts to buy health care. Obviously, a big question in the bill before us is: Are those contracts binding? Are they binding on the purchaser of the health care? Are they binding on the seller?

As is usual with this bill, on page 35, gosh, it sure looks like they are binding. On page 35, line 14, it says in a bold headline: “No Coverage For Excluded Benefits.”

Then you read on. It says:

> Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or a health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded. . . .

Gosh, it seems in this bill they are saying contracts are binding, but when you read on, as is true over and over in this bill, you find that exactly the opposite is true. When you read on, it says:

> . . . except to the extent that the application or interpretation of the exclusion or limitation involves a determination described in paragraph (2).

Then you go back two pages to find paragraph (2) and you find that paragraph (2) has to do with anything that is medically reviewable and anything that has to do with necessity or appropriateness.

Let me explain what this language says. This is a classic bait and switch. The language says that if something is precluded in a contract, it is not covered, except if it is medically reviewable—and all medical decisions are medically reviewable—and unless it has to do with "necessity and appropriateness."

What this provision actually says is the contract is not binding. The medical reviewer can determine that someone needs care, and even if it is precluded by the contract, the plan is required to provide it.

Gosh, that may sound wonderful to some people. Let's take the standard option Blue Cross/Blue Shield policy. I have a limit of 60 days in the hospital. Let's say I have the misfortune or someone in my family does that they are in for 90 days. The plan says you are not covered. I go before a reviewer and say: Look, I want the medical reviewers to determine as to whether I need this care or not. They determine I need it, they override the contract, and so I paid for the standard option Blue Shield policy, but I got the high option. Is that great and wonderful?

What do you think is going to happen when it is time for me to renew that insurance policy? What is going to happen is then I am going to have to pay for the high option. That is not going to be such a big deal for me because I can afford to pay the high option, but what about millions of Americans who cannot pay the high option?

If we let these external review committees decide what people need, independent of the contract they entered into to provide care—I got a lower price by saying I did not want heart and lung transplant services in my policy, and yet I come down with an acute heart problem and my physician stands up in front of this board and says, I am going to die if I do not get this surgery. Then the review committee says it is medically necessary and under this bill it is covered, even though my plan I paid for did not include it. The net result of this is to cause health insurance costs to skyrocket.

Also, if I am a health care provider as an employer and I have joined my employees in buying health insurance, now the contract is not binding, so the health insurance company obviously is going to want to change the amount they charge us because they are not going to have the protections of their contract.

I do not think the way we are doing this is the right way to do it. I think there is a cleaner way to do it. I hope to do it better later if this succeeds or fails, but this brings us to a fundamental question of this bill, and that is, Are contracts binding?

What we are saying in this bill is, no, not if they relate to health care. I think that is very dangerous. This is another reason, if we don't fix it, the explosive cost of this provision unfixed is greater than the liability cost about which we spent most of our time talking.

I hope my colleagues vote for this amendment.

Now the final point. Senator BYRD and Senator STEVENS were talking about the necessity of passing a supplemental for national defense. I am for this defense supplemental. I want it to come forward. I don't see why we can't do it tonight and get it over with, provide the money for national security. I know there will be one controversial amendment. I intend to vote against it; maybe some will vote for it. However, there is no reason that tonight we cannot settle this issue and vote first thing in the morning.

Several of the people who spoke on the issue suggested we will not be allowed to go to that defense supplemental bill unless we have set out a limit on amendments to this patients' bill of rights. I urge the majority leadership to not commingle this bill with the defense supplemental. It may well be that in the end we will reach compromises on the 6 to 10 major issues on which we will have to reach some accommodation to see the bill go forward. I am encouraged by the willingness of Senator McCAIN to sit down and talk. I hope it is the beginning of a recognition that this bill is not perfect and it can be improved.

This morning when we voted down an amendment that exempted small employers with 50 or fewer employees from this massive liability burden that they can be sued for simply helping their employees buy health insurance, I took that as a very bad sign for this bill. I have to congratulate the majority. Oh, that I could be in an army that had that kind of discipline. I can't imagine there is a city in America where Members could defend the provisions of this bill, which basically say that if you are covered by ERISA, you are subject to being sued as an employer for helping people buy health insurance.

There was an amendment that said just exempt the little employers because they will almost certainly have to cancel their health insurance if they are subject to lawsuit. I don't believe there is a city in America that any Member of the Senate could go into and successfully defend a vote against that provision. Yet that provision was defeated. I am afraid we are moving in the wrong direction in terms of building a consensus.

I want to see this bill completed. I don't think anybody benefits from holding this bill up. There are going to have to be certain accommodations. If we don't deal with some of these issues, the President will end up vetoing the bill, and what have we achieved? unless your objective is simply a political issue so one can say, well, we were for this bill, the President was against it, Republicans were against it.

If we really want to pass this bill, we are going to have to deal with the sanctity of contracts, we are going to have to come to grips with suing employers and the liability question, we are going to have to come to grips with scope.

If States have good functioning plans, should they be able to stay under their own plan or should they be forced under the Federal plan? There are a handful of issues that could be counted on your 10 fingers on which we will have to come to some accommodation.

My concern is, the clock is running. Today is Wednesday. Unless we begin to reach an accommodation on these issues, we are headed for a train wreck at the end of the week, and it is because of that I urge those in positions of leadership to please not try to tie stampeding Members on this bill, by limiting their rights to offer amendments, to passing a defense supplemental appropriation that I assume we are all for.

Why not pass this bill? I would be willing to pass it on a voice vote so it could be done tonight, get it over with, and then focus our attention on this bill. I hope we don't have an effort to tie limiting our rights on this bill to even bringing up the defense supplemental. If that happens, the net result will be the defense supplemental will not be brought up. No one will benefit from that. It is not good public policy. I urge the two not be tied together.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I will respond to the plea from my friend from Texas, his plea that we finish this bill. No one wants to finish this bill more than the authors of the bill, Senators McCAIN, KENNEDY, and EDWARDS. They have been working to compromise; they have been working with Republicans. That is the reason we are winning these votes on amendments, because we are getting Republican and Democratic votes and carrying the majority. We also want to finish this bill and do things the right way.

Why do folks stand up and talk about issues that are already taken care of in this bill? I know there is a disagreement on the fine print. That is what the frustration level is. I hope my friend will work with Senator SNOWE as she seeks to craft a bipartisan amendment dealing with the employer liability.

Right now, as I read the bill, employers do not have liability; they cannot be sued unless they personally make the decision to withhold care from the patient. Most employers do not do that. They contract with providers, and those providers will be held responsible.

I find it very interesting that my friends on the other side of the aisle—most of them, certainly not all of them; and we are happy to have Senator McCAIN and other Senators joining with us on many of these amendments—I find it intriguing that they keep talking about these poor HMOs and insurance companies. We know, and we have said it a number of times, all we want is to see HMOs treated the same way in our society as we treat every other business, every other individual. If any of us goes outside this Chamber and we knock into someone and we hurt them, we are responsible. We are held accountable if it was our fault.

The reason we have the safest products in the world is that we have the toughest liability laws and they act as prevention. People make safe products, one, because most of them in their hearts want a good, safe product. But we have harsh laws if you intentionally hurt someone. If the brakes on the car don't work, if the crib bars are too wide, wide enough so a child can be strangled, we have laws on the books. All we are saying to HMOs is, if you in fact hurt people, you should be held accountable as well.

Members can stand up and pick apart one sentence in the bill, but the fact is this debate goes much deeper. It is not about paragraph 1 on page 2; it is about the essence of what we are trying to do. Do patients deserve care that is prescribed by their physician or should they be at the mercy of some accountant wearing a green eyeshade saying, no, that is money we cannot spend because our CEO will not make his $200 million this year.

Patients deserve to have their care prescribed by physicians. Certainly, physicians are making that statement to us, and almost every group in the country, and certainly every respected group, makes those decisions to support the McCain-Kennedy-Edwards bill. Patients deserve to be able to know their doctor is taking care of them. You would not go to a doctor to get a tax form filled out; you would not go to an accountant to get your health care. We should keep medicine with the people who went to school, with those who know what good care is, and we should keep the bean counting and the bookkeeping with the people with the green eyeshades; they don't have white coats. I would rather go to someone in a white coat if I am in trouble and need a course of treatment.

Do patients deserve the medications the doctor prescribe? The HMO says: We have another one we can substitute. If the doctor believes you need a certain medication, you should have it.

Do patients deserve to get into a clinical trial if, in fact, they have no other recourse? Absolutely they do. That is why the McCain-Edwards-Kennedy bill is so important.

Let's face it; HMO executives are making millions of dollars while denying needed care to our people. This is about who you stand up for, who you fight for. I have many stories.

I ask the Chair what is the order now? It is 1 o'clock.

The PRESIDING OFFICER (Mr. WYDEN). The Chair advises that the Senator from Tennessee is expected to be recognized to offer an amendment.

Mrs. BOXER. I will yield then in 1 minute, if I might, and leave the floor at that time. But I want to sum up.

On Monday morning early I held a hearing in San Francisco. I had patients and families of patients testify. I had doctors testify. I heard stories that absolutely brought tears to my eyes—not just to my eyes but to those of everyone in that room.

No. 1, a husband whose wife was diagnosed with breast cancer had to literally put his work aside. He is in his 50s. He had to fight for her to get the treatment she deserves and needs because the HMO was trying so hard to save money. He had to threaten to go to the Los Angeles Times and tell his story—threaten—in order to get the care she needs.

I had the mother of a little girl who was diagnosed with cancer in her eyes. She had to struggle and fight. She said: I gave up everything else I was doing. I could not be with my daughter.

This is wrong. Senators can offer amendments until the cows come home and I know one thing: It is delaying passage of this bill. It is delaying the chance to vote on a strong Patients' Bill of Rights.

Bring your amendments on. We are voting them down, most of them. If some of them are good, we will support them. But we want a strong Patients' Bill of Rights that says to our people: You are paying for this care. You deserve this care. If you are turned down for care, you deserve the right to a speedy appeal, and then for sure we want to hold the HMOs accountable if they hurt you or your family. We say: Treat them as we would anyone else in society.

I am grateful for the honor to speak on behalf of the underlying bill. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AMENDMENT NO. 819

Mr. THOMPSON. Mr. President, I do intend to offer an amendment shortly. I believe it is being finalized as we speak. We will have that before the Senate in a moment.

Listening to the debate, listening to the discussion this morning, I am once again reminded of what passes for policy discourse nowadays. I was reminded of the article that was written by David Broder in the Washington Post yesterday. Mr. Broder is obviously one of the most respected members of the press corps. Some refer to him as the dean. He is certainly not right of center. I don't know what you would call him except a very thoughtful, highly respected individual.

As I listened to this debate this morning, I thought a few of his words would be appropriate. He says this:

> The Senate debate over the Patients' Bill of Rights has become, in large part, a battle of anecdotes. . . . Backers of the Kennedy-McCain-Edwards bill, the sweeping legislation President Bush has threatened to veto, come armed each day with stories about the youngsters whose brain tumor was missed because an HMO denied his parents' request for a specialist referral or the mother whose breast cancer was ignored until it was too late.

Mr. Broder goes on later in the article and says:

> Would that the issue were that simple and straightforward. But it is not. Anecdotal evidence, no matter how powerful, gives no guidance to the scope of the problem being addressed.

Later on in the article he says:

> Still less do the anecdotes define the proper remedy. Instead, by narrowing the question to dramatic horror stories, they pull the debate away from the genuine policy tradeoffs that must be made.

I could not agree with him more. The incessant recounting of horror stories and the using of these poor and helpless people as instruments in this debate, indeed, pull us away from the genuine policy decisions that have to be made.

I would like to discuss one of those briefly this morning. That is the subject of the amendment I intend to introduce. It has to do with the exhaustion of administrative remedies.

That sounds to be an arcane legal issue that should not be of much interest to very many people. I think the contrary is the case. Basically what the exhaustion principle is saying is that under the law, generally speaking, if you have a remedy before you get to court, go ahead and use it before you go to court. The importance of that principle of exhausting your administrative remedies—going through the administrative process before you leap to court—is firmly embedded in our system. We see it working all the time with regard to run-of-the-mill kinds of lawsuits.

We have lawsuits in State court where you have to go through a commission or some body or some bureau has a chance to make a determination—usually because that entity has some expertise in the area. We give the entity, under looser rules of evidence and a lot less expense for litigants, an opportunity to take the first pass at this problem. In the process of doing that, a lot of things shake out, a lot of frivolous claims are made obvious and are dropped at that level. A lot of times the merits of a particular claim are seen and the State or whoever it is—oftentimes it is in the State system—sees that and they settle.

It is designed to have someone with some expertise, some objectivity, hash out the facts in a way that would be much faster than a court system, much less expensive than a court system, and would be to the benefit of everyone involved. It still doesn't mean you can't go to court later, but a lot of things get winnowed out in the process.

We know how clogged up our court systems are in many cases. In our Federal system, under the speedy trial act, the courts have to consider all the criminal cases first. With all the drug cases we have in Federal court and everything else, sometimes in some jurisdictions it takes a long time to get your case heard in the Federal court system. So this administrative process before you ever go to court, in winnowing those cases down to the ones that really belong in court and providing expedited expertise to the litigants, is very important.

In our system, also, when we go through that process and we get that determination made by those who have the first look, so to speak, with the expertise, then you give some credence to what they found. Then you can go to court, but you do not turn your back on the fact that this process has been followed and they came up with a certain result. The court can live with that result, usually, or it doesn't have to if it doesn't want to. But it is out there and it has served its purpose.

That is the general, overall system we have through our system. Not everything goes through this administrative process before it goes to court, but a lot of things do. This Health Care Bill of Rights we are considering today does that.

It sets up independent decisionmakers to consider these claims in a rather elaborate and detailed way before they ever get to court. The process that is set out in this bill is a good one. It sets forth a several-step process where experts who are independent and objective have a chance to take a look at a claim. We all know, with as many horror stories as are paraded around here by those who support this bill, that we cannot cover everything, all the time, for everybody, at any cost whether or not it is in the plan or it is something you have contracted for or something your employer covers or not.

If we did that, the cost would be so high that nobody could afford insurance, and nobody would be covered for anything. So it is a tradeoff. It is the kind of tradeoff that David Broder is talking about. Yes, we want these pitiful people to have coverage, but we also want to have it so that people are not totally driven out of the market because the cost doesn't match the benefit for the amount of money they expend.

That is the process and the balance that we are trying to achieve.

We got into the health care business because the medical costs were going up at almost 20 percent. We created their managed care system. We like to deride it now, but we created it because health care costs were going up at almost 20 percent and we tried to respond to that.

Assuming that, if it is not in the plan, if it is not in the deal, and if it is not in the contract, there will be some cases that are legitimately, after being looked at by all experts, not appropriate, this bill assumes there will properly be some cases that are not. If you are going to have some that aren't and some that are, what do you do? You set up a process to find out what is just. You set up a process to find out what is right.

How do you do that? This bill does a lot of things. It has an internal review process. It is an internal process, first of all, to even grant or deny a claim.

Let's say under the plan that someone comes in and their claim is denied. Maybe they haven't worked there long enough. Maybe they don't even work there at all. Maybe a determination is made that this is not a medical procedure that is covered or it is experimental. For whatever reasons, there are many cases that are denied.

Under this bill, there is a process to review that denial, even at the internal stage when the employer still has some say-so with regard to some of these plans. Especially even at that stage, this bill begins to set up expertise and objectivity.

At the internal review level, it says the person making that review cannot be associated with the prior decision. He has to be someone who is independent of that prior decision. It also says it has to be someone with expertise. It also says if it is a medical issue, it has to be a physician.

Even before we get to the external review, while it is still an internal review, this bill sets up expertise and independence in the process to make sure this claim is adjudicated or decided in an appropriate manner. All right. You go through that.

Let's say the claim in this external review process is still denied. This person denies the claim. Then, under this bill, there is an external review process. At this stage of the game, the person is totally independent of the plan. The legislation demands that he be totally independent, that he have expertise, and that he have nothing to do with the plan or the employers or anybody else. The bill spent several pages of setting up a procedure whereby he is objective and independent.

The Secretary here in Washington has authority to review what he is doing and to look at the cases he has considered to make sure he is not prejudiced in any way, where it looks as though maybe he is denying too many claims or something such as that. There are elaborate processes to make sure this external appeals process is fair, independent, and objective. All right.

Let's say we go through that level. Let's say that entity decides that there is a medical issue. Then they hand it over to yet another level of independent review. That is the independent medical review.

Once again, the bill sets up someone who is totally independent, totally objective, sets forth supervision by the Secretary, and sets forth how he is to be compensated to make sure he is well qualified.

That is the third level, you might say, in terms of some degree of independence and objectivity—totally at the last two levels and somewhat at the first level.

You have the internal review; you have the external review; and you have the independent medical review—all set up to make sure that someone who comes with a medical claim gets fair consideration, and you don't have these big, bad, mean HMOs that we hear so much about making these decisions. They are not. These people are under this act.

What we do, and what we say in this amendment that I am going to submit is, let's use it. What I have just described, let's use it.

After setting up this process that ought to be used because it is a good process, this bill also says it can be circumvented at any time. It can be. A claimant can stop it if he doesn't like the way things are looking and go to court by alleging that they have received irreparable injury or damage—not that they are about to but that they have received it.

There are two things wrong with that: No. 1, you obviously lose the benefit of the administrative process. For example, part of the problem could be or may be the sole problem could be a question of coverage. You have this process set up. You are maybe in the middle of it. Why not just decide whether or not you are really covered under this bill? It is a factually intensive exercise under this plan: how long you have been working here, and that sort of thing.

The second thing that is wrong with the bill as it is now, and allowing them to circumvent this process that I have discussed by alleging irreparable injury—they do not use the word "allege," but it is the same thing. The only way you can get into court is by "alleging." That is the way you get into court. It is a low threshold.

You can circumvent this plan at any time, or this process at any time along the way.

The second thing wrong with it is it doesn't have a claimant in it because we are talking about money damages. To circumvent this process in order to allow a claimant to go over here in the middle of it and file a lawsuit for money damages, all he is doing is getting in line over at the courthouse. He doesn't get any expedited treatment for that. It doesn't help him. Why would you do that when you are in the midst of this, admittedly, excellent, objective, costly administrative process?

I don't think that it makes any sense. Costs are relevant because it is going to show up in somebody's price for insurance.

This plan costs money. This process is expensive to set up. If you are going to have it, you ought to use it. Of course, if the result goes in the claimant's favor, it is binding on the plan. But if the results of the independent process go against the claimant, then of course he can go to court.

But my problem this morning or today is not that he can go to court. It is that he can go to court before he exhausts administrative remedies.

My friends who oppose this—I am going to anticipate this a bit because we have had some prior discussions about this. Some of my friends have pointed out that there obviously can be a need from time to time for emergency care. What if you are in the midst of this process and you have some kind of an emergency situation that ought to justify your circumvention of it?

My first answer is, the bill, as drafted now, is not going to help any claimant with regard to an emergency because, as I say, we are talking about money damages. All he can do is file a lawsuit. If that makes him feel better, 2 years later he may get into court to try his case. That might help him. But other than that, that is not going to help the person with some kind of an emergency.

What will help that person, though, is in this bill. It is already provided for. In the first place, you have a provision that is in ERISA, that we adopt in this amendment, that says you have all of the coverage that is given under ERISA, which allows you to go into court at any time to recover benefits that are due you, to get a mandatory injunction or to whatever you might be entitled under ERISA, under current law. That remains. That will be the same. We have adopted that and made that clear in this bill.

The second thing is, under section 113 of the bill, the claimant has access to emergency care. There is a provision in the bill that if you have an emergency—of course, the general law requires hospitals to take care of you anyway, but if it is an emergency-type situation, under this bill already, under section 113, an emergency is taken into account.

What if you have a situation that is not an emergency, not an immediate thing, but you do not want to go through the administrative process for just and reasonable reasons? What kind of situation could that be?

That could be a situation in the middle that is not an emergency but maybe you are entitled to an expedited review or determination. There is a provision in the bill that covers that situation also, under section 103 on internal appeals.

At the internal appeals level, if the initial claim is turned down and if a person believes they are entitled to an expedited determination, even at that level, they can go forth and pursue that. Then, at the next level, at the external appeals level, if they believe they are entitled to an expedited determination, if a physician certifies that they are entitled to expedited consideration—at either of those levels—they can get that. So the claimant is covered.

The claimant is covered under those situations, which allows us to go back to the basic legal proposition that I mentioned in the very beginning in relation to the exhaustion of the administrative remedies, which work so well in so many aspects of our judicial system, which is set up under this bill but then has massive carve-outs. That process should be allowed to work.

There is one other point in this amendment, and then I will offer it; and that is, after you go through this process, after you exhaust your administrative remedies, after you go through the internal appeal, the external appeal, the independent medical review, and after you get a result—whatever that result is—the trier of fact, when you go to court, ought to know about that result. It is not determinative on the trier of fact—whether it be the judge or the jury in the court—but it is relevant.

If you are not going to do that, you are really wasting a whole lot of time, money, and expertise and creating additional problems for yourself in terms of cost in reaching a just result. So that is what it does.

I think we all agree we want doctors making medical decisions. When these claims are made, in this review process, if it is a medical claim, doctors are going to be making that medical decision. But if you do not like it, then you can go to court. But let that doctor, let that independent, qualified physician make the first determination before you go to court.

Are we so desirous of speeding everything to court, with the attendant costs that we know are going to come about? And these are not costs to some HMO, these are costs to the American people. We have 44 million people who already are uninsured in this country. Even if we add just 1 million to the uninsured in this country because of what we do here, that ought to bother us. We should not be in the business of doing that.

So let's let doctors make that initial determination instead of lawyers. This is one of those issues that is doctors versus lawyers.

If you want to go to court, if you want to rush to court at any time in the process, regardless of what has happened—regardless of whether or not anybody independent has had a chance to look at this—you are going to decide, with a lawyers' bill, to do that. The way it is constructed right now, you can sue anytime, for anything, in any amount. We can discuss those issues later.

But with regard to this issue, exhausting administrative remedies, let's let the doctor, let's let the medical people have the first crack at it. Who knows. When we get that result in, it might resolve a lot of these potential lawsuits.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON] proposes an amendment numbered 819.

Mr. THOMPSON. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require exhaustion of remedies)

On page 150, strike line 17 and all that follows through page 153, line 8, and insert the following:

"(9) REQUIREMENT OF EXHAUSTION.—

"(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

"(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

"(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

"(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and "(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

"(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

On page 165, strike line 15 and all that follows through page 168, line 3, and insert the following:

"(4) REQUIREMENT OF EXHAUSTION.—

"(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

"(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

"(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

"(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

"(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

"(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

Mr. THOMPSON. Mr. President, the amendment has been offered. I have made my statement. I hope we have adequate time to deliberate with regard to this important amendment.

I yield back my time and yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, during my nearly 5 years in the Senate I have heard the debate of managed care reform many times. I have participated in repeating statistics, engaged in legal analyses, participated in political analyses, all of which convinced me a long time ago of the need for this Patients' Bill of Rights.

But there is no substituting that which many of my colleagues have brought to this Chamber; that is, the life experience of American families with the system as it is currently designed and how it has dealt with the tragedies of their own lives.

Many of my colleagues have brought the experiences of frustrated families: People who get up every morning, go to work, pay for medical insurance, and participate in a managed care plan, only to find that in a moment of crisis in their own families, that which they purchased, that which they have relied upon, was not available to them.

As do my colleagues, I want to now share with you just two stories that give meaning to all the statistics and illustrate all the failures of the system.

I begin with Kristin Bollinger, a young girl from Spottswood, NJ. Kristin's experiences illustrate some of the troubling practices of HMOs and how ineffective and unresponsive they can be in dealing with the needs of a child who requires long-term care when chronically ill.

Kristin suffers from a unique condition of seizures and scoliosis, both of which can be managed with proper treatment and care. Her family was forced in an HMO by their family's employer in 1993. Kristin's parents have been fighting to ensure their daughter receives specialized services ever since.

The HMO told Kristin's family she could no longer see a pediatrician and the specialists who had treated her all of her life. From birth, she had this condition. She saw a certain specialist, received specialized care. When Kristin needed to see a neurologist and other specialists, her parents had to pay for the specialists because they were not in her managed care plan. After a major surgery in 1997, Kristin's specialized nursing care was canceled without notice. She wasn't even told. The HMO even discontinued coverage for physical therapy because it was deemed medically unnecessary.

Eventually, after fighting months and even years, the care was restored. But here is a family dealing with repeated seizures, a child who was not able to function, massive medical bills, although they were in a managed care plan, an inability to get the specialists who were deemed medically necessary, and they had to fight their way back to coverage while caring for a child—case in point.

What would have worked? First, a right to get to a specialist; second, after you have been receiving care from a specialist and your plan changes, the right to keep the specialist; third, when you are denied the right to an appeal, for someone without an interest to hear your need where you can explain the need. In three important ways, this Patients' Bill of Rights would have addressed Kristin's problem and dealt with the problem of her family. None of those three rights exists in law, and so she was failed three times.

Second, Morgan Earle, a 10-year-old from Chatham, NJ, born with cortical dysplagia, a devastating developmental brain injury that causes severe seizures. Morgan's parents, like any parents, were unprepared for dealing with the care of an infant experiencing these seizures—sometimes every 6 minutes—making it impossible for her to even eat or sleep.

When Morgan was 3 months old, her parents sought treatment from a team of pediatric neurologists and neurosurgeons to develop a strategy for dealing with Morgan's lifelong medical needs. By the time she was 8, Morgan had endured extensive tests, clinical trials, and two major brain surgeries.

Through the unbelievable genius of medical science, her team of specialists reduced her seizures that were interrupting her life. But in 1999, one of the specialists who headed Morgan's medical team, through changes in his own career, abruptly transferred to another hospital in Chicago. Morgan's parents were shocked to learn that the specialists selected by her new medical team were not part of the HMO. Throughout her life, she had relied upon these same doctors. Medical science had found a way to control these continuing seizures that were interrupting her own life and the life of her family. She had found an answer. But the new team was not part of her managed care.

Imagine the frustration, that the genius of medical science found a way to deal with the suffering of your child in continuous seizures only to find that now you could not avail yourself of it.

Morgan's parents appealed the decision to the HMO. They were denied. Doctors wrote that they and only their specialists could provide an answer. They were denied. In fact, the doctors report their letters weren't even answered.

The HMO provided Morgan's parents instead with a list of in-network specialists. They were not even board certified. They could not perform. They were not capable. They could not even understand the kind of medical care Morgan was receiving.

Last Friday, after 2 years of fighting an appeal, Morgan's parents received a two-sentence e-mail from her HMO that her original specialists, the doctors they had requested, would now be covered—2 years, no money, no care, no answers. It isn't right. It is not a system that anyone in this Chamber can defend, to Kristin, to Morgan, to her parents, or to millions of other Americans who are paying for this managed care or whose employers are paying for it, believing they are covered, and tomorrow morning they are but a single tragedy in life away from Morgan's or Kristin's experience. It could be anyone in this Chamber. It could be anyone we represent. That is what this legislation is about.

It is not a gift. It is not some benefit provided by the larger society, as if that in itself would not be right or fair. It is something that has been earned and paid for, but it is not being provided. That is why we call it a Patients' Bill of Rights. It is not a gift. It is a right. It is a contract. And it is our responsibility to provide it.

That is what this legislation is about:

One, ensure that patients with disability conditions have standing referrals to specialists so they don't have to get permission; the 2-year wait of suffering and bills and lost care never happens.

Two, allow patients in these circumstances to designate a specialist as their primary care doctor. It is right, and it is efficient.

Three, require HMOs to allow access to out-of-network specialists, if in-network specialists are inadequate, at no cost. It just makes sense.

Four, ensure that chronically ill patients can keep their doctors even if they are forced to change plans or their doctors leave the HMO. That is not only right and fair; it is just not being cruel to patients and children in these circumstances.

The truth is, the alternative Republican plan does not allow these decisions to be made by patients and doctors. It means that an HMO that does not have a pediatric neurologist can force a child to see someone who is not trained or capable.

What are the costs of all this? If you take this one element of the Patients' Bill of Rights I have addressed, just this one narrow, critical element for the chronically ill who need these specialists and a continuum of care, if you just take this small element I have addressed, CBO estimates that it would add .2 percent to the cost of insurance.

Is there a family in America, given these circumstances, who would not bear that burden? Is there an employer in the country that would not want their employees to have this peace of mind in coverage, just knowing that what they are already purchasing might now be relevant and available in a moment of need?

Mr. President, I have participated in this debate over these years. I have offered the statistics. I have offered the case. I have argued the politics. I have discussed the merits. I have reviewed the bill. Now I submit Kristin and Morgan's cases as the most compelling cases of all of why there is only one piece of legislation available on this floor that truly addresses these circumstances. It is offered by Senators KENNEDY, MCCAIN, and EDWARDS.

The case is overwhelming, and I urge my colleagues across the aisle to join us. They will be proud and pleased that they did it.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, for the benefit of our colleagues, we are now still committed to voting at 2 o'clock on the Nelson amendment which we debated earlier today. We will then return to a conclusion of the Thompson amendment. We just saw that amendment a short while ago, and we are trying to study that more closely.

After the completion of the vote on the Nelson amendment, we will be able to indicate to Members when we will either vote on or dispose of the Thompson amendment.

There has been a proposal made to our colleagues on this side for votes going through the afternoon and times allocated to the different amendments and then into the evening, also being sensitive to the needs of our colleagues on the other side of the aisle for a window, and then returning to the Senate for consideration of legislation.

Hopefully, at the end of the vote at 2:30 p.m., we will be able to give the Members a clearer idea both of the substance and the time for moving the process along. We have had good debates on these issues to date. We still have work to complete on the issue on medical necessity. Also, our colleagues, Senators SNOWE and DEWINE, held a press conference at 11:30 this morning on their proposals, which hopefully we will consider later this afternoon, to tighten up language in the area of employer liability. We are familiar with the thrust of the proposal. It seems to be extremely valuable and helpful in resolving some of these issues.

We will move on hopefully to the issues of scope later in the afternoon and into the early evening.

This is how we hope to proceed. We are never sure until the actual proposal is made, but we want to give assurance to Members we are making progress, and we will continue to move as rapidly as we can on the measure.

Again, the liability issue will be the last outstanding issue. There is still no consensus on that particular proposal. We will consider the alternatives in a timely way and hopefully be able to conclude the legislation in a timely way as the majority leader has stated.

I thank all of our colleagues for their cooperation. These have been good substantive debates. We have had very few interludes. A number of our colleagues welcome the opportunity to express their views on the legislation, and we will try to accommodate as best we can when we see the opportunity to have a focused debate on a particular subject matter and dispose of that matter in a timely way. I thank all of our colleagues.

At the conclusion of this next vote, which we expect will start in just a very few moments, we will then have further news for Members.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 818

Mr. MCCAIN. Mr. President, I move to table amendment No. 818 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from North Carolina. (Mr. HELMS), is necessarily absent.

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—54

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Torricelli
Wellstone
Wyden

NAYS—45

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—1

Helms

The motion was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

Mr. KYL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is our understanding that the Senator from Arizona is going to offer an amendment at this time on behalf of a number of our colleagues.

Hopefully, we can have order, Mr. President. This is a very important amendment.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the pending Thompson amendment be laid aside without prejudice so that the Senator from Arizona may proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that the Senator from Arizona would agree to an hour of time evenly divided on his amendment.

Is that right?

Mr. MCCAIN. That would be agreeable. But I think we can do it in a shorter time than that, depending on the view of the Senator from New Hampshire on the amendment.

Mr. GREGG. I am not sure I have seen the amendment.

Mr. MCCAIN. I say to the Senator, I will get it to you right away. Why don't we do that.

Mr. REID. I would also say, it is my understanding, having spoken to all the managers, that Senator SNOWE of Maine is ready to offer the next amendment, whenever the time arrives that we complete this McCain amendment.

Mr. BYRD. Mr. President, would the distinguished Senator from Arizona yield to me so I might ask a question without his losing his right to the floor?

Mr. MCCAIN. I am always pleased to yield to the Senator from West Virginia.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia.

SUPPLEMENTAL APPROPRIAITONS

Mr. BYRD. Mr. President, earlier today the distinguished Senator from Alaska, Mr. STEVENS, and I entered into a colloquy with several other Senators here anent the possibility of reaching an agreement on the amendments that would be considered at such time as the majority leader calls up the supplemental appropriations bill. I have asked the distinguished Senator from Arizona to yield for that purpose again.

I wonder if it might be possible at this point to get an agreement, or at least to get ourselves on the way to an agreement, that would limit the number of amendments to be called up to the supplemental appropriations bill to those amendments that we have ascertained are out there via the hotline in the Cloakroom and a managers' amendment, the contents of which Senator STEVENS and I are ready to reveal to any Senator who wishes to know what is in the managers' amendment.

May I ask, with the permission of the Senator from Arizona—I am about to lose my voice for the second time in 83 years—the distinguished majority leader for a reaction to this request?

Mr. DASCHLE. Mr. President, I appreciate the chairman's concern for moving the process along. And since we discussed this matter this morning, we have issued a hotline request for amendments. We have now received the response. A number of Senators have indicated a desire to ensure that they have been included in the managers' amendment. Once that confirmation can be made, I think on our side we would be prepared to then enter into a unanimous consent agreement which would take on or schedule the debate with an appreciation for a managers' amendment and a designated list of amendments that could be accommodated.

So we are just about at a position where I think a unanimous consent request could be propounded. If Senators could just check with the distinguished senior Senator from West Virginia and the Senator from Alaska to ensure that the managers' amendment is as it has been reported to them, we will be able to move forward.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. I wonder if we can't set the hour of 3 o'clock as the time when the majority leader could propound a request in this regard.

Mr. DASCHLE. Mr. President, I would be happy to attempt to propound an agreement at 3 o'clock and see what happens. No harm done in making the effort.

Mr. BYRD. Yes. The distinguished Republican leader has already indicated his strong support for such an effort.

So I thank the majority leader. And I thank the distinguished Senator from Arizona for yielding.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, just to clarify, I would be happy to enter into a unanimous consent agreement that would limit the number of amendments and provide for an understanding about how the supplemental would be addressed. But, of course, we cannot schedule the supplemental until we have completed our work on the Patients' Bill of Rights. I know the senior Senator from West Virginia understood that.

Mr. BYRD. Yes, I do.

Mr. DASCHLE. But I wanted to clarify that for the sake of anybody who may have misunderstood.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 820

Mr. MCCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. BAYH, Mr. CARPER, and Mr. EDWARDS, proposes an amendment numbered 820.

Mr. MCCAIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify that nothing in the bill permits independent medical reviewers to require that plans or issuers cover specifically excluded items or services)

On page 36 line 5, strike "except" and all that follows through "(2)" on line 8.

On page 62, between lines 10 and 11, insert the following:

(V) Compliance with the requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement of subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

On page 62, line 20, after the period insert the following: "The Secretary, or organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.".

On page 62, between lines 20 and 21, insert the following:

(vii) PETITION FOR DENIAL OR WITHDRAWAL.—An individual may petition the Secretary, or an organization providing the certification involves, for a denial of recertification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of such entity failing to meet a requirement of this section.

On page 66, between lines 10 and 11, insert the following:

(5) REPORT.—Not later than 12 months after the general effective date referred to in section 401, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

Mr. MCCAIN. Mr. President, I say to the Senator from New Hampshire, I hope he and his people will examine this amendment. I apologize for not getting it to him sooner. Perhaps we could agree on this amendment and not have to have a rollcall vote.

Mr. KENNEDY. Would it be agreeable to have an hour, so we could get——

Mr. McCAIN. Mr. President, I ask unanimous consent that there be 1 hour on this amendment evenly divided.

I withhold my unanimous consent request.

Mr. GREGG. Reserving the right to object, in just a minute I believe I will be able to respond.

Mr. REID. I did not hear the Senator.

Mr. GREGG. I said, I believe we will be able to respond to the Senator in about a minute.

Mr. McCAIN. I thank the Senator.

Mr. President, concerns have been raised that under this legislation, independent medical reviewers can order a health plan to provide items and services that are specifically excluded by the plan's contract.

The amendment I am offering clarifies that the bill does not do this, and that specific limitations and exclusions on coverage must be honored by the external reviewers.

There are a numerous safeguards already in the bill to ensure that external reviewers cannot order a group health plan or health insurer to cover items or services that are specifically excluded or expressly limited in the plain language of the plan document.

First, the external review entity who is responsible for determining which claims require medical review and which do not, may refer claims to independent medical reviewers only if the coverage decision cannot be made without the exercise of medical judgment.

I repeat: The external review entity, the one that is responsible for determining which claims require medical review and which do not, may refer claims to independent medical reviewers only if the coverage decision can't be made without the exercise of medical judgment. For example, the plan document says that the plan doesn't cover heart transplants. Even if the patient has no other treatment options, the external review entity should not forward the claim for a heart transplant to an independent medical reviewer because no medical determination is needed to understand that the procedure is not covered.

Second, even if the external review entity makes a mistake and forwards to the independent medical reviewer a claim for an item or service that is specifically excluded or expressly limited under the plan, the legislation states that the independent medical reviewer cannot require the health plan or insurer to cover such excluded benefits.

The amendment I am offering clarifies this limitation on the independent medical reviewer to make it perfectly clear that although we are relying on the independent medical reviewer to give us a second medical opinion when such a medical opinion is necessary to interpret the plan's coverage, we are not empowering them to disregard the plan's specific coverage exclusions and limitations.

The third safeguard and the one we are further strengthening with this amendment is designed to ensure the objectivity and quality of the external reviewers. The bill provides already for their certification and sets out factors that must be considered before they can be recertified, including the external reviewer's compliance with requirements for independence and limitations on compensation. To the recertification considerations already in the bill, this legislation additionally requires the certifying authority, before recertifying an external reviewer, to consider whether the external reviewer has breached the other safeguards by ordering a provision of items or services that are specifically excluded by the plan.

The amendment allows a health plan or insurer to petition the certifying authority to revoke an external reviewer's certification or deny recertification and requires the certifying authority to do this upon a showing of a pattern or practice of wrongfully referring for medical review claims that don't require medical decisions or of ordering the provision of specifically excluded benefits.

Finally, the amendment requires the General Accounting Office, within 1 year after the bill takes effect, to report to Congress on the number and the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

I guess what we are saying here is that we are trying to make the language as tight as possible. We know there may be a temptation on the part of reviewers to violate the plan with regard to those procedures which may be specifically excluded. We will have follow-up action, including a requirement for taking into consideration, on recertification or even revocation of certification, a study by the General Accounting Office which will tell us about the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded.

My friend from Arizona, Senator KYL, had a very good amendment. We could not quite go that far, and we came close to agreement. I hope this amendment does clarify some of the concerns.

It strikes the language on page 36 of the bill that says: Except to the extent that the application or interpretation of the exclusion or limitation involves the determination described in paragraph 2.

This removes what was viewed by many as a possible loophole. So we were willing to strike that portion of the bill in order to try to inspire some confidence that in no way does this legislation expect or anticipate or even allow in any way exclusions on coverage that are not specifically listed in the medical plan, in the insurance plan.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, before my colleague Senator McCAIN leaves the Chamber, I thank him for his leadership on this issue. He has demonstrated his courage in battle and in service to country and is doing so again by leading this important battle for patient care for all Americans. I thank Senator McCAIN for his leadership once again.

I thank my colleague Senator CARPER from Delaware. We served together as Governors for many years, and we now have the privilege of serving in this body. I thank him for his leadership on this issue, for his insight. There is no deeper thinker who cares more about the public policy details of what we do in the Senate than Senator CARPER. He is new to this body but has already made a substantial contribution to the Senate and to the laws that govern our country.

I express my appreciation to Senators EDWARDS and KENNEDY for their leadership in this important battle on behalf of patients. I express my gratitude to two of our colleagues who are not on the floor at this time: Senator NELSON of Nebraska and Senator KYL from Arizona.

In particular, I thank Senator NELSON for his heartfelt work on the last amendment. Although unsuccessful, I know he cared deeply about striking the right balance. We share many of the same objectives, although we differ in terms of how we go about achieving those objectives. I salute Senator NELSON for his work in this regard. I hope our amendment will meet many of his concerns. I believe it does in terms of striking the right balance for the American people.

Our amendment accomplishes both of the important objectives that the American people seek in debating and enacting this Patients' Bill of Rights. First, we ensure that all decisions that involve the practice of medicine, all decisions that involve medical discretion will be fully reviewable by an independent panel to ensure the quality of health care for all insured Americans across our country.

Second, this amendment seeks to accomplish quality medicine at affordable cost, keeping the prices as reasonable as possible for consumers and patients across the country. We do this by removing unnecessary ambiguity from this bill, thereby ensuring that we can accomplish quality medical treatment but keeping the risks, the uncertainty, and therefore the costs to patients and consumers as low as possible.

The bottom line will be quality health care for all Americans at an affordable cost. That is the balance all of us should be seeking to strike in this debate. That is the balance this amendment will help us to accomplish.

Very simply, we seek to honor the original intent of this bill, that doctors should make medical decisions, that lawyers should draft contracts and practice law, but neither should be in the business of practicing the other's profession. We have removed through this amendment ambiguous language that ran the risk of one encroaching on the other's territory.

Specifically, let me read the provisions that will remain in the bill. They are explicit and unambiguous. I quote from the legislation:

> Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan or health insurer offering health insurance or health insurance coverage provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in plain language of the plan document.

Under the bill before this amendment, Mr. President, there had been several exceptions which had consumed the rule, making this clear exception for express limitations or prohibitions under the terms of the contract null and void. We put a period at the end of this language, removing the exception language, thereby making it very clear that the terms of the contract, in terms of contract language, will govern. This helps to keep the costs low because the uncertainty and the ambiguity will be removed.

At the same time, there can be no uncertainty or ambiguity that medical decisions involving the practice of medicine, anything involving medical discretion, will be fully reviewable by the external appeals process, as it should be.

In addition, there are other precautionary measures included in our amendment that I was interested in and I know the Senator from Delaware was interested in. He may elaborate on these provisions in just a few moments. These ensure that the independent reviewers are truly independent. We want to make sure they adhere to the provisions of this legislation, hopefully as amended by this amendment, and that we don't have the risk of panels exceeding their authority by changing the terms of the contract where they are expressly provided for, and there is no ambiguity in the language in terms of limitations or exclusions from the terms of the contract.

Once again, this amendment will ensure that independent review panels do not exceed their authority, inappropriately driving up costs without improving the quality of health care for the American people.

Finally, we have a rare opportunity to achieve bipartisan consensus on this amendment.

Not only is Senator McCAIN helping to lead the charge once again, for which we are very grateful, but I listened with great interest and gratitude to something that the Senator from Oklahoma, Mr. NICKLES, said last evening. He recited the very same language that I recited about exclusions and limitations in the contract. And then he said if you put a period at the end of those provisions and remove the exception language, that would be—to use his word—"great."

Mr. President, that is exactly what we have done. We have placed a period there and removed the exception language, thereby removing the ambiguity, the risk, the unnecessary cost to consumers without a health care benefit. Senator THOMPSON, earlier today on the floor of the Senate, indicated that this action we have proposed in this amendment would also go a substantial way toward correcting what he thought was a potential defect in the legislation.

So I ask all Senators, regardless of political affiliation, who seek to strike the right balance between quality health care on the one hand and affordability on the other hand to support this amendment. We have taken a step that some of those who have been concerned about the ambiguity in the language have encouraged us to do, thereby ensuring quality affordable health care for every American. We can accomplish that with this legislation, with this amendment. I urge my colleagues to vote in the affirmative.

I yield the floor, and I thank my colleagues for their patience and attention.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I rise in support of the amendment. I am pleased to be an original coauthor with Senators BAYH and McCAIN. The Senator from Indiana is very modest in giving to others the credit, but this is really an idea that I first heard from him. Early this week, Senator BEN NELSON and Senator BAYH and myself were trying to deal with issue of medical necessity. It is a difficult issue around which there are competing interests—doctors, nurses, insurers, patients—who really find consensus hard to reach.

I thank Senator BAYH for helping us to find this middle ground on which I am encouraged that maybe we will have strong bipartisan support. I express my thanks to Senators McCAIN and KENNEDY and EDWARDS for their leadership in getting us here this day, and to my friend, Senator GREGG from New Hampshire, for his thoughtful comments, as well as those I heard on the floor yesterday, alluded to by Senator BAYH, from Senator NICKLES. As I recited, earlier today PHIL GRAMM of Texas echoed almost those same comments.

Before I return, I want to step back a little bit and go back in time. I used to be State treasurer of Delaware before I was a Congressman, before I was Governor, before I became a Senator. Senator BAYH was Governor of Indiana and was the secretary of state. We worked in those venues before we came here to work. With our State treasurer at the time, we administered benefits of State employees. Among the things I was mindful of was health care costs.

In the 1970s and 1980s, health care costs went up enormously. It was not uncommon to see increases then of 20, 25, or even 30 percent annually in the cost of health care for State employees. These really mirrored increases that inured to other employees outside the State of Delaware.

Along about the late 1980s, a dozen or so years ago, a number of people began working seriously in this town to figure out how to introduce some competition into the provision of medicine. In a fee-for-service approach in medicine, I might see my doctor and he says, "You are not well; I will order tests A, B, C and D, and to be sure we will order E, F, G and H," and he owns the lab where the tests are administered. Then he says, "Come back and we will see how you feel next week." There really wasn't much impetus for containing costs. As a result, costs spiraled out of control.

Managed care was designed and conceived to try to stop that spiraling and introduce some market forces and competition in order to control the cost of health care. It really succeeded better than I think any of its proponents had imagined. Those costs that were going up 20, 25, even 30 percent, back in the 1980s, by the time we got to the end of the 1990s, were going up by 2, 3 percent, in some years nothing at all. As we went about controlling costs, the concerns switched to a different area, and that different area was quality of health care.

Instead of a lot of our doctors and nurses making decisions, a lot of decisions for the care to be offered or given to us was made within the HMOs running the managed care operation. In some cases, they were doctors and nurses, and in some cases they were not.

What we are trying to do in the context of the Patients' Bill of Rights legislation is restore some balance to the system. We don't want to see costs spiral out of control or employers cutting off health care for employees. By the same token, we want to make sure that more of the medical decisions that affect us if we are covered by an HMO, especially if it falls under a Federal regulation, which ERISA is—we want to make sure we are getting the kinds of protections that inure to folks who are in State HMOs.

How do we do that and not lead us back to spiraling, out-of-control costs in a way that is fair to doctors and nurses, and in a way that is fair to employers and at the same time fair to the HMOs? The issue we are trying to address is this: I am in an HMO; I don't like the decision my HMO renders with respect to my health care. I appeal that decision, and it is reviewed by an internal mechanism within the HMO. If they don't provide a decision my doctor and I like, we can appeal to an external reviewer. In some cases, certainly in my State, an external reviewer can override the HMO's decision and mandate the provision of that health care under a State-regulated plan.

What about in a case where there is a federally regulated HMO, one that falls under ERISA? What do you do in a case when the language of the plan explicitly excludes the treatment that a member of that plan desires? What do we do when the language of the plan explicitly excludes the very treatment that I or the member of a managed care plan desires?

Unintentionally, the language of the bill as drafted says to the external reviewer that you have license to go beyond that which is explicitly excluded in treatment for a patient. That external reviewer can order additional explicitly excluded treatment 'for a patient. That might be great for the patient, might be appreciated by the patients' doctors and nurses. But how fair is that to the insurer who is trying to cost out a plan, to charge for that plan and have a sum certain to operate with?

What Senator BAYH has fashioned, something that he and Senator NELSON and I worked on, is a way to provide that certainty for the insurer and also to provide certainty for the consumer, the patient, and the health care providers. It is a simple change—one endorsed, at least indirectly, by Senator NICKLES and today by Senator GRAMM. By simply striking a couple lines in his bill and putting a period where a period ought to appear, we helped solve a problem. It doesn't solve all of the problems in this bill, but it solves one of the problems. It is clear, clean, and easy to understand.

Let me close my remarks with some comments about another one of our colleagues who, before he was in the Senate, was a Governor, BEN NELSON of Nebraska. Before he was Governor, he was insurance commissioner for his State. He has forgotten more about these insurance matters than most of us will ever know. His insights and perspectives on these issues have been enormously helpful to me in this debate. I thank him for joining with Senator BAYH and me and others in the conversations that really led to the emergence of this proposal.

Senator NELSON offered an amendment with Senator KYL a little bit earlier today to try to define medical necessity, which is really the kind of issue we are talking about here. People have been trying to do that for years without a lot of success. While we are not going to agree to change the language in the bill with respect to that, we can say here clearly, if a health plan that falls under the jurisdiction of ERISA explicitly excludes a particular kind of coverage, then in all fairness the external review committee in reviewing an appeal, cannot override the explicit exclusion in that health care plan. That is fair; that is reasonable; it provides certainty for the insurer, and I think it is fair to consumers as well.

I am pleased to rise in support of it, and I hope that all of us in this Senate, Democrats and Republicans, and Independent as well, can support this amendment. Thank you very much.

I yield back my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, before he leaves the floor, I thank my friend from Delaware for all his work on this issue. It is very important to the progress we are making to finally protect patients in this country, along with Senator BAYH, who led this effort, and Senator NELSON and others involved in this issue. We very much appreciate all of their input.

The issue of medical necessity, which means how we determine whether any particular care is covered and is medically necessary for the treatment of the patient, is a critical issue in the bill. We have now agreed on language that we believe appropriately balances the interests of the contract between the insurance company or the HMO and the employer on the one hand, and the interest of the patient and having some flexibility on the other.

Basically what we have said in this amendment is if the contract explicitly excludes a particular treatment, a test, then that will be excluded from care, period, and the independent reviewers are bound by that language.

On the other hand, to the extent we need some flexibility in what is proper and good medical care, we have managed to maintain that. I think we have struck the right balance between the sanctity of the contract on the one hand, so people know they can rely on the provisions of the contract and, secondly, allowing enough flexibility to provide the proper care to patients when they go through the review process.

More important is this is another step in a very important process. When we began last week, we were confronted with trying to get real patient protections in this country with numerous obstacles—disagreement among our colleagues, different issues being raised by Members of the Senate and a written veto threat from the President.

As we have moved forward through the end of last week and through the mid part of this week, we have continued to make progress every step of the way. We keep resolving issues. We keep making progress.

On the issue of employer liability, about which many of our colleagues have expressed concern, making sure that employers around this country are protected from liability, we have worked with our colleagues—Senator SNOWE, Senator NELSON, Senator DEWINE, and others—to work out compromise language that satisfies a large number of Senators on both sides of the aisle so that there is consensus on the need to protect the employers, on the one hand, but keeping in mind the rights of the patients on the other. Issue resolved.

No. 2, scope: What this legislation covers and who it covers. Senator BREAUX and I and others have been working very hard on this issue. We believe we have reached a resolution that will result in an amendment being offered later today that strikes a compromise and a balance between the interests of the States, being able to maintain the work they have done in the area of patient protection, while at the same time making sure every single American has a floor on the level of patient protection.

On the issue of medical necessity, as a result of the work of many of my colleagues, we have been able to reach consensus. On the issue of scope, who is covered, we have been able to reach consensus. On the issue of employer liability, we have been able to reach consensus.

Every day we have continued to make progress, but the importance of this is not for what is happening specifically within this Chamber and what is happening in Washington, DC, and what is happening among Senators. The winners in this process are the families of America because it is now becoming clearer and clearer that we may finally be able to provide those families with the protections they so desperately need and to which they are entitled.

That is what this debate has been about. That is what all this work among Republicans and Democrats in the Senate has been about. We have shown over the course of the last week that we can work together, we can find ways to provide real patient protection in this country. Up until now, we have a model in problem solving, in trying to give real protection to the families of this country so they can make their own medical decisions. That is what this debate has been about; that is what our work has been about.

We are not finished. We have important issues left to resolve, but I am confident, given the good will and hard work that has already been done, that if we continue in that same way, we will be able to reach a resolution and hopefully be able to put a bill on the

President's desk and that he will sign a real Bipartisan Patient Protection Act that gives power to patients and lets them make their own health care decisions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. I thank the Chair. Mr. President, over the past few days of debate on this Patients' Bill of Rights, we have heard the many horror stories of what happens to people when HMOs put profits ahead of patients. We have heard of one man in a wheelchair whose HMO ordered his oxygen tanks removed from his house; we heard of a youngster whose brain tumor was missed because the HMO refused to allow the necessary test; and we heard of others pleading with their HMO to get coverage for critical procedures either for themselves or their families.

These, unfortunately, are not isolated examples. They are happening every day all across this country which is why the people of America are demanding reform and why we are seeing the public surveys now showing support for this legislation to the tune of 81 percent in favor of this legislation.

The people also realize the system is not working for the doctors either. Just last week, I learned of a doctor who is assessing his existing patients a $1,500 annual membership fee for the privilege of continuing their treatment. He wants to cull his current patient list from 3,000 patients down to 600, and by charging this annual membership fee, the doctor shrinks his practice and yet he maintains his profits. The patients who cannot afford the annual membership fee have to find another doctor. I find this outrageous and unethical, and it sets a bad precedent for the future of our health care industry.

All of these incidents and the debate over this legislation have made one thing very clear: Our health care system is failing most of the people in the country.

Mr. President, I rise today to reiterate my strong support for this Bipartisan Patient Bill of Rights. It represents a critical first step, an important first step in a long journey of a thousand miles of reforming America's health care system.

In short, this legislation puts medical decisions back in the hands of doctors and patients instead of HMO bureaucrats. It gives patients the right to see a specialist when needed, fixing a system that so often blocks a woman's access to necessary care. This legislation will ensure direct access for a woman to an OB/GYN if that is who she wants as a primary care physician. This bill gives patients access to the emergency room without first seeking clearance from their health care provider. We have heard many horror stories recounted in the Senate of people denied access to a certain emergency room because they had to go to another.

This legislation also protects the doctor-patient relationship, a very sacred relationship, by ending restrictions on which health care options doctors can recommend. Currently, we know doctors say they fear retribution from the health insurance industry if they pursue more costly medical treatment for their patients.

This bill also prohibits HMOs from offering financial incentives to doctors for recommending limited care. It prohibits HMOs from punishing doctors who seek top-notch care for patients.

What we are trying to do in this legislation is reinject common sense and good medical practice in protecting the doctor-patient relationship so the patient knows the doctor is going to prescribe what is the very best medical treatment appropriate for the circumstances.

In spite of claims to the contrary, yesterday the American Medical Association and other health groups reported in States with recently enacted accountability and legal remedies, the new laws did not produce any documented increase in the number of uninsured, one of the specious arguments that the opponents to this legislation have advanced.

The most crucial issue is whether a patient can seek legal recourse for the wrongdoing by a managed care company. This bill will enable patients to hold their insurance companies accountable for harmful actions. Under current law, if malpractice is committed, if there are grievous wrongs, a patient can recover from a doctor, from a hospital, from other providers, but under current law they cannot recover from an HMO. That is one of the main fundamental principles of this legislation, to change that, so they can hold those HMOs accountable.

Before I came to the Senate, I was the elected insurance commissioner of Florida for 6 years. I saw how some insurance companies—and I don't say all because I am proud of those insurance companies that would stand up for the rights of their patients and would stand up to protect their patients, but I saw how some insurance companies tried to put profits ahead of patients. Unfortunately, many patients often have little or no recourse.

There is no reason why HMOs should have special protection from lawsuits. The AMA has so stated and endorsed a patient's right to sue. It is estimated more than 190 million Americans are enrolled in health plans, and 75 percent of them under current law are unable to sue their health plans for anything but the cost of denied treatment. Clearly, the status quo works for the industry, but it fails consumers. We need this legislation to enable people to be able to redress their wrongs in State courts for damages limited only by State regulations.

It has been a long time coming. It has taken 5 years to get this legislation to the floor because for 5 years special interests have prevented this bill from becoming law. As a result, the people of Florida and the people throughout this Nation have suffered. We must end the industry strangle hold on this legislation and we must take the first meaningful steps toward overall health care reform. I submit that this legislation is a major first step in the overall journey toward health care reform. We must put the people before the special interests. We must put an end to these consumer horror tales that we have heard with all too much frequency during the course of debate on this legislation.

I thank colleagues for the privilege of addressing this issue and for indulging me in my comments.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORZINE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. NELSON of Florida are located in today's RECORD under "Morning Business.")

Mr. NELSON of Florida. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

Mr. REID. On behalf of the majority leader, I ask unanimous consent that at 5 p.m. the Senate vote in relation to Senator MCCAIN's amendment No. 820; that prior to that vote, when the quorum call is ended and the unanimous consent agreement is reached, Senators BREAUX and COLLINS be recognized to offer a first-degree amendment on scope—they can, after the vote tonight, either stop or come back tonight, but we will have a vote at 5 o'clock for the convenience of some Senators—that the Breaux and Collins debate occur concurrently today; and when the Senate resumes consideration of the bill tomorrow, Thursday, at 9:15 a.m., there be 30 minutes for debate equally divided between Senators COLLINS and BREAUX prior to votes in relation to these two amendments; that there be 2 minutes for debate equally divided before each vote with the first vote occurring in relation to the Collins amendment; that upon the disposition of these amendments, Senator Gregg be recognized to offer an amendment relative to liability; that there be 1 hour for debate equally divided prior to a vote in relation to that amendment; that upon the disposition of Senator Gregg's amendment, Senators Snowe and Frist each be recognized to offer a first-degree amendment, and that will be on liability; that there be 4 hours for debate equally divided in the usual form to run concurrently; that at the conclusion or yielding back of time, the Senate vote in relation to Senator Snowe's amendment; that after disposition of her amendment, the Senate vote in relation to the Frist amendment; that no second-degree amendments be in order to any of the amendments listed in this agreement prior to the vote in relation to the amendments.

Mr. GREGG. Reserving the right to object, I ask if the Senator from Nevada would be willing to amend the agreement, so it would be Senator Gregg or his designee.

Mr. REID. Absolutely.

Mr. GREGG. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 826

(Purpose: To modify provisions relating to preemption and State flexibility)

Ms. COLLINS. On behalf of myself, Senator Nelson of Nebraska, Senator Enzi, Senator Voinovich, Senator Hutchinson, and Senator Roberts, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Maine [Ms. Collins], for herself and Mr. Nelson of Nebraska, Mr. Enzi, Mr. Voinovich, Mr. Hutchinson, and Mr. Roberts, proposes an amendment numbered 826.

Ms. COLLINS. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is located in today's Record under "Amendments Submitted.")

Ms. COLLINS. I am very pleased to join with my colleague from Nebraska as well as the other Senators whom I mentioned in offering this amendment. Our amendment will give true deference to State laws and the traditional authority of States to regulate insurance while ensuring that each State addresses the specific patient protections provided in this legislation.

We should pass a strong, binding Patients' Bill of Rights. We should pass a bill that holds HMOs accountable for promised care and that ensures that patients receive the health care they need when they need it. However, we should do so in a responsible way that does not add excessive costs and complexity to an already strained health care system.

Congress should act to provide the important protections that consumers want and need without causing costs to soar and without preempting State insurance laws. We can do so by passing a carefully crafted bill.

I strongly believe we should not preempt or supersede but, rather, build upon the good work the States have done in the area of patients' rights and protections. States have had the primary responsibility for regulating insurance since the 1940s. For more than 60 years, States have been responsible for protecting insurance consumers. As someone who has overseen a bureau of insurance in State government for 5 years, I know firsthand that our States' bureaus of insurance do an excellent job of protecting consumers' rights.

One of the myths in the debate on this legislation is that unless the Federal Government preempts State insurance laws, millions of Americans will somehow be unprotected in their disputes with HMOs. That simply is not true. For example, as this chart demonstrates, the States have been extremely active in passing patient protections. In fact, they have been way ahead of the Federal Government and they have acted without any prod or mandate from Washington. Look at this activity: 44 States have dealt with the issue of emergency room access; 49 States have passed laws prohibiting gag clauses in insurance contracts that restrict what a physician can tell a patient. Whether it is access to OB/GYNs, continuity of care, or many of the other issues such as internal or external appeals or patient information, the States have been extremely active in this area. Every single State has acted to pass some sort of patient protections.

As is so often the case, it has been the States that have led the way. They have been the laboratories for insurance reform. Moreover, we know one size does not fit all. What may well be appropriate for one State simply may be unworkable or unneeded or too costly in another. What may be appropriate for California, which has a high penetration of HMOs, may simply not be necessary in a State such as Alaska or Wyoming where there is virtually no managed care. In such States, a new blanket of heavyhanded Federal mandates and coverage requirements simply drives up costs that impede rather than expand access to health insurance. That is why the National Association of Insurance Commissioners and the National Conference of State Legislators are very concerned about the language in the McCain-Kennedy bill. The language in that bill will force all States to adopt virtually identical Federal standards.

I recently received a letter from the president of the National Association of Insurance Commissioners. She writes that States have faced the challenges and produced laws that balance the two-part objectives of protecting consumer rights and preserving the availability and affordability of coverage. For the Federal Government to unilaterally impose its one-size-fits-all standards on the States could be devastating to State insurance markets.

I think we should heed that caution. I think we should heed that warning. The Federal Government does have an important role to play in regulating the self-funded plans under ERISA. That is where our effort should be focused.

States are precluded from applying patient protections to these federally regulated plans, and that is why we need a Federal law to ensure that consumers, enrolled in insurance plans beyond the reach of State regulators, have strong patient protections. But the Federal Government should not be in the business of second-guessing and overriding and preempting the carefully crafted patient protections that have been negotiated by our State legislators and Governors to meet the needs of their States' citizens. States which seized the initiative and acted on their own should not have to revise their carefully tailored laws simply to comply with a one-size-fits-all Federal mandate.

Under the McCain-Kennedy bill, the Federal Government would preempt existing State laws unless the State has enacted protections that are "substantially equivalent to and as effective as" the Federal standard.

A reasonable person's interpretation of that standard is the States will have to pass new laws wiping out their carefully crafted work, that are virtually identical to the standards in the McCain-Kennedy bill.

The approaches taken by the 50 States to the same type of patient protection vary widely, and with good reason in many cases. Why should States that have already acted on their own to provide strong, workable patient protections have to totally change and make extensive changes in their laws? That is why the National Council of State Legislators supports the Collins-Nelson amendment. It is extremely important to State legislators that they do not have to spend valuable time recrafting and rewriting and reenacting laws already on the books that meet the needs of their citizens.

In a recent letter to Senator Nelson and myself, the National Council of State Legislators wrote:

> [We] support this amendment. States are best situated to provide oversight enforcement of the patient and provider protections

> established in this legislation. The record of the states is strong. We are looking for an approach that supports the traditional role of States in the regulation of insurance and that recognizes the differences in State insurance plans and provides a mechanism for States to protect those markets.

Again, let me be clear. There is a role for the Federal Government, and that is to make sure that those plans, regulated under ERISA, beyond the reach of State regulators, include patient protections. That is why we need a Federal law to accomplish that goal.

It is all well and good and appropriate if Congress decides it wants to impose a specific requirement or mandate on these federally regulated insurance plans. But the Federal Government needs to be careful in respecting the good work the States have done.

Moreover, let's look at the practical consequences of what would happen under the McCain-Kennedy bill. If a State fails to revise its laws to conform to the Federal standard, under the McCain-Kennedy bill the Health Care Finance Administration, HCFA, would displace the State as the enforcer of insurance patient protection.

Talk about a right without a remedy. If there is no enforcement, there is no protection, and experience has already shown that HCFA is completely incapable of carrying out this responsibility.

The Health, Education, Labor, and Pensions Committee on which I serve has held yearly hearings to examine the problems that HCFA has experienced as it has attempted to implement and enforce the 1996 Health Insurance Portability and Accountability Act. There are many GAO reports. This one is entitled: Progress Slow In Enforcing Federal Standards in Nonconforming States. That is because HCFA is totally ill-equipped to take on this task.

Our States' bureaus of insurance know how to do the job. They have been doing it for 60 years, and they have been doing it well. Consumers should be very concerned, since HCFA has already proven that it is not capable of enforcing existing Federal insurance standards in States that don't conform. In fact, HCFA has shown it cannot even assess the degree of compliance with those Federal laws, where HCFA does play a role. We should be very concerned that we are proposing an empty promise.

The States have the systems, the infrastructure necessary to receive and process consumer complaints in a timely fashion and to hold insurers accountable to ensure that they comply with State laws. To me, the bottom line is very simple. My constituents would much rather call the bureau of insurance in Gardiner, ME, than have to deal with the HCFA office in Baltimore if they have a problem with their insurance.

Another problem of the McCain-Kennedy approach is that it would create a dual enforcement structure that would be extremely confusing for consumers and, frankly, completely unworkable. Under this bill, if some State laws met the new standards but others did not, who would be the regulator? Would it be HCFA or would it be the bureau of insurance? Would it be HCFA for some parts of the insurance contract and the bureau of insurance in the State for other parts of it?

This simply does not work. We would be creating a situation where a patient may have to go to a State bureau of insurance for questions or problems associated with certain patient protections and then try to deal with HCFA if the patient has problems or questions with other parts.

Therefore, Senator NELSON and I, supported by a number of our colleagues, are offering an amendment that will give true deference to State laws and the traditional authority of States to regulate insurance. At the same time, we will ensure that each State considers and addresses the specific patient protections proposed by this legislation.

First, our amendment would grandfather all State patient protection laws that are in place prior to the effective date of this act. That is October 1 of next year. A State would just certify to the Secretary of HHS that it has addressed one or more of the patient protection requirements to be in compliance with the law. This provision would also give States that have not considered these patient protections an incentive to act before the effective date to avoid Federal intrusion and challenges to their laws.

Second, if by the effective date a State has been certified as compliant with all the patient protections in the legislation, it will immediately become eligible for funds from a new patient quality enhancement grant program. States that are not in full compliance by the effective date of the legislation would be required to meet a higher standard in order to be eligible for funds under this new program. If a State has not acted by the effective date, it would have to certify to the Secretary, for each of the remaining protections, that either the State has enacted a law that is "consistent with the purposes of the Federal standard" or decline to enact a law because the adverse impact of the law on premiums would lead to a decline in coverage or simply because the existence of a managed care market in the State is negligible; it is just not relevant to that State.

Our amendment would recognize the States are the experts in this area. They have led the way. Consumers are best protected if we continue to respect the work that the States have done and give deference to the State's traditional authority to regulate insurance.

I reserve the remainder of my time but yield to the Senator from Nebraska, my principal cosponsor, who is a true expert in this area. He knows more than any other Senator. I hope my colleagues will listen very carefully. It has been a great pleasure to work with him on this issue about which we both care a great deal.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. I thank my colleague from the New England State of Maine for such a glowing recommendation. I hope my colleagues do not think I believe I know more than they do. But it is a subject I have spent a good deal of my life involved in as an insurance regulator and as a Governor, somebody who has dealt with the business of insurance.

I appreciate so much the opportunity to join with Senator COLLINS to bring this amendment to the attention of our colleagues.

It typically is a lot more instructive to talk about the importance of patient care and to talk about those who aren't getting good patient care and certainly to bring to our attention those folks who suffered great injustices under their current health care system. I respect that. I certainly am interested in that aspect. That is why I support a Patients' Bill of Rights. That is why I continue to do that.

But I have found that any bill which comes before this body or that comes before any legislative body is hardly ever such without some amendment and some improvement. I think what Senator COLLINS and I are offering today is in that category of an improvement.

When our founders created this Union they established a system of Government that, pursuant to our Constitution, provided for a divided Government, a Government consisting of our States, and under a well-considered principle of Federalism, a Federal Government. We have been best served by this Government when we have permitted it to work for us. While pursuant to the 10th amendment, the Federal Government may preempt States in certain respects, it seems clear from that amendment and from the practice over the last 200-plus years that such preemption should be limited to those areas where the States have failed to act in some manner. This is not one of those cases.

The bill before us presents a dilemma for me and for my colleagues because most of us believe that, with some modifications, this is a good bill. The same may be said of the Frist-Breaux-Jeffords bill.

At the outset, let me state unequivocally that I support the purpose and the protection of this bill. What I don't support is its preemption of State laws in an unnecessary manner. Let me explain.

As my colleague has indicated by the chart, the States have acted. They have acted rather aggressively and consistently and in many ways. As a matter of fact, they acted so aggressively and so consistently that the best of those protections which the States passed were assembled to create this bill. Let me ask you if that isn't some action on the part of the States.

When Congress passed the ERISA preemption in 1974, it did so because some multi-State employers were having problems complying with the diversity of the State regulation of health insurance.

First, it was described as a pension issue to which they couldn't quite comply. Then they said, as long as we are getting a preemption, let's grant it in the health insurance area as well. So Congress exempted certain plans from State law. That level of exemption involved fewer insured than were continued to be served by State regulated insurance plans.

What we are faced with today is dealing with the problem that began in 1974 with the exemption from consumer protections of these Federal plans. Now we are faced with solving that problem.

Some have said, as long as we are solving that problem, let's move away from diversity and go to uniformity. I am not opposed to having uniformity. But to serve uniformity for uniformity sake and ignore what the States have done, the fact is that under the principles espoused by Thomas Jefferson States have only been acting as laboratories of democracy by experimenting. Fortunately—and thank goodness—the States have experimented because it is from these experiments and from this diversity that we are now able to assemble for the protection of the ERISA plan this group of patient protections.

That is what is important about this. If we look at it to a certain extent that virtually all content is taken from various State laws, that is at least some form of congratulations to the States for their efforts. But they ought not to be rewarded by that great effort by the preemption where it is unnecessary.

The framers of the legislation that is before us as well as those of the Frist-Breaux-Jeffords bill have really worked hard to try to find a way to balance this out. I commend them for that. Their work does not go unnoticed. I appreciate their efforts. But whether the standard is substantially equivalent as in the McCain-Kennedy Edwards bill or in the Frist-Breaux bill consistent with or in a compromise that is under consideration right now which says substantially compliant, the fact is the States are going to have to come to the Federal Government with the plans and say, "Please let us out" or they will not be able to get out from under the requirements of this legislation unless they are "substantially equivalent to."

"Substantially equivalent to" means the filings of these State protections would have to be made by their Governors to the health and human services agency, and they will have to find out whether or not the plans they are submitting are substantially equivalent—not whether they are good or bad but whether they are substantially equivalent.

The theory is, if they are substantially equivalent, they are at least as good as or better. But I don't know why we should engage bureaucracies in the Federal Government to try to look over the shoulders of the States that have seriously considered each and every one of these protections.

Why are we doing it? Because we want to solve the problem that exists. Why should we try to solve a problem where there is no problem?

Under the Collins-Nelson effort, we give the States the opportunity to opt out if their plan is consistent with the purposes of this law.

It seems to me that we just simply make it clear that the States can continue to experiment. It is easy to suggest that if you take away the incentive of the State to experiment, the experimentation will either wither or will at least stagnate.

We want to continue to be sure that there are incentives for the States to continue to experiment because I suggest to you right now this is a dynamic process. Over the next several years, we are going to find some better patient protections, and we are more likely going to find those from the States than we are engaged in the body of this legislative Chamber trying to find those answers.

I would prefer that experimentation continue. Then we can pick and choose the best of the class in each case.

I spoke today with the Secretary of Health and Human Services, Tommy Thompson, also a former Governor, and I asked him whether he thought his agency could do this. He said simply that he doesn't think that it can.

Let me add that I think that translates into, "I can't unless I have a larger bureaucracy of several dozens or more Federal bureaucrats and more staff to look over and second-guess Governors and second-guess State legislatures."

I asked if that is necessary. Quite frankly, I don't believe that it is. And with the stroke of the pen this bill can be amended so that it won't become law so States can opt out and Governors will have the opportunity, as State legislatures, to decide what is the policy that will work within their State.

We are looking for balance with this legislation. All of us want to balance being able to have the right kind of protection for patients and the availability and affordability of insurance. The last thing we need to do is to tip the balance one way or the other and end up with a more severe problem than we are trying to solve with this effort.

I suggest to you that Thomas Jefferson might be looking at us at the moment. Furthermore, I think he would be pleased if we had a dual system that recognized that this Federal bill and these Federal protections would apply to the Federal plan, and we would allow the States to continue as they have to protect the people at that level and to serve to provide experimentation and better ideas along the way and permit us to allow them to continue as they have to protect the citizens.

I truly believe that government, when it is functioning at the local level, will function best and certainly can function better in this area than we can function.

We have already taken the step of exempting the Federal plans. Let us not now make a mistake of applying what we need to permit for those State plans where there is already much protection and probably even more protection.

Just this week, Delaware added additional patient protections. It seems to me that we ought to continue to support that. We ought not to do anything that detours it or takes away the incentive for the States to continue to do as they have been doing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Nebraska for his comments. He has stated the case extremely well. He has had the experience not only of being a Governor but of actually being a commissioner of insurance.

I spent 5 years in State government overseeing a bureau of insurance. We have confidence in our State's abilities to protect the rights of insurance consumers. Indeed, the States have been way ahead of the Federal Government in this area.

I have shown my colleagues the charts of the numerous laws that the States have passed during the past decade dealing with patients' rights. Each State has taken action on some of these consumer protections. They have done so without any mandate from Washington. They have done so because they want to make sure that in State regulated insurance plans these kinds of protections have been included.

In fact, the States have passed over 1,100 laws and regulations dealing with patient protections. So this is not a case where the States have failed to act and the Federal Government has to come to the rescue. Rather, it is a case where the States have been far ahead of the Federal Government. We have been slow to provide these kinds of State protections to federally regulated plans under ERISA. That should be the primary focus of this legislation.

Both the Senator from Nebraska and I support a strong Patients' Bill of Rights. We want to make sure, in writing this legislation, we do not wipe out the good work of State governments.

Every single State has at least one law on the books dealing with portions of the McCain-Kennedy bill. But no State law is identical to the provisions in the McCain-Kennedy bill. States have dealt with these issues in different ways, depending on the negotiations between the State legislatures and their Governors, to meet the needs of that particular State. There is no need to impose a one-size-fits-all Federal mandate on the States when they are already doing a good job.

When I was Commissioner of Professional and Financial Regulation in the State of Maine, we had a very active bureau of insurance that lead the way in proposing many reforms in insurance and health insurance that were enacted by our State legislature. In fact, I believe that Maine was the first State in the Nation to pass legislation requiring automatic continuity of coverage, renewability of insurance contracts. We did that way back this the 1980s. We were ahead of the Federal Government by many years in this area.

Why should the State of Maine, which has been a leader in insurance regulation, have to go back and revisit its laws, recraft them, and rewrite them to meet the dictates of the McCain-Kennedy bill? That just does not make sense.

I think we should respect the work that has been done by the States in this area by honoring the laws that already exist and are on the books. We can encourage those few States—and they are just a handful—that have not acted in some area to do so, and then to bring their plan to the Federal Government or to tell us why they chose not to.

Why does it make sense for a State such as Wyoming or Alaska, which has virtually no managed care, to have to adopt a host of new laws that are irrelevant to their insurance market?

States have been strong in this area. They have worked hard to protect their health care consumers. I think we should be assisting them, providing incentives for them to act still further in this area, not preempting their good work.

I yield the floor but reserve the remainder of the time on the Collins-Nelson amendment.

The PRESIDING OFFICER. There is no time on this amendment.

The Senator from Nebraska.

Mr. NELSON of Nebraska. I again commend my colleague from Maine who has a wealth of experience in the regulation of insurance by having dealt with the professional agencies in her State. I suggest to you that she knows exactly of which she speaks, that the States have been active and have taken a very strong role in trying to protect the patients within their States.

The legislatures, the Governors, and the regulators have all worked together to try to create an environment in which patients are protected. They have succeeded in doing that.

The one missing piece, though, is not in what the States have failed to do but in what the Government today at the Federal level, in Congress, is now trying to do, and that is to cover the federally exempted plans.

There would not be any discussion in this Chamber today about this bill if it had not been for the exemption granted in 1974, as a result of Congress' action to exempt certain plans from State laws.

There is no criticism of what the States have or have not done. There isn't any suggestion that the States have not been active or that the States have not attempted to do a good job or that they have not done a good job.

What we have is, overcoming an omission, taking care of something that has not been done; that is, applying these protections to the Federal laws that have been exempt from State law. That is exactly what this is about.

I certainly want to praise, again, Senator KENNEDY, who has been extraordinarily tolerant of those of us who have had something to say about his labor of love. He has been very tolerant. He has been very helpful. And he has been very suggestive about solutions along the way. I want him to know that I personally appreciate that.

I am somewhat embarrassed to be suggesting that I might have some area of improvement, given the fact that he has worked on this for so long. It is a fact that I come fresh. I said this morning, I feel like somebody who came to the party late who now wants to rewrite the invitation.

It seems to me that this bill is such that it can involve some additional improvement. This is an area where I think it could be greatly improved, by giving the States the opportunity to make their case—not that they need to be treated as though their laws are substantially equivalent—but to give them the opportunity to come in and say: We have done this. We chose not to do this in our State after carefully considering it. The Governor may have wanted it, but the legislature, in its infinite wisdom, chose not to do it, or vice versa. It works that way. That system ought to be continued.

It will serve the people of our great Nation very well: The people of South Dakota, the people of Maine, the people of Nebraska, the people of Massachusetts, the people everywhere, because it has served this Nation so very well and has served the people so very well.

That is a minor modification. I think it has major implications, but it is a minor modification to say that the Governors can certify, and they can seek to support that they have attempted to deal with these issues in their way, that they do not have to do it our way. That is the difference.

I hope that my colleagues will see it that way and will find the capacity to continue to recognize that States have done, are doing, and can continue to do a good job. Even though there is an effort made to limit the amount of the preemption, I believe this preemption simply goes further than is necessary and further than we certainly would like to have it go.

That is what the National Conference of State legislatures have said and other State organizations have said. They would prefer to have less preemption and a better recognition of their efforts and a recognition that they will continue to work to increase the level of patient protection.

I yield to my colleague from Maine.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from Maine.

Ms. COLLINS. Madam President, I know we are about to vote shortly on another amendment.

Let me just summarize this part of the debate—we will be resuming the debate after the vote—by quoting a letter from the National Association of Insurance Commissioners to Senator NELSON and myself. They raise exactly the point that Senator NELSON and I have raised:

> Members of the NAIC are also concerned about enforcement. As you know as a former state regulator, if there is no enforcement then there is no protection. States have developed the infrastructure necessary to receive and process consumer complaints in a timely fashion and ensure that insurers comply with the laws. The federal government does not have this capability, and [these] proposals [before the Senate] do not provide any resources to federal agencies to develop such capability. It has taken the Health Care Financing Administration (HCFA) years to develop the infrastructure required to enforce the Health Insurance Portability and Accountability Act (HIPAA) which included only six basic provisions that most states had already enacted. The proposed patient protection bills are far more complicated than HIPAA and will require considerable oversight.

If we pass the McCain-Kennedy bill without this amendment, we are holding forth a hollow promise to consumers.

AMENDMENT NO. 820

The PRESIDING OFFICER. The hour of 5 o'clock has now arrived. Under the previous order, the question now is on agreeing to the McCain amendment No. 820.

Mr. REID. Madam President, on behalf of Senator DASCHLE, this will be the last vote of the evening. There will be further debate on the two amendments now pending. The next vote will be at 9:45 a.m. tomorrow.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—100

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

The amendment (No. 820) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 830

(Purpose: To modify provisions relating to the standard with respect to the continued applicability of State law)

Mr. BREAUX. Madam President, I ask for the reporting of an amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. MCCAIN, and Mr. EDWARDS proposes an amendment numbered 830.

Mr. BREAUX. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Mr. BREAUX. Madam President, this amendment is offered on behalf of myself, Senator JEFFORDS, Senator KENNEDY, and Senator EDWARDS as well. It attempts to deal with the question of whether States would be allowed to continue their programs dealing with Patients' Bill of Rights or will it be dealt with on a Federal level.

We have tried to bring about an agreement between all of the parties and, to a large extent, we have been successful in the sense that we have taken ideas and concepts that have been brought before this body on previous occasions and implemented them in this amendment, a provision that I think makes a great deal of sense.

A great deal of the credit should go to the staffs who have been negotiating this amendment for several days in order to bring it to the attention of our colleagues.

Most of our colleagues recognize the need that States have addressed this problem in a fashion that guarantees to patients that they will have certain rights, and they should be allowed on a State level to run and manage these programs. Very few people would be suggesting the Federal Government knows the answers to all of these problems.

My State of Louisiana, for example, is a State that has already enacted into law some 39 guarantees under our State program, guaranteeing to patients they will be protected when they deal with their insurance companies and their managed care companies. They can be assured that these rights, in fact, are in place.

There are a number of other States that have done the same thing. The point is that while we in Washington are passing a national Patients' Bill of Rights, there are many States that have already done this. They were ahead of the Federal Government. They did it before us, and these States should be allowed to continue to run their State programs as they see fit.

What we had suggested in the original Frist-Breaux-Jeffords legislation is that a State would not have their programs superseded by the Federal Government if their plans were consistent with the Federal statute.

The Senator from Massachusetts, the Senator from North Carolina, and the Senator from Arizona took the approach that States could only allow their plans to continue if they were substantially equivalent with the Federal program.

Our staffs have come up with a realistic compromise, a compromise between those two standards, something that I think makes a great deal of sense.

The amendment at the desk tries to reach an agreement and compromise that recognizes the role of the States is very important. Our language simply says the State plan will not be superseded by the Federal Government when the State plan substantially complies with the patient protection plan we have written on the Federal level.

Where do we get that language, "substantially complies"? I think that is very important. "Substantially complies" is the test that we instituted when we passed the so-called SCHIP programs for children's health insurance. We basically said in that legislation the States would be able to carry on their State programs for insuring children if it substantially complied with the guidelines of the Federal Government. That language is in the existing law of this Government; it is being interpreted by HHS, and they interact with the States now on the "substantially comply with" test. They know how to handle it; they know what it means; they have interacted with the States on this basic test.

We take that language from that legislation and incorporate it into what we are doing with the Patients' Bill of Rights. Senator JEFFORDS was a major author of that SCHIP program, and he will speak to this issue. We took the language, the test of "substantially comply," and we now have that in place in this amendment.

The decision on "substantially comply," whether it is or is not being complied with, is a decision of the Secretary of Health and Human Services, who will look at the State plans and make a determination as to whether or not they substantially comply with the Federal statute. They have time lines within which they have to make that decision. I think that is appropriate so they do not just languish in Washington. They have a certain time period in which they have to make a decision on a request by the State to be in substantial compliance with the Federal statute.

It is important to note we want the State to move in this direction. There has to be an enforcement mechanism. As in the original Frist-Breaux-Jeffords bill and the original McCain-Kennedy-Edwards bill, if the States decide to do nothing, they will have to be in compliance with the Federal standards on a patients' protection bill of rights.

The difference in our approach and my colleague from Maine and my colleague and friend from Nebraska is, if States decide to take a walk on this, if a State decides, we don't care what you are doing in Washington, folks, we are not going to pass any Patients' Bill of Rights in this State, and we are not listening to anything you are suggesting, their bill is defective in that there is no enforcement mechanism to get the States to move in a direction which is in the interests of everyone in this country.

One defect in their amendment is that the only penalty the State can potentially suffer is to have grant money for this program terminated. Therefore, you could have a situation where the State simply thumbs its nose at the concept of a national patient protection right and does not enact anything if they don't want to, and yet I think that would be a serious mistake.

I think it is in the interests of this Nation to have a Patients' Bill of Rights that can be enforced, and what we have offered as a reasonable compromise between the Kennedy bill and the Frist-Breaux-Jeffords bill I think is one that is balanced, it has been well thought out, and uses language that is already in Federal law as the "substantially comply" test is already being enforced by the Secretary of Health and Human Services.

I encourage Members, after having a chance to look at what we have offered, to be supportive of this compromise effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I will follow up on the Senator's explanation of what we are trying to do, to make sure we have a less complicated situation with respect to who is in charge and with whom to deal.

We have some problems, but the biggest problem, in what was the Kennedy-Kassebaum bill called HIPAA, was we made the mistake of using such language that it ended up that many of the States declined to do anything, in which case the Federal Government, under the bill, came in and tried to do it. That has not worked out. This comes from experience in trying to recognize the States will do good a job and want to do a good job and this is the best place to do it. We will do nothing that prevents that from continuing.

Senator COLLINS has worked hard on this over the year to make sure we come up with something that will be signed into law and allow the President to sign it into law. The protections in the Frist-Breaux-Jeffords Patients' Bill of Rights apply to all 170 million Americans covered by the private sector group health plans, individual health plans, and fully insured State and local government plans. It covers all of them.

At the same time, our legislation recognizes the Federal Government does not have all the answers. States need to play the primary role in enforcing the bill's requirements with respect to health insurers. However, if a State does not have the law or does not adopt the law similar to the new Federal requirements, Federal fallback legislation will apply.

Our amendment strikes a new compromise under scope between the Frist-Breaux-Jeffords standard of "consistent with" and the much more preemptive standard in the McCain-Edwards-Kennedy bill that states laws "be substantially equivalent to" and "as effective as" the new Federal patient protections. This leaves a lot of indefiniteness in the situation. The Breaux-Jeffords amendment uses a new standard that the State law would be certified if it "substantially complies," meaning that the State law has the same or similar features as the patient protection requirements and has a similar effect.

Also, we require that the Secretary give deference—try your best to make sure the State can do it if they want to do it —to the State's interpretation of the State law involved and the compliance of the law with the patient protection requirement. This amendment represents a true compromise. We believe it will make it less likely that the Federal Government will have to enforce these new standards and more likely that it will get signed into law.

I think we have made a good improvement. I am hopeful it will be accepted. I urge its acceptance. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I will make a couple of comments. I compliment my colleagues, Senator COLLINS and Senator NELSON, for offering an amendment which does recognize State roles in enforcement of insurance contracts. Unfortunately, I don't believe that is the case under the Breaux-Jeffords amendment. We will have to make a decision: Do we believe States should regulate insurance? Or should the Federal Government? Do we believe one size fits all?

I understand there is a little change and there may be some improvement over the underlying bill, but the improvement is very small. The underlying bill, the McCain-Kennedy-Edwards bill, has language in it that says all these protections that we are getting ready to tell the States they have to do, the States have to have "substantially equivalent" and "as effective as" the standards we are getting ready to pass in the bill.

I think the Senator from Maine said there are 1,100 State protections—State protections dealing with ER, State protections dealing with OB/GYN, State protections dealing with clinical trials, and so on. Almost none of the States has identical protections as what we are getting ready to mandate.

Unfortunately, the language that now is being talked about may be an improvement. Instead of "substantially equivalent," it says "substantially compliant" with the Federal standard. "Substantially compliant" was written under the SCHIP program, and that was, if they did this, they would get a pot of money. That is a little different scenario than coming up with: States, you must do this or we will regulate your State insurance—even though the States have always done it. Historically, the Federal Government has never regulated State insurance.

Under the McCain-Kennedy bill or now under the Breaux-Jeffords substitute, you are still going to have the Federal Government telling the States, comply with what we are telling you substantially or else we will supersede your regulation and the Health Care Finance Administration is going to do it.

There are a couple of problems with that. HFCA can't do it. Maybe nobody cares. Maybe we should just go ahead and pass this. We might just pass it and laugh at it because I absolutely know, with certainty, HFCA can't do it.

The Secretary of HHS, Secretary Thompson, basically made that statement before the Finance Committee on June 19. HFCA is already overloaded. They haven't even enforced the Medicare rules we passed years ago. They are not even enforcing HIPAA that we passed several years ago.

Under HIPAA that is the Kennedy-Kassebaum bill that deals with portability—there are five States that have not complied. We have testimony that HFCA is not enforcing that. They are supposed to. We passed a couple of other bills. Guess what. HFCA is still not enforcing those. There is one dealing with mental parity. They have never enforced it. They never have. They are well aware they are not enforcing it; that they are not compliant. We have records of that. I will submit a bunch of these for the RECORD tomorrow. HFCA cannot do it.

Yet what are we doing? We are getting ready to say if it is not substantially compliant with the new Federal regulations, HCFA is going to come running at the charge and enforce these regulations, which they were not doing.

The National Association of Insurance Commissioners basically says the same thing. These are State insurance commissioners who work on this issue full time. They are not part time. I should not say we are part-time Senators. As Senators, we are working part time on regulating insurance and we are getting ready to mandate a lot of things to the States they will not be able to do, or we are getting ready to say States do it the way we tell you to do it or the Federal Government is going to come charging in and take over. I want everyone to know that is what we are doing and even "substantially compliant" is going to have a State takeover.

Here is one of their paragraphs. They say:

> Members of the National Association of Insurance Commissioners are also concerned about enforcement. As you know —

And this letter is written to Senator COLLINS—

> as a former State regulator, if there is no enforcement, then there is no protection. States have developed the infrastructure necessary to receive and process consumer complaints in a timely fashion and ensure that insurers comply with the law. The Federal Government does not have this capability and the proposals do not provide any

resources to Federal agencies to develop such capability. It is taking the Health Care Finance Administration years to develop the infrastructure required to enforce the health insurance portability and accountability act, HIPAA, which included only 6 basic provisions that most States already had enacted. The proposed patient protection bills are far more complicated than HIPAA, and will require considerable oversight.

HIPAA had a few patient protections that almost all States already had, a few States still do not have, and HFCA has yet to really enforce those protections. Now we are going to give dozens of protections and have HFCA determine whether or not the States are substantially compliant with our new protections.

I will give an example. In the State of Delaware, they are in the process of passing a patient protection bill. They have an emergency room provision. In the emergency room provision that the State of Delaware is passing, they don't have poststabilization care included in their provision. We do, under this bill. This bill requires ambulance coverage. Guess what. The State of Delaware did not include ambulance, for whatever reason. So we are going to tell the State of Delaware, a bureaucrat at HFCA is going to say: State of Delaware, you did not do it good enough. Your legislature is going to have to go back, pass a bill, have the Governor sign it, have some expansion to make sure that your ER provision is as good as the one we are getting ready to mandate.

I could go on and on.

There is an OB/GYN patient protection that basically has unlimited access to OB/GYN and gynecologists. Great. Guess what. The protection we have given to beneficiaries, patients in the Federal Employees Health Benefits Plan, gives one visit. It is not nearly as aggressive.

As a matter of fact, that points out something that maybe a lot of people have missed about all these patient protections. I have heard countless people say we want these protections applied to all Americans. I will inform my colleagues, we did not apply them to Federal employees. We do not provide these protections we are getting ready to mandate on every private sector plan in America. We forgot to include Federal employees. We forgot to include Medicare beneficiaries. We forgot to include low-income people such as those on Medicaid. We forgot to include people who work at the Department of Defense. We forgot to include veterans. We forgot to include Indians, who are under Indian Health Care.

All these patient protections—everybody said we want those to apply to everybody. They apply to the private sector, but we did not include the public sector. Did we just sort of forget that, or are we afraid maybe that would cost too much money? We are going to give all these great patient protections and basically have a Federal takeover of State-regulated insurance unless the States are substantially compliant with it or, in other words, States, you do as we tell you or the Federal Government is going to take charge. Can Federal employees sue the Federal Government? The answer is no. Can a military officer who happens to be serving overseas, or maybe in the United States, and they have something go wrong and they have poor care, can they sue the Federal Government? The answer is no.

Are they entitled to the patient protections that are being mandated on every private sector plan in America? The answer is no.

So there are some things that are really wrong. I think one of the things that is wrong is saying we are going to have the one-size-fits-all Federal Government supersede the States. States, you are substantially compliant with what we tell you to do or else we are going to take over.

I have had the pleasure of chairing the conference last year, where we negotiated patient protections. I negotiated them with my friend and colleague from Massachusetts and other Democrats. We came up with a basic agreement on most of the patient protections. But we never agreed whether or not they should supersede the patient protection laws that are in the States. I would never agree with that and I still will not agree with it.

For whatever reason, I fail to see, when you have 44 States, as the Senator from Maine has shown, that have ER protections in their States—I fail to see that we can write an emergency room provision that is so much better than every State, that we know best what should be in Maine or Oklahoma or the State of Washington or in Massachusetts, what should be in the ER provision in those States.

I really do not like the idea of having a bureaucrat at HFCA determining whether or not those laws are substantially compliant and if that bureaucrat determines they are not substantially compliant, then they have to rewrite their law.

There are legislators who were elected in the various States. The insurance commissioners work with these laws and the application of those laws and the enforcement of the laws day in and day out. I doubt we have the infinite wisdom, when we are coming up with mandated provisions, to know we should supersede all those States.

I do not doubt there are a lot of patient protections in the States that do a much better job than what we have done on the Federal level. I don't doubt there are State protections that are not as aggressive and/or not as expensive as that with which we are getting ready to mandate that they be in substantial compliance.

Again, I urge my colleagues to support the Nelson-Collins amendment. I think it is an excellent amendment. It is one that has been well thought out. It is one that is supported by two of our colleagues who had enormous experience in the insurance field. Both Senator COLLINS and Senator NELSON worked as insurance commissioners in their States. They worked at those jobs for years. They know what they are talking about. They know the Federal Government cannot enforce it. They know the Federal Government should not regulate insurance within the States.

Unfortunately, that is what we are getting ready to do. So this is a most important amendment, and I urge my colleagues to use a little common sense. If we end up passing this amendment and, heaven forbid, should it become law, I will just make a little prediction. Two years from now we will be back here saying you know what, the States are not in compliance. They were not substantially compliant, but HCFA could not tell them that. Or if HCFA told them that, they said they still couldn't be in compliance and so you have a lot of States that are theoretically not in compliance. But the Federal Government couldn't really regulate it anyway. So did they get any additional protection? No. They have a verbal assurance: Here is a bill; you are supposed to have this protection. But it is not regulated by the State and it is not enforced by the Federal Government because the Federal Government could not do it.

Tommy Thompson, Secretary of HHS, and HHS enforcement, they have thousands of employees. They spend billions of dollars and they still can't do it.

They still can't do it. They couldn't do it if we gave it to them. I hope we don't give it to them. You didn't actually extend patient protection. What you give is kind of a false protection. It is not real. You have a whole lot of confusion. Oh, wait a minute. The State has been doing this for 40 or 50 years. Now the Federal Government is supposed to be doing it, and they can't do it. There is no real patient protection in the first place. Maybe it makes politicians feel good if we are telling the States to do this. I sure hope they do it. What is the remedy if they don't do it? The Federal Government is going to take over. That is not a very good remedy if the Federal Government can't do it, especially since the Federal Government should not do it.

I want to again compliment my friends and colleagues, Senator COLLINS and Senator NELSON, for offering an outstanding amendment.

I urge my colleagues to vote no, regrettably, on the Breaux-Jeffords amendment.

I think "substantially compliant" may be a tad better than "substantially equivalent," but not much. It is still a Federal takeover. It still has

Federal enforcement. It still has HCFA making a determination whether or not you are substantially compliant, and that is not a good solution.

I urge my colleagues to support the Collins-Nelson amendment. That would be a giant step, and one which I might mention that Governors around the Nation are going to wake up to. They have been asleep. But Governors around the Nation, Democrats and Republicans, who want to maintain State control and regulation over insurance are going to wake up to what we are doing one of these days and they are going to be coming up saying: What are you doing? Congress, you can't regulate insurance. You haven't been doing that. You don't know how to do it. What in the world do you think you are doing?

We are going to hear from them. I would venture to say that Democratic as well as Republican Governors are going to be outraged should this provision invade the scope, preempting the State, and mandating to the States that the Federal Government knows best when it comes to patient protection—and not even giving real credibility to what the States have already done; not giving them a grandfather. They have already enacted legislation dealing with those particular patient protections. The Collins-Nelson amendment grandfathers States that have done patient protections. We should recognize what they are doing and give them credit for it—not try to supersede it with a Government-knows-best solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I rise in support of the Collins-Nelson amendment. I thank them for their foresight and pointing out to this entire body that Washington doesn't always know best. In this particular case, they are not only saying Washington does not always know best but Washington is incapable of doing the job that this bill gives them to do, even if Washington knew best.

This is a very important amendment. The people who are proposing this bill ought to look at the overburdened responsibilities that the Health Care Financing Administration already has and it is not able to do.

It is from that point that I want to speak about my support for the Collins-Nelson amendment.

I want to make very clear that, as most of my colleagues, I believe that any patient protection we pass must be meaningful and enforceable. But the provisions that the Collins-Nelson amendment deals with, and that they strike and change, are the provisions of the bill that delegates most of its new enforcement responsibilities to an agency that is one of the most overburdened bureaucracies in Washington, DC.

The Washington bureaucrats who work there are not going to be able to take the action necessary to give patients the protections that are determined by the authors of this amendment they ought to have, and that we all would agree ought to be there. But it can be done under State supervision, and it can be done much better and much more expeditiously than it can be done through the Health Care Financing Administration.

It is the difference between going to Des Moines, IA, to get the protections or coming to the Baltimore headquarters of the Health Care Financing Administration—because, historically, this agency has been already slow in publishing regulations, and it lacks in its enforcement of existing Federal laws that we passed putting responsibilities on its back.

Of course, I have high hopes that our new Secretary of Health and Human Services, Governor Thompson, and the new Administrator of the Health Care Financing Administration, Tom Scully, will turn things around. While I hope that and I believe that, I don't expect a radical change is going to be necessary for the Health Care Financing Administration to carry out the responsibilities that the authors of this legislation want them to do, nor that it will be radical enough to change overnight to get the job done of administering this portion of their bill the way it should be.

At this time, shouldering the Health Care Financing Administration with a task of enforcing broad new Federal patient protections is clearly inappropriate.

Our new Secretary and Administrator have walked into myriad backlog regulations, hundreds of unanswered letters, and burdensome internal policies that hinder already efficient and effective work that the taxpayers expect to be done by this agency.

Just last week at a hearing we were having on agency reforms before the Senate Finance Committee that deals with this issue, we had Secretary Thompson and Administrator Scully pleading with us to keep new tasks away from the agency so that the catchup work on these existing responsibilities can be done.

I quote Secretary Thompson on that very point. He used the new name, the Center for Medicare Services. He said:

> The Center for Medicare Services right now is overloaded with HIPAA and with the privacy rules and regulations, with Medicare and Medicaid, and SCHIP, and so on.

Rather than listing all of the other responsibilities, he said:

> I do not think we can really take on any more responsibilities.

That is the Secretary who has the responsibility of carrying out the laws that we already passed, along with the regulations that have to be written to enforce those laws. He would like to get those out of the way before he gets any additional new responsibilities.

I want to take just a few minutes to share some important examples of how this agency in the past has been unable to meet its existing obligations.

In 1996, Congress passed the Health Insurance Portability and Accountability Act. That is the act that Secretary Thompson referred to as HIPAA. We passed it. To date, the agency is over 3 years behind on implementing major provisions of that 1996 act.

The agency is almost 2 years behind in implementing a fee schedule for ambulance services that was mandated in the Balanced Budget Act of 1997. There were several more mandates in the Balanced Budget Act of 1997 that have had no regulations published at all, such as how regional carriers will process clinical laboratory claims, and how durable medical equipment suppliers must comply with the surety bond requirements.

And get this: In 1986, Congress passed very sweeping legislation to make sure that the delivery of quality care in the nursing homes of America, and the agency took 8 years, from the date of enactment, to publish the enforcement regulations on the nursing home laws.

Even more egregious, there are no final regulations published for the Medicaid Drug Rebate Program, a program enacted into law over 10 years ago.

So the list goes on and on. I hope you can see this is an agency that is already overloaded and is seriously behind on many Federal mandates Congress has put in place over the last decade; and in the case of nursing home laws, a decade and a half ago.

We cannot expect, nor should we expect, that this agency is capable of enforcing patients' protections under this legislation.

The Secretary of Health and Human Services has already told us they are working 24/7 to improve operations and responsiveness for their existing programs, such as Medicare and Medicaid.

In the end, it is the patient who is going to suffer when patient protection regulations get delayed or are improperly enforced or, in some instances, such as the nursing home laws, for 8 years, not enforced at all.

That is exactly what will happen under the Kennedy-McCain bill where the sole responsibility of enforcing and implementing patient protection certification falls on the agency that formerly was called the Health Care Financing Administration.

I cannot support the Kennedy-McCain bill with these meaningless enforcement provisions. In fact, it would be irresponsible to do so when the agency itself has made very clear to the public that they will not be able to handle any new patient protection mandates.

I do not presume that Senator KENNEDY and Senator MCCAIN meant for this provision of their legislation to be meaningless in its enforcement. But, as a practical matter, if HCFA is already overloaded, and if they are already not writing the regulations for legislation that has been passed over the past 10 years, the ultimate result of passing this bill this way—putting this responsibility on the Health Care Financing Administration—is that it will not be enforced any more than the nursing home laws, which as I said were left unenforced for 8 years.

So I have come to the conclusion that the Collins-Nelson amendment is the right thing to do. Why fool the American people? Washington bureaucrats do not always know best. And we, as Congressmen, if we have not lost touch with the grassroots of America, and if we exercise a little common sense, we ought to be able to show to a majority of this body—and for a majority of this body to understand—that if HCFA cannot carry out the law, if they have not carried out a lot of mandates of the Congress of the United States in the past decade, why would you put more responsibilities on their back? If you want patient protection, then let it be done where it can be done, and that is in those States that have meaningful enforcement laws already for patient protection, because this amendment allows States to maintain the hard-fought patient protections they have put in place for their own citizens. And the amendment encourages States to develop even stronger protections.

So I urge my colleagues to support this approach, one that recognizes the vital role that States play in tailoring patient protections to best meet the needs of their respective citizens.

I thank the Chair.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Wyoming.

Mr. ENZI. Thank you, Mr. President. I appreciate the other side allowing us this opportunity to state our case at the beginning because of some important considerations we have.

I particularly congratulate the Senator from Maine, SUSAN COLLINS, for her tremendous efforts on this entire Patients' Bill of Rights. On any issue in which she gets involved, you will find that she studies it to a greater depth than anyone. She does additional research; she gets all of the help she can; she gets to the point where she understands what she is doing; and then she works with others to make it better. It does not happen a lot around here. But she is one dedicated Senator who is always willing to look at a better idea.

She has teamed up, in this particular instance, with Senator NELSON, a neighbor of mine, from Nebraska. One of the reasons this is an interesting team is that they have both been State insurance commissioners. They both understand the State side of this. They both understand what is in the bill. I would not want to imply that everybody does not, but these are two people who absolutely understand what is going on in the bill. They have teamed up and said there is a way that we can provide the protections, that we can get the States involved, and that we can enlarge the scope. They put it together. I congratulate them for their tremendous efforts.

For 2 weeks, I have been saying that on 80 percent of this bill both sides agree. On eighty percent of it we agree. It is that other 20 percent where there are some philosophical differences.

I have seen—both in legislating that I did before I got to the Senate and since I have arrived—that one of the keys to passing legislation is to put a good title on the bill. That is something we agree on 100 percent: The Patients' Bill of Rights is a great title. What you do with that can be an abuse of the title. And on 20 percent of this bill, there is an abuse of that title.

There are some substantial changes that need to be made. One of those is, who is going to administer it? There are two very different philosophies involved in the administration of this bill. One side says: Washington knows best. Bring it back to Washington. If the bureaucracy isn't big enough now, we will make it big enough. And we will put enough dollars in it that we will be able to solve it.

For anybody in America who has ever had to work with the Washington bureaucracy, picture the difference between Washington and your local and State governments.

When you call Washington, have you ever gotten to talk to the same person twice? That means that when you call in today with a problem that you have to explain, and then when they do not take care of it—because they really do not have the involvement that they do if they know you—you have to call them back. Well, you would not know by tomorrow; you would not know by next week. You would be lucky to know by next month. But next month, when you are sure Washington has not solved your problem, you have to call again. And I guarantee you, you will talk to a different person who will say: What is your problem? And after you have gone through all of the explanation again, they will say: We will get back to you on it. And you are going to spend another month getting back to them on it.

Contrast that with State and local calls that you have had to make. You can almost always talk to the same person again, so the problem that you discussed yesterday they still remember today. And you do not have to wait a month for the decision because they are doing the job efficiently.

There are various ranges of bureaucracies and efficiencies in Washington, also. This bill has chosen to give the jurisdiction to that agency that is doing the poorest job. Don't believe me. Don't believe the debate. What I ask you to do is call your doctor and ask them what they think of HCFA. Call it HCFA; it is the Health Care Financing Administration. But they call it HCFA because that is a four-letter cuss word to them. You will find that your doctor thinks HCFA is a cuss word. That is how impressed they are with the administration of this agency, the one to which we are about to turn over all of the jurisdiction for the problems you have worked with your State on before. We are going to take what the States have been doing, and doing well for over 50 years, where there are people you can talk to every day, and we are going to say, no, you are not doing a good enough job because there is some bureaucrat in Washington who decided that they know better and they want to handle your problem.

Find out how efficient HCFA is. I am certain under the new administration that it will be more effective, but it will be a long time recovering from the problems it has right now. Yes, we can throw more money at it. Is that where you want your tax money to go?

Right now, your States are paying for that. We are going to duplicate and supersede, without saving you a dime and in fact costing you more.

Does the Federal Government do a better job? One of the things I have been working on since I have been here is OSHA. OSHA allows two different processes. One is State plan States. That is where the States do the work. The other is the Federal plan. That is where the Federal Government takes care. I can tell you that the accidents are less in the State plan States for just the reasons I mentioned before. A bureaucracy operating out of Washington, trying to handle the whole country as a one-size-fits-all problem can't do the same job as the people at home in your State.

What are some of the things they have to handle? I will tell you, the new reason that HCFA is going to become a bigger cuss word is called HIPAA. This has to do with portability of insurance. The change in some of my phone calls this week has been calls from doctors and hospitals. They weren't concerned about a Patients' Bill of Rights yet. They were concerned about the HIPAA privacy rules. Ask your doctors and your hospitals what they think about that.

Privacy is important to all of us, but they have managed to muff that one. The same agency that people are calling me and complaining about right now is related to where we are going to turn over, under the opposing amendment, all of the workload.

This week and last week you heard about a number of amendments. One of the things I am very proud of is that all of those amendments were different solutions that needed to be done on this 20 percent of the bill where there is a problem, different approaches. It was not the same amendment time after time after time, which we have seen here before. It was different approaches to different problems in the bill. There are about six problems that we have to get solved, that we have to get some consensus on in order to have a good bill, one that matches up to the title of Patients' Bill of Rights.

What you are seeing here, of course, is us trying to solve in the committee of the whole what could have been done in committee. You are seeing more amendments here than what you might see on the floor with the bill. But that is because normally we have the committee meetings where we get to put forward lots of amendments in a smaller group and, therefore, be able to get them decided with less discussion because there are fewer people.

I mentioned some phone calls. I have to add that I am starting to get some other phone calls now which are from my school districts, wondering how this bill is going to affect them. They know we just finished the education bill and that there might be some more money under the education bill for them. They are asking: But we provide insurance to our employees; is this going to suck up all that money, and how liable will we be?

Again, I congratulate the Senator from Maine and the Senator from Nebraska for the tremendous work they have done in coming up with a solution—one we talked about last year—on which there was a lot of consensus. There was a lot more give, a lot more understanding, and even people supporting this one who seem to think HCFA is a better solution now.

One of the groups supporting the Collins amendment that I want to point out is the National Conference of State Legislatures. They recognize the value of the State handling these insurance problems.

I ask unanimous consent that there be printed in the RECORD after my remarks a letter from the National Conference of State Legislatures.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. ENZI. Among the handful of principles that are fundamental to any true protection for health care consumers, probably the most important is allowing States to continue in their role as the primary regulator of health insurance. It is because of my commitment to preserving existing consumer protections that I am glad to be a cosponsor of the Collins-Nelson amendment. Their amendment recognizes a principle that has been recognized and respected for more than 50 years.

In 1945, Congress passed the McCarran-Ferguson Act, a clear acknowledgment by the Federal Government that States are indeed the most appropriate regulators of health insurance. It was acknowledged that States are better able to understand their consumers' needs and concerns. It was determined that States are more responsive, more effective enforcers of consumer protections.

As recently as last year, this fact was reaffirmed by the General Accounting Office. GAO testified before the Health, Education, Labor, and Pensions Committee saying:

> In brief, we found that many states have responded to managed care consumers' concerns about access to health care and information disclosure. However, they often differ in their specific approaches, in scope and in form.

Wyoming has its own unique set of health care needs and concerns. Every State does. For example, despite our elevation, we don't need the mandate regarding skin cancer that Florida has on the books. My favorite illustration of just how crazy a nationalized system of health care mandates would be comes from my own time in the Wyoming Legislature. It is about a mandate I voted for and still support today. Unlike Massachusetts or California, for example, in Wyoming we have few health care providers, and their numbers virtually dry up as you head out of town. We don't have a single city with competing hospitals. So we passed an "any willing provider" law that requires health plans to contract with any provider in Wyoming who is willing to do so.

While that may sound strange to my ears in any other context, it was the right thing for Wyoming to do. But I know it is not the right thing for Massachusetts or California. I wouldn't dream of asking them to shoulder the same kind of mandate for our sake when we can simply, responsibly apply it within our borders. That is what States have been doing with the 1,100 laws they have passed dealing with patients' bills of rights.

What is even more alarming to me is that Wyoming has opted not to enact health care laws that specifically relate to HMOs. But that is because there are ostensibly no HMOs in Wyoming. There is one which is very small. It is operated by a group of doctors who live in town, not a nameless, faceless insurance company. Yet the sponsors of the underlying bill insist they know what is best for everybody. So they want to require the State of Wyoming to enact and actively enforce—that is what the opposing amendment does, enact and actively enforce—what they say is the right thing for our State. They want to regulate under 15 new laws a style of health insurance that doesn't even exist in our State.

It requires States to forsake laws that they have already passed dealing with patient protections included in the bill, if they are not the same as the new Federal standard. The technical language in the bill reads "substantially equivalent," "does not prevent the application of," and under the process of certifying these facts with the Secretary of Health and Human Services, the State will have to prove that their laws are "substantially equivalent" or some other variation of words. There are a whole bunch of words that could be used there.

There could be a whole series of amendments to undermine the Collins amendment. This is one of them.

The proponents of this language—whichever version you care to look at, except for Collins—say that it won't undo existing State laws that are essentially comparable, but that isn't what their bill requires. Under either amendment—the bill or the Breaux-Jeffords amendment—they are going to force States to change laws that they have already reviewed, that they believe already work in their States.

Is it that the proponents aren't overly concerned with the implementation of the law versus being able to say that their bill meets the political test of covering all Americans, regardless of existing, meaningful protections that State legislatures have enacted? If the laws just have to be comparable, why don't they use that phrase? I will get into this issue in more detail as the debate proceeds. I believe we can compromise. I don't think this is the compromise. I like the language of the Collins amendment. The only hard proof that we have right now is that States are, by and large, good regulators, while the Federal Government has done a lousy job. The General Accounting Office has been reporting to us that since we passed the Health Insurance Portability and Accountability Act in 1996. And that is the "consumer protection enforcement" mechanism around which the bill before us is written.

Wyoming currently requires that the plans provide information to patients about coverage, copays and so on, much as we would do in this bill; a ban on gag clauses between doctors and patients; and an internal appeals process to dispute denied claims. I am hopeful that the State will soon enact an external appeals process, too. This is a list of patient protections that a person in any kind of health plan needs, which is why the State has acted. But requiring Wyoming to enact a series of additional laws that don't have any bearing on consumers in our State is an unbelievable waste of the citizens' legislature's time and resources.

As consumers, we should be downright angry at how some of our elected officials are responding to our concerns about the quality of our health care and the alarming problem of the uninsured in this country.

We are talking about driving up the price of insurance and driving people out of the insurance market. I keep mentioning that insurance in this country is provided on a voluntary basis. We have had amendments that dealt with small businesses to see if they could get any kind of relief. Most of them are strained to the maximum. The smaller your business, the higher your potential risk, so the higher the rates you pay. Insurance is risk protection. We discriminate against the smaller businesses on rates because it is actuarially more difficult to calculate that.

Under this bill, we have had some opportunities to provide some relief to those small businessmen. It hasn't happened. They have been ignored. I will be bringing an amendment that will deal with the large businesses. I almost exclusively work with small businesses. Tomorrow, I will be bringing one that deals with the big self-insured, self-administered companies to see if there is going to be any hope of relief for those people who provide the best insurance in this country.

Mr. President, we will be committing two fouls against consumers if we do not adopt the Collins-Nelson amendment. The first would be to eliminate all meaningful patient protections that are not exactly like the Federal law. Second would be to put in enforcement responsibilities with the agency that has already said it can't do the job. Add to that the third foul that the rest of the bill prices millions of people out of health insurance and we have done anything but hit a home run for patients.

I urge my colleagues to consider the valuable experience and wisdom of the amendment sponsors, as well as the urging of the National Council of State Legislatures. Think about the divergence of philosophy. Do you want your health care to be one size fits all in Washington, determined by HIPAA and HCFA, or do you still want your States to be involved? Do you want your States to have the control? Do you want your States to be able to continue the kind of service they have been providing through your State legislatures that can make decisions based on your State and your needs?

I yield the floor.

EXHIBIT 1

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, June 27, 2001.

Hon. SUSAN COLLINS,
U.S. Senate,
Washington, DC.
Hon. BEN NELSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS AND SENATOR NELSON: On behalf of the National Conference of State Legislatures, I would like to take this opportunity to commend you for authoring an amendment to S. 1052, the pending Patients' Bill of Rights legislation. Your amendment recognizes the important work states have done regarding the regulation of managed care entities and supports the continued role of states in the regulation of health insurance.

The amendment substantially addresses concerns we expressed in our recent letter to you and your colleagues. In that letter we urged you to: (1) grandfather existing state patient and provider protection laws; and (2) provide a transition period between the enactment of federal legislation and the effective date of the Act to provide each state an opportunity to preserve their authority to regulate managed care entities. This amendment also addresses our concerns regarding the adequacy of the federal infrastructure to enforce the patient and provider protections established in the bill. Finally, it is important to emphasize that the proposed amendment recognizes that insurance markets differ among the states and a "one size fits all" approach may have adverse results among states and within regions of a state. This amendment permits a state to certify adverse impact and head off disruption in its insurance market.

NCSL supports this amendment. States are best situated to provide oversight and enforcement of the patient and provider protections established in the legislation. The record of the states is strong. We are looking for an approach that supports the traditional role of states in the regulation of insurance and that recognizes the differences in state insurance markets and provides a mechanism for states to protect those markets.

NCSL supports passage of Patients' Bill of Rights legislation that makes a promise that can be fulfilled. We believe state oversight and enforcement is an integral part of ensuring fulfillment of the promise and we look forward to continuing to work with you to develop legislation that will improve the quality of health care without adversely affecting access to care.

Sincerely,

GARNET COLEMAN,
Texas House of Representatives,
Chairman, NCSL Health Committee.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I will be brief because I see the Senator from Massachusetts also desires to speak. First, I thank my colleague and friend from Wyoming for his extraordinarily generous comments and also for his excellent statement. As a former State senator, he has a great deal of experience in this area. As a businessman, he knows what it is to provide health insurance and to try to provide good benefits for his employees. I am grateful for his support.

Very briefly, I want to respond to a couple of comments that have been made tonight. The former chairman of the Finance Committee, Senator GRASSLEY, talked about the burden on HCFA. I think this is very important because the McCain-Kennedy bill—and, unfortunately, the amendment offered by my friend from Louisiana continues this problem—is expecting that HCFA is somehow going to be able to step into the role of insurance regulator, which is something the States have performed well for more than 50 years.

Look at what would be required under the Breaux-Jeffords amendment. Let me read you one part of the burden on the Secretary under the provisions called "Petition Process":

Effective on the date on which the provisions of this Act become effective, as provided for in section 401, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification under this subsection, is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

In other words, this sets up a process by which the Secretary of HHS is going to be inundated with requests for advisory opinions from anyone who is covered under a State-regulated insurance plan who wants to know whether or not a certain provision of that particular State's laws is superseded by the Federal law. This is just not workable. There is just no way that HCFA is going to be able to take over these responsibilities.

My friend from Louisiana drew the analogy with the State Children's Insurance Plans. I am very proud of that program. I was one of the original cosponsors of the legislation that the Senator from Massachusetts and the Senator from Utah proposed to create this important program to expand access to insurance to low-income children. But these are not analogous situations. We are not talking about a federally funded health program. We are not talking about that. We are talking about the regulation of health insurance.

The Federal Government is not providing funds for this. The Federal Government is not involved in this traditionally. This is entirely different from pointing to a Federal program that happens to be administered by the States but which is federally funded where, of course, it makes sense for the Federal Government to set standards. So it is two entirely different matters.

Finally, I make the point that one should look—and I encourage the Senator from Louisiana to look—at the provisions of his State's laws on consumer and patient protections. They are not identical to the standards in the McCain-Kennedy bill. For example, when you look at the Louisiana law dealing with emergency room access, we find that Louisiana has a law, but that it is crafted in a different way than the McCain-Kennedy bill. So now we have to decide, is it substantially compliant with the provisions of the bill, which would be the standard the Senator from Louisiana would have? It differs in some respects—on reimbursements, on how much is covered, on poststabilization care.

If the State of Louisiana crafted a law dealing with emergency room access, as they have, why should we second-guess that law? Why should we substitute our judgment for the judgment of the good people of the State of Louisiana?

I remind my colleagues that the States have not fallen down on the job. There are more than 1,100 patient protections out there far beyond the confines of this bill.

Unfortunately, while the Breaux-Jeffords amendment is an improvement over the underlying bill, it is still fatally flawed. I urge my colleagues to vote no on the Breaux-Jeffords amendment and yes on the Collins-Nelson amendment.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have great respect for my friend and colleague from Maine, Senator COLLINS. Senator COLLINS is a member of our Health, Education, Labor, and Pensions Committee. As always, she has demonstrated tonight that she is well informed, articulate, and persuasive—I hope in this instance not too persuasive—to her point of view.

As always, she spends a great deal of time thinking through these issues. I commend her for her presentation, and I respect her for her position, although it is a position that I cannot support, and I will urge my colleagues to support the alternative, which is the Breaux-Jeffords amendment.

We have tried over time, although we do not receive great acknowledgment for it, to find ways we can work with the administration. We have had four or five major issues. The administration really did not take a position about the tax incentives in the legislation, although many of us saw that the tax incentives in the legislation, which many of us supported, would have resulted in the end of this legislation for reasons that have been pointed out earlier. The tax-raising power lies with the House of Representatives, and not with the Senate.

Second, on the issue of responsibility of employers, the President made very clear in his statement that he wanted employers who were exercising their judgment in ways HMOs normally do—to bear responsibility if there is injury and harm to patients.

We have been wrestling with that definition for several days. We will have an additional opportunity to wrestle with it, but the President has been very clear about wanting to hold responsible those employers who make judgments that interfere with the medical judgments which adversely affect patients. He wants to hold them responsible. That is what many of our colleagues have been attempting to do, and they have been doing it in a bipartisan way.

We have had amendments to eliminate all responsibility for employers, and amendments for employers with 50 employees or less. These have been defeated.

The President was talking in ways many of us understood. We may differ as to the language, and we do have differences with the President on the liability provisions, but on those other issues, we are very much along the same lines.

The President, as well, in his support for the Frist-Breaux bill, basically supported the medical necessity provisions we had included in the McCain-Edwards legislation. They are virtually identical to those in the underlying bill, and the President indicated support of the medical necessity provisions. Those are enormously important.

We come to the third of the major issues, and that is scope. Who is going to be covered, and for what particular protections? The President again indicated in his principles for a bipartisan bill that it should apply to all Americans—all Americans; that a Federal Patients' Bill of Rights should ensure that every person—not just some people, not just a few people in some States, not just some who are covered for certain protections in a few States—but that all Americans, every person enrolled in a health plan, enjoy strong patient protections. Those are words that he used.

The Breaux amendment is consistent with that particular principle. It is not drafted exactly the way I would like to have it drafted. It does not go to the extent I would like to have gone to guarantee the strong protections which Americans deserve. But nonetheless, in a very important way, the Breaux amendment complies with this particular provision. It will ensure that all Americans are going to be covered and that they will have strong protections. The Breaux proposal also ensures that protections for Americans will remain in the States. They will be the primary regulator under the Breaux proposal. That is the way it was drafted, and it is a preferable way to ensure not only what the President has stated, but what I think I have heard stated by my good friend, the Senator from Tennessee, our ranking member on the HELP Committee, and others.

As a matter of fact, every proposal that the House of Representatives considered in their debate last year—I believe there were four major proposals offered by Republicans—all of them included all Americans. That was not a debatable point. It is tonight, and tomorrow morning, we will have the opportunity to see where the Senate is going to stand.

I will make a few points, and if I am not correct, Senator COLLINS will correct me—we only received the amendment just prior to the time the Senator offered it, although clearly we were very much aware this amendment was coming and Senator COLLINS told us about that. I will make a statement and a point, and if I am wrong, the Senator from Maine will correct me.

If her amendment is passed tomorrow, or whenever we pass the final legislation, there will no guarantee of one new protection for most Americans. Do my colleagues understand what I am saying? Mr. President, do they understand what I am saying? If the Collins amendment succeeds and is passed, when it goes into law, there will not be one new protection for most people in this country. There will not be any protection for the children who need speciality care; there will not be any new protections guaranteed for women who need clinical trials; there will be no new protections in a wide range of provisions that are included in the underlying legislation. None, unless—unless—the States go about the business of applying and providing them.

Let me be very clear about it, with the passage of her amendment, there is not one new protection from an HMO making the medical decisions they have made in the past.

It seems to me that is why we are here because we have, for the last 5 years, been battling to make sure families in this country receive protections, whether they are in Massachusetts, Nevada, or Maine.

Let's look at what the circumstances are of some of the States. First, there is an authorization for $500 million, a pool—new funds of $500 million. That is in the amendment. Where we are going to get the money for those funds is not in there. We have authorized funds on many other issues and they have not been appropriated. Welcome to the club. This relies on a $500 million appropriation.

When this is passed, there will still be 39 States that do not require any access to clinical trials. In the United States, you might work in Massachusetts today, and maybe you will be transferred to Nevada next year, and then transferred to another State after that. Let me make it clear to you and your family you had better make sure they are one of the 11 States that have clinical trials. Most of the states that have clinical trials are for cancer, but don't include other life-threatening diseases.

When I came to the Senate, you worked at the shipyard, your father worked there, and your grandfather worked there. You graduated from high school and had a good life. Those in the workforce today may have nine different jobs over the course of their life, moving all over the country. We ought to get a dartboard to find out where the protections are in the various States for you and your family, moving from one company to another.

There are 39 States that do not require clinical trials. Zero States affirmatively require timely access to specialists. If we pass the Collins amendment, there will be a signing ceremony at the White House—hopefully and after the bill is in effect, someone will say: I thought when I had a child who had cancer and we went to our HMO, we would get the guarantee of accessing a specialist. And now that is overridden. I thought we would get the protections we needed. I listened to the debate in Washington that said we could get specialty care.

No, no, no, that is not so, because they passed the Collins amendment. The Collins amendment says, only if the States provide it do they get access to specialists.

We have 20 States that do not ban financial incentives for providers to delay or deny care. What is happening in HMOs is, as we heard in the numerous committee hearings we have held, there are financial incentives and disincentives for doctors on the procedures they recommend in terms of treating patients. Do we do anything about that? No, no, we are not going to do anything about that, not in 20 States, not if you live in one of those 20 States. They will have incentives and disincentives for the doctors.

Tell me what consumer knows about that. Ask any Member of the Senate, if they didn't have a briefing sheet before them, whether their State does or does not ban financial incentives. They will not have to worry because we have good Federal employee health insurance. We will not have to worry. But I doubt whether any Member knows whether their State prohibits it or not.

There is nothing under the Collins amendment that will make sure states ban inappropriate financial incentives. Under the underlying bill, there is a prohibition on their use. No HMO ought to provide incentives or disincentives to doctors in terms of providing or recommending necessary treatment. What do we have to learn from this? We have hearings, we find out, we see the affected families, and then do we say, no, Washington does not know best, in this case, ensuring we do not have inappropriate financial incentives? We ought to be able to agree on that. Is that a vast intrusion on States rights?

The list goes on. We have seven States that have not adopted a prudent layperson standard for emergency care. If you live in one of those seven States and you think you are having a heart attack and go to the emergency room, you may end up without that care covered. We have seen a number of States take action. It is important to do that.

The Breaux alternative says, when the States have taken action in these various areas, there will be respect for that action being taken in the State to protect their citizens and deference will be given to them. That is the way it ought to be. In areas where there is no protection, we are trying to establish a federal floor. If the States want to go beyond that, they can, but at least establish a floor of protections.

I listened with interest to both the Senator from Maine and the Senator from Wyoming about two previous pieces of legislation, CHIP and HIPAA. When we passed the CHIP program we provided incentives and money. That is not the issue. The issue is, we gave the States the certain criteria that had to be met, and if they met those criteria the Federal provisions did not apply. Mr. President, 49 of 50 States have done that.

I monitored that program closely in our HELP committee. Even when I was not chairman, we had meetings with the previous administration to find out what was happening with that program. I am familiar with it. We don't have complaints from the States. We are not hearing from the States about the heavy hand of the Federal Government for establishing CHIP. They can say they were getting money for that, fine; they were also ensuring that children would have the range of services that would meet needs—not the complete range of services I would like to see. We still don't provide the comprehensive care—eyeglasses or hearing that we ought to provide for children. Dental work was left out, along with many other services that children need, but we find States conforming to the package that was developed.

The other reference was with regard to HIPAA. I have heard that speech from the Senator from Oklahoma now eight times. He gets better at it each time he talks about HIPAA and HCFA. I point out, when the GAO recommended $11 million so HCFA would be able to implement HIPAA, he was the one who led the fight against the $11 million, and he was successful. They put in $2 million. And he led the fight to strike out that $2 million so that HCFA could not implement it because they wanted greater flexibility in the States so the insurance companies—that is my conclusion—would be less interfered with. I have had that argument and I will not spend time on it now.

The fact is, tonight there are only five States which are not in complete compliance with HIPAA. It has taken time. Many of the criteria placed upon the States are similar to what is in the Breaux proposal. I personally would like to see a stronger provision. At the time we pass this bill, I would like to see all Americans have protections. We have taken those steps in the past on other issues.

We decided as a pattern of national policy we were going to pass Federal laws to outlaw child labor in this country. We didn't say: You can go ahead and have that up in Massachusetts if you want to. We passed laws. Anyone can visit now in Lawrence and Lowell, go through the mill, look at the museums and read the poems and letters of 9- and 10-year-old children trapped in factories for 10 or 12 hours a day who wrote as they looked outside and saw other children play. We went through that as a nation and passed federal laws to prohibit that.

We also said, we will pass a minimum wage law. We know there are many here who resented it. We passed laws in order to protect our environment because we recognize that environmental issues go through various States and the environmental issues know no borders. I make the same case with regard to workers today, as well. It was not that way in the old days, but it is that way today.

We made the same judgment with regard to civil rights. You can say, well, these patient protections are not of the dimension of the issues on civil rights. I think there is a lot you can say about that. But if you listen to the HMO victims whom many of us have heard, if you see the failure of the recommendations of doctors and nurses and medical professionals—the failure of their recommendations because of an HMO bureaucrat many miles away, and you see how lives have been destroyed and how families have been absolutely destroyed—we can ask ourselves, why shouldn't we give that kind of protection to families in this country?

Americans, I think, are under a lot of pressures today. Working families are under a lot of pressure. They are not asking for much. They are asking for good jobs with a good future. They are asking for schools where their children can learn. They are asking for health insurance that is going to cover them. They want clean water, they want clean air, they want safety and security in their communities, they want to own their own home, they want a national security and defense that are going to protect our interests, and they want human rights policies abroad that are going to represent our fundamental values.

They are not asking for much. But one of the things we can do is protect them when they do get that health insurance. We will be back. We give the other side the assurance we will be back. All those speeches we have heard over these past days asking why are we doing this when we have so many people uninsured—we will be back with legislation on the uninsured. We hope for support from so many of those who have been speaking recently about how we ought to make sure people are going to be covered. We will be back to try to make sure we deal with those individuals.

But when you have an opportunity to relieve families of the anxiety so every time they go to a doctor they are going to get the best the doctor can prescribe and the best the nurse can give —when you give that guarantee to every family in America, you are going to ease their anxiety when they have a sick one.

Why are we going to play roulette? Let's say you live in Massachusetts today, or Florida, or New Mexico tomorrow. You shouldn't have to worry, which one is going to give strong patient protections?

That is what this is about. I do not know what we need as a record. The reasons for this are so powerful, so compelling, so real. We have had statements from every Member in this body about the damage that has taken place and the disruptions to families. We have the opportunity to do something about it. It seems scope is a key issue, a key question. I hope the Senate will come down on the side of the proposal of the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I first want to say I very much enjoyed working with my colleague from New England. He is a passionate advocate for children on health care and education issues. He did, however, make a misstatement about the implications of my amendment and has invited me to correct the record if it was wrong. I want to take the opportunity to do so.

In fact, my approach does provide new consumer protections. Let me expand on that because I must not have been clear in explaining it earlier.

Under current law, there are federally regulated insurance plans and there are State-regulated insurance plans. The Federal plans, under ERISA, are beyond the reach of Federal regulators. So all those laws we have talked about, those 1,100 or more State laws and regulations, do not apply to consumers who are enrolled and covered by ERISA plans, the federally regulated plans, because State governments are prohibited from applying regulations to ERISA plans. They are preempted in that way.

All of these great consumer protections that the States have enacted over the last decade do not apply to patients who are covered by ERISA plans. This legislation—and it is one of the reasons I strongly support patient protection legislation at the Federal level—would close that gap. It would ensure that consumers who are part of ERISA plans receive the kinds of consumer protections that are available to patients whose health care coverage is provided by plans that are regulated by State governments.

So it is not accurate to say my approach will not result in any new consumer protections. Rather, the approach my colleague from Nebraska, Senator NELSON, and I have proposed is intended to make sure we can provide the same kinds of protections for consumers in Federal plans that the States have done for consumers who are covered by State-regulated plans.

In addition, there is a requirement under the Collins-Nelson amendment for States that have not enacted consumer protection laws—there are many that have in many areas, but there are some holes here and there. There is a requirement that those States either enact a law that is consistent with the purposes of those patient protections in the McCain-Kennedy bill by the date of enactment—we are not even giving them very long. They have to do it by October 1 of next year. That is going to be difficult for some States that have biennial legislatures. But we require them to either enact a law that is consistent with the purposes of the consumer protections in the McCain-Kennedy law or, if they decline to do so, they have to certify their reasons for not doing so to the Secretary.

It is just not true to say our approach, the Collins-Nelson approach, does not result in any new consumer protections. In fact, what it does is preserve the good work that the States have done, rather than requiring the States to adopt a one-size-fits-all, made-in-Washington approach that may not work in their particular States. We preserve the State laws, but then we close the gap by requiring federally regulated insurance plans to have similar consumer protections. That is very important. That does result in new patient protections for millions of Americans whose insurance is under federally regulated plans.

In addition, States cannot ignore this issue. They haven't ignored it; they have been very active, but, as I said, there are some holes. What they would have to do as a State is consider this issue and No. 1, enact a law consistent with the purposes of McCain-Kennedy or, No. 2, certify to the Secretary that they did not enact a law because either there is no managed care in their State—such as Alaska or Wyoming, where it is irrelevant—or they believed the costs were such that they would drive people out of the insurance market and cause people to lose access to health insurance altogether.

Let us remember the best consumer protection is having health insurance coverage. That is the best patient protection we can apply and provide. So our amendment, the amendment I have crafted with my colleague, Senator NELSON, which is supported by so many of our colleagues who have spoken eloquently tonight, is an important one. It will advance consumer protections. But it will respect the good work that has been done by the States, the States that have been far ahead of the Federal Government.

Finally, let's remember the important point. States have been regulating insurance for more than 50 years. They have done a good job. They have acted without any prod or mandate from Washington to provide patient protections. They are way ahead of us in this area. Why do we want to second guess their work? Why do we want to supersede their laws? Why do we want to wipe out the good work done by the States? I submit we should grandfather in those good State laws and concentrate on the gaps.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator for her correction. The figures are, of the 195 million Americans with private health insurance, the 56 million who are the self-insured would have coverage. This would leave out the 139 million who are not in self-insured plans, as I understand it. These include state and local public service employees. These include firemen. These would be the police officers. These would be the self-employed. There are 139 million who would not have a federal floor of protections. I have read through this, so I appreciate what the Senator has said.

Listen to this. Under this proposal, there is going to be some $500 million that is going to be out there. A State can make a proposal for a new program, and they can receive grants for the new program.

They say the States can pass laws which are consistent with the purposes of the Federal standard. But they can keep the money and decline to enact a law because of the adverse impact of a law on premiums which would lead to a decline in coverage. So they could get the money to pass it. But, if there is a judgment that there might be a decline in coverage, they could, I guess, keep the money. They do not have to do anything further to enact a law if the managed care market in the State is negligible. There is no additional responsibility for them to take action for additional protections. They still get money from their fund.

I make the point that during the course of this debate there have been a lot of different ways of trying to cut the protections. We heard in our Health, Education, Labor and Pensions Committee about the kinds of abuses that are taking place across the country. The President of the United States recognized that. He indicated that he wanted every person covered. We want to have every person covered. We don't want to carve out a third and say they will be covered, but we will leave out two-thirds who will not be covered with a great many of these protections.

I continue to believe in the power of this issue and its impact on families. Why are we going to draw a distinction between neighbors on the same street? One works for a fire department, their family goes to a doctor, and the kind of medical advice their doctor gives to them for their child is overridden by an HMO, and they don't have protections, but his neighbor is protected because his employer self-insures? What possible fairness is there in that? What is the possible justice in that?

We should be interested in protecting all families. The President understands that. Hopefully the Senate will understand that tomorrow.

If it were left up to me, I would make sure that all of these protections were guaranteed. But we have the Breaux amendment which says: Wait. We are going to say if States have taken action in these areas, there is going to be deference given to the State. There is going to be enforcement and supervision by the State in protecting these areas.

I would have liked to see it stronger. But what is very important is guaranteeing some floor of protections.

Finally, we are talking about commonsense protections. We are talking about access to the emergency room, specialty care, OB/GYN, and continuity of care. If a woman is pregnant, and the HMO and her employer end their relationship, at least she can see her obstetrician until after the baby is born.

We are talking about prescription drug formularies. If the doctor recommends a certain medically necessary drug and it is not included in the formulary, the patient can still get the needed drug. There is going to be a shared expense by the patient as well as the HMO. That has been worked out. We use the same cost sharing that is used in the various formularies.

Point of service: There is a closed panel, and a need for outside expertise. Clinical trials are so important. Every one of the protections that is guaranteed are in existence today either in Medicare and Medicaid, or they have been recommended by the insurance commissioners, or they were unanimously recommended under President Clinton's panel, which was bipartisan and included distinguished representatives of all aspects of the health delivery system. Those are the only ones.

Finally, as we are hopefully coming fairly close to the end of this debate. We have the support of almost every health organization, every professional medical organization, every patients' organization, every children's organization, every women's organization, every disability group, and every cancer organization for this kind of protection.

The reason is very simple. They are out there on the firing line day in and day out. They understand what is happening to families. These are trained men and women who have given their lives for the protection of good health care for families in this country. They have seen what is happening and how many times they are being overruled. They have stated that is what is necessary.

The scope and protections that Senator BREAUX has included are what they strongly support.

We will have a chance to say another word about this tomorrow.

Mr. EDWARDS. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I thank my friend from Maine.

I am glad to yield.

Mr. EDWARDS. Let me ask the Senator, as somebody who has been involved in this issue for so long, as the Senator knows, we have been working very closely with Senator BREAUX on his amendment in an effort to make sure that all Americans are covered. One of the guiding principles of our efforts in this area is to make sure that families have protections provided in this legislation so that all families in this country can make their own health care decisions. We have worked with Senator BREAUX very closely on his amendment to make sure there is a floor for every family in America.

Will the Senator comment on whether, under the amendment of the Senator from Maine, every family in America will in fact get the minimum protections as provided in our bill as opposed to the language we worked out with Senator BREAUX?

Mr. KENNEDY. As the language is constructed, they will only provide the protections to these self-insured and not to everyone else who has received their health insurance through other means—the self-employed, those who are getting it through state and local employment, those working for employers who purchase health insurance plans. There are 139 million Americans who will not have those protections.

As I mentioned earlier, they will have to rely on protections from the States. There are States that do not require access to clinical trials. There are States that do not require timely access to appropriate, accessible specialists.

I mentioned earlier the ban on inappropriate financial incentives. Twenty States don't ban plans from giving financial incentives and disincentives to doctors to delay or deny care. They won't have those protections.

The point I mentioned earlier was that we are a society in movement. We find so many families are moving from State to State. Members of families are moving with jobs and going back and forth.

We have to ask ourselves ultimately and finally—as the Senator pointed out, this is a federal floor of protections—if you are in a State with clinical trials, why should you have to make sure they have a similar protection requiring access to the clinical trials which your wife might need, but you move to another State and find there is no access to clinical trials?

That is strictly because of the protections that you might have in a particular State.

It makes absolutely no sense. We ought to have that basic federal floor. I know the Senator agrees with me.

The way the Breaux amendment has been devised, it gives the maximum deference to the States if they provide protections in these areas. I mentioned just a half dozen different protections. We could go into others this evening. I will not take the time to do so, but they are illustrative of the protections. These are pretty commonsense protections.

The PRESIDING OFFICER (Mr. MILLER). The Senator from North Carolina.

Mr. EDWARDS. Mr. President, the debate on these two amendments is critical to the issue of whether all Americans—all families in this country—will have access to the protections provided for in this Bipartisan Patient Protection Act. That is the reason this vote tomorrow morning is critical to the vitality of this bill.

We have worked very closely with Senators on both sides of the aisle to ensure that two things are accomplished with respect to coverage: No. 1, that every American is covered by this legislation and, No. 2, we give deference to States that, through their own work, have established good systems for patient protection. We honor those State legislatures and that State legislation.

So that is the purpose of this amendment, the Breaux amendment. It strikes the right balance between making sure every American is covered—every family is covered—on the one hand, and, secondly, giving deference to the States that have already done good work in this area.

We need to ensure that we do not take away the protections we are providing for all Americans by exempting a huge chunk of Americans, which, unfortunately, the Collins amendment would do.

The Breaux amendment, though, is one in a series of consensus agreements that have been reached on this legislation. Starting with the issue of scope, which the Breaux amendment addresses, we now have an agreement which I think a great majority of the Senate will be able to support and be comfortable with.

On the issue of the independence of the appeals, we have an amendment that will be supported, I believe, by virtually all of the Senate, establishing the principle that we believe the HMOs should not have direct control over who is on the independent appeal panel.

On the issue of exhaustion of remedies—exhaustion of the appeals process before a case can go to court—we are working very closely with the Senator from Tennessee to reach a bipartisan consensus on that issue. We have made great progress, and I am optimistic about it.

On the issue of employer liability, from the outset we had—the sponsors of the legislation, along with the Presiding Officer—as a principle that it was important that employers be protected, period. We have worked very hard with Senator SNOWE and Senator NELSON from Nebraska, and other Senators on both sides of the aisle, to ensure that that is being done. Tomorrow morning we will offer an amendment on that issue.

We have worked our way through a series of hurdles, going from the issue of scope, to the issue of exhaustion of remedies, to the issue of clinical trials, to the issue of medical necessity, on which we have worked with Senators BAYH and CARPER to make sure we have a consensus on what is covered, giving proper deference to the contract and the contractual language but making sure the independent reviewers have the ability to make sure that if particular treatments are needed, they can be provided.

So we started 2 weeks ago with a series of obstacles in front of us, starting with scope and running throughout the legislation. What has happened during the course of this debate, and the work that has been done, is that one by one those obstacles, those barriers, have fallen, and we have been able to reach consensus agreement.

There is great momentum to do something that really matters to the American people. The winners in this debate are not politicians. The winners of this debate are not the people within this Chamber. The winners are the American people and the families all over this country.

We have in this body an opportunity to do an extraordinary thing, which is to give people more control over their lives and more control, specifically, over their health care decisions, the things that affect their families and members of their families.

All of us have worked very hard—Republicans and Democrats—to try to get to the place where we have consensus on this legislation, and one by one by one the barriers to passing real patient protection have fallen to the floor.

We have more work to do. We will have issues of liability that remain to be resolved. But the reality is, we are a long way down the road. We have tremendous momentum for doing what there is a consensus in this country to do. Not just in the Senate, not just in the House of Representatives, but all across America, all of us who have spent time in our States have heard over and over that the American people expect us to do something about this issue.

The time has come. It is time to quit talking about it. It is time for the political debate to stop. It is time to do something that can really affect people's lives. We have an extraordinary opportunity to do something important. We have made extraordinary progress toward that goal, but we are not quite there. We need to keep our nose to the grindstone, keep working, keep debating, and finish this legislation, get it through the House, and get it on the President's desk, with great hope and optimism that the President, when confronted with legislation that during his campaign he vowed to support, will stand by his vow and do what he has told us he would do. We are optimistic about that. We believe the President will do what is right for the American people.

So I thank my colleagues for all their work on this issue.

I ask my colleagues to vote, tomorrow morning, against the Collins amendment and for the Breaux amendment, which is a bipartisan consensus that has been reached. And we will continue our work toward providing the American people the protection they need and they deserve.

Thank you, Mr. President. I yield the floor.

EXPLANATION OF VOTE

Mr. HELMS. Mr. President, I regret I was not present to cast my vote on the motion to table the amendment offered by the Senator from Arizona (Mr. KYL) and the Senator from Nebraska (Mr. NELSON). I wish the RECORD to reflect that had I been present, I would have voted "nay."

The PRESIDING OFFICER. The Senator from Nevada.

SUPPLEMENTAL APPROPRIATIONS

Mr. REID. Mr. President, Majority Leader DASCHLE was asked earlier today, on several occasions by Senator BYRD and Senator STEVENS, if he would bring to the floor a unanimous consent request that there be a time set on the supplemental appropriations bill that is now with the Appropriations Committee that would set a time certain for filing of amendments on this most important legislation.

Such a request has been cleared by Senator DASCHLE and the majority, but objection has been raised by the minority. So the request by Senators BYRD and STEVENS cannot be met tonight. Hopefully, this request will be cleared by the minority tomorrow so that there can be a time certain set for the amendments on this, as I said, most important piece of legislation, the supplemental appropriations bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent there now be a period for morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

OFFSHORE OIL

Mr. NELSON of Florida. Mr. President, I want to take a moment while the leadership of the Senate is, at this very moment, deciding which course the rest of the day will take with regard to this important legislation, the Patients' Bill of Rights. While we have a moment in which we might reflect on other items, I want to draw to the attention of the Senate the considerable concern of 16 million Floridians that the Bush administration is trying to drill for oil and gas off the shores of the State of Florida.

It is most instructive, if one looks at a map of the Gulf of Mexico, where colored in on the gulf waters are the active drilling leases. One will see clearly that, from the central Gulf of Mexico all the way to the western Gulf of Mexico, almost all of the waters of the gulf are shaded in, indicating active oil and gas drilling leases. Indeed, there is a reason for that. It is because the reserves were there, the oil and gas deposits are there, the future reserves are expected to be there. As a matter of fact, I believe it is 80 percent of all economically recoverable, undiscovered gas reserves on the Outer Continental Shelf—which not only includes the gulf but also the Atlantic and Pacific—80 percent of the Nation's known, recoverable gas reserves in the central and western gulf and 60 percent of the future recoverable oil reserves are in that area too. They are no in the area off the State of Florida.

The State of Florida has consistently taken the position that we should not have oil and gas drilling because of the high cost and potential damage to our environment and to our economy. One of our primary industries is the tourism industry, which so often is dependent upon those pure, sugary white beaches being unspoiled so millions of visitors who come to Florida to enjoy the sunshine and the waters and the beaches can do so without having to worry about having oil spread across the beach.

I can tell you that 16 million Floridians, in unison, do not want oil lapping up on our beaches. The cost to our environment and the cost to our economy would be simply too high.

Why, you would ask, other than that the oil and gas reserves are in the central and western gulf, is there not any drilling off the coast of Florida? It goes back to the early 1980s, under the Reagan administration and a Secretary of the Interior, James Watt. He offered tracts for lease from as far north as Cape Hatteras, NC, in the Atlantic, south all the way as far as Fort Pierce, FL.

I had the privilege of being a Member of the House of Representatives at the time. So I went to work, knowing the people of my congressional district, in the early 1980s, didn't want oil lapping up onto their beaches. We were able to persuade the appropriations subcommittee on the Department of the Interior appropriations bill to insert language that said no money appropriated under this act shall be used for offering for lease tracts such and such, and then listed the tracts all the way from North Carolina south to Fort Pierce, FL. And we prevailed in the appropriations.

The administration left Floridians alone on offshore oil drilling for a couple of years but came back under a new Secretary of the Interior and tried again. This time it was harder to stop. This time it escalated all the way to the full House Appropriations Committee. But we finally prevailed, interestingly, not on the threat to the economy or to the environment of Florida, and indeed the United States eastern coastline, but prevailed by getting NASA and the Defense Department to own up to the fact that you cannot have oil rigs down there in the footprint of where you are dropping solid rocket boosters off the space shuttle and where you are dropping first stages off the expendable booster rockets that are being launched out of the Cape Canaveral Air Force station. And we have not been bothered since the early 1980s, in Florida, about offshore oil drilling—until now.

The bush administration is pressing a 6-million-acre lease off the northwest coast of Florida in a strange configuration called lease-sale 181, of which the bulk of the 6 million acres is 100 miles offshore but a stovepipe runs northward to within about 20 miles of the Alabama coastline, which is about 20 miles, then, from the white sands of Perdido Key, State of Florida.

In a meeting of the Vice President with a Florida congressional members delegation, the Vice President suggested a compromise, which was to knock off that stovepipe coming off the bulk of the 6 million acres. That is no compromise. That is unacceptable because that is still oil drilling off the State of Florida where the future reserves are shown to be not as abundant. The tradeoff to 16 million Floridians is simply not worth what potentially could be discovered in oil and gas—the despoiling of our environment and the killing of our economy.

Thus, it was such welcome news when we learned last week that the other side of the Capitol, the House of Representatives, added to the Interior appropriations bill an amendment that would prohibit such drilling. The vehicle was the Interior appropriations bill. It prohibits it for only 6 months. It will be my intention, and certainly the intention of my wonderful colleague, the distinguished senior Senator from the State of Florida, Mr. GRAHAM, that we in the future will offer amendments either to the Interior appropriations bill, to bring it in conformity with the House-passed bill, or more likely amendments that would cause a prohibition of lease-sale 181 as well as offering similar amendments to the authorizing bill that will come out of Chairman BINGAMAN's committee.

I want our colleagues to be clear. This is an issue of enormous magnitude to 16 million Floridians. It happens to be of enormous magnitude to New Jersey, the State of the Senator who sits as Presiding Officer, as well as all the States in New England which value so much the pristine waters and the waters particularly as you get on north of New Hampshire and Maine—those waters that produce such delicacies as the Maine lobsters. This is a matter of grave concern to many of us.

It is time to draw the line in the sand—hopefully, not a line that will be washed over by oil on our beaches' sands but, rather, a line that will indicate the unanimity of 16 million Floridians, joined by their sister States along the eastern seaboard, of opposition to offshore oil drilling.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 15, 1998 in Boise, Idaho. Mark Bangerter was brutally beaten because of his perceived sexual orientation. As a result of this attack, Mr. Bangerter was left with severe facial injuries and blindness in one eye.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

HUNGER AND POVERTY IN AFRICA

Mr. LEVIN. Mr. President, it is my pleasure to join with Senators LEAHY and HAGEL in submitting S. Con Res. 53, which encourages the development of strategies to reduce hunger and poverty in sub-Saharan Africa.

In the year 2000, almost 200 million Africans, fully a third of the total population, went to sleep hungry and 31 million African children under the age of five were malnourished. One child out of seven dies before the age of five, and one-half of these deaths are due to malnutrition. Nearly half of sub-Saharan Africa's population, some 291 million people, live on less than $1 a day, and almost 85 percent of the world's 41 heavily indebted poor countries are in sub-Saharan Africa.

These problems are compounded by epidemics of HIV/AIDS, tuberculosis, malaria, cholera, and other diseases now ravaging the continent. The human costs are staggering. Almost 4 million people are infected with AIDS each year, adding to the over 25 million already infected. Over 75 percent of the people worldwide who have died of AIDS lived in Africa. One million people each year, mostly children, die from malaria.

Hunger only adds to the spread of disease, rendering the poor and malnourished too weak to defend against AIDS and other infectious diseases. Even if treatment clinics are available, those suffering from hunger are unable to afford fees for care or medicine to aid them with their battle against the illness.

Despite funding shortfalls, the U.S. Agency for International Development, USAID, and other U.S. government agencies, foundations, universities, non-governmental organizations, NGOs, and private sector companies are presently implementing many innovative programs directed toward alleviating hunger and poverty in Africa.

While tremendously significant, these actions are not enough to keep poverty and hunger from growing in many African countries. Many of our experts have concluded that the United States is not tapping into the full range of interest, ability, experience and capacity available to address this problem. The introduction of our Resolution, which addresses these issues, coincides with the conference of The Partnership to Cut Hunger in Africa, an independent effort formed by U.S. and African public and private sector institutions, international humanitarian organizations and higher educational institutions. Michigan State University continues to play a strong leadership role in this effort. The President of Michigan State University, Peter McPherson, serves as one of the Partnership's co-chairs and was instrumental in arranging conference-discussion activities in the Senate this week.

The goal of the Partnership is to formulate a vision, strategy, and action plan for renewed U.S. efforts to help African partners cut hunger dramatically by 2015. For three days this week, the Partnership's 22 distinguished policy experts and practitioners from the U.S. and 8 African countries will share their views on hunger in Africa and will open a dialogue on the role the U.S. might play in diminishing hunger and poverty in Africa. On Thursday, June 28, 2001, Partnership experts will culminate their 3-day conference with a roundtable discussion on Capitol Hill, during which time they will share their findings and action plan to effectively combat hunger and poverty in Africa. I am honored to have the opportunity to join in hosting this event.

I ask unanimous consent that the members of the Partnership to Cut Hunger in Africa and the Partnership's expert panel be printed in the RECORD. They are as follows:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARTNERSHIP TO CUT HUNGER IN AFRICA

EXPERT PANEL

From Bamako, Mali:

Dr. Bino teme, Scientific director, Institute for Rural Economics.

Mme. Konare Nafissatou Guindo, Administrative and Financial Director, Ministry of Territorial Administration and Local Government.

Dr. Niama Nango Dembele, Coordinator, APCAM-MSU Market, Information Support Project, Visiting Assistant Professor, Michigan State University.

Dr. Mbaye Yade, Coordinator, Institute du Sahel/MSU, Food Security Support Project, Visiting Assistant Professor, Michigan State University.

From Maputo Mozambique:

Mr. Joao Carrilho, Vice-Minister, Ministry of Agriculture and Rural Development.

Mr. Sergio Chitara, Executive Director, Confederation Of Mozambican Business Associations CTA.

From Accra, Ghana:

Dr. Sam Asuming Brempong, Department of Agricultural Economics, Faculty of Agriculture, University of Ghana.

Dr. Kwaku Owusu Baah, Faculty of Agriculture, University of Ghana.

From Abuja, Nigeria:

Dr. Salisu A. Ingawa, Head of Unit, Projects Coordinating Unit (PCU), Federal Ministry of Agriculture and Rural Development.

Dr. Ango Abdullahi, Special Adviser to the President on Food Security.

From Entebbe, Uganda:

Dr. Isaac Joseph Minde, Coordinator of ECAPAPA Project, ASARECA.

Dr. Fred Opio, International Food Policy Research Institute, Regional Office for the 2020 Network—Eastern Africa.

Dr. Peter Ngategize, Plan for Agriculture Modernization, Ministry of Finance.

Dr. J.J. Otim, Presidential Advisor on Agriculture, Office of the President.

From Addis Ababa, Ethiopia:

Mamou Ehui, Economic Commission for Africa.

From Rwanda:

Edson Mpyisi, Coordinator of Food Security Research Project-FSRP//MINAGRI, Ministry of Agriculture.

Others:

Dr. Akin Adesina, Resident Representative for Southern Africa, The Rockefeller Foundation.

Serge Rwamisarabo—USAID/Rwanda, Francis Idachaba University of Ibadan, Nigeria, Kandeh Yumkella—UNIDO/Nigeria, Mbenga Musa, Executive Secretary of CILSS, Ouagadougou, Yamar Mbodj, Food Security Advisor, CILSS Secretariat, Ouagadougou.

EXECUTIVE COMMITTEE

Peter McPherson, Co-Chair, President, Michigan State University.

Alpha Oumar Konare, Co-Chair, President, Republic of Mali.

Senator Robert Dole, Co-Chair, Special Counsel, Verner, Liipfert, Bernhard, McPherson and Hand.

Lee Hamilton, Co-Chair, Director, The Woodrow Wilson International Center for Scholars.

David Beckmann, President, Bread for the World.

Mary Chambliss, Deputy Administrator, Export Credits, Foreign Agriculture Service, USDA.

Imani Countess, Outreach Director, Shared Interest.

William B. DeLauder, President, Delaware State University.

Stephen Hayes, President, Corporate Council on Africa.

Joseph Kennedy, Co-Founder, Africare.

George Rupp, President, Columbia University.

Emma Simmons, Director, Center for Economic Growth and Agricultural Development, USAID.

Edith Ssempala, Ambassador, Republic of Uganda.

Bob Stallman, President, American Farm Bureau Federation.

THE CHALLENGE OF BIOTERRORISM

Mr. AKAKA. Mr. President, I rise to address the threat of bioterrorism to our Nation's security.

President Bush has asked Vice President CHENEY to "oversee the development of a coordinated national effort so that we may do the very best possible job of protecting our people from catastrophic harm." He also asked Joseph Allbaugh, Director of the Federal Emergency Management Agency, FEMA, to create an Office of National Preparedness to implement a national effort.

On May 9, 2001, Attorney General Ashcroft testified before a Senate Appropriations subcommittee that the Department of Justice is the lead agency and in sole command of an incident while in the crisis management phase, even if consequence management activities, such as casualty care and evacuation, are occurring at the same time. Clearly, FEMA and the Department of Justice need to work together to shoulder the burden of responding to a large scale event. What is unclear, however, is how the Department of Justice will know that its crisis management skills are needed during a bioterrorism event.

When will a growing cluster of disease be recognized as a terrorist attack? How do we differentiate between a few individuals with the flu and a flu-like epidemic perpetrated by terrorists? When will it be called a crisis? When will the FBI or Justice be called in to handle the newly declared "crisis?" In the case of a bioterrorist attack, the response will most likely be the same as if it was a naturally occurring epidemic. The key question is not "how to respond to an attack" but "are we prepared to respond to any unusual biological event?"

What would happen if a bioterrorist attack occurred today? It would not be preceded by a large explosion. Rather, over the course of a few days or a couple of weeks, people would start to get sick. They would go to hospitals, doctor's offices, and clinics. Hopefully, a physician in one hospital would notice similarities between two or three cases and contact the local public health officials. Maybe another physician would do the same and maybe, finally, the Center for Disease Control would be notified. So, the first responders would not be a Federal agency.

Across the country, local law enforcement, fire, HAZ MAT and emergency medical personnel are doing a tremendous job preparing and training for terrorist attacks, and I commend their efforts. But, in the scenario I described, they would not be our first line of defense. Instead, the first responders for a biological event would be the physicians and nurses in our local hospitals and emergency rooms. We need to ensure that hospitals and medical professionals are prepared to deal with this threat. This is not the case today.

This past November, emergency medical specialists, health care providers, hospital administrators, and bioweapon experts met at the Second National Symposium on Medical and Public Health Response to BioTerrorism. A representative of the American Hospital Association, Dr. James Bentley, spoke about the challenges hospitals are confronting and stated that "we have driven over the past twenty years to reduce flexibility and safeguards." Flexibility and safeguards are exactly what is needed by a hospital to go from "normal" to "surge" operations. Surge operations do not require the extreme scenario of thousands of casualties from a bioweapon. Dr. Thom Mayer, chief of the emergency department at Inova Fairfax Hospital, was quoted in the Washington Post, on April 22, 2001, stating that 20 or 30 extra patients can throw an emergency department into full crisis mode.

Dr. J.B. Orenstein, an emergency room physician, in a recent Washington Post op-ed, wrote about the "State of Emergency" the dedicated men and women working in our hospitals and clinics are already facing without the added worry of bioterrorism. Until a year ago, hospitals dealt with surges for only a few days or a week a year during the winter flu, cold and icy sidewalk season. Now, mini-surges occur in the spring, summer and fall due to decreasing numbers of emergency rooms, beds available in any hospital, and qualified nurses. On May 9, 2001, the Society for Academic Emergency Medicine convened a special meeting in Atlanta to discuss "The Unraveling Safety Net." Are we, with all the planning and funding the Federal Government has done over the past few years to address terrorism, providing sufficient help for hospitals to prepare for bioevents?

As Chairman of the Subcommittee on International Security, Proliferation and Federal Services, I am concerned that we are not addressing a fundamental problem. Would a biological event be a national security/law enforcement incident with public health concerns, or would it be a public health crisis with a law enforcement component? I hope that the effort led by Vice

President CHENEY will address specifically this question and that the unique problems biological weapons present are not overlooked by any national plan to counter terrorism. I ask unanimous consent that the text of Dr. Orenstein's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, April 22, 2001]

STATE OF EMERGENCY

(By J.B. Orenstein)

It's a typical bad-day crowd in my ER: Here's a wheezing baby who developed a blue spell in front of her panicked mom. This 62-year-old gentleman came in with chest pain 36 hours ago; his worrisome EKG and equivocal lab tests should have put him inside for observation, but there's no room in the ICU so he's been waiting here for 24 hours. This lady, razor sharp at 89, suddenly started acting "not right," so her granddaughter brought her in; she's been in the triage area for three hours, but can't get into treatment because chest-pain guy, blue baby and 18 other patients are parked in the treatment beds while they wait to be admitted.

Our communications nurse just told an approaching ambulance to find someplace else to take its potentially critical passenger because we had no place to put him. Not in the ER, not in an ICU, not even in a plain old bed in a ward. The official term for what's happening here is "saturation," but down in the pit this is known as buttlock.

And it's happening too often, in more hospitals than ours. On May 9, the society for Academic Emergency Medicine will convene a special meeting in Atlanta on "The Unraveling Safety Net." The meeting was called in December because panic buttons were being pushed in overcrowded ERs across the country—Boston, St. Louis, Chicago, New York. It was a medical version of the California power crisis, with our rolling blackouts coming in the form of ambulance "diversions."

Up until a year or two ago, we faced this nerve-racking logjam for only a few days or weeks in winter, when flue and cold viruses turn into potentially fatal pneumonia, babies fall prey to respiratory and intestional viruses, depression fills the psych wards and slippery ice keeps the orthopedists busy. But now we're seeing mini-surges in the spring, summer and fall as well.

When I started at Inova Fairfax Hospital in 1991, the ER treated 55,000 patients in the course of the year. Last year the number was 70,000. This is in keeping with the national picture. In 1988, there were 81 million visits to U.S. emergency rooms, according to the National Center for Health Statistics. The number for 1998: 100.4 million. Meanwhile, over the same decade, the number of emergency departments fell from about 5,200 to just over 4,000. Their average annual patient volume rose from 15,500 to 24,800—that's more than 50 percent.

In all of American medicine, the only place that federal law guarantees Americans the right to a physician, 24-7, is the emergency room. This is because of the 1986 "anti-dumping" law, the Emergency Medical Treatment and Labor Act, known as EMTALA. "[A]s enforced by the Health Care Finance Administration and recently upheld by the U.S. Supreme Court, EMTALA is a civil right extended to all U.S. residents," Wesley Fields, chairman of the American College of Emergency Physicians Safety Net Task Force, recently wrote. Crowded as we are, if you walk in the door, you'll be treated whether you can pay or not. Just get in line and take a number with everyone else.

I don't like this any more than my dissatisfied, frustrated patients do. I tell them that it's like rush hour on I–66—too many bodies packed into a space built ages ago for a much smaller population.

But like most of life, the mess is more complicated than that. One very important factor is the total number of beds available in any hospital—particularly ICU beds. State and local health agencies regulate the number of beds based on a long list of factors: population, estimates of disease prevalence, average lengths of stay. In the early 1990s, conventional wisdom held that managed care would reduce the occupancy rate. To a significant extent, that happened, and in the mid-90's empty beds forced a number of underused hospitals to close. In 1990, according to the American Hospital Association, there were 927,000 staffed beds in 5,384 community hospitals in America. In 1999, the last year for which there are complete numbers, 4,956 such hospitals provided just over 829,000 beds. Meanwhile, the country's population had grown by 10 percent.

Many of those vanished beds might have been superfluous anyway, due to a sweeping explosion in medical technology and therapeutics. Ten years ago, a heart attack kept a patient in the hospital for just under nine days; by 1998, these folks were out the door in six. Stroke? The average length of stay was down by a half: 10 days to five. Home nursing and IV therapy freed countless patients from the confines of a hospital bed. But the hospital closings were uneven. In booming suburban areas such as Northern Virginia, money poured into expanding both high-tech services and customer-friendly support at mega-hospitals like Inova Fairfax. But some smaller hospitals, like Jefferson Hospital in Loudoun County, found their beds chronically empty and had to close. (The planned shutdown of D.C. General's inpatient facility is a result of forces pushing in the opposite direction, resulting in too many unused beds.)

When hospitals close, it puts more pressure on those that survive. At Inova Fairfax, occupancy averaged a jam-packed 92 percent over the past year. Thom Mayer, chief of our emergency department, put it this way: "The inpatient population is so high so regularly that a mere 20 or 30 extra patients throws us back into full crisis mode." And that can happen during one shift in a busy emergency room.

Beyond the number of beds, just how many are available at any given time often comes down to two letters: RN. A hospitalized patient needs a doctor for just a few minutes each day, but nursing care must be available around the clock. But, like hospital beds, fully qualified nurses have been disappearing fast, too. A widely cited study from Vanderbilt University, published last year in the Journal of the American Medical Association, pointed to some ominous trends. A key finding: The average age of nurses is rising. The number of nurses under the age of 30 fell from 419,000 in 1983 to 246,000 in 1998; by the end of this decade, the study said, 40 percent of working nurses will be older than 50. Retirement will create an estimated shortfall of half a million nurses in the year 2020. The clear reason: A decline in the number of high school girls who go to college intent on becoming nurses. "Women, who traditionally comprise the majority of nursing personnel, are finding other career options that are less physically demanding, more emotionally rewarding and come with a higher rate of pay," Brandon Melton, representing the American Hospital Association, told a Senate subcommittee earlier this year. And men aren't making up for the shortfall.

My wife, a savvy, experienced nurse, last did floor work more than 10 years ago, and though conditions were tough enough then, she recoils at what she would face if she went back now: More and sicker patients on an exponentially higher number of meds; less time getting to know the person who is the patient, and therefore less opportunity to catch early signs of deterioration; widespread use of "health techs"—people who take vital signs and dispense pills but have no training for more meaningful interaction. No wonder students at nursing schools dread the first few years following graduation, because before they can get to the challenging, rewarding places to work, such as ERs or ICUs, they have to get experience on inpatient wards.

It's crowding in those ICUs that puts the worst pressure on the ER. In the highly sophisticated environment of the ICU, a patient's heart rate or blood pressure can be fine-tuned with a shift of an IV drip. A phalanx of monitors register any number of physiological trends to answer the question, "Is this person getting better or worse?" When a patient requires this moment-by-moment scrutiny and all ICU beds are filled, the only place with roughly equal capacity—the only place we can perform the same level of care—is the ER. This ties up our nurses and blocks the bed from the next guy waiting to get in.

And chances are, that next guy is in pretty bad shape. Most people who come to the ER these days have higher "acuity" than a decade ago—that is, they're sicker. There's been no easy way to quantify this change, but, like tornado victims, ER does know what we've been big with. We spend more time trying to get a borderline patient "tuned up" enough to go home rather than be admitted to a busy, barely staffed hospital floor. We arrange home delivery of nebulizer machines for asthma patients. We check out the patient discharged yesterday after surgery who is back today, feeling weak, wondering if he's really well enough to be home. I kind of miss the good old days when a 10-hour shift meant a string of straightforward technical procedures—like reducing a dislocated shoulder or sewing a complex laceration. These days, it seems more time is spent tracking down a patient's three or four specialists—the oncologist, the psychiatrist, the infectious disease guy—or negotiating with the intake person to authorize a bed or transfer the patient to a hospital that accepts his insurance.

Whine, whine, whine. I started writing this as a letter of apology to all the miserable, aggravated patients who wonder why they have had to wait so many hours to see me, and here I am complaining about my own problems. I'll try to get back on track, because the worst is still ahead. And the worst by far is ambulance diversion.

It happened a lot over this past winter. In Boston—hardly a hospital-deprived town—the Globe reported that 27 area ERs went "on diversion" for a total of 631 hours in November, 677 hours in December and more than 1,000 hours in January. And it was worse in Northern Virginia: In January, the area's 13 ERs placed themselves on diversion for more than 4,000 hours. Evenly divided, and it most assuredly was not, that would be every ER refusing ambulances for 10 hours every day. Almost half the time, back in that icy January, if you needed an ambulance to get to an ER you were SOL: severely out of luck.

The American College of Emergency Physicians is certainly concerned about the problem: Last October, an advisory panel proposed guidelines for ambulance diversion, blaming "a shortage of health care providers, lack of hospital-based resources and ongoing hospital and ED [emergency department] closures." But it's easy to get the feeling that others at the national level aren't taking it seriously. At a public health conference in November, at the beginning of the critical winter season, U.S. Surgeon General David Satcher was quoted as recommending that people be "educated" not to go the emergency room unless they really need to. Dennis O'Leary, head of the Joint Commission on Accreditation of Healthcare Organizations, a critical monitoring group, was quoted as saying: "Quite frankly, this problem waxes and wanes . . . but without anything tangibly happening it resolves itself . . . The system will somehow muddle through."

They're right: I muddle through each shift worrying about patients trapped in the waiting room or ambulances that can't discharge their passengers at our door. I mutter humble apologies to private docs outraged that the patients they sent in specifically for urgent treatment—pain control, antibiotics, whatever—cool their heels for hours on end. I go home exhausted and aggravated with myself after 10 hours of juggling alternatives so as not to put a patient into a scarce bed—telling people to try a "stronger" antibiotic, ratchet up the home respiratory treatments, take a few extra tabs of pain reliever each day, and always be sure to follow up with your own doctor tomorrow. I wonder which patients are going to be back in another ER the next day because I missed their real problems or insisted on an ineffective patch.

Doctors and nurses have a bottom line that ultimately distinguishes us from other professions: quality patient care. When we can't provide this, we have failed. Our hospital administrators and department chiefs assume that excellent patient care is a non-negotiable minimum standard. But every winter, and increasingly at other times, the crash of the system is the quite capitulation to these accumulated pressures. When forced to maneuver so many sick patients through an overwhelmed system, I just don't know if I'm doing a good job any more. As a result, I often find myself phoning the patient the next day, checking in: "Everything okay today?"

Many of the region's hospitals have received, or are negotiating for, approval for more beds. Where more nurses will come from is another problem. Anthony Disser, the chief executive nurse at Fairfax, says the intrinsic value of nursing is already luring a certain number of burned-out software writers or disappointed entrepreneurs for a second career. Yeah, I guess we are muddling through, after all.

I look forward to that "Unraveling Safety Net" meeting in Atlanta in three weeks, where I expect to be transfixed, like the audiences at "Hannibal," by the horror stories and dire statistics of other ER docs and public health researchers. Maybe they've been coming up with some solutions. If they have, I hope they haven't been waiting till May to share them with the rest of us.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, June 26, 2001, the Federal debt stood at $5,656,750,181,308.17, five trillion, six hundred fifty-six billion, seven hundred fifty million, one hundred eighty-one thousand, three hundred eight dollars and seventeen cents.

One year ago, June 26, 2000, the Federal debt stood at $5,647,619,000,000, five trillion, six hundred forty-seven billion, six hundred nineteen million.

Five years ago, June 26, 1996, the Federal debt stood at $5,118,149,000,000, five trillion, one hundred eighteen billion, one hundred forty-nine million.

Ten years ago, June 26, 1991, the Federal debt stood at $3,500,901,000,000, three trillion, five hundred billion, nine hundred one million.

Fifteen years ago, June 26, 1986, the Federal debt stood at $2,040,983,000,000, two trillion, forty billion, nine hundred eighty-three million, which reflects a debt increase of more than $3.5 trillion, $3,615,767,181,308.17, three trillion, six hundred fifteen billion, seven hundred sixty-seven million, one hundred eighty-one thousand, three hundred eight dollars and seventeen cents during the past 15 years.

ADDITIONAL STATEMENTS

TIMOTHY J. RHEIN

• Mr. BREAUX. Mr. President, I rise today to pay tribute to Timothy J. Rhein, who recently retired after 34 years with American President Lines, Ltd. APL is today one of the world's largest shipping and intermodal lines, and a globally recognized brand, thanks in large part to Tim Rhein's leadership.

I came to know Tim through his appearances before the Subcommittee on Merchant Marine, and I can personally attest to his commitment to merchant shipping and his leadership in the U.S. shipping industry. His rise to president and chief executive officer of APL from 1995 to 1999, and then to chairman, was marked by key decisions in a difficult business.

He was instrumental in expanding APL from primarily an Asia-America business into a truly global operation. He gained a decisive edge on his competitors by embracing information technology earlier than anyone else in his business. He knew the numbers and metrics of his business better than anyone. He was rarely at a loss for an answer before our committee, and always worth listening to.

And he worked very hard at developing one particular line of business—the U.S. military—to the point where our government is today APL's largest customer. One of the reasons for that success was his understanding of logistics, of managing supply lines, a critical skill to the military as well as to APL's multinational corporate customers.

But without doubt his toughest decision was to negotiate the sale of APL to a non-U.S. buyer, in order to protect all of APL's stakeholders and to preserve the APL presence and brand. APL was the oldest continuously operating shipping company in America, and a premier US-flag shipping company. He stuck his neck out on that one, put his reputation on the line, and negotiated the sale personally—and successfully.

Tim Rhein understood his business. He was a nimble and gutsy decisionmaker, and we in Washington will miss his understanding and knowledge as we continue our pursuit of a policy to promote a strong U.S. flag maritime shipping presence. I hope he will continue to avail us of his knowledge and wise counsel.

Good luck in your retirement, Tim Rhein.•

DEATH OF ROBERT McKINNEY

• Mr. BINGAMAN. Mr. President, earlier today I sent a letter to the oldest daily newspaper in the West, "The New Mexican" regarding the death of its publisher, Robert McKinney.

Robert McKinney was well known to the Senate. His decades of service to this country, in one capacity or another, and his remarkable career in business and publishing brought him into contact with many of us, and with colleagues who have preceded us in this body. He and Clinton Anderson, late a Senator for New Mexico, were great friends, and worked together on the San Juan-Chama water project for our State.

Five presidents called on him for service from Harry Truman through Richard Nixon. He put his prodigious skills to work at various times at the Department of the Interior, the Atomic Energy Commission, and the Department of the Treasury. Under President Kennedy, he served as our Ambassador to Switzerland.

He was a fine citizen, and a good friend who will be missed, but whose influence, I know, is "a widening ripple, down a long eternity." The world is a better place for his having lived.

I ask that my letter be printed in the Record.

The letter follows:

Letter to the Editor of "The New Mexican"

To the Editor: With so many others, I was saddened earlier this week when word came of the death of Robert McKinney whose American life made him one of the world's distinguished citizens. When he died in New York on Sunday night, this man of the American West had forged great successes in business, journalism, international diplomacy, public service and public policy in the course of his ninety years. His was the "life well lived" and much of it was lived in New Mexico where he was the deeply respected publisher of this newspaper.

He was a singular individual with a wide-ranging mind, vast talents, and varied interests. He brought his considerable energy to bear on issues from architecture to atomic energy, war to peace, land use to poetry. He was most certainly a force for good in this world. I was honored to have the benefit of his counsel and the gift his friendship. I will miss him.

JEFF BINGAMAN,
United States Senator.•

UNVEILING OF TIGER STADIUM COMMEMORATIVE STAMP

• Mr. LEVIN. Mr. President, it is with great pride that I pay tribute to a special place in my hometown of Detroit that for the last century has inspired not only our city but our country. This year we are commemorating the tricentennial of the founding of a city that to Americans has long meant great automobiles. To Detroiters, it also means great sports teams and inspiring hero-athletes. Indeed, as Detroit enters its fourth century, our pride in our city is equaled by our pride in the house these heroes built—our storied Tiger Stadium.

Today at home plate, the people of Detroit will gather to unveil one of eleven new stamps commemorating Baseball's Legendary Playing Fields. Of those eleven ballparks, only four still stand, and one is right in Detroit, where baseball was the pastime at The Corner of Michigan and Trumbull for more than a century.

The history of this stadium is in so many ways the history of our city. The spirit of hard work and determination that has always defined Detroit revealed itself early. When the Great Depression hit Detroit harder than most American cities, it was the 1935 World Champion Tigers—and the renowned "G-Men": Charlie Gehringer, Goose Goslin, and Hank Greenberg—who renewed the hopes of an entire city. Detroit would forever after be the City of Champions, with four World Series titles to prove it.

When the riots and ruin of 1967 left deep scars of division across our city, it was the 1968 World Champion Tigers led by Al Kaline, Willie Horton, Bill Freehan, Denny McLain and Mickey Lolich who led one of the greatest comebacks in baseball history and who, in their unforgettable victory, united us to celebrate as one city.

It is no exaggeration to state that the heroes of Tiger Stadium also pointed us to a better America. By the time the prize fighter Joe Louis triumphed over Bob Paster in then-Briggs Stadium in 1939, he was more than a hometown hero from the East Side, he was a national hero and a symbol to all people of all races. Even today, I almost weep thinking of "Hammerin' Hank" Greenberg's grand slam in 1945 that put the Tigers in the Series and for what that one swing of the bat meant. When Nelson Mandela spoke to a massive rally in Tiger Stadium a decade ago, his words rung out past the rafters to every American on the endurance and inspiring power of the human spirit.

In this City of Champions, the names and feats of champions echo still. Here is where the three time NFL champion Detroit Lions played for more than three decades. Here is where the legends of baseball's Golden Age took to the field in the unforgettable 1941 All-Star Game—Bob Feller, Joe DiMaggio, and Ted Williams. Here is where the Tigers earned three divisional championships, nine pennants, and those four World Series titles. Here is the where the Tiger greats were born, the eleven Hall of Famers: Sparky Anderson, Ty Cobb, Mickey Cochrane, Sam Crawford, Hank Greenberg, Hugh Jennings, Al Kaline, George Kell, Heinie Manush, Hal Newhouser, and Charlie Gehringer. And one more Hall of Famer, broadcaster Ernie Harwell, made sure that when we couldn't physically be at Michigan and Trumbull, the sights and sounds of the ballpark were part of our lives.

This house of heroes may have been built on the shoulders of giants, but someone else sustained it, the fans. If ever a community has unified around a place, Detroiters came together at The Corner. In this city of immigrants, attending a game there became an American rite of passage. The language of Tiger Stadium, as the Detroit News once put it, was not Polish or Armenian or Ukranian, it was baseball. Generations of parents brought their children to those sun-drenched bleachers. Years later, those grown children brought their own children to Tiger Stadium. I know because like many Detroiters I still call the old ballpark the place of my youth, a place where our parents took us and where I took my daughters and granddaughter.

To this day I remember my father leading me through the corridors to see Game 1 of the 1945 World Series. Through all my visits back through all the years since, I have never forgotten the sights, smells and sounds of that day and the unique character of that park. There was the sight of heroes—like Hal Newhouser—who I had only imagined while listening to the radio and could now virtually reach out and touch. That is, when he wasn't obscured by one of the much-beloved posts that always caused so many of us to strain our necks. There was the smell of the popcorn, the peanuts and the hot dogs. And there were the unforgettable sounds the crack of the bat, and the roar of a hometown crowd.

Like many Detroiters, my feelings on this occasion are best captured by the words spoken by Al Kaline about his first day at Tiger Stadium. He said, "As I was walking under the corridors trying to find the locker room, I took a peek right behind home plate. I walked out, the sun was shining beautifully, and I thought, 'Man, I never saw anything so pretty in my life.'"

While over the years, the name may have changed, the address for baseball in Detroit was the same the Corner of Michigan and Trumbull. It is still one of oldest ballparks in one of the oldest cities in America. In it we feel our hometown pride in a national landmark. Our city. Our ballpark. The new commemorative stamp to be unveiled today celebrates their common spirit, and it gives me great pride today to join the people of Detroit, in praise of both.•

REMEMBERING KAREN KITZMILLER

• Mr. LEAHY. Mr. President, I rise today to remember a very special Vermonter, and a good friend, Karen Kitzmiller. Karen, at the young age of 53, lost her long battle with breast cancer on May 20 of this year. In East Montpelier the following Saturday, I joined hundreds of family, friends, colleagues, and admirers who gathered together to share their memories of Karen, and to honor her life.

For the past 11 years Karen Kitzmiller served as Montpelier's Democratic State representative in the Vermont Legislature. Her legislative achievements were many, but most outstanding was her work on the House Health and Welfare Committee. Karen was a determined advocate and principled leader on behalf of the health and well-being of Vermonters. She fought to prevent tobacco companies from targeting children with advertisements designed to encourage youth smoking. To help patients appeal coverage denials by health maintenance organizations, Karen dedicated her efforts to the establishment of Vermont's health care ombudsman. She devoted considerable energies to the provision of health care coverage for the uninsured. This spring, after almost four years of effort, she witnessed the Governor sign legislation to ensure that uninsured patients who volunteer to participate in cancer treatment clinical trials are provided with health care coverage.

Karen was diagnosed with cancer more than four years ago, and yet through it all, she did not give up her work on behalf of Vermonters. She continued to serve in the Legislature, she leant her experience as a cancer survivor in efforts to promote awareness about the importance of support groups, and she helped to establish the annual Breast Cancer Conference in Burlington. These are just a few of the lasting contributions that will serve as a tribute to Karen's life for years to come.

Karen leaves behind a loving family—her husband, Warren, and two daughters, Amy and Carrie. Amy is a student at the University of Virginia, studying government and women's studies, and Carrie is a student at the University of Pennsylvania studying at the School of Arts and Sciences. I had the privilege of sponsoring Amy as a Senate Page in 1996 and as an intern in my Montpelier office in the summer of 2000. They are both bright young women. I know their mother was very proud of them both. Although their loss is great, the Kitzmillers can take some small comfort in knowing how special Karen was to so many people. Her strength, her courage, and her compassion served as inspiration to all those who were fortunate enough to come in contact with her. She will be missed by all.•

TRIBUTE TO SHERRY YOUNG

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Sherry Burnett Young of Concord, NH, on being named as recipient of the Athena Award. The award is presented to an individual who has demonstrated excellence in her business or profession, served the community in a meaningful way and assisted women in reaching their full potential.

Sherry is founder and director of the Rath, Young and Pignatelli law firm of Concord, NH. She began her legal career with Orr and Reno, P.A., of Concord, as an estate and trust attorney.

She is involved in community service with several organizations including: Horizon Bank Board of Directors, New England Legal Foundation, Business and Industry Association of New Hampshire, and the New England Council. Some of her civic and charitable activities include: New Hampshire Historical Society Board of Trustees, Concord Hospital Board of Trustees, Greater Concord Chamber of Commerce and New Hampshire Chapter of the American Red Cross.

Sherry is affiliated with professional memberships at the American Bar Association and the New Hampshire Bar Association. She is the first woman elected to chair the State Capital Law Firm, a global association of independent law firms throughout the Americas, Europe, Asia and Africa. In 2000, she was named as one of the top environmental lawyers in New Hampshire by New Hampshire Magazine.

She is a graduate of Cornell University and Franklin Pierce School of Law and lives in Concord with her husband, Gary, and her three children: Garrett, Valerie and Alanna.

I commend Sherry for her dedicated service and contributions to the citizens of New Hampshire and am proud to call her a friend. Her exemplary performance and civic awareness have benefitted the lives of the people of our State. It is an honor and a privilege to represent her in the Senate.•

TRIBUTE TO RON WELLIVER

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Ron Welliver of Nashua, NH, on being named as Police Officer of the Year by the Nashua Exchange Club.

Ron has been a dedicated member of the Nashua police force and his community for more than twenty years. An exemplary citizen, he has contributed to the civic needs of Nashua serving as a football coach at Fairgrounds Junior High School and baseball coach at Bishop Guertin High School in Nashua.

Ron is a team player at the Nashua Police Department who accepted his award by giving praise and recognition to his fellow police officers. During his career he has worked in nearly all areas of the Nashua Police Department including: detective, undercover narcotics and recruiter assignments.

Ron and his wife, Sue, reside in the Nashua area with their two daughters.

I commend Ron Welliver for his dedicated service to the people of Nashua and our entire State. He is a role model to the Nashua community who risks his own safety as a law enforcement officer to protect the citizens of Nashua. It is truly an honor and a privilege to represent him in the Senate.•

TRIBUTE TO DR. GLENN DuBOIS

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Dr. Glenn DuBois for his service to the State of New Hampshire as Commissioner of the New Hampshire Community Technical College System.

Glenn has taught for more than ten years working with students of all ages and from diverse ethnic and racial backgrounds. He has served for many years in State college and university positions and was appointed by the Governor to the Workforce Opportunity Council and Governor's Kid's Cabinet.

He has served in many other capacities including: New Hampshire Governor's Commission on Information Technology, New Hampshire Post Secondary Education Commission, Job's for New Hampshire's Graduates Program and the New Hampshire Police Standards and Training Council.

Glenn has been the recipient of many awards including: Distinguished Administrative Performance, President's Recognition, Award, Distinguished Service Award by the State University of New York, the highest recognition given by the faculty council, and most currently was named as New Hampshire's Leader for the 21st Century.

Glenn is a tribute to his community and his profession. His ability, dedication and determination to serve the students and citizens of our State is commendable. It is an honor and a privilege to represent him in the Senate.•

TRIBUTE TO CHUCK CLEMENT

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Chuck Clement of Rochester, NH, on being named by the Rochester Chamber of Commerce as Business Leader of the Year 2001.

Mr. Clement is a third generation owner of Eastern Propane. Thanks to Chuck's leadership and management skills, Eastern Propane is now the 23rd largest retailer in the Nation providing propane, oil, kerosene, diesel fuels, and service throughout New England.

Chuck has provided his customers with high quality service and has implemented several service programs to further enhance his business. Due to his commitment to the community of Rochester, he has moved his central office from Danvers, MA, to Rochester, NH, his new hometown.

He encourages his employees to give back to the community by donating their time and efforts to organizations including: Strafford County YMCA, Rochester Rotary Club, and the Greater Rochester Chamber of Commerce. Chuck was among the first supporters of the Rochester Public Library Fund and the Rochester Opera House Fund drives.

Chuck's outstanding contribution and leadership in his business and community are commendable. His exemplary performance and civic awareness have benefitted the community of Rochester and our entire State. It is an honor and privilege to represent him in the Senate.•

TRIBUTE TO LAURA MONICA

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Laura Monica of Bow, NH, for being named by the Greater Manchester Chamber of Commerce as Small Business Person of the Year 2001.

Laura is president and founder of High Point Communications Group, Inc. located in Bow, NH. Her firm is a strategic communications company that works with companies, non-profit organizations and government agencies throughout New England and the United States. High Point specializes in the areas of public relations, marketing, corporate communications, media relations and media training.

Laura is a contributor to the local community and is active in many civic organizations including: Greater Manchester Chamber of Commerce, Leadership New Hampshire, Greater Manchester American Red Cross, American Cancer Society New Hampshire Division, and Greater Manchester United Way.

She is active in professional organizations and is a member of the Public Relations Society of America and is a former member of the Bank Investor Relations Association and the National Investor Relations Institute.

Laura received her BA from the University of New Hampshire graduating magna cum laude and received her MPA from the University of New Hampshire graduating summa cum laude. She has attended seminars by the Wharton School and by the American Bankers Association, School of Bank Investments. She resides in Bow, NH, with her husband, Bill Verville, and their twin daughters: Brittany and Caitlin.

I commend Laura for her exemplary achievements in business and civic responsibilities. The citizens of Bow and our entire State have benefitted from her contributions to the community and local economy. It is truly an honor and a privilege to represent her in the U.S. Senate.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON BLOCKING PROPERTY OF PERSONS WHO THREATEN INTERNATIONAL STABILIZATION EFFORTS IN THE WESTERN BALKANS—MESSAGE FROM THE PRESIDENT—PM 30

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my statutory authority to declare a national emergency in response to the unusual and extraordinary threat posed to the national security and foreign policy of the United States by (i) actions of persons engaged in, or assisting, sponsoring, or supporting, extremist violence in the former Yugoslav Republic of Macedonia, southern Serbia, the Federal Republic of Yugoslavia (FRY), and elsewhere in the Western Balkans region, and (ii) the actions of persons engaged in, or assisting, sponsoring, or supporting acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. The actions of these individuals and groups threaten the peace in or diminish the security and stability of the Western Balkans, undermine the authority, efforts, and objectives of the United Nations, the North Atlantic Treaty Organization (NATO), and other international organizations and entities present in those areas and the wider region, and endanger the safety of persons participating in or providing support to the activities of those organizations and entities, including United States military forces and Government officials. In order to deal with this threat, I have issued an Executive order blocking the property and interests in property of those persons determined to have undertaken the actions described above.

The Executive order prohibits United States persons from transferring, paying, exporting, withdrawing, or otherwise dealing in the property or interests in property of persons I have identified in the Annex to the order or persons designated pursuant to the order by the Secretary of the Treasury, in consultation with the Secretary of State. Included among the activities prohibited by the order are the making or receiving by United States persons of any contribution or provision of funds, goods, or services to or for the benefit of any person designated in or pursuant to the order. In the Executive order, I also have made a determination pursuant to section 203(b)(2) of IEEPA that the operation of the IEEPA exemption for certain humanitarian donations from the scope of the prohibitions would seriously impair my ability to deal with the national emergency. Absent such a determination, such donations of the type specified in section 203(b)(2) of IEEPA could strengthen the position of individuals and groups that endanger the safety of persons participating in or providing support to the United Nations, NATO, and other international organizations or entities, including U.S. military forces and Government officials, present in the region. The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to issue regulations in exercise of my authorities under IEEPA to implement the prohibitions set forth in the Executive order. All Federal agencies are also directed to take actions within their authority to carry out the provisions of the order, and, where appropriate, to advise the Secretary of the Treasury in a timely manner of the measures taken.

I am enclosing a copy of the Executive order I have issued. The order was effective at 12:01 a.m. eastern daylight time on June 27, 2001.

I have issued the order in response to recent developments in the former Yugoslav Republic of Macedonia, southern Serbia, and elsewhere in the Western Balkans region where persons have turned increasingly to the use of extremist violence, the incitement of ethnic conflict, and other obstructionist acts to promote irredentist or criminal agendas that have threatened the peace in and the stability and security of the region and placed those participating in or supporting international organizations, including U.S. military and government personnel, at risk.

In both Macedonia and southern Serbia, individuals and groups have engaged in extremist violence and other acts of obstructionism to exploit legitimate grievances of local ethnic Albanians. These groups include local nationals who fought with the Kosovo Liberation Army in 1998–99 and have used their wartime connections to obtain funding and weapons from Kosovo and the ethnic Albanian diaspora. Guerrilla attacks by some of these groups against police and soldiers in Macedonia threaten to bring down the democratically elected, multi-ethnic government of a state that has become a close friend and invaluable partner of NATO. In March 2001, guerrillas operating on the border between Kosovo and Macedonia attempted to fire upon U.S. soldiers participating in the international security presence in Kosovo known as the Kosovo force (KFOR). Guerrilla leaders subsequently made public threats against KFOR.

In southern Serbia, ethnic Albanian extremists have used the Ground Safety Zone (GSZ), originally intended as a buffer between KFOR and FRY/Government of Serbia ((FRY/GoS) forces, as a safe haven for staging attacks against FRY/GoS police and soldiers. Members of ethnic Albanian armed extremist groups in southern Serbia have on several occasions fired on joint U.S.-Russian KFOR patrols in Kosovo. NATO has negotiated the return of FRY/GoS forces to the GSZ, and facilitated negotiations between Belgrade authorities and ethnic Albanian insurgents and political leaders from southern Serbia. A small number of the extremist leaders have since threatened to seek vengeance on KFOR, including U.S. KFOR.

Individuals and groups engaged in the activities described above have boasted falsely of having U.S. support, a claim that is believed by many in the region. They also have aggressively solicited funds from United States persons. These fund-raising efforts serve to fuel extremist violence and obstructionist activity in the region and are inimical to U.S. interests. Consequently, the Executive order I have issued is necessary to restrict any further financial or other support by United States persons for the persons designated in or pursuant to the order. The actions we are taking will demonstrate to all the peoples of the region and to the wider international community that the Government of the United States strongly opposes the recent extremist violence and obstructionist activity in Macedonia and southern Serbia and elsewhere in the Western Balkans. The concrete steps we are undertaking to block access by these groups and individuals to financial and material support will assist in restoring peace and stability in the Western Balkans region and help protect U.S. military forces and Government officials working towards that end.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 27, 2001.*

REPORT ON THE FEDERAL LABOR RELATIONS AUTHORITY FOR FISCAL YEAR 2000—MESSAGE FROM THE PRESIDENT—PM 31

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95-454; 5 U.S.C. 7104(e)), I transmit herewith to you the Twenty-second Annual Report of the Federal Labor Relations Authority for Fiscal Year 2000.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 27, 2001.*

MESSAGES FROM THE HOUSE

At 3:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2299. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 172. Concurrent resolution recognizing and honoring the Young Men's Christian Association on the occasion of its 150th anniversary in the United States.

At 3:21 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 657. An act to authorize funding for the National 4-H Program Centennial Initiatives.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2299. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 172. Concurrent resolution recognizing and honoring the Young Men's Christian Association on the occasion of its 150th anniversary in the United States; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2587. A communication from the Chief Financial Officer and Plan Administrator, First South Agricultural Credit Association, transmitting, pursuant to law, the annual pension plan report for calendar year 2000; to the Committee on Governmental Affairs.

EC-2588. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Report of the Attorney General for the period July 1 to December 31, 2000; to the Committee on Foreign Relations.

EC-2589. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Change of Official EPA Mailing Address; Additional Technical Amendments and Corrections" (FRL6772-2) received on June 25, 2001; to the Committee on Environment and Public Works.

EC-2590. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of rule entitled "Oil Pollution Prevention and Response; Non-Transportation-Related Facilities" (FRL7003-1) received on June 25, 2001; to the Committee on Environment and Public Works.

EC-2591. A communication from the Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Section 8 Homeownership Program; Pilot Program for Homeownership Assistance for Disabled Families" (RIN2577-AC24) received on June 25, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-2592. A communication from the Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Voluntary Conversion of Developments from Public Housing Stock; Required Initial Assessments" (RIN2577-AC02) received on June 25, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-2593. A communication from the Acting Assistant General Counsel for Regulations, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "NIDRR—Community-Based Research Projects on Technology for Independence; Resource Centers for Community-Based Disability and Rehabilitation Research Projects on Technology for Independence; Assistive Technology Outcomes and Impacts and Assistive Technology Research Project for Individuals with Cognitive Disabilities" received on June 21, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-2594. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Special Leveraging Educational Assistance Partnership Program" received on June 25, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-2595. A communication from the Railroad Retirement Board, transmitting, pursuant to law, the annual report on the financial status of the railroad unemployment insurance system for 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-2596. A communication from the Director of the Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Children Born Outside the United States; Application for Certificate of Citizenship" (RIN115-AF98) received on June 14, 2001; to the Committee on the Judiciary.

EC-2597. A communication from the Deputy Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Regulations Under the DNA Analysis Backlog Elimination Act of 2000" received on June 25, 2001; to the Committee on the Judiciary.

EC-2598. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the annual report of the Office of Police Corps and Law Enforcement Education for calendar year 2000; to the Committee on the Judiciary.

EC-2599. A communication from the Director of the Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Removing Russia from the list of countries whose citizens or nationals are ineligible for transit without visa (TWO) privileges to the United States under the TWOV program" (RIN115-AG27) received on June 14, 2001; to the Committee on the Judiciary.

EC-2600. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Eligibility Requirements After Denial of the Earned Income Credit" (RIN1545-AV61) received on June 22, 2001; to the Committee on Finance.

EC-2601. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Removal of the Federal Reserve Banks as Federal Depositories" (RIN1545-AY10) received on June 25, 2001; to the Committee on Finance.

EC-2602. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—May 2001" (Rev. Rul. 2001-35) received on June 26, 2001; to the Committee on Finance.

EC-2603. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Recodification of Regulations on Tobacco Products and Cigarette Papers and Tubes" (RIN1515–AC41) received on June 26, 2001; to the Committee on Finance.

EC–2604. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Diamond Mountain District Viticultural Area" (RIN1512–AA07) received on June 26, 2001; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation To Subcommittees Of Budget Totals for Fiscal Year 2002" (Rept. No. 107–35).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HARKIN (for himself, Mr. WELLSTONE, Mr. KENNEDY, Mr. SARBANES, Mr. AKAKA, Mr. BINGAMAN, Mr. DODD, Mrs. MURRAY, Mr. LEAHY, Ms. MIKULSKI, Mr. FEINGOLD, Mr. KERRY, Mr. LEVIN, Mr. BAUCUS, Mr. ROCKEFELLER, and Mrs. BOXER):

S. 1107. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 1108. A bill to authorize the transfer and conveyance of real property at the Naval Security Group Activity, Winter Harbor, Maine, and for other purposes; to the Committee on Armed Services.

By Mr. COCHRAN (for himself and Mrs. LINCOLN):

S. 1109. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax exemptions for aerial applicators of fertilizers or other substances; to the Committee on Finance.

By Mr. ENZI:

S. 1110. A bill to require that the area of a zip code number shall be located entirely within a State, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CRAIG (for himself, Mr. CONRAD, Mr. ALLARD, Mr. BAUCUS, Mr. BINGAMAN, Mr. BURNS, Ms. COLLINS, Mr. CRAPO, Mr. DASCHLE, Mr. DAYTON, Mr. DORGAN, Mr. ENZI, Mr. GRAMM, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mr. LUGAR, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REED, Mr. ROBERTS, Mr. SARBANES, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Mr. THOMAS, and Mr. WELLSTONE):

S. 1111. A bill to amend the Consolidated Farm and Rural Development Act to authorize the National Rural Development Partnership, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURBIN (for himself, Mr. CHAFEE, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. AKAKA, Mr. KERRY, Mr. SARBANES, Mr. JOHNSON, and Mr. INOUYE):

S. 1112. A bill to provide Federal Perkins Loan cancellation for public defenders; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER:

S. 1113. A bill to amend section 1562 of title 38, United States Code, to increase the amount of Medal of Honor Roll special pension, to provide for an annual adjustment in the amount of that special pension, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SPECTER:

S. 1114. A bill to amend title 38, United States Code, to increase the amount of educational benefits for veterans under the Montgomery GI Bill; to the Committee on Veterans' Affairs.

By Mr. KENNEDY (for himself, Mr. STEVENS, Mr. INOUYE, Mrs. HUTCHISON, and Mr. CORZINE):

S. 1115. A bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. KENNEDY, Mrs. HUTCHISON, and Mr. CORZINE):

S. 1116. A bill to amend the Foreign Assistance Act of 1961 to provide increased foreign assistance for tuberculosis prevention, treatment, and control; to the Committee on Foreign Relations.

By Ms. LANDRIEU:

S. 1117. A bill to establish the policy of the United States for reducing the number of nuclear warheads in the United States and Russian arsenals, for reducing the number of nuclear weapons of those two nations that are on high alert, and for expanding and accelerating programs to prevent diversion and proliferation of Russian nuclear weapons, fissile materials, and nuclear expertise; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 88

At the request of Mr. ROCKEFELLER, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 381

At the request of Mr. ALLARD, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 381, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act, the Soldiers' and Sailors' Civil Relief Act of 1940, and title 10, United States Code, to maximize the access of uniformed services voters and recently separated uniformed services voters to the polls, to ensure that each vote cast by such a voter is duly counted, and for other purposes.

S. 409

At the request of Mrs. HUTCHISON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 409, a bill to amend title 38, United States Code, to clarify the standards for compensation for Persian Gulf veterans suffering from certain undiagnosed illnesses, and for other purposes.

S. 460

At the request of Mr. WELLSTONE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 460, a bill to provide for fairness and accuracy in high stakes educational decisions for students.

S. 466

At the request of Mr. HAGEL, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 466, a bill to amend the Individuals with Disabilities Education Act to fully fund 40 percent of the average per pupil expenditure for programs under part B of such Act.

S. 556

At the request of Mr. JEFFORDS, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 556, a bill to amend the Clean Air Act to reduce emissions from electric powerplants, and for other purposes.

S. 561

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 561, a bill to provide that the same health insurance premium conversion arrangements afforded to Federal employees be made available to Federal annuitants and members and retired members of the uniformed services.

S. 570

At the request of Mr. BIDEN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 570, a bill to establish a permanent Violence Against Women Office at the Department of Justice.

S. 582

At the request of Mr. GRAHAM, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Mr. LEVIN), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 582, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance program.

S. 677

At the request of Mr. BREAUX, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 677, supra.

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. 677, supra.

S. 718

At the request of Mr. MCCAIN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 718, a bill to direct the National Institute of Standards and Technology to establish a program to support research and training in methods of detecting the use of performance-enhancing drugs by athletes, and for other purposes.

S. 830

At the request of Mr. CHAFEE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 839

At the request of Mrs. HUTCHISON, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 847

At the request of Mr. DAYTON, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 860

At the request of Mr. GRASSLEY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 866

At the request of Mr. REID, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 906

At the request of Mr. ENZI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 906, a bill to provide for protection of gun owner privacy and ownership rights, and for other purposes.

S. 920

At the request of Mr. BREAUX, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 920, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 926

At the request of Mr. HARKIN, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Minnesota (Mr. DAYTON), and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 926, a bill to prohibit the importation of any article that is produced, manufactured, or grown in Burma.

S. RES. 117

At the request of Mrs. CLINTON, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 117, a resolution honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters.

S. CON. RES. 9

At the request of Mr. HARKIN, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Illinois (Mr. DURBIN), and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. Con. Res. 9, a concurrent resolution condemning the violence in East Timor and urging the establishment of an international war crimes tribunal for prosecuting crimes against humanity that occurred during that conflict.

S. CON. RES. 34

At the request of Mr. CAMPBELL, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. Con. Res. 34, a concurrent resolution congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the tenth anniversary of the reestablishment of their full independence.

S. CON. RES. 53

At the request of Mr. HAGEL, the names of the Senator from Wisconsin (Mr. KOHL), the Senator from Maryland (Ms. MIKULSKI), and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself Mr. WELLSTONE, Mr KENNEDY, Mr. SARBANES, Mr. AKAKA, Mr. BINGAMAN, Mr. DODD, Mrs MURRAY, Mr. LEAHY, Ms. MIKULSKI, Mr. FEINGOLD, Mr. KERRY, Mr. LEVIN, Mr. BAUCUS, Mr. ROCKEFELLER and Mrs. BOXER).

S. 1107. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I, along with 15 of my colleagues are introducing a bill today that addresses an issue we haven't talked enough about in the Senate in recent years—but it's a critically important issue that we cannot continue to ignore.

I'm talking about workers' rights—specifically the erosion of a worker's fundamental right to strike, to protect that right.

Today, we are introducing the Workplace Fairness Act. This may sound familiar to many of my colleagues here in the Senate. It was a bill my good friend and former colleague Senator Howard Metzenbaum from Ohio introduced in the 102nd and 103rd congress.

The Workplace Fairness Act would amend the National Labor Relations Act and the Railway Labor Act by prohibiting employers from hiring permanent replacement workers during a strike. It would also make it an unfair labor practice for an employer to refuse to allow a striking worker who has made an unconditional offer to return to go back to work.

Why do we need this legislation?

Because right now, a right to strike is a right to be permanently replaced—to lose your job. Every cut-rate, cutthroat employer knows they can break a union if they are willing to play hardball and ruin the lives of the people who have made their company what it is. In my own state of Iowa—Titan Tire Company out of Des Moines, is trying to drive out the union workers with permanent replacements—the union has been on strike for three years now.

Over the past two decades, workers' right to strike has too often been undermined by the destructive practice of hiring permanent replacement workers. Since the 1980s, permanent replacements have been used again and again to break unions and to shift the balance between workers and management.

Titan Tire just outside is just one of many examples.

On May 1, 1998, the 650 members of the United Steelworkers of America, Local 164, who work in Des Moines Titan Tire plant, were forced into an Unfair Labor Practice Strike.

During the contract negotiations preceding this strike, Titan International Inc. President and CEO, Morry Taylor, attempted to eliminate pension and medical benefits and illegally move jobs and equipment out of the plant. He also forced employees to work excessive mandatory overtime, sometimes working people as many as 26 days in a row without a day off.

Well, the membership decided that Titan's final offer was impossible to accept, and they voted to strike. Two months later, in July, 1998, Titan began hiring permanent replacement workers.

During the past three years, approximately 500 permanent replacement workers have been hired at the Des Moines plant. And little or no progress has been made toward reaching a fair settlement. In fact on April 30, 2000, the day before the second anniversary of the Titan strike, Morrie Taylor predicted that the strike would never be settled.

Workers deserve better than this. Workers aren't disposable assets that can be thrown away when labor disputes arise.

When we considered this legislation in 1994, the Senate labor and Human Resources Committee heard poignant testimony about the emotional and financial hardships caused by hiring permanent replacement workers. We heard about workers losing their homes; going without health insurance because of the high costs of COBRA coverage; feeling useless when they were permanently replaced after years of loyal service.

The right to strike—which we all know is a last resort since no worker takes the financial risk of a strike lightly—is fundamental to preserving workers' rights to bargain for better wages and better working conditions. Without the right to strike, workers forgo their fair share of bargaining power.

Permanent striker replacement not only affects the workers who were replaced. It affects other workers in competing companies. When one employer in an industry breaks a union, hires permanent replacements, and cuts salaries and benefits, it affects all the other companies in the industry. Now they either have to find a way to compete with the low-wages and shoddy benefits of a cut-rate, cut-throat business—or they have to follow suit.

Also, workers faced with being replaced are forced to make a choice. They can either stay with the union and fight for their jobs, or they can cross the picket line to avoid losing the jobs they've held for ten or twenty or thirty years.

Is this a free choice, as some of our colleagues would suggest? Or is this blackmail that takes away the rights and the dignity of the workers of this country? What does it mean to tell workers, "you have the right to strike"—when we allow them to be summarily fired for exercising that right?

In reality, there is no legal right to strike today. And because there is no legal right to strike, there is no legal right to bargain collectively. And since there is no legal right to bargain collectively, there is no level playing field between workers and management.

In other words, Management gets to say that you must bargain on their terms—or find some other place to work. If you're permanently replaced, that means you're out of work; you lose all your pension rights; you lose your seniority; you lose your job forever.

How did this happen? We've got to go back to the 1930's for the answer.

In response to widespread worker abuses—and union busting—Congress passed the National Labor Relations Act—the Wagner Act—in 1935 and it was signed into law by President Roosevelt. The Wagner Act guarantees workers the right to organize and bargain collectively and strike if necessary. It makes it illegal for companies to interfere with these rights. In fact, it specifies the right to strike and states: 'Nothing in this act—except as specifically provided herein—shall be construed so as to interfere with or impede or diminish in any way the right to strike.'

In 1938, the Supreme Court dealt the Wagner Act a mortal blow in the case National Labor Relations Board (NLRB) versus Mackay Radio and Telegraph Co. In that case, the Court said that Mackay Radio could hire permanent replacement workers for those engaged in an economic strike.

There are two types of strikes: economic and unfair labor practices. Employers must rehire employees in unfair labor practice strikes. The NLRB determines if the strike is economic or based on unfair labor practices. Unions cannot know in advance whether NLRB will rule that their employer has engaged in unfair labor practices. So any employee participating in a strike runs a risk of permanently losing his or her job.

What's interesting is that following the Court's ruling, companies did not take advantage of this loophole until the 1980s. Before then, they recognized that doing that would upset this level playing field. For almost 40 years, management rarely hired permanent replacements.

That began to change in the 1980s. Since then, hiring permanent replacements has become a routine practice to break unions and shift the balance between workers and management.

Again, the Workplace Fairness Act would restore the fundamental principle of fair labor-management relations—the right of workers to strike without having to fear losing their jobs.

Permanent striker replacement keeps us from moving forward as a nation into an era of high-wage, high-skilled, highly productive jobs in the global marketplace. Without the right to strike, workers' rights will continue to erode. The result will be fewer incentives and less motivation to produce good work, and companies will also suffer with less quality in their products.

Obviously, this legislation won't be adopted this year. But we are introducing it today to signal my intent on raising it and other fundamental labor law reforms in the next session of Congress. It's time for us to level the playing field for hard-working Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6)(i) to offer, or to grant, the status of a permanent replacement employee to an individual for performing bargaining unit work for the employer during a labor dispute; or

"(ii) to otherwise offer, or grant, an individual any employment preference based on the fact that such individual was employed, or indicated a willingness to be employed, during a labor dispute over an individual who—

"(A) was an employee of the employer at the commencement of the dispute;

"(B) has exercised the right to join, to assist, or to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection through the labor organization involved in the dispute; and

"(C) is working for, or has unconditionally offered to return to work for, the employer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end the following:

"(b) No carrier, or officer or agent of the carrier, shall—

"(1) offer, or grant, the status of a permanent replacement employee to an individual for performing work in a craft or class for the carrier during a dispute involving the craft or class; or

"(2) otherwise offer, or grant, an individual any employment preference based on the fact that such individual was employed, or indicated a willingness to be employed, during a dispute over an individual who—

"(A) was an employee of the carrier at the commencement of the dispute;

"(B) has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through the labor organization involved in the dispute; and

"(C) is working for, or has unconditionally offered to return to work for, the carrier.".

Mr. WELLSTONE. Mr. President, I am pleased to join my good friend Senator HARKIN as an original cosponsor of the Workplace Fairness Act of 2001. This measure, along with the "Right to Organize Act of 2001," which I introduced yesterday, are two of the most important pieces of legislation that will come before the Senate this year.

Together, these measures strengthen workers' rights to organize, to join a union, and to advocate for fair collective bargaining and fair agreements. Together, these measures produce the basic platform for healthy economies, healthy communities, and healthy families.

Specifically, the Striker Replacement Act is designed to combat an unfair labor practice which strikes at the very heart of the collective bargaining process in this country: the permanent replacement of striking workers. The goal of this Act is to restore the labor-management balance in today's workplace by preventing the fundamental right to strike from being transformed into a right to be fired.

The record shows that permanent replacement of striking workers has been used increasingly over the years. Private sector employers, emboldened by the Reagan Administration's permanent replacement of striking Federal employees in the early 1980's, began to use the permanent replacement of striking workers as a means of abrogating collective bargaining agreements and bringing in new hires often screened for their anti-union biases.

The process is fairly simple: require major and unreasonable concessions of a union; force them to strike; permanently replace them with workers unsympathetic to the union; and move to decertify the union. This should be called what it is: outright union busting. And it should not be tolerated.

The purpose of the Railway Labor Act and the National Labor Relations Act was to respond to the persistent—and sometimes violent—denial by certain employers of the right to organize and bargain collectively. The resulting strikes and other forms of industrial unrest in the 1930's were held by the courts to have severely burdened free and open commerce across the country. As a result, the Railway Labor Act and the National Labor Relations Act were passed, guided by two fundamental principles: 1. Employees have a right to pursue their interests collectively without fear of employer reprisals, and 2. Questions about representation must be separated from substantive issues in dispute. Government-supervised procedure should be established to ensure fair representation; while collective bargaining should be the forum for settling the remaining substantive disputes.

This system and these principles are sound. Workers have a right to organize without being retaliated against for exercising that right. And they have a right to negotiate wages, benefits, and other items through collective bargaining.

But these principles only work if the right to strike, in the words of the National Labor Relations Act, is not "interfered with or impeded or diminished in any way." In 1938, the Supreme Court in the Mackay Radio case cut a huge swath through these guiding principles by creating the striker replacement doctrine. Under this doctrine, affirmed in subsequent decisions, such as Belknap v. Hale (1983) and TWA v. IFFA (1989), even though it is unlawful to fire a striking worker, it is not unlawful to permanently replace him or her.

The distinction between firing and permanent replacement, is ludicrous—and it is untenable. The central practical reality—as any man or woman who has exercised his or her right to strike and has paid the consequences can tell you—in either case, whether it is called a firing or a permanent replacement—the employee loses their job because he or she has exercised the right to strike. That's the reality. That's the harsh reality.

The measure we are introducing today is a simple one. It does two things: 1. It amends the National Labor Relations Act and the Railway Labor Act to prohibit employers from hiring permanent replacement workers during a strike, or giving employment preference to cross over employees, and 2. It makes it an unfair labor practice for an employer to refuse to allow a striking worker to return to work if that worker has unconditionally offered to return to work.

It's that simple. These are fundamental protections. These are protections that are part of the basic compact with the American worker created by the National Labor Relations Act and the Railway Labor Act. It is long past time that workers seeking to better their lives, their families, and their communities are given access to a collective bargaining process that is fair and even-handed. It is long past time that workers be allowed to advocate for reasonable terms and conditions of their employment without fear of devastating retribution.

Finally, this measure not only meets the needs of workers, their families, and their communities, it also serves the interest of our nation in a global economy. As others have pointed out, if we are to remain strong and competitive as a nation, we must develop a highly motivated and skilled workforce and we must create stable worker-employer relationships that are based on mutual respect and a mutual commitment to a joint economic enterprise. This will only happen if we level the playing field and support a just, sound, and effective collective bargaining process.

This measure, the Workplace Fairness Act, is one key to achieving these goals. I urge my colleagues to join me in supporting this legislation.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 1108. A bill to authorize the transfer and conveyance of real property at the Naval Security Group Activity, Winter Harbor, Maine, and for other purposes; to the Committee on Armed Services.

Ms. SNOWE. Mr. President. I rise today with my colleague from Maine to introduce legislation facilitating the land conveyance at Winter Harbor, ME.

First, may I note that this bill is the product of countless hours of hard work and deliberation by the communities it affects—Winter Harbor and Gouldsboro—the State of Maine, and the Maine Delegation. I would like to thank those involved: Chairmen Stan Torrey and Tom Mayor and members of the Gouldsboro and Winter Harbor Base Reuse Committees; Jean Marshall, the Defense Conversion Coordinator for Eastern Maine Development; Linda Pagels and Roger Barto, Town Managers for Gouldsboro and Winter Harbor; and Commander Edwin Williamson, Commanding Officer of Naval Security Group Activity Winter Harbor, for their efforts in crafting legislation that all concerned can support.

The Navy has been a strong and supportive presence in the Winter Harbor region since the establishment of their facility over 80 years ago. What started as one man's patriotic efforts in World War I to establish a radio station for transatlantic communications developed into a complex network of sophisticated equipment that became Winter Harbor Naval Security Group Activity. Throughout the two World Wars and subsequent Cold War, the men and women stationed at Winter Harbor provided invaluable services in our Nation's defense.

Maine and the Navy have always had a special relationship, and that relationship extended to Winter Harbor. The base and community embraced one another and developed a good neighbor relationship seldom seen between a military installation and the surrounding community. For both sides, it was truly a win-win situation. The sailors and their families enjoyed the hospitality of Maine while the towns of Winter harbor and Gouldsboro economically benefited from the Navy's presence.

Unfortunately, the advent of new technology has made the equipment and mission of Winter Harbor obsolete. With the announcement that the Winter Harbor Naval Activity would close in June 2002, the communities began the laborious process of planning for life without the good neighbors of Winter Harbor NSGA.

With this base closing, Maine will lose an economic base it has depended on for over 80 years. At its high point, Winter Harbor had approximately 250 sailors, 140 civilian employees, and their family members in residence and the base became an economic focal point for the region with an estimated $11 to $15 million being contributed to the local economy on an annual basis.

To offset this impending loss, the towns applied for and received a small Economic Development Administration Defense Conversion Planning Grant in the amount of $200,000. While these funds proved crucial to the start of the reuse process, many needs still remain unmet. This legislation is intended to address some of those needs and to minimize the financial consequences of the base closure.

The towns of Winter Harbor and Gouldsboro are not looking for charity. As you will see, this legislation's intent is to reimburse the towns for infrastructure improvements made at the Navy's behest and to provide the means for the region to restore its economic viability.

As I mentioned earlier, the Maine Delegation has been working with the local communities, the State, Navy, and National Park Service to develop a comprehensive plan for reuse of the property and facilities. The primary facilities at Winter Harbor are located on a beautiful and breathtaking portion of the Maine coastline known as Schoodic Point. Once the base closes, this legislation dictates that the Schoodic Point property will shift to the Department of the Interior's jurisdiction for inclusion in Acadia National Park.

In preparation for this property transfer, the National Park Service has initiated a plan to establish a Research and Education Center at the site. This center will host educational programs and private and public research facilities, becoming a source for meaningful employment and economic generation for the communities. However, the National Park Service effort will not be achieved overnight and, like all programs, requires adequate funding.

As such, this legislation was drafted to include financial provisions to ease and expedite this transition as well as to reimburse the community for local services and infrastructure improvements.

In closing, I would like to thank all of those in the local communities, the State of Maine, the Navy, and the National Park Service and, of course, my colleagues from the Maine Delegation for their assistance in crafting this legislation. I urge my colleagues to support this initiative and allow the good people of Winter Harbor and Gouldsboro to make the most of this unique base reuse opportunity.

I ask unanimous consent the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND TRANSFER AND CONVEYANCE, NAVAL SECURITY GROUP ACTIVITY, WINTER HARBOR, MAINE.

(a) TRANSFER OF JURISDICTION OF SCHOODIC POINT PROPERTY AUTHORIZED.—(1) The Secretary of the Navy may transfer, without consideration, to the Secretary of the Interior administrative jurisdiction of a parcel of real property, including any improvements thereon and appurtenances thereto, consisting of approximately 26 acres as generally depicted as Tract 15–116 on the map entitled "Acadia National Park Schoodic Point Area", numbered 123/80,418 and dated May 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

(2) The transfer authorized by this subsection shall occur, if at all, concurrently with the reversion of administrative jurisdiction of a parcel of real property consisting of approximately 71 acres, as depicted as Tract 15–115 on the map referred to in paragraph (1), from the Secretary of the Navy to the Secretary of the Interior as authorized by Public Law 80–260 (61 Stat. 519) and to be executed on or about June 30, 2002.

(b) CONVEYANCE OF COREA AND WINTER HARBOR PROPERTIES AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the State of Maine, any political subdivision of the State of Maine, or any tax-supported agency in the State of Maine, all right, title, and interest of the United States in and to any of the parcels of real property, including any improvements thereon and appurtenances thereto, consisting of approximately 485 acres and comprising the former facilities of the Naval Security Group Activity, Winter Harbor, Maine, located in Hancock County, Maine, except for the real property described in subsection (a)(1).

(c) TRANSFER OF PERSONAL PROPERTY.—The Secretary of the Navy shall transfer, without consideration, to the Secretary of the Interior in the case of the real property transferred under subsection (a), or to any recipient of such real property in the case of real property conveyed under subsection (b), any or all personal property associated with such real property so transferred or conveyed, including—

(1) the ambulances and any fire trucks or other firefighting equipment; and

(2) any personal property required to continue the maintenance of the infrastructure of such real property, including the generators and an uninterrupted power supply in building 154 at the Corea site.

(d) MAINTENANCE OF PROPERTY PENDING CONVEYANCE.—The Secretary of the Navy shall maintain any real property, including any improvements thereon, appurtenances thereto, and supporting infrastructure, to be conveyed under subsection (b) in accordance with the protection and maintenance standards specified in section 101–47.4913 of title 41, Code of Federal Regulations, until the earlier of—

(1) the date of the conveyance of such real property under subsection (b); or

(2) September 30, 2003.

(e) INTERIM LEASE.—(1) Until such time as any parcel of real property to be conveyed under subsection (b) is conveyed by deed under that subsection, the Secretary of the Navy may lease such parcel to any person or entity determined by the Secretary to be an appropriate lessee of such parcel.

(2) The amount of rent for a lease under paragraph (1) shall be the amount determined by the Secretary to be appropriate, and may be an amount less than the fair market value of the lease.

(3) Notwithstanding any other provision of law, the Secretary shall credit any amount received for a lease of real property under paragraph (1) to the appropriation or account providing funds for the operation and maintenance of such property or for the procurement of utility services for such property. Amounts so credited shall be merged with funds in the appropriation or account to which credited, and shall be available for the same purposes, and subject to the same conditions and limitations, as the funds with which merged.

(f) REIMBURSEMENT FOR ENVIRONMENTAL AND OTHER ASSESSMENTS.—(1) The Secretary of the Navy may require each recipient of real property conveyed under subsection (b) to reimburse the Secretary for the costs incurred by the Secretary for any environmental assessment, study, or analysis carried out by the Secretary with respect to such property before completing the conveyance under that subsection.

(2) The amount of any reimbursement required under paragraph (1) shall be determined by the Secretary, but may not exceed the cost of the assessment, study, or analysis for which reimbursement is required.

(3) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property transferred under subsection (a), and each parcel of real property conveyed under subsection (b), shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of any survey under the preceding sentence for real property conveyed under subsection (b) shall be borne by the recipient of the real property.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with any conveyance under subsection (b), and any lease under subsection (e), as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2. TRANSFER OF FUNDS TO DEPARTMENT OF THE INTERIOR.

The Secretary of Defense shall transfer to the Secretary of the Interior amounts as follows:

(1) $5,000,000 for purposes of capital investments for the development of a research and education center at Acadia National Park, Maine.

(2) $1,400,000 for purposes of operation and maintenance activities at Acadia National Park Maine.

SEC. 3. FINANCIAL ASSISTANCE.

(a) GRANT ASSISTANCE FOR TOWN OF WINTER HARBOR.—(1) The Secretary of the Navy shall, by grant, provide financial assistance to the Town of Winter Harbor, Maine (in this subsection referred to as the "Town"), in each of fiscal years 2002, 2003, and 2004, for the purpose of reimbursing the Town for costs incurred in making improvements to the water and sewer systems of the Town for the benefit of the Naval Security Group Activity, Winter Harbor, Maine, located in Hancock County, Maine.

(2) The amount of the grant under paragraph (1) in fiscal year 2002 shall be $68,000.

(3) The amount of the grant under paragraph (1) in each of fiscal years 2003 and 2004 shall be the amount, not to exceed $68,000, jointly determined by the Secretary and the Town to be appropriate to reimburse the Town as described in that paragraph in the applicable fiscal year.

(b) GRANT ASSISTANCE FOR SCHOOL ADMINISTRATIVE DISTRICT.—(1) The Secretary shall, by grant, provide financial assistance to the School Administrative District (SAD) operating Sumner High School, Sullivan, Maine.

(2) The purpose of the grant is to offset the loss of impact aid under title VIII of the Elementary and Secondary Education Act of

1965 that the local educational agency experienced for fiscal years 2000 and 2001 as a result of the closure of the Naval Security Group Activity, Winter Harbor, Maine.

(3) The amount of the grant under paragraph (1) shall be $86,000.

SEC. 4. AUTHORIZATIONS OF APPROPRIATIONS.

(a) TRANSFERS OF FUNDS TO DEPARTMENT OF INTERIOR.—There is hereby authorized to be appropriated for the Department of Defense for fiscal year 2002, $6,400,000 for purposes of the transfers of funds required by section 2.

(b) GRANTS.—There is hereby authorized to be appropriated for the Department of the Navy for purposes of the grants required by section 3, amounts as follows:

(1) For fiscal year 2002, $154,000.

(2) For each of fiscal years 2003 and 2004, such amounts as may be necessary.

(c) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this section for the Department of Defense, or for the Department of the Navy, for a fiscal year are in addition to any other amounts authorized to be appropriated for such Department for such fiscal year under any other provision of law.

(d) AVAILABILITY.—Amounts authorized to be appropriated by this section for a fiscal year shall remain available until expended, without fiscal year limitation.

Ms. COLLINS. Mr. President, I am pleased to be joining my distinguished colleague, Senator SNOWE, today in introducing this legislation, the Naval Security Group Activity at Winter Harbor Conveyance Act. This conveyance legislation will authorize the transfer of land, which has been under the control of the Naval Security Group for some seventy plus years back to the Department of the Interior, and to the State, ultimately to be put to good use by our local communities.

Over the past seven decades, the Navy has performed a key national security mission called Classic Wizard at Winter Harbor. The Navy has played a significant role in the economic development of the local communities as Maine residents and Navy personnel have supported this mission. As the requirement for the Classic Wizard mission at Winter Harbor is coming to an end, and as technology advances, this naval activity will be ending its ties to the base in the summer of 2002.

While the Navy will be missed, it has worked hand-in-hand with me and the other members of the Maine delegation, the Department of Interior, National Park Service, and our local communities in creating a viable economic development and reuse plan for the naval base and its associated property.

As part of its reuse plan for the site, the National Park Service has proposed developing a research and education center at the Schoodic Point. The center would accommodate and promote a variety of research activities including wildlife genetics and serve as a base for permanent and visiting scientists to conduct interdisciplinary research.

I worked with the National Park Service in the development of its proposal, and I have offered to help make the concept a reality. Maine Governor Angus King shares my support for the proposed research and learning center and has expressed the State's willingness to work as a partner in the effort to establish a wildlife genetics laboratory at the center. We believe that such a laboratory would generate good jobs and promote the region's economy. The work done at Schoodic Point also would compliment the world class research underway at other area facilities in the area such as The Jackson Laboratory, the Mount Desert Island Biological Laboratory, and the University of Maine's Cooperative Aquaculture Research Center.

The National Park Service's proposed reuse of the peninsula also includes an educational component that would promote the public's understanding of the important natural and cultural resources that are a part of our national park system. Moreover, those who have visited Schoodic would agree that the remarkably beautiful 100 acres are worthy of being a part of Acadia National Park, one of our Nation's greatest natural treasures.

It is important for the Federal Government to lend a hand to communities that are struggling to cope with the adverse effects of a base closure. Our legislation, which was developed in consultation with the local communities, the State, the Department of the Interior and the Navy, provides the options and opportunities that the region needs to move beyond the loss of the Naval Security Group Activity at Winter Harbor. I will work to secure approval of this bill by the Senate Armed Services committee and the full Senate.

By Mr. ENZI:

S. 1110. A bill to require that the area of a zip code number shall be located entirely within a State, and for other purposes; to the Committee on Governmental Affairs.

Mr. ENZI. Mr. President, I rise to announce the introduction of a bill that would help preserve the identity of American communities that have struggled with the United States Postal Service to acquire their own, individual zip codes. The bill would do this by prohibiting the Postal Service from extending zip codes across State boundaries.

This bill was introduced in response to concerns raised by the community of Alta, WY. Alta is a small, rural town situated next to the Wyoming-Idaho border at the western base of the Grand Teton Mountains. Because of treacherous travel conditions to the east of Alta, the Postal Service made the decision to serve Alta residents out of the post office in neighboring Driggs, ID. Alta is isolated from other parts of Wyoming and it simply would be too dangerous to require the Postal Service to cross the Teton mountain range in the winter to deliver mail to Alta. In providing this service, however, the post office has not provided Alta residents their own zip code at the Driggs post office, but has required them to use the Driggs zip code even though Alta residents live in an entirely different State.

While this may not seem like a big deal on its face, there are a number of technical complications that arise in the lives of Alta residents because the Postal Service has not been willing to extend the courtesy of an Alta zip code.

By requiring Alta residents to use the Driggs zip code, the Postal Service has created a lot of confusion for Alta residents who attempt to conduct business with mail order companies. What sales tax do they pay? Idaho or Wyoming? Although the Postal Service maintains that zip codes are not used to identify specific locations, other companies use zip codes as an important location code that is necessary to adequately conduct their business. Sales tax is often programmed by zip code, so are car insurance rates, life insurance, homeowner's insurance, even our Federal and State income taxes use zip codes as an indicator of when and where to pay taxes.

The requirements of this bill will not be onerous for the Postal Service to implement. It will not require the service to build new facilities or even to change its method of operations. All it will do is require the Postal Service to identify those communities whose mail service crosses State boundaries and to assign them the necessary identification number that they need to provide the rest of the world a clear and concise description of where they live and who they are.

I urge my colleagues to support this most important legislation.

By Mr. CRAIG (for himself, Mr. CONRAD, Mr. ALLARD, Mr. BAUCUS, Mr. BINGAMAN, Mr. BURNS, Ms. COLLINS, Mr. CRAPO, Mr. DASCHLE, Mr. DAYTON, Mr. DORGAN, Mr. ENZI, Mr. GRAMM, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mr. LUGAR, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REED, Mr. ROBERTS, Mr. SARBANES, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Mr. THOMAS, and Mr. WELLSTONE):

S. 1111. A bill to amend the Consolidated Farm and Rural Development Act to authorize the National Rural Development Partnership, and for other purposes; to the Committee on Agriculture Nutrition and Forestry.

Mr. CRAIG. Mr. President, I rise today with Senator CONRAD to introduce the National Rural Development Partnership Act of 2001—a bill to codify the National Rural Development Partnership, NRDP or the Partnership, and provided a funding source for the program, I am pleased that Senators ALLARD, BAUCUS, BINGAMAN, BURNS, COLLINS, CRAPO, DASCHLE, DAYTON, DORGAN, ENZI, GRAMM, GRASSLEY, HAGEL, HELMS, HUTCHISON, JEFFORDS, JOHNSON, KENNEDY, KERRY, LEAHY, LUGAR, MIKULSKI, MURRAY, BEN NELSON, REED, ROBERTS, SARBANES, BOB SMITH, GORDON SMITH, THOMAS, and WELLSTONE are joining us as original cosponsors.

The Partnership was established under the Bush administration in 1990, by Executive Order 12720. Although the partnership has existed for ten years, it has never been formally authorized by Congress. The current basis for the existence of the partnership is found in the Consolidated Farm and Rural Development Act of 1972 and the Rural Development Policy Act of 1980. In addition, the conference committee report on the 1996 federal farm bill created specific responsibilities and expectations for the partnership and State rural development councils, SRDCs.

The partnership is a nonpartisan interagency working group whose mission is to "contribute to the vitality of the Nation by strengthening the ability of all rural Americans to participate in determining their futures." The NRDP and SRDCs do something no other entities do: facilitate collaboration among federal agencies and between Federal agencies and State, local, and tribal governments and the private and non-profit sectors to increase coordination of programs and services to rural areas. When successful, these efforts result in more efficient use of limited rural development resources and actually add value to the efforts and dollars of others.

On March 8, 2000, the Subcommittee on Forestry, Conservation, and Rural Revitalization, which I chaired, held an oversight hearing on the operations and accomplishments of the NRDP and SRDCs. The subcommittee heard from a number of witnesses, including officials of the U.S. Departments of Agriculture, Transportation, and Health and Human Services, State agencies, and private sector representatives. The hearing established the need for some legislative foundation and consistent funding. The legislation we introduced last year and are reintroducing this Congress accomplishes just that.

This legislation formally recognizes the existence and operations of the partnership, the National Rural Development Coordinating Committee, NRDCC, and SRDCs. In addition, the legislation gives specific responsibilities to each component of the Partnership and authorizes it to receive congressional appropriations.

Specifically, the bill formally establishes the NRDP and indicates it is composed of the NRDCC and SRDCs. NRDP is established for empowering and building the capacity of rural communities, encouraging participation in flexible and innovative methods of addressing the challenges of rural areas, and encouraging all those involved in the partnership to be fully engaged and to share equally in decisionmaking. This legislation also identifies the role of the Federal Government in the partnership as being that of partner, coach, and facilitator. Federal agencies are called upon to designate senior-level officials to participate in the NRDCC and to encourage field staff to participate in SRDCs. Federal agencies are also authorized to enter into cooperative agreements with, and to provide grants and other assistance to, State rural development councils, regardless of the form of legal organization of a State rural development council.

The composition of the NRDCC is specified as being one representative from each Federal agency with rural responsibilities, and governmental and non-governmental for-profit and nonprofit organizations that elect to participate in the NRDCC. The legislation outlines the duties of the council as being to provide support to SRDCs; facilitate coordination among Federal agencies and between the Federal, State, local and tribal governments and private organizations; enhance the effectiveness, responsiveness, and delivery of Federal Government programs; gather and provide to Federal agencies information about the impact of government programs on rural areas; review and comment on policies, regulations, and proposed legislation; provide technical assistance to SRDCs; and develop strategies for eliminating administrative and regulatory impediments. Federal agencies do have the ability to opt out of participation in the council, but only if they can show how they can more effectively serve rural areas without participating in the partnership and council.

This legislation provides that states may participate in the partnership by entering into a memorandum of understanding with USDA to establish an SRDC. SRDCs are required to operate in a nonpartisan and nondiscriminatory manner and to reflect the diversity of the States within which they are organized. The duties of the SRDCs are to facilitate collaboration among government agencies at all levels and the private and non-profit sectors; to enhance the effectiveness, responsiveness, and delivery of Federal and State Government programs; to gather information about rural areas in its State and share it with the NRDCC and other entities; to monitor and report on policies and programs that address, or fail to address, the needs of rural areas; to facilitate the formulation of needs assessments for rural areas and participate in the development of the criteria for the distribution of Federal funds to rural areas; to provide comments to the NRDCC and others on policies, regulations, and proposed legislation; assist the NRDCC in developing strategies for reducing or eliminating impediments; to hire an executive director and support staff; and to fundraise.

As I have stated before, this legislation authorizes the partnership to receive appropriations as well as authorizing and encouraging federal agencies to make grants and provide other forms of assistance to the partnership and authorizing the partnership to accept private contributions. The SRDCs are required to provide at least a 33-percent match for funds it receives as a result of its cooperative agreement with the Federal Government.

As you know, too many parts of rural America have not shared in the boom that has brought great prosperity to urban America. We need to do more to ensure that rural citizens will have opportunities similar to those enjoyed by urban areas. To do so, we do not necessarily need new government programs. Instead, we must do a better job of coordinating the many programs available from USDA and other Federal agencies that can benefit rural communities. With the passage of this legislation, the NRDP and SRDCs will be better situated to provide that much needed coordination.

Mr. CONRAD. Mr. President, I am pleased to join Senator LARRY CRAIG and 31 of our colleagues today in the introduction of the National Rural Development Partnership Act of 2001. This bill is similar to S. 3175 which Senator CRAIG and I sponsored last year during the 106th Congress. I am pleased that so many members from both sides of the aisle have recognized the importance of this measure by agreeing to join as original cosponsors.

The National Rural Development Partnership had its origin in Executive Order 12720, issued by President George H. Bush in 1990. Through the issuance of this order, the U.S. Department of Agriculture was assigned the responsibilities of creating the partnership and providing assistance to States that wish to form rural development partnerships. The intent of the legislation is the same. At least 40 States have now formed partnership councils to coordinate rural development activities of Federal, State, local, and tribal governments with private and non-profit organizations, to address community and economic development needs, and to coordinate community and job building activities in rural areas. The funding for these activities has been voluntary from various Federal agencies, including the Departments of Health and Human Services, Labor, Transportation, Veterans, and state agencies. The U.S. Department of Agriculture has historically provided the largest single amount.

The needs of rural America are great. The demands on the Federal budget are also great. If we are to make optimum use of hard-to-find Federal, State, local, and private resources in rural areas, it is imperative that we find ways to coordinate development activities. This legislation does that. It formally authorizes National Rural Development Councils and also authorizes appropriations for this program.

The existing partnerships are doing an outstanding job in coordinating activities to enhance the quality of life and to build jobs in areas that have historically lacked high paying opportunities. While we recognize the continuing importance of the agriculture industry in many States, especially a State like North Dakota, we recognize that, unless we diversify our economy, we will continue to see out migration from the rural areas into the already crowded metropolitan areas of our country.

Again, I am pleased to join this bipartisan effort.

By Mr. DURBIN (for himself,Mr. CHAFEE, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. AKAKA, Mr. KERRY, Mr. SARBANES, Mr. JOHNSON, and Mr. INOUYE):

S. 1112. A bill to provide Federal Perkins Loan cancellation for public defenders; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, today I rise with Senator CHAFEE to reintroduce legislation to include full-time public defense attorneys in the Federal Perkins Loan Cancellation Forgiveness Program for law enforcement officers. This bill would provide parity to public defense attorneys and uphold the goals set forth by the Supreme Court to equalize access to legal resources. Senators FEINSTEIN, BINGAMAN, AKAKA, KERRY, SARBANES, JOHNSON, and INOUYE are original cosponsors of this bipartisan bill. Representative Tom Campbell of California introduced a companion bill in the House in the 106th Congress.

Under section 465(a)(2)(F) of the Higher Education Act of 1965, a borrower with a loan made under the Federal Perkins Loan Program is eligible to have the loan canceled for serving full-time as a law enforcement officer or correction officer in a local, State, or Federal law enforcement or corrections agency. While the rules governing borrower eligibility for law enforcement cancellation have been interpreted by the Department of Education to include prosecuting attorneys, public defenders have been excluded from the loan forgiveness program. This policy must be amended.

Like prosecutors, public defense attorneys play an integral role in our adversarial process. This judicial process is the most effective means of getting at truth and rendering justice. The United States Supreme Court in a series of cases has recognized the importance of the right to counsel in implementing the Sixth Amendment's guarantee of a fair trial and the Fourteenth Amendment's due process clause requiring counsel to be appointed for all person accused of offenses in which there is a possibility of a jail term being imposed.

Absent adequate counsel for all parties, there is a danger that the outcome maybe determined not by who has the most convincing case but by who has the most resources. The Court rightly addressed this possible miscarriage of justice by requiring counsel to be appointed for the accused. Public defenders fill this Court mandated role by representing the interests of criminally accused indigent person. they give indigent defendants sufficient resources to present an adequate defense, so that the public goal of truth and justice will govern the outcome.

The Department of Education's interpretation of the statute to include public defenders from the loan forgiveness program undermines the goals set forth by the Supreme Court to equalize access to legal resources. It creates an obvious disparity of resources between public defenders and prosecutors by encouraging talented individuals to pursue public service as prosecutors but not as defenders. The criminal justice system works best when both sides are adequately represented. The public interest is served when indigent defendants have access to talented defenders. One of the ways to facilitate this goal is by granting loan cancellation benefits to defense attorneys.

Moreover, public defense attorneys meet all the eligibility requirements of the loan forgiveness program as set forth in current Federal regulations. They belong to publicly funded public defender agencies and they are sworn officers of the court whose principal responsibilities are unique to the criminal justice system and are essential in the performance of the agencies' primary mission. In addition, like prosecuting attorneys, public defenders are law enforcement officers dedicated to upholding, protecting, and enforcing our laws. Without public defense attorneys, the adversarial process of our criminal justice system could not operate.

I urge my colleague to join me, Senator CHAFEE, Senator FEINSTEIN, Senator BINGAMAN, Senator AKAKA, Senator KERRY, Senator SARBANES, Senator JOHNSON, and Senator INOUYE in supporting the goal of equalized access to legal resources, as set forth in the Constitution and elucidated by the Supreme Court, by providing parity to public defenders and allowing them to join prosecutors in receiving loan cancellation benefits.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL PERKINS LOAN CANCELLATION FOR PUBLIC DEFENDERS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Education has issued clarifications that prosecuting attorneys are among the class of law enforcement officers eligible for benefits under the Federal Perkins Loan cancellation program.

(2) Like prosecutors, public defenders also meet all the eligibility requirements of the Federal Perkins Loan cancellation program as set forth in Federal regulations.

(3) Public defenders are law enforcement officers who play an integral role in our Nation's adversarial legal process. Public defenders fill the Supreme Court mandated role requiring that counsel be appointed for the accused, by representing the interests of criminally accused indigent persons.

(4) In order to encourage highly qualified attorneys to serve as public defenders, public defenders should be included with prosecutors among the class of law enforcement officers eligible to receive benefits under the Federal Perkins Loan cancellation program.

(b) AMENDMENT.—Section 465(a)(2)(F) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)(F)) is amended by inserting ", or as a full-time public defender for service to a local or State government, or to the Federal Government (directly or by a contract with a private, nonprofit organization)" after "agencies".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) loans made under part E of title IV of the Higher Education Act of 1965, whether made before, on, or after the date of enactment of this Act; and

(2) service as a public defender that is provided on or after the date of enactment of this Act.

(d) CONSTRUCTION.—Nothing in this section or the amendment made by this section shall be construed to authorize the refunding of any repayment of a loan.

By Mr. SPECTER:

S. 1113. A bill to amend section 1562 of title 38, United States Code, to increase the amount of Medal of Honor Roll special pension, to provide for an annual adjustment in the amount of that special pension, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition at this time to comment on legislation that I have introduced today to increase the special pension that is available to Medal of Honor recipients, and to provide for automatic adjustments in that special pension to reflect annual increases in the cost of living. When the Congress enacted the Medal of Honor pension, it stated, in the 1916 Senate Report, Report No. 240, 64th Congress, accompanying enactment, that the special pension was then necessary to serve as a "recognition of superior claims on the gratitude of the country," and to "reward . . . in a modest way startling deeds of individual daring and audacious heroism in the face of mortal danger when war is on." The legislation that I have introduced today has the same two purposes: to recognize, and to reward, the "startling deeds of individual daring and audacious heroism" to which every Medal of Honor recipient can lay claim.

No one can question that Medal of Honor recipients deserve the Nation's respect and gratitude. And no one could question a limited government pension is a proper sign of that respect and gratitude. I am concerned that some of the 149 surviving Medal of Honor recipients, there are only 149 such people among us, may struggle to make financial ends meet, notwithstanding the availability of the pension. The current $600 monthly amount is simply too small, in my estimation, to afford a minimum standard of living for our Nation's heroes given their expenses.

In 1997, the Congressional Medal of Honor Society suggested that the Medal of Honor pension level be set at $1,000 per month and that the level of the pension be adjusted thereafter on an annual basis to reflect increases in the annual cost of living. At that time, the Senate Committee on Veterans' Affairs, which I then had the privilege of chairing, succeeded in securing an increase in the pension from $400 to $600 per month, but we were not successful in persuading the House to approve an "indexation" feature. I believe a compelling argument could be made then, and still can be made now, to grant the entire increase suggested by the Congressional Medal of Honor Society and to approve the indexing of the benefit. I am pleased to offer legislation to that effect today.

Many Medal of Honor recipients, out of a sense of duty and patriotism, make frequent trips to provide accounts of their act of valor and, more importantly, to speak of the lessons learned in battle and the vigilance that freedom requires to this day. Countless young Americans have benefitted by the example of these most distinguished role models. Often, the expenses associated with these excursions are borne by the medal of Honor recipients themselves, men who, we must remember, emerged from, and, in most cases, returned to, the ordinary citizenry from whom America has always drawn her warriors. Testimony offered by AMVETS at a Veterans' Affairs Committee hearing on July 25, 1997, confirmed that the majority of Medal of Honor recipients live only on their social security benefits, supplemented by the Medal of Honor pension, giving them an average monthly income of only $1,600. It is unconscionable to think that we, as a country, can allow them to live so close to the poverty line.

I ask my colleagues to join with me, once again, to show our gratitude to the recipients of our Nation's highest honor. Let us show them—in this minor way—how grateful America truly is for their wonderful example.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE AND ANNUAL ADJUSTMENT OF MEDAL OF HONOR ROLL SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1562 of title 38, United States Code, is amended by striking "$600" and inserting "$1,000, as adjusted from time to time under subsection (e),".

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following:

"(e) Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) as of November 30 of such year by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i)).".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2001.

By Mr. SPECTER:

S. 1114. A bill to amend title 38, United States Code, to increase the amount of educational benefits for veterans under the Montgomery GI Bill; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition at this time to comment briefly on legislation that I am introducing today to increase educational benefits paid to veterans under the Montgomery GI bill, MGIB. This bill is the same as a bill, H.R. 1291, that was passed by the House, under the leadership of the chairman of the House Committee on Veterans' Affairs, Representative CHRIS SMITH, on June 19, 2001, by a vote of 416–0. I introduce the same legislation here in the Senate, and I urge my colleagues to join with me to complete the task of increasing veterans' Montgomery GI bill benefits.

This legislation, once it is fully phased in over a three year period, would increase the basic monthly benefit paid to veterans with at least three years of service who have returned to school from $650 to $1,100. With this 85 percent increase in MGIB benefits, the largest percentage increase in the history of the Montgomery GI bill, a veteran with three years of service would be able to afford the average cost of tuition, fees, books, and room and board at a four-year public college or university, and still have money left over for transportation expenses or other personal expenses. The legislation would provide greater educational freedom for veterans who are constrained by the current benefit amount; it would open up the possibility of attendance at more expensive universities. And it would promote the national security interests of the United States by providing a substantial inducement for young men and women to serve in the military.

When I became chairman of the Senate Committee on Veterans' Affairs at the start of the 105th Congress in 1997, I committed to increasing MGIB benefits which, due to budget constraints, had been woefully inadequate. I am pleased to report that that picture has changed; the basic MGIB benefit has increased by 52 percent from $427 to 650 per month, and in addition, service members now have the opportunity to "buy-up" an additional $150 in monthly benefits, bringing the total level of available benefits to $800 per month, an increase of 87 percent since 1997. Despite this significant progress, however, I remain concerned that the benefit usage rate among young veterans is too low, and that it may not yet be a sufficient inducement to assist the Department of Defense in recruiting high quality young men and women to serve in the military.

Of the young veterans eligible for MGIB benefits, only 57 percent choose to avail themselves of this extraordinary opportunity. According to a recent report by the Department of Veterans Affairs, VA, a significant reason for this relatively low usage rate is the inadequacy of the benefit amount. MGIB benefits have simply not kept pace with rising education costs. As a consequence, veterans who use the benefit must compromise on the educational programs they select; a low percentage of MGIB users, only 12 percent, attend private institutions, and a relatively high percentage of MGIB users, 27 percent, enroll in two-year college programs. Now I do not undervalue the role, contributions, or quality of our two-year colleges. The fact is, however, that many veterans who would choose to attend four-year institutions, even public institutions, cannot afford to do so with the current level of benefits. My legislation would move us closer to the day when the only limitation on veterans' educational choice would be their own interests and aspirations.

One of the primary purposes of the MGIB is to assist the Department of Defense, DOD with service member recruitment. When DOD asked new recruits in 1997 to list the reasons they joined the military, money for college ranked second only to "a chance to better myself in life" among the answers given. Even so, tight labor market and the availability of other Federal education aid have resulted in

DOD difficulty in meeting recruiting goals. The Assistant Secretary of Defense for Force Management Policy reports that a benefit level "of approximately $1,000 per month . . . would increase high-quality accessions without having a negative impact on reenlistments. . . ." Thus, my proposed legislation, which would, in phases, increase the monthly benefit to $1,100, is consistent with DOD's position that increased MGIB benefits are necessary for it to attract high-quality recruits.

Attracting high-quality young men and women into the military is not only in the interest of the Department of Defense, it is in the national interest of all of our citizens. The United States Commission on National Security/21st Century, chaired by our former colleagues, Senators Gary Hart and Warren Rudman, recently called on Congress to enhance national security by "significantly enhanc[ing] the Montgomery GI Bill" by providing a benefit that would pay for the average education costs of four-year U.S. colleges. The Commission emphasized that the "GI bill is both a strong recruitment tool and, more importantly, a valuable institutional reward for service to the nation in uniform." I thank the Commission for recognizing the important role the GI bill has played, and will continue to play, in ensuring the security of our country.

I commend the chairman of the House Committee on Veterans' Affairs, Representative CHRIS SMITH, who has taken the lead on this issue in the House during this first year of his chairmanship. Under Mr. SMITH's leadership, the House did its part on June 19, 2001, by passing H.R. 1291 by a resounding vote of 416–0. I urge my Senate colleagues to join with me to complete the task here in the Senate.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) IN GENERAL.—(1) Section 3015(a)(1) of title 38, United States Code, is amended to read as follows:

"(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

"(A) for months occurring during fiscal year 2002, $800,

"(B) for months occurring during fiscal year 2003, $950,

"(C) for months occurring during fiscal year 2004, $1,100, and

"(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or".

(2) Section 3015(b)(1) of such title is amended to read as follows:

"(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

"(A) for months occurring during fiscal year 2002, $650,

"(B) for months occurring during fiscal year 2003, $772,

"(C) for months occurring during fiscal year 2004, $894, and

"(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or".

(b) CPI ADJUSTMENT.—No adjustment in rates of educational assistance shall be made under section 3015(h) of title 38, United States Code, for fiscal years 2002, 2003, and 2004.

By Mr. KENNEDY (for himself, Mr. STEVENS, Mr. INOUYE, Mrs. HUTCHISON, and Mr. CORZINE):

S. 1115. A bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senator STEVENS, Senator INOUYE, Senator HUTCHISON, and Senator CORZINE in introducing the Comprehensive Tuberculosis Elimination Act. This bipartisan legislation will provide enhanced authority and greater resources to State, local and Federal health officials to do all they can to combat this deadly infectious disease in our country.

Tuberculosis is the world's leading infectious killer. Its growth has been propelled by the global HIV epidemic, and multi-drug resistant strains have become increasingly prevalent around the world. The World Health Organization estimates that more than one-third of the world's population is infected with tuberculosis. Every year, there are 8 million new cases of active tuberculosis and 2 million deaths from tuberculosis. This disease causes more deaths among women worldwide than all other causes of maternal death combined.

These harrowing statistics illustrate the truth behind the saying that diseases know no borders. Senators INOUYE, STEVENS, and HUTCHISON and I have already introduced the Stop TB Now Act, which focuses on international tuberculosis control. The bill we are introducing today will deal with tuberculosis in our own country. Only through enactment of both of these measures can we be sure of defeating this readily treatable and preventable disease.

Today's bill is intended to fulfill the recommendations of the landmark report issued by the Institute of Medicine last year, entitled "Ending Neglect: The Elimination of Tuberculosis in the United States." Our measure will create a national plan for the eradication of tuberculosis. It will enhance tuberculosis-related research, education and training through the Centers for Disease Control and Prevention. It will also expand support for vaccine research and for international tuberculosis research through the National Institutes of Health.

In the United States, tuberculosis has been going through what the Institute of Medicine calls "recurrent cycles of neglect" by public health authorities, "followed by resurgence" of the disease. In the late nineteenth century, tuberculosis was one of the leading causes of death in America. As cities swelled with waves of European immigration, millions of individuals and families were forced into overcrowded tenements and unhealthy workplaces. Many fell victim to outbreaks of deadly infectious diseases. In 1886, the leading cause of death among infants was tuberculosis, followed by infant diarrhea.

Although medical science and public health were in their infancy in those days, the need to combat tuberculosis was clear even then. In 1882, Robert Kock first isolated the organism that causes this disease, providing physicians and scientists with a microbial foundation for science-based public health action. In the early twentieth century, health advocates and physicians formed an association dedicated to fighting tuberculosis, which today is the American Lung Association. Their work helped to bring about more sanitary living conditions and workplaces for the poor, stronger public health laws, and the use of sanatoriums to treat people with tuberculosis.

In this century, the possibility of actually eradicating tuberculosis arose following the development of effective antibiotics in the 1950s. But the country failed to capitalize on scientific opportunities or undertake the kind of broad public health campaign that we undertook so successfully against polio. As a result, scientific interest and public health funding for tuberculosis control waned in the following decades. After years of decline, specific Federal funding for tuberculosis control was actually eliminated in 1972.

Our country paid the price for this complacency in the 1980s. A resurgence of cases and an alarming growth in the prevalence of drug-resistant tuberculosis strains challenged public health and shook the confidence of experts. Through great effort and difficulty, we renewed our national commitment to fighting tuberculosis. But the effort took longer than necessary, and the Nation suffered needless deaths and illness as we worked to bring the number of new tuberculosis cases to its current, all-time low.

Today, we have a historic opportunity to eradicate tuberculosis in the United States. We have a generation of public health officials who have lived through and successfully combated the recent resurgence of the disease. And we have expert recommendations from both the Federal Advisory Council for the Elimination of Tuberculosis and the Institute of Medicine to guide our efforts.

This legislation is supported by leading public health organizations, including the American Lung Association, the American Thoracic Society, the National Coalition to Eliminate Tuberculosis and RESULTS International. Its enactment can be an essential in achieving to fulfilling this important and long overdue public health goal, and I urge the Senate to approve it.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. KENNEDY, Mrs. HUTCHISON, and Mr. CORZINE):

S. 1116. A bill amend the Foreign Assistance Act of 1961 to provide increased foreign assistance for tuberculosis prevention, treatment, and control; to the Committee on Foreign Relations.

Mr. INOUYE. Mr. President, I rise today to join my colleagues, Senator STEVENS, Senator KENNEDY, Senator HUTCHISON, and Senator CORZINE, to introduce the Stop Tuberculosis Now Act of 2001, a bill that responds to the dire need of the United States and the rest of the world to stop the terrible infection that is threatening citizens in every country of the world.

Tuberculosis is the biggest killer of young women and people with AIDS in the world today, and two million people will die of tuberculosis this year alone. Although tuberculosis is preventable and treatable, last year there were more than 17,000 new cases of tuberculosis in the U.S. Among these cases were new strains of tuberculosis that are resistant to many traditional antibiotics that were very successful in the past. Due to its infectious and resistant nature, tuberculosis cannot be stopped at national borders, and virtually every international airport in the U.S. therefore is a port of entry for carriers of tuberculosis. Thus, it will be impossible to control tuberculosis in the U.S. until we control it worldwide.

Because of this dire situation, we are introducing the "Stop Tuberculosis Now Act," which calls for a U.S. investment in international tuberculosis control of $200 million in 2002, with a focus on expanding the proven, low cost direct observation therapy system, DOTS, tuberculosis treatment for countries with high rates of tuberculosis infection. DOTS tuberculosis treatment involves a health worker observing and ensuring tuberculosis patients take their prescribed medication that is needed to stop a tuberculosis infection successfully. The current projection for implementing an international tuberculosis treatment program is $1 billion. The U.S. share of this program would be $200 million. This is a small price to pay in order to stop this terrible infectious disease which brings such misery and death, to the U.S. and the rest of the world.

This bill would amend the Foreign Assistance Act of 1961 and declare that a major objective of the U.S. foreign assistance program is to control tuberculosis. Congress would designate the World Health Organization and other health organizations to develop and implement a comprehensive tuberculosis control program, including expanding the use of the strategy of DOTS tuberculosis treatment method and strategies to address multi-drug resistant tuberculosis. The particular focus of this program would be in countries with the highest rates of tuberculosis infection. The program would set as goals the cure of at least 95 percent of tuberculosis cases detected and the reduction of tuberculosis related deaths by 50 percent, by December 31, 2010.

I ask unanimous consent that the test the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Tuberculosis (TB) Now Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1)(A) Tuberculosis is one of the greatest infectious causes of death of adults worldwide, killing 2,000,000 people per year—one person every 15 seconds.

(B) Globally, tuberculosis is the leading cause of death of young women and the leading cause of death of people with HIV/AIDS.

(2) An estimated 8,000,000 individuals develop active tuberculosis each year.

(3) Tuberculosis is spreading as a result of inadequate treatment and it is a disease that knows no national borders.

(4) With over 40 percent of tuberculosis cases in the United States attributable to foreign-born individuals and with the increase in international travel, commerce, and migration, elimination of tuberculosis in the United States depends on efforts to control the disease in developing countries.

(5) The threat that tuberculosis poses for Americans derives from the global spread of tuberculosis and the emergence and spread of strains of multi-drug resistant tuberculosis (MDR–TB).

(6) Up to 50,000,000 individuals may be infected with multi-drug resistant tuberculosis.

(7) In the United States, tuberculosis treatment, normally about $2,000 per patient, skyrockets to as much as $250,000 per patient to treat multi-drug resistant tuberculosis, and treatment may not even be successful.

(8) Multi-drug resistant tuberculosis kills more than one-half of those individuals infected in the United States and other industrialized nations and without access to treatment it is a virtual death sentence in the developing world.

(9) There is a highly effective and inexpensive treatment for tuberculosis. Recommended by the World Health Organization as the best curative method for tuberculosis, this strategy, known as directly observed treatment, short course (DOTS), includes low-cost effective diagnosis, treatment, monitoring, and recordkeeping, as well as a reliable drug supply. A centerpiece of DOTS is observing patients to ensure that they take their medication and complete treatment.

SEC. 3. ASSISTANCE FOR TUBERCULOSIS PREVENTION, TREATMENT, AND CONTROL.

(a) ADDITIONAL PREVENTION, TREATMENT, AND CONTROL.—Section 104(c)(7)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7)(A)) is amended—

(1) in clause (i), by adding at the end before the semicolon the following: ", by expanding the use of the strategy known as directly observed treatment, short course (DOTS) and strategies to address multi-drug resistant tuberculosis (MDR–TB) where appropriate at the local level, particularly in countries with the highest rate of tuberculosis"; and

(2) in clause (ii)—

(A) by inserting after "the cure of at least 95 percent of the cases detected" the following: "by focusing efforts on the use of the directly observed treatment, short course (DOTS) strategy or other internationally accepted primary tuberculosis control strategies"; and

(B) by striking "and the cure" and inserting "the cure".

(b) FUNDING REQUIREMENT.—Section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following:

"(B) In carrying out this paragraph, not less than 75 percent of the amount appropriated pursuant to the authorization of appropriations under subparagraph (D) shall be used for the diagnosis and treatment of tuberculosis for at-risk and affected populations utilizing directly observed treatment, short course (DOTS) strategy or other internationally accepted primary tuberculosis control strategies developed in consultation with the World Health Organization (WHO), including funding for the Global Tuberculosis Drug Facility of WHO's Stop TB Partnership.".

(c) ANNUAL REPORT.—Section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7)) is amended—

(1) by redesignating subparagraph (C) (as redesignated by this Act) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

"(C) In conjunction with the transmission of the annual request for enactment of authorizations and appropriations for foreign assistance programs for each fiscal year, the President shall transmit to Congress a report that contains a summary of all programs, projects, and activities carried out under this paragraph for the preceding fiscal year, including a description of the extent to which such programs, projects, and activities have made progress to achieve the goals described in subparagraph (A)(ii).".

(d) AUTHORIZATION OF APPROPRIATIONS.—Subparagraph (D) of section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7)), as redesignated by this Act, is amended by striking "$60,000,000 for each of the fiscal years 2001 and 2002" and inserting "$60,000,000 for fiscal year 2001 and $200,000,000 for fiscal year 2002".

By Ms. LANDRIEU:

S. 1117. A bill to establish the policy of the United States for reducing the number of nuclear warheads in the United States and Russian arsenals, for reducing the number of nuclear weapons of those two nations that are on high alert, and for expanding and accelerating programs to prevent diversion and proliferation of Russian nuclear weapons, fissile materials, and nuclear expertise; to the Committee on Foreign Relations.

Ms. LANDRIEU. Mr. President, when Winston Churchill addressed the student body at Westminister College in 1946, he declared to the United States that "with primacy of power is also joined an awe-inspiring accountability to the future . . . you must not only feel the sense of duty done, but also the anxiety lest you fall below that level of achievement." Over the course of the cold war, we did not fail in our duty, nor should we in the new century.

In the same speech he laid before the whole world the rhetoric that would define the cold war. In describing the Sphere of Soviet dominance in Eastern Europe, Mr. Churchill described an Iron Curtain which the ancient capitals of Warsaw, Prague, and Budapest were held. With the fall of communism in the early part of the last decade, the United States has had to re-shape its review of Eastern Europe. No longer do we view the countries of Poland, the Czech Republic, or Hungary as isolated adversaries, but as partners in the very alliance that carried us through the cold war. In the same way that we have looked to reforming our relationship with the countries of the old Warsaw Pact we must find new ways to view Russia. It is difficult to fathom that in the 21st century we view Russia as a declared ally on the world stage while maintaining a nuclear posture at home which treats her as an enemy. It is time that we transform our nuclear doctrine from one that reflects the thinking of the cold war to one that fits in the context of the 21st century and addresses what is perhaps the greatest threat to our security.

When President Bush met with Mr. Putin a few weeks ago, he expressed that the United States and Russia can find a "common position" on a "new strategic framework". President Bush declared that the two countries are friends and that it is time for the U.S. and Russia to act that way. In context of this historic meeting, it is time that we "work together to address the world as it is, not as it used to be, it is important that we not only talk differently, we must also act differently."

I rise today to introduce legislation that would direct the President to seek in his own words: " . . . a broad strategy of active non-proliferation . . . to deny weapons of terror from those seeking to acquire them . . . and to work with allies and friends who wish to join us to defend against the harm they, WMD can inflict"

The Nuclear threat Reduction Act of 2001, NTRA, would make it the policy of the United States to reduce the number of nuclear warheads and delivery systems held by the U.S. and Russia through bilateral agreements. These reductions should fall to the lowest possible number consistent with national security. It would enable the President to reduce our nuclear stockpile while negotiating such reductions with the Russians that are transparent, predictable and verifiable. To do such a thing would be a mark of principled leadership. It would acknowledge that it is no longer necessary to maintain large stockpiles of nuclear arms by the United States and Russia and that to continue to do so would be unacceptable.

On May 23,2000 President Bush stated "The premises of cold war targeting should no longer dictate the size of our arsenal." I could not agree with the President more. The current level of nuclear weapons maintained by the United States comes at a great cost to ourselves financially and poses a significant threat to our security. The level of nuclear protection that we maintain forces the Russians to keep a similarly robust force which they cannot afford. The crumbling infrastructure of the Russian Military continually raises the risk of accidental launch or greater proliferation. Indeed, the legislation being considered today would ensure that once parts of the Russian arsenal are dismantled, they will be kept safe, they will be accounted for, and they will eventually be destroyed.

The savings from reducing our nuclear arsenal are substantial. A recent CBO report estimated that $1.67 billion could be saved by retiring 50 MX Peacekeeper missiles by 2003. We could use this money to address shortfalls in our conventional capabilities. Additionally, we can devote more funds to meeting the asymmetrical threats that will face us in the future. To invest in deterrents to cyberwarfare and to augment spending on homeland defense would be the best way to transform our thinking and spending from the Cold War to the twenty-first century.

In addition to this, the Nuclear Threat Reduction Act would encourage the U.S. and Russia to take their systems off of high-alert status. In the context of the cold war, such a strategy was necessary to ensure our security, but it no longer applies to present conditions.

The Nuclear Threat Reduction Act would also embolden existing Department of State, Energy, and Defense programs that seek to contain existing nuclear weapons material and expertise in Russia. The economic situation in Russia makes it more and more likely that a rouge state will acquire the means to manufacture nuclear weapons. This could come through the distribution of nuclear material or the exodus of Russian scientists. Our former colleague Sen Nunn put it best when he said "We dare not risk a world where a Russian scientist can take care of his children by endangering ours." The cost to the United States is minuscule compared to the threat of nuclear proliferation. Work on this serious issue has already been addressed by the Nunn-Lugar bill, but it is time that we further our efforts.

In January of this year, a task force headed by Howard Baker and Lloyd Cutler issued a report calling the proliferation of the Russian nuclear stockpile "The most serious threat to national security we face today". The Baker-Cutler Task Force strongly endorsed existing non-proliferation programs and suggested that their goals could be achieved in 8–10 years if they are fully funded. Increased support for these programs will certainly bring them more in line with the immediacy and scope of the dangers that they address.

The NTRA requires the President to formulate and submit to Congress a strategic plan to secure and neutralize Russia's nuclear weapons and weapons-usable materials over the next eight years. The plan would have to include the administrative and organizational reforms necessary to provide effective coordination of these programs and to reflect the priority that the President attaches to them. The President himself has advocated such a strategy and I call on him to implement it.

Finally, the NTRA requires the President to submit a report to Congress on the feasibility of establishing a "debt for security" program with Russia. Under this concept, a portion of Russia's debts to various major powers would be forgiven in exchange for a Russian commitment to devoting those funds to non-proliferation activities. If successful, such a program could significantly help Russia's secure, account for, and neutralize its weapons materials.

In closing, The Nuclear Reduction Act of 2001 would help us fulfill the duty that comes with being the world's last remaining super power. By preventing the spread of nuclear materials and technology, reducing the nuclear stockpiles of the United States and Russia, and by taking our missiles off of high-alert status, we can fulfill that duty. I ask the other Members of the Senate to join me in support of this measure.

AMENDMENTS SUBMITTED AND PROPOSED

SA 819. Mr. THOMPSON proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

SA 820. Mr. MCCAIN (for himself, Mr. BAYH, Mr. CARPER, and Mr. EDWARDS) proposed an amendment to the bill S. 1052, supra.

SA 821. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 822. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 823. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 824. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 825. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 826. Ms. COLLINS (for herself, Mr. Nelson, of Nebraska, Mr. Enzi, Mr. Voinovich, Mr. Hutchinson, and Mr. Roberts) proposed an amendment to the bill S. 1052, supra.

SA 827. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 828. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, supra; which was ordered to lie on the table.

SA 829. Mr. DeWINE submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 830. Mr. BREAUX (for himself, Mr. Jeffords, Mr. Kennedy, Mr. McCain, and Mr. Edwards) proposed an amendment to the bill S. 1052, supra.

TEXT OF AMENDMENTS

SA 819. Mr. THOMPSON proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 150, strike line 17 and all that follows through page 153, line 8, and insert the following:

"(9) Requirement of exhaustion.—

"(A) In general.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

"(B) Exception for needed care.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

"(C) Receipt of benefits during appeals process.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

"(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

"(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

"(D) Admissible.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

On page 165, strike line 15 and all that follows through page 168, line 3, and insert the following:

"(4) Requirement of exhaustion.—

"(A) In general.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

"(B) Exception for needed care.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

"(C) Receipt of benefits during appeals process.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

"(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

"(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

"(D) Admissible.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

SA 820. Mr. McCAIN (for himself, Mr. Bayh, Mr. Carper, and Mr. Edwards) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 36 line 5, strike "except" and all that follows through "(2)" on line 8.

On page 62, between lines 10 and 11, insert the following:

(V) Compliance with the requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement of subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

On page 62, line 20, after the period insert the following: "The Secretary, or organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.".

On page 62, between lines 20 and 21, insert the following:

(vii) Petition for denial or withdrawal.—An individual may petition the Secretary, or an organization providing the certification involves, for a denial of recertification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of such entity failing to meet a requirement of this section.

On page 66, between lines 10 and 11, insert the following:

(5) Report.—Not later than 12 months after the general effective date referred to in section 401, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SA 821. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 148, between lines 23 and 24, insert the following:

"(D) Exclusion of small employers.—

"(i) In General.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

"(ii) Definition.—In clause (i), the term 'small employer' means an employer——

"(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 15 employees on business days; and

"(II) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including——

"(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

"(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

"(iii) Application of certain rules in determination of employer size.—For purposes of this subparagraph:

“(I) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

“(II) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

“(III) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

On page 165, between lines 14 and 15, insert the following:

“(D) EXCLUSION OF SMALL EMPLOYERS.—

“(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

“(ii) DEFINITION.—In clause (i), the term “small employer’ means an employer—

“(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 15 employees on business days; and

“(II) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

“(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

“(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

“(iii) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subparagraph:

“(I) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

“(II) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

“(III) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.”

SA 822. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. . TEN-YEAR EXTENSION OF MEDICARE COST CONTRACTS.

Section 1876(h)(5)(C) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)), as redesignated by section 634(1) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–568), as enacted into law by section 1(a)(6) of Public Law 106–554), is amended by striking “2004” and inserting “2014”.

SA 823. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. . NINE-YEAR EXTENSION OF MEDICARE COST CONTRACTS

Section 1876(h)(5)(C) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)), as redesignated by section 634(1) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–568), as enacted into law by section 1(a)(6) of Public Law 106–554), is amended by striking “2004” and inserting “2013”.

SA 824. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. . NINE-YEAR EXTENSION OF MEDICARE COST CONTRACTS

Section 1876(h)(5)(C) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)), as redesignated by section 634(1) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–568), as enacted into law by section 1(a)(6) of Public Law 106–554), is amended by striking “2004” and inserting “2012”.

SA 825. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. . SEVEN-YEAR EXTENSION OF MEDICARE COST CONTRACTS.

Section 1876(h)(5)(C) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)), as redesignated by section 634(1) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–568), as enacted into law by section 1(a)(6) of Public Law 106–554), is amended by striking “2004” and inserting “2011”.

SA 826. Ms. COLLINS (for herself, Mr. NELSON of Nebraska, Mr. ENZI, Mr. VOINOVICH, Mr. HUTCHINSON, and Mr. ROBERTS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Beginning on page 122, strike line 19 and all that follows through line 16 on page 129, and insert the following:

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) GENERAL RULE.—

(1) NO PREEMPTION.—

(A) IN GENERAL.—Subject to paragraph (2), nothing in subtitles B, C or D shall be construed to preempt or supersede any provision of State law that is enacted prior to the effective date that establishes, implements, or continues in effect any standard or requirement relating to health insurance issuers (in connection with group health insurance coverage or otherwise) and non-Federal governmental plans with respect to a patient protection requirement.

(B) NOTIFICATION.—Subparagraph (A) shall apply to a State that has, by not later than the effective date, submitted a notice to the Secretary of the existence of a State law described in such subparagraph.

(2) APPEALS.—Subtitle A shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with individual health insurance coverage and to non-Federal governmental plans except to the extent that such standard or requirement prevents the application of a requirement of such subtitle.

(3) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to group health plans.

(b) STATE CERTIFICATION.—

(1) IN GENERAL.—Effective beginning on the effective date, a State shall submit to the Secretary a certification that—

(A) the State has enacted one or more State laws or regulations that are consistent with the purposes of the patient protection requirements of this title, with respect to health insurance coverage that is issued in the State, including group coverage, individual coverage, and coverage under non-Federal governmental plans;

(B) the State has not enacted a law described in subparagraph (A) because of the adverse impact that such a law would have on premiums paid for health care coverage in the State and the adverse impact that such increases in premiums would have on the number of individuals in the State with health insurance coverage; or

(C) the State has not enacted a law described in subparagraph (A) because the existence of a managed care market in the State is negligible.

(2) RECEIPT AND REVIEW BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall—

(i) promptly review a certification submitted under paragraph (1); and

(ii) approve the certification unless the Secretary finds that there is no rational basis for such approval.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—A certification under paragraph (1) is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification—

(I) that the certification is disapproved because there is no rational basis for the certification;

(II) with respect to a certification described in paragraph (1)(A), that the Secretary determined that the State law does not provide for patient protections that are consistent with the purposes of the patient protection requirement to which the law relates; or

(III) that specified additional information is needed.

A notice under this clause shall include an explanation of the basis for the determination of the Secretary and shall identify specific deficiencies in the State certification.

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i)(III) that specified additional information is needed, the Secretary shall make a determination with respect to such certification within 60 days after the date on which such specified additional information is received by the Secretary.

(C) APPROVAL FOR FAILURE TO MEET DEADLINE.—If the Secretary fails to meet the deadline applicable under subparagraph (B) with respect to a State certification, the certification shall be deemed to be approved.

(D) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(3) CERTIFICATION OF ALL OR SELECTIVE PROTECTIONS.—A certification under this subsection may be submitted with respect to all patient protection requirements or selective requirements.

(4) TERMINATION OF CERTIFICATION.—

(A) IN GENERAL.—The Secretary, not more frequently than once every 5 years, may request that a State with respect to which a certification has been approved under this subsection, submit an assurance to the Secretary that with respect to a certification, the assurances contained in the certification are still applicable with respect to the State.

(B) TERMINATION.—If a State fails to submit an assurance to the Secretary under subparagraph (A) within the 60-day period beginning on the date on which the Secretary makes a request for such an assurance, the certification applicable to the State under this section shall terminate.

(5) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a State from submitting more than one certification under paragraph (1).

(c) EFFECT OF CERTIFICATION.—

(1) IN GENERAL.—A State that has submitted—

(A) a notice under subsection (a)(1)(B); or

(B) a certification that has been approved by the Secretary under subsection (b);

with respect to all of the patient protection requirements shall be eligible to receive a grant under subsection (d).

(2) EFFECT OF TERMINATION.—A State that has a certification terminated under subsection (b)(4) shall not be eligible to receive grant funds under subsection (d) until such time as the State has a new certification in effect.

(3) RULE OF CONSTRUCTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this Act shall be construed to apply any patient protection requirement in a State unless the State enacts a State law with respect to such application.

(B) SELF-INSURED PLANS.—Notwithstanding this section, the patient protection requirements of this Act shall apply to self-insured group health plans as provided for under section 714 of the Employee Retirement Income Security Act.

(d) PATIENT QUALITY ENHANCEMENT GRANTS.—

(1) IN GENERAL.—Beginning on the effective date, the Secretary shall award grants to eligible States to enable such States to carry out activities to promote high quality health care.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a State shall—

(A) be a State described in subsection (c)(1); and

(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) USE OF FUNDS.—A State may use amounts awarded under a grant under this subsection to carry out activities to promote increased health care quality, educate consumers on health care products, provide health care coverage, improve patient safety, carry out enforcement activities with respect to compliance with State patient protection laws, and carry out other activities determined appropriate by the Secretary.

(4) FORMULA.—The Secretary shall determine the amount of each grant based on the population of the State relative to other eligible States.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $500,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a State with a certification that has been approved under subsection (b) from amending or otherwise modifying State laws or regulations that the approval was based upon.

(f) LIMITATION ON DELEGATION OF FUNCTIONS.—The Secretary may not delégate the duties and authority provided to the Secretary under this section to the Center for Medicare and Medicaid Services.

(g) NONAPPLICABILITY OF PROVISIONS.—Nothing in this section shall be construed to apply the patient protection requirements to States except as specifically provided for in this section.

(h) DEFINITIONS.—In this section:

(1) EFFECTIVE DATE.—The term "effective date" means October 1, 2002.

(2) PATIENT PROTECTION REQUIREMENT.—The term "patient protection requirement" means any one or more of the following requirements:

(A) Section 111 (relating to consumer choice option) with respect to non-Federal governmental plans only.

(B) Section 112 (relating to choice of health care professional).

(C) Section 113 (relating to access to emergency care).

(D) Section 114 (relating to timely access to specialists).

(E) Section 115 (relating to patient access to obstetric and gynecological care).

(F) Section 116 (relating to access to pediatric care).

(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

(H) Section 118 (relating to access to needed prescription drugs).

(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

(J) Section 120 (relating to required coverage for minimum hospital stays).

(K) Section 121 (relating to access to information).

(L) A prohibition under—

(i) section 131 (relating to prohibition of interference with certain medical communications);

(ii) section 132 (relating to prohibition of discrimination against providers based on licensure); and

(iii) section 133 (relating to prohibition against improper incentive arrangements.)

(M) Section 134 (relating to the payment of claims).

(N) Section 135 (relating to protection for patient advocacy).

(3) STATE, STATE LAW.—The terms "State" and "State law" shall have the meanings given such terms in section 2723(d) of the Public Health Service Act (42 U.S.C. 300gg-23(d)).

SA 827. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the appropriate place in title V, insert the following:

SEC. . RADIATION EXPOSURE COMPENSATION ACT.

(a) IN GENERAL.—Section 3(e) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) in the subsection heading by striking the first 2 words and inserting "INDEFINITE"; and

(2) by striking "authorized to be".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2001.

SA 828. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

Beginning on page 98, strike line 2 and all that follows through line 21 on page 109, and insert the following:

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year;

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect; and

(iv) of information relating to the disenrollment of a participant, beneficiary, or enrollee or relating to the plan or issuer otherwise reducing coverage or benefits as described in clause (iii), in the form of a notice provided not later than 30 days before the date on which the disenrollment or reduction takes effect.

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(b)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee, as provided for under subsection (d), shall include for each option available under a group health plan or health insurance coverage the following:

(1) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(2) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients, and the State licensure status of the providers and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(3) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(4) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(5) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(6) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(7) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(8) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(9) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(10) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(11) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(12) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(13) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(14) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(15) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Bipartisan Patient Protection Act (excluding those described in paragraphs (1) through (14)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(16) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 101 and 102, including any drug formulary program under section 118.

(17) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) MANNER OF DISCLOSURE.—

(1) IN GENERAL.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by a participant or enrollee.

(2) ADDITIONAL INFORMATION.—The information described in subsection (c) shall be made available and easily accessible, without cost, to participants, beneficiaries, or enrollees upon request. Such information shall be made available in writing and by electronic means (including the Internet) and in any other manner determined appropriate by the Secretary.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

SA 829. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 171, between lines 14 and 15, insert the following:

SEC. 303. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

"(o) LIMITATION ON CLASS ACTION LITIGATION.—

"(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after the date of enactment of the Bipartisan Patients' Bill of Rights Act of 2001.".

SA 830. Mr. BREAUX (for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. MCCAIN, and Mr. EDWARDS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Beginning on page 122, strike line 19 and all that follows through line 5 on page 128, and insert the following:

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) CONSTRUCTION.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) APPLICATION OF SUBSTANTIALLY COMPLIANT STATE LAWS.—

(1) IN GENERAL.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c)) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this Act (except in the case of other substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), subject to subsection (a)(2)—

(A) the State law shall not be treated as being superseded under subsection (a); and

(B) the State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) LIMITATION.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) DEFINITIONS.—In this section:

(A) PATIENT PROTECTION REQUIREMENT.—The term "patient protection requirement" means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(B) SUBSTANTIALLY COMPLIANT.—The terms "substantially compliant", substantially complies", or "substantial compliance" with respect to a State law, mean that the State law has the same or similar features as the patient protection requirements and has a similar effect.

(c) DETERMINATIONS OF SUBSTANTIAL COMPLIANCE.—

(1) CERTIFICATION BY STATES.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with the patient protection requirement (or requirements) to which the law relates.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(3) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(C) DEFERENCE TO STATES.—With respect to a certification submitted under paragraph (1), the Secretary shall give deference to the State's interpretation of the State law involved and the compliance of the law with a patient protection requirement.

(D) PUBLIC NOTIFICATION.—The Secretary shall—

(i) provide a State with a notice of the determination to approve or disapprove a certification under this paragraph;

(ii) promptly publish in the Federal Register a notice that a State has submitted a certification under paragraph (1);

(iii) promptly publish in the Federal Register the notice described in clause (i) with respect to the State; and

(iv) annually publish the status of all States with respect to certifications.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification)

of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) PETITIONS.—

(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 401, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification under this subsection, is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) OPINION.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term "State" includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

On page 132, between lines 11 and 12, insert the following:

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

"SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

"(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

"(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.".

On page 137, lines 3 and 4, strike "EQUIVALENT" and insert "COMPLIANT".

On page 137, lines 9 and 10, strike "is substantially equivalent" and insert "substantially complies".

On page 137, line 11, strike "to" and insert "with".

On page 173, between lines 4 and 5, insert the following:

SEC. 304. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191 et seq.) is amended by adding at the end the following new section:

"SEC. 735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

"(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

"(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 27, 2001 at 10 a.m., in open session to consider the nominations of Dionel M. Aviles to be Assistant Secretary of the Navy (Financial Management and Comptroller); Reginald Jude Brown to be Assistant Secretary of the Army (Manpower and Reserve Affairs); Steven A. Cambone to be Deputy under Secretary of Defense for Policy; Michael Montelongo to be Assistant Secretary of the Air Force (Financial Management and Comptroller); and John J. Young, Jr. to be Assistant Secretary of the Navy (Research, Development and Acquisition).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, June 27 at 9:30 a.m. to conduct a hearing. The committee will consider the nominations of Vicky A. Bailey to be an Assistant Secretary of Energy (International Affairs and Domestic Policy), Frances P. Mainella to be Director of the National Park Service, and John Walton Keys, III, to be Commissioner of the Bureau of Reclamation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, June 27, 2001 to hear testimony on "Prescription for Fraud: Consultants Selling Doctors Bad Billing Advice."

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 27, 2001 at 9:45 a.m. to hold a nomination hearing as follows:

Nominees: Mr. Clark T. Randt, Jr., of Connecticut, to be Ambassador to the People's Republic of China.

Mr. Douglas Allan Hartwick, of Washington, to be Ambassador to the Lao People's Democratic Republic.

Charles J. Swindells, of Oregon, to be Ambassador to New Zealand, and to serve concurrently and without additional compensation as Ambassador to Samoa to be introduced by Hon. GORDON SMITH.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 27, 2001 at approximately 11:15 a.m. to hold a nomination hearing as follows:

Nominees: Mr. Pierre-Richard Prosper, of California, to be Ambassador at Large for War Crimes Issues.

Mr. William A. Eaton, of Virginia, to be Assistant Secretary of State (Administration).

General Francis Xavier Taylor, of Maryland, to be Coordinator for Counterterrorism, with the rank of Ambassador at Large to be introduced by Hon. PAUL S. SARBANES.

Mr. Clark Kent Ervin, of Texas, to be Inspector General, Department of State to be introduced by Hon. PHIL GRAMM.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on "Protecting the Innocent: Ensuring Competent Counsel in Death Penalty Cases" on Wednesday, June 27, 2001 at 10:00 a.m., in SD226. No witness list is available yet.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, June 27, 2001, at 10:30 a.m., to receive testimony from the U.S. Commission on Civil Rights regarding its latest report on the November 2000 election and from other witnesses on election reform in general.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DORGAN. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 27, 2001 at 2:30 p.m., to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ECONOMIC POLICY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Subcommittee on Economic Policy of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 27, 2001 to conduct a hearing on "The Reauthorization of the Defense Production Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. DORGAN. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia of the Committee on Governmental Affairs be authorized to meet on Wednesday, June 27, 2001 at 10:00 a.m., for a hearing to examine "Finding a Cure to Keep Nurses on the Job: The Federal Government's Role in Retaining Nurses for Delivery of Federally Funded Health Care Services."

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JUNE 28, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:15 a.m. on Thursday, June 28. I further ask consent that on Thursday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Patients' Bill of Rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, tomorrow the Senate will convene at 9:15 a.m. and resume consideration of the Patients' Bill of Rights. There will be 30 minutes of debate on the Collins and Breaux amendments regarding scope, with two rollcall votes beginning at approximately 9:45 a.m. Additional rollcall votes will occur throughout the day and into the evening.

The majority leader has told me it is his hope that we will complete this bill tomorrow rather than on Friday or Saturday. We have made great progress today. The minority manager, Senator GREGG, has done very good work. We have our managers—Senator MCCAIN, Senator KENNEDY, and Senator EDWARDS—who have done outstanding work. We have really made great headway. So the light at the end of the tunnel is there. It is up to us whether we take that opportunity to finish this.

Then there is the supplemental appropriations bill which needs to be done, and also the organizing resolution.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:18 p.m., adjourned until Thursday, June 28, 2001, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 2001:

NATIONAL TRANSPORTATION SAFETY BOARD

JOHN ARTHUR HAMMERSCHMIDT, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 2002, VICE JAMES E. HALL, RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

CLAUDE M. KICKLIGHTER, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (POLICY AND PLANNING), VICE DENNIS M. DUFFY, RESIGNED.

HOUSE OF REPRESENTATIVES—*Wednesday, June 27, 2001*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SHAW).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 27, 2001.

I hereby appoint the Honorable E. CLAY SHAW, Jr. to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

Bishop Michael Tyrone Cushman, General Overseer, National Association of the Church of God, West Middlesex, Pennsylvania, offered the following prayer:

Dear Kind and Gracious Heavenly Father, it is with praise and adoration we bow before You on this wonderful day. It is with awe and honor we worship Your holy presence and invite You to dwell in the midst of these men and women who were made by Your hands and fashioned for this very moment.

We acknowledge that all wisdom comes from You. We confess this morning that You are our eternal Father and You are the very essence of love itself, and that we are created in Your loving just and merciful image, and that Your ultimate will is that we love each other unconditionally as we are loved by You.

Please, Kind Sir, bless us this day with the spirit of reconciliation. Endow us with a fresh anointing of grace and tolerance. Empower us to deliberate through the dilemmas and conflicts of purpose and opinion. Equip us to accept what we cannot change. Embolden us to change the unacceptable and enlighten us with uncanny wisdom to strike the compromises that glorify You and dignify every human being.

Now, My Father, bless this House, O Lord we pray. Keep it safe by night and day. In the strong name of Jesus we trust and pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. BRADY) come forward and lead the House in the Pledge of Allegiance.

Mr. BRADY of Texas led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME TO GUEST CHAPLAIN, PASTOR MICHAEL TYRONE CUSHMAN, SR.

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, I would like to join you in welcoming today's distinguished guest chaplain, Pastor Michael Tyrone Cushman, Sr., and thank him for leading the House in prayer. As first General Overseer of the National Association of the Church of God, Pastor Cushman is responsible for more than 400 churches in the United States, Caribbean, and Africa.

For 22 years, Reverend Cushman served at the Pasadena Church of God in Pasadena, California, one of the most thriving churches in our region. Pastor Cushman distinguished himself as a force for racial reconciliation and more harmonious human relations in southern California. In his new position, his mission is to unify the black and white branches of the Church of God.

I am proud to say, that although Dr. Cushman will travel the world in his new position, he and his wife, Jacqueline, will maintain a home in Altadena, California, which I am proud to represent. Although we will sorely miss his influence in our community on a daily basis, I am happy to note that he will maintain an advisory role at the Pasadena Church of God.

I am proud to welcome Chaplain Cushman here today as our guest chaplain.

AMERICA'S ENERGY POLICY

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, while California experiences blackouts, and respirating equipment that is needed for those critically ill goes silent, Gray Davis is hyperventilating and pointing fingers at Washington.

Let us review the Democratic energy policy over the last 8 years under the past administration. Let me see: Hazel O'Leary, Secretary of Energy, goes to the Taj Mahal and spends $1 million of taxpayer money to beautify it before she arrives.

Let me see: Bill Richardson, while on his watch, loses our Nation's energy secrets, and we become vulnerable to outside influences.

During the last campaign, when energy prices were skyrocketing, the Clinton White House's brilliant idea was to reduce and use the oil from the strategic reserves.

Sound bite politics from their side, sensitive politics from ours. We are working on the energy needs of America. We are seeking a plan that will revolutionize the way we are dependent on oil. We are looking at a conservation model. We are looking at new technology. We are coming up with answers, not rhetoric.

I admonish the Democrats to start participating and stop finger-pointing. And Gray Davis could lead the parade by stop spending $30,000 of taxpayer money a month for political consultants and start working with energy consultants to save his State.

SIGN DISCHARGE PETITION ON COST-BASED ENERGY PRICING

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, last week, in California, three former employees

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of generators of electricity testified that they turned off their equipment at the demands of their bosses that resulted in driving up electrical prices on the west coast. This House should do something about that.

What I urge my colleagues to do is to come to the well of the House and sign a discharge petition for a bill that will create cost-based pricing for 2 years as a short-circuit to stop the meltdown of the energy market on the west coast. I do that on behalf of the small business people who are losing their businesses today, last week, next week, because of the thousand percent increases in wholesale electrical rates on the west coast, which are unprecedented, wrong, unconscionable, and should be illegal.

The Federal Energy Regulatory Commission, finally, because we dragged them kicking and screaming for the last 4 months, finally did something a few days ago, but it is clear it is not enough. We need to keep their feet to the fire. I urge my colleagues to sign the discharge petition in the well of the House today.

TAX REBATES

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I remember energy going up that Texas provided for California because the Environmental Protection Agency charges them fines to run their plants. Ridiculous.

But today, Mr. Speaker, I rise in support of hardworking American taxpayers who will receive a $600 check in the mail this summer courtesy of George W. Bush. That is right. Americans do not want, do not need, and do not deserve higher taxes. That is why President Bush fought hard to make sure to give them back some of their money.

If an individual paid taxes last year, they will receive a $300 check, if they are single; $500 if they are a single parent; or a $600 check if they are a married couple filing together. All this because President Bush knows that Americans can spend their own money better than we can here.

What can a person buy with $600? Well, this is the buy-a-new-washer, a-new-dryer, or buy-a-new-fridge bill. What about that? The beauty of this summer refund is that George W. Bush knows that Americans can spend their money better than the Federal Government. So let us give it back to them.

SEND MARGARET HARGROVE OF FLORIDA TO THE IRS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the pit bull is the most ferocious dog in the world, but nobody told that to Margaret Hargrove of Florida. When a pit bull clamped his massive jaws around her small Scot terrier's neck, Margaret ferociously bit the pit bull back.

Now, if that is not enough to sanitize your fire hydrant, folks, the pit bull then turned on Margaret and attacked her. Margaret then attacked the pit bull so ferociously that she drove him away.

Beam me up. Do not take this woman to a drive-in movie. Do not forget to feed her terrier. My colleagues, never bite Margaret Hargrove of Florida.

I yield back the need to hire Margaret Hargrove at the Internal Revenue Service to straighten those people out.

CONGRATULATIONS TO MARTHA DE NORFOLK OF FLORIDA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I congratulate Martha De Norfolk, a single mother from my congressional district who is working to found the Arthrogryposis Foundation to help her disabled son Bryant Amastha, and other local children who suffer from this rare disease.

One in every 3,000 babies is born with this disease, which limits motions in their joints, usually accompanied by muscle weakness. In the classic case, hands, wrists, elbows, shoulders, hips, feet and knees are affected. In some cases, even the central nervous system. Most people with arthrogryposis are of normal intelligence and are able to lead productive lives as adults. However, if not treated through surgery and physical therapy, this disease can become terminal, as the body deforms so that internal organs cannot function properly.

Nine-year-old Bryant recently completed his 36th operation, enabling him to use an electric wheelchair to move about in home and in school. With the help of the foundation that Bryant's mother, Martha De Norfolk, is working to establish, parents of these children will soon have the financial assistance and the support groups on which to depend; and local doctors will have access to education on this debilitating illness and its treatment.

We congratulate Martha and Bryant and many others.

ENERGY

(Mr. BALDACCI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALDACCI. Mr. Speaker, with the continuation of rolling blackouts and skyrocketing energy costs, we need to address our country's energy problems now. In the short term, we need a solution that provides much-needed price relief for consumers to outrageously high energy costs, particularly now that we are in the summer.

The Bush administration's energy plan does virtually nothing to address these issues. The leadership in this Congress has wiped out the raising of the fuel efficiency standards and continues to do nothing in the area of research in renewables and other long-term benefits in improving energy efficiency. The administration has tried to address this in the previous years but was unable to do it with the leadership of this Congress.

We need a plan that does not relax environmental standards, does not propose drilling in sensitive environmental areas of this country, such as the Arctic National Wildlife Reserve and off the coast of Florida's shores. That plan only benefits large oil companies at the risk of all Americans. Our approach to our country's energy problems is a balanced plan that addresses both supply and demand. The plan proposed by Democratic leadership increases refining capacity and helps America use energy more efficiently.

□ 1015

AMERICA IS A NATION IN NEED OF ENERGY SOLUTIONS

(Mrs. JO ANN DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, it is a widely known fact that America is a Nation in need of energy solutions. We have all heard the statistics. Over the next 20 years, U.S. oil consumption is expected to increase by over 30 percent, natural gas consumption by more than 50 percent, and electricity usage will grow by an estimated 45 percent.

Yet these facts are not new. This problem did not drop out of the sky one day. These statistics have been known for years, yet the Clinton administration failed to plan for the future. Now America faces a great energy challenge that can only be met through increased production and conservation.

California's policy of strict conservation without production has not worked. Despite growing energy consumption, not one major power plant was added in the 1990s. Unfortunately, the people of California are suffering because of it.

Mr. Speaker, President Bush has put forth plans emphasizing conservation while meeting production needs. We cannot look away like past administrations have, hoping that the problem will just go away, because it will not.

CALIFORNIA AND THE WEST COAST ELECTRICITY MARKET HAS BEEN ILLEGALLY MANIPULATED

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, evidence continues to mount that California and the west coast electricity market has been illegally manipulated, and consumers are entitled to billions of dollars for illegal overcharges since last summer.

We just heard about the need for production. Let me tell my colleagues what is happening to plants in California. Last week in sworn testimony to the State senate, three employees of the Duke energy plant in my district in Chula Vista, California, testified that they took the plant out of production for economic reasons. That is to boost the price of electricity at times, including the worst emergencies that were declared in California. At stage 3 alerts, the generators were taken down. They were told to throw away spare parts, so it would take longer to correct any problems that did appear. The manipulation of the market is clear. The illegal manipulation of the market is clear.

Mr. Speaker, all my colleagues should sign the discharge petition at the well this morning to make sure that we get a vote on restoring equanimity to the electrical markets of California, and consumers get refunds for illegal prices.

PRICE CAPS ARE A BAD IDEA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, even though they violate every principle of free market economics, every principle of common sense, even though they would not produce one drop of oil or one watt of electricity, some Members keep calling for price caps.

Many of us have been trying to explain to the government-has-all-of-the-answers crowd why price caps are a bad idea. But, Mr. Speaker, some Members would rather score political points by claiming to have an easy answer, even though they will really be harming the consumers they pretend to be defending.

The Department of Energy released a study that showed that price controls would cause the California blackouts to get worse. There is no easy fix to this energy crunch, and we should not trust anyone who tells us there is. Only through boosting production and greater conservation will we have more supply and lower prices. There is no other way.

PATIENTS' BILL OF RIGHTS WILL NOT GENERATE LAWSUITS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is interesting to hear this controversy being expressed as we cannot do this and we cannot do that. Although I am here to talk about the Patients' Bill of Rights, I believe that the industry recognizes that something must be done to help Americans with the energy crisis, and I believe cooler heads would welcome the opportunity to put a moratorium on pricing.

But, Mr. Speaker, I want to talk about the misrepresentation of the Patients' Bill of Rights by its opponents, and I want to say there is no evidence that the insured will sue employers recklessly. There is no evidence that there will be frivolous lawsuits by those who are insured. I know because I come from the State of Texas that has had a Patients' Bill of Rights for almost 5 years.

There is evidence that the Patients' Bill of Rights, the Ganske-Dingell bill, will provide every American the right to choose their own doctors and restore the patient and physician relationship, that it will cover all Americans with employer-based health care insurance, that it features all external reviews of medical decisions conducted by independent and qualified physicians and not HMO bureaucrats, that it will hold HMOs accountable. That is the evidence. We need to pass a real Patients' Bill of Rights.

RULE OF LAW PROHIBITS HARVESTING OF STEM CELLS FROM HUMAN EMBRYOS

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise today as a strong advocate of the rule of law and the right to life. That is why I urge the administration to faithfully execute the 1996 law adopted by this Congress prohibiting the use of taxpayer dollars to finance the harvesting of stem cells from human embryos. Just because the last administration tried to trample this law through regulations is no excuse for this administration to fail in its oath to faithfully execute the laws adopted in this Congress. The clear language of the 1996 law, the high principle of the sanctity of human life and the enormous promise of adult stem cell research all argue that this President and this administration should choose life.

PUT MEDICAL DECISIONS BACK IN THE HANDS OF DOCTORS AND PATIENTS

(Ms. MCCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCCOLLUM. Mr. Speaker, let us put medical decisions back in the hands of doctors and patients and ahead of special interests and their slick TV commercials. Let us pass a strong Patients' Bill of Rights.

In my home State of Minnesota, I worked very hard, and in Minnesota, like many other States, we have strong patient protection laws. Those who are covered under Minnesota law have access to specialists when they need them. Every American deserves that right. No one should have to jump through hoops or swim a sea of red tape to get the doctor they need when they need to see one. A patient's doctor knows when they need to see a specialist, and Americans should not have to wait for approval by some profit-driven bureaucrats.

Mr. Speaker, I urge my colleagues to support the bipartisan Ganske-Dingell bill. It is time for sound, responsible managed care reforms and meaningful patient protection.

THE RIGHT APPROACH TO ENERGY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, today Californians are experiencing rolling blackouts, rising energy costs and out-of-control gasoline prices. I fear that this will happen in the other States if we are not careful. The solution to our current energy crisis is simple, choice and competition, not more regulation and price controls like the discharge petition that the Democrats are talking about.

Governor Davis, with the support of environmentalists and government control advocates, raised barriers and actively sought to prohibit the construction of new power plants. Now the Democrats in Washington want to make the Gray Davis approach to energy the national approach to our energy here in Washington.

Mr. Speaker, it is clear what the results will be if they achieve their goal. What is happening in California will happen in the rest of the country. Blackouts will roll from California all of the way to the eastern seaboard. From family to farmer, all Americans will be affected. We do not want this to happen.

We need to have choice and competition. Let there not be a reoccurrence. Let us take the right approach to energy, and work to increase production, reduce regulation and encourage conservation.

IT IS TIME TO PASS A REAL PATIENTS' BILL OF RIGHTS

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, emergency room nurses are in town, and I commend and congratulate them for the outstanding work they do. This is also a great time to pass a real Patients' Bill of Rights, one like the Ganske-Dingell bill that ensures that medical decisions come before business decisions, one that ensures that doctors and patients and nurses have the opportunity to decide what kind of treatment there ought to be. It ensures that external review of individuals who do not have a self-interest are the ones making the decisions and recommendations.

Mr. Speaker, it is not like the bill that was introduced yesterday, that allows HMOs to do their own reviewing, to have their own internal reviews to determine whether or not what they are doing is good and right. That is like having the fox guard the chicken house.

Mr. Speaker, if we want to be real, we will pass the Ganske-Dingell bill for real patients' rights.

AMERICA HAS RESPONSIBILITY TO MEET MORE OF OUR OWN ENERGY NEEDS

(Mr. BRADY of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADY of Texas. Mr. Speaker, even though President Bush inherited the energy problem, I appreciate that he is shooting straight with the American people about what it will take to have reliable, affordable and environmentally clean energy for our country.

America, we do have the responsibility to meet more of our own energy needs. Common sense tells us we will need a balanced game plan based on conservation, on new technology and new supply. There are no shortcuts, no Band-Aids, no steps that we can skip.

The discharge petition Members see today is more Hollywood theatrics, more Band-Aids, and we simply cannot afford it. If we work together, Republican and Democrat, CEO and environmentalist, we are capable, and we can achieve energy independence.

Mr. Speaker, this issue is more than economics, it is one of national security. As long as America relies on OPEC and foreign countries for more than half of our daily energy needs, we are vulnerable. And there is no need why the most prosperous Nation in the world cannot take responsibility for our own energy needs. It is time for America to take responsibility for America's energy.

THE PHARMACEUTICAL INDUSTRY IS AT IT AGAIN

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, the pharmaceutical industry is at it again. This industry which has spent $200 million in the last 3 years to defeat all efforts to lower the cost of prescription drugs, this industry which has 300 paid lobbyists here on Capitol Hill, continues to charge the American people by far the highest prices in the world for the same exact prescription drugs.

Mr. Speaker, American women should not have to go over the Canadian border to buy tamoxifen, a breast cancer drug, for one-tenth the price that it is charged in the United States. Seniors should not have to go to Mexico or Europe to pick up the same drugs for a fraction of the price.

Mr. Speaker, in a globalized economy, prescription drug distributors and pharmacists should be able to purchase and sell FDA safety-approved medicine at the same prices as in other countries. The passage of reimportation will lower the cost of medicine in this country by 30 to 50 percent. Let us pass the Sanders-Crowley-DeLauro amendment in the agriculture appropriations bill, which will allow Americans to get fair prices for their prescription drugs.

AMERICA NEEDS TO BE NET EXPORTER OF POWER, NOT NET IMPORTER

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, to my colleagues out West, I want to remind them the best way to get to a most efficient market is allow the market to work. If this country wants low-cost, reliable electricity, we must have a diverse energy portfolio. We must have coal, nuclear, hydro, renewables, and expand our base load generating capacity. If we want low-cost fuel, we need to drill for it and transport it and refine it. States need to be net exporters, not net importers of power generation. Our country needs to be a net exporter of power, not a net importer of power.

Mr. Speaker, I applaud the State of Illinois and Governor Ryan for passing and signing the Empower Illinois Act, which will incentivize clean coal technology and generation in southern Illinois, and I applaud my colleague, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Kentucky (Mr. WHITFIELD), and support the Need Act which will do the same thing with a national energy policy, that we will push through the Committee on Energy and Commerce on the floor of the House later on this fall.

CONGRESS NEEDS TO TAKE A STAND AGAINST PRICE GOUGING

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, from the other side of the aisle we hear platitudes about choice, which consumers do not want, and competition, which does not exist. For months, the mounting evidence of manipulation in the energy markets has been piling up and piling up while the Bush administration, and their hand-picked appointees to the Federal Energy Regulatory Commission, have taken a hands-off attitude. After all, it is some of their most generous campaign contributors, many of whom are based in Texas, who are making obscene amounts of money by manipulating the energy markets.

Mr. Speaker, we would not want to offend them just to help consumers. A month ago it turned out Reliant Energy of Texas had tied its energy traders to the plant operators and had them shut down the plant to drive up the price.

Duke Energy employees have stated that they were told to sabotage the plant and throw away the repair parts to drive up the price of energy on the west coast.

The reaction on that side of the aisle is, oh, let us not make this a partisan issue. Oh, let us be nice.

Mr. Speaker, consumers are being fleeced. It is time for real action. Sign the discharge petition, and this Congress will take a stand for consumers against the price gouging.

□ 1030

SOLVING ENERGY PROBLEMS

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, if we could harness some of the wind power this morning, we could solve our energy problem. If we could take the blame game and convert it to Btus, we would have energy to last for a long time.

Mr. Speaker, we ought to bring in a lot of different people and put them under oath in front of the Committee on Resources, in front of our various oversight committees, and get the answer. I do not countenance any misconduct by anyone, but I will tell you what is interesting: when the Governor of California had a chance to put emergency generators online, he said, Oh, no. If those folks are not going to be union employees, I do not want to see those generators.

When the Governor of California had a chance to work out these problems, he took $1 million from the same utility companies my friend from Oregon rails against. When the Governor of California had a chance to step forward and solve this problem, he went on Jay Leno. What is next, a Letterman appearance with stupid gubernatorial tricks?

We have got real problems. Let us solve the problem. We can all yell and scream.

TIME TO SIGN ENERGY DISCHARGE PETITION

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the last speaker certainly makes a good case for wind power.

There is an opportunity today for Members to sign the discharge petition to return this country to cost-based power, not power determined by gougers in the energy industry. We have seen on the west coast 400 percent profit for Texas companies selling energy. Now, 400 percent profit is a little bit over the top. Most of us who believe in the free enterprise system think that maybe 10 or 20 percent is not too bad. But they want unlimited ability.

Mr. Speaker, the oil dynasty of Cheney and Bush and Evans have selected the people to run the Federal Energy Regulatory Commission. Whenever you hear anybody say FERC, they are talking about people appointed by the Bush people to control and allow the industry to actually not control the energy industry.

Now, you would say it is a west coast problem, that it is always Democrats. New York is doing it now, and they are fearful of what it is going to be without cost-based power. It is time to sign the discharge petition.

CONTROLLING THE ENERGY CRISIS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, no one doubts and no one questions that we need a balanced, comprehensive responsible energy policy in this Nation. By importing nearly 60 percent of our domestic oil from foreign countries, we are leaving our Nation's security vulnerable to the whims of these importing countries.

We must increase the supply of domestic energy and promote conservation as a form of safe and reliable power, while at the same time promoting a clean and healthy environment.

Along with conservation efforts, technological advancements will allow us to meet our energy needs for decades, even centuries to come. New technologies, like gasoline-electric hybrid cars, clean coal, hydrogen fuel, second-generation geothermal, and other such innovations will allow us to avoid problems like those in California, while ensuring a clean environment as our legacy for our children.

Mr. Speaker, California's fast-paced society is not capable of supporting itself through energy shortages and rolling blackouts. Neither is the rest of the country. However, since Governor Gray Davis has been showing more interest in his political consultants rather than his constituents, the crisis in his homeland has begun spreading like a catastrophe and has put the Nation on the brink of engulfing other States. It is time to take action now.

SUPPORT THE BIPARTISAN PATIENTS' BILL OF RIGHTS

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, let us get down to basics. Some health plans systematically obstruct, delay and deny care. Some health plans provide excuses instead of coverage. The bipartisan Patients' Bill of Rights has enough teeth in it to deter health plans from cheating their enrollees and enough definition in it to protect health plans and employers from frivolous lawsuits.

Yesterday, my Republican colleagues, the gentleman from Kentucky (Mr. FLETCHER), the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from California (Mr. THOMAS), introduced legislation endorsed by President Bush and written by the largest insurance companies in the country. It does not give enrollees the right to sue. The language is drafted so that the right to sue cannot actually be exercised.

The Republican bill is a sham. I ask President Bush to work with us to put insurance interests aside, to put campaign contributions from insurance interests aside, to work with us in the bipartisan Patients' Bill of Rights. That is the bill that protects patients. That is the bill that restores the patient-physician relationship.

SUPPORT PRESIDENT'S SOUND ENERGY PLAN

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, President Bush has outlined what I think is a sound energy policy that is both forward thinking and sensible, but opponents of his plan sound like a broken record, accusing the President of being anti-environment.

The assertion that we must choose between sound energy policy and healthy environment is simply not true. As an example, we need to look no further than the clean air standards set up in the early nineties. Regulations for fuel resulted in refineries using additives that produced clean air, but polluted the groundwater. That is, until the development of ethanol.

Ethanol is a biofuel that is produced from corn and grain sorghum. It protects our quality of air by reducing tailpipe emissions and greenhouse emissions. And as an added bonus, ethanol can provide help for our economy, especially our American farmers, and not for OPEC. I, for one, would rather depend upon the good graces of a Kansas farmer than foreign oil producers.

Mr. Speaker, I urge my colleagues to support the President's sound energy policy.

REDUCING SUPPLY TO INCREASE PRICES

(Mr. TIERNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIERNEY. Mr. Speaker, people this morning have been talking about the energy situation, and I think it is important to talk calmly for a moment about some of the things that have been happening.

I happen to be a member of the Subcommittee on Energy of the Committee on Government Reform, and we have had hearings with the American Petroleum Institute and others from the industry testifying before us. Also, Senator WYDEN in the Senate has taken testimony on this matter.

It is important for the American people to know that there is strong evidence that the industry acted to make sure that they reduced supply so that they could raise costs. Senator WYDEN had thick documents, which I have just put on record in our committee hearing, showing over the last decade of the nineties there was too much refinery backlog for the companies, so they acted, or at least indicated they were going to act, to make sure that those refineries shrunk. Over 50 of them have closed.

Therefore, we did not have the kind of supply that we needed; and of course, that drove up demand and drove up price. Now that that is up there, the companies will tell you the reason we do not have enough fuel at reasonable prices is because we do not have enough refineries.

Now they are looking for the triple play. Instead of producing more and getting that in the pipeline and having more refineries, they now want to do away with environmental regulations. This is not something we should allow to happen. We should keep our eye on that industry and make sure we get something done for the consumer.

CALIFORNIA ENERGY CRISIS

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, we have an energy crisis. Eight years of Clinton-Gore no-growth energy and Federal environmental policies have left us facing frequent shortages.

In my home State of California, the population has grown by 4 million people over 10 years. The economy has doubled in half that time. Sadly, the radical environmentalists have prevented the construction of new power plants.

The equation is simple: more people and no power plants equal blackouts. Rather than place blame, President Bush has proposed a responsible solution that seeks to address our dire situation, increase supply while offering incentives to reduce demand.

While California is already the most energy efficient State in the country, the President's comprehensive policy will promote new power plant construction. It is not necessarily political, but it recognizes that there are no quick fixes to the years of policies that forced us deep into the dark.

SUPPORT BIPARTISAN PATIENT PROTECTION ACT

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, Americans need a Patients' Bill of Rights. Every single day we hear stories of patients whose health has been seriously jeopardized because their health plan has denied coverage. Each day 35,000 patients experience a delay in needed care and 7,000 patients per day are denied referral to a medical specialist.

Doctors are unable to make the best medical decisions for their patients because their hands are tied by the insurance companies. What we need to do is to return those medical decisions back to doctors and patients and out of the hands of insurance companies. We need a Patients' Bill of Rights that grants access to specialists, allows patients to choose their own doctors, lifts physician gags that prohibit doctors from talking about medical options, allows for access to emergency rooms, and, yes, holds HMOs accountable for negligent actions.

These patient protections are long overdue. The Republican leadership has watered down meaningful bipartisan legislation to protect another special interest, the managed care organizations. They want to give HMOs special protection from lawsuits, while weakening patients' ability to hold health plans accountable.

Vote for Dingell-Norwood. Support the bipartisan Patient Protection Act. In the long run, it will help the American people.

BECOMING ENERGY SELF-RELIANT

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, let us put all the political posturing and gamesmanship aside and be honest: the major causes of high energy prices this summer will be the lack of domestic energy production and the absence of new investments in the electricity generation facilities needed to meet the growth experienced over the last decade.

That is why becoming more energy self-reliant is so important. If we want an uninterrupted supply of energy, then we need more American oil, American gas, and clean coal. In Montana alone, we have several hundred years' worth of natural gas and coal deposits. Current estimates place coal resources for eastern Montana at about 50 billion tons, two-thirds of which is low-sulfur, clean-burning coal.

In developing these resources, it is important that we keep in mind that America has some of the highest environmental standards and most advanced technology in the world. Our strict laws do a good job of ensuring our environment is protected.

The bottom line is this: relying upon our own energy resources is cleaner and safer than importing energy from countries with inferior technology and scant environmental oversight.

SUPPORT A REAL PATIENTS' BILL OF RIGHTS

(Ms. CARSON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CARSON of Indiana. Mr. Speaker, as many of you know, when I was elected to the United States Congress, prior to being sworn in, I had to walk into a hospital in Indianapolis, Indiana, and announce that I believed I was on the verge of a heart attack. Because I was an elected Member of Congress, I did not have to get permission from anybody to get the best medical services that Indianapolis, Indiana, had to offer. That is why I stand before you today on behalf of all of the people who seek the services from HMOs who do not happen to be a Member of the United States Congress.

The President of the United States claims credit for the HMO reform bill that passed in Texas when he was Governor. You would think that a person who claims credit for an issue would work hard to put it into practice at his new job.

It is not right for the HMOs to take money from people they are supposed to serve and then deny them the service when those same people need help.

We need to pass the Patients' Bill of Rights bill that would hold health plans accountable when they harm a patient, protect patients from paying out of pocket for emergency room services, provide an independent appeal process, and guarantee that treatment decisions are based on medical, and not financial, concerns. Those were included in the Texas law.

The President needs to stop trying to negotiate away from his own law, and support the same bill he said he supported in Texas, the Dingell-Ganske-Norwood Patients' Bill of Rights.

A BALANCED APPROACH TO ENERGY

(Mrs. WILSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. WILSON. Mr. Speaker, it costs $1.60 cents a gallon when I filled up my tank on the corner of Alameda and 4th Street this weekend. Anybody in this country that pays a utility bill or put gas in the tank within the last month knows we have an energy crunch in this country. It is worse in the West, but it affects everybody.

I think everybody, most everybody, knows that Band-aids are not answers, and there are not any quick fixes that are going to solve the problems of energy in this country. We need a balanced, long-term approach, no Band-aids, no quick fixes, to give us stability in our energy markets.

I think it is too important to do anything but the right thing. That is going to require all of us to work together to do the right thing. We need to start with conservation. We made tremendous progress in this country with conservation in the last 20 years; and we are not going back, and nobody wants to. But we also have to increase the supplies of energy in this country, responsibly explore for energy in nonpark land, and give ourselves a mix of supply. It is only the balanced approach that will give us the energy that we need.

BAN DRILLING FOR OIL AND GAS UNDER GREAT LAKES

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, I rise today to remind my colleagues that today as we do the energy and water bill there will be an amendment by the gentleman from Michigan (Mr. BONIOR), the gentlewoman from Ohio (Ms. KAPTUR), the gentleman from Ohio (Mr. LATOURETTE), and myself to ban the practice of drilling for gas and oil underneath the Great Lakes.

Now, there is a proposal that Michigan is currently moving forward which would allow directional drilling under the Great Lakes.

☐ 1045

Why Michigan would do this to the 18 percent of the world's freshest waters found in the Great Lakes; 90, 95 percent of all of the fresh water in the United States is found at the Great Lakes, and it serves the homes of over 34 million people. Why we would threaten the vitality of the Great Lakes for a few drops of gas and oil, even during these energy needs, is unconscionable.

If we take a look, the reserves are there. Even if we tap with 30 new wells, they propose 30 new wells, we would have enough oil for only 3 weeks, and we would have enough natural gas for 5 weeks. Only Michigan seeks to do this. The Governor of Ohio recently said, no oil and gas drilling. The Wisconsin State Senate has passed resolutions in the past saying no oil and gas drilling underneath our Great Lakes.

So I am asking my colleagues today as we do the energy and water bill to please take a look at what we are doing. We have to conserve, we have to be resourceful, but let us not drill for oil and gas in the Great Lakes. Join this bipartisan amendment.

IT IS TIME FOR ENERGY SOLUTIONS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, it is very unfortunate that Californians have to go through these blackouts, and it is unfair to the people in California. But what is really unfair is that Californians have a Governor who refuses to take leadership and responsibility for this problem.

California politicians have done a disservice to the Californians. Gray Davis has been asleep at the switch. It is time to stop pointing fingers and start solving problems. Instead of spending $30,000 a month on political consultants and polls, and instead of pointing fingers, Gray Davis needs to find solutions to increasing electricity in his State to stop blackouts. Governor Davis should put people before politics.

Mr. Speaker, blackouts in California leave the State's economy dead. When California dies, America's economy becomes seriously ill. What we need is answers and solutions, not partisan, attack-style politics. We all need to work together, both Democrats and Republicans, to solve California's problems. Creating a balanced, fair and comprehensive energy plan for the future that utilizes our coal and our natural gas will safeguard our national economy and secure an adequate livelihood for all Americans.

AS GOES CALIFORNIA GOES THE COUNTRY

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, with two oilmen in the White House, it is no surprise that this administration has turned its back on consumers and sided with big oil special interests, but that certainly does not make it acceptable.

What is acceptable is this: recognizing that we need to increase renewable energy sources while reducing demand for electricity. We can do this by promoting and using more efficient energy technologies. These are the policies that will protect our environment, will guarantee a better future for our children.

Since passing the National Energy Policy Act in 1992, Congress has generally ignored energy issues, but power problems in California and higher prices for natural gas and oil are going to impact our entire country. These changes have brought energy back to the top of our Nation's agenda.

The energy shortage we are experiencing in California is a signal to the rest of our Nation. As goes California goes the country.

COMPREHENSIVE ENERGY POLICY

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, when politicians talk about needing a comprehensive energy policy instead of price controls, I bet a lot of Americans wonder what we are talking about.

Well, consider this fact: ninety-seven percent of the power plants currently under construction are natural gas-fired power plants needed to meet the increased demand for electricity. Natural gas that is typically produced during the summer for storage and later used during the winter is, instead, being used for electricity generation. Basically, we use natural gas to keep our electricity rates lower in the summer, but in the end we pay higher rates on our natural gas use in the summer. Not a very comprehensive policy, is it?

President Bush has proposed the first comprehensive energy plan in a decade that will increase efficiency, improve how our energy is delivered, diversify our energy sources, protect the environment, and assist low-income Americans through these current price increases.

Americans want affordable energy and a clean, safe environment.

WORKING TO SOLVE CALIFORNIA'S ENERGY CRISIS

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, I would just like to let our colleagues know that today in the State of California, one of our newest generators just went online. Governor Gray Davis has done a tremendous job in trying to make sure that the energy and our lights do not go out in the State of California. He visited with us last week and met with the Senate Committee on Energy Oversight and talked about all the earnest effort that he has made, and Californians, to conserve energy.

Now, we deserve more attention and support by FERC and this administration. We should provide more energy funding for renewable energy, for conservation, and obviously provide relief for those ratepayers, the people that pay the bills. We expect to see a refund. Maybe it will not be the $9 billion that Gray Davis is asking for, but surely the people of California and the Western States that are suffering from this energy crisis deserve the very best attention. They are grappling with this problem. They need to have our support.

Mr. Speaker, I ask all Members today to sign the discharge petition, because it is necessary for us to send a message to all citizens of the United States that we are with them on the energy conservation measures.

THE JOURNAL

The SPEAKER pro tempore (Mr. SHAW). Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 368, nays 49, answered "present" 1, not voting 15, as follows:

[Roll No. 195]

YEAS—368

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon

Cantor
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Davis (CA)
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Davis (IL)
Davis, Jo Ann
Davis, Tom
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Delahunt
DeLauro
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DeMint
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Diaz-Balart
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Doggett
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Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
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McInnis
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Mica
Miller (FL)
Miller, Gary
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
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Nethercutt
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Northup
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Otter
Owens
Oxley
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
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Pickering
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Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Radanovich
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
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Ros-Lehtinen
Ross
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Roukema
Roybal-Allard
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Ryan (WI)
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Schiff
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Taylor (NC)
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Velázquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
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Waxman
Weiner
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Weldon (PA)
Wexler
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (FL)

NAYS—49

Aderholt
Baird
Bonior
Borski
Brady (PA)
Capuano
Carson (OK)
Clyburn
Costello
Crane
DeFazio
English
Filner
Ford
Gephardt
Gutknecht
Hastings (FL)
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Hooley
Hulshof
Kennedy (MN)
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Larsen (WA)
Latham
Lewis (GA)
LoBiondo
McNulty
Menendez
Miller, George
Moore
Oberstar
Pallone
Peterson (MN)
Ramstad
Sabo
Schaffer
Stupak
Sweeney
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Visclosky
Waters
Weller
Wu

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—15

Burton
Clayton
Emerson
Fattah
Hutchinson
Millender-McDonald
Platts
Putnam
Quinn
Rahall
Rangel
Scarborough
Slaughter
Whitfield
Young (AK)

□ 1113

So the Journal was approved.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHAW). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any recorded vote on postponed questions will be taken later today.

HONORING JOHN J. DOWNING, BRIAN FAHEY, AND HARRY FORD, WHO LOST THEIR LIVES IN DUTIES AS FIREFIGHTERS

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 172) honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters.

The Clerk read as follows:

H. RES. 172

Whereas on June 17, 2001, 350 firefighters and numerous police officers responded to a 911 call that sent them to Long Island General Supply Company in Queens, New York;

Whereas a fire and an explosion in a two-story building had turned the 128-year-old, family-owned store into a heap of broken bricks, twisted metal, and shattered glass;

Whereas all those who responded to the scene served without reservation and with their personal safety on the line;

Whereas two civilians and dozens of firefighters were injured by the blaze, including firefighters Joseph Vosilla and Brendan Manning who were severely injured;

Whereas John J. Downing of Ladder Company 163, an 11-year veteran of the department and resident of Port Jefferson Station, and a husband and father of two, lost his life in the fire;

Whereas Brian Fahey of Rescue Company 4, a 14-year veteran of the department and resident of East Rockaway, and a husband and father of three, lost his life in the fire; and

Whereas Harry Ford of Rescue Company 4, a 27-year veteran of the department from Long Beach, and a husband and father of three, lost his life in the fire: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters, and recognizes them for their bravery and sacrifice;

(2) extends its deepest sympathies to the families of these three brave heroes; and

(3) pledges its support and to continue to work on behalf of all of the Nation's firefighters who risk their lives every day to ensure the safety of all Americans.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 172.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 172, and I commend its sponsor, the distinguished gentleman from New York (Mr. GRUCCI) for introducing it.

This resolution honors three fighters, John J. Downing, Brian Fahey, and Harry Ford, who lost their lives fighting a fire in Queens, New York, earlier this month.

The resolution also expresses the deepest sympathies of this House for their families. Finally, Mr. Speaker, it pledges that the House will continue to support and work for all American firefighters who risk their lives every day to keep us all safe.

On June 17, Mr. Speaker, these three men were among the 350 firefighters and numerous police officers who responded to a fire and explosion at the Long Island General Supply Company. As the resolution notes, this disaster reduced a 128-year-old two-story building to a heap of broken bricks, twisted metal, and shattered glass.

Two civilians and dozens of firefighters were injured by the blaze, including two firefighters who were severely injured.

The three firefighters who died were veteran firefighters. Mr. Downing had served for 11 years; Mr. Fahey for 14 years; Mr. Ford for 27. They left behind grieving families. Mr. Downing was a husband and father of two.

□ 1115

Mr. Fahey is survived by his wife and three children. Mr. Ford was a husband and father of three. Nothing this House can say or do, Mr. Speaker, will lessen the losses these families have experienced. At best, we can hope that they will be somewhat comforted by our recognition and appreciation for their loved ones' bravery.

As the House considers this resolution, I also ask my colleagues to remember the dangers and risks that firefighters voluntarily assume every day across the country. By honoring these firefighters, we will also honor the sacrifices of all those firefighters who lay their lives on the line day in and day out to protect their neighbors.

On a personal note, Mr. Speaker, I will add that I am the wife of a retired city fire chief. I am personally acquainted with the dangers and challenges that firefighters encounter and extend my sympathies to these families that have lost their fathers and husbands. Those of us whose family members have served as firefighters without suffering serious injuries can count our blessings and can empathize with the loss they must feel. I encourage all Members to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

On Father's Day, three brave firefighters died when a massive explosion suddenly ripped through a Queens hardware store, burying them under an avalanche of rubble.

John J. Downing, Brian Fahey, and Harry Ford lost their lives when what seemed like a routine fire turned into a five-alarm blaze. The devastation marked the deadliest day for the New York Fire Department since three firefighters were killed in a pre-Christmas 1998 high-rise blaze in Canarsie, Brooklyn.

The names of Downey, Fahey, and Ford will one day be added to the Fallen Fire Fighter Memorial Wall in Memorial Park in Colorado Springs, Colorado. In front of the memorial wall is a statue called, "Somewhere Everyday." Somewhere every day firefighters are engaged in acts of heroism and saving lives, as these firefighters were doing on Father's Day. The "Somewhere Everyday" statue depicts a firefighter descending a ladder and taking the last step of a successful rescue while clutching a child safely within his arms. The rubble from the fire forms the base of the tribute.

In the rubble of the Long Island General Supply Company building are the shattered lives of three wives, eight children, and other family, friends, and colleagues. The memorial is dedicated to them and all that they have lost.

I would only hope that they find comfort in knowing that Downey, Fahey, and Ford died doing what they loved and fulfilling their promise to keep their communities safe and the lives and homes of the people they served secure.

Mr. Speaker, I urge support for this resolution.

Mr. Speaker, I ask unanimous consent that I be allowed to yield the rest of my time to the gentlewoman from New York (Mrs. MALONEY) to manage.

The SPEAKER pro tempore (Mr. SHAW). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. MALONEY) may control the time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield 6 minutes to the gentleman from New York (Mr. GRUCCI).

Mr. GRUCCI. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, first of all, I would like to take this moment to thank my fellow colleagues in the New York delegation, Governor George Pataki, the Committee on Government Reform, and the Congressional Fire Services Caucus for joining me in honoring these brave men today.

House Resolution 172 honors the memory of these heroes who lost their lives in the line of duty on Sunday, June 17, 2001. It was a sad Father's Day, where eight children lost their dads and three wives became widows. These men, Harry Ford, 50, of Long Beach; Brian Fahey, 46, of East Rockaway; and John J. Downing, 40, a resident of Port Jefferson Station in my congressional district gave their lives fighting a fire in an effort to save the lives and properties of the people of New York. On that day, as on every other day in their careers, they lived up to the motto of the New York City Fire Department, "New York's Bravest."

Along with their fellow firefighters from Rescue Company 4 and Ladder Company 13, Harry Ford, John Downing, and Brian Fahey responded to what they believed was an ordinary five-alarm commercial fire at 2:20 p.m. at a hardware store in Astoria, Queens. As they were battling the blaze, though, an explosion ripped through the building, trapping firefighters Downing and Ford beneath the rubble of the building's facade and firefighter Fahey beneath the basement stairwell.

Their fellow firefighters valiantly worked to save them, some waving off the medical attention they themselves needed for injuries sustained in the explosion, as they desperately removed the rubble with their hands. Sadly, these three men had perished.

John Downing, a resident of New York's First Congressional District, was a loving father of two children, Joanne, 7, and Michael, 3, and the husband of Anne, who he married 11 years ago. He was one of seven children in the Downing family, growing up in Woodside, Queens. John was one of four Downing children who went on to pursue public service as a career, joining his brother Dennis as a firefighter, while his brothers James and Joseph became police officers.

Everyone who knew John called him a hero in every sense of the word. Every day he was on the job for the past 11 years as a firefighter, John always gave his all and did his best, whether it was fighting fires or helping young firefighters to learn their jobs better. Everyone in the firehouse knew they could count on John. Knowing this, it was no surprise when firefighter Downing was on the front page of the New York Daily News 3 years ago. He was pictured on that front page as a hero once again, rescuing passengers from a commercial jet that had gone off the runway at LaGuardia Airport into the chilling waters of Flushing Bay.

Firefighting was not John's entire life, though. He was a family man, doting over his two children and devoted to his wife. In recent weeks, he had been working a second job to bring his family on their first real summer vacation to Ireland, to visit the relatives of his family and his wife. Sadly, when the alarm for his last fire came in, John was just 2 hours away from ending his shift and beginning that vacation. As the alarm went off, John put down the study book he had been reading, preparing to take the exam to become a lieutenant in the fire department, grabbed his gear and answered his last call.

Like other firefighters, these brave men risked their lives every day that they went to work, all in the name of protecting their fellow man. We all sleep a little easier each night, go to work with an easier mind every day, and entrust our children in our schools because we know that men and women like John Downing, Harry Ford, and Brian Fahey stand ready to protect our lives, our families, and our homes.

Colleagues, please join me in supporting this resolution that recognizes the heroism and sacrifice of all firefighters, and particularly of these three brave men.

Mr. Speaker, I will submit for the RECORD the full letter from Governor George Pataki, but the letter simply says: "The five-alarm blaze that engulfed the Long Island General Supply

Company presented a tremendous hazard to Astoria, Queens, neighbors. More than 350 firefighters responded to the scene to ensure the safety of these citizens and their community. In the ensuing battle to extinguish the fire, 50 firefighters were injured, and sadly these three firefighters gave the ultimate sacrifice. Their efforts prevented the fire from spreading; and as a result, no civilians were injured. This tragedy serves as a reminder to all of us that, each day, New York State's bravest perform their duty with the highest degree of distinction and valor by forsaking their own lives to the benefit of others.

Thank you for offering this resolution and providing the House of Representatives the opportunity of honoring not only these men but all firefighters who readily risk their lives throughout the Nation." Signed in the signature of Governor George E. Pataki.

STATE OF NEW YORK,
Albany, NY, June 25, 2001.

Hon. FELIX GRUCCI,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GRUCCI: I want to commend you for your efforts in honoring John J. Downing, Brian Fahey and Harry Ford, the courageous firefighters who tragically lost their lives in the line of duty on June 17, 2001. We all continue to mourn for the family and friends of our fallen heros.

The five-alarm blaze that engulfed the Long Island General Supply Company presented a tremendous hazard to its Astoria, Queens neighbors. More than 350 firefighters responded to the scene to ensure the safety of these citizens and their community. In the ensuing battle to extinguish the fire, 50 firefighters were injured, and sadly these three firefighters gave the ultimate sacrifice. Their efforts prevented the fire from spreading and as a result, no civilians were injured. This tragedy serves as a reminder to us all that, each day, New York State's bravest perform their duties with the highest degree of distinction and valor by forsaking their own lives for the benefit of others.

Thank you for offering this resolution that provides the U.S. House of Representatives the opportunity of honoring not only these men, but all firefighters who readily risk their lives throughout the nation.

Very truly yours,
GEORGE E. PATAKI,
Governor.

Mrs. MALONEY of New York. Mr. Speaker, I yield myself such time as I may consume; and I first want to compliment my friend and colleague, the gentleman from New York (Mr. GRUCCI), for offering this important resolution. I am extremely proud to join him as the lead Democrat, and I congratulate the leadership on both sides of the aisle for bringing this important resolution to the floor so swiftly. It not only recognizes their valor and their sacrifice but extends the condolences of this body to their family; and it pledges our support to continue to work on behalf of all of our Nation's firefighters, who risk their leaves every day to ensure the safety of all Americans.

While addressing the friends and family of Brian Fahey, one of the New York City firefighters who was killed on Sunday, June 17, the Reverend Anthony Pascual of St. Raymond Church said, "How do you measure the quality of a man's life? Not by the number of years he lived, but by his deeds." Three brave men, Brian Fahey, Harry Ford, and John Downing made the ultimate sacrifice in the line of duty.

Like all of our brave firefighters and officers, every day that they worked they risked their lives. Every time they entered a burning building, they knew that they were putting their lives on the line. But they placed the safety of others above their own well-being. They died trying to make our city and our country a safer place.

June 17th was also Father's Day. These three men were not only firefighters but fathers, and among them they had eight children. New York City Fire Commissioner Thomas Von Essen referred to Brian Fahey as a firefighter to the core. He was a 14-year veteran of the department who was loved and respected by his colleagues and his family. In addition to coaching a little league team, one of his greatest passions was training volunteer firefighters at the Nassau County Fire Service Academy.

□ 1130

He is survived by his wife Mary, and was a father of 3-year-old twin boys, and an 8-year-old son.

Harry Ford was a 27-year veteran of the fire department who has been cited nine times for his bravery. He was renowned among his colleagues for his bravery and loyalty. He was also passionate about his family. He leaves behind his wife Denise and 3 children, a daughter age 24, and two sons, ages 10 and 12.

John Downing from Woodside, Queens, the third man killed in the blaze, was an 11-year veteran beloved by his colleagues and respected as a hardworking and dedicated fire fighter. Mr. Downing was also a passionate family man, so much so that he had worked two jobs to be able to take his family on a month-long vacation to Northern Ireland. He leaves behind his wife Anne, a 7-year old daughter, and a 3-year old son.

More than 10,000 firefighters from all over the country, some from California, Florida, and Canada, came to New York to mourn with the family and friends of these historic, heroic men.

The men and women who fight fires every day have a strong bond between them. The deaths of these fine men touched the lives of firefighters everywhere. In remembering these brave men and their great deeds, we must not only honor their memory, but act now to ensure that a preventable tragedy such as this one never happens again.

Fire Commissioner Von Essen has said that if the building had been equipped with a fire sprinkler system, the lives of these three brave men might have been spared. The fire in the Long Island supply store that killed these three men and injured many more raged for 12 hours. Stored in the basement of the building were flammable materials such as paint thinners and various other chemicals which caused the violent explosion that took the lives of these men. Because the building was 128 years old, it predated the New York City ordinance that requires a sprinkler system.

Mr. Speaker, I strongly support the efforts of my colleagues in city government who, in learning about this terrible tragedy, are working to enact legislation requiring sprinkler systems in all buildings that store flammable materials. We must ensure that such a tragedy does not reoccur so that the selfless sacrifices of these three men, heroes to all New Yorkers, were not in vain.

One of my colleagues is the author of the Fire Safety Act, and I yield to the gentleman before he returns to his committee.

Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. PASCRELL) to place into the record his comments.

Mr. PASCRELL. Mr. Speaker, we are here to salute brothers Downing, Fahey, and Ford. Too many times, my brothers and sisters here in the Congress, we have forgotten the other half of the public safety equation.

Our words are significant and important. I join with the gentlewoman in sympathy, but we need to do something in the House of Representatives that sends a clear message to all 32,000 fire departments across America and all 1 million firefighters that we stand with them; otherwise, their deaths will have been in vain.

Mr. Speaker, I encourage Members to join and fund what we say we are going to fund. God bless these heroic men and their families.

I thank Congresswoman MALONEY and Congressman GRUCCI for allowing me the opportunity to speak on this important resolution.

As a former mayor of a medium-sized city, I know the important role that firefighters play in what I call the Public Safety Equation. And although their role is often forgotten, firefighters risk their lives every day to save ours.

On June 17, 2001, three more firefighters gave their lives in the line of duty. John J. Downing, Brian Fahey, and Harry Ford—all long-time veterans of their respective fire companies and all men with families—made the ultimate sacrifice as they battled a fire in Queens, New York on that fateful day.

It is important to remember these men and those before them, because they truly are heroes.

And it is important that we put our money where our mouths are, and not just sing the praises of firefighters at local parades and in small town meetings. Instead, we need to make sure that we are providing adequate support for fire departments around the country to supplement local responsibilities.

Next month, the VA-HUD Appropriations bill will be marked up. This bill will include, hopefully continued funding for the Firefighter Assistance Grant Program that was authorized last year.

This bill will provide competitive grants directly to the over 32,000 paid, part-paid and volunteer fire departments across America.

As a result of the unity and commitment of firefighting community and its supporters, the President has returned funding for this program to his budget.

In order for this program to really help fighfighters, it must be funded appropriately—and that is $300 million.

And let's provide this funding with the same bipartisan zeal that we have displayed throughout the process. That is only appropriate. When firefighters run into a burning building, they don't as the people they are saving if they are Democrats or Republicans—and we owe them the same commitment.

Let's not just speak our thanks on the House Floor. Let's demonstrate our support and provide firefighters with the resources they need to do their job.

Let's do it for John J. Downing, Brian Fahey, and Harry Ford and their families. Let's do it for every firefighter in every department in every state. It's the least we can do.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I commend our colleague, the gentleman from New York (Mr. GRUCCI) for his continued dedication to our Nation's firefighters and for the work he has done, along with Members on both sides of the aisle in bringing this resolution before the House today.

Each year, thousands of men and women risk their lives to protect the lives and property of all of American communities. Sadly on June 17, Father's Day, three firefighters died in their line of duty fighting fire in Astoria, Queens: Brian Fahey and Harry Ford, from Rescue Company 4, and John Downing, from Ladder Company 163, were not only firefighters and fathers, they were prime examples of experienced men that our New York communities have to offer. Brian Fahey was a 14-year veteran, a skilled instructor, who left behind a wife and three children.

John Downing had three children and was planning a trip to Ireland; and Harry Ford, who was a father of three, was cited nine different times for his outstanding acts of bravery. All three were Irish Americans whose lives will not be forgotten by their families or their communities.

Mr. Speaker, we are here today honoring their lives and giving thanks for their service, promoting the virtue of their profound and unending sacrifices, and most importantly, to join in consoling their families for their loss of lives.

At the same time, let us take advantage of this opportunity to again pledge our support for all of the dedicated brave men who go to work each day risking their lives protecting both the lives and property of our citizens. It is unfortunate that it takes a tragic event such as this to initiate a dialogue of the profound sentiment we all feel about our brave firefighters, our police officers, our soldiers, and all of the men and women who ask them to risk their lives for the sake of others. Every town, community, and nation is founded on the sacrifices of those men and women willing to risk their lives for the betterment of others. I urge my colleagues to join in fully supporting this measure, H. Res. 172.

Mrs. MALONEY of New York. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. MCNULTY).

Mr. MCNULTY. Mr. Speaker, I am honored to join with my colleagues today in saluting and paying tribute to John Downing, Brian Fahey, and Harry Ford and expressing our condolences to their families.

What happened on Father's Day this year is a very sad reminder of what happens all too often in this country. It reminded me specifically of that sad day a couple of years ago when we lost six of our firefighters in that tragic fire in Worcester, Massachusetts.

Mr. Speaker, I have spent a lot of time with firefighters during the course of my career. I had the tremendous honor of serving as the mayor of my hometown, as my father did before me and as he does to this very day at the age of 90. In the course of our careers, we had the opportunity to work with a great many outstanding firefighters. Today I spend some of my leisure time with my firefighter friends at Engine 1 in Troy, New York, named for the late Harry Dahl, who gave 44 years of his life in the fire service in the city of Troy, New York. I have seen firsthand the dangers that firefighters face every single day of their lives.

Also a few years back, from the neighboring city of Watervilet, responding to a mutual alarm in Troy, New York, our fire chief, Tommy McCormack, lost his life in the line of duty.

Mr. Speaker, nothing can bring back John or Brian or Harry, but I suggest that there is something that we can do. We can express our gratitude to all of the firefighters who are serving us today. And so today I suggest to all of those who are within the sound of my voice, what I did on the day of the burial of those six heroes in Worcester, the next time when taking a stroll in the neighborhood when walking past a fire house, stop by, say hello and say thank you to the firefighters. Look them in the eye and say thank you for putting their lives on the line for us and our families 365 days a year.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I commend my friend from Long Island, the gentleman from New York (Mr. GRUCCI) for bringing this resolution to the floor.

Mr. Speaker, for those of us who honored our fathers on Father's Day, it was pouring rain that day. The whole morning looked like the day was going to be ruined. About 2:00 the sun came out in Staten Island and worked its way eastward. There was a call in Queens about that time, and it seemed to be a routine fire. It did not look like it was a big deal until we discovered the news which has been echoed here, that three brave firemen lost their lives.

The purpose here today is to take a moment to honor those men who bravely gave their lives; and to say to the other firemen that their brothers did not die in vain. Their families who survived, the children, our hearts and prayers go out to them; and I hope through their faith they are able to come through this tragedy with the knowledge that others share their grief.

Mr. Speaker, the New York Fire Department in particular is a wonderful resource. In Staten Island, we have lost too many firefighters: Captain John Drennan, Scott Lapedera, George Lenner, Chris Sidenberg. These are young heroes who died way before their time.

Mr. Speaker, so to the families especially, know that Members of Congress, Democrats and Republicans, really honor what those brave men did; and we will miss them.

Mrs. MALONEY of New York. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I rise today in support of my colleagues, the gentleman from New York (Mr. GRUCCI) and the gentlewoman from New York (Mrs. MALONEY), and thank them for offering this resolution to memorialize John Downing, Brian Fahey, and Harry Ford, three of New York's bravest.

They were members of the New York City Fire Department who were killed in the line of duty on Father's Day, Sunday, June 17. Each of these men was a decorated veteran of the fire department. Harry Ford was a 27-year veteran; Brian Fahey had served for 14 years; and John Downing had served for 11 years. Words alone cannot express the sadness that we all feel about the deaths of these men. I can only begin to express my sympathy for their families, especially the eight children now left behind.

All of these men worked in my district in the Seventh Congressional District in Queens. Harry Ford and Brian Fahey worked at the elite Rescue 4 Unit just up the block from where I grew up, and John Downing of Engine Company 163 also stationed in Woodside, although lived on the Island, grew up in Woodside, was schooled in St. Sebastian School, and was buried out of St. Sebastian's Church on Friday.

Mr. Speaker, last Friday I had the opportunity to attend the funeral of John Downing, and I sat with his family and the families of the other firefighters that were killed, the Ford and Fahey families. I sat with his colleagues, including my first cousin, Battalion Chief John Moran, who was injured in that fire and spent 2 days in the hospital himself after smoke inhalation trying to recover Mr. Fahey's body.

Mr. Speaker, I was reminded by this experience that the New York City firefighters were the bravest men and women in the United States. Heroic action taken by the men and women of the New York Fire Department is something that occurs on a daily basis. To those who worked alongside them, I want to take the opportunity to say thank you for the job that they do every day. I am heartened to see the outpouring of sympathy and affection that has been expressed throughout New York and in my home district of Woodside for these brave men who fell in the line of duty on Father's Day.

Mr. Speaker, I hope we can let the example of these three heroes serve as an example for all of us. Mr. Speaker, these heroes made the ultimate sacrifice in the line of duty. I know Members join me in paying tribute to their incredible bravery.

Mr. Speaker, last night my cousin was on Dateline, and he recounted a saying that he was taught in the department before he took the job. It goes along the lines of this, the only act of bravery or heroism is the day that they sign up and take the job in the fire department; every other day is just a normal, line-of-duty day. That is the attitude these men and women have.

Mr. Speaker, may God bless them and keep them; and may God bless and keep their families.

☐ 1145

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. KING).

Mr. KING. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I am proud to join with my colleagues today in supporting this resolution. I want to commend the gentleman from New York (Mr. GRUCCI) for the leadership he has shown on this issue, as he has shown on so many since he has come to the United States Congress.

Mr. Speaker, the great bravery of these men has been detailed by the previous speakers today. I have a particular interest in this matter, because Harry Ford and Brian Fahey are both constituents of mine, Harry Ford from Long Beach and Brian Fahey from East Rockaway. Each left behind a wife and three children. They really epitomize what the New York City Fire Department is all about. Of course, as the gentleman from New York (Mr. CROWLEY) said, John Downing grew up in the community of Woodside, where I also grew up, and which is now so ably represented by the gentleman from New York (Mr. CROWLEY).

I say this, I make the personal connection only because I think too often we take for granted that so many of the men and women we know who are firefighters are doing such a courageous job day in and day out, and yet we take it for granted; we assume they are going to do the job.

It is only when something as tragic and momentous as this terrible Father's Day incident occurred, that it drives home to us just how brave they are, just how much they put their lives on the line, day in and day out. I cannot imagine what a dangerous job, I cannot imagine what a tragic death, than what these three firefighters went through.

So I today join with all of my colleagues in expressing not only our condolences, but also our thanks and gratitude for what firefighters in New York City, Long Island, throughout our State and throughout our Nation do.

Every day they put their lives on the line, we are the beneficiaries; and it is unfortunate that it takes something as tragic as this Father's Day disaster to remind us of just how deserving these men and women are of our undying thanks and gratitude.

So, again, I thank the gentleman for introducing the resolution. I am proud to urge its adoption. I certainly send my best wishes and condolences to the wives and children of these three brave firefighters.

Mrs. MALONEY of New York. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, let me thank my distinguished colleague, the gentlewoman from New York (Mrs. MALONEY), as well as my friend and neighbor, the gentleman from Long Island, New York (Mr. GRUCCI), for bringing this resolution to the floor.

Mr. Speaker, even as a new member of the Congressional Fire Services Caucus, I believe that no Member of Congress' words can adequately describe the loss that we have suffered. So I would like to include in the RECORD today excerpts of a recent Newsday editorial entitled, "For Firefighters, Risk of Death Is All in a Day's Work."

The editorial begins, "The job has not changed that much over the years," George Burke of the International Association of Firefighters said yesterday. "While most people run away from disasters, firefighters are paid to run straight into them. And for all of the recent equipment advances, the guarantees of safety are still precious few. A building filled with working firefighters can suddenly explode like a bomb. Or a flaming roof can collapse. Or a wooden floor can give away without warning. All of this may easily explain why fire fighting is the nation's most dangerous public sector job.

"On Father's Day afternoon three members of the New York Fire Department, Harry Ford, John Downing and Brian Fahey, died as they tried to protect residents of Astoria, Queens, from the dangers of a horrific hardware store fire. All told, the three men leave behind eight children.

"In addition, two other FDNY members were seriously injured in the disaster, Joseph Vosilla and Brendan Manning, and some 50 more were less seriously hurt. This goes with the territory as well. Burke says 40 percent of all firefighters nationally suffer an injury in the line of duty every year."

"We have lost 3 very brave firefighters," Mayor Rudolph Giuliani said on Sunday of Ford, Fahey and Downing. "This is one the most tragic days that I can remember."

The mayor is right about that, and I join the rest of the New York delegation and all Members of Congress in offering my condolences to the families and fellow workers of these selfless men.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Speaker, as my colleagues know, I would not be in this body, I would not be in politics, were it not for the fire service. I grew up in a firehouse family, and I became president and chief of my fire company, went back and got a degree in fire protection and helped train the firefighters from 80 companies before I came here.

It is tragic that we have to come to talk about the fire service when we have funerals. I have been to hundreds of firefighter funerals in this city, in New York, and around the country.

Each year we lose over 100 firefighters. Many of them are volunteers. Because we have 1.2 million firefighters in the country out of 32,000 departments, each year 100 of them die.

We come today to pay the respects for three more heroes who made the ultimate sacrifice, three ordinary people doing extraordinary things, who left behind children, who had dreams. In fact, John Downing was about to go on his vacation the day after he was killed in that tragic fire. Harry Ford and Brian Fahey were outstanding professionals in every sense of the word.

We come today to honor them, and I want to give my highest respect to their families and to the work they have done.

But that is not enough. We in this body must now recognize that these brave individuals need our support. We fund $300 billion a year for international defenders, our military, and I am in the forefront of that support. We fund $4 billion a year in this body for support of our law enforcement professionals, even paying for half the cost of their police vests.

The total funding for the fire service up until last year was zero, nada, even though we are now asking them to deal with international incidents, like terrorism. The World Trade Center bombing, which I attended, was handled with Fire Department firefighters from New York City.

So I say the highest honor that we can bestow upon these three individuals is to renew our efforts to increase funding to give the proper technology to these heroes nationwide. They deserve thermal-imaging protection. They deserve turnout suits. They deserve the kind of GPS systems to allow their chiefs to know where they are in the building, so they are not trapped by toxic gasses, so they know what floor they are on.

All of these are within our capability; and as a tribute to these three people, we should renew our efforts to make sure that happens.

In working with my good friend, the gentleman from New York (Mr. GRUCCI), who has been a tireless advocate for the fire service on Long Island, I pledge my continued support to make sure we never forget the legacy of these three brave American heroes.

Mrs. MALONEY of New York. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, tonight as we lay our heads down to sleep, all across this country and in New York City, we will be tucking in our children, telling them good-night stories, knowing that they will be safe until morning.

Well, that is not true for the eight children who lost their fathers in the blaze on June 17. Frankly, as all of us sleep at night, we do so sanguine in the knowledge that all across this country, and particularly in New York City, we have brave men and women who spend that night watching over us, literally. There is probably no other profession in the world where a group of men and women sits by the phone waiting for the worst and most horrific things to happen so they can jump into duty.

Well, today while we take the opportunity to commemorate the lives of Brian Fahey, Harry Ford and John Downing, we recognize, of course, that every day here after and every day so far we have been protected by the men and women of New York's bravest and all those fire officials all around the Nation.

Tonight and every other night we might think in our prayers to say thank you for the firemen and women who protect us, but perhaps this is an opportunity for us to be reminded that we ought to. Very rarely do we wake up in the morning and say I want to thank God there was no fire in my house last night. But we should always remember that, if there ever is, there is going to be a group of very heroic people who are requesting to run to that problem.

We do not know the three men very closely that we memorialize today, but all throughout our country there are others like them. Perhaps this is an opportunity for us the next time we walk by our local firehouse to stick our head in and say thank you.

To those eight children who lost their fathers on Father's Day, there are no words that can comfort you, except that you should know that your fathers were true American heroes and we in the United States House of Representatives pay tribute to them today.

Mrs. MALONEY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding me time. I thank the sponsor of this legislation, and I come as a friend to the floor of the House.

The last couple of days I have been talking about Houston and the tragedies that we have faced. In facing those tragedies, the key element of helping to recover those people who were in need in Houston were firefighters. So I come today to pay honor to the New York firefighters, John Downing and Brian Fahey and Harry Ford, who lost their lives on Father's Day.

This is simply a statement to say that those of us who have grown up looking at the firefighters as major heroes, tall, now men and women, still continue to admire them for the sacrifice they make every day on our behalf.

Firefighters save lives on a daily basis, whether it is resuscitating a victim; whether it is getting a frightened family out of a burning building; whether it is dealing with hazardous toxic wastes, and maybe even putting a smile on someone's face in the well-renowned effort to save a cat out of a tree. Firefighters are our best friends.

And to those eight children of those wonderful men, might I say to you that your fathers will continue to be American heroes. How sad that they lost their lives on Father's Day; but how important it is for us to never, never forget.

I rise today in support H. Res. 172 which honors New York firefighters John J. Downing, Brian Fahey, and Harry Ford who gave their lives in the service of their community and their country.

On Sunday, June 17, 350 firefighters and numerous police officers responded to an emergency call at the Long Island General Supply Company in Queens, NY. During the course of the battle to put out the blaze, two civilians and dozens of firefighters were injured, two of whom were injured severely. Tragically, three firefighters were killed in the course of their duty as firefighters: John J. Downing of Ladder Company 163, a husband, a father of two, and an 11-year veteran; Brian Fahey of Rescue Company 4, a husband, a father of three, and 14-year veteran; and finally, Harry Ford of Rescue Company 4, a husband, a father of three, and 27-year veteran.

Mr. Speaker, this resolution honors these great heroes of our community who made the ultimate sacrifice of their lives so that we all may sleep better and safer at night.

This resolution expresses our deepest sympathy for their families of these brave heroes, and pledges our support and work on behalf of all of the nation's firefighters.

To all of those who lost in this blaze, the families, and to all the unspoken heroes who fight for us and risk life and limb each and every day, this Congress expresses its sincerest gratitude on behalf of the American people. Your commitment and sacrifice will live on in all of us forever.

Mrs. MALONEY of New York. Mr. Speaker, I include for the RECORD information for the memorial for all of our fallen heroes and our tributes today for our three heroes from New York.

THE MEMORIAL, MEMORIAL PARK, COLORADO SPRINGS, CO

"SOMEWHERE—EVERYDAY"

"Somewhere-Everyday", is the copyrighted title given to the 17 foot, "Heroic" bronze Memorial statute by Artist and Sculptor Mr. Gary Coulter since it is with this frequency that somewhere every day Fire Fighters are engaged in acts of heroism and saving lives. All too often Fire Fighters give the ultimate sacrifice . . . their lives, in the line of duty. Mr. Coulter has captured the last step of a successful rescue while clutching a child safely within sheltering arms. The rubble of fire forms the base of this magnificent tribute of dedication and heroism. Mr. Coulter designed, with purpose, unequal beams of the 17 foot tall ladder. In the "art" world, "unequal, parallel, lines define infinity". As Gary stated, Fire Fighters acts of heroism does just that . . . it will always be that way!

"Somewhere-Everyday" weighs 2,600 pounds, it's base extends 40 feet into the ground to bed rock. Somewhere-Everyday, was delivered to the Fallen Fire Fighter Memorial Committee in 1987 after nine months of work and a cost of $60,000. This remarkable sculpture was dedicated October 15th, 1988.

Behind the Memorial sculpture is the Wall-Of-Honor containing names of Fire Fighters that have died in the line of duty since 1976. There have been countless numbers of Fire Fighters prior to this year that have made the ultimate sacrifice. 1976 is however when the United States Congress passed a bill titled the Public Service Officers Benefit and began real recording of deaths in the line of duty of Fire Fighters. This does not take away any feelings the Brotherhood of Fire Fighters. This does not take away any feelings the Brotherhood of Fire Fighting has for those in the past that have died-in-the-line-of-duty. It is further reason to identify, in silent tribute, the immeasurable numbers of devoted, courageous acts of heroism for accurate inscriptions.

Fire Fighters are all: Part kid, adult, husband, father, or even wife or mother. They all are in real life human and have families. A Fire Fighters's family struggles daily as their "Hero goes off to work without security in knowing if their loved one will be hurt before seeing him/her again. They all know the dangerous profession that has been chosen by their special person. With every wail or siren, uncertainty tugs at heartstrings" in a way that only a Fire Fighters Wife, Husband, Mother, Father or Family feels. It is to them that this Memorial is dedicated. Special people . . . caring and living in a very special way.

"LAMENTATIONS"

A gallant, noble sacrifice,
a selfless life laid down:
So rare this public servant's worth,
no greater treasure found.
No greater act of decency,
no greater human love,
no greater courage demonstrated
by lives they gave.

This tribute to unselfish hearts
today will testify,
that health and safety have a price,
that firefighters die.
The shadow of this sentinel,
into tomorrow cast,
forever will the gravestones shield
of heroes who have passed.

It bathes their tombs in bravery,
and brands upon our memory
the fight they gave, the cancelled debt,
let town and peoples not forget
the price they paid to keep us safe,
our lives and homes secure.
We honor these who gave their all
their memories here endure.

—*Firehouse Poetry by Lt. Aaron Espy, L.A.F.F. #2819.*

The SPEAKER pro tempore (Mr. FOSSELLA). The time of the gentlewoman from New York (Mrs. MALONEY) has expired.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York (Mr. GRUCCI) for introducing this resolution. I also thank the gentleman from Indiana (Mr. BURTON), the chairman of the Committee on Government Reform; the gentleman from Florida (Mr. SCARBOROUGH), the chairman of the Subcommittee on Civil Service and Agency Organization; as well as the ranking members of the full committee and subcommittee, the gentleman from California (Mr. WAXMAN) and the gentleman from Illinois (Mr. DAVIS), for expediting consideration for this resolution.

I urge all Members to support this resolution.

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, we are here to pass this resolution honoring John Downing, Brian Fahey and Harry Ford, who lost their lives on Father's Day in the course of a tragic fire in New York; but really we are honoring all firefighters, because there are hundreds of thousands of firefighters throughout this land, in New York and every other State, who daily risk their lives; and it is only by accident of fate that these three people, unfortunately, were killed.

Every firefighter risks his or her life every day of the year for the safety of all of us, and certainly we ought to honor them and their sacrifices and their potential sacrifices. We all sleep soundly, and we take for granted the heroism of these people whose services we might need at any day. They are not paid as well as they should be, they live probably in conditions not as well as they ought to, but we all depend on them for our lives and property; and we ought to honor them and express our sorrow and our condolences at this loss.

Mr. Speaker, I join in supporting this resolution.

Mr. HOYER. Mr. Speaker, I rise today in support of honoring New York City firefighters John Downing, Brian Fahey, and Harry Ford.

Mr. Speaker, these three brave men made the ultimate sacrifice on June 17th when they responded to a fire at a hardware store in Queens in the early afternoon.

Some might have called it a routine call. All three men were veterans of the department and had between 11 and 27 years of experience in one of the busiest departments in the country. Undoubtedly they had all been on this type of call hundreds of times before.

Unfortunately, no call in the fire service is ever really routine. Every 82 seconds in this country the call for help goes out to America's fire service. And when that alarm bell rings, the men and women of the fire service know all too well that the call could be their last.

Every year in this country we lose about 100 firefighters in the line of duty. A number that I consider appallingly high. An additional 45,000 firefighters suffer injuries—some of them permanently debilitating. When you factor in training accidents and injuries sustained responding to calls, the number tops 88,000.

I did not know firefighters Downing, Fahey, or Ford. But they say that the measure of a man's character is his service to others. By this standard these men were giants for the sacrifice they made. I urge all of my colleagues to support this resolution.

Mr. WALSH. Mr. Speaker, I also rise in support of House Resolution 172 to honor fallen New York City Firefighters John J. Downing of Ladder Company 163, Brian Fahey, and Harry Ford both of Rescue Company 4. These men made the ultimate sacrifice in carrying out their sacred duties this past Father's Day, June 17th fighting a terrible blaze. In that tragic fire at the Long Island General Supply Company in Queens, New York our state lost three brave heroes, three dedicated fathers, and three devoted husbands. Words can not describe the debt of gratitude we as a nation owe these fine men. I join my Colleagues in expressing my deepest sympathies to their families.

At 2:20 p.m. that Sunday the alarm came in. As they had done so many times in the past, for so many years, Firefighters Downing, Fahey and Ford responded to the call without hesitation. At first, the blaze appeared to be small and routine. Then as the fire built inside, a massive explosion erupted turning the 128-year-old store into a heap of rubble. In the wake of the blast, these three brave men had answered their final alarm trying to enter the building to do a job they had accomplished so many times before.

Much like the 1.7 million firefighters across the nation including the volunteers and paid professionals in my own district in Central New York, these men and their families knew and accepted the risks associated with the nature of their work. Each and every day, whenever the fire whistle blows, fire bell rings, or fire pager sounds, the firefighters in our country respond in an instant, working to protect and secure the lives and property of others and ready to make the same sacrifices that were made in Queens this past Father's Day.

As we honor our fallen heroes from New York City, we must also remember the brave men and women who fight fires on a daily basis in our country. From fighting structure fires to rescuing entrapped victims at motor vehicle accidents, our nation's firefighters are fearless in practicing the laws of God, as they are brave in protecting the lives and property of their fellowmen. Firefighters Downing, Fahey, and Ford took this spirit to the ultimate limit. We are fortunate to have so many firefighters like these men, firefighters who believe in what they are doing, and who will fight to the very end for what they believe. For this, I pay tribute to them as well as to all the brave firefighters across our nation.

Mrs. JONES of Ohio. Mr. Speaker, I rise today to talk about issues of public safety. H. Res. 172, honoring the fallen firefighters from the Father's Day blaze in New York City, was on the floor this afternoon commemorating the heroic efforts of those firefighters. John Downing, Brian Fahey, and Harry Ford were dedicated and experienced firefighters whose service to the city they loved was truly inspirational.

It strikes me that being a firefighter is one of the most physically challenging and dangerous professions possible. The men and women who undertake firefighting as a career are at risk every day trying to keep their fellow citizens safe from fires but also are responsible for an ever-growing number of tasks. Today's firefighters are responsible for hazardous material clean up, response to terrorist threats and emergencies, and providing information to citizens on fire safety techniques.

America's colleges let out for the summer recently but not without some loss of innocence for our children. Fire can affect our kids as much as it affects the lives of firefighters. I have introduced H.R. 2145, the Campus Fire Prevention Act, in an effort to address the safety of college students. My legislation will provide funds for the installation of fire sprinklers and other fire suppression devices in college dormitories, fraternities and sororities.

Even one death is too many; one injury is too many when it comes to the safety of our children. The tragedy at Seton Hall University in 1998 opened the eyes of parents and students to the risks of living in dormitories that had not been outfitted with sprinklers or other fire suppression. My bill will provide matching funds to a university or organization that applies given approval by the Department of Education and the Fire Administration.

This past school year in Ohio there were four students killed in campus fires. A December fire at the University of Dayton killed one male student in a house fire in a building owned by the university. In May 2001, two fires killed students at John Carroll University and Ohio University. Both students were scheduled to graduate this year. Unfortunately this is not unique to Ohio, there were fire related injuries and fatalities throughout America's universities.

I encourage my colleagues to join me in enacting H.R. 2145, it is a common sense measure that has already gained 43 cosponsors. Data has demonstrated fire sprinklers work in protecting property and preventing injury. In buildings with functional fire sprinklers there has not been a fire resulting in more than two fatalities.

We should honor the fallen firefighters from New York by helping to prevent future tragedies for firefighters and other innocent Americans.

TALKING POINTS

How often do fires occur in school, college, and university dormitories and fraternity and sorority houses?

In 1997, the latest year for which national fire statistics are available, an estimated 1,500 structure fires occurred in school, college, and university dormitories and fraternity and sorority housing. These fires resulted in no deaths, 47 injuries, and $7 million in direct property damage. Between 1993 and 1997, an estimated average of 1,600 structure fires occurred each year, resulting in eight fatal fires known to NPFA, representing a total of 16 deaths over the five years of 1993–1997, 66 injuries, and $8.9 million in direct property damage per year.

How many fires occur specifically in fraternity and sorority housing?

Between 1993 and 1997, an annual average of 154 structure fires occurred in fraternity and sorority houses, resulting in 18 injuries, and $2.9 million in direct property damage per year.

What are the most common causes of fires at school, college, and university dormitories and fraternity and sorority housing?

The leading cause of fire in these types of occupancies is incendiary or suspicious causes. The second and third causes of these on- and off-campus housing fires are cooking and smoking, respectively.

How often are smoke or fire alarms and fire sprinklers present in dormitory fires?

In 1997, smoke or fire alarms were present in 93% of all dormitory fires, but sprinklers were present in only 28% of these fires. These figures apply only to properties where fires occurred; the overall fraction of properties with these active systems is probably higher. On average, direct property damage per fire is 36% lower in dormitory fires where sprinklers are present compare to those where sprinklers are not present.

H.R. 2145—the Campus Fire Prevention Act is identical to legislation introduced in the Senate by Senator JOHN EDWARDS of North Carolina and designated S. 399.

The bill is intended to supply money for colleges to retrofit sprinklers in dorms and allows fraternities and sororities to access the $100,000,000 in money each year over 5 years.

The bill provides money in the form of federal matching grants for the installation of fire sprinkler systems and other fire suppression or prevention technologies in college living situations (including sororities and fraternities).

Priority would be given to any organization applying for the money from the bill with an inability to fund the fire suppression without accessing the funds under the bill.

Grants would be administered through the Department of Education in consultation with the U.S. Fire Administration.

The bill does not mandate using fire sprinkler systems in dorms, only provides funds for those who would like to make their residents safer.

Currently there are 43 cosponsors to H.R. 2145 and it has received endorsements from many campus organizations like the College Parents of America and the National Association of Student Personnel Administrators.

Mrs. McCARTHY of New York. Mr. Speaker, I extend my deepest condolences to the families of John J. Downing, Brian Fahon, and Harry Ford. Each of them will be sorely missed. We are forever in your debt and can never repay your loss. More than just firefighters, these men were husbands, fathers, and upstanding members of their communities. They paid the ultimate sacrifice and taught us a powerful lesson about honor, bravery, and sacrifice. These are traits that all firefighters possess. It is a shame that only through such tragedies we recognize this fact.

They were great firefighters, husbands, and fathers. Since the tragic June 17 event, America learned of the vibrant and rich lives of these three men. In the process, we developed a love for them and cried with their families as they mourned their losses. John J. Downing, an 11-year veteran, husband and father of two; Brian Fahey, a 14-year veteran, husband and father of three; Harry Ford, a 27-year veteran, husband and father of three will not be forgotten. Mr. Downing became famous for his bravery in the 1992 USAir plane crash into Flushing Bay. Mr. Fahey was considered one of the fire department's elite, he worked in the rescue department. Mr. Ford was cited for bravery ten times during the course of his career, including rescuing a baby from a burning building. It is clear to everyone they were exceptional at their job.

These men did not die in vain. Today, as we recognize their bravery, let us pledge our support to work on behalf of all of the nation's firefighters who risk their lives every day to ensure the safety of all Americans.

Mr. ACKERMAN. Mr. Speaker, I rise today with mixed emotions as we pay tribute to firefighters John J. Downing, Brian Fahey and Harry Ford. As I stand here I cannot help but feel both sadness and admiration, both respect and grief. While this tragedy is unfortunately close-to-home for New Yorkers, people the world over are paying homage to these three men today.

Sadness, Mr. Speaker; that these brave men's lives were tragically taken from their families, friends and communities on June 17, 2001 when they dutifully responded to the call to put out a deadly fire that was destroying the Long Island General Supply Company in Astoria, New York.

Admiration, Mr. Speaker; for these three firefighters who exemplified the word: Heroes. These three heroes woke-up every morning, ready and willing to fight any fire that threatened our community. These three heroes who worked so that the rest of us could enjoy our lives free from worry or concern of a deadly fire.

Respect, Mr. Speaker; for these three heroes who were dedicated to a career as firefighters that required them to work to protect individuals that they may never have known. When they were called on to rescue these people from fires, these three heroes did so with the same commitment that they would feel for protecting their own families.

And grief, Mr. Speaker; for the devoted wives, loving children and proud communities that are without these three heroes as a result of this horrific tragedy.

Mr. Speaker, I rise today in unity with the entire NY Congressional delegation and ask our colleagues in the House of Representatives today to join us in honoring the memory of firefighters John J. Downing, Brian Fahey and Harry Ford.

□ 1200

The SPEAKER pro tempore (Mr. FOSSELLA). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the resolution, House Resolution 172.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MALONEY of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

BROWN V. BOARD OF EDUCATION 50TH ANNIVERSARY COMMISSION

Mrs. MORELLA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2133) to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education, as amended.

The Clerk read as follows:

H.R. 2133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that as the Nation approaches May 17, 2004, marking the 50th anniversary of the Supreme Court decision in Oliver L. Brown et al. v. Board of Education of Topeka, Kansas et al., it is appropriate to establish a national commission to plan and coordinate the commemoration of that anniversary.

SEC. 2. ESTABLISHMENT.

There is established a commission to be known as the "Brown v. Board of Education 50th Anniversary Commission" (referred to in this Act as the "Commission").

SEC. 3. DUTIES.

In order to commemorate the 50th anniversary of the Brown decision, the Commission shall—

(1) in conjunction with the Department of Education, plan and coordinate public education activities and initiatives, including public lectures, writing contests, and public awareness campaigns, through the Department of Education's ten regional offices; and

(2) in cooperation with the Brown Foundation for Educational Equity, Excellence, and Research in Topeka, Kansas (referred to in this Act as the "Brown Foundation"), and such other public or private entities as the Commission considers appropriate, encourage, plan, develop, and coordinate observances of the anniversary of the Brown decision.

SEC. 4. MEMBERSHIP.

(a) Number and Appointment.—The Commission shall be composed as follows:

(1) Two representatives of the Department of Education appointed by the Secretary of Education, one of whom shall serve as Chair of the Commission.

(2) Eleven individuals appointed by the President after receiving recommendations as follows:

(A) Members of the Senate from each of the States in which the lawsuits decided by the Brown decision were originally filed, Delaware, Kansas, South Carolina, and Virginia, and from the State of the first legal challenge, Massachusetts, shall jointly recommend to the President one individual from their respective States.

(B) Members of the House of Representatives from each of the States referred to in subparagraph (A) shall jointly recommend to the President one individual from their respective States.

(C) The Delegate to the House of Representatives from the District of Columbia shall recommend to the President one individual from the District of Columbia.

(3) Two representatives of the judicial branch of the Federal Government appointed by the Chief Justice of the United States Supreme Court.

(4) Two representatives of the Brown Foundation.

(5) Two representatives of the NAACP Legal Defense and Education Fund.

(6) One representative of the Brown v. Board of Education National Historic Site.

(b) Terms.—Members of the Commission shall be appointed for the life of the Commission.

(c) Vacancies.—A vacancy in the Commission shall be filled in the same manner as the original appointment.

(d) Compensation.—

(1) In general.— Members of the Commission shall serve without pay.

(2) Travel expenses.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(e) Quorum.—A majority of members of the Commission shall constitute a quorum.

(f) Meetings.—The Commission shall hold its first meeting not later than 6 months after the date of enactment of this Act. The Commission shall subsequently meet at the call of the Chair or a majority of its members.

(g) Executive Director and Staff.— The Commission may secure the services of an executive director and staff personnel as it considers appropriate.

SEC. 5. POWERS.

(a) Powers of Members and Agents.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take under this Act.

(b) Gifts and Donations.—

(1) Authority to accept.—The Commission may accept and use gifts or donations of money, property, or personal services.

(2) Disposition of property.—Any books, manuscripts, miscellaneous printed matter, memorabilia, relics, or other materials donated to the Commission which relate to the Brown decision, shall, upon termination of the Commission—

(A) be deposited for preservation in the Brown Foundation Collection at the Spencer Research Library at the University of Kansas in Lawrence, Kansas; or

(B) be disposed of by the Commission in consultation with the Librarian of Congress, and with the express consent of the Brown Foundation and the Brown v. Board of Education National Historic Site.

(c) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 6. REPORTS.

(a) Interim Reports.—The Commission shall transmit interim reports to the President and the Congress not later than December 31 of each year. Each such report shall include a description of the activities of the Commission during the year covered by the report, an accounting of any funds received or expended by the Commission during such year, and recommendations for any legislation or administrative action which the Commission considers appropriate.

(b) Final Report.—The Commission shall transmit a final report to the President and the Congress not later than December 31, 2004. Such report shall include an accounting of any funds received or expended, and the disposition of any other properties, not previously reported.

SEC. 7. TERMINATION.

(a) Date.—The Commission shall terminate on such date as the Commission may determine, but not later than February 1, 2005.

(b) Disposition of Funds.—Any funds held by the Commission on the date the Commission terminates shall be deposited in the general fund of the Treasury.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $250,000 for the period encompassing fiscal years 2003 and 2004 to carry out this Act, to remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Maryland (Mrs. Morella) and the gentleman from Illinois (Mr. Davis) each will control 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. Morella).

GENERAL LEAVE

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2133.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2133. It is important legislation introduced by the gentleman from Kansas (Mr. Ryun).

Mr. Speaker, May 17, 2004, will mark the 50th anniversary of the Supreme Court's landmark decision in Brown v. Board of Education in Topeka, Kansas. In recognition of the importance of that decision, this bill will establish the Brown v. Board of Education 50th Anniversary Commission to plan and coordinate the commemoration of that anniversary.

Mr. Speaker, of all the landmark decisions handed down by the Supreme Court, few are as well-known as Brown v. Board of Education, and few have been as important.

In Brown, a unanimous Supreme Court effectively ended the separate but equal doctrine in education, ruling that racially segregated schools violated the equal protection clause of the 14th amendment. Despite the court's ruling, dual school systems were not abolished quickly or smoothly, but in the end, Mr. Speaker, they were abolished, further buttressing our Constitution's promise of equality under the law.

In order to commemorate the 50th anniversary of the Brown decision, the Commission shall hold public education activities and initiatives, including public lectures, writing contests and public awareness campaigns. The Commission will be comprised of representatives from the judicial branch, the Department of Education, the NAACP Legal Defense and Education Fund, and the Brown Foundation, as well as individuals from States in which the cases leading to the Brown decision were filed and the District of Columbia. These States were, incidentally, Delaware, Kansas, South Carolina, and Virginia. There will also be representatives from Massachusetts in recognition that the first legal challenge to segregated schools was filed there in 1849.

The Commission will terminate when its work is done, but not later than February 5, 2005.

Mr. Speaker, the Court's opinion in Brown v. Board of Education has touched the lives of all of us, and I urge all Members to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of this resolution, and I yield 3 minutes to the gentleman from Maryland (Mr. Cummings).

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman for yielding me this time.

Today, Mr. Speaker, I rise in support of H.R. 2133 to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the life-changing Supreme Court decision of Brown v. Board of Education.

In Brown v. Board of Education, the Supreme Court Justices called for racial integration of public schools. Public schools were, with struggle, desegregated and, subsequently, African American youth made enormous progress in various areas, such as high school completion, better test scores, greater college enrollment and obtaining college degrees.

As a result of this important decision, African Americans greatly increased our numbers in many occupational fields which, before Brown, had a scarcity of African Americans.

This monumental decision led to gains in equal education opportunities for minority children that were not provided for nor even considered under the Plessy v. Ferguson decision. This cemented African American community leaders' actions against the tragedy of segregation in America's schools.

Chief Justice Warren delivered the Court's opinion on May 17, 1954, stating that "segregated schools are not equal and cannot be made equal, and, hence, they are deprived of the equal protection of the laws." Originally taught using dull strategies and rote learning tools, minority students are now able to gain the tools necessary for future success in college and in the workplace.

While African American educational attainment has improved, the amount of education needed to have a real chance in life has grown even more. Yes, Brown v. Board of Education altered the economic, political and social structure of this great Nation and helped change the face of America. It is for this reason that I strongly urge my colleagues to vote in favor of this very important resolution commemorating this significant decision.

However, I also urge my colleagues to remain committed to the principles of equality in education. As we consider our budget and legislative measures that focus on education, we must be ever mindful of the critical importance of ensuring that all of this Nation's youth be well prepared to face the challenges and become productive members of this great society.

As we reflect on Brown v. Board of Education, let us remember that a priority focus on education is key, but equity and parity in education is critical.

Mrs. MORELLA. Mr. Speaker, it is my pleasure to yield 7 minutes to the gentleman from Kansas (Mr. RYUN), the introducer of this very important resolution.

Mr. RYUN of Kansas. Mr. Speaker, today we speak of "no child left behind" in our education system, and providing our children with the highest quality education is a value that we all hold very dear. Unfortunately, for years African American children remained in substandard facilities without updated textbooks and insufficient supplies. These children were denied admission to all-white schools based on the "separate but equal" doctrine entrenched in public education.

Fortunately, the landmark Supreme Court decision of Oliver L. Brown v. Board of Education of Topeka would forever change this inequity. On May 17, 1954, the U.S. Supreme Court issued a definitive interpretation of the 14th amendment that would unequivocally change the landscape of American public education. The High Court stated that the discriminatory nature of racial segregation violates the 14th amendment to the U.S. Constitution, which guarantees all citizens equal protection of the laws. This decision effectively ended the long-held "separate but equal" doctrine in U.S. education.

Prior to the Brown v. Board of Education decision, numerous school integration cases were taken to courts between 1849 and 1949. In Kansas alone there were 11 cases filed between 1881 and 1949. In response to these unsuccessful attempts to ensure equal opportunities for all children, African American community leaders and organizations across the country stepped up their efforts to change the education system. In the 1940s and 1950s, local NAACP leaders spearheaded plans to end the doctrine of "separate but equal." Public schools became the means to that end.

In the fall of 1950, members of the Topeka, Kansas, chapter of the NAACP agreed to again challenge the "separate but equal" doctrine governing public schools. Their plan involved enlisting the support of fellow NAACP members, personal family and friends as plaintiffs in what would be a class action suit filed against the Board of Education of Topeka Public Schools. A group of 13 parents agreed to participate on behalf of their children. Each plaintiff was to watch the paper for enrollment dates and take their child to the school that was nearest to their home. Once the attempt to enroll was denied, they were to report back to the NAACP. This would provide the attorneys with the documentation necessary to file a lawsuit against the Topeka school board.

As we all know, 4 years later, on May 17, 1954, Topeka parents and children received a final victory before the U.S. Supreme Court.

Brown v. Board of Education inspired and galvanized human rights struggles in this country and around the world. The national importance of the Brown decision had a profound impact on American culture. It has affected families and communities and governments by outlawing racial segregation. Legal scholars and historians agree that this case is among the three most significant judiciary turning points in the development of our country, yet it is largely misunderstood.

For example, many students never learned that the Brown v. Board of Education was a combination of cases originally filed in Delaware, South Carolina, Virginia, the District of Columbia, in addition to Kansas, and that the final legal challenge occurred in Massachusetts. None of these original cases succeeded in the district court, and all were appealed to the U.S. Supreme Court. At this juncture, they were combined and became known jointly as the Oliver L. Brown, et al., v. The Board of Education of Topeka Kansas, et al. The High Court decided to combine the cases because each sought the same relief from segregated schools for African Americans.

We should also remember that Thurgood Marshall served as a legal strategist and counsel for the school segregation cases. Marshall later became the first African American to serve on the U.S. Supreme Court.

Brown v. Board of Education is undoubtedly the most revolutionary case striking down segregation, and as we approach the 50th anniversary of Brown v. The Board on May 17, 2004, it is only fitting that we commemorate this decision by ensuring that our Nation fully understands the case and the responding effects that it has had on our Nation.

Mr. Speaker, H.R. 2133 will establish a commission to help education Americans on the history and ramifications of this landmark cases in preparation for the 50th anniversary of the Brown decision.

The Commission will work in conjunction with the Department of Education to disseminate print resources to schools, plan and coordinate public education events, including public lectures, writing contests and public awareness campaigns.

Working in cooperation with both the public and private sector, the Commission will be comprised of representatives from the Committee on the Judiciary, the Department of Education, as well as the NAACP Legal Defense and Education Fund, and the Brown Foundation. In addition, individuals chosen from the States in which the lawsuits were originally filed, which were Delaware, Kansas, South Carolina, Virginia, and the District of Columbia, and from the first State that had the first legal challenge, Massachusetts, will also serve on this Commission.

Equal opportunity is granted by our Constitution, but making equality a reality for all Americans requires real struggle and sacrifice. We must not forget the sacrifices made in order to give equality to all Americans.

The U.S. Supreme Court offered us this reflection in the opinion rendered in the Brown case, and I quote: "It is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity for an education." Education is the metal that holds the framework of our democratic society together. Brown v. Board of Education guarantees this opportunity.

Mr. Speaker, I ask my colleague to join me in honoring this historic and far-reaching Supreme Court decision and support H.R. 2133.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me commend and congratulate the gentleman from Kansas for introducing this very important bill. As a matter of fact, I rise in support of this legislation to establish the Brown v. Board of Education 50th Anniversary Commission.

The Commission, in conjunction with the Department of Education, is charged with planning and coordinating public education activities and initiatives, writing contests and public awareness campaigns. In cooperation with the Brown Foundation for Educational Equity, Excellence and Research, the Commission must submit recommendations to Congress to encourage, plan, develop observances of the anniversary of the Brown decision.

The 50th anniversary of the Brown decision will take place on May 17, 2004. This Commission is going to need every second of the next 3 years to commemorate the Brown decision in a meaningful way.

Brown v. Board of Education is to be commemorated for what it did to address the disparities in the American education system 47 years ago, and to help us address the disparities that we struggle with today. Like in the 1930s and 1950s, the best hope for racial, social and economic equality lay in education. That is why in 1951, Oliver Brown and the parents of 12 other black children filed a lawsuit against the Topeka Board of Education protesting the city's segregation of black and white students.

□ 1215

That is also why, Mr. Speaker, today parents all across America, particularly parents of children of color, are demanding that elected officials improve the American educational system.

In 1997, 93 percent of whites aged 25 to 29 had attained a high school diploma or equivalency degree compared to 87 percent of African Americans and just 62 percent of Hispanics.

Among those with high school degrees, 35 percent of whites had completed a bachelor's degree or higher, compared to just 16 percent of African Americans and 18 percent of Hispanics. Given the increasing importance of skill in our labor market, these gaps in educational attainment translate into large differences by race and ethnicity in eventual labor market outcomes, such as wages and employment.

American schools are integrated, but they still are not equal. They are not equal because we still do not understand in many places what it takes to make schools effective.

How do we prepare all of our children to meet the challenges of tomorrow? For some people, charter and private schools are the answer. For others, it is school vouchers and class size reduction. One thing is for sure, if we do not break down the disparities in the educational system, the cycle of poverty will continue among children who attend poor and inner-city schools. A good, solid public education system is basic for all Americans.

The historic Brown v. Board of Education was announced on May 7, 1954 by Chief Justice Warren. Justice Warren's words are timeless. He stressed the fact that public education was a right which must be made available to all on equal terms.

I trust that the commission will remember these words when planning for observances of the 50th anniversary of the Brown decision. And even as we discuss this resolution today and prepare for its passage, there is still not equal funding for school districts even in my own State, the land of Lincoln, the State of Illinois, where some school districts receive as much as three times the funding of other districts; and if that is not separate but equal, unequal, then I do not know how to define it.

Mr. Speaker, I hope that we all will remember this as we seek to improve the American educational system. I urge all of my colleagues to join in supporting this resolution.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Mr. Speaker, I thank the gentlewoman from Maryland (Mrs. MORELLA) for yielding me the time.

Mr. Speaker, I rise today in strong support of H.R. 2133. We are soon coming upon the anniversary of the landmark Supreme Court decision. On May 17, 1954, the United States Supreme Court eradicated the separate but equal doctrine and integrated our public school system.

Most Americans have heard about Brown v. Board of Education trial, but few completely understand this very important case.

I commend the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Kansas (Mr. RYUN) for introducing this legislation to establish a commission to help educate Americans on the history and ramifications of Brown v. Board of Education in preparation for the 50th anniversary of this case.

Education is, perhaps, the most important tool for fulfilling one's dreams. The American dream, the wonderful belief that any child in America, any child, regardless of color or economic background, has the ability to make his dream a reality. In order to help children, our children, in the pursuits of their dreams, we need to make sure they have a good education.

Last month, we showed our commitment to this goal by voting on an education plan to Leave No Child Behind. Unfortunately, in 1954, African Americans were denied the chance to have equal access to our public school system.

Their parents, realizing the importance of education, did everything possible they could to properly educate their children while at the same time fighting the segregated system.

They also realized that beyond the 3 R's, it was important for all children to learn respect for all people.

The Brown decision was more than just an end to the practice of segregation in our schools; it was also a wonderful beginning. The beginning of a public school system that could more accurately reflect the belief that all men and women are created equal and should be treated as such.

Integrated schools are beneficial to all students and the Nation as a whole. For this reason, we should make sure that Brown v. Board of Education case is properly taught and understood.

I share the belief of the gentleman from Kansas (Mr. RYUN) that for the 50th anniversary of this landmark case we should help make history come alive for our Nation's school children. In doing so, we can help the newest generation of Americans realize the importance of liberty and democracy.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the dynamic gentleman from Lenexa, Kansas (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for yielding me the time.

Mr. Speaker, I rise today to speak in strong support of a very important piece of legislation, H.R. 2133. On May 17, 1954, in the case of Brown v. Topeka Board of Education, the United States Supreme Court unanimously declared that separate educational facilities are inherently unequal and, as such, violate the 14th amendment to our United States Constitution, a Constitution which guarantees to all citizens equal protection of the laws.

This was a critical point in time, because it began an era of social responsibility, equity, and justice that this country had not seen since the end of the Civil War.

The legacy of the Brown decision is its impact on the whole of American society and its contribution to the civil rights movement. When you think of the civil rights movement, the 1954 Brown decision is clearly a watershed. Would we have had a Rosa Parks in 1955 without a Reverend Oliver L. Brown fighting for equal education in Topeka, Kansas in 1951. Maybe, but without the definitive court ruling of what was right, what was constitutional, we would not have desegregation in Little Rock, Arkansas.

The Brown decision sliced the issue of inequality wide open, putting it in the morning newspaper and on the evening news. Brown is important for four very basic reasons.

Number one, it was the beginning of the end of racial segregation authorized by law in this country.

Number two, it overturned laws permitting segregated public schools in Kansas and 20 other States.

Number three, it overturned a previous United States Supreme Court decision of 1896, Plessy v. Ferguson. The Plessy decision gave us the infamous doctrine of separate but equal, a legal fiction as we know now.

It defended the sovereign power of the people of the United States to protect their natural rights and their human rights from random restrictions and limits imposed by State and local governments.

These rights are recognized in the Declaration of Independence and guaranteed by the Constitution of the United States. Using the Brown decision as an educational vehicle will teach children and communities alike to respect and honor those who fight for what is right. Creating a commission to commemorate the 50th anniversary of the Brown decision will also make sure that an important event in United States history does not become just a simple footnote.

I would like to thank Cheryl Brown Henderson, the daughter of Reverend Oliver L. Brown, for what she has done in creating the Brown Foundation and what she continues to do in helping her representatives in Kansas draft this bill. It is through people like her and her father, and I would add our colleague here in Congress, the gentleman from Georgia (Mr. LEWIS), that the civil rights movement blossomed.

Mr. Speaker, I would also like to thank my esteemed colleague, the gentleman from Kansas (Mr. RYUN), for his hard work in promoting this legislation.

Mrs. MORELLA. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Speaker, I thank the gentlewoman from Maryland (Mrs. MORELLA) for yielding me the time.

Mr. Speaker, I rise today in support of this legislation that would establish a commission to recognize the 50th anniversary of Brown v. Topeka Board of Education. As we approach this 50th anniversary, which will occur on May 17 of 2004, it is appropriate that Congress demonstrate its concern for the rights of all Americans through the establishment of a Federal commission to encourage and provide for the commemoration of this historic ruling.

It is also appropriate today to recognize one of the leaders of the educational effort that has stemmed from the Brown case. I would like to acknowledge the dedication and hard work of Cheryl Brown Henderson, a Kansan, who brought to my attention the national importance of this 50th anniversary of the court decision.

Ms. Henderson has been mentioned as the daughter of Oliver L. Brown, the lead plaintiff in this case; and I commend her for her dedication. I commend her father for his courage. Her commitment to human rights has led to her travels across America sharing the lessons of this and other landmark civil rights cases.

My own interest in this historic case began as a student at the University of Kansas. One of my professors, Paul Wilson, was the junior Kansas assistant attorney general assigned to defend Topeka Board of Education. Largely through happenstance, Wilson wound up arguing before the Supreme Court in one of his first cases as an attorney.

Each spring for many years, Professor Wilson spoke at a noon forum on his involvement in Brown v. Topeka Board of Education. Each year, the talk grew more and more popular, attracting an ever larger crowd of students. The stories he hold about that experience were fascinating stories of buying his first suit to a trip to Washington, D.C., riding a train for his first time outside the State of Kansas, filling out the paperwork to be admitted to the Supreme Court so he could make his arguments, and how inspiring it felt to watch Thurgood Marshall passionately, yet logically, argue the case, even when Wilson himself was on the other side.

Besides preserving his memories of the facts of the Brown case in his classroom speeches, Professor Wilson had a unique perspective to analyze the issues and the impact of that case. Professor Wilson later wrote a book entitled A Time to Lose about his recollections of those times and the politics of that era. In his memoirs, Wilson offers some lessons about the evolution of race relations since that ruling.

Wilson states, quote, "this was the first time segregation was publicly acknowledged as a wrong practice. The decision issued in 1954 caused me, Professor Wilson, and caused America to realize that to argue the policy of separate but equal was to defend the indefensible."

In the Brown case, the Supreme Court was asked to decide one of the important issues facing our country. It was being asked to reverse a trend of law, because up to that point legal decisions had supported the separate but equal policy. Not until Brown were the traditional notions of segregation challenged in a shift toward the public recognition of human equality and the fundamental worth of every person.

The Supreme Court ruling made a monumental impact on human rights struggles worldwide. The laws and policies struck down by this ruling were the products of prejudice and discrimination. Ending the legal practice of these behaviors caused social and ideological implications we continue to feel in our country today.

We are fast approaching the watershed of 2004. This commission could impact how people learn about the case and would carry the decision's message into the 21st century.

Mr. Speaker, I urge its passage.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us remember what the Brown v. Board of Education decision was all about. It was all about blacks exercising their citizenship and rights as a people, one Nation under God. Given our dark history concerning slavery and the citizenship rights of blacks and others in this country, we remember the Dred Scott decision. The question in the Dred Scott v. Sanford case where a black slave from Missouri claimed his freedom on the basis of 7 years of residency in a free State.

On March 6, 1857, nine justices filed in the basement of the U.S. Capitol, led by Chief Justice Taney, and they asked the question then, "can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, privileges and immunities guaranteed by that instrument to the citizen?"

The Supreme Court decision then did not serve justice to Dred Scott.

Thirty-nine years later, the answer to this question became much more resounding in the Supreme Court case of Plessy v. Ferguson as a sad chapter in the pages of history. In this landmark decision of 1896, the court found that the doctrine of separate but equal concerning segregation of public facilities did not violate the Constitution. Separate schools for whites and blacks became a basic rule in southern society, legitimatized in this doctrine that legalized segregation known as "Jim Crow." For years, this decision affected many black boys and girls and kept them from achieving an equitable education that was entitled to them under the Constitution of the United States.

In the midwest town of Topeka, Kansas, a little girl named Linda Brown had to ride the bus five miles to school each day, although a public school was located only four blocks from her house.

□ 1230

The school was not full, and the little girl met all the requirements to attend, all but one that is. Linda Brown was black, and blacks were not allowed to go to white children's schools.

In an attempt to gain equal educational opportunities for their children, 13 parents with the aid of the local chapter of the NAACP filed a class action suit against the Board of Education of Topeka Schools.

Prior to becoming our first African American Justice of the Supreme Court of the United States, Thurgood Marshall presented a legal argument that resulted in the 1954 Supreme Court decision that separate but equal was unconstitutional because it violated the children's 14th amendment rights by separating them solely on the classification of the color of their skin. This ruling in favor of integration was one of the most significant strides America has taken in favor of civil rights.

So we come today, Mr. Speaker, in support of a resolution to commemorate that day and to commemorate that time and to commemorate the exciting events that took place then as we look forward to events taking place even now.

So I would urge all of my colleagues to join in support of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I associate myself with the remarks of the gentleman from Illinois (Mr. DAVIS).

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Virginia (Mr. FORBES), our newest Representative over here on this side.

Mr. FORBES. Mr. Speaker, it is an honor and privilege to speak for the first time as a Member of the House of Representatives on an issue of great importance to me and my constituents, a quality public education available to all that leaves no child behind.

The legislation before us today prepares for the commemoration of the historic 1954 Supreme Court decision Brown v. Board of Education. It establishes and funds a commission that will plan and coordinate activities for the 50th anniversary of the case just 3 years away.

Mr. Speaker, children should not have an inferior education because of the color of their skin. But before the Brown decision, textbooks, classrooms and buildings were second-class for black students as compared to the rest of our Nation. This was wrong.

In May 1954, the Supreme Court sided with citizens in Topeka, Kansas, and said that it is not lawful to separate school children because of their race. When the Topeka case made its way to the United States Supreme Court, it was combined with the other cases from Delaware, South Carolina, Washington, D.C., and my home, the Commonwealth of Virginia. This comprehensive case became known as Oliver L. Brown, et al., v. Board of Education of Topeka.

I thank the gentleman from Kansas (Mr. RYUN) for his leadership on this bill as well as the entire Kansas delegation. Let us work tirelessly to strengthen the educational system in our country through ideas and technology with accountability, proper funding, and reform.

From the finest towns in America to the worst neighborhoods in our inner cities, we must never lose sight of the unconditional commitment to our children. We must never forget that barriers were broken and hurdles were overcome to get to where we are now.

Education is first, last, and always about our children. They need and deserve an equal opportunity to excel, to achieve and be the best they can be. Brown v. Board of Education opened the doors for all of our children to learn on a level playing field. We should be thankful, remember our past, learn from our history, and plan for our future.

I thank the gentlewoman from Maryland (Mrs. MORELLA) for yielding me this time. I urge passage of the legislation.

Mr. DAVIS of Illinois. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. FOSSELLA). The gentleman from Illinois (Mr. DAVIS) has 5 minutes remaining.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman very much for yielding me this time. I thank the gentlewoman from Maryland (Mrs. MORELLA) for her leadership. I thank the members of the committee and the gentleman from Illinois (Mr. DAVIS), the ranking member, and I thank the authors and cosponsors of this legislation.

This legislation resulted in a different education for many of us who stand on the floor of the House today. To acknowledge and to organize a commission to celebrate the 50th anniversary of the Supreme Court decision in Brown v. Board of Education reminds us of those heroes like Thurgood Marshall and Constance Baker Motley and others who pursued the rights of children to be educated fairly and justly in the courts of the United States. How different our education and our lives would have been had we not had the opportunity to fight against segregated and unequal schools.

The process that was designed in the 1800s that, in fact, you could be educated unequally was finally eliminated by this case to ensure that we would have an equal education. It is our challenge to keep the spirit of this Supreme Court decision alive. It is our challenge to ensure that school districts are not unequally funded and that there is not inequity in the Federal funding that goes to help public schools. It is our challenge to ensure that public schools are at their very best, and that those children who sit in our public schools today, those who are special needs children, those who are at-risk children, can experience the kind of education that Thurgood Marshall intended, and that was, of course, that we take away the unequalness of education and promote equality.

Secondly, I would say that, over the years, we have had an attack on affirmative action. That is affirmatively reaching out to help education and to help promote equality.

The Brown v. Board of Education was a symbol of fighting for equality and affirmatively seeking to create an opportunity for children to be educated together. I think our message now is to thank those who organized and well knew that they had to fight for justice, to thank those youngsters prepared to be the plaintiffs in the case, and to thank those lawyers.

This Commission will be a commission that will be well-respected, giving us the structure and the ability to honor those and celebrate the 50th anniversary of this enormous decision that changed the lives of so many of us as well as changed the life and the values of the American society to believe truly in the equality of education.

Mrs. MORELLA. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise today to lend my support to H.R. 2133. This legislation commemorates through the establishment of a commission the 50th anniversary of the Brown v. Board of Education Supreme Court decision, which sparked the end of school segregation based on race in this country.

It goes without saying that school segregation and desegregation were among America's most controversial social issues during the last half of the 20th century. Along with many Americans, I can clearly recall scenes of violence and upheaval that took place in the 1950s, 1960s and 1970s in places as diverse as Boston and Little Rock as our Nation's public schools made the transition to integration.

We have much to be thankful for as a result of the Supreme Court's decision some 50 years ago. Today our children and our children's children find themselves interacting daily in the school setting with other boys and girls of different colors and backgrounds, broadening their perspectives and expanding their horizons in ways that were not experienced by previous generations.

Today we no longer see the blatant and blanket denial of educational opportunities to children based solely on the color of their skin. As a result of the Brown decision, we as a society no longer accept the flawed doctrine outlined in the earlier case of Plessy v. Ferguson that separate meant equal.

These are all things that should be rightly celebrated and commemorated, but before we go patting ourselves on the back while claiming that education segregation is dead, we may first want to take a closer look at our public schools. What we will find is that, while race is no longer the basis for segregation in some States, homelessness is the basis for segregation. Some 47 years after the historic Brown v. Board of Education ruling, Congress may inadvertently be endorsing de facto segregation of homeless children.

Mr. Speaker H.R. 1, passed in May by this body, contains a grandfather clause permitting school districts that currently receive Federal dollars that segregate homeless children in separate schools or classrooms may continue to do so. This is contrary to what the Federal law currently says. It is also contrary to the spirit of Brown v. Board of Education that we commemorate today.

I am hopeful that this body will reconsider this provision in conference before we send it to the President for his signature. Now, that would be a fitting tribute to the decision made by the U.S. Supreme Court on May 17, 1954.

Mr. Speaker, I congratulate the gentleman from Kansas (Mr. RYUN) on this legislation, and I yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I would like to associate myself with the remarks made by the gentlewoman from Illinois (Mrs. BIGGERT) regarding homelessness and homeless children and where they fit in the school systems that we have to today.

Mr. Speaker, I yield the balance of my time to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, first of all, I would like to commend my colleagues, the gentleman from Illinois (Mr. DAVIS) and the gentlewoman from Maryland (Mrs. MORELLA) for their work on this particular piece of legislation.

Mr. Speaker, I rise today in support of this bill which would establish a commission to commemorate the 1954 Brown v. Board of Education decision. Back on May 17, 1954, the Supreme Court unanimously declared that separate educational facilities are inherently unequal and, therefore, violate the 14th amendment to the United States Constitution.

Back on May 17, 1954, I was 5 years old, attending the Cleveland Public Schools, which, at that time, was one of the best public school systems in the Nation. I rise in support of this Commission and speak to the issue that, even though we have done a lot since Brown v. Board of Education, many of our school systems are still segregated. That school system that I loved and enjoyed as a child is now a predominantly African American school system; and the funding for schools, public schools is no longer as high or as good as it used to be back when I was in elementary school.

On May 8 in Cleveland, however, we worked and passed a $3.7 million bond issue for school construction. It would raise $335 million, which would be matched by $500 million from the State of Ohio. They are greatly needed in the city of Cleveland, as I am confident they are needed across this country, to bring those crumbling public school systems and buildings back to the level that we wish that all of our children would enjoy in public schools.

I thank my colleagues for giving me the chance to commemorate Brown v. Board of Education

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Court's opinion in Brown v. Board of Education has touched the lives of all of us. I urge all Members to support this legislation.

I just want to comment on the fact that my first teaching assignment in Maryland was during the early transitional years of integration in Poolesville, Maryland.

This year I delivered the high school commencement address at that same place, a caring community which has as its slogan, "Where everyone knows your name."

My thanks to the gentleman from Illinois (Mr. DAVIS) for handling the important resolution across the aisle. I also want to thank the gentleman from Indiana (Mr. BURTON), chairman of the Committee on Government Reform, the gentleman from Florida (Mr. SCARBOROUGH), Subcommittee on Civil Service chairman, the gentleman from California (Mr. WAXMAN), and the gentleman from Illinois (Mr. DAVIS), the ranking members respectively of the Committee on Government Reform and Oversight and Subcommittee on Civil Service, for expediting the consideration of this measure.

Again, I encourage all Members to support this resolution.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in strong support for H.R. 2133, which establishes a commission to encourage and provide for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education of Topeka, Kansas. This unanimous landmark decision marked the beginning of the end for de jure racial segregation in public facilities. On May 17, 1954, the Supreme Court declared that separate educational facilities are inherently unequal and, as such, violate the 14th amendment to the U.S. Constitution, which guarantees all citizens equal protection of the laws.

The Brown v. Board of Education 50th Anniversary Commission will work with the U.S. Department of Education to plan and coordinate public education activities and coordinate observances of the anniversary.

It is important that we revisit our history to see how far our nation has evolved. I am sure that it is hard for young people today to believe that only 50 years ago children were prohibited from attending certain public schools simply because of their race. The blatant racism behind the disingenuous claim of providing "separate but equal" facilities for African American children was recognized and repudiated by the Supreme Court.

The Supreme Court decision did not mean the end of segregation, however. Many states and localities continued to fight efforts to integrate the schools for many years. And today, economic inequalities mean that many of our schools remain effectively segregated. Nonetheless, Brown v. Board of Education was a major turning point in eliminating Jim Crow laws and practices that sought to marginalize and isolate minorities.

It is fitting that our nation begin preparations to commemorate this important anniversary in 2004. We need to look back at where we started, celebrate the progress we have made thus far, and rededicate ourselves to creating that more perfect union that will truly deliver on the promise of equal opportunity for all Americans.

Mr. WATTS of Oklahoma. Mr. Speaker, On May 17, 1954, in the landmark case aimed at ending segregation in public schools—Brown versus the Board of Education—the United States Supreme Court issued a unanimous decision that "separate educational facilities are inherently unequal", and as such, violate the 14th Amendment to the United States Constitution, which guarantees all citizens, "equal protection of the laws." This decision effectively denied the legal basis for segregation in Kansas and other states with segregated classrooms and would forever change race relations in the United States.

The United States Constitution guarantees liberty and equal opportunity to the people of the United States. Historically, however, these fundamental rights have not always been provided. America's educational system is one such example.

In the early beginnings of U.S. history, education was withheld from people of Africa descent. In some states it was against the law for African Americans to even learn to read and write. Later, throughout America's history, the educational system mandated separate schools for children based solely on race. In many instances, the schools for African American children were substandard facilities with out-of-date textbooks and insufficient supplies.

In an effort to ensure equal opportunities for all children, African American community leaders and organizations across the country utilized the court system in order to change the educational system. The Brown decision initiated educational reform throughout the United States and brought all Americans one step closer to attaining equal educational opportunities.

As the great abolitionist and orator Frederick Douglas once said, some people know the value of an education because they have one, but I know the value of an education because I did not have one. Therefore, we must continue working to make sure that all of America's children receive the very best education imaginable.

I urge all of my colleagues to join me today in supporting the establishment of a commission to encourage and provide for the commemoration of the 50th anniversary of the Brown versus Board of Education Supreme Court Court decision.

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and pass the bill, H.R. 2133, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MORELLA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1245

PROVIDING FOR CONSIDERATION OF H.R. 2311, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 180 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 180

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the Bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI are waived except section 308. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. FOSSELLA). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), our newest member of the Committee on Rules, and I would welcome him to the floor for what I think is his first rule that he will be managing, and I appreciate his being here and working with us on this; pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 180 is an open rule and waives all points of order against consideration of the bill. It provides for 1 hour of general debate divided equally and controlled by the chairman and ranking minority member of the Committee on Appropriations.

It also provides that the amendment printed in the Committee on Rules report accompanying the rule shall be considered as adopted.

The rule waives points of orders against provisions in the bill as amended for failure to comply with clause 2 of rule XXI, which prohibits unauthorized or legislative provisions in an appropriations bill, except as specified in the rule.

The bill shall be considered for amendment by paragraph, and the Chair is authorized to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the legislation before us is an open rule providing for the consideration of H. Res. 2311, the Energy and Water Development Appropriations Bill for 2002. This legislation provides for funding for a wide array of Federal Government programs which address matters such as national security, environmental cleanup, flood control, alternative energy sources, and advanced scientific research.

The bill provides for a total of $23.7 billion in new discretionary spending authority for civil works projects of the Army Corps of Engineers and the Department of the Interior's Bureau of Reclamation, the Department of Energy, and several other independent agencies. The bill is $147.7 million above the fiscal year 2001 funding levels and an increase of $1.18 billion above the President's request.

Mr. Speaker, I would like to take a moment to highlight some provisions in this bill. Included in this legislation is approximately $4.47 billion for the Army Corps of Engineers, which has been involved in such vital missions as flood control, shoreline prevention, and navigation.

In addition, the Bureau of Reclamation, under the Department of the Interior, is funded at $842.9 million, an increase of $26.3 million over last year. Most of the large dams and water diversions in the West were built or with the assistance of the Bureau of Reclamation. The Bureau is the largest supplier of water in the 17 western States and the second largest hydroelectric power producer in the Nation.

Also, this bill provides $18.7 billion for the Department of Energy, an increase of $444.2 million above the fiscal year 2001 level. Funding for the Department of Energy was increased over the President's request primarily in the areas of renewable energy technologies, environmental cleanup, and nuclear nonproliferation.

In March of 2001 this year, the Bush administration issued an outline for this budget. In this it states that solar and renewable energy cannot replace fossil fuels in the near term but will be an important part of this Nation's long-term energy supply. I am pleased that this bill includes $376.8 million for renewable energy programs, an increase of $1 million from last year.

Additionally, biological and environmental research is funded at $445.9 million. I am particularly pleased that the funding in this bill continues the strong record of conservation and preservation by the Republican Congress.

Mr. Speaker, I would also like to commend the chairman of the Subcommittee on Energy and Water Development of the Committee on Appropriations, the gentleman from the First District of Alabama (Mr. CALLAHAN), and the Democrat ranking member, the gentleman from Indiana (Mr. VISCLOSKY), for their hard work in bringing this bill to the floor. Their staffs have done a great job in the crafting of this bill.

Mr. Speaker, this bill is considered noncontroversial. This rule, like the underlying legislation, deserves strong bipartisan support.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Texas for yielding me the time. It is a pleasure to serve on the Committee on Rules with my good friend and colleague, the gentleman from Texas (Mr. SESSIONS), and I thank him for welcoming me as the newest member of the Committee on Rules.

Mr. Speaker, I rise in support of the Energy and Water Appropriations bill for fiscal year 2002 and in support of the rule. I also would associate myself with the remarks made by the gentleman from Texas about the many particulars that are set forth in the bill that are meritorious, in my view, for the entire body.

I want to congratulate the chairman of the subcommittee, the gentleman from Alabama (Mr. CALLAHAN), and the ranking member, the gentleman from Indiana (Mr. VISCLOSKY), for their work on this bill and for their recognition of the importance to the entire country of the necessary public works projects it funds.

I am especially pleased, from a parochial point of view, that this bill contains nearly $20 million for the continued restoration of the Florida Everglades. Congress and the State of Florida made a historic agreement last year to save this international treasure, and I am thrilled that Congress continues its commitment through this bill.

Additionally, Mr. Speaker, this bill contains a number of significant projects important to my south Florida district, as well as those that are my colleagues that are in that area; and I would like to highlight a few of them for just a moment.

In my home of Broward County this bill funds beach erosion and renourishment projects to the tune of $2.5 million. These funds are critical to protecting and enhancing Florida's pristine beaches and the businesses that thrive because of them.

In northeast Dade County this bill contains funding for a study of flood patterns in the county and remediation of flooding that continually occurs in some of the poorest neighborhoods of this area.

Mr. Speaker, I am pleased that this bill contains projects that would greatly benefit the constituents of myself and those of my colleague, the gentleman from Florida (Mr. FOLEY), in Ft. Pierce, in St. Lucie County, and a number of projects that greatly improve conditions in Palm Beach County that are relevant to my other colleagues, the gentleman from Florida (Mr. SHAW), the gentleman from Florida (Mr. WEXLER), and the gentleman from Florida (Mr. FOLEY), as well as myself.

Mr. Speaker, this is a good bill; and the rule is fine as far as it goes. As the gentleman from Texas (Mr. SESSIONS) noted, the rule does allow for amendments to the dollar amounts contained in the committee-reported bill. The committee Republicans chose not to allow the gentlewoman from Nevada (Ms. BERKLEY) the right to offer an amendment relating to transportation of high-level nuclear waste. This is most unfortunate, in my view, as I believe the Berkley amendment would have made the bill better.

Also, Mr. Speaker, let me add my support for the amendment which will be offered by my friend and colleague, the gentleman from Florida (Mr. DAVIS), which will allow construction of the Gulf Stream pipeline to continue unabated.

Again, Mr. Speaker, I thank the chairman and ranking member for bringing an excellent bill to the House. This is a bipartisan bill that helps millions of Americans from coast to coast, and I urge passage of the bill and adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. HASTINGS), a member of the Committee on Rules.

Mr. HASTINGS of Washington. Mr. Speaker, I want to thank my good friend and colleague on the Committee on Rules, the gentleman from Texas (Mr. SESSIONS), for yielding me this time; and I want to congratulate my friend, the newest member of the Committee on Rules, the gentleman from Florida (Mr. HASTINGS), on his first rule.

Mr. Speaker, I rise in strong support of this rule and this underlying legislation. I would like to begin by commending the chairman, the gentleman from Alabama (Mr. CALLAHAN), and the ranking member, the gentleman from Indiana (Mr. VISCLOSKY), as well as the chairman of the full Committee on Appropriations, the gentleman from Florida (Mr. YOUNG), and the ranking member, the gentleman from Wisconsin (Mr. OBEY), on their leadership in bringing this excellent piece of legislation to the floor. This is the first bill of the gentleman from Alabama as chairman of the Subcommittee on Energy and Water Development, and I commend him on his openness and his support. They have carefully balanced the priorities in a very tight budget year to ensure that the cleanup of former nuclear sites stays on schedule.

As chairman of the Nuclear Cleanup Caucus here in the House, I have been privileged to work closely with the committee this year to ensure that cleanup sites throughout the Nation continue their significant progress, ensuring that the legacy of World War II and the Cold War is cleaned up. While I have been supportive of the President's goal to cap the overall spending increase at 4 percent, I have to admit that I was deeply troubled by the administration's initial request on cleaning up the Nation's former nuclear weapons sites.

Earlier this year, the Committee on the Budget responded to that by including in the congressional budget resolution language directing up to an additional $1 billion in the Environmental Management Account. I am pleased that the Committee on Appropriations has, in the past 2 weeks, included an additional $880 million for cleanup in the supplemental and the legislation we will consider today. This will allow for the Federal Government to keep its legal and moral commitments to the communities that surround these sites.

The Department of Energy has negotiated innovative contracts that mirror commercial practices to transform the cleanup program and ensure that more dollars are spent on cleanup. These negotiated contracts ensure that the American taxpayer receives more cleanup dollars for less by requiring efficiencies to do more with less. Without this additional funding for the Environmental Management program, these aggressive contracts would have had to be re-negotiated, thus eliminating the benefits to the taxpayer.

This legislation will increase funding by nearly $700 million over the administration's request. This will reverse the proposed reductions at the major sites throughout the country. Specifically at Hanford the additional dollars provided in this legislation will provide full funding for the construction of the Waste Treatment Project. This is the home of over 60 percent of the radioactive waste of this country; and yet it is the only facility, Hanford, that lacks a treatment capability. It is essential that this project be fully funded in fiscal year 2002 in order to ensure maximum benefit to the taxpayer and the safety of the Pacific Northwest.

Further, the legislation allows for the River Corridor Initiative to begin at the Richland Operations Office. This innovative approach will allow for the acceleration of cleanup along the River Corridor and will shrink the Hanford site from 560 square miles to 75 square miles by the year 2012.

□ 1300

This is an aggressive schedule which will save American taxpayers hundreds of millions of dollars over this time period.

Mr. Speaker, this legislation provides the first step to what I hope will be the full transformation of this project to a closure contract in fiscal year 2003. Further, the legislation will allow for continued efforts to remove spent nuclear fuel which has been standing 100 yards from the Columbia River for 25 years, and to move it away from the river into safe storage.

I would like to commend the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Florida (Mr. YOUNG) for their excellent work. I would also like to thank my colleagues on the Nuclear Cleanup Caucus, the contractors and the stakeholders that came together in a unified manner to ensure that these increases became a reality.

Mr. Speaker, I support the rule and the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I congratulate the gentleman from Florida (Mr. HASTINGS), having been appointed to the prestigious and important Committee on Rules. Florida is proud of his service in the Congress, and we are proud that 3 of 13 Members who serve on the Committee on Rules are from Florida, two Republicans, the gentleman from Florida (Mr. GOSS) and the gentleman from Florida (Mr. DIAZ-BALART). And now the gentleman from Florida (Mr. HASTINGS) joins the Committee on Rules, and my great State is going to benefit by the gentleman's leadership.

Let me also commend this bill of the Subcommittee on Energy and Water. The gentleman from Florida (Mr. HASTINGS) clearly laid out some of the very important projects that are occurring in our mutual districts, such as Port St. Lucie, the inlet maintenance project, some shoreline protection that will occur throughout our counties; but I also want to call attention to an amendment that will be offered by one of our colleagues that will seek to reduce the Federal allocations towards beach renourishment. I believe that has been made in order. What that basically says is that we will reduce the Federal share of beach renourishment projects in places like Florida.

The gentleman from Florida (Mr. HASTINGS) and I clearly want to underscore the need for Federal involvement, and we also want to give a little education here, because some people assume that these beach renourishment projects are folly, that they are a waste of tax dollars, that they are something that the local jurisdictions should do, and we need not concern ourselves with these issues in Congress.

As the gentleman from Florida (Mr. HASTINGS) and I know, many of the areas where the most severe beach erosion is occurring are just south of inlets that were designed and constructed by the Corps of Engineers for some commerce at times, and some were national security issues. So in Palm Beach County, for instance, at the south end of our inlet, we are constantly vigilant because of shoreline that is eroding because of that unnatural cut that occurred.

Mr. Speaker, therein lies the nexus by which we ask and continue to urge Congress to fund these shoreline protection agreements. They are vital to tourism. We are parochial in our approach, and we are concerned about tourism; but it has more to do with ecological factors, such as nesting turtles, reef renourishments. All of these are impacted by a degradation of our beaches.

Mr. Speaker, we stand opposing an amendment that will be offered later, although supporting the fine work in this bill. There are some phenomenal projects that I will call Members' attention to again, whether it is the Department of Energy or other related accounts, the President's initiative on energy conservation, or on strategically positioning ourselves to be more self-reliant on energy needs.

Mr. Speaker, the gentleman from Alabama (Mr. CALLAHAN) has done a masterful job of meeting not only the needs of 50 States, but also the concerns of Members.

Mr. Speaker, as a Member from the Florida delegation, I want to apologize to the gentleman from Alabama (Mr. CALLAHAN) because we were unaware during debate last week on a very contentious issue that the gentleman was out of the Capitol with the President attending some business with the President of the United States in Alabama. We would not have excluded him from debate, so we apologize for that slight. We meant no disrespect. As a delegation, we are absolutely opposed to the drilling question, but never would we have done it as an attempted embarrassment of the fine chairman and the fine job he has done.

Mr. Speaker, I want to commend the rule. I urge Members to support its adoption, the underlying bill; and again, I would ask my colleagues to pay special attention to an amendment that would cut the government's responsibility on shoreline protection and urge the defeat of that same amendment.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida (Mr. FOLEY) for his kind comments regarding my ascension to the Committee on Rules.

Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule and in general support of the bill. I want to in particular touch on three issues briefly. I want to thank the committee, thank this House for continuing to fund the nuclear facilities closure projects across the country, but in particular the one in my district at Rocky Flats. Rocky Flats is close to the center of my congressional district. It is just a few miles from population centers that exceed 2 million people. This is a very important project to clean up and close this facility.

I also thank the committee for the inclusion in the bill of initial funding for a small flood control project in Arvada, Colorado. There has been an important partnership there along Van Bibber Creek, and these are important moneys that will begin to put this capital project in place.

Finally, I want to emphasize my support for the committee's work in increasing the levels of funding for DOE's renewable energy programs. Initially the administration slashed these important budget items by $138 million, almost 36 percent, and I think this was shortsighted; but we have worked hard over the last 2 years to boost funding for these programs, and I want to acknowledge the gentleman from Tennessee (Mr. WAMP) on the Renewable Energy and Energy Efficiency Caucus for the good work the gentleman has done.

In general, Mr. Speaker, although no bill is perfect, this one is awful close, and I very much appreciate the opportunity to speak today in support of it.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, just as it is the first rule for the gentleman from Florida (Mr. HASTINGS) to manage in the Committee on Rules, we also like to thank staff who it is their last rule to be with us.

I would like to thank Gena Bernhardt for her 6 years on the Committee on Rules, and 9 years serving on the Hill, who will be leaving the Hill for opportunities down at the Department of Justice. She served as professional staff and legal counsel, and is a good friend of all of ours. It is a time to say hello; and a time to say good-bye.

Mr. Speaker, this is a fair and open rule supported by my colleagues, and I would ask my colleagues to support this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, following this 15-minute vote on House Resolution 180, the Chair will reduce to 5 minutes the minimum time for electronic voting on the two motions to suspend the rules on which the Chair postponed further proceedings earlier today.

The vote was taken by electronic device, and there were—yeas 425, nays 1, not voting 7, as follows:

[Roll No. 196]

YEAS—425

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—1

Thune

NOT VOTING—7

Burton
Hinchey
Meek (FL)
Platts
Pombo
Putnam
Wu

□ 1334

Mr. THUNE changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

House Resolution 172, by the yeas and nays; and

H.R. 2133, by the yeas and nays.

Both of these will be 5-minute votes.

HONORING JOHN J. DOWNING, BRIAN FAHEY, AND HARRY FORD, WHO LOST THEIR LIVES IN DUTIES AS FIREFIGHTERS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 172.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the resolution, H. Res 172, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 9, as follows:

[Roll No. 197]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Allen
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)

Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Andrews
Burton
Kaptur
Meek (FL)
Obey
Platts
Pombo
Putnam
Wu

□ 1342

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

The motion to reconsider was laid upon the table.

BROWN v. BOARD OF EDUCATION 50TH ANNIVERSARY COMMISSION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2133, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and pass the bill, H.R. 2133, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 2, not voting 17, as follows:

[Roll No. 198]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—2

Flake
Paul

NOT VOTING—17

Allen
Andrews
Boswell
Burton
Callahan
Doolittle
Frank
Johnson, Sam
Matsui
Meek (FL)
Owens
Platts
Pombo
Putnam
Sherwood
Turner
Wu

□ 1351

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON H.R. 2330, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. BONILLA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107–116) on the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for fiscal year 2002, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 1 of rule XXI, all points of order are reserved.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2180

Mrs. BONO. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 2180.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, and that I may be permitted to include tabular and extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore. Pursuant to House Resolution 180 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2311.

□ 1352

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY) each will control 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. CALLAHAN).

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my privilege to bring before the body today the fiscal year 2002 appropriations bill for energy and water needs facing this country. We have tried desperately to work with all the Members on both sides of the aisle to bring before you today a fair bill, a bill that has addressed most of the concerns of the Members who have contacted us. Mr. Chairman, there have been extensive contacts with us. In our deliberations we have come forward with a bill that I think provides the administration with ample funds for energy and water and reclamation needs in this country.

The bill agrees with President Bush that we should constrain government growth. I am happy to report that this bill constrains government growth because it is only increased about a one-half of 1 percent over the FY year 2001 level of funding.

The total funding in H.R. 2311 is $23.7 billion. This is $147 million, as I said, less than one-half of 1 percent, more than fiscal year 2001, for energy and water development programs.

Title I of the bill provides funding for the civil works program of the Corps of Engineers. The Subcommittee on Energy and Water Development is unanimous in its belief that these programs are among the most valuable within the subcommittee's jurisdiction. The national benefits of projects for flood control, for navigation and shoreline protection substantially exceed project costs. The bill acknowledges the importance of water infrastructure by funding the civil works program at $4.47 billion, an increase of only $568 million over last year's appropriation.

Within the amount appropriated to the Corps of Engineers, $163 million is for general investigations, $1.67 billion is for the construction program, and $1.86 billion is for operations and maintenance. In addition, the bill includes $347 million for the flood control, Mississippi River and Tributaries project. The bill also funds the budget request for the regulatory program and the Formerly Utilized Sites Remedial Action Program.

In title II, which is for the Bureau of Reclamation, we spend $842 million, an increase of only $26 million over fiscal year 2001.

Title III provides $18 billion for the Department of Energy, an increase of $444 million over fiscal year 2001.

So in all three areas of jurisdiction the bill is within the suggested constraints that President Bush has submitted to us, whereby we control excessive government growth spending. We are very pleased to have done that.

We sought to maintain level funding for basic research in science programs; and we provided $3.17 billion, an increase of $6.5 million over the budget request. Funding of $276.3 million has been provided for construction of the Spallation Neutron Source, the same as the budget request. We have sought to respond to all of the needs, and we visited some of the projects throughout the country in trying to determine where our priorities ought to be.

I think if there is anything, Mr. Chairman, that pleases me, it is the way we have been able to work in a bipartisan fashion with the minority. We have been able to respond, as I said earlier, to most every legitimate need, we feel, that has been brought before us for our consideration. I am happy to have the support of so many Members of Congress in helping us draft this legislation.

Mr. Chairman, I owe a debt of gratitude to the hard work of the dedicated members of the Subcommittee on Energy and Water Development. They have labored under difficult constraints to produce a bill that is balanced and fair. I am especially grateful to the gentleman from Indiana (Mr. VISCLOSKY), our ranking minority member. It is in large part due to his efforts that we present a bill that merits the support of all Members of the House.

Mr. Chairman, I urge all Members to support H.R. 2311 as reported by the Committee on Appropriations.

Mr. Chairman, I include the following charts for the RECORD.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, 2002 (H.R. 2311)
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF DEFENSE - CIVIL					
DEPARTMENT OF THE ARMY					
Corps of Engineers - Civil					
General investigations	160,584	130,000	163,260	+2,676	+33,260
Construction, general	1,716,165	1,324,000	1,671,854	-44,311	+347,854
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	350,458	280,000	347,655	-2,803	+67,655
Operation and maintenance, general	1,897,775	1,745,000	1,864,464	-33,311	+119,464
Regulatory program	124,725	128,000	128,000	+3,275	....
FUSRAP	139,692	140,000	140,000	+308	....
General expenses	151,666	153,000	153,000	+1,334	....
Total, title I, Department of Defense - Civil	4,541,065	3,900,000	4,468,233	-72,832	+568,233
TITLE II - DEPARTMENT OF THE INTERIOR					
Central Utah Project Completion Account					
Central Utah project construction	19,524	24,169	24,169	+4,645	....
Fish, wildlife, and recreation mitigation and conservation	14,136	10,749	10,749	-3,387	....
Utah reclamation mitigation and conservation account	4,989	....	....	-4,989	....
Subtotal	38,649	34,918	34,918	-3,731	....
Program oversight and administration	1,213	1,310	1,310	+97	....
Total, Central Utah project completion account	39,862	36,228	36,228	-3,634	....
Bureau of Reclamation					
Water and related resources	678,953	647,997	691,160	+12,207	+43,163
Loan program	9,348	7,495	7,495	-1,853	....
(Limitation on direct loans)	(26,941)	(26,000)	(26,000)	(-941)	....
Central Valley project restoration fund	38,360	55,039	55,039	+16,679	....
California Bay-Delta restoration	....	20,000	....	....	-20,000
Policy and administration	50,114	52,968	52,968	+2,854	....
Total, Bureau of Reclamation	776,775	783,499	806,662	+29,887	+23,163
Total, title II, Department of the Interior	816,637	819,727	842,890	+26,253	+23,163
TITLE III - DEPARTMENT OF ENERGY					
Energy supply	659,918	544,245	639,317	-20,601	+95,072
Non-defense environmental management	277,200	228,553	227,872	-49,328	-681
Uranium facilities maintenance and remediation	392,502	363,425	393,425	+923	+30,000
Science	3,180,341	3,159,890	3,166,395	-13,946	+6,505
Nuclear Waste Disposal	190,654	134,979	133,000	-57,654	-1,979
Departmental administration	225,942	221,618	209,611	-16,331	-12,007
Miscellaneous revenues	-151,000	-137,810	-137,810	+13,190	....
Net appropriation	74,942	83,808	71,801	-3,141	-12,007
Office of the Inspector General	31,430	31,430	32,430	+1,000	+1,000
Environmental restoration and waste management:					
Defense function	(6,108,864)	(5,740,783)	(6,410,625)	(+301,761)	(+669,842)
Non-defense function	(669,702)	(591,978)	(621,297)	(-48,405)	(+29,319)
Total	(6,778,566)	(6,332,761)	(7,031,922)	(+253,356)	(+699,161)
Atomic Energy Defense Activities					
National Nuclear Security Administration:					
Weapons activities	5,006,153	5,300,025	5,123,888	+117,735	-176,137
Defense nuclear nonproliferation	872,273	773,700	845,341	-26,932	+71,641
Naval reactors	688,645	688,045	688,045	-600	....
Office of the Administrator	9,978	15,000	10,000	+22	-5,000
Subtotal, National Nuclear Security Administration	6,577,049	6,776,770	6,667,274	+90,225	-109,496
Defense environmental restoration and waste management	4,963,533	4,548,708	5,174,539	+211,006	+625,831
Defense facilities closure projects	1,080,331	1,050,538	1,092,878	+12,547	+42,340
Defense environmental management privatization	65,000	141,537	143,208	+78,208	+1,671
Subtotal, Defense environmental management	6,108,864	5,740,783	6,410,625	+301,761	+669,842
Other defense activities	582,466	527,614	487,464	-95,002	-40,150
Defense nuclear waste disposal	199,725	310,000	310,000	+110,275	....
Total, Atomic Energy Defense Activities	13,468,104	13,355,167	13,875,363	+407,259	+520,196
Power Marketing Administrations					
Operation and maintenance, Southeastern Power Administration	3,891	4,891	4,891	+1,000	....
Operation and maintenance, Southwestern Power Administration	28,038	28,038	28,038	....	....
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	165,465	169,465	172,165	+6,700	+2,700
Falcon and Amistad operating and maintenance fund	2,663	2,663	2,663	....	....
Total, Power Marketing Administrations	200,057	205,057	207,757	+7,700	+2,700
Federal Energy Regulatory Commission					
Salaries and expenses	175,200	181,155	181,155	+5,955	....
Revenues applied	-175,200	-181,155	-181,155	-5,955	....

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, 2002 (H.R. 2311)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Defense nuclear waste disposal (rescission)	-75,000			+75,000	
Defense environmental privatization (rescission)	-97,000			+97,000	
Total, title III, Department of Energy	18,303,148	18,106,554	18,747,360	+444,212	+640,806
TITLE IV - INDEPENDENT AGENCIES					
Appalachian Regional Commission	66,254	66,290	71,290	+5,036	+5,000
Defense Nuclear Facilities Safety Board	18,459	18,500	18,500	+41	
Delta Regional Authority	19,956	19,992		-19,956	-19,992
Denali Commission	29,934	29,939		-29,934	-29,939
Nuclear Regulatory Commission:					
Salaries and expenses	481,825	506,900	516,900	+35,075	+10,000
Revenues	-447,958	-463,248	-473,520	-25,562	-10,272
Subtotal	33,867	43,652	43,380	+9,513	-272
Office of Inspector General	5,500	6,180	6,180	+680	
Revenues	-5,390	-5,932	-5,933	-543	-1
Subtotal	110	248	247	+137	-1
Total	33,977	43,900	43,627	+9,650	-273
Nuclear Waste Technical Review Board	2,894	3,100	3,100	+206	
Total, title IV, Independent agencies	171,474	181,721	136,517	-34,957	-45,204
TITLE V - EMERGENCY SUPPLEMENTAL					
DEPARTMENT OF ENERGY					
Atomic Energy Defense Activities					
Cerro Grande fire activities (contingent emergency appropriations)	203,012			-203,012	
Appalachian Regional Commission (contingent emergency appropriations)	10,976			-10,976	
Total, title V, Emergency Supplemental	213,988			-213,988	
Grand total:					
New budget (obligational) authority	24,046,312	23,008,002	24,195,000	+148,688	+1,186,998
Appropriations	(24,004,324)	(23,008,002)	(24,195,000)	(+190,676)	(+1,186,998)
Contingent emergency appropriations	(213,988)			(-213,988)	
Rescissions	(-172,000)			(+172,000)	

Mr. Chairman, I reserve the balance of my time.

Mr. VISCLOSKY. Mr. Chairman, I yield myself such time as may consume.

Mr. Chairman, I would encourage at the outset of my remarks all of the Members of the body to support the energy and water appropriation bill. I would also at the outset note that the long-standing Alabama and Indiana connection, as they call it, that was established many years ago by Mr. Bevill from Alabama and Mr. Myers from Indiana, has now been reestablished on that particular subcommittee.

I want to very sincerely thank the gentleman from Alabama (Chairman CALLAHAN) for his leadership on the subcommittee. He has been a leader. He has been trusting of all of us on this subcommittee. He has been open, he has been fair, and he has been decisive. He has put together a very good work product in a bipartisan fashion, and I strongly support it.

I also do want to thank all of the members of the subcommittee, who have worked so hard also to put this legislation together.

Last, I want to especially thank those who have done the work, the staff: Bob Schmidt, Jeanne Wilson, Kevin Cook, Tracy LaTurner, Paul Tumminello; the personal staff of the gentleman from Alabama (Mr. CALLAHAN), Mike Sharp and Nancy Tippins; and our side of the aisle, David Killian, Richard Kaelin, and Jennifer Watkins, a former staffer. I do appreciate the work that the staff has done.

The President asked for $1 billion worth of cuts for the programs represented by this legislation; and under the leadership of this subcommittee, those cuts have essentially been restored.

□ 1400

We are $187 million over the current year level, that is less than a 1 percent increase, but this bill does meet critical demands faced in the infrastructure and energy arena by our Nation. I am particularly happy that as far as water infrastructure, there is a $591 million plus-up in this bill, and some of the other attributes I would mention is the increase in environmental funding over the administration request. This funding increase is essential to achieving long-planned program milestones, assuring compliance with the law, and avoiding unnecessary stretch-outs that could simply lead to higher costs.

I am also very happy that in the nonproliferation accounts, we have increased the amount over the President's request by $71 million, and the current bill now has $774 million contained therein. I also think it is important for all of my colleagues to understand that the gentleman from Alabama (Mr. CALLAHAN) indicated during markup that he plans to conduct a hearing in July relative to this issue and all of the needs as far as our concern over the proliferation of weapons of mass destruction and the materials thereto. I look forward to joining him to ensure that these critical programs get the scrutiny and the attention that they deserve, and I also wish to commend especially the gentleman from Texas (Mr. EDWARDS) for his leadership on this issue.

The bill also provides $733 million for renewable energy resources, and that, again, is an increase of $100 million over the administration's request.

This is a very good bill, but at the conclusion of my remarks, I would just make a couple of points about our underinvestment in infrastructure in this Nation. I do regret, through no fault of anyone on the subcommittee, that I believe we are still $10 million short as far as the Army Corps of Engineers regulatory budget, as far as making sure that the Corps can efficiently and without delay proceed with their regulatory burden. I regret that we were not fully able to fund that account, but we have included it at the administration's request. Additionally, it should be understood that the Corps asked for $6 billion because they felt that was, in fact, the national need.

As far as water, we have $4.468 billion contained in the bill. At this rate, unfortunately, authorized projects by this Congress will increase, that have not been started, from $38 billion this year to $40 billion in the next fiscal year. We will see the Corps' backlog of critical maintenance increase from $450 million this year to $864 million next year. However, I would point out in the supplemental, the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Florida (Mr. YOUNG) did agree to plus up critical maintenance as far as dams under the Army Corps critical control by $23.7 million last week. They certainly recognized the need.

The Corps last year in testimony before the subcommittee also indicated that to proceed as efficiently as possible and in as economical fashion as possible, they really needed about another $700 million a year for those existing authorized projects that we are already providing funding for, and, clearly, there is a shortfall.

The last category I would touch on is water infrastructure, primarily sewers. This body, the other body and the administration combined over the last several years have authorized 202 sewer programs, only 44 of which are actually funded, 22 percent. The needs and requests are about $2.5 billion, and, again, I do think we have a shortfall in this country. The American Society of Civil Engineers and the U.S. EPA would indicate that to simply bring up existing infrastructure for clean drinking water, we would have to expend an additional $11 billion for wastewater, $12 billion. Clearly, the resources as far as the allocations do not exist.

Mr. Chairman, the chairman has done an exceptional job with the resources we were given. This is a very good bill. However, I do think the administration and the Congress someday, whether it is water or other economic infrastructure, has to face the fact that we need to invest more money.

Mr. Chairman, I reserve the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the chairman of the full committee, and the gentleman who is responsible for marshalling all 13 of these appropriation bills through this body and through the conference.

Mr. YOUNG of Florida. Mr. Chairman, I wanted to congratulate the chairman of this subcommittee. He and the ranking member have done an outstanding job in bringing disagreements together to agreements. They have a good bill. There will be some differences that we will be discussing here later this afternoon, but they have done a really good job. They have worked together very well in a good bipartisan fashion, and they have produced a bill of which both the chairman as well as the ranking member can be very proud. The staff of the subcommittee, too, have done yeoman's work.

I take this little extra time, Mr. Chairman, to say that one of the conversations that we will probably have this afternoon will have to do with energy. We have enough problems with energy because of our heavy reliance on foreign sources. We have problems with those foreign sources on occasion. We cannot afford to have any energy wars here at home with each other. So we need to be careful how we approach all of these issues so that we do not get into a battle with ourselves over energy.

A major industrial Nation like the United States, which is a large consumer of energy, must also understand the importance of producing energy, because if we totally rely on energy sources from abroad, we will find ourselves in real tight spots on occasion, which we do on occasion.

So when we get to those issues later today, let us understand that we are all on the same team, and that we are not going to start any energy wars between one section of the country and another; that we are going to work together to work out what is right and best for the people of the United States of America, who are energy consumers.

But again, I wanted to say that the gentleman from Alabama (Mr. CALLAHAN), the chairman of the subcommittee, has done a beautiful job with this bill with the help of the gentleman from Indiana (Mr. VISCLOSKY), and it deserves the support of the Members of the House. I hope that we can do that expeditiously and move on to other matters.

Mr. Chairman, we will be filing the Agriculture Bill this afternoon and hopefully will have it on the floor tomorrow. The subcommittees have marked up two more appropriations bills this morning, so we really are moving quickly. We got off to a late start because we received our specific numbers and budget justifications late, but we are catching up, and we are catching up pretty effectively.

Mr. VISCLOSKY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. ROYBAL-ALLARD), a valued member of the subcommittee.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise for the purpose of engaging in a colloquy with the gentleman from Alabama (Mr. CALLAHAN) on the subject of security procedures at the Department of Energy headquarters.

Members of this House were appalled when they learned about the incident involving our colleague, the gentleman from Oregon (Mr. WU), at the Department of Energy headquarters a few weeks ago. The gentleman from California had been invited by DOE to be a guest speaker at a celebration honoring the contributions of Asian Pacific Islander Americans to this country. But when he arrived at DOE headquarters, he was refused admittance and asked three different times whether he was an American citizen, even after producing an official card identifying him as a Member of Congress.

An Asian American aide accompanying the gentleman from California (Mr. WU) was also refused admittance, despite producing a congressional identification card.

As the representative of the 33rd Congressional District of California, I am proud to represent an active community of Asian Pacific Islander Americans in Los Angeles. Understandably, we were very upset at this incident and the implication of discrimination by an official government agency.

I, therefore, want to take this opportunity to thank the gentleman from Alabama (Mr. CALLAHAN) for including language in our report expressing the committee's concern about this incident and asking DOE to examine its security procedures in light of it.

Mr. CALLAHAN. Mr. Chairman, will the gentlewoman yield?

Ms. ROYBAL-ALLARD. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I appreciate very much the gentlewoman's interest in this matter, and I know that we are all concerned about this incident. As the gentlewoman has requested, we have directed DOE to reconsider its security procedures and to report back to us.

Ms. ROYBAL-ALLARD. Mr. Chairman, reclaiming my time, I thank the gentleman for providing me with this opportunity to report to our colleagues on how we have responded to this disturbing incident. I very much appreciate the gentleman's willingness to work with me to ensure that DOE's security procedures are not only effective, but that they are also in keeping with our American values against discrimination.

Mr. CALLAHAN. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN), a member of our subcommittee, and a very important member of our subcommittee.

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in support of the energy and water appropriations bill for this year. Let me thank first the gentleman from Alabama (Mr. CALLAHAN), the chairman of the subcommittee, for his leadership on our subcommittee's work, and to the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, for his bipartisan approach to our bill, and my thanks to the subcommittee staff for their tireless efforts in putting this bill together.

The gentleman from Alabama (Mr. CALLAHAN) has produced a bill that ensures our Nation's continued commitment to work in partnership with our States and local communities to address such vital needs as flood control, shore protection, environmental restoration, and improving our Nation's many waterways. By doing so, we are helping meet our critical economic, environmental and public safety needs in virtually every State in the Nation, and we are doing so in keeping with our 302(b) allocation, which means we are working within the confines of a balanced Federal budget.

As the chairman can attest and has attested, there are many more requests for funding than our budget allocation can provide for. The No New Start policy contained in this bill is difficult, but very necessary. We are focusing our limited dollars on ongoing projects that are on schedule and on budget.

The chairman deserves special recognition for rejecting forthright the proposition that we should change in midstream the Federal Government's funding formula commitments to these ongoing projects. For more than 170 years, the Federal Government has worked in partnership with our States and local communities to provide solutions to critical flooding, dredging and environmental problems, as well as beach and shore protection. In my home State of New Jersey, these projects have kept our port of New York and New Jersey open for business, and prepared us for the future of bigger ships.

I want to thank the chairman in particular for his strong support of dredging for our port, and with this bill we are helping to keep 127 miles of our beaches in my State open for visitors from around the country and around the world. This is a $30 billion industry of tourism for our State. It employs over 800,000 people.

Finally, to help protect people, their homes and businesses from the ravages of flooding, we are helping to purchase wetlands for natural storage areas, and we are working alongside local governments in Somerset and Morris Counties and elsewhere to develop long-term solutions to keep people safe and our communities whole in the event that floods reoccur, and they will.

Let me also address part of our bill which provides funding for the Department of Energy. Here we have focused our critical dollars on the central programs where the Federal Government can truly make a difference. I especially want to thank the chairman for his support of $248 billion for the fusion program and $25 million for laser research. In the President's national energy plan, fusion energy was actually highlighted as having the potential to serve as an inexhaustible and an abundant clean source of energy. The President's energy plan suggests that fusion should be developed as a next-generation technology, and I agree.

Finally, let me say a word about funding for the renewable energy resources, since they are a focus of so much public attention. Let us be clear. Everyone supports renewables, and we fund these programs at $376 million. In fact, in the 7 years I have served on this subcommittee, we have invested over $2.2 billion in renewable energy. This year's added funding maintains our commitment to renewables.

Mr. Chairman, I rise in support of this bill, and I urge my colleagues to do the same.

Mr. VISCLOSKY. Mr. Chairman, I would simply follow up on the colloquy that the gentlewoman from California and the gentleman from Alabama had and would note that the committee directs the Secretary to report back by September 1 of this year in anticipation of the conference. So I do appreciate the chairman's cooperation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Chairman, I thank my colleagues for including in the bill a $4 million increase for transmission reliability and to direct the Department of Energy to initiate field-testing of advanced composite conductors. I just want to clarify that these additional funds will be used explicitly for Aluminum Matrix Composite conductors; is that correct?

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Alabama.

□ 1415

Mr. CALLAHAN. The gentleman from Minnesota (Mr. SABO) is correct.

Mr. SABO. Reclaiming my time, I thank the gentleman from Alabama for his response.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. GARY G. MILLER).

Mr. GARY G. MILLER of California. Mr. Chairman, I would like to inquire about a provision in the Committee Report. In title III, describing the Committee's funding priorities for the Department of Energy's Energy, Biomass, Biofuels and Energy Systems program, the report states "$1 million to support a cost-shared agricultural waste methane power generation facility in California."

With regard to this California project, I ask the gentleman from Alabama (Mr. CALLAHAN) is it the same effort proposed by the Inland Empire Utilities Agency in cooperation with the dairies located in the Chino Dairy Preserve?

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. GARY G. MILLER of California. I yield to the gentleman from Alabama.

Mr. CALLAHAN. The gentleman from California is correct.

Mr. VISCLOSKY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. EDWARDS), a member of the Subcommittee on Energy and Water Development.

Mr. EDWARDS. Mr. Chairman, I rise in support of this important legislation, and I would like to speak about both its process and its product.

Regarding the process in developing this bill, I want to commend the gentleman from Alabama (Mr. CALLAHAN), who is not new to a position of being chair in this House, he is not new to the subcommittee; but this is his first term as a chairman of this subcommittee. Through his leadership, working with the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, this was truly put together on a fair and bipartisan basis with the intention of what is good for the country in different regions of the country, not what is good for one party or another.

Mr. Chairman, I regret sometimes that the amount of press attention to legislation in Washington is inversely proportional to the importance of that legislation and how well it is handled. There may not be a lot of coverage of this today in many parts of the country, because it was done on a bipartisan basis without squabbling and infighting.

In terms of the product of this bill, I rise to speak about it because many people in this House and throughout the country do not pay a great deal of attention to the work of this subcommittee, especially because much of its work is designed for prevention, flood prevention and nuclear proliferation prevention.

If this committee does its work well, people never know how important the work of the Subcommittee on Energy and Water has actually been to their lives.

Mr. Chairman, let me pay special tribute to the gentleman from Alabama (Chairman CALLAHAN) for his strong leadership efforts supported by the gentleman from Indiana (Mr. VISCLOSKY) in seeing that at a time of great flooding, in the wake of Tropical Storm Allison, we did not cut the funding for the Army Corps of Engineers flood control projects as had been originally proposed.

In an area of which I have great personal interest, the area of nuclear nonproliferation, I think most Americans would be surprised to know that in Russia today, there is enough nuclear grade plutonium and enriched uranium to build 80,000 nuclear bombs.

This subcommittee's work is to try to help Russia to get control of that nuclear material so that, God forbid, we do not wake up some day, weeks or months or years from now and read about a major American city having lost millions of its citizens because of the terrorists getting their hands on some nuclear material from the former Soviet Union, not putting it on the tip of a nuclear missile, but putting it in a backpack and parking it in a pickup truck in a major American city.

The gentleman from Alabama (Chairman CALLAHAN) especially deserves the appreciation of American families for saying that we must make an increased investment to ensure that that nuclear material should not get into the hands of terrorists throughout the world.

We may never know how much of a debt of gratitude we owe the gentleman from Alabama (Chairman CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), as his partner in fighting to increase that funding. But I thank the gentleman from Alabama personally as a Member of Congress and as a father for the effort in that particular area, as well as the important work of this subcommittee and flood control and energy renewable research.

Mr. Chairman, I rise in strong support of this legislation. It was handled well. The product is a good one.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I also want to thank the gentleman from Alabama (Chairman CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking minority member, for the leadership they have provided in putting this legislation together to fund the important programs of the Department of Energy and the Army Corps of Engineers. I support the fiscal year 2002 energy and water development appropriation measure.

Mr. Chairman, I genuinely appreciate the subcommittee's continued support of the Kentucky Lock Addition and Olmsted Locks, which help transport waterborne commerce to more than 23 States and for reinstating funding for the annual dredge work at Kentucky's only port on the Mississippi River, the Elvis Star Harbor in Hickman, Kentucky.

In particular, I want to thank the subcommittee for agreeing to our request to increase funding for environmental cleanup at the Paducah Gaseous Diffusion Plant. The $10 million increase the subcommittee provided is desperately needed to help combat the myriad of environmental programs and problems stemming from over 50 years of enriched uranium production at that site.

These funds, along with the monies the subcommittee has provided for cylinder maintenance and the construction of an on-site low-level waste disposal cell, will keep us on a steady path towards a safer workplace and a safer community.

Mr. Chairman, the employees at the plant and the citizens living and working in the area adjacent to the plant deserve no less.

On one separate issue, I understand that with the constraint of money, obviously, that the bill recommends a slight reduction in the DOE's Office of Environmental Safety and Health. To the extent that this reduction might impact the very important medical monitoring program at Paducah for current and former workers, I hope that the gentleman from Alabama (Chairman CALLAHAN) might consider restoring those funds, if it is possible, as the bill moves forward.

The monitoring program is a key component of the newly established DOE workers compensation program, which has just now been implemented Nationwide.

Again, I want to thank the gentleman from Alabama (Chairman CALLAHAN), the gentleman from Indiana (Mr. VISCLOSKY), the ranking minority member, for their leadership; and I look forward to the passage of this legislation.

Mr. VISCLOSKY. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. PASTOR).

Mr. PASTOR. Mr. Chairman, first of all, I would like to congratulate the gentleman from Alabama (Mr. CALLAHAN), the Chairman of the Subcommittee on Energy and Water Development, and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member on the subcommittee, for the fine work they have done in bringing this bipartisan bill forward.

I also would like to thank both of the gentleman for the projects which are funded in this bill. The Rio Salado project has been funded for the construction of the Rio Salado, and those of us who live in Mericopa County are very appreciative of it.

We also want to thank the subcommittee for funding the various flood control studies and habitat restoration of the various tributaries of the Salt River. Also, those of us who represent Tucson are very thankful, because, in this bill, we fund many projects that deal with habitat restoration and flood control in southern Arizona.

Mr. Chairman, I look forward to working with the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, to deal with the issue of the Nogales Wash and to see how we can fund that flood control project; but I would urge my colleagues to support this bill, it is bipartisan.

Mr. Chairman, I would also like to thank the staff who have worked very hard on this bill.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I would like to engage in a brief colloquy with the gentleman from Alabama (Chairman CALLAHAN).

Mr. Chairman, I want to commend the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY) for their action to restore over $30 million in funds which were eliminated from the fiscal year 2002 budget for the U.S. Department of Energy's Office of Science and Technology within the Environmental Management program.

The Office of Science and Technology has a very important mission in developing and implementing means to clean up contaminated Federal property around the country, and it deserves the continued and strong support of the Congress.

Mr. Chairman, I am concerned about the continuation of the important work of DOE's Western Environmental Technology Office, or WETO, located in Butte, Montana. At this facility, the National Energy Technology Laboratory provides critical support to DOE's Office of Science and Technology. Their activities help facilitate DOE's demonstration, evaluation, and implementation of technologies that promise to provide much needed solutions to the environmental cleanup challenges at various DOE sites.

DOE's Research and Development contract for the Western Environmental Technology Office, originally awarded in fiscal year 1997, has been extended through the end of fiscal year 2003. That contract extension provided that DOE would fund WETO at the following levels: $6 million in fiscal year 2001, $6 million in fiscal year 2002, and $4 million in fiscal year 2003. Consistent with this contract and schedule, the Energy and Water Development Appropriations Act for fiscal year 2001 provided $6.5 million for WETO to carry out its important functions.

It is critically important to preserve this commitment to WETO and continued funding as scheduled. I would add, Mr. Chairman, that the operations and activities of WETO are very important to the economy in Montana. Many professionals have chosen western Montana as their home while they serve our Nation's challenge to clean contaminated DOE's sites.

I ask the gentleman from Alabama (Mr. CALLAHAN) if he would agree that it is the committee's intent that DOE's agreement with WETO be honored and funded to the maximum extent possible?

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. REHBERG. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Absolutely, I would agree with the gentleman from Montana. If the Department of Energy has signed a contract with the facility, then it should be honored to the maximum extent possible.

Mr. REHBERG. Reclaiming my time, I thank the chairman for his consideration of this very important program.

Mr. VISCLOSKY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I thank the gentleman from Indiana (Mr. VISCLOSKY) for yielding me such time.

Mr. Chairman, I rise in strong support of the energy and water bill before us today. I want to thank and congratulate the gentleman from Alabama (Chairman CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, for their great work in crafting a solid bipartisan bill that will meet some of the important energy and infrastructure needs of our Nation over the next year.

In particular, I want to thank the committee for including $4.4 million in this bill for the cleanup of Flushing Bay and Creek in my congressional district in Queens.

This funding will be used for the badly needed dredging of parts of this water body to clean up old sediment and other debris that has built up in the bay and creek which has hampered economic development and the free flow of commerce, as well as trapped pollution and pollutants and other contaminants in that body of water.

The pollution build-up in Flushing Creek Bay and creek has resulted in foul odors and water discoloration, making this body of water a blight on our community, but this investment by the committee in the cleanup will make Flushing Bay and its creek the envy of Queens County.

Mr. Chairman, once again, I want to thank the gentleman from Alabama (Chairman CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, for their hard work and support of this project for the people of my district in Queens, New York.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I, too, want to commend the gentleman from Alabama (Chairman CALLAHAN) for his work on this bill.

Mr. Chairman, I rise today in strong support of this bill, specifically the language included to prohibit the Corps of Engineers from using funds to implement a spring rise in the Missouri River.

The National Fish and Wildlife Service recommends implementing higher water levels in the spring and lower levels in the fall. While this artificial spring rise may help improve the breeding habitat of three species, lest tern, piping plover, and pallid sturgeon, the higher spring water level increases the risk for flooding in towns and on valuable farmland.

The spring rise would devastate communities in my district and all along the Missouri and Mississippi Rivers. When water is released from upstream dams in the Dakotas and Montana, it takes 12 days to reach St. Louis, where the Missouri meets the Mississippi. Once water is released, it cannot be retrieved. Any rains during that 12-day period would make it impossible to control the amount of flooding that would occur.

As we saw earlier this month, the Missouri and Mississippi Rivers often flood naturally; we do not need any additional government-imposed floods. Unless you have been in one of those communities where a flood has hit, you cannot appreciate how devastating a flood can be.

This is not a new proposal, Mr. Chairman. Similar language has been included in the last five energy and water appropriation bills. I urge my colleagues to put the needs of the people living and working along the river above the needs of the piping plover and/or the lest tern.

Mr. VISCLOSKY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Chairman, I rise today first to commend the gentleman from Alabama (Mr. CALLAHAN), the Chairman of the Subcommittee on Energy and Water Development, and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, for their consistent leadership in addressing the Nation's water infrastructure needs.

Mr. Chairman, I support this bill, and I appreciate their support of the request that I submitted. I am pleased that $5.5 million of this year's appropriation bill will go towards the West Basin Municipal Water District located in my district, and these funds will assist in the development of The Harbor/South Bay Water Recycling Project in Los Angeles County. The Harbor/South Bay Water Recycling Project will yield clear and measurable long-term returns from this short-term investment.

□ 1430

This project will result in both economic and environmental benefits to my district and to the region in California. The promise of a reliable water supply even from times of drought helps to build an economic climate that will correctly enhance our ability to attract businesses, create new opportunities, and retain jobs in my district. The project will annually develop up to 48,000 acre-feet of recycled water for municipal, industrial, and environmental purposes in the Los Angeles area.

Beneficiaries of this particular project will include my constituents, businesses and local governments, including the cities of Carson, Culver City, Torrance and Lomita. Furthermore, the overall West Basin water recycling program will annually develop 70,000 acre-feet of alternative water resources, in addition to reducing the amount of effluent discharge into the Santa Monica Bay, which is a national marine estuary.

I would like to also acknowledge those Members who are California-based on this committee who actively advocated on my behalf, and I thank them very much and thank the ranking member and the chairman.

Mr. CALLAHAN. Mr. Chairman, I reserve the balance of my time.

Mr. VISCLOSKY. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of this bill and commend the subcommittee leadership on their very timely and efficient work on this important piece of legislation.

I was especially happy to see the committee's recognition of better preserving and protecting the Mississippi River Basin. As co-chair of the bipartisan Mississippi River Task Force, I was happy to see them increase funding by a few million dollars to the important Environmental Management Program above what the Administration requested in their budget.

This is a five-State collaboration program that also involves USGS, the Army Corps of Engineers, Fish and Wildlife Service, which involves Habitat Restoration Projects along the Mississippi River and a long-term resource monitoring scientific program to better determine what exactly is happening in that very valuable ecosystem within the Mississippi River Basin.

We were hoping as a task force to have the funding increased even more, closer to the full $33 million funding that the program is permanently authorized for right now. We are hoping, as the process moves forward, we will be able to continue to work with the leadership to try to increase the funding to bring the program up to scale where it is needed.

I was, however, disappointed that there was zero funding allocated to the Challenge 21 program of the Corps of Engineers. This is a nonstructural approach to flood mitigation in this country. Obviously, we have had some very terrible floods in the upper Mississippi region. I think there are a lot of things that can be done as far as nonstructural flood mitigation that Challenge 21 would specifically target. We are hoping again that, as more information becomes known about this very important program, we are going to be able to finally get some funding to it.

Finally, I want to commend the committee for recognizing, I feel, the bipartisan support that exists in Congress for the important investments that need to be made in alternative and renewable energy sources. I believe everyone here recognizes that any realistic, comprehensive, long-term energy plan has to involve the important role of alternative and renewable energy sources in order to meet our long-term energy needs and sustain growth in this country.

So I commend the committee for their work. Obviously, I believe that there are some things that we need to stay focused on and continue working hard to try to accomplish.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Chairman, I thank the gentleman from Alabama for yielding me this time. I thank him for giving me the opportunity to discuss an issue that is important to people I represent. I also would like to thank him for his commitment to this bill to harbor projects in the New York/New Jersey area.

The dredging of the Port of New York and New Jersey is vital to the continued economic competitiveness of the Port as we begin the 21st century. Dredging is necessary, as we all know, to allow for shipping to continue and allow for new generations of ships to have access to the port. However, I also understand and share the environmental concerns regarding dredging. In short, dredging and the disposal of dredge materials can only be conducted in such a manner that does not adversely impact Staten Island or its surrounding waterways.

Over the past years, I have expressed to the Army Corps of Engineers my serious concerns regarding proposals calling for the establishment of containment islands and borrow pits. I have also met with citizens and groups who have expressed similar concerns.

Containment islands, Mr. Chairman, are not appropriate. In the draft, Dredged Material Management Plan, the Army Corps of Engineers found containment islands to be too costly and claimed they were not going to be considered as a viable option. In fact, according to the Corps, pits located directly off Coney Island, the East Bank Pits, and Staten Island, for example, the CAC Pit, that were identified by citizen groups as being designated for near-term disposal activity have been studied extensively and are no longer being considered for any action. However, I want to ensure that the Corps has held to these statements and these options are officially removed from consideration.

We have a responsibility to protect our waterways and marine life from potentially harmful pollutants. The use of emerging technologies and innovative ideas, such as using dredged material for abandoned coal mine reclamation, as well as upland disposal options must be fully explored. The economic benefits of dredging and protecting the environment, I believe, are not mutually exclusive.

Therefore, Mr. Chairman, I would like to work with you as this moves to conference with the Senate to address this important issue.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. FOSSELLA. I am happy to yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I would like to thank the gentleman from New York for bringing this matter to our attention. I want to pledge to him to work with him and the Army Corps of Engineers to address this as this bill moves further along. I will do all that I can to help him. I know of his passion to protect the waterways off the coast of Staten Island, and I want to pledge to do everything I can to help him protect those waterways.

Mr. FOSSELLA. Mr. Chairman, I thank the gentleman very much for his leadership.

Mr. VISCLOSKY. Mr. Chairman, I understand that the majority has no further speakers. I yield back the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to comment that we worked very hard to get this bill to the position it is in today. This is just the first of several steps in the process as we all know. It has to go to the Senate after today, and then it has to go through a conference committee after that. I want the Members to know that we are going to do everything we can to protect what we have in this bill and that I am sure my colleagues have the same commitment from the gentleman from Indiana (Mr. VISCLOSKY).

But I echo in Mr. VISCLOSKY's earlier statement and would like to thank the staff members that have formulated and drafted this bill. It is a very complicated bill, and it requires a lot of talent. Bob Schmidt and Jeanne Wilson and Kevin Cook, Paul Tumminello and Tracey LaTurner, along with my staff, Nancy Tippins and Mike Sharp, have done a tremendous job in writing and drafting this very complicated piece of legislation.

But we are happy to have received the support we have received from all Members of Congress.

Mr. Chairman, I yield such time as he might consume to the gentleman from Iowa (Mr. LATHAM), a member of our subcommittee.

Mr. LATHAM. Mr. Chairman, I thank the chairman very much for yielding me this time.

Mr. Chairman, I yield to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Chairman, I thank the gentleman from Iowa for yielding to me.

Mr. Chairman, I intend to rise today to speak to section 106 of the bill before us. Section 106 would prevent the U.S. Army Corps of Engineers from revising the Missouri River Master Water Control manual that includes anything that includes a so-called spring rise. Mr. Chairman, I have to express my strong objection to that particular provision.

For most of my colleagues here in the House, this debate may not be familiar. It is primarily a regional issue with divisions that break along regional lines, but its significance is much broader than that.

For more than a decade, the Corps has been working toward a revision of the master manual that would change the flow and possibly the priorities of the river. The process has been complicated and contentious, but we are nearing a resolution.

I appreciate the concerns that the proponents of section 106 have regarding downstream flooding and the continued viability of navigation. However, I believe there is a way to address upstream and downstream concerns as we modify the master manual to account for those competing priorities.

I believe we can forge a balanced approach to the operation of the river. We must consider all of the impacts and do this in a way that balances the needs of all the States concerned.

In addition to recreation flood control navigation, we must consider the impacts changes would have on hydropower generation, water supply, and environmental and cultural resources.

The Corps has been working diligently to account for all of these concerns, but there are strong and vocal views on all sides of any solution that they produce. As a result, Mr. Chairman, I would like Congress to look for a new way to deal with this problem that involves consensus building among the various stakeholders.

In the past, the Missouri River Basin Association, a group made up of representatives of the governors of each of the eight basin States and representatives of the Indian tribes has had success in finding common interest among the disparate views of the upstream and downstream States.

As a result, I would like to know if the chairman of the subcommittee, the gentleman from Alabama, would be willing to work with me to consider a solution that would help bring consensus to this issue?

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. LATHAM. I am happy to yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman from South Dakota (Mr. THUNE) for his interest in this issue. I am well familiar with this issue through previous conversations that we have had throughout the years, and I know of the great importance it is to him and his State.

I appreciate his concerns and would welcome any solution and input that he may have. I would also encourage him to work with his colleague and neighbor, the gentleman from Iowa (Mr. LATHAM), in order to reach a result.

Mr. THUNE. Mr. Chairman, if the gentleman from Iowa will further yield, I thank the chairman for his commitment and for remaining open to working with me on this and as well as for his support of a number of South Dakota priorities that are included in this energy and water appropriation bill.

I also appreciate his suggestion that I work with the gentleman from Iowa (Mr. LATHAM) on this solution.

Mr. LATHAM. Mr. Chairman, I appreciate the interest of the gentleman from South Dakota (Mr. THUNE) in this issue and his willingness to consider some middle ground on this divisive matter.

Our States have so much in common, yet there clearly are differences on this issue. Nonetheless, I do think it is worth considering those areas of the master manual debate where we do agree and work together toward an answer that would satisfy the concerns of upper and lower basin States.

I do not expect this to be an easy task as we all know but would welcome the gentleman's input in the process, and I am willing to work with him to consider various options.

Mr. Chairman, I yield to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Chairman, I thank the gentlemen for their cooperation. As I stated earlier, while I am disappointed this provision likely will be approved by the House today, I am encouraged by the willingness of my colleagues to work with me on a balanced consensus-based approach to revise the Missouri River Master manual.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. WICKER), a member of our subcommittee, and I might tell my colleagues a very knowledgeable member on all of the issues that come before our committee.

Mr. WICKER. Mr. Chairman, let me say that it is an honor and a privilege and a joy to work on this subcommittee with the gentleman from Alabama (Chairman CALLAHAN) and also the gentleman from Indiana (Mr. VISCLOSKY), our ranking minority member. I appreciate their hard work and cooperation in producing this bipartisan piece of legislation.

I particularly want to thank the gentleman from Alabama (Chairman CALLAHAN) for crafting a bill which recognizes the benefits of making needed investments today in order to save money tomorrow.

Let me just give the committee two examples of this. One excellent example is the substantial increase in funding for the environmental management cleanup activities at our Nation's nuclear laboratories and facilities. H.R. 2311 provides over $7 billion for the purpose of this cleanup. This is an increase of over a quarter of $1 billion over last year's amount. This increase will allow cleanup timetables to stay on schedule and save unnecessary future costs.

I am also pleased that this bill reflects the importance of our Nation's water infrastructure. Mr. Chairman, our Nation's waters do not recognize State lines as we all know. Over 40 percent of the Nation's water flows by the borders of my home State of Mississippi. Flood control and maintaining navigable waterways are national issues. By making the necessary investments in these activities, we will avoid the greater cost in the future that we would have if we were not having the proposed spending today.

So, Mr. Chairman, I urge the support from all of my colleagues for this bipartisan bill which fund our Nation's priorities and, of course, within the context of a balanced budget.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. EVERETT).

Mr. EVERETT. Mr. Chairman, the cities of Dothan, Enterprise, Ozark, Daleville and the U.S. Army Aviation Center at Fort Rucker, Alabama have formed a partnership in support of a regional reservoir to meet their water supply needs.

The Geological Survey of Alabama has a 3-year study to locate a reservoir to serve these areas experiencing water, severe water supply shortages and is currently working with the Corps of Engineers on a needs assessment which should be completed in a few months.

Does the Chairman understand the importance of this project to the cities mentioned and to the Army Aviation

Training Center and that this is not a new project?

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield.

Mr. EVERETT. I am glad to yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I do understand these communities are suffering water shortages primarily because the gentleman from Alabama (Mr. EVERETT) tells me about it every night. Every time we get in a 5-minute lull he expresses to me his serious concerns about these problems, which I think will worsen in the near future, and that the corporation of the Corps is needed as soon as possible.

□ 1445

I pledge to work with the gentleman and find an appropriate resolution to this situation as this process moves forward, probably in conference.

Mr. EVERETT. I appreciate the chairman's comments.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume to advise my colleagues that I do not have any further speakers. But, once again, let me remind the Members that this is the first stage of this process and that we have been fairly generous, I think, in recognizing all of the demands of all the Members on both sides of the aisle. I pledge, along with the gentleman from Indiana (Mr. VISCLOSKY), to try to protect all the projects we have in here as it goes through the process.

As my colleagues well know, the process could involve removal of some of these projects in the Senate, it could include removal of some of these projects in conference, but I am going to do everything I can to make absolutely certain that the Members who support this bill especially, that their projects are preserved.

Mr. MATSUI. Mr. Chairman, I would like to thank Chairman CALLAHAN and Ranking Member VISCLOSKY, and the Members of the Subcommittee for their support of Sacramento flood control projects included in the Fiscal Year 2002 Energy and Water Appropriations bill. As this body knows, with a mere 85-year level of protection, Sacramento has been identified by the U.S. Army Corps of Engineers as having the least amount of flood protection of any major metropolitan area in the nation. At risk are roughly half-a-million people and $40 billion in economic value. This includes 1,200 public facilities, 130 schools, 26 nursing home facilities, 7 major hospitals, major interstates and highways, and the Capitol to the world's sixth largest economy.

Thankfully, this subcommittee has again generously funded numerous project requests in my Sacramento district essential to the ongoing flood work necessary to address this dire situation. Specifically, I thank the subcommittee for the $8 million allocation for continued construction modifications to Folsom Dam These flood outlet modifications represent the linchpin to Sacramento's flood control system, providing a doubling of Sacramento's flood protection and giving to the flood plain its first major improvements to flood control in more than 40 years. I also am grateful for the $15 million included for the American River Watershed Common Elements which will provide much needed improvements to more than 36 miles of Sacramento's levees, the last line of defense against catastrophic flooding. I also would like to thank the Members for their efforts in securing additional funding for a series of smaller, yet no less critical, regional flood control projects. This includes projects for Sacramento River bank protection, work on the Lower Strong and Chicken Ranch Slough, Magpie Creek, and funds to allow for ongoing studies for American River Watershed flood control.

It is my hope that as this legislation continues to move through the legislative process, serious consideration is given to funding "new starts" construction projects. The South Sacramento Streams project will provide protection to more than 100,000 people and 41,000 structures from a network of creeks and small rivers in the region. This project was authorized in the 1999 Water Resources Development Act and is now ready for construction. Although I recognize the extremely tight budgetary constraints confronting this subcommittee, the perilous situation that these streams pose to the South Sacramento region makes initial construction funding essential. I ask for your support in providing funding for this critical new start project in the conference committee.

Again, on behalf of my Sacramento constituents, I remain grateful for your past and continuing support of these vital, life-saving projects. Thank you for your efforts in supporting essential federal assistance to the most pressing public safety issue confronting the region.

Mr. BEREUTER. Mr. Chairman, this Member would like to commend the distinguished gentleman from Alabama (Mr. CALAHAN), the Chairman of the Energy and Water Development Appropriations Subcommittee, and the distinguished gentleman from Indiana (Mr. VISCLOSKY), the Ranking Member of the Subcommittee, for their exceptional work in bringing this bill to the Floor.

This Member recognizes that extremely tight budgetary constraints made the job of the Subcommittee much more difficult this year. Therefore, the Subcommittee is to be commended for its diligence in creating such a fiscally responsible measure. In light of these budgetary pressures, this Member would like to express his appreciation to the Subcommittee and formally recognize that the Energy and Water Development appropriations bill for fiscal year 2002 includes funding for several water projects that are of great importance to Nebraska.

This Member greatly appreciates the $11 million funding level provided for the four-state Missouri River Mitigation Project. The funding is needed to restore fish and wildlife habitat lost due to the Federally sponsored channelization and stabilization projects of the Pick-Sloan era. This islands, wetlands, and flat floodplains needed to support the wildlife and waterfowl that once lived along the river are gone. An estimated 475,000 acres of habitat in Iowa, Nebraska, Missouri and Kansas have been lost. Today's fishery resources are estimated to be only one-fifth of those which existed in pre-development days.

In 1986, the Congress authorized over $50 million to fund the Missouri River Mitigation project to restore fish and wildlife habitat lost due to the construction of structures to implement the Pick-Sloan plan.

In addition, this measure provides additional funding for flood-related projects of tremendous importance to residents of Nebraska's 1st Congressional District. Mr. Chairman, flooding in 1993 temporarily closed Interstate 80 and seriously threatened the Lincoln municipal water system which is located along the Platte River near Ashland, Nebraska. Therefore, this member is extremely pleased that H.R. 2311 continues funding in the amount of $350,000 for the Lower Platte River and Tributaries Flood Control Study. This study should help formulate and develop feasible solutions which will alleviate future flood problems along the Lower Platte River and tributaries.

This Member is also pleases that this bill includes $100,000 in funding requested by this member for the feasibility phase of a Section 206 wetlands restoration project in Butler County, Nebraska. The key element of the plan is the incorporation of a wetlands restoration project northwest of David City, Nebraska. This restoration was supported by a Natural Resources Conservation Service preliminary determination of wetlands potential for a 160-acre tract northwest of David City, Nebraska. Under the proposed project, storm water that currently travels northwest of David City will be diverted west before reaching the city, and then channeled south along a county road before being detained in the proposed wetlands area. The storm water will then slowly be released from the wetlands area so that there are no negative impacts to downstream landowners.

It is also important to note that this legislation includes $200,000 requested by this Member which would be implemented through the Lower Platte South Natural Resources District on behalf of the Lower Platte River Corridor Alliance. This amount represents the 50% Federal share under Section 503 of the Water Resources Development of 1996, to assess and plan for water quality infrastructure and improvements in the Lower Platte River Watershed concentrating on dire drinking water and wastewater needs within the Lower Platte River Corridor, between and including the communities of Ashland and Louisville, in Saunders and Cass counties, Nebraska.

This Member is also pleased that H.R. 2311 includes $1,800,000 for the Missouri National Recreational River, which could be used for projects such as the Missouri River Research and Education Center at Ponca State Park in Nebraska. This center is located at the terminus of the last stretch of natural (unchannelized) river below the mainstem reservoirs and a 59-mile stretch of the Missouri River, which was designated as a Recreational River in 1978 under the Wild and Scenic River Act. It is one of the few stretches of the Missouri River that is like the beautiful untamed river seen by Lewis and Clark.

The Missouri River is one of the most historic, scenic and biologically diverse rivers in

North America. The proposed research and education center will serve as a "working" interpretive center for the river and include interactive displays and exhibits. It will provide a timeline for the vast riverine ecosystem as well as an upstream view of the beginning of the Missouri National Recreation River. When completed the center will also include a classroom/conference room facility.

This Member recognizes that this bill includes $656,000 for the Sand Creek Watershed project in Saunders County, Nebraska, and $400,000 for the Antelope Creek project in Lincoln, Nebraska. However, this funding is to be used for preconstruction engineering and design work. This Member believes that it is critically important that the final version of the FY2002 Energy and Water Development appropriations legislation include some funding for construction of these projects.

Funding for these projects is particularly urgent. There is a cooperative effort in Nebraska between the state highway agency and water development agencies which makes this project more cost-effective and feasible. Specifically, the dam for this small reservoir is to be a structure that the Nebraska Department of Roads would construct instead of a bridge as part of the new state expressway in the immediate vicinity of Wahoo, Nebraska. Immediate funding would help ensure that this coordinated effort could continue.

Construction funding is also needed for the Antelope Creek project. It would be a significant setback to the project timetable if the Corps does not receive construction funding the project in FY2002. Delays in other components of the project would also likely result.

Finally, this Member is also pleased that H.R. 2311 provides $275,000 in funding for the Missouri National Recreational River Project. This project addresses a serious problem by protecting the river banks from the extraordinary and excessive erosion rates caused by the sporadic and varying releases from the Gavins Point Dam. These erosion rates are a result of previous work on the river by the Federal Government.

Again, Mr. Chairman, this Member commends the distinguished gentleman from Alabama (Mr. CALLAHAN), the Chairman of the Energy and Water Development Appropriations Subcommittee, and the distinguished gentleman from Indiana (Mr. VISCLOSKY), the ranking member of the Subcommittee, for their support of projects which are important to Nebraska and the 1st Congressional District, as well as to the people living in the Missouri River Basin.

Ms. PELOSI. Mr. Chairman, as we consider the Energy and Water bill today here in Washington, California and the West are in the throes of an energy crisis. Now is the time to strengthen and increase the federal commitment to new, clean energy sources. Instead, the Bush Administration proposed deep cuts in federal renewable energy programs, slashing core renewable energy research and development programs by 50%.

The Appropriations Committee chose to fund renewable energy programs at $377 million, $100 more than the President's proposal. However, $377 million gives us only $1 million more than we have in the current year for these important programs. We should increase our commitment to renewable energy resources and technologies, including wind, solar, and biomass. For this reason, I will vote for the Hinchey amendment to increase funding for renewable energy by $50 million, which would provide funding for programs to deploy promising new technologies more rapidly.

Mr. CALLAHAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule. The amendment printed in House Report 107-114 is adopted.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $163,260,000, to remain available until expended: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,000,000 of the funds appropriated herein to continue preconstruction engineering and design of the Murrieta Creek, California, flood protection and environmental enhancement project and is further directed to proceed with the project in accordance with cost sharing established for the Murrieta Creek project in Public Law 106–377: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use the feasibility report prepared under the authority of section 205 of the Flood Control Act of 1948, as amended, as the basis for the Rock Creek-Keefer Slough Flood Control Project, Butte County, California, and is further directed to use $200,000 of the funds appropriated herein for preconstruction engineering and design of the project: *Provided further*, That in conducting the Southwest Valley Flood Damage Reduction Study, Albuquerque, New Mexico, the Secretary of the Army, acting through the Chief Engineers, shall include an evaluation of flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies regarding the frequency of flooding, the drainage areas, and the amount of runoff.

AMENDMENT OFFERED BY MR. TANCREDO

Mr. TANCREDO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TANCREDO:

Page 2, line 18, after the dollar amount, insert the following: "(reduced by $9,900,000)".

Page 18, line 2, after the dollar amount, insert the following: "(increased by $8,900,000)".

Mr. CALLAHAN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. TANCREDO. Mr. Chairman, today I am offering this amendment to the Energy and Water Appropriations Bill that will increase funding to the Department of Energy's Renewable Energy Research Program by $9.9 million with a corresponding offset for the Army of Corps of Engineers' General Investigations Account. That account, by the way, is currently receiving about a $33 million increase above the President's budget request.

Recent electricity and gas shortages in California and other western States, along with an expanding recognition of environmental issues, have highlighted the need for clean renewable power. Concentrating solar power technologies offers a near-term opportunity for large-scale and cost-effective production of renewable energy.

An addition to these accounts would also allow the concentrated solar power program to continue its core long-term research and development activities that will help advance the next-generation trough and dish technologies. The focus would include identifying and implementing advanced converter options for modular dish systems. In fiscal year 2000, the CSP program began working with the National Renewable Energy Lab's high-efficiency photovoltaic team on the development of a high-efficiency concentrating photovoltaic converter as an alternative to the Stirling engine converter historically supported by the CSP program.

A $5 million increase in the Biomass/Biofuels Energy Systems line item would launch a collaborative effort that integrates advances in computational science and bioinformatics developed by the national labs and universities to develop a biorefinery simulation model that enables virtual testing and prototyping of biorefinery systems and components. The simulation model will provide a useful tool to test new concepts as well as provide a basis for industry to develop future design tools for biorefineries.

Mr. Chairman, this is an important amendment because I think it is, again, a matter of priorities. Certainly there is undeniable need for an investment in alternative energy research. No one denies that.

I want to actually thank the committee for their attention to this detail and for restoring the budget, the original budget, for NREL. The fact is that there are these two additional needs, and it is simply a matter of priorities.

It seems to me that with taking a part of the budget that has received a $33 million increase above the President's request, taking a part of that, reducing it by only approximately $9 million and putting it into this kind of research, is the correct priority.

We will be talking certainly on the floor here about various issues dealing with the Corps of Engineers, the integrity of the programs operated by the Corps of Engineers, and the integrity of the reports that they commission and are commissioned by others to do to determine whether or not a project is necessary. There are significant problems, to say the least, in this particular area.

Recently, for example, one of the reports that was done by the Corps of Engineers has been criticized by the Inspector General, not only criticized, but there is an allegation of manipulation of data, so much so that there is a criminal investigation under way with regard to that particular endeavor. This is an area in which we should not be increasing the amount of appropriations; we should be decreasing it, or at least we should be forcing the Corps of Engineers to reform itself in a way that would reflect our concerns about the poor administrative tactics they have employed so far.

The fact is that the committee itself added over 12 new studies that the administration did not request. Some of these studies stretch the boundaries of the Corps' jurisdiction. Again, we will be talking as time goes by, I know, Mr. Chairman, about the problems that are endemic to the Corps. Certainly I have a couple of amendments, I know other people do, where there is a great concern out there right now about the Corps of Engineers, about whether or not they have slipped their mooring, whether or not they are able to actually do what we expect of them or whether or not they have become almost a rogue agency.

The Congress of the United States takes some responsibility for that; but for that purpose, I would ask for the support of this amendment.

The CHAIRMAN. Does the gentleman from Alabama insist on his point of order?

Mr. CALLAHAN. No, sir. I withdraw my point of order, but I would like to rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. CALLAHAN. Mr. Chairman, I appreciate where the gentleman is coming from, but this appropriations process is long and involved. We invited every Member of Congress to submit their suggestions to us as to how we could best formulate this bill. The sponsor of this amendment did not choose to bring this to our attention, nor did he even request that we consider this during our regular process. But what he is doing in his amendment is taking $9.9 million for this project specifically, and he is taking it out of the Corps' operating budget.

We went through a long deliberative process trying to establish how much money the Corps needed to operate, and in our deliberations we finally decided this was the amount of money that we need. This is not the time to accept this without any hearings or any indication as to what is best for the Corps or what is best for its program.

Maybe he does have a good program. But we cannot go through this process, and then everyone who has a specific project they would like funded comes to us and says let us take it out of the hide of the Corps of Engineers. I think the committee has done the responsible job in determining what the needs of the Corps of Engineers are going to be in the next fiscal year, and I would urge my colleagues to reject the gentleman's amendment.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the last word.

I would join the chairman in opposition to the amendment. I appreciate what the gentleman wants to do; but as I pointed out in my opening remarks, the Chair, myself, as well as members of the subcommittee and the full Committee on Appropriations, have added $100 million to the renewable accounts.

Secondly, while the gentleman pointed out that our figure is $33 million over the President's budget request for general investigations for the Army Corps, I would also point out the President's request of $600 million was under this year's funding level, and we are still $32 million under this current funding year level. The Army Corps cannot take that hit. I am adamantly opposed to the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. TANCREDO. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

The Clerk will read.

The Clerk read as follows:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,671,854,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104–303; and of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 12, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock and Dam 3, Mississippi River, Minnesota; and London Locks and Dam, Kanawha River, West Virginia, projects; and of which funds are provided for the following projects in the amounts specified:

San Timoteo Creek (Santa Ana River Mainstem), California, $10,000,000;

Indianapolis Central Waterfront, Indiana, $9,000,000;

Southern and Eastern Kentucky, Kentucky, $4,000,000;

Clover Fork, City of Cumberland, Town of Martin, Pike County (including Levisa Fork and Tug Fork Tributaries), Bell County, Floyd County, Martin County, and Harlan County, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, Kentucky, $15,450,000: *Provided*, That $15,000,000 of the funds appropriated herein shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of division B, title I of Public Law 106–554, of which $1,000,000 shall be for remediation in the Central Basin Municipal Water District: *Provided further*, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to modify the Carr Creek Lake, Kentucky, project at full Federal expense to provide additional water supply storage for the Upper Kentucky River Basin: *Provided further*, That with $1,200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake design deficiency repairs to the Bois Brule Drainage and Levee District, Missouri, project authorized and constructed under the authority of the Flood Control Act of 1936 with cost sharing consistent with the original project authorization: *Provided further*, That in accordance with section 332 of the Water Resources Development Act of 1999, the Secretary of the Army is directed to increase the authorized level of protection of the Bois Brule Drainage and Levee District, Missouri, project from 50 years to 100 years using $700,000 of the funds appropriated herein, and the project costs allocated to the incremental increase in the level of protection shall be cost shared consistent with section 103(a) of the Water Resources Development Act of 1986, notwithstanding section 202(a) of the Water Resources Development Act of 1996.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a and 702g–1),

$347,665,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,864,464,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that Fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that account for construction, operation, and maintenance of outdoor recreation facilities: *Provided*, That with $1,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to perform cultural resource mitigation and recreation improvements at Waco Lake, Texas, at full Federal expense notwithstanding the provisions of the Water Supply Act of 1958: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $2,000,000 of the funds appropriated herein to grade the basin within the Hansen Dam feature of the Los Angeles County Drainage Area, California, project to enhance and maintain flood capacity and to provide for future use of the basin for compatible purposes consistent with the Master Plan including recreation and environmental restoration: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,000,000 of the funds appropriated herein to fully investigate the development of an upland disposal site recycling program on the Black Warrior and Tombigbee Rivers project and the Apalachicola, Chattahoochee and Flint Rivers project: *Provided further*, That, for the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project, the Secretary of the Army, acting through the Chief of Engineers, is directed to implement the locally preferred plan for the element in the western portion of Middlesex Borough, New Jersey, which includes the buyout of up to 22 homes, and flood proofing of four commercial buildings along Prospect Place and Union Avenue, and also the buyout of up to three commercial buildings along Raritan and Lincoln Avenues, at a total estimated cost of $15,000,000, with an estimated Federal cost of $11,500,000 and an estimated non-Federal cost of $3,500,000.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $128,000,000, to remain available until expended.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites throughout the United States resulting from work performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Humphreys Engineer Center Support Activity, the Institute for Water Resources, and headquarters support functions at the USACE Finance Center, $153,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices: *Provided further*, That none of these funds shall be available to support an office of congressional affairs within the executive office of the Chief of Engineers.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Section 110(3)(B)(ii) of division B, title I of Public Law 106–554 is amended by inserting the following before the period: ": *Provided*, That the Secretary shall credit the San Gabriel Water Quality Authority with the value of all prior expenditures by the non-Federal interests that are compatible with the purposes of this Act".

Mr. POMBO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage in a colloquy with the distinguished gentleman from Alabama about two very important water projects in my district that I believe deserve to receive Federal funding during the fiscal year 2002 appropriations process.

Let me begin by talking about the Banta-Carbona Irrigation District fish screen project. This project is located at the entrance to the Banta-Carbona Irrigation District intake channel on the San Joaquin River.

The Banta-Carbona Irrigation District is required by the U.S. Fish and Wildlife Service to put a fish screen facility on the San Joaquin River to protect the delta smelt, steelhead, fall run chinook salmon, and the splittail. Unfortunately, the Federal Government has required the Banta-Carbona Irrigation District to facilitate the funding, design, and construction of this fish barrier screen facility with little or no assistance. Without the fish screen project, the Banta-Carbona Irrigation District's agricultural water diversions could be shut down by these Federal agencies.

During the 107th Congress, the gentleman and I talked about the importance of providing the BCI District with the much-needed financial assistance to help defray the construction, operation, and maintenance costs of this fish screen facility. Unfortunately, no Federal funding was included in the fiscal year 2002 Energy and Water Development Appropriations bill.

After speaking with the gentleman about this request, the gentleman very kindly informed me about the difficulties his subcommittee was up against when it comes to appropriating funds for new start-up projects. While I appreciate the gentleman for bringing this to my attention, I would simply ask the chairman of the Subcommittee on Energy and Water Development if he would be willing to work with me to ensure that the Banta-Carbona Irrigation District receive some form of assistance in fiscal year 2002 to help them with the project.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman from California for yielding to me, and I promise to work with him as we continue through the appropriations process. I understand the details of the project and agree that this project certainly merits congressional support. It is my firm intention to do all that I can to assist the gentleman from California on this very important issue as we move forward through this appropriation process.

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Mr. POMBO. Mr. Chairman, I thank the gentleman; and with regard to the second project known as the Farmington Groundwater Recharge Demonstration Project, let me point out that the Stockton East Water District and its neighbors pump from a critically overdrafted groundwater basin in my district.

The district also faces saline intrusion of up to 100 feet per year from the Sacramento-San Joaquin River Delta. This pending environmental disaster threatens the drinking supply of 300,000 residents and the $1.3 billion agricultural economy of my district.

The Farmington Groundwater Recharge Demonstration Project addresses this problem. It is important for my colleagues to know that the WRDA of 1996 authorized a study to look at converting Farmington Dam into a storage facility for Stockton East Water District.

Further, WRDA of 1999 authorized $25 million for conjunctive use and groundwater recharge projects within the Stockton East Water District. This study concluded that a demonstration project should be the next step.

I support the efforts of the Stockton East Water District, and I am requesting the gentleman's support of up to $2.5 million in fiscal year 2002 for the project.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman from California for yielding, and as I mentioned before, I promise to continue working with the gentleman from California during the conference on this matter. I remain hopeful that we can accommodate the gentleman's concern and allay the point on this process.

Mr. POMBO. Mr. Chairman, I thank the gentleman, and conclude by saying that the gentleman from Alabama (Mr. CALLAHAN) and the ranking member from Indiana (Mr. VISCLOSKY) deserve to be commended for crafting a sound bill, and I want to thank them for their tireless efforts and work on this bill.

Mr. BENTSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this bill, and I want to commend the chairman and the ranking member for working with a very difficult budget to put this bill together. I want to commend them for funding projects when they were facing at one point a 14 percent cut in the Corps' construction budget; yet they were able to figure out a way to do this.

Mr. Chairman, as a member of the Committee on the Budget, I offered the amendment when we were marking up the budget resolution to restore the Corps funds. Unfortunately, that amendment failed, but I was hopeful that the chairman would figure out a way to do this.

I also want to thank them for figuring out a way to increase funding for the Brays Bayou project in my district, which just saw tremendous flooding along the Brays and the Sims and other bayous. I appreciate what they did for the Port of Houston project, although we did not get as much money as we would have liked. We hope that will be resolved.

Mr. Chairman, I would like to enter into a colloquy with the chairman regarding the Sims Bayou Texas project. The Sims Bayou Flood Control Project which is currently under construction is funded at $9 million in the committee's bill. This amount equals the President's fiscal year 2002 budget request, although it is $3 million below the amount which the Corps of Engineers Galveston District tells us is necessary to keep the project on schedule to be completed by 2009. As I mentioned, the greater Houston area just suffered tremendous flooding as a result of Tropical Storm Allison, including many of the neighborhoods along the Sims in my congressional district, and the district of the gentlewoman from Texas (Ms. JACKSON-LEE); and I think it is important for the chairman and the members of the subcommittee to know, however, where the Federal project had been constructed and was complete, there was not flooding where there had otherwise been flooding in previous storms.

So the project does work and these projects do work. The chairman and the ranking member know that, and I think the rest of the Congress needs to know that as well.

I realize that the gentleman from Alabama (Mr. CALLAHAN) was faced with a very tight budget, and I appreciate the job that was done by the chairman and the ranking member, and the other members of the subcommittee. I would ask as this bill progresses, that the committee consider increasing the allocation for Sims to get it up to the amount that the Corps would like to have to have it stay on track if additional funds become available through the appropriations process or through a requested reprogramming from the Corps of Engineers.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, we will be glad to work with the gentleman and the victims of Tropical Storm Allison. We are happy to work with the gentleman in that capacity to provide funding if funds become available.

I have talked to the gentleman from Texas (Mr. DELAY) about this, who is also from the Houston area. He is concerned about it. We intend to work with the gentleman from Texas (Mr. BENTSEN), and the entire Texas delegation to provide whatever assistance we can.

Mr. BENTSEN. Mr. Chairman, the majority whip, whose area includes the Brays, has been a very strong supporter of these projects. We have authored legislation on this, and I appreciate the work of the chairman and the ranking member, and the gentleman from Texas (Mr. EDWARDS).

Mr. Chairman, I rise in qualified support of H.R. 2311, the FY 2002 Energy and Water Appropriations bill.

When the Budget Committee, on which I serve, considered the President's proposal and produced a budget, I knew it was going to be very hard for Congress to fund many important water transportation and flood control projects. I recognize the incredibly difficult circumstances Chairman SONNY CALLAHAN, Ranking Member PETER VISCLOSKY have endured in crafting this bill. I would also like to thank my good friend from Texas, Mr. EDWARDS, a distinguished Member of the Subcommittee, for all the help and information he and his office have provided me.

In light of the dramatic budget cuts proposed for the Corps, I applaud the Subcommittee for funding the Brays Bayou flood control project at the Harris County Flood Control District's capability—$5 million. When completed, the Brays Bayou project will be a national model for local control, community participation, flood damage reduction in a heavily populated urban watershed, and the creation of a large, multi-use greenway/detention area on the Willow Waterhole tributary. The Brays project is a demonstration project for a new reimbursement program initiated by legislation I authored along with Mr. DELAY that was included in Section 211 of WRDA 1996. The program gives local sponsors more responsibility and flexibility, resulting in projects more efficient implementation in tune with local concerns.

I am very encouraged that the Brays project is on track to be fully funded at $5 million in Fiscal Year 2002, rather than $4 million, as the Administration suggested. The project will improve flood protection for an extensively developed urban area along Brays Bayou in southwest Harris County including tens of thousands of residents in the flood plain, the Texas Medical Center, and Rice University. The entire project will provide three miles of channel improvements, three flood detention basins, and seven miles of stream diversion resulting in a 25-year level of flood protection. Current funding is used for the detention element of the project. Originally authorized in the Water Resources Development Act of 1990 and reauthorized in 1996 as part of a $400 million federal/local flood control project, over $20 million has already been appropriated for the Brays Bayou Project.

However, besides the admirable consideration the Subcommittee has given Brays Bayou, I believe this bill is spread too thin as a result of the extreme position taken by the Administration on the Army Corps of Engineers Construction account, which was slated to be cut $600 million.

Instead the Committee has wisely lowered that cut to $70 million below the 2001 level. When I introduced an amendment to remedy this in the mark-up of the budget, I warned that Congress would not stand for such a large shortfall affecting public safety and navigational water projects. I am relieved that much of the proposed cut was restored, and I commend the Chairman and ranking member for their effort.

I appreciate that the Committee saw fit, to fully fund the Administration's request for the Sims Bayou project. Unfortunately the Administration did not request the full amount the Corps says is necessary to keep the project on schedule. My constituents are adversely affected by this cut. According to the Galveston District of the Corps, without funding the full $12 million capability of Corps for Sims, construction will fall behind schedule. This funding is needed because of the great risks people have faced and will continue to face until completion of the project in this highly populated watershed. The need was illustrated when Tropical Storm Allison caused great damage to thousands of homes in this watershed several weeks ago.

The project is necessary to improve flood protection in the extensively developed urban area along Sims Bayou in southern Harris County. The Sims Bayou project consists of 19.3 miles of channel enlargement, rectification, and erosion control and will provide a 25-year level of flood protection. Before the funding shortfall, the Sims Bayou project was scheduled to be completed two years ahead of schedule in 2009. We cannot be confident of that prediction unless Sims funding is raised to $12 million in the Senate version and the Conference Report.

Flood control projects are necessary for the protection of life and property in Harris County, but improving navigation in our Port an integral step for the rapid growth of our economy in the global marketplace. Therefore Mr. Chairman, I am disappointed that this legislation provides only 30 out of the needed $46.8 million for continuing construction on the

Houston Ship Channel expansion project. When completed, this project will generate tremendous economic and environmental benefits to the nation and will enhance one of our region's most important trade and economic centers.

The Houston Ship Channel, one of the world's most heavily trafficked ports, desperately needs expansion to meet the challenges of expanding global trade and to maintain its competitive edge as a major international port. Currently, the Port of Houston is the second largest port in the United States in total tonnage, and is a catalyst for the southeast Texas economy, contributing more than $5 billion annually and providing 200,000 jobs.

The Houston Ship Channel expansion project calls for deepening the channel from 40 to 45 feet and widening it from 400 to 530 feet. The ship channel modernization, considered the largest dredging project since the construction of the Panama Canal, will preserve the Port of Houston's status as one of the premier deep-channel Gulf ports and one of the top transit points for cargo in the world. Besides the economic and safety benefits, the dredged material from the deepening and widening will be used to create 4,250 acres of wetland and bird habitat on Redfish Island. I want to take this opportunity to urge those who will be conferees on this legislation to fund the Port of Houston project to its capability. This project is supported by local voters, governments, chambers of commerce, and environmental groups.

I thank all the subcommittee members, Chairman, Ranking Member, and especially Representative EDWARDS for their support and their work under tough budgetary circumstances.

Mrs. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to commend the gentleman from Alabama (Mr. CALLAHAN), chairman of the Subcommittee on Energy and Water, and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, as well as the staff for doing a tremendous job in writing this bill under very, very challenging circumstances. They have done a tremendous job.

Mr. Chairman, I also want to make mention, as the gentleman from Texas (Mr. BENTSEN) did, about restoring the funding for the Corps of Engineers, which is very critical for my district, which has the largest amount of Mississippi River frontage in the country. The work that the Corps does with regard to flood protection is vital to many people in my district.

I want to make mention of the excellent job that the complete staff and our chairman did with regard to hazardous waste worker training. It is a very vital issue. I have a lot of people who actually have worked in the facility at Paducah, Kentucky, who have faced many challenges; and the work that is ongoing there requires a lot of training for protection of lives.

But my real purpose in standing here today is to talk about the language in the bill that prevents the implementation of the egregious plan by the Fish and Wildlife Service which would increase flood risk and eliminate transportation on the Missouri River. I can understand the concerns over the endangered species that this plan is designed to protect, but I think the cost is too high. I am not willing to displace thousands of farmers along the Mississippi and the Missouri Rivers. I cannot find a good way to explain to my farmers that they have to move because some fish upstream are not happy with their living conditions. It is not possible for me to do that.

This plan calls for a controlled release, but one cannot control the release and ensure that there will be no flooding. Early this month in 3 days the river rose from normal stage to flood stage from one end of Missouri to the other. The water released from Gavins takes 5 days to get to Kansas City and 10 days to get to St. Louis. Once released, the water is not retrievable. The "spring rise" prescribed by Fish and Wildlife would have added to the flooding experienced in Missouri earlier this month.

The Missouri River does not flow through my district, but the Missouri River feeds the Mississippi River and provides as much as two-thirds of its flow during dry years. Mississippi River transportation is not minor and is very, very important to my constituents.

I am also concerned about this plan because from an energy standpoint we are having an obvious crisis right now with the delivery of energy, and the Fish and Wildlife plan calls for low flows during the summer during peak power demand, reducing the availability of clean hydropower in the summer. Given the investment that our bill makes in renewables, I do not believe that we should implement a plan that will hinder hydropower production.

The Missouri Department of Natural Resources, which is an independent agency within Missouri, and with whom I did not agree on many occasions, as well as our Democratic Governor Bob Holden, as well as the entire Missouri delegation, Republicans and Democrats, the Senate and House, all reject the Fish and Wildlife Service plan, as do many others up and down the Mississippi River and the Missouri River all of the way down to New Orleans.

Mr. Chairman, I will listen to the Missouri Department of Natural Resources which says that the science behind this plan is not accurate and certainly will not do anything to help these species. Frankly, I reject the notion that the Fish and Wildlife Service is always right and our experts at DNR are wrong, and I clearly oppose that plan and hope that we can reach a compromise that is in the best interest of everyone involved.

Mr. GREEN of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the chairman in a colloquy and talk about the critical importance to the people of Harris County, but before I do, I thank the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY) for their efforts on flood control and drainage projects. I thank the gentleman from Texas (Mr. EDWARDS) who serves on the subcommittee for his efforts over the years.

Mr. Chairman, I am concerned about the level of funding for flood control projects, particularly the Greens Bayou and Hunting Bayou, all of which flow through my district in Harris County. Greens Bayou flooded nearly half of the 30,000 homes that were damaged by Tropical Storm Allison, while Hunting Bayou affected hundreds of homes as well. These two bayou systems need to be considered for increased support since the recent floods, including funding for continued improvement to both the Greens and the Hunting Bayou systems.

Mr. Chairman, to see the estimated $4 billion-plus damage, and the loss of 23 lives, we on this floor realize the need to continue the Corps of Engineers projects not only in my district, but all of our districts throughout the country. In light of the recent severe flooding from Tropical Storm Allison, I ask the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY) for their assistance to ensure that funding is restored as the bill moves through conference.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Texas. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, we are happy to work with the gentleman and the entire Texas delegation with respect to their needs. We have discussed this with the majority whip, and he is concerned about some of the problems that are facing Texas. Yes, we will do everything we can to facilitate their needs for these very important projects.

Mr. GREEN of Texas. Mr. Chairman, I thank the gentleman. We have worked together, the seven Members of Congress who represent Harris County. The Greens Bayou I share with the gentleman from Texas (Mr. BRADY), and we have been out to see the devastation of our constituents, along with the gentleman from Texas (Mr. DELAY). I appreciate the efforts of the gentleman.

Mr. GREEN of Wisconsin. Mr. Chairman, I move to strike the last word for the purpose of entering into a colloquy with the gentleman from Alabama (Mr. CALLAHAN), the chairman of the Subcommittee on Energy and Water.

Mr. Chairman, as the chairman is aware, on September 11, 2000, an agreement was reached between the State of

Wisconsin and the Army Corps of Engineers to transfer 17 locks along the Fox River to the State of Wisconsin for ownership. Under the memorandum of agreement signed by then-Governor Tommy Thompson and Assistant Secretary for the Army Joseph Westphal, the Army Corps of Engineers is to provide the "full closure costs" of $10 million to the State of Wisconsin upon the transfer.

This bill that we are considering today has allocated $5 million to the Army Corps for the transfer of the locks to the State of Wisconsin. Unfortunately, without the full payment of $10 million, this transfer and decades of negotiations will be placed in jeopardy. It is essential, in my view, that full funding for the transfer be included in the fiscal year 2002 appropriation bill or else the local and State matching grants for this project will be jeopardized.

This memorandum of agreement was a promise by the Federal Government to the State of Wisconsin, and I do not believe that we can shirk this responsibility.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Wisconsin. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I want to tell the gentleman that we applaud this historic agreement that the Governor and the State of Wisconsin have reached with the Corps of Engineers, and it is our intention to see that this commitment of the contract is fulfilled. We know the importance of it because when the gentleman first came to us and explained the importance of it, we, at the gentleman's insistence, put the first $5 million in there.

We thought it could be a two-step project; but if this is going to interfere with the project, it is my intention to find somewhere in the budget the additional $5 million so this project can move forward as expeditiously as possible.

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Mr. GREEN of Wisconsin. I appreciate the chairman's willingness and commitment to make this transfer a reality. I congratulate him for the hard work that he has done and his staff has done on this bill. I look forward to working with him on this important project.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my first order of business is to thank the chairman and the ranking member of this subcommittee for their very hard and collaborative work and to give them some good news, that is, that the Army Corps of Engineers works, the funding on these projects works, for even though I come from Houston which is flood worn and weary, the areas where the Army Corps of Engineers and the funding from the Subcommittee on Energy and Water Development perform their task, I am very pleased to report unbelievably that there was no flooding. I am very grateful for that. My constituents likewise have said the same. That shows us that the areas that Houston did not have its work completed are in dire need.

And so I was to offer an amendment today giving an increase in funding to the Army Corps of Engineers of some $20.5 million, but knowing the hard work of this committee and the tightness of the efforts that it is making, I will not offer that amendment but offer to say that we can stand some additional assistance. Although I am gratified for the $5 million for the Brays Bayou and the Sims Bayou which is the bayou, Mr. Chairman, that had progress on it where it was completed to a certain point and that area did not flood. We now have some $9 million in the budget with a capacity for $12 million. But there are areas that did flood, the Hunting area, the Greens Bayou area that flowed even though mostly into my colleague's district, had an impact on some of our neighboring districts.

I am very interested in working with this committee and asking the chairman and the ranking member for their assistance as we provide the potential necessary dollars to either expedite or continue working on projects that have obviously worked.

I might say, Mr. Chairman, in addition, that the Army Corps of Engineers was very visible during the aftermath of the flood, taking aerial views. The general from the Dallas area who is over the whole region came in, which shows me that this is a worthwhile investment. I would like to enter into a colloquy with the chairman to ask him to provide us with assistance, in particular to monitor and work with us on Sims Bayou; to monitor and work with us on Hunting Bayou, and as well my colleagues have already mentioned the bayous in their community, we all work as a team, but to work with us in the Houston and Harris County area along with, of course, as the gentleman mentioned, the majority whip who has an interest obviously in these issues.

Mr. CALLAHAN. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Alabama.

Mr. CALLAHAN. I thank the gentlewoman for yielding. Yes, Mr. Chairman, we will be happy to work with her in any capacity we can and with the entire delegation from Texas. The gentlewoman has water needs in Texas now, and it is our full intent to do everything we can to assist her in those projects to make certain that, number one, we preclude flooding in the future; and, number two, that we repair any damage that was done during the most recent floods.

Ms. JACKSON-LEE of Texas. I thank the gentleman very much. I would offer to say to the ranking member that I thank him for his work. I look forward to working with his staff.

Mr. Chairman, I yield to the gentleman from Indiana to comment on these efforts. We have already worked with him and his staff. I want to thank him. I would appreciate his assistance as well as we move through this process with the funding for bayous that have yet been completed or need additional assistance.

Mr. VISCLOSKY. We would be happy to continue to work closely with the gentlewoman.

Ms. JACKSON-LEE of Texas. I thank the ranking member very much.

With that, Mr. Chairman, I would simply say that these dollars are well needed, they have been well invested, we saw the impact of the funding sources of the Army Corps of Engineers, but we are still suffering. We look forward to working with this Congress to help us as we try to improve those conditions.

Mr. BISHOP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 2311, the Energy And Water appropriations bill. I commend the full committee, subcommittee ranking member VISCLOSKY, and especially Chairman CALLAHAN for all their hard work, particularly on the Tri-Rivers project. Commercial barging on the Appalachicola, Chattahoochee, and Flint Rivers system is an important issue for our region's economic infrastructure. I am pleased to see the increased level of funding that this committee has appropriated. Recently, I traveled to Georgia and Florida with Members of the House and Senator GRAHAM of Florida to observe the Tri-Rivers process firsthand. This is a very, very intricate, sensitive area and issue, particularly with Representatives from the three States of Alabama, Florida and Georgia.

The ports on these rivers provide jobs and revenue, particularly for my area of southwest Georgia. The ports of Bainbridge and Columbus generate 548 jobs and over $15 million in wages. These jobs have a direct impact on the economies of small river towns like Bainbridge, Georgia. Revenue generated at both of the ports, that is, Bainbridge and Columbus, total over $40 million and in turn contribute over $1 million in State and local taxes. The barge system has many economic and environmental advantages that are often overlooked. Barging is energy efficient. An inland barge can transport more materials using far less fuel than other means of transport. A navigable river system provides a competitive alternative that helps reduce rates for other modes of transportation. These rivers must remain navigable if we are to continue to see these economic rewards.

In the past, the Corps of Engineers has done an environmentally messy job and caused a great deal of anguish in Georgia, Florida and Alabama, particularly in the Appalachicola, Florida, area. We know now that better management of system water levels upstream by the Corps and better care in the disposal of the waste from dredging will help all of us have a mutually enjoyable use of the river system. The money that is appropriated in this bill will help ensure that dredging has a minimal environmental impact.

It is my vision to see continued economic success for the communities that take advantage of the Appalachicola, Chattahoochee, and Flint Rivers as one of their means of transportation. I encourage my colleagues today to support rural industry and efficient transportation by voting yes on this energy and water appropriations bill.

I thank the chairman again; I thank the ranking member and all those who support this bill because I think it is much needed and it is a step forward.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 102. Except for the historic scheduled maintenance dredging in the Delaware River, none of the funds appropriated in this Act shall be used to operate the dredge MCFARLAND other than in active ready reserve for urgent dredging, emergencies and in support of national defense.

SEC. 104. (a) CONVEYANCE AUTHORIZED.—The Secretary of the Army shall convey to the Blue Township Fire District, Blue Township, Kansas, by quitclaim deed and without consideration, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 4.35 acres located in Pottawatomie County, Tuttle Creek Lake, Kansas.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(c) REVERSION.—If the Secretary determines that the property conveyed under subsection (a) ceases to be held in public ownership or to be used as a site for a fire station, all right, title, and interest in and to the property shall revert to the United States, at the option of the United States.

SEC. 105. For those shore protection projects funded in this Act which have Project Cooperation Agreements in place, the Secretary of the Army is directed to proceed with those projects in accordance with the cost sharing specified in the Project Cooperation Agreement.

AMENDMENT NO. 4 OFFERED BY MR. TANCREDO

Mr. TANCREDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. TANCREDO:

In title I, strike section 105 (relating to shore protection projects cost sharing).

Mr. TANCREDO. Mr. Chairman, in his budget request to Congress, President Bush proposed reversing the cost-share ratio for beach replenishment projects from 65 percent Federal share/35 percent local share, to 35 percent Federal/65 percent local. The energy and water appropriations bill includes language to block this proposal. The Tancredo-Blumenauer amendment would strip the bill of this fiscally damaging and environmentally questionable legislative rider.

In an interview with the Associated Press yesterday, Office of Management and Budget spokesman Chris Ullman said that the White House continues to believe that the Federal Government should spend less to build beaches. "Since most of the benefits are to localities and local beachgoers, it seems reasonable that they would pay the majority of the costs of sustaining those beaches."

The Army Corps of Engineers recently began the world's largest beach replenishment project, to provide 100-foot wide beaches along all 127 miles of New Jersey's coast. This is at an average cost of $60 million per mile. Right now, the Federal Government is obligated to pay the majority of that cost, or 65 percent to be exact. What is worse, most artificial beaches wash away within 1 year of replenishment, leaving taxpayers' money and environmental damage left in their wake, so to speak.

We encourage you to support the Bush administration's effort to save tax dollars and cut environmentally questionable spending by removing this legislative rider on beach replenishment cost-sharing.

The current Federal policy of subsidizing beach projects, by the way, is a 50-year agreement with towns. That is unsustainable. That means 65 percent of the cost we would be required to fund for 50 years at current levels.

The Duke University program for the study of developed shorelines estimated that the cost to pump sand on just four Atlantic coast States, Florida, South Carolina, North Carolina and New Jersey, will be more than $4 billion.

Many of these beach communities are privately owned and privately renourish their beaches. They pay for the projects through hotel-use taxes and progressive property tax assessments according to how close the property lies to the beach. Many, many of these areas, of course, are some of the most expensive areas, most expensive pieces of property that you can purchase in the United States of America. To suggest that the Federal Government has the responsibility to pay for 65 percent of the cost of pumping sand back on that beach every year is ridiculous.

Let me quote from a statement of the administration's position on this that they have just put out:

"The administration appreciates the committee's efforts to address administration funding priorities for the Army Corps of Engineers civil works program. However, the administration is concerned about the increase of over $568 million over the request for Corps programs. We can have a strong water resources program at the funding level proposed in the budget by establishing priorities among projects. The administration is particularly concerned that the bill contains approximately $360 million for about 350 specifically identified projects and activities that were not included in the President's budget. We urge Congress to limit the number of projects and to focus funding on those projects that address the Corps' principal mission areas.

"We are disappointed that the committee has included a provision that would preclude the Corps from carrying out in fiscal year 2002 the administration's proposal to increase local cost-sharing for the renourishment phase of ongoing shore protection projects. This cost-sharing proposal would help ensure that the Federal Government's long-term renourishment obligations do not crowd out other important funding needs. We urge the Congress to reconsider this proposal."

Mr. Chairman, I recognize that doing anything on this floor especially in this bill that jeopardizes some little tiny part of the Corps of Engineers budget is a highly dangerous thing for a Congressman to do. I recognize there are many, many people here who benefit as a result of the largesse of the committee and whose projects are sacred to them. But this is going too far. Once again, this is not necessary. This is not requested by the administration. To ask the country, to ask the Federal taxpayer to support replenishment of these beaches every year, year in and year out for the next 50 years at these costs is just not acceptable.

Mr. CALLAHAN. Mr. Chairman, I rise in strong opposition to the amendment. I think it is rather ironic that the gentleman offering the amendment represents a State that has no shoreline, no ocean, and no Gulf of Mexico which he should be concerned about it. But his real message should be going to the authorizing committee. This process was established by the authorizing committee. It has been in process for a great number of years. It is beginning to work. It even is a cost-saving effort for the Corps of Engineers. In most every case, instead of having to go to the expense to haul all of this sand out to some foreign place in the ocean and dump it, they are able to get the white sand and replenish the beaches.

We have spent a great deal of effort and money preserving the beaches in most every State that has a shoreline, including the State of Florida. I do not want to do anything that would do damage to the beaches in the State of

Florida. I want to preserve them, and I want to make absolutely certain that the Corps of Engineers understands that this cost-saving project for the Corps should not be borne by the State of Florida in the 65–35 ratio that they are talking about.

Mr. Chairman, the beaches in Florida are probably the most beautiful in the world, especially in the panhandle of Florida next door to my district.

□ 1530

I would not do anything to destroy those beaches. I want to protect them. I want to enhance them, and I think the protection and enhancement comes from beach nourishment. It is also applicable to the State of Alabama, at Dauphin Island in Alabama and Gulf Shores, Alabama, which also has beautiful beaches.

It is applicable to the Great Lakes. It is applicable to the State of New Jersey. We are doing something positive. We are taking the sand that we are moving from the deepening of channels, putting it on the beaches and replenishing beaches that have been washed away by hurricanes, by natural erosion, and making our beaches beautiful and making them places where people can go and enjoy sometime in the water and sometime in the sun.

So we should not be doing anything to diminish the type of advancement that the Corps is making, but most of all we should not be doing it here. We are not the authorizing committee. We are simply the Committee on Appropriations. We have spent a great deal of money in appropriations on this committee providing the necessary monies to the Corps of Engineers to enhance these projects.

And I certainly understand the gentleman from Colorado (Mr. TANCREDO) not being concerned about how beautiful the beaches are in Florida or whether or not they should be preserved or whether the beautiful beaches of New Jersey or whether the beaches on the Great Lakes should be preserved. What if we went out to Colorado and said that we are not going to allow any snow, we are not going to allow any water to roll down those beautiful rivers? What if we were going to have to do something to enhance the rivers of Colorado? He would be here saying, let us do this, let us do that, and I would be saying, yes, sir, we are going to do that; we are going to help him preserve his beautiful river system in Colorado. And we would ask his assistance in helping us to preserve the beautiful beach systems that the bordering States of the oceans and Gulf of Mexico and the Great Lakes have.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to join the chairman in strong opposition to this amendment. First of all, coastal shore protection projects are equivalent to flood protection for inland communities. This proposal places storm damage prevention and shore protection projects at a cost-sharing disadvantage with comparable inland flood control projects. It will disproportionately affect poor communities which will be unable to raise adequate funds for these projects. It also violates the cost-sharing agreements already in place for some ongoing shore protection projects. It abrogates existing, ongoing, long-term contracts with non-Federal sponsors, and it is inconsistent with the agreed cost-sharing adopted by the WRDA legislation of 1986.

Mr. Chairman, I am strongly opposed to the gentleman's amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to speak strongly against this amendment for several reasons. First of all, I want to address my comments to some of the comments that the gentleman from Colorado (Mr. TANCREDO) made. I need to stress, first of all, Mr. Chairman, that if this amendment were to pass, I assure everyone that the shore protection beach replenishment projects in New Jersey and probably throughout the country would simply not take place. It is erroneous to assume that the towns that are being asked to foot the bill, and in this case under this amendment the additional costs to pay for these beach replenishment projects, would be able to pay for them. They simply would not.

I live in a municipality that has about 30,000 people. I represent some towns that have less than 2,000 people. They barely are able to get the money together now to pay for the percentage that they have to pay with the Federal Government paying most of the cost. If they had to double or triple that under the funding formula that the gentleman from Colorado (Mr. TANCREDO) is proposing, the beach replenishment projects would simply not take place.

Let me say that in my district where one of these projects basically extends about 50 miles along the shoreline, that with a very small exception, probably of that 50 miles maybe no more than one or two, we are talking about public municipally owned beaches. We are not talking about mansions and big homes and wealthy Gold Coast municipalities here. The town that I live in has 5 miles of that 50-mile coastline that is affected by a beach replenishment project. We are what we call an urban-aid project in New Jersey, which means we are one of the poorer towns in the State. We have the second poorest town in the State. I will not mention the name. I do not need to. That is also part of this project. We are not talking about rich areas.

This will not happen. These projects will not take place if this amendment were to pass.

Now let me talk about two other things that I think are misleading here with regard to this amendment. First of all, I think it should be understood that the current beach replenishment program is done in a way to save the Federal Government money. Not cost the Federal Government more money, but save the Federal Government money. I will say why.

The Army Corps of Engineers goes through a very strict cost benefit analysis in deciding which of these beach replenishment projects to fund, and they weigh the costs and the benefit to the Federal Government. In every case, the cost to the Federal Government has to be significantly less than the benefit. What is the cost to the Federal Government if they do not do the projects? Well, we know about FEMA. We know about emergency disaster declarations after a hurricane or a tidal wave or whatever it happens to be.

We have a lot of hurricanes along the New Jersey coast. Every time there is a hurricane, there is an emergency disaster declaration. The Federal Government, under FEMA, has to come in and spend millions and millions of dollars to replace and rectify the situation and the damage that occurs.

The Army Corps of Engineers does these beach replenishment projects not because they want to give somebody a nice beach to sit on but because they know that they do not have to come in with a disaster declaration because the storm does not affect the upland area, the infrastructure, the utilities, the roads, that the Federal Government would have to come in and bail out.

This is done to save the Federal Government money that they would have to spend through a disaster declaration. It makes no sense not to do these projects from the Federal Government's point of view. It is cost effective.

Lastly, I want to make one other point, Mr. Chairman. It has not been said yet but I am sure I am going to hear from some that somehow these projects are not good for the environment. That is simply not true. There is strong indication that when beach replenishment is done it is a good thing for the environment. We have been able to do the beach replenishment so that the surfers and the bathers and the fisherman are not negatively impacted. It can be done and it has been done, and it has to be done under the current law so there is access to the beaches for the public and so that the beaches are done or sculpted in a way that the people that use the ocean, whether they be fisherman or surfers or whatever, can continue to do so.

So do not let anybody tell me that a vote on this amendment is a good environmental vote. That is simply not true. I am one of the staunchest defenders for the environment in the

House of Representatives. A vote against this is a good environmental vote. I am going to tell everybody I know who thinks that somehow this is something that relates to the environment, it is not. Beach replenishment is good. It helps the Federal Government cut costs. It is good for the communities and it is good for the environment.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Tancredo amendment, which removes the protections in the bill for existing projects and allows for contracts the government has signed with communities across the Nation to be broken. The Tancredo amendment singles out existing beach renourishment, storm damage prevention projects for special adverse treatment. This amendment would cause serious harm to a project already underway in my district, Brevard County.

The Federal Government caused most of the erosion along the beaches in Brevard County when they constructed the Federal inlet in 1953. This inlet was to create Point Canaveral and a facility for the U.S. Navy so that they could take part in testing of their ballistic missile program.

Indeed, one can say the Federal inlet in Brevard County was part of our national effort to win the Cold War. Studies have been completed by the Corps of Engineers, the county, independent experts and, yes, even the U.S. Department of Justice and all have found the Federal Government largely at fault.

In fact, the Justice Department settled a case brought by over 300 coastal property owners because they knew the Federal Government was guilty. That agreement calls for this project to be completed.

There are serious environmental issues here as well. Brevard County beaches are home to the largest concentration of nesting and endangered sea turtles in North America. Ten percent of the entire sea turtle nesting population in North America lays its eggs on these beaches. Throwing a roadblock in front of this project will further threaten this endangered species and contribute to more habitat erosion.

In short, the formula that currently exists is the proper formula, and I believe that this amendment would do serious harm.

Mr. BROWN of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Florida. I yield to the gentleman from South Carolina.

Mr. BROWN of South Carolina. Mr. Chairman, I rise in strong opposition to this amendment to reduce the Federal Government's investment in beach renourishment.

This proposal is not only shortsighted but it clearly violates today's agreements that local communities have arranged with the Army Corps of Engineers. To walk away from these commitments is simply wrong. How can we expect the coastal communities in South Carolina and other States to successfully budget for other major infrastructure investments if we arbitrarily increase their local cost share by over 80 percent?

I support reigning in unnecessary government spending, but our shore protection program, Mr. Chairman, is absolutely necessary for us to maintain the Federal Government's responsibility for coastal hazard and erosion protection.

If we do not honor the current Federal-local cost-sharing formula, we should know the communities in my district, including Myrtle Beach and Folly Beach and 150 miles of the shoreline of South Carolina will be facing an enormous financial hardship, so much so that it jeopardizes the progress we have made in improving our water and waste water infrastructure, roads, and bridges.

Without the current cost-share partnership, we risk the preservation of the beautiful beaches that attract over 12 million visitors throughout our country. Our beaches belong to everybody. They provide a wonderful source of recreation for both young and old Americans. We hope our responsibility will be seen to help preserve these great natural resources.

Contrary to the programs' critics, beach renourishment is a sound investment. I urge my colleagues to reject this ill-advised amendment.

Mr. WELDON of Florida. Mr. Chairman, it took 15 years in Brevard County to develop this formula and this agreement. This amendment would set back years of work. I strongly encourage all of my colleagues to keep the faith that has been established between the Federal Government and all of these communities throughout the country. The provisions, the language that the chairman and the ranking member have put in this bill, I think, are very wise in grandfathering the existing programs under the current formula; and I would encourage all of my colleagues to reject this amendment.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 20 minutes, the time to be equally divided between the proponent of the amendment and a Member opposed.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. BLUMENAUER. Mr. Chairman, reserving the right to object, I just want to make sure that I am going to have a chance as a sponsor of the amendment to have my opportunity to make a presentation.

Mr. TANCREDO. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from Colorado.

Mr. TANCREDO. Mr. Chairman, I assure the gentleman from Oregon (Mr. BLUMENAUER) that I will yield time to him.

Mr. BLUMENAUER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. The time will be equally divided between the sponsor of the amendment, the gentleman from Colorado (Mr. TANCREDO), and the gentleman from Alabama (Mr. CALLAHAN) will control the time in opposition.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in response to some of the issues that have been brought up here, especially by my friend, the gentleman from New Jersey (Mr. PALLONE), who suggests that there is no environmental concerns that should come up as a result of this and that anybody that suggests there is an environmental problem is simply off base, of course, he is therefore saying that the following organizations, American Rivers, Earth Justice Legal Defense Fund and Environmental Defense, Friends of the Earth, League of Conservation Voters, National Wildlife Federation, Sierra Club, all of these people do not know what they are talking about when it comes to environmental issues and whether in this particular case especially they are simply off base.

Well, I do not certainly consider myself to be an expert in this particular area but I would say that there is some cause for concern with regard to the environmental issues developed by this beach replenishing program.

Federally subsidized beach projects mainly benefit wealthy vacation condo owners and tourism. The gentleman from Myrtle Beach, South Carolina (Mr. BROWN) referred to the fact that 12 million visitors a year enjoy these particular areas.

□ 1545

I think that is wonderful. Now, in fact, who is benefiting from those 12 million visitors? It is, of course, the communities that are adjacent to these beaches. Those communities should be responsible for the majority of the cost of replenishing the beaches. That is all we are saying here. We are agreeing with the administration.

Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the courtesy of the gentleman in yielding time to me. I am pleased to join him in cosponsoring this amendment.

Mr. Chairman, I think the gentleman had it right when he mentioned that there is at least an argument when you look at the major environmental organizations around the country who suggest that this Congress ought to have a debate like this on this floor on the environmental and economic impacts of these massive beach replenishment programs.

With all due respect to our other friend from Florida, it is true that the Federal Government at times has created these problems. It is because we are in a vicious cycle here. We engineer our beaches, we fortify them, we put up jetties, we accelerate the process of coastal erosion, and we make the problem worse.

Then we come forward with these interesting projects. We have watched over the years as the Corps of Engineers and this Congress has expanded dramatically the sweep of the Federal involvement in beach nourishment and replenishment.

I think we ought to take a deep breath, take a step back and support this amendment, and give this administration an opportunity to pursue an initiative that is both environmentally sensitive and is fiscally responsible.

When we look at these massive projects, we have authorized one and two-thirds billion dollars in the last decade alone. In the State of New Jersey, where my good friend mentioned a moment ago it was of concern to his district, well, it is. If you look at beach nourishment costs in New Jersey, it is $60 million per mile.

In WRDA, I dare say there were very few Members on this floor who understood the massive project that was slipped in without significant debate for a 14 mile stretch of beach in Dare County, North Carolina, for $1.8 billion, a commitment over the next 50 years. I would dare say that a massive project on this scale merits discussion on the floor of this Chamber, but we do not have it. I was a member of the authorizing committee. It was news to me. I dare say it was news to other Members here.

It is not a benign process akin to snow in the gentleman from Colorado's district, or, with all due respect, that it is just someplace that we have to put the beach spoils, the dredging spoils. This saves the Federal Government money.

Take a look at the record. Mr. Chairman, there have been exposes; in fact, there have been journalistic exposes dealing with the State of Florida with the massive amount of ecological destruction. There is not just spoils with white sand that we would have to pay somebody to take over. Oftentimes we go out and we disturb sensitive ecosystems for dredging materials that we end up putting in these areas.

If you look at the cost factors, noted Duke geologist Orrin Pilkey, a recognized expert in this area, points out that usually beach nourishment projects cost twice what the cost estimate is, and it ends up being about half as effective.

We could look in Ocean City, Maryland, where the Army Corps of Engineers budgeted to use 15 million cubic yards of sand over the next 50 years of beach replenishment, but in the first 3 years of that project the Corps had used one-third of the total sand allocation. I am blanking right now on the project, and I can get it for you, where it has been on average one a year on the east coast.

There are problems here of significant magnitude. It is not ecologically benign. It is extraordinarily expensive, and we are facing a situation where FEMA has commissioned studies that indicate over the next 60 years we are going to have 25 percent of the structures within 500 feet of the ocean coastline subjected to erosion and damage. That is without taking into account the impact of global climate change.

Mr. Chairman, I think this is an opportunity for people who care deeply about the environment to join with people who sympathize with the members of this committee who do not have enough money to solve the problems and allow the Bush administration to see if they can come up with a better cost formula. The Democrats ought to be able to submit to this. It is something also that the Clinton administration wanted to do. I think this is an important issue.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. SHAW). No man in this body has been more vocal and outstanding in the preservation of beaches than the former mayor of Fort Lauderdale.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me time. I want to congratulate the chairman of the full committee as well as the ranking members of the full committee and subcommittee for recognizing the importance of beach renourishment.

I have heard some figures thrown out here today that make absolutely zero sense. $60 million a mile? I know of no beach renourishment anywhere in the country, and I checked with the gentleman from New Jersey, and he said that is absolutely preposterous.

I listened to the gentleman from Colorado where he said he is no expert on the particular subject. He has brought the amendment here, and he has quoted some various environmental organizations, some of which have credibility, some of which I think are somewhat debatable.

But, in any event, let me ask the question to any environmentalist here in the Chamber: I have beaches that are nothing but rock. Is that an environmentally sensitive area that should be protected? These were naturally covered with sand. Now the sand is gone. In Boca Raton, Florida, a whole strip is nothing but rock. You go down into the southern part of Broward County and Dade County, you are seeing the same thing. These beaches need to be renourished.

If one is concerned about the turtle and reproduction of the turtle, they do not lay their eggs in rocks; they lay them in beach sand. There is great sensitivity as to the time we do the beach renourishment. It is very strictly regulated as to the breeding seasons of the turtles, so you do not destroy their natural habitat.

We talk about FEMA and 500 feet within the beach. I can tell you, the ocean is coming right up to many of the structures, and they are going to be destroyed if we do not get back involved and stay involved in beach renourishment.

The right of contract, the word of the Federal Government, the obligations of the government, these would all be wiped out with this senseless amendment.

This amendment must be defeated. I urge all my colleagues to vote against this amendment.

I would say in closing, view the beaches of this country as a long national park. We heard that the local communities should pay because they are the ones benefiting from it. Do you want to make the same argument about our national park system? I doubt it. It is there for all Americans.

Over half the Americans in this country do their vacationing at the beaches of this country. Let us keep our beaches safe. Let us keep them environmentally where they should be.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Chairman, I thank the gentleman very much for yielding me time.

I want to say to my good friend from Colorado (Mr. TANCREDO), I generally agree with him on just about every vote we have; but on this one he is totally wrong. I want to take a different perspective.

Not talking about the environmental issues, I must say to the gentleman from Oregon, I have great respect for you also, though I disagree, but Dr. Pilkey is an extremist. I do not have the time to get into why I feel he is an extremist, but he is.

Let me very briefly say that what we are talking about is the economy of these beach areas, the people that pay taxes, the people that want to do for their families. That is really what it comes down to.

Let me give you an example. In Dare County, which the gentleman made reference to earlier, the Corps of Engineers says for every $1 spent on beach renourishment in Dare County, it will return $1.90 cents to the Federal Government. So any time we can make those kinds of investments, we need to do that. We need to partnership with the people of this country that pay the taxes.

So I want to say to the chairman and the ranking member, thank you very much for this effort. I want to close in saying, Mr. Chairman, that beaches are this country's economic engines. Four times as many people will visit beaches this year as will visit the national parks. That is telling you how important the beaches are to the American people.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I too rise in opposition to this amendment. It has been stated that four times as many people visit our beaches as visit the national parks in our country.

What do people dream about? They dream about going to the beach. If they talk about their retirement, they talk about being on a beach someplace. People want to basically be on beaches. We have many beaches in Delaware that are probably as popular in these buildings around here as any beaches in the entire country. Foreign visitors want to come to beaches in the United States of America.

There is tremendous economic production from the beaches that we have across this country, a huge tax benefit, up to 180 times the Federal share that is involved in paying for the beach replenishment which we have. If we did not have this replenishment, it would be almost impossible to have these dreams, to have the ability to offer our beaches to people around the United States of America.

It also protects our migrant birds, which come into my State and come into some other States. It protects us from major storms. And there is huge population growth across the United States of America from our beaches back inland, because people like to be able to access and go to the beaches of our country.

This, unfortunately, is an amendment which is wrong-headed in terms of what it does, and we should defeat it.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to say to this body and to the world that when I retire, if I ever do, I intend to spend a great deal of time in southern Florida on my boat; and I want to view these beautiful beaches as I patrol the waters of the Atlantic and the Gulf Mexico and the Keys, and I want to go down in history, if I leave any mark on this Congress, as the man who saved the Florida beaches. I think the fact that I am going to go down in history as the man who preserved the beauty of the Florida beaches is a good compliment to the service that I have had in this Congress. So I look forward to that reputation.

Mr. Chairman, I reserve the balance of my time.

Mr. TANCREDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have a feeling that regardless of what happens with this amendment, even if it were to pass, that my friend and colleague, the gentleman from Alabama (Mr. CALLAHAN), will be able to enjoy a very pleasant retirement on the beaches.

The fact is that, of course, we are not talking about anything here that is going to eliminate the beaches of the Nation. It is just crazy to suggest that if we would allow the administration to go back to a 35–65 split, that, all of a sudden, all the beach property in this Nation is gone. Nobody would take care of it. The communities that live alongside of it, the homes that are built alongside of it, it is not their responsibility; it is somehow ours, and if we did not kick in 65 percent, it all disappears.

Of course, that is not accurate. It is not what this amendment is intended to do, but it is typical. I know any time we are trying to cut 10 cents out of the budget around here, it is almost the most dire consequence we can possibly think of that we use in response to the request to cut the funds.

This is not even a request to cut. We will still spend the money; it is just who is going to be responsible for it. It is not even mandating that we go to the 65–35 split, 65 local. It is saying let us let the administration have the option of managing this. It is not mandating a thing in here.

Mr. Chairman, I yield the balance of my time to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I would suggest that if people really are serious about preserving the beaches, that maybe this Chamber could be more serious about global climate change, the rising level of oceans, because what we are talking about with beach nourishment, if what the scientific experts tell us is accurate, we may be fighting an uphill battle.

I would duly suggest that maybe suggesting allowing the Bush administration an opportunity to revisit these issues is not something that is a radical and extreme position. It is one of these areas where there is a convergence, I think, of fiscal conservatism and thoughtful environmentalism.

It is true that sometimes there are rocks that occur on beaches. There is a natural ebb and flow. We have it in beaches in Oregon. What we have done, however, in our infinite wisdom, is we continue to fortify the beaches, to engineer them, to put up jetties, to put in sand, to disrupt the process, so actually it ends up making it worse over time.

□ 1600

So the Federal taxpayer is on the hook. We mess up the natural process of restoring the beaches, and when we are further looking at changes that are a natural part of the environmental process, we just make it worse.

In Oregon, we had a situation with the senior Senator from our State having beachfront property that is being eroded, and there was a great hullabaloo because there was an effort to try and restore and fortify and wall off that portion of the beach. We made it a difficult public policy decision that that would simply put the taxpayer on the hook and deflect the problem further.

Mr. Chairman, I appreciate that these are difficult, but I would think that we need to take our time, stepping up and being serious about this. Otherwise we are going to end up putting the taxpayer on the hook for a lot of money that is going to make the problem worse over time.

Mr. CALLAHAN. Mr. Chairman, I yield the balance of my time to the gentleman from Florida (Mr. YOUNG), the chairman of the committee, who knows firsthand the importance of this issue.

Mr. YOUNG of Florida. Mr. Chairman, I want to thank the gentleman from Alabama (Mr. CALLAHAN), the subcommittee chairman, for doing a really good job on this bill, as I have said earlier. I must say that I really appreciate his commitment to Florida's beaches. I know that he will have many opportunities to help support Florida's beaches and protect them in their pristine condition as we go through the various appropriations processes. Seriously, I really do appreciate that support.

Mr. Chairman, I rise in opposition to this amendment and in favor of the committee position. The committee thought about this. The subcommittee thought that we should review this issue, and we did. The reason that we have a formula of Federal-State partnership is for the same reasons we have a partnership for highways. We have a Federal-State-local formula for building highways and maintaining highways, because people all over America use highways, all over America. People from all over America use beaches, wherever they might be in America.

We have heard the arguments about the economic effect, the economic impact. We have heard the arguments about the pleasure-seeking people who go to the beach to swim and get out into the sun and have a good time, and all of those are good, solid arguments. There is more to it than just that.

The fact of the matter is that having a good beach protects the infrastructure of the community. Now, I live in a community where we have water on the Gulf of Mexico on one side, water from Tampa Bay on the other side, water from Boca Ciega Bay goes right up the middle, but we have a lot of waterfront. I can tell my colleagues when we get a hurricane in Florida, in my part of the State, most of the damage comes from the high water that pounds against the sea wall, that pounds against these structures. The better beach that exists, the less damage we have to the infrastructure. I have seen roads and highways washed out because there was no beach to protect against that hurricane tidal surge. So it is important that we not only have the economic effect, the tourist effect, but the effect of protecting the infrastructure of the communities.

Now, the formula was established by law. We should not be changing the formula in an appropriation bill. If the gentleman wants to change the formula, the gentleman should go to the appropriate authorizing committee and offer a bill.

I can understand the concern of the gentleman from Colorado, because he has a lot of beach, but he has no water, and a beach without water does not really cut it, and it does not really have the same problems of those of us that have beaches with water.

So anyway, it is a good debate, and we did consider it seriously, but I think it is important that we stick with the committee and vote down this amendment. It maybe well-intentioned, but it is not a good amendment.

Mr. LoBIONDO. Mr. Chairman, I rise in strong opposition to this amendment. States and communities in my district and all over the nation have already entered into binding beach renourishment contracts with the Corps of Engineers with the 65 percent federal/35 percent local cost share formula in place for projects authorized before January 1st of this year. In fact, the current funding formula has been specifically authorized by Congress. It would be grossly unfair to suddenly require these states and municipalities to put up almost twice as much money as had already been agreed upon to protect their beaches and their tourist economies.

Supporters of this amendment claim that shore protection funding only benefits "resort communities." Nothing could be further from the truth. The fact of the matter is, our nation's beaches contribute to our national economy, with local communities just the tip of the iceberg. Four times as many people visit our nation's beaches each year than visit all of our National Parks combined. It is estimated that 75 percent of Americans will spend their vacations at the beach this year. Beaches are the most popular destination for foreign visitors to our country as well. The amount of money spent by these beach tourists creates a huge tax benefit, most of which goes to the Federal government. That tax revenue each year is more than 180 times the Federal share of shore protection projects annually.

I understand my friend from Colorado's sincere desire to control federal spending. However, I think he is taking the wrong approach here. Decisions like this should be made in the authorization process, and not on preexisting contracts. If the supporters of this amendment want to further change the formulas, then I suggest that they work with the authorizing committee.

I urge a "no" vote on this amendment.

Mr. SAXTON. Mr. Chairman, I rise today in strong opposition to this amendment which would eliminate the federal cost share of 65 percent for US Army Corps of Engineers beach replenishment projects.

Beach replenishment is vital to the coastal economies in our country. Millions of residents and small businesses make their home near the coastline and that population increases dramatically in the summer as tourists flock to the beaches. The continued economic health of our nation's beaches is dependent on these important beach replenishment projects by the US Army Corps of Engineers. The pristine white sand beaches are not only a vital component of the tourist industry, but an important natural resource that supports populations of commercially and recreationally significant fish and rare and endangered species.

This amendment proposes to eliminate the federal cost share of 65 percent for beach replenishment for ongoing and future projects.

Coastal communities have been asked to "voluntarily" increase their cost share for beach replenishment projects to 65 percent, despite that current project authorizations are at a 35 percent state cost share. This is obviously unfair to the State and local governments, who have budgeted their costs for beach replenishment based on their contracts with the federal government and do not have the additional funds which is almost double their authorized cost share.

Coastal States have consistently shown their commitment to assist in the preservation and replenishment of beaches along the Nation's coastlines. The proposed Federal change in cost sharing would only result in the delay or elimination of Corps of Engineers projects potentially increasing the property damage from hurricanes and severe storm events.

Many coastal communities, such as mine, have suffered from repeated storm events over the last several years which has resulted in the narrowing and lowering of the beaches and dunes. This steady erosion has reduced storm protection that would otherwise have been available, which will only result in more property damage when the next storm or hurricane hits.

Each state receives federal funds to protect its communities from natural disaster, whether it is tornado, earthquake, drought resulting in crop damage, flood or hurricane. It is not fair to the coastal communities to withhold federal funds that would otherwise be available to prevent damage from natural disaster.

I urge by fellow colleagues to oppose this amendment and remember all states benefit from our nation's beautiful shoreline.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the amendment.

I commend Chairman CALLAHAN for producing a bill that ensures our Nation's commitment to work in continued partnership with our state and local communities to address the vital need of shore protection and for supporting the traditional funding ratio that worked so well.

In my home state of New Jersey, tourism is vital to keeping our economy. With 127 miles of our clean beaches open for visitors from around the country and the world; this federal/state partnership helps maintain a dynamic tourism industry that employs over 800,000 people in my state alone.

Mr. Chairman, I urge my colleagues to oppose this amendment.

Mr. CALLAHAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. TANCREDO. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XXVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the last word. I would like to enter into a colloquy with the gentleman from Alabama (Mr. CALLAHAN), the distinguished chairman of the subcommittee.

Mr. Chairman, my family came to Texas in the 1840s and settled in Hill and Bosque County in the 1870s around a community called Whitney. My great-great-grandfather and my great-grandfather and my grandfather and my father all grew up on a farm under what is now Lake Whitney, because in the 1940s, the Corps of Engineers built a public lake. Since 1954, that lake has been open for use. There have been hundreds, if not thousands, of boat docks put on that lake, but beginning in the 1970s, the Corps began to refuse permits for new boat docks and, as the old boat docks have declined, they have refused to allow them to continue to be maintained.

I had submitted language to the Subcommittee on Energy and Water Appropriations that would be no cost, but would simply allow a holder of a permit on Lake Whitney for a boat dock to use that permit. I would like to ask the distinguished gentleman from Alabama (Mr. CALLAHAN), the chairman of the subcommittee, "Beach Boy Callahan," if he would support at some point in the process insertion of language that is of absolutely no cost to the Federal Government, but which would allow people around Lake Whitney which, at some point in time, had a permit for a boat dock to utilize that permit.

Mr. EDWARDS. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Chairman, I am a little surprised because I represent both Hill County and Bosque County. This is the first I have heard about it, and none of this is in the gentleman's district. I respect the fact that he has family ties in the area, but as a member of the subcommittee, I would have at least asked the gentleman to contact me to ask me if I am aware of what he is trying to do.

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, the gentleman and I have actually had discussions on this.

Mr. EDWARDS. Mr. Chairman, if the gentleman will yield, I had no idea this issue was coming up. It is wholly within my district. I am the only Texan of either party on this subcommittee. I do not know that I would have objection; I do not know if I would support the gentleman's request, but it seems like it would have been common courtesy to approach me personally.

Mr. BARTON of Texas. Mr. Chairman, I have done that.

Mr. EDWARDS. It would have been common courtesy to approach me personally and say, I am going to come to the floor today to talk to the chairman of the subcommittee about something that is not in my district that is within yours.

Mr. BARTON of Texas. Mr. Chairman, if I could reclaim my time, I think the gentleman from Waco has got an absolutely sincere complaint. The gentleman and I have spoken on this several times, but not in the last week. I thought this was in the bill.

Mr. EDWARDS. Mr. Chairman, not in the last month, not in the last year that I can recall.

My request to the gentleman would be this: This bill still has a long way to go. I am more than willing to sit down with the chairman of the subcommittee, the ranking member, and the gentleman from Texas and see if we agree on this. But I would think before we shape the future of my congressional district, that I would have some input on this.

Mr. BARTON of Texas. Mr. Chairman, again reclaiming my time, the gentleman and I have not had a discussion on this recently.

Mr. EDWARDS. Not in the last year.

Mr. BARTON of Texas. Yes, we have. Yes, we have.

Mr. EDWARDS. Mr. Chairman, I will say to the gentleman, I honestly do not recall that discussion. I have dealt with this issue since 1974 when I worked for former Congressman Tiger Teague, and I think I would remember if we had a discussion any time in the last 12 months on this.

My request is simply one of common courtesy. I would like to work with the gentleman on this. I would like to work with the chairman on this. I would hope that we would not make any decision today on this. Let us work in good faith and sit down, since this is entirely, completely within my congressional district.

Mr. BARTON of Texas. Mr. Chairman, again reclaiming my time, I will withdraw my request for a colloquy, because I am absolutely stunned at what the gentleman has just said.

Mr. EDWARDS. Mr. Chairman, if the gentleman will yield, I am stunned that this came up on the floor today, quite frankly. But despite being stunned on both sides, let us sit down and talk this out as two Members of Congress from the State of Texas and see if we can proceed.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, let me explain my position. This problem is not limited to just one county in Texas, it also is applicable to some portions of Alabama and other States where the same type of incident is taking place. My agreement with the gentleman from Texas (Mr. BARTON) was that I would agree to sit down with him to try to work out a problem that impacts me as well as other Members of Congress.

So it was not intended to move into one particular county, but to discuss the overall issue of what they are doing with these facilities that these people have been using, in some cases for decades. I do think that we ought to try to find a solution that will apply to Alabama and to Georgia and to Missouri and all over the Nation, because we are all facing a similar problem.

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, let me say one thing, because I am not going to press the point. But the language that I had prepared does not expand the number of boat permits, it simply says if there is an existing boat permit or has been, that it can be utilized. That is all it does.

Mr. EDWARDS. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Chairman, I think what the gentleman from Alabama has suggested makes eminent sense; I respect that. I would look forward to being a part of that conversation along with other Members, but the gentleman from Texas's comments only focused on a lake in my district, not in any other district.

Mr. BARTON of Texas. That is true, that is true.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 106. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, $34,918,000, to remain available until expended, of which $10,749,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,310,000, to remain available until expended.

BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $691,160,000, to remain available until expended, of which $14,649,000 shall be available for transfer to the Upper Colorado River Basin Fund and $31,442,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which $8,000,000 shall be for on-reservation water development, feasibility studies, and related administrative costs under Public Law 106–163; and of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601–6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: *Provided further*, That section 301 of Public Law 102–250, Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting "2001, and 2002" in lieu of "and 2001".

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $7,215,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–4221): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $26,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $280,000, to remain available until expended: *Provided*, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $55,039,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102–575.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $52,968,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed four passenger motor vehicles for replacement only.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. None of the funds made available in this Act may be used by the Bureau of Reclamation (either directly or by making the funds available to an entity under a contract) for the issuance of permits for, or any other activity related to the management of, commercial rafting activities within the Auburn State Recreation Area, California, until the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 12151 et seq.) are met with respect to such commercial rafting activities.

SEC. 202. Section 101(a)(6)(C) of the Water Resources Development Act of 1999 (113 Stat. 274) is amended to read as follows:

"(C) MAKEUP OF WATER SHORTAGES CAUSED BY FLOOD CONTROL OPERATION.—The Secretary of the Interior shall enter into, or modify, such agreements with the Sacramento Area Flood Control Agency regarding the operation of Folsom Dam and Reservoir, as may be necessary, in order that, notwithstanding any prior agreement or provision of law, 100 percent of the water needed to make up for any water shortage caused by variable flood control operation during any year at Folsom Dam and resulting in a significant impact to the environment or to recreation shall be replaced, to the extent that water is available, as determined by the Secretary of the Interior, with 100 percent of the cost of such available water borne by the Sacramento Area Flood Control Agency.".

Mr. CALLAHAN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for energy supply activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 17 passenger motor vehicles for replacement only, $639,317,000, to remain available until expended.

AMENDMENT OFFERED BY MR. HINCHEY

Mr. HINCHEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HINCHEY:

In title III, in the item relating to "DEPARTMENT OF ENERGY ENERGY PROGRAMS; ENERGY SUPPLY" after the aggregate dollar amount, insert the following: "(increased by $50,000,000)".

In title III, in the item relating to "ATOMIC ENERGY DEFENSE ACTIVITIES NATIONAL NUCLEAR SECURITY ADMINISTRATION; WEAPONS ACTIVITIES" after the aggregate dollar amount, insert the following: "(reduced by $60,000,000)".

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 10 minutes, the time to be equally divided between the proponent of the amendment and a Member opposed.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. VISCLOSKY. Mr. Chairman, reserving the right to object, I would just want to know who would control the time on each side.

The CHAIRMAN. The gentleman from New York (Mr. HINCHEY) would control the time in favor of the amendment, and the gentleman from Alabama (Mr. CALLAHAN) would control the time in opposition.

Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. HINCHEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the chairman of the subcommittee for a very good work product, but every product can be improved, and I think that this amendment would improve this energy and water bill significantly.

One of the problems we face as a country, Mr. Chairman, is the fact that our energy policy looks backward rather than forward. We are dependent too heavily on fossil fuels, and increasingly those fossil fuels are coming from places beyond our shores. We are currently dependent on more than 50 percent of our oil from places outside of the United States.

What this amendment would do would be to increase the funding for renewable energy within this bill by $50 million. It would pay for that funding by taking $60 million from the Energy Department's missile program.

Now, that missile program within the Energy Department currently is funded at the rate of $5.1 billion. That is just within the Energy Department. This bill increased that funding by $118 million for the projected fiscal year.

My amendment would take $60 million from that $118 million increase and apply $50 million of it to alternative energy. By alternative energy, of course, we mean producing energy through direct solar, by wind, geothermal and similar technologies.

□ 1630

It is important that we do so. It is important that we do so, because we want to improve the availability of energy from sources other than fossil fuels, and it is particularly important in terms of nuclear security, because we want to reduce the amount of energy that we need to import from places that are outside the United States.

We can do that by advancing technologies that promote solar, wind, and geothermal energy. Mr. Chairman, up until recently, the United States led the world in the production of energy through photovoltaic cells and other direct solar means; however, beginning in the decade of the 1980s, we began to lose that edge. And that edge currently is enjoyed by the Japanese.

They have the edge on us by producing electricity directly from solar and by other solar means and photovoltaic cells particularly.

Up until recently, we had the edge in producing energy through wind technologies. We have lost that edge to the Danes and to the Germans. They are currently ahead of us, and they have more advanced technology for producing energy through wind than we do.

We know that within the next several decades, production of energy through solar and wind technologies and geothermal technologies will provide industrial opportunities globally to the tune of hundreds of billions of dollars, perhaps, trillions of dollars, even by the midpart of this century. And for that reason, alone, as well as our own independence and security, we ought to be advancing these techniques for energy production.

Mr. Chairman, I think that this amendment, which would increase our funding for renewable energy technologies by $50 million, is frankly little enough; and perhaps, the least that we could do at this particular moment.

It pays for this increase by drawing from the Energy Department's missile program. As we know, the Defense Department under Secretary Rumsfeld is currently engaged in a top-to-bottom review of our military defense program, and our nuclear missile program is going to be a major part of that.

Mr. Chairman, this bill funds nuclear programs through the Energy Department in ways that are, I think, greatly outdated, even archaic. For example, there is a provision in this bill to pay $96 million for a particular type of cruise missile which is used only by the B-52 bomber.

Now the B-52 bomber is 40 years old. It is clearly an outdated technology, and it is very likely that when the Rumsfeld review, top-to-bottom of our defense needs, is completed that this particular program is going to be rapidly phased out.

I can cite a number of other nuclear technology examples that are archaic, that are outdated, and which will undoubtedly not be funded as a result of the top-to-bottom review of the Rumsfeld program. So, therefore, I think it makes sense to take this money from that program and put it here to renewable energy.

Mr. Chairman, I reserve the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I thank the gentleman from Alabama (Mr. CALLAHAN) for yielding the time to me.

Mr. Chairman, I kind of feel like I am torn between two of my favorite things, as the ranking member on the panel to oversee the national nuclear security administration, I believe we should be investing more money in nonproliferation programs and counterproliferation programs.

Obviously, as a Californian, I think it is very important that we work hard to make sure that we have strong energy policies and diversify our portfolio to make sure that we have renewables and alternatives to fossil fuels, but I cannot support this amendment, because we are taking very needed money and, frankly, robbing Peter to pay Paul.

Mr. Chairman, I urge my colleagues to vote against the Hinchey amendment

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Mr. Chairman, I appreciate the gentleman from Alabama (Mr. CALLAHAN) for yielding the time to me.

Mr. Chairman, I share the desire of the gentlewoman from California (Mrs. TAUSCHER) that we become more energy independent, but it would be a great mistake to take further funds away from our nuclear weapons program.

What the gentleman from New York (Mr. HINCHEY) may not realize is our existing nuclear weapons are 18 years old and aging. They were designed to last about 12 years.

We have decided as a country that we are not going to conduct nuclear tests, but some way we have to make sure these weapons continue to be safe, reliable, and secure. If we do not have the funds to conduct surveillance and to conduct scientific tests, to see whether these weapons will continue to be reliable, the only option for us is to go back to nuclear testing.

I am afraid amendments like this which would reduce the funds available to just make sure what we have now is safe, secure, and reliable drives us inexorably back towards nuclear testing which is not an option I suggest the gentleman would like.

Mr. Chairman, I oppose the amendment; and I suggest my colleagues do likewise.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman from Alabama (Mr. CALLAHAN) for yielding me the time; and I rise in opposition to this amendment.

Last year, Mr. Chairman, at this time, we were rightfully fixated on the security of our national labs and protection of our secrets and the protection of our nuclear weapons program and data and research, et al.

This amendment would strip dollars away from the National Nuclear Security Administration's weapons activities program, the very programs we have worked to strengthen in last year's budget as a result of well-publicized security breaches.

As important as support is for renewable energy programs, the sponsor better find a better account to take it from. I oppose the amendment.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON. Mr. Chairman, I rise in strong opposition to this amendment. We have cut the nuclear weapons budget in this country below what the President requested by $200 million.

I have a letter here from John Gordon that he handwrote to me this afternoon about this amendment and some others that might result in the further reduction of money for the nuclear weapons stockpile stewardship program. It says in part, now, on top of this comes news of potential further budget cuts resulting from possible floor amendments. This is completely unacceptable if we are to have any chance of meeting our high-priority mission needs.

The nuclear weapons program is supposed to certify the safety, security, and reliability of the nuclear weapons stockpile. Our stockpiling is aging, and we must continue to make sure it is safe and reliable for this country.

As much as I support conservation and investment in renewable energy, this is the wrong place at the wrong time to take that money from.

Mr. CALLAHAN. Mr. Chairman, we have only one more speaker and I think we have the right to close?

The CHAIRMAN. The gentleman has 1 minute remaining and the right to close. All time has expired on the other side.

Mr. CALLAHAN. Mr. Chairman, I yield the balance of my time to the gentleman from Tennessee (Mr. WAMP), a valuable member of the Subcommittee on Energy and Water Development, and our expert on this issue.

Mr. WAMP. Mr. Chairman, I want to thank the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, for hearing our bipartisan plea to increase the funding for renewable energy sources in this bill.

We increased the funding $100 million above the President's request. We worked overtime to make sure that this appropriation bill matches the national energy policy from a balanced comprehensive approach. And as the cochairman of the Energy Efficiency and Renewable Energy Caucus with the gentleman from Colorado (Mr. UDALL), I thank them for hearing our plea to increase renewables.

The result is good and balanced, but the other side of the well-intended amendment of the gentleman from New York (Mr. HINCHEY) is that it takes funding from our nuclear stockpile stewardship and management.

Our country must maintain a safe and reliable stockpile for nuclear weapons. That decision has been made. That is not even debatable, frankly, in this country, in terms of the consensus of Americans that expect us to have a reliable nuclear weapons stockpile.

We must maintain our national preparedness, and we are losing that capability, so we must fight back this amendment in a bipartisan way.

Mrs. TAUSCHER. Mr. Chairman, I rise in reluctant opposition to this amendment.

Reluctant because I have been an outspoken critic of the President's budget, which made drastic cuts to COE's renewable energy programs. Programs that promote renewable energy technologies must be part of any comprehensive energy plan for our country.

I am pleased that my colleagues on the Appropriations Committee have restored some of the funding to the renewable energy accounts, providing $1 million above last year's levels.

Clearly more needs to be done. It is important to advance deployment of renewable technologies for applicable use in our homes and businesses and on our grids as soon as possible.

But Mr. Chairman, I must oppose any attempt to defer fully funding our nuclear weapons programs while we wait for the Secretary of Defense's Strategic Review to be completed.

As a Member of the House Armed Services Committee, I can tell you that the Secretary has briefed me and my colleagues on the status of this Review, and based on these briefings, it is unclear when this Review will be completed.

These programs are vital to our national security and can not afford to be underfunded or delayed until the Administration concludes its Review.

And given some of the military needs identified in this year's supplemental appropriations bill, like training and readiness, military personnel quality of life issues, and advanced weapons systems; it is clear that the funding needs of our nuclear weapons programs at DOE next year must be maintained in this bill.

Mr. Chairman, I urge my colleagues to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HINCHEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HINCHEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. HINCHEY) will be postponed.

The Clerk will read.

The Clerk read as follows:

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion, $227,872,000, to remain available until expended.

Mr. PETRI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the gentleman from Alabama (Chairman CALLAHAN) for his work on this bill. Over the years, I have been intimately involved in several of the issues contained in this bill, and I am aware of the many challenges that he faces in putting it together.

It is one of those issues about which I rise today. For several decades, Congress has debated the merits of constructing a massive water on the Animas River in Colorado. Last fall, the Colorado Ute Settlement Act Amendments of 2000 was included in the end-of-the-year omnibus appropriations bill with little opportunity for debate or a vote on this specific project, and today's bill appropriates $16 million for it.

While the features of this Animas La Plata project are not as egregious as earlier versions, there are serious concerns that significant loopholes remain which will enable project beneficiaries to violate the intent of the act.

None of these loopholes is more significant than the possibility that nontribal beneficiaries are going to avoid their responsibilities, as required by reclamation law, for the full repayment of all capital and operating costs associated with their share of water from the project.

This has been a continuing concern of many of us who have opposed this project in the past. There are already some indications that local nontribal water users may be trying to do just that with the potential of buying water from the tribes instead.

To cite just one example, on May 24, 2001, the director of Colorado's Water Conservation Board sent an e-mail to other State officials stating, and I quote, "given the cost of ALP water, I do not think the State can afford to purchase. We discussed the possibility of an option to lease or option to purchase at some future date with a nominal annual payment. I would prefer to let the Feds pay for it at this time with the Indians holding title."

The language adopted last year clearly states that nontribal repayment arrangements must be made before construction begins. Furthermore, it directed the Secretary of the Interior to report to Congress by April 1 of this year on the status of the repayment negotiations. That report has still not been made.

Mr. Chairman, I hope that what was declared in the 1987 ad in the Colorado paper does not come to pass. It said, "Why should we support the Animas La Plata project? Reason number seven, because someone else is paying most of the tab. We get the water. We get the reservoir. They pay the bill."

If the local beneficiaries are not willing to pay their share, nobody else's constituents should have to pay this bill. Such a situation certainly begs the question of whether the project is really worthwhile, that is what the principle of cost sharing is all about.

I will continue to closely monitor the development of this project and, if necessary, work to stop the further funding of this project if it does not progress as required by law, and I ask the chairman and the committee and all of my colleagues to do the same.

Please keep an eye on this project and do not allow it to move forward if all parties do not fulfill their repayment obligations.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

URANIUM FACILITIES MAINTENANCE AND REMEDIATION

For necessary expenses to maintain, decontaminate, decommission, and otherwise remediate uranium processing facilities, $393,425,000, of which $272,641,000 shall be derived from the Uranium Enrichment Decontamination and Decommissioning Fund, all of which shall remain available until expended.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 25 passenger motor vehicles for replacement only, $3,166,395,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $133,000,000, to remain available until expended and to be derived from the Nuclear Waste Fund: *Provided*, That not to exceed $2,500,000 may be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended: *Provided further*, That $6,000,000 shall be provided to affected units of local governments, as defined in Public Law 97–425, to conduct appropriate activities pursuant to the Act: *Provided further*, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by Public Law 97–425 and this Act. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $209,611,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That of the funds provided to the Department of Energy under title III of Public Law 105–277 for activities related to achieving Year 2000 conversion of Federal information technology systems and related expenses, remaining balances, estimated to be $1,480,000, may be transferred to this account, and shall remain available until expended, for continuation of information technology enhancement activities: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $137,810,000 in fiscal year 2002 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation from the General Fund estimated at not more than $71,801,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $32,430,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATON

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 11 passenger motor vehicles for replacement only, $5,123,888,000, to remain available until expended.

□ 1630

AMENDMENT NO. 2 OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. KUCINICH:

In title III, in the item relating to "WEAPONS ACTIVITIES", after the aggregate dollar amount, insert the following: "(reduced by $122,500,000)".

In title III, in the item relating to "DEFENSE NUCLEAR NONPROLIFERATION", after the aggregate dollar amount, insert the following: "(increased by $66,000,000)".

Mr. KUCINICH. Mr. Chairman, the National Ignition Facility is a multi-billion-dollar giant laser designed to blast a radioactive fuel pellet in an attempt to create a nuclear fusion explosion. The Department of Energy considers the National Ignition Facility important to its Stockpile Stewardship program, but according to experts, the project is overbudget, may not be technically feasible, and is not necessary to maintain our nuclear arsenal.

According to Dr. Robert Civiak, physicist and former OMB Program Examiner for Department of Energy nuclear weapons programs, the NIF will cost nearly $5 billion to build, $4 billion more than the Department of Energy's original estimate. Including operating costs, the NIF will consume more than $32 billion, six times the Department of Energy's original estimate.

Dr. Civiak also reports that the Department of Energy has yet to solve numerous technical problems that prevent NIF from successfully creating the fusion explosion. Full operation of NIF is already 6 years behind its original schedule.

In fact, according to former Los Alamos physicist Leo Mascheroni, The chance of the NIF reaching ignition is zero. Not 1 percent. Those who say 5 percent are just being . . . polite.

What is all that money being spent for? Department of Energy says the NIF helps us maintain our nuclear weapons, but experts disagree. When asked about NIF's utility for weapons maintenance, Edward Teller, father of the hydrogen bomb and cofounder of the Lawrence Livermore National Laboratory, replied that it had "none whatsoever."

Sandia National Laboratory's former vice president called NIF "worthless" for maintaining nuclear weapons safety and reliability.

Lawrence Livermore Laboratory weapons designer Seymour Sack called NIF "worse than worthless" for the task.

Ray Kidder, another Livermore physicist, has stated, "As far as maintaining the stockpile is concerned, NIF is not necessary."

In fact, NIF is an instrument for developing new nuclear weapons. Department of Energy itself touts NIF as playing an essential role in understanding the physics of nuclear weapons design and nuclear weapons effects. This type of nuclear weapons design activity violates the spirit of both the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty.

Nor is there a consensus with the Department of Energy on NIF's importance. Officials at Sandia National Laboratory, another DOE facility, have challenged Department leaders on NIF, calling for a scaled-down version in order to make sure it works and that it can be built affordably.

Now, at the same time that Congress is covering the spiralling cost of NIF, an instrument of proliferation, we have cut funding for the DOE's nonproliferation activities. The bill we have before us cuts nearly $27 million from the 2001 nonproliferation budget.

This should be a cause for concern for all of us, because even funding at fiscal year 2001 levels would not be enough to address the problem. Currently, for instance, there are enough quantities of fissile material in Russia to make more than 40,000 nuclear weapons, and the resource-starved Russian Government cannot secure all of this material on its own.

The bipartisan Cutler-Baker panel that recently studied these issues called the risk of theft of Russian nuclear materials the United States' most urgent unmet national security threat. Their report urged sharp increases in spending on nonproliferation, not cuts.

Our amendment attempts to address these skewed priorities by taking money being used for proliferation-type activities and setting it aside for critical nonproliferation programs should be considered by this House and approved by this House.

The amendment reduces NIF funding by one-half. This still represents a $42.5 million increase in funding over the last year.

At the same time that we slow down the dubious National Ignition Facility, we add $24 million to the Immobilization Program, which disposes of surplus plutonium; $19 million to the Materials Protection, Control and Accounting Program, which seeks to secure 603 metric tons of at-risk weapons-usable nuclear material in Russia; $23 million to the Nuclear Cities Initiative, which helps find employment for nuclear scientists in Russia's 10 closed nuclear cities so that they are not tempted to sell sensitive information to groups developing weapons of mass destruction.

I urge a yes vote on this amendment. Let us demonstrate our Nation's commitment to smart government and take the leadership role in the fight to prevent proliferation of nuclear weapons.

Mr. WAMP. Mr. Chairman, I move to strike the last word in opposition of the amendment.

Mr. Chairman, again, I applaud the intent of the author of the amendment to increase our accounts for renewable energy, but as the Republican cochairman with the gentleman from Colorado (Mr. UDALL) of the House Renewable and Energy Caucus, a caucus that includes 180 members, in a bipartisan way we have worked tirelessly with the cooperative efforts of the gentleman from Alabama (Chairman CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), ranking member, to increase these renewable accounts by $100 million above the President's request.

This is even by those in the renewable energy field being applauded as a great victory at this point in the process. Now, if there are future victories to be had for renewables, and I hope there are this year, they need to take place at the conference committee where we have an increase in the allocation on the Senate side, and I believe still room for debate on the final funding levels for these important renewable energy functions. I will be there at that conference advocating on behalf of further increases in these renewable accounts.

But here we go taking the money again out of an absolutely essential function of our Federal Government. Our nuclear weapons stockpile stewardship is critically important for the good of this country and, indeed, the entire free world. If we are going to be able to test these weapons without firing these weapons, then facilities like NIF must be supported.

Granted, the management of the project itself has not been stellar, and it has had to be improved, but the fact is the imperative is there to finish the project, to continue to support our nuclear weapons stockpiling stewardship, and to be able to maintain these weapons and test these weapons without firing these weapons.

We increased at this subcommittee these nonproliferation accounts that the gentleman referred to by $71 million. Again, we have done a very good job at the subcommittee of balancing all of these needs because we agree with the gentleman on the points that he made. But we have already done that work. What the gentleman's amendment actually does is takes it further and cuts into our national preparedness, something that we cannot afford to do.

There is no question that some people would come to the floor today and oppose anything nuclear. But, Mr. Chairman, our country wants us to maintain a safe and reliable nuclear stockpile. Our country desperately needs to invest in NNSA-related programs so that these plants that have built up our nuclear weapons and today maintain them for the potential future use, God forbid it ever happens, but it is that deterrent that has brought about the global peace that we see today because that deterrent was, indeed, deployed. It was never deployed, but it was built up to the point where it never had to be deployed.

So our nuclear weapons stockpile stewardship is at risk here with this amendment, and we must maintain this. We must support the NNSA and all of its different programs, and this would certainly take away from that.

So I respectfully agree with the intent of the gentleman, but stand in strong opposition and applaud the subcommittee work because it is balanced and responsible and supports our national security missions, and it also supports the need to have a balanced energy strategy, including increased funding for renewables.

Mrs. TAUSCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition of the Kucinich-Lee amendment. As the mother of a 10-year-old, I share my colleagues' hope for a peaceful world free of nuclear weapons.

I believe the United States should reduce the number of nuclear weapons we maintain, and I introduced legislation today with the gentleman from North Carolina (Mr. Spratt) calling on President Bush to do just that.

I agree that funding for nonproliferation programs is well short of what is needed, but I also believe that, as long as this country relies on nuclear weapons as a central part of our national security strategy, we have a commitment to maintain them in a safe and reliable condition.

Our best hope for maintaining the reliability of our nuclear weapons without testing is a robust Stockpile Stewardship program that includes the National Ignition Facility known as the NIF.

The NIF is an essential component of our Stockpile Stewardship program because it will allow us to create conditions similar to those that exist within a nuclear explosion without actually conducting live tests of nuclear weapons. Tremendous progress has been made in constructing this facility.

Since construction began, over $1 billion has been invested in the NIF, and more than 1,000 tons of equipment have been installed. The building housing the NIF is 98 percent complete, and 70 percent of the laser glass has been produced and meets specification.

Mr. Chairman, we can ill afford to abandon the NIF at this critical juncture in the Stockpile Stewardship program. We must give the Nation's nuclear stewards the tools they need to maintain the safety, security and reliability of our Nation's nuclear deterrent.

Finally, Mr. Chairman, I would like to submit for the Record a letter I received today from Ambassador Thomas Graham, who negotiated the nonproliferation treaty, expressing his support of the NIF.

I would also like to direct the Record on quotes attributed to Dr. Edward Teller. Dr. Teller's quote is, "I was misquoted giving the appearance I did not support this NIF project. It is necessary that I correct this completely wrong impression." I am for the NIF.

Mr. Chairman, I urge my colleagues to strongly vote down this amendment. It will jeopardize our ability to have a safe and reliable and certifiable stockpile.

Mr. Chairman, I include the following documents for the Record as follows:

Lawyers Alliance for World Security Committee for National Security,
Washington, DC, June 26, 2001.

Hon. Ellen Tauscher,
House of Representatives, 1122 Longworth House Office Building, Washington, DC.

Dear Congresswoman Tauscher, I am writing this letter to urge your support on a matter that I consider to be crucial to the continuing viability of the U.S. nuclear arsenal and therefore to our national security. I believe that it is necessary that we maintain an effective and fully funded stockpile stewardship program, an important element of which is the National Ignition Facility. Specifically, the stockpile stewardship program is the underpinning for our current moratorium on nuclear testing and will provide the conditions for Senate reconsideration of the Comprehensive Nuclear Test Ban Treaty.

I am not a new supporter of NIF. I supported it when I was in charge of the U.S. worldwide efforts to extend the Nonproliferation Treaty (NPT) and I supported it when, after the 1995 Conference which permanently extended the NPT, I urged negotiation of a zero-yield CTBT. I supported it despite earlier concerns about cost, management and technical problems, concerns that were well justified. And while there continue to be some problems in these respects, I am confident that under General Gordon's leadership the NNSA will successfully correct the situation and complete this much needed element of our effort to maintain a safe and reliable nuclear deterrent without underground testing. I strongly urge you to support the full NNSA request for the NIF project in FY2002.

I recognize that President Bush has indicated he does not support a CTBT at this time, a view with which I respectfully disagree. Nevertheless, he has given his full support to a continuing moratorium on nuclear testing. Thus, we need a full commitment to an effective and successful stockpile stewardship program.

Without a doubt, a significant part of the reason the Senate voted against ratification of the test ban treaty in 1999 was a failure on the part of CTBT advocates to convince enough senators that stockpile stewardship works. A successful NIF, which will perform key scientific experiments and is crucial to efforts to attract the quality personnel required to permit the labs to fill their stewardship missions, would help remedy this misperception in the future. Conversely, failure to support NIF will undoubtedly undermine the stockpile stewardship program and, as a result, the U.S. testing moratorium and future CTBT ratification efforts.

While some critics of the NIF correctly assert that other elements of the stockpile stewardship program need additional funding, the answer is not to take funds from one part of the program to fix another but rather to provide sufficient resources for a fully effective program. When this issue is considered in committee later this year. I urge you to continue your support for the National Ignition Facility and the stockpile stewardship program. We have come too far, and have too far to go, to falter now.

Sincerely,

Thomas Graham, Jr.

Statement by Dr. Edward Teller regarding the NIF:

". . . I was misquoted giving the appearance that I did not support this (NIF) project. It is necessary that I correct this completely wrong impression.

It is my opinion that the NIF will almost certainly demonstrate nuclear fusion basic for the hydrogen bomb. Such demonstration will be valuable in the Nation's search for ways that future functioning of fusion bombs can be assured."

Mr. CALVERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this very irresponsible amendment. We often debate the proper roles and responsibilities of the Federal Government, but I thought we all agreed that Congress exists in large part to provide for our national security.

This amendment strikes at the heart of our country's defense. If we pull support from the National Ignition Facility, we would cripple our nuclear weapons stockpile, the cornerstone of our national defense.

NIF is the only facility that can create the extreme temperature and pressure conditions that exist in exploding nuclear weapons. Without NIF, we would lose our ability to fully understand the operations of our arsenal.

NIF is also the only facility that can create fusion ignition-and-burn in the laboratory. Without NIF, we would not be able to access and certify the aging nuclear stockpile unless we renew underground testing.

Do not just take my word for it. The head of the National Nuclear Security Administration in DOE has said that, without NIF, we will need to begin underground tests once again.

We need to ensure that our weapons are safe and that they will work. NIF gives us this assurance. Stand up for the defense of our Nation. I urge my colleagues to vote against this ill-advised amendment.

Ms. LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand today in strong support of this amendment to cut funding from the National Ignition Facility and to transfer that money to crucial nuclear nonproliferation programs and to the national Treasury.

This project has already sucked up billions of taxpayer dollars while endangering our environment and sabotaging efforts to reduce nuclear nonproliferation. Instead of continuing to go down this path, let us stand up today for peace, for security, and fiscal common sense.

NIF has cost billions and will cost billions more and will not increase our national security. The National Ignition Facility is not some crucial component to our security system. It is an albatross, mired in cost overruns and dubious science.

When Edward Teller, the father of the hydrogen bomb, says that NIF has no utility whatsoever, we really should listen.

Now, at the same time, the Energy and Water Development Appropriations bill cuts funding for nonproliferation programs that represent an investment in peace, which is really an investment worth making. So this amendment restores badly needed dollars to programs that will make us truly safer.

This is not a trade-off in security. It is an enhancement of security. Now is not the time to cut support for efforts to curtail the spread of nuclear weapons. Reducing the number of nuclear weapons in the world and reducing the amount of nuclear material in the world enhances our security.

□ 1645

So we must move forward toward a safer future, not backwards to a more dangerous past.

Finally, this amendment returns over $56 million to the national treasury. Fifty-six million dollars. That money could go to house the homeless, to care for our seniors, or to feed the hungry. Without housing, without medical care, without food for all, how can we really be secure?

Once again I urge my colleagues' support of this amendment.

Mr. RYAN of Wisconsin. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

Mr. Speaker, I am in support of this amendment from a good-government-taxpayer point of view. This program has failed audit after audit after audit. Just the most recent GAO audit has given it a failing grade. This program is 6 years over its original completion date, and it is almost $4 billion over budget.

For us, as the legislative branch of government, to properly conduct our proper oversight role over the executive branch, to see if their proper stewardship of our taxpayer dollars is making sense and is being implemented well, and for us to walk away from these kinds of abuses, is quite simply irresponsible.

I support the Kucinich amendment. I do not think it strikes a devastating blow to our nuclear stockpile program. In fact, I think this is a good thing, because it says that if an organization is going to take taxpayer dollars, they have to spend them wisely, have a good plan in place, and that we will not chase good money after bad. These audits need to be passed before we can reward this program with the funding they are asking for.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent to limit debate on this particular amendment to 10 minutes, 5 minutes for a proponent and an opponent.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. VISCLOSKY. Mr. Chairman, I object momentarily.

The CHAIRMAN. Objection is heard.

Mr. THORNBERRY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I support the nonproliferation efforts which can reduce the amount of nuclear material and nuclear expertise which is floating around the world and which some reports say is the greatest single threat to U.S. security, but I cannot support reductions in programs that keep our own nuclear stockpile safe, secure, and reliable.

I would say to the gentleman who just spoke in the well that this Congress is not walking away from the management difficulties that the NIF has had. As a matter of fact, in the Committee on Armed Services we have had a number of hearings over the past several years on the NIF and its management difficulties. As a matter of fact, I think one of the reasons we have a new entity within the Department of Energy is to help correct some of those problems in the past. And I can report that the new National Nuclear Security Administration and General Gordon, its head, has moved aggressively to solve the management problems that the NIF has had in the past.

As my colleague from California has said, we have sunk a tremendous amount of money into this project. To walk away now would be the height of folly. But I want to take just a second to put the NIF into its proper context, because I think many of my colleagues do not realize we continue to rely today on nuclear weapons as the central part of our security deterrent; yet those nuclear weapons are 18 years old, on average. They were designed to last 12 years, and so they are already well beyond their design life.

What many people do not realize also is that there is a lot we do not know about nuclear weapons and how they work. In spite of the fact that we have conducted many tests over the past number of years, going back to 1945, there is a lot about what happens with a nuclear explosion that we do not understand, and NIF and other programs like that are designed to help us understand what is going on so that as our weapons age we can continue to have confidence that they are safe, secure, and reliable. If we do not have NIF or other tools like NIF, then the uncertainties will grow, and they will grow to a point where the President and a Congress will have no choice but to resume nuclear testing, and that will have enormous consequences.

I would point out to my colleagues that this subcommittee has already cut the President's request by $176 million. That gives me enormous concern. But to take more money out of the President's request to increase the uncertainties and here to stop the funding for NIF, which is one of the essential tools to help answer those questions as our stockpiles age, would be a serious, serious mistake.

Mr. Chairman, I think that what we have before us as an amendment will hurt the security of the United States not only here but in the long term, and I hope my colleagues will reject it.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment, and all amendments thereto, be limited to 10 minutes, the time to be equally divided between the proponent of the amendment and a Member opposed.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama to limit the debate to 10 minutes, 5 minutes divided equally on each side?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) will control the time in favor of the amendment, and a Member on the opposite side will control the time in opposition to the amendment.

Mr. KUCINICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding me this time, and I am rising in support of the amendment that has been proposed by the gentleman from Ohio, in part, I think, to clear up some of the issues along the way.

The expenditure in nuclear programs is far beyond what we need to be expending in nuclear programs. That is as simple as one can say it. The increase in nuclear programs in this budget is by a very significant amount over the previous year when we have such great other needs. The amendment that the gentleman has proposed returns $56 million to the Treasury, which by the way is about similar to the amount that was involved in the amendment that had been offered by the gentleman from New York seeking only an additional $50 million for renewable energy research programs. It seems to me that that would be a far, far better way to use the $56 million that otherwise would be returned to the Treasury by the gentleman from Ohio and his amendment.

I just want to point out, in partial reply on exactly the same amendment earlier, the gentleman from Tennessee was speaking about what the committee had done, and I do commend the committee for returning, on renewable energy sources, $100 million, which had been cut from the budget for renewable energy sources by the President's request. In returning that amount of money, they now have in the bill $377 million for renewable energy research and development, which is exactly $1 million more than there was in the previous bill.

Now, I would just point out here that in the National Energy Policy Report that has come out, the policy report has at one point a statement that President George W. Bush understands the promise of renewable energy and strongly encourages alternative sources, such as wind, biomass, and solar energy. And in another place here the statement reads that "renewable and alternative fuels offer hope for America's energy future." I do not think that it is appropriate to have only a $1 million increase in the accounts for renewable energy, commendable though it is, that the subcommittee has recommended $100 million more than the President had proposed, because he had cut so much out of what he is in other places here saying are such important pieces of work to be done.

It seems to me that we would be far wiser to use money that might be saved from the NIF and otherwise, by the amendment, would return to the Treasury for something that would really significantly help in producing the kind of energy that we need for the future in renewable sources that does not produce global warming, CO_2, in most of its forms, and produces very little, except renewable sources, in biomass.

The CHAIRMAN. Does the gentleman from Tennessee (Mr. WAMP) seek to control the time in opposition to the amendment?

Mr. WAMP. I do, Mr. Chairman.

Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I thank my colleague for yielding me this time. We can have our own opinion, but we cannot have our own separate set of facts; and the facts about the NIF are very clear. While there were significant production failures and management problems in the NIF in 1999, even into early 2000, that has been dramatically fixed by new management. And, frankly, we have not had any GAO reports saying anything other than that.

These investments are critical to our stockpile stewardship program. They are critical to having an ability to certify the sustainability and the safety of these weapons. The NIF is a project that was plagued with problems; but even today, in the Subcommittee on Military Procurement, General Gordon, the administrator of the National Nuclear Security Administration, testified that the NIF is now problem free, it is a program that is going forward, that we have significant investment in, and it is critical to our ability to have a stockpile stewardship program that enables us to certify weapons without testing.

So I think that while there are rumors out there that the NIF is still plagued with problems, I want to assure my colleagues that they need to vote down this amendment. I urge them to strongly oppose it. We need the NIF for stockpile stewardship, and we need it for nuclear security.

Mr. KUCINICH. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) has 1½ minutes remaining, and the gentleman from Tennessee (Mr. WAMP) has 3½ minutes remaining.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume, and I would like to cite the latest GAO report about the NIF, which was issued on June 1, and continues to recommend an independent scientific review of NIF. It says,

> In our reports, we recommended that the Secretary of energy arrange for an independent outside scientific and technical review of NIF's remaining technical challenges. NIF still lacks an independent external review process. Independent external reviews are valuable for measuring cost, schedule, and technical success in any large and ambitious science project. Yet, no such external independent reviews of NIF have been conducted or planned. The DOE's own orders state that external independent reviews are beneficial; however, DOE plans to continue its own internal review program, allowing Defense Programs officials to manage the process themselves.

It is very clear, Mr. Chairman, that accountability has been lacking. While we know about the lack of accountability at NIF, we also have an opportunity here to take a strong position with respect to nonproliferation and fund some of those programs that have been cut back.

Mr. WAMP. Mr. Chairman, I yield myself the balance of my time.

Whether coming at the amendment from a budget-cutting perspective or coming at it from an anti-nuclear or non-proliferation perspective, it does not serve our country well today to retreat from our national preparedness, including the ultimate deterrent of a safe and reliable nuclear weapons stockpile. We built it up for a purpose, and we must maintain it for a purpose. The entire free world is depending on us.

And, frankly, in closing, I want to say we now have better management for our weapons stockpile than we had 5 years ago. There is no question that NNSA was a good move. It was done by a bipartisan team led by the gentleman from Texas (Mr. THORNBERRY) and the gentlewoman from California (Mrs. TAUSCHER), and I applaud their work. Because today, under General Gordon's leadership, the NNSA is responsibly reforming our nuclear weapons programs so that we are prepared for the future.

For too long our weapons activities have been put on the back burner.

□ 1700

We have been funding through our national security programs weapons, and our personnel on active duty and our Guard and Reserve, but we cannot move our weapons activities to the back burner and expect to have an infrastructure that is capable of the next generation of nuclear weapons if we need them, or a workforce. We have a graying workforce and aging infrastructure throughout the weapons complex.

I represent the Y-12 in Oak Ridge, Tennessee, where bricks fall off the walls and people have to report to work in hard hats because the infrastructure has eroded.

Mr. Chairman, we must reinvest in the modernization of these facilities. We have buildings that are 50 years old. We have not adequately funded those facilities. This strikes at NIF, but NIF is at next-generation of being able to test without activating these weapons and testing underground, maintaining the weapons stockpile reliability. We must do this and fight back this amendment.

Mr. Chairman, I urge a "no" vote on this amendment.

Mr. WAMP. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KUCINICH).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KUCINICH. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 8 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. KUCINICH) will be postponed.

Mr. BARR of Georgia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the distinguished gentleman from Alabama (Mr. CALLAHAN), the chairman of the Subcommittee on Energy and Water Development.

Mr. Chairman, since being elected to the Congress, I have worked closely with the Army Corps of Engineers to ensure full pool lake levels at West Point Lake. On several occasions, the Army Corps has imprudently lowered the lake level, causing environmental degradation and severely affecting the use of the lake by the tens of thousands of citizens who rely on it for their water, energy, and recreation.

Over the last year, however, with the assistance of former Assistant Secretary of the Army for Civil Works, Joseph Westphal, we were able to work on making sure that the Army Corps in managing West Point Lake, respected the benefit-cost priorities that were established by Congress when this project was authorized by title II, section 203 of the Flood Control Act of 1962, Public Law No. 87-874 (76 Stat. 1190, October 23, 1962).

This legislation authorized four primary project purposes with benefits and costs as follows: generation of hydroelectric power, flood control, fish and wildlife, recreation and navigation.

Mr. Chairman, I would like to ask the distinguished chairman, the gentleman from Alabama, can I be assured the gentleman will work with the Army Corps to continue to respect the relative priorities of these federally mandated purposes?

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. BARR of Georgia. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for bringing the issue to the attention of the committee. I recognize the work the gentleman from Georgia has done to assist the Army Corps in making rational decisions in the operation of West Point Lake. It is my goal to direct the Army Corps to continue to work on improving the management of West Point Lake. The Army Corps needs to work to fulfill the intent of Congress with respect to this facility. I pledge to work with the gentleman from Georgia to ensure the Corps of Engineers adequately addresses the concerns of the gentleman and his constituents.

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman for his continued work in this area and look forward to working with him.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that we bring the Bonior amendment up out of order, and that time constraints be put on the amendment limiting debate on the amendment and all amendments thereto to 1 hour, the time to be equally divided between the proponent of the amendment and a Member opposed.

Mr. VISCLOSKY. Mr. Chairman, if the gentleman would yield, the vote on the Bonior amendment would be the first vote in sequence tomorrow morning?

Mr. CALLAHAN. That is correct. We are going to make that announcement after the unanimous consent is adopted. If the unanimous consent is accepted, then we will debate the Bonior amendment or any amendment thereto, including the Rogers amendment tonight, probably finish about 6, have no further votes tonight, and then begin in the morning at 9.

Mr. VISCLOSKY. And no further amendment will be offered tonight, we will do our unanimous consent, and the first vote in the morning would be the Bonior amendment?

Mr. CALLAHAN. With the exception of the Rogers amendment.

Mr. VISCLOSKY. Mr. Chairman, I have no objection.

The CHAIRMAN. Without objection, the gentleman from Michigan (Mr. BONIOR) will be permitted to offer an amendment in the form of a limitation to be inserted at the end of the bill at this point in the reading, and that debate on the amendment and any amendments thereto be limited to 60 minutes, equally divided and controlled by the gentleman from Michigan and a Member opposed.

There was no objection.

AMENDMENT OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BONIOR:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____. No funds provided in this Act may be expended to issue any permit or other authorization under section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 403), or to issue any other lease, license, permit, approval, or right-of-way, for any drilling to extract or explore for oil or gas from the land beneath the water in any of Lake Huron, Lake Ontario, Lake Michigan, Lake Erie, Lake Superior, Lake Saint Clair, the Saint Mary's River, the Saint Clair River, the Detroit River, the Niagara River, or the Saint Lawrence River from Lake Ontario to the 45th parallel of latitude.

The CHAIRMAN. Under a previous agreement of the House, time will be limited to 60 minutes equally divided between the gentleman from Michigan (Mr. BONIOR) and a Member opposed.

The Chair recognizes the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I want to thank my colleagues who have worked to put this together: the gentleman from Indiana (Mr. VISCLOSKY), the gentleman from Alabama (Mr. CALLAHAN), the gentleman from Florida (Mr. YOUNG), and the gentleman from Wisconsin (Mr. OBEY).

Secondly, I want to thank the gentleman from Michigan (Mr. STUPAK) for being the leader on this important issue for all of us in the Great Lakes. I thank him for his leadership. And I also thank the gentleman from Ohio (Mr. LATOURETTE) for his sponsorship of this, as well as the gentlewoman from Ohio (Ms. KAPTUR).

Mr. Chairman, for those who have grown up along the shores of the Great Lakes, we know that the Great Lakes defines the region that we live in. It is what we are about. It is what has made the Great Lakes region the wealthiest area on the planet Earth because of this wonderful and abundant resource.

Mr. Chairman, we depend on our drinking water, our recreation, the engine of our economy on the water in the Great Lakes. Tourism is our second largest industry. We do about $10 billion a year in tourism. Families come to Michigan to fish, to use our beautiful beaches, to swim in our lakes and enjoy our sand dunes. They do not come to Michigan to look at oil wells or oil derricks. We are passionate about protecting the Great Lakes.

We cannot afford to put our greatest natural resource at risk. When I say that, 95 percent of all of the fresh water in our country comes out of the Great Lakes and its connecting waterways; 20 percent, a fifth of the fresh water on planet Earth, comes out of the Great Lakes.

I am amazed and appalled and alarmed that some in Michigan are proposing to drill for oil and gas beneath our Great Lakes. They seek to add 30 new directional drills along our shores. They are moving at breakneck speed to get this done. Over their lifetime, directional wells drilled already in place have produced less than one-third of a day's supply of natural gas and oil.

This process began with seven wells, up to 13, now back to seven as far back as 1979. There is virtually very little that has accrued. I remind my colleagues that 1 quart of oil can contaminate up to 2 million gallons of drinking water. Just think of the damage that would do if we had directional slant drilling.

If we have a drill that hits a pressure pocket, it can spew gas and oil back out like a geyser, Mr. Chairman. There is also another problem that we have experienced in one of the drills in the area of Manistee, Michigan. It is called hydrogen sulfide. It is a poisonous gas. It is very similar to cyanide. It was released back in 1997 and 1998, sending 20 people in that region to the hospital.

Under the present movement to access and explore gas and oil, our drinking water could be contaminated. Oil could wash up to our shores; and if that happened, it could take as much as 500 years to completely flush out.

In conclusion, let me say, Mr. Chairman, oil and water do not mix. Let us put an end to this bad idea by passing this amendment sponsored by my colleague, the gentleman from Michigan (Mr. STUPAK), the gentlewoman from Ohio (Ms. KAPTUR), and put an end to this once and for all.

This amendment would prohibit the Army Corps from spending funds to issue any new permits for oil and gas drilling under the Great Lakes. We need to preserve this natural beauty for future generations. Drilling in the Great Lakes is a formula for disaster. I urge my colleagues to support the amendment.

Mr. Chairman, I yield 4½ minutes to the gentleman from Michigan (Mr. STUPAK), my distinguished colleague and leader on this issue.

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this could be a great day for the Great Lakes and all of us who live in and around the Great Lakes. Since the 105th Congress 4 years ago, I have sought to ban the practice of drilling for oil and gas in and under our Great Lakes. Early on I was a lone voice among public officials on this issue.

But I have been rewarded for my efforts, Mr. Chairman, with strong support from both sides of the aisle, Democrats and Republicans, and from Members inside and outside of the Great Lakes basin.

The vote we will take tomorrow demonstrates how this issue has found its time and place in the House of Representatives.

□ 1715

This is not a Florida situation. We have drilling in Michigan for oil and gas. But what our amendment says is there will not be any drilling for oil and gas on our shoreline. We should not be drilling in the world's greatest supply of fresh water. We should not have to be drilling on the shoreline of fresh water for 34 million people who live around the Great Lakes. Let us not jeopardize our Great Lakes. Let us not jeopardize their drinking water. Let us not drill for gas and oil under our Great Lakes.

This amendment is important because our State of Michigan is moving forward to open new areas for drilling along the shores of Lake Michigan, Lake Huron, Lake St. Clair, the connecting waterway between Lake Huron and Lake Erie.

Consider, Mr. Chairman, that 18 percent of the world's fresh water is found in the Great Lakes. Ninety-five percent of our Nation's fresh water is found in the Great Lakes. It is the home and workplace of 34 million people. The procedure that Michigan plans to authorize does not involve oil platforms located in the water of the Great Lakes themselves. Instead, the rigs would be located along the shore. Oil pockets under the lakes would be tapped by drilling at an angle from the shore rigs. This is a procedure known as directional drilling.

Michigan law already permits State officials to move forward to lease bottomlands of the Great Lakes for drilling, without a new vote of the Michigan State House or State Senate. Michigan can move forward to lease bottomlands without permission from any other Great Lakes State. But as people inside and outside of Michigan have learned what Michigan is doing, Mr. Chairman, they have raised their voice in opposition. The Governor of Ohio has said he would never consider such a procedure. The Wisconsin Senate has said no to directional drilling. Members of the Michigan legislature themselves are waking up to the dangers that this practice presents to the Great Lakes. Although the Michigan Senate earlier this month voted to support new drilling, that language last night was eliminated from a House-Senate conference report and the language allowing directional drilling has been eliminated in Michigan.

Here in Congress, a bipartisan group of Members from this body and the other body have brought forth bills to block any new drilling for oil and gas underneath the Great Lakes. But despite all of these actions, the State of Michigan can still move forward by administrative action and still plans to do so under the leadership of Governor Engler. Leasing of bottomlands of the Great Lakes for new oil and gas could take place within months under the current administration in Michigan. Michigan State officials have argued that the procedure is safe. A set of recommendations made up by a panel, a panel that was handpicked by the Michigan Governor to study the safety of directional drilling, have not been implemented and will not be implemented. They want to drill up in my district and they have never yet had a hearing in my district as required under the procedures as to whether or not you should drill in the Great Lakes.

Mr. Chairman, we may be able to imagine the hazards of drilling, but it is harder to see the benefits. What is the economic trade-off here that you could argue in favor of drilling under our Great Lakes? The answer, Mr. Chairman, is small and short-term gain for Michigan's budget and profits for oil companies. But the public at large that faces the threat of drilling would see virtually no benefits. The proposed 30 or so new wells would yield only enough oil to meet the needs of Michigan residents for 3 weeks and enough natural gas for 5 weeks.

Mr. Chairman, of all the places in the Nation where we might wish to sink oil wells, I believe we can argue that we would never choose the shoreline shared by the people of Chicago, Milwaukee, Detroit, Cleveland, Toronto, and Buffalo among others. Let us block this procedure.

I thank the U.S. Senators in the Michigan delegation and other Senators for their efforts. I would like to thank my colleagues, the gentleman from Michigan (Mr. BONIOR), the gentlewoman from Ohio (Ms. KAPTUR), the gentleman from Ohio (Mr. LATOURETTE), the gentlewoman from Florida (Mrs. THURMAN), the gentleman from Wisconsin (Mr. BARRETT), the gentleman from Ohio (Mr. BROWN), and others who stepped forward to cosponsor legislation to ban directional drilling each and every Congress that I have introduced it.

A vote for this amendment tells the American public that we understand that the Great Lakes, one of the Nation's, one of the world's greatest resources, should and will be protected. Vote "yes" on the Bonior amendment.

The CHAIRMAN. Does the gentleman from Alabama seek the time in opposition to the amendment?

Mr. CALLAHAN. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Alabama is recognized for 30 minutes.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in support of the amendment offered by my colleagues from the Midwest, an amendment which prohibits the Federal Government from facilitating drilling projects in the Great Lakes. This amendment is a vote in support of the most precious fresh water resource we have.

It remains unclear whether or not the Federal Government or the Army Corps of Engineers has any authority in this area, but I believe it is important to make a statement on protecting the Great Lakes. For example, section 10 of the Rivers and Harbors Act cited in this amendment was passed in 1899 and only refers to blocking navigable waters.

Protection of the Great Lakes basin best remains with the eight Great Lakes Governors and two Canadian Premiers. Earlier this month, the governors and premiers came together and signed Annex 2001 which protects the Great Lakes from commercial withdrawals of water. So while not a perfect solution, I am voting for this amendment to be sure the word goes out that our Federal Government should not be participating in our Great Lakes and this amendment does that.

I applaud Members of both parties for working to protect our lakes. I urge my colleagues to vote in favor of protecting our greatest natural resource.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. I thank the gentleman for yielding me this time.

Mr. Chairman, my district represents roughly 150 miles of Lake Michigan shoreline. On a day-to-day basis the quality of life and the very livelihood of many of my constituents are directly affected by Lake Michigan and the Great Lakes. The Great Lakes are one of this Nation's most precious resources. This amendment is one way we can help protect and preserve the largest body of fresh water in the world.

I am and have always been in favor of States rights and there are some that will invoke that issue in regard to this amendment. Action by Congress is needed, however, because the Great Lakes States and provincial governments of Canada have a patchwork of regulations that do little to protect the Great Lakes from the dangers associated with oil and gas drilling. Canada allows vertical drills to line the bottomlands of Lake Erie. While some States in the Great Lakes region allow drilling, others have banned this practice. Protection of this resource cannot vary from State to State or from one body of water to the next. Everything is interconnected in the Great Lakes region and the decisions that place Lake Erie at risk in turn place Lake Michigan at risk and vice versa. The only appropriate policy is to keep drills out of the Great Lakes.

I feel it is necessary today to vote in favor of this amendment to eliminate the risk as opposed to allowing this activity to take place. In addition to supporting this amendment today, I am also introducing legislation that will call for further study of the environmental impact of oil and gas drilling in the Great Lakes. I will ask for a complete assessment of the condition, safety, and the potential environmental effects of pipelines that run under the Great Lakes and through the States that surround those lakes. And I will ask for a comprehensive study to determine how much oil and gas might be gained by drilling in the Great Lakes region.

We should go further. We need a comprehensive plan to protect the Great Lakes. This is a good first step.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Chairman, I cannot believe amendments like this. It is the height of irresponsibility. I think Members should oppose this amendment because it establishes a horribly irresponsible precedent for our energy security in this country. The Democrat leadership is constraining our economy within the same energy straitjacket that they applied under the Carter administration and that they are applying now in California that brings blackouts.

The working people of America are depending on us to open energy reserves to safe, environmentally responsible exploration. Without reliable energy, our economy will crumble. It will mean blackouts, layoffs, and plant closings.

This energy security obstructionism is one aspect of a broader effort to systematically choke off every promising source of domestic energy. It is hard to fathom how this campaign to block energy production could be driven by anything but a misguided motivation to weaken America and to leave us beholden to foreign sources of energy.

The Democrat leadership is at war with our ability to produce an adequate and dependable energy supply. They oppose safe oil exploration. They oppose expanded nuclear power. They oppose clean coal. They oppose ANWR. They oppose tapping the natural gas trapped beneath public lands. They oppose drilling in the Gulf of Mexico. And now they oppose slant drilling in Michigan.

Now, they are for closing plants. They are for closing refineries. They are against opening any new plants. They oppose everything that allows us to increase our supply. Their actual objective must be to eradicate America's energy security. Why else would the Democrat leadership be recklessly pursuing a policy that is weakening the United States economy?

The question for Democrats to answer is this: Where will Americans go for the energy that they need to sustain their quality of life after you have completely strangled our ability to produce the energy that we need? What will Democrats tell the men and women stranded in gas lines? What explanation will they offer families suffering through frequent and recurring blackouts? What justification will they offer to workers when they open a pink slip after plants are forced out of business by spiraling energy costs?

And this environmental extremism, this radical environmentalism is entirely unwarranted. Today, slant drilling technology allows us to safely withdraw oil and gas beneath bodies of water from the shore. Environmentally safe. We do not have to trade environmental safety for energy security.

Members, please oppose these amendments that weaken America by enhancing the power that foreign suppliers of energy hold over our Nation.

Mr. BONIOR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Chairman, I applaud the gentleman from Michigan (Mr. BONIOR) for introducing this amendment along with the gentleman from Michigan (Mr. STUPAK) and others.

Mr. Chairman, I rise in strong support of this amendment. Unfortunately, some public officials in Michigan are using recent fuel price spikes to justify their desire to open up the Great Lakes to oil and gas drilling. Although drilling in the Great Lakes may bring a profit to the oil companies, it is not going to solve our national energy crisis or even temporarily drive down the cost of gas in the Midwest. In fact, it is estimated that new wells in the Great Lakes will only yield enough oil to meet one State's needs for 3 weeks.

The negligible benefits of expanded oil and gas drilling in the Great Lakes is hardly worth it considering the risks. The type of directional drilling industry proposes carries the risk of oil spills and toxic hydrogen sulfide releases, ruining the lakes' pristine ecosystem and jeopardizing human health. Many of us recall the Exxon Valdez oil spill which dumped 11 million gallons of crude oil contaminating 300 miles of shoreline and causing billions of dollars in damage to one of our most pristine natural wildlife refuges in Alaska. And more recently, an oil spill devastated the Galapagos Islands, ruining miles of shoreline and destroying the environment.

As the world's biggest source of fresh water, the Great Lakes must be protected from such a tragedy. I think the 34 million people inhabiting the Great Lakes basin as well as Americans across the country would agree.

Unfortunately, State officials in Michigan are ignoring common sense and pushing forward in their efforts to reverse a moratorium on Great Lakes drilling. It is therefore incumbent upon Congress to protect the Great Lakes. Banning Federal funding through this amendment is a step in the right direction and would send a strong signal to those eager to exploit Great Lakes resources.

People in Wisconsin and other Great Lakes States are blessed to have the world's most pristine lakes and fresh water resources in our backyard. We get our drinking water from them, our kids swim in them, and our tourism industry depends on them. Because the Great Lakes are such an important part of our daily lives, we are not willing to gamble with this precious resource for short-term gain.

I urge my colleagues' support of this amendment. Please stand with us to protect the Great Lakes from environmental hazard and degradation.

Mr. CALLAHAN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. KNOLLENBERG), a member of our subcommittee.

Mr. KNOLLENBERG. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong opposition to the amendment. The amendment is overly broad and would prohibit all agencies in the Energy and Water bill including the Corps of Engineers, the Department of Energy, and a portion of the Department of the Interior from expending funds for drilling in the Great Lakes. I have concerns that needed grants from these Federal agencies would be cut off as a result of this amendment. This is another attempt by the amendment's author and others to shift decision-making authority over the Great Lakes to the Federal Government, just like the water management issue. They would rather have bureaucrats in Washington to manage our resources than those of us who actually live there. I do not think that is right.

The issue is under the jurisdiction of the State of Michigan and our State legislature and the governments of all the Great Lakes States. This is not just a Michigan issue. The Michigan State legislature has made a decision that this will be handled by State agencies, including the Michigan Department of Environmental Quality, Department of Natural Resources, and the State's Natural Resources Commission.

□ 1730

They have made this decision on their own, free from Federal interference, which is as it should be. In fact, my home State of Michigan is not alone in this sentiment. It is shared by others. In a letter from the Interstate Oil and Gas Compact Commission, and I have a letter here, which has 30 of our Nation's 50 States as members, this letter went to EPA administrator Christie Todd Whitman, who writes, "The member States of the OIGCC regard drilling beneath the Great Lakes and protection of the environment in relation to that drilling to be matters that are within the exclusive jurisdiction of the States and not the United States EPA or other Federal agencies."

This amendment would be counter to the belief of the IOGCC and the majority of States in our Union. Remember again, there are 30 States involved here.

Mr. Chairman, directional drilling should not be confused with offshore drilling. Directional drilling sites are inland. In the State of Michigan, they are prohibited from being closer than 1,500 feet from the shoreline. Conversely, offshore drilling done from ships or rigs directly in the water is prohibited by State law in five of the eight Great Lakes States.

In 1997, the Michigan Environmental Science Board concluded directional drilling posed little or no risk to the contamination to the Great Lakes. Since 1979, there have been no accidents and no significant impact to the environment or public health. I think the evidence shows clearly that directional drilling is safe and an effective procedure and does not warrant any kind of Federal encroachment. State geologists estimate the production of new oil and gas resources from the Great Lakes could provide, contrary to what one might have heard, as much as $100 million to the Michigan Natural Resources Trust Fund, the State's sole source of funds for land acquisitions, recreational projects, and natural resource development projects.

The revenue produced by leasing of land for drilling is crucial; and without it, state-owned natural resources could be taken without compensation by private wells drilled along the State of Michigan shorelines and the other States as well; on private lands, I might add.

Furthermore, I believe directional drilling can be done in an environmentally safe manner, and it may be one solution, one solution, to some of our energy woes.

This amendment is counterproductive because our Nation, particularly those in California, are currently experiencing an energy supply shortage and prohibiting directional drilling in the Great Lakes would cut off a critical supply source.

Mr. Chairman, this amendment is little more than an example of mission creep by which the Federal Government slowly, slowly gains more and more authority. This mission creep amendment should not pass this House. I urge Members to oppose this amendment.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. SHIMKUS) assumed the Chair.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

The Committee resumed its sitting.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, first I want to commend the gentleman from Alabama (Mr. CALLAHAN) for restoring funding for renewable energy in this bill.

With regard to contamination of Lake Michigan, we have had the Rock Gobie, the Fish Hook Flea, alewife, nuclear waste and PCBs. Lake Michigan has had enough. We killed Lake Erie in the 1960s and nearly killed Lake Michigan. The Great Lakes are home to half of the world's supply of fresh water. It is one of our Nation's greatest environmental treasures. I strongly support the Bonior-LaTourette bipartisan amendment and am totally committed to Lake Michigan's environment and urge Members to support this worthy goal.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I might point out that the purpose of this debate, what the gentleman from Michigan (Mr. BONIOR) is attempting to do, is to restrict the Corps of Engineers from granting any further permits for this venture.

This is what the Corps of Engineers is all about. The Corps of Engineers is there to protect the environment, to make absolutely certain that everything with respect to any type of activity on the lake is in the best interest of the environment and of the American people and the area.

So I would beg to differ that the permitting process on this is not taking place, because it is. They cannot do it without permits. If the gentleman's amendment is adopted, the Corps would be prevented from issuing the permits, resulting in a halting of further exploration.

I might say that every day we hear in these 1-minutes the Members of the minority talking about the energy crisis, and this is an opportunity to do something about the energy crisis while not doing anything to harm the environment. So I would urge the Members to pay close attention to what this debate is all about.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I would join my Michigan Republican colleagues who have spoken in support of this amendment, the gentleman from Michigan (Mr. CAMP) and the gentleman from Michigan (Mr. HOEKSTRA), also in support of the amendment.

Some say that this is a safe process, slant drilling. Well, I have to say that I am not convinced that the science, in fact, will protect us. No one has ever suggested that the oil perhaps underneath the Great Lakes is an Arab oil field. It will not provide a lot of oil under anyone's estimation. So why should we take the risk?

I grew up on the shores of Lake Michigan, and I can remember as a young boy in the 1960s and even into the 1970s there in fact had been an oil spill on the southern shore of Lake Michigan, and I will say virtually every day, every day in St. Joe, Benton Harbor, my hometown and along the southern shore of Lake Michigan, anyone that went to the beach got oil from the sand on themselves. I do not think there was a house along the street that did not have a little bottle of Mr. Clean on the kitchen step, which was the only stuff that would take that oil off our clothes, off our shoes, name it.

That smell of Mr. Clean stays with me from this day, from those summer days of always getting oil on our feet.

One of the first pieces of legislation I passed as a young Member of this House was oil-spill legislation. I remember almost a catastrophic event in Bay City, Michigan, that would have destroyed, I think, the ecosystem of the Great Lakes for decades, if not more than 100 years.

This is a Great Lakes watershed area that is not like someplace else. When the oil is there, it stays there and it stays there for a long time.

I support this amendment. It is bipartisan. For those of us that have districts along the Great Lakes, I think that all of us, I would hope, would support it. After all, we know our Great Lakes area better than just about anybody else.

This is a wise amendment. I support the amendment. I would hope that my colleagues would also vote for this when we take it up tomorrow. I appreciate the bipartisanship that it certainly has, and I would just compliment my colleagues in support of this amendment to make sure that, in fact, we do not have oil spills throughout the Great Lakes.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Chairman, I have a lot of good friends on both sides of the aisle that are addressing this issue, and I really get concerned and I struggle with this.

Southern Illinois used to have one of the largest oil fields in the country 50 years ago, decades ago. Guess what? It was all pumped out. To benefit the United States of America, we drilled in southern Illinois. We still have some marginal wells there. They pump about two barrels a day. They are the little seesaw horses that one sees when they drive down the road.

My cornfields and soybean fields are just as important as any lakefront beach property. Sometimes I think we get very selfish. We are in an energy crisis. Fuel is at an all-time high.

We do not want to drill off the Great Lakes. We had a vote yesterday, where we do not want to drill off of Florida. Heavens, no, we do not want to go into ANWR. So my basic question is: Where do we go?

I will say where we go. We are going to the Saudi Arabia sheiks. We are going to pony up our dollars. We are going to be held hostage by Saudi Arabia for our oil.

I just do not understand. We can send people to the Moon. We can send people to Mars. We can go all over this world, and we cannot drill safely?

So I ask us to bring a little common sense to this and to realize that we have some natural resources. We have places that expended our natural resources for the benefit of our country. Now it is time to make sure that we are energy self-sufficient, not reliant on foreign oil. If we want low-cost gasoline, we have to do a couple of things. We have to drill. We have to transport and we have to refine and, of course, we have to add ethanol.

Mr. BONIOR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Ohio (Ms. KAPTUR), the cosponsor of the amendment.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from Michigan (Mr. BONIOR) for yielding me this time.

Mr. Chairman, last week the Members of our body voted to send a message to the Bush administration that oil and water do not mix. The House voted overwhelmingly to stop offshore drilling off the coast of Florida by a vote of 247 to 164. Seventy Republicans joined 177 Democrats in a rebuke to the White House drilling policy. Nonetheless, Vice President CHENEY claims that drilling can be conducted without environmental damage. Where does the administration stop in its single-minded desire to appease the oil and gas special interests? How many times do we have to send this message before the administration gets it?

The Bonior-Stupak-Kaptur amendment is a message: hands-off the Great Lakes. The President and Vice President need to understand that the people of the Great Lakes region do not want drilling. In my State, our Republican Governor is opposed to drilling in the Great Lakes. So are both our Republican Senators and our congressional delegation.

Lake Erie, Ohio's lake, is the shallowest of the Great Lakes and thus the most vulnerable to the administration's scheme. The Lake Erie shoreline, including the area in my congressional district, is a delicate ecosystem. Congressman DINGELL and I are working on ways to protect it for generations into the future. To expose that fragile ecosystem to oil and gas drilling makes no sense. It is reckless policy. It is irresponsible. Our freshwater ecosystem is a powerful, competitive advantage for our economy and a priceless national and international resource that belongs to all the people, not to any special interest.

For hundreds of years, even before the Northwest Territory was open, the Great Lakes have defined an entire region of our continent and the world. In the region, we see the Great Lakes as precious jewels. The administration sees another drilling platform. Please support the Bonior-Stupak-Kaptur amendment. Oil and water do not mix.

[From the Anna Arbor News, June 19, 2001]

CHENEY: DRILLING COULD CAUSE NO HARM

PROTESTERS CHARGE SLANT DRILLS UNDER LAKES WON'T REDUCE OIL DEPENDENCE

(By Karessa E. Weir, News Staff Reporter)

GENOA TOWNSHIP.—In his first visit to Michigan since taking office, Vice President Dick Cheney said drilling under the Great Lakes can be done without environmental damage.

As environmentalists protested outside Lake Pointe Manor banquet hall where he was speaking, Cheney said he supports searching for new sources of fuel. Possibly, he said, that could include the controversial plan to slant drill under the lakes.

"The technology in my judgment is extraordinarily good," Cheney said.

"I'd also like to remind everybody that we have a serious problem in our dependence on foreign (oil) sources."

He added that to meet the country's electricity needs, between 1,300 and 1,900 new generators would have to be built for coal, gas and nuclear energy.

"Those are the three options for the foreseeable future," he said. "The attractive features of coal are that we've got a lot of it . . . and it's cheap."

Cheney was at the banquet hall south of Howell attending a $1,000-a-plate fund-raiser for Brighton Republican Mike Rogers.

Outside, Dan Farough, program director for the Sierra Club and one of about 25 protesters, said continuing to put more federal money into coal-burning endeavors will hurt Michigan and the country without lowering reliance on imported oil.

"Michigan's lakes already are under an advisory for mercury. Where does he think the mercury comes from? It comes from the emissions of those dirty coal-fire plants," Farough said. "He is pushing drilling in Alaska and in the Great Lakes but even if we kept all of what we could get, it would only lower our imports by 2 percent."

Cheney, flanked by Rogers and Lt. Gov. Dick Posthumus, spent the day in Michigan, first touring General Motors Corp.'s Vehicle Emission Lab in Warren and then attending the fund-raiser.

Cheney also spoke to about 500 people who paid $25 each to attend a rally at the banquet hall, where he touted the passage of the "largest tax cut in a generation" and efforts to reform Social Security and create a global missile defense system.

"We will not accept that the U.S. is undefended from ballistic missiles," Cheney said.

Inside, the reception to Cheney was warmer.

"He's doing great," said Millie Geisert of Howell. "He's bringing integrity and morality back to our country."

In Warren, Cheney climbed into a fuel-cell vehicle and munched on popcorn produced by the excess energy of a hybrid truck. He said he was impressed by what he saw at the GM facility.

"I am . . . optimistic. With American technology and ingenuity there's no question we can solve any problems down the road," Cheney said.

The tour came a week after GM announced a 25-year collaboration with General Hydrogen Corp., a pioneer in fuel-cell technology. GM hopes the partnership will accelerate the development of fuel-cell vehicles, which create electricity directly from a reaction between hydrogen and oxygen. The vehicles emit only water vapor from their tailpipes.

Rick Wagoner, GM's president and CEO, applauded the Bush administration's energy plan.

"We believe the plan makes sense and believe the auto industry can help implement it," Wagoner said.

Rogers, who defeated state Sen. Dianne Byrum, D–Onondaga, by 110 votes in November, garnered more than $350,000 for his campaign through the Cheney visit. He faces his first re-election bid in 2002.

The Associated Press contributed to this report.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman from Michigan (Mr. BONIOR) for yielding me this time.

Mr. Chairman, in the 20th century the greatest resource issue was oil, but in the 21st century the greatest resource issue in the world will be water.

The freshwater resources of the Great Lakes are as precious to the U.S. as oil is to the Middle East. It is our health. It is our wealth. It is our economic future. It is our environmental future. Clean water is a basic right in a democratic society. The oil companies should not be permitted to privatize the Great Lakes.

The Bible tells a story of Esau, who sold his birthright for a mess of pottage. Let us not sell America's birthright to one of the greatest supplies of fresh water in the world for a mess of oily pottage in the false name of energy security.

Mr. BONIOR. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from the great State of Minnesota (Mr. LUTHER).

□ 1745

Mr. LUTHER. Mr. Chairman, I thank the gentleman from Michigan (Mr. BONIOR), the gentleman from Michigan (Mr. STUPAK), and the gentlewoman from Ohio (Ms. KAPTUR) for their outstanding leadership on this issue.

I am from Minnesota, a State with a proud heritage of protecting our natural resources for future generations. In fact, in the late 1980s, Minnesota took part in enacting a multi-State ban on oil and gas drilling in the waters of the Great Lakes. Yet, today, discussion persists about drilling in this pristine area, particularly directional or slant drilling, is what is being discussed.

Since 1979, the seven existing directionally drilled wells have produced enough energy to cover less than a half day of our Nation's consumption. Think about this: risking the Nation's largest supply of fresh water for a few hours of consumption.

As a Nation, we must not fall back into the old way of doing things in this country. We will never get balance in our energy policies if we continue to debate drilling in our Nation's most pristine areas.

I urge this Congress to have the vision to develop new approaches to energy policy in this country. I urge Members to consider the ramifications, before risking this resource for a few hours of energy consumption. Let us give our children and their children the splendor of the Great Lakes coastline.

Mr. BONIOR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from the State of Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Chairman, I rise today to strongly oppose drilling of any kind in the Great Lakes. Just visit Minnesota's North Shore and you will immediately know why. Lake Superior is a constant source of wonder for many of us in this country. It helped to shape our landscape, our climate, it supports our economy, and it enhances our quality of life.

I oppose drilling not because we do not need to find additional energy resources. We do. But these lakes are just too valuable and too many families' lives would literally be at risk without fresh drinking water. It is simply not worth the risk.

We are making progress in using energy more efficiently, reducing our reliance on coal and natural gas through energy efficiency and technology; but we must work hard to make bigger investments in current programs to do more.

Investments do not always have to cost money either. We can and we must reduce our consumption by supporting wind, solar power and renewable fuels, like ethanol, which we produce in Minnesota.

Future generations depend on us not to jeopardize today's greatest natural resources. An oil spill or any related disaster on the shores of the Great Lakes would impact fresh drinking water for 35 million people, and for what? For less than 1 day's worth of oil and natural gas.

The Great Lakes are important to this Nation. They are important to my State. They are important to the families in this country. They have been crucial in our historical and economic development. Our communities continue to play a critical role in Minnesota, and water is a part of that.

I urge my colleagues to protect today's drinking water for future generations. I urge my colleagues to support this amendment.

Mr. BONIOR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I thank my friend from Michigan for yielding me time. I especially want to thank the gentleman from Michigan (Mr. STUPAK), the gentleman from Michigan (Mr. BONIOR), the gentleman from Wisconsin (Mr. BARRETT), the gentlewoman from Ohio (Ms. KAPTUR), and other colleagues from the Great Lakes region for consistently championing the preservation and protection of these precious lakes.

I live on Lake Erie and appreciate the lake for its natural beauty. But Lake Erie is far more than a pretty backdrop. Ohioans rely on the lake for our region's economic well-being. We rely on Lake Erie to ship goods, to provide us with drinking water, to play host for recreational activities, and to attract tourists from all over the world.

The Great Lakes contain 20 percent of all the fresh water in the world; and yet attempts are now being made to expand so-called directional drilling under the beds of the Great Lakes, jeopardizing the water, the shorelines, and the surrounding wetlands. These attempts are being made even though the existing oil and gas wells in operation under the Great Lakes have not produced enough oil and gas to fuel our domestic needs for even a single day.

President Bush's solution for the country has been to drill early and drill often. Drill in the Arctic National Wildlife Preserve, drill in the Gulf of Mexico, drill in the five Great Lakes. Instead of pursuing fossil fuels to the end of the Earth, Congress should author an energy policy that addresses both the immediate and long-term energy needs of our people.

We should explore for additional courses of oil and gas, but we cannot drill our way out of dependence on foreign oil. Any strategy that calls for drilling in the Great Lakes, where there is more drinking water than any other place on Earth, fails even the most basic risk-reward analysis.

Fossil fuels are a finite resource. Instead of risking despoiling of every piece of ground or water under which fossil fuels may reside, we must focus instead on using energy resources more efficiently, increasing our use of renewable fuels and encouraging conservation.

Last week, this body supported an amendment that afforded protection to the coast of Florida from the potential ravages of oil and gas exploration. Today I ask my colleagues to afford the Great Lakes the same protection.

Mr. BONIOR. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me time, and I congratulate him and the gentleman from Michigan (Mr. STUPAK) and others on both sides of the aisle for sponsoring this amendment.

Mr. Chairman, this should not be, in my opinion, a hard decision for us to make. The risk is too great, when you consider the damage a spill would cause to one of the world's environmental treasures. Twenty percent of the world's fresh water is contained in the Great Lakes. It is much too precious to risk for additional drilling. And what would that drilling get us? The existing 13 wells have produced enough over their lifetime to provide only approximately a quarter of 1 day's use of natural gas in this country, and only approximately 2 percent of 1 day's use of petroleum. At what cost? I cannot imagine what type of drilling would have to occur to make a serious dent in Michigan's energy needs.

Since receiving criticism for taking the hard road of production versus conservation, the Bush administration has tried to say nice things about conservation. But the facts are clear: the Bush budget proposed to cut the Department of Energy's renewable energy and efficiency programs by almost 30 percent. It cut innovative technologies like wind, solar, and hydroelectric research by 50 percent. The American people clearly do not want to see a policy of drilling at all costs, and the people of Michigan do not want it either.

I urge my colleagues to support this very excellent amendment.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I would like to thank my colleagues for having the tenacity and the guts to stand up and talk about no drilling in the Great Lakes.

When I was a little girl studying about geography in the Cleveland public school system, people used to say to us, how do you remember the names of the Great Lakes? And they used to tell us to call it "HOMES," Huron, Ontario, Michigan, Erie, and Superior.

So when I think about the Great Lakes, I think about it as home to 20 percent of all the freshwater resources, home to all the species of fish and wildlife that live around those lakes, home to millions of Ohio residents, Michigan residents, Minnesota residents, Illinois residents, and the residents of all the 50 States.

Now, I know that the Army Corps of Engineers holds the Great Lakes in the public trust, but I also know that this Congress is obligated to give direction and guidance to the Army Corps of Engineers. By this amendment, we can give them direction and guidance and say no direct drilling in the Great Lakes.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Chairman, let me thank the gentleman from Michigan for yielding me time.

Mr. Chairman, I rise today in strong support of the amendment to prohibit the Army Corps from issuing any permits to provide for directional drilling for either natural gas or oil on the Great Lakes.

Mr. Chairman, I live on a great lake, Lake Michigan. My district borders the lake. I want to point out to the Members, especially those opposed, that Lake Michigan alone provides fresh clear drinking water to about 10 million residents of not only Wisconsin, but also Michigan and Illinois.

I hear from the opponents saying we need more drilling and we need more drilling and we need more drilling, but I have yet to hear the word "conservation."

I would like to point out to the Members that in the 22 years that drilling has occurred on the Great Lakes, a grand total of 439,000 barrels of crude oil has been extracted. Well, if you would support us and increase the fuel efficiency for automobiles, light trucks, and SUVs by only a small amount, we could save 1 million barrels of crude per day in this country, obviating the need to go into fresh water areas like the Great Lakes, which, as has been said many times, has 20 percent of the world's fresh water, and provide for drilling and looking for crude on that great body of water.

Mr. BONIOR. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I simply want to take the time to thank the two gentlemen for offering this amendment. The greatest body of fresh water in the world is Lake Superior. Lake Michigan is certainly not far between. The only proper level of risk to such a pristine resource is zero risk. I congratulate the gentlemen for offering the amendments.

Mr. BONIOR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank my colleague for his comments and support on this.

Mr. Chairman, again I want to thank my friend, the gentleman from Michigan (Mr. STUPAK), for his leadership on this and all the colleagues who have spoken on this issue.

The State of Michigan is a very gorgeous State. We are talking about more than just Michigan here, we are talking about all the Great Lakes States and the connecting waterways that touch them.

But I would like to focus in on my State for a second, if I could, because we have had a history, Mr. Chairman, of being ravaged. If you go back 300 years ago, John Jacob Astor and his ilk came into our State and they took the fur and the animals out of our Great Northwest. It took them about 5 years before they depleted some of the most precious resources we had, leaving extinct many of the most important mammals in our Northwest region.

Then, of course, in the next century, after the pine had been exhausted in Maine, the lumbermen came into the State of Michigan, and built the country. At one point, the State of Michigan was 17/18ths trees. We had pine, white pine, as tall as some of the great redwoods out West today, reaching 200 feet in the air; and they were leveled. Thanks to Franklin Roosevelt and the CCC and the second growth policy of replanting during those 9 years during the Great Depression, the CCC and the 90,000 workers planted, Mr. Chairman, 465 million trees in our State.

Then the Boston mineral magnates came in, and they took the iron and the copper that Houghton, Burke, and all the others discovered in our great State.

I give you this history, because now the attack is on our water resources. And if you do not believe my word today, all you need to do is review the record in our State. We have 11,000 inland lakes. Every one of them is filled with mercury.

I went and got my fishing license the other day. They gave me a little booklet that said if you are a pregnant woman or 15 years of age or under, you cannot eat a good amount of the fish in the inland lakes. The Governor of our State has issued permits to dump raw and undertreated sewage in our rivers and streams, to the point now where many of our beaches are closed in our State because of E. coli bacteria.

□ 1800

And now he is pursuing a policy of drilling in the Great Lakes, extending 30 more wells. We do not need that. Oil and water do not mix.

I think it has been made very clear today that this is our most precious resource. A fifth of the fresh water on the planet is in our region, and we need to protect it. We need to protect it from diversion, we need to protect it from drilling, we need to protect it from being polluted with E. coli bacteria in our rivers and streams and closing our beaches; we need, as my colleague from Michigan (Mr. STUPAK) has said on numerous occasions, a water policy for our State. We do not have it. Until we do, we need to do all we can to protect this most valuable resource.

So I ask my colleagues, please, do not create this picture. For all of my colleagues who come up into our beautiful State, who travel up into Michigan, from the South, from the east coast, from the other parts of the Midwest who come to vacation, they do not come to see this, they come to swim in our lakes, they come to use our beautiful sand dunes, they come to fish in our waters, they come to rest on our beaches, and they come to drink our wonderful water.

So, Mr. Chairman, I would say to my colleagues, thank you for your support on this amendment. Vote for the amendment that has been offered, and make sure that we can save one of the most precious resources that God has given our planet.

Mr. Chairman, I yield back the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, I want to commend my colleague from Michigan.

This is a solution, though, that is looking for a problem. There is not one State in the Great Lake States that allows offshore drilling, not one. There is a moratorium on new angle drilling wells in Michigan. What are we doing? This is not about protecting the Great Lakes. This is not about talking about protecting the diversion of our water; not at all. What we have here is a direction that many in this Chamber I hope would disagree, including those who may have ambitions to hold office of Governor. I trust my Governor. I trust the Governors of the Great Lake States to be in charge of the water of the Great Lake States.

As a matter of fact, underneath the Great Lakes today, there is about 22,000 barrels of crude oil an hour flowing under the Great Lakes. There are 550 offshore wells in Canada. This bill addresses none of that. There are 5 million tons of oil bobbing around on the Great Lakes every year, 20 spills a year in our Great Lakes. This amendment does nothing to address any of those issues.

This is not about protecting the Great Lakes; this is about the Federal Government going into the State of Michigan and telling the legislators there, you do not know what you are doing. Do we want to talk about our Great Lakes? You ought to live there in February. You ought to have to put up with the cold weather in the winters and the high degree of snow. Let us not get confused about what we are doing here.

There are some great protections of our Great Lakes, and I trust those Governors, and I trust those legislators to do the right thing.

I want to say it again, because this is very important, I heard it 10 times tonight if I heard it once, that somebody is out there trying to build an oil rig in the Great Lakes, and they are going to do it now, and President Bush is leading the charge. There is not one State in the Great Lakes that allows offshore drilling, not one. There is a moratorium on directional drilling in the State of Michigan today. So what are we doing?

Mr. Chairman, I do not believe that a bureaucrat in Washington whose only experience with the UP is a picture in the National Geographic is going to do anything for the protection of our shoreline, our Great Lakes. I want people who live there. The gentlewoman from Ohio talked about home, and that is how we learn the names of those Great Lakes. Why? Because we live there. We see the water, we see the pollution, we fought back and took back Lake Erie, and now we can eat the fish. We could not about 10 or 15 years ago. Why? Because the people of the Great Lake States stood up. It is nothing that Congress did. It is not us arguing this issue, it is the people around the Great Lakes. Why? Because those in California are taking care of California needs in their districts, and those legislators who are State-elected and Governors who are elected by all of the people of the Great Lake States are protecting our Great Lakes.

Mr. Chairman, I have a passion for this stuff as well. We have a real difference of opinion on what we are doing here. Diversion of water. There is a bill in this House to empower Congress to decide what happens on diversion issues in the Great Lakes. The last I checked, Kansas and Arizona and New Mexico and California could use a bit extra water, and last I checked, there are more of them than there are of us. It has no business in this Chamber. It has all the business in the chambers in our State legislatures back home.

This is a solution that is looking for a problem.

There is this package of bills in, and I have done many of them, one to encourage the States to protect the diversion of that water, the States to do it. I have a bill in that continues the ban on offshore drilling in our Great Lakes and goes after the 550 wells currently in operation in Canada that are out in the water. Even the industry tells us they do not want to put a pipe in that fresh water. They do not want to do it. Anything that touches the water they do not want to be a part of. We ought to applaud them for it, and we ought to stand up with them today.

But what the Federal Government can give us, they can take away. Pretty soon, maybe the faces of this Chamber will change, and maybe pretty soon the folks in this Chamber will decide that we want oil in the Great Lakes, and since many of us do not live there, and the bureaucracies of Washington, D.C., that do not get to visit there much are going to decide, maybe it is worth it.

The thing that will protect us then, my good esteemed colleagues, is our State legislators and our Governors of those great States.

Mr. Chairman, I want to urge this body to reject this amendment, to throw away all the rhetoric about how this is going to pollute the water and people are rushing to put platform drilling in the Great Lakes, and they cannot wait for that oil to gush through Lake Superior and Lake Michigan. That is just absolutely not true.

What I would encourage the gentleman from Michigan to do is to work with us. Let us take a look at studying how good of shape those pipes are that are pumping those 22,000 gallons a minute under the Great Lakes today. Let us get together and tell Canada, get off the water. Shut down those rigs that are on the water pumping today. What are we going to do to make sure that those ships bobbing around out there carrying 5 million tons of oil are safe and do not have 20 spills on average a year?

Does the gentleman want to do something for the Great Lakes? Let us be a partner with them and help them solve those problems. Let us not flex our muscles as the Federal Government and come in and tell those legislators, you really do not know what you are doing out here. We are here to help you.

I used to be an FBI agent, and when I would walk into a local police station and tell them that, I did not get a warm welcome then, and I can tell you, Congress is not going to get a warm welcome in the State halls in Lansing.

Mr. Chairman, this is an important issue. It is an extremely important issue. I grew up on a lake. I want that lake safe for my kids. I want them to go to Lake Michigan and be able to play in the water and not have to worry about turning green when they come home. I want them to be able to eat the fish in Lake Erie. Meaning no disrespect to this Chamber, I just came from the State legislature, and I have seen the good things that Congress can do, and I have seen the bad things that Congress can do, and I served with some very bright people in that State legislature. I served with a great Governor who understood that we had to protect our Great Lakes while we have a moratorium on drilling. I want those people empowered to make a difference for our Great Lakes.

I would urge this body's strong rejection of the Federal Government encroaching into the business of Great Lake States.

I applaud all of the Members for getting up here and talking about their passion for protecting our greatest natural resource there. Well, let us do it. Let us be a partner with the States. Talk to our State legislators, talk to our Governors. They will be with us. Talk to the people and ask them, who do they want to protect their Great Lakes? Is it the people that get up every morning and eat breakfast there and go off to work and send their kids off to school every day, 7 days a week; or is it a bureaucrat that they have never met in the halls of some bureaucracy over here who is going to make an arbitrary decision on how it ought to look; or is it a Member from California who stands up and passionately argues, maybe 40 or 50 years from now, that it is worth the risk to stick a pipe in fresh water?

Stand up for our Great Lakes today. Stand up for the environment of Michigan, Ohio, Pennsylvania, Indiana, Minnesota, all of those speakers' home States. Stand up for it by rejecting the Federal Government's role of encroaching on our ability back home to protect our greatest national resource. I would urge this body's rejection of the Bonior amendment.

Mr. LEVIN. Mr. Chairman, I rise in strong support of the amendment offered by my colleague Representative BONIOR. I urge its passage by the House.

There should not be any controversy over this issue. The Great Lakes should not be put at risk just so energy companies can extract a few weeks' supply of oil. It was with a certain amount of disbelief that I learned that Governor Engler and the Michigan Department of Natural Resources had proposed to lift a 1997 moratorium restricting new development of oil and gas drilling under the Great Lakes. I believe this proposal is short-sighted.

The Great Lakes are a vital natural resource to Michigan. The Lakes are our State's crown jewels, and the heart of Michigan's multi-billion-dollar tourist industry. In addition, the Great Lakes contain 20 percent of the world's fresh water. Why would we ever choose to place all this at risk? The environmental damage from an oil spill would be catastrophic.

The amendment before the House today is only common sense. It would bar any funds in this bill from being used to expand oil and gas drilling beneath the Great Lakes.

Mr. Chairman, the Great Lakes are an invaluable resource to the people of Michigan and, indeed, the entire country. The Great Lakes are also part of the environmental legacy we will leave to our children and grandchildren. I urge all my colleagues to join me in voting for the Bonior amendment.

Mr. CALLAHAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BONIOR).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BONIOR. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. BONIOR) will be postponed.

Mr. CALLAHAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

PROVIDING FOR CONDITIONAL ADJOURNMENT OF THE HOUSE AND RECESS OR ADJOURNMENT OF THE SENATE

Mr. YOUNG of Florida. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 176) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 176

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 28, 2001, or Friday, June 29, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, July 10, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 28, 2001, Friday, June 29, 2001, Saturday, June 30, 2001, Monday, July 2, 2001, Tuesday, July 3, 2001, Thursday, July 5, 2001, Friday, July 6, 2001, or Saturday, July 7, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 9, 2001, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Florida?

Mr. OBEY. Mr. Speaker, reserving the right to object, I would simply have one question.

I notice that the concurrent resolution indicates that the House would adjourn on either Thursday or Friday. In light of the fact that Members were told that there would be no votes on Friday, my question is why is this language there? It is my understanding that the language is there simply to permit filing of a document, but that there would, in fact, be no session on Friday and no votes. Is that a correct understanding?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, the gentleman is correct. Let me state just briefly that the plan will be to convene the house at 9 o'clock in the morning. We will conclude the consideration of the appropriations bill for energy and water. At the conclusion of that bill, we will then begin the rule and the bill for the agriculture appropriations. We will proceed into the evening on the agriculture appropriations bill on tomorrow, Thursday, and at a reasonable time we will make a determination as to how late we will go tomorrow night.

The gentleman is correct that, as I announced with the approval of the leadership yesterday, Members can expect that there will be no votes on Friday.

Mr. OBEY. Mr. Speaker, further reserving the right to object, I think Members need to know what the reality is in terms of their catching planes. They were told the day before yesterday that we would not be into a long march into the night on Thursday. Could the gentleman give us some idea of how long the majority is intending to proceed so that Members on both sides have some idea of what to do with their plane reservations?

□ 1815

Mr. YOUNG of Florida. If the gentleman would yield further. As we discussed yesterday on this subject, we will very likely plan to go late tomorrow night, but also as we discussed, we would not go beyond midnight, or a reasonable time in the evening, if it appears that we have no opportunity to conclude the bill.

Mr. Speaker, I doubt that we will be able to conclude the bill on tomorrow. I would suspect the House could work its will for an earlier departure.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SHIMKUS) Is there objection to the request of the gentleman from Florida?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A CONCURRENT RESOLUTION FOR THE ADJOURNMENT OF THE HOUSE AND SENATE FOR THE INDEPENDENCE DAY DISTRICT WORK PERIOD

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 107–117) on the resolution (H. Res. 182) providing for consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2330, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 107–118) on the resolution (H. Res. 183) providing for consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2311, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that, during further consideration of H.R. 2311 in the Committee of the Whole pursuant to the House Resolution 180, no further amendment to the bill shall be in order except:

(1) the following amendments, each of which shall be debatable for 20 minutes: Mr. TRAFICANT of Ohio, regarding drilling; Mrs. BERKLEY of Nevada, regarding nuclear waste.

(2) the following amendments, which shall be debatable for 10 minutes: Mr. TRAFICANT of Ohio, regarding Buy American; Mrs. JOHNSON of Texas, regarding bio/environmental research; Mrs. KELLY of New York, regarding the Nuclear Regulatory Commission Inspector General salaries and expenses.

(3) the following additional amendment, which shall be debatable for 60 minutes: Mr. DAVIS of Florida, regarding the Gulf Stream natural gas pipeline.

Each additional amendment may be offered only by the Member designated by this request, or a designee; shall be considered as read; shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent; shall not be subject to amendment; and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. VISCLOSKY. Mr. Speaker, reserving the right to object, if I can make an inquiry to the gentleman.

Mr. Speaker, my understanding is that the procedure tomorrow morning is that the House will go into session at 9 a.m., and we will immediately begin to vote on those matters that have been deferred, beginning with the Tancredo amendment, relative to the general investigations dealing with $9.9 million, that would be a 15-minute vote; the second Tancredo amendment would then be a 5-minute vote in sequence; the Hinchey amendment would be a 5-minute vote; the Kucinich amendment would be a 5-minute vote; and then there would be a 5-minute vote on the Bonior amendment? Those all would be taken together? There would be no break in time after the Kucinich amendment and the Bonior amendment?

Mr. CALLAHAN. Mr. Speaker, will the gentleman yield?

Mr. VISCLOSKY. I yield to the gentleman from Alabama.

Mr. CALLAHAN. The gentleman from Indiana is correct.

Mr. VISCLOSKY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

HOUR OF MEETING ON THURSDAY, JUNE 28, 2001

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

22ND ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR FISCAL YEAR 2000—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Reform:

To the Congress of the United States:

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95–454; 5 U.S.C. 7104(e)), I transmit herewith to you the Twenty-second Annual Report of the Federal Labor Relations Authority for Fiscal Year 2000.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 27, 2001.*

EXECUTIVE ORDER BLOCKING PROPERTY OF PERSONS WHO THREATEN INTERNATIONAL STABILIZATION EFFORTS IN THE WESTERN BALKANS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–91)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my statutory authority to declare a national emergency in response to the unusual and extraordinary threat posed to the national security and foreign policy of the United States by (i) actions of persons engaged in, or assisting, sponsoring, or supporting, extremist violence in the former Yugoslav Republic of Macedonia, southern Serbia, the Federal Republic of Yugoslavia (FRY), and elsewhere in the Western Balkans region, and (ii) the actions of persons engaged in, or assisting, sponsoring, or supporting acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. The actions of these individuals and groups threaten the peace in or diminish the security and stability of the Western Balkans, undermine the authority, efforts, and objectives of the United Nations, the North Atlantic Treaty Organization (NATO), and other international organizations and entities present in those areas and the wider region, and endanger the safety of persons participating in or providing support to the activities of those organizations and entities, including United States military forces and Government officials. In order to deal with this threat, I have issued an Executive order blocking the property and interests in property of those persons determined to have undertaken the actions described above.

The Executive order prohibits United States persons from transferring, paying, exporting, withdrawing, or otherwise dealing in the property or interests in property of persons I have identified in the Annex to the order or persons designated pursuant to the order by the Secretary of the Treasury, in consultation with the Secretary of State. Included among the activities prohibited by the order are the making or receiving by United States persons of any contribution or provision of funds, goods, or services to or for the benefit of any person designated in or pursuant to the order. In the Executive order, I also have made a determination pursuant to section 203(b)(2) of IEEPA that the operation of the IEEPA exemption for certain humanitarian donations from the scope of the prohibitions would seriously impair my ability to deal with the national emergency. Absent such a determination, such donations of the type specified in section 203(b)(2) of IEEPA could strengthen the position of individuals and groups that endanger the safety of persons participating in or providing support to the United Nations, NATO, and other international organizations or entities, including U.S. military forces and Government officials, present in the region. The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to issue regulations in exercise of my authorities under IEEPA to implement the prohibitions set forth in the Executive order. All Federal agencies are also directed to take actions within their authority to carry out the provisions of the order, and, where appropriate, to advise the Secretary of the Treasury in a timely manner of the measures taken.

I am enclosing a copy of the Executive order I have issued. The order was effective at 12:01 a.m. eastern daylight time on June 27, 2001.

I have issued the order in response to recent developments in the former Yugoslav Republic of Macedonia, southern Serbia, and elsewhere in the Western Balkans region where persons have turned increasingly to the use of extremist violence, the incitement of ethnic conflict, and other obstructionist acts to promote irredentist or criminal agendas that have threatened the peace in and the stability and security of the region and placed those participating in or supporting international organizations, including U.S. military and Government personnel, at risk.

In both Macedonia and southern Serbia, individuals and groups have engaged in extremist violence and other acts of obstructionism to exploit legitimate grievances of local ethnic Albanians. These groups include local nationals who fought with the Kosovo Liberation Army in 1998–99 and have used their wartime connections to obtain funding and weapons from Kosovo and the ethnic Albanian diaspora. Guerrilla attacks by some of these groups against police and soldiers in Macedonia threaten to bring down the democratically elected, multi-ethnic government of a state that has become a close friend and invaluable partner of NATO. In March 2001, guerrillas operating on the border between Kosovo and Macedonia attempted to fire upon U.S. soldiers participating in the international security presence in Kosovo known as the Kosovo Force (KFOR). Guerrilla leaders subsequently made public threats against KFOR.

In southern Serbia, ethnic Albania extremists have used the Ground Safety Zone (GSZ), originally intended as a buffer between KFOR and FRY/Government of Serbia (FRY/GoS) forces, as a safe haven for staging attacks against FRY/GoS police and soldiers. Members of ethnic Albanian armed extremist groups in southern Serbia have on several occasions fired on joint U.S.-Russian KFOR patrols in Kosovo. NATO has negotiated the return of FRY/GoS forces to the GSZ, and facilitated negotiations between Belgrade authorities and ethnic Albania insurgents and political leaders from southern Serbia. A small number of the extremist leaders have since threatened to seek vengeance on KFOR, including U.S. KFOR.

Individuals and groups engaged in the activities described above have boasted falsely of having U.S. support, a claim that is believed by many in the region. They also have aggressively solicited funds from United States persons. These fund-raising efforts serve to fuel extremist violence and obstructionist activity in the region and are inimical to U.S. interests. Consequently, the Executive order I have issued is necessary to restrict any further financial or other support by United States persons for the persons designated in or pursuant to the order. The actions we are taking will demonstrate to all the peoples of the region and to the wider international community that the Government of the United States strongly opposes the recent extremist violence and obstructionist activity in Macedonia and southern Serbia and elsewhere in the Western Balkans. The concrete steps we are undertaking to block access by these groups and individuals to financial and material support will assist in restoring peace and stability in the Western Balkans region and help protect U.S. military forces and Government officials working towards that end.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 27, 2001.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a record vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken tomorrow.

CHILD PASSENGER PROTECTION EDUCATION GRANTS EXTENSION

Mr. SIMPSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 691) to extend the authorization of funding for child passenger protection education grants through fiscal year 2003.

The Clerk read as follows:

H.R. 691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHILD PASSENGER PROTECTION EDUCATION GRANTS.

Section 2003(b)(7) of the Transportation Equity Act for the 21st Century (23 U.S.C. 405 note; 112 Stat. 328) is amended by striking "and 2001" and inserting "through 2003".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. SIMPSON) and the gentleman from Washington (Mr. LARSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho (Mr. SIMPSON).

GENERAL LEAVE

Mr. SIMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 691.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. SIMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to express my support for the bill of the gentleman from Minnesota (Mr. OBERSTAR), H.R. 691. This noncontroversial legislation will extend the life of the Child Passenger Protection Education Grant Program for an additional 2 years. TEA–21 authorized $7.5 million for fiscal year 2000 and 2001 to fund this program.

This legislation simply extends that authorization for an additional 2 years, to fiscal year 2003, making the program consistent with the reauthorization timeline of TEA–21.

Forty-eight States, the District of Columbia, and the Territories have all received grants through this Child Passenger Protection Education Grant Program. These grants are designed to prevent deaths and injuries to children, educate the public concerning the proper installation of child restraints, and train child passenger safety personnel concerning child restraint use.

Mr. Speaker, the Committee on Transportation and Infrastructure reported H.R. 691 by a voice vote on May 16, 2001; and today I ask that the House suspend the rules and pass H.R. 691.

Mr. Speaker, I reserve the balance of my time.

Mr. LARSEN of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring to the floor H.R. 691, a bill to extend the child passenger protection education program and preserve our Nation's most precious resource, our children.

H.R. 691 authorizes $7.5 million from the general fund for each of the fiscal years 2002 and 2003, to make incentive grants to States to implement child passenger protection programs. Unlike other TEA-21 programs, the child passenger protection education grant program expires at the end of 2001.

H.R. 691 extends the program to 2003, consistent with the authorization period for other TEA-21 programs.

Mr. Speaker, H.R. 691 does not affect direct spending, therefore, offsetting spending reductions are not required. The objective of the bill and the program it authorizes is to prevent deaths and injuries to children, educate the public concerning the proper installation of proper restraints, and train child passenger safety personnel concerning child restraint use.

Every day children sustain injuries or die in motor vehicle crashes. In 1999, more than 1,100 children under the age of 10 were killed in motor vehicle crashes and another 182,000 were injured.

Many of these injuries and deaths could have been avoided with the correct use of safety seats and seat belts; however, many adults are unaware they are using safety restraints incorrectly or not at all, thereby placing their child at risk.

In the fiscal year 2000, in my own State of Washington, child passenger protection education grant funds were used to train 196 law enforcement and child passenger safety certified technicians and 11 certified instructors, establish 25 law enforcement community child passenger safety teams covering 27 of the 39 counties in the State focusing on Native American and Hispanic populations, and conduct 75 child passenger safety awareness events.

In fiscal year 2001, my State of Washington is using its funds to train an additional 100 child passenger safety technicians, conduct additional events and clinics, establish additional community child passenger safety teams, and implement a public education program to promote the Nation's first booster seat law.

Mr. Speaker, these types of activities are being reflected in State programs across the Nation, the emphasis being placed on cultural and ethnic minorities, rural and low-income and special needs populations, and documented low-usage areas based upon available surveys and crashing data.

The child passenger protection education program is reducing the number of children being killed in traffic crashes across the country and is deserving of our strong support. I strongly support the bill and urge its approval.

Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Pennsylvania (Mr. BORSKI).

Mr. BORSKI. Mr. Speaker, let me first commend the manager of the bill, the gentleman from Washington (Mr. LARSEN), who has become a very productive member of the Committee on Transportation and Infrastructure in his short time here.

Mr. Speaker, I would also like to pay my compliments to the distinguished gentleman from Minnesota (Mr. OBERSTAR), ranking member of the full committee, who is a great Member of Congress and a great leader of transportation.

I do not know of anyone in the Congress who has been a better protector of the traveling public, and I want to commend him for his wisdom in sponsoring this bill and bringing it before the Congress today.

Mr. Speaker, in the last 25 years, the Nation has made significant gains in child passenger safety. Since 1975, child restraint systems have saved the lives of more than 4,000 children involved in automobile crashes.

During that time, the fatality rate for children has decreased steadily; however, the number of deaths has not dropped rapidly due to population increases and a doubling of highway travel. In 1999, 1,135 children, 10 years of age and under were killed; and 182,000 were injured in highway crashes.

Child restraint systems are effective. In 1998, only 8 percent of all children under age 5 rode unrestrained, but they accounted for more than half of all child-occupant fatalities.

Without doubt, the single most effective way to protect our children in the event of a crash is to ensure that all children are buckled up in their appropriate restraint system on every trip.

H.R. 691 will help us do that. The bill will support State programs to educate the public on child restraints and help us continue to reduce the tragic toll of deaths and injuries of our children on the Nation's highways.

In fiscal year 2000, Mr. Speaker, the State of Pennsylvania received $323,000 in Child Passenger Protection Education Grant funds to establish child passenger safety fitting stations in all State police barracks and increase the awareness of rural and minority populations in the State.

In fiscal year 2001, the State is using its funds to purchase 17 mobile fitting stations, fund child safety passenger safety courses, and develop new materials to promote child passenger safety among health and medical personnel.

Mr. Speaker, I, again, want to commend the gentleman from Minnesota (Mr. OBERSTAR) for his leadership in bringing this measure before us, and I strongly support the bill and I urge its approval.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure.

□ 1830

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Washington for yielding me this time.

Mr. Speaker, I join the gentleman from Pennsylvania (Mr. BORSKI), ranking member of the Subcommittee on Highways and Transit in complimenting the gentleman from Washington (Mr. LARSEN) on his leadership and his hard work in being a very studious, energetic member of our Committee on Transportation and Infrastructure and on this particular subcommittee as well. I thank the gentleman from Pennsylvania for his very kind comments. I am grateful for those good words.

I also want to express my sincere appreciation to the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), for agreeing to move this legislation quickly and the gentleman from Wisconsin (Mr. PETRI), chair of the Subcommittee on Highways and Transit for moving this bill, recognizing that there is a deadline upon us that we must close and we must get this legislation enacted so that the programs can be funded.

I introduced this bill on Valentine's Day earlier this year to protect our most cherished loved ones, our children. I was an advocate in ISTEA and again in TEA-21 for this legislation for its funding, which has provided $7.5 million in each of the previous fiscal years for the child protection education grant program.

But unlike the other programs of TEA-21, this particular program expired this year. So we need to provide authorization for funding in the coming fiscal years 2002 and 2003 so that the excellent work can get under way again and continue programs that the States have so vigorously and effectively initiated.

In 1999, there were 1,400 children under the age of 15 killed in vehicle crashes and another 300,000 who were injured. But the startling statistic is six out of the 10 killed in those crashes were unrestrained. That is not acceptable.

The previous administration established a goal to increase seatbelt use nationwide and reduce child occupant fatalities, a goal of 15 percent by 2000 and 25 percent by 2005. The grant program has been very effective in achieving those goals.

Congress did provide the funds. Forty-eight States and the District of Columbia and the territories have received grants under the program. Since 1997, the number of child fatalities from traffic crashes has declined 17 percent. That exceeded the goal, 15 percent, by the end of last year.

Restraint for children, infants has risen to 97 percent from where it was in 1996, 85 percent. For children age one to four, it is up from 60 percent in 1996 to 91 percent for last year.

Now, I have a personal witness of how effective this program can be. My late wife and I insisted with our children that they all use their child restraint, seatbelt, car seat. Those children, the oldest two right now are old enough to have their own family and their own children.

When I am in Kenosha, Wisconsin, visiting the Tower family, Emma, age 4, and Lilly, age 2, will not allow the ignition in the car to be turned on until they are buckled into their seats and safely strapped in. That is the first thing they do when they get in the car.

When I am in Sacramento with son Ted Oberstar and granddaughter Katherine, age 4, and granddaughter Claire, age 2, the same story. Grandpa, we cannot move until we are buckled up. And buckled up comfortably, too, by the way. They want to be just right in that seat. Then they want to make sure that I am buckled in because, once in a while, I am so busy dealing with them and other things and talking that I do not strap myself in before the key is turned on; and they say, make sure that grandpa is buckled in.

Education works, and it is passed on from one generation to the next. That is the message. The program that we have instituted has proven itself. It has prevented death. It has prevented injuries. It helps educate the public on all aspects of proper installation of child restraints.

Children today of the age when we began teaching them child restraint seats is an important safety issue now are insisting on buying vehicles that are properly equipped with the right kind of seat restraint facilities in the car to accept any kind of child restraint seat or infant carriage device.

My oldest daughter will not nurse her now 10-week-old child while the car is moving. Believe me, that is not very pleasant when you have a poor little baby who is very hungry, who wants to nurse. But not until the car is stopped and we are not moving will that child come out of its child restraint seat.

So the point is that the message has worked. Education is effective. But not everybody has got the message. That is why we need this legislation, why we need this $7.5 million funding. It is a modest amount. It is peanuts compared to the $218 billion in TEA–21 over the 6 years.

It is available to train safety professionals, police officers, fire and emergency medical personnel, high school educators, grade school, elementary school educators in safety and in all aspects of child restraint use.

Every State that gets a grant submits a report to the Department of Transportation describing the activities they have carried out with the funds made available under the grant, and the Secretary of Transportation will report to Congress within the coming year on the success of this program with a complete description of all the programs carried out, materials developed, and the success stories from the States.

I urge the passage of this legislation by this body, promptly by the other body, signature into law by the President, and implementation with the adequate funding that we need to carry it out.

Mr. SIMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Minnesota (Mr. OBERSTAR) in his dedication on this subject in making sure this gets done. It is a very important subject.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield for just a moment.

Mr. SIMPSON. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I apologize for not thanking the gentleman from Idaho (Mr. SIMPSON) for pinch-hitting on the floor and substituting and helping us move this bill. We are grateful for the gentleman's care and concern, and I thank him for his kind words.

Mr. SIMPSON. Mr. Speaker, I am very honored to do so. I want to thank the gentleman for his support on this subject and his interest in it and his dedication to it.

Mr. Speaker, I yield back the balance of my time.

Mr. LARSEN of Washington. Mr. Speaker, I yield back the balance my time.

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). The question is on the motion offered by the gentleman from Idaho (Mr. SIMPSON) that the House suspend the rules and pass the bill, H.R. 691.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS TO THE COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

The SPEAKER pro tempore. Without objection, pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431), amended by Public Law 106–55, and upon the recommendation of the minority leader, the Chair announces the Speaker's appointment of the following members on the part of the House to the Commission on International Religious Freedom to fill the existing vacancies thereon, for terms to expire May 14, 2003:

Ms. Leila Sadat, St. Louis, Missouri and

Ms. Felice Gaer, Paramus, New Jersey.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

STRENGTHENING UNITED STATES FOREIGN ASSISTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Virginia. Mr. Speaker, I would like to say a few words about a national priority that too often gets overlooked: humanitarian and development assistance in our foreign operations appropriations bill. That bill will probably be coming to the floor within the next few legislative days.

Foreign assistance is an important and effective policy device when words and diplomacy are not enough or when military action is not appropriate. Strengthening U.S. foreign assistance will improve the lives of millions of people around the world and is consistent with America's long history of extending a helping hand to those less fortunate.

We, and in fact much of the rest of the world, too easily forget the fact that, over the last half century, U.S. humanitarian and development assistance has successfully elevated the standards of living for millions of people.

More than 50 nations have graduated from U.S. assistance programs since World War II, including such nations as France, Spain, Portugal, South Korea, Taiwan, Italy, and Germany. More than 30 of these former aid recipients have gone on to become donor nations themselves.

Over the years, foreign assistance programs have helped create some of our closest allies and best trading partners and greatest contributors to the world's economy. For example, the United States now exports to South Korea in just 1 year the total amount we gave that country in foreign assistance during all of the decades of the 1950s and 1960s.

But despite substantial global accomplishments, as we enter the new millennium greater disparities exist between the wealthy and the poor than ever before. Of the world's 6 billion people, half live on less than $2 a day, and one-fifth live on only $1 a day. That is more than a billion people, four times the population of the United States living on less than a dollar a day. Two billion people are not connected to any energy system. One and a half billion lack clean water. More than a billion lack basic education, health care or modern birth control methods.

Poverty, disease, malnutrition, rapid population growth, and lack of education paralyze billions of people and extinguish hope for a better future. The world's population grows by about

75 million people a year, and most of them will live in the world's poorest countries.

If current trends continue, the result will be more abject poverty, environmental damage, epidemics, and political instability; and we are not such an isolated island of prosperity that we are not immune from the ramifications of this desperation.

From our own shores to the far reaches of the world, there is ample evidence that we have not been able to use our trade policies as effectively as we would like to address the negative impact of globalization which contributes to these great disparities between the privileged and impoverished.

□ 1845

Our failure to respond adequately to these problems is a moral dilemma that should be a pivotal part of our overall foreign assistance and international trade framework. Consider, for example, the plight of the seriously ill in the developing world. It is a testament to the failure of industrialized nations that 80 times more pharmaceutical products are sold in the much less populace west than on the entire continent of Africa.

Each year, 300,000 people in Africa develop sleeping sickness, and many of them die from this disease. It is a disease that we could conquer if we had the political will and the research wallet to do it, but we do not. We will apply more of our resources to cure bald American males than African children with sleeping sickness.

The most shocking global misallocation of health resources, of course, is the HIV/AIDS pandemic. AIDS is a global crisis which threatens the security of every government in every Nation including the United States. This is not merely a health issue, this is an economic, social, political, and moral issue. AIDS has destroyed societies, destabilized governments and has the potential to topple democracies. According to UNAIDS, nearly 22 million people have lost their lives, and over 36 million people today are living with HIV and AIDS. Fewer than 2 percent of them have access to life-prolonging therapies or basic treatment. The number of new infections of HIV is estimated at 15,000 every day, and it is growing. I am told that nearly a quarter of some of Africa's armies are HIV positive.

In a year when President Bush has requested an $8 billion increase in spending over the current $320 billion defense budget, U.N. Secretary General Kofi Annan has called for a global AIDS trust fund to raise $7 billion to $10 billion a year to combat the pandemic. That is almost the same figure as the defense spending increase that we would be adding to a $320 billion budget. This has to be a joint effort among governments, private corporations, foundations, and nongovernmental organizations.

We are ranked last among the 22 OECD countries in terms of what we spend on foreign assistance, and we have got to spend more. It is in our interest as well as in the interest of the rest of the world. If we are going to maintain our position as the world's superpower, the most prosperous Nation in the history of western civilization, then we have got to share our resources. If we do not, we are going to pay a price in the long run.

These are national priorities, and I hope that they get better addressed in our foreign assistance budget and in our national priorities generally.

THE NATURE OF THE BEAST

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to add my voice to those who have been talking about support for a patient's bill of rights. But, of course, Mr. Speaker, not just any patients' bill of rights. I support the robust patients' bill of rights sponsored by my esteemed colleagues, Mr. MCCAIN, Mr. KENNEDY, and Mr. EDWARDS in the Senate, and the companion legislation, sponsored by the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL) in the House. I support the patients' bill of rights that puts patients before profits and values human life over the bottom line.

The idea of a patients' bill of rights is nothing new to this Congress. We have all listened to the rhetoric and we have all been involved in the debate. As a Member of Congress since 1996, I must say that it is interesting to see where this debate has gone. I find it worth commenting that the question we are now faced with is not so much whether or not we should pass a patients' bill of rights but which version we should pass. In other words, we are all in agreement that patients need to be afforded an increased level of protection from the predatory tendencies of managed care organizations.

Rather than immediately delve into the particulars of why we should prefer one version over another, I believe it is instructive to take a step back for a moment and look at the concept of a patients' bill of rights in the first place. The very idea that we need a patients' bill of rights, an idea I remind my colleagues that we all are in support of, implies the presence of an injurious element within our health care system. The simple fact that we are debating this idea means that each one of us, on some level, acknowledges the basic reality that the interests of managed care organizations tend to be adversarial to the interests of patients.

I believe that the debate over which patients' bill of rights to accept can be resolved simply by looking more closely at the nature of the beast. Too often I believe we talk about solutions without fully understanding the problem. I believe that with a careful examination of the means and motives by which managed care corporations make money, off the pain and suffering of patients, the answer to the question of which patients' bill of rights is the real patients' bill of rights becomes self-evident.

Now, what is it about managed care that is so inherently evil? Well, let me just quote one thing that Milton Friedman, a well-known advocate of free market economics, said. "Few trends could so thoroughly undermine the very foundation of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible." In other words, if we go by the dictates that managed care organizations live by, not only is it undesirable to take a patient's well-being into account, it is simply unethical to do so. Any motive other than profit is extraneous and inappropriate.

Now, obviously, this narrow-minded approach has put us in the situation that we are currently in. And I would suggest, Mr. Speaker, that we simply take stock of where we are as a country with a health care delivery system, put patients before profits, make sure that patients and their physicians have the opportunity to collaborate, to make decisions and determinations about the kind of treatment they should receive, and not some bureaucrat or clerk sitting in an office. That is the only real way to do it.

So I would urge all of my colleagues and all of America to really support the Ganske-Dingell bill so that patients can have real rights, and that is the right to be involved, the right to live, the right to get good medicine when they are in need of it.

HONORING THE NATION'S PREMIER LATINA LABOR LEADER, DOLORES HUERTA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, I rise today to honor one of our Nation's premier Latino labor leaders, Dolores Huerta.

Growing up in a predominantly Latino neighborhood in Southern California, I often looked to my community leaders for lessons in how to live and how to treat other people. One of the most influential role models continues to be Dolores Huerta, preeminent civil rights leader who has fought for the rights of underserved laborers for more than 40 years.

Born in Dawson, New Mexico, on April 10, 1930, Dolores Huerta was raised along with her four siblings in the San Jaoquin Valley town of Stockton, California. While there, she witnessed firsthand the poverty that local farm workers endured, but also saw the generosity her mother showed them in the form of free meals and lodging.

Although she earned a teaching degree from Stockton College, Dolores Huerta left the profession because she could not stand to see her students, children of farm workers, arrive at school hungry, without shoes and food. Rather than just teach, she decided to organize the farm workers to help them fight for their civil rights as well. So in 1955 she founded the Stockton chapter of the Community Service Organization, a community organization designed to educate, organize, and assist these poor families.

Her dedication to farm workers continued and, in 1962, Dolores Huerta joined with Cesar Chavez to establish the National Farm Workers Association. The group was a precursor to the United Farm Worker Organizing Committee, for which she served as secretary-treasurer.

But Dolores Huerta has done much more than just organize farm workers. She has also fought for health benefits, higher wages, and disability insurance for those people who work in the fields. Without her, today's farm workers would not enjoy the fair treatment and safe working standards that they enjoy now in the State of California.

Dolores Huerta's dedication, though, is not just confined to farm workers. She fought hard for the rights that we all hold dear, women's rights, environmental justice, civil rights, and free speech. In fact, in the 1960s, Dolores Huerta launched a campaign for environmental justice. She began to advocate against the use of toxic pesticides that harmed farm workers and consumers. Her vehement lobbying and organizing led growers to finally stop using dangerous pesticides such as DDT and Parathyon in their fields.

Dolores Huerta has also been visible in the political spectrum. As a legislative advocate for the labor movement, she has led farm worker campaigns and various political causes. In fact, she is probably most remembered standing beside Robert F. Kennedy as he acknowledged her help in winning the 1968 California Democratic presidential primary moments before he was shot in Los Angeles.

She has also worked tirelessly to make sure that all people, including those that only speak Spanish, have the opportunity to be heard. She has helped to establish Spanish language radio communications organizations with five Spanish radio stations, and has participated in numerous protests to highlight the plight of farm workers throughout the country. Although most of those demonstrations were peaceful, Dolores Huerta herself has endured physical harm and more than 20 arrests for peacefully exercising her right of free speech.

Her dedication to farm workers and people of color across America has earned her numerous accolades, including the American Civil Liberties Union Roger Baldwin Medal of Liberty Award, the Eugene Debs Foundation Outstanding American Award, the Ellis Island's Medal of Freedom Award, and induction into the National Women's Hall of Fame.

Today, my colleagues, we have the opportunity to honor Dolores Huerta, not only for her unwavering dedication to farm workers but to her commitment to creating a better environment for all Americans. This resolution that I am presenting today marks the first time in recorded history that Congress has chosen to honor a Latina labor leader. I urge all my colleagues to support this resolution.

PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. SANDERS) is recognized for 5 minutes.

Mr. SANDERS. Mr. Speaker, as my colleagues may know, tragically millions of American citizens cannot afford the outrageously high costs of prescription drugs in this country. Some of these people die, others suffer, and still others take money from their food budgets or other basic necessities of life to buy the life-sustaining drugs that their doctors prescribe.

Tragically, and I think many of us are fully aware of this now, citizens of the United States pay by far, not even close, the highest prices in the world for prescription drugs. Some of us have taken our constituents across the Canadian border, others have gone over the Mexican border and have found, for example, that tamoxifen, a widely-prescribed breast cancer drug, sells in Canada for one-tenth of the price, one-tenth of the price that it sells in the United States. And this is for women who are struggling for their lives.

But it is not only Canada that has lower prescription drug prices. For every $1 spent in the United States for a prescription drug, those same drugs are purchased in Switzerland for 65 cents, the United Kingdom for 64 cents, France for 51 cents, and Italy for 49 cents. Meanwhile, year after year the pharmaceutical industry appears at the top of the charts in terms of profits. Last year, for example, the ten major drug companies earned $26 billion in profits while millions of Americans are unable to afford the products that they produce.

Now, why is it that prescription drugs in this country are so much more expensive than they are in any other industrialized country? I think the answer is obvious. The pharmaceutical industry is perhaps the most powerful political force in Washington and has spent, unbelievably, over $200 million in the last 3 years on campaign contributions, on lobbying, and on political advertising.

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Amazingly, the drug companies have almost 300 paid lobbyists knocking on our doors in Washington, D.C. to make certain that Congress does not lower the cost of prescription drugs, and to make certain that their profits remain extraordinarily high.

Year after year senior citizens throughout this country and those with chronic illnesses cry out for prescription drug reform and lower prices, but their cries go unheeded as the pharmaceutical industry and their lobbyists defeat all efforts to lower prices.

This year it is my hope and my expectation that it is going to be different and that we are finally going to succeed, not only in passing a prescription drug benefit under Medicare, but lowering prescription drug costs for all people.

Last year this Congress in a bipartisan manner passed legislation that promised the American people that they would be able to buy prescription drugs at the same low prices as consumers in other countries through a drug reimportation program. In the House, the Crowley reimportation amendment won by the overwhelming vote of 363–12. Unfortunately, at the end of a long legislative process, loopholes were put into the amendment that made it ineffective. While the law remains on the books, it has not been implemented by either the Clinton administration or the Bush administration.

In an increasingly globalized economy where we import food and other products from all over the world, it is incomprehensible that pharmacists and prescription drug distributors are unable to import or reimport FDA safety approved drugs that were manufactured in FDA approved facilities.

Mr. Speaker, tomorrow as part of the agriculture appropriations bill, the gentlewoman from Connecticut (Ms. DELAURO) and the gentleman from New York (Mr. CROWLEY) and I will introduce essentially what the Crowley bill was that passed overwhelmingly last year.

Despite huge opposition from the pharmaceutical industry, I am confident that Congress will stand up and vote to begin the process to lower prescription drug costs in this country.

As Dr. David A. Kessler, former FDA Commissioner under President Bush and President Clinton stated in support of reimportation last year, "I believe U.S. licensed pharmacists and wholesalers who know how drugs need to be stored and handled, and who would be importing them under the strict oversight of the FDA, are well-positioned to safely import quality products rather than having American consumers do this on their own." That is Dr. David Kessler.

Mr. Speaker, I hope tomorrow will win an overwhelming victory for prescription drug consumers in this country.

LIFT MEDICAID CAPS IN U.S. TERRITORIES

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, a couple of speakers this evening have talked about the need to improve health care for all American citizens, the most recent speaker talking about prescription drugs, and earlier my colleague talking about a real Patients' Bill of Rights.

This evening I would like to raise another issue, and that is lifting of the Medicaid caps for the Territories of the United States, including my home Island of Guam.

At the start of this Congress, I, along with other territorial delegates from the Virgin Islands, America Samoa, and the Resident Commissioner of Puerto Rico, introduced a bill, H.R. 48, to remove caps on Medicaid payments to the U.S. territories and adjust the statutory matching rate. H.R. 48 is authored by my esteem colleague, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), formerly a practicing physician there.

When this bill was first introduced during the 106th Congress, we reported that Medicaid allotments fell far short of meeting the needs of indigent populations in the Territories, and because of depressed economic conditions, high unemployment rates and the rising health care needs of growing indigent populations, the reliance on Medicaid assistance continues to surge way beyond the Federal cap and beyond the Territorial Government's ability to match Federal funds.

In Guam, for example, for fiscal year 2000, Medicaid assistance was capped at $5.4 million. However, the Government of Guam, because of the emerging population, spent approximately 3 times that amount to serve the medical needs of the people of Guam. For fiscal year 2001, the Medicaid ceiling is capped at an additional $200,000 at $5.6 million. However, the estimated cost to provide medical care to Guam's needy today is approximately $27 million over that amount, resulting in a dramatic overmatch for the Government of Guam, way beyond any match that is expected of any State jurisdiction.

I fear the squeeze will even be greater as the Government of Guam implements the President's tax cut plan which has a deep impact on the economies of Guam and the Virgin Islands. These two U.S. jurisdictions have tax systems which mirror the Internal Revenue Code of the United States, which means whatever tax policies are implemented on the Federal level automatically take effect at the local level, even without consulting us. The Government of Guam has no surplus to cover the anticipated $30 million shortfall in revenues which will occur resulting from this tax cut.

Thus, the struggle to provide medical services to Guam's needy will be more than the local economy can bear. Lifting the Medicaid caps for territories and changing the Federal Territorial matching rate currently set at 50–50 would provide relief to the neediest populations of the Territories.

This legislation proposes that the Federal Territorial matching share be set at the share of the poorest State, which is currently a 77 to 23 Federal-State match. Congress must consider the reality that Territorial Governments have not shared in the same economic prosperity which has been experienced in the U.S. mainland, and should recognize this by changing the matching rate.

I stand here this evening to urge my colleagues to join in support of H.R. 48. Health care is an issue of importance to every American, whether they reside in the 50 States or the U.S. Territories. Resolving Medicaid issues in the Territories is a step in the right direction towards providing much needed health care relief for Americans, no matter where they live. We are all one country when it comes to responsibilities like service to our country. We should all be one country when it comes to realizing benefits and services like health care.

CORRECT UNEQUAL TREATMENT AMERICANS IN THE TERRITORIES RECEIVE FROM MEDICAID PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to join my colleague from Guam in once again speaking out against the unequal treatment that the American citizens in the Territories receive from the Medicaid program. By virtue of where we live and only by virtue of where we live, low-income Americans in the territories are not able to receive the full benefits of the Medicaid program.

For the residents of my district, the U.S. Virgin Islands, in order for a family of 4 to qualify for medical care under Medicaid, the maximum salary that a family can earn is $8,500 a year, one-half of the Federal minimum wage. By contrast, in year 2002, all States at a minimum will provide Medicaid for all children 19 years old and younger living in families at or below the poverty level at $17,050 for a family of 4, more than twice that amount.

Historically the Government of the Virgin Islands matched the Federal contribution with a combination of cash and in kind. When the value of both is added, it equaled and many times exceeded the Federal contribution. While this resolves the Federal requirement on paper, it has created a financial havoc for the Territorial hospitals and clinics that really incur the cost of in-kind services but never get reimbursed.

Because of the cap and 50–50 local match, the local Virgin Islands Government also bears the brunt of the cost of the Medicaid program contributing 66 percent or more on average, adding to the burden of the Territory.

In addition, because our hospitals do not get DSH payments to supplement the large amount of low-income patients that we serve, this creates an additional financial burden on the Territory's hospitals; and compounding this dilemma is the fact that the Virgin Islanders, nor do the residents of Guam, get SSI benefits, which means that our disabled citizens are also excluded from the benefits of this program, again just because of where we live. I place emphasis on "where we choose to live" because the fact that all a low-income Virgin Islands resident has to do to receive SSI or full Medicaid benefits is to move to Miami or New York where a growing number of our residents now reside. We would prefer to keep our poor, sick and disabled residents at home instead of sending them to these districts because of an inequity in the law.

Moreover, it is plain wrong that families must move away from their homes and friends in order to receive a benefit that their fellow citizens on the mainland do not have to leave their home to receive.

Why does this unequal treatment exist? The answer most given is that the Territories do not pay Federal income taxes, but it is not as simple as that. The fact is that people who receive SSI and themselves in the States do not pay Federal taxes because they do not earn enough money.

This Congress in their wisdom, through the earned income tax credit and other tax credits, allow low-income Americans to pay very little Federal taxes. But these same citizens, like my constituents, all pay Social Security and Medicare payroll taxes for which there are no credits or exemptions.

How is it that one group of American citizens, or even residents who are not yet citizens, can receive medical care even though they do not pay Federal taxes while another group does not. Likewise when my constituents are called to serve their country when we are at war or even when we are not, they are not asked whether they pay Federal taxes; and we serve willingly and proudly and in large numbers.

Mr. Speaker, a recent report, the Access Improvement Project of the Virgin Islands, revealed that great disparities exist for Medicaid eligible children in the Virgin Islands compared to the continental United States. The report shows that while the Nation as a whole spends an average of $76 for EPSDT screening per Medicaid eligible child, the U.S. Virgin Islands only spent $1.20. Additionally, the total Medicaid expenditures per child also shows an astonishing disparity. In the age group 15 to 20, national Medicaid expenditures were approximately 599 percent more than what is being spent in the Virgin Islands. We also received a 50 percent match, despite a State like Mississippi where the average income is $1,500 higher than ours. They receive 80 percent match. And the Virgin Islands Medicaid program cannot provide wheelchairs, hearing aids or prosthetic devices, and only provides physical and occupational therapy to a limited degree because of the limited funding.

Mr. Speaker, the gentleman from Guam (Mr. UNDERWOOD) and I pledge to work to remove the Medicaid cap and to right this injustice on behalf of the poor and disabled in our districts. I hope that our colleagues will agree that it is not right to penalize American citizens of similar circumstances only because of where they live, and that they will join and support our efforts.

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NATIONAL ENERGY POLICY

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, before I start this evening on the main subject of which I intend to spend the majority of my time on, I want to tell you that today I had a visit from the Future Farmers of America, several young people from Delta, Colorado; Cortez, Colorado; Dove Creek, Colorado. As many of you know, my district is the Third Congressional District of the State of Colorado. That district basically consists of almost all the mountains of the State of Colorado.

It is refreshing to have young men and women like this and young men and women of the different groups, not only Future Farmers of America but the different groups that come in to see us, the leadership groups and so on. It does tell you that there is a lot of promise with this new generation, that there is sure a lot more going in favor of that generation than there is going against it. So I felt pretty good. It recharges somebody in my kind of position to see that the generation following behind us, which is something that we become very dedicated to, because, after all, whether you are a Democrat or a Republican, regardless of where you fall down on the issues, if you really looked at the heart of why most of us are here, it is because we do care about the greatest country on the face of the earth and we do care about being able to hand this country over to a generation that will deliver the same kind of promise to this great country as have the previous generations.

With that, Mr. Speaker, I want to address this evening energy. We have got to talk about energy. I will tell you why I am concerned about what is happening with energy. We are actually seeing energy prices begin to drop. In fact, energy prices are dropping rather dramatically here just in the last couple of weeks. My concern about energy becoming more affordable, which of course benefits all of us, is that we begin to forget the shortage of energy that we have had in the last several months, that we begin to forget the necessity to conserve and to continue to conserve, not just for the period of time that we had the shortage but for the sake of future generations like these Future Farmers of America that were in my office today. I think that we have to adopt permanent conservation methods for future generations as an investment. It is an investment in the future. I think we have to stand up to some of the realities of the shortages that were created over here in the last year. Why did they come about? What is happening? What are we going to do to secure this Nation's future as far as its energy needs?

As the price begins to fall, people begin to take energy and push it off their plate. It is not such a priority. Gasoline alone has fallen 20, 30 cents a gallon in my district. By the way, if my colleagues happen to be anywhere in the United States where gasoline has not dropped in price, they better take a look at the operator, because somebody is making a lot of money. Natural gas prices have begun to drop fairly dramatically. Electric prices have begun to drop rather dramatically. Why? Because, number one, we are coming out of the winter season, obviously we are into summer right now but, two, the supply is beginning to catch up with the demand. Why is it beginning to catch up with the demand? One, we have had increased production overseas, and, two, people are beginning to exercise energy conservation, so the demand and the economy has brought that demand down. In other words, conservation and the slowness of the economy have begun to bring the demand down while the supply goes up. So as supply and demand come closer together, that is where your price matches. If in fact at some point it looks like supply will exceed demand, in other words, you have more than you can sell, prices drop rather dramatically.

So this summer the good news is we are going to have reasonable gasoline prices so that you can go on your summer vacations and you can go to work, et cetera. But I do not want that to hide the necessity for each and every one of us in here to continue to take a look at what is necessary for this country to conserve and to continue to look for resources that we think are necessary so that this country can stay on an even keel with the needs that it has in the future. It would be a dramatic mistake, a dramatic and serious mistake, for us to assume that everything is fine once again and we go whistling off into the forest. In fact, that was a warning, a warning shot that was fired over our bow, so to speak, in the last few months. It was a message to us that we need to look with an approach utilizing common sense of, one, how can we conserve, number two, probably more important than anything I have discussed so far this evening, the importance of having an energy policy for this Nation.

Let me spend just a few moments on the energy policy for this Nation. The problem in the last 8 years under the previous administration is that we really never had an energy crisis. During the Clinton days in office, there never really was an energy crisis. So as a result, that administration never really did set forth on trying to come up with some type of energy policy. Why? When you decide to come up with some kind of energy policy, that is controversial. You take a lot of heat. Because if you want to have a good energy policy for this Nation, you need to put all of the issues on the table. You need to talk about hot subjects like ANWR. You need to talk about hot subjects like nuclear utilization of energy. You need to talk about hot subjects of where you store waste. You need to talk about and have some discussions with the auto manufacturers about increasing the mileage that we get on our cars. A lot of those conversations are going to be the subject of very heated debate as this administration, the Bush administration, begins to put together an energy policy. So it is a debate that any smart politician would like to avoid. Why take the heat when you do not really have to? If the energy prices are reasonable, in fact, they were not only reasonable over the years of the Clinton administration, they were cheap, why take on the heat of dragging this country through the debate of an energy policy?

Well, things have changed. We know, of course, in the last 5 or 6 months, it seems only a few weeks after President Bush and Vice President CHENEY took office, that we began to feel a shortage. They did not run from it. That is important to note. I have seen a lot of criticism lately of our President and our Vice President, most of it quite unjustified but nonetheless it is out there. Criticism about how dare they say we go and look for future energy resources. How dare they say a program that has not worked in 20 years have its budget cut? What is this new administration thinking by putting on the table the different areas of energy and energy reserves in this country and at least asking the question, should we or should we not drill, for example, in those particular areas? Should we or should we not begin to take a second look at nuclear and say maybe we ought to consider it, like France, by the way, of which most of the energy in Europe, by the way, is generated by nuclear. Some of the conservation methods. It is controversial to go out to those car manufacturers and say, we need better mileage for those vehicles.

But this administration was willing to do it. Not only because they have had to. And, by the way, now that energy prices are dropping, the political heat on coming up with an energy policy is not near as great as it was just 3 weeks ago. Just 3 or 4 weeks ago when the prices were still up there, the heat was fairly extensive in these chambers. But what really will test us is if we are willing to continue to work with the President and the Vice President in putting together an energy policy despite the fact we are not under a lot of heat in these chambers to do exactly that. And I think we have an obligation to do that. Because, as I said, in those last few months what came over the bow of our ship was a warning shot. It did not hit the side of the ship. Our economy did not sink as a result of this energy. We have had some blackouts in California but that really focuses more on negligence by the leadership out in California. It did not occur in 49 other States, by the way, which does make California stand out, saying, "California, 49 States must be doing something right. You must need to adjust something you're doing."

The key here is that while we got a warning shot, let us not ignore it. I have got some ideas this evening and some things I would like to go over with my colleagues. This evening, my remarks really are going to focus on what I call common sense and resource development. It does not read common sense of resource development. It reads common sense, resource development. In other words, we have got a lot of conservation, for example, and that is the first one I have got down here. Conservation.

Let us talk about conservation for a couple of minutes. There are a lot of commonsense things in conservation that we can use. And it does not create a lot of pain with the American people. As I have said numerous times on this House floor, the average American driver that owns an automobile, you do not have to change your oil every 3,000 miles. Now, you may have been convinced by marketing efforts that your engine is going to fall out of your car or the engine is going to blow up if you are not down there at Quick Lube getting your oil changed every 3,000 miles, but the fact is if you read the owner's manual, you are going to discover that your car only needs its oil changed maybe every 6,000 miles. In some cases 7 or 8 or 9,000 miles. Now, you can begin to become a participant in this conservation by simply changing your oil when the owner's manual tells you to change it. That is not painful to the American people. It is not painful to my colleagues. That is what I call common sense. That is an example of common sense approach to our resource development that we need. Part of that resource development is conservation.

There are a lot of other things. Of course the simplest thing that anybody can think of which absolutely causes you no pain is shut off the lights when you leave the room. Shut off the lights when you leave the house. I said the other day in Europe, when you go into a hotel in Europe, you actually have a little card. When you walk into the room, you slide that card into a slot. As long as that card is in that slot, your hotel room lights are on. But as you leave the hotel, you pull the card out and the lights go off so you do not forget to leave lights on in your hotel room. Does that cause you any pain? No. Does it impact your life-style in a negative fashion? No. In fact, it will actually save you money if you do this in your own home, watch out to turn out those lights, and it also helps you become a reasonable and responsible participant in conservation efforts. That is a key part, I think, in resource development.

Some people would like you to believe that the only way you can have resource development is to exclude conservation, that when the President and the Vice President talk about resource development, that they have ignored conservation, they have drawn a line through it. That is just political propaganda. That is all that is. It is bogus. I have talked to the Vice President. I know what the President's policy on energy is and conservation plays an important part in it. But the President and the Vice President have had enough courage to say, look, you cannot do it on just one of these elements alone. You cannot make up the gap that we have or the gap that we might have in the near future simply through conservation. You can make a significant dent in it, but you cannot make it up with just simply conservation. Nor can you make it up with alternative forms of energy.

I want to point out that if you go all throughout the world, you pick every alternative form of energy you can find, solar, wind, other types of renewable energy generation, take a look at that. If you took all of that renewable alternative energy in the world and you applied it all to the United States, in other words, only the United States got that alternative energy, that would only meet at the most 3 percent of our needs. That is not going to be an answer, but it is an important part of the answer. It is a critical piece of the puzzle when combined with conservation.

Then you have got to take a look at other renewables. What is a good renewable source out there that generates electricity and provides recreation and provides fisheries and prevents flooding and allows us any other number of benefits? Hydropower. Now, I speak of hydropower with great admiration because I come from the West. My family has had many generations on both sides out of the mountains in Colorado. The mountains in Colorado, believe it or not, it is an arid area. I think almost half the geographical area of the country only gets about 14 percent of the water. Out here in the East, in some areas you sue to get rid of the water. You try and shove the water over on your neighbor's property.

Out in the West we need storage. We have about 6 weeks every year out in the West, out in those Rocky Mountains, you have all been out there, you have skied in my district, Aspen, Vail, Telluride, Beaver Creek, Steamboat, Glenwood, Durango. You have skied out there. You think the snow never ends. You think there is lots of moisture out there. First of all, we do not need the moisture in the winter. We need the moisture primarily for agriculture, municipal use, et cetera. For about 6 weeks as that snow melts off those high mountain peaks, and my district happens to be the highest district in the Nation, as the snow melts into that cold water and comes rushing down, for about 6 weeks we have all the water we want. But we do not exactly, because we have not figured out that direct connection with the good Lord, we do not know how to time that. We cannot control the timing of that. Sometimes it comes early, sometimes it comes late. Mostly it comes early. So we have to have the capability to store it. So while we are storing that water, water which we have to have, remember that in the West we have got to store it, not only just for flood control but for our drinking water. So why not while we are storing the water use the renewable assets of the water and generate electricity.

I am going to show you exactly how hydropower works here in just a few minutes. It is probably the cleanest energy generator we have got out there. What we do is we take the water as it drops, we grab that energy from the water as it goes down, we spin a generator and we create electricity. Keep in mind one thing with hydropower, when we have a generator, a turbine, that is natural gas. We use a fuel. We have to use natural gas.

□ 1930

So we consume one part of our environment to create the electricity. Same thing with coal generation. On coal generation facilities, we burn coal to spin that turbine to create electricity, but hydropower is different. On hydropower, we do not use any fuel. We do not have to consume any natural gas. We do not have to consume any coal. It is in the water, and it is in the drop of the water. That is where we pull our energy from so it makes a lot of sense. You keep going on here, oil and gas.

I read a very interesting poll today, or saw a poll. I do not know whether it was taken today but I looked at it on the computer.

By the way, speaking of computer, if you want to help conserve just go on to search and hit "conservation ideas." I pulled up 19,000 hits. I did not look at each hit but up came 19,000 hits on conservation ideas. So your computer really at home can help you help us conserve energy in this country.

I took a look at the words that have negative thoughts to them in regard to energy-related. I can say that oil and gas has a pretty negative connotation to it. Same thing with coal, same thing with nuclear. There are some people out there, again using strict rhetoric, political rhetoric in a lot of occasions, will lead you to believe that, look, exploration for oil or natural gas or nuclear generation for electricity or hydropower, that that is bad; that we can get our power by simply conserving or simply using alternative or solar. Do not buy into this argument that solar is going to replace at least in the near term, and near term meaning the next 10 to 20 years, do not buy into that argument that solar alone is going to do it. The reason we all do not have solar generation in our homes today, although a few of them have it with those panels on the roof but it is not very efficient and it is not very effective. That is why most homes do not have it.

I can assure you that once somebody masters how to put that solar energy into a home to generate, for example, your electricity or to provide the energy needs that you have, we are going to go solar. That is where the market will take us. That is the beauty of the capitalistic market that we have. It will go for the best product but right now it is not the best product, and you are being led down a path without a good return at the end when people say that solar, or renewable energy, or other factors or even conservation will solve our problem.

The fact is, we have to have oil and gas until we are able to make some fairly significant technological advances in solar and other alternative fuels so that at some point in the future we can replace oil and gas, but today you need oil and gas. We have to face up to the fact that we have to have further exploration.

Here is a chart to give you an idea. This is energy production. It is a flat line at our growth rates last year, flat line energy production. This is energy consumption, the red line. Look at the angle of the red line compared to the flat green line. You say, all right, Scott, there is the energy consumption. There is the energy production. What fills in the gap? Well, what fills in the gap, of course, is foreign oil. We become more and more dependent on people like Saddam Hussein to provide for that gap.

Let us take a look. How do we close that gap? What do we do to minimize, to minimize this gap, to bring consumption in with production? That is, by the way, what brings your price down. Well, we can conserve and conservation will make a significant dent in that. Vice President Cheney has said that on a number of occasions. The President himself has talked about the importance of conservation, but it will not wipe out this gap.

Here is my angle with my pointer, conservation maybe brings it down maybe around like that. It will take care of a good chunk of that gray area but it will not take care of the biggest portion of it.

Then if we take a look at alternative energy like the solar and so on, maybe a little tiny fraction. Certainly, the technological advances we have today, for example, on solar or other alternative energy will not make at all the kind of dent that conservation will make but it will help a little. So after you take that into consideration you still have a significant gap here.

What does that significant gap represent? Well, it represents energy. It represents whether you have air conditioning for elderly people. It represents whether we have refrigeration for storage of food. It represents vehicles and I am not just talking about your car. I am talking about the ability for everything, to run ambulances, to drive semis, to move food from one point in the country to the other point in the country. I do not have to say what needs we have as far as oil and gas, but we cannot pretend to let it always happen in the other person's backyard. We cannot pretend that we do not really need to drill for oil and gas, that somehow oil and gas pipelines are going to fall out of the sky because we need it and we do not have to go through the pain of having to look for it.

The fact is, in this country, we have to continue to do that or we can make a conscious decision, as they did in California over the years, we can make a conscious decision not to explore for that and become dependent on other sources. In other words, in the United States we can make that decision not to continue to explore for more oil and gas and to continue to become more reliant. The trade-off is we then become more reliant on foreign oil.

Now there are all kinds of risks to that and we ought to be aware of that. What happened in the State of California is they adopted a policy for many, many years, in fact ironically today the governor or yesterday the governor of California, Mr. Davis, switched on a new power plant. First one I think they have had in 13 or 14 years. Well, it is about time, California. It is about time, Governor, because the policy that California adopted was, look, let us deregulate and we do not have to build any generation in our State. We do not have to have natural gas transmission lines in our State. We do not have to have it in our backyard. Let somebody else do it. We will become dependent on somebody else. So that is a conscious decision that the leadership in California, by the way on both sides of the aisle, but today it is headed by the Democrats, but that was a decision made many years ago and it has been continued through the years, hey, let us not drill in our State; let us not build electrical generation in our State; let us not put a gas transmission line in our State here in California; let us depend on somebody else. They did that and look what happened. It went along real well for awhile until the person they depended on decided they wanted a little more for their energy and then pretty soon they wanted a lot more for their energy, and pretty soon the market changed. The reason they wanted a lot more for their energy is if California did not want to buy it somebody else was willing to pay that price to take it. That is the risk of us in this Nation and for the future generations of becoming dependent on foreign oil. We can do it, but remember what happened in California could happen to all 50 of the States if in fact our dependency on foreign oil is some foreign dictator who overnight decides he is going to shut off the oil tab. That is why it is important within our boundaries to continue to explore our reserves.

Now does that mean explore our reserves at any cost? Of course it does not. You cannot go into Yellowstone or into a national park, into the Black Canyon National Park or up on the Colorado Canyons National Monument or the national conservation area. You cannot go up in there and explore. There is a lot of country, though, however, that we can drill in this country. I know it has a negative connotation to it. The easiest thing you can do on this House Floor is to stand up and say, we do not want to drill here; we do not want to drill there; we are against drilling; we are against any kind of exploration.

Leadership, however, requires that you stand up here and say, we need conservation; we need alternative fuel, but we do have to continue to explore for oil and gas. We need to do it in an environmentally sensitive method, a responsible method, which not only mitigates the impact to the environment.

The days of mitigation for the environment are pretty well gone, where you go in and you have a project and you are supposed to mitigate for the environment. Those days are pretty well gone. We have now accepted the responsibility for future generations that we have a higher standard, not just mitigation but enhancement, enhancement of the environment. We have done this with wetlands. We have done it with our endangered species, any number of different things. We have actually, because we are concerned about the environment for future generations, we have lifted it to a higher standard, a standard which we think will be of benefit to future generations while at the same time allowing utilization, say, of a resource.

Well, let me go on here. We have a very negative connotation based on coal. Coal generates a lot of power in this country and it generates a lot of jobs in this country and it can be done in a doggoned responsible way. Now you have to exercise oversight over it.

I am not too sold on taking off a mountaintop, for example. I am not too sold on burning coal without the most modern efforts we have, the smoke stack technological instruments that we have, technological instruments that we have to clean that coal, to make sure that the area that comes out has a minimum impact on our environment if we are going to burn coal.

What we can do today? We can do a lot of that. Now some of my colleagues, because coal has a negative connotation to it, say shut it down. My guess is they are not relying on coal. My guess is they do not have jobs dependent on coal. My guess is they have never been in a coal-powered generation facility. That is a responsibility that each and every one of us have. In fact, it is incumbent upon us to go out when we talk about these things, when we talk about hydropower or when we talk against hydropower we ought to go look at a dam. You ought to go out and see what kind of impact, both negative and positive, it might have. We have to weigh it out. That is exactly what the President and the vice president have said on their energy policy. Put it all on the table. Put it down on that table. Then let us debate it. If it does not work, take it off. But everybody has an obligation to put their idea on the table so that we can have this debate, so that we can develop some kind of energy policy for this country.

As I said earlier, I am concerned that because energy prices are dropping that us, Mr. Speaker, in leadership positions will begin to say well, that is not as important as it was three or four months ago. Prices are down. Our constituents are not concerned. The complaints are not out there. Let us move on to something else. We cannot do that. We just got a warning shot. Do not let that go unnoticed because of the fact that our energy prices have dropped.

Let me just reemphasize right here. I know I brought this chart up a couple of minutes ago but I just want to reemphasize one thing. That is our production. That is energy production today. That is demand. Now demand came down just a little but the fact is this is our projected shortfall, right there, projected shortfall. Every one of us can make that projected shortfall. We can drop that through conservation. We can drop it somewhat through alternative energy like solar, and we can also drop that shortfall by allowing continued exploration in this country under reasonable oversight, using common sense an enhancement to an environment. Now, it is very interesting to hear about people. I mentioned this the other day when I was making comments because I find it kind of ironic. I, of course, get out in the mountains. I love the mountains. Most of you who visit the mountains can understand that, but I have a lot of heritage and I feel a lot of deep bonding to my district, as do all of you with your districts. So I get out in the mountains all the time, and I was out talking with a mountain biker the other day. Now I mountain bike, too. I ride my bike and so I enjoy the sport a lot, but I was talking to a colleague of mine who was riding a mountain bike and they were complaining about the fact, boy, we cannot continue to drill, we cannot continue to use oil and gas, very negative about mining; you have got to get mining out of here; we cannot have mining. It is interesting comments from somebody on a mountain bike made of titanium.

I said to my friend, I said that bike you have got is one of the most technically advanced bikes in the world. That thing you can lift it, no matter how strong you are, even a child can lift that thing up it is so light. But you know why that is? Because we have mines, we have minerals. We are able to have oil and gas production. We are able to come up with things like this device which, by the way, utilizing your bicycle is a good way to conserve. In fact, by using that resource we in the long run can use less of it by developing something like a bicycle that is comfortable to ride and a bicycle of which people can recreate on without having to use a gasoline-powered engine, for example.

The fact here is, look at this, our demand for product, this is our demand for product right here. U.S. crude production, these bars right here of production, that is production, 1990, 1991. This right here is the petroleum demand. Take a look at what demand has done to production. When you have that kind of gap, your price skyrockets. That is the kind of gap that begins to lead to a crisis.

Now we did not have an energy crisis this last few months, with the exception maybe in California, blackouts in New York. New York City may face some. We do have a drought up in the northwest on the Columbia River.

□ 1945

Mr. Speaker, the fact is 49 out of the 50 States were in pretty good shape. We had an energy crunch, not an energy crisis. That energy crisis is just sitting out there waiting to fire right into the center of us, unless we do something to prepare for it.

I mentioned earlier if we make the conscience decision, which we are free to do, that is why we are on this floor, that is why we have this debate, if, in putting our energy policy together, as the President and Vice President have said we need to do, we need an energy policy, if my colleagues out here make a conscience decision not to have further exploration of our natural gas and our oil reserves in this country, only one thing can happen, you cannot fill the gap in with conservation. It helps, but it does not fill the gap.

You cannot fill the gap in with solar energy. The only way you can fill in the gap between supply and demand, when you decide not to drill or further explore in our country, is right here, foreign countries like Iraq.

Take a look at our dependence on Iraqi oil exports to the United States. Take a look at that line. The more you decide not to find alternative resources, the more you decide not to conserve in our country, so you have more consumption, the more you try and mess with the market, like price controls, and I am going to talk about that in a few moments, the more you become dependent on people like Saddam Hussein over here in Iraq.

That is not the answer. That is not the answer. That is what is going to lead us from an energy crunch to an energy crisis.

Mr. Speaker, let us talk for a moment about the State of California. I told you that I love the State of Colorado. I am very proud of the State of Colorado. I want you to know that I like the State of California.

California is a beautiful State and California has a lot of wonderful people in it. But, frankly, the California leadership has done a pretty poor job of planning for their energy needs. The governor of California and other elected officials, you are going to hear them blame everybody else for this. But the fact is, there are 49 States in this country that are not in the predicament that California is in.

Lightning did not just strike California and they got picked out of the bunch for this to occur. California brought it on themselves. We have several things we ought to discuss since California brought it on themselves.

Number one, a fair question for us to ask to California, to ask the governor of the State of California, "what are you doing to pull yourself up by your bootstraps?" In other words, that word called self help, what are you doing, California leadership, to pull your people in that State out of the energy crisis that you have?

We have to be careful. I am critical of the governor of California, whom, by the way, has blamed everybody else but himself. I never heard him once say that he accepts at least a part of the blame for their shortage out there. That is why I am so critical of the leadership of the State of California.

I want to tell all of my colleagues that we are very dependent on that State. It is not a foreign country. We should not walk away from California. It is a State. We have an inherent obligation to help California. That help should not come without some kind of matching grant, so to speak, matching effort.

They have to make their own effort, but when you look at it from an economic point of view, California is the sixth most powerful economy in the world, we better not walk away from them; not only do we have what I think is an obligation to help California because they are a State. They are our brothers. They are our sisters. They are our neighbors. They are a State of the United States.

We do not walk away when another State is in trouble, so we also cannot walk away from California, because California is the sixth most powerful economic unit in the world.

What does California have to do to get help from the rest of us? First of all, California, and I hope the governor of California has an opportunity to visit with me at some point, you have a lot of power generation facilities to be built in your State. You cannot continue to demand energy and have energy demand continue to grow while at the same time say "not in my backyard."

You cannot continue to depend on people outside your State lines to supply your generation inside your State, unless you want to subject yourself to the ups and downs of price fluctuations. That is exactly what happened.

California deregulated, well, not really deregulated. They called it deregulation. They sold their generation outside. Outside owners run it, because they thought they could save money by buying the spot market, which means the prices go up and down by the hour in power, by the hour in electrical power.

They thought they could outsmart the market. What did they do? They bought spot power. The people now control the power, the price goes up. You have to be able to build your own resources within the State of California.

I know that California is now looking at that. They opened their first power plant in 13 years, as I understand it, as I mentioned earlier in my comments, yesterday or today. That is good; not enough, but it is good. You are headed in the right direction.

Mr. Speaker, I want my colleagues from California to know that the rest of us feel an obligation to help your State. But, by gosh, California, you have to help yourself. You have to allow some natural gas lines. You have not allowed a transmission line, not natural gas to your house, but a transmission line to move large volumes of natural gas in 8 years.

You have put price caps. That is one of the problems I am going to go through in a little more detail. Let us just real quickly go to that while we are on the subject.

Let us talk about price caps. I can tell you in fairness of disclosure, I am a student of Adam Smith, the Wealth of Nations. That is the capitalistic system where you have supply and demand. You have to have some oversight so you do not have monopolies, but you have to be careful of abuses, and I understand that. You have to understand, especially in the government, we are not business experts in the government.

None of us are business experts. In fact, a lot of us in these chambers, I happen to have been, but a lot of the people in these chambers have never operated a business.

Where do you think we develop the expertise to go into the marketplace which has been tested in this country for hundreds of years? Where do you think we can go into it and decide that government manipulation of the market is for the benefit of the consumer, then, in the end, how to beat the market?

The government never beats the market. Let us take a look at how they think they can. Price caps. You know what makes me upset about price caps right off the bat? I am a big proponent of conservation. Price caps encourage waste. Price caps do not encourage conservation.

It is like leasing. I will give you an analogy here. It is like you own a house and you rent the house to a tenant. You rent it to somebody and you say to the person you are renting to, look, you pay me $500 a month rent for the house, and, by the way, I will pay all the utilities.

Do you know what is going to happen with the person that is renting your house since you are paying their utilities? The air conditioning will be set at 50 in the summer, and the heat will be set so high in the winter you will look over at your house and you will see the windows open so they can get rid of the heat.

Price caps encourage waste of energy. Take a look. Price caps are bad for consumers, the economy and the environment.

The polling in California, and maybe throughout the country, but 70 percent of the American people say they like the idea of price caps. That is where leadership comes in. That is where we as leaders have to say, look, on the short-term basis, you are asking for a short-term return and a long-term risk.

The risk is substantial. The risk is substantial that more waste will occur. Mr. Speaker, the risk is substantial that you cannot artificially hide prices. I know it is painful.

Let me say we do not have price caps in Colorado. Do you know what has happened to my wife and my family here in the last 6 months? We have conserved energy. Why have we conserved energy? Because we did not have price caps.

Do you know that not having price caps what happened to our bill? Our bill went through the ceiling with our natural gas bill. We were stunned. We got a $500 natural gas bill one month and you want to bet that we did not start conserving immediately. Of course, we did.

If we would have had a price cap where it said, look, no matter how much you use, we are only going to have to pay a cap of this amount, it defeats the purpose.

It is a manipulation of the market. That never has happened in the history of this country. I know it is popular. I know it is popular. Seventy-five percent of the people support it.

I am telling you, take a look at the history. Seventy-five percent of you supported it, but there has never been successful price caps in the history of this Nation ever.

It is always popular when it is suggested, because, of course, it is only suggested when prices go up. But it has never, ever worked. That is where we have a leadership obligation to at least stand up to the popular opinion and say, I know we want to jump on board, but before we do jump on board, take a look at what the long-term risk of putting price caps on it does.

Price caps impede energy conservation and drive away new energy supplies. Some have called for regionwide price caps, including costs-of-service ratemaking. That is part of California's effort. Simply put, wholesale and retail price caps prevent markets from working properly.

It is a manipulation of the market and is a politically expedient solution that has exaggerated problems that they are supposed to fix. Price caps create an imbalance between supply and demand by preventing utilities from passing along market prices.

Retail price caps disrupt the natural relationship between supply and demand and prevent markets from operating efficiently. It eliminates incentives for conservation and harms the environment.

Retail price caps eliminate consumers' incentives to conserve in times of tight supply, because consumers are not paying the true cost of the electricity, for example. Without incentives to reduce consumption, older, dirtier plants are kept running longer.

Let me say that price caps sound good, but think about it. If you artificially keep the price low, you are not putting the investment out there that you need for further supply and reserves for further supply exploration.

If you keep price caps, you have no encouragement at all for people to conserve because they are not feeling the pain in the price. As I mentioned earlier, the primary reason I would like to say is because we wanted to do the right thing and so on.

In fact, I think all of us would admit that the primary drive outside of the State of California, where you do not have price caps, the primary drive for conservation was the fact that because we did not have price caps, our bills went through the roof. You can bet that the energy conservation immediately went into place.

Mr. Speaker, I hope that as prices begin to drop that all of us continue our responsibility for energy conservation.

Let me just summarize my position on California. California is a very important State. We cannot walk away from them. They are a State after all.

They are the sixth most powerful economic power in the world, but California has to deploy or employ their own self help. They should not look at the other 49 States, which, by the way, are not in the situation California is, because they did not say "not in my backyard," because they did not refuse to allow generation plants in their State, because they did not refuse to allow gas transmission lines in their State, but California cannot expect the other 49 States to bail them out.

We ought to help, but California has to pull itself up by its own bootstraps. California, from an agricultural point of view, from any number of different point of views, is critical for the economy of this country, but, by gosh, the leadership out there in California has to quit shifting the blame to everybody else and accept the fact that this is going to be a painful process, that you are going to have some trade-offs.

You are not going to get electricity without electrical generation plants. You are not going to have natural gas without natural gas transmission. That is the point I am making about California.

Let me talk for just a moment here about another common sense approach, and that is hydroelectric, hydropower electricity conservation combined with common sense. Worldwide, 20 percent of all electricity is generated by hydropower.

We are the 2nd largest producer of hydropower in the world. Canada is first. Hydropower makes a lot of sense. Let us take a look at how hydropower works. It is really pretty simple.

□ 2000

Here is a dam. You have to have a dam. As I mentioned earlier in my remarks, out in the west, for example, we have got to have the capability to store the water. Here in the east, you need dams to control flooding. You also need storage water.

But in this country, our dams provide us a lot of generation of electricity. Remember, with hydropower, we do not have to have a coal burning facility. We are not using natural gas. In fact, we are not using any fuel at all to generate electricity. This is a renewable resource.

What we are grasping, what we are grabbing is the energy that is created as a result of the fall of the water. You put the water here, it end up here, and the energy that is created between the two points is what we grab to spin a turbine to create electricity. That is exactly what hydropower is about. That is the beauty of the nature of this thing. It is a renewable resource.

The storage of the water that is necessary provides for recreation. In fact, our largest recreational water body in the West is Lake Powell. That provides for a tremendous amount of family recreation. It provides for fisheries. It helps us control floods, et cetera, et cetera.

So the water comes in, the water drops through, turns the turbine here, and the turbine generates the electricity, and out it goes on these power lines. But do you know what? You have got to be able to let these power towers come. You have got to be able to allow transmission lines come into your area. You cannot always think that the burden is going to be on your neighbor's property. You cannot always think that the burden is going to be on every other State of the union, which is exactly the policy that the leadership in California adopted. That is why one out of 50 States has got a real serious problem.

Now, up in the northwest, of course, the Columbia River is way down because of the drought. I think, frankly, going back to California, you have got to commend the people in California. In the last month, we have seen a tremendous amount of conservation in California.

I think because they have some of these price caps and they are also selling bonds, they are indebting future generations to pay for this generation's use of power. Talk about unfairness. For years here, when I was in the Congress, we talked about how future generations do not deserve the debt that we are putting on them, that we should balance the budget.

In the State of California, they are using the power today, and they are selling bonds, they are indebting their State and letting future generations pay for the power. That is not right. We ought to absorb the pain as we go.

It is the same thing with hydropower. You have to have transmission towers. There is a lot of common sense that can be deployed here that will give us results where one State does not suffer at the expense of other States, where some people do not suffer at the expense or benefit at the expense of other people. There is a lot we can do.

Let us take a look at, real quickly, hydropower. This is a very important statement that I wanted to cover. Take a look at what utilizing hydropower does, this first statement. Hydropower is clean. It is clean. It prevents the burning of 22 billion gallons of oil or 120 million tons of coal each year.

The hydropower that we have in place in this Nation, we are the second largest user in the world, Canada is the first, our utilization of hydropower saves us and prevents the burning of 22 billion, 22 billion gallons of oil, and 120 million tons of coal. That is a lot of coal that we do not have to burn because we have used a common sense approach and we have built hydropower.

Now, as with exploration of coal, as with conservation, you need to use a reasonable approach and you need to use an approach that is sensitive to the environment. I do not propose for a moment that we go out and build a dam anywhere we want to build a dam, but I do propose that we do not reject it on its face.

I do propose that hydropower be something that we consider, that it go on the table for this energy policy that we have all determined is absolutely necessary for future generations of this country. Our leadership obligations require us to begin and complete the process of an energy policy.

Take a look at what it does. Hydropower does not produce greenhouse gases or other air pollution. We have heard a lot about air pollution. We have heard a lot about greenhouse gases. Hydropower does not produce that. Hydropower leaves behind no waste. Think about it. When you burn gas or oil or any other resource, you leave some waste. Hydropower, you do not leave any waste. The water goes through, turns the turbine, generates the electricity.

Reservoirs formed by hydropower projects in Wisconsin, for example, have expanded water-based recreation resources. It is renewable, and it is common sense. That is the kind of policy that we have to put in place for energy in this country.

Let me just kind of summarize my comments this evening and what I think is essential. First of all, I pointed out at the beginning in my remarks energy prices are beginning to drop. In fact, it is my prediction that we will actually have an electricity glut, an electrical glut here in the next year or so.

Believe it or not, last year we had 158, now this is not in California, but throughout the rest of the Nation, we had 158 new generation plants come online last year, 158. What you have been reading in the media or hearing from some of the political rhetoric is that there had not been any electrical generation facilities. We had 158.

In fact, if we build out everything that is planned for the next 5 years, if you take weekends out, we will have a new generation facility open every day for the next 5 years if you do not count weekends and if all of those projects that are planned are built out. We are going to have an excess of electric generation, but that is part of the market. It will work itself out.

But the key is this, you cannot have good energy policy by having artificial price on the product. You cannot have price caps. I know it is popular. I know it is the politically correct thing to be talking about.

I know I am going against the wave of popular thought, but the reality is, by going out and selling bonds or by putting an artificial cap or a price, one, you do not help at all in conservation, you encourage waste; and, two, somebody has to pay for it.

Remember basic accounting. Every time you have a debt, you have a credit. Every time you have a credit, it has got to balance out. Every time you sell something at an artificially low price, you have to subsidize it. Somebody is paying for it. In California, they are selling bonds to raise the cash to buy the electricity that is being used today. Those bonds are going to be paid by the working people of tomorrow. A little unfair, a little inequitable in my opinion.

But to come back to my main point, we have an obligation to help California. California has an obligation to help itself. We have an obligation in this country to conserve. That is part of it.

Probably the most important poster is this poster right here because I think this diagram illustrates our energy production if it is going to remain flat, I think it will go up a little, but if it is going to remain flat, and our energy consumption is going to continue to climb at that angle, we are going to have this projected shortfall. Common sense will allow us to fill in that shortfall. Remember, we have got to fill in all the blue on this chart. Common sense allows us to do it.

How do we do it? Conservation will fill in a part of that chart. Alternative fuel like solar generation or alternative generation will fill in a little gap of it. But the rest of it, it is going to have to be filled in by further exploration of natural gas resources or nuclear resources or coal resources.

We can combine. Our answer is not any one of those things I mentioned, not coal, not nuclear, not conservation, not solar. None of those standing alone can solve the energy crisis that we could have in the future. Certainly it is not solving the energy crunch that we have today.

But combined, when you combine conservation with alternative fuels, with renewable energy like hydropower, with further oil and natural gas exploration, when you put that combination, you can construct a model. You can construct a model that can deliver the energy needs to this Nation without requiring undue sacrifice on the lifestyles of the people of this Nation. You can create a model that will provide energy for future generations.

After all, our discussions on this floor, our discussions are not just focused on this generation. This generation has an obligation to think about future generations. We have an obligation to provide energy just as much as we have an obligation to provide a strong defense, just as much as we have an obligation to provide a strong educational system.

It is no less of a responsibility to take a look at our future energy picture than it is to take a look at education or health care or any other issue you want to talk about for future generations. We have that opportunity today.

So I would urge my colleagues that, even while the price of energy is dropping, we have an obligation to continue to urge people to conserve. We have an obligation to continue to try and assist our colleagues in California and every other State in this country, to say just because energy has become more affordable does not mean that our energy crunch does not still exist.

We have got to plan for the future. We had that opportunity today in our hands. Now it is going to require leadership. It is going to require an energy policy which we have not seen for 8 years.

We have got a President. We have got an administrative team and many of my colleagues on both sides of the aisle that are prepared to put together an energy policy. That debate has already begun. Now we need to take it to its logical conclusion, and that is to come up with a policy for this generation and future generations of this country in regards to energy.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 933

Mr. JEFFERSON. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from H.R. 933.

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DIGITAL DIVIDE ELIMINATION ACT OF 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. JEFFERSON) is recognized for 5 minutes.

Mr. JEFFERSON. Mr. Speaker, I am here today to discuss the digital divide that is plaguing our country and to garner support for legislation my colleagues and I have introduced to help alleviate this crisis, H.R. 2281, The Digital Divide Elimination Act of 2001.

Computers are becoming the crucial link to education, information, and to commerce. For all Americans, personal and economic success will depend on having the ability to understand and use these powerful information tools. However, according to the Department of Commerce, less than 10 percent of households with income below $20,000 own computers or have used the Internet, an absolutely alarming statistic. Unless this changes, these poor families in both urban and rural areas will be left behind.

Educators and industry leaders alike realize a serious problem associated with the digital divide and are taking steps to bring computer technology to schools and libraries across America. We, as public officials, applaud these efforts. However, these efforts are not enough.

If we are going to truly give every American access to technology and improve the way our children learn, the Federal Government must join in to bolster these efforts and, more importantly, to help extend technology and technology access to every home in America. Only then will these children and their families gain an appreciation for technology and the Internet in the home, unfettered by the constraints of an institutional setting.

The legislation my colleagues and I have reintroduced this year provides additional tax incentives to induce private companies to donate computer technology and to induce poor families to purchase computers.

First, the legislation increases the special deduction for computer donations from three-fourths of the computer's sales price to the higher of the full sales price or its manufacturing cost. For example, if the manufacturing cost of a computer is $500 and the sales price is $1,000, the charitable deduction is increased from $750 to $1,000.

The special deductions for computers has already induced computer manufacturers to donate thousands of computers to schools across America. Now, as a result of this provision, computer manufacturers will have an even greater incentive to donate unsold computers because they can deduct the full value of the computer.

In addition, non-manufacturers will also have a greater incentive to donate computer equipment even where the depreciated cost of the computer exceeds its market price. Under current law, it is more economical for many non-manufacturers to throw away used computers than to donate them to charity because they can take a higher tax deduction for disposing of the computer than for donating it. That is clearly bad tax policy. Thankfully, this provision will change that result.

Second, the legislation will extend the special computer deduction through 2004 and expand it to include donations, not only to libraries and training centers, but also to nonprofits that provide computer technology to poor families. Nonprofits such as Computers for Youth in New York City have placed computers into the homes of hundreds of low-income families. We need to encourage similar efforts by nonprofits across the country. Only then can we make our mutual goal of bringing technology into every home in America a reality.

Finally, the legislation will provide a refundable credit equal to 50 percent of the cost for computer purchases by families receiving the earned income tax credit up to $500. While the cost of computers and Internet access are dropping, the cost of computers still remains a barrier for many low-income working families. Returning half of the cost of the computers to these families will go a long way towards helping working families help themselves and provide a brighter future for their children.

□ 2015

In fact, the $500 refundable tax credit makes computers more affordable than ever for the working poor. Here is an example. In the June 17 edition of The Washington Post, which I have an example of here, Circuit City advertized a Pentium II computer for $1,099. The price is slashed by the manufacturer and retail rebates to $499. With this $500 tax credit, the actual cost of that computer would be reduced to nothing, a free computer to a poor family. Computer companies and retailers will get business from a segment of the population that did not have affordable access before, and the working poor will receive affordable access. It is a win-win situation.

Mr. Speaker, bringing technology to all our children is key to our Nation's future and prosperity. I implore my colleagues to recognize the long-term negative impact that could result from not eliminating the digital divide and urge their support of this legislation. Together, we can ensure a much brighter tomorrow for our children and give them the tools necessary to compete and lead the next generation to an even brighter future.

HMO REFORM

The SPEAKER pro tempore (Mr. McInnis). Under the Speaker's announced policy of January 3, 2001, the gentlewoman from California (Mrs. Capps) is recognized for 60 minutes as the designee of the minority leader.

Mrs. CAPPS. Mr. Speaker, I rise this evening to speak about the need for a strong and enforceable patient's bill of rights for the American people.

I am one of three nurses currently serving in the House of Representatives, and there are other health professionals of all stripes among my colleagues, from doctors to public health specialists and microbiologist, from psychologists and social workers to psychiatrists. Together, in all of our experience and training, we know that we need to pass a real patient's bill of rights, a bill of rights that offers the American people real protection from the hard edges of managed care organizations or HMOs.

Tonight we are going to share with our colleagues our firsthand experiences and make the case for the Ganske-Dingell bill. We have seen firsthand the damage caused by the excesses of the bean counters and the men in green eyeshades when they are too aggressive in containing costs. These bureaucrats have often done real harm to real people when they have taken on the role of medical professionals. Those of us here in Congress with medical backgrounds want to give our constituents the ability to fight back, and we think that the Ganske-Dingell bill is the best way to do this.

This legislation guarantees access to high quality health care, including access to emergency or specialty care, to clinical trials, and direct access to pediatricians and OB-GYNs. It also holds health plans accountable when they interfere in the medical decisions of a trained medical professional. It provides for a strong external review process by medical professionals; and then, after that process, and if that process is exhausted, patients will have access to State courts.

The HMOs have bitterly criticized this proposal on the grounds it will lead to frivolous lawsuits. The Ganske-Dingell bill is based on one now in practice in the State of Texas which has allowed patients to sue their HMOs and there have been only a handful of lawsuits of any kind. There is no evidence that this bill will lead to frivolous lawsuits, but it is an essential protection that our patients need because of the deterrent factor that it provides.

Managed care organizations are operating in an environment designed to keep costs low, and we do need to control costs to keep health care affordable, but HMO administrators are under an incredible amount of pressure to cut corners. Often this pressure is excessive and leads to bad decisions and insensitive, inappropriate, and sometimes very damaging actions. Abuses of patients' rights to quality health care are very common, too common. There needs to be a counter force on the side of quality care, on the side of the patients, and that counter force has, at the bottom line, the threat of going to the courts.

Access to the courts will help to restore the balance to the scales and will prevent the need for efficiency outweighing the need for quality care. It is what gives the patient's bill of rights its teeth. Without it, HMOs are free to continue their current practices without fear of the consequences. My constituents do not want to go to court to get the health care that they need, but HMOs do not always want to provide that care. And HMOs do not want to go to court either. The threat of appropriate litigation is how average Americans will keep the HMOs honest. We need to give patients that tool.

Mr. Speaker, if the ceiling in this room were to collapse today because of a contractor doing shoddy work to save money, those of us who were injured would be able to sue that contractor in State court. This provides an important incentive for contractors to do their work well. The same should apply to managed care.

And so I support this legislation, as do many of my colleagues with medical backgrounds. We know our patients. We know the HMOs. We know this issue and its importance. We know the challenges we face and we know how to overcome them. We know this bill is the right thing to do. So we are here this evening, Mr. Speaker, to help our colleagues see this example as well. We have an obligation to our constituents to do our duty and to pass this legislation.

I want to now introduce and invite to the podium a colleague of mine, the gentlewoman from New York (Ms. Slaughter). She is going to present her viewpoint as a microbiologist with a master's degree in public health. She is particularly respected for her efforts on genetic nondiscrimination and women's health.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from California for taking time this evening and for yielding to me.

In my judgment, one of the most important aspects of the patient's bill of rights gets the least attention, and it is the potential impact on public health. Now, although most people think of this initiative as one involving individual patients and their access to care, there are major public health implications as well.

In our Nation, public health has become something of a forgotten stepchild of the health care system. In other industrialized nations, public health goes hand-in-hand with individual health care: Communicable diseases are reported in a standardized fashion, all children receive vaccinations during their regular checkups, and public health professionals can track the incidence of disorders like cancer based on geography.

None of that is true in the United States. In this country, we have created an artificial division between individual health care and public health. Children are supposed to receive immunizations on a certain schedule, but many fail to receive some or all of their shots because they move, switch insurance plans, or lose coverage. Different States track and report different disorders in different ways, and the health of the individual is examined in total isolation from the health of the community.

The patient's bill of rights has the potential to address some of these problems. For example, the Ganske-Dingell bill contains a solid proposal giving women direct access to an OB-GYN. This provision can help us attack rates of sexually transmitted diseases by allowing women to go directly to the right doctor without having to waste the time, the effort, and the money of passing through a gatekeeper physician. If we can help women get treatment for sexually transmitted diseases quickly and effectively, we can reduce the rates of transmission.

Similarly, the Ganske-Dingell bill has provisions regarding direct access to pediatricians for children. Parents need to be able to get their children to the right doctors as quickly as possible, especially in the cases of communicable diseases, which often can be mistaken for other sicknesses in their early stages and spread like wildfire in settings like day care and schools. If we can prevent the transmission of diseases like these and many others when the patients can get timely care under their insurance plan, we benefit the whole community. Sick people create sick communities. When we delay care, we place numerous other individuals at the risk of illness. A patient's bill of rights would help patients directly to get the care they need.

I would like to note that State, local, and Federal governments have a major financial stake in the patient's bill of rights as well. When patients cannot receive timely care under their insurance plan, they often seek care in other places, such as clinics and emergency rooms. And in many cases the cost of their care must be absorbed by the facility, the State assistance plans, and Medicaid. The Federal Government spends tens of millions of dollars each year to fund the so-called disproportionate share hospitals, which treat high numbers of patients lacking coverage. If we could reduce the amount of unreimbursed care in this Nation by even a small fraction, it would make a tremendous difference to many struggling hospitals and facilities, and that in turn would allow those facilities to dedicate more resources to public health goals, like indigent care and outreach.

Finally, as a public health professional, I find it deeply troubling that Congress would consider allowing insurance companies to continue practicing medicine without a license. Insurance company bureaucrats have no business inserting themselves into the doctor-patient relationship. Middle managers should not second-guess M.D.'s. If insurers want to practice medicine, then they must be responsible for the consequences when things go wrong, and that means being held liable for medical decisions.

I am pleased that our colleagues in the other body are debating a strong, responsible patient's bill of rights. The House majority leadership bill, H.R. 2315, does not pass muster, and I hope that all of my colleagues will pass up this anemic version in favor of a real patient's bill of rights, H.R. 522, the Ganske-Dingell Patients' Bill of Rights.

Mrs. CAPPS. Mr. Speaker, I want to thank my colleague, the gentlewoman from New York (Ms. SLAUGHTER), and particularly for her perspective from a public health point of view.

I know many of us, when we saw the managed care plans coming on the horizon as a cost containment method applauded the program for its preventive care aspects, and some HMOs still do offer these, and they are to be commended. But many, in their cost cutting methods, have curtailed the prevention aspect and the guidance and some of the extra programs that are offered through counseling and health education, advice for families, and the periodic checkups that are part of a good developmental program for children in favor of cost containment. So I think we should go back and accentuate.

We need to point out that this patient's bill of rights is not an attempt to do away with managed care, but to reform it and to bring it back into the arena of the responsibility of health professionals for the care of their patients and the ability of patients to get the kind of care that will be in their best interest in health care.

I wish now to give time to my colleague, the gentleman from Ohio (Mr. STRICKLAND). He is a psychologist and now is my colleague on the Subcommittee on Health of the Committee on Commerce. He has been a leader for a long time on the patient's bill of rights and comes to Congress with his perspective, coming right out of his work in psychology in his Congressional District. I am happy to yield to him.

Mr. STRICKLAND. I thank the gentlewoman for yielding to me.

Before coming to this House, I practiced psychology in a maximum security prison, working with mentally ill inmates; I worked in a community mental health center; I worked in a large psychiatric hospital; and I have worked with emotionally disturbed children. The fact is that we do need a strong patient's bill of rights. And it is puzzling to me, it is truly puzzling to me that today in America patients can be abused by managed care organizations and have no legal recourse.

I would like to share with my colleagues tonight a story of one of my constituents. Every one of us here in the Congress, whether we are Democrats or Republicans, regardless of what part of the country we are from, have constituents who come to us with their problems, and I would like to talk this evening about a young woman who is 31 years of age. She lives in a small town in Highland County, Ohio. Her name is Patsy Haines.

Patsy's husband called my office several weeks ago and he asked if we could be helpful. He told us that his wife suffered from chronic leukemia and that she had worked for 5 years at this company until she became too ill to work. She was diagnosed with this life-threatening illness. Her doctor told her that she needed a bone marrow transplant. Patsy has a brother who is willing to participate, who is willing to help her, and he is a perfect match for such a transplant surgery.

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The problem is that Patsy cannot get her insurance company to agree to pay for this surgery.

I went to the James Cancer Hospital in Columbus, Ohio, possibly one of the premier cancer facilities in this Nation. I spent half a day there, and I talked with the doctor who is over the entire transplant program at the center, and I spent a couple of hours with a young doctor, a very inspiring doctor, who is a specialist when it comes to bone marrow transplant surgery. This young doctor was incredibly sympathetic to Patsy Haines' condition, and agreed to talk with her and her physician.

After his consultation, he agreed that this young woman needs this surgery. He told me that if she receives this surgery, she has a very good possibility of recovery, of living a long life, of being a mother to her child, a wife to her husband. But the sad fact is if Patsy Haines does not receive this surgery, she very likely will lose her life.

This past Saturday I went to a high school in Hillsboro, Ohio. Community members had brought together items to auction off for Patsy. Patsy was there in a wheelchair because her illness has progressed to the point where her legs are badly swollen and she needs a wheelchair in order to get around. People sat on those high school bleachers, and they bought items which had been offered for auction. Patsy Haines is an incredibly inspiring young woman.

I do not know if she is watching tonight or if her family or community members are watching tonight, but she inspires me. I said something at that auction that I truly believe, that none of us are islands. None of us in this world stand alone. As Members of Congress, we should have the attitude that each constituent's joy is joy to us, and each constituent's grief is our own.

I feel grief for Patsy Haines tonight. It is shameful in the United States of America in the year 2001 that we have car washes and sell cupcakes and auction off small household items to get the resources necessary to help a young woman get the medical attention that she so desperately needs. The American people do not want us to be in this set of circumstances. The American people are with us on this issue. Poll after poll shows that the American people believe if an HMO or an insurance company makes a medical decision and deprives a person of necessary and needed medical treatment, that they ought to be held responsible in a court of law.

As the gentlewoman said, the State of Texas has such a law, the State from whence our President came and where he was governor. During the last Presidential campaign I remember the President talking about the Texas Patients' Bill of Rights, and he displayed some pride in the fact that Texas had done this.

What we are trying to do in this Congress with the Ganske-Dingell bill and on the Senate side with the McCain-Kennedy-Edwards bill is to do basically what they have done in Texas. The gentlewoman is right, in Texas this law has been in effect for 2 years, and there have been literally half a dozen lawsuits. The reason for that is, I believe, once this law is in place and the insurance companies know they are subject to going to court and having to face the consequences of that, it makes them much less likely that they will deny necessary treatment.

So tonight we are talking about something really important. I hope the American people are watching. I believe the American people of every persuasion, conservative to liberal, Republican, Democrat, Independent, strongly believe that citizens of this country should be protected from this kind of awful, terrible, treatment.

I hope as a result of what we are trying to do here Patsy Haines and her family, and Americans like her, will no longer be subject to this kind of mistreatment. What we are doing in the next 2 or 3 weeks here in Washington is as important as anything that this Congress has done in perhaps decades because we are taking the necessary step to see that American citizens, regular moms and dads and kids, get the kind of care they need.

I will close by saying this. A couple of days ago a colleague of mine held a press conference in Columbus, Ohio, and came out in opposition to the Patients' Bill of Rights because of the ability to bring suit that is given to the patient in this legislation.

There was a business executive there that had suffered a serious illness and was there to talk about the fact that he had been taken care of by his company. But not all of us are business executives. Some of us are just ordinary citizens like Patsy Haines. Our responsibility here in this Congress is to make sure that ordinary citizens are protected.

I thank the gentlewoman for this special order and giving me the chance to talk about my constituent. I believe that the American people are watching, and as a result of the fact that they are watching us, I believe we have a very, very good chance of actually getting this legislation passed and signed into law.

Mrs. CAPPS. Mr. Speaker, I thank my colleague from Ohio for sharing such a moving story. It is remarkable in this land of ours we have some of the best possibilities for health care in the world, and some of that is due to funding for research which has been promoted and supported from this House, this very body. We stand behind the great advances in our medical technology and our skills and opportunity. Yet at the same time we have such a gap between our ability to give health care and those who are actually able to get it.

Mr. Speaker, one of the barriers are those without access to any health insurance. That is the subject for another conversation here on the floor, but there are barriers even to those who have health insurance and how tragic it is to have an employer-sponsored plan and go to one's doctor, and sometimes it is a matter, as with the gentleman's young friend Patsy, of a life-and-death matter. To have that doctor's recommended plan denied by an HMO, to me that is practicing medicine; and particularly now with the legislation like we are supporting and proposing which would involve strong external review so it would not just be the view of one doctor, actually we need to protect against frivolous medical decisions, but a panel of one's peers, and to have that still set aside by an HMO, that to me calls for some kind of last resort that can only be handled in a court of law. We do not want any more stories like the one that the gentleman from Ohio (Mr. STRICKLAND) shared with us about his friend, Patsy Haines.

Mr. Speaker, I yield to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN). She is the first woman physician ever elected to Congress. She is the Chair of the Congressional Black Caucus Brain Trust, and is always willing to speak and share her information in our efforts to pass this national Patients' Bill of Rights.

Mrs. CHRISTENSEN. Mr. Speaker, it is a pleasure and honor to join the gentlewoman from California, and I thank her for yielding to me to speak on this issue.

I am a family physician. I have almost 25 years of experience providing health care, mostly in the United States Virgin Islands, and knowing the importance of early access to quality health care to the overall health of this Nation, I never thought that 4 years after we began efforts to pass a strong Patients' Bill of Rights we would still have to take to the floor to plead for its passage.

This is another instance, as the gentleman from Ohio said, the people of this country know best. Americans have lost confidence in the current managed care system. They are calling upon us to fix it and to place the medical decisionmaking back in the hands of those trained to make those decisions, the physicians, and the hands who have most at stake, the patients. As late as today patients traveled from New Jersey to meet with Members of Congress, to meet with the Health Care Task Force to once again make the case for the need for the full provisions of the Dingell-Norwood-Ganske bill.

They talk about health care delayed and denied and lives lost or destroyed. Two of them told us of having to fight for needed health care while also having to fight at the same time the physically and emotionally devastating disease of cancer. All of their energy and attention was needed at that time and should have been directed to fight the illness and not an insensitive health care system.

We also talk about the plight of those who accepted their denials because they felt powerless to fight the large systems. I would say as a physician who has been involved in public health, I know that prevention is worth a pound of cure, but it does not take an M.D. degree to know that. Our grandparents told us that over and over again.

If we are ever to rein in the high cost of medicine, we can only do it by ensuring that everyone in this country, regardless of income level or ethnicity, has access to good primary care, secondary care and tertiary care when they need it. To do this the bipartisan Patient Protection Action of 2001, the Patients' Bill of Rights that we are discussing this evening sponsored by the gentleman from Iowa (Mr. GANSKE), the gentleman from Michigan (Mr. DINGELL) and the gentleman from Georgia (Mr. NORWOOD) and Senators MCCAIN, KENNEDY and EDWARDS is an important step, long overdue, but better late than never, and a step that we must take now.

Even after the Patients' Bill of Rights becomes law, we will still have to provide health care coverage to the 43 to 45 million Americans who do not have health care coverage. We have to close the gap of color and those who live in rural areas. We have to make sure that our young people of color have access to health care careers, and can go back and serve their underserved communities.

A lot of debate is being focused on the liability causes that my colleagues referred to, and I think it is important to make it clear that this is not about lawsuits and large awards, it is about putting the necessary teeth in the legislation to make sure that the HMOs and insurance plans put the patient and his or her medical needs in front of their profits. Money cannot buy back the ability to walk to the paraplegic who lost mobility because of delayed health care, or bring back a loved one because they did not receive the diagnostic treatment that they needed.

The bill that we support does not, nor has it ever held employers who do not participate in making medical decisions to be liable. Employers if they do not intervene in making those decisions have never been held liable by the Patients' Bill of Rights that was introduced even in the last Congress by the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL).

On the other hand if a managed care organization makes a decision about health care, they should be held liable. Providers have been liable for years, and managed care organizations or insurance plans who make decisions about medical care should be liable as well.

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There is so much wrong with the managed care system that needs to be corrected, I know we could probably go on for longer than an hour. But we in this body do have the opportunity to put it back on the right track by passing H.R. 526, the Ganske-Dingell-Norwood bill which is also called the Bipartisan Patient Protection Act of 2001. We are here this evening to join you to say, let's do it.

Mrs. CAPPS. I thank the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for sharing her story. She brought up something that I want to accent, because I think it is such a sadness to see what I call revictimization that so often occurs with people and their bureaucratic paperwork that they need to do. Often facing terrible diagnoses with sometimes horrendous outcomes and strenuous treatment regimes that they must go through and then on top of that, to need to struggle with the insurance company to provide the coverage. It is like doing battle on every front. It must feel to the patient and also to their family like being kicked when you are down, when you have such a battle and such a struggle with your health care itself, and trying to save your life or trying to get back on track again with your health and then to be constantly nit-picked or told no, not this, and so many hoops to go through, I really feel like we need to get it back into the priority and to streamline many of the approval processes and to make it so that we are treating people with the dignity really that all of us know as American citizens that we want to have. For this to be so completely, not always, but so frequently gone down a different path, that is a most humiliating experience for someone who has to go through it. That is certainly part of what we want to correct in this Ganske-Dingell patients' bill of rights.

Now it is a pleasure for me to yield time to one of my fellow nurses here in Congress the gentlewoman from New York (Mrs. McCARTHY). She represents one extreme end of the country and I am out there in the other end but we are both nurses. That means we are joined at the heart. We have worked together to make sure that the patients' bill of rights, for example, includes whistleblower protection for nurses and other important pieces. It is no surprise to either the gentlewoman from New York or I that the American Nurses Association and so many of the other nurse groups around the country are strongly in support of this particular patients' bill of rights.

Mrs. McCARTHY of New York. I thank my colleague from California and my fellow nursing partner and certainly our friends that are physicians.

You have heard stories tonight from us. You have heard us tell stories about our constituents. But I think if you hear and have listened to us, why are we so passionate about this? Why are we backing the patients' bill of rights? I am going to tell you a story, also, but this story is very personal. Even before I ever came to Congress, I had spent over 32 years, my life, as a nurse. All of us, we went into health care because we care about taking care of people. And we see our doctors today, they still care about their patients. They are fighting for their patients on a daily basis.

But I want to tell you a personal story on why this bill is personal to me. Going back several years ago, something happened in our family. My son ended up being in the hospital. I have to say when he was in the hospital and he was in the intensive care unit, he got the best care you could possibly ever see. Because he was in the hospital, everything was approved. Then Kevin had to spend a long time in rehab. They told me he was actually going to spend a year in rehab. My son was only 26 years old at that time. He went through the sessions in the morning. I would be there with him 18 hours a day. By lunchtime, I am saying to myself, "Well, he's not tired, let's do rehab again."

Of course, I went to the head of the unit and I said, "Let's do the whole session all over again."

"Well, we can't."

I said, "What do you mean you can't?"

"Well, the insurance companies will never pay for a double session."

I kind of sat down and I thought about it for a while and I said, well, I can do a lot of this stuff on my own with him, I had the training for it, I knew what I was doing. But then I went back to the director and I said, Wait a minute. My son is 26 years old. He can do more. And if we actually look at it, if he has double sessions, that means he is going to get his therapy, twice as much in one day and he is going to be out of here twice as fast. As I said to you, they had told me he would be in rehab for a full year.

Well, we won that battle. I got him the double sessions because the hospital decided even if the HMO at that time would not pick up the cost, they would. So Kevin started with double sessions. We were out of rehab in 3 months. Obviously he had to go to rehab for a good several more months as an outpatient but that was only the beginning of our battle. Because every single thing that we had to have done for Kevin as far as rehab and everything else, we had to fight for those services. But here is where the kicker came in as far as I am concerned. Kevin had to have a procedure done. He had to go back in the hospital. Five doctors, five of their doctors, their doctors, said Kevin had to go in the hospital for a surgery. We were turned down. Each doctor went to bat, said, wait a minute, he has to go in the hospital and he has to have this surgery done. And he was turned down, he was turned down, turned down. All the way up to the point where I finally talked to the medical director of the HMO and I said, "Why are you denying him this operation?"

"We do not feel he needs it."

I said, "Who are you to make that decision when five of your doctors, a neurosurgeon, a neurologist, the surgeon himself, the cardiologist and the vascular man said he had to be in the hospital for this operation?"

I said, "Do you know what my son's medical history is?"

He said, "Well, actually I have it." By the way, his medical history was a little bit larger than the Manhattan telephone book. He did not understand it. He could not understand it.

Now, we were kind of lucky. The company that Kevin worked for happened to own the HMO that Kevin was covered under. Well, I found out who the CEO was of that company and I called him up. I said, this is ridiculous. And he agreed with me and he called and Kevin was in the hospital in a couple of days.

My point is, why did we have to go through this? Why did I have to spend that time trying to get the care for my son that he needed? If anyone even thinks that Kevin wanted to go back in the hospital or I wanted him back in a hospital, believe me, that is not the place we wanted to be. We would have been happy if we had never seen another hospital the rest of our lives. Now I am in Congress and on a daily basis we have to fight for my constituents to get the care, number one, that they deserve. They deserve. Because the decisions are made by our doctors. And unfortunately when we talk about the patients' bill of rights, people out there do not even realize the consequences that are going on in the health care system today because of the rights that doctors do not have anymore. Doctors are not encouraging their children to become doctors and we are seeing that falling over to where nursing is falling off short because nurses are not going to go into the health care system because they see what is going on. There has been a trickle-down effect for the last several years.

We have all worked with our health care providers. We have all worked with everyone that comes in to see us because they know we are in a health care position. By the way, we might be in Congress, but our first job still is to provide the health care system to all of our constituents across this Nation. That will always be my first priority, because that is an oath that we have all taken, to provide care for those. Now our jobs are just bigger.

You took care of all your patients back on the island. You certainly took care of all the children in the schools. I certainly took care of my floor full of patients. Now all of us have hundreds and thousands of more patients to take care of. That is why we are backing the real patients' bill of rights. That is why we are involved in this so passionately. We want our doctors to be able to make the decisions. We want our nurses to be able to give the care that they need without ramifications, that if they report something, they are not going to be fired or they are not going to be, what we call rotated around to floors that we did not want to be on. These are important protections.

All you are unfortunately hearing about in the newspapers is the suing thing. Again, let us go back to our President and his State of Texas. They have a patients' bill of rights, and they have not been sued. The amount of lawsuits in Texas since it was implemented is so tiny it is not even worth talking about. I will be very honest with you, if the correct care is given to all of our patients, no one is going to sue.

If you have the time and certainly my colleague from California, I would love to have a colloquy, because I happen to think we, is it not amazing it is three women, but we really have firsthand experience on how this real patients' bill of rights is going to help the American people.

Let me say one other thing. Many people think their HMOs are terrific, and there are some good ones out there. We are not slamming all of them. What we are saying is, though, until you come up with a situation where it might be chronic health care or maybe a life and death situation, or maybe it is a bone marrow transplant which they still consider experimental, but if you fight it long enough, you are going to get it, it is just that they want you to fight for it, and that is wrong. All of us have seen families going through so much. They should not have to worry, can I do this, can I raise the money to have it done. America is better than that. We know America is better than that.

Mrs. CAPPS. I want to thank my colleague from New York for sharing her personal story of her son and remark that she fought hard, she had to make a lot of phone calls. Some folks do not have that facility. Maybe there are language barriers. Maybe there are other barriers or they give up. That is compromised health care. That is health care that goes unmet, health needs that go unmet. Her son happened to work for the HMO, the president or whatever the situation, so that she had a personal connection. How about the thousands and thousands of families that do not have that privilege and have that opportunity? We need to speak for them. We need to have this be legislation that really does address the issues so that situations can be relieved just as a matter of course, not as a matter of exception.

But I want to bring up and am happy to have the gentlewoman from the Virgin Islands join us as well, but I do not want to leave another topic that the gentlewoman from New York brought up in her time as a nurse, and, that is, the important measure in this bill, the whistleblower protection. Let me make a couple of statements about it and ask our colleague who is a family physician to respond as well from the hospital perspective.

I am concerned now as many in this House and many across the country are about the shortage of nurses. We have a crisis. We have 126,000 positions going vacant today in our hospitals and health care facilities across this land. We have many things we need to do to address this. But one of the issues that is of real concern to those who work at the front line and in the health care settings is the demoralization that occurs when a person with professional standards has been trained and goes to work in a setting and sees and observes something which is not to that standard and has no recourse. It is the most awful experience to go through and think, this is wrong, and sometimes you are there and you have to participate, and, for fear of your job, you cannot go to someone in higher authority or to an outside agency and a place without fear of retaliation. So this whistleblower protection which has been included in the Ganske-Dingell patient protection bill is vital. I know from my own personal experience in public health out in the community to have this accountability so that the confidence that you have when you go through training, which is hard enough, and then go out to work, which is also challenging. This kind of work that we are talking about that nurses and doctors and health care professionals provide is not the easiest in the world. It has its tremendous rewards. But when you feel that barricade, that you see something and you cannot report it because your livelihood will be on the line, well, that demands correction. That piece in this bill I believe we need to stand up for. Maybe either of my colleagues would like to comment.

Mrs. CHRISTENSEN. Let me just say that the nurses from the Virgin Islands are up this week as well and this is something they are very concerned about. I wholeheartedly agree with everything the gentlewoman said about needing to keep that in the patients' bill of rights, the fact that it is included only in the Ganske-Norwood-Dingell bill. But I wanted to say something about something else that our colleague said. She said that when her son was in rehab, if I heard her correctly, the rehab facility decided that even if they were not going to get reimbursed they would provide the service and soak up the cost.

□ 2100

We find that happening more and more where either the provider or the facility is saying, well, we know this is necessary.

So we are going to take the chance. We are going to provide it to the patient even if we do not get reimbursed. Well, hospitals cannot afford not to be reimbursed and still be able to provide quality service to the patients that come to them, and providers on the other hand, they are also taking the risk and saying well, I know my patient needs this, I am going to go ahead and do it, make the referral or order the diagnostic test but when they come up for review later on they run some risks as well.

We find that more and more providers, whether it is a hospital or a physician or another health provider, they are making those decisions to provide the care and take the risks but it also puts the patient under some stress that again they do not need to know, well, am I going to have this paid for. I am really glad we are here tonight supporting the Ganske-Dingell-Norwood bill because this bill provides for access to specialists. The decision is going to be what is medically necessary, access to emergency room services, just using your prudent layperson's judgment so that people can get care and get it early and that our facilities and our providers can be reimbursed for the services they provide.

Mrs. CAPPS. It is really common sense legislation. Those of us who have been doing health care work, I have spent 2 decades in my school community in the public schools of my community on the front lines every day with families that were seeking medical care and doing battle with their HMOs. This is not to do away with them. We are not trying to give insurance a bad name. We need it.

There are good plans, but when excesses occur and when people step over the line, companies do and providers do, then they have to be held accountable because the bottom line is a matter of basic common sense and what is right for families, for individuals, for this country really in terms of access to health care and good quality health care. I appreciate the comments of the gentlewoman on that.

I want to also make sure that we include in this discussion another very important piece of the Patients' Bill of Rights which includes the opportunity to have clinical trials be continued and be able to continue your insurance.

I have some personal experience myself, so many families do, with members of family who are confronted with the most awful diagnosis, one of the most awful of all, which is the word cancer, and to know that many of the treatments that work for cancer are so recent in their discovery that they have not yet been fully implemented or approved under the Food and Drug Administration and, therefore, they are still under the clinical trial phase but if your doctor tells you that without treatment and without this particular kind of treatment, as our colleagues stated earlier in this hour, that there is no chance really for life to even continue, you might have a few months at best but you could try this clinical trial, you could embark on that course, I know personally, with my own family, that you do not hesitate for a minute; give me that chance; give me that straw to hang onto, particularly if it is one that has gone through several phases but it is still not approved yet and yet it has offered hope to others and treatment and good results to others; oh, you cling to that with your life. You do anything to get that treatment for your loved one, and in yet that very dark hour in your life, so many of insurance companies give you this ultimatum: You go down that path and you seek that medical treatment and we are cutting your insurance; you are losing all of your insurance.

That is like a death sentence. That is an amazing position to be put into as a person, or with your loved one sitting there beside you having to make those terrible choices. We should not be forcing our patients to make this kind of choice. So that is why this Ganske-Dingell bill will require that insurance companies continue their basic coverage of patients when they elect to participate in clinical trials.

Now that makes sense. That is a good thing to do. That is what we should be doing for those with the awful diagnoses that many are facing. We want to make sure that new and different treatments are available to all patients without having them lose their ability to have coverage for regular treatments. This is a good measure within this Ganske-Dingell bill. So I offer it as one of the reasons I am supporting it and perhaps either the gentlewomen with me tonight would like to comment on that or any of the other topics that we have left out.

Mrs. MCCARTHY of New York. One of the things I would like to comment on, and I support the words that the gentlewoman has just said, again we as health care providers know a lot of times that when our patients are certainly looking for something to hang onto, and God knows we have seen our patients fight for every breath that they take and they want to try something to continue to be with their loved ones, but it is the loved ones that unfortunately are faced with this fighting most of the time; a lot of the patients do not. We have become their advocates. We are still taking our oath very seriously; the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) as a doctor, myself and the gentlewoman from California (Mrs. CAPPS) as nurses. We are there to protect our patients, as I said earlier, and we will continue to do that.

I think again what I am seeing, which really starts to scare me because are we coming into a society for those that have really good insurance and those that have minimum insurance, those that have really good insurance will get the health care that they need; those that do not they are not going to get the health care. I spent, like I said, 32 years in nursing. We did not know who was wealthy. We did not know who was poor. Everybody got the same kind of treatment in the hospital.

Going back to earlier what we were saying about where the hospitals would pick up because they felt the treatment was needed, that is their obligation because, again the good hospitals, the good health care providers know their job is to take care of the patient.

Mrs. CHRISTENSEN. Absolutely.

Mrs. MCCARTHY of New York. The majority of hospitals in this Nation do not make money. They are always in the red because every penny they get goes back into the infrastructure of the hospital.

Now, I think the three of us, once we get this Patients' Bill of Rights through, we could come back and talk about all the other ills that we are seeing in the health care system, things that all of us are working on for future bills, because we have to start addressing them and we have to face them. We cannot hide our heads in the sand anymore.

Five years ago, when the gentlewoman came in, we started talking about the whole collapse of our health care system; 5 years ago. Here we are now finally having a bill out there that can make a difference, but we have a long way to go. We have to bring the health care system back to the way it was. Certainly our hospitals have learned to cut down on costs. Certainly we have to make sure there is not fraud and abuse. We will do that, but we still can deliver a good health care system to our patients. The Patients' Bill of Rights will do that.

This is the only true bill because it has the protections in there for our health care workers, our nurses, our doctors. It is certainly going to make our HMOs stand up and take their responsibility and if they do their job right they will be fine. It is a shame, it is a shame that we have had to come this far to do legislation in this great House that we work in but sometimes that is why we are here, to make them, whether it is the HMOs, whether it is the auto manufacturers, or different corporations, to do the right thing.

The Patients' Bill of Rights does the right thing for the American people.

Mrs. CHRISTENSEN. As I said earlier, too, this is something that the people of America have clearly said they want. All of the provisions that are included in the Ganske-Dingell-Norwood bill are direct responses to what the people of this country have said they want to see in their health care system. I agree that this is an important beginning, but it is a beginning because we do have to go out and provide insurance coverage because there are 43 or so million people that will not even be touched by what we do here.

This is an important part of making sure that health care and quality health care is accessible to the people who are covered within this system and accessible when they need it. We do have other issues.

Mrs. CAPPS. Yes.

Mrs. CHRISTENSEN. When one talks about containing costs as the driving force or making profits on the other end, the driving factor for pursuing managed care, a lot of people are left out for whom it is very expensive to provide health care. They are largely the poor people who have not had access to health care for many years; people of color in this country who have not had access to health care; people in our rural areas. So we have to end this two-tiered system that our colleague just referred to of health care in this country and make sure that that quality health care is equally accessible to all of our citizens and residents in this Nation.

Mrs. CAPPS. I want to make sure, just as we draw this to a close, I have a pledge I want to make with my two colleagues, but I want to make sure that we leave on the record the answers to a couple of myths that are out there. One is on the part of employers that where there is this fear that if we do this Patients' Bill of Rights that the employer who provides the insurance will be liable, that the lawsuit will include them. We have been assured that they are in the business of providing insurance plans for their employees, who are also occasionally patients. Then if their employees choose that plan and they give them often that range of plans to choose from that, then they are not themselves liable when the insurance company itself makes decisions which are not in the patient's best interest.

The insurance company is the one who must be held accountable, not the employer in that case.

The other myth that is out there is, and I have heard it on the floor, I have heard it among some of our colleagues who say it is just going to drive up the cost of health care insurance, and there are so many particularly small businesses who are struggling now to provide it, they want to provide it but that is another topic that we are going to address another time about making health care available in a variety of ways, not just putting it on the backs of mostly small business providers.

The cost of the premiums in Texas, in the plan that this Patients' Bill of Rights, this Dingell-Ganske plan is based on, that the premiums went up, I think they characterized it as a Big Mac a month, or actually just a very small amount of an increase in a premium that most constituents, most employees, would be happy to make if they knew that they had the benefits that we have been outlining as part of this Ganske-Dingell Patient Protection Act.

So we want to make sure that it is clear that we do in this country hold people accountable when they make mistakes. Doctors, health care providers, all of us had insurance policies because we knew that we could make a mistake and we wanted our patients to have recourse, and health care providers are very knowledgeable about the need to have that.

On the other hand, HMOs, and insurance companies like HMOs, are the only sector of our economy now that is not able to be touched by accountability. That is clearly out of focus for our country's pattern of holding accountability. This bill will correct that. It only holds those insurance companies liable when they practice medicine. If one practices medicine, they are held liable. If an insurance company chooses to practice medicine, they will be held liable as well. That is what this is all about.

Within the Patients' Bill of Rights, access to emergency care, access to obgyn without having to go through a gateway, these are not debatable. These are understood as needed reforms within managed care today, and we need to embrace all of it as a package, which is really about common sense.

Mrs. McCARTHY of New York. I would just like to follow up. When the gentlewoman was talking about our small businesses, I was on that committee for 4 years and we certainly all know how we have all fought to protect our small businesses. That is the engine that is driving this country, by the way. Our small businesses are doing well. The gentleman from Georgia (Mr. NORWOOD), certainly the gentleman from Michigan (Mr. DINGELL), at that time even when I had concerns about is this going to hurt our small businesses, and that is why the language is in our bill. If they want to clarify it a little bit more, we can probably work that out. We are not out to hurt our small businesses because that is not going to help any of us.

As the gentlewoman said, we have to make sure that our small businesses can open up and offer health care insurance to all their employees so let us take that myth out of there. The gentlewoman is absolutely right on that. The protection that is in the Patients' Bill of Rights, especially with the gentleman from Georgia (Mr. NORWOOD), if anybody knows the gentleman from Georgia (Mr. NORWOOD), believe me he is going to protect small businesses. So that is a myth.

Unfortunately, there is too much politics dealing with this health care issue and we should take the politics out of this issue and certainly do the right thing for the American people. That is what has to be done.

Mrs. CAPPS. I so appreciate my colleagues being here. I think we are almost out of time, but I will yield further to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for some comments.

Mrs. CHRISTENSEN. I am glad that the gentlewoman made the clarification about the employers not being liable, the fact that the premiums and lawsuits do not rise, because we have that experience. It is also important to point out that this is a real bipartisan bill. There has been a lot of work and a lot of compromise to bring this bill forward that addresses issues and has addressed some of the concerns of people on both sides of the aisle. This is a bipartisan effort to address something that has been of great concern to the American people.

Mrs. CAPPS. Mr. Speaker, we will now close and remind our colleagues that we did pass this very bill before in this House. So let us just do the right thing and pass it again. This is my pledge that I want to make to my dear colleagues who have joined us here this evening, the gentlewoman from New York (Mrs. McCARTHY), and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), let us pass the Patients' Bill of Rights and then let us gather on the floor to discuss some other needs in health care, such as the nurse and professional shortage, such as those without any access to health care because we still have a long way to go. We are willing and we are prepared, we are going to be here until we can address each of these issues. So I will join my colleagues again on the floor at a further time.

□ 2115

ENERGY CRISIS

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, tonight, I want to talk about a couple of subjects.

First of all, I cannot help but reflect upon some of the prior speakers and what they have talked about, especially in terms of our energy crisis. I will only spend a couple of minutes on that, because I addressed it a couple of times in the past also.

It is undeniably true we have an energy crisis in the United States. It is undeniably true that gas prices are rising, that blackouts, rolling brownouts, all kinds of things are occurring throughout the United States, but especially in California and on the West Coast.

We spend a great deal of time in this body debating as to exactly why that has occurred, and, in fact, there are a number of reasons, of course. They deal mostly with supply problems. We just do not have enough energy. We do not produce enough.

AMERICA'S POPULATION GROWING AT A RAPID RATE DUE TO IMMIGRATION, LEGAL OR ILLEGAL

Mr. TANCREDO. There is a basic problem and there is something below even all of that, which we must identify and talk about from time to time, and that is the fact that America's population is growing at a rapid rate.

That population growth is a result, not just of the birth rate of the people who have lived in the United States for some period of time, it is the result that over 50 percent of that population growth in the last decade is a result of immigration into the United States, both legal and illegal.

California is a prime example of the problem. It has an enormous population. It has enormous growth in the population primarily as a result of immigration. The United States Congress has a responsibility. It is to establish immigration standards, immigration quotas.

We are the only body that can do that. No State can do it. California cannot determine how many people it will let in. It has to deal with however many people come in, and in dealing with it, it has to build more power plants, whether they like it or not.

It has to encourage conservation, and it has to, in fact, tap the natural resources available to it. We will be doing that throughout this Nation as a result of the dramatic increase in population brought about primarily by immigration both legal and illegal.

No one likes to talk about this. It is an issue that oftentimes evokes a lot of emotion on both sides of the issue. There are people who would suggest that even to bring it up is an indication of some sort of ulterior motive that is akin to and always likened to racism.

I have said here on the floor many times, I will repeat it tonight. It is not where we come from, it is the number of people who come. In fact, we must deal with it.

We may not like having to deal with it, but we may not like the debate that will ensue as a result of any change in our immigration policy, but it must be done. It is for the good of the country, and it has absolutely nothing to do, as far as I am concerned, anyway, with racial-related issues. It is a matter of quality of life. It is a matter of energy resources that we have been talking about here.

As I sat here and prepared my remarks, I listened to others speak. The gentleman from Colorado (Mr. MCINNIS) talked for an hour about the energy crisis. Although, he is absolutely correct in all of the things he said in terms of why we are here, I must admit to the gentleman that the one thing that he left out, which I think is extremely important, is the fact that the reason we have this crisis and the reason it will grow throughout the United States is because of the number of people we have in the country and the number of people coming in.

A little over, I will repeat, a little over 50 percent of the growth of this Nation in the last decade was a result of immigration, legal and illegal; 50 percent of the cars on the road; 50 percent of the houses that are popping up in neighborhoods all over the country and what was at one time a pristine landscape; 50 percent of the problem you have getting in to national parks, any of the other kinds of issues come about as a result of population pressures are, in fact, a direct result of this immigration issue.

Mr. Speaker, I cannot come before the House tonight without bringing that particular issue to the attention of the Speaker and to those who may be listening.

LIMIT GOVERNMENT FUNDING RELATING TO ART

Mr. TANCREDO. Mr. Speaker, but that was not the original intent, that was not the original purpose I asked for this time period to address the House.

A short time ago, Mr. Speaker, in Colorado, there was a rock star, "an artist" of some sort, and I put the term "artist" in quotation marks, by the name of Marilyn Manson.

I admit I do not have any of this person's, I was going to say gentleman, but I am really not positive what he or she or it is, I am just saying, I do not have their particular records in my cabinet. I had read something about this person's particular "artistic" accomplishments.

I had a call one day, this was about 2 weeks ago or 3 weeks ago, I guess, from a gentleman in Colorado who was concerned about the fact that this person Mr. Manson, Mrs. Manson, Ms. Manson, whatever, was coming in, and he was concerned. Because in the past, this particular rock idol had offered to come in and do some sort of concert for the people who were responsible for the deaths of the children at Columbine High School.

Hear me, Marilyn Manson would come in to do a concert for the people who killed them. There was concern about this kind of individual coming in to Colorado again and spewing his filth. So this person called our office here. The gentleman that called, I believe, was Jason Janz.

Mr. Janz said, look, we are trying to organize some sort of boycott. We think that people should just avoid going to hear this particular performer. He said, can we use your name in our, ad or whatever they were going to do, and I cannot remember now whether it was as a person who would support our efforts or not.

I said to Mr. Janz, well, yes, you can. I can certainly understand why you would be concerned. I do not think people should go myself; whether they do or not is, of course, their own decision to make.

Anyway, Mr. Janz used my name in some sort of advertising or publication, I do not know what it was, saying that these people have also suggested that people should not go to this particular concert.

We had a storm of reaction to that. There was a lot of protests, a lot of people called our office here and in Colorado, in Littleton and said, how dare you? How dare you, a Member of Congress, try to sensor this particular performer?

I was, in a way, shocked, because, of course, censorship is a term that can be defined. It is defined in the dictionary. It is pretty clear what censorship is. It means someone preventing someone from expressing themselves.

Mr. Speaker, I tried to explain to the people who called my office that, in fact, I really was not trying to sensor this particular "artist"; that I really could not care less what he or she or it did. It was just that when I was asked whether people should participate in this kind of garbage, I would say, no, they should not. That is my opinion.

Their point of view was that I should be censored; that I should not be allowed to say such a thing; that I should not be allowed to criticize this particular performer or anybody else, I suppose, that they felt was a particularly important personage in the entertainment world.

This whole thing was a fascinating sort of phenomenon, because eventually Manson came to Colorado. It was just last week or so, did his or her thing. I am sure there was a large crowd and everything was, you know, just pretty fine.

I do not know if people enjoyed it or not. I do not know, and I truly do not care. But the debate surrounding this whole event was characterized, I think, perfectly in an article that was in the Rocky Mountain News last week.

I am going to read it here. It is relatively short. It was written by a friend of mine, his name is Mike Rosen. He does a daily radio show in Colorado and writes a weekly column for the Rocky Mountain News.

And it goes as follows: "Greet Manson with due scorn," that is the title. It says "personally, I think the rank demagoguery of Senate Majority Leader Tom Daschle is far more dangerous to the well-being of our republic than the sordid rantings of shock rocker Marilyn Manson. But the last thing I'd do is silence either of them.

If you're going to allow free speech, you must take the risk that someone might listen. While incitement-to-riot, slander, and yelling 'fire' in a crowded theater are not tolerated in our society, the expression of ideas that are merely offensive is.

If we voted on who could speak and who couldn't, Billy Graham would probably win and Marilyn Mason probably would lose. But we don't put it to a vote because this isn't a democracy. Our constitutional republic protects the rights of individuals, even unpopular ones.

Actually, Manson's June 21 Denver appearance at Ozzfest is not really a First Amendment issue. The First Amendment restricts government's abridgement of free speech.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all Members that the rules of the House prohibit characterization of Members of the Senate even though not their own remarks.

Mr. TANCREDO. "The First Amendment restricts government's abridgement of free speech. But government hasn't threatened to muzzle Manson. He will not be barred from performing by any government officials.

The opposition to his performance here has come from private groups led by Baptist youth minister Jason Janz, and others, employing moral persuasion, as is their right, to discourage and disparage Manson's act.

I'm no fan of Manson, or, for that matter, his inspirational namesake Charles Manson. I don't like his music, his lyrics or his message. I've heard and read enough of it, dutifully, to get the point. This from his newest CD 'Antichrist Superstar:' I will bury God in my warm spit. I went to God just to see. And I was looking at me. When I'm God everyone dies." Very enlightening.

□ 2130

"I find Manson neither thought-provoking nor profound. He offers mostly sophomoric dribble (not that the work of Dion and the Belmonts, from my era, was exactly Shakespeare, but it was good to dance to and at least it wasn't destructive.) To be sure, there's demand for Manson's kind of bilge from troubled, confused, angry, defiant, depressed, macabre, antisocial and sociopathic adolescent and arrested-adolescent audiences. And when you're high on drugs, gibberish can pass for wisdom.

"If it weren't for Manson playing this role, someone else would, and others do. He claims to be an artist, crafting a poetic, philosophical message. More likely, he's just another crass entertainment opportunist capitalizing on a market niche. You might say the same of Alice Cooper, but Cooper has always done his thing with a wink, not to be taken seriously. It was obvious shtick. Heck, Cooper's a Republican, a big baseball fan, and a 4-handicap golfer. Compared to Manson, Alice Cooper is Dr. Laura. In his heyday, Cooper sold the bizarre; Manson spews the depraved. (And I'll throw in my psychological diagnosis of Manson: he's screwed up in the head, too.)

"Is Manson's influence on troubled and impressionable young minds potentially destructive? I imagine it is for some. While for others, listening to Manson may be benign, providing an outlet for emotional venting that might substitute for acts of physical destructiveness. Teen-agers are attracted to Manson as an act of rebellion against conventional society precisely because he appalls their parents. I have no remedy for this. It's one of the tradeoffs we make in a free society.

"It's not a question of whether Manson should be condemned or allowed to perform. Of course, both of these things should happen. Manson debases our values, culture and civil conventions. Jason Janz's criticism of him is wholly appropriate. Someone needs to say that. Our indifference would be more disturbing. To most who attend, Ozzfest will be little more than a fun summer concert featuring a variety of performers. The Manson acolytes there will be in the minority. And while they snigger at the establishment's attack on their idol, it still serves a purpose. They may understand when they grow up."

Again, that is Mike Rosen in the Rocky Mountain News.

Now, this leads to another issue and even a much bigger issue than this particular event in Denver Colorado in last week. This leads us to a debate we were having on the floor of the House here last week. It was a debate on whether or not we should be funding the National Endowment for the Arts and Humanities.

It was fascinating from a number of standpoints. We have done this every year. The debate occurs every single year. Much of the same objections are heard over and over again as to whether or not government funds should be used to support "art".

Now, what if this had happened in Colorado, everything that I just described, and this particular event had been paid for entirely with tax dollars? Would there not have been a different kind of debate? Would we not have been able to enter into the discussion an argument that, although, certainly, this person, Manson, should be allowed to perform, no one, certainly I would never prohibit him from doing his thing by law. But the question remains is whether or not someone should be forced to pay for it through the taking away of their tax dollars, providing it for this experience.

Certainly there would have been an outcry. Certainly people would have said absolutely not. You know, I do not care whether this person does its thing on the stage and spews forth its bilge, I do not care about that. If people want to do it, want to see it, that is their business, and I certainly agree. But making me pay for it through my tax dollars, that is something else entirely.

Now, that would have been an interesting debate, and I wonder how it would have come out. I wonder if the City of Denver, I wonder if the mayor of the City of Denver had agreed to something like that, had put tax dollars into it, I wonder whether or not the mayor would not be in political trouble the next election.

Would not people in the City say, how could you possibly make me pay for something like this? I think it is horrible. Or even, I do not have an opinion on it, I just have absolutely no desire to fund this particular expression of this particular "artist".

Well, I think that that would be a legitimate argument. Do my colleagues not, Mr. Speaker? I think that, in fact, that would be a legitimate debate had we paid for that with tax dollars. I think there would have been significant political ramifications and repercussions to such a decision made by the political leaders in Denver.

But it did not happen that way. It was totally voluntary. People went, paid their price at the door, and went in; and I say, of course, that is fine. They can do what they want to do. If you ask me whether someone should do it, I would tell you no. It does not matter. I would never stop anyone from either going to see this person or, on the other hand, I would never try to stop this person from actually getting on stage and doing whatever it is it does.

So the question, then, comes as to how we can, every single year, take money from Americans, hard-working Americans, many of whom have to make decisions about, you know, if they are going to pay the rent this month or if they are going to pay their gas bill.

How can we take money from them to support the, quote, artistic endeavors of others of a similar, well no matter what. No matter if there was absolutely no argument as to the value, quote, value of the art. It is still absolutely wrong for any of us here to make that sort of elitist decision for all members of society, that we would take away their money and give it to a particular kind of art or a particular kind of artist. How can we justify that?

I guess, to a certain extent, I am going to have to actually talk about what we have been funding over these years. I almost hate to say it, but I wish we could put up here one of these signs that say "be careful, the following may not be suitable for viewing by young people" or whatever, because it is certainly some of the nastiest sort of thing. I will try to avoid being too incredibly graphic, but I guess it is pretty hard to suggest that this is not appropriate for us to discuss here since we paid for it, since we took money from Americans, from hard-working citizens and paid for this stuff that I am going to tell my colleagues about.

Let us start with 1998, the National Endowment for the Arts was criticized for funding this New York theater which staged the play "Corpus Christi", a blasphemous play depicting Jesus having sexual relations with his apostles.

By the way, a great deal of what has happened here, a great deal of what the NEA chooses support has a decidedly homo-erotic, anti-Christian, and certainly not just anti-Christian, but a hatred of Christianity, and the most bizarre kind of sexual connotation, not just connotation, but aspects that you can imagine. That really a lot of this stuff that they choose to do. Okay.

One would have thought that the NEA might refrain from funding the Manhattan Theater Club ever again given the theater's decision to present "Corpus Christi". Not so. The very next year, the theater was awarded another grant of $37,000. This year, the theater received, not one, but two separate grants, each for $50,000.

In 1996 and 1997, the NEA received sharp rebukes for funding this group, the Women Make Movies, that is what it is called, by the gentleman from Michigan (Mr. HOEKSTRA), chairman of the Committee on Education and the Workforce Subcommittee on Oversight and Investigations.

At the time, the gentleman from Michigan (Mr. HOEKSTRA) noted that the NEA gave over more than $100,000 over a 3-year period to Women Make Movies, that is the name of this organization, which distributed numerous pornographic films such as "Sex Fish", "Watermelon Woman", and "Blood Sisters". These films included depictions of explicit lesbian pornography, oral sex, and sadomasochism.

In 1997, the American Family Association distributed to most Members of Congress clips of some of these and other pornographic films distributed by Women Make Movies.

Criticism of the NEA for funding a group that distributes pornographic works was dismissed by the agency which continue to fund Women Make Movies as late as 1999, giving two grants, one for $12,000, one for $30,000. The Women Makes Movies continues to distribute hard core pornography.

Then there is the Wooly Mammoth Theater Company, a Washington, D.C. theater, a frequent recipient of NEA money, generated controversy in the past for NEA when it staged Tim Miller's one-man performance titled "My Queer Body". This play describes what it is like to have sex with another man, climbs into the lap of a spectator. I do not even want to read this.

Shrugging off the controversy this year, the NEA gave the theater $28,000. Wooly Mammoth's 2000 season, this was last year actually, will include the production "Preaching to the Perverted", written and performed by Holly Hughes, who herself has been the cause of controversy.

Hughes sued the U.S. Government for refusing to fund her indecent work and lost. The Supreme Court ruling was that NEA was not obliged to fund pornography. Despite this Court's ruling, the NEA is still choosing to pay for Holly Hughes' offensive work through its support of Wooly Mammoth. In the Wooly Mammoth's Internet catalog.

"Preaching to the Perverted" is described as follows: "If you loved the solo extravagances of Tim Miller", the fellow I just mentioned, "you won't want to miss this unique and irreverent evening of legal and sexual politics."

Then there is the Whitney Museum of American Art. It has been a regular recipient of NEA funds for over the years and several times provided fodder for the critics. This in recent years included a work by Joel-Peter Witkin titled "Maquette for Crucifix", a naked Jesus surrounded by sadomasochistic obscene imagery and many grotesque portrayals of corpses and body parts.

Another Whitney exhibit was a film by Suzie Silver titled "A Spy". It depicts Jesus Christ as woman standing naked with breasts exposed.

Again, this is hard it even go through, it is certainly hard to describe. But we paid for it. We appropriated money in this House. We took money from citizens in this country and paid for this. So it is only right that we should be forced to have to hear what we paid for as grotesque as it is. It is hard for me to read it. I am sure it is hard for many people to hear it. I do not like having to do it. But, in fact, you paid for it, America. You might as well understand what you bought.

Incredibly, Whitney also included "Piss Christ", Andres Serrano's photograph of a crucifix in a jar of urine, the very same work which began the NEA controversy in 1989, as well as a film by porn star Annie Sprinkle entitled "The Sluts and Goddesses Video Workshop or How to be a Sex Goddess in 101 Easy Steps", on and on and on.

Walker Art Center, a performance at this Minneapolis theater and NEA recipient outraged Senator BYRD even, Democrat from West Virginia, and many other Members of Congress.

To make a statement about AIDS, artist Ron Athey, who was HIV positive pierced his body with needles, cut designs into the back of another man, blotted the man's blood with paper towels and set the towels over the audience on a clothes line. Then NEA chair Jane Alexander defended the performance, and the Walker Arts Center has continued to receive NEA funds for several years. This year's take, this was a couple years ago, this year's take for the avant-garde center is $70,000.

The NEA was criticized in 1997 for funding the Museum of Contemporary Art in New York because of the work of Carollee Schneeman, an artist credited with inspiring Miss Sprinkle whose pornographic funding have caused a lot of problems for the NEA also. I hesitate to even go into what that one was about.

Franklin Furnace, New York. This New York theater frequently receives NEA funds. The theater's performance often promotes homosexuality and blast traditional morality. Its year 2000 grant, $10,000.

The Theater for New York City, the Catholic League for Religious and Civil Rights brought this New York's theater to national attention recently because of its anti-Catholic bigotry. The theater staged the play "The Pope and the Witch", depicting the Pope called John Paul, II, as a heroin-addicted paranoid advocating birth control and the legalization of drugs. The theater received a grant in 1997. The Americans paid for this, $30,000 in 1997 and $12,000 in the year 2000.

Really, I have just pages and pages of this kind of thing. I will enter them into the RECORD, but I will not go on with that in description here audibly tonight. It is just too revolting even for me to deal with.

But my point is this, that all of this I consider to be absolute garbage. That is my opinion. I cannot imagine anyone wanting to see it. I cannot certainly imagine wanting to participate in it. I certainly cannot believe that anyone would have the audacity to suggest that we have to take money from people who have the same feeling as I do about this and give it to these performers in order for there to be a good art thriving in America.

□ 2145

It is ridiculous. It is idiotic.

We have had an interesting discussion, as I say, over the whole issue as it came through the Congress of the United States, and there are many aspects of this that I think need to be discussed. Now, by the way, I suppose I should mention, that those of us who were opposed to funding for National Endowment for the Arts failed in our attempt to reduce the funding of $150 million. But it is not just this kind of pornographic trash that it funds with which I take exception. I believe it is absolutely wrong for us to be making a decision in this body as to what is appropriate, what is good art or what is good television programming or radio. I refer now, of course, to National Public Radio, National Public Television, which we again take money from everyone in America and we fund.

Now, I happen to listen to National Public Radio. I enjoy many, many of its programs. My point is, however, the idea that my taste in either television or radio is something that should be the standard for the Nation. Because I happen to enjoy National Public Radio I will tax everyone in this country to help support it. Is that not somewhat bizarre?

Let me read from the Constitutional Convention in Philadelphia August 18, 1787. This is incredibly amazing and profound in a way because, as we see, the Founding Fathers dealt with all the problems that we confront every single day and they really had an insight that bears reflecting upon. 1787, August 18. Charles Pinckney of South Carolina rose to urge that Congress be authorized to "establish seminaries for the promotion of literature and the arts and sciences." Modest proposal; right? He suggested that the Congress of the United States be authorized to establish seminaries for the promotion of literature and the arts and of science.

Now, remember, seminaries had a different connotation in this particular time period. We are not talking about necessarily religious institutions. In this case he was talking about intellectual pursuits, educational institutions solely. His proposal was immediately voted down. In the words of one delegate, the only legitimate role for government in promoting culture and the arts was "the granting of patents, i.e. protecting the rights of authors and artists to make money from their creations." That, he said, was the only legitimate role for government in promoting culture and the arts.

The framers treasured books and music, but they treasured limited government far more. A federally approved artist was as unthinkable to them as a federally approved church or newspaper. This is why the Constitution does not so much as have a hint at subsidizing artists or cultural organizations. It is why Americans have always been skeptical about the entanglement of art and State. And it is why so many artists have snorted at the notion that art depends upon the patronage of a Washington elite.

And that is a very good way of portraying what happens here. It is incredibly elitist for us to say we know in this body, the 435 Members of the House, the 100 Members of the Senate and the President of the United States, we know, at least a majority of us know, what is the best kind of art for the American citizens to observe or participate in. Incredibly elitist. Incredibly elitist for us to suggest that the particular television programming that we believe to be uplifting or stimulating or whatever is appropriate enough to tax everybody to support.

What gives us this incredible attitude? It is the fact, of course, that we make many decisions here all the time that tend to make us all feel, I suppose, pretty omnipotent and omniscient, because we know everything and we have power over everything and, naturally, we should be able to determine what is good art; what is good television; right?

The argument for television especially is the one that confounds me. Every year people come into my office and talk about the need to support, publicly support, public television. We need to take tax dollars away from people and do that. And I always suggest to them that maybe, maybe 20 years ago they could have made an argument for some sort of alternative television programming, because there were only three major broadcasting systems and relatively little choice, I suppose, among those three different broadcasting systems. They could have perhaps made the point, well, there is just a need for a different kind of television programming and no one is going to produce it, so, therefore, let us go ahead and take tax dollars away from people and provide it.

They could have made that point. I would not have agreed with them, but it would have been a much more logical position to take than coming in here today, today, to this House, in this year of 2001, and saying there is not enough diversity on television; we need to take money from everybody in America to fund my brand of television because it is better, it is better for people, it is more intellectual, more highbrow, it is good for people to have this available to them, when there is, what, 150, or heaven knows how many actual stations there are out there with cable television. I certainly have lost count myself. All I know is there is no one, I believe, no one that can argue that there is not diversity in programming on television today. And yet our particular brand, our particular idea of what good television is is what we say in this body everyone is going to pay for. Again, it seems a bit peculiar to me.

I actually did a program in Colorado on public television, a sort of talking head show. I used to do it every Friday, and I enjoyed it. And every year they had a period of time that the station would devote to fund-raising, and all the participants and everybody that wanted to, I suppose, could come on for an hour or two and stand up in front of people and ask for money, ask for support for the station. I called it a beg-a-thon. And I would do it. Every single year I would go on and say, if you want to support this, if you think that we in fact are doing something good enough in terms of television that you believe it should be continued, then I encourage you to get out your checkbook and send this station money. And I am more than willing to do that. I did that, as I say, every single year, because that is exactly the way "public television" should be funded, by donations.

They then would come to me, the same station would come to me as a Member of Congress and say, how could you not then vote for funding for our station when you were on it? And I would always say, look, if the program I was on was not worth it, if we could not get people to watch that program and we could get them to contribute, then of course it was not good programming and I probably should have been kicked off and you should have found somebody else.

But the idea that I would come here to the Congress and vote for money to make sure that that particular station stayed on the air is crazy, any more than I would vote for money for any other particular station to stay on the air. Again, it is certainly not because I am particularly opposed to the kind of programming they have. It is maybe fine. Some of it is fine, some of it is lousy from my point of view. But that does not matter. It is just my opinion. But it is absolutely wrong for me to come to this body and vote to force everyone in this country to support my brand of programming.

Dr. Robert Samuelson said some time ago that the funding of cultural agencies by the Federal Government is highbrow pork barrel, and I certainly agree. We are taking from the poor to subsidize the rich. It is the reverse Robin Hood theory here. In fact, most of the programming on these stations, even a lot of the "art" of the NEA has absolutely no appeal whatsoever to the bulk of America, the majority of Americans, certainly Americans of low income. They are not really interested by and large in that kind of entertainment. Again, if they are, that is fine. They can make their own decisions about it, but it is incredible to me that we can do this; that we can take money from them and provide support for materials and for programming that is only really enjoyed, I say only, but primarily enjoyed by a different group of people, and most of the time people more well off.

There is also the issue of the corruption of the artists and scholars that we fund. It is I think absolutely true, no one I think who has been around here for any length of time disagrees with the fact that government funding of anything involves government control. That insight of course is part of our folk wisdom. He who pays the piper calls the tune, as they say. And it is quite true. We never give out a dollar here in this body without also saying how it should be spent. Those are the strings we attach to it. And when we do that for the "arts," it has a corrupting influence on it. Artists and want-to-be artists begin to gravitate toward what they think the government is going to fund and find themselves sort of chasing the government dollar.

The influence of government funding of the arts is a negative one and a corrupting one. The politicization of whatever the Federal cultural agencies touch was driven home by Richard Goldstein, a supporter of the National Endowment for the Humanities himself. But he pointed out that "the NEH has a ripple effect on university hiring and tenure, and on the kinds of research undertaken by scholars seeking support. Its chairman shapes the bounds of that support. In a broad sense he sets standards that affect the tenor of textbooks and the content of curriculum. Though no chairman of the NEH can single-handedly direct the course of American education, he can nurture the nascent trends and take advantage of informal opportunities to signal department heads and deans. He can 'persuade' with the cudgel of Federal funding out of sight but hardly out of mind."

Then, finally, every time we debate this issue we are confronted by people who will say that we must do this, we must in fact provide money for the arts community, the National Endowment for the Arts and Humanities, because of the effect that the arts have on our spirit, the soul, the uplifting nature of the arts; that to provide public funding for this is a good because of the way it in fact changes the culture, and they would suggest, for the positive. Well, what if, Mr. Speaker, I came before the body and suggested that there was another kind of experience that does exactly that; that provides a tremendous amount of benefit to the Nation; that does amazing things for the soul, uplifting in nature; that it can change a person's attitude about life; that it can motivate you to do great things, all these things I have heard on the floor as to the reason why we have to fund the arts?

□ 2200

Mr. Speaker, I suggest that there is another argument I could make using exactly the same logic. What if I were to come before the body and say, I know something that we should be doing that does all of the things I have just said, is an incredible influence on our lives, that provides an outlet for emotional needs of millions of people, and it is called religion and I am going to ask this body to appropriate $150 million this year for religion.

Now, the first thing that someone would say is we cannot do this because there is this wall of separation that exists in the minds of many, but nowhere in the Constitution, by the way, that separates church and State. But the real reason why we cannot do it and the reason I would never suggest it because the minute we decide to fund religion in this body, we will then begin to decide whose religion, what brand of religion. What about this particular denomination? Why should they not be funded as opposed to that denomination?

Someone somewhere would have to make a decision. So we would establish an Endowment for Religion, and we would appoint some people to it. We would say we will give them the money because Congress does not want to get into the battle about which religion to fund. We will give $150 million to the National Endowment for Religion, and they will make the decision because they are the experts. They know what is best. If they give it all to the Baptists, that is fine. If they split it up with the Jews, the Catholics, the Presbyterians, whatever, it is their decision to make. It is their $150 million. They will make the decision. How many Members in this body would agree with such a thing? No one. I suggest that we would not get very many votes for such a proposal. And rightly so.

It is not our place because the minute that we start doing that, we are automatically discriminating if we pick one over another, which must be done. There is absolutely no difference, Mr. Speaker, none whatsoever, in the funding of the arts and the funding of religion. Each one of those things has its particular brand. It appeals to certain individuals and not others. Somebody has to make a decision about which one of these things gets funded, and then we will come to the House and hold up a list of things that has been funded by that organization and some people will be outraged by it, as I imagine there were some tonight as I was reading through the list of things that we have funded that the government has paid for. Some people will listen and say that is great stuff. I wish a billion dollars was put into it.

What happens is there is discrimination in this because every time somebody gets one, every one artist gets funded, some artist does not, and that means somebody is making a decision about which is better. I suggest that is an impossible decision to make for everyone. It is absolutely appropriate for me to do it for myself; it is not appropriate for me to do it for all of my constituents.

Mr. Speaker, the hypocrisy that rears its head here, certainly daily, but on this particular occasion when we debate the NEA, the National Endowment for the Arts, public broadcasting and all of the rest, this hypocrisy is overwhelming. It is so stark.

Mr. Speaker, I suggest that we are undeniably in the middle of a culture war. We have heard that term many times. It is a war of competing ideas and world views. On one side we have people who believe in living by a set of divinely moral absolutes; or the very least, they believe that following such a moral code represents the best way to avoid chaos and instability.

On the other side, we have people who insist that morality is a moral decision and any attempt to enforce it is viewed as oppression. That war is a real one which is carried out every single day in the halls of our schools, around the watercooler of our businesses, in the newspapers of the Nation, on television. In every form of communication, the culture war is ongoing. There is a battle for the soul, for the mind, for the actual personality, if you will, of the Nation.

Mr. Speaker, I think that is pretty much accepted as being true. We know that there are these competing sets of values out there trying to grab us and get us on their side, whatever that might be.

Now, I happen to believe completely that there is such a thing as good art, good music. I believe that it can be all of the things that people say. I believe we can be inspired by it. We can be motivated by art to do wonderful things. But I also suggest, Mr. Speaker, that if there is such a thing as good art, good music, good literature, then there is such a thing as bad art, bad music and bad literature. And it has the opposite effect of the good art. I believe that is true. That is my personal observation, my personal belief.

I choose not to impose that belief on anyone by law, but I will make the case when I am allowed here on the House floor, allowed to debate this issue in any public forum, I will talk about the fact that I believe we are in the midst of a culture war and there are competing sides in that war that are actually grappling for the soul of the Nation. I will try my best to defend what I believe to be the good side as opposed to the bad side, but that is my decision to make. And it rests on my ability to convince my friends or relatives, as well as it does with any one of us here as to who is right and who is wrong.

Even as a Member of the Congress of the United States, it is not in my authority to force anyone out there to agree with it by the power that is vested in me as a Member of this House to vote for a tax to enforce my particular view of who should be helped in those culture wars. We have to do it through the power of persuasion.

This place, Mr. Speaker, is the place in which the battle occurs oftentimes, maybe even daily. Because this is the place in which we have determined that a great debate should go on about the nature of our society, about the kind of people we are. It is the place of ideas. It is certainly the free marketplace of ideas. And we are allowed to come before the body as I have tonight to express our opinions. I hope that we have to a certain extent, anyway, even a small extent tonight, made a case for allowing that debate to occur without the influence of the power of government to tax and help one side in it as opposed to another.

Let us simply talk about it here, but, Mr. Speaker, I suggest to you that there again is no more hypocritical thing that we do here in the Congress of the United States than to take money away from people in support of a particular brand of art or music and then argue about whether or not that should happen with regard to religion.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. THOMAS (at the request of Mr. ARMEY) for today after 2:00 p.m., and tomorrow, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. SOLIS) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MORAN of Virginia, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. JEFFERSON, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. PETERSON of Pennsylvania, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, June 28, 2001, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2689. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Bifenazate; Pesticide Tolerances for Emergency Exemptions [OPP–301143; FRL–6788–5] (RIN: 2070–AB78) received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2690. A letter from the Deputy Director National Institute on Disability and Rehabilitation Research, Department of Education, transmitting Final Priority—Assistive Technology Outcomes and Impacts, Assistive Technology Research Projects for Individuals with Cognitive Disabilities, Resource Center for Community-based Research on Technology for Independence, and Community-based Research Projects on Technology for Independence, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2691. A letter from the Regulations Coordinator, Health Care Financing Administration, Department of Health and Human Services, transmitting the Department's final rule—Medicaid Program; Medicaid Managed Care: Further Delay of Effective Date (RIN: 0938–AI70) received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2692. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors [FRL–7001–8] received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2693. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities and National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities [AD–FRL–6997–9] (RIN: 2060–AG91) received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2694. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Mountain View, Arkansas) [MM Docket No. 01–45; RM–9997] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2695. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Hewitt, Texas) [MM Docket No. 01–24; RM–10052] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2696. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Linden, White Oak, Lufkin, Corrigan, Mount Enterprise, and Pineland, Texas, and Zwolle, Louisiana) [MM Docket No. 00–228; RM–9991] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2697. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Exmore and Cheriton, Virginia, and Fruitland, Maryland) [MM Docket No. 99–347; RM–9751, RM–9761] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2698. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Creation of a Low Power Radio Service [MM Docket No. 99–25; RM–9208, RM–9242] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2699. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List—received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2700. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2701. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2702. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2703. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2704. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2705. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2706. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2707. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2708. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2709. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2710. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2711. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2712. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2713. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2714. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2715. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2716. A letter from the Chief Operating Officer/President, Financing Corporation, transmitting the Financing Corporation's Statement of Internal Controls and the 2000 Audited Financial Statements; to the Committee on Government Reform.

2717. A letter from the Director, Office of Regulations Management, Department of Veterans' Affairs, transmitting the Department's final rule—Grants to States for Construction and Acquisition of State Home Facilities (RIN: 2900–AJ43) received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2718. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Withdrawal of Notice of Federal Tax Lien in Certain Circumstances [TD 8951] (RIN: 1545–AV00) received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. House Joint Resolution 36. Resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States (Rept. 107–115). Referred to the House Calendar.

Mr. BONILLA: Committee on Appropriations. H.R. 2330. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–116). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 182. Resolution providing for consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period (Rept. 107–117). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 183. Resolution providing for consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–118). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER (for himself, Mr. Hyde, and Mr. Hutchinson):

H.R. 2325. A bill to establish the Antitrust Modernization Commission; to the Committee on the Judiciary.

By Mr. BOEHLERT:

H.R. 2326. A bill to establish an alternative fuel vehicle energy demonstration and commercial application of energy technology competitive grant pilot program within the Department of Energy to facilitate the use of alternative fuel vehicles; to the Committee on Science.

By Mr. RYAN of Wisconsin (for himself, Mr. Souder, Mr. Toomey, Mr. Hostettler, Mr. Largent, Mr. Bartlett of Maryland, Mr. Cantor, Mr. Schaffer, Mr. Istook, Mr. Akin, Mr. Shadegg, and Mr. Aderholt):

H.R. 2327. A bill to repeal the sunset of the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001; to the Committee on Ways and Means.

By Ms. BALDWIN (for herself, Mr. Frank, Mrs. Mink of Hawaii, Mr. Stark, Mrs. Christensen, Ms. Jackson-Lee of Texas, Mr. Kildee, Mr. Evans, Ms. Carson of Indiana, Mr. Kucinich, Ms. Pelosi, Ms. Millender-McDonald, Mr. Sanders, Mr. McGovern, Mr. George Miller of California, Ms. Kaptur, Mr. Bonior, Mr. Brady of Pennsylvania, Mr. Nadler, Ms. Waters, and Mrs. Maloney of New York):

H.R. 2328. A bill to amend the Family and Medical Leave Act of 1993 to eliminate an hours of service requirement for benefits under that Act; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOUGHTON (for himself, Mr. Oberstar, Mr. Quinn, Mr. Clement, Mr. King, Mr. Rahall, Mr. Cummings, Mr. Castle, Mr. DeFazio, Ms. Eddie Bernice Johnson of Texas, Mr. McHugh, Ms. Norton, Ms. Brown of Florida, Mr. Shays, Mr. Lipinski, Mr. Sweeney, Mr. Cardin, Mr. Borski, Mr. Costello, Mr. Gilman, Mr. Cantor, Mr. Barcia, Mr. Bachus, Mr. Isakson, Mr. Menendez, Mr. Horn, Mr. Blagojevich, Mr. Rush, Mr. Owens, Mr. LaTourette, Mr. Boswell, Mr. Ehlers, Mr. Payne, Mr. Farr of California, Mr. Acevedo-Vilá, Mrs. Roukema, Mr. Kildee, Mr. McGovern, Mr. Gutierrez, Mr. Schrock, Ms. Dunn, Mr. Barrett, Mr. English, Mr. Towns, Mr. Capuano, Mr. Nadler, Mr. Becerra, Mr. Norwood, Mrs. Jones of Ohio, Ms. Baldwin, Mr. Andrews, Mr. Meeks of New York, Mr. Kirk, Mr. Boucher, Mr. Doyle, Mr. Pascrell, Ms. Millender-McDonald, Mr. Blumenauer, Ms. Pelosi, Mr. Filner, Mr. Larsen of Washington, Mr. Baca, Mr. Baird, Mr. Ferguson, Mr. Baldacci, Mr. Brown of Ohio, Mr. Dicks, Mr. Upton, Mrs. Tauscher, Mr. Hinchey, Mr. Inslee, Ms. Kaptur, Mr. Boehlert, Ms. Kilpatrick, Mr. Weller, Ms. Lee, Ms. McKinney, Mrs. Meek of Florida, Mr. Buyer, Mr. Moran of Virginia, Mr. Holden, Mr. Ford, Mr. Goodlatte, Mr. Matsui, Ms. McCarthy of Missouri, Mr. Dooley of California, Mr. Mascara, Mr. Serrano, Mr. Carson of Oklahoma, Mr. Holt, Mr. McNulty, Mr. Forbes, Mr. Davis of Illinois, Mr. Evans, Mrs. Thurman, Mr. Hilliard, Mr. Sandlin, Mr. Sawyer, Mr. Brady of Pennsylvania, Ms. Berkley, Mr. Berry, Ms. Carson of Indiana, Mr. Scott, Mr. Price of North Carolina, Ms. Hooley of Oregon, Mr. Lewis of Georgia, Mrs. Maloney of New York, Ms. Slaughter, Mr. Frank, Mr. Allen, Mr. Bishop, Ms. Jackson-Lee of Texas, Mr. Smith of Washington, Ms. DeLauro, Mr. Markey, Ms. Rivers, Mr. Kucinich, Mr. Lampson, Mr. Etheridge, Mrs. Capps, Mr. LaFalce, Mr. George Miller of California, Mr. Calvert, Mr. Lantos, and Ms. Watson):

H.R. 2329. A bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, to amend title 49, United States Code, to provide for approval by the Secretary of Transportation of projects to be funded by those bonds, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BONILLA:

H.R. 2330. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

By Mr. HORN:

H.R. 2331. A bill to provide for oversight of the activities of the Federal Energy Regulatory Commission by the Comptroller General, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 2332. A bill to amend title 10, United States Code, to provide for expanded eligibility for participation by members of the Selected Reserve and their dependents in the TRICARE program; to the Committee on Armed Services.

By Mr. BURR of North Carolina (for himself, Mr. Stupak, and Mr. Chambliss):

H.R. 2333. A bill to amend the Public Health Service Act to provide for a National Disaster Medical System, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BURR of North Carolina (for himself and Mr. Jones of North Carolina):

H.R. 2334. A bill to amend the Internal Revenue Code of 1986 to dedicate revenues from recent tobacco tax increases for use in buying out tobacco quota; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAMP (for himself, Mr. Hayworth, Mr. Kildee, and Mr. Bonior):

H.R. 2335. A bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas; to the Committee on Ways and Means.

By Mr. COBLE (for himself and Mr. Berman):

H.R. 2336. A bill to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers; to the Committee on the Judiciary.

By Mrs. CUBIN (for herself and Mr. McInnis):

H.R. 2337. A bill to amend the Internal Revenue Code of 1986 to provide an election for a special tax treatment of certain S corporation conversions; to the Committee on Ways and Means.

By Mr. ENGEL (for himself, Ms. Eddie Bernice Johnson of Texas, Mr. Filner, Mr. Lantos, Mr. Hinchey, Mr. Jackson of Illinois, Mr. Payne, Mr. Nadler, Ms. McKinney, Mr. Pascrell, Mr. Owens, Mr. Serrano, Mr. Pallone, Ms. Waters, Mr. Kucinich, Mr. Towns, Mr. Sanders, Mr. Meeks of New York, and Mr. Honda):

H.R. 2338. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit against the income tax for the amount paid in rent in excess of 30 percent of income; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself, Mr. Doyle, Mr. Smith of New Jersey, Mr. Horn, Mr. Shows, Ms. Brown of Florida, Mr. Blagojevich, Mr. King, Mr. Spence, Mr. Tiahrt, Mr. Fossella, Mrs. Roukema, and Mr. Greenwood):

H.R. 2339. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit against tax with respect to education and training of developmentally disabled children; to the Committee on Ways and Means.

By Mr. FOLEY (for himself and Mr. Sandlin):

H.R. 2340. A bill to prohibit discrimination or retaliation against health care workers who report unsafe conditions and practices which impact on patient care; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLATTE (for himself, Mr. Boucher, Mr. Sensenbrenner, Mr. Moran of Virginia, Mr. Armey, Mr. Stenholm, Mr. Hyde, Mr. Dooley of California, Mr. Bryant, Mr. Holden, Mr. Cox, Mr. Chabot, Mr. Cramer, Mr. Oxley, Mr. Sununu, Mr. Bachus, Mr. Bartlett of Maryland, and Mr. Goss):

H.R. 2341. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes; to the Committee on the Judiciary.

By Ms. GRANGER:

H.R. 2342. A bill to amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to assure patient access to primary pediatric care through pediatricians under group health plans and group health insurance coverage; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mrs. Clayton, and Mr. Reyes):

H.R. 2343. A bill to support research and development programs in agricultural biotechnology and genetic engineering targeted to addressing the food and economic needs of the developing world; to the Committee on Agriculture.

By Mr. McINNIS:

H.R. 2344. A bill to provide for the implementation of an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Virginia (for himself, Mrs. Jo Ann Davis of Virginia, Mr. Boucher, Mr. Tom Davis of Virginia, Mr. Scott, and Mr. Schrock):

H.R. 2345. A bill to extend Federal recognition to the Chickahominy Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Tribe, and the Nansemond Tribe; to the Committee on Resources.

By Mr. MURTHA:

H.R. 2346. A bill to amend title XVIII of the Social Security Act to increase by 20 percent the payment under the Medicare Program for ambulance services furnished to Medicare beneficiaries in rural areas; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NUSSLE:

H.R. 2347. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fishermen, and for other purposes; to the Committee on Ways and Means.

By Mr. PASTOR (for himself, Mr. Pallone, and Ms. Jackson-Lee of Texas):

H.R. 2348. A bill to render all enrolled members of the Tohono O'odham Nation citizens of the United States as of the date of their enrollment and to recognize the valid membership credential of the Tohono O'odham Nation as the legal equivalent of a certificate of citizenship or a State-issued birth certificate for all Federal purposes; to the Committee on the Judiciary.

By Mr. SANDERS (for himself, Ms. Lee, Mr. McHugh, Mr. Rush, Mrs. Clayton, Ms. McKinney, Mr. Israel, Mr. Filner, Mrs. Meek of Florida, Mr. Kennedy of Rhode Island, Ms. Schakowsky, Mr. Thompson of Mississippi, Mr. Engel, Mr. Coyne, Mr. Conyers, Mr. Owens, Mr. Schiff, Mr. Capuano, Mr. Frost, Mr. Stark, Ms. Carson of Indiana, Mr. Delahunt, Mr. Kucinich, Mr. Cummings, Mr. Clay, Ms. Velázquez, Ms. Rivers, Ms. Pelosi, Mr. Blumenauer, Mr. McDermott, Mr. Baldacci, Ms. McCollum, Mr. Larsen of Washington, Ms. McCarthy of Missouri, Mr. Frank, Mrs. Jones of Ohio, Mr. Hastings of Florida, Ms. Waters, Ms. Eddie Bernice Johnson of Texas, Mr. Brady of Pennsylvania, Ms. Jackson-Lee of Texas, Mr. Allen, Mr. Gutierrez, Mr. Davis of Illinois, Mr. Payne, Mr. Farr of California, and Mr. Nadler):

H.R. 2349. A bill to establish the National Affordable Housing Trust Fund in the Treasury of the United States to provide for the development, rehabilitation, and preservation of decent, safe, and affordable housing for low-income families; to the Committee on Financial Services.

By Mr. SHAW (for himself, Mr. Tanner, Mr. Foley, Mrs. Johnson of Connecticut, Mr. Watkins, Mr. Lewis of Georgia, Mr. Coyne, Mr. Matsui, Mrs. Thurman, Mr. McNulty, Mr. Kleczka, Mr. Cardin, Mr. Pomeroy, Mr. McInnis, Mr. McDermott, Mr. Collins, Mr. Barcia, Mr. Jefferson, Mr. Lewis of Kentucky, Mr. Herger, Mr. Sessions, Ms. Dunn, Mr. Paul, Mr. Brady of Texas, Mr. Ramstad, Mr. Becerra, Mr. Hayworth, Mr. Neal of Massachusetts, Mr. English, Mr. Stark, Mr. Nussle, Mr. Levin, Mr. Hulshof, and Mr. Weller):

H.R. 2350. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers; to the Committee on Ways and Means.

By Mr. SPRATT (for himself and Mrs. Tauscher):

H.R. 2351. A bill to establish the policy of the United States for reducing the number of nuclear warheads in the United States and Russian arsenals, for reducing the number of nuclear weapons of those two nations that are on high alert, and for expanding and accelerating programs to prevent diversion and proliferation of Russian nuclear weapons, fissile materials, and nuclear expertise; to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 2352. A bill to amend the Internal Revenue Code of 1986 to deny any deduction for direct-to-consumer advertisements of prescription drugs that fail to provide certain information or to present information in a balanced manner, and to amend the Federal Food, Drug, and Cosmetic Act to require reports regarding such advertisements; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANCREDO (for himself, Mr. Largent, Mr. Bartlett of Maryland, Mr. Gilchrest, Mr. Terry, and Mr. Hefley):

H.R. 2353. A bill to revise certain policies of the Army Corps of Engineers for the purpose of improving the Corps' community relations, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. MORELLA (for herself, Mr. Gallegly, and Mr. Shays):

H. Con. Res. 175. Concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals; to the Committee on Agriculture.

By Mr. YOUNG of Florida:

H. Con. Res. 176. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate; considered and agreed to.

By Ms. SOLIS (for herself, Ms. Kaptur, Mr. Rodriguez, Mr. Gutierrez, Mr. Baca, Mr. Hinojosa, Ms. Lee, Mr. George Miller of California, Mr. Conyers, Mr. Berman, Ms. Carson of Indiana, Mrs. Napolitano, Mr. Honda, Ms. Roybal-Allard, Mrs. Davis of California, Mr. Stark, Mr. Menendez, Mr. McNulty, Ms. Millender-McDonald, Ms. Sanchez, Mr. Becerra, Ms. DeGette, Mr. Pastor, Mr. Davis of Illinois, Ms. McKinney, Mr. Reyes, Mrs. Mink of Hawaii, Mr. Gephardt, Mr. Schiff, Mr. Dooley of California, Mr. Kleczka, Mr. Frank, Mr. Gonzalez, Mrs. Meek of Florida, Mr. Ortiz, Ms. Velázquez, Mr. Serrano, and Mr. McInnis):

H. Con. Res. 177. Concurrent resolution expressing the sense of the Congress that all workers deserve fair treatment and safe working conditions, and honoring Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farm worker families; to the Committee on Education and the Workforce.

By Mr. BALLENGER (for himself, Mr. Hyde, Mr. Menendez, Mr. Delahunt, Mr. Faleomavaega, Mr. Leach, Mr. Hastings of Florida, Mr. Sherman, Mr. Berman, Mr. Crowley, Mr. Hutchinson, Ms. Watson, Mr. Davis of Florida, Ms. Pelosi, Mr. Ortiz, Mr. Kucinich, Mr. DeFazio, Mr. Tierney, Mr. Capuano, Mr. Udall of New Mexico, Mr. Ryun of Kansas, Ms. Woolsey, Mr. Langevin, Mr. Thompson of California, Mr. Peterson of Minnesota, Mr. Farr of California, Mr. Olver, Mr. Kennedy of Minnesota, Mr. Etheridge, Ms. Harman, Mr. Condit, Ms. Solis, Mr. Moran of Virginia, Mr. Gallegly, Mr. Herger, Mr. Brown of South Carolina, Mr. Duncan, Mr. Graham, Mr. Jenkins, Mr. Saxton, Mr. Crane, Mr. Callahan, and Mr. Flake):

H. Res. 181. A resolution congratulating President-elect Alejandro Toledo on his election to the Presidency of Peru, congratulating the people of Peru for the return of democracy to Peru, and expressing sympathy for the victims of the devastating earthquake that struck Peru on June 23, 2001; to the Committee on International Relations.

By Ms. PRYCE of Ohio:

H. Res. 182. A resolution providing for consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period.

By Mr. HASTINGS of Washington:

H. Res. 183. A resolution providing for consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

120. The SPEAKER presented a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 385 memorializing the United States Congress to ensure ethanol and biodiesel are included as part of any lasting energy policy; to the Committee on Energy and Commerce.

121. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 105 memorializing the United States Congress to urge the Secretary of State to increase efforts to urge the People's Republic of China to recognize and protect the human rights of its citizens and halt the persecution against practitioners of Falun Gong; to the Committee on International Relations.

122. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 136 memorializing President and the United States Congress to work for the admission of Latvia into NATO; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. DeFazio.

H.R. 85: Mr. Manzullo.

H.R. 91: Mr. Green of Wisconsin.

H.R. 116: Mr. Hinchey.

H.R. 159: Mr. Stearns.

H.R. 238: Mr. Baird.

H.R. 267: Mr. Berry, Mr. Ortiz, and Mr. Borski.

H.R. 287: Mr. Hastings of Florida and Ms. Lofgren.

H.R. 303: Mr. Hayworth.

H.R. 382: Mr. Kerns and Mr. Putnam.

H.R. 460: Mr. Pascrell.

H.R. 478: Ms. Hart.

H.R. 479. Ms. Hart.

H.R. 480: Ms. Hart.

H.R. 527: Mr. Phelps, Ms. Ros-Lehtinen, Mr. Jenkins, Mr. Cantor, and Mr. Schrock.

H.R. 529: Ms. Velázquez.

H.R. 530: Ms. Velázquez.

H.R. 635: Mr. LaTourette.

H.R. 656: Mr. Tancredo, Mrs. Christensen, and Mr. Kerns.

H.R. 713: Mr. Stark.

H.R. 717: Mr. Nussle, Mr. Buyer, Mrs. Capps, Ms. Kilpatrick, and Mr. Tauzin.

H.R. 746: Mr. Pickering.

H.R. 770: Mr. LaFalce and Mr. Thompson of Mississippi.

H.R. 774: Mr. Ehrlich and Mr. Leach.

H.R. 794: Mr. Baird.

H.R. 804: Mr. Burr of North Carolina and Mr. Isakson.

H.R. 808: Ms. Eshoo, Mr. Meehan, and Mr. Sweeney.

H.R. 822: Mr. Upton, Mr. Ganske, Mr. Weldon of Florida, Ms. Ros-Lehtinen, Mr. Farr of California, Mr. Kingston, and Mr. Goss.

H.R. 826: Mr. Bryant and Mr. Crenshaw.

H.R. 828: Mr. LaTourette.

H.R. 848: Mr. Platts, Mr. Bryant, Mr. Abercrombie, Mr. Bishop, Mr. Hobson, Mr. Crowley, and Mr. Thompson of California.

H.R. 854: Mr. Schiff, Mr. Blumenauer, Mr. Bishop, Mr. Graham, Mrs. Napolitano, and Mrs. Jones of Ohio.

H.R. 876: Mr. Price of North Carolina, Mr. Green of Wisconsin, Mr. Engel, and Mr. Lantos.

H.R. 914: Mr. Rohrabacher, Mr. Akin, Mrs. Biggert, Mr. Calvert, Mr. Tiahrt, Mr. Weldon of Florida, Mr. Pence, Mr. Tancredo, Mr. Hefley, Mr. Barr of Gorgia, Mr. Kolbe, Mr. Radanovich, Mr. Miller of Florida, Mr. Armey, Mr. Keller, Mr. Ehrlich, and Mr. Andrews.

H.R. 933: Mr. Boucher.

H.R. 990: Mr. Inslee.

H.R. 1060: Ms. Roybal-Allard.

H.R. 1110: Mr. Brady of Texas, Mr. Gilchrest, and Ms. McCollum.

H.R. 1140: Mr. Culberson, and Mrs. Davis of California.

H.R. 1143: Mr. Davis of Illinois and Ms. Waters.

H.R. 1149: Mr. Stickland, Mr. McDermott, Mr. Hinchey, Mr. Ross, Mr. Baldacci, Ms. Eddie Bernice Johnson of Texas, Mr. Davis of Illinois, and Mr. Frank.

H.R. 1170: Mr. Becerra.

H.R. 1193: Mr. McGovern, Mr. Jackson of Illinois, Mr. Hinchey, Mr. Bishop, and Mr. Dooley of California.

H.R. 1265: Mr. Kucinich, Mr. Maloney of Connecticut, Ms. McKinney, Mr. Hinchey, Mr. Lipinski, Mr. Owens, Ms. Baldwin, Ms. Schakowsky, Mr. Payne, Mr. Davis of Illinois, and Mr. Goode.

H.R. 1266: Mr. Pallone, Mr. Rush, Ms. Schakowsky, Mr. Serrano, and Mr. Tierney.

H.R. 1271: Mr. Skelton.

H.R. 1287: Mr. Larsen of Washington and Ms. Ros-Lehtinen.

H.R. 1305: Mr. Blunt, Mr. Ose, and Mr. Combest.

H.R. 1317: Ms. Dunn.

H.R. 1342: Mr. Hobson.

H.R. 1343: Mr. Acevedo-Vilá.

H.R. 1362: Mr. Brown of Ohio and Ms. Pelosi.

H.R. 1363: Mrs. Cubin and Mr. Burton of Indiana.

H.R. 1401: Mr. Ose.

H.R. 1405: Mrs. Morella.

H.R. 1412: Mr. Hostettler.

H.R. 1427: Mr. Lampson.

H.R. 1468: Mr. Schiff.

H.R. 1481: Mr. Clement.

H.R. 1494: Ms. Watson.

H.R. 1592: Mr. Rehberg.

H.R. 1594: Mr. Doyle.

H.R. 1601: Mr. Nussle.

H.R. 1609: Mr. Wamp.

H.R. 1610: Mr. Clyburn.

H.R. 1642: Ms. Roybal-Allard, Mr. Udall of Colorado, and Mr. Davis of Illinois.

H.R. 1644: Mr. McNulty, Mr. Buyer, and Mrs. Northup.

H.R. 1645: Mr. Cunningham, Mr. Frost, Mr. Ballenger, Mr. Green of Texas, Mr. Hinchey, Ms. Kaptur, Ms. Lee, Mr. Horn, Mr. LaFalce, Mr. Spence, and Mr. Ehrlich.

H.R. 1657: Mr. Camp and Mr. Brady of Texas.

H.R. 1690: Ms. Woolsey.

H.R. 1694: Mr. Barr of Georgia.

H.R. 1700: Mr. Matheson, Mr. Tierney, Mr. Waxman, and Mr. Larsen of Washington.

H.R. 1718: Mr. Tancredo and Ms. Granger.

H.R. 1739: Mr. McGovern, Mr. Stark, and Mr. Grucci.

H.R. 1774: Mr. Shaw, Mrs. Jones of Ohio, and Mr. Phelps.

H.R. 1784: Mrs. Clayton, Mrs. Lowey, Mr. Sanders, and Mr. Payne.

H.R. 1790: Mr. Levin and Mr. Platts.

H.R. 1810: Mr. Abercrombie, Mr. Baldacci, Mr. Barrett, Mr. Price of North Carolina, Mr. Stark, Mr. Kleczka, Mr. Walsh, and Mrs. Capps.

H.R. 1822: Mr. Gonzalez, Mr. Horn, Mr. Frost, and Mr. Baldacci.

H.R. 1823: Mr. Serrano, Mr. Becerra, Mr. Gutierrez, and Mr. Ortiz.

H.R. 1839: Ms. Baldwin, Mr. Capuano, and Mr. Isakson.

H.R. 1840: Ms. Lofgren.

H.R. 1864: Mr. Ehlers and Mr. Isakson.

H.R. 1881: Mr. Green of Wisconsin.

H.R. 1948: Mr. Isakson.

H.R. 1972: Mr. Weldon of Florida, Mr. Paul, Mr. Souder, Mr. Deal of Georgia, and Mr. Toomey.

H.R. 1987: Mr. Capuano.

H.R. 1988: Mr. Sawyer, Mr. Crowley, and Mr. Stupak.

H.R. 1990: Mr. Rangel.

H.R. 2001: Mr. Sandlin.

H.R. 2004: Mr. Clay.

H.R. 2008: Mr. Davis of Illinois, Mr. Jefferson, Ms. Kilpatrick, Mr. Rangel, Mr. Rush, and Mr. Towns.

H.R. 2013: Ms. Schakowsky, Mr. Lantos, and Mr. Lewis of Georgia.

H.R. 2022: Mrs. Tauscher, Mr. Crowley, Mr. Farr of California, and Ms. Schakowsky.

H.R. 2030: Mr. Gilman.

H.R. 2035: Ms. Solis, Mr. Ross, Mr. Bishop, Mr. George Miller of California, Mr. Murtha, Mr. Oberstar, Mr. Rahall, Mr. Duncan, Mr. Brown of Ohio, Ms. Norton, Mr. Gonzalez, Mr. Condit, Mr. Olver, Ms.

VELÁZQUEZ, Mr. STARK, Mr. KILDEE, Mr. FROST, Ms. MCKINNEY, Mr. HINCHEY, Mr. PLATTS, Mr. LATOURETTE, Mrs. EMERSON, Mr. BLAGOJEVICH, Mr. BOUCHER, and Ms. MCCARTHY of Missouri.

H.R. 2036: Mr. GILLMOR, Mr. BRADY of Texas, Mr. LANTOS, Mrs. CAPPS, and Ms. BALDWIN.

H.R. 2037: Mr. COLLINS, Mr. MCHUGH, Mr. CAMP, Mr. UPTON, Mr. SKELTON, Mr. OXLEY, Mrs. EMERSON, Mr. BAKER, Mr. CHAMBLISS, Mr. TOOMEY, Mr. SCARBOROUGH, Mr. ARMEY, Mr. KINGSTON, Mr. MCCRERY, and Mr. ENGLISH.

H.R. 2070: Mr. NORWOOD, Mr. STENHOLM, Mr. BALLENGER, Mrs. BIGGERT, Mr. SAM JOHNSON of Texas, Mrs. MYRICK, Mr. SMITH of Texas, and Mr. ISAKSON.

H.R. 2081: Mr. KANJORSKI and Mr. WAXMAN.

H.R. 2096: Mr. MOLLOHAN.

H.R. 2117: Mr. GONZALES.

H.R. 2125: Ms. MCKINNEY, Mr. ENGLISH, Mr. ANDREWS, and Mr. BALDACCI.

H.R. 2126: Mr. COSTELLO, Mrs. EMERSON, Mr. GRAHAM, and Mr. SMITH of Texas.

H.R. 2138: Mr. BARRETT and Mr. BECERRA.

H.R. 2143: Mr. GOODLATTE and Mr. KERNS.

H.R. 2145: Mr. LANTOS.

H.R. 2149: Mr. TERRY, Mr. GOODLATTE, Mr. FLETCHER, Mr. OSE, and Mr. GREENWOOD.

H.R. 2164: Mr. CASTLE and Mr. COYNE.

H.R. 2173: Mr. COOKSEY.

H.R. 2175: Mr. PUTNAM, Mr. SKELTON, and Mr. HUNTER.

H.R. 2219: Mr. FILNER, Mr. PAUL, Ms. JACKSON-LEE of Texas, Mr. BALDACCI, and Mr. FROST.

H.R. 2243: Mr. FILNER, Ms. MCKINNEY, and Mr. RANGEL.

H.R. 2279: Mr. MCINNIS.

H.R. 2290: Mr. MCINNIS.

H.R. 2315: Mr. SWEENEY, Mr. ISSA, and Mr. CANTOR.

H.R. 2319: Mr. FRANK, Ms. JACKSON-LEE of Texas, Mr. GILMAN, Mr. STARK, Ms. LEE, and Mr. KUCINICH.

H.J Res 36: Ms. BERKLEY.

H. Con. Res. 26: Mr. NADLER.

H. Con. Res. 60: Mr. TOWNS, Mr. LEWIS of Georgia, Mr. SHERMAN, and Mr. COYNE.

H. Con. Res. 89: Mr. HASTINGS of Washington, Mr. BURTON of Indiana, and Mr. MCGOVERN.

H. Con. Res. 102: Mrs. MEEK of Florida, Mr. WYNN, Ms. MILLENDER-MCDONALD, Mr. WATTS of Oklahoma, Mr. UPTON, Mr. STARK, Mr. BAIRD, Mr. MOORE, Ms. MCCOLLUM, and Mr. WAXMAN.

H. Con. Res. 132: Mr. MATSUI, Mr. ISAKSON, Mr. DOOLEY of California, Mr. CANTOR, Mr. BOUCHER, Mr. ENGLISH, Mr. SMITH of Texas, and Mr. SCHIFF.

H. Con. Res. 160: Mr. GILMAN, Mr. ORTIZ, Ms. JACKSON-LEE of Texas, Mr. BRADY of Texas, and Mr. SHIMKUS.

H. Res. 152: Mr. SHERWOOD, Mr. BAIRD, and Mr. LANTOS.

H. Res. 173: Ms. MCCARTHY of Missouri.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2180: Mrs. BONO.

PETITIONS, ETC.

Under clause 3 of rule XII,

30. The SPEAKER presented a petition of the Legislature of Rockland County, New York, relative to Resolution No. 254 petitioning the United States Congress to enact legislation maintaining the Medicaid intergovernmental transfer program for County nursing facilities; which was referred to the Committee on Energy and Commerce.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2311

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 5: At the end of the bill (before the short title) add the following section:

SEC. . No funds in this Act may be used to drill for oil and gas, through, in or under, the Mosquito Creek Reservoir, Trumbull County, Ohio.

H.R. 2330

OFFERED BY: MR. ALLEN

AMENDMENT NO. 4: At the end of title VII, insert after the last section (preceding any short title) the following section:

SEC. 7____. None of the amounts made available in this Act for the Food and Drug Administration may be expended to approve any application for a new drug submitted by an entity that does not, before completion of the approval process, provide to the Secretary of Health and Human Services a written statement specifying the total cost of research and development with respect to such drug, by stage of drug development, including a separate statement specifying the portion paid with Federal funds and the portion paid with State funds.

H.R. 2330

OFFERED BY: MRS. CLAYTON

AMENDMENT NO. 5: At the end of the bill (before the short title), insert the following new section:

SEC. 738. The amounts otherwise provided by this Act are revised by reducing the amount made available for "AGRICULTURAL PROGRAMS—AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS", by reducing the amount made available for "AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES" (and the amount specified under such heading for competitive research grants (7 U.S.C. 450i(b)), by reducing the amount made available for "AGRICULTURAL PROGRAMS—FARM SERVICE AGENCY—SALARIES AND EXPENSES", and by increasing the amount made available for "AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES" (and the amount specified under such heading for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University), by increasing the amount made available for "AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES" (and the amount specified under such heading for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222)), and by increasing the amount made available for "AGRICULTURAL PROGRAMS—OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS", by $5,521,000, $10,000,000, and $7,007,000, respectively.

H.R. 2330

OFFERED BY: MRS. CLAYTON

AMENDMENT NO. 6: In title III, in the item relating to "Rural Housing Insurance Fund Program Account" add at the end the following:

Of the amounts made available under this heading in chapter 1 of title II of Public Law 106–246 (114 Stat. 540) for gross obligations for principal amount of direct loans authorized by title V of the Housing Act of 1949 for section 515 rental housing, the Secretary of Agriculture may use $12,000,000 for rental assistance agreements described in the item relating to "Rental Assistance Program" in such chapter.

In making available for occupancy dwelling units in housing that is provided with funds made available under the heading referred to in the preceding paragraph, the Secretary of Agriculture may give preference to prospective tenants who are residing in temporary housing provided by the Federal Emergency Management Agency as a result of an emergency.

H.R. 2330

OFFERED BY: MR. DEFAZIO

AMENDMENT NO. 7: In title I, under the heading "COMMON COMPUTING ENVIRONMENT", insert after the first dollar amount the following: "(reduced by $1,990,000)".

In title I, under the heading "ANIMAL AND PLANT HEALTH INSPECTION SERVICE"—"SALARIES AND EXPENSES", insert after the first dollar amount the following: "(increased by $1,990,000)".

H.R. 2330

OFFERED BY: MR. HINCHEY

AMENDMENT NO. 8: Insert before the short title the following new section:

SEC. ____. None of the funds appropriated or otherwise made available by this Act shall be used to eliminate employment positions (or alter the tasks assigned to the persons filling such employment positions) related to the operation of the American Heritage Rivers Initiative.

H.R. 2330

OFFERED BY: MR. KANJORSKI

AMENDMENT NO. 9: In title II, under the heading "CONSERVATION OPERATIONS", insert before the period at the end the following: ": *Provided further*, That $200,000 shall be available to continue the cooperative agreement between the GIS Consortium and the Natural Resources Conservation Service".

H.R. 2330

OFFERED BY: MS. KAPTUR

AMENDMENT NO. 10: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____. (a) The Secretary of Agriculture shall continue in fiscal year 2002 the Global Food for Education Initiative program implemented in fiscal year 2001, at the level implemented in fiscal year 2001.

(b) For all purposes under the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985, the Congressional Budget Office and the Office of Management and Budget shall treat the budget authority and outlays associated with continuing the Global Food for Education Initiative at the level implemented in fiscal year 2001 as part of the baseline costs of the Commodity Credit Corporation in fiscal year 2002 and shall not attribute any additional new budget authority or outlays to this Act because of the directive contained in subsection (a).

H.R. 2330

Offered By: Ms. Kaptur

Amendment No. 11: Add before the short title at the end the following new section:

Sec. ___. In addition to amounts otherwise appropriated or made available by this Act, $500,000,000 is appropriated to the Secretary of Agriculture to carry out and support (utilizing existing authorities of the Secretary and subject to the terms and conditions applicable to those authorities) research, technical assistance, loan, and grant programs regarding the development of biofuels (including ethanol, biodiesel, and other forms of biomass-derived fuels), the production of such biofuels, the establishment of farmer-held reserves of fuel stocks, and demonstration projects regarding such biofuels, as part of a Biofuels and Biomass Energy Independence effort and to augment the President's National Energy Policy: *Provided*, That the entire amount shall be available only to the extent an official budget request for $500,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

H.R. 2330

Offered By: Ms. Kaptur

Amendment No. 12: Add before the short title at the end the following new section:

Sec. ___. Of the amount provided in title I under the heading "EXTENSION ACTIVITIES", $500,000 shall be available to support the National 4–H Program Centennial Initiative, as authorized by the Act entitled "An Act to authorize funding for the National 4–H Program Centennial Initiative".

H.R. 2330

Offered By: Mr. Kucinich

Amendment No. 13: At the end of title VII, insert after the last section (preceding any short title) the following section:

Sec. 7___. None of the funds made available in this Act for the Food and Drug Administration may be used for the approval or process of approval, under section 512 of the Federal Food, Drug, and Cosmetic Act, of an application for an animal drug for creating transgenic salmon or any other transgenic fish.

H.R. 2330

Offered By: Ms. Lee

Amendment No. 14: In the item relating to "Agricultural Research Service– salaries and expenses", after the second dollar amount, insert the following: "(decreased by $1,000,000)".

In the item relating to "Food and Nutrition Service—child nutrition programs", after the first dollar amount, insert the following: "(increased by $1,000,000)".

H.R. 2330

Offered By: Ms. Lee

Amendment No. 15: In the item relating to "Agricultural Research Service—salaries and expenses", after the second dollar amount, insert the following: "(decreased by $2,000,000)".

In the item relating to "Food and Nutrition Service–child nutrition programs", after the first dollar amount, insert the following: "(increased by $2,000,000)".

H.R. 2330

Offered By: Mr. Lucas of Oklahoma

Amendment No. 16: Insert before the short title the following new section:

Sec. ___. The amounts otherwise provided by this Act are revised by increasing the total amount provided in title II under the heading "WATERSHED AND FLOOD PREVENTION OPERATIONS" (to be used to carry out section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), as added by section 313 of Public Law 106-472 (114 Stat. 2077)), and none of the funds made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who carry out the programs authorized by section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524) in excess of a total of $3,600,000 for all such programs for fiscal year 2002, by $5,400,000.

H.R. 2330

Offered By: Mrs. Mink of Hawaii

Amendment No. 17: Insert before the short title at the end the following new section:

Sec. ___. Of the amount for the Department of Agriculture provided under the heading "Agricultural Research Service"–"salaries and expenses" in title I, the Secretary of Agriculture shall provide $950,000, the same amount as was provided for fiscal year 2001, for the Hawaii Agriculture Research Center to maintain competitiveness and support the expansion of new crops and products.

H.R. 2330

Offered By: Mrs. Mink of Hawaii

Amendment No. 18: Insert before the short title at the end the following new section:

Sec. ___. Of the amount for the Department of Agriculture provided under the heading "Agricultural Research Service"–"salaries and expenses" in title I, the Secretary of Agriculture shall provide $1,603,000, the same amount as was provided for fiscal year 2001, for tropical aquaculture research for the Oceanic Institute of Hawaii for continuation of the comprehensive research program focused on feeds, nutrition, and global competitiveness of the United States aquaculture industry.

H.R. 2330

Offered By: Mr. Royce

Amendment No. 19: Insert before the short title the following new section:

Sec. ___. None of the funds appropriated or otherwise made available by this Act may be used to award any new allocations under the market access program or to pay the salaries of personnel to award such allocations.

H.R. 2330

Offered By: Mr. Sanders

Amendment No. 20: At the end of title VII, insert after the last section (preceding any short title) the following section:

Sec. 7___. None of the amounts made available in this Act for the Food and Drug Administration may be used for enforcing section 801(d)(1) of the Federal Food, Drug, and Cosmetic Act.

H.R. 2330

Offered By: Mr. Smith of Michigan

Amendment No. 21: Add before the short title at the end the following new section:

Sec. ___. Section 135(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7235(a)(2)) is amended by striking "2000 crop year" and inserting "2000 and 2001 crop years".

H.R. 2330

Offered By: Mr. Smith of Michigan

Amendment No. 22: In title I under the heading "Cooperative State Research, Education, and Extension Service"—"research and education activities" insert after the dollar amount relating to "competitive research grants (7 U.S.C. 450i(b))" the following: ", including grants for authorized competitive research programs regarding enhancement of the nitrogen-fixing ability and efficiency of plants".

H.R. 2330

Offered By: Mr. Smith of Michigan

Amendment No. 23: Add before the short title at the end the following new section:

Sec. ___. None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who permit the payment limitation specified in section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) to be exceeded pursuant to any provision of law, except in the case of loan deficiency payments and marketing loan gains received by a husband and wife who participate in the same farming operation.

H.R. 2330

Offered By: Mr. Tierney

Amendment No. 24: In title I, under the heading "AGRICULTURAL RESEARCH SERVICE—salaries and expenses", insert at the end the following:

SEC. ___. REPORT REGARDING GENETICALLY ENGINEERED FOODS.

(a) In General.—Not later than one year after funds are made available to carry out this section, the Secretary of Agriculture, acting through the National Academy of Sciences, shall complete and transmit to Congress a report that includes recommendations for the following:

(1) Data and tests.—The type of data and tests that are needed to sufficiently assess and evaluate human health risks from the consumption of genetically engineered foods.

(2) Monitoring system.—The type of Federal monitoring system that should be created to assess any future human health consequences from long-term consumption of genetically engineered foods.

(3) Regulations.—A Federal regulatory structure to approve genetically engineered foods that are safe for human consumption.

(b) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary of Agriculture $500,000 to carry out this section.

H.R. 2330

Offered By: Mr. Weiner

Amendment No. 25: Insert before the short title the following new section:

Sec. ___. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel of the Department of Agriculture to make any payment to producers of wool or producers of mohair for the 2000 or 2001 marketing years under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–55).

EXTENSIONS OF REMARKS

"POSTAL SERVICE HAS ITS EYE ON YOU"

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. PAUL. Mr. Speaker, I am pleased to take this opportunity to draw my colleagues' attention to the attached article "Postal Service Has Its Eye On You" by John Berlau of Insight magazine, which outlines the latest example of government spying on innocent citizens. Mr. Berlau deals with the Post Office's "Under the Eagle's Eye" program which the Post Office implemented to fulfill the requirements of the Nixon-era Bank Secrecy Act. Under this program, postal employees must report purchases of money orders of over $3,000 to federal law enforcement officials. The program also requires postal clerks to report any "suspicious behavior" by someone purchasing a money order. Mr. Speaker, the guidelines for reporting "suspicious behavior" are so broad that anyone whose actions appear to a postal employee to be the slightest bit out of the ordinary could become the subject of a "suspicious activity report," and a federal investigation!

As postal officials admitted to Mr. Berlau, the Post Office is training its employees to assume those purchasing large money orders are criminals. In fact, the training manual for this program explicitly states that "it is better to report many legitimate transactions that seem suspicious than let one illegal one slip through." This policy turns the presumption of innocence, which has been recognized as one of the bulwarks of liberty since medieval times, on its head. Allowing any federal employee to assume the possibility of a crime based on nothing more than a subjective judgment of "suspicious behavior" represents a serious erosion of our constitutional rights to liberty, privacy, and due process.

I am sure I do not need to remind my colleagues of the public's fierce opposition to the "Know Your Customer" proposal, or the continuing public outrage over the Post Office's proposal to increase monitoring of Americans who choose to receive their mail at a Commercial Mail Receiving Agency (CMRA). I have little doubt that Americans will react with the same anger when they discover that the Post Office is filing reports on them simply because they appeared "suspicious" to a postal clerk.

This is why I will soon be introducing legislation to curb the Post Office's regulatory authority over individual Americans and small business (including those who compete with the Post Office) as well as legislation to repeal the statutory authority to implement these "Know Your Customer" type policies. I urge my colleagues to read Mr. Berlau's article and join me in protecting the privacy and liberty of Americans by ensuring law-abiding Americans may live their lives free from the prying "Eagle Eye" of the Federal Government.

POSTAL SERVICE HAS ITS EYE ON YOU

(By John Berlau)

Since 1997, the U.S. Postal Service has been conducting a customer-surveillance program, 'Under the Eagle's Eye,' and reporting innocent activity to federal law enforcement.

Remember "Know Your Customer"? Two years ago the federal government tried to require banks to profile every customer's "normal and expected transactions" and report the slightest deviation to the feds as a "suspicious activity." The Federal Deposit Insurance Corp. withdrew the requirement in March 1999 after receiving 300,000 opposing comments and massive bipartisan opposition.

But while your bank teller may not have been snooping and snitching on your every financial move, your local post office has been (and is) watching you closely, Insight has learned. That is, if you have bought money orders, made wire transfers or sought cash cards from a postal clerk. Since 1997, in fact, the window clerk may very well have reported you to the government as a "suspicious" customer. It doesn't matter that you are not a drug dealer, terrorist or other type of criminal or that the transaction itself was perfectly legal. The guiding principle of the new postal program to combat money laundering, according to a U.S. Postal Service training video obtained by Insight, is: "It's better to report 10 legal transactions than to let one illegal ID transaction get by."

Many privacy advocates see similarities in the post office's customer-surveillance program, called "Under the Eagle's Eye," to the "Know Your Customer" rules. In fact, in a postal-service training manual also obtained by Insight, postal clerks are admonished to "know your customers."

Both the manual and the training video give a broad definition of "suspicious" in instructing clerks when to fill out a "suspicious activity report" after a customer has made a purchase. "The rule of thumb is if it seems suspicious to you, then it is suspicious," says the manual. "As we said before, and will say again, it is better to report many legitimate transactions that seem suspicious than let one illegal one slip through."

It is statements such as these that raise the ire of leading privacy advocates on both the left and right, most of whom didn't know about the program until asked by Insight to comment. For example, Rep. RON PAUL, R-Texas, who led the charge on Capitol Hill against the "Know Your Customer" rules, expressed both surprise and concern about "Under the Eagle's Eye." He says the video's instructions to report transactions as suspicious are "the reverse of what the theory used to be: We were supposed to let guilty people go by if we were doing harm to innocent people" when the methods of trying to apprehend criminals violated the rights of ordinary citizens. PAUL says he may introduce legislation to stop "Under the Eagle's Eye."

The same sort of response came from another prominent critic of "Know Your Customer," this time on the left, who was appalled by details of the training video. "The postal service is training its employees to invade their customers' privacy," Greg Nojeim, associate director of the American Civil Liberties Union Washington National Office, tells Insight. "This training will result in the reporting to the government of tens of thousands of innocent transactions that are none of the government's business. I had thought the postal-service's eagle stood for freedom. Now I know it stands for, 'We're watching you!'"

But postal officials who run "Under the Eagle's Eye" say that flagging customers who do not follow "normal" patterns is essential if law enforcement is to catch criminals laundering money from illegal transactions. "The postal service has a responsibility to know what their legitimate customers are doing with their instruments," Al Gillum, a former postal inspector who now is acting program manager, tells Insight. "If people are buying instruments outside of a norm that the entity itself has to establish, then that's where you-start with suspicious analysis, suspicious reporting. It literally is based on knowing what our legitimate customers do, what activities they're involved in."

Gillum's boss, Henry Gibson, the postal-service's Bank Secrecy Act compliance officer, says the anti-money-laundering program started in 1997 already has helped catch some criminals. "We've received acknowledgment from our chief postal inspector that information from our system was very helpful in the actual catching of some potential bad guys," Gibson says.

Gillum and Gibson are proud that the postal service received a letter of commendation from then-attorney general Janet Reno in 2000 for this program. The database system the postal service developed with Information Builders, an information-technology consulting firm, received an award from Government Computer News in 2000 and was a finalist in the government/nonprofit category for the 2001 Computerworld Honors Program. An Information Builders press release touts the system as "a standard for Bank Secrecy Act compliance and anti-money-laundering controls."

Gibson and Gillum say the program resulted from new regulations created by the Clinton-era Treasury Department in 1997 to apply provisions of the Bank Secrecy Act to "money service businesses" that sell financial instruments such as stored-value cash cards, money orders and wire transfers, as well as banks. Surprisingly, the postal service sells about one-third of all U.S. money orders, more than $27 billion last year. It also sells stored-value cards and some types of wire transfers. Although the regulations were not to take effect until 2002, Gillum says the postal service wanted to be "proactive" and "visionary."

Postal spokesmen emphasize strongly that programs take time to put in place and they are doing only what the law demands.

It also was the Bank Secrecy Act that opened the door for the "Know Your Customer" rules on banks, to which congressional leaders objected as a threat to privacy. Lawrence Lindsey, now head of the Bush administration's National Economic Council, frequently has pointed out that more than 100,000 reports are collected on innocent bank customers for every one conviction of money laundering. "That ratio of 99,999-to-1 is something we normally would not tolerate as a reasonable balance between privacy and the collection of guilty verdicts," Lindsey wrote in a chapter of the Competitive Enterprise Institute's book The Future of Financial Privacy, published last year.

Critics of this snooping both inside and outside the postal service are howling mad that the agency's reputation for protecting the privacy of its customers is being compromised. "It sounds to me that they're going past the Treasury guidelines," says Rick Merritt, executive director of Postal Watch, a private watchdog group. The regulations, for example, do not give specific examples of suspicious activity, leaving that largely for the regulated companies to determine. But the postal-service training video points to lots of "red flags," such as a customer counting money in the line. It warns that even customers whom clerks know often should be considered suspect if they frequently purchase money orders.

The video, which Gibson says cost $90,000 to make, uses entertaining special effects to illustrate its points. Employing the angel-and-devil technique often used in cartoons, the video presents two tiny characters in the imagination of a harried clerk. Regina Goodclerk, the angel, constantly urges the clerk to file suspicious-activity reports on customers. "Better safe than sorry," she says. Sam Slick, the devil, wants to give customers the benefit of the doubt.

Some of the examples given are red flags such as a sleazy-looking customer offering the postal clerk a bribe. But the video also encourages reports to be filed on what appear to be perfectly legal money-order purchases. A black male teacher and Little League coach whom the female clerk, also black, has known for years walks into the post office wearing a crisp, pinstriped suit and purchases $2,800 in money orders, just under the $3,000 daily minimum for which the postal service requires customers to fill out a form. He frequently has been buying money orders during the last few days.

"Gee, I know he seems like an okay guy," Regina Goodclerk tells the employee. "But buying so many money orders all of a

Gillum says this is part of the message that postal clerks can't be too careful because anyone could be a potential money launderer. "A Little League coach could be a deacon in the church, could be the most upstanding citizen in the community, but where is that person getting $2,800 every day?" Gillum asks. "Why would a baseball coach, a schoolteacher in town, buy [that many money orders]? Our customers don't have that kind of money. If he's a schoolteacher, if he's got a job on the side, he's going to have a bank account and going to write checks on it, so why does he want to buy money orders? That's the point."

Despite the fact that the Little League coach in the video was black, Gillum insists that the postal service tells its employees not to target by race or appearance.

One thing that should set off alarms, the postal service says, is a customer objecting to filling out an 8105–A form that requests their date of birth, occupation and driver's license or other government-issued ID for a purchase of money orders of $3,000 or more. If they cancel the purchase or request a smaller amount, the clerk automatically should fill out Form 8105–B, the "suspicious-activity" report. "Whatever the reason, any customer who switches from a transaction that requires an 8105–A form to one that doesn't should earn himself or herself the honor of being described on a B form," the training manual says.

But the "suspicious" customers might just be concerned about privacy, says Solveig Singleton, a senior analyst at the Competitive Enterprise Institute. And a professional criminal likely would know that $3,000 was the reporting requirement before he walked into the post office. "I think there's a lot of reasons that people might not want to fill out such forms; they may simply think it's none of the post office's business," Singleton tells Insight. "The presumption seems to be that from the standpoint of the post office and the Bank Secrecy regulators every citizen is a suspect."

Both Singleton and Nojeim say "Under the Eagle's Eye" unfairly targets the poor, minorities and immigrants—people outside of the traditional banking system. "A large proportion of the reports will be immigrants sending money back home," Nojeim says. Singleton adds, "It lends itself to discrimination against people who are sort of marginally part of the ordinary banking system or who may not trust things like checks and credit cards."

There's also the question of what happens with the information once it's collected. Gillum says that innocent customers should feel secure because the information reported about "suspicious" customers is not automatically sent to the Treasury Department's Financial Crimes Enforcement Network (FinCEN) to be shared with law enforcement agencies worldwide. Although he says FinCEN wants the postal service to send all reports along to it, the postal authorities only will send the clerks' reports if they fit "known parameters" for suspicious activity. "We are very sensitive to the private citizenry and their rights," Gillum insists. "For what it's worth, we have every comfort level that, if we make a report, there are all kinds of reasons to believe that there is something going on there beyond just a legitimate purchase of money orders."

But Gillum would not discuss any of the "parameters" the postal service uses to test for suspicious activity, saying that's a secret held among U.S. law-enforcement agencies. And if a clerk's report isn't sent to the Treasury Department, it still lingers for some time in the postal-service database. Gillum says that by law the postal service will not be able to destroy suspicious-activity reports for five years.

Gillum says the postal service is very strict that the reports only can be seen by law-enforcement officials and not used for other purposes such as marketing. A spokeswoman for the consulting company Information Builders stated in an e-mail to Insight, "Information Builders personnel do not have access to this system."

Observers say problems with "Under the Eagle's Eye" underscore the contradiction that despite the fact that the postal service advertises like a private business and largely is self-supporting, it still is a government agency with law-enforcement functions.

Gibson says his agency must set an example for private businesses on tracking, money orders. "Being a government agency, we feel it's our responsibility that we should set the tone," he said. The Treasury Department "basically challenged us in the mid-nineties to step up to the plate as a government entity," Gillum adds.

In fact, Gillum thinks Treasury may mandate that the private sector follow some aspects of the postal-service's program. He adds, however, that the postal service is not arguing for this to be imposed on its competitors.

In the meantime, the private sector is getting ready to comply with the Treasury regulations before they go into effect next January. But if 7-Eleven Inc., which through its franchises and company-owned stores is one of the largest sellers of money orders, is any guide, private vendors of money orders probably will not issue nearly as many suspicious-activity reports as the postal service. "'Our philosophy is to follow what the regulations require, and if they don't require us to fill out an SAR [suspicious-activity report] . . . then we wouldn't necessarily do it," 7-Eleven spokeswoman Margaret Chabris tells Insight. Asked specifically about customers who cancel or change a transaction when asked to fill out a form, Chabris said, "We are not required to fill out an SAR if that happens." So why does the U.S. Postal Service?

That's one of the major issues raised by critics such as Postal Watch's Merritt. He says that lawmakers and the new postmaster general, Jack Potter, need to examine any undermining of customer trust by programs such as "Under the Eagle's Eye" before the postal service is allowed to go into new businesses such as providing e-mail addresses. "Let's hope that this is not a trend for the postal service, because I don't think the American people are quite ready to be fully under the eagle's eye," he says.

TRIBUTE TO LLOYD OYSTER

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to Lloyd Oyster, a decorated soldier from World War II. I would like to acknowledge his bravery as a servicemen fighting on the front lines in Europe at the Battle of the Bulge. His many medals and awards demonstrate his bravery and patriotism. I am proud to stand and honor this outstanding citizen of the United States and would like to call his admirable actions to the attention of my colleagues in the House of Representatives.

I have attached for the record an article printed in the Ogemaw County Herald by Deanna Cahill about Mr. Oyster's experience as a World War II soldier.

Six decades ago, at the end of World War II, Lloyd Oyster was given a choice. The Lupton man had to decide whether or not to spend an extra few months in Europe and receive the medals he was entitled to, or return home to his wife and baby daughter.

Critically wounded in the Battle of the Bulge, Oyster didn't hesitate. He wanted to go home. He didn't regret that decision until recently, when he remarked to his youngest son, Joe, that he wished he would have stayed and received his medals.

Without letting his father know, Joe went on a mission to grant his father's wish.

On Monday, June 4, that wish was granted when Rep. Dave Camp presented Oyster, one by one, with the Good Conduct Medal, Purple Heart, European-African-Middle Eastern Campaign Medal with four Bronze Stars, the World War II Victory Medal, the American Campaign Ribbon, Combat Infantryman Badge and the Honorable Service Lapel Button WW II.

An honored but humble Oyster graciously accepted his medals from Camp, but said many others were far more deserving.

"I didn't do any more than anybody else did," he said.

Lloyd Oyster was born at home Jan. 19, 1922, to parents Joseph and Verna Mae Oyster in Lupton. The youngest of six boys, Oyster lost his mother when he was only 5 years old. She died giving birth to her seventh son. The baby died as well.

"I remember burying her," said Oyster somberly. "(After his mother died) we stayed together and Dad raised us on the farm."

Eventually two of his older brothers enlisted in the service. One went off to fight in Europe, the other in the Pacific. At the age of 21, Oyster was working at Borden's Dairy in West Branch and met 17-year-old Marge.

Oyster worked with Marge's sister's husband, and Marge and her sister would often visit at the dairy. He would walk Marge home after he was finished with work because she was frightened to walk alone.

"That started it," Oyster said. "That is how we got acquainted, and from there she tried to rope me in, and she did."

In late 1942 Oyster was drafted into the Army. He could have been deferred because Borden made products for the government, but Oyster opted against deferment.

"I was no worse or better than anyone else," he said. Thirty days before he was shipped overseas, he received word that his brother had been killed in Europe.

His brother's death made him a bit uneasy about the future, but he still wanted to serve his country.

"I wanted to go over and finish the job," he said.

On Dec. 7, 1942, Oyster embarked on the first leg of his journey. He attended basic training at Camp Claibourne, La., and went on to Camp House, Texas, where he was trained as a machine gunner.

On his first furlough from the service, Oyster married Marge on April 21, 1942.

He was then shipped to New York. Three days later he boarded the U.S.S. Montacella for the long trip across the Atlantic.

"I went over to France on my honeymoon," Oyster said. His young bride stayed with her parents in West Branch while he set off to fight for his country.

"(The journey) was kind of hairy," Oyster remembered. "We would run into a storm and have to change course. One time we had to change course for an enemy submarine."

"There were close living conditions," he said, adding that he volunteered for duty with the Navy sailors in the PX to get out from below decks. "You can't realize—(below decks) it was three bunks high by six to eight bunks wide. Let me just say this—you didn't want to be on the bottom bunk."

The soldiers finally arrived in France and went directly across into Germany. For six months Oyster, assigned to Company E of the 103rd Infantry Division, served on the front lines as a machine gunner.

"The Germans didn't like machine gunners," he said, adding that the gunners were the first targets of the enemy. The battles were fierce and Oyster witnessed the deaths of many of his fellow soldiers and friends.

"When your buddies got killed right alongside of you, it makes you want to finish it," he said. "You really didn't have time to think. You do what you have to do, and that was it."

Oyster added that fear was always present.

"Anyone who says they weren't afraid, they're nuts," he said. "You have got guns and artillery aimed at you."

In December 1944 as Allied forces were pushing their way into Germany, the Germans made a surprise counterattack and the Battle of the Bulge ensued.

During an artillery barrage, Oyster was showered with shrapnel. He was hit in the leg and a small piece of shrapnel struck him in the back.

He was taken to a field hospital for treatment. The hospital was located in the woods and consisted only of some tents. Oyster underwent surgery and lay there for several days. The battle was still being waged and he couldn't be moved.

By the time Oyster got to a hospital in England, gangrene had set in.

"They said they were going to take my leg," Oyster said. "I said no. At this time penicillin was just being introduced."

Doctors administered penicillin to Oyster.

"The infection cleared up and I got to save my leg," he said.

On Dec. 31, 1944, as Oyster lay in a hospital in England, Marie gave birth to their first child, Nancy. Oyster was then put into limited service and transferred to the Air Force.

"I wanted to be in the Air Force in the first place," he said. "It (the Air Force) is the best place you can be, as far as I'm concerned. It was almost like sending me home, putting me in there."

For the remainder of the war, Oyster was stationed at the 8th Army Headquarters, located about 30 miles from London, taking care of three generals' vehicles.

"They were going to send our division to Japan," he said. "But before we got shipped out, the war was over."

Oyster sailed home, this time on the Queen Mary. Upon arrival back into the United States, Oyster was given a choice.

"They told me that I could go in the hospital for two to three months and get my disability. I wanted to go home," he said, looking at his wife of 59 years.

Oyster returned home to claim his bride, and the couple settled back into the Lupton area.

Two more daughters, Joyce and Susan, followed in 1946 and 1948. Oyster yearned for a son.

"You take them as they come," he said. "But I wanted a boy."

In 1950, Marge delivered their first son, Larry. Another daughter, Jean, arrived in 1951, followed by Russell in 1954, Linda in 1956, and finally Joe was born in 1957.

"I kept trying to have a good one," said Oyster teasingly. "If I couldn't do better than that, I thought I better stop."

The Oysters now have 23 grandchildren and 11 great-grandchildren.

Years later Oyster traveled to the veterans' hospital to receive his medical benefits. He didn't realize that when he was discharged from the hospital in England, he was listed as a amputee.

"Veterans records showed that I had a wooden leg," he said, chuckling. "They wanted to know where my wooden leg was."

For many years, Oyster worked construction for Strand Steel Construction and also worked for himself for a time. At age 65, he retired on Social Security, but never stopped working.

In fact, at 79, Oyster still works full-time as a park ranger at the Rifle River Recreation Area in Lupton. He is expecting to finally retire later this summer after 20 years at the park.

In addition to working full-time, he also takes care of Marge, who is now confined to a wheelchair.

"My day starts at 5 a.m. and ends at 9 p.m., seven days a week," he said. "I just do it."

A couple of years ago, Oyster was reading a VFW magazine and remarked that he wished that he would have stayed in the service and received his medals.

His son, Joe, went home and told his wife. They contacted the Veteran's Affairs office in West Branch to determine how they would go about acquiring his medals.

They filled out a medal request form and mailed it to St. Louis, Mo. After six months, they heard nothing. Joe then mailed in a second request and still received no satisfaction.

A representative at Veteran's Affairs suggested they contact Camp, and within just a matter of a few months the medals were in Camps possession.

Camp hand-delivered those medals to a surprised Oyster at Joe's home on June 4.

Joe had invited his father to his home on the pretense of having a pizza party. Oyster patiently waited for the pizza to arrive. He was getting hungry and also a bit suspicious.

"You don't very often surprise me," Oyster said. "But they did surprise me. It felt good."

"I didn't expect to get them. There are a lot of soldiers who deserve the same thing," he added. "I was just defending my country. I didn't do any more than anybody else did."

"I would do it again before I would send my grandsons to do it," he added.

KNOEBELS AMUSEMENT PARK CELEBRATES 75TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of the House of Representatives to the 75th anniversary of the formal beginning of one of Northeastern Pennsylvania's primary tourist destinations, the Knoebels Amusement Park near Elysburg, which is also Pennsylvania's largest free admission amusement park.

In those 75 years, Knoebels has grown from a small local park to hosting more than a million guests each year. At the same time, the Knoebel family maintains a strong sense of tradition and family.

The land has been owned by the Knoebel family since 1828, when it was purchased by the Reverend Henry Hartman Knoebel. His grandson and namesake was the one who first envisioned the land's recreational potential. The younger Henry, better known as H.H. or "Ole Hen," farmed the land and pursued a lumbering business operating saw mills at several locations on the property.

Around the start of the 20th century, the Knoebel farm began to be visited by "tally-hos," Sunday afternoon rides with a destination, in this case people who came to sit by the creek banks, picnic in the woods and jump from the covered bridge to the swimming hole below.

As the site became more popular, the family installed picnic tables and benches, hired a lifeguard to protect the swimmers, and began selling food and soft drinks. The formal beginning of the amusement park was July 4, 1926, the opening of a concrete swimming pool. That same year, the family opened the first ride, a steam-powered merry-go-round, and the first restaurant.

Since that time, Knoebels has grown tremendously. Today, in addition to 50 rides and great food, the park offers the award-winning Alamo Restaurant, unique gift shops, numerous games, a miniature golf course, two campgrounds, picnic pavilions and the large Crystal Pool with its 900,000 gallons of mountain spring water. Knoebels is a major contributor to the economy of the region, employing 1,400 seasonal workers.

Voted "America's Best Park for Families" two years in a row by the National Amusement Park Historical Association, Knoebels is also known as "Pennsylvania's Hometown Park." The park is managed by the third generation of the Knoebel family, and members of the fourth generation are coming on board and taking their places. Brothers Dick and Ron Knoebel serve as co-general managers of the park.

Mr. Speaker, the Knoebel family continues to do a fine job of carrying on their trademark tradition of "fun, food and fantasy," and I wish them all the best.

IN HONOR OF ROBERT L. WEHLING, UPON ANNOUNCING HIS RETIREMENT FROM THE PROCTER & GAMBLE COMPANY

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. PORTMAN. Mr. Speaker, I rise today in tribute to Robert L. Wehling, a good friend and community leader, who will retire on August 10, 2001 from the Procter & Gamble Company in Cincinnati. Bob started with P & G on June 27, 1960 exactly 41 years ago today.

Bob Wehling currently serves as Procter & Gamble's global marketing and government relations officer. He joined the company as a brand assistant, and during his long and distinguished career, held various positions including brand manager, advertising manager, and vice president of public affairs. Bob has been a true leader and innovator, developing new approaches to marketing and responsible advertising.

A long-time advocate for quality family entertainent, he co-founded the Family Friendly Programming Forum in 1999, a consortium of major advertisers dedicated to increasing family oriented shows on network television. Bob believed it was possible to have positive programming choices for multigenerations to watch together—and for all to be entertained. In 2000, he was named the most powerful person in marketing by the trade journal Advertising Age. He was recognized for his work in making advertising more efficient as audiences become more fragmented.

His volunteer involvement in the Cincinnati community is legendary. He is particularly well known for his advocacy on behalf of children and his passion for education. His public service has taken him from president of the Wyoming, Ohio School Board in 1986 to more recent positions as Co-Chair of the Ohio Education Improvement Council and membership on the National Commission on Teaching and America's Future. Bob has capably led numerous local organizations, including the Greater Cincinnati March of Dimes, the Greater Cincinnati Chamber of Commerce, the National Advertising Council Board, and Beech Acres For the Love of Kids Parenting Conference.

All of us in Cincinnati congratulate Bob on his outstanding career with Procter & Gamble, thank him for his many years of dedicated community service, and wish him well in the new challenges to come.

TRIBUTE TO JOHN AND MARY KOLIMAS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to John and Mary Kolimas who recently celebrated their fiftieth wedding anniversary on June 16, 2001.

John and Mary represent the epitome of married life and family values. They have raised six wonderful children—Mamie, Chris, Bob, Barb, Rich, and Paul. I can attest firsthand to their ability as parents; their son Paul is a former employee of mine and a man I have great respect for. John and Mary have also been blessed with nine beautiful grandchildren: Nicole, Jordan, Kelly, Amie, Cathy, Samantha, Alexandria, Jesenia, and Michael. They also have one deceased grandchild, Elizabeth.

Friends of the couple fondly recall their meeting at a dance in 1948 at St. Stanislaus Bishop and Martyr Catholic Church. They were married at that same church three years later in 1951 by Mary's brother, Father Edwin Karlowiczier. Their outstanding devotion to the Catholic Church has continued throughout their marriage.

Both John and Mary attended St. Stanislaus Bishop and Martyr Catholic Grammar School. John graduated from Foreman High School, where he was class president. He served in the Navy for two years, and then attended Loyola University in Chicago under the GI Bill. Mary graduated from Holy Academy High School.

The couple was surrounded by seventy-five relatives and friends for mass and a joyous reception at the Rosewood West Restaurant on Saturday, June 16. Mary's brother, Father Edwin Karlowiczier, presided over the mass along with Father John Sayaya. In attendance for the celebration were Mary's four sisters: Therese, Kay, Janet, and Jean; and John's sisters: Helen, Bernice, and Emily. The group enjoyed a video presentation of pictures and music from the couple's fifty years together.

I have the highest level of respect for devoted couples like John and Mary. Their ability to love and raise children serves as a model for all of us to follow. I encourage my colleagues to join me in celebrating the fiftieth wedding anniversary of John and Mary and the strong family values they represent.

ARE PRODUCTION CONTROLS DESIRABLE FOR AGRICULTURE?

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. BEREUTER. Mr. Speaker, as the House prepares to consider the next Farm Bill, this Member commends to his colleagues the following analysis by Roy Frederick, a highly respected public policy specialist in the Department of Agricultural Economics at the University of Nebraska-Lincoln. Dr. Frederick's analysis examines the pros and cons of production controls for agriculture and provides helpful insights on this difficult issue.

[From the Nebraska State Paper]

ARE PRODUCTION CONTROLS DESIRABLE FOR AGRICULTURE?

(By Roy Frederick)

LINCOLN—You can count on it. One of the more contentious items in the upcoming farm bill debate will be whether we should return to production controls in a new law.

Set-asides and other land-idling schemes were a part of most every farm bill from 1933 through 1990. But passage of the Federal Agriculture Improvement and Reform Act in 1996 broke the mold. Under current law, farmers are not required to take land out of production as a precondition to receiving supports from the federal government.

Critics say that the lack of a supply-adjustment mechanism in the 1996 act is a serious flaw. Prices for all the major crops grown in Nebraska have been lackluster since mid-1998. Why not spur prices higher by restricting bushels offered to the marketplace? It seems like a logical question that deserves an answer.

Supporters of the current system respond that commodities are produced and marketed around the world. Any attempt to reduce U.S. production might be met by increased production elsewhere. Some livestock feeders also wouldn't be happy with the prospect of higher feed costs. Then there's the matter of how agribusinesses feel about it. Many survive on the basis of volume; the more acres in production, the better it is for farm-related businesses.

Recently, formal studies by agricultural economists at the University of Maryland and Iowa State University examined the land-idling question in greater depth.

In the first study, the focus was on inefficiencies caused by taking land out of production. That is, not only may land be taken out of its highest and best use, but other inputs, such as machinery and equipment, may be underused as well. The estimated cost to producers and consumers of a modest land retirement scheme is $2 billion to $4 billion a year, the study found.

The Iowa State study assumed that land planted to all major crops in the United States was reduced by 10 percent. Moreover, that reduction remained in place for eight years. At the end of the period, prices for corn and soybeans would be 13 percent higher and 6 percent higher, respectively, than if the idling had not occurred. So far, so good.

However, the authors of the latter study point out two big caveats. First, with 10 percent fewer acres, total revenue declines by whatever the revenue would have been on acres taken out of production. More importantly, if producers do what they've done in the past, they will attempt to increase production on the remaining 90 percent of land left in production. To the extent they are successful, price increases of the magnitude suggested above may not be realized. The authors conclude that the price impact of a 10 percent reduction in planted acreage is probably overstated.

A TRIBUTE TO REVEREND LUIS CENTENO

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to recognize Luis Centeno, the founder of Proclaimers of Hope Ministries, a faith-based recovery and addiction prevention program in West Kensington, Philadelphia.

Reverend Centeno, who also is the pastor at Bethel Temple Church, was recently chosen to receive the nation's highest honor for community health leadership—a 2001 Community Health Leader award from The Robert Wood Johnson Foundation. The distinction, conferred annually on only 10 people nationwide, includes a $100,000 award to continue his work.

Reverend Centeno saw first hand the ravaging effects of addiction on individuals and families in West Kensington—known as the "Badlands" because of its reputation as one of the worst drug centers in the United States. He was once a gang member himself and spent time in juvenile detention before turning his life around. In 1988, he created Proclaimers of Hope Ministries to take his message of change directly to the neighborhood's worst drug corners and create a local rehabilitation center.

The Proclaimers of Hope Ministries now has 200 volunteers donating 5,000 hours annually to serve the youth of the community and provide counseling and support to addicts. Its staff of 14 raises funds through personal donors and other churches throughout the country.

With Reverend Centeno's leadership, Proclaimers of Hope and Bethel Temple Church have a created a diverse approach to prevention and recovery, using programs in the martial arts, music, drama, and tutoring, to help prevent crises in the lives of the community's young men and women. As one of his nominators explained, "part of the reason Luis has been so effective is that he has not set himself apart from the people he serves. His brand of healing requires hard work and discipline as well as grace and forgiveness, and he freely dispenses them all."

Mr. Speaker, Reverend Luis Centeno has demonstrated tremendous leadership in the fight against drug addiction in his community and is clearly well deserving of this prestigious community health award. I urge my colleagues to join me in congratulating Reverend Centeno on this wonderful achievement.

CONNIE BREMNER, RECIPIENT OF ROBERT WOOD JOHNSON COMMUNITY HEALTH LEADERSHIP AWARD

HON. DENNIS R. REHBERG

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. REHBERG. Mr. Speaker, Connie Bremner, lifelong resident of Browning, Montana, is of the age when retirement is an option, but it's the last thing on her mind. Connie doesn't have the time nor inclination for anything but selfless service to the elderly and disabled in her community.

Connie, director of the Eagle Shield Senior Citizens Center, on the Blackfeet Indian Reservation, is the recipient of the prestigious Robert Wood Johnson Community Health Leadership award of $100,000. The award gives $95,000 to the center and $5,000 to Connie. This award is one of only ten given nationwide. Most of the award money will go to fund short-term care for terminally ill people who are unable to get help elsewhere. Some of it will be used as startup money for a proposed Blackfeet home health care program.

Browning is in a lonely community on the windswept plains down the eastern slopes of the Montana Rockies. It's the heart of the Blackfeet Indian Reservation, a place where things have never been easy. When Connie became director of the Eagle Shield Senior Citizens Center in Glacier County, the nation's 95th poorest, she found the center and the seniors in distressed conditions. Connie made it her objective to transform the facility into a model health and wellness center. She took the barest of bare-bones facilities and breathed life into it—and not just life, but spirit. Eagle Shield now serves over 600 elders with a wide range of programs, from nutrition education and meal delivery to home personal assistance and social activities. Connie's efforts to expand, improve and modernize health care for the impoverished, the elderly and the disabled has not only met physical needs, but has lifted spirits and provided hope.

Connie began with a loan of $70,000 from the tribal government, which has already been repaid. The Robert Wood Johnson Community Health Leadership Program's press release states that Connie's "hard work has yielded great success for Eagle Shield, including the creation of an Alzheimer's screening and treatment program and a licensed, Medicaid reimbursed personal care attendant program for over 100 people with a disability unable to care for themselves."

Connie expanded the personal care attendant program until now is serves over 100 people, ranging from age 4—94. In addition, the center "has trained 300 younger tribal members to become certified personal care attendants. Of those, 95 are currently employed on the reservation, an important contribution to a community who whose unemployment rate is over 70 percent." Through Connie's leadership, the Eagle Shield Senior Citizens Center provides breakfasts and lunches to 200 seniors every day.

People like Connie have far greater influence than government programs. Government can oversee public health and public safety, but only people can give love and compassion. Connie has shown us that the most vital thing we do in life is look after each other by reaching out in kindness to the oldest and youngest and weakest among us. It is known in Browning that nothing will keep her from taking care of her elders. The elders count on Connie. Montana counts on Connie.

It is an honor to read Connie Bremner's accomplishments into the Congressional Record, although it should be recognized that this woman's deeds of love and kindness will leave a record much more enduring and significant in the community of Browning than this RECORD of ink and paper in the Halls of Congress. Connie Bremner has shown that the true treasures in Montana—The Treasure State—are people, the old and the young, the weak and the strong. Connie is a treasure to the Blackfeet Nation, to the state of Montana, and to the United States of America.

A TRIBUTE TO LESTER C. PHILLIPS

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. ETHERIDGE. Mr. Speaker, I rise today to honor a great North Carolinian and son of Harnett County, Mr. Lester C. Phillips who recently received the Distinguished Service Award of the Occoneechee Council of the Boy Scouts of America.

Lester Phillips was born on August 25, 1930 in Sampson County, North Carolina to Floyd and Erma Phillips and spent the majority of his early years working on the family farm. He married Winifred Naylor in 1950 and together they raised two sons Ray and Robert. In 1959, Lester moved his young family just up the road to Harnett County, and the town of Dunn, to seek employment opportunities and a better life for his family.

Upon his arrival in Dunn, Lester landed a job with the H.P. Johnson Oil Company, where he quickly became Mr. H.P. Johnson's most trusted employee. In fact, Mr. Johnson was often over heard saying that "when he wanted something done right, he always looked to Leck." After several years of working for Mr. Johnson, Lester began his career in the trucking business, which would later lead to his ownership of a small gas station on Highway 301 South in Harnett County and later the development of a waste management enterprise. From these humble beginnings Lester built a nationally recognized business that served locations all the way from Florida to Alaska.

Not only is Lester an outstanding success in the business world, but he is also a remarkable family man and community leader. He is also an active member at Spring Branch Baptist Church in Dunn.

But today we are here to pay tribute to Lester's contributions to the young people of Harnett County and to celebrate his recent accomplishment, receiving the Distinguished Service Award from the Boy Scouts of America. As the father of an Eagle Scout and a recipient of the Boys Scouts' Silver Beaver

Award, I know first hand the importance that the organization plays in the lives of our nation's young people. With the help of men like Lester, the Boy Scouts mold young men to be active and productive citizens. I want to honor Lester today for helping to strengthen our nation's social fabric.

Mr. Speaker, Lester Phillips is a remarkable example of a citizen servant. He selflessly uses his time and energy to better the lives of the young men in Harnett County. He touches so many lives in so many public ways, but Lester's most important contributions to others are the ones only he knows about. And that is the way he wants it to be. That is a true testament to his unique and special character and the reason we honor him in this House today.

INTRODUCTION OF THE INDIAN AND ALASKA NATIVE FOSTER CARE AND ADOPTION

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. CAMP. Mr. Speaker, today, I am pleased to be joined by Representatives HAYWORTH, KILDEE and BONIOR to introduce legislation to correct an inequity in the laws affecting many Native American children. This effort is also supported by the National Indian Child Welfare Association, American Public Human Services Association, and National Congress of American Indians.

Every year, for a variety of often tragic reasons, thousands of children across the country are placed in foster care. To assist with the cost of food, shelter, clothing, daily supervision and school supplies, foster parents of children who have come to their homes through state court placement receive money through Title IV–E of the Social Security Act. Additionally, states receive funding for administrative training and data collection to support this program. Unfortunately, because of a legislative oversight, many Native American children who are placed in foster care by tribal courts do not receive foster care and adoptive services to which all other income-eligible children are entitled.

Not only are otherwise eligible Native children denied foster care maintenance payments, but this inequity also extends to children who are adopted through tribal placements. Currently, the IV–E program offers limited assistance for expenses associated with adoption and the training of professional staff and parents involved in the adoption. These circumstances, sadly, have meant that many Indian children receive little Federal support in attaining the permanency they need and deserve.

In many instances, these children face insurmountable odds. Many come from abusive homes. Foster parents who open their doors to care for these special children deserve our help. These generous people who take these children into their homes should not have sleepless nights worrying about whether they have the resources to provide nourishing food or a warm coat, or even adequate shelter for these children. This legislation will go a long way to ease their concerns.

Currently, some tribes and states have entered into IV–E agreements, but these arrangements are the exception. They also, by and large, do not include funds to train tribal social workers and foster and adoptive parents. This bill would make it clear that tribes would be treated like States when they run their own programs under the IV–E program. The bill would make funding fair and equitable for all children, Native and non-Native.

This companion legislation to S. 550 would do the following: extend the Title IV–E entitlement programs to tribal placements in foster and adoptive homes; authorize tribal governments to receive direct funding from the Department of Health and Human Services for administration of IV–E programs (tribes must have HHS-approved programs); allow the Secretary flexibility to modify the requirements of the IV–E law for tribes if those requirements are not in the best interest of Native children; and allow continuation of tribal-State IV–E agreements.

In a 1994 report, HHS found that the best way to serve this underfunded group is to provide direct assistance to tribal governments and qualified tribal families. I want to emphasize that this bill would not result in reduced funding for the States, as they would continue to be reimbursed for their expenses under the law. I strongly believe Congress should address this oversight and provide equitable benefits to Native American children who are under the jurisdiction of their tribal governments, and I hope my colleagues will join me in supporting this bipartisan and bicameral proposal.

LEONARD CARLIN HONORED ON RETIREMENT FROM EDCNP

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to my friend Leonard Carlin, who is retiring after 28 years with the Economic Development Council of Northeastern Pennsylvania. Len will be honored with a retirement dinner on June 27.

Len is a graduate of Coughlin High School and attended Wilkes College, Penn State University and the Scranton branch of Temple University. In addition to his work at EDCNP, his varied and broad experience includes service with the U.S. Geological Survey, the Army Corps of Engineers and the Lackawanna County Regional Planning Commission.

Since joining EDCNP, Len has worked in many capacities, including regional planner and cartographic supervisor and duties including environmental planning and programs, land use planning, comprehensive planning, flood mitigation, assistance to local governments, and other duties too numerous to list here.

He is a member of several community and professional organizations, including the Pennsylvania Planning Association, the Sierra Club, Pennsylvania Environmental Council and Rails-to-Trails. For his dedicated work, he was named the Pennsylvania Planning Association's Planner of the Year in 2000.

Mr. Speaker, I am particularly pleased to call to the attention of the House of Representatives Len's distinguished career because his hard work was very helpful in securing the American Heritage River designation for the Upper Susquehanna-Lackawanna Watershed in 1998. Working closely with my office, Len was an invaluable assistant in compiling a great deal of information and working with local elected officials and other interested parties. I wish him all the best.

HONORING DR. JERRY SASSON, PRINCIPAL OF TERRACE PARK ELEMENTARY SCHOOL UPON HIS RETIREMENT

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. PORTMAN. Mr. Speaker, I rise today to pay tribute to Jerry Sasson, a friend and constituent, who is retiring after 11 years as principal of Terrace Park Elementary School (TPES) in the Second District of Ohio.

Jerry is a special kind of principal because he is a special kind of person. He has been called a one-of-a-kind educator, who spends time in the classroom every day, knows the name and face of every one of his 300 students, writes a personal, handwritten birthday card to each student every year, and sends students notes at home to recognize personal accomplishments. He encourages kindness and respect among students, teachers and parents, and is aware of each student's specific challenges and talents.

An Ohio native, Jerry received his Doctor of Education in Educational Leadership from the University of Cincinnati in 1992. He graduated with a Master of Education in Guidance and Counseling and a Bachelor of Science in Education from the University of Dayton. Jerry received his school psychology certificate from Xavier University in 1972. Jerry began his career as a high school English teacher at Fenwick High School in Middletown, Ohio, and went on to become Fenwick's Director of Guidance and Counseling. From 1972 through 1979, he served the Hamilton County Office of Educational Services as a school psychologist and, in 1979, he joined the Mariemont, Ohio City School District as Director of Special Services, a position he retained while serving as principal. In 1990, he became the principal of TPES, a school within the Mariemont School District.

Jerry is well known for his regular column on parenting, Parent Pride, which appears in the publication of the Mariemont City School District. He tackles tough subjects such as tolerance, assertiveness, morals and responsibility. He's not afraid to tell us as parents that the best way to raise happy, productive children is to create and maintain home, school and community environments that focus on nurturing and support for all. Jerry believes that most difficult school-related issues—such as bullying, behavior problems, or violence—are not just school issues, but family and community issues, too. And he's right: schools can create zero tolerance policies, but it all comes back to the attitudes and relationships at home.

All of us in the Greater Cincinnati area are grateful for Jerry's many years of dedicated and caring service. We appreciate his outstanding leadership and friendship, and wish him well in many new challenges and opportunities to come.

TRIBUTE TO BERNARD SIMS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to one of the most respected citizens in my district, Bernard Sims. Bernard Sims died on June 3rd at the age of 97.

Bernard was well known throughout his hometown of LaGrange, Illinois as a leader, counselor, and teacher. During his ninety-seven years, Bernard fought for equal rights for all citizens. Bernard refused to tolerate discrimination in any form. His promotion of mutual respect has forever made the city of LaGrange a better place.

One of the most respectable traits of Bernard's character was his ability to get things done. He led through action. His friends respectfully recall when Bernard led a sit-in at the Walgreen's lunch counter until the establishment agreed to serve African Americans. His nonviolent approach and his positive attitude shaped the LaGrange civil rights movement. Bernard was wholly diplomatic in his actions and respect for him crosses all racial and ethnic lines.

Bernard was a well-known football and baseball star at Lyons Township High School. He worked as an auto mechanic, a handyman, and a real estate entrepreneur. He was born to the first African American family in LaGrange and Bernard met his wife, Helen, in 1923 at a LaGrange diner. The couple spent a remarkable seventy five years together until his death. Bernard lived his ideals through membership in the Knights of Columbus, Toastmasters, and the NAACP. His active life and positive attitude helped him make a difference everywhere he went.

Bernard was an asset to our community and will be greatly missed. My thoughts and prayers go out to Bernard's family and the LaGrange community during this time of mourning. I am certain Bernard's legacy will live on in the community for years to come.

His community minded spirit holds a lesson for all of us. I encourage all of my colleagues to join me in remembering Bernard Sims and the contributions he made to his community.

PERSONAL EXPLANATION

HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. AKIN. Mr. Speaker, on Monday, June 25, I missed three recorded votes because my flight from St. Louis was canceled. Had my flight not been canceled, I would have voted 'as follows on these three Resolutions:

"Yea" on H. Res 160, calling on Communist China to release Li Shaomin and all other American scholars of Chinese ancestry;

"Yea" on H. Res. 99, expressing the sense of the House that Lebanon, Syria and Iran should call upon the Hezbollah to allow Red Cross representatives to visit four abducted Israelis presently held by Hezbollah forces in Lebanon; and

"Yea" on H. Con. Res. 161, honoring the 19 U.S. servicemen who died in the terrorist bombing of Khobar Towers in Saudi Arabia on June 25, 1996.

HIGH-SPEED RAIL INVESTMENT ACT OF 2001

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. HOUGHTON. Mr. Speaker, I am pleased to join my friend, Mr. OBERSTAR, and 123 of our colleagues, in introducing the bipartisan "High-Speed Rail Investment Act of 2001." We believe this bill is critical to getting high-speed rail projects started across the country and liberating our Nation's highways and airways from increasingly serious congestion. This legislation, a companion to S. 250 in the other body, is designed to put into place a federal program to support States in the development of high-speed rail. The House passed a similar bill in the 106th Congress.

Congestion on our highways and in our skies is at a crisis point. The cost to our nation in terms of lost productivity and wasted fuel could be as high as $ 100 billion a year. This will only get worse as road and air travel continue to increase. We cannot resolve this problem simply by building new roads and new airports, the costs are enormous and in many places we simply do not have the space. Our rail system has fallen far below the standards of systems in most other developed industrial countries. We have scarce fiscal and land resources and we must make more efficient use of our existing infrastructure. The rail lines are there already.

Our bill would build on the current rail infrastructure. The bill would authorize Amtrak to issue $12 billion in bonds over the next 10 years for high-speed rail projects in up to 12 regional corridors identified by the Department of Transportation. The bond proceeds could be invested in high-speed rail rights-of-way, rolling stock and other capital improvements. Bonds could also be issued by Amtrak on behalf of any other qualified intercity passenger rail carrier with the approval of the Secretary of Transportation. The bondholders would receive federal tax credits in lieu of interest payments and the credits would be included in taxable income. States would provide at least a 20 percent match which would be deposited in a trust account to redeem the bonds, but Amtrak would remain ultimately responsible for repaying the principal. The state match would help ensure that only high priority projects are funded.

The bill provides that not more than $1.2 billion in bonds could be issued in each fiscal year from 2002 to 2011. Also, not more than $3 billion could be designated for qualified projects on the northeast rail corridor between Washington, DC and Boston, Massachusetts. In addition, not more than $3 billion could be designated for any individual state for qualified projects.

We believe this proposed legislation is forward looking, cost-effective, and absolutely necessary if we are to ensure that our nation's transportation system can handle the expected growth in travel without being overwhelmed by congestion and gridlock. We encourage our colleagues to join us in cosponsoring this legislation.

COMMENDING LOUNSBERRY HOLLOW MIDDLE SCHOOL

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mrs. ROUKEMA. Mr. Speaker, each and every day Americans are exposed to a deluge of negative images of our younger citizens. Television, radio and newspaper reports are replete with stories of the misdeeds of young Americans. Frankly, coverage of ringing alarm bells and scandal sells.

However, this kind of coverage does not tell the entire story. Nor it is fair to the millions of younger Americans who are doing good, helping their friends and neighbors and volunteering to improve their communities.

Therefore, Mr. Speaker, I rise this today to draw the attention of my Colleagues to the efforts of just one group of young people—the students at the Lounsberry Hollow Middle School. This weekend I was pleased and gratified to participate as the Vernon Township Fireman's Association honored this group of community-minded, energetic youngsters. Under the guidance of the Director of the School's "enrichment program", their outstanding teacher, Vernoy Paolini, the students at Lounsberry Hollow Middle School worked for over 2½ years to raise $36,000 to help fire fighters do their lifesaving work.

These students in Vernon Township have set a record and a high standard for all of us to recognize.

Nearly three years ago, the students became interested in an emerging firefighting technology—thermal imaging cameras. The students embarked on an effort to raise the funds to provide Vernon's firefighters with these cameras. They organized a range of creative activities. They sponsored Tupperware Bingo, sold pens and pencils, sponsored games, collected cans, gathered food, sold 15,000 lollipops, established the "Change Makes a Difference" program, etc. With this dedication and commitment, they raised over $36,000.

In the meantime, State Senator Bob Littell (R-Franklin) stepped in and through his leadership on the Senate Appropriations Committee, provided communities all across the state assistance to purchase the thermal cameras.

Undaunted, the young people rededicated themselves to helping reduce fire dangers.

They changed their focus and purchased a "Safety House Trailer" for the various area fire departments to use in their fire prevention and training activities.

Clearly, these students had help—assistance from their teachers, community leaders, elected officials, and parents. All of them deserve our heartfelt thanks for their role in this project.

Mr. Speaker, I rise to commend and congratulate Lounsberry Middle School, its faculty and staff. But I also rise to offer, on behalf of the Sussex County community, my heartfelt thanks to its students. They are great Americans and their actions typify the kind of community dedication that has made America strong.

INTRODUCTION OF THE FAIR BALANCE PRESCRIPTION DRUG ADVERTISEMENT ACT OF 2001

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. STARK. Mr. Speaker, I rise today to introduce the Fair Balance Prescription Drug Advertisement Act, a bill to deny tax deductions for unbalanced direct to consumer (DTC) pharmaceutical advertising placing more emphasis on product benefits rather than risks or failing to meet Federal Food, Drug and Cosmetic Act Requirements.

The bill will ensure that DTC advertisements are presented in a fair manner, balancing risks and consequences. Print ads would be required to display pros and cons in equal typeface and space, and on the same or facing pages. If the advertisements ran onto additional pages, those pages would have to be consecutive with the first pages. In television and radio ads, risk and benefit descriptions would be allotted equal airtime and volume level. Pharmaceutical companies who do not follow these guidelines will not be eligible for an advertising tax deduction.

Since the FDA relaxed restrictions on television advertising in 1997, DTC advertising has soared. Drug companies' advertising expenditure doubled between 1998 and 2000. Last year, Merk-Medco cited a report that projected that by 2005, DTC advertising expenditure will reach seven billion dollars annually.

This increased spending correlates with increased prices of prescription drugs. Like any other commodity, greater product recognition leads to increased demand, and higher prices.

Large-scale advertising may also lead consumers to demand drugs that may not be medically necessary or appropriate for the patient's condition. According to the National Institute for Health Care Management, 86% of patients who request a prescription for Claritin from their doctor receive one.

Doctors often find that patients are difficult to dissuade when they have heard the promises of a new drug. Physicians who acquiesce, however, can put their patients' health at risk. Before the FDA had published clinical trial results of the arthritis drug Celebrex, physicians had prescribed $1 billion worth of the drug in response to patient demands. The doctors had done this without realizing that Celebrex contains an ingredient to which many patients are allergic. In another example, between its release in October of 1999, and the summer of 2000, 22 patients taking the flu drug Relenza had died. The FDA later determined that in the majority of these cases, the drug should never have been prescribed.

Physicians are beginning to recognize dangers of DTC as well. This month, the American Medical Association in their annual convention decided to ask the

In addition to health dangers, physician's responses to pressure from "informed" patients can have economic consequences. According to the Blue Cross and Blue Shield Association, a one year dosage of the arthritis medicine Celebrex costs $900, while the same dosage of ibuprofen, which may be adequate to treat many patients' pain, costs only $24.

Just yesterday, the Wall Street Journal raised concerns about the power of DTC advertising. Due to an intensive new campaign by the Genzyme corporation, many dialysis patients who used to use the over-the-counter medication Tums as a calcium supplement are switching to Renagel, a prescription medication that costs up to $12 a day.

DTC advertisements may also prevent patients from requesting, and physicians from prescribing generic brand drugs. According to a Merk-Medco 2000 study, increasing a health care plan's dispensing rate of generic drugs by 1% can reduce drug spending by 12%.

Although prescription drug advertisements are purportedly intended to educate consumers, a University of California study determined that drug companies frequently fall short of this goal. In a survey of 320 print ads, only 9% included information on the drug's success rate, and the same number attempted to clarify misconceptions about the condition the drug is prescribed to treat. Clearly, something must be done to make these ads more honest.

According to a May 2000 Business Week article, some drug companies claim that the increased advertising can alert hospital physicians to new medications that may reduce a patient's length of stay, and thus reduce overall costs. However, most of the money spent on DTC drug advertisements goes to heartburn, allergy medications, and vanity drugs like those that prevent hair loss. These advertisements promote consumers to seek expensive treatment for conditions that they might not have felt the need for treatment in the past.

This bill I am introducing today would decrease the economic incentives for DTC advertising by taking away the tax deduction for ads that are not fairly balanced. Why should taxpayer funds go to drug companies' questionable advertising techniques that endanger lives and ultimately raise overall health expenditures? By denying tax deductions for unbalanced prescription drug ads, we may be able to change pharmaceutical company behavior to ensure that that their advertising includes clear, life saving information that will better inform the American public, reduce health care costs, and save lives. I urge my colleagues to join me in support of this legislation, and look forward to working with them to make fair, balanced drug advertising a reality.

IN HONOR OF "THE HOMECOMING"

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. INSLEE. Mr. Speaker, I would like to take this opportunity to recognize and commemorate the dedication of a great Navy Memorial Statue in my congressional district. "The Homecoming" will be dedicated on July 4, 2001, in Kirkland, Washington. This bronze statue is the third of its kind in the nation and will be dedicated "for those families that also served,"—the families that kept the home fires burning while their loved ones fought for their country. We often overlook these unsung "veterans" of the battles the United States has fought and this sculpture dramatically calls attention to the families' sacrifices. I cannot help but feel indebted to those who have paid a great individual expense to preserve and strengthen the freedom that we enjoy, and future generations will cherish.

The statue is a 7-foot high, 36-inch platform bronze depiction of a returning serviceman embracing his wife and child. It will be installed at Marina Park near the water's edge of Lake Washington at a ceremony on the 4th of July.

Kirkland resident Edward L. Kilwein, Sr. is on the Board of Directors of the US Navy Memorial Foundation and, along with the Lake Washington Navy League, spearheaded the push to have "The Homecoming" permanently grace the City of Kirkland. Kirkland Mayor Larry Springer, along with a unanimous motion from the Kirkland City Council, assured the expansion of Kirkland's first-class public art inventory that honors the men and women of the US Armed Services and their families.

I ask my colleagues in the 107th Congress to please join me in commemorating the dedication of "The Homecoming."

CONGRATULATING THE PEPSI GIANTS, 2001 GUAM MAJOR LEAGUE BASEBALL CHAMPIONS, AND MVP BENJIE PANGELINAN

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. UNDERWOOD. Mr. Speaker, I would like to take this opportunity to congratulate the Pepsi Giants for having recently won the Guam Major League Baseball's championship. Having swept the University of Guam Tritons in four of the best-of-seven series, the Giants became only the fourth team in GML history to win back-to-back championships.

Although they lost the season opener to the Continental Golden Jets, this past season proved to be truly amazing for the Giants. The team went on to win all 15 of their regular season games and later swept the GML's National League division best-of-five series enroute to finishing the season with a 22-game winning streak.

More impressive, however, was the record set by Benjie Pangelinan, this year's series

Most Valuable Player (MVP). Scoring 11 runs, 6 RBI's, and 15 hits—including 11 singles, two doubles, one triple, and a homer, this Giant's catcher/right fielder did enough to merit the coveted award. His second year in a row as MVP, Benjie finished the series 15-for-18 for an .833 batting average. A feat that will go down in GML history, Benjie's batting average broke the series record of .556 set in 1993 by Fernando Diaz.

Always a team player, Benjie claims to have derived more satisfaction from the fact that his team won the championship. He recognizes that this is a feat that was not singlehandedly accomplished. Despite his superior performance, he still credits all of his team members for the victory. He notes that although the Giants have lost formidable players in the past, a new crop of athletes has emerged to fill in the void. In addition, he credited the team's family members for their sacrifices and support in giving the players the chance to be out on the field and have such a wonderful season. Benjie is married to Nicole Oulette Pangelinan and they have a three-year-old child, Kianna.

Regional and local competitions such as the Guam Major League baseball games provide entertainment, promote community relations and prepare our athletes for higher levels of competition. Once again, I would like to commend and congratulate the Pepsi Giants and especially the series MVP, Benjie Pangelinan, for their superb performance and efforts which resulted in this year's championship. I am sure that they will stay committed to their winning ways in the years to come.

A BILL TO MAKE PERMANENT THE AUTHORITY TO REDACT FINANCIAL DISCLOSURE STATEMENTS OF JUDICIAL EMPLOYEES AND JUDICIAL OFFICERS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. COBLE. Mr. Speaker, along with the Ranking Member of the Subcommittee on Courts, the Internet, and Intellectual Property, Representative Berman, I rise to introduce a bill to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

Under the Ethics in Government Act, judges and other high-level judicial branch officials must file annual financial disclosure reports. However, due to the nature of the judicial function and the increased security risks it entails, section 7 of the "Identity Theft and Assumption Deterrence Act of 1998" allows the Judicial Conference to redact statutorily required information in a financial disclosure report where the release of the information could endanger the filer or his or her family. This provision will sunset on December 31, 2001, in the absence of further legislative action.

The Judicial Conference Committee on Financial Disclosure recently submitted a report on section 7. The Committee monitors the release of financial disclosure reports to ensure compliance with the statute, reviews redaction requests, and approves or disapproves any request for the redaction of statutorily mandated information where the release of the information could endanger a filer. In 2000, the Committee noted that: (1) 13 financial disclosure reports were wholly redacted because the judge was under a specific, active security threat; (2) 140 judges' reports were partially redacted (59 of which were based on specific threats; the other 81 due to general threats and the potential risk of disclosure of a family member's unsecured workplace or a residence of a judge or a judge's family); and (3) a total of 218 financial disclosure reports, which includes reports from previous years, were partially redacted.

The purpose of the annual financial disclosure reports required by the Ethics in Government Act is to increase public confidence in government officials and better enable the public to judge the performance of those officials. However, federal judges should be allowed to redact certain information from financial disclosures when they or a family member is threatened. Importantly, the practice has never interfered with the release of critical information to the public.

This bill will eliminate the sunset in section 7 and permit the Judicial Conference to permanently redact information in financial disclosure reports where the information could endanger the filer or his or her family. This is a good bill, and I urge my colleagues to support it when it is brought to the House Floor for consideration.

REMARKS HONORING FORMER DALLAS COWBOYS QUARTERBACK TROY AIKMAN

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Ms. GRANGER. Mr. Speaker, I want to commend NFL quarterback Troy Aikman on his very successful football career, and extend my gratitude for his steadfast dedication to improving the lives of children. Mr. Aikman has more than equaled his professional career with his personal involvement in the community. His character both on and off the field has been a tremendous asset to the Dallas-Fort Worth area.

Troy Aikman was born in West Covina, California. His family moved to Henryetta, Oklahoma where he graduated from Henryetta High School. Aikman went on to play college football at the University of Oklahoma and the University of California, Los Angeles. He quickly became a star. Upon Mr. Aikman's graduation, he was the third highest rated quarterback in NCAA history. He also won the highest award for college quarterbacks, the Davey O'Brien National Quarterback Award.

When Mr. Aikman was drafted in the first round by the Cowboys, he quickly became the leader of the team and an integral part of the Dallas-Fort Worth community. During his 12 seasons with the Cowboys, Mr. Aikman led them to three Super Bowl Championships and played in six Pro Bowls. He was named Super Bowl XXVII Most Valuable Player for his performance in the Cowboy's first Super Bowl of the 1990's. Mr. Aikman is also the Cowboy's all-time leader in passing yards, touchdown passes, completion percentage, pass attempts and completions. The Cowboys will surely miss his talent and leadership.

Mr. Aikman has devoted himself to helping critically ill children. In 1992, he established The Troy Aikman Foundation to provide financial support for the physical, psychological, social, and educational needs of critically ill children whose needs are not being met by any other viable resource. Through the Foundation, Mr. Aikman created "Aikman's End Zones" for children's hospitals. "Aikman's End Zones" are interactive playrooms and theaters designed to give critically ill children a place of refuge during their stays in the hospital. Depending on the space available, the facility includes an 8-foot-tall replica of Troy's helmet, a 1,100 gallon saltwater aquarium, a theater, and an interactive computer network. Mr. Aikman established End Zones at The Children's Hospital of Dallas, Texas and at Cook Children's Medical Center in Fort Worth, Texas. His ultimate goal is to have Aikman's End Zones in every NFL city.

Mr. Aikman has also teamed up with the Starbright Foundation, founded by Stephen Spielberg and General H. Norman Schwarzkopf. The Starbright Foundation's mission is to improve the lives of critically ill children through technology and entertainment. Starbright provides the interactive computer network in "Aikman's End Zones."

In addition to his foundation activities, Mr. Aikman has served on the board of Stars for Children and has been honorary chairman for numerous charitable fundraisers throughout the Dallas-Fort Worth area. Mr. Aikman sponsors a scholarship at Henryetta High School for students who want to attend college but can't afford it, and has also established a permanently endowed scholarship at the University of California, Los Angeles. In 1994, Aikman was honored for his community service when he received the Byron "Whizzer" White Humanitarian Award.

Mr. Aikman has also become a children's book author. In 1995 he published his first book titled Things Change. The message of the book is how to use change to one's advantage and view difficult times as learning experiences rather than as setbacks. In 1998, he published a second book called Aikman: Mind, Body & Soul which is his autobiography.

Troy Aikman continues to give unselfishly to our community, and we are grateful for the work he has done. He is the perfect example of what a terrific role model professional athletes can be if they use the fame and wealth they have been blessed with in a positive way.

Mr. Speaker, I want to once again congratulate Troy Aikman on a wonderful football career and thank him for his unwavering dedication to improving the lives of children.

TRIBUTE TO SERGEANT FIRST CLASS DEBORAH L. THORN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. SKELTON. Mr. Speaker, let me take this opportunity to congratulate Sergeant First Class Deborah Thorn, of Fort Leonard Wood, Missouri, who was recently named as the 2001 Army Drill Sergeant of the Year. SFC Thorn was chosen out of 2400 drill sergeants across the active Army. The Army's drill sergeants are responsible for all initial entry training for the Army's 120,000 new recruits annually.

SFC Thorn enlisted in the Army on her birthday, 3 September 1993 and has served in Fort Huachuca, Arizona and Germany before moving to Fort Leonard Wood to become a drill sergeant. She has served as a drill sergeant for the last 25 months in Alpha Company, 795th MP Battalion, 14th MP Brigade. She will attend the Advanced Noncommissioned Officer Course in July. Following her completion of the course, she will then serve a year at Training and Doctrine Command headquarters as an advisor to the commander on drill sergeant and basic training matters.

Mr. Speaker, I know the Members of this body will join me in congratulating SFC Thorn for her outstanding dedication and service to the U.S. Army. She is a tremendous role model for soldiers, not only at Fort Leonard Wood, but across the entire U.S. Army. I join her husband Lee and daughter Samantha in wishing SFC Thorn all the best in the days ahead.

VASSAR POLICE CHIEF JOHN HORWATH: A BADGE OF HONOR

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. BARCIA. Mr. Speaker, I rise today to honor Vassar Police Chief John Horwath as he prepares to close the book on a long and venerable career serving and protecting the citizens of Vassar, Michigan. John's faithfulness and dedication in his work has made him an invaluable part of law enforcement in his community and throughout the state during his 36 years on the job, the past 32 years of which he served as Police Chief.

As Chief, John has made great strides in making and keeping Vassar a safe and enviable place to call home. Just last February, John put himself at great personal risk when he chased and apprehended a bank robbery suspect who had fled by car and later took off on foot. John's valor, talent and dedication to duty have been a hallmark of his tenure. He has helped establish the Vassar Police Department as a top-shelf agency that others should seek to emulate. Moreover, the impact of his hard work and adherence to excellence have undoubtedly made a profound difference in the lives of countless people throughout his career.

John, however, has never been content to limit his contributions to the workplace. He has been an avid and frequent community activist who has touched the lives of friends, neighbors and strangers for many years. During the Persian Gulf War, John made it his mission to garner homefront support and display patriotism for our overseas troops. He also has often gone the extra mile in helping coordinate safety measures for scores of events in the Vassar area. In addition, John was one of the first to respond to the needs of his neighbors during the 1986 flood that devastated the community and he earned a special commendation for providing relief and support to the victims.

Those employed in law enforcement fully understand the important role family plays in supporting such work. John's wife, Katherine, and four children, RaeAnn, Michael, Matt, and John Thomas, have willingly and generously shared John with the community and everyone is the better for it.

Finally, Mr. Speaker, I wish to praise John Horwath's work ethic and steadfast dedication. He has been an outstanding asset to the Vassar Police Department and the entire community. His presence will be sorely missed. I ask my colleagues to join me in congratulating John for his 36 years of service and in wishing him the best in his retirement.

INTRODUCTION OF THE "THOMASINA E. JORDAN INDIAN TRIBES OF VIRGINIA FEDERAL RECOGNITION ACT"

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. MORAN of Virginia. Mr. Speaker, today I am joined by Representatives. JO ANN DAVIS, RICK BOUCHER, TOM DAVIS, BOBBY SCOTT, and EDWARD SCHROCK in introducing the "Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act."

This legislation will grant federal recognition to six Indian tribes in Virginia: the Chickahominy Tribe, Chickahominy Indian Tribe Eastern Division, the Upper Mattaponi, the Rappahannock Tribe, the Monacan Tribe, and the Nansemond Tribe.

As we approach the 400th anniversary of the first permanent European settlement in North America, it seems appropriate that the direct descendants of the native Americans, who met these settlers, should be recognized by the federal government and that we acknowledge these historic tribes and the significance of their heritage. Together, the men and women of these tribes represent a long neglected part of our nation's history.

The Virginia tribes have fought hard to retain their heritage and cultural identity. The legislation we are introducing today describes the history of the tribes and their early treaty rights with the Kings of England and the colonial government. Like much of our early history as a nation, the Virginia tribes were subdued, pushed off their land, and up to the mid 20th century, denied full rights as U.S. citizens. Despite their devastating losses of land and population, the Virginia Indians successfully overcame the years of racial discrimination that denied them equal opportunities to pursue their education and preserve their cultural identity.

Federal recognition would provide what the government has long denied, legal protections and financial obligations, including certain social services and benefits the federal government provides the 558 recognized tribes. At a time when our nation is trying to remedy past injustices to the Indians, Virginia's Indians are denied these benefits because none are recognized by the federal government. Not one of the 558 tribes recognized by the federal government reside in Virginia.

I know that the gambling issue may be at the forefront of some members' concerns. In response to this concern, we have worked to close any potential legal loopholes in the legislation to ensure that the state could prevent casino-type gaming by the tribes. Having maintained a close relationship with many of the members of these tribes, I believe they are sincere in their claims that gambling is inconsistent with their values. This position is already borne out by the fact that none of the tribes today engage in bingo gambling despite the fact that they have all established nonprofit organizations that are permitted under Virginia law to operate bingo games despite compelling financial needs that revenues from bingo could address.

The real issue for the tribes is one of recognition and the long overdue need for the federal government to affirm their identity as Native Americans. Coupled with this affirmation is an opportunity for the tribes to establish a more equitable relationship with the state and secure federal financial assistance for the tribes' social services, health care and housing needs. Many of their older members face the prospect of retiring without pensions and health benefits that most Americans take for granted.

I urge my colleagues to support this legislation.

INTRODUCTORY COMMENTS: "MEDICARE RURAL AMBULANCE SERVICE EQUITY ACT OF 2001"

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. MURTHA. Mr. Speaker, from an urban setting to the furthest reaches of rural America, Americans have come to expect and rely on health care that includes emergency ambulance service. Unfortunately, for many of us, our first exposure to medical care is, all too often, the EMS unit that responds to our call for help. Yet, for millions of Americans living in rural America this cornerstone of medical care is in danger of collapse.

Typically, rural EMS is a small one or two unit service, staffed by volunteers, not affiliated with a major medical facility, that responds to 350 to 500 calls per year within a large radius (37 miles average) who's greatest danger to its existence comes from Medicare.

From the Pacific Northwest to the Florida panhandle to the rural setting of Pennsylvania, an unrealistic and unresponsive Medicare fee schedule has done more to erode emergency medical service in rural America than any other threat to medical care in this country. Because Medicare fees fail to accurately reflect the rural medical environment, rural EMS is facing grave danger of being put out of business by a fee schedule that fails to recognize the actual costs confronting rural ambulance/EMS service.

Therefore, I am introducing the "Medicare Rural Ambulance Service Equity Act of 2001," to increase by 20 percent the payment under the Medicare program for ambulance services furnished to Medicare beneficiaries in rural areas.

For rural ambulance/EMS, the majority of their revenue (60 to 70 percent) comes via Medicare reimbursements. Unfortunately, existing reimbursement fee schedules do not accurately reflect real-world circumstances confronting rural service. New Center for Medicaid and Medicare Services (CMS) (previously referred to as HCFA) fee schedules, anticipated to go into effect by early fall, will not adequately correct the problem. Rural ambulance/EMS providers in every State will remain the hardest hit under the new fee schedule due to their low-volume of calls and transfers each year.

Timely and accurate reimbursement schedules for ambulance/EMS services that accurately reflects real-world costs and expenses are critical to the rural providers' ability to continue to operate. Passage of the "Medicare Rural Ambulance Service Equity Act of 2001" will level the playing field for rural emergency medical service.

All too often we are seeing rural EMS providers go out of business—citing financial loss. The primary contributing factor they cite for their loss—an unrealistic and unresponsive Medicare reimbursement fee schedule.

Recently the town council in Avonmore, Pennsylvania voted to close their ambulance/EMS after 27 years. Their reason, they couldn't afford to remain in business. Why, because with nearly 68 percent of their revenues from Medicare reimbursements they couldn't afford any longer to maintain the service for the community—A sad but all too true reality confronting rural medical care in America.

The "Medical Rural Ambulance Service Equity Act of 2001" is not the panacea for the growing shortcomings of health care in America, but its 20 percent increase in reimbursement will stop the hemorrhaging that we are experiencing in rural emergency medical service.

We all have something to lose by not putting a halt to the erosion of rural EMS. Therefore, I call on all Members of Congress to immediately pass this important piece of health legislation.

A TRIBUTE TO SISTER SHARON BECKER, A HEALTH CARE COMMUNITY LEADER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. LEWIS of California. Mr. Speaker, I would like today to congratulate Sister Sharon Becker of St. Mary Medical Center in Apple Valley, California, who has been elected to the leadership council of the Sisters of St. Joseph of Orange. In that position, she will be one of five Sisters who are responsible for giving direction to this health care community.

Since she joined St. Mary Medical Center in 1993, Sister Sharon's vision and leadership has helped make the hospital one of the most highly-regarded in the High Desert and recognized throughout San Bernardino County for its quality of care. Her dedication to serving the poor and disadvantaged has made St. Mary's a leader in services to the needy in the area. She has been forceful in convincing other community leaders to also ensure that a safety net remains in place for the truly needy.

While in Apple Valley, Sister Sharon developed a program for at-risk pregnant women that is now a full-fledged outreach center. She opened a High Desert office for Catholic Charities, making its disaster relief and services to the poor available for the first time. She established a Food Resource Center that provides a range of counseling services for families receiving government food assistance. She started an annual "Share the Warmth" drive to acquire shoes and coats for needy children. And she started an annual Thanksgiving food drive for needy families. She was one of the original members of the San Bernardino County Children and Families Commission.

As a member of the leadership council, Sister Sharon will help direct the ministries of the Sisters of St. Joseph of Orange. Through the St. Joseph Health Care System, the council oversees the operation of 15 acute health care facilities, as well as an array of clinics, home-health-care services and hospices in California, Texas and Arizona. The sisters have been ministering to the sick since 1912 in California, and their hospitals served 143,000 inpatients and 2.3 million outpatients in 2000.

Mr. Speaker, the patients who receive top-notch care at St. Mary's Medical Center will enthusiastically endorse Sister Sharon as a good choice to help run the ministries health care system. We will miss her direct leadership in the High Desert, but have no doubt that she will ensure that the entire system improves over her five-year term. Please join me in congratulating her and wishing her well in this important new role.

INTRODUCING THE RENTERS RELIEF ACT

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. ENGEL. Mr. Speaker, I rise today to introduce legislation that addresses a crisis in our country. My bill, the Renters Relief Act, provides a refundable tax credit of up to $2,500 for people paying more than 30 percent of their income toward housing costs.

Throughout our nation, millions of working families are struggling to make ends meet. Housing costs are often the greatest drain on a family's economic resources.

I would like to call to my colleagues' attention some disturbing facts from around the country: In Atlanta, Georgia there are 11,907 families waiting for housing assistance from HUD; In the Los Angeles Metro region more than 400,000 renters have incomes less than 50 percent of the area median income, and pay over half of their income for rent or are living in severely substandard housing, the "worst" case scenario. In Boston, the average monthly fair market rent for a two-bedroom apartment in the metro area is $874, that means a family must earn at least $35,000 or else they will be spending more than 30 percent of their income on housing.

We have heard the statistics over and over. The fact is we are not producing enough housing that is guaranteed for low and moderate-income people. We are not building nearly enough public housing to accommodate our needs. Incomes are not keeping up with housing costs. I have been frustrated at not being able to help more of my constituents.

In fact, three years ago Secretary Cuomo said that "Not even families working full-time at minimum wage can afford decent quality housing in the private rental market. This is not just a big city problem but affects America's growing suburbs as well."

HUD's own research indicates that a wide variety of market forces have contributed to this crisis of housing affordability through the 1990s. Among these are "continued suburbanization of population and employment, regulatory barriers to development of multifamily housing, underinvestment in affordable housing by local communities, continuing discriminatory barriers, and the simple economics of supply and demand in which rising incomes for higher income families drive up rents faster than the poorest families can afford. Also, the growth in the crisis during the 1990s can also be attributed to the elimination of Federal appropriations for additional rental vouchers between 1995 and 1998."

I urge my colleagues to turn the tide. Join me in moving the Renters Relief Act forward!

HONORING DR. BOBBY JONES OF NASHVILLE, TENNESSEE FOR TWENTY-FIVE YEARS OF SERVICE TO THE GOSPEL MUSIC INDUSTRY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. CLEMENT. Mr. Speaker, I rise today to honor Dr. Bobby Jones of Nashville, Tennessee. For more than twenty-five years, he has promoted and performed gospel music during his "Bobby Jones Gospel" shows worldwide. In fact, I have known him for a number of years and consider him to be a personal friend.

Bobby Jones is truly a pioneer in taking gospel music to a wider audience via television programming beginning with his local television show on WSMV–Channel 4 in Nashville, and over the past twenty years as a personality on Black Entertainment Television (BET). His programs have inspired, informed, and entertained a generation of Americans. In fact, "Bobby Jones Gospel" is credited with being the first and only nationally syndicated black gospel television show.

Jones has also introduced a wealth of new musical talent to the world through his television shows. Artists such as Yolanda Adams, Kirk Franklin, and Hezekiah Walker first came to the attention of the public after being showcased on "Bobby Jones Gospel." Additionally, his video program on BET, is the only national black gospel video program to date. He also hosts a weekly syndicated gospel countdown show heard on radio stations across the nation.

Bobby Jones has always aspired to great things. The Henry County, Tennessee, native dreamed of a musical career at an early age, which drove him to graduate from high school at the age of 15 and to earn a bachelor's degree from Tennessee State University (TSU) at the age of 19. An education major, he went on to earn a master's degree from TSU, and doctorate from Vanderbilt University. Upon graduation, Jones successfully taught in both the Tennessee and Missouri school systems.

He is also credited with forming the now familiar "Black Expo,"—fairlike events, which take place across the Nation and celebrate the many contributions of African Americans to the community in which they take place.

Bobby Jones has been honored numerous times by his peers. In 1980, he received The Gabriel Award and an International Film Festival Award for writing and performing Make A Joyful Noise. In 1982, he was nominated for a Grammy Award, along with his group, New Life. The Gospel Music Association (GMA) honored him in 1984, with a Dove Award for Black Contemporary Album of the Year. That same year he picked up a Grammy Award for "Best Vocal Duo for a Soul/Gospel Performance" for the single he recorded with Barbara Mandrell, "I'm So Glad I'm Standing Here Today." He also won an NAACP Image Award in 1984. The GMA honored him with the "Commonwealth Award for Outstanding Contribution to Gospel Music" in 1990. In 1994, Jones was nominated for a Cable ACE Award.

His autobiography, "My 25 Years in Gospel Music: Make a Joyful Noise" was recently released by Doubleday Books. Another recent venture is his new television program "Bobby Jones Presents . . ." for the Word Network. This show contains classic performances from "Bobby Jones Gospel."

Jones is to be commended and honored for twenty-five years of outstanding service to the gospel music industry. He is a beloved figure who no doubt will continue to enlighten audiences for many years to come.

TWENTY-FIVE YEARS OF THE HELSINKI COMMISSION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. HOYER. Mr. Speaker, twenty-five years ago this month, on June 3, 1976, a law was enacted creating the Commission on Security and Cooperation in Europe. We know it as "the Helsinki Commission." One of the smallest and most unique bodies in the U.S. Government, it perhaps ranks among the most effective for its size. I have been proud to be a member of the Commission for the past 16 years.

When President Gerald Ford signed, in Helsinki in 1975, the Final Act of the Conference on Security and Cooperation in Europe, he said that "history will judge this Conference not by what we say here today, but by what we do tomorrow—not only by the promises we make, but by the promises we keep." That piece of rhetoric has not only been repeated in various forms by every United States President since; it has continually served as a basis for U.S. policy toward Europe.

Credit for this fact, and for the Commission's establishment, first goes to our late colleague here in the House, Millicent Fenwick, and the late-Senator Clifford Case, both of New Jersey. Observing the foundation of human rights groups in the Soviet Union and Eastern Europe to monitor and, it was hoped, to encourage their governments to keep the promises made in Helsinki, she and other Members of Congress felt it would be good to give them some signs of support. Keep in mind, Mr. Speaker, that this was in the midst of detente with Moscow, a polite dance of otherwise antagonistic great powers. It was a time when the nuclear warhead was thought to be more powerful than the human spirit, and the pursuit of human rights in the communist world was not considered sufficiently realistic, except perhaps as a propaganda tool with which to woo a divided European continent and polarized world.

The philosophy of the Commission was otherwise. Respect for human rights and fundamental freedoms is, as the Helsinki Final Act indicates, a prerequisite for true peace and true security. As such, it is also a principle guiding relations between states, a legitimate matter for discussion among them. This philosophy, broadened today to include democratic norms such as free and fair elections and respect for the rule of law, remains the basis for the Commission's work.

Of course, the Commission was not meant to be a place for mere debate on approaches to foreign policy; it had actually to insert itself into the policy-making process. The Commission Chairman for the first decade, the late Dante Fascell of Florida, fought hard to do just that. It was, I would say, a bipartisan fight, with several different Congresses taking on several different Administrations. Moreover, it was not just a fight for influence in policy-making; it was a much tougher fight for better policies. The Commission staff, led during those early years by R. Spencer Oliver, was superb in this respect. It knew the Soviet Union and Eastern Europe. It worked with non-governmental organizations to increase public diplomacy and, subsequently, public support for human rights advocacy. The staff developed the ability to insert principle into policy at the negotiating table. Over time, as State Department and other Executive-branch officials would come and go, the Commission staff developed the institutional memory to recall what works and what doesn't, allowing human right as an element of East-West relations consistently to strength. With the Commission staff represented on U.S. delegations to follow-up and experts meetings which emerged from the Final Act—collectively called the Helsinki process—our country addressed issues at the heart of Cold War, forthrightly confronting the Soviets and their allies in the presence of our European allies, neutral and non-aligned states and the more reluctant Warsaw Pact members. The Commission was viewed as unique in the role it played to "co-determine" with the Executive branch U.S. human rights policy toward the Soviet Union and East-Central Europe.

In 15 years at the East-West divide, the Commission also championed policies, like the Jackson-Vanik amendment, linking human rights to trade and other aspects of U.S. bilateral relationships. The concept of linkage has often been chastised by the foreign policy establishment, but it comes from the passion of our own country's democratic heritage and nature. With persistence and care, it ultimately proved successful for the United States and the countries concerned.

The Helsinki Commission also became the champion of engagement. Commission members did not simply speak out on human rights abuses; they also traveled to the Soviet Union and the communist countries of East-Central Europe, meeting dissidents and "refuseniks" and seeking to gain access to those in the prisons and prison camps. At first, the Commission was viewed as such a threat to the communist system that its existence would not be officially acknowledged, but Commissioners went anyway, in other congressional capacities until such time that barriers to the Commission were broken down. The Commission focus was on helping those who had first inspired the Commission's creation, namely the Helsinki and human rights monitors, who had soon been severely persecuted for assuming in the mid-1970s that they could act upon their rights. Ethnic rights, religious rights, movement, association and expression rights, all were under attack, and the Commission refused to give up its dedication to their defense.

Eventually, the hard work paid off, and the beginning of my tenure with the Commission coincided with the first signs under Gorbachev that East-West divisions were finally coming to an end. Sharing the chairmanship with my Senate counterparts—first Alfonse D'Amato of New York and then Dennis DeConcini of Arizona—the Commission argued against easing the pressure at the time it was beginning to produce results. We argued for the human rights counterpart of President Reagan's "zero option" for arms control, in which not only the thousands of dissenters and prospective emigrants saw benefits. They were joined by millions of everyday people—workers, farmers, students—suddenly feeling more openness, real freedom, and an opportunity with democracy. Dissidents on whose behalf the Commission fought—while so many others were labeling them insignificant fringe elements in society—were now being released and becoming government leaders, people like Polish Foreign Minister Bronislaw Geremek and Czech President Vaclav Havel. The independence of the Baltic States, whose forced incorporation into the USSR was never officially recognized by the United States, was actually reestablished, followed by others wishing to act upon the Helsinki right to self-determination. The

Commission was among the first to suggest not as rhetoric but as a real possibility the holding of free and fair elections, tearing down the Berlin Wall, and beginning a new world order in Europe.

Of course, Mr. Speaker, those of us on the Commission knew that the fall of communism would give rise to new problems, namely the extreme nationalism which communism swept under the rug of repression rather than neutralized with democratic antiseptic. Still, none of us fully anticipated what was to come in the 1990s. It was a decade of democratic achievement, but it nevertheless witnessed the worst violations of Helsinki principles and provisions, including genocide in Bosnia-Herzegovina and brutal conflicts elsewhere in the Balkans as well as in Chechnya, the Caucuses and Central Asia, with hundreds of thousands innocent civilians killed and millions displaced. Again, it was the Commission which helped keep these tragedies on the U.S. foreign policy agenda, holding hearings, visiting war zones and advocating an appropriately active and decisive U.S. response. In the face of such serious matters, too many sought to blame history and even democracy, equated victim with aggressor and fecklessly abandoned the principles upon which Helsinki was based. Again the Commission, on a bipartisan basis in dialogue with different Administrations, took strong issue with such an approach. Moreover, with our distinguished colleague, CHRISTOPHER SMITH of New Jersey, taking his turn as Chairman during these tragic times, the Commission took on a new emphasis in seeking justice for victims, providing much needed humanitarian relief and supporting democratic movements in places like Serbia for the sake of long-term stability and the future of the people living there.

In this new decade, Mr. Speaker, the Commission has remained actively engaged on the issues of the time. Corruption and organized crime, trafficking of women and children into sexual slavery, new attacks on religious liberty and discrimination in society, particularly against Romani populations in Europe, present new challenges. Senator BEN NIGHTHORSE CAMPBELL of Colorado, the latest Commission Chairman, has kept the Commission current and relevant. In addition, there continue to be serious problem areas or widespread or systemic violations of OSCE standards in countries of the Balkans, Central Asia and the Caucuses, or reversals of the democratization process as in Belarus. The Commission was born in the Cold War, but its true mission—the struggle for human rights, democratic government and the rule of law—remains as important now as it was then. It remains an essential element for true security and stability in the world, as well as, to paraphrase Helsinki, for the free and full development of the individual person, from whose inherent dignity human rights ultimately derive.

To conclude, Mr. Speaker, I wish to erase any illusion I have given in my praise for the Helsinki Commission on its first quarter of a century that it had single-handedly vanquished the Soviet empire or stopped the genocidal policies of Slobodan Milosevic. No, this did not occur, and our own efforts pale in comparison to the courage and risk-taking of human rights activists in the countries concerned. But I would assert, Mr. Speaker, that the wheels of progress turn through the interaction of numerous cogs, and the Commission has been one of those cogs, maybe with some extra grease. The Commission certainly was the vehicle through which the United States Government was able to bring the will of the American people for morality and human rights into European diplomacy.

To those who were in the Soviet gulag, or in Ceausescu's Romania as a recent acquaintance there relayed to me with much emotion, the fact that some Americans and others were out there, speaking on their behalf, gave them the will to survive those dark days, and to continue the struggle for freedom. Many of those voices were emanating in the non-governmental community, groups like Amnesty International, Freedom House and Human Rights Watch. Through the Helsinki Commission, the voice of the United States Congress was heard as well, and I know that all of my colleagues who have been on the Commission or worked with it are enormously proud of that fact.

IN MEMORY OF MR. JAMES V. PSENICKA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of a very fine man, Mr. James V. Psenicka, for his dedicated years of service and countless contributions to the community.

Mr. Psenicka was born in Maple Heights to Czech immigrants who met and married in the United States. The family then moved to Streetsboro to purchase land. Mr. Psenicka graduated from Kent State High School in 1950 and immediately joined the staff of "The Neighborhood News" where he served as a reporter and advertising salesman. He soon earned his bachelors degree in journalism from Kent State University in 1955.

Mr. Psenicka assumed the role of owner and publisher of "The Neighborhood News" in 1961 after serving in the U.S. Navy Air force in Guam. As publisher, Mr. Psenicka campaigned for cleaner air and strict anti-pollution regulation. He fought for countless causes to make life better for hard-working Czech and Polish-American readers. Under his leadership, the newspaper was named Best Weekly Newspaper by the Neighborhood and Community Press Association of Greater Cleveland in 1999.

Although his commitment to "The Neighborhood News" earned the newspaper countless awards and honors, Mr. Psenicka kept family and friends first. He enjoyed traveling with his wife and three sons to Canada, Greece, Europe, and many other places. He relished boating and gardening. You would often see Mr. Psenicka off the coast of Lake Erie fishing.

Mr. Psensicka also had an incredible dedication to his local community. He served as a member of Karlin Hall on Fleet Avenue and the Small Business Advisory Council to the U.S. Congress. In addition, Mr. Psenicka served as a dedicated member to the Kiwanis Club of South East Cleveland, the world's largest service organization.

Mr. Speaker, please join me in honoring the memory of Mr. James V. Psenicka, a man that has touched the Cleveland and world community in many ways. His love, dedication, and honor will be greatly missed.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT OF 2002

SPEECH OF

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2217) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes:

Mr. WATKINS. Mr. Speaker, I rise today in support of H.R. 2217, the Interior Appropriations Act for Fiscal Year 2002. Among the components of that act is funding for the Department of Energy's Office of Fossil Energy and its program of oil and natural gas research and development. Few among us understand what an important role oil and natural gas research and development plays in our nation's ability to produce critical quantities of those resources for our domestic consumption.

I would like to introduce into the RECORD today one of the recommendations contained in a report of the Interstate Oil and Gas Compact Commission (IOGCC) entitled A Dependent Nation: How Federal Oil and Natural Gas Policy is Eroding America's Economic Independence. This report contains the IOGCC governors' own set of recommendations for a national oil and natural gas policy. It is my hope that this information will help explain why federally funded oil and natural gas research and development is so vitally important to this country.

RECOMMENDATION 2: PROMOTE THE EXPANSION OF RESEARCH TO RECOVER DOMESTIC OIL AND GAS RESOURCES

This far-reaching recommendation encompasses a number of initiatives designed to ensure the nation's reserves are fully developed. First, to make informed decisions regarding the nation's energy future, the public must have definitive information on the actual domestic petroleum resource.

For example, there are vast known reserves of oil in the United States. The IOGCC estimates that 351 billion barrels will remain in the ground after conventional recovery technologies have been applied.

In addition, there are oil and natural gas reserves located on private and public lands and offshore that have not been analyzed or catalogued. Some of these reserves may exist in environmentally sensitive areas or in difficult-to-access locations that would require extraordinary exploration and production measures or advanced research to develop. Therefore, in addition to identifying the entire oil and gas resource base of the country, research should include estimates of the time required to bring these resources into production.

Defining these resources is only a first step. As an advocate-for oil and natural gas research, the IOGCC also strongly supports programs that create technology to improve recovery rates and lower finding and production costs. Such research and development (R&D) is an investment in the country's future and its energy security. Technological advance might be the most important factor in ensuring America's nonrenewable resources are fully developed.

As noted by the Task Force on Strategic Energy Research and Development, "There is growing evidence of a brewing 'R&D crisis' in the United States—the result of cutbacks and refocusing in private-sector R&D and reductions in federal R&D. Support for research and development is indeed being simultaneously reduced in the private and public sectors. R&D cannot be turned on and off like a water tap. The acquisition of new knowledge and the embodiment of new knowledge in new products and services for the economy is a cumulative process that requires continuous effort to sustain. The accumulation of cutbacks in public and private R&D could be setting the stage for a major shortfall and setbacks in R&D in the United States—characterized by the lack of consistent attention to longer-term needs and problems, a shrinking population of scientists and engineers available to perform high-quality R&D, and a loss of incentives and opportunities for new generations of technologists."

A 1997 report commissioned by the IOGCC confirmed the declining trend in oil and gas research and development. "When private R&D is compared to federal expenditures, the outlook is more bleak. Private spending is substantiated . . . but federal spending remains disproportionately small compared to the relative importance of oil and gas to U.S. energy requirements."

Enrollment in petroleum-related majors at America's colleges and universities has shrunk as well. At the University of Texas at Austin, home of one of the largest petroleum engineering programs in the nation, undergraduate enrollment in the Department of Petroleum and Geosystems Engineering has plummeted more than 80 percent from a high of 1,200 in 1982 to 222 in 1999. About 1,300 students currently are enrolled in undergraduate petroleum engineering programs in the U.S., down sharply from more than 11,000 in 1983.

A 1997 study published by the IOGCC expressed alarm at the loss of experienced and entry-level technical personnel, noting "there is a 5- to 7-year gap between decisions to increase exploration budgets and resulting new oil production, even when experienced technical staff are available. However, few have considered the long-term effects of the 1986 petroleum jobs massacre (in which 500,000 jobs were lost) and how the events of 10 years ago will influence future energy policy and supplies . . . Any crisis in oil supply causing increases in domestic activity will be constrained by lack of qualified staff."

The federal government could fulfill a vital leadership role in reversing the trend. The country's network of national laboratories, for example, seems ideally suited for the mission of energy research.

In addition, the IOGCC supports a reallocation of U.S. Department of Energy resources to provide additional research and development funding for oil and natural gas. The DOE's budget request totals $18.9 billion for fiscal year 2001. For fossil energy research and development, DOE is requesting $376 million, less than 2 percent of the budget. About $160 million is requested for oil and natural gas research. This represents slightly more

The DOE's Office of Fossil Energy highlights the importance of R&D. "Looking forward, the domestic oil and gas industry will be challenged to continue extending the frontiers of technology. Ongoing advances in E&P productivity are essential if producers are to keep pace with steadily growing demand for oil and gas, both in the United States and world wide."

The NPC notes "producers are turning to the service sectors to develop new technology for specific applications. Industry consortia have been formed to address critical technology challenges such as deep water development. While many of these changes improve the efficiency with which research and development dollars are spent, concerns have been widely expressed that basic and long-term research are not being adequately addressed."

Meanwhile, solar and renewables technologies, which provide less than 10 percent of U.S. energy, would receive more than $457 million. The 28 percent increase in funding ($99 million) for 2001 represents more than the total request for oil and natural gas research.

Reality dictates that additional funding for oil and natural gas research and development is unlikely. However, the IOGCC supports a drastic shift in how available tax dollars are spent. In the early years of the DOE, large and expensive demonstration projects dominated R&D spending. "That early emphasis on demonstration projects, reflecting the turmoil of the late 1970s, was, in retrospect, misplaced."

Despite billions of dollars spent on renewable energy R&D during the period of 1990–1999, there has been little impact by renewables on the nation's total energy consumption pattern (Figure 6). In fact, in 1999, renewables supplied a nearly identical percentage of the nation's total energy consumption as in 1990.

According to Hodel and Deitz, "however important alternative sources eventually may be, our best estimate is that we will continue to meet our energy needs with oil and gas for at least the remainder of this and the next generation of Americans, and very possibly several succeeding ones as well. Without some kind of energy breakthrough or aggressive government mandates, oil and gas appear certain to be our predominant fuels for the next 40 to 100 years."

A broad range of parties assembled by the National Petroleum Council to assess the future of the oil and gas industry expressed ". . . surprisingly broad agreement . . ." on the outlook for the next 25 years, including, "The United States and the world will still be using large amounts of oil and gas in 2020, not significantly different from the more than 60 percent share of world energy consumption these fuels represent today."

The case for redirecting R&D dollars to where they would prove more effective is especially important as government considers budget freezes and cutbacks. Past successes, including three-dimensional seismic, polycrystalline diamond drill bits and horizontal drilling, which have helped lower costs and improve recovery, should be built upon.

To ensure that these limited resources are spent wisely, the IOGCC recommends the budgets for energy research and development be considered by the same congressional subcommittees. Current congressional structure requires fossil fuel and renewables research budgets to be evaluated in separate budget bills handled by separate subcommittees of the House and Senate Appropriations Committees. As a result, side-by-side comparisons of expenditures and impacts are difficult, and there is a lack of flexibility in allocating finite resources.

The NPC notes "in the past three decades, the petroleum business has transformed itself into a high-technology industry ... Looking forward, the domestic oil and gas industry will be challenged to continue extending the frontiers of technology. Ongoing advances in E&P productivity are essential if producers are to keep pace with steadily growing demand for oil and gas, both in the United States and world wide. Continuing innovation will also be needed to sustain the industry's leadership in the intensely competitive international arena, and to retain high-paying oil and gas industry jobs at home."

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2217) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes;

Mr. HANSEN. Mr. Chairman, H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, contained language under the National Park Service/Land Acquisition and State Assistance section regarding federal grants to the State of Florida for acquisition of lands or waters within the Everglades watershed, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area. This language begins on page 29, line 15 of the House engrossed bill and continues until page 30, line 11.

This language does not constitute any new authority to acquire land or to obligate funds beyond existing law under Public Law 101–229, the Everglades National Park Protection and Expansion Act of 1989. The Committee on Resources has primary jurisdiction over this statute. The authority of the federal government to acquire land, directly or indirectly by eminent domain, must be specific. If I felt that this language in the Interior appropriations bill authorized new acquisition authority, I would have exercised my prerogative under the rules of the House of Representatives to have the language struck on a point of order.

Similarly, nothing in this language from the Interior appropriations bill provides any new project authorization beyond that contained in the Everglades National Park Protection and Expansion Act. Again, I would have raised a point of order against the text if I believed that it constituted new or amended project authority.

I hope this clarifies any questions or concerns that my colleagues or the public might have regarding these provisions.

HONORING REVEREND JOHN L. FREESEMANN'S 25TH ANNIVERSARY OF ORDINATION

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Ms. LOFGREN. Mr. Speaker, I rise to congratulate Reverend John L. Freesemann of the Holy Redeemer Lutheran Church in San Jose, California, on the 25th Anniversary of his Ordination. On the 27h day of June, 1976, Reverend John L. Freesemann was ordained in the Lutheran Church. For 25 years he has served both his parish community and the people of Santa Clara County faithfully and devotedly.

Reverend John Freesemann has been a tireless advocate of ecumenism in San Jose and the surrounding communities; he has provided a decade of responsible leadership as a board member and past president of the California Council of Churches, and is a founding member and the current president of California Church Impact. Reverend Freesemann has also served for eight terms as president of the Santa Clara County Council of Churches. Reverend John Freesemann gives tirelessly of his time and talents to support children and families as a founding member, two-term vice president, and current president of Resources for Families and Communities in Santa Clara County.

As the pastor of Holy Redeemer Lutheran Church for 11 years, Reverend Freesemann has established his San Jose parish as a place of safety, of compassion and of hope. Under his loving guidance, Holy Redeemer has expanded its ministries to the community at large.

I wish to congratulate Reverend John L. Freesemann on this, the 25th Anniversary of his Ordination, and to thank him for his many years of service to the people of San Jose. Our community is the richer for his faithful service.

INTRODUCTION OF THE BIOTECHNOLOGY AND AGRICULTURE IN THE DEVELOPING WORLD ACT OF 2001

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, today I am introducing a bill to establish a grant program under the Secretary of Agriculture to support research and development programs in agricultural biotechnology to address the food and economic needs of the developing world.

My bill recognizes the great potential of agricultural biotechnology to combat hunger, malnutrition, and sickness in the developing world and provides the mechanism to encourage the pursuit of this exciting technology.

Portions of the developing world are facing a pandemic of malnutrition and disease; 200 million people on the African continent alone are chronically malnourished. Traditional farming practices cannot meet the growing needs of the developing world. Africa's crop production is the lowest in the world and even with about two-thirds of its labor force engaged in agriculture, Africa currently imports more than 25 percent of its grain for food and feed.

Biotechnology offers great promise for agriculture and nutrition in the developing world. Vitamin-enhanced foods, foods higher in protein, and fruits and vegetables with longer shelf-lives have been developed using biotechnology. Biotechnology can promote sustainable agriculture, leading to food and economic security in developing nations. Biotechnology can help developing countries produce higher crop yields while using fewer pesticides and herbicides. My bill does not encourage the development of pesticide-resistant crops.

An added benefit of increased yields through biotechnology is that increased productivity on existing crop land reduces the amount of land that needs to be farmed as well as the need for new crop acreage, which can greatly slow the rate of habitat destruction. Since most food production and farming in the developing world is done by women, such an increase in productivity also enables women to spend their time on other productive activities and better care for their families.

Biotechnology can also improve the health of citizens of developing countries by combating illness. Substantial progress has been made in the developed world on vaccines against life-threatening illnesses, but, unfortunately, infrastructure limitations often hinder the effectiveness of traditional vaccination methods in some parts of the developing world. For example, many vaccines must be kept refrigerated until they are injected. Even if a health clinic has electricity and is able to deliver effective vaccines, the cost of multiple needles can hinder vaccination efforts. Additionally, the improper use of hypodermic needles can spread HIV, the virus that causes AIDS. Biotechnology offers the prospect of orally delivering vaccines to immunize against life-threatening illnesses through agricultural products in a safe and effective manner.

My bill establishes a grant program under the Foreign Agricultural Service in the Department of Agriculture to encourage research in agricultural biotechnology. Eligible grant recipients include historically black colleges and universities, land-grant colleges, Hispanic serving institutions, and tribal colleges or universities. Non-profit organizations and consortia of for-profit and in-country agricultural research centers are also eligible.

I encourage my colleagues to support this important piece of legislation.

30TH ANNIVERSARY OF THE INTERNATIONAL ARTS FESTIVAL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. TOWNS. Mr. Speaker, I rise on the occasion of the 30th anniversary of the International African Arts Festival which annually contributes to the Brooklyn community through weekend long cultural events.

For the past thirty years, the International African Arts Festival has brought together those who wish to enjoy the music, dance, art, craft, flavors, colors, laughter, and love of the African Diasporan family as well as visitors from across the globe. Born on a stage, the festival grew into a block party. However, soon thereafter the location changed once again to the Boys and Girls High field.

In an effort to give back to the community, the International African Arts Festival holds an annual talent search, in which cash prizes and performance contracts are awarded to young people. The talent search has helped to launch the careers of several young stars. In addition, the Festival has awarded over $23,000 in annual scholarships to graduating high school seniors over the past eleven years. The International African Arts Festival is also responsible for the success of the Living Legends Award as well as the Ankh Award, both bestowed upon leaders and inspirational figures in the community.

The International African Arts Festival is committed to maintaining a connection with African tradition itself. A traditional African libation ceremony officially opens the Festival each year in salute to the spirit of the African ancestors. Over the course of its thirty years, the International African Arts Festival has brought a wealth of world-class entertainment to Brooklyn stages. The Festival maintains a deep connection with the residents of Brooklyn, employing over 300 people every year.

Mr. Speaker, for the past thirty years the International African Arts Festival has been an integral part of the community. As such, the Festival is more than worthy of receiving our recognition today. I hope that all of my colleagues will join me in honoring this truly remarkable event.

U.S. POSTAL SERVICE LINKS ACROSS AMERICA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. SHAW. Mr. Speaker, the U.S. Postal Service links together cities and towns, large and small, across America through delivery of the mail. Since our nation's founding, mail delivery has been especially important to rural America, places that were at first a long walk away, then a long horse ride, and even for years a long automobile ride from the nearest downtown of a major city. The Internet today has helped reduce the distance between cities, and even countries, but mail delivery continues to be an important function for all Americans.

Most Americans, probably, are unaware that for decades rural letter carriers have used their own transportation to deliver the mail. This includes rural letter carriers who today drive their own vehicles in good weather and bad, in all seasons, in locations that can range from a canyon bottom to mountain top, ocean view to bayou. Rural letter carriers drive over 3 million miles daily and serve 24 million American families on over 66,000 rural and suburban routes. The mission of rural letter carriers has changed little over the years, but the type of mail they deliver has changed substantially—increasing to over 200 billion pieces a year. And although everyone seems to be communicating by email these days, the Postal Service is delivering more letters than at any time in our nation's history. During the next decade, however, we know that will change.

Electronic communication is expected to accelerate even faster than it has in the last five years. Some of what Americans send by mail today will be sent online. According to the General Accounting Office (GAO), that will include many bills and payments. In its study, U.S. Postal Service: Challenges to Sustaining Performance Improvements Remain Formidable on the Brink of the 21st Century, dated October 21, 1999, the GAO reports that the Postal Service's core business—letter mail—will decline substantially. As a result, the revenue the Postal Service collects from delivering First-Class letters also will decline.

While the Internet will eventually reduce the amount of letter mail rural letter carriers deliver, the Internet will present some new opportunities for delivering parcels. Rural letter carriers have for decades delivered the packages we order from catalogs, and now they deliver dozens of parcels every week that were ordered online. For some rural and suburban Americans the Postal Service still remains the only delivery service of choice. Today, the Postal Service has about 33 percent of the parcel business. However, if the Postal Service is as successful as it hopes in attracting more parcels, that could create a problem for rural carriers. Most items ordered by mail are shipped in boxes that, once filled with packing materials, can be bulky—so bulky, in fact, that many rural letter carriers already see the need for larger delivery vehicles.

In exchange for using their own vehicles, rural letter carriers are reimbursed for their vehicle expense by the Postal Service through the Equipment Maintenance Allowance (EMA). Congress recognized this unique situation in tax legislation as far back as 1988. That year Congress intended to exempt EMA from taxation through a specific provision for rural letter carriers in the Technical and Miscellaneous Revenue Act of 1988 (TAMRA). This provision allowed rural mail carriers to compute their vehicle expense deduction based on 150 percent of the standard mileage rate for their business mileage use. Congress passed this law because using a personal vehicle to deliver the U.S. Mail is not typical vehicle use. Also, these vehicles have little resale value because of their high mileage and most are outfitted for right-handed driving.

As an alternative, rural letter carrier taxpayers could elect to use the actual expense method (business portion of actual operation and maintenance of the vehicle, plus depreciation). If the EMA exceeded the actual vehicle expense deductions, the excess was subject to tax. If EMA fell short of the actual vehicle expenses, a deduction was allowed only to the extent that the sum of the shortfall and all other miscellaneous itemized deductions exceeded two percent of the taxpayer's adjusted gross income.

The Taxpayers Relief Act (TRA) of 1997 further simplified the taxation of rural letter carriers. TRA provides that the EMA reimbursement is not reported as taxable income. That simplified taxes for approximately 120,000 taxpayers, but the provision eliminated the option of filing the actual expense method for employee business vehicle expenses. The lack of this option, combined with the effect the Internet will have on mail delivery, specifically on rural letter carriers and their vehicles, is a problem we must address.

Expecting its carriers to deliver more packages because of the Internet, the Postal Service already is encouraging rural letter carriers to purchase larger right-hand drive vehicles, such as sports utility vehicles (SUV). Large SUVs can carry more parcels, but also are much more expensive to operate than traditional vehicles—especially with today's higher gasoline prices. So without the ability to use the actual expense method and depreciation, rural carriers must use their pay to cover vehicle expenses. Additionally, the Postal Service has placed 11,000 postal vehicles on rural routes, which means those carriers receive no EMA.

All these changes combined have created a situation contrary to the historical Congressional intent of using reimbursement to fund the government service of delivering mail, and also has created an inequitable tax situation for rural letter carriers. If actual business expenses exceed the EMA, a deduction for those expenses should be allowed. I believe we must correct this inequity, and so I am introducing a bill that would reinstate the deduction for a rural letter carrier to claim the actual cost of the business use of a vehicle in excess of the EMA reimbursement as a miscellaneous itemized deduction.

In the next few years, more and more Americans will use the Internet to get their news and information, as well as receive and pay their bills. But mail and parcel delivery by the United States Postal Service will remain a necessity for all Americans—especially those in rural and suburban parts of the nation. Therefore, I encourage my colleagues to support this bill and ensure fair taxation for rural letter carriers.

INTRODUCTION OF THE CLASS ACTION FAIRNESS ACT OF 2001

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. GOODLATTE. Mr. Speaker, I am pleased to introduce today, along with my good friends from Virginia, Mr. BOUCHER and Mr. MORAN, and the Chairman of the Judiciary Committee, Mr. SENSENBRENNER, the Class Action Fairness Act of 2001.

This much-needed bipartisan legislation corrects a serious flaw in our federal jurisdiction statutes. At present, those statutes forbid our federal courts from hearing most interstate class actions—the lawsuits that involve more money and touch more Americans than virtually any other litigation pending in our legal system.

The class action device is a necessary and important part of our legal system. It promotes efficiency by allowing plaintiffs with similar claims to adjudicate their cases in one proceeding. It also allows claims to be heard in cases where there are small harms to a large number of people, which would otherwise go unaddressed because the cost to the individuals suing could far exceed the benefit to the individual. However, class actions have been used with an increasing frequency and in ways that do not promote the interests they were intended to serve.

In recent years, state courts have been flooded with class actions. As a result of the adoption of different class action certification standards in the various states, the same class might be certifiable in one state and not another, or certifiable in state court but not in federal court. This creates the potential for abuse of the class action device, particularly when the case involves parties from multiple states or requires the application of the laws of many states.

For example, some state courts routinely certify classes before the defendant is even served with a complaint and given a chance to defend itself. Other state courts employ very lax class certification criteria, rendering virtually any controversy subject to class action treatment. There are instances where a state court, in order to certify a class, has determined that the law of that state applies to all claims, including those of purported class members who live in other jurisdictions. This has the effect of making the law of that state applicable nationwide.

The existence of state courts which broadly apply class certification rules encourages plaintiffs to forum shop for the court which is most likely to certify a purported class. In addition to forum-shopping, parties frequently exploit major loopholes in federal jurisdiction statutes to block the removal of class actions that belong in federal court. For example, plaintiffs' counsel may name parties that are not really relevant to the class claims in an effort to destroy diversity. In other cases, counsel may waive federal law claims or shave the amount of damages claimed to ensure that the action will remain in state court.

Another problem created by the ability of state courts to certify class actions which adjudicate the rights of citizens of many states is that oftentimes more than one case involving the same class is certified at the same time. In the federal court system, those cases involving common questions of fact may be transferred to one district for coordinated or consolidated pretrial proceedings.

When these class actions are pending in state courts, however, there is no corresponding mechanism for consolidating the competing suits. Instead, a settlement or judgment in any of the cases makes the other class actions moot. This creates an incentive for each class counsel to obtain a quick settlement of the case, and an opportunity for the defendant to play the various class counsel against each other and drive the settlement value down. The loser in this system is the class member whose claim is extinguished by the settlement, at the expense of counsel seeking to be the one entitled to recovery of fees.

Our bill is designed to prevent these abuses by allowing large interstate class action cases to be heard in federal court. It would expand the statutory diversity jurisdiction of the federal courts to allow class action cases involving minimal diversity—that is, when any plaintiff and any defendant are citizens of different states—to be brought in or removed to federal court.

Article III of the Constitution empowers Congress to establish federal jurisdiction over diversity cases—cases "between citizens of different States." The grant of federal diversity jurisdiction was premised on concerns that state courts might discriminate against out of state defendants. In a class action, only the citizenship of the named plaintiffs is considered for determining diversity, which means that federal diversity jurisdiction will not exist if the named plaintiff is a citizen of the same state as the defendant, regardless of the citizenship of the rest of the class. Congress also imposes a monetary threshold—now $75,000—for federal diversity claims. However, the amount in controversy requirement is satisfied in a class action only if all of the class members are seeking damages in excess of the statutory minimum.

These jurisdictional statutes were originally enacted years ago, well before the modern class action arose, and they now lead to perverse results. For example, under current law, a citizen of one state may bring in federal court a simple $75,001 slip-and-fall claim against a party from another state. But if a class of 25 million product owners living in all 50 states brings claims collectively worth $15 billion against the manufacturer, the lawsuit usually must be heard in state court.

This result is certainly not what the Framers had in mind when they established federal diversity jurisdiction. Our bill offers a solution by making it easier for plaintiff class members and defendants to remove class actions to federal court, where cases involving multiple state laws are more appropriately heard. Under our bill, if a removed class action is found not to meet the requirements for proceeding on a class basis, the federal court would dismiss the action without prejudice and the action could be refiled in state court.

In addition, the bill provides a number of new protections for plaintiff class members including a requirement that notices sent to class members be written in "plain English" and provide essential information that is easily understood. Furthermore, the bill provides judicial scrutiny for settlements that provide class members only coupons as relief for their injuries, and bars approval of settlements in which class members suffer a net loss. The bill also includes provisions that protect consumers from being disadvantaged by living far away from the courthouse. These additional consumer protections will ensure that class action lawsuits benefit the consumers they are intended to compensate.

This legislation does not limit the ability of anyone to file a class action lawsuit. It does not change anybody's rights to recovery. Our bill specifically provides that it will not alter the substantive law governing any claims as to which jurisdiction is conferred. Our legislation merely closes the loophole, allowing federal courts to hear big lawsuits involving truly interstate issues, while ensuring that purely local controversies remain in state courts. This is exactly what the framers of the Constitution had in mind when they established federal diversity jurisdiction.

I urge each of my colleagues to support this very important bipartisan legislation.

HONORING HUGH LEE GRUNDY FOR HIS DEDICATED SERVICE TO THE UNITED STATES OF AMERICA

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. FLETCHER. Mr. Speaker, today I rise to recognize Hugh Lee Grundy, a man who has devoted a lifetime of hard work and dedication to America's Armed Forces in Southeast Asia. Mr. Grundy is the retired President of Air America, an organization that served a special and undercover purpose for our nation's Central Intelligence Agency and allied countries in Asia and throughout the world. Hugh Grundy of Crab Orchard, Kentucky spent 50 to 60 years in the active world of aviation, and I am truly proud to stand here today and honor him here in the U.S. House of Representatives.

Mr. Grundy was born at Valley Hill, Kentucky on the Grundy family farm, which he now owns and operates. Mr. Grundy raised and showed saddle horses at state and county fairs while growing up. Throughout his schooling, he worked at a local Ford dealership, rising to the position of assistant General Manager. He learned to fly light planes in Central Kentucky in his teenage years. Mr. Grundy attended Aeronautical School in California and eventually became a teacher there. He then worked for Pan American Airlines.

Mr. Grundy faithfully served his country in various capacities for more than 30 years. During World War II, Mr. Grundy served his country as an Engineering Officer and Air Crew Member. He reached the rank of Major in the United States Army in 1946. At the close of World War II, Mr. Grundy exchanged active duty for the reserves and returned to Pan American. Later he was transferred to Shanghai, China to work for the China National Aviation Corporation.

Mr. Grundy served concurrently as President of Air America, Air Asia, and Civil Air Transport from 1954 to 1976. As President of Air America, Mr. Grundy commanded over 10,000 men and women serving in Vietnam, Cambodia, Laos, and Thailand. Mr. Grundy came out of retirement twice in order to return to preside over Southern Air Transport, a company based in Miami, Florida.

In June of 2001, the CIA presented Mr. Grundy with two citations, one in his capacity as President of Civil Air Transport and Air America, and one to him personally. This was the second time Mr. Grundy was given recognition by the CIA, the first being a medal for Honorable Service upon the occasion of his retirement from Air America.

Today I rise, Mr. Speaker, to salute Mr. Grundy for his commitment to aviation, his service to our country, and his patriotic leadership throughout the years.

INTRODUCTION OF ENERGY MARKETING MONITORING ACT—H.R. 2331

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. HORN. Mr. Speaker, for the past year, the energy markets in California have been in a state of turmoil that has produced periodic blackouts, soaring prices for electricity and natural gas and a deep uncertainty about energy supplies for the future. In addition to those serious concerns, there have been a wide range of charges that energy suppliers are engaging in illegal collusion to fix market prices and gouge consumers.

Earlier this year, on January 22nd, I asked the General Accounting Office, our nonpartisan and highly professional source for detailed information on many subjects, to investigate what was happening in California and to provide an overview of information on prices and impacts on consumers, producers and electricity providers. I also requested information on the causes of price increases and problems with the reliability of energy supplies. Finally, I requested evaluation of actions taken by the Federal Energy Regulatory Commission, the state of California, and other parties involved.

Although GAO has been able to provide preliminary information regarding California's supply, demand, and market problems, there has been a significant problem in obtaining the detailed market information necessary for comprehensive analyses or evaluation. GAO interviews with these market participants have yielded only general information and it is unclear at this time whether FERC has in its possession comprehensive market data.

In short, Mr. Speaker, at a time when Congress is wrestling with the complex and highly technical issues involved in both the California market and national energy supply, our own expert agency has limited access to the information it needs to provide analysis of what is happening and recommendations on what should be done to change federal laws and regulations.

In creating the Federal Energy Regulatory Commission (FERC) in 1977 under the Department of Energy Organization Act, Congress did not explicitly address the Comptroller General's (GAO's) authority to request and subpoena information from any body subject to FERC jurisdiction. Today, I am introducing legislation to correct this problem by making clear that the GAO and the Comptroller General have the authority to request and subpoena information from energy companies or other participants subject to the jurisdiction of the Federal Energy Regulatory Commission.

This legislation clarifies the functions of the Comptroller General to include:

Monitoring and evaluating the functions and activities of FERC.

Access to market information from those subject to FERC jurisdiction including energy prices, costs, demand, supply, industry and market structure, auction processes, and environmental impacts.

Authority to issue subpoenas, and compliance with any issued subpoena, to those subject to FERC jurisdiction to carry out the responsibilities of this Act including any audit, investigation, examination, analysis, review or evaluation.

It is essential that Congress and the American people have access to detailed and unbiased information on what is happening in our energy markets. The General Accounting Office is the right source for such information and I urge my colleagues to support this legislation to make certain that GAO has the tools it needs to perform its job in monitoring our energy markets.

The text of H.R. 2331 is below:

H.R. 2331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Market Monitoring Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) When Congress created the Federal Energy Regulatory Commission in 1977 under the Department of Energy Organization Act, it did not explicitly address the Comptroller General's authority to request and subpoena information from facilities or businesses engaged in energy matters related to the Federal Energy Regulatory Commission's activities. Clarification of the scope of the Comptroller General's access to such information would facilitate the Comptroller General's monitoring of the Nation's energy programs.

(2) For markets to function properly to provide consumers with goods at a competitive price, and to protect consumers from unjust prices or price manipulation, the markets must be transparent in their transactions. Although the Federal Energy Regulatory Commission is responsible for market monitoring, it is unclear whether the Federal Energy Regulatory Commission has in its possession or has requested from market participants comprehensive market data.

(3) To ensure transparency of energy markets, and to help protect both consumers and suppliers, the General Accounting Office, as the investigative arm of Congress, must have full authority to examine all markets and market participants' activities.

SEC. 3. FUNCTIONS OF COMPTROLLER GENERAL.

(a) AMENDMENT.—Title IV of the Department of Energy Organization Act (42 U.S.C. 7171–7177) is amended by adding at the end the following new section:

"FUNCTIONS OF COMPTROLLER GENERAL

"SEC. 408. (a) SCOPE OF ACTIVITIES.—The Comptroller General shall monitor and evaluate the functions and activities of the Federal Energy Regulatory Commission.

"(b) ACCESS TO INFORMATION.—Any person owning or operating facilities or business premises subject to the jurisdiction of the Federal Energy Regulatory Commission shall provide the Comptroller General with access, including the right to make copies, of any books, documents, papers, statistics, data, records, and information where such material relates to the jurisdiction of the Federal Energy Regulatory Commission, including materials related to energy prices, costs, demand, supply, industry and market structure, auction processes, and environmental impacts.

"(c) SUBPOENAS.—To assist in carrying out the Comptroller General's responsibilities under this section, including any audit, investigation, examination, analysis, review, or evaluation, the Comptroller General may issue subpoenas to any person described in subsection (b) requiring the production of any books, documents, papers, statistics, data, records, and information.

"(d) SECURING COMPLIANCE WITH SUBPOENA.—Upon petition by the Comptroller General or the Attorney General (upon request of the Comptroller General), any United States district court within the jurisdiction of which an inquiry under this section is carried out may, in the case of refusal to obey a subpoena of the Comptroller General issued under this section, issue an order requiring compliance therewith, and any failure to obey the order of the court may be treated by the court as a contempt thereof.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of title IV of the Department of Energy Organization Act is amended by adding after the item relating to section 407 the following new item:

"Sec. 408. Functions of Comptroller General.".

INDIAN GOVERNMENT FOUND RESPONSIBLE FOR BURNING SIKH HOMES AND TEMPLE IN KASHMIR

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. TOWNS. Mr. Speaker, in March 2000 when President Clinton was visiting India, 35 Sikhs were murdered in cold blood in the village of Chithi Singhpora in Kashmir. Although the Indian government continues to blame alleged "Pakistani militants," two independent investigations, by the Movement Against State Repression and Punjab Human Rights Organization and the International Human Rights Organization based at Ludhiana, have proven that the Indian government was responsible for this atrocity.

Now it is clear that this was part of a pattern designed to pit Sikhs and Kashmiri Muslims against each other with the ultimate aim of destroying both the Sikh and Kashmiri freedom movements. The Kashmir Media Service reported on May 28 that five Indian soldiers were caught in Srinagar trying to set fire to a Sikh temple and some Sikh homes. Sikh and Muslim villagers overpowered the troops as they were about to sprinkle gunpowder on Sikh houses and the temple. The Border Security Forces rescued several other troops. The villagers even seized a military vehicle, which the army later had to come and reclaim.

At a subsequent protest rally, local leaders said that this incident was part of an Indian government plan to create communal riots. As such, it fits perfectly with the Chithi Singhpora massacre.

Mr. Speaker, India has been trying to commit atrocities in order to promote violence by minorities against each other. Now that the massive numbers of minorities, that the Indian government has murdered, have been exposed, the government is trying to get these same minority groups to kill each other. The plan to create more bloodshed is backfiring on the Indian government. Fortunately, the groups have joined together to oppose the government's plan.

Such a plan is an unacceptable abuse of power. As the leader for democracy in the world, we should take a stand against this government's actions, which target minority groups for violence and abuse.

Given these kinds of actions it makes it very difficult to advocate that this Administration should lift the sanctions against India. To ensure the survival and success of freedom in South Asia, our government should go on record strongly supporting self-determination for all the peoples and nations of South Asia in the form of a free and fair, internationally-monitored plebiscite. This is the best way to support democracy in all of South Asia and to create strong allies for America in that troubled region.

LOSS OF A TRUE HEROINE, MRS. SUSAN WADHAMS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. SCHAFFER. Mr. Speaker, Tuesday, Colorado lost one of its true heroines, Mrs. Susan Wadhams, of Littleton. Many of us on Capitol Hill also mourn the loss of Susan. She was my Chief of Staff and played an integral part in making many of our most celebrated legislative victories possible.

For most, Susan will be remembered for her boundless passion for America. She was an authentic patriot through and through. She enjoyed her work in the Congress and counted the opportunity a rare privilege. She utilized her station to advance the cause of freedom, liberty and human life every day she was here.

How tragic and ironic it is that her life with us has ended too soon. But Susan firmly persuaded all those around her to eventually share in her unwavering faith in God, and to take comfort in the promise of Heaven. From that standpoint, Mr. Speaker, we know that Susan's life has not ended. It is only different. She has surely joined the Community of Saints, and this I say with confidence, predicated upon what I learned about Susan as our friendship deepened.

First and foremost, Susan was a pious Christian whose devotion to the Lord was established in the ancient traditions of the Roman Catholic Church. She was a wife, a mother, and a grandmother. She lived her life within this context. Her professional accomplishments were all achieved through a consistent ethic wherein the magnanimous goal of improving the American environment for family, faith, and children became the exclusive measure of merit.

For me personally, I am deeply inspired by Susan's valor. She left Washington two years ago, returning to Colorado in order to spend more time with her husband, her family, and the community she loved. Leaving the arena of public leadership, however, was not an option for Susan.

You see, Mr. Speaker, Susan understood America from the perspective of our Nation's Founders. She went to her grave convinced that God has richly blessed the United States of America and that His design for our country was of glorious expectation and hope. She believes that each American shares a burden of honor and loyalty to the Almighty and that the essence of American citizenship entails a spiritual duty to lead through love. Susan's love for her family, friends, neighbors, and acquaintances was omnipresent though sometimes subtle or complex; yet when fully appreciated was embraced and profound, certainly invigorating, but more often, infectious. That was especially the case in our office.

Susan was a splendid woman—elegant in every way. Trivial pursuits were of no interest to her. She would not be distracted. She was focused and disciplined. She lived life the way she engaged politics—no nonsense, nothing to excess, just win. Mr. Speaker, there are dozens of elected officials whose election victories were engineered by Susan Wadhams. I'm only one among them all.

Of course, that means there have been nearly as many whose public goals were thwarted by Susan's political prowess. It's simple, Mr. Speaker, if Susan Wadhams was on your side, your chances of winning were quite good. If she was against you, you best think of another line of work. Her opponents respected her, too.

Susan's passion for America was her advantage, and her faith was her power. This was a woman who knew herself and knew the times she was in; whose confidence exuded leadership and whose leadership caused action.

Susan's battle with cancer was no less heroic. If she was ever in fear, it was well concealed. She was a model of courage, even before her affliction. Though too short, her life was complete and her legacy is unmistakable. I thank God for my acquaintance with Susan. Our friendship is one I genuinely regard as a gift of Providence. I miss Susan Wadhams, and I will never forget her.

Mr. Speaker, others have shared with me their sentiments on the passing of Susan. I am deeply grateful for the outpouring of condolence by so many, and I pledge to pass along these comments to her survivors. Their appreciation, I assure the House, will be great, too.

Mr. Speaker, at this point, I hereby submit for the RECORD the comments I've so far received, along with two press accounts of Susan's life.

For Susan, being tough as nails was second nature when dealing with politics, earning her a reputation I truly admired. However, what impressed me most about Susan was her willingness to aid women in entering the political arena. Not only was she a mentor for me, but for many other women who have crossed the Schaffer office threshold. Susan loved life, the west, her family and friends. She once told me she loved daisies. Since then, I have not looked at a daisy, nor will I ever without remembering her. I have lost a friend.—Brandi Graham

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Susan Wadhams hired me for my first job on Capitol Hill. In my interview she said, 'Not many young women have the courage to move 2,000 miles away from their friends and family to pursue their ambitions. I think it's great that you are working to follow your dreams and I would like to be a part of helping young women like you in politics.' She opened a door for me and I will never forget that. I would not be where I am today without her. Susan left an indelible mark on all who knew her, she will be greatly missed.—Melissa Carlson, former staff member for Congressman Bob Schaffer and current Deputy Press Secretary for Governor George E. Pataki, (R–NY).

The best memory Susan ever shared with me was from her childhood in Colorado. She had a pet lamb which stayed in a pen just outside her bedroom window. When Susan went to bed at night, she would open the window and pull the lamb inside. When the lamb became too big to pull through the window, it would cry outside, unable to understand that it could no longer come in. I love this story. I'm going to miss Susan.—Kriste Kafer, the Heritage Foundation.

I'd like to add that Susan was very, very happy to be back here in Colorado with her family during this last year. We'll miss her dearly.—Kent Holsinger

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I think these sums up Susan pretty well:

Strong: Susan was perhaps one of the strongest individuals I have ever had the privilege of knowing.

Undeterred: She accomplished much through shear will and force of personality.

Smart: She possessed a lightning quick wit and a firm grasp of the issues.

Activist: Her activist nature was contagious.

Nationalist: A true patriot if there ever was one.—Rob Nanfelt

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When Susan first interviewed me for a Legislative position with Bob, something just clicked. We spent most of it talking about our lives and how much we missed Colorado. She had accomplished so much in her life. As a young staffer striving to make it in the competitive Capitol Hill environment, I was impressed by her. I wanted to learn from her success. Once I started working with Bob, I saw her as a mentor. We talked freely about God, family and the importance of focusing on the right priorities in life. She discussed her previous bout with cancer and how important it was to have access to quality health care. I am sorry she didn't make it through this time. My thoughts and prayers go out to her family. We will miss her.—Stacy Brooks

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Right up to the very end, May 15 to be exact, Susan was still thinking of others—her son's birthday was coming up and she needed a flag flown over the Capitol, and she needed it by June 17 to present to him for his birthday. To me it really showed the love she had for her family, as well as other people.—Gwen Schwartz

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I think that she was a deep down good woman who love politics and loved to be involved. She will definitely be missed in CO and here in DC.—Eric Price

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Susan was a terrific Chief in that she possessed the management skills necessary for the position but legislatively, she was as green as the rest of us. Bob's first staff, his freshman staff, had two people with prior legislative experience and the rest of his were fresh from Colorado. We knew tons about the way Colorado's government worked, but were unfamiliar with the whole process of introducing legislation, Whip meetings, who to call if we needed a picture hung—all the little things that make an office hum. The flow of information was always two ways and we never felt as if Susan was above us, rather she was with us, learning together.

Under her guidance, our service to Coloradans was crafted to be responsive and diligent. Always steady in her convictions, Susan approached the challenges of managing the boss, and his staff, with a common sense approach. Never acting on her own self interests, she skillfully advocated the staff and their needs but maintained here authority with a "buck stops here" mentality. She was the best Chief a staffer could ask for. Having worked for her, I am a better person.—Marcus Dunn

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I admired her very much—she was a great mentor to me!—Marge Klein

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[From the Rocky Mountain News, June 26, 2001]

GOP ACTIVIST SUSAN WADHAMS DIES AT AGE 55

CAMPAIGNER KNOWN FOR ASTUTE JUDGMENT AND LOVE OF POLITICS

(By Lynn Bartels and Michele Ames)

Susan Wadhams, who campaigned on the ground for Republican candidates while her state patrolman father flew three Colorado governors around the state, was known as a strong-willed woman who stood by her convictions.

Wadhams, the former chief of staff for U.S. Rep. Bob Schaffer and the spokeswoman for the Colorado Department of Natural Resources, died of cancer Monday.

She was 55.

"She is going to leave a terrible hole in the political fabric of Colorado," said Walt Klein, a former campaign manger who hired Wadhams.

Several friends say they knew of only one other person whose interest in politics rivaled hers: her husband, Dick Wadhams, spokesman for Gov. Bill Owens.

"They were perfect for each other," said Roy Palmer, Owens' chief of staff. "We've lost a great woman."

Funeral services are pending.

Susan Marie McBreen was born May 4, 1946, in Birmingham, Ala., to Lucille and Donald McBreen, while her father was a military pilot.

After his stint in the service, Donald McBreen returned to Colorado and Elbert County and joined the Colorado State Patrol.

Donald McBreen flew three governors: John Love, John Vanderhoof and Dick Lamm.

Susan McBreen got her political start helping former U.S. Sen. Bill Armstrong in his first congressional run in 1972.

"She was a very astute judge of people and of issues," Armstrong said.

Susan and Dick Wadhams met in 1980 while working on former Colorado Republican

Party chairman Bo Callaway's U.S. Senate race.

Klein begged Susan to leave her bank job and work for him.

"As it turned out it's one of those things you do that makes you look really smart afterward," said Klein, who runs a Denver marketing and advertising firm.

Susan McBreen married Dick Wadhams April 17, 1982, in Denver.

She worked as government affairs director at StorageTek in Broomfield from 1987 to 1996 before going to Washington to manage Rep. Bob Schaffer's five congressional offices.

She came home to Colorado in 1999. The next year, Greg Walcher, director of the Department of Natural Resources, hired her as communications director.

She is survived by her husband; her father; her brother; Craig, an officer with the Aurora Fire Department; two children; Khristie Barker, 33, and Gregory Farrell, 31; and two grandsons.

[From the Denver Post, June 26, 2001]

STATE FIGURE SUSAN WADHAMS DIES

DNR SPOKESWOMAN LOSES CANCER FIGHT

(By Fred Brown and Theo Stein)

Susan Wadhams, chief spokeswoman for the Colorado Department of Natural Resources, died Monday evening after a long struggle with cancer. She was 55.

Wadhams, the wife of Gov. Bill Owens' press secretary Dick Wadhams, had worked for the state since January 1999.

"Susan was a close personal friend," Owens said. "Colorado has lost a very special person."

As the main public information officer for the Department of Natural Resources, Wadhams had to stay current on some of the state's stickiest land management debates.

In the past year, she wrote press releases abut the state's support for the Animas-La Plata dam project, a challenge to federal population data on black-tailed prairie dogs and a controversial predator control study.

Susan Wadhams also served as head of the interdepartmental information team, which is responsible for coordinating information on oil and gas exploration, the state land board, forestry and parks.

She also was a member of the Judicial Nominating Commission for the Jefferson County district.

"She was a good person, a hard worker, and she had a pretty good understanding of how wildlife worked in the metro area," said Dale Lashnitz, the chief of public affairs at the Division of Wildlife, an agency within Natural Resources Department. "She had a good understanding of how natural resources worked overall."

Before joining the department, Wadhams had worked for three years in Washington, D.C., as chief of staff for U.S. Rep. Bob Schaffer, R-Colo.

From 1988 to 1997, she was director of government affairs for Storage Technology Corp. of Louisville and had served as the finance director for the Colorado Republican Party for three years before that.

Born May 4, 1946, in Birmingham, Ala., Wadhams moved to Colorado with her family at a young age, as her father was ending his World War II military service.

She married Dick Wadhams on April 17, 1982, in Denver.

In addition to her husband, she is also survived by their two children, Khristie Barker of Omaha and Gregory Farrell of Parker; and two grandchildren.

Mr. Speaker, Susan Wadhams was a worthy Christian, a good wife, devoted mother, and a proud grandmother. She was a great American.

In conclusion, I beg the attention of the House, that we may lift Susan up in prayer, and petition the Almighty for the Heavenly repose of her soul. May her soul and all the souls of the faithfully departed, through the Mercy of God, rest in peace. Amen.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 28, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 10

2:30 p.m.

Foreign Relations

To hold hearings on the nomination of Lori A. Forman, of Virginia, to be Assistant Administrator for Asia and the Near East, United States Agency for International Development.

SD–419

JULY 11

9:30 a.m.

Governmental Affairs

To hold hearings on S.803, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services.

SD–342

JULY 12

10 a.m.

Appropriations

Transportation Subcommittee

Business meeting to markup proposed legislation making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002.

SD–116

HOUSE OF REPRESENTATIVES—*Thursday, June 28, 2001*

The House met at 9 a.m.

The Reverend Byron E. Powers, Senior Pastor, The Church Love is Building, Church of God, Sheffield, Ohio, offered the following prayer:

So we pray. Almighty and Gracious God, Your Word declares that "this is the day that the Lord has made." We recognize this day that You have given us, these great United States, for our heritage. Help us to treasure and guard it. Help us, this day, always to prove ourselves to be cognizant of Your favor and eager to fulfill Your awesome purpose in this world. Forgive us for our sin, the discord, confusion, pride, and arrogance, that hinders our relationship with You and one another.

In our diversity, mold us into one united people. Empower our leaders this day with the spirit of wisdom, so that righteousness, justice, and peace may prevail and that, through obedience to Your commandments, we may show forth Your praise among the nations of the Earth.

So, Heavenly Father, we ask this day that our Nation and leaders will be blessed; that our influence will be enlarged; that Your hand would be upon us, and keep us from evil that we may not cause pain. We pray this in Your Name that is above all others. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. HALL) come forward and lead the House in the Pledge of Allegiance.

Mr. HALL of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The gentleman from Ohio (Mr. NEY) is recognized for 1 minute. All other 1-minutes will be after business today.

WELCOME TO GUEST CHAPLAIN, THE REVEREND BYRON E. POWERS

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Mr. Speaker, it is my privilege to welcome the Honorable Reverend Byron E. Powers as our guest chaplain. Reverend Powers is currently the Senior Pastor of the Church Love Is Building in Sheffield, Ohio, one of the great parishes in the region.

Reverend Powers has devoted his life to helping others, and previously served as the senior pastor for churches in Illinois and Florida. He has earned a Bachelor of Arts in Psychology from Lee University and a Master of Arts in Clinical Pastoral Counseling from Ashland Theological Seminary. In addition to his pastoral responsibilities, he currently serves as senior chaplain to the Lorain Police Department. He has been married for 19 years to his wife Frankie, and they have three wonderful children, Sarah, Rachel and Nathan.

Reverend Powers is a leader in the community. His commitment and compassion for those less fortunate has led him to assist many in the area around Sheffield while working tirelessly to serve his community and the great State of Ohio.

It is my distinct pleasure to welcome Reverend Powers to the Congress of the United States and thank him for leading the House in prayer.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

The SPEAKER. Pursuant to House Resolution 180 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2311.

☐ 0906

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Wednesday, June 27, 2001, a demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. BONIOR) had been postponed and the bill was open for amendment from page 22, line 19, through page 23, line 4.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment offered by the gentleman from Colorado (Mr. TANCREDO); amendment No. 4 offered by the gentleman from Colorado (Mr. TANCREDO); amendment offered by the gentleman from New York (Mr. HINCHEY); amendment No. 2 offered by the gentleman from Ohio (Mr. KUCINICH); and amendment offered by the gentleman from Michigan (Mr. BONIOR).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. TANCREDO

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TANCREDO:

Page 2, line 18, after the dollar amount, insert the following: "(reduced by $9,900,000)".

Page 18, line 2, after the dollar amount, insert the following: "(increased by $9,900,000)".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 39, noes 372, not voting 22, as follows:

[Roll No. 199]

AYES—39

Bartlett
Biggert
Boswell
Cannon
Davis, Jo Ann
DeGette
Doggett
Ehlers
Flake
Gilchrest
Goode
Gutknecht
Hefley
Hinchey
Holt
Luther
McCollum
McKinney
Moran (KS)
Osborne
Paul
Pence
Pickering
Pitts
Radanovich
Ramstad
Rivers
Royce
Schaffer
Sensenbrenner
Shadegg
Shays
Smith (MI)
Sununu
Tancredo
Terry
Toomey
Udall (CO)
Udall (NM)

NOES—372

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Callahan
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
Deal
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schakowsky
Schiff
Schrock
Scott
Sessions
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Traficant
Turner
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—22

Barton
Bonilla
Burton
Buyer
Clayton
Dooley
Ehrlich
Greenwood
Grucci
Harman
Hyde
Leach
Mica
Moran (VA)
Owens
Platts
Putnam
Serrano
Smith (TX)
Thomas
Waxman
Young (AK)

☐ 0934

Messrs. LAMPSON, LARSEN of Washington, BLAGOJEVICH, LARGENT, DAVIS of Illinois, and MALONEY of Connecticut changed their vote from "aye" to "no."

Mr. PICKERING and Ms. McCOLLUM changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. GRUCCI. Mr. Chairman, on rollcall vote No. 199, I was detained in traffic and was unable to make it to the floor to vote on the Tancredo amendment increasing funding for the Department of Energy's Renewable Energy Research Program, while offsetting the Army Corps of Engineers General Investigations Account. Had I been present, I would have voted in the negative.

Mr. MICA. Mr. Chairman, on rollcall No. 199, I was unavoidably detained. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 4 OFFERED BY MR. TANCREDO

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. TANCREDO:

In title I, strike section 105 (relating to shore protection projects cost sharing).

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 84, noes 333, not voting 16, as follows:

[Roll No. 200]

AYES—84

Baldwin
Barr
Bartlett
Bass
Bereuter
Blumenauer
Bryant
Cannon
Chabot
Clay
Cubin
DeFazio
DeGette
DeLay
Doggett
Eshoo
Farr
Flake
Foley
Frank
Gibbons
Gilchrest
Goode
Goodlatte
Graves
Hayworth
Hefley
Hill
Hooley
Hostettler
Inslee
Johnson (CT)
Johnson (IL)
Kelly
Kerns
Kildee
Kind (WI)
Kolbe
Largent
Larsen (WA)
Lee
Lofgren
Luther
Maloney (CT)
Matheson
McCollum
McGovern
McKinney
Meehan
Miller, Gary
Miller, George
Moore
Moran (KS)
Neal
Otter
Paul
Pence
Peterson (MN)
Petri
Pitts
Ramstad
Rivers
Sabo
Sanchez
Schaffer
Sensenbrenner
Shadegg
Shays
Sherman
Smith (MI)
Smith (WA)
Snyder
Solis
Stark
Sununu
Tancredo
Terry
Tiahrt
Tiberi
Toomey
Udall (CO)
Udall (NM)
Upton
Waters

NOES—333

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Callahan
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Evans
Everett
Fattah
Ferguson
Filner
Fletcher
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gillmor
Gilman
Gonzalez
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Herger
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Israel
Issa
Istook
Jackson (IL)

Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kennedy (RI)
Kilpatrick
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Mink
Mollohan
Morella
Murtha
Myrick
Nadler
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Phelps
Pickering
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shaw
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tierney
Towns
Traficant
Turner
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—16

Barton
Burton
Buyer
Dooley
Ehrlich
Greenwood
Leach
Moran (VA)
Owens
Platts
Putnam
Radanovich
Ryun (KS)
Smith (TX)
Thomas
Young (AK)

☐ 0944

Mr. CAMP and Mr. ROHRABACHER changed their vote from "aye" to "no."

Mr. SHERMAN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HINCHEY

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. HINCHEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HINCHEY:

In title III, in the item relating to "DEPARTMENT OF ENERGY PROGRAMS; ENERGY SUPPLY" after the aggregate dollar amount, insert the following: "(increased by $50,000,000)".

In title III, in the item relating to "ATOMIC ENERGY DEFENSE ACTIVITIES NATIONAL NUCLEAR SECURITY ADMINISTRATION; WEAPONS ACTIVITIES" after the aggregate dollar amount, insert the following: "(reduced by $60,000,000)".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 163, noes 258, not voting 12, as follows:

[Roll No. 201]

AYES—163

Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bass
Becerra
Berkley
Berman
Blumenauer
Boehlert
Bonior
Boswell
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
Deutsch
Doggett
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Frank
Frost
Gephardt
Gonzalez
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
LoBiondo
Lofgren
Lowey
Luther
Maloney (NY)
Markey
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Petri
Price (NC)
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (MI)
Smith (WA)
Solis
Stark
Strickland
Stupak
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOES—258

Abercrombie
Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Bentsen
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehner
Bonilla
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (SC)
Bryant
Burr
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Etheridge
Everett
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Largent
Latham
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Scarborough
Schiff
Schrock
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (NJ)
Snyder
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Traficant
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NOT VOTING—12

Barton
Burton
Buyer
Dooley
Ehrlich
Leach
Platts
Putnam
Radanovich
Smith (TX)
Thomas
Young (AK)

☐ 0952

Mr. PASTOR changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. KUCINICH

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 2 offered by the gentleman from Ohio (Mr. KUCINICH), on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. KUCINICH:

In title III, in the item relating to "WEAPONS ACTIVITIES," after aggregate dollar amount, insert the following; "(reduced by $112,500,000)".

In title III, in the item relating to "DEFENSE NUCLEAR NONPROLIFERATIONS", after the aggregate dollar amount, insert the following: "(increased by $66,000,000)".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 91, noes 331, not voting 11, as follows:

[Roll No. 202]

AYES—91

Allen
Andrews
Baird
Baldacci
Baldwin
Barrett
Blumenauer
Bonior
Brown (OH)
Carson (IN)
Clay
Conyers
Cummings
Davis (IL)
DeFazio
DeGette
Deutsch
Doggett
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Frank
Hilliard
Hinchey
Honda
Hooley
Jackson (IL)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kind (WI)
Kleczka
Kucinich
LaFalce
Lantos
Lee
Levin
LoBiondo
Luther
Maloney (NY)
Markey
McCarthy (MO)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Miller, George
Mink
Moore
Moran (VA)
Nadler
Neal
Ney
Oberstar
Obey
Olver
Owens
Pallone
Paul
Payne
Pelosi
Rahall
Rangel
Rivers
Rothman
Rush
Ryan (WI)
Sabo
Sanders
Sawyer
Schakowsky
Serrano
Smith (NJ)
Smith (WA)
Stark
Strickland
Tiberi
Tierney
Toomey
Udall (CO)
Velázquez
Waters
Weiner
Woolsey
Wu

NOES—331

Abercrombie
Ackerman
Aderholt
Akin
Armey
Baca
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Everett
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kilpatrick
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Napolitano
Nethercutt
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Roukema
Roybal-Allard
Royce
Ryun (KS)
Sanchez
Sandlin
Saxton
Scarborough
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Snyder
Solis
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Udall (NM)
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Wynn
Young (FL)

NOT VOTING—11

Barton
Burton
Ehrlich
Leach
Platts
Putnam
Radanovich
Ros-Lehtinen
Smith (TX)
Thomas
Young (AK)

□ 1001

Mrs. KELLY changed her vote from "aye" to "no."

Mr. KIND and Mr. FRANK changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. EHRLICH. Mr. Chairman, on rollcall Nos. 199, 200, 201, and 202, I was unable to vote. Had I been present, I would have voted "no" on all four.

AMENDMENT OFFERED BY MR. BONIOR

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. BONIOR), on which further proceedings were postponed, and which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BONIOR:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . No funds provided in this Act may be expended to issue any permit or other authorization under section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 403), or to issue any other lease, license, permit, approval, or right-of-way, for any drilling to extract or explore for oil or gas from the land beneath the water in any of Lake Huron, Lake Ontario, Lake Michigan, Lake Erie, Lake Superior, Lake Saint Clair, the Saint Mary's River, the Saint Clair River, the Detroit River, the Niagara River, or the Saint Lawrence River from Lake Ontario to the 45th parallel of latitude.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 265, noes 157, not voting 11, as follows:

[Roll No. 203]

AYES—265

Abercrombie
Ackerman
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Camp
Capito
Capps
Capuano
Cardin
Carson (IN)
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Ford
Fossella
Frank
Frost
Ganske
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Green (WI)
Greenwood
Gutierrez

Gutknecht
Hall (OH)
Harman
Hastings (FL)
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hutchinson
Hyde
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kucinich
LaFalce
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Pomeroy
Portman
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sawyer
Scarborough
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Snyder
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Wilson
Woolsey
Wu
Wynn
Young (FL)

NOES—157

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bass
Bentsen
Bereuter
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Buyer
Callahan
Calvert
Cannon
Cantor
Carson (OK)
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Deal
DeLay
DeMint
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
Everett
Flake
Forbes
Frelinghuysen
Gallegly
Gekas
Gibbons
Goode
Goodlatte
Graham
Granger
Graves
Green (TX)
Grucci
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Horn
Hostettler
Houghton
Hulshof
Hunter
Issa
Istook
Jefferson
Jenkins
John
Johnson, Sam
Keller
Kerns
King (NY)
Kingston
Knollenberg
Kolbe
Lampson
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
McCrery
McKeon
Mica
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Northup
Norwood
Osborne
Otter
Oxley
Paul
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Pryce (OH)
Rehberg
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sessions
Shadegg
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Smith (MI)
Smith (WA)
Souder
Spence
Stenholm
Stump
Sununu
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Vitter
Walden
Watkins (OK)
Watts (OK)
Weldon (PA)
Whitfield
Wicker
Wolf

NOT VOTING—11

Barton
Burton
Fletcher
Leach
Platts
Putnam
Radanovich
Ros-Lehtinen
Smith (TX)
Thomas
Young (AK)

□ 1010

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, no further amendments to the bill shall be in order except the following amendments, which may be offered only by the Member designated in the request, or a designee, shall be considered as read, shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question:

The amendment by the gentleman from Ohio, Mr. TRAFICANT, regarding drilling, for 20 minutes;

The amendment by the gentlewoman from Nevada, Ms. BERKLEY, regarding nuclear waste, for 20 minutes;

The amendment by the gentleman from Ohio, Mr. TRAFICANT, regarding Buy American, for 10 minutes;

The amendment by the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON, regarding bio/environmental research, for 10 minutes;

The amendment by the gentlewoman from New York, Mrs. KELLY, regarding the Nuclear Regulatory Commission Inspector General salaries and expenses, for 10 minutes; and

The amendment by the gentleman from Florida, Mr. DAVIS, regarding the Gulf Stream natural gas pipeline, for 60 minutes.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 39, line 18, be considered as read, printed in the RECORD, and open to amendment at any time.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. VISCLOSKY. Mr. Chairman, reserving the right to object, my understanding is that will still limit the universe to those amendments announced by the chairman, with the same time limits. It will not open it up to any new amendments.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. VISCLOSKY. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, the gentleman is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The text of the remainder of the bill through page 39, line 18, is as follows:

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $845,341,000, to remain available until expended.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, $688,045,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator of the National Nuclear Security Administration, including official reception and representation expenses (not to exceed $12,000), $10,000,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 30 passenger motor vehicles, of which 27 shall be for replacement only, $5,174,539,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, $1,092,878,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), $143,208,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $487,464,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $310,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $1,500.

During fiscal year 2002, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $4,891,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, up to $8,000,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $28,038,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $5,200,000 in reimbursements, to remain available until expended: *Provided*, That up to $1,512,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $172,165,000, to remain available until expended, of which $166,651,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, $1,227,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That up to $152,624,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $2,663,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $181,155,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $181,155,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2002 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation from the General Fund estimated at not more than $0: *Provided further*, That none of the funds made available to the Federal Energy Regulatory Commission in this or any other Act may be used to authorize construction of the Gulfstream Natural Gas Project.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. (a) None of the funds appropriated by this Act may be used to award a management and operating contract, or award a significant extension or expansion to an existing management and operating contract, unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the Subcommittees of the waiver and setting forth, in specificity, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

SEC. 302. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy,

under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h).

SEC. 303. None of the funds appropriated by this Act may be used to augment the $21,900,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request subject to approval by the appropriate Congressional committees.

SEC. 304. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 306. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 307. None of the funds appropriated in other than Energy and Water Development Appropriations Acts may be used for Department of Energy laboratory directed research and development (LDRD).

SEC. 308. Not later than March 31, 2002, the Secretary of Energy, after consultation with the Nuclear Regulatory Commission and the Occupational Safety and Health Administration, shall transmit to the Committee on Appropriations, the Committee on Energy and Commerce, and the Committee on Education and the Workforce of the House of Representatives, and to the Committee on Appropriations, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report containing an implementation plan for the transfer, on October 1, 2002—

(1) from the Department of Energy to the Nuclear Regulatory Commission of regulatory authority over nuclear safety at the Department of Energy's science laboratories; and

(2) from the Department of Energy to the Occupational Safety and Health Administration of regulatory authority over worker safety at such laboratories.

Out of funds appropriated by this Act for Environment, Safety, and Health, the Secretary of Energy shall transfer $4,000,000 to the Nuclear Regulatory Commission and $120,000 to the Occupational Safety and Health Administration. For purposes of this section, the Department of Energy's science laboratories are the Argonne National Laboratory, the Brookhaven National Laboratory, the Lawrence Berkeley National Laboratory, the Oak Ridge National Laboratory, the Pacific Northwest National Laboratory, the Ames Laboratory, the Fermi National Accelerator Laboratory, the Princeton Plasma Physics Laboratory, the Stanford Linear Accelerator Center, and the Thomas Jefferson National Accelerator Facility.

SEC. 309. When the Department of Energy makes a user facility available to universities and other potential users, or seeks input from universities and other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a university or other potential user in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a participant. For purposes of this section, the term "user facility" includes, but is not limited to: a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and any other Department facility designated by the Department as a user facility.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended notwithstanding section 405 of said Act, and, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission; for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $71,290,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $18,500,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $15,000), and purchase of promotional items for use in the recruitment of individuals for employment, $516,900,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $23,650,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $473,520,000 in fiscal year 2002 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at not more than $43,380,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,180,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at $5,933,000 in fiscal year 2002 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at not more than $247,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $3,100,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 503. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program—Alternative Repayment Plan" and the "SJVDP—Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

The CHAIRMAN. Are there any points of order to any of the sections so opened?

POINT OF ORDER

Mr. LARGENT. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LARGENT. Mr. Chairman, I make a point of order that section 308 of the bill, beginning on page 32, line 24, and ending on page 34, line 6, violates clause 2 of rule XXI of the rules of the House of Representatives prohibiting legislation on appropriations bills.

As I understand the intent of section 308, the language in question directs the Secretary of Energy to write a report to Congress on a plan to transfer certain regulatory functions in DOE science laboratories to the Nuclear Regulatory Commission and the Occupational Safety and Health Administration. My reading of the amendment, however, goes much further. I think that the language contained in the bill would actually effectuate the transfer of these functions to the NRC and OSHA.

In any event, Mr. Chairman, the language of section 308 clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the rules of the House because it changes current law, where no plan to transfer these functions is present.

I therefore insist on my point of order.

The CHAIRMAN. Does any other Member care to be heard on the point of order?

Hearing none, for the reasons stated by the gentleman from Oklahoma (Mr. LARGENT), the point of order is sustained, and section 308 of the bill will be stricken.

The CHAIRMAN. Are there amendments to the bill?

AMENDMENT NO. 1 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TRAFICANT:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated or otherwise made available in this Act may be made available to any person or entity convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentleman from Ohio (Mr. TRAFICANT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an amendment that has been offered and accepted on all appropriations bills. It is good for America.

I will yield to the distinguished chairman of the subcommittee, who has done a fine job on the bill, and would hope that he would also look favorably at my next amendment as well.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, certainly this is something not only that we forgot to put in, which should have been put in, but we appreciate the gentleman bringing it to our attention and allowing us to be a part of his effort to continue to encourage companies to buy American.

We have no objection to this amendment and would happily accept it.

Mr. VISCLOSKY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to my good friend and classmate, the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Chairman, I appreciate the gentleman yielding.

On behalf of all the steelworkers I represent, I am also happy to accept the gentleman's amendment.

Mr. TRAFICANT. Mr. Chairman, I ask for an aye vote, and I yield back the balance of my time.

The CHAIRMAN. Does any Member claim time in opposition to the amendment?

Hearing none, the question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. TRAFICANT:

At the end of the bill (before the short title) add the following section:

SEC. . No fund in this Act may be used to drill for oil and gas, through, in or under, the Mosquito Creek Reservoir, Trumbull County, Ohio.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentleman from Ohio (Mr. TRAFICANT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TRAFICANT).

□ 1015

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

I want to give a little background on this amendment, and I want the appropriators to know that I have gone three times to the authorizing committee. This is the only drinking water supply for 125,000 of my constituents. The Senators, both Republicans, and every mayor supports stopping the banning of slant drilling under a lake when there are so many natural resources in that region.

Let me tell my colleagues about the hypocrisy. Our Department of Natural Resources will not allow any drilling on adjacent wetland in the Mesquito Reservoir because there are trumpet swans and Canadian geese habitat. I have 125,000 people that depend on this for drinking water with no backup water supply. And just on June 3, not counting last year, we had an earthquake of 3.0 in the district of the gentleman from Ohio (Mr. LATOURETTE), district to the north, not far from this lake.

Now, I have supported energy development. I have tried not to be hypocritical, because everybody says, not in my backyard. But when I believe that there are people, as we did in Florida, when there is fresh water, as we have done with the Great Lakes; God almighty, this is just common sense, and I did not have an amendment for this bill until I had seen the efforts made at the Great Lakes, and I worked 3 years through the authorizing committee.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, the gentleman mentioned the word "hypocrisy," and the gentleman knows how opposed I am to any form of hypocrisy. If indeed it is as the gentleman says that this could imperil the drinking water of the gentleman's constituents, we will have no part of that. We will be happy to accept the gentleman's amendment.

Mr. TRAFICANT. Mr. Chairman, I am very proud and honored that the gentleman has taken that position.

Mr. VISCLOSKY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Chairman, I would also be happy to join with the Chair and announce my acceptance of the amendment from my distinguished classmate of the State of Ohio.

Mr. TRAFICANT. Mr. Chairman, I appreciate that.

In closing, I would just like to say that I will not call for a recorded vote, but I would like to see the eyes of the distinguished gentleman from Alabama (Mr. CALLAHAN), the powerful chairman, and I want a commitment, because I know the gentleman from Florida (Mr. YOUNG) has fought hard to preserve fresh water drinking supplies and people close to drilling. I am not going to ask for a vote, with an understanding that my language will be preserved and protected as best as possible in conference.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, it will be preserved as best as possible.

Mr. TRAFICANT. Mr. Chairman, that is good enough for me. The gentleman's word has always been good enough. I thank the Congress for considering the people in my district.

Mr. Chairman, I ask for an "aye" vote.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MS. BERKLEY

Ms. BERKLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. BERKLEY:

Page 37, after line 11, insert the following:

TITLE IV–A

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For additional expenses of the Nuclear Waste Technical Review Board, to be derived from the Nuclear Waste Fund, for the Board (1) to evaluate the technical and scientific validity of activities undertaken by the Secretary of Energy relating to the packaging and transportation of high-level radioactive waste and spent nuclear fuel, as authorized by section 503 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10263), (2) to hold hearings, sit and act, take testimony, and receive evidence, as authorized by section 504(a) of such Act (42 U.S.C. 10264(a)), and (3) to request the Secretary (or any contractor of the Secretary) to provide the Board with records, files, papers, data, and information, as authorized by section 504(b) of such Act (42 U.S.C. 10264(b)); and the aggregate amount otherwise provided in this Act for "Energy Programs—Nuclear Waste Disposal" is hereby reduced by; $500,000.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentlewoman from Nevada (Ms. BERKLEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, I yield myself such time as I may consume.

I rise today to offer an amendment regarding the transportation of high-level nuclear waste. As we are all aware, the Department of Energy is nearing completion on its report on whether Yucca Mountain should be licensed as the Nation's repository for high-level nuclear waste. The DOE has written lengthy reports on hundreds of issues relating to the project, but has remained eerily silent on the one issue that affects almost every Member of this House: the transportation of nuclear waste across the country.

If the proposed Yucca Mountain repository is approved, the transfer of high-level nuclear waste would necessitate the shipment of over 77,000 tons of lethal nuclear waste through at least 43 States. The DOE has itself recognized that such transfers may result in as many as 300 accidents with potentially catastrophic consequences, yet it has not published national shipping routes. Members of Congress and the American public have a right to know if high-level radioactive waste is going to be trucked through their districts, past their homes and hospitals, their children's schools, and on their neighborhood roads, and they have a right to know what kind of impact these shipments will have on their communities.

That is why I am offering an amendment that would transfer $500,000 to the Nuclear Waste Technical Review Board to help them encourage the DOE to publicize the transportation routes. It is only a matter of common sense and sound public policy that this body would seek the assurance of a review board composed of our country's top nuclear scientists on a matter of such importance and so fraught with danger for our citizens. It seems only appropriate to ensure that the board is given the resources it needs to hold hearings, take testimony, and receive evidence to evaluate the DOE's transportation routes. It is, after all, vitally important that Members of Congress understand fully the potential impact on our communities, our constituents and on the environment.

This amendment builds on the language of the committee report acknowledging the serious public concern with shipping nuclear waste across the country by road and rail and the need to select transportation routes. I want to thank the chairman and the ranking member for their efforts in this regard. Our amendment helps move forward the committee's intent by employing the Nuclear Waste Technical Review Board to analyze the routes and their potential impacts and to further encourage the DOE to make public, make public their proposed routes.

Let me be clear. This is not a vote on whether or not one supports a nuclear repository at Yucca Mountain. This amendment is about whether Members of Congress and our constituents have a right to know, the right to know whether nuclear waste is going to be traveling through our communities. A vote for this amendment is a vote in favor of protecting our neighborhoods from bureaucrats with too little information and too much secrecy. This is, in the end, about the public's right to know.

Mr. Chairman, I strongly urge my colleagues to support this amendment. Again, I want to thank the chairman and the ranking member for their work.

Mr. Chairman, I reserve the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I reluctantly rise in opposition to the gentlewoman's amendment.

Mr. Chairman, I yield myself such time as I may consume.

First let me say to the gentlewoman that we are all concerned about the transportation part of the ultimate storage at Yucca Mountain. During the last month, I have traveled to Yucca Mountain and looked at the facility. We have discussed the transportation part of the storage site at Yucca Mountain, and we agree with the gentlewoman that we should be prepared. However, we have ample time to be prepared.

For the gentlewoman's information, we already have provided $3.1 million in the bill for the Nuclear Waste Technical Review Board. They tell us they can live with that much money, and I really do not think that taking another $500,000 and putting it into that study is going to enhance the solution to the gentlewoman's problems at all. Our major concern is that we have a safe conveyance. If, indeed, Yucca Mountain is approved, we need some safe capability of delivering the products through the various States and through the State of Nevada to the site.

So I would agree with the gentlewoman that we should be concerned about it, and we are concerned about it. We brought this up in our committee hearings, and the Department of Energy told us that they had opted to defer more serious transportation planning until after the completion of the review of final site. The final determination has not yet been made. What the Department is saying is that as soon as final determination is made, it is still going to be 6, 7, maybe 9 years before the repository opens. It is going to take a long time, we will still have ample time to study the transportation possibilities. I think that at this time putting an additional $500,000 into a review board that really does not need the money is not the answer to the gentlewoman's problems.

So I would respectfully disagree with the gentlewoman's amendment.

Ms. BERKLEY. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentlewoman from Nevada.

Ms. BERKLEY. Mr. Chairman, I thank the distinguished gentleman.

I think the gentleman is making my point for me, and I appreciate the fact that you have come to Nevada and toured Yucca Mountain. The fact of the matter is the Nuclear Waste Technical Review Board says they do not need the money because they do not have anything to study now because the DOE has not offered the trade routes. The reality of the situation is that the people in this House, our colleagues, have a right to know and their constituents have a right to know if the DOE and our government is planning to use their roads through their neighborhoods, through their towns, to transport 77,000 tons of the most toxic nuclear material known to mankind.

This is a right-to-know issue, and the DOE's feet should be held to the fire, and if giving another half a million dollars to the technical review board so that they can force the DOE to publish those trade routes, I think that is a very important thing.

Also, the committee language, with all due respect, says that they should start doing the trade routes in the State of Nevada. It is my contention that we are doing this a little bass-ackwards. We should not be doing Nevada first, we should be doing all of the transportation routes getting to Nevada, and Nevada should be the last leg of the journey, not the first.

Mr. CALLAHAN. Mr. Chairman, reclaiming my time, we must decide on whether or not that is going to definitely be the site. Once that determination is made, there will be ample time to provide ample resources to the review board to make certain that the public is fully aware of how the transportation needs are going to be met.

So I think the gentlewoman is on the right track; I think she is just a little early, because in a sense, it is an admission that it is going to happen.

Mr. VISCLOSKY. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Chairman, I appreciate the gentleman yielding, and I also rise in opposition to the amendment. I appreciate the gentlewoman's concern, but I would also voice the opinion that it is very premature, because this is, after all, about Yucca Mountain, and the site has not been decided upon. The chairman mentioned 6, 7 years. It might be longer than that, and the gentlewoman also suggested that while language in the report talks about the State of Nevada's transportation problem, we should be concerned about other States.

I would just read a sentence or two from the committee report from page 119. This is our language: "The Department should use available funds in fiscal year 2002 to initiate the selection of transportation routes in Nevada and other States in cooperation with the States and to begin planning for construction of a rail line to the repository site."

So again, reluctantly, I also am very opposed to the gentlewoman's amendment.

Mr. CALLAHAN. Mr. Chairman, I reserve the balance of my time.

Ms. BERKLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Now, the reason the gentlewoman is raising the issue is quite simple. First of all, we are told that this nuclear technology is so safe that none of us have to worry, none of us have to be concerned at all as the materials are transported down streets in our own communities. On the other hand, there is a law on the books which indemnifies, which makes sure that none of the companies that own the trucks or the trains are liable in the event of an accident.

Well, that is not a good combination. One cannot say on the one hand it is safe and on the other hand say, well, we have to indemnify against any risks of the truck drivers and the train drivers. Who would want people careening through their neighborhoods with no insurance in large trucks, much less trucks or trains with nuclear materials there? So they become "mobile Chernobyls," in a sense. They become these very dangerous vehicles.

What the gentlewoman is saying is that we should have advanced knowledge of which routes are going to be taken, what the precautions are that are being put into place. It is just kind of a common-sense, anticipatory way of looking at these issues, especially since this recipe has been constructed, which could be an invitation to recklessness, to willful misconduct, to excessive drinking or drug-taking by the truck drivers or the train conductors, because they are not liable for any accidents.

□ 1030

And that is why I think the gentlewoman is so concerned. And I think what this issue does is just help to spotlight how concerned all Americans should be if this material starts to move through their neighborhoods.

Ms. BERKLEY. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The gentlewoman from Nevada (Ms. BERKLEY) has 4½ minutes remaining, and the gentleman from Alabama (Mr. CALLAHAN) has 5½ minutes remaining.

Mr. CALLAHAN. Mr. Chairman, I urge a "no" vote, and I yield back the balance of my time.

Ms. BERKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, two nights ago this House passed legislation that would prohibit dangerous trucks coming to this country from Mexico. Certainly trucks containing nuclear waste going through our neighborhoods is more serious than dangerous Mexican trucks, which we prohibited from coming onto our highways.

It seems to me there is not one of us that can go home to our constituents and say we voted down a piece of legislation that would demand that the Department of Energy actually publish the proposed transportation routes of 77,000 tons of toxic nuclear waste. This nuclear waste is going to be coming across all our neighborhoods, all of our towns, through our communities, through 43 States en route to Yucca Mountain, Nevada.

Now, I appreciate the fact that both the chairman and the ranking member suggest that perhaps this is premature, but listening to what the administration has been saying with their new reliance on nuclear energy and the fact that in the committee language itself, although there has not been completion of the scientific study saying Yucca Mountain will be the Nation's repository, certainly nobody reading the signs can say that this country is not trying very hard to make Yucca Mountain, which has been selected as the only site, the one that is acceptable for nuclear waste. I might add, however, that it is not acceptable, and it is very apparent that it is not.

The fact of the matter is that we have a right to know, and we have a right to protect our constituents. Our constituents, American citizens, have a right to know what their government intends to do. And I would like to hearken back to the nuclear atomic weapons tests that were conducted at the Nevada test site in the 1950s and the 1960s, when we were told there was absolutely no danger to detonating those atomic weapons in the middle of the Nevada desert. The fact of the matter is, every single, and let me repeat that, every single employee of the Nevada test site that worked on those atomic tests are all dying of cancer now and other horrible, heinous ailments. And that is because our Federal Government said, Don't worry, be happy; there is nothing wrong. This is a similar situation 50 years later, and we are hearing the exact same thing from our Federal Government.

For this body not to stand up and protect each one of our constituents, and make sure that that nuclear waste and those trucks are not going to be barreling down our neighborhood streets I think is most irresponsible for anybody that does not support this legislation. This is the single most important issue to the people in Southern Nevada, the people that I represent. I again urge all of my colleagues to stand with us, stand with me, and make a determination to keep our neighborhoods, our schools, our hospitals, and the people that we represent safe.

Mr. BACA. Mr. Chairman, I rise in support of the Berkley amendment to the Energy and Water FY 2002 Appropriations bill, H.R. 2311.

We must study the problems associated with the transportation of nuclear waste and protect our communities.

The likeliest routes will truck much of California's radioactive waste along Interstate 15 and along train tracks straight through San Bernardino County.

It has been said that used fuel is so dangerous that the nuclear plants must isolate the fuel from human contact for 10,000 years. So why would we run the risk of shipping it through our backyards without the proper scientific research and before we have weighed all our options?

Congress has spent billions of dollars on the Yucca Mountain storage site and it is still unknown whether this site is environmentally sound or not. Why should our tax dollars be spent and our health be put at risk without finding out all aspects of this issue? Scientific studies show that transporting such material has potential risks that could end in catastrophic disasters and yet no other option has been proposed.

We must ensure the security of our community. Nuclear waste is a serious issue that must be handled very carefully and thoroughly. I am committed to protecting the health and environment of the 42nd district of California along with all the districts in the United States.

Ms. BERKLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. BERKLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY) will be postponed.

AMENDMENT OFFERED BY MRS. KELLY

Mrs. KELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. KELLY:

In title IV, in the item relating to "NUCLEAR REGULATORY COMMISSION—SALARIES AND EXPENSES", after the second and fourth dollar amounts, insert the following: "(reduced by $700,000)".

In title IV, in the item relating to "NUCLEAR REGULATORY COMMISSION—OFFICE OF INSPECTOR GENERAL", after the first and second dollar amounts, insert the following: "(increased by $700,000)".

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentlewoman from New York (Mrs. KELLY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise for the purpose of entering into this colloquy with the distinguished chairman of the committee, the gentleman from Alabama (Mr. CALLAHAN).

I wish to discuss the importance of providing additional funding for the NRC Inspector General. I feel that providing the Inspector General with more resources will help the NRC better perform its responsibility of ensuring the safe operation of our Nation's nuclear power plants. Through my own experience, I have found that the agency's priorities have not always been what they should be.

In February of last year, an accident occurred at the Indian Point 2 nuclear power plant in my district. A steam generator tube burst, and the plant was shut down immediately. It goes without saying the people in the community surrounding the plant, myself included, were seriously troubled by this accident. We expected the Federal agency responsible for handling nuclear safety would make every effort to quickly repair and restore public confidence in the plant. I regret to say that the NRC fell short of this very reasonable expectation.

Though the agency itself acknowledged that this plant had the highest risk assessment of any plant in the Nation, they were on red as risk assessment, they demonstrated a stunning indifference to a litany of legitimate concerns about the plant's safety. The NRC chairman refused to play any role whatsoever in the very difficult deliberation as to when the plant ought to be started. The NRC chairman refused to hold a commission hearing at the plant, or even come to Buchanan to see the plant and the surrounding community firsthand.

Not once during the entire 11-month period that the plant was down did the chairman or any of the NRC commissioners think they ought to come to Buchanan, New York, and look at this plant. So the chairman can imagine my profound concern when I learned about some of the places that the NRC chairman and the commissioners did think they ought to go during the time the plant was down: places like Korea, Spain, and Mexico. The public record indicates that during the time the Indian Point 2 plant was down, the chairman of the NRC visited a nuclear power plant in Scotland. He visited three in Canada.

During this time, investigators from the IG's office were at Indian Point cataloguing all of their mistakes. They found a troubling number of things at this plant, and the most troubling they discovered was that an inspection performed back in 1997 plainly indicated the strong likelihood of a leak. The NRC had that information back in 1997. It showed that there was a strong likelihood of a leak, but nothing was done because nobody at the NRC ever looked at the inspection report. This should not have happened.

I realize there is a new interest in nuclear power, and I should say that I am not against nuclear power. But the way that the NRC handled the Nation's most troubled plant raises some real concerns. I understand the gentleman from Alabama has provided a generous increase in the funding for the Inspector General in this bill. I commend him and thank him for it.

Is it the gentleman's understanding that this additional funding will be available for further independent reviews of NRC regulating activities?

Mr. CALLAHAN. Mr. Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from Alabama.

Mr. CALLAHAN. I thank the gentlewoman for her work on this issue, Mr. Chairman; and I share her feelings about the importance of ensuring that the NRC Inspector General is provided the resources it needs for conducting independent reviews. This additional $680 million that we have in this bill is available for this very purpose.

Mrs. KELLY. I thank the gentleman. I would ask only that the gentleman continue to keep in mind the importance of a strong funding level for the NRC Inspector General as we continue to work on this bill, and also that he continue to vigorously oversee the agency to ensure that unnecessary travel expenses are not incurred by the NRC officials.

Mr. CALLAHAN. If the gentlewoman will yield further, I will continue to closely monitor all expenditures incurred by NRC officials to ensure that their resources are not improperly squandered.

Mrs. KELLY. I thank the gentleman from Alabama very much, the distinguished chairman of the subcommittee.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. DAVIS OF FLORIDA

Mr. DAVIS of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DAVIS of Florida:

In title III, in the item relating to "FEDERAL ENERGY REGULATORY COMMISSION—SALARIES AND EXPENSES", strike the last proviso (relating to Gulfstream Natural Gas Project).

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentleman from Florida (Mr. DAVIS) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to set the context of this amendment because it takes us back a little bit. Last week, we had a debate on the floor of the House of Representatives. It was a very hearty, very democratic debate on the floor about an amendment I offered, along with the gentleman from Florida (Mr. SCARBOROUGH), to prevent the Secretary of the Interior from going forward with issuing any new leases for offshore oil drilling, oil and gas, 17 miles off the coast of Pensacola, some of the most pristine beaches in not just the State of Florida but of the country, and about 200 miles off the coast of Tampa Bay, my home.

The House adopted our amendment by a vote of 247, and the bill is now in the Senate where it will be debated there. Unfortunately, the highly esteemed chairman of the Subcommittee on Energy and Water Development, the gentleman from Alabama (Mr. CALLAHAN), was in Alabama, with other members of the Alabama delegation traveling with the President, and was not present for the debate. I regret that, and I know he certainly regrets it as well. But the House has done its will and spoke on that particular issue.

The reason I rise today to offer this amendment is because the gentleman from Alabama (Mr. CALLAHAN) has inserted some language in this particular bill we are debating, which I think is fair to describe as a response to the debate last week. What that language, which I will speak about in more detail in a while, along with other Members both Democrats and Republicans, what that language does is to punish the State of Florida and, I would submit, other States who have a stake in a natural gas pipeline that has already had $800 million spent on it and is due to open in approximately 1 year.

The language that the gentleman from Alabama (Mr. CALLAHAN) has inserted would basically bring that pipeline to a grinding halt. I think that is an irresponsible position for the House of Representatives to take today. I personally would not want to go home on the 4th of July and have to explain that I had voted for a bill that had that language in it.

I do understand the gentleman's point. His point is he wishes he had been here for the debate, and I think he disagrees in the strongest terms with the outcome of the debate last week. But that debate is over, and we are dealing with a new issue today and it is an issue that affects hundreds of workers' lives.

Mr. Chairman, I reserve the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment.

Mr. Chairman, let me say that, as the gentleman from Florida just mentioned, yes, they did bring up this measure while I, along with the other members of the Alabama delegation, were traveling with the President last week, which is their prerogative. I think, out of deference to me and to my State and to my delegation, that they should have at least informed us the night before of their intent. But they failed to do that, which is their prerogative. They do not have to notify me of anything if they do not want to. But I thought it awful strange they waited until we got out of town. When it was obvious we could not get back, this did not allow us the opportunity to defend our State.

But this amendment has nothing to do with that. As the gentleman from Florida said, the vote last Thursday was the will of the Congress. This has nothing to do with permitting the drilling of oil off the coast of Alabama, which 181 does. It has nothing to do with that.

I think it is the height of hypocrisy for Floridians, especially the sponsor of this amendment, to say we are not going to allow drilling for natural gas in the Gulf of Mexico because it is 270 miles off the coast of Tampa, but at the same time we want a pipeline from Alabama to Florida because we need this gas. They tell us that a 142 percent expectation of increased need is going to take place in the next 6 years in Florida. So what they said was, do not drill for the gas, but go ahead and build the pipeline and supply us with gas.

Mr. Chairman, they have got to make up their mind. It is the height of hypocrisy to try to pull the wool over the Floridians' eyes just because it might look good in the local newspaper, or statewide newspaper, if someone happens to be running for a public office statewide. It is the height of hypocrisy to on the one hand go to your people and say, look how strong I am, look how faithful I am, look what I am doing to protect the beautiful beaches of Florida, look what I have done, reelect me or send me to another office, do all of these good things; but let us go ahead and build that pipeline because we know it is going to happen anyway. And if it is not going to happen anyway, well, then, we do not want them drilling off the coast of Alabama for additional resources. We are going to take this resource away from the people of Alabama.

So they are saying to Alabamans, you suffer, but do not let us suffer. Let us run our air conditioners all year long, because the weather and the climate in Florida is so wonderful and so beautiful it requires that they have more air-conditioning. We want to do that. We want to provide for Floridians the ample resources they need, thereby ensuring they will not have the same energy crisis in Florida, which is what is going to happen.

We do not want that to happen to our neighbors in Florida, and we are not going to let that happen. But, in my opinion, why build a pipeline to transport a gas when the author of this bill is the one who authored the other bill saying do not drill for gas.

□ 1045

Mr. Chairman, why are we going to disrupt the sandy bottom of the beautiful Gulf of Mexico and risk that brown sand turning the beautiful beaches of the panhandle in Destin and in Pensacola into a brown beach instead of a sugar-white beach? Why would we risk that if we are not going to have a resource? It is a mystery to me.

The only solution I can find to that mystery is that someone is grandstanding here. Someone either believes or wants it to happen on the one hand, and is trying for some reason to convince the Floridians that might read about this that he is a savior of Florida, and maybe he is.

I think Jeb Bush has done more, Mr. Chairman, to preserve the pristine beaches of Florida and make sure that there is no offshore drilling off the coast of Florida than anybody in history, and he is to be commended for that. But I do not know how we can tolerate the hypocrisy of what we are hearing here today, and that is do not drill for oil. That is accepted. That is not in question today; but just in case we do, then send it to Florida through this pipeline that we are going to lay on the bottom of the beautiful Gulf of Mexico.

Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Florida. Mr. Chairman, I yield 4 minutes to myself to respond.

Mr. Chairman, I am going to stick to the facts today. I think that holds us up to the standard that we should be held up to. First, I am flattered at the notion that I had the chance to control the timing of the debate last week. I wish I had that much influence. It is clear that the gentleman from Florida (Mr. SCARBOROUGH) and I do not.

As far as the notice, I regret that the gentleman from Alabama was not aware. The amendment was not filed until the morning of the debate because I had difficulties with the Congressional Budget Office getting an amendment that would not be subject to a point of order, and that is the reason why the amendment only has a 6-month duration for the fiscal year.

Mr. Chairman, let me correct something the gentleman from Alabama said. Section 181 is 200 miles, not 270 miles, off the coast of Tampa Bay, my home. That is where I grew up. I remember an oil spill that happened there when I was a child. It was not a rig, it was a barge, but it had the same impact. This is 17 miles from the district that the gentleman from Florida (Mr. SCARBOROUGH) represents, and he can talk about that better than I can.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Florida. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I might point out that they are already drilling now within 1 mile of the district of the gentleman from Florida (Mr. SCARBOROUGH). That is not an argument.

These waters are primarily the waters within 17 miles of the beaches or offshore land of the gentleman from Florida (Mr. SCARBOROUGH) that belong to and are the State of Alabama. They are directly south of Alabama and not Florida. We can argue all we want by slanting arrows to Alabama that these are areas off the gentleman from Florida's (Mr. SCARBOROUGH) beaches, but that is not factual. That is misleading. That is hypocrisy.

Mr. DAVIS of Florida. Reclaiming my time, Mr. Chairman, let us stick with the facts and not hyperbole. It is 17 miles. The gentleman and I can disagree whether or not that is Florida's coast or not. The fact is it is 17 miles from some of the most pristine beaches of not just Florida, but in the country.

Mr. Chairman, the gentleman from Alabama (Mr. CALLAHAN) said yesterday on numerous occasions that he wanted to be remembered as a champion of Florida's beaches, and after he retired, and I hope that is not soon, Mr. Chairman, to travel around our beautiful beaches. That is where many of the gentleman's constituents and constituents of Democrat and Republican Members of Congress head this summer, to our beaches.

No, we do not want drilling off our coast that poses an unreasonable risk, and we do need energy, Mr. Chairman. The gentleman from Alabama (Mr. CALLAHAN) is correct about that. I know the gentleman from Alabama (Mr. CALLAHAN) wants energy for his State, too, but that does not mean he has to live next door to a nuclear power facility or any type of facility at all.

This is about balance. That is what the debate is about. It is about balance in terms of protecting our cherished environment.

Let me tell the gentleman, if it is hypocritical for Floridians to cherish their environment, then I proudly wear that label. We think there can be balance achieved, but we do not think that the language in the bill that the amendment addresses does anything to achieve that balance.

Let me also say this is not about allocating credit and blame. The public is too smart for that. I am pleased the gentleman from Alabama (Mr. CALLAHAN) mentioned the Governor of the State of Florida. He supports my amendment, Mr. Chairman; and Floridians support this amendment.

If this pipeline was not being built yet, I think the gentleman from Alabama (Mr. CALLAHAN) could have a plausible basis for his position. But let me just state the facts, and then yield to the gentleman from Florida (Mr. SCARBOROUGH).

This pipeline has had $800 million spent on it. There are hundreds of workers all over the country who are thankfully on the verge of earning a bonus for early completion. What are we saying to these workers and their families if we pass a bill today that brings that project to a grinding halt? I do not think that is responsible. That is what we ought to be debating today, whether or not the Congress ought to take that position.

Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, I thank the gentleman from Florida for this amendment. I want to underline what he said about the Governor of the State of Florida. Jeb Bush not only supported our efforts last week, he supported our efforts in a bill that we have dropped regarding 181; and he and the State of Florida support the pipeline.

I think there is some hypocrisy going on here. I also think some people are having some fun, and I have no problem with people having fun on the House floor with some tongue-in-cheek amendments. But I could not help being moved yesterday by the gentleman from Alabama's (Mr. CALLAHAN) love for northwest Florida beaches, and his stated desire to protect those beaches. And he said yesterday that he is going to do everything he can to protect the environment of northwest Florida. He specifically noted the scenic beauty of the beaches from Perdido Key all of the way over to Panama City beach, Destin, Seaside. It is a wonderful place, is it not, Mr. Chairman? And he knows because we are neighbors.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, the gentleman from Alabama (Mr. CALLAHAN) also spoke of his love for the pristine beaches of the west coast of Florida, not just the northwest. He favored all of our beaches yesterday in that debate.

Mr. SCARBOROUGH. Yes, sir, and they are beautiful, too, sir. Mr. Chairman, my grandmother would term what the gentleman from Alabama (Mr. CALLAHAN) is doing for us in northwest Florida as gracious plenty; but I have to say, I thought I could do one thing in return to help his constituents the way he is trying to help mine, and if we can get a unanimous consent later on, maybe after this vote, perhaps we could offer my amendment which passed through legislative counsel last night, and I am introducing an amendment to protect the workers of the district of the gentleman from Alabama (Mr. CALLAHAN) and the State of Alabama from layoffs and firings that would occur if the Callahan language were to survive.

As much as I appreciate his love for the natural beauty of northwest Florida, I feel an equally pressing need to show my affection for the working men and women of the State of Alabama.

Just as he wants to protect Florida bases, I want to protect Alabama jobs that would be lost if those who are currently employed working on the Gulfstream natural gas project are not able to complete their work. And that is in my district, too, at Berg Steel and across the States of Louisiana and Texas and Alabama.

I fear, though, that the precedent that is being set by what the chairman has attempted to do in this bill could be dangerous because, let us think about it. Just for 1 second, let us think about it. If we use this logic that is being used, like, for instance, communities that do not want drilling 17 miles off their beaches should not be able to get natural gas, well, let us see how that would apply to other things.

If one likes chicken, under the amendment's logic, community chicken farms would have to spring up on every block because it would be hypocritical not to have chicken coops in the back yards of everybody's house that eats chicken. Think about sausage. In Pensacola, Florida, we have a place called The Coffee Cup. It is a greasy spoon that serves bacon, and I will be the first to admit, I love bacon. I consume bacon. But I sure as heck do not want to have a self-sustaining Coffee Cup slaughterhouse in the parking lot behind that restaurant and every other restaurant, but, using this logic, would have to do it.

Got milk? Better tie up the cow behind the barn because if one likes milk, if you consume milk, you better have the cow. Just like on the commercial where the guy goes up, he wants milk on his cereal, it looks preposterous. That is the world that we are heading into if we have protectionism where if you consume it in your district, you have to make it in your district.

Mr. Chairman, that is why I think this is tongue-in-cheek, because the gentleman from Alabama (Mr. CALLAHAN) knows that is not the way that the American economy works. The gentleman from Alabama (Mr. CALLAHAN) knows that there are strengths in every area. Texas, Louisiana, Mississippi, Alabama, they have their strengths. Northwest Florida and the State of Florida, they also have their strengths; and who among us does not know that Florida's strength lies in its natural beauty of its beaches.

I want to say that I understand that the chairman was upset because we took this vote when the State of Alabama Caucus, most of them, were out of the Capitol. Mr. Chairman, as I said to you in the cloak room before I hugged you for trying to protect my district so much, my staff worker that was responsible for tracking the whereabouts of the Alabama delegation must have been off that day. I know it will shock the gentleman, but I did not know that the delegation was down with the President in Alabama. I found out when we were on the floor, and if the gentleman from Alabama (Mr. CALLAHAN) wants, we can have, maybe after this amendment passes, we can have a unanimous consent decree that we pass something that suggests that had the Alabama delegation been here, the Davis-Scarborough amendment would have passed 247 to 194 instead of 247 to 188. It was not even close.

That being said, there is common courtesy in the House. I can tell the gentleman, the gentleman from Florida (Mr. DAVIS) and I had no idea that the Alabama delegation was gone. If we had, certainly we could have delayed it. But I can tell the gentleman, neither the gentleman from Florida (Mr. DAVIS) nor I controls what happens on this floor.

So I will say once again, it does not make sense for us to have this philosophy that if one does not produce it, one cannot consume it. It leads to a thousand different ridiculous conclusions. Therefore, I am hoping that the Davis-Scarborough amendment will pass and that we can move forward and that we can have the pipeline that will help workers not only in Florida, but also in Alabama, Louisiana, Mississippi and Texas.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair reminds Members to direct their comments to the Chair and not to other Members.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say that once again we are experiencing sort of a demagoguery, sort of an attempt to mislead the Members of Congress as to what this amendment is all about.

This amendment has zero to do with drilling off the coast of Alabama or Florida. It has nothing to do with it. I mean, that is water under the dam. That water is gone. They did that in my absence, and I will accept the gentleman's apology. And let me apologize to him. I never thought the gentleman ought to keep track of me. I never thought that the gentleman ought to get his scheduler to poll to see where the Alabama delegation is. But this is a body of compromise, a body of congeniality, a body of friendship. I would never think of doing this to anyone in Florida when I knew they were gone; but that is water under the dam.

This amendment has zero to do with the drilling aspect, and quit trying to tell the Members of this body that it does. It has to do with the laying of a pipeline from Mobile, Alabama, my district, to Florida, and even the Florida newspapers are saying that the gas pipeline will cause damage in the Gulf of Mexico.

So here we have the Florida Naples Daily saying that it is going to cause damage to the environment, and now we do not have the Florida delegation defending that, they are saying, go ahead and destroy our environment. Build that nasty old pipeline. Bring the gas in from somewhere else.

□ 1100

Mr. Chairman, we ought to talk about the subject matter, not what happened last week.

Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi (Mr. WICKER), a distinguished and knowledgeable Member of this issue and also a member of the subcommittee.

Mr. WICKER. I thank the gentleman for yielding me this time.

Mr. Chairman, a former Member of this body once went down in history when he made the statement, "Don't confuse me with the facts, my mind is made up."

Although the chairman of the subcommittee has just told us that this is not about the drilling in lease area 181, I did have to feel that way last week during the discussion of the Davis amendment. "Don't confuse us with the facts," some of our colleagues said, "our minds are made up."

"Forget the fact that this Nation is in an energy crisis. Just forget the fact that area 181 is way out in the Gulf of Mexico. My mind is made up. Forget the fact that we need to get rid of our dependence on foreign sources of energy. Just forget that. Don't confuse me with that fact, our minds are made up."

And then there was the constant discussion last week about drilling off the coast of Florida. Even The Washington Post, the next day, talked about drilling off the coast of Florida without giving the reader the foggiest notion of what we were talking about.

So what we are talking about, Mr. Chairman, is drilling in the colored-in area here which is called "Sale 181 Area."

As Members can see, it is over 213 miles from Tampa Bay, this drilling which our friends from Florida are calling off the coast of Florida. 213 miles away. Over 100 miles away from Panama City there. Yet it is being described by people in that delegation as being off the coast of Florida.

Now, it is true that there is a small strip of water, a small strip of the gulf in lease area 181 that goes up to the coast of Alabama. I want to suggest, perhaps, to the gentleman from Alabama (Mr. CALLAHAN) that he should apologize on behalf of the State of Alabama for being so close to Pensacola, Florida. But the fact of the matter is that this strip that extends within 17 miles of the coast of Alabama is Alabama territory. I think Alabama should get to make that choice.

And also forget the fact, our friends tell us, the supporters of the Davis amendment, that drilling offshore is not only environmentally sound nowadays but it can even be environmentally friendly.

Now, let me say a word of caution to my colleagues, Mr. Chairman. And I mean this sincerely. There has been the use of the word "hypocrisy" by both sides. Someone is going to jump up sometime and ask that words be taken down. I wish we would not use the word "hypocrisy." I think that has been established as perhaps going above and beyond what we can do on the floor here. But I do think there is a degree of audacity in this argument here. And the audacity, the gentleman from Florida (Mr. SCARBOROUGH) is right, it is bipartisan. It is bipartisan.

I learned from the State Department yesterday that most nations in the world claim 12 nautical miles off the coast as their territory. Only one nation does not do this and that is Communist China. They claim 200 miles. There is a little bit of a parallel here. The people of Florida are saying off the coast of Florida is 213 miles, "That's our coast." Off the coast of Florida is 108 miles from Fort Walton Beach. They are saying, "Don't give us the 12 nautical miles. Give us 108 miles. Give us 213 miles." A bit of audacity there.

Let me just say this. Perhaps we do not need this pipeline anymore. We were talking last week with the Davis amendment about 7.8 trillion cubic feet of natural gas. I think this body, Mr. Chairman, made a grave mistake to decide that this Nation will forgo this very needed natural resource. It is not a question of where you put the sausage factory. It is not a question of where you bring the cow. This is where the natural gas is. It is right there in lease area 181. We have decided, and I hope we can reverse that decision, Mr. Chairman, we have decided to forgo it. So since we are not going to have the 7.8 trillion cubic feet, I say there is no need for the pipeline to carry only 1 million cubic feet per day.

I urge the defeat of the Davis amendment.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 1 minute.

The gentleman who last spoke wants to redebate the amendment last week and the chairman does not and I respect the chairman's view on that. I do not think we should redebate it. But since he brought it up, let me respond.

There are 21 days of crude oil in section 181. We do not think as Floridians we should have to choose between satisfying our energy needs and exposing ourselves to undue environmental risk for 21 days of crude oil. The House has spoken on that. We sent a very strong message that we need a more balanced approach to environmental and energy policy, not just in Florida but in the country, and that vote stands.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. I thank the gentleman for yielding me this time.

I stand today to say that I support the amendment offered by the gentleman from Florida (Mr. DAVIS). I was struck a little bit by the idea that we are not here because of what happened last week. And so at some point I would like the gentleman from Alabama to tell me why we are here then.

This is a project that, in fact, is going to be completed by this winter, about 753 miles long. The fact of the matter is that in my district, because this comes through my district, it was controversial. FERC held public hearings at which the concerns of these interested citizens were heard. In response, Gulfstream modified the pipeline plan and now FERC is reviewing the revised plan. So I do not think there is really a legitimate reason at this time for the House to stop this process, and I think that is what this amendment actually would do and why we are here.

Mr. CALLAHAN. Mr. Chairman, will the gentlewoman yield?

Mrs. THURMAN. I yield to the gentleman from Alabama.

Mr. CALLAHAN. No, that is not why we are here. This has nothing to do with the drilling. It has to do with the fact that there is not going to be any natural gas and if there is not going to be, why build a pipeline. That is why we are here. It has only to do with the pipeline, not the drilling.

Mrs. THURMAN. Reclaiming my time, there has been natural gas and there continues to be natural gas. We have natural gas already. So I think that is kind of not true.

We get natural gas from other places. All we are saying is, we do not want the drilling in Florida. I think the gentleman can understand that. I mean, I have been to some of these other States where they have beaches and, quite frankly, I do not like getting into Louisiana's water because it is greasy and nasty and looks bad and I do not like it. I apologize to the gentleman from Louisiana (Mr. TAUZIN), but I have been there and I have swam in some of those areas, in Lake Charles. So we have some real concerns about what is going on. We have some concerns about the idea that this is taking place today.

Maybe it was not the gentleman from Alabama's intention because of what happened last week, but some of the articles that I have read in Florida actually do say that, and that this was controversial.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

In response to the gentlewoman as to why we are doing it today, I had my staff poll the Florida delegation to make certain they were all going to be here today and that was the appropriate time to bring it up, when the Florida delegation was all here.

In response to the gentleman from Mississippi's suggestion about Pensacola, Mr. Chairman, a lot of people in that Panhandle called me my entire tenure when I was in the Senate asking me to annex them into Alabama. Maybe that is a solution. If we annex the whole Panhandle into Alabama, then they will not have any argument about it being 17 miles away.

And with further respect to his indication that my words could be taken down for saying the word "hypocrisy," maybe he is right. It is the height of arrogance that causes us to be here today.

Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Chairman, I think it is very interesting, I hope our Members are watching this debate, because it is so telling about what is going on in the debate about providing energy so that Americans can turn on their lights, turn their stoves on and get natural gas, heat their homes. It is just amazing to me.

The Florida delegation, Mr. Chairman, says that they want to keep this pipeline, that if we do away with the pipeline it is going to cost jobs. But last week they did not care about the jobs that would be lost by shutting down a lease sale. And now we are listening to the argument that exploring and producing oil and gas, natural gas, is like raising chickens. I guess if I asked the Florida delegation where does natural gas come from, they would say, "My stove."

Mr. Chairman, I rise to oppose this amendment to let Floridians share in the shortages that they are forcing on the rest of America. Last week, our friends from Florida torpedoed an extremely promising field of oil and gas. That action jeopardized our energy security. However, they do not apply that policy consistently. It turns out that Floridians are far more accommodating on energy issues that directly benefit their own State.

They shot down lease sale 181 even though it holds billions of barrels of oil and trillions of cubic feet of natural gas. The Florida delegation ignored the important role that these reserves could have in the lowering of our national dependence on foreign sources.

It is common knowledge that America is increasingly relying on natural gas to produce electricity. That trend is happening because making electricity with natural gas can be less taxing on the environment than other types of generation. Well, it has to come from somewhere.

They will not let us find more in the gulf, but Florida sure is not resisting the trend toward natural gas. Florida's natural gas demand for electricity will double over the next 20 years. Florida's population will grow by a third over the same time period. And they plan to supply electricity to their expanded population with generating plants that burn natural gas. This is the height, oh, I have to use the word, of arrogance. Of arrogance. I did not want to use the word. This is the height of arrogance. Florida is happy to burn it, but they block the rest of America from securing a steady and adequate supply of natural gas.

That is why Members from Florida are not blocking a proposed natural gas pipeline that will stretch 800 miles through gulf waters from Alabama to the beaches of Florida. And these are the same gulf waters that Florida placed off-limits to exploration that could help the rest of the country. I oppose the gentleman from Florida's amendment to block opposition to this pipeline.

Florida rivals California as a prime example of the not-in-my-backyard syndrome. Let Florida take the lead in conservation. Let them make do with half the natural gas that they are projected to need. If Florida is going to lead America to greater dependence on foreign sources of energy, then let them do it on their own.

There is another thing Floridians ought to remember, as pretty as their beaches may be, they are still a long walk from most places in America. And if their reactionary opposition to oil exploration holds sway, tourists will be making their way to Florida on shoe leather. Members should oppose this amendment to help Floridians understand the implications of their actions.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 2 minutes to respond to the previous comments.

First, there is a very important distinction between my amendment today and the amendment last week. The purpose of the amendment last week was to protect the beaches of Florida. It was not to punish any other State. I am not going to speak to what the purpose of the language in the bill is, but I will tell you what the effect is. The effect is to punish Florida, not to protect anybody else.

Secondly, with respect to jobs. Last week, every Member of Congress that spoke in opposition to the Davis-Scarborough amendment was from an oil-producing State and they were protecting jobs in their areas. As I said on the floor and I will say again today, they do not have to apologize for that. But let me just say today, this is not about protecting jobs in Florida. This is about protecting jobs in Texas, Alabama, North Carolina and other States. Those are the States where there are hundreds of workers who have already spent time building a pipeline that is nearing completion. So this is not about protecting jobs in Florida today.

Thirdly, the gentleman from Texas (Mr. DELAY) made the comment that we want natural gas but we do not want rigs off our coast. Yes, we think that is a false choice.

□ 1115

We do not think we should have to choose between spoiling our beaches and running the air conditioner. We think we can have balance. Know what? If people in Texas and Louisiana want to drill more off their coast and sell us their natural gas, and I am sure they will mark it up for a pretty reasonable profit, they should do that but we do not want that. We have not given up on our beaches. They may have given up on our beaches but we have not given up on our beaches, and that is why we do not want the rigs in our backyard.

Now let me say another very important reason why this amendment needs to be adopted. We want competition in Florida. We do not want to happen in Florida what happened in California, which is the market fails and the consumers get squeezed. This pipeline will create competition. We will have more than one pipeline in Florida, and that is good for consumers. It is the way the market is supposed to work. It is good, old-fashioned competition.

Finally, the statement was made that Florida needs to do more in conservation energy efficiency. That is absolutely correct, but let us do it together as a country, and Texas and Florida, let us work together as a Congress to empower consumers and States to do more to use energy more wisely and more efficiently.

Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, let me just say, I have always respected the gentleman from Texas (Mr. DELAY) because he shoots it straight, and what he told us during his 4 minutes was what this is really about, and this provision really is about punishing Florida. It is an act of revenge because of what happened last week.

Regarding a couple of the statements of the gentleman from Mississippi (Mr. WICKER), he once again said it is way out in the Gulf of Mexico. It is not. It is 17 miles.

Another thing, the gentleman from Alabama (Chairman CALLAHAN) is offended because he said this is a House of courtesy, that he should have been notified because it is a House of courtesy. Right after that, he accused me personally of demagoguery and hypocrisy and of intentionally misleading Members.

I did not take his words down because he loves the northwest Florida environment so much. Also, I had the gentleman from Mississippi (Mr. WICKER) to come up soon afterwards and try to tone things down, as I hope we can do. Unfortunately, the gentleman from Mississippi (Mr. WICKER) then went on and compared my district to Communist China, but we will talk about that at another day.

I hope we can tone this down, and I hope we can understand what this really is all about. It is about punishing the State of Florida because over 200, almost 250 people, in this Chamber voted to protect our shoreline.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to respond somewhat to the comments of the gentleman from Florida (Mr. SCARBOROUGH) about where we are today and why we are here.

He keeps bringing up, everyone keeps bringing up, the vote that took place last week in our absence. As to whether or not it was done in the still of the night while I was gone, that is something that we can resolve. Maybe it was not. Maybe they had good intentions. Maybe they were just, I do not want to say ignorant, of my absence, but and I apologized to him, as I have already said, about the hypocrisy word; and I have changed that to arrogance. That is not the issue.

The issue is the pipeline, and the issue is what is going to be put in the pipeline. The gentleman from Florida has already said that they already have pipelines going into Florida; they want to build more pipelines because they need more natural gas. Now since we are not going to be able to drill in this particular section of the gulf, there is not going to be any more natural gas. So why build a pipeline when the gentleman's own newspapers in Florida are telling him that it could be devastating to his own environment? And therein comes my want to protect the beautiful beaches of Florida and especially the beautiful beaches of the Tampa Bay area.

When I take my boat to Florida, as I mentioned the other day, when I retire, if I ever do, when I go there I am going to go dock at a marina in Sarasota. That is where I want to be because that water is so pure, those beaches are so clean. I do not want to do anything to damage those beaches.

This is not about drilling. This is about the fact that this body decided we do not need any more drilling; we do not need any more natural gas. If we are not going to have any more natural gas, why do we need a pipeline to transport it? Therein lies the arrogance of what I was referring to when I mentioned the word hypocrisy. That is what I was referring to.

Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce, who is more impacted by this than Alabama, than Florida, than anybody else, because it is closer to his district than anywhere else; and he is about as knowledgeable of this industry as anyone in this body.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Alabama (Mr. CALLAHAN) for yielding me this time.

Mr. Chairman, I do want to calm things down because things get said in the heat of argument that I know Members would rather they did not say. So let me put something on the record.

The wetlands, the pristine wetlands in many cases, in my State are precious to me, and the waters of Louisiana are precious. They produce 28 percent of this Nation's landings and seafood that all of us enjoy, and we do it simultaneously with producing 27 percent of the Nation's natural gas and 27 percent of the Nation's oil. Keep that in mind.

Our people have made a commitment to this country, not just to keep our wetlands safe, not just to keep our fisheries up and sound and running for everyone, but also to produce oil and gas for the rest of the country, including Florida. There is a national wildlife reserve in my district called Mandalay. I asked Secretary Norton if she ever came to it. She said she did not.

Come to Mandalay National Wildlife Reserve in my district, come and see it. It is full of wildlife, not just a few wildlife like one herd of caribou, but a massive amount of wildlife. We have 100 wells drilled in Mandalay National Wildlife Reserve producing oil and gas for the rest of America.

I asked her, is the National Wildlife Reserve in Louisiana less precious than ANWR? Less precious than section 181? Less precious than any block of land off of California? Why is it that this country makes a moral judgment that drilling off the coast of Florida? Even if this block were really off the coast of Florida instead of off the coast of Alabama and Louisiana and Mississippi, even if the facts were right that this land we are talking about in the gulf were really closer to Florida than it is to Louisiana in its entirety, not just in one little point, even if that judgment was right, and I question that, what makes production of resources in those areas of the country more desirable, from a moral standpoint, than production in the beautiful wetlands of Louisiana?

Now, I take quarrel with the gentlewoman who talked about our waters. We drained 40-something States through Louisiana. A lot of muddy water comes through Louisiana. Yet our wetlands are precious to us, but yet we accommodate this Nation in its oil and gas needs.

The gentleman from Alabama (Mr. CALLAHAN) has raised a good question. We are going to debate an energy policy on this floor pretty soon. We ought to think about the morality of an energy policy that says for some parts of America one does not have to take any risk, one does not have to take any risk at all, because somebody else will take the risk for them. Somebody else's wetlands, somebody else's coast is going to take a risk for them.

I asked Secretary Norton what would happen to this country if Louisiana decided to put an amendment on this floor to stop oil and gas drilling off our coast because we thought our Mandalay wetlands and our wetlands were as precious as the wetlands and the beaches of other States of this country? If we decided not to take that risk anymore, what would happen to this country if we lost 27 percent of the oil and the gas?

What was the answer? It would be pretty severe.

I said, no, ma'am. It would be catastrophic. This country would fall apart.

We are already buying oil from Iraq to turn it into jet fuel to put it in our planes to fly over Iraq to bomb the radar sites that are trying to kill American pilots today. How stupid is that policy? In a few short weeks we are going to be debating real broad national energy policy. And, yes, we will talk about conservation, and we will talk about protecting the environment and supplying this country with the energy it needs so that Americans can turn on the lights and they will not be off as they were in California this summer.

We have a moral question to answer in this body, too. Is it moral to protect some people from the risks of production and to ask some of us to do it all? The answer should be no. A pipeline is not needed if the natural gas is not produced.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. CARSON).

Mr. CARSON of Oklahoma. Mr. Chairman, I rise in strong support of the Davis amendment to strike the language from the appropriations bill that would stop the Gulf Stream pipeline in mid-construction.

The chairman and the gentleman from Louisiana (Mr. TAUZIN) raised great points about the need for an energy policy in this country, and in the interest of consistency it should be noted that I voted to explore and produce in section 181, just as I support opening up other public lands across this country.

It is critical that construction of this pipeline be allowed to continue, especially at a time when we do recognize the need for improving our energy infrastructure. I think both of us on both sides of the aisle would agree that improving and increasing our infrastructure and its ability to supply the country with needed energy is a key component of any sensible energy policy. The completion of this pipeline will provide much needed natural gas throughout central and southern Florida, as well as providing many jobs for the people of the Gulf Coast region.

After all, pipes have already been ordered and delivered. Commitments have been made to construction companies. Contracts have been signed with customers. Power plants are now being built in anticipation of this project being completed.

The gentleman from Alabama (Mr. CALLAHAN) is right that this is not a vote about section 181. I was in the minority of this House in supporting drilling and exploration there. Today, the question is whether in the annals of all the wise policy tools at our disposal whether we shall cut off our nose to spite our face. Passing this appropriations bills with a prohibition would have the effect of stopping this pipeline and its construction.

The Federal Energy Regulatory Commission has already approved the project. The construction materials are already ordered at the cost of $800 million. The current language would prevent FERC from continuing the various approvals that are needed for ongoing construction.

Keeping this language in the energy and water appropriations bill would be both bad energy policy and bad public policy. If we are serious about a national energy policy, if we are serious about improving our infrastructure, let us build this pipeline.

Let us not act in petulance or in haste just because we lost one vote in this House. Let us work together to improve our national energy policy. I strongly encourage a "yes" vote on the Davis amendment to strike this unfortunate language from the energy and water appropriations billing.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I thank the gentleman from Alabama (Mr. CALLAHAN) for yielding me this time.

Mr. Chairman, the steel industry in Alabama is struggling. We have just lost two steel mills. That means that steel workers, iron workers, boiler makers, electricians, sheet metal workers, railroad crafts have been put out of work.

The Davis amendment allows the construction of a natural gas pipeline from Alabama to Florida. We just heard the gentleman say that contracts have already been let. That pipeline is to be constructed largely with imported steel. That adds insult to injury for those of us in Alabama. For that reason, the members of the steel caucus, those who have those crafts in their States, should be aware that a yes vote on the Davis amendment will allow the continued use of imported steel and steel products for the construction of this pipeline. That is why yesterday the gentleman from Pennsylvania (Mr. ENGLISH), chairman of the Congressional Steel Caucus, sent a letter to all members of the steel caucus and I want to reiterate to anyone who has a steel industry in their district to take a long look and vote no on this measure.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, nobody has answered the question yet why we are here. The gentleman from Mississippi (Mr. WICKER) said we are here to redebate the amendment; the gentleman from Alabama (Mr. CALLAHAN) to put the language in the amendment, but he still has not told us why we are here.

Let me say what is happening because this is a fact. We have opened a can of worms here today. I would say to the gentleman from Alabama (Mr. CALLAHAN), we are hearing a new debate and the debate is that a pipeline on which $800 million has already been spent, we are going to debate whether it used the right kind of steel and if it did not we are going to shut it down. That is lunacy. Yes, this pipeline has some steel from other countries and it also has a lot of steel from the United States. Some of it was fabricated in Mobile, Alabama.

Let me add something else. I have been asked questions whether this is a unionized project or not. We are going to debate whether this was unionized after it has been built? What are we going to do deconstruct the thing and build a fishing reef off the coast of Mobile? This is a unionized project. Is it 100 percent unionized? No, it is not. So is that a basis to defeat the amendment and scrap this project? Lunacy.

Let me also point out, this pipeline was built to transport natural gas that is already being drilled and extracted in the Mobile area.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. SCARBOROUGH).

□ 1130

Mr. SCARBOROUGH. Mr. Chairman, I thank the gentleman for yielding me time.

Just very quickly, I want to say that we did find out why we are here today. Again, the gentleman from Texas (Mr. DELAY) is a straight shooter. He told us why we are here today, because of the vote of last week; basically telling Florida if you do not want to drill, then you do not get our gas.

He also talked about oil, which, of course, everybody says this is not about oil, it is about natural gas. It is about oil, eventually.

Also I just want to say to the gentleman from Louisiana (Mr. TAUZIN), certainly Louisiana does take the risk; but it takes an economic risk. That is what America is about. He says that everybody has to go ahead and do what Louisiana is doing, or else we are all in danger and are not going to be able to put fuel into jets.

Well, that is what capitalism is all about. People make economic choices. They decide what their region or their State or their country is best at; and then, after they make that decision, they pursue it.

Louisiana decided that drilling for natural gas and oil made economic sense, and I applaud them. That is capitalism. We in Florida have decided that our natural resources and our beautiful beaches, which are the best in the world, and they are ranked the best in the world, year in and year out, we have made the economic decision that we want to do everything we can to protect those beaches.

So, if you want to talk about sort of disingenuousness or audacity, do not tell me that I do not love America because it does not make the economic sense in the State of Florida to drill in our wetlands as it does in Louisiana. If Alabama, Mississippi, Louisiana, Texas, and Alaska want to drill for oil, God bless them. That is what America is about, that is what the 10th amendment is about, that is what States' rights are about.

The State of Florida does not want to be Louisiana; it wants to be the State of Florida.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may concern.

Mr. Chairman, I might just briefly reply to the description of me as, I think, a lunatic, or the word lunacy. I do not like that word either; but, nevertheless, in his statement, it was the height of hypocrisy again when he is saying that they are already drilling for gas in Mobile Bay, we want that gas.

But, even more so, this is not about drilling; it is about an inadequate supply of gas to go into a pipeline that is being constructed. So why should we construct it, if we are not going to have the gas?

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, the question has been asked, why are we here? We really should be here not to talk about good politics. Possibly some of the proposals that have been put forth over the last couple of weeks have been good politics; but I can tell you, they are bad energy policy.

At the risk of being hit from all sides, I recently proposed a compromise that would comply with 100-mile limits for oil drilling. Technically the finger that comes up here on this map of Tract 181 is in Alabama waters and we should not be really interfering with that lease sale. The gentleman from Alabama (Mr. CALLAHAN) is right in opposing the amendment and prohibiting the construction of this pipeline. Why do we need a pipeline if we ban gas development?

I proposed that we should prohibit oil drilling in this finger, and then allow natural gas to be extracted from all of Tract 181, which we need. We have an expected population increase of 29 percent in Florida by 2020, and the demand for natural gas to produce electricity will grow by 97 percent.

The United States Department of Energy report entitled "Inventory of Power Plants in the United States" revealed that during the next decade, 28 of 34 electrical generating plants planned for Florida are designed for natural gas.

Here is an article for a plant in New Smyrna Beach. It is 2 weeks old; that proposed power plant is gas-turbine generated. Here is another proposed power plant mentioned this past week in the Orlando Sentinel, it is also gas-turbine generated. Where are we going to get the natural gas?

You cannot have it both ways, and I think the gentleman from Alabama (Mr. CALLAHAN), by his provision, in banning this pipeline, is correctly raising serious energy policy questions. We must have good energy policy, but we cannot be dependent on bad politics to make good energy decisions.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member on the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I really do not have a dog in this hunt, coming from Wisconsin; but I simply want to observe that there has been a false parallelism in this debate between the idea that if you are going to prevent drilling off the coast of Florida, then somehow it makes sense to prevent the construction of this pipeline.

There is a big difference. The drilling has not occurred; the pipeline is already largely constructed. Secondly, there is no question that Florida is going to need the natural gas. So it seems to me that there is a false parallelism which should be dismissed by any neutral Members of the body.

Secondly, let's not kid anybody: this amendment is not being offered because of the merits of the amendment. This amendment is here because it is payback time. There are some people in this place who are unhappy with the fact that last week this House said, "No, we are going to protect the beaches of Florida. The oil companies are not going to be able to drill any damn place they want. They are going to have to take other higher values into consideration."

So, now people who are resentful of that are thinking it would be nice if you could tweak the Florida Representatives for standing up for their own environmental interests and make them pay a price for protecting their beaches from the money lust of the oil companies. That is basically what you are talking about.

So I think that any Member who does not have a dog in this hunt ought to recognize this amendment for what it is. It is a clever attempt at retaliation. I think the House is above that kind of thing, and I would urge that the amendment being offered by the gentleman today to remove this provision in the bill be adopted.

Any area has the right to protect its environmental resources. That is what Florida did last week, and the House ought to respect it.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I hardly ever disagree with my ranking member on appropriations, but I do not think this amendment is about retaliation. I think it is about a real energy debate we need to have here on this floor.

I agree, Florida probably does not want to become like Louisiana or Texas. I am worried that they want to become like California, where they do not want to produce. I am glad at least they want to pipeline sometimes, because that is not the case in California. Yet, when the price goes up, because our supplies are low, they want price caps and they complain about it.

I am worried about this, that if we do not adopt this amendment, if Florida recognizes you need to produce your resources, we will see a California in the southeastern United States, and we will have the same problem in the southeastern United States as we do in California.

We can produce. I have platforms offshore that are emitting zero pollution right now. Thirty years ago we did not have that; but today we have that, because we have different standards today. That can be done in the Gulf of Mexico, whether it is in Texas, Louisiana, Alabama, Mississippi, or Florida waters; and, frankly, it can be done off the coast of California.

So I am glad to be here to enjoy this energy debate. And it is not about retaliation. I think it is about energy that we need to talk about on this floor.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Indian Rocks, Florida (Mr. YOUNG), distinguished chairman of the House Committee on Appropriations.

Mr. YOUNG of Florida. I thank the gentleman for yielding me time.

Mr. Chairman, several days ago I suggested to the House that this might be coming, this little bit of warfare between different delegations; and I had hoped that we would avoid that, because we have enough problems with our foreign suppliers. We have enough problems, that we do not need to have problems within our own country. The fact is that we do need more production of oil and gas, whatever types of energy we can produce. We are a consuming Nation, and we need to produce.

But most of the conversations today have not been about this amendment. I have enjoyed the debate, except for one part. I did not really appreciate the debate of the gentleman from Texas (Mr. DELAY) when he attacked the Florida delegation, because most of the Florida delegation has been there every step of the way to produce more energy at home, rather than relying on foreign sources. So I thought that attack was a little bit out of order.

However, the great debate about where we are to drill or not to drill has nothing to do with this amendment. This amendment merely strikes three lines out of the bill. Let me tell you what those lines are: "Provided further, That none of the funds made available to the Federal Energy Regulatory Commission in this or any other Act may be used to authorize construction of the Gulf Stream natural gas project." That is the amendment, to strike that language.

Here is why we ought not to be so exercised with each other. The issues are these: the permits to authorize the construction of this pipeline have already been issued. You are not going to change that, unless you are going to change the basic law. You are not going to change that with this language.

The amendment of the gentleman from Florida (Mr. DAVIS) to strike this language is fine, and I am going to vote for it; but the fact of the matter is, this whole debate is really about nothing, because those permits have already been issued. It has been a good vehicle for the debate on the question of Lease 181 and the issue of who drills and who does not drill.

We have to be together on this. To divide this Congress, to divide this House over this issue, is not a smart thing to do. We need to calm down the rhetoric and need to get about becoming energy independent from the rest of the world.

Mr. DAVIS of Florida. Mr. Chairman, I yield 1½ minutes to the gentleman from Bradenton, Florida (Mr. MILLER.)

Mr. MILLER of Florida. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, for our distinguished chairman of the subcommittee, I thank him for referring to Sarasota. Those are my beaches in Sarasota. I have some of the most beautiful beaches in Florida on the west coast, Anna Maria, Longboat Key, Siesta; and I hope the gentleman brings his boat down to our area.

But I am also the base where the pipeline comes ashore in Manatee County, at Port Manatee. Just as it leaves the gentleman's district, it comes ashore in my district and has a big economic impact. So I think we need to recognize the importance of the pipeline and its investors, who are spending over $1 billion on this pipeline. Now, if there was not enough gas, they would not be spending over $1 billion on this pipeline to build it from our two areas.

This issue was brought up in a manager's amendment on Monday which had something to do with Venice beaches, and I appreciate that in the manager's amendment last week when we addressed the issue of this pipeline.

So this is strictly about the pipeline. The investors, they are the ones putting the money at risk, so we do not even make that decision. We should go ahead with the pipeline.

With respect to 181, since I only have a few seconds left, I think we need to open that up for discussion. The gentleman from Florida (Mr. MICA) is right. There is plenty of gas there. I think we should drill for that gas. This was a 6-month delay. We kind of in Florida get caught between our Governor and our President, and I think there is room for compromise. I think there is a middle ground.

That is what we need to look for: move ahead, because we need the energy in our country, but let us not fight over this pipeline. The pipeline needs to go ahead, and it is going to be continued.

Mr. Chairman, I hope everyone votes for this amendment.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I just want to make two points a little more clearly, and then I think we have had a thorough, hearty debate. The first is I wish I had the chart here today to show how many rigs have gone up, and I would submit can go up, hugging the coast of Louisiana and Texas, far removed from any chance of polluting the coast of Florida.

We have a supply out there, and we Floridians are willing to pay a fair price to consume the energy we need for our State. Again, we do not want to be trapped like California. We want competition. We want more than one pipeline. Adopting this amendment will help achieve that.

Let me finally say, just to put this in perspective, if we were to raise the CAFE standards by 14 miles per hour, that would generate 10 times more result than the entire amount of natural gas and crude oil in section 181.

Mr. Chairman, I yield the balance of my time to the gentleman from Florida (Mr. SCARBOROUGH).

□ 1145

Mr. SCARBOROUGH. Mr. Chairman, I thank the gentleman from Florida (Mr. DAVIS) for yielding to me.

This debate really has been about respect or the lack thereof of the people of Florida and their wishes. We have been called hypocrites, audacious, arrogant; implied as being unpatriotic, compared to Communist Chinese, all because last week some very powerful people, some very powerful corporations, were shocked by the outcome of the vote on the Davis-Scarborough amendment.

I think we have to go back to the issue of respect and respect the will of the people in my district, respect the people of the State of Florida, just like we need to respect the will of the people of Alabama, Mississippi, Louisiana, Texas and Alaska to determine their own fate. We are very close to Alabama, and what affects Alabama affects us. We need to work together.

Mr. Chairman, I yield back the balance of the time.

Mr. CALLAHAN. Mr. Chairman, I yield myself the balance of the time.

This has been an interesting debate, even though probably 90 percent of the time was spent on talking about an issue that is not even in the amendment. Maybe the gentleman from Florida (Mr. YOUNG) is right. Maybe this amendment will have no impact. I think he is wrong, because I think it is sending a message. They are talking about the parochialism of this issue with respect to the gentleman from Florida (Mr. SCARBOROUGH) and the gentleman from Florida (Mr. DAVIS).

Mr. Chairman, this is about my district. This pipeline originates in my district. What the gentleman from Florida (Mr. DAVIS) said is we are going to take all you are already extracting, because you have too much, and we are going to send it to Florida because they do not have any. He is right, except we do not have too much.

When we ship this natural gas out of the State of Alabama, our power rates are going to become competitive, and they go up. So that is not the issue. The issue is that I think that this issue was brought up at such a time that was inconvenient to the Alabama delegation to be here and defend themselves. They have apologized for that. We accept that apology.

I am saying this is an environmental issue, and the issue is whether or not we need to build a pipeline if we are not going to permit drilling. That is the issue. It is of keen interest to me and to the people of my State as well. All they talked about today in their selfish vision and their selfish manner is that this is going to hurt Florida. We are not going to have gas to air condition our homes. Do not do this to us. I am saying, it is going to impact Alabama as well. If the gentleman from Florida (Mr. YOUNG), the chairman of the committee, is right, and FERC would not have the authority to stop it, then there is no need for this debate.

If I want to stop it, I think I can stop it through the permitting process in the State of Alabama, which I might; if this amendment is adopted, that is probably what I will do. But I do not think this amendment is going to be adopted, and I know that some people have come up to me and said, SONNY, you would not retaliate and take some of my projects out in the conference committee that you have been so generous with in the past 3 or 4 or 5 weeks; that is not the case. I would not think of doing that.

Mr. Chairman, I will say that this is a project that is of great interest to me, and that I would like very much to defeat this amendment, and I would encourage my colleagues to vote "no."

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida (Mr. DAVIS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DAVIS of Florida. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by the gentlewoman from Nevada (Ms. BERKLEY), and the amendment offered by the gentleman from Florida (Mr. DAVIS).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MS. BERKLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 102, noes 321, not voting 10, as follows:

[Roll No. 204]

AYES—102

Abercrombie
Ackerman
Baca
Baldwin
Becerra
Berkley
Berman
Blagojevich
Blumenauer
Boswell
Bryant
Capps
Capuano
Conyers
Crowley
Davis (CA)
Davis (IL)
DeFazio
Dingell
Doggett
Engel
Evans
Ferguson
Filner
Frank
Frost
Gephardt

Gibbons
Gutierrez
Hall (OH)
Hastings (FL)
Hill
Hinchey
Holt
Honda
Hooley
Hulshof
Inslee
Israel
Jackson (IL)
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kucinich
Lantos
Leach
Lee
Lewis (GA)
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McInnis
McKinney
Meek (FL)
Menendez
Millender-McDonald
Mink
Moore
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pascrell
Rahall
Rangel
Reyes
Rivers
Roybal-Allard
Rush
Sanchez
Sanders
Sawyer
Schakowsky
Shays
Slaughter
Smith (NJ)
Solis
Souder
Stark
Stupak
Thompson (CA)
Towns
Udall (CO)
Udall (NM)
Velázquez
Waters
Watson (CA)
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—321

Aderholt
Akin
Allen
Andrews
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Bass
Bentsen
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Everett
Farr
Fattah
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
Matheson
McCrery
McDermott
McHugh
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Mica
Miller (FL)
Miller, Gary
Miller, George
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Saxton
Scarborough
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (WA)
Snyder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Traficant
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Barton
Burton
Houghton
Platts
Putnam
Ros-Lehtinen
Smith (TX)
Spratt
Thomas
Weldon (PA)

☐ 1214

Messrs. SMITH of Washington, BILIRAKIS, HOLDEN, SANDLIN, GANSKE, GRAVES, RODRIGUEZ, SCOTT and SHERMAN, and Mrs. MYRICK and Mrs. BIGGERT changed their vote from "aye" to "no."

Messrs. STUPAK, KENNEDY of Rhode Island, SHAYS, BOSWELL, SOUDER, RANGEL, and HINCHEY and Ms. VELÁZQUEZ changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. DAVIS OF FLORIDA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. DAVIS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 210, noes 213, not voting 10, as follows:

[Roll No. 205]

AYES—210

Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Berkley
Bilirakis
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Buyer
Camp
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Conyers
Costello
Cox
Coyne
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Diaz-Balart
Dingell
Doggett
Dooley
Doyle
Ehlers
Ehrlich
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Foley
Ford
Frost
Ganske
Gephardt
Gilchrest
Gonzalez
Goss
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Jones (NC)
Jones (OH)
Kaptur
Keller
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (FL)
Moore
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Royce
Rush
Sanchez
Sanders
Sandlin
Sawyer
Scarborough
Schakowsky
Schiff
Scott
Serrano
Shaw
Shays
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stearns
Stenholm
Strickland
Stupak
Sununu
Tauscher
Taylor (MS)
Thompson (CA)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Wexler
Woolsey
Wynn
Young (FL)

NOES—213

Abercrombie
Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bass
Bentsen
Bereuter
Berman
Berry
Biggert
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Callahan

Calvert
Cannon
Cantor
Capito
Chabot
Chambliss
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Cramer
Crane
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLay
DeMint
Dicks
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Everett
Farr
Ferguson
Flake
Fletcher
Forbes
Fossella
Frank
Frelinghuysen
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Manzullo
Markey
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Gary
Miller, George
Mink
Mollohan
Moran (KS)
Murtha
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Roukema
Roybal-Allard
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Souder
Spence
Stark
Stump
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Visclosky
Vitter
Walden
Walsh
Wamp
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Young (AK)

NOT VOTING—10

Barton
Burton
Gilman
Houghton
Platts
Putnam
Ros-Lehtinen
Smith (TX)
Thomas
Weldon (PA)

□ 1226

Messrs. TAYLOR of North Carolina, KERNS, HOLDEN, SCHROCK and FORBES and Ms. EDDIE BERNICE JOHNSON of Texas and Mrs. BIGGERT changed their vote from "aye" to "no".

Mr. BUYER and Mr. HALL of Texas changed their vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. ROS-LEHTINEN. Mr. Chairman, on rollcall No. 205, I was unavoidably detained. If present, I would have voted "aye" on rollcall No. 205.

Mr. GILMAN. Mr. Speaker, earlier today, I was unavoidably delayed during the vote on the Davis Amendment to H.R. 2299. Accordingly, I was unable to vote on rollcall No. 205. If I had been present I would have voted "aye." I ask unanimous consent to have my statement placed in the RECORD at the appropriate point.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Energy and Water Development Appropriations Act, 2002".

Mr. BENTSEN. Mr. Chairman, I rise in qualified support of H.R. 2311, the FY 2002 Energy and Water Appropriations bill.

When the Budget Committee, on which I serve, considered the President's proposal and produced a budget, I knew it was going to be very hard for Congress to fund many important water transportation and flood control projects. I recognize the incredibly difficult circumstances Chairman SONNY CALLAHAN and Ranking Member PETER VISCLOSKY have endured in crafting this bill. I would also like to thank my good friend from Texas, Mr. EDWARDS, a distinguished Member of the Subcommittee, for all the help and information he and his office have provided me.

In light of the dramatic budget cuts proposed for the Corps, I applaud the Subcommittee for funding the Brays Bayou flood control project at the Harris County Flood Control District's capability—$5 million. When completed, the Brays Bayou project will be a national model for local control, community participation, flood damage reduction in a heavily populated urban watershed, and the creation of a large, multi-use greenway/detention area on the Willow Waterhole tributary. The Brays project is a demonstration project for a new reimbursement program initiated by legislation I authored along with Mr. DELAY that was included in Section 211 of WRDA 1996. The program gives local sponsors more responsibility and flexibility, resulting in projects more efficient implementation in tune with local concerns.

I am very encouraged that the Brays project is on track to be fully funded at $5 million in Fiscal Year 2002, rather than $4 million, as the Administration suggested. The project will improve flood protection for an extensively developed urban area along Brays Bayou in southwest Harris County including tens of thousands of residents in the flood plain, the Texas Medical Center, and Rice University. The entire project will provide three miles of channel improvements, three flood detention basins, and seven miles of stream diversion resulting in a 25-year level of flood protection. Current funding is used for the detention element of the project. Originally authorized in the Water Resources Development Act of 1990 and reauthorized in 1996 as part of a $400 million federal/local flood control project, over $20 million has already been appropriated for the Brays Bayou Project.

However, besides the admirable consideration the Subcommittee has given Brays Bayou, I believe this bill is spread too thin as a result of the extreme position taken by the Administration on the Army Corps of Engineers Construction account, which was slated to be cut $600 million. Instead, my colleagues have lowered that cut to $70 million below the 2001 level. When I introduced an amendment to remedy this in the mark-up of the budget, I warned that Congress would not stand for such a large shortfall affecting public safety and navigational water projects. I am relieved that much of the proposed cut was restored, and I commend the Chairman and ranking Member for their effort.

I appreciate that the Committee saw fit to fully fund the Administration's request for the Sims Bayou project. Unfortunately, the Administration did not request the full amount the Corps says is necessary to keep the project on schedule. My constituents are adversely affected by delayed work on the Sims Bayou. According to the Galveston District of the Corps, without funding the full $12 million capability of Corps for Sims, construction will fall behind schedule. This funding is needed because of the great risks people have faced and will continue to face until completion of the project in this highly populated watershed. The need was illustrated when Tropical Storm Allison caused great damage to thousands of homes in this watershed several weeks ago.

The project is necessary to improve flood protection in the extensively developed urban area along Sims Bayou in southern Harris County. The Sims Bayou project consists of 19.3 miles of channel enlargement, rectification, and erosion control and will provide a 25-year level of flood protection. Before the funding shortfall, the Sims Bayou project was scheduled to be completed two years ahead of schedule in 2009. We cannot be confident of that prediction unless Sims funding is raised to $12 million in the Senate version and the Conference Report.

Flood control projects are necessary for the protection of life and property in Harris County, but improving navigation in our Port is an integral step for the rapid growth of our economy in the global marketplace. Therefore, Mr. Speaker, I am disappointed that this legislation provides only $30.8 out of the needed $46.8 million for continuing construction on the Houston Ship Channel expansion project. When completed, this project will generate tremendous economic and environmental benefits to the nation and will enhance one of our region's most important trade and economic centers.

The Houston Ship Channel, one of the world's most heavily-trafficked ports, desperately needs expansion to meet the challenges of expanding global trade and to maintain its competitive edge as a major international port. Currently, the Port of Houston is the second largest port in the United States in total tonnage, and is a catalyst for the southeast Texas economy, contributing more than $5 billion annually and providing 200,000 jobs.

The Houston Ship Channel expansion project calls for deepening the channel from 40 to 45 feet and widening it from 400 to 530 feet. The ship channel modernization, considered the largest dredging project since the construction of the Panama Canal, will preserve the Port of Houston's status as one of the premier deep-channel Gulf ports and one of the top transit points for cargo in the world. Besides the economic and safety benefits, the dredged material from the deepening and widening will be used to create 4,250 acres of wetland and bird habitat on Redfish Island. I want to take this opportunity to urge those who will be conferees on this legislation to fund the Port of Houston project to its capability. This project is supported by local voters, governments, chambers of commerce, and environmental groups.

I thank all the subcommittee members, the Chairman, the Ranking Member, and especially Representative EDWARDS for their support and their work under tough budgetary circumstances.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 2311, the fiscal year 2002 energy and water appropriations bill. I commend the committee's distinguished Chairman, Mr. CALLAHAN for his diligence and work on this important fiscal year 2002 appropriations bill.

H.R. 2213 is an important appropriations measure that funds our Nation's waterways, flood control, and irrigation infrastructure, as well as various important programs administered by the Department of the Energy.

Included in this measure is $100,000 for the Ramapo-Mahwah flood control project. This project involves the construction of features for flood protection along the Ramapo and Mahwah Rivers in Mahwah, New Jersey and Sufferen, New York. Flooding has occurred frequently over the past 33 years, causing extensive damage. Accordingly, the inclusion of this funding will provide the Army Corps with the funding necessary to proceed forward with the first-step to initiate a refinement of the project's cost.

Moreover, H.R. 2213 includes an appropriation of $3 million for the New York City Watershed Protection Program. Nine million New Yorker's receive their drinking water from the New York City watershed. Accordingly, it is imperative that public health and environmental concerns be addressed along the New York City watershed. This appropriation will provide assistance for New York State for the design and construction of water supply, storage, treatment and distribution facilities, and surface water resource protection and development projects.

Accordingly, I urge all of my colleagues to support this important bill.

Mr. NUSSLE. Mr. Chairman, I rise in favor of H.R. 2311, making appropriations for energy and water development for fiscal year 2002. This bill is consistent with the levels set forth in the budget resolution and complies with the Budget Act.

H.R. 2311 provides $23.7 billion in discretionary budget authority and $24.9 in outlays for the Department of Energy, the Bureau of Reclamation and various independent agencies.

This is a straightforward bill that neither designates emergencies nor provides advanced appropriations. The bill also does not rescind any previously enacted budget authority.

The bill is within the 302(b) allocation of the Appropriations' Subcommittee on Energy and Water. It therefore complies with section 302(f) of the Congressional Budget Act, which prohibits consideration of appropriations measures that exceed the appropriate subcommittee's 302(b) allocation.

On this basis, H.R. 2311 is worthy of our support.

The CHAIRMAN. Under the previous order of the House, no further amendments are in order.

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. BIGGERT) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, pursuant to House Resolution 180, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 15, not voting 13, as follows:

[Roll No. 206]

YEAS—405

Abercrombie
Ackerman
Aderholt
Akin
Allen
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—15

Andrews
Berkley
Flake
Gibbons
Hostettler
Moran (KS)
Paul
Royce
Scarborough
Schaffer
Sensenbrenner
Shays
Stearns
Tancredo
Thune

NOT VOTING—13

Barton
Burton
Davis (FL)
Doggett
Gutierrez
Houghton
McCollum
Platts
Putnam
Ros-Lehtinen
Smith (TX)
Thomas
Weldon (PA)

☐ 1245

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2180

Mr. FERGUSON. Madam Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 2180.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2330, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. HASTINGS of Washington. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 183 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 183

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI are waived. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 183 is an open rule providing for consideration of the bill H.R. 2330, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2002.

The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. The rule further provides that the bill shall be read for amendment by paragraph, and that the amendment printed in the report of the Committee on Rules accompanying the rule shall be considered as adopted.

The rule waives all points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI, prohibiting unauthorized or legislative provisions in a general appropriations bill.

Finally, the rule allows the chairman of the Committee of the Whole to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, and provides one motion to recommit with or without instructions.

Madam Speaker, H.R. 2330 appropriates $74.2 billion in fiscal year 2002 budget authority for agriculture and related programs through the Department of Agriculture and other agencies. This figure is $2.4 billion less than last year's appropriations, but $234 million more than the President's request.

The bulk of the spending goes to food stamps, $22 billion; the Food and Drug Administration, $1.2 billion; child nutrition programs, $10.1 billion; supplemental nutrition for Women, Infants and Children, $4.1 billion; and the Federal Crop Insurance Program, $3 billion.

In addition, this bill provides $1 billion for the Agriculture Research Service; $720 million for the Food Safety and Inspection Service; and $946 million for the Farm Service Agency.

Madam Speaker, I am particularly pleased that the Committee on Appropriations has included $150 million for market loss payments for America's apple growers. As a representative of the number one apple-producing district in the Nation, I am acutely aware of the devastating losses sustained by apple growers in the past year.

In our area, for example, countless warehouses, packing houses and other apple-related businesses have either shut down, declared bankruptcy, or downsized dramatically. In county after county, growers find that it costs substantially more to produce a box of apples than the market will pay to buy it.

And, unlike many farms that can easily switch crops when prices are down for one commodity, apple growers cannot simply pull up their orchards and grow something else for a few years until apple prices go back up again. In the face of unfair competition from China and other Asian nations, our growers have few tools with which to fight back.

Apple growers are an unusually independent breed. They have suffered ups and downs of the market for years without asking for any kind of Federal assistance that has long been common to other types of commodities and farming. But never before have we suffered the kinds of losses we are experiencing right now. For that reason, I would like to commend the gentleman from Florida (Mr. YOUNG) and the gentleman from Texas (Mr. BONILLA) and their colleagues on the Committee on Appropriations for recognizing the dire situation in apple country and for providing this much-needed assistance.

Madam Speaker, this is a fair bill. It funds a number of high-priority programs while cutting out wasteful, unnecessary and duplicative spending. Accordingly, I urge my colleagues to support both this open rule and the underlying bill, H.R. 2330.

Madam Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Madam Speaker, I yield myself such time as I may consume, and I thank the gentleman from Washington (Mr. HASTINGS) for yielding me the customary time.

Madam Speaker, this is an open rule. It has everything to do with the bill that makes appropriations for the Department of Agriculture and other related agencies for fiscal year 2002. As my colleague from Washington described, this rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

This allows germane amendments under the 5-minute rule. This is the normal amending process in the House. All Members, on both sides of the aisle, will have the opportunity to offer amendments that do not violate the rules for appropriations bills.

Madam Speaker, this is generally a good bill that serves America's farmers as well as the poor and hungry in this land. And I commend the ranking Democrat, the gentlewoman from Ohio (Ms.

KAPTUR), and the gentleman from Texas (Mr. BONILLA), the chairman of the agriculture appropriations subcommittee, for their work. They have done a fine job working with funding levels that are too low for their important jobs.

The bill funds child nutrition programs at a rate slightly higher than last year. It also increases funding for the food stamp program and gives a small boost to food banks. Funding for the WIC program, which feeds mothers and their children, is given a small increase over last year. Unfortunately, this increase is insufficient to meet the demand for this popular program. Monthly participation is exceeding the administration's projections, which will result in an estimated 100,000 to 200,000 eligible people not being served.

I am disappointed with the actions of the Committee on Rules which failed to make in order an amendment by the gentlewoman from Ohio (Ms. KAPTUR) to fund the Global Food for Education Initiative, which is commonly known as the Global School Lunch Program.

Here in this country, the school lunch program has been one of the most successful nutrition programs. A hungry child faces an extra challenge in school. This program promotes education by making sure that each day all children receive at least one nutritious meal.

What works in the United States ought to work around the world. If we believe in education for children, we should promote this program. Also, this is a great help to our farmers, and it is being championed by former Senators George McGovern and Bob Dole.

During consideration of this measure by the Rules Committee last night, I offered a motion to permit the gentlewoman from Ohio (Ms. KAPTUR) to offer her amendment to fund the Global School Lunch Program. The amendment was defeated on a straight party-line vote, with Democrats supporting the program and Republicans opposing it.

The gentlewoman from Ohio's (Ms. KAPTUR) amendment could not be accepted because it went over budget. However, at the same time, this same Committee on Rules approved an amendment that will add $150 million over the budget to pay apple growers.

The Rules Committee also denied a request by the gentlewoman from Connecticut (Ms. DELAURO) to offer an amendment to increase food safety inspections. Food imports are increasing; yet funding for food inspectors is not adequate to keep pace. This amendment, which is important to our health and safety, should have been made in order.

Madam Speaker, I do not agree with these priorities. I support the bill, but I cannot support the rule that turns down these amendments that I just talked about.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield as much time as he may consume to the gentleman from Texas (Mr. BONILLA), the chairman of the subcommittee.

Mr. BONILLA. Madam Speaker, I thank the gentleman from yielding me this time, and I thank the ranking member, the gentlewoman from Ohio (Ms. KAPTUR), for her hard work. It has been a long, tough road for many of us; but in the end I think we can proudly say this is a bipartisan bill.

Madam Speaker, I rise in strong support of the rule, and in strong support of the bill that will follow. This is a good, bipartisan bill. I have worked strongly and consistently as chairman of this subcommittee to try to be inclusive, working closely with every Member on both sides of the aisle to try to address as many of the issues as we possibly could in putting this bill together.

Our subcommittee heard many hours of testimony in previous days to get to this point. Many of the hours we spent listening to witnesses involved food safety, and that is something that both of us have worked on, the gentlewoman from Ohio (Ms. KAPTUR) and I, to address these issues. There is great concern in the communities about the threats that exist from diseases that are now prevalent in other countries, primarily in Europe, that many of us are concerned about. Livestock producers, especially with the threat of foot-and-mouth disease and mad cow disease, are concerned, and we have addressed many of these concerns.

We have worked in a bipartisan way to increase the number of inspectors for the Food and Drug Administration to give them more resources to do their job. All of the inspection accounts that are important to keep our food supply and our industry safe from threats from abroad we have addressed in a strong way, and I think I speak for every member of the subcommittee as well, who would agree.

□ 1300

It has been a tough road as well because we have received over 2,500 individual requests for projects from individual Members around the country. We have done our best to try to take care of everyone that we possibly could.

The gentleman from Ohio (Mr. HALL) mentioned the reference to an amendment involving apples. We know that apple producers are facing a tremendous problem right now in trying to deal with some adverse conditions that they are faced with. This was an amendment presented by our good friend, the gentleman from New York (Mr. HINCHEY), who has worked very hard on this issue; and this amendment has bipartisan support.

Honestly, the Members know that we have tried to keep these authorizing issues and new programs off of our appropriations bill; but in this case, the committee worked its will. And we have this program in this bill. We know that there will be some contentious times in trying to deal with this as we move through this bill, but we expect to do that.

All in all, I think we can all stand up and say we are proud of what we have accomplished here. The Committee on Rules has also worked very hard to deal with some of the problems in moving this bill to the floor. Again I want to thank the gentleman from Washington (Mr. HASTINGS), the gentleman from California (Mr. DREIER), and all the members of the Committee on Rules for taking a lot of time and energy to get us to this point and hope that, in a bipartisan way, we can support the rule and the bill.

Mr. HALL of Ohio. Madam Speaker, I yield 3½ minutes to the gentlewoman from Ohio (Ms. KAPTUR), who has been a great proponent and advocate for hungry people all over the world and in her own country.

Ms. KAPTUR. Madam Speaker, I thank the esteemed ranking member for yielding time to me on this rule on our agriculture appropriation bill for the year 2002. Let me say that it has been a pleasure to work with our new chairman, the gentleman from Texas (Mr. BONILLA). We think we have perfected the bill as it has moved through subcommittee and full committee. Nonetheless, I must rise reluctantly to oppose this rule.

We did go before the Committee on Rules to try to get the permission to offer amendments here on the floor today. We were refused. I wanted to go through a few of those amendments that we believe are worthy and would make this a much better bill.

Probably one of the most important is the Global Food for Education initiative inspired by the work of Senators Bob Dole and George McGovern. It takes our school lunch program from this country and extends its concept abroad, using food to help over 9 million needy children in 38 countries to both promote their education and help them develop fully by having decent nutrition. We very much want to continue this program. We really believe that we allowed ourselves to become bottled up by artificial budget rules that prevented us from going on record to do what is right in this current bill. We would very much like to have this Global Food for Education program extended directly by Congress as a part of the regular order in this appropriation bill.

The gentlewoman from Connecticut (Ms. DELAURO) will probably be speaking against the rule soon on the question of food safety and improved food inspection. On the surface, the bill before us looks like it provides more money for those needs, but it almost only pays costs to staff to hold on to what we have. Can anyone here really accept the fact that the Food and Drug Administration can barely inspect 1 percent of the products coming across our borders every day? That means 99 percent of imported product is not tested. Is that the gold standard of safety we hear so much about? And can we really believe that we have the information on the testing of practices like irradiation and enhanced food safety standards? No. In fact, in the subcommittee bill, we were able to get language on irradiation to do the kind of baseline studies that are necessary to assure irradiated food safety to consumers, but then those were stripped at the full committee level.

In the area of biofuels funding, the Bush administration has made over 100 recommendations to try to help America move forward and become more energy independent, but not a single one of those recommendations asks the Secretary of Agriculture to do anything. Yet we know that ethanol and biofuels and fuels based on biomass are in our sustainable energy future and that the Department of Agriculture should not be exempt from this important national challenge.

Finally, in the area of 4–H, we will be offering an amendment here on the floor to try to provide some of the initial funding for the measures that were passed here in the House this past week and in the Senate last week to celebrate the anniversary of 4–H. Let us put the money that is in the authorizing bill in this appropriation bill so that, in fact, there is no lapse of time.

For all these reasons, I do oppose the rule and look forward to the debate on the bill as the afternoon proceeds. I thank the gentleman from Ohio for yielding me the time and the committee for allowing me this opportunity to speak against the rule.

Mr. HASTINGS of Washington. Madam Speaker, I am pleased to yield 5 minutes to the gentleman from Iowa (Mr. NUSSLE), the distinguished chairman of the Committee on the Budget.

Mr. NUSSLE. Madam Speaker, I wish to engage in a colloquy with the gentleman from Florida (Mr. YOUNG), the very distinguished chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Madam Speaker, I would be pleased to enter into such colloquy with the gentleman from Iowa.

Mr. NUSSLE. I thank the gentleman.

It is my understanding that upon adoption of the rule, the appropriations bill will exceed the Subcommittee on Agriculture and Rural Development's 302(b) allocation by $150 million.

Mr. YOUNG of Florida. I would say to the gentleman that his understanding is correct. The gentleman from Texas (Mr. BONILLA), the chairman of the subcommittee, developed a bill that was within its 302(b) allocation as set by the Committee on Appropriations. However, the bill as reported from the committee included an amendment, which I opposed, by the way. This amendment included additional spending that really should be mandatory and under the jurisdiction of the Committee on Agriculture. However, the Committee on Appropriations adopted this amendment, which would provide an additional $150 million in emergency funding to assist apple producers.

Some Members expressed concern over the emergency designation, which in effect would increase spending above the level assumed by the budget resolution, so that designation will be eliminated from the bill by the rule before us at the present time. As a result of this action, the total funding in this bill will be $150 million over the 302(b) allocation. However, the Committee on Appropriations has not exceeded our 302(a) allocation as set by the Committee on the Budget.

I want to assure the gentleman from Iowa and Members that it was not the intent and it is not the policy of the Committee on Appropriations to present a bill that is in excess of its allocation. It is simply the fact that after extensive discussions with the leadership, the Committee on Agriculture, and the Committee on the Budget, it was determined that the most expeditious way to resolve the matter and get this bill on the floor was the elimination of the emergency designation.

Mr. NUSSLE. It is my further understanding that the Committee on Appropriations will increase the subcommittee's 302(b) allocation to the level provided by this bill and adjust the 302(b) allocations for other subcommittees by an offsetting amount.

Mr. YOUNG of Florida. Madam Speaker, the gentleman's understanding is correct. It is the intent of the Committee on Appropriations to address this matter the next time it meets to consider revisions to the allocations by increasing the 302(b) allocation for this bill to a level equal to the amount this bill as passed by the House and to reduce other allocations for outstanding bills by the same amount.

The committee does not intend a wholesale reprioritization of the budget to address this matter. We are also somewhat limited in our options because we have already passed three bills out of the House. It is not the intent of the Committee on Appropriations to reduce the 302(b) allocations of bills previously passed by the House to accommodate this spending in the agriculture bill.

However, this does not mean the committee is precluded from a later reallocation as we work on these bills with the Senate during conference deliberations. Further, I would say to the gentleman from Iowa that it is my intention that the defense allocation will be preserved and maintained. Defense will be made whole. We will ensure that the allocations are adjusted to be in conformance with the Budget Act and that our bills are consistent with their allocations. I want to assure the gentleman that we will fully abide by the provisions of the Budget Act.

Mr. NUSSLE. Madam Speaker, I thank the gentleman for his clarification of this matter.

Mr. HALL of Ohio. Madam Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. I thank the gentleman for yielding me the time.

Madam Speaker, I think that overall there are many things to commend this bill, but I think there are a number of serious omissions which the House ought to deal with before we pass the bill on to the Senate. To express those concerns, I intend personally to vote against the rule although I will probably, unless something unforeseen happens, support the bill on final passage.

First of all, I believe that we have something approaching a national crisis with respect to public confidence in the safety of the food that we import and that we consume. All of us have seen story after story about the outbreak of serious disease associated with consuming food. We have had over 5,000 Americans die last year from food borne illness.

I saw a horror story a few days ago about the fact that a number of people in South Dakota and Minnesota had gotten deathly ill because they had consumed ground beef that contained ground-up animal thyroids. Those thyroids in the past had not been included in the food supply. But because we now have synthetic thyroid drugs, those animal thyroids are no longer used to the extent they were before to make thyroid medicine and so one meatpacking plant had simply ground the thyroid up with the rest of the animal. The result was that a good many people got deathly sick.

We have seen a lot of other examples. If we take a look at what the FDA has to say about the adequacy of our inspection system for foodstuffs that come into the United States, for instance, we see that they inspect less than 1 percent of everything that is imported into this country. We believe that that constitutes a true crisis. I think that if we do not act on this crisis, it will hurt not only consumers but the very farmers that many of us represent, because farmers depend on a high level of consumer confidence in order to be able to sell their products.

And while there is no question that our food supply is among the safest in the world, we still have a lot of problems that could be taken care of if we put the needs of food safety, for instance, ahead of the needs of the wealthiest 1 percent of the people in this country to get a $53,000 tax cut next year. We have some choices to make, and we are being prevented from making them by the choices that were already made by this House on the tax bill.

We also have the question about whether or not WIC is being funded adequately. It certainly appears to me that the funding level in this bill is not adequate. Yet we are not, under the rule, going to be allowed to do anything about that.

And then, thirdly, we have the effort that we tried to make in the full committee to take surplus food which we have in this country and make it available to children around the world. We have a program at USDA that did that last year; and we have been urged by Senator George McGovern and Senator Bob Dole, two people, who in the history of this Congress on a bipartisan basis have forgotten more about nutrition programs than most of us have ever learned, they both urge us to continue this program. USDA will not get off the dime and make up their mind one way or another. We tried to get that done as well in this bill and were blocked procedurally from doing so.

□ 1315

So for these reasons, it seems to me that we ought to vote down this rule and bring back a rule that will allow us to recognize a legitimate crisis with respect to public confidence in the safety of our food supply, and also allow us to address the other two issues that I have mentioned here today.

So I would urge a no vote on the rule so that we can get a better rule under which to debate this otherwise fairly constructive bill.

Mr. HASTINGS of Washington. Madam Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. LATHAM), a member of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies.

Mr. LATHAM. Madam Speaker, I thank the gentleman from Washington (Mr. HASTINGS) and very much appreciate him yielding me the time.

Madam Speaker, first of all, I want to thank the Committee on Rules for a fair, open rule and for their work. This will bring this bill to the floor in a manner that will open debate and bring out a lot of different points of view. I appreciate it very much.

I also want to thank the chairman of the subcommittee, the gentleman from Texas (Mr. BONILLA), for a great job that he has done and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR), for all the work and cooperation that we have seen on both sides. The staff on this bill has done a tremendous job and their efforts are very much appreciated.

This is a bipartisan bill and it is brought to the floor with, I think, agreement that the real needs of the agriculture community, of the people who are needing assistance for food, is met and that it is a bill that I think we can all support in the House.

There are a couple items that I am very pleased that were included. One is funding for the National Animal Disease Center in Ames. This is in response to real concerns that we have with foot and mouth disease; mad cow disease; those types of problems that can be devastating to our livestock industry; and also for food safety for Americans. Also, they have increased the funding for the AgrAbility program, something that is very dear to me. What this program does is help people continue to farm even with disabilities, and the level of $4.6 million in this bill for this very important program is very much appreciated.

This bill funds our research in a manner that agriculture is desperately in need of, new opportunities, new ways of adding value to our products. The way to do that is through research. So I am very pleased with the emphasis that the chairman has put on research.

Also, a key element for the Department is food safety. I am very pleased that the FDA has increased funding of $115 million to a level of $1.18 billion. That is the largest increase in history. The Food Inspection Service has an increase of $25.4 million, raising that total to $720 million, also a very substantial increase to meet the needs that we have to provide not only the best quality food but the safest food anywhere to be found in the world.

So, again, I ask Members to support this rule, support this bill. It is good for agriculture. It is good for all of our citizens.

Mr. HALL of Ohio. Madam Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Madam Speaker, I rise in opposition to the rule. It busts the budget caps. There has been a double standard applied to some programs within this bill, and I was fully supportive of the assistance to apple growers in this country, because I think it is the right thing to do to help an industry out when they need that help.

On the other hand, what they have done here with the Committee on Rules is they have made an exception for one emergency and have said no to all other emergencies that face American families. Whether it is family farmers facing the loss of their family farms, whether it is biodiesel fuels, Meals on Wheels, low-income nutrition assistance, we have emergencies that we need to address. We just cannot pick and choose which ones we want and which ones are politically advantageous.

Specifically, this rule blocks an amendment that I brought to the committee to provide urgent emergency funds to address the food safety crisis. Americans are more likely to get sick from what they eat today than they were a half century ago, and the outbreak of food sickness is expected to go up by as much as 15 percent over the next decade. Each year, some of my colleagues have mentioned this already, 5,000 Americans die from foodborne illnesses, 76 million get ill and 325,000 are hospitalized. Just 2 days ago, the Excel Corporation recalled 190,000 pounds of ground beef and pork because of the possible contamination by deadly E. Coli in Kentucky, in Tennessee, in Georgia. Sara Lee pled guilty to selling tainted meat that was linked to a nationwide listeriosis in 1998 that killed 15 people. Grocery stores are afraid that their fruit is unsafe to sell.

Lest one thinks that these are things that I just made up, we have a number of headlines from recent news: A Big Recall of Meat Amid E. Coli Fears; Sara Lee Fined in Meat Recall Linked to 15 Deaths; USDA Blamed in Slaughter Violations; Grocers Demand Produce Inspections; Contaminated Food Makes Millions Ill Despite Advances.

Experts like Joe Levitt from the FDA are telling the press that, quote, we do have a real problem. To address this problem, I asked the committee to allow an amendment to provide $213 million in emergency funds, $90 million to increase inspection of imported foods from 1 to 10 percent, $73 million for over 600 new inspectors to inspect all high-risk and domestic firms twice a year and all other domestic firms every 2 years, and $50 million for the food safety and inspection service to ensure the implementation of new food safety procedures to strengthen our food safety efforts.

The Food and Drug Administration inspects all food except meat, poultry, and eggs. They inspect fruit juices, vegetables, cheeses, and seafood. These foods are the sources of 85 percent of food poisoning; and last year, recalls of FDA-regulated products rose to 315, the most since the mid-1980s, and 36 percent above the average.

FDA inspects less than 1 percent of imported food that comes into the United States, and this is a market that has expanded from 2.7 million items coming in to our country to 4.1 million items, and that increase has happened in just the last 3 years.

In the domestic market, the FDA inspects high risk firms no more than once a year and other firms are inspected only once in 7 years.

The FDA has only 400 people to inspect all domestic food, and we have 30,000 domestic food producers and food plants in the United States. They have less than 120 people to inspect imported food. Food Safety and Inspection Service has held public hearings on a wide range of issues: procedures for imported food, risk management, emergency outbreaks. We know what has happened in Europe with foot and mouth. We know about the threat of mad cow. It is vital that the FSIS has the resources it needs. American families should be able to go out to dinner, to buy food, and not be fearful that they or their children or their families are going to be in jeopardy.

In the 1920s, Upton Sinclair wrote in a novel, The Jungle, he highlighted the abuses of the meat packaging industry. It brought a wave of reform in this country. We need to move forward on food safety, not to move backward to the days that Sinclair wrote about. This is about providing the agency that is responsible for protecting our food supply, give them the resources to have the inspectors that they need in order that Americans will be safe.

I urge my colleagues to oppose this rule.

Mr. HASTINGS of Washington. Madam Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. NUSSLE), the distinguished chairman of the Committee on the Budget.

Mr. NUSSLE. Madam Speaker, I rise to support the rule and to speak in favor of H.R. 2330, providing appropriations for agriculture and related agencies. As reported by the Committee on Appropriations, this bill is technically consistent with the budget resolution and complies with the Congressional Budget Act. As the chairman of the Committee on the Budget, I wish to report to my colleagues that H.R. 2330 provides $15.7 billion in budget authority and $15.97 billion in outlays for fiscal year 2002. The bill does not provide any advanced appropriations.

As reported, the bill also designates $150 million in emergencies, which increased both the levels of the budget resolution and the caps by the same amount. It also rescinds $3.7 billion, but this rescission produces no savings in outlays. As reported by the Committee on Appropriations on June 27, the bill does exceed the Subcommittee on Agriculture, Rural Development, Food and Drug's 302(b) allocation. Therefore, it does not violate section 302(f) of the Budget Act, which prohibits the consideration of appropriation legislation that exceeds the reporting subcommittee's 302(b) allocation.

Members may be aware that I am concerned and have been concerned that the reported bill designates $150 million as an emergency for the purpose that is already accommodated in the budget resolution. This designation had the effect of increasing the levels of the budget resolution and the statutory caps by the same amount. The budget resolution clearly anticipated the need for additional agricultural assistance by increasing the Committee on Agriculture's allocation by $5.5 billion in fiscal year 2001.

Indeed, earlier this same week, the House passed a bill that provided that same $5.5 billion in agricultural emergency assistance. That bill provided $169 million for the producers of specialty crops. In addition, the budget resolution provided another $7.3 billion of agriculture spending in fiscal year 2002 and included a procedure that could increase the total to as much as $63 billion. The Committee on Agriculture is free to use that portion and allocation as it sees fit for specialty crops.

While I continue to have concerns about the emergency designation, the chairman of the Committee on Appropriations and I have agreed, and we just shared that colloquy on the floor a moment ago, that the designation would be stricken by this rule and that the bill would be protected from resulting points of order.

Furthermore, the gentleman from Florida (Mr. YOUNG) agreed that the Committee on Appropriations would revise its 302(b) allocations and reflect the fact that the bill would be offset by other appropriation bills. It was further agreed that the offsets would not come out of the bills that have already passed the House or bring Defense below the levels of the President's budget submission. The gentleman from Florida (Mr. YOUNG) is a man of his word. He has done his best in bringing this bill to the floor, as has the gentleman from Texas (Mr. BONILLA).

In view of the good faith comments of the gentleman from Florida (Mr. YOUNG) and commitments in this regard, I urge Members not only to support the bill but to support the rule.

Mr. HALL of Ohio. Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. LAHOOD), my distinguished colleague and classmate.

Mr. LAHOOD. Madam Speaker, I thank the gentleman from Washington (Mr. HASTINGS) for yielding me the time.

Madam Speaker, I want to pay my compliments to the chairman of the committee, the gentleman from Texas (Mr. BONILLA) and his staff and also to the gentlewoman from Ohio (Ms. KAPTUR) and the staff on the Democratic side for putting together a good bill. I think there is no doubt that every Member that is on the subcommittee, of which I am the newest Member, believes that this is a good bill. Even though there are some who believe that the rule did not allow for some consideration of opportunities to solve some problems, many of those problems were discussed in the subcommittee and many amendments were offered. As many amendments as people wanted to offer were able to be offered, thanks to the chairman. I know that the ranking member, the gentlewoman from Ohio (Ms. KAPTUR) offered many amendments, some of which were adopted, some of which were not. Other Members had the same opportunity.

So this notion that this is not a good rule because some people do not have the opportunity, those opportunities were provided to the subcommittee Members, and there was a full debate on many of these issues. Although I am a new member of the subcommittee, I am certainly not new to the issues of agriculture. During the last 6 years, and I have been a member of the agricultural authorization committee and I have worked very hard with many Members, including some who are in the Chamber today, on agricultural issues, in trying to solve agricultural problems.

Agriculture is in a recession. This bill helps agriculture in solving many of the problems that we have with respect to the recession that currently exists.

□ 1330

A big piece of this bill has to do with research. I agree with the gentleman from Iowa when he says that research is about the future of agriculture. It is also about the future of how we get agriculture out of the recession that agriculture is currently in.

I have an agriculture research lab in my hometown of Peoria. They do marvelous work. The people there are very professional chemists and professional people who do the work that really helps us plan for the future uses of commodities and other fruits and vegetables and specialty crops that we grow in this country.

So the emphasis on research in this bill is extraordinary. The amount of money dedicated to research in this bill is extraordinary. It makes an awful lot of sense, I think, to pass the rule and certainly pass the bill. There will be some opportunities for some people to make modifications or offer amendments, and then there will be additional time, obviously later on, when there is a conference.

But today I think is the day to pass the rule, pass this good bill, keep things moving, and really assist those in agriculture who need the kind of assistance and help and research funds that this bill provides.

Mr. HASTINGS of Washington. Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from Texas (Mr. SESSIONS), a colleague on the Committee on Rules.

Mr. SESSIONS. Madam Speaker, I thank the gentleman from Washington, my colleague on the Committee on Rules, for yielding me time.

Madam Speaker, my colleagues understand what we are talking about today is the rule. That is what we are debating right now, about whether we are going to move forward on the rule, an opportunity to put this on the floor, an opportunity to vote on this and get the appropriations bill done before we go home.

I think it is important to understand that what this rule provides for is an incredible amount of money for some very important projects, to some things that sustain America, to some things that we have, how we deal with people in our country.

We should not go too far from understanding that this bill provides $22 billion for food stamps. This bill provides $1.2 billion for the Food and Drug Administration. They know how to administer their business. They know what they are doing, and $1.2 billion will cover that. Child nutrition programs, $10.1 billion. The Supplemental Nutritional Program for Women, Infants and Children, known as WIC, $4.1 billion.

What we are doing with this bill and with this rule is to make sure that the agriculture of this country is not only safe and the food they produce is reliable, but we are also trying to make sure that we look at the resources and assets that we have in this country and say that we believe that conservation programs are important; we think people who are engaged in agriculture are important.

We are making sure that our Federal Crop Insurance Corporation is funded, $3 billion. We are trying to prepare ourselves to make sure that people who live in rural areas and who are in agriculture know that Washington will deal fairly with them.

But we also recognize that part of the argument we are going to hear today is we are not spending enough money. Well, I might remind my colleagues that we can never spend enough money to make sure that some people in this body will always be happy, but that we do go back to the budget that we set in place earlier in the year, and that this program that we are doing for the 2002 agriculture appropriations act falls in line with what this body said it would do. Then, through the leadership of the gentleman from Texas (Mr. BONILLA), we have had an opportunity to craft through many discussions and through many votes a policy of this country that is good on a moving-forward basis.

So I support what we are doing here today. This rule is important for us to continue the process, not only on this appropriations bill, but to make sure that we finish in time and move forward on the commitment that we have to the country, to make sure that the public policy of this Republican Congress and, yes, one that the President will sign, to make sure that people who are involved in agribusiness and consumers and, yes, women and children and people who are on food stamps, will make sure that the system is there and reliable and works properly.

So I applaud the gentleman from Texas (Mr. BONILLA) for his hard work, and our chairman, the gentleman from Florida (Mr. YOUNG), and also the gentleman from Washington (Mr. HASTINGS), a member of the Committee on Rules who has worked carefully to make sure that this rule is fair and open. Lastly, I would like to give accolades to the gentleman from California (Mr. DREIER), who is our chairman, who has worked very diligently to make sure that the rule that was crafted not only exemplified what this body would be in favor of, but would also be something that people in his home State of California would be proud of.

Mr. HALL of Ohio. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I think this is a good rule. It is an open rule that we typically have for appropriations bills.

As was mentioned earlier, there was some criticism by members of the Committee on Rules not allowing some amendments to be made in order. I think what the Committee on Rules really did was protect the product of the Committee on Appropriations.

Yes, there were some waivers in this; but essentially the will of the Committee on Appropriations was such that they went through their process and added some issues to this bill that required waivers. We gave them, and protected the product that they desired.

Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 222, nays 194, not voting 18, as follows:

[Roll No. 207]

YEAS—222

Aderholt
Akin
Armey
Bachus
Baker
Baldacci
Ballenger
Barr
Bartlett
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Maloney (NY)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Combest
Condit
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee

Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—18

Barton
Bonior
Boucher
Burton
Conyers
Dingell
Houghton
Largent
Meek (FL)
Owens
Platts
Putnam
Rahall
Ros-Lehtinen
Slaughter
Smith (TX)
Thomas
Weldon (PA)

☐ 1401

Mrs. TAUSCHER, Ms. ESHOO, Mr. WAXMAN, and Mr. RUSH changed their vote from "yea" to "nay."

Messrs. MANZULLO, TAYLOR of North Carolina, and BALDACCI changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The motion to reconsider was laid on the table.

Stated against:

Ms. SLAUGHTER. Madam Speaker, I was unavoidably detained due to emergency dental work during rollcall vote No. 207. Had I been present, I would have voted "no" on rollcall vote No. 207.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Ed Thomas, one of his secretaries.

ANNUAL REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mrs. BIGGERT) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

To the Congress of the United States:

In accordance with the Public Broadcasting Act of 1967, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 2000.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 28, 2001.*

GENERAL LEAVE

Mr. BONILLA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and that I may include tabular and extraneous material on H.R. 2330.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to House Resolution 183 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2330.

☐ 1402

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2230) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, with Mr. GOODLATTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas (Mr. BONILLA) and the gentlewoman from Ohio (Ms. KAPTUR) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. BONILLA).

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are delighted today to be presenting the Agricultural Appropriations bill for fiscal year 2002. I want to acknowledge the good work of the gentlewoman from Ohio (Ms. KAPTUR), my ranking member, who has contributed to this process over the last few weeks.

It has been a pleasure working with her and all the members of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies on both sides of the aisle.

I believe we have produced a good bipartisan bill that deals with a lot of the specific issues that Members are concerned about in their districts around the country, ranging from research projects to inspection issues, to FDA issues, to just any possible issue that has come up. There have been 2500-plus requests from individual Members, and we have done our best to accommodate that.

Mr. Chairman, I am just delighted that we have seen good, strong bipartisan support for the effort we have undertaken in putting this bill together.

Mr. Chairman, I am pleased to bring before the House today the fiscal year 2002 appropriations bill for Agriculture, Rural Development, the Food and Drug Administration and Related Agencies.

My goal this year has been to produce a bipartisan bill, and I believe we have done a good job in reaching that goal.

The subcommittee began work on this bill in early March, before the administration produced its budget. We had 6 public hearings beginning on March 8. The transcripts of these hearings, the administration's official statements, the detailed budget requests, several thousand questions for the record and the statements of members and the public are all contained in six hearing volumes.

In order to expedite action on this bill, we completed our subcommittee's hearings on May 6.

The subcommittee and full committee marked up the bill on June 6 and June 13 respectively.

We have tried very hard to accommodate the requests of Members, and to provide increases for critical programs. We received 2,532 individual requests for specific spending, from almost every Member of the House. Reading all of the mail I received, I can confirm to you that the interest in this bill is completely bipartisan.

This bill does have significant increases over fiscal year 2001 for programs that have always enjoyed strong bipartisan support. Those increases include:

Agricultural Research Service, $79 million;

Animal and Plant Health Inspection Service, $55 million;

Food Safety and Inspection Service, $25 million;

Farm Service Agency, $201 million;

Natural Resources Conservation Service, $77 million; and

Food and Drug Administration, $120 million.

I would like to say that I am very happy that we were able to provide significant increases for the Food and Drug Administration. I think it is vitally important for that agency to have the resources to perform its public health mission. We are able to provide FDA the following increases above last year's level:

$15 million to prevent outbreak of BSE, or Bovine Spongiform Encephalopathy, which is commonly known as "Mad Cow disease";

$10 million to increase the number of domestic and foreign inspections, and to expand import coverage in all product areas;

$10 million to reduce adverse events related to medical products;

$10 million to better protect volunteers who participate in clinical research studies;

$9 million to provide a safer food supply;

$23 million to complete construction of the replacement facility in Los Angeles that we initiated last year;

And full funding of increased pay costs for existing employees.

I want to stress how important this is. In the past, FDA and all other agencies in this bill were forced to reduce the level of services provided to the public, in order to absorb legislated payroll increases. This year, we want to be sure that does not happen. I am sure that we all want to see that there is no slippage in research, application review, inspections, loan servicing, and all the other payroll-intensive operations that are financed through our bill. We worked hard to find these resources. I am glad we were able to do it, and I am sure the agencies will put them to good use.

Mr. Chairman, we all refer to this bill as an agriculture bill, but it does far more than assisting basic agriculture. It also supports human nutrition, the environment, and food, drug, and medical safety. This is a bill that will deliver benefits to every one of our constituents every day no matter what kind of district they represent.

I would say to all Members that they can support this bill and tell all of their constituents that they voted to improve their lives while maintaining fiscal responsibility.

The bill is a bipartisan product with a lot of hard work and input from both sides of the aisle. I would like to thank the gentleman from Florida, (Chairman YOUNG), and the gentleman from Wisconsin, (Mr. OBEY), who serve as the distinguished chairman and ranking member of the Committee on Appropriations. I would also like to thank all my subcommittee colleagues: the gentleman from New York (Mr. WALSH); the gentleman from Georgia (Mr. KINGSTON); the gentleman from Washington (Mr. NETHERCUTT); the gentleman from Iowa (Mr. LATHAM); the gentlewoman from Missouri (Mrs. EMERSON); the gentleman from Virginia (Mr. GOODE); the gentleman from Illinois (Mr. LAHOOD); the gentlewoman from Connecticut (Ms. DELAURO); the gentleman from New York (Mr. HINCHEY) the gentleman from Florida (Mr. BOYD).

In particular, I want to thank the gentlewoman from Ohio (Ms. KAPTUR), the distinguished ranking member of the subcommittee, for all her good work on this bill this year and the years in the past.

Mr. Chairman, I would like to include at this point in the RECORD tabular material relating to the bill.

Mr. Chairman, I include the following Comparative Statement of Budget Authority for the RECORD:

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - AGRICULTURAL PROGRAMS					
Production, Processing, and Marketing					
Office of the Secretary	2,908	2,992	3,015	+107	+23
Executive Operations:					
Chief Economist	7,446	7,648	7,704	+258	+56
National Appeals Division	12,394	12,766	12,869	+475	+103
Office of Budget and Program Analysis	6,750	6,978	7,041	+291	+63
Office of the Chief Information Officer	10,029	10,261	10,325	+296	+64
Common computing environment	39,912	59,369	59,369	+19,457	
Office of the Chief Financial Officer	5,160	5,335	5,384	+224	+49
Total, Executive Operations	81,691	102,357	102,692	+21,001	+335
Office of the Assistant Secretary for Administration	628	647	652	+24	+5
Agriculture buildings and facilities and rental payments	182,345	187,581	187,647	+5,302	+66
Payments to GSA	(125,266)	(130,266)	(130,266)	(+5,000)	
Building operations and maintenance	(31,136)	(31,372)	(31,438)	(+302)	(+66)
Repairs, renovations, and construction	(25,943)	(25,943)	(25,943)		
Hazardous materials management	15,665	15,665	15,665		
Departmental administration	35,931	37,079	37,398	+1,467	+319
Outreach for socially disadvantaged farmers	2,993	2,993	2,993		
Office of the Assistant Secretary for Congressional Relations	3,560	3,684	3,718	+158	+34
Office of Communications	8,604	8,894	8,975	+371	+81
Office of the Inspector General	68,715	70,839	71,429	+2,714	+590
Office of the General Counsel	31,012	32,627	32,937	+1,925	+310
Office of the Under Secretary for Research, Education and Economics	555	573	578	+23	+5
Economic Research Service	66,891	67,200	67,620	+729	+420
National Agricultural Statistics Service	100,550	113,786	114,546	+13,996	+760
Census of Agriculture	(14,967)	(25,350)	(25,456)	(+10,489)	(+106)
Agricultural Research Service	896,835	915,591	971,365	+74,530	+55,774
Buildings and facilities	74,037	30,462	78,862	+4,825	+48,400
Total, Agricultural Research Service	970,872	946,053	1,050,227	+79,355	+104,174
Cooperative State Research, Education, and Extension Service:					
Research and education activities	505,079	407,319	507,452	+2,373	+100,133
Native American Institutions Endowment Fund	(7,100)	(7,100)	(7,100)		
Extension activities	432,475	413,404	436,029	+3,554	+22,625
Integrated activities	41,849	41,849	43,355	+1,506	+1,506
Total, Cooperative State Research, Education, and Extension Service	979,403	862,572	986,836	+7,433	+124,264
Office of the Under Secretary for Marketing and Regulatory Programs	634	654	660	+26	+6
Animal and Plant Health Inspection Service:					
Salaries and expenses	529,397	702,925	587,386	+57,989	-115,539
AQI user fees	(84,813)	(84,813)	(84,813)		
Buildings and facilities	9,848	5,189	7,189	-2,659	+2,000
Total, Animal and Plant Health Inspection Service	539,245	708,114	594,575	+55,330	-113,539
Agricultural Marketing Service:					
Marketing Services	65,191	71,430	71,774	+6,583	+344
Standardization user fees	(4,000)	(5,000)	(5,000)	(+1,000)	
(Limitation on administrative expenses, from fees collected)	(60,596)	(60,596)	(60,596)		
Funds for strengthening markets, income, and supply (transfer from section 32)	13,438	13,874	13,995	+557	+121
Payments to states and possessions	1,347	1,347	1,347		
Total, Agricultural Marketing Service	79,976	86,651	87,116	+7,140	+465
Grain Inspection, Packers and Stockyards Administration:					
Salaries and expenses	31,350	32,907	33,117	+1,767	+210
Inspection and weighing services	(42,463)	(42,463)	(42,463)		
Office of the Under Secretary for Food Safety	459	476	481	+22	+5
Food Safety and Inspection Service	695,171	715,542	720,652	+25,481	+5,110
Lab accreditation fees 1/	(998)	(1,000)	(1,000)	(+2)	
Total, Food Safety and Inspection Service	695,171	715,542	720,652	+25,481	+5,110
Total, Production, Processing, and Marketing	3,899,158	3,999,886	4,123,529	+224,371	+123,643
Farm Assistance Programs					
Office of the Under Secretary for Farm and Foreign Agricultural Services	588	606	611	+23	+5
Farm Service Agency:					
Salaries and expenses	826,563	939,030	945,993	+119,430	+6,963
(Transfer from export loans)	(588)	(790)	(797)	(+209)	(+7)
(Transfer from P.L. 480)	(813)	(972)	(980)	(+167)	(+8)
(Transfer from ACIF)	(264,731)	(272,595)	(274,769)	(+10,038)	(+2,174)
Subtotal, Transfers from program accounts	(266,132)	(274,357)	(276,546)	(+10,414)	(+2,189)
Total, salaries and expenses	(1,092,695)	(1,213,387)	(1,222,539)	(+129,844)	(+9,152)
State mediation grants	2,993	2,993	2,993		
Dairy indemnity program	450	100	100	-350	
Subtotal, Farm Service Agency	830,006	942,123	949,086	+119,080	+6,963

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Agricultural Credit Insurance Fund Program Account:					
Loan authorizations:					
Farm ownership loans:					
Direct	(127,722)	(128,000)	(128,000)	(+278)	
Guaranteed	(868,086)	(1,000,000)	(1,000,000)	(+131,914)	
Subtotal	(995,808)	(1,128,000)	(1,128,000)	(+132,192)	
Farm operating loans:					
Direct	(522,891)	(600,000)	(600,000)	(+77,109)	
Unsubsidized guaranteed	(1,075,468)	(1,500,000)	(1,500,000)	(+424,532)	
Subsidized guaranteed	(369,100)	(500,000)	(500,000)	(+130,900)	
Subtotal	(1,967,459)	(2,600,000)	(2,600,000)	(+632,541)	
Indian tribe land acquisition loans	(2,002)	(2,000)	(2,000)	(-2)	
Emergency disaster loans	(24,947)	(25,000)	(25,000)	(+53)	
Boll weevil eradication loans	(100,000)	(100,000)	(100,000)		
Total, Loan authorizations	(3,090,216)	(3,855,000)	(3,855,000)	(+764,784)	
Loan subsidies:					
Farm ownership loans:					
Direct	13,756	3,366	3,366	-10,390	
Guaranteed	4,427	4,500	4,500	+73	
Subtotal	18,183	7,866	7,866	-10,317	
Farm operating loans:					
Direct	47,251	53,580	53,580	+6,329	
Unsubsidized guaranteed	14,738	52,650	52,650	+37,912	
Subsidized guaranteed	30,119	67,800	67,800	+37,681	
Subtotal	92,108	174,030	174,030	+81,922	
Indian tribe land acquisition	322	118	118	-204	
Emergency disaster loans	6,120	3,363	3,363	-2,757	
Total, Loan subsidies	116,733	185,377	185,377	+68,644	
ACIF expenses:					
Salaries and expense (transfer to FSA)	264,731	272,595	274,769	+10,038	+2,174
Administrative expenses	4,130	8,000	8,000	+3,870	
Total, ACIF expenses	268,861	280,595	282,769	+13,908	+2,174
Total, Agricultural Credit Insurance Fund	385,594	465,972	468,146	+82,552	+2,174
(Loan authorization)	(3,090,216)	(3,855,000)	(3,855,000)	(+764,784)	
Total, Farm Service Agency	1,215,600	1,408,095	1,417,232	+201,632	+9,137
Risk Management Agency	65,453	74,752	75,142	+9,689	+390
Total, Farm Assistance Programs	1,281,641	1,483,453	1,492,985	+211,344	+9,532
Corporations					
Federal Crop Insurance Corporation:					
Federal crop insurance corporation fund	2,804,660	3,037,000	3,037,000	+232,340	
Commodity Credit Corporation Fund:					
Reimbursement for net realized losses	25,264,441	23,116,000	23,116,000	-2,148,441	
Operations and maintenance for hazardous waste management (limitation on administrative expenses)	(5,000)	(5,000)	(5,000)		
Total, Corporations	28,069,101	26,153,000	26,153,000	-1,916,101	
Total, title I, Agricultural Programs	33,249,900	31,636,339	31,769,514	-1,480,386	+133,175
(By transfer)	(266,132)	(274,357)	(276,546)	(+10,414)	(+2,189)
(Loan authorization)	(3,090,216)	(3,855,000)	(3,855,000)	(+764,784)	
(Limitation on administrative expenses)	(108,059)	(108,059)	(108,059)		
TITLE II - CONSERVATION PROGRAMS					
Office of the Under Secretary for Natural Resources and Environment	709	730	736	+27	+6
Natural Resources Conservation Service:					
Conservation operations	712,545	773,454	782,762	+70,217	+9,308
Watershed surveys and planning	10,844	10,960	11,030	+186	+70
Watershed and flood prevention operations	99,224	100,413	105,743	+6,519	+5,330
Resource conservation and development	41,923	43,048	48,361	+6,438	+5,313
Forestry incentives program	6,311			-6,311	
Agricultural Conservation Program (rescission)			-45,000	-45,000	-45,000
Total, Natural Resources Conservation Service	870,847	927,875	902,896	+32,049	-24,979
Total, title II, Conservation Programs	871,556	928,605	903,632	+32,076	-24,973
TITLE III - RURAL DEVELOPMENT PROGRAMS					
Office of the Under Secretary for Rural Development	604	623	628	+24	+5

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Rural Development:					
Rural community advancement program	760,864	692,125	767,465	+6,601	+75,340
RD expenses:					
Salaries and expenses	130,084	133,722	134,733	+4,649	+1,011
(Transfer from RHIF)	(408,333)	(419,741)	(422,910)	(+14,577)	(+3,169)
(Transfer from RDLFP)	(3,632)	(3,733)	(3,761)	(+129)	(+28)
(Transfer from RETLP)	(34,640)	(35,604)	(36,322)	(+1,682)	(+718)
(Transfer from RTB)	(2,993)	(3,082)	(3,107)	(+114)	(+25)
Total, RD expenses	(579,682)	(595,882)	(600,833)	(+21,151)	(+4,951)
Total, Rural Development	890,948	825,847	902,198	+11,250	+76,351
Rural Housing Service:					
Rural Housing Insurance Fund Program Account:					
Loan authorizations:					
Single family (sec. 502)	(1,071,628)	(1,064,650)	(1,064,650)	(-6,978)	....
Unsubsidized guaranteed	(3,136,429)	(3,137,968)	(3,137,968)	(+1,539)	....
Subtotal, Single family	(4,208,057)	(4,202,618)	(4,202,618)	(-5,439)	....
Housing repair (sec. 504)	(32,324)	(32,324)	(32,324)	....	....
Rental housing (sec. 515)	(114,070)	(114,068)	(114,068)	(-2)	....
Site loans (sec. 524)	(5,152)	(5,090)	(5,090)	(-62)	....
Multi-family housing guarantees (sec. 538)	(99,780)	(99,770)	(99,770)	(-10)	....
Multi-family housing credit sales	(1,779)	(1,778)	(1,778)	(-1)	....
Single family housing credit sales	(10,000)	(10,000)	(10,000)	....	....
Self-help housing land development fund	(4,998)	(5,000)	(5,000)	(+2)	....
Total, Loan authorizations	(4,476,160)	(4,470,648)	(4,470,648)	(-5,512)	....
Loan subsidies:					
Single family (sec. 502)	176,371	140,108	140,108	-36,263	....
Unsubsidized guaranteed	7,384	40,166	40,166	+32,782	....
Subtotal, Single family	183,755	180,274	180,274	-3,481	....
Housing repair (sec. 504)	11,456	10,386	10,386	-1,070	....
Rental housing (sec. 515)	56,202	48,274	48,274	-7,928	....
Site loans (sec. 524)	....	28	28	+28	....
Multi-family housing guarantees (sec. 538)	1,517	3,921	3,921	+2,404	....
Multi-family housing credit sales	872	750	750	-122	....
Self-help housing land development fund	278	254	254	-24	....
Total, Loan subsidies	254,080	243,887	243,887	-10,193	....
RHIF administrative expenses (transfer to RD)	408,333	419,741	422,910	+14,577	+3,169
Rental assistance program:					
(Sec. 521)	672,604	687,604	687,604	+15,000	....
(Sec. 502(c)(5)(D))	5,900	5,900	5,900	....	....
Total, Rental assistance program	678,504	693,504	693,504	+15,000	....
Total, Rural Housing Insurance Fund	1,340,917	1,357,132	1,360,301	+19,384	+3,169
(Loan authorization)	(4,476,160)	(4,470,648)	(4,470,648)	(-5,512)	....
Mutual and self-help housing grants	33,925	33,925	33,925	....	....
Rural housing assistance grants	43,903	38,914	38,914	-4,989	....
Farm labor program account	29,934	28,431	31,431	+1,497	+3,000
Subtotal, grants and payments	107,762	101,270	104,270	-3,492	+3,000
Total, Rural Housing Service	1,448,679	1,458,402	1,464,571	+15,892	+6,169
(Loan authorization)	(4,476,160)	(4,470,648)	(4,470,648)	(-5,512)	....
Rural Business-Cooperative Service:					
Rural Development Loan Fund Program Account:					
(Loan authorization)	(38,172)	(38,171)	(38,171)	(-1)	....
Loan subsidy	19,433	16,494	16,494	-2,939	....
Administrative expenses (transfer to RD)	3,632	3,733	3,761	+129	+28
Total, Rural Development Loan Fund	23,065	20,227	20,255	-2,810	+28
Rural Economic Development Loans Program Account:					
(Loan authorization)	(14,969)	(14,966)	(14,966)	(-3)	....
Direct subsidy	3,902	3,616	3,616	-286	....
Rural cooperative development grants	6,486	6,486	7,500	+1,014	+1,014
Rural empowerment zones and enterprise community grants	....	14,967	14,967	+14,967	....
Total, Rural Business-Cooperative Service	33,453	45,296	46,338	+12,885	+1,042
(Loan authorization)	(53,141)	(53,137)	(53,137)	(-4)	....

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Rural Utilities Service:					
Rural Electrification and Telecommunications Loans Program Account:					
Loan authorizations:					
Electric:					
Direct, 5%	(121,128)	(121,107)	(121,107)	(-21)	
Direct, Municipal rate	(294,358)	(294,358)	(794,358)	(+500,000)	(+500,000)
Direct, FFB	(1,600,000)	(1,600,000)	(2,600,000)	(+1,000,000)	(+1,000,000)
Direct, Treasury rate	(500,000)	(500,000)	(500,000)		
Guaranteed electric	(100,000)	(100,000)	(100,000)		
Subtotal, Electric	(2,615,486)	(2,615,465)	(4,115,465)	(+1,499,979)	(+1,500,000)
Telecommunications:					
Direct, 5%	(74,835)	(74,827)	(74,827)	(-8)	
Direct, Treasury rate	(300,000)	(300,000)	(300,000)		
Direct, FFB	(120,000)	(120,000)	(120,000)		
Subtotal, Telecommunications	(494,835)	(494,827)	(494,827)	(-8)	
Total, Loan authorizations	(3,110,321)	(3,110,292)	(4,610,292)	(+1,499,971)	(+1,500,000)
Loan subsidies:					
Electric:					
Direct, 5%	12,064	3,609	3,609	-8,455	
Guaranteed electric	10	80	80	+70	
Direct, Municipal rate	20,458			-20,458	
Subtotal, Electric	32,532	3,689	3,689	-28,843	
Telecommunications:					
Direct, 5%	7,753	1,736	1,736	-6,017	
Direct, Treasury rate		300	300	+300	
Subtotal, Telecommunications	7,753	2,036	2,036	-5,717	
Total, Loan subsidies	40,285	5,725	5,725	-34,560	
RETLP administrative expenses (transfer to RD)	34,640	35,604	36,322	+1,682	+718
Total, Rural Electrification and Telecommunications Loans Program Account	74,925	41,329	42,047	-32,878	+718
(Loan authorization)	(3,110,321)	(3,110,292)	(4,610,292)	(+1,499,971)	(+1,500,000)
Rural Telephone Bank Program Account:					
(Loan authorization)	(174,615)		(174,615)		(+174,615)
Direct loan subsidy	2,584		2,584		+2,584
RTB administrative expenses (transfer to RD)	2,993	3,082	3,107	+114	+25
Total, Rural Telephone Bank Program Account	5,577	3,082	5,691	+114	+2,609
High energy costs grants (by transfer)		(24,000)	(24,000)	(+24,000)	
Distance learning and telemedicine program:					
(Loan authorization)	(400,000)	(300,000)	(300,000)	(-100,000)	
(Loan authorization) (proposal)		(100,000)	(100,000)	(+100,000)	
Grants	26,941	26,941	26,941		
Total, Rural Utilities Service	107,443	71,352	74,679	-32,764	+3,327
(Loan authorization)	(3,684,936)	(3,510,292)	(5,184,907)	(+1,499,971)	(+1,674,615)
Total, title III, Rural Economic and Community Development Programs	2,481,127	2,401,520	2,488,414	+7,287	+86,894
(By transfer)	(449,598)	(486,160)	(490,100)	(+40,502)	(+3,940)
(Loan authorization)	(8,214,237)	(8,034,077)	(9,708,692)	(+1,494,455)	(+1,674,615)
TITLE IV - DOMESTIC FOOD PROGRAMS					
Office of the Under Secretary for Food, Nutrition and Consumer Services	569	587	592	+23	+5
Food and Nutrition Service:					
Child nutrition programs	4,407,445	4,729,490	4,746,038	+338,593	+16,548
Transfer from section 32	5,127,579	5,357,256	5,340,708	+213,129	-16,548
Discretionary spending	6,486	2,000	2,000	-4,486	
Total, Child nutrition programs	9,541,510	10,088,746	10,088,746	+547,236	
Special supplemental nutrition program for women, infants, and children (WIC)	4,043,086	4,137,086	4,137,086	+94,000	
Food stamp program:					
Expenses	18,618,228	19,556,436	19,556,436	+938,208	
Reserve	100,000	1,000,000	1,000,000	+900,000	
Nutrition assistance for Puerto Rico	1,301,000	1,335,550	1,335,550	+34,550	
The emergency food assistance program	100,000	100,000	100,000		
Total, Food stamp program	20,119,228	21,991,986	21,991,986	+1,872,758	
Commodity assistance program	139,991	139,991	152,813	+12,822	+12,822
Rescission		-5,300			+5,300
Food donations programs:					
Needy family program	1,081	1,081	1,081		
Elderly feeding program	149,670	149,668	149,668	-2	
Total, Food donations programs	150,751	150,749	150,749	-2	

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Food program administration	116,550	125,546	126,656	+10,106	+1,110
Total, Food and Nutrition Service	34,111,116	36,628,804	36,648,036	+2,536,920	+19,232
Total, title IV, Domestic Food Programs	34,111,685	36,629,391	36,648,628	+2,536,943	+19,237
TITLE V - FOREIGN ASSISTANCE AND RELATED PROGRAMS					
Foreign Agricultural Service:					
Salaries and expenses, direct appropriation	115,170	121,563	122,631	+7,461	+1,068
(Transfer from export loans)	(3,224)	(3,224)	(3,224)		
(Transfer from P.L. 480)	(1,033)	(1,033)	(1,033)		
Total, Program level	(119,427)	(125,820)	(126,888)	(+7,461)	(+1,068)
Public Law 480 Program and Grant Accounts:					
Program account:					
Loan authorization, direct	(159,327)	(139,399)	(150,000)	(-9,327)	(+10,601)
Loan subsidy	113,935	113,935	122,600	+8,665	+8,665
Ocean freight differential	20,277	20,277	20,277		
Title II - Commodities for disposition abroad:					
Program level	(835,159)	(835,159)	(835,159)		
Appropriation	835,159	835,159	835,159		
Salaries and expenses:					
Foreign Agricultural Service (transfer to FAS)	1,033	1,033	1,033		
Farm Service Agency (transfer to FSA)	813	972	980	+167	+8
Subtotal	1,846	2,005	2,013	+167	+8
Total, Public Law 480:					
Program level	(835,159)	(835,159)	(835,159)		
Appropriation	971,217	971,376	980,049	+8,832	+8,673
CCC Export Loans Program Account (administrative expenses):					
Salaries and expenses (Export Loans):					
General Sales Manager (transfer to FAS)	3,224	3,224	3,224		
Farm Service Agency (transfer to FSA)	588	790	797	+209	+7
Total, CCC Export Loans Program Account	3,812	4,014	4,021	+209	+7
Total, title V, Foreign Assistance and Related Programs	1,090,199	1,096,953	1,106,701	+16,502	+9,748
(By transfer)	(4,257)	(4,257)	(4,257)		
TITLE VI - FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES					
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Food and Drug Administration					
Salaries and expenses, direct appropriation	1,066,173	1,173,673	1,180,623	+114,450	+6,950
Prescription drug user fee act	(149,273)	(161,716)	(161,716)	(+12,443)	
Subtotal	(1,215,446)	(1,335,389)	(1,342,339)	(+126,893)	(+6,950)
Export and certification	(5,992)	(6,181)	(6,181)	(+189)	
Payments to GSA	(104,736)	(105,116)	(105,116)	(+380)	
Drug reimportation		2,950	2,950	+2,950	
Buildings and facilities	31,281	34,281	34,281	+3,000	
Total, Food and Drug Administration	1,097,454	1,210,904	1,217,854	+120,400	+6,950
INDEPENDENT AGENCIES					
Commodity Futures Trading Commission	67,850	70,400	70,700	+2,850	+300
Farm Credit Administration (limitation on administrative expenses)	(36,719)	(36,700)	(36,700)	(-19)	
Total, title VI, Related Agencies and Food and Drug Administration	1,165,304	1,281,304	1,288,554	+123,250	+7,250
TITLE VII - GENERAL PROVISIONS					
Hunger fellowships	1,996	1,996	4,000	+2,004	+2,004
National Sheep Industry Improvement Center revolving fund	5,000		1,000	-4,000	+1,000
FDA drug reimportation	22,949			-22,949	
CCC Apple market loss (contingent emergency appropriations)			150,000	+150,000	+150,000
Total, title VII, General provisions	29,945	1,996	155,000	+125,055	+153,004
TITLE VIII - FY 2001					
NATURAL DISASTER ASSISTANCE AND OTHER					
EMERGENCY APPROPRIATIONS					
CHAPTER 1					
DEPARTMENT OF AGRICULTURE					
Office of the Chief Information Officer:					
Common computing environment (contingent emergency appropriations)	19,457			-19,457	
Departmental administration (contingent emergency appropriations)	200			-200	

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Farm Service Agency					
Salaries and expenses (contingent emergency appropriations)	49,890			-49,890	
Emergency conservation program (contingent emergency appropriations)	79,824			-79,824	
Federal Crop Insurance Corporation					
Federal crop insurance corporation fund (emergency appropriations)	12,971			-12,971	
Natural Resources Conservation Service					
Watershed and flood prevention operations (contingent emergency appropriations)	109,758			-109,758	
Rural Development					
Rural community advancement program (contingent emergency appropriations)	199,560			-199,560	
Total, Department of Agriculture	471,660			-471,660	
General Provisions					
Conservation technical assistance (contingent emergency appropriations)	34,923			-34,923	
CCC Disease loss compensation (contingent emergency appropriations)	19,000			-19,000	
Dairy assistance (contingent emergency appropriations)	473,000			-473,000	
CCC Livestock assistance program (contingent emergency appropriations)	488,922			-488,922	
WRP Additional acreage enrollments (contingent emergency appropriations)	117,000			-117,000	
CCC Sheep loss assistance (contingent emergency appropriations)	2,395			-2,395	
CCC Citrus canker compensation (contingent emergency appropriations)	57,872			-57,872	
CCC Apple/potatoes market loss and quality (contingent emergency appropriations)	137,696			-137,696	
CCC Honey assistance (contingent emergency appropriations)	20,000			-20,000	
CCC Livestock indemnity program (contingent emergency appropriations)	9,978			-9,978	
CCC Wool/mohair assistance (contingent emergency appropriations)	19,956			-19,956	
CCC Crop loss disaster assistance (contingent emergency appropriations)	1,622,000			-1,622,000	
CCC Cranberry assistance (contingent emergency appropriations)	19,956			-19,956	
Shared appreciation loan arrangements (contingent emergency appropriations)	2,000			-2,000	
SC grain dealer's guarantee fund (contingent emergency appropriations)	2,495			-2,495	
Puerto Rico food stamp block grant	-5,000			+5,000	
Hawaii sugar transportation cost assistance (contingent emergency appropriations)	7,184			-7,184	
Rural development cooperative grants (contingent emergency appropriations).	9,978			-9,978	
Business and industry loans:					
(Loan authorization)	(1,160,232)			(-1,160,232)	
Loan subsidy (contingent emergency appropriations)	9,978			-9,978	
CCC Tobacco quota compensation (contingent emergency appropriations)	3,000			-3,000	
CCC Cooperative assistance (contingent emergency appropriations)	19,956			-19,956	
CCC Burley tobacco (contingent emergency appropriations)	50,000			-50,000	
CCC LDP delinquent borrower (contingent emergency appropriations)	5,000			-5,000	
Food stamp excess shelter allowance (contingent emergency appropriations)	15,000			-15,000	
Food stamp vehicle allowance (contingent emergency appropriations)	25,000			-25,000	
Total, General Provisions	3,167,289			-3,167,289	
Total, title VIII, FY 2001	3,638,949			-3,638,949	
TITLE X - ANTI-DUMPING					
Anti-dumping	39,912			-39,912	
Grand total:					
New budget (obligational) authority	76,678,577	73,976,108	74,360,443	-2,318,134	+384,335
Appropriations	(73,034,628)	(73,981,408)	(74,210,443)	(+1,175,815)	(+229,035)
Rescission		(-5,300)			(+5,300)
Emergency appropriations	(12,971)			(-12,971)	
Contingent emergency appropriations	(3,630,978)		(150,000)	(-3,480,978)	(+150,000)
(By transfer)	(719,987)	(764,774)	(770,903)	(+50,916)	(+6,129)
(Loan authorization)	(11,463,780)	(12,028,476)	(13,713,692)	(+2,249,912)	(+1,685,216)
(Limitation on administrative expenses)	(144,778)	(144,759)	(144,759)	(-	
RECAPITULATION					
Title I - Agricultural programs	33,249,900	31,636,339	31,769,514	-1,480,386	+133,175
Title II - Conservation programs	871,556	928,605	903,632	+32,076	-24,973
Title III - Rural economic and community development programs	2,481,127	2,401,520	2,488,414	+7,287	+86,894
Title IV - Domestic food programs	34,111,685	36,629,391	36,648,628	+2,536,943	+19,237
Title V - Foreign assistance and related programs	1,090,199	1,096,953	1,106,701	+16,502	+9,748
Title VI - Related agencies and Food and Drug Administration	1,165,304	1,281,304	1,288,554	+123,250	+7,250
Title VII - General provisions	29,945	1,996	155,000	+125,055	+153,004
Title VIII, FY 2001	3,638,949			-3,638,949	
Title X, Anti-dumping	39,912			-39,912	
Total, new budget (obligational) authority	76,678,577	73,976,108	74,360,443	-2,318,134	+384,335

1/ In addition to appropriation.

Mr. Chairman, I reserve the balance of my time.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me rise to say that this is a good bill that, in fact, is getting better at every stage of the legislative process.

The gentleman from Texas (Mr. BONILLA), chairman of the Subcommittee, and our committee staff have worked to draft a fair bill within tight budget allocations; but the underlying amounts in different sections of the bill are far from what is necessary, given many of the needs of rural America and our food assistance programs.

This is the first bill managed by our new chairman, the gentleman from Texas (Mr. BONILLA). Let me congratulate him on his maiden voyage as chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies and thank the gentleman for his cooperation throughout.

What we all learn together, hopefully, will put us in a position to continue to work towards the best possible bill for America's future.

I want to thank the subcommittee staff: Hank Moore; Martin Delgado; Maureen Holohan; Joanne Orndorff; Jim Richards; Roger Szemraj; and our detailee, Leslie Barrack.

I also want to thank our new minority staff member, Martha Foley, very much for her hard work.

Mr. Chairman, let us put this bill in perspective. To begin with, overall we have a spending level for 2002 of $74,360 billion of which $15,669 billion is discretionary spending, plus an additional $150 million for the Hinchey apple disaster provisions.

Several times today already, each of us have been touched by agriculture and other agencies in this bill: the food that we have eaten; some of the fabrics we are wearing; perhaps, even the blended fuels that were used in the vehicles that brought us to work; or the medications or vitamins that we take on any day.

We have been benefited by the research in this bill, by education and training, by inspection services that are operating at red alert levels now to keep hoof and mouth disease and mad cow disease out of this country, and by marketing services that take the bounty of this land around the world.

Truly, this is the committee that is concerned about food, fiber, the fuels of the future, and the condition of our forests.

Mr. Chairman, nearly 80 percent of the spending in this bill is mandatory spending, including our farm price support programs. Only one-fifth of the bill, 20 percent, is discretionary. Half of the spending in the bill is for food programs which keep America's people the best-fed people on Earth.

The bill, as reported, is about $260 million in discretionary spending above the President's request, but a little more than $3 billion below this year's level due to the absence of natural disaster and other emergency farm provisions.

Earlier, during the discussion on the rule, we discussed several improvements that should be included in this bill that amendments could make possible, but amendments that were denied in the Committee on Rules.

There was an amendment offered by the gentlewoman from Connecticut (Ms. DELAURO) that would recognize that we need more money for the WIC program, the Women, Infants, and Children feeding program, due to the fact that participation is running 80,000 people more per month than the administration had expected predominantly due to higher unemployment levels.

The amendment of the gentleman from New York (Mr. HINCHEY) and others makes room for helping small specialty crop producers who are facing hard times. He has been successful in dealing with one sector, the apple sector, in this bill.

My own effort adopted by the full committee insists that the integrity of producer votes is protected in the pork checkoff program. It directs funds be spent only on those programs that the producers have approved and this directive has been included in the final bill.

Mr. Chairman, there are also other elements that we still need to work through as we amend here on the floor and then as we move to the Senate: one is the Global Food for Education program, which the gentleman from Massachusetts (Mr. MCGOVERN) and the gentlewoman from Missouri (Mrs. EMERSON) have championed here in the House; improved food safety and increased food inspection need more attention; also new biofuels funding, including ethanol, biodiesel, and biomass-related fuel production to help move America toward energy independence.

There are six titles in this bill, and I just want to highlight a couple major points in each of those.

In Title I, Agricultural Programs, we have been able to take the first steps to fund relocation of some of our important laboratories in Arizona, as well as consolidating and modernizing our key agricultural research facilities in Ames, Iowa.

We are just so happy to be able to make progress there, the most important labs in our country that protect the entire livestock production in our Nation, as well as maintain the best veterinary service that the world knows.

In the APHIS, Animal Planned Health Inspection Service, we have been able to improve by $2 million and increase the buildings account for a facility at the Miami International Airport.

In our conservation programs, the NRCS has scored below the administration request by $25 million.

In rural development in title III, the bill increases these important programs by $87 million over the research request, in the important account of water and wastewater disposal grants funding is included at a level of $75 million over the request.

There is a million dollars included for rural cooperative development grants beyond the request, and $3 million to restore the rural telephone loan program that the administration proposed to end.

In Title IV, Domestic Food Programs, the $18 million in increases above the request will help us to expand the TEFAP program, Temporary Emergency Food Assistance Program, and the Commodity Supplemental Food Program, looking at five new States, Wisconsin, Washington, Pennsylvania, South Dakota, and Missouri.

I mentioned the sufficiency of the WIC program level a little bit earlier. We have to keep our eye on that particularly as we move towards conference with the Senate.

In title V, we have provided a level of 9 million additional dollars in the PL480 title I program above the request level.

In title VI in the Food and Drug Administration, we have provided more than $100 million over the 2001 enacted level. In addition, the bill includes a contingent appropriation of $2.9 million for continued funding of last year's prescription drug importation provision.

Finally, I mentioned the pork checkoff and the apple programs as being included in the final bill that is coming to the floor.

Overall, this bill is a good one and is getting better. It should be one that truly embraces the needs and the challenges of the 21st century.

I will support it and encourage our colleagues to support it. But I also will definitely vote for a number of amendments being offered here on the floor today that can make this bill a hallmark of the best America can do when we as a Congress have the will to do.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the Chairman of the Committee on Appropriations, my friend.

Mr. YOUNG of Florida. Mr. Chairman, I first want to congratulate the gentleman from Texas (Mr. BONILLA). This is the gentleman's first year as a chairman of a Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, and he has done an outstanding job.

The gentleman came as a seasoned Member. The gentleman took over this very important role as chairman of the subcommittee, and he not only has produced a good bill, but he produced it in record time.

Although, he is a new chairman, he was the first one with a markup, and I congratulate the gentleman.

Mr. Chairman, I also congratulate the gentlewoman from Ohio (Ms. KAPTUR), the ranking minority member, who worked very well in partnership to produce a pretty good bipartisan bill.

As usual, there will be some differences, as we proceed, and proceed we will, but I will urge Members to support the bill and be very logical and realistic as we approach the issue of amendments.

Now, on the subject of amendments. We are trying to accommodate Members, as I announced yesterday, to assess where we were in the afternoon and see if there was some way to get Members out of here at a reasonable time this evening.

It is pretty obvious we cannot complete consideration of this bill today, so I see no reason to go on into the late hours of the night or the wee hours of the morning.

However, in order to arrive at a reasonable adjournment time today, it is going to be necessary for Members to be willing to limit some debate, to agree to some time limits, which the gentleman from Wisconsin (Mr. OBEY) and I are working on this very minute.

Also, I would like for the Members to know that if Members have an amendment that they would like to have considered on this bill, it would be a good idea if they would advise the gentlewoman from Ohio (Ms. KAPTUR) or the gentleman from Wisconsin (Mr. OBEY) on that side or myself and the gentleman from Texas (Mr. BONILLA) on this side so that we can put those potential amendments into the list of the universe of amendments that we have to deal with.

We will be better able to manage this bill if we can do that. I put Members on notice that it would be a good idea to do that as soon as possible.

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Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would simply like to repeat what the gentleman just said. For the benefit of all Members on the floor or all Members whose staff may be watching in their offices, every Member is coming up and telling us they want to get out of here early tonight. It is my understanding that the leadership intends to try to make that happen. But we need to know which Members intend to offer their amendment and which Members do not intend to offer their amendments.

So I would ask every single Member on our side of the aisle, if they are contemplating an amendment or a colloquy, because yesterday we took almost 2 hours on colloquies, if they are contemplating any of that, they need to let us know immediately, because we need to do two things.

We need, first of all, to try to establish which amendments are going to be offered today and how much time is going to be taken on them. We have had the cooperation of five or six Members who have told us that they will be happy to settle for 10 minutes a side, for instance. We need to fill out the rest of that. We need to know how far we are going to get in the bill today. Then if we can reach agreement on that, then that enables us to have some idea, perhaps, of what we can package so that we know what we are facing when we get back.

But what I would urge Members not to do to us is to neglect to contact us now, then see their point in the bill passed, so their amendment is not in order, and then try to redraft their amendment as a look-back at the end of the bill. We will not save any time that way.

If Members have amendments, we need them to be prepared now to bring them up today in the regular order on the bill so that we can get out of here at a reasonable time.

Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for those comments. We are working hard. Now, if we get the cooperation of the membership, we can accomplish quite a bit of consideration on this bill today and still get us out of here at a reasonable time, and we will talk about that time a little later once we see what the universe of amendments will be for today.

With that, again, I want to congratulate the gentleman from Texas (Chairman BONILLA).

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. DELAURO), a very hard-working and able member of our subcommittee.

Ms. DELAURO. Mr. Chairman, I want to thank the gentleman from Texas (Chairman BONILLA) and to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the committee. I thank them for their leadership.

Given the kind of budget constraints that we have, there was a lot of hard work and a good bill that has been produced, though there are a few critical issues that remain that we need to continue to work on.

I also want to say thank you to this subcommittee and the associate staff for all of their help.

The bill addresses many of the urgent needs of American families. Let me just take a moment to focus on the crisis in agriculture today. America's economy and security relies on the strength of agriculture. Yet America's farmers are facing the toughest times since the Great Depression.

Connecticut is a leader in New England's agriculture, in eggs, peaches, milk production per cow. The Nation's oldest agriculture experiment station is just up the street from my home in New Haven. Like other farmers, Connecticut farmers face plunging commodity prices and soaring gas prices. Urban sprawl puts it in the top 10 States in lost farmland. This spring, record low temperatures eliminated almost 40 percent of our peach, pear, grape and apple crops.

I am proud of the funding for programs that reach out and help our farmers: rural development, conservation, pest management, commodity marketing assistance.

This bill also funds food safety efforts, but in my view, as I have expressed before in the House today, does not go far enough. It needs to do more. Americans are more likely to get sick from what they eat today than they were a half century ago, and outbreaks of food sickness are expected to go up by more than 15 percent over the next decade.

Each year 5,000 Americans die from food-borne illnesses, 76 million get ill, and 325,000 are hospitalized. Just 2 days ago, the Excel Corporation recalled 190,000 pounds of ground beef and pork because of possible contamination by deadly E. coli.

The Food and Drug Administration inspects all food except meat, poultry and eggs. Yet to cover the 30,000 U.S. companies that make this food, the FDA has only 400 inspectors. For the 4.1 million imported food items entering the country, the FDA has less than 120 inspectors. To address this crisis facing the families, I will offer an amendment to increase the funds for inspections and other food safety initiatives.

As we move toward the conference, I also would like to work with the chairman to address the funding shortage that threatens WIC. If the administration's unemployment predictions come true, this essential nutrition program for low-income families, which yields more than $3 in savings to the government in reduced spending on programs such as Medicaid, will, in fact, not have enough funds to serve all who are eligible, all eligible women, infants and children.

I look forward to working with the gentleman from Texas (Chairman BONILLA) and the gentlewoman from Ohio (Ms. KAPTUR) to address these important issues and others as we debate the bill.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I, too, want to rise in, in a way, admiration of the committee for their work on this particular piece of legislation, on this bill. It is truly commendable in a situation where profligate spending in this body is the norm, it is commendable to have a bill coming here that is only 1.5 percent above last year's spending and only 1.7 percent above the President's request.

There is no particular program in the bill with which I rise to take issue. I do wish, however, to just briefly discuss a point of concern that I have with the general tenor of our agricultural support payments. It is the fact that welfare, whether it is provided for able-bodied individuals or large corporate farmers, has a corrupting influence on both. The welfare farm subsidies keep land prices high, makes it harder for small farmers to enter into the market. Farm subsidies decrease the incentive for efficiency, which would greatly benefit the agricultural sector.

This is a list, by States, I have a list here from CBO of those States that receive a percentage of their net farm income as a result of government payments. It is quite astounding. In 1999, the State of Illinois had 112 percent of its net farm income a government check; Indiana, 93 percent; North Dakota, 93 percent; Iowa, 87 percent; Missouri, 78 percent; Montana, 77. At least 12 States have government checks representing more than 50 percent of their net farm income. This is an unsustainable activity, and I urge the committee to think carefully about it in the future.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. HINCHEY), a member of our subcommittee who single-handedly turned this bill on end and was able to get language to deal with specialty crop producers across our country, a very, very hard-working and distinguished member of our subcommittee.

Mr. HINCHEY. Mr. Chairman, I thank the gentlewoman from Ohio (Ms. KAPTUR), ranking member, for her leadership on this committee and on this issue. I also want to express my appreciation to the chairman of the subcommittee. I think that the gentleman from Texas (Mr. BONILLA), in his first year as chairman of the subcommittee, has produced a very good bill, and it has been a pleasure working with him in this endeavor.

This bill adds $260 million to the President's request for the U.S. Department of Agriculture. It increases funding for farm programs, conservation, rural development, education and research, nutrition, and food safety. When you add in the $5.5 billion in emergency agricultural spending that the House passed earlier this week, total funding for these programs is substantially increased over last year.

As with any of these bills, of course, it could be even better. I think we should have made in order the amendment of the gentlewoman from Connecticut (Ms. DELAURO) to increase funding for food safety as well as the amendment of the gentlewoman from Ohio (Ms. KAPTUR) to fund the Global School Lunch Initiative.

But the gentleman from Texas (Chairman BONILLA) has written a balanced bill that addresses important priorities for rural America.

The bill also includes $150 million for a market loss assistance program for apple growers. I offered this provision in committee with the gentleman from New York (Mr. WALSH) and the gentleman from New York (Mr. SWEENEY), and it was adopted by a strong bipartisan vote of 34 to 24.

I appreciate everything that the gentleman from Texas (Chairman BONILLA), the gentleman from Florida (Chairman YOUNG) and the gentleman from California (Chairman DREIER) have done to protect this funding.

I also would like to thank the gentleman from Washington (Mr. HASTINGS) and the gentleman from New York (Mr. REYNOLDS) for their parts in writing the rule as well.

The U.S. apple industry is suffering serious financial hardships for the fifth straight year as a result of low prices, bad weather, and plant diseases. During this time, the total value of U.S. apple production fell more than 25 percent, and losses from the 2000 crop alone will probably top $500 million. This is a nationwide figure and includes losses, not only in New York, but also in Massachusetts, Michigan, Washington State, Pennsylvania, and every other place where apples are grown as a commodity crop.

Some of the apple losses can be blamed on foreign competition, the Chinese, for example, who were found guilty of dumping apple juice concentrate into the United States at prices below production costs. Increased tariffs have not significantly improved the price of apple juice in the last year.

Apple producers in New York and the Northeast watched the value of their crop decline as a result of severe hail damage. In Michigan, growers suffered a crippling epidemic of fire blight that destroyed thousands of acres of orchards.

Compared with the billions of dollars that Congress routinely sends to commodity producers, $150 million is a drop in the bucket. This payment, however, will mean the difference between life and death for many growers across the country.

Mr. Chairman, apple growers face the same market, regulatory, trade and weather conditions that make the double AMTA payments necessary for row crop farmers. It is preposterous that our foreign policy differentiates so radically between them.

This is a good bill, Mr. Chairman. I am happy to support it.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Chairman, I have an amendment at the desk that I intend to withdraw, but first I would like to engage the chairman in a colloquy.

Mr. Chairman, I rise to acknowledge a job well done by the chairman and the ranking member. Agricultural programs are often arcane and seem to benefit only the agricultural community, but through the chairman's leadership, the committee has produced a sound bill that benefits not only the agricultural community, but the Nation as a whole.

It is my understanding that the constraints placed upon the committee prevented funding for nearly all new research projects. One such unfunded project would have been undertaken by researchers at Auburn University, one of the leading agricultural research institutions in the country. This project sought to ensure public health through the development of improvements in poultry.

Mr. Chairman, this study, which I strongly support, will continue safely and efficiently producing poultry, and in an effort to address the environmental, human and animal concerns, I ask for your immediate consideration of a $1.3 million human health, poultry-byproduct study at Auburn University. This study will determine the risks associated with poultry production and the contributions the poultry community can make to environmental stewardship and food safety through the development of innovative techniques documenting the presence of pathogens in the various phases of the production cycle and instituting techniques to eliminate them. This study, Mr. Chairman, will safeguard public health, the end-use consumer and the environment, all at minimal taxpayer expense.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. RILEY. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, first, I want to acknowledge that the gentleman from Alabama (Mr. RILEY) has worked very hard on this issue that is very important to Auburn University, and I would be pleased to work with the gentleman as we go to conference on this issue. It is going to be a difficult issue, and the gentleman and I have had discussions about that before, but we are going to give it our best shot. Again, I know how significant and how important it is to the folks in Alabama.

Mr. RILEY. Mr. Chairman, I thank the gentleman from Texas (Chairman BONILLA) for his time and his consideration. I look forward to working with him.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. BOYD), a member of our subcommittee, a rancher, and one of the most knowledgeable members of our subcommittee.

Mr. BOYD. Mr. Chairman, I want to thank the gentlewoman from Ohio for yielding me this time. I want to commend the gentleman from Texas (Mr. BONILLA), my chairman, and the gentlewoman from Ohio (Ms. KAPTUR), my ranking member, and their staff for their good work they have done on this bill.

□ 1430

Is it perfect? No, it is not perfect, but few things are. I believe this bill is as fair and as balanced a bill as is possible given the 302(b) allocations that we are working with.

The committee has produced a bill that is less than the committee appropriated last year but slightly more than the President requested for discretionary spending. We provide an additional $60 million for the Animal and Plant Health Inspection Service, that is APHIS, which is responsible for conducting inspections and quarantine activities to protect animals and plants from disease and pests. Personally, I believe we need to invest even more resources in this area. As we continue to enter trade agreements, making our borders more vulnerable to pests and diseases, and more and more people are traveling to and from our country, we put our farmers in a vulnerable situation.

Many of my colleagues have heard me talk about Citrus Canker in Florida time and again. In 1995, it was reintroduced through the Miami Airport and has now spread throughout the urban areas into the commercial groves and is threatening a $9 billion industry, a $9 billion industry, in Florida. We are spending hundreds of millions of dollars to fight this disease. If it is not eradicated, it could spread to other citrus States like Texas and California. It just makes more sense to invest the resources on the front end to make sure we are able to stop it at the borders.

Also, the threat of hoof and mouth disease entering our country is very real. We need to make sure APHIS has the resources to keep this terrible disease from spreading through our country.

The bill also provides an additional $75 million for ag research, which is of utmost importance to our farmers and consumers and to all the Nation.

More and more we see soil and water conservation linking groups that never before could seem to agree on anything. I am pleased that this is an area that the committee recognizes as being critical and has provided an additional $70 million over last year for a total of $783 million for conservation operations.

There is additional funding for rural housing and development, programs that are important to all of rural America.

Mr. Chairman, I am pleased to rise in support of this bill and encourage my colleagues to support the bill also.

Mr. BONILLA. Mr. Chairman, I reserve the balance of my time.

Ms. KAPTUR. Mr. Chairman, I would like to inquire as to our remaining time on both sides, please.

The CHAIRMAN. The gentlewoman from Ohio (Ms. KAPTUR) has 13½ minutes remaining, and the gentleman from Texas (Mr. BONILLA) has 21 minutes remaining.

Ms. KAPTUR. Could I ask the gentleman if he has any additional speakers.

Mr. BONILLA. Not at this time, but there may be more coming.

Ms. KAPTUR. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. BISHOP), a distinguished member of the authorizing committee.

Mr. BISHOP. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, this Congress can make historic progress in making agricultural programs that enable farm producers to survive in today's markets and to continue providing the highest quality commodities at the lowest cost to consumers.

The House has already passed a bill providing immediate farm relief, and the Committee on Agriculture has moved aggressively to draft a new multiyear farm bill to secure greater long-term stability. Today, we are considering a bill for the next fiscal year that provides $260 million more than the President's budget; more for research, including some $7 million more in Georgia; more for crop insurance; more in rural electric and communications loans; more for child nutrition and WIC programs; and sets aside more than $79 billion over 10 years in new emergency aid, including $7.4 billion for next year.

While I support a higher overall agriculture budget, it is time to move the process forward and resolve any differences in House and Senate negotiations. Our goal is to save our agricultural system at a time of crisis, and today we can take another step in that direction.

Mr. Chairman, while I am concerned that the bill does not give enough help to small and disadvantaged farmers and research and capacity grants for the 1890 Land Grant Universities, I support the amendment of the gentlewoman from North Carolina (Mrs. CLAYTON) to do that.

Today, Mr. Chairman, we can move the process forward to bring more help to American agriculture. I urge my colleagues to join in support of this bill. It is a good bill, it moves the process forward, takes drastic steps in the right direction; and, hopefully, we can do what we need to do for America's agriculture.

Mr. BONILLA. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Mr. Chairman, I thank the distinguished chairman, the gentleman from Texas (Mr. BONILLA), for yielding me this time; and I rise for the purpose of a brief colloquy.

As I am sure the chairman is aware, a serious threat has sprung up in wheat growing areas making the lives of our already-struggling farmers even more difficult. A fungus called Karnal bunt has been found in my district as well as in the district of our colleague, the gentleman from Texas (Mr. STENHOLM). While Karnal bunt poses no threat to humans or animals, it can make wheat kernels and flour ground from them unpalatable. At this time, a few counties have been quarantined. It appears it has been well contained, but we will have issues of compensation and appropriate action before us.

I have been working with the chairman and ranking member of the full committee, the gentleman from Texas (Mr. COMBEST) and the gentleman from Texas (Mr. STENHOLM), as well as the chairman of the Subcommittee on Conservation, Credit, Rural Development and Research, the gentleman from Oklahoma (Mr. LUCAS), but I would request the distinguished gentleman's continued assistance in working with USDA and the administration to deal with this issue appropriately and to deal with those who have been affected fairly.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. THORNBERRY. I yield to the gentleman from Texas.

Mr. STENHOLM. I thank my friend for yielding to me, and I would like to say that the situation the gentleman has described is accurate, but here are the facts to date:

Seven producers affected, 10 elevator operators affected, 17 fields tested positive, 1.4 million bushels contaminated, and 21 bushels yet to be tested. An elevator operator in my district first discovered the fungus and bunted kernels in a load of grain delivered to his facility.

For these and many other reasons, I join my colleagues in working with USDA to contain this outbreak and ensuring the critical assistance provided to producers, elevator operators, and others in agribusiness who have seen their livelihoods put on hold.

So we look forward to working with my colleague, with the chairman, and with USDA, who are on top of this, and APHIS, to make sure that we contain it. It is extremely important to our industry.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. THORNBERRY. I yield to the gentleman from Texas.

Mr. BONILLA. I thank my friend for yielding, and I would be more than happy and enthusiastic about helping my friend work on this problem. This is not a new problem for wheat producers. Accordingly, we will work to do everything possible to get USDA to act in a proper way, not only with the problem but to assist producers with whatever ramifications may occur.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. THORNBERRY. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I would like to thank my chairman for generously yielding that minute, and I just want to say that I share the gentleman's deep concern about what this particular condition can do to our export market.

We had a situation a couple of years ago where we had USDA officials up before our committee and we asked where on the continent does Karnal bunt exist. I said was it Canada? No, we do not have it in Canada. Is it in the United States? No, it is not in the United States. I said, how about Mexico? Absolutely. I said, How did it get over the border? And this goes back to NAFTA and these inspection issues. They could not say whether it came in seed in a car trunk or whether some bird carried it over. But, honestly, we have to work together to try to deal with the conditions that can come in here from other countries.

I would just express to the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, to the ranking member on the authorizing committee, and to the gentleman from Texas (Mr. THORNBERRY) that this Member is vitally interested in that problem, and he has my full cooperation on it.

Ms. KAPTUR. Mr. Chairman, I yield myself 30 seconds to say, however, that the costs of remediating that should not only be borne by the public sector. That is, if we are going to have problems related to trade, those participating in trade ought to bear the costs of what goes wrong in the transaction. What has been happening within USDA is we have been transferring the cost of trade to the public sector, and the private entities that benefit have not been carrying their fair share of the load.

So let us hope we can find a solution to that that is fair to all.

Mr. Chairman, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON), a very, very esteemed member of the authorizing committee, and one of the hardest-working Members of this Congress.

Mrs. CLAYTON. Mr. Chairman, I thank the gentlewoman for yielding me this time. I want to commend both the chairman and the ranking member for their time and effort. They have been given a very difficult task of meeting the ever-demanding needs of the agricultural sector in the face of a difficult economy for agriculture, but also in the face of a number of environmental threats and trying to move us into the 21st century. They also have been given a very tight allocation, and I understand they are trying to work within the budget. I am on the Committee on the Budget, so I know the constraints that were imposed upon them.

There are many things they did very, very well; and I want to commend them on that. Indeed, they did increase allocations for APHIS, which I will talk a little more about, and that is desperately needed. Those are some current threats that they are trying to provide sufficient funds to address those issues. They also recognized the ever-demanding need for research for agricultural communities and our institutions. Again, I think we have an opportunity to make sure as we increase those research dollars that there is some equity and parity among the institutions that we have. I will have a chance to discuss that a little later.

So I want to commend them for all the things they have done. However, I do want to point out a couple of areas that I think we should give consideration to in the future. Although there were new dollars for APHIS, there is still environmental impact issues that we just heard about, the issue of the wheat. The funding in the bill is certainly to be commended. I had raised an amendment in the supplemental that was not approved, although in the notes that went forward, they acknowledged there was a need; and I want to say that we need to at least make the case to our Senator friends that we need to do even more. And as we write the farm bill, hopefully, we will be mindful of that fact.

Nutrition, which is very dear to my heart, I want to commend the Committee on Appropriations for what they have done in increasing those areas. However, I would be remiss if I did not mention that WIC has identified that there is a need for 100,000 more eligible pregnant women and their children who may not receive basic needs. This is an issue I think we can do better on. I do not have an amendment for it, do not propose to have an amendment on it; but I just wanted to acknowledge that it is an area where I think we all would acknowledge we need to do more.

In conclusion, Mr. Chairman, I plan to vote for this bill. I also plan to try to make this bill even better. It is a good bill that could be better.

My final point is that I had hoped that the Kaptur amendment for the global lunch program would have been in order by the Committee on Rules. That is not the problem of the agriculture appropriation, but it is an issue for this Congress to recognize that we have an opportunity here to not only feed our children but to respond to hungry children across the world.

Mr. BONILLA. Mr. Chairman, I yield myself 4 minutes.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Chairman, I thank the gentleman for agreeing to this colloquy.

I want to address the pressing need of adequate funding for the WIC program. At current funding levels, States may be unable to serve approximately 200,000 low-income mothers, infants and children. From my State of Connecticut alone, 1,300 people would not be served.

We know that the WIC program currently serves about 47 percent of all infants born in the United States, and we know the WIC dollars are excellent investments. Every dollar spent on WIC yields more than $3 in savings to the government in reduced spending on programs such as Medicaid.

WIC has contributed to better birth outcomes and reduction in childhood anemia, key indicators of the health of American children. The program provides mothers, infants, and children with nutritious supplemental food packages, nutrition education and counseling, and a gateway to pre- and post-natal health care. The program also reduces fetal deaths and infant mortality and reduces low birth-weight rates.

I might just say we have an average participation rate for this fiscal year at about 7.2 million. That reflects the average participation for the first half of the year through March. That historically is the kind of participation that we have seen in the past. December and February are always the lowest participation months. Last year, average participation for the first half of the year was nearly 50,000 below average participation for the year as a whole. According to the Center for Budget and Policy Priorities, average WIC participation for the first 8 months of fiscal year 2001 was 80,000 higher than average participation for the first 6 months of the year.

Mr. Chairman, I have a concern that when unemployment increases, as it is doing, so does the poverty rate. And we need to understand that the WIC participation cannot increase as unemployment rises if none of the families that are eligible for WIC as a result of increased unemployment enroll.

□ 1445

I think if we are looking at the kinds of unemployment rates where there is the view that that unemployment rate is going to rise, then we are going to see an additional number of people who need to take advantage of the WIC program. We should do this now. State WIC programs make their decisions this fall about how to run their programs. As we move toward conference, and there are 302(b) reallocations, I would like to work with the chairman to address the potential funding shortage for the WIC program. If the administration's unemployment predictions come true, we will see that this very essential program will not have enough funds to serve all eligible women, infants and children.

Mr. BONILLA. Mr. Chairman, reclaiming my time, I would be pleased to work with the gentlewoman from Connecticut (Ms. DELAURO) on this issue. This program has widespread support of the Members in the whole House. As a result of the gentlewoman's efforts, the subcommittee has placed a priority on the program. We are aware that WIC participation levels can fluctuate above and below those forecast in administration budgets.

I look forward to continuing my work with the gentlewoman to address the changes that may be brought on by adjustments in caseloads, and I thank the gentlewoman from Connecticut (Ms. DELAURO) for her efforts.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, even the New York Yankees sometimes lose, and it has been known that on occasion the Los Angeles Lakers lose a ballgame. But, Mr. Chairman, one organization never loses, and that organization has hundreds of victories to its credit and zero defeats in the United States Congress, and that is the pharmaceutical industry.

For decades now, good people in the House and Senate, Democrats and Republicans, have attempted to do something about lowering the cost of prescription drugs in this country so that Americans do not have to pay by far the highest prices in the world for the medicine they need. And year after year with lies, distortions, well-paid lobbyists, massive amounts of advertising, and millions in campaign contributions, the pharmaceutical industry always wins. Americans die and suffer because they cannot afford the outrageous cost of prescription drugs, and we remain the only country in the industrialized world that does not in one way or another regulate the cost of prescription drugs.

As part of this bill, the gentlewoman from Connecticut (Ms. DELAURO), the gentleman from New York (Mr. CROWLEY), the gentleman from California (Mr. ROHRABACHER) and the gentleman from Texas (Mr. PAUL) and I will be introducing an amendment which is exactly the same as the Crowley amendment that 363 Members of this House voted for last year. This amendment will serve as a placeholder so we can move the reimportation bill forward that was passed overwhelmingly last year, but was not implemented.

In a globalized economy, prescription drug distributors and pharmacists should be able to purchase and sell FDA safety-approved medicines at the same prices as in other countries. The passage of reimportation will lower the cost of medicine by 30 to 50 percent and enable Americans to pay the same prices as people in Canada, Europe, Mexico and all over the world.

Mr. Chairman, this amendment is supported by the Alliance for Retired Americans; the Children's Foundation; Church Women United; The Communication Workers of America; Families U.S.A.; The National Education Association; Network, a national Catholic social justice lobby; the Presbyterian Church; Public Citizen; The Service Employees International Union, SEIU; and the Universal Health Care Action Network.

Mr. Chairman, every time anyone comes up here to take on the pharmaceutical industry, their disinformation campaign goes forward; and this time in opposition to this amendment the issue is, quote/unquote, "safety." Every Member here should understand that this amendment does nothing to compromise safety, it only makes it possible to move the reimportation bill that we passed last year forward.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), who has fought so hard for the Global Food and Education Initiative.

Mr. McGOVERN. Mr. Chairman, I rise in support of this bill; and like many of my colleagues, I hope more funds may become available as we move forward in the appropriations process for critical programs that protect American farmers, conserve our soil and water, provide food aid abroad, and address hunger at home.

I would like to speak for a few moments about one such program. The Global Food for Education Initiative began last year as a pilot program. I want to make clear based on the report language accompanying this bill that the committee expects this program to continue through fiscal year 2002, and in turn this program will provide approximately 9 million hungry children in 38 countries with at least one nutritious meal each day and a chance to go to school.

The report accompanying H.R. 2330 contains strong and explicit language in support of this program saying, "The committee expects the Secretary of Agriculture shall continue in fiscal year 2002 the Global Food for Education Initiative program implemented in 2001 at the level implemented in fiscal year 2001. The assistance provided under this section shall be in addition to other demands for section 4169(b) and Public Law 480 title II commodities."

Mr. Chairman, I thank the gentleman from Texas (Mr. BONILLA), the gentlewoman from Ohio (Ms. KAPTUR), and the gentlewoman from Missouri (Mrs. EMERSON) for their leadership. This program, first proposed last year by former Senators George McGovern and Bob Dole, needs to be permanently established and authorized. Nothing illustrates this more than the difficult debates in the Committee on Appropriations and the Committee on Rules, where Members of both parties who support this initiative were faced with a difficult scoring issue because the program is funded under CCC authority.

The gentlewoman from Missouri (Mrs. EMERSON), the gentlewoman from Ohio (Ms. KAPTUR), and the gentleman from Ohio (Mr. HALL) have introduced H.R. 1700 to make this pilot initiative a permanent program so that this debate never happens again. I call upon my colleagues to join the broad bipartisan coalition of Members who have cosponsored H.R. 1700.

Mr. Chairman, I respectfully ask Secretary of Agriculture Ann Veneman to use her executive authority to extend funding for this program for fiscal year 2002. I also call upon the Secretary to provide immediately the basic administrative funding requested by such organizations as Catholic Relief Services and CARE so that they may carry out the pilot program in an efficient and productive manner. For the past 50 years, these organizations have implemented many of our best food and development programs. They are proven partners, and they guarantee that our food aid programs have an American face and character on the ground. Along with our farmers, they are among our best ambassadors abroad, and they deserve our support.

Mr. Chairman, I thank the chairman and ranking member for their work on this bill, and I urge my colleagues to support it.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to myself.

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, the Repaupo Creek watershed in my district in New Jersey is in urgent need of a replacement tide gate and dike restoration project. The project is needed for several reasons, the most important of which is to provide flood protection for the residents of Logan and Greenwich Townships in Gloucester County. The Department of Agriculture's Natural Resource Conservation Service has the authority to undertake projects on watersheds that are smaller than 250,000 acres. This project meets that requirement.

Although the Repaupo Creek is a small watershed, the tide gate sits on the Delaware River, and there is some question whether a waiver will be required to do this project.

Given the urgent need for this work to be completed, and given that New Jersey officials of the Department of Agriculture have expressed a desire and willingness to work on this project, I ask the chairman on behalf of the subcommittee to agree that there is jurisdiction under present law for USDA to do the work repairing the Repaupo tide gate.

Mr. BONILLA. Mr. Chairman, reclaiming my time, while I have not examined this issue in particular in detail, I assure the gentleman from New Jersey that I will work with him on this and will consider inserting language into the final report regarding this matter.

Mr. Chairman, I reserve the balance of my time.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we close down general debate, I want to state my sincere thanks to the gentleman from Texas (Mr. BONILLA) for his openness in working through this bill. He has been responsive to all of our Members. We have had some testy moments at the subcommittee and full committee levels, but we have managed to keep walking forward; and I congratulate the gentleman on this first bill that he has brought to the full House.

Mr. Chairman, regarding the issue of Karnal bunt and the wheat supply in Texas, a couple of years ago post-NAFTA, we had a situation in Arizona and in Texas, and I believe even in parts of California, where it was suspected that this fungus had moved into our wheat supply. This is a really serious issue. It essentially can make our wheat product unexportable. Already we are having trouble in our wheat markets as China now exports to us more wheat than PNTR ever anticipated. Now we have this real contamination inside our country.

We need USDA's attention to this issue. I am going to enter into the RECORD a Sunday, June 24 article from the Associated Press on this question. It explains one of the reasons we fought so hard in this budget and in this bill for additional help for the inspector general, additional help for the Animal, Plant Health Inspection Service so we could have timely inspections and also avoid of these problems in the first place.

Mr. Chairman, this bill is not perfect. Let us hope as we move toward the Senate it can be made even better. But we ask for the membership's support. In closing down this general debate period, I would hope that we can move through the amendments in a very expeditious manner so Members can catch airplanes late tonight in order to get home.

[From the Washington Post, June 24, 2001]

USDA WHEAT DISEASE REACTION FAULTED

GROWERS SAY THE SPREAD OF KARNAL BUNT FUNGUS COULD BE CRIPPLING

(By Roxana Hegeman)

ANTHONY, KAN.—Bureaucratic bungling by the U.S. Department of Agriculture has allowed the spread of a plant disease that could prove as devastating to wheat exports as foot-and-mouth disease has been to European livestock, farm groups said.

Wheat growers in Kansas, Oklahoma and Texas say the USDA responded too slowly to an outbreak of Karnal bunt at the southernmost edge of the nation's wheat belt just as harvest season was getting underway.

Karnal bunt is a fungus that is harmless to people but sours the taste and smell of flour made from infected kernels. It also slightly cuts production in infected fields. The disease's main impact is economic: 80 countries ban imports of wheat grown in infected regions.

That could be as crippling for American growers, who last year produced nearly $6 billion of wheat, as would be the discovery of foot-and-mouth disease in U.S. livestock, said Brett Myers, executive vice president of the Kansas Wheat Growers Association.

Europe's foot-and-mouth outbreak has cost millions of dollars for the slaughter of some 3 million animals and a ban on exports.

The suspected Karnal bunt contamination was first reported to the USDA on May 25, and Michael Bryant, co-owner of the elevator in Olney, Tex., that found it.

But it was seven days before the USDA's Animal and Plant Health Inspection Service (APHIS) confirmed the finding, and 15 days passed before it quarantined the first affected counties.

"Their reaction to the situation was not as timely as we would have liked," said Kansas Agriculture Secretary Jamie Clover Adams.

Charles P. Schwalbe, deputy director of APHIS's plant protection and quarantine program, said his agency sent the sample away for testing at a national lab instead of using a local one to make sure it had accurate and legally defensible information before taking action.

"The decisions that emerge . . . mean livelihood to people from time to time," Schwalbe said.

The Karnal bunt found in Throckmorton and Young counties in Texas were the first confirmed cases in the nation's wheat belt, an area extending from central Texas to Alberta, Canada.

On June 19, concern grew as the USDA added neighboring Archer County to the quarantined area, followed by Baylor County the next day. One elevator has also been quarantined in Fort Worth, about 150 miles southeast.

Karnal bunt, which originated in India, was first detected in the United States in 1996 in Arizona and California. It has since spread to southern Texas and New Mexico.

In Arizona the amount of land used to grow wheat dropped almost 50 percent after a quarantine was imposed in 1996 in four counties, according to the Arizona Agricultural Statistics Service.

But Arizona is a minor durum wheat producer, and U.S. wheat growers have reassured overseas buyers that the disease was far from the nation's major winter wheat producing region. Winter wheat, which is planted in the fall and harvested in the spring, accounts for about two-thirds of U.S. wheat and is used primarily for bread. Durum wheat is used for pasta.

With half the winter wheat going to the export market, the discovery of the disease at the southernmost edge of the nation's breadbasket just as the wheat harvest was moving north sent shock waves through the wheat belt.

State regulators feared that custom harvesters—cutters who follow the ripening wheat harvest from Texas to the Canadian border—would spread the fungus.

Oklahoma, just 50 miles from the two Texas counties where the disease was first discovered, immediately closed its borders and ordered combines coming into the state to be blocked and inspected. Harvesters from infected areas without a USDA certification of cleanliness were turned back.

"We need to preserve our heritage and our wheat industry. The spread of Karnal bunt in Texas should be considered a threat to Kansas wheat," said Kansas Gov. Bill Graves (R). Kansas is the nation's biggest wheat producer, with a $1 billion crop and nearly 10 million planted acres.

Rep. Frank D. Lucas (R-Okla.) has been pursuing the issue after a request from growers for a congressional investigation into the USDA's handling. His office said he has not decided whether to ask for an inquiry.

Mr. Chairman, I yield back the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. NETHERCUTT), a very distinguished member of the subcommittee.

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding me this time and for his kind remarks.

Mr. Chairman, I am delighted to stand in support of this bill. We have had a lively and valuable discussion on both sides of the aisle on various issues.

Mr. Chairman, I think the subcommittee chairman has done a wonderful job to put this bill together in essentially record fashion. I am grateful to him for his leadership.

I am supportive of this bill because it has a strong research component for agriculture, production agriculture, to be sure that it has the tools and the information and the technology necessary to compete in a world market. That is what we need for our farmers.

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I also am pleased that this bill under the chairman's leadership has increased food safety and inspection. We have the safest food supply in the world and we must make sure that we acknowledge that and do not denigrate it in debate on the issue, because we have a very safe system. We need to keep it safe. We will keep it safe with the resources that are available in this bill.

At the subcommittee and the full committee level, I had raised the issue of ecoterrorism. When we spend multimillions of dollars on agriculture research but yet some of that research gets destroyed by extremists, ecoextremists who seek to destroy agriculture research, then we need to make sure we, as taxpayers and as Members of this body, protect that research.

This is not the place or the time for that issue and the discussion surrounding it, but it is an issue that we need to attend. My expectation is that we will attend to it as we go through the legislative process later in this year. But I think those of us who care deeply about agriculture need to be critically aware that ecoterrorism is a reality in this country. We need to protect the research and the researchers.

I urge my colleagues to support this bill.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I want to thank the gentleman for this opportunity to express my strong support for his bill and point out a small provision of it that is extremely important to the farmers of the northeastern part of the Nation, particularly to those in Connecticut. I strongly support the increase in funding for the EQIP program, the Environmental Quality Incentives Program, because it will help us achieve our national attainment goals in the area of clean water.

The AFO/CAFO regulations are expensive. My State has adopted all of the implementing policy to assure compliance with the AFO/CAFO regulations; and the only reason frankly, the only possible way that small farmers can survive these costly regulations is through the technical assistance that the EQIP funds provide to them to help them determine what projects will, in fact, contain runoff. These funds give them some help in offsetting the costs of developing manure management programs and other modern approaches that will enable them to make a significant contribution to the cleanliness of our waterways and also, in the long run, to the revitalization of Long Island Sound.

In New England, we have very steep, hilly farms. We also have more rainfall than other parts of the country. So the burden on us is, frankly, far higher than the burden on other parts of the country. We are not a part of the country that benefits much from the farm bill through its crop assistance and other programs, but so some of its conservation dollars, and these EQIP dollars, are extremely important to us. I thank the chairman for uncapping them and making more resources available for compliance with the AFO/CAFO requirements.

Mr. BONILLA. Mr. Chairman, our Committee has worked hard to bring a good bill to the House. We have made prudent recommendations for the use of the budgetary allocation available to us, and we have done yeoman work in keeping the bill free of contentious issues such as trade policy, that have caused concern in prior years. I think we have a very good bill, and I know that we will have a good debate. In closing, I would certainly hope that everyone would support this bill on final passage.

Mr. KIND. Mr. Chairman, today the House is considering funding for the fiscal year 2002 Agriculture appropriations bill. This bill provides funding for U.S. Department of Agriculture and the Food and Drug Administration.

As a Member of Congress from a large agricultural district who is also concerned about this Nation's long-term fiscal health, I am concerned that this measure is yet another repeat of past agriculture spending packages—where Congress is providing fewer-and-fewer farmers with financial assistance.

The failure of this Congress to make fundamental changes to existing agriculture policy, which had led to many farmers being driven off their land due to the perverse financial incentives, is beyond reasonable belief.

It is my hope that future agriculture policy will be equitable, providing federal assistance—when needed—to all producers. It is my hope that future agriculture policy respects the broad diversity of rural America. It is my hope that future agriculture policy provides for clean and safe drinking water, along with improved soil and air quality.

Mr. Chairman, this measure obviously covers more than just financial assistance to American farmers. In addition, it provides important funding for nutrition programs, food inspection, and safety. For these reasons, it is very important that this measure is passed.

Mrs. MALONEY of New York. Mr. Chairman, in January 1997, when the Asian Longhorned Beetle was first spotted in the United States right in the heart of Brooklyn, I called on the Department of Agriculture to do everything in its power to eradicate this tree-killing beetle before it devastated the Northeast urban forestry network. The strong efforts from the Agriculture Department, in close coordination with State and city agencies, slowed the beetles spread significantly, but sadly, New York has lost more than 5,000 trees in less than 6 years from beetle infestation.

In recent years, I have held numerous community forums on the issue to raise awareness about the beetle's devastating effects and to discuss strategies to prevent the spread of beetle infestation.

I have also worked closely with my colleagues in the New York delegation to secure adequate funding to stop the beetle before it spreads deeply throughout the Northeast region and into the rest of the country.

My aim has always been the protection of our farmlands, our trees and our forests through the containment and complete eradication of the Asian Longhorned Beetle.

This year's Agriculture Budget provides crucial resources toward that end, with $35 million appropriated to fight the Asian Longhorned Beetle, citrus canker, and the plum pox virus. This is a significant increase in funding for a very significant problem. Unchecked, costs from the spread of the Asian Longhorned Beetle could rise as high as $41 billion nationwide.

I want to thank Congressman BONILLA and Congresswoman KAPTUR for including these significant funds to battle the beetle.

I also want to note that the Interior budget currently includes almost $24 million for the U.S. Forest Service for the Cooperative Land Forest Health Management program specifically to fight the spread of the gypsy moth and the Asian Longhorned Beetle.

Resources for the fight against beetle infestation are especially important to New York City. Just this month, 60 trees from Calvary Cemetery in my district in Queens were cut down, chipped, and burned to the root because of beetle infestation. Additional trees were recently cut down in Astoria and Woodside Queens.

In fact, since the beginning of this year, the Brooklyn, Queens region has lost close to 300 more trees to beetle infestation. Manhattan has lost more than 50 trees and the Bayside area lost more than 150 trees. The total loss for the New York City, Long Island area is up to 5,300 trees.

The beetle is simply devastating large portions of the region. With new resources, we will be able to fund areas where there have been significant shortfalls. We will be able to train our residents to identify the beetle and respond appropriately if they spot one. We will be able to increase funds for tree inspections, removal, and reforestation efforts.

Also, we will continue to move forward with new treatments for healthy trees that help prevent beetle infestation. In short, we will battle this menace on all fronts to protect our trees, our environment, and our quality of life.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 2330, the Agriculture appropriations bill for fiscal year 2002.

This Member would like to commend the distinguished gentleman from Texas (Mr. BONILLA), the chairman of the Agriculture Appropriations Subcommittee, and the distinguished gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the subcommittee, for their hard work in bringing this bill to the floor.

Mr. Chairman, this Member certainly recognizes the severe budget constraints under which the full Appropriations Committee and the Agriculture Appropriations Subcommittee operated. In light of these constraints, this Member is grateful and pleased that this legislation includes funding for several important projects of interest to the State of Nebraska.

First, this Member is pleased that H.R. 2330 provides $461,000 for the Midwest Advanced Food Manufacturing Alliance (MAFMA). The alliance is an association of 12 leading research universities and corporate partners. Its purpose is to develop and facilitate the transfer of new food manufacturing and processing technologies.

The MAFMA awards grants for research projects on a peer review basis. These awards must be supported by an industry partner willing to provide matching funds. During the seventh year of competition, MAFMA received 39 proposals requesting a total of $1,382,555. Eleven proposals were funded for a total of $348,147. Matching funds from industry for these funded projects total $605,601 with an additional $57,115 from in-kind funds. These figures convincingly demonstrate how successful the alliance has been in leveraging support from the food manufacturing and processing industries.

Mr. Chairman, the future viability and competitiveness of the U.S. agricultural industry depends on its ability to adapt to increasing worldwide demands for U.S. exports of intermediate and consumer good exports. In order to meet these changing worldwide demands, agricultural research must also adapt to provide more emphasis on adding value to our basic farm commodities. The Midwest Advanced Food Manufacturing Alliance can provide the necessary cooperative link between universities and industries for the development of competitive food manufacturing and processing technologies. This will, in turn, ensure that the U.S. agricultural industry remains competitive in an increasingly competitive global economy.

This Member is also pleased that this bill includes $200,000 to fund the National Drought Mitigation Center (NDMC) at the University of Nebraska-Lincoln. This project is in its fourth year and has assisted numerous States and cities in developing drought plans and developing drought response teams. Given the nearly unprecedented levels of drought in several parts of our country, this effort is obviously important.

Furthermore, this Member is also pleased that the measure provides $700,000 for efforts at the University of Nebraska-Lincoln to improve biomass for feedstocks. The research will benefit the environment and the agricultural economy. It also holds the potential to greatly reduce the nation's dependence on foreign sources of energy.

Another important project funded by this bill is the Alliance for Food Protection, a joint project between the University of Nebraska and the University of Georgia. The mission of this alliance is to assist the development and modification of food processing and preservation technologies. This technology will help ensure that Americans continue to receive the safest and highest quality food possible.

This Member is also pleased that the legislation funds the following ongoing Cooperative State Research, Education, and Extension Service (CSREES) projects at the University of Nebraska-Lincoln: Food Processing Center: $42,000; non-food agricultural products: $64,000; sustainable agricultural systems: $59,000; Rural Policy Research Institute (RUPRI) (a joint effort with Iowa State University and the University of Missouri): $1,300,000.

In addition, this Member is pleased that the bill directs the Agriculture Research Service to collect and focus $300,000 at the University of Nebraska-Lincoln to address sorghum fungal plant pathology concerns. This funding will fill a critical need for fungal pathology research for sorghum in the central Great Plains and the United States.

This Member would also note that H.R. 2330 includes $99.77 million for the section 538, the rural rental multifamily housing loan guarantee program. The program provides a Federal guarantee on loans made to eligible persons by private lenders. Developers will bring 10 percent of the cost of the project to the table, and private lenders will make loans for the balance. The lenders will be given a 100 percent Federal guarantee on the loans they make. Unlike the current section 515 direct loan program, where the full costs are borne by the Federal Government, the only costs to the Federal Government under the 538 Guarantee Program will be for administrative costs and potential defaults.

Mr. Chairman, this Member certainly appreciates the $3.1 billion appropriation for the Department of Agriculture's Section 502 Unsubsidized Loan Guarantee Program. The program has been very effective in rural communities by guaranteeing loans made by approved lenders to eligible income households in small communities of up to 20,000 residents in nonmetropolitan areas and in rural areas. The program provides guarantees for 30-year fixed-rate mortgages for the purchase of an existing home or the construction of a new home.

Mr. Chairman, in conclusion, this Member supports H.R. 2330 and urges his colleagues to approve it.

Mr. LARGENT. Mr. Chairman, I rise today to express my support for H.R. 2330, the FY 2002 Agriculture appropriations bill. I am pleased that the Appropriations Committee has both supported our farmers and displayed fiscal discipline by remaining close to the President's budget request. This responsible bill addresses the needs of our nation's farmers and ranchers while keeping in mind the desire of American consumers to buy affordable and safe agriculture products.

I want to commend the full committee for passing a number of important amendments. Specifically, I am pleased that employees of the Farm Service Agency will be better able to deliver farm ownership, farm operating, and disaster loans through improved salary and expense funding and through additional resources for agricultural credit programs. This assistance will come as a welcome relief as the workload of this vital agency has grown in response to a weakening farm economy.

I am also pleased with the investment this bill makes in the future safety and health of our citizens and our environment. The research that will be facilitated and advanced through this bill will ensure the continued quality of our food supply by improving safeguards. The conservation programs within the bill also reflect foresight. The desire of farmers to preserve American soil exemplifies the respect and attachment they have for the land in which they are invested.

Lastly, I am encouraged by the Distance Learning and Telemedicine Program which will link rural Americans with resources and opportunities previously available only in urban areas. As we seek a prosperous future for our rural residents, we must find ways to stimulate local economies. This bill advances that goal through education and enhanced services that will enable individuals and families to stay in their hometowns while receiving education and health services. Using technology to provide useful links between rural and urban areas will slow the flight to cities and preserve smaller towns and municipalities, which are vital pieces of the American fabric.

I commend the chairman and all of the members of the committee for crafting this responsible bill.

Mr. TANCREDO. Mr. Chairman, I rise in opposition to H.R. 2330, the Agriculture Appropriations Act, a bill considered on the floor today which makes appropriations for the Department of Agriculture and related agencies. But more specifically, I rise in strong opposition to the increase provided in the bill for the Food and Drug Administration (FDA) and would like to call the House's attention to a problem that one of my constituents has been having with the agency and one that I believe deserves careful consideration by the oversight committees in this chamber.

Recently, the FDA gave final approval of my constituent's Pre-Market Application for both total and partial joint implants after an exhaustive and blatantly biased 2-year review, but not before costing his company over $8 million in legal fees, lost wages, and profits.

In April 1999, I received a phone call and letter from TMJ Implants, a company located in Golden Colorado, in my district, which had been having problems with the review of its Premarket Approval Application of the TMJ Total and Fossa-Eminence Prosthesis. Up until last year, the company was the premier market supplier of temporomandibular joint prosthesis.

Over the last 2 years, I have taken an active interest and an active role in monitoring the progress of TMJ Implants' application, which was finally approved in February. On numerous occasions, I met with Dr. Bob Christensen, president of TMJ Implants, to find out information about the approval of the partial and total joint, and personally talked to FDA Commissioner Jane Henney and to members of the Agency about the status of the company's applications. I was also, and continue to be, in contact with the House Commerce Subcommittee on Oversight, which has sole jurisdiction over the FDA and issues relating to abuse and the internal operations of the agency.

Specifically, I closely followed this case since my office's first contact with Dr. Christensen and TMJ Implants in early May 1999, after a meeting of the FDA's Dental Products Panel of the Medical Devices Advisory Committee was held to review the company's PMA and recommended approval of the PMA by a 90 vote. From this point onward, the FDA engaged in an obvious pattern of delay and deception and even went as far as to remove TMJ Implants' Fossa-Eminence Prosthesis from the market, which had been available for almost 40 years. This had done nothing more than to cause harm to patients and cost the company millions of dollars.

This was done at the same time that the application for TMJ Concepts, a competitor of TMJ Implants, sailed through the process. Several allegations have come to light over the last two years detailing the fact that several Agency employees have worked under the direction of TMJ Concepts' associates.

The agency went so far as to reconvene a new Medical Devices Advisory Committee late last year, with a clear majority of its members lacking the required expertise, which denied the company's application.

It was not until Mr. Bernard Statland, the new Director of the Office of Device Evaluation (ODE) was brought in that the logjam was broken the PMA was quickly approved.

As the above demonstrates, several concerns remain about the process that has taken place over the last two years. It is no secret that everyone involved in this case believes that there have been significant question raised about the process—the sluggish pace of the review of the engineering data for both the total and partial joint and, more importantly, the constant "moving of the goal posts" during the review of both PMAs.

Over the last 2 years, my office has received numerous letters from physicians all across the country—from the Mayo Clinic to the University of Maryland—each describing the benefit of the partial joint and the fact that the partial and total joint results in immediate and dramatic in pain, an increase in range of motion and increased function.

While I am, of course, pleased that the application has been approved by the FDA after much delay, the circumstances of the last 2 years calls into question the integrity of the agency and, it is for this reason that I bring it to the House's attention.

Dr. Christensen is a true professional and a pioneer in his field and holder of the first patents. His implants are widely accepted as effective and safe throughout the dental and surgery community—indeed, several of my constituents have literally had their lives changed by the procedure. I am convinced that the work of TMJ is and always has been based on solid, scientific principles and the removal of the implants work of TMJ is and always has been on solid, scientific principles and the removal of the implants from the market had been erroneous, contrary to the Agency's earlier findings and the statutory standard that should be applied. This was devastating to thousands in the general public and devastating to the financial status of the company.

Later this year, the House of Representatives will consider legislation reauthorizing the Food and Drug Administration and I would like to urge the House Commerce Committee to hold hearings on the TMJ Implant case and to conduct a thorough investigation into the FDA's review of the Premarket Approval Application of the TMJ Fossa-Eminence Prosthesis.

I would like to take this opportunity to submit into the Record two articles from FDAWebview which shed light on the TMJ Implant case.

[From FDAWebview, Feb. 28, 2001]

"Full Disclosure" Standard in TMJ Approval Opens New FDA Era

Instead of FDA tying itself in knots trying to guarantee no inappropriate patient exposures to implanted devices—and stalling a product in mid-review as a result—yesterday's approval of the TMJ Implants Fossa-Eminence Prosthesis set a new "full disclosure" labeling standard that lifts that self-imposed burden from the agency and should expedite other product reviews. TMJ Implants' pre-1976 jaw joint devices was stalled for 20 months in a classification PMA review until new Office of Device Evaluation (ODE) director Bernard Statland broke the logjam. In doing this, he was implementing one stage of a bold new Center policy on innovative public use of clinical device information articulated last year by Center director David Feigal—placing such FDA-held information in the hands of physicians and patients.

According to one of the two attorneys who steered the TMJ Implants submission through its FDA ordeal, Mike Cole (Bergeson & Campbell), yesterday's approval is the first he's seen in 25 years of dealing with ODE where the agency stepped back from its "appropriate use" worries and left them to physicians and patients to decide, based on full disclosure in labeling of the device's real-world limitations—including the availability of no-device alternative therapies.

Under the Fossa-Eminence labeling's Warnings section is a boxed statement headed, "The medical literature reports," with four bulleted statements:

That many cases of Internal Derangement resolve after non-surgical treatment, or, in some cases, with no treatment at all.

That the complexity of contributing factors in this patient population must be considered in the diagnosis and decision to surgically treat patients.

That replacement surgery, therefore, should be utilized only as a last resort after other treatment options are exhausted or determined not to be warranted in the medical judgment of the physician/dentist in consultation with the patient.

That the Wilkes classification is a guide in determining the severity of the disease. This classification should not be relied on as a sole criterion for surgical treatment.

"It really is a striking difference in philosophy," Cole told FDA Webview. "It discloses that a lot of patients have responded without surgery . . . It describes situations where the doctor arrives at the diagnosis that surgery may be appropriate, but it doesn't prejudge it. Over the years, there have been all these notable instances of concern about off-label use of products and misuse of products, and part of it comes, I think, from a mentality that we have to be 100% sure that it will be used appropriately. As a result, manufacturers have started submitting applications with more and more restricted indication statements in them because that can get through the system."

Cole and colleague David Rosen (McDermott, Will & Emery) believe the TM) Implants devices had been logjammed at FDA for so long simply because reviewers were afraid the products would be used inappropriately—an FDA syndrome that has effected many other products over the years. "A lot of times, what it really comes down to is demands for more data, more data, more data," Cole explained, "because the reviewers are not comfortable with the idea that the device ought to be on the market, or available. The way out of that is to keep asking for more information."

In TMJ Implants' case, he said, review leader Susan Runner "held what I think was a very honest and sincere concern about the device being used in cases where patients might respond without surgical treatment. Because the studies hadn't been set up to prove exactly what I think we had demonstrated, she had this really deep-seated concern about the product being used, and it just went round and round in circles. We had no apparent instances of misuse of the device, but we were getting nowhere.

"When we had this meeting with Dr. Statland, he got up with a whiteboard and started talkng abut the data, and he said to his people, 'You know, we've got a lot of information here; what we need to do is figure out how we're going to present this information to the doctor so that the doctor and the patient understand exactly where surgery fits in this and make sure we discuss the limitations of the data.' For the first time that I've heard this in 25 years dealing with Center, he said: 'We'll discuss this information in the labeling and we'll let the doctors and the patients decide whether they want to use the device—we won't decide for them."

Statland, Cole said, stopped the reviewers' agonizing at the point where reasonable assurance of safety and efficacy had been demonstrated, thus preventing the agency from continuing to stray into attempts to secure an absolute guarantee that the product would not be used improperly. "In a way it's a kind of subtle point, but in a way it's also a sledgehammer point. When Dr. Statland said 'This is what we're going to do,' it was over."

[From the FDA Webview, Feb. 27, 2001]

Toughest Device Approval Clears Last of Embattled Firm's Implants

Ending a 20-month, $6 million ordeal for Colorado-based TMJ Implants Inc., CDRH Office of Device Evaluation director Bernard Statland 2/27 approved the last and most important of the company's two PMAs—for the TMJ Fossa-Eminence Prosthesis. Without his personal involvement in the review—including private discussions with several oral surgeons, it would still be bogged down, observed TMJ Implants' attorney, former FDAer David Rosen (McDermott, Will & Emery) who with Mike Cole (Bergeson & Campbell) helped propel the tortured review to its successful conclusion; Rosen ranks this approval at the top of the toughest FDA approvals he has experienced, inside or outside the agency, including both generic drugs and medical devices.

At one point, FDA reviewers allegedly predicted the Fossa-Eminence, or partial jaw joint, would never be approved. The only device of its type every marketed, it attracted heavy reviewer skepticism. Then, last month, the company's two-part total joint, of which the Fossa-Eminence is a component, was approved. This seemed like a consolation prize, because the total had been only a small part of the company's business. TMJ Implants CEO Robert Christensen recalls an FDA manager asking whether the company could not be satisfied just with the total while the agency continued to consider the partial. "I told them we could not survive on the total," he said.

In 1998, as it was moving against his pre-1976 devices pending classification and PMA submission, FDA approved a new competitor's total joint, indicating agency satisfaction with that technology, especially the competitor's plastic cup (Christensen's devices are all-metal).

The final labeling of the Christensen Fossa-Eminence now actually gives his partial device more indications than he originally asked for, and effectively restores the device to all of its marketed uses before FDA's classification process removed it from commerce 20 months ago (the company had reduced the indications it was requesting based on FDA and advisory panel suggestions). The new approval lists these indications:

Internal derangement confirmed to be pathological in origin by both clinical observation and radiographic findings, where the patient has moderate to severe pain and/or disabling dysfunction and has not responded to less invasive, conventional therapy;

Inflammatory arthritis involving the temporomandibular joint not responsive to other modalities of treatment; Recurrent fibrosis and/or bony ankylosis not responsive to other modalities of treatment;

Failed tissue graft;

Failed alloplastic joint reconstruction.

These indications all had to be justified by a prospective clinical study that Christensen and oral surgeons using these devices had provided, but that CDRH's Division of Dental, Infection Control and General Hospital Devices had difficulty evaluating. Statland told FDA Webview he injected himself into the review because it was "stuck." It helped that his wife once had a TMJ condition that did not require surgery—he learned as much as he could about "this very complex problem, which has many causes and many different treatments."

As he got into the TMJ Implants controversy, he discovered that the parties' positions had hardened through communication breakdowns, which he was able to soften. "There was venting on both sides," Statland said.

"The message is," he told us, "that those companies that are very conscientious in prospective studies, that have the data, find that that speaks much louder than anything else. Anecdotal information is fine, opinions of various people and declarations are fine, but we have to look at the numbers. I think that's the take-home lesson."

With TMJ Implants, Statland said, FDA played "a consultative role," although he would not address Christensen's complaints that the early stages of the review were far from consultative. "I'm pro-technology," he stressed. "I want good devices to be out there. Those things are going to help people. At the same time, I want full disclosure, so people can make good decisions."

Rosen acknowledged that after Statland began opening up the issues dividing the company from reviewers, there were holes in the data (e.g., patients lost to follow-up) that the company had provided and that reviewers apparently didn't know how to assess. After one round-table discussion, on 2/9, he and Mike Cole worked through the weekend to extract from the company's prospective clinical study data a subset analysis of patients who had at least three years' experience with the Fossa-Eminence implant. On 2/13, he presented this to the reviewers, and it answered all of their questions. That left only the labeling, which then moved quickly to completion.

Christensen, who had enlisted legal, political and media help in his frustration with the process, told us 2/27 he is now "very pleased" with the result, although he thinks FDA owes him for some of his extraordinary costs in restoring his two devices to the market. He has resumed full marketing efforts. By his calculations, he has $6 million to $8 million in losses to make up.

Mr. BONILLA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule and the amendment printed in House Report 107–118 is adopted.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $75,000 for employment under 5 U.S.C. 3109, $3,015,000: *Provided*, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104–127: *Provided further*, That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104–127.

AMENDMENT OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. KAPTUR:

In title I, under the heading "OFFICE OF THE SECRETARY" insert after the first dollar amount the following: "(reduced by $1,700)".

In title V, under the heading "FOREIGN AGRICULTURAL SERVICE"–"SALARIES AND EXPENSES" insert after the second dollar amount the following: "(increased by $1,700)".

Ms. KAPTUR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. KAPTUR. Mr. Chairman, throughout the consideration of our bill at the subcommittee level and full committee level, we very, very much wanted to have a straightforward appropriation for continuation of the Global Food for Education program. Thus far we have been unable to achieve that in the base bill and have only been able to achieve report language that essentially says that we, as the Congress, expect that the Secretary of Agriculture will continue a program begun last year that is moving our surplus commodities and food commodities around the world to 38 countries, feeding over 9 million needy children. This program is a win-win for America's farmers and ranchers and definitely a win-win for hungry children around the world, including young girls who are encouraged to go to school and receive a decent ration in whatever country they might live.

Unfortunately, in the base bill, there is not $300 million appropriated to continue this program straightforwardly. Rather, all we have is some language that says to the Secretary, "We think it's a great idea; we hope you can figure out a way to continue the program; and we expect you to continue the program."

The purpose of this amendment as drafted would be to symbolically take $1,700 from the Secretary's own accounts and to make those available to the Foreign Agricultural Service. Now, we know $1,700 is not a whole lot, you might be able to buy some stationery with that, but the number 1700 happens to be the number of the McGovern-Emerson bill, which is the bill that would permanently authorize this program for which we would appropriate necessary funds in any fiscal year.

Now, the program as it currently operates is having a tremendous impact around the world. In fact, there are some countries where organizations are now building schools, albeit humble schools, maybe thatched roof schools, where children are coming to receive this food. It has gotten tremendous support from so many of our nongovernmental organizations, like Catholic Charities, like ACDI/VOCA, like Mercy Corps, like CARE, the very organizations that the World Food Program works through all across the world to feed those who are most in need.

So the purpose of this amendment as drafted really is to say, look, why are we involved in this budget charade of saying to the Congress: if we directly appropriate $300 million, we can't do that because we break some sacrosanct budget rule here and, therefore, we can't appropriate real dollars. So we'll just put report language in the bill. Compare this to the other option that, well, if it goes over to the Secretary, she can spend the dollars out of the Commodity Credit Corporation and it doesn't score.

I do not think there is a person in my district that would understand this kind of budget charade. So the purpose of this amendment is really to draw attention to what is happening here and to say that a large number of our Members on this side of the aisle really want this program to have permanently appropriated dollars. We want to be able to do that as a House. We are handcuffed in the procedures allowed through subcommittee and full committee in order to achieve that.

It is not my intention to move forward with this amendment because I do not want to do a fig leaf. I want to do a real appropriation. But I want to use this amendment as a mechanism to allow others who support this program to speak and to, in the strongest language possible, let the administration know that we are serious. Quite frankly, as this bill moves to conference, it is my intention, working with some of my other colleagues, to bring this up in the other body.

Mrs. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the gentleman from Texas (Mr. BONILLA) as well as the gentleman from Massachusetts (Mr. MCGOVERN) and the gentlewoman from Ohio (Ms. KAPTUR) with regard to the continuation of the Global Food for Education Initiative.

Mr. Chairman, the Global Food for Education Initiative was implemented as a pilot program during fiscal year 2001. The Department of Agriculture used $300 million of discretionary funds from the Commodity Credit Corporation to start this pilot program.

I have joined with the gentleman from Massachusetts (Mr. MCGOVERN) and others in introducing the George McGovern-Robert Dole International Food for Education and Child Nutrition

Act of 2001 so that we actually can authorize this program for a 5-year period. However, it is unlikely that this authorizing legislation will be approved in time to provide a seamless transition from the pilot to the authorized program for fiscal year 2002.

An amendment was offered to continue the pilot program at the current level of funding during our markup in the agriculture appropriations subcommittee, but we determined that, for lots of reasons, it would not be part of our bill today. However, I was pleased at the efforts of the gentleman from Texas to include language explaining that the House of Representatives expects the Department of Agriculture to continue the GFEI pilot program in the fiscal year 2002.

Mr. Chairman, it is my hope that the committee supports the international school feeding programs. I would like to see the GFEI continued for the next fiscal year. Is it the gentleman from Texas' expectation that the Department of Agriculture will continue to fund this program at its current level in fiscal year 2002?

Mr. BONILLA. Mr. Chairman, will the gentlewoman yield?

Mrs. EMERSON. I yield to the gentleman from Texas.

Mr. BONILLA. It is hard to speculate as to what the Department is going to do, but I can assure her that this is something that we are all concerned about. I know the gentlewoman from Ohio (Ms. KAPTUR) has worked on this as well, along with the gentleman from Massachusetts (Mr. McGOVERN), the gentleman from New York (Mr. WALSH), and others. The subcommittee included report language that encourages the Secretary to continue this program at the same level as the current fiscal year. Accordingly, I will be pleased to work with the gentlewoman to see that USDA continues a program they initiated administratively.

Mrs. EMERSON. I thank the gentleman.

Mr. McGOVERN. Mr. Chairman, will the gentlewoman yield?

Mrs. EMERSON. I yield to the gentleman from Massachusetts.

Mr. McGOVERN. First of all, I want to thank the gentlewoman from Missouri for yielding and for her incredible leadership on this issue; and I want to thank the gentleman from Texas for his work on this issue and for the strong language included in the fiscal year 2002 agriculture appropriations report. I appreciate the gentleman's words and his dedication to the continuation of this important program. I look forward to working with him and others on this committee to try to persuade Secretary Veneman to make sure that she does continue this program at the current level.

Mr. Chairman, I include for the RECORD a letter of support for this program co-signed by former Senators Bob Dole and George McGovern.

WASHINGTON, DC,
June 12, 2001.

Hon. C.W. YOUNG,
Chairman, House Appropriations Committee, Washington, DC.

DEAR MR. CHAIRMAN: We would like to encourage you to ensure that funding continues for fiscal year 2002 for the President's Global Food for Education Initiative.

It would be tragic to initiate school feeding programs that benefit 9 million children, only to have those programs abruptly terminated.

We hope that you will support continuing funding for this program in fiscal year 2002 at the same levels as fiscal year 2001 when you consider the FY02 Agriculture Appropriations Bill in Committee this week.

Sincerely,

GEORGE McGOVERN.
BOB DOLE.

Ms. KAPTUR. Mr. Chairman, will the gentlewoman yield?

Mrs. EMERSON. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I wanted to thank the gentlewoman from Missouri for her tremendous leadership on this issue and also the gentleman from Massachusetts, Mr. McGOVERN. The two of them have been vigilant all through our efforts in subcommittee and full committee. I want to thank the gentleman from Texas, Mr. BONILLA, for trying to do as much as he could do. I would hope that we might even consider doing a joint letter to the Secretary as we move toward conference, if that is possible, in order that this program be given the serious attention that it demands at the Department of Agriculture. I want to thank all my colleagues for their tremendous efforts.

Also, I understand Senator Dole has gone through a bit of a procedure at the Cleveland Clinic recently. If he is watching this, I hope our remarks make him feel better. I also want to thank Senator McGOVERN who has been such a stalwart supporter and innovator, a genius really on this program. We thank him for traveling up here recently to join us in a press conference in front of the Capitol. We hope in their stead here today that we do what is necessary to continue this program.

Mrs. EMERSON. I thank the gentlewoman from Ohio. The gentleman from Massachusetts and I thank the gentleman from Texas for his clarification on this issue.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to make a few observations about the conversation that we have just heard with respect to this proposal. I think the key words that Members ought to keep in mind were the words of the subcommittee chairman. When he was asked whether or not he did expect the Department to, in fact, continue this program, he correctly pointed out that it is always difficult to predict what any agency, including USDA, will do. That is precisely why, in my view, the committee should have adopted the amendment that we tried to have attached in full committee and why this House should have voted on it today.

□ 1515

Here is the situation that we face on this issue. We have had, for the past year, a pilot program going on which in essence takes the value of surplus food in this country and uses it to provide nutrition for young children abroad.

We have been asked by former Senator George McGovern and former Senator Bob Dole, who each on occasion was honored with the nomination of his party to the Presidency of the United States, we have been asked by both of them to continue the program and to make it a long-term commitment. That is something we ought to do.

I would submit that no one in the history of the Congress knows more about child nutrition than George McGovern and Bob Dole. They devoted a good deal of their life to seeing to it that children in this country were adequately nourished, and they are trying to also do something to recognize that we have responsibilities to people around the world who are not as fortunate as we are.

The problem we have is that when the gentlewoman from Ohio (Ms. KAPTUR) and others sought to offer the amendment, we were told if we offer the amendment and if we do that in this bill, then this bill will be scored and that will hurt us vis-a-vis the Budget Act.

I would simply say I think this is a sad example of how we have been tied up by some of the ludicrous accounting rules that get in the way of our achieving needed policy goals.

We are stuck in a battle of accountants and the lawyerly interpretation of what accountants tell us and, as a result, we are prevented from doing something which we obviously ought to do.

We have one problem. The agency has not decided to proceed. This Congress had a choice. It could tell the agency to get off the dime and proceed or it could pass the buck. For bookkeeping reasons, this Congress has decided to pass the buck. I think that is unfortunate. It seems to me that if the Congress had indicated today, through an amendment on this legislation, that we were directing them to proceed, the agency would have proceeded. We would then have not had the accounting problem and we could have, in fact, delivered on this program.

We have a simple choice. We have surplus commodities in this country. The question is, will the taxpayers be asked to pay money in order to store them or will they be asked to pay money in order to ship them so they can be used to provide nutrition for young children abroad who need them?

That is a win-win proposition, both for those kids and our farmers. It ought to also help our consciences as well, and I think it is indeed unfortunate that we have been prevented from offering the amendment today.

Ms. KAPTUR. Mr. Chairman, if the gentleman will yield, I reserve the right, as we move toward conference, to reinject this issue into the debate as we further perfect this bill.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

The Clerk will read.

The Clerk read as follows:

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $7,704,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $25,000 is for employment under 5 U.S.C. 3109, $12,869,000.

Ms. LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the chairman of the committee. I had intended to offer an amendment today to provide funding to make it easier for students to purchase organic and whole foods in the school breakfast and lunch programs, but I will not offer my amendment today. I want to thank the gentleman from Texas (Mr. BONILLA), and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR) for their support of my intention to assist schools in purchasing healthy foods for their school breakfast and lunch programs.

This would include organic, locally grown and fresh produce. At a time when our children's health is threatened by such conditions as obesity and type II diabetes, it is more important than ever to ensure that they have healthy options when they eat at school.

Currently, our tax dollars buy a high fat, high caffeine, fast food diet, which is turning into an extremely expensive public health problem. According to the Centers for Disease Control and Prevention, youth nutrition and obesity are an epidemic in the United States. The Healthy Farms and Healthy Kids Report states that the awful irony is that our multibillion dollar investment is yielding a multibillion dollar public health crisis in school-aged children while at the same time 85 percent of family farmers who are perched precariously on the edge of urban sprawl are threatened with extinction. In many school districts in my State of California and around the Nation, urban, rural, and suburban, it is a real challenge to serve fresh, ethnically diverse meals prepared on-site from whole ingredients obtained by local farms.

With the commitment from the schools and the community, things can be better. In my district, for example, in Berkeley, California, they are facilitating a district-wide food systems-based curriculum supporting garden classrooms and cooking programs in every school.

In Berkeley, local funding has allowed the schools to have a garden in every school, and they are opening fresh salad bars with organic and other fresh foods. So this will help our schools and our local farmers and, of course, our students. With large purchasers like schools, we believe we will demonstrate that we can bring more healthy foods into our schools while lowering the costs but still supporting our farmers. So I would just like to ask the gentleman from Texas (Mr. BONILLA) for his help really in the future to secure funds to make it easier to get healthy foods from our farms to our children and to our schools, of course. I look forward to working with him and our ranking member, the gentlewoman from Ohio (Ms. KAPTUR), to ensure that this provision could possibly be contained in the final version of the fiscal year 2002 Agricultural Appropriations Act.

Mr. BONILLA. Mr. Chairman, will the gentlewoman yield?

Ms. LEE. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I would be happy to work with the gentlewoman from California (Ms. LEE) and the folks at USDA to provide some positive direction in this area. There is not a parent out there that is not concerned about good nutrition for children so I thank the gentlewoman for bringing this up and would look forward to again trying to direct USDA, somehow working with the gentlewoman on this issue of organic foods.

Ms. KAPTUR. Mr. Chairman, will the gentlewoman yield?

Ms. LEE. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I just wanted to say to the gentlewoman from California (Ms. LEE) that I fully support her efforts. I think she has raised an exceedingly important issue for our country. Without question, the nutrition of our children will yield the health of the future generation. The high use of sugar and high fats in the diets of our youth are creating an untenable, extremely unhealthy situation in this country that even the Surgeon General has recognized.

One of the hardest challenges we face within the U.S. Department of Agriculture is to get the nutrition part of the agency, which has over half of its budget, to talk to the production side, which is the part the gentlewoman is talking about. That is producers, organic producers, small farmers, must be linked to our local school districts. This has been a tough job.

I really support the gentlewoman on her efforts. Her goals of helping our children, I think, are commendable and also getting the Department of Agriculture to see its responsibilities toward our youth by working with farmers who can provide that fresh product in fruits and vegetables, with ethnic and racial sensitivity at the most local of levels, which is where we all live.

So I look forward to working with the gentlewoman as we move the bill in the other body and hopefully we can strengthen this measure as we move forward. I thank the gentlewoman so very much for bringing up this very important issue today.

Ms. LEE. Mr. Chairman, I want to thank the chairman and our ranking member for their colloquy and for their assistance and look forward to working with them. I come from an urban community. I look forward to working with our rural and suburban and urban legislators on this.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $7,041,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $10,325,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service and Rural Development mission areas for information technology, systems, and services, $59,369,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915–16 and 40 U.S.C. 1421–28: *Provided*, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C.

2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $5,384,000: *Provided*, That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center.

Office of the Assistant Secretary for Administration

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded by this Act, $652,000.

Agriculture Buildings and Facilities and Rental Payments

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for this Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings, $187,647,000, to remain available until expended: *Provided*, That in the event an agency within the Department should require modification of space needs, the Secretary of Agriculture may transfer a share of an agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to an agency's appropriation to cover the costs of new or replacement space for such agency, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account.

Hazardous Materials Management

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. 6601 et seq., $15,665,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

Departmental Administration

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $37,398,000, to provide for necessary expenses for management support services to offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $2,993,000, to remain available until expended.

Office of the Assistant Secretary for Congressional Relations

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,718,000: *Provided*, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: *Provided further*, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

Office of Communications

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $8,975,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins.

Office of the Inspector General

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, $71,429,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, including not to exceed $50,000 for employment under 5 U.S.C. 3109; and including not to exceed $125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

Office of the General Counsel

For necessary expenses of the Office of the General Counsel, $32,937,000.

Office of the Under Secretary for Research, Education and Economics

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $578,000.

Economic Research Service

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $67,620,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

National Agricultural Statistics Service

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture, as authorized by 7 U.S.C. 1621–1627, Public Law 105–113, and other laws, $114,546,000, of which up to $25,456,000 shall be available until expended for the Census of Agriculture: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

Agricultural Research Service

SALARIES AND EXPENSES

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, $971,365,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed $375,000, except for headhouses or greenhouses which shall each be limited to $1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed $750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $375,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center, including an easement to the University of Maryland to construct the Transgenic Animal Facility which upon completion shall be accepted by the Secretary as a gift: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

In fiscal year 2002, the agency is authorized to charge fees, commensurate with the fair market value, for any permit, easement, lease, or other special use authorization for the occupancy or use of land and facilities (including land and facilities at the Beltsville Agricultural Research Center) issued by the agency, as authorized by law, and such fees shall be credited to this account, and shall remain available until expended for authorized purposes.

AMENDMENT NO. 24 OFFERED BY MR. TIERNEY

Mr. TIERNEY. Mr. Chairman, I offer amendment No. 24.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mr. TIERNEY:

In title I, under the heading "AGRICULTURAL RESEARCH SERVICE-SALARIES AND EXPENSES", insert at the end the following:

SEC. ___. REPORT REGARDING GENETICALLY ENGINEERED FOODS.

(a) IN GENERAL.—Not later than one year after funds are made available to carry out this section, the Secretary of Agriculture, acting through the National Academy of Sciences, shall complete and transmit to Congress a report that includes recommendations for the following:

(1) DATA AND TESTS.—The type of data and tests that are needed to sufficiently assess and evaluate human health risks from the consumption of genetically engineered foods.

(2) MONITORING SYSTEM.—The type of Federal monitoring system that should be created to assess any future humah health consequences from long-term consumption of genetically engineered foods.

(3) REGULATIONS.—A Federal regulatory structure to approve genetically engineered foods that are safe for human consumption.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture $500,000 to carry out this section.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. The point of order is reserved.

Mr. TIERNEY. Mr. Chairman, there is probably no more important responsibility for a government than to protect the well-being of its citizens. For this reason, it is essential that we properly assess the best way to ensure the health safety of genetically engineered foods.

This amendment presented at the desk seeks a National Academy of Sciences study to examine three important health-related aspects of genetically engineered foods. One, whether or not the tests being performed on genetically engineered foods really ensure their health safety and whether or not they are adequate and relevant; two, what type of monitoring system is needed to assess future health consequences from genetically engineered foods; and, lastly, what type of regulatory structure should be in place to approve genetically engineered foods for humans to eat.

In the year 2000, more than 100 million acres of land around the world were planted with genetically engineered crops. This is 25 times as much as was planted just 4 years before. In fact, genetically engineered food crops planted and marketed by United States farmers include 45 kinds of corn, canola, tomatoes, potatoes, soybeans, and sunflowers.

Today, genetically engineered ingredients are found in virtually all of our foods that are sold on supermarket shelves; and that includes baby foods, potato chips, soda, and vegetables.

Despite the growing presence of genetically engineered foods and despite industry assertions that the foods are safe to eat, the public remains unconvinced. The discovery last year of genetically engineered Starlink corn that was not approved for humans to eat in taco shells was a wake-up call. Now that the cat is out of the bag, Starlink's manufacturers want the Environmental Protection Agency to declare Starlink safe for human consumption.

Mr. Chairman, that is no way to protect our health. As the Centers for Disease Control noted earlier this month, we need to properly evaluate genetically engineered foods before they get into the food supply. In my home State of Massachusetts, the State legislature is considering legislation that would impose a 5-year moratorium on the growing of genetically engineered foods. Similar legislation is pending in New York. In fact, according to the Grocery Manufacturers of America, as of March this year there were eight bills in six States that would ban or put a moratorium on the planting of genetically engineered crops.

We cannot afford to bury our heads in the sand and let the public's concerns continue to grow. We need to develop a standard of tests that can be applied to all genetically engineered food to ensure that it is safe for our children and ourselves to eat.

□ 1530

The Food and Drug Administration does not conduct its own testing of genetically engineered products. Instead, the Food and Drug Administration provides guidelines and then relies upon the companies who produce genetically engineered products to test their safety. Companies voluntarily share the results of the tests on genetically engineered products with the Food and Drug Administration.

Under new rules proposed on January 17 by the last administration, companies in the future will have to give 120 days' notice to the Food and Drug Administration before producing new genetically engineered products on the market. But even with these new rules, it remains the responsibility of the companies that create the market and market these products to test for their safety. We need to be sure that these companies are doing the right tests in the right way.

In addition to ensuring that testing methods are adequate, we need to ensure that our regulatory system is also sufficient to protect our health. The National Academy of Sciences has said, "A solid regulatory system and scientific base are important for acceptance and safe adoption of agricultural biotechnology, as well as for protecting the environment and public health."

Our current regulatory system, in which the Food and Drug Administration, the Environmental Protection Agency, and the United States Department of Agriculture share jurisdiction over genetically engineered food, may not be the best way to ensure the health and safety of the foods we eat. We need to be certain that testing, regulation and monitoring of genetically engineered foods over the long term are effective and appropriate in determining the potential health effects of eating genetically engineered foods.

Even the center for Science in the Public Interest, an organization devoted to improving the safety and nutritional quality of our food supply, has said that the National Academy of Sciences study would provide regulators with a scientific road map of tests to ensure the safety of genetically engineered foods so the consumers would feel secure when they consume them and farmers would be confident that they have a market for their products.

I think that is what we are looking for, Mr. Chairman. We want consumers to feel secure when they eat, and we want farmers to be confident when they market their products. We should heed the words from that study, and we should fund the study proposed in this amendment.

Mr. Chairman, I thank the chairman for his attention.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) insist upon his point of order?

Mr. BONILLA. I continue to reserve my point of order, Mr. Chairman.

The CHAIRMAN. The gentleman continues to insist on his point of order.

Mr. KUCINICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Tierney amendment. I think the gentleman from Massachusetts raises an excellent point about the need for further study. The truth is that in 1999, over 100 million acres of genetically engineered crops were planted in this country, and the consumption of genetically engineered crops is happening. Yet we really do not have much information about the effects; we really do not know much about how this might have some implications for public health. That is why many States are starting to look at this quite critically, and the issues that are raised here certainly merit more study.

I think the gentleman from Massachusetts (Mr. TIERNEY) should be congratulated for raising this issue and for asking for a more thorough review of this. I can say that I think most people in this country would support such a call. People are concerned about the food they eat, and they are certainly concerned about any new technology which may, in one way or another, change the functional characteristics of the food, as well as the properties of the food and the way in which the food interacts in the human medium.

So I want to thank the gentleman from Massachusetts (Mr. TIERNEY) for his work.

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, I would hope that the chairman would just know, this is the second year we have presented this motion; and I think it is a pretty balanced motion.

We are seeking here to both give consumers confidence, that the gentleman from Ohio points out very clearly is a very big concern for people; but we also are trying to make sure that farmers know that they can go to the market with confidence. It is going to do us no good in terms of the economics of our society to have a bunch of farmers that are creating a product in which the consumers have no confidence, so there is no market there.

This particular amendment was a hope to strike the point where we get the National Academy of Science to determine for us what is the best testing regime, what is the best way to monitor this as it goes through, and what is the best way to make sure that we have a regulatory structure to give the confidence at both of those levels.

Mr. KUCINICH. Mr. Chairman, reclaiming my time, the gentleman is correct on that. As a matter of fact, American farmers are quite concerned about the impact of genetically engineered products on their markets, because if their markets begin to dry up, as they have in some countries, then American farmers are not able to sell what we know is the best agriculture in the world, here from America. But if the products are genetically engineered, if there has not been much study and there is concern about quality, safety and other things, then our farmers can endure economic loss.

So I want to again thank the gentleman from Massachusetts (Mr. TIERNEY) for raising this issue, and I hope that the gentleman would respectfully consider his amendment as being in order.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) still insist on his point of order?

Mr. BONILLA. Mr. Chairman, I continue to reserve my point of order.

The CHAIRMAN. The gentleman continues to reserve his point of order.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I commend the gentlemen for their interest in providing wholesome food. It is important. I would like to point out, however, that regarding the Starlink corn question, it has now been certified that there has been no ill effects to humans. That is good news.

I would like to also point out that, because we have been cross-breeding for 1,000 years, every food item that we buy in a store, except a couple varieties of fish, have been genetically modified. This has happened simply because farmers have been looking for ways to improve the quality and cost of food.

I think it is very important that we continue our scientific effort with this new technology of genetic modification. We must also consider the importance of its tremendous potential in developing better food products and more healthy products. We can develop food products that have vaccines. Also, especially in the developing countries of this world, we now have the potential of developing the kind of plants and seeds that can grow in those arid soils or those other types of climatic conditions where they could not grow food before. So we need to proceed in our scientific research.

Just a point before I yield for a comment. We have the best regulatory system in the world in terms of our oversight of genetically engineered products. Between the United States Department of Agriculture, the Food and Drug Administration and the Environmental Protection Agency, we now have the ability to review, regulate and test these products that are coming to market to assure safety.

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. I might respectfully just disagree with the gentleman on the last point, as I think the National Academy of Science does, when they indicated that they think this idea of having three different agencies with overlapping and different responsibilities would be better served to look at what other kind of regulatory structure we could put in place that would give us more confidence.

Also I want to draw a point on the study the gentleman talked about on Starlink. One, I think we want that kind of information before the problem arises, and that is partly why I filed this bill; and, secondly, there is still some controversy swirling around the study the gentleman talked about and the results of it.

I suspect from the gentleman's comments and the importance he puts on genetically engineered foods that he favors my bill, which would be a confidence building measure, if we set up the right kinds of test that people could have confidence in, if we set up the right kind of monitoring system that people would know would be something we could rely on, and if we had the right kind of regulatory structure, it would benefit people that take the gentleman's position, as well as people that might be skeptical or more on that.

The idea is to follow the advice of the National Academy and do just that. Let them give us the advice through this study that I propose, to tell us what would be the best testing regime, how would you monitor it, and how would you regulate it.

Mr. SMITH of Michigan. Mr. Chairman, reclaiming my time, I think it is important, and I hope everyone agrees, that we have to depend on scientific information and testing, and not emotions, to be the basis of the decisions we make.

Mr. TIERNEY. Mr. Chairman, at this point in time I understand the gentleman's objections on technical matters on this, and I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $78,862,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $507,452,000, as follows: to carry out the provisions of the Hatch Act (7 U.S.C. 361a–i), $180,148,000; for grants for cooperative forestry research (16 U.S.C. 582a–a7), $21,884,000; for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222), $32,604,000, of which $998,000 shall be made available to West Virginia State College in Institute, West Virginia; for special grants for agricultural research (7 U.S.C. 450i(c)), $82,409,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), $15,721,000; for competitive research grants (7 U.S.C. 450i(b)), $105,767,000; for the support of animal health and disease programs (7 U.S.C. 3195), $5,098,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), $950,000; for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318), $639,000, to remain available until expended; for the 1994 research program (7 U.S.C. 301 note), $998,000, to remain available until expended; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), $2,993,000, to remain available until expended

(7 U.S.C. 2209b); for higher education challenge grants (7 U.S.C. 3152(b)(1)), $4,340,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), $998,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), $3,492,000; for a program of noncompetitive grants, to be awarded on an equal basis, to Alaska Native-serving and Native Hawaiian-serving Institutions to carry out higher education programs (7 U.S.C. 3242), $2,993,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(h)), $1,000,000; for aquaculture grants (7 U.S.C. 3322), $3,991,000; for sustainable agriculture research and education (7 U.S.C. 5811), $12,000,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, $9,479,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382, $1,549,000; and for necessary expenses of Research and Education Activities, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109, $18,399,000.

AMENDMENT NO. 22 OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. SMITH of Michigan:

In title I under the heading "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE"–"RESEARCH AND EDUCATION ACTIVITIES" insert after the dollar amount relating to "competitive research grants (7 U.S.C. 450i(b))" the following: ", including grants for authorized competitive research programs regarding enhancement of the nitrogen-fixing ability and efficiency of plants".

Mr. SMITH of Michigan. Mr. Chairman, briefly, what this amendment does is to include research to increase the efficiency of nitrogen fixation from plants.

We have a situation where the nitrogen fertilizer of this country is made out of natural gas. It is estimated that 3 to 6 percent of the natural gas produced in the United States is used to produce nitrogen. Farmers use that nitrogen fertilizer and therefore natural gas. If plants could do a better job of fixing "N" in the soil, we would save energy and reduce the cost to farmers.

This simply says let us include in our research effort research into the fixation of nitrogen. We now have plants that can put nitrogen back into the soil. We have started on this research. We need to move ahead. It is part of the whole renewable energy effort that we need to consider.

I thank the chairman and ranking member for supporting the amendment.

Mr. Chairman, I have an amendment today that would address the challenge of increased farm input costs due to continued high energy prices. Specifically, the amendment would direct the Cooperative State Research, Education, and Extension Service (CSREES) Competitive Grants Program, better known as the National Research Initiative, to include grants for research into improving nitrogen-fixation ability of crop plants.

As we are aware, higher energy costs over the last two crop years have further stressed farmers facing an extended period of low commodity prices. From 1999 to 2000, U.S. producers incurred an additional $2.4 billion in fuel costs. In the 2001 crop year, energy costs are expected to increase an additional $1.5 billion for farmers. As a result, agricultural bottom lines continue to suffer, and many farmers have gone out of business, despite increasing government support.

While we work to accomplish the larger goals set forth in the President's comprehensive energy plan, I think we should also be sure that no stone is left uncovered with respect to finding new ways to improve our energy usage and consumption. One area where I believe there is great potential for improvements is the reduction of fertilizer input costs on farms through greater nitrogen fixation ability.

In the United States, nitrogen fertilizer production and use requires 3 to 6 percent of the country's natural gas production. Natural gas prices and nitrogen fertilizer prices are closely related, with over 70 percent of the cost of N fertilizer attributable to natural gas. The tripling of natural gas prices last winter highlights this relationship, as nitrogen fertilizer costs skyrocketed over 350 percent. This huge increase obviously left farmers scrambling to modify planting decisions and find other ways to cut fertilizer input costs.

One way that we can do this is by developing plants that put nitrogen in the soil. For example, in a typical soybean-corn rotation—if we can develop new varieties of soybeans that fix greater amounts of nitrogen, more residual nitrogen would remain for the following corn crop, lessening the amount of nitrogen fertilizer that would need to be purchased by the producer.

Recent research indicates that significant potential for improvements exist in this area, but currently, a very limited amount of research is being done on these issues. My amendment would ensure that USDA's National Research Initiative Competitive Research Grants support research into enhancing the nitrogen fixing ability and efficiency of plants.

I believe that making this type of agricultural research a priority will pay great and lasting dividends to farmers facing continued challenges of high energy input costs, and I urge the members to support my amendment.

Note: Currently, USDA–ARS is spending $3.05 million in FY '01 to fund N-fixing projects. USDA–CSREES/NRI is also funding N-fixing projects, but have not reported back the total amount being spent.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, we support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Smith).

The amendment was agreed to.

Mr. HANSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I come to the floor today on behalf of all the farmers and ranchers in Utah and other western States who are dealing with the devastating outbreaks of Mormon Crickets and grasshoppers. This outbreak, now under declaration of emergency by the Governor of Utah, is considered to be the worst in over 60 years and is spreading over 1.5 million acres.

These insects, which breed undisturbed and untreated on the vast acres of BLM and Forest Service land and then spread to neighboring State and private land, are devouring the crops and rangeland to the tune of what is expected to be at least $25 million worth of damage.

However, this is not all. In Oak City, Utah, for example, the mayor informs me that the crickets have now inundated the community water system at the sealed collection boxes and tanks. They are now moving into towns, where people are attempting to burn their fruit trees to keep them away from their homes, and children are kept indoors.

Line-item funding has been eliminated, and formerly available funds from previous years have all been expended in battling these insects. The plight of these lands has become such a critical concern, that I have asked our Subcommittee on Public Lands to hold oversight hearings on this issue next month. Timely and adequate funding has been a continual issue for us.

While I understand there are not any line-item funds for Mormon Cricket and grasshopper treatment in this bill as it stands today, I understand the chairman is aware of the problem we are facing and has committed to ensure there is sufficient APHIS funds for the 2002 fiscal year specific to Mormon Cricket and grasshopper treatment, as well as working with us to ensure the Secretary addresses our emergency problems with contingency funds.

I thank the chairman and look forward to working with him and obtaining emergency funds.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I thank my friend for yielding. I appreciate the hard work that the gentleman has undertaken on this issue. I know it is a very serious problem.

The committee and this chairman are aware of the emergency conditions that exist in Utah and throughout the Great Basin region caused by the Mormon Crickets. The gentleman from Utah has my commitment to ensure that proper funding for this problem is obtained in a timely manner this year and that specific funding for addressing the Mormon Cricket and grasshopper problem is identified to meet future needs in the FY 2002 bill.

Mr. HANSEN. Mr. Chairman, reclaiming my time, I thank the chairman and appreciate his help on this critical matter and look forward to addressing this issue in conference and with the Secretary's help.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of ensuring that all warm-blooded animals used in research receive the protection for which the Animal Welfare Act entitles them, and therefore oppose the language that has been included in the bill before us which will continue to deny those protections to those species that constitute the majority of the animals used in research.

In 1970, the Congress specifically amended the Animal Welfare Act to provide for the protections of all warm-blooded animals used in experiments. Since then, however, the U.S. Department of Agriculture has unfairly and illegally denied those modest safeguards to a majority of the research animals, over 20 million birds, rats, and mice used each year.

When Congress amended the law, we certainly did not intend to exclude 95 percent of the animals used in research. This is confirmed by our esteemed former colleague from the other body, Senator Bob Dole, who, along with my great friend, the late Congressman George Brown, further improved the treatment of lab animals in 1985.

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I wish to enter into the RECORD the letter from Senator Dole on this subject.

To correct this 30-year-old wrong, USDA committed the beginning of the rulemaking process to extend the Animal Welfare Act regulations to these animals. I am disappointed that the Agriculture Appropriations Subcommittee chose to add language that prohibits USDA from going forward with this rulemaking which is long overdue. The scientific community must be held accountable to the public for its treatment of animals. The American public expects animal research to be conducted as humanely as possible. We in Congress cannot assure them that if we not only allow, but also encourage, USDA to exclude the majority of research animals from this law's protection.

Mr. Chairman, I urge that this language be stricken in the conference committee between the House and the Senate.

The letter referred to previously follows:

WASHINGTON, DC,
March 19, 2001.

JOHN MCARDLE,
Director, Alternatives Research and Development Foundation, Eden Prairie, MN.

DEAR DR. MCARDLE: Thank you for your letter of March 1st regarding the current status of laboratory animals under the Animal Welfare Act (AWA).

I support the use of animals in research but firmly believe that there is a responsibility incumbent upon researchers to provide basic protections to the animals they use. It is obvious that good animal care is essential to ensuring good quality research. Through good animal treatment and minimizing painful tests, biomedical research gains in both accuracy and humanity.

As someone deeply involved with the process of revising and expanding the provisions of the AWA, I assure you that the AWA was meant to include birds, mice, and rats. When Congress stated that the AWA applied to "all warm-blooded animals," we certainly did not intend to exclude 95 percent of the animals used in biomedical research laboratories. Although the National Institutes of Health and the Association for Assessment and Accreditation of Laboratory Animal Care International provide oversight for some of the birds, mice, and rats used for experimentation, many research institutions fall outside their purview. With AWA regulations soon extended to these animals, I believe USDA, with its substantial experience in enforcement, is best suited to ensuring humane care for all laboratory animals. Moreover, neither NIH's policy nor voluntary accreditation includes legal consequences for failure to perform. The Animal Welfare Act does. That is the heart of the law.

I am aware of efforts by opponents of animal welfare to prevent coverage of birds, mice, and rats as detrimental to research. This notion is preposterous. A similar strategy was employed by opponents of my 1985 amendments to the Act. I am happy to observe that none of their predications about the dire consequences for research ever materialized.

Indeed, those amendments have facilitated significant improvements in laboratory animal care and use, which in turn have benefited research. In fact, I understand that those members of the research community best informed about laboratory animals support the inclusion of birds, mice, and rats. From their work on the front lines, they recognize, as you and I do, that uniform protections not only are humane, but also ensure consistent experimental results and level the playing field in vital scientific research. Those who oppose USDA's efforts to fulfill its court settlement with your organization, I believe, are overlooking the long-term benefits to crafting better science.

We owe much to laboratory animals—that were true in 1985 and is truer today. I would hope that the Bush Administration and Members of the present Congress, some of whom stood with me in 1985 in advancing my amendments, will recognize that all animals used in experimentation deserve the benefit of the modest requirements of the Animal Welfare Act. I would urge them to allow USDA to achieve this end by pursuing a full and fair rulemaking as provided in the settlement agreement.

I wish you the best of luck not only in defending the Animal Welfare Act, but also in your ongoing efforts to advance humane methods of biomedical research.

Let me add that I am writing to you as a volunteer. I am not being paid by any persons or group for stating my views.

Sincerely,

BOB DOLE.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products: *Provided*, That this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103–382 (7 U.S.C. 301 note), $7,100,000.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, $436,029,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $275,940,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $3,273,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,566,000; payments for the pest management program under section 3(d) of the Act, $10,759,000; payments for the farm safety program under section 3(d) of the Act, $5,800,000; payments to upgrade research, extension, and teaching facilities at the 1890 land-grant colleges, including Tuskegee University, as authorized by section 1447 of Public Law 95–113 (7 U.S.C. 3222b), $12,173,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $906,000; payments for youth-at-risk programs under section 3(d) of the Act, $8,481,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, $499,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $3,185,000; payments for Indian reservation agents under section 3(d) of the Act, $1,996,000; payments for sustainable agriculture programs under section 3(d) of the Act, $5,000,000; payments for rural health and safety education as authorized by section 2390 of Public Law 101–624 (7 U.S.C. 2661 note, 2662), $2,622,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326 and 328) and Tuskegee University, $28,181,000, of which $998,000 shall be made available to West Virginia State College in Institute, West Virginia; and for Federal administration and coordination including administration of the Smith-Lever Act, and the Act of September 29, 1977 (7 U.S.C. 341–349), and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301 note), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $18,648,000: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, shall not be paid to any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American

Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension competitive grants programs, including necessary administrative expenses, as authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $43,355,000, as follows: payments for the water quality program, $12,971,000; payments for the food safety program, $14,967,000; payments for the national agriculture pesticide impact assessment program, $4,531,000; payments for the Food Quality Protection Act risk mitigation program for major food crop systems, $4,889,000; payments for the crops affected by Food Quality Protection Act implementation, $1,497,000; payments for the methyl bromide transition program, $2,500,000; and payments for the organic transition program, $2,000,000.

Office of the Under Secretary for Marketing and Regulatory Programs

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration; $660,000.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947 (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Acts of March 2, 1931 (46 Stat. 1468) and December 22, 1987 (101 Stat. 1329–1331) (7 U.S.C. 426–426c); and to protect the environment, as authorized by law, $587,386,000, of which $4,096,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, and section 102 of the Act of September 21, 1944, and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2002 the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

Of the total amount available under this heading in fiscal year 2002, $84,813,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $7,189,000, to remain available until expended.

Agricultural Marketing Service

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $90,000 for employment under 5 U.S.C. 3109, $71,774,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $60,596,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $13,995,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,347,000.

Grain Inspection, Packers and Stockyards Administration

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $33,117,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

INSPECTION AND WEIGHING SERVICES

Not to exceed $42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

Office of the Under Secretary for Food Safety

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $481,000.

Mr. BONILLA (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 25, line 1, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Food Safety and Inspection Service

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $720,652,000, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102–237: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

AMENDMENT OFFERED BY MS. DE LAURO

Ms. DELAURO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. DELAURO:

In title I, in the item relating to "FOOD SAFETY AND INSPECTION SERVICE", insert at the end the following:

In addition, for the Food Safety and Inspection Service to improve food safety and reduce the incidence of foodborne illnesses, $50,000,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

In title VI, in the item relating to "FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES", insert at the end the following:

In addition, for the Food and Drug Administration to improve food safety and reduce the incidence of foodborne illnesses, $163,000,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

Ms. DELAURO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. A point of order is reserved.

Mr. BONIOR. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 30 minutes and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The time will be equally divided between the proponent of the amendment, the gentlewoman from Connecticut (Ms. DELAURO), and a Member opposed.

Mr. BONILLA. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN. The gentlewoman from Connecticut (Ms. DELAURO) is recognized for 15 minutes.

Ms. DELAURO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment provides emergency funds to address the food safety crisis that faces our Nation today. Today more Americans are getting sick from the food that they eat. Outbreaks of food sickness are expected to go up by as much as 15 percent over the next 10 years. The outbreaks are reported across the spectrum: fish, eggs, beef and lettuce, to name a few. The statistics are staggering. Five thousand Americans die every year from food-borne illness, and 76 million get ill and 325 are hospitalized. Medical expenses and lost productivity cost us every year $5.6 billion and $9.4 billion respectively.

Two days ago the Excel Corporation recalled 190,000 pounds of ground beef and pork because of possible contamination by deadly E. coli. Sara Lee pled guilty to selling tainted meat linked to a nationwide outbreak of listeriosis in 1998, and 15 people were killed.

Grocery stores are afraid that their food is unsafe. Slaughterhouses are killing cattle before the animals are unconscious because there are not enough inspectors to ensure that the law is enforced.

George Grob, Deputy Director and Inspector General of Health and Human Services states that, and I quote, "Any reasonable person would worry about it. If the inspection process worked really well, there would be fewer recalls."

To address the problem I asked the committee to allow an amendment that would provide a total of $213 million in emergency funds, $90 million for more inspections of imported foods, $73 million for additional inspections of domestic food products, and $50 million for the Food Safety Inspection Service to ensure that it has the resources that it needs to implement food safety procedures and regulations.

The Food and Drug Administration inspects all food except meat, poultry and eggs. This food, which includes fruit juices, vegetables, cheeses, seafood, is the source of 85 percent of food poisoning in this country. In the United States alone, there are 30,000 companies that produce these food items, and last year recalls of FDA-regulated products rose to 315, the most since the 1980s and 36 percent above average.

Mr. Chairman, FDA inspects less than 1 percent of imported food, and that market has expanded from 2.7 million items to 4.1 million items in just 3 years. In the domestic market, the FDA does not inspect all high-risk firms more than once a year; other firms are visited only once in 7 years. The FDA employs 400 people to inspect domestic food and recall. There are 30,000 food plants to look into and less than 120 people to inspect imported food. According to their own testimony, the FDA says to conduct annual inspections of every domestic food firm, it would need 3,400 employees. To increase its inspection of imported food from 1 percent to 10 percent would require 1,600 employees.

The FDA needs resources in order to begin to meet its goal, and that is what this amendment does, is to begin the process of increasing the number of inspectors in order to look at imported foods and take the 1 percent of the inspections to 10 percent, and it would add 630 inspectors to guarantee that all high-risk firms are inspected twice a year, all other firms every 2 years, and all food warehouses every 3 years.

The last part of the amendment says, let us have $50 million for the Food Safety Inspection Service to allow it to reach its goal of looking at reducing food-borne illnesses that are carried by meat and poultry by 25 percent.

The FSIS has held public hearings to look at how we deal with imported food and procedures, risk management, and emergency outbreaks. We only have to look at our European friends to see what they have gone through with foot and mouth and with mad cow illness to understand that what we need to do is to be able to meet any kind of emergency. We need to move forward on food safety, not backwards. If we continue to not provide the kinds of inspection services that are needed, in fact, we will move backwards and jeopardize the health of this country.

Mr. Chairman, I ask for support of this amendment and to provide emergency assistance for food safety.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman insist upon his point of order?

Mr. BONIOR. I continue to reserve the point of order, Mr. Chairman.

Ms. DELAURO. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Question: How many times have we all heard; "The government is too blasted big. Get the government out of our lives." I bet my colleagues have heard it a lot. Yet the first time that we have an outbreak of disease someplace, the first time that people die from contaminated food, all of a sudden people say, "Where is the government? What are they doing? Why don't they get off their duffs? Why aren't they protecting the public interest?"

Well, there is very good reason for that. It is because we are not providing the resources necessary to provide an absolutely safe source of food in this country.

The purpose of this amendment is to, over a 3-year period of time, bring us to where the FDA says we should be in protecting the public health of this country.

When we had subcommittee hearings earlier in the year, here is what FDA said in response to questions: "The inspection coverage of food manufacturers, particularly high-risk manufacturers, has been inadequate over the past several years." FDA estimated we would need at least $220 million for an optimum inspection schedule of domestic food facilities under our jurisdiction. This would provide inspection of high-risk firms twice each year, warehouses every 3 years, and all other food firms every 2 years.

Now, people can argue all day long about government priorities, but the fact is that we are here today unable to offer this amendment because the budget limitations under which we are operating prevents us from even getting a vote on the amendment offered by the gentlewoman.

Why are we in this position? Because the majority party and the White House insisted early on to take virtually every dime of the surpluses that we were hoping to have over the next 10 years and pour all of those monies into tax cuts. They put the lion's share of those tax cuts into the pockets of the very wealthiest people in this country.

So this Congress decided it was more important to give the wealthiest 1 percent of people in this country, who, over the last 20 years, have seen an after-tax rise in their income of $414,000 per family, that it was more important to give those people an additional tax cut of $53,000 a year than it is to meet our primary obligations to strengthen Social Security, to strengthen education, to strengthen Medicare, and to do all of these other little things that we need to do if we are going to protect the food supply of this country and the environment in which we all live.

So I simply take the well today, knowing full well that this amendment will not receive a vote because of the rule under which the bill is being considered, to suggest that this again is another example of how we are neglecting our responsibilities of stewardship in order to do the easy political thing and throw all of the money that we were expecting to accumulate in those surpluses to tax cuts for the most prosperous people in this society.

Mr. Chairman, I cannot believe this Congress could not achieve a better balance in priorities. I cannot believe that intelligent people on both sides of the aisle cannot figure out a way to guarantee that we do provide at least the minimum coverage that the Agency itself says we ought to provide in order to protect the health of the American people.

Mr. Chairman, 5,000 Americans are going to die this year because of contaminated food, and millions are going to become sick. I do not believe that we cannot do better.

Mr. BONILLA. Mr. Chairman, I continue to reserve my point of order, and I reserve the balance of my time.

Ms. DELAURO. Mr. Chairman, I yield 5 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentlewoman for yielding to me, and I want to commend her for her terrific efforts in subcommittee and in full committee, and now on the floor, to get appropriate attention to the important question of food safety in our country. It really is staggering to think that 76 million Americans every year have some type of food-borne illness.

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As modern a society as we are, we question, why does this happen? Part of the reason for it is because our food system, in many ways, is moving very far away from home.

It used to be that you knew the farmer where your eggs came from. You knew the farmer who grew your strawberries. There was local accountability. You knew where your chickens came from. You knew where your beef for your sausage came from, because the people lived in your community and you went to the stores and the outlets that they operated.

Mr. Chairman, today we live in a very industrialized food system, and industrialized food processing has not necessarily brought with it a safer food system. In fact, last year, 315 Food and Drug Administration regulated food products were recalled, the most recalls in 1 year since the mid-1980s.

It was a 36 percent increase above the average, and part of the reason for that is, even though we have certain scientific methods in place, the way in which our food is processed actually encourages food-borne illness.

For example, in the area of beef, if you go into some of our slaughter houses and meat-packing plants now, which are very, very mechanized, often, an intestine will be pierced and E. coli will be driven into flesh in the animal that is ultimately then cut up and sold on the supermarket shelf.

Mr. Chairman, some of that is not detected by the human eye. Industrial slaughtering is different than when animals were cut by hand and there were not so many animals slaughtered per day and there was closer oversight.

It has never been easy to work in a meat processing facility. At the beginning of the 20th century, books were written about what was going on inside these meat-packing plants, and through the 20th century, we tried to improve the situation.

In poultry, for example, if you look at the USDA inspectors who are on a line, the rate at which birds move by them has become so fast, the human eye cannot necessarily detect the different types of salmonella and pfiesteria and other bacterial microbes that can infect the meat product.

In spite of the fact that we seem to be so modern, some of the very procedures that we have as well as the fact that food is grown and processed very far from home has made the system in some ways extremely vulnerable.

It is surprising to us also that in a country as bountiful as ours that we have increasing amounts of food imports.

Over the last 4 years alone, imported foods sold in the United States have increased by 50 percent, from 2.7 million items in 1997 to 4.1 million last year alone. But of all the foreign imports coming in here, as the gentlewoman from Connecticut (Ms. DELAURO) has accurately described, only 1 percent are inspected.

When most people get sick from food poisoning, they do not report it to the Centers for Disease Control. A lot of times they do not really realize what is wrong with them until a couple of days later. At the local level, there is not an automatic reporting upstream to the CDC. So a lot of the food poisoning goes unreported. The DeLauro amendment would provide additional funds for food inspection.

There is $98 million more for imported food inspection, which we so desperately need at our borders; $73 million for more FDA inspections of domestic food processors. Many processors do not even get inspected once a year; sometimes it takes up to 2 years.

The FDA actually is the agency where 75 percent of the problem is, 75 percent of the outbreaks and problems relate to FDA-inspected facilities. This means inspection is inadequate.

The DeLauro amendment also would provide $50 million for USDA food safety and inspection service to carry out new procedures and regulations for meat and poultry food products. For example, USDA is currently addressing port of entry procedures and the development of contingency plans for emergency breakouts. Remember, we had that problem of strawberries in Michigan causing children to become so ill. To this day, we were never actually able to track back where the problem with those strawberries came from. We knew they were processed in southern California. Their origin was Mexico, but we just could not track it back.

So I think the DeLauro amendment is more than worthy; it is essential. She has my full support on this. I hope she has the attention of the membership. Let us get this DeLauro amendment incorporated in the final bill that we bring back from the other body.

Ms. DELAURO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is simply an effort to try to build the infrastructure of the agencies that we charge with protecting our food, our food supply, which is ultimately about the food, but it is about the safety of every man, women and child in this country. That is all that we are asking about here.

Given the statistics, which are staggering, 5,000 deaths, 73 million people ill, 325,000 people hospitalized, it is unconscionable that we do not recognize this as a crisis and as an emergency.

We cannot allow this to continue. We can do something about it.

PARLIAMENTARY INQUIRY

Mr. BONILLA. Mr. Chairman, I have a parliamentary inquiry. Is the gentlewoman from Connecticut (Ms. DELAURO) withdrawing her amendment?

The CHAIRMAN pro tempore (Mr. WHITFIELD). Is the gentlewoman from Connecticut withdrawing her amendment, or does she continue to want to move forward on her amendment?

Ms. DELAURO. Mr. Chairman, I would like to continue to move forward with my amendment.

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. BONILLA. Mr. Chairman, I make a point of order against the amendment, because it proposes to change existing law and constitutes legislation in an appropriations bill, and, therefore, violates clause 2 of rule XXI. The rule states, in pertinent part, an amendment to a general appropriation bill shall not be in order if changing existing law.

The amendment includes an emergency designation under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, and, as such, constitutes legislation in violation of clause 2 of rule XXI.

I ask for a ruling from the Chair.

The CHAIRMAN pro tempore. Does the gentlewoman from Connecticut want to be heard on the point of order?

Ms. DELAURO. No, Mr. Chairman.

The CHAIRMAN pro tempore. Then the Chair is prepared to rule on the gentleman's point of order.

The Chair finds that this amendment includes an emergency designation under section 251(b)(2)(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, the amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. The amendment is not in order.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The Committee will rise informally.

The SPEAKER pro tempore (Mr. LATHAM) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The Committee resumed its seating.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $611,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $945,993,000: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 shall be available for employment under 5 U.S.C. 3109.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $2,993,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, $100,000, to remain available until expended: *Provided*, That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–12).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $1,128,000,000, of which $1,000,000,000 shall be for guaranteed loans and $128,000,000 shall be for direct loans; operating loans, $2,600,000,000, of which $1,500,000,000 shall be for unsubsidized guaranteed loans, $500,000,000 shall be for subsidized guaranteed loans, and $600,000,000 shall be for direct loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; and for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $100,000,000.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $7,866,000, of which $4,500,000 shall be for guaranteed loans and $3,366,000 shall be for direct loans; operating loans, $174,030,000, of which $52,650,000 shall be for unsubsidized guaranteed loans, $67,800,000 shall be for subsidized guaranteed loans, and $53,580,000 shall be for direct loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $118,000; and for emergency insured loans, $3,363,000 to meet the needs resulting from natural disasters.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $282,769,000, of which $274,769,000 shall be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933), $75,142,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act, such sums as may be necessary, to remain available until expended (7 U.S.C. 2209b).

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 2002, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11).

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 2002, the Commodity Credit Corporation shall not expend more than $5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, 42 U.S.C. 6961.

TITLE II

CONSERVATION PROGRAMS

Office of the Under Secretary for Natural Resources and Environment

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $736,000.

Natural Resources Conservation Service

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $782,762,000, to remain available until expended (7 U.S.C. 2209b), of which not less than $7,137,000 is for snow survey and water forecasting, and of which not to exceed $30,500,000 is for technical assistance activities in conjunction with the Conservation Reserve Program authorized by subchapter B, chapter 1, title XII of the Food Security Act of 1985, and of which not less than $9,349,000 is for operation and establishment of the plant materials centers, and of which not less than $20,000,000 shall be for the grazing lands conservation initiative: *Provided*, That $8,500,000 of the funds authorized for allotments or transfers under 15 U.S.C. 714i shall be available for Conservation Reserve Program technical assistance: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2).

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001–1009), $11,030,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $110,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001–1005 and 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $105,743,000, to remain available until expended (7 U.S.C. 2209b) (of which up to $10,000,000 may be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701 and 16 U.S.C. 1006a)): *Provided*, That not to exceed $45,514,000 of this appropriation shall be available for technical assistance: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a–f); and the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $48,361,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL CONSERVATION PROGRAM

(RESCISSION OF FUNDS)

Of the funds appropriated for "Agricultural Conservation Program" under Public Law 104–37, $45,000,000 is hereby rescinded.

TITLE III

RURAL DEVELOPMENT PROGRAMS

Office of the Under Secretary for Rural Development

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $628,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, 1926d, and 1932, except for sections 381E–H, 381N, and 381O of the Consolidated Farm and Rural Development Act, $767,465,000, to remain available until expended, of which $34,503,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $658,994,000 shall be for the rural utilities programs described in sections 381E(d)(2), 306C(a)(2), and 306D of such Act; and of which $73,968,000 shall be for the rural business and cooperative development programs described in sections 381E(d)(3) and 310B(f) of such Act: *Provided*, That of the total amount appropriated in this account, $24,000,000 shall be for loans and grants to benefit Federally Recognized Native American Tribes, including grants for drinking water and waste disposal systems pursuant to section 306C of such Act, of which $4,000,000 shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of the Consolidated Farm and Rural Development Act, and of which $250,000 shall be available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: *Provided further*, That of the amount appropriated for rural community programs, $6,000,000 shall be available for a Rural Community Development Initiative: *Provided further*, That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: *Provided further*, That such funds shall be made available to qualified private and public intermediary organizations proposing to carry out a program of financial and technical assistance: *Provided further*, That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: *Provided further*, That of the amount appropriated for the rural business and cooperative development programs, not to exceed $500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development; and $2,000,000 shall be for grants to Mississippi Delta Region counties: *Provided further*, That of the amount appropriated for rural utilities programs, not to exceed $20,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico borders, including grants pursuant to section 306C of such Act; not to exceed $20,000,000 shall be for water and waste disposal systems for rural and native villages in Alaska pursuant to section 306D of such Act, of which one percent to administer the program and to improve interagency coordination may be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses"; not to exceed $16,215,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act; and not to exceed $11,000,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That of the total amount appropriated, not to exceed $37,624,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the

Secretary of Agriculture as Rural Economic Area Partnership Zones; of which $1,163,000 shall be for the rural community programs described in section 381E(d)(1) of such Act, of which $27,431,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, and of which $9,030,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided further*, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the "Rural Utilities Service, High Energy Costs Grants" account.

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $134,733,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 may be used for employment under 5 U.S.C. 3109: *Provided further*, That not more than $10,000 may be expended to provide modest nonmonetary awards to non-USDA employees: *Provided further*, That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this account.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $4,202,618,000 for loans to section 502 borrowers, as determined by the Secretary, of which $1,064,650,000 shall be for direct loans, and of which $3,137,968,000 shall be for unsubsidized guaranteed loans; $32,324,000 for section 504 housing repair loans; $114,068,000 for section 515 rental housing; $99,770,000 for section 538 guaranteed multi-family housing loans; $5,090,000 for section 524 site loans; $11,778,000 for credit sales of acquired property, of which up to $1,778,000 may be for multi-family credit sales; and $5,000,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $180,274,000 of which $140,108,000 shall be for direct loans, and of which $40,166,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $10,386,000; section 515 rental housing, $48,274,000; section 538 multi-family housing guaranteed loans, $3,921,000; section 524 site loans, $28,000; multi-family credit sales of acquired property, $750,000; and section 523 self-help housing land development loans, $254,000: *Provided*, That of the total amount appropriated in this paragraph, $11,656,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $422,910,000, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

AMENDMENT OFFERED BY MRS. CLAYTON

Mrs. CLAYTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. CLAYTON:

In title III, in the item relating to "Rural Housing Insurance Fund Program Account" add at the end the following:

Of the amounts made available under this heading in chapter 1 of title II of Public Law 106–246 (114 Stat. 540) for gross obligations for principal amount of direct loans authorized by title V of the Housing Act of 1949 for section 515 rental housing, the Secretary of Agriculture may use up to $5,986,197 for rental assistance agreements described in the item relating to "Rental Assistance Program" in such chapter: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Control Act of 1985, as amended.

In making available for occupancy dwelling units in housing that is provided with funds made available under the heading referred to in the preceding paragraph, the Secretary of Agriculture may give preference to prospective tenants who are residing in temporary housing provided by the Federal Emergency Management Agency as a result of an emergency.

Mrs. CLAYTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN pro tempore. The gentleman from Texas reserves a point of order.

Mrs. CLAYTON. Mr. Chairman, I ask unanimous consent to offer my amendment at a later time.

The CHAIRMAN pro tempore. Does the gentlewoman want to withdraw her amendment?

Mrs. CLAYTON. This is a housing amendment, and I thought it was appropriate at this point, but if there is a question about appropriateness of the government at this time.

Ms. KAPTUR. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, just so we understand what is occurring here. I just want to make sure that the gentlewoman from North Carolina will have the opportunity to bring up her amendment at a later time, even if it might be out-of-page order, and it may not be able to come up later today, but maybe when we come back from the 4th of July.

Mr. Chairman, we just want to reserve her rights to bring this up and work out whatever needs to be done with the majority.

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Mr. BONILLA. Mr. Chairman, if the gentlewoman will yield, we would have no objection to that, and she would be allowed to do that.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman.

The CHAIRMAN pro tempore (Mr. WHITFIELD). Without objection, the gentlewoman from North Carolina (Mrs. CLAYTON) withdraws her amendment and, without prejudice, will be able to reoffer at an appropriate time.

There was no objection.

Mrs. CLAYTON. At a later time?

The CHAIRMAN pro tempore. At a later point in the reading, the gentlewoman from North Carolina will be able to reoffer her amendment.

Mrs. CLAYTON. Do I need further instruction from the Chair? I just want to make sure, have I reserved my right? Is my amendment protected? All right.

The CHAIRMAN pro tempore. The gentlewoman will be allowed to at a later point in the reading to offer her amendment notwithstanding having passed the appropriate point in the reading.

The Clerk will read.

The Clerk read as follows:

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, $693,504,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount, not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That agreements entered into or renewed during fiscal year 2002 shall be funded for a 5-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $33,925,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That of the total amount appropriated, $1,000,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and

1490m, $38,914,000, to remain available until expended: *Provided*, That of the total amount appropriated, $1,200,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, $31,431,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

Rural Business—Cooperative Service

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $38,171,000.

For the cost of direct loans, $16,494,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,724,000 shall be for Federally Recognized Native American Tribes and of which $3,449,000 shall be for Mississippi Delta Region counties (as defined by Public Law 100–460): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of $38,171,000: *Provided further*, That of the total amount appropriated, $2,730,000 shall be available through June 30, 2002, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $3,761,000 shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $14,966,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $3,616,000.

Of the funds derived from interest on the cushion of credit payments in fiscal year 2002, as authorized by section 313 of the Rural Electrification Act of 1936, $3,616,000 shall not be obligated and $3,616,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $7,500,000, of which $2,500,000 shall be available for cooperative agreements for the appropriate technology transfer for rural areas program: *Provided*, That not to exceed $1,497,000 of the total amount appropriated shall be made available to cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers.

RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY GRANTS

For grants in connection with a second round of empowerment zones and enterprise communities $14,967,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities as authorized in the Taxpayer Relief Act of 1997.

Rural Utilities Service

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans $121,107,000; municipal rate rural electric loans, $794,358,000; loans made pursuant to section 306 of that Act, rural electric, $2,600,000,000; Treasury rate direct electric loans, $500,000,000; and guaranteed electric loans, $100,000,000; 5 percent rural telecommunications loans, $74,827,000; cost of money rural telecommunications loans, $300,000,000; and rural telecommunications loans, $120,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of rural electric loans, $3,689,000, and the cost of telecommunication loans, $2,036,000: *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $36,322,000, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

RURAL TELEPHONE BANK PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs. During fiscal year 2002 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $174,615,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935), $2,584,000.

In addition, for administrative expenses, including audits, necessary to carry out the loan programs, $3,107,000 which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

DISTANCE LEARNING AND TELEMEDICINE PROGRAM

For the principle amount of direct distance learning and telemedicine loans, $300,000,000; and for the principle amount of broadband telecommunication loans, contingent upon the enactment of authorizing legislation, $100,000,000.

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., $26,941,000, to remain available until expended, to be available for loans and grants for telemedicine and distance learning services in rural areas: *Provided*, That, contingent upon the enactment of authorizing legislation, $1,996,000 may be available for a loan and grant program to finance broadband transmission and local dial-up Internet service in areas that meet the definition of "rural area" used for the Distance Learning and Telemedicine Program authorized by 7 U.S.C. 950aaa: *Provided further*, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

TITLE IV

DOMESTIC FOOD PROGRAMS

Office of the Under Secretary for Food, Nutrition and Consumer Services

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $592,000.

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $10,088,746,000, to remain available through September 30, 2003, of which $4,748,038,000 is hereby appropriated and $5,340,708,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That except as specifically provided under this heading, none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That up to $4,507,000 shall be available for independent verification of school food service claims: *Provided further*, That of the funds provided under this heading, $2,000,000 shall be available for new activities to enhance integrity in the National School Lunch Program.

AMENDMENT OFFERED BY MRS. DAVIS OF CALIFORNIA

Mrs. DAVIS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mrs. DAVIS of California:
>
> In title IV under the heading "CHILD NUTRITION PROGRAMS", insert before the period at the end the following: "*Provided further*, That the Secretary of Agriculture may not take into account the availability of a basic allowance for housing for members of the Armed Forces when determining the eligibility of persons for free or reduced-price lunch programs".

Mr. BONILLA. Mr. Chairman, I reserve a point of order. We have not seen this amendment.

The CHAIRMAN pro tempore. The point of order is reserved.

Mrs. DAVIS of California. Mr. Chairman, I realize this amendment will most likely not be ruled in order, but I offer it to raise awareness to a critical problem.

In an effort to leverage its limited quality-of-life resources, the armed services are privatizing military family housing. I support this effort. In fact, we have some wonderful projects online in San Diego. But as you know, obviously there are unintended consequences of a good program. I would like to point out two in particular.

This is creating a loss of income to school districts, and it is affecting the eligibility for free and reduced school lunch programs for the children of military families.

Let me give my colleagues some background. When a family lives in a military family housing community, they basically forfeit their basic housing allowance. But when that community housing becomes privatized, this basic allowance for housing is included on the servicemembers' pay statement. That is called an LES. Servicemembers do not actually receive this income, however. It is basically pass-through.

Unfortunately, under the Department of Agriculture rules, this amount is included as income in determining eligibility for free and reduced school lunches.

The Department of Defense adds the allowance to the pay statement to assist them in accounting, but the servicemember is not getting any additional pay for the family, and certainly not for food for their children.

This could happen. Perhaps, on a Sunday, the military housing community is owned and operated by the military. But on Monday, that housing community is operated by a private company, still on the Federal land, but the servicemember has never moved, but has less money really in his pocket if his child does not become eligible for free and reduced lunch. They had that eligibility before.

So families are losing some assistance, children are losing their free lunches, and school districts are losing Federal funds. It is the smaller school districts particularly that are especially affected by this. So we need to take a look at this issue, and I think we need to change the rules. This is no way, I believe, to treat the men and women who sacrifice so much in service to our country. So what my amendment would do would be to prevent the housing allowance from being used when determining eligibility for child nutrition programs.

There is another issue that we are going to face as well. I hope that we can increase the basic housing allowance for all servicemembers regardless of where they live. I know in my community of San Diego, people are paying far greater than they should out of pocket.

As we increase that need and keep pace with rising housing costs, we need to be certain that it is indexed at the end of the day so that there is still more money for the families to feed their children. We do not want to cause them to lose this valuable assistance that they receive, the children receive at school, if it looks as if their incomes have increased when, in fact, we know they really have not.

So I asked the assistance of my colleagues on this issue and the commitment of the chairman to work with me to resolve this issue.

The CHAIRMAN pro tempore. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. Mr. Chairman, I would ask the Chair if the gentlewoman from California (Mrs. DAVIS) is going to withdraw her amendment.

The CHAIRMAN pro tempore. Does the gentlewoman from California intend to withdraw her amendment?

Mrs. DAVIS of California. Mr. Chairman, yes. I hope that we can work together on this, and I certainly will ask to withdraw my amendment.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to say to the gentlewoman from California (Mrs. DAVIS) and to the chairman of the subcommittee that I do believe the gentlewoman has really brought up an issue that we never have considered, never were asked to consider during our regular hearings and so forth.

I think this does involve also the authorizing of the Committee on Education and the Workforce since they have jurisdiction over the school lunch program, the free and reduced lunch program, although we have jurisdiction over the expenditures for that.

Knowing that some of our military personnel are extremely pressed, even some eligible for food stamps when serving the Government of the United States at points around the world, it would seem to me that we should find a way to encourage the Department of Education, the Department of Agriculture to treat our military personnel with the respect that they deserve.

I want to compliment the gentlewoman for bringing this issue to the attention of our subcommittee and pledge my own cooperation with her in resolving this in the weeks and months ahead, and certainly also encourage her to testify before the Committee on Education and the Workforce as well as the authorizing Committee on Agriculture.

We here on the Committee on Appropriations will continue to work with the gentlewoman from California (Mrs. DAVIS) as we move to conference with the other body.

The CHAIRMAN pro tempore. Does the gentlewoman from California (Mrs. DAVIS) intend to withdraw her amendment?

Mrs. DAVIS of California. Yes, Mr. Chairman, I will do that. I know that there are colleagues on the other side of the aisle as well who have confronted this problem in their community, and I appreciate their help and support on this as well.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mr. SCHROCK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take this opportunity to speak on behalf of this amendment that was introduced by the gentlewoman from California (Mrs. DAVIS). At a time when retention in the military is down, we need to find as many ways as possible to support our sailors, soldiers, airmen, marines and their families.

The Department of Agriculture's current policy of counting the basic allowance for housing as part of income is unfair to the young men and women of the military who have dedicated their lives in service to our country.

Many military families, many new military families are finding it difficult just to make ends meet. Many are living just above the poverty level. The long hours, the months away from loved ones and low-paying jobs for spouses is often the norm for these families. When military communities introduced privatized housing to help military bases save on operating costs, it, unfortunately, does not always save money for the servicemembers.

When a member lives on base, they forfeit their basic allowance for housing. When a member lives in a privatized community, the Department of Defense adds the allowance to their pay statement, but this is money they never see.

When the Department of Agriculture includes this amount as income, it affects many families' eligibility for free or reduced school lunches. Schoolchildren lose their free lunches, families lose their assistance, and school districts lose Federal funds that receive this money to assist for free and reduced school lunch programs.

At the Naval Amphibious Base Little Creek in Virginia Beach, they were working with the Department of Housing Authority to plan for privatized housing in Virginia Beach and Norfolk, which I represent. I do not want to see what is happening in the district of the gentlewoman from California (Mrs. DAVIS) happen to the military families in our area.

I urge my colleagues to support this amendment. I thank the gentlewoman from California (Mrs. DAVIS) for introducing it.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $4,137,086,000, to remain available through September 30, 2003: *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That of the total amount available, the Secretary may obligate up to $25,000,000 for the farmers' market nutrition program and up to $15,000,000 for senior farmers' market activities from any funds not needed to maintain current caseload levels: *Provided further*, That notwithstanding section 17(h)(10)(A) of such Act, up to $10,000,000 shall be available for the purposes specified in section 17(h)(10)(B), no less than $6,000,000 of which shall be used for the development of electronic benefit transfer systems: *Provided further*, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: *Provided further*, That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $21,991,986,000, of which $1,000,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further*, That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act: *Provided further*, That funds provided under this heading may be used to procure food coupons necessary for program operations in this or subsequent fiscal years until electronic benefit transfer implementation is complete.

COMMODITY ASSISTANCE PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) and the Emergency Food Assistance Act of 1983, $152,813,000, to remain available through September 30, 2003: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program: *Provided further*, That of the total amount available, the Secretary may obligate up to $15,000,000 for senior farmers' market activities from any funds not needed to maintain current caseload levels: *Provided further*, That notwithstanding section 5(a)(2) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note), $21,820,000 of this amount shall be available for administrative expenses of the commodity supplemental food program.

FOOD DONATIONS PROGRAMS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973; special assistance for the nuclear affected islands as authorized by section 103(h)(2) of the Compacts of Free Association Act of 1985, as amended; and section 311 of the Older Americans Act of 1965, $150,749,000, to remain available through September 30, 2003.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $126,656,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law and of which not less than $4,500,000 shall be available to improve integrity in the Food Stamp and Child Nutrition programs: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

Foreign Agricultural Service

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $122,631,000: *Provided*, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development: *Provided further*, That none of the funds appropriated in this account may be used to pay the salaries and expenses of personnel to disburse funds to any rice trade association under the market access program or the foreign market development program at any time when the applicable international activity agreement for such program is not in effect.

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

PUBLIC LAW 480 PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, $122,600,000, to remain available until expended.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83–480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83–480 are utilized, $2,013,000, of which $1,033,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which $980,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, $20,277,000, to remain available until expended, for ocean freight differential costs for the shipment of agricultural commodities under title I of said Act: *Provided*, That funds made available for the cost of title I agreements and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 480 GRANTS—TITLES II AND III

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, $835,159,000, to remain available until expended, for commodities supplied in connection with dispositions abroad under title II of said Act.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $4,021,000, to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $3,224,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which $797,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $1,342,339,000, of which not to exceed $161,716,000 to be derived from prescription drug user fees authorized by 21 U.S.C. 379(h), including any such fees assessed prior to the current fiscal year but credited during the current year, in accordance with 21 U.S.C. 379h(g)(4), and shall be credited to this appropriation and remain available until expended: *Provided*, That of the total amount appropriated $6,000,000 for costs related to occupancy of new facilities at White Oak, Maryland, shall remain available until September 30, 2003.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio:

In title VI, in the item relating to "DEPARTMENT OF HEALTH AND HUMAN SERVICES-Food and Drug Administration-salaries and expenses", insert before the period at the end of the first paragraph the following:

: *Provided further*, That of the total amount appropriated, $2,500,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to abbreviated applications for the approval of new drugs under section 505(j) of the Federal Food, Drug, and Cosmetic Act, and $250,000 is available under section 903(d)(2)(D) of such Act for the purpose of carrying out public information programs regarding drugs with approved such applications, in addition to other allocations for such purposes made from such total amount

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

☐ 1630

Mr. BONILLA. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 20 minutes and that the time be equally divided.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The time equally divided between the proponent and an opponent?

Mr. BONILLA. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 3 minutes and 15 seconds.

Within the next 5 years, patents on brand-name drugs with combined U.S. sales approaching $20 billion will expire. Given the tremendous cost savings with generic competition, it has never been more important to reduce unnecessary delays in FDA approval of generic drugs.

The amendment I am offering today, along with the gentleman from California (Mr. WAXMAN), the gentleman from Michigan (Mr. DINGELL), the gentleman from Arkansas (Mr. BERRY), and the gentleman from New Jersey (Mr. PALLONE), would increase funding for the Office of Generic Drugs by $2.5 million. Our amendment builds on the $1.5 million increase already allocated to this office under the leadership of the chairman, the gentleman from Texas (Mr. BONILLA), and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR).

I am pleased the gentlewoman from Ohio (Ms. KAPTUR) supports this amendment. While I understand how difficult it is to allocate limited FDA resources, this amendment will pay for itself many times over. Additional dollars committed to the Office of Generic Drugs will generate enormous returns for American consumers, for Federal and State governments, and for employer-sponsored health plans.

Prescription drug spending increased by 18.8 percent last year, accounting for half the increase in national health spending and a third of the increase in employer-sponsored health coverage. Generic drugs cost on average 40 to 80 percent less than their brand name counterparts. Sometimes they are 90 percent cheaper.

To get a sense of the savings inherent in approving these drugs more rapidly: brand-name drug companies receive 6 additional months of market exclusivity when they conduct pediatric clinical trials. That 6 months, on the average, represents $695 million in lost consumer savings each year. It takes 6 to 12 months, on average, to review a new drug application. It takes 18 months, on average, to review a generic drug application. Multiply that $695 million, Mr. Chairman, times the full universe of generic drugs, and the 6-month difference means tens of billions of dollars in lost savings.

There are 300 scientists on staff today to review generic drug applications. There are more than 2,100 scientists on staff to review new drug applications. By giving the Office of Generic Drugs the resources it needs, we can make a tangible difference in easing the prescription drug spending burden. Opportunities to reduce both public and private spending on prescription drugs without sacrificing access or quality are very hard to come by.

Our amendment provides an additional $250,000 to fully fund a national campaign to raise public awareness about generic drugs. Generic drugs are as safe and as effective as brand-name drugs; they are just cheaper. But there is clearly an information gap when it comes to generics. Eighty-three percent of Americans report no bias against generic drugs, but only 54 percent fill prescriptions with the generics. There is a misperception that as conditions become more serious, the use of generic drugs becomes more risky. The greatest bias against generic drugs exists when cost savings, unfortunately when cost savings are potentially the greatest for serious conditions requiring expensive long-term treatment.

If we can get generic drugs to market on a more timely basis and encourage more widespread use of these products, the public and private sector savings will quickly dwarf our investment. I ask the Members of this Congress to support the amendment.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. The bill that the committee has presented to the House includes a very carefully balanced recommendation for funding for the Food and Drug Administration. The $39 million provided in this bill for generic drug activities includes a 17 percent increase for generic drug review, generous by any standard.

I should also note that the funding for generics includes the only FDA program increase above the President's budget, which certainly demonstrates our commitment to affordable, effective, and safe generic drugs. So, again, I rise in opposition to the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. BERRY), who has fought for low-cost prescription drugs for several years in this body.

Mr. BERRY. Mr. Chairman, I want to thank the distinguished gentleman from Ohio for his leadership in this effort.

The American people, Mr. Chairman, are continuing to be robbed by the brand-name prescription drug manufacturers in this country. The reason that happens is because they have patent protection, they have trade barriers to protect them, and they have limited access to generic medicine. It is time that we do something about that. It is time that we make reasonably priced prescription medicine available to the American people. We know that they could be saving $20 billion a year today if they had access to generic medicine that is not available to them today.

What we are asking in this amendment is that we provide $2.5 million to the FDA so they can have the ability to approve more generic medicine to the American people that would be offered at a much more reasonable price and create competition in the prescription medicine market that we have to deal with today. Generic drugs cost, on the average, 75 percent less than brand names.

As I said, we know that we can save the American people $20 billion a year if we do this. It takes 6 to 12 months to review a new drug application, but it takes 18 months today, because of FDA's limited ability, to approve a generic drug application. This does not make any sense that this would be the case.

So I urge the Members of this House to vote for this amendment and support the effort of the gentleman from Ohio to provide the American people with reasonably priced prescription medicine.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE), who has been very involved in health care issues, especially prescription drug and managed care issues.

Mr. PALLONE. Mr. Chairman, I rise in support of the Brown amendment. There is a need for statutory or legislative initiatives that allow timely access and availability of generic drugs once the patent on a brand-name drug expires. Brand-name companies have become proficient in manipulating Hatch-Waxman law and aggressive campaigns to block or delay generic alternatives from reaching the market.

One way of alleviating this problem is to provide more funding to the FDA's Office of Generic Drugs. Currently, the agricultural appropriation bill includes a $1.75 million increase in funding for this office, and I would like to see an additional $2.5 million for the Office of Generic Drugs. In addition, I would like to see an investment of an additional $250,000 on top of the $250,000 already in the bill for a national campaign to raise public awareness about the safety and cost effectiveness of generics.

The tactics used by the brand-name industry to delay generic drugs from coming on the market are widespread and well known. By giving the FDA Office of Generic Drugs the appropriate levels of funding, it will have the resources to help move generic drugs to the market more quickly, to run an education campaign, and to overall significantly bring down the cost of prescription drugs.

We need more money for this office so we can reduce the cost of prescription drugs, which is so important to our seniors and to so many Americans. I commend the gentleman from Ohio (Mr. Brown) for bringing this up, and I urge all my colleagues to support the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri (Mrs. Emerson).

Mrs. EMERSON. Mr. Chairman, I would like to speak in favor of this amendment. This is a very critical allocation of funds, primarily because we are having such a difficult time in getting generic drugs to the market.

Let me just point out that I am the sole person who is responsible for my mother-in-law. I just wrote a check to Bill's Pharmacy in Cape Girardeau, Missouri, $636 for four different medicines last month. The month before that I wrote a check for $572. The month before that I wrote a check for $835. And these are for brand-name drugs because it is very difficult to get a generic equivalent to market. It is atrocious.

Now, my mother-in-law has a supplemental Blue Cross/Blue Shield policy. It only goes up to $1,500, so my colleagues can imagine how quickly she uses that, because of the money that I have had to spend on her behalf.

So, Mr. Chairman, I think this is an absolutely important and critical amendment, and I hope that the chairman will allow it to be considered.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentlewoman from Missouri.

Mr. Chairman, I yield 30 seconds to my friend, the gentleman from Texas (Mr. Green).

Mr. GREEN of Texas. Mr. Chairman, I am proud to stand in support the bill. I want to thank both the chairman of the subcommittee and also the ranking member because this amendment actually builds on the $1.5 million increase they have in the bill. This would help move generic drugs to the market quicker. We are talking about $2.5 million. It typically takes 6 to 12 months to review a new drug application, but 18 months for the generic drugs.

This will help all our people, but particularly our seniors, who take more prescription drugs and spend billions every year on prescription drugs. Let us see if we can get generics there to save our seniors some dollars.

Mr. BROWN of Ohio. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Ohio has 2 minutes remaining.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Ohio (Ms. Kaptur).

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him so very much for bringing up this important amendment.

I think it is important for the membership to know this does not involve any new money but merely a reallocation of funds within the Food and Drug Administration itself. So this is a very, very worthy amendment.

We have had to try to fight in this bill and the bill last year to try to get more attention to the approval of generic drugs, which so many Americans obviously need. They are a lot less expensive. I can remember when Claude Pepper used to stand on this floor trying to get generic drug incentives put into the law.

So I want to thank the gentleman from Ohio, as always, taking the leadership on health questions and certainly trying to get medicine to people who need it. In my neighborhood, there are many citizens who make a choice between food and medicine every weekend when they shop at the local supermarket. This will help families like them.

We need to get FDA working more quickly. And I am so happy that the gentleman from the Committee on Energy and Commerce has brought this to our attention and has given us additional drive to get additional generic drugs approved. So I fully support his amendment. It is within the budget resolution and within our allocation, and I would urge the membership to support him.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentlewoman from Toledo.

In summary, Mr. Chairman, this amendment increases funding for the Office of Generic Drugs, to speed the approval process for generic drugs, to get them on the market more quickly, because generic drugs save money; always 40 to 60 to 80 percent over the price of a name-brand drug, sometimes as much as 90 percent. Consumers deserve access to generic drugs as quickly as possible. It will save money for America's consumers; it will save money for all levels of government that provide prescription drugs to employees and to citizens of this country; it will save money for employer health care plans.

Mr. Chairman, I ask for support of the Brown amendment on generics.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Brown).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. Brown) will be postponed.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio:

In title VI, in the item relating to "DEPARTMENT OF HEALTH AND HUMAN SERVICES-Food and Drug Administration-salaries and expenses", insert before the period at the end of the first paragraph the following:

: *Provided further*, That of the total amount appropriated, $5,000,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to antibiotic drugs, in addition to other allocations for such purpose made from such total amount

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 20 minutes and that the time be equally divided.

The CHAIRMAN. The Chair would seek clarification. The time divided is between the gentleman from Ohio (Mr. Brown) and the gentleman from Texas (Mr. Bonilla)?

Mr. BONILLA. The Chair is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. Brown) and the gentleman from Texas (Mr. Bonilla) each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Brown).

□ 1645

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment allocates funds to carry out the FDA's antibiotic resistance plan. On January 18, 2001, the FDA, the Centers for Disease Control and Prevention, and the National Institutes of Health unveiled an action plan developed by an interdepartmental task force that provides the United States with a comprehensive approach to combat the emerging threat of antimicrobial resistance. The plan designated 13 near-term priorities to deal with the problem of antibiotic resistance.

The introduction of antibiotics in the 1940s gave the medical community an overwhelming advantage in its fight against infectious diseases, against TB and pneumonia, against cholera and typhoid, against many other long-time killers. But as bacteria have been exposed to antibiotics, resistant strains have emerged as a real threat to the efficacy of antibiotic drugs and to human health. The recent experience of the global medical community with tuberculosis is an excellent example of what can happen when an infectious disease develops antibiotic-resistant strains, and the threat that this poses to public health in the United States and around the world.

Mr. Chairman, multidrug-resistant TB is as a result of antibiotic overuse, incorrect or interrupted treatment, and an inadequate supply of effective drugs. While outpatient treatment for standard TB costs a few thousand dollars, treatment of multidrug-resistant TB, MDRTB, costs as much as $250,000, and it may not be successful.

Mr. Chairman, we do not want to see this scenario of increased costs and increased mortality repeated with other infectious diseases. The first step in addressing the problem of antibiotic resistance is to identify the true scope of the problem. We know that AR infections are seen more often in emergency rooms. We know that antibiotic resistance occurs wherever antibiotics are used, and we know that overuse and misuse of antibiotics exacerbates the problems of antibiotic resistance.

But we need to know which drugs are being affected most, and when, how and why antibiotic drugs are being prescribed. We must educate the American public on the proper use of antibiotics, and we must encourage the development of new antimicrobial therapies.

The amendment I am proposing today does not seek to ban the use of any antibiotics, it would simply appropriate the funds necessary to implement those near-term priorities of the government's action plan that would take place at FDA. These priorities were not set by me. They were not set by my colleagues. They were not set by any special interest groups. They were established by doctors and scientists and public health officials from FDA, CDC, NIH and other Federal agencies.

The Committee on Appropriations has recommended a $126 million budget increase for FDA over last year. This $5 million set aside would allow FDA to begin to execute the portions of the antibiotic resistance action plan within its responsibility and would leave the decision on the sources of the offset to the Agency.

Mr. Chairman, I ask for Members to support the Brown amendment on antibiotic resistance.

Mr. Chairman, I reserve the balance of my time.

Mr. LATHAM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. The bill that the committee has presented to the House includes a very carefully balanced recommendation for funding for the Food and Drug Administration, including $27 million for antimicrobial resistance activities. This is an increase of over 70 percent from just 2 years ago, which clearly demonstrates our commitment in this area.

The gentleman's amendment proposes to increase funding for certain purposes, but it makes no proposal on where the money should come from. I would like to say that I am very happy that we were able to provide significant increases for the FDA. It is vitally important for that agency to have the resources to perform its public health mission. We were able to provide them the following increases above last year's level: $15 million to prevent BSE, or bovine spongiform encephalopathy, which is commonly known as mad cow disease; $10 million to increase the number of domestic and foreign inspections, and to expand import coverage in all product areas; $10 million to reduce adverse events related to medical products; $10 million to better protect volunteers who participate in clinical research studies; $9 million to provide a safer food supply; $1.75 million to improve the timeliness of generic drug application review and to provide generic drug education; and full funding of increased payroll costs for existing employees.

I want to stress how important this is. In the past, FDA and all other agencies in this bill were forced to reduce the level of services provided to the public in order to absorb payroll increases. This year we want to be sure that does not happen. I am sure that we all want to see that there is no slippage of activities at FDA involving research, application review, inspections, and all of the other payroll-intensive operations that are financed through our bill. We worked hard to find these resources. I am glad we were able to do it, and I am sure FDA will put them to good use.

Now here is my point. In the real world, when we go to conference with the other body, the increase that the gentleman's amendment proposes would have to come out of other increases that the committee provided. So where should it come from? Should we reduce FDA's food safety activities? We have heard a number of speeches today that told us not to do that. Should we reduce protection for people participating in clinical trials, or reduce resources for blood safety or BSE prevention?

Mr. Chairman, I ask all Members to support the committee's recommended increases in FDA. I oppose the gentleman's amendment, and I ask for its defeat.

Mr. Chairman, I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I rise in strong support of the Brown-Slaughter amendment. This amendment would set aside $5 million in the FDA's budget for the purpose of implementing FDA's portion of the public health action plan to combat antimicrobial resistance. As a former microbiologist with a master's degree in public health, I am profoundly concerned over the rising number of infections that do not respond to the majority of antibiotics in our medical arsenal.

In my judgment, the resistance of bacterial infections to antibiotics represents a major public health crisis in the Nation today. According to the Centers for Disease Control and Prevention, in some parts of the country more than 40 percent of streptococcus pneumonae infections are highly resistant to penicillin. Moreover, approximately 70 percent of the bacterial infections acquired in a hospital setting are resistant to at least one antimicrobial drug. As long ago as 1997, at least one strain of staphylococcus developed resistance against the last and strongest antibiotic available: vancomycin.

These facts have a real impact on patients. According to the WHO, 1 American dies every 38 minutes because of a drug-resistant infection. When first-line drugs against these infections are not effective, patients are sicker for longer periods of time. In the case of patients with suppressed immune systems, or those recovering from surgery or injury, a delay in effective treatment of infection can be fatal. Children are particularly susceptible. In 1999, the CDC reported that four otherwise healthy children had died of drug-resistant staphylococcus aureus infections.

If we fail to slow the rise of resistance to these infections, we could find ourselves returning to a day when common infections like tuberculosis and salmonella could become untreatable, and potentially fatal.

A wide range of factors are contributing to the rise of resistance of antimicrobial agents. They include the overprescription of antibiotics, viral infections which do not respond to antibiotics; the misuse of antibiotics, such as the use of a newer, broad-range antibiotic when a less recent version would be equally effective; and the decline in simple sanitation measures, like effective hand-washing.

The various agencies responsible for the many aspects of the antimicrobial resistance issue have come together and issued a comprehensive plan of attack against this problem. "A Public Health Action Plan to Combat Antimicrobial Resistance" was developed in partnership by the FDA, the CDC, and the National Institutes of Health, with input and assistance from the Agency for Health Care Research and Quality, the Department of Agriculture, Department of Defense, Department of Veterans Affairs, the Environmental Protection Agency, the Health Care Financing Administration, and the Health Resources and Services Administration.

This was an exhaustive and overarching effort to show the advance of antimicrobial resistance. As one of the lead agencies in developing this plan, the FDA has a crucial role to play in its implementation. The Brown-Slaughter amendment would set aside $5 million for the FDA to begin to stem the rising tide of antimicrobial resistance. This modest investment has the potential to save untold numbers of lives.

I urge my colleagues in the strongest possible terms to support the Brown-Slaughter amendment. Antimicrobial resistance is a quiet crisis growing in the United States, and we ignore it at our own risk.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me this time, and thank him for his leadership on this issue.

Mr. Chairman, how many times have Americans gone to a doctor, been prescribed an antibiotic only to find out it did not work, that it was not effective for them? This vignette of a patient taking medication, hoping it is going to be of value to fight infection is something that is repeated many times around the world. Yet we know for some reason antibiotics are not effective because of certain resistance. What the gentleman from Ohio (Mr. BROWN) is doing is trying to get an additional $5 million to fund components of the action plan to combat antimicrobial resistance.

Mr. Chairman, this money will be money well spent because this is not only a health problem in this country, this is a world health problem. I thank the gentleman for his dedication.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR), who is the ranking member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, I want to compliment the gentleman from Ohio (Mr. BROWN) for taking leadership on this important issue of antimicrobial research.

Mr. Chairman, it has been amazing to me among families and friends, staff members and their families back home, how many individuals go into a hospital and are the victims of an infection. In spite of some of the best knowledge we have with modern medicine, yet we find that there is this antimicrobial resistance that in some ways is as a result of the technologies that we brought on board in the 20th century.

As we now embark on the 21st century, this research to add funding to help to expedite the action plan to combat antimicrobial resistance is essential. We know that life transforms and that every action has an equal and opposite reaction. I am sure that is the case, that scientists note every day, whether we are talking about HIV-AIDS or whether we are talking about some type of staphylococcus infection which becomes resistant to antibiotics which have been brought on board in years past.

We need to know which drugs are being affected most; how, when and why antibiotic drugs are being prescribed. We must educate physicians and the public on the proper use of antibiotics. I have been amazed at people who have taken antibiotics and find their systems having to readjust anywhere from 6 months to a year.

Mr. Chairman, I want to compliment the gentleman. The amendment would simply authorize funding for priorities already set by the health agencies of this government. I urge my colleagues for a "yes" vote on this important amendment on antimicrobial research. It provides $5 million to the FDA to expedite the carrying out of priority action items designated under an adopted action plan.

□ 1700

Mr. BROWN of Ohio. Mr. Chairman, I yield myself the balance of my time.

I ask my colleagues to speak to a physician or to a nurse or to a hospital administrator or to a medical researcher about this problem of antibiotic resistance. Every one of them will tell you that they know of cases, they have seen cases, they have seen the damage done by cases where antibiotic resistance is very real. Antibiotics are not as effective as they were a year ago or 5 years ago or 10 years ago. They also will tell you that we need action, we need to begin to recognize the problem, we need to anticipate the problem of growing resistance to antibiotics, and we need to do something about the problem.

This amendment does not ban any antibiotics. It simply carries out the action plan that our government has suggested. I ask for support for the Brown-Slaughter amendment.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. BROWN) will be postponed.

AMENDMENT OFFERED BY MR. ENGEL

Mr. ENGEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ENGEL:

In title VI, in the item relating to "DEPARTMENT OF HEALTH AND HUMAN SERVICES-FOOD AND DRUG ADMINISTRATION-SALARIES AND EXPENSES", insert before the period at the end of the first paragraph the following:

: *Provided further*, That of the total amount appropriated, $250,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to food labeling within the meaning of section 403 of the Federal Food, Drug, and Cosmetic Act, in addition to other allocations for such purpose made from such total amount

Mr. LATHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 30 minutes and that the time be equally divided between the proponent and an opponent.

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. ENGEL) will be recognized for 15 minutes and the gentleman from Iowa (Mr. LATHAM) will be recognized for 15 minutes.

There was no objection.

Mr. ENGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment sets aside $250,000, which in the totality of this budget is very, very small, for the FDA to develop labeling requirements indicating that no child slave labor was used in the growing and harvesting of cocoa.

Forty-three percent of the world's cocoa beans come from small scattered farms in the Ivory Coast. The beans are prized for their quality and abundance. In the first 3 months of 2001, more than 47,300 tons of them were shipped to the United States to be processed by U.S. cocoa processors.

There are more than 600,000 small farms and no corporate or government agency in the Ivory Coast is monitoring them for slave trade. The United Nations estimates that approximately 200,000 slaves are working in various trades in West Africa and the State Department has estimated that about

15,000 children between the ages of 9 and 12 have been sold into forced labor in northern Ivory Coast in recent years. Let me repeat that. The State Department has estimated that about 15,000 children between the ages of 9 and 12 have been sold into forced labor in northern Ivory Coast in recent years.

On many of the farms, the fields are cleared and the crops are harvested by boys between the ages of 12 and 16 who were sold or tricked into slavery. Some are even as young as 9. These boys come from neighboring countries, including Mali, Burkina Faso, Benin, and Togo and do not speak the most common language used in the Ivory Coast, French. They are children, who, out of respect, will do anything to help their parents. The boys are uneducated, come from poor countries and are wooed by offers of money, bicycles, and trade jobs. "Locateurs" offer them work as welders or carpenters, and they are told falsely that they will be paid $170 a year. As soon as they accept the offer, they are sold into slavery and are forced to clear the fields and harvest the cocoa crop. They live on corn paste and bananas, work 12 to 14 hours a day for no pay, suffer from whippings, are locked up at night in small, windowless rooms, and are given cans to urinate in.

One of these boys, Aly Diabate, was sold into slavery when he was barely 4 feet tall. He said, "Some of the bags were taller than me. It took two people to put the bag on my head. And when you didn't hurry, you were beaten. The beatings were a part of my life. Anytime they loaded you with bags and you fell while carrying them, nobody helped you. Instead, they beat you and beat you until you picked it up again."

Mr. Chairman, this must be stopped. Just like we cannot accept slave labor in factories in Asia, we must not accept products being sold in this country that are made by enslaved child labor. In 1999, former President Clinton issued an executive order prohibiting Federal agencies from purchasing products made by enslaved children. However, cocoa products were not included on this list.

Americans spend $13 billion a year on chocolate. I love chocolate. But most of them are ignorant of where the cocoa beans come from. And a lot of the cocoa beans come from the Ivory Coast. We must change that. This amendment provides funding for the FDA to develop a label indicating that enslaved child labor was not used to harvest the cocoa beans. That is all this does. We want to ensure that when people of this country eat chocolate, they are not eating chocolate that was processed by child slavery.

I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to the amendment. As with the prior two amendments, we have fully funded FDA's budget request for this activity. Additional money for food labeling will come from other vital areas.

I ask rhetorically, from which priority would the gentleman prefer to delete the $250,000? From blood safety, from developing methods to detect food pathogens, or even generic drug review?

I oppose this amendment and urge my colleagues to do the same.

Mr. Chairman, I yield back the balance of my time.

Mr. ENGEL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I hope that the Members will take this amendment seriously, because it is in fact a very serious matter. It is, in some measure, a result of this global trading pattern that we have engaged in without really examining closely and understanding fully the consequences of this system.

A recent report by our own State Department estimated that there are currently some 15,000 children working on cocoa and similar plantations in the Ivory Coast alone. That is the source of about 43 percent of the cocoa that is imported into this country. I think that if people in this country knew that they were buying products that were the result of slave labor, particularly the labor of children as young as 8 or 9 years old, they would not buy it. And I think that this amendment which proposes a simple labeling mechanism to indicate where this cocoa is coming from and the slave conditions under which it is being farmed and harvested is a good amendment and it ought to be adopted.

Mr. ENGEL. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member on the agriculture subcommittee.

Ms. KAPTUR. Mr. Chairman, I thank my esteemed colleague the gentleman from New York for yielding me this time and rise in support of his amendment which is a very straightforward and simple amendment to ask FDA to engage itself in the proper labeling of goods that come into this country. In the area of cocoa beans and chocolate, I think we do not often think of where a product's ingredients come from.

Mr. Chairman, I include for the RECORD an article that was published in the St. Paul Pioneer Press on June 24 of this year that talks about the cocoa beans that come here to America blended into our product from places like the Ivory Coast.

[From the St. Paul Pioneer Press, June 24, 2001]

DALOA, IVORY COAST

There may be a hidden ingredient in the chocolate cake you baked, the candy bars your children sold for their school fund-raiser or that fudge ripple ice cream cone you enjoyed on Saturday afternoon. Slave labor. Forty-three percent of the world's cocoa beans, the raw material in chocolate, come from small, scattered farms in the poor West African country of Ivory Coast. And on some of the farms, the hot, hard work of clearing the fields and harvesting the crop is done by boys who were sold or tricked into slavery. Most of them are 12 to 16 years old. Some are as young as 9. The slaves live on corn paste and bananas. Some are whipped, beaten and broken like horses to harvest the almond-size beans.

The State Department's human rights report last year concluded that some 15,000 children ages 9 to 12 have been sold into forced labor on cotton, coffee and cocoa plantations in northern Ivory Coast in recent years.

Aly Diabate was almost 12 when a slave trader promised him a bicycle and $150 a year to help support his poor parents in Mali. He worked for a year and a half for a cocoa farmer who is known as "Le Gros" ("The Big Man") but he said his only rewards were the rare days when Le Gros' overseers or older slaves didn't flog him with a bicycle chain or branches from a cacao tree.

Cocoa beans come from pods on the cacao tree. To get the 400 or so beans it takes to make a pound of chocolate, the boys who work on Ivory Coast's cocoa farms cut pods from the trees, slice them open, scoop out the beans, spread them in baskets or on mats and cover them to ferment. They uncover the beans, put them in the sun to dry, bag them and load them onto trucks to begin the long journey to America or Europe.

Aly said he doesn't know what the beans from the cacao tree taste like after they've been processed and blended with sugar, milk and other ingredients. That happens far away from the farm where he worked, in places such as Hershey, Pa., Milwaukee and San Francisco.

"I don't know what chocolate is," said Aly. The chocolate chain Americans spend $13 billion a year on chocolate, but most of them are as ignorant of where it comes from as the boys who harvest cocoa beans are about where their beans go.

More cocoa beans come from Ivory Coast than from anyplace else in the world. The country's beans are prized for their quality and abundance, and in the first three months of this year, more than 47,300 tons of them were shipped to the United States through Philadelphia and Brooklyn, N.Y., according to the Port Import Export Reporting Service. At other times of the year, Ivory Coast cocoa beans are delivered to Camden, N.J., Norfolk, Va., and San Francisco.

From the ports, the beans are shipped to cocoa processors. America's biggest are ADM Cocoa in Milwaukee, a subsidiary of Decatur, Ill.-based Archer Daniels Midland; Barry Callebaut, which has its headquarters in Zurich, Switzerland; Minneapolis-based Cargill; and Nestle USA of Glendale, Calif., a subsidiary of the Swiss food giant.

But by the time the beans reach the processors, those picked by slaves and those harvested by free field hands have been jumbled together in warehouses, ships, trucks and rail cars. By the time they reach consumers in America or Europe, free beans and slave beans are so thoroughly blended that there is no way to know which chocolate products taste of slavery and which do not.

Even the Chocolate Manufacturers Association, a trade group for American chocolate makers, acknowledges that slaves are harvesting cocoa on some Ivory Coast farms.

And a 1998 report from UNICEF, the United Nations Children's Fund, concluded that some Ivory Coast farmers use enslaved children, many of them from the poorer neighboring countries of Mali, Burkina Faso, Benin and Togo. A report by the Geneva, Switzerland-based International Labor Organization, released June 15, found that trafficking in children is widespread in West Africa.

SOME OF THE BAGS WERE TALLER THAN ME

Aly Diabate and 18 other boys labored on a 494-acre farm, very large by Ivory Coast standards, in the southwestern part of the country. Their days began when the sun rose, which at this time of year in Ivory Coast is a few minutes after 6 a.m. They finished work about 6:30 in the evening, just before nightfall, trudging home to a dinner of burned bananas. A treat would be yams seasoned with saltwater "gravy."

After dinner, the boys were ordered into a 24-by-20-foot room, where they slept on wooden planks. The window was covered with hardened mud except for a baseball-size hole to let some air in. "Once we entered the room, nobody was allowed to go out," said Mamadou Traore, a thin, frail youth with serious brown eyes who is 19 now. "Le Gros gave us cans to urinate. He locked the door and kept the key."

"We didn't cry, we didn't scream," said Aly. "We though we had been sold, but we weren't sure." The boys became sure one day when Le Gros walked up to Mamadou and ordered him to work harder. "I bought each of you for 25,000 francs" (about $35), the farmer said, according to Mamadou. "So you have to work harder to reimburse me."

Aly was barely 4 feet tall when he was sold into slavery, and he had a hard time carrying the heavy bags of cocoa beans. "Some of the bags were taller than me," he said. "It took two people to put the bag on my head. And when you didn't hurry, you were beaten." You can still see the faint scars on his back, right shoulder and left arm. "They said he wasn't working very hard," said Mamadou.

"The beatings were a part of my life," Aly said. "Anytime they loaded you with bags and you fell while carrying them, nobody helped you. Instead, they beat you and beat you until you picked it up again.

Le Gros, whose name is Lenikpo Yeo, denied that he paid for the boys who worked for him, although Ivory Coast farmers often pay a "finder's fee" to someone who delivers workers to them. He also denied that the boys were underfed, locked up at night or forced to work more than 12 hours a day without breaks. He said they were treated well, and that he paid for their medical treatment. "When I go hunting, when I get a kill, I divide it in half—one for my family and the other for them. Even if I kill a gazelle, the workers come and share it."

He denied beating any of the boys. "I've never, ever laid hands on any one of my workers," Le Gros said. "Maybe I called them bad words if I was angry. That's the worst I did." Le Gros said a Malian overseer beat one boy who had run away, but he said he himself did not order any beatings.

A BOY ESCAPES

One day early last year, a boy named Oumar Kone was caught trying to escape. One of Le Gros' overseers beat him, said the other boys and local authorities. A few days later, Oumar ran away again, and this time he escaped. He told elders in the local Malian immigrant community what was happening on Le Gros' farm. They called Abdoulaye Macko, who was then the Malian consul general in Bouake, a town north of Daloa, in the heart of Ivory Coasts's cocoa- and coffee-growing region. Macko went to the farm with several police officers, and he found the 19 boys and young men there. Aly, the youngest, was 13. The oldest was 21.

"They were tired, slim, they were not smiling." Macko said. "Except one child was not there. This one, his face showed what was happening. He was sick; he had (excrement) in his pants. He was lying on the ground, covered with cacao leaves because they were sure he was dying. He was almost dead. . . . He had been severely beaten."

According to medical records, other boys had healed scars as well as open, infected wounds all over their bodies. Police freed the boys, and a few days later the Malian consulate in Bouake sent them all home to their villages in Mali. The sick boy was treated at a local hospital, and then he was sent home, too.

Le Gros was charged with assault against children and suppressing the liberty of people. The latter crime carries a five- to 10-year prison sentence and a hefty fine, said Daleba Rouba, attorney general for the region. "In Ivorian law, and adult who orders a minor to hit and hurt somebody is automatically responsible as if he has committed the act," said Rouba. "Whether or not Le Gros did the beatings himself or ordered somebody, he is liable." Le Gros spent 24 days in jail, and today he is a free man pending a court hearing that is scheduled for Thursday.

He said the case against Le Gros is weak because the witnesses against him have all been sent back to Mali. "If the Malian authorizes are willing to cooperate, if they can bring two or three of the children back as witnesses, my case will be stronger," Rouba said. Mamadou Diarra, the Malian consul general in Bouake, said he would look into the matter.

OFFICIAL RESPONSES

Child trafficking experts say inadequate legislation, ignorance of the law, poor law enforcement, porous borders, police corruption and a shortage of resources help perpetuate the problem of child slavery in Ivory Coast. Only 12 convicted slave traders are serving time in Ivorian prisons. Another eight, convicted in absentia, are on the lam.

Ivorian officials have found scores of enslaved children from Mali and Burkina Faso and sent them home, and they have asked the International Labor Organization, a global workers' rights agency, to help them conduct a child-labor survey that's expected to be completed this year. But they continue to blame the problem on immigrant farmers from Mali and on world cocoa prices that have fallen almost 24 percent since 1996, from 67 cents a pound to 51 cents, forcing impoverished farmers to use the cheapest labor they can find.

Ivory Coast Agriculture Minister Alfonse Douaty calls child slavery a marginal "clandestine phenomenon" that exists on only a handful of the country's more than 600,000 cocoa and coffee farms. "Those who do this are hidden, well hidden," said Douaty. He said his government is clamping down on child traffickers by beefing up border patrols and law enforcement, and running education campaigns to boost awareness of anti-slavery laws and efforts.

Douaty said child labor in Ivory Coast should not be called slavery, because the word conjures up images of chains and whips. He prefers the term "indentured labor."

Ivory Coast authorities ordered Le Gros to pay Aly and the other boys a total of 4.3 million African Financial Community francs (about $6,150) for their time as indentured laborers. Aly got 125,000 francs (about $180) for the 18 months he worked on the cocoa farm.

Aly bought himself the very thing the trader who enslaved him promised: a bicycle. It has a light, a yellow horn and colorful bottle caps in the spokes. he rides it everywhere.

I cannot read the entire article, but I will just read a few sentences, where it indicates 43 percent of the world's cocoa beans come from small scattered farms in poor West African countries like Ivory Coast where harvesting of the crop is done by boys who were sold or tricked into slavery. They talk about 15,000 children ages 9 to 12 sold into forced labor and that it takes 400 or so beans to make one pound of chocolate. The boys who pick these beans do not know what chocolate tastes like because they never have a chance to eat the final product.

The beans that they harvest go to places like Hershey, Pennsylvania; Milwaukee, Wisconsin; and San Francisco. America's biggest users of these beans are ADM Cocoa in Milwaukee, a subsidiary of Illinois-based Archer Daniels Midland; Barry Callebaut, which has its headquarters in Zurich, Switzerland; Minneapolis-based Cargill; and Nestle USA of Glendale, California, a subsidiary of the Swiss food giant.

It talks about these boys being beaten and held, being tired, slim with no smiles, and many boys having healed scars as well as open infected wounds all over their bodies. It talks about the reasons that there is no law enforcement in the countries which are the suppliers. And it talks about the amount of money being made by the firms that use this kind of indentured servitude.

I think $250,000 out of a multibillion-dollar budget is almost nothing to ask to have proper labeling of a product. If we can have happy faces on carpets that come from the Indian subcontinent, we can certainly have proper labeling of chocolate products that come into this country from places like Ivory Coast. I really want to thank the gentleman from New York (Mr. ENGEL), who is a member of the Committee on International Relations, for bringing this issue to us.

It is always difficult for us to get labeling legislation passed by this subcommittee and full committee, but, my goodness, do we not have a moral responsibility to do this? It is within budget, what he is asking to do. It is asking FDA to meet not only its scientific responsibilities to this country but its moral responsibilities.

Mr. Chairman, I rise in strong support of the Engel amendment and commend the gentleman for bringing this again to the House floor so the American people can understand what is going on.

Mr. ENGEL. Mr. Chairman, I yield myself such time as I may consume.

I think that the gentlewoman from Ohio made two very, very good points at the end. Throughout her speech she made good points, but I want to raise two that she made at the end. This is only $250,000. It is a very, very small amount, and such a small amount to ensure that the cocoa and the chocolate in this country has not come to be by slave labor of children. I think that is a very, very small price to pay.

There is a moral responsibility as the gentlewoman points out, a moral responsibility for us not to allow slavery, child slavery, in the 21st century. This is a small amount of money, it is in the budget, it will not do any harm whatsoever; and I think that it will certainly bring us to the point that this Congress can look with pride and say that we are making an attempt to stop something that we thought did not exist anymore and only now are we being made aware of the fact that slavery is continuing to rear its ugly head in the year 2001.

I want to just again urge my colleagues to support this. This should have bipartisan support because again we are talking about children and we are talking about slavery. I do not think the American people would want to knowingly eat chocolate or cocoa that was harvested by children who have been tricked into slavery.

□ 1715

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from New York (Mr. ENGEL).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ENGEL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. ENGEL) will be postponed.

Mr. BONILLA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ISAKSON) having assumed the chair, Mr. BASS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

LIMITING AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2330, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. BONILLA. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2330 in the Committee of the Whole pursuant to House Resolution 183, no further amendment to the bill may be offered except the following amendments, each of which shall be debatable for 10 minutes:

An amendment offered by Mrs. CLAYTON related to rental assistance, which may be offered at any time during consideration; an amendment offered by Mr. TRAFICANT related to Buy American; an amendment offered by Mr. ALLEN related to total cost of research and development and approvals of new drugs; an amendment offered by Ms. KAPTUR related to the biofuels; an amendment offered by Ms. KAPTUR related to BSE; an amendment offered by Ms. KAPTUR related to 4-H Program Centennial; an amendment offered by Mr. LUCAS of Oklahoma related to watershed and flood operations; an amendment offered by Mrs. MINK of Hawaii related to the Hawaii, Agriculture Research Center; an amendment offered by Mrs. MINK of Hawaii related to the Oceanic Institute of Hawaii; an amendment offered by Mr. BLUMENAUER related to price supports; an amendment offered by Mr. ROYCE related to allocations under the market access program; an amendment offered by Mr. SMITH of Michigan related to the Food Security Act; an amendment offered by Mr. SMITH of Michigan related to the Agriculture Market Transition Act; an amendment offered by Mr. SMITH of Michigan related to the nitrogen-fixing ability of plants; an amendment offered by Mr. BACA related to Hispanic-serving institutions; an amendment offered by Ms. PELOSI related to HIV.

Two, the following additional amendments, each of which shall be debatable for 20 minutes:

An amendment offered by Mr. BROWN related to abbreviated applications for the approval of new drugs under section 505(j) of the Food, Drug and Cosmetic Act; an amendment offered by Mr. STUPAK or Mr. BOEHLERT related to elderly nutrition; an amendment offered by Mrs. CLAYTON related to socially disadvantaged farmers.

Three, the following additional amendments, each of which shall be debatable for 30 minutes:

An amendment offered by Mr. HINCHEY related to American Rivers Heritage; an amendment offered by Mr. KUCINICH related to transgenic fish; an amendment offered by Mr. GUTKNECHT related to drug importation.

Four, the following additional amendments, each of which shall be debatable for 40 minutes:

An amendment offered by Mr. SANDERS related to drug importation; an amendment offered by Mr. WEINER related to mohair.

Five, the following additional amendment, which shall be debatable for 60 minutes, and which may be brought up at any time during consideration:

An amendment offered by Mr. OLVER or Mr. GILCHREST related to Kyoto.

Each additional amendment may be offered only by the Member designated in this request, or a designee; shall be considered as read; shall be debatable for the time specified equally divided and controlled by the proponent and an opponent; shall not be subject to amendment; and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. YOUNG of Florida. Mr. Speaker, reserving the right to object, I only do so to advise the House what we are doing.

After the approval of this unanimous consent request, we will go back to the Committee of the Whole and we will have the votes that were rolled to this time. At the conclusion of that time, I believe we are to deal with the amendment of the gentlewoman from North Carolina (Mrs. CLAYTON) briefly. At that point then, the subcommittee chairman will move to rise; and we will have concluded the business for the day. We will return to this bill the day after we return from our July 4, Independence Day recess.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. OBEY. Mr. Speaker, reserving the right to object, I would just like to clarify what that means is that after the disposition of the Clayton amendment, we will have the three votes, that will be it for the evening. And then when we return after the July 4 recess, this bill will be the first order of business. We will take it up on Wednesday, and we will debate it to its conclusion?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, this bill would be considered on the day after we return from the recess.

Mr. OBEY. We mean Wednesday by that; do we not?

Mr. YOUNG of Florida. Yes.

Mr. OBEY. That will be the first bill up, and it will be debated to its conclusion?

Mr. YOUNG of Florida. I would expect that it would be first, and I know of no reason why it will not be first.

Mr. OBEY. If I could also clarify the language of the unanimous consent request, the last paragraph reads, "Each additional amendment may be offered only by the Member designated in this request." By that word "additional," you mean the amendments previously cited, does not the gentleman?

Mr. BONILLA. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Speaker, that is correct.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore. Pursuant to House Resolution 183 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2330.

□ 1724

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, with Mr. BASS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, a request for a recorded vote on the amendment by the gentleman from New York (Mr. ENGEL) had been postponed and the bill was open for amendment from page 49 line 9 through page 57 line 15.

AMENDMENT OFFERED BY MRS. CLAYTON

Mrs. CLAYTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. CLAYTON:

In title III, in the item relating to "Rural Housing Insurance Fund Program Account" add at the end the following:

Of the amounts made available under this heading in chapter 1 of title II of Public Law 106–246 (114 Stat. 540) for gross obligations for principal amount of direct loans authorized by title V of the Housing Act of 1949 for section 515 rental housing, the Secretary of Agriculture may use up to $5,986,197 for rental assistance agreements described in the item relating to "Rental Assistance Program" in such chapter: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Control Act of 1985, as amended.

In making available for occupancy dwelling units in housing that is provided with funds made available under the heading referred to in the preceding paragraph, the Secretary of Agriculture may give preference to prospective tenants who are residing in temporary housing provided by the Federal Emergency Management Agency as a result of an emergency.

The CHAIRMAN pro tempore. The Chair would inquire of the gentlewoman from North Carolina (Mrs. CLAYTON), is this the amendment that the Committee of the Whole permitted the gentlewoman to offer?

Mrs. CLAYTON. Mr. Chairman, yes.

Mr. Chairman, the amendment I have offered amends title III of the Rural Housing Insurance Act. Mr. Chairman, this is an amendment that allows us to speak to the issue of rural housing, particularly rental housing, that are not available in our area. What this particular amendment does, it allows for monies that were not spent, that were allocated by this Congress during the floods, on the rental housing. It provides the opportunity to redirect some balance of dollars available. It simply gives authority of those monies to use up to $5.9 million of the balance it has. Originally in the year 2000, the Supplemental Appropriation Act provided $32 million to section 515 and $13.6 million for 1,000 units in section 521.

At the end of this year, they spent $20 million. There remains $12 million unspent.

Mr. BONILLA. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I apologize for the confusion that we had a few minutes ago, and we would be delighted to accept the amendment of the gentlewoman from North Carolina.

Mrs. CLAYTON. Without me explaining it, the gentleman will accept it? I like that.

Mr. Chairman, I shall not go further as I understand that he is willing to accept my amendment, which gives the opportunity for the five States to now have rental assistance so senior citizens and single family members can have an apartment. I am delighted.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from North Carolina (Mrs. CLAYTON).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment by the gentleman from Ohio (Mr. BROWN); amendment by the gentleman from Ohio (Mr. BROWN); amendment by the gentleman from New York (Mr. ENGEL).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. BROWN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 324, noes 89, not voting 20, as follows:

[Roll No. 208]

AYES—324

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Frank
Frost
Gallegly
Ganske
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Graham
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hansen
Harman
Hart
Hastings (FL)
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh

McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pomeroy
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOES—89

Akin
Armey
Ballenger
Barr
Biggert
Blunt
Boehner
Bonilla
Brown (SC)
Bryant
Burr
Buyer
Cantor
Chabot
Chambliss
Coble
Collins
Combest
Crane
Crenshaw
Cubin
Culberson
Deal
DeLay
DeMint
Doolittle
Dreier
Dunn
Ehlers
Ferguson
Flake
Frelinghuysen
Gekas
Gibbons
Goss
Granger
Graves
Greenwood
Grucci
Hall (TX)
Hastings (WA)
Hayes
Hayworth
Herger
Hostettler
Isakson
Issa
Istook
Johnson, Sam
Keller
Kerns
Knollenberg
Latham
Lewis (CA)
Linder
Lucas (OK)
McInnis
Miller (FL)
Miller, Gary
Myrick
Nethercutt
Norwood
Osborne
Otter
Oxley
Pence
Pitts
Pombo
Portman
Radanovich
Riley
Ryun (KS)
Scarborough
Schrock
Sessions
Shadegg
Shuster
Simpson
Skeen
Souder
Spence
Stump
Sweeney
Thornberry
Vitter
Walsh
Watkins (OK)
Watts (OK)
Young (FL)

NOT VOTING—20

Barton
Bonior
Burton
Callahan
Diaz-Balart
Everett
Fossella
Gordon
Hall (OH)
Houghton
Largent
Meehan
Platts
Putnam
Ros-Lehtinen
Roukema
Schaffer
Smith (TX)
Thomas
Weldon (PA)

□ 1753

Mr. BARR of Georgia changed his vote from "aye" to "no."

Messrs. SENSENBRENNER, JOHNSON of Illinois, WAMP, HYDE, KINGSTON, QUINN, HEFLEY, JENKINS, TANCREDO, HOEKSTRA, BASS, DUNCAN, ROGERS of Kentucky, GALLEGLY, KIRK, TIBERI, McCRERY, TAUZIN, GOODLATTE, and TERRY, and Ms. PRYCE of Ohio changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BASS). Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. BROWN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 140, not voting 22, as follows:

[Roll No. 209]

AYES—271

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehrlich
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Frank
Frost
Ganske
Gephardt
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Graham
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hastings (FL)
Hefley
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (MI)
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Snays
Sherman
Shimkus
Shows
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Wilson
Woolsey
Wu
Wynn

NOES—140

Aderholt
Akin
Armey
Bachus
Ballenger
Barr
Bereuter
Biggert
Bilirakis
Blunt
Boehner
Bonilla
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Chabot
Chambliss
Coble
Collins
Combest
Crane
Crenshaw
Cubin
Culberson
Deal
DeLay
DeMint
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Ferguson
Flake
Frelinghuysen
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goss
Granger
Graves
Greenwood
Grucci
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Isakson
Issa
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kelly
Kerns
Kingston
Knollenberg
Kolbe
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
McCrery
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Northup
Norwood
Osborne
Otter
Oxley
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Rehberg
Riley
Rogers (KY)
Rohrabacher
Ryun (KS)
Scarborough
Schrock
Sessions
Shadegg
Sherwood
Shuster
Simpson
Skeen
Smith (MI)
Souder
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)

Watts (OK)
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—22

Baker
Barton
Bonior
Burton
Callahan
Diaz-Balart
Engel
Everett
Fossella
Hall (OH)
Houghton
Largent
McInnis
Meehan
Platts
Putnam
Ros-Lehtinen
Roukema
Schaffer
Smith (TX)
Thomas
Weldon (PA)

☐ 1801

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ENGEL

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. ENGEL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 291, noes 115, not voting 27, as follows:

[Roll No. 210]

AYES—291

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Calvert
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Costello
Cox
Coyne
Cramer
Crowley
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Frank
Frost
Ganske
Gekas
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (TX)
Harman
Hart
Hastings (FL)
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Petri
Phelps
Pickering
Pitts
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Wolf
Woolsey
Wu
Wynn

NOES—115

Armey
Ballenger
Barr
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Boyd
Brown (SC)
Bryant
Burr
Buyer
Camp
Cannon
Cantor
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Crane
Crenshaw
Cubin
Cunningham
Deal
DeLay
DeMint
Doolittle
Dreier
Dunn
Ehlers
Emerson
Flake
Frelinghuysen
Gallegly
Gibbons
Gillmor
Goode
Goodlatte
Goss
Granger
Graves
Greenwood
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hunter
Hutchinson
Isakson
Issa
Istook
Jenkins
Johnson, Sam
Keller
Kerns
Kingston
Knollenberg
Kolbe
Latham
Linder
Lucas (OK)
McCrery
McKeon
Mica
Miller (FL)
Miller, Gary
Nethercutt
Northup
Norwood
Osborne
Ose
Otter
Oxley
Paul
Peterson (MN)
Peterson (PA)
Pombo
Portman
Pryce (OH)
Radanovich
Regula
Rehberg
Ryun (KS)
Schrock
Sessions
Shadegg
Shuster
Simpson
Skeen
Smith (MI)
Stump
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thornberry
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weller
Wicker
Wilson
Young (AK)
Young (FL)

NOT VOTING—27

Baker
Barton
Bonior
Bono
Burton
Callahan
Conyers
Diaz-Balart
Everett
Farr
Fattah
Fossella
Hall (OH)
Houghton
Jefferson
John
Largent
McInnis
Meehan
Platts
Putnam
Ros-Lehtinen
Roukema
Schaffer
Smith (TX)
Thomas
Weldon (PA)

☐ 1809

Ms. HART and Mr. SHAYS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BONILLA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having resumed the chair, Mr. GOODLATTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 176. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

HEARTFELT THANKS TO ANNE HOLCOMBE, CINDY SEBO, AND VICKY STALLSWORTH

(Mr. EHLERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHLERS. Mr. Speaker, I hope you will be kind on the time allotted, because I want to take a few moments to recognize a very special person who has worked in this Chamber for some time, who has graced this Chamber and has helped us a great deal, and she will soon be leaving, and that is Ms. Anne Holcombe, who is seated at the front desk.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. EHLERS. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman from Michigan (Mr. EHLERS), my friend, for yielding to me.

I join today in recognizing Anne Holcombe. This is her last day as the senior legislative clerk, so I, along with my colleagues, thought it appropriate that we take a 1 minute, since you enjoy them so much, Anne, a special order.

I know that you enjoy sitting here through special orders. If you had a chance of a 1 minute or a special order, I suspect that you might prefer a 1 minute.

Anne is moving to Charlotte, North Carolina to be closer to her family and to start a new chapter in her life.

I want to wish her well. Our colleague, the former Mayor of Charlotte, North Carolina, a distinguished member of the Committee on Rules, Sue Myrick, will become your representative here in the House.

Anne's professionalism on the dais has been a steady source of confidence that the records of the House will always be in order, that is why we are all very sad to see her leave.

I cannot imagine why Anne would want to leave the House. I know that you greatly enjoy sitting here waiting until 3 o'clock in the morning until the committee that I am privileged to Chair reports a rule down here.

As I said, I know how much you enjoy special orders that often extend up to, under our great reform process, midnight we know, but you do, obviously, grace the dais extraordinarily well.

You have worked here for many years. Anne started in September of 1996, Mr. Speaker, as a legislative information specialist and was responsible for researching, editing, and maintaining the legislative database that we, in the House, as well as the general public, depend on for information about what is happening here in the Congress.

In October of 1997, Anne was promoted to assistant chief floor clerk, where she made sure that the words we spoke on the House floor were transposed into marvelous eloquence, of course, while still complying with the rules of the House.

Then in January of 2000, Anne was promoted again to senior legislative floor clerk. She has done a terrific job in serving this institution and her country very well.

Mr. Speaker, if the gentleman will continue to yield, I would also like to note that we also have two official reporters, one of whom is right here, who is actually finishing her last day, Cindy Sebo, who has worked long and hard, and also Vicky Stallsworth, who is also completing her last day here.

I guess the place is going to be empty when we come back. No one will be here to do any work. I hope very much that these positions are filled.

Let me say to all three that we wish them well in their future endeavors, and I thank my friend for yielding.

Mr. EHLERS. Mr. Speaker, reclaiming my time, I want to add my congratulations to all three of them and especially my heartfelt thanks. I have always made a point of trying to get to know the individuals who work in the front of this Chamber, who keep very long hours and transcribe everything we do and keep good order out of it.

□ 1815

I am delighted that both of the reporters who are leaving us are here present so we can thank both Cindy and Vicky as well. I hope you spell your names properly as you transcribe this.

They work tirelessly. They are going on to other things and other lands. I cannot imagine why Vicky, who is moving to Fort Collins, Colorado; and Anne, who is moving to North Carolina, if you are going to leave Washington to find a better place, I can understand that; but I would certainly recommend Grand Rapids, Michigan, especially this time of year. So come up there and stop in and see us.

Cindy will be leaving for the private sector. She will remain in this area, and we hope we see her around here occasionally.

So from the bottom of my heart, thank you to all of you. Congratulations. God bless you in your future endeavors and employment.

Mr. HOYER. Mr. Speaker, will the gentleman yield.

Mr. EHLERS. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I appreciate the gentleman yielding.

I did not rise to defend the Washington metropolitan area as a place to live, notwithstanding his observations. But I did rise to say thank you on behalf of all of us, not on a partisan sense, although I am on this side of the aisle, and there are others on the other side of the aisle, but to, again, remind ourselves how critically important to the operations of the people's House are those who never rise and speak. They also serve who stand and record, the poet might have said.

To Anne and Cindy and Vicky, we appreciate very much what you have done. You have at times been asked to spend long, long, long hours. You have fought fatigue; and I am sure, although you do not have to admit this, fought boredom as well in the operations that you have been responsible for.

You make it possible for the American public, even if they cannot see us on C–SPAN, even if they cannot be in the gallery, even if years later they are trying to find out what happened on the floor of the House, their House, doing their business, you make it possible for them to find out. You do so with incredible accuracy and efficiency. We thank you for that, and we acknowledge how critically important you are to the operations of this House.

I am not surprised that one of you is going into the private sector. Maybe both of you are going into the private sector, I am not sure, our two reporters, or Anne returning to North Carolina to be closer to her family, because there are, in my opinion, no more talented, no more highly motivated, no more productive people that could be hired by the private sector than those who work on this Hill and certainly, all those who work at the desk and who record our debates.

It is a hallmark of American democracy that we want to be open to the public. We want to have a historic and accurate record of proceedings. You have enabled us to continue to do that.

We thank you. We wish you Godspeed. We hope that you take with you very positive feelings about this House, that you know firsthand that, although there are fights and disagreements, and sometimes we are much smaller than we ought to be, that, at bottom, almost everybody, indeed everybody in this House, cares about their country and cares about their constituents. You have had the opportunity to see that firsthand. As I tell the pages, I hope you will tell that story wide and far.

We thank you, and we wish you the best of everything in the days ahead. Thank you for yielding.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. EHLERS. I am happy to yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I, too, would like to add my best wishes to Anne Holcombe as she leaves and also say farewell to Cindy and Vicky for the work that they have done.

Regarding Anne, I was sitting here thinking of the old Irish tune that has the melody of "When Johnny Comes Marching Home." A phrase in there is "Johnny, we hardly got to know you." It just seems like you came last week, and time flies so fast, and we hardly got to know you.

You have done so well. You have been very friendly. You have been very particularly kind to me in making sure the podium is at the right height. Your professionalism, your competency is beyond match. So we thank you for your efforts, your hard work. We wish you the very best in your next chapter of life, and do not forget us. God bless.

Mr. EHLERS. Mr. Speaker, reclaiming my time, I want to thank all three of the speakers, the gentleman from California (Mr. DREIER), the gentleman from Maryland (Mr. HOYER), and the gentleman from Missouri (Mr. SKELTON) for their eloquent comments.

Frankly, they stole my speech, and there is not much I can add to it other than to say, on behalf of all of those who use this Chamber and rely on you as well as the broader American public who sees your work constantly on the screen of their computer or in the journal, the CONGRESSIONAL RECORD, I want to thank all of you for your hard service here. I wish you well. God bless you wherever you go.

ELECTION OF MEMBER TO COMMITTEE ON ARMED SERVICES AND COMMITTEE ON SCIENCE

Mr. FOLEY. Mr. Speaker, I offer a resolution (H. Res. 184), and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 184

Resolved, That the following Member be and is hereby elected to the following standing committees of the House of Representatives:

Armed Services: Mr. Forbes.

Science: Mr. Forbes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, FRIDAY, JULY 6, 2001 TO FILE REPORTS ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, AND H.R. 2137, CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2001

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight on Friday, July 6 to file the reports to accompany H.R. 2215 and H.R. 2137.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING THE SPEAKER, THE MAJORITY LEADER, AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS AUTHORIZED BY LAW OR THE HOUSE NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, July 10, 2001, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 11, 2001

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 11, 2001.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1613

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent to remove my name from H.R. 1613.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut.

There was no objection.

APPOINTMENT OF THE HONORABLE TOM DAVIS TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JULY 10, 2001

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 28, 2001.

I hereby appoint the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 10, 2001.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is agreed to.

There was no objection.

REPORT ON EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-93)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Enclosed is a report to the Congress on Executive Order 12938, as required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)).

GEORGE W. BUSH.
THE WHITE HOUSE, *June 28, 2001.*

PRESIDENT'S COMPREHENSIVE NATIONAL ENERGY POLICY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce, the Committee on Science, the Committee on Resources, the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on Education and the Workforce:

To the Congress of the United States:

One of the first actions I took when I became President in January was to create the National Energy Policy Development Group to examine America's energy needs and to develop a policy to put our Nation's energy future on sound footing.

I am hereby transmitting to the Congress proposals contained in the National Energy Policy report that require legislative action. In conjunction with executive actions that my Administration is already undertaking, these legislative initiatives will help address the underlying causes of the energy challenges that Americans face now and in the years to come. Energy has enormous implications for our economy, our environment, and our national security. We cannot let another year go by without addressing these issues together in a comprehensive and balanced package.

These important legislative initiatives, combined with regulatory and administrative actions, comprise a comprehensive and forward-looking plan that utilizes 21st century technology to allow us to promote conservation and diversify our energy supply. These actions will increase the quality of life of Americans by providing reliable energy and protecting the environment.

Our policy will modernize and increase conservation by ensuring that energy is used as efficiently as possible. In addition, the National Energy Policy will modernize and expand our energy infrastructure, creating a new high-tech energy delivery network that increases the reliability of our energy supply. Further, it will diversify our energy supply by encouraging renewable and alternative sources of energy as well as the latest technologies to increase environmentally friendly exploration and production of domestic energy resources.

Importantly, our energy policy improves and accelerates environmental protection. By utilizing the latest in pollution control technologies to cut harmful emissions we can integrate our desire for a cleaner environment and a sufficient supply of energy for the future. We will also strengthen America's energy security. We will do so by reducing our dependence on foreign sources of oil, and by protecting low-income Americans from soaring energy prices and supply shortages through programs like the Low Income Housing Energy Assistance Program.

My Administration stands ready to work with the Congress to enact comprehensive energy legislation this year.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 28, 2001.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain 1 minute requests.

CONSERVATION IS CRITICAL PIECE OF PUZZLE

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, while we all know we cannot conserve our way out of the energy crunch, conservation is a critical piece of the puzzle if we are going to solve this problem. In times like these, each and every American must do their part. This means turning out the lights when leaving a room, walking more often instead of driving, and investing in new technologies and alternative renewable energy sources.

While some in this Chamber merely talk about conservation, President Bush is actually doing something about it.

Today, President Bush announced $77 million in Federal conservation grants which will help accelerate the development of fuel cells in new technology for tomorrow's cars and buildings. These grants will play a critical role in lowering emissions and improving energy efficiency.

Mr. Speaker, instead of throwing rocks and using America's energy problems for political gain, President Bush is providing leadership and solutions.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HIGH COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, today I rise to talk about an issue that is of great concern to all Americans, but is of particular concern to the 53 million Americans that have no health insurance and to the 14 million American seniors that do not have prescription drug coverage under their Medicare benefit. What I am talking about is the high cost of prescription drugs.

I want to show a chart for the benefit of the Members that begins to illustrate just how serious this problem is.

The first chart I want to show my colleagues begins to talk about the differentials or the difference between what we pay in the United States and what they pay in Europe for some of the most commonly prescribed drugs.

We have heard a lot over the last several years about how much difference there is between Canada and the United States and how much difference there is between Mexico and the United States. But many Americans do not realize there are enormous differences between what we pay for exactly the same drugs made in the same plants here in the United States compared to what they pay in Europe.

For example, the first drug on this list is a drug called Allegra, 120 milligrams. It is triple in the United States what they pay in Europe for the same drug. Some people will say, well, they have price controls in Europe. In some countries in Europe, that is true. But in Germany and Switzerland, it is not true.

Take a look at the drug Coumadin, which is a drug that my father takes. In the United States, it is quadruple the $8.22, which they charge for the average price in Europe.

Glucophage, which is a very commonly prescribed drug for people who have diabetes. In the United States, it sells for $30.12 on average for a 1-month supply. In Europe, it is only $4.11. That is seven times more than Americans are required to pay.

Mr. Speaker, my colleagues need to understand that, once a person is diagnosed, it is likely that they will stay on that drug for the rest of their lives. So we are talking about an enormous difference over the life-span of a patient who needs that.

Take a look at a drug Zithromax down here at the bottom. It is a new wonder drug in terms of being an antibiotic. It is a marvelous drug. But I wonder whether Americans should really have to pay triple what consumers in Europe have to pay.

As my colleagues can see, it is $486 for a month's supply here in the United States on average. In Europe, it is only $176.19.

□ 1830

The next chart I want to show is really one of the most troubling charts of all. Last year the average senior got in their cost of living adjustment in the United States a 3.5 percent increase in their Social Security. At the same time, prescription drugs went up 19 percent. My colleagues, this is unsustainable.

Now, I intend to offer an amendment to the ag appropriations bill that will at least clarify that law-abiding citizens have a right, if they have a legal prescription, to buy drugs in Europe. And we are trying to work out the language right now. That is all I want to do.

Some say that the FDA lacks the resources to inspect mail orders. The truth is the FDA is focusing its inspections in the wrong places. Instead of stopping illegal drugs reported by illicit traffickers, the FDA concentrates on approved drugs being brought in by law-abiding citizens. So far this year the FDA has detained 18 times more packages from Canada than they have from Mexico. This is outrageous. They are spending all of their resources chasing law-abiding citizens.

One of the biggest arguments of the people who oppose my amendment is that they say, well, we are going to ultimately have a Medicare benefit, a prescription drug benefit, that will eliminate the need to open the markets so that we get competition in prescription drugs. Well, the truth is simply shifting the burden from those people who currently do not have insurance to the taxpayers will not solve this problem. The problem is there is no real competition.

But the biggest concern that a lot of people raise is what will this do in terms of public safety. Let me say this. More people have been killed in the United States from unsafe tires being brought into the United States from other countries than by bringing legal drugs into the United States by law-abiding citizens. As a matter of fact, there is no known scientific study that demonstrates that there is a threat of injury to patients importing medications, legal medications, with a prescription, from an industrialized country.

What is more, millions of Americans have no prescription drug coverage. Stopping importation of FDA-approved drugs only threatens their safety. Remember, Members, a drug that an individual cannot afford is neither safe nor effective, and too many Americans are put in the position where they simply cannot afford the drugs that they need.

Mr. Speaker, I am not asking for the world. The amendment I intend to offer is very narrowly focused. It simply says that the FDA cannot stand between law-abiding citizens who have legal prescriptions and allowing them to bring into the country drugs which are otherwise approved by the FDA. In fact, we even go further. We say it cannot be a controlled substance. It cannot even be codeine. The drugs we are talking about are drugs that are commonly prescribed. I will appreciate my colleagues' support on that amendment.

Mr. Speaker, I submit herewith for the RECORD a few fact sheets regarding the Medicare drug benefit argument.

Some say a Medicare drug benefit will eliminate the need for importation. The truth is—Simply shifting high drug prices to the government only transfers the burden to American taxpayers. Moreover, Medicare coverage won't help the millions of Americans without health insurance.

Some say importation is merely an indirect way of enacting price controls. The truth is—"Importing prescription drugs to the United States will lower prices here and, in the long run, force Europe to pay more drug research and development costs. The best way to break down price controls is to open up markets."—Stephen W. Schondelmeyer, Pharm.D., Ph.D., Professor and Director, PRIME Institute, Head, Dept. of Pharmaceutical Care & Health Systems, College of Pharmacy, University of Minnesota.

Some say the FDA lacks the resources to inspect mail orders. The truth is—The FDA is focusing its inspection resources in the wrong places. Instead of stopping illegal drugs imported by illicit traffickers, the FDA concentrates on approved drugs imported by law-abiding citizens. So far this year, the FDA detained 18 times more packages coming from Canada than from Mexico. Last year, the FDA detained 90 times more packages from Canada than Mexico. Worse, last year Congress appropriated $23 million for border enforcement, but the Secretary of Health and Human Services refused to use the funds.

Some say importation jeopardizes consumer safety. The truth is—No known scientific study demonstrates a threat of injury to patients importing medications with a prescription from industrial, countries. What's more, millions of Americans have NO prescription drug coverage. Stopping importation of FDA-approved drug threatens their safety. A drug you can't afford is neither safe nor effective.

REVISIONS TO ALLOCATION FOR HOUSE COMMITTEE ON APPROPRIATIONS

The SPEAKER pro tempore (Mr. LaHood). Under a previous order of the House, the gentleman from Iowa (Mr. Nussle) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, pursuant to Sec. 314 of the Congressional Budget Act and Sec. 221(c) of H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002, I hereby submit for printing in the Congressional Record revisions to the allocations for the House Committee on Appropriations.

As reported to the House, H.R. 2330, the bill making appropriations for Agriculture and Related Agencies for fiscal year 2002, includes an emergency-designated appropriation providing $150,000,000 in new budget authority and $143,000,000 in new outlays. Under the provisions of both the Budget Act and the budget resolution, I must adjust the 302(a) allocations and budgetary aggregates upon the reporting of a bill containing emergency appropriations.

Accordingly, I increase the 302(a) allocation to the House Appropriations Committee contained in House Report 107–100 by $150,000,000 in new budget authority and $143,000,000 in new outlays. This changes the 302(a) allocation for fiscal year 2002 to $661,450,000,000 for budget authority and $683,103,000,000 for outlays. The increase in the allocation also requires an increase in the budgetary aggregates to $1,626,638,000,000 for budget authority and $1,590,801,000,000 for outlays.

The rule providing for consideration of H.R. 2330 strikes the emergency designation from the appropriation. Upon adoption of the rule, Sec. 314 of the Congressional Budget Act provides that these adjusted levels are automatically reduced by the amount that had been designated an emergency. Should the rule (H. Res. 183) not be adopted, these adjustments shall apply while the legislation is under consideration and shall take effect upon final enactment of the legislation. Questions may be directed to Dan Kowalski at 67270.

MICROBICIDES DEVELOPMENT ACT OF 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. Morella) is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, I rise today to introduce the Microbicides Development Act of 2001. I am pleased that so many of my good friends and colleagues have signed on as original cosponsors of this legislation which I am dropping in this evening. My thanks go to them.

Mr. Speaker, this week the United Nations convened a special session of the U.N. General Assembly to address how to combat the spreading HIV and AIDS epidemic. We have entered the third decade in the battle against HIV and AIDS. June 5, 1981, marked the first reported case of AIDS by the Centers for Disease Control, and since that time 400,000 people have died in the United States, and globally 21.8 million people have died of AIDS.

Tragically, women now represent the fastest growing group of new HIV infections in the United States, and women of color are disproportionately at risk. In the developing world, women now account for more than half of the HIV infections, and there is growing evidence that the position of women in developing societies will be a critical factor in shaping the course of the AIDS pandemic.

So what can women do? Women need and deserve access to a prevention method that is within their personal control. Women are the only group of people at risk who are expected to protect themselves without any tools to do so. We must strengthen women's immediate ability to protect themselves, including providing new women-controlled technologies; and one such technology does exist, called microbicides.

The Microbicides Development Act, which I am introducing, will encourage Federal investment for this critical research with the establishment of programs at the National Institutes of Health and the Centers for Disease Control and Prevention. Through the work of NIH, nonprofit research institutions, and the private sector, a number of microbicide products are poised for successful development. But this support is no longer enough for actually getting microbicides through the development pipeline and into the hands of millions who could benefit from them. Microbicides can only be brought to market if the Federal Government helps support critical safety and efficacy testing.

Health advocates around the world are convinced that microbicides could have a significant impact on HIV and AIDS and sexually transmitted diseases. Researchers have identified almost 60 microbicides, topical creams and gels that could be used to prevent the spread of HIV and other sexually transmitted diseases, such as chlamydia and herpes. But interest in the private sector in microbicides research has been lacking.

According to the Alliance for Microbicide Development, 38 biotech companies, 28 not-for-profit groups, and seven public agencies are investigating microbicides, and phase III clinical trials have begun on four of the most promising compounds. The studies will evaluate the compounds' efficacy and acceptability and will include consumer education as part of the compounds' development. However, it will be at least 2 years before any compound trials are completed.

Currently, the bulk of funds for microbicides research comes from NIH, nearly $25 million per year, and the Global Microbicide Project, which was established with a $35 million grant from the Bill and Melinda Gates Foundation. However, more money is needed to bring the microbicides to market. Health advocates have asked NIH to increase the current budget for research to $75 million per year.

Mr. Speaker, today the United States has the highest incidence of STDs in the industrialized world. Annually, it is estimated that 15.4 million Americans acquired a new sexually transmitted disease. STDs cause serious, costly, even deadly conditions for women and their children, including infertility, pregnancy complications, cervical cancer, infant mortality, and higher risk of contracting HIV.

This legislation has the potential to save billions of dollars in health care costs. Direct cost to the U.S. economy of sexually transmitted diseases and HIV infection is approximately $8.4 billion. When the indirect costs, such as lost productivity, are included, that figure will rise to an estimated $20 billion. With sufficient investment, a microbicide could be available around the world within 5 years. Think of the difference that would make.

I urge my colleagues to lend their support to this vital legislation.

Mr. GANSKE. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Iowa.

Mr. GANSKE. Mr. Speaker, I just want to commend the gentlewoman from Bethesda, Maryland, for her long-time concern on issues related to women's health.

I think this is a vitally important bill. It is something that this Congress should pass. It will affect millions and millions of women in a positive way. Sexually transmitted disease is a tremendous problem in this country. My hat is off to the gentlewoman, and I am happy to be a cosponsor of her bill.

Mrs. MORELLA. Mr. Speaker, I was just going to thank the gentleman from Iowa (Mr. GANSKE) for being a cosponsor and for his work in making sure that Americans have appropriate access to health care.

EDUCATION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are about to enter our July recess for the 4th of July holiday, and it must be noted that this Congress has completed two major legislative developments to date. One of those, of course, has been fully completed: the tax bill. That is fully completed, signed into law, and checks will begin to move soon.

Those checks will be going to the people at the very bottom of the rung as a result of legislation which was first proposed by the Progressive Caucus that every American should get some benefit from this tax cut. That did not exactly happen, but every taxpayer is getting a small benefit as a result of the action taken early in the session by the Progressive Caucus. The idea got out there and kept moving until finally it was incorporated in another form in the tax bill. So people at the bottom are going to get some small amount of money from the tax bill. That is real. It is completed.

The other piece of legislation that has almost been completed is the education bill, the leave-no-child-behind legislation of the President. The new President, of course, made this a high priority; and we have moved in both Houses, with both parties cooperating extensively, to pass the leave-no-child-behind legislation separately in the House and in the Senate. But there has been no conference, and the bill is now on hold.

I think it should be noted that there are rumors that the bill will be held deliberately until we have a chance to negotiate the major question of financing for the education bill. Education is on the legislative back burner right now; but in the hearts of the people who are polled out there, legislation is still a number one concern.

Education has to remain on the front burner. The fact it is being held here is a good development in that the critical question in the legislation that passed the House versus the legislation that passed the Senate is the amounts of money that are appropriated to carry out the features of the bill. The amounts of money are critical.

We do state in the legislation that passed the House that there will be an increase in an authorization for an increase in title I funds of double the amount that exist now in 5 years. In 5 years, in other words, we will have twice as much funding for title I as we have today. It will move from the present amount to about $17.2 billion in 5 years under the authorization. Authorization is there. That does not guarantee that the appropriation, of course, will keep pace.

The Senate bill has even more money earmarked for increases, but they do not have a commitment from the White House that the appropriation is going to follow the authorization. The big question is will the authorizations be honored. We had a great deal of effort to get bipartisan agreements.

I reluctantly voted for the education legislation because of the fact it did two things: one, it got rid of the consideration of vouchers for private schools as a Federal policy. And I think to clear the board and have vouchers off the discussion table was good for Federal legislative policy. However, the critical question of will we have more resources was also addressed. And the fact that the bill does promise to double title I funds, which are the funds that go most directly to the areas of greatest need, impressed me to the point where I voted for the bill, even though there were some other features, which I will discuss later, which I do not consider to be desirable.

The critical point is, are there more resources? The need to have resources to maintain what I call opportunity-to-learn standards is a critical point that I have been trying to make for all these years. Opportunity to learn is the most important factor if we really want to improve education and have more youngsters who are attending our public schools benefit from the process. What we are trying to do, however, is force a process of accountability, insist that schools measure progress by the tests that are taken by the students and the scores on the tests, and that that is the way we should measure accountability. A school system is held accountable for improved test scores.

On the other hand, the opportunity-to-learn standards are ignored completely. Opportunity to learn means that before the test is given we must guarantee that the student will have an adequate place to learn; classrooms that are not overcrowded, libraries that have books that are up to date, laboratories that have science equipment. The opportunity to learn means that we have the right equipment, the right facilities. It means that we have certified teachers in the classroom. It means that all the resources that are needed are there before we start the testing.

□ 1845

But the process that we have pushed here is a process which tries to ignore the opportunity to learn as a major factor.

So we need to hold the education legislation because that vital component is missing. Let us hold it until we can negotiate an increase in the resources, an increase in the amount of money we use to purchase resources, and those resources will provide the opportunity to learn. It may be that it will be end-game negotiations all of the way to the end of the session. Education legislation has benefited greatly over the last few years through the end-game negotiation process, right down to the very last hours of the session. When the White House and the Congress came together and they had their priorities on the table, education has fared very well.

Mr. Speaker, I hope that by holding the legislation this time until we get to that end-game negotiation, we will get the kind of funding necessary to make the legislation that we have passed have some real significance. If we do not get some additional funding for the Leave No Child Behind funding, then it is a fraud. It has no substance if it is not going to provide additional resources.

There is a need to refresh ourselves and come back to an understanding of the fact that we have passed these two pieces of legislation in the House of Representatives and the Senate. There is no reason to rest on our laurels. We still have a basic problem of that bill that passed having great gaps in it, and those great gaps are not going to be closed in the end-game negotiation unless the people that we represent, our constituents, understand where we are and why there is a great need for more Federal involvement in the improvement of education.

I want to use as an example a series of articles that have appeared in the Daily News in New York City to talk about the New York City school system, and I want to use New York City as a negative model. It is not the way it should be, but it is the way that it is in most of our large cities. I would not bore my colleagues with a discussion of what is going on in New York City unless I did not think that it was applicable all over the country in other big cities, and it is also applicable in rural areas.

Yesterday we voted on a bill to establish a commission to plan for the anniversary, 50th anniversary, of the Brown v. Board of Education. That anniversary relates to the question of segregation in public schools and whether or not it was legal. The Supreme Court struck down the fact of segregation and clearly made it illegal. Our concerns with segregation have begun to fade as far as segregation by race is concerned. The phenomenon we face now is a more subtle phenomenon. We have segregation in another way; not by race, but segregation of the people who have no power away from those who do have power. It turns out in many cases that the people who do not have power in the big cities are people who happen to be minorities also.

In the rural areas there are large numbers of whites in scattered pockets throughout the country; these are poor people who are in the same position because they have poor schools as a result of having no power. Folks who have money, who have power, always guarantee that their children get the best schooling possible. People with money in larger and larger numbers are sending their children ,to private schools; and, of course, there are not enough private schools even if everybody had money to afford them. There are not enough private schools to accommodate 53 million children. Others who have power and are in control of their schools and of the budget-making processes of their counties or cities or their school districts, they make certain that they have good schools. Where they have the power to do that, they have done it for their children.

We have a problem, however, because many of the people who have power, who have control about the decision-making over the budget are not involved to the point where their children or grandchildren are in the schools. The people who have the power, the people who have the most influence do not care about public schools enough to follow through on guaranteeing that you have the best schools possible.

We have a serious situation where we have schools that are stuck in a time bind. One of the greatest problems of our schools is that physically so many of them are so old. When one looks at the physical age of the structures, one gets a good visible manifestation of the way in which education and schooling are viewed in that area as a whole. New York is in that kind of bind.

I am going to make it simple by reading from an excellent editorial that appeared in the Daily News which accompanied their series on the New York City school system. I think it was a magnificent series. It pinpointed the problem and was forthright in dealing with the exposure of rampant waste and corruption and inadequacies. At the same time every day this series sought out uplifting models that could be replicated, and it sought out models which contradicted the general notion that the poor cannot learn, the notion that poor neighborhoods cannot have good schools. There were examples all over New York City which prove this not to be true.

But in the end the Daily News pinpoints the fact that the school system is in great trouble. In terms of service to the majority of the children attending the schools of New York City, we are failing at a faster and faster rate, and it is likely that school systems in Los Angeles, Philadelphia, a number of big cities, are failing in the same way, at the same rate, for the same reason, and that is why I want to bring to your attention what this Daily News series has pointed out, and how the implications reach across the Nation.

Reading from their own editorial page, "This week in a Daily News special report entitled Save Our Schools, you have been reading about the meltdown of the New York City educational system. As documented in chilling detail in more than 20 articles, the crisis has reached critical mass."

Now, Daily News is not a radical newspaper. They very seldom use extreme words like "meltdown." When they say "meltdown," you have to consider that they have been shocked, and this is truly a serious situation.

"This laboratory of failure, this culture of catastrophe, puts 1.1 million school children at risk. It must end. That is why the Daily News has launched a campaign, no, a crusade, to rescue what was once a world-class system that created opportunities for millions."

I think it is important to point out that the New York City school system was once considered a world-class system. It gave a lie to the notion that any big system, any bureaucratic system is automatically a wasteful system and a nonproductive system. The New York City school system produced the young people who went on to city colleges and who created a record of achievement and higher education in science and you name it; every scholarly endeavor that you can mention were the products of the New York City school system and of New York City publicly financed colleges. At one point City University had the highest percentage of Ph.D.s of any college in the Nation.

This was a system that was once a world-class system, and I submit it was a world-class system at a time when the people who were in charge of the system also had children who were attending the schools in the system; when the power, the power to make the system work was in the hands of the people whose children were attending the system. We have lost the kind of concerns and the kind of scrutiny and the kind of effective application of resources because of the fact that the people who are in charge and the people whose children are in the schools are not the same.

Continuing with the statement in the Daily News, "How abysmal is the situation? Sixty percent of the students in public elementary and middle schools cannot read at grade level. A third are functionally illiterate, and 70 percent lack proficiency in math. Nearly 50 percent finish high school in 4 years. In the original class of 2000, 19.5 percent dropped out before graduation, a 12 percent leap from the class of 1999." This percentage who dropped out before graduation represents a 12 percent change from the class of 1999.

A mere 35 percent of the kids take the Scholastic Assessment Test required for college. A mere 35 percent take the SAT, versus 73 percent of the rest of the children in New York State who take that same test. Only a broken system produces such a rock bottom number. It is appalling.

Just 44 percent of teachers hired last year for city schools had credentials, down from 1999. Meanwhile, 16 percent of all teachers are uncertified, the most in a decade.

Ten percent of parents did not bother to pick up their kids' report card. Fifteen percent do not know what grade their child is in, and the PTA at one school has only two members.

Oh, yes, they say in passing, "The buildings are falling down. Eighty-five percent of schools need major repairs." I am going to repeat that paragraph because herein lies the story of denial of opportunities to learn.

How can the children of the New York City school system score well on the series of tests that are being proposed? The Leave No Child Behind legislation pushed by the White House and now passed by both Houses has a testing regimen which starts in the third grade. From the third to the eighth grade, children will be tested. If you test children who are going to school under these conditions, I can tell you now without looking at the tests, most of them will fail.

Here are the conditions that the school, the children in the schools of New York will be facing as they take the tests. I am repeating this paragraph because herein is the story of the denial of opportunity to learn by the children in the schools of New York.

□ 1900

"Consider more numbers: Just 44 percent of teachers hired last year for city schools had State credentials, down from 59 percent in 1999."

If you talk about meltdown, you are in a terrible situation at 44 percent hired last year, or only 44 percent have State credentials, are certified. The fact that that is increasing at a rapid rate lets you know that you are in a much worse situation than just the fact that only 44 percent hired were certified. That is down from 59 percent the previous year. If you look at the year before that, I am sure that we had many more who were certified. We are rapidly losing all the qualified teachers needed in schools where the best teaching is needed.

"Meanwhile, 16 percent of all teachers are uncertified, the most in a decade. As for parents, 10 percent didn't bother to pick up their kids' report cards. And 85 percent of schools need major repairs."

What they do not tell you is that of this 85 percent, quite a number of these schools are 100 years old and should have been replaced a long time ago.

There are honeycomb success stories among the failures. They give examples of public schools that are doing a great job.

Continuing to read from the Daily News editorial statement of June 22:

"Unfortunately, such efforts are but seeds of real reform. To truly transform education, activist moms and dads must team up with better trained teachers and with principals who don't double as building managers. Schools must no longer be fettered by the United Federation of Teachers' crippling work rules and its lifetime protection program for inept instructors. Finally, the Board of Education must be abolished so that accountability—and mayoral control—can reclaim the system.

"Those 1.1 million kids deserve a genuine chance to become beacons for the city's future, a chance they will have only if New Yorkers unite to save our schools."

I disagree with the remedies. The New York Daily News set of articles clearly states the problem and is to be applauded for that. It leaps to conclusions that have no basis in fact or experience as to remedies. To abolish the board of education is to throw away any opportunity for this generation of New York children to get an education. It would take more than a generation to rebuild anything that is half as good as what you have already. The board of education obviously has serious problems at present, but most of these problems are problems which are directly related to a lack of resources, the denial of the resources.

We have just gone through a situation where a clear statement was made by a judge after months of considering a case that was brought against the State of New York in terms of its allocation of resources to the City of New York. That case sums up the need for opportunity to learn in a way which is far simpler than I could state it elsewhere. But it is important that we understand that nothing would be more beneficial to the well being and progress of the Nation than the provision of the opportunity to learn that I am talking about.

Opportunity to learn for all would mean that we understand that brainpower is the greatest need of the Nation and the world. Education for all, including the least among us, is a vital investment in the future of the Nation. Economic power, technology power, the power of cultural influence and even military power is directly dependent on our reserve of brainpower. About 2 years ago, we launched the last super high-tech aircraft carrier that we launched and the Navy admitted at that time that it was about 300 crew members short because they did not have the necessary trained personnel. There was a lack of brainpower. There was a lack of young crewmen who had the aptitude to be trained to run the high-tech equipment on the aircraft carrier.

I am saying again that New York City schools are examples of what is happening all over the country. They are frozen in time in terms of providing a basic education. They do not even do as well as they were doing 50 years ago. But here is the challenge that faces us in terms of going into the future, where the challenges are much greater and the education system needs to be equipped to do a far better job. Brainpower is the key to where this Nation is going. Unless we have a system that can educate all of the young people and guarantee that there are pools of trained personnel to draw from, then our entire society is in serious trouble. We do not just have a shortage of scientists, we do not just have a shortage of trained computer personnel, information technology personnel, we have shortages right across the board.

Half of the graduate students in our big universities are foreigners. More than half of the graduate students studying science at the highest levels are foreigners. Whether you focus on chemistry or physics or engineering, or all of the technical and scientific pursuits, more than half are foreigners, which means you have a problem in terms of theoretical and scientific know-how. When you come down to the next level of technicians, there is a great shortage. If you look at any area, whether you are talking about auto mechanics or sheet metal workers, even carpenters, there is a tremendous shortage of people who can do the ordinary jobs in our society because those jobs have become more and more complex. They need more and more skills.

I visited a sheet metal training facility in Queens more than a year ago, and I was surprised at the use of computers. They make extensive use of computers in the training of sheet metal workers. Obviously, sheet metal workers use computers a great deal. There is almost no area where the skills required, the knowledge required is not far greater now than it was 25, 50 years ago.

That is the other problem. The first problem is to have a basically sound school system that is functioning at minimum level. The bigger problem is to have a school system which is able to cope with the challenges of the 21st century. New York fails on the first rung and cannot continue to exist as a school system unless it moves rapidly to the second rung, because that is where the soul of the city lies, in the production of brainpower. To solve this brainpower crisis in the information technology industry, for example, corporations are using foreigners more and more. But we cannot use foreigners to run our aircraft carriers. We cannot use foreigners to run the armed services. We cannot use foreigners to vote intelligently for our elected leadership. The survival of our constitutional civilization is directly dependent on the pools of brainpower we develop and maintain inside the Nation.

Our complex society is doomed without adequate checks and balances. This goes far beyond the executive, judicial, and legislative units of government. The press and media, the nonprofit organizations, the private corporations, these are also vital parts of the system of checks and balances. Without constantly increasing brainpower reserves and replacements, these institutions will diminish and lose their potency in the collective decision-making process.

In other words, I pointed out the crisis in science. It is not only in the area of science but in the area of writers, in the area of social workers. Wherever you examine the need for trained people, there is a shortage; and the shortage is increasing. The police are having difficulty recruiting qualified candidates. The fire department is having difficulty recruiting qualified candidates. A more complex world demands people who are slightly better trained, and as a result we do not find them in the pools of manpower and brainpower that we have now.

We presently have a growing shortage of teachers and educated supervisors and administrators. That is the most critical shortage. This will greatly hamper any meaningful education reform. But similar shortages, as I said before, are appearing among numerous other categories of professionals.

Right now there is a great negotiation taking place in New York City in respect to teachers' salaries. It is seen as a collective-bargaining problem, and really it is far beyond a collective-bargaining problem. The salaries of New York City teachers is a major public policy issue. The kingpin of the school system is the leadership, the quality of the teachers and the principals, the assistant principals and the other personnel. If we do not get higher salaries for the people who are running that system, considering the fact that we are competing with salaries in all the surrounding suburbs and cities and towns who draw off the best personnel from New York City, then the rapidity, the speed with which we are losing the best teachers and administrators, will greatly increase and it will be totally impossible to change the system. When you talk about meltdown, nothing will speed the meltdown of the system faster than the failure of the present negotiations to greatly increase the salaries of the teachers and the education personnel in New York City in order to allow it to keep pace with the personnel salaries in the surrounding areas.

We have pinpointed that one of the most important opportunity-to-learn standards, opportunity-to-learn factors, is the provision of qualified and trained teachers. That is number one. Without the leadership, without qualified trained teachers, without principals and administrators, the system does not go anywhere. No study and experimentation will be necessary to understand what maximum opportunity to learn means. To provide an adequate and basic elementary and secondary education, we already know what works. There is no need for a great deal of discussion and controversy. There is a need for more resources. We need the money to pay the teachers decent salaries, we need to raise the standards, raise the morale, stop the brain drain and improve in all the other opportunity-to-learn areas, like the physical facilities, the equipment, the books, et cetera.

Before we begin to search for the most suitable pedagogical approaches, we must first put in place this set of opportunity-to-learn standards. The physical environment of the class, the building, the library, the cafeteria, laboratories, all of these must be safe and conducive to learning. The first negative by-product of overcrowded classrooms and hallways is usually an exacerbated discipline problem. Constantly we hear complaints about discipline problems. There are no silver bullet solutions for discipline problems; but one thing is certain, if you have overcrowded classrooms and overcrowded schools, the hallways, the cafeteria, the auditorium, then certainly you are going to have greater discipline problems. And, of course, you cannot honestly lower the pupil-teacher ratio unless you have more classrooms.

Right now we have a situation in New York City where we cannot honestly make use of the funds that were appropriated by the efforts of the last administration. We did get some movement in terms of funds to lower the pupil-teacher ratio in each class. We got a movement in the right direction, many teachers were employed; but the honest truth is that in New York City, instead of them having a lower pupil-to-teacher ratio in the classroom, they put another teacher in a crowded classroom because there were no classrooms.

If you do not build additional classrooms, then you cannot have a lower pupil-teacher ratio in the classroom. They added a teacher to a crowded classroom which is not what the legislation was all about in the first place. We have done some creative maneuvers to get the money and use the money; but actually the benefit sought, a classroom where you had fewer pupils per teacher in order to be able to maintain greater order and give more attention to the students at a younger age, that did not happen and it is not happening in many cases.

This is a self-evident requirement, that you have trained teachers and you have trained supporting personnel. We refuse to take our children to untrained, uncertified dentists or pediatricians, so why not pay and seek the best teachers? Why should any child be subjected to the fumbling, makeshift efforts of an untrained teacher? We do not normally expect successful outcomes when unqualified staff are in charge. It is an unfortunate factor in big-city school systems that the substitute teacher, the unqualified teacher who could not pass the test, who is not regularly on the rolls, who is not paid fully and who does not get full benefits, that substitute teacher becomes the teacher that children see the most often in the worst neighborhoods. In other words, in the poorest neighborhoods where other teachers do not want to teach, it is the substitute teacher, the unqualified teacher, that is usually brought in to fill the classrooms.

In one of my sections of my district, District 23, at one point they had more than half of the teachers who were not certified, who were substitutes, teaching in the schools. This was an area where the reading scores were very low and they needed the very best teachers.

What I am attempting to explain is summarized with shocking simplicity at the end of the court order just handed down several months ago by Supreme Court Judge DeGrasse in New York State. The New York State civil judge heard the case that was brought which challenged the fact that the State of New York had been shortchanging the City of New York in terms of education funds. The court case went on for almost a year, testimony was heard, and the judge finally made a decision.

□ 1915

I will read just a few excerpts from that decision. Quote, and this is Judge Leland DeGrasse, New York State Supreme Court, this court has held that a sound basic education, mandated by the education article, that is the education article of the constitution, consists of the foundational skills that students need to become productive citizens capable of civic engagement and sustaining competitive employment.

In order to ensure that public schools offer a sound basic education, the State must take steps to ensure at least the following resources which, as described in the body of this opinion, are, for the most part, currently not given to New York City public school students.

Number one, sufficient numbers of qualified teachers, principals and other personnel; two, appropriate class sizes; three, adequate and accessible school buildings with sufficient space to ensure appropriate class size and implementation of a sound curriculum; four, sufficient and up-to-date books, supplies, libraries, educational technology and laboratories; five, suitable curricula including an expanded platform of programs to help at-risk students by giving them more time on task; six, adequate resources for students with extraordinary needs; and seven, a safe, orderly environment.

Now, these items laid out by Judge Leland DeGrasse, in the opinion of the New York State Supreme Court against the State of New York, accusing the State of not supplying these items, there is an exact parallel to the opportunity-to-learn standards, which I have been discussing. These are statements in another way of what opportunity to learn means. You are not provided sufficient teachers, qualified teachers and principals. You do not have appropriate class sizes. You do not have adequate school buildings. You do not have sufficient supply of up-to-date books, libraries, educational technology and laboratories, and as a result, your curriculum is not suitable. You do not have a safe, orderly environment. All of these are stated in the court decision.

I might add that the judge gave the State of New York until the first of June, I think, to come forward with some kind of plan to respond to his decision. That has not happened.

I might also add that the Governor of New York appealed the decision of the court, and the Governor in essence stated what the lawyers had been arguing for the Governor all along, and that is that in New York City the children are too poor to learn. The poverty is the reason they cannot learn.

There is a condemnation out of which there can be no solution; that is to say, children cannot learn because they are too poor, and, therefore, we should not put resources in to try to teach children who are too poor to learn dooms the children forever. It is like condemning slaves for being illiterate, nonfunctional when they came out of slavery after having a series of laws in every confederate State which made it a crime to teach a slave to read. It is a crime to teach you to read. At the same time, of course, there was a big contradiction there because slaves were considered inferior, not quite human, and, therefore, why did they have to worry about teaching them to read? Evidently they were human enough, smart enough to learn how to read, so much so that laws were made. In every Confederate State there was a law that said it is a crime to teach a slave to read.

Now we have a situation where a Governor of one of the most advanced States of the Union, the great Empire State of New York, is arguing that the problem of education in New York City is that the children are too poor to learn, and, therefore, do not expect the State to solve the problem by providing more resources because they are too poor to learn; more resources will not help the situation. It is a State where we spend $25,000 per year for an inmate to be kept in prison. In New York City we spend only $7,000 per year to educate each student. You can see the direction of the reasoning of the Governor. If you cannot educate them, and most of them end up in prison, they are going to cost far more later on, but I suppose there are some profits to be made in the prisons that we do not know about.

Anyway, I can think of no more confused and hopeless reasoning than for a Governor of a State to say we cannot solve the problem because the children are too poor to learn.

In the course of reforming the school finance system, a threshold task that must be performed by the State to the extent possible, the actual costs of providing a sound basic education in districts around the State has to be decided, but certainly you are going to have to ensure that every school district has resources necessary to provide opportunity for a sound, basic education. Taking into account variations in local costs and all the other things, the State should be in a position to provide what is necessary.

The New York Daily News article does not pinpoint the Governor's position, the fact that the Governor is now spending State funds to appeal the decision of the court, which called upon the Governor to provide more funding for New York City. The New York Daily News article does not finger that as one of the great reasons why we have the problem.

We have a meltdown in New York City schools. A meltdown is taking place right now, and the meltdown is primarily due not to the fact that children are too poor to learn. If that was the case, then New York City would not have produced some of the greatest scholars in our Nation.

The City College, the city universities, would not have turned out so many Ph.Ds. They are spread all over the world. Poor youngsters who came out of the ghettos of New York in the past have learned and performed well. The poverty is not the problem. The problem is that the people in charge of the system have allowed the system to degenerate and not provide the opportunities to learn that should be provided.

One great controversy raging right now is around the opportunity-to-learn standard as reflected in school construction. School construction and the provision of adequate facilities is a major part of the problem. It is highly visible, and when you provide for adequate school facilities, you make a statement about the importance that you attach to education. If you refuse to provide for adequate facilities, you are also making a statement, and the continuing refusal to provide adequate schools is a statement that the people who are in power have made over the last 10 years. The Daily News recognizes the problem, but they do not pinpoint the fact that the mayor of the city of New York has been a major problem.

The decision-making process at city hall has been a major problem in the provision of adequate school facilities. We have a problem now where it is another Catch-22. They are saying that the high cost of construction in the year 2001 is so great that we cannot go ahead to begin to remedy the problem of overcrowded schools. We have to wait. We have run into a situation where the money projected to build schools would not go as far as anticipated because the cost has gone up. Some people are proposing that we call a halt and not build any more schools, not repair any more schools because the costs are too great.

Eight years ago there was a major confrontation between the present mayor and the chancellor of schools at that time because he proposed a $7 billion capital funding program. He proposed $7 billion, and the mayor said that was unreal, and there was such a clash until they drove that chancellor out of town.

A few years later a second chancellor proposed an $11 billion capital expenditure program, and there was a clash with the mayor, who said that was unreal, and the clash became so heated until that chancellor was forced to resign.

Now we are at a point where we are finding that because of all of these delays and all of the roadblocks that have been placed in the way of the decisionmakers at the board of education in terms of going forward with a meaningful capital expenditure program and building the schools at a time when it probably would have cost less, we now have a logjam, and the prices are going up.

The cost of construction has gone up. Well, is the cost of construction really up all over the Nation? Are we in a recession? Are we going toward a recession? Has the economy not slowed down? If they want to solve the problem of school construction in New York and keep the costs from rising, can we not appeal for some Davis-Bacon unionized contractors from all over the country to come in? We have no problem if they are willing to abide by Davis-Bacon. They can come into New York City and take the contracts and go ahead and build schools there.

There are a dozen ways to solve the problem, yet there seems to be a willingness to point the finger at the board of education, at the current chancellor, and to play the kind of game that city hall has played all along; in other words, poor decision-making, incompetent decision-making, decision-making by people whose motives are questionable. After all, this is a mayor who has said that the school system, the board of education, should be blown up. The best way to get better education in New York City is to destroy the board of education. If you want to take that attitude, then it would be a contradiction for you to provide money for the board of education to build schools.

The mayor has been consistent. The question is why have the leaders of New York allowed him to be so consistent? Why have the members of the city council not challenged the mayor? We at one point had $3 billion; just 3 years ago we had $3 billion in surplus. New York City had a $3 billion surplus. Not a single penny of the surplus funds were used to repair schools or build schools or to do anything else for education, for that matter.

So we have a situation again which has clearly been delineated by the Daily News. If you live in New York City and you are interested in education, then I urge you to read the Daily News articles. If you do not live in New York City and you want to see what big cities all over America are facing, you might want to read the same series of articles. It is a magnificent series of articles that pinpoint all of the things that have gone wrong and can go wrong and what the consequences are.

Sixty percent of elementary and secondary middle school students cannot read at grade level. That is quite an indictment. Seventy percent are not proficient in math. Thirteen percent of this year's high school seniors, that is about 4,100 students, failed the math Regents test. More than 13,000 students from the class of 2000 dropped out between the 9th and the 12th grades. That is 19.5 percent of the class. Between 1996 and 1999, 30 percent of New York City students took Scholastic Aptitude Tests, a standardized exam for admission to most colleges. Seventy-three percent passed statewide and scored 40 to 50 points higher than the New York City students.

Sixty percent of elementary schools and 67 percent of high schools are overcrowded. Sixty percent of elementary schools and 67 percent of high schools are overcrowded, and the board of education's master plan for the year 2003 concedes that 85 percent of the schools need major repairs. Deterioration is occurring at a rate faster than we can save the systems, the board documents revealed.

I think that that physical deterioration is the best visible manifestation of what is happening in general. When you talk about meltdown, look at the physical deterioration. I quote: Deterioration in the actual school buildings is occurring at a rate faster than we can save systems, the board documents reveal.

In recent years about half of public school students have completed high school in 4 years; 9 percent have graduated later, by the age of 21; and the rest have been lost completely. Is this an example, a model for where we dare go in terms of education in America?

I am using the New York City school system because it is an example of where our big cities are. Now, there was a lot of praise for Chicago, and Chicago was being used as some kind of magic model for the improvement of big-city school systems. Now, I understand the tests have shown that Chicago is again in serious trouble, that there has been a lot of hype and a lot of public relations, but underneath the improvements have been minimal, and the improvements have been minimal because, again, the opportunity-to-learn standards have not been addressed sufficiently.

They have not provided the kinds of quality facilities, trained teachers, adequate supplies and equipment, laboratories for science, library books and libraries. It is so simple, the opportunity-to-learn standards, but it is the area where nobody wants to engage in a discussion.

Yes, we have two new pieces of legislation, one in the Senate, one in the House, which are professing to be the last word on education reform. A lot of people are already applauding the legislation before it is finalized, and before the President signs it. It is not the final word, I hope. If that is the final word, we are in serious trouble.

□ 1930

The final word has to be dictated by the insistence of the American people out there, who have made education the number one priority for the last 5 or 6 years. When you ask the question, what should Federal dollars be used for, where is the most Federal assistance needed, education continues to score right up there with other concerns like crime and Medicare and Medicaid. Usually education is ahead of them all.

So the public is way ahead of the leadership. We must run to catch up with the leadership. What is happening right now gives us an opportunity to do that. As long as the bill is being held, as long as we do not go to conference, as long as we do not have a final signature by the President, then there is room for negotiation, as long as we are dealing with the appropriation process and it is understood that the glaring inadequacy of the present education legislation is in the area of resources, there is not enough money being guaranteed.

Oh, yes, the money is authorized. There is a reasonable amount authorized. If you are going to double the title I funding from the present amount to $17.2 billion in 5 years, that is a great increase. That is an increase worth voting for. But at the same time the authorizing legislation says we can do that, the appropriation and budget process says there is no money.

I started by saying we have had two great legislative developments up to now in this session of Congress. One was the passage of the tax legislation, and the other was the passage of education legislation by both Houses, although the education legislation is not complete.

They do relate to each other. The passage of the tax legislation has put us in a situation where, despite the fact we have authorized more money for education, and the other body, the Senate bill authorizes even more than the House bill, we cannot actually get the money and the resources unless there is a change in the appropriation process.

Somehow between now and the end of this session, more money has to be found in that budget; some new device has to be developed to increase the revenue; some changes have to be made, decreases in expenditures and other areas that are less important. Somehow we have to continue to press forward and make the case that brain power is the number one need for this Nation at this time. Brain power and the pools of people produced to qualify to run a more and more complex society are at the heart of where we are going. Nothing else is going to move forward unless we have the appropriate brain power. Therefore, brain power should be number one.

If budget cuts have to be made somewhere else, we should make those budget cuts, or if we have to find some new source of revenue dedicated to education, then that has to be the case. We must save our schools, not only in New York City, from a growing meltdown; but we must understand that the same process, the meltdown process, is occurring elsewhere, and only Federal funds can be utilized to stop it.

HMO REFORM

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of January 3, 2001, the gentleman from Iowa (Mr. GANSKE) is recognized for 60 minutes as the designee of the majority leader.

Mr. GANSKE. Mr. Speaker, I especially want to thank you for the time that you are spending in the Chair tonight, as you have many evenings with your spare time. The Members of this House of Representatives who come to the floor to give Special Orders are especially appreciative as, over the years, other Members have volunteered their time to sit in the Chair so that we could do our Special Orders.

This is the beginning of our July 4th recess, and I will try to be somewhat briefer than the hour time that I am allotted for this.

Well, we have had, Mr. Speaker, a great debate going on in the Senate this week on the Patients' Bill of Rights; and I have been watching this with great interest, because for the past 5 years I have been working on this issue, and I have been coming to the floor frequently, just about every week, in order to give a Special Order talk on the status of legislation to help protect patients from abuses by HMOs.

I am looking forward to the day when we pass a strong Patients' Bill of Rights piece of legislation on this floor to go along with what I think will be a strong Patients' Bill of Rights coming out of the Senate, that we marry those two bills together, that we add some important access provisions, such as an expansion of medical savings accounts, tax deductibility for the self-employed, and we move that down to the President's desk.

I strongly encourage the President to sign that, because there have been some significant compromises over the past few years on this legislation that I believe meet the President's principles, and yet retains principles that he enunciated during the Presidential campaign, such as allowing for important State laws on patient protection to continue to function, laws like those in Texas, which appear to be working pretty well.

Mr. Speaker, why are we continuing to talk about this? Well, we have had gridlock here in Washington for several years on this; and it has been a shame, because every day the HMOs make millions and millions of decisions that can significantly affect the well being of the patients they are supposed to be serving.

Remember a few years ago, there was a movie, "As Good as It Gets." It had Helen Hunt, who had a child with asthma, talking to a friend, Jack Nicholson, in the movie; and her little boy was being denied needed treatment for his asthma, which prompted Ms. Hunt to run a string of expletives together about that HMO. And I saw something I never saw happen before in a movie theater or seen since: I saw people stand up and clap in agreement with Ms. Hunt on that.

Then we saw a few years ago a large number of jokes and cartoons about HMOs. You do not see it so much any more because, you know what? Everybody knows that this is a problem. In order for something to be humorous, there needs to be some element of surprise. But it is not surprising anymore that people have problems. You talk to your friends, family members, colleagues, and practically everyone can come up with a story about how an HMO has inappropriately denied treatment to a patient.

Remember the problem that we had a few years ago when one of the HMOs said, well, you know what? We do not think you need to stay in the hospital if you deliver a baby. Our plan guidelines say outpatient deliveries.

So you had this type of cartoon. The maternity hospital, drive-through window: "Now only 6-minute stays for new moms." The person at the window saying, "Congratulations. Would you like fries with that," as the mom holds a crying baby, and she looks more than a little frazzled.

Well, it was not so funny when you started to see headlines on major newspapers around the country, like this one from the New York Post which said "What his parents didn't know about HMOs may have killed this baby." Or this headline from the New York Post that says "HMO's cruel rules leave her dying for the doc she needs."

Some of these cartoons were pretty hard hitting, and I would say the humor was black humor at a minimum. Here was a cartoon about HMOs that appeared a couple of years ago: "Cuddly-care HMO. How can I help you?" This is an operator at the end of one of those 1–800 numbers. She is repeating what she is hearing on the telephone, and she says, "Oh, you are at the emergency room and your husband needs approval for treatment."

Then she repeats what the person is saying. "He is gasping, writhing, eyes rolled back in his head? That doesn't sound all that serious to me."

Over on there it says, "Clutching his throat, turning purple? Um-hum."

Then she says, "Well, do you have an inhaler?"

Then she says, "He is dead?"

And then she says, "Well, then he certainly doesn't need emergency treatment, does he?"

And finally the HMO reviewer says, "Gee, people are always trying to rip us off."

Well, that was not too funny to this young lady. She fell off a 40-foot cliff about 60 miles west of Washington, D.C. She broke her pelvis, her arm and had a concussion; nearly was dead. Fortunately, her boyfriend had a cellular phone. He phoned in the helicopter. They loaded her up, got her to the hospital, she was admitted through the emergency room, in the ICU on intravenous narcotics, and she got better.

But then do you know what the HMO did? They would not pay her bill. They said that she had not phoned ahead for prior authorization.

Does that strike you as a little funny? How was she supposed to know she was going to fall off a cliff and break her leg and have a concussion? Was she supposed to be able to read the tea leaves?

Oh, and this was an issue. This was one of the first issues we talked about on HMOs. Back in 1995 I had a bill called the Patient Right to Know Act, because it became known that HMOs were requiring doctors to phone them in order to get permission to tell the patient about all of their medical treatments that might be possible. So you would have a situation, for instance, where a woman comes in to see a doctor; she has a lump in her breast. Before the doctor tells her her three options, he says, "Oh, excuse me," goes out in the hallway, gets on the phone and says, "HMO, can I tell this lady all about her treatment options?"

So here we have a doctor saying, "Your best option is cremation; $359, fully covered." And the patient is saying, "This is one of those HMO gag rules, right?"

That HMO gag rule was not so funny to this woman. Her HMO tried to gag the doctors treating her. She needed treatment for breast cancer. She did not get it, and she died. And, do you know what? Under the current Federal law, if you receive your insurance from your employer and the HMO makes a decision like that, under Federal law, current Federal law, they are liable for nothing except the cost of care denied. And if the patient is dead, then they are not responsible for anything. Now this little girl and boy and the woman's husband, they do not have their mom, because of what that HMO did.

Here is another cartoon. The doctor is taking care of a patient on the operating table. The doctor says "scalpel." The HMO bean counter says "pocket knife." The doctor says "suture." The HMO bean counter says "band-aid." The doctor says, "Let's get him to intensive care." The HMO bean counter says, "Call a cab."

Let me tell you about a real case that was sort of a call-a-cab response. Down in Texas, after they passed the patient protection bill down in Texas, there was a fellow named Mr. Palosika. He was suicidal. He was in the hospital. His doctor thought he needed to stay in the hospital because, if he left, he might commit suicide. But the HMO said, no, we do not think he needs to stay in the hospital, and we are not going to pay for it. If he wants to stay, fine. The family can pay for it themselves.

Well, when an HMO says that to most families, they do not have the money to pay for it up front themselves, so they just took him home.

□ 1945

That night, Mr. Palosika drank half a gallon of antifreeze and committed suicide.

Now, under Federal law, that HMO was supposed to, if they disagreed with the treating doctor's advice, they were supposed to go to an expedited, independent review panel, but they did not do that, they just ignored the law. And that is why it is very important when we are dealing with patient protection legislation that we have a strong enforcement mechanism; not to create new lawsuits, but to prevent those lawsuits by making sure that the HMOs know that they will be responsible at the end of the day so they do not make decisions or so that they do not follow the rules, or, I should say, in order to ensure that they do follow the rules.

Here is another one of those cartoons. This is the HMO claims department. The claims reviewer is saying, "No, we don't authorize that specialist; no, we don't cover that operation; no, we don't pay for that medication," and then apparently somebody says something to the operator, and she says, "No, we don't consider this assisted suicide."

Mr. Speaker, I hope I do not have to talk about this case much longer. I hope we really do pass a strong Patients' Bill of Rights soon, the Ganske-Dingell bill, on this floor. This is a little boy that I know. He is now about 8 years old, but when he was 6 months old, he had a fever of about 104, and he was sick one night, and his mom phoned the HMO, a 1–800 number, probably thousands of miles away, and said, my baby is sick, we need to go to the emergency room. And the medical reviewer said, well, under our contract, I will only authorize you to take little James to this one emergency room. That is all we have a contract with. Mom and Dad lived way on the outside of Atlanta, Georgia. Mom said, well, where is it? This voice over the phone said, I don't know, find a map. Made a medical decision, medical judgment, that reviewer did, that he was healthy enough to withstand a very long drive through Atlanta and bypass three hospitals with emergency rooms.

So Mom and Dad wrap him up. It is the middle of the night. They start their trek, they pass those emergency rooms where they could have stopped if they had authorization, but they were not health care professionals, they did not know how sick little James was, but he then suffered a cardiac arrest. Fortunately, they were able to keep him going until they pulled into the emergency room. Mom leaped out of the car screaming, save my baby, save my baby. A nurse ran out. She started an IV, they started mouth-to-mouth resuscitation, they gave him medicines, they saved his life, but they did not save all of this little boy. Because of that cardiac arrest, he ended up with gangrene in both hands and both feet, and, consequently, both hands and both feet had to be amputated.

Under current Federal law, an employer health plan that makes that kind of medical judgment that results in that kind of injury to this patient is liable for nothing except the cost of his amputations.

I will tell my colleagues something. Once in a while I read an article, an editorial in a newspaper, and I hear opponents to our legislation saying, oh, those are just anecdotes. Those are just anecdotes. That girl that fell off the cliff, that was just an anecdote. The young mother who died because she did not get the care from the HMO, that is just an anecdote. A little boy who loses both hands and both feet, that is just an anecdote.

Mr. Speaker, do you know what I say to those people? I say, you know what? If this little anecdote had a finger, and if you pricked it, it would bleed. I say, this anecdote has to pull his leg prostheses with his arm stumps every day. This anecdote needs help putting on both bilateral prostheses. This anecdote will never be able to touch the face of the woman that he loves with his hand. He will never be able to play basketball. Now, he is a pretty well-adjusted kid, considering everything. He is a great kid. But I tell my colleagues, I want those people who write those op-ed pieces to meet this little anecdote and look him in the eye and tell him that we do not need a Patients' Bill of Rights.

I will tell my colleagues this: There are not just a few anecdotes around the country. I get phone calls and letters from people all over the country. Just recently in Des Moines, Iowa, a woman came up to me and she said, I tell you what. I am fed up with our HMO. I have breast cancer. I have been battling this for a while. The treatments have made me worn out. But my doctor told me that I needed a test to see if the cancer had come back, and the HMO would not authorize it. Other doctors said the same thing, that I needed the test. It did not matter. The HMO would not authorize it. Finally, after a long fight, they authorized it, and then the day I was supposed to get it, they said no.

And she said, Congressman, I went to my husband and I said to him, you know, Bill, I am going to ask you to do something I have never asked you to do for me before. That HMO has worn me out. I cannot fight them anymore. You are going to have to carry this for me. You are going to have to fight that HMO.

Mr. Speaker, there is a real need to pass this. People pay a lot of money and their employers contribute a lot of money for their health care. They work a lot of hours to earn that health care. When they finally get sick, it ought to mean something. They ought to be treated with justice and human compassion and not by green eyeshades looking at the bottom line and coming up with some arbitrary definition of medical necessity.

Mr. Speaker, under this Federal law I am talking about that passed 25 years ago, an employer health plan can define medical necessity as anything they want to. Some health plans have defined medical necessity as the cheapest, least expensive care, quote/unquote. Well, before coming to Congress, I was a reconstructive surgeon. I took care of children with cleft lips and palates. More than 50 percent of the surgeons in this country that do that kind of work in the last several years have had cases denied for kids with cleft lips and palates by the HMO saying, oh, that is not medically necessary. And under Federal law, they can define it any way they want.

That is why they had a big debate on this yesterday in the Senate, and they have managed to preserve language that says, if there is a dispute, an independent panel will make that decision and not be bound by the plan's arbitrary and unfair guidelines, so that if there is a denial of care, you get an honest-to-God chance that you will get the treatment you need.

I commend the Senators who voted to preserve that very, very important issue of letting an independent panel determine medical necessity and not be bound by a plan's guidelines. That does not mean that our law says, our bill says that employers cannot set up their own benefits package. We are very clear on that. We do not change that for ERISA at all. If an employer wants to purchase a plan where the plan says explicitly in the contract language, we do not provide heart-lung transplants, that is fine. It is not what I would recommend, but they can do that, and we do not change that. If a patient came along and needed that, then they would have to come up with that financing themselves because it has been made explicitly clear. But if it has not been made clear that that is an explicit exclusion, and if the patient does need that and believe that they would get that under that type of agreement, then they should, they should.

We say in our bill, the Ganske-Dingell bill, the Bipartisan Patient Protection Act of 2001, we say that businesses are protected from liability. We have a standard in our bill that says, businesses will not be liable unless they enter into direct participation in the HMO's decision that would result in injury. That is a standard that many of my Republican colleagues agreed with 2 years ago, and we adopted it.

I had a good friend who is a businessman from Des Moines, Iowa, phone me today, and he wanted to know whether he would be liable under our bill, and I said, how do you provide your health insurance for your employees? He said, well, we hire BlueCross BlueShield. We take one of their plans or another plan. I said, do you ever get involved in BlueCross BlueShield's decisions? He said, oh, no. Oh, no. That is a matter of personal privacy for our employees. We do not want to know what is happening to their personal lives, and, quite frankly, they do not want us to know what is going on, and we do not want to know, if only for the reason that maybe we would have an employee at some time that is not performing up to par, and we might have to let that employee go, and we do not want that employee coming in and saying, well, you are just letting me go because you found out that I have diabetes or that I had to see a psychiatrist.

Under our bill, the Ganske-Dingell bill, employers are protected from liability, unless, unless they directly participate. Furthermore, there has been additional protective language now adopted on the Senate side on this issue, and we think that that is a positive. We just want to make sure, not that there will be a lawsuit at the end of the day, but that if there is a dispute on care where the HMO says no, but the patient's doctors say yes, that there is a mechanism for resolving that dispute before anyone is injured, if necessary, going to an independent panel whose decision would be binding on the health plan, an independent panel where the decision would be binding on the health plan.

In that circumstance, in the Ganske-Dingell bill, you know what? We give total punitive damages relief to the health plan. We say, if this dispute goes to an independent panel, and a health plan follows the decision, then they cannot be held liable at all for punitive damages. That has been one of the major concerns, large punitive damage awards by the business community.

Some people attack our bill by saying, oh, it is going to increase the costs for health insurance premiums. We hear that a lot in the debate that has been going on in the Senate. My answer to that is that the Congressional Budget Office has looked at our bill, the McCain-Edwards bill is the companion bill that is being debated in the Senate, they have looked at our bill and they say that the total cost would be 4 percent increase in premiums over 5 years, so less than 1 percent per year. The alternative, Frist-Breaux bill, the GOP bill in the Senate, would increase premiums by about 3 percent over the same period of time. But the provision on the liability would result in a total increase in premiums of only .8 percent over 5 years. That is less than two-tenths of a percent. The analysis of that would show in practical terms that the cost of our bill would be about the cost of a Big Mac meal per month per employee.

Mr. Speaker, the surveys around the country show that people think that that would be well worth it to know that they would be treated fairly.

Now, just this week there has been a big roll-out of an opposition bill to the Ganske-Dingell bill. It is called the Fletcher bill, the Fletcher-Thomas bill.

□ 2000

It is called the Fletcher bill, the Fletcher-Thomas bill. As a doctor, I know that you do not do a complete physical exam without examining the body under the clothing. So there were a lot of good words said by the opponents to our bill about the Fletcher bill, but I have looked at the body of that Fletcher bill.

I will tell my colleagues something, it is not pretty, except to the HMOs. When the Fletcher bill is stripped of its spin, the bones, and the sinews look like the old HMO protection bills that the opponents to real patient protection have tried to confuse the public with for several years.

For example, in the Fletcher bill, there are significant constraints on the independence of the medical reviewer. The standards of review would actually codify negligent health plan practices. It would make them unreviewable.

The Fletcher bill's designated decisionmaker language could be gamed by the HMO. They are working on designated decisionmaker language on the Senate side right now. Senator SNOWE is working on that, and there is a way to write that language that is fine, it adds language that is protective for employers, but at the same time prevents that language from being used to deny patients the care they need.

Mr. Speaker, I am very pleased to see progress being made on that on the Senate side. The Fletcher bill, despite the plan's sponsor's contentions, reverses State law. It effectively federalizes State law by saying that the only allowance for State court is if an HMO does not comply with the review panel, which under the Fletcher bill, the HMO is able to stack in its own favor. Those are just a few of the diseases on the Fletcher bill.

I advise my fellow Republican House Members to become aware of being infected with the Fletcher bill. The real cure is the Ganske-Dingell bill.

Here are some statements from my great colleague, the gentleman from Georgia (Mr. NORWOOD), who has worked with me and the gentleman from Michigan (Mr. DINGELL) hand in hand on this for years.

Here is what the gentleman from Georgia (Mr. NORWOOD), a very conservative Republican, says about the Fletcher bill. He says a patient could suffer injury or death from improperly denied care and still be blocked from a just court remedy with the Fletcher bill.

Here is what the gentleman from Georgia (Mr. NORWOOD) says about the Fletcher bill. The design of this latest imposter bill is identical to previous attempts to derail patients' rights, create a technical right to sue an HMO with conditions that will disqualify the majority of cases quote unquote.

The gentleman from Georgia goes on to say the HMO chooses the external appeals panel, which then determines whether the patient can go to court and the patient has no right of appeal.

This alone is an insurmountable hurdle. It is just the tip of the iceberg. This bill, speaking about the Fletcher bill, imposes the responsibility of allowing a choice of the doctor on the employer instead of the HMO, and then it disqualifies the majority of employees from having the right to begin with. It contains nothing on adding prescription drug reform.

The list goes on and on so far, in fact, that patients would be better off with no bill than with the Fletcher bill, quote, unquote.

Mr. Speaker, my friend, the gentleman from Georgia, goes on in his press release and says the Fletcher bill further proposes that all suits over improperly denied care be removed to Federal court, with the exception of cases in which HMOs violate Federal law by refusing to comply with legally binding decisions of medical review panels.

If the injury or death of a patient occurred prior to the ruling or through the delay imposed by the ruling, the patient loses their legal rights under the Fletcher bill, even their current limited right to sue under State law gained through the recent fifth court decision, upholding a portion of the liability provisions in the Texas patient protection act.

The gentleman from Georgia continues in his press release, the new bill would accordingly preempt, preempt patient laws in Texas, Georgia, Arizona, California, Louisiana, Maine, Missouri, New Mexico, Oklahoma, Oregon, Washington, and West Virginia. Let me repeat that. My friend, the gentleman from Georgia, says the Fletcher bill would preempt patient protection laws in Texas, Georgia, Arizona, California, Louisiana, Maine, Missouri, New Mexico, Oklahoma, Oregon, Washington, and West Virginia.

Let us talk a little bit about the comparison of the Fletcher bill to the Ganske-Dingell-Norwood bill. Fletcher claims the plans face unlimited punitive damages in State court and $5 million punitive damages in Federal court, regardless of compliance with review process under the Ganske-Dingell bill.

Here is the fact. Under my bill, State level punitive damages awards are prohibited entirely if the plan follows the external appeals process. In addition, 33 States currently cap punitive and noneconomic damages. The law that would be in effect would be the law in those States.

Punitive damages are banned entirely in Federal court cases while $5 million in civil penalties are available in Federal court if the plan is proven by clear and convincing evidence to have acted in bad faith with flagrant disregard for the rights of the patients. That is what is in the Ganske-Dingell-Norwood bill.

Mr. Speaker, the opponents to our bill, the gentleman from Kentucky (Mr. FLETCHER) here, claims that our bill allows lawsuits, not only under ERISA, but also COBRA or HIPPA while the original Norwood-Dingell bill we debated a few years ago allowed ERISA cases only.

Here is the fact. The Ganske bill removes contractual disputes to Federal court. Why do we do that?

Number one, the Supreme Court has already said that is what should be done. We do it to preserve the ability of the Employee Retirement Income Security Acts uniform contract benefits. Our inclusion does not produce any additional causes of action under Ganske-Dingell. It does protect the ability of plans and employers to offer uniform health benefit plans Nationwide.

Let me repeat that. Our bill is not a bill that would prevent an employer who works in many States from devising his own uniform benefits health plan. That is the fact. Fletcher claims that the Ganske-Dingell-Norwood bill would allow patients to sue in both Federal and State courts for the same injury; that is not correct. Our bill, the Ganske-Dingell bill, assigns contract disputes to Federal court, medical disputes to State court, patients must specify the grounds of the dispute when they file. Under standard court procedure, suits cannot be filed in both courts over the same grounds.

Here is what the gentleman from Georgia (Mr. NORWOOD) said. The Fletcher bill appears designed for one goal, the confusion of the public and of Republican Members who want to vote for real patient protections.

The gentleman from Georgia (Mr. NORWOOD) goes on and says any Member who supports this package, i.e., the Fletcher bill, does so for the exclusive benefit of the HMO lobby, quote, unquote.

Let me give you five quick comparisons between the Ganske-Dingell bill and the Fletcher bill. Number one, the Ganske-Dingell bill enables every American to choose their own doctor. The Fletcher bill does not give Americans the right to choose the doctor and puts the requirement that employees get an option to choose their own doctor on the employer.

Number two, the Ganske-Dingell bill ensures a fair review process. The Fletcher bill allows health plans to choose the reviewer at external review.

Number three, the Fletcher bill forces the patient to get approval from an external reviewer before they can seek damages for injury in court. The Ganske-Dingell bill says that a reviewer's decision must be considered as evidence, but does not create an absolute bar from damages.

Number four, the Fletcher bill will preempt 12 State laws that have been passed that allows HMOs to be held liable in State courts. The Ganske-Dingell bill protects those State laws, and that is exactly one of the principles that President Bush said was essential on HMO reform during the campaign.

Number five, the Ganske-Dingell bill allows cases regarding medical decisions to be heard in State courts. The Fletcher bill allows patients to go to State court when a plan does not follow external review and erroneously causes a medical decision. We call that breaking the law.

Further, the Fletcher bill allows the patient to forum shop, the Fletcher bill allows the patient to forum shop between Federal and State court, not the Ganske-Dingell bill.

These are some of the important differences that we are talking about between the Ganske-Dingell bill and the Fletcher bill.

That is why over 500 health groups, consumer groups, professional groups have endorsed the Ganske-Dingell bill and very few have said much about the Fletcher bill, other than that in some cases, in some parts of the language, maybe it is okay. But if you look at the overall bill, the real patient protection bill is the Ganske-Dingell bill.

Mr. Speaker, I believe, we will see this in large part passed with the McCain-Edwards-Kennedy bill, which is the companion bill to our bill. I think in large part, it will pass in the Senate. I think with a pretty big vote.

Mr. Speaker, I applaud the hard work of the Senators who have worked on that and have shown a real concern for patient protections. I believe that will give us a big boost as we move into debate here on the House floor.

I am appreciative of the work that Senators like MIKE DEWINE and OLYMPIA SNOWE, LINCOLN CHAFEE, and others, who have put into this bipartisan bill as the Senate debate has moved forward. Those changes, as far as I have seen so far, look very acceptable to the gentleman from Georgia (Mr. NORWOOD) and myself and the gentleman from Michigan (Mr. DINGELL).

In the Senate, it would have been nice if they had added the expansion of medical savings accounts and the 100 percent deductibility for the self-insured. That is in our House bill, but under the rules in the Constitution, those types of provisions have to originate in the House so they did not debate those or pass those; but I believe they have wide bipartisan support.

Mr. Speaker, I think it showed that the Democrats were willing to move to a compromise on this bill. It is no secret, a lot of Democratic Members are not real keen on medical savings accounts, but under the Ganske-Dingell bill we expand those medical savings accounts. That is part of the compromised process. That is how you get things done here in Washington.

I will tell you what, a purely partisan vote in this House will not pass. The Fletcher bill is a partisan bill. There is one Democrat that supports it, maybe two, but what we have is a real core of Republicans who have been stalwarts for patient protection, who have withstood the blows of the $150 million campaign by the HMOs in this country trying to beat them down.

□ 2015

They have shown independence and courage, and I salute them. I look forward to this debate when it comes to the House floor after the July 4th recess.

I know that the gentleman from Georgia (Mr. NORWOOD) is going to go off his diet and will eat a little bit of red meat steak before we hit the floor. I am looking forward to working with the gentleman from Michigan (Mr. DINGELL) as we work on this bill here on the floor.

I am convinced that, if the Members will truly look at the bills, look at the bones and the sinews and the muscles, not just the clothing and the nice words, they will see that there is a significant difference. They should listen to the American Medical Association, and they should look at all the other groups that have looked at these bills and have said in very strong words the real patient protection bill, the bill that will help prevent situations like happened to this poor little boy is the Ganske-Dingell bill.

I ask my colleagues over the July 4th recess to examine their consciences, to talk to some of the patients and the health care advocates and the health care professionals that have to deal with HMOs that make those types of arbitrary decisions that result in problems for patients.

Talk to them over the July 4th recess. Listen to them. They represent an awful lot of people in my colleagues' districts. I believe that if my colleagues do, they will come to the conclusion that it is time to get this off the congressional calendar. It is time to join the Senate, to pass a bipartisan and a bicameral bill.

Do not let it get hung up in committee, in a conference committee. Send it to the President's desk. I would love nothing better than for the President to look at the changes that we have done in the Senate debate and come to the conclusion that this bill, as I truly think it does, meets his principles and that he will sign it. That would be a very bright day for millions and millions of Americans.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mrs. MORELLA) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, today.

ADJOURNMENT TO TUESDAY, JULY 10, 2001

Mr. GANSKE. Mr. Speaker, pursuant to House Concurrent Resolution 176, I move that the House do now adjourn.

The SPEAKER pro tempore. Pursuant to House Concurrent Resolution 176 of the 107th Congress, the House stands adjourned until 2 p.m. on Tuesday, July 10, 2001.

Thereupon (at 8 o'clock and 19 minutes p.m.), pursuant to House Concurrent Resolution 176, the House adjourned until Tuesday, July 10, 2001, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2719. A communication from the President of the United States, transmitting requests for Fiscal Year 2002 budget amendments for the Department of Defense; (H. Doc. No. 107–92); to the Committee on Appropriations and ordered to be printed.

2720. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Fiduciary Activities of National Banks [Docket No. 01–14] (RIN: 1557–AB79) received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2721. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Investment Securities; Bank Activities and Operations; Leasing [Docket No. 01–13] (RIN: 1557–AB94) received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2722. A letter from the Deputy Assistant Secretary for Policy, Planning and Innovation, Department of Education, transmitting Final Regulations—Federal Work Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Special Leveraging Educational Assistance Partenership Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2723. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [OPPTS–00310; FRL–6771–7] received June 27, 2001, pursuant to 5 U.S.C. 301(a)(1)(A); to the Committee on Energy and Commerce.

2724. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval of section 112(l) Authority for Hazardous Air Pollutants; Chemical Accident Prevention Provisions; Risk

Management Plans; New Jersey Department of Environmental Protection [FRL–6996–7] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2725. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; New Source Review Revision [NH018–01–7156a; A–1–FRL–6999–6] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2726. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits—received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2727. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2728. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2729. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2730. A letter from the Inspector General, Federal Housing Finance Board, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2000 through March 31, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2731. A letter from the Inspector General, National Science Board, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2000 through March 31, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2732. A letter from the Acting Director, Office of Personnel Management, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2733. A letter from the Acting Director, Office of Personnel Management, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2734. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Disclosure and Amendment of Records Pertaining to Individuals Under the Privacy Act—received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2735. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 010112013–1013–01; I.D. 060801A] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2736. A letter from the Assistant Attorney General, Department of Justice, transmitting the 2000 Annual Report of the Office of the Police Corps and Law Enforcement Education; to the Committee on the Judiciary.

2737. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—VISAS: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Application for Nonimmigrant Visa: XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah, 2002—received June 27,2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2738. A letter from the Attorney for National Council on Radiation Protection and Measurements, LeBoeuf, Lamb, Greene and MacRae, L.L.P., transmitting the 2000 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to 36 U.S.C. 4514; to the Committee on the Judiciary.

2739. A letter from the Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting the Department's final rule—Diamond Mountain District Viticultural Area (99R–223P) [T.D. ATF–456; Re: Notice No. 882] (RIN: 1512–AA07) received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2740. A letter from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting the Department's final rule—Time Limitation for Requesting Refunds of Harbor Maintenance Fees [T.D. 01–46] (RIN: 1515–AC64) received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2741. A letter from the Chief, Regulations Division, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury, transmitting the Department's final rule—Recodification of Regulations on Tobacco Products and Cigarette Papers and Tubes [T.D. ATF–457] (RIN: 1512–AC41) received June 28, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2742. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, first-out inventories [Rev. Rul. 2001–35] received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follow:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1407. A bill to amend title 49, United States Code, to permit air carriers to meet and discuss their schedules in order to reduce flight delays, and for other purposes; with amendments (Rept. 107–77 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on International Relations. H.R. 2131. A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004; with amendments (Rept. 107–119). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1866. A bill to amend title 35, United States Code, to clarify the basis for granting requests for reexamination of patents; with an amendment (Rept. 107–120). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1886. A bill to amend title 35, United States Code, to provide for appeals by third parties in certain patent reexamination proceedings (Rept. 107–121). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CALVERT (for himself, Mr. HERGER, Mrs. BONO, Mr. FOLEY, Mr. RADANOVICH, Mr. FARR of California, Mr. THOMPSON of California, Mr. BAIRD, Mrs. THURMAN, and Mr. ISSA):

H.R. 2354. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of crops destroyed by casualty; to the Committee on Ways and Means.

By Mr. TOM DAVIS of Virginia:

H.R. 2355. A bill to amend subchapter III of chapter 83 of title 5, United States Code, to make service performed as an employee of a nonappropriated fund instrumentality after 1965 and before 1987 creditable for retirement purposes; to the Committee on Government Reform.

By Mr. SHAYS (for himself and Mr. MEEHAN):

H.R. 2356. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on House Administration, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JONES of North Carolina (for himself and Mr. HOSTETTLER):

H.R. 2357. A bill to amend the Internal Revenue Code of 1986 to permit churches and other houses of worship to engage in political campaigns; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland (for himself, Mr. UDALL of Colorado, Mr. BOEHLERT, Ms. JACKSON-LEE of Texas, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mrs. MORELLA, Mr. EHLERS, Mr. DELAHUNT, and Mr. WAMP):

H.R. 2358. A bill to authorize appropriations for environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology bioenergy programs, projects, and activities of the Department of Energy, and for other purposes; to the Committee on Science.

By Mr. SMITH of New Jersey (for himself and Mr. EVANS):

H.R. 2359. A bill to amend title 38, United States Code, to authorize the payment of National Service Life Insurance and United States Government Life Insurance proceeds to an alternate beneficiary when the first beneficiary cannot be identified, to improve and extend the Native American veteran housing loan pilot program, and to eliminate the requirement to provide the Secretary of Veterans Affairs a copy of a notice of appeal to the Court of Appeals for Veterans Claims; to the Committee on Veterans' Affairs.

By Mr. NEY (for himself, Mr. WYNN, Mr. SWEENEY, Mr. MICA, Mr. REYNOLDS, Mr. LATOURETTE, Mr. PETERSON of Pennsylvania, Mr. HOBSON, Ms. DUNN, Mr. CUNNINGHAM, Mr. TAYLOR of North Carolina, Mr. TRAFICANT, Ms. PRYCE of Ohio, Mr. BLUNT, Mr. EHLERS, Mr. BALLENGER, and Mr. NORWOOD):

H.R. 2360. A bill to amend the Federal Election Campaign Act of 1971 to restrict the use of non-Federal funds by national political parties, to revise the limitations on the amount of certain contributions which may be made under such Act, to promote the availability of information on communications made with respect to campaigns for Federal elections, and for other purposes; to the Committee on House Administration.

By Mr. SMITH of New Jersey (for himself, Mr. EVANS, Mr. SIMPSON, Mr. REYES, and Mr. SPENCE):

H.R. 2361. A bill to increase, effective as of December 1, 2001, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BORSKI (for himself, Mr. BRADY of Pennsylvania, Mr. COYNE, Mr. DOYLE, Mr. ENGLISH, Mr. FATTAH, Mr. GEKAS, Mr. GREENWOOD, Ms. HART, Mr. HOEFFEL, Mr. HOLDEN, Mr. KANJORSKI, Mr. MASCARA, Mr. MURTHA, Mr. PETERSON of Pennsylvania, Mr. PLATTS, Mr. SHERWOOD, Mr. SHUSTER, Mr. WELDON of Pennsylvania, and Mr. PITTS):

H.R. 2362. A bill to establish the Benjamin Franklin Tercentenary Commission; to the Committee on Government Reform.

By Mr. GREENWOOD (for himself, Ms. KAPTUR, Ms. LEE, Mr. STARK, Mr. BONIOR, Mr. WAXMAN, Mr. LANTOS, Mr. BALDACCI, Mrs. JONES of Ohio, Mrs. TAUSCHER, Mrs. JOHNSON of Connecticut, Mr. ENGLISH, Mr. HINCHEY, Mr. TOWNS, Ms. HART, Mr. SHOWS, Ms. MCCARTHY of Missouri, Mr. FROST, Mr. ANDREWS, Mr. DEFAZIO, and Mrs. ROUKEMA):

H.R. 2363. A bill to provide for the establishment of regional centers to assist State and local governments, health maintenance organizations, nonprofit organizations, and other organizations in the development of peer-support activities and other nonprofessional services to assist persons to cope with and overcome persistent mental illnesses; to the Committee on Energy and Commerce.

By Ms. KAPTUR (for herself, Mr. GREENWOOD, Ms. LEE, Mr. STARK, Mr. BONIOR, Mr. WAXMAN, Mr. LANTOS, Mr. BALDACCI, Mrs. JONES of Ohio, Mrs. TAUSCHER, Mrs. JOHNSON of Connecticut, Mr. ENGLISH, Mr. HINCHEY, Mr. TOWNS, Ms. HART, Mr. SHOWS, Ms. MCCARTHY of Missouri, Mr. FROST, Mr. ANDREWS, Mr. DEFAZIO, and Mrs. ROUKEMA):

H.R. 2364. A bill to amend title XIX of the Social Security Act to provide States with the option of covering intensive community mental health treatment under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. COSTELLO (for himself, Mr. AKIN, Mr. WHITFIELD, Mr. MOLLOHAN, Mr. BOUCHER, Mr. SHIMKUS, Mrs. CAPITO, Mr. PHELPS, and Mr. LIPINSKI):

H.R. 2365. A bill to authorize Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities, so as to allow coal to help meet the growing need of the United States for the generation of clean, reliable, and affordable electricity; to the Committee on Science.

By Mrs. BIGGERT:

H.R. 2366. A bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SESSIONS (for himself and Mr. WELDON of Florida):

H.R. 2367. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide for accountability of health plans; to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself, Mr. TOM DAVIS of Virginia, Ms. SANCHEZ, Mr. ROHRABACHER, Ms. LOFGREN, Mr. ROYCE, Mr. WOLF, and Mr. GILMAN):

H.R. 2368. A bill to promote freedom and democracy in Viet Nam; to the Committee on International Relations, and in addition to the Committees on Financial Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA (for himself, Mr. BARTLETT of Maryland, Mr. LEWIS of California, Mr. MCGOVERN, Mr. EHLERS, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Mr. BAIRD, Mrs. MORELLA, Mr. COX, Mr. HUNTER, and Mr. CUNNINGHAM):

H.R. 2369. A bill to amend title 23, United States Code, relating to the use of high occupancy vehicle lanes by hybrid vehicles; to the Committee on Transportation and Infrastructure.

By Mr. WELLER (for himself and Mr. NEAL of Massachusetts):

H.R. 2370. A bill to amend the Internal Revenue Code of 1986 to modify the exception from the treatment of welfare benefit funds for 10-or-more employer plans; to the Committee on Ways and Means.

By Mr. BALDACCI (for himself and Mr. ALLEN):

H.R. 2371. A bill to authorize the transfer and conveyance of real property at the Naval Security Group Activity, Winter Harbor, Maine, and for other purposes; to the Committee on Armed Services.

By Mr. BOSWELL:

H.R. 2372. A bill to direct the Secretary of the Army to convey the remaining water supply storage allocation in Rathbun Lake, Iowa, to the Rathbun Regional Water Association; to the Committee on Transportation and Infrastructure.

By Mr. BRADY of Texas (for himself, Mr. DOGGETT, Mr. SCARBOROUGH, Mr. TURNER, Mr. SESSIONS, Mr. SUNUNU, Mr. BASS, Mr. BARTON of Texas, Mr. SAM JOHNSON of Texas, Mr. GOODE, Mr. THORNBERRY, Ms. HART, Ms. GRANGER, Mr. CULBERSON, Mrs. NORTHUP, Mr. ENGLISH, Mr. HEFLEY, Mr. DOOLITTLE, Mrs. MYRICK, Mr. COMBEST, Mr. HOEKSTRA, Mr. TANCREDO, Mr. HUTCHINSON, Mr. GREEN of Wisconsin, Mr. RODRIGUEZ, Mr. ISTOOK, Mr. ROYCE, Mr. ISAKSON, Mr. COOKSEY, Mr. SCHAFFER, Mr. GOODLATTE, Mr. FLAKE, and Mr. TOOMEY):

H.R. 2373. A bill to provide for the periodic review of the efficiency and public need for Federal agencies, to establish a Commission for the purpose of reviewing the efficiency and public need of such agencies, and to provide for the abolishment of agencies for which a public need does not exist; to the Committee on Government Reform.

By Mr. CAMP:

H.R. 2374. A bill to amend the Internal Revenue Code of 1986 to treat certain motor vehicle dealer transitional assistance as an involuntary conversion, and for other purposes; to the Committee on Ways and Means.

By Mr. KIND (for himself, Mr. GILCHREST, Mr. BOEHLERT, Mr. DINGELL, Mrs. JOHNSON of Connecticut, Mr. LARSEN of Washington, Mr. GEORGE MILLER of California, Mr. PETRI, Mr. THOMPSON of California, Mr. BONIOR, Mr. QUINN, Mr. HOYER, Mr. WALSH, Mr. DICKS, Mr. EHLERS, Mr. OBERSTAR, Mr. BASS, Mr. BAIRD, Mr. KOLBE, Ms. WOOLSEY, Mrs. TAUSCHER, Mr. KING, Mr. UDALL of Colorado, Mr. GILMAN, Mr. MCDERMOTT, Mr. HINCHEY, Mrs. ROUKEMA, Mr. MCNULTY, Mr. BORSKI, Mr. MCHUGH, Mr. ETHERIDGE, Mrs. MORELLA, Mr. FARR of California, Mr. PALLONE, Mr. STUPAK, Mr. DELAHUNT, Mr. OLVER, Mr. GREENWOOD, Mr. KILDEE, Mr. BALDACCI, Mr. BLUMENAUER, Mr. ALLEN, Mr. KUCINICH, Mr. KENNEDY of Rhode Island, Mr. LANGEVIN, Ms. BALDWIN, Mr. BARRETT, Mr. MORAN of Virginia, Mrs. NAPOLITANO, Ms. MCCOLLUM, Mr. SMITH of Washington, Mr. INSLEE, Mr. LEWIS of Georgia, Mr. HOLT, Mr. WU, and Ms. HOOLEY of Oregon):

H.R. 2375. A bill to promote the conservation and preservation of working farms, ranches, and private forests; to the Committee on Agriculture.

By Mrs. CAPPS (for herself, Ms. HOOLEY of Oregon, Mr. DEFAZIO, Mr. THOMPSON of California, Mr. FARR of California, and Mr. WU):

H.R. 2376. A bill to expedite relief provided under the Magnuson-Stevens Fishery Conservation and Management Act for the commercial fishery failure in the Pacific Coast Groundfish Fishery, to improve fishery management and enforcement in that fishery, and for other purposes; to the Committee on Resources, and in addition to the Committees on Ways and Means, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASTLE (for himself, Mrs. MCCARTHY of New York, Mr. KIRK, Mr. MOORE, Mrs. TAUSCHER, Mr. SHAYS, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. BARRETT, Mr. BERMAN, Mr. BLUMENAUER, Mr. BORSKI, Mrs. CAPPS, Mr. CAPUANO, Ms. CARSON of Indiana, Mr. COYNE, Mr. CROWLEY, Mrs. MORELLA, Mrs. DAVIS of California, Mr. DAVIS of Illinois, Mr. DOOLEY of California, Mr. ENGEL, Mr. FERGUSON, Mr. EVANS, Mr. FARR of California, Mr. FILNER, Mr. FRANK, Mr. GUTIERREZ, Ms. HARMAN, Mr. HOEFFEL, Ms. HOOLEY of Oregon, Mr. SMITH of New Jersey, Mr. HORN, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mrs. JOHNSON of Connecticut, Ms. SCHAKOWSKY, Mr. LANGEVIN, Mr. LANTOS, Mr. LARSON of Connecticut, Mr. LIPINSKI, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MARKEY, Ms. MCCOLLUM, Mr. MEEHAN, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mr. MORAN of Virginia, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. PASTOR, Mr. PAYNE, Ms. RIVERS, Ms. SANCHEZ, Mr. SCHIFF, Mr. SHERMAN, Ms. SOLIS, Mr. TIERNEY, Mr. TOWNS, Mrs. JONES of Ohio, Ms. VELÁZQUEZ, Mr. WEXLER, Ms. WOOLSEY, and Mr. WYNN):

H.R. 2377. A bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and to provide additional resources for gun crime enforcement; to the Committee on the Judiciary.

By Mr. CLEMENT (for himself, Mr. FROST, Ms. NORTON, Ms. HART, Mr. FRANK, Mr. BONIOR, Mr. MCNULTY, Mrs. THURMAN, Mr. GILLMOR, Mr. BALDACCI, Mr. HONDA, Mr. RANGEL, Mr. LATOURETTE, Mr. LANTOS, and Mr. PLATTS):

H.R. 2378. A bill to amend title II of the Social Security Act to increase the maximum amount of the lump-sum death benefit and to allow for payment of such a benefit, in the absence of an eligible surviving spouse or child, to the legal representative of the estate of the deceased individual; to the Committee on Ways and Means.

By Mr. CUMMINGS (for himself and Mr. DAVIS of Illinois):

H.R. 2379. A bill to amend title 5, United States Code, to ensure that the health benefits program for Federal employees covers screening for glaucoma; to the Committee on Government Reform.

By Mr. RUSH (for himself, Mr. TOWNS, Mr. WAXMAN, Mrs. CHRISTENSEN, Mr. HYDE, Mr. MANZULLO, Mr. COSTELLO, Mr. DAVIS of Illinois, Mr. PHELPS, Ms. SCHAKOWSKY, Mr. PALLONE, Ms. KAPTUR, Mr. BOEHLERT, Mr. ENGEL, Mr. BROWN of Ohio, Mrs. CAPPS, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MILLENDER-MCDONALD, Mr. BISHOP, Mr. WYNN, Mr. UDALL of Colorado, Mr. HINCHEY, Mr. SANDERS, Mrs. CLAYTON, Mr. EVANS, Mr. NADLER, Mr. HOLDEN, Mr. BURR of North Carolina, Ms. ESHOO, Mr. BARRETT, Mr. KIRK, Ms. PRYCE of Ohio, Mr. GREENWOOD, Mr. STUPAK, Mrs. MALONEY of New York, Ms. WATSON, Ms. LOFGREN, Ms. DUNN, Ms. DELAURO, Ms. PELOSI, and Mrs. KELLY):

H.R. 2380. A bill to provide for research on, and services for individuals with, postpartum depression and psychosis; to the Committee on Energy and Commerce.

By Mr. DEAL of Georgia:

H.R. 2381. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from an IRA for higher education expenses are exempt from the 10-percent early distribution tax even after annuitization of account; to the Committee on Ways and Means.

By Mr. DOYLE:

H.R. 2382. A bill to extend the deadline for commencement of construction of a hydroelectric project in Pennsylvania; to the Committee on Energy and Commerce.

By Ms. DUNN (for herself, Mr. MATSUI, Mr. TOM DAVIS of Virginia, Mr. DREIER, and Mr. WELLER):

H.R. 2383. A bill to amend the Internal Revenue Code of 1986 to increase and modify the exclusion relating to qualified small business stock and to provide that the exclusion relating to incentive stock options will no longer be a minimum tax preference; to the Committee on Ways and Means.

By Mr. GREEN of Texas:

H.R. 2384. A bill to amend the National Flood Insurance Act of 1968 to provide a 50 percent discount in flood insurance rates for the first 5 years that certain low-cost properties are included in flood hazard zones; to the Committee on Financial Services.

By Mr. HANSEN:

H.R. 2385. A bill to convey certain property to the city of St. George, Utah, in order to provide for the protection and preservation of certain rare paleontological resources on that property, and for other purposes; to the Committee on Resources.

By Mr. HANSEN (for himself, Mr. OTTER, Mr. YOUNG of Alaska, Mrs. CUBIN, Mr. PICKERING, Mr. HAYES, Mr. SIMPSON, Mr. RADANOVICH, Mr. CANNON, Mr. GIBBONS, Mr. PETERSON of Pennsylvania, Mr. REHBERG, and Mr. DUNCAN):

H.R. 2386. A bill to establish terms and conditions for use of certain Federal lands by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such lands; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARMAN (for herself, Mr. LEWIS of California, Mr. SHERMAN, Mr. GARY G. MILLER of California, Mr. GEPHARDT, Ms. ESHOO, Mr. ROHRABACHER, Ms. PELOSI, Mr. DREIER, Ms. WATERS, Mr. CUNNINGHAM, Ms. SOLIS, Mr. GRAVES, Mr. FILNER, Mr. THOMPSON of California, Mrs. CAPPS, Mr. CONDIT, and Ms. LOFGREN):

H.R. 2387. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington National Airport for certain communities in cases of airline bankruptcy; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY:

H.R. 2388. A bill to establish the criteria and mechanism for the designation and support of national heritage areas; to the Committee on Resources.

By Mr. HERGER (for himself and Mr. WALDEN of Oregon):

H.R. 2389. A bill to provide for the compensation of persons of the Klamath Basin who were economically harmed as a result of the implementation of the Endangered Species Act of 1973; to the Committee on the Judiciary.

By Mr. HOSTETTLER (for himself, Mr. LARGENT, Mr. SCHAFFER, Mr. TIAHRT, Mr. DEMINT, Mr. BARTLETT of Maryland, and Mr. AKIN):

H.R. 2390. A bill to prohibit the District of Columbia from using any funds to issue, implement, administer, or enforce any order invalidating the policy of the Boy Scouts of America regarding the employment or voluntary service of homosexual troop leaders; to the Committee on Government Reform.

By Mr. HOSTETTLER (for himself and Mr. YOUNG of Alaska):

H.R. 2391. A bill to prohibit any Federal agency from issuing or enforcing certain rules that may be applied to restrict the transportation or possession of a firearm on a public Federal road; to the Committee on Resources.

By Mr. INSLEE (for himself, Mr. SHAYS, Mr. UDALL of Colorado, Mr. WAMP, Mr. BAIRD, Mr. ALLEN, Mr. OLVER, Mr. SMITH of Washington, and Mr. HOLT):

H.R. 2392. A bill to amend the Internal Revenue Code of 1986 to provide, expand, or extend tax incentives for renewable and alternative electric energy, alternative fuels and alternative fuel vehicles, energy efficiency and conservation, and demand management and distributive energy generation; to the Committee on Ways and Means.

By Mr. ISRAEL (for himself and Mr. CROWLEY):

H.R. 2393. A bill to amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for energy conservation expenditures in residences and for purchases of energy efficient appliances; to the Committee on Ways and Means.

By Mr. KUCINICH (for himself, Mr. BROWN of Ohio, Mr. LATOURETTE, and Mrs. JONES of Ohio):

H.R. 2394. A bill to amend the Defense Production Act of 1950 to establish the National Defense Preparedness Domestic Industrial Base Board, and for other purposes; to the Committee on Financial Services.

By Mr. LAFALCE:

H.R. 2395. A bill to provide grants for FHA-insured hospitals; to the Committee on Financial Services.

By Mrs. MALONEY of New York:

H.R. 2396. A bill to amend the Communications Act of 1934 to require candidates for election for Federal office who refer to other candidates in their television or radio advertisements to include personal statements or images in the advertisements as a condition for receiving the lowest unit charge available for advertisements broadcast immediately before the election; to the Committee on Energy and Commerce.

By Mrs. MALONEY of New York (for herself, Mr. TOM DAVIS of Virginia, Mr. WYNN, Mrs. MORELLA, Mr. HOYER, and Mr. MORAN of Virginia):

H.R. 2397. A bill to require the Office of Personnel Management to conduct a study to determine the approximate number of Federal employees and annuitants who are eligible to participate in the health benefits program under chapter 89 of title 5, United States Code, but who are covered neither by such program nor by any other health insurance, and for other purposes; to the Committee on Government Reform.

By Ms. MCCARTHY of Missouri (for herself and Mr. DREIER):

H.R. 2398. A bill to establish a grant program to provide assistance to States for modernizing and enhancing voting procedures and administration, and for other purposes; to the Committee on House Administration.

By Ms. MCCARTHY of Missouri (for herself and Mr. SHIMKUS):

H.R. 2399. A bill to require the General Services Administration to identify all potential electrical capacity at Federal facilities available from existing installed backup generators, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. McHUGH:

H.R. 2400. A bill to provide job creation and assistance, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McHUGH:

H.R. 2401. A bill to bridge the digital divide in rural areas; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McHUGH:

H.R. 2402. A bill to provide for grants to assist value-added agricultural businesses, and to amend the Internal Revenue Code of 1986 to provide a tax credit for farmers' investments in value-added agriculture; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-McDONALD (for herself and Mr. Manzullo):

H.R. 2403. A bill to direct the head of each executive agency to conduct a study on the improvement of employment readiness in the respective agency; to the Committee on Government Reform.

By Mr. GEORGE MILLER of California:

H.R. 2404. A bill to authorize Federal agency participation and financial assistance for programs and for infrastructure improvements for the purposes of increasing deliverable water supplies, conserving water and energy, restoring ecosystems, and enhancing environmental quality in the State of California, and for other purposes; to the Committee on Resources.

By Mrs. MORELLA (for herself, Ms. Eshoo, Ms. Pelosi, Mr. Greenwood, Mr. Ganske, Mrs. Lowey, Mr. Sawyer, Ms. DeGette, Mr. Upton, Mrs. Thurman, Ms. Slaughter, Mr. Jackson of Illinois, Mr. Waxman, Ms. Millender-McDonald, Mrs. Maloney of New York, Ms. DeLauro, and Mr. George Miller of California):

H.R. 2405. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other sexually transmitted diseases; to the Committee on Energy and Commerce.

By Mr. NEAL of Massachusetts:

H.R. 2406. A bill to amend the Internal Revenue Code of 1986 to prevent the avoidance of gain recognition through swap funds; to the Committee on Ways and Means.

By Mr. OBERSTAR:

H.R. 2407. A bill to amend the Public Buildings Act of 1959 to direct the Administrator of General Services to provide for the procurement of photovoltaic solar electric systems for use in public buildings, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OSBORNE:

H.R. 2408. A bill to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands; to the Committee on Resources.

By Mr. OTTER (for himself and Mr. Simpson):

H.R. 2409. A bill to amend the Endangered Species Act of 1973 to vest in the Secretary of the Interior functions under that Act with respect to species of fish that spawn in fresh or estuarine waters and migrate to ocean waters, and species of fish that spawn in ocean waters and migrate to fresh waters; to the Committee on Resources.

By Mr. PAUL (for himself, Mr. Bartlett of Maryland, Mr. Graham, Ms. Hart, and Mr. Tiahrt):

H.R. 2410. A bill to amend the Internal Revenue Code of 1986 to allow the Hope Scholarship Credit to be used for elementary and secondary expenses; to the Committee on Ways and Means.

By Mr. PAUL (for himself, Mr. Bartlett of Maryland, and Mr. Tiahrt):

H.R. 2411. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax to professional school personnel in grades K–12; to the Committee on Ways and Means.

By Mr. RAHALL (for himself, Mr. Young of Alaska, Mr. George Miller of California, Mr. Kildee, Mr. Faleomavaega, Mr. Abercrombie, Mr. Pallone, Mr. Smith of Washington, Mr. Udall of Colorado, Ms. McCollum, and Mr. Kennedy of Rhode Island):

H.R. 2412. A bill to establish programs to improve energy development on Indian lands, and for other purposes; to the Committee on Resources, and in addition to the Committees on Energy and Commerce, Ways and Means, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RILEY (for himself, Mrs. Tauscher, Ms. McKinney, Mr. Kennedy of Rhode Island, Mr. Frost, Mr. McGovern, Mr. Evans, Mr. Langevin, Mr. Gibbons, Mr. Simmons, Mrs. Jones of Ohio, and Mr. Forbes):

H.R. 2413. A bill to amend title 10, United States Code, to establish a program of employment assistance, including employment-related tuition assistance, for military spouses; to the Committee on Armed Services.

By Mr. ROEMER (for himself, Mr. Clement, Mr. Gutknecht, Mr. Hill, Mr. Kirk, Mr. Largent, Mrs. McCarthy of New York, Mr. McHugh, Mr. Moore, Mr. Moran of Virginia, Mrs. Morella, Mr. Nethercutt, Ms. Rivers, Mr. Shows, Mr. Simmons, Mrs. Thurman, and Mr. Turner):

H.R. 2414. A bill to require any amounts appropriated for Members' Representational Allowances for the House of Representatives for a fiscal year that remain after all payments are made from such Allowances for the year to be deposited in the Treasury and used for deficit reduction or to reduce the Federal debt; to the Committee on House Administration.

By Mr. ROHRABACHER:

H.R. 2415. A bill to amend title 35, United States Code, to direct the Director of the Patent and Trademark Office to adjust fees charged by the Office so that the fees collected in any fiscal year will equal, to the greatest extent practicable, the amount appropriated to the Office for that fiscal year; to the Committee on the Judiciary.

By Mr. ROHRABACHER (for himself, Mrs. Bono, Ms. McKinney, Mr. Calvert, Mr. Evans, Mr. Weldon of Florida, Mr. Paul, Ms. Hart, Mr. Cox, Mr. Horn, Mr. Condit, Ms. Kaptur, Mr. Royce, Mr. Souder, and Mr. Sanders):

H.R. 2416. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the ownership and control of corporations by employees; to the Committee on Ways and Means.

By Mr. SHIMKUS (for himself and Mr. Markey):

H.R. 2417. A bill to facilitate the creation of a new global top-level Internet domain that will be a haven for material that will promote positive experiences of children and families using the Internet, to provide a safe online environment for children, and to help prevent children from being exposed to harmful material on the Internet, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SHIMKUS (for himself, Mr. Rush, and Mr. Largent):

H.R. 2418. A bill to amend title X of the Energy Policy Act of 1992, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SIMMONS (for himself, Mrs. Christensen, Mr. Abercrombie, Mr. Grucci, Mr. Allen, Mr. Baird, Mr. Jones of North Carolina, Mr. Farr of California, Mr. Green of Wisconsin, and Mr. Frank):

H.R. 2419. A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Ways and Means.

By Mr. SOUDER (for himself, Mr. English, Ms. McKinney, Mrs. Jones of Ohio, Mrs. Mink of Hawaii, Mr. Underwood, Mr. Abercrombie, and Mr. Ballenger):

H.R. 2420. A bill to require the Secretary of the Interior to conduct a theme study on the peopling of America, and for other purposes; to the Committee on Resources.

By Mr. STEARNS (for himself, Mr. Towns, Mr. Bass, Mr. Deal of Georgia, and Mr. Walden of Oregon):

H.R. 2421. A bill to exercise authority under Article I, section 8, clause 3 of the Constitution of the United States to clearly establish jurisdictional boundaries over the commercial transactions of digital goods and services conducted through the Internet, and to foster stability and certainty over the treatment of such transactions; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STRICKLAND:

H.R. 2422. A bill to amend the Public Health Service Act to establish an Office of Correctional Health; to the Committee on Energy and Commerce.

By Mr. THUNE (for himself, Mr. Gutknecht, Mr. Osborne, and Mr. Ganske):

H.R. 2423. A bill to provide for the energy security of the United States and promote environmental quality by enhancing the use of motor vehicle fuels from renewable sources, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TRAFICANT:

H.R. 2424. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage by $1.62 over 3 years; to the Committee on Education and the Workforce.

By Mr. TRAFICANT:

H.R. 2425. A bill to authorize assistance to establish a water treatment plant in Tirana, Albania; to the Committee on International Relations.

By Mr. UDALL of Colorado (for himself and Mr. Greenwood):

H.R. 2426. A bill to encourage the development and integrated use by the public and private sectors of remote sensing and other geospatial information, and for other purposes; to the Committee on Science.

By Mr. UDALL of New Mexico (for himself, Mrs. Mink of Hawaii, Mr. Baldacci, Mr. Meeks of New York, Mr. McGovern, and Ms. Solis):

H.R. 2427. A bill to provide emergency assistance for families receiving assistance under part A of title IV of the Social Security Act and low-income working families; to the Committee on Ways and Means.

By Mr. UNDERWOOD (for himself, Mr. Acevedo-Vilá, and Mrs. Christensen):

H.R. 2428. A bill to require that the Director of the Office of Management and Budget explain any omission of any insular area from treatment as part of the United States in statements issued by the Office of Management and Budget; to the Committee on Resources, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS:

H.R. 2429. A bill to amend title 49, United States Code, to require the operator of Los Angeles International Airport to mail annual noise mitigation reports to residents in the area surrounding an airport; to the Committee on Transportation and Infrastructure.

By Ms. WATERS:

H.R. 2430. A bill to amend title 49, United States Code, to require air carriers to make contributions to communities impacted by noise from Los Angeles International Airport; to the Committee on Transportation and Infrastructure.

By Mr. WATKINS:

H.R. 2431. A bill to amend the Internal Revenue Code of 1986 to provide that certain amounts received by electric energy, gas, or steam utilities shall be excluded from gross income as contributions to capital; to the Committee on Ways and Means.

By Mr. BALLENGER (for himself and Mr. Burr of North Carolina):

H. Con. Res. 178. Concurrent resolution concerning persecution of Montagnard peoples in Vietnam; to the Committee on International Relations.

By Mr. DAVIS of Illinois (for himself, Mr. Bilirakis, Mr. Capuano, Mr. Bonilla, Mrs. Jones of Ohio, Mr. Shimkus, Mr. Rahall, Mr. Serrano, Mr. Towns, Ms. Baldwin, Mr. LaFalce, Mr. Scott, Ms. McKinney, Mr. Peterson of Pennsylvania, Mr. Cummings, Mr. Payne, Mr. Blagojevich, Mr. Frost, Mr. Lipinski, Mr. Waxman, Mr. Filner, Ms. Roybal-Allard, Mr. Watt of North Carolina, Ms. Jackson-Lee of Texas, Mr. Goss, Mr. McNulty, Ms. Pryce of Ohio, Mr. Wynn, Mr. Rush, Mrs. Meek of Florida, Mr. Farr of California, Ms. Norton, Mr. Dingell, Mr. Owens, Mr. Hoeffel, Mr. Reyes, Mr. Jefferson, Mrs. Christensen, Mr. DeFazio, Mr. Cramer, Mr. Clyburn, Mr. Pastor, Mr. Dooley of California, Mr. Norwood, Mr. Rangel, Mr. Gonzalez, Ms. Brown of Florida, Mr. Menendez, Mr. Conyers, Mr. Pickering, Mr. McIntyre, Mr. Meeks of New York, Mr. Baldacci, Mr. Whitfield, Mr. Sandlin, Ms. Slaughter, Mr. Mascara, Mr. Walsh, Mr. Maloney of Connecticut, Mr. Brown of Ohio, Mr. Pascrell, Mr. Bass, Mr. McHugh, Mr. Wicker, Mr. Dicks, Mr. Boyd, Mr. Nadler, Mr. Rodriguez, Mr. Watts of Oklahoma, Mr. Strickland, Mr. Olver, Mr. Jackson of Illinois, Mr. Markey, Mr. Baird, Mr. Price of North Carolina, Mrs. Maloney of New York, Mr. Tierney, Mr. Langevin, Ms. Sanchez, and Mr. Smith of New Jersey):

H. Con. Res. 179. Concurrent resolution expressing the sense of Congress regarding the establishment of a National Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers; to the Committee on Government Reform.

By Mr. DELAHUNT (for himself, Mr. Gilchrest, Mr. George Miller of California, and Mr. Smith of New Jersey):

H. Con. Res. 180. Concurrent resolution expressing the sense of the Congress that the United States should reaffirm its opposition to any commercial and lethal scientific whaling and take significant and demonstrable actions, including at the International Whaling Commission and meetings of the Convention on International Trade in Endangered Species, to provide protection for and conservation of the world's whale populations to prevent trade in whale meat; to the Committee on International Relations.

By Mrs. EMERSON (for herself, Mrs. Clayton, Mr. Shows, Mr. Murtha, Mr. Faleomavaega, Ms. Jackson-Lee of Texas, Mr. McDermott, Mr. Green of Wisconsin, Mr. Graves, Mr. Holden, Mr. Skelton, Mr. Towns, Mr. Pomeroy, Mr. Pastor, Mr. English, Mr. Peterson of Minnesota, Mrs. Christensen, Mr. McGovern, Mr. Bereuter, Mr. Strickland, Mr. Hulshof, Mr. Gibbons, Mr. Udall of New Mexico, Mr. Lucas of Oklahoma, Mr. Baldacci, Mr. Evans, and Mr. Blunt):

H. Con. Res. 181. Concurrent resolution expressing the sense of the Congress regarding the need to protect post offices; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 182. Concurrent resolution expressing the sense of Congress that the United States Postal Service should issue a postage stamp commemorating Congressman Adam Clayton Powell, Jr.; to the Committee on Government Reform.

By Mr. FOLEY:

H. Res. 184. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. GALLEGLY:

H. Res. 185. A resolution supporting the implementation of the Good Friday Agreement as the framework for the peaceful settlement of the conflict in Northern Ireland; to the Committee on International Relations.

By Mr. GREEN of Texas (for himself, Mr. Frost, Mr. Gonzalez, Mr. Hall of Texas, Mr. Rodriguez, Mr. Lampson, Mr. Hinojosa, Mr. Bentsen, Mr. Edwards, Mr. Ortiz, Mr. Reyes, Mr. Turner, Mr. Stenholm, Mr. Sandlin, Ms. Jackson-Lee of Texas, Ms. Eddie Bernice Johnson of Texas, Mr. Baca, Ms. Solis, Mr. Menendez, Mr. Doggett, Mr. Bonilla, and Mr. Brady of Texas):

H. Res. 186. A resolution expressing the sense of the House of Representatives that the United States Postal Service should issue a postage stamp commemorating Juan Nepomuceno Seguin; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BEREUTER:

H.R. 2432. A bill for the relief of Richard W. Schaffert; to the Committee on the Judiciary.

By Mr. BONIOR:

H.R. 2433. A bill for the relief of Thair Bihnam, Christine Bihnam, Jamie Alan Bihnam, and Natash Bihnam; to the Committee on the Judiciary.

By Mr. PETRI:

H.R. 2434. A bill for the relief of Mohamed Abshir Musse; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. Wolf.

H.R. 12: Mr. Kerns.

H.R. 46: Ms. Baldwin and Mrs. Lowey.

H.R. 61: Mr. Brown of Ohio and Mr. Bonior.

H.R. 68: Ms. Hooley of Oregon, Mr. Traficant, Mr. Duncan, Mr. Carson of Oklahoma, Mr. Largent, Mr. Ortiz, Mr. Peterson of Minnesota, Mr. Ryun of Kansas, Mr. Bryant, Mr. Cantor, Mr. DeFazio, Mr. Phelps, Mr. Mascara, and Ms. Ros-Lehtinen.

H.R. 97: Mr. Oberstar.

H.R. 122: Mr. Toomey, Mr. Wamp, Mr. Keller, Mr. Graham, Mr. Shimkus, Mr. Boucher, and Mr. Hobson.

H.R. 123: Mr. LaHood, Mr. Souder, and Mr. Watkins.

H.R. 218: Mr. LaHood.

H.R. 228: Mr. Pascrell.

H.R. 236: Mr. Frelinghuysen.

H.R. 267: Ms. Kilpatrick, Mr. Hall of Texas, and Mr. Weldon of Florida.

H.R. 274: Mrs. Jones of Ohio.

H.R. 280: Mrs. Myrick.

H.R. 303: Mrs. Jones of Ohio.

H.R. 439: Mr. Quinn.

H.R. 448: Mr. Lucas of Kentucky.

H.R. 510: Mr. Rangel, Mr. Pascrell, and Mr. Kerns.

H.R. 526: Mr. Phelps.

H.R. 572: Mr. Gilman.

H.R. 600: Mrs. Northup, Mr. Tom Davis of Virginia, Mr. Matheson, and Mr. Holt.

H.R. 612: Ms. Berkley, Mr. Meeks of New York, and Mr. Langevin.

H.R. 619: Mr. Bonior.

H.R. 664: Ms. Lee and Mr. Horn.

H.R. 668: Mr. Luther.

H.R. 687: Ms. Waters.

H.R. 709: Mr. Bonior, Mr. Davis of Illinois, and Mr. Lantos.

H.R. 717: Mr. Brown of South Carolina and Ms. Baldwin.

H.R. 751: Mr. STUPAK.

H.R. 770: Mr. FORD.

H.R. 778: Mr. ANDREWS.

H.R. 781: Mr. LEWIS of Georgia, Mr. WU, Mr. MCINTYRE, and Mr. DOOLEY of California.

H.R. 786: Mr. BLUMENAUER.

H.R. 805: Mr. BRADY of Texas.

H.R. 822: Mr. LAHOOD and Mr. OXLEY.

H.R. 850: Mr. KENNEDY of Rhode Island.

H.R. 868: Mrs. MORELLA, Mr. HAYWORTH, Mr. MEEKS of New York, Mr. INSLEE, Mr. LAMPSON, and Mr. WYNN.

H.R. 876: Mr. LAMPSON, Mr. GUTKNECHT, and Mr. WAXMAN.

H.R. 898: Mr. LAHOOD.

H.R. 921: Mrs. NORTHUP, Mr. WELLER, Mr. CONYERS, and Ms. SANCHEZ.

H.R. 938: Mr. BROWN of Ohio.

H.R. 950: Mr. TRAFICANT.

H.R. 951: Mr. OLVER, Mr. MORAN of Virginia, Mr. SHAW, Mr. TIBERI, Mr. GOODLATTE, Mr. CLEMENT, Mr. KENNEDY of Minnesota, Mr. PALLONE, Mr. PAYNE, and Mr. INSLEE.

H.R. 967: Mr. RODRIGUEZ and Mr. BLAGOJEVICH.

H.R. 968: Mr. STUPAK, Ms. WOOLSEY, and Mr. BLUNT.

H.R. 969: Mr. TERRY.

H.R. 975: Mr. ISRAEL.

H.R. 981: Mr. HOSTETTLER.

H.R. 1007: Mr. MCNULTY, Mr. DOOLEY of California, Ms. LOFGREN, and Mr. ENGLISH.

H.R. 1021: Mr. WELDON of Florida and Mr. GILLMOR.

H.R. 1032: Ms. DELAURO.

H.R. 1038: Ms. WOOLSEY.

H.R. 1076: Mr. NETHERCUTT, Mr. CLYBURN, Ms. WATSON, and Mr. WATT of North Carolina.

H.R. 1092: Mr. PASTOR.

H.R. 1097: Mr. SHERMAN, Mr. BRADY of Pennsylvania, Ms. BERKLEY, Mr. BARRETT, and Mrs. NAPOLITANO.

H.R. 1109: Mr. HUNTER, Mr. TAYLOR of North Carolina, Mr. TOM DAVIS of Virginia, Mr. TIAHRT, Mr. STENHOLM, and Mr. PENCE.

H.R. 1111: Mr. LEVIN, Mrs. CAPPS, and Mr. CONYERS.

H.R. 1118: Ms. LEE.

H.R. 1134: Mr. MOORE, Mr. NUSSLE, Mr. GOODLATTE, and Mr. RAHALL.

H.R. 1136: Mr. UDALL of Colorado.

H.R. 1143: Mr. ISRAEL.

H.R. 1152: Ms. BALDWIN and Mr. DEFAZIO.

H.R. 1161: Mr. SHERMAN.

H.R. 1164: Mr. BONIOR.

H.R. 1167: Mr. DEFAZIO, Mr. LAMPSON, Mr. PASTOR, Mr. BOUCHER, Mrs. MEEK of Florida, Mr. HUNTER, and Ms. DEGETTE.

H.R. 1168: Mr. WYNN, Mr. LAMPSON, Mr. PASTOR, Mr. BOUCHER, Mrs. MEEK of Florida, Mr. HUNTER, Mr. STUPAK, Mr. LANTOS, Mr. CLEMENT, and Ms. DEGETTE.

H.R. 1170: Mr. DELAHUNT.

H.R. 1172. Mr. PRICE of North Carolina, Mr. SPENCE, Mr. SOUDER, Mr. GILMAN, and Mr. BEREUTER.

H.R. 1177: Mr. HINCHEY.

H.R. 1179: Mr. NUSSLE.

H.R. 1185: Ms. NORTON.

H.R. 1192: Mr. BURR of North Carolina.

H.R. 1194: Mr. LATOURETTE and Ms. MCCOLLUM.

H.R. 1198: Mr. HALL of Texas, Mr. TAYLOR of Mississippi, Mr. WOLF, Mr. DINGELL, Mr. DIAZ-BALART, Mr. GORDON, and Mr. HALL of Ohio.

H.R. 1202: Mr. EHLERS, Mr. RILEY, Mr. NEAL of Massachusetts, and Ms. RIVERS.

H.R. 1213: Mr. ROGERS of Michigan, Ms. SOLIS, Ms. MCKINNEY, and Mr. BLUMENAUER.

H.R. 1214: Mr. ROGERS of Michigan, Mr. LUTHER, and Mr. BLUMENAUER.

H.R. 1238: Mr. LARSON of Connecticut.

H.R. 1256: Mr. THOMPSON of California, Mr. SCHIFF, and Mr. THOMPSON of Mississippi.

H.R. 1262: Mr. LANGEVIN.

H.R. 1268: Mr. SKEEN and Mr. MATSUI.

H.R. 1304: Mr. NEAL of Massachusetts.

H.R. 1305: Mr. BARTLETT of Maryland.

H.R. 1331: Mr. HILLIARD, Mr. KERNS, and Mr. PETERSON of Minnesota.

H.R. 1340: Mr. SANDLIN and Mr. TIAHRT.

H.R. 1354: Mr. SHERMAN, Mr. SAXTON, Mr. CLEMENT, Mr. FOSSELLA, Mr. PICKERING, and Mr. MENENDEZ.

H.R. 1377: Mrs. MYRICK, Mr. CULBERSON, Mr. TAUZIN, Mr. BALLENGER, Mr. WATKINS, Mr. PAUL, Ms. GRANGER, Mr. CHAMBLISS, Mr. RILEY, Mr. STEARNS, and Mr. TANCREDO.

H.R. 1412: Mr. THOMPSON of Mississippi, Ms. SCHAKOWSKY, Mr. MORAN of Virginia, Mr. BENTSEN, and Ms. GRANGER.

H.R. 1429: Mr. SCHIFF.

H.R. 1434: Mr. BACA.

H.R. 1436: Mrs. CAPITO, Mr. HALL of Ohio, Mr. CUMMINGS, Mr. ROSS, Mr. CONDIT, Mr. WU, Ms. VELÁZQUEZ, Mr. WEINER, Mr. RAHALL, Mr. OSE, Mr. MEEHAN, Mr. CARSON of Oklahoma, Mr. BLAGOJEVICH, and Mr. WELLER.

H.R. 1455: Mr. HASTINGS of Washington.

H.R. 1458: Mr. GOODLATTE.

H.R. 1511: Mr. HINCHEY, Mr. MCGOVERN, Mr. KENNEDY of Rhode Island, and Mrs. TAUSCHER.

H.R. 1517: Mr. FRANK, Mr. FROST, Mr. GRAHAM, and Mr. CLEMENT.

H.R. 1524: Mr. PETERSON of Pennsylvania, and Mr. WELDON of Florida,

H.R. 1526: Mr. NUSSLE.

H.R. 1543: Mr. BONIOR and Mr. GOODLATTE.

H.R. 1556: Mr. DICKS, Mr. PALLONE, and Mr. MURTHA.

H.R. 1577: Mr. NADLER, Ms. WOOLSEY, Mr. RANGEL, Mr. THORNBERRY, Mr. LATOURETTE, Mrs. NORTHUP, Mr. LEACH, Mr. BURTON of Indiana, Mr. LUCAS of Oklahoma, Mr. DEMINT, Mr. BALLENGER, Mrs. EMERSON, Mr. CANTOR, Mr. PENCE, Mr. KERNS, and Mr. BRYANT.

H.R. 1581: Mr. GRAHAM and Mr. ARMEY.

H.R. 1591: Ms. LEE.

H.R. 1596: Mr. ISRAEL and Mr. STUMP.

H.R. 1598: Ms. WOOLSEY.

H.R. 1600: Mr. ISAKSON.

H.R. 1609: Mr. MURTHA.

H.R. 1613: Mr. LAMPSON.

H.R. 1624: Mr. TIBERI, Mr. BASS, Mr. BLAGOJEVICH, and Mr. STEARNS.

H.R. 1628: Mr. UDALL of New Mexico.

H.R. 1636: Mr. REHBERG.

H.R. 1644: Mr. MICA, Mr. ROEMER, and Mr. HAYWORTH.

H.R. 1657: Mr. OBERSTAR.

H.R. 1673: Mr. PASCRELL.

H.R. 1674: Mr. GANSKE.

H.R. 1685: Mr. GEORGE MILLER of California, Mr. ALLEN, and Ms. LEE.

H.R. 1693: Mr. PASCRELL.

H.R. 1701: Mr. OSBORNE, Mr. HULSHOF, Mr. CLYBURN, and Mr. SHERMAN.

H.R. 1704: Mr. COOKSEY and Mr. MILLER of Florida.

H.R. 1707: Ms. ROS-LEHTINEN.

H.R. 1731: Mr. JONES of North Carolina, Mr. LARGENT, Mr. OWENS, Mr. GREEN of Wisconsin, Mrs. JO ANN DAVIS of Virginia, Mr. NEY, Mr. HASTINGS of Washington, Mr. HOSTETTLER, Mr. GRAHAM, Mr. KELLER, Mr. VITTER, Mr. PENCE, and Mr. SENSENBRENNER.

H.R. 1733: Mr. FATTAH and Mr. SHERMAN.

H.R. 1744: Mr. STUPAK.

H.R. 1754: Mr. FOSSELLA and Ms. HOOLEY of Oregon.

H.R. 1759: Mr. KERNS.

H.R. 1764: Mr. RODRIGUEZ, Mr. PETERSON of Pennsylvania, Ms. HOOLEY of Oregon, Mr. WU, and Mr. DEFAZIO.

H.R. 1779: Mr. RANGEL and Mr. BARRETT.

H.R. 1780: Mr. HILLEARY.

H.R. 1795: Mr. HAYWORTH, Mr. BURTON of Indiana, and Mr. SHADEGG.

H.R. 1808: Mr. KING and Ms. WOOLSEY.

H.R. 1825: Ms. ROYBAL-ALLARD, Ms. SCHAKOWSKY, and Mr. SABO.

H.R. 1832: Mr. BISHOP, Mr. MCHUGH, and Mr. OTTER.

H.R. 1835: Mr. MCHUGH and Mrs. MORELLA.

H.R. 1839: Mrs. JO ANN DAVIS of Virginia, Mr. WOLF, and Mr. DEFAZIO.

H.R. 1849: Ms. NORTON, Mr. HORN, and Ms. MCKINNEY.

H.R. 1861: Mr. SNYDER.

H.R. 1862: Mr. BLAGOJEVICH.

H.R. 1890: Mr. SOUDER, Mr. VITTER, Mr. KOLBE, Mr. SAM JOHNSON of Texas, Mr. LARGENT, and Mr. GRAHAM.

H.R. 1897: Mrs. LOWEY, Mr. KOLBE, Mr. WYNN, Ms. MCCARTHY of Missouri, Mr. CLEMENT, Mr. BROWN of Ohio, Mr. BRADY of Pennsylvania, and Mr. LAFALCE.

H.R. 1928: Mr. BLAGOJEVICH.

H.R. 1935: Mr. PLATTS, Mr. MURTHA, Mr. REYES, Mr. ORTIZ, and Mr. CLEMENT.

H.R. 1949: Mr. KOLBE.

H.R. 1950: Mr. ISTOOK.

H.R. 1968: Ms. SLAUGHTER and Mr. GEORGE MILLER of California.

H.R. 1979: Mr. MCCRERY, Mr. WELLER, and Mr. EVANS.

H.R. 1983: Mr. FROST, Mr. SIMMONS, Mr. ISRAEL, Mr. STEARNS, and Mr. UPTON.

H.R. 1984: Mr. DEAL of Georgia, Mr. HYDE, Mr. SOUDER, and Mr. GOODLATTE.

H.R. 1986: Mr. HILLEARY.

H.R. 1987: Mr. BLUNT and Mr. BOEHNER.

H.R. 1988: Mr. VISCLOSKY and Mr. KUCINICH.

H.R. 1990: Mrs. MORELLA, Ms. JACKSON-LEE of Texas, Mr. SCOTT, Mr. WYNN, Ms. CARSON of Indiana, and Mr. RANGEL.

H.R. 1992: Mr. UPTON, Mr. HINOJOSA, and Mr. GOODE.

H.R. 1997: Mr. BONIOR and Ms. LEE.

H.R. 2020: Mr. FILNER and Mr. STENHOLM.

H.R. 2023: Mrs. THURMAN, Mrs. JOHNSON of Connecticut, Mr. CLEMENT, Mr. CHAMBLISS, Mrs. EMERSON, Mr. SESSIONS, Mr. HOYER, Mr. OTTER, Mr. CRAMER, Mr. FORD, Mr. VITTER, Mr. BOEHNER, Mr. YOUNG of Alaska, Mr. REHBERG, Mr. TIBERI, Mr. TANCREDO, Mr. CAMP, Mr. BARTLETT of Maryland, Mr. CUNNINGHAM, and Mr. SHAW.

H.R. 2036: Mrs. EMERSON, Mr. WELDON of Pennsylvania, Mr. JACKSON of Illinois, Mr. LIPINSKI, and Mr. RANGEL.

H.R. 2039: Mr. BLAGOJEVICH.

H.R. 2040: Ms. HARMAN.

H.R. 2055: Mr. RYUN of Kansas and Mr. STEARNS.

H.R. 2073: Mr. GONZALEZ, Mr. CLEMENT, Ms. HOOLEY of Oregon, and Mr. MORAN of Virginia.

H.R. 2074: Ms. MCCOLLUM.

H.R. 2088: Mr. LARGENT.

H.R. 2095: Mr. FROST.

H.R. 2096: Mr. LAHOOD and Mr. GOODE.

H.R. 2102: Ms. WATERS.

H.R. 2111: Mr. KING, Mr. BOEHLERT, Mr. HORN, and Mr. WALSH.

H.R. 2113: Mr. EVANS and Mr. WELDON of Florida.

H.R. 2114: Mr. HOSTETTLER.

H.R. 2117: Mrs. MINK of Hawaii and Mr. TIBERI.

H.R. 2118: Mrs. JONES of Ohio and Ms. DELAURO.

H.R. 2125: Mr. DEAL of Georgia, Mr. SHIMKUS, Mr. RAHALL, and Mr. FORBES.

H.R. 2138: Mr. DOOLEY of California and Ms. KILPATRICK.

H.R. 2145: Mrs. CHRISTENSEN and Mr. HASTINGS of Florida.

H.R. 2148: Mr. FILNER, Mr. LaFALCE, and Ms. McKINNEY.

H.R. 2149: Ms. GRANGER, Mr. BACHUS, Mr. FORBES, Mr. EHLERS, and Mr. GRUCCI.

H.R. 2155: Mr. McNULTY, Mr. McHUGH, and Ms. HART.

H.R. 2157: Mr. DeFAZIO, Mr. BLAGOJEVICH, Mr. FROST, Mr. GIBBONS, Mr. BAKER, Mr. LaHOOD, Mr. SCHAFFER, Mr. YOUNG of Alaska, Mr. BYRANT, Mr. COOKSEY, Mrs. CUBIN, Mr. OSE, Mr. WALDEN of Oregon, and Mr. DeMINT.

H.R. 2160: Mr. HOEKSTRA and Mr. DeMINT.

H.R. 2163: Mr. SHIMKUS, Mr. WYNN, Mr. BONIOR, Mr. McGOVERN, Mr. FROST, Mr. TRAFICANT, Ms. LOFGREN, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WOOLSEY, and Mr. LANTOS.

H.R. 2166: Ms. VELÁZQUEZ, Mr. JACKSON of Illinois, Mr. BARRETT, and Ms. WATERS.

H.R. 2167: Ms. DeLAURO.

H.R. 2172: Mr. STARK.

H.R. 2173: Mr. GOODE.

H.R. 2181: Mr. McDERMOTT and Mr. STUPAK.

H.R. 2182: Mr. MASCARA and Ms. HART.

H.R. 2185: Mr. OSE.

H.R. 2189: Mr. GOODE.

H.R. 2200: Mr. SENSENBRENNER.

H.R. 2203: Mrs. TAUSCHER, Mr. McGOVERN, Ms. McKINNEY, Mr. PASTOR, Mr. FALEOMAVAEGA, Mr. CLEMENT, and Mr. FROST.

H.R. 2211: Ms. McCARTHY of Missouri and Mr. WAXMAN.

H.R. 2212: Mr. SESSIONS, Mr. KERNS, and Mr. HOBSON.

H.R. 2222: Mr. McGOVERN, Ms. McKINNEY, Mr. FROST, Mr. RANGEL, and Mrs. JONES of Ohio.

H.R. 2235: Mr. LAMPSON.

H.R. 2240: Mr. SHAW.

H.R. 2242: Mr. SENSENBRENNER.

H.R. 2246: Mr. LUCAS of Kentucky.

H.R. 2258: Mr. REYES.

H.R. 2281: Mr. JACKSON of Illinois.

H.R. 2291: Mr. LaFALCE, Mr. KLECZKA, Mr. PAYNE, Mr. RAHALL, Mr. BERMAN, and Mr. GILMAN.

H.R. 2294: Mr. BROWN of Ohio, Mr. McNULTY, Ms. RIVERS, and Mr. BALDACCI.

H.R. 2308: Mr. LaFALCE.

H.R. 2310: Mr. MORAN of Virginia, Mr. BRADY of Pennsylvania, Mrs. MEEK of Florida, Mr. HINCHEY, Mrs. DAVIS of California, Mrs. THURMAN, Mr. RAHALL, Mr. ETHERIDGE, Mr. KENNEDY of Rhode Island, Mr. CLYBURN, Mr. RANGEL, Mr. MOLLOHAN, Mr. FATTAH, Mr. McNULTY, Mr. MASCARA, Mr. FILNER, Mr. ANDREWS, Mr. OLVER, and Ms. McCOLLUM.

H.R. 2315: Mr. KOLBE, Mr. LARGENT, Mr. TAYLOR of North Carolina, Mr. UPTON, Mr. COX, and Mr. WHITFIELD.

H.R. 2316: Mr. CRANE, Mr. RAMSTAD, Mr. HAYWORTH, Mr. HERGER, Mr. BRADY of Texas, Mr. SHAYS, Mr. CONDIT, Mr. ARMEY, Mrs. JOHNSON of Connecticut, Mr. KERNS, and Mr. THORNBERRY.

H.R. 2322: Mr. EHLERS.

H.R. 2329: Mr. PLATTS, Mr. SHAW, Mr. KIND, and Mr. SMITH of New Jersey.

H.R. 2335: Ms. KILPATRICK.

H.R. 2339: Mr. RAHALL, Mr. WAMP, and Mr. BRADY of Pennsylvania.

H.R. 2340: Mr. SERRANO.

H.R. 2341: Mr. RILEY.

H.J. Res. 20: Mr. ENGLISH and Mr. PENCE.

H. Con. Res. 17: Mrs. TAUSCHER and Mr. DeFAZIO.

H. Con. Res. 33: Mr. WELDON of Florida.

H. Con. Res. 77: Mr. EVANS, Mr. UNDERWOOD, Mr. ABERCROMBIE, Ms. McKINNEY, Mr. CROWLEY, Mr. WU, Mr. ACKERMAN, Mr. SHERMAN, Mr. HONDA, Mr. FALEOMAVAEGA, Mr. KIRK, Mr. FILNER, Ms. PELOSI, Ms. ROYBAL-ALLARD, Mrs. NAPOLITANO, Ms. LOFGREN, Mrs. MINK of Hawaii, Ms. LEE, Mr. GILMAN, Mr. DOGGETT, Mr. MORAN of Virginia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MATSUI, Ms. SOLIS, and Mr. HILLIARD.

H. Con. Res. 89: Mr. NETHERCUTT and Mr. HERGER.

H. Con. Res. 97: Mr. ENGLISH and Mr. LEVIN.

H. Con. Res. 116: Mr. BLAGOJEVICH.

H. Con. Res. 128: Ms. ROS-LEHTINEN.

H. Con. Res. 144: Mr. DINGELL, Mr. STUPAK, Mr. COYNE, Mr. DAVIS of Illinois, Mr. PICKERING, Mr. ROGERS of Michigan, and Mr. McHUGH.

H. Con. Res. 169: Mr. DICKS, Mrs. CHRISTENSEN, Ms. WATSON, Mr. GEPHARDT, Mr. LEVIN, Mr. JEFFERSON, Mr. WAXMAN, and Mr. RUSH.

H. Con. Res. 173: Mr. TIERNEY, Mr. LARSON of Connecticut, Ms. McKINNEY, Mr. WAXMAN, Mr. CAPUANO, and Mrs. LOWEY.

H. Con. Res. 177: Mr. FARR of California, Mr. SANDERS, Mr. ACEVEDO-VILÁ, Mr. TIERNEY, Ms. WOOLSEY, Mr. FROST, Mr. EVANS, Ms. PELOSI, and Ms. EDDIE BERNICE JOHNSON of Texas.

H. Res. 65: Mr. KILDEE.

H. Res. 72: Mr. BLAGOJEVICH, Mr. MALONEY of Connecticut, Mr. FRANK, and Mr. FROST.

H. Res. 152: Ms. KILPATRICK and Mr. GOODE.

H. Res. 154: Mr. HINCHEY, Mr. COSTELLO, Mr. MEEKS of New York, Mr. FROST, Mr. GANSKE, Mr. KUCINICH, Mr. MANZULLO, Mr. FRANK, Ms. DeGETTE, Mr. BALDACCI, Mr. FILNER, Mr. BONIOR, Mr. HOLT, Mr. HALL of Ohio, Mr. BENTSEN, Mr. ABERCROMBIE, and Ms. LOFGREN.

H. Res. 181: Mr. LANTOS, Ms. ROS-LEHTINEN, Mr. KENNEDY of Rhode Island, and Mr. PAYNE.

DELECTIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1613: Mr. SIMMONS.

H.R. 2180: Mr. FERGUSON.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 2, June 27, 2001, by Mr. JAY INSLEE on House Resolution 165, was signed by the following Members: Jay Inslee, John Elias Baldacci, Michael R. McNulty, Carolyn B. Maloney, Adam B. Schiff, Rosa L. DeLauro, Bob Filner, Jim McDermott, John F. Tierney, John Lewis, Peter A. DeFazio, Patsy T. Mink, Steve Israel, Lynn C. Woolsey, Benjamin L. Cardin, Hilda L. Solis, Alcee L. Hastings, Carolyn C. Kilpatrick, Elijah E. Cummings, Danny K. Davis, Ed Pastor, Robert E. Andrews, Lois Capps, David E. Price, Major R. Owens, Dennis J. Kucinich, Frank Mascara, Mike Thompson, Patrick J. Kennedy, Joe Baca, Bob Clement, Ted Strickland, Tom Sawyer, Nita M. Lowey, Shelley Berkley, Karen McCarthy, Martin Frost, Karen L. Thurman, Robert A. Brady, Dennis Moore, Robert Wexler, Lynn N. Rivers, Dale E. Kildee, Grace F. Napolitano, Tom Lantos, Robert Menendez, Rush D. Holt, Wm. Lacy Clay, Earl F. Hilliard, Gregory W. Meeks, Susan A. Davis, Barbara Lee, Diane E. Watson, Brad Sherman, Darlene Hooley, Michael M. Honda, James R. Langevin, Tammy Baldwin, Ciro D. Rodriguez, Stephanie Tubbs Jones, Rick Larsen, Mike Ross, Eddie Bernice Johnson, Albert Russell Wynn, Charles A. Gonzalez, Jane Harman, Sanford D. Bishop, Jr., Joseph M. Hoeffel, Barney Frank, Fortney Pete Stark, Bill Pascrell, Jr., Nancy Pelosi, Zoe Lofgren, Anna G. Eshoo, Gary A. Condit, Carolyn McCarthy, George Miller, Michael E. Capuano, Howard L. Berman, Tom Udall, Marcy Kaptur, David D. Phelps, James P. McGovern, Sam Farr, Gary L. Ackerman, Charles W. Stenholm, Sander M. Levin, Diana DeGette, Thomas M. Barrett, Joseph Crowley, Eva M. Clayton, Maxine Waters, Ruben Hinojosa, Jaunita Millender-McDonald, Thomas H. Allen, Brian Baird, Neil Abercrombie, Xavier Becerra, Martin Olav Sabo, John W. Olver, Ellen O. Tauscher, Martin T. Meehan, James E. Clyburn, David E. Bonior, Bennie G. Thompson, Lucille Roybal-Allard, Jesse L. Jackson, Jr., Loretta Sanchez, Rod R. Blagojevich, Earl Blumenauer, James P. Moran, John J. LaFalce, Peter Deutsch, Jerrold Nadler, Ronnie Shows, Henry A. Waxman, Julia Carson, Janice D. Schakowsky, Silvestre Reyes, John B. Larson, Maurice D. Hinchey, John Conyers, Jr., Sherrod Brown, Edward J. Markey, Steny H. Hoyer, Mark Udall, Nick J. Rahall II, Louise McIntosh Slaughter, Frank Pallone, Jr., Robert T. Matsui, Bernard Sanders, Betty McCollum, Solomon P. Ortiz, Jose E. Serrano, Luis V. Gutierrez, Earl Pomeroy, Bill Luther, Bob Etheridge, Adam Smith, Corrine Brown, Carrie P. Meek, Nydia M. Velázquez, Donald M. Payne, Anthony D. Weiner, Paul E. Kanjorski, Chaka Fattah, Norman D. Dicks, William J. Coyne, David Wu, Charles B. Rangel, William D. Delahunt, James A. Barcia, James L. Oberstar, Cynthia A. McKinney, Richard A. Gephardt, Bart Gordon, Collin C. Peterson, Bobby L. Rush, Jerry F. Costello, Lane Evans, William O. Lipinski, and Steven R. Rothman.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2330

OFFERED BY: MR. BROWN OF OHIO

AMENDMENT NO. 26: In title VI, in the item relating to "DEPARTMENT OF HEALTH AND HUMAN SERVICES—FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES", insert before the period at the end of the first paragraph the following:

: *Provided further*, That of the total amount appropriated, $5,000,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to antibiotic drugs, in addition to other allocations for such purpose made from such total amount

H.R. 2330

OFFERED BY: MR. BROWN OF OHIO

AMENDMENT NO. 27: In title VI, in the item relating to "DEPARTMENT OF HEALTH AND HUMAN SERVICES—FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES", insert before the period at the end of the first paragraph the following:

: *Provided further*, That of the total amount appropriated, $2,500,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to abbreviated applications for the approval of new drugs under section 505(j) of the Federal Food, Drug, and Cosmetic Act, and $250,000 is available under section

903(d)(2)(D) of such Act for the purpose of carrying out public information programs regarding drugs with approved such applications, in addition to other allocations for such purposes made from such total amount

H.R. 2330

OFFERED BY: MS. DELAURO

AMENDMENT NO. 28: In title I, in the item relating to "FOOD SAFETY AND INSPECTION SERVICE", insert at the end the following:

In addition, for the Food Safety and Inspection Service to improve food safety and reduce the incidence of foodborne illnesses, $50,000,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

In title VI, in the item relating to "FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES", insert at the end the following:

In addition, for the Food and Drug Administration to improve food safety and reduce the incidence of foodborne illnesses, $163,000,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

H.R. 2330

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 29: Add before the short title at the end the following new section:

SEC. ___. None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who permit the payment limitation specified in section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) to be exceeded pursuant to any provision of law, except, in the case of a husband and wife, the total amount of the payments specified in section 1001(3) of that Act that they may receive during the 2001 crop year may not exceed $150,000.

SENATE—*Thursday, June 28, 2001*

The Senate met at 9:15 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Thank You, dear Father, for infusing Your nature in the Senators You have called to lead our beloved Nation. You have reproduced in them Your concern and caring for the health and healing of all of our people. Thank You for Your compassion expressed in the legislation for patient protection in America.

The Senators may differ on aspects of the implementation of this concern but are one in seeking unity on what is best for citizens across our land. Be with the Senators today as all aspects of this crucial legislation are focused and voted upon. Thank You for the managers on both sides of the aisle who have worked so long and tirelessly to review all possibilities for the best potential for all Americans.

Now as the Senators seek to complete debate and take conclusive votes, may they sense the unity of a common concern for a crucial cause of caring for our people. Place Your hand upon their shoulders and remind them that You are the magnetic center who draws them to unity for the welfare of our Nation. You are the healing power of the world who uses the medical professions to heal. Help the Senators to complete legislation that will assure the best care for the most people.

You, dear God, are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 28, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BIPARTISAN PATIENT PROTECTION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1052, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Pending:

> Thompson amendment No. 819, to require the exhaustion of administrative remedies before a claimant goes to court.
>
> Collins amendment No. 826, to modify provisions relating to preemption and State flexibility.
>
> Breaux amendment No. 830, to modify provisions relating to the standard with respect to the continued applicability of State law.

recognition of the acting majority leader

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I ask that the time I use not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. REID. Mr. President, we will resume consideration of the Patients' Bill of Rights. We are going to have a vote at approximately 10 to 10. We have a unanimous-consent agreement in effect that will take us throughout the early afternoon, with votes scheduled throughout that period of time. We expect votes all evening. The leader would very much like to finish this bill today. Certainly the end is in sight. If not, we will work through the night—into the night, not through the night—we will come back tomorrow, and hopefully we don't have to come back Saturday.

What the leader has said is that we are going to complete this legislation. We are going to complete the legislation, plus the supplemental appropriations bill before we go home.

He said he would work Saturday, Sunday, Monday, and Tuesday and Wednesday, the 4th—take that off—and come back after that to complete our work. We are cooperating and doing our very best to meet the requests of Senators BYRD and STEVENS. Their last unanimous consent request has been cleared on this side as far as the filing of amendments. We applaud the four managers who have been working on this bill. We look forward to continuing to work today.

AMENDMENT NO. 826

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 30 minutes for debate to be equally divided between the Senator from Maine, Ms. COLLINS, and the Senator from Louisiana, Mr. BREAUX, prior to a vote on or in relation to the Collins amendment No. 826.

Who yields time? The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Virginia, Mr. ALLEN, be added as a cosponsor of the Collins-Nelson amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. I yield 6 minutes to the Senator from Kansas, Mr. ROBERTS.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, here is the issue: The ability of States to determine what is best for themselves. That is the issue. Sure, the issue is the Patients' Bill of Rights. But if Kansas or Nebraska or Maine or Massachusetts or Louisiana or Connecticut—as I look at Members in the Chamber—have an effective patient protection system that is working, why impose new Federal regulations that will force them to overhaul the system they have in place?

The Collins-Nelson-Roberts, and others, amendment would simply give the State of Kansas and other States the flexibility to provide patient protection required under this bill in a way that best fits each State. For example, last year in Kansas we implemented a new law that assists patients who get into a dispute with their insurance company over the refusal to pay for medical procedures. It is a long process, but the independent reviewer will make a decision and reply within 30 business days after an appeal procedure.

According to Kathleen Sebelius, our very good Kansas State Department of Insurance Commissioner, there were 22 cases that were closed last year; 12 decided in favor of the HMO and 10 overturned the decision made by the HMO. Now that more Kansans are aware of their ability to receive this external appeal and receive independent review, more cases have been filed with the Kansas Insurance Department. Simply put, our State commissioner, Kathleen Sebelius, and the Kansas State Department of Insurance are doing a good job looking out for the best interests of Kansans covered by HMOs.

So the question is, Why does the Federal Government need to tell our State we have to completely scrap what we are doing and put into place a Federal layer of new Washington-knows-best requirements? How good is this really for families in Kansas, or your States' families? In fact, Kansas has a large number of patient protections that have been in place for years, and the list is impressive. The list includes a comprehensive bill of rights, the internal and external appeals I have already described, consumer grievance procedures, emergency room services, OB/GYN access, prompt payment, continuity of care, a ban on gag clauses and financial incentives, screening and breast reconstruction, prostate cancer screening, maternity stay, drug and alcohol abuse treatment, standing referral, and the list goes on and on and on.

Under the bill we are debating today, many of these effective consumer protections Kansas has in place will have to be thrown out and we will have to start all over.

Our Kansas State Insurance Commissioner, Kathleen Sebelius, also serves as the president of the National Association of Insurance Commissioners. Kathleen has written a letter that clearly lays out the devastating effects the Washington one-size-fits-all plan will have on State insurance markets, and she warns—listen to this, colleagues—that this is going to be administered by an outfit called the Center for Medicare and Medicaid Services. It used to be called HCFA. If you really want to turn over your state regulations to HCFA, that is another issue that we can talk about for at least an hour or two. The commissioner stated in her letter:

> The proposed patient protection bills are far more complicated than the Health Insurance Portability and Accountability Act, or HIPAA, and will require considerable oversight. To resolve these issues, the National Association of Insurance Commissioners urges Congress to include in any patient protection legislation provisions that would preserve State laws and enforcement procedures, such as internal and external review processes. Failure to maintain State authority in this area could lead to implementation of regulations that are inconsistent with the needs of consumers in a State and that are not enforced effectively.

I think she nailed it right on the head. I am an original cosponsor of the Collins-Nelson amendment because it would allow States to do what they are already doing well. If these standards are not met, only then would the Federal Government come in and impose its standards, and the State would then be required to meet a higher standard in order to be made eligible for the Patient Quality Enhancement Grant Program. Other amendments will have a stick; this is a carrot. I prefer a carrot; other Senators may prefer a stick.

Let me just say, in summing up, can any other Member of this body honestly tell me what is in this bill is better than what the State of Kansas already has in terms of patient protection? Do you know better than our commissioner, Kathleen Sebelius, or Governor Graves, and the Kansas State Legislature? The answer is no.

My colleagues, support this amendment and give States a chance to apply the standards they have currently in place, that are working. The external and internal appeals process is working. Don't make us reinvent the Federal wheel.

I thank the Chair and my colleagues.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BREAUX. I yield myself 5 minutes.

Mr. President, I rise in strong support of the so-called Breaux-Jeffords compromise amendment. We are dealing with a question of how are we going to allow the States to continue to operate their own patient protection bills that many of them have already instituted. My own State of Louisiana has passed over 35 different patients' bills of rights guarantees, and they are working fairly well. I think my colleague, Senator JEFFORDS, wants to continue to allow those States to have their State plans in effect when they are substantially complying to what we are trying to do here on a national level.

As Senator KENNEDY said last night, if you had the Collins amendment, there would be no guarantee that States would have a Patients' Bill of Rights. They would not have to do anything if they so chose. A State could say they are not interested in guaranteeing patients within their borders any rights at all, period. We don't think it is the right thing to do. We are not doing it. The only thing that they would suffer, if they decided to take that approach under the Collins-Nelson amendment, is that they would lose grant money that is being authorized in this legislation.

Well, I think that is unfortunate in the sense that we are talking about a national program to guarantee patients the rights they should have under this legislation. I think there is strong agreement nationwide that there is a need to have some kind of a national guarantee that covers all Americans, not just some Americans, not just a few Americans, not just a handful of Americans, but all Americans, in dealing with their health insurance program.

Our compromise amendment does accomplish that goal, and it does it in a way that gives the maximum ability of the States to do what they think is necessary in crafting their Patients' Bill of Rights. The language that we have put forth says that State plans would not be superseded. They will continue to operate as they do today, if they substantially comply with the patient protection requirements that we are instituting on a national level for all Americans.

That doesn't mean their plan has to be exactly the same as the Federal requirements. It has to substantially comply. That is a legal term used in Congress on many other occasions. On the SCHIP program for providing insurance to children, which we have enthusiastically supported, the requirement is that a State can run their own program if it substantially complies with the Federal requirements for all Americans that were instituted by this Congress.

On the Medicare Program, folks here in Washington understand how to apply that terminology.

It is working. My State of Louisiana runs its own plan. I am very confident that my State of Louisiana will continue to run the plan we have in place right now under the Breaux amendment because it clearly would, in my opinion, substantially comply with what we are talking about here.

We have a definition of what "substantially comply" means by saying a State law would have the same or similar features as the patient protection requirements and would have a similar effect. That is not an unbearable standard at all. It does not have to be exactly. It just has to have the same or similar features.

They can design those rights on States that will be tailored to the needs of that particular State, and the only requirement is that it have the same or similar features. That is not too strong a guideline to the States or a requirement on behalf of the States. I think it can work. Most of the States, if not every single State, that have adopted a Patients' Bill of Rights will find their plans in their respective States will stay intact and will still be the State Patients' Bill of Rights under this legislation.

If a State decides for some reason they do not care, they are not going to do anything, there should be the ability for us to make sure all Americans are guaranteed the rights we are talking about today; that they are enforceable; there is an opportunity to go to court to enforce them; and that there is an appeals process when they are being abused.

This is what the Breaux-Jeffords amendment will allow. That is why it is a realistic compromise compared to the amendment of my good friends, Senator NELSON and Senator COLLINS, with whom I have worked on many occasions and will continue to do so in areas such as health. They are trying to do the right thing. Their amendment will allow some States to do nothing. Potentially thousands of Americans will not have any coverage whatsoever if that is the decision of the State.

We are writing legislation for all Americans, and I suggest the Breaux-Jeffords bill is a proper compromise that can bring this about.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, how much time is remaining on our side?

The ACTING PRESIDENT pro tempore. Nine minutes.

Ms. COLLINS. I yield 5 minutes to the Senator from Nebraska.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized for 5 minutes.

Mr. NELSON of Nebraska. I thank Senator COLLINS for her strong support for this amendment, and I commend my colleague, Senator BREAUX from Louisiana, for his strong support and consistent efforts to find a compromise.

Certainly, the effort is an improvement over where we had been. One area I want to point out I disagree with my friend from Louisiana is his suggestion that maybe the States will not do anything. If you take a look at the charts that Senator COLLINS and I have up, when you look at all the checks, I suggest the States have been doing something and they will continue to do something if the Federal Government does not come in and take away both the incentive and the opportunity by putting in what is termed affectionately "a floor," a minimum.

The problem is these minimums very often become the ceiling or they become, if you will, the top of whatever is being done because the States will not have the same opportunity, nor will they have the same willingness with the Federal deregulation, of the federalization of the regulation of State insurance as it applies to these health plans.

Generally preemption occurs when the States have not acted. I cannot imagine we are now preempting what the States have done on the basis of they have done such a good job that we were able to pick and choose from the best of those protections to create this bill and now we say to them: It's a job well done; thank you very much, and, by the way, we will impose these on you and we will make sure your laws will have to be either substantially equivalent or consistent with, according to Frist-Breaux, or, with the compromise, substantially compliant.

I can understand our desire to take over the role of the States in this area if the States have not done anything, but I cannot understand the desire to do it when the States have done such a good job that we have picked and chosen from the best of those efforts to comprise our bill.

It does not make sense to preempt under these circumstances. That is why many of us would like to see the States have the opportunity to opt out so we will have continuing experimentation under the Jefferson principle that the States are the laboratories of democracy. I am not against all preemptions, but I do have a question about this preemption, whether it makes sense under the circumstances with the progress that the States have made.

The charts will show the States have been active. They have worked very hard and diligently and are continuing to do so. Delaware just last week enacted additional patient protection laws. What we need to do is make sure we continue to permit the States to experiment.

I am also worried that with the application of these standards to the States, we will not have further experimentation, we will not have further development of patient protections. I hate to think we are at a point where the status quo will be sufficient for today as well as for tomorrow. I worry this effort in having a floor will result in it becoming a ceiling.

If you look at the charts, you will see to one degree or another, whether it is emergency room or whether it is the external appeals or the internal appeals, that nearly every State is doing it. Many States have decided not to do everything under every set of circumstances. I do not think they ought to be penalized where they have made a conscious decision that that is not going to work within their State. We ought not to have, in my judgment, a one-size-fits-all approach. We have not found, if you will, the Holy Grail as it relates to what patient protection truly is. If we allow the States to continue to experiment, we will find that they will be innovative and they will come up with new methods of providing even better patient protections. After all, this is coming from the grassroots; this is coming from the bottom up.

I think we are making a mistake trying to drive it from the top down which will stifle and create the opportunity for stagnation rather than experimentation. I hope that will not be the case, but I do not see it really any other way.

The National Association of Insurance Commissioners, the president of the National Association of Insurance Commissioners, the National Council of State Legislators all agree with this approach.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who yields time?

Mr. BREAUX. I yield 5 minutes to Senator JEFFORDS.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized for 5 minutes.

Mr. JEFFORDS. Mr. President, I commend the Senator from Maine for keeping this issue alive. It is critically important that we defer as much as we can to the States because they are already set up for it. Why not let them do it?

On the other hand, this is a Federal Patients' Bill of Rights. That means equal rights to everyone in this country, so there is a requirement for uniformity as well as to make sure we get a firm and even enforcement of this bill.

A lot has been said about HIPAA and using HIPAA as an example of bad policy, and it was bad policy, but it was totally different. HIPAA dealt with portability of insurance in the case of people being laid off work.

They said, if you do not do it, HCFA will come in and do it, and five States said let HCFA do it, and it made a mess of it. This is different. We are talking about the enforcement of rights, an even enforcement across the country. Yet we do recognize it is important for the States to do it themselves. Many, if not most of them, are already doing a legislative enforcement to require the appropriate and fair enforcement of the rights of individuals on health care.

This is an important difference. HIPAA was a mess, but this has nothing to do with that. This is quite different from HIPAA.

We all support the Patients' Bill of Rights. The question is who ought to enforce it. We say, yes, let the States that want to do it do it. On the other hand, we need to make sure it is done fairly and uniformly across this country. We do give the authority to the Secretary to review it, and we also say he should lean over backwards to make sure the States do it if at all possible. It is not a HIPAA-type situation; we ought to differentiate that.

It is important that we also recognize that the compromise requires States to have protections that are "substantially compliant with" Federal protection and defines this standard as having the "same or similar provisions and the same or similar effect."

The Secretary must approve the State's certification of compliance in a manner that is in deference to existing State laws. If he does not act on the State application within 90 days, it is automatically approved. States that have their certification disapproved may challenge that disapproval in court.

The amendment developed by Senator BREAUX and myself requires States with additional flexibility to implement strong patient protections while guaranteeing a basic level of protection for all Americans in all health plans. Requiring the States to be in substantial compliance with the Federal law—not exact compliance but substantial compliance—provides States with the flexibility they need to implement strong patient protections while ensuring that all patients receive the Federal floor of protections. Under this amendment, States can keep their own laws as long as their basic intent is similar to the Federal standard and will have a similar effect.

The Secretary is required to be deferential to the States—give them every break you can but make sure that the bill of rights will be enforced. Give them every possible opportunity to do it themselves rather than having to go to court. However, this requirement does not infringe upon the Secretary's authority to determine whether current State laws will provide the basic level of protection promised to all Americans in the health plans under the Patients' Bill of Rights.

So HIPAA is just a totally different situation. It is a mess; we agree with that; but it is totally different. Do not get confused on the HIPAA example.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Maine.

Ms. COLLINS. How much time is remaining on my side?

The ACTING PRESIDENT pro tempore. Three minutes forty-seven seconds.

Ms. COLLINS. Mr. President, I yield 2½ minutes to the Senator from Ohio, Mr. VOINOVICH.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I thank my friends from Maine and Nebraska for offering this important amendment. I believe the Collins-Nelson amendment will allow the Senate to move forward and pass a strong Federal patient protection bill without suffocating the patient protections States have adopted over the last several years.

I wholeheartedly agree that the Senate should take action to protect those Americans not covered under state plans. While the states were in front protecting the majority of those insured individuals through state regulation, the federal government has dragged its feet.

However, a federal patient's bill of rights should not preempt the patient protections that have already been passed by the states. There are more than 117 million Americans who are covered under fully insured plans, governmental plans and individuals policies, which are all regulated under state law.

My colleagues supporting the McCain-Kennedy legislation believe that the federal mandates in the bill should apply not only to ERISA plans, but also to those 117 million Americans in state regulated health plans. Apparently, they do not think that the states, which have already acted and are already protecting millions of Americans, are competent enough to do the job. Instead, they think that the federal government will do a much better job.

My colleagues on the other side of this debate want the public to believe that all Americans need to be covered under a federal patient protections bill or else the quality of their health care will be jeopardized. The fact of the matter is that the majority of Americans are already covered under very good, very comprehensive state health care laws.

As a former Governor of Ohio, I was on the front lines in the fight to give working men and women in Ohio real health care choices. As governor, I signed into law five legislative measures and pushed through several administrative improvements to protect families who relied on state-regulated plans for their health care coverage.

The majority of states, including Ohio, have moved aggressively—certainly more quickly than the federal government—to reduce health care inflation, expand access for the working poor, enhance consumer protections and bring greater accountability to the system.

If the states had waited for the federal government to step up to the plate to provide patient protections, 117 million Americans would not have the patient protections they currently enjoy.

The simple truth is that the states have been out in front of the federal government in providing sound protections for its citizens. The following facts prove this point:

42 states have already enacted a comprehensive Patient's Bill of Rights;

50 states have mandated strong patient information provisions;

50 states already have an internal appeals process and 41 states have included an external appeals process;

48 states already enforce consumer protections regarding gag clauses on doctor-patient communications;

47 states already have regulations regarding prompt payment; and

44 states already enforce consumer protections for access to emergency care services.

The states are already getting the job done for the majority of insured Americans. But if we do not pass this amendment, we will be turning over to the Health Care Financing Administration (HCFA) the enforcement of state sponsored protection plans that are not substantially equivalent with the federal bill.

The fact is, HCFA already has its hands full. Administering and regulating Medicare and Medicaid has already overburdened this federal agency. Think about it. HCFA already has under its purview over 70 million Americans through these federal programs. Now, my colleagues want to place the health care of an additional 170 million Americans on HCFA's shoulders.

The simple fact is that HCFA cannot handle the burden.

Those individuals on the front lines of protecting the 117 million Americans with state regulated insurance know what will happen if the federal government is given the responsibility to oversee these state regulated health insurance plans.

In fact, the National Conference of State Legislatures has described the McCain-Kennedy bill as, ". . . federal legislation that will largely preempt important state laws and replace them with federal laws that . . . the federal government is ill-prepared to monitor and enforce."

Additionally, the National Association of Insurance Commissioners has made clear its concerns about the McCain-Kennedy bill: if the federal government unilaterally imposes a one-size-fits-all standard on the states, it "could be devastating to state insurance markets."

The amendment that Senators COLLINS and NELSON have offered will give true deference to state laws and the traditional authority that states have had to regulate insurance.

By "grandfathering" all state patient protection laws, Senators COLLINS and NELSON recognize that the vast majority of states have enacted comprehensive patient protections laws, as Ohio has done.

The amendment also encourages states, through Patient Quality Enhancement Grants, to review their current patient protection and, if the state legislature and governor so desire, take action to mirror federal patient protections.

I want to relay to my colleagues that I truly believe that this will be the most important federalism vote that the Senate takes this year.

In conclusion, it has been the traditional role of States to regulate the needs of our States. However, both the McCain-Kennedy bill as written and the Breaux amendment seek to preempt what the States have accomplished in protecting patients. The underlying bill as written would step over the 10th amendment which says: the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The bottom line is that the States have been involved in protecting patients a lot longer than the Federal

Government, and they are doing a good job with the protections they have put in place. They debated them in their State legislatures. Their insurance departments are doing a good job of enforcing those laws. The Breaux amendment and the underlying bill gets the States out of their role. We will have a dual system of enforcement—State insurance commissioners and HCFA. And I can tell you, anyone who knows anything about HCFA in terms of the responsibilities they have, knows they have a hard-enough time doing their job now. We should not get them involved in a system that is already working on the State level.

I beg my colleagues not to go along with federalizing this issue. Let's take care of the Federal people who have been exempted over the years because we haven't done the job we are supposed to do, and let the States continue to do the job they have been doing.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BREAUX. I yield 2½ minutes to my good friend, the Senator from Connecticut.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank my colleague from Louisiana. I commend him and the Senator from Vermont for their compromise proposal we will be voting on shortly. I reluctantly oppose my friend from Maine, my fellow New Englander. I have joined with her on so many issues and have such great respect for her.

There is a title to this bill. It is not titled casually; it is called the Patients' Bill of Rights. We talk about a bill of rights. Obviously we are all most familiar with our Constitution and the Bill of Rights we embrace and cherish so richly as American citizens. But if we are going to have a bill of rights when it comes to basic fundamental health care, as has been pointed out by the Senator from Louisiana and the Senator from Massachusetts and others, then there ought to be a floor that applies across the country to all 50 States. That is what we are really advocating.

If the Collins amendment is adopted, then what you are developing is a trapdoor in that basic floor that exists. Let me make the case just by pointing to one particular provision of this bill. That is the access to emergency room care, Mr. President.

I have this chart to make the point. In the States that are in red in this chart, they have laws that are weaker than the underlying bill when it comes to access to emergency rooms. We are not talking about some grandiose new plan. We are talking about a fundamental right that you can have access to the closest emergency room. In 27 States, they have a much weaker provision than is in this law. We are saying when it comes to a Patients' Bill of Rights, access to clinical trials, specialists, emergency rooms, this is the floor across the country. If you want to pass laws at the State level that are substantially in compliance with that, we welcome that. If you want to do something more than we are doing here, we welcome that. But if you are going to say that we are going to allow weaker laws to exist in the access to a gynecologist, to a pediatrician, to a clinical trial, to a specialist, or to an emergency room, then we don't think that is right.

If you are for the Collins amendment, in many ways you are going against this bill. I understand that. I appreciate the fact that people do not want to pass a Patients' Bill of Rights and just leave it up to each State to decide. But if you believe, as a majority of us do, and an overwhelming majority of the American public, that there ought to be a Patients' Bill of Rights, a basic floor that provides these basic standards, then you must vote to adopt the Breaux-Jeffords compromise amendment and retain the integrity of this bill.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. Who yields time?

Mr. KENNEDY. I imagine the Senator would like to close the debate, would she not?

I believe I have 2½ minutes.

Mr. President, the issue is very simple and very basic and very fundamental. It is whether all Americans are going to be covered as included in this legislation. We do not believe it should depend upon where you live. We believe it should depend necessarily on where you work. If a child needs a specialist to treat cancer, he or she ought to be entitled to see the specialist and receive the treatment. If a woman needs to be enrolled in a clinical trial that could be lifesaving, she ought to be entitled to participate. If a breadwinner who is crippled with arthritis needs a specialty kind of drug from a formulary, he or she ought to be able to obtain it.

Now, our bill guarantees these kinds of protections, but with the Collins amendment it is a roll of the dice. President Bush believes that all Americans should be covered. Every Republican bill that was introduced and considered in the House of Representatives said all Americans are covered. She covers about 40 percent of them; 60 percent of Americans are left out. We believe if you are interested in assuring that all Americans be covered, you ought to support the Breaux-Jeffords amendment. That will be doing the right thing.

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, one of the myths in this debate is that unless the Federal Government preempts State insurance laws, somehow millions of Americans will be unprotected in their disputes with HMOs. That is simply untrue. Ironically, my friend from Connecticut makes the point on emergency room care. Forty-four States have enacted legislation guaranteeing access to the nearest emergency room. But they have crafted their laws in different ways depending on the needs of those States. Why should the Federal Government second-guess those laws, substitute its judgment for the judgment of State legislators and Governors' offices all over this country? It does not make sense. The proposal of the Senator from Louisiana would be both burdensome to States and ineffective for consumers.

Does anyone really believe that a consumer with a problem with his or her insurance policy is better off calling the HCFA office in Baltimore than dealing with their own State bureau of insurance?

The States have more than 50 years of experience in regulating insurance. They have acted without any prod or mandate from Washington to enact good, strong patient protection laws. Let's honor their work. Let's build upon the good works of the States rather than preempting, second-guessing, and superseding their laws.

The ACTING PRESIDENT pro tempore. Who yields time?

Ms. COLLINS. Is there any time remaining?

The ACTING PRESIDENT pro tempore. The Senator from Maine has 24 seconds.

Ms. COLLINS. I yield back the remainder of my time if the other side is ready to yield back.

I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. All time is yielded back. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I move to table the Collins amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

The PRESIDING OFFICER (Mr. REED). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—53

Akaka
Baucus
Bayh
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NAYS—44

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
Ensign
Enzi
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—3

Biden
Domenici
Shelby

The motion was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 830

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes for debate equally divided prior to a vote on or in relation to the Breaux amendment No. 830.

Who yields time?

Mr. BREAUX. Mr. President, I do not mind using the time allocated for remarks, but in light of the previous vote, after the remarks could we just vitiate the rollcall vote and have a voice vote on this amendment? I ask unanimous consent that that be in order.

The PRESIDING OFFICER. The yeas and nays have not been ordered on the Breaux amendment No. 830.

Mr. BREAUX. That would be my suggestion. We have the time allocated for comments on it, and then have a voice vote on it afterward.

Mr. KENNEDY. Mr. President, I think we will have the Senator from Minnesota speaking for 2 minutes, and then I think we will voice vote the Breaux-Jeffords amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BREAUX. I yield 2 minutes to the Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague for his graciousness.

Mr. President, I understand the need to compromise, and I think we are moving forward in a very positive way. I do want to point out for the record that what we are now saying is that a State need only be "substantially compliant" with Federal protections as opposed to "substantially equivalent to." My big worry is that if you look at this amendment, we are also saying we need to give deference to the State's interpretation of its own law and its compliance with Federal protections.

I say two things to colleagues. No. 1, I think, in the best of all worlds, consumers would also have a right to appeal if they believe the State is in error.

To be fair, we want to give deference to what States are doing, as long as we have strong consumer protections for everyone regardless of where they live. I also believe if we are going to do that, we have to make sure not only that the States are given their proper due but so are consumers.

This amendment weakens the bill somewhat. I have said that to Senator BREAUX. Frankly, more than anything, it would be helpful to have an ombudsman office or something such as that in every State, where people would know where to make a phone call, know what their rights are. There are ways we can strengthen this.

I do not believe this amendment takes us in a strong consumer direction. It is a good compromise in terms of where we are. I wanted to speak out and express my concerns.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to amendment No. 830.

Mr. KYL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 64, nays 36, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—64

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Edwards
Ensign
Feingold
Feinstein
Fitzgerald
Frist
Graham
Harkin
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Santorum
Sarbanes
Schumer
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Torricelli
Warner
Wyden

NAYS—36

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Collins
Craig
Crapo
Domenici
Durbin
Enzi
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Kyl
Lott
McConnell
Murkowski
Nickles
Roberts
Sessions
Shelby
Smith (NH)
Thomas
Thompson
Thurmond
Voinovich
Wellstone

The amendment (No. 830) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire, or his designee, is recognized to offer an amendment relative to liability on which there will be 1 hour of debate.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 831

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of myself, Mr. ROBERTS, and Mr. HELMS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. ROBERTS, and Mr. HELMS, proposes an amendment numbered 831.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that patients receive a minimum share of any settlement or award in a cause of action under this Act)

On page 154, between lines 2 and 3, insert the following:

"(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

"(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

"(C) DEFINITIONS.—In this paragraph:

"(i) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred in connection with such representation or work.

"(ii) AWARD.—The term 'award' means the sum of—

"(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

"(aa) final court decision;

"(bb) court order;

"(cc) settlement agreement;

"(dd) arbitration procedure; or

"(ee) alternative dispute resolution procedure (including mediation); plus

"(II) any attorney's fees awarded under subsection (g)(1) with respect to the participant or beneficiary (or estate); less

"(III) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

On page 169, between lines 12 and 13, insert the following:

"(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

"(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

"(C) DEFINITIONS.—In this paragraph:

"(i) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred 'n connection with such representation or work.

"(ii) AWARD.—The term 'award' means the sum of—

"(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

"(aa) final court decision;

"(bb) court order;

"(cc) settlement agreement;

"(dd) arbitration procedure; or

"(ee) alternative dispute resolution procedure (including mediation); less

"(II) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection."

Mr. BOND. Mr. President, several days ago in debate in this Chamber, I talked about how the employees of small businesses might lose their health care coverage if the provisions of McCain-Kennedy went into effect unamended. The junior Senator from North Carolina indicated that I was interested only in protecting the businesses.

Unfortunately, he misconstrued my arguments because we are concerned about patients. We hope the employees of small businesses will continue to get the benefit of health insurance coverage by their employers.

I spoke about employees, however, because if this bill is not significantly amended, there are not going to be patients covered by this bill; they are going to be thrown out of health care coverage. We are concerned about patients.

It is not only small businesses that should be worried about this bill, but employees of small businesses should also be worried about this bill.

This amendment I offer today provides additional protection to patients. It provides protection to patients from trial lawyers, so we will find out whether my colleagues are more interested in taking care of patients or ensuring that the rights to sue by trial lawyers are unabated.

There are a lot of words in the McCain-Kennedy bill, but there are also some heavy-duty new lawsuits that are authorized.

The Federal claim of action really begins on page 140. It starts off:

> IN GENERAL.—In any case in which
>
> (A) a person is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or agent of the plan, issuer, or plan sponsor—. . . .

Cause of action starts off, No. 1, regarding whether an item of service is covered under the terms; No. 2, regarding whether an individual is a participant or beneficiary; No. 3, application of cost-sharing requirements.

Then there is the real hooker; there is the bombshell that opens this baby up to anybody who really likes to file lawsuits. It says:

> . . . otherwise fails to exercise ordinary care in the performance of a duty under the terms and conditions of the plan with respect to a participant or beneficiary.

There are tons of laws that are covered here—HIPAA and COBRA. This is a wonderful opportunity for our brothers and sisters of the trial bar to file lawsuits. That is the Federal side.

Then on page 157, it talks about State causes of action. It starts off, as this bill does—my good friend, the Senator from Texas points out all the bad stuff they do to providers of health insurance begins with "does not apply," "except."

Preemption does not apply. "nonpreemption of certain causes." It begins on page 157:

> Except as provided in this subsection, nothing in this title . . . shall be construed to supersede or otherwise alter. . . .

It goes on page after page. There are exceptions for wrongful death, exceptions for willful disregard of safety of others; their definition of certain causes of action permitted. Somewhere around page 172 it gets to the point: Certain actions are allowable.

Basically, these pages of this bill provide tremendous opportunities to bring lawsuits. We should be talking about protecting patients, not about protecting trial lawyers.

I believe it is appropriate now that we consider some protection against the HMOs and the insurance companies, important as that is, and instead make sure that we protect patients against trial lawyers.

There are a lot of stories going on about trial lawyers: they are taking advantage of their clients; some attorneys ask for 40 to 50 percent of any settlement; refuse to negotiate with clients; contingency fees of 33 or 40 percent are common. Some trial lawyers flat out refuse to take a case based on an hourly fee, and they demand they be able to take a huge percentage of the award. They also take their out-of-pocket expenses off the top before the contingency fee is applied, and that means in some circumstances the injured party, the plaintiff, gets less than the plaintiff's attorney.

I think that is outrageous. As a former attorney, as a recovering attorney, I realize lawyers perform useful services when someone is harmed. They should be justly compensated.

However, this amendment says enough is enough. The amendment is very simple. Any patient who gets a monetary award through all the new lawsuits permitted in the McCain-Kennedy bill must get at least 85 percent of the award. If you are hurt, doesn't it make sense to receive 85 percent of it? I can't see that being objectionable. The amendment effectively prohibits obscene contingency fees where large judgments are won and the plaintiff's attorney takes 30 or 40 percent after deducting all the expenses.

Some may say lawyers will not take the cases. When we talk about setting a patient minimum, we need to be cautious. Just as it doesn't help to have a right to sue your HMO when your employer drops health care coverage, as would happen under this bill if it is not amended, it doesn't help to have a strong patient minimum requirement if it means no attorney will take your case. This amendment includes two strong protections to make sure access to attorneys is not threatened.

First, before the patient minimum is applied, the amendment allows the attorney to be reimbursed for expenses incurred during the case. Only after expenses are deducted from the award will a patient minimum apply. In practice, this means an attorney can never lose money on a lawsuit that results in an award.

Second, we exempt certain lower level awards from the patient minimum requirement. This ensures that the simpler cases that don't promise large awards can still be pursued and are not limited by the requirement that the patient gets 85 percent. We have set $100,000, which is above the median judgment normally entered in malpractice cases, as the limit.

I am not sure any State has taken the exact approach this amendment establishes with a patient minimum, but 14 States have established caps on attorney fees. The strictest cap is in New York where lawyers are limited to 10 percent of awards over $1.25 million. That is the equivalent of a 90-percent patient minimum. California has the most well-known cap on attorney fees. In California, lawyers are limited to 15 percent of any award in excess of $600,000. When you add Florida and Indiana, which also have a 15-percent cap for the highest level awards, 4 of the 14 States that established caps on awards of attorney fees essentially require that plaintiffs get at least 85 percent of an award.

Have these caps served as a barrier for plaintiffs? Have they denied access to the courts? From the data we have, we conclude they definitely have not. The State with the toughest cap, New York, produces almost twice as many malpractice awards per capita as the national average. The national malpractice per year per million residents, the U.S. average, is 49.2; California is 47.2; New York is 99.5, more than twice the normal national level. From the other States with tough caps, Florida has an average number of malpractice awards per capita and California's rate is about the average. Indiana, with a 15-percent cap, falls below the national average.

It is hard to argue that the caps threaten access to the courts through attorneys. The California law has existed for at least a decade. By not changing the law, the State legislature seems to have come to the same conclusion.

Why do we take 85 percent? When you take out expenses and exempt lower level awards, patients should get the overwhelming amount of an award. For a patient who has been harmed, it is perfectly reasonable to ask that that patient get 85 percent. For States with similar requirements, there does not seem to be a barrier to finding attorneys and bringing a lawsuit if you believe you have been harmed. To my knowledge, none of these States has repealed their caps, demonstrating that at least the State legislatures think they are working. By choosing 85 percent as the absolute minimum amount to which a patient is entitled, this amendment simply reconciles Federal law with laws that seem to be working in four of the largest States in this country.

We know of the horror stories. We have heard too many horror stories. I point out an August 16, 2000, article in the Los Angeles times about Rodney King, who was brutally beaten by Los Angeles police. He is taking a beating from his lawyers, he says. They made more money on his case than he has. By his reckoning, they cheated him out of more than $1 million. In a nutshell, the man whose 1991 videotaped beating made him an international symbol of police abuse said he thought he had a deal with his lawyer to pay them only 25 percent of the award but they wound up showing King's lawyers received $2.3 million while he got only $1.9 million.

Another lawyer in California won a class action suit for police brutality and civil rights and took a $44,000 verdict in the case, a $19,800 contingency fee, and collected $378,000 in fees awarded by the trial court; the client received $810.

I have other examples. But one of my favorites is the Lawyers Weekly report that a growing number of lawyers are putting arbitration clauses in the fine print, shielding them from being sued by another trial lawyer if the clients say they botched a case. The lawyers themselves who are making the money off the large judgments prefer their disputes go to private arbitration because arbitration is faster, cheaper, decisions are made by other lawyers rather than juries, and there is no public record. So they have recognized that there are certain instances in which it does not make sense to allow unfettered access to the courts for people with a claim.

If a patient is harmed and wins an award through a lawsuit, it is perfectly reasonable to expect the patient will receive at least 85 percent of the money. Almost 180 pages of the bill protect patients from HMOs and insurance companies. I simply propose we add a few pages to the bill to protect patients from trial lawyers.

I see the Senator from North Dakota is on the floor. I ask after the other side finishes speaking that my colleague from Iowa be recognized for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, this amendment is one more in a series of amendments designed to try to derail the Patients' Bill of Rights, or the Patient Protection Act.

There is no evidence of unfairness in the attorney fee portion of the bill that we brought to the floor of the Senate. No one has alleged that; no one has discussed that with us. This is the first moment in which there is an amendment offered and we have been working on this legislation for five years. It is interesting that the amendments are always designed to try to take the ground out from under patients, to diminish the opportunity for the patients to address the enormous problems they face in confronting a managed care organization that does not want to give the care promised the patients.

This amendment ultimately prevents injured patients from finding the adequate legal protection they need in order to confront a managed care organization. Congress has passed over 300 laws allowing attorney fees, and the laws are described for every Senator to see in a Congressional Research Service report No. 94-870-8. I commend anyone to that CRS report which describes these laws.

I have not found any Federal law on attorney's fees that is as restrictive as is proposed in this amendment. I repeat, there isn't any Federal law on attorney's fees that is as restrictive as that proposed this morning on the Patient Protection Act.

Why, when we have this issue of managed care organizations not providing the care required for patients and we have the opportunity in this legislation to hold the managed care organization accountable, why is it that those who don't like this Patient Protection Act try to carve the ground out from under patients once again with a restrictive proposal that almost certainly would diminish the opportunity of a patient to acquire access to an attorney to make that HMO accountable?

I find it also interesting that the concern behind this Bond amendment is apparently excessive attorney fees. There are striking excesses with respect to managed care organizations. Let me mention just a couple.

What about excessive salaries, excessive stock options? I don't hear anyone coming to the floor of the Senate complaining about $50 million in compensation that the CEO of a managed care organization receives. I don't hear anybody saying that is an excessive salary for an individual to receive. How is it these CEO's get to be rewarded in amounts a large as $50 million? By pinching on access to care that ought to be delivered to patients.

The opponents of our patients protection bill are not here on the floor saying that $50 million paid to the president of a managed care organization is excessive. We just hear them come out here to say we are worried about an excessive fee received by an attorney who is representing a patient trying to hold an HMO accountable.

Mr. REID. Will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield, of course.

Mr. REID. Is the Senator aware that William McGuire of UnitedHealth Group earned $54.1 million last year?

Mr. DORGAN. I am aware of that.

Mr. REID. Is the Senator aware that there were unexercised stock options worth an additional $68 million by various people with that company, but McGuire held the most stock options, worth $358 million? Is the Senator aware of that?

Mr. DORGAN. I am aware of published reports that say that, yes.

Mr. REID. Did I hear the Senator say he has not heard any debate on the Senate floor this past 10 days about this excessive, exorbitant amount of dollars to the people who run these companies and not helping the patients? I have not heard that; has the Senator?

Mr. DORGAN. The Senator from Nevada is correct. We have not heard one word from opponents to our patients protection bill about the salaries, stock options, and the compensation paid to those who run the managed care organizations.

Let me go back to the intention of our Patients' Bill of Rights, and then bring it to this amendment. The reason we are here in the first instance is because too many people in managed care organizations are not getting the care they need. Too many people do not get the care they need or expect from their health care plan, and they are not able to hold the health care plan accountable for it.

This legislation says there ought to be protections in place for patients. Patients ought to be able to know all their options for medical treatment, not just the cheapest option. That is a patient's right. That is what we say in this legislation.

Some people do not want that. The managed care group does not want that. The insurance companies do not want that. We say a patient ought to have a right to emergency room treatment when they have an emergency. That is a right that is in this bill that we are trying to get passed. I understand why the managed care groups don't want that. I understand why there are some who oppose it here in the Senate because they stand with the insurance companies and the managed care groups. We stand with the patients saying there ought to be basic protections in place.

This amendment is one more attempt, by our opponents, in a series of attempts just to undermine this bill, to say no, we don't stand with patients, we don't stand with patients in order to allow them to exercise the rights that are in this bill. What our opponents would like to do is chip away and carve away at the foundation of this bill so at the end of the day the patients do not have these protections and the patients do not have these rights.

This amendment, if it were genuine, if it were really concerned about fees, would not just address attorney's fees. They would address the compensation paid to those who run these organizations, who make $50 million, $10 million, or $250 million in stock options. Is that excessive? We don't hear anyone on the floor of the Senate talking about that.

Why? Because this is not about fees. It is about with whom do you stand. It is about people who really do not want this legislation to pass. They have been dragging their feet now, day after day after day, bringing out amendments to try to defeat the Patients Protection Act. In every case, in every circumstance, they have failed. This amendment is the latest attempt to do that. The amendment limits attorney's fees in circumstances where patients would try to hold a managed care organization accountable. It limits attorney's fees, as I understand it, to an amount below all other attorney's fees that are now written in Federal law. We have it in a number of places in Federal law. I have referenced the CRS report. All Senators can look at it.

This amendment proposes we limit attorney fees below all those other areas mandated by federal law. Why? Because here we are talking about patients. We are trying to advocate on behalf of patients. Why would anyone want to take away the patients' rights when they are confronting big organizations?

One of the interesting things is I hear all this talk about a patient who would hire an attorney to make a managed care organization accountable. I hear no discussion about the legion of attorneys who are hired by managed care organizations to deal with patients—none. Do you think the big insurance companies and big managed care organizations do not have a battalion of lawyers they pay? Of course they do. Maybe you want to limit their opportunity to use lawyers? I don't think so. I don't propose that.

Then why would you want to limit the opportunity of patients to use attorneys to make an HMO accountable? This just makes no sense on its face. It is one more step, one more attempt to try to defeat this bill. We have had it day after day after day, amendment after amendment. I hope my colleagues will understand the last thing we ought to do is weaken the ability of the American people, who as medical patients expected certain care but did not get it, to be able to hire an attorney and make that managed care organization accountable.

I would say one more thing. I would like those who offered this amendment, who are indeed concerned about "fees," to be concerned about all fees. If they are concerned about lawyer's fees, good for you. Then be also concerned about $50 million, and $250 million in compensation paid to a CEO who runs a managed care organization. Be concerned about those fees as well. You want to be consistent, bring both amendments to the floor and let's debate both amendments.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). Under the previous order, the Senator from Iowa is recognized for 10 minutes.

Mr. REID. The two leaders are on the floor. I think they are about ready to propose a unanimous consent request. If they are not now, would the Senator mind yielding when they are ready?

Mr. GRASSLEY. I would rather wait. Hopefully, they will do it right now.

Mr. REID. Madam President, I suggest the absence of a quorum and I ask unanimous consent to have the time run equally on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, I support the Bond amendment and want to speak specifically to that point. It also deals with the point I have made in other speeches—that this is a very good bill. But during the process of considering giving patients a bill of rights against insurance companies, I think we always have to keep our eye focused upon the fact that we want to give treatment for patients and not tribute for lawyers.

This amendment takes a very good approach in fixing the Kennedy-McCain bill's provisions dealing with the liability parts of the bill, which, in my view, amount to nothing less than a trial lawyer's pot of gold.

I have always believed that medical malpractice liability laws should provide adequate compensation for those who are truly injured while reducing frivolous lawsuits.

I firmly believe that it is a principle of any case, including patients against insurance companies, that people who are harmed ought to be made economically whole. But there has to be a balance between frivolous lawsuits and making sure that people can be made whole if harmed.

I think the Kennedy-McCain bill fails to strike that very carefully needed balance and instead creates a lottery for trial lawyers, which not only inflates the cost of health insurance for all of us but also leads to more and more hard working Americans losing health coverage.

We shouldn't do anything in this bill that will cause people to lose their health insurance. We already have 42 million uninsured Americans. The best opportunity for affordable health insurance as well as coverage is in employer-related health insurance programs.

Don't forget that we have over 50 million insured Americans under the self-insured plans that employers offer. The case is that most of these self-insured plans come from small business more so than large corporations. We should not be putting these employers and their employees in a situation where that employer, because of the threat of suit under this bill and losing a generation and a lifetime of savings in that family business, will not want to take a chance of losing his investment which has been built up through a family working together and investing everything back into the business because of a threatened lawsuit. If that is a threat, then you can understand why the employer might just eliminate their self-insurance and in the process throw the employees into a situation of having no health insurance, resulting increases in the number of 42 million people in this country who now do not have such insurance.

Here is how I believe this will inflate costs, and thus cause employers and employees to not have health insurance coverage. Except for the $5 million cap that is in this bill on punitive damages in Federal courts, the Kennedy-McCain bill sets absolutely no limits on what damages trial lawyers can collect.

When it comes to patients and those harmed because of lawsuits, it ought to be an axiom of all of our public policy that the people harmed, not lawyers, should get most of the money from a lawsuit.

Of course, the Bond amendment then makes this more true than under the existing practice. You have to consider that trial lawyers generally collect 40 percent of their clients' recoveries. In fact, in many cases, you can have the lawyer's fees plus other court costs work out to where the person harmed is getting less than 50 percent of what the jury might award.

Trial lawyers generally collect 40 percent of their clients' recoveries. Incentives for bringing cases regardless of merit are then extremely high. It is a perverse incentive to go to court and to go to trial.

But the real jewel in the trial lawyer's crown is this bill's provision that allows the same suits for the same claims brought by the same trial lawyers, whether they proceed in State or Federal courts.

Even though this debate is supposed to be about patients, the Kennedy-McCain liability scheme isn't about patients at all. It is about trial lawyers. In fact, as you can see, I call this the "trial lawyers lottery ticket." I want to show where five out of six opportunities for monetary awards are virtually jackpots for lawyers.

Take a closer look. I would like to just scratch the trial lawyer's lottery ticket and see what the lawyer gets. Let's start with medical costs.

Peel off the lottery ticket top, both for State court and Federal courts, you will see "bingo"—no limit on what trial lawyers can collect in both State and Federal court. That is a jackpot that ought to make any lawyer happy.

But why quit when you are ahead? Let's take a look at what is in store on pain and suffering. Peel that lottery ticket, and you can see what you get on pain and suffering. It is another jackpot—unlimited damages in State and Federal courts.

The sky is the limit. That is where the trial lawyers are really winning big.

Now, for the trial lawyer's favorite damages, punitive damages, they stand to reap tens of millions of dollars.

Let's see what this ticket offers the trial lawyers. So we pull off the punitive damages square. You can see: unlimited damages in State court, and up to a $5 million cap in damages as far as the Federal courts are concerned.

This is another big win. Talk about good luck: unlimited punitive damages in State courts, and in the Federal courts almost unlimited—a $5 million cap. If you ask me, that is hardly any limit at all.

Mrs. BOXER. Will the Senator yield for a question?

Mr. GRASSLEY. No, I will not. I only have 10 minutes. And we lost some other time on this situation of waiting for the leader.

Mrs. BOXER. On my time. I would ask a question on my time.

Mr. GRASSLEY. Finally, if I could, let's not forget about class action lawsuits where multimillion-dollar damages are the name of the game. So here again we peel off the lottery ticket. You can have class action lawsuits in State courts. You can have class action lawsuits in Federal court.

So bingo again. Kennedy-McCain has no limits on class action lawsuits. It even creates new grounds for bringing class action cases.

As you can see, everybody wins—every lawyer, that is—with the trial lawyers' lottery ticket.

What we get back to then is that we are more concerned about treatment for trial lawyers, not treatment for patients. It seems ironic that the very individuals this bill claims to protect are the ones who lose. Despite what its sponsors say, the bill before us exposes employers to the constant threat of litigation, even for simple administrative tasks and clerical errors.

What is the ultimate result? What everybody says they do not want to ever happen. People lose coverage. When this sort of perverse incentive is out there to threaten small business, particularly those that are self-insured—because they do not want to put in jeopardy their lifetime of work but want to create jobs, so they can be part of the community, so they can have good workers and pay their workers well—and, most importantly, workers want good fringe benefits; and the No. 1 fringe benefit they want is health insurance—it puts it in jeopardy employer-based coverage. Then the ranks of the uninsured go up tremendously.

I yield myself 1 more minute.

Mrs. BOXER. Reserving the right to object, I would ask for 1 minute as well upon the conclusion of the Senator's remarks.

Mr. GRASSLEY. I object to that. There is plenty of time on that side for the Senator to take her time. I am taking time off our side.

Madam President, how much time do I have left?

The PRESIDING OFFICER. There are 3½ minutes left for the sponsor.

Mr. GRASSLEY. I would like to take 1 minute of that 3½ minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. So the ranks of the uninsured are going to go up. There are 42 million uninsured now. Do we want to increase that? No, nobody wants to increase that, but that is going to be the end result when these self-insured plans are dropped. Then, of course, the employees become the biggest losers in this lottery.

So I urge my colleagues to reject this lottery and to support the Bond amendment, which creates much needed patient minimums and ensures that patients, not lawyers, get fair compensation for their losses.

I reserve the remainder of the time and yield the floor.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. DASCHLE. Madam President, I will use my leader time and not take any time off the agreed-upon time allocated for the amendment.

Madam President, I would just say on the amendment, there is nothing in there that would limit the lawyers' fees for the insurance industry. Those are unlimited. While they limit the legal fees for lawyers defending patients, there is nothing to limit the legal fees for lawyers defending HMOs and insurance companies. I find that quite ironic.

SUPPLEMENTAL APPROPRIATIONS

Madam President, I want to propound a unanimous consent request. I will not do that at this time because I have been talking with the distinguished Republican leader. But I want to propound a request, as I had indicated I would, to lock in the debate for the supplemental.

There are a number of amendments that have been suggested. I know the unanimous consent agreement has been cleared on our side now for I think 3 days. We have been unable to get consent from our Republican colleagues for the last 3 days.

Now I am told they may object to even going to the supplemental, at least initially. If that happens, of course, I will be forced to file a motion to proceed. But I think it is important.

There was a story in the Washington Times dated June 26, and I think for the RECORD it would be helpful if I just read it because I think it does capture the urgency with which we address the supplemental. So I will take just a moment to read it:

The U.S. military would be forced to curtail or cancel training exercises, facility repairs and equipment maintenance if Senate Majority Leader Tom Daschle holds up a pending emergency budget until late July, according to Pentagon projections.

The Pentagon provided a list of hardships at the request of Senate Minority Leader Trent Lott. He used the list yesterday to criticize Mr. Daschle for threatening to delay action on a $6.5 billion supplemental budget bill until the Senate completes work on a contentious patients' bill of rights. That delay would push approval of the fiscal 2001 defense legislation until late July or beyond.

"If we don't get this bill completed by . . . mid-July, we're going to have canceling of base-property maintenance, [and] holding some of our deployed units where they are overseas until the end of the fiscal year," said Mr. Lott. "So we're really pushing the envelope when it comes to the needs of our military personnel in health as well as in steaming hours."

Picking his first confrontation with Democrats since they took control of the Senate, Mr. Lott also accused Mr. Daschle of sacrificing the nation's urgent energy needs in order to push through the health care bill. . . .

Nearly all the budget bill's funding goes for replenishing military training accounts depleted by peacekeeping missions in the Balkans and elsewhere. Without emergency funding soon, the military will be forced to:

Curtail all nonessential operations such as pilot training, steaming hours, fleet exercises, and air combat training maneuvers. The Air Force and Navy would ground some pilots and aircraft.

Perhaps hold deployed units overseas until the new fiscal year begins October 1.

Cancel training for units getting ready to deploy for peacekeeping duties.

Stop or slow down maintenance of equipment at large regional depots.

"This will lead to the loss of jobs for many Americans," Mr. Lott's office said.

The Joint Chiefs of Staff originally wanted about $9 billion in [requests].

Madam President, I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, June 26, 2001]

DASCHLE DELAYS; MILITARY WAITS

PENTAGON NEEDS EMERGENCY FUNDS

(By Rowan Scarborough and Dave Boyer)

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"If we don't get this bill completed by . . . mid-July, we're going to have canceling of base-property maintenance, [and] holding some of our deployed units where they are overseas until the end of the fiscal year [Sept. 30]," said Mr. Lott, "So we're really pushing the envelope when it comes to the needs of our military personnel in health as well as in steaming hours."

Picking his first confrontation with Democrats since they took control of the Senate, Mr. Lott also accused Mr. Daschle of sacrificing the nation's urgent energy needs in order to push through the health care bill.

Neglecting energy and defense has "very dangerous implications for the security and prosperity of the American people," the Mississippi Republican said.

Nearly all the budget bill's funding goes for replenishing military training accounts depleted by peacekeeping missions in the Balkans and elsewhere. Without emergency funding soon, the military would be forced to:

Curtail all nonessential operations such as pilot training, steaming hours, fleet exercises and air combat training maneuvers. The Air Force and Navy would ground some pilots and aircraft.

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"This will lead to the loss of jobs for many Americans," Mr. Lott's office said.

The Joint Chiefs of Staff originally wanted about $9 billion in emergency funding in January. But incoming Defense Secretary Donald H. Rumsfeld nixed the request. The White House scrubbed the numbers and presented the $6.5 billion proposal. The House already has approved that number, as did the Senate Appropriations Committee.

Mr. Lott said he suggested the Senate OK the emergency defense bill by unanimous consent, since both chambers approved Mr. Bush's list of spending requests without adding home-state projects, as was the practice with supplemental bills the past few years. But Mr. Lott said Mr. Daschle, South Dakota Democrat, rejected that idea.

Mr. Dashle, despite earlier indications that he would allow a speedy vote on the spending bill, told colleagues Friday that he would not bring it to the floor until the Senate completes work on a patients' bill of rights.

Republicans have been slowing down final passage of that legislation, raising concerns about employer liability and increasing premiums. Their tactics could derail Mr. Daschle's stated goal of finishing the bill by Friday.

The fate of the health care bill is particularly sensitive for Mr. Daschle because it is his first test of his ability to move legislation since becoming majority leader. Senate committees remain unable to take up new legislation due to prolonged negotiations between the parties on how to reorganize and whether to guarantee votes on Supreme Court nominees.

Daschle spokeswoman Molly Rowley said Mr. Daschle wants to complete the patients' bill of rights, the spending bill and the reorganization before the Senate adjourns for the Fourth of July recess.

"We think all three of these things can be done this week before we leave," she said.

Sen. Robert C. Byrd, West Virginia Democrat and chairman of the Appropriations Committee that approved the spending bill last week, said yesterday he was "not in a position to comment" on Mr. Daschle's intentions.

"The leader has to balance a lot of things," Mr. Byrd said, "I'm sure he'll get to the [spending bill] when he thinks he can."

Mr. Lott said Mr. Daschle rejected his suggestion to approve the spending bill by today, making it unlikely that a conference bill could be worked out before the House adjourns Friday for a weeklong Independence Day vacation.

"We need to get this defense and other issues supplemental done before we leave, because it is critical for nonessential operations like pilot training, steaming hours, fleet exercises," Mr. Lott said, "I'm very worried that by not acting this week on the defense supplemental appropriations bill we're asking for more delay and even more problems with our defense needs."

Mr. Daschle has been threatening to cancel the Senate's vacation to compel Republicans to finish work on the health care bill.

Republicans and Democrats have been sniping politely about legislative priorities ever since the power shift in the Senate. Republican lawmakers have been pressing for passage of President Bush's energy plan, but Mr. Daschle has expressed more interest in the health-care legislation, as well as increasing the minimum wage and passing a hatecrimes bill.

Mr. Lott said yesterday that Democratic leaders do not intend to address the energy issue by the end of July.

Congress is in recess for the entire month of August, meaning the Senate would not take up the administration's energy plan unitl September at the earliest.

House and Senate Republicans met with White House representatives late yesterday and agreed to call attention to Democrats' inaction on an energy plan over the recess next week. The meeting took place in the office of House Majority Whip Tom DeLay, Texas Republican.

Mr. DASCHLE. Madam President, Senator STEVENS and Senator BYRD came to me a couple of weeks ago and asked for a special exemption from the understanding we have been working under here in the Senate that no official action can take place on any legislation until we have broken the impasse on the organizing resolution and assigned each committee its full complement of members. I, of course, agreed, in the interest of urgency, to allow the Appropriations Committee to work its will and to finish this supplemental, which is what it did. I applaud both of them for taking the action they did.

The House, of course, has now acted. Now it is up to us. A couple of days ago the President called me and said: Above all, I hope that you will pass the supplemental before you leave. I gave the President my personal assurance that we would pass the supplemental here in the Senate before we leave.

Now I am told that there are some who would prefer to take vacation rather than finish the work. Madam President, we can't do that. We can't take vacation until the work is done. We can't take vacation until the Patient Protection Act is done. We can't take vacation until the supplemental is done. We can't take vacation until the organizing resolution is done. It is as simple as that.

I will propound a unanimous consent request at a later time because I know Senator STEVENS wanted to come to the floor. We have been working through this. As I say, I thought we had an agreement. In fact, I was told we were able to propound the request an hour or so ago. Unfortunately, that report apparently was in error.

I am going to do what we have to do, in part because as Senator LOTT has said so clearly—and forcefully—the alternative to not acting is to risk what the Washington Times has reported, to wreak havoc with the military, to keep them from getting their job done, to actually endanger our military personnel in some ways. We are not going to be accused of endangering the military. We have to do what the President, the Commander in Chief, requested. That is what we are doing here.

We will offer the unanimous consent request to proceed. If that fails, I will file a cloture motion on the motion to proceed, and when it ripens we will have the vote. But we will have the vote.

Mr. DORGAN. Will the Senator from South Dakota yield?

Mr. DASCHLE. I am happy to yield.

Mr. DORGAN. I ask the majority leader, isn't it the case that the three issues that are outstanding—finishing the Patients Protection Act, passing the supplemental, and the organizing resolution—could be done rather quickly? We have, after all, been debating the Patients Protection Act for some long while. We have gone through most of the major amendments. We started debating this issue 5 years ago. It has now been on the floor for some while. We have done most of the major amendments. If we could complete the Patient's Bill of Rights later today we could move on to other business. I am a member of the Appropriations Committee. When we passed the supplemental bill, it was passed almost with no amendments in the House of Representatives; that bill is very important—we did it with very little debate in the full Appropriations Committee. The organizing resolution can be completed, I understand, with perhaps one vote.

It is the case, isn't it, that all of this could be done perhaps this evening if we had cooperation? Is that not the case?

Mr. DASCHLE. The Senator is correct. As I understand it, this bill was not subject to amendment in the House. It passed overwhelmingly in a very short period of time. I don't know why we would have to elongate or unnecessarily prolong the debate on this side.

Whatever length of time may be required to consider this bill, we will do that. All I am saying is that we have to do it before we leave.

I see both the ranking member of the Appropriations Committee and the distinguished Republican leader are on the floor.

I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 76, S. 1077, the supplemental appropriations bill and that the bill be considered under the following limitations: That only first-degree amendments in order other than a managers' amendment be the following list which is at the desk—I won't read the list at this point—that any listed first-degree amendment be subject to relevant second-degree amendments, that any time limitation for debate on a first-degree amendment be specified in this agreement; then any second-degree amendment to that amendment be accorded the same time limit; that upon disposition of the above amendments, the bill be advanced to third reading; the Senate then proceed to the consideration of Calendar No. 77, H.R. 2216; that all after the enacting clause be stricken and the text of S. 1077, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, and the Senate then vote on passage of the bill with no intervening action or debate.

Finally, I ask unanimous consent that S. 1077 be returned to the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. First of all, I think it is important that we dispose of this issue as quickly as possible so that we can get back to the debate on the amendments that are pending. There are still a number of very important amendments that Senators wish to offer with regard to the Patients' Bill of Rights. I know the Senator from Nevada has been working on this issue and knows that. These are substantive and important amendments.

When it was suggested by the Senator from North Dakota that most of the major amendments have already been offered and considered, I don't believe that is accurate. Of course, I guess how important they are is in the eye of the beholder or the offeror of the amendment. I think it is important that we address this issue and get back to having debate and hopefully votes this afternoon and into the night, however long it takes to deal with important issues that still need to be addressed.

We still believe very strongly that this bill has not been corrected in terms of its major problems in the likelihood of loss of coverage and increased premiums, and when, how, and where lawsuits are going to be filed instead of making sure patients get the health care coverage they need. We can resolve this relatively quickly and then go back to that.

With regard to the organizational resolution, we continue to exchange ideas. I think it is possible that it could be handled with only one vote, or it may take three, but we are hoping we can get that worked out. I know there are a couple of letters that are being reviewed now on both sides that might make it unnecessary to have three recorded votes. I think we are going to have two letters dealing with the question of public disclosure of the blue slips which can be used by Senators to block a judicial nomination. There is a strong belief on both sides that those should be made public and not just handled secretly, as has sometimes been the case but not always the case, in the past.

Also, we are looking to see if we can get some agreement in writing that we would continue to do what the precedents are with regard to Supreme Court nominees. I believe going back all the way to 1881, the whole Senate has voted on Supreme Court nominees even when the committee has voted on a tie or negatively. But we are working on that, and I would like us to get that resolved in the next 24 hours myself.

With regard to this unanimous consent request, I had really hoped we could do it Monday. I thought it could have been, I believed it could have been done Monday in a very limited period of time without this rash of amendments. I think we could have gotten an agreement that there be no amendments. That didn't happen for whatever reason.

Senator BYRD and Senator STEVENS had indicated they would like to have done it even last night so that we could have done it quicker and so we could perhaps have gotten into a conference with the House. The problem now is that if we don't take this up immediately, right now, we are not going to be able to get a conference agreement. There is no chance of a conference agreement until after the Fourth of July recess, even if the Senate should act sometime tomorrow or Saturday. I really had hoped we could do it earlier so we could get into conference, get it completed, and send it to the President. That now appears not to be likely, unless the Senate wants to turn right now to consider this very important supplemental appropriations resolution. I would like that to be considered.

Failing that, I think we are not going to object to agreeing to this unanimous consent request, but there are 35 amendments now—34 or 35. Some of them clearly are important to Senators involved on both sides of the aisle. Senator BOND has a couple of them. Senator BOXER has one I think she probably feels very strongly about. Senators CLELAND, ROBERTS, and others have amendments with regard to the B-1 bomber. Senator CONRAD, I haven't talked to him, but he has one on Turtle Mountain Indians. As you look down the list, some of them are not just relevant, some of them are amendments about which Senators are going to care greatly. And it looks to me as if you are talking about an extended period of time at this point to complete action on this legislation. I regret that.

If we could get an agreement to go to it now—I see Senator MCCAIN; I know he has an amendment he feels very strongly about—if we could do that now, maybe we could get some time agreements and move to completion.

I see the distinguished Senator from Alaska, the senior member of the Appropriations Committee on the Republican side, who wants to speak. I am glad to yield under my reservation, Madam President.

Mr. STEVENS. Madam President, I am here to urge that the Senate take the bill up now. I think if we took it up now, working with the people who have those amendments, we ought to be able to finish it today. I think if we finish today, the House will stay, and we could complete this before the recess. If we wait until Monday after the House has already gone home, it will be very difficult to get them back, even from the point of view of getting travel arrangements for the House to come back on Monday or Tuesday.

I cannot speak for the chairman, but I can say that we both have sought for the last 2 weeks to try to have this bill become law in time to meet the needs of the armed services. Very clearly, they have been demonstrated now. There is no question that if we do not get this bill passed, there is going to be an impact on the armed services. I will commit myself to both leaders to work with all Members to see what we can work out, to constrict the time and finish it tonight, if we can take it up now. That might put pressure on the other bill, too.

I urge that the organization resolution get resolved. I personally say to both leaders, my Kenai Peninsula is on fire. That is where I want to go fishing next week, too. So there is a disaster and the urgent call of the pink salmon to respond to.

I pledge myself to work even harder than Senator REID does to find some way to constrict this time so we can vote on this and get it to the House and bring it back so we can all vote on the bill before we go home. I plead with the leaders to let us have the reins for a few hours and see what we can do. I think we can finish this bill tonight.

Mr. LOTT. Madam President, under my reservation, I will propound as an alternative unanimous consent agreement the same proposal the majority leader has made, except that in the first paragraph under consultation with the Republican leader, I would add "may proceed immediately to the consideration of Calendar No. 76, S. 1077." I make that in the form of a unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Madam President, reserving the right to object, I have offered this to our Republican colleagues now for several days. I have said, give me a definitive list that will allow us to finish our work on the Patients' Bill of Rights. We will proceed immediately to the supplemental, finish it, and then return to the Patients' Bill of Rights with the understanding that we will complete work on that as well.

Unfortunately, our Republican colleagues have been unable to do that. My offer still stands. Give me a definitive list that we can complete before we leave, and I will go immediately to the supplemental. I have offered it privately to Senator LOTT. I have offered it to our other colleagues. That offer still stands. Until we get that assurance, I will object.

Mr. LOTT. Under my reservation, I have one inquiry. I thought we had a definitive list. It may be big, but I thought we had a list of amendments still pending out there.

Mr. DASCHLE. I have not seen it.

Mr. LOTT. We will work on that.

The PRESIDING OFFICER. Is there objection to the original request?

Mr. REID. While the two leaders are here, if I may chime in, first of all, Senator DASCHLE has read the importance of this supplemental. If it is as important as has been read into the RECORD, it would seem to me the House should hang around a little while longer.

I say to the Republican leader and our majority leader, I haven't seen a list of amendments. Everybody knows we have just a few important amendments to finish the Patients' Bill of Rights. If we are given a list of amendments that is large in number, I don't think that is in keeping with what I think should be the general agreement to finish the legislation. If we are given a list of 10, 20, 30, 50 amendments, I suggest to the majority leader, that is not part of the deal. We have a few amendments left to go.

Mr. LOTT. If Senator DASCHLE will yield to respond briefly, I thought you had been given a list. I am going to make sure you have it and then we can evaluate that and work on it.

Mr. DASCHLE. Madam President, I offer a unanimous consent request that the Senate complete its work on the Patient Protection Act by 6 o'clock tonight, and we have final passage by 6 o'clock tonight. If we can agree to that right now, I will move to the supplemental at 12 o'clock this afternoon.

Mr. LOTT. Madam President, I object to that. Obviously, I have to consult with the managers of the legislation on our side about the amendment list, which is very long, and I have it now, and about what is possible in terms of completing it. I don't think it is possible at all to set an arbitrary time, in view of the very serious amendments that are pending on the Patients' Bill of Rights. So I object to that request.

The PRESIDING OFFICER. The original request of the majority leader is still pending. Is there objection?

Mr. STEVENS. Reserving the right to object, Madam President, I am constrained to say with due respect to the leader and the majority leader and majority whip, I find it very difficult to deal with the concept putting ahead of this supplemental the completion of two very controversial items. We know the House is going home, and having spent 8 years here on the floor as leader, I can tell you I have never seen the time when any Senate could dominate the House. We have a bipartisan agreement to go home. They have told me they will stay if we get this bill done and over there today.

I do believe that the interest of national defense should come ahead of concepts that we are dealing with here in terms of whether it is the Patients' Bill of Rights or organization of the Senate. We know people will be told they cannot train in July and August unless we get this bill done this week. It is not something on which we have been dilatory. We have been trying for a long time.

I have great respect for the leader and the assistant leader, but I cannot stay silent and have a concept that because the leader has stated these things must be done, they must be done before the supplemental is brought up. That is unacceptable to this Senator. I think it is unacceptable to the Senate. I hope it is.

I say with great humility now that the needs of our people in the armed services must come ahead of concepts of scheduling or prerogatives here on the floor. These needs are very real. We have twice held hearings now where the chiefs have told us what is going to happen if this bill is not signed by the President before the Fourth of July.

Even the concept of taking up and passing it now and letting it wait for the House to come back is unacceptable to me because, again, we all travel and we know you can't let the House go home and expect they will come back here on July 3 just before the Fourth of July. You can't travel in this country that easy during that period.

So I plead with the Senate, let us proceed with this bill. We should put aside all other desires. There is no timeframe on the Patients' Bill of Rights that matters to this country. It is a bill that must be passed, and I am going to vote for it. But it does not have the urgency of this supplemental.

This supplemental deals with more than that. It now deals with matters that are emergencies coming out of the disasters that have happened in this country this spring.

I hope the leader will accept my comment that I mean no offense to him. I have served under several leaders, and I admire both Senator DASCHLE and Senator REID for what they are doing. But it is unacceptable to me to say no in terms of a request that has come on a bipartisan basis to put this bill aside for a few hours and pass a bill as important to the military of this country as is this supplemental.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, I remind my dear friend and colleague, the Senator from Alaska, in 1999, we took up the Patients' Bill of Rights under a unanimous consent request and passed it in 4 days, with 17 amendments. Now we are told we can't do it in 2 weeks. While we may differ on whether the supplemental is more or less important than the Patients' Bill of Rights, I would hope we could all agree that completing action before we leave on a supplemental dealing with the safety of our troops is a top priority. The Pentagon places an extraordinary priority on this legislation—so much so that the Commander in Chief called me to ask that it be done this week. Certainly we can agree it is more important than fishing or any other kinds of vacation we could be taking next week. While there may be some differences on other issues, I would think there would be unanimity that getting the supplemental done is more important than taking a vacation.

So that is what the issue is. We are not going to take a vacation until we have completed action on the supplemental. We are not going to leave until this is done. This is something that not only has been requested by the Pentagon but by the Commander in Chief as well; I would hope if the President makes additional calls, he will call the House and say: Don't leave until we get this done. You have heard the Pentagon. Don't leave until this is done. Vacations are secondary to work. We have to get it done.

I yield the floor.

The PRESIDING OFFICER. Has an objection been heard?

Mr. STEVENS. Reserving the right to object, that is a little bit of a cheap shot. I am not talking about a vacation. I am willing to stay here as long as any other Senator. I am talking about the realities of the House. Leader, I am not going to forget that. That was a cheap shot, and for the time being, I object to the request.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 831

The PRESIDING OFFICER. Who yields time on the amendment? The Senator from Missouri.

Mr. BOND. Madam President, I reserve the remainder of my time. I believe there is more time on the other side. I want to give the other side their remaining 19 minutes, but I believe we only have 2 minutes. I reserve those 2 minutes for the end of the debate, and I do have a couple of minutes after they have had an opportunity to present their case.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, with the consent of Senator KENNEDY, I yield myself such time as I may consume, recognizing the Senator from North Dakota wishes to be recognized. I will not take long.

Many years ago, before I came to Congress, I practiced law. I was a lawyer. I was a trial lawyer. I am very proud of that fact.

With that brief background, I received a call last night from a lifetime friend. I have not talked with him in a while, but we went to high school together. We played ball together. We were inseparable friends. He did not have my phone number. I had moved. He called my office and said it was urgent.

He called because his son was in trouble. Why? Because they had hired a cheap lawyer. His son was in trouble, and they hired a cheap lawyer. The young man is now in jail.

My friend from Missouri is a lawyer, a fine lawyer, I am sure. I refer to the pending amendment as the "cheap lawyers amendment." You cannot find decent lawyers to take a case for 15 percent. Almost 50 percent of the cases in our Federal court system take 4 years to litigate, with files stacked as high as my desk. People work to prepare those papers representing people who are injured, hurt, and need an attorney. That is why we have contingent fees. It is hard to find lawyers to take even a good contingent fee case because they have to consume so much time and effort.

Of course, there are some people who are paid too much, I am sure, because they put in the time and it is a contingent fee. I sold my home in Virginia within the past year. The woman who sold my home was a good realtor. I tried to find the best I could. I signed a contract with her. She made a ton of money on my home. She worked about a week. I don't know, but she probably took a lot of time off during that week. My home sold in a week. She made a lot of money for the few hours she spent on my home, but that is the way America works.

If we have people who need help, we need to have the full panoply of lawyers available so they can get a good lawyer.

My friend from Iowa had a chart and peeled off medical bills: These people are going to get their medical bills. Well, isn't that too bad. If someone does something wrong, should they not pay your medical bills? Do you need to have a lotto, as he says, a lottery to get your medical bills paid? I hope not.

We have heard mentioned several times, if we are concerned about attorney's fees, how much are these attorneys for these big HMOs making to prevent people from getting medical care? Let's take a look at that.

We talk about these cases in the abstract, but the fact is that attorneys, whom everyone wants to hate, are necessary; they help. I am proud of the fact I was a lawyer. I have four sons. Every one of them is a lawyer, and I am proud of the fact that they followed in the footsteps of their father. My daughter is a schoolteacher. She married a lawyer. I am very happy for that.

We do not have to be shameful, concerned, or embarrassed about some lawyers getting paid a contingent fee. That is how people who are injured and hurt are allowed to take those cases.

Fifteen percent will discourage representation by good lawyers. My friends on the other side of the aisle talk about the sanctity of contracts. Why do we want to step in and tell States what lawyers can be paid based on a contract they get?

This amendment is only to protect HMOs, as all the other amendments from the other side, to try to derail this legislation. This amendment is a frivolous amendment. It has nothing to do with the merits of this legislation.

Mr. DORGAN. Mr. President, will the Senator from Nevada yield?

Mr. REID. I will be happy to yield to my friend from North Dakota.

Mr. DORGAN. The Senator from Nevada and I had a brief discussion previously about this issue. He is correct that this amendment attempts to limit the ability of patients to hold HMOs accountable.

The discussion by those on the other side who have offered this amendment talks about lawyers in a pejorative way on behalf of patients. Does the Senator know of any attempts by those who have offered this amendment to limit HMOs, managed care organizations, from using lawyers, or is this just saying we will limit patients from using an attorney to go after a managed care organization that did not provide the care they promised, but we will not limit managed care organizations from using attorneys to do whatever they want to do?

Mr. REID. Madam President, I answer as follows: Of course, there is nothing in the way of amendment to limit what attorneys for these wealthy, big, sometimes brutal HMOs are paid. But remember, I say to my friend, that people who are seeking help from a lawyer are looking for a lawyer who will do it not on an hourly basis but who will do it on what is called a contingent-fee basis. They have no money to hire one of the big HMO lawyers, so they look around and find somebody who will take their case on a contingent-fee basis.

I say to my friend, a 15-percent contingent fee will not get a good lawyer. It will be like my dear friend who called me last night. In effect, the client will not wind up in jail but will end up with no compensation.

Mr. DORGAN. I ask my friend from Nevada to yield further for a question.

Mr. REID. I will be happy to yield to my friend for a question.

Mr. DORGAN. Is it not the case that this entire process, this debate on the Patient Protection Act, is an attempt to balance things a bit; that patients do not have the ability to confront a big managed care organization?

The Senator from Nevada knows the story we have talked about coming from his State: Christopher Roe, a circumstance where a 16-year-old boy was fighting cancer at the same time he was fighting his managed care organization for treatment and care he needed. That is not a fair fight, asking a young boy to fight an insurance company and fight for his life at the same time. That young boy lost his life on his 16th birthday.

The question is, Do those patients and their families have the right to get an attorney to hold the managed care organization accountable to deliver the care they promised? Do they have that right?

We have an amendment pending that says: No, we are going to limit the rights of the patients, we are going to limit the rights of citizens, but we are not interested in limiting the rights of the managed care organizations because we want to stand for them rather than standing for patients, and that is the issue.

Mr. REID. In answer to my friend, I have a CRS report that talks about awards of attorney's fees by Federal courts and Federal agencies. It is big. I know of no other Federal attorney fee statute that affects a State system.

This amendment is wrong. I appreciate very much my friend from North Dakota, who is not a lawyer, standing up and speaking for the injured people and the potentially injured people of America.

Mr. KENNEDY. Madam President, I ask for 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I rise in opposition to the amendment that has been offered. We have seen the efforts of the HMOs to undermine this legislation in different ways over the last few years. We were unable to bring this matter up for consideration by the Senate and get full consideration of the bill when we wanted to. This happened even during the last term when a majority of the Members would have supported a good, tough, effective Patients' Bill of Rights. We have seen over the past days constant efforts to undermine this legislation.

We see another effort to try to appeal to the Members about the excessiveness of decisions made in the courts to reimburse individuals in terms of wrongdoing by other industries.

The fact is, as we are reminded by our colleagues, we have spent 3 days talking about the sanctity of the contract between the HMO and the patient. We have had amendment after amendment saying, look, this is enormously important. We do not want to permit any changes in that contract. We want to stick with that contract. We want to hold to that contract. Now with the Senator's amendment we are saying basically that we are going to ride roughshod over contracts that are decided, permitted, and authorized by law in the States between attorneys and their clients.

I have listened a great deal to talk about how Washington doesn't know best; how we don't want just one solution to solve all of our problems. We had that debate early this morning and last night. We now have one solution: to override States in terms of what decision the States make for compensation going to court.

The fact is, how many working families, and how many middle-income families are going to be able to go out and hire lawyers? For the time it will take to get some kind of recovery after they have been wronged, how many are going to be able to do that and follow this through the State courts? How many will be able to do it after they have been hurt, after their child has been disabled, after a wife or husband has been killed? How many? Very few. The fact is, they are not going to be able to be compensated unless they are able to convince a jury they are right, that there has been wrongdoing.

Does that bother people in the Senate? Evidently it does. There are only a very few Americans who can afford the high-priced lawyers to go into court and pursue this. This amendment undermines it for the rest of the people. It undermines it for working families, undermines it for middle-income families. That is the record. That is what has been done.

It doesn't surprise me. We have seen the powerful special interests overturn ergonomic regulations which were there to protect working families. Then we have the undermining of funding for the enforcement for protecting our air. There has been undermining of funding for protecting OSHA, effectively cutting back on the protection of workers. We are undermining regulations to protect workers, undermining the enforcement mechanism to protect consumers, and now they want to take this right away from individuals who will be harmed because of HMOs.

It is a common pattern. It is all targeted by the major financial special interests versus the consumer. That is what this is about. They don't like to hear about it. They keep offering amendments that are couched in other language about all the people that will be unemployed. However, it is the power of the HMOs against the little guy.

This amendment says the little guy will not be able to defend their interests in court. That is what this is about.

Make no mistake. They can't deal with us in giving protections to the consumers. They are going to take them away by denying them the rights to enforce them. That is what this is about.

Expect that after we have this percentage, it will go a little higher, and then try to go even higher. Every time it does, it is an insult to middle-income and working families and individuals who will be harmed. Make no mistake, it is another assault on the fundamental protections of this act. That is what this amendment is about. I hope it will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. How much time remains?

The PRESIDING OFFICER. The Senator from Missouri has 3 minutes.

Mr. BOND. I want to respond. Does the other side desire more time?

Mr. KENNEDY. I don't think so. It depends on what the Senator says. We don't intend to at this time.

Mr. BOND. How much time remains on the other side?

The PRESIDING OFFICER. Five and a half minutes.

Mr. BOND. I yield myself the remaining time. I think some of the things that have been said deserve to be answered.

Our efforts are not to undermine a bill but to deal with very bad provisions in the bill which skipped the committee, did not go through committee markup. We are marking up a bill now which we should have marked up in committee. It has come to the floor and we are a committee of the whole.

There are things that are in there that are very bad for patients, employees, particularly of small business. Why are we inserting the Federal Government into restricting attorney's fees? The States in this Nation have limited attorney's fees because they recognize the abuses of the trial lawyers. Under this bill, we are inserting the Federal Government into areas that the States have already acted on, and they have acted on them and provided limits on the amount that trial attorneys can take so the injured party can recover.

We have heard about the powers of special interests. Let me state who the special interests are that have a big stake in this, the four top trial lawyer PACs: Trial Lawyers Association of America; Williams & Bailey; Ness, Motley; and Angelos Law Offices, have given over $8 million, more money than all the HMOs together have given in politics.

If you want to talk about special interests, there are special interests on the other side, as well.

We believe the measures we brought forth are good for employees, for people who not only want to be able to appeal the decision of an HMO, but they want to have health coverage.

Somebody suggests there have not been problems with fee structures. They are not in this bill. We know from the State experiences that there can be a tremendous amount of wasted money.

I urge my colleagues to support this measure.

I yield to my distinguished colleague from Tennessee.

Mr. FRIST. Madam President, I rise in support of the Bond amendment. This is a Patients' Bill of Rights and we should focus on the patient. We are talking about a patient who has been harmed or injured, gone through an appeals process and through the court. If there is a multimillion-dollar suit, it should be to help the patient, not to fund the pockets of the trial lawyers.

This is a Patients' Bill of Rights, not a trial lawyer bill of goods.

Mr. KENNEDY. Madam President, every time you pay the HMO lawyers, that comes out of patient protections. So the point raised is, if you put a limitation on the trial lawyers because they are going to get the benefits, why not put a limitation on the attorneys for the HMOs so it doesn't come out of patient protections?

But they won't do it. They won't do it.

I yield the remainder of our time.

Mr. REID. What is the matter before the Senate now?

The PRESIDING OFFICER. Amendment No. 831.

Mr. REID. All time is yielded back?

The PRESIDING OFFICER. Time has been yielded back.

Mr. REID. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—62

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Shelby
Specter
Stabenow
Thompson
Torricelli
Warner
Wellstone
Wyden

NAYS—38

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Craig
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thurmond
Voinovich

The motion was agreed to.

Mr. KENNEDY. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued the call of the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

AMENDMENT NO. 833

Mr. WARNER. Madam President, in consultation with the managers of the bill, it has been indicated to me this will be an appropriate time for this amendment to be raised. I send it to the desk and ask that it be given immediate consideration. However, we have to set aside, as I understand it, the standing order with regard to the Snowe amendment. I first ask unanimous consent that it be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object—and I will not object—we have been in consultation for the last hour or so. Senator SNOWE of Maine is in the process of having her amendment drafted. She is a half hour away from being able to present something in writing that we can give to the Senator from New Hampshire. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 833.

Mr. WARNER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the amount of attorneys' fees in a cause of action brought under this Act)

On page 154, between lines 2 and 3, insert the following:

"(11) LIMITATION ON AWARD OF ATTORNEYS' FEES.—

"(A) IN GENERAL.—Subject to subparagraph (C), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys' fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action) may not exceed the sum of the amounts described in subparagraph (B).

"(B) AMOUNTS DESCRIBED.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

"(i) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of attorneys' fees awarded may not exceed an amount equal to ⅓ of the amount of the recovery.

"(ii) With respect to a recovery in such a cause of action that exceeds $100,000 but does not exceed $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 25 percent of such excess recovery above $100,000.

"(iii) With respect to a recovery in such a cause of action that exceeds $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 15 percent of such excess recovery above $500,000.

"(C) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of an award of attorneys' fees required under subparagraph (A) as equity and the interests of justice may require.

On page 170, between lines 21 and 22, insert the following:

"(9) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, subject to subparagraph (B), a court shall limit the amount of attorneys' fees that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of attorneys' fees that may be awarded under section 502(n)(11).

"(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of attorneys' fees allowed under subparagraph (A) as equity and the interests of justice may require."

Mr. WARNER. Madam President, I will do something unusual. I am actually going to read the amendment myself such that colleagues and those observing floor operations from their offices can have a clear understanding of exactly what is in the amendment.

Further, I do not desire to consume a great deal of time in the debate because we have just had a very thorough debate on the generic subject of attorney's fees. Therefore, the Senate has pretty well framed in their minds the parameters in which they will or will not accept an amendment that has the effect of, in my judgment, preserving a reasonable amount of attorney's fees and at the same time allowing such awards as those attorneys obtain for their clients to be given; again, with the thought that it is a Patients' Bill of Rights and they have a right to get a reasonable amount of such recovery as is obtained from them.

I shall read from the amendment—it is very short—and say a few words, and then rest my case:

On page 154, insert the following: Limitation on award of attorneys' fees——

(A) In general.—Subject to subparagraph (C), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys' fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action)—

In other words, that would be awarded by the court without any restriction except to the court itself——

may not exceed the sum of the amounts described in paragraph (B).

The sums I am about to recite, we carefully researched all types of actions similar to this to get a scale of attorney fees which I felt was clearly reasonable.

(B) Amounts Described.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

(i) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of the attorneys' fees awarded may not exceed an amount equal to one-third of the amount of the recovery.

In years previous to coming to the Senate and other various jobs, I was actually a member of the bar and practiced law. I was assistant U.S. attorney in a modest trial practice myself. That has sort of been a standard for many years in the bar, the one-third.

(ii) With respect to recovery in such a cause of action that exceeds $100,000 but does not exceed $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 25 percent of such excess recovery above $100,000.

(iii) With respect to recovery in such a cause of action that exceeds $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 15 percent of such excess recovery above $500,000.

(C) Equitable discretion.—A court in its discretion may adjust the amount of an award of attorneys' fees required under subsection (A) as equity and the interests of justice may require.

In other words, a judge may look at this fee schedule and decide, this particular counsel has done a great deal of work and, therefore, I believe I should raise his fee within the parameters of the section itself.

Further:

(9) Limitation on Attorneys' Fees.—

(A) In general.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, subject to subparagraph (B), a court shall limit the amount of attorneys' fees that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of the attorneys' fees that may be awarded under section 502(n)(11).

(B) Equitable discretion.—A court in its discretion may adjust the amount of attorneys' fees allowed under subparagraph (A) as equity and interests of justice may require.

This amendment simply sets, in my judgment, a reasonable category of fees. I have tried, as best I can, not to tread, by virtue of States rights, on the right of the State to administrate its own bar and the like. I felt that discretion should be given to the trial judges, Federal and State, such as they can adjust that schedule of fees as they see fit.

The Senate, again, has, in a very thorough discussion under the Bond amendment, covered these issues and has in mind, again, its own framework wherein we can legislate on this matter by amendment or not legislate.

At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I thank the Senator from Virginia for his efforts. I think there is an agreement that there needs to be a cap on attorney's fees. It is my strong sense and belief that if we had a cap of 33.3 percent that applied to Federal and State courts, that would be accepted by the majority of this body.

What I worry about is us just going back and forth with escalating amendments. There are very few benefits of old age. One of them is to remember what happened in the past. When we were doing the tobacco bill, we had amendment after amendment, a series of amendments, on caps on lawyer's fees. It got a little ludicrous. We finally had a majority vote for $1,000 an hour. It was clearly not an effort at legislating, but it was an effort at some kind of political advantage. I know that is not the intention of the Senator from Virginia.

I hope that once this is debated and, if it is not accepted, that perhaps we could move to an amendment after Senator Snowe's amendment that would be around 33.3 percent, State, Federal court, end of it. That is going to make everybody unhappy, but I think it would be something that we could all support and then get this issue off the table and get to the very important issues such as resolution of exhaustion of appeals that Senators THOMPSON and EDWARDS are working on, liability issues. Senator FRIST has some important amendments, again, on liability issues, which we are narrowing down.

Hopefully, we can move forward. I thank the Senator from Virginia for his input.

Mr. WARNER. Madam President, if I might reply to my friend and colleague, there was no intention of the Senator from Virginia to repeat what is an historically important case on tobacco. I studied that case very carefully. There were, I think, three votes. My recollection is it was $4,000 per hour, at which time the Senate finally accepted. I would not participate in such a process. I just struck the one-third for the lower amounts of the recovery and basically scaled it to 25 and the other percentage as the rate of recovery increase. I would be happy to work with colleagues.

It goes to the question of just how much will be eventually given to the recipients who need these funds.

Mr. REID. Will the Senator yield for a question?

Mr. WARNER. Yes, of course.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The Senator from Arizona and the Senator from Virginia are on the right track.

This amendment, with all due respect to my dear friend from Virginia, is really—we have another 15-percent limitation in here above a certain amount. I think that the most expeditious thing to do would be to set this aside, for the time being, and get some of the lawyers and nonlawyers to sit down and see if they can work out something acceptable to the managers. I am sure if it were acceptable to the managers, we could accept this.

I ask my friend from Virginia, who believes he has talked enough on this, that we withdraw this amendment, for the time being, in anticipation of working something out that is clear and more concise.

Mr. WARNER. That is exemplified by the leadership the Senator shows time and time again on this floor. I don't view this as a partisan issue. This is an honest effort by the Members of the Senate to recognize that individuals should be given their rewards and the attorneys should be given fair compensation. Therefore, Madam President, unless other Senators wish to speak at this time, I will——

Mr. McCAIN. If the Senator will yield, I say to my colleague from Virginia, if the outcome of this amendment is not to the Senator's satisfaction, then I hope we can enter into negotiations that on a reasonable level—again, I just plucked 33⅓ percent because it is in there in one category, across the board, simple, two lines, and perhaps we can move on.

I know the Senator from Virginia, as well as the rest of us, doesn't want to be hung up on a series of votes that are iterations over the same issue. It seems that we can sit down and come to some reasonable agreement, which the other side of the aisle would strongly resist applying to State court, and this side would resist it on Federal court. It is something to have a substantial majority vote for. I hope the Senator agrees to enter into those negotiations.

Mr. WARNER. Madam President, I ask for the yeas and nays before I take the action.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. REID. Madam President, if the Senator really wants a vote on this, we will be happy to give it to him right now. I don't think it is the right thing to do. I suggest to the manager and my friend from Virginia, why don't we set this aside for a few minutes to see if we can work something out to get the matter resolved. I think as the Senator from Arizona indicated——

Mr. WARNER. I am agreeable. I ask unanimous consent that this amendment be set aside.

The PRESIDING OFFICER. Without objection, the amendment is set aside. The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. REID. Madam President, it is my understanding, under the order that is in effect, we will go to the Snowe amendment with the purpose of offering the amendment under a 4-hour time agreement.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Maine.

AMENDMENT NO. 834

(Purpose: To modify provisions relating to causes of action against employers)

Ms. SNOWE. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON of Nebraska, Mr. SPECTER, and Mr. MCCAIN, proposes an amendment numbered 834.

Ms. SNOWE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Ms. SNOWE. Madam President, I rise today to offer an amendment along with my colleagues Senator DEWINE, Senator LINCOLN, and Senator NELSON, who worked so hard, so diligently in crafting this compromise. Senator MCCAIN and Senator SPECTER are coauthors of this amendment as well.

The amendment we are offering today is designed to bridge the gap that exists between the supporters of the McCain-Edwards-Kennedy approach to employer liability in the Breaux-Frist-Jeffords bill.

I commend Senators MCCAIN, EDWARDS, and KENNEDY for their willingness as well as their patience to work with us on resolving the many issues that are associated with employer liability.

Everyone involved has had the same goal essentially, and that is to protect employers from liability when they are not participating in making decisions concerning the health care of employee beneficiaries.

The discussion has really focused on how best to achieve that goal. This is an incredibly complex liability issue that has far-reaching consequences, and everyone who has been part of this discussion and this effort to reach this consensus recognizes that fact and has worked in good faith to arrive at a solution that we can live with and, more importantly, employers can live with and not denying care that patients rightly deserve.

This is an issue that is significant on a number of different levels. First of all, to what extent will employers that voluntarily offer health insurance be exposed to liability. To what extent will employers be involved in the decisionmaking process in terms of the provisions of health care for their employee beneficiaries, and perhaps more important, will patients have legal recourse should they have a grievance concerning the care they receive through their health care plan.

The goal we all share in designing and crafting this amendment to the McCain-Kennedy-Edwards legislation is how best we protect patients for their medical care without creating an expansive bureaucracy adding to the cost of providing that health care and generally creating an incentive to drive away employers from providing health care insurance to their employees which, as I said earlier, they do so on a voluntary basis. We should be commending employers for providing these benefits, not penalizing them.

We should also take great care to write a provision under which employees remain insured through their employers, while also protecting the employees' rights under their health insurance plans. What we do not want to do is create unintended consequences for employers by leaving legal questions open that can leave employers exposed to liability over matters in which they have no control and over matters in which they have not participated and having the resulting decision.

That is all the more significant when we realize there are more than 43 million Americans who remain without any insurance, and of those who have insurance, employers voluntarily provide health coverage to more than 172 million Americans. Obviously, what we do today is significant, and it will matter.

We cannot afford to have employers suddenly opting out of providing insurance to their employees because we do not want to create the unintended consequence that adds to the rolls of the uninsured in America. I think that is something on which we all can agree, and that is a very real risk. In fact, there was a recent poll taken of businesses in America, and it said that 57 percent of small businesses said they would drop coverage rather than risk a lawsuit.

As one businessman in my State wrote to me recently:

> We're not an HMO or an insurance company. We are an employer. We cannot afford the time, expense, and aggravation of litigation. And, please, make no mistake, that is what this is about.

So we approach the issue of reconciling the differences between the two approaches by addressing the question: What language will deliver us to that mutual goal? We assess what was really the best qualities of the McCain-Edwards-Kennedy legislation, as well as the Breaux-Frist-Jeffords issues.

Ultimately, the solution we came to was a melding of the two approaches. The result was to provide employers with varying levels of liability protection depending on their involvement in the decisionmaking process but regardless, patients will have the legal recourse they deserve, no matter what.

There are many other issues that need to be resolved in this legislation. I realize this represents one facet, the liability question, that has been raised by others with respect to this legislation, and this is not intended to address all of those questions, but clearly it does address a most important issue when it comes to subjecting employers to litigation and liability.

Let me take a moment to explain the differences between the McCain-Edwards-Kennedy legislation and the Breaux-Frist-Jeffords approach and the approach we are taking in the amendment we have offered to S. 1052 and how our amendment affects the underlying legislation and addresses the concerns that have been raised about the net legal impact on employers.

Essentially, there are several categories we are attempting to address today when it comes to employer-sponsored health care insurance.

First, there are employers that contract with an insurance company that, in turn, pays beneficiary claims and administers the plans and the benefits.

Second, there are employers that fund a plan but leave the actual administration of the plan to an outside entity, generally an insurance company.

Third, there are those who both self-insure and self-administer, in essence creating their own insurance company within their existing business.

The McCain-Edwards-Kennedy legislation as written allows a suit against any employer if it directly participates in a decision that harms or results in the death of a patient. Direct participation is defined as the actual making of a medical decision or the actual exercise of control in making such a decision or in the conduct constituting the failure.

The bill then goes on to offer specific circumstances that do not constitute direct participation, including any participation by the employer or other plan sponsor in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent, or any engagement by the employer or other plan sponsor in any cost-benefit analysis undertaken with the selection of or continued maintenance of the plan or coverage involved.

While the bill language does not provide an exhaustive list of exceptions, it does allow an employer to offer into evidence in their defense that they did not directly participate in decisions affecting the beneficiaries of the health care plan.

That suggests while employer protections would be provided under the legislation, an employer would still have to go to court to make its defense. As with any such legal language, direct participation obviously can be open to legal interpretation, and that precisely is the circumstance which we are seeking to avoid and prevent.

Under the Breaux-Frist-Jeffords legislation that was introduced, the language provides for a designated decisionmaker, or DDM, which in most cases would be the insurance company an employer contracted with to be the party that is liable for medical decisions and, therefore, the party could be subject to liability. In other words, the employer would designate the DDM as the responsible party to shield itself from that liability. If an employer chose not to designate a DDM, they would have no protection from that liability.

An argument that has been made against the Breaux-Frist-Jeffords language is if the DDM is a person designated within a company that self-insures, for example, they could under the employment law attempt to escape liability by claiming that ultimate decision came from the employer; that they, as a DDM, did not make a final decision on a particular beneficiary's case. In an effort to improve the Breaux-Frist-language, we designate that when a contract is signed with the employer, the DDM cannot mount any such defense, that somehow they defer the liability, defer the suggestions that the employer somehow participated in making the decision.

In an effort to improve the employer liability provisions, we encompassed key provisions of both models in the legislation while addressing their inherent weaknesses so we can attain our shared goals.

First, our amendment allows employers that turn their health care coverage to outside insurance companies, that their insurance company will automatically be their designated decisionmaker unless they specifically choose not to have a DDM. This is built directly on the Breaux-Frist-Jeffords model in which the decisionmaking authority shifts to the DDM, which will in most cases be the insurance company. Under this approach, an employer would not have to take the extra steps to secure a designated decisionmaker and would not be required to go to court to file papers or to make defenses against any actions they may have taken. In other words, they would not have to do anything different than what they are doing today with a contract with an insurance company.

When they sign up with an insurance carrier that will provide benefits to their employees and administer the benefits, they are then signing up with, essentially, a designated decisionmaker, and they are signing up as well for a safe harbor from liability in both medical as well as contractual decisions.

Where we depart from the existing Breaux-Frist language is we clarify since the DDM, which is also the insurance company, has assumed full responsibility at the time the employer and the insurance company signed a contract, the designated decisionmaker would be prevented from turning around and assigning the employer for some failure that resulted in a lawsuit from a beneficiary. In other words, the dedicated decisionmaker can't transfer liability to the employer because of something the employer does or failed to do.

The legislation we have introduced today to modify the McCain-Edwards-Kennedy legislation delineates specifically that the dedicated decisionmaker is responsible for a contractual arrangement as well as exclusive authority for any medically reviewable decisions.

For employers that choose not to have a dedicated decisionmaker, for whatever reason, and for those employers that prefer to continue to be self-insured but contract out the administration of their health care plan, we leave in place the general McCain-Edwards model in the underlying bill that protects employers insofar as they do not directly participate in the medical decisionmaking process.

Again, as I outlined earlier, direct participation is defined as the actual making of a medical decision, the actual exercise of control in making such a decision or in the conduct constituting the failure. These are two of the changes we have made in the amendment we are presenting today from the underlying McCain-Edwards legislation.

In our amendment, we eliminate one element of the bill that would have potentially led to the filing of lawsuits on a variety of grounds unrelated to specific medical decisions impacting individual beneficiaries. The language is, in layman's terms, broad and nonspecific and potentially exposes a defendant to a wide array of nonlegal actions. If additional grounds for lawsuit should be added to the legislation, we should delineate and specify them and not have broad language that essentially leads to a legal potpourri.

Striking this language does not affect the ability of the patient to seek remedy in court for medical decisions made in their particular circumstance. But it does prevent a whole new arena of lawsuits from being created that would heighten an employers' exposure to liability.

In addition, our amendment also modifies the underlying legislation to ensure that self-insured, self-administered plans, employers, and union health care plans will not be subject to lawsuits under Federal law simply because of contractual disputes. This change is critically important when considering that self-insured, self-administered plans do not have the ability to assign liability to a dedicated decisionmaker. As a result, they may opt to simply stop offering insurance for employees altogether rather than risk a substantial judgment on a contractual matter. That is a result, again, we simply cannot afford if we are going to ensure that people have the kind of health insurance plans in America in which they will continue to be insured, and that employers are the ones providing predominantly the health insurance in America today.

To describe our amendment in another way, we essentially are saying as an employer that is not self-insured, you can hand over all your decisionmaking and therefore your liability to a dedicated decisionmaker which will, in all likelihood, be your insurance company when you sign your contract with your insurance company. There is nothing more you need to do to protect your business from liability for the decisions that are made.

For the self-insured and for those who do not self-insure as an employer, you would still have the protections afforded under the underlying legislation if you don't directly participate in those decisions. In other words, employers who contract out their health insurance have a clear choice under our amendment, although once again I stress that under this amendment patients will still have the legal recourse regarding questions over appropriate medical care and medical decisions related to the beneficiary's plan, no matter which option the employer chooses.

The bottom line is we seek to protect employers from liability in cases where they are not making the medical decisions that harm patients or result in death while still protecting parents rights, which after all is the goal of this legislation.

Finally, let me assure my colleagues, under this amendment, dedicated decisionmakers would have to demonstrate they are financially capable of fulfilling their responsibilities as the party liable in causes of action. They could not be shell entities or sham individuals or organizations without the ability to actually pay the event of lawsuits.

The criteria the Secretary of Health and Human Services will require relating to the financial obligations of such an entity for liability should also include an insurance policy or other arrangements secured and maintained by the dedicated decisionmaker to effectively insure the DDM against losses arising from professional liability claims, including those arising from service as a designated decisionmaker. A DDM would have to show evidence of minimum capital and surplus levels that are maintained by an entity to cover any losses as a result of liability arising from its service as a designated decisionmaker. It would have to show that they themselves have coverage adequate to cover potential losses resulting from liability claims or evidence of minimum capital and surplus levels to cover any losses.

Once again, I think we have designed an amendment that represents a workable approach, that addresses some of the more serious and significant concerns that had arisen in the various pieces of legislation that had been introduced here in the Senate and with the underlying legislation we are seeking to amend today.

We try to meld the best of both approaches, to balance the concerns of businesses that do seek to voluntarily provide this most important, critical benefit to their employees. That is an incentive we want to maintain and reinforce in every possible way. But we also understand there are going to be those circumstances in which the employee has received inappropriate care that has resulted in significant harm, injury, or even death, and that they should have the opportunity to seek legal redress for that inappropriate care or denial of care. That is the kind of consideration we want to ensure in this legislation, without creating the unintended consequences or the disincentive for employers to say we just simply cannot afford to provide this health insurance for our employees anymore because we are going to be subject to litigation, to endless losses, and we do not want to put ourselves in the position of that kind of exposure.

I think this approach has been examined on both sides of the political aisle. More important, I think it has been embraced by this bipartisan group in the Senate, my colleague Senator DEWINE, who has worked so hard, Senator LINCOLN whom I see on the floor, and Senator NELSON. They have worked very diligently on behalf of this amendment to assure that we address all facets, all potential implications and ramifications associated with this approach, to hopefully address it in a way that will ultimately yield the best effect for both the employer as well as the employees.

I yield the floor. I will be glad to yield time to my colleague.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, let me thank my colleagues, Senator SNOWE and Senator LINCOLN, whom I see on the floor, and Senator NELSON, who have worked long and hard on this amendment.

The issue in front of us today is how do we help shield businessmen and businesswomen from liability at the same time providing access to the courts for people to sue HMOs. Everyone I think agrees, one of the things we worry about as we deal with this legislation is that we will do something that would cause businesses in this country to decide not to insure employees. That would be a very bad unintended consequence, so we have to be very careful as we write this legislation.

The amendment in front of us today is really a compromise. It is a compromise based on the Frist-McCain bills. It is a compromise on the issue of employer liability, how we best protect the employers while at the same time ensuring people their right in court. I think we have really blended these bills. I think we have the best of both worlds. The situation and the language are clarified and made simpler.

We started this debate with some basic principles on which everyone agreed. In both bills we agreed we wanted to try to protect businesses but at the same time we wanted to allow suits in limited circumstances against HMOs. The President agreed to that principle, and the two underlying bills do as well. This amendment, I believe, achieves that. This amendment effectively takes out 94 percent of businesses and provides them great protection. When you compare our amendment versus the underlying bill, it helps and improves the situation for the other 6 percent. We will talk about that in a moment.

My colleague from Maine has talked about this concept of the designated decisionmaker. What do we mean by that? What we mean is let's just make it simple and let's make it plain; let's have the employer say who is going to make those decisions and therefore who will be sued. In essence, what we are saying is once that decision is made, that employer is no longer going to be subject to suits; the designated decisionmaker will be.

How will this work in the real world? Let's say we have a small hardware store in Greene County, OH. Let's say they employ 12 people, and let's say what they do is they provide some health insurance and they do that by going out in the market, finding the best deal they can, and buying this group coverage for their 12 employees. Under this amendment, once they contracted with that insurance carrier, they would have automatically made that designated decisionmaker decision. They would have designated that automatically, that group as being the designated decisionmaker. They would have to do nothing. They cannot make a mistake. It takes no affirmative action on their part. That is going to improve the language we have in front of us.

The other way of doing it, the way the underlying bill did it, was to talk about direct participation. Frankly, I think the language in the bill was pretty good. But I think it needs to be improved. By having the designated decisionmaker, it is a lot more clear. What will happen as a practical matter is this. As we all know, anybody can sue anybody. We cannot prevent suits, but we certainly can discourage them, and we certainly can provide when suits are filed against a business, the business has the ability to get out of that lawsuit very quickly. So by using the concept of the designated decisionmaker, as a practical matter, if a suit were brought against a businessperson, if a lawyer were foolish enough to file that suit, the business would simply have to go into court and file a copy of that designated decisionmaker decision and would be dismissed from the case. As a practical matter, this language significantly improves the underlying bill and will make a big difference.

Our amendment does build on the two bills in front of us, the two bills we have been talking about and have been considering, the Frist-Breaux bill and the underlying bill we have in front of us today, the McCain-Kennedy bill.

I believe our amendment would protect business owners from needless lawsuits as well as protect patients who rely on employer-sponsored health care plans for their medical needs. I believe this amendment brings together the best of all worlds by providing certainty, much-needed certainty to employers, employees, and, yes, to health care providers. That is something we desperately need in any patient protection bill.

Based on the designated decisionmaker concept in the Frist-Breaux-Jeffords bill, our amendment would automatically, as I have indicated, remove liability from small business owners and shift it to health care providers or other designated entities. In addition, our amendment stipulates this designated decisionmaker must follow strict actuarial guidelines and be capable of assuming financial responsibility for the liability coverage. This means the designated decisionmaker could not be a hollow shell, unable to come up with the money, the assets, to defend against potential lawsuits and financial damages and be able to satisfy those losses. Our language ensures that the designated decisionmaker cannot be a straw man, cannot be a sham that has no ability to pay a patient in the event a lawsuit is filed and that damages are in fact awarded.

In creating the designated decisionmaker process, it makes it easier for employers that provide health insurance coverage to be protected.

We think that is a major step forward for businesses, and especially for patients.

I say that because the fear of being sued often becomes so great that employers simply stop offering health care coverage. We don't want that to happen under this bill. We simply can't let that happen. The reality is in this country that already there are more than 42 million Americans, including 10 million children, who have no health care coverage. The last thing we want to do is add to this number.

Our amendment greatly diminishes the likelihood that employers will stop offering health care coverage. Again, we believe it is the best of both worlds as it allows patients the ability to sue the designated decision maker if they are denied medical benefits to which they are entitled by their health plans. But at the same time it protects employers from unnecessary and costly lawsuits.

Under our amendment, employees would have the comfort of certainty and the comfort of knowing that the designated decisionmaker is ultimately responsible for health care decisions and, therefore, that individual or that entity bears the liability for a lawsuit.

In another effort to keep employees insured, our amendment also adds language to the underlying McCain-Kennedy bill to limit the liability of businesses to self-insure and self-administer their health care plans. The fact is that these employers are assuming additional risk by financing and by administering health care coverage to employees. To that extent, I believe we must take their unique circumstances into consideration. This amendment does that.

Ultimately, our objective is to encourage employers to offer and to continue to offer their employees health care coverage. We don't want to discourage them out of fear that they will be sued.

The reality is that these self-insured and self-administered plans are doing some very good things for their employees. We want them to continue to do these good things. Our amendment will help them keep their employees, their families, and their children insured. That is what the Patients' Bill of Rights should be all about.

Further, our amendment improves the original Frist language by making very clear exactly who is liable. The amendment leaves no room for ambiguity because it would not allow the designated decisionmaker to be broken into sub-decisionmakers. One, and only one, entity would be the sole bearer of liability. We think that is an improvement.

Finally, our language would strike vague and ambiguous language in the underlying McCain-Kennedy bill that is of great concern to employers. This language is a catch-all section of the bill that could open employers to a flood of lawsuits simply because of the imprecise nature of the language.

Let me read the exact language currently in the Kennedy-McCain bill in regard to the cause of action relating to provisions of health benefits. There is the (ii) section. This is what is in the underlying bill:

> Or otherwise fails to exercise ordinary care in the performance of the duty under the terms and conditions of the plan with respect to the participant or beneficiary.

We believe this language is simply too vague. We eliminate it in regard to businesses and their potential liability.

This language that I just quoted creates an explicit cause of action. This means employers could be the subject of lawsuits that none of us currently has any way to anticipate. The language is broad. It is too broad as currently drafted. Our amendment would completely remove this section.

Finally, I think we must recognize what this amendment does, but also we need to be very clear about what it does not do. Does this amendment solve every problem with this bill? The answer is that it does not. It does what we have said it does. It deals with the heart of the liability problem in regard to businesses, but it does not solve all the problems.

I think it is important for us to have truth-in-labeling with this amendment. It is a good amendment. It is a probusiness amendment. It is an amendment that will encourage business men and women to do what we want them to do, which is good public policy, to insure their employees. It will give them important protections. It will give them more assurances.

That is why we ought to pass this amendment. It is a significant improvement over the underlying bill that is in front of us.

But it does not solve all the problems. It only deals with a portion of the pie. It does not deal with the caps issue. It does not deal with where the lawsuits should be brought and the issue of whether they should be brought exclusively in the Federal court or in the State court. It does not deal with the class action question, about which I am very concerned. And I know my friend from Tennessee has been working on this issue as well. It does not deal with the class action issue. I intend to have an amendment later today or tomorrow in regard to the class action issue.

We want to say what it does. It helps businesses do the right thing. It encourages people to continue to insure their employees. But there are many things it does not do.

I would be more than happy to yield to my colleague.

Mr. GREGG. Madam President, I appreciate the Senator's effort. I haven't had a chance to digest all of it. I understand the intent and the thrust as described by the Senator from Ohio, which I think is appropriate and good.

As I look at the first section, I am wondering. It appears to me that under the definition section it draws union plans in, and they are being given a special status which is really higher than a self-employed plan is given. I am wondering why union plans are suddenly being raised to a special status under the amendment.

Mr. DEWINE. I would be more than happy to answer the question.

In the original language that we have been negotiating for the last few days, we could not figure out any way to really help the roughly 6 percent of businesses that self-insure and self-administer.

My colleague Senator LINCOLN has brought to our attention and businesses have brought to our attention the fact that this amendment as originally written really did not help those 6 percent. Why? Why originally didn't it help? The basic problem is they do make medical decisions. They are really effectively operating as their own HMO.

We thought about how to protect them and give them some help while at the same time preserving their employees' rights to sue just as everybody else has. We came up with a compromise. My colleague Senator LINCOLN may want to get involved in this and explain it a little bit. But basically it says for those self-insured, self-administered plans, we carve out a special exemption for them because of the special status. We say they are excluded and exempted from lawsuits brought in the Federal court on the nonmedical decisions based on the contract decisions. That is a break they are getting. We think it can be justified by what they do because we want to encourage them to continue to do what they do.

Why is the other group that you have mentioned included? They are included because they operate basically the same way the self-insured, self-administered businesses do. They basically take the risk. They basically make the medical decisions.

I appreciate the question, but I would disagree with my colleague the way he has categorized it. This is no special break for unions. This is treating people who operate the same way the same way in the language. I cannot come up with any way to justify carving them out and not giving them the exception because they are operating under the same principles that they are basically self-insured and are basically making the medical decisions, and doing it the same way.

So when you compare apples to apples, you ought to treat them the same. That is why we did it. We think it is justified. We think it makes sense. The option, candidly, would be not to give the 6 percent of businesses this break, not to give them the encouragement to try to get them to continue to do what they are doing. But we came to the conclusion that we should try to help them. We are not helping them immensely, but we are helping them.

Mr. GREGG. If the concept here is to treat everybody in the basket the same, then you have not necessarily done it, because union plans do use third-party administrators and therefore can designate, and a single-employer plan would therefore be more identifiable with the union plan. Yet, under your proposal, the single-employer plan basically is still liable. And that is 56 million people, by the way. Fifty-six million people fall into that category.

So you have exempted out the Wal-Marts of the world, maybe, that allow people to go out and get their health care, and then they come back and get their approval. And that exemption makes sense, but that exemption is not consistent with what unions do. So don't come here and represent to this Senate that it is because it is not. You have raised the unions to a brand new level of independent liability protection. So please do not make that representation.

Mr. DEWINE. I will reclaim my time. I thank my colleague for his comments.

The intention of the language is to treat people equally. If a union does in fact make the medical decisions and if they are operating in the same way that the Wal-Marts of the world are, they ought to be treated the same way. If they are not operating the same way, then they should not be treated the same.

Ms. SNOWE. Will the Senator yield?

Mr. DEWINE. Yes.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. The Senator from Ohio is exactly correct. We are treating all employers the same. In this instance, in this particular category, it is those employers who do not have a designated decisionmaker. That is the intent of this particular provision: To treat them equally so they are not subjected to liability when it comes to contractual matters, whereas other employers are not who contract with insurance companies and have a designated decisionmaker. That is what the intent is of this legislation. It is to treat them all equally and to draw that bright line.

We could say, let's not address the self-insured and self-administered programs. I do not think that is fair either because, obviously, they have a different kind of program, and we want to encourage that. We commend them for the kind of benefits they are providing their employees. They happen to be large employers, and they want to design their own internal program. But we don't want to subject them to litigation to which other employers are not going to be subjected. So that is the reason for the intent of this particular provision that happens to include union plans that are designed similarly.

Mr. FRIST. Will the Senator yield?

Mr. DEWINE. I am more than happy to yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. This is an important point, and therefore I think the colloquy is important so we can address it.

We have just seen the language for the first time a few minutes ago. The way I understand it, we have about 170 million people out there we are talking about in an employer-sponsored plan. There are about 6 million people who are in what are called self-insured, self-administered plans. Over the last 2 to 3 years, as we have tried to figure out how to treat these 6 million people in a fair way, we have struggled because it is hard. We have produced the designated-decision-maker model—which I am a great believer in; and I believe most people in this body, if they step back and look at it, are great believers in—but what you have in your bill is you have carved out those 6 million people and addressed the issue directly, but in addition to that, you carve out the unions.

The argument that was made is that the unions are self-insured, self-administered plans like the other 6 million; that these are union plans, and therefore they should be treated the same as self-insured, self-administered plans.

I think the Senator from New Hampshire and I would argue that the unions should not be carved out as well because—while a few may be self-insured and self-administered—the majority of the union plans are not self-insured and self-administered. Therefore, why are you giving this privileged position to the unions that are not self-insured and self-administered like the 6 million whom you targeted initially? That is the question I think the Senator from New Hampshire and I wish to ask you, because we like very much more the designated-decision-maker model.

I guess the question is, Are you contending that the union plans that you carved out are self-insured and self-administered plans?

Mr. DEWINE. If I could reclaim my time to answer the question.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I can tell you what the intent was. And, as you know, we have been drafting the language, and it has been going on and on. I can only tell you what the intent was.

I am more than happy to take a minute and look at that language again with your comments in mind.

The intent was to treat people who operated one way equally. In regard to unions, the intent was we would cover union plans that were the same as the Wal-Marts of the world which are self-insured and self-administered. That was the intent. It was not the intent to go one inch beyond that or to cover one group or one plan beyond that.

I will bluntly say, if the language in here is not consistent with that intent, we need to go back to the drawing board and look at the language. That was the intent of the four or five of us who were working on this issue. That was the specific intent, and that was the instruction that was given to staff.

If the lawyers did not come back with that language, and I did not catch it when I read it, I apologize, and we will look at that. But it is going to take us a few minutes to get the language out.

My understanding of what my colleague has said is that if a union does in fact operate a plan, and they are in fact self-insured and self-administered, he believes they should be treated the same way; anybody who runs a plan with those two qualifications should be treated the same way. Is my understanding correct?

Mr. FRIST. We have to be very careful.

Mr. DEWINE. If those are the facts.

Mr. FRIST. We have to be very careful whom we carve out. And then whatever definition we use for the carveout, we need to apply consistency to it.

Mr. DEWINE. I agree.

Mr. FRIST. I believe we should go back and look at the way the bill is written.

Mr. DEWINE. Let me suggest we take a look at that as we continue this debate. We have a little time to debate. Let us look at the language.

I again want to reiterate something, though. And I do not want any of my colleagues who are watching this back in their office or who are in this Chamber to misunderstand this. This is a limited carve-out. This is not a huge carve-out.

Basically, what this carve-out says is, because of the unique situation of the self-insured, self-administered plans, we are going to exempt them from lawsuits, based on contract, in Federal court—they are not going to be exempt from other lawsuits and in State courts, and based on medical decisions. So it is a limited carve-out. I do not want anybody who is watching this debate to think this is some huge carve-out. It is a carve-out on a limited basis. Our intent was to treat people equally who were in that unique circumstance.

I know my colleague from Tennessee has been wrestling with this for a couple years: How do you deal with these folks who have this unique problem?

I say to my colleague from New Hampshire, this may not be perfect, but we think it improves the status quo. That is sort of what we are about today: Trying to improve the status quo.

Mr. GREGG. Will the Senator yield?

Mr. DEWINE. No, I will not yield yet. We have had criticism of this amendment from people who say it does not solve all the problems. I came to this Chamber and said, no, it does not solve all the problems, but we are trying. And we are trying with this amendment. If we can improve the amendment, and if we can get the language more precise that does it, I will be more than happy to do it.

Yes, I yield to my colleague.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I think the language, as presently drafted, is in your definitional section of the amendment where you find "(ii) (II)." It says:

> a group health plan that is maintained by one or more employers or employee organizations described in [this section].

That essentially encompasses all union plans. Very few union plans do not use a third-party administrator, very few. So I think you want to tighten up that definition to make it clear that you are applying it to the self-insured, self-funded, self-administered plans, and then you would be picking up the same people that you are picking up under the Wal-Mart exception.

Mr. DEWINE. Reclaiming my time, that was our intent. If that is not reflected in the language, we will change the language.

I yield to my colleague from Maine.

Ms. SNOWE. The Senator from Ohio is making exactly the correct point. This particular provision was intended for those insurers, self-insured and self-administered plans, that obviously do not have a designated decisionmaker. I should further emphasize, all employers are treated equally when it comes to the idea that they participate in medical decisions on behalf of their employees. They are all treated the same. This particular area of the legislation is with respect to contractual decisions. We are attempting to craft out for self-administered, self-insured plans, and that includes union health plans that conform to that particular organization, that they would not be subjected to litigation that other employers would not be subjected to because they had designated decisionmakers.

We know self-insured, self-administered plans do not have designated decisionmakers. So we did not want to expose them to that kind of litigation in this particular section that delineates the causes of action. We were trying to treat all of the employers equally.

Mr. DEWINE. Madam President, I reclaim my time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, we have stated our intent. I think we ought to get about our business and come up with the language to do that, some possible language that we could use. It is always dangerous to try to draft language on the fly on the Senate floor.

I will at least throw this out for possible discussion. We could add "to the extent the Taft-Hartley Plan Act as self-insured, self-administered plans," something to that effect of basically qualifying so that you would get down to whatever the number is—I don't know what the number is—that are self-insured and self-administered. We certainly could do that. There is no reason that cannot be done.

Mr. GREGG. Is the Senator suggesting that additional definition? Is the Senator suggesting that definition, that expansion of the definition, that expanded language be placed on the definition section?

Mr. DEWINE. We could do it that way. If the Senator has a suggestion of how better to do it, I would be more than happy to take the suggestion.

Mr. GREGG. That may well resolve the problem.

Mr. BREAUX. Will the Senator yield for a question?

Mr. DEWINE. I yield to my colleague from Louisiana.

Mr. BREAUX. I ask the Senator from Ohio, I think the discussion has been very helpful. Two points are important to have on the record. A self-insured and self-administered plan by this amendment would not relieve themselves of being subject to litigation for decisions made based on medical necessity under the Patients' Bill of Rights bill we are adopting.

Mr. DEWINE. The Senator is absolutely correct. We believe the language does reflect that, but that is clearly the intent.

Mr. BREAUX. If the Senator would further yield, the point made by the Senator from New Hampshire is absolutely correct in the sense that on page 3 of the Senator's amendment, line 18, when he talked about that group health plan—basically the Taft-Hartley group health plans, as I understand it—you didn't have that limitation of those that would also be self-insured and self-administered. I think if you added that to that definition, you would correct the problem. I think it would be in keeping with what the Senator wants to do and certainly something I could support.

Mr. DEWINE. I appreciate my colleague's comments. I think they are well taken. We will get about the business of dealing with that. The point is very well taken.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. FRIST. Madam President, I yield myself approximately 15 minutes on the opposition time for the time being.

The PRESIDING OFFICER. The Senator from Maine has 7 minutes remaining in her time on the proponent's side.

Mr. FRIST. Madam President, is this 4 hours evenly divided?

The PRESIDING OFFICER. There are four 1-hour segments. The Senator from Tennessee controls 1 hour of the 4-hour time. The Senator from Maine controls 1 hour. She has 7 minutes remaining on her hour. The Senator from New Hampshire controls 1 hour, and the Senator from Massachusetts controls 1 hour.

Mr. FRIST. Madam President, I ask unanimous consent that for the first hour, it be equally divided so we can continue the debate for those in opposition.

Mr. REID. Madam President, I am sorry. What was that request?

Mr. FRIST. For the first hour of the debate, which we are about, I guess, 20 or 30 minutes into, the opposition has not had the opportunity to speak. I was saying for the first hour, in which about 25 minutes has been used, if we can have 30 minutes on either side.

The PRESIDING OFFICER. The debate has already consumed 53 minutes on the proponent's side controlled by the Senator from Maine.

Mr. REID. The Senator from Tennessee has an hour. He can use it any way he wants.

Mr. FRIST. Madam President, I understand I have an hour on my side. I will use time off our side at this juncture. I yield myself such time as necessary.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Madam President, first of all, let me put perspective on this because we have had the amendment introduced, and there are basically three points I want to make.

No. 1, I applaud the Senator from Ohio and the Senator from Maine because they have, for the first time in the debate, addressed this issue of suing employers—this issue of who is responsible, who gets sued, if there is harm or injury or cause of action. As one can tell from their earlier discussion, there has been a lot of debate in struggling with how best to address who you sue and when you sue them and what entity. There is not very much certainty out there. Do you sue the plan? Do you sue the employer? Do you sue the agent of the plan? Do you sue the physician or the hospital when there has been harm or injury?

In the McCain-Edwards-Kennedy bill, there are exclusions for the physician and the hospital. However, the argument and the debate over the last 4 or 5 days has made it clear that you can sue the employers if they directly participate. And what has now been brought to the floor in a very positive way, I believe, is this concept of giving certainty to all that through a model that is called the designated-decision-maker.

Really all that means is that since somebody is going to be sued—and the way it is designed now, you don't know who it is; that doesn't give anybody certainty—the easiest thing to do is for an employer to walk away. It might be me that is sued. It might be the entity that is administering my plan. It might be an agent of that plan. That is so confusing and puts so much risk out there, and you never know whether you are at risk or not, or somebody else, or who the lawyers will be going after. The designated-decision-maker says: We are going to all get in a room and say there is one entity responsible. If there is a lawsuit, you are going to go after that entity. That entity has to bear the risk, and also whatever value there is for that risk will have to be either purchased or sold. That gives certainty to the overall liability issue.

The second point—I will come back to this—that is very positive in the underlying amendment is this broad cause of action which is being struck from the underlying bill. That is where the underlying bill, when you go to the Federal level in the underlying bill, there is a cause of action called "duty under the plan." Unfortunately, if you leave that cause of action in there, it sweeps in all sorts of things, whether it is the HIPAA regulations or the COBRA regulations, and all of a sudden for those sort of indications, you don't have just compensation, but you are exposed to these unlimited lawsuits out there. So it is very positive, in the amendment that has been put on the floor by the Senators from Maine and Ohio, to take that cause of action out of the underlying bill.

The third point is that the Senator from Ohio made the point that this is not the answer to liability. Liability involves exhaustion of appeals. And we have an amendment pending on the floor addressing whether there should be caps; and that entire debate, once you get to courts, whether it is noneconomic damages or punitive damages, involves whether you to go Federal court or State court and then this whole idea of who do you sue. Can the employer be sued? And that last point is what the designated decisionmaker selectively looks at, that sliver of the pie of liability.

So far in the debate, over the last 4 or 5 days, we have not addressed Federal versus State jurisdiction, whether or not there are caps, full and completion exhaustion, or should there be class action suits. The Senator from Ohio made that point. It is critically important to address. If you read the press on this, this decision-maker model will take care of the liability. But it does not answer the questions on the part of myself and many others.

The history of the designated-decision-maker model is interesting as well. It is in the Frist-Breaux-Jeffords bill. The amendment on the floor is very similar to what is in the Frist-Breaux-Jeffords bill in that you give certainty; you have to name an entity to be the designated-decision-maker. That is who you sue. The Frist-Breaux-Jeffords bill based that on what already passed the Senate about a year and a half ago. A designated-decision-maker amendment passed this body. That amendment came from the conference last year, where you had Democrats and Republicans sitting around a table addressing how to come up with a system that best addresses this problem of having employers being sued out here when you really want to go after HMOs. How do you delink employers versus HMOs?

Basically, you make one entity responsible. It could be the employer, if they meet certain financial criteria; it could be the HMO; or the HMO might contract with another entity. But somebody has the risk. They have to have the financial wherewithal that equals that risk or the potential of that risk. So I love the designated-decision-maker model. It is clearly needed and necessary.

Let me take a minute. We keep drawing references to the Frist-Breaux-Jeffords bill and the way that worked, because whether or not I can actually end up supporting the amendment of the Senators from Maine and Ohio really depends on how close in my own mind we get to the underlying model that is in the Frist-Breaux-Jeffords bill. I believe that gives the most certainty—certainty to the employer and also certainty to the employee, at both levels.

The way that process works is there is an internal and external appeals process. Under the Frist-Breaux-Jeffords bill, you can't opt out of that and go directly to the court as you can in the McCain-Edwards-Kennedy bill. We are trying to fix that through another bill.

In the Frist bill, once you go through the internal and external appeals and you go to court, you are going to end up going to Federal court. If there is a lawsuit in advance, prospectively—not after the fact—a designated-decision-maker has been identified. If there is a lawsuit, there is no question of whether you sue the employer or the HMO or the agent of the plan or the hospital or the doctor. Indeed, you sue one person. There is no choice. It is the designated-decision-maker. That is decided in advance.

The Snowe-DeWine amendment takes that concept. Again, I think it is the right way. I think most people would agree that is the most appropriate way to address this issue of employer liability. But what they have done is given a choice, from direct participation, of the decision-maker model. To me—and I will have to be honest—that leads to some sort of uncertainty because instead of having real certainty in the employer's mind and employee's mind, the beneficiary of the plan, that there is one person, and you know in advance a year before, 6 months before, that they have the responsibility, and somebody has paid for it. Instead of having that certainty, you introduce more choice. Again, are they directly participating? Are they in the decision-maker model? The debate we just heard—are they a self-insured, self-administered plan which is carved out of the Federal cause of action, or are they a union plan? We just heard that debate. Some are self-insured. Some are not. Why carve unions out there? We will look at that particular language. All of that uncertainty is avoided with the designated-decision-maker model.

Now, that second point that I have already mentioned, which is very positive in this bill—probably more positive, I believe, in the amendment introduced by the Senators from Maine and Ohio, is the part of their amendment which deletes the provision in the underlying McCain-Edwards-Kennedy bill that would allow lawsuits against employers and insurers for unspecified failures—and I quote from the bill—"in the performance of the duty under the terms and conditions of the plan."

That is the language which is going to be deleted. That is important because if you don't take that out of the underlying bill, employers will still be highly vulnerable to lawsuits based on alleged failures in the whole realm of administrative duties. That could be under HIPAA, the Health Insurance

Portability and Accountability Act, which we passed in this body several years ago, and COBRA, whereby employers are not allowed to delegate administrative duties, under those laws, to anyone else, by law. You can't. So the liability for those administrative duties, because you can't delegate, would fall on the employer, thus allowing the employer to be sued. So that is very positive, I think. It was addressed directly in the amendment, and I commend them for that.

Third is that we need to understand throughout this debate, as we hopefully can refine this amendment and pass it if we can resolve some of the specific issues in the language. We need to be crystal clear again that addressing the designated-decision-maker addresses the employer aspect of liability but does not address the many other factors of liability, which I think we have a responsibility to address on this floor, since this bill never went through committee and, in truth, we are marking up and writing this bill for the first time on the floor. We need to talk about Federal versus State courts, class action suits, whether or not there should be caps in a noneconomic damage or should there be punitive damages. All of those other issues have not yet been addressed. Now I am quite pleased we are addressing the designated-decision-maker aspect of employers being sued.

Several quick examples. There need to be clear and effective limits, I believe, on class action lawsuits. There need to be firm requirements that we fully exhaust internal and external reviews before initiating any lawsuits. There are a lot of broad exceptions. We talked about some of them as the Thompson amendment was on the floor; we have addressed it. We have to have complete exhaustion as we go through.

Second, if an independent external medical reviewer, who is a doctor, which is in the Frist-Breaux-Jeffords plan, as well as in the McCain-Edwards-Kennedy plan, upholds the plan's denial, then the plan should not be subject to liability. We need to discuss that on the floor. In the underlying McCain-Edwards-Kennedy bill, a patient can still sue, even though that independent medical reviewer, a physician with age-appropriate expertise, has decided that the plan made the right decision in internal and external appeals and the physician says everything was right going through. I believe the Frist-Breaux-Jeffords bill says, no, you can sue for care, injunctive relief, but not for extraordinary rewards. That has to be addressed.

Also, the underlying McCain-Edwards-Kennedy bill would allow the independent reviewer to "modify"—I believe that is the word used—the plan's denial. And this is just as a physician. What it means is that in a paper review you never see the patient. You read records and hope they are complete, and the reviewer is going to have the opportunity to maybe do thousands of these, maybe hundreds, maybe 10. I don't know. I was with a doctor a few minutes ago who has done thousands of these reviews.

The point is that you never see the patient. You never get the subtleties of clinical diagnosis, which all of us know is science, but there is also art to it. You are asking somebody to look at this paper and review it and say, yes, it was right or, no, it was wrong.

With the information written on that paper, you are allowed to come in and modify the treatment of that patient. I can say as a physician the fact that based on that paper review, a reviewer could require that the plan cover treatment that neither the treating physician nor the plan ever contemplated or ever recommended, this reviewer who maybe over the telephone is reading it, is going to be able to modify it bothers me.

It bothers me because it becomes binding, and we all know it becomes binding. When it becomes binding and you have not had that direct experiential observation, to me it is not right. It needs to be corrected.

I will give another example: The employer in the plan would be subject to simultaneous litigation in Federal and State court. Again, speaking to the underlying bill, we have to address that because we all know when we have lawsuits which result in—take a $120 million damage award such as there was 2 years ago. A $120 million award is a large award. Some will say it is too much; some will say it is too little. But a $120 million damage award results in total premiums being paid for about 55,000 enrollees on average.

I do not want to correlate the two, but $120 million is a lot of money, and, at least in my mind, I come back to the uninsured and the number of enrollees who could go out and buy insurance.

We need to be careful about encouraging shopping between the Federal courts and State courts, and once you get to the State courts, from State to State. Maybe tomorrow, Saturday, Sunday, or Monday we will come back to that and talk about it. Clearly, if you are an attorney, for a single event, you have multiple causes of action, you can question that, but in addition to that, you have multiple venues: the Federal court, the State court, or from State to State to State. That is our interpretation. That is our attorneys' interpretation. It has to be fixed.

In closing, I support the designated-decision-maker model. The Senators from Maine and Ohio are to be congratulated for the first time in this Chamber addressing in a sophisticated, appropriate way how to clarify the uncertainty about suing employers versus suing HMOs.

I support the model. It is in the underlying Frist-Breaux-Jeffords bill. We are looking at the language, as we speak, on the issue of unions and why they are specifically carved out. That needs to be addressed. We hope to have factual information. We will read the language, and I look forward to working aggressively with the authors of this amendment so we can all rally around it.

Mr. DEWINE. Will the Senator yield?

Mr. FRIST. Yes.

Mr. DEWINE. If I can respond to the Senator's comments about why we crafted the bill, it was to give the employer a choice as to whether or not they would go under the designated decisionmaker or under the language of the other bill, which is direct participation.

Frankly, I do not think this is a huge deal. The reality is that the vast majority of businesses will go under designated decisionmaker, and, in fact, we provide in the bill that it is automatic. That will just happen unless they make a conscious decision to say: We do not want to do the designated decisionmaker; we want to go under the direct participation language.

We are in an unknown area, and I do not think anyone knows how this is going to play out entirely in the real world and what decisions they are going to make. Some people come up with some scenarios under which they would not want to designate someone as a designated decisionmaker. The vast majority are. We wanted to provide this as a fallback position, more options.

I do not think it is going to make it more ambiguous or less definite because we provide automatically it is going to be designated decisionmaker unless they make an action and say: No, we do not want designated decisionmaker; we want to go with our model because for some reason it works that way. We can look at the language and talk about it.

In explanation to our colleague from Tennessee, that is what our thinking was. We do not know where the world is going with this new language, and we wanted to give as many options to businesses as we could. That is why we did it.

Mr. FRIST. Mr. President, I claim my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. I guess this decision of certainty—I usually like choice coming through, and it appeals to me. I am a 50-person convenience store operator and have three or four convenience stores in the area, and I have people barely scraping by, working minimum wage, but I recognize giving people some insurance goes a long way. Some people say it does not matter; you still have your care. If you have insurance, you end up getting better care in the

United States of America, it gets you in the door. We talk about the 43 million uninsured, and we all care. It bothers me in a direct way.

I am that operator and I know I am going to have to find a designated-decision-maker. That is going to cost money because it is liability; it is increased liability. I do not know, but if I have a choice, I am going to say I am barely scraping by and it is just easier for me not to play at all. Dealing with designated-decision-maker, you have that choice. If that is the case, I fall back to the direct participation language, and the direct participation language has all of the other problems. The pressure of the system is going to be such because direct participation does not cost you much, but if you get sued for $120 million or in 1993 for $89 million or in the year 2000 for $80 million. That is real; just one case.

If I am sitting in my convenience stores and I say designated, this is the new model created by the U.S. Congress; I am not going to participate in it; it is too expensive. Thereby I go back to direct participation, and we are where we are now.

It is easier to walk away and not give even those 30 employees insurance out of fear, out of risk. That is why with the direct participation model, as long as everybody plays and everybody is certain it has prospective certainty for the employer and employee, people are not going to drop their insurance.

I will be happy to yield the floor.

Mr. DEWINE. To respond, as envisioned by the Senator's original bill—and the Senator from Tennessee is the one who came up with the language of the designated decisionmaker and I applaud him for it because no one has come up with one better. This is the model. This language is pretty much the Frist bill. But in the Senator's example, the designated decisionmaker is going to automatically—you have this company that has three or three convenience stores; they have who knows how many employees; they buy insurance. Their designated decisionmaker is automatically going to be the group handling the insurance. They will not have to make a conscious decision at all. It will just happen. That is the glory of the way it is written and of the Senator's original language, that it is automatic; it is going to happen. They are not going to have to look for a designated decisionmaker.

Under the language of the Senator from Tennessee, it is going to take care of itself. That is the strength of it.

Mr. FRIST. May I use 1 minute and then I will yield on that issue. I want to respond to that.

Mr. KENNEDY. May I ask a question? We have two other cosponsors of the amendment. They have yet to have a word.

Mr. FRIST. How much time has been used by this side?

The PRESIDING OFFICER. The Senator from Tennessee has consumed about 22 minutes.

Mr. FRIST. How much has the other side used since we have been on the amendment?

The PRESIDING OFFICER. The other side has used 53 minutes.

Mr. FRIST. They have used 53 minutes, and we have used 22 minutes.

Mr. KENNEDY. How much have we used?

The PRESIDING OFFICER. The Senator from Massachusetts has used none.

Mr. FRIST. I was speaking in opposition to the amendment.

Mr. KENNEDY. I think the presenters ought to be entitled to whatever time they have remaining. I am a strong believer in that. I would like to invite our cosponsors to have a word.

The PRESIDING OFFICER. The Senator from Tennessee still has the floor.

Mr. FRIST. Thank you, Mr. President. A matter of clarification, in speaking in opposition to the amendment, yielded by Senator GREGG, we have used how much time?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. FRIST. Twenty-three minutes since we have been on the amendment. Clarification: The proponents have used how much?

The PRESIDING OFFICER. Fifty-three minutes.

Mr. FRIST. I will be happy to yield the floor in a moment. Clarification on the designated-decision-maker model: We would not necessarily assume the insurance company is the designated-decision-maker. You would have to designate that, and that is part of our Frist-Breaux legislation, just to clarify that.

Ms. SNOWE. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Ms. SNOWE. Will the Senator yield on that point?

Mr. FRIST. I will be happy to.

Ms. SNOWE. It is important to emphasize in this amendment as we have drafted it includes a provision that starts out with automatic designation: That a health insurance issuer shall be deemed to be a designated decision-maker for purposes of subparagraph (A) with respect to participants and beneficiaries of an employer or plan sponsor.

That is important to emphasize, and it automatically occurs so we remove the ambiguity, extra steps, cost, and so on, with respect to that particular requirement.

Mr. KENNEDY. I yield such time as he desires to the Senator from Nebraska and then the Senator from Arkansas, two lead sponsors.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I thank the Senator from Massachusetts for the opportunity to speak to this amendment. There has been a lot of discussion recently and I think most people's heads are swimming about what a DDM is and what the purpose of this amendment truly is.

The purpose of this amendment is to make sure, whether you are a plan sponsor or an employer, if you are self-insured and self-administered, that you are treated the same. You have to treat one and all the same. That is what this is about. I believe there is some language being worked on that probably will be offered shortly to make it clear that is exactly what is intended by this amendment. It does not specifically carve out one group or another. It carves out all groups where there are plan sponsors or employers who are self-insured and self-administered. All other employers are in a position to have a DDM, designated decision-makers, or they have an insurer which is a designated decisionmaker.

The whole purpose of this legislation is to be able to provide additional rights and opportunities for insurance. This does it. What it also does is make sure that employers are not entrapped in unnecessary litigation and that if they don't make decisions about health care and make decisions about claims, they are not involved in litigation.

Specifically, this amendment narrows it down to not being brought into Federal causes of action. It does not absolve employers or plan sponsors from any kind of litigation that may come through State courts.

While it may be difficult to follow the roadmap, there is one thing that needs to be clarified and that is, it does not treat any one group in any special way. It treats all plan sponsors and all employers who self-insure and self-administer, the same way. If they choose to get a third party administrator, which becomes a designated decision-maker, they will be absolved from liability from litigation unless they somehow participated in the claim-making process, which they would not do if they had a designated decision-maker. This is intended to make sure we balance the interests of the right of the individuals, the right of the patients to sue, with the opportunity for employers not to be entangled in litigation where they should not be entangled. It also means that in balancing these interests, there will be fewer cases of uninsureds, and there will be fewer employers deciding to get out of the business of providing health insurance benefits to employees.

We have heard from employer after employer about their concern—as a voluntary provider of these benefits, now suddenly they can be sued. This makes it clear they will not be sued and it also makes it clear that those who are plan sponsors will not also be sued unless they participate in making decisions about health care claims. That is what this is all about.

I hope this clarifies it for some of my colleagues on the other side of the aisle who have raised questions. It is important to raise questions and certainly ask the question whether there is any special treatment. But if you look at the language and you look at what is being done, there is not any special treatment for one group over another. The category is the same. If you self-insure and self-administer you will be open to some exposure. However, we will make certain that exposure is limited when it comes to Federal actions. That is what this is about.

I yield to my colleague from Arkansas and say before departing, thank you to my colleagues and cosponsors from Maine and Ohio. I believe this is the right way to proceed to improve this bill.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. I am the last of four children and I am the last in this line of four, and I am delighted to have waited patiently to rise today and speak in support of an amendment I am offering with Senator SNOWE, along with Senator DEWINE and Senator NELSON, to protect employers from liability.

The good Senator from Tennessee, Dr. FRIST, would certainly join and agree, as we have taken a good bit of his designated decisionmaker language, that our ultimate goal is to protect the rights of patients while ensuring that employers who provide health care are not subject to frivolous lawsuits.

The objective is to those individuals, the good guys in this bunch, the employers reaching out and providing the kind of health care that Americans need; that we can work within the confines of this bill and within this amendment to ensure they can continue doing that. That is exactly what we have attempted to do. I think we have worked long and hard. I know my colleagues and I have worked long and hard to develop language to do just that, in working with those employers who want to provide the much needed health insurance that Americans want.

Employers that are offering health insurance are the good guys. We don't want to discourage them from offering health insurance. This amendment provides the assurance they need to those offering health insurance, that if they do not make medical decisions or override medical decisions, they are not liable. Again, I know the good Senator from Tennessee, Dr. FRIST, understands that in terms of making sure those who are not making medical decisions are not going to be held liable.

We have worked hard on the underlying bill, as the Presiding Officer knows, as we have talked in many press conferences on some of the most important issues to the American people. This Patients' Bill of Rights is one of those issues. We have reached out.

The opponents of the Bipartisan Patient Protection Act have argued that the Patients' Bill of Rights will drive up health care costs by subjecting employers to increased liability and frivolous lawsuits, and in turn they argue rising costs will force employers to drop health insurance. Our amendment presents an innovative solution to this potential dilemma. We have been able to provide the protection needed by these individuals who are already out there doing the right thing.

By allowing these employers to design this designated decisionmaker, a term presented from the Breaux-Frist legislation, to oversee medical care decisions, we remove most large and small business owners from the threat of liability. They have that option of choosing a designated decisionmaker. We make it possible for employers to contract with a third party to administer health benefits and protect themselves from unnecessary and crippling lawsuits. This amendment makes it crystal clear that employers will not have to open themselves up to new liability as a result of providing health insurance to their employees.

When we began discussing the Patients' Bill of Rights years ago, we wanted to ensure that patients would be able to choose their own physicians and their medical professionals—not accountants, not bureaucrats, not insurance company executives, but the medical professionals—would make the medical decisions. We never, absolutely never, intended to open employers up to liability. And we certainly don't want to do anything in this bill that would discourage these employers from providing health insurance to their employees.

We are delighted to work out the clarifying language that Members believe is needed to assure everyone is treated fairly.

The amendment I offer today refutes the charge that the Patients' Bill of Rights is a trial lawyers employment act. Today we make it clear that we have absolutely no intention of subjecting employers to new liability or frivolous lawsuits. We want to encourage our employers in this country to provide health care coverage for their workers.

In 1993 when we began the discussion of health care, we made it our objective to get more individuals covered under health insurance provided by their employers. We were able to do that. Unfortunately, we have more uninsured in this country today, and we do not want to exacerbate that problem. We want to give these employers the comfort that they need, to feel confident in keeping that employee insurance available.

This amendment is our pledge of good faith to American employers and business owners that we will protect their needs as well as the needs of their employees.

I applaud the work of my colleagues. I have enjoyed working with them. I appreciate everyone's patience and endurance in this process. We hope to be very inclusive, to bring others in to make sure this language is exactly that: It is giving the protection and the comfort level to the employers of this Nation that are doing an excellent job in providing health care to their employees.

I also ask unanimous consent that Senator BAUCUS be added as a cosponsor to this amendment, and I yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. I yield the Senator from Michigan 5 minutes.

Ms. STABENOW. Mr. President, I rise first of all to ask unanimous consent to add my name as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I thank my colleagues on both sides of the aisle for their hard work and the innovative language that is put together in this amendment. For those of us who are sponsors of the Patients' Bill of Rights, we have said since the beginning this was in no way intended to allow lawsuits to be brought against employers, this was about making sure those who make medical decisions were held accountable for those medical decisions.

As we said so many times on the floor, it is really about closing a loophole in the law as well. We have indicated over and over again, when you have only two groups of people in this country who are not held accountable for their behavior and their decisions, one being foreign diplomats, the other being HMOs, it doesn't make any sense. We know this was a loophole that was created by the outgrowth of HMOs and development of new ways of managing health care, and basically the Patients' Bill of Rights is meant to clarify that and make sure those who are making medical decisions are held accountable for the outcomes of those medical decisions, just as are doctors and nurses and other medical professionals.

What I think is important about this amendment is it very clearly states to each and every employer, large and small, that in fact we will make sure if they are not making medical decisions—and in the vast majority of times an employer is not making a medical decision—the intent of the Patients' Bill of Rights is not to create a liability for the employer. We have employers, many in Michigan—hundreds of thousands of them—who are responsible employers, providing insurance for their employees. We want to encourage and support and salute them for doing that and make sure nothing gets in the way of that continuing.

I again thank my colleagues from both sides of the aisle who have put in a tremendous amount of work on this amendment. There has been a wonderful job done clarifying this. I hope we have now been able to put to rest what was unfortunately a common misperception, something said over and over again to employers of this country, that somehow this opens them up to lawsuit. It never was the intent. This amendment clarifies that and reiterates it.

I hope this will allow us to move forward, to pass this very strong Patient Protection Act that says to each and every family: When you have insurance you can have the confidence, whether it is in the emergency room or the doctor's office or the hospital, that you will have the care available that your family needs.

I will yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

Both the Snowe amendment and the Frist amendment attempt to protect lawyers using the designated decisionmaker language. However, the fact that they use similar names can't mask the dramatic differences between these two amendments. Senator SNOWE's amendment helps employers without hurting patients.

There are two important differences between the designated decisionmaker language in the Snowe amendment and the Frist amendment. Senator SNOWE's amendment ensures that the person an employer designates as responsible and will be liable for all damages caused by any wrongful benefit determinations the patient gets under our bill. This is exactly what employers want and deserve, a clear way under the law to protect themselves.

The Snowe amendment allows employers to name an HMO or health insurer or plan administrator as their designated decisionmaker and not have to worry anymore about being sued. That is what President Bush wants, and that is what we want. If employers give up all control over medical decisions in individual cases such as this, Senator SNOWE's language helps guarantee employers will not be sued, period.

Senator FRIST's designated decisionmaker language is much weaker. Under his proposal, the only entity that can be sued is the designated decisionmaker. While the designated decisionmaker is supposed to have exclusive authority to make benefit determinations, a court or jury remains free to find in fact another person or company influenced the decision that caused the harm. People who are not designated decisionmakers may in fact influence decisions and share liability. But the Frist language leaves victims no way to hold these outsiders accountable. That is because, unlike the amendment of Senator SNOWE, the Frist amendment never deems the designated decisionmaker liable for the acts or omissions of other parties who affect benefit determinations. This is the most critical difference between the two proposals.

The other important difference is that under Senator SNOWE's amendment, only employers can name designated decisionmakers; HMOs cannot. After all, the entire point of having designated decisionmakers is to ensure employers have a clear, easy way to avoid all possibility of being sued, not to protect HMOs.

Of course, the effect of allowing HMOs to have a designated decisionmaker is to enable them to escape liability for part or all of their actions. Under the Frist-Breaux amendment, if a judge or jury finds someone in an HMO harmed a patient and that person working for the HMO was not a designated decisionmaker, the HMO escapes liability.

I think the amendment is sound. I think it has been a matter of discussion and debate. I think those of us who were involved in the development of the initial legislation sought to achieve what this amendment does enormously fairly. It also treats the various Taft-Hartley aspects equally with the other parts, so we have equality for one and equality for the other.

Another important feature of Senator SNOWE's amendment is that it protects employers and Taft-Hartley plans which self-insure and self-administer claims. The Frist alternative contained in S.889 fails to address this issue. The Taft-Hartley plans have a long history of providing quality health care for their members. In their unique structure, employee advocates comprise half of the members of the board. The record shows that this has been an excellent protection even for beneficiaries who have extraordinary health care needs. In structuring this legislation, we wanted to be certain that we didn't impose any inappropriate burdens on these plans.

I commend the Senators. They spent a great deal of time on this amendment. One would think it would be easy in the drafting of it, but I know they have been challenged with it. I commend them for really advancing this whole issue in a very positive, constructive way, a way which really reflects what this President has enunciated and a way which we had hoped to include in our legislation. There was a significant question about it. Legitimate issues were raised. I think this is one of the important contributions in helping move this process. I commend all those on both sides who were very much involved in its development.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, this amendment is a wonderful example of what can be done when we work together to solve problems. The beneficiaries of the work that has been done by Senators SNOWE, NELSON, DEWINE, and LINCOLN are not the Members of the Senate but the people of this country, the families who need quality health care, and the employers that need to be protected from unnecessary lawsuits and unnecessary litigation.

First, I thank Senator SNOWE for her leadership. She has taken the lead on this issue from the beginning. Her work has been absolutely crucial.

My friend, Mr. DEWINE, the Senator from Ohio, has also lent tremendous leadership and expertise to the work on this effort.

I also thank my colleague seated near me, Senator NELSON from Nebraska, who not only brings great expertise to this issue both as Governor and as insurance commissioner of the State of Nebraska, but he has been dogged in his determination to ensure that the small employers, particularly, and employers generally, of America are protected in this legislation.

This effort could not have been achieved without his leadership and without his dogged involvement in this issue. He has been involved in so many of the issues with respect to this legislation. He and I have worked together. He and I and Senator MCCAIN have worked together. He has been involved in this patients' rights protection act from the very beginning. We thank him for all of his work and important contribution.

Also, the Senator from Arkansas, who has expressed a concern about employers from the very first moment, and I have talked about this issue. She cares deeply about patients and deeply about doctors making medical decisions, having a very well-trained physician in her own family, that being her husband. She has firsthand experience with that. But in addition to that, she has shown great concern for small employers and, as has Senator NELSON, has made it very clear to Senator MCCAIN and myself and Senator KENNEDY that the only way she could support this legislation is if we did what was necessary to protect employers. She has been absolutely crucial in achieving that goal.

Without the work of Senators LINCOLN, NELSON, SNOWE, and DEWINE, the employers of this country would be in a different place than they are today. I think they will be after this amendment is voted on.

They have achieved two very important purposes:

No. 1, they have insured that there are real and meaningful protections for employers through the designated decisionmaker model which we have already talked about, which essentially means the small employers that we have talked about are 100-percent protected. They cannot have liability under the language of this amendment, which is crucial. It is a goal and a principle that we have all shared from the beginning but, again, couldn't have been done without their work. They have also managed to do it in a creative and innovative way that, while protecting employers, does not leave the patients and the families high and dry, which is exactly what needed to be done.

Honestly, it is a very difficult task, but they have worked doggedly on this issue. All of them managed to reach a bipartisan agreement.

The most important thing from the perspective of the overall legislation is that this is another in a series of obstacles about which we have now been able to reach some consensus.

They have followed sort of one by one by one, starting with the issue of scope, which Senator BREAUX, Senator JEFFORDS, I, and others worked on, reaching a crucial compromise going to the issue of independence of medical panels to make sure that those panels are, in fact, independent.

We have reached a resolution of that issue. On the issue of medical necessity, the Presiding Officer from Delaware, along with my friend, the Senator from Indiana, were crucial in being able to reach a resolution that shows proper respect for the sanctity of the contract and the specific language of the contract but some flexibility, where necessary, for the independent review panel with respect to patients, keeping in mind the interest of patients on the one hand, which I know you care about deeply, and the importance of the contract in keeping costs under control.

Without your work and Senator BAYH's work, that would not have been achieved.

The Senator from Tennessee and I, as we speak, are attempting to finalize an agreement on the exhaustion of appeal. Both of us believe, as do most Members of this body, that it is a sensible thing to have a patient go through the internal and external appeal before any case goes to court. We have tightened up that language; working together on it. We know it is important.

The Senator from Tennessee, Mr. THOMPSON, and I are resolving this issue of the exhaustion of appeal. All of us believe that the appeals process is crucial to getting patients the care they need.

If this bill works the way Senator MCCAIN and Senator KENNEDY and I believe it should, the ultimate goal will be achieved if there were never a lawsuit filed because what would have happened is the appeals process would have worked and the patients would have received the care they needed. That is what this is about.

We want patients to use this appeals process. The Senator from Tennessee and I are finalizing an agreement on exhaustion of administrative remedies.

I also want to thank our colleagues on this specific amendment because that is another crucial obstacle. Scope, independence of the panel, protecting employers, medical necessity, and exhaustion of appeals are crucial issues in this legislation about which we have been able to reach consensus.

As I said earlier, the important result is not what is happening within this Chamber but that the families of this country will have more control over their health care, and we will actually have a more realistic possibility of getting the legislation they so desperately need passed.

I thank all of my colleagues for all of their hard work. Without them, this could not have been achieved.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, let me begin by saying that this amendment is moving in the right direction. I believe, with some of the changes which we have discussed with the Senator from Ohio and the Senator from Maine, that we can make real progress on improving it. Unfortunately, the amendment came late. It is complicated. The issues involved are considerable. But before getting into the specifics of the amendment and how it may or may not play out in a positive way relative to producing a quality bill, let me make the point that this amendment addresses an important but not a broad part of the issue.

This amendment doesn't, for example, address some very real and significant issues in the area of liability. It doesn't address the issues of the 56 million people who are in self-insured plans.

It does not, therefore, solve the overall liability question, which if you were to rate the five issues that I think the Senator from North Carolina has appropriately highlighted, although I am not sure he mentioned liability—he probably wasn't thinking in those terms, but he certainly hit the floor if you put liability on the table—liability is probably the key issue for a lot of people in this Chamber.

Issues such as forum shopping, class action, damages, punitive versus compensatory damages, are major issues that we still have to address. I think we recognize that there is still a fair amount of distance to go in the liability area.

But this amendment takes up the designated decisionmaker language. It takes a portion of the Frist-Jeffords-Breaux bill in this area and tries to basically graft that on to what is the McCain-Kennedy bill—a good and appropriate attempt, although I must admit that with just a quick reading of it I think there is going to be some real confusion on the part of employers between what they can do as a designated decisionmaker versus direct participation. I had hoped that the language would have a firewall in there. But as a practical matter, at least the movement is in the right direction to give some insulation for designated decisionmakers and people who use designated decisionmakers.

As to the issue of union liability, there has been a lot of talk around here about making businesses liable. And they are liable. Small businesses and large businesses are all liable—and making HMOs liable.

If you are a union employee and have a union plan, and your union tells you you can't get some sort of treatment that you need and should get, unfortunately, the way the bill was originally drafted, you would not have been able to sue that union plan, any more than if you had been employed by a company, and the company had sponsored your plan, and you would be able to sue them or, under this bill, the HMO. But ironically the unions ended up, under the original draft, of being completely taken out of the picture.

The Senator from Ohio and the Senator from Maine made clear that was not their intent. I understand they are going to adjust some language so union plans, which are in the same basic position as those plans which are self-funded and self-administered, will be the ones which are taken out of the liability picture. That is reasonable. That is the way it should be. We look forward to that modification.

Another issue that this bill raised, which has not been really talked about at all, is the fact that it basically has Federal usurpation of what has been a very traditional State responsibility of determining the viability of the insurance agency, whether the insurance agency has adequate financial strength to cover the projected losses which may occur. This has been something on which States have spent a huge amount of time. It is a real specialty. It is an art form to look at these insurance companies and determine whether or not they have the depth and the ability to cover the costs if they get hit with a whole series of claims.

I would hate to see the Federal Government step into this arena where the States have been responsible and suddenly take it over. But under this amendment, as originally drafted, that would be the case; the Federal Government would now basically take all that responsibility away from the States.

We discussed this with the Senator from Maine and the Senator from Ohio and their staffs to try to straighten this out. They recognize the issue.

I think the Frist model in this area is the right model. It essentially says: Where the States have responsibility, where they are the insurer, then they will have the ability—and retain the ability—to evaluate the insurer. But where it is a new Federal cause of action, a new Federal event, then the Federal Government will come in and do the evaluation. That seems to be a reasonable bifurcation of responsibility and will be an improvement if it is accepted.

I understand language is being developed which hopefully will be accepted. That is all very positive, in my opinion.

As I mentioned, this amendment, if we can get these issues worked out—and there are one or two other small ones—becomes a much more positive event for moving the bill in the right direction. The question becomes: What do we have left to do in that we have taken up a lot of amendments? Unfortunately, we still have a lot of amendments to go. Most of them are in the liability area. Some of them are in tangential areas. But I do expect we will have amendments, as we move into the evening, which will address such issues as the small employer who decides to cash out their employees and what type of protection they get. Senator ENZI happens to have that amendment.

There will be amendments dealing with class action suits. I think Senator DEWINE actually has an amendment in that area. There will be amendments dealing with coverage and liability. I have an amendment on punitive damages which essentially says if an employer lives by the terms of the external review, they should not be subject to punitive damages. There are a variety in that area. There will be amendments on forum shopping. I think Senator SPECTER has an amendment in that area that he may bring forward.

So there are still a fair number of issues, especially involving the liability questions, which have to be resolved, after we get past the language which the Senator from Maine and the Senator from Ohio have brought forward, which, as I mentioned, I think with some adjustment—which is major to the amendment, but which would be positive; and it appears to be acceptable to the sponsors—hopefully, will move the process in a better direction.

At this time I will yield to the Senator from Wyoming such time as he may need from my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If the Senator from Wyoming will yield for a brief inquiry of the Republican manager, it is my understanding that because of some people being at the White House and a conference that is going to be held by the minority at 3 o'clock, the minority does not wish to vote until 3:45 or 4 o'clock.

Mr. GREGG. I believe there is still approximately an hour and a half left on the amendment. I would hope that once we reach an agreement, and we have the language from Senator SNOWE and Senator DEWINE relative to the issue of coverage for union plans and liability—and State versus Federal responsibility for reviewing the adequacy of liability, and there is one other issue—once we have that language, I personally would think we could start yielding back time and go to a vote.

I think it would be hard to get to a vote before 4 o'clock because of other commitments. It would be my hope we could vote at around 4 o'clock on this amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, this bill is really a strange one for me to be working on at all. Wyoming has one HMO. It is owned by some doctors. So far as I know, there are not any complaints on it. But there are some basic problems here that people in Wyoming are asking about.

Because of Wyoming's makeup, I usually talk about small companies, because under the Federal definition of "500 employees or less," we do not have a single company headquartered in Wyoming that would be considered "big business." But on this amendment I have to talk about big business.

I have been hearing from the accountants of a number of these companies. They are a little bit concerned about what is going to happen to their health care. They work for those companies. They can see what the costs are going to be on their companies. I have to say that this amendment before us now does not address the problem. I would like to think that it did.

I would like to be able to pass this. I would like to not have to talk about a big company. There are the Caterpillers and Motorolas and the Pitney Bowes and the Hewlett Packards. There are about a dozen of these big companies in the United States. Again, none of them is headquartered in Wyoming. I am pretty sure that none of them operates in Wyoming. But I am still concerned about them because there are 6 million people who get their insurance that way.

I would suspect that almost everybody in this Chamber, with the exception of my friend from Wyoming, has one of these big companies in their State. Six million people are getting their insurance from these companies.

What we are talking about is having a designated decisionmaker. It does sound like baseball season, doesn't it?

Let me tell you how this insurance works. Right now they work it inhouse. They are able to keep their administrative expenses down to 5 percent. Now they are faced with the possibility of having liability. These are the companies that are providing the Cadillac insurance in this Nation.

I am not aware of complaints of these companies on their insurance. The insurance these people have is far better than the plan we have in the Senate. But they are self-funded, and they are self-administered. Where they make their big savings is in self-administration.

Now we are talking about having a designated decisionmaker. That means they are going to shift the administration to somebody else, which might still be done at 5 percent, but there is this new liability factor that goes with it. The guy that is over here, who is the designated decisionmaker, is going to have to charge them for his potential liability in the decisions that he makes incorrectly. He will not do that for 5 percent. He will need a lot more because what he is selling is liability insurance. So it is going to drive up the costs.

I have asked some of these companies what those costs would be. They have said that, quite frankly, what they will have to do is get group plans for their employees that have less benefits, to fit in the same cost level that they have right now, because this little bit of a liability factor drives up the price astronomically. So in this particular provision that is before us, we are not taking care of the self-insured and the self-administered.

I do have a proposal that I may offer after this one is finished, one that will provide some mechanism for them to continue to do that, and for those employees who they have, who are more concerned about their ability to sue than they are about the current benefits that they have, would have a choice. In exchange for that choice, this company would not have to hire a designated liability holder because that is what a designated decisionmaker would be.

For most of the firms that have the Cadillacs of the industry, most of them will have to change to a designated decisionmaker. That additional cost will be considerably more than the 5 percent they are currently paying to handle administration, that 5 percent that they do partly because they have employee committees that get involved in the decisions. And those employee committees are not going to want to be sued, so they are going to need some relief. I am here in the uncomfortable position of speaking up for the companies that are in your States, not mine, to protect the kind of health insurance they have at the present time and not drive up the cost, forcing them to go to a lower benefit plan with a designated decisionmaker.

This is not the solution. I hope you will pay attention to the solution when that amendment comes forward.

Mr. DEWINE. Will the Senator yield for a moment?

Mr. ENZI. I will yield on the time of the Senator from Ohio. I was just given pretty limited time.

The PRESIDING OFFICER (Mrs. LINCOLN). Who yields time? The Senator from Wyoming still has the floor.

Mr. ENZI. I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Maine has approximately 7 minutes remaining.

Ms. SNOWE. Madam President, we are awaiting modifications to the underlying amendment. Unless there are any other speakers on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Ms. SNOWE. I ask unanimous consent that the time not be taken from either side at this point.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object. We have to move this thing along.

The PRESIDING OFFICER. Objection is heard.

Ms. SNOWE. I yield the floor.

The PRESIDING OFFICER. The Chair notes, if no one yields time, time is charged equally to all sides of the debate.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from New York is recognized.

(The remarks of Mrs. CLINTON pertaining to the introduction of S. Res. 117 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask that the time be charged equally between the parties since we still have time left under the agreement which is before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum and ask the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, for the edification of our colleagues, the projected order of events is that Senator GRAMM and Senator McCAIN are going to offer an amendment which I believe is agreed to and will require no vote. We will lay aside the Snowe amendment, and then Senator ENZI is going to offer an amendment. We will debate the Enzi amendment for whatever time he requires. I am not sure it will be that long. Then Senator SPECTER will offer an amendment after laying aside the pending amendments. We will debate that and then probably go to a vote on the Specter, Snowe, and Enzi amendments later this evening—hopefully early evening.

Mr. REID. Mr. President, I would like to speak to the majority leader, but this sounds fine. It is my understanding—I have spoken with the principals; I have spoken with Senator KENNEDY and Senator SNOWE, and that matter appears to have been worked out so we can have a satisfactory resolution of that tonight as soon as Senator FRIST gets back.

Senator FRIST had to leave the Hill for a minor matter. He has some dental work that has to be done tonight. We understand that certainly. It is a valid reason for leaving.

What the Senator from New Hampshire has suggested is appropriate. We will go to another McCain amendment and then the Enzi amendment and then the Specter amendment.

Mr. GREGG. I think it is a Gramm amendment actually.

Mr. REID. There is no unanimous consent request at this time, but I think what the Senator from New Hampshire has outlined is appropriate. I will check with the majority leader. If he has any problems, I will report back accordingly.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask that the Senator from Alaska be recognized and the time used not be charged against the time before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATION OF ABSENCE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent, to be excused from the voting in the Senate because there is a wedding in the family that requires me to travel to Juneau, AK. I will try to be responsive to the leadership in whatever the calendar turns out to be. But I wanted to put the Record on notice of my absence and the reason for my absence.

I suggest the absence of a quorum.

Mr. REID. As under the previous order, I ask unanimous consent that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent the Senator from Wyoming be recognized to offer an amendment and that we debate that for up to 30 minutes with the time equally divided and no second-degree; that thereafter, we go to an amendment from Senator GRAMM, which I understand is agreed to, and that debate will be up to 10 minutes; then we go to an amendment from Senator SPECTER.

Mr. REID. Reserving the right to object, we have been told the Gramm amendment is substantially agreed to but one or two other people have to look at it first. I am sure that will work out fine.

Mr. GREGG. I didn't say it was agreed to; I just said they had 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is temporarily set aside, and the Senator from Wyoming is recognized.

AMENDMENT NO. 840

Mr. ENZI. Mr. President, I call up amendment No. 840.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] proposes an amendment numbered 840.

Mr. ENZI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide immunity to certain self-insured group health plans that provide health insurance options)

On page 172, between lines 15 and 16, insert the following:

SEC. 304. IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

"(p) IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.—

"(1) IN GENERAL.—No liability shall arise under subsection (n) with respect to a participant or beneficiary against a group health plan described in paragraph (4) if such plan offers the participant or beneficiary the coverage option described in paragraph (2).

"(2) COVERAGE OPTION.—The coverage option described in this paragraph is one under which the group health plan, at the time of enrollment or as provided for in paragraph (3), provides the participant or beneficiary with the option to—

"(A) enroll for coverage under a fully insured health plan; or

"(B) receive an individual benefit payment, in an amount equal to the amount that would be contributed on behalf of the participant or beneficiary by the plan sponsor for enrollment in the group health plan (as determined by the plan actuary, including factors relating to participant or beneficiary's age and health status), for use by the participant or beneficiary in obtaining health insurance coverage in the individual market.

"(3) TIME OF OFFERING OF OPTION.—The coverage option described in paragraph (2) shall be offered to a participant or beneficiary—

"(A) during the first period in which the individual is eligible to enroll under the group health plan; or

"(B) during any special enrollment period provided by the group health plan after the date of enactment of the Patients' Bill of Rights Plus Act for purposes of offering such coverage option.

"(4) GROUP HEALTH PLAN DESCRIBED.—A group health plan described in this paragraph is a group health plan that is self-insured and self-administered prior to the general effective date described in section 401(a)(1) of the Bipartisan Patient Protection Act.".

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) EXCLUSION FROM INCOME.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following:

"(d) TREATMENT OF CERTAIN COVERAGE OPTION UNDER SELF-INSURED PLANS.—No amount shall be included in the gross income of an individual by reason of—

"(1) the individual's right to elect a coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, or

"(2) the receipt by the individual of an individual benefit payment described in section 502(o)(2)(A) of such Act."

(2) NONDISCRIMINATION RULES.—Section 105(h) of such Code (relating to self-insured medical expense reimbursement plans) is amended by adding at the end the following:

"(11) TREATMENT OF CERTAIN COVERAGE OPTIONS.—If a self-insured medical reimbursement plan offers the coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, employees who elect such option shall be treated as eligible to benefit under the plan and the plan shall be treated as benefiting such employees."

Mr. ENZI. Mr. President, we have spent more than a week debating this version of a Patients' Bill of Rights which would affect the health care coverage of more than 160 million working families who are currently provided insurance by employers on a voluntary basis. We have specifically debated the matter of protecting employers from the new liability in the bill. To that end, Senators GRAMM and HUTCHISON offered an amendment that mirrored the employer protection provision of Texas law by completely carving it out. That amendment was unfortunately defeated. So we are still in the same predicament. We have employers that are providing health care coverage that may think twice about doing so if this bill passes as it currently reads.

Now everyone, including the sponsors of the bill, acknowledges that this bill's stab at an employer protection from frivolous lawsuits needs to be fixed. The Senators are now talking about how we protect the good actors. Those are employers that are doing right by their employees, offering health coverage but not playing a role in denying medical care to which their employees are entitled under the insurance contract.

My hope is that in the course of these discussions everyone will settle on a comprehensive liability fix that includes the designated decisionmaker model presented in the Frist-Breaux-Jeffords bill. As many of my colleagues have said, that certainly seems to do the job. I agree it certainly seems to. In fact, I agree that the designated decisionmaker mechanism must be part of an amendment to successfully resolve the problems in the underlying bill.

However, while the designated decisionmaker model does present itself as the most reliable proposal for protecting most employers, there remains a small segment of the market that will continue to go unprotected. Ironically, this handful of employer health plans may represent the best of the best. These are the plans that we all should envy. They are plans better than we have in the Senate. They are referred to as the self-insured, self-administered employer plans. They comprise roughly 5 percent of the entire ERISA market.

Five percent is not a small number because that is still 6 million people, but the problem under the Kennedy-McCain direct participation model and even a designated decisionmaker model as we have been debating in the last few minutes is that these employers will have to dramatically alter their health plan because they do the plan administration in-house. That means they are participating in everything, and it means they cannot just designate their third party administration or insurance company because they don't currently contract with such entities for the purpose of processing claims. That is the difference between the self-administered and the fully insured employer plan.

We can reasonably expect the fully insured employer plan to be able to designate the final decision on a claim for benefit because that is generally how they function now, having the insurance company administer the plan, with the employer participation ranging from full plan design to advocating for a sick employee. But that is not the way the self-administered plan operates. So none of the proposals protects them.

My fear is that none of the proposals even preserves that kind of a plan. Let me explain why that is a problem. These companies that self-administer are few and far between, probably a dozen in the entire United States. But they are the big companies, the companies that operate probably in everybody's State but mine. Usually I am the advocate for small businesses because all of my businesses are small. There is not a single company headquartered in Wyoming that would be considered big business by the Small Business Administration. This issue has come to my attention from companies that participate all over the United States, and they have brought me the stories of how it will affect their plan, what the costs will be. It does require a fair bit of capital to administer a health plan and also requires that the employer wants to be actively involved in the caliber and range of benefits their employees receive. They receive more benefits than almost anyone else. And they want to design a wide, often unique range of benefits to suit the specific needs of their employees. Because the employers have the in-house resources to do so, they are actually able to be more cost-effective in what they provide than if they provided a fully insured health plan. They would rather have the health benefits than the administration benefit. It is not that they can just provide the same benefits cheaper and more efficiently; they actually provide a richer benefit package for less.

The benefits some of these employers provide include extensive mental health counseling, on-site wellness clinics, routine screenings, they include cancer, osteoporosis, and domestic violence counseling, and the list goes on. These employers often use employee review boards to evaluate disputed claims for benefits, which is also a practice used by a number of employee union operated health plans. These are clearly benefits and administrative practices designed to help employees get the highest quality health care available. In fact, these employer plans are often referred to as the Cadillac of plans. As I said before, isn't it ironic that these are the health plans hardest hit by this bill? That doesn't make any sense to me. And it clearly doesn't make any sense to me to leave these employers unprotected as we identify a way to protect employers.

For that reason, the amendment I offer today is a solution that I think is reasonable and will force us to ask ourselves a few tough questions about the purpose of a Patients' Bill of Rights. The amendment would require a self-insured, self-administered employer to offer their employees one or both of the following options, in addition to the self-administered, self-funded plan, and thereby gain a "shield" around that self-administered plan from the new cause of action. The logic of this amendment is to provide employees with the option of choosing a different health plan, which would also afford them access to a cause of action. The employee chooses if he or she wants that to be a component of their health benefit.

Under the amendment, self-administered, self-insured employers would be required to offer at least one of the following options. The first would be a fully insured product, under which an employee could exercise the cause of action in this bill against the insurance company administering the health plan; or, the employer would provide the option of receiving, in the form of an "individual health benefit," the amount of their employer's annual premium contribution under the self-administered employer plan. This would have to be used to buy health care, which is done in the State regulated individual market. They have the right to sue.

If an employer offers one or both of these choices to employees, then the employer would not be subject to the new cause of action under the Patients' Bill of Rights. Any new civil monetary penalties would apply to these employers for violations of the act, and the external appeals determination would be binding on the employer, but enrollees would not be able to pursue damage awards against the employer under the new cause of action. As under the Frist-Breaux-Jeffords bill, this provision would not preempt any medical malpractice action currently available in state court.

It would not do that. This is very clear. An employee makes the choice to either keep the caliber of benefits under the self-administered plan, or to choose a plan specifically for the right to sue. Those employees that choose the fully insured product will be able to hold their plan accountable under the new cause of action. And, those employees that choose to purchase their own plan through the "individual health benefit" are similarly able to hold their plan accountable under state law.

The argument has always been that ERISA is unfair because it "traps" employees in the employer sponsored plan, affording that option alone, where damage lawsuits aren't available. This proposal solves that dilemma without jeopardizing access to top-notch employer sponsored health care for those employees. Have any of you been hearing from the major companies that provide the self-insured, self-administered employer plan? No, you have not. They have not been asking for that right to sue. They like the range of benefits they have. They like the personal way it is handled.

The arguments you will hear against the amendment, I believe, actually make the case for it. It is very simple. It will be argued that employees will never be able to get the rich benefit packages that their employer's self-administered plan currently provides if they opt into the individual market by taking the "individual benefit," and, while it may be better than the individual market under the fully insured option, surely it won't compare to the self-administered option.

That is absolutely right. If they spend the same amount of money and add a liability part to it, you do not get as much insurance. I am trying to preserve their insurance, not the right to sue, by giving them the flexibility. Any employer that ever had a bad actor incident in their company would have all of their people go out into the individual market under this plan.

This bill would eliminate the best employer plans out there because we feel compelled to sue them instead of making the decision to eliminate self-administered plans by a lawsuit from Washington. Why don't we let the employees make the choice for themselves? Every time a window of choice comes open they can opt into this other plan if they think it is a good way to go.

But I will tell you why the businesses cannot do what is being mandated under this bill. If they have to have a designated decisionmaker, they are hiring somebody to take the liability risk. They are not just hiring somebody to administer the plan. That is only a 5-percent cost. This will drive their prices up dramatically if we do not give this option, and people who are receiving the best care in the United States at the present time will have to settle for something else.

I believe we have made a concerted effort through the amendment. It is one we talked about a lot last year in the Patients' Bill of Rights conference committees. We made an attempt to amend the process, to remedy the problems of the entire liability section under the underlying bill, including protecting employers and including protecting small employers.

It is not worry about the small ones; this is worry about the big ones who are providing the best of the best. I do not believe we will be doing a good job unless we include this amendment.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. If no one yields time, time will be charged against both sides.

The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I understand what my friend from Wyoming is trying to do. We appreciate his work on this issue. This is a subject matter that was covered previously by the Snowe-Nelson-DeWine-Lincoln amendment on which we reached consensus on the floor a few hours ago. That amendment was specifically designed to strike the proper balance between protecting employers on the one hand and making sure we also protected the rights of employees. So this is an issue that has already been covered, about which there has already been great discussion, work, and compromise across party lines, Democrats and Republicans, and about which we are soon to have a vote. It is an issue about which we already have consensus. We have widespread support for that consensus.

The reason for that widespread support is we have protected employers while at the same time kept alive the rights of employees and patients. We have struck in a very creative way a solution to that problem.

This specific amendment has at least two major problems. No. 1, what it does is take away the rights of employees, patients, and families, to hold anybody accountable if one of two things occurs. The problem with that concept is that it is in violation of the President's principle, which we have talked about at great length on the floor of the Senate, which is that employers be protected but that somebody be held accountable if the employee, the patient, is injured as a result of a medically reviewable decision. The President specifically said that in his principle. That principle is completely complied with in the Snowe-DeWine-Nelson amendment because in that amendment we create a situation where we protect the employees right to recover if, in fact, they are injured by a medically reviewable decision, while at the same time providing protection for employers. So that is the reason that consensus was reached. That is the reason both Democrats and Republicans support it across party lines, and that consensus is consistent with the President's principle.

This is an issue about which we have already talked and an issue about which we have reached some agreement.

In addition to that, there are at least two other problems with this specific amendment.

No. 1, it provides the employees with a false option. It says for self-insured, self-administered plans, if either of two things occurs, the employee, the family, and the patient lose their right to hold anybody accountable. One of those options is that they go out, get a voucher, and buy their own health insurance. But there is absolutely no requirement that the voucher be adequate to buy quality health insurance plans.

Second, they may provide a comparable plan. But there is nothing to require that the benefits of that plan be equal to the benefits the employee would otherwise have.

The bottom line is there are no protections that require that under these options the employee or the patient end up with the same quality health care plan. In many regards, it is a false option that is being provided to them.

Another fundamental problem is that there is a provision in the amendment—this is the B-1 exclusion from income—which says section 106 of the Internal Revenue Code of 1986 is amended by adding at the end the following. Of course, an amendment to the Internal Revenue Code creates a blue slip problem. This issue has to originate in the House, which means, if adopted, that this entire legislation could be sent back to the Senate from the House.

We have a number of problems. I understand what my colleague is trying to do. I think his purpose is very well intentioned. But I say to my colleagues, No. 1, this is an issue about which we have already reached consensus in the Snowe-DeWine-Nelson amendment. We have reached that consensus for an important reason. We have complied with the President's principle. We have complied with the fundamental principle, with which many of us on both sides of the aisle agree, which is we need to protect employers and provide the maximum protection for employers but, in that process, not leave the patients behind. That is the reason we have an amendment to be able to reach consensus.

No. 2, the choices that are being provided in this particular amendment we believe are false choices, and they would not require that the employee or the patient receive the same quality plan they would get with the employer.

No. 3, it creates a blue slip problem, which means the entire Patient Protection Act could be sent back to the Senate since it involves an amendment to the IRS Code.

There are a number of fundamental problems. I appreciate my colleague's work on this issue. I think this does not move us in the right direction. We have an amendment that already addresses this issue. It is an amendment that provides protection for employers while at the same time keeping alive the rights of patients and employees.

I urge my colleagues to vote against this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. ENZI. Mr. President, I want to quickly refresh the memory of the Senator from North Carolina.

I would not have entered into the time agreement had I known he wasn't listening when I debated the Snowe-DeWine arrangement where I clearly pointed out that it is not considered thereunder. I think this is a sticking point that the President would see as being very difficult.

We are talking about companies such as Hewlett-Packard, Firestone, Motorola, Caterpillar, Pitney Bowes—big companies that are providing this. I have checked on the costs. Their costs will go up from $40 million to $70 million if the Snowe-DeWine amendment is the only defense they have.

I yield the remaining time to the Senator from Texas.

Mr. GRAMM. Mr. President, first of all, this problem has not been fixed. The amendment we will adopt is window dressing and has no impact on this problem. What the Senator has proposed is a solution to an assault on the best health care plans in America. The biggest companies with self-insured plans that employees love will be destroyed by this bill.

All the Senator is saying is that if Wal-Mart employees love their plan, and they want to keep it and agree to not require Wal-Mart to be liable to be sued, and if Wal-Mart gives them the option of going into a fully-insured plan with liability so that they do not have to be in the Wal-Mart self-insured plan, they can choose to remain in it, and Wal-Mart will not be forced by liability costs to cancel their plan. This is an important issue that addresses a very real shortcoming in this bill. The incredible paradox is that this bill will do the most damage to the best health care plans in America—plans that are self-insured, that are large, and that provide terrific coverage. Under this bill, there is no question about the fact that the employer will be held liable. That liability fear will end up forcing them out of these plans.

The Senator has offered us a third way. The third way is if every employee is offered an alternative where there is liability available, then those who choose to stay in their health plan and say, I love my Wal-Mart plan and I don't want to sue Wal-Mart, would have a right to do it. That is what the Senator's amendment does. All of the rest of these arguments have nothing to do with the amendment.

Do you want to destroy the best health care systems in America? If you do, you want to vote against the Enzi amendment. If you do not, vote for the Enzi amendment which guarantees that a Wal-Mart employee will have an option of another health care plan where everybody is liable. But if they choose a better plan with fewer lawsuits, aren't they better off by definition by choosing?

The Senator from North Carolina says if you do not get lawsuits, you ought not to be happy. Maybe not everybody agrees with the Senator from North Carolina.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, what is the time situation?

The PRESIDING OFFICER. No time is remaining on Senator ENZI's side, the sponsor of the amendment, and 8 minutes 44 seconds remain in opposition to the amendment.

Mr. GREGG. I understand the Senator from Texas has an amendment, which has been agreed to by both sides, and she needs about 3 minutes to present it. Is there any objection to setting aside the Enzi amendment and allowing the Senator from Texas to go forward?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Texas is recognized for 3 minutes.

AMENDMENT NO. 839

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself and Mrs. CLINTON, proposes an amendment numbered 839.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To include information relating to disenrollment in the information provided to patients)

On page 101, between lines 14 and 15, insert the following:

(3) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

Mrs. HUTCHISON. Mr. President, this amendment is a very simple one. There are several things that must be reported to an enrollee in a plan before the company can implement those things. They are major changes to that person's plan because you don't want a person to go into the doctor's office or into the pharmacy and be told they have been dropped from their insurance or that their spouse has been dropped from their insurance or their child.

We are requiring under the basic bill 30-day notice of any material change. My amendment just specifies disenrollment as one of those items that must be given 30 days' notice.

I have had an experience in which a person's husband was dropped from a plan, was not told about it, and found out when the person went to pick up a prescription drug for the husband, and had no way to fight it in the pharmacy. Later in the week, when the person called to find out why the husband was dropped from her plan, they found it was a mistake. Of course it was a mistake.

So that is why you want the 30 days' notice, so that a person would not have to find out that they are not getting coverage they thought they had through a clerical error.

That is all this amendment does. I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 839) was agreed to.

Mrs. HUTCHISON. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 840

Mr. EDWARDS. Mr. President, let me respond briefly to a couple of the comments that were made about the Enzi amendment.

First of all, no argument was made that I heard about the blue-slip problem, so I presume there is agreement that if this amendment is included, it would require the entire Patient Protection Act to be sent back.

Second, I say to my friend from Wyoming, I actually did listen to his comments in the debate. And not only that, I sat in hours of meetings with Senators SNOWE and DEWINE, and others, working out the language of the Snowe-DeWine-Nelson amendment.

The Senator is factually incorrect about one thing; that is, that what Snowe-DeWine-Nelson does is, No. 1, provide complete, 100-percent protection for 94 percent of the employers in the country. Almost every small employer is totally protected. But we left rights in place for patients. The employers are completely protected.

For the self-insured, self-administered employers, we have also provided specific protections in this amendment, which we have been working on for several days now. No. 1, they are completely carved out. Self-insured, self-administered plans are totally carved out of the Federal cause of action in the Bipartisan Patient Protection Act. They cannot be held responsible for contractual, administrative responsibilities, period. They are out.

Second, we have provided that if they choose to do so, they can pick a third party designated decisionmaker and send all liability to that decisionmaker by which they are completely protected.

And finally, we have provided that if they have what many of these large employers have, which is a system where they simply make a decision, yes or no, on paying the claim after the treatment has already been provided—that the patient goes and gets the treatment; then they decide whether they are going to pay for it or not—they cannot be held responsible.

So I say to my friend and colleagues, what we have done is provide complete protection for 94 percent of the employers in this country in the Snowe amendment, while at the same time not removing the rights and protections of patients.

For the self-insured, self-administered employers, we provided three protections: No. 1, they are completely out on the Federal cause of action, which is contracts, administrative issues.

No. 2, we have specifically said they can use a designated third party decisionmaker and remove all liability by doing that if they so choose.

No. 3, we have said if they operate the plan by saying: we decide after the treatment just simply whether we are going to pay for it or we are not going to pay for it, they are completely protected.

So after lots of work, and many hours, I say to my colleagues, we believe we struck the right balance in both cases—for providing maximum protection for the employers and keeping in place the rights of patients, employees, and families.

So in addition to the blue-slip problem, which in and of itself would be enormous, we believe that we have dealt with this issue. We have dealt with it in a proper and adequate fashion. And we have addressed the concerns of the self-insured, self-administered plans, and the issues raised by small employers around the country who will be completely protected by this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time on this amendment?

The Senator from Wyoming.

Mr. ENZI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It is my understanding that the managers of the bill, including Senator FRIST, would ask that this vote be put over until a later time. So I ask unanimous consent that be the case.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Chair advises the Senator from North Carolina he has 4 minutes remaining in opposition to this amendment.

The Senator from Texas.

Mr. GRAMM. Mr. President, under the previous unanimous consent agreement, I believe I had 10 minutes to offer an amendment with Senator MCCAIN, but he is not here. I am waiting for him to come back. So I would just like to suggest that perhaps we could modify the unanimous consent agreement so that when he does come back, whoever is speaking at that point, whenever they are finished, we would be recognized to do the amendment. But there is no reason we cannot conduct other business while we are sitting here.

Mr. KENNEDY. Why not talk now?

Mr. GRAMM. I am offering this with Senator MCCAIN. I think he wants to be here as well. It is my understanding he is on his way.

Let me just suggest we let Senator NICKLES speak, if he would like to speak. We could all learn something from listening to him. And then, when he is finished, hopefully Senator MCCAIN will be back, and we will do this long-awaited amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I just appreciate my friend and colleague from Texas. I will be very brief. I understand the Senator from Pennsylvania wants to come and speak on his amendment. I would just like to make a couple general comments.

Just for the information of our colleagues, I believe at—6:30 we will have three votes. So people should be cognizant of the fact we are going to have two or three votes—three votes, I believe—at around 6:30.

One, I wish to compliment the Senator from Wyoming, Mr. ENZI, for his enrollee choice proposal. I think it is an outstanding proposal. I urge my colleagues to be in favor of it.

I would also like to make a couple comments dealing with the designated decision maker. Some people are acting like this is a grand compromise, that this is going to save employers: Employers are going to be exempt now because we are going to give this decision to a third party.

When I ran a company, Nickles Machine Corporation, we had a third party administrator. They handled all the administrative claims. They did a decent job. So I didn't have to do it, our company didn't have to do it. We hired them to pay the benefits, to harass the providers, to make sure that benefits were paid or weren't paid. They paid the right benefits, didn't pay the right benefits. They were hired guns to run the plan, to make the decisions, to negotiate with the hospitals, negotiate with the doctors—all those kinds of things. That is what third party administrators do.

Now we are talking about saying: They have that responsibility, and now they have liability, too. That's what this amendment does. Some people said: It is going to hold employers harmless. It will not. I will tell you, the net result is third party administrators are going to say: What am I liable for? Under the McCain-Kennedy-Edwards proposal, they are liable for anything and everything. They are liable for unlimited economic damages. They are liable for unlimited noneconomic damages, pain and suffering. They are liable for punitive damages—up to a cap of $5 million—in Federal courts. They are liable for unlimited economic and noneconomic damages in State courts.

It has never been said that State court limitations for doctors and so on would apply to the plans and/or to the States. So now we are saying to a third-party administrator, we want you to assume the liability but the extent of the liability is not defined. It is unlimited. One good lawsuit and they are going to have to write a great big check. What are they going to do? They are going to have to charge a lot of money. They are going to have to charge as much money as they think this will cost, and they are going to guess because they don't know.

It is kind of like playing Russian roulette. They might be lucky and not have any suits so whatever they charge will be profit. Conversely, if there is one bad suit and they are found liable, they are assuming this liability and they could go bankrupt. So they are going to be trying to err on the high side.

The net result, for everybody who thinks this is going to exonerate employers and all they have to do is designate somebody else to accept their liability, I tell my colleagues, as an employer, that is not going to happen. An employer may say: You handle this, third party; you assume our liability. And that third party is going to say: OK, but I am going to charge you for it, and I am going to charge you more than enough to make sure that we don't go bankrupt in the process.

Maybe they can buy insurance themselves or maybe they can't. My guess is we are going to find out. Some people have said: CBO says that the liability provision under this bill is .8 percent. I would be willing to bet anybody the premiums that are going to come out as a result of this liability in third party administrators assuming liability is going to be a lot more than .8 percent. My guess is you are going to be looking at premium increases of 4 and 5 percent just to cover the liability before someone will take this because the liability is not defined. It is unlimited, unlimited noneconomic, unlimited economic.

The contract coverage, well, you may have to cover just about anything. We never did tighten up medical necessity so if somebody says maybe it should be covered, it should be covered. So you are not even confined to the contract. We don't have contracts. This third party administrator, which is usually charged with enforcing a contract, does not have a defined contract and has unlimited liability. And we tell them they have to pay for everything. They are going to end up charging the employer more than they think it would cost so they don't go bankrupt.

So we are going to find out how much this costs. My point is, I want people to be aware of the fact that just having a designated decision maker with no limitations on liability, with no limitations on covering what is in the contract can be enormously expensive.

One other fact that people haven't considered. If you are a designated decision maker and you are making these decisions on what to cover and not to cover and you are liable if things don't work out, you are hardly ever going to say no. You will hardly ever say no because if you say no, you might be sued. Therefore, you are going to have more defensive medicine than you have ever had. Whereas before they were charged with the responsibility of enforcing a defined contract—this is covered; this is not covered; being more of an administrator of a contract and a plan—they are now going to be faced with liability. And they can't afford the ultimate price of being hit with a heavy lawsuit. So when the claim comes forward, if it is even close, they are going to pay it. Pay it. Pay it. They don't want to take a risk or a gamble that they can be sued for unlimited damages. So you will have enormous increases through increase of what I would call defensive protections so people don't have liability costs.

And then you will have people guessing what the liability will be, and that will increase the cost to make sure that they have enough that they don't go bankrupt.

The net result is that this designated decision maker that some people think is going to exonerate employers will show that this is a very expensive provision, and the cost of this bill, the cost of medicine, the cost of health care and, therefore, ultimately the number of uninsured will rise dramatically as a result of this bill and because of this provision.

I urge my colleagues to vote no on the underlying amendment that deals with this provision.

I want to mention—I hope it gets fixed—I think it is outrageous we could exempt union plans from this provision. I hope it is fixed.

I yield the floor.

AMENDMENT NO. 843

The PRESIDING OFFICER. Under a previous order, the Senator from Texas is recognized, with the agreement that his 10 minutes will be equally divided, 5 minutes on either side.

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and Mr. MCCAIN, proposes an amendment numbered 843.

The amendment is as follows:

(Purpose: To ensure the sanctity of the health plan contract)

Insert at the appropriate place:

Notwithstanding any other provision of this Act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plain language of the plan or coverage claimants) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required, provided that the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. REID. If the Senator from Texas will withhold, and no time will be charged against him, I want to propound a unanimous consent request.

Mr. President, I ask unanimous consent that Senator SPECTER be recognized to offer an amendment regarding Federal courts with an hour for debate equally divided in the usual form; further, that Senator SNOWE be permitted to modify her amendment; further, that the Senate vote in relation to the Snowe amendment at 6:50 p.m. this evening, with 10 minutes for debate prior to the vote equally divided in the usual form with no second-degree amendments in order prior to the vote; further, that following disposition of the Snowe amendment, there be 2 minutes for debate prior to a vote in relation to the Enzi amendment with no second-degree amendments in order prior to the vote; further, following disposition of the Enzi amendment, there be 2 minutes for debate prior to a vote in relation to the Specter amendment with no second-degree amendments in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, as I understand it, as to the 10 minutes, because the amendment was itself divided into four parts, four holders of time will be given 2½ minute segments.

Mr. REID. When I read that, I knew we should have a clarification. I appreciate the Senator clarifying that.

Mr. SPECTER. Mr. President, reserving the right to object, I entered the Chamber and I heard my name mentioned. I would ask that the unanimous consent be repeated.

Mr. REID. That the Senator from Pennsylvania would have one hour evenly divided in the usual form.

Mr. SPECTER. Mr. President, I do object to that. I was asked how long I thought it would take, and I said 2 hours. Then I was asked if I thought I could do it in an hour, and I said I would do my best. This is a complicated amendment. This is a complicated bill. I am not prepared to enter into a unanimous consent request which limits my presentation to 20 minutes.

Mr. REID. Will the Senator from Pennsylvania agree to have 45 minutes for him and 15 for us? We have Members who want to know when they are going to vote.

Mr. SPECTER. That is not satisfactory. I am being importuned over here about what a good deal it is. This amendment, Mr. President, involves a question of whether there will be both Federal jurisdiction and State jurisdiction. It is a matter I have discussed with the managers of the bill again this morning and with Senator EDWARDS. I believe there is going to have to be some discussion. There are going to have to be some issues raised and some questions answered. It simply does not lend itself to that kind of time constraint.

Mr. REID. If I could say to the Senator from Pennsylvania, how about if he has an hour and we have 20 minutes?

Mr. SPECTER. Mr. President, I am prepared to start the debate and to make it as expeditious as possible. But I am not prepared to negotiate time to an hour and 20 minutes total. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Texas is recognized for 5 minutes on his amendment.

Mr. GRAMM. Mr. President, I have sent an amendment to the desk. The amendment has been read.

Let me explain to my colleagues what the amendment does, why it is important, and then I will thank our distinguished colleague from Arizona.

Under the bill that is now before us, under the language of the current bill on page 35, the bill says that contracts are binding. But then it makes those contracts binding unless they are subject to a judgment of medical facts and they are subject to medical review.

This creates an extraordinary ambiguity and, for all practical purposes, makes the contract not binding. That creates a situation where every health insurance company in America will realize that these outside medical reviewers, based on medical necessity, could invalidate every health insurance contract in America and, as a result, put everybody under the high option plan whether they pay for it or not. The net result would be an explosion in health care costs. In fact, if this provision is not fixed, it is at least as explosive in potential cost as the liability section, which we have talked about 10 times as much.

The amendment I have offered makes the contract binding, and it provides language that says the contract is binding as long as the contract does not violate the language of the bill. Let me explain very briefly what that means. If, as we do under the bill, we say that if you provide emergency room coverage, you have to have a prudent layperson standard for that emergency room coverage, so you have to do that if you provide the coverage no matter what this amendment says; or if we say under the bill that if the plan has pediatric care for children, that can be the primary physician, then it would have to be the law that would govern.

Within that very limited proviso, this amendment makes the contract binding. I think it is a dramatic improvement in the bill.

I thank our distinguished colleague and my old and dear friend from Arizona for helping me work this provision out. It is something I have worried about. I do think it improves the bill, and it certainly would not have happened without the reasonableness of our dear colleague from Arizona. I thank him for that.

I yield the floor.

Mr. McCAIN. Mr. President, I thank the Senator from Texas for causing this amendment to happen. It really is to ensure the sanctity of the health care contract. Concerns were raised that under the pending McCain-Kennedy legislation, independent medical reviewers can order a health plan to provide items and services that are specifically excluded by the plan.

That was not the intention of the law. The Senator from Texas pointed out that it could have been interpreted in another way, and clearly this amendment I think tightens that language to the point where it is clarified that the bill doesn't do this and its specific limitations and exclusions on coverage must be honored by the external reviewers.

There are numerous safeguards already in the bill to ensure that external reviewers cannot order a group health plan or health insurer to cover items or services that are specifically excluded or expressly limited in the plain language of the plan document and that do not require medical judgment to understand.

So I think this language is important in its clarification. I understand Senator GRAMM's concerns. I know this will not bring him to the point where he is willing to vote for the bill, but I do hope it satisfies many of his concerns, and we will continue to work with him to try to satisfy additional concerns. I appreciate his cooperation and that of his staff. I believe my friend from Texas would agree this is probably the 35th draft we have of this maybe 9-line amendment, but each word is important nowadays as we work our way through this bill. I believe the appropriate place is on page 36, line 5.

By the way, I thank Senator KENNEDY and Senator EDWARDS and their staffs for agreeing to this amendment. I share the opinion of the Senator from Texas that it is an important amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I urge that we accept this amendment. As in other areas, there has been a desire to provide clarification to the language we had in the bill. One of the issues that has been debated is the power and authority of the review medical officer in the review process. It was never the intention to include benefits that were not outlined in the contract. It was going to be limited to the contract, but it was also going to give discretion in terms of medical necessity. So this is a clarification of that, and I think it is a useful and valuable clarification. I hope the Senate will accept it.

Mr. GRAMM. Mr. President, I seek only to do good, not to have it recorded through a recorded vote. So I ask unanimous consent that the amendment be accepted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 843) was agreed to.

Mr. McCAIN. The amendment that I offered today with Senator GRAMM helps to clarify the intent of how this bill deals with medically reviewable decisions.

Mr. KENNEDY. The Senate should understand that the language in the McCain-Edwards-Kennedy bill is based on language from a bipartisan compromise between JOHN DINGELL and CHARLIE NORWOOD. Every member of our conference signed off on our approach the last Congress, from DON NICKLES and PHIL GRAMM to JOHN DINGELL and me.

Our approach is based on a very important concept. It assures that the external reviewer cannot be bound by the HMO's definition of medical necessity. This does not mean that the reviewer sign off on anything that is explicitly excluded by the health plan. If the plan covers 30 days in the hospital the reviewer cannot approve 100 days. However, where a coverage decision requires medical judgment to determine whether of not what the patient is requesting is the type of treatment or services that is explicitly excluded, we intend for that determination to be eligible for independent review.

Mr. McCAIN. The amendment we are drafting here—that merely restates what is in the underlying bill—is not intended to change our fundamental approach, just to clarify our intent.

Our overall bill still clearly states that coverage decisions that are subject to interpretation or that are based on applying, medical facts and judgment should be reviewed. This includes those decisions that require the application of plan definitions that require that interpretation.

Mr. KENNEDY. Absolutely—the reviewer should be looking at those cases. The amendment is intended to clarify that we never meant to have the independent reviewer approving a benefit that is explicitly excluded in all cases. However, in the case where there is some dispute about whether it is a medically reviewable benefit, we do want the case reviewed.

Mr. McCAIN. Right, just as in the case we have heard about a child with a cleft palate. The plan says they do not cover cosmetic surgery, but the doctor argues that there is specific health risks for not having this surgery. That is something the independent reviewer would look at to determine if it is covered in this case.

Mr. KENNEDY. Under the bill the external review process is first designed to determine whether a denial by the plan or issuer is based on a particular definition, or a specific benefit exclusion or limitation under the plan or contract whose meaning is unambiguous and does not turn on specific medical facts in an individual patient's case. An appeal will be dismissed in cases where the entity concludes that unambiguous plan language is the basis of a denial and that no set of medical facts either could or would result in coverage under the terms of the plan.

Mr. REID. Mr. President, we are going to have a vote sometime from 6:45 to 7:15, according to how much time is taken on the Specter amendment. We will have three votes at that time. Members should be ready to come and vote at or about 6:40 or 7:15, something like that.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized to offer an amendment.

AMENDMENT NO. 844

Mr. SPECTER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 844.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require that causes of action under this Act be maintained in Federal Court)

On page 153, strike line 9 and all that follows through page 154, line 2, and insert the following:

"(10) STATUTORY DAMAGES.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection. In such actions, the court shall apply the tort laws of the State in determining damages. If such damages are not limited under State law in actions brought under this subsection against a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan), then State law limiting such damages in actions brought against health care entities shall apply until such State enacts legislation imposing such limits against group health plans (and issuers). Nothing in this section shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and issuers.

On page 160, between lines 2 and 3, insert the following:

"(D) ACTIONS IN FEDERAL COURT.—A cause of action described in subparagraph (A) shall be brought and maintained only in the Federal district court for the district in the State in which the alleged injury or death that is the subject of such action occurred. In any such action, the court shall apply the laws of such State in determining liability and damages. If such State limits the amount of damages that a plaintiff may receive, such limits shall apply in such actions.

On page 156, strike lines 15 and 16 and insert the following:

subsection.

"(o) LIMITATION ON CLASS ACTION LITIGATION.—

"(1) LIMITATION.—

"(A) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative action claimant, or the group of claimants is limited to the participants, beneficiaries, or enrollees with respect to a group health plan established by only 1 plan sponsor or with respect to coverage provided by only 1 issuer. No action maintained by such class, such derivative action claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative action claimant, or group of claimants or consolidated for any purpose with any other proceeding.

"(B) DEFINITIONS.—In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—Paragraph (1) shall apply to all actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act, and all actions that are filed not earlier than that date.".

(2) RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.—Section 1964(c) of title 18, United States Code, is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following:

"(2)(A)(i) No action may be brought under this subsection, or alleging any violation of section 1962, if the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated or provided a group health plan, or health insurance coverage issued in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974.

"(ii) In this subparagraph, the terms 'group health plan' and 'health insurance issuer' have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

"(B) Subparagraph (A) shall apply to actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act, and all actions that are filed not earlier than that date.".

(3) CONFORMING AMENDMENT.—Section

Mr. SPECTER. Mr. President, I declined to enter into a time agreement because this is an amendment which deals with the complex subject of jurisdiction. I have long been a cosponsor for a Patients' Bill of Rights, and I was surprised to learn many years ago of the Federal preemption which precluded an injured patient—for example, where a family doctor recommended a specialist and the HMO refused to provide the specialist to the person and the person was injured, or perhaps died, and had no redress in the Federal courts because of the so-called preemption under ERISA.

It has seemed to me for many years that that was one of the problems that ought to be addressed. I compliment Senator MCCAIN, Senator KENNEDY, and Senator EDWARDS for the work they have done, and also Senator FRIST, Senator BREAUX, and Senator JEFFORDS for their companion bill, and what the managers have done here.

This amendment addresses what I believe, from my experience as a litigator in the civil courts, to be a very fundamental question of concern as to what courts these cases are going to be tried in. The very brief history of ERISA is that cases which have been brought under section 502 of ERISA are governed by what is called the doctrine of complete preemption, and that is where the cases involve contract interpretation, or so-called quantity of medical care.

Under ERISA, section 514, a plaintiff's case has been barred where it relates to an employee benefit plan, and that has been decided by the case law, and has been referred to as quality of care or medical malpractice. For many years, under ERISA, which was enacted in the 1970s, that barred any action at all. But as the courts saw the difficulty of this matter, there gradually came to be a loosening of the interpretation as noted succinctly in a Fifth Circuit opinion, Corporate Health Insurance v. The State Department of Texas, where Circuit Judge Higginbotham noted that the court had "repeatedly struggled with the open-ended character of preemption provisions of ERISA and also the Federal Employers Health Benefits Act."

The court noted that there had been a faithful following of the Supreme Court's broad reading of "relate to" in its opinions decided during the first twenty years after ERISA's enactment. Since then in a trilogy of cases, *DeBuono* v. *NYSA-ILA Med. & Clinical Services Fund*, 117 S.Ct. 1747 (1997); *California Div. of Labor Standards Enforcement* v. *Dillingham Constr., N.A., Inc.*, 117 S.Ct. 832 (1997); *New York State Conference of Blue Cross & Blue Shield Plans* v. *Travelers Ins., Co.*, 115 S.Ct. 1671 (1995), the Court has confronted the reality and had limited the application of that preemption so the cases were brought for medical malpractice in the State courts.

The provisions of the McCain-Edwards-Kennedy bill provide that where you have an action brought on contract interpretation or "quantity of medical care," those cases will go to the Federal court, but where you have a claim which is brought for the "quality of medical care," or so-called malpractice, those cases will go to the State court.

I suggest to my colleagues that to have the two courts handle the matters in that way will result in procedural quagmire because if you have a case such as the following where a child is born to a mother who has a plan under an HMO which seeks to limit the hospital stay to 24 hours. The patient is then discharged and an unfortunate result happens to the child. There will be both claims under the so-called quantity interpretation of the contract and quality on medical malpractice.

That is illustrated in the case of *Bauman* v. *U.S. Healthcare*, 1 F. Supp. 2d 420, a case which was heard in the United States District Court for the District of New Jersey in 1998. In that case, and this illustrates the kind of an issue I am referring to, the HMO plan had policies which encouraged the discharge of a mother and a newborn within 24 hours after birth. Mrs. Bauman was discharged after that time elapsed, and the next day the Baumans' daughter fell ill.

The Baumans contacted the HMO and requested a home visit by a nurse. The HMO refused to send a nurse, and the daughter died of meningitis the same day. The Baumans brought an action against the HMO, the doctor, and the hospital, and they went into State court. The HMO removed the case to Federal court as they had a right to under ERISA.

The district court made a determination that counts under the complaint relating to the discharge decision were "quality-of-care" decisions, and the counts would be remanded to the State court. The district court said that the failure to provide the nurse was a "quantity" decision and, therefore, was preempted totally.

On appeal, the United States Court of Appeals for the Third Circuit, in a case captioned *In re U.S. Healthcare, Inc.*, 193 F.3d 151, reversed the district court holding that the claim was a quality decision.

The Bauman case illustrates the point about how hard it is to decide whether a claim is a "quantity" claim or a "quality" claim.

Under the McCain bill, the claim that the Baumans would bring if the McCain bill were enacted, would be in the Federal court on the issue of plan coverage because that is a determination of the "quantity" of medical care, but that the other claims would be brought in the State court. I suggest obviously that is a procedural quagmire.

The point is further illustrated by an opinion of the Court of Appeals for the Third Circuit in a case called *Lazorko* v. *Pennsylvania Hospital*, 237 F.3d 242, decided just last year, where the underlying facts show the plaintiff's wife was hospitalized for attempted suicide. She was released but continued to have thoughts of suicide. Her doctor refused to readmit her to a hospital, and thereafter, regrettably and unfortunately, she killed herself.

In the State court, the plaintiff sued the HMO. The case was removed to the Federal court where the counts on direct liability against the HMO were dismissed. The case was then remanded to the State court and then removed again by the HMO to the Federal court.

The Federal court dismissed some of the counts against the HMO but remanded the case to the State court because of the various vicarious liability claims which the plaintiff had against the HMO. On appeal, the circuit court reversed the district court on one liability count and remanded the case to the district court.

That is legalese, obviously, and very hard to present in the course of a floor statement in a Senate debate on this subject, but it is illustrative of a point that where you have a situation where an HMO covers certain kinds of treatments for medical illness and you have a question as to the coverage, under the McCain bill that claim would go to the Federal court, but if there is a claim on malpractice, failure of the doctor to exercise ordinary care, that case would go to the State court.

There is no doubt that with the long history which the Federal courts have had on interpreting ERISA that there is going to be the first line of jurisdiction, and appropriately so, in the Federal court.

My amendment would provide that the Federal court would have exclusive jurisdiction over all of the claims. In a situation where the HMO would have its case heard in the Federal court, the Federal courts frequently will retain jurisdiction over the doctors, the nurses, and the hospital, and the other parties where the matter would ordinarily go to State court on what is called pendent or supplemental jurisdiction.

Again, it is very complicated. It does not lend itself to a short time agreement, but the upshot of it is that if you have the provisions of the McCain bill which give jurisdiction to the Federal court on contract interpretation or "quantity of care" and jurisdictions in the State court on malpractice or "quality of care", a plaintiff is going to have to go to two courts to get both of the claims adjudicated which is, as I say, a procedural quagmire.

The amendment which I have proposed would give appropriate deference to State law by providing that it would be the law of the State where the incident occurred which would govern the lawsuit. That is to say that the damages would be determined by State law and damages do vary among the 50 States.

Also, if the State had a cap or a limit on the amount which could be collected, that would be determinative when the case is brought in the Federal court.

This is very much like the diversity cases where jurisdiction resides in the Federal court, where the plaintiff is a resident of one State and the defendant is a resident of another State. A simple illustration would be if a patient from Camden, NJ, is treated in a Philadelphia, PA, hospital by a Philadelphia physician and there is an allegation of malpractice, negligence on the part of the physician and the hospital, then the resident of the State of New Jersey could sue in the Federal court with requisite jurisdictional amount, but it would be the law of Pennsylvania which would govern, or the plaintiff could sue in the State court of Pennsylvania. State courts would have jurisdiction.

Once you bring the HMO into the picture and you have what is traditionally under ERISA, it has to start out in the Federal court at least as the contract interpretation and "quantity of care." That is why it is my view, my legal judgment, that it is necessary to avoid the procedural quagmire to have the Federal court have jurisdiction over the entire matter.

The question has been raised as to choice of law and venue, the question raised by my distinguished colleague from Tennessee, and I specified in the legislation that it would be the place of the incident which would determine the applicable law. Again, liability varies from State to State and venue has an important place. We want to avoid the potential of judge shopping so that the choice of law and the determination of venue would be where the incident occurred.

There is another important aspect to the litigation in the Federal court because of a feeling of a greater confidence in the Federal judicial system than in some State court judicial system. This is a touchy point, but it is one which the Judiciary Committee examined in some detail last year in considering the question of amending diversity jurisdiction in class action cases. Class action is when plaintiffs join to sue a defendant. There had been, for illustrative purposes, a case which had been denied class action status by the Court of Appeals for the Third Circuit, and the plaintiffs then went to Louisiana, to a favored county, and instituted the class action case and had the class action certified.

Diversity jurisdiction is easily defeated in a class action matter because if you have many plaintiffs, as you do in a class action, and a single defendant, all you have to do to avoid diversity jurisdiction is to have one of the plaintiffs a resident of the same State as the defendant. In order to have a diversity jurisdiction in the Federal court, all the plaintiffs have to be from a State other than the residence of a defendant.

In the Judiciary Committee report on this subject, the following facts of findings were made:

> Some State court judges are less careful than their Federal court counterparts about applying the procedural requirements that govern class actions.

That appears on page 16 of the report of the Judiciary Committee reporting this bill out at a 10–8 vote.

On the next page, page 17, appears the following statement:

> A second abuse that is common in State court class actions is the use of the class device as "judicial blackmail." That is a fairly strong condemnation in citing that criticism of the State courts. I do not suggest the impugning of all State court judges everywhere. But there is a considerable difference in many States in the quality of the courts where you have electoral process in many States, contrasted with the Federal system of life tenure, where I believe it is fair to say it is generally accepted that the caliber of the Federal courts is better, at least as a generalization.

There has been a great deal of concern expressed by some about the unlimited potential that would be present in a Patients' Bill of Rights in exposing defendants, HMOs, and employers to very high verdicts which would increase the cost of health care. So there is some assurance, I think fairly stated, by having the cases brought in the Federal courts.

I think it is useful to cite a couple of other illustrations abut the underlying concern which I have about the procedural quagmire which occurs. One of the two cases I intend to cite additionally—but I shall not cite many of the other cases, and there are many illustrative of this proposition—is the case of *Pryzbowski* v. *U.S. Healthcare, Inc.*, 245 F.3d 266, decided by the Court of Appeals for the Third Circuit earlier this year. The plaintiff had back problems, sought surgical treatment, the HMO delayed a decision for months, the plaintiff went to State court, suing the HMO for medical complications occasioned by the delay. The HMO removed the case to the Federal court where the Federal court dismissed the claims against the HMO, finding that they were "quantity determinations" and therefore preempted under ERISA section 502. The district court also found that claims against the primary care provider were expressly preempted by section 514 and dismissed those claims, as well. The Court of Appeals for the Third Circuit vacated the findings and remanded the case to district court to make further findings. The appellate court noted that the claims against the primary care provider raised both "quality" and "quantity" issues and, on the record before it, the court could not decide which applied in this case.

So not only do you have the provisions of the pending bill, which would send a plaintiff to two different courts on what is essentially the same situation, but even have the courts unable to draw a bright line between what is "quantity" and "quality."

Another case which is illustrative of the problem is *Corcoran* v. *United Health Care Inc.*, 965 F.2d 1321, heard in the United States Court of Appeals for the Fifth Circuit in 1992, where a patient was pregnant, and her doctor recommended complete bed rest and hospitalization so that he could monitor the fetus. The patient's doctor sought precertification from the HMO for a hospital stay. The HMO denied the request and authorized only 10 hours per day of health nurse services at home. Subsequently, the fetus regrettably went into distress and died at a time when the home health nurse was not on duty. The Corcorans, parents of the deceased child, brought suit in the State court which then had it removed to the Federal court, with the HMO arguing that they had not made a medical decision on "quality" but only a decision as to what benefits were covered under the health plan which was preempted by ERISA. The court concluded that the HMO gave medical advice, but in the context of making a determination about the availability of benefits under the plan, and as such the court found the Corcorans' claim was preempted by ERISA.

So there you have a curious situation of what is viewed as a medical decision but again, preemption, because it was held to relate to a determination of benefits under the plan.

The amendment would give jurisdiction to the Federal court on both of the claims so that when any one of these plaintiffs, such as a mother who is delivering a baby and has a limitation of 24 hours in the hospital and has a claim both as to coverage and as to malpractice, she could bring the case into Federal court, where State law would apply as to damages, and if there was a cap on damages in that State, that cap would apply.

I am a cosponsor of the bill and I, too, intend to support the bill. But I do believe that this sort of a jurisdictional clarification is indispensable if we are to avoid having a plaintiff compelled to litigate in two courts with that kind of multiplicity of action.

I ask the manager of the bill to engage in a discussion, if the distinguished manager would be willing to do so, or if a co-manager would be more appropriate to talk about the operation of the plan, if I may have Senator KENNEDY's attention. I direct a question to my colleague from Massachusetts and raise the issue as to whether it would be more appropriate to discuss the matter with the Senator from North Carolina on this issue, but the question I have relates to the McCain-Kennedy-Edwards bill where you have a case, taking the illustration of the underlying facts that I gave in the Lazorko case. Where you have an HMO, which covers medical care, and a woman being in a hospital for attempted suicide being released and the HMO refusing to readmit her, and thereafter she killed herself—isn't it true that the claims which were brought, say in Lazorko, which raised questions of interpretation of the plan, would be brought in the Federal court and the cases on malpractice would be brought in the State court under your bill?

Mr. KENNEDY. Mr. President, I do not expect we will be able to litigate a case on the floor. I am not familiar with the facts in that particular situation.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Massachusetts does not have the floor; the Senator from Pennsylvania does. Who yields time?

Mr. SPECTER. Did the Senator from Massachusetts suggest the absence of a quorum?

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor; the Senator from Massachusetts does not.

Mr. SPECTER. I do not intend to litigate a case on the Senate floor. So without referring to a specific case, I ask the Senator from Massachusetts, is it true that under his bill a claim which calls for interpretation of coverage of the insurance contract for so-called "quantity of care" would be brought in the Federal court, and a claim which might—which would arise out of the same occurrence, which involved malpractice, or a "quality" case—would that not, under his bill, be brought under the State court?

Mr. KENNEDY. I say to the Senator, it is my understanding of the case, the facts we have to date with that particular issue, following the Supreme Court holdings in the Pegram case, this would be tried in the State court.

Mr. SPECTER. Madam President, I would press the question as to the interpretation of the insurance contract, which defined the rights of the parties under the contract. Isn't it plain, under your bill, I say to Senator KENNEDY, that this is a matter which goes to the Federal court?

Mr. KENNEDY. The understanding of our position on this issue is that the Supreme Court in Pegram said, when there is a dual issue involved in terms of the medical decision and the contract decision, as the Senator knows, on medical issues decided in the State contract, in the Federal courts, and where there is a mix of those, the predominance of these issues being medical, it would be tried in the State court.

Mr. SPECTER. Madam President, I suggest that is at variance with the provisions of the Senator's bill. I will cite the exact citation here.

At page 140, if I might call it to the attention of the Senator from Massachusetts, section 502 of ERISA, which is brought in the Federal court, and at the bottom, line 24:

> (I) regarding whether an item of service is covered under the terms and conditions of the plan or coverage,

So that is a section where you have Federal court jurisdiction, and that would be the issue, as to interpretation of a contract to determine coverage.

I ask the Senator from Massachusetts if that is not an accurate citation of the Senator's bill?

Mr. KENNEDY. No. No, it is not. The Senator would be reading it out of context:

> Cause of action must not involve a medically reviewable decision.

The Federal cause of action excludes the medically reviewable decision. That is on page 142, line 6.

Mr. SPECTER. If I might have the attention of the Senator from Massachusetts, on the preceding page, 139, section 302 talks about the "availability of civil remedies."

> (a) Availability of Federal Civil Remedies In Cases Not Involving Medically Reviewable Decisions.

Mr. KENNEDY. Yes.

Mr. SPECTER. Going on to 140.

Mr. KENNEDY. The Senator is correct, and that is consistent with my earlier remarks.

Mr. SPECTER. If I may be permitted to finish my sentence, since I do have the floor——

Mr. KENNEDY. If the Senator wants a response, I am trying to respond to those highly technical questions the best way we can.

Mr. SPECTER. I do want a response, but not in the middle of my sentence or the middle of my question.

But to go forward here on the availability of Federal civil remedies in cases not involving medically reviewable decisions, this covers, line 24–25:

> regarding whether an item of service is covered under the terms and conditions of the plan or coverage,[.]

My question to the Senator from Massachusetts: Isn't that an explicit conclusive statement that, if it is a matter of interpreting a contract as to what service is covered under the terms and conditions of the plan or coverage, that is a Federal remedy? That is what it says in black and white, doesn't it? I ask Senator KENNEDY.

Mr. KENNEDY. The Senator is wrong. That is taking it out of context. The fair way is to read the complete paragraph and go on to the next page.

Mr. SPECTER. Madam President, if the Senator cares to read the next paragraph, where he makes a claim of being taken out of context, I would be interested in hearing him read any such paragraph.

Mr. KENNEDY. I have referred to that earlier, page 142, line 6. The coverage decision depends on a medically reviewable issue. On the matters dealing with the medically reviewable issue, the Supreme Court has indicated that it would be decided in the State courts. That is essentially what we have included in this language.

Mr. SPECTER. Madam President, I agree with the general delineation that it was a medically reviewable decision. That is called "quality of care," as I have said before, and is a malpractice issue. But the question which I have directed to the Senator from Massachusetts is a much narrower question.

To repeat, is this not a question on the interpretation of the contracts, specifically where an item of service is covered under the terms and conditions of the plan for coverage? That is my question. The interpretation of "an item of service is covered under the terms and conditions of the plan for coverage" is a matter for the Federal court.

I believe it is plain from the language on 139 to 141 that it is a Federal matter. But if you move to an interpretation of what is medical malpractice or a breach of duty by a doctor on what is a medically reviewable decision, then that is a matter which goes to the State courts. And this legislation does not continue the preemption of existing law.

If I might have the attention of the Senator from North Carolina, Madam President, this is an issue which my distinguished colleague from North Carolina and I have been discussing for several days. And this morning in my hideaway we discussed the complications, at least as I saw them, on having the provisions of the pending bill which deal with this complex dichotomy of an interpretation of contract coverage, which is set forth at line 24, 25 on page 140 over to lines 1 and 2 on 141, which comment regarding an item of service covered under the terms and conditions of the plan for coverage which comes under the category of availability for Federal civil remedies. Then if you move over to a medically reviewable decision on medical malpractice, there is the difference.

Is my interpretation correct that the legislation provides for cause of action in different courts, No. 1? It is the coverage of the contract, or what the courts have called "quantity" malpractice and what the courts have called "quality."

Mr. EDWARDS. If the Senator would repeat the question, it is difficult for me to hear.

Mr. SPECTER. I would be glad to repeat the question. As the Senator and I were talking this morning, isn't it accurate that the courts have made a distinction in ERISA, section 502, on what is contract coverage or "quantity" with complete preemption under existing law?

Mr. EDWARDS. My understanding is—as the Senator said, we talked about this earlier today—that has traditionally been the case. I think there has been, I think, some erosion on that during the last few years. I think the Senator is correct. There have been a number of court rulings in that respect.

Mr. SPECTER. Madam President, I agree with the Senator from North Carolina. There has been erosion on the preemption of 514 where the courts have really seen the inequities of denying injured parties relief, and instead of being under 502 with "quantity", they have tried to move the cases into "quality" with the broader interpretation where some relief has been granted.

I am a cosponsor of the amendment. As I said earlier, one of the concerns that I candidly expressed a decade ago was my surprise over the reach of the preemption of ERISA. It seemed to me to be unfair to deny injured plaintiffs redress in the courts because of the preemptions which were really designed originally under other kinds of benefit plans and not under health maintenance organization plans. When the HMOs came into being, they took the benefit of the same kind of preemption.

But in this legislation you have the dichotomy where some cases are heard in the Federal courts as they relate to "quantity care" or interpretation of the contract, and other cases or the same case may be heard in the State court as it relates to a medical malpractice or the "quality of care."

My question to the Senator is, isn't that an accurate statement?

Mr. EDWARDS. Again, I am having a little trouble hearing you. If the Senator said that the separation under our legislation between the contract causes of action, which have traditionally been considered ERISA causes of action, go to Federal court and in the case of the medically reviewable decision cases go to State court, that would be accurate.

Mr. SPECTER. The concern I have, having gotten an understanding on the applicability of the statute, which the Senator and I are in agreement with, is, how is it going to work? I characterized it, while the Senator was off the floor, as a procedural quagmire.

If you have a case—and I cited a couple of them—where a child is born, and the mother has an HMO which encourages release from the hospital within 12 hours, and the child, unfortunately, dies—and I cited a specific case—and then you have a series of claims which were brought by the plaintiff and one of the claims involves interpretation of the contract, is that care covered by the contract?

Then if there are other claims for negligence on the part of the doctor or hospital, that would then fall under the amendment of the Senator from North Carolina under State court jurisdiction.

I cited another case where you had a woman who was suicidal, she was released from the hospital, the doctor wanted to put her back in, and the HMO wouldn't let him do that. She committed suicide. A suit was brought and the HMO defended it on the ground that it wasn't covered. That went from the Federal court. They dealt with the exclusive preemption under 502. But the aspect of "quality of care" is a State court action. You have perpetuated that.

It is very difficult, obviously, to move totally away from Federal jurisdiction under ERISA on the interpretation of the contract because there is so much law on the subject. I know my colleague will agree with me on that generalization.

What happens when you have the suicide? The mother of the infant is released from the hospital within 24 hours, and the claims are made. They are essentially the same claims. They are claiming that they are covered under the contract. They are claiming personal injuries, loss of earning potential, or for the woman who has committed suicide, loss of earnings, loss of consortium, the whole range.

Having litigated some of these cases, you more recently than I. But the essential claims are going to be the same: Personal injuries for both the claim for coverage and "quantity of care" as opposed to the claim for "quality of care" or malpractice.

So how is it going to be resolved with two separate courts, Federal court having jurisdiction over "quantity," and State court having jurisdiction over "quality?"

Mr. EDWARDS. I think——

The PRESIDING OFFICER. The Chair reminds Members to address each other in the third person and to address the questions through the Chair.

Mr. SPECTER. Nunc pro tunc.

Mr. EDWARDS. I would answer the Senator's question by saying that under the examples given, if I understood them correctly, most of those examples would involve interpretation of contract language in the context of a medically reviewable fact.

So I believe under our legislation those, in fact, go to State court. I say to my colleague, if there is any medical fact interpretation involved, I believe those cases go to State court. So I think under the examples given, all of the cases would end up in State court.

Having said that, though, in fairness to the Senator, I can imagine circumstances—I don't think the Senator's examples meet it—where there could be a medically reviewable decision which would go to State court and also there could be a claim that the contract was breached separate and apart from that, which I think is the issue the Senator is raising.

Mr. SPECTER. Madam President, I would accept the modification by my colleague from North Carolina. I think the citation I gave has a contract claim. But rather than disagree about that, since the Senator from North Carolina acknowledges there could be some cases, I will take another case whereas the Senator from North Carolina says there could be that kind of distinction.

I ask the Senator, through the Presiding Officer, then in your bill what do you do in that situation where you have the Federal court controlling—in the language of the statutes—"whether an item or service is covered under the terms and conditions of the plan or coverage" and other aspects of the same set of facts are covered under medically reviewable factors?

Mr. GREGG. Madam President, will the Senator yield for a question?

Mr. SPECTER. I would be glad to yield as soon as I get this answer.

Mr. GREGG. It is just a technical question. The answer might be better if he has time to think about it.

Mr. SPECTER. Well, it is too late now to retain the continuity without yielding, so I do yield.

Mr. GREGG. I thank the Senator and apologize for breaking the continuity. I think building the record on this issue is very important.

We are trying to get a sense of the situation, so we can tell our membership what they are going to be doing this evening. After your amendment is completed, we will have three votes lined up. I wonder if we could agree that we would begin the vote on those amendments at sometime around 6:45.

Mr. SPECTER. Madam President, I am not able to specify when because the Senator from North Carolina and I are in the midst of what I consider to be an important colloquy. But I will try to keep it as brief as possible.

Mr. GREGG. I thank the Senator.

Mr. SPECTER. The question, Madam President, that I ask the distinguished Senator from North Carolina is, in taking his conclusion that there are some cases which would involve contract interpretation, and the same case would involve a medical malpractice determination, what do you do when the contract interpretation has jurisdiction in the Federal court and the medical malpractice has jurisdiction in the State court?

Mr. EDWARDS. Madam President, I would say, in answering my colleague's question, that in fact I am having difficulty imagining a case right now. The vast majority of cases similar to what we have just been discussing would fall within the category of a contract interpretation involving a medically reviewable fact. So I think, at least of all the examples that occur to me as I stand here, those cases would all end up in State court.

As the Senator and I have spoken about on a number of occasions, he has a concern—and I understand it—about the possibility of there being some confusion about which cases go to State court and which cases go to Federal court. We think we have defined that fairly well in our bill.

I might add, in response to the Senator's question, that there is a principle involved in this which we have not discussed, which is that physicians, hospitals, and health care providers believe—and I agree with them—if an HMO is going to overrule their decision and engage in the practice of medicine, they ought to be treated the same way they are treated.

As the Senator knows, their cases are normally handled in State courts. So I think conceptually we start with the principle that HMOs should be treated the same as other health care providers when they make medical decisions.

No. 2, I say to my colleague that what we are doing is taking a Federal protection curtain that was unintended for HMOs when it was passed—because they basically did not exist—and lifting it. The effect of lifting it is they become subject to State court law.

So I think it is consistent in that respect. As the Senator and I have talked about before, it is also consistent with the fundamental concept that HMOs, if they are going to engage in the practice of medicine, ought to be treated as other health care providers.

I yield back to my colleague.

Mr. SPECTER. Madam President, I agree completely with my colleague from North Carolina that when HMOs engage in the practice of medicine, they ought to be treated like physicians.

But coming back to the distinction in the Edwards bill, which does have a provision on coverage as distinguished from medically reviewable decisions, there are two thoughts which occur to me. You have a whole body of case law—dozens of cases—which have wrestled with factual situations on coverage, whether a plan covered the specific item: The infant in the hospital for 24 hours; or the woman who was suicidal, whether the plan covered further hospitalization for her. And then those cases also involve counts on medical malpractice, on "quality."

So it seems to me it is very hard for my colleague from North Carolina to argue that it is not a commonplace occurrence to have specific cases arise where under his bill they would go to different courts. And then the express language of the Edwards bill has a delineation between medically reviewable decisions on malpractice and a category—"whether an item or service is covered under the terms and conditions of the plan or coverage."

So I would direct perhaps only two more questions to my colleague from North Carolina—and I say perhaps.

The first question is—and I address this question through the Chair—isn't it conclusive where the Edwards bill has language which distinguishes "whether an item or service is covered under the terms and conditions of the plan or coverage," as distinguished from medically reviewable decisions, that the Edwards bill contemplates these two categories, which under the Edwards bill are going to go to two different courts?

Mr. EDWARDS. Again, if I correctly understand the Senator's question——

Mr. SPECTER. I can understand the difficulty, Madam President, when people are whispering to him all the time. That is why I keep my people off the floor.

Mr. EDWARDS. I am trying very hard to listen to the Senator.

Madam President, if I may respond to the Senator's question, the answer to the question is: I really think there is a fundamental question that the Senator and I may have some disagreement about, which is contract interpretations that involve medically reviewable facts under our legislation go to State court. I believe that all of the examples the Senator has mentioned and all the examples I can think of would fall in that category.

Specifically as related to his concern about the possibility of there being two separate courts with jurisdiction, I think, in fact, that is not only highly unlikely but I can't think of a fact situation, as I stand here now, that would meet that criteria.

What we have done is to have a principle, and we have designed this bill around that principle. The Senator knows very well that this is the principle that was discussed in the Pegram case, a U.S. Supreme Court case, principle supported by the State attorneys general, the American Bar Association, this separation. It is a concept that makes sense in this context.

No legislation is perfect. We certainly can't eliminate the possibility that there may be in a hypothetical case some joint jurisdiction, but I can't think of such an example.

Mr. SPECTER. Madam President, I will direct this question to my colleague from North Carolina: How do you account for the many, many cases which have been litigated distinguishing between contract coverage, where really the language in the Edwards bill "whether an item for service is covered under the terms and conditions of the plan," and a medically reviewable decision, where so many courts on so many cases labored with those distinctions, if, in fact, there aren't many cases where they are going to end up in different courts under the Edwards bill?

Mr. EDWARDS. Madam President, if I may respond to the Senator's question briefly, I believe it is because we have created a presumption that if the contract interpretation involves a medically reviewable fact, which is going to be the vast majority of cases—all the cases I can think of, as I stand here—those cases go to State court.

Those are the kinds of cases to which I believe the Senator is referring. I don't think the problem the Senator is addressing is one that is likely to occur in real life. We have specifically dealt with the issue of when there is a question, if it involves a medically reviewable fact, those cases go to State court.

Mr. SPECTER. Madam President, if it is unlikely, even with the brilliance and conceptual imagination of the Senator from North Carolina—he can't think of one—to occur in real life, why put this jurisdictional provision in the bill?

Mr. EDWARDS. Because there are two separate categories, if I may answer the Senator's question. There are two potential causes of action. If it involves any issue relating to medical care, specific medical fact, those cases go to State court. We treat the HMOs just as the doctor because they are engaging in the practice of medicine. If, on the other hand, the issue is one of were they covered for 60 days as the contract provided, do they meet some other specific contractual requirement, those are purely contractual issues that have been decided in Federal court for many years under ERISA. So we left those cases where they have traditionally been decided, which I think is the appropriate place to leave them.

Mr. SPECTER. Madam President, if you do have those contract decisions, isn't it entirely possible that there may be a factual situation arise where there is a matter of malpractice or a medically reviewable decision involved in the same occurrence?

Mr. EDWARDS. I would answer my colleague's question exactly the way I have before, which is, absent a presumption in our bill that if there is an involvement of a medically reviewable fact, I think the Senator's concern would be one that I would share. But we have dealt with that issue by specifically saying where the contract interpretation involves a medically reviewable fact, those cases go to State court. Those, in my experience and in my judgment, I believe will be the same cases that the Senator is describing as cases, I think he used the term, of medical malpractice.

Mr. SPECTER. Madam President, as they say in Oklahoma, we have gone about as far as we can go on this colloquy. I would advise the managers of the bill that I will be prepared to conclude my argument by 6:45.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent that if the other side does not require any additional debate, we begin the votes on the three pending amendments, which would be, in order, the Snowe amendment, the Enzi amendment, and the Specter amendment, beginning at 6:45.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object, we need Senator SNOWE to have 10 minutes, and she needs to offer a modification.

Mr. GREGG. We also need to have 2 minutes on Senator ENZI's amendment prior to his vote. So we would have 10 minutes prior to the Snowe amendment and 2 minutes prior to the Enzi amendment. And Senator SNOWE would have the right to modify her amendment.

Mr. REID. I accept that as a unanimous consent agreement in line with what we previously offered except for the time.

Mr. GREGG. I would have to add that it is my understanding Senator ENZI may divide the question on his amendment. That is his right, as I understand it; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. If the Senator desires to divide his amendment, he may do so.

The PRESIDING OFFICER. Does the Senator wish the 10 minutes dedicated to Senator SNOWE to start at 6:45 or to begin now?

Mr. GREGG. It should begin prior to the vote.

Mr. REID. We are going to vote on the Specter amendment at 6:45.

Mr. GREGG. We are going to vote on the Specter amendment.

Mr. REID. At 6:45.

Mr. GREGG. We are going to vote on Snowe and then Enzi and then Specter.

Mr. REID. We do need Senator SNOWE here.

Mr. GREGG. She will be here. So 10 minutes on the Snowe amendment would begin at 6:45.

Mr. REID. Or when she arrives.

Mr. GREGG. Or when she arrives. And the votes would begin thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, these are on or in relation to the amendments as per the previous oral agreement?

Mr. GREGG. Right.

Mr. REID. I thank the Chair. The Senator from Pennsylvania has the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I believe the colloquies with the Senator from Massachusetts and the Senator from North Carolina have made my point. That point is that there is jurisdiction created under the McCain-Edwards-Kennedy bill in two courts. There really is no doubt about that because section 302 provides for the availability of Federal civil remedies, and that covers whether an item of service is covered under the terms and plans and conditions, and later there are medically reviewable decisions in State courts.

Although there can be an inconclusive colloquy, as there is no confession or admission on the floor of the U.S. Senate, I think it is pretty plain that there are cases—and I have cited a whole series of specific cases in my presentation, Bauman, Pryzbowski, Lazorko, and Corcoran—where you had factual situations where you have an interpretation of a plan which would come under Federal jurisdiction—such as the mother's stay covered for more than 24 hours, the suicidal woman's coverage extended for hospitalization under that circumstance—then a combination of failure to have a plan coverage and also medical malpractice. And you have both claims brought.

And under the McCain-Kennedy-Edwards bill, it is plain that those two claims would be brought in separate courts beyond any question. It is not a matter of what the distinguished Senator can imagine. You have case after case which have had these interpretations, contract interpretation and "quantity of care," and that goes to the Federal court. And then you have "quality of care," and that goes to the State court.

I am not unaware of the realities of votes in this Chamber where a coalition has been formed, and there is a mindset. But I do hope that the managers of this bill will revisit this situation after this vote and when the bill goes to conference because having both these courts available is going to double the burden on plaintiffs who are injured—to make a contract interpretation claim in the Federal court and to go to the State court to make a medical malpractice claim—and it is going to require double expenses by the HMO, by the doctors, and by the hospitals—although you might have the doctors and hospitals eliminated from the Federal litigation, but the HMOs will certainly be there; and that is highly undesirable.

I have a grave concern about the speed of passage of this bill. Now, it is true we have been considering the Patients' Bill of Rights for a long time—many years. Too long. But this bill has come to the floor without the benefit of committee action, without the benefit of a markup; and what there has been is sort of a moving target markup of this bill on the floor by the committee of the whole, as we have gone through many amendments. But it simply cannot be denied that there are two sections of this bill, one conferring Federal jurisdiction and one conferring State jurisdiction, and the same factual situation would raise questions under both court systems, and this bill would require litigation in two courts.

That is very wasteful and very confusing. To call it a procedural quagmire is not an overstatement. The answer is fundamental, and that is to provide for exclusive Federal court jurisdiction, which I have in this legislation. You might argue that it could go to the State court and that would be an improvement rather than have both State and Federal courts. But it is very hard to move exclusively to the State courts where you have the long body of law built up under ERISA as to what is a plan's coverage. So given the fact that you are going to inevitably end up in the Federal court, the Federal court ought to be exclusive jurisdiction. And as the amendment provides, the damages will be determined by State law, no new Federal caps, but whatever State caps there were would be in effect.

I see my colleague from Illinois on the floor. He commented to me that he agreed with the provision that there ought to be unitary jurisdiction, but thought it ought to be in the State court. I will yield to the Senator from Illinois if he cares to use the limited time remaining.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FITZGERALD. Madam President, I did want to, in part, agree with my colleague from Pennsylvania. I think he has identified an important problem that exists in the underlying bill. I have long favored creating liability for HMOs that harm someone because of their negligence. Right now, HMOs are protected. They are immune from liability, and that is a protection that almost no other individual or corporation has in this country, and I don't think it is defensible.

For the last 2 years, I have been voting regularly to make HMOs liable where they have been negligent. But I do think we have a problem in this bill in that we create State court tort liability by repealing the ERISA immunity in one part of the bill. That is on page 157, I believe. But then, at the same time, we create also tort liability, as well as more contract liability, and there already is contract liability under ERISA in Federal court.

The problem I see is that there are tort causes of action authorized in this bill both in State court and in Federal court. I have always thought the playing field was tilted in favor of HMOs, and that playing field needs to be leveled. But I am concerned now that if this effect in the underlying bill is not remedied, the playing field will be tilted in the opposite direction.

The PRESIDING OFFICER. The hour of 6:45 having arrived, under the previous order, the Senator from Maine is to be recognized.

AMENDMENT NO. 834, AS MODIFIED

Ms. SNOWE. Madam President, I ask unanimous consent to modify the amendment that has been offered by Senator DEWINE, Senator LINCOLN, and Senator NELSON and send a modification to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 834), as modified, is as follows:

(Purpose: To make technical corrections concerning the application of Federal causes of action to certain plans)

On page 2 of the amendment, between lines 9 and 10, insert the following:

"On page 144, lines 7 and 8, strike 'or under part 6 or 7'.".

On page 3 of the amendment, strike line 14 and all that follows through line 21 and insert the following:

"(ii) DEFINITION.—A group health plan described in this clause is—

"(I) a group health plan that is self-insured and self administered by an employer (including an employee of such an employer acting within the scope of employment); or

"(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

On page 11 of the amendment, line 16, insert after the period the following: "The provisions of this paragraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.".

Ms. SNOWE. Madam President, it is modified in the following way. First of all, the question was raised about the original intent of the amendment in regard to the self-insured, self-administered plans. Specifically, with regard to contractual dispute, it will only exempt from liability employer and union plans that are self-insured and self-regulated, again applying symmetry to all of the plans regarding self-insured and self-administered, so we do not make any exceptions. So we address that by modifying it to ensure that both employer and union plans are consistent with the legislation.

Secondly, because insurance plans are already regulated at State and Federal level with regard to assets and other issues, we assure that these regulated plans are not subject to a new Federal solvency plan to qualify as a designated decisionmaker. As a result, the solvency standard in this amendment will appropriately apply to non-health insurance designated decisionmakers.

Finally, we also make a technical correction in the legislation to ensure that the causes of action are not inadvertently opened to other statutes that are already a matter of law. This change reflects the intent of our amendment to prevent the filing of lawsuits in a broader, more undefined number of issues.

I urge adoption of the modification as well as the underlying amendment.

Again, I remind my colleagues that this was an effort to address many of the legitimate issues that were raised regarding employer liability. It was a consensus that was drafted along with my colleague from Ohio, Senator DEWINE, Senator LINCOLN, and Senator NELSON. I also thank Senator MCCAIN, Senator KENNEDY, Senator EDWARDS, as well as Senator GREGG and Senator FRIST, for working together to make this amendment possible. We thought it essential that we develop precise and clear guidelines in terms of how we establish employer liability but at the same time protecting patients' rights with their ability to seek legal redress when there is inappropriate care or denial of care.

We think we have developed and crafted the amendment in a way that creates the bright line and the firewall so that we do provide the necessary protection to employers, so that we limit and, in fact, in most instances I think prevent any exposure to liability. They can confer that liability and risk to the designated decisionmakers and therefore they will have that kind of liability protection, and patients will have their ability to be able to sue in those instances where they have been denied care or there has been wrongful injury, personal injury, or even death.

I think it strikes the right balance. The consensus represents the optimum approach to providing the kind of basis for removing an employer's exposure to litigation when they are not directly participating in medical decisions.

We hope this will satisfy the concerns that have been raised by the original legislation. We think we crafted the best approach, borrowing both from the McCain-Edwards-McCain legislation as well as the Breaux-Frist-Jeffords approach.

Again, I urge adoption of this amendment, as modified, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, I am proud to cosponsor amendment No. 834 with Senator SNOWE and my other colleagues. It addresses an issue important to all of us here—protecting employers from undue liability. This amendment clarifies any confusion about who is responsible for medical decision-making.

Under this amendment, employers who generally do not make medical decisions anyway—will be able to name a designated decision maker. If they contract with an insurance company, that company is automatically given the status of designated decision maker. The employer doesn't have to take any further action.

Once designated, this entity will have the authority to make medical decisions. And with this authority, the designated decision maker—not the employer—will have the responsibility for those decisions if they result in harm to the patient.

I believe this amendment serves as an important compromise. It enables employers to feel more comfortable offering their employees health benefits. And that's certainly something we want to encourage. But it also protects patients, and ensures that they receive all the protections provided under the Patients' Bill of Rights.

Mr. GREGG. Madam President, I understand the Parliamentarian has ruled that I have 5 minutes.

The PRESIDING OFFICER. There is 5 minutes in opposition.

Mr. GREGG. Madam President, unless somebody else is seeking that time, I will speak. I congratulate the Senator from Maine and the Senator from Ohio for adjusting this amendment. The changes they made in this amendment are very positive. The amendment moves in the right direction.

However, it must be made clear this amendment targets one narrow aspect of the concerns of this bill, and, in fact, there are still some issues in that aspect. Specifically, employers are going to have a very difficult problem figuring out whether they are a direct participant or whether they fall under the designated decisionmaker safe harbor.

There are issues within this narrow issue that are very significant.

The greater issues on the question of liability still remain very viable. It is of serious concern to those of us who look at this as extremely expensive legislation in the sense it will drive up health care costs and result in a lot of people losing their health insurance. Employers will drop the health insurance because of the liability aspects being thrown at employers in this bill and the costs employers simply are not going to bear. They will drop health insurance or reduce the quality of health insurance.

The estimates of CBO are in the range of 3.1 million, and OMB estimates are in the range of 1 million to 4 million people will lose health care. I think it will be literally tens of millions of people who will see the quality of their health care insurance degraded as their employers start to adjust.

As to this specific amendment, which is a narrow amendment, not an expansive amendment, the movement by the Senators from Maine and Ohio is to be congratulated. I thank them for it.

I yield back my time, and I yield the floor.

The PRESIDING OFFICER. Time is yielded back. The question is on agreeing to amendment No. 834, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 96, nays 4, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—96

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—4

Grassley
Hollings
Nickles
Thompson

The amendment (No. 834), as modified, was agreed to.

Mr. GREGG. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Ms. STABENOW). There are now 2 minutes equally divided on the Enzi amendment.

The Senator from Wyoming is recognized.

AMENDMENT NO. 840

Mr. ENZI. Madam President, under the amendment we just agreed to, we made some progress on handling liability. But there is a group of businesses that were left out. You will never hear me in this Chamber talk about big businesses. I always talk about the small ones. None of these is headquartered in Wyoming. But I am compelled to put in an amendment that will take care of a major problem which will take care of health care at the level they know it for 6 million people in the U.S. who work for the big, self-insured, self-administered companies, such as Hewlett-Packard, Caterpillar, Wal-Mart, and Pitney Bowes. None of those is in my State.

This provides an option to allow one of two ways of providing insurance to their people so individuals can get the right to sue if they want that right or they can stay with the plan which they presently get all the benefits from without any difficulty. This provides that option for them.

This is providing an option so that the company can avoid liability by providing a liability option for their people.

I ask for your support on this amendment to clear up what the people in your State need.

I also believe it is my right to divide the amendment on page 3, line 18.

The PRESIDING OFFICER. The amendment is so divided.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, let me just mention what this amendment is all about.

If an employer gives options to any employee, it can offer a program that is very inferior or it can provide a voucher that is inferior. You can't buy a good health insurance policy. If it offers those two options to any employee, and that employee denies it, then the employee who stays with that company is virtually excluded from bringing any action against the employer, no matter how involved the employer is in making medical decisions that can cause adverse reaction to that employee—either death or injury.

That is a lousy choice. This is an option many companies will take. It will be at the expense of the employees. They can get two inferior options. If they reject it and stay with the company, they are excluded from the benefits and the protections of this bill. It is going to open up a great exclusion for millions of hard-working Americans and their families. It should be rejected.

Mr. ENZI. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

The question occurs on division I.

The Senator from Nevada.

Mr. REID. Madam President, I move to table the whole amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. GREGG. Madam President, parliamentary inquiry: As I understand it, the question was divided. Is this a motion to table on the first part?

Mr. REID. Yes. That is true.

The PRESIDING OFFICER. That is correct.

Mr. GREGG. I thank the Chair.

The PRESIDING OFFICER. The question is on the motion to table division I.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—55

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Specter
Stabenow
Torricelli
Wellstone
Wyden

NAYS—45

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

The motion was agreed to.

Mr. KENNEDY. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 840 DIVISION II WITHDRAWN

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I ask unanimous consent to withdraw division II of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. DASCHLE. Madam President, I announce to our colleagues that this will be the last vote of the evening. We will begin voting tomorrow morning at 9 o'clock on a series of votes on amendments that will be offered this evening. There is one more vote, but after that there will be no more votes.

AMENDMENT NO. 844

The PRESIDING OFFICER. There are 2 minutes now evenly divided on the Specter amendment.

Who yields time? Who seeks time?

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, this amendment provides for exclusive jurisdiction in the Federal courts. Under the bill, there would be jurisdiction in the Federal courts for interpretation of the contract's coverage or what is referred to as "quantity of medical care", and jurisdiction in the State courts for what is called medical malpractice or "quality of care." That means that for a plaintiff to bring a claim, they would have to go into two courts, enormously more expensive, and it would involve removal to the Federal courts and bouncing back and forth.

This amendment gives due deference to the States by using any State caps which are in effect and provides for State law on the computation of damages. With the life tenure of Federal judges, the probability is high that the verdicts will be more realistic and more reasonable than we have seen in some of the State courts.

In the colloquies with the managers of the bill, it is obvious that there are many of these cases which involve both "quantity" and "quality." During the floor presentation, I went over a number of cases where they bounced back and forth.

I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Madam President, I have great respect for my colleague's expertise in this area. I appreciate very much his work. He and I have talked about this a number of times. The problem is that this amendment violates a fundamental principle on which we have based this entire legislation. That is, when HMOs and health insurance companies make medical decisions and overrule doctors, they should be treated exactly the same way doctors are treated. That is the reason our bill sends these cases to State court. It is the reason this is so critical for the AMA and medical groups all over this country.

They want the HMOs, if they are going to be in the business of overruling doctors' decisions, to be treated exactly the same as doctors and exactly the same as other health care providers.

For that reason, I reluctantly must oppose this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 844.

Mr. SPECTER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 42, nays 58, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—42

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Kyl
Lott
Lugar
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—58

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Shelby
Snowe
Stabenow
Torricelli
Wellstone
Wyden

The amendment (No. 844) was rejected.

Mr. KENNEDY. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mr. DURBIN assumed the chair.)

Mr. KENNEDY. Mr. President, in just a few moments, I believe there will be a consent request by the minority floor leader to outline a series of amendments to consider and outline the order in which to take them up this evening, with disposition of those on the morrow.

It is not the intention, as we have gone through amendments, to second degree them. We are not prepared to say that until we have an opportunity to see those amendments. We are trying to work through the amendments at the present time. I hope perhaps we can get started on the discussion, and then in a few moments time when we have a chance to see each of the amendments, we can come back with the leadership proposal for an agreement on time and order this evening.

Mr. GREGG. Mr. President, we are ready to enter into an agreement relative to time and reserve the issue of second-degree amendments until the Democratic leader has had the opportunity to review the amendments. If we can get times locked in, that will be very helpful.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, parliamentary inquiry: Does the Senator from Virginia have an amendment pending at the desk?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 833, AS MODIFIED

Mr. WARNER. Mr. President, I send to the desk a modification to that amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 833), as modified, is as follows:

On page 154, between lines 2 and 3, insert the following:

"(11) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney's fee in accordance with subparagraph (C) to ensure that the fee is a reasonable one and may decrease the amount of the fee in accordance with subparagraph (C).

"(C) DETERMINATION OF REASONABLENESS OF FEE.—

"(i) INITIAL DETERMINATION OF LODESTAR ESTIMATE.—

"(I) IN GENERAL.—To determine whether the attorney's fee is a reasonable one, the court first shall, with respect to each attorney representing the plaintiff in the cause of action, multiply the number of hours determined under subclause (II) by the hourly rate determined under subclause (III).

"(II) NUMBER OF HOURS.—The court shall determine the number of hours reasonably expended by each such attorney.

"(III) HOURLY RATE.—The court shall determine a reasonable hourly rate for each such attorney, taking into consideration the actual fee that would be charged by each such attorney and what the court determines is the prevailing rate for other similarly situated attorneys.

"(ii) CONSIDERATION OF OTHER FACTORS.—A court may increase or decrease the product determined under clause (i) by taking into consideration any or all of the following factors:

"(I) The time and labor involved.

"(II) The novelty and difficulty of the questions involved.

"(III) The skill required to perform the legal service properly.

"(IV) The preclusion of other employment of the attorney due to the acceptance of the case.

"(V) The customary fee of the attorney.

"(VI) Whether the original fee arrangement is a fixed or contingent fee arrangement.

"(VII) The time limitations imposed by the attorney's client on the circumstances of the representation.

"(VIII) The amount of damages sought in the cause of action and the amount recovered.

"(IX) The experience, reputation, and ability of the attorney.

"(X) The undesirability of the case.

"(XI) The nature and length of the attorney's professional relationship with the client.

"(XII) The amounts recovered and attorneys' fees awarded in similar cases.

On page 170, between lines 21 and 22, insert the following:

"(9) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, subject to subparagraphs (C) and (D), the amount of an attorney's contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one. In determining whether a fee is reasonable, the court may use the reasonableness factors set forth in section 502(n)(11)(C).

"(C) EQUITABLE DISCRETION.—A court in its discretion may decrease the amount of an attorney's fee determined under this paragraph as equity and the interests of justice may require.

"(D) NO PREEMPTION OF STRICTER STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a more restrictive law with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action than the limitation on such fee under subparagraph (A)."

Mr. WARNER. I ask for the yeas and nays on the amendment, as modified.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, it will be voted on whenever the managers desire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the following Members be recognized this evening: Senator DEWINE, 15 minutes, with the time equally divided, on class actions; Senator GRASSLEY for 30 minutes, with the time equally divided, on customs fees and other matters; Senator SANTORUM for 30 minutes, with the time equally divided, on the Born Alive Infant Protection Act; Senator BROWNBACK, 1 hour equally divided on a germline genetic amendment.

Mrs. BOXER. I ask my friend to repeat the Santorum amendment.

Mr. GREGG. Born Alive Infant Protection Act.

Mrs. BOXER. The Born Alive Equal Protection——

Mr. GREGG. Born Alive Infant Protection Act.

I presume it passed the House.

Mr. KENNEDY. On that there will be an objection to a time limit.

The PRESIDING OFFICER. Objection is heard.

Mr. GREGG. Why don't we begin with the DeWine amendment for 15 minutes, followed by the Grassley amendment for 30 minutes, and we will work on the rest.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, and I do not intend to object, I appreciate what the Senator from New Hampshire is attempting to do. We have every inclination to support that proposal up to this point, but we reserve possible second-degree amendments and a tabling motion. We do not intend at this time to exercise those until we see the amendments, but we are going to operate on a good faith measure.

We are thankful for the leadership of the Senator from New Hampshire proceeding with those first two.

There are some others we might be able to get a time agreement on, as well, if the Senator wants to mention them.

Mr. GREGG. Of course, at this time we cannot proceed past the Santorum amendment until we get an agreement on that. At least I renew my request subject to the reservations of the Senator from Massachusetts, to which I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as modified, for consideration of the amendments of Senators DEWINE and GRASSLEY?

Without objection, it is so ordered.

AMENDMENT NO. 842

(Purpose: To limit class actions to a single plan)

Mr. DEWINE. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 842.

Mr. DEWINE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 171, between lines 14 and 15, insert the following:

SEC. 303. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

(a) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

"(o) LIMITATION ON CLASS ACTION LITIGATION.—

"(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.".

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.".

(b) RICO.—Section 1964(c). of title 18, United States Code, is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following:

"(2)(A) No private action may be brought under this subsection, or alleging any violation of section 1962, where the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974. In this paragraph, the terms 'group health plan' and 'health insurance issuer' shall have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

"(B) Subparagraph (A) shall apply to private civil actions that are filed on or after January 1, 2002.".

Mr. DEWINE. Mr. President, I allowed the clerk to read because I wanted my colleagues to hear the essence of the amendment. It is a very simple amendment.

My amendment in a very rational way limits class action suits that could be filed as a result of this bill. The goal of the patient protection legislation under consideration, both the McCain-Kennedy bill and the Frist-Breaux-Jeffords bill, is, of course, to protect patients. We cannot be unmindful of the cost. Obviously, we have to be concerned about the cost, and we have to worry if any parts of this bill do in fact drive up the cost because ultimately this will impact how many employers do in fact offer health insurance. It is something with which we have to be concerned.

I believe my amendment offers a very simple way to curtail some of these increased costs. The problem is that the underlying bill will increase the cost of health care because the bill currently contains no language to limit the scope of class action lawsuits. This very possibility could lead to increases in the filing of onerous, burdensome, costly class action suits.

My amendment ensures that class action lawsuits are used in a very responsible way. I think my colleagues would agree that class actions can be very effective and can be efficient and can be a valuable tool to achieve justice.

As we also know, unfortunately, these suits sometimes are subject to abuse. That is why I believe we need to limit the target of these class actions. That is what our amendment does.

The reality is that our amendment is needed. Let me explain for a moment what our amendment does and then talk about what it does not do. Our amendment permits a class action to be filed with regard to the HMO, in regard to a plan, as long as we are only dealing with one company and the employees of that specific company. It says we cannot go beyond that.

The reality is that within every company there exists unique relationships between the company, the employees, and the health care plans. Because of that, it is impossible to compare different companies that happen to offer similar health care plans. The fact is that every company negotiates every contract differently. There may be similarities. Every situation is, obviously, different.

Now, at the same time, employees within the same company, with the same health care plan, who suffer the same way as a result of being denied entitled benefits, should have the right to band together to form a class and to file suit. That is why our amendment would recognize class actions within one company against one plan.

Our language essentially says this: One employer, one health care plan, one class action suit. It is that simple.

Here is how our amendment works if adopted. Suppose Ford Motor Company offers its employees the hypothetical Aetna Health Care Plan A. General Motors has this plan. Assume, also, that Chrysler has the same plan. Now, if employees at Ford have reason to band together in a class action against Aetna because they all believe they suffered harm because of the same denial in entitled benefits, they can go ahead under our amendment and do that. Similarly, if employees at GM or Chrysler also believe they have suffered as a result of denial of the same benefits, GM and Chrysler employees can file their own class actions against Aetna. But employees at Ford, GM, and Chrysler can't join together in one suit against the health care provider.

This means class actions would be limited to employees within one company against one health care plan. Ultimately, we need this because abuse of class action lawsuits is not a road to assuring access to quality health care. If we want the bill before the Senate not to add unnecessary litigation and costs, I encourage my colleagues to adopt this amendment.

I reserve the remainder of my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MCCAIN. I repeat the request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. REID. If the Senator from Ohio wishes the yeas and nays, we would be happy to give those to him with the agreement that we will vote tomorrow.

Mr. DEWINE. I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are Senators prepared to yield back time on the amendment?

Mr. DEWINE. I believe we have an understanding to reserve several minutes tomorrow morning for summation.

Mr. EDWARDS. Mr. President, there are a couple of issues—and I have just seen this amendment—a couple of issues raised immediately.

One, the entire Patients' Bill of Rights is about treating everybody the same. This, of course, carves out a special treatment for HMOs on the issue of accountability.

Second, this amendment makes a special exception under RICO for HMOs and under rules of procedure.

Third, it has been some time since I looked at the rules, I confess, but I seem to recall under class action law, rule 23 of the Federal Rules of Civil Procedure, there is a numerosity requirement, that you have to have a sufficient number of employees involved to satisfy the class action requirement, and I am not sure under the language the Senator has drafted that would be possible because I believe, if I understand the Senator's amendment correctly, he has limited it to one employer for purposes of class actions.

Mr. DEWINE. Obviously, the amendment does not change what the rules say as far as the number of people required for a class action. The Senator is correct; it does limit it to one company.

Mr. EDWARDS. I thank the Senator for his answer.

There is at least a serious question about that and we would need to go back and look. Under the Class Action Rules of Civil Procedure, it is my recollection there is a numerosity requirement that means a class has to be of sufficient size to be able to be certified as a class action, and I am not certain, if you limit the actions to one employer, that you don't effectively eliminate the possibility of a class action because that requirement cannot be met.

I confess to the Senator, that is from memory, and I will have to go back and look to be certain.

I have concerns about the fundamental question that the principle of this legislation is that we treat HMOs, for accountability purposes, as everyone else. And the notion of doing something specifically to protect them from class actions and to limit class actions and to limit the RICO statute is something that would violate that principle of which I would want my colleagues to be aware.

I yield the floor.

The PRESIDING OFFICER. Do the Senators yield back time?

Mr. DEWINE. I inquire, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. DEWINE. I will respond to my colleague and I appreciate his comments. He is closer to the courtroom in time than I am, and it has been many years since I have practiced law.

What this comes down to is that we are creating new opportunities for lawsuits, obviously, in this bill. What we are about is a balancing test, a balancing question. It is a matter of public policy. We have to decide. As we create new causes of action, new opportunities to file lawsuits, I think it is legitimate to look around and say: How expansive do we want to allow class actions to be under this new cause of action?

It seems to me language we have included, which is basically—basically, I say—what was in the Frist bill originally, is a rational way to do it. It doesn't ban class actions but basically says we are going to limit them. I think it is a balancing test and Members are going to have to make their own decision whether they think it is worth providing people with the opportunity to have nationwide class actions. Candidly, with the tremendous cost this is probably going to incur, that ultimately is going to be paid and ultimately going to drive up health care costs. I think Members have to make that decision.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio yields the remainder of his time. The Senator from North Carolina has 10 minutes 48 second.

Mr. EDWARDS. If I may respond briefly to the comments of my colleague, the one issue he did not address, at least in his last answer—he may have discussed it earlier—is the issue of civil RICO. I believe I am correct in saying there are some State medical societies that have pending actions against them, civil RICO actions against HMOs, where they believe, obviously, the requirements of that statute have been met and there have been improper and illegal activities by the HMOs. Particularly as we go forward, if any State medical society believes those problems continue to exist, they may want to avail themselves of the civil RICO statute, a law that exists in part for that purpose.

Again, the trouble would be we are carving out special treatment for HMOs. Having said that, I do not disagree with the fundamental principle that is part of this process; it is public policymaking. We hope to balance the interests on both sides. I think that notion makes sense. My concern is we are carving out the HMOs from this particular statute when we are not carving anyone else out from this particular statute.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Just to respond to my colleague—and I do appreciate his comments about RICO—again it is a balancing question each Member is going to have to decide.

Just to clarify things, I want to make it clear, the way this is drafted, we do not affect any pending issues, so those suits would not in any way be affected.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I yield my time?

Mr. DEWINE. I wonder if I may inquire whether or not there was a unanimous consent as far as the vote tomorrow morning at any time?

The PRESIDING OFFICER. There was no consent.

The Senator from Nevada.

Mr. REID. Senator DASCHLE has indicated we are going to come in at 9 o'clock in the morning and start voting. The first vote will be 15 minutes, and if there are other votes stacked, which I am confident there will be, there will be 10-minute votes on whatever is debated tonight. There is 10 minutes for the subsequent votes. There would be 4 minutes between each vote to debate.

Mr. DEWINE. Would that include the first vote?

Mr. REID. Yes.

Mr. DEWINE. So we would have in the morning then 4 minutes evenly divided prior to the first vote?

Mr. REID. That is right.

Mr. DEWINE. I yield the floor and thank my colleague from Nevada.

Mr. EDWARDS. We yield the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back. Under the unanimous consent agreement, the Senator from Iowa, Mr. GRASSLEY, is recognized.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. Is the Senator sending an amendment to the desk?

AMENDMENT NO. 845

Mr. GRASSLEY. I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 845.

Mr. GRASSLEY. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike provisions relating to customs user fees and Medicare payment delay)

On page 179, strike lines 1 through 14.

Mr. GRASSLEY. Mr. President, I think three times during the debate on this bill I have been trying to make the point that bringing this bill to the floor usurped the consideration of the Senate Finance Committee of two provisions that are in the bill and another provision that ought to be in the bill that is not in the bill. My amendment today deals with striking sections 502 and 503. It is another way of my saying, as I tried to in an amendment 2 days ago on this legislation, to the Finance Committee, that people writing this legislation ought to keep their hands off subject matter that comes within the jurisdiction of the Senate Finance Committee. If people are writing a piece of legislation that comes out of Health, Education, Labor, they ought to find sources of revenue out of programs within their own jurisdiction to fund bills that they think up, rather than robbing another committee. That is basically what has happened.

I am opposed to both provisions on jurisdictional grounds because they are within the control of the Finance Committee, not the Health, Education, Labor, and Pensions Committee. But I also want to make it very clear it is not just jurisdictional, I also have concerns about what it does to policy, dealing with customs on the one hand and Medicare on the other hand. I want to review each of these in turn.

Section 502 of the bill extends the customs user fees from the year 2003 to 2011. This generates $7 billion over 8 years of the total revenue that it takes to fund this piece of legislation.

When Congress authorized these customs user fees, the avowed purpose was to underwrite the costs of customs commercial operations. But today in this bill, the fees are not being used for customs. They are being used to offset the cost of the Patients' Bill of Rights to the tune of $7 billion. I think this is unacceptable and violates the comity that one committee ought to have towards the other.

It also is unacceptable because when you have constituents who pay customs user fees for the purpose of having an efficient and effective operation of the Customs Service, so you can enter this country in an expeditious way, for those fees not to be used for what they were intended—for expedited entry to the country, to police illegal entry to the country, to police illegal drugs coming into the country, generally to make the customs agency's personnel more efficient and better able to do their job so the United States can be a sovereign nation protecting its borders the way it should—if these fees are extended, and I want to emphasize the word "if," they should be extended in a thoughtful way, not as some budget trick to make the costs of this bill fit within the confines of the Federal budget.

I am not the only one who thinks so. I have received numerous letters from companies, from associations that are very concerned about this—Liz Claiborne, Inc., the National Association of Foreign Trade Zones, the Joint Industry Group, the National Retail Federation, the American Electronics Association, and also a memo from the U.S. Customs Service. They are all raising concerns because these are folks who pay this customs user fee, a fee that is meant to pay for bringing things into the country. They believe since the Customs Service is so outdated, so slow moving, not working in an expeditious way, this revenue ought to be used for the improvements in the customs operation that were anticipated when these fees were put in place. I ask unanimous consent these letters and memos be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIZ CLAIBORNE INC.,
North Bergen, NJ, June 20, 2001.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY. We write in opposition to a provision in the Patients' Bill of Rights (S. 1052) that would extend the merchandise processing fee, or "mpf," for eight additional years. This is a trade-related measure, a user fee levied against importers like ourselves, that has no place in this legislation. We ask you to support efforts to delete the provision entirely.

First by way of background, the merchandise processing fee is an ad valorem fee levied against each import transaction, or "entry." When it was passed 15 years ago, it was done so with the avowed purpose of underwriting the costs of commercial operations at the US Customs Service. In fact, however, it has never been used for that purpose. Instead, proceeds have been diverted to the general fund and act as a revenue source to balance the costs of other governmental programs. As of FY2001, the trade community has paid nearly $7.2 billion for merchandise processing, an amount far exceeding Customs' commercial operations budget.

In truth, the fee is really a tax on US imports and, from the beginning, we have objected strongly. It has been illegal under GATT and then World Trade Organization (WTO) rules, although the federal government has indulged in the fiction that it is a "user fee." Now, under the terms of S. 1052, all pretense has been dropped and it is being offered as an offset to the costs of the Patients' Bill of Rights.

The fee is indeed due for renewal by 2003 and it is the trade communities' intention to seek its termination. While, before, the nation was experiencing a serious deficit, the reasons for its passage have since disappeared. Now, it is simply a tax on American citizens who buy imported products, whose price is inflated by the mpf. It is unconscionable to continue to tax Americans in this manner and we intend to seek repeal in the appropriate committee jurisdiction.

In the meantime, however, we ask that you assist us in removing the mpf funding from the Patients' Bill of Rights. The merchandise processing fee has no place in this debate. The fee will not be viewed on the merits in these proceedings, but is instead being used—cynically—as a "pay-for" a totally unrelated program.

Sincerely,

FRANK KELLY,
Vice President, International Trade Compliance and Government Affairs.

NATIONAL ASSOCIATION OF FOREIGN-TRADE ZONES,
Washington, DC, June 15, 2001.

Hon. CHARLES GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY. The National Association of Foreign-Trade Zones (NAFTZ) has learned that S. 872, Sec. 602 the "Bipartisan Patient Protection Act" provides for the extension of the Merchandise Processing Fee (MPF) through 2011. Congress established the fee to offset the cost of the commercial operations of the U.S. Customs Service. Not only does the proposed legislation continue the practice of allocating the MPF to the general fund of the U.S. Treasury with no relationship to the purpose of the fee, it completely eliminates the relationship of the fee to the Customs Service. We have serious reservations as to whether this is permissible through the General Agreement on Tariffs and Trade, and the World Trade Organization.

The NAFTZ is not opposed to the imposition of a fee for services rendered. We do believe, however, that any such fee must correlate to a discernible cost associated with the service provided. We are concerned that at a time when Congress is struggling to find the necessary funding to cover the cost of the modernization of the Service, that funds already designated by Congress for that purpose are being diverted.

Since the purpose of the MPF, as established by Congress, is to fund the commercial operations of the U.S. Customs Service, we are strongly opposed to any extension of the MPF without designating the revenue to that intended purpose and we respectfully request that you drop the merchandise processing fee extension from S. 872.

Thank you for your attention and consideration of our views. If you have any questions, please feel free to contact me.

Sincerely,

RANDY P. CAMPBELL,
Executive Director.

JOINT INDUSTRY GROUP,
June 20, 2001, Washington, DC.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN. The Joint Industry Group (JIG) expresses its opposition to a provision in the Bipartisan Patient Protection Act (S. 1052) that would automatically extend the U.S. Customs user fee from 2003 to 2011 (Sec. 502). This 8-year extension would remove any near-term opportunity to debate whether the fee should be continued or whether an extension could be earmarked specifically for modernizing U.S. Customs operations.

JIG is a coalition of more than 160 companies, trade associations, professionals and businesses actively involved in international trade. We both examine and reflect the concerns of the business community relative to current and proposed international trade-related policies, actions, legislation, and regulations. We undertake to improve policies and procedures through dialogue with government agencies and the Congress. The Joint Industry Group represents over $350 billion in trade.

JIG members account for millions of dollars paid yearly in merchandise processing fees (MPF). Every year, Customs collects over $1 billion from companies importing goods into the United States. Additionally, companies are burdened by administrative costs associated with the fee, since Customs imposes complex reporting and accounting requirements on companies in the course of collecting fee payments. All this is occurring at a time when tariffs on products are declining and approaching zero.

If the Customs Service is to continue collecting this user fee it MUST directly fund improvements to Customs processing, specifically the Automated Commercial Environment (ACE) and other U.S. Customs initiatives that are greatly needed to improve the trade process. Improving Customs' ability to handle trade will become more critical as the amount of commerce entering the United States is expected to continue its double-digit rate of growth. While Section 502 of S. 1052 does not earmark user fees for health care purposes, it does use the fee as de facto justification for the revenue neutrality of the bill. JIG is greatly concerned that this approach will prevent user fees from being applied to the commercial operations of the U.S. Customs Service for which they are intended.

Use of the fee to offset the revenue impact of S. 1052 could also increase potential for a WTO dispute. In the late 1980's, a GATT panel found that the user fee was GATT-illegal because it was being collected in amounts exceeding the cost of Customs processing. While the U.S. addressed that problem by placing certain caps on the fee, it was clear from the panel finding that linkage of the fee to the cost of Customs commercial operations is of seminal importance to the question of GATT legality. If our trading partners believe Customs user fees are being used to fund health-care related goals, another GATT challenge is virtually certain to surface in the WTO.

For the reasons cited above, JIG would have no choice but to support such a challenge. It is clear that the proposed action in

S. 1052 violates the WTO provisions to which the United States is a signatory.

We therefore urge that the user fee extender be removed from S. 1052. We need the opportunity to debate the merits of this fee when it comes up for renewal in 2003. If you have any questions about our views on this issue or wish to discuss the matter further, please contact Alan Atkinson at (202) 466–5490. Thank you for your consideration.

Sincerely,

RONALD SCHOOF,
Chairman, Joint Industry Group.

NATIONAL RETAIL FEDERATION,
LIBERTY PLACE,
Washington, DC, June 25, 2001.

Hon. CHUCK GRASSLEY,
Ranking Member, U.S. Senate Committee on Finance, Dirksen Bldg., Washington, DC.

DEAR SENATOR GRASSLEY. The National Retail Federation (NRF) was surprised to learn that section 502 of the Bipartisan Patient Protection Act (S. 1052) contains an eight-year extension of the Customs Merchandise Processing Fee (MPF). The MPF is an administrative fee leveled on imports into the United States, through which U.S. retailers and other importers pay hundreds of millions of dollars every year.

NRF and the U.S. retail industry object most strongly to inclusion of this provision and, for the following reasons, we urge that the provision is stricken from the bill.

The Senate Finance Committee, which has jurisdiction over the MPF and other customs issues, was not consulted about this provision in S. 1052 and, has had no opportunity to consider the merits of extending the fee as currently structured.

The MPF was created to offset the administrative costs of the U.S. Customs Services' commercial operations, and any attempt to use it for other purposes, as this bill would do, is against the rules of the World Trade Organization.

The Finance and Ways and Means Committees have been working for some time with Customs and the importing community on renewing the MPF in a way that would ensure it be used for its proper and intended function—for commercial operations, including customs modernization funding.

It is unacceptable that extension of the MPF has been slipped into a health bill without the approval of the Committee of jurisdiction or the knowledge of those in the private sector that will be most directly affected as a result. At the same time, we are struggling to provide Customs Service with sufficient funds for a new computer system to allow Customs to modernize its operations and protect our nation's borders. If this provision in S. 1052 is allowed to stay, it will be impossible for the Senate Finance Committee to restructure the MPF program in the way it was intended—to finance the costs of Customs' operations. Accordingly, we ask for your help in insisting on the removal of this provision when S. 1052 comes to the full Senate for consideration.

The National Retail Federation (NRF) is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet and independent stores. NRF members represent an industry that encompasses more than 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 2000 sales of $3.1 trillion. NRF's international members operate stores in more than 50 nations. In its role as the retail industry's umbrella group, NRF also represents 32 national and 50 state associations in the U.S. as well as 36 international associations representing retailers abroad.

Sincerely,

STEVE PFISTER,
Senior Vice President, Government Relations.

AEA,
Washington, DC, June 25, 2001.

Hon. CHUCK GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY. AeA, the nation's largest high-tech trade association, is opposed to the provision (section 502) in the Bipartisan Patient Protection Act (S. 1052) that would extend the application of the U.S. Customs user fee from September 30, 2003, to September 30, 2011.

The U.S. importing community currently has full expectation that this import tax will expire as scheduled in 2003. As the leading U.S. importing sector, the U.S. high-tech sector would be particularly impacted by such a tax increase. Our member companies already pay tens of millions of dollars annually in customs user fees. In addition, there are additional administrative costs associated with the fee, since customs authorities impose complex reporting and accounting requirements on importers in the course of collecting the user fee payments. An unexpected, eight-year extension of the user fee, with its associated administrative costs, would be an unwelcome and unnecessary additional cost burden on our industry.

While section 502 of S. 1052 does not earmark user fees for health care purposes, it does use the fee as de facto justification for the revenue neutrality of the bill. We believe this provision introduces the potential that the U.S. Customs user fee will again be found contrary to U.S. international obligations under the WTO. In the late 1980's, a GATT panel found that the user fee was GATT-illegal because it was being collected in amounts exceeding the cost of customs services rendered. While the United States addressed that problem by placing certain caps on the fee, it was clear from the panel finding that linkage of the fee to the cost of customs commercial operations is of seminal importance to the question of GATT legality. If our trading partners believe customs user fees are being used to achieve healthcare related goals, another GATT challenge could well surface in the WTO.

For the reasons stated, AeA urges you to remove the customs user fee extender from S. 1052. This Patient Protection Act is an inappropriate forum for any consideration of extending the custom user fee. If you have any questions about our views on this issue or wish to discuss the matter further, please contact me at 202–682–4423.

Sincerely,

TIM BENNETT,
AeA Senior Vice President International.

[From the Executive Office of the President, Office of Management and Budget, June 21, 2001]

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

S. 1052—Bipartisan Patient Protection Act. (Sens. MCCAIN (R) AZ, KENNEDY (D) MA, EDWARDS (D) NC) The President strongly supports passage of a patients' bill of rights this year and has been working with members of both parties since the first week of the Administration to forge a compromise. Congress has been divided on this issue for far too long at the expense of patients and their families. The President strongly urges Congress to pass a strong patients' bill of rights this year that provides meaningful protections for patients, not a windfall for trial lawyers or a threat to Americans' ability to obtain and afford quality health care. On February 7, 2001, the President transmitted to Congress his principles for a bipartisan patients' bill of rights and urged Congress to move quickly on this important issue.

The President's principles called for passage of a patients' bill of rights that ensures all Americans enjoy strong patient protections, including: access to emergency room and specialty care; direct access to obstetricians, gynecologists, and pediatricians; access to needed prescription drugs and approved clinical trials; access to health plan information; a prohibition of "gag clauses"; consumer choice provisions; and continuity of care protections. The President also recognizes, however, that many States have passed strong patient protection laws already, some of which have been in force for over a decade. To the extent possible, a Federal patients' bill of rights should give deference to these effective State laws.

The President's principles emphasized the importance of providing patients who have been denied medical care with the right to a fair, prompt, and independent medical review, which will ensure that disputes are resolved quickly and inexpensively and that patients receive the quality care they deserve.

The President stated that only after this independent review decision is rendered should we resort to the costlier, time-consuming remedy of litigation in Federal courts to ensure that health plans are held liable for wrongful decisions.

The President's principles also reminded Congress of the necessity of avoiding unnecessary and frivolous lawsuits, which will only serve to drive up costs and leave more individuals without insurance coverage. S. 1052 will significantly increase health insurance premiums and the number of uninsured. According to the Congressional Budget Office, health insurance premiums under S. 1052 as originally drafted would increase by over 4 percent. If the effects of litigation risk on the practice of medicine and of the reduced ability of health plans to negotiate lower rates were included, CBO's estimated cost impact could be much higher, by 4–5 percent or more. This is in addition to the estimated 10–12 percent premium increases employers are already facing in 2001. Further, leading economists have predicted that employers drop coverage for appropriately 500,000 individuals when health care premiums increase by 1 percent. According to these estimates, S. 1052 could cause at least 4–6 million Americans to lose health coverage provided by their employers.

The President is encouraged by efforts in the Senate, like those of Senators FRIST, BREAUX, and JEFFORDS, to develop a common sense compromise that forges a middle ground on this issue and meets the President's principles.

While the President strongly supports a comprehensive and enforceable patients' bill of rights and has been working with members of both parties to enact legislation this year, he believes that S. 1052 would encourage costly and unnecessary litigation that would seriously jeopardize the ability of many Americans to afford health care coverage.

The President objects to the liability provisions of S. 1052. The President will veto the bill unless significant changes are made to address his major concerns. In particular, the serious flaws in S. 1052 include:

—S. 1052 circumvents the independent medical review process in favor of litigation. The President believes that patients should be given care first—litigation should be the last resort. Patients should exhaust the medical review process first, allowing doctors, not trial lawyers, to make decisions about medical care.

—S. 1052 jeopardizes health care coverage for workers and their families by failing to avoid costly litigation. S. 1052 overturns more than 25 years of Federal law that provides uniformity and certainty for employers who voluntarily offer health care benefits for millions of Americans across the country. The liability provisions of S. 1052 would, for the first time, expose employers and unions to at least 50 different, inconsistent State-law standards. The result will inevitably be that employers and unions will be forced to pay for different benefits from State to State, even within a particular State, based on varying precedents set in State courts and leading to inconsistent standards of care for patients. Further, S. 1052 imposes no limitations on State court damages, and it is not clear whether existing State-law caps would apply to the broad, new causes of action in State courts that S. 1052 creates.

S. 1052 also would allow causes of action in Federal court for a violation of any duty under the plan, creating open-ended and unpredictable lawsuits against employers for administrative errors. These new federal claims do not have any limitations on the amount of noneconomic damages, creating virtually unrestrained damage awards that are limited only by an excessive $5 million cap on punitive damages.

Moreover, S. 1052 would subject employers and unions to frequent litigation in State and Federal court under a vague "direct participation" standard, which would require employers and unions to defend themselves in court in virtually every case against allegations that they "directly participated" in a denial of benefits decision. Because such determinations are inherently fact-specific, any such allegation will force a costly and time-consuming court process and result in varying State interpretations of "direct participation," forcing employers to adhere to different standards in every State.

—S. 1052 fails to provide a fair and comprehensive remedy to all patients. The President believes the new Federal law should establish a comprehensive set of rights and remedies for patients. S. 1052 instead encourages costly litigation by providing no effective limitations on frivolous class action suits and allows trial lawyers to go on fishing expeditions to seek remedies under other Federal statutes.

—S. 1052 subjects physicians and all health care professionals to greater liability risk. S. 1052 would expand liability for physicians and all health care professionals in State courts well beyond traditional medical malpractice by permitting new, undefined causes of action in State courts for denials of medical benefits. This expanded litigation against physicians and all health professionals will create an opportunity to circumvent State medical malpractice caps that may not apply to these new causes of action.

—Extraneous User Fee Provision. The Administration objects to inclusion in S. 1052 to an extraneous revenue-raising provision (section 502), which extends for multiple years Customs charges on transportation, passengers, and merchandise arriving in the country.

PAY-AS-YOU-GO SCORING

S. 1052 would affect direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's preliminary scoring estimate of the bill is under development.

U.S. CUSTOMS SERVICE,
Washington, DC, June 20, 2001.

Memorandum for James F. Sloan, Acting Under Secretary (Enforcement).

From: Acting Commissioner

Subject: Pay-go Offset for the Patient Bill of Rights

Congress will soon consider passage of the Patient Bill of Rights. The Customs Service offers no opinion of the legislation. However, we have concerns with the bill's potential impact on future Customs appropriations. Section 502 of the bill would extend our collection of COBRA fees from 2003 to 2011, but would use the revenue to offset the cost of implementing this new legislation. Although we support extending the collection of COBRA fees, any scoring of the COBRA extension which would limit, in any way, the ability to fund or offset Customs activities would likely cause a critical funding shortfall for the Customs Service.

Section 502 of the bill states: Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "2003 and inserting 2011, except that the fees may not be charged under paragraphs (9) and (10) of such subsection after March 31, 2006".

The COBRA fees collected by Customs are used both to reimburse Customs appropriation for certain costs, such as overtime compensation, and to offset a portion of the Customs Service Salaries and Expenses Appropriation (S&E). As an example, our FY 2001 collections will offset approximately $1 billion or almost 50 percent of Customs appropriation this year. Authorizing a COBRA extension to offset costs for something other than the Customs Service could negatively impact our available funding. Additionally, the Merchandise Processing Fee authorized in the COBRA is a fee that is paid by importers for the processing of merchandise by the Customs Service. Directing the funds collected from this fee for something other than Customs operations could pose GATT interpretation issues.

While Customs supports the extension of the COBRA fees, we also acknowledge that changes are warranted with the manner in which we collect those fees. We intend to review this issue in the near term.

Mr. GRASSLEY. I want to speak specifically to what one company wrote:

> The merchandise processing fee has no place in this debate. The fee will not be viewed on the merits in this proceeding, but is instead being used—cynically—as a "payfor" for a totally unrelated program.

Obviously, the totally unrelated program is the Patients' Bill of Rights that is before us.

Our experience today—in other words, how we handle this issue of customs user fees today—will only hurt us in our deliberation of what ought to be done to expedite and make more efficient entry into our country. It is going to hurt us when that policy debate comes up sometime down the road—weeks, months, but sometime. Customs modernization is a very important priority.

My point is that there are important Customs modernization issues that should no longer be ignored. Let's not have a rush to pay for this Patients' Bill of Rights today and blind us towards the real public policy questions we have on the Customs Service and their problems tomorrow.

Are you concerned about drugs at our borders? Are you concerned about illegal transshipment of textiles, import restrictions on steel and lumber, and backup of trucks at our borders? If you vote for extending fees, there will be no committee consideration if Customs is using the fees for these or other Congressional priorities.

I would like to tell you that extending these fees will definitely have an impact on what we are able to do or not to do about modernization of the Customs agency and its operations around the borders of our country, even in the interior of the country where we have Customs operations.

I would like to read what the acting Customs Commissioner had to say about this. He wrote on June 20, this year:

> Any scoring which would limit in any way the ability to fund or offset Customs activities would likely cause—

And it is highlighted—

> a critical funding shortfall for the Customs Service.

Experience a critical funding shortfall when you want to get in and out of Chicago with some Customs operations and people are complaining because it takes so long to get it done because of a shortage of personnel and not having the technical equipment that ought to be there to help efficient operation. Then you know that maybe you made the wrong decision when you took $7 billion out of Customs to do this.

Also, I have a statement, which was submitted for the RECORD, from the President himself, dated June 2001, clearly opposing section 502 of the bill.

I would like to raise one other issue, and that is it is not at all clear that using Customs user fees to offset revenue is consistent with the World Trade Organization rules.

Think about that. We are making a decision to take $7 billion out of Customs user fees under the jurisdiction of the Senate Finance Committee, and we may be doing this in a way that does not meet our obligation under the World Trade Organization. Under that organization, Customs fees are to be used as payments for Customs services, not as a source of general revenue to the Federal Government.

In a sense, as we would say to our constituents back home, you pay a gas tax, and we use the gas tax for transportation, to build highways. When people pay Customs fees, they pay those Customs fees for facilitating entry of product into the country and the policing of that entry of product into the country. A fee levied for a certain purpose ought to be used for that purpose or it might violate the WTO because it should not be a source of general revenue any more than taking money from the gas tax and putting it into the general fund of the United States.

Here is what the Customs Service writes on this issue.

> The merchandise processing fee is a fee that is paid by importers for the processing of merchandise by the Customs Service. Directing the funds collected from the fee for something other than Customs' operations could pose GATT interpretation issues.

While it is not clear that a WTO case would arise or that a challenge would be successful, it seems to me that this is a warning bell that should certainly be heard.

No Senator should vote against this motion to strike unless they are prepared to face the possibility of a WTO challenge and take responsibility accordingly.

We should strike this provision from the bill. Before blindly supporting section 502, we should have time to consider its broader implications.

I urge my colleagues to support this amendment to strike.

Turning to the other provision of their bill that my amendment strikes, section 503, that would delay payments to Medicare contractors by one day thereby shifting $235 million in Medicare part B spending from fiscal year 2002 to fiscal year 2003 is simply a budget gimmick.

I am troubled by this provision because it comes within the jurisdiction of the Senate Finance Committee and also because we are trying to work to make Medicare a better program, not do things to harm it.

First, I point out to my colleagues that, again, the Finance Committee has jurisdiction, not the Committee on Health, Education, Labor and Pensions. It is the Finance Committee that authorizes and overseas the Medicare Program and the Federal agency that runs it, now known as the Center for Medicare Services.

It is the Finance Committee and not the Health, Education, Labor, and Pensions Committee that is in the best position to know how changes in the Medicare Program, such as this one-day payment delay in section 503 of this bill that will affect our senior citizens, will affect our health care providers and will affect the integrity of the Medicare trust fund.

With all due respect, when it comes to Medicare and Medicaid and other Federal entitlement programs, it seems terribly ridiculous to ignore the committee that has the very expertise in these programs, meaning the Senate Finance Committee.

The second reason that I am proposing to strike the Medicare payment delay in section 503 of the bill is that the delay itself, which may not seem serious to some, could actually have consequences for Medicare contractors and providers.

Delaying payments by one day and moving them into the next fiscal year just to finance this bill is fuzzy math, to say the least. But it unfairly subjects the already fragile Medicare Program and its health care contractors to accounting disruptions and to administrative uncertainties.

Medicare providers already have it hard enough just dealing with the Medicare Program in the first place. They are overwhelmed by paperwork, confused by conflicting regulations, and frequently left hearing that "the check is in the mail."

Can you imagine the Federal Government saying "the check is in the mail" when it comes to timely payments of their reimbursements?

Subjecting those providers to any additional delay, even if just for a short period of time, is simply unfair. We need to make it easier for providers to do business with Medicare.

Think about it. No one wants to do business with late payers, and health care providers are no exception.

Think about it for a minute. No one wants to do business with late payers, and health care providers are no exception. We should not be giving Medicare an additional opportunity to delay for one minute—let alone a longer period of time—their obligations to promptly pay providers.

For the last 3 months, Senator BAUCUS and I have been working hard to develop a Medicare reform proposal that strengthens and improves the program by adding prescription drug coverage and making the entire benefit package more modern.

Part of this bipartisan effort also includes an initiative to make Medicare more responsive and accountable to both seniors and providers. We want to send a message to providers that they will be treated fairly and professionally by Medicare.

Unfortunately, the delay provision in section 503 does exactly the opposite. It sends an entirely wrong message and undercuts our bipartisan effort to make Medicare a better business partner for today's providers.

For these reasons, I cannot support the inclusion of section 503 in this bill. Neither 502 nor 503 belong in this bill. They are both outside the jurisdiction of the Health, Education, Labor Committee and a long way away from the subject of this debate, which is patients' rights. Both sections should be stricken from this bill entirely.

Consequently, I urge my colleagues to support my amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time in opposition?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take just a few moments of the Senate's time.

The fact is, this provision, as stated on page 179, does not even go into effect until the year 2003. There is plenty of time for the Finance Committee to work it out if this isn't a satisfactory way of dealing with this issue. It is basically a bookkeeping issue. There is a judgment that is made by CBO that the value of a wage package is "X," and if you are going to guarantee additional kinds of benefits in terms of health care, then the wages are going to go down, which is going to mean less money in terms of Social Security.

This is actually a balance from the Budget Committee's point of view to make sure that the bookkeeping will be balanced.

Tomorrow, we will hear from the chairman of the Budget Committee who will describe this and, at the appropriate time, make the point of order.

I point out, though, it is my understanding that this has no impact or effect on the Customs Service. They will still receive the money. If they want to go through with their modernization, they will still be able to do that. But it basically ensures that this is going to conform to the budget consideration. That is the reason that this was put in there. There will be sufficient time for the Finance Committee to make any other kinds of adjustments and changes.

To make it very clear, the resources that are collected in this are not to pay for the bill. It is basically a bookkeeping offset to what will be anticipated to be the shortfall in terms of the payments under the CBO estimate of the wage package because of the enhanced value, which I think ought to be encouraging for workers of their health benefits. So we will hear more from the Budget Committee tomorrow. At that time, the chairman of the Budget Committee will make a further comment, speaking for the Budget Committee. They are in support of our position.

Mr. GREGG. Is the Senator yielding back his time?

Mr. KENNEDY. I am glad to yield back the time.

The PRESIDING OFFICER. The Senator from Massachusetts yields back the remaining time on the Grassley amendment.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I ask unanimous consent that this amendment and all amendments that have the yeas and nays ordered tonight be stacked for a vote tomorrow morning, with the appropriate time of 2 minutes to each side, or whatever is agreed to, before each amendment is voted on.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, at this time I would like to outline the remainder of the evening, if acceptable to the parties, relative to our side, which would be that Senator SANTORUM would go next with his amendment. He would have 10 minutes; the Senator from California, Mrs. BOXER, would have 10 minutes. Then we would go to Senator NICKLES. He would have 10 minutes; and 10 minutes to whoever is in opposition. Senator BROWNBACK would come next. He would have an hour divided, as is traditional. And Senator ENSIGN would then follow with two amendments, the physician pro bono amendment and the genetic discrimination testing amendment.

I believe the Democratic membership has all these amendments. I would hope we could also agree there would be no second degrees.

Mr. KENNEDY. The Ensign amendment we have just received. I have no objection to the earlier request. I am sure we will agree with this, but we would like for that, as far as it being locked in in terms of no second-degree amendments, just to have an opportunity to——

Mr. GREGG. I would reserve my request on the second degrees relative to the Ensign amendments but ask unanimous consent that the unanimous consent agreement include that there be no second degrees on DeWine, Grassley, Nickles, Santorum, or Brownback.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Pennsylvania is recognized.

AMENDMENT NO. 814

Mr. SANTORUM. Mr. President, I have amendment No. 814 at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Pennsylvania [Mr. SANTORUM], for himself, Mr. SMITH of New Hampshire, and Mr. DEWINE, proposes an amendment numbered 814.

Mr. SANTORUM. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect infants who are born alive)

On page 179, after line 14, add the following:

SEC. ___. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant

"(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant member of the species homo sapiens who is born alive at any stage of development.

"(b) As used in this section, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

"(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

"8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.".

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from Pennsylvania is recognized for 10 minutes.

Mr. SANTORUM. Mr. President, this is an amendment that I think really goes to the heart of this bill: Patient protection. This bill is purported to deal with trying to take care of patients. What this amendment does is make sure that every living human being is protected by this act as well as all other acts of Congress.

This is a very simple amendment that says—I am quoting from the amendment—

> In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words "person", "human being", "child", and "individual", shall include every infant member of the species homo sapiens who is born alive at any stage of development.

That is a rather simple amendment. Obviously, I think it is an amendment that should be broadly accepted.

The reason I offer this amendment is really twofold. No. 1 is the concern about how certain little children—little infants—are treated, particularly those who are born alive after an abortion, an abortion that was not successful in the sense that the child was not killed before the child was delivered outside of the mother's womb.

So what we want to do is make sure those children in particular, as well as others, are treated with the same dignity and are covered by the same laws as all other people in America.

There are, unfortunately, many disturbing examples of how these little children are not treated the same and not given the proper care and, frankly, the proper respect that is required under the laws that we have passed in this Congress.

I am going to use a couple of examples that were given by nurses in congressional testimony.

Last year, we had testimony from Allison Baker, who is a registered nurse, who witnessed three induced abortion survivor incidents. For one of them, she says:

> I happened to walk into a "soiled utility room" and saw, lying on the metal counter, a fetus, naked, exposed and breathing, moving its arms and legs. The fetus was visibly alive, and was gasping for breath. I left to find the nurse who was caring for the patient and this fetus. When I asked her about the fetus, she said that she was so busy with the mother that she didn't have time to wrap and place the [baby] in the warmer, and she asked if I would do that for her. Later I found out that the fetus was 22 weeks old, and had undergone a therapeutic abortion because it had been diagnosed with Down's Syndrome. I did wrap the fetus and place him in a warmer and for 2½ hours he maintained a heartbeat, and then finally expired.

The second incident involved a 20-week-old fetus with spina bifida who lived for an hour and 40 minutes until she died.

She continued:

> The third case occurred when a nurse with whom I was working was taking care of a mother waiting to deliver her 16 week Down's Syndrome fetus. Again, I walked into the soiled utility room and the fetus was fully exposed, lying on the baby scale. I went to find the nurse who was caring for this mother and fetus, and she asked if I could help her by measuring and weighing the fetus for the charting and death certificate. When I went back into the soiled utility room, the fetus was moving its arms and legs. I then listened for a heartbeat, and found that the fetus still was alive. I wrapped the fetus and in 45 minutes the fetus finally expired.

We have other stories, disturbing stories of cases where children were born alive and basically discarded as trash in soiled utility closets or laying on tables fully exposed at a very tender age.

This is a story from Jill Stanek, another registered nurse:

> One night, a nursing co-worker was taking an aborted Down's Syndrome baby who was born alive to our Soiled Utility Room because his parents did not want to hold him, and she did not have time to hold him. I couldn't bear the thought of this suffering child lying alone in a Soiled Utility Room, so I cradled and rocked him for the 45 minutes that he lived. He was 21 to 22 weeks old, weighed about ½ pound, and was about 10 inches long. He was too weak to move and very much expending any energy he had to breathe.

This is the current problem, and this is the reason we are introducing this legislation. Frankly, I have concerns that this may be even more of a problem in the future based on court decisions. The court decision I refer to is the recent decision by the U.S. Supreme Court in the Nebraska partial-birth case. In that case, in a concurring opinion, two Justices said two things: One, Justice Stevens with Justice Ginsburg concurring, and the other, Justice Ginsburg with Justice Stevens concurring. I am going to quote two things that should send a chill down the spines of people here when it comes to what the future could have in store for us if we do not pass legislation such as this.

This is what Justice Stevens said in this decision:

> The holding [of Roe]—that the word "liberty" in the 14th Amendment includes a woman's right to make this difficult and extremely personal decision—makes it impossible for me to understand how a State has any legitimate interest in requiring a doctor to follow any procedure other than the one he or she reasonably believes will best protect the woman in her exercise of this constitutional liberty.
>
> For the notion that either of these two equally gruesome [abortion] procedures performed at this late stage of gestation is more akin to infanticide than the other, or that the State furthers any legitimate interest by banning one or not the other, is simply irrational.

What that says very clearly is, according to these two Justices, that any procedure that the doctor determines is in the best "health interest of the mother" can be used without question. So if the doctor believes the best way to safely perform this abortion is to deliver a live baby and then subsequently kill it because it is the safest way for the mother's health to have that done, under this rationale, under this reasoning, that would be legitimate. I think we have to make it very clear that that is not legitimate; that after delivering a baby, once the baby is outside the mother, it is no longer legitimate to consider that child just a piece of property to be disposed of, or massive cells to be disposed of when it is a living, breathing individual.

Justice Ginsburg's opinion says the following:

> Such an obstacle [to abortion] exists if the State stops a woman from choosing the procedure her doctor "reasonably believes will protect the woman in [the] exercise of [her] constitutional liberty."

Again, it is an open door to whatever procedure the doctor wants to use, irrespective of the baby, which again leaves the door open certainly for the doctor to say that he or she reasonably believes that the mother's health will be served if the baby is delivered and then killed because that is the safest way. This was not the majority opinion, thankfully, of the Court, but it does show that there is a possibility, at least, out there for this kind of ruling within our court systems at the highest level, much less what some district or appellate court might do.

I think it is important for us to clearly draw the line, if that is called drawing the line, that once a child is born, it is no longer a health threat to the mother, and that we have a legitimate interest in protecting this child from being killed at that point or, shall we say, treat that child within the context of the law as we would treat any other child or any other person in America.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from California.

Mrs. BOXER. Mr. President, my colleague, in his discussion of this amendment, does attack the landmark case of Roe v. Wade which simply said, in the 1970s—and women have had the right since then—that in the early stages of a pregnancy, the government should play no role in the very personal, private, moral decision that a woman and her family and her doctor and her God would make without the interference of government. But his amendment certainly does not attack Roe in any way.

His amendment makes it very clear that nothing in this amendment gives any rights that are not yet afforded to a fetus. Therefore, I, as being a pro-choice Senator on this side, representing my colleagues here, have no problem whatsoever with this amendment. I feel good about that. I feel good that we can, in fact, vote for this together. It is very rare that we can.

Simply put, this amendment says it all in its purpose: "To protect infants who are born alive." Of course, of course. My colleague goes on to say that simple statement, which is very important, is in fact, he said, the heart of this bill. I think the heart of this bill is even more than that. The heart of this bill is, yes, protecting infants; it is also protecting children, protecting teenagers, protecting people as they get older, until they are very old and very frail and are fighting for their life.

So this bill really should protect us all at every stage of our life, from the earliest days until the final days. I hope that my colleague will join with us in supporting this Patients' Bill of Rights because it does, in fact, protect all of us. And it will, in fact, give all of us at any stage, at any age, the quality health care that we need.

I can tell my friend, and I think I have mentioned it to him before and on the floor before, that I gave birth to two premature babies, one quite premature. And I can say right here and now that I will never, ever forget the experience of those doctors. This was a long time ago, I say to my friend; this was way back. Now my kids are taking care of me. And the doctor came in and grabbed my firstborn son and, before they could even take a cloth to clean him, ran him into the incubator where he had to stay for 1 month. Had I not had that kind of dedication from a pediatrician, that kind of concern, a hospital that knew at that time we didn't have the money to pay the $1,000 a day that it costs—now it is way more than that—I don't know if today I would have a beautiful healthy son who is married and the pride of our lives.

My daughter was also born premature, a similar circumstance, same thing—dedicated people, dedicated hospital, quality care.

I join in voting for this amendment, with the understanding that all of us at every stage of our life deserve that kind of quality care. In other words, if my friend were to expand it and say every human being deserves quality health care, deserves, when they are in the hospital, to be protected, I would join with him as well. That is what I think the larger bill does do.

He believes it is necessary to single out infants. Fine. That is fine.

Again, I say to my friend in the chair that we will be voting for this amendment, I hope unanimously. If we have to have a recorded vote, that is fine. And we will state that we feel very strongly that every person deserves protection from this health care system and that this Patients' Bill of Rights should give us all the care that we deserve and all the care our families deserve, regardless of whether we are a helpless newborn baby or whether we are an elderly person who is fighting and struggling against illness.

If 100 people vote for this amendment, which I think will be the case, then 100 people should vote for the Patients' Bill of Rights because it will afford the families of those vulnerable infants and all of us the protections that we need against HMOs that oftentimes put dollar signs ahead of our vital signs. That is wrong to do. Some of these babies are born into families who don't have a lot of money, who don't have a lot of power, who are going against HMOs where the CEO makes hundreds of millions of dollars. But they say: Gee, we are not going to give that little baby the care he needs.

I had a case I talked about on the floor where a child was denied a medicine. She was 3 years old and had cancer. It was $54 for the medicine and the HMO denied that medicine. That child suffered so with nausea and all the rest, while the head of that HMO, because of a huge merger—and I asked my staff to check this because I could hardly believe it—made $800 million in the course of that merger. But they denied a drug to a little baby suffering from cancer—$54.

I heard my colleagues on the other side—some of them against this bill—say: We can't legislate by anecdote. Well, I have to tell you, when you hear one story, and then another and another, from people you never heard of, and you hold hearings and the people come out and tell the stories, then we know there is a need to pass this Patients' Bill of Rights. So I would vote for this to protect the infants, and then I will vote to protect everyone in this country because everyone deserves protection from HMOs who put their bottom line ahead of people's health.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I am going to urge the Senate to accept the amendment tomorrow. I think we have had a good discussion about it. I hope that we will move ahead and accept it. I am prepared, when the Senators yield the time or use the time, to do that.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I thank the Senator from California for her comments and support of this amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 846

Mr. NICKLES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Oklahoma [Mr. NICKLES], for himself and Mr. ENSIGN, proposes an amendment numbered 846.

Mr. NICKLES. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To apply the bill to plans maintained pursuant to collective bargaining agreements beginning on the general effective date)
>
> Beginning on page 173, strike line 19 and all that follows through line 14 on page 174, and insert the following:
>
> (2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—The amendments made by sections 201(a), 301, 302, and 303 (and title I insofar as it relates to such sections) shall apply to group health plans maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers beginning on the general effective date.

Mr. NICKLES. Madam. President, I will be brief. I hope this amendment can be agreed to. In the underlying bill on page 173, it has "effective dates" for implementation of the legislation. The effective date for everybody, all plans in America, is by October 1, 2002. So that is when all the plans in America will have to comply with this bill. They will have to have the patient protections in line, the appeals process, the liability sections—all are mandated to be effective by October 1 next year. That is about 14 months from now.

If you continue reading on page 173, you find out that the plans that are covered by collective bargaining agreements are exempt. They are exempt from the legislation. It says they "shall not apply to plan years beginning before the later of—(A) the date on which the last collective bargaining agreements relating to the plan terminates."

Some of these plans may not terminate for months. Some may not terminate for years. As a matter of fact, looking at a couple of examples, one is the Plumbers and Pipefitters Union, with 2,200 employees, has a 128-month contract. It doesn't expire until 2010. The International Union of Electric Workers, with 1,800 employees, has a 148-month contract that doesn't expire until the year 2007. I could go on and on. There are lots of examples.

The point is that there are about 30 million lives that would be exempt from this bill for years. If we are going to make it apply to everybody else in the private sector, I think we should make it apply for collective bargaining plans as well.

There is also something else that is troubling to me. It says it would not apply until the plan terminates, and then the language says if they adopt these patient protections, that still doesn't count as a plan termination, a collective bargaining agreement termination. So, in effect, even though a plan adopts it, it hasn't terminated and, therefore, it is still not covered or enforced by the terms of this bill. I find that troubling. I also am troubled by the fact that when it says "relating to the plan terminates," a lot of plans or contracts don't terminate. They are renegotiated. So they never get to termination. They are actually renegotiated and extended. That is well and good. That means there is peace and harmony and no labor shortages and so on.

My point is that it is very important for us not to be exempting 30 million workers who happen to be in collective bargaining agreements from the protections in these plans. If we are going to give these protections to 170 million workers in the private sector, in that 170 million are included 30 million who happen to be members of a collective bargaining agreement. They should have the patient protections that Congress is in the process of determining which are so vital for everybody else in the private sector. They should not be exempt because they happen to be members of the collective bargaining unit. We are asking every other plan in America to comply by October 1. Why would we not ask members of collective bargaining agreements to also comply? Why should we have them have different expiration dates, some of which might be 5, 10 years, or even longer?

Maybe this is an oversight, a mistake from a previous drafting; but, clearly, if these are such valued protections that we want to extend them to the private sector, we should certainly extend them to members of collective bargaining agreements as well.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I yield myself 5 minutes.

Madam President, I direct my colleagues' attention to the lines 15 and 16 on page 173. They talk about "for plan years." That is an art of words that applies to insurance companies, and it says, "beginning on or after" plan years. As we know, the insurance starts generally at the first of every year. So with regard to insurance companies, the Senator is completely wrong. This does not apply for insurance companies because there are existing contracts.

We have heard a great deal in this debate about the sanctity of the HMO contract and how we are not going to permit—in terms of the standards for the treatment of patients—they are going to be tied completely to the contract. I don't know how many hours I listened to that. Now we see that we are respecting the contract in insurance and we expect the same—to respect the contract in terms of collective bargaining. It is simple as that.

This is boilerplate, Madam President. We did this in the HIPAA program, and there was no row about it at that time. People understood. There was a normal transition, and we didn't have objections at that particular time. So that is what we have done here. There are existing contracts in insurance, and we take it to the next time when the insurance plans are going to be implemented. There are existing collective bargaining agreements. We are going to take it at the next time when they are going to be renegotiated because of the respect for the existing contracts.

So what is sauce for the goose should be sauce for the gander, Madam President, particularly when we are listening to so much about the importance of contracts and that we ought not interfere with them, even if it is going to be as a matter of medical necessity, and that we are going to be bound by them because they are so important and sacred. There is a sanctity of the contracts.

I listened to that for 5 hours, and now we find out in the final hours of this that, oh no, that is not true regarding collective bargaining. We are going to interfere with ongoing collective bargaining agreements. That just doesn't make sense. This is what we have done at other times. It says insurance, generally, at the start of a year—some are longer and they will be respected in that way just as we do regarding collective bargaining. I hope this amendment will not be accepted.

Mr. NICKLES. Madam President, I appreciate my colleague's statement, but I totally disagree. Some of us have argued for contract sanctity, but we haven't been totally successful, I might add. Almost all those contracts would begin, if not by October 1, certainly by January 1 of the year 2003. So maybe there are a few more months. But under collective bargaining agreements, if you read the language on page 174, it is not until the contract or the agreement terminates. And then the second part of it says that even if they comply, it shall not count as a termination.

You could have collective bargaining agreements exempt under this provision indefinitely for 12 years. They may never terminate the agreement. They may continue rolling it over, so it is never terminated. It might be readjusted; it might be renegotiated; but it is never terminated. Are we going to take 30 million Americans and say: You are not covered by these patient protections?

Some of these contracts will last 10 years, 15 years. The average contract I was looking at had a schedule of 5 to 6 years. One I mentioned does not expire until the year 2010. If they renegotiate it between now and next year, the duration of the contract will be exempt. We are telling everybody else in the private sector: Get your act in order, and by the end of next year you have to have these new patient protections, oh, unless you are a member of a collective bargaining agreement.

This is not the only exemption we found. We did not cover Federal employees. Maybe I will have an amendment dealing with Federal employees. All these great patient protections do not apply to Federal employees. They do not apply to Medicare. They do not apply to Indians in our hospitals. They do not apply to veterans.

These are patient protections that are so important for the country, but we do not give them to publicly funded plans; we only do it for private sector plans.

What about unfunded mandates? What about union plans, collective bargaining? We leave them out. We leave out Government plans; we leave out union plans; but it is fine we are going to hit the private sector. Unions, this does not apply for the duration of your collective bargaining agreement, and if it does not terminate, you are never covered.

I think that is a serious mistake, so I urge my colleagues to support the amendment.

I thank my friend and colleague from Nevada for his support of the amendment as well.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the Senator ought to read page 174 because this language is very clear, precise, and exact. It does not permit what he just said it permitted, and that is the rollovers. It just does not permit it.

The Senator can state it, and he can misrepresent it, which he just has, but it is not the fact. On line 5, it says: "relating to the plan terminates," and that is when it ends. That is when it has to be implemented.

This idea that it can roll over and over, for 10, 15 years, is not what the legislation says. The fact is, with insurance, many start in January, many others start in July. We have tried to say when that contract plan year, which is a term of art that refers to when that insurance transitions, we will implement it at that time, and the same should be true with the collective bargaining agreements.

I would think the overwhelming majority of the workers and employers would be eager to get these protections. We are going to find out many will work out arrangements so they get the protections even earlier.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield to the Senator from Nevada such time as he desires.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Madam President, I have a story that was told by the junior Senator from North Dakota on the Senate floor the other day. It is about a young man, Christopher Thomas Roe, who is from Nevada. He was attending Durango High School and was diagnosed with acute lymphocytic leukemia. As anybody who has had a child with that terrible disease knows, sometimes the treatments are not very successful.

During the course of his treatment, the doctors were recommending a certain type of experimental treatment, and as we have heard throughout this bill, sometimes that experimental treatment has to be had at a certain time of treatment, and waiting for its approval sometimes leads to that treatment not being able to be given to that patient. That is exactly what happened to Christopher Thomas Roe. He was not able to receive this type of a treatment in a timely manner.

His father is a school district employee in the State of Nevada. He is not a teacher, but he is an employee of the school district. There is an employee trust fund that has been set up to provide health insurance to school district employees. Based on our discussions with the Department of Labor, this trust fund, because of the way it was set up, would not be covered under the provisions of this bill.

Similarly, the 30 million people Senator NICKLES is talking about who deal with collective bargaining agreements are not covered adequately under this bill. If we are going to say to other people that they deserve these rights, we believe that people who are in unions deserve the same patient protections.

These patient protections right now do not just deal with lawsuits, they deal with provisions that everybody agrees with in the bill: The right of a woman to choose an OB/GYN as her primary doctor; the right of a family to say their children's primary care doctor is a pediatrician; the right to a reasonable layman's interpretation of whether emergency room care should be paid for when they have an emergency.

These patient protections we believe are very important to give not only to the 170 million people who are covered by the underlying bill, but also those who are covered in collective bargaining agreements.

If there is tweaking of the language that needs to happen with this amendment, then let's tweak the language. The bottom line is this is not an anti-union agreement. This amendment says we want union workers to have the same rights as other people.

I would think the other side of the aisle, who are generally in favor of union workers, would be on our side on this amendment. If the other side thinks this amendment needs a little tweaking, maybe we can do that, but right now as we read the bill, as we have had some of the legal experts look at the bill, collective bargaining agreements would supersede and not allow union workers who are covered under those collective bargaining agreements to be covered under this Patients' Bill of Rights.

I urge our colleagues to work with us and to make sure those union workers get the same protections as other people in America are going to receive.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, how much time do I have?

The PRESIDING OFFICER. Six minutes.

Mr. KENNEDY. I did not understand, did the Senator say that public employees were not covered? Does he understand that to be the case?

Mr. NICKLES. The Senator is correct. Federal employees are not covered by the underlying McCain-Kennedy bill.

Mr. KENNEDY. I understand he was talking about teachers in Nevada; public employees is the example he gave. I find this enormously interesting because both Senators voted for the Collins amendment that excluded 139 million Americans. They only included 56 million. They were going to have the protections. The others were going to be dependent upon whether the States actually moved ahead and passed the various protections.

One of the groups that was left out of the Collins amendment was public employees, such as firefighters, schoolteachers, and others. We resisted that. No one has fought harder to make sure we are going to have comprehensive coverage since day 1 of this program. Now we are being flyspecked because somehow there are some who, under certain circumstances, are going to come into these protections on a different calendar.

Madam President, we have tried to include people who are going to have coverage from insurance. We are going to respect the contract. When those insurance contracts expire, whether it is in January, whether in July, the protections go into effect. The same is true of the collective bargaining agreement. We have done that in other times. It has worked, and worked effectively. As I say, I believe the consumers, as well as employers—the employers from whom we have heard, and we have had many examples—indicate they cannot wait to get these protections in place. It isn't that people will delay getting in; it will be because they want to get in and get in more quickly.

The PRESIDING OFFICER. Leader time has expired.

Mr. NICKLES. I ask unanimous consent for 2 additional minutes.

Mr. KENNEDY. Then I ask for 4, 2 each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. A couple comments. The average length of collective bargaining agreements: 66 percent of collective bargaining agreements with over 1,000 employees—that is over 1,200 collective bargaining agreements—the average length is 3 to 5 years; 28 percent are 5 to 6 years; an additional 7 percent are 6 to 8 years.

My point is these things last for years. People renegotiate their health care plan. Federal employees do this every year. Almost everybody does it every year. So for the health care plan for everybody else in the private sector, you have to comply by next October, 12 months from now, maybe even January of next year; you will have to comply. But if you are in a collective bargaining plan, you wait until the plan terminates.

We asked the Department of Labor, does the plan terminate if renegotiated and rolled over? Not necessarily.

In collective bargaining, you are talking about 30 million Americans who will not receive the so-called benefits under this bill. That is a fact.

Another fact: My colleague said we supported an amendment by Senator COLLINS that said let the States use their State protections. I strongly agree with that. That is a reason I will vote against the underlying bill, because I don't think we should preempt States as the Kennedy-McCain bill does. I believe in that strongly. I know my friends and colleague from Massachusetts have a different belief. We could debate that for hours.

My point is, if the patient protections are so good—and I heard many sponsors say we should cover all Americans—the bill does not cover all Americans. As a result of the language we have been debating, collectively bargaining agreements are exempt for years. The bill we are debating now does not cover public plans; it does not cover Medicaid; it does not cover Medicare; it does not cover public employees; it does not cover the military; it does not cover veterans; it does not cover Federal employees.

We have control over Federal employees. If the patient protections are so good for the private sector, why not for collective bargaining plans as well?

Mr. KENNEDY. Madam President, it is interesting to listen to my friend and colleague. The fact is, the last President, President Clinton, put those in through Executive orders to cover those because of the delay of the Republican leadership in letting us get through this bill over the last 5 years. So rather than wait and wait and wait, we had a Democratic President put them into effect.

Now if a collective bargaining unit or contract expires on October 2, they go in prior to the time of the insurance coverage. They will go in months ahead of the insurance. If the contract expires on October 5, that goes in before July of the next year. So they get more protections than those being covered by the insurance.

This is just a way of saying if the contracts are out there, we are going to respect the termination of those contracts, whether it is in the insurance or in collective bargaining. Evidently, the Senator wants to use this as a device to punish some of their enemies, the unions in this case, to try to use the legislative process to do so. I hope we will reject that.

Mr. NICKLES. I yield myself 5 minutes off the leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I thank my friend, Senator BROWNBACK. I am the third Senator squeezed in front of him, and he has shown great patience. I will be brief.

My colleague from Massachusetts said President Clinton gave these protections to Federal employees because he couldn't wait for the Republican Congress to pass them.

The facts are, Federal employees do not have patient protections that are nearly as expensive, as aggressive, as intrusive as we are getting ready to impose on the rest of the private sector. I may have an amendment tomorrow to address that so we can save that for tomorrow's debate.

The patient protection that President Clinton passed is not nearly this big. Federal employees cannot sue their employer. When they have an appeal process, they do not go to an independent party; they go to OPM, Office of Personnel Management; they go to their employer. We do not do that in this bill. Maybe we will debate that tomorrow.

Finally, he said in collective bargaining plans, they have to be covered when the plan terminates. My point is the plan can be renegotiated. You are talking years. Sixty-six percent of collective bargaining plans are 3 to 5 years.

Then it says if they go ahead and implement it, it is not counted as a plan termination; therefore, it is not effective. Let's give union members the same protections we give all other private sector employees.

I thank my colleagues and my colleague from Massachusetts and particularly my colleague from Kansas for his patience in allowing us to go forward.

Mr. KENNEDY. I am prepared to yield back the time.

The PRESIDING OFFICER. All time is yielded back.

Mr. NICKLES. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 847

Mr. BROWNBACK. I send an amendment to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 847.

Mr. BROWNBACK. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit human germline gene modification)

At the end of the bill, add the following:

TITLE—HUMAN-GERMLINE GENE MODIFICATION

SEC. 01. SHORT TITLE.

This title may be cited as the "Human Germline Gene Modification Prohibition Act of 2001".

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering, of existing people. Its target population is "prospective people" who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as "damaged goods", while the standards for what is genetically desirable will be those of the society's economically and politically dominant groups. This will only increase prejudices and discrimination in a society where too many such prejudices already exist.

(3) There is no way to be accountable to those in future generations who are harmed

or stigmatized by wrongful or unsuccessful human germline modifications of themselves or their ancestors.

(4) The negative effects of human germline manipulation would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm probably often fatal as the result of only a few instances of germline manipulations.

(5) All people have the right to have been conceived, gestated, and born without genetic manipulation.

SEC. 03. PROHIBITION ON HUMAN GERMLINE GENE MODIFICIATION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"CHAPTER 16—GERMLINE GENE MODIFICATION

"Sec.
"301. Definitions
"302. Prohibition on germline gene manipulation.

"§ 301. Definitions

"In this chapter:

"(1) HUMAN GERMLINE GENE MODIFICATION.—The term 'human germline gene manipulation' means the intentional modification of DNA in any human cell (including human eggs, sperm, fertilized eggs, zygotes, blastocysts, embryos, or any precursor cells that will differentiate into gametes or can be manipulated to do so) for the purpose of producing a genetic change which can be passed on to future individuals, including inserting, deleting or altering DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA. The term does not include any modification of cells that are not a part of and will not be used to create human embryos. Nor does it include the change of DNA involved in the normal process of sexual reproduction.

"(2) HUMAN HAPLOID CELL.—The term 'haploid cell' means a cell that contains only a single copy of each of the human chromosomes, such as eggs, sperm, and their precursors.

"(3) SOMATIC CELL.—The term 'somatic cell' means a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or decreased human body at any stage of development. Somatic cells are diploid cells that are not precursors of either eggs or sperm. A genetic modification of somatic cells is therefore not germline genetic modification.

Rule of Construction: Nothing in this Act is intended to limit somatic cell gene therapy, or to effect research involving human pluripotent stem cells.

"§ 302. Prohibition on germline gene modification

"(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce—

"(1) to perform or attempt to perform human germline gene modification;

"(2) to intentionally participate in an attempt to perform human germline gene modification; or

"(3) to ship or receive the product of human germline gene modification for any purpose.

"(b) IMPORTATION.—It shall be unlawful for any person or entity, public or private, to import the product of human germline gene modification for any purpose.

"(c) PENALTIES—

"(1) IN GENERAL.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

"(2) CIVIL PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiple by 2, if that amount is greater than $1,000,000.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

"16 Germline Gene Modification .... 301".

Mr. BROWNBACK. Madam President, I rise today to offer an amendment to the Patients' Bill of Rights. This amendment is about human germline gene modification. That is a long way of saying—and I will go into this for a period of time—stopping people from attempting to modify the human species with outside genetic material. It may seem strange. It happens in livestock, genetically modified organisms. Some people are researching and discussing doing this within the human species to create better people. I think it should be stopped, prohibited, removed.

I looked for a better vehicle for this amendment, for another bill that was a closer fit. It is a medical issue on the medical front. If we get an agreement that I get a freestanding bill, I will do it that way. Having not been able to do that, we offer it as an amendment now.

My amendment prohibits human germline gene modification. What is that? Technically, it is the process by which the DNA of an individual is permanently changed in such a way that it permanently affects his or her offspring. Normally this is a DNA modification in either the egg or the sperm within the human species, so when they combine, that genetic modification is carried in that person and in future organisms, in future people. So it starts at this single stage, the egg or the sperm, molded together and multiplied in future generations.

This is not about genetic therapy; it is not about stem cell research; it is not about human cloning. All those are other issues for another day that do need to be considered but not here. My amendment in no way hinders genetic therapy or other medical interventions that treat patients suffering from diseases.

My amendment is about eugenics. For those not familiar, that is the process or means of race improvement previously tried by many diabolical methods or schemes, generally looked at as restrictions of mating, of so-called superior people together, and now being attempted, talked about, pressed forward by adding genetic material of humans from outside the species.

This is ugly stuff, and it should be stopped. It is about what we as a society are willing to allow and not to allow. The issue of germline genetic modification is about our ability to create designer babies, choose eye color, height, or IQ. I offer this amendment, well aware that many of my colleagues understandably may be unaware of these so-called advances being made in the field of biotechnology and the impact those advances will inevitably have on the human race.

I come from an agricultural background. I used to be a Secretary of Agriculture in Kansas. These are things we commonly do now in plants, and we are having research done extensively in animals. People are talking about bringing some of the same technology to humans. It has to be stopped and should be stopped.

Many of the advances promise great achievement for mankind and a betterment of human conditions. Some of the advancements in biotechnology do not. Human germline gene manipulation is one of those. It is one of those advances discussed mostly in theoretical terms until recently. More disturbingly, it is the realization of the age-old quest to design better people. Germline gene manipulation is the summit of the eugenics movement. One of the groups we have consulted with prior to preparing this amendment is a group chaired by Claire Nader, the sister of former Presidential candidate Ralph Nader. It is a group she has been associated with, the Council for Responsible Genetics. They are unequivocally opposed to human germline gene modification.

The Council states this:

> We strongly oppose the use of germline gene modifications in humans.

They continue:

> Today, public discussion in favor of influencing the genetic constitution of future generations has gained new respectability with the increased possibility for intervention. Although it is once again espoused by individuals with a variety of political perspectives, modern eugenic programs are now defended as driven by individual need, choice. But the doctrine of social advancement through biological perfectibility underlying the new eugenics is even more potent than the older version. Its supporting data seem more scientifically sophisticated and the alignment between the state, through its support of the market and the individual exercising so-called free choice, is unprecedented.

The Council goes on to state further:

> These considerations make the social and ethical problems raised by germline gene modification very different from those raised by genetic manipulations, that target certain nonreproductive deficiencies in organs of patients, again in somatic cell gene modification.

As the Council states in very clear terms:

> The underlying political philosophy of those who support germline gene modification has been sanitized with new terms, but is in reality the same old eugenic message with which the 20th century was deeply and direly afflicted. In numerous conversations that I have had with Dr. Francis Collins, who

heads the National Human Genome Research Institute here in Washington, who has had a fantastic report that was out last year on the Human Genome Project, reported out a beautiful array of the complexity of the genetic structure in each and every one of our 10 trillion cells and if we printed out that genetic structure and had it in front of us, it would be a stack of paper 100 feet taller than the Washington monument.

We have talked about the beauty of the human genome and also talked about the potential for problems in its manipulation, as that could be carried onto future humans.

Madam President, human germline gene modification is not needed to save lives or alleviate suffering of existing people. Its target population is prospective people who have not been conceived. The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as damaged goods, while the standards for what is genetically desirable would be those of the society's economically and politically dominant group. We have heard these themes before. This will only increase prejudices and discrimination in a society which already has too many of these.

There is no way to be accountable to those in the future generations who are going to be harmed or stigmatized by the wrongful or unsuccessful human germline gene modification of their ancestors. The negative effects of human germline modification would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm, probably often fatal, as a result of only a few instances of germline manipulations.

All people have the right to be conceived, gestated, and born without genetic manipulation. Human germline gene manipulation will only serve to turn human beings into commodities with traits that are bought and sold, with attributes that are determined by technicians, and parents who want to exert genetic tyranny over their offspring. This is a step too far. This is grossly unethical for it to happen. I urge the Senate to adopt my amendment to prohibit it once and for all.

Again I put forward, in layman's terms, what this is about. This is about getting and adding outside genetic material into the human species, whether it be plant—tomato—or animal—chicken—from a tree somewhere that a snippet of genetic material would be added in, at the egg or the sperm level. Once added in there, when the union occurred it would be in that human and also then passed on to future generations. That is what we are talking about here. It is not about any sort of gene therapy or any of the other issues. It is not about cloning either, which is the identical replication. This is adding in the outside genetic material.

I think everybody would look at this and say that is not a road we want to go down. Yet some people today are contemplating doing this.

I want to add a couple of other points. The European Council on Biomedics has stated its opposition to this human germline gene modification. I think the civilized world really needs to step up right now, before people get going and moving forward, saying: We could make people taller. We could make people live longer by this modification. We found a gene line in trees that we could put in earlier, to the human species, and cause this to happen. We have a way to manipulate or change this—without knowing in any way down in future generations what this impact is.

We can send a strong, clear signal at this point in time that we want nothing to do with this, that this is wrong, this is eugenics, this is the height of eugenics, and it should not take place. The Europeans are moving that way. We should as well as much of the rest of the civilized world, and say we want no part of this, and we can do that with a clear, I hope unanimous, vote of the Senate, saying this is wrong.

I know people differ on some of these other biotechnology issues, such as cloning. That is left for another day. The language in this bill is clear, specific; it is easy to understand. We may have differences on some of the other issues we may get into over a period of time, but this is one, as I have searched around, where there is a broad coalition, left and right, that says yes, this one should be banned. That is why we worked closely with Ms. Nader's group, consulted with biotechnology groups, who were saying: Yes, this is not a place we should be going either. Here is a place we can stop this.

This is the only vehicle I could see where there was some connection bringing this up. If we could do it on a freestanding bill at some time on the floor, I would be happy to do that, but absent that, I would like to get this considered on this bill.

I yield the floor. I don't know that there is a time agreement on this amendment. Is that correct?

The PRESIDING OFFICER. There is a time agreement. There is 1 hour evenly divided.

Mr. BROWNBACK. Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I want to express a great deal of respect for my friend and colleague for his concern and interest in a great variety of different public policy issues, and also their ethical implications. He studies these issues. He is concerned about them. He brings them into the public debate and discussion. We always listen with great interest to his presentations on these matters because he has given this a great deal of thought.

Even so, I must rise to oppose this amendment. I can understand the good Senator's frustration that we do not have a real opportunity to have the kind of debate on a freestanding bill that could give the Senate the benefit of a good discussion on this issue. Unfortunately, we are here at 20 minutes of 10. There are just a few of us here at this time, and we will only have a few minutes tomorrow to deal with an issue of enormous importance and consequence.

Millions of American children are born with deadly diseases such as cystic fibrosis and muscular dystrophy that result from flaws in the DNA code. One of the most promising ways to cure these afflictions is to correct these DNA errors using gene therapy. If these flaws could be corrected before birth, millions of children could live their entire lives free of the debilitating symptoms of cruel genetic disorders.

Yet the Brownback amendment would ban any attempt to cure children of deadly disorders such as cystic fibrosis and muscular dystrophy by correcting their DNA flaws before birth.

It even goes so far as to imprison doctors who try to save their lives and relieve their suffering.

The Brownback amendment is opposed by a wide range of organizations representing patients, doctors, scientists, and the biotechnology industry. They know this amendment would have a chilling effect on the biomedical research that gives hope to millions of Americans at risk for genetic diseases.

The amendment is so broad that it will criminalize several promising areas of biomedical research, even including gene therapy in adults.

This important, complex topic deserves a thoughtful and measured response, and not the indiscriminate prohibition that the Brownback amendment proposes.

The American people do not support the sweeping prohibitions that the Brownback amendment would impose.

A recent study funded by the NIH conducted by the University of Michigan found that 65 percent of the public opposed a ban on prenatal gene therapy, and only one in five of those support such a ban.

There are great numbers of genetic diseases, and there are great numbers of inherited diseases. Those that come to mind quickly are cystic fibrosis and muscular dystrophy, Tay-Sachs, Cooley's disease, and many others in the cystic fibrosis area.

It is basically an issue involving a single gene. That is also true in muscular dystrophy.

Just think if we were able to get to the point where a parent would be able to see the alteration of that gene so that the child that was going to be born would be free from muscular dystrophy or from cystic fibrosis by altering the DNA.

We can easily understand where the language that is included may not be the purpose of the Senator, but certainly the language I think is sufficiently vague as to prohibit some promising research.

At this time, I think this is a matter of enormous importance. I don't think we really ought to be dealing with this issue on this bill.

I can understand the Senator's frustration in not being able to have the debate in the Senate and to hear the different views on this issue. But I believe we ought to defeat the amendment for now, have additional review and study and hearings, and that we ought to then consider the various public policy issues and the ethical issues that surround it.

Mr. REID. Madam President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. REID. I would like to ask the Senator a question. A couple of years ago when I was chairman of the Democratic Policy Committee, one of the issues at the time was cloning, for lack of a better description. We had a luncheon at the Democratic Policy Committee. This may not be directly in point, but it points up what the Senator is saying. This is a very complex issue. We need more time and medical expertise to respond to this.

But the Senator will remember that we had a hematology professor from Harvard. We had the leading expert on gene therapy at NIH. The Senator will recall a number of things. The thing that is so vivid in my mind is the Harvard professor, who was of course a practicing physician, gave an example of how progress is being made in the medical field and in the areas that need more study.

He said that a young woman with leukemia was referred to him. I do not know the scientific name nor the type of leukemia. He did the examination and looked at the information he had been given.

The Senator will recall that the doctor asked this young lady if she had a brother or sister. She said no. He said that right then he knew she was in big trouble. She probably couldn't make it and would die.

The next day, the Senator will recall, another teenager came in with leukemia. It was the same process. He asked this young man if he had a brother or sister. He said no, and paused for a second. He said: I am a twin. The doctor said that he knew right then that the young man was going to live as long as anybody in this room because they could do a bone marrow transplant and regenerate those cells.

I don't fully understand what the Senator from Kansas is advocating with his amendment. I know he is candid and is well placed. I know after having listened to the woman from NIH and the professor from Harvard that I have great hope progress is being made on some of the most dreaded diseases that face especially children in America today.

The Senator from Massachusetts and I know how well-intentioned the Senator from Kansas is. I think we should defeat this amendment and wait for a later day so we can have more opportunity to examine this more closely.

The Senator remembers that meeting in the room right down the hall here?

Mr. KENNEDY. I do remember. All of us as Members of this body get a chance to go out to NIH and visit with the researchers and listen, watch, and hear about those extraordinary, dedicated men and women who are dealing with so much of the cutting edge research.

I think we want to make sure that we are very careful in the steps we are going to take that in some way would inhibit research. There are obviously strong ethical issues which we constantly have to examine and consider.

But I am very much concerned about the kind of prohibition that this type of amendment would include.

I want to make it clear that the amendment that the Senator from Kansas puts forward does not ban cloning, but it would ban similar cutting edge research.

That is what our concern is and why we will oppose it tomorrow.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I would like to correct some miscalculation with the Senator from Massachusetts. I want to read from the amendment because he represented a couple of examples that we specifically state in the bill we are not prohibiting.

On page 4 of the amendment under "construction," it states specifically that:

> Nothing in this Act is intended to limit somatic cell gene therapy, or to effect research involving human pluripotent stem cells.

This somatic cell gene therapy is what you are talking about where you have already the sperm and egg, and you have a full chromosome. That is where you may want to make changes, and that is where the research is focused. Now they can deal with some of the dreaded diseases the Senator from Massachusetts says we should rightly try to deal with. I agree that we should.

We specifically added that. We covered that point the Senator raised and about which he has concern because we don't want to impact that area. We talk about this on page 3. It says:

> The term "human germline gene modification" means the intentional modification of DNA in any human cell for the purpose of producing a genetic change which can be passed on to future individuals.

In this amendment we are saying: Do we really want to change the human species without knowing what the impact is going to be down the road? Maybe we have a shot at changing this one, but what is it going to do to the next generation, the second one, the third one, the fourth one, and after that?

I also point out to the good Senator who has worked tirelessly to get this bill through to passage—I appreciate both his work and the work of the Senator from Nevada on just continuing to press forward. They have done a very good job. But I point out to them that we have significant limitations on doing this to animals. Right now, if you wanted to take a fish and put a tomato germline in it, or something from a tomato gene—actually this is being done—this is a heavily regulated area by FDA, and the USDA, as well it should be. My goodness, do we want to get super fish out here that could swim and do things and take over a whole area of species? They are actually concerned. It may sound scientific, like this is just off the wall. But this is happening today.

We have these deep concerns within our society. You do not have to listen to me. The Senator from California knows what is taking place this week in southern California. People are deeply concerned about this being done with animals and plants.

All I am talking about with this amendment is to say, the careful thing for us to do right now is to prohibit it in humans.

As the Senator from Massachusetts knows, in any future legislative session we can remove that prohibition. We could do that next year. But wouldn't the careful, thoughtful thing be to say right now: "We don't want to modify the human species"? It has no regulation, no limitation, no review on it today. People are out there doing these things.

Wouldn't the really thoughtful position be that we should stop this because we don't know its impact down the road—stop this now—and then, if the researchers really convince us this is the right thing to do, we can open it back up? I think we open up an incredible Pandora's box if we allow this unregulated area of human experimentation to continue at this time. And that is what is being defended here.

I think this should give us some thoughtful consideration. This is limited in its drafting. We have worked with a number of groups on its drafting. It is very specific. This has to do with it being passed down to future generations. This is something that we should prohibit at this time.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, there are several organizations that draw different conclusions about the Senator's amendment. You have the

Biotechnology Industry Organization that says:

> Unfortunately, the Brownback amendment reaches far beyond germ line gene modification. It attempts to regulate genetic research—a complex and dynamic field of science that holds great potential for patients with serious and often life-threatening illnesses.

And from the Association of American Medical Colleges:

> Much more troubling, however, the amendment reaches far beyond germ line therapy. Taken on its face, the amendment would prohibit other areas of research into gene therapy as well.

I ask unanimous consent an analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

JUNE 28, 2001.

To: Michael Werner, Esquire, BIO Bioethics Counsel.

From: Edward L. Korwek, Ph.D., J.D.

Re: Some Initial Comments/Analysis of the Brownback Amendment.

The Brownback Amendment is poorly worded and confusing as to its precise coverage. It uses a variety of scientific terms and other complex language both to prohibit and allow certain gene modification activities. Many of the sentences are composed of language that is incorrect or ambiguous from a scientific standpoint. A determination needs to be made of what each sentence of the Amendment is intended to accomplish.

As to a few of the important definitions, the term "somatic cell" is defined in proposed section 301(3) of Chapter 16, as "a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or deceased human body at any stage of development." What does "of almost all body cells" mean? Is this an oblique reference to the haploid nature of human sex cells, *i.e.*, sperm and eggs? Also, why is it important to describe in such confusing detail from where the cells are derived (in contrast to simply saying, for example, a somatic cell is a human diploid cell)? From a scientific standpoint, the definition of a somatic cell is not dependent on whether the cell is from living or dead human beings. More importantly, as to this human source issue, when does a "human body" exist such that its status as "living" or "dead" or its "stages of development" become relevant criteria for determining what is a "somatic cell."

Similarly, the definition of "human germline modification," especially the first sentence, is very convoluted. The first sentence states:

"The term 'human germline gene modification' means the intentional modification of DNA of any human cell (including human eggs, sperm, fertilized eggs (i.e., embryos, or any early cells that will differentiate into gametes or can be manipulated to do so) for the purpose of producing a genetic change which can be passed on to future individuals, including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA."

Among other problems, which of the examples listed are "sources" or "forms" of DNA and why does it matter? Moreover, the sentence ends by referring to "including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA." To what part of the first sentence defining "human germline modification" is this language referring? Does the last sentence of the definition, "Nor does it include the change of DNA involved in the normal process of sexual reproduction" prohibit *in vitro* fertilization? Does any other part of the Amendment prohibit or allow *in vitro* fertilization? What genetic technologies does "normal" cover, if any?

Similarly, the second sentence in the definition, stating what is not covered by the definition of "human germline modification," contains three "not" words, leaving the reader to decipher what exactly is "not" "human germline modification": "The term does not include any modification of cells that are not a part of and will not be used to construct human embryos" (emphasis added). Also, what is an "embryo" for purposes of this Amendment and what does "part of" mean? Are (fertilized) sex cells "part of" an embryo?

These and other problems leave the bill unsupportable in its current form. Due to this imprecision, the amendment's impact is unclear and seemingly far reaching.

Mr. KENNEDY. Madam President, a memorandum by Hogan & Hartson says:

> The Brownback Amendment is . . . confusing as to its precise coverage. It uses a variety of scientific terms and other complex language both to prohibit and allow certain gene modification activities.

And it gives a several-page analysis of this.

The fact is, as I understand it, there is a moratorium now at NIH. NIH does not permit any of the research in transferring of the materials in terms of genes at the present time.

I just mention quickly, on page 3 of the amendment, on lines 10 and 11, it talks about "for the purpose of producing a genetic change which can be passed on to future individuals . . ." That ought to be a matter of concern to parents because that is an area of very great potential in terms of parents who have the gene—in terms of cystic fibrosis, muscular dystrophy—in trying to impact that kind of DNA so that they will not pass this on. Yet this is talking about restricting the research for "producing a genetic change which can be passed on to future individuals . . ." That very area is a matter of enormous importance and consequence.

I know the Senator has given this a lot of thought. It is enormously important. I respect him for it. I know that he revisits these issues continuously. We will look forward to continuing to work with him. I know he is incredibly concerned about the broad areas of ethical issues. In those areas of ethical concerns there are no simple, easy answers. There is enormous division, significant divisions, in many different areas.

But it does seem to me that in the time that we have available to consider this, and on this particular legislation, and with the very strong opposition of the research community generally, that it would be unwise for us to add this at this time to the legislation.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I would just note once more for my colleagues that the area of genetic manipulation, germline therapy, is regulated in animals and in plants but is completely unregulated—there is nothing on it—in humans.

Is that a responsible way for us to go? There is nothing on it. If we want to do it right now on the human species in the United States, go ahead, fine. If you want to do that, release that into us, into the human species, fine, go ahead. If you want to do it in fish, we have a series of hoops that you have to jump through and filings that you have to make and limitations on where this can take place all up and down, everywhere. But for humans, fine. I guess if we are going to eat it, we are concerned about it. But if it is one of us, OK.

I have deep respect for the Senator from Massachusetts. He is very thoughtful and one of the most productive Members of this body, probably in the history of this body. But I would really seriously ask him to look at this area. Is this something we want to do in this society? This is not only technically or theoretically feasible today; it can be done today. It has been done in the animal line for years now. This has been going on for 10 years-plus, 15 years in animals. The genetic lineup in animals versus humans is not that much different. Totally unregulated, no limitations—go ahead and do it in humans, not in cattle.

I would hope we could at least get some agreement that this is going to be further considered sometime during this legislative session. If we want more limited language, I am more than happy to work with individuals in drafting more limited language. If there is concern about gene therapy on it, I am willing to draft it as tight as they want to on gene therapy. That would be just fine by me. But to let this go on now, you are inviting people to step up. If we need to work with the groups the Senator listed to draft it more tightly, I am happy to do that.

This is a serious matter. We have more and more people in the streets protesting about this very thing. I think we should wake up on that particular point, if nothing else. We saw the protest that took place in Seattle. We saw what it did to the World Trade talks. That was on food. We are seeing what is taking place in the Biotechnology Expo in Southern California right now. That is on humans.

This issue is not going away. It is something that we are going to have to confront. I would hope and I would think we would be far wiser to do it sooner rather than later. I am happy to work with anybody on drafting the language to see that that takes place.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I will include the regulations which are in existence now. I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From pages 90-92—NIH Guidelines for Research Involving Recombinant DNA Molecules]

Appendix K-VII-K. Pathogen. A pathogen is any microbiological agent or eukaryotic cell containing sufficient genetic information, which upon expression of such information, is capable of producing disease in healthy people, plants, or animals.

Appendix K-VII-L. Physical Barrier. A physical barrier is considered any equipment, facilities, or devices (e.g., fermentors, factories, filters, thermal oxidizers) which are designed to achieve containment.

Appendix K-VII-M. Release. Release is the discharge of a microbiological agent or eukaryotic cell from a containment system. Discharges can be incidental or accidental. Incidental releases are de minimis in nature; accidental releases may be de minimis in nature.

Appendix L. Gene Therapy Policy Conferences (GTPCs)

In order to enhance the depth and value of public discussion relevant to scientific, safety, social, and ethical implications of gene therapy research, the NIH Director will convene GTPCs at regular intervals. As appropriate, the NIH Director may convene a GTPC in conjunction with a RAC meeting. GTPCs will be administered by NIH/OBA. Conference participation will not involve a standing committee membership but rather will offer the unique advantage of assembling numerous participants who possess significant scientific, ethical, and legal expertise and/or interest that is directly applicable to a specific gene therapy research issue. At least one member of RAC will serve as Cochair of each GTPC and report the findings of each GTPC to RAC at its next scheduled meeting. The RAC representative for each GTPC will be chosen based on the participant's area of expertise relative to the specific gene therapy research issue to be discussed. All RAC members will be invited to attend GTPCs. GTPCs will have representation from other Federal agencies, including FDA and OPRR. GTPCs will focus on broad overarching policy and scientific issues related to gene therapy research. Proposals for GTPC topics may be submitted by members of RAC, representatives of academia, industry, patient and consumer advocacy organizations, other Federal agencies professional scientific societies, and the general public. GTPC topics will not be limited to discussion of human applications of gene therapy research, i.e., they may include basic research on the use of novel gene delivery vehicles, or novel applications of human gene transfer. The RAC, with the Director's approval, will have the primary responsibility for planning GTPC agendas. GTPC findings will be transmitted to the NIH Director and will be made publicly available. The NIH Director anticipates that this public policy forum will serve as a model for interagency communication and collaboration, concentrated expert discussion of novel scientific issues and their potential societal implications, and enhanced opportunity for public discussion of specific issues and potential impact of such applications on human health and the environment.

Appendix M. Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Research Participants (Points to Consider)

Appendix M applies to research conducted at or sponsored by an institution that receives any support for recombinant DNA research from NIH. Researchers not covered by the NIH Guidelines are encouraged to use Appendix M (see Section I-C, General Applicability).

The acceptability of human somatic cell gene therapy has been addressed in several public documents as well as in numerous academic studies. In November 1982, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research published a report, Splicing Life, which resulted from a two-year process of public deliberation and hearings. Upon release of that report, a U.S. House of Representatives subcommittee held three days of public hearings with witnesses from a wide range of fields from the biomedical and social sciences to theology, philosophy, and law. In December 1984, the Office of Technology Assessment released a background paper, Human Gene Therapy, which concluded that civic, religious, scientific, and medical groups have all accepted, in principle, the appropriateness of gene therapy of somatic cells in humans for specific genetic diseases. Somatic cell gene therapy is seen as an extension of present methods of therapy that might be preferable to other technologies. In light of this public support, RAC is prepared to consider proposals for somatic cell gene transfer.

RAC will not at present entertain proposals for germ line alterations but will consider proposals involving somatic cell gene transfer. The purpose of somatic cell gene therapy is to treat an individual patient, e.g., by inserting a properly functioning gene into the subject's somatic cells. Germ line alteration involves a specific attempt to introduce genetic changes into the germ (reproductive) cells of an individual, with the aim of changing the set of genes passed on to the individual's offspring.

The RAC continues to explore the issues raised by the potential of in utero gene transfer clinical research. However, the RAC concludes that, at present, it is premature to undertake any in utero gene transfer clinical trail. Significant additional preclinical and clinical studies addressing vector transduction efficacy, biodistribution, and toxicity are required before a human in utero gene transfer protocol can proceed. In addition, a more thorough understanding of the development of human organ systems, such as the immune and nervous systems, is needed to better define the potential efficacy and risks of human in utero gene transfer. Prerequisites for considering any specific human in utero gene transfer procedure include an understanding of the pathophysiology of the candidate disease and a demonstrable advantage to the in utero approach. Once the above criteria are met, the RAC would be willing to consider well rationalized human in utero gene transfer clinical trials.

Research proposals involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human subjects (human gene transfer) will be considered through a review process involving both NIH/OBA and RAC. Investigators shall submit their relevant information on the proposed human gene transfer experiments to NIH/OBA. Submission of human gene transfer protocols to NIH will be in the format described in Appendix M-1, Submission Requirements—Human Gene Transfer Experiments. Submission to NIH shall be for registration purposes and will ensure continued public access to relevant human gene transfer information conducted in compliance with the NIH Guidelines. Investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 CFR, Chapter 1, Subchapter D, Part 312, Subpart B, Section 23, IND Content and Format.

Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is ex vivo transduction of recombinant DNA material into target cells for human application).

Factors that may contribute to public discussion of an human gene transfer experiment by RAC include: (i) new vectors/new gene delivery systems, (ii) new diseases, (iii) unique applications of gene transfer, and (iv) other issues considered to require further public discussion. Among the experiments that may be considered exempt from RAC discussion are those determined not to represent possible risk to human health or the environment. Full RAC review of an individual human gene transfer experiment can be initiated by the NIH Director or recommended to the NIH Director by: (i) three or more RAC members, or (ii) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should represent novel characteristics deserving of public discussion. If the Director, NIH, determines that an experiment will undergo full RAC discussion, NIH/OBA will immediately notify the Principal Investigator. RAC members may forward individual requests for additional information relevant to a specific protocol through NIH/OBA to the Principal Investigator. In making a determination whether an experiment is novel, and thus deserving of full RAC discussion, reviewers will examine the scientific rationale, scientific context (relative to other proposals reviewed by RAC), whether the preliminary in vitro and in vivo safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHA components, as appropriate. Relevant documentation will be included in the material for the RAC meeting at which the experiment is scheduled to be discussed. RAC meetings will be open to the public except where trade secrets and proprietary information are reviewed (see Section IV-D-5, Protection of Proprietary Data). RAC prefers that information provided in response to Appendix M contain no proprietary data or trade secrets, enabling all aspects of the review to be open to the public.

Note: Any application submitted to NIH/OBA shall not be designated as 'confidential;' in its entirety. In the event that a sponsor determines that specific responses to one or more of the items described in Appendix M should be considered as proprietary or trade secret, each item should be clearly identified as such. The cover letter (attached to the submitted material) shall: (1) clearly indicate that select portions of the application contain information considered as proprietary or trade secret, (2) a brief explanation as to the reason that each of these items is determined proprietary or trade secret.

Public discussion of human gene transfer experiments (and access to relevant information) shall serve to inform the public about the technical aspects of the proposals, meaning and significance of the research, and significant safety, social, and ethical implications of the research. RAC discussion is intended to ensure safe and ethical conduct of gene therapy experiments and facilitate public understanding of this novel area of biomedical research.

In its evaluation of human gene transfer proposals, RAC will consider whether the design of such experiments offers adequate assurance that their consequences will not go beyond their purpose, which is the same as the traditional purpose of clinical investigation, namely, to protect the health and well being of human subjects being treated while at the same time gathering generalizable knowledge. Two possible undersirable consequences of the transfer of recombinant DNA would be unintentional: (i) vertical transmission of genetic changes from an individual to his/her offspring, or (ii) horizontal transmission of viral infection to other persons with whom the individual comes in contact. Accordingly, Appendices M-I through M-V request information that will enable RAC and NIB/OBA to assess the possibility that the proposed experiment(s) will inadvertently affect reproductive cells or lead to infection of other people (e.g., medical personnel or relatives).

Appendix M will be considered for revisions as experience in evaluating proposals accumulates and as new scientific developments occur. This review will be carried out periodically as needed.

Appendix M-I. Requirements for Protocol Submission, Review, and Reporting—Human Gene Transfer Experiments

Appendix M-I-A. Requirements for Protocol Submission

The following documentation must be submitted (see exemption in Appendix M-VI-A, Footnotes of Appendix M) in printed or electronic form to the: Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, MSC 7985 Bethesda, MD. 20892-7985 (20817 for non-USPS mail), 301-496-9838, 301-496-9839 (fax), E-mail: rosenthg@od.nih.gov. NIH OBA will confirm receipt within three working days after receiving the submission. Investigators should contact OBA if they do not receive this confirmation.

1. A cover letter on institutional letterhead, signed by the Principal Investigator(s), that (1) acknowledge that the documentation submitted to NIH OBA compiles with the requirements set forth in Appendix M-I-A, Requirements for Protocol Submission: (2) identifies the Institutional Biosafety Committee (IBC) and Institutional Review Board (IRB) as the proposed clinical trial site(s) responsible for local review and approval of the protocol; and (3) acknowledges that no research participant will be enrolled (see definition of enrollment in Section I-E-7) until the RAC review process has been completed (see Appendix M-I-B, RAC Review Requirements); IBC approval (from the clinical trial site) has been obtained; IRB approval has been obtained; and all applicable regulatory authorizations have been obtained.
2. The scientific abstract.
3. The non-technical abstract.
4. The proposed clinical protocol, including tables, figures, and relevant manuscripts.
5. Responses to Appendices M-II through M-V, Description of the Proposal, Informed Consent, Privacy and Confidentiality, and Special Issues. Responses to Appendices M-II through M-V may be provided either as an appendix to the clinical protocol or incorporated in the clinical protocol. If responses to Appendixes M-II through M-V are incorporated in the clinical protocol, each response must refer to the appropriate Appendix M-II through M-V.

Mr. KENNEDY. Finally, the reason there is a moratorium is there isn't reason to believe that this kind of research is safe today. But it may very well be safe tomorrow or the next day. And the possibilities, as I say, are unlimited. The action of the Senator may effectively close that window, close that door. I do not think that we ought to be in the position of doing that. So I have included the current state of the regulations that are in effect now in NIH and the reasons for those regulations.

Unless there is someone else who wants to speak on this——

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I would like to respond on that point as well. The FDA is saying they have authority over this. One of the groups they are seeking to regulate is saying they do not have authority, and they are going to sue them to keep the FDA from regulating them.

So regulations have been proposed, but it is a very open question about whether or not this applies to groups that are seeking to do this or seeking legal injunction prohibiting the FDA from regulating this. So we can put those on forward.

The fact is, this has not been dealt with, and it is of utmost importance to people in this country and around the world, and it should be. This should not happen during our watch.

The PRESIDING OFFICER. Does the Senator yield the remainder of his time?

Mr. BROWNBACK. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BROWNBACK. Madam President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Nevada is recognized.

AMENDMENT NO. 849

(Purpose: To provide for genetic nondiscrimination)

Mr. ENSIGN. Madam President, I call up amendment No. 849 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

> The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 849.

Mr. ENSIGN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. ENSIGN. Madam President, the amendment that I have proposed really is entitled the "protection against genetic discrimination act." The Senator from Massachusetts is one of the cosponsors of a bill that contains this particular amendment, along with 22 other Senators.

The mapping of the human genome is one of the most amazing scientific breakthroughs in recent history. Information that is embedded in the genome holds the key to understanding the illnesses and diseases that affect millions of people across the world every day.

I would like to note, this has nothing to do with the amendment that Senator BROWNBACK just proposed. We want to keep the controversies separate. What our amendment deals with is whether you can take this genetic information and use it to determine whether or not to provide health insurance coverage.

When the map of the human genome is completed, we will have all of the information that is contained in the 23 pairs of chromosomes in the human body. This information will be instrumental for finding the cure for diseases such as breast cancer, cystic fibrosis, Alzheimer's disease, and hundreds of other debilitating illnesses.

However, this breakthrough also carries great dangers. Current law does not provide any protections for individuals to keep their own genetic information private. Currently there is no law prohibiting a health plan from requiring an applicant to provide genetic information prior to the approval for insurance. In other words, any individual with a genetic marker for a specific disease would most likely not be able to receive health insurance coverage for the treatment of that disease.

A joint report by the Department of Labor, Department of Health and Human Services, the Equal Employment Opportunity Commission, and the Department of Justice summarized the various studies on discrimination based on genetic information and argued for the enactment of Federal legislation.

The report stated that:

> Genetic predisposition or conditions can lead to work force discrimination, even in cases where workers are healthy and unlikely to develop disease, or where the genetic condition has no affect on the ability to perform work.

> Because an individual's genetic information has implications for his or her family members and future generations, misuse of genetic information could have intergenerational effects that are broader than any individual incident of misuse.

Dr. Francis Collins, the director of the National Human Genome Research Institute, has stated:

> While genetic information and genetic technology hold great promise for improving human health, they can always be used in ways that are fundamentally unjust. Genetic information can be used as the basis for insidious discrimination.
>
> The misuse of genetic information has the potential to be, and is, a very serious problem both in terms of people's access to employment and health insurance and the continued ability to undertake important genetic research.

This amendment takes the first step toward providing individuals with the protections they need for their individual genetic information.

This amendment, as I mentioned before, is part of a larger bill that Senator DASCHLE has introduced on this very same subject. Simply put, this amendment prohibits health insurance companies from using genetic information when deciding whether or not to provide health insurance for an individual.

Insurance companies would not be able to use genetic information to deny an individual's application for coverage or charge excessive premiums.

Think about diseases such as Tay-Sachs, sickle-cell anemia, breast cancer, colon cancer, cystic fibrosis, and other diseases in which we have identified genes that predispose people to these diseases. Just think about how many Americans this affects now and will affect in the future as we discover new genes that predispose people to certain diseases. It is because of this that we must include this amendment if we are truly going to call this bill a Patients' Bill of Rights.

Madam President, my wife and I helped co-found the Breast Cancer Coalition of Nevada. Many of the women who are actively involved in this wonderful organization are breast cancer survivors or family members of women who have died from breast cancer. A wonderful friend of my wife and I, one of the most incredible women I have ever met, died in my wife's arms several years ago. She died of breast cancer. To think about women such as her who have had a gene identified, or maybe her daughter the same, to think about her someday being discriminated against getting health insurance is just unconscionable.

I encourage all of my Senate colleagues, including the sponsors of the bill, to accept this amendment. It is the right thing to do. I urge its adoption.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from North Carolina.

Mr. EDWARDS. Mr. President, we yield back the remainder of our time.

Mr. ENSIGN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. ENSIGN. Mr. President, I yield back the remainder of my time on this amendment.

AMENDMENT NO. 848

Mr. ENSIGN. Mr. President, I call up amendment No. 848 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 848.

Mr. ENSIGN. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To provide that health care professionals who provide pro bono medical services to medically underserved or indigent individuals are immune from liability)
>
> At the end, add the following:
>
> **SEC. ___. IMMUNITY.**
>
> (a) IN GENERAL.—Notwithstanding any other provision of law, no health care professional shall be liable for the performance of, or the failure to perform, any duty in providing pro bono medical services to a medically underserved or indigent individual.
>
> (b) DEFINITIONS.—In this section:
>
> (1) HEALTH CARE PROFESSIONAL.—The term "health care professional" has the meaning given the term in section 151.
>
> (2) MEDICALLY UNDERSERVED OR INDIGENT INDIVIDUAL.—The term "medically underserved or indigent individual" means an individual that does not have health care coverage under a group health plan, health insurance coverage, or any other health care coverage program, or who is unable to pay for the health care services that are provided to the individual.

Mr. ENSIGN. Mr. President, this next amendment I am offering comes once again from personal experience. I have a very close friend, Dr. Tony Alamo. He is a few years younger than me, and is an internist in Las Vegas. Our parents have known each other for a long time. He graduated from USC medical school. I don't know that I have ever seen anybody work harder.

Internists today don't make nearly the money that a lot of surgical specialists make, but the compassion that they have for their patients is just incredible. I remember a few years ago talking to him and what he had to tell me was amazing. As a practicing veterinarian, we get to choose who we take, who we don't take, and when they come into our offices. But as a physician, when he happens to be there treating another patient, if somebody comes in and he happens to be the attending physician, he has to treat that person, regardless of whether they have insurance or no insurance, can pay or cannot pay.

When he takes that person on as a patient, he cannot get rid of that patient. So he has to continue through the course of the disease, if he is in the hospital, has a heart condition, he has to continue regardless of whether he gets reimbursed or not.

The purpose of my amendment is to say we want them to continue that kind of care, but if out of the goodness of their heart they are treating for free, we just want to eliminate the possibility that they can be sued for such a matter.

We are looking at this as a situation that is similar to Good Samaritan laws. For example, when somebody stops on the side of the freeway because somebody is hurt and they don't know exactly what to do but they want to help and they happen to do more harm than good, we have passed laws across the country that helps a Good Samaritan in that regard.

The practice of medicine, as anybody who has practiced knows, whether it is veterinary medicine or human medicine, is both an art and a science. As a matter of fact, it is more art than science. Things go wrong. Sometimes things go wrong that may look like malpractice. And sometimes it is something the doctor had nothing to do with, yet they can still be taken to court.

Our amendment says that if health care professionals are going to do this, we want to protect those people from lawsuits.

It seems to me that if somebody is providing something out of the goodness of their heart on a pro bono basis, they could not be sued. In fact, I would support a similar proposal that granted lawyers the same protection. If they are providing pro bono services, they could not be sued. I think if this was a lawyer's bill of rights, we would include that as well. But this happens to be a Patients' Bill of Rights, and for the physicians that are treating these patients, we want to make sure they are protected.

We have spoken to Senator MCCAIN's staff and, apparently, they think the language is acceptable. I think in the long run this is going to go a long way. I have spoken to Senator FRIST who, as many of you know, is a heart surgeon. He does volunteer work in clinics, both overseas and also here in the United States. He doesn't get paid for these services. Yet, he has to maintain medical malpractice insurance. He pays premiums out of his pocket each year so that if he gets sued, he is covered.

This is probably the only amendment in this entire bill that actually will lower—it will only lower it slightly—the cost of health insurance. It would help lower both the cost of medical malpractice premiums and eventually the cost of coverage premiums for consumers as well.

Mr. President, I don't know if anybody is going to oppose this amendment. I can't understand why they would. I would be more than happy to engage in a debate on this if anybody has a problem with it.

I yield the floor at this time.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. First, I say to the Senator from Nevada that Senator Coverdell had a bill that he passed called the Volunteer Protection Act of 1997. It specifically provides protection for volunteers, including physicians, who provide pro bono services. So I suggest to my colleague, I don't know if he thinks there is a problem with that law or the way it is written. There is no way for me to know that based on this amendment. But a specific law already covers this subject matter. It was passed by the Senate and signed into law in 1997. So, first, I suggest that my colleague look at that law and make sure what he is concerned about is not covered by it.

Second, this Bipartisan Patient Protection Act is about HMO reform. It is not about physician liability or the lack thereof—either of those. We would certainly have a problem with adding an amendment to this legislation that is not related to the issue of HMO reform.

So I say to my colleague, again, understanding that we are just seeing his amendment, in fairness, I will be happy to talk with him about it, but those were my immediate concerns. There appears to be a law that already covers this subject matter. We would always be concerned, of course, even under those circumstances, about a health care provider who acted recklessly. I don't know whether his amendment covers that or not.

Third, the general issue of adding these kinds of provisions to an HMO reform bill, which is what this bill is about, would also be a concern.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. First of all, physicians I have spoken to do not think the bill the Senator is talking about adequately covers them. That is why they still have to carry medical malpractice insurance, similar to what Senator FRIST has to carry. My amendment would help lower the cost of this type of coverage, so we think this bill is necessary. I don't understand—if this is already covered in law, why would it be a problem to include it to make sure we are saying to the courts that we absolutely want to cover people who are providing pro bono services to the needy.

Mr. EDWARDS. I say to my colleague that if there is already a law in place that covers this issue, it seems as a matter of procedure that the appropriate thing to do would be to amend the already existing law that covers the subject matter, as opposed to adding this measure to an HMO reform piece of legislation.

So I guess, just as a matter of orderly process, that would make sense to me.

Mr. ENSIGN. We have been looking for a vehicle to include this in. We have wanted to deal with this for some time. This is a Patients' Bill of Rights, and I know it deals mostly with HMOs, but we are looking at our health care system and providing rights to patients. This is part of the health care bill that I think appropriately should have an amendment such as this, simply because I don't think there is any question that we are driving up health care costs in this country. If anything can help drive down, even a small amount, the cost of health care, I think we should do it.

If between now and tomorrow morning, if there is other language the Senator thinks we need to massage into our amendment, I would be more than happy to work with the Senator from North Carolina. But as it stands, we think this is an important amendment.

Mr. EDWARDS. Mr. President, I say to my colleague, I appreciate his comments. He and I are friends, and I would like to find a way to work on this. I will be happy to talk to him about this when we adjourn.

Having said that, I continue to have a significant concern about raising an issue on the HMO reform bill that is not related to HMO reform. We have pretty consistently throughout this debate opposed and defeated amendments unrelated to the coverage of this bill. There are obviously many subject matters that are related to the general area of health reform and health care. If we start adding amendments on all subjects of health care, we would never get this legislation completed and passed. I continue to have that concern.

I am happy to work with my colleague and listen to his concerns and work on language, although at this moment this is an amendment we would be compelled to oppose.

Mr. ENSIGN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the Patients' Bill of Rights on Friday, June 29, at 9 a.m., the Senate proceed to vote in relation to the following amendments, and it be disposed of in the following order, with no second-degree amendments in order prior to the votes; further, that there be 4 minutes of debate prior to each vote, and that the first rollcall vote be 15 minutes in length and subsequent rollcall votes be 10 minutes in length. The order of the votes tomorrow morning would be: Santorum, DeWine, Grassley, Nickles, Brownback, Ensign No. 849, and Ensign No. 848.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I indicated earlier in this debate that I would complete reading into the RECORD the names and titles of organizations that support the Patient Protection Act. Therefore the following is the final list:

Gateway; Gateways for Youth and Families in WA; George Junior Republic in Indiana; Gibault; Girls and Town in NE; Goodwill-Hinckley Homes for Boys; Greenbrier Children's Center; Growing Home in St. Paul, MN; Haddasah; Heart of America Family Services; Hemochromatosis Foundation; Hereditary Colon Cancer Association; Highfields, Inc. in Onondaga, MI; Holy Family Institute of Pittsburgh, PA; Home on the Range in Sentinel Butte in Sentinel Butte, ND; Hubert H. Humphrey, III—Former Minnesota Attorney General; Human Services, Inc.; IARCCA An Association of Children.

Idaho Youth Ranch; Indiana United Methodist Children; Infectious Disease Society of America; International Association of Psychosocial Rehabilitation Services; Jackson-Feid Homes in VA; Jane Addams Hull House Association; Jeffrey Modell Foundation; Jewish Board of Family & Children in New York, NY; Jewish Community Services of South Florida; Jewish Family & Career Services; Jewish Family & Children's Service in TX; Jewish Family & Children's Service in Minnetonka, MN; Jewish Family and Childrens Services; Jewish Family and Community Service; Jewish Family Service in Providence, RI; Jewish Family Service in Teaneck, NJ; Jewish Family Service in TX; Jewish Family Service of Akron, OH; Jewish Family Services of Los Angeles; Julia Dyckman Andrus Memorial Children's Center in NY; June Burnett Institute.

Kemmerer Village; Kentucky United Methodist Homes; KidsPeace National Centers, Inc. in PA; Lakeside, Kalamazoo, MI; LaSalle School, Inc. in Albany, NY; League of Women Voters; Leake and Watts Services, Inc. in Yonkers, NY; Learning Disabilities of America; Lee and Beulah Moor Children's Home in TX; Lupus Foundation of America; Lutheran Child & Family Service in Bay City, MI; Lutheran Child & Family Services; Lutheran Social Services of Wisconsin; Manisses Communications Group in RI; Maple Shade Youth & Family Services; Maryhurst, Inc.; Maryland Association of Resources for Families & Youth; Massachusetts Council of Family; Mental Fitness Center; Mental Health Liaison Group; MentalHealth AMERICA, Inc.; Methodist Children's Home in TX; Metropolitan Family Service of Portland, OR; Metropolitan Family Services of Chicago.

Michigan Federation of Private Child & Family Agencies; Mid-South Chapter of the

Paralyzed Veterans of America; Milton Hershey School in Hershey, PA; Missouri Baptist Children's Home; Missouri Coalition of Children's Agencies; Missouri Girls Town; Mooseheart Child City and School; Morning Star Boys' ranch in WA; Mountain Community Resources; Namaqua Center; Natchez Children's Home in Natchez MS; National Alliance for the Mentally Ill; National Association for Rural Mental Health; National Association for the Advancement of Orthotics and Prosthetics; National Association of Children's Hospitals; National Association of County Behavioral Health Directors; National Association of Development Disabilities Councils; National Association of People with AIDS; National Association of Private School for Exceptional Children; National Association of Private Special Education Centers; National Association of Protection and Advocacy Systems; National Association of School Psychologists.

National Association of Social Workers; National Association of Wholesaler-Distributors; National Black Women's Health Project; National Breast Cancer Coalition; National Catholic Social Coalition; National Catholic Social Justice Lobby; National College of Osteopathic Emergency Physicians; National Community Pharmacists Association; National Consumers League; National Council for Community Behavioral Health; National Depressive and Manic-Depressive Association; National Down Syndrome Congress; National Family Planning and Reproductive Health Association; National Health Council; National Hemophilia Foundation; National Marfan Foundation; National Mental Health Association; National Multiple Sclerosis Society; National Organization of Physicians Who Care; National Organization of State Association for Children in MD; National Parent Network on Disabilities; National Partnership for Women and Families; National Patient Advocate Foundation; National Psoriasis.

National Rehabilitation Association; National Therapeutic Recreation Society; National Transplant Action Committee; National Women's Health Network; Nation's Voice on Mental Illness; Nazareth Children's Home in Rockwell, NC; NETWORK; New Community Corporation in Newark, NJ; Newark Emergency Services for Families in New Jersey; NISH; Norris Adolescent Center in WI; Northeast Parent & Child Society in New York; Northern Virginia Family Service; Northwest Chapter of the Paralyzed Veterans of America; Northwest Children's Home, Inc.; Northwood Children's Services in Duluth, MN; Oak Grove Institute Foundation; Oakland Family Services; Olive Crest Treatment Centers; Organization of Specialist in Emergency Medicine; Outcomes, Inc. in Albuquerque, NM; PA Alliance for Children and Families in Hummelstown, PA.

Pacific Lodge Youth Services; Paget Foundation; Pain Care Coalition; Palmer Home for Children in Columbus, MS; Paralyzed Veterans of America; Patient Access Coalition; Patient Access to Responsible Care Alliance; Pediatric Orthopedic Society of North America; Pennsylvania Council of Children in Harrisburg, PA; Personal & Family Counseling Service of New Philadelphia, OH; Philadelphia Health Management Corporation in PA; Planned Parenthood Federation of America; Presbyterian Home for Children; Provident Counseling, Inc. in St. Louis, MO; Rehabilitation Engineering and Assistive Technology Society of North America; Religious Action Center of Reform Judaism; Research Institute for Independent Living; Riverbend Head Start & Family Service; Salem Children's Home; Salvation Army Family Services; San Mar, Inc. of Boonsboro, MD; Scarsdale Edgemont Family Counsel in NY; School Social Work Association of America.

Seattle Children's Home in WA; Seedco/Non-Profit Assistance; Service Net. Inc. in PA; Sheriffs Youth Programs of Minneapolis; Sipe's Orchard Home in Conover, NC; Sjogren's Syndrome Foundation; Society for Excellence in Eye care; Society for Women's Health Research; Society of Cardiovascular & Interventional Radiology; Society of Excellence in Eye Care; Society of Gynecologic Oncologists; Society of Maternal-Fetal Medicine; Southmountain Children's Homes of America; St. Anne Institute of Albany, NY; St. Colman's Home in Watervliet, NY; St. Joseph Children's Home; St. Joseph's Indian School in SD; St. Mary's Home Home of Beaverton, OR; St. Vincent's Services, Inc. of Brooklyn, NY; Starr Commonwealth; Sunbeam Family Services of Oklahoma City, OK; Sunny Ridge Family Center.

Tabor Children's Services, Inc. of Doylestown, PA; Teen Rancyh, Inc. Marlette, MI; Texas Association of Leaders in Children & Family; Texas Medical Association; The Arc of the United States; The Bradley Center in PA; The Center for Families, Inc.—Shreveport, LA; The Endocrine Society; The Family Center; The Hutton Settlement in WA; The Learning Disabilities of America; The Mechanicsburg Children's Hoe of Mechanicsburg, PA; The Mill; The Omaha Home for Boys in NE; The Organization of Specialists in Emergency Medicine; The Paget Foundation for Pagets's Disease of Bone and Related Disorders; The Pressley Ridge Schools in PA; The Village Family Service Center in Fargo, ND; The Woodlands in Newark, OH; Third Way Center; Thornwell Home and School for Children in SC; Title II Community AIDS National Network.

Tourette Syndrome; Tourette Syndrome Association; Treatment Access Expansion Project; Triangle Family Services in Raleigh, NC; Tulsa Boys' Home in Tulsa, OK; Turning Point Center; Uhlich Children's Home; United Cerebral Palsy Association; United Community & Family Service; United Methodist Children's Home; United Ostomy Association; United Methodists Children's Home; US Public Interest Research Group; Vera Lloyd Presbyterian Home & Family Services in AR; Vera Lloyd Presbyterian Home; Verdugo Mental Health Center; Village for Families & Children; Virginia Home for Boys; Webster-Cantrell Hall; Whaley Children's Center; Wisconsin Association of Family and Children; Wisconsin Paralyzed Veterans of America; Woodland Hills in Duluth, MN; Yellowstone Boys and Girls Ranch in Billings, MT; Youth Haven, Inc.; Youth Service Bureau; and YWCA of Northeast Louisiana.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the Bipartisan Patient Protection Act of 2001. Put simply, I believe this is a good bill.

If the Senate approves this bill, we could offer health care protections to all 190 million Americans in private health plans within a week. It's that simple.

Congress has a duty to pass a comprehensive Patients' Bill of Rights to make HMOs accountable to patients, and to ensure less HMO interference with medical decision making. We need to ensure, for example, access to emergency rooms, specialists, and clinical trials. Patients should be able to go to the emergency room closest to their home in the event of a medical emergency. This bill does just that.

Each day, 10,000 physicians see patients harmed because a health plan has refused services. Patients and doctors feel that getting quality care is a constant battle. It is time for this to stop. And the time is now.

Each day we wait to approve a comprehensive Patients' Bill of Rights, 35,000 patients are denied access to the speciality care they need to manage or diagnose their illness.

I want to read to you a heart-wrenching letter I received from a California mother who has had difficultly getting her health plan to approve medically necessary services for her disabled daughter.

I believe this letter really highlights the humane reasons Congress must enact a strong Patients' Bill of Rights this year. This mother writes:

> My daughter is a total-care patient. She was in a terrible car accident approximately 14 years ago and sustained brain stem injuries and is a quadriplegic. I chose to keep her at home. Her licensed care coverage is to be 24-hour care. In the past two years, her insurance company has unilaterally cut back on her nursing care to 5.5 hours a day.
>
> This is one of many unilateral decisions the insurance provider has made regarding her care—disregarding her doctor's and other medical providers' assessments.
>
> I, as her mother and conservator, who is not trained in medical practices or care, am expected to cover the remainder of the 18.5 hours a day. This has caused me to quit my job, file bankruptcy, and most importantly, it has seriously affected my health.
>
> I am a senior citizen and am not supposed to lift, however, because of the practices of the insurance company, I have no choice. I cannot tell you when I last had a full night's sleep in the past several years.
>
> The insurance company not only cut back on her nursing care, they stopped approving her therapy which included physical, speech, and occupational.
>
> I received a letter from her current insurance carrier stating that she was considered to be a normal employee and in August of 2001 all the aforementioned items would be stopped.
>
> This is not based on my daughter's current doctor's orders nor her needs. This is not based on an assessment from an independent medical establishment or by an experienced, licensed nurse that was selected by the insurance company for a complete assessment which supported the necessity of 24-hour nursing care.
>
> This decision is being made unilaterally by the insurance company officials. Is this what insurance companies can do to critically ill patients without any accountability or liability on their part?

I commend this mother for her commitment to providing her daughter with the best care available.

This letter highlights the importance of giving doctors the power to make medical decisions about coverage and care rather than the "green eye shade" of the insurance companies.

I strongly believe that doctors should be making the medical decisions. This bill includes several provisions to help physicians determine what is medically necessary and to prevent insurance plans from defining medical necessity.

These provisions are necessary because doctor after doctor has told me their "horror stories" of how plans try to arm twist, coerce, countermand, interfere with and even deny treatments that they have determined are medically necessary and appropriate.

The bill prohibits plans from punishing providers for advising patients about their options for medical treatment.

The bill also establishes, as the standard for review, that decisions should be made based on the medical condition of the patient and valid, relevant scientific evidence and clinical evidence and expert opinion.

It also requires internal and external reviews of appeals of medical necessity to be made by physicians with expertise in the area of medicine being appealed.

It requires reviewers in the independent review process to be a physician or health care professional who is licensed and "typically treats the condition, makes the diagnosis, or provides the type of treatment under review."

On prescription drugs, the bill requires plans to make exceptions to restrictive drug formularies for medical necessity, if prescribed by the treating physician.

It is my hope that these provisions will give doctors and other providers the legal underpinnings they need to make the professional medical judgments they are trained to make in their effort to give patients the best care possible.

I also want to briefly speak to two other very important provisions included in this bill: First, this bill provides coverage to all 190 Americans in private health plans. The competing bill in the Senate (Frist-Breaux) excludes approximately 20 million Americans because they are enrolled in a self-insured State and local government health plans. It is important we pass a bill that provides protections to all Americans.

Second, I believe this bill offers a responsible approach to liability.

Today, patients have few opportunities for recourse against the health plans that harm them. This is wrong.

This bill gets rid of a health plan's special privileges. A health plan would bear responsibility only if it makes a medical decision and the patient dies or is harmed as a result.

Doctors and other health practitioners are already held accountable for their mistakes under State law. If a "green eye-shade" overrules a doctor's medical judgement and harms a patient, the plan too should be held responsible.

At the same time, this bill protects employers. If an employer does not make medical decisions, the employer can't be held liable. It is that simple.

This bill does not overturn or preempt existing State liability laws. It specifically exempts doctors and hospitals from new causes of action. These are reasonable provisions. In States like California that have strong patient protections there has not been an explosion of lawsuits.

In fact, since the inception of California's right-to-sue law in January 2001 and the unlimited damage it provides for, there has not been a single lawsuit filed.

Instead, HMOs appear to be deferring more to patients' requests for treatment, according to the first data to emerge from the State's HMO regulator.

California has the longest history in managed care and the highest number of insured people in HMOs nationwide. Over 70 percent of Californians are enrolled in either a commercial HMO or a preferred provider organization, PPO. Approximately 20 million non-elderly Californians have access to health insurance through their job or privately purchase coverage.

So for California, these protections are critical.

Due in part to the high penetration of managed care, California's health care system is on the verge of collapse. Resources are stretched to the limit and patients, as a result, are not getting the services they need.

For example, California's capitation rate, the rate paid to doctors for treatment, is one of the lowest in the Nation. The average capitation rate in California reached its peak in 1993 at $45 per month. Last year, the rate dropped to $29 (PriceWaterhouse Coopers).

These low reimbursement rates undoubtedly impact quality of care and access to services.

Many California hospitals and other health care providers have been forced to limit hours of operation and discontinue services. The burden to provide care is put on those that have remained open, and many of these facilities are now facing financial problems of their own.

I know that California's health care system is not unlike other systems across the country. The bottom line is that patients should not be the one's made to suffer at the hands of a failing health care system.

People pay monthly premiums. They expect their health insurance to be there when they need it. That is what insurance is. It insures against loss from an unforeseen illness or injury.

But with HMOs today, the certainty of good health care is being seriously eroded. Many people feel that every time they need care, it is a tremendous hassle.

The bottom line is that people feel they have to fight to get the quality care they have paid for. Americans are tired of jumping through hoops to get good care.

People should not have to fight for their health care. They pay for it out of their monthly paycheck. It should be there for them when they need it.

I would like to close with a very tragic story about a young, 16 year old girl from Irvine, California who did not get the care she needed from her HMO in a timely manner. I think her story provides a poignant summary of the problem with managed care providers. Unfortunately, her story does not have a happy ending.

Serenity Silen was diagnosed with acute myeloid leukemia, or AML, in late February 1998. She had gone to her HMO four times, to four different HMO doctors, since the beginning of 1998. Each time she complained of the exact same symptoms, all of which could indicate leukemia.

Over the course of the four visits, Serenity's condition was never diagnosed. Finally, in the middle of February 1998, Serenity was taken to the emergency room of an out-of-network hospital because her mother was so frustrated with the care at their HMO.

The emergency room doctor was the first doctor, in the five weeks since the symptoms arose, to order a complete blood count test. The blood count test indicated a dangerously high white blood cell count that was symptomatic of leukemia. With a much delayed diagnosis, Serenity's leukemia was now going to be much more difficult to treat.

Fed up with the HMO, Serenity's parents sought a second opinion from a highly recognized oncologist at an out-of-network hospital. Serenity was transferred to that hospital to be under the oncologist's care. After being at the new hospital only a few days, Serenity explained to her parents that she did not realize how much pain she was in until the new hospital helped to take it away. After 2½ months at the new hospital, Serenity died. The disease had not been diagnosed in time.

I urge my colleagues to support this bill. Support this bill for the children like Serenity in your State. The constituents who battle with their HMOs daily to get the quality care they need and deserve. Many of these patients are too sick to fight with their HMOs to get access to the services necessary to treat their illnesses. How many more lives are we going to have to lose to the HMO battle before Congress wises up and passes a Patients' Bill of Rights that protects the patient?

This bill has been a long time in the making. Let's get it done this session.

ADJOURNMENT OF THE TWO HOUSES OVER THE FOURTH OF JULY HOLIDAY

Mr. REID. Mr. President, I have a unanimous consent request that the Senate proceed to H. Con. Res. 176, the adjournment resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 176) providing for conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 176) was agreed to, as follows:

H. CON. RES. 176

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 28, 2001, or Friday, June 29, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, July 10, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 28, 2001, Friday, June 29, 2001, Saturday, June 30, 2001, Monday, July 2, 2001, Tuesday, July 3, 2001, Thursday, July 5, 2001, Friday, July 6, 2001, or Saturday, July 7, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 9, 2001, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. REID. Mr. President, for the edification of Members, the resolution allows the House to go out today or tomorrow and allows the Senate to go out any day up until July 7.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING NEW YORK FIREFIGHTERS—JOHN J. DOWNING, BRIAN FAHEY, AND HARRY FORD, WHO LOST THEIR LIVES IN THE LINE OF DUTY

Mrs. CLINTON. Mr. President, let me state for the RECORD that the request I am about to make has been cleared on the Republican side.

I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 117 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 117) honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. CLINTON. Mr. President, I rise today to introduce a resolution honoring John J. Downing, Brian Fahey, and Harry Ford, who gave their lives this past Father's Day while protecting the lives of others. Together, these brave men left behind three widows and eight children whom we also honor today for their sacrifice.

On June 17, as a treacherous five-alarm fire raged at the Long Island General Supply Company in Queens, NY, without hesitation, as they have done countless times before, nearly 350 firefighters and numerous police officers responded to the call for help. Two civilians and dozens of firefighters and police officers were injured. And three courageous fathers lost their lives. It was the last time their children would be able to spend Father's Day with them.

John Downing was 40 years old, an 11-year veteran of the New York Fire Department when he responded to the five-alarm blaze. He was a valiant public servant who had been recognized for his bravery. John left behind his wife Anne, his 7-year-old daughter Joanne, and his three-year-old son Michael.

Brian Fahey, 46 years old, and a 14-year veteran of the department from East Rockaway, NY, was also a husband and father of three. His years of service to his community were made proud by his courage. He is survived by his wife Mary and their three sons: Brendan, 8; and twins, Patrick and James, 3½ years old.

Harry Ford, age 50, gave nearly three decades of service to the New York City Fire Department. During his exemplary career, he received nine bravery citations. He is survived by his wife Denise; his daughter Janna O'Brien, age 24; and two sons, Harry, 12, and Gerard, 10.

Mr. President, I paid a call on the two firehouses early Sunday morning who had lost these brave compatriots, and I spent time talking to the men who go to work every day not knowing what is going to be asked of them, who sometimes go for, thankfully, days, or weeks, or months, and even years without ever having to put themselves in danger. But when the call comes, they are ready. And whether it is a call to respond to an emergency need because of an illness, an accident, or a huge raging fire that is about to get out of control, they represent the very best we have in our society.

We live in a society that seems to be in perpetual search for heroes, whether in the form of sports figures or screen idols. But to find true heroes, sometimes so we don't have to look so very far from home. We certainly don't have to look any farther than the brave men we are honoring today.

The unmistakable courage and the incalculable sacrifices that they and their families have made for the good of their neighbors and their community are the kinds of virtues and values that should be held up to our children and ourselves as something we should all aspire to.

Finally, in so honoring these men, we honor the hundreds of thousands of public safety officers across this country that, every single day, risk their lives and put them and their families at risk to keep us safe from harm. Their strong tradition of bravery and sacrifice keeps our communities safe and fills our hearts with pride for their selfless acts of courage for others.

I hope that next year when Father's Day comes around, the children who have lost their fathers in this fire and those who have lost fathers and mothers because they were serving us will know how grateful we are for their sacrifice. I hope all of my colleagues will join me in supporting this resolution.

I yield back the remainder of my time.

Mr. DODD. Mr. President, I rise in support of Senator CLINTON's resolution honoring the fallen firefighters of New York and to join with her in acknowledging the bravery and commitment of Harry Ford, Brian Fahey, and John Downing. These men were firefighters—firefighters who risked their lives and gave their lives to protect the public. These men died on Sunday, June 17th, while fighting a fire in Queens, New York. The price they paid on our behalf was as great a price as any citizen can pay. We owe these men our deepest appreciation and respect.

On Sunday, the 17th—Father's Day—Firefighters Ford, Fahey and Downing worked quickly to fight a fire in a local hardware store. Thirty minutes after leaving the fire station, responding to what they thought was a routine call, an explosion buried the men under a pile of rubble. Dozens of firefighters worked to rescue the men, but they could not be reached in time.

These men were husbands and fathers. Harry Ford leaves behind his wife, Denise and two sons, Harry, age 12, and Gerard, age 10. Brian Fahey leaves us with his wife, Mary and three sons: Brendan, who is 8 years old, and 3-year-old twins, Patrick and James. John Downing is survived by his wife Anne, his daughter Joanne, age 7, and his son Michael, who is 3. My thoughts and prayers are with these families.

I am humbled by their devotion to public service. Their deaths represent the ultimate sacrifice a person can make for his or her fellow human beings. They died while fighting a fire and it is not hyperbole to say that they died while making America a safer place to live.

I am always saddened to realize that it takes a tragedy like this to bring attention to the needs of fire departments and firefighters nationwide. I hope that the memory of these three men will help Americans realize the impact of firefighters on our daily lives.

Firefighters are almost always the first in a community to respond to a call for help. They are on the scene of traffic accidents and construction accidents. When a natural or man-made calamity strikes—from hurricanes to school shootings to bombings—firefighters are there without fail, restoring order and saving lives.

Unfortunately, fire departments across the Nation struggle to find resources to help keep our communities safe. As the demands placed on fire departments have grown in volume and magnitude, the ability of local residents to support them has been put to a severe test. As a result, towns and cities throughout the country are struggling mightily to provide the fire departments with the resources they require.

For these reasons I have strongly supported helping localities meet their critical objectives. Communities need more firefighters and community firefighters need the resources to ensure that they have the training and equipment to protect themselves and the public.

Last year we passed an important piece of legislation called the Firefighter Investment and Response Enhancement Act which authorized the Federal Emergency Management Agency to provide grants to local firefighters so they could purchase the equipment they need. Congress appropriated $100 for the program last year and the FEMA has just completed the first grant competition under the program. The demand is extraordinary. FEMA received nearly $3 billion worth of grant applications—that's 30 times more in requests that is currently available.

No amount of funding can bring back Firefighters Ford, Fahey, and Downing. New fire trucks or better training programs or even more firefighters cannot even begin to compensate for the loss suffered by the people of Queens and the families of these brave men. For their lives, we are forever indebted. But for their cause, we can dedicate ourselves to help ensure that no firefighter ever enters a burning building without the best possible training and equipment.

So I stand here before you, Mr. President, and the members of this chamber to say that these men and their families shall not be forgotten. They have sacrificed their lives for us, and for this they deserve no less than the highest degree of honor and respect. We here today cannot compare our own deeds to those of Harry Ford, Brian Fahey, and John Downing, but we can bring honor to ourselves and justice to their memories by keeping them and the needs of the fire service in mind as we perform our own duties.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 117) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 117

Whereas on June 17, 2001, 350 firefighters and numerous police officers responded to a 911 call that sent them to Long Island General Supply Company in Queens, New York;

Whereas a fire and an explosion in a 2-story building had turned the 128-year-old, family-owned store into a heap of broken bricks, twisted metal, and shattered glass;

Whereas all those who responded to the scene served without reservation and with their personal safety on the line;

Whereas 2 civilians and dozens of firefighters were injured by the blaze, including firefighters Joseph Vosilla and Brendan Manning who were severely injured;

Whereas John J. Downing of Ladder Company 163, an 11-year veteran of the department and resident of Port Jefferson Station, and a husband and father of 2, lost his life in the fire;

Whereas Brian Fahey of Rescue Company 4, a 14-year veteran of the department and resident of East Rockaway, and a husband and father of 3, lost his life in the fire; and

Whereas Harry Ford of Rescue Company 4, a 27-year veteran of the department from Long Beach, and a husband and father of 3, lost his life in the fire: Now, therefore, be it

Resolved, That the Senate—

(1) honors John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters, and recognizes them for their bravery and sacrifice;

(2) extends its deepest sympathies to the families of these 3 brave heroes; and

(3) pledges its support and to continue to work on behalf of all of the Nation's firefighters who risk their lives every day to ensure the safety of all Americans.

A CALL FOR ACTION

Mr. LEVIN. Mr. President, a new poll conducted by the Opinion Research Corporation International and released by the Brady Campaign to Prevent Gun Violence confirms once again that the American people support sensible gun safety legislation. Eighty-three percent of those polled said they support criminal background checks on all gun purchases at gun shows. Nearly four out of five respondents voiced support for preventing gun dealers from selling guns to anyone who has not passed a background check, even if it takes more than 3 days to complete the check. And more than 8 out of every 10 people polled believe that all guns should be sold with childproof safety locks.

The message here is clear. People are fed up with the reports of gun violence that dominate the front page and the evening news. America wants action.

The Brady Campaign's poll and countless other studies demonstrate our mandate. The incidents of gun violence that plague our neighborhoods and endanger our children confirm our moral obligation.

We should ignore neither. We cannot let another Congress go by without action. Let's close the loopholes in our gun laws and remember the 107th Congress as a time when we made America a safer place for our children and our grandchildren.

GENERAL ACCOUNTING OFFICE REPORT ON DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Mr. McCONNELL. Mr. President, when the 105th Congress passed the Transportation Equity Act for the 21st Century, TEA–21, there was a vigorous and close debate about whether to convert the Disadvantaged Business Enterprise Program into a race neutral program helping all small disadvantaged businesses. It troubled many members of both Houses that we lacked basic information about the characteristics of DBEs and non-DBEs and about alleged discrimination in the transportation industry. Consequently, I introduced, with widespread bi-partisan support, an amendment to TEA–21, requiring the GAO to gather the information Congress was missing that is essential to understanding the DBE program. As Congressman SHUSTER, Chair of the House Committee on Transportation and Infrastructure and the floor manager for the transportation bill, emphasized during the House debate, the Act "also requires a GAO study that would examine whether there is continued evidence of discrimination against small business owned and controlled by socially and economically disadvantaged individuals. I believe such a study will lay the groundwork for future reform."

Three years later, the GAO has produced a comprehensive report on the questions Congress asked it to investigate. This objective, impartial report entitled, "Disadvantaged Business Enterprises: Critical Information is needed to Understand Program Impact," GAO Report GAO-01-586, June 2001, is highly significant to the continuing legislative and judicial debate over the DBE program. Professor George R. La Noue, one of the distinguished scholars in this field, has analyzed the GAO's report. He notes that the "DBE program has been continuously subject to litigation during its almost two decades of existence." Professor La Noue concludes that "the picture of the DBE program that emerges from the GAO report is one of essential information that is missing, or if available, does not support any finding of a national pattern of discrimination against DBEs." I am pleased to provide Professor La Noue's analysis of the GAO report, and I request that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN ANALYSIS OF "DISADVANTAGED BUSINESS ENTERPRISES: CRITICAL INFORMATION IS NEEDED TO UNDERSTAND PROGRAM IMPACT"

GAO Report [GAO-01-586 June 2001]

(By George R. La Noue, Professor of Political Science)

DIRECTOR, PROJECT ON CIVIL RIGHTS AND PUBLIC CONTRACTS, UNIVERSITY OF MARYLAND, BALTIMORE COUNTY

During the 1998 consideration of the Transportation Equity Act for the 21st Century (TEA-21), there was extensive debate in both Houses about whether to make the DBE program race-neutral. In the end, a compromise was reached to retain a race conscious DBE program, while requiring the General Accounting Office to make a three year study of the characteristics of the DBEs and non-DBEs participating in federal transportation programs and to gather existing evidence of discrimination against DBEs. Such information was intended to provide a solid basis of facts for courts, legislators, and others grappling with the complex issues of the constitutionality of the DBE program.

The GAO study now has been released and its conclusions are highly significant. GAO performed its three year study by obtaining data from 52 state DOT recipients (including the District of Columbia and Puerto Rico) and 31 of the largest (accounting for two-thirds of transit grant funds obligated in 1999) transportation districts in the country. In addition GAO staff interviewed representatives of interest groups on both sides of the DBE question and analyzed the results of 14 transportation related disparity studies.

Following are GAO's major conclusions.

1. DISCRIMINATION COMPLAINTS

GAO conducted a survey of discrimination complaints received by USDOT and recipients. GAO found that, while USDOT sometimes receives written complaints of discrimination, the agency does not compile or analyze the information in those complaints. GAO could not supply information on the number of complaints filed, investigations launched, or their outcomes. (p. 33) GAO also asked state and local transit recipients about complaints they received and they had better data. During 1999 and 2000, 81 percent of the recipients had no complaints, while a total of 31 complaints were received by the other recipients. Of these, 29 were investigated and findings of discrimination were made only 4 times across the nation .

The report concluded: Other factors may also limit the ability of DBEs to compete for USDOT-state assisted contracts. The majority of states and transit districts we surveyed had not conducted any kind of analysis to identify these factors. Using anecdotal information, we identified a number of factors, or barriers, such as a lack of working capital and limited access to bonding, that may limit DBEs' ability to compete for contracts. However, there was little agreement among the officials we contacted on whether these factors were attributable to discrimination. (p.7)

In fact GAO reported there were few if any studies by government agencies or industry groups regarding barriers to DBE contracting. "USDOT officials, however, stated that they believe contract bundling is one of the largest barriers for DBEs in competing for transportation contracts." (p. 35) That, of course, is not a problem caused by discrimination.

2. DISPARITY STUDIES

GAO also reviewed 14 transportation-specific disparity studies completed between 1996 and 2000. GAO examined these studies because they might be a source of evidence about discrimination against DBEs and because USDCT permits recipients to use disparity studies to set annual goals and to determine the level of discrimination these goals purportedly are remedying. GAO found that about 30 percent of the recipients surveyed used disparity studies to set their fy 2000 goals. (p. 29).

GAO found that: the limited data used to calculate disparities, compounded by the methodological weaknesses, create uncertainties about the studies findings. . . . While not all studies suffered from every problem, each suffered enough problems to make its findings questionable. We recognize there are difficulties inherent in conducting disparity studies and that such limitations are common to social science research; however, the studies we reviewed did not sufficiently address such problems or disclose their limitations. (p.29)

GAO then detailed disparity study problems, particularly in calculating DBE availability. These problems are important not only because they undermine the validity of the disparity studies involved, but because these same problems exist in the regulations USDOT issued regarding annual goal setting. USDOT as a practical matter permits recipients to use a wide variety of sources to measure availability on which goals are then based.

GAO made other specific criticisms of the studies. For example, the studies did not have information on firm qualifications or capacities; they failed to analyze both the dollars and contracts awarded and sometimes did not have subcontracting data. This was important: Because MBE/WBEs are more likely to be awarded subcontracts than prime contracts, MBEs/WBEs may appear to be underutilized when the focus remains on prime contractor data. Furthermore, although some studies did include calculations based on the number of contracts, all but two based their determination of disparities on only the dollar amounts of the contracts. Because MBEs/WBEs tend to be smaller than non-MBEs/WBEs, they often are unable to perform on larger contracts. Therefore, it would appear that they were awarded a disproportionately smaller amount of contract dollars. (p. 32) (see data on contracting awards on p. 51)

GAO's conclusion here is significant because the USDOT regulations measure utilization only in dollars, not contracts, and annual goals are set based on total dollars rather than on the DBE share of subcontracting dollars.

Finally GAO notes that although USDOT advised recipients that disparity studies should be "reliable," USDOT provided no guidance on what would be a reliable study. GAO concluded that: USDOT's guidance does not, for example, caution against using studies that contain the types of data and methodological problems that we identified above. Without explicit guidance on what makes a disparity study reliable, states and transit authorities risk using studies that may not provide accurate information in setting DBE goals. (p. 32)

GAO's finding about the unreliability of disparity studies is consistent with the findings of every court that has examined the merits of such studies after discovery and trial.

3. DISCONTINUING PROGRAMS

One of the arguments used in the TEA-21 debates and defendant's trial briefs is the assertion, often anecdotal, that without goals, DBE participation would decline precipitously. The difficulty with that assertion, even if true, is that the decline in DBE participation may be the result of previous overutilization caused by goals set too high or because when a program is struck down DBEs may have little incentive to seek or maintain certification.

But is the basic assertion true? It turned out that 10 of 12 recipients with discontinued programs did not know what the DBE participation result was. For instance, although Michigan was cited by DBE proponents in the TEA-21 debate as an example of DBE utilization decline after Michigan Road Builders Assn. v. Millikin (1987) struck down the state highway MBE program, GAO reports: Michigan could not provide us with minority and women owned business participation data in state highway contracting for the years immediately before and after it discontinued its program. Furthermore, Michigan officials stated that the analysis showing the decline that is often cited was a one-time-only analysis and that analysis is no longer available. Consequently we can not verify the number cited during the debate (p.37)

4. MISSING INFORMATION

Much of the above criticisms GAO cast in terms of a lack of information, but there were other key items missing as well. GAO had planned to survey all transit authorities receiving federal funds, but FTA does not have a complete list. (p. 74) When the 83 state and transit recipients were surveyed, only 40% or less of the respondents could report the gross revenues of the DBEs that won contracts. Less than 25% of the respondents could report the gross revenues of the DBEs that did not win contracts. (pp. 52-55) Only about a third of the agencies could report data on the personal net worth of DBE owners, although TEA-21 regulations require that such owners net worth not exceed $750,000.

Only a handful of respondents could report data on the gross revenues or owner net worth characteristics of non-DBE firms. (p. 64) While 79 respondents could report data about subcontracts awarded DBEs, only 28 respondents could report similar data for non-DBEs. That means that most respondents did not regard comparing DBE and non-DBE subcontractor utilization relevant in setting goals or in determining whether discrimination exists.

Nor are respondents acquiring relevant information: 98.8% have not conducted any study determining if awarding prime or sub contracts to DBEs affects contract costs; 67.5% no study on discrimination against DBE firms; 84.2% no study of discrimination against DBEs by financial credit, insurance or bond markets; 79.5% no study of factors making it difficult for DBEs to compete; and 92.8% no study on the impact of the DBE program on competition and the creation of jobs. (pp. 66–68). Only 26.5% of the respondents have developed and implemented use of a bidders list, although the regulations require such.

The DBE program has been continuously subject to litigation during its almost two decades of existence. Overall, the picture of the DBE program that emerges from the GAO report is one of essential information that is missing, or if available, does not support any finding of a national pattern of discrimination against DBEs.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 18, 1998 in New York City. A man who used antigay epithets allegedly slashed a gay man in the face with a knife. Eric Rodriguez, 22, was charged with attempted murder, assault, and criminal possession of a weapon.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

RAILROAD CROSSING DELAY REDUCTION ACT

Mr. DURBIN. Mr. President, earlier this month I introduced the Railroad Crossing Delay Reduction Act, S. 1015, with my colleagues, Senators LEVIN and STABENOW.

This legislation would accelerate efforts at the U.S. Department of Transportation to address the issue of rail safety by requiring the Secretary of Transportation to issue specific regulations regarding trains that block automobile traffic at railroad crossings. Currently, there are no Federal limits on how long trains can block crossings. The Railroad Crossing Delay Reduction Act would simply minimize automobile traffic delay caused by trains blocking traffic at railroad grade crossings.

In northeastern Illinois, there are frequent blockages at rail crossings. These blocked crossings prevent emergency vehicles, such as fire trucks, police cars, ambulances, and other related vehicles from getting to their destinations during the times of need. This is a serious problem and one I hope to address by passage of this important legislation.

Blocked rail crossings also delay drivers by preventing them from getting to their destinations. Motorists, knowing they will have to wait for a train to move at blocked crossings, sometimes try to beat the train or ignore signals completely. This is a threat to public safety, and one that must stop. Motorists must act responsibly, but we can reduce the temptation by reducing delays.

Trains stopped for long periods of time also tempt pedestrians to cross between the train cars. I've heard from local mayors in my State that children, in order to get home from school, cross between the rail cars. This is a terrible invitation to tragedy.

Trains blocking crossings cause traffic problems, congestion, and delay. These issues are very real. They are serious. And more importantly, they are a threat to public safety. To address these problems, I've introduced with my colleagues the Railroad Crossing Delay Reduction Act. I'm hopeful this legislation will provide for a safer Illinois and a safer Nation. I urge my colleagues to join the effort to reduce blocked rail-grade crossings by cosponsoring and supporting S. 1015.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 27, 2001, the Federal debt stood at $5,655,167,264,852.88, Five trillion, six hundred fifty-five billion, one hundred sixty-seven million, two hundred sixty-four thousand, eight hundred fifty-two dollars and eighty-eight cents.

One year ago, June 27, 2000, the Federal debt stood at $5,650,720,000,000, Five trillion, six hundred fifty billion, seven hundred twenty million.

Five years ago, June 27, 1996, the Federal debt stood at $5,118,104,000,000, Five trillion, one hundred eighteen billion, one hundred four million.

Ten years ago, June 27, 1991, the Federal debt stood at $3,502,028,000,000, Three trillion, five hundred two billion, twenty-eight million.

Fifteen years ago, June 27, 1986, the Federal debt stood at $2,040,977,000,000, Two trillion, forty billion, nine hundred seventy-seven million, which reflects a debt increase of more than $3.5 trillion, $3,614,190,264,852.88, Three trillion, six hundred fourteen billion, one hundred ninety million, two hundred sixty-four thousand, eight hundred fifty-two dollars and eighty-eight cents during the past 15 years.

ADDITIONAL STATEMENTS

CONGRATULATING JAMES W. AND JESSE ANN DAVIS

• Mr. ALLEN. Mr. President, I rise today to congratulate two residents of Ashburn, Virginia, on the birth of one of my newest constituents and a fine young man, James Michael Davis. James Michael was born on March 20, 2001, weighing 6 pounds and 10 ounces, and is the proud son of James W. Davis, a member of the U.S. Capitol K–9 Police Force, and Jesse Ann Davis. He is the grandson of Edith Louise Davis and the late James Carl Davis, and Stella Canchola and the late Raymond Canchola.

James Michael has entered a world of unlimited opportunity and possibilities. His parents and grandparents will help instill virtues of independence, self-reliance, perseverance and determination, all of which will serve him well along the road of life.

I want to extend my best wishes to James Michael for many years of health and happiness.•

IN RECOGNITION OF DR. RICHARD W. McDOWELL

• Mr. LEVIN. Mr. President, I am delighted to speak today to acknowledge a leader, from my home State of Michigan, who has dedicated his life to serving the citizens in Michigan, Dr. Richard W. McDowell. Today, many people will gather to pay tribute to Dr. McDowell for his service as President of Schoolcraft College, in Livonia, MI, for the past twenty years.

Dr. McDowell has dedicated his life, both professionally and personally, to the service of his community. Dr. McDowell has served capably and honorably as the President of Schoolcraft College during a period of incredible growth for this institution. He has presided over programs and projects that have reshaped the campus, and enhanced its ability to meet the needs of students at Schoolcraft College.

During his tenure as President, Dr. McDowell has presided over the construction of numerous structures including additions to the Campus Center, the Child Care Center and the student center that bears his name. In addition to enhancing the physical facilities, he has greatly enhanced the economic structure of the campus by forming the Schoolcraft Development Authority, and by expanding the endowment of the college. These efforts will secure the ability of the school to maintain a world-class campus while providing students with access to an affordable education.

In addition to these activities, Dr. McDowell is a leader in his profession and in numerous civic institutions. His love of academia and education translated into his desire to serve the educational community writ large. Dr.

McDowell has served as President of the Michigan Community College Association, and he has been a member of the Michigan Educational Trust Board, the National Advisory Panel for the Community College Program at the University of Michigan, the American Association of Community Colleges and the North Central Association of Colleges and Schools.

He has further assisted his community by serving on the board of Wayne County Private Industry Corporation, St. Mary Mercy Hospital and the City of Livonia Ethics Board. This selfless leadership has been recognized by many organizations, including his alma maters—Indiana University of Pennsylvania and Purdue University. Both of these institutions awarded him their distinguished alumni awards. In addition, he was selected one of the top fifty community college presidents in the United States by the Community College Leadership Program at the University of Texas at Austin.

I hope my Senate colleagues will join me in saluting Dr. McDowell for his career of public service, particularly the commitment to education which he has exhibited for the last two decades.•

CONCRETE CANOE COMPETITION

• Mr. SESSIONS. Mr. President, I join with my colleagues in support of the Concrete Canoe Competition.

Civil Engineers design the backbone of our Nation's infrastructure. By designing, building, and maintaining our infrastructure, these engineers have quietly helped to shape the history of our Nation and its communities. Civil Engineers contribute daily to our standard of living through their designing, building, and maintaining our transportation, clean water, and power generation systems.

A great example of civil engineering ingenuity is manifested through the National Concrete Canoe Competition. The Concrete Canoe Competition provides college and university students an opportunity to use the engineering principles learned in the classroom, and apply them in a competitive environment where they further learn important team and project management skills.

I am very pleased to announce that on June 16, 2001, the University of Alabama at Huntsville won an unprecedented fifth national Championship in the Concrete Canoe Competition.•

RETIREMENT OF JOHN C. HOY AS PRESIDENT OF THE NEW ENGLAND BOARD OF HIGHER EDUCATION

• Mr. KENNEDY. Mr. President, it is an honor today to recognize the outstanding accomplishments of John C. Hoy, president of the New England Board of Higher Education, who is retiring this month. Mr. Hoy has dedicated the past twenty-three years to serving the higher education institutions of New England, and his leadership will be greatly missed.

Since he became president of the Board in 1978, Mr. Hoy has led the effort to provide an accessible and affordable education for every New Englander. To accomplish this goal, he established reforms in his own organization, and he also involved individuals and businesses throughout New England in effective partnerships that served students and institutions alike.

Among his primary achievements was the publication of numerous important books, including studies on the relationship between higher education and economic well-being in New England, the links between U.S. competitiveness and international aspects of higher education, and the effects of legal education on the New England economy.

In addition, John Hoy offered much-needed support to minority communities. He encouraged greater participation by Blacks and Hispanics in higher education, and he worked effectively to increase the number of ethnic minorities completing PhD programs. He also created a scholarship program for Black South African students at South Africa's open universities under apartheid.

John Hoy also cared deeply about the way technology was changing higher education, in New England and around the country. Under his initiative, the Board explored the promise of biotech industries and manufacturing in New England, and worked to improve technical education, with the help of both professional educators and the private sector. In addition, he worked with other regional boards of higher education to coordinate telecommunications among higher educational institutions.

John C. Hoy deserves great credit for all he has done to enhance higher education in New England. His accomplishments are deeply appreciated by all of us who know him, and I welcome this opportunity to wish him a long and happy retirement.•

HONORING DR. BERNARD MEYERS

• Mr. CRAPO. Mr. President, I rise today to say thank you to Dr. Bernard "Bernie" Meyers, President and General Manager of Bechtel BWXT Idaho, LLC (BBWI). BBWI manages the Idaho National Engineering and Environmental Laboratory (INEEL) for the United States Department of Energy.

The INEEL is the third largest employer in the state of Idaho and the largest employer in my hometown of Idaho Falls. For the past 2 years Bernie's professional and personal skills have helped lead the INEEL in its mission to be an enduring national resource that delivers science and engineered solutions to the world's environmental, energy and security challenges.

On August 1, 2001, Bernie will retire as President of BBWI and assume additional duties on behalf of Bechtel. In addition to his duties as President of BBWI, Bernie is also Senior Vice President in the 30,000 employee worldwide Bechtel organization.

Bernie's 39-year professional career includes 26 years spent with Bechtel, where he has risen through the nuclear engineering ranks while serving as an Engineer, Supervisor, Project Manager, Vice President, and finally as Senior Vice President.

Bernic's stewardship of Bechtel BWXT Idaho represents a strong demonstration of Bechtel's commitment to provide customer satisfaction and operational excellence for the eastern Idaho community. In addition to being a Senior Vice President, Bernie has in the past directed major Bechtel companies, managed North American operations, headed up the firm's Engineering and Construction operations, managed Bechtel's nuclear business line and served as an "in-the-trenches" project manage for some $30 billion worth of nuclear power jobs.

During that same time, Bernie gained INEEL-applicable experience in integrating safety through diverse workforces and in serving as a leader in nuclear technologies and nuclear operations. Over the years, he has managed large, complex and highly technical entities; overseen research and development organizations, and helped expand new and existing business lines into both national and international markets. He also has integrated technical, management and business systems across multiple offices, companies, sites, and disciplines.

Bernie is a Fellow in the American Society of Civil Engineers and the American Concrete Institute, and has authored a textbook, as well as more than 60 professional papers. He holds a master's degree in civil engineering from the University of Missouri and a doctor's degree in civil engineering from Cornell University.

During his time in Idaho, Bernie Meyers has provided sound thinking, decisive leadership and an intelligent vision for the future of the INEEL. He has provided honest and frequent communications about INEEL activities with Idaho's Congressional delegation, Idaho elected officials, key stakeholders, business and community leaders and the site's employees.

Under Bernie leadership, BBWI has proven to be a solid corporate neighbor throughout the state of Idaho. His advocacy for science education has helped to firmly establish the JASON Science Education program in the state, creating an awareness of science and technology careers for Idaho's elementary and secondary school students. His support of art, cultural and civic causes have contributed to the financial well being of many of organizations in Idaho.

On behalf of the people of Idaho, I want to say thank you to Bernie Meyers for a job well done. I want to wish Bernie and his wife Rita all the best as they tackle new challenges in the years ahead.•

WE THE PEOPLE COMPETITION

• Mr. MILLER. Mr. President, I would like to congratulate the following students for their outstanding performance in the national finals of the "We the People . . . The Citizen and the Constitution" contest in Washington, D.C. on April 21–23, 2001.

Joey Angel, David Connor, Darrell Davis, Eric Elloie, Jesse Gelbaum, Lindsey Green, Kyle Hale, Matthew Hall, Lisa Jones, David Lee, Jennie Long, Greer Pasmanick, Benjamin Riddick, Emily Rubinson, Matthew Snyder, Sanjay Tamhane, Jordan Tritt, and Scott Visser.

The leaders of this exceptional group of students are: Celeste Boemker, Teacher, Parker Davis, State Coordinator, and John Carr, District Coordinator.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations where were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING FOR FISCAL YEAR 2000—MESSAGE FROM THE PRESIDENT—PM 32

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science and Transportation.

To the Congress of the United States:

In accordance with the Public Broadcasting Act of 1967, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 2000.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 28, 2001.*

REPORT ON THE COMPREHENSIVE NATIONAL ENERGY POLICY DATED JUNE 2001—MESSAGE FROM THE PRESIDENT—PM 33

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

One of the first actions I took when I became President in January was to create the National Energy Policy Development Group to examine America's energy needs and to develop a policy to put our Nation's energy future on sound footing.

I am hereby transmitting to the Congress proposals contained in the National Energy Policy report that require legislative action. In conjunction with executive actions that my Administration is already undertaking, these legislative initiatives will help address the underlying causes of the energy challenges that Americans face now and in the years to come. Energy has enormous implications for our economy, our environment, and our national security. We cannot let another year go by without addressing these issues together in a comprehensive and balanced package.

These important legislative initiatives, combined with regulatory and administrative actions, comprise a comprehensive and forward-looking plan that utilizes 21st century technology to allow us to promote conservation and diversify our energy supply. These actions will increase the quality of life of Americans by providing reliable energy and protecting the environment.

Our policy will modernize and increase conservation by ensuring that energy is used as efficiently as possible. In addition, the National Energy Policy will modernize and expand our energy infrastructure, creating a new high-tech energy delivery network that increases the reliability of our energy supply. Further, it will diversify our energy supply by encouraging renewable and alternative sources of energy as well as the latest technologies to increase environmentally friendly exploration and production of domestic energy resources.

Importantly, our energy policy improves and accelerates environmental protection. By utilizing the latest in pollution control technologies to cut harmful emissions we can integrate our desire for a cleaner environment and a sufficient supply of energy for the future. We will also strengthen America's energy security. We will do so by reducing our dependence on foreign sources of oil, and by protecting low-income Americans from soaring energy prices and supply shortages through programs like the Low Income Housing Energy Assistance Program.

My Administration stands ready to work with the Congress to enact comprehensive energy legislation this year.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 28, 2001.*

REPORT ON THE EMERGENCY REGARDING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 34

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing and Urban Development.

To The Congress of the United States:

Enclosed is a report to the Congress on Executive Order 12938, as required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)).

GEORGE W. BUSH.
THE WHITE HOUSE, *June 28, 2001.*

MESSAGES FROM THE HOUSE

At 10:21 a.m., message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 691. An act to extend the authorization of funding for child passenger protection education grants through fiscal year 2003.

H.R. 2213. An act to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 176. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

At 5:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2311. An act making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

The message also announced that pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431), as amended by Public Law 106–55, and upon the recommendation of the Minority Leaders, the Speaker appoints the following members on the pat of the House of Representatives to the Commission on

International Religious Freedom to fill the existing vacancies thereon, for terms to expire on May 14, 2003: Ms. Leila Sadat of St. Louis, Missouri and Ms. Felice Gaer of Paramus, New Jersey.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 691. An act to extend the authorization of funding for child passenger protection education grants through fiscal year 2003; to the Committee on Commerce, Science, and Transportation.

H.R. 2133. An act to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education; to the Committee on the Judiciary.

H.R. 2311. An act making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 28, 2001, he had presented to the President of the United States the following enrolled bill:

S. 657. An act to authorize funding for the National 4-H Program Centennial Initiative.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-123. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to the Interstate highway system; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 106

Whereas, safety rest areas located on the rights of way of the Interstate highway system provide necessary services for Louisiana motorists, as well as visitors to Louisiana; and

Whereas, there are currently thirty-four rest areas along interstate highways in Louisiana; and

Whereas, the annual cost of upkeep and maintenance of these rest areas is approximately three and one-half million dollars; and

Whereas, the state is required by federal law to maintain these rest areas; and

Whereas, the Louisiana Department of Transportation and Development has scheduled approximately fifteen of these rest areas for closure; and

Whereas, these rest areas scheduled for closure could remain open if private entities were charged with the responsibility of maintenance and upkeep; and

Whereas, Federal law currently prohibits privatization of safety rest areas located on the rights of way of the Interstate highway system. Therefore be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to allow states to privatize safety rest areas located on the rights of way of the Interstate highway system. Be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. LEVIN. Mr. President, for the Committee on Armed Services.

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Dale W. Meyerrose, 1611

Brig. Gen. Wilbert D. Pearson Jr., 4130

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Rex W. Tanberg Jr., 5789

The following named officers for appointment in the United States Army to the grade indicted under assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John A. Van Alstyne, 2238

The following named officers for appointment in the Reserve of the Army to the grade indicted under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. James P. Collins, 2607

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicted under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Edward L. Correa Jr., 2290

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James C. Riley, 6688

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. William S. Wallace, 1708

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Benjamin S. Griffin, 5044

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Leon J. LaPorte, 0933

The following named officer for appointment as Chief of the Bureau of Medicine and Surgery and Surgeon General and for appointment to grade indicted under title 10, U.S.C., sections 601 and 5137:

To be vice admiral

Rear Adm. Michael L. Cowan, 2470

The following named officer for appointment in the United States Navy to the grade indicted while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Patricia A. Tracey, 3579

The following named officer for appointment in the United States Marine Corps to the grade indicted while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Maj. Gen. Edward Hanlon Jr., 2430

(The above nominations were reported with the commendation that they be confirmed.)

Mr. LEVIN. Mr. President, for the Committee on Armed Services, I report favorably the following nomination lists which were printed in the RECORDS of the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning STEVEN L. ADAMS and ending JANNETTE YOUNG, which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Army nominations beginning KEITH S. * ALBERTSON and ending ROBERT K. ZUEHLKE, which nominations were received by the Senate and appeared in the Congressional Record on January 3, 2001.

Army nominations beginning ERIC D. * ADAMS and ending DAVID S. ZUMBRO, which nominations were received by the Senate and appeared in the Congressional Record on May 21, 2001.

Army nominations beginning GREGGORY R. CLUFF and ending STEVEN W. VINSON, which nominations were received by the Senate and appeared in the Congressional Record on May 21, 2001.

Army nominations beginning GILL P. BECK and ending MARGO D. SHERIDAN, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2001.

Army nominations beginning CYNTHIA J. ABBADINI and ending THOMAS R. * YARBER, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2001.

Army nominations beginning JAMES E. GELETA and ending GARY S. OWENS, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Army nominations beginning FLOYD E. BELL JR. and ending STEVEN N. WICKSTROM, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Army nominations beginning ROBERT E. ELLIOTT and ending PETER G. SMITH, which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Army nominations beginning BRUCE M. BENNETT and ending GRANT E. ZACHARY

JR., which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Navy nomination of Charlie C. Biles, which was received by Senate and appeared in the Congressional Record on May 21, 2001.

Navy nominations beginning JAMES W. ADKISSON III and ending MIKE ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record on May 21, 2001.

Navy nominations of William J. Diehl, which was received by the Senate and appeared in the Congressional Record on June 5, 2001.

Navy nominations of Christopher M. Rodrigues, which was received by the Senate and appeared in the Congressional Record on June 12, 2001.

Navy nominations beginning ROBERT T. BANKS and ending CARL ZEIGLER, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Marine Corps nominations of Donald E. Gray Jr., which was received by the Senate and appeared in the Congressional Record on June 12, 2001.

Marine Corps nominations beginning JESSICA L. ACOSTA and ending JOSEPH J. ZWILLER, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

By Mr. INOUYE for the Committee on Indian Affairs.

Neal A. McCaleb, of Oklahoma, to be an Assistant Secretary of the Interior.

(The above nomination was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to the requests to appear and testify before any duly constituted committee on the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1118. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to identify certain routes in New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. COCHRAN, Mrs. CARNAHAN, Ms. SNOWE, and Mr. JOHNSON):

S. 1119. A bill to require the Secretary of Defense to carry out a study of the extent to the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study of Congress, and for other purposes; to the Committee on Armed Services.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):

S. 1120. A bill to amend the Foreign Assistance Act of 1961 to increase the authorization of appropriations for fiscal year 2002, and to authorize appropriations for fiscal year 2003, to combat HIV and AIDS, and for other purposes; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 1121. A bill to suspend temporarily the duty on certain R-core transformers; to the Committee on Finance.

By Mr. TORRICELLI:

S. 1122. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit against tax with respect to education and training of developmentally disabled children; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. CRAIG, and Mr. KOHL):

S. 1123. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THOMPSON:

S. 1124. A bill to amend section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide for a user fee to cover the cost of customs inspections at express courier facilities; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. AKAKA, Mr. ALLARD, Mr. BAYH, Mr. BINGAMAN, Mr. CLELAND, Mr. COCHRAN, Mr. EDWARDS, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. HELMS, Mr. INHOFE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LEAHY, Mr. LEVIN, Mr. REED, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Mr. SPECTER, Mr. TORRICELLI, and Mr. WYDEN):

S. 1125. A bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BROWNBACK (for himself and Mr. ENZI):

S. 1126. A bill to facilitate the deployment of broadband telecommunications services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK (for himself and Mr. ENZI):

S. 1127. A bill to stimulate the deployment of advanced telecommunications services in rural areas, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON:

S. 1128. A bill to provide grants for FHA-insured hospitals; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER:

S. 1129. A bill to increase the rate of pay for certain offices and positions within the executive and judicial branches of the Government, respectively, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CRAIG (for himself, Mrs. FEINSTEIN, and Mr. CORZINE):

S. 1130. A bill to require the Secretary of Energy to develop a plan for a magnetic fusion burning plasma experiment for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY:

S. 1131. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen, oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new sources review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

By Mr. CRAPO:

S. 1132. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER (for herself, Mrs. CARNAHAN, and Mr. BOND):

S. 1133. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington National Airport for certain communities in case of airline bankruptcy; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself and Mr. HATCH):

S. 1134. A bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. CHAFEE, Mr. CONRAD, Mrs. LINCOLN, Mr. MILLER, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. KERRY, and Mr. CARPER):

S. 1135. A bill to amend title XVIII of the Social Security Act to provide comprehensive reform of the medicare program, including the provision of coverage of outpatient prescription drugs under such program; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. BAUCUS, Mr. BAYH, Mr . CLELAND, Mr. CORZINE, Mr. DODD, Mrs. FEINSTEIN, Mr. REID, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. THOMPSON, and Mr. WYDEN):

S. 1136. A bill to provide for mass transportation in certain Federally owned or managed areas that are open to the general public; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 1137. A bill to direct the Secretary of the Army to convey the remaining water supply storage allocation in Rathbun Lake, Iowa, to the Rathbun Regional Water Association; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 155

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 155, a bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians.

S. 212

At the request of Mr. CAMPBELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 212, a bill to amend the Indian Health Care Improvement Act to revise and extend such Act.

S. 280

At the request of Mr. JOHNSON, the name of the Senator from Michigan

(Mr. LEVIN) was added as a cosponsor of S. 280, a bill to amend the Agriculture Marketing Act of 1946 to require retailers of beef, lamb, pork, and perishable agricultural commodities to inform consumers, at the final point of sale to consumers, of the country of origin of the commodities.

S. 592

At the request of Mr. SANTORUM, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 592, a bill to amend the Internal Revenue Code of 1986 to create Individual Development Accounts, and for other purposes.

S. 634

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 634, a bill to amend section 2007 of the Social Security Act to provide grant funding for additional Enterprise Communities, and for other purposes.

S. 661

At the request of Mr. THOMPSON, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 661, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 677

At the request of Mr. HATCH, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 775

At the request of Mrs. LINCOLN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 775, a bill to amend title XVIII of the Social Security Act to permit expansion of medical residency training programs in geriatric medicine and to provide for reimbursement of care coordination and assessment services provided under the medicare program.

S. 778

At the request of Mr. HAGEL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

S. 814

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 814, a bill to establish the Child Care Provider Retention and Development Grant Program and the Child Care Provider Scholarship Program.

S. 818

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 818, a bill to amend the Internal Revenue Code of 1986 to provide a long-term capital gains exclusion for individuals, and to reduce the holding period for long-term capital gain treatment to 6 months, and for other purposes.

S. 913

At the request of Ms. SNOWE, the names of the Senator from Delaware (Mr. CARPER), the Senator from Maryland (Mr. SARBANES), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 940

At the request of Mr. DODD, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 940, a bill to leave no child behind.

S. 992

At the request of Mr. NICKLES, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 992, a bill to amend the Internal Revenue Code of 1986 to repeal the provision taxing policy holder dividends of mutual life insurance companies and to repeal the policyholders surplus account provisions.

S. 1032

At the request of Mr. FRIST, the names of the Senator from Utah (Mr. HATCH) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1032, a bill to expand assistance to countries seriously affected by HIV/AIDS, malaria, and tuberculosis.

S. 1037

At the request of Mrs. HUTCHISON, the names of the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1037, a bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes.

S. 1038

At the request of Mr. JEFFORDS, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 1038, a bill to amend the Internal Revenue Code of 1986 to improve access to tax-exempt debt for small nonprofit health care and educational institutions.

S. 1075

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1075, a bill to extend and modify the Drug-Free Communities Support Program, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

S. 1087

At the request of Mr. CONRAD, the names of the Senator from Texas (Mr. GRAMM) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1087, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period of the depreciation of certain leasehold improvements.

S. RES. 71

At the request of Mr. HARKIN, the names of the Senator from Florida (Mr. GRAHAM), the Senator from Florida (Mr. NELSON), and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. RES. 99

At the request of Mr. CAMPBELL, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from New Jersey (Mr. CORZINE), the Senator from North Dakota (Mr. DORGAN), the Senator from Illinois (Mr. FITZGERALD), and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. Res. 99, a resolution supporting the goals and ideals of the Olympics.

S. CON. RES. 45

At the request of Mr. FITZGERALD, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

S. CON. RES. 52

At the request of Mr. CORZINE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. Con. Res. 52, a concurrent resolution expressing the sense of Congress that reducing crime in public housing should be a priority, and that the successful Public Housing Drug Elimination Program should be fully funded.

AMENDMENT NO. 814

At the request of Mr. SANTORUM, the names of the Senator from New Hampshire (Mr. SMITH) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of amendment No. 814 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

AMENDMENT NO. 826

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of amendment No. 826 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement

Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

AMENDMENT NO. 827

At the request of Mr. DOMENICI, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 827 intended to be proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, and Mr. DOMENICI):

S. 1118. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to identify certain routes in New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System; to the Committee on Commerce, Science, and Transportation.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to promote the future economic vitality of the communities in Union and Colfax Counties, and throughout Northeast New Mexico. Our bill designates the route for New Mexico's section of the Ports-to-Plains High Priority Corridor, which runs 1000 miles from Laredo, Texas, to Denver, Colorado. I am pleased to have my colleague, Senator DOMENICI, as a cosponsor.

I am certain every senator recognizes the importance of basic transportation infrastructure to economic development in their State. Roads and airports link a region to the world economy.

In New Mexico, it is well known that regions with four-lane highways and economical commercial air service will most readily attract new jobs. I have long pressed at the Federal level to ensure our communities have the roads and airports they need for their long-term economic health. That is why this bill I am introducing today is so important. With the passage of NAFTA, the Ports-to-Plains corridor is centrally situated to serve international trade and promote economic development along its entire route.

In 1998 Congress identified the corridor from the border with Mexico to Denver, CO, as a High Priority Corridor on the National Highway System. Last year, a comprehensive study was undertaken to determine the feasibility of creating a continuous four-lane highway along the corridor. Alternative highway alignments for the trade corridor were also developed and evaluated. The study was conducted under the direction of a steering committee consisting of the State departments of transportation in Texas, New Mexico, Oklahoma, and Colorado.

It is important to note that public input was an important facet at every stage of the study. The steering committee sponsored public meetings in May of last year in Clayton, NM, and five other locations along the corridor. A final series of seven public meetings was held this year. I note that the level of public interest and participation was highest in New Mexico. Over 600 citizens attended the public meeting in Raton, NM, on March 6, 2001, while a total of only 700 people attended all six of the other public meetings in Texas, Oklahoma, and Colorado clearly demonstrating the importance of this trade corridor designation to Northeast New Mexico. A final report has just been prepared and a summary can be found on the web at www.wilbursmith.com/portstoplains.

The study evaluated two routes for the trade corridor between Amarillo, TX, and Denver, CO. One route ran along U.S. Highway 64/87 between Clayton and Raton, NM. The other followed U.S. Highway 287, bypassing New Mexico. The feasibility study found that either route between Amarillo and Denver would result in favorable conditions. However, the alignment through New Mexico, from Clayton to Raton, along U.S. Highway 64/87, was dramatically more favorable than the alternative in terms of travel efficiency, benefits and feasibility, including travel time savings and accident cost reduction. In particular:

The benefit-to-cost ratio of the New Mexico route was 75 percent better than for the route bypassing New Mexico.

The traffic volume in 2025 would be 150 percent higher on the New Mexico corridor than on the alternative, including 25 percent more trucks.

Two thirds of the New Mexico alignment is already four lanes wide or is soon slated to be widened to four lanes, compared to only one-third of the alternative alignment.

The alternative would require acquisition of more than twice the right-of-way and would displace nearly three times more residential and commercial facilities.

The New Mexico alignment would serve a population of nearly 2 million persons, compared to 1.5 million for the alternative.

Finally, the construction costs of the New Mexico alignment are $175 million less than the route bypassing New Mexico.

The alternative route had a very slight advantage over the New Mexico alignment only in economic development benefits.

With the feasibility study results now complete, The New Mexico Highway Commission last week voted unanimously to support the designation New Mexico's portion of the Ports-to-Plains Trade High Priority Corridor along U.S. Highway 64/87 between Clayton and Raton. The designated route connects into Texas along Highway 87 to Dumas, and to Denver along Interstate 25.

Very simply, this bill advances the same goal, to designate the route between Clayton and Raton in New Mexico as part of the Ports-to-Plains Corridor. As the huge turnout for the public meeting in Raton in March clearly demonstrates, there is overwhelming public support for this route throughout Union and Colfax Counties in New Mexico. There is also very strong support in neighboring Las Animas and Pueblo Counties in Colorado, including the cities of Trinidad and Pueblo.

In Texas, the state already plans to widen to four lanes its portion of the route between Dumas and the New Mexico state line. In New Mexico, the Citizens' Highway Assessment Task Force identified the route between Clayton and Raton as a priority to upgrade to four lanes. The initial needs and purposes study for the project is currently listed in New Mexico's five-year Statewide Transportation Improvement Study, STIP.

In addition to possible routes north of Amarillo, TX, I should also note that the feasibility study considered a variety of alternative routes south of Amarillo, on down to Laredo. However, Congress already indicated its preferred southern leg in the Omnibus Appropriations Act of 2001, though the Congressional designation of the southern route was enacted long before we had the results of the feasibility study. The Texas Transportation Commission is voting today to confirm Congress' designation of the southern leg.

The studies have now been completed. The results are in. The route south of Amarillo has been set. Congress should now complete the designation of the final leg of the Ports-to-Plains Trade Corridor by passing our bill.

The time to act is now. Once the route is established the States can move forward with their regional and statewide transportation plans, environmental studies, design work, acquisition of rights of way, and initial construction of the most critical segments.

I thank Senator DOMENICI for cosponsoring the bill, and I hope all senators will join us in support of this important legislation.

I ask unanimous consent that a copy of the New Mexico State Highway Commission's resolution and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IDENTIFICATION OF PORTS-TO-PLAINS HIGH PRIORITY CORRIDOR ROUTES IN NEW MEXICO AND COLORADO.

Section 1105(c)(38) of the Intermodal Surface Transportation Efficiency Act of 1991

(105 Stat. 2032; 114 Stat. 2763A–201) is amended—

(1) in subparagraph (A), by redesignating clauses (i) through (viii) as subclauses (I) through (VIII), respectively;

(2) by redesignating subparagraph (A) as clause (i);

(3) by striking "(38) The" and inserting "(38)(A) The";

(4) in subparagraph (A) (as designated by paragraph (3))—

(A) in clause (i) (as redesignated by paragraph (2))—

(i) in subclause (VII) (as redesignated by paragraph (1)), by striking "and" at the end;

(ii) in subclause (VIII) (as redesignated by paragraph (1)), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(IX) United States Route 87 from Dumas to the border between the States of Texas and New Mexico."; and

(B) by adding at the end the following:

"(ii) In the States of New Mexico and Colorado, the Ports-to-Plains Corridor shall generally follow—

"(I) United States Route 87 from the border between the States of Texas and New Mexico to Raton, New Mexico; and

"(II) Interstate Route 25 from Raton, New Mexico, to Denver, Colorado."; and

(5) by striking "(B) The corridor designation contained in paragraph (A)" and inserting the following:

"(B) The corridor designation contained in subclauses (I) through (VIII) of subparagraph (A)(i)".

State of New Mexico, State Highway Commission, Resolution No 2001-3 (JUN)

Whereas, in the Transportation Equity Act for the 21st Century (Public Law 105–178, Section 1211) Congress designated the Ports to Plains Corridor (Corridor), from the Mexican border via I–27 (in Texas) to Denver, Colorado, as one of 43 High Priority Corridors to integrate regions and to improve the efficiency and safety of commerce and travel and to promote economic development; and

Whereas, the Texas Department of Transportation has identified the highways in Texas that it will recommend to the Federal Highway Administration be part of the Corridor from Laredo to Dumas, but has deferred to the States of New Mexico, Oklahoma, and Colorado to reach a consensus on the recommendation of highways to complete the Corridor from Dumas to Denver; and

Whereas, a feasibility study (Study) under the direction of a steering committee made up of representatives of the affected states, has identified two alternatives to complete the Corridor from Amarillo to Denver. The first alternative designated N1, goes from Amarillo (following U.S. 287) to Dumas, Texas, then follows U.S. 87 and U.S. 64/87 from Dumas, through Clayton, New Mexico, to Raton, New Mexico, and then continues to Denver following I–25 through Trinidad, Pueblo, and Colorado Springs, Colorado. The second alternative, designated N4, bypasses New Mexico by following U.S. 287 through Boise City, Oklahoma to Lamar and Limon, Colorado and then follows I–70 to Denver; and

Whereas, the public participation process of the Study reflects overwhelming support in the communities and related areas of Clayton, Raton, Trinidad, and Pueblo for the N1 alternative; and

Whereas, the N1 alternative will better serve the intent of Congress in creating the High Priority Corridor program because it will integrate more regional population centers and provide greater opportunities for economic development than the N4 alternative, which bypasses these population centers and thus limits the potential for economic development; and

Whereas, the N4 alternative will cost more to construct than the N1 alternative because the N4 alternative will require the construction of more new four land highway, including the cost of right of way acquisition; and

Whereas, portions of I–25 in alternative N1 from Denver to Colorado Springs are being improved and need additional improvements to better serve current needs and this Commission understands that a bypass on the Interstate Highway System for Colorado Springs is in conceptual plans of the Colorado Department of Transportation: Now, therefore it is

Resolved by the State Highway Commission, That it supports the N1 alternative to bring the Ports to Plains Corridor through New Mexico on U.S. 64/87, including upgrading U.S. 64/87 in New Mexico to a four-lane highway, in order to achieve the intent of Congress in the High Priority Corridor program to integrate regional population centers and provide opportunities for economic development; and it is further

Resolved, That the State Highway Commission supports additional federal funding for improvements to I–25 in Colorado and a bypass of Colorado Springs if that plan is adopted by the Colorado Department of Transportation; and it is further

Resolved, That a copy of this Resolution be provided to the Ports to Plains Project Steering Committee and feasibility study consultant, the Texas, Oklahoma, and Colorado Departments of Transportation, the Federal Highway Administration, New Mexico, Division, the governing bodies of the municipalities of Trinidad, Pueblo, and Colorado Springs, Colorado, Clayton, Des Moines, Raton, Springer, Cimarron, Eagle Nest, Angel Fire, Taos, Questa, and Red River, New Mexico and Union, Colfax, and Taos Counties, New Mexico, the New Mexico Municipal League, the New Mexico Association of Counties, all members of the New Mexico Congressional delegation, and all members of the New Mexico Legislative leadership.

Adopted in open meeting by the State Highway Commission on June 21, 2001.

Mr. DOMENICI. Mr. President, I rise today to support the Ports-to-Plains NAFTA corridor designation through New Mexico, along U.S. Highway 64/87 from Clayton to Raton.

From the beginning, I have vigorously supported the proposed route through New Mexico. In fact, while a member of the Senate Appropriations Subcommittee on Transportation, I worked to make the proposed route through New Mexico a possibility.

Further, representatives from my office attended a public comment meeting on the route in Raton, New Mexico in March 2001. I thought it important that the more than three hundred New Mexicans in attendance know that I was behind them.

I have supported the route from the beginning because I knew that it would be good for the people of my state and good for the country.

The conclusions of the feasibility study give clear and convincing evidence supporting what I had suspected all along. The route through New Mexico, known as the N–1 route, is the best choice.

In order to demonstrate that a particular infrastructure best meets the public interest over another, one must consider a host of factors.

Those factors include considering the public's preferences, the cost of the competing projects, and the relative efficiency of implementing each project.

The feasibility study concluded that the Ports-to-Plain route best meets this criteria.

The traveling public overwhelmingly prefers the route through New Mexico, which carries 28,000 vehicles per day. The competing proposal only has traffic flows of 11,000 vehicles each day.

The N–1 route through New Mexico represents the best deal for the taxpayer since it costs $175 million less than the competing route.

Last, the route through New Mexico would be the most efficient to implement since sixty-seven percent of the highway has already been programmed for four-lane expansion. The competing route has only programmed thirty-seven percent of the road for crucial four-lane improvements.

Furthermore, the State of New Mexico is committed to securing the Ports-to-Plains designation. Evidencing that commitment, the State's Highway Commission recently passed a resolution supporting the Ports-to Plains designation from Dumas, Texas to Raton, New Mexico.

I pledge to continue working to ensure that the Ports-to-Plains corridor is designated through New Mexico. The route through Raton, New Mexico is the most efficient and cost effective option for the U.S. taxpayer, furthers the interest of the people of my State, and is supported by the State government.

By Mr. LEAHY (for himself, Mr. DeWine, Mr. Daschle, Mr. Cochran, Mrs. Carnahan, Ms. Snowe, and Mr. Johnson):

S. 1119. A bill to require the Secretary of Defense to carry out a study of the extent to the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study of Congress, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, I rise today to introduce important legislation that will impact the health and readiness of the Selected Reserve. The Selected Reserves includes over 900,000 dedicated men and women divided between the National Guard and the Reserves. Over the past ten years, this force has become increasingly critical to carrying out our Nation's defense, whether deploying to far-flung regions of the globe or backfilling for other units making those deployments.

The country simply cannot meet its commitments without these proud citizen-soldiers. It follows, then, that steps to increase the readiness of the Selected Reserves will have a positive effect on the readiness of the entire force. It was this goal in mind that I introduce the Health Care for Selected Reserve Act.

This legislation will ensure that all members of the drilling reserves have adequate health insurance. The legislation acknowledges our reserves' continuing contributions to the defense of the Nation and expresses the need for full medical coverage. The legislation will commission an independent study on the extent of insurance shortfalls and examine the feasibility of extending the TRICARE or FEHBP program to the reserves.

Currently, when a member of the Selected Reserve goes on active duty over 60 days, they are provided full coverage under the TRICARE Prime program conducted through the active military's medical treatment facilities. But when reservists are not on active duty, they are left to gain insurance through their civilian employers. Like the rest of society, most gain adequate coverage through their employers like the rest of society, but, mirroring broader shortfalls in the wider population, many go without any health coverage at all. This shortfall has an even more noticeable affect on the country because it affects military readiness.

There is also an underlying issue of fairness here. It seems wrong to me that one week someone can be patrolling the skies over Iraq with full coverage and the next week they can have no health coverage at all. That situation gives the impression that the National Guard and the Reserves are the poorly-paid subcontractor to the active duty force. If we really believe in the idea of the Total Force, we cannot let these health coverage shortfalls exist.

I want to thank the other sponsors of this bill for helping me craft this bill. Senators DEWINE, DASCHLE, COCHRAN, CARNAHAN, SNOWE, and JOHNSON are deeply interested in this issue, and I look forward to working with them to develop a set of concrete steps to meet this problem. I urge the legislation's adoption.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The Selected Reserve of the Ready Reserve of the Armed Forces is the element of the Armed Forces of the United States that has the capability quickly to augment the active duty forces of the Armed Forces successfully in times of crisis.

(2) The Selected Reserve has been assigned increasingly critical levels of responsibility for carrying out the worldwide military missions of the Armed Forces since the end of the Cold War.

(3) Members of the Selected Reserve have served proudly as mobilized forces in numerous theaters from Europe to the Pacific and South America, indeed, around the world.

(4) The active duty forces of the Armed Forces cannot successfully perform all of the national security missions of the Armed Forces without augmentation by the Selected Reserve.

(5) The high and increasing tempo of activity of the Selected Reserve causes turbulence in the relationships of members of the Selected Reserve with their families, employers, and reserve units.

(6) The turbulence often results from lengthy, sometimes year-long, absences of the members of the Selected Reserve from their families and their civilian jobs in the performance of military duties necessary for the execution of essential missions.

(7) Family turbulence includes the difficulties associated with vacillation between coverage of members' families for health care under civilian health benefits plans and coverage under the military health benefits options.

(8) Up to 200,000 members of the Selected Reserve, including, in particular, self-employed members, do not have adequate health benefits.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that steps should be taken to ensure that every member of the Selected Reserve of the Ready Reserve of the Armed Forces and the member's family have health care benefits that are adequate—

(1) to ease the transition of the member from civilian life to full-time military life during a mobilization of reserve forces;

(2) to minimize the adverse effects of a mobilization on the member's ability to provide for the member's family to have ready access to adequate health care; and

(3) to improve readiness and retention in the Selected Reserve.

SEC. 3. STUDY OF HEALTH CARE BENEFITS COVERAGE FOR MEMBERS OF THE SELECTED RESERVE.

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall enter into a contract with a federally funded research and development center to carry out a study of the needs of members of the Selected Reserve of the Ready Reserve of the Armed Forces and their families for health care benefits.

(b) REPORT.—(1) Not later than March 1, 2002, the Secretary shall submit a report on the results of the study to Congress.

(2) The report shall include the following matters:

(A) Descriptions, and an analysis, of how members of the Selected Reserve and their dependents currently obtain coverage for health care benefits, together with statistics on enrollments in health care benefits plans.

(B) The percentage of members of the Selected Reserve, and dependents of such members, who are not covered by any health insurance or other health benefits plan, together with the reasons for the lack of coverage.

(C) Descriptions of the disruptions in health benefits coverage that a mobilization of members of the Selected Reserve causes for the members and their families.

(D) At least three recommended options for cost-effectively preventing or reducing the disruptions by means of extending health care benefits under the Defense Health Program or the Federal Employees Health Benefits program to all members of the Selected Reserve and their families, together with an estimate of the costs of individual coverage and family coverage under each option.

(E) A profile of the health status of members of the Selected Reserve and their dependents, together with a discussion of how that profile would affect the cost of providing adequate health benefits coverage for that population of beneficiaries.

(F) An analysis of the likely effects that providing enhanced health benefits coverage to members of the Selected Reserve and their families would have on recruitment and retention for, and the readiness of, the Selected Reserve.

(3) In formulating the options to recommend under paragraph (2)(D), the Secretary shall consider an expansion of the TRICARE program or the Federal Employees Health Benefits program to cover the members of the Selected Reserve and their families.

Mr. DASCHLE. Mr. President, today I join with several important leaders of the Senate's National Guard Caucus to introduce S. 1119, which we believe will one day result in improved health care for Guard and Reserve members and their families.

It is appropriate that we introduce this now, during a week in which Senate floor debate has focused almost exclusively on health care, with several lively discussions about the importance of expanding health coverage to the uninsured.

Unfortunately, Guard members and leaders in South Dakota tell me that many of the uninsured serve in the National Guard. Many of them work for small businesses that cannot afford to offer health insurance to their employees. Some of them have insurance for themselves, but cannot afford to insure their dependents.

Meanwhile, this Nation is utilizing the Guard more heavily than at any other time in our Nation's history. During the Cold War, a Guard member might serve and retire without ever being called to active duty. Starting with the Persian Gulf War and continuing to this day in Bosnia, Kosovo and Iraq, reservists are serving alongside the active duty military during deployments that can last 6 months or more.

Each of these deployments strains the Guard member's employer, who temporarily gives up a valued employee. And it strains individual soldiers and their families, even if they have health insurance, because employer-provided coverage often lapses during periods of active duty.

The premise of our bill is that health coverage can help the Guard attract and retain top-flight personnel and also improve readiness; that it can help service members and their families, especially in coping with mobilization; and that it can relieve some of the burdens faced today by National Guard employers, particularly small businesses.

This bill lays the groundwork for a solution. S. 1119 would authorize a study by a non-government research center to explore the extent of the problem and recommend at least three cost-effective solutions, including the possibility of opening the TRICARE program or the Federal Employees Health Benefits Program to reservists and their families. The study would look at disruptions to health coverage caused by mobilizations and analyze the likely impact of enhanced health care on recruitment and retention.

We have developed this bill in consultation with the Military Coalition and several of its members. I appreciate their concern for this problem and their work to help develop a solution. In this regard, I would particularly like to acknowledge the role of the Enlisted Association of the National Guard of the United States, the Reserve Officers Association, the National Guard Association of the United States, and the Retired Officers Association.

I hope and believe that today's bill introduction can be an important step toward providing adequate health care for members of the South Dakota National Guard and other reservists around the Nation, who do so much on behalf of their communities, their States, and this Nation.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):

S. 1120. A bill to amend the Foreign Assistance Act of 1961 to increase the authorization of appropriations for fiscal year 2002, and to authorize appropriations for fiscal year 2003, to combat HIV and AIDS, and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, this week, as the United Nations meets to prepare a global strategy to combat the growing worldwide HIV–AIDS crisis, I am proud to introduce legislation aimed at ensuring that the United States continues to be a leader in the fight against this deadly disease.

I am pleased to once again join my good friend and colleague from Oregon, Senator SMITH, in introducing this bill. Last year, we teamed up to offer the Global AIDS Prevention Act that doubled funding for the United States Agency for International Development's HIV–AIDS programs. Not only was this legislation included in broader international health legislation which became law, it was also fully funded for the current fiscal year. This year, we are looking to build upon last year's success by again doubling the amount USAID spends on fighting the global HIV–AIDS epidemic.

The Global AIDS Research and Relief Act would authorize $600 million in each of the next two fiscal years. It is designed to complement international HIV–AIDS relief efforts so that a truly global response can be implemented in sub-Saharan Africa, Latin America, Southeast Asia, Russia, and all places where people are suffering from this epidemic.

In the 20 years since AIDS was first recognized, 22 million people worldwide have died from the disease, and 36 million more are living with HIV or AIDS today. Of those living with the disease, 95 percent live in the developing world where advanced technology to combat AIDS is not readily available. It is predicted that AIDS will soon become the deadliest infectious epidemic in world history, surpassing the Plague, which killed an estimated 25 million people.

This new chapter in the AIDS epidemic is especially tragic because its growth is preventable. While there is no cure for this horrible disease, progress is being made. New medical breakthroughs afford HIV-positive people a much greater life expectancy than they would have had ten years ago. Unfortunately, these efforts are not reaching the Nations whose people need help the most. By increasing authorization for USAID to establish and expand these valuable initiatives in developing countries, our bill helps to remedy this disparity in the quality of care.

Specifically, the bill addresses the need for increased voluntary testing and counseling, so that we can educate people and keep its spread in check. With this funding authorization, the USAID will be able to provide more for the most vulnerable constituencies, children and young adults. The money will be used for drugs like nevirapine, which is given to expectant HIV-positive mothers to prevent the spread of the infection to their unborn children.

The United States is a trendsetter in efforts to address the pandemic of HIV–AIDS. Through the work of USAID, we have instituted prevention, care, and treatment programs in some of the hardest-hit countries in sub-Saharan Africa. The Centers for Disease Control and Prevention has worked with partners in other countries to expand treatment programs. Other agencies such as the Department of Labor, the Department of Agriculture and the Department of Defense are contributing to the effort to end the spread of AIDS. But far more remains to be done.

I urge my colleagues to support this measure and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Global AIDS Research and Relief Act of 2001".

SEC. 2. DEFINITIONS.

In this Act:

(1) AIDS.—The term "AIDS" means the acquired immune deficiency syndrome.

(2) ASSOCIATION.—The term "Association" means the International Development Association.

(3) BANK.—The term "Bank" or "World Bank" means the International Bank for Reconstruction and Development.

(4) HIV.—The term "HIV" means the human immunodeficiency virus, the pathogen, which causes AIDS.

(5) HIV/AIDS.—The term "HIV/AIDS" means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) According to the Surgeon General of the United States, the epidemic of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) will soon become the worst epidemic of infectious disease in recorded history, eclipsing both the bubonic plague of the 1300s and the influenza epidemic of 1918–1919 which killed more than 20,000,000 people worldwide.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 36,100,000 people in the world today are living with HIV/AIDS, of which approximately 95 percent live in the developing world.

(3) UNAIDS data shows that among children age 15 and under worldwide, more than 4,300,000 have died from AIDS, more than 1,400,000 are living with the disease; and in 1 year alone—2000—an estimated 600,000 became infected, of which over 90 percent were babies born to HIV-positive women.

(4) Although sub-Saharan Africa has only 10 percent of the world's population, it is home to more than 25,300,000—roughly 70 percent—of the world's HIV/AIDS cases.

(5) Worldwide, there have already been an estimated 21,800,000 deaths because of HIV/AIDS, of which more than 80 percent occurred in sub-Saharan Africa.

(6) According to UNAIDS, by the end of 1999, 13,200,000 children have lost at least one parent to AIDS, including 12,100,000 children in sub-Saharan Africa, and are thus considered AIDS orphans.

(7) At current infection and growth rates for HIV/AIDS, the National Intelligence Council estimates that the number of AIDS orphans worldwide will increase dramatically, potentially increasing threefold or more in the next 10 years, contributing to economic decay, social fragmentation, and political destabilization in already volatile and strained societies. Children without care or hope are often drawn into prostitution, crime, substance abuse, or child soldiery.

(8) The discovery of a relatively simple and inexpensive means of interrupting the transmission of HIV from an infected mother to the unborn child—namely with nevirapine (NVP), which costs $4 a tablet—has created a great opportunity for an unprecedented partnership between the United States Government and the governments of Asian, African, and Latin American countries to reduce mother-to-child transmission (also known as "vertical transmission") of HIV.

(9) According to UNAIDS, if implemented this strategy will decrease the proportion of orphans that are HIV-infected and decrease infant and child mortality rates in these developing regions.

(10) A mother-to-child antiretroviral drug strategy can be a force for social change,

providing the opportunity and impetus needed to address often longstanding problems of inadequate services and the profound stigma associated with HIV-infection and the AIDS disease. Strengthening the health infrastructure to improve mother-and-child health, antenatal, delivery, and postnatal services, and couples counseling generates enormous spillover effects toward combating the AIDS epidemic in developing regions.

(11) A January 2000 United States National Intelligence Estimate (NIE) report on the global infectious disease threat concluded that the economic costs of infectious diseases—especially HIV/AIDS—are already significant and could reduce GDP by as much as 20 percent or more by 2010 in some sub-Saharan African nations.

(12) The HIV/AIDS epidemic is of increasing concern in other regions of the world, with UNAIDS estimating that there are more than 5,800,000 cases in South and Southeast Asia, that the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa, and that HIV infections have doubled in just 2 years in the former Soviet Union.

(13) Russia is the new "hot spot" for the pandemic and more Russians are expected to be diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined.

(14) Despite the discouraging statistics on the spread of HIV/AIDS, some developing nations—such as Uganda, Senegal, and Thailand—have implemented prevention programs that have substantially curbed the rate of HIV infection.

(15) Accordingly, United States financial support for medical research, education, and disease containment as a global strategy has beneficial ramifications for millions of Americans and their families who are affected by this disease, and the entire population, which is potentially susceptible.

(b) PURPOSES.—The purposes of this Act are to—

(1) help prevent human suffering through the prevention, diagnosis, and treatment of HIV/AIDS; and

(2) help ensure the viability of economic development, stability, and national security in the developing world by advancing research to—

(A) understand the causes associated with HIV/AIDS in developing countries; and

(B) assist in the development of an AIDS vaccine.

SEC. 3. ADDITIONAL ASSISTANCE AUTHORITIES TO COMBAT HIV AND AIDS.

Paragraphs (4) through (6) of section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) are amended to read as follows:

"(4)(A) Congress recognizes the growing international dilemma of children with the human immunodeficiency virus (HIV) and the merits of intervention programs aimed at this problem. Congress further recognizes that mother-to-child transmission prevention strategies can serve as a major force for change in developing regions, and it is, therefore, a major objective of the foreign assistance program to control the acquired immune deficiency syndrome (AIDS) epidemic.

"(B) The agency primarily responsible for administering this part shall—

"(i) coordinate with UNAIDS, UNICEF, WHO, national and local governments, other organizations, and other Federal agencies to develop and implement effective strategies to prevent vertical transmission of HIV; and

"(ii) coordinate with those organizations to increase intervention programs and introduce voluntary counseling and testing, antiretroviral drugs, replacement feeding, and other strategies.

"(5)(A) Congress expects the agency primarily responsible for administering this part to make the human immunodeficiency virus (HIV) and the acquired immune deficiency syndrome (AIDS) a priority in the foreign assistance program and to undertake a comprehensive, coordinated effort to combat HIV and AIDS.

"(B) Assistance described in subparagraph (A) shall include help providing—

"(i) primary prevention and education;

"(ii) voluntary testing and counseling;

"(iii) medications to prevent the transmission of HIV from mother to child;

"(iv) programs to strengthen and broaden health care systems infrastructure and the capacity of health care systems in developing countries to deliver HIV/AIDS pharmaceuticals, prevention, and treatment to those afflicted with HIV/AIDS; and

"(v) care for those living with HIV or AIDS.

"(6)(A) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $600,000,000 for each of the fiscal years 2002 and 2003 to carry out paragraphs (4) and (5).

"(B) Of the funds authorized to be appropriated under subparagraph (A), not less than 65 percent is authorized to be available through United States and foreign nongovernmental organizations, including private and voluntary organizations, for-profit organizations, religious affiliated organizations, educational institutions, and research facilities.

"(C)(i) Of the funds authorized to be appropriated by subparagraph (A), priority should be given to programs that address the support and education of orphans in sub-Saharan Africa, including AIDS orphans and prevention strategies for vertical transmission referred to in paragraph (4)(A).

"(ii) Assistance made available under this subsection, and assistance made available under chapter 4 of part II to carry out the purposes of this subsection, may be made available notwithstanding any other provision of law that restricts assistance to foreign countries.

"(D) Of the funds authorized to be appropriated by subparagraph (A), not more than 7 percent may be used for the administrative expenses of the agency primarily responsible for carrying out this part of this Act in support of activities described in paragraphs (4) and (5).

"(E) Funds appropriated under this paragraph are authorized to remain available until expended.".

Mr. SMITH of Oregon. Mr. President, I rise today to join my colleague Senator BOXER to introduce the "Global AIDS Research and Relief Act of 2001." This important legislation increases the authorization for USAID to carry out its prevention, treatment and care programs to $600 million for fiscal years 2002 and 2003. These additional resources will help prevent human suffering through the prevention, diagnosis and treatment of HIV/AIDS.

The world is facing a global health problem of disastrous proportions in the global HIV/AIDS pandemic. In the past year, this issue has received much needed attention from the international community and the U.S. Government. But, unfortunately, our efforts and the efforts of other governments, the private sector, and foundations have not been enough and the pandemic continues to wreak havoc on the lives of millions of people around the world. The United States plays a key role in the global effort and our bill seeks to strengthen those efforts.

Over 58 million people have already been infected with HIV/AIDS and 36 million people are living today with HIV/AIDS. Of those living with the disease, over 95 percent live in the developing world where the economic and social structures in those countries are being destroyed. Sub-Saharan Africa is truly an epicenter for this disease, but increasingly, people are becoming infected in Asia, the Caribbean, and Eastern Europe. Soon, HIV/AIDS will become the worst infectious disease epidemic in recorded history, causing more deaths than both the bubonic plague of the 1930s and the influenza epidemic of 1918–1919.

Young adults and children have been particularly hard hit by the pandemic. Among children under the age of 15, more than 4.3 million have died of AIDS and more than 1.4 million are living with AIDS. Just last year, 600,000 young people became infected and over 90 percent were babies born to HIV-positive mothers.

HIV/AIDS is also hitting those between the ages of 15—24. In some sub-Saharan African countries, the infection rates are more than 40 percent in this population. These high infection rates will have a significant impact on the social and economic health of developing nations. The United States Census Bureau has found the life expectancy in sub-Saharan Africa has fallen almost 30 years within a decade. By 2010, it is estimated that the average life expectancy in Botswana will be 29 years of age, 30 years in Swaziland, 33 years in Namibia, and 36 years in South Africa. Millions of young adults are losing their lives and this will significantly impact the economic and political viability of these Nations. Some Nations are estimated to have a reduced GDP of at least 20 percent or more by 2010 due to decreased productivity of its workers. Over the past thirty years, the United States has invested millions of dollars in democracy building programs and economic stabilization programs. HIV/AIDS has quickly erased much of this progress.

As we look to the future of the world, we are also confronted by the problem of AIDS orphans. USAID estimates that there will be 44 million orphans by 2010. Without a parent or family to care for them, many will be drawn into prostitution, crime, substance abuse or child soldiery. Furthermore, without stability many of these children will not seek help when they are sick. AIDS threatens to reverse years of steady progress of child survival in developing countries.

The prevalence of HIV/AIDS in the young will have a significant impact on the economic future of the world. The pandemic is contributing to economic decay, social fragmentation, and political destabilization in already strained and volatile societies. These factors are of particular concern in South and Southeast Asia, the Caribbean, Eastern Europe, and the former Soviet Union where the pandemic is just beginning to become a problem. It is estimated that there are more than 5.8 million cases in South and Southeast Asia and the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa. Russia is the new "hot spot" for HIV/AIDS. More Russians are expected to be diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined. Many of these countries do not yet have prevention, treatment and care programs in place and we must equip our federal agencies with the resources and flexibility needed to address the pandemic in all of these areas.

The United States is seen as a leader in efforts to address the epidemic. We contributed almost $500 million to fight HIV/AIDS in fiscal year 2001. Through programs at the U.S. Agency for International Development, we have instituted prevention, care and treatment programs in some of the worst hit countries in sub-Saharan Africa. At the Centers for Disease Control and Prevention, we have worked with partners in other countries to expand treatment and home-based care programs. Other agencies, including the Department of Labor, the Department of Defense, and the Department of Agriculture have contributed in their areas of expertise.

This legislation recognizes the growing problems encountered by children around the world and instructs USAID to make efforts to prevent mother-to-child transmission and orphan programs a major objective of their program. Through coordination with UN agencies, national and local governments, non-governmental organizations and foundations, the U.S. government shall implement effective strategies to prevent vertical transmission of HIV. Further, the bill states that the agency must strengthen and expand all of its primary prevention and education programs.

This bill also calls on USAID to continue to provide support to research that will help the world to understand the causes associated with HIV/AIDS in developing countries and assist in the development of an effective AIDS vaccine.

I believe the "Global AIDS Research and Relief Act of 2001" can make a profound difference in the lives of millions of people facing the HIV/AIDS epidemic. I ask all my colleagues to join us and support this legislation at this critical moment in the spread of the disease.

By Mr. FEINGOLD (for himself, Mr. CRAIG, and Mr. KOHL):

S. 1123. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I rise today with my colleagues Senator CRAIG and Senator KOHL to introduce a modified version of the "Dairy Promotion Fairness Act," which I introduced earlier this year. This legislation provides equity to domestic producers who have been paying into the Promotion Program while importers have gotten a free ride.

I introduce a revised version of this legislation, after I received suggestions on how to improve this legislation from America's dairy farmers. Their input is vital to enacting effective dairy legislation, and I thank all the dairy producers of my State not only for their views, but also their work to strengthen Wisconsin's rural economy.

Since the National Dairy Promotion and Research Board conducts only generic promotion and general product research, domestic farmers and importers alike benefit from these actions. The Dairy Promotion Fairness Act requires that all dairy product importers contribute to the program.

Unlike other agricultural commodity checkoff promotion programs, such as beef, cotton and eggs, the dairy checkoff program collects funds solely from domestic producers. Importers of dairy products do not have to pay into the program, yet they reap the benefits of dairy promotion.

I would also like to make sure my colleagues are aware that June is Dairy Month. This tradition of honoring our hard working dairy farmers, began as "National Milk Month" first held in the summer of 1937. Wisconsin celebrates this proud heritage every June by honoring our past accomplishments of Wisconsin as America's Dairy State.

Wisconsin became a leader in the dairy industry after the first dairy cow came to Wisconsin in the 1800's and by 1930 it earned the nickname, America's Dairyland. Dairy history and the State's history have been intertwined from the beginning. The people of Wisconsin are defined by the image of dairy farmers: hardworking, honest and the heirs of a great tradition.

I would like to share with you some of the accomplishments of Wisconsin's Dairy Farmers. Wisconsin is the No. 1 cheese-producing State in the country, with 28 percent of the total annual U.S. cheese production. Wisconsin's 130 cheese plants produce more than 350 varieties, types and styles of Wisconsin cheese.

We produce more than 2 billion pounds of cheese annually. We have more licensed cheese makers than any other state with some of the most stringent state standards for cheesemaking and overall dairy product quality. We lead the nation in the production of specialty cheeses, such as Gorgonzola, Gruyere (gru-yure), Asiago, Provolone, Aged Cheddar, Gouda, Blue, Feta and many others. In fact, we are the only producer of Limburger cheese in the country.

Colby, Wisconsin is the home Colby cheese. And Brick cheese was invented in Wisconsin, Brick is named for its shape, and because cheese makers originally used bricks to press moisture from the cheese.

Wisconsinites have recognized this proud tradition by holding over 100 dairy celebrations across our State, including dairy breakfasts, ice cream socials, cooking demonstrations, festivals and other events. These events are all designed to make the public aware of the quality, variety and great taste of Wisconsin dairy products and to honor the producers who make it all possible.

We must follow the lead of Wisconsin, and honor our dairy farmers by passing this legislation and halting the free ride dairy importers currently receive.

The Dairy Promotion Fairness Act supports the dairy marketing board's efforts to educate consumers on the nutritional value of dairy products. It also treats our farmers fairly by asking them not to bear the entire financial burden for a promotional program that benefits importers and domestic producers alike.

We have put our own producers at a competitive disadvantage for far too long. It's high time importers paid for their fair share of the program.

By Mr. MCCONNELL (for himself, Mr. AKAKA, Mr. ALLARD, Mr. BAYH, Mr. BINGAMAN, Mr. CLELAND, Mr. COCHRAN, Mr. EDWARDS, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. HELMS, Mr. INHOFE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LEAHY, Mr. LEVIN, Mr. REED, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Mr. SPECTER, Mr. TORRICELLI, and Mr. WYDEN):

S. 1125. A bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

Mr. MCCONNELL. Mr. President, incredibly, there is a good chance that today someone will put on a facial cream, apply a medicine, or even eat a soup that contains bear parts. Bear bile, gallbladders, paws and claws are found in culinary delicacies, cosmetics and traditional ethnic medicines in Asia, and these parts often fetch thousands of dollars. A cup of bear paw soup has sold for up to $1,500 in Taiwan, and wildlife experts say that a gallbladder can command tens of thousands of dollars on the Asian market. Not surprisingly, the lure of astronomical profits overseas has spawned rampant poaching of American bears. The United States Fish and Wildlife Service continues to find bear carcasses rotting with their gallbladders ripped out and their paws sliced off. Just today, creator Jack Elrod chronicled this heinous act in his wildlife preservation comic strip, "Mark Trail."

The slaughter of American black bears and the sale of their parts is a deliberate and dastardly plot hatched by a black market of poachers, traders, and smugglers who have been known to transport bear parts in cans of chocolate syrup or bottles of scotch. Because certain Asian bear populations are being poached to near extinction, poachers and smugglers often target American black bears to meet the demand for bear parts in Asia and even within certain communities here at home. In Oregon alone, one poaching-for-profit ring reportedly killed between 50–100 black bears a year for 5 to 10 years simply to harvest their gallbladders. While the bear population in North America presently is stable, the growth of illegal and inhumane poaching, coupled with the difficulty of anti-poaching enforcement efforts, could pose a real threat to our resident bear population. We should not stand by and allow American bears to be decimated by poachers.

The depleted bear populations in Asia suffer a different, but equally cruel, fate as they are "protected" to meet the demand for their bile. National Geographic, U.S News and World Report and The Los Angeles Times each have reported that Asiatic bears in China have been trapped in bear "farms" and milked for their bile through catheters inserted into their gallbladders. Bears in other countries often fare no better. In South Korea, for example, bears have been bludgeoned to death or boiled alive in front of patrons to prove they are purchasing authentic Asian bear parts.

Some States in America prohibit trading in bear parts. But others do not. And to make matters more complicated, some States prohibit such trading only if the bear was killed within that State. It hardly takes a lawyer to quickly find the loophole in such a law, poachers and black market profiteers can simply kill a bear in another State and take it back across State lines to sell the parts. And because it is almost impossible to tell where a bear was killed just by looking at its parts, traders and smugglers can always claim that the bear was killed out of State. So, as you can see, our conflicting web of State laws does little to deter poachers from their prey. In fact, the confusing labyrinth of laws may make it easier for poachers to slaughter still more bear.

To help bring the complex, sometimes criminal, and inhumane trade in bear parts to an end, I am once again introducing the Bear Protection Act. This legislation always has enjoyed broad, bipartisan support since I first introduced the bill in the 103rd Congress. Last year the bill passed this chamber by unanimous consent, only to be returned by the House under the blue-slip rule. I am proud to be joined by 25 original cosponsors of the bill today, including 14 Democrats, 10 Republicans and an Independent, and I hope that others soon will join me to help shepherd this important legislation to passage.

My legislation is straightforward. It prohibits the import, export, or sale of bear viscera, or any products containing bear viscera, and it imposes criminal and civil penalties for violators. Enacting a uniform Federal prohibition on the trade in bear parts is necessary to close the loopholes left open by the patchwork of State laws that have facilitated the illegal trade of bear parts in the United States and overseas.

This legislation will in no way affect the rights of sportsmen to hunt bears legally in any State. Illegal bear poaching and legal recreational hunting are separate and distinct acts. Indeed, we should remember that every bear poached for illegal profiteering of bear parts is a bear taken away from sportsmen. A former chief enforcement officer for the United States Fish and Wildlife Service has estimated that approximately 40,000 bears are hunted legally each year, but an almost equal number are poached illegally. Many States understand this problem, as over two-thirds of the States that allow bear hunting also ban the trade of bear parts.

This bill is another example of what I like to call consensus conservation. The legislation does not pit hunters against environmentalists. Nor does it pit States against the heavy hand of the Federal Government on wildlife management or sporting laws. Indeed, I am happy to report that there are no political fireworks in this bill. One look at the cosponsor list should indicate that.

Instead, what we have is a bill that targets a specific legislative goal, to protect bears from illegal and inhumane poaching and black market profiteering. By carefully crafting this legislation with that single goal in mind, we have an opportunity to pass a common sense bill that is supported by wildlife enthusiasts and conservationists while protecting the autonomy of states and the rights of sportsmen.

I continue to believe that these types of targeted, bipartisan conservation efforts that are rooted in consensus goals, rather than conflicting politics, can, in the end, make the most noticeable strides toward protecting our national wildlife and environmental treasures.

I ask unanimous consent that the text of the bill be printed in the RECORD, and I further ask unanimous consent that the RECORD include letters of support from the Humane Society of the United States, the Society for Animal Protective Legislation, and the American Zoo and Aquarium Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bear Protection Act of 2001".

SEC. 2. FINDINGS.

Congress finds that—

(1) all 8 extant species of bear—Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear—are listed on Appendix I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(2)(A) Article XIV of CITES provides that Parties to CITES may adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of species listed on Appendix I or II; and

(B) the Parties to CITES adopted a resolution in 1997 (Conf. 10.8) urging the Parties to take immediate action to demonstrably reduce the illegal trade in bear parts;

(3)(A) thousands of bears in Asia are cruelly confined in small cages to be milked for their bile; and

(B) the wild Asian bear population has declined significantly in recent years as a result of habitat loss and poaching due to a strong demand for bear viscera used in traditional medicines and cosmetics;

(4) Federal and State undercover operations have revealed that American bears have been poached for their viscera;

(5) while most American black bear populations are generally stable or increasing, commercial trade could stimulate poaching and threaten certain populations if the demand for bear viscera increases; and

(6) prohibitions against the importation into the United States and exportation from the United States, as well as prohibitions against the interstate trade, of bear viscera and products containing, or labeled or advertised as containing, bear viscera will assist in ensuring that the United States does not contribute to the decline of any bear population as a result of the commercial trade in bear viscera.

SEC. 3. PURPOSES.

The purpose of this Act is to ensure the long-term viability of the world's 8 bear species by—

(1) prohibiting interstate and international trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera;

(2) encouraging bilateral and multilateral efforts to eliminate such trade; and

(3) ensuring that adequate Federal legislation exists with respect to domestic trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera.

SEC. 4. DEFINITIONS.

In this Act:

(1) BEAR VISCERA.—The term "bear viscera" means the body fluids or internal organs, including the gallbladder and its contents but not including the blood or brains, of a species of bear.

(2) CITES.—The term "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(3) IMPORT.—The term "import" means to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, regardless of whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(4) PERSON.—The term "person" means—

(A) an individual, corporation, partnership, trust, association, or other private entity;

(B) an officer, employee, agent, department, or instrumentality of—

(i) the Federal Government;

(ii) any State or political subdivision of a State; or

(iii) any foreign government; and

(C) any other entity subject to the jurisdiction of the United States.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

(7) TRANSPORT.—The term "transport" means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

SEC. 5. PROHIBITED ACTS.

(a) IN GENERAL.—Except as provided in subsection (b), a person shall not—

(1) import into, or export from, the United States bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera; or

(2) sell or barter, offer to sell or barter, purchase, possess, transport, deliver, or receive, in interstate or foreign commerce, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera.

(b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT PURPOSES.—A person described in section 4(4)(B) may import into, or export from, the United States, or transport between States, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera if the importation, exportation, or transportation—

(1) is solely for the purpose of enforcing laws relating to the protection of wildlife; and

(2) is authorized by a valid permit issued under Appendix I or II of CITES, in any case in which such a permit is required under CITES.

SEC. 6. PENALTIES AND ENFORCEMENT.

(a) CRIMINAL PENALTIES.—A person that knowingly violates section 5 shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(b) CIVIL PENALTIES.—

(1) AMOUNT.—A person that knowingly violates section 5 may be assessed a civil penalty by the Secretary of not more than $25,000 for each violation.

(2) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this subsection shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

(c) SEIZURE AND FORFEITURE.—Any bear viscera or any product, item, or substance imported, exported, sold, bartered, attempted to be imported, exported, sold, or bartered, offered for sale or barter, purchased, possessed, transported, delivered, or received in violation of this section (including any regulation issued under this section) shall be seized and forfeited to the United States.

(d) REGULATIONS.—After consultation with the Secretary of the Treasury and the United States Trade Representative, the Secretary shall issue such regulations as are necessary to carry out this section.

(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

SEC. 7. DISCUSSIONS CONCERNING BEAR CONSERVATION AND THE BEAR PARTS TRADE.

In order to seek to establish coordinated efforts with other countries to protect bears, the Secretary shall continue discussions concerning trade in bear viscera with—

(1) the appropriate representatives of Parties to CITES; and

(2) the appropriate representatives of countries that are not parties to CITES and that are determined by the Secretary and the United States Trade Representative to be the leading importers, exporters, or consumers of bear viscera.

SEC. 8. CERTAIN RIGHTS NOT AFFECTED.

Except as provided in section 5, nothing in this Act affects—

(1) the regulation by any State of the bear population of the State; or

(2) any hunting of bears that is lawful under applicable State law (including regulations).

HSUS STATEMENT IN SUPPORT OF THE BEAR PROTECTION ACT

The Humane Society of the United States, the nation's largest animal protection organization with over seven million members and constituents, strongly supports Senator McConnell's Bear Protection Act.

The Bear Protection Act would eliminate the patchwork of state laws in the U.S. and improve protection of America's bears. Thirty-four states already ban commerce in bear viscera. The remaining states fall into three categories: six allow trade in gallbladders taken from bears legally killed in-state; eight allow trade in gallbladders from bears killed legally outside the state; and two states do not have pertinent laws. This current patchwork of state laws creates loopholes that are exploited by those engaged in the bear parts trade. The loopholes enable poachers to launder gallbladders through states that permit their sale. The Bear Protection Act would eliminate this patchwork of state laws, replacing it with one national law prohibiting import, export, and interstate commerce in bear viscera.

Bear viscera, particularly the gallbladder and bile, have been traditionally used in Asian medicines to treat a variety of illnesses, from diabetes to heart disease. Today, bear viscera is also used in cosmetics and shampoos. Asian demand for bear viscera and products has increased with growing human populations and increased wealth. Bear gallbladders in South Korea are worth more than their weight in gold, potentially yielding a price of about $10,000 each.

While demand for bear viscera and products has grown, Asian bear populations have dwindled. Seven of the eight extant species of bears are threatened by poaching to supply the increasing market demand for bear viscera and products. Most species of bears, and all Asian bear species, are afforded the highest level of protection under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES has noted that the continued illegal trade in bear parts and derivatives of bear parts undermines the effectiveness of the Convention and that if CITES parties do not take action to eliminate such trade, poaching may cause declines of wild bears that could lead to the extirpation of certain populations or even species.

Dwindling Asian bear populations have caused poachers to look to American bears to meet market demand for bear parts and products. While each year nearly 40,000 American black bears are legally hunted in thirty-six states and Canada, it is estimated that roughly the same number are illegally poached each year, according to a former chief law enforcement officer with the U.S. Fish and Wildlife Service.

The U.S. Senate passed this legislation in the 106th Congress and we hope swift action will be taken again this year. We also hope that the House will follow the Senate's wise lead and act to protect bears across the globe before it's too late. The Humane Society of the United States applauds Senator McConnell and the quarter of the United States Senate that has signed onto the Bear Protection Act as original cosponsors. With Senator McConnell's leadership, there may come a day when bear poachers and bear parts profiteers no longer are able to ply their cruel trade unpunished.

BEAR PROTECTION ACT IS URGENTLY NEEDED

The Society for Animal Protective Legislation strongly supports Senator Mitch McConnell in his effort to pass the Bear Protection Act once again. This bill would end the United States' involvement in the trade of bear viscera by prohibiting the import, export and interstate commerce in bear gallbladders and bile. Bears are targeted for their internal organs, which fetch enormous profits for the poachers who illegally kill them and the merchants who sell their organs for use in traditional medicine remedies.

The insatiable, growing demand for bear viscera contributed mightily to the decimation of the Asiatic black bear and may do the same to the stable population of American black bears if a law is not passed to eliminate the United States' role in supplying this devastating bear parts trade.

There is a price on the head of every bear in this country and Senator Mitch McConnell deserves high praise for introducing proactive legislation protecting bears from the looming threat of the gallbladder trade.

The current patchwork of state laws addressing the trade in bear gallbladders and bile allows an illegal trade to flourish. It is impossible to distinguish visually the dissociated gallbladder of one state's black bear from another. This enables smugglers to acquire gallbladders illegally in one state, transport them to a state where commercialization of bear parts is legal, and sell the gallbladders under false pretenses. These gallbladders are also smuggled out of the country, providing a laundering opportunity for the sale of gallbladders from highly endangered bears.

Enactment of Senator McConnell's Bear Protection Act will ensure that those who seek to profit by the reckless destruction of America's bears can be punished appropriately for their illegal and immoral activity.

Mr. McConnell's bill does not impact a state's ability to manage its resident bear population or a lawful hunter's ability to hunt bears in accordance with applicable state laws and regulations. The Bear Protection Act is not about bear hunting—it's about ending bear poaching. This is a laudable goal that all Americans should support.

American citizens should not sit by helplessly while bears are slaughtered, their gallbladders ripped out and the carcass unceremoniously left to rot. It's time to take a stand against bear poachers and profiteers. Congratulations to Senator McConnell for taking up the charge.

AMERICAN ZOO AND AQUARIUM ASSOCIATION,
Silver Spring, MD, June 26, 2001.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: I am writing on behalf of the 196 accredited members of the American Zoo and Aquarium Association (AZA) in support of your proposed Bear Protection Act of 2001.

AZA institutions draw over 135 million visitors annually and have more than 5 million zoo and aquarium members who provide almost $100 million in support. Collectively, these institutions teach more than 12 million people each year in living classrooms, dedicate over $50 million annually to education programs, invest over $50 million annually to scientific research and support over 1,300 field conservation and research projects in 80 countries.

In addition, AZA member institutions have established the Species Survival Plan (SSP) program—a long-term plan involving genetically-diverse breeding, habitat preservation, public education, field conservation and supportive research to ensure survival for many threatened and endangered species. Currently, AZA member institutions are involved in 96 different SSP programs throughout the world, including four species of bear—sloth, sun, spectacled and the giant panda.

It is in this context that AZA expresses its support for the Bear Protection Act. There is little question that most populations of the world's eight bear species have experienced significant declines during this century, particularly in parts of Europe and Asia. Habitat loss has been the major reason for this decline, although overhunting and poaching have also been factors in some cases, especially in Asia. In recent years, the commercial trade of bear body parts, in particular gallbladders and bile, for use in traditional Asian medicines has been implicated as the driving force behind the illegal hunting of some bear populations. Analyses by the US Fish and Wildlife Service (USFWS), TRAFFIC and other organizations have documented the existence of illicit commercial markets and smuggling rings for bear body parts.

Recent information suggests that this is not only an overseas issue but a domestic one as well. The American black bear is listed on Appendix II of CITES due to the similarity of appearance to other listed bear species, and conservation and management of black bear populations remains largely in the hands of the states. Most states prohibit commercial trade in bear parts but there are some states that still allow commercial trade of products from bears taken within their borders. Several other states do not explicitly prohibit the commercial trade in parts from bears taken within the borders of other jurisdictions. This has raised concerns that inconsistent state laws may facilitate illegal trade and laundering of bear parts.

The relatively high value of the wild bear parts, particularly viscera, on the international market warrants that continued action be taken to minimize the threat or potential threat of illegal trade. Your bill provides the necessary first step for closing the potential loopholes that are afforded to bear poachers and dealers by fragmented state laws. Equally important, the bill encourages dialogue between the U.S. and countries known to be leading importers, exporters, and consumers of bear viscera in an attempt to coordinate efforts to protect threatened and endangered bear populations worldwide.

AZA applauds your efforts in this important wildlife conservation matter. In addition, AZA stands ready to work with you to ensure that the necessary funds are authorized and appropriate for the effective administration and enforcement of this critical work.

Please feel free to contact AZA if you have any question or comments.

Regards,

SYDNEY J. BUTLER,
Executive Director.

By Mr. BROWNBACK (for himself and Mr. ENZI):

S. 1126. A bill to facilitate the deployment of broadband telecommunications services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK (for himself and Mr. ENZI):

S. 1127. A bill to stimulate the deployment of advanced telecommunications services in rural areas, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BROWNBACK. Mr. President, next week our nation will celebrate Independence Day. Yet, as we celebrate the land of opportunity that is America, we must keep in mind those who, even in this great nation, do not have the same opportunities as everyone else. In rural communities across the nation, an entire segment of our population does not have the opportunity to access powerful broadband communications services representing the high-speed, high-capacity on-ramps to the information super highway. Why? Because for all intents and purposes broadband does not exist in most of rural America.

Broadband is increasing the speeds and capacity with which consumers and businesses alike access the Internet, and opening up a whole new world of information, e-commerce, real-time high quality telemedicine, distance learning, and entertainment. The power of broadband will level the playing field between rural and urban communities in a global economy.

Today I rise to introduce the Rural Broadband Deployment Act of 2001 and the Broadband Deployment and Competition Enhancement Act of 2001. Two bills designed to ensure that all Americans have access to the advantages of broadband connections. I would like to thank my colleague from Wyoming, Senator ENZI, for his cosponsorship and support. These two bills, together or individually, will ensure broadband deployment in our nation's rural areas, and will enable us to renew our longstanding commitment that rural communities have access to the same telecommunications resources as urban communities.

My singular objective, in both bills, is high-speed Internet access for everybody in America by 2007.

This is a bipartisan objective. The Democratic party has announced its intention to ensure universal access to broadband by the end of this decade. I commend my colleagues on the other side of the aisle for their recognition of the importance of broadband and I look forward to working with them to achieve our common goal.

New approaches will be needed to achieve universal broadband availability. Some of my colleagues have introduced legislation consisting of tax incentives or loan subsidies. Programs such as these can help to deliver on the commitment to make broadband universally available, but these proposals alone will not achieve that goal. Deregulation has a key role to play in this effort.

Deregulation has been the driver of broadband deployment to date: cable companies, largely deregulated by the 1996 Telecommunications Act, have invested almost 50 billion dollars in upgrades to their networks. These upgrades have in turn enabled them to deploy broadband, and cable companies now serve 70 percent of the broadband market. Satellite companies, also unregulated in the broadband market, are deploying one-way high-speed Internet access and are working to deploy two-way broadband services. Some companies are utilizing wireless cable licenses to deploy broadband, and they too are unregulated in the broadband market.

Deregulation is a powerful motivator for the deployment of new technologies and services. Unregulated small cable companies, and all but unregulated rural and small telephone companies are taking advantage of their regulatory status to deliver broadband to rural consumers.

The broadband market, distinct from the local telephone market, is new. Yet, federal and State regulators are placing local telephone competition regulations on broadband-specific facilities deployed by incumbent local exchange carriers, ILECs, the only regulated broadband service providers, as if they were part and parcel of their local telephone service. This is simply not the case. The local telephone market is not synonymous with the broadband market. The disparate regulatory treatment of phone companies deploying broadband and all other broadband service providers is serving to deny broadband to many rural communities.

Broadband facilities being deployed by ILECs throughout our cities and towns require billions of dollars of capital investment in new infrastructure that must be added to the existing telephone network. The sparse populations of rural communities already diminish the return on infrastructure investment so that, when combined with local telephone market regulations, ILEC broadband deployment has not proven to be cost effective.

As a result, rural telephone exchanges owned by regulated telephone companies are not being upgraded for broadband services even while unregulated companies seem to be capable of making that substantial investment. In Wellington, Kansas, a rural community with around 10,000 residents, a small unregulated cable company called Sumner Cable has deployed broadband service. Yet, Southwestern Bell, the local regulated telephone company and a Bell operating company, is not deploying broadband. Different regulatory treatments of these companies creates the incentive for one to deploy broadband, but not the other. This is being seen throughout our nation's rural communities, and is particularly disappointing. The Bell operating companies serve approximately 65 percent of rural telephone lines like those found in Wellington.

Broadband is certainly being deployed at a much faster rate in urban markets than rural markets. But that does not mean all is well in our nation's cities. Today, broadband deployment in urban markets is being characterized by the market dominance of the cable TV industry, unregulated in the broadband market, which serves approximately 70 percent of all broadband subscribers. This is good for consumers. Cable companies have taken full advantage of their deregulated status, and the inherent economic incentives, to deploy new technologies and provide new services to consumers. But while the cable industry finishes rebuilding its entire infrastructure with digital technology that permits it to offer broadband, ILECs are, in many instances, not making the same investment to rebuild their infrastructure.

The Broadband Deployment and Competition Enhancement Act of 2001 promotes broadband deployment in rural markets by requiring ILECs to deploy to all of their telephone exchange subscribers within 5 years. In exchange, ILEC broadband services are placed on a more level-playing field with their broadband competitors. This is achieved by deregulating only those new technologies added to the local telephone network that make broadband possible over telephone lines. By permitting ILECs to compete on a level playing field with their broadband competitors in their urban markets, we can create the proper balance between requirements and incentives.

The limited deregulation in this legislation will not affect competition in the local telephone market. CLECs will still have access to the entire legacy telephone network to use as they see fit, and they will still be permitted to combine their own broadband equipment with the telephone network to compete in the broadband market. In those parts of the local telephone network where new network architecture must be deployed to make broadband possible, CLECs are free to add their own facilities to the network so they can compete for every potential broadband subscriber in a market.

In Kansas, we have many farms and small rural communities. I grew up on a farm near Parker, Kansas. My hometown has 250 people. My singular goal in introducing this legislation is to facilitate rural broadband deployment. Given the importance of ensuring broadband is deployed in rural communities, I have elected to introduce two different bills on the same issue. I am willing to pursue either approach depending on which one will get us to the day of ubiquitous broadband.

It seems clear that, no matter how worthy broad-based deregulation is in the broadband market, any such effort must navigate through the typical back and forth between the baby Bells, long distance companies, and now CLECs. If a more limited approach can avoid the traditional "phone wars" then I am happy to put forth such an alternative.

The Rural Broadband Deployment Act of 2001 is a more geographically limited approach to spurring broadband deployment. It includes broader deregulation of ILEC broadband services, but limits that deregulation only to rural communities. By ramping up the deregulation, yet restricting the size of the market where that deregulation is applied, it is my intention to create the same balance of requirements that I previously mentioned.

I realize that introducing two pieces of legislation on the same issue on the same day is a bit unorthodox. But given the clear need and importance of universal broadband, I feel it is my duty to do anything I can to move this debate forward. Providing alternatives for the consideration of my colleagues is part of this process.

I urge my colleagues to give consideration to either of these bills, and I urge your cosponsorship.

Mr. ENZI. Mr. President, I rise as an original cosponsor of Senator BROWNBACK's Broadband Deployment and Competition Enhancement Act of 2001. I thank my colleague from Kansas for drafting this innovative legislation to help solve the problem of the lack of availability of advanced telecommunications services in rural areas.

Telecommunications has come a long way from the days of the party line and operator assisted calls. Telecommunications services have allowed entrepreneurs to locate their business anywhere they can get a dial tone and have helped to bring jobs to rural America. I have been working to encourage more infrastructure development as a way of creating a business environment that will attract new jobs to the places that need them.

The 20th Century has seen the economy of the United States and the world change from an industrial economy to an information economy. We are only at the beginning of the "Information Revolution" and now is the best time for private industry and government to take a pro-active role in helping to create the business and regulatory conditions necessary to encourage the widespread deployment of advanced telecommunications services.

Since 1995, the State of Wyoming has been attempting to create a competitive local phone market that would have a multitude of competitors and result in lower rates. The cost of providing service in Wyoming is significantly higher than in other areas of the Nation due to our low population and long distances between towns. This has caused many companies to pass Wyoming by in search of easier profits in urban areas and leave many of our towns with only one choice for broadband service, if they have a provider at all.

One of the reasons why advanced services have been slowly deployed is that Wyoming's wide open spaces make the telecommunications needs of our residents very different than people in urban areas. The economic model of the industry is to serve areas with a high population density in order to keep costs low. In the West, it's harder to make that model work, but the independent telephone companies, Qwest and the cable companies are working hard to offer their customers a full complement of services at a reasonable price, many services that urban telephone customers take for granted.

High speed Internet access has been delayed for two reasons, cost and availability. Advanced telecommunications services can help to build Wyoming's economy. Companies are beginning to realize that our State has a ready work force and the lower costs of doing business are making companies choose Wyoming. Many existing businesses are taking advantage of the Internet to bring their products and services to the world. Where once a store was limited to only being able to serve those within driving distance of it, now it can bring Wyoming to the world. This cannot take place without the continued roll out of broadband business services.

Wyoming has for many years been promoting the benefits of telecommuting. People living around the State have been able to connect to their office via computer and remain in contact with clients. Telecommuting now requires high speed access and that is available in some limited areas. In other areas, the only data access is via a regular dial-up modem. There are companies that are deploying digital subscriber lines and cable modems, but those locations are limited and the price is too high to be adopted by a majority of Wyoming residents. Over time that price will come down, but this is not a call for public subsidies or government mandates, but a call for more competition and deregulation. Competition will bring lower prices and greater deployment of services to even the smallest of towns.

That is why I am an original cosponsor of Senator BROWNBACK's bill. His bill creates a deregulatory regime that is backed by specific performance requirements and strong enforcement provisions.

The bill requires Incumbent Local Exchange Carriers, ILEC's, to be able to provide advanced services to all of its customers within 5 years of the enactment of this legislation in order to receive the benefits of deregulation. This ensures that companies will bring advanced services and competition to rural areas by giving a hard deadline for companies to complete their build-out.

Advanced services would be deregulated by exempting them from the requirements that ILECs make packet switching and fiber available to competitors at below cost rates. This would specifically deregulate the equipment that makes it possible to provide advanced services over traditional phone lines. The bill also exempts fiber optic lines owned by ILECs from below cost pricing if the fiber is deployed either to the home or in areas that never had telephone infrastructure before. I believe that this will be key to making the economics of rural advanced services more favorable for companies wanting to invest in rural broadband deployment.

The bill would also give ILECs the necessary pricing flexibility for their broadband services. I believe that we should not hamstring a new technology in a very competitive marketplace with outdated regulations on price. It is important that Congress ensure that in addition to the wholesale pricing relief contained in this legislation, it also includes retail pricing flexibility to further make the economics more favorable.

The bill does not change the requirements that ILECs allow competitors to collocate their equipment in an ILEC facility. Collocation is very important since it ensures that competitors have access to the network and do not have to build distant links or other connections to the ILEC network.

The bill also does not eliminate the requirement that ILECs give competitors access to local loops. In fact, if an ILEC does not grant a competitor access to local lines the bill gives state regulators the right to strip the ILEC of the deregulatory benefits contained in the bill.

The bill's enforcement provisions are very strong and explicit. If a company does not meet the build-out requirement, does not permit a competitor to collocate and/or grant competitors access to local loops, state regulators have the authority to return an ILEC to the old regulatory regime. Deregulation without proper enforcement mechanisms does not benefit consumers and competitors. It is important that we hold ILECs accountable if they are granted relief from the pricing requirements.

I have been working with my colleagues to create a mix of deregulation and incentives to encourage private infrastructure development. Government cannot force private firms to make unprofitable investments, but government can work to make investments in rural infrastructure more favorable. The Broadband Deployment and Competition Investment Act helps to make investment in advanced services in rural areas possible.

The great strides made by both Qwest, the smaller phone companies and the cooperatives show that rural areas can support fiber optic based services. The Wyoming Equality Network, the fiber based network linking all of Wyoming's high schools, has been a great advancement for education and I applaud the State's foresight for undertaking such a far reaching project. The WEN has had the added effect of showing other companies that it is possible to link rural areas with fiber, bringing high speed data services and other advanced services to homes and businesses.

I am pleased to see that Qwest and several smaller companies have worked together to close the inter-office fiber loop, linking all local phone exchanges with a fiber optic connection. This will allow for greater capacity and new services like DSL and other high speed broadband services. This connection will help many areas of Wyoming overcome many of the service problems they have been experiencing for the last several years.

The objective of telecommunications policy should be to bring as many players into the marketplace and allow them to compete in the marketplace. Congress should not tie a company's hands in a continually changing and competitive marketplace. We should ensure that all parties are on a level playing field and that all services are regulated in the same manner regardless of the company that is offering the service or the technology they are using. This legislation will help bring some needed consistancy to the regulation of advanced services and I urge my colleagues to support this vital legislation.

By Mr. WARNER:

S. 1129. A bill to increase the rate of pay for certain offices and positions within the executive and judicial branches of the Government, respectively, and for other purposes; to the Committee on Governmental Affairs.

Mr. WARNER. Mr. President, I am pleased to introduce legislation today to provide relief from the pay compression affecting career Federal employees serving in the Senior Executive Service, SES. It is nearing a decade since Senior Executive Service members have seen a meaningful adjustment in pay.

The salaries earned by these employees are, on average, well below those earned by their peers in private industry. Pay caps for the Senior Executive Service and certain other positions in the government are tied to the Executive Schedule which includes senior level officials as well as Members. Pay freezes for positions on the Executive Schedule in five of the past eight years has resulted in pay compression so severe that 60 percent of the entire executive corps earns essentially the same salary despite differences in obligation and executive level. Over the past eight years, pay increases for these executives would average 1 percent per year. There is not much of an incentive to accept a higher position with added responsibilities and increased work hours for little or no increase in pay.

Many senior executives leave Federal service to begin second careers in the private sector because of the salary compression. Others find that retirement is a more sensible option, whereas Federal annuitants receive an average two and a half percent cost of living adjustment every year compared to the average one percent per year pay increase a senior executive may receive if she or he remained in Federal service.

I have heard from many SES employees relating their own stories as to how the problem of pay compression has affected them. I would like to share a few of these personal accounts.

From an ES-6 with the Department of Defense: "My pay has been capped and I have not been receiving raises. This year I received a surprise. I turned 55 and I subsequently experienced a $115.16 decrease in pay in January because my life insurance increased considerably, along with the contribution to retirement increase. Age 55 is not old! I expect to work a few more years and I expect my pay to increase so that I can enjoy my retired years with a reasonable retirement income that has not been eroded by the pay cap."

A Senior Executive at the Department of Health and Human Services: "The highest career Deputy General Counsel position in my agency became vacant, and I was called by the General Counsel to seriously consider taking it. Aside from the many family issues involved in any move to Washington, an overriding aspect is the fact that I am already at the pay cap. Thus, a move into a position with more responsibility would provide no financial incentive. Although I'm obviously not in government serve for any huge financial rewards, I don't want to go backward financially. Thus, I have decided to forgo this very challenging opportunity that would be a fitting pinnacle to my career with the Federal Government."

Private Contractor, Department of Defense: "I turned down a job at the US Nuclear Command and Control System Support Staff, where I'd been stationed on active duty as a Regular Air Force Officer. I retired from the NSS four years ago after over 23 years in the Air Force, and was honored to get offered a Civil Service position back at the office. Instead, I reluctantly turned down the job. The reason was primarily monetary. In order to take the job, it would have been necessary to give up part of my Air Force retirement pay because I retired as a regular officer. To make matters worse, my pay would have been capped. The bottom line is I would have taken a pay cut with no prospect of a pay raise in the foreseeable future. My family and I were asked to sacrifice pay and time together which we willingly did for over 23 years. Instead, I'm supporting the government in the role of a private sector contractor, where I'm fairly compensated for my expertise."

These are just a few examples which illustrate how the freeze on executive pay and resulting pay compression have seriously eroded the government's ability to attract and retain the most highly-competent career executives. This is a very timely issue for the Federal Government, seventy percent of the SES corps is eligible to retire over the next four years and almost half are expected to retire upon eligibility. Agencies are being forced to make special requests to increase salaries for their managers and supervisors. They recognize that when someone leaves Federal service, their knowledge and experience goes with them.

The legislation I am introducing increases base pay for Senior Executives from Executive Level IV to Executive Level III, extends locality pay to the Executive Schedule, increases the locality cap from Executive Level III to Executive Level III plus locality pay, and increases the overall limit on compensation that can be received in a single year by career executives from Executive Level I to the Vice-Presidential level. The bill also includes certain positions in the Federal judiciary which have been impacted by the pay caps. The actual raises career executives would receive would continue to be determined at the President's discretion.

The legislation does not, in and of itself, raise senior executive pay and does not increase the salaries of Members of Congress.

It is also my intention to ensure that this issue remains a priority for the incoming Director at the Office of Personnel Management. During the confirmation hearing before the Senate Governmental Affairs Committee last week for Mrs. Kay Coles James, President Bush's nominee to head the Office of Personnel Management, Mrs. James indicated her willingness to work with Members to address the problem of pay compression.

Pay compression within the Senior Executives Service is one of the more pressing issues facing the Federal employee workforce and must be addressed as the situation will only get worse. The only means to alleviate pay compression for the Senior Executives at this time is through legislation. Therefore, I encourage my Senate colleagues to support the bill.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROVISIONS RELATING TO CERTAIN OFFICES AND POSITIONS WITHIN THE EXECUTIVE BRANCH.

(a) Executive Schedule Pay Rates.—

(1) In general.—Section 5318 of title 5, United States Code, is amended—

(A) by redesignating subsection (a) as subsection (a)(1) and subsection (b) as paragraph (2); and

(B) by adding at the end the following:

"(b)(1)(A) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which any comparability payment becomes payable under section 5304 or 5304a with respect to General Schedule employees within the District of Columbia during any year, the annual rate of pay for positions at each level of the Executive Schedule (exclusive of any previous adjustment under this subsection) shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next highest multiple of $100) equal to the percentage of such annual rate of pay which corresponds to the percentage adjustment becoming so payable with respect to General Schedule employees within the District of Columbia under such section 5304 or 5304a (as applicable).

"(B) If an adjustment under this subsection is scheduled to take effect on the same date as an adjustment under subsection (a), the adjustment under subsection (a) shall be made first.

"(2) An annual rate of pay, as adjusted under paragraph (1), shall for all purposes be treated as the annual rate of pay for the positions involved, except as otherwise provided in subsection (a), paragraph (1), or any other provision of law.

"(3) Nothing in this subsection shall be considered to permit or require the continuation of an adjustment under paragraph (1) after the comparability payment (for General Schedule employees within the District of Columbia) on which it was based has been terminated or superseded.".

(2) Contract appeals board members.—Section 5372a of title 5, United States Code, is amended—

(A) in subsection (b)(2) by striking "97 percent of the rate under paragraph (1)" and inserting "no less than 97 percent of the rate under paragraph (1)";

(B) in subsection (b)(3) by striking "94 percent of the rate under paragraph (1)" and inserting "no less than 94 percent of the rate under paragraph (1)"; and

(C) by adding at the end the following:

"(d) Subject to subsection (b), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of basic pay under the General Schedule, each rate of basic pay for contract appeals board members shall be adjusted by an amount determined by the President to be appropriate.".

(3) Conforming amendments.—Section 5318 of title 5, United States Code, is amended—

(A) in the first sentence of subsection (a)(1) (as redesignated)—

(i) by striking "Subject to subsection (b)," and inserting "Subject to paragraph (2),"; and

(ii) by inserting "(exclusive of any previous adjustment under subsection (b))" after "Executive Schedule"; and

(B) in subsection (a)(2) (as redesignated), by striking "subsection (a)" and inserting "paragraph (1)".

(b) Amendments Relating to Certain Limitation and Other Provisions.—

(1) Provisions to be applied by excluding executive schedule comparability adjustment.—Sections 5303(f), 5304(h)(1)(F), 5306(e), and 5373(a) of title 5, United States Code, are each amended by inserting ", exclusive of any adjustment under section 5318(b)" after "Executive Schedule".

(2) Limitation on certain payments.—Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) In the case of an employee who is receiving basic pay under section 5372a, 5376, or 5383, paragraph (1) shall be applied by substituting 'the annual rate of salary of the Vice President of the United States' for 'the annual rate of basic pay payable for level I of the Executive Schedule'. Regulations under subsection (c) may extend the application of the preceding sentence to other equivalent categories of employees.".

(3) References to level IV of the executive schedule.—Sections 5372(b)(1)(C), 5372a(b)(1), 5376(b)(1)(B), and 5382(b) of title 5,

United States Code, are each amended by striking "level IV" each place it appears and inserting "level III".

SEC. 2. PROVISIONS RELATING TO CERTAIN OFFICES AND POSITIONS WITHIN THE JUDICIAL BRANCH.

(a) INCREASE IN MAXIMUM RATES OF BASIC PAY ALLOWABLE.—

(1) FOR POSITIONS COVERED BY SECTION 604(a)(5) OF TITLE 28, UNITED STATES CODE.—Section 604(a)(5) of title 28, United States Code, is amended by striking "by law" and inserting "by law (except that the rate of basic pay fixed under this paragraph for any such employee may not exceed the rate for level IV of the Executive Schedule)".

(2) FOR CIRCUIT EXECUTIVES.—Section 332(f)(1) of title 28, United States Code, is amended by striking "level IV of the Executive Schedule pay rates under section 5315" and inserting "level III of the Executive Schedule pay rates under section 5314".

(3) FOR PERSONNEL OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—

(A) IN GENERAL.—Section 3(a) of the Administrative Office of the United States Courts Personnel Act of 1990 (28 U.S.C. 602 note) is amended—

(i) in paragraph (1), by striking "level V" and inserting "level IV"; and

(ii) in paragraph (10), by striking "level IV" and inserting "level III".

(B) PROVISIONS RELATING TO CERTAIN ADDITIONAL POSITIONS.—Section 603 of title 28, United States Code, is amended by striking "level IV of the Executive Schedule under section 5315" and inserting "level III of the Executive Schedule under section 5314".

(b) SALARY OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 603 of title 28, United States Code, is amended by striking "district" and inserting "circuit".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective with respect to pay periods beginning on or after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mrs. FEINSTEIN, and Mr. CORZINE):

S. 1130. A bill to require the Secretary of Energy to develop a plan for a magnetic fusion burning plasma experiment for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, today I am introducing a bill of great significance to our energy future, the Fusion Energy Sciences Act of 2001. I am especially pleased that my colleague from California, Senator FEINSTEIN, is joining me as the primary cosponsor of this legislation. This bill is designed to strengthen the fusion program at the Department of Energy and to accelerate planning for the next major step in fusion energy science development.

In recent months, the news has been dominated by energy concerns. Although there may be differences of opinion about the causes of our current energy problems and what the appropriate solutions might be, there is general agreement that energy forms a vital link to our economic prosperity and provides the means by which the conduct of our daily lives is made easier and more comfortable. While we grapple with short term remedies, we need to stay focused on long term investment in those endeavors which have the potential to help secure our energy future. I believe that fusion energy has this potential.

Fusion is the energy source that powers the sun and the stars. At its most basic, it is the combining or fusion of two small atoms into a larger atom. When two atomic nuclei fuse, tremendous amounts of energy are released.

If we can achieve this joining of atoms, and successfully contain and harness the energy produced, fusion will be close to an ideal energy source. It produces no air pollutants because the byproduct of the reaction is helium, it is safe and its fuel source, hydrogen, is practically unlimited and easily obtained.

In the technical community, the debate over the scientific feasibility of fusion energy is now over. During the past decade, substantial amounts of fusion energy have been created in the laboratory setting. I am proud to note that some of this underlying scientific work has been conducted at the Idaho National Engineering and Environmental Laboratory in my State, which has been selected by the Department of Energy to lead efforts on fusion safety.

Although certain scientific questions remain, the primary outstanding issue about fusion energy at this point is whether fusion energy can make the challenging step from the laboratory into a practical energy resource. Achieving this goal will require high quality science, innovative research and international collaboration, and the resources to make this possible. That is the goal to which this legislation is directed.

According to the scientific experts, the path to practical fusion will involve three steps. First, there is a need to conduct a "burning plasma" experiment. Second, this effort would be further developed in an engineering test facility. The third step would be a demonstration plant. If taken in series, each of these steps would take approximately fifteen years, but through international collaboration, it may be possible to accelerate this process. In addition to these steps, continued investment in a strong underlying program of fusion science and plasma physics will still be necessary.

Therefore, this bill instructs the Secretary of Energy to transmit to the Congress by July 1, 2004 a plan for a "burning plasma" experiment, which is the next necessary step towards the eventual realization of practical fusion energy. At a minimum, the Secretary must submit a plan for a domestic U.S. experiment, but may also submit a plan for U.S. involvement in an international burning plasma experiment if such involvement is cost effective and has equivalent scientific benefits to a domestic experiment. The bill also requires that within six months of the enactment, the Secretary of Energy shall submit a plan to Congress to ensure a strong scientific base for the fusion energy sciences program. Finally, for ongoing activities in the Department of Energy's fusion energy sciences program and for the purpose of preparing the plans called for, the bill authorizes $320,000,000 in fiscal year 2002 and $335,000,000 in fiscal year 2003.

As we suffer through near term challenges in the energy sector and meeting our immediate needs, it is more crucial than ever that we invest in those items that hold the promise for long term solutions. Recent accomplishments in the laboratory demonstrate that fusion energy has this long term potential. The Fusion Energy Sciences Act of 2001 will bring this promise closer to reality for future generations.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act my be cited as the "Fusion Energy Sciences Act of 2001".

SEC. 2. FINDINGS.

The Congress finds that—

(1) economic prosperity is closely linked to an affordable and ample energy supply;

(2) environmental quality is closely linked to energy productions and use;

(3) population, worldwide economic development, energy consumption, and stress on the environment are all expected to increase substantially in the coming decades;

(4) the few energy options with the potential to meet economic and environmental needs for the long-term future must be pursued aggressively now, as part of a balanced national energy plan;

(5) fusion energy is a long-term energy solution that is expected to be environmentally benign, safe, and economical, and to use a fuel source that is practically unlimited;

(6) the National Academy of Sciences, the President's Committee of Advisers on Science and Technology, and the Secretary of Energy Advisory Board have each recently reviewed the Fusion Energy Sciences Program and each strongly supports the fundamental science and creative innovation of the program, and has confirmed that progress toward the goal of producing practical fusion energy has been excellent;

(7) each of these reviews stressed the need for the Fusion Energy Sciences Program to move forward to a magnetic fusion burning plasma experiment, capable of producing substantial fusion power output and providing key information for the advancement of fusion science;

(8) the National Academy of Sciences has also called for a broadening of the Fusion Energy Sciences Program research base as a

means to more fully integrate the fusion science community into the broader scientific community; and

(9) the Fusion Energy Sciences Program budget is inadequate to support the necessary science and innovation for the present generation of experiments, and cannot accommodate the cost of a burning plasma experiment constructed by the United States, or even the cost of key participation by the United States in an international effort.

SEC. 3. PLAN FOR FUSION EXPERIMENT.

(a) Plan for United States Fusion Experiment.—The Secretary of Energy (in this Act referred to as 'the Secretary'), on the basis of full consultation with, and the recommendation of, the Fusion Energy Sciences Advisory Committee (in this Act referred to as "FESAC"), shall develop a plan for United States construction of a magnetic fusion burning plasma experiment for the purpose of accelerating scientific understanding of fusion plasmas. The Secretary shall request a review of the plan by the National Academy of Sciences, and shall transmit the plan and the review to the Congress by July 1, 2004.

(b) Requirements of Plan.—The plan described in subsection (a) shall—

(1) address key burning plasma physics issues; and

(2) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

(c) United States Participation in an International Experiment.—In addition to the plan described in subsection (a), the Secretary, on the basis of full consultation with, and the recommendation of, FESAC, may also develop a plan for United States participation in an international burning plasma experiment for the same purpose, whose construction is found by the Secretary to be highly likely and where United States participation is cost effective relative to the cost and scientific benefits of a domestic experiment described in subsection (a). If the Secretary elects to develop a plan under this subsection, he shall include the information described in subsection (b), and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review by the National Academies of Sciences and Engineering of a plan developed under this subsection, and shall transmit the plan and the review to the Congress no later than July 1, 2004.

(d) Authorization of Research and Development.—The Secretary, through the Fusion Energy Sciences Program, may conduct any research and development necessary to fully develop the plans described in this section.

SEC. 4. PLAN FOR FUSION ENERGY SCIENCES PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Secretary, in full consultation with FESAC, shall develop and transmit to the Congress a plan for the purpose of ensuring a strong scientific base for the Fusion Energy Sciences Program and to enable the experiment described in section 3. Such plan shall include as its objectives—

(1) to ensure that existing fusion research facilities and equipment are more fully utilized with appropriate measurements and control tools;

(2) to ensure a strengthened fusion science theory and computational base;

(3) to encourage and ensure that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific innovation and cost effectiveness;

(4) to improve the communication of scientific results and methods between the fusion science community and the wider scientific community;

(5) to ensure that adequate support is provided to optimize the design of the magnetic fusion burning plasma experiments referred to in section 3; and

(6) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the development and review of the plans described in this Act and for activities of the Fusion Energy Sciences Program $320,000,000 for fiscal year 2002 and $335,000,000 for fiscal year 2003.

Mrs. FEINSTEIN. Mr. President, I rise today to join my colleague, Senator Larry Craig, in introducing this legislation to accelerate the development of fusion energy as a practical and realistic alternative to fossil fuels for our nation's energy needs.

I would also like to commend my colleague, Congresswoman Zoe Lofgren, who introduced the "Fusion Energy Sciences Act of 2001" on the House side as H.R. 1781.

Since the beginning of the Manhattan Project, scientists have been trying to harness energy from fusion to produce electricity. This legislation will help the scientific community expedite the development of fusion as a viable option for our energy needs.

To help fusion science move from the lab to the grid, this bill fast-tracks a key experimental fusion project. This bill also authorizes $320 million for Fiscal Year 2002 and $335 million for Fiscal Year 2003 to speed up fusion's current estimated 45-year implementation timetable.

I have spoken frequently to my colleagues on California's current energy situation.

Last week the Department of Energy predicted the State will suffer from around 110 hours of rolling blackouts this summer. Experts say $21.8 billion of economic output will be lost and over 135,000 workers will lose their jobs because of this summer's blackouts.

I will continue to try to help California and the rest of the West in the short-term. Making rolling blackouts less frequent, lowering electricity costs on the wholesale market, keeping natural gas prices reasonable, and bringing new supplies of power online are the key objectives I have been working toward to bring stability to the Western Energy Market.

While I work on the short-term problems in California, I join my colleague from Idaho on this bill to develop a key long-term solution to our current energy problems.

As world populations grow, and as civilization advances, we need to pursue new energy sources beyond traditional fossil fuels.

It is no secret that fossil fuels are finite and polluting. Beyond expanding renewable energy sources such as those from the sun and the wind, fusion holds a great deal of potential to expand our nation's energy supply.

Fusion is a safe, almost inexhaustible energy source with major environmental advantages. As a co-sponsor of this legislation, I hope to see fusion move quickly from an experiment in the lab to a reality for our homes and businesses.

We have already succeeded in using scientific advancements to harness energy occurring elsewhere on our planet. Solar panels collect the sun's rays to heat pools and power homes. Windmills transfer nature's gusts into electrical currents. Water running from mountaintops to the sea can produce significant amounts of hydroelectric power.

And now, with fusion energy, we will be able to harness the power of the stars to create an almost unlimited and clean form of energy.

Fusion energy is the result of two small hydrogen atoms combining into a larger atom. The energy released from this fusion of the atoms can be harnessed to generate electricity.

Unlike nuclear power, which uses radioactive materials for fuel, fusion uses hydrogen from water. Unlike fossil fuels, which pollute the air when burned, the only byproduct in a hydrogen fusion reaction is helium, an element already plentiful in the air.

Besides being environmentally benign, fusion is a practically unlimited fuel source. In fact, scientists predict that using 1 gallon of sea water, fusion can yield the energy produced from 300 gallons of gasoline. And with fusion, 50 cups of sea water can be the energy equivalent of 2 tons of coal.

Fusion energy has been proven to be a practical energy endeavor, worthy of more investment for research and development. So just where do we go from here? How do we harness the power of the stars?

A 1999 review by the Department of Energy's task force on Fusion Energy concluded: one, substantial scientific progress has been made in the science of fusion energy; two, the budget for fusion research needs to grow; and three, a burning plasma experiment needs to be carried out.

To expedite the use of fusion to meet our energy needs, we need to strengthen the efforts already underway in fusion research and development and create new programs financed by the government.

Scientists agree that at current funding levels, fusion is approximately 45 years away from entering the marketplace as a viable energy source.

This timetable is based upon a three step process in which the scientific community can: first, carry out a burning plasma experiment; second, build a fusion energy test facility; and third, establish a fusion demonstration plant to generate electricity.

Since practical fusion energy generation is still three stages from real implementation, the first thing we can do is fund the development of a burning plasma experiment.

This legislation will ensure this project will happen soon, carried out either by the scientific community in the United States, or in collaboration with an international effort. The bill requires the Secretary of Energy to develop a plan by 2004 for a magnetic fusion burning plasma experiment.

It is important to point out that this bill adds the burning plasma experiment in addition to, and not at the expense of, other ongoing projects.

The goal of fusion energy is to create a continually burning fuel like a fire refueling itself. Developing a magnetic fusion plasma experiment will help the scientific community demonstrate how the heat from the fusion reaction can maintain the reaction as a self-generating fuel. Strong magnetic fields allow the hydrogen plasma to be heated to high temperatures for fusion.

This legislation will help the scientific community overcome the key stumbling block to fusion development. By authorizing $320 million for Fiscal Year 2002 and $335 for Fiscal Year 2003 the fusion plasma experiment will be carried out and fusion funding that peaked in the 1970s, but has since tapered off, will be restored.

Let me just take a moment to mention where this funding is going, because it is particularly important for me to point this out.

Annual Federal funding for fusion energy has averaged around $230 million in the last few years. In Fiscal Year 2001, Congress appropriated $248.49 million for fusion research.

This money has provided approximately 1,100 jobs in California at the following U.S. Fusion Program Participant locations: UC Davis, UC Berkeley, Stanford, UCLA, UC Santa Barbara, Cal Tech, UC San Diego, UC Irvine, Occidental College, Lawrence Livermore National Lab, Sandia National Lab, Stanford Linear Accelerator Center, Lawrence Berkeley National Lab, TSI Research Inc. and General Atomics.

Despite all of the past advancements at these facilities and others, the Fusion Energy Science Advisory Committee has concluded that lack of funding is hindering the technological advance towards fusion energy development. And the Department of Energy's task force on Fusion Energy has concluded that, "In light of the promise of fusion," funding remains "subcritical."

Currently, the international community is outpacing us on the road to realizing the myriad benefits of this new energy resource. The Japanese budget for this type of research is about 1.5 times that of the U.S., and the European budget is about 3 times greater.

It is critical that we be the leader in the renewable energy resources sector.

I urge my colleagues to join Senator CRAIG and me in supporting fusion energy as a clean, safe, and abundant energy source for our Nation's long-term energy supply.

By Mr. LEAHY:

S. 1131. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen, oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new sources review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

Mr. LEAHY. Mr. President, the Administration finally released its National Energy Policy last month. As I noted at the time, I have serious concerns about several of its recommendations, not the least of which was its proposal to build 1,300 to 1,900 new electric power plants many of them burning relatively dirty fossil fuels, while, at same time, questioning the enforcement of clean air laws that protect the public from excess power plant emissions.

Today, fossil fuel-fired power plants constitute the largest source of air pollution in the United States. Every year, they collectively emit approximately 2.2 billion tons of carbon dioxide, 13 million tons of acid rain-producing sulfur dioxide, 7 million tons of acid rain- and smog-producing nitrogen oxides, and 43 tons of highly toxic mercury.

How could pollutants still be dumped into our atmosphere at this scale? One reason that cannot be ignored is that more than 75 percent of the fossil-fuel fired power plants in the United States are still "grandfathered," or exempt from modern Clean Air Act standards. When the Clean Air Act and its amendments were passed, Congress assumed that old, 1950's era power plants would be retired over time and replaced by newer, cleaner plants within 30 years. They were not. Unfortunately, utilities have kept these inefficient, pollution-prone power plants on line because they are inexpensive. Those grandfathered plants continue to burn cheap fuel and refuse to invest in emissions control technologies that protect air quality.

The continuing harm to our atmosphere, lands, waters, State economies, and public health by excess power plant emissions is well documented. In my home state of Vermont, acid deposition caused by emissions of sulfur dioxide and nitrogen oxide has scarred our forests and poisoned our streams. Emissions of mercury have contaminated our rivers and lakes to the point that statewide advisories against fish consumption are necessary to protect citizens. Emissions of greenhouse gas threaten to negatively change the climate for Vermont maple trees the source of Vermont maple syrup and other economic Vermont crops. And despite Vermont's tough air laws and small population, out-of-state particulates and smog lower our air quality, endanger our health, and ruin views of our Green Mountains.

Earlier this year, I cosponsored bipartisan legislation, the "Clean Power Act of 2001," that strictly capped national power plant emissions and ended "grandfather" loophole exemptions. To promote rapid and reliable changes in the utility industry, that legislation also gave utilities the regulatory tools needed to make those changes with incentives for free market trading of emissions credits, a so-called "cap-and-trade" mechanism. I remain a supporter of the Clean Power Act of 2001 and hope it becomes key to energy policy negotiations in Congress. However, I believe we can do even more.

So today I am introducing a second piece of legislation covering power plant emissions that I also intend to promote during the energy debate. The "Clean Power Plant and Modernization Act of 2001" again strictly caps emissions and ends the "grandfather" loophole on old plants. Instead of providing utilities the incentive of free market trading, however, my bill creates strong financial incentives, in the form of accelerated tax depreciation, for older utilities that cut emissions and upgrade their plants to 45 percent to 50 percent efficiency. With current average energy efficiency of U.S. power plants at only 33 percent, this bill is another proposal that protects the environment and public health while providing the energy industry with a comprehensive and predictable set of long-term regulatory requirements.

Under this bill, mercury emissions would be cut by 90 percent, annual emissions of sulfur dioxide would be cut by more than 6 million tons beyond Phase II Clean Air Act Amendments requirements, and nitrogen oxide emissions would be cut by more than 3 million tons per year beyond Phase II requirements. This bill would also prevent at least 650 million tons of carbon dioxide emissions per year.

And this bill goes beyond emissions caps and transition incentives to recognize the emergence of energy technologies that are more environmentally sustainable. It provides substantial funding for research, development, and commercial demonstrations of renewable and clean energy technologies such as solar, wind, biomass, geothermal, and fuel cells. It also authorizes expenditures for implementing known ways of biologically sequestering carbon dioxide from the atmosphere such as planting trees, preserving wetlands, and soil restoration.

The bill emphasizes the importance of immediately capping, if not totally eliminating, the release of mercury from power plants. In December, the EPA finally determined to regulate mercury emissions from electric utility power plants, an action I strongly commended. However, such regulations are years away, and it is uncertain what form they will take. Yet, just last year, 41 states issued more than 2,200 fish consumption advisories because of mercury contamination. Eleven states, including Vermont, issued statewide advisories. In 2000, the National Academy of Sciences confirmed the health risks of mercury, emphasizing the special vulnerability of unborn and young children. I believe we need to do something now.

As the energy landscape of our nation changes, this bill also recognizes the need to train a new national energy work force. As U.S. power plants become more efficient and more power is produced by renewable technologies, less fossil fuel will be consumed. This will have an impact on the workers and communities that produce fossil fuels. These effects are likely to be greatest for coal, even with significant deployment of clean coal technology. The bill provides funding for programs to help workers and communities during the period of transition. I am eager to work with organized labor to ensure that these provisions address the needs of workers, particularly those who may not fully benefit from retraining programs.

Finally, this bill holds the electric power industry, and Congress, accountable for any and all taxpayer dollars used to aid the transition to cleaner electric generation facilities. To assess how well clean air laws and emissions reductions are working, our nation must have robust, nationwide monitoring networks capable of generating reliable, consistent, long-term data about natural ecosystems. Networks such as the National Atmospheric Deposition Program currently provide the national data needed by scientists and Federal agencies to accurately assess the trends in pollutant deposition. Yet, over the past 30 years, these networks have struggled to survive with ever-decreasing funding. My bill provides modest appropriations for both operational support and modernization of scientific sites that are so critical to understanding of our ecosystems and our public health.

The American public overwhelmingly supports the environmental commitments that we have made since the early 1970s. It is our responsibility to preserve the environment for our children and grandchildren, and it is our duty to protect their health as well. The proposed energy policy of this administration needs to be less about drilling and more about energy efficiency and protection of air quality. This bill will, I hope, add another way in which we can ensure reliable, affordable electric power while modernizing energy efficiency and protecting our national resources.

I ask unanimous consent that the text of the bill, and the section-by-section overview of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Power Plant and Modernization Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Combustion heat rate efficiency standards for fossil fuel-fired generating units.
Sec. 5. Air emission standards for fossil fuel-fired generating units.
Sec. 6. Extension of renewable energy production credit.
Sec. 7. Megawatt hour generation fees.
Sec. 8. Clean Air Trust Fund.
Sec. 9. Accelerated depreciation for investor-owned generating units.
Sec. 10. Grants for publicly owned generating units.
Sec. 11. Recognition of permanent emission reductions in future climate change implementation programs.
Sec. 12. Renewable and clean power generation technologies.
Sec. 13. Clean coal, advanced gas turbine, and combined heat and power demonstration program.
Sec. 14. Evaluation of implementation of this Act and other statutes.
Sec. 15. Assistance for workers adversely affected by reduced consumption of coal.
Sec. 16. Community economic development incentives for communities adversely affected by reduced consumption of coal.
Sec. 17. Carbon sequestration.
Sec. 18. Atmospheric monitoring.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the United States is relying increasingly on old, needlessly inefficient, and highly polluting power plants to provide electricity;

(2) the pollution from those power plants causes a wide range of health and environmental damage, including—

(A) fine particulate matter that is associated with the deaths of approximately 50,000 Americans annually;

(B) urban ozone, commonly known as "smog", that impairs normal respiratory functions and is of special concern to individuals afflicted with asthma, emphysema, and other respiratory ailments;

(C) rural ozone that obscures visibility and damages forests and wildlife;

(D) acid deposition that damages estuaries, lakes, rivers, and streams (and the plants and animals that depend on them for survival) and leaches heavy metals from the soil;

(E) mercury and heavy metal contamination that renders fish unsafe to eat, with especially serious consequences for pregnant women and their fetuses;

(F) eutrophication of estuaries, lakes, rivers, and streams; and

(G) global climate change that may fundamentally and irreversibly alter human, animal, and plant life;

(3) tax laws and environmental laws—

(A) provide a very strong incentive for electric utilities to keep old, dirty, and inefficient generating units in operation; and

(B) provide a strong disincentive to investing in new, clean, and efficient generating technologies;

(4) fossil fuel-fired power plants, consisting of plants fueled by coal, fuel oil, and natural gas, produce more than two-thirds of the electricity generated in the United States;

(5) since, according to the Department of Energy, the average combustion heat rate efficiency of fossil fuel-fired power plants in the United States is 33 percent, 67 percent of the heat generated by burning the fuel is wasted;

(6) technology exists to increase the combustion heat rate efficiency of coal combustion from 35 percent to 50 percent above current levels, and technological advances are possible that would boost the net combustion heat rate efficiency even more;

(7) coal-fired power plants are the leading source of mercury emissions in the United States, releasing more than 43 tons of this potent neurotoxin each year;

(8) in 1999, fossil fuel-fired power plants in the United States produced nearly 2,200,000,000 tons of carbon dioxide, the primary greenhouse gas;

(9) on average, fossil fuel-fired power plants emit approximately 2,000 pounds of carbon dioxide for every megawatt hour of electricity produced;

(10) the average fossil fuel-fired generating unit in the United States commenced operation in 1964, 6 years before the Clean Air Act (42 U.S.C. 7401 et seq.) was amended to establish requirements for stationary sources;

(11)(A) according to the Department of Energy, only 23 percent of the 1,000 largest emitting units are subject to stringent new source performance standards under section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the remaining 77 percent, commonly referred to as "grandfathered" power plants, are subject to much less stringent requirements;

(12) according to available scientific and medical evidence, exposure to mercury and mercury compounds is of concern to human health and the environment;

(13) according to the report entitled "Toxicological Effects of Methylmercury" and submitted to Congress by the National Academy of Sciences in 2000, and other scientific and medical evidence, pregnant women and their developing fetuses, women of childbearing age, children, and individuals who subsist primarily on fish are most at risk for mercury-related health impacts such as neurotoxicity;

(14) although exposure to mercury and mercury compounds occurs most frequently through consumption of mercury-contaminated fish, such exposure can also occur through—

(A) ingestion of breast milk;

(B) ingestion of drinking water, and foods other than fish, that are contaminated with methylmercury; and

(C) dermal uptake through contact with soil and water;

(15) the report entitled "Mercury Study Report to Congress" and submitted by the Environmental Protection Agency under section 112(n)(1)(B) of the Clean Air Act (42 U.S.C. 7412(n)(1)(B)), in conjunction with other scientific knowledge, supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and mercury concentrations in air, soil, water, and sediments;

(16)(A) the Environmental Protection Agency report described in paragraph (15) supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and methylmercury concentrations in freshwater fish;

(B) in 2000, 41 States issued health advisories that warned the public about consuming mercury-tainted fish, as compared to 27 States that issued such advisories in 1993; and

(C) the number of mercury advisories nationwide increased from 899 in 1993 to 2,242 in 2000, an increase of 149 percent;

(17) pollution from power plants can be reduced through adoption of modern technologies and practices, including—

(A) methods of combusting coal that are intrinsically more efficient and less polluting, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) methods of combusting cleaner fuels, such as gases from fossil and biological resources and combined cycle turbines;

(C) treating flue gases through application of pollution controls;

(D) methods of extracting energy from natural, renewable resources of energy, such as solar and wind sources;

(E) methods of producing electricity and thermal energy from fuels without conventional combustion, such as fuel cells; and

(F) combined heat and power methods of extracting and using heat that would otherwise be wasted, for the purpose of heating or cooling office buildings, providing steam to processing facilities, or otherwise increasing total efficiency;

(18) adopting the technologies and practices described in paragraph (17) would increase competitiveness and productivity, secure employment, save lives, and preserve the future; and

(19) accurate, long-term, nationwide monitoring of atmospheric acid and mercury deposition is essential for—

(A) determining deposition trends;

(B) evaluating the local and regional transport of emissions; and

(C) assessing the impact of emission reductions.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect and preserve the environment while safeguarding health by ensuring that each fossil fuel-fired generating unit minimizes air pollution to levels that are technologically feasible through modernization and application of pollution controls;

(2) to greatly reduce the quantities of mercury, carbon dioxide, sulfur dioxide, and nitrogen oxides entering the environment from combustion of fossil fuels;

(3) to permanently reduce emissions of those pollutants by increasing the combustion heat rate efficiency of fossil fuel-fired generating units to levels achievable through—

(A) use of commercially available combustion technology, including clean coal technologies such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) installation of pollution controls;

(C) expanded use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells; and

(D) promotion of application of combined heat and power technologies;

(4)(A) to create financial and regulatory incentives to retire thermally inefficient generating units and replace them with new units that employ high-thermal-efficiency combustion technology; and

(B) to increase use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells;

(5) to establish the Clean Air Trust Fund to fund the training, economic development, carbon sequestration, and research, development, and demonstration programs established under this Act;

(6) to eliminate the "grandfather" loophole in the Clean Air Act relating to sources in operation before the promulgation of standards under section 111 of that Act (42 U.S.C. 7411);

(7) to express the sense of Congress that permanent reductions in emissions of greenhouse gases that are accomplished through the retirement of old units and replacement by new units that meet the combustion heat rate efficiency and emission standards specified in this Act should be credited to the utility sector and the owner or operator in any climate change implementation program;

(8) to promote permanent and safe disposal of mercury recovered through coal cleaning, flue gas control systems, and other methods of mercury pollution control;

(9) to increase public knowledge of the sources of mercury exposure and the threat to public health from mercury, particularly the threat to the health of pregnant women and their fetuses, women of childbearing age, and children;

(10) to decrease significantly the threat to human health and the environment posed by mercury;

(11) to provide worker retraining for workers adversely affected by reduced consumption of coal;

(12) to provide economic development incentives for communities adversely affected by reduced consumption of coal;

(13) to promote research concerning renewable energy sources, clean power generation technologies, and carbon sequestration; and

(14) to promote government accountability for compliance with the Clean Air Act (42 U.S.C. 7401 et seq.) and other emission reduction laws by ensuring accurate, long-term, nationwide monitoring of atmospheric acid and mercury deposition.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) GENERATING UNIT.—The term "generating unit" means an electric utility generating unit.

SEC. 4. COMBUSTION HEAT RATE EFFICIENCY STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than the day that is 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit that commences operation on or before that day shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 45 percent (based on the higher heating value of the fuel).

(2) FUTURE GENERATING UNITS.—Each fossil fuel-fired generating unit that commences operation more than 10 years after the date of enactment of this Act shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 50 percent (based on the higher heating value of the fuel), unless granted a waiver under subsection (d).

(b) TEST METHODS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(c) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(d) WAIVER OF COMBUSTION HEAT RATE EFFICIENCY STANDARD.—

(1) APPLICATION.—The owner or operator of a generating unit that commences operation more than 10 years after the date of enactment of this Act may apply to the Administrator for a waiver of the combustion heat rate efficiency standard specified in subsection (a)(2) that is applicable to that type of generating unit.

(2) ISSUANCE.—The Administrator may grant the waiver only if—

(A)(i) the owner or operator of the generating unit demonstrates that the technology to meet the combustion heat rate efficiency standard is not commercially available; or

(ii) the owner or operator of the generating unit demonstrates that, despite best technical efforts and willingness to make the necessary level of financial commitment, the combustion heat rate efficiency standard is not achievable at the generating unit; and

(B) the owner or operator of the generating unit enters into an agreement with the Administrator to offset by a factor of 1.5 to 1, using a method approved by the Administrator, the emission reductions that the generating unit does not achieve because of the failure to achieve the combustion heat rate efficiency standard specified in subsection (a)(2).

(3) EFFECT OF WAIVER.—If the Administrator grants a waiver under paragraph (1), the generating unit shall be required to achieve and maintain, at all operating levels, the combustion heat rate efficiency standard specified in subsection (a)(1).

SEC. 5. AIR EMISSION STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) ALL FOSSIL FUEL-FIRED GENERATING UNITS.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit, regardless of its date of construction or commencement of operation, shall be subject to, and operating in physical and operational compliance with, the new source review requirements under section 111 of the Clean Air Act (42 U.S.C. 7411).

(b) EMISSION RATES FOR SOURCES REQUIRED TO MAINTAIN 45 PERCENT EFFICIENCY.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit subject to section 4(a)(1) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to remove 90 percent of the mercury contained in the fuel, calculated in accordance with subsection (e).

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.9 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.3 pounds of carbon dioxide per kilowatt hour of net electric power output.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.55 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(c) EMISSION RATES FOR SOURCES REQUIRED TO MAINTAIN 50 PERCENT EFFICIENCY.—Each fossil fuel-fired generating unit subject to section 4(a)(2) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to remove 90 percent of the mercury contained in the fuel, calculated in accordance with subsection (e).

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.8 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.2 pounds of carbon dioxide per kilowatt hour of net electric power output.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.4 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(d) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(e) COMPLIANCE DETERMINATION AND MONITORING.—

(1) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(2) CALCULATION OF MERCURY EMISSION REDUCTIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate fuel sampling techniques and emission monitoring techniques for use by generating units in calculating mercury emission reductions for the purposes of this section.

(3) REPORTING.—

(A) IN GENERAL.—Not less often than quarterly, the owner or operator of a generating unit shall submit a pollutant-specific emission report for each pollutant covered by this section.

(B) SIGNATURE.—Each report required under subparagraph (A) shall be signed by a responsible official of the generating unit, who shall certify the accuracy of the report.

(C) PUBLIC REPORTING.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more forms of electronic media, facility-specific emission data for each generating unit and pollutant covered by this section.

(D) CONSUMER DISCLOSURE.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations requiring each owner or operator of a generating unit to disclose to residential consumers of electricity generated by the unit, on a regular basis (but not less often than annually) and in a manner convenient to the consumers, data concerning the level of emissions by the generating unit of each pollutant covered by this section and each air pollutant covered by section 111 of the Clean Air Act (42 U.S.C. 7411).

(f) DISPOSAL OF MERCURY CAPTURED OR RECOVERED THROUGH EMISSION CONTROLS.—

(1) CAPTURED OR RECOVERED MERCURY.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations to ensure that mercury that is captured or recovered through the use of an emission control, coal cleaning, or another method is disposed of in a manner that ensures that—

(A) the hazards from mercury are not transferred from 1 environmental medium to another; and

(B) there is no release of mercury into the environment.

(2) MERCURY-CONTAINING SLUDGES AND WASTES.—The regulations promulgated by the Administrator under paragraph (1) shall ensure that mercury-containing sludges and wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

(g) PUBLIC REPORTING OF FACILITY-SPECIFIC EMISSION DATA.—

(1) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and the Internet, facility-specific emission data for each generating unit and for each pollutant covered by this section.

(2) SOURCE OF DATA.—The emission data shall be taken from the emission reports submitted under subsection (e)(3).

SEC. 6. EXTENSION OF RENEWABLE ENERGY PRODUCTION CREDIT.

Section 45(c) of the Internal Revenue Code of 1986 (relating to definitions) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "and";

(B) in subparagraph (C), by striking the period and inserting a comma; and

(C) by adding at the end the following:

"(D) solar power, and

"(E) geothermal power.";

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "2002" and inserting "2016";

(B) in subparagraph (B), by striking "2002" and inserting "2016";

(C) in subparagraph (C), by striking "2002" and inserting "2016"; and

(D) by adding at the end the following:

"(D) SOLAR POWER FACILITY.—In the case of a facility using solar power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2016.

"(E) GEOTHERMAL POWER FACILITY.—In the case of a facility using geothermal power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2016."; and

(3) by adding at the end the following:

"(5) SOLAR POWER.—The term 'solar power' means solar energy harnessed through photovoltaic systems, solar boilers which provide process heat, and any other means.

"(6) GEOTHERMAL POWER.—The term 'geothermal power' means thermal energy extracted from the earth for the purposes of producing electricity.".

SEC. 7. MEGAWATT HOUR GENERATION FEES.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after subchapter D the following:

"Subchapter E—Megawatt Hour Generation Fees

"Sec. 4691. Imposition of fees.

"SEC. 4691. IMPOSITION OF FEES.

"(a) TAX IMPOSED.—There is hereby imposed on each covered fossil fuel-fired generating unit a tax equal to 30 cents per megawatt hour of electricity produced by the covered fossil fuel-fired generating unit.

"(b) ADJUSTMENT OF RATES.—Not less often than once every 2 years beginning after 2005, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate the rate of the tax imposed by subsection (a) and increase the rate if necessary for any succeeding calendar year to ensure that the Clean Air Trust Fund established by section 9511 has sufficient amounts to fully fund the activities described in section 9511(c).

"(c) PAYMENT OF TAX.—The tax imposed by this section shall be paid quarterly by the owner or operator of each covered fossil fuel-fired generating unit.

"(d) COVERED FOSSIL FUEL-FIRED GENERATING UNIT.—The term 'covered fossil fuel-fired generating unit' means an electric utility generating unit which—

"(1) is powered by fossil fuels;

"(2) has a generating capacity of 5 or more megawatts; and

"(3) because of the date on which the generating unit commenced commercial operation, is not subject to all regulations promulgated under section 111 of the Clean Air Act (42 U.S.C. 7411).".

(b) CONFORMING AMENDMENT.—The table of subchapters for such chapter 38 is amended by inserting after the item relating to subchapter D the following:

"SUBCHAPTER E. Megawatt hour generation fees.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced in calendar years beginning after December 31, 2003.

SEC. 8. CLEAN AIR TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following:

"SEC. 9511. CLEAN AIR TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Air Trust Fund' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to the taxes received in the Treasury under section 4691.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available, without further Act of appropriation, upon request by the head of the appropriate Federal agency in such amounts as the agency head determines are necessary—

"(1) to provide funding under section 12 of the Clean Power Plant and Modernization Act of 2001, as in effect on the date of enactment of this section;

"(2) to provide funding for the demonstration program under section 13 of such Act, as so in effect;

"(3) to provide assistance under section 15 of such Act, as so in effect;

"(4) to provide assistance under section 16 of such Act, as so in effect; and

"(5) to provide funding under section 17 of such Act, as so in effect.".

(b) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following:

"Sec. 9511. Clean Air Trust Fund.".

SEC. 9. ACCELERATED DEPRECIATION FOR INVESTOR-OWNED GENERATING UNITS.

(a) IN GENERAL.—Section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended—

(1) in subparagraph (E) (relating to 15-year property), by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following:

"(iv) any 45-percent efficient fossil fuel-fired generating unit."; and

(2) by adding at the end the following:

"(F) 12-YEAR PROPERTY.—The term '12-year property' includes any 50-percent efficient fossil fuel-fired generating unit.".

(b) DEFINITIONS.—Section 168(i) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following:

"(15) FOSSIL FUEL-FIRED GENERATING UNITS.—

"(A) 50-PERCENT EFFICIENT FOSSIL FUEL-FIRED GENERATING UNIT.—The term '50-percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil fuel-fired generating unit pursuant to a plan approved by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to place into service such a unit which is in compliance with sections 4(a)(2) and 5(c) of the Clean Power Plant and Modernization Act of 2001, as in effect on the date of enactment of this paragraph.

"(B) 45-PERCENT EFFICIENT FOSSIL FUEL-FIRED GENERATING UNIT.—The term '45-percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil fuel-fired generating unit pursuant to a plan so approved to place into service such a unit which is in compliance with sections 4(a)(1) and 5(b) of such Act, as so in effect.".

(c) CONFORMING AMENDMENT.—The table contained in section 168(c) of the Internal Revenue Code of 1986 (relating to applicable recovery period) is amended by inserting after the item relating to 10-year property the following:

"12-year property .... 12 years".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property used after the date of enactment of this Act.

SEC. 10. GRANTS FOR PUBLICLY OWNED GENERATING UNITS.

Any capital expenditure made after the date of enactment of this Act to purchase, install, and bring into commercial operation any new publicly owned generating unit that—

(1) is in compliance with sections 4(a)(1) and 5(b) shall, for a 15-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3)(E) of the Internal Revenue Code of 1986 by a similarly-situated investor-owned generating unit over that period; and

(2) is in compliance with sections 4(a)(2) and 5(c) shall, over a 12-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3)(D) of such Code by a similarly-situated investor-owned generating unit over that period.

SEC. 11. RECOGNITION OF PERMANENT EMISSION REDUCTIONS IN FUTURE CLIMATE CHANGE IMPLEMENTATION PROGRAMS.

It is the sense of Congress that—

(1) permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the combustion heat rate efficiency and emission standards specified in this Act, or through replacement of old generating units with nonpolluting renewable power generation technologies, should be credited to the utility sector, and to the owner or operator that retires or replaces the old generating unit, in any climate change implementation program enacted by Congress;

(2) the base year for calculating reductions under a program described in paragraph (1) should be the calendar year preceding the calendar year in which this Act is enacted; and

(3) a reasonable portion of any monetary value that may accrue from the crediting described in paragraph (1) should be passed on to utility customers.

SEC. 12. RENEWABLE AND CLEAN POWER GENERATION TECHNOLOGIES.

(a) IN GENERAL.—Under the Renewable Energy and Energy Efficiency Technology Act of 1989 (42 U.S.C. 12001 et seq.), the Secretary of Energy shall fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from—

(1) biomass (excluding unseparated municipal solid waste), geothermal, solar, and wind technologies; and

(2) fuel cells.

(b) TYPES OF PROJECTS.—Demonstration projects may include solar power tower plants, solar dishes and engines, co-firing of biomass with coal, biomass modular systems, next-generation wind turbines and wind turbine verification projects, geothermal energy conversion, and fuel cells.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2003 through 2012.

SEC. 13. CLEAN COAL, ADVANCED GAS TURBINE, AND COMBINED HEAT AND POWER DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Under subtitle B of title XXI of the Energy Policy Act of 1992 (42 U.S.C. 13471 et seq.), the Secretary of Energy shall establish a program to fund projects and partnerships designed to demonstrate the efficiency and environmental benefits of electric power generation from—

(1) clean coal technologies, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(2) advanced gas turbine technologies, such as flexible midsized gas turbines and baseload utility scale applications; and

(3) combined heat and power technologies.

(b) SELECTION CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall promulgate criteria and procedures for selection of demonstration projects and partnerships to be funded under subsection (a).

(2) REQUIRED CRITERIA.—At a minimum, the selection criteria shall include—

(A) the potential of a proposed demonstration project or partnership to reduce or avoid emissions of pollutants covered by section 5 and air pollutants covered by section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the potential commercial viability of the proposed demonstration project or partnership.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2003 through 2012.

(2) DISTRIBUTION.—The Secretary shall make reasonable efforts to ensure that, under the program established under this section, the same amount of funding is provided for demonstration projects and partnerships under each of paragraphs (1), (2), and (3) of subsection (a).

SEC. 14. EVALUATION OF IMPLEMENTATION OF THIS ACT AND OTHER STATUTES.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy, in consultation with the Chairman of the Federal Energy Regulatory Commission and the Administrator, shall submit to Congress a report on the implementation of this Act.

(b) IDENTIFICATION OF CONFLICTING LAW.—The report shall identify any provision of the Energy Policy Act of 1992 (Public Law 102-486), the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), or the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.), or the amendments made by those Acts, that conflicts with the intent or efficient implementation of this Act.

(c) RECOMMENDATIONS.—The report shall include recommendations from the Secretary of Energy, the Chairman of the Federal Energy Regulatory Commission, and the

Administrator for legislative or administrative measures to harmonize and streamline the statutes specified in subsection (b) and the regulations implementing those statutes.

SEC. 15. ASSISTANCE FOR WORKERS ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2003 through 2015 to provide assistance, under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), to coal industry workers who are terminated from employment as a result of reduced consumption of coal by the electric power generation industry.

SEC. 16. COMMUNITY ECONOMIC DEVELOPMENT INCENTIVES FOR COMMUNITIES ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2003 through 2012 to provide assistance, under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), to assist communities adversely affected by reduced consumption of coal by the electric power generation industry.

SEC. 17. CARBON SEQUESTRATION.

(a) CARBON SEQUESTRATION STRATEGY.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Energy for each of fiscal years 2003 through 2005 a total of $15,000,000 to conduct research and development activities in basic and applied science in support of development by September 30, 2005, of a carbon sequestration strategy that is designed to offset all growth in carbon dioxide emissions in the United States after 2010.

(b) METHODS FOR BIOLOGICALLY SEQUESTERING CARBON DIOXIDE.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Agriculture for each of fiscal years 2003 through 2012 a total of $30,000,000 to carry out soil restoration, tree planting, wetland protection, and other methods of biologically sequestering carbon dioxide.

(c) LIMITATION.—A project carried out using funds made available under this section shall not be used to offset any emission reduction required under any other provision of this Act.

SEC. 18. ATMOSPHERIC MONITORING.

(a) OPERATIONAL SUPPORT.—In addition to amounts made available under any other law, there are authorized to be appropriated for each of fiscal years 2003 through 2012—

(1) for operational support of the National Atmospheric Deposition Program National Trends Network—

(A) $2,000,000 to the United States Geological Survey;

(B) $600,000 to the Environmental Protection Agency;

(C) $600,000 to the National Park Service; and

(D) $400,000 to the Forest Service;

(2) for operational support of the National Atmospheric Deposition Program Mercury Deposition Network—

(A) $400,000 to the Environmental Protection Agency;

(B) $400,000 to the United States Geological Survey;

(C) $100,000 to the National Oceanic and Atmospheric Administration; and

(D) $100,000 to the National Park Service;

(3) for the National Atmospheric Deposition Program Atmospheric Integrated Research Monitoring Network $1,500,000 to the National Oceanic and Atmospheric Administration;

(4) for the Clean Air Status and Trends Network $5,000,000 to the Environmental Protection Agency; and

(5) for the Temporally Integrated Monitoring of Ecosystems and Long-Term Monitoring Program $2,500,000 to the Environmental Protection Agency.

(b) MODERNIZATION.—In addition to amounts made available under any other law, there are authorized to be appropriated—

(1) for equipment and site modernization of the National Atmospheric Deposition Program National Trends Network $6,000,000 to the Environmental Protection Agency;

(2) for equipment and site modernization and network expansion of the National Atmospheric Deposition Program Mercury Deposition Network $2,000,000 to the Environmental Protection Agency;

(3) for equipment and site modernization and network expansion of the National Atmospheric Deposition Program Atmospheric Integrated Research Monitoring Network $1,000,000 to the National Oceanic and Atmospheric Administration; and

(4) for equipment and site modernization and network expansion of the Clean Air Status and Trends Network $4,600,000 to the Environmental Protection Agency.

(c) AVAILABILITY OF AMOUNTS.—Each of the amounts appropriated under subsection (b) shall remain available until expended.

SECTION-BY-SECTION OVERVIEW OF THE CLEAN POWER PLANT AND MODERNIZATION ACT OF 2001

WHAT WILL THE CLEAN POWER PLANT AND MODERNIZATION ACT OF 2001 DO?

The Clean Power Plant and Modernization Act of 2001 lays out an ambitious, achievable, and balanced set of financial incentives and regulatory requirements designed to increase power plant efficiency, reduce emissions, and encourage the use of renewable energy and clean power generation methods. The bill encourages innovation, entrepreneurship, and risk-taking. In the long term, the bill will reduce acid precipitation, decrease mercury contamination, help mitigate climate change, improve visibility, and safeguard human health.

Section 4. Combustion Heat Rate Efficiency Standards for Fossil Fuel-Fired Generating Units

Fossil fuel-fired power plants in the United States operate at an average combustion efficiency of 33%. This means that, on average, 67% of the heat generated by burning the fuel is wasted. Without changing fuels, increasing combustion efficiency is the best way to reduce carbon dioxide emissions. Section 4 lays out a phased two-stage process for increasing efficiency. In the first stage, by 10 years after enactment, all units in operation must achieve a combustion heat rate efficiency of not less than 45%. In the second stage, with expected advances in combustion technology, units commencing operation more than 10 years after enactment must achieve a combustion heat rate efficiency of not less than 50%. Carbon dioxide emission reductions on the order of 650 millions tons per year are expected, and the potential exists for even larger reductions.

If, for some unforeseen reason, technological advances do not achieve the 50% efficiency level, Section 4 contains a waiver provision that allows the owners of new units to offset any shortfall in carbon dioxide emission reductions through implementation of carbon sequestration projects.

Section 5. Air Emission Standards for Fossil Fuel-Fired Generating Units

Subsection (a) eliminates the "grandfather" loophole in the Clean Air Act and requires all units, regardless of when they were constructed or began operation, to comply with existing new source review requirements under Section 111 of the Clean Air Act.

Subsection (b) sets mercury, carbon dioxide, sulfur dioxide, and nitrogen oxide emission standards for units that are subject to the 45% thermal efficiency standard set forth in Section 4. For mercury, 90% of the mercury contained in the fuel must be removed. For carbon dioxide, the emission limits are set by fuel type (i.e., natural gas = 0.9 pounds per kilowatt-hour of output; fuel oil = 1.3 pounds per kilowatt-hour of output; coal = 1.55 pounds per kilowatt-hour of output). 95% of sulfur dioxide emissions and 90% of nitrogen oxide emissions are to be removed, and emissions may not exceed 0.3 pounds of sulfur dioxide and 0.15 pounds of nitrogen oxides per million BTUs of fuel consumed.

Subsection (c) sets emission standards for units that are subject to the 50% thermal efficiency standard set forth in Section 4. Standards for mercury, sulfur dioxide, and nitrogen oxides are the same as those in Subsection (b). Greater combustion efficiency results in lower emissions of carbon dioxide, and the fuel-specific emission limits are lowered accordingly (i.e., natural gas = 0.8 pounds per kilowatt-hour of output; fuel oil = 1.2 pounds per kilowatt-hour of output; coal = 1.4 pounds per kilowatt-hour of output).

Section 6. Extension of Renewable Energy Production Credit

Section 45(c) of the Internal Revenue Code of 1986 is amended to include solar power and geothermal power and to extend the renewable energy production credit through 2015. (This credit is currently set to expire in 2001.)

Section 7. Megawatt-Hour Generation Fees and Section 8. Clean Air Trust Fund

To offset the impact to the Treasury of the incentives in Sections 9 and 10, the bill establishes the Clean Air Trust Fund. The Trust Fund is similar to the Highway Trust Fund or the Superfund. The revenue for the Trust Fund will be provided by assessing a fee of 30 cents per megawatt-hour of electricity produced by covered electric generating units.

The Trust Fund will also be used to pay for assistance to workers and communities adversely affected by reduced consumption of coal, research and development for renewable power generation technologies (e.g., wind, solar, and biomass), and carbon sequestration projects.

Section 9. Accelerated Depreciation for Investor-Owned Generating Units

Under the Internal Revenue Code of 1986, utilities can depreciate their generating equipment over a 20 year period. Section 9 amends Section 168 of the Internal Revenue Code of 1986 to allow for depreciation over a 15 year period for units meeting the 45% efficiency level and the emission standards in Section 5(b). Section 9 also amends Section 168 to allow for depreciation over a 12 year period for units meeting the 50% efficiency level and the emission standards in Section 5(c).

Section 10. Grants for Publicly Owned Generating Units

No federal taxes are paid on publicly-owned generating units. To provide publicly-owned utilities with comparable incentives to modernize, Section 10 provides for annual grants in an amount equal to the monetary value of the depreciation deduction that would be realized by a similarly situated investor-owned generating unit under Section 9. Units meeting the 45% efficiency level and the emission standards in Section 5(b) would receive annual grants over a 15 year period, and units meeting the 50% efficiency level and the emission standards in Section 5(c) would receive annual grants over a 12 year period.

Section 11. Recognition of Permanent Emission Reductions in Future Climate Change Implementation Programs

This section expresses the sense of Congress that permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the efficiency and emission standards in the bill, or through replacement with non-polluting renewable power generation technologies, should be credited to the utility sector and to the owner/operator in any climate change implementation program enacted by Congress.

Section 12. Renewable and Clean Power Generation Technologies

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from biomass, geothermal, solar, and wind technologies. Types of projects may include solar power tower plants, solar dishes and engines, co-firing biomass with coal, biomass modular systems, next-generation wind turbines and wind verification projects, and geothermal energy conversion.

Section 13. Clean Coal, Advanced Gas Turbine, and Combined Heat and Power Demonstration Program

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from clean coal technologies, advanced gas turbine technologies, and combined heat and power technologies.

Section 14. Evaluation of Implementation of This Act and Other Statutes

Not later than 2 years after enactment, DOE, in consultation with EPA and FERC, shall report to Congress on the implementation of the Clean Power Plant and Modernization Act. The report shall identify any provisions of other laws that conflict with the efficient implementation of the Clean Power Plant and Modernization Act. The report shall include recommendations for legislative or administrative measures to harmonize and streamline these other statutes.

Section 15. Assistance for Workers Adversely Affected by Reduced Consumption of Coal

Beginning 3 years after enactment, this section provides a total of $975 million over 13 years to provide assistance to coal industry workers who are adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by Title III of the Job Training Partnership Act.

Section 16. Community Economic Development Incentives for Communities Adversely Affected by Reduced Consumption of Coal

Beginning 3 years after enactment, this section provides a total of $975 million over 13 years to provide assistance to communities adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965.

Section 17. Carbon Sequestration

This section authorizes $45 million over 3 years for DOE to conduct research and development in support of a national carbon sequestration strategy. This section also authorizes $300 million over 10 years for EPA and USDA to fund carbon sequestration projects such as soil restoration, tree planting, wetlands protection, and other ways of biologically sequestering carbon.

Section 18. Atmospheric Monitoring

This section authorizes $13.6 million over 10 years to support the operation of existing instrument networks that monitor the deposition of sulfates, nitrates, mercury, and other pollutants, as well as the effects of these pollutants of ecosystem health. This section also authorizes a one-time expenditure of $13.6 million for equipment modernization for these instrument networks.

By Mr. CRAPO:

S. 1132. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Health, Education, Labor, and Pensions.

Mr. CRAPO. Mr. President, I rise today to introduce a bill designed to prevent a serious disruption in the distribution of prescription drugs across America. Unless changed by this legislation, or modified by the agency itself, a regulation issued by the Food and Drug Administration will drive out of business thousands of small and medium sized drug wholesalers. Tens of thousands of small nursing homes, clinics, doctor's offices, drug stores, and veterinary practices, especially in rural areas, would be forced to find new suppliers of prescription drugs, who would almost certainly charge higher prices. Consumers, especially the sickest and the least able to pay, would be even further hard-pressed to afford the prescription drugs they need to maintain their health.

There is no real health or safety reason behind the FDA's action, which is simply a lack of understanding of how the wholesale distribution of drugs actually works. The agency's regulation would complete the implementation of the Prescription Drug Marketing Act, which was enacted in April 1988. That statute, which was designed to stop the misuse of drug samples, prevent various types of resale fraud, stop the importation of counterfeit drugs, and establish minimum national standards for the storage and handling of drugs by wholesalers, has worked well.

However, the FDA's regulation, which will go into effect on April 1, 2001, created two problems for wholesalers, neither of which were present when the agency issued its initial policy guidance on the statute in 1988. The first problem relates to the sales history of drug products which wholesalers must provide their customers. A wholesaler who does not purchase directly from a manufacturer must provide their customer with a detailed history of all prior sales of that product back to the wholesaler who did purchase the drugs from the manufacturer. This provision was designed to prevent the introduction of counterfeits or other drugs from questionable or unknown sources into the marketplace. The FDA's initial guidance was that resellers who did not purchase drugs directly from a manufacturer had to trace the product back to the wholesaler who did purchase directly from the manufacturer. This wholesaler is known as an authorized distributor.

Not withstanding the fact that this system has produced a drug distribution system of exceptional quality, the FDA has changed its mind as to what the statute required and proposed that a reseller now be required to trace the product history all the way back to the manufacturer. At the same time, however, the agency also concluded that the statute does not require either the manufacturer or the authorized distributor to provide this sales history to the secondary reseller. But without this very detailed sales history, it will be illegal for the secondary wholesaler to resell products. Since it is economically and logistically impractical for manufacturers or authorized distributors to keep track of the huge volume of product in the extreme detail required by the FDA rule, thousands of secondary wholesalers will be forced to cease business.

Fortunately, there is a simple solution. In 1990, the FDA finalized a regulation implementing another part of the PDMA, which requires wholesalers to keep very detailed records of all purchases, sales, or other dispositions of the drugs they obtain. These records, which are very similar to the detailed sales history in the FDA's latest regulation, are also subject to audit by the agency, by state regulators, and must be made available to law enforcement agencies if needed. Thus, there is really no need for a secondary wholesaler to try and assemble the detailed and virtually unobtainable sales history now demanded by the FDA and to pass it on to their customers. Instead, the bill I am introducing today requires only that secondary wholesalers provide a written statement to their customers that the drug products were first purchased from a manufacturer or authorized distributor. Substituting the written statement would prevent a serious disruption in the wholesale drug sector while preserving the original intent of the PDMA, which was to guard the network of licensed and inspected wholesalers from counterfeits or drugs from questionable sources. It would be a simple matter for a secondary wholesaler to determine that a shipment of drugs was first purchased by an authorized wholesaler, and the written statement would be subject to criminal penalties if falsified under existing law. Substituting the written statement for the paper trail requirement would also reduce selling costs, which could be passed on to the consumer.

This bill is a companion to H.R. 68, introduced on January 3, 2001, by Representatives JO ANN EMERSON and MARION BERRY. That bill now has 45 cosponsors who represent an especially diverse geographical and ideological cross section of the House and is supported by nine major trade and professional organizations representing most companies that wholesale or retail prescription drugs in the U.S. I invite my colleagues in the Senate to add their names to this commonsense measure.

By Mrs. BOXER (for herself, Mrs. CARNAHAN, and Mr. BOND):

S. 1133. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington National Airport for certain communities in case of airline bankruptcy; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, last week the Bush Administration eliminated the only nonstop air service between Los Angeles International Airport, LAX, and National Airport, DCA, in Washington, DC. The elimination of the flight makes Los Angeles the largest U.S. city without nonstop air service to this vital airport in the Nation's capital.

Since the DCA to lax flight began 10 months ago, 45,000 passengers have taken the flight. Not only is it popular, but many small and mid-sized communities throughout the state, including Bakersfield, Fresno, Monterey, and San Luis Obispo, rely on this flight. They have connecting flights into LAX specifically designed so that passengers can take the LAX-DCA nonstop flight. These communities will suffer because of this decision.

This happened because TWA, which operated the flight, went bankrupt. Even though American Airlines purchased the assets of TWA and was willing to continue the flight, the Administration gave the LAX slot at National Airport to another city.

This was an unfortunate decision, and one that was both unnecessary and unjustified. Therefore, today, I am introducing legislation to reinstate the service. It is narrowly crafted to address the unique situation we have here.

My bill only applies in cases where a community loses service to DCA because the airline operating the flight went bankrupt. In those cases, the air carrier that purchases the assets of the bankrupt airlines has a right to continue the nonstop service. In exchange, however, the air carrier must give up one of its several slots that it uses to fly to its hub airport.

In this way, my bill would not create any additional flights to National Airport. Nor would it take away any of the long-distance nonstop flights now in operation, including to the city that just received the slot originally granted to Los Angeles. But, it would allow the very popular nonstop air service between LAX and DCA to continue.

It seems to me that this is a fair compromise to ensure that service between National Airport and Los Angeles continues. I look forward to working with my colleagues to address this problem before the end of the summer.

By Mr. LIEBERMAN (for himself and Mr. HATCH):

S. 1134. A bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation to provide an incentive for capital formation for entrepreneurs.

This incentive is tailor-made to form capital for entrepreneurial firms so they can spur economic growth, create high wage jobs, and ensure American competitiveness into the 21st Century. It focuses on equity investments as this is the only form of capital most entrepreneurial firms secure to fund research and development; most such firms are unable to secure debt capital.

Because this incentive applies to founders stock and employee stock options, and not just stock offered to outside investors, it provides a powerful incentive for the human infrastructure and culture that drives and grows our nation's entrepreneurial firms.

This legislation could not be more timely given the drought we see in equity capital for entrepreneurs. Nationwide we saw 850 Initial Public Offerings of stock, IPOs, in 1996, 610 in 1997, 362 in 1998, 501 in 1999, and 379 in 2000. So far in 2001 we have seen only 50. The total value of these offerings was $47 billion in 1996, $39 billion in 1997, $37 billion in 1998, $53 billion in 1999, and $54 billion in 2000. So far in 2001, it's only $20 billion. Entrepreneurs are starved for capital and this incentive is tailor made to provide an incentive to investors to provide it to them.

The details of our proposal are straight forward. They call for a 100 percent exclusion, a zero capital gains rate, for new, direct, long-term investments in the stock of a small corporation. "New" means that the stock must be offered after the effective date of the bill and does not apply to sale of previously acquired equity shares. "Direct" means the stock must have been acquired from the firm and not in secondary markets, so it includes founders stock, stock options, venture capital placements, IPOs, and subsequent public stock offerings. "Long-term" means the stock must be held for three years. "Stock" includes any type of stock, including convertible preferred shares. "Small corporation" means a corporation with $300 million or less in capitalization (not valuation, but paid-in capital). The incentive applies to both individual and corporate taxpayers. And the excluded gains are not a preference item for the Alternative Minimum Tax.

I am pleased that Senator HATCH has agreed to serve as the lead cosponsor of the legislation. He and I worked closely together from 1995 through 1997 to restore the capital gains incentive. There were many Members involved with that effort, but Senator HATCH and I were pleased to be the leaders of the legislative coalition that proved to be so effective. Our work now on this venture capital gains legislation is a continuation of that long and successful partnership.

I am pleased that Representatives JENNIFER DUNN and ROBERT MATSUI are introducing the same bill in the other body.

I have long championed this approach to capital gains incentives. Most recently, this proposal was included as Section 4 of S. 798, the Productivity, Opportunity, and Prosperity Act of 2001. The first proposal on this subject was introduced on April 7, 1987 in the 100th Congress by Senator Dale Bumpers as S. 932. I was an early supporter of this proposal and I cosponsored a version of this proposal introduced in 1991 by Senator Bumpers as S.1932. A version of that bill was enacted as part of the 1993 tax bill, Section 1202, but it was laden with technical requirements that limited its effectiveness. In the 104th Congress sent amendments to strengthen Section 1202 to President Clinton in the tax bill vetoed he vetoed in 1996. In the 105th Congress these amendments were included in all of the key capital gains, including S. 2 (Roth), S. 20 (DASCHLE), S. 66 (HATCH-LIEBERMAN), S. 501 (Mack), and S. 745 (Bumpers). These amendments were sent to the conference on that bill but did not emerge from it. A broad-based capital gains incentive, which I supported, was enacted into law and a rollover provision was enacted with regard to Section 1202 stock. In the 106th Congress, amendments to strengthen

Section 1202 were introduced in the House by Representatives JENNIFER DUNN and BOB MATSUI, H.R. 2331. Then I introduced the incentive as part of S. 798 and we are today introducing it again as a stand-alone bill.

Today I am pleased to cosponsor S. 818, the capital gains proposal introduced by Senator HATCH and TORRICELLI and others. That proposal calls for a reduction in the current 20 percent capital gains tax rate for a broad class of investments, simplifies the capital gains tax, and provides special benefits to low income taxpayers. This bill and the bill we introduce today are complementary and should both be enacted.

I recognize that the Joint Committee on Taxation, which determines the "cost" of all tax proposals, will determine that our proposal today, and S. 818, will lose revenue. I believe this finding to be short-sighted given the dramatic effect that these incentives will have on entrepreneurs and therefore on economic growth, but there is no way to appeal these determinations. There is no revenue remaining available under the budget resolution to tap to finance these proposals. Accordingly, I fully accept the obligation to find a way to pay for these and other tax proposals, an offset, so that we do not adversely affect the deficit.

The reasons for setting a special capital gains rate for venture capital are compelling. Entrepreneurial firms are the ones which can dramatically change our whole health care system, clean up our environment, link us in international telecommunication networks, and increase our capacity to understand our world. The firms are founded by dreamers, adventurers, and risk-takers who embody the best we have to offer in our free-enterprise economy.

Entrepreneurship drives growth and small, emerging companies need capital investment to innovate, create jobs, and create wealth. According to the National Commission on Entrepreneurship, a small subset of entrepreneurial firms that comprise only 5–15 percent of all U.S. businesses created about two-thirds of new jobs between 1993–96. Although venture capital is critical to the transition from a fledgling company to a growth company, only a small share of it is associated with small and new firms. In addition, we are currently experiencing a venture capital slow down that makes it even more difficult for small and new firms to attract capital. According to the National Venture Capital Association, NCVA, investment in the fourth quarter of last year slowed by more than 30 percent from the previous quarter.

The primary goal of the Productivity, Opportunity, and Prosperity Act and this venture capital incentive is to protect, stimulate and expand economic growth. Government's role is not to create jobs but to help create the environment in which the private sector will create jobs. This legislation helps to create the right context for private sector growth by providing incentives for investment in training, technology, and small entrepreneurial firms. These investments are critical to economic growth and the creation of jobs and wealth.

The Productivity, Opportunity, and Prosperity Act of 2001, including this venture capital proposal, is a tax plan with a purpose. And that purpose is, above all else, to stimulate private sector economic growth, to raise the tide that lifts the lot of all Americans. In the spirit of the "New Economy," where the fundamentals of our economy have changed through entrepreneurship and innovation, this package includes business tax incentives that will spur the real drivers of growth: innovation, investment, a skilled workforce, and productivity.

Ten years from now we will be judged by the economic policy decisions we make today. People will ask, did we fully understand the awesome changes taking place in our economy and in our society? Did we give our industry and workers the environment and the tools they need to seize the opportunities that an innovation economy offers? I believe that a true Prosperity Agenda is within our grasp. Never before has America been in a stronger position, economically, socially, or politically, to shape our future. But it will take strong and focused leadership. I am confident that if we in the public sector in Washington work in partnership with the private sector throughout our country, we can truly say of America's future that the best is yet to come. I believe that the Productivity, Opportunity, and Prosperity Act and this venture capital incentive are an important step toward that future.

Mr. President, I ask unanimous consent that the text of the bill and section analysis be printed in the RECORD.

There being no objection the material was ordered to be printed in the RECORD as follows:

S. 1134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Venture Capital Gains and Growth Act of 2001".

SEC. 2. MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Subsection (a) of section 57 of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Subclause (II) of section 53(d)(1)([illegible])(ii) of such Code is amended by striking ", (5), and (7)" and inserting "and (5)".

(b) INCREASE IN ROLLOVER PERIOD FOR QUALIFIED SMALL BUSINESS STOCK.—Subsections (a)(1) and (b)(3) of section 1045 of the Internal Revenue Code of 1986 (relating to rollover of gain from qualified small business stock to another qualified small business stock) are each amended by striking "60-day" and inserting "180-day".

(c) REDUCTION IN HOLDING PERIOD.—

(1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to partial exclusion for gains from certain small business stock) is amended by striking "5 years" and inserting "3 years".

(2) CONFORMING AMENDMENT.—Subsections (g)(2)(A) and (j)(1)(A) of section 1202 of such Code are each amended by striking "5 years" and inserting "3 years".

(d) REPEAL OF PER-ISSUER LIMITATION.—Section 1202(b) of the Internal Revenue Code of 1986 (relating to per-issuer limitations on taxpayer's eligible gain) is repealed.

(e) QUALIFIED TRADE OR BUSINESS.—Section 1202(e)(3) of the Internal Revenue Code of 1986 (relating to qualified trade or business) is amended by inserting ", and is anticipated to continue to be," before "the reputation" in subparagraph (A).

(f) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Section 1202(e)(6) of the Internal Revenue Code of 1986 (relating to working capital) is amended—

(A) in subparagraph (B), by striking "2 years" and inserting "5 years"; and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Section 1202(c)(3) of such Code (relating to certain purchases by corporation of its own stock) is amended by adding at the end the following new subparagraph:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.".

(g) INCREASED EXCLUSION.—

(1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to 50-percent exclusion for gain from certain small business stock) is amended by striking "50 percent" and inserting "100 percent".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 1(h)(5) of such Code is amended to read as follows:

"(A) collectibles gain, over".

(B) Section 1(h) of such Code is amended by striking paragraph (8).

(C) Paragraph (9) of section 1(h) of such Code is amended by striking ", gain described in paragraph (7)(A)(i), and section 1202 gain" and inserting "and gain described in paragraph (7)(A)(i)".

(D) Section 1(h) of such Code is amended by redesignating paragraphs (9) (as amended by subparagraph (C)), (10), (11), and (12) as paragraphs (8), (9), (10), and (11), respectively.

(E) The heading for section 1202 of such Code is amended by striking "**PARTIAL**" and inserting "**100-PERCENT**".

(F) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by striking "Partial" in the item relating to section 1202 and inserting "100-percent".

(h) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to partial exclusion for gains from certain small business stock) is amended by striking "other than a corporation".

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1202 of such Code is amended by

adding at the end the following new paragraph:

"(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (d)(3)) shall not be treated as qualified small business stock while held by another member of such group.".

(i) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—

(1) IN GENERAL.—Paragraph (1) of section 1202(d) of the Internal Revenue Code of 1986 (defining qualified small business) is amended by striking "$50,000,000" each place it appears and inserting "$300,000,000".

(2) INFLATION ADJUSTMENT.—Section 1202(d) of such Code (defining qualified small business) is amended by adding at the end the following:

"(4) INFLATION ADJUSTMENT OF ASSET LIMITATION.—In the case of stock issued in any calendar year after 2002, the $300,000,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.".

(j) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

Description of Venture Capital Gains Incentive

Section 1202 enacted in 1993:

50% capital gains exclusion for new investments—not sale of previously acquired assets—new investments made after effective date, August 1993.

Only if investments made directly in stock—not secondary trading, founders stock, stock options, venture capital, public offerings, common, preferred, convertible preferred.

Only if made in stock of a "small corporation"—defined as a corporation with $50 million or less in capitalization—ceiling not indexed for inflation.

Only if investment held for five years.

Only if investment made by an individual taxpayer—not by a corporate taxpayer.

50% of the excluded gains not covered by the Alternative Minimum Tax (AMT).

Limit on benefits per taxpayer of "10 times basis or $10 million, whichever is greater".

Technical problems—redemption of stock, "spending speed-up" provision.

Section 1045 enacted in 1997:

Permits investors in Section 1202 stock to roll over their investments in a new Section 1202 investment without "realizing" gains and paying taxes within 60 days.

Nine proposed amendments to Section 1202 and Section 1045:

(1) Sets a zero capital gains rate, compared to the 20 percent rate for other capital gains investments.

Only new investments—same.

Only if direct investments—same.

Only if investment in stock—same.

(2) Apply to corporate taxpayers—now only applies to individual taxpayers.

(3) Define "small corporation" as one with $300 million in capitalization and index for inflation—up from $50 million with no indexing.

(4) 100 percent exemption from AMT—now 50 percent exemption.

(5) Increase the time permitted to roll over a Section 1202 investment into another Section 1202 investment to 180 days.

(6) Only if investment held for three years—reduction from five years.

(7) Delete "10 times or $10 million" limitation.

(8) Extend coverage of Section 1202 to additional corporations.

(9) Fix technical problems—modify redemption of stock, "spending speed-up" provision.

By Mr. GRAHAM (for himself, Mr. CHAFEE, Mr. CONRAD, Mrs. LINCOLN, Mr. MILLER, Mr. ROCKEFELELR, Mr. BINGAMAN, Mr. KERRY, and Mr. CARPER):

S. 1135. A bill to amend title XVII of the Social Security Act to provide comprehensive reform of the Medicare program, including the provision of coverage of outpatient prescription drugs under such program; to the Committee on Finance.

Mr. GRAHAM. Mr. President, I rise today joined by my colleagues to introduce the Medicare Reform Act of 2001.

Today we are in the midst of a major health-care debate on the Patients' Bill of Rights. This crucial bill should be the beginning, not end, of reform in the health care system. Now we need to take this momentum and turn to Medicare reform.

Reform is not a word to be tossed around lightly. When we bat around the term Medicare reform, this is what we need to be talking about, ideas that go to the very heart of the existing Medicare program and reform it.

The Medicare Reform Act offers such ideas. It keeps what is best about Medicare intact. Under this bill the program will remain, as it has always been, reliable and affordable. But the Medicare Reform Act also does just what it says. It reforms the program to reflect new realities both scientific and economic, that the program's creators could not possibly have planned for in 1965.

One of these realities is that prescription drugs are a crucial part of any modern health care regime. In fact it is unthinkable that prescription drugs would be excluded if Medicare were created today.

The Medicare Reform Act offers a benefit that, like the existing Medicare program, is both affordable and available for all seniors, regardless of income. The benefit also harnesses the power of today's competitive health care marketplace to keep costs down and offer seniors choices.

Perhaps most importantly, the benefit offered by the Medicare Reform Act has no gaps, no caps and no gimmicks.

This is our line-in-the-sand.

Other plans being discussed have major gaps.

Let's look at one: the bill the House Republicans passed last year offers seniors a benefit of a scant $1,050-a year. Once they hit that cap, coverage stops. It picks up again only if the beneficiary spends $6,000 a year.

Imagine this scenario: An 85-year-old woman pays her monthly prescription drug premium. For the first 6 months of the year, she goes to the drugstore each month to pick up her cholesterol medication and pays $25.

But then she comes to the 7th month, and has hit her benefit cap. Now she has to pay $50 for the same prescription. She's still paying her premium, but she's getting no benefit. Under this benefit, Medicare says "Sorry. Can't help. Come see me if you have a catastrophe."

I call plans like this donuts, substance around the edges, giant hole in the middle. I also call them pointless. Who needs insurance you can't be sure of?

No caps, no gaps, no gimmicks. That is set in stone. What is not set is stone is the exact level of the coinsurance or deductible. We're going to be listening to seniors as we move toward a markup, and if we hear they would prefer a lower premium in exchange for higher cost-sharing, we can turn those dials, as long as it's within the parameter of $300 billion.

In structure, the Medicare Reform Act represents a true compromise. It takes the best ideas of all engaged in this issue.

One school of thought has been that the private sector is best equipped to offer an affordable prescription drug benefit.

We agree, up to a point. We do not believe that private insurers should assume all of the risk for this benefit. We do not believe this because private insurers have told us they want no part of this type of system. And we know that we can pass all the laws we want, but we can't make private companies take on Medicare patients.

Rather than foreign the private sector to attempt to do something they do not want to do, we take advantage of the fact that we already have an efficient, workable mechanism in place. That mechanism is the pharmacy benefit manager of PBM. These businesses operate successfully today in every ZIP code of the country. They are in a perfect position to manage the Medicare prescription drug benefit—and to offer seniors a choice.

The Medicare Reform Act would allow multiple PBMs in each geographic region to administer, manage and deliver the prescription drug benefit. They would be allowed to use all of the methods they use currently in the private sector to provide benefits economically, including the use of formularies, preferred pharmacy networks, and generic drug substitution. Additionally, PBMs would be allowed to use mechanisms to encourage beneficiaries to select cost-effective drugs, including the use of disease management and therapeutic interchange programs.

Beneficiareis in every part of the country would have access to coverage provided by PBMs that would not assume full insurance risk for drug costs. In this way, adverse selection and inappropriate incentives would be avoided.

However, to ensure that PBMs pursue and are held accountable for high quality beneficiary services, improved health outcomes, and managing costs, we require PBMs to put a substantial portion of their management fees at risk for their performance. Performance goals would include price discounts and generic substitution rates, timely action with regard to appeals, sustained pharmacy network access and notifications to avoid adverse drug reactions.

Although all PBMs would be required to offer the standard benefit at a minimum, payments received on the basis of their performance could be used to reduce beneficiary cost-sharing or to waive the deductible for generic drugs.

Requiring PBMs to share risk provides a middle ground between proposals that have included no risk being assumed by the private sector, and proposals that have required the assumption of insurance and selection risk for the cost of drugs.

This arrangement would bring us the benefits of private sector competition without the instabilities that would be associated with a full risk-bearing model. It would take advantage of the fact that the private sector has provided an efficient, workable, stable system for the delivery of prescription drugs, and the management of drug costs, and would allow beneficiaries to choose between multiple vendors.

Prescription drugs are not all that is missing from Medicare.

We live in a world of near miracles. We can stop disease in its track. We can keep a health problem from becoming a health crisis. We can make the lives our seniors better. We can make their bodies stronger. We have the technology.

It's time to let our seniors have it as well.

The "Medicare Reform Act" would shift the focus of Medicare from simply treating illness to promoting wellness.

Several proven-effective preventive benefits, like cholesterol screening and smoking cessation counseling, would be added to package. These benefits could save lives.

We also provide a new process for changes to the preventive benefit package. As a member of the Finance Committee, I have sat through hours-long discussions on coverage of screening for colorectal cancer. I've heard debated the relative benefits of barium x-rays v. colonscopies in minute details. I'm not qualified to make these decisions. A new "fast-track" process would move members of Congress out of the picture of making decisions about the clinical and scientific merits of different benefits, and move the doctors and scientists in.

The Medicare Reform Act is not just about adding benefits. It's also about changing the way we do business.

We've looked to the private sector for lessons on how to run the fee-for-service program. We allow Medicare to use the same competitive tools insurance companies have in place to control costs. This will save the Medicare program money, in contrast to some other competition proposals.

We've looked to the private sector and learned that to serve seniors and providers better, we need to make an investment in the program, and provide additional administrative funds. Our bill gives the agency responsible for these programs the money to truly serve their clients, our seniors.

We've turned again to the medical and scientific experts. We've taken the decision about what Medicare should and shouldn't cover out of the hands of bureaucrats and given it to independent medical, clinical and scientific experts who have the skills to assess new technologies and procedures.

We also need to prepare for the future. The Medicare program is in the best shape it has been in over a quarter century. But, the baby-boomers are going to be joining the program soon.

We need to begin to fortify the program now, so that we are ready for them. Our bill takes modest steps in that direction by indexing the Part B deductible to inflation, and providing the Part B premium subsidy on a sliding scale basis.

While I think we need to spend the lion's share of our efforts on reforming the part of the program with the lion's share of the beneficiaries, we also need to take a close look at the Medicare+Choice program. There are several different proposals on the table to replace the current payment system with one based on competitive bidding, and we face a lot of questions regarding which of the proposals would work best.

In 1997, Senators BREAUX and Mack proposed a Medicare Competitive Pricing Demonstration Project; the Project was included in the Balanced Budget Act. The purpose of the demonstration project was to test a new method of paying plans based on a competitive market approach. It has not yet been implemented.

This demonstration project is exactly what we need to learn how to design and implement a competitive system. It is not sound to undertake a wholesale restructuring of the Medicare+Choice system without knowing what would, and would not, work.

The "Medicare Reform Act of 2001" would lay the groundwork for a sound, workable, competitive system by moving forward with the Demonstration project in the state of Florida.

Taken together these disparate pieces represent real reform.

Before the recess, I hope we will have passed legislation to protect basic rights of managed-care patients.

Then we need to pick up that ball and run with it.

The time is now. The money is there. The plan exists. Our seniors are waiting.

By Mr. SARBANES (for himself, Mr. BAUCUS, Mr. BAYH, Mr. CLELAND, Mr. CORZINE, Mr. DODD, Mrs. FEINSTEIN, Mr. REID, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. THOMPSON, and Mr. WYDEN):

S. 1136. A bill to provide for mass transportation in certain Federally owned or managed areas that are open to the general public; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Mr. President, I rise today to introduce legislation to help protect our nation's natural resources and improve the visitor experience in our National Parks and Wildlife Refuges. The Transit in Parks Act, or "TRIP," will establish a new Federal transit grant initiative to support the development of mass transit and alternative transportation services for our national parks, wildlife refuges, Federal recreational areas, and other public lands. I am pleased to be joined by Senators BAUCUS, BAYH, CLELAND, CORZINE, DODD, FEINSTEIN, REID, SCHUMER, SNOWE, STABENOW, THOMPSON, and WYDEN, who are cosponsors of this legislation.

Let me begin with a little history. When the National parks first opened in the second half of the nineteenth century, visitors arrived by stagecoach along dirt roads. Travel through parklands, such as Yosemite or Yellowstone, was long, difficult, and costly. Not many people could afford or endure such a trip. The introduction of the automobile gave every American greater mobility and freedom, which included the freedom to travel and see some of our Nation's great natural wonders. Early in this century, landscape architects from the National Park Service and highway engineers from the U.S. Bureau of Public Roads collaborated to produce many feats of road engineering that opened the National park lands to millions of Americans.

Yet greater mobility and easier access now threaten the very environments that the National Park Service is mandated to protect. The ongoing tension between preservation and access has always been a challenge for our national park system. Today, record numbers of visitors and cars has resulted in increasing damage to our parks. The Grand Canyon alone has almost five million visitors a year. As many as 6,000 vehicles arrive in a single summer day. They compete for 2,400 parking spaces. Between 32,000 and 35,000 tour buses go to the park each year. During the peak summer season, the entrance route becomes a giant parking lot.

In 1975, the total number of visitors to America's national parks was 190 million. By 1999, that number has risen to 287 million annual visitors, almost equal to one visit by every man, woman, and child in this country. This dramatic increase in visitation has created an overwhelming demand on these areas, resulting in severe traffic congestion, visitor restrictions, and in some instances vacationers being shut out of the parks altogether. The environmental damage at the Grand Canyon is visible at many other pars: Yosemite, which has more than four million visitors a year; Yellowstone, which has more than three million visitors a year and experiences such severe traffic congestion that access has to be restricted; Zion; Acadia; Bryce; and many others. We need to solve these problems now or risk permanent harm to our nation's natural, cultural, and historical heritage.

Visitor access to the parks is vital not only to the parks themselves, but to the economic health of their gateway communities. For example, visitors to Yosemite infuse $3 billion a year into the local economy of the surrounding area. At Yellowstone, tourists spend $725 million annually in adjacent communities. Wildlife-related tourism generates an estimated $60 billion a year nationwide. If the parks are forced to close their gates to visitors due to congestion, the economic vitality of the surrounding region would be jeopardized.

The challenge for park management has always been twofold: to conserve and protect the Nation's natural, historical, and cultural resources, while at the same time ensuring visitor access and enjoyment of these sensitive environments. Until now, the principal transportation systems that the Federal Government has developed to provide access into our national parks are roads, primarily for private automobile access. The TRIP legislation recognizes that we need to do more than simply build roads; we must invest in alternative transportation solutions before our national parks are damaged beyond repair.

In developing solutions to the parks' transportation needs, this legislation builds upon the 1997 Memorandum of Understanding between Secretary of Transportation Rodney Slater and Secretary of the Interior Bruce Babbitt, in which the two Departments agreed to work together to address transportation and resource management needs in and around National Parks. The findings in the MOU are especially revealing: Congestion in and approaching many National Parks is causing lengthy traffic delays and backups that substantially detract from the visitor experience. Visitors find that many of the National Parks contain significant noise and air pollution, and traffic congestion similar to that found on the city streets they left behind. In many National Park units, the capacity of parking facilities at interpretive or scenic areas is well below demand. As a result, visitors park along roadsides, damaging park resources and subjecting people to hazardous safety conditions as they walk near busy roads to access visitor use areas. On occasion, National Park units must close their gates during high visitation periods and turn away the public because the existing infrastructure and transportation systems are at, or beyond, the capacity for which they were designed.

In addition, the TRIP legislation is designed to implement the recommendations from a comprehensive study of alternative transportation needs in public lands that I was able to include in the Transportation Equity Act for the 21st Century, TEA–21, as section 3039. The study is nearing completion, and is expected to confirm what those of us who have visited our National parks already know: there is a significant and well-documented need for alternative transportation solutions in the national parks to prevent lasting damage to these incomparable natural treasures.

The Transit in Parks Act will go far toward meeting this need. The bill's objectives are to develop new and expanded mass transit services throughout the national parks and other public lands to conserve and protect fragile natural, cultural, and historical resources and wildlife habitats, to prevent or mitigate adverse impact on those resources and habitats, and to reduce pollution and congestion, while at the same time facilitating appropriate visitor access and improving the visitor experience.

The new Federal transit grant program will provide funding to the Federal land management agencies that manage the 379 various sites within the National Park System, the National Wildlife Refuges, Federal recreational areas, and other public lands, including National Forest System lands, and to their state and local partners. The program will provide capital funds for transit projects, including rail or clean fuel bus projects, joint development activities, pedestrian and bike paths, or park waterway access, within or adjacent to national parks and other public lands. The bill authorizes $65 million for this new program for each of the fiscal years 2002 through 2007. It is anticipated that other resources, both public and private, will be available to augment these amounts.

The bill formalizes the cooperative arrangement in the 1997 MOU between the Secretary of Transportation and the Secretary of the Interior to exchange technical assistance and to develop procedures relating to the planning, selection and funding of transit projects in national park lands. The bill further provides funds for planning, research, and technical assistance that can supplement other financial resources available to the Federal land management agencies. The projects eligible for funding would be developed through the TEA–21 planning process and prioritized for funding by the Secretary of the Interior in consultation and cooperation with the Secretary of Transportation. It is anticipated that the Secretary of the Interior would select projects that are diverse in location and size. While major National parks such as the Grand Canyon or Yellowstone are clearly appropriate candidates for significant transit projects under this section, there are numerous small urban and rural Federal park lands that can benefit enormously from small projects, such as bike paths or improved connections with an urban or regional public transit system. No single project will receive more than 12 percent of the total amount available in any given year. This ensures a diversity of projects selected for assistance.

In addition, I firmly believe that this program will create new opportunities for the Federal land management agencies to partner with local transit agencies in gateway communities adjacent to the parks, both through the TEA–12 planning process and in developing integrated transportation systems. This will spur new economic development within these communities, as they develop transportation centers for park visitors to connect to transit links into the national parks and other public lands.

The ongoing tension between preservation and access has always been a challenge for the National Park Service. Today, that challenge has new dimensions, with overcrowding, pollution, congestion, and resource degradation increasing at many of our national parks. This legislation—the Transit in Parks Act—will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact. At the same time, transit can enhance the economic development potential of our gateway communities.

As we begin a new millennium, I cannot think of a more worthy endeavor to help our environment and preserve our national parks, wildlife refuges, and Federal recreational areas than by encouraging alternative transportation in these areas. My bill is strongly supported by the American Public Transportation Association, the National Parks Conservation Association, Environmental Defense, Community Transportation Association, Friends of the Earth, National Association of Counties, American Planning Association, Surface Transportation Policy Project, Smart Growth America, Scenic America, National Center for Bicycling and Walking, National Association of Railroad Passengers, Great American Station Foundation, and others.

Mr. President, I urge my colleagues to support this important legislation and to recognize the enormous environmental and economic benefits that transit can bring to our national parks.

I ask unanimous consent that the bill, a section-by-section analysis, and letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Transit in Parks Act" or the "TRIP Act".

SEC. 2. FEDERAL LAND TRANSIT PROGRAM.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code, is amended by inserting after section 5315 the following:

"§ 5316. Federal land transit program

"(a) FINDINGS AND PURPOSES.—

"(1) FINDINGS.—Congress finds that—

"(A) section 3039 of the Transportation Equity Act for the 21st Century (23 U.S.C. 138 note; Public Law 105-178) required a comprehensive study, to be conducted by the Secretary of Transportation, in coordination with the Secretary of the Interior, of alternative transportation needs in national parks and related public lands in order to—

"(i) identify the transportation strategies that improve the management of national parks and related public lands;

"(ii) identify national parks and related public lands that have existing and potential problems of adverse impact, high congestion, and pollution, or that can otherwise benefit from alternative transportation modes;

"(iii) assess the feasibility of alternative transportation modes; and

"(iv) identify and estimate the costs of those alternative transportation modes;

"(B) many national parks are experiencing increased visitation and congestion and degradation of the natural, historical, and cultural resources;

"(C) there is a growing need for new and expanded mass transportation services throughout national parks to conserve and protect fragile natural, historical, and cultural resources, prevent adverse impact on those resources, and reduce pollution and congestion while facilitating appropriate visitor mobility and accessibility and improving the visitor experience;

"(D) the Department of Transportation can assist the Federal land management agencies through financial support and technical assistance and further the achievement of national goals to—

"(i) enhance the environment;

"(ii) improve mobility;

"(iii) create more livable communities;

"(iv) conserve energy; and

"(v) reduce pollution and congestion in all regions of the country;

"(E) immediate financial and technical assistance by the Department of Transportation, working with Federal land management agencies and State and local governmental authorities to develop efficient and coordinated mass transportation systems within and in the vicinity of eligible areas, is essential to—

"(i) protect and conserve natural, historical, and cultural resources;

"(ii) prevent or mitigate adverse impacts on those resources;

"(iii) relieve congestion;

"(iv) minimize transportation fuel consumption;

"(v) reduce pollution (including noise pollution and visual pollution); and

"(vi) enhance visitor mobility, accessibility, and the visitor experience; and

"(F) it is in the interest of the United States to encourage and promote the development of transportation systems for the betterment of eligible areas to meet the goals described in clauses (i) through (vi) of subparagraph (E).

"(2) PURPOSES.—The purposes of this section are—

"(A) to develop a cooperative relationship between the Secretary of Transportation and the Secretary of the Interior to carry out this section;

"(B) to encourage the planning and establishment of mass transportation systems and nonmotorized transportation systems needed within and in the vicinity of eligible areas, located in both urban and rural areas, that—

"(i) enhance resource protection;

"(ii) prevent or mitigate adverse impacts on those resources;

"(iii) improve visitor mobility, accessibility, and the visitor experience;

"(iv) reduce pollution and congestion;

"(v) conserve energy; and

"(vi) increase coordination with gateway communities;

"(C) to assist Federal land management agencies and State and local governmental authorities in financing areawide mass transportation systems and nonmotorized transportation systems to be operated by public or private mass transportation providers, as determined by local and regional needs, and to encourage public-private partnerships; and

"(D) to assist in research concerning, and development of, improved mass transportation equipment, facilities, techniques, and methods with the cooperation of public and private companies and other entities engaged in the provision of mass transportation service.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE AREA.—

"(A) IN GENERAL.—The term 'eligible area' means any Federally owned or managed park, refuge, or recreational area that is open to the general public.

"(B) INCLUSIONS.—The term 'eligible area' includes—

"(i) a unit of the National Park System;

"(ii) a unit of the National Wildlife Refuge System; and

"(iii) a recreational area managed by the Bureau of Land Management.

"(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

"(3) MASS TRANSPORTATION.—

"(A) IN GENERAL.—The term 'mass transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis.

"(B) INCLUSIONS.—The term 'mass transportation' includes sightseeing service.

"(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

"(A) a Federal land management agency; or

"(B) a State or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency,

alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

"(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

"(A) is an activity described in section 5302(a)(1), 5303(g), or 5309(a)(1)(A);

"(B) involves—

"(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

"(ii) the deployment of mass transportation vehicles that introduce innovative technologies or methods;

"(C) relates to the capital costs of coordinating the Federal land management agency mass transportation systems with other mass transportation systems;

"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

"(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with the purposes described in subsection (a)(2); or

"(F) is any other mass transportation project that—

"(i) enhances the environment;

"(ii) prevents or mitigates an adverse impact on a natural resource;

"(iii) improves Federal land management agency resource management;

"(iv) improves visitor mobility and accessibility and the visitor experience;

"(v) reduces congestion and pollution (including noise pollution and visual pollution); and

"(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a nontransportation facility).

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

"(1) technical assistance in mass transportation;

"(2) interagency and multidisciplinary teams to develop Federal land management agency mass transportation policy, procedures, and coordination; and

"(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

"(d) TYPES OF ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may enter into a contract, grant, cooperative agreement, interagency agreement, intra-agency agreement, or other agreement to carry out a qualified project under this section.

"(2) OTHER USES.—A grant, cooperative agreement, interagency agreement, intra-agency agreement, or other agreement for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in mass transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

"(e) Limitation on Use of Available Amounts.—

"(1) In general.—The Secretary may allocate not more than 5 percent of the amount made available for a fiscal year under section 5338(j) for use by the Secretary in carrying out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

"(2) Amounts for planning, research, and technical assistance.—Amounts made available under this subsection are in addition to amounts otherwise available for planning, research, and technical assistance under this title or any other provision of law.

"(3) Amounts for qualified projects.—No qualified project shall receive more than 12 percent of the total amount made available under section 5338(j) for any fiscal year.

"(f) Planning Process.—In undertaking a qualified project under this section—

"(1) if the qualified participant is a Federal land management agency—

"(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

"(i) the metropolitan planning provisions under sections 5303 through 5305;

"(ii) the statewide planning provisions under section 135 of title 23; and

"(iii) the public participation requirements under section 5307(c); and

"(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

"(2) if the qualified participant is a State or local governmental authority, or more than 1 State or local governmental authority in more than 1 State, the qualified participant shall—

"(A) comply with sections 5303 through 5305;

"(B) comply with the statewide planning provisions under section 135 of title 23;

"(C) comply with the public participation requirements under section 5307(c); and

"(D) consult with the appropriate Federal land management agency during the planning process.

"(g) Cost Sharing.—

"(1) Departmental share.—The Secretary, in cooperation with the Secretary of the Interior, shall establish the share of assistance to be provided under this section to a qualified participant.

"(2) Considerations.—In establishing the departmental share of the net project cost of a qualified project, the Secretary shall consider—

"(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;.

"(B) the extent to which the qualified participant coordinates with a public or private mass transportation authority;

"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

"(D) the clear and direct benefit to the qualified participant; and

"(E) any other matters that the Secretary considers appropriate to carry out this section.

"(3) Nondepartmental share.—Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the nondepartmental share of the cost of a qualified project.

"(h) Selection of Qualified Projects.—

"(1) In general.—The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

"(2) Considerations.—In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

"(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

"(B) the location of the qualified project, to ensure that the selected qualified projects—

"(i) are geographically diverse nationwide; and

"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

"(C) the size of the qualified project, to ensure that there is a balanced distribution;

"(D) the historical and cultural significance of a qualified project;

"(E) safety;

"(F) the extent to which the qualified project would—

"(i) enhance livable communities;

"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

"(iii) reduce congestion; and

"(iv) improve the mobility of people in the most efficient manner; and

"(G) any other matters that the Secretary considers appropriate to carry out this section, including—

"(i) visitation levels;

"(ii) the use of innovative financing or joint development strategies; and

"(iii) coordination with gateway communities.

"(i) Qualified Projects Carried Out in Advance.—

"(1) In general.—When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary may pay the departmental share of the net project cost of a qualified project if—

"(A) the qualified participant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

"(2) Interest.—

"(A) In general.—The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

"(B) Limitation.—The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

"(C) Certification.—The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

"(j) Full Funding Agreement; Project Management Plan.—If the amount of assistance anticipated to be required for a qualified project under this section is more than $25,000,000—

"(1) the qualified project shall, to the extent that the Secretary considers appropriate, be carried out through a full funding agreement in accordance with section 5309(g); and

"(2) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

"(k) Relationship to Other Laws.—Qualified participants shall be subject to—

"(1) the requirements of section 5333;

"(2) to the extent that the Secretary determines to be appropriate, requirements consistent with those under subsections (d) and (i) of section 5307; and

"(3) any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

"(l) Innovative Financing.—A qualified project assisted under this section shall be eligible for funding through a State Infrastructure Bank or other innovative financing mechanism otherwise available to finance an eligible project under this chapter.

"(m) Asset Management.—The Secretary may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(n) Coordination of Research and Deployment of New Technologies.—

"(1) In general.—The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other agreements for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) Access to information.—The Secretary may request and receive appropriate information from any source.

"(3) Funding.—Grants and contracts under paragraph (1) shall be awarded from amounts allocated under subsection (e)(1).

"(o) Report.—

"(1) In general.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit to the Committee on Transportation and Infrastructure of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the allocation of amounts to be made available to assist qualified projects under this section .

"(2) Annual and supplemental reports.—A report required under paragraph (1) shall be included in the report submitted under section 5309(p).".

(b) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended by adding at the end the following:

"(j) SECTION 5316.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out section 5316 $65,000,000 for each of fiscal years 2002 through 2007.

"(2) AVAILABILITY.—Amounts made available under this subsection for any fiscal year shall remain available for obligation until the last day of the third fiscal year commencing after the last day of the fiscal year for which the amounts were initially made available under this subsection.".

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 49, United States Code, is amended by inserting after the item relating to section 5315 the following:

"5316. Federal land transit program.".

(2) PROJECT MANAGEMENT OVERSIGHT.—Section 5327(c) of title 49, United States Code, is amended in the first sentence—

(A) by striking "or 5311" and inserting "5311, or 5316"; and

(B) by striking "5311, or" and inserting "5311, 5316, or".

(d) TECHNICAL AMENDMENTS.—Chapter 53 of title 49, United States Code, is amended—

(1) in section 5309—

(A) by redesignating subsection (p) as subsection (q); and

(B) by redesignating the second subsection designated as subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998 (112 Stat. 356)) as subsection (p);

(2) in section 5328(a)(4), by striking "5309(o)(1)" and inserting "5309(p)(1)"; and

(3) in section 5337, by redesignating the second subsection designated as subsection (e) (as added by section 3028(b) of the Federal Transit Act of 1998 (112 Stat. 367)) as subsection (f).

TRANSIT IN PARKS ACT—SECTION-BY-SECTION

Section 1: Short title

The Transit in Parks (TRIP) Act.

Section 2: In general

Amends Federal transit laws by adding new section 5316, "Federal Land Transit Program."

Section 3: Findings and purposes

The purpose of this Act is to promote the planning and establishment of alternative transportation systems within, and in the vicinity of, the national parks and other public lands to protect and conserve natural, historical, and cultural resources, mitigate adverse impact on those resources, relieve congestion, minimize transportation fuel consumption, reduce pollution, and enhance visitor mobility and accessibility and the visitor experience. The Act responds to the need for alternative transportation systems in the national parks and other public lands identified in the study conducted by the Department of Transportation pursuant to section 3039 of TEA–21, by establishing Federal assistance to finance mass transportation projects within and in the vicinity of the national parks and other public lands, to increase coordination with gateway communities, to encourage public-private partnerships, and to assist in the research and deployment of improved mass transportation equipment and methods.

Section 4: Definitions

This section defines eligible projects and eligible participants in the program. A "qualified participant" is a Federal land management agency, or a State or local governmental authority acting with the consent of a Federal land management agency. A "qualified project" is a planning or capital mass transportation project, including rail projects, clean fuel vehicles, joint development activities, pedestrian and bike paths, waterborne access, or projects that otherwise better protect the eligible areas and increase visitor mobility and accessibility. "Eligible areas" are lands managed by the National Park Service, the U.S. Fish and Wildlife Service, and the Bureau of Land Management, as well as any other Federally-owned or -managed park, refuge, or recreational area that is open to the general public. Qualified projects may be located either within eligible areas or in gateway communities in the vicinity of eligible areas.

Section 5: Federal Agency cooperative arrangements

This section implements the 1997 Memorandum of Understanding between the Departments of Transportation and the Interior for the exchange of technical assistance in mass transportation, the development of mass transportation policy and coordination, and the establishment of criteria for planning, selection, and funding of projects under this section.

Section 6: Types of assistance

This section gives the Secretary of Transportation authority to provide Federal assistance through grants, cooperative agreements, inter- or intra-agency agreements, or other agreements, including leasing under certain conditions, for a qualified project under this section.

Section 7: Limitation on use of available amounts

This section specifies that the Secretary may not use more than 5% of the amounts available under this section for planning, research, and technical assistance; these amounts can be supplemented from other sources. In addition, to ensure a broad distribution of funds, no project can receive more than 12% of the total amount available under this section in any given year.

Section 8: Planning process

This section requires the Secretaries of Transportation and the Interior to cooperatively develop a planning process consistent with TEA–21 for qualified participants which are Federal land management agencies. If the qualified participant is a State or local governmental authority, the qualified participant shall comply with the TEA–21 planning process and consult with the appropriate Federal land management agency during the planning process.

Section 9: Department's share of the costs

This section requires that in determining the Department's share of the project costs, the Secretary of Transportation, in cooperation with the Secretary of the Interior, must consider certain factors, including visitation levels and user fee revenues, coordination in project development with a public or private transit provider, private investment, and whether there is a clear and direct financial benefit to the qualified participant. The intent is to establish criteria for a sliding scale of assistance, with a lower Departmental share for projects that can attract outside investment, and a higher Departmental share for projects that may not have access to such outside resources. In addition, this section specifies that funds from the Federal land management agencies can be counted toward the local share.

Section 10: Selection of qualified projects

This section provides that the Secretary of the Interior, in cooperation with the Secretary of Transportation, shall prioritize the qualified projects for funding in an annual program of projects, according to the following criteria: (1) project justification, including the extent to which the project conserves resources, prevents or mitigates adverse impact, and enhances the environment; (2) project location to ensure geographic diversity and both rural and urban projects; (3) project size for a balanced distribution; (4) historical and cultural significance; (5) safety; (6) the extent to which the project would enhance livable communities, reduce pollution and congestion, and improve the mobility of people in the most efficient manner; and (7) any other considerations the Secretary deems appropriate, including visitation levels, the use of innovative financing or joint development strategies, and coordination with gateway communities.

Section 11: Undertaking projects in advance

This provision applies current transit law to this section, allowing projects to advance prior to receiving Federal funding, but allowing the advance activities to be counted toward the local share as long as certain conditions are met.

Section 12: Full funding agreement; project management plan

This section provides that large projects require a project management plan, and shall be carried out through a full funding agreement to the extent the Secretary considers appropriate.

Section 13: Relationship to Other Laws

This provision applies certain transit laws to projects funded under this section, and permits the Secretary to apply any other terms or conditions he or she deems appropriate.

Section 14: Innovative financing

This section provides that a project assisted under this Act can also use funding from a State Infrastructure Bank or other innovative financing mechanism that is available to fund other eligible transit projects.

Section 15: Asset management

This provision permits the Secretary of Transportation to transfer control over a transit asset acquired with Federal funds under this section to a qualified government participant in accordance with certain Federal property management rules.

Section 16. Coordination of research and deployment of new technologies

This provision allows the Secretary, in cooperation with the Secretary of the Interior, to enter into grants or other agreements for research and deployment of new technologies to meet the special needs of eligible areas under this Act.

Section 17: Report

This section requires the Secretary of Transportation to submit a report on projects funded under this section to the House Transportation and Infrastructure Committee and the Senate Banking, Housing, and Urban Affairs Committee, to be included in the Department's annual project report.

Section 18: Authorization

$65,000,000 is authorized to be appropriated for the Secretary to carry out this program for each of the fiscal years 2002 through 2007.

Section 19: Conforming amendments

Confirming amendments to the transit title, including an amendment to allow 0.5% per year of the funds made available under this section to be used for project management oversight.

Section 20: Technical amendments

Technical corrections to the transit title in TEA–21.

AMERICAN PUBLIC
TRANSPORTATION ASSOCIATION,
Washington, DC, June 6, 2001.

Hon. PAUL S. SARBANES,
Chairman, Committee on Banking, Housing, and Urban Affairs,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: Thank you for sharing with us a copy of the "Transit in Parks (TRIP) Act" which would amend the federal transit law at chapter 53, title 49 U.S.C.

The Act would authorize federal assistance to certain federal agencies and state and local entities to finance mass transportation projects generally for the purpose of addressing transportation congestion and mobility issues at national parks and other eligible areas. In addition, the legislation would encourage enhanced cooperation between the Departments of Transportation and Interior regarding joint efforts of those federal agencies to encourage the use of public transportation at national parks.

I am pleased to support your efforts to improve mobility in our national parks. Public transportation clearly has much to offer citizens who visit these national treasures, where congestion and pollution are significant—and growing—problems. Moreover, this legislation should broaden the base of support for public transportation, a key principle APTA has been advocating for many years. In that regard, we will review your bill with APTA's legislative leadership.

I applaud you for writing the legislation, and look forward to continuing to work with you and your staff. Let us know what we can do to help your initiative!

Sincerely yours,
WILLIAM W. MILLAR,
President.

NATIONAL PARKS
CONSERVATION ASSOCIATION,
Washington, DC, May 23, 2001.

Hon. PAUL SARBANES,
Hart Office Building,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the National Parks Conservation Association (NPCA) and its over 400,000 members, I want to thank you for proposing the Transit in Parks Act that will enhance transit options for access to and within our national parks. NPCA applauds your leadership and foresight in recognizing the critical role that mass transit can play in protecting our parks and improving the visitor experience.

Visitation to America's national parks has skyrocketed during the past two decades, from 190 million visitors in 1975 to approximately 286 million visitors last year. Increased public interest in these special places has placed substantial burdens on the very resources that draw people to the parks. As more and more individuals crowd into our national parks—typically by automobile—fragile habitat, endangered plants and animals, unique cultural treasures, and spectacular natural resources and vistas are being damaged from air and water pollution, noise intrusion, and inappropriate use.

As outlined in your legislation, the establishment of a program within the Department of Transportation dedicated to enhancing transit options in and adjacent to the national parks will have a powerful, positive effect on the future ecological and cultural integrity of the parks. Your initiative will boost the role of alternative transportation solutions for national parks, particularly those most heavily impacted by visitation such as Yellowstone-Grand Teton, Yosemite, Grand Canyon, Acadia, and the Great Smoky Mountains national parks. For instance, development of transportation centers and auto parking lots outside the parks, complemented by the use of buses, vans, or rail systems, and/or bicycle and pedestrian pathways would provide much more efficient means of handling the crush of visitation. The benefit of such systems has already been demonstrated in a number of parks such as Zion and Cape Cod.

Equally important, the legislation will provide an excellent opportunity for the National Park Service (NPS) to enter into public/private partnerships with states, localities, and the private sector, providing a wider range of transportation options than exists today. These partnerships could leverage funds that NPS currently has great difficulty accessing.

NPCA wholeheartedly endorses your bill as a creative new mechanism to fulfill the primary mission of the National Park System: "to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

We look forward to working with you to move this legislation to enactment

Sincerely,
THOMAS C. KIERNAN,
President.

FRIENDS OF THE EARTH,
June 27, 2001.

Hon. PAUL SARBANES,
Hart Office Building,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of Friends of the Earth, I want to thank you for proposing the Transit in Parks Act. This important bill will enhance transit options for access to and within our national parks. Your leadership in this matter is greatly appreciated.

Americans are visiting our national parks at an unprecedented rate, with visitation growing from 190 million visitors in 1975 to approximately 286 million visitors last year. With increased visitation comes an increased burden on the parks. As more and more individuals take their cars into our national parks, fragile habitat, endangered plants and animals, unique cultural treasures, and spectacular natural resources and vistas are being damaged from air and water pollution, noise intrusion, and inappropriate use.

Your innovative legislation would establish a program within the Department of Transportation dedicated to enhancing transit options in and adjacent to the national parks. This is of vital importance for the future of our national parks. Your initiative will boost the role of alternative transportation solutions for national parks, particularly those most heavily impacted by visitation. For instance, development of transportation centers and auto parking lots outside the parks, complemented by the use of buses, vans, or rail systems, and/or bicycle and pedestrian pathways would provide much more efficient means of handling the crush of visitation. The benefit of such systems has already been demonstrated in a number of parks such as Zion and Cape Cod.

We look forward to working with you to move this legislation to enactment.

Sincerely,
DAVID HIRSCH,
Transportation Policy Coordinator.

ENVIRONMENTAL DEFENSE,
Washington, DC, May 22, 2001.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: I am writing on behalf of the Environmental Defense Fund and our 300,000 members to express support for your bill, the Transit in Parks Act, which will provide dedicated funding for transit projects in our national parks. Too many of our parks suffer from the consequences of poor transportation systems; traffic congestion, air and water pollution, and disturbance of natural ecosystems.

Increased funding for attractive and effective transit services to and within our national parks is essential to mitigating these growing problems. A good working transit system in a number of our national parks will make the park experience not only more enjoyable for the many families that travel there, it will help improve environmental conditions. Air pollutants that exacerbate respiratory health problems, damage vegetation, and contribute to haze which too often obliterates the views at our parks, will be abated by decreasing the number of cars and congestion levels in the parks. Improved transit related to our parks is key to diversifying transportation choices and access for the benefit of all who might visit our national park system. It is also vital to assuring equal access for all citizens to our parks, including those without cars.

We appreciate your leadership on this issue and your dedication to the health of our national parks and expanded choices in our transportation systems. We look forward to working with you to move your legislation forward.

Sincerely,
MICHAEL REPLOGLE,
Transportation Director.

COMMUNITY TRANSPORTATION
ASSOCIATION,
Washington, DC, June 7, 2001.

Hon. PAUL SARBANES,
Committee on Banking, Housing and Urban Affairs,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: The Community Transportation Association continues to support your efforts to provide alternative transportation strategies in our national parks and other public lands. Our association's 3,400 members provide public and community transportation services in many of the smaller communities that border these national parks, monuments, and recreational areas, and our association has members actively involved in providing transportation services at several national parks.

All of us know the danger that congestion and increases in traffic pose for the future of these sites and locations. Your continued sponsorship of the Transit in Parks Act is an important step in helping ensure that America's natural beauty and historic treasures remain a continuous part of our nation's future. We have members throughout the country whose experiences support the principle that public transit investments in and near national parks and public lands can improve mobility, support the economic vitality of these parks' "gateway communities," and make dramatic improvements in the experiences of park visitors, employees, and community residents alike.

As an illustration of this point, enclosed is an article recently published in our Community Transportation magazine that discusses public transportation as part of the solution to traffic congestion and mobility issues in Acadia, Yosemite and Zion National Parks. These success stories could be replicated in many other communities under your Transit in Parks proposal.

We appreciate your dedicated efforts and initiative in this regard, and look forward to helping you advance this important piece of legislation.

Sincerely,

DALE J. MARSICO,
Executive Director.

AMENDMENTS SUBMITTED AND PROPOSED

SA 831. Mr. BOND (for himself, Mr. ROBERTS, and Mr. HELMS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

SA 832. Mr. FRIST (for himself, Mr. BREAUX, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 833. Mr. WARNER proposed an amendment to the bill S. 1052, supra.

SA 834. Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON, of Nebraska, Mr. SPECTER, Mr. MCCAIN, Mr. BAUCUS, Ms. STABENOW, and Mr. CHAFEE) proposed an amendment to the bill S. 1052, supra.

SA 835. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 836. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 837. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 838. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, supra; which was ordered to lie on the table.

SA 839. Mrs. HUTCHISON (for herself and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill S. 1052, supra.

SA 840. Mr. ENZI proposed an amendment to the bill S. 1052, supra.

SA 841. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 842. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1052, supra.

SA 843. Mr. GRAMM (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1052, supra.

SA 844. Mr. SPECTER proposed an amendment to the bill S. 1052, supra.

SA 845. Mr. GRASSLEY proposed an amendment to the bill S. 1052, supra.

SA 846. Mr. NICKLES (for himself and Mr. ENSIGN) proposed an amendment to the bill S. 1052, supra.

SA 847. Mr. BROWNBACK proposed an amendment to the bill S. 1052, supra.

SA 848. Mr. ENSIGN proposed an amendment to the bill S. 1052, supra.

SA 849. Mr. ENSIGN proposed an amendment to the bill S. 1052, supra.

TEXT OF AMENDMENTS

SA 831. Mr. BOND (for himself, Mr. ROBERTS, and Mr. HELMS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 154, between lines 2 and 3, insert the following:

"(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

"(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

"(C) DEFINITIONS.—In this paragraph:

"(i) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred in connection with such representation or work.

"(ii) AWARD.—The term 'award' means the sum of—

"(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

"(aa) final court decision;

"(bb) court order;

"(cc) settlement agreement;

"(dd) arbitration procedure; or

"(ee) alternative dispute resolution procedure (including mediation); plus

"(II) any attorney's fees awarded under subsection (g)(1) with respect to the participant or beneficiary (or estate); less

"(III) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

On page 169, between lines 12 and 13, insert the following:

"(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

"(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

"(C) DEFINITIONS.—In this paragraph:

"(i) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred in connection with such representation or work.

"(ii) AWARD.—The term 'award' means the sum of—

"(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

"(aa) final court decision;

"(bb) court order;

"(cc) settlement agreement;

"(dd) arbitration procedure; or

"(ee) alternative dispute resolution procedure (including mediation); less

"(II) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection."

SA 832. Mr. FRIST (for himself, Mr. BREAUX, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 105, line 2, after "treatment" insert the following: "The name of the designated decision-maker (or decision-makers) appointed under section 502(n)(2) of the Employee Retirement Income Security Act of 1974 for purposes of making final determinations under section 103 and approving coverage pursuant to the written determination of an independent medical reviewer under section 104.".

Beginning on page 139, strike line 21 and all that follows through line 14 on page 171, and insert the following:

SEC. 302. AVAILABILITY OF COURT REMEDIES.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

"(n) CAUSE OF ACTION RELATING TO DENIAL OF A CLAIM FOR HEALTH BENEFITS.—

"(1) IN GENERAL.—

"(A) FAILURE TO COMPLY WITH EXTERNAL MEDICAL REVIEW.—With respect to an action commenced by a participant or beneficiary (or the estate of the participant or beneficiary) in connection with a claim for benefits under a group health plan, if—

"(i) a designated decision-maker described in paragraph (2) fails to exercise ordinary care in approving coverage pursuant to the written determination of an independent medical reviewer under section 104(d)(3)(F) of the Bipartisan Patient Protection Act that reverses a denial of the claim for benefits; and

"(ii) the failure described in clause (i) is the proximate cause of substantial harm (as defined in paragraph (10)(G)) to the participant or beneficiary;

such designated decision-maker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

“(B) WRONGFUL DETERMINATION RESULTING IN DELAY IN PROVIDING BENEFITS.—With respect to an action commenced by a participant or beneficiary (or the estate of the participant or beneficiary) in connection with a claim for benefits under a group health plan, if—

“(i) a designated decision-maker described in paragraph (2)—

“(I) fails to exercise ordinary care in making a determination denying the claim for benefits under section 102 of the Bipartisan Patient Protection Act (relating to an initial claim for benefits); or

“(II) fails to exercise ordinary care in making a determination denying the claim for benefits under section 103 of such Act (relating to an internal appeal);

“(ii) the denial described in clause (i) is reversed by an independent medical reviewer under section 104(d) of such Act, or the coverage for the benefit involved is approved after the denial is referred to the independent medical reviewer but prior to the determination of the reviewer under such section; and

“(iii) the delay attributable to the failure described in clause (i) is the proximate cause of substantial harm to, or the wrongful death of, the participant or beneficiary;

such designated decision-maker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

“(C) LIMITATION ON LIABILITY BASED ON APPOINTMENT OF DESIGNATED DECISION-MAKER.—If a plan sponsor or named fiduciary appoints a designated decision-maker in accordance with paragraph (2), the plan sponsor or named fiduciary, or any other person or group health plan (or their employees) associated with the plan sponsor or named fiduciary, shall not be liable under this paragraph. The appointment of a designated decision-maker in accordance with paragraph (2) shall not affect the liability of the appointing plan sponsor or named fiduciary for the failure of the plan sponsor or named fiduciary to comply with any other requirement of this title.

“(D) PREVENTION OF DUPLICATION OF ACTION WITH ACTION UNDER STATE LAW.—No action may be brought under this subsection based upon facts and circumstances if a cause of action under State law is brought based upon the same facts and circumstances.

“(2) DESIGNATED DECISION-MAKER.—

“(A) APPOINTMENT.—

“(i) IN GENERAL.—The plan sponsor or named fiduciary of a group health plan shall, in accordance with this paragraph, designate one or more persons to serve as a designated decision-maker with respect to causes of action described in subparagraphs (A) and (B) of paragraph (1), except that—

“(I) with respect to health insurance coverage offered in connection with a group health plan, the health insurance issuer shall be the designated decision-maker unless the plan sponsor and the issuer specifically agree in writing (on a form to be prescribed by the Secretary) to substitute another person as the designated decision-maker; or

“(II) with respect to the designation of a person other than a plan sponsor or health insurance issuer, such person shall satisfy the requirements of subparagraph (D).

“(ii) PLAN DOCUMENTS.—The designated decision-maker shall be specifically designated as such in the written instruments of the plan (under section 402(a)) and be identified as required under section 121(b)(14) of the Bipartisan Patient Protection Act.

“(B) AUTHORITY.—A designated decision-maker appointed under subparagraph (A) shall have the exclusive authority under the group health plan—

“(i) to make determinations with respect to a claim for benefits under section 102 of the Bipartisan Patient Protection Act (relating to an initial claim for benefits);

“(ii) to make final determinations under section 103 of such Act (relating to an internal appeal); or

“(iii) to approve coverage pursuant to the written determination of independent medical reviewers under section 104 of such Act.

“(C) ALLOCATION OF RESPONSIBILITY.—Responsibility may be allocated among different designated decision-makers with respect to—

“(i) for purposes of paragraph (1)(A), the approval of coverage under section 104 of the Bipartisan Patient Protection Act;

“(ii) for purposes of paragraph (1)(B), making determinations on a claim for benefits under section 102 of such Act (relating to an initial claim for benefits); and

“(iii) for purposes of paragraph (1)(B), making final determinations on claims for benefits under section 103 of such Act (relating to internal appeals),

except that not more than one designated decision-maker may be appointed with respect to each level of review under clauses (i), (ii), and (iii). Where such an allocation is made, liability under a cause of action under paragraph (1) shall be assessed against the appropriate designated decision-maker.

“(D) QUALIFICATIONS.—

“(i) CERTIFICATION OF ABILITY.—To be appointed as a designated decision-maker under this paragraph, a person shall provide to the plan sponsor or named fiduciary a certification of such person's ability to meet the requirements of clause (ii) relating to financial obligation for liability under this subsection. Such certification shall be provided upon appointment and not less frequently than annually thereafter, or if the designation is pursuant to a multi-year contract, in conjunction with the renewal of the contract, but in no case less than once every 3 years.

“(ii) OTHER REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of clause (i), requirements relating to financial obligation for liability shall include evidence of—

“(I) coverage of the person under insurance policies or other arrangements, secured and maintained by the person, to insure the person against losses arising from professional liability claims, including those arising from being designated as a designated decision-maker under this paragraph; or

“(II) minimum capital and surplus levels that are maintained by the person to cover any losses as a result of liability arising from being designated as a designated decision-maker under this paragraph.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subclauses (I) and (II) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and shall be maintained throughout the course of the contract in which such person is designated as a designated decision-maker.

“(E) FLEXIBILITY IN ADMINISTRATION.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, may provide—

“(i) that any person or group of persons may serve in more than one capacity with respect to the plan or coverage (including service as a designated decision-maker, administrator, and named fiduciary); or

“(ii) that a designated decision-maker may employ one or more persons to provide advice with respect to any responsibility of such decision-maker under the plan or coverage.

“(F) FAILURE TO APPOINT.—

“(i) IN GENERAL.—With respect to any cause of action under paragraph (1) relating to a denial of a claim for benefits where a designated decision-maker has not been appointed in accordance with this paragraph, the plan sponsor or named fiduciary responsible for determinations under section 503 shall be deemed to be the designated decision-maker.

“(ii) LIMITATION ON APPOINTMENT.—A treating health care professional who directly delivered the care, treatment, or provided the patient service that is the subject of an action under this subsection may not be designated as a designated decision-maker under this paragraph unless the professional—

“(I) is a person or entity that may be appointed in accordance with subparagraph (A); and

“(II) specifically agrees to accept such appointment in accordance with the requirements under such subparagraph.

“(3) REQUIREMENT OF EXHAUSTION OF INDEPENDENT MEDICAL REVIEW.—

“(A) IN GENERAL.—Paragraph (1) shall apply only if a final determination denying a claim for benefits under section 103 of the Bipartisan Patient Protection Act has been referred for independent medical review under section 104(d) of such Act and a written determination by an independent medical reviewer to reverse such final determination has been issued with respect to such review or where the coverage for the benefit involved is approved after the denial is referred to the independent medical reviewer but prior to the determination of the reviewer under such section.

“(B) EXCEPTION TO EXHAUSTION FOR NEEDED CARE.—A participant or beneficiary may seek relief under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under section 103 or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court, by a preponderance of the evidence, that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Any determinations that already have been made under section 102, 103, or 104 of such Act in such case, or that are made in such case while an action under this subparagraph is pending, shall be given due consideration by the court in any action under this subsection in such case. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available under—

“(i) paragraph (1), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met; or

“(ii) subsection (q) unless the requirements of such subsection are met.

“(4) LIMITATIONS ON RECOVERY OF DAMAGES.—

"(A) Maximum award of noneconomic damages.—The aggregate amount of liability for noneconomic loss in an action under paragraph (1) may not exceed the greater of—

"(i) $750,000; or

"(ii) an amount equal to 3 times the amount awarded for economic loss.

"(B) Increase in amount.—The amount referred to in subparagraph (A)(i) shall be increased or decreased, for each calendar year that ends after December 31, 2002, by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2002.

"(C) Several liability.—In the case of any action commenced pursuant to paragraph (1), the designated decision-maker shall be liable only for the amount of noneconomic damages attributable to such designated decision-maker in direct proportion to such decision-maker's share of fault or responsibility for the injury suffered by the participant or beneficiary. In all such cases, the liability of a designated decision-maker for noneconomic damages shall be several and not joint.

"(D) Treatment of collateral source payments.—

"(i) In general.—In the case of any action commenced pursuant to paragraph (1), the total amount of damages received by a participant or beneficiary under such action shall be reduced, in accordance with clause (ii), by any other payment that has been, or will be, made to such participant or beneficiary, pursuant to an order or judgment of another court, to compensate such participant or beneficiary for the injury that was the subject of such action.

"(ii) Amount of reduction.—The amount by which an award of damages to a participant or beneficiary for an injury shall be reduced under clause (i) shall be—

"(I) the total amount of any payments (other than such award) that have been made or that will be made to such participant or beneficiary to pay costs of or compensate such participant or beneficiary for the injury that was the subject of the action; less

"(II) the amount paid by such participant or beneficiary (or by the spouse, parent, or legal guardian of such participant or beneficiary) to secure the payments described in subclause (I).

"(iii) Determination of amounts from collateral sources.—The reduction required under clause (ii) shall be determined by the court in a pretrial proceeding. At the subsequent trial no evidence shall be admitted as to the amount of any charge, payments, or damage for which a participant or beneficiary—

"(I) has received payment from a collateral source or the obligation for which has been assured by a third party; or

"(II) is, or with reasonable certainty, will be eligible to receive from a collateral source which will, with reasonable certainty, be assumed by a third party.

"(E) Prohibition of award of punitive damages.—Notwithstanding any other provision of law, in the case of any action commenced pursuant to paragraph (1), the court may not award any punitive, exemplary, or similar damages against a defendant.

"(5) Affirmative defenses.—In the case of any cause of action under paragraph (1), it shall be an affirmative defense that—

"(A) the designated decision-maker of a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, involved did not receive from the participant or beneficiary (or authorized representative) or the treating health care professional (if any), the information requested by the plan or issuer regarding the medical condition of the participant or beneficiary that was necessary to make a determination on a claim for benefits under section 102 of the Bipartisan Patient Protection Act or a final determination on a claim for benefits under section 103 of such Act;

"(B) the participant or beneficiary (or authorized representative)—

"(i) was in possession of facts that were sufficient to enable the participant or beneficiary (or authorized representative) to know that an expedited review under section 102, 103, or 104 of such Act would have prevented the harm that is the subject of the action; and

"(ii) failed to notify the plan or issuer of the need for such an expedited review; or

"(C) the qualified external review entity or an independent medical reviewer failed to meet the timelines applicable under section 104 of such Act, or a period of time elapsing after coverage has been authorized.

Nothing in this paragraph shall be construed to limit the application of any other affirmative defense that may be applicable to the cause of action involved.

"(6) Waiver of internal review.—In the case of any cause of action under paragraph (1), the waiver or nonwaiver of internal review under section 103(a)(4) of the Bipartisan Patient Protection Act by the group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall not be used in determining liability.

"(7) Limitations on actions.—Paragraph (1) shall not apply in connection with any action that is commenced more than 3 years after the date on which the failure described in paragraph (1) occurred.

"(8) Protection of the regulation of quality of medical care under State law.—Nothing in this subsection shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (as such term is defined in section 102(e)(2) of the Bipartisan Patient Protection Act and notwithstanding the definition contained in paragraph (10)(B)) shall not be deemed to be the delivery of medical care under any State law for purposes of this section. Any such claim shall be maintained exclusively under section 502.

"(9) Construction.—Nothing in this subsection shall be construed as authorizing a cause of action under paragraph (1) for the failure of a group health plan or health insurance issuer to provide an item or service that is specifically excluded under the plan or coverage.

"(10) Definitions.—In this subsection:

"(A) Authorized representative.—The term 'authorized representative' has the meaning given such term in section 102(e)(1) of the Bipartisan Patient Protection Act.

"(B) Claim for benefits.—Except as provided for in paragraph (8), the term 'claim for benefits' shall have the meaning given such term in section 103(e)(2) of the Bipartisan Patient Protection Act, except that such term shall only include claims for which prior authorization is required (as such term is defined in section 151(c)(9) of such Act)).

"(C) Group health plan.—The term 'group health plan' shall have the meaning given such term in section 733(a). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

"(D) Health insurance coverage.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

"(E) Health insurance issuer.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2).

"(F) Ordinary care.—The term 'ordinary care' means the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in making a determination on a claim for benefits of a similar character.

"(G) Substantial harm.—The term 'substantial harm' means the loss of life, loss or significant impairment of limb or bodily function, significant mental illness or disease, significant disfigurement, or severe and chronic physical pain.".

(b) Authority to Impose Civil Penalties for Failure to Provide a Plan Benefit Not Eligible for Medical Review.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsection (a), is further amended by adding at the end the following:

"(o) Authority to Impose Civil Penalties for Failure to Provide a Plan Benefit Not Eligible for Medical Review.—In connection with any action maintained under subsection (a)(1)(B), the court, in its discretion, may assess a civil penalty against the designated decision-maker (as designated pursuant to section 502(n)(2)) of a group health plan or a health insurance issuer (that offers health insurance coverage in connection with a group health plan) of not to exceed $100,000 where—

"(1) in its final determination under section 103(d)(2) of the Bipartisan Patient Protection Act, the designated decision-maker fails to provide, or authorize coverage of, a benefit to which a participant or beneficiary is entitled under the terms and conditions of the plan;

"(2) the participant or beneficiary has appealed such determination under section 104 of such Act and such determination is not subject to independent medical review as determined by a qualified external review entity under section 104(c)(3)(A) of such Act;

"(3) the plan has failed to exercise ordinary care in making a final determination under section 103(d)(2) of such Act denying a claim for benefits under the plan; and

"(4) that denial is the proximate cause of substantial harm (as defined in subsection (n)(10)(G)) the participant or beneficiary.".

(c) Limitation on Certain Class Action Litigation.—

(1) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsections (a) and (b), is further amended by adding at the end the following:

"(p) Limitation on Class Action Litigation.—

"(1) In general.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms ‘group health plan’ and ‘health insurance coverage’ have the meanings given such terms in section 733.’’.

‘‘(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after the date of enactment of the Bipartisan Patient Protection Act. This subsection shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to such date of enactment.’’.

(2) RICO.—Section 1964(c) of title 18, United States Code, is amended—

(1) by inserting ‘‘(1)’’ after the subsection designation; and

(2) by adding at the end the following:

‘‘(2)(A) No action may be brought under this subsection, or alleging any violation of section 1962, where the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974. In this paragraph, the terms ‘group health plan’ and ‘health insurance issuer’ shall have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

‘‘(B) Subparagraph (A) shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act and all actions commenced on or after such date.’’.

(d) CONFORMING AMENDMENT.—Section 502(a)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(1)(A)) is amended by inserting ‘‘or (n)’’ after ‘‘subsection (c)’’.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after October 1, 2002.

SA 833. Mr. WARNER proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 154, between lines 2 and 3, insert the following:

‘‘(11) LIMITATION ON AWARD OF ATTORNEYS’ FEES.—

‘‘(A) IN GENERAL.—Subject to subparagraph (C), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys’ fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action) may not exceed the sum of the amounts described in subparagraph (B).

‘‘(B) AMOUNTS DESCRIBED.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

‘‘(i) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of attorneys’ fees awarded may not exceed an amount equal to ⅓ of the amount of the recovery.

‘‘(ii) With respect to a recovery in such a cause of action that exceeds $100,000 but does not exceed $500,000, the amount of the attorneys’ fees awarded may not exceed an amount equal to 25 percent of such excess recovery above $100,000.

‘‘(iii) With respect to a recovery in such a cause of action that exceeds $500,000, the amount of the attorneys’ fees awarded may not exceed an amount equal to 15 percent of such excess recovery above $500,000.

‘‘(C) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of an award of attorneys’ fees required under sub paragraph (A) as equity and the interests of justice may require.

On page 170, between lines 21 and 22, insert the following:

‘‘(9) LIMITATION ON ATTORNEYS’ FEES.—

‘‘(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys’ fees, subject to subparagraph (B), a court shall limit the amount of attorneys’ fees that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of attorneys’ fees that may be awarded under section 502(n)(11).

‘‘(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of attorneys’ fees allowed under subparagraph (A) as equity and the interests of justice may require.’’

SA 834. Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON of Nebraska, Mr. SPECTER, Mr. MCCAIN, Mr. BAUCUS, Ms. STABENOW, and Mr. CHAFEE) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 106, between lines 16 and 17, insert the following:

(19) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(o) of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.

On page 141, strike lines 16 through 21, and insert the following: ‘‘tions of the plan or coverage, and’’.

On page 142, lines 10 and 11, strike ‘‘or the failure described in clause (ii)’’.

On page 143, strike lines 12 through 18, and insert the following: ‘‘benefits of like kind to the claims involved.’’.

On page 145, strike lines 15 through 20, and insert the following: ‘‘of a denial of a claim for benefits.’’.

Beginning on page 145, strike line 22 and all that follows through line 6 on page 146, and insert the following:

‘‘(i) IN GENERAL.—For purposes of subparagraph (B), the term ‘direct participation’ means, in connection with a decision described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

On page 146, line 14, strike ‘‘clause (i) of’’.

On page 146, strike lines 16 through 20, and insert the following: ‘‘or beneficiary, including (but not lim-’’.

On page 148, between lines 23 and 24, insert the following:

‘‘(D) APPLICATION TO CERTAIN PLANS.—

‘‘(i) IN GENERAL.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty under the plan.

‘‘(ii) DEFINITION.—A group health plan described in this clause is—

‘‘(I) a group health plan that is self-insured and self administered; or

‘‘(II) a group health plan that is maintained by one or more employers or employee organizations described in section 3(16)(B)(iii).

On page 156, between lines 15 and 16, insert the following:

‘‘(17) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

‘‘(A) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (5)(C)(i)) of an employer or plan sponsor, in any case in which there is deemed to be a designated decisionmaker under subparagraph (B) that meets the requirements of subsection (o)(1) for an employer or other plan sponsor—

‘‘(i) all liability of such employer or plan sponsor (and any employee thereof acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

‘‘(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or plan sponsor (or employee) in the action and may not raise any defense that the employer or plan sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

‘‘(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

‘‘(18) PREVIOUSLY PROVIDED SERVICES.—

‘‘(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

‘‘(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

‘‘(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

“(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

“(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

“(19) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

“(A) a member of a board of directors of an employer or plan sponsor; or

“(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

“(o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

“(1) IN GENERAL.—For purposes of subsection (n)(17) and section 514(d)(9),' a designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

“(A) such designation is in such form as may be prescribed in regulations of the Secretary,

“(B) the designated decisionmaker—

“(i) meets the requirements of paragraph (2),

“(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee thereof acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(17) or section 514(d)(9) is in effect relating to such participant and beneficiary,

“(iii) agrees to be substituted for the employer or plan sponsor (or employee) in the action and not to raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

“(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, and

“(C) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(19) of the Bipartisan Patient Protection Act.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

“(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

“(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(17)(B) or section 517(d)(9)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

“(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issue, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

“(3) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

“(A) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this part; or

“(B) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this part.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect.

“(4) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decisionmaker under this subsection with respect to such participant or beneficiary.

Beginning on page 161, strike line 14, and all that follows through line 13 on page 162, and insert the following:

“(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action that is brought by a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment) if such cause of action arises by reason of a medically reviewable decision, to the extent that there was direct participation by the employer or other plan sponsor (or employee) in the decision.

On page 162, lines 19 and 20, strike “(i) or a failure described in subparagraph (B)(ii)”.

On page 163, line 6, strike “paragraph (B)(i)” and insert “paragraph (B)”.

On page 163, line 8, strike “or that” and all that follows through “ficiary” on line 11.

On page 170, between lines 21 and 22, insert the following:

“(9) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

“(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action provides for liability of an employer or plan sponsor (or an employee thereof acting within the scope of employment) with respect to a participant or beneficiary, if with respect to the employer or plan sponsor there is deemed to be a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law against the designated decisionmaker of such employer or other plan sponsor with respect to the participant or beneficiary.

“(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

“(10) PREVIOUSLY PROVIDED SERVICES.—

“(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

“(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

“(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

“(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

“(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

“(11) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

“(A) a member of a board of directors of an employer or plan sponsor; or

“(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

SA 835. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 119, between lines 5 and 6, insert the following:

SEC. 136. PRESERVATION OF THE HIPPOCRATIC OATH.

(a) IN GENERAL.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a physician (or group of physicians) shall require that such physician—

(1) provide notice to each participant, beneficiary, or enrollee that the physician treats of whether or not the physician has taken and upholds the Hippocratic Oath; and

(2) in the case of a physician who notifies such participant, beneficiary, or enrollee that the physician does not uphold any part of the Oath, disclose the part of the Oath to which he or she does not subscribe.

(b) SPECIFIC AREAS OF DISCLOSURE.—A physician making a disclosure under subsection (a)(2) shall, in particular, disclose the following:

(1) That the physician does not hold the patient's health above all other consideration as in accordance with the Hippocratic Oath.

(2) That in violation of the Hippocratic oath the physician engages in physical relationships with his or her patients.

(3) That the physician does not preserve the confidentiality of his or her patients, as is required by the Hippocratic Oath.

(4) That in direct violation of the Hippocratic Oath the physician engages in euthanasia, or suggests council to assist in suicide.

(5) That the physician, in violation of the Hippocratic Oath, performs abortions.

(c) COVERAGE OF OTHER PHYSICIANS.—If a participant, beneficiary or enrollee receives a notice under subsection (a) that a physician has not taken or does not uphold the Hippocratic Oath, the group health plan or health insurance issuer involved shall permit such participant, beneficiary or enrollee to select another physician who has taken or does uphold the Oath. The plan or issuer shall provide coverage for the treatment of services provided by a physician selected under the previous sentence regardless of whether such physician is in the plan or coverage network.

(d) LIMITATION.—Nothing in this section shall be construed to preempt or supersede any State licensure or scope-of-practice law.

SA 836. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 171, between lines 14 and 15, insert the following:

SEC. 303. DEDICATION OF PUNITIVE DAMAGES FOR THE PURCHASE OF HEALTH INSURANCE COVERAGE.

(a) AWARD OF PORTION OF DAMAGES.—

(1) IN GENERAL.—If any penalty is assessed, or non-economic or punitive damages are awarded with respect to a cause of action under section 502(n) or 514(d) of the Employee Retirement Income Security Act of 1974 (as added by section 302), the court shall award the amount described in paragraph (2) to the State health insurance trust fund established under subsection (b) for the State in which the claim was filed to enable the State to provide refundable tax credits to enable individuals in the State to purchase health insurance coverage.

(2) AMOUNT.—The amount awarded to a State under paragraph (1) shall consist of—

(A) any penalty assessed that is not awarded to the aggrieved participant or beneficiary; and

(B) any non-economic or punitive damages awarded in excess of $2,000,000.

(b) STATE REQUIREMENTS.—

(1) STATE HEALTH INSURANCE TRUST FUND.—A State that desires to receive payments under subsection (a) shall establish a State health insurance trust fund.

(2) REFUNDABLE TAX CREDIT.—

(A) IN GENERAL.—The refundable tax credit described in subsection (a)(1) shall—

(i) be available to any resident of a State who—

(I) is without access to adequate health insurance through the resident's employer; or

(II) is from a family with an income that is less that 220 percent of the poverty line, is not eligible for benefits under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), is not eligible for veteran's health benefits, and is younger than 65 years of age; and

(ii) be used to provide a benefit for private insurance that includes, at a minimum, catastrophic coverage.

(B) TIME PERIOD.—

(i) IN GENERAL.—A State shall have in place a refundable tax credit, as described in subsection (a)(1), not later than 2 years after the date of enactment of the Bipartisan Patient Protection Act.

(ii) TRANSFER OF FUNDS.—A State that fails to have a refundable tax credit in place as required by clause (i) shall transfer any funds described in subsection (a)(2) to the National Institutes of Health.

SA 837. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. ___. IMPROVED FLEXIBILITY FOR EMPLOYERS IN OBTAINING HEALTH INSURANCE COVERAGE FOR EMPLOYEES.

(a) FREEDOM FROM EMPLOYER LIABILITY.—In the case of a group health plan, or health insurance coverage provided by a health insurance issuer, that meets the requirements of subsection (b)—

(1) an employer maintaining the plan or entering into an arrangement for the coverage provided by the issuer shall not be liable pursuant to any cause of action relating to the provision of (or failure to provide, or manner of provision of) benefits under any health insurance coverage that may be secured by participants, beneficiaries, or enrollees in connection with the plan, or under the coverage provided by the issuer for participants, beneficiaries, or enrollees; and

(2) there shall be no right of recovery, indemnity, or contribution by a person against such an employer (or an employee of such an employer acting within the scope of employment) for damages assessed against the person pursuant to any such cause of action.

(b) REQUIREMENTS.—A group health plan or health insurance coverage provided by a health insurance issuer meets the requirements of this subsection if—

(1) such plan or coverage provides compensation to employees for personal injuries or sickness, within the meaning of section 106(a) of the Internal Revenue Code of 1986;

(2) under such plan or the arrangement for such coverage, all employer contributions are in the form of payments on behalf of participants, beneficiaries, or enrollees and are placed into a separate trust that forms a part of such plan or the arrangement for such coverage and that meets the additional requirements of subsection (d);

(3) the assets of such trust consist solely of such employer contributions and any income earned from investment of the contributions;

(4) the assets of such trust (other than assets used for payment of necessary and reasonable administrative expenses of the trust) are held in such trust for the sole purpose of, and are available for, payment by participants, beneficiaries, or enrollees of premiums for, or otherwise providing for the cost to participants, beneficiaries, or enrollees of—

(A) health insurance coverage for the participants, beneficiaries, or enrollees that is made available under the plan for acquisition by the participants, beneficiaries, or enrollees and that meets the applicable requirements of law; or

(B) coverage provided by the issuer for participants, beneficiaries, or enrollees that meets the applicable requirements of law;

(5) under such plan or arrangement for such coverage, at least 2 alternative and substantially different forms of health insurance coverage are available for acquisition by each participant, beneficiary, or enrollee with assets of the trust attributable to contributions to the trust on behalf of such participant, beneficiary, or enrollee; and

(6) the participant, beneficiary, or enrollee (and not the employer, plan, or issuer) has a right to the health insurance coverage provided to the participant, beneficiary, or enrollee under the plan or the coverage provided by the issuer.

(c) FIDUCIARY LIABILITY.—In the case of any group health plan or health insurance coverage provided by a health insurance issuer that meets the requirements of subsection (b)—

(1) the trustee of the separate trust referred to in subsection (b)(2) shall be the named fiduciary of the plan or the issuer, with respect to such coverage; and

(2) such trustee shall be treated, for purposes of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) and any other applicable provision of law, as the sole and exclusive fiduciary of the plan or the issuer with respect to assets held in such trust.

(d) SEPARATE TRUST REQUIREMENTS.—

(1) IN GENERAL.—A separate trust referred to in subsection (b)(2) meets the requirements of this subsection if each trustee of the trust—

(A) is not a related party;

(B) does not have a material familial, financial, or professional relationship with such a party; and

(C) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(2) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in paragraph (1) shall be construed to prohibit receipt by a trustee of the separate trust of compensation from the plan or issuer for the conduct of the trustee's duties as trustee, except that any such compensation—

(A) may not exceed a reasonable level; and

(B) may not be contingent on any decision rendered by the trustee in the exercise of the trustee's duties.

(3) RELATED PARTY.—For purposes of this subsection, the term "related party" means, in connection with a separate trust forming a part of the plan or the arrangement for such coverage, the plan, the plan sponsor, any health insurance issuer offering the coverage involved, or any fiduciary (except as provided in subsection (c)(2)), officer, director, or employee of such plan, plan sponsor, or issuer.

(e) RULES OF CONSTRUCTION.—

(1) ADDITIONAL EMPLOYEE CONTRIBUTIONS PERMITTED.—The requirements of this section shall not be treated as not met solely because a participant, beneficiary, or enrollee may need to supplement employer contributions provided under the plan or arrangement for coverage for purposes of acquiring health insurance coverage, in order to acquire such coverage.

(2) LIABILITY OF OTHER PARTIES UNAFFECTED.—Nothing in this section shall be construed to affect any cause of action in connection with the health insurance coverage referred to in subsection (a)(1) against the plan sponsor or health insurance issuer providing such coverage or any other party (other than the employer).

(f) DEFINITIONS.—The definitions contained in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91) shall apply for purposes of this section.

(g) REGULATIONS.—The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury may issue such regulations as are necessary to carry out the provisions of this section. Such regulations shall be issued consistent with section 104 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg–92 note).

SA 838. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

Beginning on page 98, strike line 2 and all that follows through line 21 on page 109, and insert the following:

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year;

(iii) of information relating to any material reduction to the benefits or information described in paragraph (1), (2), or (3) of subsection (b), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect; and

(iv) of the additional information described in subsection (c).

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(2) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(b)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(3) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(4) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee, as provided for under subsection (d), and through other, easily accessible means, including electronically via the Internet, shall include for each option available under a group health plan or health insurance coverage the following:

(1) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(2) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients, and the State licensure status of the providers and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(3) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(4) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(5) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(6) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(7) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(8) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(9) Emergency services.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(10) Claims and appeals.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(11) Advance directives and organ donation.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(12) Information on plans and issuers.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(13) Translation services.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(14) Accreditation information.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(15) Notice of requirements.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Bipartisan Patient Protection Act (excluding those described in paragraphs (1) through (14)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(16) Utilization review activities.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 101 and 102, including any drug formulary program under section 118.

(17) External appeals information.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) Rules of Construction.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

SA 839. Mrs. HUTCHISON (for herself and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 101, between lines 14 and 15, insert the following:

(3) Disenrollment.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

SA 840. Mr. ENZI proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 172, between lines 15 and 16, insert the following:

SEC. 304. IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.

(a) In general.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

"(p) Immunity from Liability for Provision of Insurance Options.—

"(1) In general.—No liability shall arise under subsection (n) with respect to a participant or beneficiary against a group health plan described in paragraph (4) if such plan offers the participant or beneficiary the coverage option described in paragraph (2).

"(2) Coverage option.—The coverage option described in this paragraph is one under which the group health plan, at the time of enrollment or as provided for in paragraph (3), provides the participant or beneficiary with the option to—

"(A) enroll for coverage under a fully insured health plan; or

"(B) receive an individual benefit payment, in an amount equal to the amount that would be contributed on behalf of the participant or beneficiary by the plan sponsor for enrollment in the group health plan (as determined by the plan actuary, including factors relating to participant or beneficiary's age and health status), for use by the participant or beneficiary in obtaining health insurance coverage in the individual market.

"(3) Time of offering of option.—The coverage option described in paragraph (2) shall be offered to a participant or beneficiary—

"(A) during the first period in which the individual is eligible to enroll under the group health plan; or

"(B) during any special enrollment period provided by the group health plan after the date of enactment of the Patients' Bill of Rights Plus Act for purposes of offering such coverage option.

"(4) Group health plan described.—A group health plan described in this paragraph is a group health plan that is self-insured and self-administered prior to the general effective date described in section 401(a)(1) of the Bipartisan Patient Protection Act.".

(b) Amendments to Internal Revenue Code.—

(1) Exclusion from income.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following:

"(d) Treatment of Certain Coverage Option Under Self-Insured Plans.—No amount shall be included in the gross income of an individual by reason of—

"(1) the individual's right to elect a coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, or

"(2) the receipt by the individual of an individual benefit payment described in section 502(o)(2)(A) of such Act."

(2) Nondiscrimination rules.—Section 105(h) of such Code (relating to self-insured medical expense reimbursement plans) is amended by adding at the end the following:

"(11) Treatment of certain coverage options.—If a self-insured medical reimbursement plan offers the coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, employees who elect such option shall be treated as eligible to benefit under the plan and the plan shall be treated as benefiting such employees."

SA 841. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. REFUNDABLE TAX CREDITS FOR THE UNINSURED FINANCED WITH CERTAIN CIVIL MONETARY PENALTIES.

(a) PAYMENT OF CERTAIN PENALTIES TO SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, 75 percent of any civil monetary penalty in any proceeding allowed under any provision of, or amendment made by, this Act may only be awarded to the Secretary of the Treasury.

(2) CIVIL MONETARY PENALTY.—For purposes of this section, the term "civil monetary penalty" means damages awarded for the purpose of punishment or deterrence, and not solely for compensatory purposes. Such term includes exemplary and punitive damages or any similar damages which function as civil monetary penalties. Such term does not include either economic or non-economic losses. Such term does not include the portion of any award of damages that is not payable to a party or the attorney for a party pursuant to applicable State law.

(b) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. HEALTH INSURANCE REFUNDABLE CREDITS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Health Insurance Refundable Credits Trust Fund', consisting of such amounts as may be—

"(1) appropriated to such Trust Fund as provided in this section, or

"(2) credited to such Trust Fund as provided in section 9602(b).

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN AWARDS.—There are hereby appropriated to the Health Insurance Refundable Credits Trust Fund amounts equivalent to the awards received by the Secretary of the Treasury under section __(a) of the Bipartisan Patient Protection Act.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Health Insurance Refundable Credits Trust Fund shall be available to fund the appropriations under paragraph (2) of section 1324(b) of title 31, United States Code, with respect to any refundable tax credit to assist uninsured individuals and families with the purchase of health insurance under this title.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"9511. Health Insurance Refundable Credits Trust Fund.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SA 842. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 171, between lines 14 and 15, insert the following:

SEC. 303. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

(a) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

"(o) LIMITATION ON CLASS ACTION LITIGATION.—

"(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.".

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.".

(b) RICO.—Section 1964(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following:

"(2)(A) No private action may be brought under this subsection, or alleging any violation of section 1962, where the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974. In this paragraph, the terms 'group health plan' and 'health insurance issuer' shall have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

"(B) Subparagraph (A) shall apply to private civil actions that are filed on or after January 1, 2002.".

SA 843. Mr. GRAMM (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Insert at the appropriate place:

Notwithstanding any other provision of this act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined in the plain language of the plan or coverage documents under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required, provided that the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

SA 844. Mr. SPECTER proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 153, strike line 9 and all that follows through page 154, line 2, and insert the following:

"(10) STATUTORY DAMAGES.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection. In such actions, the court shall apply the tort laws of the State in determining damages. If such damages are not limited under State law in actions brought under this subsection against a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan), then State law limiting such damages in actions brought against health care entities shall apply until such State enacts legislation imposing such limits against group health plans (and issuers). Nothing in this section shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and issuers.

On page 160, between lines 2 and 3, insert the following:

"(D) ACTIONS IN FEDERAL COURT.—A cause of action described in subparagraph (A) shall be brought and maintained only in the Federal district court for the district in the State in which the alleged injury or death that is the subject of such action occurred. In any such action, the court shall apply the laws of such State in determining liability and damages. If such State limits the amount of damages that a plaintiff may receive, such limits shall apply in such actions.

On page 156, strike lines 15 and 16 and insert the following:

subsection.

"(o) LIMITATION ON CLASS ACTION LITIGATION.—

"(1) LIMITATION.—

"(A) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative action claimant, or the group of claimants is limited to the participants, beneficiaries, or enrollees with respect to a group health plan established by only 1 plan sponsor or with respect to coverage provided by only 1 issuer. No action maintained by such class, such derivative action claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative action claimant, or group of claimants or consolidated for any purpose with any other proceeding.

"(B) DEFINITIONS.—In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—Paragraph (1) shall apply to all actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act, and all actions that are filed not earlier than that date.".

(2) RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.—Section 1964(c) of title 18, United States Code, is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following:

"(2)(A)(i) No action may be brought under this subsection, or alleging any violation of section 1962, if the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated or provided a group health plan, or health insurance coverage issued in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974.

"(ii) In this subparagraph, the terms 'group health plan' and 'health insurance issuer' have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

"(B) Subparagraph (A) shall apply to actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act, and all actions that are filed not earlier than that date.".

(3) CONFORMING AMENDMENT.—Section

SA 845. Mr. GRASSLEY proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 179, strike lines 1 through 14.

SA 846. Mr. NICKLES (for himself and Mr. ENSIGN) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Beginning on page 173, strike line 19 and all that follows through line 14 on page 174, and insert the following:

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—The amendments made by sections 201(a), 301, 302, and 303 (and title I insofar as it relates to such sections) shall apply to group health plans maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers beginning on the general effective date.

SA 847. Mr. BROWNBACK proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

At the end of the bill, add the following:

TITLE —HUMAN—GERMLINE GENE MODIFICATION

SEC. 01. SHORT TITLE.

This title may be cited as the "Human Germline Gene Modification Prohibition Act of 2001".

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering, of existing people. Its target population is "prospective people" who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as "damaged goods", while the standards for what is genetically desirable will be those of the society's economically and politically dominant groups. This will only increase prejudices and discrimination in a society where too many such prejudices already exist.

(3) There is no way to be accountable to those in future generations who are harmed or stigmatized by wrongful or unsuccessful human germline modifications of themselves or their ancestors.

(4) The negative effects of human germline manipulation would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm probably often fatal as the result of only a few instances of germline manipulations.

(5) All people have the right to have been conceived, gestated, and born without genetic manipulation.

SEC. 03. PROHIBITION ON HUMAN GERMLINE GENE MODIFICATION

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"Chapter 16—Germline Gene Modification

"Sec.
"301. Definitions
"302. Prohibition on germline gene modification.

"§ 301. Definitions

"In this chapter:

(1) HUMAN GERMLINE GENE MODIFICATION.—The term 'human germline modification' means the intentional modification of DNA in any human cell (including human eggs, sperm, fertilized eggs, zygotes, blastocysts, embryos, or any precursor cells that will differentiate into gametes or can be manipulated to do so) for the purpose of producing a genetic change which can be passed on to future individuals, including inserting, deleting or altering DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA. The term does not include any modification of cells that are not a part of and will not be used to create human embryos. Nor does it include the change of DNA involved in the normal process of sexual reproduction.

"(2) HUMAN HAPLOID CELL.—The term 'haploid cell' means a cell that contains only a single copy of each of the human chromosomes, such as eggs, sperm, and their precursors.

"(3) SOMATIC CELL.—The term 'somatic cell' means a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or deceased human body at any stage of development. Somatic cells are diploid cells that are not precursors of either eggs or sperm. A genetic modification of somatic cells is therefore not germline genetic modification.

Rule of construction: Nothing in this Act is intended to limit somatic cell gene therapy, or to effect research involving human pluripotent stem cells.

"§ 302. Prohibition on germline gene modification

"(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce—

"(1) to perform or attempt to perform human germline gene modification;

"(2) to intentionally participate in an attempt to perform "human germline gene modification; or

"(3) to ship or receive the product of human germline gene modification for any purpose.

"(b) IMPORTATION.—It shall be unlawful for any person or entity, public or private, to import the product of human germline gene modification for any purpose.

"(c) PENALTIES.—

"(1) In general.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

"(2) CIVIL PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

"(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

"16. Germline Gene Modification .... 301".

SA 848. Mr. ENSIGN proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

At the end, add the following:

SEC. . IMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, no health care professional shall be liable for the performance of, or the failure to perform, any duty in providing pro bono medical services to a medically underserved or indigent individual.

(b) DEFINITIONS.—In this section:

(1) HEALTH CARE PROFESSIONAL.—The term "health care professional" has the meaning given the term in section 151.

(2) MEDICALLY UNDERSERVED OR INDIGENT INDIVIDUAL.—The term "medically underserved or indigent individual" means an individual that does not have health care coverage under a group health plan, health insurance coverage, or any other health care coverage program, or who is unable to pay for the health care services that are provided to the individual.

SA 849. Mr. ENSIGN proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Subtitle C of title I is amended by adding at the end the following:

SEC. 122. GENETIC INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CONTROLLED GROUP.—The term "controlled group" means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

(2) FAMILY MEMBER.—The term "family member" means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

(3) GENETIC INFORMATION.—The term "genetic information" means information about

genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(4) Genetic services.—The term "genetic services" means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

(5) Genetic test.—The term "genetic test" means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

(6) Group health plan, health insurance issuer.—The terms "group health plan" and "health insurance issuer" include a third party administrator or other person acting for or on behalf of such plan or issuer.

(7) Predictive genetic information.—

(A) In general.—The term "predictive genetic information" means—

(i) information about an individual's genetic tests;

(ii) information about genetic tests of family members of the individual; or

(iii) information about the occurrence of a disease or disorder in family members.

(B) Limitations.—The term "predictive genetic information" shall not include—

(i) information about the sex or age of the individual;

(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.

(b) Nondiscrimination.—

(1) No enrollment restriction for genetic services.—A group health plan, and a health insurance issuer offering health insurance coverage, shall not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on genetic information (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in relation to the individual or a dependent of the individual.

(2) No discrimination in group rate based on predictive genetic information.—A group health plan, and a health insurance issuer offering health insurance coverage, shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(3) Limitation on genetic testing.—

(A) Limitation on requesting or requiring genetic testing.—A group health plan, or a health insurance issuer offering health insurance coverage, shall not request or require an individual or a family member of such individual to undergo a genetic test.

(B) Rule of construction.—Nothing in this section shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

(4) Collection of predictive genetic information.—Except as provided in subsections (c) and (d), a group health plan, or a health insurance issuer offering health insurance coverage, shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(5) Disclosure of predictive genetic information.—A group health plan, or a health insurance issuer offering health insurance coverage, shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) to—

(A) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;

(B) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

(C) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

(D) the individual's employer or any plan sponsor; or

(E) any other person the Secretary may specify in regulations.

(c) Information for Payment for Genetic Services.—

(1) In general.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a group health plan, or a health insurance issuer offering health insurance coverage, may request that the individual provide the plan or issuer with evidence that such services were performed.

(2) Rule of construction.—Nothing in paragraph (1) shall be construed to—

(A) permit a group health plan or health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

(B) require that a group health plan or health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

(d) Information for Payment of Other Claims.—With respect to the payment of claims for benefits other than genetic services, a group health plan, or a health insurance issuer offering health insurance coverage, may request that an individual provide predictive genetic information so long as such information—

(1) is used solely for the payment of a claim;

(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

(e) Rules of Construction.—

(1) Collection or disclosure authorized by individual.—The provisions of paragraphs (4) (regarding collection) and (5) of subsection (b) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

(2) Disclosure for health care treatment.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

(f) Violation of Genetic Discrimination or Genetic Disclosure Provisions.—

(1) In general.—In any action under a covered provision against any administrator of a group health plan, or health insurance issuer offering health insurance coverage (including any third party administrator or other person acting for or on behalf of such plan or issuer) alleging a violation of subsection (b), (c), or (d), the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

(2) Definition.—In this subsection, the term "covered provision" means section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) or section 2722 or 2761 of the Public Health Service Act (42 U.S.C. 300gg–2, 300gg–61).

(g) Civil Penalty.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (f), except that any such relief awarded shall be paid only into the general fund of the Treasury.

(h) Special Rule in Case of Genetic Information.—With respect to health insurance coverage offered by a health insurance issuer, the provisions of this section relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law that establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by the individual or a family member of such individual); or

(2) prohibits discrimination on the basis of genetic information than does this section.

At the end of title II, insert the following:

SEC. 203. ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.

Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking "If the plan sponsor" and inserting "Except as provided in subparagraph (D), if the plan sponsor"; and

(2) by adding at the end the following:

"(D) Election not applicable to requirements concerning genetic information.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (b), (c), and (d) of section 122 of the Bipartisan Patient Protection Act and the provisions of section 2702(b) to the extent that the subsections and section apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).".

SEC. 204. APPLICATION OF GENETIC NONDISCRIMINATION REQUIREMENTS TO MEDIGAP PLANS.

(a) NONDISCRIMINATION.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

"(E) Each issuer of a medicare supplemental policy, and each such policy offered by such an issuer, shall comply with the requirements under section 122 of the Bipartisan Patient Protection Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to each issuer of a medicare supplemental policy and each such policy for policy years beginning after October 1, 2002.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the amendment made by subsection (a), the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act (42 U.S.C. 1395ss) due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than June 30, 2002, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendment made by subsection (a), such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2002, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section; or

(ii) October 1, 2002.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the amendment made by subsection (a); but

(ii) having a legislature which is not scheduled to meet in 2002 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2002. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 205. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subchapter C as subchapter D; and

(2) by inserting after subchapter B the following:

"SUBCHAPTER C—PATIENT PROTECTION STANDARDS

"SEC. 9821. PATIENT PROTECTION STANDARDS.

"Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this section.".

(b) APPLICATION TO EMPLOYERS WITH FEWER THAN 2 EMPLOYEES.—Section 9831(a) of the Internal Revenue Code of 1986 is amended by striking "this chapter" and inserting "this chapter (other than section 9821, with respect to the application of section 122 of the Bipartisan Patient Protection Act)".

After section 301, insert the following:

SEC. 301A. APPLICATION TO EMPLOYERS WITH FEWER THAN 2 EMPLOYEES.

Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking "section 711" and inserting "sections 711 and 714(a) (with respect to the application of section 122 of the Bipartisan Patient Protection Act)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURAL, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, June 28, 2001. The purpose of this hearing will be to discuss the next Federal farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 2:30 p.m., in open session to receive testimony on the fiscal year 2002 budget amendment, in review of the Defense authorization request for fiscal year 2002 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during these session of the Senate on June 28, 2001, to conduct a hearing on "The Reauthorization of the Iran and Libya Sanctions Act."

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, June 28 at 9:30 a.m. to conduct an oversight hearing. The committee will receive testimony on science and technology studies on climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 2 p.m. to hold a hearing titled, "Zimbabwe's Political and Economic Crisis" as follows:

WITNESSES

Panel 1: Walter H. Kansteiner, Assistant Secretary of State for African Affairs, Department of State, Washington, DC.

Panel 2: Professor Robert Rotberg, President, World Peace Foundation, Cambridge, MA.

Yves Sorokobi, Africa Director, Committee to Protect Journalists, New York, NY.

Mr. John Prendergast, International Crisis Group, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet Thursday, June 28, 2001, at 9:30 am for a hearing regarding "The Impact of Electric Industry Restructuring on System Reliability."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 10 a.m., to receive testimony from Members of the House of Representatives on election reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 10 a.m., in room 418 of the Russell Senate Office Building, for a hearing on pending veterans' benefits legislation as follows:

S. 1090: Cost-of-living adjustment for veterans' benefits. Sponsor: Senator ROCKEFELLER.

S. 1089: U.S. Court of Appeals for Veterans Claims (CAVC) succession plan to address judges retiring in 2004/2005. Repeals the NOD as a jurisdictional threshold for appearing before the CAVC. Sponsor: Senator ROCKEFELLER.

S. 1091: (1) Eliminates the 30-year limit on manifestation from time of exposure for the presumption of service connection for Agent Orange-related respiratory cancer; (2) Restores a VA presumption, eliminated by a Court decision, that in-country Vietnam veterans were exposed to Agent Orange; (3) tasks the National Academy of Sciences to continue reporting on Agent Orange and its association with disease for 10 more years (5 reports). Sponsor: Senator ROCKEFELLER.

S. 1063: CAVC-requested bill pertaining to administrative matters. Sponsor: Senator ROCKEFELLER.

S. 1088. Creates flexibility for MGIB to pay for high tech/short-term courses. Sponsor: Senator ROCKEFELLER.

S. 1093: Miscellaneous veterans' benefits provisions (based on informal input from VA):

COMPENSATION

a. Eliminate compensation for incarcerated persons—We previously enacted legislation to reduce compensation to incarcerated veterans to the equivalent of 10 percent, disability compensation (or, if they only received 10 percent, to the equivalent of 5 percent). Veterans that were already incarcerated were grandfathered out of the reduction. This change would stop only future payments to these veterans.

b. Reduce benefits for fugitive felons—Currently, veterans who are fugitive from justice are eligible to receive VA benefits. This would bar them from receiving benefits while a fugitive (fleeing prosecution, confinement for a felony, or in violation of a condition of probation or parole).

c. Duty to assist (technical corrections).

VOCATIONAL REHABILITATION

Eliminate the cap of 500 veteran participants in Voc Rehab's "Independent Living" program. The cap was set when the program was initially piloted. While the time limit on the program was repealed, the cap on participants was not. VA has not turned any one away from the program, but has been exceeding 500 veterans in the last couple of years. The goal of the program is to assist a veteran who is too disabled to retrain for employment to achieve and maintain a stated independent living outcome.

LOAN GUARANTY

Increase the home loan guaranty amount to $63,175 from the current $50,750, to keep pace with FHA (and the even higher Fannie Mae or Freddie Mac). The VA amount has not been increased since 1994.

EDUCATION

Overturn court decision eliminating the delimiting date for use of chapter 35 educational benefits by surviving spouses. The spouse would be allowed to choose the beginning date of the eligibility period. It could be any date between the effective date of the rating of the veteran's service-connected disability as permanently and totally disabling, and the date VA notified the veteran of this fact. A 10-year period would run from the date the spouse chose.

PENSION

a. Excludes life insurance proceeds from countable income for determination of nonservice-connected death pension eligibility for poor surviving spouses of wartime veterans. Currently, counting life insurance could make the spouse ineligible for a year. Modifies effective date of beginning benefits.

b. Modifies the requirement for pensioners to report changes in income at the end of the month, to the end of the year.

S. 131: To increase the rate of the basic benefit of MGIB to the average cost of tuition next fiscal year, and then modify the annual COLA to be pegged to educational inflation. Sponsor: Senator JOHNSON.

S. 228: To make permanent the Native American veterans housing loan program. The program is set to expire in 2002. Sponsor: Senator AKAKA.

S. 409: To clarify the standards for compensation for Persian Gulf veterans suffering from certain undiagnosed illnesses and to extend Persian Gulf compensation presumption. Sponsor: Senator HUTCHISON.

S. 457: To establish a presumption of service connection for certain veterans with hepatitis C. Sponsor: Senator SNOWE.

S. 662: To authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graces of, or to otherwise commemorate, certain individuals if buried after November 1, 1990. Sponsor: Senator DODD.

S. 781: To extend the authority for housing loan guaranties for members of the Selected Reserve now set to expire in 2007. Sponsor: Senator AKAKA.

S. 912: To increase burial benefits for veterans from $300 to $1,135 and from $1,500 to $3,713, and plot allowances from $150 to $670. Also, to index future increases to the CPI. Sponsor: Senator MIKULSKI.

S. 937: To permit the relevant Secretary to transfer entitlement to MGIB educational assistance from members of the Armed Forces to their dependents for up to 18 months of benefits, and allow them to receive the payment as an accelerated payment for a term/semester (solely upon the discretion of the Secretary). Sponsor: Senator CLELAND.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Thursday, June 28, 2001, from 10 a.m.–12 p.m. in Dirksen 226 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine of the Committee on Commerce, Science, and Transportation be authorized to meet on June 28, 2001, at 2:30 p.m., on Surface Transportation Board Rail Merger Rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 1077

Mr. REID. Mr. President, I ask unanimous consent that at 1 p.m., Monday, July 9, the Senate proceed to the consideration of Calendar No. 76, S. 1077, the supplemental appropriations bill; that the bill be considered under the following limitations: that the only first-degree amendments in order other than a managers' amendment be the following list which is at the desk; that all listed amendments must be offered by 6 p.m. Monday, July 9, with the exception of the managers' amendment; that the managers or designees be authorized to offer any listed first-degree amendment in order for that amendment to qualify under the deadline; that any listed first-degree amendment be subject to relevant second-degree amendments; that any time limitation for debate on a first-degree amendment specified in this agreement then a second-degree amendment to that amendment would be accorded the same time limit; further, that upon disposition of the above amendments, the bill be advanced to third reading and the Senate then proceed to the consideration of Calendar No. 77, H.R. 2216; that all after the enacting clause be stricken and the text of S. 1077, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and the Senate then vote on passage of the bill, with no intervening action or debate; finally, I ask unanimous consent that S. 1077 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of amendments is as follows:

Biden amendment re: Relevant,
Bond amendment re: Department of Defense,
Bond amendment re: Corp of Engineers,
Boxer amendment re: Sudden Oak Death,
Boxer amendment re: Path 15,
Byrd amendment re: Relevant,
Byrd amendment re: Relevant to any on list,
Cleland amendment re: B–1 bomber transportation,
Conrad amendment re: Turtle Mountain Indian Reservation,
Conrad amendment re: Devil's Lake,
Conrad amendment re: Relevant,
Craig amendment re: Relevant,
Daschle amendment re: Relevant,
Daschle amendment re: Relevant to any on list,
Feingold amendment re: Relevant,
Feingold amendment re: Klamath Basin,
Feinstein amendment re: Klamath Basin,
Hutchinson (AR) amendment re: AR ice storms,
Inouye amendment re: Relevant,
Johnson amendment re: Relevant,
Lott amendment re: Relevant,
Lott amendment re: Relevant to any on list,
McCain amendment re: Defense,
McCain amendment re: Dept. of Defense with a time limit of 2 hours equally divided and controlled,
Nickles amendment re: Relevant,
Miller amendment re: B–1 bomber transportation,
Reid (NV) amendment re: Relevant,
Reid (NV) amendment re: Relevant to any on list,
Roberts amendment re: B–1 bombers,
Schumer amendment re: IRS,
Schumer amendment re: Relevant,
(4) Smith (OR) amendment re: Klamath Falls,
Stevens amendment re: Relevant,

Stevens amendment re: Relevant to any on list,

Voinovich amendment re: Social Security Lock Box,

Warner amendment re: Building naming,

Wellstone amendment re: LIHEAP.

ORDERS FOR FRIDAY, JUNE 29, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it adjourn until the hour of 9 a.m. tomorrow, Friday, June 29. I further ask consent that on Friday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Patients' Bill of Rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I announce that tomorrow we will convene at 9 a.m. and that shortly thereafter, as soon as the prayer and pledge are completed, we will resume consideration of the Patients' Bill of Rights, with the votes as outlined previously in the unanimous consent request.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:30 p.m., adjourned until Friday, June 29, 2001, at 9 a.m.

NOMINATIONS

EXECUTIVE NOMINATIONS RECEIVED BY THE SENATE JUNE 28, 2001:

DEPARTMENT OF COMMERCE

LINDA MYSLIWY CONLIN, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE MICHAEL J. COPPS, RESIGNED.

DEPARTMENT OF ENERGY

DAN R. BROUILLETTE, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS), VICE JOHN C. ANGELL, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

DONALD R. SCHREGARDUS, OF OHIO, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE STEVEN ALAN HERMAN, RESIGNED.

DEPARTMENT OF STATE

STUART A. BERNSTEIN, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

CHARLES A. HEIMBOLD, JR., OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWEDEN.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

CAROLE BROOKINS, OF INDIANA, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS, VICE JAN PIERCY, TERM EXPIRED.

DEPARTMENT OF DEFENSE

H. T. JOHNSON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE ROBERT B. PIRIE, JR., RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. PAUL V. HESTER, 2071

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. LANCE L. SMITH, 7660

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. THOMAS C. WASKOW, 1732

EXTENSION OF REMARKS

SOPHIE HEIMBACH'S 100TH BIRTHDAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GILMAN. Mr. Speaker, I rise today to honor a wonderful woman, Sophie Heimbach who will be 100 years old on August 10, 2001. As is the case with most Jews born in the early twentieth century, Sophie's life began very peacefully, and happily. She was born on August 10, 1901 in Ochtrup, Germany. In 1938, with the rising strength of the Nazi party, Sophie was forced to flee Germany. While at first she was able to make a new home in Belgium, the outbreak of World War Two forced her to flee again, this time for France, Spain, Portugal, and finally Casablanca. As if being uprooted from one's home and having a death marking on one's chest were not bad enough, Sophie was also separated from her family for a very painful period of time. We have all heard tales of the horrors for the Jews during World War Two, but this woman lived them, and she did it not knowing what would become of her family.

Sophie was reunited with her husband and family in Casablanca, and from that point slowly began to relearn the small joys in life, even amidst pain. Casablanca led Sophie and her family to Cuba, and then eventually to the United States in 1942. They moved to Goshen, New York where Sophie earned her U.S. citizenship in 1947. Sophie and her husband worked diligently and humbly in their first months in the United States. She worked as a housekeeper for a wealthy landowner, and her husband Arthur as a farm hand. After a mere nine months, Sophie and Arthur had the resources to fulfill their American dream enabling them to purchase the family farm in Wallkill, New York. The Heimbach family flourished during their time in Wallkill, and succeeded in developing their farm to over 400 acres.

Arthur is now deceased, but he and Sophie are followed by two children, Charlotte and Louis, five grandchildren, and six great grandchildren.

Sophie is a woman of great devotion and dedication to her temple, her home and her family. She has lived a full life with as much grief as joy, hardship as luck. I invite my colleagues to join me in honoring her on her millstone 100th birthday.

PROSPECTS FOR UNITED STATES-VENEZUELAN RELATIONS IN THE CHAVEZ ERA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. TOWNS. Mr. Speaker, United States-Venezuelan relations recently have become a matter of concern on the current administration's Latin American foreign policy agenda due to some provocative statements made by President Hugo Chavez. The United States imports 14 percent of its oil from Venezuela, and with President Chavez being driven by his concern over maximizing profits to help serve one of his own policy goals of creating a "Latin American Union," the United States has possible cause for worry that what may be good for Venezuela may not be good for American interests.

Chavez also has visited recently with Saddam Hussein and Fidel Castro, criticized Plan Colombia and denounced Washington's $1.3 billion funding of it, which has heightened Washington's edginess over the new status quo. But all of us must keep in mind that it is all but certain that the Venezuelan president's vision for a more unified Latin America will not disappear, and is shared by millions of other Latin Americans.

It is clear that patience is being called for as well as a sense of proportionality. After all, Chavez, at the present time, poses no danger to vital United States interests, and we risk destructive backlash from Latin America if the United States acts too harshly against the Venezuelan leader. Moreover, many of his condemnations of the development model are also being echoed by dissident IMF and World Bank officials.

The following research memorandum was authored by Pamela Spivack and Jill Freeman, Research Associates with the Washington-based Council of Hemispheric Affairs (COHA), an organization that has been long committed to addressing issues associated with democracy and human rights throughout the Hemisphere. COHA's researchers have often spoken out about controversial United States policies towards Latin American countries, and we have all benefited over the years from such insights. The attached article, which will appear in this organization's estimable biweekly publication, The Washington Report on the Hemisphere, addresses United States-Venezuelan relations and how Chavez's rhetoric has worried and concerned Washington. The article also points out that these alienating attitudes toward the United States as well as Venezuela's status as the world's third largest oil exporter are potential causes for the United States to reexamine its benign policies toward Caracas, emphasizing that caution and moderation are now required.

[From the Washington Report on the Hemisphere, June 25, 2001]

CAPITAL WATCH: PROSPECTS FOR U.S.-VENEZUELAN RELATIONS IN THE CHÁVEZ ERA

As concern grows in Washington over President Hugo Chávez's domestic and foreign policy moves, relations with Caracas could soon being to seriously erode. Chávez's leftist Bolivarian rhetoric, his opposition to U.S. antidrug initiatives in Colombia, his close friendship with Fidel Castro, as well as the country's status as a major supplier of petroleum to the U.S., may persuade the administration to reexamine its relatively docile policies towards Venezuela.

The hero of the country's poor, his constituency carried him to an overwhelming victory first in 1998, and then again in 2000. Chávez speaks about integrating the continent, including the military, which is of great importance for both the goals of justice and the ability to combat external imperialist measures. Meanwhile, the Bush administration's fears that the strong man will need to be cut down are growing. Although the State Department's Peter Romero blasted Chávez's support of Colombia's leftist guerrillas in front of a Miami-Cuban audience, Washington's fears had remained latent, far down on its hemispheric agenda. This benign stance was due to the Clinton administration's "positive engagement" policy, geared to facilitate equitable ties with the rest of the region. However, there is speculation that Bush may more intensely monitor Caracas' political and economic actions in an effort to block Chávez's "Latin American Union" from coming to fruition.

DISSEMINATION OF VENEZUELAN RHETORIC

To the consternation of Washington policymakers, specific events have highlighted Chávez's efforts to export his peaceful revolution to neighboring countries. He has roundly criticized Plan Colombia, a massive U.S. military-driven scenario aimed at interdicting and destroying the drug cartels. He recently denounced Washington's $1.3 billion funding of it as well as its components, such as intensified training of the military and Bogota's growing deployment of offensive helicopters, as a dangerous intervention that will not be successful. At a news conference at the U.N. Millennium Summit, September 2000, Chávez emphasized, "The only solution for Colombia is peace. Sending helicopter gunships to

Colombia is not the only regional country of interest to the Venezuelan leader. According to El País of Spain, there is evidence that Caracas has supported radicalized indigenous movements in Bolivia to demonstrate the solidarity of like-minded movements. At the Ibero-American Summit in Panama, 2000, Bolivian president Hugo Bánzer exhibited some animosity towards Chávez for his alleged support of such movements. As has been noted in the Miami Herald, Chávez also has been accused of supplying equipment to the indigenous and military figures who later staged a coup in Ecuador. The paper implicated the Venezuelan leader in the delivery of over $500,000 to Colonel Lucio Gutiérrez, who overthrew the Ecuadorian government of Jamil Mahuad. In his failed

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

coup attempt in 1992, Gutiérrez adopted a populist slogan much like Chávez's own. The presence of such marrings on Chávez's hemisphere report card has been troubling to Washington.

THREATS TO U.S. INTERESTS

Chávez's recent association with such U.S. "enemies" as Saddam Hussein and Fidel Castro, has heightened the State Department's anxiety over his intentions. In particular, his evolving friendship with Castro puts the U.S. in a quandary, given that Venezuela is the third largest foreign supplier of crude oil to this country. Chávez flouted U.S. efforts to isolate Havana in devising a five-year deal with the Cuban leader to provide the island with oil to compensate for Cuba's lost Soviet aid. Venezuela will supply Cuba with 53,000 barrels of oil a day, at an annual market price of $3 billion. By granting cheap credits and a barter system, the cost to Cuba will be substantially less. Increased oil revenues from growing U.S. imports that fill Chávez's coffers ironically help to subsidize Cuba's own consumption. Before his visit to Cuba, Chávez suggested, "We have no choice but to form an 'axis of power,'" challenging U.S.-hemispheric dominance. Chávez's declared objective is to generate good will for Venezuela throughout the region by offering similar preferential oil deals to many other Caribbean countries.

Despite climbing oil prices in the past two

Chávez also expanded his presidential powers to undermine the independent power of the judiciary, legislature, media and civic offices, all of which were known for their corruption under previous regimes. Up to this point, Washington has restrained itself, implicitly adjusting to Chávez's style of rule, a difficult position to maintain in light of the growing tempo of his socialist rhetoric and recent controversial policy proposals.

POTENTIAL U.S. ACTION

While the Clinton administration overlooked Chávez's political maneuvers in Latin America to maintain a semblance of amicable relations, some of his outcries evoked the wrath of Cuban-Americans wishing to punish him for pro-Castro activism. This is likely to build up the pressure on the Bush administration to "get tough on Chávez." Observers in Caracas assert that he has never concealed his goal of a unified Latin America distanced from Washington. It is doubtful whether a tougher response form Washington would hinder Chávez's defense of such a union. Former State Department official, Bernard Aronson, is already claiming that any disruption of oil agreements with Venezuela could weaken the U.S. economy. Due to economic difficulties and heightened crime, Chávez's promises of jobs and increased security have had to be delayed. However, it is important to note that he has been in office a relatively short period, and appears to have factored in U.S. scorn while seeking his public sector reforms. Whether Washington can long maintain its positive engagement policy towards Chávez's actions remains to be seen, but it is a certainty that he will continue to champion his messianic vision for Venezuela and Latin America.

FEDERAL PHOTOVALTAIC UTILIZATION ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. OBERSTAR. Mr. Speaker, the recent increase in oil prices has focused national attention on the benefits we could achieve by reducing our dependence on fossil fuels by meeting more of our energy needs from renewable sources, such as solar, wind, biomass and geothermal energy. Today, I am introducing legislation to promote one of the most promising of these technologies, solar photovoltaics.

Quite simple, a photovoltaic, or PV, system converts light energy into electricity. The term "photo" is a stem word from the Greek "phos" which means light. "Volt" is named for Allesandro Volta, a pioneer in the study of electricity. Photovoltaic literally means "light electricity".

PV generated power offers distinct advantages over diesel generators, primary batteries, and in some instances, over conventional utility power lines. PV systems are highly reliable, and have no moving parts, so the need for maintenance is virtually non-existent. This is one of the main reasons they are used in satellites today, for which maintenance is both costly and time consuming. In addition, PV cells use sunlight to produce electricity—and sunlight is free!

The potential for photovoltaics is boundless. By way of illustration, solar panels in 1% of the Mojave Desert would provide enough energy to meet California's expected electric shortfall. The electricity needs of the entire United States could be met by panels in a 100 by 100 mile area in the South-Western United States.

PV cells are ideal for supplying power to remote communication stations, such as those in our National Park system, and on navigational buoys. Because they burn no fuel and have no moving parts, PV systems are clean and silent. Compared to the alternative of burning kerosene and diesel fuels that contribute to global warming, this quiet, clean source of power becomes even more attractive.

Another important feature of PV systems is their modularity—they can easily be adapted to any size, based on energy consumption. Homeowners can add modules as their needs expand, and ranchers, for example, can use mobile stations to produce electricity for pumps to water cattle as the animals are rotated to different grazing areas. After Hurricane Andrew in 1993 the Florida Solar Energy Center deployed several PV emergency systems right at the disaster locations where the energy was needed.

Because a PV system can be placed closer to the user, shorter power lines can be used if power were brought in from a grid. Shorter lines, lower construction costs, and reduced paper work make PV systems especially attractive. Transmission and distribution upgrades are kept to a minimum, which is especially important in urban areas. PV systems can be sized, sited, and installed faster than traditional energy systems.

I have had a longstanding interest in promoting the development of this technology. In June 1977 I introduced H.R. 7629, which established a program for the Federal government to encourage the development of PV technology by using it in federal facilities. At that time, photovoltaic technology was in its early developmental stage, and produced energy at a cost of more than $1.00 per kilowatt hour, compared to less than $.10 a hour for energy from fossil fuels. In these circumstances, there is a "chicken and egg" problem: because the technology is expensive, consumers will not purchase it, but, unless there are purchases, the produces will not be able to make the investments and engage in the large-scale production needed to being the cost down.

The Federal government, which purchases billions of dollars of energy each year, is in a unique position of facilitate a breakthrough for photovoltaics. Under my 1977 bill, the Federal government would have purchased substantial quantities of photovoltaic technology. These purchases would have given industry the resources and incentives to develop the technology and mass production efficiencies necessary to make photovoltaics competitive.

My 1977 bill became part of a larger bill to establish a comprehensive national energy policy, PL 95–619. Most unfortunately, the Reagan administration chose not to fund the bill, resulting in not only a lackluster renewable energy program but also a serious deterioration of national focus.

The collapse of the oil cartel and the return of low oil and gas prices in the early 1980's had a chilling effect on federal renewable energy programs. Despite Congress' consistent support for a broader, more aggressive renewable energy program than either the Reagan or George H.W. Bush administrations supported, federal spending fell steadily through 1990. Funding for renewable energy R&D grew from less than $1 million on the early 1970's to over $1.3 billion in FY 1997, but then nose-dived during the Reagan and Bush administrations. Funding steadily declined during the 1980's to $136 million in FY 1990.

The trend was reversed during the Clinton administration. In June 1997 President Clinton announced the Million Solar Roofs Initiative. The program called for the installation of one million solar energy systems on homes and other buildings by 2010. In October 1997, President Clinton committed to placing 20,000 solar energy systems on Federal Buildings. So far the results have been encouraging—over 2000 solar systems have been installed in federal facilities through the year 2000. For example, the U.S. Coast Guard Air Station in San Francisco developed a solar hot water heating project, which qualified as part of the Federal commitment. The project was completed easily and quickly, cost less than $10,000 and has energy savings of $1,100 per year, which means that has a 9-year payback period.

Just across the Anacostia River, here in the Nation's Capitol, at the Suitland Federal Center, the General Services Administration has installed a large PV system to supply electricity for the Federal center. From the Presidio in San Francisco to Fort Dix in New Jersey, the Federal government has installed numerous effective PV systems. Solar power is used extensively for diverse purposes in our National Park and National Forests—supplying lighting to the Tonto National Forest in Arizona and drinking water to hikers in the Rocks National Park in Lakeshore Michigan. The isolated research facilities at Farallon National Wildlife Refuge, California are powered by PV systems.

During disaster relief activities solar power systems step in quickly to supply efficient, easy to install, mobile power sources. In addition to solar power in federal buildings, national parks, communications, and disaster relief activities, solar power is used extensively in transportation support—bus stop lighting, parking lot lights, railroad signal lights, traffic monitoring and control, Coast Guard lighthouses, beacons and buoys. Furthermore, the government is leading the way with innovative technologies for solar powered vehicles. The Department of Energy is the chief sponsor of the American Solar Challenge, which this year will see solar power cars race from Chicago to Southern California, over the Great Plains, the Rockies and the great American desert. Clearly, solar power offers something for everyone.

In October 2000, at the Utility Photovoltaic meeting in Baltimore, Department of Energy officials announced that more than 100,000 solar energy systems had been installed in the U.S. since the beginning of the solar roof initiative. Under the Clinton administration, the Department of Energy had organized 51 partnerships from coast to coast—dedicated to working on

Through the efforts of the solar industry, with the support of the federal government, solar technology has made substantial progress in recent years. The cost has been reduced to $.20 per kilowatt hour, and further reductions are expected. As a result, sales are increasing at a dramatic rate. Sales of photovoltaics within the United States has been growing at a rate of 25% a year. The United States photovoltaics industry is a strong exporter, with almost 70% of U.S. production going to export sales. There is room for growth in our exports. Currently, the U.S. has about 20% of the world market and Germany and Japan each has a larger market share than our country.

I believe that we need to continue the Federal government's role in promoting the development of this technology. The Federal government should continue to be a major customer, and help the technology reach its full potential. My bill will express Congressional support for the type of program established by the Clinton administration, and provide the necessary funding. My bill establishes a goal for the Federal government during the next five years to acquire photovoltaic systems for Federal buildings which will produce at least 150 megawatts of electricity. This will accomplish the goal of the 20,000 solar roof initiative. The bill authorizes appropriations of $210 million a year for the next five years, the level of funding needed to purchase approximately 18,000 photovoltaic systems. The bill also establishes a program for evaluation of the systems used in Federal facilities to ensure that the government is encouraging development of the most advanced technology.

Mr. Speaker, using Federal government procurements to "jump start" a technology is not without precedent. In fact, photovoltaic technology itself is a product of space technology, and was advanced by NASA in the Hubble space station program. As a result, photovoltaic systems power nearly every satellite today as they circle the earth. Similarly, in the early days of the computer era the cost of microchips was prohibitive. Large-scale purchases by the government (NASA and DOD) helped bring the costs down to commercially competitive levels. As another example, the General Services Administration, using its FTS 2000 telecommunications contact, was also successful in promoting advancements and enhancements in telecommunications.

Mr. Speaker, I believe that the program established by my bill can make a major contribution to energy efficiency, protection of the environment and reduced dependence on foreign energy. I will be working to incorporate this program in any energy legislation passed in this Congress.

AMERICA HAS EARNED OUR RESPECT AND ALLEGIANCE EVERY DAY

HON. ROSCOE G. BARTLETT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARTLETT of Maryland. Mr. Speaker, on July 4, our nation will commemorate the 225th Anniversary of the signing of the Declaration of Independence—an astounding historic achievement for liberty and freedom. It's sad that in 2001, political correctness has replaced patriotism and respect for America's achievements with cynicism and even disrespect.

James Merna, Past Maryland Commandant of the Marine Corps League brought this example to my attention during his speech entitled, "Heroes and Role Models for Today and Tomorrow," at the Elks Club Flag Day Observance in Frederick, Maryland on June 10.

In May, Mr. Fran Parry, a track coach from Gaithersburg High School in Maryland was suspended for 12 days. Why? He confronted and reprimanded a student who was disrespectful during the Pledge of Allegiance. The student replied that he wasn't American and didn't have to be respectful during the Pledge.

It took support and pressure from other students, parents and the community after the incident became public before Coach Parry was reinstated.

America has earned our respect and allegiance every day.

I submit Mr. Merna's entire speech for the Record and I urge my colleagues and all Americans to read it.

REMARKS OF JAMES E. MERNA, PAST MARYLAND STATE COMMANDANT, MARINE CORPS LEAGUE, AT THE ELKS CLUB FLAG DAY OBSERVANCE, FREDERICK, MD, JUNE 10, 2001

"HEROES AND ROLE MODELS FOR TODAY AND TOMORROW"

Thank you for inviting me. I am honored to speak to the Elks, one of America's largest and most influential fraternal organizations.

At the outset, allow me to extend my congratulations to the Frederick Elks Lodge on the celebration of your 100th anniversary this year. This is an accomplishment of which you should be justifiably proud, for a century of service in brotherhood to each other, to your community, and to the nation. I wish you many more years of good fellowship and service.

I have a number of ties to the Frederick community, forged in years of friendship and admiration. Let me mention just three:

(1) The Shangri-La Detachment, Marine Corps League. This great organization was originally formed here in Frederick, I believe, in 1948. After many years of service, it became somewhat inactive. A few of us came here in 1968, helped reissue its charter and get it reinvigorated, and today it flourishes as one of the most active detachments in the entire League. I made many good friends here, among them, your own Tommy Grunwell, Ken Bartgis, and the late Charlie Horn.

(2) Ben Wright, your football coach here at Governor Thomas Johnson High School. Earlier in his career, before he coached your Patriots, he coached three of my four sons when he was the head football coach at Eleanor Roosevelt High School, in Greenbelt. He's a true winner in every respect, athletically and morally.

(3) My son John Merna, Major, U.S. Marine Corps. Two summers ago, John commanded a reinforced Marine rifle company (Echo 2–5) on a five month cruise in the South China Sea. The float was part of the Seventh Fleet whose purpose, besides being a good will mission for the U.S., was to conduct amphibious exercises and training with designated Asian forces.

Nonetheless, let me offer a few of my observations on the current fervor, or the lack thereof, for patriotism in America today, and what needs to be done, if anything, particularly with regard to our youth.

We can start by asking ourselves, who still observes Flag Day today? We may see a few houses in our neighborhoods who will fly their flags on their porches or in their front yards. But, increasingly, we no longer feel compelled to honor the flag. That kind of patriotic display is steadily be'regarded as oldfitshioned or tedious. Contrast today to a little more than 100 years ago when Flag Day in 1894 drew some 300,000 people to city parks in Chicago alone. Unfortunately, powerful forces in our society, popular culture, and political circles oftentimes emphasize our cultural differences, rather than our unity as Americans.

Let me mention a recent incident that occurred only two and a half weeks ago, just down the 270 Pike from here, in Gaithersburg, Maryland, which should give us cause for concern. Many of you may already know the story. It was in the Washington Post on May 23rd. It involves a local high school track coach from Gaithersburg High School who was suspended for 12 days for confronting a student who was disrespectful during the school's reciting of the Pledge of Allegiance.

I was incensed as soon as I heard of this incident. Here we have a 27-year veteran of the Montgomery County school system, a highly successful track coach who has won three state and 15 regional titles, suspended from his teaching and coaching jobs only because he attempted to get a student to show respect while the Pledge of Allegiance was being recited in the school.

The coach's name is Fran Parry. He lives a stones throw from here, in nearby Clarksburg. I called and spoke to Coach Parry

Tuesday, just five days ago. He told me that it was a spontaneous event, that the student who is a football player and who was on the track team, rushed past the coach who asked him to stop while the Pledge of Allegiance was being recited. The student angrily replied that he wasn't an American and didn't have to. The coach told him that was a bad attitude and that he had relatives who died for the very freedoms that the student enjoys. The student just laughed at Coach Parry and said "So what." The coach told me he didn't think too much of the incident until the next day when he was summoned to the principal's office and told he was being suspended from his duties and placed on administrative leave.

The student is black. Coach Parry told me 80 percent of his track team is African-American and they backed the coach 1000 percent. There was not one dissenting voice among them. The coach met with the student's parents, expressed regret over the incident but told them he wouldn't change his message. He was then told by the Deputy Superintendent that he was on leave indefinitely and that there would be an investigation focusing on whether he was a racist.

Coach Parry told me that the commimity was unbelievably behind him. Families and students called. He had 29 calls one night from people that he didn't even know, from all cultures. Chris Core, on WMAL Radio, Washington's most popular afternoon radio talk show, had a two-hour call in. Chris Core supported the coach "110 percent." Only two callers dissented. The very next day, Coach Parry told me, he was called by the principal and told he was being reinstated.

So here's a case of a student who shows blatant disrespect for the symbol of our freedom and the American way of life, who places the tenure and career of an outstanding and highly successful coach in jeopardy, and walks away blameless. At the same time, Coach Parry was told that he was "too caustic," was suspended from his job for 12 days, and given a letter of reprimand.

Something's wrong here. The wrong guy has been punished. This is political correctness at its zaniest. Whatever happened to accountability and personal responsibility for one's own behavior? Instead of being portrayed as the villain, Coach Parry should be hailed as a patriot. Webster's dictionary defines a patriot as "one who loves his country and zealously supports its authority and interests." The coach did what you and I would have done

There's more to this story, as I found out in talking to Coach Parry. As I said earlier, the student used to be on the track team at school. He and the coach knew each other well. The student sometimes ate his lunch in the coach's office, used his microwave. Coach Parry even drove him home after track practice at times when he needed a ride. But the student had an attitude problem, and it came to the fore with his disrespect for the Pledge of Allegiance.

Where does Coach Parry derive his patriotic fervor? From his dad and his uncle who fought with the Marines on Iwo Jima, the bloodiest battle in World War II. His uncle was with the Third Marine Division. He landed on the beach at Iwo with 48 Marines in his platoon. When he left on a stretcher, 40 of the 48 Marines were killed. The remaining 8, including himself were wounded. Coach Parry's dad was with the Fourth Marine Division. After he learned that his brother was wounded, he visited him later aboard a hospital ship off Iwo.

And if that isn't proof enough of Coach Parry's patriotic heritage, I learned that his great-great-great grandfather served in the American Revolutionary War as a sergeant in the First Maryland Regiment, and was wounded in battle in New Jersey while pulling down a British flag. What a legacy. I mention this family history only to put in perspective the total picture. The bottom line, as Coach Parry told me, is that "people do care—I'm testimony to that." He told me that he had just received in the mail an unsolicited musical tape of patriotic songs from a group called "Friends of America" from Fort Collins, Colorado. One of the songs was "I'm Proud to be an American." To that, I can only add, thank God that Coach Parry is an American. He's All-American, first team, in my opinion.

From this example of Coach Parry, it proves the point that coaches hold a unique place in the educational system of this country. They are not only teachers of young men and women, they are also their leaders. They test their spirit, and at the same time force them to test themselves. Coaches do as much to build the character of the future leaders of our country as any other group

Let me tell you about another great coach—one who I regarded as the best coach in America—my high school coach at St. Agnes Home for Boys in Sparkill, New York, one of the two orphanages where I was raised.

His name was Jim Faulk, an inspirational leader unsurpassed. When he was inducted into the Rockland County Sports Hall of Fame in 1978, the program citation read: "Jim Faulk not only was the coach, he was 'Mr. Everything' at St. Agnes. He did it all. He was the athletic director, the guidance counsellor, the social worker, the disciplinarian, the trainer, the varsity and J.V. coach for all the sports, which included football, basketball, baseball, wrestling and golf. In his spare time he also ran a full sports program for the alumni. He even drove the school bus." In his acceptance speech, he said, "I made it only because of the gutsy kids I coached at St. Agnes." I know he said it because I was there.

Jim Faulk came to St. Agnes in 1933, fresh out of the University of Alabama. Through the years, he turned down lucrative offers from Villanova and other prestigious colleges to remain at a much lower salary with the orphan boys and kids from broken homes. He devoted his life to St. Agnes—and to the Dominican nuns there—helping needy youngsters advance through life.

He produced football teams so tough that few schools wanted to play him. One of the schools that accepted the challenge was St. Cecelia's High School in Englewood, New Jersey. Its young coach then, just out of Fordham, later went on to fame as head coach of the Green Bay Packers and the Washington Redskins—Vince Lombardi.

Coach Faulk tried to set up a game with the New York Military Academy, an

During World War II, Coach Faulk took a leave of absence from St. Agnes to join the Marines. He was a Captain in command of artillery units and saw extensive combat in the Pacific, including action at Guadalcanal. He remained in the Marine Corps Reserve in later life and retired as a full colonel.

He wrote many inspiring letters from his combat assignments during the war that were reprinted in a newsletter sent out by the nuns to St. Agnes men serving in the military around the globe. He always addressed his letters "To the Fightingest Boys in the World." In one of his letters, as he was aboard ship and waiting to go over the side, he wrote:

"There is absolutely no group of men in this wide world as loyal and devoted to its alma mater and to each other as you fighting boys from St. Agnes. No doubt, as you move from place to place in your travels to all continents and mingle with men from all states and nations, you must begin to appreciate more and more that spirit of St. Agnes—the spirit that is so much a part of your daily lives.

"No one but a St. Agnes boy could understand that deep loyalty and respect you have for each other. Stick together in war as you did in peace. Let the Sisters back home know where you are and what you are doing. Whether a private or a captain, you all speak the same language; you all have the same ideals and you are all heroes in my book. The Sisters feel likewise. They are bursting with pride and joy over your accomplishments."

That's the type of man Coach Jim Faulk was—always caring, inspiring, encouraging and motivating St. Agnes men to excel and achieve. And many St. Agnes graduates heard his message and followed in his footsteps. Let me mention some of them.

St. Agnes had as many as 600 kids fighting in World War II. Over 40 were killed, hundreds were wounded, and many were decorated for bravery. Guys like: Charlie Loesch, who lost his leg in the muddy mountains of sunny Italy. (His reaction: "when I get my artificial leg, everything will be just the same as when I had two genuine legs"); 1st Lt. A.J. Fabrizi, who completed 50 bombing missions over enemy territory with the 15th Air Force in Italy; Francis Mahon, who went back to Walter Reed Hospital for the third operation to save his eye; the mother of Bill Callahan wrote to let us know her son was a P.O.W. His address then was Stalag 17 B, Germany; Frank Napoli paratrooper, won the Silver Star and the Purple Heart after major landings in Sicily and Salerno, Italy; Sam Torresse who Coach Faulk wrote to and said, "I was sorry to hear about your wounds . . . it will take more than a Nazi to flatten you"; Jim Nestor—Coach Faulk talked to other Marines who were with him when he gave his life on a ridge in the Marianas "trying to prevent a breakthrough of fanatic, drunken Nips"; and Captain David Loeser, Army, killed in action in Luxembourg, the first St. Agnes kid to attain the rank of Captain.

I could go on and on, but as Coach Faulk said, these were gutsy kids, and true heroes they were. They were my legacy, they are yours, and they are America's.

Literally hundreds and hundreds of St. Agnes men, including two brothers and myself, joined the Marine Corps, inspired by the example set by Coach Faulk. I had two other brothers join the Navy. Coach Faulk was, in my opinion, probably the greatest unofficial recruiter the Marine Corps ever had.

Jim and his wife Betty were never blessed with children. We took care of that. Some of us named our children after him. My oldest son is named James Faulk Merna. Coach Faulk was very proud of his namesake and visited him with much pride when he was a midshipman at the U.S. Naval Academy. Our son graduated with the Class of 1987, is married with two children, and is a lawyer with the most prominent law firm in Atlanta.

Coach Faulk once told me in a letter, while I was in Korea during that war, "One character trait that I admired in all of you St. Agnes men—you went out into the world with two strikes on you, and never expected to be embraced, gave your all for your country when it asked, and, now, most of you are raising families who can truly say—my father came up the hard way."

Now you can see why I said earlier that someone like Coach Faulk was the greatest coach that I have ever known. Our nation needs strong coaches like Coach Faulk, Coach Parry, and Ben Wright, because they are doing as much to build the character of our future leaders as any other group of men or women.

One last final thought. Our nation is in the midst of a huge nostalgia fest with the Second World War. A number of "Greatest Generation" books have been written, the best by Tom Brokaw of NBC News, box-office attendance records have been set for the new blockbuster movies like "Saving Private Ryan" and now "Pearl Harbor." There has also been significant publicity about the World War II Memorial now finally approved for the Mall in Washington, D.C.

Let us build on this momentum. We have elections coming up next year, and another Presidential election in 2004. As George Will pointed out recently, during the last administration, at times, we had a president, a CIA director, a Secretary of Defense, a Secretary of State, and a National Security Advisor, none of whom had any military experience. It's almost as appalling in the Congress. According to the National Association for Uniformed Services, in 1965, 82% of the members of Congress and 80% of the staffers had military experience. Now less than ⅓ of Congress and 5% of their staff have had any military experience. And on the civilian side, only 6% today of Americans younger than 65 have ever served in uniform.

Those numbers by themselves are not alarming because it's recognized that we are not at war and we have at present an all-volunteer military. We just need to be sure that we elect public officials who have a greater understanding and a strong commitment to support our national security and defense by deeds, not mere words. We need their solid support, as well as from local school board officials, for military recruiters who were denied access to high school campuses 19,228 times in 1999.

Thank you for inviting me to participate in your Flag Day celebration today. As members of the Benevolent and Protective Order of Elks, you have long set an example the rest of us must try to follow if we are going to preserve for our future generations the same priceless treasures of liberty and freedom which our forebears passed on to us.

SENATE—*Friday, June 29, 2001*

The Senate met at 9:00 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, reign supreme as sovereign Lord in this Chamber today. Enter the minds and hearts of all the Senators. May they be given supernatural insight and wisdom to discern Your guidance each step of the way through this crucial day. Break deadlocks, enable creative compromises, and inspire a spirit of unity. Overcome the weariness of the hard work of this past week. Give these men and women a second wind to finish the race of completing the legislative responsibilities before them.

Where there is nowhere else to turn, we turn to You. When we fail to work things out, we must ask You to work out things. When our burdens make us downcast, we cast our burdens on You. If You could create the universe and uphold it with Your providential care, You can solve our most complex problems. We trust You, Father, and place the challenges of this day in Your strong capable hands. In Your all powerful name, Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 29, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. DASCHLE. Mr. President, today the Senate will resume consideration of the Patients' Bill of Rights. As we agreed last night, we now will have a series of rollcall votes, all of which were on amendments which were offered last night.

Additional amendments with votes are expected throughout the day. It would be my expectation to finish the bill, either today or tomorrow, and then move to the organizing resolution.

So as I understand it, under the unanimous consent agreement, the first amendment is to be taken up right now. I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BIPARTISAN PATIENT PROTECTION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1052, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Pending:

Thompson amendment No. 819, to require the exhaustion of administrative remedies before a claimant goes to court.

Warner modified amendment No. 833, to limit the amount of attorneys' fees in a cause of action brought under this Act.

DeWine amendment No. 842, to limit class actions to a single plan.

Grassley amendment No. 845, to strike provisions relating to customs user fees, and Medicare payment delay.

Santorum amendment No. 814, to protect infants who are born alive.

Nickles amendment No. 846, to apply the bill to plans maintained pursuant to collective bargaining agreements beginning on the general effective date.

Brownback amendment No. 847, to prohibit human germline gene modification.

Ensign amendment No. 849, to provide for genetic nondiscrimination.

Ensign amendment No. 848, to provide that health care professionals who provide pro bono medical services to medically underserved or indigent individuals are immune from liability.

AMENDMENT NO. 814

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 4 minutes of debate prior to a vote in relation to the Santorum amendment No. 814.

Who yields time? The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

Mr. KENNEDY. Mr. President, could we have order. We have a series of votes now.

The ACTING PRESIDENT pro tempore. The Senate will come to order.

Mr. KENNEDY. We had good debates on them last evening. They are important votes. The Senator is entitled to be heard, and we want to give all those who worked on these amendments an opportunity for Senators to hear them.

The ACTING PRESIDENT pro tempore. The Senate will be in order. The Senator from Pennsylvania.

Mr. SANTORUM. My amendment is simple. My amendment says anybody born alive, any child born alive is entitled to protection under the laws of the United States of America.

Unfortunately, this amendment is necessary for two reasons. No. 1, because of the treatment of children who are delivered as a result of an abortion that was botched. We have ample testimony to, unfortunately, show that children born alive as a result of induced abortions are not cared for and are discarded, not cared for as appropriate to their gestational age. So we think it is important to make it clear there is Federal protection; that the laws of the land apply to even children who are born as a result of abortion—born alive.

The second reason is because of our courts in this country, particularly the Supreme Court, where two Supreme Court Justices in the most recent abortion decision, the Nebraska decision, stated that any procedure that the doctor would permit is OK in this country. This is just two of the nine. But they said the Federal Government and our Constitution does not allow regulation of any procedure that the doctor believes is in the best health interests of the mother. That, to me, leaves open the possibility, if the doctor decides in the health interest of a mother that the best thing is to deliver the baby alive and then kill the baby, two Justices on this Court would suggest that would be OK because we cannot regulate any procedure, and they use "any procedure," that the doctor believes is the best interests of the mother.

So I think it is important for us to draw a line at least here. I am hopeful we will have unanimous support for this amendment. It is one that seems obvious on its face, but because of the courts and because of the practice in abortion clinics, it is necessary to make this statement again on the floor of the Senate.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. We yield 2 minutes to the Senator from California.

Mrs. BOXER. Mr. President, it is nice to see you in the Chair.

I say to my friend from Pennsylvania, our side has no disagreement with this whatsoever. Of course, we believe everyone born should deserve the protections of this bill. The Senator, in his amendment, mentions infants who are born and that they deserve the protections of this bill. Of course they deserve the protections of this bill. Who could be more vulnerable than a newborn baby? So, of course, we agree with that.

But we go further. We believe everyone deserves the protection of this bill: babies, infants, children, families, all the way up until you are fighting for your life because you may have a dreaded disease; you may be elderly. Everyone deserves the HMOs to act in the right way and to put your vital signs ahead of their dollar signs. That is key.

Maybe in the spirit of our Chaplain who called for unity this morning we start off this morning together, saying everyone who is born deserves the protections of this bill. We all know that, regardless of what age, we have heard stories of patients who are really disregarded in the name of the bottom line.

During times when we see CEOs in these HMOs drawing down hundreds of millions of dollars, we see little children and elderly people and those in between denied the needed care, denied the kinds of prescriptions they need.

We join with an "aye" vote on this. I hope it will, in fact, be unanimous. I also hope the underlying bill will get a very strong vote and we will say that all of our people deserve protection, from the very tiniest infant to the most elderly among us.

I urge an "aye" vote.

The ACTING PRESIDENT pro tempore. The time on the amendment has expired. The Senator from Nevada.

Mr. REID. Mr. President, during this vote, I will be conferring with the manager of the bill on the Republican side to determine what are the next two amendments after this series of votes.

I also plead with Members—the first vote is 15 minutes; the others 10 minutes—if everyone will stay where they are supposed to be, we can speed right through these votes. Senator DASCHLE has advised me and everyone here that we are going to try to maintain as close to the time for the votes as possible. So there might be some people missing votes. Everyone should know now that we are not going to keep these votes open for a long period of time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to Santorum amendment No. 814. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. MURKOWSKI) and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—98

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—2

Domenici
Murkowski

The amendment (No. 814) was agreed to.

Mr. KENNEDY. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to table was agreed to.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, we have a series of votes coming up. We anticipate eight votes. We are trying to move the process along.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 842

The ACTING PRESIDENT pro tempore. Under previous order, there will now be 4 minutes of debate prior to a vote in relation to the DeWine amendment No. 842.

The Senator from Ohio is recognized.

AMENDMENT NO. 842, AS MODIFIED

Mr. DEWINE. Mr. President, I have a modification of my amendment at the desk. I ask unanimous consent that it be accepted.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The amendment is so modified.

The amendment (No. 842), as modified, is as follows:

On page 171, between lines 14 and 15, insert the following:

SEC. 303. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

(a) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

"(o) LIMITATION ON CLASS ACTION LITIGATION.—

"(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.".

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.".

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, this amendment is a very simple one. It limits class actions filed under this bill to suits filed within one company involving one plan. It is a commonsense approach. No individual's rights are in any way violated. Individuals have the right to file suits pursuant to this bill.

In addition to that, class actions can still be filed, but they must be filed within one company, one plan. What it basically would prohibit is the big national class action suits that would possibly be filed.

We are simply trying to balance the rights of the individual and the protection of the patient with the whole problem of increasing costs.

We believe that the elimination of these national class action suits will certainly help to keep the costs down.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, we appreciate very much the work by the Senator from Ohio. We appreciate him working with us. This is another example of what can be accomplished when we work together. We will be supporting this amendment.

I yield the remainder of my time to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I rise only to say that in previous debate, a story was referenced about a young patient named Christopher Roe, who tragically died on his 16th birthday. It was alleged that this had nothing to do with the Patients' Bill of Rights. That, of course, is not true. Nevada, where Christopher Roe died, does not have clinical trial provisions, and this boy would have clearly benefitted from such provisions. This would have given him another chance for survival with the help of experimental treatments.

When this Patients' Bill of Rights is enacted, either Nevada would have to enact a substantially compliant clinical trial provision or the provisions in this bill would apply. I don't want people misrepresenting the notion of what is happening to some of these patients who deserve and ought to be able to expect to receive the protections under this legislation.

Young Christopher Roe died at age 16 because he was required to fight both cancer and the managed care organization at the same time. That is not a fair fight, and it should not happen in the future. If we pass this legislation, it will not happen in the future.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DEWINE. Mr. President, I yield back my time.

Mr. KENNEDY. We yield back our time.

The ACTING PRESIDENT pro tempore. All time is yielded back.

The question is on agreeing to the DeWine amendment No. 842.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—98

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—2

Domenici
Murkowski

The amendment (No. 842) was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendment was agreed to.

Mr. BROWNBACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 845

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 4 minutes of debate prior to a vote in relation to the Grassley amendment numbered 845.

Mr. GRASSLEY. I yield myself 1 minute.

A point was made last night that extending the user fees in section 502 has no impact on the U.S. Customs Service budget. That is baloney. If it has no impact, why is it in the bill in the first place? Obviously, it is in the bill because it has an impact on budget scoring. Once CBO scores these funds against the Patients' Bill of Rights, these funds cannot be used by the U.S. Customs Service for customs modernization. These funds then are no longer available to offset the costs of customs modernization. We will have to find funds somewhere else; perhaps we can get them from the Health, Education, Labor, and Pensions Committee.

The U.S. Customs Service recognizes this problem: Any scoring which would limit in any way the ability to fund or offset customs activity would likely cause a critical funding shortfall in the Customs Service.

I think it is very clear.

Mr. KENNEDY. I yield 2 minutes to the Senator from North Dakota.

Mr. CONRAD. Has all time been yielded back on the other side?

The ACTING PRESIDENT pro tempore. It has not.

Mr. CONRAD. I rise for the purpose of bringing a point of order; that point of order will not be available until time has been used up on both sides.

Mr. GRASSLEY. I know the chairman is going to raise a point of order, and I want 1 minute to respond to the point of order.

Mr. KENNEDY. I ask consent that both sides yield back the time and the Senator be permitted to make a point of order and each side have 2 minutes to explain the point of order and 2 minutes to respond to that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, sections 502 and 503 of the bill help to ensure that the Social Security surplus is not affected by the costs associated with providing expanded patient protection.

The bill extends customs user fees beyond 2003. That is all. The bill does not change the current nature, structure, or purpose of these fees. Customs operations will not lose funds as a result of the extension of these fees. However, the net effect of accepting the Grassley amendment would be that over $6 billion in spending contained in this bill would not be offset. That is spending that represents a transfer of funds to protect the Social Security trust fund. Deleting that offset would cause the Health, Education, Labor, and Pensions Committee to exceed its committee budget allocation.

As a result, at the appropriate time I will raise the point of order.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, there will be a point of order made. If a point of order is made, I am obviously going to waive it. I make clear my motion to strike would essentially allow us to replace the revenues taken from the Finance Committee's jurisdiction with general funds that are still available in the off-budget surplus. All Finance Committee members, Republicans and Democrats alike, including my respected chairman of the Senate Budget Committee, a senior member of the Senate Finance Committee, should beware, a vote against my motion is a vote for weakening the Finance Committee's jurisdiction. If your membership on the Finance Committee means anything, you need to vote in favor of my motion to strike.

Mr. CONRAD. Mr. President, this goes beyond the question of jurisdiction. This is the first test of fiscal discipline in this Chamber. Do we adhere to the Budget Act or do we abandon fiscal discipline? That is the question on this vote. Are we going to spend money that is not offset and thereby violate the allocation that has been made to this committee and exceed the allocation that has been made to this committee? I hope this body will stick with fiscal discipline and require we offset spending that is over and above the allocation to this committee. Spending, after all, is actually a transfer of funds to protect the Social Security trust fund.

Mr. President, I bring, therefore, a point of order that the pending amendment violates section 302(f) of the Congressional Budget Act of 1974.

The ACTING PRESIDENT pro tempore. Senator from Iowa.

Mr. GRASSLEY. I move to waive the point of order under section 904 of the Budget Act. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The PRESIDING OFFICER (Ms. LANDRIEU). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 52, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—46

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
McConnell
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—52

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Specter
Stabenow
Torricelli
Wellstone
Wyden

NOT VOTING—2

Domenici
Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. KENNEDY. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 846

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate prior to the vote in relation to the Nickles amendment No. 846.

The Senator from Oklahoma.

Mr. NICKLES. Madam President, the amendment we have before us now says this should apply to all private-sector plans, including union plans. For the private-sector plans, the effective date is October 1, 2002. But for collective bargaining plans, there is a little section on page 174 that says it shall not apply until the collective bargaining agreement terminates. In many cases, collective bargaining agreements do not terminate for years and years, or they may be renegotiated.

My point is, we should make these protections apply, and hope they will apply—if they are so positive—to all Americans, including union members. Union members should have these protections.

My colleague from Massachusetts asked: Was the Senator trying to punish the unions? I am not trying to punish anybody. Shouldn't union members have the same appeals process? Shouldn't they have the same patient protections we have for all private-sector plans?

To say we are going to exempt them for the duration of their collective bargaining agreements I think is a mistake, especially when some of these agreements may not terminate for years—maybe 10 years or more. We should make this apply for all plans at the same time.

Madam President, I yield the remainder of my time to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, this morning the Senator from North Dakota got up and spoke about a young man by the name of Chris Roe from my State. He said this young man's parents would have been covered under this bill. But according to the Department of Labor, the protections in this bill do not apply to collective bargaining agreements. Because Chris Roe's parents were under a collective bargaining agreement—as a matter of fact, that collective bargaining agreement does not expire until years from now—the Roes would not be covered.

Chris Roe is no longer with us, but people in the future like him should be able to be covered under the same patient protections as everybody else under this bill.

I urge the adoption of this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, this is language on page 173. It is basically boilerplate language, which means we have used identical language in the HIPAA program and also in OBRA, the pension reform. It is basically out of respect for contracts. If you read the language it says "for plans beginning on or after October 1." "For plans" refers to insurance. Most of the insurance, 60 percent of insurance plans start in January; 40 percent go over until the next year. So this will apply at the first opportunity when those plans expire and also when collective bargaining expires.

That is our purpose, to do it in a timely way. I hope the Nickles amendment will be defeated. I will offer an amendment that will say irrespective of collective bargaining, it will have to be done within 2 years, and rollovers will not be permitted. That is the best way to do it. That respects the contracts. It was really done with the support of the insurance industry. It has been boilerplate language that has been used in a number of different bills as a way of addressing respect for contracts.

I hope the Nickles amendment will be defeated. We give assurance to the membership that the follow-on amendment will say that every contract has to be done within 2 years and that there is no possibility, even within that period of time, for a rollover agreement.

Madam President, I move to table the Nickles amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—54

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Specter
Stabenow
Torricelli
Wellstone
Wyden

NAYS—44

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
DeWine
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson

Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Domenici
Murkowski

The motion was agreed to.

Mr. KENNEDY. Madam president, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 847, WITHDRAWN

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate in relation to the Brownback amendment No. 847.

Who yields time?

The Senator from Kansas.

Mr. BROWNBACK. Madam President, I want to say that I will not be requiring a vote on this amendment. At the end of a short statement, I will ask unanimous consent that the vote be vitiated. I am doing this because a number of people who looked at this amendment have said they are very interested, intrigued, and supportive, but they are not sure about the language. I think it needs to be tightened up some and reviewed.

Indeed, the chairman stated to me his desire to look at this issue in further depth later in the year. That is why I will be pulling this from a vote. We are talking about prohibiting the taking of genetic material from outside the human species and injecting it into the human species, to where it can be passed on to future generations.

I point out to my colleagues that this is the modern face of eugenics, the desire to create perfect people, as if we can become a biologically perfectible artifact. This is a dangerous thing. It is an ugly thing that has reared its head in history previously, and its modern face involves taking genetic material wherever we can find it and putting it in. It should be banned. It is currently allowed. It is currently being researched in this country. It should be stopped.

I look forward to working with the chairman of the HELP Committee to see if we can tighten up the language to address it in the Congress in the near term before people start actually doing this. It is completely allowed now, with no prohibitions. We limit it more in other species than we do in humans.

I ask unanimous consent that the rollcall vote on the Brownback amendment be vitiated and that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 849

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate in relation to the Ensign amendment No. 849.

Who yields time? The Senator from Nevada.

Mr. ENSIGN. Madam President, I am going to ask unanimous consent in a moment to temporarily lay this amendment aside so we can work out the language. There seems to be support on both sides of the aisle for this amendment. There is just slight disagreement on the language.

I ask unanimous consent that my amendment No. 849 be temporarily laid aside to recur at the concurrence of the bill managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 848

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate on amendment No. 848 by the Senator from Nevada.

Mr. ENSIGN. Madam President, we can actually have a vote on this amendment. This amendment is about protecting health care providers who voluntarily give of themselves, give of their services, and this amendment will protect them from being sued.

Last night in the debate, the Senator from North Carolina mentioned the Volunteer Protection Act of 1997 already takes care of the health care providers. In fact, it does not. It defines a volunteer as "an individual performing services for a nonprofit organization or governmental entity who does not receive compensation or any other thing of value in lieu of compensation."

I was speaking to one of my neighbors. He is a general surgeon. He was just in an emergency room last week. He saw a patient who did not have health insurance, could not afford to pay, and he voluntarily saw this patient. I do not think it would be right for people to volunteer and then be sued.

My amendment says if, out of the goodness of your heart, you work at a clinic, such as Dr. Chanderraj, a friend of mine who is a cardiologist in Las Vegas—he takes care of the poor on the weekends, and yet he has to carry malpractice insurance.

Many doctors and health care providers who volunteer their services for the poor should be encouraged, not discouraged, to give their services.

I urge the adoption of this amendment. It is the right thing to do, just as the Good Samaritan Act and the Volunteer Protection Act of 1997 were the right things to do.

The PRESIDING OFFICER. Time has expired. Who yields time in opposition? The Senator from North Carolina.

Mr. EDWARDS. Madam President, Senator Coverdell offered legislation in 1997, as the Senator referred to, called the Volunteer Protection Act that does what this amendment is aimed at. It provides specific protection for people who provide volunteer services. Physicians are included in that legislation.

Further, there is a specific provision in that legislation which provides that State laws can remain in effect and States are given wide latitude to opt out and enact their own legislation on this issue. There is no such provision in this amendment.

Legislation, offered by Senator Coverdell and passed in 1997, covers this issue. If the Senator wants to attempt to amend that legislation, that would be the appropriate vehicle, not this vehicle. This legislation we are debating today is the Bipartisan Patient Protection Act. It is about HMO accountability and HMO reform. These issues that are not directly related to HMO reform and HMO accountability do not belong on this legislation. For that reason, we oppose this particular amendment.

I yield the floor. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. EDWARDS. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—52

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Shelby
Stabenow
Torricelli
Wellstone
Wyden

NAYS—46

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Byrd
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Nickles
Roberts
Santorum
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Domenici Murkowski

The motion was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as a point of information, we have the Thompson amendment. It is agreed by the managers we would have a minute on either side and then go to a rollcall vote. We ask our Members to remain in the Chamber, if they would. We are prepared.

Mr. GREGG. Madam President, if the Senator will yield, I would like to also note after the Thompson amendment it is expected the order of amendments will be Senator SMITH of Oregon for 30 minutes, Senator NICKLES for 30 minutes, Senator SANTORUM for 40 minutes, and Senator ALLARD for 30 minutes. We will enter into a unanimous consent agreement after the vote, hopefully, to get that order worked out.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 819

Mr. KENNEDY. Mr. President, I ask unanimous consent that on the Thompson amendment we have 4 minutes equally divided. I ask unanimous consent it be in order to consider the yeas and nays for a vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment is now pending. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

AMENDMENT NO. 819, AS MODIFIED

Mr. THOMPSON. I call up amendment No. 819 and I send a modification to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 819), as modified, is as follows:

On page 150, strike line 17 and all that follows through page 153, line 8, and insert the following:

"(9) REQUIREMENT OF EXHAUSTION.—

"(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

"(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

"(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

"(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

"(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

"(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

On page 165, strike line 15 and all that follows through page 168, line 3, and insert the following:

"(4) REQUIREMENT OF EXHAUSTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), a cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

"(B) LATE MANIFESTATION OF INJURY.—

"(i) IN GENERAL.—A participant or beneficiary shall not be precluded from pursuing a review under section 104 of the Bipartisan Patient Protection Act regarding an injury that such participant or beneficiary has experienced if the external review entity first determines that the injury of such participant or beneficiary is a late manifestation of an earlier injury.

"(ii) DEFINITION.—In this subparagraph, the term 'late manifestation of an earlier injury' means an injury sustained by the participant or beneficiary which was not known, and should not have been known, by such participant or beneficiary by the latest date that the requirements of subparagraph (A) should have been met regarding the claim for benefits which was denied.

"(C) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

"(D) FAILURE TO REVIEW.—

"(i) IN GENERAL.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(i), a participant or beneficiary may bring an action under section 514(d) after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(i).

"(ii) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(ii), a participant or beneficiary may bring an action under this subsection and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(ii).

"(E) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

"(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

"(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

"(F) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact."

Mr. KENNEDY. Can we have order, Mr. President? We have had great cooperation of the Members. We have made good progress during the morning. We thank Senator GREGG for outlining the series of amendments and the time that will be necessary. We are moving along with consideration of the legislation. The Senator from Tennessee is entitled to be heard. Can we have order in the Senate?

The PRESIDING OFFICER. The Senate cannot proceed until there is order in the Senate. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, this amendment has to do with the exhaustion of administrative remedies. As stated the other day, we have in this underlying legislation quite an elaborate procedure for administrative review so independent entities, at least two different levels, have an opportunity to make a determination on a claim. Then the underlying bill allows a claimant to go to court if they are not satisfied. The problem we saw in the underlying bill is in many cases there was not a requirement that that administrative process be gone through, that very easily you could jump right to the court.

I think no one really wants to do that. We have set up this administrative appeal process, which is a good one, and we want to use it.

What we seek to do in this amendment is to basically require the exhaustion of administrative review, administrative remedies, before a claimant goes to court.

We had a good discussion with the other side. The concern was expressed that the modification should recognize an injury for which a claim has been denied might later become more serious, after the timeframe for exhausting external review has expired.

That is a legitimate concern. If someone has a later-developed injury that did not manifest itself early on, there should be a provision so they are not deemed to not have exhausted administrative review so they could never go to court. So we have addressed that in this modification.

The other concern was what if the external entity simply sits on the matter and doesn't come within the 21 days allowed under the bill to make its determination. We say in this modification, if the external entity takes longer than that, we give them another 10 days and then we allow the claimant to go to court.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. THOMPSON. I ask for an additional 20 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. Under those circumstances, the claimant would still have to exhaust their administrative appeal, but they could go ahead and file the lawsuit in the meantime under, what I think are very rare circumstances. So with that modification I think we have a good process set up so this elaborate administrative process we have established in the bill will actually be utilized.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

May we have order in the Chamber, please.

Mr. EDWARDS. I thank the Senator from Tennessee. This is another example of what can be done when we tackle these problems together and try to find solutions. As the issue of scope and employer liability, with a number of Senators on both sides of the aisle, now we are doing it on the issue of exhaustion of administrative remedies, exhaustion of appeals.

This amendment meets the very principle by which we began this legislative drafting, which is we want patients to get the care they need. The most effective way to do that is to have an effective appeals process.

What we have done in this process is, No. 1, require that the patient, the claimant, go through the appeal before going to court, exhausting those appeals. That is the easiest way and the most efficient way to get them the care they need.

The second thing we do is provide an outlet in case the appeals process drags on and it does not operate the way it should. If it is longer than 31 days, then the patient will be able to go to court. But, as the Senator from Tennessee points out, they will have to simultaneously exhaust the administrative appeal.

Third, we have now provided specifically that the result of the administrative appeal will be admissible in any court proceeding, which is another important element of this amendment.

I thank my friend from Tennessee. I thank him for working with us on this issue. I think we have an issue about which we now have consensus and we are pleased to be there.

I yield the remainder of my time.

I ask for the yeas and nays.

Mr. NICKLES. Were the yeas and nays ordered on the amendment or the modification?

The PRESIDING OFFICER. They were ordered on the amendment.

Mr. NICKLES. Mr. President, I ask unanimous consent the yeas and nays be vitiated on the amendment and they be ordered on the modification.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the Thompson amendment No. 819, as modified.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—98

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—2

Domenici
Murkowski

The amendment (No. 819), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. THOMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, how long did that vote take?

The PRESIDING OFFICER. Fifteen and a half minutes.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from Tennessee and the Senator from North Carolina. The last amendment was an important amendment. It was a major step forward. That amendment, along with the Snowe amendment and several others that have passed, has immeasurably helped this legislation.

I thank the Senator from Tennessee and the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I join with the comments of the Senator from Arizona. In the trades, that was "a biggie." It was a very positive action to make sure that the exhaustion of the appeals process is a true exhaustion of the appeals process and we don't go straight to the court system. I congratulate the Senators from North Carolina and Tennessee for achieving that resolution.

AMENDMENT NO. 847

Mr. HATCH. Mr. President, I rise to oppose amendment No. 847 offered by my friend from Kansas, Senator BROWNBACK.

This amendment purports to establish safeguards with respect to medical treatments that encompass therapies directed at genetic defects. The amendment would impose criminal sanctions, including imprisonment of up to 10 years, on those who violate the restrictions on modifying the human genetic structure.

Not only is this the wrong time to consider this amendment, it is also the wrong piece of legislation on which to consider this amendment. In all candor, I must tell my colleagues that in my view, based on my preliminary reading of this amendment, I greatly doubt there will ever be a right time for this proposal.

I have no doubt that this amendment is well-intentioned.

I have worked with Senator BROWNBACK many times in the past on many issues, including many important right-to-life issues, such as outlawing partial birth abortion. Both he and I are proud to call ourselves pro-life Senators.

But, as my colleagues are aware, Senator BROWNBACK and I happen to disagree on the issue of federal funding for embryonic stem cell research. I understand and completely respect his views on this issue.

In a nutshell, the Brownback amendment attempts to regulate genetic research. But I am afraid that it might regulate this critical avenue of research right out of existence.

This is an exceedingly complex and dynamic field of science.

It is certainly not the type of legislation that we want to attach as a nongermane amendment to a bill that does not directly relate to biomedical research.

My goodness, we have our hands full enough with HMOs and the Patients' Bill of Rights. We do not need to further complicate an already complex bill with this language.

Why do we need to take floor time on this proposal? Have there been hearings on this language? Has there been a committee mark-up on this bill?

Isn't the reason why we have committee hearings and committee markups so that complex issues can be adequately aired by members of the critical committees before the full Senate debates an issue?

There is much virtue for letting legislation ripen and be scrutinized in committee before the entire body debates the merits of proposals such as this amendment.

I think we should defeat this amendment today so that the relevant committees can thoroughly review this legislation.

While I strongly believe that we should defeat this amendment on strictly procedural grounds, I do want to make a few comments on some initial problems that I have with respect to the substance of the bill.

First, because there are over 300 diseases thought to be caused by a defect in a single gene, we must be extremely careful that we do not cut off or unduly impede vital research on such diseases.

As a co-sponsor of the Orphan Drug Act of 1984, I know very well how millions of American families must struggle each day with small population but highly debilitating diseases such as multiple sclerosis, ALS, and Fragile X Syndrome.

The problem with the Brownback amendment is that it appears to thwart research on gene therapies that may lead one day to cures for many of these single-gene diseases. It would not be right for the Senate to hastily adopt language that derails research on such crippling diseases as Alzheimer's or Parkinson's.

I am concerned with what the definition of human germline gene modification in section 301 of the Brownback bill could do when it is read in context of section 302 of his legislation. The amendment's definition of human germline modification is ambiguous.

As one attorney representing the biotechnology industry has characterized the reach of this definition:

> Among other problems, which of the examples listed are "sources" of "forms" of DNA and why does it matter? Moreover, the sentence—and he is referring to the first definition in section 301 which describes human germline modification—ends by referring to "including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA." To what part of the first sentence defining "human germline modification" is the language referring? Does the last sentence of the definition, "Nor does it include the change of DNA involved in the normal process of sexual reproduction" prohibit in vitro fertilization? Does any part of the amendment prohibit or allow in vitro fertilization? What genetic technologies does "normal" cover, if any?

Without objection, I would like to place in the Record a copy of this legal memorandum prepared by Edward Korweck of the law firm of Hogan & Hartson. As I understand it, this memorandum was written on behalf of BIO, the biotechnology industry association.

I also ask unanimous consent to place in the Record a copy of a letter from BIO to Senator Lott opposing the Brownback amendment. This letter voices its opposition to the amendment by stating:

> Let's not cripple essential medical research for a host of chronic and fatal diseases such as diabetes, Parkinson's disease, Alzheimer's disease, and various cancers. The patients and families who suffer from these diseases are looking to advances in medical research to develop cures and better treatments for them.

This argument must be considered by all members of the Senate.

The question of how in vitro fertilization relates to the normal process of sexual reproduction is a question of great importance because it appears to directly implicate the science of embryonic stem cell research.

Specifically, we need to know this language would treat research with human pluripotent stem cells.

We all know where Senator Brownback stands on that issue. While I generally agree with my friend from Kansas, I disagree with him on embryonic stem cell research.

This is an issue that deserves careful consideration by each Senate. I welcome this debate. But today is not the time. We simply need to know all the implications of the Brownback language before we even consider such legislation.

In my view, this Senate should go on record as supporting federal funding for embryonic stem cell research. And we certainly do not want to turn back the clock on the type of gene therapy research that has been conducted for over 20 years.

This is simply not the kind of measure that you try to slip into an unrelated bill.

All interested parties—patient groups, religious and advocacy organizations, scientists, health care providers, biotechnology firms—deserve to be fully consulted on how the language of this measure will affect their interests.

There being no objection, the letters were ordered to be printed in the Record, as follows:

BIOTECHNOLOGY INDUSTRY
ORGANIZATION,
Washington, DC, June 27, 2001.

Hon. Trent Lott,
U.S. Senate,
Washington, DC.

Dear Senator Lott: On behalf of the Biotechnology Industry Organization (BIO), I am writing to express BIO's opposition to an amendment that may be offered by Senator Brownback regarding germ line gene modification. This amendment may come up for a vote on the Senate floor as early as today during consideration of S. 1052—the McCain, Kennedy, Edwards Bipartisan Patient Protection Act. I urge you to vote against the Brownback amendment if it comes up for a vote.

BIO opposes germ line gene modification and we support the moratorium on germ line gene modification that has been in place for over a decade. This moratorium has allowed critical genomic research to continue while prohibiting unsafe and unethical work. To our knowledge, all scientists have complied with this moratorium.

Unfortunately, the Brownback amendment reaches far beyond germ line gene modification. It attempts to regulate genetic research—a complex and dynamic field of science that holds great potential for patients with serious and often life-threatening illnesses. This proposal also could prohibit research on human pluripotent stem cells. Since these cells have been demonstrated to form any cell in the body they hold enormous therapeutic potential.

Let's not cripple essential medical research for host of chronic and fatal diseases such as diabetes, Parkinson's disease, Alzheimer's disease and various cancers. The patients and families who suffer from these diseases are looking to advances in medical research to develop cures and better treatments for them.

Furthermore, to our knowledge there has been no consultation with the scientific community, researchers, physicians, or patient groups prior to the filing of the Brownback amendment. This is particularly troubling because the amendment calls for severe sanctions, including imprisonment of biotech researchers.

I urge you to vote against this amendment. If you have questions, please call me at 202-857-0244. Thank you for your consideration on this important matter.

Sincerely,

W. Lee Rawls,
Vice President, Government Relations.

MEMORANDUM

June 28, 2001.

To: Michael Werner, Esquire, BIO Bioethics Counsel.
From: Edward L. Korwek, Ph.D., J.D.
Re: Some Initial Comments/Analysis of the Brownback Amendment.

The Brownback Amendment is poorly worded and confusing as to its precise coverage. It uses a variety of scientific terms and other complex language both to prohibit and allow certain gene modification activities. Many of the sentences are composed of language that is incorrect or ambiguous from a scientific standpoint. A determination needs to be made of what each sentence of the Amendment is intended to accomplish.

As to a few of the important definitions, the term "somatic cell" is defined in proposed section 301(3) of Chapter 16, as "a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or deceased human body at any stage of development." What does "of almost all body cells" mean? Is this an oblique reference to the haploid nature of human sex cells, i.e., sperm and eggs? Also, why is it important to describe in such confusing detail from where the cells are derived (in contrast to simply saying, for example, a somatic cell is a human diploid cell)? From a scientific standpoint, the definition of a somatic cell is not dependent on whether the cell is from living or dead human beings. More importantly, as to this human source issue, when does a "human body" exist such that its status as "living" or "dead" or its "stages of development" become relevant criteria for determining what is a "somatic cell."

Similarly, the definition of "human germline modification," especially the first sentence, is very convoluted. The first sentence states:

"The term 'human germline gene modification' means the intentional modification of DNA of any human cell (including human eggs, sperm, fertilized eggs (i.e., embryos, or any early cells that will differentiate into gametes or can be manipulated to do so) for the purpose of producing a genetic change which can be passed on to future individuals, including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA."

Among other problems which of the examples listed are "sources" or "forms" of DNA and why does it matter? Moreover, the sentence ends by referring to "including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA." To what part of the first sentence defining "human germline modification" is this language referring? Does the last sentence of the definition, "Nor does it include the change of DNA involved in the normal process of sexual reproduction" prohibit in vitro fertilization? Does any other part of the Amendment prohibit or allow in vitro fertilization? What genetic technologies does "normal" cover, if any?

Similarly, the second sentence in the definition, stating what is not covered by the definition of "human germline modification," contains three "not" words, leaving the reader to decipher what exactly is "not" human germline modification": "The term does not include any modification of cells that are not a part of and will not be used to construct human embryos" (emphasis added). Also, what is an "embryo" for purposes of this Amendment and what does "part of" mean? Are (fertilized) sex cells "part of" an embryo?

These and other problems leave the bill unsupportable in its current form. Due to this imprecision, the amendment's impact is unclear and seemingly far reaching.

AMENDMENT NO. 848

Mr. ENSIGN. Mr. President, this pro bono amendment will benefit doctors across the country. A prime example is my neighbor, Dr. Dan McBride. Dr. McBride has provided medical care to individuals and families free-of-charge for years. He understands that not all Nevadans can afford health care insurance each month, and that many cannot even afford to go to the doctor once each year; but that does not mean that they are not deserving of proper health care. This amendment will ensure that doctors such as Dan McBride can continue providing free health care to the less fortunate without fear of lawsuits.

AMENDMENT NO. 849

Mr. KENNEDY. Mr. President, today we are at the threshold of astonishing new progress in medicine. New discoveries in genetics and other areas of biomedical research will revolutionize the diagnosis and treatment of countless disorders. This astonishing potential to relieve suffering will be squandered if patients fear that their private genetic information will become the property of their insurance companies and their employers, where it can be used to deny people health care and deny workers their jobs.

To protect all Americans against genetic discrimination in health insurance and employment, I am proud to support the important legislation that Senator DASCHLE has introduced on this issue. I commend my colleague, Senator ENSIGN for bringing this basic issue to the floor of the Senate, and I look forward to working closely with him in the days to come.

However, Senator ENSIGN's amendment has several shortcomings that lead me to believe that it is not the right policy for us to adopt to end genetic discrimination. Yet in the interests of stimulating debate on this important issue and to speed the termination of debate on the Patients' Bill of Rights, I am prepared to accept it as an amendment to the bill. But next month, in our Committee, we will have a full and thoughtful discussion of this issue in our committee and a thorough debate on the Senate floor.

Senator ENSIGN's amendment fails to provide protections that are essential. The amendment does not address the important issue of discrimination in the workplace. Genetic discrimination in employment is real and it's happening all across America. Effective legislation on this issue must include protections for workers.

We must realize that genetic information will be commonplace in medicine and we must ensure that our definitions adequately protect genetic information in all its forms. Unfortunately, the definitions of genetic information contained in the Ensign amendment do not properly protect genetic information. The definitions in this legislation allow employers and others to find dangerous loopholes in the protections offered by the legislation.

Finally, the remedies in the Ensign amendment do not provide adequate remedies for those whose rights have been violated. We should make sure that we allow those whose rights have been violated to seek proper recourse.

Despite these and other flaws in the Ensign amendment, I am prepared to accept the measure as a spur to future debate on this important issue. We will start from a clean slate in our committee deliberations and we will give this issue the thorough exploration it deserves. I look forward to a fresh debate and to taking action on Senator DASCHLE's important legislation.

Mr. DASCHLE. Mr. President, in an effort to move forward and complete debate on the Patient's Bill of Rights, the Ensign amendment on genetic discrimination, along with several other proposals, were included in a managers' package without a full vote of the Senate. It must be clarified that there are several problems with the Ensign proposal as offered, and we do not support this approach for dealing with genetic discrimination.

First, the Ensign amendment does not comprehensively address the problem of genetic discrimination. This amendment only covers genetic discrimination in health insurance and is silent on discrimination in the workplace. Simply prohibiting genetic discrimination in health insurance, while allowing it to continue in employment is no solution at all. Employers will simply weed out employees with a genetic marker. Additionally, the protections the amendment provides are so riddled with loopholes that health insurance providers would still have substantial access to individuals' private genetic information.

Recently, employees working at Burlington Northern Railroad were subjected to genetic testing without their knowledge or consent. The company was attempting to determine if any of the employees had a genetic predisposition for carpal tunnel syndrome—in an attempt to avoid covering any costs associated with the injury. Giving up your private genetic information shouldn't be the price you pay for being employed.

The Ensign amendment also fails to comprehensively cover all of the insured. We must create protections for all Americans regardless of where an individual gets his or her health insurance coverage. It is unconscionable to allow genetic information to be used to discriminate against anyone—access must be limited appropriately to ensure that no American is left vulnerable.

Finally, the Ensign amendment does not create a private right action—leaving individuals without an adequate remedy. Clearly, providing protections without proper enforcement provisions makes any protection meaningless.

We've seen a revolution in our understanding of genetics—scientists have finished mapping our genetic code, and researchers are developing extraordinary new tests to determine if a person is at risk of developing a particular disease. But with increased understanding of the possibilities of the genome uncovers, comes increased responsibilities. We simply cannot take one step forward in science while taking two steps back in civil rights.

The HELP committee will move forward with consideration of this issue this summer. We welcome the opportunity to work with Senator ENSIGN and other Republicans on a comprehensive genetic non-discrimination bill that can command bipartisan support. It is our hope that we can bring up and pass a bill later this summer.

Mr. GREGG. I now propound a unanimous consent request relative to the order of the following amendments to which we will be proceeding. The first would be Senator SMITH for 30 minutes equally divided. The second would be Senator ALLARD, 30 minutes equally divided. The third amendment would be Senator NICKLES, 30 minutes equally divided. The fourth would be Senator SANTORUM, 40 minutes equally divided. And the fifth would be Senator CRAIG, 30 minutes equally divided.

The substance of the amendments or the purposes of the amendments have been presented to the other side. I can run through those if Members wish to hear them.

The PRESIDING OFFICER. Is there objection?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator has shared the substance. Members will hear the explanations, but the Smith amendment deals with tax credits; the Allard amendment, with exclusions for smaller businesses in terms of the numbers of employees; the Nickles amendment is an expansion to other Federal health programs; Santorum deals with punitive damages; and the Craig amendment deals with medical savings accounts. We are familiar with the subject matter. We have no objection to that as an order, and we believe the time recommended will help us move this process along and will be sufficient to evaluate the amendments.

Mr. REID. Mr. President, we want to just make sure that the vote is in relation to the amendments offered in the usual form with no second-degree amendments in order prior to the vote.

Mr. GREGG. That is acceptable——

Mr. REID. And also that the time limit be as outlined and the time for debate—there would be an opportunity to file a motion prior to the vote in relation to the amendment.

Mr. GREGG. Do you mean a motion to table?

Mr. REID. Yes.

The PRESIDING OFFICER. The Senator so amends his request?

Mr. GREGG. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Mr. President, I inquire of the Senator from Nevada whether or not it would be possible to stack these votes or whether the jury is still out on that?

Mr. REID. We should wait on that. We have a number of people on this side who want to vote after every amendment. We will work on that.

Mr. GREGG. I point out to the Senator, as I know and he knows, by not stacking the votes we add a considerable amount of time to this exercise. We are trying to move these amendments in a prompt and reasonable fashion. I think that has been shown in the process throughout the weeks here. We end up delaying if we don't stack votes.

Mr. REID. The managers have worked so hard and the leaders have conferred about this legislation. We will work on that. We hope that the Senator from New Hampshire will give us a finite list of amendments. Once that happens, I am sure we can quickly arrive at a time to dispose of this and the votes could be stacked.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

MOTION TO COMMIT

Mr. SMITH of Oregon. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Oregon [Mr. SMITH] moves to commit the bill, S. 1052, as amended, to the Committee on Finance with instructions to report H.R. 3 back to the Senate forthwith with an amendment.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that further reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

> Mr. SMITH of Oregon moves to commit the bill S. 1052, as amended, to the Committee on Finance with instructions to report H.R. 3 back to the Senate forthwith with an amendment that—
>
> (1) strikes all after the enacting clause and inserts the text of S. 1052, as amended,
>
> (2) makes the research and development tax credit permanent and increases the rates of the alternative incremental research and development tax credit as provided in S. 41,
>
> (3) provides that H.R. 3, as amended pursuant to paragraphs (1) and (2), does not negatively impact the social security trust funds or result in an on-budget surplus that is less than the medicare surplus account, and
>
> (4) provides that H.R. 3, as so amended, is not subject to a budget point of order.

Mr. SMITH of Oregon. Mr. President, for myself, Senator HATCH, Senator ALLEN, and others, I have sent to the desk a motion to commit S. 1052 to the Finance Committee with instructions to make permanent the research and development tax credit. We are joined in this also by Senators CRAPO, CRAIG, BENNETT, BROWNBACK, BURNS, HUTCHINSON, ALLEN, and ENZI.

As a Member of the Senate high-tech task force, I believe that the R&D tax credit is essential to the technology community, and also to the pharmaceutical community.

This credit encourages investment in basic research that, over the long term, can lead to the development of new, cheaper, and better technology products and services. The research and development is certainly essential for long-term economic growth.

Innovations in science and technology has fueled the massive economic expansion we have witnessed over the course of the 20th century. These achievements have improved the standard of living for nearly every American. Simply put, the research tax credit is an investment in economic growth, new jobs, and the important new products and processes that we need in our lives.

The R&D tax credit must be made permanent. This credit, which was originally enacted in 1981, has only been temporarily extended 10 times. Permanent extension is long overdue.

Because this vital credit isn't permanent, it offers businesses less value than it should. Businesses, unlike Congress, must plan and budget in a multiyear process. Scientific enterprise does not neatly fit into calendar or fiscal years.

R&D development projects typically take a number of years, and may even last longer than a decade. As our business leaders plan these projects, they need to know whether or not they can count on this tax credit.

The current uncertainty surrounding the credit has induced businesses to allocate significantly less to research than they otherwise would if they knew the tax credit would be available in future years. This uncertainty undermines the entire purpose of the credit.

Investment in R&D is important because it spurs innovation and economic growth. Information technology, for example, was responsible for more than one-third of the real economic growth in 1995 through 1998.

Information technology industries account for more than $500 billion of the annual U.S. economy. R&D is widely seen as a cornerstone of technological innovations which, in turn, serves as a primary engine of long-term economic growth.

The tax credit will drive wages higher. Findings from a study, for example, conducted by Coopers & Lybrand show that workers in every State will benefit from higher wages if the research credit is made permanent.

Payroll increases as a result of gains in productivity stemming from the credit have been estimated to exceed $60 billion over the next 12 years.

Furthermore, greater productivity from additional research and development will increase overall economic growth in every state in the Union. Research and development is essential for long-term economic growth.

The tax credit is cost-effective. The R&D tax credit appears to be a cost-effective policy instrument for increasing business R&D investment. Some recent studies suggest that one dollar of the credit's revenue cost leads to a one dollar increase in business R&D spending.

There is broad support among Republicans for the credit, and President Bush included the credit in the $1.6 trillion tax relief plan.

I urge my colleagues to support this amendment, and I thank Senator HATCH and Senator ALLEN, the chief cosponsors, for providing us with the opportunity of increasing the size of the tax cut to include this important priority but which, unfortunately, was left out of the tax bill that we recently passed.

Before I yield to Senator ALLEN for his comments, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second?

The yeas and nays were ordered.

Mr. SMITH. I yield the remainder of my time to Senator ALLEN.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ALLEN. Mr. President, I rise in support of the amendment and very much thank Senator GORDON SMITH of Oregon for his leadership and for giving us the opportunity to vote on this very important amendment and principle and tax policy that is essential for the United States to compete and succeed in the future. I also commend the Senator from Utah, Mr. ORRIN HATCH, for all his work over the years, and especially this year, in advocating this measure.

As chairman of the high-tech task force on the Republican side of the Senate, we have endorsed this idea. We have been working on this idea. Unfortunately, as the Senator said, it was not included in the tax bill. But the reason that this is so important is that research and technology—generally speaking, research in biotechnology and pharmaceuticals—is at stake with this amendment and this research and development tax credit.

Up here in Washington, we are making decisions for a year or so, or even a 5-year budget, and even once in a while we do projections over 10 years. In private industry and business, their planning needs to be long-term. In particular, when you think of research and development into pharmaceuticals, the amount of research that goes into putting forward a drug before getting it to patent, to the market, and so forth, it is not just the research and the labs; there are clinical trials that go on year after year, and hopefully you will get a patent; and for a short period of time you will have a window of opportunity on that prescription drug, for example.

So this tax policy is very important so that businesses have certainty, that there is credibility, stability, predictability to devote the millions and, indeed, in some cases, billions of dollars to research and development and technology.

The issue is jobs and competition for the people of the United States. We, as Americans, need to lead in technological advances. The R&D tax credit is very important in microchips or semiconductor chips. It is important in communications research and development. It is important in life sciences and medical sciences and, obviously, that includes biotechnology and pharmaceuticals.

Making the R&D tax credit permanent, as Senator SMITH says, actually is cost effective. It makes a great deal of sense. Studies suggest every dollar of revenue cost leads to a $1 increase in business R&D spending. These are good jobs and it also allows us as a country to compete.

A permanent extension is long overdue. As Senator SMITH said, it has been extended every now and then for a few years. Once in a while it lapses. Businesses cannot plan that way. They have to make sure it stays constant. Publicly traded companies have their quarterly reports, their shareholder reports, and the amount of investment they get in their companies based on how they are operating and managing that company.

If you have changing tax laws or lack of credible, predictable tax policies that foul up that whole system, that makes them less likely to want to invest and take the risk of billions of dollars in research and development if they are not certain of the long term.

This amendment to make the research and development tax credit permanent will spur more American investment; it will create more American jobs—and they are good paying jobs—and that will lead us to better products, better devices, better systems, and better medicines.

I hope the Senate will work in a unified fashion on this amendment by Senator SMITH to make permanent the research and development tax credit so Americans get those good jobs, but, most importantly, allow America to compete and succeed and make sure America is in the lead on technological advances, whether they are in communications, in education, in manufacturing, or the medical or life sciences.

I again thank the Senator from Oregon, Mr. SMITH, for his great leadership, as well as that of ORRIN HATCH.

I yield back the time I have at this moment and reserve whatever time may remain on our side.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this is a Patients' Bill of Rights bill. This is not a defense bill. This is not a foreign aid bill. This is not an agriculture bill. This is not a tax bill. This is the Patients' Bill of Rights bill.

The amendment offered by my good friend from Oregon is not a Patients' Bill of Rights amendment. It is a tax amendment. In fact, he would like to report out of the Finance Committee, by his amendment, a bill that is currently in the Senate Finance Committee, a tax bill. Tax legislation does not properly lie at this moment on this bill. Pure and simple. Full stop. That ends it.

I also say to my good friend from Oregon, I agree with permanent extension of the R&D tax credit. I daresay a majority of Senators agree. I cosponsored legislation in the past. The Finance Committee reported out a permanent extension, and the Senate-passed tax bill, that huge tax bill of $1.35 trillion, included permanent extension of the tax credit. Unfortunately, it did not survive in conference, but it is clear that the R&D tax credit has enormous support in this body.

Does anybody here think there is not going to be another tax bill? Of course, nobody here believes there will not be another tax bill. There will be tax legislation this year. That is clear. The appropriate time for this Senate to appropriately include considering permanent extension of the R&D tax credit is when the tax legislation comes up.

The current provision expires December 31, not 2001, not December 31, 2002, not December 31, 2003; it expires December 31, 2004, over 3 years away. In all the years we have been extending the R&D tax credit, that is probably the longest extension that has existed.

I agree with my good friend; it should be permanent. This yo-yo, up-and-down, back-and-forth, on-again off-again application of the R&D tax credit by this body does not make good sense. It is wrong.

This is not a tax bill; this is a Patients' Bill of Rights bill. There will be tax legislation. When there is tax legislation before this body, that is the time we can appropriately consider permanently extending the R&D tax credit.

I wish my good friend would withdraw his amendment because this is not the proper time and place for it. If he does not wish to withdraw it, I urge my colleagues to not support it because this is not the time and place. Were it to pass, the door would be open and we would be writing another tax bill. We have already passed a big tax bill. We passed a tax bill of 1.35 trillion bucks. That is a big tax bill. This is not the time and place.

Mr. REID. Will the Senator yield for a question?

Mr. BAUCUS. I yield to my good friend from Nevada.

Mr. REID. Mr. President, as chairman of the Finance Committee, the Senator from Montana made commitments to a number of people, including this Senator, that he is going to do everything in his power as chairman of the Finance Committee to make sure there are other tax vehicles this year; is that true?

Mr. BAUCUS. That is absolutely true. There are many Senators who wanted to offer tax provisions to this bill but deferred, recognizing this is not the time and place. It is Ecclesiastes, Mr. President: Essentially there is a time and place for everything. This is not the right time and place for tax legislation.

Mrs. BOXER. Will my colleague yield to me for a question?

Mr. BAUCUS. I ask how much time is remaining on both sides?

The PRESIDING OFFICER. Eleven minutes to the opponents; 4 1/2 minutes to the proponents.

Mr. BAUCUS. I yield to my good friend from California.

Mrs. BOXER. I want to ask the distinguished chairman of the Finance Committee this question. As someone who comes from the largest State in the Union, on the cutting edge of high tech, making the R&D—or R&E sometimes called—tax credit permanent has been a priority of mine for a long time.

Will my friend tell me, if this is such an important priority to those who, in fact, had the majority at the time the tax bill was written, namely, the Republicans, and the President certainly was working at that time with Senator GRASSLEY, could they not have put the extension of the R&D tax credit into the big tax bill that was brought to this Chamber?

Mr. BAUCUS. Mr. President, the Senator from California makes a very good point. Clearly, the President could have included a permanent extension of the R&D tax credit in his proposed tax legislation. The Senate was then controlled by the Republican Party, and it certainly could have put in the R&D tax credit, and it probably would have survived conference if they pushed it.

I say to my friend from California, this is only speculation, but that was not provided for because the current extension, the current provision is in place at least until December 31, 2004. So there is time for the R&D tax credit to take effect, and at a later date we can make it permanent.

Mrs. BOXER. I say to my friend, then that is the same comment we can make to our colleagues who are trying to put this on a Patients' Bill of Rights. The R&D tax credit is in effect until 2004. Let's get an appropriate vehicle where we can all walk together and support the R&D tax credit and not put it on the Patients' Bill of Rights.

I thank my friend for yielding.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I say to my friend from Montana, I want to put this on whatever moves. I know it does not expire until 2004. I also know President Bush did include this in his original tax bill, but that was moved down then. It was unfortunate it was moved down.

I want to see us do it as quickly as we can for the simple reason that businesses need to make planning and expenditures that last an awful long time. The year 2004 does not fit with some of those plans that need to be made.

This is not unrelated to medicine and patients' health. Part of the technological development we are hoping to continue to provide to our people is in the pharmaceutical and biotechnological areas which do have a direct bearing on patients' health. The best right a patient can have is good health. This will facilitate that a great deal, perhaps as much as anything else in the bill.

I ask unanimous consent to send a modification of my motion to the desk.

Mr. BAUCUS. Reserving the right to object, could the Senator share with the Senate the contents of the modification; otherwise, I will be constrained to object.

Mr. SMITH of Oregon. It is simply to comply with the Parliamentarian's request to be consistent with Senate requirements.

Mr. BAUCUS. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion, as modified, is as follows:

> Mr. SMITH of Oregon moves to commit the bill S. 1052, as amended, to the Committee on Finance with instructions to report S. 1052 back to the Senate within 14 days with an amendment that—
>
> (1) makes the research and development tax credit permanent and increases the rates of the alternative incremental research and development tax credit as provided in S. 41,
>
> (2) provides that S. 1052, as amended pursuant to paragraph (1), does not negatively impact the social security trust funds or result in an on-budget surplus that is less than the medicare surplus account, and
>
> (3) provides that S. 1052, as so amended, is not subject to a budget point of order.

Mr. REID. Has everyone yielded back their time?

Mr. SMITH of Oregon. I yield 1 minute to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. To wrap up in response to some of the assertions and comments made in opposition to this amendment, the reason this amendment is necessary is, unfortunately, the other side of the aisle knocked out the amount of the tax cut we wanted and omitted small family farms and small businesses against the research and development tax credit. Senator HATCH was working mightily, with the support of many Members, to try to get this into the tax cut bill.

More important than all the procedure is the fact that our economy is going very slowly. I am trying to be positive at this moment. The technology sector is obviously going very slowly. In fact, it is in some regards frozen, especially in new investment. The research and development tax credit being made permanent now matters because now and in the next few quarters is when technology companies, pharmaceuticals, biotechs, all folks in tech, will be making decisions, and those decisions need to be made so they can create the jobs, get our economy going again, and improve our lives.

I thank the Senator from Oregon for this amendment and hope my colleagues will support this amendment.

Mr. SMITH of Oregon. We yield back the remainder of our time.

Mr. BAUCUS. I ask, is all time yielded back?

The PRESIDING OFFICER. The Senator from Montana has 8 minutes 50 seconds.

Mr. BAUCUS. Mr. President, I yield back my time and I make a constitutional point of order against Senator SMITH's motion on the grounds that the motion would affect revenues on a bill that is not a House-originated revenue bill.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I ask permission to enter a request for unanimous consent with the Senator from New Hampshire. I ask that the vote on the motion made by the Senator from Montana be set aside and we next go, as has been already ordered, to the Allard amendment, the Nickles amendment, we debate the Allard and the Nickles amendment, and vote on those three amendments at the conclusion of debate.

Mr. GREGG. We have 2 minutes equally divided prior to the Allard amendment and Nickles amendment to explain.

The PRESIDING OFFICER. Does the Senator so amend his request?

Mr. REID. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

AMENDMENT NO. 821

Mr. ALLARD. Mr. President, I call up amendment No. 821.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Colorado [Mr. ALLARD], for himself, and Mr. GREGG, Mr. CRAIG, Mr. NICKLES, Mr. ALLEN, Mr. INHOFE, Mr. SMITH of New Hampshire, Mr. GRAMM, Ms. COLLINS, Mr. SESSIONS, Mr. ENZI, and Mr. CAMPBELL, proposes an amendment numbered 821.

Mr. ALLARD. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To exempt small employers from causes of action under the Act)
>
> On page 148, between lines 23 and 24, insert the following:
>
> "(D) EXCLUSION OF SMALL EMPLOYERS.—
>
> "(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, in addition

to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

"(ii) DEFINITION.—In clause (i), the term 'small employer' means an employer—

"(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 15 employees on business days; and

"(II) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

"(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

"(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

"(iii) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subparagraph:

"(I) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

"(II) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(III) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

On page 165, between lines 14 and 15, insert the following:

"(D) EXCLUSION OF SMALL EMPLOYERS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

"(ii) DEFINITION.—In clause (i), the term 'small employer' means an employer—

"(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 15 employees on business days; and

"(II) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

"(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

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"(II) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(III) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer."

Mr. ALLARD. Mr. President, my amendment provides another opportunity for the Senate to protect the country's employees of small businesses. Yesterday, the Senate voted on an amendment I offered that would have protected employees of small businesses from losing their health care insurance.

I am offering another amendment that gives Members another chance to protect those employees. My amendment, cosponsored by 12 Senators, protects employees of small businesses from losing their health insurance. My amendment exempts employers with 15 or fewer employees from unnecessary and unwarranted lawsuit.

We must protect small business employees from losing their health care insurance. Small business represents over 99 percent of all employers in America. If the Kennedy bill passes in its current form, small business employees will be subject to increased health care premiums and to the possibilities of losing their health care insurance altogether.

Based on studies from the Congressional Budget Office and the Lewin Group, the Kennedy bill will cause more than 1 million Americans to lose their health insurance. The White House estimates—and that is rather conservative, I believe, because the White House estimated even more Americans will lose their health care insurance—the Kennedy bill could cause 4 to 6 million Americans to lose their health care.

The least the Senate can do to protect small business employees from losing their health insurance and protect small employers from unnecessary liability is to pass this amendment. We are talking about employers that have 15 to 2 employees. Currently, numerous Federal laws provide exemption for small businesses and their employees.

In my previous amendment we talked about the 50 employee exemptions. The other side made the point it was unfair because we were creating a bright line and those with 49 employees would not have an opportunity to take advantage of benefits provided in the amendment as those with, say, 51 employees. This amendment draws a bright line. We are addressing the very small employers of the small business sector; that is, 15 employees or fewer. True, we have a bright line, but it is not unusual in Federal law to draw bright lines trying to differentiate where the respective law should deal with different sizes of employees, trying to draw a line between small employers and the larger employers.

Let me cite for Members some examples. The Occupational Safety and Health Act exempts businesses of 10 or fewer employees, workers, in certain low-hazard industries. The Americans with Disabilities Act defines the term "employer" as a person who has 15 or more employees engaged in an industry affecting commerce. This is the area where we have decided in this amendment to differentiate the very small employers from the other small businesses of this country. The Worker Adjustment and Retraining Modification Act, commonly referred to as the Plant Closing Act, defines the term "employer" as any business that employs 100 or more employees. The Family and Medical Leave Act, which requires employers to grant leave to parents to care for a newborn or seriously ill child, exempts businesses with fewer than 50 employees. The Fair Labor Standards Act, which established the minimum wage standards, exempts certain employers with minimum gross income—they did not use the number of employees—of less than $500,000 as an indication of what a small employer might be as it applies to that statute.

The Walsh-Healy Public Contracts Act, which contains minimum wage and overtime for federally contracted employers, exempts employers that have Federal contracts for materials exceeding $10,000, which also is indicative of a small employer. The Age Discrimination and Employment Act of 1967 exempts employers of 19 or fewer workers.

These numerous employee protections are currently in place as Federal law. The Senate should extend similar protections to employees of small business. If we do not protect employees from frivolous lawsuits, more than a million—some estimate up to 9 million employees—will lose their health care insurance.

Again, I am offering this amendment to provide the Senate with another chance to protect employees of small business from losing their health care insurance.

I inquire the time remaining on my side?

The PRESIDING OFFICER. The Senator has 9½ minutes.

Mr. ALLARD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, this is the third bite of the apple. The first bite was Senator GRAMM's amendment, where we were going to provide protection for all employers. Then we had the Allard amendment to protect an employer with 50 employees or less. Now with this amendment, we are down to 15.

The fact is, yesterday, if there was any question about what this legislation was really all about, it was well debated, discussed and addressed. That was in the amendment offered by Senator SNOWE of Maine and Senator DEWINE of Ohio. In their amendment, the Wall Street Journal says:

> Employer protection makes gains. Senate passes rule to shield companies from workers' health plan lawsuits.

It is very clear now that the only employers, large or small, that are going to be vulnerable are those that take an active involvement in disadvantaging their employees in health care and putting them at greater risk of death or serious injury. That is it. The rest of this has been worked out. We have done it with 100 employees, we have done it with 50, and now we are down to 15. It makes no more sense today. Those employees should be adequately protected in these companies. I imagine, if the Senator is not successful with 15, we will be down to 10, we will be down to 5, and then we will be down to 3.

We have addressed this issue. Every Member of this body ought to know it. I think this is a redundant amendment, one that we have addressed. The arguments are familiar. I yield to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, this is clear filibuster by amendment. I have been here a long time. I have seen this happen. As the Senator from Massachusetts pointed out, we have been here; we have done that. Next, as the Senator from Massachusetts indicated, it will be 10 employees, 5 employees, 4 employees, 3 employees.

When the time has expired on this amendment, I will offer a motion to table. This amendment should not be discussed. It should not take up the serious time of the Senate that has been so well used these past 9 days.

The PRESIDING OFFICER. Who yields time?

Mr. ALLARD. I yield 2 minutes to the Senator from New Hampshire.

Mr. GREGG. I join the Senator from Colorado on this amendment. This bill is incredibly complex—to be kind. It has thousands of moving parts. The bureaucracy, which is going to be created and empowered as a result of it, is going to be massive. The lawsuits are going to be massive. The number of litigable events is going to be massive. It is going to be incomprehensible to large amounts of the American working public and their employers.

It is only elementary fairness that we say, to at least the smallest employers that are the ones creating the jobs in America today, you are not going to have to pay what will undoubtedly be your entire profit margin in order to try to comply with this new piece of legislation.

For employers that have 15 or fewer employees, it is simply fairness that we take them out from this cloud and give them the opportunity to give their people jobs and not be overwhelmed by the cost of this bill.

We have talked a lot about the costs of this bill, but let me cite a couple of figures. The cost to defend the average malpractice suit is $77,000. There are very few employers in this country that have less than 15 employees that are making more than $77,000. They are running a small business, a grocery store or restaurant, gas station, small retailer. These are the smallest businesses that create the most energy in our economy. That is where our jobs are created; they are created in these small businesses.

Let's not have those folks who are willing to be entrepreneurs for the first time in their lives, the first-time entrepreneurs who are willing to step into the risk pool of the capitalist system and, as a result, create jobs, let's not burden them with the bureaucracy and cost of this bill which we know is going to be extraordinary. Let's pass the Allard exemption for employers with 15 or fewer employees.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, let's just go back over what we are talking about this afternoon. First of all, the majority of small businessmen and women in this country are not involved in decisionmaking that affects the well-being of the employees. We know that. They basically are busy enough. It has been explained by Members that they are involved in running their businesses. This is really not an issue so much in terms of small business.

The only people that will be affected by this are the small businessmen or women who get hold of the HMO where they have the insurance and says, look, if any of my employees are going to run up a bill more than $25,000, call me up because I want to know. When that HMO calls up, the employer says: Don't give them the treatment. As a result of not giving that treatment, the child of an employee is put at risk, and perhaps dies, or the wife of an employee, who has breast cancer, is denied access into a clinical trial and may die as a result. This is only if you can demonstrate the employer is actively involved in denying the benefits to those employees. Are we going to say that all these employers, with 15 or fewer employees, are going to be completely immune from this when the only employer that has to worry about this is one who is going to be actively involved in making a decision that puts their employees at risk? We built in the protections with the Snowe-DeWine amendment. We built them in and we have supported them. But it seems to me that workers in these companies, which make up about 30 percent of the American workforce, ought to be given the same kinds of protections against the employers that are going to make that decision.

Make no mistake about it. The great majority of employers do not do that today. Only a very small group do. But if the small group that do do that are able to get away with it, there is an open invitation to other small businessmen and women, in order to keep their premiums down, to get involved in similar kinds of activities. This will offer carte blanche so that 30 percent of the American workforce will not be covered one bit with this legislation. It makes no sense. It didn't make any sense when it was first offered by Senator GRAMM; it didn't make any sense when it was offered previously by Senator ALLARD; and it makes no sense at this time.

The only people who have to worry are those employers that are going to connive, scheme, and plot in order to disadvantage their employees in ways that are going to bring irreparable harm, death, and injury to them. If you want to do that to 30 percent of the workforce and put them at that kind of risk, this is your amendment.

I do not think we should. I hope the amendment will be defeated.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Massachusetts has 9 minutes 23 seconds remaining. Who yields time?

Mr. ALLARD. Mr. President, I yield 3 minutes to the Senator from Oklahoma.

Mr. NICKLES. My friend and colleague from Massachusetts said if you want to do this, you should sponsor this amendment. I am not sure I want to do what he just described, but I want to sponsor this amendment with my colleague and friend from Colorado. I ask unanimous consent to be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. This amendment is vitally important for small business. This bill, the underlying bill, says employers beware, we are coming after you because we do not exempt employers.

Interestingly enough, we exempt Federal employees, we exempt Medicare, we exempt government plans, but we do not exempt private plans. Anybody who has a private plan, employers beware because they can sue you and they can sue the plan.

Oh, I know we came up with a little cover, and maybe you can put the liability under the form of a designated decisionmaker, and they can assume it. But guess what? They are going to charge the employer for every dime they think it is going to cost. And my guess is, the designated decisionmaker will want to have enough cover so they don't go bankrupt, so they are going to charge a little extra to make sure they have enough to protect them from the liability and the costs that are associated with this plan.

The cost of health care is exploding. Health care costs went up 12.3 percent nationally last year. They are supposed to go up more than that this year. That is not for small businesses. The cost of health care for small business is 20, 21, 22 percent, and that is without the cost of this bill.

CBO estimates the cost of this bill is 4.2 percent. But if you assume there is going to be a whole lot of defensive medicine, you can probably double that figure. And with the liability, you are probably looking at another 9 or 10 percent on top of the 20 percent for small business. Those are not figures I am just grabbing out of the air, I think they are the reality.

My friend and colleague from Colorado, Senator ALLARD, is saying: Wait a minute. Let's exempt small employers, those people struggling to buy health care for the first time. Let's protect them and make sure they won't be held to the liability portions.

Federal employees are not able to sue the Federal Government. Why should we say: Oh, yes, you can have a field day on small employers. The only way to purely protect them—to surely protect them—is to adopt the Allard amendment.

I urge my colleagues to vote in support of the Allard amendment to protect small businesses.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado has 4 minutes 25 seconds remaining.

Who seeks time?

Mr. ALLARD. Mr. President, I say to the majority I would like to be able to wrap up on my amendment, if I might.

Mr. KENNEDY. Why don't you wrap up.

Mr. ALLARD. If you have finished, I will wrap up and then yield the time.

Mr. KENNEDY. Don't get too provocative.

Mr. ALLARD. Don't get too provocative? Maybe the Senator from Massachusetts would like to respond?

Mr. KENNEDY. That is all right.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Thank you, Mr. President.

Mr. President, I have had the experience of starting a business from scratch and having to meet a payroll. As far as I am concerned, too few Members of the Senate have ever had the opportunity to be in business for themselves and had to meet the challenges of meeting a payroll. But I personally know how legislation such as this can affect your business. I have had to face those tough decisions. They are not pleasant.

There are a lot of small business employers all over this country that are sending letters to Members of this Senate about the very same concerns that have been expressed by the Senator from Oklahoma, the Senator from New Hampshire, and numerous other Senators, at least on this side of the aisle, about the impact of this particular piece of legislation on small business.

Let me take one example. There is a Mr. Terry Toler, for example, of Greeley, CO. I represent the State of Colorado. He runs a small construction business. He employs three workers. The health insurance he provides to his employees also helps take care of the needs of his family. Terry cannot afford the costs that would come with the Kennedy bill in its current form.

Last year, Terry's company had a 65-percent increase in health insurance premiums and costs. This increase was on top of Terry's other insurance costs, including equipment insurance, professional liability insurance, and general liability insurance. If this bill is passed in its current form, the company's health insurance rates will increase even further. As a result, he may have to drop the health insurance he provides for his employees and his family.

My amendment will protect Terry and his employees from losing their health insurance. Terry is one of hundreds of small employers in Colorado that would be forced to jeopardize their health care insurance. We need to protect hard-working employees from losing their health insurance.

Let me share some further concerns of this small businessman. Large employers can obtain health insurance at a much lower rate. As a result, small business employers cannot compete with larger companies. In a tight labor market, employers compete for the best employees. These are all competitive issues about which a small businessman is concerned. When this kind of legislation moves forward, you can understand their concerns.

I have heard comments from another small businessman in Springfield, CO, who has expressed his concern. He writes:

> Health care costs are already prohibitive. Adding the law-given right to sue for punitive damages can only increase costs. A patient bill of rights is important, but not at the price of Kennedy's bill.

He further states:

> . . . liability limits are a good way to help cap rising health care costs.

As an employer, he must evaluate the price tag that comes with paying for health care. He believes it is prohibitive.

According to a recent survey of some 600 national employers, 46 percent of employers would likely drop health care coverage for their workers if they were exposed to new health care lawsuits.

This is not a good bill for small business. The adoption of the Allard amendment would make it better. So I am asking my colleagues in the Senate to join me in protecting employees of small business, thus protecting the employees' health care they currently enjoy. If the Kennedy bill passes in its current form, the health care protection of more than 1 million Americans will be jeopardized. Colleagues should support this amendment to protect employees' health insurance and limit small employer liability.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 3 seconds remaining.

Mr. ALLARD. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I say to the Senator, I am going to make a brief statement, and then he can wind up. I will yield him 2 minutes after I make a brief statement.

The PRESIDING OFFICER. The Senator has 9 minutes.

Mr. KENNEDY. I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, we acknowledge the burden that is placed upon small business and the costs of their insurance. The Senator is quite correct that they pay anywhere from 20 to 30 percent more. They are constantly having to look at newer kinds of companies as they are being knocked off the insurance rolls. We understand that. We are prepared to work with the Senator on this.

This is an important issue. I am amazed that small businesses in my own State can really survive with the problems they have. We ought to be able to find ways to help and assist them; but this is not it.

We had $3.5 billion of profits last year from the industry. They have already asked for a 13-percent increase in their premiums this year. They were 12 percent last year. That is generally, without this.

We have been over this during the debate, that the cost of this is less than 1 percent a year over the next 5 years. We have also gone over this and found out that some of the wealthiest Americans are the heads of these HMOs. Mr. McGuire makes $54 million and got $350 million in stock value last year—$400 million. That has something to do with the premiums for those companies.

This is a very simple kind of question. He talks about protecting the employers. We are interested. They are protected unless they go out and change and manipulate their HMO to disadvantage the patients who are their employees and deny them the kinds of treatments that would be protected and with which we are all protected.

I am reminded, myself, that my son had cancer. I was able to get a specialist for him and to be able to get into a clinical trial. I want those employees who are represented by the 15 not to be denied that same opportunity. I did not have someone who was riding over that and denying me that. But that is happening in America. It might not be happening in Colorado, but it is happening in America, where employers are calling up and saying: Don't put them in those clinical trials. We are here to stand and say: We are going to protect them. We will work with you, with the small business, but let us protect the women who need that clinical trial for cancer and the children who need that specialist. Why deny them those protections? That is what this amendment is all about.

I am prepared to yield the last 2 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Massachusetts.

I am continuing to hear from small business employers. And other Members of this Senate, as well, are hearing the same message I am. They are concerned about the rising cost of health care and the impact it will have on their business and the impact this particular piece of legislation is going to have on costs.

They are also concerned about the increased number of lawsuits that will be faced by small business employers if this particular piece of legislation passes.

My amendment provides some relief for small businesses of 15 employees or fewer. When you first glance at this bill, as I did, you say: It looks as if the employer has been exempted. But when you read the fine print, then you see there is a circle around it, and you find that the small businessman gets pulled in and becomes subject to lawsuits, more lawsuits than he is facing now. That puts at jeopardy the health care he is currently providing for his employees.

I am asking the Members of the Senate to join me to make sure small business doesn't get pulled into this ever-expanding web of tangled lawsuits into which they are going to be pulled if this particular bill passes.

The Allard amendment is a good amendment. I hope Members of the Senate will join me in protecting small business, those of 15 employees or fewer.

Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. ALLARD. Mr. President, I ask unanimous consent to print in the RECORD an editorial run in the Fort Collins Coloradoan.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PATIENTS' BILL OF RIGHTS NOT END-ALL TO HEALTH CARE ISSUES

Physician (and consumer), heal you, should be the motto for the Patients' Bill of Rights now under consideration by Congress.

The legislation, which actually includes several amendments, focuses on whether consumers can sue their health care providers for not approving treatment deemed medically necessary. Congress should restore that power to consumers, but only if the suits are based on actual damages, rather than punitive penalties. Those penalties have led to some outrageous settlements, and those legal costs have been passed on to employers and employees.

But consumers would be unwise to believe that this legislation can solve the broader issues of the rising cost of health care.

Many symptoms combine to make medical care costly: Pharmaceutical companies are advertising directly to consumers rather than doctors, which means patients may demand the more expensive brand-name medicines. Low deductibles for doctor office visits benefits consumers upfront, but health care providers shift their expenses by demanding higher premiums, which have increased sometimes 10-fold in the past decade for employers.

Publicly owned health care providers face the sometimes-conflicting mission of answering to stockholders, who want profits, and their customers, who demand lower premiums and broader access to care. All the while, health care CEOs are receiving bonuses worth millions.

Managed care is not all negative. Without a cooperative system, many individuals could not afford even simple doctor's visits to maintain their health. Those without insurance usually have to turn to acutely expensive emergency rooms for health care. The focus on preventive care came about, in part, from health care providers who were seeking to keep their costs down, but the process also keeps patients healthy.

Legislation will not replace the need for innovation and close scrutiny by consumers and health care professionals regarding how the system works. Some providers are using a triage-type system to evaluate and treat patients efficiently; employers are shopping around to find health plans that fit their needs; providers are considering tiered-cost plans; and patients bear responsibility for keeping themselves as healthy as possible.

Congress should allow patients the right to sue providers and exempt employers who have no control over medical decisions. Still, turning the decision over to the courts in expensive and unwieldy, with lawyers seeing the most benefit. Another option is to rely on a binding mediation process or an independent panel to weigh medical coverage decisions to keep the focus on health care and off litigation.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I move to table the Allard amendment and ask for the yeas and nays. Under the previous agreement, that will be set aside and we will go to the Nickles amendment now.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

AMENDMENT NO. 850

The PRESIDING OFFICER. Under the previous order, the pending amendment is set aside and the Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 850.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To apply the patient protection standards to Federal health benefits programs)

On page 131, after line 20, insert the following:

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS.

(a) APPLICATION OF STANDARDS.—

(1) IN GENERAL.—Each Federal health care program shall comply with the patient protection requirements under title I, and such requirements shall be deemed to be incorporated into this section.

(2) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—Any individual who receives a health care item or service under a Federal health care program shall have a cause of action against the Federal Government under sections 502(n) and 514(d) of the Employee Retirement Income Security Act of 1974, and the provisions of such sections shall be deemed to be incorporated into this section.

(3) RULES OF CONSTRUCTION.—For purposes of this subsection—

(A) each Federal health care program shall be deemed to be a group health plan;

(B) the Federal Government shall be deemed to be the plan sponsor of each Federal health care program; and

(C) each individual eligible for benefits under a Federal health care program shall be deemed to be a participant, beneficiary, or enrollee under that program.

(b) FEDERAL HEALTH CARE PROGRAM DEFINED.—In this section, the term "Federal health care program" has the meaning given that term under section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b) except that, for purposes of this section, such term includes the Federal employees health benefits program established under chapter 89 of title 5, United States Code.

Mr. NICKLES. Mr. President, this amendment expands the coverage of the bill basically to all Americans.

I have heard countless sponsors of the bill say we should cover everybody who needs basic protections. I have heard it time and time again. I have heard it on national TV shows, Sunday morning shows: We should make this apply to everybody. Some argue, shouldn't these protections be reserved to the States because they have historically done it? But the legislation before us says, no, the Federal Government will do it; we will do it for all private plans. Usually they don't even say all private plans. They usually say for all plans.

The truth is, the legislation we have is a mandate on the private sector, but we have exempted the public sector.

It is amazing to me, almost hypocritical—I don't want to use that word, impugning anybody's motives—but it bothers me to think we are so smart and wise that we are going to mandate these patient protections on every plan in America, supersede State protections already present, and we don't give them to a group of employees over whom we really have control. We do have control over the Federal employees health care plan. We can write that plan. We have control. We write the checks. Federal employees pay about a fourth, but the Federal Government pays three-fourths. We have direct control over Federal employee plans, but they are not covered by this bill.

Federal employees in the State of Delaware or California or Oklahoma usually get their health care from Blue Cross or Aetna or whomever. They get it just like any other employee, but they are Federal employees. They don't get the patient protections under this bill. They don't have the appeals process under this bill. They don't have the legal recourse that is under this bill. They don't have the patient protections that are dictated in this bill. All other private sector employees will. Does that really make sense? Is that equitable? I am not sure.

My friend and colleague Senator KENNEDY just talked about clinical trials, and maybe they help somebody. I looked at the language for Federal employees. We are getting ready to mandate a very expensive provision, probably fairly popular, that says under the McCain-Kennedy bill we pay for all trials, for all purposes, if it has any Federal connection whatsoever. Federal employees aren't covered by the clinical trials section of this bill. They may be under individual plans, but they are not by mandate, by patient protections. Some plans may offer them; some plans may not. There is not a dictate.

We are getting ready to mandate a very expensive comprehensive list of clinical trials for every private sector plan in America, but not for Federal employees. I find that interesting.

We are getting ready to mandate an emergency room provision that includes prudent layperson, poststabilization, and ambulance care provisions. I mention this for the Senator from Delaware because I believe the State of Delaware is passing a patient protection program but they only cover prudent layperson. That is what Federal employees do. Federal employees don't have poststabilization and ambulance. That means our staffs, our employees, don't have the same patient protections that we are getting ready to mandate on every other health care plan in America. I find that to be very inconsistent.

I could go on and on and on. The OB/GYN provision: Federal employees get to have one visit. This is dictated or mandated—one visit to an OB/GYN. Under the bill we have before us, it basically allows the OB/GYN to authorize any OB/GYN care, without any other authorization requirements. That sounds unlimited to me, a much more expensive provision than what we have for Federal employees.

It is almost the case all the way through the bill. For pediatricians under the McCain-Kennedy bill, we allow parents to designate a pediatrician for their children. That sounds fine. I am sure if we voted on that, it would be unanimous. That is not a dictate for Federal employees. Some plans may have it; some plans may not.

My point is, Federal employees don't have these patient protections. We are getting ready to mandate something on the private sector that we forgot to do for the public sector.

It is interesting because I know President Clinton made a big deal out of the fact, saying: Congress is not acting. I am going to have an Executive order and make Federal employees have these patient protections. I will do it by Executive order. Well, he didn't do as much as we are getting ready to do on the private sector. That is my point.

I expect that what we are getting ready to do, that the patient protections we are passing, the examples I have listed—and that is not the total—are much more expansive than what has already been done. The same thing would apply for Medicare. If all these patient protections that have been espoused are so important, shouldn't we give those to senior citizens? Shouldn't senior citizens have the same expedited review process, internal/external appeal process, as we are going to mandate on all the private sector? I would think so. We all love our senior citizens, our moms and dads and grandparents. Surely we should give them the same protections we are getting ready to mandate. They don't have it. They can spend days in an appeals process and never get out of the appeals process.

What about Indian Health Service? What about our veterans? Our veterans aren't covered by this bill. They don't have the same patient protections. They don't have the same expedited review process. Shouldn't they be covered?

Granted, this amendment could cost a lot of money, but this bill will cost a lot of money. I have heard a lot of people say this bill only costs a Big Mac a month, it is not all that expensive, it is only just a little bit. I disagree with that. I am also struck by the fact that we are quite willing to mandate this on every city, every State, every private employer, but we don't mandate it on Federal employees. We don't do it on Federal programs. We do it on State programs. We do it on city programs. We don't have any objection to dictating how other governments have to do it. We will tell them how to do it. We just don't think the Federal Government should do it. We don't think the programs under Federal control should do it. I find that very inconsistent.

If this is that great of a program, and I have some reservations. I think this bill goes too far.

I think we are superseding State regulations, and I have stated that. I lost on that amendment. Maybe that amendment can be fixed in conference, but for crying out loud, we should be consistent. I have heard proponents say time and time again that this bill is not at all expensive. If so, shouldn't it apply to Federal employees? If we are going to mandate Blue Cross/Blue Shield in Virginia to provide this for all private sector plans, union plans, nonunion plans, and they also have governmental plans—the same Blue Cross—shouldn't they apply to governmental plans? They have to do it for Virginia. Shouldn't they have to do it for the Federal Government? That is my point.

There is some inconsistency here. If these are such great protections and they are not that expensive, we should make sure they apply to our employees as well. Senator KENNEDY mentioned clinical trials, as if that was a mandate. Some of the Federal plans cover clinical trials. Not all do. We are getting ready to mandate them for every plan in the country. Shouldn't we have it for Federal employees as well—maybe for the sons and daughters of the staff members working here? Shouldn't they have access to those just as the private sector will now have access to them?

The appeals process: This is one of the real keys. There have been hours of debate on the floor saying that on appeals every individual should have rights of internal review, and then the external review should be done by an independent entity not controlled by the employer. Guess what Federal employees have? If they are denied care, they can appeal. But to whom? They appeal to the Office of Personnel Management—to their employer. The employer might subcontract it, but basically it is the employer, the Federal Government. It is not totally independent when the Federal Government might be making that decision. Shouldn't we give Federal employees that same independent external review?

My amendment would make this bill applying to the public sector include

Federal employees, Medicare, Medicaid, Indian health, veterans, and civil service. I think it would help show that if we are going to provide these protections for the private sector and, frankly, mandate them, they should apply to the public sector as well.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have listened closely. I will come to the substance of the Senator's amendment in just a minute. I listened to him very carefully about his great enthusiasm for the Federal employee program. It is a fact that 100 Members have that program here in the Senate. It is interesting because the taxpayers pay for 75 percent of it. So it is always interesting for those of us who have been trying to get a uniform, or a national health insurance program. I favored a single payer for years. I am glad to do it any way that we are able to do it.

But I am glad to hear from my good friend from Oklahoma how much he believes in the value of the Federal employee program of which 75 percent is paid for every Member in here by the Federal Government. When any of us talk about trying to expand health insurance to try to include all Americans, oh, my goodness, we are going to have the Federal Government pay for any of these programs? My goodness. I welcome the fact that the Senator from Oklahoma is so enthusiastic about that concept, about having a uniform concept. It is interesting, you know, Mr. President. Many Americans probably don't know it. When you come in and sign on, there is a little checkoff when you become employed in the Senate. You check it and you are included in the Federal employee program. You have probably 30 or 35 different options. I wish the other American people had those kinds of options. No, we don't get any kind of support for trying to give the American people those kinds of options.

But do you know what, Mr. President? All these Senators who are always against any kind of health insurance for all Americans are down there checking that off as quick as can be to get premiums subsidized 75 percent by the taxpayers. Wonderful. Now they come up and say, well, they don't have all of the protections on it.

I want to say to the good Senator that I am very inclined to take the amendment. I would like to take the amendment. We are studying now the budget implications because I don't want to take it and then find out that we have the Senator from Oklahoma come over and say we have exceeded the budget limitations and then you have a blue slip and therefore the whole bill comes down. We know what is happening now. The basic protections of this legislation, according to the Congressional Research Service—the patient protections in the McCain-Edwards-Kennedy bill would apply, with the exception of the right to sue. That is what we are checking out at the present time in terms of what would be the estimation. Otherwise, I am all for it.

We have now in the Medicare systems that are involved in HMOs, they have the right to sue on this. As we saw some of those elements on the executive order, they have not been altered by the administration. I would like to make them statutory. No one would like to make them statutory more than I. I am about to wrap my arms around the Senator and bring him in and say I am in on this.

Hopefully, as our leader pointed out, after all the lectures that I have had—I don't say that in a derogatory way to my friend from Oklahoma—about health insurance—we heard about how we are going to increase the numbers of those who are going to lose their health insurance. We are not dealing with that problem, with the 43 million.

We will have an opportunity to invite your participation on these issues. We had some votes on the extension last year in terms of the parents on the CHIP program and virtually every Republican voted against it. To the extent that we saw progress made with the good support of Senator SMITH and RON WYDEN, we now have about $28 billion, $29 billion in the Finance Committee that can be used for the expansion of health care. We certainly want to utilize that. That is only a drop in the bucket. Our attempts in the past to get reserve funds out of the Finance Committee, which the Senator is on, so we could move ahead with a health insurance program have fallen on deaf ears.

I hope that all those—I will have a talk on that later on because I am taking all of those statements and comments made by our Republican friends over the period of the past days, all talking about health insurance, and we will give them a good opportunity. Hopefully, they won't have to eat their words. We will welcome some of their initiatives. We know what they are against. We want to know what they are for in terms of getting some health insurance.

Well, I will say that I am going to recommend to our side that we accept the Nickles amendment. So I am prepared. The Senator made such a convincing argument, and it has taken a little while. He left out HCFA. That was the only thing he left out. That is why we have been so persuaded. I know HCFA is not going to have anything to do with this amendment the Senator offers because, otherwise, I know he would not offer it.

Mr. REID. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. REID. Would the Senator from Oklahoma agree to a voice vote because it appears he is going to win so overwhelmingly?

Mr. NICKLES. I will think about that. How much time remains?

The PRESIDING OFFICER. Five minutes. The Senator from Massachusetts has almost 9 minutes.

Mr. NICKLES. Mr. President, I neglected to do this earlier and I meant to do it. I wanted to compliment Senator GREGG and Senator KENNEDY for their leadership on this bill and their leadership on the education bill because it is kind of unusual that we have two committee chairmen and two people who are responsible for moving two major pieces of legislation consecutively. So they combined and spent about the last 2 months on the floor. That is not easy.

I have always enjoyed debating and working with my friend and colleague from Massachusetts, and we are good friends. Occasionally, we agree. We have had two or three amendments, and we have had great oratory and, occasionally, we still agree on amendments. I appreciate that. We ended up coming together basically on covering union plans today. We got very close to an agreement. We will make that, I guess, in the managers' amendment. I appreciate that. I appreciate his willingness to accept this amendment.

I will be very frank and say we don't know how much this is going to cost, but frankly, we don't know how much this costs in the private sector. There is a point to be made. The Senator said maybe we can accept it, and possibly it can work out to give patient protections, but I don't know about the right to sue. That might be pretty expensive. We are doing that on the private sector as well. We do not know how much that is going to cost, but it will be very expensive.

Federal employees have a lot of protections, but they do not have near the protections we are getting ready to mandate on the private sector.

Medicare has some patient protections. They do not have near the patient protections that we will be mandating on the private sector. They do not have an appeals process that is as expedited as this. I do not have a clue whether Medicare can comply with this language. It takes, in many cases, hundreds of days to get an appeal completed in Medicare. We have a very expedited appeals process in this bill. I happen to support that appeals process, and it would be good if Medicare could have a very concise, complete, final appeals process and one, hopefully, that would be binding. We improved the appeals process in this bill today with the Thompson amendment, and I compliment Senator THOMPSON for his leadership on that bill.

I would be very troubled to go back to my State of Oklahoma and have a town meeting and tell employers they have to do this, this, this, and this;

they have to have this in their plans; if things do not work out, they might be sued for unlimited damages, and have one of them raise their hand and say, "Did you do that for Federal plans," and say, "No, we didn't. We just did it for you. We think maybe we are not going to do it for ourselves."

We have control over Federal plans. Those are the ones over which we really have control. I would find it very troublesome. I was one of the principal sponsors of the Congressional Accountability Act a few years ago who said Congress should live under the rules like everybody else. I remember some of my colleagues saying: Don't do that; if we make the Capitol comply with OSHA, it is going to be very expensive. If you walk into the basement of the Capitol today, you will find a lot of electrical wires that would not pass any OSHA inspection.

It bothers me to think we are going to mandate on every private sector health care plan: You have to have this, this, this, and this, all very well-intentioned, I might add, but some of which will be pretty expensive. I would find it troubling if we mandate that on the private sector and say: Oops, we forgot to do it for Federal employees.

That is the purpose of my amendment. I appreciate the willingness of my colleague from Massachusetts to accept the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I listened to the Senator talk about being in a town meeting and the questioner says: How in the world, Senator, can you apply all these provisions to our small business and you are not doing that to the Federal employees?

I would think at a town meeting in my State of Massachusetts someone might stand up and say: Senator, how come your health care premium is three-quarters paid by the taxpayers; why don't you include me? That is what I would hear in my State of Massachusetts. That is what I hear.

Maybe they are going to ask you about the right to sue where hard-working people have difficulty putting together the resources to get the premiums and get the health care. They wonder why the Federal Government is paying for ours. If we are being consistent with that, I say to the Senator from Oklahoma, we ought to be out here fighting to make sure their health care coverage is going to be covered. I do not see how we can have a town meeting and miss that one.

It is interesting, as we get into the Federal employees, we have 34, 35 different choices. What other worker in America has that kind of choice? The people say, what about your appeal? Generally speaking, you do not need an appeal; you can just go to another health care policy. We have that choice, but working Americans do not. They are stuck with the choices in the workforce. We can get on with those differences. But I am still in that wonderful good moment of good cheer for my friend from Oklahoma. I urge all our colleagues to support this well-thought-out, well-considered amendment. I look forward to working with him on other matters on health care to make sure we are going to do for the others, the rest of the people of Massachusetts and Oklahoma, as well for them as we do for ourselves in health care.

I am ready to yield back the time or withhold my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague. He mentioned the fact that the Federal Government pays three-fourths of the cost of health care for Federal employees. That is correct. With some companies it is more and some companies it is less.

The Federal Government pays 100 percent of my salary. The Senator from Massachusetts might want the Federal Government to pay 100 percent of the salaries in Massachusetts; I don't know. I appreciate his willingness to accept the amendment. I am not going to ask for a recorded vote.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. NICKLES. I yield back my time.

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes remaining.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 850.

The amendment (No. 850) was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Regular order, Mr. President.

MOTION TO COMMIT

The PRESIDING OFFICER. Under the previous order, there are now 4 minutes evenly divided prior to the vote on the point of order on the motion to commit. Who yields time?

Mr. REID. Mr. President, the participants are not here. We ask the roll be called.

The PRESIDING OFFICER. All time is yielded back.

Under the precedents and practices of the Senate, the Chair has no power and authority to pass on such a point of order. The Chair, therefore, under the precedents of the Senate, submits the question to the Senate: Is the point of order well taken? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—57

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Grassley
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Torricelli
Wellstone
Wyden

NAYS—41

Allard
Allen
Bayh
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
Ensign
Enzi
Frist
Gramm
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Domenici
Murkowski

The PRESIDING OFFICER (Mr. BROWNBACK). On this vote, the yeas are 57, the nays are 41. The point of order is sustained and the motion falls.

AMENDMENT NO. 821

Under the previous order, there are now 4 minutes evenly divided prior to voting on a motion to table the Allard amendment No. 821.

Who seeks time?

Mr. KENNEDY. Mr. President, Senator ALLARD isn't going to use his time. I would be glad to yield back at this time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, if I might, I would like to give a brief explanation of what this amendment is all about. The Allard amendment says that if you are a small businessman—you have between 2 and 15 employees—you are exempt from the provisions of this bill. That means you do not have to face the increased burdens of having to face lawsuits. And it means you will not have to face the increased burdens of higher premium costs on your insurance.

So it is a very straightforward amendment. It is an amendment that is strongly supported by the small business community. Probably most of you have been getting calls into your offices from small businesspeople concerned about how this is going to impact their small business. So it is an important small business vote.

I ask for a "nay" vote on the motion to table.

The PRESIDING OFFICER. Who seeks time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, over the past several days, Members, in a bipartisan way, have worked very hard and successfully in shielding employers from frivolous suits. As the Wall Street Journal today points out: "Senate passes rule to shield companies from workers' health plan lawsuits."

When this bill is passed, the only employers that have to worry in this country are going to be those employers that call their HMOs and tell them to discontinue care when their workers run up a bill of more than $20,000 or $25,000. They are not going to let women into the clinical trials. They won't let children get their specialty care. They will not let the other employees get the rights that they have.

Employers, today, overwhelmingly do not do that; but a few do. If we adopt this amendment, this is going to be an invitation to other employers. The ones that are violating the spirit of the law will get lower premiums, and this will be an incentive for others as well.

This will be the third time we have voted on this issue. It seems to me we have a balance now as a result of a bipartisan effort. We ought to respect that and guarantee to those employees across this country—the workers—the absolute patients' rights which this bill provides.

So I hope we will support the tabling motion by the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered on the motion to table the Allard amendment.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—55

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Torricelli
Wellstone
Wyden

NAYS—43

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
Ensign
Enzi
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lincoln
Lott
Lugar
McConnell
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Domenici
Murkowski

The motion was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, we have an order that has been worked out by our friend and colleague. We are in the process now of working toward that. I think we go to Senator SANTORUM next, for 40 minutes, Senator CRAIG for 30 minutes after that, and then Senator BREAUX after that. The general intention is to go to the Senator from Pennsylvania for 40 minutes equally divided, followed by Senator CRAIG.

Mr. REID. If my friend from Massachusetts will yield for a brief inquiry, it is my understanding—Senator JUDD GREGG is not on the floor, but I think he has agreed to this. If there is a problem, I will be happy to reverse it—that the matter to come up would be Senator BREAUX's amendment after Senator SANTORUM, with 1 hour evenly divided. If there is any problem, we will reverse it. JUDD GREGG and I have spoken about that.

Mr. WARNER. Reserving the right to object, I had discussed with one of our managers the appropriate time at which we could consider the amendment which I have at the desk, in sequence, and the yeas and nays have been ordered. What would be a time that you could indicate to the Senator from Virginia it could be taken up?

Mr. REID. We can do it after Breaux.

Mr. WARNER. Will the leader put that in, that it be taken in sequence after Senator BREAUX? Could it be amended so my amendment could be brought up after Senator BREAUX?

Mr. REID. Reserving the right to object, it is my understanding that the Senator wanted a half hour.

Mr. WARNER. Equally divided.

Mr. REID. We have not seen the amendment of the Senator from Virginia, so maybe we should not agree on time but agree on the sequence.

Mr. WARNER. We can have it sequenced. I will submit the amendment and the Senator can establish a time.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. FRIST. Reserving the right to object, I would like to talk to Senator GREGG on the time agreement and also restrictions on the amendment with Senator BREAUX. If I can have an opportunity to check with Senator GREGG.

Mr. KENNEDY. We are operating on good-faith agreements. We have done very well. This is the intention. We will wait to hear from the Senator.

I understand Senator CRAIG and Senator SANTORUM want to change the order. Senator CRAIG will be the next amendment, followed by Senator SANTORUM.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order of the Santorum amendment and the Craig amendment be switched and that the time allotted be the same. Senator SANTORUM is still perfecting a portion of his amendment.

Mr. REID. Mr. President, we were planning on the other order. The person who will be responding to the Senator from Idaho is not here.

Mr. KENNEDY. We prefer to go the other way. We announced the order, and this has changed. We will need to put in a quorum call to get the personnel who will be addressing this amendment.

Mr. CRAIG. I am sorry for this delay.

Mr. KENNEDY. We are moving along, and we will do the best we can. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 851

Mr. CRAIG. Mr. President, there was an agreement that the Santorum amendment would proceed and I would follow. We agreed we would switch those. I think that is the current agreement that has been accepted. I see the Senator from Montana is on the floor, the chairman of the Finance Committee, so with that, I send my amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

Mr. CRAIG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding making medical savings accounts available to all Americans)

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE REGARDING FULL AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) FINDINGS.—The Senate finds:

(1) Medical savings accounts eliminate bureaucracy and put patients in control of their health care decisions.

(2) Medical savings accounts extend coverage to the uninsured. According to the Treasury Department, one-third of MSA purchasers previously had no health care coverage.

(3) The medical savings account demonstration program has been hampered with restrictions that put medical savings out of reach for millions of Americans.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that a patients' bill of rights should remove the restrictions on the private-sector medical savings account demonstration program to make medical savings accounts available to more Americans.

Mr. CRAIG. Mr. President, I had planned up until an hour ago to offer a detailed amendment on medical savings accounts that I think fits appropriately into any discussion about patient's rights in this country. The first and foremost right is access to health care, relatively unfettered access to health care. The problem with that under the current scenario on the floor is it would bring about a point of order and I do not want this issue to fall based on that.

Certainly it is appropriate we are here and we are taking the necessary and adequate time to debate patient's rights in American health care. I am proud of my party. Republicans have a solid record on protecting patients and their rights. We have fought for patients' rights from the very day we defeated the Clinton health care plan a good number of years ago, which was a massive effort to use government to take over our health care system, which would have largely let bureaucrats decide whether your family would get the medical care they need.

It was a Republican Congress that stood up for patients' rights by creating medical savings accounts for the first time. Medical savings accounts, in my opinion, are the ultimate in patient protection for they throw the lawyers, employers, and bureaucrats out of the examining room and leave decisions about your health between you and your doctor.

What has been most fascinating under the current medical savings account scenario in our country is that we have limited them to about 750,000 policies. Yet, a good many people have come to use them even though we have made it relatively restrictive and we have not opened it up to the full marketplace.

What is most fascinating about the use of medical savings accounts is the category that all Members want to touch. We hear it spoken of quite often. That is the large number in our country of uninsured. Since we offered up a few years ago this pilot program, 37 percent of those who chose to use it were the uninsured of America. In other words, it became one of the most attractive items to them because it offered them at a lower cost full access to the health care system.

It proves something many colleagues do not want proved: That given the opportunity, Americans can afford to health coverage if the price is right and the strings are not attached and they can, in fact, become the directors of their own health care destiny. I think it is fascinating when you look at this chart. Under the current scenario, of over 100,000 MSA buyers, one-third were previously uninsured.

With medical savings accounts, you choose your own doctor. Also, if you believe you need a specialist, you have direct access to a specialist. You don't need an HMO or an insurance company working with or telling your doctor what you may or may not do. Of course, the debate for the last week has been all about that, all about the right of a patient to make the greater determination over his or her destiny and to have that one-on-one relationship with the health care provider. There is no question that if you are independent in your ability to insure or you have worked a relationship with your employer so you are independent through a medical savings account, then you can gain direct access to an OB/GYN. If your child is ill, you have direct access to a family pediatrician. With MSAs there are no gatekeepers; you are the gatekeeper. There are no mandatory referrals; you are the one who makes the decision, you and your doctor. The only people involved in your personal decisions, once again: Your family, you, and the medical professional you have chosen or to whom your doctor has referred you. That is the phenomenally great independence to which we are arbitrarily deciding Americans cannot have free access.

I hoped to offer a much broader amendment, but I knew it would have to face that tough test of dealing with the Senate rules and all of that because it would deal with taxes and it would deal with revenue. As a result, instead of making the changes in the law that ought to be made because even the program I am talking about that has been so accepted expires this year and it is the responsibility of this Congress to expand it and make it available, here instead we are still talking about the rights of lawyers, not the rights of the patient.

The rights of the patient are optimized if you provide the full marketplace access to medical savings accounts. Since we introduced the limited pilot program, wonderful things have happened. The very people we were trying to reach, the uninsured, are able to afford health coverage. And, in our society today, many of the uninsured are the children of working men and women who can't afford to add them as an extra beneficiary to their health care coverage because of the costs. Yet they found they were able to do that when their employer that allowed them to have a medical savings account.

Medical savings accounts combine low-cost insurance, and a tax-preferred savings account for routine medical expenses. The catastrophic insurance policy covers higher cost items beyond what the savings account covers.

That is why I think it is important that this Senate now express its will and its desire to continue to support medical savings accounts. That is why it appropriately fits inside the broad discussion of a Patients' Bill of Rights.

I do not question any Senator's motive on the floor. Republican and Democrat alike want to make sure all Americans have access to health care. We want a Patients' Bill of Rights that works. We have had a President say very clearly, unless you can provide us with a Patients' Bill of Rights that creates stability, that allows the kind of flexibility we need to assure that employers can continue to provide health care without the risk of being dragged into court because of a health care program that they may be a sponsor of, then he will veto it.

But here is a President who also supports maximizing choices in the marketplace. How you maximize choices in the marketplace for the patient today is to allow open access to a medical savings account program that optimizes all the flexibility we have talked about. You reach out and bring in the uninsured of America and allow them to develop the one-on-one relationship with their doctor that has historically been the standard of health care in our country.

I retain the remainder of my time.

The PRESIDING OFFICER (Ms. STABENOW). WHO YIELDS TIME?

Mr. BAUCUS. I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I appreciate the efforts of the Senator from Idaho for small businessmen and women, for families who are unable to afford health care costs to be able to invest in a medical savings account. But I would like to put this issue in the context of this entire debate.

One of the first amendments proposed in this debate was to provide tax relief—not a sense of the Senate but an actual amendment to the pending legislation to provide tax relief for small businessmen and women to get deductibility for their health care plans, at that time 100-percent deductibility on their health care plans.

At that time I said I was willing to support the amendment and I was willing to support two additional tax incentives for low-income American families so they could afford health care. That offer was rejected. That offer was rejected by the opponents of this legislation as not being enough. They needed a multitude of tax provisions in this bill.

At that time I said OK, then I will not support them unless we have some kind of narrowing—as I said, as many as three. That offer was rejected.

Here we are at 2 o'clock on Friday afternoon, after many days of debate, and we are talking about a sense-of-the-Senate resolution on medical savings accounts.

I am sorry. They should have taken advantage of the opportunity that I and the sponsors of this legislation would have provided to provide legislative—not sense of the Senate —relief for small businessmen and women, for allowing families to establish medical savings accounts, and perhaps another bill. That offer was rejected.

At this time I would then have to oppose this sense-of-the-Senate resolution. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Madam President, I yield myself such time as I consume.

This is a Patients' Bill of Rights bill. This is not a tax bill. This is not a Department of Defense bill. This is not a agriculture bill. This is not a foreign policy bill. This is a Patients' Bill of Rights bill.

The amendment offered by my friend from Idaho is not a Patients' Bill of Rights amendment; it is a tax amendment. We will have ample time this year to take up tax legislation. We will take up tax legislation at some time, even though we had a huge tax bill already this year. When I say "we," I mean the Finance Committee. That is because the budget resolution provides $28 billion for health insurance benefits for Americans who are now uninsured.

I guess the committee will report out legislation this year which will include expansion of some benefits, perhaps under CHIP, but perhaps also some tax provisions. There are many Senators who have good ideas to encourage Americans to have more health insurance—credits, deductions, and so forth. MSAs is just one way. MSAs, I might say, are actually, under the law, reserved for the most wealthy Americans. It is a particular kind of savings account which enjoys very lucrative, very beneficial status with respect to our tax laws; that is, contributions are not deductible, inside buildup is not taxed, withdrawals for medical purposes are not taxed, and only withdrawals for nonmedical purposes are, but not in the case when a person reaches the age 65. Essentially, they can be converted by wealthier people into a retirement account beyond a savings account.

They are just one way of, perhaps, providing health insurance for Americans. The main point being this is not a tax bill. The Finance Committee will take up health insurance legislation this year as provided under the budget resolution. At the time we consider MSAs, we will consider other appropriate ways to encourage Americans to have more health insurance. That is the appropriate time for this body to consider health insurance legislation. That is when the Finance Committee can consider all the various ideas and report out a bill to the Senate which, in a more orderly way, because it is a tax bill which is dealing with tax matters, particularly health insurance, will help more Americans.

I also say to my good friend from Idaho, as referred to by my friend from Arizona, it is now 2 o'clock Friday afternoon. We have been on this Patients' Bill of Rights bill a long time. It is very good legislation. We are going to finally pass a Patients' Bill of Rights, after I don't know how many years, tonight. That is my guess.

We will not pass it tonight—who knows when we will ever get to finally pass it—if we start going down this road of adopting sense-of-the-Senate resolutions.

This is the first sense of the Senate. We have not had one before. This particular resolution says this bill should include expansion of medical savings accounts. If we are not going to add savings accounts here, we are, in effect, deciding we should not add medical savings accounts, a tax bill, on this bill.

I respectfully suggest to all my colleagues, the proper vote here is to vote no because it is, in effect, a tax provision. It is a sense of the Senate. We have not done that before. We are about ready to conclude passage of this bill and we will take up health insurance, tax legislation, at an appropriate time later.

I reserve the remainder of my time.

Mr. GRASSLEY. Mr. President, I want to discuss my vote on the Criag amendment that it is the sense of the Senate that the Senate act to expand access to Medical Savings Accounts.

I commend Senator CRAIG for offering this amendment. I support expanding access to MSAs. I recently introduced S. 1067, the Medical Savings Account Availability Act of 2001, with my colleague from new Jersey, Senator TORRICELLI. My support for MSAs is long standing. Senator TORRICELLI and I introduced in the last Congress a comparable bill to expand access to Medical Savings Accounts. I think we will improve access to MSAs with the support of Senator CRAIG and many other Senators, particularly on my side, who I know want to see MSAs within the reach of everyone.

As my colleagues know, I have argued during this debate that tax material should not be included in this bill. I do not consider this amendment a tax amendment because, if adopted, it would not have the effect of changing tax law.

Earlier in this debate, I sought and received agreement from the Chairman of the Finance Committee that health related tax matters will be considered at a markup of the Finance Committee in the near future. I look forward to pursuing this issue at that time.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Madam President, I inquire how much time remains on my side.

The PRESIDING OFFICER. The Senator has 6 minutes 20 seconds.

Mr. CRAIG. I inquire if the Senator has anyone else who would wish to speak to it on his side. If not, I will wrap up.

Mr. BAUCUS. Madam President, I will wait until the Senator concludes and then I will make a judgment whether I want to make another statement.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I allocate myself 5 minutes so I would like to conclude the debate of my amendment. Let me speak briefly to what the chairman of the Finance Committee said.

First of all, I ask him to read my sense of the Senate. It has nothing to do with taxes at this moment. His underlying argument that the responsibility for MSAs, when you are making substantive changes in current law, is a finance responsibility and a tax provision, is correct. My amendment is not a tax provision.

It is asking the Senate to speak to the importance of doing what the Senator from Montana has said he will do this year. That is what my amendment says—that medical savings accounts are important. Do they belong in a Patients' Bill of Rights? Absolutely they do. If you want to optimize the rights of a patient or of a potential patient in America's health care system, then you give them full access—not limited and restricted access to medical savings accounts.

Let me correct one other thing that I think is important. As to this old bugaboo "it is just for the rich" that we heard coming from the chairman of the Finance Committee, will he tell me that one-third of the 100,000 people who are uninsured and have never had insurance before because they couldn't afford it are somehow "closeted rich" people? I doubt it very much. These are the working poor of America—not the working wealthy—who found an opportunity to provide health care for themselves, their spouses, and their families because the Federal Government, through the Congress, opened up a limited window of opportunity for them to use a medical savings account to their advantage.

That is what that is all about. The House is looking to provide medical savings accounts in their Patients' Bill of Rights. The President supports medical savings accounts. It is not an agriculture bill. It is not a bill for the Interior Department. It is a bill for Americans seeking health care in the system today.

Why shouldn't we debate that right to have optimum access to the market on a Patients' Bill of Rights? Because it doesn't involve a lawyer? That is a good reason to debate it, because it doesn't involve a lawyer and it doesn't involve a Federal bureaucrat at HCFA, and it doesn't involve an HMO or an insurance company. It involves the patient who holds that medical savings account and his or her doctor.

That is what this issue is all about. You darned well bet it is important that our Congress express to the American people that we should make medical savings accounts increasingly available.

I am pleased to hear the chairman of the Finance Committee speak about addressing that this year because this year it expires. We should not allow that to happen.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I will make a couple of points.

If you read it, it makes clear that this is a sense-of-the-Senate tax provision. It says sense of the Senate, and the Patients' Bill of Rights should remove the restrictions on the private sector medical savings account demonstration program to make medical savings accounts available to more Americans.

Medical savings accounts is a tax provision. This says remove restrictions to make it more available; to, in effect, change the tax law to make it more available.

It is clearly a sense-of-the-Senate tax bill.

Second, it has been asserted that it is for the working poor. I have a distribution chart furnished by the President which indicates what income groups of Americans utilize medical savings accounts. By far, the greatest income level to use medical savings accounts is that with adjusted gross income—the total gross is a lot more—of between $100,000 and $200,000. Those people are hardly the working poor. For those in the lowest category—those with adjusted gross incomes of under $5,000—you get 111 returns. For those in the earlier category that I mentioned—those in the $100,000 to $200,000 adjusted gross income—you get 9,400 returns.

It is not for the working poor. That is not the main point. The main point is that this is a sense-of-the-senate tax provision.

We should not go down this road. We will at the appropriate time later this year in the Finance Committee work on a measure to protect and provide more health insurance for those who do not have health insurance and report that legislation at the appropriate time to the floor.

I yield the remainder of my time. If the Senator from Idaho will yield the remainder of his time, I will make a motion with respect to this amendment.

Mr. CRAIG. Madam President, I believe that we have the opportunity to express the will of the Senate. The Congress has moved slowly but grudgingly toward medical savings accounts and has created flexibility. We have a good opportunity to do so this year. Today, we have an opportunity to express our will to do that once again. I hope we will do so.

I yield the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BAUCUS. Madam President, I am going to move to table.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. I move to table the Craig amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senatòrs in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—53

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wellstone
Wyden

NAYS—45

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Craig
Crapo
DeWine
Ensign
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lieberman
Lott
Lugar
McConnell
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner

NOT VOTING—2

Domenici
Murkowski

The motion was agreed to.

Mr. REID. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 841, AS MODIFIED

Mr. SANTORUM. Madam President, I call up my amendment No. 841, with the modification I send to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] proposes an amendment numbered 841, as modified.

Mr. SANTORUM. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To dedicate 75 percent of any awards of civil monetary penalties allowed under this Act to a Federal trust fund to finance refundable tax credits for uninsured individuals and families)

At the end, add the following:

SEC. ____. REFUNDABLE TAX CREDITS FOR THE UNINSURED FINANCED WITH CERTAIN CIVIL MONETARY PENALTIES.

(a) PAYMENT OF CERTAIN PENALTIES TO SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, 75 percent of any civil monetary penalty in any proceeding allowed under any provision of, or amendment made by, this Act may only be awarded to the Secretary of the Treasury.

(2) CIVIL MONETARY PENALTY.—For purposes of this section, the term "civil monetary penalty" means damages awarded for the purpose of punishment or deterrence, and not solely for compensatory purposes. Such term includes exemplary and punitive damages or any similar damages which function as civil monetary penalties. Such term does not include either economic or non-economic losses. Such term does not include the portion of any award of damages that is not payable to a party or the attorney for a party pursuant to applicable State law.

(b) ESTABLISHMENT OF TRUST FUND.—

"SEC. 9511. HEALTH INSURANCE REFUNDABLE CREDITS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Health Insurance Refundable Credits Trust Fund', consisting of such amounts as may be—

"(1) appropriated to such Trust Fund as provided in this section, or

"(2) credited to such Trust Fund.

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN AWARDS.—There are hereby appropriated to the Health Insurance Refundable Credits Trust Fund amounts equivalent to the awards received by the Secretary of the Treasury under section ___(a) of the Bipartisan Patient Protection Act.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Health Insurance Refundable Credits Trust Fund shall be available to fund the appropriations under paragraph (2) of section 1324(b) of title 31, United States Code, with respect to assistance for uninsured individuals and families with the purchase of health insurance under this title.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Mr. SANTORUM. Madam President, one of the things I have repeatedly stated when I have spoken on this bill is that in S. 1052 there isn't any provision that provides for access to insurance. There is nothing that increases the number of insured. There are pages and pages and pages in this legislation that will decrease the number of insured and increase the rate of insurance in this country. If you would take a public poll, or take one in this Chamber, and were to ask people what is the biggest problem in the area of health care in this country, I think the overwhelming response would be the lack of insurance for 43 million Americans.

The bottom line is that we should be discussing how we are going to solve the biggest problem in the health care system, and that is providing some assistance for those who don't have employer-provided health insurance. We do not do that in this bill.

In fact, it has been stated over and over again that this bill will add to the ranks of the uninsured. That is not a positive step forward. We can talk about the positive things—and there are positive things in this legislation, which I have been historically in favor of but in my mind they are counterbalanced—in fact, overwhelmed—by the increase in the uninsured that will happen as a result of several provisions of this act.

One of the things I am going to do with this amendment is I hope to take one of those negative provisions—that being unlimited punitive damages in State court and a $5 million cap on punitive damages in Federal courts—and channel some of that cost that is going to be borne by the insurance system and employers, and put that back into the system in the form of a trust fund for those who do not have employer-provided health insurance. So this is an amendment that will take 75 percent of all punitive damage awards that occur as a result of the causes of action provided for in this bill and create a trust fund which will be used to finance those who do not have employer-provided health insurance—in other words, the uninsured.

I think that is a way to ameliorate some of the damage caused by this legislation. The cost pulled out of the health care system through litigation, and through punitive damages in particular, will drive up the cost of health insurance. That money will go to lawyers, to a select few—principally the lawyers, but to a select few clients, patients, such as the gentleman from California who a couple of weeks ago hit the "lottery," with a $3 billion punitive damage verdict.

If that kind of award occurs within the health care system, imagine the impact on all of the insured in this country. Imagine the cost that is going to have to be borne by the millions of people who have insurance with a $3 billion punitive damage award. How much are your insurance rates going to go up if an award such as that is given?

The least we can do is take the potential of a back-breaker award, or a series of back-breaker punitive damage awards, and put that back into the system in a way that helps those who do not have insurance.

So what I am suggesting is really a way to avoid some of the criticism that has been leveled against this bill, that this is full of litigation and costs, without any benefit coming back into the system. Remember, what we are concerned about here—yes, we are concerned about individual cases, obviously. But we also have to be concerned about the greater picture, which is making sure the public generally has insurance and has quality health insurance.

As you can see from this chart, there is a real difference between the kind of health care people get when they are insured versus when they are not insured. This says "nonelderly adults with barriers to care by insurance status." In cases where they had procedures needed, but did not get the care for a serious problem, only 3 percent of the people who had insurance ended up in that category. So if they have insurance, if they have a serious problem and a prescribed solution, they basically get the care. But if they are not insured, 20 percent—almost seven times the number of the uninsured—do not get the care they need. This says "skipped recommended test or treatment." If they are insured, 13 percent of the people skip those tests. If you are not insured, almost 40 percent skip that.

Did not fill a prescription: 12 percent if you are insured; 30 percent if you are not insured.

Had problems getting mental health care: 4 percent versus 13 percent.

If we are concerned about quality care being provided to everyone, then we have to address the issue of the uninsured. This bill just deals with those who have insurance. I remind people, this bill only deals with people who have insurance. The biggest problem with patient care is those who do not have insurance, and that is displayed on this chart. We all know that is the fact from our own lives, knowing people who do and do not have insurance.

We cannot walk out of here with our arms raised high saying we have a great victory for patients when we accomplish two things: No. 1, we provide a little bit of protection—and that is what we do, provide a little bit of protection—for those who have insurance but cause millions of people who have insurance to lose their insurance and end up with vastly inferior care. We provide a little bit of benefit for a lot, but we harm a lot of people profoundly in the process.

Again, this is a pretty minimal amendment. We allow for 25 percent of the punitive damages to stay with the lawyer—to stay with the client so they get a little piece of this pie. The lawyer gets paid, although if they have a big punitive damage award, they probably get a big settlement in a lot of other areas, too. In this $3 billion award, they got $5.5 million in compensatory damages. Nobody is going poor, from the lawyer's perspective, on filing this case.

When it comes to potential enormous awards for punitive damages, we need to plow some of this money back into the system. I am hopeful the Senate will take a step back and say this is one of the reasonable suggestions that can come about if we are willing to take seriously this matter of providing quality health care, not just for those who have insurance but plowing that money back for those who do not.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina.

Mr. EDWARDS. Madam President, I will first talk about what exactly the Senator from Pennsylvania is talking about when he talks about punitive damages. Punitive damages can only be awarded in a case where, in this context, an HMO or a health insurance company has engaged in virtual criminal conduct. They have to have acted maliciously, egregiously, outrageously for there to be a punitive damages award.

Now let's talk about it in the context of a real case. Let's suppose some young child needs treatment or a test and the insurance company executives meet and say: We are not paying for that test, and we do not care what the effect is. If something bad happens, so be it. We will live with that, but we are not paying for it. Even though it is covered by our policy, even though we know we are supposed to pay it, we refuse to pay it, period.

Let's suppose because that child fails to get some treatment or test that they should have gotten, the child was paralyzed for life. Then a group of Americans sitting on a jury listens to the case, as they do in criminal cases every day in this country, and decides the HMO has engaged in criminal conduct and awards punitive damages on that basis.

First of all, I say to my friend from Pennsylvania, I doubt if the parents of that child crippled for life believe they have hit the lottery. That child's life has been destroyed because of intentional criminal conduct on behalf of a defendant, in this case the HMO and the health insurance company.

It is not abstract. This is conduct that was specifically aimed at that child. It is not abstract to the world. This is something that was aimed specifically at the child who is sitting in that courtroom, and the jury found—in order for this to be possible, the court requires that the jury find that the HMO has engaged in outrageous, egregious conduct.

This is what this amendment does: It says we are going to take away 75 percent of that child's punitive damages award. That is what it says. We are going to impose a 75-percent tax on that child.

That is a real case. This is not an abstract academic exercise. This is reality. I say to my colleague, if we are going to start taxing people around this country 75 percent of their money—that would be that child's money in this case. It does not belong to the Senator from Pennsylvania; it does not belong to me and, by the way, it does not belong to the Government unless this amendment is adopted. It belongs to that child. If we are going to start taking 75 percent of people's money, let's not stop at that child. Why don't we consider taking 75 percent of the $400 million that the CEO of one of these HMOs apparently made last year? That will help. We can go around the country and start picking all kinds of groups of people and put that money in a pot and do what we choose with it.

This is not a serious response to a serious problem. My friend from Pennsylvania and I agree that the uninsured are a very serious problem in this country. It is an issue we need to address, and we need to address it in a serious way. None of us suggest that what we are doing with this Patient Protection Act will solve that problem. It will not. We have work left to do. There is no doubt about that. But we need to do that work in a serious, thoughtful, comprehensive way that will deal with the kids and the elderly in this country who do not have access to health insurance and who, as a result, do not have access to quality health care. The way to accomplish that is not by imposing a 75-percent tax on people, families who have been hurt by HMOs.

Mrs. BOXER. I ask the Senator to yield me 5 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. EDWARDS. I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator EDWARDS for using a hypothetical example of why this is a very cruel amendment which I hope will be voted down overwhelmingly. But I have a real case I can talk about in a moment.

This morning—it seemed like a very long time ago, and it was—I voted for an amendment by Senator SANTORUM to protect infants, to say that infants who are born should have the protections of this bill. I said to him: I certainly agree that infants, children, and teenagers all the way up to the elderly, the most frail, should be covered by this bill.

What does my friend now suggest? A 75-percent tax on pain and suffering to go to the Federal Government for a Government program. This is unbelievable to me. A 75-percent tax on families who may be suffering because a child is permanently disabled, made blind, paralyzed, forever in a wheelchair, and then having to pay 75 percent of a punitive damage award that could go to help ease the pain of that child, that could hire people to take care of that child.

This is a cruel amendment. My friend always says he is for the children. This is not for the children. This is not for the families. This is not for the patients. This amendment will take the funds away from those families who are in desperate need of money to build a life for someone deeply harmed by an HMO that had no conscience.

As my friend says, punitive damages are not gotten lightly. It has to be proven that you were willful, that you were vicious in your intent. And then to say to that family: No, you have to give up 75 percent of that fund that you won because you were a victim. It is a victim's tax. It is a victim's tax that goes to a Federal fund, to a Government program.

I always thought my friends on the other side trusted local people, a jury of our peers. They say: A local judge, someone from the community who can look at that family and understand what it means when they have a child permanently disabled.

A family with a little child in a wheelchair was coming to my office several years ago. The child was hooked up to every conceivable tube imaginable. The child was blind. There were caps on those punitive damages. And there was not enough money to hire the people that family needed to give their child the most decent life possible.

Now on top of this, as I understand this amendment, even in cases where there is a cap on punitive damages, this amendment still takes away 75 percent of the punitive damage. That is a slap at that victim, that child, the parents, the very children my friend said he cared about just 7 hours ago. This is an amendment that says the Federal Government is more important than your family. The Federal Government will reach into a local jury; the Federal Government will take 75 percent of your award, of your punitive damages award, and put it into a Government fund.

This is a terrible amendment. I hope it will be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I make one clarification: There are eight States that currently do this. One of them is the State of the Presiding Officer. The State of Georgia takes 75 percent of punitive damages, less attorney fees, and puts them in the State treasury. That is the State law in at least eight States. Georgia was, in fact, the model we used for this legislation.

By the way, those States are exempt from this provision so we don't take both the State and the Federal. If there is a State law, those are excluded under this act. This is hardly punitive. These are punitive damages, not compensatory damages. These are not pain and suffering.

I yield 2 minutes to the Senator from Louisiana.

Mr. BREAUX. I was not going to say anything, but the arguments have nothing to do with the substance of the amendment. Everybody ought to realize punitive damages have nothing to do with awarding a person who has been injured. A person who has been injured is compensated for economic losses, and there is no cap on economic losses. They are compensated by pain and suffering. There are no caps on pain and suffering. Punitive damages have one purpose. That is to punish the person who has caused the injury. That is the only purpose for punitive damages, to say to a company or an HMO, your conduct has been so outrageous, so egregious, you will be punished. That has nothing to do with the compensation for the injured plaintiff or child. They have already been taken care of.

The concept of taking punitive damages and saying, we will use those damages to help people who do not have insurance, is a novel idea. Other States have done it. It is a good approach. I think we should support it because it has nothing to do with taking away anything to which an injured person is entitled. They have already been compensated in this bill with unlimited, uncapped economic and noneconomic pain and suffering damages. The arguments that I have heard have no merit considering the nature of the amendment.

Mr. SANTORUM. I make clear a couple of issues. Eight States have already passed legislation that redirects punitive damages to specific purposes. I mentioned Georgia is one; Florida allocates money into the medical assistance trust fund; Illinois, into the department of rehabilitative services; Iowa puts money into the civil reparations trust fund; Kansas puts money directly in the State treasury; Missouri, to the tort victims compensation fund; Oregon, to the criminal injury compensation account; Utah, anything in excess of $20,000 in punitive damages goes to the State treasury.

This is not a brand new concept but a concept States have adopted because they understand, as the State of Georgia, that these are punitive damages, not compensatory damages. These are to punish people. We are saying, if you punish a guy who does a bad thing, who is a criminal, the crime is against everyone. Those who are not in the courtroom should be benefiting from this. That is the uninsured.

What will happen if those punitive damages are awarded to the individual or to the lawyer—because they get a big chunk? There will be more uninsured because the cost of health care will go up. This is punishing people who have insurance with higher premiums and higher rates. As the Senator from Louisiana said, we are already compensating the victim. They are getting unlimited compensation. There are no limits in State or Federal court for any compensation that is due this person. Who we are punishing here with punitive damages are the people who are going to lose their insurance because of high rates of insurance because of these punitive damages, and we will punish people who are going to keep their insurance and have to pay a lot more.

This is a modest amendment that tries to lessen the heavy hammer of cost that this bill puts in place. I am hopeful we get bipartisan support for it.

I reserve the remainder of my time.

Mr. EDWARDS. I will respond briefly to the Senator from Pennsylvania and the Senator from Louisiana.

First, I suggest to the Senator from Louisiana, when an HMO does something egregious, criminal, to a child, and in my example that child is crippled for life, that crime is not against all of us; it is against that child. It is that child who is in court. It is that child to whom the jury has awarded these damages. They didn't award it to us or the people in the gallery; they award it to that child. When we go in and take 75 percent of that child's money, it is a tax any way you cut it.

We can talk around this and talk about it for the next 15 minutes or 15 hours. That money does not belong to us. It belongs to that child and that crime was committed against that child and that is whose money we are taking. It is a tax.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 4½ minutes.

I have listened to my friend from Pennsylvania talk about the uninsured. But where was the Senator from Pennsylvania when President Bush asked for $80 billion to develop a program to cover the uninsured in this country, and they reported back $1.6 trillion and wiped that program out? We could have had a real program for the uninsured, but I didn't hear the Senator from Pennsylvania talk about that.

I didn't hear the Senator from Pennsylvania talk about when we were trying to develop the CHIP program; let's get behind it and fight for that program and take on the tobacco companies. They are the ones that are basically funding the CHIP program now, which has been extended to cover 6 million children in this country. I didn't hear the Senator from Pennsylvania talking about that.

Where was he last year when we had the family care, $60 billion to cover 8 million Americans, the parents of the CHIP programs? The Senator from Pennsylvania opposed that.

So with all respect, to offer an amendment to try to help the children of this country with their health insurance has no relevancy in terms of the voracity of the commitment of that side of the aisle in terms of trying to do something for the children of this country.

The record has not been there. To try to offer some amendment this afternoon and cry crocodile tears all over the floor about what we are doing for children when they basically have refused to address this issue in a serious way is something the American people see through.

We understand what is happening, even in this bill where you could have an important impact in terms of children who are covered. They have been supporting the attempts to water it down in terms of the HMOs.

That has been the record: Opposition to this HMO—the Patients' Bill of Rights, to guarantee the children who do have health insurance are going to get protections. And they have been fighting it every step of the way. Then they say: Oh, well, we are really interested in children because we are going to give them this refundable credit on it.

It doesn't carry any weight. The American people can see through this. Let's get about the business of passing a real Patients' Bill of Rights and then let's go out and try to pass a real health insurance bill that will do something about the remainder of the children who need the care and also the parents of those children who need it in long-term family care. Let's do something to look out after our fellow citizens.

I withhold the remainder of my time.

Mr. SANTORUM. I just want to remind the Senator from Massachusetts that the Smith-Wyden amendment that provided $28 billion for those who do not have insurance passed and that is now law. It was in the budget. So I have been a supporter of money and a substantial amount of money for those who do not have insurance.

I have sponsored a piece of legislation, with Senator TORRICELLI, that is called Fair Care, which provides tax credits for the uninsured at the cost of around $20 billion a year.

So I suggest to the Senator from Massachusetts——

Mr. KENNEDY. Will the Senator yield on my time?

Mr. SANTORUM. One second—I just suggest to the Senator from Massachusetts, to impugn me personally and suggest I am disingenuous by proposing that we provide some money in punitive damages, not damages to compensate for injury but damages to punish someone who did a wrong—why should that go to an individual as opposed to society, which was wronged by that activity, as all criminal activity is. It is a crime against society. We do not compensate, as you know, when we prosecute someone criminally. The individual does not get benefit from that punishment.

So punitive damages are there to punish, not to compensate. I know the Senator from North Carolina knows that. That is why they are called punitive—punish; compensatory—compensate. There is a difference. That language is not there for window dressing; it is there for substantive difference.

What I am suggesting is that these punitive—punishment—damages should not further punish people who have insurance because they are the ones ultimately to be punished. Several States have recognized this and have plowed that money back into the system to help those who would otherwise be punished by this money coming out of the system of health insurance.

So I just suggest that my commitment here is sincere and my object here I think is worthy of support.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. First I say to my colleague, we can keep talking about this. The truth of the matter is the criminal conduct we are describing here is committed against a particular patient; in my example, against that particular child. We are taking 75 percent of that child's money, any way you cut it. It is a tax. The Government is taking their money, and there is no reason to do that. It makes no sense whatsoever.

I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Senator from North Carolina for yielding 5 minutes.

Let me say I am one of the few Members on the floor of the Senate who practiced law before he was elected to Congress, who was in a courtroom, involved in a case which had a punitive damage verdict. That is very rare in American law. It happened to me. I was on the defense side. I was defending a railroad in a lawsuit brought by the survivors of an elderly man who was killed at a railroad crossing in November of 1970 near Springfield, IL.

There was a row of cars, train cars, parked near this crossing. This elderly man, late at night, crept up on the crossing to see if he could get across. His car stalled in the crossing. He tried to get out, couldn't, and the train came through and killed him.

When the jury in Illinois sat down and looked at it, they said if you measure the value of an elderly man's life, there is not a lot of compensation. But when they looked at the railroad I was defending and found out we had done the same thing time and time and time again, they decided this railroad needed to receive a message. So they imposed a punitive damage verdict of over $600,000 on the railroad I represented, to send a message to this railroad to stop parking these train cars so close to a crossing that people could get injured and killed. That was a punitive damage verdict in a relatively small town in Illinois.

The Senator from Pennsylvania now wants us to say that three-fourths of the verdicts just like that should be taxed and taken by the Federal Government. He does not believe the family of the person who was killed at the crossing should get the money. He thinks the Federal Government should take the money.

He has some good purposes for the money to be spent. I don't question that. But this is a rather substantial tax which he said we should take to deal with the uninsured in America. Why is it the Senator from Pennsylvania did not suggest we tax the profits and salaries of the HMOs and the health insurance executives? According to Senator KENNEDY's statement the other day, one of these HMO executives, in 1 year, made $54 million in salary and over $300 million in stock options.

I do not hear the Senator from Pennsylvania suggesting we tax that to pay for the health insurance needs of America. No, let's take it away from the families of those who were killed at railroad crossings. Let's take it away from the families of children who were maimed, with permanent injuries they are going to face for a lifetime. He would not dare reach into the pockets of the executives of these health insurance companies and tax them.

Come to think of it, just 6 weeks ago we gave them a tax break here, didn't we?—a $1.6 trillion tax break for those executives. But a new tax on the family of those who come to court looking for compensation for real injuries and death in their own family?

We should reject this amendment. We know what it is all about. We are this close to passing a Patients' Bill of Rights with two fundamental principles, principles that say: First, doctors make medical decisions, not health insurance companies in America; and, second, when the health insurance companies do something wrong, they will be held accountable as every other business in America.

There are those on the other side of the aisle who hate those concepts just as the devil hates holy water. But I will tell you, families across America know they are sensible, sound values and principles. All of this fog and all this smokescreen about taxing punitive damages for the good of America—why aren't you taxing the executives' salaries at the health insurance companies who are ripping off people across America? Instead, you are passing tax breaks for those very same people.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I will be happy to work with the Senator from Illinois to tax HMO executives and lawyers who get big awards out of the health care system equally. If you would like to propose an amendment, I will work with you so all lawyers and all health executives who profit from the health care system will have that money plowed back in. I did not hear that. I don't think I heard that. I think I just heard one side of that argument.

I will be happy to yield a minute to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Listening to all this screaming and hollering, obviously somebody has been stuck by this amendment. What does this amendment do? The bill before us, under the best set of circumstances, is going to cost 1.2 million people in America their health insurance by driving up the cost of health care. And one of the primary factors driving up that cost is litigation.

What the Senator from Pennsylvania has proposed is to take the part of these massive settlements that has nothing to do with compensating the person who has been injured—it has to do with punishing reckless and irresponsible behavior—and using that to help buy health insurance for the very people who will lose their health insurance as a result of all of these lawsuits.

Are we concerned about people without health insurance or are we concerned about plaintiffs' lawyers? It seems to me I hear more screaming about plaintiffs' lawyers than I do health insurance.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SANTORUM. I yield a minute to the Senator from Alabama.

Mr. SESSIONS. Mr. President, I would like to agree with the Senator from Texas. Essentially, with these increased damages from punitive damages, oddly enough, the way insurance works in America, the premium payers are going to pay more. The more big verdicts that are rendered, the more premium payers will pay, raising rates for innocent people who had nothing to do with the misconduct that resulted in the punitive damages, resulting in higher costs so more people economically will drop off the insurance rolls.

We have a real problem with the uninsured in America. It seems to me this is a solution that is very creative. It is a solution that has been talked about by legal scholars for some time—what to do with punitive damages. Why, the part of it you pay for pain and suffering, you pay for contract laws—the victim gets that. But what about the money that is to punish the company? Where should it go?

I suggest the Senator is correct; it go to the uninsured and help people be insured.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SANTORUM. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two and one-half minutes.

Mr. EDWARDS. Mr. President, I yield 1 minute to the Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague for yielding. I see my good friend from Texas. He and I have worked over the years on litigation matters and have authored litigation reform bills and a variety of other measures to reform the legal system.

I think it is important to remember that we have had great debates over the years about victims' rights and how important it is that victims be remembered when crimes are committed.

It seems to me that on this particular proposal and in this case when a person is subject to criminal conduct—that is what this amounts to—they have been victimized. This is not just compensatory damage for a mistake that is made. If you have been a victim of criminal conduct and are going to be deprived of the award that a jury provides you, that is fundamentally wrong. It ought to be defeated on just that point.

I have listened to and have engaged in debates on victims' rights. Victims are sick and tired when criminal behavior is committed and they are not considered when the matters have come before the bar of justice. When an individual, a child, or an adult is found to be injured as a result of criminal conduct, that is what punitive damages are. I think they deserve to receive that award.

Mr. EDWARDS. Mr. President, the Senator from Connecticut is exactly right. When we have a victim, such as a child who has been injured by the criminal conduct of an HMO, it is fundamentally wrong to take 75 percent of that child's money. And that is to whom it belongs. No matter what they say, and no matter how long we talk about it, it belongs to that child. To take 75 percent of that child's money is wrong, and we should vote against this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I have been listening to this debate, and I think some good points have been made on both sides. But is the standard for recovery of punitive damages in this case criminal conduct, or wanton misconduct, or intentional infliction of distress? I would be surprised if the standard for punitive damages is criminal conduct.

Is that the case?

Mr. SANTORUM. No. If it takes a long time to answer, I am not going to yield the rest of my time to define that answer.

Mr. EDWARDS. If the Senator will yield time to me, I will be happy to answer that question. I can't answer it yes or no.

The answer is reckless, intentional, outrageous conduct.

Mr. SANTORUM. Which is not criminal.

Mr. EDWARDS. Of course, it is criminal conduct.

Mr. THOMPSON. No, no, no. Reclaiming my time, let's not gild the lily. I think you have some good points. Let's not try to convince people that wanton misconduct and willful misconduct is the same as criminal misconduct. It is not.

Mr. SANTORUM. Mr. President, let me reclaim my time. It is quickly running out.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. EDWARDS. Will the Senator yield for a response to that question?

Mr. SANTORUM. Mr. President, I ask unanimous consent for an additional minute to finish this colloquy so it doesn't impinge on my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EDWARDS. The language of the legislation is that reckless, intentional conduct is criminal conduct—all over America.

Mr. THOMPSON. No. It isn't.

Mr. EDWARDS. I respectfully disagree. Somebody who engages in reckless conduct in the operation of an automobile has engaged in criminal conduct. Somebody who engages in reckless conduct that causes the death of another person has engaged in criminal conduct. I respectfully disagree with the Senator.

Mr. THOMPSON. If I could respond, conduct that is subject to civil litigation versus conduct that is subject to criminal litigation, the conduct that the Senator described may, in fact, turn out to be also in addition to having civil exposure having criminal exposure, or it may not. But the conduct very well may be reckless, or even intentional, and constitutes conduct that is subject to punitive damages which can still not be criminal.

My only point is that it is not the same. It is not the same. The same conduct can in some cases be both, but in the civil context if——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THOMPSON. All right.

The PRESIDING OFFICER. The Senator from Pennsylvania has 1 minute.

Mr. SANTORUM. Mr. President, I reiterate that this amendment is about taking money. The concern of this bill is that excessive costs will drive up the rates for insurance. We are taking some of this excessive cost that is built into this bill and plowing it back into the system to make sure that we don't have more uninsured if we don't take care of it.

I wish to make one additional point. Back in 1992, the House sponsor of the McCain-Kennedy bill, JOHN DINGELL, proposed using 50 percent of punitive damage awards to help compensate people—in this case, to prevent medical injuries. This is not a punitive damage measure. This is a measure that understands that punitive damages should go to benefit those in society who could be hurt by their increased cost of insurance. That is what this amendment does.

I hope we can get some bipartisan support for it.

I ask for the yeas and nays.

The PRESIDING OFFICER. All time has expired.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Arkansas (Mrs. LINCOLN) is necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "aye."

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—50

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Jeffords
Johnson
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
McCain
Mikulski
Miller
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Shelby
Snowe
Specter
Stabenow
Thompson
Torricelli
Wellstone
Wyden

NAYS—46

Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Landrieu
Lott
Lugar
McConnell
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Smith (NH)
Smith (OR)
Stevens
Thomas
Thurmond
Voinovich
Warner

NOT VOTING—4

Domenici
Inouye
Lincoln
Murkowski

The motion was agreed to.

Mr. DASCHLE. Mr. President, the distinguished Senator from New Hampshire has been working with colleagues on his side of the aisle to come up with a finite list. We have an amendment to be offered by Senator CARPER and an amendment to be offered by Senator KENNEDY. Those are the only two amendments on our side. I yield the floor for purposes of describing the list on the Republican side.

Mr. GREGG. Mr. President, the list on our side includes the following amendments. If there is somebody else who has an amendment and I have not spoken to them, raise your hand.

The amendments are: Senator CRAIG, long-term care; Senator CRAIG, nuclear medicine; Senator KYL, alternative insurance; Senator SANTORUM, uninsured; Senator BOND, punitive damages; Senator FRIST, liability. There are pending in the order we talked about, Senator WARNER; Senator ENSIGN on genetics, and I understand his pro bono amendment is being agreed to; and Senator THOMPSON, which I understand also has been agreed to.

Mr. THOMPSON. No.

Mr. GREGG. It has not. And then Senator FRIST has a substitute.

Is there anybody else who has an amendment?

That appears to be our list.

Mr. DASCHLE. Mr. President, I ask unanimous consent that be deemed as the finite list of amendments to be offered to this bill.

Mr. CRAIG. Reserving the right to object.

Mr. DASCHLE. Mr. President, is there an objection?

Mr. NICKLES. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I just tell the majority leader, we have not had a chance to run that by our colleagues. We have been shopping amendments, and the Senator from New Hampshire is to be congratulated that he has reduced the number of amendments substantially. We will need a few minutes at least to run this by the rest of our colleagues to make sure they know that if they have additional amendments to be considered, they need to get them on our list.

If the majority leader will please withhold the request, we will shop it around.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, while Senators are working out their amendments, I think there ought to be an Independence Day speech. I assume we are going home for the Fourth of July. So if there is no objection, I have a speech in hand. (Laughter.)

Mr. McCAIN. Reserving the right to object. (Laughter.)

In admiration of the Senator's tie, how long is the speech?

Mr. BYRD. Well, now, in the face of that extraordinary compliment, I would say it is just half as long as it would have been otherwise. (Laughter.)

Mr. McCAIN. No objection.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

INDEPENDENCE DAY

Mr. BYRD. Mr. President, the Senate will shortly recess, hopefully, for the Independence Day holiday. Many Members will return home to meet with their constituents. Some will perform a time-honored ritual and take part in bunting-swagged Independence Day parades, sweating and waving from the backs of convertibles somewhere in the line-up between the pretty festival queens, brightly polished antique cars, flashing fire engines, and, hopefully, ahead of the prancing equestrian groups. It is an American tradition as familiar and as comforting as the fried chicken and the apple pie that everyone will enjoy. Families and friends will gather to watch the fireworks light the evening sky.

This first Independence Day of the new millennium calls to mind an earlier year two centuries ago. The year was 1801. Of course, then, as now, there had been a hotly contested election. Control of government passed from one party to another. It took a vote in the electoral college to decide the Presidency, and the House of Representatives put Thomas Jefferson into the White House instead of Aaron Burr.

Passions ran high and many strong words were uttered. Grudges were nursed, and we feel those same passions today, and with the recent change of party control in the Senate, some angry feelings have been fanned anew. It is, perhaps, a good time as we celebrate the 225th anniversary of our country's independence as a new nation, a new government created under God in as thoughtful and inspired a manner as man can devise, to recall these words from President Jefferson's inaugural address:

> During the contest of opinion through which we have passed the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely and to speak and write what they think; but this being now decided by the voice of the Nation, announced according to the rules of the Constitution, all will, of course, arrange themselves under the will of the law, and unite in common efforts for the common good. All too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possesses their equal rights, which equal law must protect, and to violate would be oppression. Let us, then, fellow-citizens, unite with one heart and one mind. Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things.

The language that came from Jefferson's inaugural speech may be archaic, but the message rings true through the ages and is contemporary still. It reminds us of the great luxury of our liberty—the freedom to say what we think and the ability to stand up for what we believe. It also reminds us of the need, then as now, to remember, protect, and preserve our liberty as our greatest common good. For that, we must stand together as a people united in, as Jefferson says later in his speech, ". . . The preservation of the general government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad . . . ."

Americans are fortune's children. We are the lucky citizens of a great and novel experiment in government, the golden children of a 225-year-old alchemy that blended the best of all governmental forms into a wholly new metal, a grand representative government that has endured the trials of centuries. We enjoy power coupled with restraint; wealth with generosity; individual opportunity with concern for the less fortunate. Though at times it seems that we are consumed by petty squabbles or diverse interests that threaten to fragment us as a people, each year on the glorious Fourth of July we are given a chance to come together proudly as one American people, to honor, in Jefferson's words, "[T]he wisdom of our sages and the blood of our heros . . ." that have been devoted to the principles embodied in our Constitution and our government.

This next Wednesday evening, as fireworks thunder over the Jefferson Memorial in Washington and are mirrored in the reflecting pond around it, patriotic strains will fill the air. Similar scenes will play out around the country. Whether in Washington or in small towns or medium-sized cities around the Nation, or in large cities, we may all be proud to be Americans first and foremost. Whatever other allegiances we might have, to party, church, state, or community, we are Americans first. Let us celebrate that and let us not forget it.

As you light your sparklers and fountains, as you hear the martial music of John Phillip Sousa, as you applaud the fireworks displays, as you eat the first sweet corn and tomatoes from the garden, look around you and feel proud. Be proud that 225 years ago, bold men risked their lives and their fortunes and their sacred honor to give us this wonderful system of States, this amazing governmental system, this land of the free, this home of the brave united as one nation under God and under the red, white, and blue flag of the United States of America. Feel glad that so many of your fellow citizens are standing at your shoulders watching the parade, or sitting nearby with their families looking up at the sky ablaze with man-made stars. In these crowds is our hope for a long future as a people united still under Old Glory, and under the Constitution of the United States.

Mr. President, Thomas Jefferson spoke of our constitutional government as the "sheet anchor" of our peace and safety. He chose his nautical allusion fittingly. A sheet anchor, according to the Merriam-Webster Dictionary, is a noun that first appeared in the 15th Century. It is a large, strong anchor formerly carried in the waist of a ship and used as a spare in an emergency, but the phrase has also come to be used for something that constitutes a main support or dependence, especially in times of danger. Truly, then, the Constitution is not just the organizing construct of our government, but also, as Jefferson saw it, the tool by which our Nation would preserve our liberties. It is fitting, then, to close with the words of the poet Henry Wadsworth Longfellow, who wrote about the republic in "The Building of the Ship."

> Thou, too, sail on, O Ship of State!
> Sail on, O Union, strong and great!
> Humanity with all its fears,
> With all the hopes of future years,
> Is hanging breathless on thy fate!
> We know what Master laid thy keel,
> What Workmen wrought thy ribs of steel,
> Who made each mast, and sail, and rope,
> What anvils rang, what hammers beat,
> In what a forge and what a heat
> Were shaped the anchors of thy hope!
> Fear not each sudden sound and shock,
> 'Tis but the wave and not the rock;
> 'Tis but the flapping of the sail,
> And not a rent made by the gale!
> In spite of rock and tempest's roar,
> In spite of false lights from the shore,
> Sail on, nor fear to breast the sea!
> Our hearts, our hopes, are all with thee,
> Our hearts, our hopes, ours prayers, our tears,
> Our faith triumphant o'er our fears,
> Are all with thee—are all with thee!

Mr. President, I yield the floor.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I certainly join my colleagues in expressing our warm appreciation for our senior colleague, our President pro tempore, for addressing the Senate in such a stirring manner. It lifts the hearts of all of us in this late hour on a Friday afternoon, which has, I guess, a degree of uncertainty as to the manner in which we are going to proceed.

BIPARTISAN PATIENT PROTECTION ACT—Continued

AMENDMENT NO. 833, AS FURTHER MODIFIED

Mr. WARNER. Mr. President, I have an amendment which has been pending. I send to the desk a modification of that amendment.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment (No. 833) as further modified, is as follows:

On page 154, between lines 2 and 3, insert the following:

"(11) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney's fee in accordance with subparagraph (C) to ensure that the fee is a reasonable one and may decrease the amount of the fee in accordance with subparagraph (C).

"(C) DETERMINATION OF REASONABLENESS OF FEE.—

"(i) INITIAL DETERMINATION OF LODESTAR ESTIMATE.—

"(I) IN GENERAL.—To determine whether the attorney's fee is a reasonable one, the court first shall, with respect to each attorney representing the plaintiff in the cause of action, multiply the number of hours determined under subclause (II) by the hourly rate determined under subclause (III).

"(II) NUMBER OF HOURS.—The court shall determine the number of hours reasonably expended by each such attorney.

"(III) HOURLY RATE.—The court shall determine a reasonable hourly rate for each such attorney, taking into consideration the actual fee that would be charged by each such attorney and what the court determines is the prevailing rate for other similarly situated attorneys.

"(ii) CONSIDERATION OF OTHER FACTORS.—A court may increase or decrease the product determined under clause (i) by taking into consideration any or all of the following factors:

"(I) The time and labor involved.

"(II) The novelty and difficulty of the questions involved.

"(III) The skill required to perform the legal service properly.

"(IV) The preclusion of other employment of the attorney due to the acceptance of the case.

"(V) The customary fee of the attorney.

"(VI) Whether the original fee arrangement is a fixed or contingent fee arrangement.

"(VII) The time limitations imposed by the attorney's client on the circumstances of the representation.

"(VIII) The amount of damages sought in the cause of action and the amount recovered.

"(IX) The experience, reputation, and ability of the attorney.

"(X) The undesirability of the case.

"(XI) The nature and length of the attorney's professional relationship with the client.

"(XII) The amounts recovered and attorneys' fees awarded in similar cases.

"(D) RARE, EXTRAORDINARY CIRCUMSTANCES.—Notwithstanding subparagraph (A), in rare, extraordinary circumstances, the court may raise the attorney's fee above the ⅓ cap imposed under subparagraph (A) to ensure a balance of equity and fairness to both the attorney and the plaintiff.

On page 170, between lines 21 and 22, insert the following:

"(9) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, subject to subparagraphs (C), (D), and (E), the amount of an attorney's contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one. In determining whether a fee is reasonable, the court may use the reasonableness factors set forth in section 502(n)(11)(C).

"(C) EQUITABLE DISCRETION.—A court in its discretion may decrease the amount of an attorney's fee determined under this paragraph as equity and the interests of justice may require.

"(D) RARE, EXTRAORDINARY CIRCUMSTANCES.—Notwithstanding subparagraph (A), in rare, extraordinary circumstances, the court may raise the attorney's fee above the ⅓ cap imposed under subparagraph (A) to ensure a balance of equity and fairness to both the attorney and the plaintiff.

"(E) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

Mr. WARNER. Mr. President, I want to comply with the wishes of the distinguished leaders.

Mr. DASCHLE. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate is not in order. The Senate will suspend. Please take your conversations off the floor.

Mr. WARNER. Mr. President, I wish to accommodate the managers, but I am ready to proceed. I think I can describe my amendment in about 10 or 15 minutes or less. I urge colleagues to accept that offer to move ahead and give equal time to each side.

Mr. REID. I am sorry, I say to my friend, the distinguished Senator from Virginia, we have had trouble hearing over here.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Virginia is entitled to be heard.

The Senator from Virginia.

Mr. WARNER. I say to my good friend, the distinguished majority whip, I am seeking now to address my amendment. It has been pending for some several days. I am perfectly willing to enter into a time agreement. I need but, say, 15 minutes.

Mr. REID. Say 30 minutes evenly divided?

Mr. WARNER. I am quite agreeable to 30 minutes equally divided.

Mr. REID. Our anticipation now—we will work this out, speaking with the managers of the bill—is to offer side by side with yours, or second degree, whatever your manager wishes to do, but you should go ahead and proceed. We are available during our 15 minutes to respond.

Mr. WARNER. Mr. President, might I have clarification? If I understand it on the second-degree, in the event it seems we need some adjustment in the time agreement with which to address that——

Mr. REID. Why not take an hour evenly divided, and if we don't need it, we will yield back the time?

Mr. GREGG. Mr. President, I am not sure what the Senator from Virginia wishes to do. I hope they will not second degree your amendment but, rather, offer an amendment which would be a stand-alone, side-by-side amendment.

Mr. REID. I am sorry, did you say you wanted to offer it side by side? That is what we want to do.

Mr. WARNER. That is perfectly agreeable. Could my amendment be voted on first?

Mr. REID. Of course—well, let me not get my mouth ahead of my head.

In the past what we have done, Mr. President, is the second-degree amendment could be a second-degree amendment that appears to be the one we would ordinarily vote on first. Through all these proceedings, the stand-alone was the one we would vote on first. In other words, that could have been a second-degree. That is what we have done in the past.

Mr. GREGG. Actually, we did reverse the order on the Snowe——

Mr. REID. It is not important whether it is first or second. Do you agree?

Mr. EDWARDS. We should go first.

Mr. REID. Through these entire proceedings—I don't know how many votes it has been now, but certainly it is lots of them—the one that would have been the second-degree should be voted on first. We think we should do it in this instance.

Mr. WARNER. Mr. President, I believe I have the floor. I believe the amendment is up. We are simply discussing a time agreement. I am not prepared to yield the right that I believe I now have with respect to proceeding with this amendment. But I want to accommodate my distinguished friend. He has been most helpful for 3 or 4 days, as I have worked on this amendment.

Could you be more explicit exactly what you think you would like to have? I understand you have to consult with others.

Mr. REID. What we would like to do is offer an amendment that would be voted on, a companion to yours.

Mr. WARNER. Fine.

Mr. REID. The only question now, it seems, is which one would be voted on first. What we have done during these entire proceedings except for one bipartisan amendment that was offered by the Senator from Maine, the one that would have been a second-degree is voted on first. We think we should follow that same order.

Mr. WARNER. I simply ask as a matter of courtesy—some 3 days I have been working with you—just allow mine to be voted first. Certainly we could have discussion on the one that is in sequence. I am confident Members will very quickly grasp the basic, elementary framework that I have in my amendment. And I presume any companion amendment you or others wish to introduce would likewise be very elementary. We could quickly make decisions, all Senators, on it and proceed with our business this afternoon.

Mr. REID. I say to the Senator from Virginia, I know some of our friends would rather we went first. We feel pretty confident of our vote, so we will go second.

Mr. WARNER. Mr. President, I like a man who is audacious. I accept that challenge. We will proceed on mine. I need only about 10 minutes to address it.

Mr. DASCHLE. Will the distinguished senior Senator from Virginia yield for a unanimous consent request.

Mr. WARNER. Oh, yes.

Mr. DASCHLE. We were able to reach this agreement with the cooperation of all our colleagues. I think we are now prepared to propound the agreement.

Mr. President, I ask unanimous consent that the following be the only first-degree amendments remaining in order to S. 1052, except the Warner and Ensign amendments which have been laid aside and which now are being debated, that they be subject to relevant second-degree amendments; all amendments must be offered and disposed of by the close of business today; and that upon disposition of these amendments the bill be read a third time and a vote on final passage of the bill occur without any intervening action or debate:

Frist substitute; Frist, liability; Craig, long-term care; Craig, nuclear medicine; Kyl, alternative insurance; Santorum, unions; Nickles, liability; Bond, punitives; Thompson, regarding point of order; Kennedy, two relevant; Daschle, two relevant; Carper, relevant, to be offered and withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, I ask if the majority leader would be willing to adjust his unanimous consent so Senator Ensign could modify his amendment, which is pending, and also, because we have not seen the Kennedy, Daschle, or Carper amendments, we would want to reserve the right to have a second-degree amendment.

Mr. DASCHLE. The amendments are subject to second degrees, of course. I ask consent the Ensign amendment be allowed to be modified.

Mr. CRAIG. Reserving the right to object.

Mr. GREGG. Reserving the right to object.

Mr. THOMPSON. Reserving the right to object, a simple point: My amendment was listed as one having to do with a point of order. If we could correct that, it actually has to do with venue.

Mr. DASCHLE. I ask consent the clarification be made with regard to the Thompson amendment.

Mr. GREGG. I also ask that the Nickles amendment be defined as relevant, rather than liability, and, since the majority leader has asked to reserve two relevant amendments, the Republican leader be given two relevant amendments.

The PRESIDING OFFICER. Does the majority leader modify the request?

Mr. DASCHLE. I ask unanimous consent that the request be so modified.

The PRESIDING OFFICER. The request is modified.

The Senator from Idaho.

Mr. CRAIG. Mr. President, may I inquire of the majority leader, is it your intent to at least shape the field of amendments into a set number but there is no time tied to those? Is that correct?

Mr. DASCHLE. That is correct.

Mr. CRAIG. Thank you.

The PRESIDING OFFICER. Is there objection to the request. Without objection, it is so ordered.

Mr. DASCHLE. I thank our colleagues.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, if I may just proceed, my understanding is that we have 30 minutes equally divided under the time agreement. Is that correct?

The PRESIDING OFFICER. That has not been propounded.

Mr. WARNER. Mr. President, I suggest we just leave it open. I want to give adequate opportunity to those who wish to address this subject. I will proceed.

Mr. President, for some time I have followed this bill very carefully. I am, of course, quite aware of the name of it—the Patients' Bill of Rights. I want to ask the Senate to give serious consideration to protecting the right of a patient to receive what I regard as a fair return on such awards as a court may approve, presumably, by a jury recognizing the plaintiff's case has merit and assigns an award figure.

The McCain-Kennedy-Edwards bill provides new rights. But there is nothing in there to give the patients the protection from what could well be perceived by many as an unfair allocation of that award between attorneys and patients. Therefore, I think there should be a framework of caps on the maximum amount of the award to be made.

May I explain it.

It is kind of complicated because we have a Federal court and a State court. While I don't know the ultimate finality of this legislation, at this point the amendment provides for the treatment of caps in both courts, and they are somewhat different.

In addition, I believe very strongly that there is in rare instances and under extraordinary circumstances a case where an attorney would be entitled to in excess of the one-third cap that I am proposing in both Federal and State courts. An allowance has to be made for the exceptional type of case.

I am proposing a framework of caps. It would be giving the court the right to only approve attorney's fees in a case up to one-third of the award of the damages. It could well be that the client may have struck an arrangement with his attorney for less than one-third. It recognizes that situation.

Having the one-third cap strengthens the ability of the patient—the client—to get a fee structure which is consistent with their receiving the majority of the ultimate one-third as the basic structure in both the Federal and the State court.

In addition, in both Federal and State court, we have exceptions in rare cases, and extraordinary facts, where the judge can go above the one-third with no cap.

We have reposed confidence in our judiciary system. Indeed, we have reposed confidence in those members of the bar. Many years ago, I was privileged to be an active practitioner before the bar and had extensive trial experience as assistant U.S. attorney and some modest trial experience in other areas.

I recognize that the vast majority of the bar will work out a fee schedule with their client in such a way that there will be an equitable distribution. But there are instances where the patient could well be deserving of the award by the court and then prohibited from getting what I perceive as a fair and proportionate share by someone who does not follow the norm.

The norm in most cases does not exceed one-third. Contingent fees are usually one-third or less. Therefore, we put in the cap of the one-third.

I also want to make it clear that there is a good deal of expense to a lawyer associated with representing a client. They pass it on to the client, of course, but that expense is over and above the fees. If it is a 2-week trial with a lot of expenses associated with it, it does not come out of the one-third allocation. It is over and above, and again subject to the court's discretion.

We lay out a formula for the Federal courts under the lodestar method. That is a formula that was approved by the Supreme Court of the United States as it relates to attorney fees in Federal cases.

Here are basically the factors the court would review in the Federal system: The time involved by the attorney; the difficulty of the questions involved; the skill requisite to perform the legal services; or the preclusion of employment of the attorney due to acceptance of the case.

In other words, he is giving up other opportunities to take on this case.

What are the customary fees that are before the courts and the bar in the jurisdiction that the case is held? Whether the fee is fixed or contingent; time limitations imposed by the client on the circumstances; the amount involved in the return of the jury in most instances; the experience and reputation and the ability of the particular attorney, and on it goes. But it is carefully worked out through many years of following these cases.

Therefore, I believe that we are giving protection to the patient. For rare and extraordinary cases, the court can go above it. In some instances, the court will decide that the one-third is not appropriate, and that it should be some fee less than a third, again protecting the interests of the patient.

I find this a very reasonable amendment. It certainly comports with the basic objectives of this law; namely, to give some benefits to those who have suffered the grievances which are designated in this law.

I also recognize the Federal-State law; that is, what we call States rights. I have been a strong proponent of that throughout my career in the Senate.

I provide that in the case of a State court, if the State in which that court sits has a framework of laws which govern attorney fees, then this amendment does not apply.

I repeat that the State law would govern the return to the attorney of that amount to which he or she is entitled for their services—not this proposed amendment.

Mr. President, I see my colleague in the Chamber.

I yield the floor for the moment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have a unanimous consent request I am going to propose in just a minute—or in even less than a minute.

Senator GREGG is in the Chamber, and I appreciate his listening.

Mr. President, I ask unanimous consent that I be recognized to offer an additional first-degree amendment, with 30 minutes for debate in relation to the Warner amendment and the Reid amendment to run concurrently prior to a vote in relation to the Warner amendment—which the Senator from Virginia indicated he wanted first—followed by a vote in relation to the Reid amendment, with no second-degree amendments in order prior to the votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 852

Mr. REID. Mr. President, Senator WARNER and I have worked side by side all the time I have been in the Senate on the Environment and Public Works Committee. I have been his subcommittee chairman; he has been my subcommittee chairman. Twice I have been chairman of the full committee. I have been the ranking member of that committee.

There is no one I have worked with in the Senate who is more of a gentleman than the Senator from the Commonwealth of Virginia, Mr. WARNER. He has been a pleasure to work with. We tried to work this out on the attorney's fees. We have been unable to do that. But his amendment is, in my opinion, very complicated. It is going to create litigation, not solve it.

We have a fair way to address this issue. Even though personally, as an attorney, I had done a great deal of defense work where I was paid by the hour and a significant amount of work where I was paid on a contingency fee basis many years before I came back here, I think contingent fees should be based upon whatever the States determine is appropriate.

But I am willing to go along with the basic concept of the Senator from Virginia; and that is we will go for a straight one-third, no complications. It is very simple: A straight one-third.

Senator WARNER's proposal introduces a complex calculation in every case and ignores the agreements between injured patients and their lawyers. This proposal portends to tell State judges how to apply State law. We do not need to do that here in Washington.

This proposal ties only one side's hands in litigation. HMOs can hire all the attorneys they want and plaintiffs cannot. There is no restriction on how much money the attorneys for the HMOs make. We are not going to get into that today. We could. It would be a very interesting issue to get into.

But what we are saying is, when you walk down in the well to vote on the amendments, we have a very simple proposal: It is one-third, period. Under Senator WARNER's proposal, it is something, and we will figure it out later based on how many hours, and where you did it, and what kind of case it was. Ours is simple, direct, and to the point. It would only complicate things to support the amendment of my friend from Virginia.

Mr. President, at this time, after explaining my amendment, I call my amendment forward and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 852.

Mr. REID. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the amount of attorneys' fees in a cause of action brought under this Act)

On page 154, between lines 2 and 3, insert the following:

"(11) LIMITATION ON AWARD OF ATTORNEYS' FEES.—

"(A) IN GENERAL.—Subject to subparagraph (B), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys' contingency fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action) may not exceed an amount equal to ⅓ of the amount of the recovery.

"(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of an award of attorneys' fees required under subparagraph (A) as equity and the interests of justice may require.

On page 170, between lines 21 and 22, insert the following:

"(9) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' contingency fees, subject to subparagraph (B), a court shall limit the amount of attorneys' fees that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of attorneys' fees that may be awarded under section 502(n)(11).

"(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of attorneys' fees allowed under subparagraph (A) as equity and the interests of justice may require.

Mr. REID. Mr. President and Members of the Senate, the language in this amendment was not made up in some back room by my staff or somebody from downtown. It was taken—every word of it—directly from the amendment originally offered by the Senator from Virginia—exactly identical, not a word changed.

Certain paragraphs were taken out of his amendment. It is far too complicated. But every word in my amendment is directly from the amendment offered by the Senator from Virginia. I ask Senators to support my amendment, what should be a bipartisan amendment.

There are some people who want no restrictions. We have acknowledged that we are going to, in this instance, have a restriction. If there is going to be one, it should be direct and to the point, as is this one.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I yield whatever time the Senator from Delaware wants.

Mr. BIDEN. Five minutes.

Mr. REID. Five minutes.

Mr. WARNER. Mr. President, for clarification, are we under a time agreement?

Mr. REID. Yes, we are.

Mr. WARNER. Was that in the unanimous consent agreement?

Mr. REID. Yes. But I say to the Senator, whatever time you need we can yield to you.

Mr. WARNER. Fine.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I always find these debates about attorney's fees fascinating. I find my friends on both sides of the aisle who usually are seeking to restrict attorney's fees are the most big-time free enterprise guys in the world. They are people who tell us we should not freeze and/or put limitations on the amount of money energy companies can make, even though it bears no relationship to cost. They are folks who told us out in California—when you have utility companies gouging the public—that we should not, even though we have authority under Federal law, put on some limitations. They are folks who tell us that, notwithstanding the fact that a drug company may be able to manufacture a pill for one-quarter of 1 cent and sell it for $75, there should not be any relationship between the amount of cost involved and the profit made.

I find it absolutely fascinating. For example—I am not going to do it—a great amendment to the amendment by my friend from Virginia would be the following: That any fee charged by an HMO for health care coverage must bear direct relationship to their cost and cannot exceed a profit rate of X amount. That would be fair, right?

All these folks who can't afford health insurance, who are getting banged around and battered, we are trying to help, but I imagine I would not get many votes for that. I bet my friend from Virginia would not vote for that because that is free enterprise.

My grandfather Finnegan used to have an expression. He said: You know, it's kind of fascinating. There's free enterprise for some people, free enterprise for the poor, and socialism for the rich. You find yourself in a position where, if you are representing the right interest, we talk about free enterprise; if you don't like the interests that are at stake, you find that you should have socialism, you should have imposed limitations on fees or on profits, based on whether you like what is going on.

I do not know whether most people know this, that an awful lot of these folks who want to bring suit against a giant company don't have any money. These giant companies, they have a lot of money and a lot of lawyers. So what they do is, they depose you to death, which costs thousands and thousands and thousands of dollars.

So what happens? You go to a lawyer, and you say: Look, I have this claim. And the lawyer sits down and says: OK, who knows what the jury will do, and who knows what will happen with regard to the defense that is going to be put up? And it seems to me you have a case. You have a 60-percent chance of winning this case. I'll tell you what I will do. I am going to front all the expenses. I am going to take all the chances.

It is sort of free enterprise. It may cost that law firm $50, $500, $5,000, $50,000, $100,000, and they are betting on the come. They are betting on the come. Some law firms actually risk their solvency on a case that they believe is worth pursuing.

Then you are going to come along and say: By the way—after the fact, after the risk is taken on behalf of a client, where you may get absolutely nothing and you may end up in the hole, losing a lot of money, because I can tell you, major corporations do what they are entitled to do under this system. They have batteries of lawyers, and they just depose the devil out of you. It costs. For example, the person taking down my comments right now, the cost to the American taxpayer for that transcription is hundreds of thousands of dollars a year—millions of dollars a year. We need to have a record, and we do it.

The same thing happens in the depositions. Somebody sits with a little machine like that and types away. So if I am the deep-pocket company and I want to run you out, all I do is I keep deposing you; I keep submitting interrogatories; and I run your cost up because you have to pay for that.

I guess the only point I am trying to make is—and I don't want to take the time because I am sure everybody's mind is already made up on this thing—if you feel good about lawyer bashing, if you feel good about making the case that you should have to justify, on an hourly basis, exactly what you do, and all of these things, not calculate the risk, not calculate the cost, then fine, have at it.

But I don't know; what is good for the goose isn't good for the gander. If we do this with regard to attorney's fees and we don't do this with regard to health care costs and fees, what is the fundamental difference? Tell me the fundamental difference, all of a sudden, in the great interest of my friends to protect the poor, aggrieved plaintiff, who has been wronged by the insurance company. At any rate, I am as anxious to get out of here as everybody is. I wanted to make it clear: I think this is bad law, bad policy, a bad idea, and it is, in a literal sense, discriminatory.

Mr. REID. Mr. President, this legislation that is now before the body is not about attorney's fees. It is about patient protection, making sure people in America have certain rights that have been taken away from them. We want to reestablish something that is kind of old-fashioned in the minds of many—that is, when you go see your doctor, the doctor determines what kind of medicine you need and what kind of care you need. That is what this legislation is all about. It is not about attorney's fees.

If the people on the other side were interested in saving money, one of the amendments they should have would address the compensation of some of these employees. There is a list, and you can go to the top 10. The first one, including stock options, made

$411,995,000 last year. That is just a little item they might be concerned about a little bit. We have a lot of money that isn't necessarily needed.

This is not about how much money people make. What it is about is trying to pass a Patients' Bill of Rights. I ask that we move forward as quickly as possible and vote and get on with the rest of the legislation.

The PRESIDING OFFICER. Who yields time?

Mr. REID. The Senator from Tennessee may have some of mine.

Mr. THOMPSON. A couple of minutes, if I may, Mr. President.

I have been listening to the debate. We are making it much more complicated than it needs to be. We are talking about whether or not this is a good idea. The sponsors of these two amendments always come forth with good ideas. I will not debate that these are possibly a couple of those good ideas.

I am afraid we are not permitted to get that far because not every good idea is constitutionally permissible. I simply do not see our authority, even if we want to do this under the Constitution, to say to a State court, having lifted the preemption that was there before, that in its deliberations and in its lawsuits it will be trying, that we have, in a government of enumerated powers, the authority to reach in and do that. This is not raising an army. This is not copyrights and patents. This is not interstate commerce. I simply see no basis of authority for the Congress to do this, whether it is a good idea or not in our system of enumerated powers.

If I am incorrect about that or there is something I am not thinking about, I will stand corrected. That is a concern of mine.

I yield the floor.

Mr. WARNER. Mr. President, if I could reply to my distinguished colleague, that very question I entertain because I take pride in my record of some 23 years in this body to protect State laws.

The first thing I did under my amendment was say, if there is a body of State law, then my amendment doesn't apply to those decisions in State courts. So I think there is some dozen or so that have a statutory framework for the regulation of attorney fees. Those States are the one side.

But we find authority that it is within the power of the Congress to regulate interstate commerce. We have a proposed bill giving new rights to litigants. We believe that comes within that clause. That is how I proceed to do it.

We are just very fearful, I say to my distinguished colleague, that patients will not be able to, without this authority of some cap, obtain a fair allocation of these proceeds in some few cases. I myself have a high confidence in the bar and the courts to exercise equity and fairness. In some instances, it might not prevail.

We have studied cases here where some lawyers are getting $30,000 per hour, in some of these tobacco cases. Mind you, $30,000 per hour. I just think it is time that we, the Congress of the United States, do what we can within the framework of our constitutional law to exercise and put a cap on that.

I say to my good friend from Nevada, he has marked up an earlier version of my bill. And at least you started with a pretty good base here, but you took out the essence of it. We did remain with a one-third fee, but giving the court the right to raise or lower this fee without any guidance whatsoever, even without the guidance of the word "reasonableness" put into the proposal by my friend from Nevada.

It seems to me that, while we are apart, we could possibly bridge our differences, if I could have the assurance that a patient, as we now call them under this proposed legislation—plaintiff, under ordinary circumstances—is given reasonable protections. I have tried to give the court the flexibility in those instances where, for example, if a trial took 2 or 3 weeks and then, through no real fault of the attorney or anyone else, there somehow was a mistrial—I have tried them myself. Jurors get ill, sick. For whatever reason, the court pronounces a mistrial and the attorney has to go back and try the whole case over again—that begins to add up in time and expense, and so forth. That attorney should be fairly compensated, and his client has to recognize that in rare and extraordinary cases the court can adjust the fee above the one-third. I find in here no guidance whatsoever.

Under the Federal law, I laid down a formula which has been approved by the Supreme Court and is followed now in our Federal system.

I further point out to my distinguished colleague from Nevada that the ERISA framework of laws governs much of the action in Federal court. And there ERISA puts an affirmative duty on a judge to review that attorney's fee. You are, in effect, modifying the framework of ERISA here, as I read it quickly, and not putting that affirmative duty on the court in the Federal system to review those attorney fees.

Mr. REID. Mr. President, I apologize to my friend. Did the Senator from Virginia ask me a question?

Mr. WARNER. Yes, I had been going on for some minutes now. I will go back over it again. I say to my good friend, you took an earlier version of my amendment, and in striking it out, No. 1, you left the one-third cap in, but you give the discretion to the judge to go up or down, with no guidelines by which that jurist goes up or down. In other words, there is no even standards of reasonableness. It could be implied, of course. But I looked upon the lodestar method, which is followed by the Federal courts in arriving at a fair and equitable fee situation. I just believe there is no guidance for the jurist in the proposal of my colleague.

Mr. REID. I say to the Senator from Virginia, in every State court in America, every day judges are called upon to use their discretion to determine attorney's fees. In estate cases, in cases where people are hired to represent indigent defendants, there are a multitude of cases in which judges every day use their discretion to make awards of attorney's fees.

Here, as the Senator has given a number of examples, if the judge, in rare instances, would find that somebody has been paid too much under the contract, he can take a look at that. Or there may be some very complicated appeal and maybe he would decide that there should be a little more there.

Tobacco has nothing to do with this.

Mr. WARNER. I missed the word. What has nothing to do with this?

Mr. REID. The Senator talked about the tobacco litigation. I say that has nothing to do with this matter now before the Senate because these attorney's fees were very high, of course, and litigation results because these attorneys recovered not hundreds, thousands, millions, but billions of dollars. Tobacco attorneys were hired by State attorneys general. I don't think there is anything that I can ever even contemplate that would be the same in relation to tobacco and these HMO cases. I would say that we have pretty well formulated both of our positions.

I respectfully say that the Senator from Virginia is taking away the discretion the State judges have. It makes it very complicated to determine attorney's fees. What we have come forward with is a process that is very specific, direct, and to the point, and leaves some discretion with State judges.

(Mr. NELSON of Florida assumed the chair.)

Mr. WARNER. I want to make it clear. I think it is clear in the amendment that the expenses are over and above the allocation of fees.

Mr. REID. I took that directly from your original amendment.

Mr. WARNER. I was also quite anxious to ensure that if a State has a framework of law regarding the award of attorney's fees, this does not apply. I think it is important that we honor those States that have a framework and laws which set attorney's fees, which is in my amendment. I am just trying to help you improve yours so that you prevail.

Mr. REID. Well, I guess there is some reason that could be done. That is only going to complicate what we have. We are trying to give as much discretion as possible to State judges. I think they need that. I think one of the problems that I have with the Senator's original amendment is it takes away from State law, from what States can do. It seems interesting to me that we are so in tune with States rights around here all the time, unless it comes to something dealing with injured parties—whether it is product liability cases or whatever. We suddenly want to take away what the States have worked on for all these decades. I think my friend's amendment takes away a lot of what we have with our States.

Mr. WARNER. Mr. President, I will read to my friend section (E) of my amendment, page 6:

> NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary—

And so forth. In other words, if the State has a framework of State laws, we in the Congress should not be trying to amend them, as I fear you are doing through an omission in yours. I have protected it in mine.

Mr. REID. Well, I understand what the Senator's intent is. When you are looking for intent, you want to be as precise and direct as possible. I respectfully say we should get on with the vote. I think we have said everything, but maybe not everyone has said it. You and I have.

Mr. WARNER. Let me point out one other thing. Again, there is a difference as to how these things are treated under Federal and State. As I said, ERISA gives certain protections that are involved in the Federal court. There Federal law requires relief grievance under ERISA and that is not found in my friend's amendment. You say it is implicit in every court in the land; therefore, it is not needed to be expressed. Is that your point?

Mr. REID. The reason we took your basic amendment and made it directly to the point as to the one-third is it becomes too complicated for a court to determine attorney's fees based on the complicated program you have set up. Ours is simple and direct. In rare instances, a judge can step in and raise them or lower them.

Mr. WARNER. I wanted to make sure they were explicit. That is my view. We have a difference of opinion on that.

Mr. President, I will soon suggest the absence of a quorum so I have some period of time to reflect on perhaps other suggestions I might have. I am willing to allow these amendments to be laid aside if the Senator would agree to proceed with others.

Mr. REID. We have been laying aside things so long——

Mr. WARNER. If that is of no help, we need not do that.

Mr. REID. I have no problem having a quorum call and we can talk. I really think we have to move on. I am willing to take my chances, whatever they might be. Other people are waiting around to offer amendments. We should move on if we can.

Mr. THOMPSON. Mr. President, I am prepared to move forward with an amendment, if that is desired by my two colleagues, while you have your discussions. If you want to go into a quorum call, we will wait.

Mr. REID. I would be happy to set these two amendments aside and let my friend from Tennessee, who offered probably the best elucidation on attorney's fees today—No. 1, he was concise and to the point. I think probably both of these are unconstitutional. I am willing to go forward.

I ask unanimous consent that the two amendments by Senators REID and WARNER be set aside and that the Senator from Tennessee be allowed to call up an amendment. The Senator's amendment is on the improved list, correct?

Mr. THOMPSON. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments are laid aside.

The Senator from Tennessee is recognized.

AMENDMENT NO. 853

(Purpose: To clarify the law which applies in a State cause of action)

Mr. THOMPSON. I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Tennessee [Mr. THOMPSON] proposes an amendment numbered 853.
>
> On page 170, between lines 21 and 22, insert the following:
>
> "(9) CHOICE OF LAW.—A cause of action brought under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides."

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I let the amendment be read because it is probably the shortest amendment that will be considered tonight. It is very simple and straightforward. Basically, what it says is that in these lawsuits that we are dealing with, we apply the law of the State of residence and citizenship of the plaintiff in this case.

Let's go back just a bit and understand the lawsuit scheme that we have created by this litigation. We have created a Federal cause of action in Federal court for matters that are essentially contract; and we have created a State cause of action in State court for matters that have to do with medically reviewable situations.

What that has left us with is the ability of a claimant to bring a State court claim in any State where the defendant is doing business. If you have a medical insurer and they are doing business in several States, even though you live in Tennessee, you could bring your lawsuit in any number of States where that insurer is doing business. That is simply known as forum shopping.

The reason people do that is different States have different laws in terms of limitations on recovery. They have different rules of evidence. Some allow punitive damages—most do. Some cap those punitive damages. Some don't allow punitive damages at all. So I don't believe we want to create a situation where if we are going to have this liberal litigation scheme that we have set up, that we allow it to occur anywhere in the country, which might be the case with regard to some big defendants.

Now, employers in some cases are going to be defendants also, I believe it is quite clear. You not only have the insurance companies, but you also have the employers to look at and to see whether or not they are doing business in these various States and, if they are, then you could bring your lawsuit in any of those States in which they are doing business. I don't think that serves the purposes that we are trying to serve with this legislation.

Therefore, we have the authority, and I think it would be a wise exercise of our authority and discretion, to limit those lawsuits. If you are from the State of Tennessee and you have a legitimate claim and you want to bring a lawsuit, you ought to be bound by the law in the State from which you come. You should not be able to forum shop.

Now, there might be some Federal causes of action that are also of the medically reviewable kind. We have been talking in this debate for several days about State causes of action, but what we are really dealing with is the laws of those States. They are causes of action based on the laws of individual States. So if a person wants to bring his lawsuit, he can still bring it in Massachusetts if he lives in Tennessee, but he is bound by the law of Tennessee.

If there is a diversity situation in Federal court, where the Federal court has jurisdiction and you have a doing-business requirement satisfied as far as the corporate defendant is concerned, for example, you have diversity. You still are bound by the law of your home State. So that would prevent forum jumping.

I believe this is desirable. I heard several expressions of agreement with the proposition we did not want to create a system of forum shopping in this litigation. We are going to have this law apply to all 50 States. There will be lawsuits produced in all 50 States, and all 50 States have laws that will be applicable in the suits wherever they are brought. A citizen ought to be bound by the laws of his or her State and not be able to shop all over the country for a potentially better situation than what they have in their State. It is a State cause of action. They should be bound by the laws of their home State.

That is the amendment. I hope my colleagues will see the wisdom of it and will reach agreement on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from Tennessee, his argument is persuasive enough that all the managers on our side left the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent that I may be permitted to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. Akaka are located in today's Record under "Morning Business.")

Mr. KENNEDY. Mr. President, I express great appreciation also for the Senator's strong support for our Patients' Bill of Rights. This has been an issue in which he has taken a great personal interest. He has been one of the strong supporters of this legislation for many, many years. Although he has not been a member of our committee, this is a matter I know he cares deeply about. He has been a strong supporter of all the amendments that have protected patients, and I don't think there has been a member who has been a stronger advocate for the patients and their rights than our good friend, the Senator from Hawaii. I thank him very much for his statement and all the work he has done to help bring the bill to where it is.

Mr. GREGG. Mr. President, I understand the Senator from Nevada will modify his amendment and we will have a voice vote, and the Senator from Tennessee will have an amendment agreed to, also. Hopefully, we can dispose of those two amendments right now.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 849, AS MODIFIED

Mr. ENSIGN. Mr. President, I call up amendment numbered 849 and I send a modification to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The amendment will be so modified.

The amendment (No. 849), as modified, is as follows:

Subtitle C of title I is amended by adding at the end the following:

SEC. 122. GENETIC INFORMATION.

(a) Definitions.—In this section:

(1) Family member.—The term "family member" means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

(2) Genetic information.—The term "genetic information" means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(3) Genetic services.—The term "genetic services" means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

(4) Genetic test.—The term "genetic test" means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include a physical test, such as a chemical, blood, or urine analysis of an individual, including a cholesterol test, or a physical exam of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.

(5) Group health plan, health insurance issuer.—The terms "group health plan" and "health insurance issuer" include a third party administrator or other person acting for or on behalf of such plan or issuer.

(6) Predictive genetic information.—

(A) In general.—The term "predictive genetic information" means—

(i) information about an individual's genetic tests;

(ii) information about genetic tests of family members of the individual; or

(iii) information about the occurrence of a disease or disorder in family members.

(B) Limitations.—The term "predictive genetic information" shall not include—

(i) information about the sex or age of the individual;

(ii) information about chemical, blood, or urine analyses of the individual, including cholesterol tests, unless these analyses are genetic tests, as defined in paragraph (4); or

(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.

(b) Nondiscrimination.—

(1) No enrollment restriction for genetic services.—A group health plan, and a health insurance issuer offering health insurance coverage, shall not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan or coverage based on genetic information (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in relation to the individual or a dependent of the individual.

(2) No discrimination in rate based on predictive genetic information.—A group health plan, and a health insurance issuer offering health insurance coverage, shall not deny eligibility or adjust premium or contribution rates on the basis of predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(c) Collection of Predictive Genetic Information.—

(1) Limitation on requesting or requiring predictive genetic information.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage, shall not request or require predictive genetic information concerning an individual or a family member of the individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(2) Information needed for diagnosis, treatment, or payment.—

(A) In general.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage, that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

(B) Notice of confidentiality practices and description of safeguards.—As a part of a request under subparagraph (A), the group health plan, or a health insurance issuer offering health insurance coverage, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

(d) Confidentiality With Respect to Predictive Genetic Information.—

(1) Notice of confidentiality practices.—A group health plan, or a health insurance issuer offering health insurance coverage, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

(A) a description of an individual's rights with respect to predictive genetic information;

(B) the procedures established by the plan or issuer for the exercise of the individual's rights; and

(C) a description of the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

(2) Establishment of safeguards.—A group health plan, or a health insurance issuer offering health insurance coverage, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.

(3) Compliance with certain standards.—With respect to the establishment and maintenance of safeguards under this subsection or subsection (c)(2)(B), a group health plan, or a health insurance issuer offering health insurance coverage, shall be deemed to be in compliance with such subsections if such plan or issuer is in compliance with the standards promulgated by the Secretary of Health and Human Services under—

(A) part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.); or

(B) section 264(c) of Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(e) Special Rule in Case of Genetic Information.—With respect to health insurance coverage offered by a health insurance issuer, the provisions of this section relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law that establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by the individual or a family member of such individual); or

(2) prohibits discrimination on the basis of genetic information than does this section.

At the end of title II, insert the following:

SEC. 203. ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.

Section 2721(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking "If the plan sponsor" and inserting "Except as provided in subparagraph (D), if the plan sponsor"; and

(2) by adding at the end the following:

"(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (b), (c), and (d) of section 122 of the Bipartisan Patient Protection Act and the provisions of section 2702(b) to the extent that the subsections and section apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).".

Mr. ENSIGN. I ask that the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, I understand both sides have agreed to this amendment. It has to do with genetic testing. We debated it last night. I appreciate Senators KENNEDY, GREGG, and McCAIN working together, along with the White House, to make sure we are not discriminating against people based on genetics; that people with the breast cancer gene or colon cancer gene, or whatever gene they may have been born with, will not be discriminated against in the future. I appreciate everybody working with us on this matter.

Mr. KENNEDY. Mr. President, we are prepared to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 849), as modified, was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendment was agreed to.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 853

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. I believe I am correct in saying my amendment has been accepted and it is agreeable to have a voice vote.

Mr. KENNEDY. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the Thompson amendment, No. 853.

The amendment (No. 853) was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 833, AS FURTHER MODIFIED

Mr. REID. Mr. President, I ask that the amendment of the Senator from Virginia be called up, the yeas and nays be withdrawn, and it be agreed to by voice vote.

Mr. WARNER. Reserving the right to object, should we lay out a full understanding of our agreement?

Mr. REID. I think we should just vote.

Mr. WARNER. Your amendment is withdrawn?

Mr. REID. Yes.

Mr. WARNER. I send a modification to the desk.

Mr. REID. This is the Warner substitute.

Mr. WARNER. Mr. President, my modification has been sent to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 833), as further modified, is as follows:

(Purpose: To limit the amount of attorneys' fees in a cause of action brought under this Act)

On page 154, between lines 2 and 3, insert the following:

"(11) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney's fee to ensure that the fee is a reasonable one.

On page 170, between lines 21 and 22, insert the following:

"(9) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one.

"(E) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

Mr. WARNER. We have worked it out together. I ask that the yeas and nays be withdrawn.

The PRESIDING OFFICER. Without objection, the yeas and nays are vitiated.

Mr. WARNER. I understand we will proceed to a voice vote and the amendment of my distinguished colleague will be withdrawn.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 833), as further modified.

The amendment (No. 833), as further modified, was agreed to.

Mr. WARNER. I thank my distinguished colleague from Nevada.

Mr. WARNER. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 852, WITHDRAWN

Mr. REID. I ask unanimous consent my amendment be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. As I understand it, we are down to two amendments on our side: Senator KYL's and Senator FRIST's, which will be the substitute.

I hope we can get a time agreement on Senator KYL. How much time does the Senator need? He does not know. And Senator CARPER, on the other side, is going to make a statement and maybe offer an amendment.

Before they go, since people are a little confused, so they can get ready, we are heading toward the finish line. Before we get to the finish line, I want to mention that a lot of people do a lot of work around here. They are called the staff. They are extraordinary. I especially want to thank my staff, Senator KENNEDY'S staff, Senator FRIST's staff, who have worked so hard on this. I am sure there are many folks on the other side, but I specifically want to thank Stephanie Monroe of my staff, Colleen Cresanti, Steve Irizarry, Kim Monk, and Jessica Roberts for all they have done to make this process move smoothly for me and allow me to be successful. They really have put in extraordinary hours. I greatly appreciate it. They are exceptional people, and we thank them very much.

Now I suspect the Senator from Arizona is probably ready.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I may say to my friend from Arizona, we have not seen his amendment. If we could see it? I wonder if, in the meantime, we could have the Senator from Delaware make a statement.

Mr. KYL. Might the Senator from Nevada yield? I have given a copy both to Senator McCAIN and also to Senator GREGG to give to you. I am sorry if you do not have it yet. Maybe Senator KENNEDY has a copy.

Mr. KENNEDY. I just received this a minute ago. I am just reviewing it. We will be prepared to go ahead in a few moments. I know the Senator from Delaware has waited. I understand it is a short statement. Then I hope we go to the amendment and we will be prepared to enter a short time agreement or whatever limitation to which the Senator from Arizona will be agreeable.

Mr. REID. I ask the Senator from Delaware, through the Chair, how much time he wishes to take.

Mr. CARPER. No more than 15 minutes.

Mr. REID. The Senator from Delaware wishes to speak for up to 15 minutes. I ask unanimous consent he speak at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Delaware.

AMENDMENT NO. 855

Mr. CARPER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Delaware [Mr. CARPER] proposes an amendment numbered 855.

Mr. CARPER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To disallow punitive damages)

On page 153, strike line 9 and all that follows through page 154, line 2, and insert the following:

"(10) STATUTORY DAMAGES.—The remedies set forth in this subsection shall be the exclusive remedies for any cause of action brought under this subsection. Such remedies shall include economic and noneconomic damages, but shall not include any punitive damages.

Mr. CARPER. Mr. President, the amendment before us, which I will ask to be withdrawn in a few moments, is one Senator LANDRIEU and I offer, and I know has the support of a number of Members of this body from both sides of the aisle.

A great deal of effort has gone into crafting a compromise with respect to the appropriate venue, Federal or State, for bringing litigation in cases where an HMO has acted inappropriately.

As I have studied this issue over the last week or so, the way the underlying bill assigns venue for State action and for action that is more appropriate in the Federal courts, I have come to believe that the sponsors of the legislation figured it out just right. When it comes to determining damages that might be assigned in cases brought in Federal courts, I personally have concluded that there should not be a cap with respect to economic damages.

I further agree with the approach that is taken in the underlying bill, that in cases where noneconomic damages are sought in Federal courts, particularly in cases where children may be involved who are not working, who do not have a livelihood, or in cases where a spouse—perhaps a woman, but it could easily be a man—who is not in the workforce and stays at home with a family, we may not, if we cap noneconomic damages, be really fair to that young person or to the spouse who is working from the home.

However, with respect to damages at the Federal level, as they pertain to punitive claims, I am not comfortable with the approach that is embodied in the underlying bill. Senator BREAUX and Senator FRIST have offered an approach which I think is better in this regard, and I just want to mention it. It deals with whether or not there should be punitive damages awarded on actions taken in Federal courts. I conclude they have it right and those punitive damages should not be allowed in the Federal courts.

Having said that, for actions that are brought in State courts, the laws and rules of the States should prevail. If there are caps in the State courts, that is the business of the States, and that is appropriate. If there are no caps on punitive damages in actions brought before the State courts, that is appropriate as well.

As we try to find the compromise here, I believe the underlying bill has it right with the appropriate middle ground on caps and venue. I believe the underlying bill has it right with respect to damages in a Federal action: No caps on either economic or noneconomic damages. I also believe the underlying bill has it right with respect to the proper venue, State versus Federal.

I believe my friend from Louisiana and my friend from Tennessee have a better idea with respect to punitive damages and they simply should not be allowed in Federal court.

Senator LANDRIEU is probably en route to the Chamber now to say a few words with respect to the amendment. I do not see that she has arrived yet. If I may, I would like to just reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I want to add a word for my colleague from Delaware. He and I have been working together on this legislation since it came to the floor and beforehand. He has a very well thought out position. Some of his positions I do not entirely share, but he has been very careful and very thoughtful about all these issues and has been working very vigorously with us on this legislation. He cares deeply about patient protection. He cares deeply about making sure that people all over this country have real patient's rights. He cares deeply about the uninsured. This is an issue he and I have talked about many times. He has made enormous contributions to the legislation that is now on the floor.

I thank the Senator from Delaware for all of his work in this regard, and I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Let me say, too, to my friend from North Carolina, I thank him very much for his overstatement of my contribution. He is very generous.

I say back to you, you have been just a terrific manager and cosponsor of this legislation, and thank you for giving us the opportunity to work closely with you and your staff.

That having been said, I still do not see Senator LANDRIEU joining us on the floor. Were she here, she would speak in support of this amendment, but would go on to add some concerns she has with respect to capping noneconomic damages, particularly as they pertain, as I referred to earlier, to young people and spouses who may be staying at home and are not in the workplace.

Mr. EDWARDS. I thank my colleague.

AMENDMENT NO. 855 WITHDRAWN

Mr. CARPER. That having been said, Mr. President, I ask unanimous consent that the amendment be withdrawn, and I yield the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The Senator from New Hampshire.

Mr. GREGG. I rise to say I wish we were voting on the amendment of the Senator from Delaware. I believe the punitive damages issue in this bill is a major issue.

I understand the decision not to go forward. We know the probable outcome of the vote. But there is no question in my mind that his amendment would cause a movement in the right direction on the issue of punitive damages. This bill, as all of us have pointed out who have concerns about it, is going to be candy land for lawyers. One of the reasons it is going to be is because of the punitive damage language which allows forum shopping for the best punitive damage opportunities; whereas, under today's law, punitive damages are radically distributed, and should be because the purpose is to create quality health care, and punitive damage awards would drive up insurance costs. That is passed on to the consumer, which means fewer people can afford insurance.

As a practical matter, I want to say that I think the Senator from Delaware is on the right track, and I hope the conference will listen to his comments.

Mr. CARPER. Mr. President, will the Senator yield? I say to my friend from New Hampshire that my fervent hope is that when the bill passes the Senate and later the House, and the conference committee is established, the conferees will have a full opportunity to revisit this issue. My hope is that the final compromise will reflect this amendment.

I also want to express to the Senator from New Hampshire my heartfelt thanks for the leadership he has provided to the Republican side of the aisle on this issue, and my appreciation for a chance to work with him, as well as the Senator from Massachusetts.

Thank you.

Mr. GREGG. I thank the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 854

Mr. KYL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 854.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit choices in costs and damages)

On page 156, between lines 15 and 16, insert the following:

"(17) DAMAGES OPTIONS.—

"(A) IN GENERAL.—In addition to plans or coverage that are subject to this Act, a plan or issuer may offer, and a participant or beneficiary may accept, a plan or coverage that provides for one or more of the following remedies, in which case the damages authorized by this section shall not apply:

"(i) Equitable relief as provided for in subsection (a)(1)(B).

"(ii) Unlimited economic damages, including reasonable attorneys fees.

"(B) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this paragraph shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (notwithstanding the definition contained in paragraph (2)) shall not be deemed to be the delivery of medical care under any State law for purposes of this section. Any such claim shall be maintained exclusively under this section.".

On page 170, between lines 21 and 22, insert the following:

"(9) DAMAGES OPTIONS.—

"(A) IN GENERAL.—In addition to plans or coverage that are subject to this Act, a plan or issuer may offer, and a participant or beneficiary may accept, a plan or coverage that provides for one or more of the following remedies, in which case the damages authorized by this section shall not apply:

"(i) Equitable relief as provided for in section 502(a)(1)(B).

"(ii) Unlimited economic damages, including reasonable attorneys fees.

"(B) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this paragraph shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (notwithstanding the definition contained in section 502(n)(2)) shall not be deemed to be the delivery of medical care under any State law for purposes of this section. Any such claim shall be maintained exclusively under section 502."

Mr. KYL. Mr. President, it has been requested that the time agreement on this amendment be 30 minutes on my side and 10 minutes in opposition, with an up-or-down vote at the conclusion of the debate. I propound that unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, that is fine with no second degrees in order. Is that right?

Mr. KYL. That would be my understanding. I thank the Senator from Nevada.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. KYL. I do indeed modify my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Mr. President, I rise to introduce the consumer health care choice amendment. This amendment would amend section 302 of the underlying legislation to provide that employers and health plan issuers would be free to offer, and participants and beneficiaries free to choose, health plans with two remedy options, in addition to the underlying plan: equitable relief—the benefit or value of the benefit; and unlimited economic damages.

The bill provides damages as provided under S. 1052 unlimited economic and non-economic, and up to $5 million in punitive damages.

This amendment applies only to the new remedies established by S. 1052 for Federal contract actions and state "medically reviewable" claims. It explicitly protects the regulation of medical care delivery under state law.

The problem: Increased premium costs lead to greater numbers of uninsured. The Congressional Budget Office predicts that S. 1052 would result in a 4.2 percent increase in premiums costs. This predicted increase is in addition to the 10–12 percent increase employers are already facing this year.

The CBO report illustrates the cold truth about a critical, but often overlooked, public policy issue: The irrefutable link between health-care premium increases and the number of Americans without insurance. As the Congress debates the various health-care proposals, we must keep this linkage in mind.

Supporters of S. 1052 are quick to claim that their bill will improve health care, but not so quick to admit that it will also raise costs and cause the ranks of the uninsured to swell. We know this will happen, because cost increases will cause some employers to stop offering health-care coverage, making insurance unaffordable for more Americans. This fact is politically inconvenient.

We should keep an important statistic in mind. According to the Lewin Group consulting firm, for each one percent premium increase, an additional 300,000 citizens lose their insurance.

As I mentioned, the Congressional Budget Office predicts that S. 1058 will increase premiums by 4.2 percent. A premium increase of this amount would cause about 1.3 million Americans to become uninsured as a result of S. 1052. The Office of Management and Budget recently predicted that between 4–6 million more Americans would become uninsured as a result of S. 1052.

How can we call this a Patients Bill of Rights when it will result in fewer patients?

I believe our first goal should be to "do no harm"; or, at a minimum, to reduce the harm, as my amendment will do.

My amendment would allow employers or plans to offer two options for employees to voluntarily choose, in addition to the general plan covered by this bill, Option No. 1: A low premium policy with a remedy limited to the benefit, or the value of the benefit. Option No. 2: A mid level premium policy that would allow for full economic damages only.

There are in addition to the higher premium policy that would allow for the full range of damages provided under S. 1052.

This amendment should be appealing to employers and plans as a way to control their costs and appealing to employees as a way to hold down their premiums by voluntarily limiting their right to sue.

Data from the CBO and the Kaiser Family Foundation estimate that S. 1052 would cost a typical family with health coverage roughly $300 per year.

Certainly, we should promise not to pass legislation that would reduce or completely consume the $300 or $600 rebate that many Americans will be receiving sometime this summer as a result of the tax-relief bill just signed into law by President Bush.

If adopted, this amendment would afford Americans a chance to recoup some of the loss imposed by S. 1052.

Some have argued that so-called patients' rights legislation that includes an unlimited right to sue is overwhelmingly popular with Americans. It is worth noting that a Kaiser Family Foundation/Harvard School of Public Health Survey from January 2001 asked the following question to voters: "Would you favor a law that would raise the cost of health plans and lead some companies to stop offering health care plans to their workers?" In answer to this question, only 30 percent voiced support, and 70 percent voiced opposition to such a law.

Fortunately, we don't have to force people to make that choice. We can give them a choice. For those who prefer the right to sue and are willing to pay they have their plan. For those who are willing to forgo lawsuit, they can buy their plan. And, state remedies apply in any event—so called "quality of care" suits.

Certainly, enhancing a patient's right to sue is cold comfort to those who currently can't afford health insurance, or those who lose their coverage due to increased costs.

Clearly, the proposed legislation to reform health care comes with a steep price tag attached. Before we commit to passing legislation, perhaps we should first promise not to pass a bill that will lead to more uninsured Americans.

My amendment would merely reduce this price tag, and reduce the harm we will do by enacting S. 1052.

This amendment is very simple. I ask for my colleagues' attention because I can't imagine that anyone would want to oppose this amendment if the concern is really about patients rather than lawyers.

Let me restate that. If we are really concerned about health care for patients rather than fees for lawyers, this amendment will probably do more to provide that we keep people insured than anything else we have done during the last week because it provides for a simple option.

For any plan of an employer that provides coverage under this bill, they may also offer another option. That option is a plan that would enable their employees to forego damages in court. It is that simple. You can't just do that. You have to be providing a plan that is covered by this act, so that the full benefits, including all of the rights to go to court and file lawsuits for damages, are preserved. You still have the right to choose that policy.

We all know that policy is going to cost more money. The reason it is going to cost more money is because lawsuits drive up the cost of insurance, which drives up premiums, which means that fewer employers can pay for insurance, which means that fewer employees are insured. And that is what is concerning all of us.

This amendment makes it possible to offer, in addition to the higher cost policy, a lower cost policy that would say you can forego your rights to litigation. You can just receive the benefits that ERISA provides for today. Those benefits are health care that you contracted for—or the dollar value of that health care.

There is a second option in here. That is a limited one, which is you could also go to court and get unlimited economic damages, but no pain and suffering damages or punitive damages. Maybe some companies would write that kind of a policy, too. But either of those policies would have a lesser premium than the policy that would be offered as the underlying plan under this legislation.

To some who say there might be a case where there is a quality of care decision which just needs to go to court, and damages need to be collected, my amendment specifically protects all of the State court litigation that is currently developing about quality of care.

Even if an employee exercised an option to buy this lower cost policy, that employee would still have all of the rights of litigation for damages in State court.

Some have said: Isn't this a little bit similar to the Enzi amendment? The answer is no. The Enzi amendment said if a particular group of employees were merely offered a specific kind of policy, they wouldn't be covered by the act. That is not my amendment. All employers are covered by the act under my amendment. It is just if they offer a plan to their employees, they may in addition to that plan offer this lower cost alternative.

Why do I offer this?

As we know, the Congressional Budget Office predicts that the underlying bill would result in a 4.2-percent increase in premium costs. This is in addition to the 10- or 12-percent increase that employers are already facing this year.

The Congressional Budget Office report illustrates the cold truth that has been overlooked in this debate; that is, the irrefutable link between health care premium increases and the number of Americans without insurance.

There is a study by the Lewin Group, a consulting firm, which says that for each 1 percent of premium increase, an additional 300,000 citizens lose their insurance.

We have CBO's estimate that the cost of premiums is going to increase 4.2 percent. We have a study that says every 1 percent, an additional 300,000 people lose their insurance.

Do the math. Under this bill, more than a million Americans are going to lose their insurance if something isn't done to keep the cost of those premiums down.

The Office of Management and Budget recently predicted that between 4 million and 6 million more Americans would become uninsured as a result of S. 1052.

That is where this amendment comes in. It is probably the best way to ensure that we can get premiums down over an alternative that doesn't have as much risk for the insurer, and, therefore, won't have to have as high a premium.

But I reiterate, it is not in lieu of the benefits that we are promising under this bill but, rather, in addition to. It is an option.

For this to occur, three voluntary decisions would have to be made.

First of all, some insurance companies would have to develop a product that they might offer to employers or plans to sell for their lower cost option.

Second, employers would have to decide that in addition to the plan offered under the bill, they would offer one of these lower cost alternatives that is on the market.

Third, employees would have to decide to take advantage of that lower cost option.

It is all a matter of choice. Nobody is making anybody do anything. None of the benefits under the legislation go away at all, nor is the State court remedying.

It seems to me, since it is all voluntary, that there is nothing mandatory but it gives us one opportunity to reduce premium costs. We all ought to be supportive of this proposal.

I ask that the remaining time that I have not be yielded but, rather, see if there are any others who might wish to speak.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, if Senator KENNEDY will allow me to speak at this point, let me say, first of all, that I think progress is being made. Senator REID has been working. Everybody has been trying to cooperate. I believe, after this very important amendment, we will have the substitute, and hopefully we would be ready to go to final passage.

I don't want to usurp the majority's role here, but I want people to realize that we are to the point where perhaps we can begin to wrap this up.

I thank Senator KYL for agreeing to not have lengthy debate. He feels very strongly about it, and this is certainly a very good and valuable alternative.

I heard Senator BOND of Missouri say repeatedly that when it comes to health care, we should make it available, affordable, and safe. One of our greatest concerns about this bill in its present form is health insurance for patients, and what they have available through managed care is not going to be affordable. Rates are going to go up. They are going to lose coverage for a variety of reasons. So it is a question of availability and affordability.

This is a good, viable alternative. This provides a low-cost option that will, hopefully, result in more people keeping their coverage. But it is an option. It is not in place of; it is in addition to what will be available otherwise. It just gives plans the option of offering a low-cost alternative that forgoes lawsuit damages under the law. The State court would still have the "quality of care" damage available. Those lawsuits would still be there. You don't replace that.

So I want to emphasize, it is not in lieu of but it is in addition to the plans offered under the bill. This really is about patients, and it really is about the freedom to have a choice, to have an option to choose to have this coverage but not going to lawsuits later on. By paying less, they will be able to afford it. That will give them an option. I think this would be a very attractive way to make sure it is available and affordable.

I would like to speak at greater length on this myself, but in the interest of time I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I commend the Senator from Arizona, Mr. KYL, for his amendment, which is strikingly similar in concept—as he and I discussed off the floor earlier—to the Auto Choice proposal I have introduced each of the last two Congresses, cosponsored by Senator Moynihan and Senator LIEBERMAN.

Essentially what is envisioned in these kinds of choice proposals is giving the consumer the option of opting out of the litigation lottery in return for a lower premium and lower cost.

I want to ask the Senator from Arizona if it is his view that this is similar in concept to the Auto Choice measure that I just described that we have discussed off the floor.

Mr. KYL. Mr. President, if I may answer the question of the Senator from Kentucky, I am remiss for not acknowledging that my idea for this amendment came exactly from the proposal the Senator has just discussed. It seemed to me that if it worked well in that context, it would also work well in this context. I should have mentioned that earlier. I know the Senator did not ask the question to get credit, but credit certainly is due him for this idea.

Mr. McCONNELL. I cannot announce the support of others, but I wanted to mention that on the Auto Choice bill there was also the support of Michael Dukakis, JOE LIEBERMAN, Pat Moynihan, the Democratic Leadership Council, the New York Times, and the Washington Post.

I cannot say for sure that they would support the amendment offered by the Senator from Arizona, but the concept he describes of giving the consumer the option—the consumer gets the option of leaving aside the litigation lottery in return for a lower premium and defined benefits provided for that lower premium. It does not really deny anybody. It does not deny them the right to sue. It does not put a cap on damages. It does not tell the lawyers what to charge. It simply says to the consumer: You have a choice.

What the Senator from Arizona is suggesting is to take what is a sound idea for the automobile insurance market, Auto Choice, and apply it to the health insurance market.

Under his amendment, employers would have the option of offering their employees up to two additional insurance choices. Given the additional causes of action permitted under this bill, I believe giving consumers the option not to participate in the personal injury litigation lottery is only appropriate.

It is important to note, just like my Auto Choice option, choosing Senator KYL's "Health Choice" option would be completely voluntary to both the employer and the employees. An employer who offers his employees health insurance would not be allowed to offer only the limited-litigation health policies. Nothing in the Kyl amendment would. The employer must offer the plans envisioned in the Kennedy-McCain bill.

Therefore, nothing in the Kyl amendment would take away any right. It would merely allow consumers who don't want to sue their health insurance plan, a lower cost health insurance option.

While we have made significant progress at improving this legislation, many of us on this side of the aisle have lingering concerns that this bill will dramatically increase the number of uninsured Americans. We ought do everything possible to minimize this impact and that is why I wholeheartedly endorse the proposal of the Senator from Arizona. Patients need more choices and should not be forced into a system of jackpot justice without their consent.

As the Senator from Arizona has pointed out, we hope not to have a greater number of uninsured when this is all over. One of the great fears many of us have who are going to be voting against this bill is that that is exactly what the result of it will be. But the Senator from Arizona has astutely offered an amendment that will certainly provide an opportunity for a number of people to receive lower premiums and thereby, hopefully, reducing the increase in the number of uninsureds which so many of us fear.

So I express my strong support for the Senator's amendment. I tell him, I think it is a very good idea. I hope the Senate will support it. It seems to me it is entirely consistent with the theme of the underlying bill. I commend the Senator from Arizona for his fine amendment.

Mr. KYL. I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, as I listened to the proposal by the Senator from Arizona, the thought came to my mind about the right of an individual to waive rights. That is deeply ingrained as part of the law of the United States, so much so that when you talk about constitutional rights in a criminal case—where the rights are much more deep-seated, much more profound, based on the Constitution—that right to waive does exist.

In a sense, what the Senator from Arizona is proposing is that an individual who seeks health insurance would have the right to waive certain rights, which is recognized in law.

The keyword which I found persuasive in what the Senator from Arizona had to say was the word "voluntary." I would add to that—I think this is part of his concept—that it be a knowing waiver—a voluntary, knowing waiver. And I would expect that, as part of that, the individual would have counsel to understand his rights, because you cannot understand your rights for damages—the complexities—unless you know what they are, and whatever may be said about lawyers on this floor, you need a lawyer to tell you what your rights are. Then the individual would be in a position to evaluate the reduction in premiums, and thereby which savings would be passed on to him for what he was giving up.

In that context, I think the proposal passes muster.

Mr. KYL. I thank the Senator.

Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I, too, thank the Senator from Arizona, Mr. KYL, for bringing this amendment to us.

This debate has been framed as though everybody had all of their insurance paid for by the company for which they work. I know that is not the case. Throughout America, most people participate in the cost of their insurance. So it is going to be very important for every individual who has to participate in the cost of their insurance to be searching, with their employer, for a lower cost way of doing it. This is one of those solutions. This is very innovative. It will fill a void we have left by doing the bill, particularly if the estimates are true on how much insurance is going to go up based on this ability to sue. If it goes up dramatically, there are going to be a lot more people who are going to hope there is this kind of an alternative around.

So I congratulate the Senator from Arizona for this approach.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I also join in congratulating the Senator from Arizona. This seems to be the most commonsense amendment we have seen since we have been discussing this issue. It provides choice and provides an opportunity for lower cost insurance, and it allows people to choose what they want to pay for, for what they get.

So I urge support for the Senator's amendment and thank him for it.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I also urge support for Senator KYL's amendment because I think it deals with the essential nature of what this whole debate is about; that is, the tradeoff between coverage and cost. That is what the whole debate is about.

Some would have us believe we can have additional coverage without additional cost. It cannot happen. Somebody pays the freight sooner or later. We all know it is going to result in additional health care costs.

So what this amendment does is recognize that tradeoff, and it provides the individual the opportunity to make that choice—recognizing that tradeoff—which results in a very good approach and a very good amendment.

So I urge my colleagues to give serious consideration to supporting this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I join with my colleagues in congratulating Senator KYL for bringing this amendment forward. It is exactly one of the items we need to improve this bill significantly. This bill has a lot of problems. We all know that. But an amendment such as Senator KYL's will at least help it out in some parts. It will be very constructive to the whole process. I certainly hope my colleagues in the Senate will join in supporting it. It is the right amendment. I congratulate him for bringing it forward.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. How much time do we have?

The PRESIDING OFFICER. The opponents have 10 minutes under the previous order.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, having been on the floor for the better part of the last 8 or 9 days, I rarely have heard such wonderful statements and comments about any amendment as have been given to the Senator from Arizona. I have gone back and read it and reread it and thought that somehow I must be making a mistake in thinking that this amendment just didn't make it, but in any event, the Senate is going to make that judgment.

I read the Kyl amendment and it reminded me of the great French philosopher who said that laws, in their sublime impartiality, treat the rich and the poor alike, from sleeping under the bridges and stealing bread. This is just exactly what the Kyl amendment does.

Mr. GREGG. Will the Senator yield? That quote would be much better if it were read in French.

Mr. KENNEDY. Petite a petite, l'oiseau fit son nid.

To continue, this is what this amendment does. It says that any employer can go out and sell an insurance policy that is consistent with this bill. It doesn't indicate what contribution the employer has to make. It doesn't indicate that the employer has to make any contribution at all. All it says is he has to sell it.

On the other hand, they can sell the other policy—that is cheap—which the employer can help subsidize for that employee. And that basically undermines this whole bill and denies all of the workers all of the protections that we have talked about. That is a great choice. That is really a wonderful choice to have. And we all know what can happen. This basically undermines the whole concept of this legislation.

There is no guarantee under the Senator's proposal that there is going to be a comparable and that the employer is going to do it. All they have to do is just sell the policy. So this is an extremely unfair and weighted alternative. Basically, it will provide a way, a vehicle for millions and millions and millions of hard-working American families to lose the benefits of this legislation, and it just doesn't make sense.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. I believe that perhaps if Senator KYL or others can yield back their time, we are ready to go to the Frist-Breaux substitute. Senator FRIST is here ready to proceed. Is that acceptable on all sides?

Mr. REID. We would vote on the Kyl amendment subsequent to the Frist-Breaux amendment being offered.

Mr. LOTT. That is correct. We would vote in stacked series, Kyl, Breaux-Frist, and then I presume we would be ready for final passage.

Mr. KYL. Mr. President, if I could just conclude my remarks in support of my amendment and in response to Senator KENNEDY, how much time remains under my time?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. KYL. I understand that Senator FRIST would like to quickly proceed. There are several people who would like to speak in support of my amendment. Therefore, what I would like to propose is that we lay my amendment aside, go to Senator FRIST, and I take up the remainder of my time prior to the vote.

Mr. REID. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is laid aside.

AMENDMENT NO. 856

Mr. FRIST. Mr. President, I call up amendment No. 856 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

> The Senator from Tennessee [Mr. FRIST], for himself and Mr. BREAUX, proposes an amendment numbered 856.

Mr. FRIST. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. FRIST. Mr. President, I will be brief, given the late hour.

At this juncture, I have introduced an amendment which is a comprehensive approach to the Patients' Bill of Rights. Essentially this bill is the Frist-Breaux-Jeffords bill which was introduced on May 15 of this year, modified with several of the amendments, which we will speak to shortly in the introduction either now or, if we have an interruption, we will speak to them in the 15 minutes on this side.

What I wish to stress is that this amendment is a comprehensive replacement amendment for the bill. It involves strong patient protections, access to specialists, access to specialty care, access to emergency rooms, elimination of gag clauses, continuity of care.

It has a strong appeals process, internal and external appeals. It requires full exhaustion of the internal and external appeals process. If the external decision—again, that is an independent physician, unbiased, independent of the plan—overrides the plan, then and only then does one go to court for the extraordinary damages. At any time during the appeals process you can go for what is called injunctive relief. Once you go for these damages, what are they? Economic damages are unlimited; noneconomic damages are $750,000 or three times economic damages. And that is a change from the underlying Frist-Breaux-Jeffords bill.

There are no punitive damages. In our bill, as I mentioned, we require full exhaustion of the internal and external appeals process. We go to Federal court. We have not had very much debate over the last week on the Federal versus State court. Senator BREAUX will be speaking more directly to that. It is critical, we believe, that we take this new Federal cause of action to the Federal courts. There are strong timelines.

The purpose of this amendment is to make sure people get the care they need when they need it—not a year later or 2 years later or 5 years later. It is a balanced approach. The amendment itself is the Frist-Breaux-Jeffords of May 15. We have included the amendments put forth by Senator THOMPSON and modified by Senator McCAIN on the exhaustion of internal/external appeals. We have also included the Snowe-DeWine language. That is the direct decisionmaker language that they drew upon from our bill, the Frist-Breaux-Jeffords bill. But we took the specific Snowe-DeWine amendment and placed it in our bill; in addition, the amendment of Senator BOND, with the 1 million uninsured, then the liability would be repealed, which passed on the floor, is also a part of our bill.

Secondly, we did raise the noneconomic caps from $500,000 to $750,000 or three times economic damages.

As a physician, as someone who has taken care of patients, as someone who recognizes that the purpose of a Patients' Bill of Rights is for patients to get the care when they need it, not extraordinary lawsuits, not frivolous lawsuits and skyrocketing costs, all of which will be absorbed by the 170 million people, we believe this bill is the balanced, responsible way of delivering a strong enforceable Patients' Bill of Rights.

I yield, if I might, to the cosponsor, coauthor of the bill, Senator BREAUX. Senator JEFFORDS will be speaking a little bit later. The three of us, as part of the Frist-Breaux-Jeffords amendment, have worked very hard over the last 2 years to put together this balanced bill, the only tripartisan bill in the Senate which comprehensively addresses the Patients' Bill of Rights.

I yield to Senator BREAUX.

Mr. BREAUX. Mr. President, do we have a time agreement on this amendment?

The PRESIDING OFFICER. There is no time established on this amendment.

Mr. BREAUX. Let's try it without an agreement. We will see how it goes without any kind of agreement.

Mr. President, I rise to comment on the bill that is now before the Senate. It is the Frist-Breaux-Jeffords substitute bill.

Before doing so, while the Senator from Tennessee is still on the floor, I want to say something about how enjoyable it has been to work with him. While most of us are going to be leaving this Chamber tonight or tomorrow sometime to spend time with our family on vacation or have an enjoyable period of time that we can rest and relax, the Senator from Tennessee, because of what he does professionally and what he believes in, is going to be leaving on a flight tonight to go to Africa. He is going to Africa to do surgery on women and children and families who cannot afford health care on the continent of Africa.

I want to say how proud all of us can be of one of our colleagues who has that type of attitude. He not only serves his constituents in Tennessee in this body but also serves so much of humanity in various places in the world by volunteering at his own cost, on his time, with his medical expertise, serving people who have no health care. We are talking about a Patients' Bill of Rights on the floor of the Senate. He really, truly is practicing that by providing medical services to people who can't afford it in various parts of the world.

For those who are interested in getting a Patients' Bill of Rights enacted into law, let me say that, without the amendment that we have offered, the bill will not become law because the President has clearly indicated he will veto a bill that does not contain some of the main principles that you can find in the Frist-Breaux-Jeffords substitute.

What I am talking about is not that complicated. The White House has said we are creating new Federal rights, Federal remedies, and we are amending a Federal statute—the ERISA laws of the United States. If there is going to be any litigation dealing with these new Federal rights, they ought to be handled in the Federal courts. Why do we recommend that? Why does the President say that is important? So we can have one consistent way of handling all of these potential suits that will be filed. Instead of having 50 different courts, with 50 different jurisdictions, with 50 different rules of evidence and 50 different procedures on how to handle litigation, you would have any disputes dealing with these Federal rights handled in the Federal court systems of the United States.

Our opponents argue that the Federal courts don't want any more suits to be filed. Neither do the State courts. There is not a State court or district court anywhere in the United States that is going to say we need more litigation, come sue on a State level. Neither the Federal nor State courts want any additional litigation because they are as full as they possibly can be. So the argument that the Federal courts don't want them—well, neither do the States. I think from a matter of trying to make sure we have a system that works, that is, a national system that protects Federal rights, it should be in Federal court.

If this is not part of the final package, the final package, indeed, will not become law, and that would be a very serious mistake for the people in this country.

Second, we have recommended some type of caps—a reasonable amount of caps on noneconomic damages. We have no caps on economic damages, of course, but we suggested a cap of $750,000 for pain and suffering, for noneconomic damages, or three times the amount of economic damages, whichever is greater. We tie it to inflation. I think that is reasonable.

We had also suggested something I think would be very important for the patients and, indeed, the lawyers who are concerned about litigating cases. There are no caps on our bill for gross negligence. At an earlier time we had offered that there would be no caps for wrongful death if a person was killed as a result of some decision made dealing with medical necessity. Then there would be no caps whatsoever either for gross negligence or wrongful death.

Those two ingredients are very important. What happens when this bill leaves this body, if we are truly interested in getting an agreement, is that somehow between now and the time this bill gets down to the White House, these concerns are going to have to be addressed in a fashion that I think means they are going to have to be adopted. It does us no good to have a bill that is going to be vetoed. We will help no patients. They get a good political issue, but they don't get any help, any guarantees. We will have spent all of this time arguing about things that cannot become law. So I think the clear thing that our bill provides, which I think is absolutely essential either now or at some time, is that we have a degree of Federal jurisdiction that enforces the Federal rights that we are creating in this legislation, and that we address the question of unlimited damages in a way that allows the White House to be able to sign this bill.

I will tell you that in reading what we have done with all of the amendments—the Snowe, Thompson, and DeWine amendments —where we have split jurisdiction, and the Kennedy-McCain bill which says some of the suits will be in State court and some in Federal court, our suggestion is just the opposite. The new rights will be in Federal court, and all the previous ones in the State courts will remain.

We need to do some work on this. We have created something that is as complicated as the Egyptian hieroglyphics. If you had a flowchart on what we are suggesting in the bill now before the Senate, we could not figure out where you go and when you go to the different courts and for what rights. That is unacceptable. This thing needs a lot of work before it can become law because I am afraid that what we have created tonight in this bill is unmanageable and unworkable. Our suggestion makes it a great deal better.

I am under no illusions about what is going to happen, but I know I am also not under any illusions about what can be signed into law and what cannot. I fear that what we have tonight cannot be signed into law without the recommendations we have made.

I yield the floor. I see my colleague from Vermont is also with us.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, for nearly 5 years, Congress has debated how best to enhance protections for patients enrolled in managed care plans without unduly increasing health care costs, imposing significant burdens on America's employers, and adding to the ranks of the uninsured. Our debate over the last two weeks has given us ample opportunity to thoroughly discuss these critical issues.

Through the amendment process the McCain-Edwards-Kennedy bill has been significantly improved. I particularly commend Senator SNOWE for her amendment on employer liability and Senator THOMPSON for his amendment on exhausting the appeals process.

However, I believe the McCain-Edwards-Kennedy bill is still fundamentally flawed in two critical areas. First, the bill would subject plans to excessive damages in the new federal cause of action. And second, by subjecting plans and employers to a new State cause of action, the bill destroys the current national uniformity for employers. The bill would subject employers or their designated agents to lawsuits in 50 different States.

The better alternative to the McCain-Edwards-Kennedy bill is our amendment. It is based on the legislation that I introduced with Senator FRIST and Senator BREAUX. It has much in common with the McCain-Edwards-Kennedy bill. They share 11 provisions that provide new patient protections. Each provides for information to assist consumers in navigating the health care system. Most importantly, the bills provide for an internal and external independent review process with strong new remedies when the external view process fails. Our primary area of disagreement lies in the degree that employers are protected from multiple causes of action in multiple venues and the provision of a reasonable cap on damages.

President Bush has made clear that our amendment meets the principles he has outlined for patient protection legislation that he would sign into law. This balanced legislation also is supported by a wide range of groups representing nearly 400,000 of America's physicians and health professionals.

Our amendment protects all Americans in private health plans and at the same time, it gives deference to the states to allow them to continue enforcing managed care laws consistent with the new federal rules.

Under our amendment health plans that fail to comply with independent review decisions or that harm patients by delaying coverage will be held accountable through expanded federal court remedies, including unlimited economic damages. In addition, patients can go to court at any time to get the health benefits they need through injunctive relief if going through the internal or external review process would cause them irreparable harm.

We hope that everyone who is committed to passing legislation that can become law this year will join us in supporting this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, over the course of the last 2 weeks, during the course of this debate, we have made great progress and consensus has been reached on many issues, beginning with the issue of scope, how many Americans would be covered by this patient protection legislation.

We have worked with Senators across the aisle and have been able to resolve that issue and resolve it in a way that all Americans are covered and there is a floor of protection for all Americans.

Second, we were able to resolve the issue of access to clinical trials, an issue on which there has been some disagreement in this body.

Third, we have been able to resolve the issue of employer liability in a way that protects employers from liability without completely eliminating the rights of patients. We have done it in a balanced way so that 94 percent—every small employer in America—are 100-percent protected.

We have also resolved the issue of exhaustive appeals so patients will go through the appeals process to get the care they need before they go to court.

Medical necessity is another issue resolved during the course of this debate.

All of these issues are the issues of great work many days, many hours of compromise, negotiation, and consensus reached in the Chamber of the Senate. This substitute abandons a number of those consensus agreements, starting with the issue of scope.

On the issue of scope, the Senator from Louisiana and I were able to fashion a provision that provides a floor and protects all Americans. That provision was voted on and consensus was reached. That consensus provision is not in this substitute.

Second, on the issue of exhaustion, the Senator from Tennessee and I worked to fashion a provision that provides that all patients exhaust the appeals before they go to court in a way that does not prevent patients who have an extended appeal from being harmed by that extended appeal. In other words, if it goes on 31 days or more, they can go to court simultaneous with the appeal. That exhaustion provision on which there was a huge vote in favor of it in the Senate is not in this substitute.

Third, the independence of the review panels: I concede I have not seen the language, but assuming it is the same language that was originally in the Frist-Breaux bill, it has no provision specifically requiring the so-called independent review panel be, in fact, independent; nothing requiring that the HMO not be able to control or dictate who, in fact, is on the appeals panel. It is like the HMO being able to pick the judge and the jury. So there is not established to anyone's satisfaction that, in fact, that appeals panel will be independent.

Finally, on the issue of going to Federal court versus State court, the American Bar Association, the Federal judiciary, the U.S. Supreme Court, the State attorneys general, all the objective, large legal bodies in this country have said that these cases should go to State court.

That is what our legislation provides. Unfortunately, under this substitute, the vast majority of cases would, indeed, go to Federal court.

Many Americans live hundreds of miles from the closest Federal courthouse. It would be much more difficult for these injured patients to get a lawyer to represent them in a Federal action, particularly one that might take place hundreds of miles away, and most important, and the reason so many of these objective bodies said these cases belong in State court, is that it will take so long to get the case heard. There is such a backlog already, it makes no sense to send these cases to Federal court.

What we have done instead is say: You, HMO, if you are going to overrule doctors, if you are going to make health care decisions, we are going to treat you exactly as we treat the other health care providers. We treat them exactly the same. It is the reason this is such a critical provision to the American Medical Association, to all the doctors groups across this country and to the consumer groups across America.

There are fundamental differences in our underlying legislation, as amended, and in the substitute, starting with the issue of scope, about which we have reached consensus, going to the issue of exhaustion of administrative remedies, which is not in this substitute; the required independence of the review panel is not in the substitute; the requirement that the cases that every objective body says should go to State court, including the U.S. Supreme Court, those cases go to Federal court instead under this provision.

We have made tremendous progress. I am very pleased with the work of all of our colleagues—Republicans, Democrats, and Independent—in this process. The work has been productive. We have done important work in the Senate, but it is not important to us. It is important for the people of this country, the families of this country who deserve more control over their health care decisions, who deserve real rights, enforceable rights.

That is what we have been able to accomplish over the last 2 weeks. Unfortunately, in every respect in which this substitute is different from the underlying legislation, as amended, it favors the HMO versus the patient. In every respect, we favor the patient; they favor the HMO.

I say to my colleagues who sponsored this amendment, I know they are well-intentioned. I know they worked very hard on it. I respect every one of them, and I respect the work they have done, but I believe the work we have, in fact, done in this Chamber over the last 2 weeks is a much better product and, most importantly, will provide meaningful protections for the patients and families of this country who deserve finally to have the law on their side instead of having the law on the side of the big HMOs.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. There is no time limit.

Mr. KENNEDY. Mr. President, I thank my good friend, Dr. FRIST. Senator FRIST has been the chairman of our Public Health Subcommittee and he and I have worked on a lot of different health care issues together.

I thank Senator JEFFORDS who has been a strong ally on many health care issues over a long period of time.

I have also worked extensively with the Senator from Louisiana, Mr. BREAUX, on many health care issues.

The fact is, when you have this combination of people making a strong recommendation, it is worthy for the Senate to give a true examination of their product and their recommendation this evening.

Having said all of that, it is worthwhile in the final minutes of this debate and before action that we give special consideration to the viewpoints of the doctors, the nurses, and the patients who have followed this issue and have really breathed life into this issue over a long time.

Tonight, at this time, there is only one matter that is before us that has the complete support of the medical profession, the nurses, the doctors, all of the groups that represent the children in this country, all the groups that represent the disability community, all of the groups that represent the Cancer Society, all the groups that represent the aged, all the groups that represent the special needs of people who have special medical challenges. They have had a chance to review each and every provision. They know every aspect of every page of all the legislation and the amendments, and they come down virtually unanimously in support of the McCain-Edwards legislation.

Senator EDWARDS has already outlined and Senator MCCAIN will further outline the various concerns.

Let me mention matters we have focused on during this debate.

The clinical trials: We are in the century of life sciences, and we are putting resources into and investing in the NIH. We are never going to get the benefits of the research in the laboratory to the bedside unless we have effective clinical trials.

We have strong commitments on clinical trials; Breaux-Frist is short on that, and it will take up to 5 years to begin the clinical trials.

Specialty care: We guarantee specialty care. Any mother who brings in a child who has cancer will be able to get the specialty care. Breaux-Frist does not provide it. If it is not within that particular HMO, then it is not a medically reviewable decision. There are restrictions in the bill.

We have debated the issues of the appeals. Breaux-Frist still has provisions where the HMO will be selecting the appeal organization, which is effectively selecting the judge and jury in these appeals.

Liability: As has been pointed out, Breaux-Frist brings all the liability into the Federal system. Every patients group and every group that concerned itself about getting true accountability for patients understands the importance of keeping liability in the State court.

Even though the words are similar, although we have the issues of medical necessity, although we use the words of specialization, although both the words of appeals are used in both bills, there is a dramatic and significant difference. Those are the two choices before the Senate.

I thank our colleagues and friends on the other side. There really is only one true Patients' Bill of Rights that is going to protect the patients in this country, the families, the children, the women, the workers in this Nation, and that is the McCain-Edwards bill. I hope we support that shortly.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. I ask unanimous consent action with respect to Ensign amendment No. 849 be vitiated and the Senate vote in relation to the amendment following the disposition of the Kyl amendment, with up to 10 minutes equally divided for debate prior to that vote.

Mr. LOTT. Reserving the right to object, I hope the Senator will withhold. I think a continued effort is underway, and if he will withhold at this point—I prefer not to object—let's see if we can't work it out.

Mr. ENSIGN. I withdraw my unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senators BREAUX and FRIST for their efforts. I believe they have a goodwill attitude toward this issue. I especially thank Dr. FRIST for his leadership not only on this issue but on so many other health care issues that come before the Senate. I respect their commitment in protecting patients and holding health plans accountable. I do not believe the substitute has a mutually shared goal.

Both my colleagues, Senators EDWARDS and KENNEDY, point out some of the differences between our two bills. I remind Members that the amendment does provide very limited relief in Federal court and would only allow a handful of cases to be addressed: Only those patients who receive approval from the external medical review can go to court.

Numerous States, including my home State of Arizona, have enacted laws that permit injured patients to hold plans legally responsible for their negligent medical decisions. I believe this substitute nullifies these laws. My colleagues may assert they do not preempt State law, but I respectfully disagree. Delaying and denying care by an HMO is not a contract issue for Federal court. Delaying and denying of care is a medical malpractice and should be determined in State court.

As we know, this is a substitute. Over the last 2 weeks we have made some very important changes to this legislation, which is the appropriate way to legislate. We have made important changes on employer liability thanks to Senator SNOWE and Senator DEWINE and others; exhausting administrative procedure, thanks to Senator THOMPSON and Senator EDWARDS; limits on legal fees, an effort undertaken by Senator WARNER; reasonable scope, protecting all Americans, limitations on class action suits, and venue to prevent forum shopping, in which Senator THOMPSON and others were involved.

Some of these have been included in the substitute, and some have not. I believe all of these changes that have been made through open and honest debate on this legislation should be included.

Again, we still have avoided the fundamental issue of State and Federal court. I believe that issue is not resolved to the satisfaction of the patient as opposed to the HMO.

I take an additional minute to thank a number of people including the White House staff, Josh Bolton and Anne Phelps; Senator GREGG's stewardship on this side has been exemplary; Senators FRIST and BREAUX have obviously been very helpful; Senators SNOWE, LINCOLN, DEWINE, NELSON, and THOMPSON. I thank both leaders, Senator DASCHLE and Senator LOTT, as well as Senator REID and Senator NICKLES, who have been involved in this issue for a long time, as well as Senator EDWARDS and Senator KENNEDY.

Soon we will vote on this legislation. I believe we will prevail. I think this, like the campaign finance reform bill, has been open, honest, fair debate on which all sides have been heard, and I think, again, the Senate can be proud, no matter what the outcome, of the way we proceeded to address this issue which is important to so many millions of Americans.

This is an important issue to American citizens. This is an important issue to the person who cannot contribute a lot of money to American political campaigns. This is an important issue to average citizens whose voices are oftentimes drowned out in Washington, in my view, by the voices of the special interests, whether they be trial lawyers, insurance companies, HMOs, or others.

I think putting patients first and the HMOs second, as we crafted this legislation, is an important outcome and why I have to oppose the substitute and urge my colleagues to vote favorably when we reach final passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I will make two or three comments. First, I compliment and congratulate Senator KENNEDY and Senator GREGG for their patience and leadership in managing this bill and also managing the education bill. Also, I congratulate Senator MCCAIN and Senator EDWARDS for their contribution because they are going to pass a bill, and Senator DASCHLE, as well.

This has been a battle that some have been wrestling with for a long time. As a matter of fact, a year ago we passed legislation that was called Patients' Bill of Rights Plus. In my opinion, it is far superior to the legislation we are getting ready to pass tonight. It was legislation that allowed every plan to have an appeal, internal and external, and it was binding —not binding by lawsuits, but if you did not comply with external appeal, you could be fined $10,000 a day—a different approach. I think it is far superior.

In looking at the language we have today and in the underlying bill, the so-called McCain-Edwards-Kennedy bill, maybe some modest improvements have been made. It is the bill that will finally pass, but it is a bill that the President will not sign and the President shouldn't sign.

I hope we will pass good legislation but not pass legislation that will dramatically increase health care costs, as I am afraid it will. There has to be some reason that employers that voluntarily supply health care, purchase health care for their employees, that employers of all sizes are almost unanimous in their opposition. They are not compelled to buy health care for employees, but they want to. Now we are getting ready to threaten them with unlimited liability. We keep hearing about suing the HMOs, but suing the HMOs and/or employers and threatening them with unlimited liability, economic damages, unlimited noneconomic damages, pain and suffering—there are costs included.

Somebody said we solve that because we have a designated decisionmaker. If there is a designated decisionmaker, the net result is, well, if you are going to hand off your liability to me, what am I protecting? What am I insuring?

With contracts that can be abrogated or breached, an independent reviewer can say, you have to cover other things, and you have a lot of liability if things do not work out. The net result will be the independent reviewer will say, defensive medicine, we will pay for anything because they don't want to be sued. They don't want to be liable. Then they increase premiums because whatever the liability is, they don't know how much it is or how expensive it is, and they will increase their rates. They don't plan on losing money and they don't want to go out of business, so there will be a lot of defensive medicine and they will charge extra premiums to the employer to make sure they don't go out of business.

So the cost estimates, some people have said, are 4- or 5-percent per year increases on top of the already 13- or 20-percent increases built in, in increased costs for health care. They are probably much more. The costs of the bill could increase the cost of health care by 8 to 10 percent. We should know that.

Again, we should do no harm. We should not pass legislation that will not work, that will do harm. It will do harm if you increase the number of uninsured. It will do harm if you price insurance out of the realm of affordability for millions of Americans. I am afraid that is what we are doing.

There is one other issue that has not received maybe enough attention. Senator COLLINS and Senator NELSON raised that. That is the issue of scope: Should the Federal Government be taking over regulating that the States do? I am concerned about the language. It was modified modestly. It said the States have to be substantially compliant with these new Federal regulations. That language goes so far that really the States are going to have to adopt almost identical language to what we have put in this bill. The net result? If they don't, HCFA takes over—the Health Care Financing Administration.

A couple of points: HCFA can't do it, HHS can't do it, the Department of Labor cannot do it. I want to make that point one final time.

We are ready to pass this mandate and say to the States: If you don't do it, Federal Government, you do it. If the States don't, you do it.

The Federal Government does not have the wherewithal to do it. Every State has hundreds of personnel involved in enforcing insurance regulation, and we are saying, you do it or we are going to take over. That is one of the largest unfunded mandates ever proposed by Congress.

I am a little mad at myself for not being able to offer a point of order that this is an unfunded mandate. One of the reasons I cannot is that it was not reported out of committee.

The unfunded mandates bill, the Congressional Accountability Act, says we have a report that comes out with the committee report and we can raise a point of order if you have an unfunded mandate on cities, counties, States, and the private sector. We cannot do that because we don't have a committee report because the bill was not reported out of committee. It was a year ago, but it is not now.

My point is this is an enormous unfunded mandate on counties and cities and States. We are mandating this on all those employees, saying: We know best, the Federal Government knows best. States, we know you have an emergency room procedure, but we are going to dictate a more expensive one.

I could go all the way down the list. My point is, even though we have done it, we cannot enforce it. You have nonenforceable provisions. There is no protection there. It may make us feel better, we may tell the American people we have provided the protections, but we cannot enforce it because the Federal Government cannot and should not take over State regulation of insurance. That is a mistake.

I am afraid the combination of the two, the expanded liability—you can sue employers and the providers for unlimited damages in State and/or Federal court for economic and noneconomic, unlimited in both cases. You can jury shop. You can find a place that would work. That is going to scare employers. Employers beware, the bill we are passing tonight makes you liable. You are going to have to pay a lot more in health care costs as a result of the bill we are passing tonight.

Again, my compliments to the sponsors. They worked hard. The opponents worked hard. We will pass a bill tonight. But I hope it will be improved dramatically in conference so we will have a bill that is affordable, will not scare people away from insurance, will not increase the number of uninsured by millions. My prediction is this bill would increase the number of uninsured by millions and cost billions and billions of dollars. I hope that is not the case. I hope it is fixed and improved in conference and we will have a bill that President Bush can sign and become law and of which we will all be proud. Unfortunately, I think the underlying bill does not meet that test.

With great reluctance I am going to be voting no on the underlying McCain-Kennedy-Edwards bill. I urge my colleagues to do likewise.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I regret deeply I will not be able to vote for this bill. My State does not have a problem with the HMOs that other people have expressed. Our State would be mandated by this bill to change its laws. The sensible amendment offered by Senator COLLINS was defeated. The Allard amendments that dealt with small business were defeated. The mandates in this bill will hamper our development of a sound health care delivery system for Alaska.

It is a vast area with a few people. We do not need the interference of the Federal Government. We need help. I think this bill will interfere with what we are doing. I hope by the time it comes out of conference I will be able to support it. I commend everyone who has tried, but this, the underlying bill, will not help our people; it will hurt them; and I cannot support it.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I think this bill is a lot better than when we started. There remains one area, of course, where we have substantial disagreement, and that has to do with where the lawsuits are going to be brought. The underlying bill still has a bifurcated system where some suits can be brought to State court and some in Federal court. I think that is the main thing the Frist-Breaux-Jeffords amendment tries to address.

We all can read the handwriting on the wall. I think we know how this is going to go. But it is very important our colleagues understand what we are doing. With regard to the underlying bill, there is a presupposition, apparently, that a client will walk into a lawyer's office with a tag around his neck saying, I'm a State suit, or, I'm a Federal suit. That will not be the case. There will be many cases that are mixed. Some will have to do with coverage denial, some will have to do with medically reviewable claims, some will be more of a contract case, some will be more of a tort case. Arguably, it could go in either court. Some will go to Federal court and the defendant will object and say, no, you belong in State court, and the judge will rule. Then there will be an appeal in that venue. Then that will be determined, and then it will go possibly to the opposite court. In other words, there will be litigation at one or more levels in order to determine where you are going to litigate.

Some, on the other hand, will go to State court, and there will be a fight there as to whether or not that belongs in State court. It may be remanded over to Federal court.

Some will come in with cases, parts of which will arguably be in Federal court and parts of the same case could arguably be in State court.

All I am suggesting is there is no easy solution to this. It has been pointed out that there are some down sides to bringing them in Federal court, too. They are overcrowded. We have heard examples of federally related lawyers and judges saying it ought to be in State court. If you took a poll among the State-related lawyers and judges, they would say just the opposite. But at least you avoid the problems I am talking about.

We are going into a system now where we are creating new law; we are creating new defendants. But wait, it is not just HMOs and employers. The independent decisionmakers are subject to liability, too. The independent medical reviewer is subject to liability, too. They have a higher standard. I believe it is a "gross or willful misconduct" standard. It is a higher standard, but they can be sued for settlement value or whatever.

We have a complicated liability framework, so you have different people, different standards, new lawsuits. It is going to be extremely confusing for a long time, and it is going to result in much higher costs.

The tradeoffs may be there. The decisions were made that we adopted this in view of all that. But I think it is very important that at a time when health care costs are already going up in double digits, we are doing something that quite clearly is going to result in much more litigation, much more confusion about that litigation. Somebody ultimately has to pay for all that. It is going to ultimately result in higher costs to our citizens. I think it is important we understand that before we cast these votes.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. We are just about at the point now where I think we can begin voting on amendments. I ask unanimous consent that following the first amendment, all other votes be limited to 10 minutes. I ask further that the two managers be permitted to offer a joint managers' amendment following the passage, prior to the close of business today.

Mr. LOTT. Reserving the right to object, Mr. President, I will not object, I just want to clarify where we are. I believe we are ready to recognize Senator KYL—he had a little time left on his amendment—and then I believe we will be ready to have the three votes: Kyl amendment, Breaux-Frist, and final passage.

Mr. GREGG. Reserving the right to object, on the managers' package we are working to try to reach an agreement. Hopefully, we will reach an agreement. If we do not reach agreement—is my understanding correct that we have to reach agreement by the end of today? What is the parliamentary situation if we do not reach an agreement by the end of today?

Mr. DASCHLE. Mr. President, there would not be a managers' amendment if we couldn't find mutual agreement on the amendment.

Mr. GREGG. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 854

Mr. KYL. Mr. President, I ask unanimous consent Senator NICKLES be shown as a cosponsor of amendment No. 854.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. There are two people I know of who would like to speak briefly on my amendment. I would like to respond briefly to what Senator KENNEDY said and then summarize.

May I begin by congratulating the authors of the underlying legislation and expressing appreciation for all those who have worked with me. Especially I want to thank my colleague, JOHN MCCAIN, and congratulate him for his successful efforts in moving this legislation forward. It is not always easy when colleagues from the same State are not in total agreement on everything, but he let me know early on when I first came to the Senate he didn't expect to agree with me on every issue. He said he might even be in disagreement on some matters with me from time to time.

I appreciate his efforts and the efforts of all of those who have worked with me.

Just to summarize for those who were not here earlier, my amendment is very simple. It merely provides an option for employers that offer plans that are covered by this bill to also provide an alternative for their employees. That would permit the employees to have as their remedy the receipt of the health care or for the cost of that health care rather than going to court and getting damages as they are permitted to do under the bill. This should provide a lower cost alternative that could be made available to them. That, in turn, should provide a way for employers that might otherwise have to reduce the number of employees covered, or not have insurance for their employees at all, to continue to provide that coverage.

As I pointed out before, according to the Congressional Budget Office information, and the Lewin Group, probably over a million American citizens will lose their health care as a result of the increased expenses that could result from this legislation.

The effort that we have all tried to engage is to find ways to reduce those costs so premiums won't go up as much and so employers can continue to provide the care. The best way to do that is to allow them to provide a purely voluntary option for their employees to accept, which would not have the same lawsuit damage option but would provide them the health care for which they have contracted. It is about health benefits rather than lawsuits. We think this would provide the remedy for that.

The only comment that Senator KENNEDY made in opposition was that we are not regulating how the employer would have to contribute toward the insurance policies for their employees. That is very true. We are not doing that in the underlying bill. We are not doing it in the Breaux-Frist amendment. We are not doing it in my amendment. I don't think anybody here has suggested we should be mandating from the Federal Government how much money the employers have to pay for their insurance option that they provide for their employees. I do not think that is a relevant point.

I reserve the remainder of my time for those who wish to speak to it. Then I will be prepared to yield back.

Mr. KENNEDY. Mr. President, I will just take 1 minute.

The Kyl amendment will permit a company to offer a sham policy and a real policy. To get the real policy, an employee will have to weigh all of his or her rights under the liability provisions of the McCain-Edwards bill. Those are the alternatives. It basically undermines the whole concept of this legislation because it will permit employers and HMOs to escape any kind of accountability upon which this legislation is built. That creates a massive loophole which is undermining the whole purpose of this legislation.

I hope the amendment will be defeated.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the hour is late, but the Kyl amendment is important. There is no sham here at all. It is the marketplace at work—voluntarily to provide the employee with options. The employer must provide health care programs if they are going to provide health care programs that fit this bill, that fit the Patients' Bill of Rights, but in doing so they also can provide a voluntary option if the employee chooses to take it, which simply says you waive your rights to a lawsuit. And guess what. It might cost that employee less money. Yet he and she, and their families, might still be covered.

Isn't that a reasonable option and a voluntary option to provide to the marketplace?

How dare we say that every attorney ought to have a right here? Why not say every employee has a right to a marketplace of options that this voluntary approach that the Senator from Arizona provides gives to the health care system of our country?

I support the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, over the past 8 days we have had amendment after amendment that have created massive loopholes in the very basic and fundamental fabric of this legislation, which is to protect patients, protect families, protect doctors, and protect medical decisions against the bottom line of HMOs.

This is another one of those in the parade, and it should be rejected.

The PRESIDING OFFICER. Who yields time?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask for 1 minute.

Mr. President, the option provided by Senator KYL is not a loophole. It is an option. Under his plan, all policies that an employer would offer would provide the external and internal reviews that we have in all of the plans. The option to go to specialists, the gag rule protections that we have made a part of this bill—all of that would be in the plan.

It would simply give the employee an option, if he thought it would save him money and he or she didn't intend to sue for benefits, to choose a policy that could be cheaper and simply not have certain lawsuit rights but, in fact, that operate for liability purposes under current law. It is no worse than current law. It is no better than current law. That is an option that could save a working family money that they need for their budget.

For those who want all matters to be exactly the same, I don't see why they would resist such an option. I think it is good for the employees.

I salute Senator KYL. I also note that Senator JEFFORDS had a hearing recently on the uninsured in America. We know there are over 40 million uninsured and that every 1 percent increase in insurance costs causes 300,000 people to drop off the insurance rolls.

I think it is a good move. I support it.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KYL. Mr. President, there is nothing mandatory in this legislation. It is all voluntary. It is a simple choice for the employees. I hope my colleagues will support the amendment.

The PRESIDING OFFICER. Is all time yielded?

Mr. KYL. Mr. President, I yield all time on this side.

The PRESIDING OFFICER. The question is on agreeing to the Kyl amendment No. 854. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Colorado (Mr. CAMPBELL), and the Senator from Texas (Mr. GRAMM) are necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 54, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—42

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Cochran
Collins
Craig
Crapo
DeWine
Ensign
Enzi
Frist
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—54

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NOT VOTING—4

Campbell
Domenici
Gramm
Murkowski

The amendment (No. 854) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 856

The PRESIDING OFFICER. The question is on agreeing to the Frist-Breaux substitute amendment No. 856.

Mr. EDWARDS. Mr. President. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Texas (Mr. GRAMM), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Mississippi (Mr. LOTT) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 59, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—36

Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Cochran
Collins
DeWine
Ensign
Enzi
Frist
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Jeffords
Kyl
Lugar
McConnell
Roberts
Santorum
Sessions
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—59

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inhofe
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Rockefeller
Sarbanes
Schumer
Shelby
Snowe
Specter
Stabenow
Torricelli
Wellstone
Wyden

NOT VOTING—5

Campbell
Domenici
Gramm
Lott
Murkowski

The amendment (No. 856) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mrs. LINCOLN. Mr. President, I wish to enter into a colloquy with the distinguished manager of the bill to clarify the intent of the sponsors.

Section 202 of the bill amends the Public Health Service Act with a new section 2753 that applies all of the requirements of title I of the Patients Bill of Rights to each health insurance issuer in the individual market.

Current law, at section 2763 provides that none of the preceding requirements of the "individual market rules" apply to health insurance coverage consisting of "excepted benefits".

Similar provisions exist in current law at section 2721 of the Public Health Service Act for the group insurance market. A parallel provision exists in ERISA at section 732 for "excepted benefits".

Is it the intent of the managers of the bill that current law section 2763 and the parallel provisions for the group market in the Public Health Service Act and ERISA remain in full force notwithstanding the language of new section 2753?

In other words the requirements of title I of the Patients Bill of Rights would apply to individual and group health insurance other than "expected benefits" coverage.

Mr. KENNEDY. The Senator is correct. It is the intent of the managers of the bill that the requirements of title I do not apply to insurance coverage consisting of "excepted benefits".

Ms. CANTWELL. Mr. President, I rise today to speak in support of the bipartisan McCain-Edwards-Kennedy Bipartisan Patient Protection Act. Managed care reform, particularly the enactment of a comprehensive Patients' Bill of Rights, is one of the most important issues currently before either body of the U. S. Congress. After all the debate we have had on the floor in the last two weeks, I believe we are at the cusp of providing true, meaningful protections for every American in every health care plan.

Unfortunately, while over 160 million Americans rely on managed care plans for their health insurance, HMOs can still restrict a doctor's best advice based purely on financial costs. The fact is, we know that the great promise of managed care—lower costs and increased quality—has in all too many cases turned into an acute case of less freedom and greater bureaucracy.

I want to tell my colleagues about the Malone family from Everett, Washington. Their son, Ian, was born with brain damage that makes it very difficult for him to swallow, to even cough and gag properly. He cannot eat or breathe without being carefully watched. He's fed through a tube in his stomach since he can't swallow.

The doctors at Children's Hospital in Seattle—one of the best pediatric care institutions in the world—said that Ian could leave the Intensive Care Unit but would need 16 hours of home nursing care a day for Ian. And while initially the Malone's health insurance company paid for this care, it decided to cut it off. Ian's father says that "The insurance company told us to give Ian up for adoption and let the taxpayers step in and pay for his care. They didn't care. It was all about saving money."

It seems that the week's rhetoric has centered on the idea of business and employers versus patients—as if these two interests are inherently antithetical, rather than complementary. But they are not. In fact, I believe the Bipartisan Patient Protection Act is a balanced approach to protecting patients and protecting the business of managed care.

My home State of Washington has been a leader in providing health care to all of its citizens and has enacted strong patient protections at the state level. Under Washington State law, patients have the right to accurate and accessible information about their health insurance; the right to a second opinion; timely access to services by qualified medical personnel; the right to appeal decisions to an independent review board; and the ability to sue providers for damages if they are substantially harmed by a provider's decisions.

I believe that States are the laboratories of democracy and I do not take lightly the possibility that any federal legislation would undermine or preempt state law. I spent six years on the Health Care Committee in the State House of Representatives and just this last year Washington passed a comprehensive Patient's Bill of Rights. In issues such as the one before us this week, it is paramount that federal legislation enhance state protections, not undermine them.

And that is what this bill does. The McCain-Edwards-Kennedy compromise explicitly preserves strong state patient protection laws that substantially comply with the protections in the Federal bill. This is an extremely important point. The standards for certifying state laws that meet or exceed the Federal minimum standard ensure that only more protective State laws replace the Federal standards.

But I find it ironic that opponents of a strong, enforceable, Patients' Bill of Rights have traditionally limited the scope of the patient protections in their managed care reform legislation to those individuals in self-insured plans, which are not regulated by the States, and assert that the States are responsible for the rest.

This approach denies Federal protections to millions of Americans—teachers, police officers, firefighters and nurses who work for State and local governments; most farmers and independent business owners who purchase their own coverage; most workers in small businesses who are covered by small group insurance policies, and millions more who are covered by a health maintenance organization. We need federal protections so that all Americans are guaranteed basic rights.

In fact, no state has passed all the protections in the bipartisan McCain-Edwards-Kennedy Patients' Bill of Rights. To fail to enact this bill would mean that neighbors, and sometimes workers in the same company, will have different protections under the law. The scope of this legislation simply ensures that all Americans in all health plans have the same basic level of patient protections.

Let me focus for a few minutes on what this bill does.

This bill protects a patient's right to hear the full range of treatment options from their doctors, and it prohibits financial incentives to limiting medical care.

This bill allows patients to go to the first available emergency room when they are facing an emergency—regardless of whether that particular E.R. is in their managed care network.

This bill allows women to go directly to their obstetrician or gynecologist without going through a "gatekeeper," and it allows parents to bring their children directly to pediatricians instead of having to go through primary care physicians.

This bill allows patients with life-threatening or serious illnesses, for whom standard treatments are ineffective, to participate in approved clinical trials.

This bill has laid out stringent, tough, enforceable internal and external review standards, and we have ensured that a truly independent body has the capability and authority to resolve disputes for cases denying access to medical care.

This bill promotes informed decision-making by patients, by requiring health plans and insurance companies to provide details about plan benefits, restrictions and exclusions, and other important information about coverage and rights under the legislation.

Finally, the Bipartisan Patient Protection Act holds insurers and HMOs accountable for their acts.

Twenty years ago, very few Americans were in managed care plans. Since the early 1990s, however, insured workers' enrollment in traditional fee-for-service plans has dropped from about 50 percent to under 25 percent. The broad shift to managed care has been driven, largely, by cost concerns. But in our need to control health care costs, it is imperative that we do not forget what we are supposed to be doing—providing health care.

There will be few issues more important in the 107th Congress than the one we are voting on today. Health care affects people personally, every day of their lives, and we have a real responsibility to ensure that any changes we make put the patient's interests first. That is what this bill does, and I proudly rise in support of the Bipartisan Patient Protection Act.

Mr. FEINGOLD. Mr. President, I was prepared to offer an amendment to S. 1052 concerning mandatory arbitration to ensure that HMOs are held accountable for their actions, which after all is one of the primary purposes of this bill. I have been asked not to offer that amendment, so I wanted to discuss it with the lead sponsors of the bill and ask them to clarify their intent.

Some managed care organizations currently require patients to sign mandatory binding arbitration contracts before any dispute arises. These provisions effectively deny injured patients the right to take their HMO to court. Instead they are forced to go into binding arbitration, which can be a stacked deck against patients. We have spent much of the past 10 days debating whether injured patients should be able to go to court to vindicate their rights. It is clear that a majority of the Senate supports such rights, otherwise we would not be about to pass this legislation. So I am asking my colleagues to clarify that it is the intent of the sponsors that injured patients are granted legal rights under this legislation that permit them to go to either state or federal court to pursue compensation and redress, notwithstanding a mandatory arbitration provision in an HMO contract. Can they further clarify that it is not the intent of the sponsors of this legislation that patients can lose the legal rights we are providing in this bill by being forced into mandatory binding arbitration? In these arbitrations, the HMO chooses the arbitrator, there are substantial up-front costs that the patient has to bear, there is limited discovery, no right to appeal, and no public record or precedential value of the decision.

Mr. McCAIN. I thank my friend from Wisconsin for raising this very important issue about this legislation. We have come very far on this legislation. It is the intent of the bill's sponsors and of the majority about to pass this bill that patients will have the full legal rights provided under this historic legislation. It is not our intent to provide these important legal rights on the one hand and then allow them to be taken away by mandatory arbitration contracts entered into before a dispute arises. We have said that this bill gives patients the right to an external appeal process and to go to court, and we intend that cases arising under these rights should be heard by the external reviewer in court, and not by private arbitrators.

Mr. KENNEDY. If the Senator would yield, I agree that our bill would be severely undermined if health insurers could avoid the protections we have tried to guarantee in this bill by inserting a clause in the fine print of the contract to require binding arbitration of disputes that might later arise.

Mr. EDWARDS. I agree with my distinguished colleagues that HMOs should not be permitted to revoke the protections we have worked so hard to provide in this bill through the use of mandatory binding arbitration provisions in their contracts. Patients have no ability to bargain over the fine print of the health insurance contracts. That is why we have had to provide federal standards in this bill, and it would be wholly contrary to the approach of this bill to allow a backdoor route for these standards and protections to be avoided.

Mr. FEINGOLD. I thank my colleagues, the prime sponsors of this legislation for these clarifications. Based on these assurances, I will not offer my amendment. I yield the floor.

Mr. ROCKEFELLER. Mr. President, during the past five years, we have debated the merits and faults of assorted patients' rights legislation. We have offered statistics, we have shared stories, and we have reduced strong legislation—legislation that held the real possibility of protecting all Americans—to weaker law that protects a minority of the population. Our work at times spoke of this issue in the abstract, yet there is nothing abstract about it. The 180 million Americans enrolled in health care plans have always understood exactly what it means to have insufficient coverage. However, they are not sitting on the edges of their seats, watching our heated arguments and waiting breathlessly for an outcome. Instead, they are engaged in the battles they have fought for far too long, and their disputes have far higher stakes. They are, quite literally, fighting with managed care organizations for their lives. The American people are tired, Mr. President, and deserve relief from these battles. They deserve good health and the peace of mind that comes with quality care. It is time we cast aside our partisan bickering and give the American people the right to health care, as well as the right to seek redress if denied quality health care. It is time to pass the Patients' Bill of Rights.

Recognizing that 43 million Americans go without health insurance each day, and millions more carry partial to inadequate health coverage, I have worked with my colleagues both in committee and on the floor to deliver quality care that truly benefits patients. I am convinced that such health care coverage must include liability when needed care is denied, resulting in injury or death. Quality care must also include patients' access to medical specialists, and an appeals and review process when such access is denied. The McCain-Edwards-Kennedy bill includes these stipulations and goes one step further. It ensures that, for the first time, all Americans enrolled in health plans will be given access to the care they need.

With this in mind, I would like to enthusiastically endorse the McCain-Edwards-Kennedy Patients' Bill of Rights. A bipartisan effort in all regards, the legislation before us will ensure access to the quality of care that all Americans need—access which they deserve. First and foremost, it grants every individual with health coverage the same quality care. Under this McCain-Edwards-Kennedy legislation, for example, women, children, and the critically ill—often, the groups that are denied the care they need—will be given access to doctors who will determine their best medical interests.

If denied such care, patients will also be given the opportunity to immediately appeal decisions. By employing independent review boards, victims will be able to seek second opinions prior to the denial of care. The McCain-Edwards-Kennedy bill ensures access to medical treatments, before it is too late. To date, thousands of patients have died as a result of decisions made by non-medical HMO personnel who merely sought to reduce cost and increase profits. With this legislation, that need not happen ever again.

We have now come to agreements so that the pending legislation will allow employees to seek punitive damages only if their employers willfully and negligently deny medical care that results in injury or death. Though some might argue that this will increase the cost of health care and, by extension, increase the number of uninsured in America, studies in states that have implemented similar protections have shown that this just is not the case. This right serves as a check against irresponsible decision-making and is critical to the legislation before us.

Finally, the McCain-Edwards-Kennedy Patients' Bill of Rights provides hope for those suffering from chronic illness by encouraging the use of clinical trials if no other treatment exists. Alzheimer's, AIDS, and cancer patients, for example, have real hope that alternative therapies may improve their suffering and offer a long-term cure. This element of the legislation is long overdue. I fought along with other members of this body for this right as part of the Medicare program—yet the same opportunity does not exist for those with private coverage. It is a right—and it is time to help the seriously ill so that they can fight their illness, not their insurance company.

We have been debating this issue for five years, in spite of the fact that we all agree patients deserve quality health care. Here on the floor, we concur on many of the issues that held this legislation up in conference last year. I was a member of that conference committee, and can safely say the negotiating we have done here has greatly improved the bipartisan support for the Patients' Bill of Rights, previously lacked in conference. We have negotiated and agree upon scope between state and federal law, and on the definition of "medical necessity," as well as employer liability. We all agree that women should have access to OBGYN care, children should have access to pediatric care, and all patients should have access to emergency room care. I ask, then, what is holding us back? Indisputably, Americans have suffered too long and have endured too much. They deserve quality care—they deserve the Patients' Bill of Rights, and we must give it to them. I urge my colleagues to vote for the McCain-Edwards-Kennedy Patients' Bill of Rights.

Mr. KOHL. Mr. President, I rise today in support of S. 1052, the Bipartisan Patients Protection Act. After nearly 5 years of debate and partisan fighting, I am pleased that the Senate has finally passed a real, meaningful bipartisan Patients Bill of Rights. It is a step that is long overdue.

For many years, the growth of managed care arrangements helped to rein in the rapidly growing costs of health care. That benefits all patients across the Nation and helps to keep health care costs in check for everyone.

However, there is a real difference between making quality health care affordable and cutting corners on patient care. In Wisconsin, we are lucky that most health plans do a good job in keeping costs low and providing quality care. But too often across this nation, HMOs put too many obstacles between doctors and patients. In the name of saving a few bucks, too many patients must hurdle bureaucratic obstacles to get basic care. Even worse, too many patients are being denied essential treatment based on the bottom line rather than on what is best for them.

The Patients Bill of Rights will ensure that patients come first—not HMO profits or health plan bureaucrats. It makes sure that doctors, in consultation with patients, can decide what treatments are medically necessary. It gives patients access to information about all available treatments and not just the cheapest. Whether it's emergency care, pursuing treatment by an appropriate specialist, providing women with direct access to an OB-GYN, or giving a patient a chance to try an innovative new treatment that could save their life—these are rights that all Americans in health plans should have. And questions concerning these rights should be answered by caring physicians and concerned families—not by a calculator. This bill puts these decisions back in human hands where they belong.

This legislation will also make sure these rights are enforceable by allowing patients to hold health plans accountable for the decisions they make. First, all health plans must have an external appeals process in place, so that patients who challenge HMO decisions may take their case to an independent panel of medical experts. The External Reviewer must be independent from the plan, and they must be able to take valid medical evidence into account when deciding whether a treatment was inappropriately denied. The vast majority of disputes can and will be resolved using this external review process.

I was pleased that during the course of this debate, the Senate adopted an amendment that further clarified the rules of the external review process. I shared the concerns of Wisconsin employers and insurers that the original version could have potentially allowed an external reviewer to order coverage of a medical service that the health plan specifically disallowed in its plan. I strongly support the creation of a strong, independent external review process to address disputes between a patient and their insurer over whether a service is medically necessary. At the same time, I believe employers who offer their employees health care coverage and enter into a contract with a health plan should have a level of certainty as to the specific services that are not covered under the plan.

That is why I voted for the McCain-Bayh-Carper amendment, which preserves the sanctity of the contract and makes it crystal clear that a reviewer may not order coverage of any treatment that is specifically excluded or limited under the plan. At the same time, it still allows reviewers to order coverage of medically necessary services that are in dispute. In addition, if a health plan felt that a reviewer had a pattern of ordering care of questionable medical benefit, the plan could appeal to the secretary to have that reviewer decertified.

I recognize that some preferred the approach offered by Senators NELSON and KYL in addressing this issue. However, I opposed the Nelson-Kyl amendment because it went a step too far. By attempting to have the Federal Government create a national definition of "medical necessity," it would create a regulatory nightmare for patients and providers, and could potentially result in a definition that nobody supports and is too rigid to move with the advances in medical technology and treatment. The compromise amendment offered by Senator MCCAIN struck a more appropriate balance by protecting the sanctity of health plan contracts while allowing patients real recourse through an external appeal for medical necessity disputes.

Beyond the external review process, if a health plan's decision to deny or delay care results in death or injury to the patient, this bill ensures that the health plan can be held accountable for its actions. And this bill, as amended, includes clear protections for employers. I was pleased to support the amendment offered by Senators SNOWE and NELSON which further clarified the difficult issue of employer liability.

Let me make it clear that our main objective is to make sure that patients have access to the treatments they need and deserve, and that if a health plan wrongly delays or denies treatment that causes injury or death, that patients can hold their health plans accountable—just like they would hold their doctor accountable if their doctor's action caused injury or death. In other words, the patient should be able to hold accountable that entity who directly made the decision to deny care, and I think it's critical that we shield from liability all employers who had no hand in making that decision.

That is why I supported the amendment by Senators SNOWE and NELSON, which provides strong protections for employers from being sued by allowing them to choose a "designated decision-maker" to be in charge of making medical decisions and to take on all liability risk. In the case of an employer who offers a fully insured health plan, the health insurance company which the employer contracts with is deemed to be that designated decisionmaker, and the employer is therefore protected from lawsuits. In the case of an employer that offers a self-insured health plan, that employer may contract with a third-party administrator to administer the benefits of the plan. That third party administrator would agree to be the designated decisionmaker and the employer is shielded from lawsuits. Only those employers that act as insurers and directly make medical decisions for their employees can be held accountable. This group accounts for only approximately 5 percent of all employers in the country.

This bill now makes it clear that employers—who voluntarily provide health coverage to their employees and the vast majority of which do not act as insurers by making medical decisions—are shielded from lawsuits. This is in total agreement with President Bush's stated principles of a Patients Bill of Rights he could sign, where he said, and I quote: "Only employers who retain responsibility for and make final medical decisions should be subject to suit." That is exactly what this bill does. It is one of the main keys to making the rights in this bill enforceable, and I strongly urge that this right be retained in any bill that is sent to the President.

Most importantly, this bill gives all of these protections to ALL Americans in managed health care plans, not just a few. All 170 million Americans in managed health plans deserve the same protections—no matter what State they live in.

As someone who comes from a business background, I understand the concerns of employers. Some of my colleagues on the other side have claimed that our bill will increase health care costs so much that it will make it impossible for employers and families to afford coverage. But the Congressional Budget Office reported that the patient protections in our bill will only increase premiums by 4.2 percent over 5 years. This translates into only $1.19 per month for the average employee. CBO also found that the provision to hold health plans accountable—the provision the other side opposes the most and claim would cause health care costs to skyrocket—would only account for 40 cents of that amount. An independent study by Coopers and Lybrand indicates that the cost of the liability provisions is potentially less than that, estimating that premiums would increase between three and 13 cents a month per enrollee, or 0.03 percent. This is a small price to pay to make sure that health plans cover the health care services we all deserve.

I believe this bill meets the President's principles for a real Patients Bill of Rights, and I hope that when the House passes its bill, we can come together and send a bill to the President he will sign. The time has come to end this debate and finally act to protect patients. There is no reason whatsoever to continue to allow health plans to skimp on quality in the name of saving profits. Patients have been in the waiting room long enough. It is time for the Senate to act and make sure they receive the health care they need, deserve, and pay for.

Mr. FEINGOLD. Mr. President, the lobbying on this bill has been intensive. There's been a great deal of coverage in recent weeks about the wealthy interests that have collided over whether the nation should have a Patients' Bill of Rights, and what that bill should look like.

I think even the media has had a tough time figuring out which side of this debate has the power of the "special interests" on their side. Some have said the money is on the side of the McCain-Kennedy-Edwards bill, since interests supporting the bill include the American Association of Trial Lawyers, the American Medical Association, and labor unions like AFSCME.

Others say that the special interests are weighing in against the Patients Bill of Rights, because of the powerful business and insurance coalitions fighting to defeat this legislation.

So who is right. Where is the money in this debate? The answer is simple, there are donors on both sides. Wealthy interests aren't aligned exclusively on one side or the other. So for the information of my colleagues and the public, I thought I would take a moment to call the bankroll by examining the donations the interests on both sides have given in the last election cycle.

I will start with massive effort to defeat this legislation, brought to us by a coalition of insurance and business interests that represent some of the most powerful donors in the campaign finance system today.

Opposition to McCain-Edwards-Kennedy is being spearheaded by the Health Benefits Coalition. An analysis by the Center for Responsive Politics puts the cumulative donations of the members of the Health Benefits Coalition at $12.9 million in the last election cycle. That figure includes soft money, PAC money and individual contributions made by the members of the Coalition.

The Coalition includes corporate members such as Blue Cross/Blue Shield, Aetna Inc., and Humana Inc. But perhaps more importantly, the Coalition also includes major business and insurance associations. These organizations include the Chamber of Commerce, the Business Roundtable, the American Association of Health Plans, the Health Insurance Association of America, the National Retail Federation, the National Restaurant Association, and the Food Marketing Institute, to name just a few. And of course whenever organizations like these join together in a legislative fight, they carry with them the collective clout of all the major political donors they represent.

The Health Insurance Association of America is an enormous coalition of the insurance industry. The insurance industry itself gave nearly $40.7 million in PAC, soft, and individual donations in the 2000 election cycle.

The American Association of Health Plans, the trade association for HMOs and PPOs, spent a total of nearly $2.5 million on lobbying in 1999 alone. According to a recent New York Times article, AAHP has budgeted $3 to $5 million to make their case against the Patients' Bill of Rights, and they are willing to spend, quote, "whatever it takes," unquote, to get the job done.

The Business Roundtable also has spent money on an ad campaign against the bill, and so has the Health Benefits Coalition itself.

The cumulative clout of these expenditures, lobbying expenditures, soft money, PAC money and ad campaigns, from some of the biggest and most powerful organizations in Washington, hasn't gone unnoticed. This is an all-out blitz.

And this bankroll wouldn't be complete without a description of some of the interests giving their support to provisions in this bill: The American Medical Association, the Association of Trial Lawyers of America, and labor unions, including the American Federation of State, County and Municipal Employees.

According to the Center for Responsive Politics, AFSCME gave more than $8.5 million in soft, PAC and individual contributions in the last election cycle. The Association of Trial Lawyers of America gave more than $3.6 million in PAC, soft and individual contributions during that same period, and the AMA gave more than $2 million.

We don't know yet whether the will of the people will be heard above the din of lobbying calls, TV ad blitzes and the cutting of soft money checks to the political parties. I hope we pass a strong Patients' Bill of Rights. But whatever the outcome of this bill, we have to ask ourselves if this is the way we want to legislate, and the way we want our democracy to function. I think when the public hears that this debate pits wealthy interests against each other—in some kind of showdown at Gucci Gulch—they tune us out, because suddenly it's no longer about them, it's just another story about how big money rules American politics. And when that's the case, all of us lose, no matter which side of this debate we're on, because our legislative process is diminished, and the American people's faith in us is diminished along with it. I thank the chair and I yield the floor.

Mr. LEAHY. Mr. President, today's passage of the Bipartisan Patient Protection Act marks a major step forward in the struggle for a meaningful Patients' Bill of Rights. I am hopeful that with the adoption of this landmark legislation, patients throughout the country can feel a sense of relief knowing their rights will now be protected.

Over the past two decades, our Nation's healthcare delivery system has seen a seismic transformation. Rapidly rising healthcare costs have encouraged the development and expansion of managed care organizations, specifically health maintenance organizations. Unfortunately, the zealous efforts of HMOs to contain these costs have ended up compromising patient care and stripping away much of the authority of doctors to make decisions about the best care for their patients.

During the past several years, many Vermonters have let me know about the problems they face when seeking health care for themselves and their families. Like most Americans, they want: greater access to specialists; the freedom to continue to be treated by their own doctors, even if they switch health plans; health care providers, not accounting clerks at HMOs, to make decisions about their care and treatment; HMOs to be held accountable for their negligence.

The Bipartisan Patient Protection Act is the solution that Americans have called for—patient protections that cover all Americans in all health plans by ensuring the medical needs of patients are not secondary to the bottom line of their HMO.

Too many times, I have heard from Vermonters who have faced difficulty in accessing the most appropriate healthcare professional to meet their needs. This legislation will solve that problem by giving Vermonters—and all Americans who suffer from life-threatening, degenerative and disabling conditions—the right to access standing referrals to specialists, so they do not have to make unnecessary visits to their primary care physician for repeated referrals. These patients will also be able to designate a specialist as their primary care physician, if that person is best able to coordinate their care.

This legislation makes important strides in allowing patients access to a health care provider outside of their plan when their own plan's network of physicians does not include a specialist that can provide them the care they need. This provision is especially important for rural areas, like many parts of Vermont, which tend to not have an excess of health care providers. Women will now be able to have direct access to their OB/GYN and pediatricians can be designated as primary care providers for children.

If an individual gets hurt and needs unexpected emergency medical care, the Bipartisan Patient Protection Act takes important steps to ensure access to emergency room care without a referral. If a woman is suffering from breast cancer, this bill will protect her right to have the routine costs of participation in a potentially life-saving clinical trial covered by her plan. This bill puts into place a wide range of additional protections that are essential to allowing doctors to provide the best care they can and to allow patients to receive the services they deserve.

Many of our States have already adopted patient protection laws. My home State of Vermont is one state that currently has a comprehensive framework of protections in place. This Federal legislation will not prohibit Vermont or any other state from maintaining or further developing their own patient protections so long as the laws are comparable to the Federal standard. I am pleased that this bill will allow states like Vermont to maintain many of their innovative efforts, while also ensuring that patients in states that currently have no laws in place will receive the basic protections they deserve.

Each of the important protections I have highlighted will only be meaningful if HMOs are held accountable for their decisions. The key to enforcing these patient protections rests in strong liability provisions that complement an effective and responsive appeals process. The Bipartisan Patient Protection Act provides patients with the right to hold their HMO liable for decisions that result in irreparable harm or death. Managed care organizations are one of the very few parties in this country that are shielded from being held accountable for their bad decisions. The time has come for that to change. Opponents of patients' rights legislation have been vocal in suggesting that by allowing patients to hold HMOs liable in court, there will be an explosion of lawsuits, causing the costs of healthcare insurance to skyrocket. This has not been the case in states like Texas, that have already enacted strong patient protections. Rather, it has been shown that most cases are resolved through the external appeals process and that only a very small fraction of cases ever reach the court room. Under this legislation, a patient must exhaust all internal and external appeals before going to court.

I have heard from many Vermonters concerned about the potential impact of new HMO liability provisions on employers. I am disappointed that the opponents of this legislation have exploited and misrepresented this part of the bill. Rather than attempting to alleviate concerns by explaining the liability provisions, they have instead resorted to a scare tactic strategy. If you listen to some opponents of this bill, you would think that any employer who offers health coverage will be sued. I would like to take this opportunity to clarify some of the facts.

The Bipartisan Patient Protection Act protects employers with a strong shield that only makes the employer accountable when he or she directly participates in health treatment decisions. The bill also clearly states that employers cannot be held responsible for the actions of managed care companies unless they actively make the decision to deny a health care service to a patient. This only occurs in about five percent of businesses —generally those employers large enough to run their own health plan. Those few companies that directly participate in the decision to deny a health care benefit to a patient, should accept legal responsibility for those decisions.

After nearly 5 years of debate in Congress, the American people are finally closing in on the patients' rights and protections they deserve. But there is still more work to be done. The House of Representatives must consider this important issue in a timely manner and I am hopeful their bill will include provisions similar to the bipartisan patient protection legislation passed in the Senate. Most importantly, I am hopeful that President Bush will hear the voices of Americans and not those of the special interests and their well-financed lobbyists, and sign this important legislation into law. The American people have spoken; the time for enacting strong patient protections is long overdue.

Mr. KERRY. Mr. President, I am proud to support the bipartisan McCain-Kennedy Patients Bill of Rights. It is legislation that is long overdue. Time and again, we have heard the 180 million Americans enrolled in managed care demand patient rights. Time and again, Members of this Senate have promised to provide them those rights. Finally, with the Patients Bill of Rights legislation before us, we stand ready to deliver.

The McCain-Kennedy Patients Bill of Rights ensures Americans that they can receive the very health care they pay for. In exchange for their monthly premiums, patients deserve a guarantee that they can see their own doctor, visit a specialist, and go to the closest emergency room; a guarantee that their doctor can discuss the best options for treatment, not just the cheapest; and a guarantee that their doctor's orders will be followed by their HMO. The McCain-Kennedy bill guarantees all of those rights.

When those rights are violated, and harm results from the delayed application or outright denial of treatment, the McCain-Kennedy bill guarantees patients that they can hold their health plan accountable. And, that is what all of the rights to access care hinge upon—the ability to hold a health plan liable if access to care is denied.

We have spent days on the floor of the Senate debating the issue of liability. But, the argument here is simple. In this country, if the decision of an individual or corporation results in harm or death to a consumer, the decision-maker is held accountable. That holds true for every individual, and for every company except an HMO. HMOs, businesses who make countless decisions daily that affect the health of millions of Americans, do not face this same accountability. The number of patients who are suffering as a result is staggering.

Every day, 35,000 patients in managed care plans have necessary care delayed. Too many of these patients pay the ultimate price for the callousness displayed by these managed care plans. I would like to share the story of one woman from my state of Massachusetts who lost her life after being denied care by her HMO.

Mrs. White was diagnosed with leukemia in October 1997, and was unable to find a bone marrow match for transplant. After 2 years of battling the disease she went into remission. She then learned that Massachusetts General Hospital was working with a newly-developed anti-rejection drug which would allow patients like herself, with less than perfectly-matched donors, to have bone marrow transplants. But, her HMO denied her care the day before she was due to be admitted to the hospital.

Six months later, Mrs. White enrolled in a new health plan which covered the costs of the transplant. However, during the 6-month impasse, Mrs. White fell out of remission, and her body was less able to sustain the new bone marrow. She died 3 months after the procedure was performed.

Real stories like these demonstrate why HMOs must be held accountable for their decisions. Real people like Mrs. White are the reasons why there are liability provisions in the McCain-Kennedy Patients Bill of Rights—liability protections that allow patients to sue their health plans in state court when an HMO's decision to withhold or limit care results in injury or death. My colleagues on the other side of the aisle seek to misconstrue that point. But, let's be clear: this bill establishes the right to sue an HMO as a protection for America's patients, not as a reward to America's trial lawyers.

Opponents of the Kennedy-McCain Patients Bill of Rights have predicted that the liability language in the bill will cause a future flood of frivolous lawsuits against managed care companies. But recent history paints a very different picture.

The President's home State of Texas enacted a patients bill of rights—which includes a provision to hold HMOs accountable—in 1997, albeit without the support of then-Governor Bush. Since that time, 17 lawsuits have been brought against managed care insurers in Texas. Let me repeat that—17 lawsuits in 4 years. That is a trickle, not a flood, of litigation.

Mr. President, no one wants to encourage unnecessary lawsuits that increase the cost of providing health care. That is why the McCain-Kennedy bill sets out a comprehensive internal and external review process that seeks to remedy complaints before they reach a courtroom. Except in cases of irreparable harm or death, patients must exhaust this review process before pursuing a legal remedy.

But we must establish a legal remedy. A right without legal recourse fails to exist. The liability provision in this legislation simply establishes a mechanism by which to enforce the very patient protections it provides. Managed care insurers can easily avoid any liability, as long as they act responsibly and ensure that their patients receive the quality medical care prescribed for them by their physicians.

Let's be clear about another issue.

As chairman of the Small Business Committee, I am well aware of the substantial challenges small businesses face in providing employee benefits while holding down costs. I understand the concerns small business owners have over the Kennedy-McCain bill's potential to expose them to liability for the sole, laudable initiative of offering health insurance coverage to their employees. But that is not the intent of this legislation.

The McCain-Kennedy bill only holds accountable those employers who directly participate in the medical decisions governing an employee's care if harm or injury occurs. The logic here is simple. If employers act like HMOs, it is only fair that they be held to the same accountability standards. For employers who do not directly participate in these medical decision there should be no liability.

I understand that many businesses remain weary of the safeguards against employer liability that are included in the Kennedy-McCain legislation. Negotiations are underway to strike a compromise and strengthen these safeguards so that we may arrive at a Patients Bill of Rights that we all can support. I join all of my colleagues in hoping that those negotiations bear fruit.

Another attack on this Patients Bill of Rights legislation that we have heard—not just in this chamber but across the television airwaves—is that this bill will cause insurance premiums to increase dramatically. Nothing could be further from the truth. According to the most recent estimate from the Congressional Budget Office, this legislation will cause premiums to increase an average of 4.2 percent a year. For the average employee, that equates to $1.19 per month in additional premiums, a small price to pay for meaningful patients rights extended in this bill.

Many of my colleagues across the aisle argue that this minor increase will cause large numbers of Americans to become uninsured when, in fact, no evidence exists to support this. Nevertheless, I am encouraged by their concern for the uninsured in our country, the 43 million Americans—the 15 percent of our population—who have no health care coverage at all. I challenge my colleagues on both sides of the aisle to continue the discourse on this critical issue and look forward to working towards extending health coverage to every American once we have passed this bipartisan Patients Bill of Rights.

The McCain-Kennedy Patients' Bill of Rights legislation has widespread support from patients groups and health care providers—the two parties that we should really be focused on in this debate. To date, over 500 health care provider and patients' rights groups have endorsed our bill.

An April 2001 Kaiser Family Foundation poll found that 85 percent of Americans supported a comprehensive Patients' Bill of Rights that includes provisions to hold HMOs accountable. Mr. President, patients and health care providers have spoken loud and clear. They want expanded rights for patients now, rights that our legislation will provide. I urge all of my colleagues to pass the McCain-Kennedy Patients Bill of Rights.

Mr. CORZINE. Mr. President, I rise to talk specifically about how important the Patients' Bill of Rights is to improving the mental health care Americans receive.

For far too long, mental health consumers have been discriminated against in the health care system—subjected to discriminatory cost-sharing, limited access to specialists, and other barriers to needed services.

This is particularly true of the mental health care that children receive. More children suffer from psychiatric illness than from Leukemia, AIDS and diabetes combined. Yet, while we recognize the human costs of these physical illnesses, we often forget the cost of untreated psychiatric illness. For young people, these costs include lost occupational opportunities because of academic failure, increased substance abuse, more physical illness, and, unfortunately, increased likelihood of physical aggression to themselves or others.

That is why I am so pleased that McCain-Edwards-Kennedy goes a long way towards addressing the inequities in mental health care and ensuring access to needed mental health care services.

For example, the proposal ensures access to critical prescription drugs.

We have made tremendous progress in developing medication to treat mental illnesses. Although medication is often only one component of effective treatment for mental illnesses, access to the newest and most effective of these medications is crucial to successful treatment and recovery.

These new medications are more effective, have fewer side effects, and save money in the long run. Yet unfortunately, all too often managed care organizations prevent patients from accessing these life-saving drugs.

How? They use restrictive formularies that restrict access to preferred drugs—often the newer and more effective ones. The HMO's are, in effect, undermining our own drug regulations and approval processes.

Fortunately, the bipartisan McCain-Edwards-Kennedy Patients' Bill of Rights protects patients by providing exceptions from the formulary when medically indicated. So, when a doctor thinks a certain medication is the best treatment for a patient, that patient will get that medication.

Also—and this is a critical difference with the Breaux-Frist alternative—our bill requires that non-formulatory medication be subject to same cost-sharing requirements. Breaux-Frist does not—continuing the discriminatory treatment of mental health treatments.

The McCain-Edwards-Kennedy proposal is also superior for mental health care because it ensures access to specialists. The bill allows standing referrals—so that primary care providers do not have to continue authorizing visits. It also requires plans to allow patient access to non-participating providers if the plan's network is insufficient. So that patients can see the provider who can best meet their needs. The Breaux-Frist plan—in another contrast—does not allow access to out-of-network specialists.

In the end, this can result in more costly treatment. And for some illnesses, the longer the duration or the greater the number of significant episodes, the harder to treat and more intractable the disease becomes.

Finally, the McCain-Edwards-Kennedy proposal, unlike Breaux-Frist, provides the right to a speedy and genuinely independent external review process when care is denied.

Let me just tell the personal story of a constituent of mine to illustrate the importance of these protections. Earlier this year, a mother in Gloucester County, NJ wrote to me about problems she had encountered getting treatment for her daughter. Her teenage daughter had attempted suicide, and been hospitalized for 8 days. She was diagnosed with depression and borderline personality disorder, and both her physician and therapist recommended intensive outpatient therapy, called "partial care" therapy. But the managed behavioral care organization determined that this treatment was not "medically necessary." Instead of the intensive five and a half hour, twice a week therapy program, the insurer wanted to send her for one hour a week of therapy. This, despite the recommendation of her physician and therapist.

Like any loving parent would, the mother fought back, calling the company many times. She was told to wait—even though, to quote her letter, her daughter "was self-mutilating and her behavior was becoming dangerous to herself and possibly others." The mother finally enlisted the help of several people at the treatment program, who also wrangled with the company, and she even wrote to my office, and I wrote to the company on their behalf. Eventually, the company relented, and her daughter is now doing well in that intensive eleven hour a week program.

But it shouldn't have to be like that for families. Doctors, not insurers, should decide what treatment a patient receives. When a physician says that a certain therapy is necessary to help a suicidal teenager, an insurance company should cover it. As my constituent so poignantly wrote to me about her daughter, and I quote: "This treatment is important and necessary [because] by learning the skills she needs to cope with her illness she can have a safe, normal, adolescence and adult life. If we address this illness now instead of waiting until the next time she hurts herself we have a better chance of her leading a happy and normal life."

Unfortunately, a study by the National Alliance for the Mentally Ill found that less than half of surveyed managed behavioral health care companies define suicide attempt as a medical emergency.

This year, 2,500 teenagers will commit suicide in the United States. Over 10 million children and adolescents have a diagnosable psychiatric illness that results in a academic failure, social isolation and increased difficulty functioning in adulthood. Only one out of five will get any care and even less will get the appropriate level of care they need and deserve.

So unless we provide critical patient protections, including the right to a fair and independent appeals process for review of medical necessity decisions, more families like my constituent will have to wonder if an insurance company will cover critical care that a doctor has prescribed for a loved one.

In sum, the McCain-Edwards-Kennedy bill will provide people access to the mental health care they need to lead healthy, productive lives. I am pleased to support it.

HARKIN PEER-REVIEW AMENDMENT

Mr. HARKIN. Mr. President, for too long, American families have been left in the waiting room while HMOs refuse to provide the health care services that families need and deserve. The results have often been tragic.

Now we are on the verge of a big victory for the American people—passing a meaningful Patient's Bill of Rights. S. 1052 represents the culmination of five long years of bi-partisan work to ensure that patients in managed care get the medical services they need, deserve, and have paid for. We have debated this issue for years, negotiated differences of opinion to find common ground, and worked across party lines to develop the best bill possible.

S. 1052 truly represents the best of all our collective ideas and most importantly, meets the needs of the American people.

Let me say that again. This bill—the McCain-Edwards-Kennedy bill—meets the needs of the American people. And when you cut through the rhetoric and political posturing, that is what this debate is all about—guaranteeing the American people basic and fundamental health care rights.

One of the cornerstones of a meaningful Patients' Bill of Rights is access to a swift internal review and a fair and independent external appeals process. Without a strong review system in place—where real medical experts make the decisions and not the HMO accountants—all the other protections would be compromised.

Our amendment would strengthen the review system to ensure the integrity of the appeals process and protect patients by requiring that the appropriate health care professional makes the medical decision. It ensures that health care professionals who can best assess the medical necessity, appropriateness, and standard of care, make determinations regarding coverage of a denied service.

As currently drafted, S. 1052 only requires that physicians participate in the review process. While the bill does not prohibit non-physician providers from participating in a review at a physicians discretion, it does not guarantee their involvement in relevant medical reviews.

I think we all agree that the intent of the appeals process is to put medical decisions in the hands of the best and most appropriate health care providers. In many cases, this will undoubtably be a physician. However, when the treatment denied is prescribed by a non-physician provider, it is critical that the case be reviewed by a provider with similar training and expertise.

For example, when a 59-year-old man fell in his home, he experienced increased swelling, decreased balance, decreased range of motion, decreased strength and increased pain in his right ankle and knee. A physical therapy treatment plan would have included specific exercises to increase strength, range of motion, and balance—enabling the patient to better perform activities of daily living and to prevent further deterioration of his health.

A reviewer who was not a licensed physical therapist, and did not have the expertise, background, or experience as a physical therapist, denied physical therapy coverage.

Without physical therapy intervention, the patient was severely limited in activity and spent significant time in bed. The time in bed resulted in further deterioration of the original problems and the development of wounds from the prolonged static position in bed.

A physical therapist reviewer would have recognized the importance of patient mobility while in bed to prevent bedsores and interventions to improve the patient's function with his right ankle and knee to enable him to independently walk.

Utilizing health care professionals with appropriate expertise and experience in the delivery of a service that has been denied by a health plan guarantees beneficiaries the best possible review of their appeal.

My amendment is supported by a wide range of health care professionals, including:

The American Association of Nurse Anesthetists, The American Chiropractic Association, The American College of Nurse Midwives, The American College of Nurse Practitioners, The American Occupational Therapy Association, The American Optometric Association, The American Pharmaceutical Association, The American Physical Therapy Association, The American Podiatric Medical Association, The American Society for Clinical Laboratory Science, The American Speech-Language-Hearing Association, The National Association of Orthopaedic Nurses, The National Association of Pediatric Nurse Practitioners, The National Association of Social Workers, and The Center for Patient Advocacy.

I do not believe that non-physician providers were deliberately excluded from the review process. In fact, just the opposite is true—I believe it was the intent of the bill's authors to develop the best possible review process. However, unless my amendment is adopted, I worry that we will fall short of our shared goal of giving patient's access to the best and most appropriate health care services in every instance.

Mr. MCCONNELL. Mr. President, I rise today to discuss the patient protection legislation currently before the Senate. Over the past decade, as private health coverage has shifted from traditional insurance towards managed care, many consumers have expressed the fear they might be denied the health care they need by a health plan that focuses more on cost than on quality.

In response to these concerns, the Senate has considered several bills to provide sensible patient protections to Americans in managed care plans. During the last Congress, the Senate took at least 19 rollcall votes and passed two pieces of comprehensive patient protection legislation. Like many of my colleagues, I found these debates quite instructive, in that they called the Senate's attention to the numerous areas where there already exists a great deal of bipartisan agreement.

I believe that every American ought to have access to an emergency room. No parent should ever be forced to consider bypassing the nearest hospital for a desperately ill child in favor of one that is in their health plan's provider network. If you have what any normal person would consider an emergency, you should be able to go to the nearest hospital for treatment, period.

I believe that every American ought to be able to designate a pediatrician as their child's primary care physician. This common-sense reform would allow parents to take their child to one of their plan's pediatricians without having to get a referral from their family's primary care physician.

I believe a doctor should be free to discuss treatment alternatives with a patient and provide them with their best medical advice, regardless of whether or not those treatment options are covered by the health plan. Gag clauses are contractual agreements between a doctor and an HMO that restrict the doctor's ability to discuss freely with the patient information about the patient's diagnosis, medical care, and treatment options. We all agree that this practice is wrong and have voted repeatedly to prohibit it.

I believe that consumers have a right to know important information about the products they are purchasing, and health insurance is no different. Health plans ought to provide their enrollees with plainly written descriptions of the plan's benefits, cost sharing requirements, and definition of medical necessity. This will ensure that informed consumers can make the health care choices that are in their best interests and hopefully prevent disputes between patients and their plans.

In addition, the following examples highlight areas of bi-partisan agreement: Cancer Clinical Trials—Health plans ought to cover the routine costs of participating in clinical trials for patients with cancer; Point of Service Options—Health plans for large employers ought to offer a point of service option so that patient's can go to a doctor outside their plan's network, even if it means paying a little more; Continuity of Care—We ought to ensure that pregnant and terminally ill patients aren't forced to switch doctor's in the middle of their treatment; Formulary Reform—Health plans ought to include the participation of doctors and pharmacists when developing their prescription drug plans, commonly known as formularies; and Self-Pay for Behavioral Health Services—Individuals who want to pay for mental health services out of their own pockets ought to be allowed to do so.

These are items for which there is broad support among Democrats, Republicans, the White House, and most importantly, the American people. While their may not be unanimous agreement on every detail, I believe these disagreements could be resolved in relatively short order.

This may lead one to ask one very important question , "If these ideas are so popular, why haven't they already been enacted?"

The answer is very simple, lawsuits. The Kennedy-McCain bill insists on vast new powers to sue. Leafing with abandon through the yellow pages under the word "attorney" is not what most Americans would call health care reform.

Simply put, I believe that when you are sick, you need to go to a doctor, not a lawyer. I am opposed to increasing litigation for the simple reasons that it will drive up premiums, force 21,000 Kentuckians out of the health insurance market, prevent millions more uninsured from being able to purchase insurance, and aggravate an already seriously flawed medical malpractice system. I am opposed to exposing employers to onerous lawsuits, simply for doing what's right by their employees and providing them with health insurance. We ought to herald these employers, not sue them. While I am pleased the Senate adopted Ms. SNOWE's additional employer protections, I am still concerned that millions of Americans may lose access to the quality health care that their employers provide.

The proponents of these costly new liability provisions contend that you can't hold plans accountable without expanding the right to sue employers and insurers. I couldn't disagree more. The proper way to ensure that plans are held accountable is to provide strong, independent external appeals procedures to ensure that patients receive the care they need. Far too many Americans are concerned that their health plan can deny them care. I believe that if a health plan denies a treatment on the basis that it is experimental or not medically necessary, a patient needs the ability to appeal that decision. The reviewer must be an independent, medical expert with expertise in the diagnosis and treatment of the condition under review. In routine reviews, the independent reviewer must make a decision within 30 days, but in urgent cases, they must do so in 72 hours. After all, when you are sick, don't you really need an appointment with your doctor, not your lawyer.

As if driving 1.26 million Americans out of the health insurance market wasn't reason enough to oppose the Kennedy-McCain bill, I am also strongly opposed to expanding liability because it exacerbates the problems in our already flawed medical malpractice system. I might not be so passionate in my opposition to new medical malpractice lawsuits, if lawsuits were an efficient mechanism for compensating patients who were truly harmed by negligent actions. Unfortunately, the data shows just the opposite. In 1996, researchers at the Harvard School of Public Health performed a study of 51 malpractice cases, which was published in the New England Journal of Medicine. In approximately half of those cases, the patient had not even been harmed, yet in many instances the doctor settled the matter out of court, presumably just to rid themselves of the nuisance and avoid lawyer's fees and litigation costs. In the report's conclusion, the researchers found that "there was no association between the occurrence of an adverse event due to negligence or an adverse event of any type and payment." In everyday terms, this means that the patient's injury had no relation to the amount of payment recieved or even whether or not payment was awarded.

These lawsuits drag on for an average of 64 months—that is more than 5 years. Even if at the end of this 64 months, only 43 cents of every dollar spent on medical liability actually reaches the victims of malpractice, source: RAND Corporation, 1985. Most of the rest of the judgement goes to the lawyers. That is right, over half of the injured person's damages are grabbed by the lawyers. Why would anyone want to expand this flawed system, which is so heavily skewed in favor of the personal injury lawyers?

Prior to the first extensive debate on this legislation in the Senate in 1999, The Washington Post said that "the threat of litigation is the wrong way to enforce the rational decision making that everyone claims to have as a goal", source: The Washington Post 3/16/99, and that the Senate should enact an external appeals process "before subjecting an even greater share of medical practice to the vagaries of litigation", source: The Washington Post 7/13/99. More recently, the Post said that: "Our instinct has been, and remains, that increasing access to the courts should be a last resort that Congress should first try in this bill to create a credible and mainly medical appellate system short of the courts for adjudicating the denial of care", The Washington Post, 5/20/01. The Post is not alone in this view. My hometown paper, the Louisville Courier-Journal agreed when it stated that "there is good reason to be wary of giving patients a broad right to sue."

Over the past two weeks, the Senate has had numerous opportunities to improve this legislation. Unfortunately, the Senate missed far too many of them. In particular, we missed an opportunity to improve Kennedy-McCain bill when the Senate rejected Mr. FRIST's Amendment, which would have established a more responsible mechanism for holding HMO's accountable in court and ensuring that patient's receive the care they need.

As I noted earlier, I support a majority of the patient protections included in this bill. That is why I take no joy in voting against this legislation. However, my concern for the 21,000 Kentuckians who will lose insurance because of the vast expansion of liability included in this bill prevents me from being able to support it. My colleague from Kentucky, Dr. ERNIE FLETCHER, has developed a compromise proposal in the House of Representatives which represents an improvement over the bill the Senate just passed. Therefore, I am hopeful that the House of Representatives will improve this product and that the Conference Committee will return to the Senate a bill that I can support, and that the President can sign into law.

Mr. HATCH. Mr. President, this is an important bill.

I want to see a Patients' Bill of Rights signed into law, but I am afraid some of my colleagues here, on the other side of the aisle, have rejected any efforts to move the reasonable Frist-Breaux-Jeffords bipartisan, or I should say tri-partisan bill. They have put lawyers and litigation ahead of patients and medical care.

I would like to say a few words on the liability provisions of this legislation.

We all recognize that the liability provisions of this legislation are critical. These elements are key to providing patients with quality health care instead of extended court time.

When I refer to the liability provisions, of course I am talking about a family of issues, including: exhaustion of appeals, employer liability, caps on damages, and class action lawsuits. Each of these is important, and indeed critical to patient care and health care delivery, and needs to be addressed and corrected before the President can sign a bill.

With regard to the provision on exhaustion of appeals, I believe the Thompson amendment, which we just approved is certainly a big improvement over the McCain-Kennedy language. The amendment will make certain that no judicial proceedings commence prior to patients exhausting all of the internal and external review mechanisms. This is purely a common sense amendment, which properly maintains emphasis on speedy resolution of patient problems without lengthy and costly court proceedings.

I want to emphasize that nothing in the amendment prohibits patients from having their day in court. Nor does this amendment prevent them from receiving immediate, needed care. It just requires them to go through the internal and external review process before going to court for damages. The amendment still allows for those patients who really need immediate care to get that care while they go through the administrative appeal process.

It is important to underscore that no one will suffer irreparable harm under the amendment.

To reiterate, this amendment does not prohibit patients from going to court for care; it simply asks them to go through internal and external review before going to court to seek liability and damages. What is wrong with that?

If we go down the route of the McCain-Kennedy bill, we are not helping the patient get care. What we are doing is rendering both the internal and new external appeal process pointless. Why are we bothering to establish stricter standards for internal reviews and set up an external appeal process if the work of the appeals panel doesn't matter and can be bypassed through a judicial process? Unfortunately, that is exactly what McCain-Kennedy does—allows patients to bypass the administrative appeal process and go directly to court.

The main difference between the McCain-Kennedy bill and the Thompson amendment is this—with Thompson, we emphasize care over court. The Thompson amendment places the emphasis where it should be—on guaranteeing that people get the health care that they need, when they need it.

I believe the Thompson amendment is important in a number of ways. It will help curb unnecessary lawsuits. It provides patients with a fair review process. And most importantly, it codifies current law by allowing patients to file injunctive relief when they need immediate care.

The Thompson amendment will not only protect the rights of patients but will also improve the McCain-Kennedy legislation.

As far as employer liability is concerned, the language of the McCain-Kennedy legislation was completely unacceptable. The bill claimed to limit federal or state causes of action against a group health plan, employer, or plan sponsor, but it specifically authorizes a cause of action against an employer if such person or persons directly participated in the consideration of a claim for benefits and in doing so failed to exercise ordinary care. But, at the same time, the McCain-Kennedy bill specifically excluded any cause of action against a doctor or hospital.

I think the Snowe-DeWine amendment adopted yesterday starts to address these concerns. The Snowe-DeWine language includes protections for employers who delegate plan decision making to a third party. It helps strengthen the definition of the designated decision maker so that some employers will not be unfairly exposed to liability. However, other employers would not be protected. I am serious when I say this could result in employees losing health coverage. Employers will not want to chose between offering health insurance to their employees and opening themselves up to liability and huge court costs.

I find it ironic that my colleagues on the other side of the aisle, who always claim they are trying to find ways to lower the uninsured population, are actually pressing for legislation that will dramatically increase the uninsured population.

And if you don't believe me, talk to any expert who is not a trial lawyer because the message is loud and clear that unless the bill is improved, health coverage will be severely jeopardized, and employees will lose their insurance. Is this the result that we want, especially in legislation that claims to be a Patients' Bill of Rights? I think not.

As far as damage caps are concerned, the Frist-Breaux-Jeffords legislation is a step in the right direction. The McCain-Kennedy language is not.

The problem with the current McCain-Kennedy legislation is that it allows patients to go both to federal and state court to collect damages. For federal causes of action, economic and non-economic damages are unlimited. And even though the bill's proponents claim there are no punitive damages provisions, as a former medical malpractice attorney, I know punitive damages when I see them.

Supporters of the McCain-Kennedy approach claim their bill doesn't allow punitive damages in federal court. That is absolutely not true. Under their bill, a defendant in federal court can be hit with up to $5 million in "civil assessment" damages. Let's call it like it is. The purpose of the civil assessment is to punish providers, plain and simple. The bill includes no limits on state law damages. It is very apparent to everyone in this chamber that the trial lawyers have been principally involved in drafting these liability provisions and they have done so with their own interests in mind. This provision is simply not in the best interest of the American people.

The McCain-Kennedy language allowing for unlimited damages is unworkable. Economic and non-economic damages are uncapped. In my opinion, non-economic damages should be capped.

Another issue that is extremely important is class action. The McCain-Kennedy language had no restrictions on class actions on its newly permitted state causes of action nor for its newly created federal causes of action for damages. Fortunately, the DeWine language attempts to restrict the litigation nightmare that would have resulted from the McCain-Kennedy language.

Finding common ground on these issues—exhaustion of appeals, employer liability, caps on damages and class action is crucial to the success of the Patients' Bill of Rights legislation. It is incumbent upon us to do this right and to do what is in the best interest of patients, not trial attorneys. I am confident that if we are all willing, we can make these provisions legally sound. We have spent far too many years on this issue not to do it right. We have a real opportunity to pass meaningful patients' rights legislation. Let's not squander this opportunity by acting expeditiously.

Mr. CORZINE. Mr. President, I rise to speak about an issue that has been touched upon by many people during this debate on the Patients' Bill of rights, the problem of the uninsured.

Let me first say that I am very pleased that today we are passing a strong, enforceable Patients' Bill of Rights.

I commend the bill's authors, Senators McCAIN, EDWARDS and KENNEDY, for the tremendous job they have done in crafting a bipartisan bill that will provide strong patient protections and curb insurance company abuses.

This legislation is an example of how, working together, we can improve the health care Americans receive. But it is just the first of many steps we should be taking to ensure that all Americans receive quality health care.

During the debate on the Patients' Bill of Rights I have heard many Senators argue that this legislation will lead to more uninsured Americans. Indeed, some of my colleagues have faulted supporters of the bill for not doing anything to help the uninsured.

As someone who have been talking about this issue for several years, I am thrilled to hear that my colleagues are concerned about the problem of the uninsured.

It is a national disgrace that 42 million Americans do not have health insurance.

Who are the uninsured? They are 17.5 percent of our nonelderly population. A shameful 25 percent are children. The majority—83 percent—are in working families.

The consequences of our Nation's significant uninsured population are devastating. The uninsured are significantly more likely to delay or forego needed care. The uninsured are less likely to receive preventive care. Delaying or not receiving treatment can lead to more serious illness and avoidable health problems. This in turn results in unnecessary and costly hospitalizations. Indeed, my own state of New Jersey struggles to deal with the costs of charity care provided to the uninsured.

In 1999, for the first time in a decade we saw a slight decrease in the uninsured. But we still have so far to go.

I believe that health care is a fundamental right, and neither the Government nor the private sector is doing enough to secure that right for everyone.

We ignore the issue of the uninsured at our peril and at a great cost to the quality of life—and to the very life—of our citizens.

That is why I am developing legislation that will provide universal access to health care for all Americans.

My legislation will have several main components:

Large employers would be required to provide health coverage for all their workers. The private sector must do its part—a minimum wage in America should include with it minimum benefits, among them health insurance. But unfortunately, the current system puts the responsible employer who provides health insurance at a disadvantage relative to the employers who do not.

Small businesses, the self-employed and unemployed would be able to buy coverage in the Federal Employee Health Benefit Program. If it is good enough for Senators, it is good enough for America.

Those who are between the ages of 55 and 64 would be able to buy-in to the Medicare program.

And we would provide help to small businesses and to low-income workers.

But although I am passionate about universal access to health care, I realize we can't get there yet. Not because the popular will is not there, but because the political will isn't.

So I support incremental changes, starting with the most vulnerable populations, and building on Medicaid and CHIP, success public programs.

I am working on a proposal that would expand Medicaid to cover all persons up to 200 percent of the Federal poverty level—an efficient way to reach nearly two-thirds of the uninsured.

I am also a strong supporter of the Family Care proposal, which would cover the parents of children already enrolled in the CHIP program. My own state of New Jersey is in fact leading the way on the issue of enrolling parents with their kids.

Finally, I was pleased to be an original cosponsor of Senator BINGAMAN's bipartisan legislation, the Start Healthy, Stay Healthy Act, which would expand coverage for children and pregnant women. It is based on the common sense principal that children deserve to start healthy and stay healthy.

I often say that we are not a nation of equal outcomes, but we should be a nation of equal beginnings.

Until we give all Americans access to health care, however, we cannot live up to that promise.

But although we cannot get to universal access this year, I believe we can and should be doing all that we can to make incremental progress.

In conclusion, I am heartened that in this debate on the Patient's Bill of Rights so many of my colleagues have expressed concern about the problem of the uninsured. Indeed, I am hopeful that we have turned a corner on this critical issue.

As we move forward, I welcome the opportunity to work with any of my colleagues, on either side of the aisle, to find ways to significantly address the problem of the uninsured. There can be no greater purpose to our work in the Senate.

Mr. LIEBERMAN. Mr. President, I rise to speak about the McCain-Edwards-Kennedy Patients' Bill of Rights. It has been 4 years since the first managed care reform bill was introduced in Congress. After years of unyielding and unproductive debate, we came together this week to find common ground for the common good, and pass a bill that will significantly improve the quality of medical treatment for millions of American families. We have worked very hard to get to this day, and with the unfailing commitment of my colleagues on both sides, we have produced a bill that I am very proud to support.

This bill does more than just provide new assurances to patients. It will provide a whole new framework for the delivery of health care in this country, helping to transform our managed care system from one in which health plans are immune for the life and death decisions they make every day to a more fair and accountable system for America's families.

The purpose of this legislation has broad—and I emphasize broad—bipartisan support. According to a CBS news poll from 6/20/01, 90 percent of Americans support a Patients' Bill of Rights.

Two years ago, 68 Republicans in the House of Representatives voted for the Norwood-Dingell Patients' Bill of Rights legislation that allowed patients to sue HMOs if they are denied a medical benefit that they need. The Ganske-Dingell bill in the House of Representatives currently has strong support from both Democrats and Republicans. I urge my colleagues in the House to take up the Ganske-Dingell Patients' Bill of Rights and pass it without delay so that we can send a bill to the president for signature.

We need to enact a patients' bill of rights now. Every day that goes by, nearly 50,000 American people with private insurance have benefits delayed or denied by their health plans. These critical decisions made by health plans impact thousands of families at times of great stress and worry. Our most fundamental well-being depends on our health. Anyone who has had a sick family member can tell you of the anxiety they experience during a medical emergency or prolonged illness. It is our obligation and within our ability to make it easier for these families. This bill will do just that.

Opponents of this legislation express concern that if this bill is signed into law, we will see a flood of lawsuits. I would like to point out that in the 4 years since Texas enacted legislation allowing patients to hold their health insurer liable for denying care, there have been very few lawsuits filed. Four million people in Texas are covered by that State's patient protection law. Only 17 lawsuits have been filed.

The appeals process in this bill is fair and binding. With a strong and swift appeals process, patients should be able to receive the care they need, when they need it. The need for recourse in court should be minimal.

It was never the intent of this legislation to encourage more lawsuits. The sole purpose for this bill is to deliver health care to the people who need it. I remain hopeful that as it is the case in Texas, there will be very few lawsuits once this bill becomes law.

Rather, under this Patients' Bill of Rights, patients will get the care they need and deserve with less delay and less dispute. No longer will a cancer patient have to worry about access to clinical trials for new treatments. No longer will a family with a sick child have to worry about access to a pediatric specialist. No longer will a pregnant woman have to worry about switching doctors mid-pregnancy if her doctor is dropped from a plan.

Doctors will be able to prescribe the care they feel is necessary without feeling pressured to make cost-efficient decisions. And managed care companies will be held responsible when their denials of care threaten the lives of patients.

In sum, under this legislation, our health care system will better reflect and respect our values, putting patients first and the power to make medical decisions back in the hands of doctors and other health care professionals.

We can all be proud of this outcome and the path we followed to get here. The Senate worked through a lot of complicated issues and problems, reconciled legitimate policy differences, and reached principled compromise where we could. The result is real reform, and a bill of rights that is right for America.

Mr. LEVIN. Mr. President, I support the strong, enforceable Patients' Bill of Rights which the Senate is finally going to vote on today. After years of consideration, and a hard legislative battle over the last few weeks, the bipartisan vote which this bill is about to receive on final passage reflects the overwhelming support the bill has from the American people.

The Patients' Bill of Rights assures that medical decisions will be made by doctors, nurses and hospitals, not by someone in an insurance office somewhere with no personal knowledge of the patient and no professional background to make medical judgments. It guarantees access to needed health care specialists. It requires continuity of care protections so that patients will not have to change doctors in the middle of their treatment. And, the bill provides access to a fair, unbiased and timely internal and independent external appeals process to address denials of needed health care. This legislation will hold HMOs accountable for their decisions like everyone else in the United States. The Patients' Bill of Rights also assures that doctors and patients can openly discuss treatment options and includes an enforcement mechanism that ensures these rights are real.

We have taken a big step forward today on comprehensive managed care reform for 190 million Americans. I am hopeful that the House of Representatives will again pass a real Patients' Bill of Rights and that the President will reconsider his stated intention to veto the legislation.

Mr. McCAIN. Mr. President, I thank all my colleagues, both supporters and opponents of our legislation, for their patience, their courtesy, and their commitment to a full and fair debate on the many difficult issues involved in restoring to doctors and HMO patients the right to make the critical decisions that will determine the length and quality of their lives.

I think we are all agreed on this one premise, that the care provided by HMOs has been inadequate in far too many instances. This failure is attributable to the fact that virtually all the authority to make life and death decisions has been transferred from the people most capable of making medical decisions to those people most capable of making business decisions. I do not begrudge a corporation maximizing its profits, exercising due diligence regarding its fiduciary responsibility to its shareholders. The corporate bottom line is their primary responsibility, and I respect that. But that is why, we should not grant them another, competing responsibility, especially when that secondary responsibility is the life and health of our constituents. I know that even the opponents of our legislation are agreed on returning more authority to doctors and their patients, and addressing many of the most distressing failures of managed health care.

Where we differ, and differ significantly, is over the questions of remedies for negligence on the part of the insurers, and though we have tried to find common ground we are not there yet. But the Senate, seldom acts in perfect unison, and the majority has spoken in support of our legislation. I am grateful for that, for I come to appreciate just how important this matter is to the American people, and I am proud of the Senate for taking this step in addressing the people's just concerns.

We have made considerable progress in reconciling differences of opinion on several issues, from employer liability to class action suits to establishing a reasonable cap on attorney fees, and exhausting all other remedies before going to court. We have addressed small, but important issues like protecting from litigation doctors who volunteer their time and skill to underprivileged Americans. I want to thank all senators involved in reaching those compromises, Senators DEWINE, SNOWE, LINCOLN, THOMPSON, and NELSON especially, for their diligence and good faith. I know they want to pass a bill that the President will sign, as do I, and they have worked effectively toward that end.

I know that we have outstanding differences remaining. I know that the President is not persuaded that the legislation that we have adopted today is the best remedy for the urgent national problem we all recognize. I pledge to continue working with the administration and with our friends on the other side of the Capitol to see if we might yet reach common ground on all the important elements of this legislation. I am convinced that we can get there, and I appreciate the President's dedication to that same end.

I thank the sponsors of this legislation, Senator EDWARDS, the always formidable Senator KENNEDY, Senators SPECTER and CHAFEE, and all the other cosponsors for their skill, hard work, and dedication. I thank them also for their patience. We are not always on the same side of a debate, and I suspect that working at close quarters with me can prove challenging even when we are in agreement.

I thank Senators FRIST, BREAUX, and JEFFORDS and all those who supported their alternative legislation. Throughout this debate they have been motivated by their convictions about what is in the best interests of the American people, as have Senator NICKLES, the Republican manager, Senator GREGG, and all Senators who have disagreed with the majority over some provisions in this legislation. I commend them all for their principled opposition.

I am grateful for the leadership of Senators LOTT and DASCHLE, and the assistant majority leader, Senator REID, for their skill, courtesy, and fairness in managing this debate.

Finally, let me thank those who do most of the work around here but get the smallest share of the credit for our accomplishments, our staffs. I want to thank the minority staff director of the Commerce Committee, Mark Buse, committee counsel Jeanne Bumpus, and most particularly, my health care legislative assistant, Sonya Sotak for their extraordinary hard work, and talented counsel to me and other members. I thank the staffs of Senators EDWARDS, and KENNEDY, leadership staff for the majority and minority, and all staff who have made our work easier and more effective.

This has been a good, long, open, and interesting debate, distinguished by good faith on all sides. It has been a privilege to have been part of it. We have achieved an important success today in addressing the health care needs of our constituents. We have much work to do, and I want to continue working with other Members, our colleagues in the other body, and with the President and his associates to make sure that we will enact into law these important protections for so many Americans who have waited for too long for them. We have been negligent in addressing this problem, but today we have taken an important step forward in correcting our past mistake. With a little more good faith and hard work, we will give the American people reason to be as proud of their government as I am proud of the Senate today.

Mr. DASCHLE. Mr. President, it has been more than 5 years since we began this effort to make sure that Americans who have health insurance get the medical care they have paid for.

It has been more than three years since the first bipartisan Patients' Bill of Rights was introduced in the House . . . and nearly 2 years since the last time we debated a real Patients' Bill of Rights in the Senate.

Today—at long last—the Senate is doing what the American people want us to do. Today—at long last—we are standing up for America's families.

Today—at long last—we are telling HMOs they are going to have to keep their promises and provide their policyholders with the health care they've paid for.

The bill we are about to vote on provides comprehensive protections to all Americans in all health plans.

It is a good bill—and a remarkable example of what we can achieve in this Senate when we search together in good faith for a principled, workable compromise.

Over the last 10 days, we have stood together—Republicans and Democrats—and rejected amendments that would have made this bill unworkable. And we have accepted amendments that made it better.

Thanks to the hard work of Senators SNOWE, DEWINE, LINCOLN and NELSON, we provided additional protections for employers who offer health insurance.

With help from Senators BREAUX and JEFFORDS, we agreed that states can continue to use their own standards for patient protection.

With Senator BAYH and Senator CARPER's help, we strengthened the external review process to ensure the sanctity of health plan contracts.

At the same time, we turned back an array of destructive amendments designed to weaken the protections in this bill.

We live in an amazing time. Some of the most remarkable advances in health care in all of human history are occurring right now. Polio and other once-feared childhood diseases have been all but wiped out in our lifetimes because of increased immunization rates. We are seeing organ transplants, bio-engineered drugs, and promising new therapies for repairing human genes.

But medical advances are useless if your health plan arbitrarily refuses to pay for them—or even to let your doctor tell you about them.

This bill guarantees that people who have health insurance can get the care their doctors say they need and deserve.

It ensures that doctors, not insurance companies, make medical decisions.

It guarantees patients the right to hear of all their treatment options, not just the cheapest ones.

It says you have the right to go to the closest emergency room, and the right to see a specialist.

This bill says that women have the right to see an OB/GYN—without having to see another doctor first to get permission.

It guarantees that parents can choose a pediatrician as their child's primary care provider.

It allows families and individuals to challenge an HMO's treatment decisions if they disagree with them.

And, it gives families a way to hold HMO's accountable if their decisions cause serious injury or death—because rights without remedies are no rights at all.

This bill achieves every goal we set for it over the past 5 years, and we owe that to the stewardship and commitment of Senators MCCAIN, EDWARDS, and KENNEDY.

During these last 10 days, they have shown a seemingly limitless ability to find the workable middle ground without sacrificing people's basic rights. They have put the Nation's interests ahead of their own partisan interests. I thank them for their service to this Senate, and to our Nation.

I also want to thank Senators NICKLES and GREGG for being honest with us about their disagreements with this bill, and fair in the way they handled those disagreements.

This is the way the Senate should work. A Senate that brings up important bills and allows meaningful debate on them is a tribute to us all.

One final reason I found this debate so encouraging is the great concern we heard expressed by many opponents of this bill for the growing number of Americans who have no health insurance. We agree that this is a serious problem, and look forward to working with those Senators to address it as soon as possible.

The effort to pass a Patients' Bill of Rights now returns to the House.

Last year, 68 House Republicans joined Democrats to pass a strong patient protection bill very much like this one. We urge our colleagues in the House to resist the special interests one more time. Together, we can send a strong, enforceable Patients' Bill of Rights to President Bush.

We hope that when that happens, the President will reconsider his threatened veto. We hope he will remember the promise he made last fall to the American people to pass a national Patients' Bill of Rights.

Texas has proven that we can protect patients' rights—without dramatically increasing premiums. It is time—it is past time—to pass a Patients' Bill of Rights to protect all insured Americans.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Texas (Mr. GRAMM), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Mississippi (Mr. LOTT) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 36, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—59

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith (OR)
Snowe
Specter
Stabenow
Torricelli
Warner
Wellstone
Wyden

NAYS—36

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Cochran
Craig
Crapo
Ensign
Enzi
Frist
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lugar
McConnell
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Stevens
Thomas
Thompson
Thurmond
Voinovich

NOT VOTING—5

Campbell
Domenici
Gramm
Lott
Murkowski

The bill (S. 1052), as amended, was passed.

(The bill will be printed in a future edition of the RECORD).

AMENDMENT NO. 860

Mr. REID. Mr. President, on behalf of Senator KENNEDY and Senator GREGG, the managers of this bill, and me, I send this managers' amendment to the desk and ask unanimous consent it be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 860) was agreed to.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

UNANIMOUS CONSENT REQUEST—H.R. 1668

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of H.R. 1668, which is now at the desk; that the bill be read three times, passed; and the motion to reconsider be laid upon the table with no intervening action.

Mr. NICKLES. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES. Reserving the right to object, I will object on behalf of other Members. This bill has not yet been referred to committee. I personally have no objection to the bill, and I expect I will be supportive of it, but it should be referred to the committee so interested Members who have an interest in this particular issue can vet it, maybe improve it, maybe we can pass it. I hope we can pass it as expeditiously as possible.

At this time I object.

Mr. REID. I say to my friend, the distinguished Republican whip, I regret this, especially in that I have just completed reading John Adams, the new book out. It is a wonderful book. I recommend it to my friend.

I regret there is an objection to clearing this legislation. This bill, as my friend indicated, authorizes the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I share my colleague's enthusiasm, both for President Adams and also for David McCullough's book. He is a great historian. I have not finished it. I started it. I look forward to completing it and learning a little bit more about the history of one of America's great Presidents, one of our real founding patriots.

Again, this is going to be referred to the Energy Committee where I and others, I think, will try to be very supportive in a very quick and timely fashion so the entire Senate can, hopefully, vote on this resolution.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent the order for the quorum call be dispensed with, and I ask unanimous consent to speak for 10 minutes in morning business.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

SHINE SOME LIGHT ON THE BLUE SLIP PROCESS

Mrs. FEINSTEIN. Madam President, we are all waiting for the majority leader to come to the floor and deliver the reorganization message. As part of that, I believe he is going to announce that Senator LEAHY, the chairman of the Judiciary Committee, is going to make public the blue slip process.

As a member of that committee, I would like to take a few moments and make a few comments about my experience with the blue slip—in essence, what I think about it.

For those who do not know what the blue slip is, it is a process by which a Member can essentially blackball a judge from his or her State when that Member has some reason to do so.

Why would I object so much? I object so much because there is a history of this kind of thing. Historically, many private clubs and organizations have enabled their board of directors to deliver what is called a blackball to keep out someone they don't want in their club or organization. We all know it has happened. For some of us, it has even happened to us.

The usual practice was, and still is in instances, to prevent someone of a different race or religion from gaining access to that organization or club. This is essentially what the blue slip process is all about.

The U.S. Senate is not a private institution. We are a public democracy. I have come to believe the blue slip should hold no place in this body. At the very least, the use of a blue slip to stop a nominee, to prevent a hearing and therefore prevent a confirmation, should be made public. I am pleased to support my chairman, PAT LEAHY, and the Judiciary Committee in that regard.

Under our current procedure, though, any Member of this Senate, by returning a negative blue slip on a home State nominee, or simply by not returning the blue slip at all, can stop a nomination dead in its tracks. No reason need be given, no public statement need be made, no one would even know whom to blame. With a secret whisper or a backroom deal, the nomination simply dies without even a hearing. This is just plain wrong.

I have watched the painful process over the last 9 years. During 6 of those years, the blue slip itself contained the words, "no further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee's home State Senators." As a result, I saw nominees waiting 1, 2, 3, even 4 years, often without as much as a hearing or even an explanation as to why the action was taken. These nominees put their lives on hold. Yet they never have a chance to discuss the concerns that may have been raised about them. These concerns remain secret and the nomination goes nowhere.

As a member of the Judiciary Committee, I believe our duty is either to confirm or reject a nominee based on an informed judgment that he or she is either fit or not fit to serve; to listen to concerns and responses, to examine the evidence presented at a hearing, and to have a rationale for determining whether or not an individual nominee should serve as a district court judge or circuit court judge or even a U.S. Supreme Court Justice. That duty, in my view, leaves no room for a secret block on nominees by any Member which prevents their hearing and confirmation.

I believe in the last three Congresses, based on information I have been able to come upon, that the blue slip has been used at least 21 times. Consider this: An individual graduates college with honors, finishes law school at the top of the class; he or she may even clerk for a prestigious judge or join a large law firm, or maybe practice public interest law or even serve as staff of the Judiciary Committee. In fact, a nominee can spend years of his or her life honing skills and developing a reputation among peers, a reputation that finally leads to a nomination by the President of the United States to a Federal court.

This must be the proudest day of his or her life. Then the nominee just waits. First for a few weeks. He or she is told things should be moving shortly but the Senate sometimes takes a while to get moving. Then the months start to go by, and maybe friends or associates make some inquiries as to what could be wrong. They don't hear anything, so the nominee is told just to wait a little longer; things will work themselves out.

I have had nominees call me and say: I have children in school. We need to move. Shall we do it? I don't know what to do. Do I continue my law practice?

A year passes with still no hearing or explanation; finally, the second year, and maybe the third, or even the fourth, if one is "lucky" enough to be renominated in the next session. The time goes by without so much as a word as to why the nomination has not moved forward.

Simply put, the nominee has been blackballed by a blue slip, and there is nothing that can be done about it—no one to hold accountable.

I believe that if a Member wants to use a blue slip to stop a nominee from moving forward, that blue slip should be public. And I also believe that the Member should be prepared to appear before the Judiciary Committee and explain why the Senate should not consider the nominee and hold a hearing.

Making the blue slip public is no guarantee that a nominee will receive a hearing. It is no guarantee that an up or down vote will ever be held. But at least the nominee will have the chance to see who has the problem, and what that problem is. In many cases, a nominee may choose to withdraw. In others, perhaps a misunderstanding can be cleared up. Either way, the process will be in the open, and we will know the reasons.

I believe that many members of this Senate did not even realize they held the power of the blue slip until just recently.

In my view, the rationale behind the blue slip process is faulty. The process was designed to allow home state Senators—who may in some instances know the nominee better than the rest of the Senate—to have a larger say in whether the nominee moves forward. More often than not, however, this power is and will be used to stop nominees for political or other reasons having nothing to do with qualifications.

As a matter of fact, the Member who uses the blue slip, who doesn't send it in, or sends it in negatively, may never have even met the nominee.

If legitimate reasons to defeat a nominee do exist, those reasons can be shared with the Judiciary Committee in confidence, and decisions can be made based on that information—by the entire Committee.

The blue slip process as it now stands is open to abuse.

I would join with those—I am hopeful there are now those—on the Judiciary Committee who would move to abolish the blue slip.

Before I conclude, I want to read from a recent opinion piece by G. Calvin Mackenzie, a professor at Colby College and an expert on the appointment process. In the April 1, 2001 edition of the Washington Post, Mackenzie wrote:

> The nomination system is a national disgrace. It encourages bullies and emboldens demagogues, silences the voices of responsibility, and nourishes the lowest forms of partisan combat. It uses innocent citizens as pawns in politicians' petty games and stains the reputations of good people. It routinely violates fundamental democratic principles, undermines the quality and consistency of public management, and breaches simple decency.

I find myself in agreement with every word in that quote. It is quite an indictment of our nominations process. On both sides of the aisle, we hear: Well, they did it, so we are going to do it. Well, they blocked our nominee, so now we will block their nominee.

I don't believe that has any merit whatsoever. I believe at some point we have to stop this cycle. At some point, nominees have to come to the Senate Judiciary Committee, go promptly or as promptly as they can go to a hearing, have the questions asked, and we do our duty which we took our oath to do, which is to make the judgment whether that nominee qualifies to be a Federal court judge or district court judge.

I make these remarks to say that this is one Member of the Judiciary Committee who will happily vote to do away with the blue slip.

Thank you very much. I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DASCHLE. Madam President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATION OF ABSENCE

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Pursuant to rule 6, paragraph 2, I ask unanimous consent the Senator from Alaska, Mr. MURKOWSKI, be granted official leave of the Senate until July 9.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMAL OPENING OF THE NATIONAL JAPANESE AMERICAN MEMORIAL

Mr. AKAKA. Mr. President, earlier this afternoon, a few short blocks from this Chamber and in the shadow of the Capitol, hundreds of people gathered to celebrate the formal opening of the National Japanese American Memorial honoring the loyalty and courage of Japanese Americans during the Second World War.

As a World War II veteran and a native of Hawaii, I am well-acquainted with the exceptional contributions of Japanese Americans to the war effort, both at home and abroad. The battlefield exploits of the 442nd, 100th, and the MIS immediately come to mind. Less known but equally deserving of recognition are the sacrifices of the civilian nisei on the homefront, who continued to support the war effort while enduring the prejudice of fellow citizens as well as the wholesale violation of their civil rights by the U.S. Government.

This new memorial honors the valor and sacrifice of the hundreds of brave men who fought and died for their country, and it also speaks to the faith and perseverance of 120,000 Japanese Americans and nationals, who solely on the basis of race, regardless of citizenship or loyalty, without proof or justification, were denied their civil rights in what history will record as one of our Nation's most shameful acts. This memorial commemorates these events in our Nation's history. It will remind us of the consequences of allowing hysteria and racial prejudice to override constitutional rights, and, I hope, that we teach this lesson to our children to avoid a repetition of our mistakes.

I congratulate the National Japanese American Memorial Foundation for the tremendous effort that went into organizing and building the Memorial to Patriotism. Thousands of Americans from around the country donated funds to build the memorial. Over 2,000 Hawaii residents contributed approximately $1 million to this worthy project. The completed memorial is both inspiration and educational. First and foremost, the memorial honors the memory of those who gave their lives in defense of our freedom and liberty and remembers all those who were dislocated or interned from 1942 to 1945. In addition, the memorial draws on a few striking elements to cause one to meditate on the wartime experiences of Japanese Americans. The crane sculpture by Nina Akamu, a Hawaii-born artist, speaks to the prejudice and injustice confronted by Japanese Americans, and in a larger context speaks to the resiliency of the human spirit over adversity. The bell created by Paul Matisse encourages reflection, its toll marking the struggle and sacrifice of Japanese Americans in our Nation's history and reminding us of our shared responsibility to defend the civil rights and liberties of all Americans.

I would also like to congratulate our friend and colleague, the senior Senator from Hawaii [Mr. INOUYE] and my friend, Secretary of Transportation Norm Mineta, a former Member of Congress, for their leadership in gaining Congressional authorization for the memorial and their support for the work of the National Japanese American Memorial Foundation.

Today's formal opening of this Memorial to Patriotism by the National Japanese American Memorial Foundation in the Nation's capital is a timely and necessary endeavor, for it reminds us and future generations of Americans that courage, honor, and loyalty transcend race, culture, and ethnicity.

JUSTICE FOR U.S. PRISONERS OF WAR

Mr. HATCH. Mr. President, as we move into recess for our annual Independence Day celebration, I wish to offer my deepest gratitude for all veterans of this country who took the call for arms in silent and noble duty and sacrificed more than we can ever repay. From the Revolutionary War to the Persian Gulf War, American men and women have always answered the call to secure and preserve independence and freedom both here and abroad. We are forever in their debt.

I also want to take this occasion to recognize and honor a special group of brave, indeed extraordinary, soldiers who served this country so gallantly in WWII. I want to pay special tribute to those who served in the Pacific, were taken prisoner, and then enslaved, and forced into labor without pay, under horrific conditions by Japanese companies.

While I in no way wish to suggest that other American troops did not suffer equally horrific hardships or served with any less courage, the situation faced by this particular group of veterans was unique. As recognized in a unanimous joint resolution last year, all members of Congress stated their strong support for these brave Americans. As with many of our colleagues here today, I am committed to supporting these veterans in every way possible in their fight for justice.

This weekend the Prime Minister of Japan will be meeting with the President of the United States. I cannot praise this President enough for his thoughtfulness in hosting this event for the leader of Japan.

On this Independence Day, as we honor and appreciate America's freedom, we cannot help but think of those who served our country. Freedom, indeed, is not free. The price is immeasurable. I hope the Prime Minister will understand, as I know he does, the value we place upon our veterans—the very people who fought and paid the price.

Our country appreciates the decades of friendship the United States and Japan have shared. Often, we probably do not recognize as we should the value of our bilateral relationship with Japan. On many occasions, we get bogged down in trade disputes. But ultimately we have found ways to resolve past trade differences, and I am confident we can address all current and future trade issues.

It is with this sincere hope and appreciation that I raise the memory of injustices perpetrated by private companies in Japan against American servicemen, and I hope that we can find a resolution to this problem. There is no more appropriate time to open the door to this long overdue dialogue between the United States and Japan. This is a moral issue that will not go away. We can work with Japan to close this sad chapter in history. In so doing, we will fortify and continue our bilateral relationship with Japan.

In closing, I urge all Americans, during this next week as we celebrate our freedom and our great history, to thank our soldiers who gave their lives and their freedom to fight for our nation. I thank them and express my support that they will be helped and protected. I will fight for them as they fought for me, my children, and all other Americans.

RETIREMENT OF VICE ADMIRAL JAMES F. AMERAULT

Mr. LOTT. Mr. President, it is with great pleasure that I rise to take this opportunity to recognize the exemplary service and career of an outstanding naval officer, Vice Admiral James F. Amerault, upon his retirement from the United States Navy at the conclusion of more than 36 years of honorable and distinguished service. It is my privilege to commend him for outstanding service to the Navy and our great nation.

Vice Admiral Amerault embarked on his naval career thirty-six years ago, on the 29th of June 1965. In the years since that day, he has devoted great energy and talent to the Navy and protecting our national security interests. It would be hard to calculate the innumerable hours this man has stood watch to keep our nation safe. He has been steadfast in his commitment to the ideals and values that our country embodies and holds dear.

Following his commissioning at the United States Naval Academy, he embarked on the first of many ships that would benefit from his leadership and expertise. Vice Admiral Amerault served at-sea as Gunnery Officer and First Lieutenant on board USS *Massey* (DD 778). He then served as Officer in Charge, Patrol Craft Fast 52 in Vietnam, a challenging and dangerous assignment that kept him in harm's way. His courage and commitment to our nation was more than evident during these tumultuous years as he conducted more than 90 combat patrols in hostile waters off the coast of South Vietnam. One example of his valor and heroism is quoted from Commander Coastal Division Fourteen on 21 December 1967, "On the night of 4 August 1967 the patrol craft in the area adjacent to the one you were patrolling came under enemy fire. Disregarding your own safety, you directed your patrol craft to within 300 yards of the beach and bombarded the enemy position with intense .50 caliber and 81mm mortar fire. During this exchange your patrol craft was narrowly missed by a barrage of recoilless rifle fire." Again, his valor and heroism was established early in his career. He was awarded a Bronze Star Medal with Combat V and the Navy Combat Action Ribbon for his service.

Vice Admiral Amerault's follow-on sea tours demonstrated the tactical brilliance that would become his trademark. His next tour was on board USS *Taylor* (DD 468) as Engineer Officer. During this tour he earned a coveted Shellback certificate for crossing the equator. He then reported as Chief Engineer on board USS *Benner* (DD 801) where he earned his first of three Navy Commendation Medals.

Several sea tours followed in steady progression. He was Executive Officer in USS *Dupont* (DD 941). He also was Executive Officer in USS *Sierra* (AD 18). He served as commissioning Commanding Officer of USS *Nicholas* (FFG 47) and Commanding Officer of USS *Samuel Gompers* (AD 37). It is difficult to convey the challenges and hardships that were faced by this officer and his family during these many and arduous sea tours.

As Vice Admiral Amerault progressed in the Navy he served as Staff Combat Information Center Officer for Commander, Cruiser Destroyer Group TWO; and commanded Destroyer Squadron SIX, Amphibious Group FOUR, and the Western Hemisphere Group. Again, these were all difficult tours of tremendous responsibility that required an incredible commitment to duty and country.

Vice Admiral Amerault's shore assignments have included Director, Navy Program Resource Appraisal Division and Executive Assistant to the Director, Surface Warfare Division on the staff of the Chief of Naval Operations.

His flag assignments have included Director, Operations Division, Office of Budget and Reports, Navy Comptroller; Director, Office of Navy Budget; and Director, Fiscal Management Division in the office of the Chief of Naval Operations.

His final tour in the Navy as Deputy Chief of Naval Operations (Fleet Readiness and Logistics) has demonstrated his brilliant logistics acumen. With dynamic leadership he has refocused the Navy's logistics systems to more accurately meet the needs of the war fighter and the Navy of the future.

A scholar as well, VADM Amerault is a graduate of the Naval Postgraduate School (MS Operations Research) and the University of Utah (MA Middle East Affairs and Arabic), and was the Navy's 1986–87 Federal Executive Fellow at the RAND Corporation, Santa Monica, California.

As he ascended to the highest echelons of leadership in the Navy, Vice Admiral Amerault garnered many commendations that further highlight his stellar career. They include the Distinguished Service Medal; Legion of Merit (seven awards); the Bronze Star with V; the Meritorious Service Medal (two awards); the Joint Service Commendation Medal; the Navy Commendation Medal (three awards); and Vietnam, Desert Storm, and numerous other campaign medals.

Vice Admiral Amerault also has the distinction of being the Navy's "Old Salt"—the active duty officer who has been qualified as an officer of the deck underway the longest.

Standing beside this officer throughout his superb career has been his wife Cathy, a lady to whom he owes much. She has been his key supporter, devoting her life to her husband, to her family, and to the men and women of the Navy family. She has traveled by his side for these many years. They are the epitome of the Navy family team.

From the start of his career at the Naval Academy, through Vietnam, the Gulf War, Kosovo and beyond—thirty-six years—Vice Admiral Amerault has served with uncommon valor. He is indeed an individual of rare character and professionalism—a true Sailor's Sailor! I am proud, Mr. President, to thank him on behalf of the United States of America for his honorable and most distinguished career in the United States Navy, and to wish him "fair winds and following seas".

RECOGNIZING VOLUNTEER REFEREES FOR THE 2001 SIGMA NU CHARITY BOWL

Mr. LOTT. Mr. President, recently the Epsilon Xi Chapter of Sigma Nu at the University of Mississippi celebrated the eleventh anniversary of the Charity Bowl in Oxford, Mississippi. Founded in 1989, the Sigma Nu Charity Bowl has helped many unfortunate men and women, who from accidents or injuries have been permanently paralyzed. Since 1990, over $500,000 has been raised to help these individuals.

Throughout the years, the Epsilon Xi Sigma Nu Charity Bowl has become one of the largest college philanthropy events in the nation. Every year, Sigma Nu competes in a football game against another fraternity from Ole Miss or another university. It has become an annual event that the citizens of Oxford, the parents of the players, and the Ole Miss community enjoy each year. This year's recipient was a very deserving young man named James Havard, who enjoyed watching Sigma Nu defeat Phi Delta Theta 18–13.

I would like to recognize some very special men who generously gave their time and talents in order to make the Charity Bowl a great success. Steve Freeman, Michael Miles, Kevin Roberts, Scott Steenson, and Michael Woodard are to be commended and honored for their efforts in serving as volunteer referees for the charity bowl football game. They graciously took time out of their busy schedules in order to make the game more enjoyable for the players and the fans, but more importantly they gave James Havard an opportunity to enjoy a better life.

These men belong to the Professional Football Referees Association Charities, PFRA. The PFRA is also very involved in helping out other charitable organizations such as the Make-A-Wish Foundation. This distinguished organization has been very helpful in getting aid to individuals like James, and they have given many people a chance to have a better life.

These men and the PFRA are to be commended for a job well done, and for their continued efforts in improving the lives of others.

THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Mr. LEAHY. Mr. President, one of the most significant accomplishments of the 106th Congress was the Electronic Signatures in Global and National Commerce Act, commonly known as "ESIGN." This landmark legislation establishes a Federal framework for the use of electronic signatures, contracts, and records, while preserving essential safeguards protecting the Nation's consumers. It passed both houses of Congress by an overwhelming majority, and went into effect in October 2000.

I helped to craft the Senate version of the bill, which passed unanimously in November 1999, and I was honored to serve as a conferee and help develop the conference report. I am proud of what we achieved and the bipartisan manner in which we achieved it. It was an example of legislators legislating rather than politicians posturing and unnecessarily politicizing important matters of public policy.

Much of the negotiations over ESIGN concerned the consumer protection language in section 101(c), which was designed to ensure effective consumer consent to the replacement of paper notices with electronic notices. We managed in the end to strike a constructive balance that advanced electronic commerce without terminating or mangling the basic rights of consumers.

In particular, ESIGN requires use of a "technological check" in obtaining consumer consent. The critical language, which Senator WYDEN and I developed and proposed, provides that a consumer's consent to the provision of information in electronic form must involve a demonstration that the consumer can actually receive and read the information. Companies are left with ample flexibility to develop their own procedures for this demonstration.

When the Senate passed ESIGN in June 2000, I expressed confidence that the benefits of a one-time technological check would far outweigh any possible burden on e-commerce. I also predicted that this provision would increase consumer confidence in the electronic marketplace.

One year later, the Federal Trade Commission and the Department of Commerce have issued a report on the impact of ESIGN's consumer consent provision. In preparing the report, these agencies conducted extensive outreach to the on-line business community, technology developers, consumer groups, law enforcement, and academia. The report concludes:

> [T]hus far, the benefits of the consumer consent provision of ESIGN outweigh the burdens of its implementation on electronic commerce. The provision facilitates e-commerce and the use of electronic records and signatures while enhancing consumer confidence. It preserves the right of consumers to receive written information required by state and federal law. The provision also discourages deception and fraud by those who might fail to provide consumers with information the law requires that they receive."

Significantly, the consumer consent provision is benefitting businesses as well as consumers. The report states that businesses that have implemented this provision are reporting several benefits, including "protection from liability, increased revenues resulting from increased consumer confidence, and the opportunity to engage in additional dialogue with consumers about the transactions." The technological check has not been significantly burdensome, and "[t]he technology-neutral language of the provision encourages creativity in the structure of business systems that interface with consumers, and provides an opportunity for the business and the consumer to choose the form of communication for the transaction."

The report also finds that ESIGN's consumer safeguards are helping to prevent deception and fraud, which is critical to maintaining consumer confidence in the electronic marketplace.

ESIGN is a product of bipartisan cooperation, and it is working well for the country. We should learn from experience as we take up new legislative challenges.

IN MEMORY OF OLIVER POWERS

Mr. NICKLES. Mr. President, I rise today to inform my colleagues of the passing of Oliver Bennett Powers a Senior Broadcast Engineering Technician for the Senate, and native of Chickasha, Oklahoma.

Oliver passed away suddenly while vacationing with friends and family near Norfolk, Virginia on June 23, 2001. He was a respected, well-liked, and dedicated member of the Senate Recording Studio staff. He is survived by his wife of 28 years, Anita; two sons, Isaiah and Lucas; his mother, Ella Belle Powers of Chickasha, Oklahoma, and brother, Roy Powers, of Norman. Our hearts go out to them.

Oliver was a native of Chickasha, Oklahoma, where he graduated from high school in 1971. He was also a graduate of the University of Science and Arts of Oklahoma, also located in Chickasha, and went on to earn a Master's Degree in Journalism from the University of Oklahoma. Oliver began his service to the U.S. Senate in 1986, when he became director of audio and lighting for the Senate.

Oliver will be missed by all of those who knew him through his community, his church, and his work here in the Senate. Oliver embodied the best of what we've come to expect from Oklahomans. He was hard working, yet soft-spoken and gentle; highly professional, yet humble, and always kind and respectful to others. He was representative of so many staff here that work tirelessly and anonymously on behalf of the Senate.

On behalf of the United States Senate, let me say thank you to Anita, Isaiah, Lucas and the other members of the Powers family for sharing him with us these many years. He will be missed.

EXTRADICTION OF SLOBODAN MILOSEVIC TO THE U.N. ICTY

Mr. LIEBERMAN. Mr. President, I rise today to commend the authorities of Serbia for, at long last, handing over Slobodan Milosevic to the International Criminal Tribunal. It is ironic, and perhaps fitting, that his arrest and transfer to the international court took place on June 28—one of the most noted dates in Serb history, when in 1389 the Serbs were defeated at the battle of Kosovo Polje, ushering in a period of Ottoman Turkish rule. It is my hope that future generations of Serbs will remember June 28, 2001 with the same sense of historic importance and as the beginning of true and long-lasting democracy and respect for the rule of law.

Mr. Milosevic has been charged by an independent, impartial, international criminal tribunal with crimes against humanity and violations of the laws or customs of war against the ethnic Albanian population of Kosovo. And according to the Prosecutor of the Tribunal, we can expect more indictments against him for earlier crimes in Croatia and Bosnia.

His extradition to the Hague is historic, if long overdue. As a former head of state, there were many who believed that he would never be made to answer for the charges against him. That this day finally came underscores the commitment of the international community to investigating and prosecuting individuals for war crimes. And it sets an important precedent in international law; namely, that the Geneva Conventions and their Protocols will be upheld and enforced regardless of one's position or influence. The message in all of this is clear and inspiring: with patience and perseverance, democracy and the rule of law will prevail.

Serbian Prime Minister Djindjic deserves praise for his leadership on this issue and for recognizing that if Serbia wants to join the democratic family of nations, then it must uphold and respect the rule of law. Many others have contributed their efforts over the years leading up to this historic day and deserve mention: former Secretary of State Madeleine Albright, U.S. Ambassador-at-large for War Crimes, David Scheffer, and ICTY Prosecutors Justice Louise Arbour and Carla Del Ponte, to name just a few.

The wars that tore apart the former Yugoslavia—and which threaten Macedonia today—were largely, although not exclusively, of Mr. Milosevic's doing. He fomented extreme ethnic nationalism and unleashed his army and special police forces on the civilian populations of Croatia, Bosnia and Kosovo. Millions of people were driven from their homes and more than a quarter of a million are believed to have died. For his policies he earned himself the name, "the Butcher of Belgrade." His victims deserve accountability and his former citizens deserve to know what was done in their name.

It must be stressed that the Serb people are not on trial; only Mr. Milosevic. The United States seeks friendship and partnership with all of the people of the former Yugoslavia. Our presence and contributions at the donor's conference are evidence of our intentions.

Yet while we welcome yesterday's developments, we must also not forget that 26 accused remain on the run, most of them in Bosnia and Serbia. I call on the accused to turn themselves over to the jurisdiction of the Tribunal to answer the charges against them without further delay. It is the honorable thing to do. But failing this, the local authorities must take swift and decisive action, if necessary, with the support of international peacekeeping troops, to deliver these fugitives from justice to the court in the Hague. There will never be long-lasting peace and stability in the region so long as these individuals remain on the run. The fact that they have evaded justice for so long—in the case of Radovan Karadzic and Ratko Mladic it's already six year's—makes a mockery of justice and it must end.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred November 6, 1998 in Seattle, Washington. A gay man was severely beaten with rocks and broken bottles in his neighborhood by a gang of youths shouting "faggot." The victim sustained a broken nose and swollen jaw. When he reported the incident to police two days later, the officer refused to take the report.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

CELEBRATION OF CAPE VERDE INDEPENDENCE DAY

Mr. REED. Mr. President, I rise today to join Cape Verdeans in the July 5th celebration of Cape Verde Independence Day.

Every country is rich with its own history and unique story of how it achieved democracy, and Cape Verde is no exception. In 1462, Portuguese settlers arrived at Santiago and founded Ribeira Grande, now Cidade Velha, the first permanent European settlement city in the tropics. After almost three centuries as a colony, in 1951 Portugal changed Cape Verde's status to an overseas province. Then in December 1974, an agreement was signed which provided for a transitional government composed of Portuguese and Cape Verdeans. In 1975, Cape Verdeans elected a National Assembly, which received the instruments of independence from Portugal.

For the first fifteen years of independence, Cape Verde was ruled by one party. Then in 1990 opposition groups came together to form the Movement for Democracy. Working together they ended the one party state and the first multi-party elections were held in January 1991.

Cape Verde now enjoys a stable democratic government. It is an example to other States as to what can be accomplished. These democratic changes have meant better global integration as the government has pursued market-oriented economic policies and welcomed foreign investors. Tourism, light manufacturing and fisheries have flourished. Cape Verde has made the difficult transition from a colony to a successful independent and democratic State.

Today, there are close to 350,000 Cape Verdean-Americans living in the United States, almost equal to the population of Cape Verde itself. These Americans hold a special right since the Cape Verdean Constitution formally considers all Cape Verdeans at home and abroad as citizens and voters. Thus, July 5th is a day of independence for all Cape Verdean-Americans as well as those in Cape Verde.

As we approach the independence day of our own country and reflect on freedom and democracy, it is especially fitting that we remember and celebrate those special independence days of other peaceful democracies, such as Cape Verde. Join with me in wishing all those with direct and ancestral ties to Cape Verde a happy independence day.

HEALTH CARE FOR THE GUARD AND RESERVE

Mr. JOHNSON. Mr. President, I rise today in support of S. 1119, a bill that would require the Secretary of Defense to conduct a study of the health care coverage of the military's Selected Reserve.

Most South Dakotans know at least one of the 4,500 current members of the South Dakota Guard and Reserves—the so-called Selected Reserve—or the thousands of former Guardsmen and Reservists. Sometimes, the connection is even more direct. Before joining the Army, my oldest son was a member of the South Dakota Army Guard in Yankton. South Dakota's Guard and Reserve members have supported overseas operations, including those in Central America, the Middle East, Europe and Asia. Members of the South Dakota Air Guard are currently preparing for its mission later this year, where it will patrol the "No-Fly Zone" in Iraq.

South Dakota's Guard and Reserve units consistently rank in the highest percentile of readiness and quality of its recruits. But keeping and recruiting the best of the best in the South Dakota National Guard and Reserves is becoming more of a challenge as our military's operations tempo has remained high while the number of active duty military forces has decreased. This tempo places significant pressure on the members of the reserve component, and has exposed possible health care deficiencies.

Many deploying members and their families have experienced tremendous turbulence moving back-and-forth between their civilian health insurance plans and TRICARE Prime, the military's health care system. Some junior reservists have no health insurance at all. Some figures, for example, have shown that upward of 200,000 Selected Reservists nationwide do not possess adequate insurance. The exact nature of these disturbances and the broader shortfalls of this system are unclear because examinations have not completed.

I am pleased to join with my colleagues in introducing this legislation, which will take a step towards understanding this problem and giving Congress direction on how to solve it. I know how poor health care and broken promises can reduce morale within our military and their families. A poor "quality of life" among our reserve component and active duty personnel has a direct impact on recruitment and retention of the best and brightest in our Armed Services. I will continue to do all I can to ensure our men and women in the military, veterans, and military retirees have the health care they deserve.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, June 28, 2001, the Federal debt stood at $5,663,970,068,775.88, Five trillion, six hundred sixty-three billion, nine hundred seventy million, sixty-eight thousand, seven hundred seventy-five dollars and eighty-eight cents.

One year ago, June 28, 2000, the Federal debt stood at $5,649,147,000,000, Five trillion, six hundred forty-nine billion, one hundred forty-seven million.

Five years ago, June 28, 1996, the Federal debt stood at $5,118,683,000,000, Five trillion, one hundred eighteen billion, six hundred eighty-three million.

Ten years ago, June 28, 1991, the Federal debt stood at $3,537,988,000,000, Three trillion, five hundred thirty-seven billion, nine hundred eighty-eight million.

Twenty-five years ago, June 28, 1976, the Federal debt stood at $610,417,000,000, Six hundred ten billion, four hundred seventeen million, which reflects a debt increase of more than $5 trillion, $5,053,553,068,775.88, Five trillion, fifty-three billion, five hundred fifty-three million, sixty-eight thousand, seven hundred seventy-five dollars and eighty-eight cents during the past 25 years.

ADDITIONAL STATEMENTS

TRIBUTE TO ABE SILVERSTEIN

• Mr. DEWINE. Mr. President, I rise today to recognize a man who employed his knowledge and vision to take America into Space. I am speaking of Cleveland resident, Abe Silverstein, who just passed away this month at 92 years of age, leaving a legacy of invention and innovation in the field of Space Flight.

Abe Silverstein played a part in a number of "space firsts," and received many prestigious honors for his work. In the company of Orville Wright, William Boeing, and Charles Lindbergh, Abe won the Guggenheim Award for the advancement of flight.

Abe Silverstein designed, tested, and operated the world's first supersonic wind tunnel. It was the largest, fastest, and most powerful in the world. The research that was conducted with the tunnel allowed Abe to produce faster combat planes in World War II. This tunnel now resides in the NASA Glenn Space Research Facility in Cleveland, which Abe directed from 1961–1969.

He was also the first director of NASA Space Flight Operations and worked on the Mercury, Gemini, Apollo, and Centaur projects. The Centaur project involved the launching vehicles that propelled spacecraft to Mars, Jupiter, Saturn, Uranus, and Neptune.

Serving his country in World War II by producing new technology and helping his country achieve its goals in Space was not enough for Abe Silverstein. After retiring from NASA, Abe went on to work for Republic Steel Corporation, where he developed pollution controls to help keep our air cleaner for future generations.

Abe Silverstein always was contributing to his country, whether it be through wind-tunnel research or in serving as a Trustee at Cleveland State University. He was a man of great personal virtue and strength of character. I am proud, Mr. President, to honor this man today, who his NASA colleagues once described as "a man of vision and conviction, [a man who] contributed to the ultimate success of America's unmanned and human space programs . . . his innovative, pioneering spirit lives on in the work we do today."

I thank Mr. Silverstein for all his hard work and sacrifice, and I hope that my colleagues will join me in my gratitude.•

TRIBUTE TO LES AND MARILYN GORDON

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Les and Marilyn Gordon, owners of The Candlelite Inn in Bradford, NH, on being named as Inn of the Year by the Complete Guide to Bed & Breakfast Inns and Guesthouses in the United States, Canada and Worldwide.

Built in 1897, The Candlelite Inn has provided a relaxing atmosphere for visiting guests for over 100 years. The Gordons purchased the Inn in 1993, and have successfully continued the tradition of accommodating the needs of discriminating travelers touring the Lake Sunapee Region.

Throughout the year The Candlelite Inn hosts special weeks for their guests to enjoy including: Currier & Ives Maple Sugar Weekend in March, Old Glory Heritage Tours in July, August and September, Foliage Midweek Getaways in September and October, and Murder Mystery Parties throughout the year.

I commend Les and Marilyn for the economic contributions they have made to the hospitality and tourism industries in our state. The citizens of Bradford, and New Hampshire, have benefitted from their dedication to quality and service at The Candlelite Inn. It is truly an honor and a privilege to represent them in the United States Senate.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2605. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bifenazate; Pesticide Tolerances for Emergency Exemptions" (FRL6788–5) received on June 21, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2606. A communication from the Director of the Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of a nomination for the position of Commissioner, Reclamation, Bureau of Reclamation, received on June 28, 2001; to the Committee on Energy and Natural Resources.

EC–2607. A communication from the Director of the Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of a nomination for the position of Director of the National Park Service, received on June 28, 2001; to the Committee on Energy and Natural Resources.

EC–2608. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Inspector General, received on June 28, 2001; to the Committee on Armed Services.

EC–2609. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Army, Civil Works, received on June 28, 2001; to the Committee on Armed Services.

EC–2610. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Army, Civil Works, received on June 28, 2001; to the Committee on Armed Services.

EC–2611. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Secretary of the Army, received on June 28, 2001; to the Committee on Armed Services.

EC–2612. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the designation of acting officer for the position of Secretary of the Army, received on June 28, 2001; to the Committee on Armed Services.

EC–2613. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Secretary of the Army, received on June 28, 2001; to the Committee on Armed Services.

EC–2614. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the designation of acting officer for the position of Secretary of the Army, received on June 28, 2001; to the Committee on Armed Services.

EC–2615. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Air Force, Financial Management and Comptroller, received on June 28, 2001; to the Committee on Armed Services.

EC–2616. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Army, Manpower and Reserve Affairs, received on June 28, 2001; to the Committee on Armed Services.

EC–2617. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of General Counsel, received on June 28, 2001; to the Committee on Armed Services.

EC–2618. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Navy, Research, Development and Acquisition, received on June 28, 2001; to the Committee on Armed Services.

EC–2619. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant of the Navy, Financial Management and Comptroller, received on June 28, 2001; to the Committee on Armed Services.

EC–2620. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Deputy Under Secretary of Defense, Acquisition and Technology, received on June 28, 2001; to the Committee on Armed Services.

EC–2621. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Deputy Under Secretary of Defense, Policy, received on June 28, 2001; to the Committee on Armed Services.

EC–2622. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Navy, Installations and Environment, received on June 28, 2001; to the Committee on Armed Services.

EC–2623. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of the Navy, received on June 28, 2001; to the Committee on Armed Services.

EC–2624. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Administrator, Drug Enforcement Administration, received on June 28, 2001; to the Committee on the Judiciary.

EC–2625. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Commissioner, Immigration and Naturalization Service, received on June 28, 2001; to the Committee on the Judiciary.

EC–2626. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Director, Community Relations Service, received on June 28, 2001; to the Committee on the Judiciary.

EC–2627. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report relative to Merger Review Procedures dated June 2001; to the Committee on the Judiciary.

EC–2628. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Withdrawal of Notice of Federal Tax Lien Certain Circumstances" (RIN1545–AV00) received on June 21, 2001; to the Committee on Finance.

EC–2629. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Time Limitation for Requesting Refunds of Harbor Maintenance Fees" (RIN1515–AC64) received on June 26, 2001; to the Committee on Finance.

EC–2630. A communication from the Regulations Coordinator of the Health Care Finance Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicaid Managed Care" (RIN0938–AI70) received on June 28, 2001; to the Committee on Finance.

EC–2631. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Nondiscrimination Requirements for Certain Defined Contribution Plans" (RIN1545–AY36) received on June 28, 2001; to the Committee on Finance.

EC–2632. A communication from the Director of the Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Veterans Education: Increased Allowance for the Educational Assistance Test Program" (RIN2900–AK41) received on June 27, 2001; to the Committee on Veterans' Affairs.

EC–2633. A communication from the Director of the Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Increase in Rates Under the Montgomery GI Bill—Active Duty and Survivors' and Dependents' Educational Assistance" (RIN2900–AK44) received on June 27, 2001; to the Committee on Veterans' Affairs.

EC–2634. A communication from the Director of the Office of Regulations Management, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Grants to States for Construction and Acquisition of State Home Facilities" (RIN2900–AJ43) received on June 28, 2001; to the Committee on Veterans' Affairs.

EC–2635. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determination" (44 CFR 31183) received on June 27, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2636. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (Doc. No. FEMA–P–7763) received on June 27, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2637. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Doc. No. FEMA–P–7602) received on June 27, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2638. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled "Investment Securities; Bank Activities and Operations; Leasing" (12 CFR Parts 1, 7, 23) received on June 27, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2639. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled "Fiduciary Activities of National Banks" (RIN1557–AB79) received on June 27, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2640. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Annual Report Under Section 6 of the International Anti-Bribery and Fair Competition Act of 1998 dated July 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2641. A communication from the Acting Executive Secretary of the Agency for International Development, transmitting, pursuant to law, the report of a nomination for the position of Assistant Administrator, Bureau for Asia and the Near East, received on June 27, 2001; to the Committee on Foreign Relations.

EC–2642. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–2643. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, Presidential Determination Number 2001–19, relative to the Jerusalem Embassy Act of 1995; to the Committee on Foreign Relations.

EC–2644. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Sweden; to the Committee on Foreign Relations.

EC–2645. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–2646. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–2647. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed Technical Assistance Agreement for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to France; to the Committee on Foreign Relations.

EC–2648. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed Technical Assistance Agreement for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to The Netherlands; to the Committee on Foreign Relations.

EC–2649. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification regarding the proposed transfer of U.S. origin defense articles valued (in terms of its original acquisition cost) at approximately $1,000,000,000 to the Government of Israel; to the Committee on Foreign Relations.

EC–2650. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report required by Section 655 of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

EC–2651. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area" received on June 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2652. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Black Sea Bass Fishery; Commercial Quota Harvested for Quarter 2 Period" received on June 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2653. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the

Exclusive Economic Zone Off Alaska—Amendments to an emergency interim rule implementing 2001 Steller sea lion protection measures (would delay season for Pacific Cod fisheries in the GOA and BSAI" (RIN0648–AO82) received on June 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2654. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of General Counsel, Office of the Secretary, received on June 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2655. A communication from the Attorney/Advisor of the Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Governmental Affairs, Office of the Secretary, received on June 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2656. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Budget and Programs, Office of the Secretary, received on June 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2657. A communication from the Division Chief of the Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Facilities in the Beaufort Sea" (RIN0648-AM09) received on June 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2658. A communication from the Secretary of Commerce and the Chairman of the Federal Trade Commission, transmitting jointly, pursuant to law, a report entitled "Electronic Signatures in Global and National Commerce Act: The Consumer Consent Provision in Section 101(c)(1)(C)(ii)"; to the Committee on Commerce, Science, and Transportation.

EC–2659. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area" received on June 28, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2660. A communication from the Acting Director of the Statutory Import Programs Staff, International Trade Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Changes in Procedures for Florence Agreement Program" (RIN00625–AA47) received on June 28, 2001; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 2217: A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes (Rept. No. 107–36).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ALLEN:

S. 1138. A bill to allow credit under the Federal Employees' Retirement System for certain Government service which has performed abroad after December 31, 1988, and before May 24, 1998; to the Committee on Governmental Affairs.

By Mr. REID:

S. 1139. A bill to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mr. Feingold, Mr. Grassley, Mr. Leahy, Mr. Warner, Mr. Breaux, Mr. Burns, Mr. Reid, Mr. Craig, Mr. Torricelli, Mr. Bennett, Ms. Snowe, Mr. DeWine, Mr. Thomas, and Mr. Hutchinson):

S. 1140. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts; to the Committee on the Judiciary.

By Mr. GRAMM (for himself, Mr. Nickles, Mrs. Hutchison, Mr. Murkowski, and Mr. Grassley):

S. 1141. A bill to amend the Internal Revenue Code of 1986 to treat distributions from publicly traded partnerships as qualifying income of regulated investment companies, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 1142. A bill to amend the Internal Revenue Code of 1986 to repeal the minimum tax preference for exclusion for incentive stock options; to the Committee on Finance.

By Mr. CAMPBELL:

S. 1143. A bill to require the Secretary of the Treasury to mint coins in commemoration of former President Ronald Reagan; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LIEBERMAN (for himself, Ms. Collins, Mr. Levin, Mr. Durbin, and Mr. Akaka):

S. 1144. A bill to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. BOXER:

S. 1145. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to encourage the hiring of certain veterans, and for other purposes; to the Committee on Finance.

By Mr. ALLARD:

S. 1146. A bill to amend the Act of March 3, 1875, to permit the State of Colorado to use land held in trust by the State as open space; to the Committee on Energy and Natural Resources.

By Mr. NICKLES:

S. 1147. A bill to amend title X and title XI of the Energy Policy Act of 1992; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 1148. A bill to convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the appurtenant irrigation districts; to the Committee on Energy and Natural Resources.

By Mr. REID (for himself and Mr. Ensign):

S. 1149. A bill to amend the Immigration and Nationality Act to establish a new nonimmigrant category for chefs and individuals in related occupations; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire:

S. 1150. A bill to waive tolls on the Interstate System during peak holiday travel periods; to the Committee on Environment and Public Works.

By Mr. REID (for himself and Mr. Ensign):

S. 1151. A bill to amend the method for achieving quiet technology specified in the National Parks Air Tour Management Act of 2000; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN (for himself, Mr. Daschle, Mrs. Murray, Mr. Corzine, Ms. Landrieu, Mr. Feingold, Mr. Lieberman, Mr. Kennedy, Mr. Sarbanes, Ms. Mikulski, Mr. Torricelli, Mr. Reid, Mr. Schumer, Ms. Stabenow, and Mr. Johnson):

S. 1152. A bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CRAIG (for himself and Mrs. Feinstein):

S. 1153. A bill to amend the Food Security Act of 1985 to establish a grassland reserve program to assist owners in restoring and protecting grassland; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH of New Hampshire (for himself and Mr. Warner):

S. 1154. A bill to preserve certain actions brought in Federal court against Japanese defendants by members of the United States Armed Forces held by Japan as prisoners of war during World War II; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. Warner) (by request):

S. 1155. A bill to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2002, and for other purposes; to the Committee on Armed Services.

By Mr. SMITH of Oregon:

S. 1156. A bill to amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself, Ms. Landrieu, Ms. Collins, Mr. Schumer, Ms. Snowe, Mr. Leahy, Mr. Cochran, Mr. Breaux, Mr. Allen, Mr. Biden, Mr. Bond, Mrs. Carnahan, Mr. Carper, Mr. Chafee, Mr. Cleland, Mrs. Clinton, Mr. Dodd, Mr. Edwards, Mr. Frist, Mr. Gregg, Mr. Helms, Mr. Hollings, Mr. Jeffords, Mr. Kennedy, Mr. Kerry, Mr. Lieberman, Mrs. Lincoln, Ms. Mikulski, Mr. Miller, Mr. Reed, Mr. Rockefeller, Mr. Sarbanes, Mr. Sessions, Mr. Shelby, Mr. Smith of New Hampshire, Mr. Thompson, Mr. Thurmond, Mr. Torricelli, and Mr. Warner):

S. 1157. A bill to reauthorize the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact, a Pacific Northwest Dairy Compact, and an

Intermountain Dairy Compact; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. AKAKA, Mr. STEVENS, Mr. CORZINE, Mr. BROWNBACK, Mr. MCCAIN, Mr. DASCHLE, Mr. JOHNSON, Mr. COCHRAN, Mr. BAUCUS, Mr. CONRAD, Mr. DOMENICI, Ms. STABENOW, Mr. BINGAMAN, Mr. CRAPO, Mrs. MURRAY, Ms. CANTWELL, Mr. WELLSTONE, Mr. THOMAS, Mrs. BOXER, Mr. KENNEDY, Mr. DAYTON, Mr. CRAIG, Mr. REID, Mr. SMITH of Oregon, Mr. KERRY, Mr. ALLARD, Mr. DORGAN, Mr. SCHUMER, and Mr. BREAUX):

S. Res. 118. A resolution to designate the month of November 2001 as "National American Indian Heritage Month"; to the Committee on the Judiciary.

By Mr. BAYH (for himself, Mr. SMITH of Oregon, Mr. DASCHLE, Mr. LEAHY, Mr. BINGAMAN, Mr. LUGAR, Mrs. FEINSTEIN, Mr. DORGAN, Mr. KERRY, Mr. KENNEDY, Mr. LIEBERMAN, Mrs. CLINTON, Mr. WELLSTONE, Mr. DEWINE, Mr. BIDEN, Mr. ROCKEFELLER, Mr. LEVIN, Mr. CORZINE, Mr. SPECTER, Mr. TORRICELLI, Mr. GRAHAM, and Ms. SNOWE):

S. Res. 119. A resolution combating the Global AIDS pandemic; to the Committee on Foreign Relations.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 120. A resolution relative to the organization of the Senate; considered and agreed to.

By Mr. KERRY (for himself, Ms. SNOWE, Mr. HOLLINGS, Mr. MCCAIN, Mr. BIDEN, Mr. SARBANES, Mrs. BOXER, Mr. KENNEDY, and Mr. FEINGOLD):

S. Res. 121. A resolution expressing the sense of the Senate regarding the policy of the United States at the 53rd Annual Meeting of the International Whaling Commission; to the Committee on Foreign Relations.

By Mr. MCCONNELL (for himself and Mr. LEAHY):

S. Res. 122. A resolution relating to the transfer of Slobodan Milosevic to the International Criminal Tribunal for Yugoslavia, and for other purposes; to the Committee on Foreign Relations.

By Mr. KERRY (for himself and Mr. BOND):

S. Res. 123. A resolution amending the Standing Rules of the Senate to change the name of the Committee on Small Business to the "Committee on Small Business and Entrepreneurship"; considered and agreed to.

By Mr. KENNEDY (for himself and Mr. BROWNBACK):

S. Con. Res. 57. A concurrent resolution recognizing the Hebrew Immigrant Aid Society; to the Committee on the Judiciary.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. Con. Res. 58. A concurrent resolution expressing support for the tenth annual meeting of the Asia Pacific Parliamentary Forum; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 170

At the request of Mr. REID, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 351

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 351, a bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting use of mercury fever thermometers and improving collection, recycling, and disposal of mercury, and for other purposes.

S. 486

At the request of Mr. LEAHY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 489

At the request of Mr. GREGG, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 489, a bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes.

S. 497

At the request of Mr. LEAHY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 497, a bill to express the sense of Congress that the Department of Defense should field currently available weapons, other technologies, tactics and operational concepts that provide suitable alternatives to anti-personnel mines and mixed anti-tank mine systems and that the United States should end its use of such mines and join the Convention on the Prohibition of Anti-Personnel Mines as soon as possible, to expand support for mine action programs including mine victim assistance, and for other purposes.

S. 530

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 530, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind.

S. 532

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 532, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State.

S. 562

At the request of Mr. REID, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 562, a bill to amend the Immigration and Nationality Act with respect to the record of admission for permanent residence in the case of certain aliens.

S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 624

At the request of Mr. GREGG, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 624, a bill to amend the Fair Labor standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off and biweekly work programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 756

At the request of Mr. GRASSLEY, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 756, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from biomass, and for other purposes.

S. 799

At the request of Mr. DODD, his name was added as a cosponsor of S. 799, a bill to prohibit the use of racial and other discriminatory profiling in connection with searches and detentions of individuals by the United States Customs Service personnel, and for other purposes.

S. 847

At the request of Mr. DAYTON, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 860

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 860, a bill to amend the Internal

Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 866

At the request of Mr. REID, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 952

At the request of Mr. GREGG, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 952, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 989

At the request of Mr. FEINGOLD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 989, a bill to prohibit racial profiling. At the request of Mr. DODD, his name was added as a cosponsor of S. 989, supra.

At the request of Mr. DODD, his name was added as a cosponsor of S. 989, supra.

S. 999

At the request of Mr. BINGAMAN, the names of the Senator from New Hampshire (Mr. SMITH) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1017

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1017, a bill to provide the people of Cuba with access to food and medicines from the United States, to ease restrictions on travel to Cuba, to provide scholarships for certain Cuban nationals, and for other purposes.

S. 1030

At the request of Mr. CONRAD, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1030, a bill to improve health care in rural areas by amending title XVIII of the Social Security Act and the Public Health Service Act, and for other purposes.

S. 1037

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1037, a bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes.

S. 1058

At the request of Mr. DAYTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1058, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes.

S. 1083

At the request of Ms. MIKULSKI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1083, a bill to amend title XVIII of the Social Security Act to exclude clinical social worker services from coverage under the medicare skilled nursing facility prospective payment system.

S. 1104

At the request of Mr. GRAHAM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1104, a bill to establish objectives for negotiating, and procedures for, implementing certain trade agreements.

S. 1134

At the request of Mr. LIEBERMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1134, a bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock.

S.J. RES. 7

At the request of Mr. HATCH, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S.J.Res. 7, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 71

At the request of Mr. HARKIN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. RES. 109

At the request of Mr. REID, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as "National Children's Memorial Day" and the last Friday in the month of April as "Children's Memorial Flag Day."

S. CON. RES. 45

At the request of Mr. FITZGERALD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

S. CON. RES. 53

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

At the request of Mr. HAGEL, the names of the Senator from Minnesota (Mr. WELLSTONE), the Senator from Michigan (Ms. STABENOW), the Senator from Maryland (Mr. SARBANES) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. Con. Res. 53, supra.

At the request of Mr. HAGEL, the names of the Senator from Minnesota (Mr. WELLSTONE), the Senator from Michigan (Ms. STABENOW), the Senator from Maryland (Mr. SARBANES) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. Con. Res. 53, supra.

AMENDMENT NO. 821

At the request of Mr. ALLARD, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Idaho (Mr. CRAIG) , the Senator from Oklahoma (Mr. NICKLES) , the Senator from Virginia (Mr. ALLEN), the Senator from Oklahoma (Mr. INHOFE), the Senator from New Hampshire (Mr. SMITH), the Senator from Texas (Mr. GRAMM), the Senator from Maine (Ms. COLLINS), the Senator from Alabama (Mr. SESSIONS), the Senator from Wyoming (Mr. ENZI) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of amendment No. 821 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. FEINGOLD, Mr. GRASSLEY, Mr. LEAHY, Mr. WARNER, Mr. BREAUX, Mr. BURNS, Mr. REID, Mr. CRAIG, Mr. TORRICELLI, Mr. BENNETT, Ms. SNOWE, Mr. DEWINE, Mr. THOMAS, and Mr. HUTCHINSON):

S. 1140. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce S. 1140, "The Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001." I am pleased to be joined in cosponsorship of this legislation by Senators FEINGOLD, GRASSLEY, LEAHY, WARNER, BREAUX, BURNS, REID, CRAIG, TORRICELLI, BENNETT, SNOWE, DEWINE, THOMAS, and HUTCHINSON. Our bill is intended to allow automobile dealers their day in court when they have disputes with the manufacturers.

As automobile dealers throughout Utah have pointed out to me, the motor vehicle dealer contract often includes mandatory arbitration clauses, and they also point out their unequal bargaining power. This is usually the result of various factors, including the manufacturers' discretion to allocate vehicle inventory and control on the timing of delivery. Manufacturers can, thus, determine the dealer's financial future with the allocation of the best-selling models. Manufacturers can also exercise leverage over the flow of revenue to dealers, such as warranty payments. Manufacturers can limit dealers' rights to transfer ownership or control of the business, even to family members. And manufacturers have tried, arbitrarily, to take businesses away from dealers without cause.

I recognize the efficiencies of mandatory arbitration clauses in general, but the specific circumstances in the manufacturer-dealer relationship justifies this widely-supported bipartisan proposal. It is worthy to note that Congress in 1956 enacted the Automobile Dealer Day in Court Act, which provided a small business dealer in limited circumstances the right to proceed in Federal court when faced with abuses by manufacturers. And State legislatures have enacted significant protections for auto dealers.

S. 1140 amends Title 9 of the U.S. Code and make arbitration of disputes in motor vehicle franchise contracts optional. This would allow dealers to opt voluntarily for arbitration or use procedures and remedies available under State law, such as state-established administrative boards specifically established to resolve dealer/manufacturer disputes.

I must note that this legislation is extremely narrow and affects only the unique relationship between small business auto dealers and motor vehicle manufacturers, which is strictly governed by State law. This legislation is necessary to protect the States' interest in regulating the motor vehicle dealer/manufacturer relationship.

All States, except for Alaska, have enacted laws specifically designed to regulate the economic relationship between motor vehicle dealers and manufacturers to prevent unfair manufacturer contract terms and practices. In most States, including my home State of Utah, effective State administrative forums already exist to handle dealer/manufacturer disputes outside of the court system. Indeed, in the majority of States, a special State agency or forum is charged with administering and enforcing motor vehicle franchise law. These State forums provide an inexpensive, speedy, and non-judicial resolution of disputes.

I urge my colleagues to support this worthwhile legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001".

SEC. 2. ELECTION OF ARBITRATION.

(a) MOTOR VEHICLE FRANCHISE CONTRACTS.—Chapter 1 of title 9, United States Code, is amended by adding at the end the following:

"§ 17. Motor vehicle franchise contracts

"(a) For purposes of this section, the term—

"(1) 'motor vehicle' has the meaning given such term under section 30102(6) of title 49; and

"(2) 'motor vehicle franchise contract' means a contract under which a motor vehicle manufacturer, importer, or distributor sells motor vehicles to any other person for resale to an ultimate purchaser and authorizes such other person to repair and service the manufacturer's motor vehicles.

"(b) Whenever a motor vehicle franchise contract provides for the use of arbitration to resolve a controversy arising out of or relating to the contract, arbitration may be used to settle such controversy only if after such controversy arises both parties consent in writing to use arbitration to settle such controversy.

"(c) Whenever arbitration is elected to settle a dispute under a motor vehicle franchise contract, the arbitrator shall provide the parties to the contract with a written explanation of the factual and legal basis for the award.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 9, United States Code, is amended by adding at the end the following:

"17. Motor vehicle franchise contracts.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to contracts entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this Act.

Mr. GRASSLEY. Mr. President, over the years, I have been in the forefront of promoting alternative dispute resolution, (ADR), mechanisms to encourage alternatives to litigation when disputes arise. Such legislation includes the permanent use of ADR by Federal agencies. Last Congress, we also passed legislation to authorize Federal court-annexed arbitration. These statutes are based, in part, on the premise that arbitration should be voluntary rather than mandatory.

While arbitration often serves an important function as an efficient alternative to court, some trade offs must be considered by both parties, such a limited judicial review and less formal procedures regarding discovery and rules of evidence. When mandatory binding arbitration is forced upon a party, for example when it is placed in a boiler-plate agreement, it deprives the weaker party the opportunity to elect any other forum. As a proponent of arbitration I believe it is critical to ensure that the selection of arbitration is voluntary and fair.

Unequal bargaining power exists in contracts between automobile and truck dealers and their manufacturers. The manufacturer drafts the contract and presents it to dealers with no opportunist to negotiate. Increasingly, these manufacturers are including compulsory binding arbitration in their agreements, and dealers are finding themselves with no choice but to accept it. If they refuse to sign the contract they have no franchise. This clause then binds the dealer to arbitration as the exclusive procedure for resolving any dispute. The purpose of arbitration is to reduce costly, time-consuming litigation, not to force a party to an adhesion contract to waive access to judicial or administrative forums for the pursuit of rights under State law.

I am extremely concerned with this industry practice that conditions the granting or keeping of motor vehicle franchises on the acceptance of mandatory and binding arbitration. While several States have enacted statutes to protect weaker parties in "take it or leave it" contracts and attempted to prevent hits type of inequitable practice, these State laws have been held to conflict with the federal Arbitration Act (FAA).

In 1925, when the FAA was enacted to make arbitration agreements enforceable in Federal courts, it did not expressly provide for preemption of State law. Nor is there any legislative history to indicate Congress intended to occupy the entire field of arbitration. However, in 1984 the Supreme Court interpreted the FAA to preempt state law in Southland Corporation v. Keating. This, State laws that protect weaker parties from being forced to accept arbitration and to waive State rights, such as Iowa's law prohibiting manufacturers from requiring dealers to submit to mandatory binding arbitration, are preempted by the FAA.

With mandatory binding arbitration agreements becoming increasingly common in motor vehicle franchise agreements, now is the time to eliminate the ambiguity in the FAA statute. The purpose of the legislation we are introducing is to ensure that in disputes between manufacturers and dealers, both parties must voluntarily elect binding arbitration. This approach would continue to recognize arbitration as a valuable alternative to court, but would provide an option to pursue other forums such as administrative bodies that have been established in a majority of States, including Iowa, to handle dealer/manufacturer disputes.

This legislation will go a long way toward ensuring that parties will not be forced into binding arbitration and thereby lose important statutory rights. I am confident that given its many advantages arbitration will often be elected. But it is essential for public policy reasons and basic fairness that both parties to this type of contract have the freedom to make their own decisions based on the circumstances of the case.

I urge my colleagues to join me in supporting this legislation to address this unfair franchise practice.

Mr. FEINGOLD. Mr. President, I rise today to introduce, with my distinguished colleague from Utah, Senator HATCH, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001. I want to recognize the efforts of the Senator from Iowa, Senator GRASSLEY, in advancing this legislation in the last Congress, and note how pleased I am that the distinguished ranking member and former chairman of the Judiciary Committee has decided to take the lead on this bill this year. By the time the 106th Congress concluded, we had the support of 56 Senators for this bill. So I believe we have an excellent opportunity to pass this bill this year, and I look forward to working with the Senator from Utah to make that happen.

While alternative methods of dispute resolution such as arbitration can serve a useful purpose in resolving disputes between parties, I am extremely concerned about the increasing trend of stronger parties to a contract forcing weaker parties to waive their rights and agree to arbitrate any future disputes that may arise. In every Congress since 1994, I have introduced the Civil Rights Procedures Protection Act, which amends certain civil rights statutes to prevent the involuntary imposition of arbitration to claims that arise from unlawful employment discrimination and sexual harassment.

A few years ago, it came to my attention that the automobile and truck manufacturers, which often present dealers with "take it or leave it" contracts, are increasingly including mandatory and binding arbitration clauses as a condition of entering into or maintaining an auto or truck franchise. This practice forces dealers to submit their disputes with manufacturers to arbitration. As a result, dealers are required to waive access to judicial or administrative forums, substantive contract rights, and statutorily provided protection. In short, this practice clearly violates the dealers' fundamental due process rights and runs directly counter to basic principles of fairness.

Franchise agreements for auto and truck dealerships are typically not negotiable between the manufacturer and the dealer. The dealer accepts the terms offered by the manufacturer, or it loses the dealership, plain and simple. Dealers, therefore, have been forced to rely on the States to pass laws designed to balance the manufacturers' far greater bargaining power and to safeguard the rights of dealers. The first State automobile statute was enacted in my home State of Wisconsin in 1937 to protect citizens from injury caused when a manufacturer or distributor induced a Wisconsin citizen to invest considerable sums of money in dealership facilities, and then canceled the dealership without cause. Since then, all States except Alaska have enacted substantive law to balance the enormous bargaining power enjoyed by manufacturers over dealers and to safeguard small business dealers from unfair automobile and truck manufacturer practices.

A little known fact is that under the Federal Arbitration Act, FAA, arbitrators are not required to apply the particular Federal or State law that would be applied by a court. That enables the stronger party, in this case the auto or truck manufacturer, to use arbitration to circumvent laws specifically enacted to regulate the dealer/manufacturer relationship. Not only is the circumvention of these laws inequitable, it also eliminates the deterrent to prohibited acts that State law provides.

The majority of States have created their own alternative dispute resolution mechanisms and forums with access to auto industry expertise that provide inexpensive, efficient, and nonjudicial resolution of disputes. For example, in Wisconsin, mandatory mediation is required before the start of an administrative hearing or court action. Arbitration is also an option if both parties agree. These State dispute resolution forums, with years of experience and precedent, are greatly responsible for the small number of manufacturer-dealer lawsuits. When mandatory binding arbitration is included in dealer agreements, these specific State laws and forums established to resolve auto dealer and manufacturer disputes are effectively rendered null and void with respect to dealer agreements.

Besides losing the protection of Federal and State law and the ability to use State forums, there are numerous reasons why a dealer may not want to agree to binding arbitration. Arbitration lacks some of the important safeguards and due process offered by administrative procedures and the judicial system: 1. arbitration lacks the formal court supervised discovery process often necessary to learn facts and gain documents; 2. an arbitrator need not follow the rules of evidence; 3. arbitrators generally have no obligation to provide factual or legal discussion of the decision in a written opinion; and 4. arbitration often does not allow for judicial review.

The most troubling problem with this sort of mandatory binding arbitration is the absence of judicial review. Take for instance a dispute over a dealership termination. To that dealer, that small business person, this decision is of commercial life or death importance. Even under this scenario, the dealer would not have recourse to substantive judicial review of the arbitrators' ruling. Let me be very clear on this point; in most circumstances an arbitration award cannot be vacated, even if the arbitration panel disregarded state law that likely would have produced a different result.

The use of mandatory binding arbitration is increasing in many industries, but nowhere is it growing more steadily than the auto/truck industry. Currently, at least 11 auto and truck manufacturers require some form of such arbitration in their dealer contracts.

In recognition of this problem, many States have enacted laws to prohibit the inclusion of mandatory binding arbitration clauses in certain agreements. The Supreme Court, however, held in Southland Corp. v. Keating, 104 S. Ct. 852 (1984), that the FAA by implication preempts these State laws. This has the effect of nullifying many State arbitration laws that were designed to protect weaker parties in unequal bargaining positions from involuntarily signing away their rights.

The legislative history of the FAA indicates that Congress never intended to have the Act used by a stronger party to force a weaker party into binding arbitration. Congress certainly did not intend the FAA to be used as a tool to coerce parties to relinquish important protections and rights that would have been afforded them by the judicial system. Unfortunately, this is precisely the current situation.

Although contract law is generally the province of the States, the Supreme Court's decision in Southland Corp. has in effect made any State action on this issue moot. Therefore, along with Senator HATCH, I am introducing this bill today to ensure that dealers are not coerced into waiving their rights. Our bill, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001, would simply provide that each party to an auto or truck franchise contract has the option of selecting arbitration, but cannot be forced to do so.

The bill would not prohibit arbitration. On the contrary, the bill would encourage arbitration by making it a fair choice that both parties to a franchise contract may willingly and knowingly select. In short, this bill would ensure that the decision to arbitrate is truly voluntary and that the rights and remedies provided for by our judicial system are not waived under coercion.

In effect, if small business owners today want to obtain or keep their auto or truck franchise, they may be able to do so only by relinquishing their legal rights and foregoing the opportunity to use the courts or administrative forums. I cannot say this more strongly, this is unacceptable; this is wrong. It is at great odds with our tradition of fair play and elementary notions of justice. I therefore urge my colleagues to join in this bipartisan effort to put an end to this invidious practice.

By Mr. LIEBERMAN:

S. 1142. A bill to amend the Internal Revenue Code of 1986 to repeal the minimum tax preference for exclusion for incentive stock options; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, today I am reintroducing a proposal with regard to the perverse impact of the Alternative Minimum Tax, AMT, on Incentive Stock Options, ISOs. I previously introduced this proposal on April 30, 2001, as Section 5 of S. 798, the Productivity, Opportunity, and Prosperity Act of 2001. I am reintroducing this proposal as a separate bill to highlight the importance of this issue.

Incentive stock options and the AMT did not exist when Franz Kafka's "The Castle" was published in 1926. The book describes the relentless but futile efforts of the protagonist, K., to gain recognition from the mysterious authorities ruling from their castle a village where K. wants to establish himself. The world he inhabits is both absurd and real. Kafka's characters are trapped, and punished or threatened with punishment before they even have offended the authorities.

The AMT/ISO interaction would be one that Kafka would appreciate. In the case of ISOs an employee who receives ISOs as an incentive can be taxed on the phantom paper gains the tax code deems to exist when he or she exercises an option, and be required to pay the AMT tax on these "gains" even if the "gains" do not, in fact, exist when the tax is paid. This means the taxpayer may have no gains, no profits or assets, with which to pay the AMT and might even have to borrow funds to pay the tax or even go into default on his or her AMT liability.

This Kafkaesque situation is unfair. It is not fair to impose tax on "income" or "gains" unless the income or gains exist. With the AMT tax on ISOs, it is not relevant if the "gains" exist in a financial sense. That they exist on paper is sufficient to trigger the tax.

This situation is also inconsistent with many well-established Federal Government policies. For example, our country favors stock options as an incentive for hard-working and productive employees of entrepreneurial companies. In most cases, entrepreneurs take enormous risks, receive less compensation than employees working for established companies, and have no company-sponsored pension plan. In addition, our country favors employee-ownership of firms. This ownership gives these employees a huge stake in the success of the company and motivates them to dedicate themselves to the firm's success. Finally, our country also favors long-term investments that generate growth. We know that growth is most likely to arise when entrepreneurs take risks over the long-term and build fundamental value for their companies and shareholders and owners. The policy favoring long-term investments is reflected in the fact that capital gains incentives are available only if an investment is held for at least one year. An investment sold before the end of this "holding period" receives no capital gains benefit. The application of the AMT to ISOs is inconsistent with all three of these public policies.

Let me explain the difference between ISOs and NSOs. Incentive stock options are sanctioned by the Internal Revenue code. Under current law the employee pays no tax when he or she exercises the option and buys the company's shares at the stock option price. The company receives no tax deduction on the spread, the difference between the option price and the market price of the stock. If the employee holds the stock for two years after the grant of the option and one year after the exercise of the option, he or she pays the capital gains tax on the difference between the exercise and sale price on the sale of the stock. The tax payment is deferred until the stock is sold and the tax is paid on the real gains that are realized from the sale.

NSOs are stock options that do not satisfy the tax code requirements for ISOs. They are "non-qualifying stock options" or NSOs. With NSOs the employee is taxed immediately when the option is exercised on the spread between the grant and exercised price. This forces an employee to sell stock as soon as he or she exercise their options so that they can pay the tax on the spread. This is a zero sum game for the employee, selling the stock he or she has just bought to pay a tax on the spread. Even worse, because the stock is not "held" for one year, this tax is paid at the ordinary income tax rates, not the preferential capital gains tax rates. The company receives a business expense deduction on the spread.

If this were the whole story, it is clear that companies would tend to offer ISOs rather than NSOs to their employees. Employees would be encouraged to hold their shares for at least a year after the option is exercised, which helps to bind them to the company. They would then qualify for capital gains tax rates on the realized gains.

The problem is that ISOs come with a major liability, the application of the Alternative Minimum Tax, AMT, to the spread at the time of exercise. This tax is due to be paid even if the stock is held for the required period and even if the stock is eventually sold at a fraction of its value at the time the option is exercised. This tax at the time of exercise is inconsistent with the rule that applies to all other capital gains transactions, where the tax is paid when the gains are "realized," when the investment is sold with gains or losses. This tax at the time of exercise defeats the purpose of ISOs, forces employees to sell their stock, to pay the AMT tax, before the end of the holding period, and pay ordinary income tax rates. The difference between ordinary income tax rates and capital gains tax rates can be 15 percent or more.

The AMT tax is imposed on the spread at the time the option is exercised and it is irrelevant if the stock price at the time when the AMT tax is paid or when the stock is sold is a fraction of this price. The "gains" at the time of exercise are what count, not real gains in a financial sense when the investment is finally sold.

The application of the AMT at the time of exercise to ISOs is a major disincentive for companies to offer ISOs to their employees. The purpose of the ISO law when it was enacted by Congress back in 1981 was to encourage long-term holdings of the stock. This purpose is defeated by the AMT application at the time of exercise. Even if firms could educate their employees about the AMT liability, the fact that this tax is imposed at the time of exercise on phantom gains would remain a major disincentive for them to offer ISOs. The risks are too great that the employee will have no real gains with which to pay the tax, that employee will have to sell stock immediately at ordinary income tax rates to make sure that funds are available to pay the tax when it is due, or take the risk of holding the stock.

My understanding is that the firms that are most likely to grant ISOs are those firms that have no ability to use the corporate deduction that is available for NSOs. These are small firms with no tax liability for which the deduction is simply a tax loss carryforward with no current year value. With these firms the ISO held out the possibility of the employees receiving capital gains tax treatment of their gains. It is particularly sad that it is these firms and these employees which are feeling the brunt of the AMT/ISO problem.

The application of the AMT to ISOs is strange because long-term holdings of stock, as required by the ISO law, are classic capital gains transactions and we do not apply the AMT to the tax benefit conferred by the capital gains tax. Under the AMT only "tax preference items" enumerated in the AMT are included when the AMT calculation is made. The capital gains differential, the difference between the ordinary tax rate on income and the lower capital gains rate, is a tax benefit but that differential is not included in the AMT. Given all the problems we are now seeing with the AMT the capital gains differential should not be included as a preference item. But, by an accident of history, the AMT is still applied to ISOs. This makes no sense and it is an anomaly in the tax code. When the Congress restored the capital gains differential, and did not include it as an AMT tax preference item, we should have enacted a conforming amendment regarding the AMT and ISOs. We didn't, and we should do so now.

With the AMT applied to ISOs, taxpayers are caught in a Catch-22 situation. If they hold the stock for the required year, they can qualify for capital gains treatment on the eventual sale of the stock. But, in doing so they are taking a huge risk that the AMT tax bill will exceed the value of the stock when the AMT is paid. If the tax is too large, they may have to sell their stock before the capital gains holding period has run and pay ordinary income tax rates on any gains. This is a form of lottery that serves no public policy.

The AMT was created to ensure the rich cannot use tax shelters to avoid paying their "fair share." Taxpayers are supposed to calculate both their regular tax and the AMT bill, then pay whichever is higher. The AMT is likely to snare 1.5 million taxpayers this year and nearly 36 million by 2010. But the case with ISOs is one where the taxpayers may never see the "gains," and noneless owe a tax on them. Whatever the merits might be for the AMT for taxpayers with real gains, they have no bearing on taxpayers who may never see the gains. It is simply unfair to impose a tax on gains that exist only on paper. If the employee does realize gains, they should and will pay tax on them, but only if and when the gains are realized.

Of course, with the recent huge drop in values for some stocks, many entrepreneurs are now being hit with immense AMT tax bills on the paper gains on stocks that are now worth a fraction of the price at the time of exercise. At a townhall meeting held in California by Representative LOFGREN and Representative BOB MATSUI, Kathy Swartz, a Mountain View woman, six months pregnant and soon to sell her "dream house" because she and her husband Karl owe $2.4 million in AMT, asked, "How many victims do you need before you say it's horrible?" We are talking about taxpayers who in fact owe five- to seven-figure tax bills on gains they never realized.

My bill would change those tax rules so that the AMT no longer applies to ISOs and no tax is owed at the time when the entrepreneur exercises the option. This change would eliminate the unfair taxation of paper gains on ISOs. This would encourage long-term holdings of stock, not immediate sale of the stock as a hedge against AMT tax liability. It would do nothing to exempt entrepreneurs from paying tax on their real gains when they eventually sell the stock.

My bill would solve this problem going forward. It would not, as drafted, provide relief to the taxpayers who already have been hit with AMT taxes on phantom gains. There is a bipartisan group in the House and Senate focusing on this group of taxpayers. This group has a strong claim for relief based on the inherent unfairness of the AMT as applied to ISOs. The unfairness of this law leads me to call for reform going forward should be remedied for current, as well as future taxpayers.

Let me be clear about the cost and budget implications of my bill. The Joint Tax Committee on Taxation has found that my proposal would reduce government tax revenues by $12.412 billion over ten years. I am puzzled by this estimate, but there is no way for me to appeal it. The JTC does not provide explanations for its estimates, but I would assume that this estimate is based on the likelihood that there would be fewer tax payments at the time options are exercised as firms move from NSOs to ISOs, those employees with ISOs would not be paying the AMT, and there will be more employees who hold the stock and pay capital gains tax rates. Offsetting this, there will be fewer companies taking the deduction for NSOs. The revenue loss year-by-year is as follows: —$1.821 billion (2002), —$1.126 (2003), —$858 (2004), —$825 (2005), —$941 (2006), —$1.106 (2007), —$1.341 (2009), —$1.620 (2010), and $1.910 (2011). The loss during the 2002–2006 period is —$5.494 billion. I will not propose to enact my bill unless this sum is financed and will have no impact on the Federal budget.

I am pleased that Rep. ZOE LOFGREN (D-CA) has introduced legislation on AMT/ISO in the other body (H.R. 1487). Her bill has attracted a bipartisan group of cosponsors. I look forward to working with her and other Members to remedy this inequity in the tax code and to do so with regard to current as well as future taxpayers.

Let me note that I have proposed in S. 798 to provide a special capital gains tax rate, in fact to set a zero tax rate, for stock purchased by employees in stock option plans, by investors in Initial Public Offerings, and similar purchases of company treasury stock. This zero rate would be effective, however, only if the shares are held for at least three years, so the AMT gamble would be even more dramatic. During the first year of that holding period, the AMT would have to be paid and during the remaining period the value of the stock could well dive from the exercise price creating an even more invidious trap.

Kafka "The Castle" should remain as magnificent fiction. We have no place for taxes on phantom income and paper gains. Our taxpayers should be able to communicate effectively with the castle, not be caught in a bureaucratic nightmare that makes no sense and serves no policy.

By Mr. CAMPBELL:

S. 1143. A bill to require the Secretary of the Treasury to mint coins in commemoration of former President Ronald Reagan; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CAMPBELL. Mr. President, today I introduce the "Ronald Reagan Commemorative Coin Act of 2001."

The bill I am introducing today would accomplish two worthy goals. First, it would help honor Ronald Reagan, the 40th President of the United States. Second, it would also help raise much needed resources to help families across the United States provide care for their loved ones who have been stricken by Alzheimer's disease.

I believe that a commemorative coin program would honor Ronald Reagan's life and contributions to our Nation, while also raising funds to help American families in their day to day struggle against this terrible disease.

This legislation's worthiness and timeliness were underscored just last night when ABC televised a powerful program in which Diane Sawyer interviewed Nancy Reagan. Watching Mrs. Reagan as she so openly and eloquently shared touching insights about their ongoing struggle with Alzheimer's disease was moving. There is no doubt about the truly deep bonds that unite Ronald and Nancy Reagan and that we need to do what we can to fight the disease that has slowly taken its terrible toll on the Reagans and so many other American families.

Ronald Reagan has worn many hats in his life, including endeavors as a sports announcer, actor, governor and President of the United States. He was first elected president in 1980 and served two terms, becoming the first president to serve two full terms since Dwight Eisenhower.

Ronald Reagan's boundless optimism and deep-seated belief in the people of the United States and the American Dream helped restore our Nation's pride in itself and brought about a new "Morning in America." His challenge to Gorbachev to "tear down this wall," his successful revival of our economic power, his determination to rebuild our armed forces in order to contain the spread of communism, and his international summitry skills as seen at Reykjavik, Iceland, combined to help bring an end to the Cold War. Ronald Reagan left our Nation in much better shape than it was when he took office.

As Alzheimer's sets in, brain cells gradually deteriorate and die. People afflicted by the disease gradually lose their cognitive ability. Patients eventually become completely helpless and dependent on those around them for even the most basic daily needs. Each of the millions of Americans who is now affected will eventually, barring new discoveries in treatment, lose their ability to remember recent and past events, family and friends, even simple things like how to take a bath or turn on lights. Ronald Reagan, one of the most courageous and optimistic Presidents in American history, is no exception.

Shortly after being shot in an assassination attempt, Ronald Reagan's courage and good humor in the face of a life threatening situation were evident when he famously apologized to his wife Nancy saying "Sorry honey. I forgot to duck." Unfortunately, once Alzheimer's disease takes hold, it delivers a slow mind destroying bullet that none of us can duck to avoid. As Ronald Reagan wrote shortly after learning of his diagnosis "I only wish there was some way I could spare Nancy from this painful experience." From the moment of diagnosis, it's "a truly long, long, goodbye," Nancy Reagan said.

Fortunately for all of us, when Ronald Reagan courageously announced in such an honest and public manner that he had Alzheimer's, rather than covering it up, he did a great deal to help alleviate the negative stigma that has long faced those suffering from this terrible disease. Much of the shame and pity traditionally associated with Alzheimer's was transformed almost overnight into sympathy and understanding as public awareness suddenly shot up and those suffering from Alzheimer's, and their families, knew that they were not alone.

While Ronald Reagan's health didn't deteriorate right away, according to Mrs. Reagan, he had his good days and bad days, "just like everybody else." In recent years, however, Reagan's condition has completely deteriorated. "It's frightening and it's cruel," Nancy said, speaking of the disease and what it has done to her husband and family. "It's sad to see somebody you love and have been married to for so long, with Alzheimer's, and you can't share memories," Mrs. Reagan said.

In the introduction to a recently released book based on the touching love letters exchanged between herself and Reagan, Nancy elaborated on her sense of loss when she wrote, "You know that it's a progressive disease and that there's no place to go but down, no light at the end of the tunnel. You get tired and frustrated, because you have no control and you feel helpless." She also said, "There are so many memories that I can no longer share, which makes it very difficult."

Nancy Reagan has earned our Nation's admiration for her steadfast and loving dedication to her husband as she has watched her beloved husband slowly fade away. Likewise, families all across our Nation, day in and day out, choose to personally provide care for their loved ones suffering from Alzheimer's, rather than putting them in institutions. They deserve our respect and support.

Fortunately, Nancy Reagan has had access to vital resources that help her care for her husband. This is how it should be. Unfortunately, there are many American families out there who do not have access to these resources. This bill will help alleviate that by raising money to help American families who are struggling while providing care for their loved ones.

Fortunately, funding for Alzheimer's research has increased significantly over the past several years. Ronald Reagan's courage in coming forward and publically announcing his condition played an important role in raising public awareness of Alzheimer's and paved the way for the recent increases in research funding. This bill would complement these efforts.

Once again, the legislation I am introducing today authorizes the U.S. Mint to produce commemorative coins honoring Ronald Reagan while raising funds to help families care for their family members suffering from Alzheimer's disease. I urge my colleagues to support passage of this legislation.

Ronald Reagan's eternal optimism and deep seated belief in an even better future for our Nation was underscored when he said, "I know that for America, there will always be a bright future ahead." This bill, in keeping with this quote's spirit, will help provide for a better future for many American families.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ronald Reagan Commemorative Coin Act of 2001".

SEC. 2. COIN SPECIFICATIONS.

(a) Denominations.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) $5 gold coins.—Not more than 100,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 silver coins.—Not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) Bimetallic Coins.—The Secretary may mint and issue not more than 200,000 $10 bimetallic coins of gold and platinum instead of the gold coins required under subsection (a)(1), in accordance with such specifications as the Secretary determines to be appropriate.

(c) Legal Tender.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) Platinum and Gold.—The Secretary shall obtain platinum and gold for minting coins under this Act from available sources.

(b) Silver.—The Secretary may obtain silver for minting coins under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act and from other available sources.

SEC. 4. DESIGN OF COINS.

(a) Design Requirements.—

(1) In general.—The design of the coins minted under this Act shall—

(A) be emblematic of the presidency and life of former President Ronald Reagan;

(B) bear the likeness of former President Ronald Reagan on the obverse side; and

(C) bear a design on the reverse side that is similar to the depiction of an American eagle carrying an olive branch, flying above a nest containing another eagle and hatchlings, as depicted on the 2001 American Eagle Gold Proof coins.

(2) Designation and inscriptions.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2005"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) Design Selection.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) Quality of Coins.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) Mint Facility.—Only one facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) Period for Issuance.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 2005 and ending on December 31, 2005.

SEC. 6. SALE OF COINS.

(a) Sale Price.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) Bulk Sales.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) Prepaid Orders.—

(1) In general.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) Discount.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) Surcharges.—All sales of coins issued under this Act shall include a surcharge established by the Secretary, in an amount equal to not more than—

(1) $50 per coin for the $10 coin or $35 per coin for the $5 coin; and

(2) $10 per coin for the $1 coin.

SEC. 7. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Subject to section 5134(f) of title 31, United States Code, the proceeds from the surcharges received by the Secretary from the sale of coins issued under this Act shall be paid promptly by the Secretary to the Department of Health and Human Services to be used by the Secretary of Health and Human Services for the purposes of—

(1) providing grants to charitable organizations that assist families in their efforts to provide care at home to a family member with Alzheimer's disease; and

(2) increasing awareness and educational outreach regarding Alzheimer's disease.

(b) AUDITS.—Any organization or entity that receives funds from the Secretary of Health and Human Services under subsection (a) shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to such funds.

SEC. 8. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. LEVIN, Mr. DURBIN, and Mr. AKAKA):

S. 1144. A bill to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 ed seq.) to reauthorize the Federal Emergency Management Food and Shelter Program; and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise to introduce a bill that will re-authorize a small but highly effective program, the Emergency Food and Shelter Program, or EFS for short. The EFS program, which is administered by the Federal Emergency Management Agency, supplements community efforts to meet the needs of the homeless and hungry in all fifty States. I am very pleased that my colleagues on the Committee on Governmental Affairs, Senators COLLINS, LEVIN, DURBIN, and AKAKA, are joining me as original cosponsors of this legislation. Our committee has jurisdiction over the EFS program, and it is my hope that together we can generate even more bipartisan support for a program that makes a real difference with its tiny budget. The EFS program is a great help not only to the Nation's homeless population but also to working people who are trying to feed and shelter their families at entry-level wages. Services supplemented by the EFS funding, such as food banks and emergency rent/utility assistance programs, are especially helpful to families with big responsibilities but small paychecks.

One of the things that distinguishes the EFS program is the extent to which it relies on non-profit organizations. Local boards in counties, parishes, and municipalities across the country advertise the availability of funds, decide on non-profit and local government agencies to be funded, and monitor the recipient agencies. The local boards, like the program's National Board, are made up of charitable organizations including the National Council of Churches, the United Jewish Communities, Catholic Charities, USA, the Salvation Army, and the American Red Cross. By relying on community participation, the program keeps administrative overhead to an unusually low amount, less than 3 percent.

The EFS program has operated without authorization since 1994 but has been sustained by annual appropriations. The proposed bill will re-authorize the program for the next three years. It will also authorize modest funding increases over the amounts appropriated in recent years. A similar bill introduced by Senator THOMPSON and me in the last Congress, S. 1516, passed the Senate by Unanimous Consent.

In summary, FEMA's Emergency Food and Shelter Program is a highly efficient example of the government relying on the country's non-profit organizations to help people in innovative ways. The EFS program aids the homeless and the hungry in a majority of the Nation's counties and in all fifty States, and I ask my colleagues to support this program and our re-authorizing legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $150,000,000 for fiscal year 2002, $160,000,000 for fiscal year 2003, and $170,000,000 for fiscal year 2004.".

SEC. 2. NAME CHANGE TO NOMINATING ORGANIZATION.

Section 301(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331(b)) is amended by striking paragraph (5) and inserting the following:

"(5) United Jewish Communities.".

SEC. 3. PARTICIPATION OF HOMELESS INDIVIDUALS ON LOCAL BOARDS.

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a)) is amended by striking paragraph (6) and inserting the following:

"(6) guidelines requiring each local board to include in their membership not less than 1 homeless individual, former homeless individual, homeless advocate, or recipient of food or shelter services, except that such guidelines may waive such requirement for any board unable to meet such requirement if the board otherwise consults with homeless individuals, former homeless individuals, homeless advocates, or recipients of food or shelter services.".

By Mrs. BOXER:

S. 1145. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to encourage the hiring of certain veterans, and for other purposes; to the Committee on Finance.

Mrs. BOXER. Mr. President, I am introducing legislation to help the estimated 1.5 million veterans who are now living in poverty by giving a tax credit to those employers who hire them and put them on the road to financial independence. This idea was proposed and is supported by the National Coalition for Homeless Veterans and the Non-Commissioned Officers Association.

This legislation is based upon the current tax credit offered for employers who hire those coming off welfare. Veterans groups tell me that the current tax credit is underutilized by veterans because many are not receiving food stamps or are not on welfare. Because the bill I am introducing today bases eligibility on the poverty level, more veterans will be able to benefit from this credit.

My bill would allow employers to receive a hiring tax credit of 50 percent of the veteran's first year wages and a retention credit of 25 percent of the veteran's second year wages. Only the first $20,000 of wages per year will count toward the credit.

I offered this legislation as an amendment to the tax bill. While my amendment failed on a procedural vote, 49–50, opponents indicated that enacting this legislation would be a good thing to do. This being the case, I am hopeful that the Senate will take up and pass the bill I am introducing today in a bipartisan manner. It is the least we can do for our veterans who so bravely served our Nation and deserve our help.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Opportunity to Work Act."

SEC. 2. EXPANSION OF WORK OPPORTUNITY TAX CREDIT.

(a) IN GENERAL.—Section 51(d)(1) of the Internal Revenue Code of 1986 (relating to members of targeted groups) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following:

"(I) a qualified low-income veteran."

(b) Qualified Low-Income Veteran.—Section 51(d) of the Internal Revenue Code of 1986 (relating to members of targeted groups) is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following:

"(10) Qualified low-income veteran.—

"(A) In general.—The term 'qualified low-income veteran' means any veteran whose gross income for the taxable year preceding the taxable year including the hiring date, was below the poverty line (as defined by the Office of Management and Budget) for such preceding taxable year.

"(B) Veteran.—The term 'veteran' has the meaning given such term by paragraph (3)(B).

"(C) Special rules for determining amount of credit.—For purposes of applying this subpart to wages paid or incurred to any qualified low-income veteran—

"(i) subsection (a) shall be applied by substituting '50 percent of the qualified first-year wages and 25 percent of the qualified second-year wages' for '40 percent of the qualified first year wages', and

"(ii) in lieu of paragraphs (2) and (3) of subsection (b), the following definitions and special rule shall apply:

"(I) Qualified first-year wages.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

"(II) Qualified second-year wages.—The term 'qualified second-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subclause (I).

"(III) Only first $20,000 of wages per year taken into account.—The amount of the qualified first and second year wages which may be taken into account with respect to any individual shall not exceed $20,000 per year.".

(c) Permanence of Credit.—Section 51(c)(4) of the Internal Revenue Code of 1986 (relating to termination) is amended by inserting "(except for wages paid to a qualified low-income veteran)" after "individual".

(d) Effective Date.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

By Mr. ALLARD:

S. 1146. A bill to amend the Act of March 3, 1875, to permit the State of Colorado to use land held in trust by the State as open space; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, today I am introducing legislation to fulfill the wishes of my fellow Coloradans to allow the State to protect 300,000 acres of State land as open space.

The origins of this issue date back to 1875 when Congress passed the legislation which authorized the Territory of Colorado to form a constitution, State government and be admitted into the Union. The 1875 Enabling Act established that Sections 16 and 36 of each township in the new State would be "granted to said State for the support of common schools." The Federal directive to the State was clear: provide a sound financial basis for the long-term benefit of public schools. The Colorado State Constitution further strengthened this position and required that the new State Board of Land Commissioners manage its land holdings "in such a matter as will secure the maximum possible amount" for the public school fund.

Today, there are some three million surface acres of State trust lands which are leased for ranching, farming, oil and gas production and other uses. Some of these lands are the most beautiful parcels in the state and offer a tremendous natural resource.

Through the years, the lands have been a reliable, but a dwindling source of funds to the overall education budget. Currently, the State of Colorado spends approximately $3.5 billion annually on public schools, of this amount revenues from State trust lands account for about $22 million.

Now, however, Coloradans priorities have changed, including a strong desire to protect open space and the environment. These changes became evident in a 1996 voter approved State Constitutional Amendment which gave more flexibility in the management of the trust lands. Among other things, the Amendment established a 300,000 acre Stewardship Trust. The voters recognized that certain State trust lands may be more valuable in the future if they are kept in the trust land portfolio rather than disposed of for a short term financial gains. The lands in the new Stewardship Trust will be managed "to maximize options for continued stewardship, public use or future disposition" by protecting and enhancing the "beauty, natural values, open space and wildlife habitat" on these parcels. Further, it struck the provision requiring "maximizing revenue" and replaced it with a requirement that the land board to manage its land holdings "in order to produce reasonable and consistent income over time."

While the Amendment has withstood court challenges, it still remains that the Stewardship Trust could, in the future, cause a breach of the Enabling Act. In order to correct this potential breach, I am introducing this legislation with the full support of the State of Colorado to ensure that the wishes of the voters are upheld and the Stewardship Trust is fully implemented. There are two key points of the legislation. First, the bill allows 300,000 acres of state trust lands to be used for open space, wildlife habitat, scenic value or other natural value. Second, it exempts these lands from the requirement that they generate income for the common schools.

The Colorado State Land Board has a clear mission for implementing the Stewardship Trust: to protect the crown jewels of the state trust lands and ensure that these lands receive special protection from sale or development.

It is also clear that Colorado voters wanted to set aside 300,000 acres from potential development. I want to help the State fulfill these goals.

This is a unique bill and ensures the state's flexibility in managing the trust lands. It does not change the intent of the Stewardship Trust, just ensures that the Enabling Act and the State Constitution are consistent.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record as follows:

S. 1146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COLORADO TRUST LAND.

Section 7 of the Act of March 3, 1875 (18 Stat. 475, chapter 139) (commonly known as the "Colorado Enabling Act"), is amended by inserting before the period at the end the following: "and for use for open space, wildlife habitat, scenic value, or other natural value, regardless of whether the land generates income for the common schools as described under section 14, except that the amount of land used for natural value shall not exceed 300,000 acres".

By Mr. NICKLES:

S. 1147. A bill to amend title X and title XI of the Energy Policy Act of 1992; to the Committee on Energy and Natural Resources.

Mr. NICKLES. Mr. President, I rise today to introduce legislation, the Thorium Remediation Reauthorization Act of 2001. This bill will provide authorization for the Federal Government to pay its share of decommissioning and remediation costs for a thorium facility in West Chicago, Illinois. In a DOE proceeding, it was determined that the government is responsible for 55.2 percent of all West Chicago cleanup costs because 55.2 percent of West Chicago tailings resulted from Federal contracts. Under Title X of the Energy Policy Act of 1992 ("EPACT"), the thorium licensee pays for all West Chicago cleanup costs, and is then reimbursed, though annual appropriations, the government's share of those costs.

There is already more than a $60 million shortage in authorized funding for the Federal share of West Chicago cleanup costs. Despite that, the thorium licensee has continued to pay all decommissioning costs at the West Chicago factory site, as well as remediation costs at vicinity properties known as Reed-Keppler Park, Residential Properties, and Kress Creek. Remediation of Reed-Keppler Park was finished late last year and remediation of more than 600 Residential Properties is expected to be substantially complete by the end of this year. Decommissioning of the factory site, with the exception of groundwater, is expected to conclude in 2004. Cleanup requirements at Kress Creek have not been determined, and until those are established, the costs associated with the cleanup of that vicinity property cannot be accurately projected.

The significant costs associated with the West Chicago cleanup are a result, in large part, of extensive government use of the facility during the development of our country's nuclear defense program, including the Manhattan project. With the exception of Kress Creek and groundwater, total cleanup costs at the factory site and all vicinity properties can now be estimated with reasonable certainty. The $123 million authorized by this bill will permit the government to begin reimbursing the amount it is already in arrears to the thorium licensee. It also will provide the authorization necessary for the government to pay its share of costs, excluding costs for Kress Creek and for groundwater, that will be incurred by the licensee through completion of West Chicago cleanup.

Funding for this reauthorization would come from the General Treasury. Thus, this legislation will not diminish the availability of funds in the DOE's Decontamination and Decommissioning Fund, from which both Title X uranium licensees and the DOE's gaseous diffusion plants receive funding.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF THORIUM REIMBURSEMENT.

(a) Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended by striking "$140,000,000" and inserting "$263,000,000".

(b) Section 1003(a) of such Act (42 U.S.C. 2296a–2) is amended by striking "$490,000,000" and inserting "$613,000,000".

(c) Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1) is amended by striking "$488,333,333" and inserting "$508,833,333".

By Mr. BURNS:

S. 1148. A bill to convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the appurtenant irrigation districts; to the Committee on Energy and Natural Resources.

Mr. BURNS. Mr. President, I rise today to introduce a piece of legislation that helps a large number of family farmers on the border of Montana and North Dakota. The Lower Yellowstone Irrigation Projects Title Transfer moves ownership of these irrigation projects from Federal control to local control. Both the Bureau of Reclamation and those relying on the projects for their livelihood agree there is little value in having the Federal Government retain ownership.

I introduced this legislation in the last Congress, and continue to believe it helps us to achieve the long term goals of Montana irrigators, and the mission of the Bureau of Reclamation. Just this week I attended the confirmation hearing of John W. Keys, III, who is the designate for Commissioner of the Bureau of Reclamation. I asked his position on title transfers of irrigation projects like the Lower Yellowstone, where local irrigation districts have successfully managed the Federal properties, and where the Bureau has encouraged the transfer of title to the Districts. His response to me was very encouraging. He stated this type of title transfer "makes sense and is an opportunity to move facilities from Federal ownership to more appropriate control." He has promised to work with me and the Irrigation District to make this a reality, and I look forward to it.

The history of these projects dates to the early 1900's with the original Lower Yellowstone project being built by the Bureau of Reclamation between 1906 and 1910. The Savage Unit was added in 1947–48. The end result was the creation of fertile, irrigated land to help spur economic development in the area. To this day, agriculture is the number one industry in the area.

The local impact of the projects is measurable in numbers, but the greatest impacts can only be seen by visiting the area. About 500 family farms rely on these projects for economic substance, and the entire area relies on them to create stability in the local economy. In an area that has seen booms and busts in oil, gas, and other commodities, these irrigated lands continued producing and offering a foundation for the businesses in the area.

As we all know, the agricultural economy is not as strong as we'd like it to be, but these irrigated lands offer a reasonable return over time and are the foundation for strong communities based upon the ideals that have made this country successful. The 500 families impacted are hard working, honest producers, and I can think of no better people to manage their own irrigation projects.

Every day, we see an example of where the Federal Government is taking on a new task. We can debate the merits of these efforts on an individual basis, but I think we can all agree that while the government gets involved in new projects there are many that we can safely pass on to state or local control. The Lower Yellowstone Projects are a prime example of such an opportunity, and I ask my colleagues to join me in seeing this legislation passed as quickly as possible.

By Mr. SMITH of New Hampshire:

S. 1150. A bill to waive tolls on the Interstate System during peak holiday travel periods; to the Committee on Environment and Public Works.

Mr. SMITH of New Hampshire. Mr. President, I rise to introduce the Interstate Highway System Toll-Free Holiday Act.

As we move into this Fourth of July holiday to celebrate our nation's 225th birthday, many will do so in true American fashion by loading up the kids and the dog in the family car and heading out for a fun holiday vacation. Unfortunately, many of those family trips will quickly turn into frustration. Just as you get on the road and begin that family outing, you are greeted by a screeching halt, faced with what seems to be an endless line that is not moving. Soon, the kids will grow restless and angry. You've just reached the end of the line of the first toll booth and the delay and frustration begins. Of course, when you do finally make it to the booth, they take your money. Every holiday, no exception. I want to help make those holiday driving vacations more enjoyable by removing that toll booth frustration. My legislation will provide the much deserved relief from all of that holiday grief.

The Interstate Highway System Toll-Free Holiday Act provides that no tolls will be collected and no vehicles will be stopped at toll booths on the Interstate System during peak holiday travel periods. The exact duration of the toll waivers will be left to the States to determine, but will include, at a minimum, the entire 24 hour period of each legal Federal holiday. The bill will also authorize the Secretary of Transportation to reimburse the State, at the State's request, for lost toll revenues out of the Highway Trust Fund, which is funded by the tax that we all pay when we purchase gas for our cars. I want to keep the State highway funds whole, and, at the same time, provide relief to all those who simply want a hassle-free holiday trip.

There are currently some 2,200 miles of toll facilities on the 42,800 mile Interstate System. On peak holiday travel days, traffic increases up to 50 percent over a typical weekday. In New Hampshire last year, the I–95 Hampton toll booth had a 10 percent average increase in traffic over the four-day Fourth of July weekend compared to the previous weekend. That is equivalent to an additional 8,000 vehicles passing through this one toll booth every day. That increase in volume at the toll sites is not only an inconvenience in time and money, but also adds to safety concerns and, because vehicle emissions are higher when idling, air quality suffers. I am pleased that this bill will alleviate the headaches and problems associated with increased toll booth traffic on holidays.

This is just one of what will be a series of bills that I will be introducing, as the Ranking Member of the Environment and Public Works Committee, to address transportation needs in New Hampshire and across the Nation, as we prepare for the reauthorization of the next major comprehensive highway bill in 2003.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Highway System Toll-Free Holiday Act".

SEC. 2. WAIVER OF TOLLS ON THE INTERSTATE SYSTEM DURING PEAK HOLIDAY TRAVEL PERIODS.

(a) DEFINITIONS.—In this section, the terms "Interstate System", "public authority", "Secretary", "State", and "State transportation department" have the meanings given the terms in section 101(a) of title 23, United States Code.

(b) WAIVER.—

(1) IN GENERAL.—No tolls shall be collected, and no vehicle shall be required to stop at a toll booth, for any toll highway, bridge, or tunnel on the Interstate System during any peak holiday travel period determined under paragraph (2).

(2) PEAK HOLIDAY TRAVEL PERIODS.—For the purposes of paragraph (1), the State transportation department or the public authority having jurisdiction over the toll highway, bridge, or tunnel shall determine the number and duration of peak holiday travel periods, which shall include, at a minimum, the 24-hour period of each legal public holiday specified in section 6103(a) of title 5, United States Code.

(c) FEDERAL REIMBURSEMENT.—

(1) IN GENERAL.—For each fiscal year, upon request by a State or public authority and approval by the Secretary, the Secretary shall reimburse the State or public authority for the amount of toll revenue not collected by reason of subsection (b).

(2) REQUESTS FOR REIMBURSEMENT.—On or before September 30 of a fiscal year, each State or public authority that desires a refund described in paragraph (1) shall submit to the Secretary a request for reimbursement, based on actual traffic data, for the amount of toll revenue not collected by reason of subsection (b) during the fiscal year.

(3) USE OF REIMBURSED FUNDS.—A request for reimbursement under paragraph (2) shall include a certification by the State or public authority that the amount of the reimbursement will be used only for debt service or for operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this subsection.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1151. A bill to amend the method for achieving quiet technology specified in the National Parks Air Tour Management Act of 2000; to the Committee on Commerce, Science, and Transportation.

Mr. REID. Mr. President, I rise today along with my good friend and colleague from Nevada, Senator ENSIGN because I am deeply concerned that the Federal Aviation Administration has failed to develop the incentives for quiet technology aircraft.

The bill we are introducing today, the "Grand Canyon Quiet Technology Implementation Act," completes the Congressional mandates contained in the National Park Air Tour Management Act of 2000 which called for the implementation of "reasonably achievable" quiet technology standards for the Grand Canyon air tour operators.

Key provisions of the Act called for the Federal Aviation Administration, by April 5th of this year, to: 1. Designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology; and 2. establish corridors for commercial air tour operations by fixed-wing and helicopter aircraft that employ quiet aircraft technology, or explain to Congress why they can't. The agency has failed to comply with any of these provisions.

The Act also provides that operators employing quiet technology shall be exempted from operational flight caps. This relief is essential to the very survival of many of these air tour companies. By not complying with these Congressional mandates, the Federal Aviation Administration places the viability of the Grand Canyon air tour industry in jeopardy.

While Senator ENSIGN and I along with the air tour community have sought to work with the Federal agencies in a cooperative manner, our repeated overtures have been summarily ignored, which forces us to take further legislative action.

Our bill simply requires the Federal Aviation Administration to do its job. It identifies "reasonably achievable" quiet technology standards and provides relief for air tour operators who have spent many years and millions of dollars of their money voluntarily transitioning to quieter aircraft to help restore natural quiet to the Grand Canyon.

I would like to compliment my good friend from Arizona, Senator JOHN MCCAIN for his vision and leadership in the Senate in recognizing that quieter aircraft was the key to restoring natural quiet to the Grand Canyon. During his tenure as chairman of the Senate Commerce Committee, it was Senator MCCAIN who insisted on the quiet technology provisions contained in the National Park Air Tour Management Act of 2000. It was Senator MCCAIN who wanted to ensure that those air tour companies which already have made huge investments in current technology quiet aircraft modifications were rewarded for their initiative. It was Senator MCCAIN, an advocate for restoring natural quiet to the Grand Canyon, who took the lead in seeking to ensure that the elderly, disabled and time-constrained visitor still would be able to enjoy the magnificence of the Grand Canyon by air. The legislation we are introducing today, supports Senator MCCAIN's vision.

The National Park Air Tour Management Act of 2000 is clear. It calls for the implementation of "reasonably achievable" quiet technology incentives. Our Grand Canyon Quiet Technology Implementation legislation is based on today's best aircraft technology.

Some may ask what is "reasonably achievable?" It constitutes the following: replacing smaller aircraft with larger and quieter aircraft with more seating capacity reducing the number of flights needed to carry the same number of passengers; adding propellers on turbine-powered airplanes or main rotor blades on helicopters which reduces prop tip speeds by reducing engine RPMs; modifying engine exhaust systems with high-tech mufflers to absorb engine noise; modifying helicopter tail rotors with high-tech components for quieter operation.

These modifications typically reduce the sound generated by these aircraft by more than 50 percent.

This is what is "reasonably achievable" in aviation technology. In the year 2001, this is essentially all that can be done to make aircraft quieter. Operators which have spent millions of dollars to make these modifications, in our view, have complied with the intent of the law and deserve relief.

Let us not forget the original intent of this legislation to help restore natural quiet to the Grand Canyon and, as the 1916 Organic Act directs, to provide for the enjoyment of our national parks "in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

Air touring is consistent with the Park Service mission.

Based on current air tour restrictions, more than 1.7 million tourists will be denied access to the Grand Canyon during the next decade at a cost to air tour operators conservatively estimated at $250 million.

Senator ENSIGN and I agree that, to the extent possible and practical, that the quieter these air tour aircraft can be made to be, the better for everyone. That's why it is so important that the Grand Canyon Quiet Technology Implementation Act become the law.

I ask unanimous consent that the text of the Grand Canyon Quiet Technology Implementation Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Grand Canyon Quiet Technology Implementation Act".

SEC. 2. AMENDMENTS TO QUIET AIRCRAFT TECHNOLOGY.

(a) IN GENERAL.—Section 804 of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is amended by adding at the end the following new subsection:

"(f) ALTERNATIVE QUIET AIRCRAFT TECHNOLOGY.—

"(1) GENERAL RULE.—Notwithstanding any other provision of law, an air tour operator based in Clark County, Nevada or at the Grand Canyon National Park Airport shall be treated as having met the requirements for quiet aircraft technology that apply with respect to commercial air tour operations for tours described in subsection (b), if the air tour operator has met the following requirements:

"(A) The aircraft used by the air tour operator for such tours—

"(i) meet the requirements designated under subsection (a); or

"(ii) if not previously powered by turbine engines, have been modified to be powered by turbine engines and, after the conversion—

"(I) have a higher number of propellers (in the case of fixed-wing aircraft) or main rotor blades (in the case of helicopters) than the aircraft had before the conversion, thereby resulting in a reduction in prop or blade tip speeds and engine revolutions per minute;

"(II) have current technology engine exhaust mufflers;

"(III) in the case of helicopters, have current technology quieter tail rotors; or

"(IV) have any other modifications, approved by the Federal Aviation Administration, that significantly reduce the aircraft's sound.

"(B) The air tour operator has replaced, for use for the tours, smaller aircraft with larger aircraft that have more seating capacity, thereby reducing the number of flights needed to transport the same number of passengers.

"(C) The air tour operator can safely demonstrate, through flight testing administered by the Federal Aviation Administration that applies a sound measurement methodology accepted as standard, that the tour operator can fly existing aircraft in a manner that achieves a sound signature in the same noise range or having the same or similar sound effect as the aircraft that satisfy the requirements of subparagraph (A) or (B).

"(2) EXEMPTION FROM FLIGHT CAPS.—Any air tour operator that meets the requirements described in paragraph (1), shall be—

"(A) exempt from the operational flight allocations referred to in subsection (c) and from flight curfews and any other requirement not imposed solely for reasons of aviation safety; and

"(B) granted air tour routes that are preferred for the quality of the scenic views for—

"(i) tours from Clark County, Nevada to the Grand Canyon National Park Airport; and

"(ii) 'local loop' tours referred to in subsection (b)(2).".

(b) REINSTATEMENT OF CERTAIN AIR TOUR ROUTES.—Any air tour route from Clark County, Nevada, to the Grand Canyon National Park Airport, Tusayan, Arizona, that was eliminated, or altered in any way, by regulation or by action by the Federal Aviation Administration, on or after January 1, 2001, and before the date of enactment of this Act shall be reinstated effective as of such date of enactment and no further changes, modifications, or elimination of any other air tour route flown by an air tour company based in Clark County, Nevada or at the Grand Canyon National Park Airport, Tusayan, Arizona may be made after such date of enactment without the approval of Congress.

By Mr. CRAIG (for himself and Mrs. FEINSTEIN):

S. 1153. A bill to amend the Food Security Act of 1985 to establish a grassland reserve program to assist owners in restoring and protecting grassland; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CRAIG. Mr. President, I rise today to introduce the "Grassland Reserve Act", a bill to authorize a voluntary program to purchase permanent or 30 year easement from willing producers in exchange for protection of ranches, grasslands, and lands of high resource value. I am pleased that Senators FEINGOLD, and THOMAS, have joined as original cosponsors.

Grasslands provided critical habitat for complex plant and animal communities throughout much of North America. However, many of these lands have been, and are under pressure to be, converted to other uses, threatening and eliminating plant and animal communities unique to this continent. A significant portion of the remaining grasslands occur on working ranches. Ranchland provides important open-space buffers for animal and plant habitat. Moreover, ranching forms the economic backbone for much of rural western United States. Loss of this economic activity will invariably lead to the loss of the open space that is indispensable for plant and animal communities and for citizens who love the western style of life.

As a rancher from a rural community in Idaho, I have noticed the changes taking place in some parts of my State where, for a number of reasons, working ranchers have been sold into ranchetts leaving the landscape divided by fences and homes where cattle and wildlife once roamed. Currently, no Federal programs exist to conserve grasslands, ranches, and other lands of high resource values, other than wetlands, on a national scale. I believe the United States needs a voluntary program to conserve these lands, and the Grasslands Reserve Act does just that.

Specifically, this bill establishes the Grasslands Reserve program through the Natural Resources Conservation Service to assist owners in restoring and conserving eligible land. To be eligible to participate in the program an owner must enroll 100 contiguous acres of land west of the 90th meridian or 50 contiguous acres of land east of the 90th meridian. A maximum of 1,000,000 acres may be enrolled in the program in the form of a permanent or a 30-year easement. Land eligible for the program includes: native grasslands, working ranches, other areas that contain animal or plant populations of significant ecological value, and land that is necessary for the efficient administration of the easement.

The terms of the easements allow for grazing in a manner consistent with maintaining the viability of native grass species. All uses other than grazing, such as hay production, may be implemented according to the terms of a written agreement between the landowner and easement holder. Easements prohibit the production of row crops, and other activities that disturb the surface of the land covered by the easement. The Secretary will work with the State technical committees to establish criteria to evaluate and rank applications for easements which will emphasize support for grazing operations, plant and animal biodiversity, and native grass and shrubland under the greatest threat of conversion. The Secretary may prescribe terms to the easement outlining how the land shall be restored including duties of the land owner and the Secretary. If the easement is violated, the Secretary may require the owner to refund all or part of the payments including interest. The Secretary may also conduct periodic inspections, after providing notice to the owner, to determine that the landowner is in compliance with the terms of the easement. The easement may be held and enforced by a private conservation, land trust organization, or a State agency in lieu of the Secretary, if the Secretary determines that granting such permission will promote grassland protection and the landowner agrees.

This legislation requires the Secretary to make payments for permanent easements based on the fair market value of the land less the grazing value of the land encumbered by the easement, and for 30 year easements the payment will be 30 percent of the fair market value of the land less the grazing value of the land encumbered by the easement. Payments may be made in one lump sum or over a 10 year period. Landowners may also choose to enroll their land in a 30-year rental agreement instead of a 30-year easement where the Secretary would make thirty annual payments which approximate the value of a lump sum payment the owner would receive under a 30-year easement. The Secretary is required to assess the payment schedule every five years to make sure that the payments do approximate the value of a 30-year easement. USDA is also required to cover up to 75 percent of the cost of restoration and provide owners with technical assistance to execute the easement and restore the land.

I believe this legislation fills a need we have in our agriculture policy and I look forward to working with other members to include the Grasslands Reserve program in a responsible and balanced farm bill.

Mrs. FEINSTEIN. Mr. President, today I am pleased to join my colleague from Idaho to introduce legislation that provides fair compensation to producers and other landowners who maintain open spaces for plants and animals to thrive.

This bill creates a voluntary program authorizing the United States Department of Agriculture, USDA, to obtain either 30-year or permanent easements from landowners in exchange for a cash payment. Easements allow for grazing while maintaining the viability of native grass species. Moreover, these uses must only occur upon the conclusion of the local bird nesting season.

Vast amounts of grassland are being lost to urban development every year in large part because of economic pressures faced by ranchers, livestock producers, and other grassland owners.

Currently, there are no long-term programs to protect grasslands on a national scale. The Grassland Reserve Act provides real options to financially-strapped land owners of grasslands who wish to keep their lands in a natural state. There is a need for this bill because existing programs to protect lands, such as the Forest Legacy program, target forested lands only.

This legislation represents a win-win situation for both the environment and people who make their livelihood on grasslands. The loss of grassland is a serious problem for preserving wildlife habitat and a rural way of life. This bill is a step in the right direction to protect these lands from future development.

I have always felt that protecting our Nation's unique natural areas, including grasslands, should be one of our highest priorities. I invite my colleagues to join Senator CRAIG and me in supporting this legislation.

By Mr. LEVIN (for himself and Mr. WARNER) (by request):

S. 1155. A bill to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2002, and for other purposes; to the Committee on Armed Services.

Mr. LEVIN. Mr. President, I ask unanimous consent that the text of the President's request for Defense and the text of the bill be printed in the RECORD, including the section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2002".

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Sec. 104. Defense-Wide Activities.
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SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Army as follows:

(1) For aircraft, $1,925,491,000.

(2) For missiles, $1,859,634,000.

(3) For weapons and tracked combat vehicles, $2,276,746,000.

(4) For ammunition, $1,193,365,000.

(5) For other procurement, $3,961,737,000.

(6) For chemical agents and munitions destruction, $1,153,557,000 for—

(A) the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) and

(B) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds axe hereby authorized to be appropriated for fiscal year 2002 for procurement for the Navy as follows:

(1) For aircraft, $8,252,543,000.

(2) For weapons, including missiles and torpedoes, $1,433,475,000.

(3) For shipbuilding and conversion, $9,344,121,000.

(4) For other procurement, $4,097,576,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Marine Corps in the amount of $981,724,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement of ammunition for the Navy and Marine Corps in the amount of $457,099,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Air Force as follows:

(1) For aircraft, $10,744,458,000.

(2) For missiles, $3,233,536,000.

(3) For procurement of ammunition, $865,344,000.

(4) For other procurement, $8,158,521,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2002 for defense-wide procurement in the amount of $1,603,927,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Defense Inspector General in the amount of $1,800,000.

SEC. 106. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $267,915,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Sec. 201. Authorization of Appropriations.

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Armed Forces for research, development, test, and evaluation, as follows:

(1) For the Army, $6,693,920,000.

(2) For the Navy, $11,123,389,000.

(3) For the Air Force, $14,343,982,000.

(4) For Defense-wide research, development, test, and evaluation, $15,268,142,000, of which $217,355,000 is authorized for the Director of Operational Test and Evaluation.

(5) For the Defense Health Program, $65,304,000.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and Maintenance Funding.
Sec. 302. Working Capital Funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Acquisition of Logistical Support for Security Forces.
Sec. 305. Contract Authority for Defense Working Capital Funds.

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense, for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $21,191,680,000.

(2) For the Navy, $26,961,382,000.

(3) For the Marine Corps, $2,892,314,000.

(4) For the Air Force, $26,146,770,000.

(5) For the Defense-wide activities, $12,518,631,000.

(6) For the Army Reserve, $1,787,246,000.

(7) For the Naval Reserve, $1,003,690,000.

(8) For the Marine Corps Reserve, $144,023,000.

(9) For the Air Force Reserve, $2,029,866,000.

(10) For the Army National Guard, $3,677,359,000.

(11) For the Air National Guard, $3,867,361,000.

(12) For the Defense Inspector General, $150,221,000.

(13) For the United States Court of Appeals for the Armed Forces, $9,096,000.

(14) For Environmental Restoration, Army, $389,800,000.

(15) For Environmental Restoration, Navy, $257,517,000.

(16) For Environmental Restoration, Air Force, $385,437,000.

(17) For Environmental Restoration, Defense-wide, $23,492,000.

(18) For Environmental Restoration, Formerly Used Defense Sites, $190,255,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $49,700,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $820,381,000.

(21) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $25,000,000.

(22) For the Defense Health Program, $17,565,750,000.

(23) For Cooperative Threat Reduction programs, $403,000,000.

(24) For Overseas Contingency Operations Transfer Fund, $2,844,226,000.

(25) For Support for International Sporting Competitions, Defense, $15,800,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $1,951,986,000.

(2) For the National Defense Sealift Fund, $506,408,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2002 from the Armed Forces Retirement Home Trust Fund the sum of $71,440,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. ACQUISITION OF LOGISTICAL SUPPORT FOR SECURITY FORCES.

Section 5 of the Multinational Force and Observers Participation Resolution (Public Law 97–132; 95 Stat. 1695; 22 U.S.C. 3424) is amended by adding at the end the following new subsection:

"(d) The United States may use contractors or other means to provide logistical support to the Multinational Force and Observers under this section in lieu of providing such support through a logistical support unit comprised of members of the armed forces. Notwithstanding subsections (a) and (b) and section 7(b), support by a contractor or other means under this subsection may be provided without reimbursement, whenever the President determines that such action enhances or supports the national security interests of the United States.".

SEC. 305. CONTRACT AUTHORITY FOR DEFENSE WORKING CAPITAL FUNDS.

Contract authority in the amount of $427, 100,000, to remain available until September 30, 2002, is hereby authorized and appropriated to the Defense Working Capital Fund for the procurement, lease-purchase with substantial private sector risk, capital or operating multiple-year lease, of a capital asset, multiple-year time charter of a commercial craft or vessel and associated services.

Subtitle B—Environmental Provisions

Sec. 310. Reimburse EPA for Certain Costs in Connection with Hooper Sands Site, in South Berwick, Maine.
Sec. 311. Extension of Pilot Program for the Sale of Air Pollution Emission Reduction Incentives.
Sec. 312. Elimination of Report on Contractor Reimbursement Costs.

SEC. 310. REIMBURSE EPA FOR CERTAIN COSTS IN CONNECTION WITH HOOPER SANDS SITE, IN SOUTH BERWICK, MAINE.

(a) AUTHORITY TO REIMBURSE EPA.—Using funds described in subsection (b), the Secretary of the Navy may pay $1,005,478.00 to the Hooper Sands Special Account within the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) to reimburse the Environmental Protection Agency in full for the Remaining Past Response Costs incurred by the agency for actions taken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601, et seq.) at the Hooper Sands site in South Berwick, Maine, pursuant to an Interagency Agreement entered into by the Department of the Navy and the Enviromental Protection Agency in January 2001.

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using the amounts authorized to be appropriated by paragraph (15) of section 301 to the Enviromental Restoration, Navy account, established by section 2703(a)(3) of title 10, United States Code.

SEC. 311. EXTENSION OF PILOT PROGRAM FOR THE SALE OF AIR POLLUTION EMISSION REDUCTION INCENTIVES

Section 351(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law. 105–85; 111 Stat. 1629, 1692) is amended to read as follows:

"(2) The Secretary may carry out the pilot program during the period beginning on the date of enactment of this Act through September 30, 2003.".

SEC. 312. ELIMINATION OF REPORT ON CONTRACTOR REIMBURSEMENT COSTS.

Section 2706 of title 10, United States Code, is amended by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 315. Costs Payable to the Department of Defense and Other Federal Agencies for Services Provided to the Defense Commissary Agency.
Sec. 316. Reimbursement for Non-Commissary Use of Commissary Facilities.
Sec. 317. Commissary Contracts and Other Agencies and Instrumentalities.
Sec. 318. Operation of Commissary Stores.

SEC. 315. COSTS PAYABLE TO THE DEPARTMENT OF DEFENSE AND OTHER FEDERAL AGENCIES FOR SERVICES PROVIDED TO THE DEFENSE COMMISSARY AGENCY.

Section 2482(b)(1) of title 10, United States Code, is amended by striking "However, the Defense Commissary Agency may not pay for any such service provided by the United States Transportation Command any amount that exceeds the price at which the service could be procured through full and open competition, as such term is defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6))." and inserting "The Defense Commissary Agency may not pay for any service provided by a Defense working capital fund activity which exceeds the price at which the service could be procured through full and open competition by the Defense Commissary Agency, as such term is defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)). In determining the cost for providing such service the Defense Commissary Agency may pay a Defense working capital fund activity those administrative and handling costs it would be required to pay for the provision of such services had the Defense Commissary Agency acquired them under full and open competition. Under no circumstances will any costs associated with mobilization requirements, maintenance of readiness, or establishment or maintenance of infrastructure to support such mobilization or readiness requirements, be included in rates charged the Defense Commissary Agency.".

SEC. 316. REIMBURSEMENT FOR NON-COMMISSARY USE OF COMMISSARY FACILITIES.

(a) IN GENERAL.—Chapter 147 of title 10, United States Code, is amended by inserting at the beginning of the chapter the following new section:

"§2481. Reimbursement for non-commissary use of commissary facilities

"If a commissary facility acquired, constructed or improved (in whole or in part) with commissary surcharge revenues is used for non-commissary purposes, the Secretary of the military department concerned shall reimburse the commissary surcharge revenues for the commissary's share of the depreciated value of the facility.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 147 is amended by inserting before the item relating to section 2482 the following new item:

"2481. Reimbursement for non-commissary use of commissary facilities.".

SEC. 317. COMMISSARY CONTRACTS AND OTHER AGENCIES AND INSTRUMENTALITIES.

Section 2482(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) Where the Secretary of Defense authorizes the Defense Commissary Agency to sell limited exchange merchandise as commissary store inventory under section 2486(b)(11) of this title, the Defense Commissary Agency shall enter into a contract or other agreement to obtain such merchandise available from the Armed Service Exchanges, provided that such merchandise shall be obtained at a cost of no more than the exchange retail price less the amount of commissary surcharge authorized to be collected by section 2486 of this title. If such merchandise is procured by the Defense Commissary Agency from other than the Armed Service Exchanges, the limitations provided in section 2486(e) of this title apply.".

SEC. 318. OPERATION OF COMMISSARY STORES.

Section 2482(a) of title 10, United States Code, is amended by striking "A contract with a private person" and all that remains to the end of the subsection.

Subtitle D—Other Matters

Sec. 320. Reimbursement for Reserve Intelligence Support.
Sec. 321. Disposal of Obsolete and Excess Materials Contained in the National Defense Stockpile.

SEC. 320. REIMBURSEMENT FOR RESERVE INTELLIGENCE SUPPORT.

(a) Appropriations available to the Department of Defense for operations and maintenance may be used to reimburse National Guard and Reserve units or organizations for the pay, allowances and other expenses which are incurred by such National Guard and Reserve units or organizations when members of the National Guard or Reserve provide intelligence, including counterintelligence, support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program, the Joint Military Intelligence Program, and the Tactical Intelligence and Related Activities aggregate.

(b) Nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 321. DISPOSAL OF OBSOLETE AND EXCESS MATERIALS CONTAINED IN THE NATIONAL-DEFENSE STOCKPILE.

Subject to the conditions specified in section 10(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. §98h-1(c)), the President may dispose of the following obsolete and excess materials contained in the National Defense Stockpile in the following quantities:

Bauxite, Refractory, 40,000 short tons.
Chromium Metal, 3,512 short tons.
Iridium, 25,140 troy ounces.
Jewel Bearings, 30,273,221 pieces.
Manganese, Ferro HC, 209,074 short tons.
Palladium, 11 troy ounces.
Quartz Crystal, 216,648 pounds.
Tantalum Metal Ingot, 120,228 pounds contained tantalum.
Tantalum Metal Powder, 36,020 pounds contained tantalum.
Thorium Nitrate, 600,000 pounds.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End Strengths for Active Forces.

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2002, as follows:

(1) The Army, 480,000.
(2) The Navy, 376,000.
(3) The Marine Corps, 172,600.
(4) The Air Force, 358,800.

Subtitle B—Reserve Forces

See. 405. End Strengths for Selected Reserve.
Sec. 406. End Strengths for Reserves on Active Duty in Support of the Reserves.
Sec. 407. End Strengths for Military Technicians (Dual Status).
Sec. 408. Fiscal Year 2002 Limitation on Number of Non-Dual Status Technicians.
Sec. 409. Authorized Strengths: Reserve Officers and Senior Enlisted Members on Active Duty or Full-time National Guard Duty for Administration of the Reserves or National Guard.
Sec. 410. Increase in Authorized Strengths for Air Force Officers on Active Duty in the Grade of Major.

SEC. 405. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2002, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 87,000.

(4) The Marine Corps Reserve, 39,558.

(5) The Air National Guard of the United States, 108,400.

(6) The Air Force Reserve, 74,700.

(7) The Coast Guard Reserve, 8,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 406. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2002, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 22,974.

(2) The Army Reserve, 13,108.

(3) The Naval Reserve, 14,811.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 11,591.

(6) The Air Force Reserve, 1,437.

SEC. 407. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The Reserve Components of the Army and the Air Force are authorized strengths for military technicians (dual status) as of September 30, 2002, as follows:

(1) For the Army Reserve, 5,999.

(2) For the Army National Guard of the United States, 23,128.

(3) For the Air Force Reserve, 9,818.

(4) For the Air National Guard of the United States, 22,422.

SEC. 408. FISCAL YEAR 2002 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

The number of civilian employees who are non-dual status technicians of a reserve component of the Army or Air Force as of September 30, 2002, may not exceed the following:

(1) For the Army Reserve, 1,095.

(2) For the Army National Guard of the United States, 1,600.

(3) For the Air Force Reserve, 0.

(4) For the Air National Guard of the United States, 350.

SEC. 409. AUTHORIZED STRENGTHS: RESERVE OFFICERS AND SENIOR ENLISTED MEMBERS ON ACTIVE DUTY OR FULL-TIME NATIONAL GUARD DUTY FOR ADMINISTRATION OF THE RESERVES OR NATIONAL GUARD.

(a) IN GENERAL.—Section 12011 of title 10, United States Code, is amended by amending the body of the section to read as follows:

"(a) CEILINGS FOR FULL-TIME RESERVE COMPONENT FIELD GRADE OFFICERS.—The number of reserve officers of the reserve components of the Army, Navy, Air Force, and Marine Corps who may be on active duty in the pay grades of O-4, O-5, O-6 for duty described in sections 10211, 10302 through 10305, 123 10, or 12402 of this title, or full-time National Guard duty (other than for training) under section 502(f) of title 32, or section 708 of title 32, may not, at the end of any fiscal year, exceed a number for that grade and reserve component in accordance with the following tables:

"Army National Guard

AGR Population	0–4 (MAJ)	0–5 (LTC)	0–6 (COL)
20,000	1,500	850	325
22,000	1,650	930	350
24,000	1,790	1,010	370
26,000	1,930	1,085	385
28,000	2,070	1,160	400
30,000	2,200	1,235	405
32,000	2,330	1,305	408
34,000	2,450	1,375	411
36,000	2,570	1,445	411
38,000	2,670	1,515	411
40,000	2,770	1,580	411
42,000	2,837	1,644	411

"U.S. Army Reserve

AGR Population	0–4 (MAJ)	0–5 (LTC)	0–6 (COL)
10,000	1,390	740	230
11,000	1,529	803	242
12,000	1,668	864	252
13,000	1,804	924	262
14,000	1,940	984	272
15,000	2,075	1,044	282
16,000	2,210	1,104	291
17,000	2,345	1,164	300
18,000	2,479	1,223	309
19,000	2,613	1,282	318
20,000	2,747	1,341	327
21,000	2,877	1,400	336

"U.S. Naval Reserve

AGR Population	0–4 (MAJ)	0–5 (LTC)	0–6 (COL)
10,000	807	447	141
11,000	867	467	153
12,000	924	485	163
13,000	980	503	173
14,000	1,035	521	183
15,000	1,088	538	193
16,000	1,142	555	203
17,000	1,195	565	213
18,000	1,246	575	223
19,000	1,291	585	233
20,000	1,334	595	242
21,000	1,364	603	250
22,000	1,384	610	258
23,000	1,400	615	265
24,000	1,410	620	270

"U.S. Marine Corps Reserve

AGR Population	0–4 (MAJ)	0–5 (LTC)	0–6 (COL)
1,100	106	56	20
1,200	110	60	21
1,300	114	63	22
1,400	118	66	23
1,500	121	69	24
1,600	124	72	25
1,700	127	75	26
1,800	130	78	27
1,900	133	81	28
2,000	136	84	29
2,100	139	87	30
2,200	141	90	31
2,300	143	92	32
2,400	145	94	33
2,500	147	96	34
2,600	149	98	35

"Air National Guard

AGR Population	0–4 (MAJ)	0–5 (LTC)	0–6 (COL)
5,000	333	335	251
6,000	403	394	260
7,000	472	453	269
8,000	539	512	278
9,000	606	571	287
10,000	673	630	296
11,000	740	688	305
12,000	807	742	314
13,000	873	795	323
14,000	939	848	332
15,000	1,005	898	341
16,000	1,067	948	350
17,000	1,126	998	359
18,000	1,185	1,048	368
19,000	1,235	1,098	377
20,000	1,283	1,148	380

"U.S. Air Force Reserve

AGR Population	0–4 (MAJ)	0–5 (LTC)	0–6 (COL)
500	83	85	50
1,000	155	165	95
1,500	220	240	135
2,000	285	310	170
2,500	350	369	203
3,000	413	420	220
3,500	473	464	230
4,000	530	500	240
4,500	585	529	247
5,000	638	550	254
5,500	688	565	261
6,000	735	575	268
7,000	770	595	280
8,000	805	615	290
10,000	835	635	300

"(b) GRADE SUBSTITUTIONS FOR LOWER GRADE CEILINGS.—Whenever the number of officers serving in any grade for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade.

"(c) DETERMINATION OF AUTHORIZED CEILINGS.—If the total number of members serving in the grades prescribed in the above tables is between any two consecutive numbers in the first column of the appropriate table, the corresponding authorized strengths for each of the grades shown in that table, for that component, are determined by mathematical interpolation between the respective numbers of the two strengths. If the total numbers of members serving on AGR duty in the first column are greater or less than the figures listed in the first column of the appropriate table, the Secretary concerned shall fix the corresponding strengths for the grades shown in that table at the same proportion as reflected in the nearest limit shown in the table.

"(d) SECRETARIAL WAIVER.—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may increase the number of reserve officers that may be on active duty or full-time National Guard duty in a controlled grade authorized pursuant to subsection (a) for the current fiscal year for any of the Reserve components by a number equal to not more than 5% of the authorized strength in that controlled grade.".

(b) IN GENERAL.—Section 12012 of title 10, United States Code, is amended by amending the body of the section to read as follows:

C4 (a) CEILINGS FOR FULL-TIME RESERVE COMPONENT SENIOR ENLISTED MEMBERS.—The number of enlisted members in pay grades of E-8 and E-9 for who may be on active duty under section 10211 or 12310, or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not, at the end of any fiscal year, exceed a number determined in accordance with the following tables:

"Army National Guard

AGR Population	E–8 (MSG)	E–9 (SGM)
20,000	1,650	550
22,000	1,775	615
24,000	1,900	645
26,000	1,945	675
28,000	1,945	705
30,000	1,945	725
32,000	1,945	730
34,000	1,945	735
36,000	1,945	738
38,000	1,945	741
40,000	1,945	743
42,000	1,945	743

"U.S. Army Reserve

AGR Population	E–8 (MSG)	E–9 (SGM)
10,000	1,052	154
11,000	1,126	168
12,000	1,195	180
13,000	1,261	191
14,000	1,327	202
15,000	1,391	213
16,000	1,455	224
17,000	1,519	235
18,000	1,583	246
19,000	1,647	257
20,000	1,711	268
21,000	1,775	278

"U.S. Naval Reserve

AGR Population	E–8 (SCPO)	E–9 (MCPO)
10,000	340	143
11,000	364	156
12,000	386	169
13,000	407	182
14,000	423	195
15,000	435	208
16,000	447	221
17,000	459	234
18,000	471	247
19,000	483	260
20,000	495	273
21,000	507	286
22,000	519	299
23,000	531	312
24,000	540	325

"U.S. Marine Corps Reserve

AGR Population	E–8 (IST SGT)	E–9 (SGTMAJ)
1,100	50	11
1,200	55	12
1,300	60	13

"U.S. Marine Corps Reserve—Continued

AGR Population	E–8 (IST SGT)	E–9 (SGTMAJ)
1,400	65	14
1,500	70	15
1,600	75	16
1,700	80	17
1,800	85	18
1,900	89	19
2,000	93	20
2,100	96	21
2,200	99	22
2,300	101	23
2,400	103	24
2,500	105	25
2,600	107	26

"Air National Guard

AGR Population	E–8 (SMSGT)	E–9 (CMSGT)
5,000	1,020	405
6,000	1,070	435
7,000	1,120	465
8,000	1,170	490.
9,000	1,220	510
10,000	1,270	530
11,000	1,320	550
12,000	1,370	570
13,000	1,420	589
14,000	1,470	608
15,000	1,520	626
16,000	1,570	644
17,000	1,620	661
18,000	1,670	678
19,000	1,720	695
20,000	1,770	712

"U.S. Air Force Reserve

AGR Population	E–8 (SMSGT)	F–9 (CMSGT)
500	75	40
1,000	145	75
1,500	208	105
2,000	270	130
2,500	325	150
3,000	375	170
3,500	420	190
4,000	460	210
4,500	495	230
5,000	530	250
05,500	565	270
6,000	600	290
7,000	670	330
8,000	740	370
10,000	800	400

"(b) GRADE SUBSTITUTION FOR LOWER GRADE CEILINGS.—Whenever the number of members serving in pay grade E–9 for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for pay grade E–8.

"(c) DETERMINATION OF AUTHORIZED CEILINGS.—If the total number of members serving in the grades prescribed in the above tables is between, any two consecutive numbers in the first column of the appropriate table, the corresponding authorized strengths for each of the grades shown in that table, for that component, are determined by mathematical interpolation between the respective numbers of the two strengths. If the total numbers of members serving on AGR duty in the first column are greater or less than the figures listed in the first column of the appropriate table, the Secretary concerned shall fix the corresponding strengths for the grades shown in that table at the same proportion as reflected in the nearest limit shown in the table.

"(d) SECRETARIAL WAIVER.—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may increase the number of senior reserve enlisted members that may be on active duty or full-time National Guard duty in a controlled grade authorized pursuant to subsection (a) for the current fiscal year for any of the Reserve components by a number equal to not more than 5% of the authorized strength in that controlled grade.".

SEC. 410. INCREASE IN AUTHORIZED STRENGTHS FOR AIR FORCE OFFICERS ON ACTIVE DUTY IN THE GRADE OF MAJOR.

The table in section 523(a)(1) of title 10, United States Code, is amended by striking the figures under the heading "Major" relating to the Air Force and inserting the following:

"9,861
"10,727
"11,593
"12,460
"13,326
"14,192
"15,058
"15,925
"16,792
"17,657
"18,524
"19,389
"20,256
"21,123
"21,989
"22,855
"23,721
"24,588
"25,454.".

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Elimination of Certain Medical and Dental Requirements for Army Early-Deployers.
Sec. 502. Medical Deferment of Mandatory Retirement or Separation.
Sec. 503. Officer in Charge; United States Navy Band.
Sec. 504. Removal of Requirement for Certification for Certain Flag Officers to Retire in Their Highest Grade.
Sec. 505. Three-Year Extension of Certain Force Drawdown Transition Authorities Relating to Personnel Management and Benefits.
Sec. 506. Judicial Review of Selection Boards.

SEC. 501. ELIMINATION OF CERTAIN MEDICAL AND DENTAL REQUIREMENTS FOR ARMY EARLY-DEPLOYERS.

Section 1074a of title 10, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 502. MEDICAL DEFERMENT OF MANDATORY RETIREMENT OR SEPARATION.

Section 640 of title 10, United States Code, is amended——

(1) by inserting "(a)" at the beginning of the paragraph;

(2) by striking "cannot" and inserting "may not"; and

(3) by adding at the end the following new subparagraph (b):

"(b) An officer whose mandatory retirement or separation under this chapter or chapter 63 of this title is subject to deferral under this section, may be extended for a period not to exceed 30 days following completion of the evaluation requiring hospitalization or medical observation.".

SEC. 503. OFFICER IN CHARGE; UNITED STATES NAVY BAND.

(a) DETAIL AND GRADE.—Chapter 565 of title 10, United States Code, is amended by inserting after section 6221 the following new section:

§ 6221a. United States Navy Band: officer in charge

"An officer serving in a grade not below lieutenant commander may be detailed as Officer in Charge of the United States Navy Band. While so serving, an officer who holds a grade lower than captain shall hold the grade of captain if he is appointed to that grade by the President, by and with the advice and consent of the Senate. Such appointment may occur notwithstanding the limitation of subsection 5596(d) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 565 is amended by inserting after the item referring to section 6221 the following new item:

"6221a. United States Navy Band: officer in charge.".

SEC. 504. REMOVAL OF REQUIREMENT FOR CERTIFICATION FOR CERTAIN FLAG OFFICERS TO RETIRE IN THEIR HIGHEST GRADE.

Section 1370(c)(1) of title 10, United States Code, is amended——

(1) by striking "certifies in writing to the President and Congress" and inserting "determines in writing"; and

(2) by adding at the end of the paragraph the following new sentence:

"The Secretary of Defense shall issue regulations to implement this paragraph.".

SEC. 505. THREE-YEAR EXTENSION OF CERTAIN FORCE DRAWDOWN TRANSITION AUTHORITIES RELATING TO PERSONNEL MANAGEMENT AND BENEFITS.

(a) EXTENSION OF EARLY RETIREMENT AUTHORITY FOR ACTIVE DUTY MEMBERS.—Section 4403(i) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1293 note) is amended by striking "October 1, 2001 "and inserting "October 1, 2004".

(b) EXTENSION OF AUTHORITY FOR SPECIAL SEPARATION BENEFIT AND VOLUNTARY EARLY SEPARATION INCENTIVE.—(I) Section 1174a(h)(1) of title 10, United States Code, is amended by striking "December 31, 2001" and inserting "September 30, 2004".

(2) Section 1175(d)(3) of such title is amended by striking "December 31, 2001 and inserting "September 30, 2004".

(c) EXTENSION OF AUTHORITY FOR SELECTIVE EARLY RETIREMENT BOARDS.—Section 63 8a(a) of such title is amended by striking "December 31, 2001 " and inserting "September 30, 2004".

(d) TIME-IN-GRADE REQUIREMENT FOR RETENTION OF GRADE UPON VOLUNTARY RETIREMENT.—(I) Section 1370(a)(2)(A) of such title is amended by striking "December 31, 2001" and inserting "September 30, 2004".

(2) Section 1370(d)(5) of such title is amended by striking "December 31, 2001 and inserting "September 30, 2004".

(e) MINIMUM COMMISSIONED SERVICE FOR VOLUNTARY RETIREMENT AS AN OFFICER.—

(1) ARMY.—Section 3911(b) of such title is amended by striking "December 31, 2001" and inserting "September 30, 2004".

(2) NAVY.—Section 6323(a)(2) of such title is amended by striking "December 31, 2001" and inserting "September 30, 2004".

(3) AIR FORCE.—Section 8911(b) of such title is amended by striking "December 31, 2001" and inserting "September 30, 2004".

(f) TRAVEL, TRANSPORTATION, AND STORAGE BENEFITS.—(1) Section 404(c)(1)(C) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "September 30, 2004".

(2) Section 404(f)(2)(B)(v) of such title is amended by striking "December 31, 2001" and inserting "September 30, 2004".

(3) Section 406(a)(2)(B)(v) of such title is amended by striking "December 31, 2001" and inserting "September 30, 2004".

(4) Section 406(g)(1)(C) of such title is amended by striking "December 31, 2001" and inserting "September 30, 2004".

(5) Section 503(c)(1) of the National Defense Authorization Act for Fiscal Year 1991 (37 U.S.C. 406 note) is amended by striking “December 31, 2001 “and inserting “September 30, 2004”.

(g) Educational Leave for Public and Community Service.—Section 4463(f) of the National Defense Authorization Art for Fiscal Year 1993 (10 U.S.C. 1143a note) is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(h) Transitional Health Benefits.—Section 1145 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking “December 31, 2001” and inserting “September 30, 2004”.

(2) in subsection (c)(1), by striking “December 31, 2001” and inserting “September 30, 2004”.

(3) in subsection (e), by striking “December 31, 2001” and inserting “September 30, 2004”.

(i) Transitional Commissary and Exchange Benefits.—Section 1146 of such title is amended by striking “December 31, 2001” both places it appears and inserting “September 30, 2004”.

(j) Transitional Use of Military Housing.—Section 1147(a) of such title is amended—

(1) in paragraph (1), by striking “December 31, 2001” and inserting “September 30, 2004”.

(2) in paragraph (2), by striking “December 31, 2001” and inserting “September 30, 2004”.

(k) Continued Enrollment of Dependents in Defense Dependents Education System.—Section 1407(c)(1) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(c)(1)) is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(l) Force Reduction Transition Period Definition.—Section 4411 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(m) Temporary Special Authority for Force Reduction Period Retirements.—Section 4416(b)(1) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking “October 1, 2001” and inserting “October 1, 2004”.

(n) Retired Pay for Non-regular Service.—(1) Section 12731(f) of title 10, United States Code, is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(2) Section 12731a of such title is amended—

(A) in subsection (a)(1)(B), by striking “the end of the period described in subsection (b)” and inserting “October 1, 2004”.

(B) in subsection (b), by striking “December 31, 2001” and inserting “October 1, 2004”.

(o) Affiliation with Guard and Reserve Units; Waiver of Certain Limitations.—Section 1150(a) of such title is amended by striking “December 31, 2001” and inserting “‘September 30, 2004”.

(p) Reserve Montgomery GI Bill.—Section 16133(b)(1)(B) of such title is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

SEC. 506. REVIEW OF ACTIONS OF SELECTION BOARDS.

(a) In General.—Chapter 79 of title 10, United States Code, is amended by adding at the end the following:

“§ 1558. Exclusive remedies in cases involving selection boards

“(a) Correction of Military Records.—The Secretary concerned may correct a person's military records in accordance with a recommendation made by a special board. Any such correction shall be effective, retroactively, as of the effective date of the action taken on a report of a previous selection board that resulted in the action corrected in the person's military records.

“(b) Relief Associated with Corrections of Certain Actions.—(1) The Secretary concerned shall ensure that a person receives relief under paragraph (2) or (3), as the person may elect, if the person—

“(A) was separated or retired from an armed force, or transferred to the retired reserve or to inactive status in a reserve component, as a result of a recommendation of a selection board; and

“(B) becomes entitled to retention on or restoration to active duty or active status in a reserve component as a result of a correction of the person's military records under subsection (a).

“(2)(A) With the consent of a person referred to in paragraph (1), the person shall be retroactively and prospectively restored to the same status, rights, and entitlements (less appropriate offsets against back pay and allowances) in the person's armed force as the person would have had if the person had not been selected to be separated, retired, or transferred to the retired reserve or to inactive status in a reserve component, as the case may be, as a result of an action corrected under subsection (a). An action under this subparagraph is subject to subparagraph (B).

“(B) Nothing in subparagraph (A) shall be construed to permit a person to be on active duty or in an active status in a reserve component after the date on which the person would have been separated, retired, or transferred to the retired reserve or to inactive status in a reserve component if the person had not been selected to be separated, retired, or transferred to the retired reserve or to inactive status in a reserve component, as the case may be, in an action of a selection board that is corrected under subsection (a).

“(3) If the person does not consent to a restoration of status, rights, and entitlements under paragraph (2), the person shall receive back pay and allowances (less appropriate offsets) and service credit for the period beginning on the date of the person's separation, retirement, or transfer to the retired reserve or to inactive status in a reserve component, as the case may be, and ending on the earlier of—

“(A) the date on which the person would have been so restored under paragraph (2), as determined by the Secretary concerned; or

“(B) the date on which the person would otherwise have been separated, retired, or transferred to the retired reserve or to inactive status in a reserve component, as the case may be.

“(c) Finality of Unfavorable Action.—If a special board makes a recommendation not to correct the military records of a person regarding action taken in the case of that person on the basis of a previous report of a selection board, the action previously taken on that report shall be considered as final as of the date of the action taken on that report.

“(d) Regulations.—(1) The Secretary concerned may prescribe regulations to carry out this section (other than subsection (e)) with respect to the armed force or armed forces under the jurisdiction of the Secretary.

“(2) The Secretary may prescribe in the regulations the circumstances under which consideration by a special board may be provided for under this section, including the following:

“(A) The circumstances under which consideration of a person's case by a special board is contingent upon application by or for that person.

“(B) Any time limits applicable to the filing of an application for consideration.

“(3) Regulations prescribed by the Secretary of a military department under this subsection shall be subject to the approval of the Secretary of Defense.

“(e) Judicial Review.—(1) A person challenging for any reason the action or recommendation of a selection board, or the action taken by the Secretary concerned on the report of a selection board, is not entitled to relief in any judicial proceeding unless the person has first been considered by a special board under this section or the Secretary concerned has denied such consideration.

“(2) A court of the United States may review a determination by the Secretary concerned under this section not to convene a special board. A court may set aside such determination only if it finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law. If a court sets aside a determination not to convene a special board, it shall remand the case to the Secretary concerned, who shall provide for consideration of the person by a special board under this section.

“(3) A court of the United States may review the recommendation of a special board convened under this section and any action taken by the Secretary concerned on the report of such special board. A court may set aside such recommendation or action, as the case may be, only if it finds that the recommendation or action was contrary to law or involved a material error of fact or a material administrative error. If a court sets aside the recommendation of a special board, it shall remand the case to the Secretary concerned, who shall provide for reconsideration of the person by another special board. If a court sets aside the action of the Secretary concerned on the report of a special board, it shall remand the case to the Secretary concerned for a new action on the report of the special board.

“(f) Exclusivity of Remedies.—Notwithstanding any other provision of law, but subject to subsection (g), the remedies provided under this section are the only remedies available to a person for correcting an action or recommendation of a selection board regarding that person or an action taken on the report of a selection board regarding that person.

“(g) Existing Jurisdiction.—(1) Nothing in this section limits the jurisdiction of any court of the United States under any provision of law to determine the validity of any statute, regulation, or policy relating to selection boards, except that, in the event that any such statute, regulation, or policy is held invalid, the remedies prescribed in this section shall be the sole and exclusive remedies available to any person challenging the recommendation of a special board on the basis of the invalidity.

“(2) Nothing in this section limits authority to correct a military record under section 1552 of this title.

“(h) Timeliness of Action.—(1) For the purposes of subsection (e)—

“(A) If, not later than six months after receipt of a complete application for consideration by a special board, the Secretary concerned shall have neither convened a special board nor denied consideration by a special board, the Secretary shall be deemed to have been denied such consideration.

"(B) If, not later than one year after the convening of a special board, the Secretary concerned shall not have taken final action on the report of such board, the Secretary shall be deemed to have denied relief to the person applying for consideration by the board.

"(2) Under regulations prescribed in accordance with subsection (d), the Secretary concerned may exclude an individual application from the time limits prescribed in this subsection if the Secretary determines that the application warrants a longer period of consideration. The authority of the Secretary of a military department under this paragraph may not be delegated.

"(i) Inapplicability to Coast Guard.—This section does not apply to the Coast Guard when it is not operating as a service in the Navy.

"(j) Definitions.—In this section:

"(1) The term 'special board'—

"(A) means a board that the Secretary concerned convenes under any authority to consider whether to recommend a person for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component instead of referring the records of that person for consideration by a previously convened selection board which considered or should have considered that person;

"(B) includes a board for the correction of military or naval records convened under section 1552 of this title, if designated as a special board by the Secretary concerned; and

"(C) does not include a promotion special selection board convened under section 628 or 14502 of this title.

"(2) The term 'selection board'—

"(A) means a selection board convened under section 573(c), 580, 580a, 581, 611(b), 637, 638, 638a, 14101(b), 14701, 14704, or 14705 of this title, and any other board convened by the Secretary concerned under any authority to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, or retention in the armed forces or for separation, retirement, or transfer to inactive status in a reserve component for the purpose of reducing the number of persons serving in the armed forces; and

"(B) does not include—

"(i) a promotion board convened under section 573(a), 611(a), or 14101(a) of this title;

"(ii) a special board;

"(iii) a special selection board convened under section 628 of this title; or

"(iv) a board for the correction of military records convened under section 1552 of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter 79 is amended by adding at the end the following:

"1558. Exclusive remedies in cases involving selection boards.".

(c) Special Selection Boards.—Section 628 of such title is amended—

(1) by redesignating subsection (g) as subsection (j); and

(2) by inserting after subsection (f) the following new subsections:

"(g) Limitations of Other Jurisdiction.—No official or court of the United States may—

"(1) consider any claim based to any extent on the failure of an officer or former officer of the armed forces to be selected for promotion by a promotion board until—

"(A) the claim has been referred by the Secretary concerned to a special selection board convened under this section and acted upon by that board and the report of the board has been approved by the President; or

"(B) the claim has been rejected by the Secretary concerned without consideration by a special selection board; or

"(2) except as provided in subsection (h), grant any relief on such a claim unless the officer or former officer has been selected for promotion by a special selection board convened under this section to consider the officer's claim and the report of the board has been approved by the President.

"(h) Judicial Review.—(1) A court of the United States may review a determination by the Secretary concerned under subsection (a)(1) or (b)(1) not to convene a special selection board. If a court finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law, it shall remand the case to the Secretary concerned, who shall provide for consideration of the officer or former officer by a special selection board under this section.

"(2) A court of the United States may review the action of a special selection board convened under this section on a claim of an officer or former officer and any action taken by the President on the report of the board. If a court finds that the action was contrary to law or involved a material error of fact or a material administrative error, it shall remand the case to the Secretary concerned, who shall provide for reconsideration of the officer or former officer by another special selection board.

"(i) Existing Jurisdiction.—(1) Nothing in this section limits the jurisdiction of any court of the United States under any provision of law to determine the validity of any statute, regulation, or policy relating to selection boards, except that, in the event that any such statute, regulation, or policy is held invalid, the remedies prescribed in this section shall be the sole and exclusive remedies available to any person challenging the recommendation of a selection board on the basis of the invalidity.

"(2) Nothing in this section limits the authority of the Secretary of a military department to correct a military record under section 1552 of this title.".

(c) Effective Date and Applicability.—(1) The amendments made by this section shall take effect on the date of the enactment of this Act and, except as provided in paragraph (2), shall apply with respect to any proceeding pending on or after that date without regard to whether a challenge to an action of a selection board of any of the Armed Forces being considered in such proceeding was initiated before, on, or after that date.

(2) The amendments made by this section shall not apply with respect to any action commenced in a court of the United States before the date of the enactment of this Act.

Subtitle B—Reserve Component Personnel Policy

Sec. 511. Retirement of Reserve Personnel.
Sec. 512. Amendment to Reserve PERSTEMPO Definition.
Sec. 513. Individual Ready Reserve Physical Examination Requirement.
Sec. 514. Benefits and Protections for Members in a Funeral Honors Duty Status.
Sec. 515. Funeral Honors Duty Performed by Members of the National Guard.
Sec. 516. Strength and Grade Ceiling Accounting for Reserve Component Members on Active Duty in Support of a Contingency Operation.
Sec. 517. Reserve Health Professionals Stipend Program Expansion.
Sec. 518. Reserve Officers on Active Duty for a Period of Three Years or Less.
Sec. 519. Active Duty End Strength Exemption for National Guard and Reserve Personnel Performing Funeral Honors Functions.
Sec. 520. Clarification of Functions That May Be Assigned to Active Guard and Reserve Personnel on Full-Time National Guard Duty.
Sec. 521. Authority for Temporary Waiver of the Requirement for a Baccalaureate Degree for Promotion of Certain Reserve Officers of the Army.
Sec. 522. Authority of the President to Suspend Certain Laws Relating to Promotion, Retirement and Separation; Duties.

SEC. 511. RETIREMENT OF RESERVE PERSONNEL.

(a) Retired Reserve.—Section 10154(2) of title 10, United States Code, is amended by striking "upon their request".

(b) Retirement for Failure of Selection of Promotion.—(1) Section 14513 of such title 10 is amended—

(A) in the heading, by inserting "or retirement" after 'Separation"; and

(B) in paragraph (2), by striking "and applies" and inserting "unless the officer requests not to be transferred to the Retired Reserve" before the semicolon.

(2) The table of sections at the beginning of chapter 1407 of such title 10 is amended by striking the item relating to section 14513 and inserting the following new item:

"14513. Separation or retirement for failure of selection for promotion.".

(c) Retirement for Years of Service or After Selection for Early Removal.—Section 14514 of such title 10 is amended—

(1) in paragraph (1), by striking "and applies" and inserting "unless the officer requests not to be transferred to the Retired Reserve" before the semicolon; and

(2) in paragraph (2), by striking "does not apply for such transfer" and inserting "has requested not to be transferred to the Retired Reserve" after "is not qualified or".

(d) Retirement for Age.—Section 14515 of such title 10 is amended—

(1) in paragraph (1), by striking "and applies" and inserting "unless the officer requests not to be transferred to the Retired Reserve" before the semicolon; and

(2) in paragraph (2), by striking "does not apply for transfer" and inserting "has requested not to be transferred" following "is riot qualified or".

(e) Discharge or Retirement of Warrant Officers for Years of Service or Age.—(1) Chapter 1207 of such title 10 is amended by adding at the end the following new section:

"12244. Warrant officers: discharge or retirement for years of service or for age

"Each reserve warrant officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

"(1) be transferred to the Retired Reserve, if the warrant officer is so qualified for such transfer, unless the warrant officer requests not to be transferred to the Retired Reserve; or

"(2) if the warrant officer is not qualified for such transfer or requests not to be transferred to the Retired Reserve, be discharged.".

(2) The table of sections at the beginning of such chapter 1207 of title 10 is amended by adding at the end the following new item:

"12244. Warrant officers: discharge or retirement for years of service or for age.".

(f) Discharge, or Retirement of Enlisted Members for Years of Service or Age.—(1) Chapter 1203 of such title 10 is amended by adding, at the end the following new section:

"12108. Enlisted members: discharge or retirement for years of service or for age

"Each reserve enlisted member of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretarv concerned shall—

"(1) be transferred to the Retired Reserve, if the member is so qualified for such transfer, unless the member requests not to be transferred to the Retired Reserve; or

"(2) if the member is not qualified for such transfer or requests not to be transferred to the Retired Reserve, be discharged.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"12108. Enlisted members: discharge or retirement for years of service or for age.".

SEC. 512. AMENDMENT TO RESERVE PERSTEMPO DEFINITION.

Section 991(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "active" before "service" and adding at the end the following new sentence:

"For the purpose of this definition, the housing in which a member of a reserve component resides is either the housing the member normally occupies when on garrison duty or the member's permanent civilian residence.";

(2) by striking paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3) respectively; and

(4) in paragraph (3) (as redesignated), by striking "in paragraphs (1) and (2)." and inserting "in paragraph (1).".

SEC. 513. INDIVIDUAL READY RESERVE PHYSICAL EXAMINATION REQUIREMENT.

Section 10206 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "Ready Reserve" and inserting "Selected Reserve";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection:

"(b) As determined by the Secretary concerned, each member of the Individual Ready Reserve or Inactive National Guard shall be provided a physical examination, if required—

"(1) to determine the member's fitness for military duty; or

"(2) for promotion, attendance at a military school or other career progression requirements.".

SEC. 514. BENEFITS AND PROTECTIONS FOR MEMBERS IN A FUNERAL HONORS DUTY STATUS.

(a) Persons Subject to the Uniformed Code of Military Justice.—Section 802 of title 10, United States Code, is amended—

(1) in subsection (a)(3), by inserting "or in a funeral honors duty status" after "on inactive-duty training"; and

(2) in subsection (d)(2)(B), by inserting "or in a funeral honors duty status" after "on inactive-duty training".

(b) Benefits for Dependents of a Deceased Reserve Component Member.—Section 1061 of such title 10 is amended—

(1) in subsection (b)(1), by striking "or" the first time it appears and inserting ", or funeral honors duty" before the semicolon; and

(2) in subsection (b)(2), by striking "or" the first time it appears and inserting ", or funeral honors duty" before the period.

(c) Payment of a Death Gratuity.—(1) Section 1475(a) of such title 10 is amended—

(A) by redesignating paragraphs (3), (4) and (5) as paragraphs (4), (5) and (6), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

"(3) a Reserve of an armed force who dies while performing funeral honors duty;"; and

(C) in paragraph (4) (as redesignated in subsection (c)(1)) by—

(i) striking "or" both time it appears;

(ii) inserting "or funeral honors duty" after "Public Health Service),";

(iii) inserting a comma before and after "inactive duty training" the second time it appears in the sentence; and

(iv) inserting "or funeral honors duty" before the semicolon.

(2) Section 1476(a) of such title 10 is amended—

(A) in paragraph (1)(A), by striking "or";

(B) in paragraph (1)(B), by striking the period and inserting "; or";

(C) by adding at the end of paragraph (1) the following new subparagraph:

"(C) funeral honors duty."; and

(D) in paragraph (2)(A), by striking "or" the first time it appears and inserting ", or funeral honors duty" after "inactive-duty training".

(d) Military Authority for Members of the Coast Guard Reserve.—Section 704 of title 14, United States Code, is amended by—

(1) striking "or" the first time it appears in the second sentence; and

(2) inserting ", or funeral honors duty" after "inactive-duty training".

(E) Benefits for Members of the Coast Guard Reserve.—Section 705(a) of such title 14 is amended by inserting "on funeral honors duty," after "on inactive-duty training,".

(f) Definitions.—Section 101 of title 38, United States Code, is amended—(1) in paragraph (24), by striking "and" following "aggravated in the line of duty," and inserting ", and any period of funeral honors duty during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty" before the period; and

(2) by adding at the end the following new paragraph:

"(34) The term "Funeral Honors Duty" means—

"(A) duty prescribed for Reserves by the Secretary concerned under section 12503 of title 10 to prepare for or perform funeral honors functions at the funeral of a veteran;

" (B) in the case of members of the Army National Guard or Air National Guard of any State, duty under section 115 of title 32 to prepare for or perform funeral honors functions at the funeral of a veteran; and

"(C) Authorized travel to and from such duty.".

SEC. 515. FUNERAL HONORS DUTY PERFORMED BY MEMBERS OF THE NATIONAL GUARD.

Section 1491 (b) of title 10, United States Code, is amended by inserting after paragraph (2) the following new paragraph:

"(3) A member of the Army National Guard of the United States or Air National Guard of the United States who serves as a member of a funeral honors detail while serving in a duty status authorized under state law shall be considered to be a member of the armed forces for the purpose of fulfilling the two member funeral honors detail requirement in paragraph (2).".

SEC. 516. STRENGTH AND GRADE CEILING ACCOUNTING FOR RESERVE COMPONENT MEMBERS ON ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION.

(a) Active Duty Strength Accounting— Section 11 5(c) of title 10, United States Code is amended—

(1) in subparagraph (1), by striking "and" at the end of the subparagraph;

(2) in subparagraph (2), by striking the period and adding "; and" at the end of the subparagraph; and

(3) by adding the following new subparagraph:

"(3) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to the number of members of the reserve components on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.".

(b) Increase in Authorized Daily Average for Members in Pay Grades E–8 and E–9 on Active Duty Under Certain Circumstances.—Section 517 of such title 10 is amended at the end by adding the following new paragraph:

"(d) The Secretary of Defense may increase the authorized daily average number of enlisted members on active duty in an armed force in pay grades E–8 and E–9 in a fiscal year pursuant to subsection (a) by the number of enlisted members of a reserve component in that armed force in the pay grades of E–8 and E–9 on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title,".

(c) Increase in Authorized Strengths for Commissioned Officers in Pay Grades O–4, O–5 and O–6 on Active Duty Under Certain Circumstances.—Section 523 of such title 10 is amended——

(1) in paragraphs (a)(1) and (a)(2), by striking "subsection (c)" and inserting subsections (c) and (e)"; and

(2) by adding at the end the following new subsection:

"(e) The Secretary of Defense may increase the authorized total number of commissioned officers serving on active duty at the end of any fiscal year pursuant to subsection (a) by the number of commissioned officers of a reserve component of the Army, Navy, Air Force, or Marine Corps on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.".

(d) Increase, in Authorized Strengths for General and Flag Officers on Active Duty Under Certain Circumstances.—Section 526(a) of such title 10 is amended by——

(1) striking "the" the first time it appears;

(2) inserting "(1) Except as provided in paragraph (2), the" following "Limitations.——";

(3) redesignating paragraphs (1), (2), (3) and (4) as subparagraphs (A), (B), (C) and (D), respectively; and

(4) inserting after subparagraph (D) (as redesignated by section (d)(3)) the following new paragraph:

"(2) The Secretary of Defense may increase the number of general and flag officers on active duty pursuant to paragraph (1) by the number of reserve component general and flag officers on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.".

SEC. 517. RESERVE HEALTH PROFESSIONALS STIPEND PROGRAM EXPANSION.

(a) PURPOSE OF PROGRAM.—Section 16201(a) of title 10, United States Code, is amended to read as follows:

"(a) ESTABLISHMENT OF PROGRAM.—For the purposes of obtaining adequate numbers of commissioned officers in the reserve components who are qualified in health professions, the Secretary of each military department may establish and maintain a program to provide financial assistance under this chapter to persons engaged in training that leads to a degree in medicine or dentistry, and to a health professions specialty critically needed in wartime. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in health care education and training in return for a commitment to subsequent service in the Ready Reserve."

(b) MEDICAL AND DENTAL STUDENT STIPEND.—Section 16201 of such title 10 is amended by——

(1) redesignating subsections (b), (c), (d) and (e) as subsections (c), (d), (e) and (f);

(2) inserting the following new subsection:

"(b) MEDICAL AND DENTAL SCHOOL STUDENTS.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who——

"(A) is eligible to be appointed as an officer in a Reserve component;

"(B) is enrolled or has been accepted for enrollment in an institution in a course of study that results in a degree in medicine or dentistry;

"(C) signs an agreement that, unless sooner separated, the person will——

"(i) complete the educational phase of the program;

"(ii) accept a reappointment or redesignation within his reserve component, if tendered, based upon his health profession, following satisfactory completion of the educational and intern programs; and

"(iii) participate in a residency program; and

(D) if required by regulations prescribed by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a health profession skill which has been designated by the Secretary of Defense as a critically needed wartime skill.

"(2) Under the agreement——

"(A) the Secretary of the military department concerned shall agree to pay the participant a stipend, in the amount determined under subsection (f), for the period or the remainder of the period the student is satisfactorily progressing toward a degree in medicine or dentistry while enrolled in an accredited medical or dental school;

"(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as an officer for service in the Ready Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve, upon successful completion of the program, one year in the Selected Reserve for each six months, or part thereof, for which the stipend is provided. In the case of a participant who enters into a subsequent agreement under subsection (c) and successfully completes residency training in a specialty designated by the Secretary of Defense as a specialty critically needed by the military department in wartime, the requirement to serve in the Selected Reserve may be reduced to one year for each year, or part thereof, for which the stipend was provided while enrolled in medical or dental school."

(c) WARTIME CRITICAL SKILLS.—Section 16201(c), (as redesignated by section (b)), is amended——

(1) by inserting "WARTIME" following "CRITICAL" in the heading; and

(2) in paragraph (1)(B) by inserting "or has been appointed as a medical or dental officer in the Reserve of the armed force concerned" before the semicolon at the end of the paragraph.

(d) SERVICE OBLIGATION REQUIREMENT.—Subparagraph (2)(D) of subsection (c), (as redesignated by section (b)), and subparagraph (2)(D) of subsection (d), (as redesignated by section (b)), are amended by striking "two years in the Ready Reserve for each year," and inserting "one year in the Ready Reserve for each six months,".

(e) CLERICAL AMENDMENTS.—Subparagraphs (2)(A) of subsection (c), (as redesignated by section (b)), and subparagraph (2)(A) of subsection (d), (as redesignated by section (b)), are amended by striking "subsection (e)" and inserting "subsection (f)".

SEC. 518. RESERVE OFFICERS ON ACTIVE DUTY FOR A PERIOD OF THREE YEARS OR LESS.

(a) CLARIFICATION OF EXEMPTION.—Section 641(1)(D) of title 10, United States Code, is amended to read as follows:

"(D) on active duty under section 12301(d) of this title, other than as provided under subparagraph (C), provided the call or order to active duty, as prescribed in regulations of the Secretary concerned, specifies a period of three years or less and continued placement on the reserve active-status list;".

(b) RETROACTIVE APPLICATION.—(1) Officers who were placed on the reserve active status list under section 641(1)(D), as amended by section 521 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654A–108), may be considered, as determined by the Secretary concerned, to have been on the active-duty list during the period beginning on the date of enactment of Public Law 106–398 through the date of enactment of this Act.

(2) Officers who were placed on the active duty list on or after October 30, 1997, may, at the discretion of the Secretary concerned, be placed on the reserve active-status list upon enactment of this Act, provided they otherwise meet the conditions specified in section 641(1)(D) as amended by this Act.

SEC. 519. ACTIVE DUTY END STRENGTH EXEMPTION FOR NATIONAL GUARD AND RESERVE PERSONNEL PERFORMING FUNERAL HONORS FUNCTIONS.

Section 115(d) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(10) Members of reserve components on active duty to prepare for and to perform funeral honors functions for funerals of veterans in accordance with section 1491 of this title.

"(11) Members on full-time National Guard duty to prepare for and to perform funeral honors functions for funerals of veterans in accordance with section 1491 of this title.".

SEC. 520. CLARIFICATION OF FUNCTIONS THAT MAY BE ASSIGNED TO ACTIVE GUARD AND RESERVE PERSONNEL ON FULL-TIME NATIONAL GUARD DUTY.

Section 12310(b) of title 10, United States Code, is amended by inserting ", or a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 in connection with functions referred to in subsection (a)," after "on active duty as described in subsection (a)".

SEC. 521. AUTHORITY FOR TEMPORARY WAIVER OF THE REQUIREMENT FOR A BACCALAUREATE DEGREE FOR PROMOTION OF CERTAIN RESERVE OFFICERS OF THE ARMY.

Section 516 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1920, 2008) is amended——

(1) in subsection (a), by striking "(a) WAIVER AUTHORITY FOR ARMY OCS GRADUATES.—" and "before the date of the enactment of this Act"; and

(2) in subsection (b), by striking "2000" and inserting "2003".

SEC. 522. AUTHORITY OF THE PRESIDENT TO SUSPEND CERTAIN LAWS RELATING TO PROMOTION, RETIREMENT AND SEPARATION; DUTIES.

Section 12305 of title 10, United States Code, is amended by adding at the end the following new subsection (c):

"(c) Active duty members whose mandatory separations or retirements incident to section 1251 or sections 632–637 of this title are delayed pursuant to invocation of this section, will be afforded up to 90 days following termination of the suspension before being separated of retired.".

Subtitle C—Education and Training

Sec. 531. Authority for the Marine Corps University to Award the Degree of Master of Strategic Studies.
Sec. 532. Reserve Component Distributed Learning.
Sec. 533. Repeal of Limitation on Number of Junior Reserve Officers' Training Corps (JROTC) Units.
Sec. 534. Modification of the Nurse Officer Candidate Accession Program Restriction on Students Attending Civilian Educational Institutions with Senior Reserve Officers' Training Programs.
Sec. 535. Defense Language Institute Foreign Language Center.

SEC.531. AUTHORITY FOR THE MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF STRATEGIC STUDIES.

(a) AUTHORITY TO CONFER DEGREE.—Upon the recommendation of the Director and faculty of the Marine Corps War College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of strategic studies upon graduates of the college who fulfill the requirements for the degree.

(b) REGULATION.—The Secretary of the Navy shall promulgate regulations under which the Director of the faculty of the Marine Corps War College of the Marine Corps University shall administer the authority in subsection (a).

(e) EFFECTIVE DATE.—The authority to award degrees provided by subsection (a) shall become effective on the date on which the Secretary of Education determines that the requirements established by the Marine Corps War College of the Marine Corps University for the degree of master of strategic studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 532. RESERVE COMPONENT DISTRIBUTED LEARNING.

(a) COMPENSATION FOR DISTRIBUTED LEARNING.—Section 206(d) of title 37, United States Code, is amended to read as follows:

"(d) A member of a Reserve Component may be paid compensation under this section for the successful completion of courses of instruction undertaken by electronic, paper-based, or other distributed learning. Distributed Leaming is structured leaming that takes place without 55 requiring the physical presence of an instructor. To be compensable, the instruction must be required by law, Department of Defense policy, or service regulation and may be accomplished either independently or as part of a group.".

(b) DEFINITION OF INACTIVE-DUTY TRAINING.—Section 101(22) of title 37, United States Code, is amended by striking ", but does not include work or study in connection with a correspondence course of a uniformed service".

SEC. 533. REPEAL OF LIMITATION ON NUMBER OF JUNIOR RESERVE OFFICERS' TRAINING CORPS (JROTC) UNITS.

Section 2031(a)(1) of title 10, United States Code, is amended by striking the second sentence.

SEC. 534. MODIFICATION OF THE NURSE OFFICER CANDIDATE ACCESSION PROGRAM RESTRICTION ON STUDENTS ATTENDING CIVILIAN EDUCATIONAL INSTITUTIONS WITH SENIOR RESERVE OFFICERS' TRAINING PROGRAMS.

Section 2130a of title 10, United States Code, is amended—

(1) in paragraph (a)(2), by striking "that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title;" and

(2) in paragraph (b)(1), by adding at the end "or that has a Senior Reserve Officers' Training Program for which the student is ineligible.".

SEC. 535. DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER.

(a) Subject to subsection (b), the Commandant of the Defense Language Institute Foreign Language Center (Institute) may confer an Associate of Arts degree in Foreign Language upon graduates of the Institute who fulfill the requirements for the degree.

(b) No degree may be conferred upon any student under this section unless the Provost certifies to the Commandant of the Institute that the student has satisfied all the requirements prescribed for such degree.

(c) The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of Defense.

Subtitle D—Decorations, Awards, and Commendations

Sec. 541. Authority for Award of the Medal of Honor to Humbert R. Versace for Valor During the Vietnam War.
Sec. 542. Issuance of Duplicate Medal of Honor.
Sec. 543. Repeal of Limitation on Award of Bronze Star to Members in Receipt of Special Pay.

SEC. 541. AUTHORITY FOR AWARD OF THE MEDAL OF HONOR TO HUMBERT R. VERSACE FOR VALOR DURING THE VIETNAM WAR.

(a) WAIVER OF TIME LIMITATIONS.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the military service, the President may award the Medal of Honor under section 3741 of that title to Humbert R. Versace for the acts of valor referred to in subsection (b).

(b) ACTION DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of Humbert R. Versace between October 29, 1963, and September 26, 1965, while interned as a prisoner of war by the Vietnamese Communist National Liberation Front (Viet Cong) in the Republic of Vietnam.

SEC. 542. ISSUANCE OF DUPLICATE MEDAL OF HONOR.

(a) Section 3747 of title 10, United States Code, is amended—

(1) in the section heading, by adding at the end "issuance of duplicate medal of honor";

(2) by striking "Any medal of honor" and inserting "(a) REPLACEMENT OF MEDALS.—Any medal of honor";

(3) by inserting "stolen," before "lost or destroyed,"; and

(4) by adding at the end the following new subsection:

"(b) ISSUANCE OF DUPLICATE MEDAL OF HONOR.—Upon written application by a person to whom a medal of honor has been awarded under this chapter, the Secretary of the Army may issue such person, without charge, one duplicate medal of honor, with ribbons and appurtenances. Such duplicate shall be marked, in a manner the Secretary may determine, as a duplicate or for display purposes only. The issuance of a duplicate medal of honor under the authority of this subsection shall not constitute the award of more than one medal of honor within the meaning of section 3744(a) of this title.".

(b) Section 6253 of such title is amended—

(1) in the section heading, by adding at the end "; issuance of duplicate medal of honor";

(2) by striking "The Secretary of the Navy may replace" and inserting "(a) REPLACEMENT OF MEDALS.—The Secretary of the Navy may replace";

(3) by inserting "stolen," before "lost or destroyed"; and

(4) by adding at the end the following new subsection:

"(b) ISSUANCE OF DUPLICATE MEDAL OF HONOR.—Upon written application by a person to whom a medal of honor has been awarded under this chapter, the Secretary of the Navy may issue such person, without charge, one duplicate medal of honor, with ribbons and appurtenances. Such duplicate shall be marked, in a manner the Secretary may determine, as a duplicate or for display purposes only. The issuance of a duplicate medal of honor under the authority of this subsection shall not constitute the award of more than one medal of honor within the meaning of section 6247 of this title.".

(c) Section 8747 of such title is amended—

(1) in the section heading, by adding at the end "; issuance of duplicate medal of honor";

(2) by striking "Any medal of honor" and inserting "(a) REPLACEMENT OF MEDALS.—Any medal of honor";

(3) by inserting "stolen," before "lost or destroyed,"; and

(4) by adding at the end the following new subsection:

"(b) ISSUANCE OF DUPLICATE MEDAL OF HONOR.—Upon written application by a person to whom a medal of honor has been awarded under this chapter, the Secretary of the Air Force may issue such person, without charge, one duplicate medal of honor, with ribbons and appurtenances. Such duplicate shall be marked, in a manner the Secretary may determine, as a duplicate or for display purposes only. The issuance of a duplicate medal of honor under the authority of this subsection shall not constitute the award of more than one medal of honor within the meaning of section 8744(a) of this title.".

(d) CLERICAL AMENDMENTS.—(1) The item relating to section 3747 of such title in the table of sections at the beginning of chapter 357 of such title is amended to read as follows:

"3747. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement; issuance of duplicate medal of honor.";

(2) The item relating to section 6253 of such title in the table of sections at the beginning of chapter 567 of such title is amended to read as follows:

"6253. Replacement; issuance of duplicate medal of honor."; and

(3) The item relating to section 8747 of such title in the table of sections at the beginning of chapter 857 of such title is amended to read as follows:

"8747. Medal of honor; Air Force cross; distinguished-service cross; distinguished-service medal; silver star: replacement; issuance of duplicate medal of honor.".

SEC. 543. REPEAL OF LIMITATION ON AWARD OF BRONZE STAR TO MEMBERS IN RECEIPT OF SPECIAL PAY.

Section 1133 of title 10, United States Code, is repealed.

Subtitle E—Uniform Code of Military Justice

Sec. 551. Revision of Punitive UCMJ Article Regarding Drunken Operation of Vehicle, Aircraft, or Vessel.

SEC. 551. REVISION OF PUNITIVE UCMJ ARTICLE REGARDING DRUNKEN OPERATION OF VEHICLE, AIRCRAFT, OR VESSEL.

(a) STANDARD FOR DRUNKEN OPERATION OF VEHICLE, AIRCRAFT, OR VESSEL.—Paragraph (2) of section 911 of title 10, United States Code (article III of the Uniform Code of Military Justice), is amended by striking "0.10 grams or more of alcohol" and inserting "0.08 grams or more of alcohol" both places such term appears.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to offenses committed on or after that date.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in Basic Pay for Fiscal Year 2002.
Sec. 602. Partial Dislocation Allowance Authorized Under Certain Circumstances.
Sec. 603. Funeral Honors Duty, Allowance for Retirees.
See. 604. Basic Pay Rate for Certain Reserve Commissioned Officers with Prior Service as an Enlisted Member or Warrant Officer.
Sec. 605. Family Separation Allowance.
Sec. 606. Housing Allowance for the Chaplain for the Corps of Cadets, United States Military Academy.
Sec. 607. Clarify Amendment that Space-Required Travel for Annual Training Reserve Duty Does Not Obviate Transportation Allowances.

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2002.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2002 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2002, the rates of monthly basic pay for members of the uniformed services shall be as follows:

MONTHLY BASIC PAY*,**,***

PAY GRADE	YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)														
	<2	2	3	4	6	8	10	12	14	16	18	20	22	24	26
								COMMISSIONED OFFICERS							
0–10	0	0	0	0	0	0	0	0	0	0	0	11601.90	11659.20	11901.30	12324.00
0–9	0	0	0	0	0	0	0	0	0	0	0	10147.50	10293.60	10504.80	10873.80
0–8	7180.20	7415.40	7571.10	7614.90	7809.30	8135.10	8210.70	8519.70	8608.50	8874.30	9259.50	9614.70	9852.00	9852.00	9852.00
0–7	5966.40	6371.70	6371.70	6418.20	6657.90	6840.30	7051.20	7261.80	7472.70	8135.10	8694.90	8694.90	8694.90	8694.90	8738.70
0–6	4422.00	4857.90	5176.80	5176.80	5196.60	5418.90	5448.60	5448.60	5628.60	6305.70	6627.00	6948.30	7131.00	7316.10	7675.20
0–5	3537.00	4152.60	4440.30	4494.30	4673.10	4673.10	4813.50	5073.30	5413.50	5755.80	5919.00	6079.80	6262.80	6262.80	6262.80
0–4	3023.70	3681.90	3927.60	3982.50	4210.50	4395.90	4696.20	4930.20	5092.50	5255.70	5310.60	5310.60	5310.60	5310.60	5310.60
0–3	2796.60	3170.40	3421.80	3698.70	3875.70	4070.10	4232.40	4441.20	4549.50	4549.50	4549.50	4549.50	4549.50	4549.50	4549.50
0–2	2416.20	2751.90	3169.50	3276.30	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10	3344.10
0–1	2097.60	2183.10	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50	2638.50

COMMISSIONED OFFICERS WITH OVER 4 YEARS ACTIVE DUTY SERVICE

	<2	2	3	4	6	8	10	12	14	16	18	20	22	24	26
								AS AN ENLISTED MEMBER OR WARRANT OFFICER							
0–3E	0.00	0.00	0.00	3698.70	3875.70	4070.10	4232.40	4441.20	4617.00	4717.50	4855.20	4855.20	4855.20	4855.20	4855.20
0–2E	0.00	0.00	0.00	3276.30	3344.10	3450.30	3630.00	3768.90	3872.40	3872.40	3872.40	3872.40	3872.40	3872.40	3872.40
0–IE	0.00	0.00	0.00	2638.50	2818.20	2922.30	3028.50	3133.20	3276.30	3276.30	3276.30	3276.30	3276.30	3276.30	3276.30

WARRANT OFFICERS

	<2	2	3	4	6	8	10	12	14	16	18	20	22	24	26
W–5	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4965.60	5136.00	5307.00	5478.60
W–4	2889.60	3108.60	3198.00	3285.90	3437.10	3586.50	3737.70	3885.30	4038.00	4184.40	4334.40	4480.80	4632.60	4782.00	4935.30
W–3	2638.80	2862.00	2862.00	2898.90	3017.40	3152.40	3330.90	3439.50	3558.30	3693.90	3828.60	3963.60	4098.30	4233.30	4368.90
W–2	2321.40	2454.00	2569.80	2654.10	2726.40	2875.20	2984.40	3093.90	3200.40	3318.00	3438.90	3559.80	3680.10	3801.30	3801.30
W–1	2049.90	2217.60	2330.10	2402.70	2511.90	2624.70	2737.80	2850.00	2963.70	3077.10	3189.90	3275.10	3275.10	3275.10	3275.10

ENLISTED MEMBERS

	<2	2	3	4	6	8	10	12	14	16	18	20	22	24	26
E–9	0.00	0.00	0.00	0.00	0.00	0.00	3423.90	3501.30	3599.40	3714.60	3830.40	3944.10	4098.30	4251.30	4467.00
E–8	0.00	0.00	0.00	0.00	0.00	2858.10	2940.60	3017.70	3110.10	3210.30	3314.70	3420.30	3573.00	3724.80	3937.80
E–7	1986.90	2169.00	2251.50	2332.50	2417.40	2562.90	2645.10	2726.40	2808.00	2892.60	2975.10	3057.30	3200.40	3292.80	3526.80
E–6	1701.00	1870,80	1953.60	2033.70	2117.40	2254.50	2337.30	2417.40	2499.30	2558.10	2602.80	2602.80	2602.80	2602.80	2602.80
E–5	1561.50	1665,30	1745.70	1828.50	1912.80	2030.10	2110.20	12193.30	2193.30	2193.30	2193.30	2193.30	2193.30	2193.30	2193.30
E–4	1443.60	1517.70	1599.60	1680.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30	1752.30
E–3	1303.50	1385.40	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50	1468.50
E–2	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30	1239.30
E–1 >4+	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50	1105.50
E–1 <4++	1022.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

* Basic pay for 0–7 to 0–10 is limited to the rate of basic pay for level III of the Executive Schedule. Basic pay for 0–6 and below is limited to level V of the Executive Schedule.

** While serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is $13,598. 10, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

*** While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $5,382.90, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

+Applies to personnel who have served 4 months or more on active duty.

++Applies to personnel who have served less than 4 months on active duty.

SEC. 602. PARTIAL DISLOCATION ALLOWANCE AUTHORIZED UNDER CERTAIN CIRCUMSTANCES.

(a) AUTHORIZATION OF PARTIAL DISLOCATION ALLOWANCE.—Section 407 of title 37, United States Code is amended——

(1) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(2) in subsections (a)(1) and (b)(1), by striking "subsection (c)" and inserting "subsection (d)";

(3) by inserting after subsection (b) the following new subsection:

"(c) PARTIAL DISLOCATION ALLOWANCE.—(1) Under regulations prescribed by the Secretary concerned, a member ordered to occupy or to vacate Government family housing for the convenience of the Government (including pursuant to the privatization or renovation of housing), and not pursuant to a permanent change of station, may be paid a partial dislocation allowance of $500.

"(2) Effective on the same date that the monthly rates of basic pay for members are increased for a subsequent calendar year, the Secretary of Defense shall adjust the rate for the partial dislocation allowance for that calendar year by the percentage equal to the percentage increase in the rate of basic pay for that calendar year.

"(3) Payments made under this subsection are not subject to the fiscal year limitations in subsection (e)."; and

(4) in subsection (d)(1) as redesignated by paragraph (1), by striking at the beginning "The amount" and inserting "Except as provided in subsection (c), the amount".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2001.

SEC. 603. FUNERAL HONORS DUTY ALLOWANCE FOR RETIREES.

Section 435 of title 37, United States Code, is amended——

(1) in subsection (a), by inserting before the period at the end "or a retired member of the armed forces who performs at least two hours of duty preparing for or performing honors at the funeral of a veteran"; and

(2) by adding at the end the following new subsection:

"(d) CONCURRENT PAYMENT.—Notwithstanding any other provision of law, the allowance paid to a retired member of the armed forces under subsection (a) shall be in addition to any other compensation authorized under title 10, title 37, and title 38 to which the retired member may be entitled.".

SEC. 604. BASIC PAY RATE FOR CERTAIN RESERVE COMMISSIONED OFFICERS WITH PRIOR SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER.

Section 203(d) of title 37, United States Code, is amended by inserting ", or who earns a total of more than 1,460 points credited under section 12732(a)(2) of title 10 while serving as a warrant officer or as a warrant officer and enlisted member" following "or as a warrant officer and enlisted member".

SEC. 605. FAMILY SEPARATION ALLOWANCE.

Section 427(c) of title 37, United States Code, is amended by amending the first sentence to read as follows:

"A member who elects to serve an unaccompanied tour of duty because dependent movement to the permanent station is denied for certified medical reasons is entitled to an allowance under subsection (a)(1)(A). In all other cases, a member who elects to serve a tour unaccompanied by his dependents at a permanent station to which movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under subsection (a)(1)(A).".

SEC. 606. HOUSING ALLOWANCE FOR THE CHAPLAIN FOR THE CORPS OF CADETS, UNITED STATES MILITARY ACADEMY.

Section 4337 of title 10, United States Code, is amended by striking the second sentence and inserting "Notwithstanding any other provision of law, the chaplain is entitled to the same basic allowance for housing allowed to a lieutenant colonel, and to fuel and light for quarters in kind.".

SEC. 607. CLARIFYING AMENDMENT THAT SPACE-REQUIRED TRAVEL FOR ANNUAL TRAINING RESERVE DUTY DOES NOT OBVIATE TRANSPORTATION ALLOWANCES.

Section 18505(a) of title 10, United States Code, is amended by striking "annual training duty or" each time such term appears.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Authorize the Secretary of the Navy to Prescribe Submarine Duty Incentive Pay Rates.
Sec. 612. Extension of Authorities Relating to Payment of Other Bonuses and Special Pays.
Sec. 613. Extension of Certain Bonuses and Special Pay Authorities for Nurse Officer Candidates, Registered Nurses, Nurse Anesthetists, and Dental Officers.
Sec. 614. Extension of Authorities Relating to Nuclear Officer Special Pays.
Sec. 615. Extension of Special and Incentive Pays.
Sec. 616. Accession Bonus for Officers in Critical Skills.
Sec. 617. Critical Wartime Skill Requirement for Eligibility for the Individual Ready Reserve Bonus.
Sec. 618. Hazardous Duty Incentive Pay: Maritime Board and Search.

SEC. 611. AUTHORIZE THE SECRETARY OF THE NAVY TO PRESCRIBE SUBMARINE DUTY INCENTIVE PAY RATES.

(a) In General.—Section 301c of title 37, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) A member who meets the requirements prescribed in subsection (a) is entitled to monthly submarine duty incentive pay in an amount prescribed by the Secretary of the Navy, but not more than $1,000 per month.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 612. EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) Aviation Officer Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(b) Reenlistment Bonus for Active Members.—Section 308(g) of such title 37 is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(c) Enlistment Bonus.—Section 309(e) of such title 37 is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(d) Retention Bonus for Members Qualified in a Critical Military Skill.—Section 323(i) of such title 37 is amended by striking "December 31, 2001" and inserting "September 30, 2003".

SEC. 613. EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, NURSE ANESTHETISTS, AND DENTAL OFFICERS.

(a) Nurse Officer Candidate Accession Program.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(b) Accession Bonus for Registered Nurses.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(C) Incentive Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of such title 37 is amended by striking "December 31, 2001" and inserting "September 30, 2003".

(d) Accession Bonus for Dental Officers.—Section 302h(a)(1) of such title 37 is amended by striking "September 30, 2002" and inserting "September 30, 2003".

SEC. 614. EXTENSION OF AUTHORITIES RELATING TO NUCLEAR OFFICER SPECIAL PAYS.

(a) Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2003".

(b) Nuclear Career Accession Bonus.—Section 312b(c) of such title 37 is amended by striking "December 31, 2001" and inserting "December 31, 2003".

(c) Nuclear Career Annual Incentive Bonus.—Section 312c(d) of such title 37 is amended by striking "December 31, 2001" and inserting "December 31, 2003".

SEC. 615. EXTENSION OF SPECIAL AND INCENTIVE PAYS.

(a) Special Pay for Reserve Health Professionals in Critically Short Wartime Specialties.—Section 302g(f) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(b) Selected Reserve Reenlistment Bonus.—Section 308b(f) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(C) Selected Reserve Enlistment Bonus.—Section 308c(e) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(d) Special Pay for Enlisted Members Assigned to Certain High Priority Units.—Section 308d(c) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(e) Selected Reserve Affiliation Bonus.—Section 308e(e) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(f) Ready Reserve Enlistment and Reenlistment Bonus.—Section of 308h(g) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(g) Prior Service Enlistment Bonus.—Section 308i(f) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(h) Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.—Section 16302(d) of title 10, United States Code, is amended by striking "January 1, 2002" and inserting "January 1, 2003".

SEC. 616. ACCESSION BONUS FOR OFFICERS IN CRITICAL SKILLS.

(a) In General.—Chapter 5 of title 37, United States Code, is amended by inserting after section 323 the following new section:

"§ 324. Special Pay: officer critical skills accession bonus

"(a) Accession Bonus Authorized.—Under regulations prescribed by the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operated as a service in the Navy, and subject to the limitations in subsection (b), an individual who executes a written agreement to accept a commission as an officer of an armed force and serve on active duty in an officer critical skill for the period specified in the agreement may be paid an accession bonus not to exceed $20,000 upon acceptance of the written agreement by the Secretary concerned.

"(b) Limitation on Eligibility for Bonus.—An individual may not be paid a bonus under subsection (a) if the individual has received, or is receiving, an accession bonus for the same period of service under subsections 302d, 302h, or 312b.

"(C) Proration.—The term of an agreement and the amount of the payment under subsection (a) may be prorated.

"(d) Payment Method.—Upon acceptance of the written agreement by the Secretary concerned, the total amount payable pursuant to the agreement under subsection (a) becomes fixed and may be paid by the Secretary in either a lump sum or installments.

"(e) Repayment.—(1) If an individual who has entered into an agreement under subsection (a) has received all or part of a bonus under this section fails to accept an appointment or to commence or complete the total period of active duty in the designated critical skill specified in the agreement, the Secretary concerned may require the individual to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, any or all sums paid to the individual under this section.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title II that is entered less than five years after the termination of a written agreement entered into under subsection (a) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

"(f) Definition.—In this section, the term "officer critical skill" means a skill designated as critical with respect to accession of officers to the skill by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

"(g) Termination of Bonus Authority.—No bonus may be paid under this section with respect to any agreement to continue on active duty in the armed forces entered into after September 30, 2003, and no agreement under this section may be entered into after that date.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 5 of such title 37 is amended by inserting after the item relating to section 323 the following new item:

"324. Special Pay: officer critical skills accession bonus."

SEC. 617. CRITICAL WARTIME SKILL REQUIREMENT FOR ELIGIBILITY FOR THE INDIVIDUAL READY RESERVE BONUS.

Section 308h(a)(1) of title 37, United States Code, is amended—

(1) by striking "a combat or combat support skill of"; and

(2) by inserting "is qualified in a skill or specialty designated by the Secretary concerned as critically short to meet wartime requirements and" after "and who".

SEC. 618. HAZARDOUS DUTY INCENTIVE PAY: MARITIME BOARD AND SEARCH.

Section 301(a) of title 37, United States Code, is amended by inserting after paragraph (11) the following new paragraph:

"(12) involving regular participation as a member of a team conducting visit, board, search, and seizure operations as defined by the Secretary concerned, aboard vessels in support of maritime interdiction operations as designated by such Secretary.

Subtitle C—Travel and Transportation Allowances

Sec. 621. Funded Student Travel: Exchange Programs.
Sec. 622. Payment of Vehicle Storage Costs in Advance.
Sec. 623. Travel and Transportation Allowances for Family Members to Attend the Burial of a Deceased Member of the Armed Forces.
Sec. 624. Shipment of Privately Owned Vehicles When Executing CONUS Permanent Change of Station Moves.

SEC. 621. FUNDED STUDENT TRAVEL: EXCHANGE PROGRAMS.

Section 430 of title 37, United States Code, is amended—

(1) in subsection (a)(3), by inserting "(or a school outside the United States if the dependent is attending that school for less than one year under a program approved by the school in the continental United States at which the dependent is enrolled)" after "United States"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "(or a school outside the United States if the dependent is attending that school for less than one year under a program approved by the school in the continental United States at which the dependent is enrolled)" after "United States" the first place it appears; and

(B) by adding at the end the following new subparagraph:

"(3) The transportation allowance under paragraph (1) for a dependent child who is attending a school outside the United States for less than one year under a program approved by the school in the continental United States at which the dependent is enrolled shall not exceed the allowance the member would be paid for a trip between the school in the continental United States and the member's duty station outside the continental United States and return.".

SEC. 622. PAYMENT OF VEHICLE STORAGE COSTS IN ADVANCE.

Section 2634(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Storage costs payable under this subsection may be paid in advance.".

SEC. 623. TRAVEL AND TRANSPORTATION ALLOWANCES FOR FAMILY MEMBERS TO ATTEND THE BURIAL OF A DECEASED MEMBER OF THE ARMED FORCES.

(a) Consolidation of Authorities.—Section 411f of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "Allowances Authorized.—(1)" after "(a)"; and

(B) by inserting at the end following new paragraph:

"(2) If a dependent of a deceased member who is authorized travel and transportation allowances under this section is unable to travel unattended to the burial ceremonies of the deceased member—

"(A) because of—

"(i) age;

"(ii) physical condition; or

"(iii) other justifiable reason, as determined under uniform regulations prescribed by the Secretaries concerned; and

"(B) there is no other dependent qualified for travel and transportation allowances under this section available and qualified to serve as an attendant for the dependent while traveling to and attending the burial ceremonies, an attendant may be paid roundtrip travel and transportation allowances under this section.";

(2) in subsection (b)(1)—

(A) by striking "(b)(1) Except as provided in paragraph (2)" and inserting

"(b) Limitation on Allowances.—(1) Except as provided in paragraphs (2) and (3)"; and

(B) by inserting before the period at the end, the following: "and the time necessary for such travel"; and

(3) in subsection (b)(2), by striking "be extended to accommodate" and inserting "not exceed the rates for 2 days and";

(4) by adding at the end of subsection (b) the following new paragraph:

"(3) If a deceased member is interred in a cemetery maintained by the American Battle Monuments Commission, the allowances authorized under this section may be provided to and from such cemetery and may not exceed the rates for 2 days and time necessary for such travel."; and

(5) by amending subsection (c) to read as follows:

"(c) Definitions.—(1) In this section, the term "dependents" means—

"(A) the surviving spouse (including a remarried surviving spouse) of the deceased member and any child of the deceased member as defined in section 401(a)(2);

"(B) if no person described in subparagraph (A) is paid travel and transportation allowances under this section, the parents (as defined in section 401(b)(2)) of the deceased member; or

"(C) if no person described in subparagraphs (A) or (B) is paid travel and transportation allowances under this section, then—

"(i) the person who directs the disposition of the remains of the deceased member under section 1482(c) of 74 title 10, United States Code, and two additional persons selected by that person who are closely related to the deceased member; or

"(ii) in the case of a deceased member whose remains are commingled and buried in a common grave in a national cemetery, the person who would have been designated under section 1482(c) of such title to direct the disposition of the remains if individual identification had been made and two additional persons selected by that person who are closely related to the deceased member.

"(2) In this section, the term "burial ceremonies" includes—

"(A) an interment of casketed or cremated remains;

"(B) a placement of cremated remains in a columbarium:

"(C) a memorial service for which reimbursement is authorized under section 1482(e)(2) of title 10; and

"(D) a burial of commingled remains that cannot be individually identified in a common grave in a national cemetery.".

(b) Conforming Amendments.—(1) Section 1482 of title 10, United States Code, is amended by striking subsection (d) and redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) The Funeral Transportation and Living Expense Benefits Act of 1974 (37 U.S.C. 406 note; Public Law 93–257) is repealed.

SEC. 624. SHIPMENT OF PRIVATELY OWNED VEHICLES WHEN EXECUTING CONUS PERMANENT CHANGE OF STATION MOVES.

Section 2634(h)(1) of title 10, United States Code, is amended by inserting before the period at the end ", or when the Secretary concerned determines that the transport of a vehicle upon transfer is advantageous and cost-effective to the government".

Subtitle D—Other

Sec. 631. Montgomery GI Bill-Selected Reserve Eligibility Period.
Sec. 632. Improved Disability Benefits for Certain Reserve Component Members.
Sec. 633. Acceptance of Scholarships by Officers Participating in the Funded Legal Education Program.

SEC. 631. MONTGOMERY GI BILL—SELECTED RESERVE ELIGIBILITY PERIOD.

Section 16133(a) of title 10, United States Code, is amended by striking " 10-year" and inserting "14-year".

SEC. 632. IMPROVED DISABILITY BENEFITS FOR CERTAIN RESERVE COMPONENT MEMBERS.

(a) Medical and Dental Care for Members.—Section 1074a(a)(3) of title 10, United States Code, is amended by inserting before the period: ", or if otherwise authorized under applicable regulations".

(b) Medical and Dental Care for Dependents.—Section 1076(a)(2)(C) of such title 10 is amended by inserting before the period: ", or if otherwise authorized under applicable regulations".

(c) Eligility for Disability Retirement or Separation.—(1) Section 1204(2)(B)(iii) of such title 10 is amended by inserting before the semicolon: ", or if otherwise authorized under applicable regulations".

(2) Section 1206(2)(C) of such title 10 is amended by inserting before the semicolon: ", or if otherwise authorized under applicable regulations".

(d) Recovery, Care, and Disposition of Remains.—Section 1481(a)(2)(D) of such title 10 is amended by inserting before the semicolon: ", or if otherwise authorized under applicable regulations".

(e) Entitlement to Basic Pay.—(1) Section 204(g)(1)(D) of title 37, United States Code, is amended by inserting before the period: ", or if otherwise authorized under applicable regulations".

(2) Section 204(h)(1)(D) of title such 37 is amended by inserting before the period: ", or

if otherwise authorized under applicable regulations''.

(f) COMPENSATION FOR INACTIVE-DUTY TRAINING.—Section 206(a)(3)(C) of such title 37 is amended by inserting before the period: '', or if otherwise authorized under applicable regulations''.

SEC. 633. ACCEPTANCE OF SCHOLARSHIPS BY OFFICERS PARTICIPATING IN THE FUNDED LEGAL EDUCATION PROGRAM.

(a) ACCEPTANCE OF SCHOLARSHIP.—Section 2004 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(g) An officer detailed at a law school under this section also may accept a fellowship, scholarship, or grant under section 2603 of this title. Any service obligation incurred under section 2603 shall be served consecutively with the service obligation incurred under subsection (b)(2)(C).''.

(b) CONFORMING AMENDMENT.—Section 2603 of such title 10 is amended by adding at the end the following new subsection:

''(c) A member who accepts a fellowship, scholarship, or grant in accordance with subsection (a) also may be detailed at a law school under section 2004 of this title. Any service obligation incurred under section 2004 shall be served consecutively with the service obligation incurred under subsection (b).''.

TITLE VII—ACQUISITION POLICY AND ACQUISITION MANAGEMENT

Subtitle A—Acquisition Policy

Sec. 701. Acquisition Milestone Changes.
Sec. 702. Clarification of Inapplicability of the Requirement for Core Logistics Capabilities Standards to the Nuclear Refueling of an Aircraft Carrier.
Sec. 703. Depot Maintenance Utilization Waiver.

SEC. 701. ACQUISITION MILESTONE CHANGES.

(a) SYSTEM DEVELOPMENT AND DEMONSTRATION.—Section 2366(c) of title 10, United States Code, is amended—

(1) in paragraph (1) by striking ''engineering and manufacturing development'' and inserting ''system development and demonstration''; and

(2) in paragraph (2) by striking ''engineering and manufacturing development'' and inserting ''system development and demonstration''.

(b) MILESTONE B.—Section 2400 of title 10, United States Code, is amended—

(1) in subsections (a)(1)(A), (a)(2), (a)(4) and (a)(5), by striking ''milestone II'' each place it appears and inserting ''milestone B.''.

(2) in subsection (a)(2), by striking ''engineering and manufacturing development'' and inserting ''system development and demonstration.''.

(c) SYSTEM DEVELOPMENT AND DEMONSTRATION.—Section 2432 of title 10, United States Code, is amended in subsections (b)(3)(A), (c)(3)(A) and (h)(1), by striking ''engineering and manufacturing development'' each place it appears and inserting ''system development and demonstration.''.

(d) Section 2434 of title 10, United States Code, is amended in subsection (a), by striking ''engineering and manufacturing development'' and inserting ''system development and demonstration.''.

(e) SYSTEM DEVELOPMENT AND DEMONSTRATION AND FULL RATE PRODUCTION.—Section 2435 of Title 10, United States Code, is amended—

(1) in subsection (b) by striking ''engineering and manufacturing development'' and inserting ''system development and demonstration.''

(2) in subsection (c)(1), by striking ''demonstration and validation'' and inserting ''system development and demonstration.''

(3) in subsection (c)(2) by striking ''engineering and manufacturing development'' and inserting ''production and deployment.''

(4) in subsection (c)(3) by striking ''production and deployment'' and inserting ''full rate production.''—

(f) MILESTONE DESIGNATORS.—Section 8102(b) of Public Law 106–259 is amended—

(1) by striking ''milestone I'' and inserting ''milestone B.''

(2) by striking ''milestone II'' and inserting ''milestone C.''

(3) by striking ''milestone III'' and inserting ''full rate production.''.

(g) MILESTONE DESIGNATORS.—Section 811(c) of Public Law 106–398, is amended—

(1) by striking ''Milestone I'' and inserting ''Milestone B.''

(2) by striking ''Milestone II'' and inserting ''Milestone C.''

(3) by striking ''Milestone III'' and inserting ''full rate production''.

SEC. 702. CLARIFICATION OF INAPPLICABILITY OF THE REQUIREMENT FOR CORE LOGISTICS CAPABILITIES STANDARDS TO THE NUCLEAR REFUELING OF AN AIRCRAFT CARRIER.

Section 2464(a)(3) of title 10, United States Code, is amended—

(1) by striking ''nuclear aircraft carriers,''; and

(2) by adding at the end the following new sentence:

''Core logistics capabilities identified under paragraphs (1) and (2) shall not include nuclear refueling of an aircraft carrier.''.

SEC. 703. DEPOT MAINTENANCE UTILIZATION WAIVER.

Section 2466(c) of title 10, United States Code, is amended by striking ''the waiver is'' and inserting ''a depot is fully utilized within existing resources and, where multiple depots are capable of performing the same maintenance activities that the utilization of another such depot is uneconomical, or that the waiver is otherwise''.

Subtitle B—Acquisition Workforce

Sec. 705. Acquisition Workforce Qualifications.
See. 706. Tenure Requirement for Critical Acquisition Positions.

SEC. 705. ACQUISITION WORKFORCE QUALIFICATIONS.

(a) AMENDMENTS TO AUTHORITY.—Section 1724 of title 10, United States Code, is Amnended—

(1) in subsection (a)—

(A) by striking ''(a) CONTRACTING OFFICERS.—The Secretary of Defense shall require that in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, a person must (except as provided in subsections (e) and (d))—'' and inserting ''(a) CONTRACTING OFFICERS.—The Secretary of Defense shall require that, with the exception of the Contingency Contracting Force identified in paragraph (c), in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, a person must (except as provided in subsections (e) and (f))—''; and

(B) in paragraph (3)(A), by inserting a comma between ''business'' and ''finance'';

(2) by striking subsections (c) and (d); and

(3) by inserting after subsection (b) the following new subsections:

''(c) CONTINGENCY CONTRACTING FORCE.—(1) Notwithstanding subsections (a) and (b), the Secretary of Defense may establish a Contingency Contracting Force consisting of employees and members of the armed forces whose mission, as determined by the Secretary, is to deploy in support of contingency operations and other Department of Defense operations.

''(2) The Secretary of Defense shall establish qualification requirements for such Contingency Contracting Force, to include—

''(A) completion of at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education, or similar educational institution as determined by the Secretary, in any of the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management;

''(B) passing an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study in any of the disciplines listed in subparagraph (A); or

''(C) any combination of (A) and (B) equaling 24 semester hours or the equivalent as determined by the Secretary; and

''(D) such additional education and experience requirements as the Secretary may prescribe.

''(d) DEVELOPMENTAL OPPORTUNITIES.—Not withstanding other provisions of law, the Secretary of Defense may establish one or more programs for the purpose of recruiting, selecting, appointing, educating, qualifing, and developing the careers of personnel to meet the requirements in subparagraphs (A) and (B) of subsection (a)(3) above for contracting positions in the Department of Defense covered by this section; may appoint individuals to developmental positions in those programs; and may separate from the civil service any person appointed under this subsection who, as determined by the Secretary, fails to complete satisfactorily any program developed pursuant to this subsection. To qualify for any developmental program under this subsection, an individual must have met one of the following requirements:

''(1) Been awarded a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees.

''(2) Completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the disciplines of accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management.

''(e) EXCEPTION.—(1) The requirements imposed under subsection (a) or (b) shall not apply to an employee or member who—

''(A) served as a contracting officer with authority to award or administer contracts in excess of the simplified acquisition threshold in the Executive agency on or before September 30, 2000;

''(B) served, on or before September 30, 2000, in a position in an Executive agency either as an employee in the GS–1102 series or as a member of the armed force in similar occupational specialty; or

''(C) is determined by the Secretary of Defense to be a member of the Contingency Contracting Force.

''(2) The requirements imposed under subsection (a) or (b) of this section shall not apply to an employee for purposes of qualifying to serve in the position in which the employee was serving on October 1, 1993, or any other position in the same or lower grade and involving the same or lower level of responsibilities as the position in which the employee was serving on such date.

"(3) To qualify for the exceptions in subparagraphs (A) or (B) of paragraph (1) of this subsection, a civilian employee must have met one of the following requirements, or have been granted a waiver under subsection (f), on or before September 30, 2000—

"(A) received a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees;

"(B) completed at least 24 semester credit hours. (or the equivalent) of study from an accredited institution of higher education in any of the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management;

"(C) passed an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study in any of the disciplines listed in subparagraph (B); or

"(D) on October 1, 1991, had at least 10 years of experience in acquisition positions, in comparable positions in other government agencies or the private sector, or in similar positions in which an individual obtains experience directly relevant to the field of contracting.

"(f) WAIVER.—The acquisition career program board concerned may waive any or all of the requirements of subsections (a) and (b) with respect to an individual if the board certifies that the individual possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirements. The document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.".

(b) CLERICAL AMENDMENT.—Section 1732(c)(2) of such title 10 is amended by inserting.a comma between "business" and "finance".

SEC. 706. TENURE REQUIREMENT FOR CRITICAL ACQUISITION POSITIONS.

Section 1734 of title 10, United States Code, is amended—

(1) in paragraph (a)(1), by inserting "as a program manager, deputy program manager, or senior contracting official of a major system, as that term is defined in section 23 02(5) of this title, and any person assigned to such other critical acquisition position as the Secretary of Defense may prescribe by regulation," after "critical acquisition position".

(2) in paragraph (a)(2), by inserting "as a program manager, deputy program manager, or senior contracting official of a major system, as that term is defined in section 2302(5) of this title, and any person assigned to such other critical acquisition position as the Secretary of Defense may prescribe by regulation," after "critical acquisition position".

Subtitle C—General Contracting Procedures and Limitations

Sec. 710. Amendment of Law Applicable to Contracts for Architectural and Engineering Services and Construction Design.
Sec. 711. Streamlining Procedures for the Purchase of Certain Goods.
Sec. 712. Repeat of the Requirement for the Limitations on the Use of Air Force Civil Engineering Supply Function Contracts.
Sec. 713. One-Year Extension of Commercial Items Test Program.
Sec. 714. Modification of Limitation on Retirement or Dismantlement of Strategic Nuclear Delivery Systems.

SEC. 710. AMENDMENT OF LAW APPLICABLE TO CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.

Section 2855 of title 10 United States Code, is amended—

(1) in subsection (a) by striking the subsection designator "(a)"; and

(2) by striking subsection (b).

SEC. 711. STREAMLINING PROCEDURES FOR THE PURCHASE OF CERTAIN GOODS.

Section 2534(g)(2) of title 10, United States Code, is amended by inserting before the period at the end: "unless the head of a contracting activity determines—

"(A) that the amount of the purchase is $25,000 or less;

"(B) the precision level of the ball or roller bearings is rated lower than Annual Bearing Engineering Committee (ABEC) 5 or Roller Bearing Engineering Committee (RBEC) 5, or their equivalent;

"(C) at least two manufacturers in the national technology and industrial base capable of producing the ball or roller bearings decline to respond to a request for quotation for the required items; and

"(D) the bearings are neither miniature nor instrument ball bearings, i.e. rolling contact ball bearings with a basic outside diameter (exclusive of flange diameters) of 30 millimeters or less.".

SEC. 712. REPEAL OF THE REQUIREMENT FOR LIMITATIONS ON THE USE OF AIR FORCE CIVIL ENGINEERING SUPPLY FUNCTION CONTRACTS.

Section 345 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261, 112 Stat. 1978) is repealed.

SEC. 713. ONE-YEAR EXTENSION OF COMMERCIAL ITEMS TEST PROGRAM.

Section 4202(e) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 184, 652 is amended by striking "January 1, 2002" and inserting "January 1, 2003.".

SEC. 714. MODIFICATION OF LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

Section 1302(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1948), as amended by section 1501(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 806), is further amended by striking paragraph (1)(D).

Subtitle D—Military Construction General Provisions

Sec. 715. Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Military Construction and Family Housing Construction Projects.
Sec. 716. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.
Sec. 717. Leasebacks of Base Closure Property.
Sec. 718. Alternative Authority For Acquisition and Improvement of Military Housing.
Sec. 719. Annual Report to Congress on Design And Construction.

SEC. 715. EXCLUSION OF UNFORESEEN ENVIRONMENTAL HAZARD REMEDIATION FROM THE LIMITATION ON COST INCREASES FOR MILITARY CONSTRUCTION AND FAMILY HOUSING CONSTRUCTION PROJECTS.

Subsection 2853(d) of title 10, United States Code, is amended—

(1) by inserting "(1)" immediately following "apply to"; and

(2) by inserting immediately before the period at the end "; or (2) the costs associated with environmental hazard remediation such as asbestos removal, radon abatement, lead-based paint removal or abatement, and any other legally required environmental hazard remediation, provided that such remediation requirements could not be reasonably anticipated at the time of budget submission".

SEC. 716. INCREASE OF OVERSEAS MINOR CONSTRUCTION THRESHOLD USING OPERATIONS AND MAINTENANCE FUNDS.

Section 2805 of title 10, United States Code, amended—

(1) in subsection (b)(1), by striking "$500,000" and inserting "$750,000";

(2) in subsection (c)(1)(A), by striking "$1,000,000" and inserting "$1,500,000"; and

(3) in subsection (c)(1)(B), by striking "$500,000" and inserting "$750,000".

SEC. 717. LEASEBACKS OF BASE CLOSURE PROPERTY.

(a) 1990 LAW.—Section 2905(b)(4)(E) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended as follows:

(1) in clause (iii), by striking "A" and inserting "Except as provided in clause (v) below, a"

(2) by adding at the end the following new clause (v):

"(v) Notwithstanding clause (iii) or chapter 137 of title 10, United States Code, where the department or agency concerned leases a substantial portion of the installation, the department or agency may obtain, at a rate no higher than that charged to non-Federal tenants, facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of a lease under clause (i). Facility services and common area maintenance shall not include municipal services that the state or local government is required by law to provide to all landowners in its jurisdiction without direct charge, or firefighting or security-guard functions.".

(b) 1988 LAW.—Section 204(b)(4) of the Defense Authorization Amendments and Base Closure and Realignment Act of (Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following new subparagraph (J):

"(J)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this title (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

"(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

"(iii) Except as provided in clause (v) below, a lease under clause (i) may not require rental payments by the United States.

"(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.

"(v) Notwithstanding clause (iii) or chapter 137 of title 10, United States Code, where the department or agency concerned leases a substantial portion of the installation, the department or agency may obtain, at a rate no higher than that charged to non-Federal tenants, facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of a lease under clause (i). Facility services and common area maintenance shall not include municipal services that the state or local government is required by law to provide to all landowners in its jurisdiction without direct charge, or firefighting or security-guard functions.".

SEC. 718. ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) IN GENERAL.—Subchapter IV of Chapter 169 of title 10, United States Code, is amended by adding at the end the following new section:

"§2886. Reimbursement of funds related to the execution of military family housing privatization projects

"The Secretary of Defense may, during the first year of an initiative under this Subchapter, transfer funds from appropriations available for the operation and maintenance of family housing to appropriations available for the pay of military personnel in such amounts as are necessary to offset additional housing allowance costs incurred as a result of such initiative.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter IV of chapter 169 of title 10 is amended by inserting after the item relating to section 2885 the following:

"2886. Reimbursement of funds related to the execution of military family housing privatization projects.".

SEC. 719. ANNUAL REPORT TO CONGRESS ON DESIGN AND CONSTRUCTION.

(a) IN GENERAL.—Section 2861 of title 10, United States Code is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter III of chapter 169 of such title 10 is amended by striking the item referring to section 2861.

TITLE VIII—DEPARTMENT OF DEFENSE ORGANIZATION AND POSITIONS

Subtitle A—Department of Defense Organizations and Positions

Sec. 801. Organizational Alignment Change for Director for Expeditionary Warfare.
Sec. 802. Consolidation of Authorities Relating to Department of Defense Regional Centers for Security Studies.
Sec. 803. Change of Name for Air Mobility Command.
Sec. 804. Transfer of Intelligence Positions in Support of the National Imagery and Mapping Agency.

SEC. 801. ORGANIZATIONAL ALIGNMENT CHANGE FOR DIRECTOR FOR EXPEDITIONARY WARFARE.

Section 5038(a) of title 10, United States Code, is amended by striking "Office of the Deputy Chief of Naval Operations for Resources, Warfare Requirements, and Assessments" and inserting "Office of the Deputy Chief of Naval Operations for Warfare Requirements and Programs".

SEC. 802. CONSOLIDATION OF AUTHORITIES RELATING TO DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.

(a) IN GENERAL.—Chapter 6 of title 10, United States Code, is amended, by adding at the end the following new section:

"§169. Regional centers for security studies

"(a) AUTHORITY TO ESTABLISH, OPERATE AND TERMINATE REGIONAL CENTERS.—The Secretary of Defense may establish, operate and terminate regional centers for security studies to serve as forums for bilateral and multilateral communication and military and civilian exchanges. Such regional centers shall use professional military education, civilian defense education, and related academic and other activities, as the Secretary deems appropriate, to pursue such communication and exchanges. The Secretary of Defense annually, in writing, shall evaluate the performance and value to the United States of each such regional center and determine whether to continue to operate such regional center.

"(b) ACCEPTANCE OF GIFTS AND CONTRIBUTIONS.—The Secretary may accept, hold, administer, and use gifts and contributions of money, personal property (including loans of property), and services for the purpose of defraying the costs or enhancing the operations of one or more of the Regional Centers, and may pay all reasonable expenses in connection with the conveyance or transfer of any such gifts. Contributions of money and proceeds from the sale of property accepted by the Secretary under this subsection shall be credited to funds available for the operation or support of the Center or Centers intended to benefit from such contribution and shall remain available until expended. No gift or contribution may be accepted under this subsection from a foreign state, or instrumentality or national thereof, or organization domiciled therein, nor anyone acting on behalf of any of them.

"(c) LIMITATION.—The Secretary may not accept a gift or donation under subsection (b) if the acceptance of the gift or donation would compromise or appear to compromise—

"(1) the ability of the Department of Defense, any employee of the Department or members of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

"(2) the integrity of any program of the Department of Defense or any person involved in such a program.

"(d) ADMINISTRATION.—The Secretary may take the following actions in furtherance of the mission of Regional Centers operated under this section:

"(1) EMPLOYMENT AND COMPENSATION OF FACULTY AND STAFF.—Notwithstanding the provisions of title 5, United States Code, regarding appointment, pay and classification, the Secretary may employ such civilian directors, faculty and staff members for Regional Centers operated under this section as the Secretary determines necessary.

"(2) WAIVER OF COSTS.—The Secretary may waive reimbursement of the cost of conferences, seminars, courses of instruction or similar educational activities of such Regional Centers for foreign participants if the Secretary determines that attendance of such personnel without reimbursement is in the national security interests of the United States.

"(3) PAYMENT OF EXPENSES.—In addition to waiver of reimbursement of costs described in paragraph (2), the Secretary of Defense may pay the travel, subsistence, and similar personal expenses of foreign participants in connection with the attendance of such personnel at conferences, seminars, courses of instruction, or similar educational activities of such Regional Centers if the Secretary determines that payment of such expenses is in the national security interest of the United States.

"(e) REPORT TO CONGRESS.—The Secretary shall report annually to the appropriate committees of Congress on the status, objectives, operations and foreign participation of the Regional Centers.

"(f) DEFINITIONS.—In this section:

"(1) The term 'Appropriate committees of Congress' means the Committees on Armed Services of the Senate and of the House of Representatives.

"(2) The term 'Contribution' means a contribution, gift or donation of funds, materials (including research materials), property or services (including lecture services and faculty services), but does not include a contribution made pursuant to chapter 138 of this title.".

(b) CONFORMING AMENDMENTS.—(1) Section 1306 of the National Defense Authorization Act for Fiscal Year 1995, (Public Law 103-337; 108 Stat. 2892) is repealed.

(2) Section 1065 of the National Defense Authorization Act for Fiscal Year 1997, (Public Law 104-201; 110 Stat. 2653) is amended as follows—

(A) by striking subsections (a) and (b); and

(B) by striking the subsection designator "(c)".

(3) Section 1595 of title 10, United States Code, is amended as follows—

(A) in subsection (c), by striking paragraphs (3) and (5);

(B) by redesignating subparagraph (c)(4) as subparagraph (c)(3); and

(C) by striking subsection (e).

(4) Section 2611 of title 10, United States Code, is repealed.

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 155 of such title 10 is amended by striking the item relating to section 2611; and

(2) The table of sections at the beginning of chapter 6 of such title 10 is amended, by adding at the end the following new item:

"169. Regional Centers for Security Studies".

SEC. 803. CHANGE OF NAME FOR AIR MOBILITY COMMAND.

(a) Section 2544(d) of title 10, United States Code, is amended by striking "Military Airlift Command" and inserting "Air Mobility Command".

(b) Section 2545(a) of such title 10 is amended by striking "Military Airlift Command" and inserting "Air Mobility Command".

(c) Section 8074 of such title 10 is amended by striking subsection (c).

(d) Section 430(c) of title 37, United States Code, is amended by striking "Military Airlift Command" and inserting "Air Mobility Command".

(e) Section 432(b) of such title 37 is amended by striking "Military Airlift Command" and inserting "Air Mobility Command".

SEC. 804. TRANSFER OF INTELLIGENCE POSITIONS IN SUPPORT OF THE NATIONAL IMAGERY AND MAPPING AGENCY.

Section 1606 of title 10, United States Code, is amended by striking “517” and inserting “544”.

Subtitle B—Reports

Sec. 811. Amendment to National Guard and Reserve Component Equipment: Annual Report to Congress.

Sec. 812. Elimination of Triennial Report on the Roles and Missions of the Armed Forces.

Sec. 813. Change in Due Date of Commercial Activities Report.

SEC. 811. AMENDMENT TO NATIONAL GUARD AND RESERVE COMPONENT EQUIPMENT: ANNUAL REPORT TO CONGRESS.

Section 10541 of title 10, United States Code, is amended to read as follows:

“(a) The Secretary of Defense shall submit to the Congress each year, not later than March 1, a written report concerning the equipment of the National Guard and the Reserve components of the armed forces, to include the U.S. Coast Guard Reserve. This report shall cover the current fiscal year and three succeeding years. The focus should be on major items of equipment which address large dollar-value requirements, critical Reserve component shortages and major procurement items. Specific major items of equipment shall include ships, aircraft, combat vehicles and key combat support equipment.

“(b) Each annual report under this section should include the following:

“(1) Major items of equipment required and on-hand in the inventories of each Reserve component.

“(2) Major items of equipment which are expected to be procured from commercial sources or transferred from the Active component to the Reserve components of each Service.

“(3) Major items of equipment in the inventories of each Reserve component which are substitutes for a required major item of equipment.

“(4) A narrative explanation of the plan of the Secretary concerned to equip each Reserve component, including an explanation of the plan to equip units of the Reserve components that are short major items of equipment at the outset of war or a contingency operation.

“(5) A narrative discussing the current status of the compatibility and interoperability of equipment between the Reserve components and the active forces, the effect of that level of compatibility or interoperability on combat effectiveness, and a plan to achieve full equipment compatibility and interoperability.

“(6) A narrative discussing modernization shortfalls and maintenance backlogs within the Reserve components and the effect of those shortfalls on combat effectiveness.

“(7) A narrative discussing the overall age and condition of equipment currently in the inventory of each Reserve component.

“(c) Each report under this section shall be expressed in the same format and with the same level of detail as the information presented in the Future Years Defense Program Procurement Annex prepared by the Department of Defense.”.

SEC. 812. ELIMINATION OF TRIENNIAL REPORT ON THE ROLES AND MISSIONS OF THE ARMED FORCES.

(a) REPEAL OF REQUIREMENT FOR REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—Section 153 of title 10, United States Code, is amended—

(1) in subsection (a), by striking the catchline and section designator “(a) PLANNING; ADVICE; POLICY FORMULATION.—”; and

(2) by striking subsection (b).

(b) ROLES AND MISSIONS AS PART OF DEFENSE QUADRENNIAL REVIEW.—Subsection 118(e) of such title 10 is amended by inserting after the first sentence the following two new sentences: “The Chairman shall also include his assessment of the assignment of functions (or roles and missions) to the Armed Forces and recommendations for change the Chairman considers necessary to achieve the maximum efficiency of the Armed Forces. This roles and missions assessment should consider the unnecessary duplication of effort among the armed forces and changes in technology that can be applied effectively to warfare.”.

SEC. 813. CHANGE IN DUE DATE OF COMMERCIAL ACTIVITIES REPORT.

Section 2461(g), title 10, United States Code is amended by striking “February 1” and inserting “June 30”.

Subtitle C—Other Matters

Sec. 821. Documents, Historical Artifacts, and Obsolete or Surplus Materiel: Loan, Donation, or Exchange.

Sec. 822. Charter Air Transportation of Members of the Armed Forces.

SEC. 821. DOCUMENTS, HISTORICAL ARTIFACTS, AND OBSOLETE OR SURPLUS MATERIEL: LOAN, DONATION, OR EXCHANGE.

(a) IN GENERAL.—Section 2572 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “subsection (c)” and inserting “subsection (c)(1)”;

(2) in subsection (b), by striking “subsection (c)” and inserting “subsection (c)(2)”; and

(3) in subsection (c)—

(A) by striking “(c) This section” and inserting “(c)(1) Subsection (a)”; and

(B) by adding at the end the following new paragraph:

“(2) Subsection (b) applies to the following types of property held by a military department or the Coast Guard: books, manuscripts, works of art, historical artifacts, drawings, plans, models, and obsolete or surplus materiel.”.

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking “condemned or obsolete combat” and inserting “obsolete or surplus”.

SEC. 822. CHARTER AIR TRANSPORTATION OF MEMEBERS OF THE ARMED FORCES.

Section 2640 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking “an” after “contract with” and inserting “a domestic or foreign”;

(2) in subsection (b)(5), by striking “checkrides” and inserting “cockpit safety observations”;

(3) in subsection (e), by striking “Military Airlift Command” and inserting “Air Mobility Command”;

(4) in subsection (g), by striking “in an emergency”; and

(5) in subsection (j)(1), by striking “air carrier,”

TITLE IX—GENERAL PROVISIONS

Subtitle A—Matters Relating to Other Nations

Sec. 901. Test and Evaluation Initiatives.

Sec. 902. Cooperative Research and Development Projects: Allied Countries.

Sec. 903. Recognition of Assistance from Foreign Nationals.

Sec. 904. Personal Service Contracts in Foreign Areas.

SEC. 901. TESTS AND EVALUATION INITIATIVES.

(a) AUTHORITY TO ENGAGE IN COOPERATIVE TESTS AND EVALUATION AT U.S. AND FOREIGN RANGES AND OTHER FACILITIES WHERE TESTING MAY BE CONDUCTED.—Chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 23501. Agreements for the cooperative use of ranges and other facilities where testing may be conducted

“(a) AUTHORITY TO ENTER INTO INTERNATIONAL AGREEMENTS.—The Secretary of Defense, with the concurrence of the Secretary of State, may enter into a memorandum of understanding (or other formal agreement) with an eligible country or international organization for the purpose of reciprocal use of ranges and other facilities where testing of defense equipment may be conducted.

“(b) GENERAL NATURE OF AGREEMENT.—Formal agreements reached under subsection (a) shall require reciprocal use of test ranges and other facilities where testing may be conducted in the United States and at such ranges and facilities operated by an eligible country or international organization.

“(c) PAYMENT OF COSTS.—Any agreement for the reciprocal use of ranges and other facilities where testing may be conducted shall contain the following pricing principles for reciprocal application:

“(1) The price charged a recipient country for test and evaluation services furnished by the officers, employees, or governmental agencies of the supplying country or international organization, shall be the direct costs to the supplying country or international organization that are incurred as a result of the test and evaluation services acquired by the recipient country or international organization.

“(2) The recipient country or international organization may be charged for indirect costs related to the use of the range or other facility where testing may be conducted only as specified in the memorandum of understanding or other formal agreement.

“(d) RETENTION OF FUNDS COLLECTED FROM ELIGIBLE COUNTRIES AND INTERNATIONAL ORGANIZATIONS.—Amounts collected under subsection (c) from an eligible country or international organization shall be credited to the appropriation accounts under which such costs were incurred.

“(e) DEFINITIONS.—In this section:

“(1) Direct cost means any item of cost that is easily and readily identified to a specific unit of work or output within the range or facility where such testing and evaluation occurred, that would not have been incurred if such testing and evaluation had not taken place. Direct cost may include labor, materials, facilities, utilities, equipment, supplies, and any other resources of the range or facility where such test and evaluation occurred, that is consumed or damaged during such test and evaluation, or maintained for the recipient country or international organization.

“(2) Indirect costs means any item of cost that cannot readily, or directly, be identified to a specific unit of work or output. Indirect cost may include general and administrative expenses for the supporting base operations, manufacturing expenses, supervision, office supplies, utility, costs, etc. Such costs are accumulated in a cost pool and allocated to customers appropriately.

“(f) DELEGATION OF AUTHORITY.—The Secretary may delegate to the Deputy Secretary of Defense and to the head of one designated office of his choosing the authority to determine the appropriateness of the amount of indirect costs included in such charges.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"23501. Agreements for the cooperative use of ranges and other facilities where testing may be conducted.".

(c) AUTHORITY TO USE MAJOR RANGE AND TEST FACILITY INSTALLATIONS OF THE MILITARY DEPARTMENTS UNDER THE DEPARTMENT OF DEFENSE CONTRACT.—Section 2681(c) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding the requirement for reimbursement of all direct costs under subparagraph (1), a contractor, using a Major Range and Test Facility Base installation in support of a Department of Defense requirement, may be provided access to and use of the Major Range and Test Facility Base Installations and charged for services for purposes of the contract utilizing the same criteria as would be applied to use of a Major Range and Test Facility Base Installation by an activity or agency of the Department of Defense. A contractor of a Department or agency of the Federal Government other than the Department of Defense shall be provided access to and use of a Major Range and Test Facility Base Installation and services in support of such contract at the discretion of the Secretary of Defense, and may be charged for access, use and services on the same basis as the Federal government Department or agency funding the contract.".

SEC. ___.COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS: ALLIED COUNTRIES.

Section 2350a of title 10, United States Code, is amended as follows:

(1) In the title for Section 2350a—by striking out "allied" and inserting "NATO ally, major non-NATO ally, other friendly foreign country, or NATO organization".

(2) Paragraph (a) is amended by striking "one or more major allies of the United States or NATO organizations" and inserting "the North Atlantic Treaty Organization (NATO) or with one or more member countries of that Organization, or with any major non-NATO ally or other friendly foreign country or NATO organization".

(3) Paragraph (b)(1) is amended—

(A) by striking "(1)";

(B) by striking "the North Atlantic Treaty Organization (NATO)" and inserting "NATO";

(C) by striking "its major non-NATO allies." and inserting "a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization.".

(4) Paragraph (b)(2) is amended by striking "The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition and Technology." and inserting "The authority of the Secretary to make a determination under paragraph (1) may be delegated only to the Deputy Secretary of Defense and to one other official the Secretary so determines.".

(5) Paragraph (d)(1) is amended by striking "the major allies of the United States" and inserting "a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization".

(6) Paragraph (d)(2) is amended by striking "major ally of the United States" and inserting "a NATO ally, a major non-NATO ally or other fdendly foreign country or NATO organization".

(7) Paragraph (e)(1)(B)(2)(A) is amended by striking "one or more of the major allies of the United States." and inserting "a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization.".

(8) Paragraph (e)(1)(B)(2)(B) in amended by striking "one or more major allies of the United States or NATO organizations" and inserting "a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization".

(9) Paragraph (e)(1)(B)(2)(C) is amended by striking "one or more major allies of the United States" and inserting "a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization".

(10) Paragraph (e)(1)(B)(2)(D) in amended by striking "one or more major allies of the United States" and inserting "a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization".

(11) Paragraph (f)(B)(1) is amended by striking "(1)".

(12) Paragraph (f)(B)(2) is amended by striking "The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives a report—(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and (B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section.".

(13) Paragraph (g)(1)(A) is amended by striking "major allies of the United States and other friendly foreign countries." and inserting "a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization".

(14) Paragraph (i) is amended by striking "(2) The term "major ally of the United States" means—(A) a member nation of the North Atlantic Treaty Organization (other than the United States); or (B) a major non-NATO ally.".

(15) Paragraph (i)(1) is amended by striking "one or more major allies of the United States or NATO organizations" and inserting "a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization".

SEC. 903. RECOGNITION OF ASSISTANCE FROM FOREIGN NATIONALS.

(a) IN GENERAL.—Chapter 57 of title 10, United States Code, is amended by inserting after section 1133 the following:

"§ 1134. Recognition of assistance from foreign nationals

"The Secretary of Defense may issue regulations, with the concurrence of the Secretary of State, authorizing members of the armed forces or civilian officers or employees of the Department of Defense to present to foreign nationals plaques, trophies, noncurrency coins, certificates, and other suitable commemorative items or mementos to recognize achievements or performance, not involving combat, that assists the armed forces of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1133 the following new item:

"1134. Recognition of assistance from foreign nationals.".

SEC. 904. PERSONAL SERVICE CONTRACTS IN FOREIGN AREAS.

Under such regulations as the Secretary of State, with the concurrence of the Secretary of Defense, may prescribe, the Department of State shall use authority available to the Department of State to enter into personal services contracts with individuals to perform services in support of the Department of Defense in foreign countries.

Subtitle B—Department of Defense Civilian Personnel

Sec. 911. Removal of Limits on the Use of Voluntary Early Retirement Authority and Voluntary Separation Incentive Pay for Fiscal Years 2002 and 2003.
Sec. 912. Authority for Designated Civilian Employees Abroad to Act as a Notary.
Sec. 913. Inapplicability of Requirement for Studies and Reports When All Directly Affected Department of Defense Civilian Employees Are Reassigned to Comparable Federal Positions.
Sec. 914. Preservation of Civil Service Rights for Employees of the Former Defense Mapping Agency.
Sec. 915. Financial Assistance to Certain Employees in Acquisition of Critical Skills.
Sec. 916. Pilot Program for Payment of Retraining Expenses.

SEC. 911. REMOVAL OF LIMITS ON THE USE OF VOLUNTARY EARLY RETIREMENT AUTHORITY AND VOLUNTARY SEPARATION INCENTIVE PAY FOR FISCAL YEARS 2002 AND 2003.

Section 1153(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398, 114 Stat. 1654A–323) is amended—

(1) in paragraph (1), by striking "(1) Subject to paragraph (2), the" and inserting "The";

(2) by striking paragraph (2); and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2).

SEC. 912. AUTHORITY FOR DESIGNATED CIVILIAN EMPLOYEES ABROAD TO ACT AS A NOTARY.

(a) CLARIFICATION OF STATUS OF CIVILIAN ATTORNEYS ACTING AS A NOTARY.—Section 1044a(b)(2) of title 10, United States Code, is amended by striking "legal assistance officers" and inserting "legal assistance attorneys".

(b) AUTHORITY FOR DESIGNATED CIVILIAN EMPLOYEES ABROAD TO ACT AS A NOTARY.—Subsection (b)(4) of such section 1044a is amended by inserting "and, when outside the United States, all civilian employees of the armed forces of suitable training," after "duty status".

SEC. 913. INAPPLICABILITY OF REQUIREMENT FOR STUDIES AND REPORTS WHEN ALL DIRECTLY AFFECTED DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES ARE REASSIGNED TO COMPARABLE FEDERAL POSITIONS.

Section 2461 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i) INAPPLICABILITY WHEN ALL DIRECTLY AFFECTED DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES ARE REASSIGNED TO COMPARABLE FEDERAL POSITIONS.—The provisions of this section shall not apply when all directly affected Department of Defense civilian employees serving on permanent appointments are reassigned to comparable Federal positions for which they are qualified.".

SEC. 914. PRESERVATION OF CIVIL SERVICE RIGHTS FOR EMPLOYEES OF THE FORMER DEFENSE MAPPING AGENCY.

Notwithstanding section 1612 of title 10, United States Code, the provisions of subchapters II and IV (sections 7511 through 7514 and sections 7531 through 7533, respectively) of chapter 75 of title 5, United States Code, continue to apply, for as long as the employee continues to serve as a Department of Defense employee in the National Imagery and Mapping Agency without a break in service, to each of those former Defense Mapping Agency employees who occupied positions established under title 5, United States Code, and who on October 1, 1996, became employees of the National Imagery and Mapping Agency under paragraph 1601 (a)(1) of title 10, United States Code pursuant to Title XI of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-20 1; 110 Stat. 2675, et seq.) and for whom the provisions of chapter 75 of title 5, United States Code, applied before October 1, 1996. Each such employee, at any time, may elect in writing to waive the provisions of this section, in which case such waiver shall be permanent as to that employee.

SEC. 915. FINANCIAL ASSISTANCE TO CERTAIN EMPLOYEES IN ACQUISITION OF CRITICAL SKILLS.

The Secretary of Defense may provide the Director, National Imagery and Mapping Agency, the authority to establish an undergraduate training program with respect to civilian employees of the National Imagery and Mapping Agency that is similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish for civilian employees of the National Security Agency under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

SEC. 916. PILOT PROGRAM FOR PAYMENT OF RETRAINING EXPENSES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§2410o. Pilot program for payment of retraining expenses

"(a) AUTHORITY.—The Secretary of Defense may establish a pilot program for the payment of retraining expenses in accordance with this section to facilitate the reemployment of eligible employees of the Department of Defense who are being involuntarily separated due to a reduction-in-force or due to relocation resulting from transfer of function, realignment, or change of duty station. Under the pilot program, the Secretary may pay retraining incentives to encourage non-Federal employers to hire and retain such employees.

"(b) ELIGIBLE EMPLOYEES.—For purposes of this section, an eligible employee is an employee of the Department of Defense, serving under an appointment without time limitation, who has been employed by the Department of Defense for a continuous period of at least 12 months and who has been given notice of separation pursuant to a reduction in force, except that such term does not include—

"(1) a re-employed annuitant under subchapter III of chapter 83 of title 5, United States Code, chapter 84 of such title, or another retirement system for employees of the Government;

"(2) an employee who, upon separation from Federal service, is eligible for an immediate annuity under subchapter III of chapter 83 of title 5, United States Code, or subchapter II of chapter 84 of such title; or

"(3) an employee who is eligible for disability retirement under any of the retirement systems referred to in paragraph (1).

"(c) RETRAINING INCENTIVE.—(1) Under the pilot program, the Secretary may enter into an agreement with a non-Federal employer under which the non-Federal employer agees—

"(A) to employ an eligible person referred to in subsection (a) for at least 12 months for a salary that is mutually agreeable to the employer and such person; and

"(B) to certify to the Secretary the cost incurred by the employer for any necessary training, as defined by the Secretary, provided to such eligible employee in connection with the employment by that employer.

"(2) The Secretary may pay a retraining incentive to the non-Federal employer upon the employee's completion of 12 months of continuous employment with that employer. Subject to this section, the Secretary shall prescribe the amount of the incentive.

"(3) The Secretary may pay a prorated amount of the full retraining incentive to the non-Federal employer for an employee who does not remain employed by the non-Federal employer for at least 12 months.

"(4) In no event may the amount of retraining incentive paid for the training of any one person under the pilot program exceed the amount certified for that person under paragraph (1) or $10,000, whichever is greater.

"(d) DURATION.—No incentive may be paid under the pilot program for training commenced after September 30, 2005.

"(e) DEFINITIONS.—The following definitions apply in this section:

"(1) The term "non-Federal employer" means an employer that is not an Executive Agency, as defined in section 105 of title 5, United States Code, or the legislative or judicial branch of the Federal Government.

"(2) "Reduction-in-force" and "transfer of function" shall have the same meaning as in chapter 35 of title 5, United States Code.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such Chapter 141 is amended by adding at the end the following new item:

"2410o. Pilot program for payment of retraining expenses.".

Subtitle C—Other Matters

Sec. 921. Authority to Ensure Demilitarization of Significant Military Equipment Formerly Owned by the Department of Defense.
Sec. 922. Motor Vehicles: Documentary Requirements for Transportation for Military Personnel and Federal Employees on Change of Permanent Station.
Sec. 923. Department of Defense Gift Initiatives.
Sec. 924. Repeal of the Joint Requirements Oversight Council Semi-Annual Report.
Sec. 925. Access to Sensitive Unclassified Information.
Sec. 926. Water Rights Conveyance, Andersen Air Force Base, Guam.
Sec. 927. Repeal of Requirement For Separate Budget Request For Procurement of Reserve Equipment.
Sec. 928. Repeal of Requirement for Two-year Budget Cycle for the Department of Defense.

SEC. 921. AUTHORITY TO ENSURE DEMILITARIZATION OF SIGNIFICANT MILITARY EQUIPMENT FORMERLY OWNED BY THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Chapter 153 of title 10, United States Code, is amended by inserting after section 2572 the following new section:

"§2573. Continued authority to require demilitarization of significant military equipment after disposal

"(a) AUTHORITY TO REQUIRE DEMILITARIZATION.—The Secretary of Defense may require any person in possession of significant military equipment formerly owned by the Department of Defense—

"(1) to demilitarize the equipment;

"(2) to have the equipment demilitarized by a third party; or

"(3) to return the equipment to the Government for demilitarization.

"(b) COST AND VALIDATION OF DEMILITARIZATION.—When the demilitarization of significant military equipment is carried out by the person in possession of the equipment pursuant to paragraph (1) or (2) of subsection (a), the person shall be solely responsible for all demilitarization costs, and the United States shall have the right to validate that the equipment has been demilitarized.

"(c) RETURN OF EQUIPMENT TO GOVERNMENT.—When the Secretary of Defense requires the return of significant military equipment for demilitarization by the Government, the Secretary shall bear all costs to transport and demilitarize the equipment. If the person in possession of the significant military equipment obtained the property in the manner authorized by law or regulation and the Secretary determines that the cost to demilitarize and return the property to the person is prohibitive, the Secretary shall reimburse the person for the purchase cost of the property and for the reasonable transportation costs incurred by the person to purchase the equipment.

"(d) ESTABLISHMENT OF DEMILITARIZATION STANDARDS.—The Secretary shall issue regulations to prescribe what constitutes demilitarization for each type of significant military equipment, with the objective of ensuring that the equipment does not pose a significant risk to public safety and does not provide a significant weapon capability or military-unique capability and ensure that any person from whom private property is taken for public use under this section receives just compensation.

"(e) EXCEPTIONS.—This section does not apply—

"(1) when a person is in possession of significant military equipment formerly owned by the Department of Defense for the purpose of demilitarizing the equipment pursuant to a Government contract.

"(2) to small arms weapons issued under the Defense Civilian Marksmanship Program established in Title 36, United States Code.

"(3) to issues by the Department of Defense to museums where modified demilitarization has been performed in accordance with the Department of Defense Demilitarization Manual, DoD 4160.21–M–1; or

"(4) to other issues and un-demilitarized significant military equipment under the provisions of the provisions of the Department of Defense Demilitarization Manual, DoD 4160.21–M–1.

"(f) DEFINITION OF SIGNIFICANT MILITARY EQUIPMENT.—In this section, the term "significant military equipment" means—

"(1) an article for which special export controls are warranted under the Arms Export Control Act (22 U.S.C. 2751 et seq.) because of its capacity for substantial military utility or capability, as identified on the United States Munitions List maintained under section 121.1 of title 22, Code of Federal Regulations; and 46

(2) any other article designated by the Department of Defense as requiring demilitarization before its disposal.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2572 the following new item:

"2573. Continued authority to require demilitarization of significant military equipment after disposal.".

SEC. 922. MOTOR VEHICLES: DOCUMENTARY REQUIREMENTS FOR TRANSPORTATION FOR MILITARY PERSONNEL AND FEDERAL EMPLOYEES ON CHANGE OF PERMANENT STATION.

(a) MILITARY PERSONNEL.—Section 2634 of title 10, United States Code, is amended as follows:

(1) by redesignating subsections (f), (g) and (h) as subsections (g), (h), and (i) respectively; and

(2) by inserting after subsection (e) the following new subsection;

"(f) Motor vehicles transported under this section are not subject to the provisions of the Anti Car Theft Act of 1992, as amended, or any implementing regulations. The Secretary of Defense (and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a Service in the Navy) will prescribe regulations designed to ensure members do not present for shipment stolen vehicles.".

(b) CIVILIAN EMPLOYEES.—Section 5727 of title 5, United States Code, is amended as follows:

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) Motor vehicles transported under this section are not subject to the provisions of the Anti Car Theft Act of 1992, as amended, or any implementing regulations. Regulations prescribed under section 5738 of this title will include provisions designed to ensure employees do not present for shipment stolen motor vehicles under subsection (b) of this section.".

SEC. 923. DEPARTMENT OF DEFENSE GIFT INITIATIVES.

(a) LOAN OR GIFT OF OBSOLETE MATERIAL AND ARTICLES OF HISTORICAL INTEREST.—Section 7545 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting the following catchline after the subsection designator: "ADDITIONAL ITEMS TO BE DONATED BY THE SECRETARY OF THE NAVY.";

(B) by striking "books, manuscripts, works of art, drawings," and all that follows to the dash and inserting "obsolete combat or shipboard material not needed by the Department of the Navy, to";

(C) in paragraph (5), by striking "World War I or World War 11" and inserting "a foreign war.";

(D) in paragraph (6), by striking "soldiers" and inserting "servicemen's"; and

(E) in paragraph (8), by inserting "or memorial" after "a museum"; and

(2) in subsection (b), by inserting the following catchline after the subsection designator: "MAINTENANCE OF THE RECORDS OF THE GOVERNMENT.—";

(3) in subsection (c), by inserting the following catchline after the subsection designator: "SECRETARIAL AUTHORITY TO MAKE GIFTS OR LOANS.—"; and

(4) by adding at the end the following new subsection:

"(d) AUTHORITY TO TRANSFER A PORTION OF A VESSEL.—The Secretary may lend, give or otherwise transfer any portion of the hull or superstructure of a vessel stricken from the Naval Vessel Register and designated for scrapping to a qualified organization listed under subsection (a). The terms and conditions of any agreement for the transfer of a portion of a vessel under this section shall include a requirement that the transferee will maintain the material conveyed in a condition that will not diminish the historical value of the material or bring discredit upon the Navy.".

(b) LOAN, GIFT, OR EXCHANGE OF DOCUMENTS, HISTORICAL ARTIFACTS, AND CONDEMNED OR OBSOLETE, COMBAT MATERIAL.—Section 2572(a)(1) of such title 10 is amended by striking the period after "A municipal corporation" and inserting county or other political subdivision of a state.".

SEC. 924. REPEAL OF THE JOINT REQUIREMENTS OVERSIGHT COUNCIL SEMI-ANNUAL REPORT.

Section 916 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398; 114 Stat. 1654) is repealed.

SEC. 925. ACCESS TO SENSITIVE UNCLASSIFIED INFORMATION.

(a) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

§"2332. Limited access to sensitive unclassified information by administrative support contractors

"(a) AUTHORITY.—Notwithstanding sections 552a of title 5, 2320 of title 10, and 1905 of title 18, United States Code, the Secretary of Defense may provide administrative support contractors with limited access to, and use of, sensitive unclassified information, provided that—

"(1) such disclosure is not otherwise prohibited by law;

"(2) access shall be limited to sensitive unclassified information that is necessary for the administrative support contractor to perform contractual duties;

"(3) administrative support contractors shall be subject to the same restrictions on using, reproducing, modifying, performing, displaying, releasing or disclosing such sensitive unclassified information as are applicable to employees of the United States; and

"(4) administrative support contractors shall be subject to the same civil and criminal penalties for unauthorized disclosure or use of such sensitive unclassified information as are applicable to employees of the United States.

"(b) DEFINITIONS.—The following definitions apply to this section:

"(1) The term "sensitive unclassified information" means all unclassified information for which disclosure to an administrative support contractor is prohibited by the Privacy Act (5 U.S.C. §552a); section 2320 of this title; or the Trade Secrets Act (18 U.S.C. §1905).

"(2) The term "administrative support contractor" means any officer or employee of a contractor or subcontractor who performs any of the following for or on behalf of the Department of Defense: secretarial or clerical support; provisioning or logistics support; data entry; document reproduction, scanning, or imaging; operation, management, or maintenance of paper-based or electronic mail rooms, file rooms, or libraries; installation, operation, management, or maintenance of internet or intranet systems, networks, or computer systems; and facilities or information security.".

(b) CLERICAL AMENDNENT.—The table of sections at the beginning of such chapter 137 is amended by adding at the end the following new item:

"2332. Limited access to sensitive unclassified information by administrative support contractors.".

SEC. 926. WATER RIGHTS CONVEYANCE, ANDERSEN AIR FORCE BASE, GUAM.

(a) AUTHORITY TO CONVEY.—In conjunction with the conveyance of a utility system under the authority of section 2688 of title 10, United States Code, and in accordance with all the requirements of that section, the Secretary of the Air Force may convey all right, title, and interest of the United States, or such lesser estate as the Secretary considers appropriate to serve the interests of the United States, in the water rights related to Andy South (also known as the Andersen Administrative Annex, MARBO (Marianas Bonins Base Command), and the Andersen Water Supply Annex (also known as the Tumon Water Well or the Tumon Maui Well), Air Force properties located on Guam.

(b) ADDITIONAL REQUIREMENTS.—The Secretary may exercise the authority contained in subsection (a) only if—

(1) the Secretary has determined that there exists adequate supplies of potable groundwater under Andersen Air Force Base that are sufficient to meet the current and long-term requirements of the installation for water;

(2) the Secretary has determined that such supplies of groundwater are economically obtainable; and,

(3) the Secretary requires the conveyee to provide a water system capable of meeting the water supply needs of Anderson Air Force Base, as determined by the Secretary.

(c) INTERIM WATER SUPPLIES.—If the Secretary determines that it is in the best interests of the United States to transfer title to the water rights and utility systems at Andy South and Andersen Water Supply Annex prior to placing into service a new replacement water system and well field on Andersen Air Force Base, the Secretary may require that the United States have the primary right to all water produced from Andy South and Andersen Water Supply Annex until such new replacement water system and well field is placed into service and operates to the satisfaction of the Secretary. In exercising the authority of this subsection, the Secretary may retain a reversionary interest in the water rights and utility systems at Andy South and Andersen Water Supply Annex until such time as the new replacement water system and well field is placed into service and operates to the satisfaction of the Secretary.

(d) SALE OF EXCESS WATER AUTHORIZED.—(1) If the Secretary exercises the authority contained in subsection (a), he may provide in any such conveyance that the conveyee of the water system may sell to public or private entities such water from Andersen Air Force Base as the Secretary determines to be excess to the needs of the United States. In the event the Secretary authorizes the conveyee to resell water, the Secretary shall negotiate a reasonable return to the United States of the value of such excess water sold by the conveyee, which return the Secretary may receive in the form of reduced charges for utility services provided by the conveyee.

(2) If the Secretary cannot meet the requirements of subsection (c), and the Secretary determines to proceed with a water utility system conveyance under section 2688

of title 10, United States Code, without the conveyance of water rights, the Secretary may provide in any such conveyance that the conveyee of the water system may sell to public or private entities such water from Andy South and Andersen Water Supply Annex as the Secretary determines to be excess to the needs of the United States. The Secretary will negotiate a reasonable return to the United States of the value of such excess water sold by the conveyee, which return the Secretary may receive in the form of reduced charges for utility services provided by the conveyee.

(e) DEFINITIONS.—(1) For purposes of this section, "Andersen Air Force Base" means the Main Base and Northwest Field.

(2) The water rights referred to in subsection (a) shall be considered as part of a "utility system" as that term is defined in section 2688(g)(2) of title 10, United States Code.

(f) APPLICATION OF THE OTHER LAND DISPOSAL ACTS.—The water rights related to Andy South and Andersen Water Supply Annex shall not be considered as real property for purposes of the Act of November 13, 2000, to amend the Organic Act of Guam, and for other purposes (Public Law 106–504; 114 Stat. 2309) and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471, et seq.).

SEC. 927. REPEAL OF REQUIREMENT FOR SEPARATE BUDGET REQUEST FOR PROCUREMENT OF RESERVE EQUIPMENT.

Section 114(e) of title 10, United States Code, is repealed.

SEC. 928. REPEAL OF REQUIREMENT FOR TWO-YEAR BUDGET CYCLE FOR THE DEPARTMENT OF DEFENSE.

Section 1405 of the Department of Defense Authorization Act, 1986 (31 U.S.C. 1105 note) is repealed.

SECTIONAL ANALYSIS

Sections 101 through 106 provide procurement authorization for the Military Departments and for Defense-wide appropriations in amounts equal to the budget authority included in the President's Budget for fiscal year 2002.

Section 201 provides for the authorization of each of the research, development, test, and evaluation appropriations for the Military Departments and the Defense Agencies in amounts equal to the budget authority included in the President's Budget for fiscal year 2002.

Section 301 provides for authorization of the operation and maintenance appropriations of the Military Departments and Defense-wide activities in amounts equal to the budget authority included in the President's Budget for fiscal year 2002.

Section 302 authorizes appropriations for the Working Capital Funds and the National Defense Sealift Fund in amounts equal to the budget authority included in the President's Budget for fiscal year 2002.

Section 303 authorizes appropriations for fiscal year 2002 for the Armed Forces Retirement Home Trust Fund for the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the United States Naval Home in amounts equal to the budget authority included in the President's Budget for fiscal year 2002.

Section 304 would amend section 5(a) of the Multinational Force and Observers (MFO) Participation Resolution, to authorize the President to approve contracting out logistical support functions in support of the MFO that are currently performed by U.S. military personnel and equipment. The resolution was enacted in December 1981, in order to authorize the United States to deploy peacekeepers and observers to Sinai, Egypt to assist in the fulfillment of the Camp David Accords. In this regard, it should be noted that section 5(a) authorizes any agency of the United States to provide administrative and technical support and services to the MFO without reimbursement when the provision of such support or services would not result in significant incremental costs to the United States.

Administrative and technical support is provided under section 5(a) by the U.S. Army's 1st Support Battalion pursuant to international agreements with the Arab Republic of Egypt, the State of Israel, and the MFO. These agreements stipulate the types of unit functions required to be performed by the MFO in order for it to comply with its treaty verification mission. The two primary support functions currently provided by the United States to the MFO, are aviation and logistics support. Aviation support is provided to the MFO by ninety-nine soldiers and ten U.S. Army UH-1H helicopters. General logistical support to the MFO is provided by one hundred and fifty soldiers assigned to the U.S. Logistical Support Unit.

Section 305 would authorize the Secretary of Defense or designee to enter into multiple-year operating contracts or leases or charters of commercial craft, where economically feasible, in advance of the availability of funds in the working capital fund. The contract authority is available for obligation for one year and cannot exceed in its entirely $427,100,000. In subsequent years, the Department may submit requests for additional contract authority. This authority is appropriate for working capital funds where a history of use indicates an annual utilization of these items by DoD customers will be more than sufficient to pay for the annual costs. The use of annual leases, charters or contracts is not cost effective in obtaining capital items, or the use of commercial craft. To reduce the overall costs for DoD, authority to enter into multiple-year leases and charters is needed. Additional annual appropriated funds, however, are not needed, since the revenues generated from the use of these items to fill customer orders will cover these costs.

Section 1301 of title 31, United States Code, discusses the application of appropriations and requires, in subsection (d), that to authorize making a contract for the payment of money in excess of an appropriation a new law must specifically state that such a contract may be made. As the change specifically addresses only multiple-year leases, charters or contracts by working capital funds, the contract authority granted by this proposal would not impact other programs.

Similar authority, successfully utilized by the Navy Industrial Fund in connection with the long term vessel charters of T-5 tankers, was approved by Congress as part of the Supplemental Appropriations Act of 1983. That program and the use of contract authority was favorably reviewed by the Comptroller General in B-174839, March 20, 1984. As indicated in the opinion, working capital funds are precluded from negotiating cost effective multiple-year contracts for capital items or associated services without posting obligations for the entire amount, even though no appropriations are likely to ever be needed.

The Military Sealift Command (MSC) provides world-wide capability for sealift, prepositioning assets, and a wide arrange of oceanographic services. They operate approximately 125 ships worldwide with civilian mariners. Because the Military Sealift Command is a Working Capital Fund activity, their funding is provided through customer orders for sealift services, generally on an annual basis. Contract authority is required to allow MSC to enter into multiple year leases in advance of appropriations. The legislative proposal provides that authority.

It is advantageous for the Government to have MSC enter into multiple year leases for these charter and associated services for a number of reasons, including:

The 29 prepositioned ships carry a variety of items., including ammunition, fuel, medical supplies, and heavy armored equipment. The offload and onload of this cargo requires significant logistics infrastructure and is a costly undertaking. The DoD infrastructure is sized for that operation to take place concurrent with the required maintenance schedule for the ships, which ranges from two to five years depending on the type of ship and type of cargo. The contract period is established to coincide with this schedule. If these contracts were required to be annual contracts, there could be significant operational degradation and excessive demand on the DoD infrastructure due to offload and onload requirements at potentially annual periods.

The commercial market standard is for multiple year charters. There are savings to DoD by negotiating multiple year leases, consistent with commercial practices. In addition, DoD would not be able to effectively compete for annual contracts because foreign flag carriers are not interested in competing for short-term contracts due to the costs they incur to re-flag the vessels and to prepare or modify ships to meet DoD needs. Past experience indicates that the costs to DoD would be significantly higher if competition were limited to currently U.S.-flag vessels on an annual basis.

If the legislation is not enacted, MSC will be required to negotiate the contracts on an annual basis, resulting in increased costs and potential disruptions to military operations.

Section 310. The Navy and the U.S. Environmental Protection Agency (EPA) entered into an agreement in January 2001 for payment of EPA response costs at the Hooper Sands Site, South Berwick, Maine for EPA's remaining past response costs incurred by the agency for the period from May 12, 1992 through July 31, 2000. Activities of the Navy are liable under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as generators who arranged for disposal of the hazardous substances that ended up at the site, and there are no other viable responsible parties. Under the agreement, the Navy would pay for EPA's final response actions that were undertaken to protect human health and the environment at this site. The agreement also stipulated that the Navy would seek authorization from Congress in the FY02 legislative program for payment of costs previously incurred by EPA at the site. Should Congress approve this legislative proposal, the Navy would pay EPA with funds from the Navy's "Environmental Restoration Account, Navy" in an amount equal to the principle ($809,078.00) and interest ($196,400.00), or a total of $1,005,478.00.

Section 311 would extend the authority to conduct the pilot program from September 30, 2001 to September 30, 2003. The original legislation authorized the pilot program to run for two years from the date of enactment on November 18, 1997. Section 325 of the National Defense Authorization Act for Fiscal

Year 2000 (Public Law 106-65; 113 Stat. 512) extended that two-year deadline an additional two years.

The initial extension was requested because the Department of Defense implementation guidance, required by the statute, had not been completed as of the fall of 1998. In order to fulfill the purpose of the legislation and adequately assess the feasibility and advisability of the sale of economic incentives, the pilot program was extended another two years from its original deadline. We are requesting an additional two-year extension to allow further opportunity for the Department to assess the feasibility of the program. States have been slower to develop emission-trading programs than initially anticipated and more time is desired to allow military installations to become familiar with the benefits of economic incentive programs.

Section 351 also provides authority to the Department of Defense (DoD) to retain proceeds from the sale of Clean Air Act emission reduction credits, allowances, offsets, or comparable economic incentives. Federal fiscal law and regulations generally require proceeds from the sale of government property to be deposited in the U.S. Treasury. These authorities preclude an agency from keeping the funds generated by reducing air emissions and selling the credits as does private industry. This inhibits the reinvestment of those funds to purchase air credits needed in other areas and eliminates any incentive for installations to spend the money required to generate the credits in order to sell them.

The Clean Air Act (CAA) mandates that states establish state implementation plans (SIPS) to attain and maintain the national ambient air quality standards (NAAQs), which are health based standards established for certain criteria air pollutants, e.g., ozone, particulate matter, carbon monoxide. To further this mandate, the 1990 Clean Air Act Amendments provided language encouraging the states to include "economic incentive" programs in their SIPs. Such programs encourage industry to reduce air pollution by offering monetary incentives for the reduction of emissions of criteria air pollutants.

A significant and growing number of state and local air quality districts have established various types of emission trading systems. Absent the proposed legislation, the military services would be required to remit any proceeds from the sale of economic incentives to the U.S. Treasury. The proposed legislation grants military installations authority to sell the economic incentives and to retain the proceeds in order to create a local economic incentive to reduce air pollution above and beyond legal requirements. Retention and use of proceeds at the installation level is a key component of the pilot program.

Section 312 would remove the requirement for the Department of Defense to submit an annual report to Congress on its reimbursement of environmental response action costs for the top 20 defense contractors, as well as on the amount and status of any pending requests for such reimbursement by those same firms. This reporting requirement was slated to end in December 1999 pursuant to section 3003(a) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66; however, it was reinstated by section 1031 of the National Defense Authorization Act for Fiscal Year 2000, Pub. L. 106-65.

The Department strongly recommends removal of this statutory reporting requirement because the data collected are not necessary, or even helpful, for properly determining allowable environmental response action costs on Government contracts. Moreover, the Department does not routinely collect data on any other categories of contractor overhead costs.

This reporting requirement is very burdensome on both the Department and contractors, diverting limited resources for data collection efforts that do not benefit the procurement process. Not only are there 20 different firms involved, but for most of these contractors, data must be collected for multiple locations in order to get an accurate company-wide total. In many cases the data must be derived from company records because it is not normally maintained in contractor accounting systems. After the data is collected, Department contracting officers must review, assemble, and forward the data through their respective chains of command to the Defense Contract Audit Agency for validation. After validation, the data is provided to the Secretary of Defense's staff for consolidation into the summary report provided to Congress.

In addition, the summary data provided to Congress in this annual report have shown that the Department is not expending large sums of money to reimburse contractors for such costs. The Department's share of such costs in FY99 was approximately $11 million. In the preceding years the costs were, $13 million in FY98, $17 million for FY97, and $4 million for FY96.

Section 315 would amend section 2482(b)(1) of title 10, to extend its reach to all Defense working capital fund activities that provide the Defense Commissary Agency services, and allow them to recover those administrative and handling costs the Defense Commissary Agency would be required to pay for acquiring such services.

Currently, section 2482(b)(1) restricts the amount that the United States Transportation Command could charge to the Defense Commissary Agency for such services to the price at which the service could be obtained through full and open competition, as section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)) defines such terms. These same restrictions, however, do not apply to other Defense working capital fund activities and preclude the United States Transportation Command from recovering "freight forwarding" costs that the Defense Commissary Agency would ordinarily have had to pay a commercial contractor.

If enacted, the proposed amendment would end this inequity, by applying a single cost-effective guideline for such charges to all Defense working capital fund activities. It should also be noted that the last sentence of the proposed amendment continues the current policy of insuring that costs associated with mobilization requirements, maintenance of readiness, or establishment or maintenance of the infrastructure to support mobilization or readiness requirements, are not passed on to the customers of the Defense Commissary Agency.

This proposal will not increase the budgetary requirements of the Department of Defense.

Section 316 requires that the Defense Commissary Agency surcharge account be reimbursed for the commissary's share of the depreciated value of its stores when a Military Department allows the occupation of a facility—previously acquired, constructed or improved with commissary surcharge funds—to be used for non-commissary related purposes.

Section 317 would permit the Defense Commissary Agency (DECA) to sell limited exchange merchandise at locations where no exchange facility is operated by an Armed Service Exchange. Under Section 2486(b) of title 10, United States Code, the Secretary of Defense may authorize DeCA to purchase and sell as commissary store inventory a limited line of exchange merchandise. This amendment is required to obtain the necessary authority for DeCA to procure the exchange merchandise items from the Armed Service Exchange. The Armed Service Exchange selling price to DeCA for such items would not exceed the normal exchange retail cost less the amount of the commissary surcharge, so that the amount paid by the patron would be the same. If the Exchange cannot supply the items authorized to be sold by DeCA, DeCA may procure them from any authorized source subject to the limitations of section 2486(e) of title 10 (i.e., that such items are only exempt from competitive procurement if they comply with the brand name sale requirements of being sold in the commercial stores). Regardless from whom such items are procured, they must be sold in commissaries at cost plus the amount of the surcharge.

Section 318 would amend a portion of section 2482 (a) of title 10 that is entitled "Private Operation" to delete overly restrictive language. The current section authorizes Commissary stores to be operated by private persons under a contract, but prohibits the contractor from carrying out functions for the procurement of products to be sold in the Commissary or from engaging in functions related to the actual management of the stores. Consequently, the Department is precluded from realizing the potential benefits that can be derived from contracting out the operation and management of the stores. By deleting this language a private contractor selected to operate Commissary stores would be allowed to apply best commercial practices in both store operations and supply chain management, and to achieve economy of scale savings in procurement, distribution, and transportation of products to be sold in the Commissary stores. This change will allow the Department to initiate pilot programs to test these potential benefits at selected Commissary stores.

Section 320 would establish permanent authority for active Department of Defense units and organizations to reimburse National Guard and Reserve units and organizations for the expenses incurred when Guard and Reserve personnel provide them intelligence and counterintelligence support. For the last five years, Congress has authorized such reimbursement in each year's defense appropriations act. See e.g., section 8059 of the Department of Defense Appropriations Act, 2001 (Public Law 106-259; 114 Stat. 656, 687). For the past several years the language of these annual provisions has remained unchanged, and the Department proposes to establish authority for such reimbursement on a permanent basis.

Such reimbursement constitutes an exception to the general principle that funds for active DoD organizations may not be expended to pay the expenses of Guard and Reserve units, and vice versa. By their training and experience, reserve intelligence personnel make unique contributions to the intelligence and counterintelligence programs of active DoD units and organizations. They also provide invaluable surge capability to help respond to unforeseen contingencies. Guard and Reserve units do not program funds for such support of active DoD units and organizations, which makes it essential that the supported active units and organizations have the authority to reimburse the affected Guard and Reserve units and organizations for the expenses they occur in providing personnel to perform such support. The practical effect of this reimbursement authority is in fact to further implement the principle that active units and organizations should pay for the expenses of their own programs and activities, while Guard and Reserve units and organizations should do the same.

A January 5, 1995 Deputy Secretary of Defense memorandum, "Peacetime Use of Reserve Component Intelligence Elements" approved a DoD "Implementing Plan for Improving the Utilization of the Reserve Military Intelligence Force" dated December 21, 1994. This plan explicitly recognized the requirement for an arrangement under which active units and organizations receiving reserve intelligence support would reimburse the affected reserve units for their expenses in providing such support.

This memo was superseded by DoD Directive 3305.7, "Joint Reserve Intelligence Program (JRIP)," February 29, 2000. Under section 3.1 of this Directive, "The JRIP engages [reserve component] intelligence assets during periods of active and inactive duty to support validated DoD intelligence requirements across the entire engagement spectrum from peacetime through full mobilization, coincident with wartime readiness training." Reimbursement of the affected reserve units is a cornerstone of this arrangement, and such reimbursement is absolutely essential to success of the JRIP. Five years of experience with this arrangement have made it a mature program that should be permanently authorized.

Section 321 will authorize for sale the remaining materials in the National Defense Stockpile for which there is no Department of Defense requirement and which have not yet been authorized for sale.

Section 401 prescribes the personnel strengths for the active forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's Budget for fiscal year 2002.

Section 405 prescribes the strengths for the selected Reserve of each reserve component of the Armed Forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's budget for fiscal year 2002.

Section 406 prescribes the end strengths for reserve component members on full-time active duty or full-time National Guard duty for the purpose of administering the reserve forces for fiscal year 2002.

Section 407 prescribes the minimum end strengths for the reserve components of the Army and Air Force for dual status military technicians for fiscal year 2002.

Section 408 prescribes the maximum end strengths for the reserve components of the Army and Air Force for non-dual status military technicians for fiscal year 2002.

Section 409 would replace the current sections 12011 and 12012 of title 10, United States Code, with new sections 12011 and 12012, which would accommodate both senior grade officers (0–4, 0–5, 0–6) and senior grade enlisted members (E–8, E–9) of the Active Guard and Reserve force. These new sections would include tables for each Reserve component, vice each Service, for senior grade officer (12011) and enlisted member (12012) ceilings. This proposed amendment would provide for a non-static method of authorizing senior grade Active Guard and Reserve members, thus eliminating the requirement to request changes in legislation when the size of the Active Guard and Reserve force changes. The methodology would be consistent with that used for Active component senior grade officers, and tie the number of senior grade authorizations to the size of the Active Guard and Reserve force.

Section 410. The proposed amendment to section 523 of title 10, United States Code, increases Defense Officer Personnel Management Act-authorized end strength limitations for active duty Air Force officers in the grade of major. This would continue progress toward achieving an appropriate distribution of officers within the Air Force. An appropriate distribution may be achieved by increasing the authorized strengths of commissioned officers in the grade of major by seven percent starting in fiscal year 2002. This proposed amendment would not increase the total number of commissioned officers authorized for the Air Force and would not affect the officer-to-enlisted ratio.

The budgetary impact of this proposal on Air Force Military Personnel appropriation budget requirements would be a net increase of $10 million in FY 2002, as the grade relief is phased in, and a net increase of approximately $20 million per year thereafter.

Section 501 would repeal subsection 1074a(d) of title 10, United States Code, which requires certain health care for Selected Reserve members of the Army assigned to units scheduled to deploy within 75 days after mobilization. Since this provision was enacted, the Department has implemented several programs to ensure Reserve component members are medically ready.

The Army has implemented a program called FEDS–HEAL, which is an alliance with the Department of Veterans Affairs (DVA) and the Department of Health and Human Services (DHHS) that allows Army Reserve and National Guard members to complete physical examinations, receive inoculations and complete other medical requirements in DVA and DHHS healthcare facilities across the country. This significantly enhances access for Reserve component members of the Army to meet medical and dental readiness requirements.

DoD policy now requires an annual dental examination. To track Reserve component dental readiness, the Department has developed a standard dental examination form that can be completed by a member's personal civilian dentist. Moreover, the recently expanded TRICARE Dental Program provides Reserve component members with an affordable means of completing dental examinations and receiving dental care through a much larger provider network. The cost to the member to participate in this insurance program is only $7.63 per month with the Department paying the remaining 60 percent of the premium share.

The current statutory requirement to conduct a full physical examination every two years for members over the age of 40 and dental care identified during the annual dental screening is difficult to implement for a select population that is very fluid with a relatively high turnover of individuals each year. Those Reserve Component units and individual Reserve Component members identified as early-deploying change frequently. The annual cost to the Department to meet this over–40 physical examination requirement for early deploying unit members every two years is $3.8 million, or over four times the annual cost if an exam were provided every five years as required for other members of the Reserve force. Additionally, requiring a complete medical examination every two years exceeds the recommendations of the U.S. Preventive Services Task Force, a 20–member non-federal panel commissioned by the Public Health Service in 1984 to develop recommendations for clinicians on the appropriate use of preventive measures. The Task Force does not consider such frequency of examinations cost effective in terms of identifying disease or determining deployability. The use of yearly health assessment questionnaires and appropriate age specific tests during the five-year periodic medical examination provide sufficient medical screening of the population over age 40. Finally, providing medical and dental services for a specific population in only two of the seven Reserve Components creates an inequity among members of the Selected Reserve and among Reserve Components.

This recommendation was contained in the Secretary of Defense report to Congress on the means of improving medical and dental care for Reserve Component members, which Secretary Cohen sent to Congress on November 5, 1999.

Section 502 would amend section 640 of title 10, United States Code, to afford members whose mandatory dates of separation or retirement were delayed due to medical deferment, a period of time to transition to civilian life following termination of medical deferment. It would afford active duty members whose mandatory separations or retirements incident to Chapter 36 or Chapter 63 of this title, a period of time, not to exceed 30 days, following termination of suspensions made under section 640, to transition to civilian life.

As currently written, section 640 requires immediate separation or retirement of those medically deferred members who would have been subject to mandatory separation or retirement under this title for age (section 1251), length of service (sections 633–636), promotion (sections 632, 637) or selective early retirement (section 638). An abrupt termination, especially of a medical deferment, could cause undue hardship on those whose planned departure to civilian life was unexpectedly interrupted and now must be resumed posthaste. Depending upon the nature of the medical deferment, there may be some problems with employment opportunities should the member be thrust back into civilian life without a reasonable preparation time. The 30–day period would allow individuals sufficient time to transition to civilian life, without the distractions of the circumstances of their deferments. This leeway must be provided for these members to reschedule the many details incident to final departure from military life.

Section 503 would add a new section to title 10, United States Code, to provide for the detail of an officer in a grade not below lieutenant commander to serve as Officer-in-Charge of the United States Navy Band. While so serving, an officer who holds a grade lower than captain (0–6) would have the grade of captain. The officer's permanent status as a commissioned officer would not be changed by his detail under this section.

Navy has one Limited Duty Officer captain (0–6) Bandmaster (6430) billet—the position of Officer in Charge/Leader, U.S. Navy Band. The United States Navy Band, Washington, D.C. is the Navy's premier musical representative. As such, Navy established this prestigious position at the captain level because of its extremely high visibility; its importance to Navy representation; the enormous demands of command as well as the technical skill required of the incumbent; to provide proper recognition and compensation for the officer serving as the Band's leader; and to elevate and maintain this organization's status at an appropriate level.

Army, Marine Corps, and Air Force premier Service-band Commanding Officers/Commanders are also 0-6 billets and selection for those positions is accomplished in a manner similar to that used by the U.S. Navy Band. Upon assignment to these positions, leaders of the Army, Marine Corps, and Air Force bands are specifically "selected" for promotion to 0-6. That is not the case with the Officer-in-Charge/Leader of the U.S. Navy Band because selection for and appointment to this position is limited to the Limited Duty Officer community. As such, those selected for this special appointment are generally officers with 28-32 years of total active service at the time of selection and appointment as Officer-in-Charge/Leader, U.S. Navy Band. However, the established career path of Limited Duty Officers typically results in selection for this position while serving in the grade of lieutenant commander (0-4) or commander (0-5) and flow points normally do not provide an opportunity for promotion to 0-6 prior to statutory retirement.

Section 504. General/flag officers serving above the grade of 0-8 serve in a temporary grade that is authorized by the position. Such officers generally hold a permanent grade of 0-8. Under current law, for the officer to retire in a grade above 0-8, the Secretary of Defense must determine and then certify to the President and the Congress that such officer served satisfactorily on active duty in the higher grade. Most officers who serve in grades above 0-8 are approved for retirement in the highest grade held. Section 504 would retain the requirement for the Secretary of Defense to certify that the service of an officer on active duty in a grade above 0-8 was satisfactory in order for the officer to be retired in the grade above 0-8, but would do away with the requirement for the Secretary of Defense to provide that certification in writing to the President and the Congress. Further, Section 504 would require the Secretary of Defense to issue written regulations to implement these procedures.

Section 505 would modify sections of titles 10, 37, and 20 of the United States Code to extend temporary military drawdown authorities through Fiscal Year (FY) 2004. Most of these authorities were initially established in the FY 1991 through FY 1993 National Defense Authorization Acts (NDAA). They were designed to enable the Services to reduce their military forces through a variety of voluntary and involuntary programs and to provide benefits to assist departing members in their transition to civilian life. The FY 1994 NDAA extended these authorities through FY 1999. The Department later requested a further extension through FY 2003, but the FY 1999 NDAA only extended them through FY 2001.

Section 505 would add no new or changed programs. Rather, it would extend the expiration date by three years for existing programs. Programs affected include: early retirement authority, enabling Services to offer retirement to members with 15 through 19 years of service; voluntary separation incentive or special separation benefit (VSI/SSB), which offers an annuity or lump sum payment to members separating with between 6 and 19 years of service; waivers of time-in-grade and commissioned service time requirements for officers; and relaxation of certain selective early retirement and reduction-in-force restrictions. Separate, but similar, provisions are included for Reserve and Guard forces. These programs are discretionary and Service Secretaries, when authorized by the Secretary of Defense, may determine whether or not to use the programs.

Transition benefits are otherwise not discretionary. Some apply either to individuals involuntarily separated during the drawdown period or to those accepting VSI or SSB. These include a transition period in which the member and family members continue to receive health care, commissary and exchange benefits, use of military housing, extension of separation or retirement travel, transportation, and storage benefits for up to one year, and extension of the time limitations on the Reserve Montgomery GI Bill. Others provide transition benefits to all departing members during the drawdown period, educational leave to prepare for post-military community and public service, and continued enrollment of dependents for up to one year to graduate from Department of Defense Dependent Schools.

These programs have helped the Services take large reductions in a short time. Although reductions have stabilized and drawdown tools are not currently needed to achieve overall end-strength, they may be necessary to accomplish force-shaping reductions. In FY 1999 and 2000, the Air Force used early retirement, time in grade, commissioned service time waivers, and VSI/SSB to accomplish medical right-sizing and to alleviate a significant field grade imbalance in the chaplain corps. In FY 2001 and beyond, the Air Force anticipates a continued need for drawdown tools (with associated benefit programs) to stabilize non-line end-strengths. Future force-shaping initiatives could also require limited use of drawdown tools.

Section 506. Subsection (a) adds a new section 1558 at the end of chapter 79 of title 10:

Section 1558(a) authorizes the Secretary of the military department concerned to correct the military records of a person to reflect the favorable outcome of a special board, retroactive to the date of the original board.

Section 1558(b) provides that, in the case of a person who was separated, retired or transferred to an inactive status as a result of the recommendation of a selection board and later becomes entitled to retention on or restoration to active duty or active status as a result of a records correction under section 1558(a), the person shall be restored to the same status, rights and entitlements in his or her armed force as he or she would have had but for the selection board recommendation. If the member does not consent to such restoration, he or she will be entitled to appropriate back pay and allowances.

Section 1558(c) provides that a special board outcome unfavorable to the person considered confirms the action of the original board, retroactive to the date of the original board.

Section 1558(d) authorizes the Secretary concerned to prescribe regulations to implement section 1558, including prescribing the circumstances under which special board consideration is available, when it is contingent on application by the person seeking consideration, and time limits for making such application. Such regulations, issued by the Secretary of a military department, must be approved by the Secretary of Defense.

Section 1558(e) provides that a person challenging the action or recommendation of a selection board is not entitled to judicial relief unless he or she has been considered by a special board under section 1558, or has been denied such consideration by the Secretary concerned. Denial of consideration by a special board is made subject to judicial review only on the basis that it is arbitrary, capricious, not based on substantial evidence, or otherwise contrary to law. If a court sets aside the Secretary's decision to deny such consideration, it shall remand the matter to the Secretary for consideration by a special board. The recommendation of a special board, or a decision resulting from that recommendation, is made subject to judicial review only on the basis that it is contrary to law or involved a material error of fact or a material administrative error. If a court sets aside such a recommendation or decision, it shall remand to the Secretary for new special board consideration, or a new action on the special board's recommendation, as the case may be. These limitations on reviewability and remedies parallel those applicable to reserve component selection boards under 10 U.S.C. 14502 and are in accord with current Federal Circuit law regarding review of military personnel decisions. Murphy v. U.S., 993 F.2d 871 (Fed. Cir. 1993). The term "contrary to law" is intended to encompass constitutional as well as statutory violations.

Section 1558(f) provides that the remedies prescribed in section 1558 are the exclusive remedies available to a person challenging the action or recommendation of a selection board, as that term is defined in section 1558(j).

Section 1558(g) provides that section 1558 does not limit the existing jurisdiction of any federal court to determine the validity of any statute, regulation or policy relating to selection boards, but limits relief in such cases to that provided for in section 1558.

Section 1558(h) contains time limits for action by the Secretary concerned on a request for consideration by a special board (six months) and on the recommendation of a special board (one year after convening the board). Failure to act within these time limits will be deemed a denial of the requested relief The Secretary, acting personally, may extend these time limits in appropriate cases, but may not delegate the authority to do so.

Section 1558(i) provides that section 1558 does not apply to the Coast Guard when it is not operating as a service in the Navy.

Section 1558(j)(1) defines "special board" to encompass any board, other than a special selection board convened under section 628 or 14502 of title 10, convened by the Secretary concerned to consider a person for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component, in place of consideration by a prior selection board that considered or should have considered the person. A board for correction of military or naval records under section 1552 of title 10 may be a special board if so designated by the Secretary concerned.

Section 1558(j)(2) defines "selection board," for the purposes of section 1558, as encompassing existing statutorily established selection boards, (except a promotion selection board convened under section 573(a), 611 (a) or 14101 (a) of title 10), and any other board convened by the Secretary concerned to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, or retention in the armed forces, or for separation, retirement, or transfer to inactive status in a reserve component for the purpose of reducing the number of persons serving in the armed forces.

Subsection (b) adds new subsections (g), (h) and (i) to section 628 of title 10, the section authorizing special selection boards for promotion of active duty list commissioned and warrant officers (redesignating existing subsection (g) as subsection (j). New subsections (g) and (h) correspond exactly to subsections (g) and (h) of section 14502 of title 10, the ROPMA provision authorizing special selection boards for promotion of reserve active status list commissioned officers.

New subsection (g) provides that no court or official of the United States shall have power or jurisdiction over any claim by an officer or former officer based on his or her failure to be selected for promotion unless the officer has first been considered by a special selection board, or his claim has been rejected by the Secretary concerned without consideration by a special selection board. In addition, this subsection precludes any official or court from granting relief on a claim for promotion unless the officer has been selected for promotion by a special selection board.

Subsection (h) permits judicial review of a decision to deny special selection board consideration. A court may overturn such a decision and remand to the Secretary concerned to convene a special selection board if it finds the decision to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law. The term "contrary to law" is intended to encompass constitutional as well as statutory violations. Subsection (i) also provides that if a court finds that the action of a special selection board was contrary to law or involved material error of fact or material administrative error, it shall remand to the Secretary concerned for a new special selection board. No other form of judicial relief is authorized.

Subsection (i) provides (1) that nothing in this legislation limits the existing jurisdiction of any court to determine the validity of any statute, regulation or policy relating to selection boards, but limits relief in such cases to that provided for in this legislation, and (2) that nothing in this legislation limits the existing authority of the Secretary of a military department to correct a military record under section 1552 of title 10.

Subsection (c) provides that the amendments made by this legislation are retroactive in effect, except that they do not apply to any judicial proceeding commenced in a federal court before the date of enactment.

Section 511 would allow the Service Secretaries to routinely transfer Reserve officers to the Retired Reserve—without requiring that the officer request such a transfer—for those officers who are required by statute to be removed from the reserve active status list because of failure of selection for promotion, length of service, or age. This section would add a similar authority with respect to warrant officers and enlisted members who have reached the maximum age or years of service as prescribed by the Secretary concerned. However, this section would allow these members to request discharge or, in some cases, transfer to an inactive status list in lieu of transfer to the Retired Reserve. Giving the Service Secretaries this authority would also help protect those members who entered military service after September 7, 1980. Members who entered military service after that date and are discharged after qualifying for a non-regular retirement (former members) remain eligible to receive retired pay, but that pay is calculated on the pay scale in effect when discharged, rather than the pay scale in effect when they request retired pay. This is significant since the retired pay for a former member in most cases will be significantly less then that of a member of the Retired Reserve because of the pay scale used to determine the amount of retired pay. This amendment would require reservists to make a positive election to be discharged with the full understanding of the possible economic consequences of that decision.

Section 512. A specific definition with respect to Reserve component members was added as section 991(b)(2) of title 10, United States Code, by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398). The purpose of this definition was to ensure consistent treatment of Active and Reserve component members serving under comparable circumstances and preclude Reserve component members from being credited with deployed days when they could spend off-duty time in their home.

As provided in the National Defense Authorization Act for Fiscal Year 2001, the Active component will count "home station training" for deployment purposes whenever the member is unable to spend off-duty hours in the housing in which he or she resides when on garrison duty at his or her permanent duty station or homeport. To maintain consistency between Active and Reserve component members, the definition of deployment with respect to Reserve component members must be amended.

Absent the proposed change in Section 512, an active duty member who is not able to spend off-duty time in the housing in which the member resides when on garrison duty at the member's permanent duty station or homeport, because the member is performing home station training, will be credited with a day of deployment, while a Reserve component member serving under comparable circumstances will not because they will be within the 100-mile or three-hour limit. Section 512 would ensure consistency between Active and Reserve component members with respect to the PERSTEMPO definition.

Section 513 would eliminate the periodic physical examination requirement for members of the Individual Ready Reserve (IRR), which is required once every five years. In lieu of conducting a physical examination every five years, these members would receive a physical examination upon a call to active duty, if they have not had a physical examination within the previous five years. However, the Secretary concerned would have the authority to provide a physical examination when necessary to meet military requirements. There is little return on investment for any program to conduct physical exams for the more than 450,000 members of the IRR. The annual cost of ensuring that IRR members are examined as to physical condition at least every five years is approximately $2.3 million. This cost reflects approximately 10 percent of what the Department should be spending annually on physical exams for this population. However, the Department is able to provide only about 11,000 of the more than 90,000 required physical exams for IRR members each year. In this period of constrained resources, it would be far more cost-effective to conduct physical exams on these Reserve members at the time they are ordered to active duty. This recommendation was contained in the Secretary of Defense's report to Congress on the means of improving medical and dental care for Reserve Component members, which was sent to Congress on November 5, 1999.

Section 514 would amend titles 10, 14 and 38, United States Code (U.S.C.), to provide the same benefits and protections for Reserve Component (RC) members while in a funeral honors duty status as provided when RC members perform inactive duty training (IDT) or traveling to or from IDT. Sections to be amended are:

(1) 10 U.S.C. 802—persons subject to the Uniformed Code of Military Justice. Section 514 would specify that members of a Reserve Component are subject to the Uniform Code of Military Justice while performing funeral honors duty under 10 U.S.C. 12503.

(2) 10 U.S.C. 1061—eligibility for commissary and exchange benefits for dependents of a deceased Reserve Component member. Section 514 would specify that the dependents of a Reserve Component member who died while in a funeral honor duty status, or while traveling to or from such duty would be eligible for commissary and exchange benefits on the same basis as the surviving dependents of an active duty member.

(3) 10 U.S.C. 1475 and 1476—payment of a death gratuity. Section 514 would authorize payment of a death gratuity upon the death of a Reserve Component member who died while in a funeral honor duty status, or while traveling to or from such duty.

(4) 14 U.S.C. 704—military authority of members of the Coast Guard Reserve. Section 514 would specify that a member of the Coast Guard Reserve would have the same authority, rights and privileges as a member of the Regular Coast Guard of a corresponding grade or rating when the member is in a funeral honors duty status.

(5) 14 U.S.C. 705—benefits for members of the Coast Guard Reserve. Section 514 would specify that a member of the Coast Guard Reserve would have the same benefits as a member of the Naval Reserve of corresponding grade, rating and length of service when the member is in a funeral honors duty status.

(6) 38 U.S.C. 101—definitions. Section 514 would add the term "funeral honors duty" and define that term, and then include that term in the definition of "active military, naval, or air service." Including the definition of funeral honors duty in the term active military, naval and air service, would entitle a Reserve Component to healthcare and disability compensation from the Department of Veterans Affairs for a service-connected disability incurred or aggravated while in a funeral honors duty status or traveling to or from such duty.

Amending the various statutes to add funeral honors duty as a duty status in which these benefits are provided is important to ensure a viable program of rendering honors at the funerals of our veterans.

Section 515 would specify that the performance of funeral honors by members of the Army National Guard of the United States or Air National Guard of the United States, while in a state status, satisfies the two-person funeral honors detail requirement. While members of the National Guard would meet this requirement when called to duty under a provision of title 10 or title 32, United States Code (U.S.C.), they are not in a federal status when performing duty in a state military duty status, and therefore would not fulfill the two-person requirement for performing funeral honors when in a state status. Amending 10 U.S.C. 1491 to permit National Guard members to fulfill this requirement when performing duty in a state status would help ensure this important mission is accomplished.

Section 516 would authorize Reserve Component members who have been ordered to active duty under section 12301(d) of title 10, United States Code (U.S.C.), to serve in support of a contingency operation (as defined in 10 U.S.C. 101(a)(13)), to be added to the authorized active duty end strength. It would also authorize the ceiling for general and flag officers and officers in the grades of O–6, O–5 and O–4 serving on active duty in those grades to be increased by a number equal to the number of officers in each pay grade serving on active duty in support of a contingency operation. Lastly, it would authorize the ceiling for enlisted members in the grades of E–9 and E–8 serving on active duty in those grades to be increased by a number equal to the number of enlisted members in each pay grade serving on active duty in support of a contingency operation.

Currently, Reserve Component members who are involuntarily called to active duty are exempt from the strength limitations in sections 115, 517 and 523 of title 10. Just as the Services involuntarily call Reserve Component personnel to active duty under section 10 U.S.C. 12304, to meet the operational requirements to support a contingency, the Services also use volunteers from their Reserve Components to meet the operational requirements of a contingency operation. These volunteers are called to active duty under 10 U.S.C. 12301(d). Regardless of the authority used, a voluntary call to active duty or an involuntary call to active duty, the additional manpower represents an unprogrammed expansion of the force to meet operational requirements. The authority to increase the end strength limits and grade ceilings would permit the Services to meet contingency operation requirements without adversely affecting the manpower programmed for other national security objectives. Finally, absent such an authority, the Services have an incentive to use nonvolunteers to support these operations to avoid adversely affecting their end strength. This authority to expand the force by the number of Reserve Component members serving on active duty to support the contingency would encourage the Services to use volunteers to meet these mission requirements.

Section 517 would authorize payment of the financial assistance provided under 10 U.S.C. 16201 to a student who has been accepted into an accredited medical or dental school. Section 517 would further amend section 16201 to authorize payment of subsequent financial assistance to an officer who received financial assistance under this section while a student enrolled in medical or dental school and has now graduated and enters residency training in a healthcare professions wartime skill designated by the Secretary of Defense as critically short. When such a student agrees to financial assistance for residency training, the two-for-one service commitment previously incurred for financial assistance while attending medical or dental school may be reduced to one year for each year, or part thereof, of financial assistance previously provided. However, the service obligation incurred for residency training would remain at two-for-one. Finally, Section 517 would authorize the service obligation incurred for financial assistance for a partial year to be incurred in six-month increments for those agreements that require a two-for-one pay back. Thus, for every six months, or part thereof, of benefits paid under this program the recipient would be obligated for one year of service in the Selected Reserve. Currently, two years of service obligation is incurred for each partial year of financial assistance provided, regardless of the number of months in that partial year.

These amendments would provide a more robust incentive program that recruiters could offer students in the healthcare professions in order to entice them into joining the Guard or Reserve. The current medical recruiting incentives, which originated in the early to mid 1980s, must be updated to enable reserve recruiters to compete with hospitals, HMOs and communities who offer financial incentives to medical and dental students in return for a commitment to work for them once they become a qualified physician or dentist. As an example, both the Army Reserve and the Army National Guard, which account for 65 percent of Army medical requirements, have not been able to achieve medical recruiting goals and are experiencing serious medical end strength shortfalls.

In summary, Section 517 would enhance the recruiting incentives targeted at students entering the health care profession in four ways: (1) allow medical and dental school students to receive a stipend, (2) allow subsequent financial assistance for officers who have completed medical or dental school and enter residence training in a critically short wartime skill, (3) allow the service obligation to be reduced to one-for-one when a physician or dentist accepts additional financial assistance for residency training, and (4) allow those service obligations which require a two-for-one pay back to be incurred in six-month increments.

Section 518. Section 521 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) amended section 641(1) of title 10, United States Code (U.S.C.), to exclude certain reserve component officers serving on active duty for periods of three years or less from the active duty list for promotion purposes. The amendment inadvertently excluded a number of reserve officers on active duty for three years or less who should properly be considered on the active duty list. For example, Senior Reserve Officers' Training Corps non-scholarship graduates who attend law school in an educational delay status are ordered to active duty for a period of three years and, as a result of the recent amendment, are placed on the reserve active-status list, rather than on the active duty list. These officers, however, should compete for selection for promotion with their contemporaries on the active duty list, e.g., officers who are ordered to active duty for a period of four years as a consequence of their participation in the Senior Reserve Officers' Training Corps scholarship program.

Section 518 would amend section 641 to provide that reserve officers ordered to active duty for three years or less would be placed on the reserve active-status list only if their placement was required by regulations prescribed by the Secretary concerned and only if ordered to active duty for three years or less with placement on the reserve active-status list specified in their orders,. This amendment would provide the Secretaries of the military departments with the authority to prevent an inappropriate application of section 641(1)(D).

However, Section 518 would allow Reserve officers who are called to active duty to meet mission requirements of the active forces to be released to resume a reserve career following a limited period of active duty (three years or less) and to be considered for promotion by a reserve promotion selection board and managed under the provisions of subtitle E of title 10, U.S.C., in the same manner as their contemporaries not serving on active duty. Reserve component general/flag officers would, under service regulations, be retained on the reserve active-status list while serving on active duty for a period of three years or less under the provisions of 10 U.S.C. 526(b)(2).

Finally, Section 518 would allow the service secretary to return a Reserve officer to the reserve active status list who otherwise met the criteria of this exemption, but for the fact that the officer was on active duty and had already been placed on the active duty list at the time section 641(1)(D), as amended by Public Law 106–398, was enacted.

Section 519 would permit Reserve component members on active duty and members of the National Guard on full-time National Guard duty to prepare for and perform funeral honors for veterans as required by section 1491 of title 10, United States Code, without counting against active duty end strength. The delivery of funeral honors to veterans is a continuous peacetime mission that has escalated from its recent inception and mandate in Public Law 105–261. Further, funeral honors mission requirements are projected to continue their expansive growth in the out years. Section 519 would allow the Services to fulfill the funeral honors mission without adversely impacting readiness and affecting the end strength needed to meet their wartime missions. For the Department to meet the requirements of the law regarding the provision of funeral honors for veterans, it is critical to have Reserve component participation in this Total Force mission. This end strength exemption would remove an impediment to greater Reserve component participation in funeral honors, provide greater latitude in manpower application, and greatly assist the Department in meeting the expanding requirements of the veterans' funeral honors law.

Section 520. Section 555 of the National Defense Authorization Act for Fiscal Year 2000 amended section 12310(b) of title 10, United States Code, to expand the duties that may be assigned to Reserves, who are on active duty, in connection with organizing, administering, recruiting, instructing, or training the reserve components. While the apparent intent of the amendment was to expand the permissible activities of all Active Guard and Reserve (AGR) personnel, practically, the amendment applies only to AGR personnel performing active duty under section 12301(d) of title 10 and does not include AGR personnel performing full-time National Guard duty under title 32 of the United States Code. Therefore, Section 520 seeks to clarify the current law, aligning the current practices in these missions with the legislative authority governing them. This change is necessary because, effectively, there are few distinctions between the roles of AGR personnel serving on active duty and the roles of reservists performing full-time National Guard duty, outside of the different chains of command that each respective group must report to.

This section would amend section 12310(b) by inserting language that clearly would make the section applicable to Reserves who are members of the National Guard serving on fulltime National Guard duty under section 502(f) of title 32 in connection with organizing, administering, recruiting, instructing, or training the reserve components. It would ensure that National Guard AGR personnel are treated in the same manner as

AGR personnel of the other reserve components when determining the scope of permissible duties and functions that they may perform. Section 520 would clarify the authority for AGR personnel on full-time National Guard duty to support an increasing number of operations and missions being assigned in whole or in part to the National Guard. Such duties include operational airlift support activities, standby air defense operations, anticipated ballistic missile defense operations, land information warfare activities, and the use of National Guard instructors to train both active component and reserve component personnel. Thus, this section is important because, while some of these duties have been periodically performed by AGR personnel on full-time duty, there has been no explicit, binding, legal authority which would outline the limits governing their actions.

Section 521 would amend section 516 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) to extend the time during which the Secretary of the Army may waive the applicability of section 12205(a) of title 10, United States Code, to reserve officers commissioned through the Army Officer Candidate School.

Section 12205(a) provides that no person may be appointed to a grade above the grade of first lieutenant in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to a grade above the grade of lieutenant (junior grade) in the Naval Reserve, or be federally recognized in a grade above the grade of lieutenant as a member of the Army National Guard or Air National Guard, unless that person has been awarded a baccalaureate degree by a qualifying educational institution.

Section 516 authorized the Secretary of the Army to waive the applicability of section 12205(a) to any officer who before the enactment of Public Law 105–261 was commissioned through the Army's Officer Candidate School. The waiver may continue in effect for no more than two years. A waiver under the section may not be granted after September 30, 2000.

Section 521 would amend section 516 to permit the Secretary to waive the applicability of section 12205(a) to any officer who was commissioned through the Army's Officer Candidate School without regard to the date of commissioning and would extend the Secretary's authority under the section to September 30, 2003.

This additional period would enable the Army to determine how to alleviate the problems experienced by some officers commissioned through the Army Officer Candidate School in obtaining a baccalaureate degree during the relatively short period before they are eligible for promotion to captain and during times when they may be engaged either in intense training or deployments for long periods.

Section 522 would amend section 12305 of title 10, United States Code, to afford members whose mandatory dates of separation or retirement were delayed due to stop loss action, a period of time to transition to civilian life following termination of stop loss. Specifically, Section 522 would add subsection (c) to afford active duty members whose mandatory separations or retirements incident to sections 1251 or 632–637 are delayed pursuant to invocation of section 12305, a period of time—not to exceed 90 days following termination of suspensions made under section 12305—to transition to civilian life.

As currently written, section 12305 requires immediate separation or retirement of those affected by stop loss, who, without stop loss, would have been subject to mandatory separation or retirement under this title for age (section 1251), length of service (sections 633–636), or promotion (sections 632, 637). An abrupt termination of stop loss could cause undue hardship on those whose planned departure to civilian life was unexpectedly interrupted and now must be resumed posthaste. For example, the Air Force invoked stop loss in support of Operation Allied Force in 1998. Following the termination of stop loss on 22 June 1998, eight officers with a mandatory (by law) date of separation were required to retire upon their original date of separation (1 July 1998); another three officers were required to separate/retire by 1 August 1998. On the other hand, members with a date of separation set by policy were given the option of either extending their dates of separation up to 6 months or withdrawing them. Some leeway must also be provided for members with dates of separation established by law to reschedule the many details incident to final departure from military life.

Section 531. The Marine Corps War College seeks Congressional authority and regional accreditation to issue a master's degree in Strategic Studies. The authority to begin this process is vested in the Commanding General of the Marine Corps Combat Developments Command and was authorized on 1 June 2000. In December 1999, the Marine Corps University achieved a seven-year goal by becoming accredited by the Southern Association of Colleges and schools to award a master's degree in Military Studies. While this accreditation was awarded to the Marine Corps University, it specifically addressed only the degree awarded by the Command and Staff College. The Marine Corps War College now seeks similar authority.

The uniqueness of the Marine Corps War College's curriculum and program of study is unparalleled by other civilian universities or Federal War Colleges. Most of the Marine graduates of the Marine Corps War College become faculty members of the Command and Staff College and, since the Command and Staff College already awards a master's degree, it would be very beneficial for these future faculty members to possess the required academic credentials when arriving at their new positions at the Command and Staff College.

A master's degree program would enhance the professional reputation and prestige of the Marine Corps War College. This would facilitate the Marine Corps War College's efforts to sustain and recruit a world class faculty and demonstrate a high level of faculty competence as first rate scholars and speakers. Section 531 is intended only as a technical amendment to the existing legislation. Enactment of this section would not result in an increase in the budgetary requirements of the Marine Corps.

Section 532. Section 206(d) of title 37, United States Code, states that "[t]his section does not authorize compensation for work or study by a member of a reserve component in connection with correspondence courses of an armed force." This is similar to the limitation in the definition of "inactive-duty training" found in 37 U.S.C. 101(22), which states inactive-duty training "does not include work or study in connection with a correspondence course of a uniformed service."

Since the correspondence course restrictions were enacted more than 50 years ago, technological advances affecting instructional methodology have made these restrictions outdated. The law, as currently written, also contradicts recent Congressional directions to maximize the use of technologies such as telecommuting for the federal sector and the National Guard's Distributed Technology Training Project (DTTP).

The Secretary of Defense's training technology vision is to "ensure that DoD personnel have access to the highest quality education and training that can be tailored to their needs and delivered cost effectively, anytime and anywhere." The future learning environment created by the application of new technology will extend learning opportunities for Service members, active and reserve, around the globe. This technology will be available at work (whether at a military base or in the civilian sector), at home, and at individual workstations provided for public use at libraries and military classrooms. Distributed Learning is defined as structured learning that takes place without requiring the physical presence of an instructor. Distributed learning is synchronous and/or asynchronous learning mediated with technology and may use one or more of the following media: audio/videotapes, CD-ROMs, audio/video teletraining, correspondence courses, interactive television, and video conferencing. Advanced Distributed Learning is an evolution of distributed, or distance, learning that emphasizes collaboration on standards-based versions of reusable objects, networks, and learning management systems, yet may include some legacy methods and media.

The awarding of compensation and/or credit involving innovative learning technologies should be for the successful independent completion of the required learning based on Service standards. It is the Service Secretary's responsibility to establish what is "required" learning for the purposes of compensating and/or awarding credit to Reserve component personnel. In this context, "required" learning means education/training that is necessary for individual and/or unit readiness as called for by law, DoD policy, or Service regulation. Required distance/distributed learning and/or advanced distributed learning courses may have some paper-based phases or modules and can be compensated. In addition, it is the Service secretary's responsibility to develop the policies and procedures to ensure successful and accountable implementation of their Reserve component's Distributed Learning programs. Such policies and procedures should include, but not be limited to, such topics as tracking members' participation at a distance, measuring successful performance/participation, failure policies, telecommuting policies, equipment funding and availability, equipment liability, personal liability, virtual training, virtual drilling, scheduling, documentation, accountability, and implementation guidance.

Section 532 would make no change in resource requirements because budgetary decisions associated with the compensation and/or credit for Reserve component members for work performed through non-traditional methods is left up to the discretion of the Service Secretaries.

Section 533 would modify section 2031 of title 10, United States Code, to strike the second sentence in paragraph (a)(1) which reads as follows: "The total number of units which may be established and maintained by all of the military departments under authority of this section, including those units already established on October 13, 1964, may not exceed 3,500."

JROTC is DoD's largest youth program with over 450,000 students enrolled in more than 2,900 secondary schools. The statutory mission for JROTC is to instill in students the value of citizenship, service to the United States, personal responsibility, and a sense of accomplishment. Surveys of JROTC cadets indicate that about 40 percent of the graduating high school seniors with more than two years participation in the JROTC program are interested in some type of military affiliation (active duty enlistment, officer program participation, or service in the Reserve or Guard). Translating this to hard recruiting numbers, in Fiscal Years (FY) 1996–2000, about 9,000 new recruits per year entered active duty after completing two years of JROTC. The proportion of JROTC graduates who enter the military following completion of high school is roughly five times greater than the proportion of non-JROTC students. Therefore, the program pays off in citizenship as well as recruiting.

Recognizing the merits of the JROTC program, the Military Services have undertaken an aggressive expansion program and are committed to reach the statutory maximum of 3,500 by FY 2006. As a result of this planned growth, the Military Services have witnessed a marked increase in the number of schools seeking establishment of JROTC units. We now face the real potential that DoD and a waiting school might both wish to proceed with an activation, yet face a legislative cap that prevents execution of such a mutually-desirable course of action. Enactment of Section 533 would permit DoD to be responsive to mutually agreeable school needs which might exceed the present 3,500-unit cap set in law.

Section 534 would extend eligibility for the Nurse Officer Candidate Accession Program to students enrolled at civilian educational institutions with a Senior Reserve Officers' Training Program (SROTP) who are not eligible for Senior Reserve Officers' Training Programs.

The Nurse Officer Candidate Accession Program (NCP) is a primary accession source of new nurse officers and provides a hedge against difficulty in the direct procurement market. It provides financial assistance to students enrolled in a baccalaureate nursing program in exchange for an active duty commitment upon graduation.

Market projections indicate increasing difficulty in recruiting students for the NCP due to an increase in civilian career opportunities and declining nursing school enrollment. Evidence from nursing journals and employment industry statistics confirm that a tightening job market for nurses is expected over the next few years.

Section 2130a of title 10, United States Code, currently restricts eligibility for the NCP to students enrolled in a nursing program at a civilian educational institution "that does not have a Senior Reserve Officers' Training Program."

Eligibility requirements for the SROTP limit age to 27 years. SROTP scholarships for junior or senior level students are limited to a few quotas each year only to replace students lost through attrition. The NCP age limit is up to 34 years and only bars those within six months of graduation. Recruiters report considerable interest in the NCP program by SROTP-ineligible students.

Extending NCP eligibility to SROTP-ineligible students would expand the potential applicant pool and demonstrate strong Congressional support and commitment to providing future nurse officers with the necessary skills to meet our healthcare mission around the world.

Section 535. The Defense Language Institute Foreign Language Center serves as the Defense Department's primary foreign language teaching and resource center. The Institute has been accredited by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (Commission) since 1979. The Commission has recommended that the Institute obtain degree-granting status to maintain its accreditation. The Secretary of Education has endorsed that recommendation. Section 535 would provide the authority for the Institute to grant an Associate of Arts degree. There are no resource implications other than the routine administrative requirements to produce a diploma suitable for presentation upon graduation.

Section 541 is pursuant to the provisions and procedures of section 1130 of title 10, United States Code. The Honorable Sherrod Brown of the House of Representatives requested the Secretary of the Army, the appropriate official under section 1130, to review the circumstance of this case. Section 541 follows the determination made under section 1130(b)(2) that the award of the decoration warrants approval. It further recommends a waiver of the specified time restrictions prescribed by law. The Secretary of the Army and the Chairman of the Joint Chiefs of Staff both agree and recommend that Humbert R. Versace be awarded the Medal of Honor. Section 541 would waive the period of time limitations under Section 3744 of title 10 to authorize the President to award Humbert R. Versace the Medal of Honor.

Section 541 would authorize the President to award the Medal of Honor to Humbert R. Versace, who served in the United States Army during the Vietnam War and who was assigned as a Captain with A Detachment, 5th Special Forces Group. It would waive the specific provisions of section 3744 of title 10 that the award be made within three years of the date of the act upon which the award is based. The acts of then-Captain Humbert R. Versace clearly distinguish him conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty, as required by section 3741 of title 10 to merit this legislation and the award.

Section 542 would amend sections 3747, 6253 and 8747 of title 10, United States Code, to provide clear authority for the Secretaries of the military departments to replace certain medals if stolen and to issue medal of honor recipients one duplicate medal of honor, with ribbons and appurtenances.

Sections 3747, 6253 and 8747 currently authorize free replacement of any medal of honor, distinguished service cross, distinguished service medal, silver star, Navy cross, Navy and Marine Corps medal, or Air Force cross that is lost or destroyed or becomes unfit for use without the fault or neglect of the recipient. Enactment of Section 542 would also clarify the intent of these sections to authorize specifically the replacement of medals that are stolen, subject to the limitation that the theft was without the fault or neglect of the recipient.

If enacted, Section 542 would also authorize the Service Secretaries to issue each medal of honor recipient one duplicate medal free of charge. There is no provision in title 10 that authorizes issuance of a duplicate medal of honor so that the recipient can donate the original medal or otherwise safeguard it and wear the duplicate to functions and events. In fact, sections 3747, 6253 and 8747 of title 10, in conjunction with sections 3744(a), 6247 and 8744(a) of such title, may be construed to prohibit the issuance of a duplicate medal of honor.

If Section 542 is enacted, medal of honor recipients would have to make written application to the Secretary concerned for the issuance of a duplicate medal, which would be marked, as determined by the Secretary concerned, as a duplicate or for display purposes only. The issuance of a duplicate medal under this new authority would not constitute the award of "more than one" medal of honor to the same person. Sections 3744(a), 6247 and 8744(a) of title 10 prohibit the award of "more than one" medal of honor to a person.

Issuance of a duplicate medal of honor for display purposes would allow recipients to place their original medals in safekeeping or donate them to institutions for permanent display while retaining the duplicate to wear at events. Medal of honor recipients are expected to wear their medals at many of the events to which they are invited. According to the Congressional Medal of Honor Society, many of the 152 living recipients would like to donate or otherwise safeguard their original medals because the value of the medals on the "black market" has made them an attractive target for theft. Medals marked as duplicates, by contrast, would presumably have little or no "black market" value and would be less attractive targets for theft.

The cost of issuing duplicate medals of honor would be minimal. The current cost of a medal of honor is approximately eighty-five dollars. If every living recipient requested a duplicate, the cost would not exceed $15,000, including shipping.

Section 543. Section 541 of the Floyd D. Spence National Defense Authorization Act for FY 2001 (114 Stat. 1654A–114) enacted section 1133 of title 10, United States Code (U.S.C.), that restricts eligibility for the Bronze Star Medal to members of the Armed Forces who are in receipt of special pay under section 310 of title 37, U.S.C., at the time of the events for which the decoration is to be awarded or who receive such pay as a result of those events. "Special pay" under section 310 includes both hostile fire pay (HFP) and imminent danger pay (IDP). The reason for the change stemmed from the belief that someone whose duties never took them away from home did not perform the same kind of service as someone who was in the combat zone. The perception was that most people who received IDP or HFP served in a combat zone.

Currently, military personnel serve in 43 areas which qualify for IDP or HFP, but only two areas are further designated "combat zones"—Yugoslavia (Serbia, Kosovo, Albania, the Adriatic Sea, the Ionian Sea above the 39th parallel, and the airspace above these areas) and the Persian Gulf. Service members qualify for IDP not only in wartime conditions, but also if they are subject to physical harm or imminent danger due to terrorism, civil insurrection, or civil war. HFP is awarded when a service member is subject to hostile fire or explosion of hostile mines; on duty in an area in which he is in imminent danger of being exposed to hostile fire or explosion of hostile mines; or is killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action. The decision to declare an area eligible for receipt of IDP or HFP is not immediate. A recommendation is made by the regional commander in chief, endorsed by the Joint Chiefs of Staff, and then approved by DoD Force Management Policy.

No other higher-level valor award, e.g., the Medal of Honor, Service Cross, Silver Star, or Distinguished Flying Cross, has similar eligibility criteria. Historically, the Bronze

Star Medal has been awarded outside of combat areas, such as during the Korean conflict when it was approved for personnel stationed in Okinawa for meritorious service in connection with military operations against Northern Korea. Therefore, limiting eligibility for the Bronze Star Medal to only those members serving in an area where imminent danger pay is authorized or to those receiving hostile fire pay would exclude many deserving members of the Armed Forces.

Awarding of the Bronze Star Medal should be disassociated with any requirement for IDP or HFP and should instead stand alone. The revolution in military warfare has changed the way the U.S. has traditionally viewed force application and the decorations, many of whose origins recognized traditional ground combat operations, must also keep up and recognize the changes in the way the U.S. conducts warfare.

Section 551 would amend the Uniform Code of Military Justice to lower the blood alcohol concentration (BAC) necessary to establish drunken operation of a motor vehicle from 0. 1 to 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams per 210 liters of breath. This change would bring military practice in line with the recently enacted nationwide drunk driving standard found in section 351 of the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 2001, Public Law 106-346, 114 Stat. 1356A-34.

On March 3, 1998, President Clinton directed the Secretary of Transportation to develop a plan to promote a .08 BAC legal limit, which would include "setting a. 08 BAC standard on Federal property, including. . . on Department of Defense installations, and ensuring strong enforcement and publicity of this standard. . . ."

Consistent with this planning effort, DoD legislation was proposed in its omnibus legislative package in the spring of 1999 to amend the Uniform Code of Military Justice to reduce the blood and breath alcohol levels for the offense of drunken operation of a vehicle, aircraft, or vessel from 0.10 to 0.08 grams. The U.S. Senate adopted section 562 of S. 974 to make corresponding changes to the United States Code. H.R. 1401, as adopted by the U.S. House of Representatives, contained no similar provision. The Senate receded in Conference on this provision. S. 1059 was then substituted and enacted, signed by the President, and became Public Law 106-65.

The Conference Committee Report to S. 1059, National Defense Authorization Act for Fiscal Year 2000, requested the Secretary of Defense to submit a report to the Armed Services Committees "on the Department's efforts to reduce alcohol-related disciplinary infractions, traffic accidents, and other such incidents. The report should include the Secretary's recommendations for any appropriate changes." The Conference Report noted that a recent General Accounting Office (GAO) study concluded that statutory reductions, by themselves, did not appear sufficient to reduce the number and severity of alcohol-related accidents.

The GAO study cited by the Conference Report is entitled "Highway Safety: Effectiveness of State .08 Blood Alcohol Laws" (June 1999). This GAO report concludes that ".08 BAC laws in combination with other drunk driving laws as well as sustained public education and information efforts and strong enforcement can be effective, [but] the evidence does not conclusively establish that .08 BAC laws by themselves result in reductions in the number and severity of crashes involving alcohol." GAO Report at 22-23.

The GAO report further found that "it is difficult to accurately predict how many lives would be saved if all states passed .08 BAC laws. The effect of a .08 BAC law depends on a number of factors, including the degree to which the law is publicized; how well it is enforced; other drunk driving laws in effect; and the unique culture of each state, particularly public attitudes concerning alcohol." GAO Report at 23. "A .08 BAC law can be an important component of a state's overall highway safety program, but a .08 BAC law is not a 'silver bullet'. Highway safety research shows that the best countermeasure against drunk driving is a combination of laws, sustained public education, and vigorous enforcement." GAO Report at 23.

Since 1983, DoD has pursued a "comprehensive approach" to reduce drunk driving, believing that the best countermeasure against drunk driving is a combination of laws, public education, and enforcement. This comprehensive range of programs currently include: a 0.10 blood alcohol concentration (BAC) statute enforceable by court-martial; strong policies to achieve a reduction in impaired driving; a system for preliminary and mandatory suspension of licenses in cases of impaired driving; innovative education and training programs; a screening program for identifying alcohol dependent individuals; a process to notify State driver's license agencies regarding licenses suspended for impaired driving; a local awards program for successful impaired driving programs; and a system to monitor and ensure quality control for impaired driving programs.

Together, these programs have resulted in a reduction in alcohol-related traffic accidents for DoD personnel which compares favorably to analogous statistics of the National Highway Traffic Safety Administration (NHTSA) for the 50 states and the District of Columbia.

DoD recommends that the effectiveness of the existing DoD programs be further enhanced through the amendment of Article 111(2) of the Uniform Code of Military Justice, 10 U.S.C. §911(2), to reduce the enforceable BAC level to 0.08.

Reducing the BAC level to 0.08 would be consistent with statutes or administrative policies already in effect in 19 States, the District of Columbia, and Puerto Rico. Six additional States currently have under consideration legislation to change to the 0.08 BAC level. If enacted, DoD believes the 0.08 BAC limit would be an important component of our overall traffic safety program and support a 'significant reduction in the annual number of alcohol-related fatal and non-fatal crashes involving DoD personnel, with corresponding human and economic savings.

Section 601 The primary purpose of military compensation is to provide a force structure that can support defense manpower requirements and policies. To ensure that the uniformed services can recruit and retain a force of sufficient numbers and quality to support the military, strategic and operational plans of this nation, military compensation must be adequate. Comparison of the earnings of military members with their civilian counterparts suggests that without some adjustment to both the level and structure of basic pay, the military will continue to face serious difficulties in both recruiting and retention.

The results of the military and civilian earnings profile comparisons and the lifecycle earnings analysis conducted by the 9th Quadrennial Review of Military Compensation (9th QRMC) lead to several recommendations that both raise the level of pay and alter the structure of the pay table as well. The structural modifications include targeting pay raises to the enlisted midgrade ranks that will better match their earnings profile, over a career, with that of comparably-educated civilian counterparts and provide a sufficient incentive for these members to complete a military career. Recommended adjustments:

Target large basic pay increases for enlisted members serving in the E-5 to E-7 grades with 6-20 years of service. This would alter the pay structure and thus the shape of the earnings profile, increasing the slope of the earnings profile for midgrade enlisted members to partially achieve the levels suggested by the 9th QRMC.

Raise basic pay for grades E-8 and E-9, to maintain incentives throughout the enlisted career and prevent pay inversion.

Provide a modest increase in basic pay for junior enlisted members. This increase reflects the importance of preventing further deterioration in the percentage of high quality recruits.

Provide for structural changes in selected pay cells for E3, E4, and E5 to motivate members to seek early promotion in the junior grades.

Raise basic pay for grades O-3 and O-4 to provide increased retention incentives.

Provide a modest increase for other officers to recognize their contribution to the defense effort.

Subsection (a) waives the adjustment in basic pay that is prescribed in section 1009 of title 37, United States Code. Subsection (b) provides a pay table describing the changes in basic pay. These increases are summarized in the table on the following page:

Grade	Percentage increase	Grade	Percentage increase
E-1	6.0	W-1	8.5*
E-2	6.0	W-2	8.5*
E-3	6.0*	W-3	8.0
E-4	6.6*	W-4	7.5
E-5	7.5*	W-5	7.0
E-6	7.5*	O-3	6.0
E-7	8.5	O-4	6.5
E-8	9.0	others	5.0
E-9	9.5*	....	....

*The following pay cells are increased by a different percentage for structural purposes:
E-3 <2: 7.3
E-4 <2: 12.0; E-4 >6 (through >26): 6.0
E-5 <2: 13.0
E-6 <2: 8.0
E-9 >26: 10.0; M/S: 10.0
W-1 <2: 15.0; W-1 >3: 14.0
W-2 >2: 6.0; W-2 >3: 11.0; W-2 >4: 11.0

Section 602 would amend section 407 of title 37, United States Code, to authorize payment of a partial dislocation allowance of $500 to members who are ordered, for the convenience of the Government (including pursuant to the privatization or renovation of housing), to move into or out of military family housing. Section 601 would allow members to receive a partial dislocation allowance for a government-directed move at the current permanent duty station.

Currently, a member directed to move due to privatization or renovation of government housing does so at the member's personnel expense. In line with the current dislocation allowance authority, the member is making an authorized move; however, there is no authority to provide the member a dislocation allowance to set-up the new home. Section 601 would provide a partial dislocation allowance to help members defer moving expenses caused by the government's housing decisions. Section 601 would limit payment in these circumstances to $500 initially. Adjustments would be made annually in a manner consistent with the full dislocation allowance. Section 601 also would specify that payments made under new subsection 407(c) shall not be subject to a fiscal year limitation like other DLA payments.

Section 603 would provide the Service Secretaries with the discretionary authority to pay the funeral honors duty allowance to military retirees who volunteer to perform honors at the funeral of a veteran. If authorized by the Secretary concerned, the retiree would receive this allowance without forfeiting any retired or retainer pay, disability compensation, or any other compensation provided under titles 10, 37 and 38. This recognizes that military retirees are a valuable personnel resource that can be employed to meet the funeral honors mission. By using retirees to perform this mission, it would allow active duty and reserve personnel to continue to train for and perform other vital military missions. It also recognizes that this minimal level of compensation could be used to encourage retirees to volunteer to perform this mission. Finally, by not requiring any offset of their retired or retainer pay, or any other compensation, Section 602 not only would reduce the administrative burden placed on the Defense Finance and Accounting Service, but it also would provide an incentive to retirees who, in the vast majority of cases, would otherwise actually receive less compensation than that provided by their retired or retainer pay if they had to forfeit that pay in order to receive the funeral honors duty allowance.

Section 604 would authorize Reserve Component commissioned officers in the pay grade of O–1, O–2 or O–3 who are not on active duty, but have accumulated a minimum of 1460 points (the equivalent of four years of active duty) as a warrant officer or enlisted member, to be paid at the O–1E, O–2E or O–3E rate. Currently, a company grade officer with at least four years of prior active duty service as a warrant officer or as an enlisted member is entitled to be paid at a slightly higher rate. The increase in pay recognizes the additional experience these officers have gained while serving as a warrant officer or an enlisted member and rewards them accordingly. A Reserve commissioned officer who has accumulated at least 1,460 points-the equivalent of four years of active duty-has gained significant military experience similar to that of a member who qualifies for this increase in pay because of prior active duty service. Moreover, because of the part-time nature of their service, these officers have gained that experience over a longer period of time and are generally more mature. Allowing these officers to receive this increase in pay recognizes and rewards that experience on the same basis as officers who gained their experience purely through active duty service.

Section 605 would modify section 427 of title 37, United States Code, to authorize the payment of a Family Separation Allowance to those members who elect to serve an unaccompanied—versus accompanied—tour because the member is denied travel of the member's dependents due to certified medical reasons. Currently, the law prescribes that a member who elects to serve a tour of duty unaccompanied by his or her dependents, at a permanent station to which the movement of dependents is authorized, is not entitled to a Family Separation Allowance. The law provides, however, that the Secretary concerned may grant a waiver to that prohibition when it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances. Under existing waiver authority, the Services approve waivers when a member chooses to serve an unaccompanied tour because travel of the individual's dependents to the new station is denied due to medical reasons. This change would remove the statutory requirement for the Secretary concerned to issue a waiver in these circumstances before the Family Separation Allowance is payable. This program efficiency would ease the administration of the Family Separation Allowance program. In addition, adoption of Section 604 would have no effect on expenditures for the Family Separation Allowance program.

Section 606 would amend section 4337 of title 10, United States Code, to authorize a housing allowance for the chaplain for the Corps of Cadets at the United States Military Academy. The chaplain, who is a civilian employee of the Academy, would receive the same allowance for housing as is allowed to a lieutenant colonel. The chaplain would also receive fuel and light for quarters in kind.

Currently, section 4337 reads as follows: "There shall be a chaplain at the Academy, who must be a clergyman, appointed by the President for a term of four years. The chaplain is entitled to the same allowances for public quarters as are allowed to a captain, and to fuel and light for quarters in kind. The chaplain may be reappointed." Although section 4337, read literally, authorizes a quarters allowance for the chaplain at the Academy with fuel and light in kind, the Comptroller General has determined that this part of the section has been effectively repealed.

The source statute for section 4337 was enacted in 1896 and codified as part of title 10 on 10 August 1956. The Comptroller General issued an opinion on August 28, 1959, which held that Congress intended the Classification Act of 1949 to supersede the source statute for section 4337. The purpose of the Classification Act was to ensure that Federal employees in like positions received equal pay. The Comptroller General concluded that the provisions relating to a quarters allowance for the academy chaplain were closely related to compensation and, therefore, the reenactment of the quarters provision as part of title 10 in 1956 was "erroneous. Ms. Comp Gen. B–140003. Consequently, the military academy chaplain, although charged rent for quarters, has not received a quarters allowance, despite the plain language of section 4337.

This situation has, over time, undermined the Army's ability to attract, hire and retain appointees for the position of chaplain at the Academy, a position mandated by section 4331(b)(5) of title 10. Enactment of Section 605 would ameliorate this problem by providing clear authority to update and restore the academy chaplain's housing allowance, at a reasonable and appropriate pay grade level.

The cost to implement Section 605 is estimated at $14,000 per year, although a portion of that expenditure would be recouped as rent paid by the academy chaplain.

Section 607 would amend section 18505(a) of title 10, United States Code, by removing the language relating to space-required travel on military aircraft by Reserve component members when the purpose of that travel is to perform "annual training duty." A statutory authority for Reserve component members to travel in a space required status when performing active duty for training (including annual training duty) is not necessary since these members are already authorized by DoD regulation to travel in a space-required status. Of particular concern with the addition of annual training duty to section 18505 is the applicability of section 18505(b) to members performing such duty. Section 18505(b) prohibits a member from receiving travel, transportation and per them allowances associated with space-required travel—allowances to which the member was previously entitled before section 18505 was amended by section 384 of Public Law 106–398 (the National Defense Authorization Act for Fiscal Year 2001) to add "annual training duty."

Since annual training is a requirement for satisfactory participation in the Selected Reserve, the Services budget for those training tours—this includes travel, transportation and per diem allowances. While section 12305 of title 10 allows Reserve component members to consent to perform active duty and active duty for training without pay, it is not appropriate to use this authority in conjunction with annual training. If this authority is being used in conjunction with annual training duty for Reserve component members who do not have an annual training requirement, the Department can address this issue through policy guidance.

If enacted, this proposal would have no cost or budgetary effect.

Section 611 would amend section 301c of title 37, United States Code, to remove submarine duty incentive pay (SUBPAY) rates from law, enabling the Secretary of the Navy to adjust SUBPAY rates when changes are needed to support submarine accession and retention requirements. Section 611 also would establish a maximum monthly SUBPAY rate of $1,000. The effective date for these changes would be 1 October 2002.

Enlisted submarine Sailors receive SUBPAY while on shore duty if they incur at least 14 months of obligated service beyond their shore duty Projected Rotation Date, ensuring they are assignable to future submarine sea duty. SUBPAY, unlike Career Sea Pay or any other enlisted incentive or special pay program, is a direct indicator of how well submarines will be manned with experienced sea returnees as much as three years into the future. Additionally, getting experienced Sailors back to a submarine for 14 months actually encourages experienced Sailors to stay past the 14-month minimum requirement: of those Sailors with between 10 and 14 years of service, who are currently serving on board a submarine and who went back to sea for at least 14 months, 79 percent obligated themselves for at least a two-year minimum activity tour on that submarine.

In 1999, the decline in the propensity of enlisted submarine personnel to incur additional obligated service (and future sea duty service) equated to 776 lost man-years of at-sea submarine service—enough manpower to operate 5 submarines for one year. Higher SUBPAY rates could be used to stem this decline and entice undecided submarine Sailors at the critical 10- to 12-year decision point to choose a 20-year or greater Navy career. In addition, higher SUBPAY rates could help Navy meet submarine non-nuclear enlisted recruiting goals, which have not been met in the last decade.

The current statutory SUBPAY rate tables have been duplicated in SECNAVINST 7220.80E, as well as in Tables 23–3 through 23–5 of Volume 7A, Chapter 23 of the Department of Defense Financial Management Regulations. Thus, removing the SUBPAY rates from law would provide the service secretary with a timely, flexible and pay grade-targeted method to address the looming personnel-related issues that are probable given the uncertain future Submarine Force of Record, which could add as many as 13 submarine crews by FY2004 and 19 crews by FY2015.

SUBPAY was last increased in 1988, when it was raised to restore the approximate value that it had for submarine Sailors when the SUBPAY program was previously revised in 1981. Since 1988, the value of SUBPAY has eroded by approximately 47 percent (based on the Consumer Price Index—Urban Direct Index from 1988 to 1999 and projected to 2001). If granted this new discretionary authority, Navy intends to target first the most critically manned pay grades—mid grade enlisted Sailors and junior to mid grade officers. This would increase the maximum enlisted payment rate from $355 to $425, but would maintain the maximum officer payment rate at $595. Therefore, the budgetary impact of Section 611 would be a net increase of $15.0 million in FY 2003 and a net increase of approximately $14.5 million per year thereafter through FY 2007.

Section 612 would extend the authority to employ accession and retention bonuses for enlisted personnel, and continuation pay for aviators, ensuring that adequate staffing is provided for hard-to-retain and critical skills, including occupations that are arduous or that feature extremely high training and replacement costs. Experience shows that retention in those skills would be unacceptably low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of financial incentives in supporting effective staffing in critical military skills.

Section 613 would extend the authority to employ accession and retention incentives to support staffing for nurse and dentist billets which have been chronically undersubscribed. Experience shows that manning levels in the nursing and dental fields would be unacceptably low without these incentives, which in turn would generate substantially greater costs associated with recruiting and developing a replacement. The Department and Congress have long recognized the cost-effectiveness of these incentives in supporting effective personnel levels within these fields.

Section 614 would extend the authority to employ accession and retention incentives, ensuring adequate manning is provided for hard-to-retain skills, including occupations that are arduous or feature extremely high training costs. Experience shows retention in those skills would be unacceptably low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning in these occupations. In the case of the Nuclear Officer Incentive Pay Program, a two-year extension demonstrates support to career-oriented officers.

Nuclear officer accessions and retention continue to fall below that required to safely sustain the post-drawdown force structure. Fiscal Year (FY) 1999 retention for submarine officers was 30 percent (required 29 percent); for nuclear-trained Surface Warfare Officers (SWO(N)s) it was 20 percent (required 21 percent). FY 2000 retention for submarine officers was 28 percent (required 34 percent); for SWO(N)s it was 21 percent (required 21 percent). Although adequate for now, nominal retention rates must improve by FY 2001 to 38 percent for submarine officers and 24 percent for SWO(N)s to adequately meet growing manning requirements. Likewise, current accession production must improve. Although nuclear accession goals were met for FY 2000 (the first time meeting submarine officer accessions since FY 1991), FY 2001 nuclear officer accession goals have increased to meet the manning requirements for an increased force size.

Inadequate accessions in previous years and continued poor retention only compound the sacrifices incurred by those officers remaining, as demanding and stressful sea tours are lengthened to meet safety and readiness requirements. If the shortfall of officers due to both effects is sufficiently severe, the entire sea/shore rotation plan becomes unbalanced, and officers eventually must rotate directly from one sea tour to the next. This was the case in the 1960s and 1970s when many officers spent as many as 16 or more of their first 20 years in sea duty and nuclear or warfare-related training and supervisory assignments. Eventually, many of these remaining officers find the sacrifices too great and resign from the service. History has shown retention erodes further, requiring even more accessions, and the "vicious cycle" repeats. The success of the Naval Nuclear Propulsion Program is a direct result of quality personnel, rigorous selection and training, and high standards that exceed those of any other nuclear program in the world. Maintaining this unparalleled record of safe and successful operations depends on attracting and retaining the right quantity and highest quality of officers in the Naval Nuclear Propulsion Program.

Representing nearly half the Navy's major combatants and 60 percent of combat tonnage, nuclear-powered warships are repeatedly called upon to protect our vital interests and respond to crises around the world. They represent the cornerstones of our continued maritime supremacy and are an integral part of our national security posture. Adequate manning with top quality individuals is key to the continued safe operation of the program.

The attraction of the civilian job market for nuclear-trained officers remains strong. These officers possess special skills as a result of expensive and lengthy Navy training. They also come predominantly from the very top of their classes at some of the nation's best colleges and universities. As a result, these officers are highly sought for positions in career fields, both within and outside of the nuclear power industry, due to their educational background and management experience. The competition for well-qualified, experienced technical personnel coupled with the lowest unemployment rate in over two decades, indicate that the marketability of nuclear-trained officers will likely increase. Officers leaving the Navy after five years of service can expect to transition to the civilian workforce at about the same level of compensation, but with greatly increased potential earnings and without the arduous schedules and family separation.

The Nuclear Officer Incentive Pay program, in its current structure, remains the surest and most cost-effective means of meeting current and future manning requirements. Long-term program support through a four-year program extension is strongly encouraged. The two-year extension would demonstrate Congressional commitment commensurate with that made by Naval officers who have chosen to reap the rewards and endure the sacrifices of a career in the Nuclear Propulsion Program.

Section 615 would extend the authorization for critical recruiting and retention Reserve component incentive programs. Recruiting has become increasingly more challenging and the incentives provided by the Selected Reserve affiliation and enlistment bonuses are a valuable part of the overall recruiting effort. Absent these incentives, the Reserve components may experience difficulty in meeting skilled manning and strength requirements. Moreover, the Reserve components rely heavily on being able to recruit individuals with prior military service. The prior service market is a high priority for the Reserve components since assessing individuals with prior military experience reduces training costs and retains a valuable, trained military asset in the Total Force. The prior service enlistment bonus offers an incentive to those individuals with prior military service to transition to the Selected Reserve.

Equally important to the recruiting effort is retaining members of the Selected Reserve. The Selected Reserve reenlistment bonus, which was increased last year from $5,000 to $8,000, is necessary to ensure the Reserve components maintain the required manning levels by retaining members who are already serving in the Selected Reserve. Moreover, the special pay for enlisted members assigned to certain high priority units provides the Services with an incentive designed to reduce manning shortfalls in critical undermanned units.

The Reserve components have historically found it challenging to meet the required manning in the health care professions. The incentive that targets those healthcare professionals who possess a skill that has been identified as critically short is essential if the Reserve components are to meet required manning levels in these skill areas.

The expanded role of the Reserve components requires not only a robust Selected Reserve force, but also a robust manpower pools—the Individual Ready Reserve. Extending the Individual Ready Reserve bonus authority would allow the Reserve components to target this bonus at individuals who possess skills that are under-subscribed, but are critical in the event of mobilization.

Combined, the Reserve component bonuses and special pays provide a robust array of incentives that are necessary if the Reserve components are to meet manning requirements. Extending these authorities would ensure continuity of these programs. Since these incentive programs are recurring Service budget items, there is no additional cost for extending these authorities.

Section 616 would amend title 37, United States Code, by establishing a broad authority for an Officer Critical Skill Accession Bonus to provide needed flexibility for Service Secretaries to recruit officers with critical skills. This is intended to preclude the need to add future individual statutory bonus provisions for specific officer career categories experiencing an accession shortfall.

Over the past several years, officers with certain critical skills have separated from service at higher than historical rates, and recruitment of officers into these critical specialties has declined. This is, in large measure, likely a result of higher compensation and benefits being offered for these skills in the private sector. Recruitment shortages among officer skills can be expected to further erode absent enactment of statutory authority for monetary incentives that can be utilized to offset the pull on these critical specialties from the civilian marketplace. Examples of specialties currently short (and which have no, or inadequate, statutory bonus authority for use to target the shortages) include the Air Force's declining cumulative continuation rates among officers in communications-information systems (CIS) (35 percent in 1999), some electrical engineers (39 percent in 1999 for developmental engineers, and 31 percent for civil engineers in 1999), scientific (53 percent in 1999), and acquisitions (averaged 38 percent from 1997–1999). Shortfalls in retention in these skills are occurring while Air Force accession rates have also continued to fall below the Air Force goal. As of June 30, 2000, the Air Force accessed 74 percent of its goal for weather officers, 69 percent for developmental engineers, 83 percent for air traffic control and combat operations, and 90 percent for CIS. Authority for the Air Force to offer a financial incentive to boost manning in the Engineering and Scientific career and CIS specialties is particularly critical.

Further, the Navy is experiencing shortages in their Civil Engineer Corps (CEC) career field. The Navy has failed to recruit the required number of CEC officers in the past three fiscal years (1998 through 2000). In Fiscal Year 2000, the Navy only accessed 54 percent of the CEC accession goal; it projects to meet only 67 percent of the Fiscal Year 2001 CEC accession goal, and projects to remain short in the out-years. Shortages of that magnitude translate to undersupervision in an unusually sensitive mission area. Authority to offer CEC officer-recruits an accession bonus is critical if the Navy is to have the compensation tools it needs to increase the number of CEC officer-recruits to levels needed to man future CEC force structure requirements. An accession bonus authority would give Navy the competitive edge it needs to attract the most qualified candidates to the Navy CEC.

Rather than seeking additional individual statutory authorities for these critical officer specialties, and any others that may emerge in the future, this proposal seeks a broad accession pay authority. Under such statutory authority, the Departments would establish program parameters and implementation strategies to ensure the Service Secretaries are provided the flexibility they need to address officer critical specialty shortfalls in a timely manner.

Based on current projections, the net effect of adoption of Section 616 would be an increase of $18.05M in Fiscal Year 2002 ($.05M for Navy and $18M for Air Force), Army and Marine Corps do not anticipate they would utilize this authority in Fiscal Year 2002.

Section 617 would allow the Secretary concerned to target this incentive to individuals who possess a skill that is critically short to meet wartime requirements and who agree to enlist, reenlist or voluntarily extend an enlistment in the Individual Ready Reserve. The current statute authorizes payment of this bonus to individuals who possess a skill that is critically short in a combat or combat support mission. However, this bonus is not authorized for individuals who possess a critically short skill in a combat service support mission. As a result of the drawdown and restructuring of the force over the past decade, the Reserve components have assumed a variety of new missions across the full range of mission areas. Of particular concern is the ability to meet the expanded combat service support mission requirements in the Army Reserve. To meet manpower requirements in its expanded combat support and combat service support role, the Army Reserve must rely heavily on members of the Individual Ready Reserve. Expanding this authority to allow the Secretary concerned to target this bonus in those skill areas that are critically short, regardless of the type of mission, would help reduce critical mobilization manning shortages. This proposed change is consistent with other active duty and Selected Reserve bonus authorities, which provide the Service Secretary with the authority to identify those skill areas that are critically short and require added incentives to achieve the necessary manning level to meet mission requirements.

Section 618 would amend section 301 of title 37, United States Code, to authorize payment of hazardous duty incentive pay for members of Visit Board Search and Seizure teams conducting operations in support of maritime interdiction operations.

Boarding crews participating in these operations face several hazards inherent to the duty involved. These include the hazards of physically boarding a vessel at sea from a small boat while carrying weapons, inspection gear, and protective clothing. Further hazards exist in the actual conduct of the inspections, such as hazards connected with crew hostilities, pest infestations, and numerous unseen dangers. For example, containers must be accessed, which often requires climbing considerable distances above the deck, balancing in precarious positions while opening the container, and facing the risk the container contents may have shifted during the transit. In addition, cargo may have mixed, causing a hazard (for example, bulk cargo such as fertilizer, when mixed with salt water or oil, can emit hazardous fumes). Hazardous Duty Incentive Pay would provide a financial recognition to personnel participating in these operations for this unusually hazardous duty.

The net effect of adoption would be an increase of $0.2 million for the Navy.

Section 621 would amend section 430 of title 37, United States Code, to extend the entitlement to funded student dependent travel to members stationed outside the continental United States with dependents under the age of 23 who are enrolled in a school in the continental United States but are attending a school outside the United States as part of a school-sponsored exchange program. At present, members stationed overseas are entitled to funding for this program, but only if the student is physically located in the United States. This creates an inequity for those members whose dependents attend a school in the United States, but are part of a temporary exchange program located outside the United States. Both sets of members deserve equal treatment.

Section 621 would reimburse travel expenses for student dependents under the age of 23 of a member stationed outside the continental United States when the dependents are enrolled in a school in the continental United States but are attending a school outside the United States as part of a school sponsored-exchange program for less than a year. Section 621 would further limit reimbursement in these cases to the cost of travel between the school in the continental United States where the student dependent is enrolled and the member's overseas duty station.

Section 622 would amend section 2634 of title 10, United States Code, by adding a new subsection 2634(b)(4) authorizing payment of vehicle storage costs in advance. Section 2634 authorizes the Secretary concerned to store a member's vehicle at government expense under certain circumstances, but does not provide for advance payment of these costs. Vehicle storage costs at a commercial facility can range from $100 to $300 per month, and many of these facilities require deposits equal to two or three times the monthly storage rate. The Military Traffic Management Command estimates there are approximately 20,000 vehicles that are stored in commercial facilities annually.

Having to pay for these advance payments out of pocket comes at the worst possible time for the military member—during a permanent change of station move. The variety of expenses associated with a move put a significant strain on the financial condition of members, often requiring them to acquire significant debt while they wait for government reimbursement to catch up. At no additional cost to the Government, Section 622 would eliminate one portion of this burden, reducing to some degree the hardship associated with a military life that requires frequent moves.

Section 623 would amend section 411f of title 37, United States Code; strike subsection (d) of section 1482 of title 10, United States Code; and repeal the Funeral Transportation and Living Expense Benefits Act of 1974 (Public Law 93–257).

Currently, the three statutes cited above authorize allowances for family members and others to attend burial ceremonies of deceased members of the armed forces. The statutes differ in scope and application. For example, section 1482(d) prohibits the payment of per diem, while per diem may be paid under the other two sections. The purpose of Section 622 is to establish uniform authority.

Section 411f of title 37 authorizes round trip travel and transportation allowances for "dependents of a member who dies while on active duty or inactive duty in order that such dependents may attend the burial ceremonies of the deceased member." Allowances under the section, including per diem, are limited to travel and transportation to a location in the United States, Puerto Rico, or United States possessions and "may not exceed the rates for two days." If a deceased member was ordered to active duty from a place outside the United States, allowances may be provided for travel and transportation to and from such place and may be extended to account for the time necessary for such travel. Dependents include the surviving spouse, unmarried children under 21 years of age, unmarried children incapable of self-support, and unmarried children enrolled in school and under 23 years of age. Section 411f(c) provides that if no person qualifies as a surviving spouse or unmarried child, the parents of a member may be paid the travel and transportation allowances authorized under the section.

Section 1482(d) of title 10 applies when, as a result of a disaster involving multiple deaths of members of the armed forces, the Secretary of the military department has possession of commingled remains that cannot be individually identified and must be buried in a common grave in a national cemetery. Under section 1482(d), the Secretary may pay the expenses of round trip transportation to the cemetery for a person who would have been authorized under section 1482(c) to direct the disposition of the remains of the member if individual identification had been made. Also, the Secretary may pay the expenses of transportation for two additional persons closely related to the decedent who are selected by the person who would have been designated under section 1482(c). No per diem may be paid.

The Funeral Transportation and Living Expense Benefits Act of 1974 applies only to families of deceased members of the armed forces who died while classified as a prisoner of war or as missing in action during the Vietnam conflict and whose remains are returned to the United States after January 27, 1973. Family members may be provided "funeral transportation and living expenses benefits." Benefits include round trip transportation from the family member's residence to the place of burial, "living expenses, and other such allowances as the Secretary shall deem appropriate." Eligible family members include "the deceased's widow, children, stepchildren, mother, father, stepfather and stepmother." If none of the family members in the preceding sentence "desire to be granted such benefits," then the benefits may be granted to the deceased's brothers, sisters, half-brother, and half sisters.

For members of the armed forces during World War II and the Korean War whose remains have recently been recovered and identified, there may be no family members who can be provided travel and transportation allowances to attend the burial. As noted above, under section 411f, dependents who may receive travel and transportation allowances include a surviving spouse, certain ummarried children, primarily those under 21 years of age, and parents if there is no surviving spouse or qualifying child. However, in these cases, the surviving spouse and parents may be deceased and no child may qualify because of their age. Section 623 would amend section 411f and add a new provision similar to the provision in section 1482(d) of title 10, concerning the burial of remains that are commingled and cannot be identified. Under Section 623, if there is no surviving spouse, no qualified child, and no parent, then the person designated to direct disposition of the remains could receive travel and transportation allowances along with two additional persons closely related to the deceased member selected by the person who directs disposition of the remains. In many cases, this would likely include an adult child or children of the deceased member.

Section 623 would also amend section 411f to authorize the payment of travel and transportation allowances for a person to accompany a family member who qualifies for travel and transportation allowances but who is unable to travel alone to the burial ceremonies because of age, physical condition, or other justifiable reason as determined under uniform regulations prescribed by the Secretaries concerned. Allowances would be payable under these circumstances only if there is no other person qualified for allowances available to assist the family member.

Section 623 would also amend section 411f to provide a new basis for authorizing travel and transportation allowances outside the United States, Puerto Rico, and United States possessions. Currently, the only exception is when the member was ordered to active duty from a place other than in the United States, Puerto Rico, or the United States possessions. Section 623 would amend section 411f(b) to authorize the payment of travel and transportation allowances to a cemetery maintained by the American Battle Monuments Commission outside the United States.

Section 623 would amend section 411f(b) to make uniform the rule concerning the time period for which allowances may be paid. Currently, section 411f(b) restricts the period to two days for travel within the United States, Puerto Rico, and United States possessions. For travel outside these areas, the two-day period may be extended "to accommodate the time necessary for such travel." Under Section 623, all travel and transportation allowances, regardless of where the travel occurs, would be limited to two days and the time necessary for travel.

Section 623 would also strike subsection (d) from section 1482 of title 10, relating to the burial of commingled remains in a common grave. Section 411f would be amended by adding a new subsection (d) to define burial ceremonies as including "a burial of commingled remains that cannot be individually identified in a common grave in a national cemetery." Thus, the authority in section 411f would provide the basis for travel and transportation allowances under these circumstances. Unlike section 1482(d), this authority would include the payment of per diem.

Finally, Section 623 would repeal the Funeral Transportation and Living Expense Benefits Act of 1974. The Act, enacted in 1974, authorizes travel and transportation allowances for the family of any deceased member of the armed forces who died while classified as a prisoner of war or missing in action during the Vietnam conflict. Section 411f was enacted in 1985. Both statutes provide similar authority. The Act's authority is somewhat broader because eligible family members include the surviving spouse, all children (regardless of age), parents, and siblings. The Act would be repealed to provide uniform treatment among all family members of persons who die while on active duty or inactive duty.

Section 624 would modify section 2634 of title 10, United States Code, to authorize service members to ship a privately-owned vehicle (POV) from the old Continental United States (CONUS) duty station to the new CONUS duty station when the cost of shipment and commercial transportation would not exceed the cost of driving the POV to the new station as is currently authorized.

Currently, when executing a permanent change of station move in CONUS, service members are allowed to ship POVs between CONUS duty stations only when physically incapable of driving, there is a change of a ship's homeport, or there is insufficient time to drive. Members with dependents who possess two POVs would be authorized to ship one POV and drive the other if the cost of driving one POV and shipping the other did not exceed the cost driving two POVs. Cost comparisons would take into account mileage rates by the most direct regularly traveled route, per diem, cost of commercial transportation and the cost of shipping the car by commercial car carrier. Section 624 would be cost-neutral, and enhance force protection by minimizing the number of miles driven by members making permanent changes of station, thereby limiting exposure to accidents. Civilian employees of DoD are currently authorized to ship POVs in CONUS when it is determined to be more advantageous and cost-effective to the Government.

Section 631 would extend the maximum period that a member of the Selected Reserve would be authorized to use the educational benefits provided under the Montgomery GI Bill for the Selected Reserve (MGIB–SR) from the current 10-year limit to 14 years. With the increased use of the Reserve components, members of the Selected Reserve are spending more time performing military duties. The additional time spent performing military service reduces the amount of time they have available for other activities—be it a civilian job, time with the family, other leisure activities, or civilian education. Balancing a full-time civilian career and a military career is becoming increasingly more challenging. One area that is likely to suffer is the pursuit of civilian education. Increasing the number of years that a member of the Selected Reserve has to use this benefit would recognize their increased commitment to military service and provide them with an extended opportunity to use this benefit. Additionally, since membership in the Selected Reserve is required in order to use the MGIB–SR educational benefit, it would also serve as a retention incentive for those who have not been able to use the benefit by the current 10-year limiting period.

Section 632 would add overnight health care coverage when authorized by regulations for Reserve Component members who, although they may reside within a reasonable commuting distance of their inactive duty training site, are required to remain overnight between successive drills at that training site because of mission requirements. Some Reserve Component members are required to remain overnight in the field when performing inactive duty training. Others may be training late into the evening or performing duty early in the morning, which could make commuting to and from their residence impractical. On those occasions when it is not feasible for members who live in the area to return to their residence between successive drills because of mission requirements, they are currently not protected should they become injured or ill during that overnight stay. The Secretary of Defense report to Congress on the means of improving medical and dental care for Reserve Component members, which was sent to Congress on November 5, 1999, recognized this shortcoming and recommended that the law be amended to provide medical coverage when the member remains overnight between successive training periods, even if they reside within reasonable commuting distance.

Section 633. Section 2004 of title 10, United States Code, authorizes the Secretary of a Military Department to detail selected commissioned officers at accredited law schools for training leading to the degree of bachelor of laws or juris doctor. No more than 25 officers from each Military Department may commence such training in any single year. Officers detailed for legal training must agree to serve on active duty following completion of the training for a period of two years for each year of legal training. This service obligation is in addition to any service obligation incurred by the officer under any other provision of law or agreement.

Section 2603 of title 10 authorizes any member of the Armed Forces to accept a scholarship in recognition of outstanding performance in the member's field, to undertake a project that may be of value to the United States, or for development of the member's recognized potential for future career service. Section 2603(b) requires a member of the Armed Forces who accepts a scholarship under section 2603 to serve on active duty for a period at least three times the length of the period of the education or training.

Section 2004 does not specifically authorize an officer attending law school under the Funded Legal Education Program to accept a scholarship from the law school or other entity. Also, section 2603 does not indicate that the authority to accept a scholarship to obtain education or training under the section can be used in conjunction with the authority in another section authorizing education or training, such as section 2004. Moreover, if the authority in section 2004 for a funded legal education can be used in conjunction with the authority in section 2603 to obtain training or education through a scholarship, the resulting service obligation for an officer participating in the Funded Legal Education Program who accepts a scholarship is unclear. The statutes could be interpreted to require consecutive service obligations in excess of twelve years or concurrent service obligations of much less.

An officer who accepts a scholarship would reduce the expenditure of appropriated funds of the military department concerned. Obtaining a scholarship may also benefit an officer participating in the funded legal education program. For example, in the Army, to minimize the costs associated with the funded legal education program, an officer must attend a law school in the officer's state of legal residency that will permit the Army to pay in-state tuition rates or a law school that will grant in-state tuition rates to out-of-state students. This effectively prohibits officers from seeking admission into many of the most highly rated law schools in the United States. If an officer could accept a scholarship to cover all or part of the costs of attending law school, it may be unnecessary to require the officer to attend a school at which the officer qualifies for in-state tuition rates.

Section 633 would amend sections 2004 and 2603 to authorize an officer detailed to law school for legal training under section 2004 to accept a scholarship from the school or other entity under section 2603, with the service obligations incurred under both sections to be served consecutively.

Section 701. As a result of studies done in response to direction in Section 912 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85), Defense Science Board reports, and General Accounting Office reports, as well as a desire to implement best commercial practices, the Department rewrote its acquisition policy documents. The purpose of the rewrite was to focus on providing proven technology to the warfighter faster, reducing total ownership cost, and emphasizing affordability, supportability, and interoperability. As part of the rewrite, the Department created a new model of the acquisition process that separates technology development from system integration, allows multiple entry points into the acquisition process, and requires demonstration of utility, supportability, and interoperability prior to making a commitment to production. As part of the model, milestone names were changed to Milestone A (approval to begin analysis of alternatives), Milestone B (approval to begin integrated system development and demonstration), and Milestone C (approval to begin low-rate production). The phases of acquisition were changed to Concept and Technology Development (in which alternative concepts are considered and technology development is completed), System Development and Demonstration (in which components are integrated into a system and the system is demonstrated), and Production and Deployment (in which the system is produced at a low-rate to allow for initial operational test and evaluation, creation of a production base, efficient ramp-up of production to full-rate, and deployment). Within the Production and Deployment phase is the Full-Rate Production Decision Review at which the results of operational test and evaluation and live-fire test are considered.

The purpose of this proposed legislation is to make changes in current statutes, which was based on the old milestone 0/I/II/III model, so that they correspond to similar events based on the new milestone A/B/C model. There is no intent to diminish congressional oversight or to change the content or amount of reporting requirements to the Congress, although the timing of some reports will change.

Under the new milestone A/B/C model, program initiation begins later than under the old milestone 0/I/II/III model. The reason for this is that the new model anticipates more extensive technology development before committing to a new program using those technologies, while the old model completed technology development after program initiation. Approval to begin analysis of alternatives that previously occurred at Milestone 0 (that now corresponds to Milestone A) will continue to be done in Concept and Technology Development. Work that was previously done in Demonstration and Validation (or Program Development and Risk Reduction) is split around Milestone B with the technology development work being done in Concept and Technology Development (before Milestone B) and the system prototyping and engineering and manufacturing development being done in System Development and Demonstration (after Milestone B).

Requirements identified in law for Milestone I or prior to Demonstration and Validation phase, intended to apply to an initiated program, are changed to be required at Milestone B or prior to System Development and Demonstration. Likewise, requirements identified in law for Milestone II or prior to Engineering and Manufacturing Development, intended to apply to system engineering work, are changed to be required at Milestone B or prior to System Development and Demonstration, both of which encompass this work effort. All requirements identified in the law for Milestone III or prior to production would be required at the full rate production decision.

Sections 2366, 2400, 2432 and 2434, are essentially unchanged in reporting requirements.

Section 2435 of Title 10 requires an acquisition program baseline be developed prior to entering work following each of the milestone I, II, and III decisions. In the case of the acquisition program baseline, a new baseline description will be generated at program initiation, and at each major transition point (from system development and demonstration to low-rate production, and from low-rate production to full-rate production). The first and second program baselines will be completed later than baselines generated under current statute. The first baseline will continue to describe the system concept at program initiation and will also serve to describe the program through engineering development. The second baseline will describe the system as engineered prior to beginning production. There will be no change in the description for the third baseline.

Section 8102(b) of Public Law 106–259 and Section 811 (c) of Public Law 106–398 require Information Technology certification at each major decision point (i.e., milestone). These requirements have been translated from the milestones I/II/III of the old model to milestones A/B/C of the new model.

Section 702 conforms the nuclear aircraft carrier exclusion from the statute to actual practice by specifying that the exclusion from maintaining core logistics capabilities, with respect to nuclear aircraft carriers under section 2464 of title 10, United States Code, applies only to the nuclear refueling of an aircraft carrier. The term "core logistics capabilities" is used to define those maintenance and repair standards which should be continually met by the Armed Forces so that it will be able to maintain and repair, on its own, a variety of military equipment. These requirements are adhered to as an assurance that, in times of emergency, the military can meet mobilization, training and operation requirements without requiring outside (contractor) intervention or hindrance.

While the current law reads to exclude a nuclear aircraft carrier, in its entirety (including all maintenance processes), from a requirement to maintain a core logistics capability, this revision intends to apply this exclusion solely to the process of refueling. Nuclear aircraft carrier work, other than nuclear refueling, is currently—and will continue to be—a core logistics capability that is maintained in accordance with the provisions of 10 U.S.C. §2464. Furthermore, every other type of naval surface combatant currently utilized is required to maintain core logistics capabilities. To completely exclude these carriers from the requirement to maintain these capabilities would be to set the carrier apart from other naval surface combatants, which was not the intention of the Navy in formulating its original legislation.

Therefore, this amendment is meant to both clarify the original intent of the drafters for 10 U.S.C. §2464 and to discourage situations which could result in future problems, such as the privatization of unique carrier items which were not meant to be excluded from the requirement for maintaining core logistics capabilities.

Section 703. The Department is committed to fully utilizing its organic depots in order to maintain a core logistics capability. There are circumstances, however, when a depot is utilized to its maximum capability and, because of the limitations imposed by 10 U.S.C. §2466, the Department is prohibited from contracting out the work. The work must still be performed by in-house depots, resulting in delays and excess costs. This provision would expand the waiver authority, permitting the Secretaries to waive the limitation once a depot has achieved full utilization. This will result in savings to the customers and in more timely accomplishment of the work. In situations where multiple depots can perform the same type of maintenance activity, it may not be economical to transfer the work from a fully-utilized depot to one that is operating at less than maximum capacity but in a different geographic region. The Secretary may waive the limitations if he makes a determination that it would be uneconomical, due to reasons such as cost or logistical constraints, to transfer such workload.

Section 705 would clarify the intent of amendments to section 1724 of title 10, United States Code, that were made by Section 808 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654A–208). It would also establish a Contingency Contracting Force, and authorizes the Secretary of Defense to establish one or more developmental programs for contracting officers, employees and applicants for the GS–1102 series, and recruits and military personnel in similar occupational specialties.

Section 808 established strict minimum qualification requirements for contracting officers and civilian employees in GS–1102 positions. It also made these requirements applicable to military members in similar occupational specialties. Section 808 also amended the exception provision in section 1724 of title 10, United States Code, to except from the new requirements persons "for the purpose of qualifying to serve in a position in which the person is serving on September 30, 2000." The legislative history accompanying this change stated that the new requirements were intended to apply only to new entrants into the GS–1102 occupational series in the Department of Defense and to contracting officers with authority above the simplified acquisition threshold, but not to current employees. This proposal would make clear this intent by excluding from the new requirements military and civilian personnel who were serving, or had served, as contracting officers, employees in the GS–1102 series, or military personnel in similar occupational specialties on or before September 30, 2000. This proposal would also reinstate the qualifications requirements that were previously contained in section 1724 for current employees that are excluded from the new qualifications requirements.

This proposal would also provide the Secretary with flexibility to establish one or more developmental programs, which would educate people to meet the statutory minimum qualification requirements of a degree and 24 credit hours in business. Their purpose would be to enable personnel to obtain the education necessary to meet the performance requirements of the future acquisition workforce. A significant number of the Department's current, seasoned acquisition workforce personnel will be eligible to retire within five years. This makes it imperative that the Department have access to the maximum number of superior applicants. We anticipate that the Office of the Secretary of Defense would establish one or more programs in which candidates that meet some, but not all, of the minimum requirements could be educated to meet the remaining requirements within a specified period of time. For example, a candidate may have a four-year degree, but not the twenty-four credit hours in business-related courses. Another candidate may be close to a degree, including 24 credit hours in business. Each would be provided a specified period of time (in no case more than three years) to meet all of the statutory requirements. We would anticipate that any person who failed to meet all of the statutory requirements within the time specified would be subject to separation from federal service. This flexibility will give the Department the necessary mechanisms for accessing the greatest number of superior applicants, while retaining its goal of maintaining a high-quality, professional contracting workforce.

This proposal would also addresses the need to recognize a contracting force whose mission is to deploy in support of contingency operations and other Department of Defense operations. This force, which consists primarily of enlisted personnel, but which includes both military officers and civilian employees, meets a unique need within the Department and has unique training and qualification requirements.

This proposal would maintain the requirement for 24 semesters hours of business-related course work or the equivalent and give the Secretary flexibility to establish other minimum requirements to meet the unique needs of persons performing contracting in support of contingency and other Department operations.

Section 706. The current language in section 1734(a) of title 10, United States Code, applies to the tenure requirement of over 13,500 critical acquisition positions (caps). This proposal would retain the qualifications to occupy a CAP. The proposed change would require tenure only for personnel in those critical acquisition positions where continuity is especially important to the success of DoD's acquisition programs. Ensuring the tenure of these individuals assigned to program offices and the associated system acquisition functions like systems engineering, logistics, contracting, etc., therein provides the stability originally sought by section 1734. This change would allow more flexibility to meet organizational mission priorities; enhance career development programs for those holding the remaining critical acquisition positions who perform either functions outside of a program office or functions not related to systems acquisitions (such as procuring spare parts or policy formulation); and would ensure DoD develops the best-qualified individuals for CAPS in program offices and systems acquisition functions.

The current section 1734 undertakes to improve the quality and professionalism of the DoD acquisition workforce in part through a career development program for acquisition professionals. This proposal would retain that intent, while emphasizing the importance of specific job experience and program continuity responsibility, and accountability for acquisition personnel working in program offices or supporting system acquisition programs who are performing critical acquisition functions. This proposal also would expand career-broadening opportunities for personnel in other CAPS and would result in a reduction of waiver reporting requirements. The proposal balances the needs for program continuity, responsibility, accountability, and career development, while eliminating an unnecessary administrative burden, increasing productivity, and allowing the workforce to be responsive to changing organizational needs.

Section 710 would amend section 2855 of title 10, United States Code, to repeal a provision of law that prevents the Department of Defense (DOD) from achieving its goal of 40 percent of the dollar value of architectural & engineering (A&E) service contracts awarded to small businesses. This goal was established by section 712(a) the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 Note).

The Small Business Competitiveness Demonstration Program was established to see if small business concerns could maintain a reasonable percentage of dollars awarded in four Designated Industry Groups (digs) in an unrestricted competitive environment. A&E services is one of the DIGS. The Program establishes a small business participation goal of 40 percent of the dollars awarded in each of the aforementioned DIGS. The statute further states that if small business concerns fail to achieve the 40 percent goal during a twelve month period, the agency shall re-establish set-aside procedures to the extent necessary to achieve the 40 percent goal (Section 712(a) of Pub. L. 100–656).

Notwithstanding the authority of the Demonstration Program, section 2855(b) generally prohibits DOD from using small business set-aside procedures in the awarding of A&E service contracts when the estimated award price is greater than $85,000. Section 2855(b)(2) provides for revision of the $85,000 threshold if the Secretary of Defense determines that it is necessary to ensure that small business concerns receive a reasonable share of A&E contracts. DOD estimates that they would need to increase the threshold to over $1 million to accomplish this end. This would be so disproportionate to the $85,000 statutory threshold that it is more appropriate to seek a legislative change.

Further, DOD would need to continually readjust the threshold over time to reflect changes in small business participation. For example, in fiscal year 1999, DOD achieved a small business A&E participation rate of 16.4 percent, significantly below the 40 percent goal established by the Demonstration Program. Historically, approximately 30 percent of A&E awards were made to small businesses. Continual adjustments to the threshold to reflect such changes in small business participation would be impractical and confusing to both contracting officials and small businesses.

Repealing section 2855(b) will eliminate the $85,000 threshold. As a result, A&E contracts for military construction and military family housing projects could be set aside exclusively for small businesses to achieve the small business competitiveness demonstration A&E goal mandated by 15 U.S.C. 644. Accordingly, this proposal would eliminate conflicting statutory provisions that currently are making it unnecessarily difficult for DOD to achieve the small business goal for A&E contracts.

Section 711. Section 2534 of title 10, United States Code provides that ball and roller bearings must be acquired from domestic sources even when such a restriction is not in the Government's interest. This amendment would provide an exception to this restriction if a determination is made that the purchase amount is $25,000 or less; the precision level of the ball or roller bearings is lower than Annual Bearing Engineering Committee (ABC) 5 or Roller Bearing Engineering Committee (RBC) 5, or their equivalent; at least two manufacturers in the national technology and industrial base capable of producing the required ball or roller bearings decline to respond to a request for quotation for the required items and the bearings are neither miniature or instrument ball bearings as defined in section 252.225.7016 of title 48 of the Code of Federal Regulations. This exception was developed in conjunction with the Department of Commerce, the agency with primary oversight for this area.

If enacted, this amendment would significantly reduce the burdensome administrative process Department of Defense purchasers must follow for small procurement that do not impact the industrial base. It would also provide needed flexibility for readiness concerns. The large procurement that will have an impact on the industrial base remain reserved for domestic suppliers.

Section 712 relates to congressional interest in the Air Force Contractor Operated Civil Engineering Supply Store (CACAOS) program. This proposal would remove constraints on the Air Force's ability to combine CACAOS with A–76 cost comparisons.

FY 98 & 97 Defense Authorization Acts, (Committee Reports 105 H Rpt. 132, 104 H. Rpt. 563)

In the Committee Report to the 1998 Defense Authorization Act, the House Committee on National Security specifically directed the Secretary of the Air Force not to combine CACAOS functions with other service functions when considering multi-function service contracts until a thorough analysis is conducted. Such analysis would include an economic analysis that would assess the merits of combining these services to increase efficiencies at Air Force installations.

The committee also directed the Secretary of the Air Force not to change the current operation of any CACAOS, or to permit any combinations of supply and services functions in upcoming procurement, that would violate or circumvent the tenets of any current CACAOS contractual agreement. The Committee had similar language in its report on the 1997 Defense Authorization Act (and also directed the Secretary of the Army and the Secretary of the Navy to consider the application of the CACAOS program as a means to further reduce the cost of essentially non-governmental functions).

FY 99 Defense Authorization Act

Congressional concerns over CACAOS made its way into section 345 of Public Law 10526 1, which, in addition to extolling the virtues of CACAOS, established two requirements if the Air Force wishes to combine a CACAOS with an A–76 study. First, the Secretary of Defense has to notify Congress of the proposed combined competition or contract, the agency has to explain why a combined competition or contract is the best method by which to achieve cost savings and efficiencies to the Government. The Act also established a mandatory GAO Review of the Secretary of Defense's explanation of the projected cost savings and efficiencies. The Comptroller General reviews the report and submits to Congress a briefing regarding whether the cost savings and efficiencies identified in the report are achievable.

The CACAOS law was based upon the assumption that the government would be running an inefficient supply operation for materials to be used in Government operations. The environment today is entirely different. Due to A–76 emphasis, Civil Engineering (CE) is being competitively source; hardware super stores and the International Merchant Purchase Authorization Card (IMPACT) make it unnecessary to maintain supply inventories; and greater competition is obtained when the supply function is included in the CE effort. CACAOS was designed to replace inefficient government management of commercial supply inventories. As we contract out CE and other base support functions, the users of these supplies will be contractors instead of government organizations. The Department will end up creating situations where the CE contractor, or the Most Efficient Organization (MFO), will be required to obtain supplies from the CACAOS contractor in order to do their work. These common commercial items would become Government Furnished Property (HFP) under the contract and the CE contractor cannot be held fully responsible for all aspects of project completion. If CACAOS fails to provide suitable materials on schedule, the CE contractor could be entitled to an equitable adjustment for late or defective HFP.

As a general rule, the Department should only provide HFP when the government owns or has available unique or specialized materials that the contractor would not be able to obtain. CACAOS materials are common commercial items readily available through multiple sources. The requirement to provide these materials should be made a part of the CE contract to keep the government out of the middle of two separate contracts and avert the transfer of performance risk to the government. Also, with the advent of today's hardware super stores (Home Depot, HQ, etc.) with their large inventories and low prices, it doesn't make sense to establish a CACAOS-style operation. With the speed and convenience of the IMPACT, even the MFO would not choose to establish a large supply infrastructure for the common commercial items.

Section 345(b)(6) states that "Ninety-five percent of the cost savings realized through the use of contractor-operated civil engineering supply stores is due to savings in the actual cost of procuring supplies." This statement is no longer accurate and seems to apply to Form 9 processing costs, not IMPACT card costs.

Section 713. The National Defense Authorization Act for Fiscal Year 1996, included the Federal Acquisition Reform Act of 1996 (FAR) and the Information Technology Management Reform Act of 1996 (ITMRA). FARA and ITMRA were subsequently renamed the Clinger-Cohen Act of 1996. This proposal would modify section 4202 of the Clinger-Cohen Act to extend the test program for certain commercial items.

Section 2304(g) of title 10, United States Code, and sections 253(g) and 427 of title 41, United States Code, permit the use of special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold (SAT). Section 4202 of the Clinger-Cohen Act, Application of Simplified Procedures to Certain Commercial Items, extended the authority to use special simplified procedures to purchases for amounts greater than the SAT but not greater than $5 million if the contracting officer reasonably expects, based on the nature of the supplies or services, and on market research, that offers will include only commercial items. The purpose of this test program is to vest contracting officers with additional procedural discretion and flexibility, so that commercial item acquisitions in this dollar range may be solicited, offered, evaluated, and awarded in a simplified manner that maximizes efficiency and economy and minimizes burden and administration costs for both Government and industry.

The test program was enacted into law on February 10, 1996. Final changes to the Federal Acquisition Regulation (FAR) to implement the test program were issued on the statutory deadline of January 1, 1997. The due date for the Comptroller General report does not provide sufficient time to process a legislative proposal that would prevent the test program from expiring once the Comptroller General has submitted the report. This proposal would extend the test program authority to January 1, 2003, to provide sufficient time to assess this potentially valuable acquisition reform authority based on the GAO's findings and, if warranted, seek to make this authority permanent.

Section 714 eliminates the prohibition on using funds to retire or dismantle Peacekeeper intercontinental ballistic missiles below certain levels. This provision is in specific support of the amended budget and will result in considerable savings.

Section 715. The proposed change would provide the Services the flexibility to proceed with construction contracts without disruption or delay by excluding the cost associated with unforeseen environmental hazard remediation from the limitation on cost increases. Unforeseen environmental hazard remediation refers to asbestos removal, radon abatement, lead-based paint removal or abatement, and any other legislated environmental hazard remediation that could not be reasonably anticipated at the time of budget submission.

Currently, section 2853 of title 10, United States Code only excludes the settlement of a contractor claim from the limitation on cost increases. The Senate Appropriations Committee Report (106–290) which accompanied the Military Construction Appropriation Bill for Fiscal Year 2001 (S. 2521) allows the Services to exclude unforeseen environmental remediation costs from the application of reprogramming criteria for military construction and family housing construction projects. However, this report language presents a conflict with the unqualified language of the statute. A reprogramming action is required when the cost increase for a military construction or military family housing project will exceed 25 percent of the amount appropriated for the project or 200 percent of the minor construction project ceiling specified in Section 2805 (a)(1), Title 10, United States Code, whichever is less. A reprogramming action refers to the requirement to provide an advance congressional report and seek congressional approval before proceeding with the work.

Section 716. The revised language raises the threshold on unspecified minor construction projects performed with operations and maintenance funding. Thresholds are increased to $750,000 for general projects (from $500,000) and to $1,500,000 for projects involving life safety issues (from $1,000,000). The O&M unspecified minor construction thresholds were last raised in 1997.

The current thresholds limit the Services' ability to complete projects in areas with high costs of construction, such as overseas and in Alaska and Hawaii. The reality is $500,000 does not buy much construction, even in "normal" cost areas, at a time when the average regular military construction (MilCon) project costs $12 million. On these small construction projects, labor costs cut heavily into the amount of tangible "brick and mortar" which any project must deliver to make a facility usable to its customer. Without this relief, there may be a two or three year delay in completing needed small construction projects if MilCon appropriations must be used, as unspecified minor construction funds within this appropriation are very limited and regular MilCon projects must be individually authorized and appropriated in advance.

Section 717. The proposed legislation seeks authority for Federal tenants to obtain facility services and common area maintenance directly from the local redevelopment authority (LRA) or the LRA's assignee as part of the leaseback arrangement rather than procure such services competitively in compliance with Federal procurement laws and regulations. This authority to pay the LRA or LRA's assignee for such services under this authority would be allowed only when the Federal tenant leases a substantial portion of the installation; only so long as the facility services or the specific type of common area maintenance are not of the type that a state or local government is obligated by state law to provide to all landowners in its jurisdiction for no individual cost; and only when the rate charged to the Federal tenant is no higher than that charged to non-Federal entities. The proposed legislation also expands the availability of using leaseback authority for property on bases approved for closure in BRAC 1988.

A leaseback is when the Department of Defense transfers nonsurplus base closure (BRAC) property by deed or through a lease in furtherance of conveyance to an LRA. The transfer requires the LRA to lease the property back to the Federal Department or Agency (Federal tenant) for no rent to satisfy a Federal need for the property.

Current leaseback legislation does not exempt Federal tenants from Federal procurement laws and regulations when they attempt to obtain facility services and common area maintenance, such as janitorial, grounds keeping, utilities, capital maintenance, and other services that are normally provided by a landlord. Compliance with the procurement laws and regulations may result in a third party contractor providing such services for facilities leased from the LRA and for common areas shared by other tenants of the LRA. In many cases, this may conflict with the LRA's or its assignee's arrangements for providing such services to the various tenants on property owned or held by the LRA. The LRA usually prefers that its contractor perform such services on behalf of the LRA's tenants. LRAs have been hesitant in using leaseback arrangements due to the Federal tenants' inability to obtain these services directly from the LRAs or share the common area maintenance costs with other tenants of the LRAs.

Under current law, only property at BRAC '91, '93, and '95 closure installations can be transferred under the leaseback authority. To help minimize small Federal land holdings within larger parcels transferred to the LRA on BRAC '88 bases, the leaseback authority should be expanded to apply to BRAC '88 installations.

Section 718. The proposed change would allow the Military Departments to reimburse the Military Personnel appropriations from Military Construction, Family housing appropriations during the first year of execution of a military family housing privatization project. Members occupying privatized housing are entitled to, and receive, housing allowances. Since housing allowances are paid from the Military Personnel appropriations, the Military Department needs to reimburse these appropriations for the increased housing allowance bill caused by privatization from the funds previously programmed and budgeted in the Military Construction, Family Housing appropriations. Providing the flexibility to reimburse these funds at the time of execution will enable the Services to accurately determine how much should be reimbursed to meet housing allowance requirements.

It is extremely difficult to predict when the project will be awarded and therefore to program the correct amount of funds at the correct time. Transferring funds into military personnel appropriations early has proven to be premature and led to shortfalls in the Family Housing appropriation. For example, the Army estimates that Family Housing, Army will lose approximately $100 million from FY98 through FY01 due to the premature transfer of funds to Military Pay and subsequent slippage in privatization awards. Such losses cannot be reversed since there is no mechanism to reprogram from Military Personnel appropriations back into Family Housing following the passage of the respective appropriation bills into law. This proposal precludes unnecessary shortfalls in the family housing appropriations created when premature transfers leave the Military Departments without the resources to continue funding installations experiencing privatization slippage.

Section 719. The report requires an extensive manpower effort. The Department's budget submission, budget testimony and responses to other report and statutory requirements, etc., provide Congress with much of the same information as required in this report. The Services can provide specific data more efficiently on an as-needed basis.

In addition, this report was recommended for termination in 1995 based on survey data collected in response to the Paperwork Reduction Act, with estimated cost savings of at least $50,000 per year.

Section 801 amends section 5038(a) of title 10, United States Code, which requires that there be a Director for Expeditionary Warfare within the Office of the Deputy Chief of Naval Operations for Resources, Warfare Requirements and Assessments.

A recent organizational alignment split the functions of the Deputy Chief of Naval Operations for Resources, Warfare Requirements, and Assessments into two distinct Deputy Chiefs of Naval Operations. In this alignment, the Director for Expeditionary Warfare maintains the same role and responsibilities but now falls under the Deputy Chief of Naval Operations for Warfare Requirements and Programs.

This proposal reflects that organizational change.

Section 802 amends chapter 6 of title 10, United States Code, by adding a new section 169 to consolidate the various existing legal authorities governing the DoD Regional Centers to ensure each of the Regional Centers can operate under the same set of authorities, which will ensure they can operate effectively.

The Department of Defense Regional Centers for Security Studies are an important national security initiative developed by Secretary Cohen and his predecessor, William Perry. These Centers, which serve as essential institutions for bilateral and multilateral communication and military and civilian exchanges, now exist for each major region—Europe, Asia, Latin America, Africa and most recently for the Middle East.

The Regional Centers are very important tools for achieving U.S. foreign and security policy objectives, both for the Secretary of Defense and for the regional CINCS. The Centers allow the Secretary and the CINCs to reach out actively and comprehensively to militaries and defense establishments around the world to lower regional tensions, strengthen civil-military relations in developing nations and address critical regional challenges. The Department has had extremely good results with the Centers in each region. For example, more than twenty Marshall Center graduates are now ambassadors or defense attaches for their countries and another twenty serve as service chiefs or in other similarly influential positions.

Currently the five Regional Centers operate under a patchwork of existing legal authorities. As each new center was established, new legislation was passed to govern each center. As a result, no single center has the same set of legal rules guiding how it can operate. The patchwork of authorities hinders effective management and oversight of the Centers, and provides broad authority for some Centers but only limited authority for other Centers.

A central component of the department's proposal would ensure that all DoD Regional Centers are able to waive reimbursement of the costs of conferences, seminars courses of instruction and other activities associated with the Centers. The proposal also would ensure that all Centers could accept foreign and domestic gifts, hire faculty and staff, including directors and deputy directors, and invite a range of participants to the Centers. Without these authorities, the Regional Centers will not be able to operate at maximum effectiveness.

Both the Marshall Center and the Asia-Pacific Center for Security Studies, the oldest of the five Centers, have specific authority to waive reimbursement of costs associated with participating in center activities. The Center for Hemispheric Defense Studies also has authority to waive costs, but its authority falls under a different provision of title 10, United States Code, than the similar authorities for the Marshall Center and the Asia-Pacific Center. The Africa Center for Strategic Studies and the Near East-South Asia Center can waive some costs under section 1051 of title 10, but this authority is more limited than the authorities under which the other three Centers operate.

The ability to waive reimbursement of certain costs associated with participating in center activities is absolutely critical to the effectiveness of the Regional Centers as engagement tools for both the Secretary of Defense and the regional CINCS. Many participants in center activities are from developing countries that cannot afford to send personnel to institutions like the regional Centers. Without the authority to waive reimbursement of certain costs, most participants from developing countries would not attend the Centers. In contrast, consistent with existing authorities, most participants from developed nations, whose contributions provide balance, shared regional leadership and non-U.S. perspectives, pay for their own travel, lodging, meals and expenses in connection with Center courses.

Section 802 would provide the authority to waive reimbursement of certain costs associated with the Centers to all of the Regional Centers by repeating the diverse set of existing authorities concerning cost issues and instead providing a single legal provision concerning cost waivers for all of the Centers.

In addition to providing a single authority for the Centers to waive reimbursement of costs, the proposal also ensures that other existing authorities governing the Regional Centers apply to all of the Centers. By ensuring that all of the Centers can accept foreign and domestic gifts, hire faculty and staff, and invite participants from defense-related government agencies and non-governmental organizations, the proposal will improve the Centers in several ways. First, by gaining the authority to accept gifts, all Centers will be able to cover a greater percentage of their operating costs using funds from outside the Department budget. Allowing both public and private foreign institutions to contribute to regional Centers operations also will enhance the involvement of those donor countries in the Centers and strengthen their commitment to the missions of the Centers. In terms of participation, the Centers in many cases are unique in their ability to bring together participants from across the spectrum of the national security establishment in their respective countries. Broadening this pool to include participants from non-governmental organizations and legislative institutions will further strengthen the quality of discussion at the Centers and help establish additional important professional relationships among participants from the various regions.

Finally, enactment of section 802 would confirm the authority of the Secretary of Defense to manage all the Centers effectively. The combination of diverse legal authorities and unique organizational structures has made effective management and oversight of the Centers quite challenging. To address this management challenge, the Department created a Management Review Board last year (2000). The MRB is comprised of the Assistant Secretary of Defense (International Security Affairs) and the Director of the Joint Staff, or their designees, and members from the Comptroller, Program Analysis and Evaluation, General Counsel, Joint Staff and the Services. The DoD proposal to consolidate existing, legal authorities concerning the Regional Centers and apply them to all of the Centers will further improve the ability of the MRB to ensure that the Regional Centers are thoroughly incorporated into the Department's broader engagement strategy and funded appropriately.

This proposal provides no new spending authority. No additional resources are needed to implement these changes and as the existing departmental management structure matures, the Department expects to realize greater efficiencies in the management of the Regional Centers.

Section 803 would amend all references to the former "Military Airlift Command" contained in title 10 and title 37 to refer to the command by its current designation as the "Air Mobility Command." By Special Order AMC GA-1, 1 June 1992, Air Mobility Command replaced the Military Airlift Command as a United States Air Force Major Command. This change was previously recognized to a certain extent in title 10, United States Code 130a (Management headquarters and headquarters support activities personnel; limitation), subparagraph (d) (Limitation on Management Headquarters and Headquarters Support Personnel Assigned to United States Transportation Command), which specifically identified Air Mobility Command as a component command of United States Transportation Command. That provision in section 130a was deleted by section 921 of Public Law 106-65, 5 October 1999. As Military Airlift Command no longer exists and Air Mobility Command is not referenced in any statute, updating the listed provisions of the United States Code is appropriate.

Section 804 would amend section 1606 of title 10, United States Code, to increase the number of Defense Intelligence Senior Executive Service (DISES) positions authorized within the Defense Civilian Intelligence Personnel System (DCIPS) from 517 to 544. Enactment of the proposed amendment would enable the Secretary of Defense to allocate the 27 additional DISES positions to the National Imagery and Mapping Agency (NIMA), as the Director of Central Intelligence (DCI) simultaneously cuts 27 Senior Intelligence Service (SIS) positions from the Central Intelligence Agency (CIA).

When section 1606 was inserted into title 10, United States Code, by section 1632(b) of the Department of Defense Intelligence Personnel Policy Act of 1996 (Public Law 104-201; 110 Stat. 2745, 2747) the number of DISES positions was set at 492. This ceiling, however, was raised to 517 positions by section 1142 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398; 114 Stat. 1654).

The conference report accompanying the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, however, states that these "25 additional positions are authorized for the entire defense intelligence community and are not intended to be allocated to any single agency within the defense intelligence community." See H.R. Rep. No. 106-945 at 865 (2000). The report also directed "the Secretary of Defense to report to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 15, 2001, on how the additional senior executive service positions are allocated within the defense intelligence community." H.R. Rep. No. 106-945 at 865 (2000).

Based on this guidance, the 25 new DISES positions are being reviewed for use and distribution within the DCIPS community as a whole. This expansion of DISES positions within the general DCIPS community, however, does not address a pressing need to allocate an additional 27 DISES positions to NIMA as part of a Congressionally mandated administrative transfer intelligence positions from CIA to NIMA.

Since DCIPS and NIMA were created in 1996, NIMA has been staffed at senior levels by DISES personnel, Defense Intelligence Senior Level (DISL) personnel, and SIS personnel. It should be noted in this regard, however, that when the initial DCIPS cap was set at 492, the 27 positions that CIA filled with SIS personnel on temporary detail were not included in the 492 figure.

One of the complex aspects of the establishment of NIMA, was the commingling of intelligence officials from the Department and other federal agencies that was needed to staff the new agency. But, in establishing NIMA the Congress made it clear that this unique staffing arraignment would be temporary. In section 1113 of the National Imagery and Mapping Agency Act of 1996 (Public Law 104-201, 110 Stat. 2675, 2684) the Congress expressly provided that: "Not earlier than two years after the effective date of this subtitle, the Secretary of Defense and the Director of Central Intelligence shall determine which, if any, positions and personnel of the Central Intelligence Agency are to be transferred to the National Imagery and Mapping Agency. The positions to be transferred, and the employees serving in such positions, shall be transferred to the National Imagery and Mapping Agency under the terms and conditions prescribed by the Secretary of Defense and the Director of Central Intelligence."

In keeping with this congressional mandate, the Secretary and the DCI signed a Memorandum of Agreement (MOA) in February 2000 that set the total number of positions to be transferred from CIA to NIMA. Under the agreement, CIA personnel that are currently temporarily detailed to NIMA would be permanently detailed to NIMA; These employees, however, would remain as CIA employees. Budget agreements implementing the MOA also provide that the previously discussed 27 SIS positions would be included in the total number of 56 positions to be transferred from CIA to NIMA. These agreements also provide that in conjunction with the transfer of these 27 senior level positions to NIMA, CIA would cut 27 SIS positions. Consequently, the enactment of the proposed amendment would have no budgetary impact, because the increase of the DISES ceiling is offset by the corresponding reduction of SIS positions at CIA.

Section 811 would amend section 10541 of title 10 concerning the annual report to Congress on National Guard and Reserve Component equipment. During the preparation of the budget year 2000 National Guard and Reserve Component Equipment Report, it became clear that changes were needed to both the report and process in order to make the report more relevant to Congress. As a result, a joint working group was commissioned from the Office of the Assistant Secretary of Defense for Reserve Affairs to analyze the report and process. Key changes were coordinated with all Services and are included in the legislative proposal above.

Specifically, subsection (a) would adjust the date of the report from February 15th to March 1st of each year. This would allow time to incorporate the President's budget projections into the report, thus making the report a more meaningful and up-to-date report during the Congressional legislative process. It would also officially require data from the U.S. Coast Guard Reserve, which has been provided in past years but is not required by law.

Subsection (b) would eliminate the requirement for data that is no longer viable, such as the full wartime requirement of equipment over successive 30-day periods and non-deployable substitute equipment. It would also expand the requirement for the current status of equipment compatibility to all Reserve Components, instead of just for the Army. Overall, the revised subsection (b) is written to expand the scope and remove the restrictive nature of the language. This would provide the Reserve Components the ability to present a clearer and more complete picture of the Reserve Component equipment needs.

Section 812 would repeal subsection 153(b) of title 10 and amend section 118(e) to consolidate redundant reporting requirements related to the assessment of service roles and missions. Subsection 153(b) requires the Chairman to submit to the Secretary of Defense, a review of the assignment of roles and missions to the armed forces. The review must address changes in the nature of threats faced by the United States, unnecessary duplication of effort among the armed forces, and changes in technology that can be applied effectively to warfare. The report must be prepared once every three years, or upon the request of the President or the Secretary.

Section 118 of title 10 established a permanent requirement for the Secretary to conduct a Quadrennial Defense Review (QDR) in conjunction with the Chairman. The Department of Defense has designed the QDR to be a fundamental and comprehensive examination of America's defense needs from 1997-2015; to include assessments of potential threats, strategy, force structure, readiness posture, military modernization programs, defense infrastructure, and other elements of the defense program. Amending subsection 118(e) would explicitly require the Chairman's review of the QDR to include an assessment of service roles and missions and recommendations for change that would maximize force efficiency and resources.

Simultaneously preparing the QDR and the roles and missions study requires the concentrated efforts of many Joint Staff action officers for a period of more than eighteen months. Eliminating this duplication of effort, however, will significantly enhance the Joint Staff's ability to meet an expanding list of congressionally or Department of Defense mandated reporting requirements on a wide variety of sensitive defense topics. These topics include joint experimentation, training, and integration of the armed forces, examination of new force structures, operational concepts, and joint doctrine; global information operations; and homeland defense, particularly with regard to managing the consequences of the use of weapons of mass destruction within the United States, its territories and possessions.

Section 813 would change the due date for the Commercial Activities Report to Congress, required by section 12461(g), title 10, United States Code, from February 1st of each fiscal year to June 30th of each fiscal year. The Commercial Activities Report is developed using the same in-house inventory database as the Department's Federal Activities Inventory Reform Act (FAIR Act) submission. Under the FAIR Act, the Department is required to submit an inventory of commercial functions each Fiscal Year. That inventory is subject to challenges by interested parties. In order to ensure that the Commercial Activities Report is as accurate as possible and consistent with other reports submitted to Congress covering the same Fiscal Year, it is necessary to consider the FAIR inventory challenges when compiling it. This process is normally not complete until April or May of each year. In past years, the Department has submitted an interim response to Congress regarding the Commercial Activities Report indicating that the report would not be submitted until June.

Section 821 would amend section 2572 of title 10. Section 2572(a) authorizes the Secretary of a military department to lend or give certain types of property described in section 2572(c) that are not needed by the department to specified entities, such as municipal corporations, museums, and recognized war veterans' associations. Section 2572(b) authorizes the Secretary of a military department to exchange the items described in section 2572(c) with any individual, organization, institution, agency, or nation if the exchange will directly benefit the historical collection of the armed forces.

Section 821 would expand the categories of property that the military departments may exchange under section 2572(b). Currently, the military departments may exchange books, manuscripts, drawings, plans, models, works of art, historical artifacts and obsolete or condemned combat materiel for similar items. Property may also be exchanged for conservation supplies, equipment, facilities, or systems; search, salvage, and transportation services; restoration, conservation, and preservation systems; and educational programs. The amendment would expand the current authority to exchange "condemned or obsolete combat material" and authorize the military departments to exchange any "obsolete or surplus material" of a military department for "similar items" and for the enumerated services if the items or services will directly benefit the historical collection of the armed forces.

Section 822 would amend section 2640 of title 10, United States Code. This section requires the Department of Defense to meet safety standards established by the Secretary of Transportation under section 44701 of title 49, United States Code and requires air carriers to allow the Department of Defense to perform technical safety evaluation inspections of a representative number of their aircraft. This amendment would require the same safety standards be applied to foreign air carriers as to the domestic air carriers in an effort to provide better protection to members of the armed forces.

Section 822(2) would require "check-rides" to be accomplished on carriers. As DOD personnel conducting the inspection are usually not qualified pilots in all the various types of aircraft they are required to inspect, the term "cockpit safety observations" more accurately describe the process involved.

Section 822(3) of the proposal would designate authority within the Department of Defense to delegate a representative to make determinations to leave unsafe aircraft. This change is a technical change to update the command name from "Military Airlift Command" to its successor "Air Mobility Command".

Section 822(4) of the proposal would authorize the Secretary of Defense to waive the requirements of the statute in an emergency, based on the recommendation of the Commercial Airlift Review Board. As paragraph (1) would extend the inspection requirements to foreign air carriers, there may be instances that do not constitute an emergency but because of operational necessity a waiver may be appropriate. An example would be where there is only one carrier available in a foreign country but the host government will not allow an inspection on sovereignty principals. If all other information available to the Commercial Airlift Review Board indicate a safe air carrier, a waiver may be appropriate.

Section 822(5) would amend subsection (j) of section 2640 title 10 United States Code that states certain terms listed therein have the same meanings as given by section 40102(a) of title 49 of the United States Code. "Air Carrier" is listed in subsection (j) and is defined in title 49 as a "citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation." Deleting "air carrier" from the definition section in addition to the change in paragraph (1) will allow the safety standards to be applied equally to foreign and domestic carriers.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense.

Section 901 would amend title 10 by adding a new section 23501 to authorize the Secretary of Defense, with the concurrence of the Secretary of State, to enter agreements, at reasonable cost, with eligible countries and international organizations, for the reciprocal use of ranges and other facilities where testing may be conducted. As military equipment becomes more complex, so does the need for more advanced, complex, and costly test and evaluation capabilities. In this environment, it is increasingly difficult and expensive for one nation to fulfill all of its legitimate research, development, test and evaluation (RDT&E) requirements at ranges and facilities under its control.

One way to reduce the cost of developing the next generation of U.S. weapons, and those of our friends and allies, is to take full advantage of the unique test capabilities available here and abroad. For example, the United Kingdom has a unique Artillery Recovery Range in Shoeburyness where we may recover rounds undamaged after firing for engineering evaluation. This uniqueness of the range comes from its geography. Shoeburyness lies on a gently sloping shoreline that extends for several miles before terminating in a large tidal basin from which undamaged spent rounds may be recovered with ease. No other facility in the world provides this capability. Similarly, the United States has unique test capabilities not available in other countries. The 8+ Mach test track at Holloman Air Force Base in N.M. is unequaled anywhere in the world. Unfortunately, under current authority, it is often cost-prohibitive for the United States and the United Kingdom, for example, to reach an agreement that would allow each country to use the other's facilities to develop superior weapons to meet 21st Century challenges.

To obtain access to foreign ranges and facilities at reasonable rates, the Department needs new authority to provide eligible countries or international organizations reciprocal access, at reasonable rates, to U.S. facilities; and the enactment of this proposal would provide that new authority.

As the Secretary of Defense observed in a memorandum dated March 23, 1997: "International Armaments Cooperation is a key component of the Department of Defense Bridge to the 21st Century. We already do a good job of international cooperation at the technology end of the spectrum; we need to extend this track record of success across the remainder of the spectrum."

Reciprocal use of test and evaluation ranges and facilities is the next step in this process, and one that will expand long-standing international partnerships the United States has enjoyed in the equipment acquisition process. In this regard, the Department notes that the Congress "has supported a number of [Department of Defense] initiatives to help offset the growing burden of [RDT&E] infrastructure support cost." See S. Rep. No. 104–12, at 176–77 (1995). It is also worthy of note that the Congress has encouraged the Department to engage in such cooperative ventures by stating in the same report: "our allies are showing a much greater interest in using U.S. test ranges and facilities because of encroachment problems overseas, and the Department should be more aggressive in encouraging and facilitating such request." See S. Rep. No. 104–12, at 177 (1995).

Enactment of the authority granted in subsection (a) of this proposal would also enhance interoperability at all weapon system and force levels; and interoperability is the cornerstone of Joint Vision 2020. It is axiomatic, that interoperability between U.S. forces, and coalition or allied forces, enhances the effectiveness of the combined force to act in concert to deter or defeat aggression. Accordingly, continued success in regional conflicts depends on continuous improvement of U.S. interoperability with our friends and allies around the globe.

No additional funds are required to implement the authority granted in subsection (a) of this proposal. Testing services will be paid for by customers according to the principles and provisions prescribed in the proposal and negotiated in a Memorandum of Understanding. Pricing principles call for reasonable and equitable charges between partner countries. Matters concerning security, liability and similar issues will be fully addressed in Memorandums of Understanding (or other formal agreements) entered based on this proposal.

Section 901(c) would amend Section 2681 of title 10, United States Code, "Use of Test and Evaluation Installations by Commercial Entities." Section 2681 was enacted in 1994 to provide greater access for commercial users to the Major Range and Test Facility Base Installations. The section requires a commercial entity to reimburse the Department of Defense for all direct costs associated with the test and evaluation activities. In addition, commercial entities can be charged indirect costs related to the use of the installation, as deemed appropriate.

The Major Range and Test Facility Base (MRTFB) is a set of installations and organizations operated by the Military Departments principally to provide T&E support to defense acquisition programs. Historically, defense acquisition programs used the MRTFB for testing, with the Department of Defense component serving as the actual customer. The acquisition program approved the work statement and provided funding through a funding document issued directly to the test organization. In response to acquisition reform initiatives, most program managers now leave the decision of where to perform (developmental) testing to the contractor. Nonetheless, many contractors choose to test at MRTFB activities because of the facilities and expertise available. In other cases, technical requirements drive them to the MRTFB as the only source of adequate T&E support. Under section 2681, defense contractors are charged as commercial entities, even though the use of the range is in direct support of the Department of Defense component.

In the past, MRTFB Installations did not charge defense contractors a fully burdened rate to use their facilities when conducting test in association with a defense contract. A Service audit finding opined that the MRTFB installations had misapplied the law and determined defense contractors to be commercial users, thereby requiring them to be charged the fully burdened rate. However, weapons programs have prepared their budgets under the assumption that the fully burdened rate would not be charged to the defense contractors acting on their program's behalf. The amendment proposed in subsection (c) of this proposal would make MRTFB test and evaluation services available to defense contractors under the same access and user charge policies as applied to the sponsoring Department of Defense component. This would assure that the MRTFB is able to perform its fundamental role of support to defense acquisition programs under the same policies as existed prior to section 2681, while continuing to leave the choice of "where to test" to the defense contractor. In addition, the amendment proposed in subsection (c) of this proposal would extend this concept to the contractors of other U.S. government agencies. If section 901(c) is not enacted, there may be a cost increase to specific research and development programs.

Section 902 would amend 10 U.S.C. §2350a to improve the Department's ability to enter into cooperative research and development projects with other countries. This amendment would incorporate references to the term: "Major non-NATO ally" to allow countries like Australia, South Korea or Japan to be recognized, not just as other friendly foreign countries, but as major allies.

Section 903 would amend chapter 53 of title 10, United States Code, to provide the Secretary of Department the authority to recognize superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

Currently, the Department's authority to recognize superior achievements and performance by foreign nationals is limited to awarding military decorations to military attaches and other foreign nationals for individual acts of heroism, extraordinary achievement or meritorious achievement, when such acts have been of significant benefit to the United States or materially contributed to the successful prosecution of a military campaign of the Armed Forces of the United States. See sections 1121, 3742, 3746, 3749, 6244–46, 8746, and 8749–50, of title 10, United States Code, and Executive Orders 11046 and 11448.

The vast majority of engagement programs conducted by the Department of Defense, in support of the national Security Strategy, however, do not involve diplomatic contacts, or heroic acts, but unit-level engagement and cooperation between U.S. servicemembers and foreign nationals, in a variety of training, exercise, and peacetime operational settings. In these instances, many of these expenses that would be authorized by this proposal are currently being paid out of the pockets of soldiers, sailors, airmen, Marines, and members of the Coast Guard.

One of many examples of how this gap in legislative authority adversely impacts on American servicemembers is the experience of the United States Army Special Forces Command (Airborne). Since the first Special Forces unit was activated on June 19, 1952, Special Forces personnel have routinely deployed overseas to: train U.S. allies to defend themselves and counter the threat of dangerous insurgents, in so doing, Special Forces personnel often serve as teachers and ambassadors. As a result, the Special Forces Command is often called upon by regional combatant commanders, American Ambassadors, and other agencies to participate in a wide variety of peacetime engagement events, because of its global reach, regional focus, cultural awareness, language skills and military expertise.

During Fiscal Year 2000, the command had 2,102 personnel deployed on 81 missions in 51 countries. The activities conducted during these deployments included peace operations in the Balkans, humanitarian demining operations worldwide, deployments in support of the Department of State, African Crisis Response Initiative, joint and combined exercise training, counterdrug operations, and mobile training team deployments. In addition, elements of the command host annual marksmanship and other international competitions involving military skills.

During this period of time members of the Special Forces Command participated in 328 deployments that required the purchase or production of plaques, trophies, coins, certificates of appreciation or commendation and other suitable mementos for presentation to foreign nationals. These items were used to recognize achievements such as placing first, second or third in competitions, graduating at the top of formal training courses, and other acts meriting recognition by U.S. officials. Since the authority to present military awards for valor, heroism or meritorious service as outlined above generally does not apply to such expenses, the men and women of the command have a long tradition of paying such expenses out of their own pockets, or from funds received from private organizations such as the Special Forces Association.

Assuming that the expenditures for such items during the 328 deployments conducted by the Special Forces Command in fiscal year 2000, averaged $260.00 per deployment (the current "minimal value" threshold set by section 7342(a)(5) of title 5, United States Code), the men and women of that command would have spent $85,280.00 out of their own pockets, or obtained donations from private organizations such as the Special Forces Association, in order to carry out these missions.

Enactment of this proposal would enhance the execution of Department engagement programs, by providing another means of establishing goodwill today that will contribute to improved security relationships tomorrow. But most importantly, it would relieve servicemembers from the need to pay such expenses out of pocket, by authorizing commanders to pay for these expenses from the budgets allocated to them to conduct these critical missions.

Section 904 would give the Department of Defense (DoD) the personal service contract authority currently exercised by other agencies with overseas activities, It would allow DoD to hire the in-country support personnel necessary to carry out its national security mission, particularly in the newly independent states.

In those countries where the DoD does not have a Status of Forces Agreement or does not have a major military presence including a program for civilian personnel administration of local national employees, that service has traditionally been performed on a reimbursable basis by the Department of State (DOS). DOS has used its personal service contract authority to provide workers for DoD units such as Defense Attache Offices, Security Assistance Offices, and Military Liaison Teams, that are frequently co-located with the U.S. Embassy and may come under Chief of Mission authority. DoD does not have personal service contract authority and DOS counsel recently determined DOS is prohibited from using its personal service contract authority to provide workers for an agency that does not have such authority.

DOS has begun terminating personnel service contracts that support DoD requirements. DoD units have been faced with the need to either use a non-personal service contract or obtain Full-Time Equivalent (FTE) authority. Use of non-personal service contracts may be inappropriate for the type of work performed, cause security and access problems at the Embassy, and be in violation of local labor law. FTE has not been readily available to support time-limited programs such as the Partnership for Peace and Military Liaison Teams. FTE has been particularly difficult to obtain for overseas units that are under headquarters constraints such as for the OUSD (Policy) office that supports arms control delegations in Geneva.

Section 911 would amend section 1153 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (NDAA) to limits on the use of voluntary early retirement authority and voluntary separation incentive pay for fiscal years 2002 and 2003. Section 1153 authorized the Department to use Voluntary Separation Incentive Pay (VSIP) and Voluntary Early Retirement Authority (VERA) for workforce restructuring for three years. In the past, VERA and VSIP could only be used in conjunction with reduction in force. Under this new authority, it is no longer necessary to abolish a position in order to grant early retirement or pay the incentive. The vacant position may be refilled with an employee with skills critical to the Department. This is necessary to shape the Defense workforce of the future.

Section 1153 authorized these programs to be carried out for workforce restructuring in FY 2002 and FY 2003 "only to the extent provided in a law enacted by the One Hundred Seventh Congress." This provision would satisfy that requirement.

Section 912 would amend section 1044a title 10 to clarify the status of civilian attorneys to act as notaries. Section 1044a(b)(2) authorizes "civilian attorneys serving as legal assistance officers" to perform notarial services. Civilian attorneys have no designation under Office of Personnel Management position descriptions as legal assistance "officers." Within Department of Defense documents, civilian attorneys providing legal assistance services are referred to as legal assistance attorneys. For this and other reasons related to the efficient management of legal assistance offices, subsection (b) would amend section 1044a(b)(2) to refer to legal assistance attorneys.

Section 912(b) would amend section 1044a(b)(4) of title 10 to expand a category of persons who may perform notarial acts under the section. Section 1044a(b)(4) authorizes members of the armed forces who are designated by regulation to perform notarial acts. As amended, subsection (b)(4) would authorize civilian employees of the armed forces to perform notarial acts if they are designated by regulations of the armed forces to have notarial powers. This would alleviate a particular problem overseas, where military notaries are not always available. The change would allow the Service Secretaries, and the Secretary of Transportation with respect to the Coast Guard, to extend notary authority to civilian non-lawyer assistants, e.g., 64 paralegals and legal assistance office in-take personnel.

Section 913 would amend section 2461 of title 10 concerning the conversion of commercial or industrial type functions to contractor performance. Federal agencies may convert commercial activities to contract or interservice support agreement without cost comparison under Office of Management and Budget Circular A-76 (A-76) when all directly affected Federal employees serving on permanent appointments are reassigned to other comparable Federal positions for which they are qualified. This revision would make the statutory requirements inapplicable under these same circumstances.

The analysis requirements of section 2461 of title 10, United States Code, are met using the commercial activities study procedures of A-76 and the Revised Supplemental Handbook, Such studies typically take two to four years to reach an initial decision. When the result of the study is a conversion of a function to contract performance, affected Federal employees may be subject to reduction-in-force procedures. The proposed statutory revision would permit Department of Defense activities to convert a function to contract performance without incurring the potential length and cost of an A-76 study. This revision would not alter the requirements of section 2641 where an A-76 study is undertaken. It would not alter the rights of employees who are sub9ect to an A-76 study.

Section 914 clarifies that former Defense Mapping Agency personnel transferred into the National Imagery and Mapping Agency pursuant to the National Defense Authorization Act for Fiscal Year 1997, Public Law 104-201, retain third party appeal rights under chapter 75 for such time as they remain Department of Defense employees employed without a break in service in the National Imagery and Mapping Agency. The section also permits the employees so affected to waive the provisions of this section. However, by doing so, the employee forfeits his or her rights under this section. Personnel who have those rights and who are assigned or detailed by NIMA to positions of the CIA or other agencies would retain those rights vis-a-vis NIMA while assigned or detailed to those positions.

Section 915 would allow the Secretary of Defense to provide the Director, NIMA the authority to set up a critical skills undergraduate training program parallel to those authorized to NSA, DIA, CIA, and the military departments. These programs are intended to further the goal of enhanced recruitment of minorities for careers in the Intelligence and Defense Communities. Under these programs agencies recruit high school graduates who otherwise would not qualify for employment and then send them to obtain undergraduate degrees in critical skills areas such as computer science. These employees are required to commit to remaining in the Government for specified payback periods. No costs are anticipated in fiscal year 2002. Fiscal year 2003 costs are currently estimated at less than $1,000,000. This proposal imposes no costs on other organizations.

Section 916 would add a new section to title 10, United States Code, and would establish a three-year pilot program permitting payment of retraining expenses for DoD employees scheduled to be involuntarily separated from DoD due to reductions-in-force or transfers of function. In the National Defense Authorization Act for Fiscal Year 1995, a pilot program of this nature was established for employees affected by BRAC. (See Public Law 103-337, Section 348.)

The program, which may be created at the discretion of the Secretary of Defense, focuses on permitting a company to recoup the costs it incurs in training an employee for a job with that company. The purpose of this incentive is to encourage non-Federal employers to hire and retain individuals whose employment with DoD is terminated. To be eligible for the reimbursement, a company must have employed the former DoD employee for at least 12 months. In short, this proposal allows payment for training for a specific job; it is not designed towards generic, non-job specific training.

Expanded use of incentives such as contained in this proposal would provide DoD with an enhanced management tool to reduce adverse impacts on employees. Availability of this option would also reduce costs associated with VSIP payments and the placement of employees through the DoD Priority Placement Program.

Section 921 responds to section 1051 of the Strom Thurmond National Defense Authorization Act for Fiscal year 1999 (Public Law 105-261), which identified the need for improved procedures for demilitarizing excess and surplus defense property. The proposal would amend Title 10, United States Code, to permit the United States to recover Significant Military Equipment (SME) that has been released by the Government without proper demilitarization. In recent years, the possession of improperly demilitarized Department of Defense property by individuals and business entities has caused grave concern both in the media and in Congress and has been a topic of study for the Defense Science Board.

Questions on the amount of compensation due a possessor of these materials have arisen in those cases where confiscation has been permitted. This proposal, if enacted, would provide needed clarification on several issues. First, it would codify in law the type of material subject to recovery by specifically adopting the definition of SME as is contained in the Code of Federal Regulations. Second, it would permit a possessor to be compensated in an amount covering purchase cost, if any, and reasonable administrative costs, such as transportation and storage costs, assuming the possessor obtained the property through legitimate channels. Note that exceptions are provided for certain categories,- including museums and the Civilian Marksmanship program.

Section 922 would revise section 2634 of title 10, and section 5727 of title 5, United States Code, by exempting motor vehicles shipped by members of the armed forces and federal employees from the provisions of the Anti Car Theft Act of 1992, as amended. The Anti Car Theft Act of 1992, (the "Act"), codified at Sections 1646b and 1646c of title 19, United States Code, requires customs officers to conduct random inspections of automobiles and shipping containers that may contain automobiles that are being exported, for the purpose of determining 66 whether such automobiles are stolen. In addition, the Act requires that all persons or entities exporting used automobiles, including those exported for personal use, provide the vehicle identification number (V.I.N.) and proof of ownership information to the Customs Service at least 72 hours before the automobile is exported. The Customs Service is also required, consistent with the risk of stolen automobiles being exported, to randomly select used automobiles scheduled for export and check the V.I.N. against information in the National Crime Information Center to determine if the automobile has been reported stolen. Customs Service regulations implementing the Act are at Section 192.2 of title 19 of the Code of Federal Regulations.

Motor vehicles shipped under the authority of section 2634 of title 10 and section 5727 of title 5 are owned or leased by members of the armed forces or federal employees and are being transported out of the country pursuant to the member's or employee's change of permanent station orders. The vast majority of motor vehicles shipped under these two provisions of law belong to Department of Defense personnel, and are for personal use while the member or employee is abroad. In most cases, these motor vehicles are returned to the United States along with the member or employee upon completion of duty overseas. These motor vehicles are not being exported for the purpose of entering into the commerce of a foreign country and normally may not be sold to foreign nationals in the country to which the military member or employee is assigned. Their shipment is arranged and normally paid for by the United States government. In addition, in the case of military members and Department of Defense civilian employees, regulations promulgated by the Department of Defense pursuant to authority granted in Section 2634 of title 10, require that the member produce adequate proof of ownership prior to shipment and, in the case of leased vehicles, proof that the lease has at least 12 months remaining. Under the circumstances, the chance that any such motor vehicle may be stolen is extremely remote. In over fifty years of shipping such motor vehicles overseas, there have been few, if any, documented cases in which a stolen vehicle has been shipped overseas by a military member or federal employee.

Application of the Act to motor vehicles transported under these sections has had an adverse impact on shipment times and has resulted in additional expense to the U.S. government in the form of delayed shipments and costs associated with random inspections. In addition, it has imposed a burden on military members and federal employees by requiring unnecessary and duplicative documentation, and delaying the transit times of their motor vehicles. Although these costs and burdens are not extraordinary on an individual basis, they are unwarranted and wasteful in light of the extremely remote chance that stolen vehicles may be shipped.

This proposal would exempt shipments of motor vehicles under these sections from the Act, and provide the authority to continue to regulate such shipments in a manner that is consistent with the needs of the various agencies affected. The revision would also eliminate an ambiguity caused by section 2634(b) and the new Customs Service regulations. The refusal to ship a member's vehicle because of the Customs regulation would entitle the member to government paid storage for the duration of the overseas tour.

With regard to section 2634 of title 10, Subsection (1) would delete the word "surface" as a limiting factor in allowing shipment of vehicles by the cheapest form of transportation if US owned or US flag vessels are not reasonably available. This deletion will also align section 2634 of title 10 closer to the provisions of section 5727 of title 5, which does not have such a limitation. Transportation provided to military members would still be limited to a cost no higher than the cost of surface transportation.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense or other federal agencies.

and may result in savings from not having to store the vehicles at government expense.

Section 923 concerns Department of Defense gift initiatives. The amendments would clarify items which may be loaned or given under section 7545 of title 10, United States Code, and give the Secretary express authority to donate portions of the hull or superstructure of a vessel stricken from the Naval Vessel Register to a qualified organization. Amendments to section 7545(a) of title 10 would clarify that the Secretary may donate either obsolete ordinance material or obsolete combat material under this section. The proposed new language is consistent with the Secretary's existing authority to lend, give or exchange "obsolete combat materiel" to qualified organizations under section 10 U.S.C. 2572, a statute which is similar, but not identical, to section 7545. Addition of the term "obsolete shipboard material"covers items such as anchors and ship propellers, which are frequently sought from the Navy for use as display items.

The deletion of "World War I or World War II" and replacement with "a foreign war" would allow coverage of other wars, such as the Korean, Vietnam, and Persian Gulf wars as well as any future war. The deletion of "soldiers" and replacement with "servicemen's" would clarify that associations related to any branch of military service are qualified organizations.

A new subsection (d) is added because currently no federal statute expressly addresses the loan or gift of a major portion of the hull or superstructure of a Navy submarine or surface combatant. The Navy has received two requests for large portions of vessels currently slated for scrapping. These requests pertain to the sail of a Navy submarine (the uppermost part of a submarine), and the island of the USS *America* (the uppermost part of this decommissioned aircraft carrier). The *America's* island stands several stories above its flight deck. The Navy anticipates receiving more requests, particularly for submarine sails because the *Los Angeles* class nuclear submarines, all but one of which are named after particular American cities, are now being decommissioned and scrapped. If a vessel can be donated in its entirety, the Navy should have the authority to donate a portion of the vessel for use solely as a permanent memorial. Also, if there is a reason that a vessel cannot be donated in its entirety (e.g., removal of a reactor compartment), this new subsection would authorize the Secretary to donate any part of the remainder of the vessel to a qualified organization.

The Secretary of the Navy has existing authority under 10 U.S.C. §7306 to donate 68 vessels stricken from the Naval Vessel Register. The Secretary also has existing authority to donate material and historical artifacts described in 10 U.S.C. 2572 and 7545. A large portion of a vessel does not fall squarely within the parameters of any of these three statutes, and thus the new subsection (d) authorizes the Secretary to lend, give or otherwise transfer portions of a vessel stricken from the Naval Vessel Register to an organization listed under subsection (a). Terms and conditions of any agreement for the transfer of a portion of a vessel shall include a requirement that the transferee maintain the material in a condition that will not diminish the historical value of the material or bring discredit upon the Navy. Any donation authorized pursuant to this subsection remains subject to all applicable environmental laws and regulations. In accordance with section 7545(a), no expense would be incurred by the United States in carrying out this section.

The amendments to section 2572 of title 10 would clarify the eligibility requirements for political subdivisions of a state to receive condemned or obsolete combat material for static display purposes. The operating instruction for the Aircraft Management and Regeneration Center (AMARC) notes that aircraft for display purposes cannot ordinarily be given or loaned to a county without further administrative paperwork. Since many airports are operated by counties and other state political subdivisions that are not municipal corporations, the law as currently written presents a substantial limitation on the Air Force's ability to provide aircraft and other historical material for static display at such county entities.

AMARC's role in donating or loaning military property for static displays is to be transitioned to the United States Air Force Museum. Clarifying section 2572(a)(1) to include counties and other political subdivisions of a state as permissible recipients of loans and donations would expand the Museum's ability to foster good will and civic pride in the United States Air Force and its history through static displays.

There are several statutes which do treat counties differently from municipal corporations, particularly with regard to taxes and services. Section 5520 of title 10 does list separate definitions for cities and counties for the purpose of withholding income or employment taxes. The proposed legislation would not affect these other statutes nor the distinctions they draw between govermnental entities.

Section 924 would repeal section 916 to resolve an incongruous and burdensome reporting requirement for the Chairman of the Joint Chiefs of Staff. The reporting requirements demanded by this language-particularly subsection (c)(3), which the Department is unable to comply with-runs counter to the responsibilities of the CJCS as the Chairman of the JROC, and will prove to be overly burdensome without necessarily producing a positive or desired result.

Section 153 of title 10 establishes the CJCS responsibility to advise the Secretary of Defense on requirements, programs, and budgets. The JROC, established in section 181 of title 10, assists the CJCS in fulfilling these advisory responsibilities and this section further establishes that "the functions of the CJCS, as chairman of the Council, may only be delegated to the Vice Chairman of the Joint Chiefs of Staff." Other members of the JROC provide inputs to the JROC Chairman in the form of opinions, advice, and recommendations, which represent extremely useful information. However, having received the JROC member's inputs (including those from the combatant commanders-in-chief) the CJCS is singularly accountable to provide the best military advice on joint requirements to the Secretary.

Appearing before the SASC Subcommittee on Emerging Threats and Capabilities on April 4, 2000, the Commander-in-Chief of U.S. Joint Forces Command amplified the point that the JROC is an advisory body. He provided explicit testimony that his input to the JROC and attendance at selected JROC meeting is what matters—not his vote—since the JROC is not a voting body. Additionally, since JROC deliberations are characteristically conducted in executive session, there is no mechanism to collect the specific advice by individual members.

The CJCS has directed the JROC to refocus on examination of a broader spectrum of future joint warfighting requirements and fully to integrate joint experimentation activities into the requirements, capabilities, and acquisition process. The raw facts required in the semi-annual report that document a brief series of today's decisions will not capture the profound implications of framing operational architectures and operational concepts on which future decisions will be judged. Furthermore, in an era in which the Department is seeking opportunities to reduce the size of management headquarters, the significant workloads driven by these reporting requirements will drive workforce requirements in the wrong direction—and for little return on the investment. In sum, the reporting requirements will likely prove to be overly burdensome without meeting Congressional intent. The intent of this reporting requirement may be met through CJCS, VCJCS, and others' annual or special testimony, and occasional specific reports to Congress.

Section 925 would authorize limited access of sensitive unclassified information for administrative support contractors. Pursuant to the authority granted in section 129a of title 10, United States Code, the Secretary of Defense has promulgated personnel policies that promote the downsizing and outsourcing of administrative support (e.g., secretarial or clerical services, mail room operation, and management of computer or network resources). By employing such measures, the Department has realized substantial savings, as often contracting out these services is the least costly way to perform them consistent with military requirements and the needs of the Department. In many cases, however, additional savings must be forgone, because such duties may require contractors to be exposed to, or require substantive access to, sensitive unclassified information such as third party trade secrets, proprietary information, and personal information protected by the Privacy Act.

Section 926 will allow Andersen AFB to use the sale of water rights located off the main installation as an incentive to pay for a new water system located on Andersen AFB. The authority this proposal would provide to the Air Force could only be used in conjunction with existing utility privatization authority under 10 U.S.C. 2688. Subject to the specific provisions of this proposal, the rules governing a conveyance under 10 U.S.C. 2688 would apply to the transaction, including those for competition, fair market value, and reporting to Congress. The Air Force desires to obtain offers to replace the current well system with new wells located on Andersen AFB (the Main Base or Northwest Field). But this is contingent on there being adequate potable groundwater on Andersen AFB (Main Base or Northwest Field). If there is not sufficient groundwater on Andersen AFB (Main Base or Northwest Field) to allow use of this authority, subsection (d) authorizes the Secretary to allow sale of excess water from the existing wells to help pay for modernization and operation of a new water system.

Andersen AFB's Main Base and Northwest Field properties cover an area roughly 8 miles wide and 2-4 miles long (24.5 square miles). Andersen AFB currently also includes several noncontiguous properties: The two largest are the Harmon Annex, which cover 2.8 square miles and is located along the west side of the Island about 4 miles south of Northwest Field; and Andy South, which includes the Andersen South housing area and dormitories, covers 3.8 square miles, and is located about 8 miles south of the Main Base. The water system at Andersen AFB is currently owned, operated, and maintained by the Air Force. Andersen AFB wells satisfy the base's total water requirements. Andersen's water utility system includes 9 ground water wells (identified as Tumon Maui Well and Wells # 1, 2, 3, 5, 6, 7, 8, and 9), chlorination and fluoridation equipment, air strippers, several ground level storage tanks, several booster pump stations, approximately 481,000 linear feet of piping ranging in size from less than 2-inches to 30-inches in diameter, 353 building services, 48 air relief valves, 717 main valves, 11 post indicator valves, 439 fire hydrants, and 13 meters.

Andersen AFB's nine wells (and associated system components) are located several miles off the Main Base. There is one well at "Tumon" (900 gallons per minute (gpm)) and eight wells at the "Andy South" area (149–440 gpm each, 2090 gpm total). The water is pumped from the wells to the Main Base several miles away crossing non-federal properties. The Air Force's Andy South property is in the process of being declared excess property pursuant to the Federal Property Act, but neither the water rights nor the wells are part of that action.

A new water system needs to be built due to the advancing age (35–50+ years) and corrosive environment that has deteriorated the system components. The logistics involved in performing the maintenance and repair work off-base make it difficult for the mechanics to control the deterioration. As a result, more pipes, valves and pumps are failing. In 1999, the 16" main to the base leaked at a rate of 200–250 gallons per minute and was repaired under pressure. The tank isolation valves are so old they are not used because of fear the valves might break. A major failure to the transmission line or the 50+ year old Santa Rosa Tank could leave the Main Base with only 250,000 gallons of available water (less than 15% of the average daily demand.) This amount is insufficient for fire protection and normal operations.

The base estimates it costs about $800,000 per year for electricity just to produce and transmit water to the Main Base from the off-base wells. Savings of 20–40% are expected if wells on the Main Base or the contiguous Northwest Field are constructed.

Anti-Terrorism and Force Protection would improve if wells were located on the Main Base or Northwest Field. Well House No. 3 already experienced a break-in and theft of electrical parts. Furthermore, there is no control over groundwater contamination from non-Air Force sources. The Tumon Maui well and Well No. 2 are currently not in operation due to groundwater contamination. Current requirements are about 55 million gallons per month. In the past two years, Andersen used up to 100 million gallons per month.

This provision further will provide an opportunity to meet long term water needs with no USAF capital investment, reduce short range modernization/rehabilitation costs for the aged and reconfigured off-base water supply system (Tumon Maui well and Wells 1–3 were originally built to support off-base sites, for example the old Andy South), eliminate the need to retain real property in Andy South, greatly enhance force protection needs for vital water resources, and increase system reliability and redundancy. Guam is chronically short of potable water supplies. The water from Andy South and Andersen Water Supply Annex, if available for commercial sale, would be of substantial value. The Air Force believes that value would be more than sufficient to pay the cost of installation of a new series of wells on Andersen AFB, either the Main Base or Northwest Field, and repair the existing system on the base.

Section 927 would repeal the requirement for a separate budget request for procurement of reserve equipment by repealing section 114(e) of title 10, United States Code.

Section 928 would repeal the requirement for a two-year budget cycle for the department of defense by repealing section 1405 of the department of defense authorization act, 1986 (31 U.S.C. 1105 note).

By Mr. SMITH of Oregon:

S. 1156. A bill to amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH of Oregon. Mr. President, today I rise to introduce the Electric Bike Safety Act of 2001. This bill will encourage and provide more opportunities for Americans to enjoy the leisure and healthful benefits of riding bicycles. This legislation would amend the Consumer Product Safety Act CPSA, to provide that low-speed electric bicycles are consumer products subject to such Act. As the CPSA is now written, low-speed electric bicycles are not considered consumer products, but rather a motorized vehicle subject to all regulations set by the National Transportation Safety Administration, NTSA, which regulates automobiles and motorcycles.

As a result of low-speed electric bicycles being treated as motorcycles, they are required to meet burdensome and unnecessary standards, making low-speed electric bicycles much more costly than they need to be. Subjecting electric bicycles to motor vehicle requirements would mean the addition of a large array of costly and unnecessary equipment, brake lights, turn signals, automotive grade headlights, and rear-view mirrors.

Making electric bicycles accessible for more Americans will benefit the lives of thousands of Americans. Electric bicycles provide disabled riders the freedom of mobility without the cost or stigma of an electric wheelchair. Electric bicycles provide older riders with increased lifestyle flexibility due to increased mobility that electric bicycles allow them. Electric bicycles provide law enforcement officers a practical way to patrol neighborhoods and towns in a manner consistent with the highly successful emphasis on "Community Policing". Electric bicycles provide short and medium distance commuters an environmentally friendly and healthy way to get to work. In short, this bill is pro-Americans with disabilities, pro-elderly, pro-safety, and pro-environment. Electric bicycles will prove beneficial to many more Americans if we in Congress do our part to make electric bicycles affordable.

In my home State of Oregon, there are thousands of people who ride bicycles each day, whether as a means of transportation, exercise, or recreation. The City of Corvallis, OR, has 63 miles of bike lanes and paths and as a result has a very high number of people who commute to work on their bicycles. Area companies such as Hewlett-Packard and CH2M-Hill even offer changing areas and showers as a way to encourage their employees to ride bicycles to work. The Corvallis Police Department is also able to utilize electric bikes as a community friendly way to patrol the city.

I believe that placing electric bicycles under the regulation of the Consumer Product Safety Commission will be only ensure the safety of electric bicycles, but will promote their use by making electric bicycles an affordable alternative form of transportation to millions of Americans.

By Mr. SPECTER (for himself, Ms. LANDRIEU, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. LEAHY, Mr. COCHRAN, Mr. BREAUX, Mr. ALLEN, Mr. BIDEN, Mr. BOND, Mrs. CARNAHAN, Mr. CARPER, Mr. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. DODD, Mr. EDWARDS, Mr. FRIST, Mr. GREGG, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mr. REED, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, AND Mr. WARNER):

S. 1157. A bill to reauthorize the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact, a Pacific Northwest Dairy Compact, and an Intermountain Dairy Compact; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I join today with thirty-eight of my colleagues to introduce legislation authorizing interstate dairy compacts. Members of the U.S. House of Representatives have introduced similar legislation with 162 cosponsors, including 17 members of the Pennsylvania delegation.

This legislation will create a much needed safety net for dairy farmers in the Northeast and other regions and will bring greater stability to the prices paid to farmers. The bill authorizes an Interstate Compact Commission to take such steps as necessary to assure consumers of an adequate local supply of fresh fluid milk and to assure the continued viability of dairy farming within the compact region. Specifically, states that choose to join a compact would enter into a voluntary agreement to create a minimum farm-price for milk within the compact region to form a safety net for dairy farmers when farm milk prices fall below the established compact price. This price would take into account the regional differences in the costs of production for milk, thereby providing dairy farmers with a fair and equitable price for their product.

Specifically, the bill would authorize Pennsylvania, New Jersey, Delaware, New York, Maryland, and Ohio to join the existing Northeast Interstate Dairy Compact, which has been in operation since July 1997. Most of these States have already agreed to join the Compact with strong support from their governors and legislatures. In the Commonwealth of Pennsylvania, Governor Ridge has been a very strong supporter and advocate of the Compact. The Pennsylvania Senate and House of Representatives have sent a clear signal to Congress by voting with overwhelming majorities of 44 to 6 and 181 to 20, respectively, to authorize the Commonwealth's participation in the Northeast Dairy Compact.

In addition to expanding the current Northeast Interstate Dairy Compact, the bill would authorize southern States to form a similar compact to provide price stability in their region. I am pleased to join so many of my colleagues from the South in introducing this legislation. Finally, the legislation would allow formation of other compacts in the Pacific Northwest and Intermountain region within three years. We have included language in this bill to recognize the efforts in these States to support dairy compacts and to avoid their exclusion if these efforts lead to passage of compact legislation by their State governments.

In total, twenty-five States have already approved dairy compact legislation. This is a broad mandate from States that are attempting to meet the needs of dairy farmers, producers, consumers and other citizens concerned with the future of their milk supply. These States recognize the many positive aspects of dairy compacts. The benefits include providing dairy farmers with a fairer and more stable price structure; providing consumers with price stability and a steady, reliable source of local milk for their consumption; enhancement of conservation efforts in areas threatened by sprawl; and maintenance of rural economies that have been suffering for quite some time from the loss of income-generating farmers.

Over the past several years, I have worked closely with my colleagues in the Senate in order to provide a more equitable price for our nation's milk producers. I supported amendments to the Farm Bills of 1981 and 1985, the Emergency Supplemental Appropriations Bill of 1991, the Budget Resolution of 1995 and the most recent Farm Bill in 1996 in an effort to ensure that dairy farmers receive a fair price. As a member of the U.S. Senate Agriculture Appropriations Subcommittee, I have worked to ensure that dairy programs have received the maximum possible funding, including high quality dairy research conducted at Penn State University. I have also been a leading supporter of the Dairy Export Incentive Program which facilitates the development of an international market for United States dairy products.

In recent years, however, dairy farmers have faced low prices for dairy products. Prices have fluctuated greatly over the past several years, thereby making any long-term planning impossible for farmers. These economic conditions have placed our Nation's dairy farmers in an all but impossible position and this is borne out in dairy farmers' declining ranks.

Our Nation's farmers are some of the hardest working and most dedicated individuals in America. During my tenure as a United States Senator, I have visited numerous small dairy farms in Pennsylvania. I have seen these hard working men and women who have dedicated their lives to their farms. The downward trend in dairy prices is an issue that directly affects all of us. We have a duty to ensure that our Nation's dairy farmers receive a fair price for their milk. If we do nothing, many small dairy farmers will be forced to sell their farms and leave the agriculture industry. This will not only impact the lives of these farmers, but will also have a significant negative impact on the rural economies that depend on the dairy industry for support. Further, the large-scale departure of small dairy farmers from agriculture could place our nation's steady supply of fresh fluid milk in jeopardy, thereby affecting every American.

We must recognize the importance of this problem and take prompt action. Twenty-five States have asked us to pass this legislation and provide a necessary tool for their dairy farmers. I urge my colleagues to cosponsor and support this legislation as we continue to work in Congress to bring greater stability to our Nation's dairy industry.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dairy Consumers and Producers Protection Act of 2001".

SEC. 2. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by striking "States" and all that follows through "Vermont" and inserting "States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont";

(2) by striking paragraphs (1), (3), and (7);

(3) in paragraph (2), by striking "Class III-A" and inserting "Class IV";

(4) by striking paragraph (4) and inserting the following:

"(4) ADDITIONAL STATE.—Ohio is the only additional State that may join the Northeast Interstate Dairy Compact.";

(5) in paragraph (5), by striking "the projected rate of increase" and all that follows through "Secretary" and inserting "the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code"; and

(6) by redesignating paragraphs (2), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively.

SEC. 3. SOUTHERN DAIRY COMPACT.

(a) IN GENERAL.—Congress consents to the Southern Dairy Compact entered into among the States of Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia, subject to the following conditions:

(1) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Southern Dairy Compact Commission may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a "Federal milk marketing order") unless Congress has first consented to and approved such authority by a law enacted after the date of enactment of this joint resolution.

(2) ADDITIONAL STATES.—Florida, Nebraska, and Texas are the only additional States that may join the Southern Dairy Compact, individually or otherwise.

(3) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Southern Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products.by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(4) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Southern Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(b) COMPACT.—The Southern Dairy Compact is substantially as follows:

"ARTICLE I. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY

"§ 1. Statement of purpose, findings and declaration of policy

"The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the commission is to take such steps as are necessary to assure the continued viability of dairy farming in the south, and to assure consumers of an adequate, local supply of pure and wholesome milk.

“The participating states find and declare that the dairy industry is an essential agricultural activity of the south. Dairy farms, and associated suppliers, marketers, processors and retailers are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

“The participating states further find that dairy farms are essential and they are an integral part of the region's rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

“In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the federal order system nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

“Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the order system.

“By entering into this compact, the participating states affirm that their ability to regulate the price which southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

“Recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

“In today's regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

“ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

“§ 2. Definitions

“For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

“(1) ‘Class I milk’ means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subdivision (b) of section three.

“(2) ‘Commission’ means the Southern Dairy Compact Commission established by this compact.

“(3) ‘Commission marketing order’ means regulations adopted by the commission pursuant to sections nine and ten of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission. Such order may establish minimum prices for any or all classes of milk.

“(4) ‘Compact’ means this interstate compact.

“(5) ‘Compact over-order price’ means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to sections nine and ten of this compact, which is above the price established in federal marketing orders or by state farm price regulations in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

“(6) ‘Milk’ means the lacteral secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission for regulatory purposes.

“(7) ‘Partially regulated plant’ means a milk plant not located in a regulated area but having Class I distribution within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

“(8) ‘Participating state’ means a state which has become a party to this compact by the enactment of concurring legislation.

“(9) ‘Pool plant’ means any milk plant located in a regulated area.

“(10) ‘Region’ means the territorial limits of the states which are parties to this compact.

“(11) ‘Regulated area’ means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

“(12) ‘State dairy regulation’ means any state regulation of dairy prices, and associated assessments, whether by statute, marketing order or otherwise.

“§ 3. Rules of construction

“(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the commission the option to replace them with one or more commission marketing orders pursuant to this compact.

“(b) The compact shall be construed liberally in order to achieve the purposes and intent enunciated in section one. It is the intent of this compact to establish a basic structure by which the commission may achieve those purposes through the application, adaptation and development of the regulatory techniques historically associated with milk marketing and to afford the commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

“ARTICLE III. COMMISSION ESTABLISHED

“§ 4. Commission established

“There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the commission.

“§ 5. Voting requirements

“All actions taken by the commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment or rescission of the commission's by-laws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one vote in the conduct of the commission's affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds vote of the delegations present. The establishment of a regulated area which covers all or part of a participating state shall require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the commission's business.

“§ 6. Administration and management

“(a) The commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the commission, and together with the treasurer, shall be bonded in an amount determined by the commission. The commission may establish through its by-laws an executive committee composed of one member elected by each delegation.

“(b) The commission shall adopt by-laws for the conduct of its business by a two-thirds vote, and shall have the power by the same vote to amend and rescind these by-laws. The commission shall publish its by-laws in convenient form with the appropriate agency or officer in each of the participating states. The by-laws shall provide for appropriate notice to the delegations of all commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

“(c) The commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

"(d) In addition to the powers and duties elsewhere prescribed in this compact, the commission shall have the power:

"(1) To sue and be sued in any state or federal court;

"(2) To have a seal and alter the same at pleasure;

"(3) To acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes;

"(4) To borrow money and issue notes, to provide for the rights of the holders thereof and to pledge the revenue of the commission as security therefor, subject to the provisions of section eighteen of this compact;

"(5) To appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties and qualifications; and

"(6) To create and abolish such offices, employments and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees. The commission may also retain personal services on a contract basis.

"§ 7. Rulemaking power

"In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

"ARTICLE IV. POWERS OF THE COMMISSION

"§ 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation

"The commission is hereby empowered to:

"(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

"(2) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.

"(3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.

"(4) Prepare and release periodic reports on activities and results of the commission's efforts to the participating states.

"(5) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve or promote more efficient assembly and distribution of milk.

"(6) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling and for all other services performed with respect to milk.

"(7) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

"§ 9. Equitable farm prices

"(a) The powers granted in this section and section ten shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this article shall authorize the commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

"(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and fifty cents per gallon at Atlanta, Ga., however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum federal order prices. Beginning in nineteen hundred ninety, and using that year as a base, the foregoing one dollar fifty cents per gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

"(c) A commission marketing order shall apply to all classes and uses of milk.

"(d) The commission is hereby empowered to establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The commission is also empowered to establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The commission shall provide for similar treatment of producer-handlers under commission marketing orders.

"(e) In determining the price, the commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense, and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public and the price necessary to yield a reasonable return to the producer and distributor.

"(f) When establishing a compact over-order price, the commission shall take such other action as is necessary and feasible to help ensure that the over-order price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

"(g) The commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The commission may reimburse other agencies for the reasonable cost of providing these services.

"§ 10. Optional provisions for pricing order

"Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to any of the following:

"(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

"(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the commission, or a single minimum price for milk purchased from producers or associations of producers.

"(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

"(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials and for competitive credits with respect to regulated handlers who market outside the regulated area.

"(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

"(A) With respect to regulations establishing a compact over-order price, the commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

"(B) With respect to any commission marketing order, as defined in section two, subdivision three, which replaces one or more terminated federal orders or state dairy regulations, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

"(6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

“(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

“(8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

“(9) Provision requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to Article VII, Section 18(a).

“(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

“(11) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

“ARTICLE V. RULEMAKING PROCEDURE

“§ 11. Rulemaking procedure

“Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection 9(f), or amendment thereof, as provided in Article IV, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553). In addition, the commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The commission may commence a rulemaking proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

“§ 12. Findings and referendum

“(a) In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553(c)), the commission shall make findings of fact with respect to:

“(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

“(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

“(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

“(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in section thirteen.

“§ 13. Producer referendum

“(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection 9(f), is approved by producers, the commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the commission. The terms and conditions of the proposed order or amendment shall be described by the commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

“(b) An order or amendment shall be deemed approved by producers if the commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

“(c) For purposes of any referendum, the commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper–Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) hereof and subject to the provisions of subdivision (2) through (5) hereof.

“(1) No cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

“(2) Any cooperative which is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the commission.

“(3) Any producer may obtain a ballot from the commission in order to register approval or disapproval of the proposed order.

“(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his approval or disapproval of the proposed order, shall notify the commission as to the name of the cooperative of which he or she is a member, and the commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

“(5) In order to insure that all milk producers are informed regarding the proposed order, the commission shall notify all milk producers that an order is being considered and that each producer may register his approval or disapproval with the commission either directly or through his or her cooperative.

“§ 14. Termination of over-order price or marketing order

“(a) The commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

“(b) The commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

“(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553).

“ARTICLE VI. ENFORCEMENT

“§ 15. Records; reports; access to premises

“(a) The commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission is authorized to examine the books and records of any regulated person relating to his or her milk business and for that purpose, the commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

“(b) Information furnished to or acquired by the commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may promulgate regulations further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the commission of the name of any person violating any regulation of the commission, together with a statement of the particular provisions violated by such person.

“(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars or to imprisonment for not more than one year, or to both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

“§ 16. Subpoena; hearings and judicial review

“(a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

“(b) Any handler subject to an order may file a written petition with the commission stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

"(c) The district courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within thirty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the commission by delivering to it a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the commission with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the commission from obtaining relief pursuant to section seventeen. Any proceedings brought pursuant to section seventeen, except where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

"§ 17. Enforcement with respect to handlers

"(a) Any violation by a handler of the provisions of regulations establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

"(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

"(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

"(b) With respect to handlers, the commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

"(1) Commencing an action for legal or equitable relief brought in the name of the commission of any state or federal court of competent jurisdiction; or

"(2) Referral to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

"(c) With respect to handlers, the commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

"ARTICLE VII. FINANCE

"§ 18. Finance of start-up and regular costs

"(a) To provide for its start-up costs, the commission may borrow money pursuant to its general power under section six, subdivision (d), paragraph four. In order to finance the costs of administration and enforcement of this compact, including payback of start-up costs, the commission is hereby empowered to collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the commission convenes, in an amount not to exceed $.015 per hundredweight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-month period following the date the commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commission's ongoing operating expenses.

"(b) The commission shall not pledge the credit of any participating state or of the United States. Notes issued by the commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

"§ 19. Audit and accounts

"(a) The commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

"(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the commission.

"(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

"ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL MEMBERS AND WITHDRAWAL

"§ 20. Entry into force; additional members

"The compact shall enter into force effective when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia and when the consent of Congress has been obtained.

"§ 21. Withdrawal from compact

"Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the commission and the governors of all other participating states. No withdrawal shall affect any liability already incurred by or chargeable to a participating state prior to the time of such withdrawal.

"§ 22. Severability

"If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact. In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compacting state may accept the conditions of Congress by implementation of this compact.".

SEC. 4. PACIFIC NORTHWEST DAIRY COMPACT.

Congress consents to a Pacific Northwest Dairy Compact proposed for the States of California, Oregon, and Washington, subject to the following conditions:

(1) TEXT.—The text of the Pacific Northwest Dairy Compact shall be identical to the text of the Southern Dairy Compact, except as follows:

(A) References to "south", "southern", and "Southern" shall be changed to "Pacific Northwest".

(B) In section 9(b), the reference to "Atlanta, Georgia" shall be changed to "Seattle, Washington".

(C) In section 20, the reference to "any three" and all that follows shall be changed to "California, Oregon, and Washington.".

(2) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Dairy Compact Commission established to administer the Pacific Northwest Dairy Compact (referred to in this section as the "Commission") may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a "Federal milk marketing order").

(3) EFFECTIVE DATE.—Congressional consent under this section takes effect on the date (not later than 3 year after the date of enactment of this Act) on which the Pacific Northwest Dairy Compact is entered into by the second of the 3 States specified in the matter preceding paragraph (1).

(4) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a price regulation is in effect under the Pacific Northwest Dairy Compact, the Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(5) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Commission and be compensated for that assistance.

SEC. 5. INTERMOUNTAIN DAIRY COMPACT.

Congress consents to an Intermountain Dairy Compact proposed for the States of Colorado, Nevada, and Utah, subject to the following conditions:

(1) TEXT.—The text of the Intermountain Dairy Compact shall be identical to the text of the Southern Dairy Compact, except as follows:

(A) In section 1, the references to "southern" and "south" shall be changed to "Intermountain" and "Intermountain region", respectively.

(B) References to "Southern" shall be changed to "Intermountain ".

(C) In section 9(b), the reference to "Atlanta, Georgia" shall be changed to "Salt Lake City, Utah".

(D) In section 20, the reference to "any three" and all that follows shall be changed to "Colorado, Nevada, and Utah.".

(2) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Dairy Compact Commission established to administer the Intermountain Dairy Compact (referred to in this section as the "Commission") may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a "Federal milk marketing order").

(3) EFFECTIVE DATE.—Congressional consent under this section takes effect on the date (not later than 3 year after the date of enactment of this Act) on which the Intermountain Dairy Compact is entered into by the second of the 3 States specified in the matter preceding paragraph (1).

(4) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a price regulation is in effect under the Intermountain Dairy Compact, the Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(5) MILK MARKETING ORDER ADMINISTRATOR.--At the request of the Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Commission and be compensated for that assistance.

Ms. LANDRIEU. Mr. President, today I rise, along with thirty-eight of my colleagues, to introduce legislation which would reauthorize the Northwest Dairy Compact and establish the Southern, Pacific and Inter-mountain Compacts.

State officials and dairy producers across the country are concerned that the current Federal milk marketing order pricing system does not fully account for regional differences in the costs of producing milk. As a result, 25 States, including my State of Louisiana, have passed legislation requesting that Congress approve their right to form regional compacts. The compact, when ratified by Congress, authorizes creation of an interstate compact commission which would guide the pricing of fluid milk sold in the region. Consumers, processors, producers, State officials and the public all participate in determining Class I fluid milk prices.

The Northeast Dairy Compact, enacted in 1996, and due to expire this year, has proven extremely successful in balancing the interests of consumers, dairy farmers, processors and retailers by maintaining milk price stability and doing so at no cost to taxpayers.

By ratifying the Southern Dairy Compact we have the opportunity to assure consumers an adequate, affordable and fresh milk supply while preserving the health of farms, whose social and economic contributions remain so critical to the vitality of our country's rural communities.

In my State of Louisiana, over four hundred dairy farms help maintain economic stability in one of our Nation's poorest regions. In the past ten years, nearly a quarter of the dairy farms in my State have gone out of business, and many more are in danger of shutting down unless we authorize the return of milk pricing power back to the States. Had Louisiana been a member of a Southern Dairy Compact last year, its 468 dairy farms would have received $11.9 million in compact payments, increasing income for the average Louisiana dairy farmer by nearly thirteen percent. This, at a time when dairy farmers are faced with depressed prices not seen in the last 25 years.

There are those in Congress who have opposed dairy compacts since the day the idea was introduced. However, dairy compacts are not antitrade, do not increase milk production and milk from outside the compact region is not excluded from sale in the compact region. Over the past five years, New England's dairy farmers have put into practice the compact's promise of providing stable prices for farmers and consumers, strengthening rural communities and preserving our environment. It is time to allow the States the opportunity to provide their farmers the stability they so desperately need.

Ms. COLLINS. Mr. President, I rise with my colleagues today to introduce the Dairy Consumers and Producers Protection Act. Our legislation reauthorizes the Northeast Interstate Diary Compact and allows other regions of the country to form compacts as well. In doing so, our bill extends to additional consumers and producers the benefits we enjoy in the Northeast.

The Northeast Dairy Compact has proven successful in balancing the interests of processors, retailers, consumers and dairy farmers by maintaining milk price stability. Last year, 458 dairy farmers in Maine received payments under the compact totaling $4.8 million. The payments averaged approximately $10,500 per farmer, or enough to help farmers maintain viable operations, sustain rural communities, and ensure a reliable supply of wholesome dairy products for consumers.

The Northeast Dairy Compact is an innovative approach to promoting stability in the New England dairy industry. The Compact provides for a commission, comprised of delegates from each State, which is granted the authority to set a minimum farm price for Class I (fluid) milk. The difference between the compact price and the Federal milk order price, or the "over-order obligation," is paid to the commission by the processors. The commission then redistributes these funds to compact producers based on the volume of milk sold by the farmer within the region.

The success of the Northeast Dairy Compact in promoting the viability of dairy farming and sustaining rural communities in New England has not gone unnoticed. Nineteen additional State legislatures have overwhelmingly passed compact legislation. Our legislation recognizes this strong support for compacts on the state level and provides Congressional consent for these States to join the Northeast compact or form compacts of their own.

For all that the Compact accomplishes for farmers in the Northeast, one might think that it puts farmers from other parts of the country at a competitive disadvantage. However, this is not the case. The Compact Commission has instituted safeguards, as required by the authorizing legislation, that prevents the overproduction of milk. Incentive payments are provided to farmers who do not increase production and have actually led to a decrease of 0.6 percent in the amount of milk produced in the region. Consequently, we can be sure that surplus milk from the Northeast is not impacting milk markets in other regions of the country. It is important to note that our legislation includes the overproduction protections included in the original Dairy Compact legislation.

The Northeast Dairy Compact is set to expire on September 30, 2001. While the saying goes that all good things must come to an end, I do not believe that ought to be the case with the Compact. Dairy farmers in my State agree and have written, e-mailed, and called to express to me their hope that Congress will extend the authorization of the Northeast Dairy Compact. I have appreciated hearing just how important the Compact is to my constituents, and I look forward to working with my colleagues in the Senate to see that the Diary Consumers and Producers Protection Act is enacted.

Mr. JOHNSON. Mr. President, I rise today to strongly support the extension and the expansion of the Northeast Dairy Compact as a reasonable and proven way to help dairy farmers in New England and beyond.

Dairy farms are truly the agricultural heart of New York State. Their survival is vital to the economic, social, and cultural well-being of the State. I am such an enthusiastic advocate for the Compact because, it offers the means to maintain not only healthy dairy farms in my State, but the rural settings and communities upon which so much of New York and the rest of the country depend.

Historically, dairy prices have been subject to unpredictable and unacceptable fluctuations in prices. In the face of such uncertainty, the current Federal price support system was designed to provide basic levels of assistance to dairy producers. Unfortunately, the support provided, while helpful, is often inadequate. Many dairy farmers in New York and elsewhere are unable to operate at a profit. As a remedy, the Dairy Compact was designed to provide producers with supplemental support, through assessments to processors, when the Marketing Order price is low. Most importantly, the price stability afforded by the Compact is especially important to farmers as a planning tool.

As originally implemented, the Dairy Compact did not include New York. The Bill that has been introduced would allow New York State and other States in the Northeast, Southeast and elsewhere to join the Compact. The New York Legislature, like 25 other State Legislatures, has voted to join the Compact. Why? Because over the 4 years that the Compact has been in existence it has made the difference for many family farmers between surviving as a dairy producer or selling their land for development which is slowly decimating our rural landscape. It has helped us maintain a local supply of affordable milk for consumers including women and children throughout the Compact region at no cost to the government and without placing an undue burden on consumers.

New York is an important dairy producing and consuming State. As of the year 2000, we had about 7,200 dairy herds and produced 11.9 billion pounds of milk. That year, New York ranked third behind California and Wisconsin in both the number of milk cows and total milk produced. The viability of dairy farms is very, very important to my State. If New York had been a member of compact that year when dairy prices were at rock bottom, they would have received an average payment per farm of $18,200. While that size payment will not lead to prosperity, it will help keep the farm going. Several New York dairy farms sell milk to the Compact, and thus receive some of these benefits. I want to ensure that all dairy farms are in the State can participate, and the only way to do that is to expand the Compact.

Opponents of the Compact claim that if it were to be expanded, farmers in the Compact region would overproduce fluid milk thus driving prices down in other parts of the country. This is not the case. The Compact legislation that we propose today specifically acts to prevent such an over production through a supply management feature that rewards dairy producers in the Compact who maintain relatively stable levels of production. If needed, this tool could be used to control over-production from an expanded Compact and thus minimize negative impacts elsewhere.

Other important features of the Compact that are important to remember include the following: It has been fully reviewed and found to be legal. It includes a feature to protect disadvantaged women, infant and children, and in fact, in the year 2000, the Compact paid the WIC program close to $1.8 million to reimburse WIC for any extra expense the program incurred under the Compact. Approximately 1 percent of Compact payments are similarly set aside to reimburse school lunch programs.

I am concerned about the move towards consolidation in the dairy industry. While some concentration is to be expected, recent trends indicate that a few very large dairy operations and processing plants are grabbing up more and more. Many dairy operations are also succumbing to unplanned sprawl. By helping small at-risk farms stay afloat, the Compact is a hedge against unhealthy amounts of consolidation. It also helps to preserve the rural life style, the countryside settings with open spaces, and the economic core of communities that are so important to my New York and so many others.

In sum, the Dairy Compact is an effective way for States, New York and others, to obtain from Congress the regulatory authority over the region's interstate markets for milk. It offers a price stability that is incredibly helpful, and it helps to slow the demise of a tradition that our country holds dear, the family farm.

Ms. SNOWE. Mr. President, I rise today to join Senator SPECTER of Pennsylvania in support of the Dairy Consumers and Producers Protection Act of 2001. We are joined by 37 of our colleagues from New England and throughout the Mid-Atlantic and the Southeast.

This legislation reauthorizes the very successful Northeast Interstate Dairy Compact which allows the producers of milk to, as a dairy farmer from York Country, ME, recently said, set a little higher bottom for the price of locally produced fresh milk. The current Compact only adds a small incremental cost to the current Federal milk marketing order system that already sets a floor price for fluid milk in New England. The bill also gives approval for States contiguous to the participating New England States to join, in this case, Pennsylvania, New York, New Jersey, Delaware, and Maryland.

The legislation also grants Congressional approval for a new Southern Dairy Compact, made up of 14 States: Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia.

This issue is really a State rights issue more than anything else, Mr. President, as the only action the Senate needs to take is to give its congressional consent under the Compact Clause of the United States Constitution, Article I, section 10, clause 3, to allow the 25 States to proceed with their two independent compacts.

All of the legislatures in these twenty-five States have ratified legislation that allows their individual States to join a Compact, and the Governor of every State has signed a compact bill into law. Half of the States in this country, await our Congressional approval to address farm insecurity by stabilizing the price of fresh fluid milk on grocery shelves and to protect consumers against volatile price swings.

All of the Northeast and Southern Compact States together make up about 28 percent of the Nation's fluid milk market—New England production is only about 31/2 percent of this. This is somewhat comparable to Minnesota and Wisconsin which together make up to 24 percent of the fluid milk market. California makes up another 20 percent.

Over ninety-seven percent of the fluid milk market in New England is contained within the area, and fluid milk markets are local due to the demand for freshness and because of high transportation costs, so any complaints raised in other areas about unfair competition simply does not hold water. The existence of the Northeast Dairy Compact does not threaten or financially harm any other dairy farmer in the country. Nor is there one penny of Federal funds involved—not one cent.

Only the consumers and the processors in the New England region pay to support the minimum price to provide for a fairer return to the area's family dairy farmers and to protect a way of life important to the people of the Northeast. Importantly, under the Compact, New England retail milk prices have been among the lowest and the most stable in the country. No wonder other States want to follow our lead.

When Congress wants to try something new, it often sets up a pilot program to test out an idea in a particular locality or region, and then appraises the outcome to see if the project was successful. This is how the Northeast Dairy Compact originated as it was included in the 1996 Farm bill as a three year pilot program—to sunset on April 4, 1999—at the same time as the adoption of the required consolidation of Federal milk marketing orders. The milk marketing orders were extended until October 1, 1999 in the Omnibus Appropriations of FY 1999, which also automatically extended the Compact until October 1, 1999.

Because of efforts by myself and other Compact supporters, we fought to receive a two-year extension of the Northeast Compact, which was incorporated in the Omnibus spending bill funding several government agencies for FY 2000. The Compact will expire on September 30 of this year if no further action is taken by this body.

I want to make it clear to my colleagues how important the continuation of the Northeast Dairy Compact is to me and the dairy farmers and consumers in Maine. I stand here not with my hand outstretched for federal farm dollars for Maine—of all income received by farmers in my State, only about 9 percent comes from Federal funding, unlike other States whose income received through Federal dollars is well over 75 percent—rather to urge you to support a very successful program that does not cost the federal government one penny—not one cent, and is supported by the very people who are affected by it.

I plan to use every avenue open to me to make sure the Compact continues to operate as, once the Compact Commission is shut down even temporarily, it cannot magically be brought back to life again. It would take many months if not a year to restore the successful process that is now in place. I will not gamble with the livelihoods of the dairy farmers of Maine in that irresponsible fashion.

All during the time of the Northeast Compact, fluid milk prices in New England have been among the lowest and have reflected great price stability. The consumers of New England have been spending a few extra pennies for fresh fluid milk—a recent University of Connecticut report recently estimated no more than 4.5 cents a gallon—to ensure a safety net for dairy farmers so that they can continue a historic way of life that is helpful to the regional economy.

I have been pleasantly surprised that, while my mail certainly reflects discontent when gasoline prices rise by pennies, I have not received any swell of outrage of consumer complaints about milk prices over the last 31/2 years that the Compact has been in place. The reality is that the initial pilot Compact project we so thoughtfully created has been a huge success.

In 2000, dairy farmers in Maine received on average, $10,500 per dairy farm from the Compact Commission, the governing body set up to keep overproduction of fluid milk in check, and among other duties, ensure that the Federal nutrition programs, such as the Women, Infants, and Children Program, or WIC, are held harmless under the Compact. In fact, the advocates of these federal nutrition programs support the Compact and serve on its commission.

The Northeast Interstate Dairy Compact has provided the very safety net that we had hoped for when the Compact passed as part of the omnibus farm bill of 1996. The Dairy Compact has helped farmers maintain a stable price for fluid milk during times of volatile swings in farm milk prices.

Also, consider what has happened to the number of dairy farms staying in business since the formation of the Dairy Compact. It is now known that, throughout New England, there has been a decline in the number of dairy farmers going out of business. In Maine, for instance, the loss of dairy farms was 16 percent from 1993 to 1997. The Compact then went into effect and from that time until now, the loss of dairy farms has dropped to 9 percent.

The Compact has given dairy farmers a measure of confidence in the near term for the price of their milk so they have been willing to reinvest in their operations by upgrading and modernizing facilities, acquiring more efficient equipment, purchasing additional cropland and improving the genetic base of their herds. Without the Compact, farmers would not have had the courage to do these things and their lenders would not have had the willingness to meet their capital needs.

The Compact has also protected future generations by helping local milk remain in the region and preventing dependence on milk a single source of milk that can lead to higher milk prices through increased transportation costs and increased vulnerability to natural catastrophes.

The bottom line is, the Compact has helped the economies of the New England States. The presence of farms are protecting open spaces critical to every State's recreational, environmental and conservation interests. These open spaces also serve as a buffer to urban sprawl and boost tourism so important to my home state of Maine.

Through its bylaws, the Compact has also preserved State sovereignty by adopting the principle of "one state—one vote," requiring that any pricing change be approved by two-thirds of the participating states in the Compact.

There are compensation procedures that are implemented by the New England Dairy Commission specifically to protect against increased production of fresh milk. The Compact requires that the Compact Commission take such action as necessary to ensure that a minimum price set by the commission for the region over the Federal milk marketing order floor price does not create an incentive for producers to generate additional supplies of milk. When there has been a rise in the Federal floor price for Class I fluid milk, the Compact has automatically shut itself off from the pricing process. Since there is no incentive to overproduce, there has been no rush to increase milk production in the Northeast as was feared by Compact opponents. No other region should feel threatened by a dairy compact for fluid milk produced and sold mainly at home.

The consumers in the Northeast Compact area, the now in the Mid-Atlantic area and the Southeast area, have shown their willingness to pay a few pennies more for their milk if the additional money is going directly to the dairy farmer. Environmental organizations have also supported dairy compacting as Compacts help to preserve dwindling agricultural land and open spaces.

I urge my colleague not to look success in the face and turn the other way, but to support us in passing this legislation that half of our states have requested.

Mrs. CLINTON. Mr. President. I am pleased to join with my colleagues today as an original cosponsor of the Dairy Consumers and Producers Protection Act of 2001. This legislation is vitally important to New York dairy farmers, New York's economy, and rural communities around the country.

From Watertown and Glen Falls to Ithaca and Jamestown, NY farmers and New York farms are an invaluable part of our State's economy and its landscape. Agriculture is one of New York's top industries. What is grown in our State makes its way to homes and kitchen tables across the country, and around the world.

In particular, the dairy industry is a pillar of New York's economy. Milk is New York's leading agricultural product, creating almost $2 billion in receipts. And New York ranks third in the country in terms of the value of dairy products sold, surpassed only by California and Wisconsin.

Yet, as I travel throughout New York State, I meet dairy farmers who are working harder, but still struggling to make ends meet. Volatile milk prices make it very difficult for New York dairy farmers to negotiate loans, to invest in expansion, and to plan for the future.

That is why it is so important that we join with our colleagues from other States to expand the Northeast Dairy Compact to include New York. If New York had been a member of the Northeast Dairy Compact last year, the over 7,000 dairy farms in New York would have received an estimated $132.6 million in payments, an average of $18,200 for each farm, thereby increasing income for the average New York dairy farm by approximately eight percent.

In addition, New York farmland and farms have become prime land for development and sprawl. We must make sure that farmers all across New York and around the country get the help that they need to hold onto their farms, and to preserve our fields and open spaces. They are an important part of what makes New York so unique and so beautiful.

Helping to preserve New York's dairy farms by expanding the Northeast Diary Compact is the right thing to do. Not only does it ensure the security of our dairy farmers in New York and in other parts of the country, it guarantees an adequate supply of fresh milk at reasonable prices and helps to preserve precious open space.

Mr. JEFFORDS. Mr. President, today, I rise today to express my support for the Dairy Consumers and Producers Protection Act of 2001, important legislation that would re-authorized and expand the Northeast Dairy Compact, and ratify a Southern Compact. Growing support and recognition of the effectiveness and ingenuity of the Northeast Dairy Compact has led twenty-five States to enact compact legislation. These States now look to Congress to grant them the right to join the Northeast Compact, or to form a Southern Compact.

It is critical that we keep pace with the demands of State governments, and provide them with the authority to develop a regional pricing mechanism for Class I (fluid) milk. Farmers across our Nation face radically different conditions and factors of production. Differences in climate, transportation, feed, energy and land value validate the need for regional pricing. Compacts allow States to address these differences and create a price level that is appropriate for producers, processors, retailers, and consumers.

The Northeast Dairy Compact was originally authorized as a three-year pilot program in the 1996 Farm Bill. Sine July of 1997, when the Compact Commission first set the Class I over-order price at $16.94, the Northeast Dairy Compact has proven to be a great success, providing farmers with a fair price for their milk, protecting consumers from price spikes, reducing market dependency upon milk from a single source, controlling excess supply, and helping to preserve rural landscapes by strengthening farm communities. And, unlike so many of our country's agricultural programs, the benefits of the dairy compact are realized at no cost to the Federal Government.

The Northeast Dairy Compact is managed by the Compact Commission. The Commission, comprised of 26 delegates from the six New England member States, includes producers, processors, retailers and consumer representatives. Each State governor appoints three or five delegates to represent their State's vote on the Commission. The Commission meets monthly to evaluate and establish the current Compact over-order price for Class I (fluid) milk. Using a formal rule-making process, the Commission hears testimony to establish a price that takes into account the purchasing power of the public, and the price necessary to yield a reasonable return to producers and distributors. Any price change proposed by the Commission is subject to a two-thirds vote by the State delegations as well as a producer referendum.

The Compact Commission's price regulation works in conjunction with the Federal Government's pricing program, which establishes minimum prices paid to dairy farmers for their raw milk. Under the Compact, processors pay the difference between the Compact over-order price for fluid milk, currently $16,94, and the price established monthly by federal regulation for the same milk. The over-order premium is paid on class I (fluid) milk, and is only paid when the Compact over-order price is higher than the price set by the Federal milk marketing orders. Processors purchasing milk for other dairy products such as cheese or ice cream are not subject to the Compact's pricing regulations, although all farmers producing milk in the region, for any purpose, share equally in the Compact's benefits.

In order to protect low-income consumers from any increases in cost caused by the Compact, the Compact legislation imposes regulations on the Commission requiring that the Women, Infants and Children, WIC program, as well as School Lunch Programs, must be reimbursed for any additional costs they may incur as a result of compact activity. Three percent of the pooled proceeds are set aside to fulfill these obligations.

Compact legislation also contains a clause that holds the Commission responsible for any purchases of milk or milk products by the Commodity Credit Corporation, CCC, that result from the operation of the Compact. The Secretary of Agriculture has the authority to determine those costs and ensure that the Commission honors its obligations.

After money is withheld for the WIC and School Lunch programs, as well the CCC, the Compact Commission makes disbursements to farmer cooperatives and milk handlers. These entities then make payments to individual farmers based on their level of production. These payments are only made when the Federal market order price falls below the price set by the Compact Commission, effectively creating a floor for milk prices. This, in turn, decreases price volatility in the region.

The stability created by the Compact pricing mechanism is important for several reasons. It guarantees farmers a fair price for their product and allows them to plan for the future. Farmers, knowing that they can count on a fair price, can allocate money to purchase and repair machinery, improve farming practices, and above all, stay in business.

Throughout our great Nation, the family farm continues to be a vital part of our rural community and agricultural infrastructure. In New England, and across our country, farms continue to support our rural economies. Farms create economic stability by supporting local businesses such as feed stores, farm equipment suppliers and local banks. The continuing disappearance of small farms is making life very difficult for agri-businesses and disrupting the overall rural economic infrastructure.

The importance of the family farm extends well beyond the rural economy, however. Preservation of the family farm has important environmental consequences as well. Numerous environmental organizations have expressed their support for dairy compacts. They recognize the ability of compacts to protect our farms and preserve our dairy industry. These organizations include the Sierra Club, the Conservation Law Foundation and the National Trust for Historic Preservation. These groups, as well as numerous other environmentally conscious organizations, recognize farmers as good stewards of the land, and value the ability of farms to sustain productive use of the land, while preserving open space.

Even though compacts enjoy widespread support across much of our country, opponents have worked tirelessly to discredit the merits of dairy compacts. These critics, however, must contend with the strong record of success that the Northeast Dairy Compact has put forth.

During its first four years, the Northeast Compact has stood up to numerous legal challenges. Courts have ruled in favor of the Compact on every level, including the U.S. Supreme Court. The courts have recognized the Compact as a proper and constitutional grant of congressional authority, permitted under the Commerce and Compact clauses of the U.S. Constitution. These decisions have upheld the Commission's authority to regulate milk within the region, as well as milk produced outside of the region.

Concerns have also been raised about the Compact's effect on interstate trade. Opponents of the Northeast Compact argue that compacts restrict the movement of milk between States that are in the Compact, and States that lie outside the Compact. Compacts, however, do not restrict the movement of milk into the region. For example, producers in eastern New York State benefit from the Northeast Compact. By shipping their milk in the region, farmers are eligible to receive the Compact price for their products.

Another common misconception is that the Compact leads to overproduction. The Northeast Dairy Compact, however, has not led to overproduction during its first four years. In fact, during 2000, the Northeast Dairy Compact states produced 4.7 billion pounds of milk, a 0.6 percent reduction from 1999. Since the Northeast Dairy Compact has been in effect, milk production in the region has risen by just 2.2 percent. Nationally, milk production rose 7.4 percent from 1997 to 2000. Over this same period, California, the largest milk producing Sate in the country, increased its milk production by 16.9 percent.

To protect against overproduction, the Compact Commission has developed a supply management program that rewards farmers who do not increase production. Under the program, 7.5 cents per hundred-weight is withheld by the Commission. This money is refunded to producers that have not increased their production by more than 1 percent during the given year. While this program has only been in place since 2000, we believe that it will be a useful tool in preventing overproduction.

Finally, opponents argue that compacts are harmful to consumers, especially low-income consumers. The facts show that this not the case. On May 2, 2001, an independent study out of the University of Connecticut's Food Marketing Policy Center offers new evidence regarding the impact of the Northeast Dairy Compact on consumer prices. The Food Marketing Policy Center performed a four-year analysis of retail milk prices using supermarket scanner data from 18 months prior to Compact implementation, up through July of 2000. This period of time captured the volatile prices preceding Compact implementation, as well as the pricing behavior that followed. The study found that the Northeast Dairy Compact was responsible for only 4.5 cents of the 29-cent increase in retail prices following Compact implementation. The study concludes that wider profit margins by processors and retailers account for 11 cents of the 29-cent increase. Since the Compact went into effect, these wider profit margins have drawn nearly $50 million out of the pockets of New England consumers.

The study suggests that retail stores and processors have used price gouging and "tacitly collusive price conduct" to lock in wider profit margins. The study states: "Leading firms in the supermarket-marketing channel have used their dominant market positions to elevate retail prices in the Northeast Compact Region." In conclusion, the study contends: "The major policy now facing New England consumers of fluid milk is not the Northeast Dairy Compact. It is the exercise of market power by the region's leading retailers and milk processor." While this study raises some serious concerns regarding the New England dairy industry, it illustrates that the effects of the Compact on consumers have been benign.

A May 11, 2001 article in Cheese Market News written by Jim Tillison, Chairman of the Alliance of Western Producers, further addresses the consumer issue. Mr. Tillison writes:

> "Now, unless I am wrong, in every dairy state there are many times more consumers than dairy farmers. It would seem that it would be very difficult to get compact legislation passed if consumers were strongly opposed to it. That must not have been the case if some 25 state legislatures have passed compact legislation. What's more, 25 governors who have had the power to veto state compact legislation haven't. (Cheese Market News, May 11, 2001)

Tillison continues by examining the reasons why consumers support the Compact. These include decreases in retail price volatility and the need for a fresh supply of milk. Tillison states, "Consumers like the idea of milk for their kids being produced locally. Even though the milkman delivering "fresh" milk to the consumer's doorstep is a thing of the past, that doesn't mean that consumers don't want fresh milk." At this time, I would ask unanimous consent that Jim Tillison's article, "Let's Talk About Compacts" be submitted for the RECORD.

Under our legal system, individual states have the authority to establish their own dairy pricing mechanism. Because of the nature and size of the dairy industries in the Northeast and South, states in these regions are better served by coming together to form a unified pricing mechanism. By supporting the rights of states to form dairy compacts, we maintain the safety and continuity of our milk supply, protect consumers from volatile milk prices, and conserve open land.

Originally created as a three-year pilot program, the Northeast Dairy Compact has been extremely successful in demonstrating the merits of compacts. We no longer need to speculate about the potential effects of compacts. We now have the hard evidence, they are good for farmers, good for consumers, and good for the environment. I ask that the Senate recognize this by extending and expanding the Northeast Dairy Compact, and ratifying a Southern Compact.

In closing, I urge the Senate to support this important legislation. Our States have come to us, and asked us to grant them the right to regulate the minimum farm price of milk, the right to save their family farms. We must grant them that right.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Cheese Market News, May 11, 2001]

LET'S TALK ABOUT COMPACTS

(By Jim Tillison)

Here we go again. The issue of dairy compacts is "heating up" once again. Studies have been done and to now one's surprise they are biased depending on which aide you are on. Let's try to look past all the rhetoric to what is causing all the stir and discuss the stir that is being caused.

First, let us review the process involved in putting a dairy compact in place.

Essentially, the compact process result in negating interstate commerce laws. In other words, it allows the dairy producers in a number of states to regulate the price of milk paid by fluid processors in those states. Any milk brought into the state for fluid purposes is subject to the compact.

The process starts with the state legislatures in each state in which interested producers reside passing legislation supporting putting a compact in place. Now, unless I am wrong, in every dairy state there are many times more consumers than dairy farmers. It would seem that it would be very difficult to get compact legislation passed if consumers were strongly opposed to it. That must not be the case if some 25 state legislatures have passed compact legislation. What's more, 25 governors who have had the power to veto state compact legislation haven't.

Arguably, this is proof that consumers are not opposed to dairy compacts even though it can result in higher milk prices. One reason could be that the extra revenue the compact price generates over and above the federal order price (when, and only when, it is higher than the set compact price) goes directly to the dairy farmers.

Another reason could be that a compact minimum Class I price removes much of the volatility from consumer prices. Just as there was a lot less volatility in milk prices when the support price was $13.10, there is a lot less volatility when Class I has a minimum price, too.

Still another reason could be that consumers like the idea of milk for their kids being produced "locally." Milk isn't orange juice. It has a different mystique. Even though the milkman delivering "fresh" milk to the consumer's doorstep is a thing of the past, that doesn't mean that consumers don't want fresh milk. The lack of success that UHT milk and powdered milks have had here as compared to Europe, one could argue, is because of consumers' desire for (and the availability of) fresh milk.

One can sort of understand fluid processors opposing dairy compacts. It certainly can result in higher average milk costs for processors. Fortunately for the processor, the consumer is apparently willing to accept the slight increase. And, if one study reported on is correct, processors and retailers are taking advantage of the consumer's willingness as well.

What is difficult to understand is the opposition to compacts by some producers. This opposition seems to be based on the fear that it will negatively affect them. This fear appears to have been generated more by economic theory than fact.

The theory was based on a single premise—money makes milk, more money makes more milk. A dairy compact will give producers in compact states more money. This will result in them producing more milk. This additional milk will go into manufactured products which will hurt producers in states where the majority of milk goes into cheese. At least that's the theory.

The fact is that more money hasn't brought on more milk in the one compact area currently in existence. Only one of the Northeast compact states, Vermont, is in the top 20 milk-producing states. And, the total area has not seen milk production rise faster there than the national average.

Has the Northeast Compact hurt producers in other areas of the country? The answer is no. Will a Southeast Compact bring on a surge of milk production? Again, the answer is no. Just take a look at what happened after Class I differentials were raised $1.00 per hundred weight in the Southeast in 1986. Did milk production boom? Did it outstrip demand? Did cheese plants spring up from Arkansas to Florida? No, no, no.

Finally, the argument that really makes me knuckle is that the Northeast Compact passage and implementation was political. It wasn't mandated by Congress. It didn't stand on its own two feet. Congress never got to vote on the compact on its own. It was only supposed to be a transition program while federal order reform was taking place. Secretary of Agriculture Dan Glickman didn't have to implement it.

Don't ask me to respond to those kind of comments. What hearing was ever held or separate vote taken on forward contracting? I don't recall any serious discussion of the portion of a recent budget bill that exempted one county in Nevada from federal order Class I differentials. Of course Glickman had to implement it . . . the pet project of a Vermont Democratic senior senator in an election year. Think about it.

The dairy industry has many more important issues to spend political capital on. Issues that really are having, or will have, an impact on it. Instead of fighting over compacts, it should be working together to improve our potential for growth in world markets by really pushing for fair trade, dealing with environmental and food safety issues and developing programs that will allow all segments of the industry to continue to flourish in the 21st century.

The views expressed by CMN's guest columnists are their own opinions and do not necessarily reflect those of Cheese Market News.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 118—TO DESIGNATE THE MONTH OF NOVEMBER 2001 AS "NATIONAL AMERICAN INDIAN HERITAGE MONTH"

Mr. CAMPBELL (for himself, Mr. Inouye, Mr. Akaka, Mr. Stevens, Mr. Corzine, Mr. Brownback, Mr. McCain, Mr. Daschle, Mr. Johnson, Mr. Cochran, Mr. Baucus, Mr. Conrad, Mr. Domenici, Ms. Stabenow, Mr. Bingaman, Mr. Crapo, Mrs. Murray, Ms. Cantwell, Mr. Wellstone, Mr. Thomas, Mrs. Boxer, Mr. Kennedy, Mr. Dayton, Mr. Craig, Mr. Reid, Mr. Smith of Oregon, Mr. Kerry, Mr. Allard, Mr. Dorgan, Mr. Schumer, and Mr. Breaux) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 118

Whereas American Indians, Alaska Natives, and Native Hawaiians were the original inhabitants of the land that now constitutes the United States;

Whereas American Indian tribal governments developed the fundamental principles of freedom of speech and separation of powers that form the foundation of the United States Government;

Whereas American Indians, Alaska Natives, and Native Hawaiians have traditionally exhibited a respect for the finiteness of natural resources through a reverence for the earth;

Whereas American Indians, Alaska Natives, and Native Hawaiians have served with valor in all of America's wars beginning with the Revolutionary War through the conflict in the Persian Gulf, and often the percentage of American Indians who served exceeded significantly the percentage of American Indians in the population of the United States as a whole;

Whereas American Indians, Alaska Natives, and Native Hawaiians have made distinct and important contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas American Indians, Alaska Natives, and Native Hawaiians deserve to be recognized for their individual contributions to the United States as local and national leaders, artists, athletes, and scholars;

Whereas this recognition will encourage self-esteem, pride, and self-awareness in American Indians, Alaska Natives, and Native Hawaiians of all ages; and

Whereas November is a time when many Americans commemorate a special time in the history of the United States when American Indians and English settlers celebrated the bounty of their harvest and the promise of new kinships: Now, therefore, be it

Resolved, That the Senate designates November 2001 as "National American Indian Heritage Month" and requests that the President issue a proclamation calling on the Federal Government and State and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Mr. CAMPBELL. Mr. President, along with thirty of my colleagues today I am pleased to introduce a resolution to recount the many contributions American Indians and Alaska Natives have made to this great Nation and to designate November, 2001, as "National American Indian Heritage Month" as Congress has done for nearly a decade.

American Indians and Alaska Natives have left an indelible imprint on many aspects of our everyday life that most Americans often take for granted. The arts, education, science, the armed forces, medicine, industry, and government are a few of the areas that have been influenced by American Indian and Alaska Native people over the last 500 years. In the medical field, many of the healing remedies that we use today were obtained from practices already in use by Indian people and are still utilized today in conjunction with western medicine.

Many of the basic principles of democracy in our Constitution can be traced to practices and customs already in use by American Indian tribal governments including the doctrines of freedom of speech and separation of powers.

The respect of Native people for the preservation of natural resources, reverence for elders, and adherence to tradition, mirrors our own values which we developed in part, through the contact with American Indians and Alaska Natives. These values and customs are deeply rooted, strongly embraced and thrive with generation after generation of Native people.

From the difficult days of Valley Forge through our peace keeping efforts around the world today, American Indian and Alaska Native people have proudly served and dedicated their lives in the military readiness and defense of our country in wartime and in peace.

It is a fact that on a per capita basis, Native participation rate in the Armed Forces outstrips the rates of all other groups in this Nation. Many American Indian men made the ultimate sacrifice in the defense of this Nation, some even before they were granted citizenship in 1924.

Many of the words in our language have been borrowed from Native languages, including many of the names of the rivers, cities, and States across our Nation. Indian arts and crafts have also made a distinct impression on our heritage.

It is my hope that by designating the month of November 2001, as "National American Indian Heritage Month," we will continue to encourage self-esteem, pride, and self-awareness amongst American Indians and Alaska Natives of all ages.

November is a special time in the history of the United States: we celebrate the Thanksgiving holiday by remembering the Indians of the Northeast and English settlers as they enjoyed the bounty of their harvest and the promise of new kinships.

By recognizing the many Native contributions to the arts, governance, and culture of our Nation, we will honor their past and ensure a place in America for Native people for generations to come. I ask for the support of my colleagues on both sides of the aisle for this resolution, and urge the Senate to pass this important matter.

SENATE RESOLUTION 119—COMBATING THE GLOBAL AIDS PANDEMIC

Mr. BAYH (for himself, Mr. Smith of Oregon, Mr. Daschle, Mr. Leahy, Mr. Bingaman, Mr. Lugar, Mrs. Feinstein, Mr. Dorgan, Mr. Kerry, Mr. Kennedy, Mr. Lieberman, Mrs. Clinton, Mr. Wellstone, Mr. DeWine, Mr. Biden, Mr. Rockefeller, Mr. Levin, Mr. Corzine, Mr. Specter, Mr. Torricelli, Mr. Graham, and Ms. Snowe) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 119

Whereas the international AIDS pandemic is of grave proportions and is growing;

Whereas the epicenter of the AIDS pandemic is sub-Saharan Africa, and incidences of contraction of HIV, AIDS, and related diseases are growing in the Caribbean basin, Russia, China, Southeast Asia, and India at alarming rates;

Whereas AIDS pandemic-related statistics are especially staggering in sub-Saharan Africa—

(1) the infection rate is 8 times higher than the rest of the world;

(2) in the region, over 17,000,000 people have already lost their lives to AIDS or AIDS-related illnesses, with another 24,000,000 living with AIDS, according to the World Health Organization and Joint United Nations Program on HIV/AIDS;

(3) in many countries in the region, life expectancy will drop by 50 percent over the next decade;

(4) more than 12,000,000 African children have lost 1 or both parents to AIDS or AIDS-related illnesses, and that number will grow to more than 35,000,000 by 2010;

(5) if current trends continue, 50 percent or more of all 15-year olds in the worst affected countries, such as Zambia, South Africa, and Botswana, will die of AIDS or AIDS-related illnesses; and

(6) one-quarter of the sub-Saharan African population could die of AIDS or AIDS-related illnesses by 2020, according to the Central Intelligence Agency;

Whereas confronting the AIDS pandemic is a moral imperative of the United States and other leading nations of the world;

Whereas confronting the AIDS pandemic is in the national interest of the United States, given that 42 percent of United States exports go to the developing world, where the incidence of AIDS is growing most rapidly;

Whereas in today's globalized environment, goods, services, people—and disease—are moving at the fastest pace in world history;

Whereas we cannot insulate our citizenry from the global AIDS pandemic and related opportunistic disease, and we must provide leadership if we are to reverse global infection rates;

Whereas the AIDS pandemic is perhaps the most serious and challenging transnational issue facing the world in the post-Cold War era;

Whereas the AIDS pandemic is decimating local skilled workforces, straining fragile governments, diverting national resources, and undermining states' ability to provide for their national defense or international peacekeeping forces;

Whereas United Nations Secretary General, Kofi Annan, asserts that between $7,000,006,000 and $10,000,000,000 is needed annually to address the AIDS pandemic, yet current international assistance efforts total roughly a little more than $1,000,000,000 per annum;

Whereas the United States has joined the call from the United Nations Secretary General, Kofi Annan, and others in support of a global fund to assist national governments, international organizations, and nongovernmental organizations in the prevention, care, and treatment of AIDS and AIDS-related illnesses; and

Whereas the United Nations Special Session on AIDS, taking place in June 2001, and the Group of Eight Industrialized Nations meeting in July 2001, are key opportunities for more states, governments, international organizations, the private sector, and civil society to donate assistance to the global fund: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the tragedy of the AIDS pandemic in human terms, as well as its devastating impact on national economies, infrastructures, political systems, and all sectors of society;

(2) strongly supports the formation of a Global AIDS and Health Fund;

(3) calls for the United States to remain open to providing greater sums of money to the global fund as other donors join in supporting this endeavor;

(4) calls on other nations, international organizations, foundations, the private sector, and civil society to join in providing assistance to the global fund;

(5) urges all national leaders in every part of the world to speak candidly to their people about how to avoid contracting or transmitting the HIV virus;

(6) calls for the United States to continue to invest heavily in AIDS treatment, prevention, and research;

(7) urges international assistance programs to continue to emphasize science-based best practices and prevention in the context of a comprehensive program of care and treatment;

(8) encourages international health care infrastructures to better prepare themselves for the successful provision of AIDS care and treatment, including the administration of AIDS drugs;

(9) urges the Administration of President George W. Bush to encourage participants at the United Nations General Assembly Special Session on AIDS in June, and the Group of Eight Industrialized Nations meeting in July, to contribute to the global fund; and

(10) calls for United States representatives at the United Nations General Assembly Special Session on AIDS and Group of Eight Industrialized Nations meeting to emphasize the need to maintain focus on science-based best practices and prevention in the context of a comprehensive program of care and treatment, combating mother-to-child transmission of the HIV virus, defeating opportunistic infections, and improving infrastructure and basic care services where treatment medicines are available, and seek additional resources to support the millions of AIDS orphans worldwide.

SENATE RESOLUTION 120—ORGANIZATION OF THE SENATE

Mr. DASCHLE (for himself and Mr. Lott) submitted the following resolution; which was considered and agreed to:

S. Res. 120

Resolved, That the Majority Party of the Senate for the 107th Congress shall have a one seat majority on every committee of the Senate, except that the Select Committee on Ethics shall continue to be composed equally of members from both parties. No Senator shall lose his or her current committee assignments by virtue of this resolution.

Sec. 2 Notwithstanding the provisions of Rule XXV the Majority and Minority Leaders of the Senate are hereby authorized to appoint their members of the committees consistent with this resolution.

Sec. 3 Subject to the authority of the Standing Rules of the Senate, any agreements entered into regarding committee funding and space prior to June 5, 2001, between the Chairman and Ranking member of each committee shall remain in effect, unless modified by subsequent agreement between the Chairman and Ranking member.

Sec. 4 The provisions of this resolution shall cease to be effective, except for Sec. 3, if the ratio in the full Senate on the date of adoption of this resolution changes.

SENATE RESOLUTION 121—EXPRESSING THE SENSE OF THE SENATE REGARDING THE POLICY OF THE UNITED STATES AT THE 53RD ANNUAL MEETING OF THE INTERNATIONAL WHALING COMMISSION

Mr. KERRY (for himself, Ms. Snowe, Mr. Hollings, Mr. McCain, Mr. Biden, Mr. Sarbanes, Mrs. Boxer, Mr. Kennedy, and Mr. Feingold) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 121

Whereas whales have very low reproductive rates, making whale populations extremely vulnerable to pressure from commercial whaling;

Whereas whales migrate throughout the world's oceans and international cooperation is required to successfully conserve and protect whale stocks;

Whereas in 1946 the nations of the world adopted the International Convention for the Regulation of Whaling, which established the International Whaling Commission to provide for the proper conservation of the whale stocks;

Whereas the Commission adopted a moratorium on commercial whaling in 1982 in order to conserve and promote the recovery of the whale stocks;

Whereas the Commission has designated the Indian Ocean and the ocean waters around Antarctica as whale sanctuaries to further enhance the recovery of whale stocks;

Whereas many nations of the world have designated waters under their jurisdiction as whale sanctuaries where commercial whaling is prohibited, and additional regional whale sanctuaries have been proposed by nations that are members of the Commission;

Whereas several member nations of the Commission have taken reservations to the Commission's moratorium on commercial whaling and 1 member nation is currently conducting commercial whaling operations in spite of the moratorium and the protests of other nations;

Whereas the Commission has adopted several resolutions at recent meetings asking member nations to abandon plans to initiate or continue commercial whaling activities conducted under reservation to the moratorium;

Whereas another member nation of the Commission has taken a reservation to the Commission's Southern Ocean Sanctuary and continues to conduct unnecessary lethal scientific whaling in the waters of that sanctuary;

Whereas the Commission's Scientific Committee has repeatedly expressed serious concerns about the scientific need for such lethal whaling;

Whereas scientific information on whales can readily be obtained through non-lethal means;

Whereas the lethal take of whales under reservations to the Commission's policies have been increasing annually;

Whereas there continue to be indications that whale meat is being traded on the international market despite a ban on such trade under the Convention on International Trade in Endangered Species (CITES), and that meat may be originating in one of the member nations of the Commission;

Whereas engaging in unauthorized commercial whaling and lethal scientific whaling undermines the conservation program of the Commission: Now, therefore, be it,

Resolved, That it is the sense of the Senate that—

(1) at the 53rd Annual Meeting the International Whaling Commission the United States should—

(A) remain firmly opposed to commercial whaling;

(B) initiate and support efforts to ensure that all activities conducted under reservations to the Commission's moratorium or sanctuaries are ceased;

(C) oppose the lethal taking of whales for scientific purposes unless such lethal taking is specifically authorized by the Scientific Committee of the Commission;

(D) seek the Commission's support for specific efforts by member nations to end illegal trade in whale meat; and

(E) support the permanent protection of whale populations through the establishment of whale sanctuaries in which commercial whaling is prohibited;

(2) at the 12th Conference of the Parties to the Convention on International Trade in Endangered Species, the Uunited States should oppose all efforts to reopen international trade in whale meat or downlist any whale population; and

(3) the United States should make full use of all appropriate diplomatic mechanisms, relevant international laws and agreements, and other appropriate mechanisms to implement the goals set forth in paragraphs (1) and (2).

Mr. KERRY. Mr. President, As Chairman of the Oceans and Fisheries Subcommittee, I rise today to submit a resolution regarding the policy of the United States at the upcoming 53rd Annual Meeting of the International Whaling Commission, IWC. I wish to thank the Ranking Member of the Subcommittee, Ms. Snowe, for co-sponsoring this resolution. I wish to also thank my colleagues Mr. Hollings, Mr. McCain, Mr. Biden, Mrs. Boxer, Mr. Sarbanes, Mr. Kennedy and Mr. Feingold for co-sponsoring as well.

The IWC will meet in London from July 23–27th. Despite an IWC moratorium on commercial whaling since 1985, Japan and Norway have harvested over 1000 minke whales since the moratorium was put in place. Whales are already under enormous pressure world wide from collisions with ships, entanglement in fishing gear, coastal pollution, noise emanating from surface vessels and other sources. The need to conserve and protect these magnificent mammals is clear.

The IWC was formed in 1946 in recognition of the fact that whales are highly migratory and that they do not belong to any one Nation. In 1982, the IWC agreed on an indefinite moratorium on all commercial whaling beginning in 1985. Unfortunately, Japan has been using a loophole that allows countries to issue themselves special permits for whaling under scientific purposes. The IWC Scientific Committee has not requested any of the information obtained by killing these whales and has stated that Japan's scientific whaling data is not required for management. Norway, on the other hand, objects to the moratorium on whaling and openly pursues a commercial fishery for whales.

This resolution calls for the U.S. delegation to the IWC to remain firmly opposed to commercial whaling. In addition, this resolution calls for the U.S. to oppose the lethal taking of whales for scientific purposes unless such lethal taking is specifically authorized by the Scientific Committee of the Commission. The resolution calls for the U.S. delegation to support an end to the illegal trade of whale meat and to support the permanent protection of whale populations through the establishment of whale sanctuaries in which commercial whaling is prohibited.

I ask unanimous consent to insert into the Record a statement from the World Wildlife Fund, WWF, concerning the upcoming meeting of the IWC and the protection of whales.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of World Wildlife Fund

Today, populations of nearly all the great whales are at depressed levels, a legacy of unsustainable whaling during the last two centuries. Some, such as the North Atlantic right and Antarctic blue whales, survive as a few hundred individuals at the brink of extinction, having failed to rebound from past exploitation. Others are believed to be returning to healthy levels. While direct human impacts on whales remain a concern, other more diffuse threats may ultimately exact a greater toll. Rapid climate warming in the next few decades is expected to disrupt whale migration, breeding, and food support. And accumulation of DDT, PCBs, and other toxic contaminants in the marine food chain is already affecting some whales and may endanger their immune systems and ability to reproduce. Such broad-based threats to the marine environment are difficult to address in ways that will alleviate harm to whales specifically, and make it all the more important that whales are not also threatened by uncontrolled commercial whaling.

The International Whaling Commission, IWC, was established under the 1946 International Convention for the Regulation of Whaling, and is the sole international regulatory body charged with the management of cetaceans. International regulation of whaling was recognized by the UN Convention on the Law of the Sea, and reaffirmed by Agenda 21 as essential for these highly migratory species.

Despite the global moratorium on commercial whaling put in place by the IWC in 1986, over 1000 Northern and Southern minke whales are still being caught each year. Within the IWC, Japan continues to catch hundreds of whales (many in the Southern Ocean which is designated as an IWC whale sanctuary) using a loophole for scientific research, while Norway pursues an openly commercial hunt under a legal "objection" to the moratorium. For over a decade, both countries have proceeded without IWC approval and indeed in the face of repeated censure by the Commission. Norway is currently moving to re-open international trade in whale products despite a ban under CITES, and Japan has just extended its scientific whaling to include sperm and Bryde's whales as well as the two species of minkes.

Japan and Norway's insistence on hunting whales despite the moratorium has brought IWC to a dangerous impasse. No sound management scheme currently exists to ensure the sustainability of whaling, although a Revised Management Scheme, RMS, that could help to do so has been under discussion in the IWC for several years.

Japan and Norway have long said they viewed completion of the RMS as a turning point in their efforts to lift the whaling moratorium, and both countries have harshly criticized IWC for failing to reach agreement on the RMS. In recent IWC talks, however, the great majority of countries present sought to include crucial safeguards on the supervision and control of whaling in the RMS. They did so over the strenuous and repeated objections of Japan and Norway, who seemed unwilling to agree to safeguards that would ensure that commercial whaling does not threaten whale populations.

In addition, Japan and Norway are supported in the IWC by the votes of a loyal group of countries, many of them small island states that receive significant assistance from Japan. This gives the whalers a blocking minority of votes and has exacerbated the IWC's deadlock.

Because a tiny minority of countries in the IWC refuses to cease commercial whaling, it is imperative that new safeguards (including highly precautionary catch limits and provisions on monitoring, surveillance, and control such as DNA sampling of all whales caught, a diagnostic DNA register, and sanctions for non-compliance) be agreed that will contain their activities and bring them back under full IWC control at the earliest possible date. An RMS could advance this goal provided it contains sufficient safeguards, including a Revised Management Procedure that sets all catch limits at zero unless otherwise calculated and approved. Such an RMS should replace the now obsolete 1974 management scheme.

The IWC 53rd Conference of Parties meets at Hammersmith, London, in late July of this year. The Hammersmith meeting must make progress in resolving the impasse within IWC, bringing whaling by Norway and Japan under international control as a matter of urgency, and ensuring that any discussion on the RMS incorporate rigorous safeguards to rein in current and potential whaling abuses.

The IWC's mandate requires first and foremost that it prevent the return of uncontrolled large-scale commercial whaling. This is the near-term agenda by which it will be judged and is currently the main contribution it has to offer conservation of cetaceans more broadly. For the IWC to remain relevant over the long term, however, it must expand its scope of engagement to address the other human activities which threaten whales and focus action on ensuring the survival of the most endangered species.

Ms. SNOWE. Mr. President, the resolution that Senator Kerry and I are submitting is very timely and important. As we work here in the Senate today, representatives of nations from around the globe are preparing for the 53rd Annual Meeting of the International Whaling Commission to be held in London July 23–27, 2001. At this meeting, the IWC will determine the fate of the world's whales through consideration of proposals to end the current global moratorium on commercial whaling. The adoption of any such proposals by the IWC would mark a major setback in whale conservation. It is imperative that the United States remain firm in its opposition to any proposals to resume commercial whaling and that we, as a nation, continue to speak out passionately against this practice.

It is also time to close one of the loopholes used by nations to continue to whale without regard to the moratorium or established whale sanctuaries. The practice of unnecessary lethal scientific whaling is outdated and the value of the data of such research has been called into question by an international array of scientists who study the same population dynamics questions as those who harvest whales in the name of science. This same whale meat is then processed and sold in the marketplace. These sentiments have been echoed by the Scientific Committee of the IWC which has repeatedly passed resolutions calling for the cessation of lethal scientific whaling, particularly that occurring in designated whale sanctuaries. They have offered to work with all interested parties to design research protocols that will not require scientists to harm or kill whales.

Last year, Japan expanded their scientific whaling program over the IWC's objections. The resolution that we are offering expresses the Sense of the Senate that the United States should continue to remain firmly opposed to any resumption of commercial whaling and oppose, at the upcoming IWC meeting, the non-necessary lethal taking of whales for scientific purposes.

Commercial whaling has been prohibited for many species for more than sixty years. In 1982, the continued decline of commercially targeted stocks led the IWC to declare a global moratorium on all commercial whaling which went into effect in 1986. The United States was a leader in the effort to establish the moratorium, and since then we have consistently provided a strong voice against commercial whaling and have worked to uphold the moratorium. This resolution reaffirms the United States' strong support for a ban on commercial whaling at a time when our negotiations at the IWC most need that support. Norway, Japan, and other countries have made it clear that they intend to push for the elimination of the moratorium, and for a return to the days when whales were treated as commodities.

The resolution would reiterate the U.S. objection to activities being conducted under reservations to the IWC's moratorium. The resolution would also oppose all efforts made at the Convention on International Trade in Endangered Species, CITES, to reopen international trade in whale meat or to downlist any whale population. In addition, the IWC, as well as individual nations including the United States, has established whale sanctuaries that would prevent whaling in specified areas even if the moratorium were to be lifted. Despite these efforts to give whale stocks a chance to rebuild, the number of whales harvested has increased in recent years, tripling since the implementation of the global moratorium in 1986. This is a dangerous trend that does not show signs of stopping.

Domestically, we work very hard to protect whales in U.S. waters, particularly those considered threatened or endangered. Our own laws and regulations are designed to give whales one of the highest standards of protection in the world, and as a result, our own citizens are subject to rules designed to protect against even the accidental taking of whales. Commercial whaling is, of course, strictly prohibited. Given what is asked of our citizens to protect against even accidental injury to whales here in the United States, it would be grossly unfair if we retreated in any way from our position opposing commercial, intentional whaling by other countries. Whales migrate throughout the world's oceans, and as we protect whales in our own waters, so should we act to protect them internationally.

Whales are among the most intelligent animals on Earth, and they play an important role in the marine ecosystem. Yet, there is still much about them that we do not know. Resuming the intentional harvest of whales is irresponsible, and it could have ecological consequences that we cannot predict. Therefore, it is premature to even consider easing conservation measures.

The right policy is to protect whales across the globe, and to oppose the resumption of commercial whaling. I urge my colleagues to support swift passage of this resolution.

SENATE RESOLUTION 122—RELATING TO THE TRANSFER OF SLOBODAN MILOSEVIC TO THE INTERNATIONAL CRIMINAL TRIBUNAL FOR YUGOSLAVIA, AND FOR OTHER PURPOSES

Mr. MCCONNELL (for himself and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 122

Whereas Slobodan Milosevic has been transferred to the International Criminal Tribunal for Yugoslavia to face charges of crimes against humanity;

Whereas the transfer of Slobodan Milosevic and other indicted war criminals is a triumph of international justice and the rule of law in Serbia;

Whereas corruption and warfare under the Milosevic regime caused Yugoslavia extensive economic damage, including an estimated $29,400,000,000 in lost output and a foreign debt that exceeds $12,200,000,000; and

Whereas democrats and reformers in the Federal Republic of Yugoslavia deserve the support and encouragement of the United States: Now, therefore, be it

Resolved, That (a) the Senate hereby—

(1) recognizes the courage of Serbian democrats, in particular, Serbian Prime Minister Zoran Djindjic, in facilitating the transfer of Slobodan Milosevic to the International Criminal Tribunal for Yugoslavia; and

(2) calls for the continued transfer of indicted war criminals to the International Criminal Tribunal for Yugoslavia and the release of all political prisoners held in Serbian prisons.

(b) It is the sense of the Senate that the United States should remain committed to providing foreign assistance to support the success of economic, political, and legal reforms in the Federal Republic of Yugoslavia.

Mr. MCCONNELL. Mr. President, Senator LEAHY and I welcome the news of the transfer yesterday of Slobodan Milosevic to the International Criminal Tribunal for Yugoslavia, ICTY. Last year, we worked to include language in the fiscal year 2001 Foreign Operations Appropriations bill to condition assistance to Serbia on, among other issues, certification by the President that the government is cooperating with the ICTY on the "surrender and transfer" of war criminals to The Hague.

While our efforts to secure justice for the victims of Milosevic's atrocities through Section 594 of P.L. 106-429 contributed to dramatic events in early April, when Milosevic was first arrested, and again yesterday, the real credit for facilitating the transfer belongs to Serbian democrats and reformers, in particular Prime Minister Zoran Djindjic. I am pleased that they recognize the importance of forward progress on the issue of war crimes, and I think it bodes well for the country's overall prospects for successful economic, political, and legal reforms.

The resolution we submit today recognizes the courage of Serbian democrats and reaffirms our commitment to providing U.S. foreign assistance to support much needed reforms in the Federal Republic of Yugoslavia (FRY). We hope that Prime Minister Djindjic, and other reformers, continue to demonstrate courageous leadership, such as they did yesterday. Other indicated war criminals should be transferred to The Hague and all political prisoners in Serbian jails should be immediately released.

There is no victory sweeter than justice. It is now up to the ICTY to deliver justice to the victims and the survivors of atrocities committed in Kosovo, Bosnia, and Croatia.

Mr. LEAHY. Mr. President, last year, when Senator MCCONNELL and I included language in the fiscal year 2001 Foreign Operations bill to condition United States assistance in Serbia on the Federal Republic of Yugoslavia's cooperation with the War Crimes Tribunal, we could not predict what the effect of our provision would be. While we both wanted to support democracy and economic reconstruction in Serbia, we also felt strongly that if Serbia's leaders wanted our assistance they should fulfill their international responsibility to apprehend and surrender indicted war criminals to The Hague.

I am very grateful for the way Senator MCCONNELL and his staff have worked closely with me and my staff on this. It has been a classic case of how conditioning our assistance and working together, with the Administration, can achieve a result that significantly advances the cause of international justice. Milosevic's transfer to the War Crimes Tribunal should bring hope to millions of people throughout the former Yugoslavia.

Above all, as Senator McCONNELL has already noted, we should congratulate Prime Minister Djindjic and other Serb leaders who have risked their lives and their careers for their country's future. It is a legacy that few people in history can claim. Those who have criticized Prime Minister Djindjic for surrendering Milosevic should be aware that for the United States there is no alternative. We will not support a Serb Government that does not cooperate with the War Crimes Tribunal. We expect the apprehension and transfer to The Hague of the other publicly indicted war criminals who remain at large in Serb territory, and the release of the remaining political prisoners in Serbia's jails.

I also want to recognize the Serb people who suffered terribly under Milosevic's disastrous policies, and who increasingly saw that in order to rebuild their country and establish democracy and the rule of law on a solid footing, it was necessary to bring to justice the people who devastated the former Yugoslavia in their names. We submit this resolution on their behalf, and on behalf of Milosevic's other victims, dead and alive, in Kosovo, Bosnia, and Croatia.

SENATE RESOLUTION 123—AMENDING THE STANDING RULES OF THE SENATE TO CHANGE THE NAME OF THE COMMITTEE ON SMALL BUSINESS TO THE "COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP"

Mr. KERRY (for himself and Mr. BOND) submitted the following resolution; which was considered and agreed to:

S. RES. 123

Resolved, That the Standing Rules of the Senate are amended—

(1) in paragraph (1)(o) of rule XXV—

(A) by striking "**Business,** to" and inserting "**Business and Entrepreneurship,** to"; and

(B) by inserting "and Entrepreneurship" after "Committee on Small Business" each place that term appears;

(2) in paragraph 3(a) of rule XXV, by inserting "and Entrepreneurship" after "Small Business"; and

(3) by inserting "and Entrepreneurship" after "Committee on Small Business" each place that term appears.

SENATE CONCURRENT RESOLUTION 57—RECOGNIZING THE HEBREW IMMIGRANT AID SOCIETY

Mr. KENNEDY (for himself and Mr. BROWNBACK) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 57

Whereas the United States has always been a country of immigrants and was built on the hard work and dedication of generations of those immigrants who have gathered on our shores;

Whereas, over the past 120 years, the Hebrew Immigrant Aid Society (HIAS), the oldest international migration and refugee resettlement agency in the United States, has assisted more than 4,500,000 migrants of all faiths to immigrate to the United States, Israel, and other safe havens around the world;

Whereas, since the 1970s, HIAS has resettled more than 400,000 refugees from more than 50 countries in the United States and provided high quality resettlement services through a network of local Jewish community social service agencies;

Whereas HIAS has helped bring to the United States such outstanding individuals as former Secretary of State Henry Kissinger, artist Marc Chagall, Olympic gold-medalist Lenny Krayzelberg, poet and Nobel Laureate Joseph Brodesky, and author and restaurateur George Lang;

Whereas HIAS has assisted with United States refugee programs overseas, often as a joint voluntary agency, providing refugee processing, cultural orientation, and other services in Moscow, Vienna, Kiev, Tel Aviv, Rome, and Guam;

Whereas through publications, public meetings, and radio and television broadcasts, HIAS is a crucial provider of information, counseling, legal assistance, and other services, including outreach programs for the Russian-speaking immigrant community, to immigrants and asylum seekers in the United States;

Whereas HIAS plays a vital role in serving the needs of refugees, immigrants, and asylum seekers, and continues to work in areas of conflict and instability, seeking to rescue those who are fleeing from danger and persecution; and

Whereas on September 9, 2001, HIAS will celebrate the 120th anniversary of its founding: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) Congress—

(1) recognizes the Hebrew Immigrant Aid Society (HIAS), and the immigrants and refugees that HIAS has served, for the contributions they have made to the United States; and

(2) congratulates HIAS on the 120th anniversary of its founding.

(b) It is the sense of Congress that the President should issue a proclamation recognizing September 9, 2001, as the 120th anniversary of the founding of the Hebrew Immigrant Aid Society, and calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate appreciation for the contributions made by HIAS to the United States.

Mr. KENNEDY. Mr. President, I am proud to submit a resolution honoring the 120th anniversary of the founding of the Hebrew Immigrant Aid Society. During its distinguished history, the Society has helped more than 4.5 million immigrants of all faiths who have come to the United States, Israel, and other safe havens around the world. Since 1970, the Society has assisted more than 400,000 refugees from more than 50 countries in resettling in the United States, and these individuals have provided indispensable contributions to this country.

I also commend the Hebrew Immigrant Aid Society for its continuing efforts to remind this country of the importance of a wise policy on refugees. As crises occur throughout the world, the Society has helped ensure that the United States has an effective and humane response to each human tragedy. By maintaining a vigorous refugee resettlement program, we set an example for other nations to follows.

The Hebrew Immigrant Aid Society continues to have a vital role in serving the needs of refugees, immigrants, and asylum seekers. Our country owes it an enormous debt of gratitude, and I urge the Senate to agree to this well-deserved tribute.

SENATE CONCURRENT RESOLUTION 58—EXPRESSING SUPPORT FOR THE TENTH ANNUAL MEETING OF THE ASIA PACIFIC PARLIAMENTARY FORUM

Mr. AKAKA (for himself and Mr. INOUYE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 58

Whereas the Asia Pacific Parliamentary Forum was founded by former Japanese Prime Minister Yasuhiro Nakasone in 1993;

hereas the Tokyo Declaration, signed by 59 parliamentarians from 15 countries, entered into force as the founding charter of the forum on January 14 and 15, 1993, establishing the basic structure of the forum as an inter-parliamentary organization;

Whereas the original 15 members, one of which was the United States, have increased to 27 member countries;

Whereas the forum serves to promote regional identification and cooperation through discussion of matters of common concern to all member states and serves, to a great extent, as the legislative arm of the Asia-Pacific Economic Cooperation;

Whereas the focus of the forum lies in resolving political, economic, environmental security, law and order, human rights, education, and cultural issues;

Whereas the forum will hold its tenth annual meeting on January 6 through 9, 2002, which will be the first meeting of the forum hosted by the United States;

Whereas approximately 270 parliamentarians from 27 countries in the Asia Pacific region will attend this meeting;

Whereas the Secretariat of the meeting will be the Center for Cultural and Technical Exchange Between East and West in Honolulu, Hawaii;

Whereas the East-West Center is an internationally recognized education and research organization established by the United States Congress in 1960 largely through the efforts of the Eisenhower administration and the Congress;

Whereas it is the mission of the East-West Center to strengthen understanding and relations between the United States and the countries of the Asia Pacific region and to help promote the establishment of a stable, peaceful and prosperous Asia Pacific community in which the United States is a natural, valued and leading partner; and

Whereas it is the agenda of this meeting to advance democracy, peace, and prosperity in the Asia Pacific region:

Now, therefore, be it *Resolved by the Senate (the House of Representatives Concurring)*, That the Congress—

(1) expresses support for the tenth annual meeting of the Asia Pacific Parliamentary Forum and for the ideals and concerns of this body;

(2) commends the East-West Center for hosting the meeting of the Asia Pacific Parliamentary Forum and the representatives of the 27 member countries; and

(3) calls upon all parties to support the endeavors of the Asia Pacific Parliamentary Forum and to work toward achieving the goals of the meeting.

Mr. AKAKA. Mr. President, on behalf of Senator INOUYE and myself, I rise to submit a Senate Concurrent Resolution concerning the forthcoming tenth annual meeting of the Asia Pacific Parliamentary Forum, APPF, that will take place in Honolulu in January 2002.

The Asia Pacific Parliamentary Forum consists of 27 countries of which the United States is one of the original founders. Our former colleague, Senator Bill Roth, was one of the leaders of this organization which was created as a parliamentary counterpart to the heads of state meeting of the Asia Pacific Economic Cooperation, APEC, organization.

The first meeting was held in Singapore in 1991, and, earlier this year, Chile sponsored the ninth annual meeting. Next year, for the first time, the annual meeting will be hosted by the United States in Hawaii. The Center for Cultural and Technical Exchange Between East and West, better known as the East West Center, will provide the Secretariat for the meeting which is expected to attract approximately 270 parliamentarians from countries in the Asia-Pacific region.

Participating countries include Australia, Canada, Chile, China, Russia, Mexico, South Korea, Peru, Ecuador, Costa Rica, Mongolia, the Philippines, and New Zealand. Discussions and debates are frank and open. The meetings provide an opportunity for legislators in these countries to hear and exchange views on a diversity of topics including human rights, security, law, the economy, and the environment.

I invite my colleagues to attend next year's early January meeting in Hawaii. It is an occasion to meet with leaders on both sides of the Pacific for frank discussions and to experience as well the spirit of Aloha.

AMENDMENTS SUBMITTED AND PROPOSED

SA 850. Mr. NICKLES proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

SA 851. Mr. CRAIG proposed an amendment to the bill S. 1052, supra.

SA 852. Mr. REID proposed an amendment to the bill S. 1052, supra.

SA 853. Mr. THOMPSON proposed an amendment to the bill S. 1052, supra.

SA 854. Mr. KYL (for himself and Mr. NICKLES) proposed an amendment to the bill S. 1052, supra.

SA 855. Mr. CARPER proposed an amendment to the bill S. 1052, supra.

SA 856. Mr. FRIST (for himself and Mr. BREAUX) proposed an amendment to the bill S. 1052, supra.

SA 857. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 858. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 976, to provide authorization and funding for the enhancement of ecosystems, water supply, and water quality of the State of California; which was referred to the Committee on Energy and Natural Resources.

SA 859. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 976, supra; which was referred to the Committee on Energy and Natural Resources.

SA 860. Mr. REID (for Mr. KENNEDY (for himself and Mr. GREGG)) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

TEXT OF AMENDMENTS

SA 850. Mr. NICKLES proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 131, after line 20, insert the following:

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS.

(a) APPLICATION OF STANDARDS.—

(1) IN GENERAL.—Each Federal health care program shall comply with the patient protection requirements under title I, and such requirements shall be deemed to be incorporated into this section.

(2) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—Any individual who receives a health care item or service under a Federal health care program shall have a cause of action against the Federal Government under sections 502(n) and 514(d) of the Employee Retirement Income Security Act of 1974, and the provisions of such sections shall be deemed to be incorporated into this section.

(3) RULES OF CONSTRUCTION.—For purposes of this subsection—

(A) each Federal health care program shall be deemed to be a group health plan;

(B) the Federal Government shall be deemed to be the plan sponsor of each Federal health care program; and

(C) each individual eligible for benefits under a Federal health care program shall be deemed to be a participant, beneficiary, or enrollee under that program.

(b) FEDERAL HEALTH CARE PROGRAM DEFINED.—In this section, the term "Federal health care program" has the meaning given that term under section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b) except that, for purposes of this section, such term includes the Federal employees health benefits program established under chapter 89 of title 5, United States Code.

SA 851. Mr. CRAIG proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage, as follows:

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE REGARDING FULL AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) FINDINGS.—The Senate finds:

(1) Medical savings accounts eliminate bureaucracy and put patients in control of their health care decisions.

(2) Medical savings accounts extend coverage to the uninsured. According to the Treasury Department, one-third of MSA purchasers previously had no health care coverage.

(3) The medical savings account demonstration program has been hampered with restrictions that put medical savings accounts out of reach for millions of Americans.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that a patients' bill of rights should remove the restrictions on the private-sector medical savings account demonstration program to make medical savings accounts available to more Americans.

SA 852. Mr. REID proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 154, between lines 2 and 3, insert the following:

"(11) LIMITATION ON AWARD OF ATTORNEYS' FEES.—

"(A) IN GENERAL.—Subject to subparagraph (B), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys' contingency fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action) may not exceed an amount equal to 1/3 of the amount of the recovery.

"(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of an award of attorneys' fees required under subparagraph (A) as equity and the interests of justice may require.

On page 170, between lines 21 and 22, insert the following:

"(9) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' contingency fees, subject to subparagraph (B), a court shall limit the amount of attorneys' fees that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of attorneys' fees that may be awarded under section 502(n)(11).

"(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of attorneys' fees allowed under subparagraph (A) as equity and the interests of justice may require.

SA 853. Mr. THOMPSON proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 170, between lines 21 and 22, insert the following:

"(9) CHOICE OF LAW.—A cause of action brought under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

SA 854. Mr. KYL (for himself and Mr. NICKLES) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 156, between lines 15 and 16, insert the following:

"(17) DAMAGES OPTIONS.—

"(A) IN GENERAL.—In addition to plans or coverage that are subject to this Act, a plan or issuer may offer, and a participant or beneficiary may accept, a plan or coverage that provides for one or more of the following remedies, in which case the damages authorized by this section shall not apply:

"(i) Equitable relief as provided for in subsection (a)(1)(B).

"(ii) Unlimited economic damages, including reasonable attorneys fees.

"(B) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this paragraph shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (notwithstanding the definition contained in paragraph (2)) shall not be deemed to be the delivery of medical care under any State law for purposes of this section. Any such claim shall be maintained exclusively under this section.".

On page 170, between lines 21 and 22, insert the following:

"(9) DAMAGES OPTIONS.—

"(A) IN GENERAL.—In addition to plans or coverage that are subject to this Act, a plan or issuer may offer, and a participant or beneficiary may accept, a plan or coverage that provides for one or more of the following remedies, in which case the damages authorized by this section shall not apply:

"(i) Equitable relief as provided for in section 502(a)(1)(B).

"(ii) Unlimited economic damages, including reasonable attorneys fees.

"(B) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this paragraph shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (notwithstanding the definition contained in section 502(n)(2)) shall not be deemed to be the delivery of medical care under any State law for purposes of this section. Any such claim shall be maintained exclusively under section 502.

SA 855. Mr. CARPER proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 153, strike line 9 and all that follows through page 154, line 2, and insert the following:

"(10) STATUTORY DAMAGES.—The remedies set forth in this subsection shall be the exclusive remedies for any cause of action brought under this subsection. Such remedies shall include economic and noneconomic damages, but shall not include any punitive damages.

SA 856. Mr. FRIST (for himself and Mr. BREAUX) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Patients' Bill of Rights Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PATIENTS' BILL OF RIGHTS

Subtitle A—Right to Advice and Care

Sec. 101. Access to emergency medical care.
Sec. 102. Offering of choice of coverage options.
Sec. 103. Patient access to obstetric and gynecological care.
Sec. 104. Access to pediatric care.
Sec. 105. Timely access to specialists.
Sec. 106. Continuity of care.
Sec. 107. Protection of patient-provider communications.
Sec. 108. Patient's right to prescription drugs.
Sec. 109. Coverage for individuals participating in approved clinical trials.
Sec. 110. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.
Sec. 111. Prohibition of discrimination against providers based on licensure.
Sec. 112. Generally applicable provision.

Subtitle B—Right to Information About Plans and Providers

Sec. 121. Health plan information.
Sec. 122. Information about providers.
Sec. 123. Study on the effect of physician compensation methods.

Subtitle C—Right to Hold Health Plans Accountable

Sec. 131. Amendments to Employee Retirement Income Security Act of 1974.
Sec. 132. Enforcement.

Subtitle D—Remedies

Sec. 141. Availability of court remedies.

Subtitle E—State Flexibility

Sec. 151. Preemption; State flexibility; construction.
Sec. 152. Coverage of limited scope dental plans.

Subtitle F—Miscellaneous Provisions

Sec. 161. Definitions.

TITLE II—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to certain health insurance coverage.
Sec. 202. Application to individual health insurance coverage.
Sec. 203. Limitation on authority of the Secretary of Health and Human services with respect to non-Federal governmental plans.
Sec. 204. Cooperation between Federal and State authorities.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 302. Cooperation between Federal and State authorities.

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 401. Application to group health plans under the Internal Revenue Code of 1986.
Sec. 402. Conforming enforcement for women's health and cancer rights.

TITLE V—EFFECTIVE DATE; SEVERABILITY

Sec. 501. Effective date and related rules.
Sec. 502. Severability.
Sec. 503. Annual review.

TITLE I—PATIENTS' BILL OF RIGHTS

Subtitle A—Right to Advice and Care

SEC. 101. ACCESS TO EMERGENCY MEDICAL CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—If a group health plan, and a health insurance issuer that offers health insurance coverage, provides coverage for any benefits consisting of emergency medical care, except for items or services specifically excluded from coverage, the plan or issuer shall, without regard to prior authorization or provider participation—

(1) provide coverage for emergency medical screening examinations to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary; and

(2) provide coverage for additional emergency medical care to stabilize an emergency medical condition following an emergency medical screening examination (if determined necessary), pursuant to the definition of stabilize under section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(b) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—If a group health plan, and a health insurance issuer that offers health insurance coverage, provides coverage for any benefits consisting of emergency ambulance services, except for items or services specifically excluded from coverage, the plan or issuer shall, without regard to prior authorization or provider participation, provide coverage for emergency ambulance services to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such emergency ambulance services to be necessary.

(c) CARE AFTER STABILIZATION.—

(1) In general.—In the case of medically necessary and appropriate items or services related to the emergency medical condition that may be provided to a participant, beneficiary, or enrollee by a nonparticipating provider after the participant, beneficiary, or enrollee is stabilized, the nonparticipating provider shall contact the plan or issuer as soon as practicable, but not later than 1 hour after stabilization occurs, with respect to whether—

(A) the provision of items or services is approved;

(B) the participant, beneficiary, or enrollee will be transferred; or

(C) other arrangements will be made concerning the care and treatment of the participant, beneficiary, or enrollee.

(2) Failure to respond and make arrangements.—If a group health plan, and a health insurance issuer that offers health insurance coverage, fails to respond and make arrangements within 1 hour of being contacted in accordance with paragraph (1), then the plan or issuer shall be responsible for the cost of any additional items or services provided by the nonparticipating provider if—

(A) coverage for items or services of the type furnished by the nonparticipating provider is available under the plan or coverage;

(B) the items or services are medically necessary and appropriate and related to the emergency medical condition involved; and

(C) the timely provision of the items or services is medically necessary and appropriate.

(3) Rule of construction.—Nothing in this subsection shall be construed to apply to a group health plan, and a health insurance issuer that offers health insurance coverage, that does not require prior authorization for items or services provided to a participant, beneficiary, or enrollee after the participant, beneficiary, or enrollee is stabilized.

(d) Reimbursement to a Nonparticipating Provider.—The responsibility of a group health plan, and a health insurance issuer that offers health insurance coverage, to provide reimbursement to a nonparticipating provider under this section shall cease accruing upon the earlier of—

(1) the transfer or discharge of the participant, beneficiary, or enrollee; or

(2) the completion of other arrangements made by the plan or issuer and the nonparticipating provider.

(e) Responsibility of Participant.—The coverage required under subsections (a), (b), and (c) shall be provided by a group health plan, and a health insurance issuer that offers health insurance coverage, in a manner so that, if the services referred to in such subsections are provided to a participant, beneficiary, or enrollee by a nonparticipating provider with or without prior authorization, the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization.

(f) Rule of Construction.—Nothing in this section shall be construed to prohibit a group health plan or health insurance issuer from negotiating reimbursement rates with a nonparticipating provider for items or services provided under this section.

(g) Definitions.—In this section:

(1) Emergency ambulance services.—The term "emergency ambulance services" means, with respect to a participant, beneficiary, or enrollee under a group health plan, or a health insurance issuer that offers health insurance coverage, ambulance services furnished to transport an individual who has an emergency medical condition to a treating facility for receipt of emergency medical care if—

(A) the emergency services are covered under the group health plan or health insurance coverage involved; and

(B) a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of such emergency transport to result in placing the health of the participant, beneficiary, or enrollee (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

(2) Emergency medical care.—The term "emergency medical care" means, with respect to a participant, beneficiary, or enrollee under a group health plan, or a health insurance issuer that offers health insurance coverage, covered inpatient and outpatient items or services that—

(A) are furnished by any provider, including a nonparticipating provider, that is qualified to furnish such items or services; and

(B) are needed to evaluate or stabilize (as such term is defined in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)) an emergency medical condition.

(3) Emergency medical condition.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the participant, beneficiary, or enrollee (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

SEC. 102. OFFERING OF CHOICE OF COVERAGE OPTIONS.

(a) Requirement.—If a group health plan provides coverage for benefits only through a defined set of participating health care professionals, the plan shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan and at such other times as the plan offers the participant a choice of coverage options.

(b) Point-of-Service Coverage Defined.—In this section, the term "point-of-service coverage" means, with respect to benefits covered under a group health plan coverage of such benefits when provided by a nonparticipating health care professional.

(c) Small Employer Exemption.—

(1) In general.—This section shall not apply to any group health plan with respect to a small employer.

(2) Small employer.—For purposes of paragraph (1), the term "small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 25 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year. For purposes of this paragraph, the provisions of subparagraph (C) of section 712(c)(1) shall apply in determining employer size.

(d) Rule of Construction.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care professional;

(2) as preventing a group health plan from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option; or

(3) to require that a group health plan include coverage of health care professionals that the plan excludes because of fraud, quality of care, or other similar reasons with respect to such professionals.

(e) Special Point of Service Protection for Individuals in Dental Plans.—For purposes of applying the requirements of this section under sections 2707 and 2753 of the Public Health Service Act and section 714 of the Employee Retirement Income Security Act of 1974, section 2791(c)(2)(A) of the Public Health Service Act and section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974, only relating to limited scope dental benefits, shall be deemed not to apply.

SEC. 103. PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

(a) General Rights.—

(1) Direct access.—A group health plan, and a health insurance issuer that offers health insurance coverage, described in subsection (b) may not require authorization or referral by the primary care provider described in subsection (b)(2) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating physician who specializes in obstetrics or gynecology.

(2) Obstetrical and gynecological care.—A group health plan, and a health insurance issuer that offers health insurance coverage, described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) Application of Section.—A group health plan, and a health insurance issuer that offers health insurance coverage, described in this subsection is a plan or issuer, that—

(1) provides coverage for obstetric or gynecologic care; and

(2) requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider other than a physician who specializes in obstetrics or gynecology.

(c) Rules of Construction.—Nothing in this section shall be construed—

(1) to require that a group health plan or a health insurance issuer approve or provide coverage for—

(A) any items or services that are not covered under the terms and conditions of the plan or coverage;

(B) any items or services that are not medically necessary and appropriate; or

(C) any items or services that are provided, ordered, or otherwise authorized under subsection (a)(2) by a physician unless such items or services are related to obstetric or gynecologic care;

(2) to preclude a group health plan or health insurance issuer from requiring that the physician described in subsection (a) notify the designated primary care professional or case manager of treatment decisions in

accordance with a process implemented by the plan or issuer, except that the plan or issuer shall not impose such a notification requirement on the participant, beneficiary, or enrollee involved in the treatment decision;

(3) to preclude a group health plan or health insurance issuer from requiring authorization, including prior authorization, for certain items and services from the physician described in subsection (a) who specializes in obstetrics and gynecology if the designated primary care provider of the participant, beneficiary, or enrollee would otherwise be required to obtain authorization for such items or services;

(4) to require that the participant, beneficiary, or enrollee described in subsection (a)(1) obtain authorization or a referral from a primary care provider in order to obtain obstetrical or gynecological care from a health care professional other than a physician if the provision of obstetrical or gynecological care by such professional is permitted by the group health plan or health insurance coverage and consistent with State licensure, credentialing, and scope of practice laws and regulations; or

(5) to preclude the participant, beneficiary, or enrollee described in subsection (a)(1) from designating a health care professional other than a physician as a primary care provider if such designation is permitted by the group health plan or health insurance issuer and the treatment by such professional is consistent with State licensure, credentialing, and scope of practice laws and regulations.

SEC. 104. ACCESS TO PEDIATRIC CARE.

(a) Pediatric Care.—If a group health plan, and a health insurance issuer that offers health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider for a child of such participant, beneficiary, or enrollee, the plan or issuer shall permit the participant, beneficiary, or enrollee to designate a physician who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan or issuer.

(b) Rules of Construction.—With respect to the child of a participant, beneficiary, or enrollee, nothing in subsection (a) shall be construed to—

(1) require that the participant, beneficiary, or enrollee obtain prior authorization or a referral from a primary care provider in order to obtain pediatric care from a health care professional other than a physician if the provision of pediatric care by such professional is permitted by the plan or issuer and consistent with State licensure, credentialing, and scope of practice laws and regulations; or

(2) preclude the participant, beneficiary, or enrollee from designating a health care professional other than a physician as a primary care provider for the child if such designation is permitted by the plan or issuer and the treatment by such professional is consistent with State licensure, credentialing, and scope of practice laws.

SEC. 105. TIMELY ACCESS TO SPECIALISTS.

(a) Timely Access.—

(1) Requirement of coverage.—

(A) In general.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall ensure that participants, beneficiaries, and enrollees receive timely coverage for access to appropriate medical specialists when such specialty care is a covered benefit under the plan or coverage.

(B) Appropriate medical specialist defined.—In this subsection, the term "appropriate medical specialist" means a physician (including an alleopathic or osteopathic physician) or health care professional who is appropriately credentialed or licensed in 1 or more States and who typically treats the diagnosis or condition of the participant, beneficiary, or enrollee.

(2) Rule of construction.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan, or health insurance coverage, of benefits or services;

(B) to prohibit a plan or health insurance issuer from including providers in the network only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees;

(C) to prohibit a plan or issuer from establishing measures designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(D) to override any State licensure or scope-of-practice law.

(3) Access to certain providers.—

(A) Participating providers.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from requiring that a participant, beneficiary, or enrollee obtain specialty care from a participating specialist.

(B) Nonparticipating providers.—

(i) In general.—With respect to specialty care under this section, if a group health plan, or a health insurance issuer that offers health insurance coverage, determines that a participating specialist is not available to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a nonparticipating specialist.

(ii) Treatment of nonparticipating providers.—If a group health plan, or a health insurance issuer that offers health insurance coverage, refers a participant, beneficiary, or enrollee to a nonparticipating specialist pursuant to clause (i), such specialty care shall be provided at no additional cost to the participant, beneficiary, or enrollee beyond what the participant, beneficiary, or enrollee would otherwise pay for such specialty care if provided by a participating specialist.

(b) Referrals.—

(1) Authorization.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from requiring an authorization in order to obtain coverage for specialty services so long as such authorization is for an appropriate duration or number of referrals.

(2) Referrals for ongoing special conditions.—

(A) In general.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan referred to in subsection (c) with respect to the condition.

(B) Ongoing special condition defined.—In this subsection, the term "ongoing special condition" means a condition or disease that—

(i) is life-threatening, degenerative, or disabling; and

(ii) requires specialized medical care over a prolonged period of time.

(c) Treatment Plans.—

(1) In general.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from requiring that specialty care be provided pursuant to a treatment plan so long as the treatment plan is—

(A) developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee; and

(B) if the plan or issuer requires such approval, approved in a timely manner by the plan or issuer consistent with the applicable quality assurance and utilization review standards of the plan or issuer.

(2) Notification.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other necessary medical information.

(d) Specialist Defined.—For purposes of this section, the term "specialist" means, with respect to the medical condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center (such as a center of excellence) that has adequate expertise (including age-appropriate expertise) through appropriate training and experience.

SEC. 106. CONTINUITY OF CARE.

(a) Termination of Provider.—If a contract between a group health plan, and a health insurance issuer that offers health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage, and an individual who is a participant, beneficiary or enrollee under such plan or coverage is undergoing an active course of treatment for a serious and complex condition, institutional care, pregnancy, or terminal illness from the provider at the time the plan or issuer receives or provides notice of such termination, the plan or issuer shall—

(1) notify the individual, or arrange to have the individual notified pursuant to subsection (d)(2), on a timely basis of such termination;

(2) provide the individual with an opportunity to notify the plan or issuer of the individual's need for transitional care; and

(3) subject to subsection (c), permit the individual to elect to continue to be covered with respect to the active course of treatment with the provider's consent during a transitional period (as provided for under subsection (b)).

(b) Transitional Period.—

(1) Serious and complex conditions.—The transitional period under this section with respect to a serious and complex condition shall extend for up to 90 days from the date of the notice described in subsection (a)(1) of the provider's termination.

(2) Institutional or inpatient care.—

(A) In general.—The transitional period under this section for institutional or nonelective inpatient care from a provider shall extend until the earlier of—

(i) the expiration of the 90-day period beginning on the date on which the notice described in subsection (a)(1) of the provider's termination is provided; or

(ii) the date of discharge of the individual from such care or the termination of the period of institutionalization.

(B) Scheduled care.—The 90 day limitation described in subparagraph (A)(i) shall include post-surgical follow-up care relating to non-elective surgery that has been scheduled before the date of the notice of the termination of the provider under subsection (a)(1).

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation; and

(B) the provider was treating the pregnancy before the date of the termination;

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation; and

(B) the provider was treating the terminal illness before the date of termination;

the transitional period under this subsection shall extend for the remainder of the individual's life for care that is directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan, and a health insurance issuer that offers health insurance coverage, may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or at the rates applicable under the replacement plan after the date of the termination of the contract with the plan or issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in this section had not been terminated.

(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is eligible for transitional care under this section.

(e) DEFINITIONS.—In this section:

(1) CONTRACT.—The term "contract between a group health plan, and a health insurance issuer that offers health insurance coverage, and a treating health care provider" shall include a contract between such a plan or issuer and an organized network of providers.

(2) HEALTH CARE PROVIDER.—The term "health care provider" or "provider" means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term "serious and complex condition" means, with respect to a participant, beneficiary, or enrollee under the plan or coverage, a condition that is medically determinable and—

(A) in the case of an acute illness, is a condition serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

(B) in the case of a chronic illness or condition, is an illness or condition that—

(i) is complex and difficult to manage;

(ii) is disabling or life- threatening; and

(iii) requires—

(I) frequent monitoring over a prolonged period of time and requires substantial ongoing specialized medical care; or

(II) frequent ongoing specialized medical care across a variety of domains of care.

(4) TERMINATED.—The term "terminated" includes, with respect to a contract (as defined in paragraph (1)), the expiration or nonrenewal of the contract by the group health plan or health insurance issuer, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

SEC. 107. PROTECTION OF PATIENT-PROVIDER COMMUNICATIONS.

(a) IN GENERAL.—Subject to subsection (b), a group health plan, and a health insurance issuer that offers health insurance coverage, (in relation to a participant, beneficiary, or enrollee) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the participant, beneficiary, or enrollee or medical care or treatment for the condition or disease of the participant, beneficiary, or enrollee, regardless of whether coverage for such care or treatment are provided under the contract, if the professional is acting within the lawful scope of practice.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan, or a health insurance issuer that offers health insurance coverage, to provide specific benefits under the terms of such plan or coverage.

SEC. 108. PATIENT'S RIGHT TO PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, and a health insurance issuer that offers health insurance coverage, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

(2) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from excluding coverage for a specific drug or class of drugs if such drugs or class of drugs is expressly excluded under the terms and conditions of the plan or coverage.

SEC. 109. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, and a health insurance issuer that offers health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsections (b), (c), and (d) may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the participant's, beneficiaries, or enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan or an enrollee in health insurance coverage and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan, and a health insurance issuer that offers health insurance coverage, shall

provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of an approved clinical trial.

(2) STANDARDS FOR DETERMINING ROUTINE PATIENT COSTS ASSOCIATED WITH CLINICAL TRIAL PARTICIPATION.—

(A) IN GENERAL.—The Secretary shall, in accordance with this paragraph, establish standards relating to the coverage of routine patient costs for individuals participating in clinical trials that group health plans and health insurance issuers must meet under this section.

(B) FACTORS.—In establishing routine patient cost standards under subparagraph (A), the Secretary shall consult with interested parties and take into account —

(i) quality of patient care;

(ii) routine patient care costs versus costs associated with the conduct of clinical trials, including unanticipated patient care costs as a result of participation in clinical trials; and

(iii) previous and on-going studies relating to patient care costs associated with participation in clinical trials.

(C) APPOINTMENT AND MEETINGS OF NEGOTIATED RULEMAKING COMMITTEE.—

(i) PUBLICATION OF NOTICE.—Not later than November 15, 2002, the Secretary shall publish notice of the establishment of a negotiated rulemaking committee, as provided for under section 564(a) of title 5, United States Code, to develop the standards described in subparagraph (A), which shall include—

(I) the proposed scope of the committee;

(II) the interests that may be impacted by the standards;

(III) a list of the proposed membership of the committee;

(IV) the proposed meeting schedule of the committee;

(V) a solicitation for public comment on the committee; and

(VI) the procedures under which an individual may apply for membership on the committee.

(ii) COMMENT PERIOD.—Notwithstanding section 564(c) of title 5, United States Code, the Secretary shall provide for a period, beginning on the date on which the notice is published under clause (i) and ending on November 30, 2002, for the submission of public comments on the committee under this subparagraph.

(iii) APPOINTMENT OF COMMITTEE.—Not later than December 30, 2001, the Secretary shall appoint the members of the negotiated rulemaking committee under this subparagraph.

(iv) FACILITATOR.—Not later than January 10, 2003, the negotiated rulemaking committee shall nominate a facilitator under section 566(c) of title 5, United States Code, to carry out the activities described in subsection (d) of such section.

(v) MEETINGS.—During the period beginning on the date on which the facilitator is nominated under clause (iv) and ending on March 30, 2003, the negotiated rulemaking committee shall meet to develop the standards described in subparagraph (A).

(D) PRELIMINARY COMMITTEE REPORT.—

(i) IN GENERAL.—The negotiated rulemaking committee appointed under subparagraph (C) shall report to the Secretary, by not later than March 30, 2003, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceedings and whether such consensus is likely to occur before the target date described in subsection (F).

(ii) TERMINATION OF PROCESS AND PUBLICATION OF RULE BY SECRETARY.—If the committee reports under clause (i) that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date described in subsection (F), the Secretary shall terminate such process and provide for the publication in the Federal Register, by not later than June 30, 2003, of a rule under this paragraph through such other methods as the Secretary may provide.

(E) FINAL COMMITTEE REPORT AND PUBLICATION OF RULE BY SECRETARY.—

(i) IN GENERAL.—If the rulemaking committee is not terminated under subparagraph (D)(ii), the committee shall submit to the Secretary, by not later than May 30, 2003, a report containing a proposed rule.

(ii) PUBLICATION OF RULE.—If the Secretary receives a report under clause (i), the Secretary shall provide for the publication in the Federal Register, by not later than June 30, 2003, of the proposed rule.

(F) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under subparagraph (C)(i), and for purposes of this paragraph, the "target date for publication" (referred to in section 564(a)(5) of title 5, United States Code) shall be June 30, 2003.

(G) EFFECTIVE DATE.—The provisions of this paragraph shall apply to group health plans and health insurance issuers that offer health insurance coverage for plan or coverage years beginning on or after January 1, 2004.

(3) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved or funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to preclude a plan or issuer from offering coverage that is broader than the coverage required under this section with respect to clinical trials.

(f) PLAN SATISFACTION OF CERTAIN REQUIREMENTS; RESPONSIBILITIES OF FIDUCIARIES.—

(1) IN GENERAL.—For purposes of this section, insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the requirements of this section with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer.

(2) CONSTRUCTION.—Nothing in this section shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

(g) STUDY AND REPORT.—

(1) STUDY.—The Secretary shall study the impact on group health plans and health insurance issuers for covering routine patient care costs for individuals who are entitled to benefits under this section and who are enrolled in an approved clinical trial program.

(2) REPORT TO CONGRESS.—Not later than January 1, 2006, the Secretary shall submit a report to Congress that contains an assessment of—

(A) any incremental cost to group health plans and health insurance issuers resulting from the provisions of this section;

(B) a projection of expenditures to such plans and issuers resulting from this section; and

(C) any impact on premiums resulting from this section.

SEC. 110. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that offers health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer that offers health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(c) SECONDARY CONSULTATIONS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that offers health insurance coverage, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation

are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(2) Exception.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(d) Prohibition on Penalties or Incentives.—A group health plan, and a health insurance issuer that offers health insurance coverage, may not—

(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant, beneficiary, or enrollee in accordance with this section;

(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant, beneficiary, or enrollee for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (c).

SEC. 111. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) In General.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) Construction.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage, of a particular benefit or service or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or coverage.

SEC. 112. GENERALLY APPLICABLE PROVISION.

Notwithstanding section 102, in the case of a group health plan, and a health insurance issuer that offers health insurance coverage, that provides benefits under 2 or more coverage options, the requirements of this subpart shall apply separately with respect to each coverage option.

Subtitle B—Right to Information About Plans and Providers

SEC. 121. HEALTH PLAN INFORMATION.

(a) Requirement.—

(1) Disclosure.—

(A) In general.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall provide for the disclosure of the information described in subsection (b) to participants, beneficiaries, and enrollees—

(i) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) on an annual basis after enrollment—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

(iii) in the case of any material reduction to the benefits or information described in paragraphs (1), (2) and (3) of subsection (b), in the form of a summary notice provided not later than the date on which the reduction takes effect.

(B) Participants, beneficiaries, or enrollees.—The disclosure required under subparagraph (A) shall be provided—

(i)(I) jointly to each participant and beneficiary who reside at the same address; or

(II) in the case of a beneficiary who does not reside at the same address as the participant, separately to the participant and such beneficiary; and

(ii) to each enrollee.

(2) Rule of construction.—Nothing in this section shall be construed to prevent a group health plan sponsor and health insurance issuer from entering into an agreement under which either the plan sponsor or the issuer agrees to assume responsibility for compliance with the requirements of this section, in whole or in part, and the party delegating such responsibility is released from liability for compliance with the requirements that are assumed by the other party, to the extent the party delegating such responsibility did not cause such noncompliance.

(3) Provision of information.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) Required Information.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) Benefits.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventative services covered under the plan or coverage if such services are covered;

(C) any benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(D) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) Cost sharing.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing above any reasonable and customary charges, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) Service area.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(4) Participating providers.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(5) Choice of primary care provider.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 104 for a participant, beneficiary, or enrollee who is a child if such section applies.

(6) Preauthorization requirements.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(7) Experimental and investigational treatments.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(8) Specialty care.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including the right to timely coverage for access to specialists care under section 105 if such section applies.

(9) Clinical trials.—A description the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved cancer clinical trials under section 109 if such section applies.

(10) Prescription drugs.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to prescription drugs under section 107 if such section applies.

(11) Emergency services.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 101, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(12) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights of participants, beneficiaries, or enrollees under sections 503, 503A and 503B of the Employee Retirement Income Security Act of 1974 (or sections 2707(b) and 2753(b) of the Public Health Service with respect to non-Federal governmental plans and individual health insurance coverage) in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974.

(13) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(14) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. The name of the designated decision-maker (or decision-makers) appointed under section 502(n)(2) of the Employee Retirement Income Security Act of 1974 for purposes of making final determinations under section 503A of such Act and approving coverage pursuant to the written determination of an independent medical reviewer under section 503B of such Act. Notice of whether the benefits under the plan are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(15) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(16) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(17) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by this Act (excluding those described in paragraphs (1) through (16)) if such rights apply. The description required under this paragraph may be combined with the notices required under sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974, and with any other notice provision that the Secretary determines may be combined.

(18) COMPENSATION METHODS.—A summary description of the methods (including capitation, fee-for-service, salary, withholds, bonuses, bundled payments, per diem, or a combination thereof) used for compensating participating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage. The requirement of this paragraph shall not be construed as requiring plans or issuers to provide information concerning proprietary payment methodology.

(19) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(20) AVAILABILITY OF ADDITIONAL INFORMATION.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollees shall include for each option available under a group health plan or health insurance coverage the following:

(1) STATUS OF PROVIDERS.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(2) PRESCRIPTION DRUGS.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

(3) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) determined for the plan or issuer's book of business.

(d) MANNER OF DISCLOSURE.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by the average participant.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as participants, beneficiaries, and enrollees are provided with an opportunity to request that informational materials be provided in printed form.

(f) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under part 1, to reduce duplication with respect to any information that is required to be provided under any such requirements.

(g) SECRETARIAL ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—The Secretary of Health and Human Services or the Secretary of Labor (as appropriate) may assess a civil monetary penalty against the administrator of a plan or issuer in connection with the failure of the plan or issuer to comply with the requirements of this section.

(2) AMOUNT OF PENALTY.—

(A) IN GENERAL.—The amount of the penalty to be imposed under paragraph (1) shall not exceed $100 for each day for each participant, beneficiary, or enrollee with respect to which the failure to comply with the requirements of this section occurs.

(B) INCREASE IN AMOUNT.—The amount referred to in subparagraph (A) shall be increased or decreased, for each calendar year that ends after December 31, 2001, by the same percentage as the percentage by which the medical care expenditure category of the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2001.

(3) FAILURE DEFINED.—For purposes of this subsection, a plan or issuer shall have failed to comply with the requirements of this section with respect to a participant, beneficiary, or enrollee if the plan or issuer failed or refused to comply with the requirements of this section within 30 days—

(A) of the date described in subsection (a)(1)(A)(i);

(B) of the date described in subsection (a)(1)(A)(ii); or

(C) of the date on which additional information was requested under subsection (c).

(h) CONFORMING AMENDMENTS.—

(1) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking "section 711" and inserting "section 711 and section 121 of the Bipartisan Patients' Bill of Rights Act of 2001".

(2) Section 502(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended by striking "733(a)(1))" and inserting "733(a)(1)), except with respect to the requirements of section 121 of the Bipartisan Patients' Bill of Rights Act of 2001".

SEC. 122. INFORMATION ABOUT PROVIDERS.

(a) STUDY.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study, and the submission to the Secretary of a report, that includes—

(1) an analysis of information concerning health care professionals that is currently available to patients, consumers, States, and professional societies, nationally and on a State-by-State basis, including patient preferences with respect to information about such professionals and their competencies;

(2) an evaluation of the legal and other barriers to the sharing of information concerning health care professionals; and

(3) recommendations for the disclosure of information on health care professionals, including the competencies and professional qualifications of such practitioners, to better facilitate patient choice, quality improvement, and market competition.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall forward to the appropriate committees of Congress a copy of the report and study conducted under subsection (a).

SEC. 123. STUDY ON THE EFFECT OF PHYSICIAN COMPENSATION METHODS.

(a) STUDY AND REPORT.—

(1) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study in accordance with this section, to be submitted to the Secretary and the Secretary of Labor as provided for in paragraph (4).

(2) MATTERS TO BE STUDIED.—The study under paragraph (1) shall include—

(A) a study, including a survey if necessary, of physician compensation arrangements that are utilized in employer-sponsored group health plans (including group health plans sponsored by government and non-government employers) and commercial health insurance products, including—

(i) all types of compensation arrangements, including financial incentive and risk sharing arrangements and arrangements that do not contain such incentives and risk sharing, that reflect the complexity of organizational relationships between health plans and physicians;

(ii) arrangements that are based on factors such as utilization management, cost control, quality improvement, and patient or enrollee satisfaction; and

(iii) arrangements between the plan or issuer and provider, as well as down-stream arrangements between providers and subcontracted providers;

(B) an analysis of the effect of such differing arrangements on physician behavior with respect to the provision of medical care to patients, including whether and how such arrangements affect the quality of patient care and the ability of physicians to provide care that is medically necessary and appropriate.

(3) STUDY DESIGN.—The Secretary shall consult with the Director of the Agency for Healthcare Research and Quality in preparing the scope of work and study design with respect to the contract under paragraph (1).

(4) REPORT.—Not later than 24 months after the date of enactment of this Act, the Secretary shall forward to the appropriate committees of Congress a copy of the report and study conducted under subsection (a).

(b) RESEARCH.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall conduct and support research to develop scientific evidence regarding the effects of differing physician compensation methods on physician behavior with respect to the provision of medical care to patients, particularly issues relating to the quality of patient care and whether patients receive medically necessary and appropriate care.

(2) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

Subtitle C—Right to Hold Health Plans Accountable

SEC. 131. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 503 (29 U.S.C. 1133) the following:

“SEC. 503A. CLAIMS AND INTERNAL APPEALS PROCEDURES FOR GROUP HEALTH PLANS.

“(a) INITIAL CLAIM FOR BENEFITS UNDER GROUP HEALTH PLANS.—

“(1) PROCEDURES.—

“(A) IN GENERAL.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall ensure that procedures are in place for—

“(i) making a determination on an initial claim for benefits by a participant or beneficiary (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant or beneficiary is required to pay with respect to such claim for benefits; and

“(ii) notifying a participant or beneficiary (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant or beneficiary may be required to make with respect to such claim for benefits, and of the right of the participant or beneficiary to an internal appeal under subsection (b).

“(B) ACCESS TO INFORMATION.—With respect to an initial claim for benefits, the participant or beneficiary (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the claim, not later than 5 business days after the date on which the claim is filed or to meet the applicable timelines under clauses (ii) and (iii) of paragraph (2)(A).

“(C) ORAL REQUESTS.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant or beneficiary (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, may require that the participant or beneficiary (or authorized representative) provide written confirmation of such request in a timely manner.

“(2) TIMELINE FOR MAKING DETERMINATIONS.—

“(A) PRIOR AUTHORIZATION DETERMINATION.—

“(i) IN GENERAL.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a prior authorization determination on a claim for benefits is made within 14 business days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization, but in no case shall such determination be made later than 28 business days after the receipt of the claim for benefits.

“(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i), a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures for expediting a prior authorization determination on a claim for benefits described in such clause when a request for such an expedited determination is made by a participant or beneficiary (or authorized representative) at any time during the process for making a determination and the treating health care professional substantiates, with the request, that a determination under the procedures described in clause (i) would seriously jeopardize the life or health of the participant or beneficiary. Such determination shall be made within 72 hours after a request is received by the plan or issuer under this clause.

“(iii) CONCURRENT DETERMINATIONS.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a concurrent determination on a claim for benefits that results in a discontinuation of inpatient care is made within 24 hours after the receipt of the claim for benefits.

“(B) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a retrospective determination on a claim for benefits is made within 30 business days of the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, but in no case shall such determination be made later than 60 business days after the receipt of the claim for benefits.

“(3) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant or beneficiary (or authorized representative) and the treating health care professional not later than 2 business days after the determination (or within the 72-hour or 24-hour period referred to in clauses (ii) and (iii) of paragraph (2)(A) if applicable).

“(4) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under paragraph (3) shall include—

“(A) the reasons for the determination (including a summary of the clinical or scientific-evidence based rationale used in making the determination and instruction on obtaining a more complete description written in a manner calculated to be understood by the average participant);

“(B) the procedures for obtaining additional information concerning the determination; and

“(C) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with subsection (b).

“(b) INTERNAL APPEAL OF A DENIAL OF A CLAIM FOR BENEFITS.—

“(1) RIGHT TO INTERNAL APPEAL.—

“(A) IN GENERAL.—A participant or beneficiary (or authorized representative) may appeal any denial of a claim for benefits under subsection (a) under the procedures described in this subsection.

“(B) TIME FOR APPEAL.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall ensure that a participant or beneficiary (or authorized representative) has a period of not less than 60 days beginning on the date of a denial of a claim for benefits under subsection (a) in which to appeal such denial under this subsection.

“(C) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination on a claim for benefits under subsection (a) within the applicable timeline established for such a determination under such subsection shall be treated as a denial of a claim for benefits for purposes of proceeding to internal review under this subsection.

“(D) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, may waive the internal review process under this subsection and permit a participant or beneficiary (or authorized representative) to proceed directly to external review under section 503B.

“(2) TIMELINES FOR MAKING DETERMINATIONS.—

“(A) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this subsection that involves an expedited or concurrent determination, a participant or beneficiary (or authorized representative) may request such appeal orally, but a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, may require that the participant or beneficiary (or authorized representative) provide written confirmation of such request in a timely manner.

"(B) ACCESS TO INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant or beneficiary (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the appeal, not later than 5 business days after the date on which the request for the appeal is filed or to meet the applicable timelines under clauses (ii) and (iii) of subparagraph (C).

"(C) PRIOR AUTHORIZATION DETERMINATIONS.—

"(i) IN GENERAL.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a determination on an appeal of a denial of a claim for benefits under this subsection is made within 14 business days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal, but in no case shall such determination be made later than 28 business days after the receipt of the request for the appeal.

"(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i), a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures for expediting a prior authorization determination on an appeal of a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant or beneficiary (or authorized representative) at any time during the process for making a determination and the treating health care professional substantiates, with the request, that a determination under the procedures described in clause (i) would seriously jeopardize the life or health of the participant or beneficiary. Such determination shall be made not later than 72 hours after the request for such appeal is received by the plan or issuer under this clause.

"(iii) CONCURRENT DETERMINATIONS.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a concurrent determination on an appeal of a denial of a claim for benefits that results in a discontinuation of inpatient care is made within 24 hours after the receipt of the request for appeal.

"(B) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a retrospective determination on an appeal of a claim for benefits is made within 30 business days of the date on which the plan or issuer receives necessary information that is reasonably required by the plan or issuer to make a determination on the appeal, but in no case shall such determination be made later than 60 business days after the receipt of the request for the appeal.

"(3) CONDUCT OF REVIEW.—

"(A) IN GENERAL.—A review of a denial of a claim for benefits under this subsection shall be conducted by an individual with appropriate expertise who was not directly involved in the initial determination.

"(B) REVIEW OF MEDICAL DECISIONS BY PHYSICIANS.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts, shall be made by a physician with appropriate expertise, including age-appropriate expertise, who was not involved in the initial determination.

"(4) NOTICE OF DETERMINATION.—

"(A) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant or beneficiary (or authorized representative) and the treating health care professional not later than 2 business days after the completion of the review (or within the 72-hour or 24-hour period referred to in paragraph (2) if applicable).

"(B) FINAL DETERMINATION.—The decision by a plan or issuer under this subsection shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this subsection within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 503B.

"(C) REQUIREMENTS OF NOTICE.—With respect to a determination made under this subsection, the notice described in subparagraph (A) shall include—

"(i) the reasons for the determination (including a summary of the clinical or scientific-evidence based rationale used in making the determination and instruction on obtaining a more complete description written in a manner calculated to be understood by the average participant);

"(ii) the procedures for obtaining additional information concerning the determination; and

"(iii) notification of the right to an independent external review under section 503B and instructions on how to initiate such a review.

"(c) DEFINITIONS.—The definitions contained in section 503B(i) shall apply for purposes of this section.

"SEC. 503B. INDEPENDENT EXTERNAL APPEALS PROCEDURES FOR GROUP HEALTH PLANS.

"(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer that offers health insurance coverage in connection with a group health plan, shall provide in accordance with this section participants and beneficiaries (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

"(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

"(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 60 business days after the date on which the participant or beneficiary receives notice of the denial under section 503A(b)(4) or the date on which the internal review is waived by the plan or issuer under section 503A(b)(1)(D).

"(2) FILING OF REQUEST.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, and a health insurance issuer that offers health insurance coverage in connection with a group health plan, may—

"(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

"(ii) limit the filing of such a request to the participant or beneficiary involved (or an authorized representative);

"(iii) except if waived by the plan or issuer under section 503A(b)(1)(D), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 503A;

"(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $50; and

"(v) require that a request for review include the consent of the participant or beneficiary (or authorized representative) for the release of medical information or records of the participant or beneficiary to the qualified external review entity for purposes of conducting external review activities.

"(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—

"(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request may be made orally. In such case a written confirmation of such request shall be made in a timely manner. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v).

"(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

"(I) INDIGENCY.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the Secretary) that the participant or beneficiary is indigent (as defined in such guidelines). In establishing guidelines under this subclause, the Secretary shall ensure that the guidelines relating to indigency are consistent with the poverty guidelines used by the Secretary of Health and Human Services under title XIX of the Social Security Act.

"(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 503A(b)(1)(D).

"(III) REFUNDING OF FEE.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse the denial which is the subject of the review.

"(IV) INCREASE IN AMOUNT.—The amount referred to in subclause (I) shall be increased or decreased, for each calendar year that ends after December 31, 2002, by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2002.

"(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON REQUEST.—

"(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, the plan or issuer shall refer such request to a qualified external review entity selected in accordance with this section.

"(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—With respect to an independent external review conducted under this section, the participant or beneficiary (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with access to information requested by the external review entity that is necessary to conduct a review under this section, as determined by the entity, not later than 5 business days after the date on which a request is referred to the qualified external review entity under paragraph (1), or earlier as determined appropriate by the entity to meet the applicable timelines under clauses (ii) and (iii) of subsection (e)(1)(A).

“(3) Screening of requests by qualified external review entities.—

“(A) In general.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

“(i) any of the conditions described in subsection (b)(2)(A) have not been met;

“(ii) the thresholds described in subparagraph (B) have not been met;

“(iii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

“(iv) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant or beneficiary who is enrolled under the terms of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

“(v) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2); Upon making a determination that any of clauses (i) through (v) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (D).

“(B) Thresholds.—

“(i) In general.—The thresholds described in this subparagraph are that—

“(I) the total amount payable under the plan or coverage for the item or service that was the subject of such denial exceeds $100; or

“(II) a physician has asserted in writing that there is a significant risk of placing the life, health, or development of the participant or beneficiary in jeopardy if the denial of the claim for benefits is sustained.

“(ii) Thresholds not applied.—The thresholds described in this subparagraph shall not apply if the plan or issuer involved waives the internal appeals process with respect to the denial of a claim for benefits involved under section 503A(b)(1)(D).

“(C) Process for making determinations.—

“(i) No deference to prior determinations.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer under section 503A or the recommendation of a treating health care professional (if any).

“(ii) Use of appropriate personnel.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

“(D) Notices and general timelines for determination.—

“(i) Notice in case of denial of referral.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant or beneficiary (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

“(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by an average participant;

“(II) shall include the reasons for the determination; and

“(III) include any relevant terms and conditions of the plan or coverage.

“(ii) General timeline for determinations.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant or beneficiary (or authorized representative) within 2 business days of such determination.

“(d) Independent Medical Review.—

“(1) In general.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

“(2) Medically reviewable decisions.—A denial described in this paragraph is one for which the item or service that is the subject of the denial would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

“(A) Denials based on medical necessity and appropriateness.—The basis of the determination is that the item or service is not medically necessary and appropriate.

“(B) Denials based on experimental or investigational treatment.—The basis of the determination is that the item or service is experimental or investigational.

“(C) Denials otherwise based on an evaluation of medical facts.—A determination that the item or service or condition is not covered but an evaluation of the medical facts by a health care professional in the specific case involved is necessary to determine whether the item or service or condition is required to be provided under the terms and conditions of the plan or coverage.

“(3) Independent medical review determination.—

“(A) In general.—An independent medical reviewer under this section shall make a new independent determination with respect to—

“(i) whether the item or service or condition that is the subject of the denial is covered under the terms and conditions of the plan or coverage; and

“(ii) based upon an affirmative determination under clause (i), whether or not the denial of a claim for a benefit that is the subject of the review should be upheld or reversed.

“(B) Standard for determination.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigation nature, or the evaluation of the medical facts of the item, service, or condition shall be based on the medical condition of the participant or beneficiary (including the medical records of the participant or beneficiary) and the valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert consensus.

“(C) No coverage for excluded benefits.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage and that are not covered regardless of any determination relating to medical necessity and appropriateness, experimental or investigational nature of the treatment, or an evaluation of the medical facts in the case involved.

“(D) Evidence and information to be used in medical reviews.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

“(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence or guidelines used by the plan or issuer in reaching such determination.

“(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

“(iii) Additional evidence or information obtained by the reviewer or submitted by the plan, issuer, participant or beneficiary (or an authorized representative), or treating health care professional.

“(iv) The plan or coverage document.

“(E) Independent determination.—In making the determination, the independent medical reviewer shall—

“(i) consider the claim under review without deference to the determinations made by the plan or issuer under section 503A or the recommendation of the treating health care professional (if any); and

“(ii) consider, but not be bound by the definition used by the plan or issuer of ‘medically necessary and appropriate’, or ‘experimental or investigational’, or other equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment.

“(F) Determination of independent medical reviewer.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold or reverse the denial under review and, in the case of a reversal, the timeframe within which the plan or issuer shall authorize coverage to comply with the determination. Such written determination shall include the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific-evidence based rationale used in making the determination. The reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not be treated as part of the determination.

“(e) Timelines and Notifications.—

“(1) Timelines for independent medical review.—

“(A) Prior authorization determination.—

“(i) In general.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) not later than 14 business days after the receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services.

"(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant or beneficiary (or authorized representative) at any time during the process for making a determination, and the treating health care professional substantiates, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant or beneficiary. Such determination shall be made not later than 72 hours after the receipt of information under subsection (c)(2).

"(iii) CONCURRENT DETERMINATION.—Notwithstanding clause (i), a review described in such subclause shall be completed not later than 24 hours after the receipt of information under subsection (c)(2) if the review involves a discontinuation of inpatient care.

"(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) not later than 30 business days after the receipt of information under subsection (c)(2).

"(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant or beneficiary (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

"(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by an average participant.

"(4) TERMINATION OF EXTERNAL REVIEW PROCESS IF APPROVAL OF A CLAIM FOR BENEFITS DURING PROCESS.—

"(A) IN GENERAL.—If a plan or issuer—

"(i) reverses a determination on a denial of a claim for benefits that is the subject of an external review under this section and authorizes coverage for the claim or provides payment of the claim; and

"(ii) provides notice of such reversal to the participant or beneficiary (or authorized representative) and the treating health care professional (if any), and the external review entity responsible for such review,

the external review process shall be terminated with respect to such denial and any filing fee paid under subsection (b)(2)(A)(iv) shall be refunded.

"(B) TREATMENT OF TERMINATION.—An authorization of coverage under subparagraph (A) by the plan or issuer shall be treated as a written determination to reverse a denial under section (d)(3)(F) for purposes of liability under section 502(n)(1)(B).

"(f) COMPLIANCE.—

"(1) APPLICATION OF DETERMINATIONS.—

"(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

"(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer under subsection (d)(3)(F).

"(2) FAILURE TO COMPLY.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant or beneficiary, where such failure to comply is caused by the plan or issuer, the participant or beneficiary may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

"(3) REIMBURSEMENT.—

"(A) IN GENERAL.—Where a participant or beneficiary obtains items or services in accordance with paragraph (2), the plan or issuer involved shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made to the treating health care professional or to the participant or beneficiary (in the case of a participant or beneficiary who pays for the costs of such items or services).

"(B) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant or beneficiary under subparagraph (A) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) so long as—

"(i) the items or services would have been covered under the terms of the plan or coverage if provided by the plan or issuer; and

"(ii) the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

"(4) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant or beneficiary in accordance with this subsection, the professional, participant or beneficiary may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is unpaid and any necessary legal costs or expenses (including attorneys' fees) incurred in recovering such reimbursement.

"(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

"(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

"(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

"(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

"(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

"(2) LICENSURE AND EXPERTISE.—

"(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer shall be a physician (who may be an allopathic or osteopathic physician) or health care professional who—

"(i) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

"(ii) typically treats the diagnosis or condition or provides the type of treatment under review.

"(B) PHYSICIAN REVIEW.—In referring a denial for independent medical review under subsection (c), the qualified external review entity shall ensure that, in the case of the review of treatment that is recommended or provided by a physician, such referral may be made only to a physician for such independent medical review.

"(3) INDEPENDENCE.—

"(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

"(i) not be a related party (as defined in paragraph (7));

"(ii) not have a material familial, financial, or professional relationship with such a party; and

"(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

"(B) EXCEPTION.—Nothing in this subparagraph (A) shall be construed to—

"(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

"(I) a non-affiliated individual is not reasonably available;

"(II) the affiliated individual is not involved in the provision of items or services in the case under review;

"(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant or beneficiary (or authorized representative) and neither party objects; and

"(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

"(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer if the affiliation is disclosed to the plan or issuer and the participant or beneficiary (or authorized representative), and neither party objects; or

"(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

"(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

"(A) IN GENERAL.—The requirement of this paragraph with respect to a reviewer in a case involving treatment, or the provision of items or services, by—

"(i) a physician, is that the reviewer be a practicing physician of the same or similar specialty as a physician who typically treats the diagnosis or condition or provides such treatment in the case under review; or

"(ii) a health care professional (other than a physician), is that the reviewer be a practicing physician or, if determined appropriate by the qualified external review entity, a health care professional (other than a physician), of the same or similar specialty as the health care professional who typically treats the diagnosis or condition or provides the treatment in the case under review.

"(B) PRACTICING DEFINED.—For purposes of this paragraph, the term 'practicing' means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 1 day per week.

"(5) AGE-APPROPRIATE EXPERTISE.—The independent medical reviewer shall have expertise under paragraph (2) that is age-appropriate to the participant or beneficiary involved.

"(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

“(A) not exceed a reasonable level; and

“(B) not be contingent on the decision rendered by the reviewer.

“(7) RELATED PARTY DEFINED.—For purposes of this section, the term ‘related party’ means, with respect to a denial of a claim under a plan or coverage relating to a participant or beneficiary, any of the following:

“(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

“(B) The participant or beneficiary (or authorized representative).

“(C) The health care professional that provides the items of services involved in the denial.

“(D) The institution at which the items or services (or treatment) involved in the denial are provided.

“(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

“(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

“(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

“(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

“(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The Secretary shall implement procedures with respect to the selection of qualified external review entities by a plan or issuer to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner.

“(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for the designation or selection of qualified external review entities in a manner determined by the State to assure an unbiased determination in conducting external review activities. In conducting reviews under this section, an entity designated or selected under this subparagraph shall comply with provisions of this section.

“(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

“(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

“(A) be consistent with the standards the Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

“(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant or beneficiary (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

“(4) QUALIFICATIONS.—

“(A) IN GENERAL.—In this section, the term ‘qualified external review entity’ means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

“(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

“(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

“(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

“(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

“(v) The entity meets such other requirements as the Secretary provides by regulation.

“(B) INDEPENDENCE REQUIREMENTS.—

“(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

“(I) is not a related party (as defined in subsection (g)(7));

“(II) does not have a material familial, financial, or professional relationship with such a party; and

“(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

“(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

“(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

“(I) not exceed a reasonable level; and

“(II) not be contingent on the decision rendered by the entity or by any independent medical reviewer.

“(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

“(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

“(I) under a process that is recognized or approved by the Secretary; or

“(II) by a qualified private standard-setting organization that is approved by the Secretary under clause (iii).

“(ii) PROCESS.—The Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

“(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

“(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

“(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

“(IV) in the case recertification, shall review the matters described in clause (iv).

“(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the Secretary may approve a qualified private standard-setting organization if the Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

“(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

“(I) Provision of information under subparagraph (D).

“(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

“(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

“(IV) Compliance with applicable independence requirements.

“(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 5 years.

“(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the Secretary or by the organization providing such certification upon a showing of cause.

“(D) PROVISION OF INFORMATION.—

“(i) IN GENERAL.—A qualified external review entity shall provide to the Secretary, in such manner and at such times as the Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as the Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

“(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

“(I) The number and types of denials for which a request for review has been received by the entity.

“(II) The disposition by the entity of such denials, including the number referred to an independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

“(III) The length of time in making determinations with respect to such denials.

“(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

“(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

“(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the Secretary under clause (i).

“(II) Additional information.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

“(iv) Use of information.—

“(I) In general.—Information provided under this subparagraph may be used by the Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

“(II) Report to congress.—Not later than 2 years after the date on which the Bipartisan Patients' Bill of Rights Act of 2001 takes effect under section 501 of such Act, and every 2 years thereafter, the Secretary, in consultation with the Secretary of Health and Human Services, shall prepare and submit to the appropriate committees of Congress, a report that contains—

“(aa) a summary of the information provided to the Secretary under clause (ii);

“(bb) a description of the effect that the appeals process established under this section and section 503A had on the access of individuals to health insurance and health care;

“(cc) a description of the effect on health care costs associated with the implementation of the appeals process described in item (bb); and

“(dd) a description of the quality and consistency of determinations by qualified external review entities.

“(III) Recommendations.—The Secretary may from time to time submit recommendations to Congress with respect to proposed modifications to the appeals process based on the reports submitted under subclause (II).

“(E) Limitation on liability.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

“(i) Definitions.—In this section:

“(1) Authorized representative.—The term ‘authorized representative’ means, with respect to a participant or beneficiary—

“(A) a person to whom a participant or beneficiary has given express written consent to represent the participant or beneficiary in any proceeding under this section;

“(B) a person authorized by law to provide substituted consent for the participant or beneficiary; or

“(C) a family member of the participant or beneficiary (or the estate of the participant or beneficiary) or the participant's or beneficiary's treating health care professional when the participant or beneficiary is unable to provide consent.

“(2) Claim for benefits.—The term ‘claim for benefits’ means any request by a participant or beneficiary (or authorized representative) for benefits (including requests that are subject to authorization of coverage or utilization review), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage offered by a health insurance issuer in connection with a group health plan.

“(3) Group health plan.—The term ‘group health plan’ shall have the meaning given such term in section 733(a). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

“(4) Health insurance coverage.—The term ‘health insurance coverage’ has the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

“(5) Health insurance issuer.—The term ‘health insurance issuer’ has the meaning given such term in section 733(b)(2).

“(6) Prior authorization determination.—The term ‘prior authorization determination’ means a determination by the group health plan or health insurance issuer offering health insurance coverage in connection with a group health plan prior to the provision of the items and services as a condition of coverage of the items and services under the terms and conditions of the plan or coverage.

“(7) Treating health care professional.—The term ‘treating health care professional’ with respect to a group health plan, health insurance issuer or provider sponsored organization means a physician (medical doctor or doctor of osteopathy) or other health care practitioner who is acting within the scope of his or her State licensure or certification for the delivery of health care services and who is primarily responsible for delivering those services to the participant or beneficiary.

“(8) Utilization review.—The term ‘utilization review’ with respect to a group health plan or health insurance coverage means procedures used in the determination of coverage for a participant or beneficiary, such as procedures to evaluate the medical necessity, appropriateness, efficacy, quality, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.”.

(b) Conforming Amendment.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 503 the following:

“Sec. 503A. Claims and internal appeals procedures for group health plans.
“Sec. 503B. Independent external appeals procedures for group health plans.”.

SEC. 132. ENFORCEMENT.

Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended by adding at the end the following:

“(8) The Secretary may assess a civil penalty against any plan of up to $10,000 for the plan's failure or refusal to comply with any deadline applicable under section 503B or any determination under such section, except that in any case in which coverage was not approved by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant or beneficiary involved.”.

Subtitle D—Remedies

SEC. 141. AVAILABILITY OF COURT REMEDIES.

(a) In General.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

“(n) Cause of Action Relating to Denial of a Claim for Health Benefits.—

“(1) In general.—

“(A) Failure to comply with external medical review.—With respect to an action commenced by a participant or beneficiary (or the estate of the participant or beneficiary) in connection with a claim for benefits under a group health plan, if—

“(i) a designated decision-maker described in paragraph (2) fails to exercise ordinary care in approving coverage pursuant to the written determination of an independent medical reviewer under section 503B(d) that reverses a denial of the claim for benefits; and

“(ii) the failure described in clause (i) is the proximate cause of substantial harm (as defined in paragraph (13)(G)) to the participant or beneficiary;

such designated decision-maker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (5)).

“(B) Wrongful determination resulting in delay in providing benefits.—With respect to an action commenced by a participant or beneficiary (or the estate of the participant or beneficiary) in connection with a claim for benefits under a group health plan, if—

“(i) a designated decision-maker described in paragraph (2)—

“(I) fails to exercise ordinary care in making a determination denying the claim for benefits under section 503A(a) (relating to an initial claim for benefits); or

“(II) fails to exercise ordinary care in making a determination denying the claim for benefits under section 503A(b) (relating to an internal appeal);

“(ii) the denial described in clause (i) is reversed by an independent medical reviewer under section 503B(d), or the coverage for the benefit involved is approved after the denial is referred to the independent medical reviewer but prior to the determination of the reviewer under such section; and

“(iii) the delay attributable to the failure described in clause (i) is the proximate cause of substantial harm to, or the wrongful death of, the participant or beneficiary;

such designated decision-maker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (5)).

“(C) Relief from liability for employer or other plan sponsor by means of designated decisionmaker.—

“(i) In general.—Notwithstanding the direct participation (as defined in paragraph (3)(C)(i)) of an employer or plan sponsor, in any case in which there is deemed to be a designated decisionmaker under clause (ii) that meets the requirements of paragraph (2)(A) for an employer or other plan sponsor—

“(I) all liability of such employer or plan sponsor (and any employee thereof acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

"(II) with respect to such liability, the designated decisionmaker shall be substituted for the employer or plan sponsor (or employee) in the action and may not raise any defense that the employer or plan sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

"(ii) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of clause (i) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with paragraph (2), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker. The deeming of a designated decisionmaker under this clause shall not affect the liability of the appointing employer or plan sponsor for the failure of the employer or plan sponsor to comply with any other requirement of this title.

"(D) PREVENTION OF DUPLICATION OF ACTION WITH ACTION UNDER STATE LAW.—No action may be brought under this subsection based upon facts and circumstances if a cause of action under State law is brought based upon the same facts and circumstances.

"(E) APPLICATION TO CERTAIN PLANS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) shall be liable under this paragraph for the performance of, or the failure to perform, any nonmedically reviewable duty under the plan.

"(ii) DEFINITION.—A group health plan described in this clause is—

"(I) a group health plan that is self-insured and self administered by an employer (including an employee of such an employer acting within the scope of employment); or

"(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

"(2) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

"(A) IN GENERAL.—For purposes of this subsection and section 514(c)(3), a designated decisionmaker meets the requirements of this subparagraph with respect to any participant or beneficiary if—

"(i) such designation is in such form as may be prescribed in regulations of the Secretary,

"(ii) the designated decisionmaker—

"(I) meets the requirements of subparagraph (B),

"(II) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee thereof acting within the scope of employment) either arising under this subsection or arising in a cause of action permitted under section 514(c) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under paragraph (1)(C) or section 514(c)(3) is in effect relating to such participant and beneficiary,

"(III) agrees to be substituted for the employer or plan sponsor (or employee) in the action and not to raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

"(IV) where subparagraph (B)(ii) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, and

"(iii) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121 of the Bipartisan Patients' Bill of Rights Act of 2001.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

"(B) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

"(i) IN GENERAL.—Subject to clause (ii), an entity is qualified under this subparagraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in subparagraph (A) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under paragraph (1)(C) or section 514(c)(3)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

"(ii) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issuer, such issuer is the only entity that may be qualified under this subparagraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

"(C) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of subparagraph (B)(ii), the requirements relating to the financial obligation of an entity for liability shall include—

"(i) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this paragraph; or

"(ii) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this paragraph.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of clauses (i) and (ii) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect. The provisions of this subparagraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State solvency law.

"(D) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under this subsection or section 514(c) may not be designated as a designated decisionmaker under this subsection with respect to such participant or beneficiary.

"(3) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

"(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment).

"(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action may arise, subject to the requirements and limitations of paragraph (1), against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 503A upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits.

"(C) DIRECT PARTICIPATION.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in paragraph (1), the actual making of such decision or the actual exercise of control in making such decision.

"(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in paragraph (1) on a particular claim for benefits of a participant or beneficiary, including (but not limited to)—

"(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

"(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

"(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1); and

"(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

"(iv) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

"(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

“(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

“(4) REQUIREMENT OF EXHAUSTION OF INDEPENDENT MEDICAL REVIEW.—

“(A) IN GENERAL.—Paragraph (1) shall apply only if a final determination denying a claim for benefits under section 503A has been referred for independent medical review under section 503B(d) of such Act and a written determination by an independent medical reviewer to reverse such final determination has been issued with respect to such review or where the coverage for the benefit involved is approved after the denial is referred to the independent medical reviewer but prior to the determination of the reviewer under such section.

“(B) EXCEPTION TO EXHAUSTION FOR NEEDED CARE.—A participant or beneficiary may seek relief under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 503A or 503B (as required under subparagraph (A)) if it is demonstrated to the court, by a preponderance of the evidence, that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Any determinations that already have been made under sections 503A or 503B in such case, or that are made in such case while an action under this subparagraph is pending, shall be given due consideration by the court in any action under this subsection in such case. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available under—

“(i) paragraph (1), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met; or

“(ii) subsection (q) unless the requirements of such subsection are met.

“(C) LATE MANIFESTATION OF INJURY.—

“(i) IN GENERAL.—A participant or beneficiary shall not be precluded from pursuing a review under section 503B regarding an injury that such participant or beneficiary has experienced if the external review entity first determines that the injury of such participant or beneficiary is a late manifestation of an earlier injury.

“(ii) DEFINITION.—In this subparagraph, the term ‘late manifestation of an earlier injury’ means an injury sustained by the participant or beneficiary which was not known, and should not have been known, by such participant or beneficiary by the latest date that the requirements of subparagraph (A) should have been met regarding the claim for benefits which was denied.

“(D) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

“(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

“(ii) shall not preclude any liability under this subsection in connection with such claim.

“(E) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 503A shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

“(F) FAILURE TO REVIEW.—

“(i) IN GENERAL.—If the external review entity fails to make a determination within the time required under section 503B, a participant or beneficiary may bring an action under section 514(d) after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 503B.

“(ii) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time required under section 503B, a participant or beneficiary may bring an action under this subsection and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 503B.

“(5) LIMITATIONS ON RECOVERY OF DAMAGES.—

“(A) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—The aggregate amount of liability for noneconomic loss in an action under paragraph (1) may not exceed the greater of—

“(i) $750,000; or

“(ii) an amount equal to 3 times the amount awarded for economic loss.

“(B) INCREASE IN AMOUNT.—The amount referred to in subparagraph (A)(i) shall be increased or decreased, for each calendar year that ends after December 31, 2002, by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2002.

“(C) SEVERAL LIABILITY.—In the case of any action commenced pursuant to paragraph (1), the designated decision-maker shall be liable only for the amount of noneconomic damages attributable to such designated decision-maker in direct proportion to such decision-maker’s share of fault or responsibility for the injury suffered by the participant or beneficiary. In all such cases, the liability of a designated decision-maker for noneconomic damages shall be several and not joint.

“(D) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

“(i) IN GENERAL.—In the case of any action commenced pursuant to paragraph (1), the total amount of damages received by a participant or beneficiary under such action shall be reduced, in accordance with clause (ii), by any other payment that has been, or will be, made to such participant or beneficiary, pursuant to an order or judgment of another court, to compensate such participant or beneficiary for the injury that was the subject of such action.

“(ii) AMOUNT OF REDUCTION.—The amount by which an award of damages to a participant or beneficiary for an injury shall be reduced under clause (i) shall be—

“(I) the total amount of any payments (other than such award) that have been made or that will be made to such participant or beneficiary to pay costs of or compensate such participant or beneficiary for the injury that was the subject of the action; less

“(II) the amount paid by such participant or beneficiary (or by the spouse, parent, or legal guardian of such participant or beneficiary) to secure the payments described in subclause (I).

“(iii) DETERMINATION OF AMOUNTS FROM COLLATERAL SOURCES.—The reduction required under clause (ii) shall be determined by the court in a pretrial proceeding. At the subsequent trial no evidence shall be admitted as to the amount of any charge, payments, or damage for which a participant or beneficiary—

“(I) has received payment from a collateral source or the obligation for which has been assured by a third party; or

“(II) is, or with reasonable certainty, will be eligible to receive from a collateral source which will, with reasonable certainty, be assumed by a third party.

“(E) PROHIBITION OF AWARD OF PUNITIVE DAMAGES.—Notwithstanding any other provision of law, in the case of any action commenced pursuant to paragraph (1), the court may not award any punitive, exemplary, or similar damages against a defendant.

“(6) AFFIRMATIVE DEFENSES.—In the case of any cause of action under paragraph (1), it shall be an affirmative defense that—

“(A) the designated decision-maker of a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, involved did not receive from the participant or beneficiary (or authorized representative) or the treating health care professional (if any), the information requested by the plan or issuer regarding the medical condition of the participant or beneficiary that was necessary to make a determination on a claim for benefits under section 503A or a final determination on a claim for benefits under section 503A;

“(B) the participant or beneficiary (or authorized representative)—

“(i) was in possession of facts that were sufficient to enable the participant or beneficiary (or authorized representative) to know that an expedited review under sections 503A or 503B would have prevented the harm that is the subject of the action; and

“(ii) failed to notify the plan or issuer of the need for such an expedited review; or

“(C) the qualified external review entity or an independent medical reviewer failed to meet the timelines applicable under section 503B, or a period of time elapsing after coverage has been authorized.

Nothing in this paragraph shall be construed to limit the application of any other affirmative defense that may be applicable to the cause of action involved.

“(7) WAIVER OF INTERNAL REVIEW.—In the case of any cause of action under paragraph (1), the waiver or nonwaiver of internal review under section 503A by the group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall not be used in determining liability.

“(8) LIMITATIONS ON ACTIONS.—Paragraph (1) shall not apply in connection with any action that is commenced more than 3 years after the date on which the failure described in paragraph (1) occurred.

“(9) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this subsection shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan’s administration or determination of a claim for benefits (as such term is defined in section 503A and notwithstanding the definition contained in paragraph (13)(B)) shall not be deemed to be the delivery of medical care under any State law for purposes of this section. Any such claim shall be maintained exclusively under section 502.

“(10) CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing a cause of action under paragraph (1) for the failure of a group health plan or health insurance issuer to provide an item or service that is specifically excluded under the plan or coverage.

"(11) Previously provided services.—

"(A) in general.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

"(B) Exception.—Nothing in subparagraph (A) shall be construed to—

"(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

"(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

"(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

"(12) Exemption from personal liability for individual members of boards of directors, joint boards of trustees, etc.—Any individual who is—

"(A) a member of a board of directors of an employer or plan sponsor; or

"(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

"(13) Definitions.—In this subsection:

"(A) Authorized representative.—The term 'authorized representative' has the meaning given such term in section 503A.

"(B) Claim for benefits.—Except as provided for in paragraph (9), the term 'claim for benefits' shall have the meaning given such term in section 503A, except that such term shall only include claims for which prior authorization is required.

"(C) Group health plan.—The term 'group health plan' shall have the meaning given such term in section 733(a). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

"(D) Health insurance coverage.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

"(E) Health insurance issuer.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2).

"(F) Ordinary care.—The term 'ordinary care' means the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in making a determination on a claim for benefits of a similar character.

"(G) Substantial harm.—The term 'substantial harm' means the loss of life, loss or significant impairment of limb or bodily function, significant mental illness or disease, significant disfigurement, or severe and chronic physical pain.".

(b) Authority to Impose Civil Penalties for Failure to Provide a Plan Benefit Not Eligible for Medical Review.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsection (a), is further amended by adding at the end the following:

"(o) Authority to Impose Civil Penalties for Failure to Provide a Plan Benefit Not Eligible for Medical Review.—In connection with any action maintained under subsection (a)(1)(B), the court, in its discretion, may assess a civil penalty against the designated decision-maker (as designated pursuant to section 502(n)(2)) of a group health plan or a health insurance issuer (that offers health insurance coverage in connection with a group health plan) of not to exceed $100,000 where—

"(1) in its final determination under section 503A, the designated decision-maker fails to provide, or authorize coverage of, a benefit to which a participant or beneficiary is entitled under the terms and conditions of the plan;

"(2) the participant or beneficiary has appealed such determination under section 503B and such determination is not subject to independent medical review as determined by a qualified external review entity under section 503B;

"(3) the plan has failed to exercise ordinary care in making a final determination under section 503A denying a claim for benefits under the plan; and

"(4) that denial is the proximate cause of substantial harm (as defined in subsection (n)(10)(G)) the participant or beneficiary.".

(c) Limitation on Certain Class Action Litigation.—

(1) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsections (a) and (c), is further amended by adding at the end the following:

"(p) Limitation on Class Action Litigation.—

"(1) Claims under this section.—

"(A) In general.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(B) Effective date.—This paragraph shall apply to all civil actions that are filed on or after the date of enactment of the Bipartisan Patient Protection Act. This paragraph shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to such date of enactment.

"(2) No application of Rico.—

"(A) In general.—Any action that seeks relief under 1964(c) of title 18, United States Code, concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974. In this paragraph, the terms 'group health plan' and 'health insurance issuer' shall have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

"(B) Effective date.—Subparagraph (A) shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act and all actions commenced on or after such date.".

(d) Conforming Amendment.—Section 502(a)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(1)(A)) is amended by inserting "or (n)" after "subsection (c)".

(e) Effective Date.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after October 1, 2002.

Subtitle E—State Flexibility

SEC. 151. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) Limitation on Preemption of State Law With Respect to Health Insurance Issuers.—

(1) In general.—Subject to paragraph (2)—

(A) subtitles A and B of shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health plans or individual health insurance coverage) and to non-Federal governmental plans except to the extent that such standard or requirement prevents the application of a requirement of such subtitles; and

(B) the amendments made by subtitle C shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with individual health insurance coverage and to non-Federal governmental plans except to the extent that such standard or requirement prevents the application of a requirement of such amendments.

(2) Continued preemption with respect to group health plans.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to group health plans.

(b) Continued Application of Certain State Laws.—

(1) Requirements for continued application.—

(A) General rule.—With respect to a State law described in subparagraph (B), in applying the requirements of subtitles A and B to health insurance issuers under sections 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), or health insurance issuers in connection with group health plans under section 714 of the Employee Retirement Income Security Act of 1974 (as added by title III), subject to subsection (a)(2)—

(i) the State law shall not be treated as being superseded under subsection (a); and

(ii) the State law shall apply in lieu of the patient protection requirements otherwise applicable under such subtitles with respect to health insurance issuers (in connection with group health plans or individual health insurance coverage) and non-Federal governmental plans.

(B) STATE LAW DESCRIBED.—A State law described in this subparagraph is a State law that imposes, with respect to health insurance issuers (in connection with group health plans or individual health insurance coverage) and to non-Federal governmental plans, a requirement that is approved by the Secretary (through a certification under subsection (c)(4)) as being consistent with a patient protection requirement (as defined in paragraph (3)).

(2) LIMITATION.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) PATIENT PROTECTION REQUIREMENT DEFINED.—For purposes of this section, the term "patient protection requirement" means any one or more requirements under the following:

(A) Section 101 (relating to access to emergency care).

(B) Section 102 (relating to consumer choice option) with respect to non-Federal governmental plans only.

(C) Section 103 (relating to patient access to obstetrical and gynecological care).

(D) Section 104 (relating to access to pediatric care).

(E) Section 105 (relating to timely access to specialists).

(F) Section 106 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

(G) Section 108 (relating to access to needed prescription drugs).

(H) Section 109 (relating to coverage for individuals participating in approved clinical trials).

(I) Section 110 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

(J) A prohibition under—

(i) section 107 (relating to prohibition of interference with certain medical communications); and

(ii) section 111 (relating to prohibition of discrimination against providers based on licensure).

(K) An informational requirement under section 121.

(c) DETERMINATIONS WITH RESPECT TO CERTIFICATIONS.—

(1) IN GENERAL.—For purposes of the continued application of certain State laws under subsection (b)(1), a State may, on or after May 1, 2002, submit to the Board established under subsection (d) a certification that the State law involved is consistent with those patient protections requirements (as defined in subsection (b)(3)) that are covered under the law for which the State is seeking a certification. Such certification shall be accompanied by such information as may be required to permit the Board to make the determination described in paragraph (3), as applicable.

(2) ACTION BY BOARD.—

(A) IN GENERAL.—The Board shall promptly review a certification submitted under paragraph (1) with respect to a State law to make the determination required under paragraph (3) with respect to the certification.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—Not later than 60 days after the date on which the Board receives a certification under paragraph (1), the Board shall—

(I) notify the State involved that specified additional information is needed to make the determination described in paragraph (3); or

(II) submit a recommendation to the Secretary concerning the approval or disapproval (and the reasons therefore) of the certification.

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Board under clause (i)(I) that specified additional information is needed to make the determination described in paragraph (3), the Board shall make the submission required under clause (i)(II) within 60 days after the date on which such specified additional information is requested by the Board.

(3) DETERMINATION.—The Board shall recommend that the Secretary approve or disapprove a certification submitted under paragraph (1)(A). The Board shall recommend the approval of a certification under this subparagraph unless the Board finds that there is no reasonable basis or evidence for such approval.

(4) REVIEW BY SECRETARY.—

(A) IN GENERAL.—The recommendation by the Board to approve or disapprove a certification submitted by a State under paragraph (1) is considered to be approved by the Secretary unless the Secretary notifies the State in writing, within 30 days after the date on which the Board submits its recommendation to the Secretary under paragraph (2) concerning such certification, that the certification is approved or disapproved (and the reasons for the approval or disapproval).

(B) DEFERENCE TO STATES.—The recommendation of the Board to approve a certification submitted under paragraph (1) shall be approved by the Secretary unless the Secretary finds that there is no reasonable basis or there is insufficient evidence for approving the certification.

(C) NOTICE.—

(i) STATE NOTIFICATION.—The Secretary shall provide a State with written notice of the determination of the Secretary to approve or disapprove the certification submitted by the State under paragraph (1) within 30 days after the date on which the Board submits its recommendation to the Secretary under paragraph (2) concerning such certification.

(ii) PUBLIC NOTIFICATION.—The Secretary shall publish each notice provided under clause (i) in the Federal Register and as otherwise determined appropriate by the Secretary (including the Internet) to inform the general public. The Secretary shall annually publish (in accordance with the preceding sentence) the status of all States with respect to certifications.

(5) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under paragraph (4) may challenge such disapproval in the appropriate United States district court. The court shall make a de novo determination with respect to a challenge brought under this paragraph.

(6) TERMINATION OF CERTIFICATION.—

(A) IN GENERAL.—The Secretary, not more frequently than once every 5 years, may request that a State with respect to which a certification has been approved under paragraph (4), submit an assurance to the Secretary that with respect to a certification, the State law involved has not been—

(i) repealed; or

(ii) modified to such an extent that such law is no longer consistent with a patient protection requirement under this title.

(B) TERMINATION.—If a State fails to submit an assurance to the Secretary under subparagraph (A) within the 60-day period beginning on the date on which the Secretary makes a request for such an assurance, the certification applicable to the State under this section shall terminate.

(7) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a State from submitting more than one certification under paragraph (1).

(8) PETITIONS BY PLANS OR ISSUERS.—

(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 501, a group health plan or health insurance issuer may submit a petition to the Secretary for a determination as to whether or not a standard or requirement under a State law applicable to the plan or issuer, that is not the subject of a certification under subsection (c), is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) APPROVAL.—The Secretary shall issue a determination with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(d) PATIENTS' PROTECTION BOARD.—

(1) ESTABLISHMENT OF BOARD.—

(A) IN GENERAL.—There is hereby established in the Department of Health and Human Services a Patients' Protection Board. Consistent with the requirements of sections 5 and 10 of the Federal Advisory Committee Act, the Board shall carry out the duties described in paragraph (2).

(B) COMPOSITION.—The Board shall be composed of 13 members appointed by the Secretary with balanced representation from among individuals who represent consumers, employers, health professionals, health insurance issuers, and officials of State government. Members shall first be appointed to the Board not later than May 1, 2002.

(C) TERMS.—The terms of the members of the Board shall be for 3 years except that for the members first appointed the Secretary shall designate staggered terms of 3 years for 2 members, 2 years for 2 members, and 1 year for 1 member. A vacancy on the Board shall be filled in the same manner in which the original appointment was made and a member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(2) DUTIES.—

(A) REVIEW OF CERTIFICATIONS SUBMITTED.—The Board shall review certifications submitted under subsection (c) and make recommendations to the Secretary of Health and Human Services as provided for in such subsection.

(B) ANNUAL CONGRESSIONAL REPORTS.—

(i) IN GENERAL.—The Board shall submit to Congress an annual report on its activities. Each such report shall include the findings of the Board as to—

(I) the States that have failed to obtain a certification under subsection (c); and

(II) whether the enforcement role of the Federal Government with respect to health insurance has substantially expanded.

(ii) INITIAL REPORT.—The first annual report under clause (i) shall focus specifically on the development by the Board of criteria for the evaluation of State laws and any other activities of the Board during its first year of operation.

(e) DEFINITIONS.—For purposes of this section:

(1) BOARD.—The term "Board" means the Patients' Protection Board established under subsection (d).

(2) STATE, STATE LAW.—The terms "State" and "State law" shall have the meanings given such terms in section 2723(d) of the Public Health Service Act (42 U.S.C. 300gg-23(d)).

Subtitle F—Miscellaneous Provisions

SEC. 161. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) ENROLLEE.—The term "enrollee" means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(2) HEALTH CARE PROFESSIONAL.—The term "health care professional" means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(3) HEALTH CARE PROVIDER.—The term "health care provider" includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(4) NETWORK.—The term "network" means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(5) NONPARTICIPATING.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(6) PARTICIPATING.—The term "participating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(7) PRIOR AUTHORIZATION.—The term "prior authorization" means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(8) TERMS AND CONDITIONS.—The term "terms and conditions" includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

TITLE II—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO CERTAIN HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

"SEC. 2707. PATIENT PROTECTION STANDARDS AND ACCOUNTABILITY.

"(a) IN GENERAL.—Each health insurance issuer shall comply with the patient protection requirements under title I of the Bipartisan Patients' Bill of Rights Act of 2001 with respect to non-Federal governmental group health insurance coverage offered by such issuers, and such requirements shall be deemed to be incorporated into this section.

"(b) ACCOUNTABILITY.—The provisions of sections 503 through 503B of the Employee Retirement Income Security Act of 1974 (as in effect as of the day after the date of enactment of the Bipartisan Patients' Bill of Rights Act of 2001) shall apply to non-Federal governmental group health insurance coverage offered by health insurance issuers with respect to an enrollee in the same manner as they apply to health insurance coverage offered by a health insurance issuer for a participant or beneficiary in connection with a group health plan and the requirements referred to in such sections shall be deemed to be incorporated into this section. For purposes of this subsection, references in such sections 503 through 503B to the Secretary shall be deemed to be references to the Secretary of Health and Human Services.".

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "(other than section 2707)" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by inserting after section 2752 the following:

"SEC. 2753. PATIENT PROTECTION STANDARDS AND ACCOUNTABILITY.

"(a) IN GENERAL.—Each health insurance issuer shall comply with the patient protection requirements under subtitles A and B of title I of the Bipartisan Patients' Bill of Rights Act of 2001 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this section.".

"(b) ACCOUNTABILITY.—The provisions of sections 503 through 503B of the Employee Retirement Income Security Act of 1974 (as in effect as of the day after the date of enactment of the Bipartisan Patients' Bill of Rights Act of 2001) shall apply to health insurance coverage offered by a health insurance issuer in the individual market with respect to an enrollee in the same manner as they apply to health insurance coverage offered by a health insurance issuer for a participant or beneficiary in connection with a group health plan and the requirements referred to in such sections shall be deemed to be incorporated into this section. For purposes of this subsection, references in such sections 503 through 503B to the Secretary shall be deemed to be references to the Secretary of Health and Human Services.".

SEC. 203. LIMITATION ON AUTHORITY OF THE SECRETARY OF HEALTH AND HUMAN SERVICES WITH RESPECT TO NON-FEDERAL GOVERNMENTAL PLANS.

Section 2722(b) of the Public Health Service Act (42 U.S.C. 300gg-22(b)) is amended—

(1) in paragraph (1), by striking "only—" and all that follows through the period and inserting "only as provided under subsection (a)(2)."; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "any non-Federal governmental plan that is a group health plan and"; and

(B) in subparagraph (B), by striking "by—" and all that follows through the period and inserting "by a health insurance issuer, the issuer is liable for such penalty.".

SEC. 204. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-91 et seq.) is amended by adding at the end the following:

"SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

"(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Bipartisan Patients's Bill of Rights Act of 2001 to health insurance issuers in connection with non-Federal governmental plans and individual health insurance coverage.

"(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.".

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is further amended by adding at the end the following new section:

"SEC. 714. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall comply with the requirements of title I of the Bipartisan Patients' Bill of Rights Act of 2001 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

"(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Patients' Bill of Rights Act of 2001 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) Section 101 (relating to access to emergency care).

"(B) Section 102 (relating to consumer choice option).

"(C) Section 103 (relating to patient access to obstetrical and gynecological care).

"(D) Section 104 (relating to access to pediatric care).

"(E) Section 105 (relating to timely access to specialists).

"(F) Section 106 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(G) Section 108 (relating to access to needed prescription drugs).

"(H) Section 109 (relating to coverage for individuals participating in approved clinical trials).

"(I) Section 110 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

"(J) Section 121 (relating to the provision of information).

"(2) Application to Prohibitions.—Pursuant to rules of the Secretary, if a health insurance issuer offering health insurance coverage in connection with a group health plan takes an action in violation of any of the following sections of the Bipartisan Patients' Bill of Rights Act of 2001, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 107 (relating to prohibition of interference with certain medical communications).

"(B) Section 111 (relating to prohibition of discrimination against providers based on licensure).

"(3) Construction.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(4) Treatment of Consistent State Laws.—For purposes of applying this subsection, a health insurance issuer offering coverage in connection with a group health plan (and such group health plan) shall be deemed to be in compliance with one or more of the patient protection requirements of the Bipartisan Patients' Bill of Rights Act of 2001 (as defined in section 151(b)(3) of such Act) that are otherwise applicable to such issuer (or plan) under this section where—

"(A) the issuer (or plan) is in compliance with a State law, with respect to the patient protection requirements involved, that has been certified in accordance with section 151(c) of such Act; or

"(B) the issuer (or plan) is in compliance with a State law, with respect to the patient protection requirements involved, that has been determined by the Secretary as not preventing the application of the patient protection requirements involved, in accordance with section 151(c)(8)(B) of such Act.

"(c) Conforming Regulations.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title.".

(b) Satisfaction of ERISA Claims Procedure Requirement.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended—

(1) by inserting "(a)" after "Sec. 503."; and

(2) by adding at the end the following:

"(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title I of the Bipartisan Patients' Bill of Rights Act of 2001, and compliance with regulations promulgated by the Secretary, in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.".

(c) Enforcement.—Section 502(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended—

(1) by striking "The Secretary" and inserting "(A) The Secretary"; and

(2) by adding at the end the following:

"(B) A participant, beneficiary, plan fiduciary, or the Secretary may not bring an action to enforce the requirements of section 714 against a health insurance issuer offering coverage in connection with a group health plan (or such group health plan) where the patient protection requirements of the Bipartisan Patients' Bill of Rights Act of 2001 (as defined in section 151(b)(3) of such Act) otherwise applicable to such issuer (or plan) under section 714 do not apply because the issuer (or plan) is in compliance with a State law, with respect to the patient protection requirements involved, that has been certified or a determination made in accordance with section 151 of such Act.".

(d) Conforming Amendments.—

(1) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(2) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Patient protection standards.".

(3) Section 502(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 135(b))" after "part 7".

SEC. 302. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following:

"(c) Responsibility of State With Respect to Health Insurance Issuers.—

"(1) Agreement With States.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under sections 502, 503A, 503B, or 504 to enforce the requirements applicable under title I of the Bipartisan Patients's Bill of Rights Act of 2001 to health insurance issuers in connection with a group health plan.

"(2) Delegations.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this subsection may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.".

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 401. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patients' bill of rights.";

and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Bipartisan Patients' Bill of Rights Act of 2001 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

SEC. 402. CONFORMING ENFORCEMENT FOR WOMEN'S HEALTH AND CANCER RIGHTS.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 401, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

"Sec. 9814. Standard relating to women's health and cancer rights.";

and

(2) by inserting after section 9813 the following:

"SEC. 9814. STANDARD RELATING TO WOMEN'S HEALTH AND CANCER RIGHTS.

"The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of the enactment of this section) shall apply to group health plans as if included in this subchapter.".

TITLE V—EFFECTIVE DATE; SEVERABILITY

SEC. 501. EFFECTIVE DATE AND RELATED RULES.

Except as otherwise provided in this Act, the provisions of this Act, including the amendments made by title I, shall apply on the later of—

(1) plan years beginning on or after January 1, 2003; or

(2) plan years beginning on or after 18 months after the date on which the Secretary of Health and Human Services and the Secretary of Labor issue final regulations, subject to the notice and comment period required under subchapter 2 of chapter 5 of title 5, United States Code, necessary to carry out the amendments made by this Act.

SEC. 502. SEVERABILITY.

(a) In General.—Except as provided in subsections (b) and (c), if any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(b) Dependence of Remedies on Appeals.—If any provision of section 131, or the amendments made by such section, or the application of such section or amendments to any person or circumstance is held to be unconstitutional, sections 141 and 143, and the amendments made by such sections, shall be deemed to be null and void and shall be given no force or effect.

(c) Remedies.—If any provision of section 141, or the amendments made by such section, or the application of such section or amendments to any person or circumstance is held to be unconstitutional, the remainder of such section, and the amendments made by such section shall be deemed to be null and void and shall be given no force or effect.

SEC. 503. ANNUAL REVIEW.

(a) In General.—Not later than 24 months after the effective date referred to in section 501, and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine of the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the amendments made by this Act, on the number of individuals in the United States with health insurance coverage.

(b) LIMITATION WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted under subsection (a), determines that more than 1,000,000 individuals in the United States have lost their health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 141 and the amendments made by such section shall be repealed effective on the date that is 12 month after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide for such funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences under this section.

SA 857. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 179, after line 14, add the following:

SEC. . IMMUNITY FOR HEALTH CARE PROFESSIONALS.

Section 6(6) of the Volunteer Protection Act of 1997 (42 U.S.C. 14505(6)) is amended by adding at the end the following flush sentence:

"Such term includes a health care professional (as defined in section 151 of the Bipartisan Patient Protection Act) who is providing pro bono medical services and who meets the requirements of subparagraphs (A) and (B) with respect to the provision of such services including compensation from any source."

SA 858. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 976, to provide authorization and funding for the enhancement of ecosystems, water supply, and water quality of the State of California; which was referred to the Committee on Energy and Natural Resources; as follows:

On page 11, line 4, strike "and".

On page 11, line 10, strike "decision" and insert "decision; and".

On page 11, between lines 10 and 11, insert the following:

(5) subject to full compliance with all Federal and State environmental laws (including regulations) and hydrologic variability, and consistent with water rights in existence on the date of enactment of this Act, the record of decision—

(A) anticipates that implementation of joint point diversion, operational flexibility, interagency cooperation, and the environmental water account will occur and likely result in an increase to south-of-Delta Central Valley Project agricultural water service contractors of—

(i) 15 percent of contract totals in normal water years (totaling approximately 65 to 70 percent of contract totals); and

(ii) lesser amounts in dry years; and

(B) does not amend or otherwise affect any legal right of, or remedy available to, any Central Valley Project contractor.

On page 14, strike lines 4 through 23.

On page 14, line 24, strike "(3)" and insert "(2)".

On page 15, line 5, strike "(4)" and insert "(3)".

SA 859. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 976, to provide authorization and funding for the enhancement of ecosystems, water supply, and water quality of the State of California; which was referred to the Committee on Energy and Natural Resources; as follows:

On page 29, strike line 4 and insert the following:

(C) REPORTS.—The Secretary, in cooperation with the Federal agencies and State agencies, shall submit to the authorizing committees a report on each project identified in this subsection that includes, for each such project—

(i) a project description;

(ii) the results of all feasibility and operational studies carried out for the project;

(iii) the results of all final environmental impact studies and reports completed concerning the project;

(iv) a finding of consistency with the record of decision by the Bay-Delta Program Policy Group;

(v) a finding of consistency, made by the Independent Science Panel described in the record of decision, with attainment of the objectives of the ecosystem restoration program;

(vi) an identification of the quantity of water that the project would allocate to fish, wildlife, and habitat to support the attainment of those objectives;

(vii) a cost-benefit analysis;

(viii) a description of the benefits and beneficiaries of the project;

(ix) a cost allocation plan that is consistent with the requirement in the record of decision that beneficiaries pay the full cost of the project (including mitigation costs); and

(x) a financing and repayment plan that specifies the contribution of each project beneficiary.

(D) SUBMISSION DEADLINES.—

(i) IN GENERAL.—A report under subparagraph (C) shall be submitted for certain projects identified in the record of decision as follows:

(I) For enlargement of Shasta Dam, not later than January 1, 2004.

(II) For new in-Delta storage, not later than January 2, 2002.

(III) For enlargement of Los Vaqueros Reservoir, not later than December 1, 2003.

(ii) FAILURE TO MEET DEADLINES.—If a report described in clause (i) is not submitted by the applicable deadline described in that clause, the Secretary shall immediately submit to the authorizing committees an explanation of the failure to submit the report that includes—

(I) a revised timeline for submission of the report; and

(II) if determined to be appropriate for inclusion by the Secretary—

(aa) a partial interim report; or

(bb) a determination by the Secretary that the project appears to be infeasible, based on preliminary findings and information contained in the report.

(E) COST SHARING.—

Beginning on page 30, strike line 9 and all that follows through page 32, line 18, and insert the following:

(3) ACQUISITION OF WATER AND LAND.—There are authorized to be appropriated such sums as are necessary to pay the Federal share of the cost of carrying out 1 or more projects or activities to acquire water or land for the ecosystem restoration program and the environmental water account, as provided in the record of decision.

On page 32, line 19, strike "(5)" and insert "(4)".

SA 860. Mr. REID (for Mr. KENNEDY (for himself and Mr. GREGG)) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 22, lines 13 and 14, strike "REVIEW OF MEDICAL DECISIONS BY PHYSICIANS" and insert "PEER REVIEW OF MEDICAL DECISIONS BY HEALTH CARE PROFESSIONALS".

On page 22, strike lines 18 through 22, and insert the following: "evaluation of medical facts—

"(A) shall be made by a physician (allopathic or osteopathic); or

"(B) in a claim for benefits provided by a non-physician health professional, shall be made by reviewer (or reviewers) including at least one practicing non-physician health professional of the same or similar specialty;

"with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) and acting within the appropriate scope of practice within the State in which the service is provided or rendered, who was not involved in the initial determination.".

On page 52, line 4, after "who" insert the following: ", acting within the appropriate scope of practice within the State in which the service is provided or rendered,".

On page 52, strike lines 7 through 17, and insert the following:

"(ii) by a non-physician health care professional, a reviewer (or reviewers) shall include at least one practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.".

On page 93, line 18, insert before the semicolon the following: ", such as a qualified nongovernmental research entity to which the National Cancer Institute has awarded a center support grant".

On page 94, line 13, strike "scientific" and insert "ethical".

On page 100, line 13, strike "104(b)(3)(C)" and insert "104(d)(3)(C)".

On page 142, line 1, strike "person" and insert "plan, plan sponsor or issuer".

On page 154, line 11, strike "(5)" and insert "(9)".

On page 174, line 5, strike "determined without regard to" and insert "excluding".

On page 174, line 8, strike the period and insert a semicolon.

On page 174, line 9, strike "For" and insert "but shall apply not later than 1 year after the general effective date. For".

On page 173, between lines 4 and 5, insert the following:

SEC. 304. SENSE OF THE SENATE CONCERNING THE IMPORTANCE OF CERTAIN UNPAID SERVICES.

(b) Sense of the Senate.—It is the sense of the Senate that the court should consider the loss of a non-wage earning spouse or parent as an economic loss for the purposes of this section. Furthermore, the court should define the compensation for the loss not as minimum services, but, rather, in terms that fully compensate for the true and whole replacement cost to the family.

At the end of subtitle A of title I, insert the following:

SEC. ___. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) Grants.—

(1) In general.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish a fund, to be known as the "Health Care Consumer Assistance Fund", to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) State eligibility.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that the health care consumer assistance office (established under paragraph (4)) will educate and assist health care consumers in accessing needed care;

(B) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by Federal, State and local health-related ombudsman, information, protection and advocacy, insurance, and fraud and abuse programs;

(C) the manner in which the State will provide information, outreach, and services to underserved, minority populations with limited English proficiency and populations residing in rural areas;

(D) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluate program effectiveness;

(E) the manner in which the State will ensure that funds made available under this section will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this section and those described in subparagraphs (C) and (D);

(F) the manner in which the State will ensure that health care consumer office personnel have the professional background and training to carry out the activities of the office; and

(G) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours.

(3) Amount of grant.—

(A) In general.—From amounts appropriated under subsection (b) for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a group health plan or under health insurance coverage offered by a health insurance issuer bears to the total number of individuals so covered in all States (as determined by the Secretary). Any amounts provided to a State under this subsection that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this subparagraph.

(B) Minimum amount.—In no case shall the amount provided to a State under a grant under this subsection for a fiscal year be less than an amount equal to 0.5 percent of the amount appropriated for such fiscal year to carry out this section.

(C) Non-federal contributions.—A State will provide for the collection of non-Federal contributions for the operation of the office in an amount that is not less than 25 percent of the amount of Federal funds provided to the State under this section.

(4) Provision of funds for establishment of office.—

(A) In general.—From amounts provided under a grant under this subsection, a State shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(B) Eligibility of entity.—To be eligible to enter into a contract under subparagraph (A), an entity shall demonstrate that it has the technical, organizational, and professional capacity to deliver the services described in subsection (b) to all public and private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(C) Existing state entity.—Nothing in this section shall prevent the funding of an existing health care consumer assistance program that otherwise meets the requirement of this section.

(b) Use of Funds.—

(1) By state.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activities directly or by contract with an independent, non-profit organization. An eligible entity may use some reasonable amount of such grant to ensure the adequate training of personnel carrying out such activities. To receive amounts under this subsection, an eligible entity shall provide consumer assistance services, including—

(A) the operation of a toll-free telephone hotline to respond to consumer requests;

(B) the dissemination of appropriate educational materials on available health insurance products and on how best to access health care and the rights and responsibilities of health care consumers;

(C) the provision of education on effective methods to promptly and efficiently resolve questions, problems, and grievances;

(D) the coordination of educational and outreach efforts with health plans, health care providers, payers, and governmental agencies;

(E) referrals to appropriate private and public entities to resolve questions, problems and grievances; and

(F) the provision of information and assistance, including acting as an authorized representative, regarding internal, external, or administrative grievances or appeals procedures in nonlitigative settings to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a group health plan or health insurance coverage offered by a health insurance issuer.

(2) Confidentiality and access to information.—

(A) State entity.—With respect to a State that directly establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(B) Contract entity.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols, consistent with applicable Federal and State laws, to ensure the confidentiality of all information shared by a participant, beneficiary, enrollee, or their personal representative and their health care providers, group health plans, or health insurance insurers with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations). The office shall provide a written description of the policies and procedures of the office with respect to the manner in which health information may be used or disclosed to carry out consumer assistance activities. The office shall provide health care providers, group health plans, or health insurance issuers with a written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) to allow the office to obtain medical information relevant to the matter before the office.

(3) Availability of services.—The health care consumer assistance office of a State shall not discriminate in the provision of information, referrals, and services regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under a group health plan or health insurance coverage offered by a health insurance issuer, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(4) Designation of responsibilities.—

(A) Within existing state entity.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall ensure that—

(i) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(ii) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee or their personal representative and their health care providers, group health plans, or health insurance issuers with the office and to ensure that no information is disclosed to the State agency or office without the written authorization of the individual or their personal representative in accordance with paragraph (2).

(B) Contract entity.—In the case of an entity that enters into a contract with a State under subsection (a)(3), the entity shall provide assurances that the entity has no conflict of interest in carrying out the activities of the office and that the entity is independent of group health plans, health insurance issuers, providers, payers, and regulators of health care.

(5) SUBCONTRACTS.—The health care consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this section are complied with by the office.

(6) TERM.—A contract entered into under this subsection shall be for a term of 3 years.

(c) REPORT.—Not later than 1 year after the Secretary first awards grants under this section, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities funded under this section and the effectiveness of such activities in resolving health care-related problems and grievances.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on S. 1006, the Renewable Fuels for Energy Security Act of 2001.

The hearing, chaired by Senator TIM JOHNSON, will take place on Friday, July 6, at 9:30 a.m., at the Minnehaha County Administration Building, 415 N. Dakota Avenue, 2nd Floor, County Commission Meeting Room, Sioux Falls, SD.

Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Shirley Neff, U.S. Senate, Washington, DC 20510.

For further information, please call Shirley Neff at 202/224-6689.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a legislative hearing on provisions to protect energy supply and security (title I of S. 388, the National Energy Security Act of 2001); oil and gas production (title III and title V of S. 388; and title X of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001); drilling moratoriums on the Outer Continental Shelf (S. 901, the Coastal States Protection Act; S. 1086, the COAST Anti-Drilling Act; and S. 771, a bill to permanently prohibit the conduct of offshore drilling on the Outer Continental Shelf of the State of Florida, and for other purposes); energy regulatory reviews and studies; and S. 900, the Consumer Energy Commission Act of 2001.

The hearing will take place on Thursday, July 12, 2001, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Mary Katherine Ishee, U.S. Senate, Washington, DC 20510-6150.

For further information, please contact Mary Katherine Ishee at (202) 224-7865.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on legislative proposals related to energy efficiency, including S. 352, the Energy Emergency Response Act of 2001; title XIII of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; sections 602-606 of S. 388, the National Energy Security Act of 2001; S. 95, the Federal Energy Bank Act; S.J. Res. 15, providing for congressional disapproval of the rule submitted by the Department of Energy relating to the postponement of the effective date of energy conservation standards for central air conditioners.

The hearing will take place on Friday, July 13, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building.

Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Deborah Estes, U.S. Senate, Washington, DC 20510.

For further information, please call Deborah Estes at 202/224-5360.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on legislative proposals related to reducing the demand for petroleum products in the light duty vehicle sector, including titles III and XII of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; title VII of S. 388, the National Energy Security Act of 2001; S. 883, the Energy Independence Act of 2001; S. 1053, Hydrogen Future Act of 2001; and S. 1006, Renewable Fuels for Energy Security Act of 2001.

The hearing will take place on Tuesday, July 17, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Shirley Neff, U.S. Senate, Washington, DC 20510.

For further information, please call Shirley Neff at 202/224-6689.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on legislative proposals related to energy and scientific research, development, technology deployment, education, and training, including sections 107, 114, 115, 607, title II, and subtitle B of title IV of S. 388, the National Energy Security Act of 2001; titles VIII, XI and Division E of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; sections 111, 121, 122, 123, 125, 127, 204, 205, title IV and title V of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; and S. 90, the Department of Energy Nanoscale Science and Engineering Research Act; S. 193, the Department of Energy Advanced Scientific Computing Act; S. 242, the Department of Energy University Nuclear Science and Engineering Act; S. 259, the National Laboratories Partnership Improvement Act of 2001; and S. 636, a bill to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

The hearing will take place on Wednesday, July 18, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Robert Simon, U.S. Senate, Washington, DC 20510.

For further information, please call Robert M. Simon at 202-224-4103.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a legislative hearing to receive testimony on proposals related to removing barriers to distributed generation, renewable energy, and other advanced technologies in electricity generation and transmission, including section 301 and title VI of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; sections 110, 111, 112, 710, and 711 of S. 388, the National Energy Security Act of 2001; and S. 933, the Combined Heat and Power Advancement Act of 2001. In addition, the hearing will consider proposals relating to the hydroelectric relicensing procedures of the Federal Energy Regulatory Commission, including title VII of S. 388, title VII of S. 597; and S. 71, the Hydroelectric Licensing Process Improvement Act of 2001.

The hearing will take place on Thursday, July 19, 2001, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Deborah Estes, U.S. Senate, Washington, DC 20510-6150.

For further information, please contact Deborah Estes at (202) 224-5360 or Mary Katherine Ishee at (202) 224-7865.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on proposals related to global climate change and measures to mitigate greenhouse gas emission, including S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; S. 388, the National Energy Security Act of 2001; and S. 820, the Forest Resources for the Environment and the Economy Act.

The hearing will take place on Tuesday, July 24, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Shirley Neff, U.S. Senate, Washington, DC 20510.

For further information, please call Shirley Neff at 202/224-6689.

SUBCOMMITTEE ON WATER AND POWER

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on S. 976, the California Ecosystem, Water Supply, and Water Quality Enhancement Act of 2001.

The hearing will take place on July 19 at 2:30 p.m., in room 366 of the Dirksen Senate Office Building.

Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Patty Beneke, U.S. Senate, Washington, DC 20510.

For further information, please call Patty Beneke at 202/224-5451.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Krisann Kleibacker, a fellow in Senator DASCHLE's office, be granted the privilege of the floor during debate on S. 1052.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: No. 166, Nos. 169 through 181, including the nominations on the Secretary's desk; that the nominations be confirmed en bloc, the motions to reconsider be laid on the table en bloc, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

AIR FORCE

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Michael A. Hamel, 2699.

DEPARTMENT OF THE INTERIOR

Neal A. McCaleb, of Oklahoma, to be an Assistant Secretary of the Interior.

AIR FORCE

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Dale W. Meyerrose, 1611.

Brig. Gen. Wilbert D. Pearson, Jr., 4130.

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Tex W. Tanberg, Jr., 5789.

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John A. Van Alstyne, 2238.

The following named officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. James P. Collins, 2607.

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Edward L. Correa, Jr., 2290.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James C. Riley, 6688.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. William S. Wallace, 1708.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Benjamin S. Griffin, 5044.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Leon J. LaPorte, 0933.

MARINE CORPS

The following named officer for appointment in the United states Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601;

To be lieutenant general

Maj. Gen. Edward Hanlon, Jr., 2430.

NAVY

The following named officer for appointment as Chief of the Bureau of Medicine and Surgery and Surgeon General and for appointment to the grade indicated under title 10, U.S.C., sections 601 and 5137:

To be vice admiral

Rear Adm. Michael L. Cowan, 2470.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Patricia A. Tracey, 3579.

AIR FORCE

PN536 Air Force nominations (59) beginning STEVEN L ADAMS, and ending JANNETTE YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of June 18, 2001

ARMY

PN29 Army nominations (108) beginning KEITH S * ALBERTSON, and ending ROBERT K ZUEHLKE, which nominations were received by the Senate and appeared in the Congressional Record of January 3, 2001

PN434 Army nominations (169) beginning ERIC D * ADAMS, and ending DAVID S. ZUMBRO, which nominations were received by the Senate and appeared in the Congressional Record of May 21, 2001

PN435 Army nominations (8) beginning GREGGORY R. CLUFF, and ending STEVEN W. VINSON, which nominations were received by the Senate and appeared in the Congressional Record of May 21, 2001

PN485 Army nominations (16) beginning GILL P BECK, and ending MARGO D SHERIDAN, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 2001

PN486 Army nominations (179) beginning CYNTHIA J ABBADINI, and ending THOMAS R * YARBER, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 2001

PN517 Army nominations (3) beginning JAMES E. GELETA, and ending GARY S OWENS, which nominations were received by the Senate and appeared in the Congressional Record of June 12, 2001

PN518 Army nominations (6) beginning FLOYD E BELL, JR., and ending STEVEN N. WICKSTROM, which nominations were received by the Senate and appeared in the Congressional Record of June 12, 2001

PN537 Army nominations (11) beginning ROBERT E. ELLIOTT, and ending PETER G SMITH, which nominations were received by the Senate and appeared in the Congressional Record of June 18, 2001

PN538 Army nominations (9) beginning BRUCE M. BENNETT, and ending GRANT E. ZACHARY,JR., which nominations were received by the Senate and appeared in the Congressional Record of June 18, 2001

MARINE CORPS

PN519 Marine Corps nomination of Donald E. Gray, Jr., which was received by the Senate and appeared in the Congressional Record of June 12, 2001

PN520 Marine Corps nominations (1291) beginning JESSICA L ACOSTA, and ending JOSEPH J ZWILLER, which nominations were received by the Senate and appeared in the Congressional Record of June 1, 2001

NAVY

PN438 Navy nomination of Charlie C Biles, which was received by the Senate and appeared in the Congressional Record of May 21, 2001

PN439 Navy nominations (235) beginning JAMES W ADKISSON, III and ending MIKE ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record of May 21, 2001

PN487 Navy nomination of William J Diehl, which was received by the Senate and appeared in the Congressional Record of June 5, 2001

PN521 Navy nomination of Christopher M Rodrigues, which was received by the Senate and appeared in the Congressional Record of June 12, 2001

PN522 Navy nominations (19) beginning ROGER T BANKS, and ending CARL ZEIGLER, which nominations were received by the Senate and appeared in the Congressional Record of June 12, 2001

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORGANIZATION OF THE SENATE

Mr. DASCHLE. Madam President, I now ask unanimous consent that the Senate proceed to S. Res. 120, the organizing resolution submitted earlier today by myself and Senator LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 120) relative to the organization of the Senate during the remainder of the 107th Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Madam President, I ask unanimous consent that three letters with reference to the resolution be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 29, 2001.

DEAR COLLEAGUE: We write as Chairman and Ranking Republican Member of the Judiciary Committee to inform you of a change in Committee practice with respect to nominations. The "blue slips" that the Committee has traditionally sent to home State Senators to ask their views on nominees to be U.S. Attorneys, U.S. Marshals and federal judges, will be treated as public information.

We both believe that such openness in the confirmation process will benefit the Judiciary Committee and the Senate as a whole. Further, it is our intention that this policy of openness with regard to "blue slips" and the blue slip process continue in the future, regardless of who is Chairman or which party is in the majority in the Senate.

Therefore, we write to inform you that the Chairman of the Judiciary Committee, with the full support of the former Chairman and Ranking Republican Member, is exercising his authority to declare that the blue slip process shall no longer be designated or treated as Committee confidential.

Sincerely,

PATRICK J. LEAHY,
Chairman.
ORRIN G. HATCH,
Ranking Republican Member.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 29, 2001.

DEAR COLLEAGUE: We are cognizant of the important constitutional role of the Senate in connection with Supreme Court nominations. We write as Chairman and Ranking Republican Member on the Judiciary Committee to inform you that we are prepared to examine carefully and assess such presidential nominations.

The Judiciary Committee's traditional practice has been to report Supreme Court nominees to the Senate once the Committee has completed its considerations. This has been true even in cases where Supreme Court nominees were opposed by a majority of the Judiciary Committee.

We both recognize and have every intention of following the practices and precedents of the Committee and the Senate when considering Supreme Court nominees.

Sincerely,

PATRICK J. LEAHY,
Chairman.
ORRIN G. HATCH,
Ranking Republican Member.

U.S. SENATE, COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC, June 29, 2001.

DEAR COLLEAGUE: On June 29, 2001, the Senate passed the organizing resolution which states, in part, that subject to the authority of the Standing Rules of the Senate, any agreements entered into regarding committee funding and space prior to June 5, 2001, between the chairman and ranking member of each committee shall remain in effect, unless modified by subsequent agreement between the chairman and ranking member.

In the assignment of office space to Senate committees, pursuant to Rule XXV of the Standing Rules of the Senate, it is the practice of the Committee on Rules and Administration to assign all such space to the chairman of each committee. Further, the Rules Committee does not traditionally intervene in the internal space allocation decisions of the committees and therefore is not a party to any agreements between the chairman and ranking member regarding space allocations. It is the intent of the Committee on Rules and Administration to continue such practice.

Sincerely,

CHRISTOPHER J. DODD,
Chairman.
MITCH MCCONNELL,
Ranking Member.

Mr. DASCHLE. Madam President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. 120) was agreed to, as follows:

S. RES. 120

Resolved, That the Majority Party of the Senate for the 107th Congress shall have a one seat majority on every committee of the Senate, except that the Select Committee on Ethics shall continue to be composed equally of members from both parties. No Senator shall lose his or her current committee assignments by virtue of this resolution.

SEC. 2 Notwithstanding the provisions of Rule XXV the Majority and Minority Leaders of the Senate are hereby authorized to appoint their members of the committees consistent with this resolution.

SEC. 3 Subject to the authority of the Standing Rules of the Senate, any agreements entered into regarding committee funding and space prior to June 5, 2001, between the Chairman and Ranking member of each committee shall remain in effect, unless modified by subsequent agreement between the Chairman and Ranking member.

SEC. 4 The provisions of this resolution shall cease to be effective, except for Sec. 3, if the ratio in the full Senate on the date of adoption of this resolution changes.

Mr. DASCHLE. Madam President, the resolution we have just adopted is one that provides for the reorganization of the U.S. Senate.

This is a unique time of transition for the Senate, and I understand that it is a difficult time for many of my Republican colleagues.

If there is one thing that supercedes the status of any Senator or any party, it is our desire to do the work we were sent here to do. That, of course, requires getting the Senate organized to do it.

By passing this resolution, our colleagues can retake their rightful places on committees, committees can take action on legislation, and importantly, we can move forward with Presidential nominations.

This organizing resolution is the result of thorough bipartisan negotiations over the last several weeks.

Many people deserve credit. First and foremost, I thank Senator LOTT. Senator LOTT and I have been through many challenges together. Each of those challenges has strengthened our friendship, and our working relationship, and this is no exception.

I also thank Senators MCCONNELL, DOMENICI, GRAMM, HATCH, and SPECTER. Their good faith in the negotiating process, and their patience as the process played out, were instrumental in helping us reach this point.

This resolution provides for a one-seat margin on Senate committees, which is consistent with Senate precedent.

It clarifies that—subject to the standing rules of the Senate—the agreements on funding and space that were made between chairmen and ranking members early in this Congress will remain in effect for the duration of this Congress.

This resolution also makes it clear that all of these provisions will sunset if the ratio in the Senate changes during this Congress.

I especially commend Senator LEAHY. Senator LEAHY, in his typically fair and wise way, played a critical role in solving the most difficult questions we faced in these negotiations: those involving Supreme Court and other Presidential nominees.

Together, he and Senator HATCH were able to find a truly constructive solution to the way in which we handle "blue slips," and the way in which we consider nominees to the Supreme Court.

On the subject of blue slips, Senators LEAHY and HATCH have agreed that these forms—traditionally sent to home-state Senators to ask their views on nominees to be U.S. Attorneys, U.S. Marshals, and federal judges—will now be treated as public information.

I share their belief that this new policy of openness will benefit not only the Judiciary Committee, but the Senate as a whole. I also share their hope that this policy will continue in the future, regardless of which party is in the majority.

In the course of our negotiations, a number of our Republican colleagues also raised concerns about how Democrats would deal with potential Supreme Court nominations, should that need arise.

A second letter to which Senators LEAHY and HATCH agreed says clearly that all nominees to the Supreme Court will receive full and fair consideration.

This is the same position I stated publicly many times during our negotiations, and I intend to see that the Senate lives up to this commitment.

It has been the traditional practice of the Judiciary Committee to report Supreme Court nominees to the Senate floor once the committee has completed its consideration. This has been true even for a number of nominees that were defeated in the Judiciary Committee.

Now, Senators LEAHY and HATCH have put in writing their intention that consideration of Supreme Court nominees will follow the practices and precedents of the Judiciary Committee and the Senate.

In reaching this agreement, we have avoided an unwise and unwarranted change to the Standing Rules of the Senate and a sweeping revision to the Senate's constitutional responsibility to review Supreme Court nominees.

In sum, this is a good, balanced, resolution—one that will enable us to run this Senate in a spirit of fairness.

In a letter to Thomas Jefferson, James Madison explained that the Constitution's Framers considered the Senate to be the great "anchor" of the Government.

For 212 years, that anchor has held steady. The Senate has withstood Civil War and constitutional crises. In each generation, it has been buffeted by the winds and tides of political and social change.

Today I believe we are proving that this great anchor of democracy can withstand the forces of unprecedented internal changes as well.

I am confident that this resolution is the right way to keep the Senate working. I am appreciative of the support given by all our colleagues today as we now adopt it.

If I may, I will say one other thing about this particular resolution. There is a member of my staff whose name is Mark Childress; our colleagues know him. I am indebted to him for many reasons, as I am to all of my staff. But no one deserves more credit and more praise for the job done in reaching this successful conclusion than Mark Childress. Publicly, I acknowledge his contribution, his incredible work and effort. I thank him from the bottom of my heart for what he has done to make this possible.

Mr. LOTT. Madam President, I ask unanimous consent to insert in the RECORD a memo from the Congressional Reference Service. As this memo makes clear, the Senate has a long record of allowing the Supreme Court nominees of the President to be given a vote on the floor of the Senate. No matter what the vote in committee on a Supreme Court nominee, it is the precedent of the Senate that the individual nominated is given a vote by the whole Senate.

The letter inserted in the RECORD as a part of the agreement accompanying the organization resolution refers to the "traditional" practice of reporting Supreme Court nominees for a vote on the floor. This memo from CRS shows that since 1881, there is only one case where the nominee was not given a floor vote. In that case, there was no opening on the Court for the nominee to fill and thus the nominee was withdrawn. So this precedent is even purer than the "99 and 44/100ths" soap test.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE
Washington DC, June 28, 2001.

Senate Consideration of Supreme Court Nominations since 1880

Hon. TRENT LOTT,
Senate Republican Leader,

This memorandum is in response to your request, made during our telephone conversation earlier today, for a short written answer to the specific question, "Is it the case that since 1880 all Supreme Court nominations, irrespective of Judiciary Committee recommendation, have received consideration by, and a vote of, the full Senate?"

Research by CRS has found that from President James A. Garfield's nomination of Stanley Matthews on March 14, 1881 to the present, every person nominated to the Supreme Court except one has received Senate consideration and a vote on his or her nomination. Nonetheless, it should be noted, during the time frame of 1880 to the present, there also have been two other instances, besides the already mentioned exception, in which Supreme Court nominations failed to receive consideration; in both cases, however, the individuals in question were re-nominated shortly thereafter, with one receiving Senate confirmation and the other Senate rejection.

The one instance when the Senate did not consider and vote on an individual nominated to be a Supreme Court Justice involved President Lyndon B. Johnson's nomination of federal appellate judge Homer Thornberry in 1968. Judge Thornberry was nominated to be an Associate Justice on June 26, 1968, the same day on which President Johnson nominated then-Associate Justice Abe Fortas to be Chief Justice. Judge Thornberry was nominated to fill the Associate Justice vacancy that was to be created upon Justice Fortas's confirmation as Chief Justice. However, after being favorably reported by the Judiciary Committee, the Fortas nomination failed to gain Senate confirmation. On October 1, 1968, the fourth day of Senate consideration of the Fortas nomination, a motion to close debate on the nomination failed by a 45–43 vote. Three days later, on October 4, 1968, President Johnson withdrew both the Fortas and Thornberry nominations.

Prior to Senate action on the Fortas nomination, the Judiciary Committee held hearings simultaneously on Fortas and Thornberry, but upon conclusion of the hearings reported out only the Fortas nomination. One detailed history of the Fortas nomination reported that it was apparent "that the committee would take no action on Thornberry until the Fortas nomination was settled."

As noted in the second paragraph of this memorandum, there also have been two instances in which Supreme Court nominations failed to receive Senate consideration, only to be followed by the individuals in question being re-nominated shortly thereafter and then receiving Senate consideration. The earlier of these instances involved President Rutherford B. Haye's nomination of Stanley Matthews on January 26, 1881 in the final days of the 46th Congress. According to one historical account, the nomination did not enjoy majority support in the Senate Judiciary Committee and was not reported out by the Committee or considered by the full Senate before the end of the Congress. However, Matthews was renominated by Hayes's successor, President Garfield, on March 14, 1881. Although the second nomination was reported with an adverse recommendation by the Judiciary Committee, it was considered by the full Senate and confirmed on May 12, 1881 by a vote of 24–23.

A second instance in which a Supreme Court nomination failed to receive Senate consideration, only to have the individual in question be re-nominated, involved Grover Cleveland's nomination of William B. Hornblower in 1893. Hornblower was first nominated on September 19, 1893, with no record of any Judiciary Committee action or Senate consideration of the nomination indicated in Journal of the Executive Proceedings of the Senate volume for that (the 53rd) Congress. Hornblower was re-nominated by President Cleveland on December 6, 1893. After his second nomination was reported adversely by the Judiciary Committee on January 8, 1894, Hornblower was rejected by the Senate on January 15, 1894 by a 24–30 vote.

I trust the above information is responsive to your request. If I may be of further assistance please contact me at 7–7162.

DENIS STEVEN RUTKUS
Specialist in American National Government

CHANGING THE NAME OF THE COMMITTEE ON SMALL BUSINESS TO "COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP"

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 123, submitted earlier today by Senators KERRY and BOND.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 123) amending the Standing Rules of the Senate to change the name of the Committee on Small Business to the "Committee on Small Business and Entrepreneurship."

There being no objection, the Senate proceeded to consider the resolution.

Mr. KERRY. Madam President, I would like to take a few minutes to explain the historic importance of the Resolution I am putting forward with Senator BOND to change the name of the Senate Committee on Small Business to the Senate Committee on Small Business and Entrepreneurship. This is the first piece of legislation I am putting forward as the new Chairman of the Small Business Committee. I am pleased that it is a bipartisan Resolution, continuing the tradition of the Committee.

I would like to thank Senator BOND for cosponsoring this Resolution, and the Majority Leader and Republican Leader for their cooperation and support in bringing it to the floor of the Senate so quickly.

As many of my colleagues may know, the needs and circumstances of today's entrepreneurial companies differ from those of traditional small businesses. For instance, entrepreneurial companies are much more likely to depend on investment capital rather than loan capital. Additionally, although they represent less than five percent of all businesses, entrepreneurial companies create a substantial number of all new jobs and are responsible for developing a significant portion of technological innovations, both of which have substantial benefits for our economy.

Taken together, an unshakable determination to grow and improved productivity lie at the heart of what distinguishes fast growth or entrepreneurial companies from more traditional, albeit successful, small businesses. Early on, it is often impossible to distinguish a small business from an entrepreneurial company. Only when a company starts to grow fast and make fundamental changes in a market do the differences come into play. Policies that support entrepreneurship become critical during this phase of the business cycle. Our public policies can only play a significant role during this critical phase if we understand the needs of entrepreneurial companies and are prepared to respond appropriately.

I believe that adding "Entrepreneurship" to the Committee on Small Business's name will more accurately reflect the Committee's valuable role in helping to foster and promote economic development by including entrepreneurial companies and the spirit of entrepreneurship in the United States.

I urge my colleagues to support this Resolution. Thank you.

Mr. DASCHLE. Madam President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 123) was agreed to.

(The resolution is located in today's RECORD under "Statements on Submitted Resolutions.")

COMPLIMENTING SENATORS

Mr. DASCHLE. Madam President, let me just say this before I make my final comments. Senator KENNEDY is on the floor and I want to acknowledge, as I did just now upstairs and as I did a couple of weeks ago as we completed our work on the education bill, a historic and landmark piece of legislation, how grateful I am, once again, to the senior Senator from Massachusetts, the chairman of the Health, Education, and Labor Committee.

I have said privately and publicly that I believe he is one of the most historic figures our Chamber has ever had the pleasure of witnessing. We saw, again, the leadership and the remarkable ability that he has to legislate over the course of the last couple of weeks. I didn't think that what he had to endure in the education bill could have been any harder. In many respects, I think the last 2 weeks were harder. It was harder reaching a consensus. We had very difficult and contentious issues to confront, amendments to consider. In all of it, he, once again, took his responsibilities as we would expect of him—with fairness, with courtesy, and with a display of empathy for all Members, the likes of which you just do not see on the Senate floor.

So on behalf of all of our caucus, I daresay on behalf of the Senate, I thank Senator KENNEDY, our chairman, for the work he has done.

I also acknowledge and thank our colleague from North Carolina, Senator JOHN EDWARDS. Senator EDWARDS has done a remarkable job. In a very short period of time, he has demonstrated his capabilities for senatorial leadership. He came to the Senate without the experience of public service, but in a very brief period of time he has demonstrated his enormous ability to adjust and adapt to Senate ways. He has become a true leader. I am grateful to him for his extraordinary contribution to this bill.

Let me also thank Senator JOHN MCCAIN. This bill is truly bipartisan in many ways, but it is personified in that bipartisanship with the role played by Senator MCCAIN, not unlike other bills in which he has participated. I will mention especially the campaign finance reform bill.

Senator MCCAIN has been the key in bringing about the bipartisan consensus that we reached again today. On a vote of 59–36, we showed the bipartisanship that can be displayed even as we take on these contentious and difficult issues. That would not have been possible were it not for his effort.

Let me thank, as well, Senator JUDD GREGG and many of our colleagues on the Republican side for their participation. They fought a hard fight; they made a good case; they argued their amendments extremely well; and they were prepared to bring this debate to closure tonight. I am grateful to them for their willingness to do so.

Finally, I thank Senator HARRY REID. He wasn't officially a part of the committee, but Senator REID has made a contribution once again to this bill, as he has on so many other bills, that cannot be replicated. This would not have happened were it not for his remarkable—and I would say incredible—efforts on the Senate floor each and every day. He is a dear friend. He is someone unlike anyone I think we have seen in recent times. He cares deeply for this body and has worked diligently to bring about a successful conclusion to this bill. We thank him.

Having thanked our colleagues, let me also thank our staff—our floor staff, my personal staff, the leadership staff, the staff of the committee. Were it not for them, we simply could not have done our work. I am extraordinarily grateful to them as well.

ORDERS FOR MONDAY, JULY 9, 2001

Mr. DASCHLE. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 12 noon, Monday, July 9. I further ask consent that on Monday, July 9, immediately following the prayer and the pledge, the

Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 1 p.m., with Senators permitted to speak for up to 10 minutes each, with the following exceptions: Senator DURBIN, or his designee, from 12 to 12:30 p.m.; Senator THOMAS, or his designee, 12:30 p.m. to 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DASCHLE. Madam President, on Monday, July 9, the Senate will convene at 12 noon. We will convene at that time for a period for morning business until 1 p.m. At 1 p.m., the Senate will begin consideration of the supplemental appropriations bill under a previous order which calls for all listed amendments to be offered on Monday prior to 6 p.m. There will be no rollcall votes on Monday, July 9, and there will be no rollcall votes before 2:15 p.m. on Tuesday, July 10.

ORDER FOR PRINTING OF S. 1052

Mr. DASCHLE. Madam President, I ask unanimous consent that S. 1052, as passed by the Senate, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. DASCHLE. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 176, following the conclusion of the remarks of Senator Kennedy.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished senior Senator from Massachusetts.

PASSAGE OF THE BIPARTISAN PATIENT PROTECTION ACT

Mr. KENNEDY. Madam President, I want to take a brief moment to thank some very special people who were absolutely instrumental in bringing us to the point of the passage of the legislation which gives so much hope—and should give so much hope—to millions of American families who now are going to be treated by the doctors in whom they have confidence, by the health care staff from whom they are going to get true recommendations, and not have judgments and decisions overridden by their HMOs. We have not finished the job, but this is a giant step forward.

I want to, as others have done—I feel strongly about it —first thank some special Members of this body. We just heard our leader, Senator DASCHLE. I can remember when Senator DASCHLE was asked after he assumed the leadership role as the majority leader in the Senate, what was going to be his first priority, and he mentioned the Patients' Bill of Rights. For 5 years—for 5 years—we have waited for this moment this evening. For 5 years we have waited, and in the short time he has assumed the leadership of the Senate, in a closely divided Senate, he has been able to develop the broad support evidenced in vote after vote, bipartisan in such important public policy areas.

I thank my good friend, JOHN EDWARDS, whose leadership at critical times during this debate and during very important moments was absolutely indispensable and essential. He was extremely effective in his quiet and soft spoken way, but with a steeliness and a strength that is reflected in his great passion on so many of the issues which are in his soul. He has made an enormous difference in making sure we reached this point tonight.

I thank JOHN MCCAIN. Senator MCCAIN, as he has said many times, traveled this country as a Presidential candidate and saw the importance of this legislation. He came back and wanted to know how he could play a role in making sure it came to fruition. He was willing, as he has on so many issues, to take on tough challenges and stay the course, but he has been an absolutely extraordinary leader on this issue, as on many others. It has been a great pleasure to work with him closely on this matter.

As has been mentioned, JOHN EDWARDS has provided extraordinary leadership on this issue. He was indispensable in so many different aspects of the development of the legislation, likely all of those that deal with accountability. We know the importance of the relationship between accountability and patient protections in this bill. He was always a steadying force, a strong force, a tireless voice for patients and has made an extraordinary mark on this legislation for which we are grateful. This has been a historic team, and I am grateful for them.

I have great appreciation for HARRY REID. I listened the other evening when my good friend, Senator BYRD, mentioned that he had been a deputy leader. He said Senator REID was really one of the best. Having been a deputy leader myself many years ago, it truly can be said he is the best I have seen in all the time I have been in the Senate. He is a tireless worker and always there to find common ground.

He has this incredible ability to say no and make you feel good, which is very difficult but challenging at best for anyone to do, and he does it on a regular basis, repeatedly, and still Members of this body know he is a selfless devotee to this institution and to the issues in which he is involved. He has made such an extraordinary difference in this legislation as well.

I want to thank some other Senators. I see chairing tonight my good friend, and becoming a better friend, DEBBIE STABENOW. All of us, as we have been working on this legislation, know this has been such a motivating force in her public life experience. She has been an extraordinary resource and supporter for this legislation. No one in this body cares more deeply about this issue than Senator STABENOW. She reminds us all of that wonderful child, Jessica, of whom she has spoken. She continues to be a presence in this Senate on this issue.

I thank a number of our colleagues who were involved, and I will not be able to mention them all, but I think of Senator SNOWE and Senator DEWINE who worked across the aisle to fashion a very important amendment that helped clarify some important provisions that we had not felt needed further clarification, but they pointed out the reasons for it and were constructive in working through it.

I thank my friend, Dr. FRIST, who has been the chairman of our Public Health Subcommittee and with whom I have worked on many different issues. We differed on this issue, but we worked closely on many other issues. I have great respect for him.

I thank JUDD GREGG who has been a worthy adversary as well as an ally on different public policy issues this year. I enjoy working with him.

Some Senators I had not expected to be as involved as they have been and yet were enormously helpful are Senator NELSON, Senator LANDRIEU, Senator LINCOLN, and Senator BAYH. Senator JEFFORDS spent a lot of time on this issue previously and worked with us and knows the issue carefully.

I have listened to him in small meetings, including at the White House with the President, explaining the importance of this legislation enormously effectively as he does. He has been a wonderful help generally. We didn't always agree on some of these issues, but nonetheless I value both his friendship and his views.

Senator BREAUX has been very much involved with health policy issues and was very involved in this.

TOM HARKIN has been a champion on the Patients' Bill of Rights from the beginning. He has been there every time we needed a strong voice. He knows this issue. He speaks passionately about it. He understands the significance and the importance not only in the areas of disability protections and health standards and medical necessity, but he also understands the nuances and the standards which were used and how that impacts broad numbers of our populations. He was absolutely invaluable throughout this process.

I thank particularly the staff members. These issues are complex. It is difficult to always be able to anticipate the interrelationship between these issues, the importance of what we are doing and how it affects other legislation we have passed, what the impact will be with States and local communities, the impact with the business community, consumers, and others. We have been enormously well served across the board by the staff who have worked tirelessly on this issue just as they did on the education issue. There are an incredible number of very capable men and women who have devoted an extraordinary amount of time and effort and who have made an extraordinary mark on this legislation.

I thank all of them: For Senator McCAIN, Sonya Sotak, Jean Bumpus, Cassandra Wood and Mark Busee; for Senator EDWARDS, Jeff Lane, Miles Lackey, Kyle Kinner, Hunter Pruett, and Lisa Zeidner. I want to thank the staff of Senator DASCHLE and Senator REID, all of the floor staff and the clerks, including Marty Paone, Lula Davis, Gary Myrick, and also in particular Elizabeth Hargrave and Deborah Adler. I thank them very much. Senator DASCHLE has mentioned Mark Childress and Mark Patterson. They are leaders of a very capable and able team that works very closely with Senator DASCHLE. They are not only fiercely loyal and committed to him but they are enormous sources of help and assistance to all Members in our caucus. We are all very grateful to all of them. For Senator GREGG, Stephanie Monroe, and Steve Irrigarry, and Kim Monk.

Now to my own staff, to whom I am incredibly grateful. No one has worked longer or harder, has been more committed or with greater success in terms of legislative achievement than David Nexon, the head of my health care team. Dave has been an invaluable resource. I always remember a story from when I interviewed him for the job and asked him to write an essay about health care. I still remember his strong commitment in that essay to universal coverage, comprehensive coverage, quality at a price people can afford. He has never let up on that ideal. It is one of the reasons I admire him so much. I am incredibly grateful to him.

I will mention others in no particular order. I thank Michael Myers who is our chief of staff for our whole committee and takes on the broad responsibilities in health, education, and all the matters of that committee. Michael and I go back a long time, initially working together on refugee issues. He was so resourceful and effective and helpful in our efforts in that cause. And now, he has been good enough to stay the course with me and has just been an extraordinary leader for our committee. I am grateful to him for his friendship and leadership on the committee.

I thank Jeff Teitz who is a master of many complicated aspects of the bill. If you have a complex issue that needs to be mastered, call Jeff Teitz.

Sarah Bianchi is full of energy and intelligence and has had a distinguished career in working with former Vice President Gore. She has been a great addition to our team.

Jerry Wesevich, I thank him so much for his steady presence. I mentioned a little while ago that this is Jerry's last day working in the Senate. He will be working for the legal service programs down in Texas and New Mexico. This is a person, like so many others on the Hill, strongly committed to improving our society, and I regret losing him. I know though that he will be involved in making a better community.

Janie Oates is the master of all trades and knows every TRIO program, every program that reaches out to the most needy people in our country and society, and has been enormously helpful to me in this endeavor as well.

I also thank Stacey Sachs who was here day in and day out and always seemed to have the answer. I remember the debate over the questions on the standard of medical necessity and the points being made about the standard we used in the Federal employers health plan. Stacey knew, yes, that was true but in the appeal provision a different standard was used. She knew the details of it, which was a key point. She is an extraordinary reservoir of good common sense and knowledge.

Jim Manley has been a great help and a good friend and has helped so much in terms of being able to communicate these issues and this whole policy area effectively. Jim has been tireless. Elizabeth Field, Marty Walsh, so many others worked not just here on the floor but outside, as well, in terms of working with the various groups and helping to bring what is happening at the grass roots here to the Senate floor. Amelia Dungan and Jackie Gran. I thank David Bowen very much. He is a great master in understanding so much of the new research and what is happening in the outer edges of biomedical research. We had debate on some of those issues, and we will have more later. These are complex ethical issues and questions. Dave is a master of all of them. Beth Cameron and Paul Kim also deserve thanks. Paul joined our staff and has been enormously valuable and helpful, as he was in the House of Representatives.

Thanks also goes out to our many dedicated interns, Dan Muñoz, Madhu Chugh, Tarak Shah, Nina Dutta, Nicole Salazar-Austin, Abby Moncrieff, Eddie Santos, Kent Mitchell, Haris Hardaway, Nirav Shah, Charita Sinha, Les Chun and Wyley Proctor. Their energy and dedication certainly helped us along the way.

I appreciate our Presiding Officer and our Senate staff for their patience this evening while we make sure that the history of tonight will include so many who did so much to make tonight a very important step toward helping our fellow American citizens get better quality health care.

ADJOURNMENT UNTIL MONDAY, JULY 9, 2001

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 12 noon, Monday, July 9, 2001.

Thereupon, the Senate, at 8:59 p.m., adjourned until Monday, July 9, 2001, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 29, 2001:

DEPARTMENT OF THE TREASURY

HENRIETTA HOLSMAN FORE, OF NEVADA, TO BE DIRECTOR OF THE MINT FOR A TERM OF FIVE YEARS, VICE JAY JOHNSON, RESIGNED.

NATIONAL TRANSPORTATION SAFETY BOARD

MARION BLAKEY, OF MISSISSIPPI, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF TWO YEARS, VICE JAMES E. HALL, TERM EXPIRED.

MARION BLAKEY, OF MISSISSIPPI, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2005, VICE JOHN ARTHUR HAMMERSCHMIDT, TERM EXPIRED.

DEPARTMENT OF STATE

JIM NICHOLSON, OF COLORADO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HOLY SEE.

CHARLOTTE L. BEERS, OF TEXAS, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY, VICE EVELYN SIMONOWITZ LIEBERMAN.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

DENNIS L. SCHORNACK, OF MICHIGAN, TO BE COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, VICE THOMAS L. BALDINI.

INTERNATIONAL MONETARY FUND

RANDAL QUARLES, OF UTAH, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF TWO YEARS, VICE KARIN LISSAKERS, RESIGNED.

DEPARTMENT OF EDUCATION

CAROL D'AMICO, OF INDIANA, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION, VICE PATRICIA WENTWORTH MCNEIL, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

CARL R. BAGWELL, 3887
JAMES E. CROALL JR., 6155
ALLEN M. HARRELL, 4270

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MARK M ABRAMS, 0588
JOSE A ACOSTA, 2286
MARTINEZ M F ALLAN, 1051
THOMAS P ALLAN, 6531
SANDRA A ALMEIDA, 7994
PETER E AMATO, 5675
DERYK L ANDERSON, 2594
STEVEN R ANDERSON, 7195
SUSAN N W ANDERSON, 8010
ULYSSES J ARRETTEIG II, 1064
JOAN R ATCHISON, 3612
JAMES A BACKSTROM JR., 4334
BRUCE A BARRON, 3941
JOHN M BARRY, 8925
MARK R BATEMAN, 9059
JOHN A BATLLE III, 3788
SUSAN R BAZEMORE, 8824
THOMAS E BEEMAN, 3152

RICHARD W BERG, 2714
BLAIR A BERGEN, 4190
BRUCE A BIERMANN, 2943
RICHARD J BOEHME, 8341
EDWARD BOLGIANO, 4634
KERRY F BOMAN, 1995
BRUCE B BOSWELL, 6943
THOMAS L BOWERS, 4182
DORIS J BRAUNBECK, 6194
WILLIAM J BRENNAN, 2163
DALE R BRUDER, 7984
MARIA D BURKE, 8555
VICTORIA A CALLIHAN, 2292
SALVATORE R CAMPO JR., 0911
LIONEL M CANDELARIA, 9490
LAURIE J CANTWELL, 9118
JOHN M CASTELLANO, 3787
KATHERINE B CHRISTIE, 8287
MARK M CHUNG, 5645
WARREN G CLARK, 2699
JOHN V CONTE JR., 6796
DAVID J COUGHLIN, 2632
AMY L COUNTS, 6703
MICHAEL C CRISMALI, 7619
STEVE CROSSLAND, 0022
PATRICIA L C CROWLEY, 6417
JEROME D DAVIS, 9191
DANIEL E DEATON, 6721
FRANCIS X DELVECCHIO, 0812
CYNTHIA A DICOLA, 1290
JODY W DONEHOO, 8541
JANET R DONOVAN, 1317
DANIEL R ECKSTROM, 5604
DONALD W EDGERLY, 1979
STANTON D ERNEST, 1354
BRIAN L ERNST, 3949
GERRY D EZELL, 9229
JOANN K FETGATTER, 0522
RICHARD I FREDERICK, 5002
PAMELA J FREEMAN, 4442
TERRY C GANZEL, 7703
MICHAEL C GARCIA, 8596
WILLIAM S GARNER JR., 5615
ROBERT L GEDEON JR., 8413
JAMES T GILL, 0891
NEIL F GITIN, 4473
SHERRI M GOLDMAN, 7494
RICHARD L HAMILTON, 5260
MAUREEN A HARDENLOZIER, 6088
KATHLEEN A HASS, 8643
GERALD B HAYES, 7780
MICHAEL W S HAYES, 2686
DONNA M HENDEL, 3455
BARBARA L HENK, 8275
LEE C HENWOOD, 4923
CARL J HICKS, 9529
JAMES HOHENSTEIN, 3285
ERIC S HOLMBOE, 5186
GARY R HOROWITZ, 8675
JERRY G HOWELL, 6066
MICHAEL F HUGHES, 3803
ROBERT M HULLANDER, 3345
DAVID J HURTT, 1521
JAMES M JAEGER, 5352
JOSEPH J JANKIEWICZ, 0380
CHRISTOPHER W JENNISON, 6269
DEBORAH A JETTER, 4842
JAMES M JOCHUM, 8907
STANLEY H JOHNSON, 8118
STEPHEN H JOHNSON, 6190
DONNA L KAHN, 8968
ROBERT B KERR, 0236
REBECCA D KILLOREN, 6562
EDWARD C KLEITSCH JR., 0561
NIR KOSSOVSKY, 3054
MARYJO KOTACKA, 8413
PAMELA N LANPHERE, 5475
MARK A LIBERMAN, 9501
FRANK P LIERSEMANN JR., 4498
MARIAN L MACDONALD, 9446
DARLENE S MARKO, 8131
JOHN M MARMOLEJO, 2577
JOHN H MASTALSKI, 0074
MARTIN L MATHIESEN, 3665
FREDERIC E MATTHEWS, 0868
PAMELA W MCCLUNE, 2779
HARRY C MCDONALD, 0654
KATHLEEN A MCGOWAN, 4921
JOSEPH N MECCA, 6028
STEVEN M MILLER, 1009
DAVID J MISISCO, 9804
ALEXANDER MOLDANADO, 7397
PATRICIA W MONTGOMERY, 5615
CATHY A MORENO, 2493
LELAND J MORRISON, 0402
EDWARD V OHANLAN, 8544
CHIKARA OHTAKE, 4062
JOHN H OLDERSHAW, 9912
GUILLERMO OLIVOS, 1273
FRANK W J OSTRANDER, 2768
PAUL M OVERVOLD, 6312
KAYE K OWEN, 9968
ANGELA S PALOMO, 3947
JEFFREY D PARADEE, 3076
DENNIS J PATIN, 8553
PHILIP M PAYNE III, 3859
JULIE A PEARSON, 9022
MARK W PEDERSEN, 0452
MICHAEL L POTTER, 5668
SCOTT M POTTINGER, 3042
MICHAEL J PRICE, 7411
CHRISTOPHER A PROCTOR, 8584
LEE R RAS, 1932
JAMES H REES, 1966
EDWARD J REGAN, 4046
JOHN K REZEN, 5209
WILLIAM F ROOS JR., 7618
JULIAN F ROSE, 6656
GLENN ROSS, 9200
KENNETH M SAMPLE, 3848
TIMOTHY P SCEVIOUR, 2125
MICHAEL R SCHESSER, 2556
SCOTT R SCHOEM, 7936
DEAN T SCOW, 9474
JOHN T SENKO, 7370
MICHAEL F SHANNON, 4724
WILLIAM H SIMPSON, 2881
GAIL A SMITH, 0697
SCOTT D SORENSEN, 6798
SCOTT L STAFFORD, 5479
KEITH R STEPHENSON, 9108
CHARLES E STEWART JR., 9337
DOROTHY M A STUNDON, 0266
RAYMOND F SULLIVAN, 6663
FLOYD K SUMIDA, 4658
BRIAN C SVAZAS, 6216
WILLIAM B SWEENEY, 8109
DAVID N TAFT, 3791
KATHLEEN K THOMPSON, 5426
THOMAS M THOMPSON, 6952
KATHLEEN G THORP, 7019
JIM W TISHER, 2444
PETER P TONG, 7867
VIRGINIA M TORSCH, 5546
DANIEL J TRAUB, 0175
JAMES A TURNER, 2035
VICTORIA K TYSON, 3819
JACK K UNANGST JR., 4072
JOSEPH J VELLING, 6114
STEVEN D VILLEGAS, 5921
GARY M VOLZ, 4644
JONATHAN G VUKOVICH, 0709
MARY E WALKER, 5960
BRIAN T WALSH, 4788
SCOTT A WEIKERT, 7918
THOMAS E WELKE, 9717
LARRY T WEST, 0838
HARRY T WHELAN, 8596
PAUL R WHELAN, 8074
VALERIE J WHITE, 5841
GAYLE S WILBUR, 2145
BRENDA L WILLIAMS, 6420
JOHN M S WILLIAMS, 9971
SONESEERE A WILSON, 4094
KENNETH A WINGLER, 8493
FRANK E WITTER, 0778
DOUGLAS A WOLFE, 5235
ELISABETH S WOLFE, 3710
KEITH N WOLFE, 3797
JUVANN M WOLFF, 5108
VANCE A WORMWOOD, 3683
DAVID P YOUNG, 2459

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be commander

MICHAEL J. NYILIS, 0107
ROLFE K. WHITE, 2642

To be lieutenant commander

CHARLES F. CHIAPPETTI, 3403
CHRISTOPHER D. CONNOR, 8383
VINCENT F. GIARDINO JR., 9869
DANIEL M. JAFFER, 2317
NEVANA I. KOICHEFF, 9766
EDWARD G. KORMAN, 7030
MICHAEL R. LIGON, 7518
KEITH L. MAYBERRY, 9319
ROBERT K. MCBRIDE, 3033
DAVID L. MCKAY, 6982
RONALD D. PARKER, 3630
EFFIE R. PETRIE, 0182
TIMOTHY L. PHILLIPS, 6095
JACQUELINE PRUITT, 3492

To be lieutenant

ALLEN D. ADKINS, 2416
DENNIS A ALBA JR., 5067
ERNESTO C. ANDRADA JR., 8492
BRADLEY A. APPLEMAN, 3071
PRISCILLA A. BARLETT, 5674
OSCAR A. BARROW, 4773
AMY L. BECKER, 1268
NATHAN B. BEGLEY, 9383
ROBERT E. BELK, 7411
ARTHUR R. BLUM, 8022
DEWUAN L. BOOKER, 5935
RICHARD A. BORDEN, 8181
ROBERT W. BOSHONEK, 1539
RALPH L. BOWERS, 0492
WILLIAM L. BRECKINRIDGE, 7973
GREGORY K. BROTHERTON, 1152
CHARLES J. BUSTAMANTE II, 1488
DAVID J. CAMPANELLA, 1672
ANDREW J. CAMPBELL, 9977
ABRAXAS J. CATALANOTTE, 7711
JULIE A. CONRARDY, 0837
COREY A. COOK, 0109
GEORGE E. CORREA, 3447
DANIEL R. CROUCH, 5373
JANET E. CUFFLEY, 0739
ESKINDER DAGNACHEW, 4773
MARK D. DAY, 5094
TOM S. DEJARNETTE, 9810
BYRON A. DIVINS, 3621
JEANETTE C. DUDA, 6462
TODD M. FRIEDMAN, 6929
DAVID C. GARCIA, 4855
ELLEN J. GARSIDE, 4753
CLARENCE A. GIVENS, 3638
JENNIFER A. GORNOWICH, 6535
BRUCE A. GRAGERT, 0368
DAVID L. GRAY, 2066
DANIEL M. GRIMSBO, 3085
JAMES H. HALE JR., 7278
JAMES K. HANSEN, 5339
SCOTT A. HARDY, 5871
NEIL A. HARMON, 2873
KIMBERLY D. HINSON, 2429
BERTRAM C. HODGE, 8401
DAMEN O. HOFHEINZ, 5976
DEREK J. HOWE, 2790
JEFFREY L. HUFF, 1243
TODD C. HUNTLEY, 0414
JOHN J. ISAACSON, 3927
NANCY J. JOHNSON, 3233
SARA J. JOHNSON, 0146
STEPHEN O. JOHNSON, 6111
TYLER P. JONES, 9526
QUENTIN J. JURIN, 5063
SEAN E. KARLS, 2808
JOHN G. KASPALA, 0525
STEVEN D. KELLEY, 3812
JOSEPH KEMP, 4984
JOHN A. KING, 0241
JASON E. KLINGENBERG, 8742
PETER R. KOEBLER, 7124
SCOTT M. KOSNICK, 5127
PAUL A. LANGLOIS, 3774
MARGARET A. LARREA, 4546
KENNETH B. LAWRENCE, 9775
BRENDAN J. LEARY, 7153
BRIAN E. LEGERE, 0826
DAVID M. LEVY, 0153
RACHEL M. LEWIS, 7464
DANIEL W. LOYD, 8193
LORRAINE A. LUCIANO, 0268
CHRISTINE L. LUSTER, 2889
MICHAEL D. MAXWELL, 4512
JOSHUA H. MCKAY, 7002
REBECCA A. MCKNIGHT, 5895
JEFFERY T. MENNA, 5218
ELIZABETH MEYDENBAUER, 7352
KENNETH H. MILLER, 0935
JOAQUIN J. MOLINA, 1772
THOMAS A. I. MONEYMAKER, 1410
JASON S. MORTON, 8639
MICHAEL MULLEN, 7035
STEPHEN R. NEVAREZ, 6090
KENNETH J. OAKES, 4160
JONATHAN G. ODOM, 9038
MATTHEW W. OLSTAD, 9940
CARLOS L. ORTIZ, 5325
DANIEL P. PAPP, 2459
ROBERT J. PASSERELLO, 8248
DAVID C. PECK, 5505
JON D. PEPPETTI, 9616
JACQUELINE L. PIERRE, 3063
JEFFREY S. POWELL, 0327
RYAN M. RASMUSSEN, 4097
WARREN A. RECORD, 7381
DAVID L. RICHMAN, 5450
GABRIEL A. RODRIGUEZ, 0838
TIMOTHY A. ROGERS, 3980
MARK D. ROMAN, 8224
JOSEPH ROMERO, 7457
JENNIFER L. ROPER, 6226
MICHAEL D. ROSENTHAL, 5930
JAMES R. SANDERS, 4561
DAVID C. SASSER, 1512
BETH A. SAULS, 1885
THOMAS P. SCARRY, 2269
TORSTEN SCHMIDT, 0541
OWEN M. SCHOOLSKY, 5780
ANNA M. SCHWARZ, 6043
RANDALL E. SCOTT, 0822
CARL C. SMART, 7825
NEIL T. SMITH, 3461
WENDY L. SNYDER, 2480
ANGELA Y. STANLEY, 5075
ANDREW J. STRICKLER, 2883
FRANK H. STUBBS III, 8848
COLLIN C. SULLIVAN, 2661
MARY C. SUTTON, 3042
DAVID E. TAMBELLINI, 6397
REBECCA L. TAYLOR, 8518
SAMUEL E. B. TAYLOR, 5114
RONALD E. THACKER, 6045
ROBERT A. TURNBULL, 6470
TAMERA K. TUTTLE, 4492
CHRISTOPHER VANAVERY, 4476
RICHARD C. WHEELER II, 7058
MONICA R. WILLIAMS, 5056
BRETT A. WISE, 9782
DIANNA WOLFSON, 9684
ROBERT B. WOOD, 1190
HOLLY A. YUDISKY, 6195
TIMOTHY J. ZINCK, 8430
CHRISTINE M. ZOHLEN, 7407

To be lieutenant (junior grade)

FRANCISCO J. ALSINA, 1187
ROBERT H. ARMBRESTER, 0214

TIMOTHY G. BELLOTT, 7262
SHAWN D. BLICKLEY, 7194
BRENT M. BOGART, 4218
VINCENT BOURGEOIS, 9794
SYNEEDA P. BREWER, 9640
TIMOTHY J. BURKE, 6037
BRYCE D. BUTLER, 7375
ADRIAN T. CALDER, 1135
CHRISTOPHER D. CHUHRAN, 5211
DAVID COLON, 4406
STEVE M. CURRY, 3365
ROBERT S. DAMSKY, 0541
TYUS S. FEW III, 4291
MITCHELL E. FILDES, 5356
JAMES B. FILLIUS, 0012
STEVEN L. FULTON, 0384
CHRISTOPHER S. GARVIN, 6750
RICHARD M. GENSLEY, 1676
MATTHEW G. GRANT, 1175
JACOB R. GUTIERREZ, 3135
REGINALD F. HALL, 9874
SCOTT D. HARVEY, 5516
ANDREAS HEPPNER, 3045
ROBERT L. HOLMES, 8947
TAMMY K. JANSEN, 2968
CAMELLIA G. KOZLOSKI, 4534
CHRISTOPHER J. KUBACIK, 7639
HAROLD D. LEDBETTER, 1593
JEFFREY S. LOCK, 8468
AARON M. LOWE, 7527
SUZANNE R. MEYER, 6952
MICHAEL S. MILLIKEN, 4051
TIMOTHY B. MOORE, 7083
TIMOTHY D. MULLER, 5915
CHRISTOPHER S. MUSSELMAN, 7028
RAMIRO E. ORELLANO, 5236
BARRY R. PARKER, 3776
STEPHEN H. PITMAN, 8481
ERNESTO A. RAYMUNDO, 4404
KENNETH W. RYKER III, 3817
ROBERT S. SCOTT, 5872
KEVIN S. SEIBEL, 0153
PHILLIP M. STEVENS, 3451
CHRISTOPHER M. SULLIVAN, 8893
JENNIFER L. TETATZIN, 7809
KADIATOU F. TRAORE, 5401
SCOTT E. VANVOORHEES, 1710
RICHARD D. VTIPIL, 0459
MICHELE A. WAARA, 4342
EDWARD M. WEILER, 8875
GERARD J. WHITE, 8644
GHISLAINE WILLIAMS, 7957
DORSEY G. WISOTZKI, 2404
GEOFFREY W. YOUNG, 7942
RYAN S. YUSKO, 1122

ENVIRONMENTAL PROTECTION AGENCY

JUDITH ELIZABETH AYRES, OF CALIFORNIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE WILLIAM A. NITZE, RESIGNED.

DEPARTMENT OF STATE

GEORGE MCDADE STAPLES, OF KENTUCKY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMEROON, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EQUATORIAL GUINEA.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. GORDON S. HOLDER, 2235

CONFIRMATION

Executive Nominations Confirmed by the Senate June 29, 2001:

DEPARTMENT OF THE INTERIOR

NEAL A. MCCALEB, OF OKLAHOMA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. MICHAEL A. HAMEL, 2699

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. DALE W. MEYERROSE, 1611
BRIG. GEN. WILBERT D. PEARSON JR., 4130

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. REX W. TANBERG JR., 5789

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN A. VAN ALSTYNE, 2238

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JAMES P. COLLINS, 2607

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. EDWARD L. CORREA JR., 2290

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES C. RILEY, 6688

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM S. WALLACE, 1708

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BENJAMIN S. GRIFFIN, 5044

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. LEON J. LAPORTE, 0933

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. EDWARD HANLON JR., 2430

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF THE BUREAU OF MEDICINE AND SURGERY AND SURGEON GENERAL AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5137:

To be vice admiral

REAR ADM. MICHAEL L. COWAN, 2470

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. PATRICIA A. TRACEY, 3579

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING STEVEN L ADAMS, AND ENDING JANNETTE YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 18, 2001.

IN THE ARMY

ARMY NOMINATIONS BEGINNING KEITH S * ALBERTSON, AND ENDING ROBERT K ZUEHLKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 3, 2001.

ARMY NOMINATIONS BEGINNING ERIC D * ADAMS, AND ENDING DAVID S ZUMBRO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 21, 2001.

ARMY NOMINATIONS BEGINNING GREGGORY R. CLUFF, AND ENDING STEVEN W. VINSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 21, 2001.

ARMY NOMINATIONS BEGINNING GILL P BECK, AND ENDING MARGO D SHERIDAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 5, 2001.

ARMY NOMINATIONS BEGINNING CYNTHIA J ABBADINI, AND ENDING THOMAS R * YARBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 5, 2001.

ARMY NOMINATIONS BEGINNING JAMES E. GELETA, AND ENDING GARY S. OWENS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 12, 2001.

ARMY NOMINATIONS BEGINNING FLOYD E. BELL JR., AND ENDING STEVEN N . WICKSTROM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 12, 2001.

ARMY NOMINATIONS BEGINNING ROBERT E ELLIOTT, AND ENDING PETER G SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 18, 2001.

ARMY NOMINATIONS BEGINNING BRUCE M. BENNETT, AND ENDING GRANT E. ZACHARY JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 18, 2001.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF DONALD E. GRAY JR.

MARINE CORPS NOMINATIONS BEGINNING JESSICA L ACOSTA, AND ENDING JOSEPH J ZWILLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 12, 2001.

NAVY

NAVY NOMINATION OF CHARLIE C. BILES.

NAVY NOMINATIONS BEGINNING JAMES W ADKISSON III, AND ENDING MIKE ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 21, 2001.

NAVY NOMINATION OF WILLIAM J. DIEHL.

NAVY NOMINATION OF CHRISTOPHER M. RODRIGUES.

NAVY NOMINATIONS BEGINNING ROGER T BANKS, AND ENDING CARL ZEIGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 12, 2001.

EXTENSIONS OF REMARKS

HONORING THE LATE JIMMIE ICARDO

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. THOMAS. Mr. Speaker, I am sad to report that Kern County, California lost one of its most prominent and successful friends when Jimmie Icardo passed away. Few can or will match commitment to his family, his church and to Kern County.

The businesses Jimmie developed are going to be models for young Californians for years to come. He built strong family farm operations that produced quality melons, tomatoes, peppers and other crops. He was active in the oil and gas, banking and real estate industries. Jimmie made his own successes through honest dealings with his neighbors and a tremendous amount of hard work. He was equally committed to his community.

Jimmie Icardo will also be remembered for the tremendous support he has given the California State University at Bakersfield over the years, in particular the University's athletic programs. Jimmie ran barbecues to raise money for athletic scholarships, established a trust to benefit the program and supported the school in other ways. His strong support over several decades helped build CSU Bakersfield into the school it is today. The school's decision to rededicate its athletic center as the Jimmie and Marjorie Icardo Activities Center is only a start toward acknowledging how hard Jimmie worked over the years to support an important educational resource for Kern County.

Jimmie Icardo was a person you asked for help to get things done. His strengths and sense of commitment to our community are going to be missed by those who now have to measure up to his example.

REMOTE SENSING APPLICATION ACT OF 2001

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing the Remote Sensing Applications Act of 2001. This bill would help communities grow more smartly by giving them greater access to geospatial data—information from analysis of data from orbiting satellites and airborne platforms—from federal agencies such as NASA and commercial sources.

I am pleased that my colleague Representative JIM GREENWOOD is joining me as an original cosponsor of this bill.

Many of our cities, in Colorado and across the country, are experiencing problems with unchecked and unplanned growth—otherwise known as sprawl. Planning for growth is primarily the job of state and local government. But the federal government also has an important role to play—whether through funding transportation, infrastructure, schools, and the like; establishing federal tax incentives and disincentives for private development; or puffing in place federal permits and licenses that may contribute to or restrain sprawl.

The federal government can also help to provide information to help towns and cities grow in a smarter and more sustainable way. Wise community planning and management cannot happen if communities do not have information to make sound decisions. The federal government can bring valuable—and powerful informational planning resources to the table.

One new space-age tool is the use of satellites to provide images of the Earth's surface. We now have technology using geospatial data from satellites—that can produce very accurate maps that show information about vegetation, wildlife habitat, flood plains, transportation corridors, soil types, and many other things. Satellite imagery and remote sensing, when combined with Geographic Information System (GIS) and Global Positioning Satellite (GPS) system information, can be invaluable tools for use in such areas as land-use planning, transportation, emergency response planning, and environmental planning. Getting this integrated geospatial data to local communities would give planners important information they could use to avoid problems and help communities grow more smartly.

As a member of the House Science Committee and the Space and Aeronautics Subcommittee, I have learned about the technological opportunities available from federal agency activities and capabilities. The bill I am introducing would establish a program that will demonstrate the effectiveness of the use of integrated geospatial data to other governmental sectors.

The bill would establish in NASA a program of grants for competitively awarded pilot projects to explore the integrated use of sources of remote sensing and other geospatial information to address state, local, regional, and tribal agency needs. This proposed legislation would build on and complement an applications program that NASA's Office of Earth Science announced earlier this year. Like NASA's program, the Remote Sensing Applications Act would seek to translate scientific and technical capabilities in Earth science into practical tools to help public and private sector decisionmakers solve practical problems at the state and local levels.

The Remote Sensing Applications Act has the potential to begin to bridge the gap between established and emerging technology solutions and the problems and challenges that state and local communities face regarding growth management and other issues. I look forward to working with Rep. GREENWOOD and other Members of the House to move forward with this important initiative.

IN HONOR OF DOCTOR OFEM AJAH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Doctor Ofem Ajah for his dedication to the field of medicine and health education.

Doctor Ajah, born in Nigeria, was faced with many obstacles throughout his education. Born to peasant farmers, Ofem was required to help on the farm while he attended school. His family was further impoverished and his education interrupted when war broke out in Nigeria. He continued with his secondary education on an academic scholarship. His academic excellence propelled him to the University of Ilorin in Nigeria for both his undergraduate and medical degrees.

Ofem is and always has been involved in community affairs. In high school, he was editor-in-chief of the school magazine. His involvement continued into medical school where he served as Secretary of the Medical Students Union as well as Chief Organizer of the Nigerian Medical Students' Games. After completing his medical degree, Ofem taught mathematics in a high school in Nigeria.

It was only after Ofem finished his medical internship that Ofem immigrated to the United States. As a distinguished physician, Ofem continued his medical training at the Interfaith Medical Center in Brooklyn where he became Chief Resident. Pursuing his inner quest for knowledge, Ofem obtained a specialty in gastroenterology.

For Ofem Ajah, being an accomplished doctor has enabled him to give of his free time. Dr. Ajah regularly donates his time and energy to educating everyone about colon cancer. He is also currently working on his second novel.

Ofem devotes himself to the love of his life, Francine Smalls-Ajah. Together, they have one daughter, Achayen, and two sons, Anijah and Tuniche.

Mr. Speaker, Doctor Ofem Ajah has devoted his life to serving his community through his excellent knowledge of medicine. As such, he is more than worthy of receiving our recognition today. I hope that all of my colleagues will join me in honoring this truly remarkable man.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

THE CITY OF EMERSON

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARR of Georgia. Mr. Speaker, this summer, the City of Emerson will move into a new City Hall facility. In honor of this occasion, I would like to recognize some of the unique historical facts underlying the development of this small and growing town in Bartow County, Georgia.

The history of Emerson, at least for human purposes, begins with its settlement by native Americans. At the time the first European settlers arrived, it was inhabited primarily by Cherokee Indian tribes, whose artifacts still line the shores of the Etowah River.

Following its settlement, Emerson began to grow into a community built on nearby rail lines; rich agricultural lands; and near iron, graphite, and gold deposits. During the Civil War, the area in and around Emerson was crossed by numerous military forces as Sherman began his infamous drive toward the sea.

Returning war veterans found their homes near Emerson in desolation. Fortunately, the people had a spirit that could not be conquered. They began work rebuilding their town, and succeeded in having it incorporated in 1889.

That spirit of community and growth continues in Emerson today, as the town continues to expand to accommodate growth near metro Atlanta, while retaining its picturesque small town character. I join the citizens of Emerson in saluting their city as it passes an important milestone and moves into a new City Hall.

CONGRATULATIONS TO SUSAN CHASSON

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. CANNON. Mr. Speaker, I would like to congratulate Susan Chasson, a woman of great compassion. This afternoon Ms. Chasson will be awarded the Robert Wood Johnson Foundation Community Health Leadership Program Award. As a nurse and a victims' advocate, Ms. Chasson was able to see that the system for assisting children who are victims of abuse was not working, and that the system itself often caused more trauma to the child than it helped. Susan acted on this and returned to school to obtain a law degree so that she could have a greater impact on the system.

In 1991, Ms. Chasson founded the Children's Justice Center in Provo, Utah to help children who are victims of physical abuse and sexual assault. The Center provides these children with a homelike environment where they can tell their stories and begin the healing process. Their staff currently serves over 1,200 victims annually. The Center also provides medical exams for the children and mental health services for both the children and their families, all of whom are victims.

Susan Chasson's dedication and perseverance in breaking through the silence of child abuse reminds us that one person's idea can make all the difference in the world. While it is disappointing that child abuse remains an issue in the 21st Century, Susan Chasson's vision and endeavors must be commended. She is truly a hero for us all.

THE NURSING CRISIS

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to call your attention to a growing crisis—the shortage of nurses in health care facilities across the Nation. Nurses are an absolutely essential component of our health care system—no piece of medical equipment will ever replace the around-the-clock surveillance provided by our Nation's nurses. There is simply no substitute for the element of humanity that nurses bring to medicine. Therefore, I find it extremely alarming that one in five nurses plans to quit the profession within five years due to unsatisfactory working conditions. By the year 2008, the Bureau of Labor Statistics projects that we will need 450,000 additional registered nurses in order to meet present demand. This projection neglects the fact that around that same time, 78 million baby boomers will start becoming eligible for Medicare.

How did we end up in this situation? Imagine for a moment, if you will, that you are one of the millions of young people across the country trying to decide upon a career. Suppose nursing is a profession that sincerely interests you. Would you still be interested upon discovering that nurses can expect to work nights, weekends, and holidays? Would you still be interested after learning that nurses routinely work 16-hour shifts or longer, and can be forced under threat of dismissal to work mandatory overtime? Would you still be interested after realizing that nurses receive lower salaries, less vacation, and less retirement benefits than their classmates who chose other professions? Would you still be interested after finding out that, with the advent of managed care, nurses now have to spend almost as much time scrambling to fill out paperwork as they do caring for patients? Would you still be interested when you learn that the very real possibility exists that you may be the only hospital staff member available to supervise the well-being of an entire floor of critically-ill patients? It doesn't take a great deal of insight to realize that no matter how passionate your intentions, the disadvantages of the nursing profession have become increasingly prohibitive.

Yet, as bad as the nursing crisis is for nurses, its worst consequences will be felt by patients, Last year, an investigative report by the Chicago Tribune revealed that since 1995, at least 1,720 hospital patients have been accidentally killed, and 9,854 others injured as a result of the actions of registered nurses across the country. Interestingly enough, instead of attacking the Tribune report, nurses applauded it because it proved to the American public what they had known for a long time—our nation's nursing corps is being stretched too thin, in part due to reckless pennypinching by managed care companies, and in part due to government underfunding of hospitals.

How bad is the crisis? In the mid-90's, short-sighted budget cuts, both by the government and by managed care companies, forced many hospitals that were staffed entirely by registered nurses to rely on lesser-trained practical nurses and nurse aides instead. Nurse aides, many of whom are not required to have high school diplomas, now constitute over one-third of nursing staffs in many hospitals. In my hometown of Chicago, the situation is so dire that housekeeping staff hired to clean rooms have been pressed into duty as aides to dispense medicine. Hospitals now routinely order nurses to care for 15 patients or more at a time, almost double the recommended patient load. Overworked nurses are being forced to juggle more tasks than any single person can be expected to handle, and are being asked to do procedures that they haven't been adequately trained for.

Our nurses have reached the end of their rope. To quote Kim Cloninger, a registered nurse from Illinois: "I wake up every day and hope I don't kill someone today. Every day I pray: God protect me. Let me make it out of there with my patients alive." Or perhaps more tellingly, Tricia Hunter, executive director of the California branch of the American Nurses Association states: "I don't know a nurse who would leave anyone they love in a hospital alone.".

Mr. Speaker, this is the face of nursing today. The nursing profession needs our help. As a profession, nurses have a rich history of doing whatever it takes to provide adequate patient care. Nurses generally don't make a big fuss over working conditions. The fact that they are tells me that something is seriously wrong with our health care system today. Therefore, I support legislation that enacts upwardly adjustable nurse staffing ratios as a condition of participation in Medicare and Medicaid, and I support legislation banning mandatory overtime. I also support the Patients' Bill of Rights introduced by Mr. MCCAIN, Mr. EDWARDS, and Mr. KENNEDY in the Senate, and by Mr. GANSKE and Mr. DINGELL in the House because it includes a provision that protects health care professionals from retaliation when they speak out for their patients. Lastly, I support the Nurse Reinvestment Act, H.R. 1436, because it addresses the need to attract more people into the nursing profession. I support all of these measures because if we don't act to solve our current nursing crisis, we will all pay the price at some point down the line.

IN HONOR OF ANDREW KIM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Andrew Kim on the occasion of his installation as president of the almost half million member Korean American Association of Greater New York and the obstacles that he had to overcome to attain such a prestigious position.

Mr. Kim has overcome many personal obstacles that others might have stumbled upon. Contracting Polio in his native Republic of South Korea, Mr. Kim was stigmatized and labeled as "unlucky." In fact, Mr. Kim is self-educated because he chose to cut short his formal education as he saw it as a burden to his parents. Mr. Kim was also denied employment because of his disability and therefore found himself with a unique opportunity to found his own electronic repair shop. Mr. Kim, fascinated with America, studied for a test that would allow him to immigrate and have a job.

Mr. Kim is a firm believer in the American dream. America offered Andrew Kim a fresh start away from the cultural attitudes of South Korea. Mr. Kim worked his way up in New York going from job to job.

Mr. Kim is also a devoted husband and father. He married his wife Theresa two years after coming to America. Together they have three children.

Mr. Kim's biggest business success has come in the form of his Lisa Page store, a leading cell phone and pager retailer. Working in a diverse neighborhood has encouraged Mr. Kim to learn the numerous languages of his customers, which has led to him being a major community resource. Mr. Kim has donated uniforms for a softball team in his neighborhood and all the kids on the team respect Mr. Kim for his involvement and mentoring. In fact, after they won a trophy, the presented it to Mr. Kim as a token of their appreciation for all that he does in the community.

Mr. Kim has enjoyed growing recognition throughout the community, which has led him to become more involved in the community. He served as president of the Korean American Association of Mid-Queens. He recently found himself in a tough election campaign for president of the Korean American Association of Greater New York, where he was once again faced with many of the stigmas that he had left South Korea to escape. Nonetheless, Mr. Kim was able to overcome and win the prestigious post.

Mr. Speaker, Andrew Kim has overcome many obstacles in his life to become the president of a half million-member organization. For these achievements, he is more than worthy of receiving our recognition today as he is awarded a truly hard-earned honor. I hope that all of my colleagues will join me in honoring this truly remarkable man.

RECOGNIZING THE CHIEFTAIN'S MUSEUM, ROME, GEORGIA

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARR of Georgia. Mr. Speaker, it has been written that "Cherokee tradition held that anywhere three rivers met was holy, and Head of Coosa is just that." The Oostanaula, Etowah and Coosa Rivers meet in the center of Rome, Georgia, which is noted as one of the top small cities in the country.

A leader in the Cherokee Nation, Chief Ridge chose to settle in the 1800's with his bride, Susanna, on the banks of the Oostanaula, near the point where the three rivers meet. The home was called "the Chieftain." Chief Ridge, who had been given the title "Major" by Andrew Jackson, agreed to sign the Treaty of New Echota in 1835 and left his home in Rome a year before "The Trail of Tears." The Cherokee killed Major Ridge and his son for signing the treaty.

After Major Ridge left his home, "the Chieftain," was passed through a number of hands, and eventually was donated to the Junior League of Rome. The Museum remains open to the public because of the Chieftains Museum Association, a non-profit organization. Members of the organization continue to search for pieces of history with regard to "the Chieftain" and the Cherokee people.

The museum, built by Monrovian and Cherokee craftsmen, is impressive. A large collection of books on Major Ridge and the Cherokee Nation in Georgia are available at the museum. The period furniture and many artifacts, some found on the site as a result of archeological digs, make the museum a favorite place for school groups and those interested in the history of the Cherokee Nation.

The Cherokee called their home in North Georgia "the Enchanted Land." More than twenty distinct groups of Cherokee Indians headed west along three separate routes. Today the general term "The Trail of Tears" is applied to all three routes; however, to the Cherokee, only the northern land route was called "The Trail Where They Cried." The Junior League and the Chieftains Museum Association of Rome, Georgia are working diligently to make certain that we not forget the true "Native Americans," and ensuring our children are aware of the culture of the people who were forced to sacrifice their "Enchanted Land."

IN MEMORY OF MR. ROBERT L. DILLARD, JR.

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HALL of Texas. Mr. Speaker, I rise to pay tribute to an outstanding citizen of the State of Texas, the late Robert L. Dillard, Jr. of Dallas, who died at the end of November, 2000. Mr. Dillard was an active and beloved member of his community—and he will be dearly missed.

Robert was born on September 30, 1913, the son of an independent oilman. He followed in his father's footsteps as a young man working in the oil fields of Texas to finance his education. His hard work paid off when he received his law degree from Southern Methodist University in 1935 and an LL.M from Harvard in 1936. After receiving his degrees, Robert served as Assistant City Attorney for the City of Dallas from 1941-1945. From 1945 until his retirement in 1978, he worked in an executive capacity for Southland Life Insurance Company of Dallas, retiring as Executive Vice President.

Robert volunteered much of his time and talents to many civic endeavors. He served as president of the Board of Education of the Dallas Independent School District from 1961-1962, chairman of the Board of Trustees of Methodist Medical Center, chairman of the National Board of Directors of Camp Fire Girls, chairman of Region 10 Education Service Center, and a member of the Board of Directors at C.C. Young Retirement Home. He was also active in local and state government and in Highland Park United Methodist Church, where he served as a lay leader and a longtime Sunday School teacher.

A special part of Robert's life, fifty-six years total, was devoted to membership in the Dallas Scottish Rite of Freemasonry. He was initiated in 1938 into Dallas Lodge No. 760 and held numerous leadership positions within the organization, including being a co-founder of a new Lodge in Dallas, serving as president of the Board of Directors of the Masonic Home and School of Texas and vice-chairman of the Board of Trustees of Texas Scottish Rite Hospital for Children. In 1953 he became a Thirty-Third Degree Inspectors General Honorary, in 1961 was a Grand Master of Masons in Texas, and in 1977 served as the Venerable Master of the Dallas Lodge of Perfection. As the culmination of his lifetime of dedication to the Freemasons, in 1995 Robert became one of only eight men in Texas in the past one-hundred years to receive the highest honor the Supreme Council of the Scottish Rite can bestow, the Grand Cross of Honor.

Robert left behind a loving family, including his wonderful wife of 63 years, Dundee, a son, two daughters, 13 grandchildren, and three great grandchildren. He was devoted to his family, his community and his Fraternity of Freemasons—and he leaves behind a legacy of dedication and service that will be remembered by many.

Mr. Speaker, Robert was one of a kind—and we will miss him. As we adjourn today, let us do so in memory of a great American and friend, Mr. Robert L. Dillard, Jr.

IN RECOGNITION OF DANIEL LEVIN

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to recognize one of Chicago's finest citizens, Mr. Daniel Levin, who last week was named the American Jewish Committee's 2001 Human Rights Medallion Award recipient.

Since 1963, the Human Rights Medallion has been awarded annually to leading Chicago citizens who have stood for the goals that have shaped the American Jewish Committee since it was established in 1906: human rights and equal opportunity for all, and constructive relations between America's many religious, ethnic and racial communities.

Chairman of The Habitat Company, Dan Levin has been a real estate developer since 1957. He has been active in development and management activities involving in excess of

20,000 residential units, and has been principally responsible for the financing, structuring and equity syndication of the developments. In 1987, Dan Levin, with The Habitat Company, was appointed Receiver of The Chicago Housing Authority family housing development program by the U.S. District Court in Chicago. He is also the managing general partner of the East Bank Club, which is considered the finest physical fitness and social facility of its kind in the country.

Dan Levin's first major Chicago development, in partnership with James P. McHugh of McHugh-Levin Associates, was South Commons, a 30-acre urban renewal site between 26th and 31st Street on the south side of the City. During his career, he has also developed a wide variety of subsidized and non-subsidized housing including, on the South Side, Quadrangle House and Long Grove House. Dan Levin also developed Wheaton Center, a 28-acre urban renewal development in downtown Wheaton. On Chicago's Gold Coast, he has developed, among other properties, Newberry Plaza, Huron Plaza, Asbury Plaza, Columbus Plaza and the Residences of Cityfront Center.

The largest urban redevelopment in which Dan Levin has been involved is the Presidential Towers complex located on a two square block area in the near west loop constructed in 1983. The land on which Presidential Towers was developed had become a skid row district of deteriorating residential hotels and industrial properties. Presidential Towers is considered to be a major factor in the revitalization of the area.

Dan Levin graduated from the University of Chicago with a B.A. and J.D. degree. He is a member of the Visiting Committee of the University of Chicago School of Public Policy, a Trustee of WTTW, a member of the IIT College of Architecture Board of Overseers, a member of the Board of Trustees for the Jewish Reconstructionist Rabbinical College, a Director of the American Jewish Committee, a Director of the Environmental Law and Policy Center, a Director of the Multi-Family Housing Council, and is active in other community and professional organizations.

Dan Levin has proven that he is a man to emulate in both business and in public service. He has helped to create homes, jobs and other opportunities for people in need of a helping hand, and he has played a major role in the economic growth and development of Chicago. It is with great pleasure that I commend Dan Levin for his years of service and congratulate him on being named this year's Human Rights Medallion awardee. Mr. Speaker, I ask that you join our colleagues, Dan's friends, his wife Fay and the rest of his family, the American Jewish Committee, and me in recognizing Dan Levin's outstanding and invaluable service to the Chicago community.

IN HONOR OF THE REVEREND DOCTOR GLYSER G. BEACH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Reverend Doctor Glyser G. Beach, Senior Pastor of Vanderveer Park United Methodist Church, in recognition of his service to his community.

Reverend Beach is a lifetime learner, always taking on new challenges. He holds an A.A. from Lon Moris College as well as a B.A. and M.A. in Behavioral Science from Scarritt College. Rev. Beach also earned a Masters of Divinity as well as a Doctorate of Ministry from Drew University. He also holds a D.Th from the California Graduate School of Theology in addition to his D.D. from Teamer School of Religion.

His devotion to ministry began while he served in the United States Army. He is the Deputy Chaplain of the 77th Regional Support Command. Graduating Officer Basic and Officer Advance Courses and also the U.S. Army's Command and General Staff College, Dr. Beach holds the rank of L TC.

For the last 23 years, Glyser Beach has dedicated himself to the United Methodist Church. He has pastored churches in the Bronx, Queens, Manhattan and Brooklyn. Rev. Beach has special training in many areas including Critical Incident Debriefings, Suicide Awareness and Prevention Counseling, Family Restructuring, Marriage Enrichment, and Youth Counseling.

Rev. Beach's activism is apparent throughout the entire New York area. He was instrumental in electing a fellow pastor to office. He also helps thousands of immigrants become citizens. He was a member of the Board of Directors of Harlem Congregations for Community Improvement, which under his tenure developed over 1000 units of housing. The Reverend also served as the Executive Director of Metropolitan Community Young Adult Training Program, which houses and give guidance to young adults who are homeless, drug free, and in need of higher education. He is actively involved in helping war veterans receive the benefits and services due to them.

Mr. Speaker, Reverend Doctor Glyser G. Beach has devoted his life to serving his community, his church and his people. As such, he is more than worthy of receiving our recognition today. I hope that all of my colleagues will join me in honoring this truly remarkable man.

RECOGNIZING THE HONORABLE TOM PRICE, M.D.—STATE SENATE, GEORGIA

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARR of Georgia. Mr. Speaker, it is in doing what is right that a man encounters the essential challenges of life. Oftentimes the most difficult part of this challenge is the perception of what precisely is the "right" thing to do. The Honorable Dr. Tom Price is being honored for having done the right thing respecting the health of others. His service to others has been truly outstanding. He has always shown an intense concern for the physical well being of the people entrusted to his representation and medical practice. Coming from a profession whose traditional oath was to "first do no harm," he has been well-educated according to the principles on which the protection of public health must be grounded. The man who lives for such principles as these is truly honorable and ought to be awarded with the honors and the respect of the people.

Currently in his third term in the Georgia Senate, Dr. Price has made a name for himself by taking on several difficult issues; measures to insure the safety of our childcare centers, to strengthen the prevention of drunk driving, and to provide greater patient choice.

Life in a society must be mutually beneficial and comfortable to the citizenry. In order for this life to be possible, the public health must be protected. Dr. Tom Price has made this his primary legislative concern and it is for this that on July 17, 2001 he is to be given the Dr. Nathan Davis Award for Outstanding Government Service by the American Medical Association. I join in saluting Dr. Tom Price for his heroic dedication to the public health of the State of Georgia.

IN HONOR OF OUR EMERY COUNTY PUBLIC LANDS COUNCIL

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. CANNON. Mr. Speaker, throughout the prosperous history of this great state, our ancestors valued harmony between community growth and preservation of resources. We are encircled by beautiful landscapes and enjoy the ability to find escape and solace in the vast mountains, meandering rivers, or immense desert lands. Utah's natural beauty and rich resources demand a careful balance between protection and growth of competing interests.

The Emery County Commissioners, along with the citizens of Emery County, responded to the need for a thoughtful, responsible, and cooperative effort in planning wise land management policy within the county. In an effort to provide a forum for all interested parties to voice their concerns and influence policy, an invitation was extended to elected representatives, federal and state land management agencies, county citizens, and individuals representing various recreational land user and environmental groups to establish the Emery County Public Lands Council. Their charge was to find the best possible solution for managing lands within Emery County's boundaries, while setting aside their differences to become a united and cohesive voice.

The Emery County Public Lands Council soon learned that it agrees on more issues than earlier anticipated. All groups express an earnest aspiration to safeguard the San Rafael Swell. As so ably spoken by County Commissioner Randy Johnson, "Environmentalists share with Emery County a great desire to protect the lands of the San Rafael, but differ philosophically over what kinds of management should be implemented." Every stakeholder possesses a deep commitment to protect the San Rafael Swell and safeguard its matchless and distinctive qualities for posterity. Members of the Council advocate for local users and work with federal and state agencies to develop a public lands strategy. They contribute to land use planning to guarantee cooperation among these eclectic bodies and Emery County interests.

In our quest for a united effort to safeguard and protect our land for thoughtful use and community stability, I recognize the need for a joint endeavor to accomplish our objectives. I commend the Emery County Public Lands Council for acting as a model for all counties, states, and individuals who desire to preserve our nation's beautiful natural resources.

IN MEMORY OF HENRY WADE

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a great and legendary District Attorney, the late Henry Wade of Dallas, whose 35-year career brought him national attention for his handling of the murder trial of Jack Ruby and the landmark abortion case Roe v. Wade. Henry passed away on March 1 at the age of 86, leaving a powerful legacy that will be reviewed and remembered as part of our Nation's history.

It is said that Henry never lost a case he personally prosecuted. He took office in 1951 and compiled one of the Nation's lowest rates of acquittal. In 1964, Henry led the prosecution of Jack Ruby, who shot to death Lee Harvey Oswald, the man charged with assassinating President Kennedy. Ruby died in prison while awaiting a death sentence. The 1973 Roe v. Wade decision establishing the right to an abortion began in Texas when a pregnant woman, identified in court documents as "Jane Roe," sued Henry for enforcing a state law prohibiting abortion except when necessary to save a woman's life.

These famous cases will be reviewed by attorneys, the courts, and students of history for years to come. The name, "Henry Wade," evokes an image of a quintessential Texas prosecuting attorney—a formidable and compelling advocate in the courtroom—whose folksy, country-boy demeanor disguised his keen intellect. Henry was a 1938 graduate of the University of Texas law school with highest honors, an editor of the law review, and a member of the Order of the Coif and Phi Beta Kappa. Throughout his illustrious career, Henry was a role model for countless young prosecuting attorneys—as well as a nemesis for defense lawyers.

Following law school, Henry practiced law, was an FBI special agent in the United States and abroad, and served in the Navy during World War II. After the war, he joined the district attorney's office in Dallas, becoming chief felony prosecutor before winning election as district attorney. And the rest is history.

During World War II Henry served as a Fighter Director for Navy pilots. At one time he was at the top of the list in "splashes"—the term used for destroyed Japanese planes. Henry and his lifelong friend and fellow Navy officer, Thomas Unis, were inseparable during the War, and they both made a great and successful transition into public civilian life. The late Tom Unis prosecuted with Henry and later was a leading and highly regarded attorney and partner in the Dallas law firm, Strasburger, Price, Kelton, Martin and Unis. I was privileged to litigate with both Henry and Tom and served with them at a couple of bases in the Pacific toward the end of World War II. I dearly respected and loved these two guys—as did all who knew them.

Mr. Speaker, Henry was a great and legendary District Attorney, a super American, and a good friend of mine. He will be missed by his children and their families, Michele Brandenberger and husband, Mike; William Kim Wade and wife, Suzanne; Henry Wade, Jr., and wife, Kristin; Wendy Ballew and husband, David; Bari Henson and husband, Dave; and 15 grandchildren. And he will be remembered. As we adjourn today, let us do so by paying our last respects to "The Chief", as he was known around the Dallas courthouse—Henry Wade.

HONORING UNITED STATES NAVAL RESERVE CAPTAIN JAMES W. KELLEY, JR. UPON HIS RETIREMENT

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GARY G. MILLER of California. Mr. Speaker, I rise today to commend the achievements of United States Naval Reserve Captain James W. Kelley, Jr. and wish him well upon his retirement.

In August of 1970, a time in which military service was socially unfavorable, Captain Kelley enlisted in the United States Marine Corps. He served with the Sixth Marines in Camp LeJune, North Carolina and the Fourth Marines in the Republic of South Viet Nam.

He graduated from Villanova University with a Bachelor of Arts Degree in Political Science in 1975. He also holds a Master of Arts Degree in Criminal Justice from New York University and a Juris Doctorate Degree from Seton Hall School of Law.

In September of 1978, Captain Kelley received his commission as an Ensign in the Judge Advocate Corps. During his active duty military career, Captain Kelley served as a Navy Trial Counsel and a Staff Judge Advocate.

Captain Kelley was released from active duty in January of 1985, and he affiliated with Naval Reserve Intelligence Unit NISRO 2310. As an intelligence officer, he served with VP94, USS *America*, US CINCLANT, and Commander Naval Reserve Intelligence Command.

In August of 1987, Captain Kelley was selected as a Canvasser Recruiter Officer, and he reported to Naval Reserve Readiness Center in Houston, Texas. He was later reassigned to the Naval Reserve Recruiting Command Detachment THREE, Dallas, where he served as the Department Head for Enlisted Programs. In September of 1994, he reported to the Bureau of Naval Personnel, as the Branch Head for Total Force Recruiting Policy. He was then transferred to the Chief of Naval Operations as an Assistant for Manpower Policy. In May of 1997, Captain Kelley was assigned as the Officer in Charge, Naval Reserve Recruiting Command Detachment FIVE, Washington, DC. Last November, he became the Commanding Officer of Naval Reserve Recruiting Command Area FIVE upon the redesignation of Detachment FIVE to area status.

This distinguished career has been celebrated with numerous awards, including, but not limited to, the Meritorious Service Medal (three awards), Navy Commendation Medal (two awards), Navy Achievement Medal (two awards), Meritorious Unit Commendation Ribbon (two awards), and the National Defense Service Medal (two awards). Additionally, he is considered to be a Navy Expert Rifleman and Navy Expert Pistol Shot.

Mr. Speaker, I ask that this 107th Congress join Captain Kelley's wife Judy, and his children, Ryan, John, Kevin, and Megan, as he retires from the United States Naval Reserves.

CONGRATULATIONS, ALEXANDER CHRISTOFIDES

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the U.S. House of Representatives to join me in honoring an outstanding public servant, Mr. Alexander Christofides, who was chosen to receive the Commissioner's Citation, the Social Security Administration's highest honor award.

This prestigious award is presented to those select employees who have made exceptional contributions meriting agency-wide recognition. Based on Mr. Christofides' superior accomplishments and exemplary performance, he was chosen for this high honor. Mr. Christofides was selected based on his outstanding performance as an Operations Supervisor in the Clinton Hill District Office. He won praise for his innovative efforts in regard to service delivery to the customers of his District Office, which resulted in reduced waiting times and speedier claims processing. Furthermore, it was Mr. Christofides' extraordinary leadership and motivational skills which enabled his entire staff to work together for the public good, in a true spirit of teamwork, towards a shared goal.

Mr. Speaker, Alexander Christofides embodies the finest tradition of government service. We are proud of his dedication to his work, his problem-solving ability and the high standards of excellence he has set in the workplace. Let us take this opportunity to extend our appreciation and congratulations to Mr. Christofides and to wish him continued success. We are indeed fortunate to have a man of his caliber serving in the Social Security Administration.

WHITWELL MIDDLE SCHOOL HOLOCAUST MEMORIAL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GILMAN. Mr. Speaker, I rise today to discuss a moving article from the Washington Post, which I request to be inserted and printed in the RECORD at the end of my statement.

The article, entitled "Changing the World One Clip at a Time," by Dita Smith, describes a most unusual, uplifting tribute to the 6 million victims of the Holocaust by a class of Tennessee Eighth-graders and their teachers.

In 1998, the students of Whitwell Middle School, together with two dedicated teachers, Mr. David Smith, and Ms. Sandra Roberts, took it upon themselves to collect 6 million paper clips and turn them into a Memorial Sculpture in commemoration of the victims of the Holocaust. What made the ambitious project even more unique was the fact that it was conceived in a very homogeneous white, Christian town of just 1,600.

In fact, the project didn't even originate as a project, but rather, an intimate extra-curricular course to educate the predominantly uninformed students about the tragedy of the holocaust.

This voluntary after-school course had such a profound impact on the small-town students, that they decided to take action. The eighth-graders derived their idea from the Norwegians, who, during World War II, pinned paper clips to their lapels to express solidarity with their fellow Jewish Citizens

Inspired by this gesture, the students set up their own web page asking for donations of paper clips.

Their initiative quickly caught fire, and what began as a local cause, soon became an international phenomenon.

The students were overwhelmed by the outpouring of all sorts of paper clips from all over the world. They even received a donation from President Clinton.

To date, the students have collected 23 million paper clips, well surpassing their 6 million goal.

For the last leg of the project, the students have determined to find the necessary funding for an authentic German holocaust era railroad car in which to load and display their paper clips and countless letters.

I have worked closely with Nancy Galler-Malta, the Educational Director, and Rabbi Justin Schwarz, the religious advisor of the Rockland County Hebrew High School to help them see this project through to completion.

Their task is a daunting one, but judging by the tenacity exhibited by the students, thus far, I have no doubt that they will succeed.

I invite my colleagues to help the Whitwell Middle School realize their noble goal, and in the process, spread their vital message of tolerance and compassion and to remember this devastating, inhumane chapter of world history.

CHANGING THE WORLD ONE CLIP AT A TIME

(By Dita Smith, Washington Post Staff Writer)

WHITWELL, Tenn.—It is a most unlikely place to build a Holocaust memorial, much less one that would get the attention of the president, that would become the subject of a book, that would become an international cause. Yet it is here that a group of eighth-graders and their teachers decided to honor each of the 6 million Jews killed in the Holocaust by collecting 6 million paper clips and turning them into a sculpture.

This is remarkable because, for one thing, Whitwell, a town of 1,600 tucked away in a Tennessee Valley just west of the Smokies, has no Jews. In fact, Whitwell does not offer much opportunity to practice racial or religious tolerance of any kind. "Our community is white, Christian and very fundamentalist," says Linda Hooper, principal of the middle school, which has 425 students, including six blacks, one Hispanic, zero Asians, zero Catholics, zero Jews.

"During coal-mining days, we were a mixed community," explains the town's unofficial historian, Eulene Hewett Harris. "Now there are only a handful of black families left." Whitwell is a town of two traffic lights, 10 churches and a collection of fast-food joints sprinkled along the main drag. It was a thriving coal town until 1962, when the last mine closed. Some of the cottages built by the mining companies still stand, their paint now chipped and their cluttered porches sagging. Trailers have replaced the houses that collapsed from age and neglect during lean economic times. Only 40 miles up the road is Dayton, where the red-brick Rhea County Courthouse made history during the 1925 Scopes trial, the "monkey trial," in which teacher John T. Scopes was convicted of violating a Tennessee law that made it unlawful "to teach any theory that denies the story of Divine Creation" and to teach Darwinian evolutionary theory instead.

Almost eight decades later, most people in this Sequatchie River Valley hold firmly to those beliefs under the watchful eyes of their church leaders. "Look, we're not that far away from the Ku Klux Klan," founded only 100 miles west, in Pulaski, Tenn., says Hewett Harris. "I mean, in the 1950s they were still active here." Such is the setting for a memorial not only to remember Holocaust victims but, above all, to sound a warning on what intolerance can wreak. The Whitwell students and teachers had no idea how many lives they were about to touch.

The Holocaust project had its genesis in the summer of 1998 when Whitwell Middle's 31-year-old deputy principal and football coach, David Smith, attended a teacher training course in nearby Chattanooga. A seminar on the Holocaust as a teaching tool for tolerance intrigued him because the Holocaust had never been part of the middle school's curriculum and was mentioned only tangentially in the local high school. He came back and proposed an after-school course that would be voluntary. Principal Hooper, 59, loved the idea. "We just have to give our children a broader view of the world, " she says. "We have to crack the shell of their white cocoon, to enable them to survive in the world out there." She was nervous about how parents, would react, and held a parent-teacher meeting. But when she asked the assembled adults if they knew anything about the Holocaust, only a few hands went up, hesitatingly. Hooper, who has lived in Whitwell most of her life and had taught some of the parents in elementary school, explained the basics. Just one parent expressed misgivings: Should young teenagers be shown terrifying photos of naked, emaciated prisoners? Hooper admitted she wasn't sure. "Well" the father asked, "would you let your son take the class?" Yes, she replied, and the father was on board. There wasn't a question about who would teach it: Sandra Roberts, 30. the English and social sciences teacher, always a captivating storyteller. In October 1998, Roberts and Smith held the first session. Fifteen students and almost as many parents showed up. Roberts began by reading aloud—history books. "The Diary of Anne Frank," Elie Wiesel's "Night"—mostly because many of the students did not have the money to buy the books; 52 percent of Whitwell's students qualify for free lunch.

What gripped the eighth-graders most as the course progressed, was the sheer number of dead. Six million. The Nazis killed 6 million Jews. Can anyone really imagine 6 million of anything? They did calculations: If 6 million adults and children were to lie head to toe, the line would stretch from Washington to San Francisco and back. One day, Roberts was explaining to the class that there were some good people in 1940s Europe who stood up for the Jews. After the Nazis invaded Norway, many courageous Norwegians expressed solidarity with their Jewish fellow citizens by pinning ordinary paper clips to their lapels. One girl—nobody remembers who it was—said: Let's collect 6 million paper clips and turn them into a sculpture to remember the victims. The idea caught on, and the students began bringing in paper clips, from home, from aunts and uncles and friends. Smith, as the school's computer expert, set up a Web page asking for donations of clips, one or two, or however many people wanted to send.

A few weeks later, the first letter arrived. One Lisa Sparks from Tyler, Tex., sent a handful. Then a letter landed from Colorado. By the end of the school year, the group had assembled 100,000 clips. It occurred to the teachers that collecting 6 million paper clips at that rate would take a lifetime.

HELP FROM AFAR

Unexpected help came in late 1999 when two German journalists living in Washington, D.C., stumbled across the Whitwell Web site. Peter Schroeder, 59, and Dagmar Schroeder-Hildebrand, 58, had been doing research at the U.S. Holocaust Memorial Museum, tracing concentration camp survivors to interview. Schroeder-Hildebrand was author of "I'm Dying of Hunger," a book about a camp survivor who devised imaginary dinners to survive; Peter had written "The Good Fortune of Lena Lieba Gitter," about a Viennese Jew who escaped the Nazis and devoted her life to civil rights.

The Whitwell Web site came up during a routine search under "Holocaust." The idea of American children in a conservative Southern town collecting paper clips intrigued the couple. They called the school, interviewed teachers and students by telephone, then wrote several articles for the nine newspapers they work for in Germany and Austria. Whitwell and the Schroeders were hit with a blizzard of paper clips from the two countries. The couple soon had 46,000, filling several large plastic containers. The thing to do, they decided, was to drive them to Whitwell, 12 hours away. They received a hero's welcome.

The entire school showed up. None of the eighth-graders had ever met anyone from outside the United States, let alone anyone from Germany, the country of the Holocaust perpetrators. At the end of the four-day visit, the students told their principal. "They are really quite normal."

The Schroeders were so touched they wrote a paperback about Whitwell. "The Paper Clip Project," which has not been translated into

English, was published in September 2000, in time for Germany's largest book fair in Frankfurt.

The blizzard of clips became an avalanche. Whitwell eight-graders came to Washington in March last year to visit the Holocaust Museum. They went home carrying 24,000 more paper clips collected by the Schroeders. Airport security had trouble understanding why a bunch of teenagers and their teachers were transporting boxes and boxes of paper clips to Tennessee.

LINKED TO THE PAST

Just a year later, the Holocaust project has permeated the school. The after-school group is the most favored extracurricular activity—students must compete in an essay contest for its 20 to 25 places. They've become used to being interviewed by local television and national radio. Foreign countries are no longer mysterious, with hundreds of letters bearing witness to them. The group's activities have long spilled over from Roberts's classroom. Across the hall, the students have created a concentration-camp simulation with paper cutouts of themselves pasted on the wall. Chicken wire stretches across the wall to represent electrified fences. Wire mesh is hung with shoes to represent the millions of shoes the victims left behind when they were marched to death chambers. And every year now they reenact the "walk" to give students at least an inkling of what people must have felt when jackbooted Nazi guards marched them off to camps. The students are blindfolded, tied together by the wrists, roughly ordered onto a truck and driven to the woods. "I was truly scared," recalls Monica Hammers, a participant in last year's walk. "It made me think, and it made me realize that I have to put myself into other people's shoes." Meanwhile, the counting goes on. It is daunting. On a late—winter day, as the picturesque valley floor shows the first shimmer of soft green, 22 students gather for their Wednesday meeting. All wear the group's polo shirt, emblazoned: "Changing the World, One Clip at a Time." The neat white shirts conform to the school's dress code: solid-colored shirts devoid of large logos, solid-colored pants, knee-length shorts or skirts, worn with a belt. Many of the girls have attached colored paper clips to their collars. These are no loose-mannered kids—they reply "yes, ma'am" and "yes, sir." Even lunch in the cafeteria is disciplined and relatively quiet. Yet, there is an obvious and warm bond between students and teachers.

The group's first item of business is opening the mail that has accumulated during the past three days. That takes half of the two-to three-hour meeting. A large package has arrived from Germany, two smaller ones from Austria and more than a dozen letters: Laura Jefferies is in charge of the ledger and keeps a neat record of each sender's address, phone number and e-mail address. One group of students responds to the e-mails sent via their Web site, www.Marionschools.org. Roberts opens the packages, which have been examined in the principal's office to make sure they contain nothing dangerous. "We've had a few negative letters from Holocaust deniers, but we have never received a threat," says the silver-haired Hooper. "But even if we did, we would go on. We cannot live in fear; that would defeat the entire purpose." The large package, from a German school, contains about 40 letters, with paper clips pasted onto each page. Roberts sighs. "This is a huge amount of work," she says. "There are days when I wished we could just stop it. But it has gotten way beyond us. It's no longer about us. There is no way we could stop this now." When the students fall behind, it's Roberts who spends hours sorting and filing. The students crowd around Roberts's desk and receive a letter at a time. They carefully empty all paper clips onto little piles. Drew Shadrick, a strapping tackle on the football team, is the chief counter and stands over a three-foot-high white plastic barrel, about the size of an oil drum. He counts each clip, drops it into the barrel, keeping track on a legal pad. Two other barrels, which once contained Coca-Cola syrup and were donated by the corporation, are filled to the rim and scaled with transparent plastic. "It takes five strong guys to move one of those barrels," says Roberts. Against the wall this day are stacks and stacks of boxes. In early February, an Atlanta synagogue had promised 1 million paper clips, and sure enough, a week later a pickup truck delivered 84 boxes bought from an office supply store. Half are still unopened.

All sorts of clips arrive—silver-tone, bronze-tone, plastic-coated in all colors, small ones, large ones, round ones, triangular clips and artistic ones fashioned from wood. Then there are the designs made of paper clips, neatly pasted onto letter paper. If removing the paper clips would destroy the design, the students count the clips, then replace them in the barrel with an equal number purchased by the group. The art is left intact. Occasionally a check for a few dollars arrives. The money goes toward buying supplies. Both Roberts and Smith won teacher awards last year, and their $3,000 in prize money also went toward supplies, and helping students pay for what has become an annual trip to Washington and the Holocaust Museum.

The students file all letters, all scraps of paper, even the stamps, in large white ring binders. By now, 5,000 to 8,000 letters fill 14 neat binders. The letters are from 19 countries and 45 states, and include dozens of rainbow pictures, and flowers, peace doves and swastikas crossed out with big red bars—in the shape of paper clips. There are poems, personal stories.

"Today," one letter reads, "I am sending 71 paper clips to commemorate the 71 Jews who were deported from Bueckeburg." One man sent five paper clips to commemorate his mother and four siblings murdered by the Nazis in Lithuania in November 1941. "For my handicapped brother," says another letter. "I'm so glad he didn't live then, the Nazis would have killed him." For my grandmother," says another, "I'm so grateful she survived the camp." "For my son, that he may live in peace," wrote a woman from Germany. Last year, a letter containing eight paper clips came from President Clinton. Another arrived from Vice President Gore, a native of Tennessee, thanking the students for their "tireless efforts to preserve and promote human rights," but including no clips. Every month, Smith writes dozens of celebrities, politicians and sports teams, requesting paper clips. He gets many refusals, form letters indicating that the addressee never saw the request. But clips came in from Tom Bosley (of TVs "Happy Days" fame), Henry Winkler (the Fonz), Tom Hanks, Elie Wiesel, Madeleine Albright. Among the football teams that contributed are the Tennessee Titans, the Tampa Bay Buccaneers, the Indianapolis Colts and the Dallas Cowboys.

So many clips in memory of specific Holocaust victims have come in that one thing has become clear: Melting them into a statue would be inconceivable. Each paper clip should represent one victim, the students believe, and so a new idea has been hatched. They want to get an authentic German railroad car from the 1940s, one that may have actually transported victims to camps. The car would be turned into a museum that would house all the paper clips, as well as display all the letters.

Dagmar and Peter Schroeder plan to travel to Germany next week to find a suitable railroad car and have it transported to Whitwell. They are determined to find such a car and the necessary funding. Like counting the clips, the task is daunting.

WHITWELL'S LEGACY

Whatever happens, for generations of Whitwell eighth-graders, a paper clip will never again be just a paper clip, but instead carry a message of patience, perseverance, empathy and tolerance. Roberts, asked what she thought she had accomplished with the project so far, said: "Nobody put it better than Laurie Lynn [a student in last year's class]. She said, 'Now, when I see someone. I think before I speak, I think before I act, and I think before I judge.'" And Roberts adds: "That's all I could ever hope to achieve as a teacher." She gives this week's assignment: "Tomorrow, I want you all to go, and sit next to a person at lunch whom you never talk with, a person that nobody wants to sit with at lunch, I want you to stop one of those people in the hall and say: 'Hi! What'd you do last night?' Now, don't make it obvious—they may know that it's just an assignment. That would hurt." Drew pipes up: "Well, I've already tried that, but that kid—that, you know, he just sits there and stares, what can I do?" "Keep at it—don't give up," says Roberts.

INTRODUCTION OF ECONOMIC DEVELOPMENT INITIATIVES FOR RURAL AMERICA

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McHUGH. Mr. Speaker, as a life-long resident of Northern New York, I have watched the 24th Congressional District thrive as a bustling arena of agricultural production, aluminum processing, automobile parts fabrication, paper-making, tourism and textile manufacturing.

Regrettably, in the last decade or so, the trends have been altered dramatically and the manufacturing sector—particularly in the Northeast—has diminished considerably. Furthermore, our small family farmers have seen a dramatic decline in the price they receive for their hard-earned production, forcing many of them to abandon their beloved way of life. The statistics, unfortunately, bear this out; earlier this month it was reported that Northern New York continues to have the State's highest unemployment rate. While the unadjusted statewide unemployment rate was 4 percent and the national rate was 4.1 percent, the rate in the ten counties in my rural Northern and Central New York District ranged as high as 9.1 percent.

Mr. Speaker, we are a proud and independent people who have long relied on our ingenuity and integrity to make our way through life. While we have accomplished much through our resourcefulness, there is more that can, and must, be achieved to return greater prosperity to what we call "God's country." That is why I rise today to introduce a legislative package of rural economic development initiatives that I believe will create at least the initial incentives to bring new business and industry opportunities—and the attendant job creation—to our rural communities.

First, the use of high-speed Internet access is no longer limited to the wealthy or so-called computer techies. It has fast become a mainstay of everyday life, particularly in the business world. Accordingly, the first measure I am introducing, the Rural America Digital Accessibility Act, contains four incentives to help bridge the digital divide in rural America.

The technology bond initiative would provide a new type of tax incentive to help state and local governments invest in a telecommunications structure and partner with the private sector to expand broadband deployment in their communities, especially underserved rural areas. The broadband expansion grant initiative complements these bonds by utilizing grants and loan guarantees in underserved rural communities to accelerate private-sector deployment of high-speed connections so that our residents can access the Internet with a local, rather than a long-distance, phone call. The third initiative targets funding for research to increase rural America's broadband accessibility and make it more cost-effective.

With six four-year universities and colleges and seven two-year colleges within my District's boundaries, it only makes good sense for us to tap the expertise of our nation's educators to assist in our endeavors. Accordingly, the fourth incentive will help small- and medium-sized businesses connect with educational institutions that can provide technological assistance designed to improve the business' productivity, enhance its competitiveness and promote economic growth.

Second, to help our farm community, I am introducing the Agricultural Producers Marketing Assistance Act. This measure would establish Agricultural Innovation Centers on a demonstration basis and provide desperately-needed technical expertise to assist producers in forming producer-owned, value-added endeavors. It would also help level the financial playing field for producers by providing a tax credit for eligible farmers who participate in these activities. In this way, farmers and producer groups can earn more by reaching up the agricultural marketing chain to capture more of the profits their product generates.

Lastly, but certainly not least, I am introducing the Rural America Job Assistance and Creation Act. This a comprehensive measure designed to address a host of issues that have been identified as problematic for residents and businesses in rural America.

Because many small businesses lack the financial capacity to support the training of highskilled workers, this legislation establishes regional skills alliances to help identify needed skills and develop and implement effective training solutions. It also encourages cooperation between educational institutions and entrepreneurs who have innovative ideas but who cannot afford the legal and consultant fees necessary to convert their concepts into reality.

Another incentive involves an expansion of the work opportunity tax credit to include small businesses located in, and individuals living in, communities experiencing population loss and low job growth rates such as those found in rural Northern and Central New York. Approximately 100 such communities would be designated, subsidizing some 8,000 jobs in each area.

Mr. Speaker, when employees face layoffs or the shutdown of their place of employment, thereby losing some or all of their family income, the one thing that provides them some small sense of security is severance pay. While this is without a doubt a welcome helping hand in a time of need, unfortunately, the recipients often lose a third of their severance pay to taxes because they are pushed into a higher tax bracket. My legislation excludes from gross income up to $25,000 of any qualified severance payment, limited to payments of $150,000 or lower.

When a company that employs 100 or more workers makes the decision that it can no longer stay in business or must reduce its workforce, the Worker Adjustment and Retraining Notification, or WARN, Act requires 60 days advance notice of a major layoff or plant closing. As part of the notification requirement, current law states that notice be served upon, among others, the applicable State dislocated worker unit and the chief elected official of the appropriate unit of local government. I believe we must expand the notification process to include, as well, the appropriate Federal- and State-elected officials, i.e., U.S. Representatives and Senators and State Legislators. The expansion included in my legislation serves two purposes: (1) to alert these officials to the situation and the impact it will have on workers and the community and (2) to provide these officials with the opportunity to assist in determining if State and/or Federal resources are available and can be utilized to prevent closure or layoffs and the loss of employment opportunities. As publicly-elected officials, we have access to many avenues that may lend assistance at this troubling and uncertain time.

Mr. Speaker, my Congressional District borders the Canadian Provinces of Ontario and Quebec, and we consider Canadians to be not only our neighbors to the North, but our friends, as well. One valuable benefit of this association is the symbiotic relationship we have nurtured in the area of economic development and job creation. Unfortunately, the current immigration visa procedures for H–1 B professional speciality workers often complicate the employment related travel of Canadians to the United States and preclude what should be a seamless and unencumbered process. In September 2000, the General Accounting Office reported that Immigration and Naturalization Service decisions about the priority of H–1 B applications in comparison to other types of petitions handled by INS have resulted in delays of several months in processing employers' requests for H–1 B workers.

Delays of this nature mean that businesses across the nation, but particularly in Northern New York, are placed at a disadvantage. In my border communities, workers oftentimes travel mere miles to cross the border to provide the skilled labor needed by American companies. In these instances, there appears to be no justification for the onerous delays they face in gaining timely entry into the United States to perform their duties. To streamline this process, the GAO recommends elimination of the separate requirement that employers first submit a Labor Condition Application (LCA) to the U.S. Department of Labor for certification and then to the INS along with their petition for H–1 B workers. My legislation corrects this situation. In addition to submitting the LCA to Labor, employers would be required to submit the immigration petition and the LCA simultaneously to INS, which will continue to review and evaluate the information contained on both the LCA and the petition.

Another component of the package I am introducing will give statutory authority to the already-existing National Rural Development Partnership and State Rural Development Councils. The NRDP and its principal organizational component, the SRDCs, were established a decade ago to help rural community leaders, government policy makers, agency program administrators, rural development practitioners, and citizens address a long-standing problem—the lack of coordination in identifying rural community needs, planning solutions to meet those needs, and implementing those solutions. State Rural Development Councils currently exist in 40 States, including the State of New York. While neither the Partnership nor the Councils make policy and generally do not administer programs, the key to their success has always been collaboration—bringing together funds, knowledge and individuals to assist rural communities. They have helped generate local solutions to rural development needs and a specific authorization would help establish a dedicated and predictable funding source for their activities.

Mr. Speaker, the U.S. travel and tourism industry is one of America's largest employers and my Congressional District is no exception to that statistic. Northern New York State contains some of the most scenic and environmentally-unique lands in the entire nation: The Adirondack Mountains, the St. Lawrence River Valley and Seaway, the Champlain Valley and the Thousand Islands region. Tourism is a critical component of our economy and is universally recognized as a significant contributor to the region's visibility, economic development, and overall quality of life. But the full potential of the industry remains untapped. Some of the factors that have limited the benefits to be realized from the tourism industry include the vastness of the region, the compartmentalization of its assets and resources and, perhaps most importantly, the lack of regular data upon which to base policy or marketing decisions.

While considerable effort has been undertaken at the State and local levels to promote development and jobs for the region, as well as to market and promote the abundance of tourist related attractions and events, we continue to lack integration of current economic development efforts with the tourism potential of the region.

It is for these reasons that I am proposing establishment of the Northern New York Travel and Tourism Research Center at the William C. Merwin Rural Services Institute at the

State University of New York at Potsdam, New York. The Center would fill the critical deficiency we face and play a crucial role in the economic revitalization of Northern New York.

The final element of my job creation and assistance legislation mandates the General Accounting Office to examine and report to Congress on how best to address the long-term problems resulting from a lack of infrastructure and a lack of venture capital in rural areas. The study will focus on the need for expanding existing economic development and small business loan/grant programs and will include tourism and agriculture-related projects. The study will help us better identify the problems that presently exist and evaluate how infrastructure, venture capital and federal programs can be better utilized to enhance rural areas.

Mr. Speaker, during the nearly nine years I have been honored and privileged to represent the residents of Northern and Central New York in the U.S. House of Representatives, I have joined in a wide variety of efforts to help revitalize rural America—from tax relief for individuals and the business community, protection and enhancement of the environment and addressing our energy problems to preserving our health care system, promoting fair international trade and enhancing transportation opportunities.

Most recently, since the start of the 107th Congress in January, I have spearheaded several efforts to help rural America and its citizens. I am involved in legislative initiatives that would assist our communities recover and develop property known as brownfields, and are designed to complement broader, more comprehensive brownfields legislation moving through Congress. The Brownfields Redevelopment Incentives Act provides direct federal funding, loans and loan guarantees, and tax incentives to increase the amount of support available to assess and clean pieces of abandoned, idled, or underused property where expansion, redevelopment, or reuse is complicated by environmental contamination or perceived contamination.

I have also joined with several of my House colleagues from New York in introducing the Acid Rain Control Act. By reducing sulfur and nitrogen emissions, the measure would result in more than $60 billion in annual benefits by providing improvements to human health, visibility, aquatic and forest ecosystems, and buildings and cultural structures. At the same time, the EPA estimates costs associated with implementation of the Act to be about $5 billion. I think it is safe to say that this is the kind of cost-effective legislation we strive to achieve, with 12 times the benefits for the costs involved.

A third initiative I introduced earlier this year, the Self-Employed Health Affordability Act, provides for the full deductibility of health insurance costs for the self-employed. Current law provides for 100 percent deductibility in 2003, but we need to make the change immediately in order to bring relief to the many hard-working small business and farm families who must pay their own health insurance premiums. Coupled with estate tax reform, rate reductions and pension improvements, among other tax code changes recently enacted into law, this is another step toward helping our taxpayers keep more of their hard-earned money and decide for themselves how it should be spent.

Mr. Speaker, as I stated earlier, my constituents are proud and resourceful. They, too, have continued to take the initiative to help themselves and their communities develop the tools necessary to fulfill our mutual goals.

The economic development package I am introducing today is simply one more step, albeit of a more comprehensive nature, that I am taking in a long line of legislative initiatives designed to assist our communities manage the wide-ranging challenges faced by rural America in the 21st century.

REMEMBERING WAYNE CONNALLY

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HALL of Texas. Mr. Speaker, I rise today to recognize the late Texas Senator Wayne Connally, my friend and colleague with whom I served in the Texas State Senate, who died on December 20. Wayne was a member of the famous Connally political family and the brother of the late Governor John Connally and Judge Merrill Connally—and was an esteemed public servant in his own right.

Wayne was born and raised in Floresville, Texas, and educated in public schools in Floresville and San Antonio. He attended the University of Texas at Austin before enlisting in the U.S. Army Air Corps during World War II, after which he ranched in his native region. He viewed public service as a tenet of good citizenship and was elected to the Texas House of Representatives in 1964 and elected to the Texas Senate two years later. He represented Senate District 21 from the 59th through the 62nd Texas Legislatures and was honored by his peers as "Governor for a Day" on October 7, 1971. I served with Wayne in the Texas Senate. He was a terrific Senator—totally dedicated and, determined to represent his District and the State of Texas. Wayne was also so very capable of friendship, and he was always responsive to anyone in need.

Wayne's over-riding goal was to uphold integrity and responsibility in government. He worked with his brother, Governor Connally, to create the first upper-level higher education institution in Laredo in 1970, the first step toward establishing Texas A&M International University in 1993.

A tall, imposing figure who spent his life working as a rancher and a public leader, Wayne embodied the Texas persona—and he leaves behind a legacy of faithful service to the people of his native state that he so loved. He will be missed by his many friends and family, including his children, Wyatt, Pamela and Wesley; four grandchildren; his brother, Merrill Connally; and sister, Blanche Kline.

The Texas State Senate introduced a resolution on March 19, Wayne's birthday, recognizing his many contributions during his years of public service and his devotion to the State of Texas. Mr. Speaker, as the House adjourns today, I ask that my colleagues from Texas and in the Congress join me in also paying tribute to this outstanding American, the late Wayne Connally.

CONGRATULATIONS TO MRS. AUDREY WEST

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. PAYNE. Mr. Speaker, I would like my colleagues here in the U.S. House of Representatives to join me in paying tribute a very special person, Mrs. Audrey West, who will be honored at a Gala Retirement Celebration on Friday, June 29, 2001 by the Newark Preschool Council, Inc. Board of Directors and Head Start Policy Council for her eleven years of dedicated service.

Audrey West began her Head Start career in September 1990. She has brought a wealth of administrative experience in providing social services and human development strategies to the operational goals of the Newark Preschool Council. Mrs. West's leadership encompasses a broad vision and wide range of knowledge, expertise, mobilization skills and community strengthening approaches, which were vital to the successful implementation of new programs demonstrating the mission of the Newark Preschool—to prepare our children to enter kindergarten READY TO LEARN READY TO READ. As the Executive Director of the Newark Preschool Council, Mrs. West has led an agency that is on the cutting edge of the national movement to develop family advocacy and sound educational beginnings for our children as they begin their successful journeys toward good citizenship. Mrs. West's accomplishments, role modeling and mentorship certainly serve as an outstanding example of generosity and community involvement.

A native of Trenton, New Jersey, Audrey West received her Bachelor of Arts Degree from Howard University, Washington, D.C. Ms. West holds a Master's Degree in Public Administration from Rutgers University. She served ten years as the Director of the Newark Division of Public Welfare (1968–1978) and ten years as the Deputy Director and Director of the New Jersey Division of Public Welfare in the Department of Health and Human Services (1978–1988). A true pioneer, she was the first African American to serve in these positions. Audrey West was also Special Assistant to the Commissioner in the New Jersey State Department of Personnel (1988–1990).

Mr. Speaker, we in New Jersey are so proud of Mrs. West and it is a pleasure to share her achievements with my colleagues here in the U.S. House of Representatives. Please join me in expressing our congratulations to her for a job well done and our best wishes for continued health and happiness as she begins a new phase of her life.

TRIBUTE TO ROSANNE BADER OF POMONA, CALIFORNIA

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GARY G. MILLER of California. Mr. Speaker, I rise to pay tribute and honor the accomplishments of Rosanne Bader, of Pomona, California.

Mrs. Bader is retiring after thirty-two years of dedicated service to the Pomona Unified School District. From her first assignment in 1969, as a teacher at Diamond Bar Elementary School, to her current position as Principal of Diamond Point Elementary School, Mrs. Bader has demonstrated outstanding teaching skills, supervisorial expertise, and leadership in the development of innovative educational programs. She was the Teacher of the Year nominee in 1979 and 1980.

Numerous, well deserved honors, have been awarded to Mrs. Bader for her involvement in professional, civic and youth organizations. Mrs. Bader was recently appointed to Mount San Antonio Community College's Board of Directors.

Mrs. Bader's impressive record of academic, career and community service has earned the admiration and respect of those who have had the privilege of working with her. I ask that this 107th Congress join me to congratulate her on these accomplishments and thank her for her service to her community.

REVEREND VIRGINIA C. HOCH'S MEMORIAL DAY TRIBUTE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GILMAN. Mr. Speaker, I rise today to share the insights of a post-modern preacher and a veteran, Reverend Virginia C. Hoch, concerning Memorial Day patriotism. In order to share Rev. Hoch's thoughts with my colleagues, I request that her remarks be inserted and printed in the RECORD at the end of my statement.

Reverend Hoch delivered this moving tribute for the Memorial Day Observance in the Goshen, NY, United Methodist Church, on May 28, 2001. She spoke eloquently of her thoughts of the proper way to commemorate Memorial Day. Rev. Hoch contrasted, what she termed, "Pathetic Patriotism" with "Prophetic Patriotism." The former, she described as exhibiting only the pathos of war and elevating the gore of the battlefield to idolatrous levels. The latter, she explained as working for a vision of the nation which embraces the achievements, the potentials, and diversities of our inhabitants, and in which the fortunate share their blessings with those whose lives seem unblessed.

Reverend Hoch, in her sermon, discussed her own personal, familial anecdotes. She spoke of her father's experiences as a B–17 pilot in the then U.S. Army Air Corps, and his numerous military honors, including the Air Medal, the Theatre Medal, and the Distinguished Flying Cross. However, she noted how he gave up his career in the Air Corps when he broke formation to save the lives of his crew due to the failure of his aircraft's oxygen system. Reverend Hoch brands this action as a form of "Prophetic Patriotism," not because he disobeyed an order, but because he put the lives of others over his own.

Reverend Hoch also shared the lessons she gained as a flight nurse in the U.S. Air Force during the Vietnam Conflict. Having witnessed first-hand the horrors of battle, she passionately deplored the glorification of war, and the tendency to desensitize ourselves to human casualty.

Reverend Hoch's underlying message is an important one. She challenged her congregation to substitute wisdom for weapons, choose diplomacy over deployment, and to prefer peace over power. She did not advocate, by any means, forgetting the sacrifices of our countrymen, but rather, judging and questioning decisions to engage in war. Rev. Hoch makes a crucial observation which often falls by the wayside in our Memorial Day commemorations. Accordingly I invite my colleagues to consider this powerful message in Memorial Days to come.

PATHETIC PATRIOTISM OR PROPHETIC PATRIOTISM?

(Memorial Day Observance, Goshen, May 28, 2001, Rev. Virginia C. Hoch)

Today, we gather amid the pageantry, parades, and penants of national pride to recognize and remember those persons who have given their measures of devotion to protecting our national interests, the greatest of which is the freedom to be, as a people called American. Yet we do not honor them nor commend ourselves if the sole patriotism we portray is pathetic patriotism. We only bring their and our sacrifices into full bloom when the proper patriotism we put forth is prophetic patriotism.

To be pathetic in our patriotism is to exhibit only the pathos of war: those sentiments which long for the comradery of wars of yesteryear, and which elevate the gore of the battlefield to a level of misguided idolatry. While it may be understandable that some may seek the regular companionship and commemoration of only those of like mind and experience, the pathos of living only in past glories is to deny the truth of that for which even they once fought: for the people of our country, and indeed for the people of all countries, to live in a just society in the leisure of a lasting peace.

Rather, we are to work, pray, and long for a prophetic patriotism: a vision of our nation which accepts the wonderful achievements, potentials, and diversities of the peoples of America as a foundation for sharing our blessings with those whose lives seem unblessed by any Divine Being, and sharing our strengths with those whose weaknesses in governmental structure and in personal living are so evident that they live on the margins of existence. It is this kind of patriotism to which all of our celebrations ought to point.

Two years ago, Mayor Matheus told of her uncle's struggles and triumphs in a war once fought. Today, I'd like to tell you about my first hero—my Dad.

My father was a decorated B–17 pilot in the then US Army Air Corps, receiving the Air Medal, the Theatre Medal, and the Distinguished Flying Cross. He was a lieutenant, stationed with the 306th Bombardier Group of the 8th Air Force in Thurleigh, England. He flew 35 missions, returning one time with 69 shrapnel holes in his craft. His flight log is replete with the stuff that makes the hair stand on end: fact and feeling, fear and humor. On one occasion, they dropped unused payloads into the English Channel, straddling the bombay and shoving bombs into the drink with their bare hands. On another, Dad missed a mission due to a bad sinus infection, and that day his crew was shot down, and the person in his seat was killed. But one story stands out in my mind as the man who my father is, and it is a prime example of prophetic patriotism. On one of the missions, which averaged eight hours in length, when his "Flying Fortress" reached altitude, he realized that the oxygen was not working in the belly of the airship, and thus half of his crew would not survive the mission. Dad broke formation, returned to base, and saved the lives of his crew. That disobedience cost him his rank, his timely return to the states, and his career in the Air Corps. But it saved the lives of nine American military men. One of those men, the only one besides my father who still survives, is Father Ken Ross, a former POW, who is now a Catholic priest in East Chester, NY. My Dad lived to save lives, not to destroy them. That is a brand of prophetic patriotism that I commend, not because he disobeyed an order, but because he used his integrity to weigh the costs, and found that he could only choose life for his crew over his own ease and good fortune.

What you may not know is that I am also a veteran. Prior to entering the ministry, I served as a flight Nurse in the US Air Force during the so-called Vietnam Conflict. And it is from the perspective of the era that I speak. For Memorial Day is about the sacrifices of men and women of all our nation's wars, starting with the Revolution. But often, we remember only those associated with wars that were popular with our country. Despite the fact that it took Congress over fifty years to establish a WW II monument, the two World Wars were quite uncontested in America, as people felt the need to protect our growing democracy. As the better parts of the newly-released film "Pearl Harbor" call to mind, or system of governance was under attack, and there was a sense of urgency among all people in our country to protect and defend our land. But then the picture got fuzzy. With Korea, we were moving to a new concept: the defense of other lands against a growing ideology with which we did not agree—a frightening entity called communism. By the time we entered Viet Nam, our country was divided in its self-image and its ideology. The pathos of patriotism had faded, and the prophetic nature of our national pride was still embryonic. Our women and men went to fight an undeclared war for an undefined purpose. And they returned, not to the hero's welcome which could have helped to put their gory memories into some sort of higher perspective, but to shame and hiding more met as renegade felons than as revered fellows. And thousands of our brothers, sisters, fathers, mothers, sons, daughters, and friends remained as dead fodder for distant turf—so many undisclosed that MIA became a cause and a banner for decades to come. For countless thousands of our Vietnam vets, death upon a foreign shore would have been preferable to the reality of life in a hovel of memory and torment. The pathos of patriotism had shown us its worst side, and we were not enthused.

Since Nam we have seen the "sterile" wars in Granada, the Persian Gulf, and Bosnia. We have watched on TV as missiles travelled as if they were blips on a video-game screen, and we have not understood in our souls that the "hits" were counted in human lives. We still harbor a patriotism of pathos—that pathetic allegiance which believes that if we are there, then we belong, and all losses are okay. "War is hell" declared Churchill, but to many, war still has all the allure of a video arcade to young boys on holiday.

I would challenge us on this day of memorializing our war dead, to turn instead to patriotism of prophetic witness. That patriotism says not, "My country right or wrong," but "my country—what can I do to make it right?" It says not, "America's values above all else," but "America's values balanced by the needs of the peoples of the whole world." It says not, "Might makes right," but "Might makes mercy a mandate." To be prophetically patriotic means to cherish the values of our country, while at the same time seeking to learn from others how their values inform a free and life-giving society. It means substituting wisdom for weapons, choosing diplomacy over deployment, preferring peace over power.

Today we can choose either pathetic patriotism or prophetic patriotism. As for me and my house, we choose to honor our heroes by living prophetically patriotic lives, loving America and listening to her voice as one among many in the harmonic choir of a world community. Do we therefore still strive to learn about Bunker Hill, Gettysburg, Pearl Harbor, Nagasaki & Hiroshima, Normandy, the 38th parallel, the Ho-Chi-Min Trail, Baghdad, Chechnia, and other names that live in infamy? Of course we do, for to forget our history is to render ourselves vulnerable to a repetition of errors in judgment that is very costly to our democracy. To forget our history is to relinquish our identity as a people who are willing to sacrifice far more than the high price of a gallon of gas to serve our nation. But do we learn these names to revel in our self-perceived supremacy over other countries? I think not. We learn, that we might be prophetic in our patriotism, working through the obstacles which confront us, while embracing the opportunities to be a people of vision who see through eyes of red, white, and blue, a world fulfilled in the memory of eternal peace.

BILL TAYLOR IS "POSITIVELY MILWAUKEE"

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARRETT of Wisconsin. Mr. Speaker, I appreciate the opportunity to share with my colleagues the admiration and respect that I have for my constituent and friend Bill Taylor.

On Friday, June 29, 2001, Bill Taylor is retiring from his position as a news anchorman with WTMJ–TV. He will be missed. He has been a genuine leader in our community, and I'm honored to know him.

Bill's broadcast career began when he served in the U.S. Army in Saigon, Vietnam, working for the Armed Forces Radio and Television Network. He joined the WTMJ news team in 1972 and is widely respected in his field. He is the personification of dedication and loyalty. In addition, his knowledge of Milwaukee and genuine love and concern for his viewers is remarkable.

When providing expansive coverage of breaking news, Bill always has closed his broadcasts by asking his viewers to "Do Something Positive Today." His bright outlook on life and contagious optimism inspired TMJ4 to feature him in a segment called "Positively Milwaukee", where he focuses on people in the Milwaukee area whose actions positively impact the community. Bill has not only inspired others to follow his advice, but he has also practiced what he preaches. He has been a part of the TMJ4 newsroom for nearly 29 years and has had a profound impact on the lives of the people of Milwaukee. Bill Taylor is "Positively Milwaukee."

Bill has won numerous Milwaukee Press Club awards and American Bar Association certificates. In addition, he received a regional Emmy nomination for his work on WTMJ–TV. He has set an extremely high standard for those who will follow him in the years to come, and he will be deeply missed both by his peers and his viewers. Please join me in honoring Bill Taylor for his enormous contributions to Milwaukee and wishing him well in the future.

CONGRATULATING JANICE HAHN ON HER SWEARING-IN AS COUNCILWOMAN IN THE CITY OF LOS ANGELES

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. HARMAN. Mr. Speaker, I rise today to congratulate my friend, Janice Hahn, who will be sworn in this weekend as Councilwoman representing the 15th District of the City of Los Angeles. There are few public servants as well suited as Janice to represent this diverse and unique district, much of which just happens to overlap with my own 36th District congressional seat.

A life-long resident of Los Angeles, Janice grew up in a family that honored and respected the notion of public service. Her father, the late Supervisor Kenneth Hahn, brought new meaning to the office of County Supervisor. He worked tirelessly for his constituents, and bestowed this ethic to his daughter, who will now represent many of the same constituents as a member of the Los Angeles City Council.

The same ethic was imbued in her brother as well. LA City Attorney Jim Hahn, the incoming mayor of the city of Los Angeles, will also be sworn in this weekend and I also congratulate him.

Janice ran a race that emphasized her responsiveness to community concerns and her professional experiences tell why. Janice worked as Director of Community Outreach for Western Waste Industries, Vice President for Prudential Securities in Public Finance, and Public Affairs region manager at Southern California Edison. She also served as an elected member of the Los Angeles City Charter Commission and was the Democratic nominee for Congress in 1998, when she waged a hard-fought and honorable campaign to succeed me in the 36th District.

Janice will serve in the outstanding tradition of her father and will continue to make contributions on behalf of her constituents and the city of Los Angeles.

I am honored to join her family and friends in wishing her well in her new elective office.

TRIBUTE TO THE LATE JOHN FERRARO

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. WAXMAN. Mr. Speaker, today the Los Angeles City Council Chamber will be dedicated in the name of John Ferraro, a highly respected and beloved City Council member who died on April 17, 2001.

John made a name for himself long before he joined the City Council in 1966. The youngest of eight children, he won an athletic scholarship to the University of Southern California where he played football for the USC Trojans. He was an all-American tackle and played in Rose Bowl games in 1944, 1945, and 1947. He was named to the National Football Foundation Hall of Fame in 1974, the USC Hall of Fame in 1995, and the Rose Bowl Hall of Fame in 1996. More recently, he was named to the Best College Football Team of the Century by the Los Angeles Times.

After earning a Bachelor of Science Degree in Business Administration, John established a successful insurance brokerage firm in Los Angeles and became active in Democratic politics. In 1966 he was appointed to serve on the Los Angeles City Council after Council member Harold Henry died. He subsequently won nine elections and was serving his thirty-fifth year when he passed away. He served as City Council President longer than anyone in Los Angeles history.

John's political skills were sharply honed and he made important contributions to the City of Los Angeles, including his crucial role in bringing improvements of the Los Angeles Zoo and drawing the 1984 Olympics and the Democratic National Convention 2000 to Los Angeles.

In addition to serving on the City Council, John served as President of the League of California Cities and Independent Cities Association, and he served on the boards of the National League of Cities, the Museum of Contemporary Art, the Autry Museum of Western Heritage and the Hollywood-Wilshire YMCA.

John's dedication to public service brought him numerous awards, including the Central City Association's 2000 Heart of the City Award, the L.A. Headquarters Association 2000 Enduring Spirit of Los Angeles Award, the USC General Alumni Association's Asa V. Call Achievement Award, the Los Angeles Marathon's 1996 Citizen of the Year Award, the All City Employees Benefits Service Association 1995 Employee of the Year, and the GTE State Forum Award for Community Service.

John's loss has been felt deeply by the residents of Los Angeles and the Council members who were fortunate to serve with him. He never grandstanded. He didn't expect credit for his accomplishments. He worked quietly and effectively to achieve his goals. He was very simply a decent man and skilled advocate for the people of Los Angeles. The Dedication of the Council Chamber will help keep his memory and the generous contributions he made alive as a model for the future.

THANKING LANCASTER UNITED FOR LIFE

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. PITTS. Mr. Speaker, I would like to recognize and congratulate Lancaster United for Life. Lancaster County, Pennsylvania, which is and always has been strongly pro-life, mobilized quickly when an organization announced that it intended to perform abortions there. Recently, the Pennsylvania Supreme Court refused to hear an appeal of a Commonwealth Court decision upholding life in Lancaster County. While the cause never ends, this is a major victory for Lancaster County. I want to thank and applaud all of those whose prayerful and dedicated efforts led to this success. Those whose lives will be saved will one day thank them too.

ON THE DEATH OF PATRICK B. HARRIS, FORMER STATE LEGISLATOR AND CIVIC LEADER OF ANDERSON, SOUTH CAROLINA

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GRAHAM. Mr. Speaker, I am saddened to report to the House of Representatives the death of Patrick B. Harris of Anderson, South Carolina. He is survived by his wife of more than 60 years, Elizabeth.

I had the distinct honor of serving with 'Mr. Pat' in the South Carolina House of Representatives where he served for more than twenty years. It truly was an honor to serve with him as he was a tireless advocate on behalf of senior citizens and people with mental illness.

Among his numerous accomplishments in public office were the creation of a property-tax homestead exemption for people older than 65, creating a sales tax exemption on prescription drugs for those age 50 and older, making elder abuse a crime, and allowing people age 65 and older to attend state colleges and universities tuition-free.

Born in Mount Carmel in 1911, Mr. Pat attended Anderson Boys High School where he played both football and baseball.

He began work when he left Presbyterian College in Clinton, South Carolina to work in a textile mill during the Great Depression. He also owned and operated a local gas company and for many years was involved in real estate.

Mr. Pat was awarded numerous honors and awards during his life including an honorary Doctor of Laws degree from Erskine College and the Order of the Palmetto from former Governor Carroll Campbell.

With the passing of Pat Harris South Carolina has lost an extraordinary statesman and gentleman. I'm sure other Members of the House join me in sending our condolences to his family and loved ones.

ON THE PEOPLE'S REPUBLIC OF CHINA'S ROLE IN THE EXECUTION OF PRISONERS AND TRAFFICKING OF THEIR ORGANS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. WOLF. Mr. Speaker, I want to share with you this statement presented before a hearing at the House International Relations Subcommittee for Human Rights and International Operations on June 27, by Wang Guoqi, a physician from the People's Republic of China. Mr. Wang was a skin and burn specialist at the Paramilitary Police Tianjin General Brigade Hospital. Mr. Wang writes that his work "required me to remove skin and corneas from the corpses of over one hundred executed prisoners, and, on a couple of occasions, victims of intentionally botched executions."

In a very graphic example, Mr. Wang describes how he harvested the skin off of a man who was still living and breathing.

What kind of government skins alive its own citizens?

I urge our colleagues to read this statement and to keep this egregious abuse of human rights in mind when voting on China's trade status this year.

TESTIMONY OF WANG GUOQI, FORMER DOCTOR AT A CHINESE PEOPLE'S LIBERATION ARMY HOSPITAL

My name is Wang Guoqi and I am a 38-year-old physician from the People's Republic of China. In 1981, after standard childhood schooling and graduation, I joined the People's Liberation Army. By 1984, 1 was studying medicine at the Paramilitary Police Paramedical School. I received advanced degrees in Surgery and Human Tissue Studies, and consequently became a specialist in the burn victims unit at the Paramilitary Police Tianjin General Brigade Hospital in Tianjin. My work required me to remove skin and corneas from the corpses of over one hundred executed prisoners, and, on a couple of occasions, victims of intentionally botched executions. It is with deep regret and remorse for my actions that I stand here today testifying against the practices of organ and tissue sales from death row prisoners.

My involvement in harvesting the skin from prisoners began while performing research on cadavers at the Beijing People's Liberation Army Surgeons Advanced Studies School, in Beijing's 304th Hospital. This hospital is directly subordinate to the PLA, and so connections between doctors and officers were very close. In order to secure a corpse from the execution grounds, security officers and court units were given "red envelopes" with cash amounting to anywhere between 200–500 RMB per corpse. Then, after execution, the body would be rushed to the autopsy room rather than the crematorium, and we would extract skin, kidneys, livers, bones, and corneas for research and experimental purposes. I learned the process of preserving human skin and tissue for burn victims, and skin was subsequently sold to needy burn victims for 10 RMB per square centimeter.

After completing my studies in Beijing, and returning to Tianjin's Paramilitary Police General Brigade Hospital, I assisted hospital directors Liu Lingfeng and Song Heping in acquiring the necessary equipment to build China's first skin and tissue storehouse. Soon afterward, I established close ties with Section Chief Xing, a criminal investigator of the Tianjin Higher People's Court.

Acquiring skin from executed prisoners usually took place around major holidays or during the government's Strike Hard campaigns, when prisoners would be executed in groups. Section Chief Xing would notify us of upcoming executions. We would put an

Once notified of an execution, our section would prepare all necessary equipment and arrive at the Beicang Crematorium in plain clothes with all official license plates on our vehicles replaced with civilian ones. This was done on orders of the criminal investigation section. Before removing the skin, we would cut off the ropes that bound the criminals' hands and remove their clothing. Each criminal had identification papers in his or her pocket that detailed the executee's name, age, profession, work unit, address, and crime. Nowhere on these papers was there any mention of voluntary organ donation, and clearly the prisoners did not know how their bodies would be used after death.

We had to work quickly in the crematorium, and 10–20 minutes were generally enough to remove all skin from a corpse. Whatever remained was passed over to the crematorium workers. Between five and eight times a year, the hospital would send a number of teams to execution sites to harvest skin. Each team could process up to four corpes, and they would take as much as was demanded by both our hospital and fraternal hospitals. Because this system allowed us to treat so many burn victims, our department became the most reputable and profitable department in Tianjin.

Huge profits prompted our hospital to urge other departments to design similar programs. The urology department thus began its program of kidney transplant surgeries. The complexity of the surgery called for a price of $120–150,000 RMB per kidney.

With such high prices, primarily wealthy or high-ranking people were able to buy kidneys. If they had the money, the first step would be to find a donor-recipient match. In the first case of kidney transplantation in August, 1990, 1 accompanied the urology surgeon to the higher court and prison to collect blood samples from four death-row prisoners. The policeman escorting us told the prisoners that we were there to check their health conditions; therefore, the prisoners did not know the purpose for their blood samples or that their organs might be up for sale. Out of the four samplings, one basic and sub-group blood match was found for the recipient, and the prisoner's kidneys were deemed fit for transplantation.

Once a donor was confirmed, our hospital held a joint meeting with the urology department, burn surgery department, and operating room personnel. We scheduled tentative plans to prepare the recipient for the coming kidney and discussed concrete issues of transportation and personnel. Two days before execution, we received final confirmation from the higher court, and on the day of the execution we arrived at the execution site in plain clothes. In the morning, the donating prisoner had received a heparin shot to prevent blood clotting and ease the organ extraction process. When all military personnel and condemned prisoners would arrive at the site, the organ donating prisoner was brought forth for the first execution.

At the execution site, a colleague, Xing Tongyi, and I were responsible for carrying the stretcher. Once the hand-cuffed and leg-ironed prisoner had been shot, a bailiff removed the leg irons. Xing Tongyi and I had 15 seconds to bring the executee to the waiting ambulance. Inside the ambulance, the best urologist surgeons removed both kidneys, and rushed back to the waiting recipient at the hospital. Meanwhile, our burn surgery department waited for the execution of the following three prisoners, and followed their corpses to the crematorium where we removed skin in a small room next

Although I performed this procedure nearly a hundred times in the following years, it was an incident in October 1995 that has tortured my conscience to no end. We were sent to Hebei Province to extract kidneys and skin. We arrived one day before the execution of a man sentenced to death for robbery and the murder of a would-be witness. Before execution, I administered a shot of heparin to prevent blood clotting to the prisoner. A nearby policeman told him it was a tranquilizer to prevent unnecessary suffering during the execution. The criminal responded by giving thanks to the government.

At the site, the execution commander gave the order, "Go!," and the prisoner was shot to the ground. Either because the executioner was nervous, aimed poorly, or intentionally misfired to keep the organs intact, the prisoner had not yet died, but instead lay convulsing on the ground. We were ordered to take him to the ambulance anyway where urologists Wang Zhifu, Zhao Qingling and Liu Qiyou extracted his kidneys quickly and precisely. When they finished, the prisoner was still breathing and his heart continued to beat. The execution commander asked if they might fire a second shot to finish him off, to which the county court staff replied, "Save that shot. With both kidneys out, there is no way he can survive." The urologists rushed back to the hospital with the kidneys, the county staff and executioner left the scene, and eventually the paramilitary policemen disappeared as well. We burn surgeons remained inside the ambulance to harvest the skin. We could hear people outside the ambulance, and fearing it was the victim's family who might force their way inside, we left our job half-done, and the half-dead corpse was thrown in a plastic bag onto the flatbed of the crematorium truck. As we left in the ambulance, we were pelted by stones from behind.

After this incident, I have had horrible, reoccurring nightmares. I have participated in a practice that serves the regime's political and economic goals far more than it benefits the patients. I have worked at execution sites over a dozen times, and have taken the skin from over one hundred prisoners in crematoriums. Whatever impact I have made in the lives of burn victims and transplant patients does not excuse the unethical and immoral manner of extracting organs.

I resolved to no longer participate in the organ business, and my wife supported my decision. I submitted a written report requesting reassignment to another job. This request was flatly denied on the grounds that no other job matched my skills. I began to refuse to take part in outings to execution sites and crematoriums, to which the hospital responded by blaming and criticizing me for my refusals. I was forced to submit a pledge that I would never expose their practices of procuring organs and the process by which the organs and skin were preserved and sold for huge profits. They threatened me with severe consequences, and began to train my replacement. Until the day I left China in the spring of 2000, they were still harvesting organs from execution sites.

I hereby expose all these terrible things to the light in the hope that this will help to put an end to this evil practice.

TRIBUTE TO THE MOUNT HOPE HOUSING COMPANY, INC.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Mount Hope Housing Company, Inc. (MHHC) as they celebrate their 15th anniversary today.

The Mount Hope Housing Company, Inc. was formed in 1986 as a part of intense organizing efforts of residents and community groups in the Mount Hope neighborhood in the South Bronx. Focusing first on the pressing need for the availability of affordable housing, Mount Hope completed one of the first housing tax credit projects in the United States in 1986 and to date has rehabilitated over 1,400 housing units. As a result of this intense and comprehensive effort, one in six residents of the Mount Hope neighborhood lives in a building operated by the MHHC.

Since its founding, the MHHC has continued to enhance its abilities and expand its services to the community. In 1994, the MHHC opened a thrift shop. One year later, the Mount Hope Primary Care Center opened. And in 1996, the New Bronx Employment Service was inaugurated, followed by the Neighborhood Housing Service/MHHC Home Maintenance Training Center in 1998. And now MHHC is planning to develop a community center that will house programs for area youth like a Boys and Girls Club, affordable child care and a state of the art center for computer training.

Mr. Speaker, the Mount Hope Housing Company, Inc. is another fine example of a community organization dedicated to empowering Bronx residents and revitalizing the community, using a comprehensive, self-sustaining and long-term approach. Its success reminds all of us of the contributions local organizations have made to improving the lives of citizens in their respective communities.

Mr. Speaker, I ask my colleagues to join me in paying tribute to the Mount Hope Housing Company, Inc. and in wishing them continued success.

CONGRESSIONAL TESTIMONY OF DAVID HOFFMAN

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. THOMPSON of California. Mr. Speaker, I rise today to request that the testimony given by David Hoffman, President of Internews in Arcata, CA, be submitted into the CONGRESSIONAL RECORD. Mr. Hoffman's valuable testimony before the House Appropriations Subcommittee on Foreign Operations is as follows:

TESTIMONY TO THE SUBCOMMITTEE ON FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS BY DAVID HOFFMAN, PRESIDENT, INTERNEWS

Electronic media are the most powerful force for social change in the world today. As Americans, we live and breathe in the information age. Media are central to our economy, our culture, our political system and our everyday lives.

But in many countries around the world, free media can by no means be taken for granted. In Russia, President Putin has prosecuted Victor Gusinsky, whose influential television network has been critical of the government. In Ukraine, Prime Minister Kuchma has been accused of ordering the murder of a dissident journalist. In China, the government selectively censors Internet web sites that challenge the official version of events. In Iran, dozens of newspapers have been banned and their editors thrown in jail. In Zimbabwe, journalists have been beaten and jailed. In Kazakhstan and Azerbaijan, independent television stations have been suppressed.

And of course, former President Milosevic used state media as a propaganda weapon to foment hatred and violence in the Balkans. But with US government funds, Internews and other NGOs were able to provide critical support to independent broadcasters in Serbia that formed the nucleus of opposition to the Milosevic regime. In Serbia and many countries around the world, independent media have been on the front lines in the fight for freedom and democracy.

With significant funding from USAID, Internews helped developed 1500 independent, non-governmental broadcasters in 23 countries. During the past ten years, we have also trained 16,000 media professionals.

IMPORTANCE OF OPEN MEDIA

In all these countries we have learned that open media are essential for holding free and fair elections, for exposing corruption and human rights abuses, for allowing the free exchange of ideas. American support of uncensored news outlets, therefore, should be at the top of our foreign policy agenda.

America's goal should be the development of a global "electronic commons" where everyone can participate in the global marketplace of goods and ideas, where everyone has access to multiple sources of information, where government regulation of the media is kept to a minimum, where the poor, minorities, women and every group that has been disenfranchised in the past will have a voice.

INDEPENDENT MEDIA IN THE DEVELOPING WORLD

This Committee and this Congress can be proud of their support for open media in the former Soviet Union, in the Balkans and most recently in Indonesia. But there are large areas of the world where open media have yet to take hold. In Africa, in particular, independent media are just in their infancy. We encourage the Committee to continue and expand its support of open media in developing countries.

We would like to share the key lessons that Internews has learned in our nearly twenty years of experience in the field of international media, and make one recommendation for the Committee to consider this year.

First, local indigenous media are the best counterweight to repressive regimes everywhere. They should be supported as an integral part of American foreign policy.

Second, support for local broadcast media is the most effective means for building open, civil societies and healthy market economies in line with democratic ideals. This support needs to be sustained for the long run until stable economies and civil societies are in place.

And third, in the developing world, locally-produced radio programs and other media coverage are unparalleled in their potential to effectively educate mass populations about urgent social problems such as HIV/AIDS.

We would urge the committee to give special attention to this last point.

ROLE OF MEDIA IN COMBATTING HIV/AIDS IN AFRICA

At a time when the incidence of HIV/AIDS has reached catastrophic proportions in Africa, there is an important opportunity to harness the power of local media to reduce the spread of this disease. Over 17 million Africans have died of AIDS since the epidemic began in the late 1970s. In at least eight sub-Saharan African nations, infection levels in the general population are 15% or higher.

Yet local news coverage of this epidemic is often seriously flawed. African journalists do not usually specialize in one particular area, so their knowledge of the issue may be shallow and the language they use may inadvertently further stigmatize victims of HIV/AIDS. As a recent Time magazine cover story concluded, "Ignorance is the crucial reason the epidemic has run out of control."

By training local African journalists in how to cover this issue effectively and responsibly, as Internews has done in Russia and Ukraine, we can reduce the ignorance and fear that exacerbate the suffering. One of the biggest challenges of the AIDS pandemic is in reaching young audiences with needed information before they become sexually active. By focusing a media campaign on pre-pubescent African children, we can begin to get ahead of the spread of this deadly virus.

Internews therefore requests that this Committee recommend funding in the amount of $2 million for Internews to implement a media training program to combat the spread of HIV/AIDS in Africa.

As elected officials; you know better than most the unequalled power of the media to inform and motivate the public. In Africa and the developing world, nothing is more effective than hearing local people on the radio speaking in their local dialect. If we can educate those voices about the true nature of the HIV virus, we can begin to change the attitudes and practices that have allowed this disease to run out of control.

WOMEN AND MEDIA IN THE DEVELOPING WORLD

Women in the developing world have a special role to play in changing public health practices and on a wide range of social issues.

In his book Development As Freedom, Nobel Prize winner Amartya Sen illustrates how increased literacy, education, job opportunities, property rights and political representation for women directly translate into reduced infant mortality rates, lower birth rates, cleaner water, reduced crime and overall national economic growth.

If we want to see the less developed countries emerge from the morass of poverty, disease and chronic warfare, there is nothing more important we can do than increase the political and social influence of women. One way to increase the influence of women in the developing world is to open up opportunities for women in the media.

Let us train a new generation of women journalists, producers and media entrepreneurs in Africa. Let us develop the capacity of women's NGOs to utilize the media to deliver their messages. Let us help start new radio programs that address the needs of women. For example, with a grant from USAID's Office of Transition Initiatives, Internews helped develop the first radio program in Indonesia specifically targeted to a female audience. This type of assistance delivered throughout Africa would have the power to transform the continent. A democratic, open media in Africa is both a moral and a political imperative.

ABOUT INTERNEWS

Internews® is an international non-profit organization that supports open media worldwide. The company fosters independent media in emerging democracies, produces innovative television and radio programming and Internet content, and uses the media to reduce conflict within and between countries.

Internews programs are based on the conviction that vigorous and diverse mass media form an essential cornerstone of a free and open society. Internews projects currently span the former Soviet Union, Eastern and Western Europe, the Middle East, Southeast Asia, Africa and the United States.

Formed in 1982, Internews Network, Inc. is a 501(c)(3) organization incorporated in California, with offices in 23 countries worldwide. The organization currently has offices in Armenia, Azerbaijan, Georgia, Kazakhstan, Uzbekistan, Tajikistan, the Kyrgyz Republic, Russia, Ukraine, Belarus, Bosnia-Herzegovina, the Federal Republic of Yugoslavia, Kosova, France, Belgium, Israel/Palestine, Indonesia, East Timor, Thailand, Iran, Rwanda, Tanzania, and the United States.

To support independent broadcast media, Intemews has done the following (as of 12/31/00):

Since 1992, Internews has trained over 16,000 media professionals in the former Soviet Union, the Balkans, the Middle East, and Indonesia in broadcast journalism and station management.

The organization has worked with over 1500 non-governmental TV and radio stations since 1992.

Internews has also supported the development of 16 independent national television networks linking nongovernmental TV stations in the former Soviet Union, the former Yugoslavia, and the West Bank and Gaza.

Internews has formed or helped support 19 national media associations around the world.

In 2000 Internews, working with local producers, created approximately 740 hours of television and radio programming. Internews' original programs reach a potential audience of 308 million viewers and listeners worldwide.

In addition, since 1994 Internews' Open Skies program has selected, acquired, versioned and distributed over 1000 hours of high-quality international documentary programming to independent television broadcasters in the former Soviet Union and the former Yugoslavia.

Just since 1995, the company has provided over $2 million in television and radio production equipment to nongovernmental media, in the form of grants or no-cost equipment loans.

Internews is primarily supported by grants. Funders include the US Agency for International Development, the Open Society Institute, the Government of the Netherlands, the European Commission, the United States Information Agency, the National Endowment for Democracy, the John D. and Catherine T. MacArthur Foundation, the Ford Foundation, Rockefeller Financial Services, the W. Alton Jones Foundation, the Joyce Mertz-Gilmore Foundation, the Carnegie Corporation of New York, the Corporation for Public Broadcasting, the Miriam and Ira D. Wallach Foundation, the W.K. Kellogg Foundation, and many others. The organization had a budget of $15 million in 2000.

INTRODUCTION OF TRIBAL ENERGY SELF-SUFFICIENCY ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. RAHALL. Mr. Speaker, in my role as the Ranking Democrat on the Resources Committee, today I am proud to be introducing the "Tribal Energy Self-Sufficiency Act" and am pleased to note that joining me as original cosponsors are our colleagues DON YOUNG of Alaska, GEORGE MILLER of California, DALE KILDEE of Michigan, ENI FALEOMAVAEGA of American Samoa, NEIL ABERCROMBIE of Hawaii, FRANK PALLONE, Jr. of New Jersey, ADAM SMITH of Washington, MARK UDALL of Colorado, BETTY MCCOLLUM of Minnesota, and PATRICK KENNEDY of Rhode Island.

Native Americans have, by far, the highest percentage of homes without electricity. Many homes on Indian reservations have either no electricity or unreliable electricity. I find this appalling and unacceptable especially in light of the fact that at least ten percent of the energy resources in the United States are located on Indian lands. In a community which often receives lower than average wages, Native Americans pay a larger percentage of their income on energy needs than the rest of us.

In numerous instances Indian lands are criss-crossed with electricity transmission and distribution lines yet the Indian homes on those lands remain dark. Tribes often have no access to these lines and little authority over what energy they do receive. As we all know, this is not the case with the various local governments in the rest of the country.

As the House of Representatives prepares to consider legislation to further advance a national energy policy, we must not forsake the sovereign tribes to which the United States has a trust responsibility. In this regard, the fundamental purpose of this legislation is to provide Indian Country with the tools it needs to achieve energy self-sufficiency.

When enacted, this legislation will go a long way to promote energy development of Indian lands where it is wanted and badly needed. The "Tribal Energy Self-Sufficiency Act" contains a multitude of provisions relating to the production of energy resources on Indian lands, the development of renewable sources of energy, and access by tribes to transmission facilities largely by building upon programs that are already in place.

Mr. Speaker, I have worked to draft this comprehensive energy bill with the Council of Energy Resource Tribes, the Intertribal Energy Network and numerous energy and tribal experts representing well over 100 Indian tribes.

While this legislation was developed with a great deal of input from Indian Country, it does not purport to include every single proposal or idea that was advanced. Rather, this measure is intended to reflect those areas where interested tribes are largely in agreement with refinements made as it is considered by the committees of jurisdiction during the legislative process.

MOTION PICTURE PRODUCTION: TO RUN OR STAY MADE IN THE USA

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. CONYERS. Mr. Speaker, I submit that the following article from the Entertainment Law Review, by Pamela Conley Ulich and Lance Simmons, be placed in the CONGRESSIONAL RECORD.

MOTION PICTURE PRODUCTION: TO RUN OR STAY MADE IN THE U.S.A.

(Pamela Conley Ulich and Lance Simmens)

"Bye, Bye Miss American pie, drove in my Daimler to the movies to see a foreign-made flic; And good old actors were drinking whiskey and beer, singing this is the day, we're unemployed here, this will be the day we're unemployed here."

I. INTRODUCTION

Globalization profoundly impacts traditional ways of conducting business, and the entertainment industry is not immune from the new economics drastically changing the world. Could Hollywood become "Hollyhasbeen"? Will television and theatrical motion pictures shot in the United States go the way of the American car and American-made clothing?

Runaway production has caused serious labor issues, including the dislocation of thousands of workers and jobs. In 1998, twenty-seven percent of films released in the United States were produced abroad, and an estimated 20,000 jobs were lost to foreign countries. Lower exchange rates, direct government subsidies and lower labor wages enticed American production companies to film in foreign locales. In 1998, the direct economic loss of runaway production was $2.8 billion. When coupled with the loss of ancillary business, the losses likely totaled $10.3 billion for 1998 alone. These loses juxtapose with the issues of free trade versus fair trade in an uneasy balance.

This Article considers why many television and theatrical motion pictures targeted primarily at U.S. audiences are not made in America. It also examines the economic impact resulting from the flight of such productions. Finally, it considers possible solutions in an effort to reverse the trend.

II. THE HISTORY OF "RUNAWAY PRODUCTION"

Runaway production is not a new phenomenon, In December 1957, the Hollywood American Federation of Labor ("AFL") Film Council, an organization of twenty-eight AFL–CIO unions, prepared a report entitled

On December 1, 1961, H. O'Neil Shanks, John Lehners and Robert Gilbert of the Hollywood AFL Film Council testified regarding runaway productions before the Education and Labor Subcommittee on the Impact of Imports and Exports on American Employment. Shanks explained to the subcommittee:

"Apart from the fact that thousands of job opportunities for motion picture technicians, musicians, and players are being 'exported' to other countries at the expense of American citizens residing in the State of California, the State of New York, and in other States because of runaway production this unfortunate trend . . . threatens to destroy a valuable national asset in the field of world-wide mass communications, which is vital to our national interest and security. If Hollywood is thus permitted to become 'obsolete as a production center' and the United States voluntarily surrenders its position of world leadership in the field of theatrical motion pictures, the chance to present a more favorable American image on the movie screens of non-Communist countries in reply to the cold war attacks of our Soviet adversaries will be lost forever."

John "Jack" L. Dales, Executive Secretary of the Screen Actors Guild ("SAG"), and actor Charlton Heston also testified before this subcommittee. Dales stated:

"We examined and laid out, without evasion, all the causes [of runaway production] we knew. Included as impelling foreign production were foreign financial subsidies, tax avoidance, lower production costs, popularity of authentic locale, frozen funds—all complex reasons. We urged Congressional action in two primary areas: (1) fight subsidy with subsidy. Use the present 10 percent admissions tax to create a domestic subsidy; (2) taxes. . . . [W]e proposed consideration of a spread of five or seven years over which tax would be paid on the average, not on the highest, income for those years."

Despite these impassioned pleas, runaway production has continued to grow in importance, scope and visibility. Today it ranks among the most critical issues confronting the entertainment industry. The issue received increased attention in June 1999, when SAG and the Directors Guild of America ("DGA") commissioned a Monitor Company report, "The Economic Impact of U.S. Film and Television Runaway Production" ("Monitor Report"), that analyzed the quantity of motion pictures shot abroad and resulting losses to the American economy. In January 2001, concerns over runaway production were addressed in a report prepared by the United States Department of Commerce. The eighty-eight page document ("Department of Commerce Report") was produced at the request of a bipartisan congressional group. Like the Monitor Report, the Department of Commerce Report acknowledged the "flight of U.S.

Additionally, the media is bringing the issue of runaway production to the attention of the general public. Numerous newspaper articles have focused on the concerns cited in the Monitor Report. For example, in The Washington Post, Lorenzo di Bonaventura, Warner Bros. president of production, explained the runaway production issue as follows:

"For studios, the economics of moving production overseas are tempting. The 'Matrix' cost us 30 percent less than it would have if we shot in the United States. . . . The rate of exchange is 62 cents on the dollar. Labor costs, construction materials are all lower. And they want us more. They are very embracing when we come to them."

Di Bonaventura indicated Warner Bros. received $12 million in tax incentives for filming "The Matrix" in Australia. This is a significant savings for a film that cost approximately $62 million to produce.

III. CAUSES OF RUNAWAY PRODUCTION

In the Department of Commerce Report, the government delineated factors leading to runaway film and television production. These factors have contributed to the "substantial transformation of what used to be a traditional and quintessentially American industry into an increasingly dispersed global industry."

A. Vertical Integration: Globalization

Vertical integration is defined by the International Monetary Fund as "the increasing integration of economies around the world, particularly through trade and financial flows." The term may also refer to "the movement of people (labor) and knowledge (technology) across international borders."

Consequently, companies must now be productive and international in order to profit. Because companies are generally more interested in profits than in people, companies are often not loyal to communities in which they have flourished. Instead, they solely consider the bottom line in the process of making business decisions.

Columbia is an excellent example of the conversion from a traditional U.S.-based company to a global enterprise. Columbia began in 1918 when independent producer Harry Cohn, his brother Jack and their associate Joe Brandt, started the company with a $100,000 loan. In 1926, Columbia purchased a small lot on Gower Street in Hollywood, California, with just two sound stages and a small office building. In 1929, Columbia's success began when it produced its first "talkie" feature, "The Donovan Affair," directed by Frank Capra, who would become an important asset to Columbia. Capra went on to produce other box office successes for Columbia such as "You Can't Take It With You" and "Mr. Smith Goes to Washington."

In 1966, Columbia faced a takeover attempt by the Banque de Paris et Pays-Bas, owner of twenty percent of Columbia, and Maurice Clairmont, a well-known corporate raider. The Communications Act of 1934 prohibited foreign ownership of more than one-fifth of an American company with broadcast holdings. The Banque de Paris could not legally take over Columbia because one of Columbia's subsidiaries, Screen Gems, held a number of television stations. In 1982, the Coca-Cola Company purchased Columbia.

In 1988, Columbia's share of domestic box office receipts fell to 3.5 percent and Columbia registered a $104 million loss. In late 1989,

Following in Columbia's footsteps, other studios have globalized through foreign ownership. Universal Studios, Inc. ("Universal"), previously the Music Corporation of America, was acquired by the additional Japanese electronics company Matsushita in 1991, and four years later was purchased by Seagram, a Canadian company headquartered in Montreal. In 1985, Australian media mogul Rupert Murdoch acquired a controlling interest in Fox, and Time, Inc., a publishing and cable television giant, acquired Warner Bros. in 1989.

As studios become multinational, their loyalty to the community or country in which they were born wanes. The international corporations are no longer concerned with the ramifications of moving production outside uses for of their community or country; they are instead concerned only with bottom-line profits. Columbia exemplifies, globalization. Columbia no longer owns a studio lot, let alone its humble beginnings on Gower Street. The Studio simply rents office space in a building in Culver City, California. Not surprisingly, global corporations think globally, not locally. Shooting abroad is not only acceptable, but preferable to companies who are not loyal to any one country.

B. Rising Production and Distribution Costs and Decreasing Profits

By the end of the 1990s, studio executives began to alter their business methods. Despite aggressive cost-cutting, layoffs, strategic joint ventures and movement of production to foreign shores, rising production and distribution costs have consumed profits over the last decade. Production costs rose from an average of $26.8 million to $51.5 million. Distribution costs for new feature films more than doubled. In 1990, the average motion picture cost $11.97 million to distribute, and by 1999, the costs rose to $24.53 million. At the same time, profit margins dropped. For example, Disney Studio's profits decreased from 25 percent in 1987 to 19 percent in 1997, and Viacom's profits dropped from 13 percent in 1987 to less than 6.5 percent in 1997. Additionally, both Time Warner and News Corporation, parent of Fox, showed declining profits as well.

C. Technological Advances

According to the Department of Commerce Report, "[N]ew technologies and tools may well be contributing to the increase in the amount of foreign production of U.S. entertainment programming." Ten years ago, even if a foreign country had lower labor costs, it would have been prohibitively expensive to transport equipment and qualified technicians to produce a quality picture abroad. However, new technology is defeating that obstacle. Scenes shot on film must be transferred or scanned into a videotape format; this process creates what is referred to as dailies. However, many foreign production centers are unable to instantaneously produce dailies from film. Nevertheless, technological advancement has led to the creation of high definition video, which, like dailies, offers immediate viewing capabilities approximating

D. Government Sweeteners

Canada is extremely aggressive in its application of both Federal and provincial subsidies to entice production north of the border: "At the federal level, the Canadian government offers tax credits to compensate for salary and wages, provides funding for equity investment, and provides working capital loans. At the provincial level, similar tax credits are offered, as well as incentives through the waiving of fees for parking, permits, location, and other local Costs."

These enticements equal a sizable economic benefit. According to the Monitor Report, "U.S.-developed productions located in Canada have been able to realize total savings, including incentives and other cost reducing characteristics of producing in Canada, of up to twenty-six percent." The Department of Commerce Report carefully delineates a plethora of incentives employed by a host of countries. It concludes the undeniable impact of these programs is to weaken the market position of the U.S. film-making industry and those who depend on the industry for employment.

E. Exchange Rates

Because the U.S. dollar is stronger than Canadian, Australian and U.K. currencies, American producers have more purchase power when they opt to film abroad. As a result, producers are tempted to locate where the dollar has the most value. The Canadian, Australian and U.K. currencies have all declined by fifteen to twenty-three percent, relative to the U.S. dollar, since 1990.

IV. THE IMPACT OF RUNAWAY PRODUCTION

A. The Economic Impact

In total, U.S. workers and the government lost $10.3 billion to economic runaways in 1998. According to the Monitor Report, "$2.8 billion in direct expenditures were lost to the United States in 1998 from both theatrical films and television economic runaways." For example, if a theatrical picture is shot in New York, then carpenters are employed to make the set, caterers are employed to prepare and serve food, and costume designers are hired to provide wardrobe. As the Department of Commerce Report explains, "[B]ehind the polished, finished film product there are tens of thousands of technicians, less well-known actors, assistant directors and unit production managers, artists, specialists, post-production workers, set movers, extras, construction workers, and other workers in fields too numerous to mention."

This fiscal loss ripples through the economy affecting peripheral industries. In addition to the direct economic loss discussed above, the Monitor Report calculated an additional $5.6 billion lost in indirect expenditures. Indirect expenditures include real estate, restaurants, clothing and hotel revenues, which are not realized. In addition to these private industry losses, the government lost $1.9 billion in taxes to runaway production. As opposed to the $10.3 billion lost in 1998, the study estimated those figures will be between $13 and $15 billion in 2001.

B. The U.S. Production Drought

The Monitor Report stated that between 1990 and 1998, U.S. film production growth fell sharply behind the growth occurring in the top U.S. runaway production locations of Canada, Australia and the U.K. It stated that Australia "is growing 26.4 percent annually in production of United States-U.S.-developed feature films, or more than three times the U.S. growth rate." Similarly, "Canada is growing at 18.2 percent anually in production of U.S.-developed television projects, more than double the U.S. rate." During the same period, annual growth rates in the United States were 8.2 percent for feature films, and 2.6 percent for television."

C. Job Loss

Runaway production also impacts the U.S. labor market. It is estimated there are 270,000 jobs directly tied to film production. It is further estimated that 20,000 jobs were lost in 1998 alone due to runaway production. However, these statistics do not fully reflect the impact of economic runaway production on employment. They fail to account for spin-off employment that accompanies film production. It is estimated by the Commerce Department that the ripple effect of secondary and tertiary jobs associated with the industry might easily double or triple the number of jobs dependent upon the industry.

Regardless of the understated nature of the economic impact, the Commerce Department acknowledges that at least $18 billion in direct and indirect export revenues and $20 billion in economic activity are generated by the industry annually.

D. Loss of Pension and Health Benefits

Performers and others who work on foreign productions may lose valuable pension and health benefits. As provided in the SAG collective bargaining agreements, performers are entitled to receive pension and health contributions made to the plans on behalf of performers when they work on productions. Although SAG does allow for some pension and health reciprocity with the Canadian performers union, performers must negotiate this term into their contracts. More often than not, performers are unable to negotiate this benefit for work performed in Canada.

E. Cultural Identity

In 1961, Congress was warned that the trend of runaway production threatened to destroy a valuable "national asset" in the field of worldwide mass communications. As H. O'Neil Shanks, John Lehners and Robert Gilbert of the Hollywood AFL Film Council testified in 1961, if Hollywood became "obsolete as a production center" and the United States voluntarily surrendered its position of leadership in the field of theatrical motion pictures, the chance to present a more favorable American image on the movie screen would be forever lost. Although the Cold War is no longer a reason to protect cultural identity, today U.S.-produced pictures are still a conduit through which our values, such as democracy and freedom, are promoted.

V. SOLUTIONS

A. The Film California First Program

California remains a leading force in the industry, and last year took a legislative step to remedy the problem of runaway production. The state passed a three-year, $45 million program aimed at reimbursing film costs incurred on public property. The Film California First ("FCF") program is specifically geared toward increasing the state's competitive edge in attracting and retaining film projects. To accomplish this goal, the legislation provides various subsidies to production companies for filming in California, including offering property leases at below-market rates. This legislation should serve as a model for other states, as they too struggle with an issue of increasing economic importance.

B. Wage-Based Tax Credit

A possible solution could be patterned after a legislative proposal offered, but never advanced, in the 106th Congress. Specifically, this proposal called for a wage-based tax credit for targeted productions and provided: (1) a general business tax credit that would be a dollar-for-dollar offset against any federal income tax liability; (2) a credit cap at twenty-five percent of the first $25,000 in wages and salaries paid to any employee whose work is in connection with a film or television program substantially Produced in the United States and (3) availability of credit only to targeted film and television productions with costs of more than $500,000 and less than $10 million.

C. Future Solutions

To rectify the problems of runaway productions, legislation at the local, state and federal levels is paramount. Over the past thirty years, the film industry has expanded beyond California to become a major engine of economic growth in states such as New York, Texas, Florida, Illinois and North Carolina. To achieve effective legislative remedies, it is critical to examine the successful programs implemented by other nations.

Maybe it is the inexorable result of a changing world. Regardless, the proliferation of foreign subsidies for U.S. film production, which is occurring at an increasing rate worldwide, raises troubling questions of fairness and equity. From a competitive standpoint, it appears as though the deck is stacked against a class of workers who seek to derive their livelihood from this industry but find their jobs have moved overseas. It is understandable that producers will take the opportunity to film abroad when the reduction in costs is as much as twenty-five percent. Consequently, the only remedy for America's workforce is to pass legislation that provides commensurate benefits in the United States.

It is apparent that a laissez-faire, market-oriented approach has failed the American worker. Unemployment is extraordinarily high within the creative community, leading to seventy percent of SAG'S 100,000 plus members earning less than $7,500 annually. This economic hardship is exacerbated by runaway production. Thus, it is abundantly clear that legislative remedies attempting to more adequately level the playing field must be pursued. Amid encouraging signs that a tax bill of significant consequence is likely to pass Congress in the coming months, it is imperative that the creative community take a proactive position to ensure that the tax bill provides incentives for domestic film production. It must use all resources to cure the concerns presented in the two reports outlined in this Article. Organizations, such as SAG, must work with Congress to develop a proposal that is acceptable in terms of cost and other political considerations.

While it seems unlikely that there is the political will or desire to match the incentives offered by many of our competitors, it is conceivable to the authors that an effective approach can be designed to substantially close the gap on cost savings without eliminating them. Thus, the approach advocated involves identifying the level where cost savings of filming abroad are minimized so as not to be the determinative location factor. An appropriate level may be in the range of ten percent cost savings versus the twenty-six percent cost savings now common in some Canadian locations.

It is important to note the strategy used to fashion a remedy is just as important as the relief sought. The industry should be willing to approach the tax-writing committee staff with the afore-mentioned concept and work closely with them in designing a legislative remedy. This strategy represents a holistic approach to a global problem. It is important to remember the United States risks losing its economic advantage in a vital industry which carries with it enormous economic consequences. As noted in the Department of Commerce Report:

"If the most rapid growth in the most dynamic area of film production is occurring outside the United States, then employment, infrastructure, and technical skills will also grow more rapidly outside the United States, and the country could lose its competitive edge in important segments of the film industry."

VI. CONCLUSION

Politics represents the art of the possible. The approach advocated in this Article should find a receptive ear in the halls of Congress if for nothing else than its simplicity. Timing is crucial. Left unchecked, the only certainty is continuing runaway production with the attendant of economic costs, lost jobs, and diminished tax revenues at all levels of government. In a time of waning economic growth and warning signs of dwindling surpluses and future economic weakness, including production incentives into any upcoming tax relief is essential to preserving the U.S. workforce in the American entertainment industry.

PERSONAL EXPLANATION

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. MALONEY of Connecticut. Mr. Speaker, on Tuesday, June 26, 2001, I was unavoidably detained and missed rollcall No. 190. Had I been present, I would have voted No on rollcall vote No. 190.

TRIBUTE TO THE CITY OF MURRIETA, 10TH ANNIVERSARY

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. CALVERT. Mr. Speaker, it is with great pleasure today to pay tribute to a wonderful, young city in my district as they prepare to celebrate their 10th Anniversary—Murrieta, California, a "Gem of the Valley." Murrieta is an expansive valley covered with grasses and dotted with oak trees.

Incorporated as a city in July of 1991 after an overwhelming supportive vote, Murrieta has seen tremendous growth since its small beginnings as a sheep ranch. It was a young Don Juan Murrieta who first recognized the natural beauty and vitality of this California valley and bought 52,000 acres in 1873. As the years passed by, the city saw slow growth and finally a boom when the railroad came through. By 1890, almost 800 people lived in the valley. Unfortunately, by 1935 the city had gone bust like so many western towns whose livelihood depended upon the railroad.

It would not be until 1987, more than fifty years later, that Murrieta Valley would once again come into its own. That year saw explosive growth for this sleepy little town. Totaling only 542 residents in 1970 and little more than 2,250 a decade later it found its population increase by a multiple of eight by 1991, to 20,000 residents, when Murrieta became an incorporated city. This year, as they celebrate their 10th Anniversary it finds itself the home of some 50,000 residents.

As a city and community, Murrieta has thrived with the greater control of its destiny over the last 10 years. That includes providing services from within the community instead of outside, such as police, fire and library systems of its own rather than contracting for these services.

In 10 short years, the City of Murrieta has seen its population and communities grow because of dedication to affordable housing, protecting the natural beauty of the valley, good schools, low crime and clean air. The city adopted its first General Plan after more than 50 public meetings to draft a vision of what the new city would become over the next several decades. The police department was created in 1992, the fire department in 1993 and the library system in 1998. Public services like these are what bind a city together along with the building of parks and recreational facilities and more. In fact, for their incredible progress as a city Murrieta has won numerous awards for innovation and performance.

Mr. Speaker, looking back, the city of Murrieta and its residents can hold their heads high with pride at what their once small town has become in only 10 short years. I wish to extend to them my congratulations as families, community leaders and business leaders gather on this Saturday, June 30th, to celebrate their 10th Anniversary. Congratulations to the "Gem of the Valley!"

PERSECUTION OF THE MONTAGNARD PEOPLES IN VIETNAM

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BALLENGER. Mr. Speaker, today I am introducing a resolution concerning the persecution of the Montagnard peoples in Vietnam.

The Montagnards are indigenous peoples of the Central Highlands of Vietnam who have long suffered discrimination and mistreatment at the hands of successive Vietnamese governments. In the 1960's and 1970's the Montagnard freedom fighters were the first line in the defense of South Vietnam against invasion from the North, fighting courageously beside members of the Special Forces of the United States Army, suffering disproportionately heavy casualties, and saving the lives of many of their American and Vietnamese comrades in arms. Today the Montagnards are singled out by the Vietnamese government due to their past association with the United States, their strong commitment to their traditional way of life and to their Christian religion.

Due to this persecution, many Montagnards have attempted to flee Vietnam to other countries, including Cambodia. The Royal Government of Cambodia has announced that Montagnards found in Cambodia who express a fear of return to Vietnam will be placed under the protection of the United Nations High Commissioner for Refugees rather then forcibly repatriated to Vietnam. Unfortunately, it appears there is a policy of systematic repatriation of Montagnard asylum seekers to Vietnam by some officials of the central government. There also are credible reports that Vietnamese security forces are operating openly in the Mondulkiri and Ratanakiri provinces of Cambodia to repatriate Montagnards.

My resolution urges the government of Vietnam to allow freedom of religious belief and practice to all Montagnards, return all traditional Montagnard lands that have been confiscated, allow international humanitarian organizations to deliver humanitarian assistance directly to Montagnards in their villages, and to withdraw its security forces from Cambodia and stop hunting down refugees. It also commends the Royal Government of Cambodia for its official policy of guaranteeing temporary asylum for Montagnards fleeing Vietnam and urges the Cambodian government to take all necessary measures to ensure that all officials and employees of the local, provincial, and central governments fully obey the policy of providing temporary asylum. Finally, this resolution has the Department of State make clear to the Government of Vietnam that continued mistreatment of the Montagnard peoples represent a grave threat to the process of normalization of relations between the governments of the United States and Vietnam.

I urge my colleagues to join me in supporting the Montagnard peoples of Vietnam by cosponsoring this resolution.

INTRODUCTION OF THE SMALL BUSINESS WELFARE BENEFITS PROTECTION ACT

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. WELLER. Mr. Speaker, today, Representative NEAL (D–MA) and I introduced the Small Business Welfare Benefits Protection Act which deals with Welfare Benefit Plans governed by Section 419A of the Tax Code. The Code currently allows a deduction for contributions to multiple employer welfare benefit plans.

The purpose of this legislation is to provide some clarity to this section of the code in a fashion that protects pension tax law while allowing small businesses to provide important benefits, such as life and health insurance, long term care insurance and severance benefits to their employees. While any employer can utilize Section 419A plans, they allow small business to compete with large employers in attracting and retaining talented staff by enabling them to offer meaningful benefits like the ones I just mentioned.

Section 419A plans are independently trusted and administered ensuring employees that the funds set aside for their benefit are there when they need them most, when a company is facing economic difficulties. This is the right policy and we should do everything in our power to encourage small businesses to protect their employees against the proverbial rainy day.

In terms of clarifying the Code, my legislation would ensure that all full time employees benefit. The allowable deduction would be limited to the cost of the benefit for the year in which the deduction is taken. Finally, the bill would prevent an employer who terminates participation in plan from pilfering the assets of the plan at the expense of the rank and file employees.

This legislation will ensure that 419A plans work the way they were intended to by Congress, namely for the employees, especially small business employees.

ACKNOWLEDGING ALL THOSE SUFFERING WITH THE DEADLY DISEASE OF HIV/AIDS IN THE CARIBBEAN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. RANGEL. Mr. Speaker, while we take into account the millions who die each year in Africa from this deadly disease we know as HIV/AIDS, we must also focus our attention on the Caribbean, as the second largest population to become infected with this devastating disease, as reported in the front page of the Washington Post on June 19, 2001, for those who may have missed it, I submit it for the record.

Two-thirds of all those diagnosed with the AIDS virus in the Caribbean are dead within two years. What is even more outrageous is that AIDS is the leading cause of death in the Caribbean for those aged 15 to 45 and the numbers are growing.

About one in every 50 people in the Caribbean, or 2% of the population has AIDS or is infected with HIV, the virus which causes AIDS; more than 4% in the Bahamas, and 13% among urban adults in Haiti.

The UN estimates that there were 9,600 children infected in the Caribbean. Further, the Caribbean Epidemiology Centre (CAREC) as well estimates that the overall child mortality rate will increase 60% by 2010 if treatment is not improved.

Clearly, there is a need not only for the United States government's assistance but also for those major private foundations that provide AIDS money for Africa to also develop programs that will come to the aid of those in the Caribbean.

I proudly commend Congresswoman DONNA CHRISTENSEN and her efforts to raise awareness in the community, as this disease is kept silent. I also commend the government of the Bahamas as being the only country in the region that has offered universal antiretroviral treatment over the last several years.

While we simply take medical services and treatment for granted in this country, as the number of AIDS cases decreases per year in North America and increases in the Caribbean; it is our obligation to help provide assistance to these governments in order for them to provide a simple service to their people, enabling them to live prosperous and healthy lives.

A TRIBUTE TO LT. AUGUSTUS HAMILTON, JR. AND THE MEMBERS OF THE FORCED LANDING ASSOCIATION

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. SCHAKOWSKY. Mr. Speaker, today is June 28th. We are only a few days away from the July 4th Independence Day celebrations. As fireworks light up the sky, houses are adorned with crisp flags, and children gaze in wonder at the passing parades, we must not forget the many brave men and women who courageously sacrificed their lives to preserve the freedoms and ideals we all enjoy as Americans.

Throughout our short history, America's security as a nation has been tested and tried. It is truly a blessing that our youth have been spared the horrors of war. However, for all those who have known war and have died for the sake of this great country, let it be said that they did not die in vain. The gratitude felt by all Americans and our many allies throughout the world is immeasurable.

Let us extend particular thanks to the veterans of World War II. During World War II, Adolf Hitler and his Nazi regime came alarmingly close to achieving world domination. It is difficult to envision what our world might have looked like had Hitler succeeded but, thanks to the heroism of World War II veterans, we will never have to find out.

I'd now like to share a story about one very special World War II veteran, a man by the name of Augustus Hamilton, Jr., and a remarkable group of people in France who have dedicated themselves to ensuring that the memories of World War II veterans endure. This story was told to me by Mr. Hamilton's niece, Beth White from Chicago, Illinois, and I want to thank Ms. White for taking the time to contact me.

Augustus Hamilton was born on January 4, 1922. At the age of twenty, he enlisted in the U.S. Army Air Corps the day after Pearl Harbor and quickly advanced to First Lieutenant of the 358th Fighter Group, 365th Squadron. By all accounts, he had always been a family hero—an athlete (amateur golf champion for the state of North Carolina and football star who attended the University of North Carolina on a football scholarship), good student, caring brother, and loving son. He was also a new husband and when he went overseas, his wife was pregnant with their child.

Lt. Hamilton served as a fighter pilot in World War II and was awarded an air medal with two oak leaf clusters. According to an excerpt from Thunderbolts over High Halden by Graham J. Hukins, "Lt. Hamilton was last seen diving on a flight of four enemy planes with another four on

At the time of his death, Lt. Hamilton had never met or seen a photo of his only son, for the baby was born when he was overseas. He had named his fighter plane after his wife and son, "Mrs. Ham/'Lil Ham 3rd." Following the crash, several of his family members persisted in denying his death. He had told his family that if he were ever seriously injured in combat, he would not come home because he didn't want to be a burden. Remembering these words, his family hoped that he had somehow survived the crash but had decided not to come home due to his injuries, or perhaps had developed amnesia and could not contact them.

In 1993, almost half a century later, the gift of emotional closure was finally given to Lt. Hamilton's surviving family members by a French man named Jean Luc Grusson and his volunteer organization, Forced Landing Association. In an amazing demonstration of appreciation for the U.S. soldiers who fought in World War II, the members of Forced Landing Association devote themselves to finding each of the more than 150 crash sites reported within a 30 kilometer radius of Tillieres sur Avre, an area of intense air battles because of the close proximity of three German airfields. The Association was established in 1986 and has 11 members who live in France. To date, its members have discovered 30 crash sites, including that of Lt. Hamilton.

M. Grusson uncovered Lt. Hamilton's plane in 1993. He then spent a full year tracking down Lt. Hamilton's surviving family members to return Lt. Hamilton's dog tags, "wings" (a lapel pin), a belt buckle, and other items. When the Hamilton family asked M. Grusson why he and his associates devote so much time, energy, and personal expense unearthing these crash sites, he replied, "The pilots who gave their lives need to be honored. We owe these men our freedom. They gave us our country. We must honor them." M. Grusson's associate, Jacques Larousse, also shared a personal account of the profound impact American soldiers had on him as a young child. He explained that his mother washed the uniforms of American soldiers during the war to make money. When the Americans would come to their home to retrieve their uniforms, they always brought food and chocolate bars to M. Larousse and his mother. Given the scarcity of the time, the kindness of the Americans and their generous gifts made a lasting impression on M. Larousse.

M. Grusson and M. Larousse continue to revere these American soldiers as heroes to this very day. In fact, the members of Forced Landing Association are completing individual memorials at the crash sites of both Lt. Hamilton and Edward Blevins, Hamilton's squadron member. These sites will contain photographs and descriptive accounts of these men to commemorate their tremendous service. There will also be a ceremony on July 8th in remembrance of these fallen soldiers.

I applaud the tireless work of M. Grusson and the Forced Landing Association to keep the memory of our veterans illuminated. I hope that on this July 4th holiday, we will not take for granted the countless freedoms we enjoy. Rather, I hope we always remember that such freedoms have been kept alive through the sacrifices of others.

INTRODUCTION OF EDUCATION BILLS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. PAUL. Mr. Speaker, I rise to introduce two bills designed to help improve education by reducing taxes on parents, teachers, and all Americans who wish to help improve education. The first bill, the Hope Plus Scholarship Act, extends the HOPE Scholarship tax credit to K–12 education expenses. Under this bill, parents could use the HOPE Scholarship to pay for private or religious school tuition or to offset the cost of home schooling. In addition, under the bill, all Americans could use the Hope Scholarship to make cash or in-kind donations to public schools. Thus, the Hope Scholarship could help working parents finally afford to send their child to a private school, while other parents could take advantage of the Hope credit to help purchase new computers for their childrens' school.

Mr. Speaker, reducing taxes so that Americans can devote more of their own resources to education is the best way to improve America's schools. This is not just because expanding the HOPE Scholarship bill will increase the funds devoted to education but because, to use a popular buzz word, individuals are more likely than federal bureaucrats to insist that schools be accountable for student performance. When the federal government controls the education dollar, schools will be held accountable for their compliance with bureaucratic paperwork requirements and mandates that have little to do with actual education, or for students performance on a test that may measure little more than test-taking skills or the ability of education bureaucrats to design or score the test so that "no child is left behind," regardless of the child's actual knowledge. Federal rules and regulations also divert valuable resources away from classroom instruction into fulfilling bureaucratic paperwork requirements. The only way to change this system is to restore control of the education dollar to the American people so they can ensure schools meet their demands that children be provided a quality education.

My other bill, the "Professional Educators Tax Relief Act" provides a thousand dollar per year tax credit to all professional educators, including librarians, counselors, and others involved in implementing or formulating the curriculum. This bill helps equalize the pay gap between educators and other professionals, thus ensuring that quality people will continue to seek out careers in education. Good teaching is the key to a good education, so it is important that Congress raise the salaries of educators by cutting their taxes.

Mr. Speaker, I urge my colleagues to join with me in returning education resources to the American people by cosponsoring my Hope Plus Scholarship Act and my Professional Educators Tax Cut Act.

VIRGIN RIVER DINOSAUR FOOTPRINT PRESERVATION ACT

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HANSEN. Mr. Speaker, it is with pleasure that I rise today to introduce the Virgin River Dinosaur Footprint Preserve Act. This legislation is vital if we hope to preserve some of our nations most intact and rare pre-Jurassic paleontological discoveries.

In February of 2000, Dr. Sheldon Johnson began development preparations on land adjacent to the Virgin River in southern Utah. After dropping the backhoe and noticing a square fracture in the Navajo sandstone, Mr. Johnson turned the earth over. To his utter amazement, there in the stone were dinosaur tracks, taildraggings, and skin imprints of unprecedented quality. These paleontological discoveries are touted by scientists in the field as some of the most amazing ever discovered. The clarity and completeness of the imprints are unparalleled.

Since that time over 140,000 people from all 50 states and at least 54 foreign countries have visited the site. This attention is welcomed by the present owners, but overwhelming at the same time. Over 5,000 people came to visit on Easter weekend alone when only two volunteers were available to help! With current facilities meager at most, this is beginning to cause traffic and congestion problems for the owners and neighbors of the sight, as well as for the city of St. George, Utah.

In addition to the logistical nightmare caused by this discovery, the preservation of these valuable resources is now in jeopardy. The fragile sandstone in which the impressions have been made is susceptible to the heat and wind typical of the southern Utah climate. Rain is nearly catastrophic for these unearthed impressions.

The community and the land owners have come together and have done what they can do to help. They have constructed makeshift shelters for the exposed impressions and volunteers have stepped up to help with tours. Even after all of these efforts, they still need help. The community has asked if there is anything Congress can do to help. Since these resources are of value to the entire world, there is a legitimate role for Congress and the Administration. We have even discussed the possibility that the area might be worthy of National Monument designation. It is my hopes that by introducing this legislation, we will attract the attention of the Administration and protect these irreplaceable resources at the same time.

We must act quickly if these national treasures are to be saved. This bill would authorize the Secretary of the Interior to purchase the land where the footprints and taildraggings are found, then authorize the conveyance of the property to the city of St. George, Utah, which will then work with the property owners and the county to preserve and protect the area and resources in question. The Secretary of the Interior would then enter into a cooperative agreement with the city and provide assistance to help further the protection of the resources.

The American people deserve the chance to see these treasures and the scientific community deserves to be able to study and learn from them as well. Without this legislation, this opportunity might not be possible. Who knows what the cost of inaction might be. I hope my colleagues will support this bill.

CHILD PASSENGER PROTECTION EDUCATION GRANTS EXTENSION

SPEECH OF

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mrs. MORELLA. Mr. Speaker, I rise in support of H.R. 691 which will extend the Child Passenger Protection Grant Program for an additional two years—making the program consistent with the TEA 21 reauthorization cycle.

Currently, the Child Passenger Protection Grant program authorizes $7.5 million each year for the Secretary of Transportation to make incentive grants to states to encourage the implementation of child passenger protection programs in those states. This program is critical to ensuring that child passenger safety is on the minds of citizens nationwide.

Motor vehicle crashes are the single largest cause of child fatalities in the United States.

Each year more than 1,400 children die as motor vehicle passengers, and an additional 280,000 are injured. Despite these horrifying figures, parents are still allowing their children to ride unrestrained.

More disturbing is the fact that of children who are buckled up, roughly half are restrained incorrectly—increasing the risk of serious or fatal injuries. Tragically, most of these injuries could have been prevented. Car seats are proven life savers, reducing the risk of death by 69 percent for infants and 47 percent for toddlers.

With programs like the Child Passenger Protection Grants, we can prevent these senseless deaths and injuries by increasing awareness in our communities.

In my district, the Drivers' Appeal for National Awareness (DANA) Foundation has worked tirelessly to increase public awareness for child passenger safety. Joe Colella, from Montgomery County, founded the DANA Foundation in memory of his niece, Dana, who died because of injuries sustained in a crash while riding in a child restraint that was installed with an incompatible system.

Joe deserves great credit for bringing the incompatibility problem to the attention of the National Highway Transportation Safety Administration (NHTSA) and to Congress. Because of the DANA Foundation's efforts, the nation is now better educated and aware about the proper installation of children's safety seats in motor vehicles.

Protecting our children is a national issue that deserves national attention. I urge my colleagues; to support H.R. 691, as well as other noble efforts to increase child passenger safety.

WHO WAS THAT MASKED MAN? JOHN HART

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to the substantial and laudable Hollywood career of John Hart, a true cowboy hero. His work has spanned every aspect of the silver screen, from writing to acting, from directing to stunt work. But for thousands of fans, his name will forever be synonymous with the signature black mask of the Lone Ranger, the stirring strains of the "William Tell Overture" and a hearty "Hi-yo Silver, away!"

Growing up in the Los Angeles area with a drama critic for a mother, acting was introduced to John early in his life. After studying drama at Pasadena City College, John landed his first motion picture job working for Cecil B. DeMille in "The Buccaneer." After appearing in many gangster pictures, John was drafted into the Army, where he spent the next five years writing, producing, and directing touring shows for the Fifth Air Force.

Upon his return to Hollywood, John was destined to trade in his gangster's fedora for the good guy's white hat. He quickly discovered Westerns, playing the Lone Ranger in the television series for two seasons beginning in 1952. With his trusty sidekick, Tonto, played by Jay Silverheels, the Lone Ranger was heroic inspiration for children all across America as the pair vanquished bad guys in the fight for law and order in the Old West. John went on to play title roles in "Jack Armstrong, The All-American Boy," "Captain Africa," and, with Lon Chaney, Jr., "Hawkeye and the Last of the Mohicans." He has appeared in more than 300 television shows and movies and has a lengthy resume of behind-the-camera work.

In today's world, it is easy to forget the thrilling days of yesteryear when heroes wore white, villains were always brought to justice and the Lone Ranger rode again. How refreshing it is to recall that his silver bullets never killed anyone and that he never sought compensation or credit for his good deeds. In testament to his hero status, children everywhere brought Lone Ranger lunch boxes to school and wore his trademark black mask during imaginary Old West games.

Finally, Mr. Speaker, I wish to commend John Hart for his role as an early pioneer in the film industry. Hollywood has changed greatly since the first motion pictures, but our expectations have not: We still look for the hero to ride off into the sunset after giving the villain his due. I ask my colleagues to join me in praising John Hart for a lifetime of honoring the Lone Ranger creed of justice.

BROWN v. BOARD OF EDUCATION 50TH ANNIVERSARY COMMISSION

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. RANGEL. Mr. Speaker, I rise to praise my colleagues on both sides of the aisle for yesterday's overwhelming passage of H.R. 2133. This legislation would establish a commission to encourage and provide for commemorating the 50th anniversary in the year of 2004 of the Supreme Court's unanimous and landmark 1954 decision in Brown v. Board of Education of Topeka Kansas—the most momentous in the 20th Century.

While the 13th, 14th, and 15th Amendments to the Constitution outlawed slavery, guaranteed rights of citizenship to naturalized citizens and due process, equal protection and voting rights, nearly a century would pass before the last vestiges of "legalized" discrimination and inequality would be effectively revoked. The right of equal protection under the law for African-Americans was dealt a heavy blow with the Supreme Court's 1875 decision to uphold a lower court in Plessy v. Ferguson. The Plessy decision created the infamous "separate but equal" doctrine that made segregation "constitutional" for almost 80 years.

It was not until the 1950's, when the NAACP defense team led by the Honorable Thurgood Marshall as general counsel, launched a national campaign to challenge segregation at the elementary school level that effective and lasting change was achieved. In five individually unique cases filed in four states and the District of Columbia, the NAACP defense team not only claimed that segregated schools told Black children they were inferior to White children, but that the "separate but equal" ruling in Plessy violated equal protection. Although all five lost in the lower courts, the U.S. Supreme Court accepted each case in turn, hearing them collectively in what became Brown v. Board of Education. The Brown decision brought a decisive end to segregation and discrimination in our public school systems, and gradually our national, cultural and social consciousness as well.

The fight, however, did not end there. We may have overcome segregation and racism, but now the fight is economic, one in which some of our schools are inferior to others because of inadequate funding, overcrowded classrooms, dilapidated school buildings and a nationwide lack of teachers. We only have to look at the high levels of crime, drug use, juvenile delinquency, teen pregnancy and unemployment to know the value of a good education. If Brown taught us anything, it is that without the proper educational tools, young people lose hope for the future.

No one challenges the concept of investing in human capital, but it is a well-known fact that we spend ten times as much to incarcerate than we do to educate. If we can find the resources to fund a tax cut and for a U.S. prison system with nearly 2 million inmates, we can give our public schools the repairs and facilities they desperately need, we can reduce class sizes and provide adequate pay to attract the best and brightest into the teaching profession.

Again, while I applaud yesterday's passage of H.R. 2133, I urge my colleagues to remember the lessons of Brown v. Board of Education when we consider our national priorities by committing ourselves to addressing the unfulfilled promises of equality and opportunity contained in the Brown decision.

TEAM PROBLEM SOLVERS

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. SCHAKOWSKY. Mr. Speaker, recently, we debated ways to improve educational opportunities. I would like to draw my colleagues' attention to a program that is doing just that.

The Future Problem Solving Program has a significant and positive impact on the education of students in grades 4 through 12. It is part of a nationwide and international effort to teach children and teens creative thinking and problem-solving skills. Problem-solving skills have been proven to be essential characteristics for young people entering the increasingly competitive job market. This non-profit program, which operates in 44 states as well as Australia, New Zealand, Malaysia, Chile, and Canada, teaches young people these important skills.

Students have the opportunity to apply their critical thinking skills to real-world problems such as restoration of imperiled natural habitats and genetic engineering. The program is structured around a six-step model for solving complex problems. The steps include recognizing potential challenges, generating and evaluating solutions and developing a plan for action. Learning to apply these steps every day increases the ability of students to think critically and work efficiently.

Small teams of young people brainstorm solutions and implementation strategies for issues as varied as tourism, global interdependence, and water use. Students are taught to think not only critically but also creatively. Team Problem Solving, Action-Based Problem Solving, Individual Problem Solving, and Scenario Writing are all components of the program that award dynamic thinkers. Students who work in small teams also learn the value of cooperation and teamwork. Young people in each of the three age divisions compete on the regional, state, and international levels. The Future Problems Solving Program is preparing the youth of today to face the demands of tomorrow.

I would like to officially recognize the contributions this program has made and will continue to make to society at large. I want to thank the adults who are enhancing the education of today's young people and the student participants who are taking the initiative to learn about and help solve today's difficult issues. These students are taking their futures into their own hands. Keep up the good work!

BROWN v. BOARD OF EDUCATION 50TH ANNIVERSARY COMMISSION

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. PAUL. Mr. Speaker, I am pleased to join my colleagues in encouraging Americans to commemorate the 50th anniversary of Brown v. Board of Education and the end of legal segregation in America. However, I cannot support the legislation before us because it attempts to authorize an unconstitutional expenditure of federal funds for the purpose of establishing a commission to provide federal guidance of celebrations of the anniversary of the Brown decision. This expenditure is neither constitutional nor in the spirit of the brave men and woman of the civil rights moment who are deservedly celebrated for standing up to an overbearing government infringing on individual rights.

Mr. Speaker, any authorization of an unconstitutional expenditure of taxpayer funds is an abuse of our authority and undermines the principles of a limited government which respects individual rights. Because I must oppose appropriations not authorized by the enumerated powers of the Constitution, I therefore reject this bill. I continue to believe that the best way to honor the legacy of those who fought to ensure that all Americans can enjoy the blessings of liberty and a government that treats citizens of all races equally is by consistently defending the idea of a limited government whose powers do not exceed those explicitly granted it by the Constitution.

THE OUTFITTER POLICY ACT

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HANSEN. Mr. Speaker, I am pleased to introduce, today, the Outfitter Policy Act, which will create a statutory authority for permit terms and conditions across America's public lands.

Millions of Americans recreate on America's public lands every year, and the services of Outfitters and guides allow our constituents to access many areas of our public lands that would otherwise be inaccessible. These are families and civic groups learning to enjoy and respect nature, including horse pack trips and float trips, which many of us have enjoyed.

Unfortunately, many of our federal agencies lack legislative guidance on permit administration. Without guidelines, the system is highly discretionary, and often inconsistent, creating confusion for Outfitters and guides, and ultimately reducing opportunities for our constituents to enjoy our public lands. The system established under this bill would eliminate inconsistencies, and would provide incentives for Outfitters to offer consistently high-quality services to all our constituents.

I would like to thank the original co-sponsors of this legislation for their willingness to join me in this effort to assure public lands access for all Americans, especially my good friend from Idaho, Mr. OTTER. Without his hard work and dedication, this bill would never have been ready with such speed. This is a bill which appropriately balances public needs with conservation efforts, due in large measure because of his efforts. I thank him, as I thank all the co-sponsors of this bill, and hope that all my colleagues will support us in this effort.

JOHN KOHR: ALWAYS A "CO-OPERATIVE" MAN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to my good friend, John Kohr, upon the occasion of his retirement as Chief Executive Officer of Co-Operative Elevator Company in Pigeon, Michigan. I have worked closely with John for the past 20 years and have always held him in the highest esteem. He is the kind of individual who others seek out for guidance because he strives for excellence in all that he does and he never hesitates to take on more than his share in any circumstance.

During more than a decade at the helm and throughout his entire 39 years with the company, John's enthusiastic leadership, strong work ethic and decentralized management style have helped to mold the company and individuals within it into shining examples for others in the industry to look up to as models for growth and development. He has been the driving force in establishing a record of profitability that is unmatched in the industry statewide.

Just as importantly, John worked to create an environment that trained others so that they could move up in the organization. One has to look no farther than his replacement, Burt Keefer, to see how John's style allowed others to succeed. John has a well-deserved reputation as someone who gives unselfishly and extensively to the industry in which he has made a living for his family. In fact, John earlier this year was honored with the Agri-Business Award for Outstanding Member for his many contributions and dedication to the Agri-Business Association. John's drive for excellence has also extended beyond his profession. He has been very active in many community organizations, volunteering his time and talents for the betterment of his fellow citizens.

Behind every successful businessman, there is always the love and warm support of family. John's wife, Dianne, and their four children, Kathy, Carrie, Susan, and John, have shared in his dreams and worked hard to help him achieve them. A devote Christian, John has been a role model for his children and a loving husband to his wife.

Finally, Mr. Speaker, I ask my colleagues to join me in congratulating John Kohr on his significant and diverse accomplishments and in wishing him a rewarding retirement. His talent, dedication and enthusiasm will be sorely missed by his former coworkers, but I am confident that he will bring these attributes to all the challenges that lie ahead.

MICROBICIDES DEVELOPMENT ACT OF 2001

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mrs. MORELLA. Mr. Speaker, I rise today to introduce the "Microbicides Development Act of 2001". I am pleased to be joined by many of my good friends and colleagues who have signed on as original cosponsors to this legislation. My thanks go to them.

Mr. Speaker, this week the United Nations convened a special session of the U.N. General Assembly to address how to combat the spreading HIV/AIDS epidemic.

We have entered the third decade in the battle against HIV/AIDS. June 5, 1981 marked the first reported case of AIDS by the Centers for Disease Control. Since that time, over 400,000 people have died in the United States. Globally 21.8 million people have died of AIDS.

Tragically, women now represent the fastest growing group of new HIV infections in the United States and women of color are disproportionately at risk. In the developing world women now account for more than half of HIV infections and there is growing evidence that the position of women in developing societies will be a critical factor in shaping the course of the AIDS pandemic.

So what can women do? Women need and deserve access to a prevention method that is within their personal control. Women are the only group of people at risk who are expected to protect themselves without any tools to do so. We must strengthen women's immediate ability to protect themselves—including providing new woman-controlled technologies. One such technology does exist called microbicides.

The Microbicides Development Act of 2001 which I am introducing, will encourage federal investment for this critical research, with the establishment of programs at the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention. Through the work of the NIH, non-profit research institutions, and the private sector, a number of microbicide products are poised for successful development. But this support is no longer enough for actually getting microbicides through the development "pipeline" and into the hands of the millions who could benefit from them. Microbicides can only be brought to market if the federal government helps support critical safety and efficacy testing.

Health advocates around the world are convinced that microbicides could have a significant impact on HIV/AIDs and sexually transmitted diseases (STDs).

Researchers have identified almost 60 microbicides, topical creams and gels that could be used to prevent the spread of HIV and other STDs such as chlamydia and herpes, but interest in the private sector in microbicides research has been lacking.

According to the Alliance for Microbicide Development, 38 biotech companies, 28 not-for-profit groups and seven public agencies are investigating microbicides, and Phase III clinical trials have begun on four of the most promising compounds. The studies will evaluate the compounds' efficacy and acceptability and will include consumer education as part of the compounds' development. However, it will be at least two years before any compound trials are completed.

Currently, the bulk of funds for microbicide research comes from NIH—nearly $25 million per year—and the Global Microbicide Project, which was established with a $35 million grant from the Bill and Melinda Gates Foundation. However, more money is needed to bring the microbicides to market. Health advocates have asked NIH to increase the current budget for research to $75 million per year.

Mr. Speaker, today, the United States has the highest incidence of STDs in the industrialized world—annually it is estimated that 15.4 million Americans acquired a new STD. STDs cause serious, costly, even deadly conditions for women and their children, including infertility, pregnancy complications, cervical cancer, infant mortality, and higher risk of contracting HIV.

This legislation has the potential to save billions in health care costs. Direct cost to the U.S. economy of STDs and HIV infection, is approximately $8.4 billion. When the indirect costs, such as lost productivity, are included that figure rises to an estimated $20 billion.

With sufficient investment, a microbicide could be available around the world within five years.

I urge my colleagues to lend their support to this vital legislation.

CELEBRATING THE OPENING OF THE SMITHSONIAN FOLK LIFE FESTIVAL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. RANGEL. Mr. Speaker, I rise before you today to celebrate the opening of the Smithsonian Folk Life Festival. I commend the Smithsonian Institution for its decision to feature New York City and its rich heritage and diversity. I am delighted that Harlem's own legendary Apollo Theatre, will be showcased by hosting its famous "Amateur Night at the Apollo" on the Mall Saturday, July 7. For the very first time Americans outside of New York will be allowed to be a part of Amateur Night at the Apollo. They will be able to experience the excitement of Amateur Night at the Apollo in the same way that past winners, such as, Billie Holiday, Ella Fitzgerald, Sarah Vaughn, James Brown, and Stevie Wonder did many years ago.

When New Yorkers took the A-train uptown, the first stop was the Apollo. When the downtown musicians wanted to learn how to play jazz they went to the Apollo. When the kids from Brooklyn wanted to learn how to bebop and "lindy hop" they went to the Apollo.

The Apollo stage is where the Godfather of Soul—James Brown, got his soul; where Michael Jackson showed off the moonwalk; and today it provides a showcase for leading hip-hop artists.

The Apollo Theatre was built in 1913, however it was not until 1932 when Sydney Cohen purchased it that it became known as a Black Vaudeville house. This change was reflective of the influx of African-Americans into the area between 135th and 145th streets and the changes in Harlem entertainment. Over the next few decades the Apollo became the place to perform if you were a rising Black musician. You were not accepted as a serious musician in Harlem until you performed and excelled at the Apollo.

For more than eighty years the Apollo Theatre has been the first home of African-American music, the cultural mecca of Harlem, and the monument to the contributions of Black Americans in the entertainment industry. The Theatre achieved the high point of its popularity in the 1950's when the growing number of popular Black entertainers were still restricted to performing at Black venues. Acts that have graced the stage include: Bessie Smith in 1935, Count Basie and Billie Holiday in 1937, Sammy Davis, Jr., as a dancer in the Will Matsin Trio in 1947, Bill Cosby in 1968, Prince in 1993, and Tony Bennett in 1997.

The Apollo, located on 125th Street, is the centerpiece of Harlem and one of the main attractions for Harlem visitors. It has become the number one tourist attraction in New York. I am proud to announce that a major $6.5 million revitalization and expansion of the Apollo Theatre is being undertaken, which will make a major contribution to the Harlem community through the transformation of this venue into a major performing arts center.

The renowned Apollo Theatre is a national treasure that has made major contributions to the entertainment industry of this nation. The Theatre was designated a New York City landmark and listed on the National Register of Historic Places in 1983.

Some might say the Apollo is the home of Black music, but I would say the Apollo is the home of American music.

I invite everyone to join with me in celebrating The Smithsonian 2001 Folk Life Festival, New York City, and the legendary Apollo Theatre.

INTRODUCTION OF THE "COMMERCIAL FISHERMEN SAFETY ACT OF 2001"

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. SIMMONS. Mr. Speaker, since colonial days my home town of Stonington has been tied to fishing. Today it is the home to Connecticut's only commercial fishing fleet, and I am proud to be its congressional representative.

Commercial fishing continues to rank as one of the most hazardous occupations in America. According to the United States Coast Guard and the Bureau of Labor Statistics, the annual fatality rate for commercial fishermen is about 150 deaths per 100,000 workers.

In order to increase the level of safety in the fishing industry, the U.S. Coast Guard requires all fishing vessels to carry safety equipment. Required equipment can include a life raft that automatically inflates and floats free should the vessel sink; personal flotation devices or immersion suits; Emergency Position Indicating Radio Beacons (EPIRB); visual distress signals; and fire extinguishers.

When an emergency arises, safety equipment is priceless. At all other times, the cost of purchasing or maintaining life rafts, immersion suits, and EPIRBs must compete with other expenses such as loan payments, fuel, wages, maintenance, and insurance. Meeting all of these obligations is made more difficult by a regulatory framework that uses measures such as trip limits, days at sea, and gear alterations to manage our marine resources.

Commercial fishermen should not have to choose between safety equipment and other expenses. That's why I am introducing the "Commercial Fishermen Safety Act of 2001," which would provide for a tax credit equal to 75 percent of the amount paid by fishermen to purchase or maintain required safety equipment. The tax credit is capped at $1,500 and includes expenses paid or incurred for maintenance of safety equipment required by federal regulation. Sens. Susan Collins (R–ME) and John Kerry (D–MA) have introduced identical legislation in the Senate.

The Commercial Fishermen Safety Act Of 2001 could improve safety by giving commercial fishermen more of an incentive to purchase and care for safety equipment. I ask my colleagues to join me in helping commercial fishermen protect themselves while doing their jobs.

JUNIOR ACHIEVEMENT VOLUNTEER AWARD OF EXCELLENCE WINNER, FRED HAMPTON, ALBUQUERQUE, NM

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mrs. WILSON. Mr. Speaker, I rise to speak today about a distinguished member of my district who is being honored by an organization, which has had an immeasurable impact on America. Fred Hampton, a retired AT&T employee, is Junior Achievement's National Volunteer Award of Excellence recipient this year. He has been a Junior Achievement volunteer for six years. During these six years, he has taught 60 classes and spent countless hours furthering the efforts of this organization. Since moving to New Mexico, Fred has been involved in making a difference in the education of the area's students. He regularly volunteers in classes of students with special needs and teaches JA classes in remote locations difficult to reach by others. In addition, his service extends beyond the classroom, as he has helped to recruit bilingual volunteers to teach JA classes in Spanish.

The history of Junior Achievement is a true testament to the indelible human spirit and American ingenuity. Junior Achievement was founded in 1919 by Horace Moses, Theodore Vail, and Senator Murray Crane of Massachusetts, as a collection of small, after-school business clubs for students in Springfield, Massachusetts.

As the rural-to-city exodus of the populace accelerated in the early 1900s, so too did the demand for workforce preparation and entrepreneurship. Junior Achievement students were taught how to think and plan for a business, acquire supplies and talent, build their own products, advertise, and sell. With the financial support of companies and individuals, Junior Achievement recruited numerous sponsoring agencies such as the New England Rotarians, Boy Scouts, Girl Scouts, Boys & Girls Clubs, the YMCA, local churches, playground associations and schools to provide meeting places for its growing ranks of interested students.

In a few short years JA students were competing in regional expositions and trade fairs and rubbing elbows with top business leaders. In 1925, President Calvin Coolidge hosted a reception on the White House lawn to kick off a national fundraising drive for Junior Achievement's expansion. By the late 1920s, there were nearly 800 JA Clubs with some 9,000 Achievers in 13 cities in Massachusetts, New York, Rhode Island, and Connecticut.

During World War II, enterprising students in JA business clubs used their ingenuity to find new and different products for the war effort. In Chicago, JA students won a contract to manufacture 10,000 pants hangers for the U.S. Army. In Pittsburgh, JA students developed a specially lined box to carry off incendiary devices, which was approved by the Civil Defense and sold locally. Elsewhere, JA students made baby incubators and used acetylene torches in abandoned locomotive yards to obtain badly needed scrap iron.

In the 1940s, leading executives of the day such as S. Bayard Colgate, James Cash Penney, Joseph Sprang of Gillette and others helped the organization grow rapidly. Stories of Junior Achievement's accomplishments and of its students soon appeared in national magazines of the day such as TIME, Young America, Colliers, LIFE, the Ladies Home Journal and Liberty.

In the 1950s, Junior Achievement began working more closely with schools and saw its growth increase five-fold. In 1955, President Eisenhower declared the week of January 30 to February 5 as "National Junior Achievement Week." At this point, Junior Achievement was operating in 139 cities and in most of the 50 states. During its first 45 years of existence, Junior Achievement enjoyed an average annual growth rate of 45 percent.

To further connect students to influential figures in business, economics, and history, Junior Achievement started the Junior Achievement National Business Hall of Fame in 1975 to recognize outstanding leaders. Each year, a number of business leaders are recognized for their contribution to the business industry and for their dedication to the Junior Achievement experience. Today, there are 200 laureates from a variety of businesses and industries that grace the Hall of Fame.

By 1982, Junior Achievement's formal curricula offering had expanded to Applied Economics (now called JA Economics), Project Business, and Business Basics. In 1988, more than one million students per year were estimated to take part in Junior Achievement programs. In the early 1990s, a sequential curriculum for grades K–6 was launched, catapulting the organization into the classrooms of another one million elementary school students.

Today, through the efforts of more than 100,000 volunteers in the classrooms of America, Junior Achievement reaches more than four million students in grades K–12 per year. JA International takes the free enterprise message of hope and opportunity even further . . . to more than 1.5 million students in 111 countries. Junior Achievement has been an influential part of many of today's successful entrepreneurs and business leaders. Junior Achievement's success is truly the story of America—the fact that one idea can influence and benefit many lives.

Mr. President, I wish to extend my heartfelt congratulations to Fred Hampton of Albuquerque, New Mexico for his outstanding service to Junior Achievement and the students of New Mexico. I am proud to have him as a member of my district and proud of his accomplishment.

SUPPORT OF NEW COLLEGE

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. MILLER of Florida. Mr. Speaker, I am hear today to congratulate New College on being the newest accredited independent liberal arts college in the state university system of Florida.

New College was founded in 1960 as an independent college by Sarasota and Bradenton civic leaders. When the school opened in 1964, it accepted students on their academic talents, not on their race, creed or gender. In 1975, during a time of financial uncertainty, this 650-student college joined with the University of South Florida. Even with this merger, New College retained its faculty, academic programs and competitive admissions. New College is known as the Honors College of Florida, being the only public college or university in Florida designated as "Highly Competitive" by Barron's Magazine. The graduates of New College are some of the brightest and most motivated of all college graduates in the country.

I wish the best of luck to New College and to all its students and faculty during its transition. They have met many challenges in the past and face more in the future, but New College will succeed and make Florida very proud. I am honored to represent this institution.

TRIBUTE TO W. GEORGE HAIRSTON III

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BACHUS. Mr. Speaker, I rise today to honor Mr. W. George Hairston III for his outstanding contributions to the U.S. commercial nuclear industry and, by extension, to the nation as a whole. Mr. Hairston currently serves as president and CEO of Southern Nuclear Operating Company, and was recently inducted into the State of Alabama Engineering Hall of Fame in recognition of his accomplishments.

Mr. Hairston's resume is extensive and distinguished. He is a veteran of the United States Army Corps of Engineers and of the Vietnam War. His degrees were earned at some of the top engineering universities in the country; such as his undergraduate engineering degree from Auburn University and his Master's in Nuclear Engineering from the Georgia Institute of Technology. Additionally, in 1991, he successfully completed the Massachusetts Institute of Technology's Program for Senior Executives.

Mr. Hairston is also active in his community, holding positions on the Board of Directors for the Institute of Nuclear Power Operations (INPO), where he also served as chairman of the INPO National Nuclear Accrediting Board, and the WANO-Atlanta Center Governing Board. Mr. Hairston is currently a member of the Nuclear Energy Institute (NEI) Board of Directors, Executive Committee, and the Nuclear Strategic Issues Advisory Committee (NSIAC). He also serves as Chairman of the NEI Government Relations Advisory Committee.

It is clear that such honors and qualifications are more than most individuals could obtain in a lifetime. However, Mr. Hairston continues to strive for excellence not only in his work but also in his community. He stresses the importance of equality in the workplace and focuses on minority recruiting. Additionally, he understands the importance of cultivating in the nation's youth an understanding of and an interest in the field of engineering. By serving on the Board of Directors for Junior Achievement in Birmingham and the Auburn Alumni Engineering Council, and by chairing the INROADS/Birmingham Advisory Board, Mr. Hairston positions himself as a mentor for bright, young engineers. His refusal to remain content with serving and influencing any one area or group is both admirable and challenging. While his accomplishments are many, it is his concern for his fellow citizens and his country that truly set him apart.

Mr. Speaker, please join me in honoring Mr. W. George Hairston III, an outstanding businessman, leader, and servant to the community.

CALL FOR HUMANITARIAN ASSISTANCE TO THE PEOPLE OF THE NUBA REGION IN SUDAN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. RANGEL. Mr. Speaker, I rise before you today to bring your attention to the grave situation in Sudan and specifically to the people of the Nuba region. I urgently call on President Bush and Secretary of State Colin Powell to work for an immediate lifting of the cruel siege of the Nuba region of Sudan.

For over ten years, the Government of Sudan has denied all humanitarian relief aid to the people of the Nuba, despite the terrible plight of tens of thousands of innocent civilians. Very recent reports indicate that the cumulative effect of this brutal siege has been to push 85,000 human beings to the very brink of starvation. Without immediate humanitarian intervention, thousands of people will begin to die—and they will continue to die until humanitarian aid is permitted into the region. Countless mothers will suffer the agonizing fate of watching helplessly as their children die for lack of food, and then succumbing themselves.

This is intolerable and utterly indefensible. Nowhere in the world is the denial of food aid used as a more vicious weapon of war than in the Nuba region of Sudan. Further, Government of Sudan offensives have recently burned thousands and thousands of people out of their homes, making them even more vulnerable in these precarious circumstances.

There is in Lokichokio in northern Kenya, the center of relief operations for southern Sudan, humanitarian aid ready and able to assist the people of the Nuba tomorrow. What is required is access. It is imperative that the United States take the international lead in demanding, in the strongest possible terms, that the Government of Sudan lift this brutal siege immediately.

We must continue to work together as a nation to stop slavery, aerial bombardments of innocent civilians, religious persecution and induced famine in the Sudan. The recent passage of the Sudan Peace Act of 2001 with an overwhelming vote of 422 to 2 shows the tremendous support of the U.S. House of Representatives in applying all necessary means to bring an end to the 18-year civil war and its related atrocities. We must continue this momentum in the Senate, and show unified U.S. support with unanimous passage of the Sudan Peace Act when it comes to the Senate floor.

INTRODUCTION OF THE "ENDANGERED SPECIES CONSOLIDATION ACT"

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. OTTER. Mr. Speaker, since 1970, two federal agencies have had jurisdiction over implementation and enforcement of the Endangered Species nationwide—the U.S. Fish and Wildlife Service (USFWS) under the U.S. Department of the Interior, and the National Marine Fisheries Service (NMFS), which is part of the National Oceanic and Atmospheric Administration under the U.S. Department of Commerce. Before 1970, NMFS' programs were implemented by USFWS. This changed when President Nixon signed a law creating it 3 years before the enactment of the Endangered Species Act. If President Nixon knew how ESA and NMFS would look today—30 years later—he probably would have second thoughts.

The U.S. Fish and Wildlife Service has jurisdiction of over 1,800 species of plants, mammals, birds, and fish, and an annual ESA budget of $112 million. NMFS—with responsibility for just 42 listed species of marine mammals and fish—has an annual ESA budget nearly as high as USFWS—$105 million. Many of NMFS' "species" include "evolutionary significant unit" designations that NMFS created without Congressional authorization—an issue that is now pending in federal district court.

Mr. Speaker, the goals and activities of these two agencies have become blurred. For example, both NMFS and USFWS have undertaken the listing and recovery of Atlantic salmon, the Gulf sturgeon, and four species of sea turtles.

In the Pacific Northwest, the USFWS manages freshwater bull trout and hatchery salmon, while NMFS has devoted billions of dollars to regulate and enforce the recovery of "wild" salmon and steelhead in the same watersheds.

NMFS allows the commercial and tribal harvest of thousands of salmon that it acknowledges are endangered. NMFS' interpretation of ESA has caused hundreds of activities—including those having minimal impact—or those that actually aid—the recovery of species to be held up for months or years.

Instead of becoming more efficient, NMFS' response is to request more federal money and expand their regulatory activities while failing to identify goals of how many species of fish it needs to recover.

All species—fish and humans—deserve better from the federal government. That is why today I and my friend and colleague from Idaho, Congressman Mike Simpson, together will introduce the "Endangered Species Consolidation Act". This measure will ensure that ESA activities regarding fish that spawn in fresh or estuarine waters and migrate to ocean waters—and vice versa—are managed and coordinated through one agency—the U.S. Fish and Wildlife Service.

The bill will eliminate duplication and allow scarce resources to be focused on achieving the true objective of the Endangered Species Act—recovery of species through science-based management.

WRIGHT TOWNSHIP CELEBRATES 150TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of the House of Representatives to the 150th anniversary of the founding of Wright Township in Luzerne County, Pennsylvania. I am honored to have been asked to participate in the township's Independence Day parade, which will double as a celebration of the sesquicentennial.

Wright Township was established by the Court of Quarter General Sessions on April 12, 1851. It is named for Hendrick Bradley Wright, a resident of Luzerne County who served four terms in this House between 1853 and 1881 and also served as speaker of the Pennsylvania House of Representatives and Luzerne County district attorney. In commemoration of the 150th anniversary, the National Archives and Records Administration recently donated to the township a framed photograph of Hendrick Wright taken in the 1860s.

The community was carved from Hanover Township, and has seen its population grow despite seeing part of its territory become incorporated into the new communities of Fairview Township, Rice Township and Nuangola Borough over the years. The township encompasses 13.9 square miles of land.

At its founding, Wright Township had just 152 inhabitants, and its character remained primarily rural until the 1950s. In 1950, the population was 948, which has more than quintupled to 5,593 in 2000. A major reason for the increase in population was the opening of the Crestwood Industrial Park in 1952. This 1,050-acre facility is home to more than 20 businesses that employ more than 3,000 people. Wright Township continues to work with the Greater Wilkes-Barre Chamber of Business and Industry and businesses located or considering location in the industrial park.

To help preserve the quality of life the residents enjoy and provide for orderly community and economic development, the township adopted a comprehensive plan and subdivision and land development and zoning ordinances in the late 1960s and early 1970s.

As the township grew, it upgraded its public services to meet the citizens' increasing needs. In 1972, the police, the public works department and the supervisors' office moved into the newly constructed municipal building. Previously, the police operated out of the firehouse, the road department operated out of a developer's garage and the supervisors' office was in the home of the secretary.

In the 1970s, the Wright Township Recreation Park was completed, and the township is currently in the process of a major expansion of the park to include a regulation soccer field, loop trail and a plaza with additional parking. Another service to residents is the drop-off recycling program that was begun in 1991 for the Mountain Top area.

The community has planned an extensive celebration of its 150th anniversary and America's independence that includes a concert, fireworks and a festival with food, entertainment, games and crafts.

Mr. Speaker, I am proud to represent the people of Wright Township, and I am pleased to call their community and patriotic spirit to the attention of the House of Representatives on the occasion of the township's 150th anniversary.

A TRIBUTE TO NORMA STEWART HAMILTON

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. ETHERIDGE. Mr. Speaker, I rise today to pay tribute to one of America's great teachers, Mrs. Norma Stewart Hamilton of Dunn, North Carolina, in my congressional district, who is retiring from teaching on June 29th after 39 years of service to the children and communities of Harnett County. I want to take this opportunity to thank her for her hard work and service.

Norma Hamilton teaches home economics. She is known for her disciplined teaching style, but she possesses an ability to make her classroom an enjoyable place to learn. Recently, several of her former students joined together to celebrate her life's work at the 39th annual Western Harnett High School Mother-Daughter Banquet. They recalled her classes, the exams she gave, and most importantly, her willingness to listen and give sage advice. One of Mrs. Hamilton's former students, Mrs. Rebecca Collins Hunter, herself a home economics teacher, remembered that Mrs. Hamilton never allowed teaching subject matter to supersede her goal of teaching the individual.

It has been said that "The mediocre teacher tells. The good teacher explains. The superior teacher demonstrates. And the great teacher inspires." As the former Superintendent of my state's schools, I know the difference that an outstanding teacher can make in the lives of young people. Great teachers, like Norma Hamilton, not only teach academic lessons, they teach life lessons. They strengthen the moral fiber of their students and of the communities where they teach. They challenge their students to strive for excellence.

In almost four decades, she touched and shaped the lives of over 4,000 children. She inspired more than a generation of students to achieve their dreams and make their own unique impression upon the world.

Mr. Speaker, when Norma Hamilton retires at the end of this week, she will take on a new role in the Harnett County community. Although he will no longer teach in a classroom, I know she will continue to contribute to the lives of those around her because great teachers never stop teaching. Today, I honor her for her dutiful service, and on behalf of a grateful state, I thank her for inspiring us with her great teaching.

HONORING THE DISTINGUISHED PUBLIC SERVICE OF JOHN PITTARD

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GORDON. Mr. Speaker, I rise today to recognize the long and distinguished career that my friend John Pittard has had in the public service arena. John has served on the City Council in my hometown of Murfreesboro, Tennessee, for 19 years, as well as other civic boards and organizations within the city.

John's pride for his community is obvious. He has helped guide the city through a period of tremendous growth, not only in population but also in quality of life. He is one of the most honorable public servants I know, and I've known him most of my life. In fact, we went to high school and college together.

John's devotion to public service comes honestly. Both his mother, Mabel Pittard, and his father, the late Homer Pittard, were long-time educators and gave much of themselves to their community. A Murfreesboro school—the Homer Pittard Campus School—was even named after John's father.

Murfreesboro owes a huge debt of gratitude to John, who never became disillusioned or cynical during his two decades of public service. He served the city because of his love for the community, nothing else. John's wife, Janice, and his daughters, Emily, Mary and Sarah, are fortunate to have such a good man in their lives.

I have a deep admiration for John and congratulate him for his many accomplishments. His decency transcends both his public and private life. Thank you, John, for being such an unselfish and caring public servant.

HONORING SKIHI ENTERPRISES, LTD.

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. GRANGER. Mr. Speaker, today I want to recognize a great Texas company, SkiHi Enterprises, Ltd., on its 20th anniversary. Over the past 20 years, SkiHi has built a reputation as one of Texas' leading mechanical/industrial contractors. I want to extend my congratulations to the company's founders, Richard Skipper and Tom Hicks, and to everyone else who has had a hand in SkiHi's success.

In 1981, Richard Skipper and Tom Hicks formed SkiHi. Mr. Skipper and Mr. Hicks had both worked in the industry for many years, which gave them the experience and knowledge they needed to create a successful business together. They started with a simple business plan, focusing on not over-extending SkiHi's limited resources and on steady, controlled growth. Because of these wise business practices and high quality work, SkiHi has become one the best respected mechanical/industrial contractors in the state of Texas.

Today, SkiHi is a full service mechanical/industrial contractor with over 220 employees. The company has a 38,000 square foot headquarters and fabrication shop in Fort Worth, Texas, and opened an office in Lubbock, Texas two years ago. SkiHi's volume was $1 million in its first year, $4 million in the second year, and was over $33 million in 2000.

SkiHi has worked on many large construction projects in Texas. One of SkiHi's first projects was renovating the Tarrant County Courthouse in downtown Fort Worth. SkiHi has also done extensive work in North Texas on Burlington Northern Sante Fe's corporate headquarters, Nestle's Texas Distribution Center, the James West Special Care Center for Alzheimer's Disease, the University of North Texas Health Science Center, Alcon Laboratories, and the Dallas-Fort Worth Rental Car Facility. In recent years, the company has also completed many projects outside of the Fort Worth area. The most notable is the United Spirit Arena at Texas Tech University in Lubbock.

SkiHi also gives back to the industry and community. In conjunction with the Construction Education Foundation, SkiHi provides workforce training classes at North Lake College and Trimble Tech High School. The Construction Education Foundation is a coalition of North Texas contractors that trains approximately 600 apprentices each year. SkiHi sends employees to high school career days and job fairs to promote the construction business. The company also provides on-the-job training for young men and women interested in a career in construction.

Additionally, SkiHi is an active member of the Associated Builders and Contractors. The company has been awarded for its quality work by the Associated Builders and Contractors on numerous occasions. Most recently, SkiHi was awarded First Place on the local level for the 2000 Associated Builders and Contractors Excellence in Construction Awards for its work on the Dallas-Fort Worth International Airport Rental Car Facility.

Once again, Mr. Speaker, I want to congratulate SkiHi Enterprises, Ltd., for 20 years of success. I know that the next 20 years will be even more productive.

HONORING THE 20TH ANNIVERSARY OF THE NATIONAL FOUNDATION FOR ECTODERMAL DYSPLASIAS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the 20th anniversary of the National Foundation for Ectodermal Dysplasias (NFED) in Mascoutah, Illinois.

The NFED is the only organization in the United States providing comprehensive services to individuals affected by the ectodermal dysplasia syndromes (EDS) and their families. EDS are a group of genetic disorders which are identified by the absence or deficient function of at least two derivatives of the ectoderm (teeth, hair, nails or glands). There are at least 150 forms of EDS that have been identified. EDS was first recognized by Charles Darwin in the late 1860's.

EDS affects many more people that had been originally thought by Darwin. Today, the number of those individuals affected by EDS has been estimated as high as 7 in 10,000 births. Individuals affected by EDS have abnormalities of the sweat glands, tooth buds, hair follicles and nail development. Some types of EDS are mild while others are more devastating. People with EDS have been identified has having frequent respiratory infections, hearing or vision defects, missing fingers or toes, problems with their immune system and a sensitivity to light. In rare cases, the lifespan of a person with EDS may be affected. Many individuals affected by EDS cannot perspire, requiring air conditioning in the home, at work or in school. Some individuals may have missing or malformed teeth or problems with their upper respiratory tract. EDS is caused during pregnancy, as the baby is developing. During the formation of skin tissues, defects in formation of the outer layers of the baby's skin may lead to ED.

At this time there is no cure for ED. The NFED, incorporated in 1981, is the sole organization in the world providing comprehensive services to families affected by EDS. The NFED is committed to improving lives by providing information on treatment and care and promoting research. There are more than 3000 individuals served by the NFED in 50 states and 53 countries. They have provided more than $115,000 in financial assistance to families for their dental care, medical care, air conditioners, wigs, cooling vests and other needs. The NFED has provided patient access and granted more than $237,000 to researchers studying the various aspects of EDS. These grants have stimulated more than 2 million dollars in ED research. They continue to host continuing educational programs on ED for health care professionals and provide the most comprehensive and current information on ED in the world.

Mr. Speaker, I ask my colleagues to join me in honoring the 20 years of service of the National Foundation for Ectodermal Dysplasias and it's aid and comfort to those affected by this terrible disease.

EIGHT-YEAR-OLD SHOWS COURAGE UNDER PRESSURE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. COBLE. Mr. Speaker, the words courageous and heroic are sometimes used without thought or care. In the Sixth District of North Carolina, however, those adjectives and more should be applied to one of our young citizens who bravely came to his mother's rescue. For his efforts, eight-year-old Michael Mathis from Denton, North Carolina, was recently awarded the North Carolina 911 hero award, and he was recognized by the National Emergency Number Association. Young Michael was caught in a terrible predicament, which required him to show great courage while under severe pressure. Michael didn't let his young age hold him back from stepping up to save the life of his mother.

On February 6, 2001, Michael was riding with his mother Cathy Surratt on a road near High Point. Michael's mother suffers from a thyroid condition and she has constant migraine headaches. During the course of the drive, Cathy began to see swirls in her eyes, pulled to the side of the road, then lost consciousness. Michael immediately got out his mother's cell phone in order to call his stepfather, but unfortunately the phone went dead, due to the fact that their minutes had expired. Knowing that a call to 911 was free, he then called the emergency number for help. Michael tried to tell the dispatcher where they were located, but with only trees and grass visible, he was only certain that they were on Highway 109.

Shortly after that, the car, which was a stick shift, began to roll forward. Michael's voice suddenly turned to panic and he pleaded with the dispatcher to have someone find them. The dispatcher instructed him to take the key out of the ignition. Though he was overcome with fear, Michael managed to get the key out, and the car stopped. The dispatcher told Michael to honk the horn and flash the lights in the hope that a passing car would stop. Michael quickly complied with the dispatcher's orders. Finally, a car stopped, and to his good fortune, the passengers in the car were an emergency worker and a trained nurse. When Michael's stepfather arrived, the car was surrounded by people who were there to help. Cathy Surratt was taken to an area hospital where she was successfully treated and released.

The Davidson County Sheriff's Department named Michael a 911 hero, and he was awarded a plaque at a special ceremony. This week, the National Emergency Number Association recognized Michael at its 20th annual conference, along with other National 911 heroes. I am very pleased to be able to recognize Michael as one of our North Carolina 911 heroes. On behalf of the citizens of the Sixth District of North Carolina, we offer our personal congratulations to Michael Mathis—a true hero.

HONORING THE SAYERS FAMILY OF CLARK COUNTY, OHIO

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HOBSON. Mr. Speaker, I rise today to recognize the members of the Sayers Family from Clark County, Ohio and their combined commitment to shared American values. I rise today to recognize the fact that the four children of Charles and Virlie Sayers have each married and raised their own families for a combined total of 231 years. The Sayer Family provides an excellent example for our community in Ohio, as well as for the country as a whole, of the importance and benefits of a solid family heritage.

In today's society, it is very uplifting to hear stories such as these and to see the commitment this Ohio family has made to one another. It was through the Sayer Family's strong foundation that they understood the meaning of hard work as well as the value of family. Growing up, the children were encouraged to be good students, trained in music, and helped run their family farm. They understood the meaning of responsibility and the importance of strong family ties.

I want to take this opportunity to recognize the Sayers' for preserving such a strong family bond and for their traditional values and morals.

TRIBUTE TO JAMES E. ZINI, D.O.

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and outstanding Osteopathic physician. I am proud to recognize James E. Zini, D.O., in the Congress for his invaluable contributions and service to his community, to our state, and to our nation.

Dr. Zini epitomizes the Osteopathic profession. With his application of Osteopathic practices and principals, he personifies the model D.O. physician—practicing in a small rural town taking care of people, not just treating symptoms. He started his family practice in rural Mountain View, Arkansas, in 1977. In his Mountain View and Marshall clinics, along with partner David Burnette, D.O., office manager Judy Zini, and the Zini Clinic staff, Jim makes sure that each patient visit—approximately 13,000 annually—is remembered as excellent, quality D.O. care.

Dr. Zini is Board Certified in Family Practice by the American College of Osteopathic Family Physicians and is a fellow of the college. Jim is also Board Certified by the American Board of Quality Assurance and Utilization Review Physicians.

As a founder and leader of the Arkansas Osteopathic Medical Association (AOMA), Dr. Zini tirelessly worked to advance the Arkansas Osteopathic profession: to promote the Osteopathic family in all areas affecting D.O.s; and to protect the licensure, practice and educational interests of all Arkansas D.O.s. Dr. Zini has served his state association with distinction: Founder, President, Vice President, Committee Chairperson, Member, and he received the first AOMA Physician of the Year Award in 1989. Jim is also the first D.O. to serve on the Arkansas State Medical Board—a position designated by law that he worked to enact.

Dr. Zini furthered his commitment to the Osteopathic profession at the national level: serving as an Arkansas delegate to the American Osteopathic Association (AOA) House of Delegates; numerous House committees; AOA Board of Trustees; several key AOA committees and chairmanships; and 2001–2002 AOA

President. As a community leader, Dr. Zini's recognitions include: 1998 Flight Safety Award, Federal Aviation Administration; 1997 Distinguished Citizen Award, Mountain View Chamber of Commerce; 1996 Alumni of the Year Award, University of Health Sciences in Kansas City, Missouri; 1991 Federal Aviation Administration Certificate of Recognition; Sigma Sigma Phi Honorary Osteopathic Fraternity; and 1972 Ordained Minister, St. Paul's United Church of Christ in Little Rock, Arkansas.

James E. Zini, D.O., is a physician, advisor and friend to many. He has dedicated his life to serving his fellow citizens as a leader in both his profession and his community, and he deserves our respect and gratitude for his priceless contributions. On behalf of the Congress, I extend congratulations and best wishes to my good friend James E. Zini, D.O., on his successes and achievements.

TRIBUTE TO CHIEF ROBERT R. GREENLAW

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today to recognize and congratulate Chief Robert R. Greenlaw, C.E.M., for his outstanding achievements with the Ridgewood Emergency Services and his contributions to the protection of the Ridgewood community. Bob Greenlaw, who is now the Director of Ridgewood Emergency Services, has served the public in emergency situations for over forty years. On July 4, 2001, we will be honoring him in Ridgewood for his tremendous service. His leadership in the development of a trained volunteer fire and police department is only one of his remarkable achievements and I commend him for his efforts. The results of his dedicated service are felt throughout the Village of Ridgewood. As a leader of the men and women who protect our community, he is an inspiration for all those involved in public service.

Bob began his protection of the public in 1957 as a volunteer firefighter in Ridgewood, which is also my hometown. After a long and dedicated service in our community, Bob has assumed numerous leadership positions within the fire and police department. He was named Captain of the Ridgewood Auxiliary Police while also involving himself with emergency management. In 1980, Bob received the first two of many awards for his service, as he was given both the Emergency Medical Services Medal of Honor and the Village of Ridgewood Mayor's Award of Excellence in the same year. Convinced that the fire and police departments could be structured differently in order to best serve the community, Bob asked the Village of Ridgewood to support a trained group of volunteers within the departments which would allow the fire and police professionals to focus on the most critical situations. Bob encouraged a handful of volunteers to join him in this program and today his inspiration has led to a department of 127 volunteers serving more than 500,000 hours each year. This has been a tremendous resource for the Ridgewood community and would not have happened were it not for Bob's vision and dedication.

As those who know Bob can tell you, he has continually placed the safety of his community at the top of his priorities. He demonstrates an outstanding commitment to the public and has worked selflessly in this role for over 40 years. I am honored to have the opportunity to recognize Chief Bob Greenlaw for his examples of service and leadership.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in congratulating Chief Robert R. Greenlaw for all he has done for his community and for the outstanding example he sets for all of us.

THE LOW INCOME GASOLINE ASSISTANCE PROGRAM ACT OF 2001

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to address a bill I have just introduced, the Low Income Gasoline Assistance Program Act of 2001.

Let me begin my remarks by thanking the original sponsor of this legislation, Senator JOHN ROCKEFELLER, who in introducing this bill is attempting to address a very serious problem throughout our country. I also want to thank the original House cosponsors who have joined in this effort.

We all know the problem: skyrocketing gasoline prices have taken their toll on pocketbooks in a severe way. Gas station managers around New Mexico—and other parts of the country—say drivers are filling up their tanks and driving off without paying. Some say they have never seen it so bad, and it has forced them to change how things are done at the pump. A number of stations are now requiring customers to pay first because of so much lost revenue.

A common recommendation that we often hear when gas prices go up is for people to drive less. Walk, bike, or take public transit when you can. While I agree with that, unfortunately, that only goes so far, especially if you have no choice but to commute to work, to the doctor, or to school because public transportation is not available in your area. This is especially true for those who live in rural areas. These citizens have no other choice but to pay these prices in order to live their lives. This legislation attempts to address the problems that underprivileged citizens face in rural America with regard to the high cost of gasoline.

Our proposal is relatively simple. The current high price of gasoline is hurting people throughout the country. And perhaps no group is being hit harder than seniors and the working poor, especially in rural areas and places with inadequate public transportation. With experts predicting regular unleaded gasoline prices in excess of $2.00 a gallon for much of the country this summer, I believe it is our responsibility to provide some immediate, short-term assistance for our most needy citizens.

The Low Income Gasoline Assistance Program Act of 2001 or LIGAP, is modeled on the successful LIHEAP program that helps seniors and the disadvantaged pay for heating oil in the winter and air conditioning in the summer. Under this program, recipients would receive $25 to $75 per month for three months, as long as gasoline prices stay high where they live. If the price of gasoline does not fall back below the price at which the program triggers off, recipients would be allowed to re-apply for three additional months' benefit.

LIGAP will allow states to make grants to low- and fixed-income individuals and families to defray the cost of purchasing gasoline for travel to work, to school, or to regular healthcare appointments when the price of gasoline reaches or exceeds the unmanageable current levels. States will make LIGAP grants to income-eligible families who meet the distance requirements of driving at least 30 miles a day, or 150 miles per week for work, school, or medical care appointments. States are also encouraged to use their welfare reform block grant to provide transportation stipends to parents who meet the same distance standards.

This measure will enable states to operate the program through their Community Action agencies or welfare departments. Thus, states will have the flexibility to set income-eligibility standards similar to the current eligibility for LIHEAP. The prices at which the program triggers on and subsequently releases will then be set for each jurisdiction through consultation between the Secretary of Health and Human Services and the Secretary of Energy.

LIGAP is not meant to be a substitute for the long-term energy solutions we all seek for our nation. Each of us understands the necessity of a comprehensive and balanced approach to energy development, but we must realize that in every state there are hard-working people and elderly individuals whose monthly budgets are being stretched to the breaking point by the cost of gasoline. While we must approach this country's energy demand with the willingness to make the tough, long-range choices demanded of us, it is equally important that we heed the immediate damage being caused by the current high prices. We must show a willingness to provide some comfort for those Americans who are most at risk.

Mr. Speaker, we all recognize that people are suffering and that something must be done to help with the high cost of gasoline. I urge my colleagues to join us in this proposal that is both forward thinking and comprehensive.

HONORING THE LIFE AND SERVICE FIRE CHIEF JACK FOWLER, JR.

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker I would like to take this opportunity to honor a life spent serving others, the life of Jack Fowler, Jr. Jack was a man that selflessly dedicated his life to protecting the lives of others. On Sunday, June 24, 2001, Jack was killed on his way home from a training session with the Volunteer Fire Department of West Pueblo.

Jack was born in the nearby community of La Junta. He graduated from La Junta High School, and started his career as a firefighter at the La Junta Volunteer Fire Department, following in the footsteps of his father and grandfather. After moving to Pueblo West in 1978, Jack then joined the Pueblo West Volunteer Fire Department where he was quickly promoted to Lieutenant. After serving only two short years on the Pueblo West squad, Jack was named Captain. Not only did Jack fulfill his duties as Captain, but went above and beyond these duties, by taking many courses that enhanced his career, Highway Emergency Response, Colorado Division of Disaster Emergency Services, and Emergency Response to Hazardous Materials Incidents to name a few. With all the extra time Jack put into his position at the Pueblo West Fire Department, he was the obvious choice for Fire Chief in 1983.

The dedication to his community did not stop with his position on the Fire Department, Jack also volunteered with the Columbine Council Girl Scouts and spent time at the local schools. Jack loved to spend time with his daughters, Allison and Caitlyn, so he never missed an opportunity to volunteer for activities the girls were involved with. Jack balanced his commitment to his community and his family well. This charismatic man was loved by all that knew him. His dedication to Pueblo West and its citizens has left a lasting mark on the community, not to mention the State.

A life dedicated to the service of others, is why I stand before you today, Mr. Speaker, asking Congress to give this man the recognition he so justly deserves. He will be greatly missed by friends, fellow fire fighters and his family, but the State of Colorado will also feel the loss of this man. I would like to offer my condolences to his wife DyAnn and his daughters Allison and Caitlyn, and assure them that Jack Fowler, Jr. will not be forgotten by Pueblo County and the State of Colorado.

FRIENDS OF DISABLED ADULTS AND CHILDREN

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARR of Georgia. Mr. Speaker, established in 1986 in order to provide medical equipment and computers to disabled people in the metro Atlanta area who could not otherwise afford it, Friends of Disabled Adults and Children is a full-time ministry which has reached out to all people with disabilities.

After retiring from a 20-year career in the Marines in 1978, Ed Butchart took a position selling medical diagnostics products. After having met many disabled people in need of products and service, he and his wife, Annie, with the support of Mount Carmel Christian Church, started a ministry in their home garage. Ed would repair and refurbish wheelchairs and give them to those disabled individuals who could not afford to purchase one.

Since then, the ministry has helped people ranging in age from 18 months to 103 years of age. The facility is now housed in a 64,800 sq. ft. building in Stone Mountain, Georgia and to date it has provided over 7,000 wheelchairs to needy persons. The retail value of all medical equipment that has been given away now totals over $20 million.

Friends of Disabled Adults and Children received its 501(c)3, non-profit status in November 1987. Private donations, annual golf tournaments, and community fund raisers help it remain open and able to furnish medical equipment to those who truly need it. On numerous occasions, my staff members have referred disabled adults and children to this agency. It may take a little time to acquire a certain piece of medical equipment, but Friends of Disabled Adults and Children usually is able to accommodate these individuals. Recently a single mother, who has Multiple Sclerosis, was able to get out and watch her son play baseball, because she had received an electric scooter from Friends of Disabled Adults and Children. A senior citizen recently received a new walker, fitted just for her, because her old one was broken.

This organization distributes computers to those who are disabled. This sometimes allows the disabled to learn job skills. In fact, the agency employs many disabled adults. It has a community reentry program for those who suffer from an acquired brain injury. By volunteering at Friends, these people are provided with a caring environment in which they can regain crucial skills needed to once again become productive members of society.

The Butcharts give God full credit for the growth of the center and for the many blessings they have received over the years. The 15th anniversary celebration of Friends of Disabled Adults and Children will be held on September 23rd at Mount Carmel Christian Church in Stone Mountain, Georgia. Mr. and Mrs. Butchart, and their staff, are to be commended for their diligence, hard work, and big hearts. The disabled individuals from the Seventh District of Georgia, who have been served by this fine organization, join me in congratulating them, and thanking them for their kindness.

IN HONOR OF REV. KURT W. KATZMAR

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor and recognize Rev. Kurt W. Katzmar for his many years of dedicated service to the First Congregational United Church of Christ.

Rev. Katzmar has been the pastor of the First Congregational United Church of Christ since May 1991. As a young boy raised in Strongsville, Rev. Katzmar attended the church he now pastors. He, along with then-pastor of Heritage Congregational Church Rev. David Hawk, founded the Berea Minister's Emergency Relief fund, a precursor to Church Street Ministries. This was one of many examples of his tireless support to the City of Berea, the people of Berea, and the ministry among the people of Berea.

Rev. Katzmar, along with others in the community area was a founder of the First Church's Church Street Ministries program. Together with Bob Dreese, Rev. Katzmar joined the church's Youth-at Risk program and the Second Mile Thrift Shop together as one ministry. When the businesses in the 17-19 Church Street building decided to move, they designed a combined program that could move into the building, enabling an expansion of the program to include the refugee-resettlement and crisis-response ministries. Rev. Katzmar made presentations to the boards, committees, and congregation, and after the grant was made, the Church Street Ministries was formed and dedicated on May 14, 1994 in a ceremony led by Rev. Katzmar.

My fellow colleagues, please join me in congratulating Rev. Katzmar on all his achievements in helping to create a welcoming atmosphere in the First Congregational United Church of Christ. His love and dedication to serving the Church has touched the hearts of all in the community.

PROTECTING AMERICAN STEEL

HON. KEN LUCAS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. LUCAS of Kentucky. Mr. Speaker, America's steel industry has been hit by an unprecedented flood of low-priced, imported steel. As a member of the bipartisan Congressional Steel Caucus, I have become increasingly frustrated as I have watched this flood of low-priced imports force our steel producers to either slow production or close up shop. That is why I was pleased by the Administration's recent decision to heed the advice of the Congressional Steel Caucus and the pleas of the steel industry by initiating an investigation under Section 201 of the Fair Trade Act of 1974. On Friday, June 22, 2001, U.S. Trade Representative, Robert Zoellick requested the International Trade Commission (ITC) to begin that investigation.

Pursuing a Section 201 means that we will now investigate the illegal dumping of foreign steel into our marketplace. If the investigation finds that unfair trade practices were used by foreign countries in the United States, we will be entitled to seek relief from imported steel—including imposing punitive tariffs and trade restrictions. This investigation is a step in the right direction. It puts foreign steel producers on notice that we will not simply stand by while unfairly subsidized steel imports leave our steel plants idle and our steelworkers without work, But we need to do more.

Over 15,000 steelworkers nationwide have lost their jobs due to the current industry crisis. Since 1997, at least 18 steel companies have filed for bankruptcy. The health insurance of 70,000 steel-company retirees is now in jeopardy—that's 70,000 Americans faced with losing health care coverage precisely at the time in their life when they can afford it the least. Although a Section 201 investigation must report its findings within 120 days, the

ITC can take up to a year to figure out how to respond to unfair trade practices. America's steel industry needs relief now. Simply put, Congress needs to enact the Steel Revitalization Act of 200, H.R. 808. And the President needs to sign it.

This bill directs the President to impose quotas, tariff surcharges, or other measures on imports. Among other things, it requires the President to negotiate enforceable, voluntary export restraint agreements. And the Steel Revitalization Act takes care of those who have suffered most from the current situation—the steelworkers who have lost their jobs. The bill establishes programs, such as the Steelworker Retiree Health Care Fund, to help these workers take care of their families. This fund would be accessible by all steel companies to provide health insurance to qualified retirees. The measures included in the Steel Revitalization Act would help families throughout Kentucky's Fourth Congressional District, from Shelby to Boyd Counties, who depend on our domestic steel industry for their livelihood.

Our steelworkers work hard to ensure that quality American steel girds our growing communities. That's why I, along with 220 other members of Congress, have cosponsored the Steel Revitalization Act. I am determined to keep our domestic producers in this important industry from falling victim to unfair trade with foreign nations. Along with the Section 201 investigation, the Steel Revitalization Act would go a long way toward ensuring that steel remains a vital industry in Kentucky and the nation.

PASSAGE OF ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. STRICKLAND. Mr. Chairman, I would like to thank our Subcommittee Chairman and Ranking Member for the hard work they put into this bill, which includes a number of programs that are very important to Southern Ohio. I would like to take this opportunity to comment on these Department of Energy programs that directly affect the workers and communities supporting the Portsmouth Gaseous Diffusion Plant located in Piketon, Ohio.

First, I would like to express my support for the $110,784,000 included in the Fiscal Year 2002 Energy and Water Appropriations bill for costs associated with winterization of the Portsmouth, Ohio Gaseous Diffusion Plant and maintaining the plant on cold standby. It was just over a year ago today that the United States Enrichment Corporation, Inc. (USEC) announced that it would close the only U.S. uranium enrichment plant capable of meeting industry's nuclear fuel specifications. While I cannot overstate my disagreement, disappointment and disgust with that decision, I am pleased that funding will be available in Fiscal Year 2002 to ensure that the Portsmouth facility remains in a cold standby condition so that it could be restarted if needed in the future. I have been assured by the Department of Energy that the funding levels in this year's appropriations bill will allow the Department to meet its goals as announced in Columbus, Ohio on March 1, 2001 and as stated by then Governor Bush last October.

I am aware of report language accompanying the bill which discusses the nonproliferation programs with Russia and, specifically, the Highly Enriched Uranium (HEU) Agreement. I support this incredibly important foreign policy initiative and I agree with the language calling for the Russian HEU to "be reduced as quickly as possible." I am also aware that the purchase of the 500 metric tons of Russian HEU has not always stayed on schedule, and I support exploring ways to accelerate the purchase of the downblended weapons grade material from Russia. However, I would hope that we can accelerate this program without adversely affecting the domestic uranium enrichment industry. Today, we are dependent upon this downblended Russian HEU for approximately 50 percent of our domestic nuclear fuel supply. Increasing that dependence makes no sense to me, particularly at a time when we are debating a national energy strategy calling for greater energy security in order to avoid price volatility and supply uncertainty. We must act in a manner that strikes a reasonable balance between this significant foreign policy objective and the need to maintain a reliable and economic source of domestic nuclear fuel.

I am disappointed that the Department of Energy's Worker and Community Transition Office funding falls short of the President's request. I am deeply concerned that the allocated funding is inadequate to address the needs of the Department of Energy workers and communities across the DOE complex who depend on these funds to help minimize the social and economic impacts resulting from the changes in the Department of Energy's mission.

Finally, but not least of all, I am concerned about the slight reduction in the funding for the Department of Energy's Environment, Safety and Health Office. I am hopeful that this reduction will not impact the extremely important medical monitoring program at the Portsmouth plant, which also serves to screen past and present workers at other sites throughout the DOE complex. I am hopeful that these funds will be restored as the bill moves through the conference committee. We now know that many workers at DOE sites, including the one in Piketon, Ohio, handled hazardous and radioactive materials with little knowledge and, oftentimes, with inadequate safety practices. In fact, a May 2000 report issued by the Department's Office of Oversight on the Piketon Gaseous Diffusion Plant states, "Due to weaknesses in monitoring programs, such as the lack of extremity monitoring, exposure limits may have unknowingly been exceeded. In addition, communication of hazards, the rationale for and use of protective measures, accurate information about radiation exposure, and the enforcement of protective equipment use were inadequate. Further, workers were exposed to various chemical hazards for which adverse health effects had not yet been identified." Scaling back the medical monitoring program now would be unconscionable knowing what we know today. Furthermore, the compensation program established last fall by passage of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), designed to compensate employees made ill by the work they performed for the government, would be weakened if workers are then denied access to medical screening. Although the EEOICPA is not a perfect bill, it would be a shame to hobble a long overdue program before it is even out of the gate.

HONORING THE LIFE OF ED SMITH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, I ask today to honor Ed Smith, a true hero, on behalf of Congress. Ed served as the Centennial football coach, as school district administrator, and he served as a model for how to win, how to lose graciously, and how never to give in. He was also a man devoted to his family up until his recent death just months before his 100th birthday.

Professionally, Ed was revered by his colleagues. Central coach, principal and teacher John Rivas told Loretta Sword of The Pueblo Chieftain, "He was the godfather of it all, you might say, and he was always there to help me if I had a problem or a situation I didn't have a handle on." Ms initiative helped ensure that the Dutch Clark Stadium had the financial and community support necessary to be built. Also, he made certain that the annual All-Star games were properly organized when they were in Pueblo, and that everything went smoothly and safely. For his success, he was even named honorary meet director and was honored for the work he did in the athletic arena for the community. Ed was a gifted athlete himself, and he never lost his love for competition, or his skill at it. When he was 91 years old, he shot a hole-in-one with thirty-year-old golf clubs he received as a retirement gift.

During his life, Ed received many honors and awards, including having his name on the rolls of the Greater Pueblo Sports Association Hall of Fame and the Centennial Hall of Fame, but his greatest reward was that, as former coach Sollie Raso attested, "I honestly think . . . [he] and his wife, they were at peace with one another, their family, and their God." Indeed, Ed was a dedicated husband up until his wife, Margaret Boyer Smith's, death. He also devoted himself to his two sons, Dr. Dean B. Smith, who preceded him in death, Dr. E. Jim Smith, and to his sixteen grandchildren and nineteen great-grandchildren.

Clearly, Mr. Speaker, Ed Smith was an inspiration to his students, colleagues, family and friends throughout his life. I am proud to have this opportunity to pay tribute to such an amazing man.

HONORING AL FOWLER

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARR of Georgia. Mr. Speaker, few times each week, we open our newspapers and read about someone who is making important contributions in a particular field. It is these individuals who continue to make America a great place to live, and we should never fail to recognize their contributions. However, it is with much less frequency that we hear about people who have spent a lifetime contributing to our society in numerous different areas, always rising to the top level in each endeavor.

One such individual is Al Fowler, a native of Douglasville, Georgia. After graduating from Douglas County High School and the University of Georgia, where he earned high honors and was active in Student Government and the Future Farmers of America, Al answered his country's call and left to fight in World War II.

During the war, Al served in the 483rd Bomber Group in Italy, where his group of B–17s suffered a casualty rate of 107%, including replacements. Although he had the option to leave after surviving 30 missions, Al Fowler stayed on the front, and stopped flying only when the war ended on the morning before his 34th mission. During his tenure, he was promoted to Brigadier General and earned a Distinguished Flying Cross for bringing his crippled aircraft back to the ground after a particularly dangerous mission.

Fortunately, Al Fowler's time in Italy was marked by more than just war and bloodshed. It was during this time that he met his wife, who was serving with the Red Cross in Italy. They went on to be married on the Isle of Capri. At that wedding, they exchanged rings made of gold confiscated from dead German soldiers by a friendly Italian jeweler, the bride wore a dress sewn from German parachute silk, and the couple departed from their wedding in a B-17 Flying Fortress flown by the groom.

After returning to Douglasville, Al won election to the Georgia General Assembly, where he served with pride and distinction for 16 years. Next, he won election to the Georgia Public Service Commission. During his political years, he truly helped develop the state of Georgia, and was instrumental in building its communications and transportation infrastructure. Later, Al went on to become Georgia's Adjutant General, where he started the National Guard program we rely on today, and once again contributed immensely to our nation's defense.

After leaving politics in the 1970s, Al must have still felt he had not done enough to improve his community, because he took a job as President of Douglas Country Federal Savings and Loan. During his tenure of over 30 years in banking, Al helped countless families achieve their dream of owning a home or starting their own business. He also helped reform the savings and loan industry after many of his competitors overextended themselves. His work to reform these institutions has made many of them stronger today than they ever were before.

Al Fowler has already been honored by his community and the State of Georgia for his service. He was recently named the 2nd recipient ever of the Chairman's Award at our Aviation Hall of Fame in Warner Robins, Georgia. An exhibit there will honor his contributions to freedom and prosperity in America.

As Al reaches his 81st birthday, and finally begins a well-deserved retirement, I hope that other members of this body will join me in thanking him for his service to our nation and our community in Georgia.

IN MEMORY OF BROTHER NIVARD

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of a great man who has dedicated his entire life to spreading Christian values and beliefs, Brother Nivard, for his lifetime of dedicated service.

Born Joseph Martin Stanton in 1945, Brother Nivard has served his community in countless capacities from a very young age. At age 17 he boarded a train in the Old Union Terminal of Cleveland bound for Kentucky to commit his life to Christianity. His quest for true happiness eventually led him to the Abbey of Gethsemani in Trappist, Kentucky, where he became a monk.

His love and devotion to Christian values and beliefs earned him the respect and admiration of all his peers. His friends and family describe him as a man that has inspired many. Brother Nivard is truly a man that has given back to his community in numerous ways and that has touched an incredible number of people.

Mr. Speaker, please join me in honoring the memory of a man that has reached out into his community to improve mankind, Brother Nivard. His kind spirit, gentle demeanor, and warm smile will be greatly missed.

CONGRATULATIONS FOR PHILIP A. SHARP MIDDLE SCHOOL

HON. KEN LUCAS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. LUCAS of Kentucky. Mr. Speaker, I rise today to pay tribute to Bulter, Kentucky's Phillip A. Sharp Middle School. At a time when our nation is faced with a troubling energy crisis, the students of Phillip A. Sharp Middle School serve as a fine example for our youth. Their school was recently selected as the Middle School of the Year by the National Energy Education Development (NEED) Project, and they will attend the National Youth Awards Program for Energy Achievement here in Washington, D.C.

I am pleased to see young people take an interest in energy issues. They are learning early in life the importance of energy production and conservation. What I find even more impressive is the fact that they are taking what they have learned and, through the NEED Project's "Kids Teaching Kids" approach, passing it on to other interested students. This kind of leadership from our middle schoolers means great things for Kentucky's future.

I congratulate Phillip A. Sharp Middle School on their recent award, and I thank them for their hard work and for setting a fine example for students across the United States. They are on the right track, and I wish them continued success.

HONORING JIM SAMUELSON FOR HIS LIFELONG DEDICATION TO HELPING OTHERS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, today I ask to honor a great man whose contributions not only to this country, but to our world, should be looked upon as an inspiration to all. James Samuelson, longtime Glenwood Springs, Colorado resident recently passed away. He served in World War II, flourished as co-editor and publisher of The Glenwood Post, volunteered in his community, and gave his time and money to help those in countries less fortunate than our own.

Even before he began his successful career working with newspapers, Jim went into the Army Medical Corps during World War II, where he served in campaigns in North Africa, Sicily, and Italy. Afterward, he married Marilyn, a marriage that would last 55 years until his recent death. Together, he and Marilyn raised a daughter and five sons, and were the proud grandparents to fourteen and great-grandparents to three.

After the war, Jim pursued his journalism and management talent. Donna Daniels of the Glenwood Springs Post-Independent writes of Marilyn's memory about how much more difficult it was to communicate, and how the biggest contact to the outside world was the daily paper. Jim used his skills working as co-editor and publisher of The Glenwood Post with his brother, John until 1966, after which he earned his masters of education from the University of Wyoming.

Jim was an active man all through his life. He skied, fly fished, and played and watched sports. He also volunteered with the Lions Club, American Legion, and the Mountain View Church. He even traveled to Haiti and twice to Mexico to help establish medical clinics there. In 1962 he received a fellowship to attend a three-month seminar for journalists in Quito. He and Marilyn also traveled to Europe, Israel, and Turkey, making their last trip just three years ago.

Mr. Speaker, Jim Samuelson contributed throughout his life to his community, his family, and to his world. He acted beyond expectations to make a positive impact where he saw the need, and for that, I ask to pay him tribute on behalf of Congress.

SELF-DETERMINATION FOR SIKH HOMELAND DISCUSSED ON CAPITOL HILL

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. McKINNEY. Mr. Speaker, on Friday, June 15, the Think Tank for National Self-Determination held a very informative meeting here on Capitol Hill in the Rayburn House Office Building. The featured speaker was Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. He laid out very well the strong case for self-determination for the Sikhs of Punjab, Khalistan, and for the other nations of South Asia, such as predominantly Christian Nagaland and predominantly Muslim Kashmir.

During his speech, Dr. Aulakh noted that "self-determination is the birthright of all peoples and nations." He quoted Thomas Jefferson, who wrote in our own Declaration of Independence that when a government tramples on the basic rights of the people, "it is the right of the people to alter or abolish it." Jefferson also wrote, "Resistance to tyranny is obedience to God."

India certainly is that kind of government. It has killed over 200,000 Christians in Nagaland since 1947, more than 250,000 Sikhs since 1984, over 75,000 Kashmiri Muslims since 1988, and many thousands of other minorities, including people from Assam, Manipur, Tamil Nadu, and members of the Dalit caste, the dark-skinned "Untouchables," who are the aboriginal people of South Asia, among others. Currently, there are 17 freedom movements in India.

Just recently, a group of Indian soldiers was caught trying to set fire to a Gurdwara, a Sikh temple, in Kashmir, and some houses. Local townspeople, both Sikh and Muslim, overwhelmed the soldiers and prevented them from committing this atrocity. Unfortunately, that is the reality of "the world's largest democracy."

Mr. Speaker, there are measures that America can take to prevent further atrocities and help the people of the subcontinent live in freedom. We should end our aid to the Indian government until it stops repressing the people and we should openly and publicly declare our support for self-determination for the people of Khalistan, Nagalim, Kashmir, and the other nations seeking their freedom in South Asia. This is the best way to help them. It supports the principles that gave birth to our country and it strengthens our security position in that region.

Mr. Speaker, I would like to insert Dr. Aulakh's speech into the RECORD for the information of my colleagues.

REMARKS OF DR. GURMIT SINGH AULAKH, PRESIDENT, COUNCIL OF KHALISTAN

It is a pleasure to be back here with my ftiends at the Think Tank for National Self Determination. This is a very important organization and I am proud to support its work.

Self-determination is the birthright of all peoples and nations. Next month America will celebrate its independence. Thomas Jefferson, author of the American Declaration of Independence, wrote that when a government tramples on the people's rights, "it is the right of the people to alter or abolish it." He also wrote that "resistance to tyranny is obedience to God." Sikhs share that view. We are instructed by the Gurus to be vigilant against tyranny wherever it rears its ugly head. Guru Gobind Singh, the last of the Sikh Gurus, proclaimed the Sikh Nation sovereign. Every day we pray "Raj Kare Ga Khalsa," which means "the Khalsa shall rule."

Let me tell you a little about the history of Sikh national sovereignty. Sikhs established Khalsa Raj in 1710, lasting until 1716. In 1765, Sikh rule in Punjab was re-established, and it lasted until the British conquered the subcontinent in 1849. Under Maharajah Ranjit Singh, Hindus, Sikhs, and Muslims all served in the government. All people were treated equally and fairly. The Sikh state was extensive, at one point reaching all the way to Kabul.

At the time that the British quit India, three nations were supposed to get sovereignty. Jinnah got Pakistan for the Muslims on the basis of religion and the Hindus got India. India made a deal with the Hindu maharajah of Kashmir to keep the state within India despite a Muslim majority population, but at the same time it marched troops into Hyderabad to annex it to India by defeating the Muslim ruler, Nizam of Hyderabad. Hyderabad at the time had a majority Hindu population and a Muslim maharajah.

The third nation that was to receive sovereign power was the Sikh Nation. However, Nehru tricked the Sikh leadership of the time into taking their share with India on the promise that Sikhs would enjoy "the glow of freedom" in Punjab and no law affecting the rights of Sikhs would pass without Sikh consent. As soon as the ink dried, however, the Indian government broke those promises. They sent a memo to all officials declaring Sikhs "a criminal race" does that sound like a democracy or a totalitarian state in the Nazi/Communist mold?—and the repression of Sikhs began. No Sikh representative has ever signed the Indian constitution to this day.

In June 1984 the Indian government attacked the holiest of Sikh shrines, the Golden Temple in Amritsar. Ask yourself, what would you think if someone launched a military attack on the Vatican or Mecca? That is how Sikhs felt about the Golden Temple massacre and desecration. Seventeen years later, we have still not forgotten it, as the attendance at our recent protest shows.

Since that attack, the Indian government has murdered more than 250,000 Sikhs, according to figures published in The Politics of Genocide by human-rigbts leader Inderjit Singh Jaijee, convenor of the Movement Against State Repression. A new report from Jaijee's organization shows that India admitted that it held over 52,000 Sikhs as political prisoners without charge or trial under the expired "Terrorist and Disruptive Activities Act." Some of the political prisoners have been in illegal custody since 1984! In 1994, the U.S. State Department reported that the Indian government paid over 41,000 cash bounties to police officers for killing Sikhs. One such bonus was paid to a policeman who murdered a three-year-old Sikh boy. Others have been paid for killing Sikhs who later showed up alive, rising the questiion: Who did the police really murder?

Unfortunately, there is often no way to answer that question. Human rights activist Jaswant Singh Khalra exposed the fact that the Indian government picked up over 50,000 Sikhs, tortured them, killed them, then declared their bodies "unidentified" and cremated them. Just recently, more bodies were found in a river bank. For this, Mr. Khalra was arrested and killed in police custody. The only eyewitness to the Khalra kidnapping was arrested for trying to hand the British Home Secretary a petition asking Britain to get involved in helping to secure human rights for the Sikhs.

Two independent investigations showed that the Indian government killed 35 Sikhs last year in the village of Chithi Singhpora in Kashmir. Just last week, five Indian troops were overwhelmed by Sikh and Muslim residents of another village while they were trying to burn down the local Gurdwara and some Sikh homes. This is part of India's ongoing effort to set the minorities against each other. With 17 freedom movements within India's borders, the idea that the minorities might support each other scares the Indian government.

It is not just Sikhs who are being oppressed. While my main focus is on my own people, I am committed to freedom and human rights for all peoples and nations. There has been a wave of oppression of Christians since Christmas 1998. Members of the RSS, the pro-Fascist parent organization of the ruling BJP, murdered missionary Graham Staines and his two sons, ages 8 to 10, by burning them to death while they slept in their jeep. Nuns have been raped, priests have been killed, schools and prayer halls have been attacked. Last year, the RSS published a booklet on how to implicate Christians and other minorities in false criminal cases.

The BJP destroyed the Babri mosque in Ayodhya and still intends to build a Hindu temple on the site. Leaders of the BJP have said that everyone who lives in India must be Hindu or must be subservient to Hinduism. They have called for the "Indianization" of non-Hindu religions.

Is that a democratic country? U.S. Congressman Edolphus Towns pointed out that "the mere fact that [Sikhs] have the right to choose their oppressors does not mean they live in a democracy." Congressman Dana Rohrabacher said that for the minorities "India might as well be Nazi Germany."

Sikh martyr Jarnail Singh Bhindranwale said that "If the Indian government attacks the Golden Temple, it will lay the foundation of Khalistan." He was right. On October 7, 1987, the Sikh Nation declared the independence of its homeland, Punjab, Khalistan. India claims that there is no support for Khalistan. It also claims to be democratic despite the atrocities. Then why not simply put the issue of independence to a vote, the democratic way? What are they afraid of?

Self-determination is the right of all people and nations. America should sanction India and stop its aid until all the people of South Asia are allowed to live in freedom.

Thank you for giving me this opportunity. I hope you will support freedom for Khalistan, Kashmir, Nagaland, and all the nations of South Asia.

TRADE RELATIONS REGARDING PRODUCTS OF KAZAKHSTAN

HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. WEXLER. Mr. Speaker, I would like to place in the Congressional Record the following letter I received from A. Machkevitch the President of the Jewish Congress of Kazakhstan in support of H.R. 1318, legislation that would authorize President Bush to extend normal trade relations treatment to the products of Kazakhstan.

JEWISH CONGRESS OF KAZAKHSTAN,
Kynaev sir., June 27, 2001.

Hon. ROBERT WEXLER,
Member of Congress, Cannon HOB, Washington, DC.

DEAR CONGRESSMAN WEXLER: The Jewish Congress of Kazakhstan welcomes the decision of a number of US Congress members, in particular Senator S. Brownback and Congressman J. Pitts on termination of Section IV of Trade Law of 1974 in relation to Kazakhstan and granting the country a permanent Regime of Normal Trade Relationship with the USA.

Undoubtedly, at the time of this Section adoption the decision of American legislators was timely and justified. One can not deny the fact that the communist regime tried all ways to oppress and limit rights of the country's Jewry. Similar to the representatives of many other nationalities of the Soviet Union we could neither openly declare ourselves as ethnic group, nor visit our relatives abroad, as well as freely profess our religion. In this respect we are immensely grateful to the American people demonstrating concern and sympathy with our life at the time of hardships. The amendment introduced by the two prominent US Statesmen—Jackson and Vanick—warmed our hearts.

However, the environment has changed. The Union broke up. Having cast off the totalitarianism chains, Kazakhstan has built a new independent state where the great principles of political and economic freedom, parity of rights and opportunities are being practiced. Today Kazakhstan is a democratic nation with steadily developing economy and fair chances to become a stronghold of security and democracy in the Central Asian region.

The young State of Kazakhstan emerged on the background of unique ethnic situation. Kazakhstan was the only former soviet republic in the region without distinct prevalence of a single ethnic group. Over 100 nationalities and ethnic groups living together learned to coexist without internal conflicts and discords to much extent owing to the efforts of the country's leadership headed by President Nursultan Nazarbayev.

Realizing that the majority, of peoples of Kazakhstan subjected to mass repression at the time of stalinisim and fascism have been deprived of possibility to develop their culture and language, the Government of Kazakhstan encourages creation of ethnic and cultural centers in all regions of the country. The Jewry is not an exclusion. The only Jewish school in the Central Asian region successfully functions in our country, construction of 10 new synagogues is underway in the largest cities of Kazakhstan. In general, 3000 religious organizations of 46 confessions function in Kazakhstan. None of the other countries in the region can demonstrate such achievements.

In our sincere belief the Kazakhstan Government's aspiration to preserve and strengthen stability and interethnic concord both in the country and the whole region should be encouraged by the USA. We proceed from the fact that a country which liberated the minds of people would be to a larger extent successful in achieving prosperity than a society burdened with heavy heritage of the past, such as amendment of Jackson—Vanick.

In this context the Jewish community of Kazakhstan calls upon you to exert your influence in freeing Kazakhstan from this rudiment of the past, which would undoubtedly strengthen relationship between our countries and testify to the fact that voices of tens of thousands of the Kazakhstan Jews have been once again heard by our American friends.

Yours Sincerely,
A. MACHKEVITCH,
President.

RETIREMENT OF REV. LEO J. O'DONOVAN, S.J. AS PRESIDENT OF GEORGETOWN UNIVERSITY

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Ms. NORTON. Mr. Speaker, Leo J. O'Donovan, S.J. leaves Georgetown University on June 30th after twelve splendid and productive years as the president of the oldest Catholic university in the United States. I know I am joined by the Members of the House in recognizing Father O'Donovan's very distinguished service to Georgetown, to higher education, to this city, and to his Catholic faith.

Father O'Donovan, a summa cum laude graduate of Georgetown College, a Jesuit institution, returned to his renowned alma mater, himself a distinguished Jesuit. He has led the University in the tradition of scholarship, faith, and service, as if it were second nature to him.

I have had the opportunity to observe Father O'Donovan at work because I was a tenured member of the faculty of the Law Center when he became president in 1989 and have continued as a faculty member, teaching a course every year. I watched first hand as Father O'Donovan strengthened a university that was already acknowledged to be one of the best in the country, and at the same time, deepened its strong commitment to its religious mission and to this city.

Father O'Donovan managed simultaneously to raise the university's academic standing and enrich the religious mission of one of the world's foremost Catholic universities. He leaves the University significantly expanded both academically and physically, with 37% more full time faculty, a 25% increase in library holdings, and a doubling of endowed chairs. Among the most significant capital improvements during Father O'Donovan's tenure are an $82 million renovation of all undergraduate housing and his initiation of a $169 million Southwest Quadrangle, which will contain new residences for undergraduates and for the Jesuit community. His signature especially is on the religious identity of the institution to which he has brought fresh and innovative emphasis.

I am particularly grateful to Father O'Donovan for his leadership in making Georgetown an especially good D.C. citizen. These contributions have been plentiful and varied, from the University's D.C. Reads literacy tutors and faculty and student support for our catholic elementary schools, to the university's $1 million investment that helped launch a community bank, the City First Bank.

Mr. Speaker, I cannot pretend to summarize Father O'Donovan's magnificent accomplishments in a terse statement before the House or even in the longer statement of his accomplishments that I am submitting for the record. The achievements of the O'Donovan presidency will continue to roll out for years to come. Suffice it to say that in 1989, the challenge for a top university was to find a top president and that after a dozen years, no one can doubt that Georgetown was fortunate to meet that high standard in the man who became its 47th president. Father Leo J. O'Donovan will always be remembered at the university, in this city, and in our country for his gallant and loving spirit and for his unique contributions to education and to the District of Columbia, while reinforcing the values of his religious faith in the institution he has superbly lead into the 21st century.

LEO J. O'DONOVAN, S.J.—LEADERSHIP FOR GEORGETOWN

The Reverend Leo J. O'Donovan, S.J., became Georgetown University's 47th president in 1989, 33 years after he graduated summa cum laude from Georgetown College. A member of the Society of Jesus since 1957, Fr. O'Donovan is a specialist in systematic theology and holds advanced degrees in theology and philosophy from Fordham University, Woodstock College, and the University of Münster, Germany. At the time of his election to serve as president of Georgetown, he was a professor of systematic theology at Weston Jesuit School of Theology in Cambridge, Massachusetts, a visiting fellow at the Woodstock Theological Center on Georgetown's campus, and a member of Georgetown's Board of Directors.

Under his leadership in the past twelve years, Georgetown University has continued to flourish and grow as a world-class university with a vibrant Catholic and Jesuit identity. As president, Fr. O'Donovan has sustained and enhanced Georgetown University's traditions of scholarship, faith, and service—advancing teaching and research, strengthening the University's commitment to educating "men and women for others," and ensuring that Georgetown serves as a strong non-profit citizen in Washington, D.C.

ACADEMIC EXCELLENCE

Ranked among the top 25 universities in the nation every year in the 1990s, as well as in 2000–2001, Georgetown has continued to strengthen academic excellence and deepen its longstanding commitment to teaching and research.

Georgetown's outstanding students continue to achieve distinction nationally, earning some of the most prestigious awards in higher education, including 11 Rhodes Scholarships, 7 Marshall Scholarships, and 8 Luce Foundation Scholarships since 1990. Georgetown's Law Center ranks first in the nation in the number of graduates who go into public interest and public service law. And 64 judicial clerkships have recently been awarded to Law Center graduates.

At the School of Medicine, students continue to perform exceptionally well in residency assignments they receive through the National Residency Matching Program. In 2000, more than half of graduating seniors received their first choice for residency, and 80 percent received one of their top two choices. These figures are higher than the national average.

SUPPORT FOR FACULTY

Fr. O'Donovan has funded faculty-development grants for interdisciplinary research and course development and made a priority the creation of new endowed faculty positions. The number of Georgetown's endowed professorships and endowed chairs has doubled in the past twelve years. Among the new chairs were the University's first in computer science, music, and Japanese language and culture, as well as the John Carroll Distinguished Professorship in Ethics, the Ryan Chair in Metaphysics and Moral Philosophy, and a chair to support the scholarship and teaching of a visiting Jesuit scholar.

From Fall 1988 through Fall 2000 the number of Main Campus full-time faculty (both tenure track and non-tenure track) increased 37%. From Fall 1990 through Fall 2000, the number of full-time faculty at the Georgetown University Law Center increased 38%. Georgetown Law Center has the largest faculty in the United States.

RESEARCH AND SCHOLARSHIP

Georgetown's faculty include some of the nation's leading scholars in a wide array of fields—from linguistics to constitutional law to cancer research to health care policy.

Georgetown was classified by the Carnegie Foundation for the Advancement of Teaching as a Research I institution in 1994 and a Doctoral/Research-extensive university in 2000.

From FY90 to FY99, research and development funding support has increased by 119 percent.

Georgetown's library holdings have increased by more than 25% in the past ten years.

ACADEMIC DEVELOPMENTS AND INNOVATIONS

In the past 12 years, Georgetown has steadily expanded its academic programs. Currently, there are more than 90 undergraduate and graduate degree programs, including 20 doctoral programs. In recent years, numerous new interdisciplinary graduate programs have been instituted, including programs in the neurosciences and molecular and cell biology. The undergraduate curriculum has been augmented by new minors in areas such as Catholic studies and environmental studies, a new major in political economy, and a joint program in Communication, Culture, and Technology. New graduate and professional initiatives include the Asian Law and Policy Studies Program at the Law Center, and an International Executive MBA Program at the McDonough School of Business. In 1995, the Main Campus also completed a major reorganization of academic programs, incorporating the Faculty of Languages and Linguistics into the Georgetown College.

Under Fr. O'Donovan's leadership, innovative academic and philanthropic planning has allowed Georgetown to create a number of new teaching and research initiatives, including:

Law Casa, a center for research on Latin American law and policy issues, and the Supreme Court Institute in the Law Center;

The Center for Clinical Bioethics in the Medical Center;

The Center for German and European Studies, the Center for Australian and New Zealand Studies, and the Center for Muslim-Christian Understanding in the Walsh School of Foreign Service; and

The Center for Social Justice Research, Teaching and Service on the Main Campus.

ACHIEVEMENTS IN ADMISSIONS & FINANCIAL AID

As Georgetown's academic programs and faculty have advanced in stature, the admissions process has become increasingly more competitive. Georgetown accepts between 20 and 25 percent of its approximately 15,000 undergraduate applicants each year and thus ranks among the nation's most selective institutions.

At the same time, Fr. O'Donovan has worked to ensure the accessibility and affordability of a Georgetown education, sustaining its need-blind/full-need admissions policy and increasing significantly the amount of University funding appropriated annually for undergraduate aid. Institutional scholarship aid for undergraduates increased from $14 million in 1989 to more than $34.5 million in 2000–01. Each year more than 55% of the undergraduate students at Georgetown receive some form of financial assistance. Including federal and private, grant, loan, and work-study programs, Georgetown awarded a total of $67.5 million in undergraduate financial aid in 2000–01. Among the recent additions to financial aid resources are the Pedro Arrupé, S.J., Scholarship for Peace fund, established by a generous anonymous gift to enable students from war-torn regions of the world to attend Georgetown, and a special scholarship fund financed by the Office of the President for graduates of District of Columbia schools.

In 2000–01, the Law Center again received more applications than any law school in the nation, and more than 8,000 students applied for 171 seats in the School of Medicine. One of every four medical school applicants in the country applies to Georgetown. In addition, applicants' GPAs and MCAT scores continue to be well above average. Average LSAT scores of entering law students are in the 95th percentile nationally.

DIVERSITY AT GEORGETOWN

In 2001, in an independent survey published in Black Enterprise, Georgetown was ranked second among non-historically black colleges and universities as a place where African American students feel that their aspirations are supported. In 1999, the publication Hispanic Business ranked MBA programs and law schools in terms of places where Hispanics were most likely to succeed. Approximately 22% of Georgetown's undergraduate class of 2004 are international students and students from minority and ethnic backgrounds. Each year Georgetown ranks either first or second among highly selective private institutions in the number of applications by African Americans.

Georgetown's Law Center has become one of the most diverse in the nation, second only to Howard University in the number of African American attorneys graduated in the U.S. During Fall 2000, minorities made up 29.3 percent of the students in the J.D. program. The percentage of minority students in the School of Medicine has increased from 20 percent in 1994 to more than 28 percent in 2000.

Of the undergraduate students enrolled during Fall 2000 who indicated a religious preference, more than half (55.3 percent) indicated that they are Roman Catholic. About 23 percent reported another Christian denomination, while about five percent indicated they are of the Jewish faith. About three percent of the undergraduates stated that they are Muslim, two percent are Hindu and one percent reported that they are Buddhist. About seven percent indicated no religion and about four percent indicated some other religious preference. About eight percent of all undergraduates did not specify a religious preference and about 2.5% indicated some other religious preference.

Georgetown also has made significant strides promoting diversity within the faculty and administration. Among Fr. O'Donovan's administrative appointments have been the first women to serve as Provost, Dean of Georgetown College, Dean of the School of Medicine, Vice President and Treasurer, and Vice President and General Counsel.

GEORGETOWN'S CATHOLIC AND JESUIT IDENTITY

Fr. O'Donovan has led Georgetown's efforts to develop further the spiritual dimension of Georgetown's campus and intellectual life. During the past 12 years, in addition to the new academic centers listed above, the University has launched innovative initiatives in Catholic Studies and Jewish Studies. Georgetown's nationally recognized retreat programs have grown significantly, offering a broad range of retreat options to all members of the University community, with specific retreats for those of the Catholic, Protestant, Muslim, Orthodox Christian, and Jewish faiths. The University has hosted a wide range of conferences, symposia, and lectures devoted to religious issues and topics. Georgetown's Third Century Campaign has set a target of $45 million for initiatives related to Georgetown's Catholic and Jesuit identity, including five endowed chairs in the Catholic intellectual tradition.

In 1995, Fr. O'Donovan initiated a University-wide dialogue about ways in which the University might further deepen its Catholic and Jesuit identity. As a part of that process, in 1997, he charged a faculty-led task force to make specific recommendations about steps Georgetown could take to enhance its identity for the future. That task force filed its report in 1998. Fr. O'Donovan then invited the entire University community to respond to this report and in May 1999 appointed four faculty committees to begin developing implementation strategies for some of the recommendations. Following the work of the faculty committees, in September 2000, Fr. O'Donovan launched a series of initiatives aimed at enhancing Georgetown's Catholic and Jesuit identity. These included:

Inaugurating a second chair in Catholic Social Thought using a new endowment obtained by the University—the first chair, inaugurated last academic year, is currently held by the Rev. John P. Langan, S.J.;

Promoting dialogue among faculty about Jesuit pedagogy through the work of the Center for New Designs in Learning and Scholarship (CNDLS), a new center that will make these discussions a part of its overall mission;

Supporting Jesuit recruitment through the establishment of a standing committee of Jesuits and other faculty members;

Enhancing faculty diversity with increased funding for recruitment—Georgetown has already successfully recruited three new minority faculty members; and

Establishing a Center for Social Justice Research, Teaching and Service to focus on expanding the ways that Georgetown integrates research and service into academic life.

To articulate the strong Catholic and Jesuit foundation of the University, Fr. O'Donovan also charged a faculty committee led by the Provost Dorothy Brown to draft a University mission statement. In September 2000, Georgetown's Board approved the mission statement submitted by the committee and previously reviewed by the University community.

NEW INVESTMENTS IN SPACE AND FACILITIES

Throughout his tenure, Fr. O'Donovan has been dedicated to developing strategies for effective long-term campus development. More than $82 million dollars has been invested in the renovation of all undergraduate student housing. In Fall 2000, the University broke ground for the Southwest Quadrangle, which includes a 780-bed residence hall, a dining hall, an underground parking garage, and a new Jesuit community residence. The $168.5 million construction project is on schedule for completion in the fall of 2003. On November 8, 2000 the District of Columbia's Board of Zoning Adjustment (BZA) approved Georgetown University's 2000 Campus Plan. The approval allows the University to proceed with construction and renovation plans for all buildings proposed in the plan, including modifications to hospital facilities proposed by MedStar Health. New facilities for the sciences, performing arts, and the McDonough School of Business are also a part of the Master Plan, and major gifts for these have been raised through Georgetown's Third Century Campaign.

Recent campus development at the Law Center includes the completion of the Gewirz Student Center, which provides the campus' first on-site housing for law students, and the opening of a new wing of the campus' central building, which includes technologically advanced classrooms and seminar rooms and expanded student activity space. Current projects include construction of a new academic facility and health fitness center on the Law Center property Georgetown purchased two years ago.

Important new strategic investments include the acquisitions of the Wormley School building on Prospect Street and the National Academy of Sciences buildings on Wisconsin Avenue. At the Medical Center a new wing was completed at the Hospital in 1993, and a new research building was dedicated in 1995.

GROWTH AND ACHIEVEMENTS IN ATHLETICS

During Fr. O'Donovan's tenure as president, Georgetown's Athletic Program has regularly undergone reviews, has been found in compliance with Title IX, and has received NCAA certification. Georgetown instituted women's soccer as a varsity sport and elevated women's lacrosse to a national level sport. The University also expanded the number of scholarships for women athletes. Men's lacrosse has grown in stature to become a Final Four program, and, in 2001, the football team began competing in the Patriot League. In the 1990s, fourteen different teams ranked in the top ten in the nation, and graduation rates for athletes continue to be outstanding. During the past 12 years, philanthropic support has also increased significantly. Annual Fund contributions to the Athletic Program have more than doubled, and two endowed coaching positions and an endowed chair, the Francis X. Rienzo Athletic Director Chair, were established.

MAJOR ADMINISTRATIVE PROJECTS

With the rise of managed care, the decline of government funding for health care, and other factors, Georgetown faced serious financial challenges at the Medical Center throughout the 90s. To address the Medical Center's increasing budget deficits, Fr. O'Donovan established a strong focus on cost cutting, revenue enhancement, and other management strategies. In March 1999, he signed a letter of commitment to pursue exclusive negotiations to form a clinical partnership with MedStar Health, a non-profit regional health system. On June 30, 2000, Georgetown instituted an historic partnership agreement with MedStar in which MedStar assumed all responsibility for the operations and finances of the clinical enterprise, which includes a 535-bed hospital, a faculty practice group, and a network of community physician practices. Georgetown continues to own, operate, and have financial responsibility for the education and research enterprises, including the Medical School, the Nursing School, and the biomedical research enterprise.

The partnership allows Georgetown to realize major strategic goals:

It preserves and supports the University's mission of first-class medical education and research, as well as the Hospital's Catholic identity.

It transfers the clinical operations to MedStar, thereby protecting Georgetown from future clinically-related losses in an increasingly competitive health care economy while providing the opportunity for future earnings if MedStar's Washington, D.C., system meets certain financial targets.

It saved 3,800 jobs in the clinical enterprise, and it strengthens our relationship with the District of Columbia by continuing to provide opportunities for employment and medical care.

In the past 12 years, Georgetown has made major investments in improving the technological infrastructure of the University and expanding the ways in which technology can enhance teaching and research. Georgetown is among the first universities in the nation to use the latest fiber optic technology in its residence halls, all of which are now wired for advanced computer and Internet use. In addition, 100% of Georgetown faculty have access to the world wide web. Library services include web-accessible catalogues and databases, as well as a broad array of research assistance online. While advancing its technological resources, Georgetown is also moving ahead as a higher education leader on such innovative projects as Internet 2.

BUILDING SUPPORT FOR THE NEXT CENTURY

In October 1998, Georgetown formally launched its $750 million Third Century Campaign, to support faculty, enhance facilities and financial aid resources and strengthen every area of the University. Based on its strong record of success, the Board approved the increase of the campaign goal to $1 billion in September 2000. As of December 31st, 2000, the campaign already had secured more than $640 million in gifts and pledges, including a gift of $30 million to name the Robert E. McDonough School of Business. Established in 1996, Georgetown's Blue and Gray Society, which comprises donors who give $10,000 or more annually to the University, increased its membership from more than 780 in 1997 to nearly 1500 in 2000. The campaign effort will further bolster Georgetown's endowment, which has already grown from $232 million in 1989 to more than $772 million in October 2000.

CONTRIBUTIONS TO THE D.C. COMMUNITY

Georgetown's fulfillment of its commitment to the Jesuit educational principle of educating "men and women for others" has also grown in breadth and depth. Of the more than 180 programs dedicated to community service, several have been launched in the past decade, including:

The Center for Social Justice Research, Teaching and Service, and the Center for Urban Research and Teaching on the Main Campus;

The Law Center's Office of Public Interest and Community Service; and

Collaborative ventures such as the Georgetown Public Policy Institute's D.C. Community Policy Forum, a research partnership between the University and District of Columbia agencies.

Fr. O'Donovan created a series of grants to support faculty in their efforts to create new and enhance existing service-learning courses and to undertake research projects that directly benefit the District and its residents. Two of those grants expanded the work done by Georgetown faculty and students in the Archdiocese's Catholic elementary schools, which are also served by Georgetown's large corps of DC Reads literacy tutors. Dedicated as well to responsible non-profit citizenship, the University also made a $1 million founding investment to help launch City First Bank, which opened in 1999 to assist individuals and businesses in under-served areas of the city.

Fr. O'Donovan led the development of a comprehensive strategy to build stronger relationships between the University community and its surrounding neighbors. He created the position of Assistant Vice President for External Relations to promote improved communication and collaboration between the University and the local D.C. community. In recent years, Georgetown has decreased the number of undergraduate students living off campus, instituted special bulk trash pick-ups at the beginning and close of each academic year, and advanced its plans to build a new 780 bed residence hall complex.

Finally, to serve the children of faculty, students, and staff, the Hoya Kids Learning Center, a child development and pre-school facility, was established in 1997 on the Main Campus. Scholarships for families in need are funded by the Office of the President.

HONORING STANTON ENGLEHART

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, I stand here today to honor a man who stretches the imagination, and who uses paint to express what words cannot about Colorado, and about the beauty of our nation. Stanton Englehart has been providing the world with refreshing insight into nature for over forty years, and has been an active participant in bringing art to communities around Colorado.

Stanton Englehart has long been recognized as one of the most prominent painters of the Southwest. He carries the honor of Professor Emeritus of Fine Art at Fort Lewis College, and his popularity and enthusiasm has brought him international recognition. He says, "I hope my paintings express some of the beauty and mystery of the earth and the sky above it. . . . The paintings are most about energy and its power as a creative force in all things."

Stanton selflessly shares that energy with just about anyone who asks him. Charlie Langdon of The Durango Herald, says that when asked by an audience member at a lecture if he would be willing to exhibit in more Colorado arts centers, he answered, "Just call me, and tell me how much wall space you have. I'll pack a show for you and truck it to your door." Incredibly, Stanton turns out "about a hundred paintings a year. Many of them are enormous," All told, he has created more than 1200 paintings, some 21 feet wide. To ensure that those without the funds to enjoy his art can do so, he donates many paintings to public institutions.

Stanton has made a huge impact in Colorado art, and has brought international attention to the glorious landscapes of Colorado. He works with the art community to act as a model for the young and the old, for the artistic and the admirer. Mr. Speaker, I ask to thank Stanton Englehart on behalf of Congress for his ongoing contributions to this important creative aspect of Colorado. He deserves our congratulations.

TRIBUTE TO MELANIE STOKES

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. RUSH. Mr. Speaker, I rise today to honor the memory of Melanie Stokes and all women who have suffered in silence from postpartum depression and psychosis with the introduction of the Melanie Stokes Postpartum Depression Research and Care Act.

Chicago native, Melanie Stokes was a successful pharmaceutical sales manager and loving wife of Dr. Sam Stokes. However, for Melanie, no title was more important than that of mother. Melanie believed motherhood was her life mission and fiercely wanted a daughter of her own. This dream came true on February 23, 2001 with the birth of her daughter, Sommer Skyy. Unfortunately, with the birth of her daughter, Melanie entered into a battle for her life with a devastating mood disorder known as postpartum psychosis. Despite a valiant fight against postpartum psychosis, which included being hospitalized a total of three times, Melanie jumped to her death from a 12-story window ledge on June 11, 2001.

Melanie was not alone in her pain and depression. Each year over 400,000 women suffer from postpartum mood changes. Nearly 80 percent of new mothers experience a common form of depression after delivery, known as "baby blues." The temporary symptoms of "baby blues" include mood swings, feelings of being overwhelmed, tearfulness, and irritability, poor sleep and a sense of vulnerability. However, a more prolonged and pronounced mood disorder known as postpartum depression affects 10 to 20 percent of women during or after giving birth. Even more extreme and rare, postpartum psychosis, whose symptoms include hallucinations, hearing voices, paranoia, severe insomnia, extreme anxiety and depression, strikes 1 in 1,000 new mothers.

Postpartum depression and psychosis afflicts new mothers indiscriminately. Many of its victims are unaware of their condition. This phenomena is due to the inability of many women to self-diagnose their condition and society's general lack of knowledge about postpartum depression and psychosis and the stigma surrounding depression and mental illness. Untreated, postpartum depression can lead to self-destructive behavior and even suicide, as was the case with Melanie. As was seen recently in the case of Andrea Yates of Houston, Texas who drowned her five children, postpartum depression and psychosis can also have a dire impact on one's family and society in general.

In remembrance of Melanie Stokes and all the women who have suffered from postpartum depression and psychosis, as well as their families and friend who have stood by their side, I am introducing the Melanie Stokes Postpartum Depression Research and Care Act which will:

Expand and intensify research at the National Institute of Health and National Institute of Mental Health with respect to postpartum depression and psychosis, including increased discovery of treatments, diagnostic tools and educational materials for providers;

Provide grants for the delivery of essential services to individuals with postpartum depression and psychosis and their families, including enhanced outpatient and home-based health care, inpatient care and support services.

It is my hope that through this legislation we can ensure that the birth of a child is a wonderful time for the new mother and family, and not a time of mourning over the loss of yet another mother or child.

INSULAR AREAS OVERSIGHT AVOIDANCE ACT

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. UNDERWOOD. Mr. Speaker, today I would like to reintroduce the Insular Areas Oversight Avoidance Act, legislation I previously introduced during the 106th Congress.

This legislation, which is cosponsored by Congresswoman DONNA CHRISTIAN-CHRISTENSEN from the Virgin Islands and Resident Commissioner ANÍBAL ACEVEDO-VILÁ of Puerto Rico, seeks to hold the federal government more accountable in the manner that federal policy is developed towards the insular areas, which include Guam, the Virgin Islands, the Commonwealth of Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands. The bill would require that the Office of Management and Budget explain any omission of any insular area from treatment as part of the United States in any policy statement issued by the Office of Management an Budget on federal initiatives or legislation.

The impetus for the bill is to improve federal-territorial relations and to encourage greater use of government resources in a more cost-efficient manner. Given our geographical distance from Washington, D.C., and our political status as territories, it is very difficult for insular area officials to sometimes be heard at the federal level. We face repeated challenges in ensuring that the insular areas are not forgotten in federal initiatives and policies on a daily basis, whether it be international treaties, Presidential Executive Orders, proposed legislation by the Executive Branch or Congressional Members, or federal regulations.

It is my belief that the U.S. insular areas should be considered at the outset of the development of federal policies, including Presidential initiatives. I believe that such consideration would be a more effective way of ensuring that all Americans—in the fifty states, the District of Columbia, and the insular areas—are treated fairly.

The failure of the federal government to contemplate the impact of the insular areas in federal initiatives often results in the need for insular area governments to expend an exorbitant amount of resources and energy to either rectify the "oversight" through legislation or through extensive and sometimes futile negotiations with federal agency officials.

An example of such a situation is the way in which U.S. Treasury Department officials negotiate international tax treaties. There are around 75 international tax treaties that the U.S. has negotiated with other countries. The treaties govern the bi-lateral relationships the U.S. has with other countries on tax matters, including foreign investment withholding rates.

In its definition of the term "United States", there are several definitions used by U.S. negotiators. The most commonly employed definition explicitly excludes Guam and the other insular areas by name. Another definition explicitly includes the 50 states and the District of Columbia as comprising the "United States."

Currently, the Congress is considering legislation I introduced, H.R. 309, the Guam Foreign Investment Equity Act, which is trying to rectify Guam's exclusion in these international tax treaties. H.R. 309 provides the Government of Guam with the authority to tax foreign investors at the same rates as states under U.S. tax treaties. The bill passed the House on May 1, and is awaiting Senate consideration.

I would not have to be pushing for the Guam Foreign Investment Equity Act if the federal government had contemplated its impact on the insular areas, including Guam, when the current U.S. tax treaties with other countries were negotiated.

To understand why this "oversight" is detrimental to Guam and the federal government, let me give you an overview of how this action has stymied economic development on Guam. Currently, under the U.S. Internal Revenue Code, there is a 30% withholding tax rate for foreign investors in the United States. Since Guam's tax law "mirrors" the rate established under the U.S. Code, the standard rate for foreign investors in Guam is 30% since Guam is not included in the definition of "United States" for international tax treaties. As an example, with Japan, the U.S. withholding rate for foreign investors is 10%. That means while Japanese investors are taxed at a 10% withholding tax rate on their investments in the fifty states, those same investors are taxed at a 30% withholding rate on Guam. As 75% of Guam's commercial development is funded by foreign investors, such an omission has deprived Guam of attracting foreign investment opportunities.

Other territories under U.S. jurisdiction have already remedied this problem or are able to offer alternative tax benefits to foreign investors through delinkage, their unique covenant agreements with the federal government, or through federal statute. Guam, therefore, is the only state or territory in the United States which is unable to provide this tax benefit or to offer alternative tax benefits for foreign investors.

The Insular Areas Oversight Avoidance Act would be helpful to insular area governments and the federal government by requiring that situations like the U.S. negotiations on international tax treaties are for the good of all U.S. jurisdictions in the country, not just the fifty states. I understand that the U.S. government is currently renegotiating with Japan on the tax treaty between our two countries. While I hope that Guam is not excluded from being part of this treaty, the record of U.S. negotiators on previous tax treaties does not provide me with any level of comfort. This is a perfect example of why the bill I have introduced today is needed.

KLAMATH BASIN GOVERNMENT-CAUSED DISASTER COMPENSATION ACT

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HERGER. Mr. Speaker, principles of fairness and justice demand that the Government not force some people to bear burdens, which should rightfully be borne by the public as a whole. However, that is precisely what is happening in the Klamath Basin in northern California and southern Oregon because of the Endangered Species Act (ESA), and today I rise, joined by my Oregon colleague, Congressman GREG WALDEN, to introduce legislation to address that.

The ESA has strayed far from its original mission. It was never intended to sacrifice human health and safety and economic well-being. Yet, the fact remains that under the guise of species protection, constitutionally-protected property rights are being trampled, local economies are being destroyed, families are being forced into bankruptcy and, in many cases, human health and safety are being jeopardized. There is little consideration given to the human species under the ESA. Once a species is "listed," its needs must come first—before the rights and livelihoods of American people. As it is currently being implemented, the ESA requires species protections at any and all costs.

Regrettably, rural Western communities are disproportionately bearing the burdens and costs associated with species protection, burdens which should rightfully be borne by the American public as a whole. The zero-water decision that was recently handed down in the Klamath Basin is the "poster child" for precisely these kinds of injustices. Farmers in this rural area were told on April 6, 2001 that there would be no Klamath Project water for agriculture this year, because, in the opinion of a few Government biologists, it was needed to protect two species of fish that may or may not be endangered.

The decision does not come without significant social and economic impacts. The Klamath Project supports approximately 1,500 small family farmers and ranching operations and scores of related businesses. This agricultural area generates in excess of $250 million in economic activity annually. The annual value of crops produced is estimated at more than $110 million. All of this human activity has come to a grinding halt because of an ESA mandated decision that is based only on speculation and guesswork. Preliminary estimates place total economic damage in the neighborhood of $220 million. Regrettably, all of the costs and economic hardships associated with this decision will be borne solely by the people who live and work in the Klamath Basin, many of them veterans of World War II who were promised a permanent supply of water and land, and their sons and daughters.

It is important to note that this is not simply a Klamath Basin problem. Nor is it a new problem, or one that is specific to the agriculture industry in general, or to federal project irrigators in particular. Small businesses throughout the Sierra Nevada mountains in California face potentially debilitating economic losses because of forest management restrictions associated with extremely dubious concerns about the status of the California Spotted Owl. Water users throughout California have faced extreme hardship as the Government has exercised what amounts to federal takings by reducing contractual water deliveries to a mere percentage of their contract amounts because of pumping or other water use restrictions driven by the ESA. A rural area in my northern California Congressional District has incurred millions of dollars in extra costs on critically important infrastructure improvement projects because of ESA-mandated mitigation. In this same area a much-needed high school continues to be delayed at taxpayer expense because of the ESA. There are many examples, but the fact remains that people are suffering economically because of the implementation of the ESA.

These requirements and restrictions are, simply, an unfunded federal mandate. The federal government should not force some to bear the costs, but should bear the burden itself, or, if it cannot pay or is not willing to pay, then it should avoid the action altogether. Or, it must find some middle ground. That is simple accountability.

For these reasons, Mr. Speaker, I rise today to introduce legislation—the "Klamath Basin Government-Caused Disaster Compensation Act." It requires the Secretary of the Interior to fully compensate the individuals of the Basin who have been economically harmed as a result of the restrictions that have been placed on the operations of the Klamath Project. Such payments would come from within the Department of Interior's budget. This legislation sends a resounding message to Washington that if the federal government is going to force this kind of social and economic harm on rural America through its laws, it will be held accountable. And if it rebukes those costs as unacceptable, then it will face the question of whether this kind of species protection—recklessly imposing requirements that may or may not benefit species, but that will certainly carry significant costs to real people—is a goal all Americans truly want, and if so, whether they're willing and prepared to share the impacts.

Ultimately, the ESA itself must be modernized if we are to ensure that people and communities come first. However, real people have been significantly harmed as the direct result of the federal government's actions in the Klamath Basin, and while the long-term social and other hidden impacts from this decision can never be fully mended, fairness and justice demand that the federal government step in to rectify the economic harm that it has caused.

TRIBUTE TO McNEIL FAMILY FOR 2001 NATIONAL WETLANDS AWARD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to offer my congratulations to a couple that has taken extensive efforts to promote land stewardship, wetlands conservation, research and education in the Monte Vista area of Colorado. Mike and Cathy McNeil have truly exemplified the ideals honored with the 2001 National Wetlands Award of the Natural Resources Conservation Service, the U.S. Environmental Protection Agency and the Environmental Law Institute and I would like to add my thank you and appreciation to their labors.

Nestled on the edge of Rock Creek just south of Monte Vista and neighbored by the Monte Vista National Wildlife Refuge, the McNeil ranch persists as a fourth-generation operation. Understanding the importance of responsible development and the intersection with environmental preservation, the McNeils launched the Rock Creek Heritage Project—an effort which protected nearly 15,000 acres of farm and ranch land in the Rock Creek Watershed. This collaborative effort, involving 27 landowners, accentuates 5 aspects including land protection, watershed enhancement, training in holistic management, community building and support for value-added marketing of agricultural products. Extending beyond land matters, the McNeils have adopted innovative calving patterns to provide their 800 mother cows warmer birthing periods during June and July rather than throughout the cooler winter months utilized by most ranchers in the area. In all of these endeavors the McNeils have exhibited innovation, excellence and outstanding effort.

Mr. Speaker, Mike and Cathy have been united in matrimony for 20 years and have the blessing of their daughter Kelly who is 14 years of age. The teachings of her parents are allowing Cathy to value and preserve the heritage from which she comes. Through the extraordinary contributions of the McNeils, wetland protection and land stewardship have been heralded and an example has been established for others to follow in order to obtain ecological health while not compromising agricultural profitability. The National Wetlands Award will be one of many awards that the McNeils have garnered from their hard work—alongside the distinct recognition of being the Colorado Association of Soil Conservation District's Conservationists of the Year in 1999 and the 2001 Steward of the Land Award issued by the American Farmland Trust.

The McNeils deserve to be applauded on a job well done and I, along with my colleagues, thank them for their sustained efforts in this critically important realm and foundation to life.

JUNIOR ACHIEVEMENT

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HEFLEY. Mr. Speaker, I rise to speak today about an organization, which is headquartered in my district and has had an immeasurable impact on America. The history of Junior Achievement is a true testament to the indelible human spirit and American ingenuity. Junior Achievement was founded in 1919 as a collection of small, after-school business clubs for students in Springfield, Massachusetts.

As the rural-to-city exodus of the populace accelerated in the early 1900s, so too did the demand for workforce preparation and entrepreneurship. Junior Achievement students were taught how to think and plan for a business, acquire supplies and talent, build their own products, advertise, and sell. With the financial support of companies and individuals, Junior Achievement recruited numerous sponsoring agencies such as the New England Rotarians, Boy Scouts, Girl Scouts, Boys & Girls Clubs the YMCA, local churches, playground associations and schools to provide meeting places for its growing ranks of interested students.

In a few short years JA students were competing in regional expositions and trade fairs and rubbing elbows with top business leaders. In 1925, President Calvin Coolidge hosted a reception on the White House lawn to kick off a national fundraising drive for Junior Achievement's expansion. By the late 1920s, there were nearly 800 JA Clubs with some 9,000 Achievers in 13 cities in Massachusetts, New York, Rhode Island, and Connecticut.

During World War II, enterprising students in JA business clubs used their ingenuity to find new and different products for the war effort. In Chicago, JA students won a contract to manufacture 10,000 pants hangers for the U.S. Army. In Pittsburgh, JA students developed made a specially lined box to carry off incendiary devices, which was approved by the Civil Defense and sold locally. Elsewhere, JA students made baby incubators and used acetylene torches in abandoned locomotive yards to obtain badly needed scrap iron.

In the 1940s, leading executives of the day such as S. Bayard Colgate, James Cash Penney, Joseph Sprang of Gillette and others helped the organization grow rapidly. Stories of Junior Achievement's accomplishments and of its students soon appeared in national magazines of the day such as TIME, Young America, Colliers, LIFE, the Ladies Home Journal and Liberty.

In the 1950s, Junior Achievement began working more closely with schools and saw its growth increase five-fold. In 1955, President Eisenhower declared the week of January 30 to February 5 as "National Junior Achievement Week." At this point, Junior Achievement was operating in 139 cities and in most of the 50 states. During its first 45 years of existence, Junior Achievement enjoyed an average annual growth rate of 45 percent.

To further connect students to influential figures in business, economics, and history, Junior Achievement started the Junior Achievement National Business Hall of Fame in 1975 to recognize outstanding leaders. Each year, a number of business leaders are recognized for their contribution to the business industry and for their dedication to the Junior Achievement experience. Today, there are 200 laureates from a variety of businesses and industries that grace the Hall of Fame.

By 1982, Junior Achievement's formal curricula offering had expanded to Applied Economics (now called JA Economics), Project Business, and Business Basics. In 1988, more than one million students per year were estimated to take part in Junior Achievement programs. In the early 1990s, a sequential curriculum for grades K–6 was launched, catapulting the organization into the classrooms of another one million elementary school students.

Today, through the efforts of more than 100,000 volunteers in the classrooms of America, Junior Achievement reaches more than four million students in grades K–12 per year. JA International takes the free enterprise message of hope and opportunity even further . . . to more than 1.5 million students in 111 countries. Junior Achievement has been an influential part of many of today's successful entrepreneurs and business leaders. Junior Achievement's success is truly the story of America—the fact that one idea can influence and benefit many lives.

Mr. Speaker, I am proud to have Junior Achievement in my district and proud of its many successes over the years. It is my hope this great organization continues to prosper and benefit many in the years to come.

FHA-INSURED HOSPITAL CONVERSION AND REINVESTMENT ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. LAFALCE. Mr. Speaker, today I am introducing the "FHA-insured Hospital Conversion and Reinvestment Act." This legislation authorizes HUD to reinvest profits from FHA loan insurance programs, including those for health care, in FHA-insured hospitals.

The Department of Housing and Urban Development (HUD) insures billions of dollars of loans for hospitals under the FHA Section 242 hospital loan program. According to the Administration's fiscal year 2002 budget, FHA hospital and health care loan insurance programs are-projected to make a profit for federal taxpayers of some $32 million next year. In addition, all FHA loan programs combined will make a profit of over $2.7 billion next year for the federal taxpayer.

Currently, all of these FHA profits are used to increase the federal budget surplus. The legislation I am introducing today would authorize HUD to use some of these profits generated by FHA to pro-actively assist FRA-insured hospitals, either for the purpose of converting excess hospital capacity to related health care use or for the purpose of paying debt service for FHA-insured hospitals.

Conversion of excess capacity helps the hospital which converts and the community it serves. It allows better use of hospital space in a way that is more responsive to the needs of the local community. Conversion also improves the ability of all hospitals in the local area to meet community health needs by reducing over-capacity and allowing some flexibility in the use to which the existing infrastructure can be put. Under my proposed legislation, conversion of excess hospital capacity is authorized for a range of purposes, including supportive housing for the elderly, assisted living, and nursing home beds—health care needs that may be more substantial for many communities than in-hospital care.

The authority under by legislation to use FHA surplus to pay debt service for FHA-insured hospitals is intended to safeguard FHA's pre-existing investment. Such use is contingent on a determination by HUD that such assistance would reduce the risk of default and loss on the FHA-insured loan, and would improve the financial soundness of the hospital assisted. This new authority has the effect of giving HUD similar loss mitigation tools to those it currently has with respect to single-family and multi-family FHA-insured loans.

Congress has long recognized that pro-active loss mitigation is of financial benefit to the FHA insurance fund. For example, HUD gives wide latitude to servicers of FHA-insured single-family loans to restructure debt, including making partial claims, in order to forestall foreclosures. This can be financially advantageous to the FHA fund, since foreclosures typically create a much larger loss to the fund.

The ability to conduct loss mitigation with respect to hospital loans is further complicated by the fact that many FHA-insured hospital loans are structured as public bond offerings. This makes it very difficult to restructure loans, without calling the bonds. Allowing HUD to advance funds to pay debt service obviates the need to call bonds, while allowing HUD to proactively address looming financial problems, and avert foreclosure.

This legislation would help FHA-insured hospitals nationwide, but would be of particular benefit to hospitals within the state of New York, which has one of the highest percentages of FHA-insured hospitals nationwide.

Hospitals within our state have adapted to a wide range of challenges, including Medicare cuts, squeezed reimbursement rates from private insurers, and the transition to a de-regulated environment. Community hospitals, with their lack of access to capital, face particular challenges. The least we can do is reinvest profits from federal hospital loans in the hospitals which have generated these profits.

This legislation does precisely that. I urge Congress to adopt it and would welcome the support of my colleagues.

TRIBUTE TO LIMERICK TOWNSHIP

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HOEFFEL. Mr. Speaker, I rise today to congratulate Limerick Township in Montgomery County, Pennsylvania on its 275th Anniversary. Native Americans of the Delaware tribe were the original inhabitants of this area followed later by William Penn, who in 1682, purchased large tracts of land from the Native Americans. Early settlers from Wales, Germany, Holland, and France, soon began to settle here. Many important and prominent families began to arrive such as the Brookes, Evans, Kendalls, and the Ickes.

A petition to form the township of "Lymmerick" was filed in Philadelphia in 1726 and may still be found in City Hall. Education was of major importance to the citizens of the township. From the beginning many schools were constructed. There were eight one-room schools in the township in 1848 and that number continued to grow throughout the rest of the century. Currently there are four major schools within the township.

Limerick Township has been a farming community for much of its history. Development grew slowly though steadily until the construction of the Pottstown Expressway in 1985 which connects Philadelphia with King of Prussia.

As one of the oldest townships in Montgomery County, Limerick Township is now home to 18,000 residents, a nuclear generating station, an airport, and several golf courses. It is one of the fastest growing areas within Montgomery County.

I am proud to represent such an extraordinary township. This anniversary should serve as a lasting tribute to the men and women who built Limerick and now make it their home. Their dedication has made this township the wonderful place it is.

HONORING THE LIFE AND WORK OF JOHN L. NINNEMANN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, I stand here before you today to honor a man that has made significant contributions to the artistic community, John L. Ninneman. John has not only created a legacy with his photography, but he has also shaped the future with the minds he has taught at Adams State College.

John is currently the Dean of Arts and Sciences at Fort Lewis College. He started his extensive education at St. Olaf College; he then went on to earn a Master's at North Dakota University. After completion of his Master's Degree, John received his Ph. D. at Colorado State and his Post-doctoral training at Memorial Sloan Kettering Cancer Center in New York City. With his vast knowledge John became an accomplished research immunologist. His time spent in Colorado created a love for the State, and John eventually returned to Colorado to become a professor at Adams State College. John proved to be a great professor, and was loved by both students and fellow professors. During his time there he served as Chair of Biology, and Dean of the School of Science, Math and Technology. In the little spare time that John had he developed a love for photography.

John started what would be an illustrious career in photography by documenting one-room schoolhouses in and around the San Luis Valley. He then began to photograph the rock canyons and mesas in the Four Corners Region. His photography has won numerous awards, and helped make others aware of the beauty in Colorado that needs to be preserved. John's artistic ability does not stop with his photos; he is also a talented violinist who performs with chamber groups, and at fundraisers. It seems that John's talent and ability is boundless.

The contributions that John has made to the artistic community of the State of Colorado, not to mention the nation, is why I believe, Mr. Speaker, that John Ninneman is worthy of the praise of Congress. The black and white photos that he has taken will live forever as a reminder to all how beautiful the United States is to all that view them. I thank John for sharing his amazing talents with the public.

"RENEWABLE ENERGY AND ENERGY EFFICIENCY ACT OF 2001" ("REEA")

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. WOOLSEY. Mr. Speaker, this week I introduced the "Renewable Energy and Energy Efficiency Act of 2001" ("REEA"). This bill is a blueprint for the House Science Committee as we develop legislative priorities for the renewable energy and energy efficiency programs at the Department of Energy (DOE). The Committee's role in the national energy debate is unique, because we are required to envision the future energy needs of our country, and determine the direction of DOE's research, development and demonstration (RD&D) programs. As the Ranking Member on the Science Committee's Energy Subcommittee, this bill is my statement on our priorities.

We must establish a more level playing field for renewable energy sources, so we can reduce our reliance on coal and fossil fuels. We must encourage the development of 'green industries' through increased emphasis on energy efficiency technologies. We must expand those energy sources that will contribute to a more sustainable, long-term energy future. Increased federal investment in renewable energy sources and energy efficiency technologies is smart public policy because for every dollar invested in current DOE sustainable energy programs, the benefits total $200.

My vision for our energy future is that by the year 2020, twenty percent of our energy will be generated from renewable sources. Environmental groups agree, because we cannot continue to focus our priorities on limited fossil fuel sources. Unfortunately, our federal commitment to the RD&D programs that will help us meet this goal has declined significantly since 1980. This bill is a bold effort to reverse this funding scenario by outlining a robust R&D program and fund an aggressive energy efficiency agenda.

The comment I've heard most often from the renewable energy community is that a critical element of any successful R&D program is a stable funding stream that gradually increases over time. That's why over the next five fiscal years, "REEA" authorizes total funding for DOE renewable energy programs at $3.735 billion, and energy efficiency at $5.185 billion with an additional $300 million for NASA to work on aircraft energy efficiency. If Americans are to have a secure energy future, with reliable, clean and environmentally-friendly energy sources, we must invest in renewable energy sources and make great strides in energy efficiency, so we can reduce our overall energy consumption. This means increasing support for wind, solar, geothermal and biomass energy sources.

We must also ensure that promising renewable energy and energy efficient technologies, like hydrogen fuel cells, are given commercialization assistance so that individual consumers can afford to use them. My bill establishes a competitive grant program at DOE so that private sector entities can help advance development of new technologies. Many creative and entrepreneurial individuals need only access to financial assistance to demonstrate the successful application of their renewable energy or energy efficiency technology. That's why this bill directs that at least fifty percent of the $1 billion provided for such assistance goes to small businesses and startup companies.

Mr. Speaker, for too long we have overlooked renewable energy sources when setting our energy priorities. Now is the time for a responsible energy policy that makes significant investments in clean energy sources to supplement current energy supply. We must ensure that we prevent a repeat of the energy shortages Californians and West Coast residents now face. "REEA" will be a big step toward protecting our environment, and guaranteeing a better future for our children.

IN SUPPORT OF THE LOW INCOME FAMILIES FLOOD INSURANCE ACCESS ACT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GREEN of Texas. Mr. Speaker, as we witnessed the damage wrought by Tropical Storm Allison after it wept through Texas and up the East Coast, the importance of the National Flood Insurance Program (NFIP) really hit home. Thousands of my constituents suffered substantial flood damage to their homes and businesses, but some of these losses were mitigated because they had federal flood insurance.

Unfortunately, not all my constituents who needed flood insurance could afford to purchase a policy. Because of a recent redraw of Houston's Flood Insurance Rate Map (FIRM) many of my low-income folks were brought into the 100-year flood plain, but could not afford the insurance. As a consequence of my constituents' experience, I rise today to introduce the Low Income Families Flood Insurance Access Act.

This legislation helps bridge the insurance gap between those that can afford a flood policy and those that cannot. The bill would provide discounted flood insurance over a five-year term for low-income homeowners or renters whose primary residence is placed within a Special Flood Hazard Area (flood plain) by a redraw of the Flood Insurance Rate Map (FIRM). If their property is worth no more than $75,000, they would be eligible to receive a 50% discount on their flood insurance premiums for a five-year period.

It also provides for limited retroactivity if their residence is placed within the floodplain within two years of the enactment of the legislation; otherwise, the five years would begin upon the placement of the property within the flood plain. I hope that this legislation will not only increase participation in the National Flood Insurance Program (NFIP), but make its program more affordable for the economically disadvantaged. It provides an incentive for those who are most vulnerable to huge losses in floods to get the protection they need at a price they can afford.

The NFIP plays a crucial role in lessening the impact of a major flooding disaster, but to make the program operate most effectively we need greater participation. I believe my legislation will extend the helping hand associated with flood insurance down to those people in greatest need of assistance.

Mr. Speaker, I hope that we can speed this bill through the 107th Congress.

AMERICAN SCHOLARS OF CHINESE ANCESTRY

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 2001

Mrs. MINK of Hawaii. Madam Speaker, I rise in strong support for H. Res. 160, which calls upon the Government of the People's Republic of China to immediately and unconditionally release Li Shaomin and all other American scholars of Chinese ancestry being held in detention. I join in asking President Bush to make the release of these scholars, who include U.S. citizens and permanent residents, a top priority in our dealings with China.

These Chinese American scholars have been accused of spying but no evidence has been produced by the Chinese government. The detainees have even been denied the basic right of meeting with their families and lawyers. Dr. Li Shaomin, Dr. Gao Zhan, Wu Jianmin, Tan Guangguang, and Teng Chunyan have been unjustly imprisoned and denied due process. We must insist on their immediate release.

The harassment and persecution of intellectuals is yet another attempt by the Chinese government to stifle any freedom of expression among its people. China's leaders should be ashamed of its government's abysmal record of human rights abuses but instead remain indifferent to the condemnation of the world community. The Chinese government regularly violates the International Covenant on Civil and Political Rights, which it signed in October 1998.

We must make sure that the Chinese government understands that it will pay a price for flouting international norms of behavior. This is why I support rescinding Permanent Normal Trade Relations with China and going back to an annual review. I would hope, moreover, that China's human rights record will be a factor in the International Olympic Committee's choice of which country will host the 2008 Olympics.

I urge all my colleagues to send a strong message to the Chinese government by unanimously passing this important resolution.

IN RECOGNITION OF DR. MARK JOHNSON

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Dr. Mark Johnson, who will be recognized by the New Jersey Medical School's Family Practice Residency Program for his outstanding achievements in the fields of family medicine and medical research. Dr. Johnson will be honored on Friday, June 29, 2001, at a private reception at the Landmark II in East Rutherford, New Jersey.

Mark Johnson graduated from Coe College in Cedar Rapids, Iowa, where he majored in Black Literature. He furthered his studies by graduating from the University of Medicine and Dentistry at New Jersey's Medical School in Newark, New Jersey. After graduating from medical school, Dr. Johnson spent his family practice residency at the University of South Alabama in Mobile, Alabama. In addition, he was a Robert Wood Johnson Clinical Scholar at the University of North Carolina at Chapel Hill, where he received his Masters Degree in Public Health.

Dr. Johnson's notable career as a family physician and medical researcher has earned him widespread praise from his peers and colleagues. The American Medical Association has recognized him on four separate occasions for his diligent work and exceptional endeavors, by presenting him with the Physician's Recognition Award. New York Magazine designated him one of the best doctors in the State of New York in 1999 and 2000.

Currently, Dr. Johnson is the Chair of the Department of Family Medicine at the University of Medicine and Dentistry at New Jersey's Medical School in Newark. Prior to his tenure at New Jersey's Medical School, Dr. Johnson taught at the University of North Carolina at Chapel Hill, the University of South Alabama, and Meharry Medical College in Nashville, Tennessee.

Today, I ask my colleagues to join me in honoring Dr. Mark Johnson for his distinguished service and commitment to family medicine.

GINA UPCHURCH RECEIVES COMMUNITY HEALTH LEADER AWARD

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. PRICE of North Carolina. Mr. Speaker, I want to offer my congratulations to Gina Upchurch, one of 10 recipients of the 2001 Robert Wood Johnson Community Health Leader Award. Ms. Upchurch has earned this honor for her pathbreaking work with the Senior PHARMAssist Program based in Durham, North Carolina.

Each year, the Community Health Leadership Program recognizes ten individual who have found innovative ways to bring health care to communities whose needs have been ignore or unmet. Ms. Upchurch was selected for this prestigious recognition from a field of 577 nominees.

As founder and executive director of Senior PHARMAssist, Ms. Upchurch created a model to help seniors on limited incomes purchase expensive medications. PHARMAssist monitors the medications of their clients to help prevent life-threatening interactions and provides financial aid to those on limited incomes. The program has helped more than 2,600 seniors get the medications they need and has educated over 800 older adults about safer usage of medication.

The counseling and support provided by PHARMAssist works. A recent study conducted by the University of North Carolina-Chapel Hill found that emergency room visits and over-night hospital stays had decreased by almost a third for seniors who had been in the program for at least one year.

Ms. Upchurch graduated from UNC with degrees in pharmacy and public health. She served in the Peace Corps in Botswana before returning to North Carolina to write her master's thesis, a policy analysis which recommended a program to provide health care to seniors throughout the state. This laid the groundwork for what eventually became Senior PHARMAssist. She now oversees a $500,000 budget and has written a manual to help other communities establish a similar program.

Gina Upchurch has improved health care and helped those in need in our community. I am proud to recognize her achievements today.

DIRECT AIR SERVICE BETWEEN LOS ANGELES INTERNATIONAL AND WASHINGTON'S REAGAN NATIONAL AIRPORTS

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. HARMAN. Mr. Speaker, today I have been joined by a bipartisan group of, my colleagues in introducing legislation to preserve direct air service between Washington's Reagan-National Airport (DCA) and Los Angeles International Airport (LAX).

This legislation is necessary because the Department of Transportation (DOT) decided to eliminate this critical service last Friday. Instead of permitting American Airlines, which purchased TWA, to have the TWA slots to continue to fly this route, the Department awarded them to Alaska Airlines, which will use them to start nonstop service between Washington and Seattle.

The Department's decision disappointed tens of thousands of Californians and other passengers who have come to rely on this route and its connections to Bakersfield, Fresno, Monterey, Oakland, Palm Springs, San Diego, San Francisco, San Jose, San Luis Obispo, Santa Barbara, and elsewhere in the state.

Without this route, Los Angeles will be the largest U.S. city without non-stop air service to Washington's Reagan-National. In fact, California, the most populous state in the Union, will have no direct connection to DCA.

Earlier this year, 57 Members of Congress—including House Majority Leader DICK ARMEY and Democratic Leader RICHARD GEPHARDT and most Members of the California congressional delegation—wrote the DOT in support of American Airline's efforts to preserve this critical service.

The legislation introduced today allows American Airlines to use two existing slot exemptions for service between Washington's Reagan-National and Los Angeles. As such, it does not increase the total number of flights at Washington's Reagan National and permits Alaska Airlines to fly direct to Seattle.

Mr. Speaker, Californians rely upon nonstop air service between Los Angeles International Airport and Washington's Reagan-National Airport. Without congressional action, this convenient nonstop air service will end in September.

I urge all my colleagues to support this legislation.

HONORING THE 125 YEAR HISTORY OF LA VETA, COLORADO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay special tribute to La Veta, Colorado on its 125th Birthday. For over a century, the people of La Veta have contributed a rich heritage and cultural diversity to the state of Colorado. I would like Congress to wish the citizens of La Veta a very happy 125th birthday.

In 1862, Col. John M. Francisco, a former settler with the US Army at Fort Garland, and Judge Henry Daigle built Fort Francisco on land purchased from the Vigil-St. Vrain Land Grant, significantly south west of most of the San Luis Valley bound traffic. When Col. John Francisco looked down on the future site of La Veta in the mid 1850's he said, "This is paradise enough for me." The town of La Veta was incorporated on October 9, 1876.

As more settlers moved into this beautiful and fertile valley, the Fort increased in importance as shelter from Indians and as the commercial center for the area. The first Post Office, named Spanish Peaks, opened in the Plaza in 1871. By 1875 the Indian threat was almost completely gone. In 1876 the narrow gauge railroad came through La Veta several blocks north of the Fort on its way westward through the newly surveyed La Veta Pass. In 1877 the permanent rail depot was built beside the rails and the business community slowly moved north toward it. For many years, this stretch of the line between La Veta and Wagon Creek was the highest in the world. The old depot building at the summit is listed on the National Register of Historic Places.

The mountains of the Sangre de Cristo Range were long known by the Indians of the Southwest. Relics of the Basket Weaver Culture have also been found within the county. The Spanish Peaks are a historic landmark to travelers—from the early Indians to the vacationer. Besides being the railhead, La Veta has also been the center of local agriculture and coal mining.

Mr. Speaker, the citizens of Colorado are proud of La Veta's 125-year heritage. It is an area rich in culture, history and heritage. For that Mr. Speaker, I would like to wish La Veta happy birthday and wish its citizens good luck and prosperity for the next 125 years.

HONORING YAKOV SMIRNOFF ON THE 15TH ANNIVERSARY OF HIS CITIZENSHIP

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. COX. Mr. Speaker, I rise today to pay tribute to Yakov Smirnoff, who will celebrate his 15th anniversary as a United States citizen on July 4, 2001.

When Yakov left the Soviet Union in 1977, he arrived in the U.S. with less than $100 in his pocket. But like so many new immigrants, Yakov quickly found a way to put his talents to use in his new country—and in only a few years he became one of America's most recognized comedians..

Yakov's brand of comedy appealed to so many Americans because it carried real insight. He poked fun at the daily consequences of Soviet tyranny, while displaying a remarkably American irreverence for our own foibles ("In the Soviet Union, I'd line up for three hours just to get a tasteless piece of meat and some stale bread; but in America, you can walk into any fast-food restaurant and get the same thing right away"). But he also reminded us of how fortunate we are to live in a free and democratic nation ("What a country!" became his signature line). In fact, Yakov has said that his comedy has helped him "share his attempts at becoming a real American with the audience."

Yakov's dream of becoming an American citizen was finally fulfilled on July 4, 1986, in a ceremony held at the Statue of Liberty. Describing his joy at the occasion, Yakov says: "I suddenly had a new revelation. You can go to Italy but never become Italian. You can go to France but never become French. But you can come to America and become an American."

When freedom came to the formerly captive peoples of the Soviet Empire, Yakov joked that "the end of the KGB eliminated 100 percent of the torture in Russia, 50 percent of the spying—and 30 percent of my punch lines." But in fact Yakov enjoys continued success in his comedic routines. In 1992, he moved to Branson, Missouri, where he owns his own comedy theater and performs to perennially sold-out shows.

Yakov says he will continue to relish having a job that allows him to encourage Americans to cherish the freedom we have to laugh at ourselves—and yes, at our government. "I've learned that the secret to being happy is discovering your gift and having the opportunity to share it with the world," he once said. "As I found out for myself, it can be quite a ride before your gift defines itself and allows you to realize what it is."

Mr. Speaker, I urge my colleagues to join with me in paying tribute to Yakov Smirnoff on the 15th anniversary of his citizenship. He truly embodies what it means to be an American. As we prepare to celebrate the 4th of July, the United States Congress can all join with Yakov and say, "What a country!"

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

SPEECH OF

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes:

Mr. KILDEE. Mr. Chairman, I rise today in strong support of the Bonior-Stupak-Kaptur amendment to prohibit expansion of drilling in or along the Great Lakes.

The Great Lakes rank among the most precious environmental treasures in the world. The five lakes hold almost 20 percent of the fresh water in the world, and they hold almost 90 percent of the United States' fresh water supply. The United State's share of Great Lakes shoreline is longer than the coastlines of either the East Coast or West Coast of our nation. Furthermore, the lakes' ecological diversity impacts ecosystems in eight states as well as much of Canada.

All five of the Great Lakes rank among the top eighteen largest lakes in the world. In fact, Lake Superior has the largest surface water of any fresh water lake in the world, and it holds more volume than all of the other Great Lakes combined. We should not put these treasures at risk for a small amount of fossil fuel.

Some colleagues want to compare drilling in the Great Lakes to drilling in ocean waters, but this line of thought compares apples to oranges.

First, the water exchange rate in the lakes is very slow, because they are essentially self-contained. A spill under these circumstances would devastate the ecology for many years, and it simply should not be risked.

Second, drilling in the lakes threatens fresh waters not salt waters, and a spill would compromise drinking water for millions.

Third, drilling in and along the lakes would yield only miniscule increases in energy supply for our nation.

When the risks are so high and rewards so low, it makes no sense to move forward with plans to implement drilling of any kind.

Finally, I wish to highlight an often overlooked fact about Michigan's relationship with the Great Lakes. They are the foundation of our state's robust tourism industry. In fact, tourism is the second largest industry in our state.

Americans from throughout the Midwest and beyond come to our lakeshores for recreation and relaxation. Just as Florida fears significant negative economic consequences when fuel spills threaten her coastline, so does Michigan.

The Great Lakes supply fresh water to many. They offer recreational resources to millions. They contribute to the ecology of a significant portion of the United States. We would be foolish to endanger.

Vote yes on this amendment.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes:

Ms. McCOLLUM. Mr. Chairman, I strongly oppose drilling of any kind beneath the Great Lakes and urge my colleagues to support the Bonior amendment.

Visit Minnesota's North Shore and you will immediately know why.

Lake Superior is a constant source of wonder. It helps shape our landscape and climate, it supports our economy and it enhances our quality of life.

Mr. Chairman, water is a precious resource in my state. We have over 10,000 lakes. Lake Superior, of course, is the most identifiable of Minnesota's lakes, its familiar wolf head shape visible from outer space.

Did you know the greatest of the Great Lakes (Lake Superior) is over 31,000 square miles, the same size as the entire state of Maine? Lake Superior also holds more fresh drinking water than all the other Great Lakes combined—Lake Ontario, Lake Michigan, Lake Huron, and four Lake Erie's.

Each year, millions of people from all over the world visit the lake in Minnesota for sightseeing, fishing, scuba diving and boating.

Lake Superior is also important to the economies of Minnesota and the entire Upper Midwest. Duluth, Minnesota and Superior, Wisconsin make up the busiest international inland port in America.

Our lakes, especially Lake Superior, are not isolated.

We are a part of a great chain of lakes. What happens in one lake does have an impact in all of the Lakes.

Mr. Chairman, the Great Lakes provide over 35 million people with their fresh drinking water. These lakes constitute twenty percent of the Earth's fresh water, 95% in the United States.

Why would anyone put our nation's largest source of fresh drinking water at risk?

Data from the Michigan Department of Environmental Quality shows that only 28.5% of one day's consumption of natural gas and 2.2% of one day's consumption of oil in the United States has been produced. Not enough for even one day has been produced in over 20 years.

The House last week wisely stopped the President's proposal to drill off the shores of Florida and in our national monuments. The Great Lakes are no less important.

I oppose drilling of any sort for oil and natural gas beneath the Great Lakes. Not because we do not need to find additional resources. We do. These lakes are just too vital to too many families and it's not worth the risk.

We are making progress in using energy more efficiently and reducing our reliance on oil and natural gas through energy efficiency technology and conservation. We must make bigger investments in current programs. Investments don't have to cost money either. We can and we must reduce our consumption by supporting wind and solar power and renewable fuels like ethanol.

Future generations depend on us not to jeopardize our nation's greatest natural resource. An oil spill or any related disaster on the shores of a Great Lake would impact the fresh drinking water for 35 million people. And for what? Less than a day's worth of oil and natural gas.

The Great Lakes are important to this nation. They are important to my state and to millions of families. They have been crucial in the historical and economic development of our communities and they continue to play a significant role in Minnesota, the nation and the world.

I urge my colleagues today to protect the drinking water of future generations. I urge my colleagues to support this important amendment.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

SPEECH OF

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes:

Mr. SMITH of New Jersey. Mr. Speaker, I would like to express my strong support for setting aside sufficient funding for Beach Protection projects, and to keep the current language in the bill which states that 65 percent of the initial construction costs of beach replenishment projects are to be financed by the Federal Government, and 35 percent of the costs are to be paid by states and local governments.

The fact of the matter is that our beaches are national assets that deserve national protection. Just like our national parks, our beaches are not enjoyed solely by those who live near or on them. Just the opposite is true: our beaches are visited by tens of millions of people from all over the country. Foreign tourists come from all parts of the globe to visit our coasts and beaches.

My good friend, Representative TOM TANCREDO of Colorado, has offered an amendment today to strike language in the bill that directs the Secretary of the Army to honor existing Federal contracts with States, counties, and cities throughout coastal America. Under the gentleman's amendment, the Federal government would essentially shirk its responsibility, and shuffle it onto the shoulders of state and local governments, by switching the cost share ratio to 35 percent federal/65 percent local.

I rise in opposition to this amendment, because it is bad national policy, as well as bad for local taxpayers in coastal communities.

Mr. Speaker, the record is clear: states and local governments have consistently shown their commitment to assist in the preservation and replenishment of beaches along the Nation's coastlines. The proposed Federal change in cost sharing would result in the delay or elimination of several important Corps of Engineers projects, which would potentially increase the property damage from hurricanes and severe storm events. Additionally, states and localities would not be able to absorb the increased costs without raising taxes or cutting other vital priorities.

Our nation's beaches contribute to our national economy—four times as many people visit our nation's beaches each year than visit all of our National Parks combined. And yet Congress provides copious funding for national parks—as it should. It is estimated that 75% of Ameicans will spend some portion of their vacation at the beach this year. Beaches are the most popular destination for foreign visitors to our country as well. The amount of money spent by beach-going tourists creates an extensive economic benefit—a portion of which goes back to the Federal government in the form of income and payroll taxes.

So to suggest, as the amendment from Mr. TANCREDO does, that beach protection confers benefits to only a handful of beach-house owners, is simply false. Just look at my own State of New Jersey. Tourism is the second greatest contributor to the New Jersey economy. In 1999, tourism brought $27.7 billion to the state. Out of the 167 million trips made to New Jersey in 1999, 101 million were to the Shore area.

I would also like to thank the Committee for setting aside $413,000 in funds to complete the next stage of the Manasquan Inlet Project, which extends from the Manasquan Inlet to the Barnegat Inlet and includes the beaches of several coastal towns in Ocean County, which are in my district.

Additionally, the Manasquan Inlet is absolutely crucial the fishing industry and the general economic health of the New Jersey metropolitan shore. It is through the Manasquan Inlet that many large deep-sea fishing vessels gain their entry to the ocean and where they can return with their catch. Nearly 22,000 people are employed by the fishing industry in New Jersey, with an economic output of almost $2.1 billion. Protecting the beaches and preventing erosion benefits more than just the tourism industry.

Mr. Speaker, I urge all members of Congress to protect our nation's beaches, coastal communities and tourism industry by keeping the Federal/Local cost share at 65 percent Federal, 35 percent local.

Vote "no" on the Tancredo amendment.

PCBS IN THE HUDSON RIVER

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HINCHEY. Mr. Speaker, I rise today to commend to my colleagues the following article written by Ned Sullivan on the issue of PCB contamination in the Hudson River of New York. Ned is the highly respected executive director of Scenic Hudson, Inc., a 37 year-old nonprofit environmental organization dedicated to protecting and enhancing the scenic, natural, historic, agricultural and recreational treasures of the Hudson River and its valley. Ned and I have worked together for many years in pursuit of removing sediment contaminated by polychlorinated biphenyls (PCBs) from the "hot spots" in the upper Hudson River, in order to reduce threats to public health, revive local economies, reopen recreational opportunities along the river. I appreciate Ned's thoughtful analysis of this important issue.

PCBs Pose Major Health Threat to New York City, and Beyond

(By Ned Sullivan)

For decades masses of the invisible, virtually indestructible cancer-causing PCBs that General Electric dumped from its factories on the Upper Hudson have moved down the majestic river, reaching dangerous levels in New York Harbor. They are still coming, clinging fiercely to the river's shifting silt, threatening the health of millions.

There is no question that GE has the responsibility for cleaning up the worst of them at their source, as the U.S. Environmental Protection Agency has ruled after years of intensive study. In doing so the EPA employed methodologies endorsed by the General Accounting Office (GAO) and worldwide peer review.

GE has mounted a massive advertising and public relations effort aimed at reversing the EPA's decision. It has a force of seventeen high-powered lobbyists hard at work on the matter in Washington. For good measure the company's legal battalions have challenged provisions of the U.S. Superfund cleanup laws as unconstitutional.

However these are the facts of the matter:

According to the EPA, the Agency for Toxic Substances and Disease Registry (U.S. Public Health Service) and the World Health Organization among others, PCBs are "an acute and chronic health hazard." Humans exposed to the lethal substances are subject to skin, liver and brain cancers; respiratory impairments; severe acne-like skin rashes; impaired immune systems, adult reproductive system damage, and perhaps worst of all neurological defects and developmental disorders in the children of exposed females.

David Carpenter, the highly respected former dean of the School of Public Health at SUNY/Albany, has stated: "Our understanding of hazards from PCBs is growing much more rapidly than PCB levels are declining. So over time, the net reason for concern has only gotten greater, not less. Any time you decrease the IQ of your next generation, that's the ultimate pollution."

The PCBs enter the food chain through fish and move upward rapidly through animals and humans. EPA health risk assessments reveal that humans eating just one meal of fish from the Hudson River per week are one thousand times more susceptible to cancer. The risk of other deleterious effects also increases significantly. The New York State Department of Health advises women of childbearing age and children under age 15 not to eat any fish from anywhere in the Hudson.

Unfortunately large numbers of people, including the underprivileged who fish for subsistence and not sport; ethnic groups whose cultures embrace fishing, and even upscale sportspersons whose enjoyment includes cooking the catch, continue to eat Hudson fish in quantity despite the warning signs posted up and down the river.

PCBs build up in the environment, the technical word is bioaccumulate, becoming more concentrated as they move up the food chain to the human level. Less than a month ago, scientists retained by the New York State Department of Environmental Conservation (DEC) released new evidence that the PCBs have been moving from the river's bottom onto land, where they are contaminating soil and animals along the banks, and in residential back yards.

This stands in sharp contrast to the advertising campaign GE has been waging on the upper Hudson, showing abundant, flourishing wildlife flying over and splashing in a sparkling river.

The public has not been taken in by GE's massive disinformation campaign. A statistically valid (plus or minus 3.5 percent) Marist College poll sponsored by Scenic Hudson reveals that 84 percent of those interviewed said the river should be cleaned up. That qualifies as a landslide.

There is no question that the Hudson must be cleaned up. Scenic Hudson has interviewed senior representatives from more than two dozen scientific, academic, governmental and environmental institutions and found every one of them in favor of a cleanup. GE stands alone in insisting that science is on its side.

It is high time General Electric honored its obligations to the public.

SENATE—*Monday, July 9, 2001*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, we return to the work of this busy month ahead with the words and the music of the Independence Day celebration sounding in our souls. Now that the fireworks are over, work in us the fire of patriotism that has been the secret of truly great leaders throughout our history. We pray for the women and men of this Senate. Enlarge their hearts until they are big enough to contain the gift of Your spirit; expand their minds until they are capable of thinking Your thoughts; deepen their mutual trust so that they can work harmoniously for what is best for this Nation. You know all the legislation to be debated and voted on before the August recess. Grant the Senators a profound trust in You, a deep desire to seek Your will, and an unlimited supply of Your supernatural strength.

With renewed interdependence and deep dependence on You as fellow patriots, galvanize the Senators in the spirit of our founders expressed in their reliance on You and the pledge of their lives, fortunes, and their sacred honor for the next stage of Your strategy for America. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 o'clock p.m. with Senators permitted to speak therein for up to 10 minutes each.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, as the Chair announced, we are going to be in morning business until 1 p.m. At 1 p.m. the Senate will begin consideration of the supplemental appropriations bill under the previous order which calls for amendments to be offered prior to 6 p.m.

Over 40 amendments have been filed. I hope and guess that probably all of those will not be offered before 6 o'clock. But I would say to the Chair that I hope Senators will come to the floor and offer those amendments, debate them, so arrangements can be made as to whether the managers will accept the amendments or whether a time will be set in the future for votes. It is the leader's expectation we will finish this bill tomorrow. There are other appropriations bills we would like to finish this week also. In fact, the leader has every desire to finish the Interior appropriations bill and the supplemental bill this week. We will hear more from the leader at a subsequent time. But these are the two bills we must finish this week, and if we can finish them Thursday, that will be fine. I am sure, if we can't, the leader will want to go into Friday to complete the bills, or if it takes longer than that. I think they are both capable of being finished very quickly.

There are no rollcall votes today. There will be no rollcall votes until 2:15 tomorrow after the party caucuses.

BIPARTISAN PATIENTS' BILL OF RIGHTS

Mr. REID. Mr. President, before we adjourned for the recess, the Senate passed the bipartisan McCain-Kennedy-Edwards Patients' Bill of Rights and proved that protecting patients' rights is not a partisan issue. We can all be proud of the strong bipartisan compromises we reached which have the support of virtually every health care provider group in this country. This bill has achieved such overwhelming support because it represents a balanced approach to ensuring patient safety and health plan accountability without significantly raising premiums or employer costs.

This landmark legislation will ensure that every privately insured American can enjoy important patient protection. For example, the bill will ensure that patients can have access to emergency room care; women can easily access OB/GYN services; children can access the specialty care they need; patients can access the prescription drugs prescribed for them; patients can participate in potential lifesaving clinical trials; patients can access necessary specialists, even if it means going out of the plan's provider network; chronically ill patients can receive the specialty care they need in an attempt to save their lives; patients with ongoing health care needs have continuity of care; and patients can hold their managed care plan accountable when plan decisions to withhold or limit care result in injury or death.

When I went home this past week people said, What does the bill do? Briefly, it is very old-fashioned in nature. It allows a doctor to render care that that doctor believes is appropriate to take care of that patient, whether it be prescribing drugs, whether it be surgery or other treatment. That is what the bill does.

Passage of this bill would not have been possible without the dedication and hard work of many people. First of all, the distinguished majority leader, Mr. DASCHLE, was involved in this legislation in its formative stage and every day we were in the Chamber. I think this showed to the American public what most of us have known for many years—that Senator DASCHLE really is a great leader. He indicated we were going to finish the bill before the Fourth of July break. Some people smiled, some snickered, and some thought it would be totally impossible. But it was done. It was done with all amendments being offered. Cloture was not filed. It was the way legislation should move. We spent some long hours in this Chamber, but as a result of his leadership we were able to do this work. This is an issue on which he has been working for 5 years; for 5 years we have waited to pass this meaningful and enforceable Patients' Bill of Rights that will protect all privately insured Americans. And I say again, Senator DASCHLE was able to forge bipartisan support for this critical legislation and ensure passage as a result of his patience.

We indeed also have to acknowledge the work done by the chairman of the Health, Education, Labor, and Pensions Committee, Senator TED KENNEDY. He was on this floor every minute of every day not only for the 2 weeks it took to pass the Patients' Bill of Rights but for 2 weeks prior to do the education bill. He has worked on this issue longer than anyone, was able to confront every contentious amendment, and managed to keep the integrity of the bill totally intact. Senator KENNEDY did great work. It shows what a fine Senator he is. Those of us who depend on him for leadership always

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

have this bill to look to, to indicate what a great Senator he is.

Senator KENNEDY has had wide experience. One of the leaders in this bill was someone without the experience of Senator KENNEDY but who did great work: Senator EDWARDS of North Carolina. He proved his skill, his leadership, and his dedication to being a legislator by his work on this meaningful Patients' Bill of Rights. He has, since he came to the Senate, been a tireless voice for America's patients, and I and the rest of America are grateful for his contributions to the rest of this legislation.

Finally, I extend my thanks to Senator JOHN MCCAIN from the other side of the aisle. During his run for President of the United States, Senator MCCAIN promised the American people he would work to pass a Patients' Bill of Rights, and he did that. His name was first on this bill and he was involved as we proceeded through this legislation. He has been an extraordinary leader on this issue. Without his work, this bill would not have been possible.

It would not be fair to talk only about the proponents of this legislation. Senator JUDD GREGG did an outstanding job on this bill. He was here the entire 2 weeks. He had some difficult issues to work through. I think he did an excellent job of bringing the amendments that were meaningful to the floor at the right time. We were able to have complete and fair debate. I always had great appreciation of him.

I served with Senator GREGG when he became a Member of the House of Representatives. He left to become a two-term Governor of the State of New Hampshire. He came back—to the Senate.

I always had great respect for his abilities and certainly they were evident during the work he did on the Patients' Bill of Rights. Even though he was on the losing side of votes on many of the amendments that were offered, he was always a gentleman and a scholar. I think he did himself and this Senate very well with his work.

The Senate-passed Patients' Bill of Rights contains every one of the patient protections listed in President Bush's statement of principles. I hope the House of Representatives will work towards swift passage of this bill and that the President will sign into law this truly bipartisan legislation that will improve the quality of life for all Americans.

The PRESIDENT pro tempore. The Chair will state the time until 12:30 p.m. will be under the control of the Senator from Illinois, Mr. DURBIN, or his designee, and from 12:30 p.m. until 1 p.m. the time will be under the control of the Senator from Wyoming, Mr. THOMAS, or his designee.

Mr. REID. Mr. President, if the Senator from Wyoming wishes to say a few words, I am happy to yield him time under our time. How much time does the Senator want?

Mr. THOMAS. I was going to ask the question the President pro tempore has already answered. Thank you.

Mr. REID. The Senator from North Dakota has the rest of the time.

The PRESIDENT pro tempore. The Senator from North Dakota.

MEXICAN LONG-HAUL TRUCKS ON U.S. HIGHWAYS

Mr. DORGAN. Mr. President, later this week and perhaps through the summer we will have a discussion in both the Senate and the House about a very controversial issue. This administration and this Government will allow Mexican long-haul truckers to move across the border from Mexico into this country to drive their trucks on the highways and byways of this country unrestricted on the grounds that the North American Free Trade Agreement requires us to do so. However, after signing NAFTA the previous administration decided, because of serious safety concerns, not to allow the Mexican truckers to come in unrestricted on America's highways. At the moment, we allow them to cross the border and operate only in a zone within 20-miles from the Mexican border, on short-haul trucks.

The Bush administration is now going to lift that restriction. That is going to cause some very serious controversy. I want to explain today why that is an important issue.

A San Francisco Chronicle reporter named Robert Collier recently went on a 3-day trip with a long-haul trucker in Mexico. His article in the San Francisco Chronicle is quite interesting and quite revealing. I ask unanimous consent to have it printed at the conclusion of my remarks in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. DORGAN. What is this issue of Mexican trucks coming into the United States? Why is it important and why will it provoke controversy? Simply, the issue is this: We inspect just 1 to 2 percent of the Mexican trucks that come into this country and operate within the 20-mile restriction. And 36 percent of those Mexican trucks are turned back into Mexico for serious safety violations.

In other words, up to now, we have told Mexican truckers: We will not allow you to drive on American roads because you don't meet American safety standards. Mr. President, 98 to 99 percent of the trucks were never inspected at all because we do not have nearly enough inspectors at the border. But of those that were inspected, 36 percent were turned back into Mexico for serious safety violations.

Mexico has a regime of safety issues dealing with truckers that is very lax. They are printed at the end of the article I previously mentioned. Let me run through a few of these. It says:

Hours-of-service limits for drivers: In the United States, we limit truckers to 10 hours of consecutive driving and then they must rest. That is all you can do in the United States, 10 hours. In Mexico, the sky is the limit. In fact, this reporter rode with one Mexican long-haul trucker for 3 days. In 3 days of driving a truck, the Mexican driver slept 7 hours—7 hours in 3 days. There is no restriction on hours with respect to Mexican drivers and truckers.

Random drug tests: In the United States, yes for all drivers; in Mexico, no.

Automatic disqualification for certain medical conditions: In the United States, yes; in Mexico, no.

Standardized logbooks: In the United States, yes, and you better fill them out. In Mexico, virtually no truckers use a logbook. The new law is not enforced.

Maximum weight limit for trucks: In the United States, 80,000 pounds; in Mexico, 135,000 pounds.

The point is, under NAFTA, it has been determined that the United States should allow Mexican long-haul truckers into this country unrestricted. I wonder if you want a Mexican trucker in your rear-view mirror on an American interstate, coming down the highway with questionable brakes, with questionable equipment, in a circumstance where over a third of all the trucks that we have inspected—and we have only inspected an infinitesimal number—over a third of them have been found to have serious safety violations.

This isn't rocket science. Of course, we should not allow unrestricted long-haul truckers to come into this country on America's roads; not until they meet all the requirements for safety that we require of our own trucking companies and our own drivers. This is not a hard question.

On the appropriations bill in the House of Representatives there was an amendment added that prohibits funding for permitting Mexican truckers to come into this country on an unrestricted basis. I have indicated I intend to offer a similar amendment in the Senate. I have offered stand-alone legislation which is more comprehensive than that, but it seems to me it is useful to offer language identical to that of the House because then it would be non-conferenceable and the restriction would become law when the appropriations bill is signed.

Senator MURRAY, the chair of the Transportation Appropriations subcommittee, talked to me and I know she is working on some language. I have not yet had an opportunity to see what that language is, but I appreciate the work she is doing. I hope when the appropriations bill leaves the Senate, we will have included similar or identical language to that in the House; language that says we will not allow Mexican long-haul trucks into this country on an unrestricted basis jeopardizing the safety of Americans who are driving on the roads—virtually all citizens who are driving on our roads. We do not want these safety questions to have to be in their minds.

This is a very important issue. It is one more evidence of a trade strategy that is inherently weak, that trades away our interests. How can we adopt a trade policy with another country that says: Oh, by the way, we will not allow anything that reflects safety issues from one side or the other to come in the way of trade?

It doesn't make any sense to me.

This is a paramount example of trading away our ability to make safety on America's roads something that is of significant concern. We have not gotten to the position of requiring safety equipment, driver's logs, and hours of service restrictions just because we want to regulate; we did it out of concern for safety. When you are driving down the road and have an 18-wheel truck behind you full of tons and tons of material, you want to make sure that truck has been inspected, that the truck has safety equipment, and that the truck is not going to come through the back of your car right up to the rearview mirror if you happen to put on your brakes in an emergency.

This is an important issue on its own. Giving up our ability to decide whether we will allow unsafe trucks to enter United States highways from Mexico is almost unforgivable. But it is part and parcel of a trade policy that has been bankrupt for a long while.

That brings me to another question about trade agreements. The administration is talking a lot now about fast-track. They want fast-track ability to do new trade agreements. I have some advice for them. I say: If you really want to fast-track something, why don't you fast-track solving some trade problems that you, along with previous administrations, have created through signing past trade agreements. Don't deal with Congress if you need fast-track legislative authority for anybody or anything; deal with fast-track trade solutions yourself.

Let me give you some examples of issues that the Administration might want to fast-track.

Today, in Canada, they are loading trucks and railroad cars full of molasses to bring into the United States. The molasses is loaded with Brazilian sugar and sent to Canada so it can be added to molasses. The molasses is a carrier that is used to circumvent our quota on sugar imports. They subvert the sugar quota by sending Brazilian sugar through Canada loaded as molasses. It is called stuffed molasses. It is fundamentally unfair trade, but we can not get anything done about it.

If you want fast track, let's fast track a solution to solving the stuffed molasses scheme.

Fast track: How about this? Do you know how many American movies we got into China last year? Ten. Ten American movies got into China—a country with an $80 billion trade surplus with the United States. This is intellectual property. It is entertainment. We got 10 movies into China because they say: That is all you can get into our country.

What about the issue of automobiles? Do you know how many automobiles we bought from Korea last year? Americans bought 450,000 cars from companies building cars in Korea. Do you know how many United States-produced cars were sold in the country of Korea last year? Twelve hundred—four hundred and fifty thousand to twelve hundred. Why? Because Korea doesn't want American cars in Korea. So they ship us their cars and then keep our cars out.

How about something more parochial that comes from the rich soil of the Red River Valley that I represent? They grow wonderful potatoes—the best potatoes in the world. One of the things you can do with potatoes is make potato flakes and ship those flakes around the world. They are used in fast food. So you try to ship potato flakes to Korea. Guess what you find. Shipping potato flakes to Korea means that Korea imposes a 300-percent tariff on potato flakes. Imagine that. Poor little potato flakes with a 300-percent tariff.

In all of the issues about tariffs, everybody talks about tariffs and reducing tariffs. Twelve years after we reached a beef agreement with Japan—a country that every year has a $50 billion to $80 billion trade surpluses with us—there still remains on every pound of T-bone steaks sent to Tokyo a 38.5-percent tariff. Can you imagine that? Every pound of American beef getting into Japan still has a 38.5-percent tariff. When they reached the beef agreement, my God, you would have thought they had just won the Olympics. They had dinners and congratulated each other—good for all of these folks who reach trade agreements. Yet, twelve years later, we still have a 38.5-percent tariff on every single pound of beef we send to Japan.

That is just a sample. Potato flakes, cars to Korea, beef to Japan, stuffed molasses from Canada, and movies to China—you name it.

I say to those who come to us saying we want fast track: look, you don't need fast track from Congress. I am sure not going to give it to you. You don't deserve it. You have constructed trade agreements that, No. 1, threaten safety in this country by saying to us in those agreements you have to let trucks that are fundamentally unsafe come in from Mexico. You constructed trade agreements that have allowed the Canadians to dump durum wheat across our border.

I have told the story repeatedly—it bears telling again—of driving up to the border in a little 12-year-old orange truck with a farmer named Earl Jenson, and all the way to the Canadian border we saw 18-wheeler after 18-wheeler hauling Canadian durum wheat south. It was such a windy day that the grain was coming out from under the tarps of these big semis hauling Canadian durum wheat, splattering against our windshield every time we met one. I counted a lot of trucks coming from the other border.

When we got to the border with the 12-year-old 2-ton orange truck with a small amount of durum on it, we were told: You can't take that into Canada. You can't take American durum wheat into Canada. So we got turned around with the little 12-year-old orange truck, despite the fact that all of these semis all day long came down from Canada—evidence, it seems to me, of just one more thorn that exists in this trade circumstance, one more burr under the saddle for all those farmers and ranchers out there who have been taken by unfair trade agreements negotiated by our trade negotiators who should have known better, by trade negotiators who did not seem to stand up for this country's interest in the final agreement. They were more interested in getting an agreement than they were in getting a fair agreement.

Again, I say to the Trade Ambassador and others, if you want fast track, hold up a mirror and say this in the morning: Fast track for me means solving trade problems, solving the Canadian durum problem, solving the Canadian stuffed molasses problem, solving the problem of our getting cars into Korea, potato flakes into Korea, movies into China, and beef into Japan.

I can stand here and cite a couple of dozen more, if you like.

Show us you can solve problems rather than creating problems, then come back to us and talk. But don't suggest to me that we do something for you to negotiate a new agreement unless you have solved the problems of the old trade agreements—yes, GATT, NAFTA, you name it, right on down the road.

I have always, when I have spoken about trade, threatened to suggest that we require our trade negotiators to wear uniforms. In the Olympics, they wear a jersey. It says "U.S.A." across the chest. So at least in some quiet moment in some negotiating meeting someplace, these trade negotiators who seem so quick to lose are willing to look down and see whom they really represent.

Will Rogers used to say, "The United States of America has never lost a war and never won a conference." He surely must have been thinking about our trade negotiators, because in agreement after agreement after agreement we seem to end up on the short end.

That is especially true with a trade agreement that now puts us in a circumstance where we are told we are supposed to allow Mexican long-haul trucks to come into this country under the provisions of the trade agreement notwithstanding the safety issues. That is not fair. It is not right. To do so would not be standing up for the best interests of the American people.

We are going to have a fight about this. We are going to have controversy about it. But as I said when I started, this ought not be rocket science. We cannot and should not decide that these trade agreements either force us or allow us to sacrifice the basic safety of the American people. It doesn't matter whether it is safety on the roads, safety with respect to food inspection, you name it. We cannot and should not allow these trade agreements to force us to sacrifice safety.

We should insist just once and for a change that our trade negotiators stand up for this country's interest. There is nothing inappropriate and nothing that ought to persuade us to be ashamed of standing up for our best economic interests. Yes, we can do that in a way that enriches all of the world and in a way that helps pull others up and assist others in need.

We can do that, but we also ought to understand we have people in need in this country. American family farmers are going broke. We have all kinds of people losing their jobs in the manufacturing sector. Manufacturing is a sector in this country that is very important and has been diminishing rather than expanding.

So let's decide to do the right thing with respect to trade. I want expanded trade. I want robust trade. I do not believe we should construct walls. I do not believe that a protectionist—using the pejorative term—is someone who enhances this country's interests. But using the term "protection," let me just be quick to point out there is nothing wrong with protecting our country's best interests with respect to trade agreements that will work for this country.

So we will have this discussion this week on the Transportation Appropriations bill, that will be under the able leadership of Senator MURRAY. My expectation is we will resolve this in a way that is thoughtful and in a way that expresses common sense in dealing with Mexican long-haul truckers coming into this country.

I yield the floor.

EXHIBIT 1

[From the San Francisco Chronicle, Mar. 4, 2001]

MEXICO'S TRUCKS ON HORIZON—LONG-DISTANCE HAULERS ARE HEADED INTO U.S. ONCE BUSH OPENS BORDERS

(By Robert Collier)

ALTAR DESERT, MEXICO.—[Editor's Note: This week, the Bush administration is required by NAFTA to announce that Mexican long-haul trucks will be allowed onto U.S. highways—where they have long been banned over concerns about safety—rather than stopping at the border. The Chronicle sent a team to get the inside story before the trucks start to roll.]

It was sometime way after midnight in the middle of nowhere, and a giddy Manuel Marquez was at the wheel of 20 tons of hurtling, U.S.-bound merchandise.

The lights of oncoming trucks flared into a blur as they whooshed past on the narrow, two-lane highway, mere inches from the left mirror of his truck. Also gone in a blur were Marquez's past two days, a nearly Olympic ordeal of driving with barely a few hours of sleep.

"Ayy, Mexico!" Marquez exclaimed as he slammed on the brakes around a hilly curve, steering around another truck that had stopped in the middle of the lane, its hood up and its driver nonchalantly smoking a cigarette. "We have so much talent to share with the Americans—and so much craziness."

Several hours ahead in the desert darkness was the border, the end of Marquez's 1,800-mile run. At Tijuana, he would deliver his cargo, wait for another load, then head back south.

But soon, Marquez and other Mexican truckers will be able to cross the border instead of turning around. Their feats of long-distance stamina—and, critics fear, endangerment of public safety—are coming to a California freeway near you.

Later this week, the Bush administration is expected to announce that it will open America's highways to Mexican long-haul trucks, thus ending a long fight by U.S. truckers and highway safety advocates to keep them out.

Under limitations imposed by the United States since 1982, Mexican vehicles are allowed passage only within a narrow border commercial zone, where they must transfer their cargo to U.S.-based long-haul trucks and drivers.

The lifting of the ban—ordered last month by an arbitration panel of the North American Free Trade Agreement—has been at the center of one of the most high-decibel issues in the U.S.-Mexico trade relationship.

Will the end of the ban endanger American motorists by bringing thousands of potentially unsafe Mexican trucks to U.S. roads? Or will it reduce the costs of cross-border trade and end U.S. protectionism with no increase in accidents?

Two weeks ago, as the controversy grew, Marquez's employer, Transportes Castores, allowed a Chronicle reporter and photographer to join him on a typical run from Mexico City to the border.

The three-day, 1,800 mile journey offered a window into a part of Mexico that few Americans ever see—the life of Mexican truckers, a resourceful, long-suffering breed who, from all indications, do not deserve their pariah status north of the border.

But critics of the border opening would also find proof of their concerns about safety:

—American inspectors at the border are badly undermanned and will be hard-pressed to inspect more than a fraction of the incoming Mexican truckers.

California—which has a much more rigorous truck inspection program than Arizona, New Mexico or Texas, the other border states—gave full inspections to only 2 percent of the 920,000 short-haul trucks allowed to enter from Mexico last year.

Critics say the four states will be overwhelmed by the influx of Mexican long-haul trucks, which are expected to nearly double the current volume of truck traffic at the border.

—Most long-distance Mexican trucks are relatively modern, but maintenance is erratic.

Marquez's truck, for example, was a sleek, 6-month-old, Mexican-made Kenworth, equal to most trucks north of the border. But his windshield was cracked—a safety violation that would earn him a ticket in the United States but had been ignored by his company since it occurred two months ago.

A recent report by the U.S. Transportation Department said 35 percent of Mexican trucks that entered the United States last year were ordered off the road by inspectors for safety violations such as faulty brakes and lights.

—Mexico's domestic truck-safety regulation is extremely lax. Mexico has no functioning truck weigh stations, and Marquez said federal police appear to have abandoned a program of random highway inspections that was inaugurated with much fanfare last fall.

—Almost all Mexican long-haul drivers are forced to work dangerously long hours.

Marquez was a skillful driver, with lightning reflexes honed by road conditions that would make U.S. highways seem like cruise-control paradise. But he was often steering through a thick fog of exhaustion.

In Mexico, no logbooks—required in the United States to keep track of hours and itinerary—are kept.

"We're just like American truckers, I'm sure," Marquez said with a grin. "We're neither saints nor devils. But we're good drivers, that's for sure, or we'd all be dead."

Although no reliable statistics exist for the Bay Area's trade with Mexico, it is estimated that the region's exports and imports with Mexico total $6 billion annually. About 90 percent of that amount moves by truck, in tens of thousands of round trips to and from the border.

Under the decades-old border restrictions, long-haul trucks from either side must transfer their loads to short-haul "drayage" truckers, who cross the border and transfer the cargo again to long-haul domestic trucks. The complicated arrangement is costly and time-consuming, making imported goods more expensive for U.S. consumers.

Industry analysts say that after the ban is lifted, most of the two nations' trade will be done by Mexican drivers, who come much cheaper than American truckers because they earn only about one-third the salary and typically drive about 20 hours per day.

Although Mexican truckers would have to obey the U.S. legal limit of 10 hours consecutive driving when in the United States, safety experts worry that northbound drivers will be so sleep-deprived by the time they cross the border that the American limit will be meaningless. Mexican drivers would not, however, be bound by U.S. labor laws, such as the minimum wage.

"Are you going to be able to stay awake?" Marcos Munoz, vice president of Transportes Castores jokingly asked a Chronicle reporter before the trip. "Do you want some pingas?"

The word is slang for uppers the stimulant pills that are commonly used by Mexican truckers. Marquez, however, needed only a few cups of coffee to stay awake through three straight 21-hour days at the wheel.

Talking with his passengers, chatting on the CB radio with friends, and listening to tapes of 1950s and 1960s ranchera and bolero music, he showed few outward signs of fatigue.

But the 46-year-old Marquez, who has been a trucker for 25 years, admitted that the burden occasionally is too much.

"Don't kid yourself," he said late the third night. "Sometimes, you get so tired, so worn, your head just falls."

U.S. highway safety groups predict an increase in accidents after the border is opened.

"Even now, there aren't enough safety inspectors available for all crossing points," said David Golden, a top official of the National Association of Independent Insurers, the main insurance-industry lobby.

"So we need to make sure that when you're going down Interstate 5 with an 80,000-pound Mexican truck in your rearview mirror and you have to jam on your brakes, that truck doesn't come through your window."

Golden said the Bush administration should delay the opening to Mexican trucks until border facilities are upgraded.

California highway safety advocates concur, saying the California Highway Patrol—which carries out the state's truck inspections—needs to be given more inspectors and larger facilities to check incoming trucks' brakes, lights and other safety functions.

Marquez's trip started at his company's freight yard in Tlalnepantla, an industrial suburb of Mexico City. There, his truck was loaded with a typical variety of cargo—electronic components and handicrafts bound for Los Angeles, and chemicals, printing equipment and industrial parts for Tijuana.

At the compound's gateway was a shrine with statues of the Virgin Mary and Jesus. As he drove past, Marquez crossed himself, then crossed himself again before the small Virgin on his dashboard.

"Just in case, you know," he said. "The devil is always on the loose on these roads."

In fact, Mexican truckers have to brave a wide variety of dangers.

As he drove through the high plateaus of central Mexico, Marquez pointed out where he was hijacked a year ago—held up at gunpoint by robbers who pulled alongside him in another truck. His trailer full of canned tuna—easy to fence, he said—was stolen, along with all his personal belongings.

What's worse, some thieves wear uniforms.

On this trip, the truck had to pass 14 roadblocks, at which police and army soldiers searched the cargo for narcotics. Each time, Marquez stood on tiptoes to watch over their shoulders. He said, "You have to have quick eyes, or they'll take things out of the packages."

Twice, police inspectors asked for bribes—"something for the coffee," they said. Each time, he refused and got away with it.

"You're good luck for me," he told a Chronicle reporter. "They ask for money but then see an American and back off. Normally, I have to pay a lot."

Although the Mexican government has pushed hard to end the border restrictions, the Mexican trucking industry is far from united behind that position. Large trucking companies such as Transportes Castores back the border opening, while small and medium-size ones oppose it.

"We're ready for the United States, and we'll be driving to Los Angeles and San Francisco," said Munoz, the company's vice president.

"Our trucks are modern and can pass the U.S. inspections. Only about 10 companies here could meet the U.S. standards."

The border opening has been roundly opposed by CANACAR, the Mexican national trucking industry association, which says it will result in U.S. firms taking over Mexico's trucking industry.

"The opening will allow giant U.S. truck firms to buy large Mexican firms and crush smaller ones," said Miguel Quintanilla, CANACAR's president. "We're at a disadvantage, and those who benefit will be the multinationals."

Quintanilla said U.S. firms will lower their current costs by replacing their American drivers with Mexicans, yet will use the huge American advantages—superior warehouse and inventory-tracking technology, superior warehouse and inventory-tracking technology, superior access to financing and huge economies of scale-to-drive Mexican companies out of business.

Already, some U.S. trucking giants such as M.S. Carriers, Yellow Corp. and Consolidated Freightways Corp. have invested heavily in Mexico.

"The opening of the border will bring about the consolidation of much of the trucking industry on both sides of the border," said the leading U.S. academic expert on NAFTA trucking issues, James Giermanski, a professor at Belmont Abbey College in Raleigh, N.C.

The largest U.S. firms will pair with large Mexican firms and will dominate U.S.-Mexico traffic, he said.

But Giermanski added that the increase in long-haul cross-border traffic will be slower than either critics or advocates expect, because of language difficulties, Mexico's inadequate insurance coverage and Mexico's time-consuming system of customs brokers.

"All the scare stories you've heard are just ridiculous," he said. "The process will take a long time."

In California, many truckers fear for their jobs. However, Teamsters union officials say they are trying to persuade their members that Marquez and his comrades are not the enemy.

"There will be a very vehement reaction by our members if the border is opened," said Chuck Mack, president of Teamsters Joint Council 7, which has 55,000 members in the Bay Area.

"But we're trying to diminish the animosity that by focusing on the overall problem—how (the opening) will help multinational corporations to exploit drivers on both sides of the border."

Mexican drivers, however, are likely to welcome the multinationals' increased efficiency, which will enable them to earn more by wasting less time waiting for loading and paperwork.

For example, in Mexico City, Marquez had to wait more than four hours for stevedores to load his truck and for clerks to prepare the load's documents—a task that would take perhaps an hour for most U.S. trucking firms.

For drivers, time is money, Marquez's firm pays drivers a percentage of gross freight charges, minus some expenses. His three-day trip would net him about $300. His average monthly income is about $1,400—decent money in Mexico, but by no means middle class.

Most Mexican truckers are represented by a union, but it is nearly always ineffectual—what Transportes Castores executives candidly described as a "company union." A few days before this trip, Transportes Castores fired 20 drivers when they protested delays in reimbursement of fuel costs.

But Marquez didn't much like talking about his problems. He preferred to discuss his only child, a 22-year-old daughter who is in her first year of undergraduate medical school in Mexico City.

Along with paternal pride was sadness.

"Don't congratulate me," he said. "My wife is the one who raised her. I'm gone most of the time. You have to have a very strong marriage, because this job is hell on a wife.

"The money is OK, and I really like being out on the open road, but the loneliness . . ." He left the thought unfinished, and turned up the volume on his cassette deck.

It was playing Pedro Infante, the famous bolero balladeer, and Marquez began to sing.

"The moon of my nights has hidden itself.

"Oh little heavenly virgin, I am your son.

"Give me your consolation,

"Today, when I'm suffering out in the world."

Despite the melancholy tone, Marquez soon became jovial and energetic. He smiled widely and encouraged his passengers to sing along. Forgoing his normal caution, he accelerated aggressively on the curves.

His voice rose, filling the cabin, drowning out the hiss of the pavement below and the rush of the wind that was blowing him inexorably toward the border.

HOW NAFTA ENDED THE BAN ON MEXICO'S TRUCKS

The North American Free Trade Agreement, which went into effect in January 1994, stipulated that the longtime U.S. restrictions on Mexican trucks be lifted.

Under NAFTA, by December 1995, Mexican trucks would be allowed to deliver loads all over the four U.S. border states—California, Arizona, New Mexico and Texas—and to pick up loads for their return trip to Mexico. U.S. trucking firms would get similar rights to travel in Mexico. And by January 2000, Mexican trucks would be allowed throughout the United States.

However, bowing to pressure from the Teamsters union and the insurance industry, President Clinton blocked implementation of the NAFTA provisions. The Mexican government retaliated by imposing a similar ban on U.S. trucks.

As a result, the longtime status quo continues: Trucks from either side must transfer their loads to short-haul "drayage" truckers, who cross the border and transfer the cargo again to long-haul domestic trucks.

The complicated arrangement is time-consuming and expensive. Mexico estimates its losses at $2 billion annually; U.S. shippers say they have incurred similar costs.

In 1998, Mexico filed a formal complaint under NAFTA, saying the U.S. ban violated the trade pact and was mere protectionism. The convoluted complaint process lasted nearly six years, until a three-person arbitration panel finally ruled Feb. 6 that the United States must lift its ban by March 8 or allow Mexico to levy punitive tariffs on U.S. exports.

COMPARING TRUCKING REGULATIONS

The planned border opening to Mexican trucks will pose a big challenge to U.S. inspectors, who will check to be sure that trucks from Mexico abide by stricter U.S. truck-safety regulations. Here are some of the differences:

Hours-of-service limits for drivers—In U.S.: yes. Ten hours' consecutive driving, up to 15 consecutive hours on duty, 8 hours' consecutive rest, maximum of 70 hours' driving in eight-day period; in Mexico: no.

Driver's age—In U.S.: 21 is minimum for interstate trucking; in Mexico: 18.

Random drug test—In U.S.: yes, for all drivers; in Mexico: no. Automatic disqualification for certain medical conditions in U.S.: yes; in Mexico: no.

Logbooks—In U.S.: yes, standardized logbooks with date graphs are required and part of inspection criteria; in Mexico: a new law requiring logbooks is not enforced, and virtually no truckers use them.

Maximum weight limit (in pounds)—In U.S.: 80,000; in Mexico: 135,000.

Roadside inspections—In U.S.: yes; in Mexico: an inspection program began last year but has been discontinued.

Out-of-service rules for safety deficiencies—In U.S.: yes; in Mexico: not currently, program to be phased in over two years.

Hazardous materials regulations—In U.S.: a strict standards, training, licensure and inspection regime; in Mexico: much laxer program with far fewer identified chemicals and substances, and fewer licensure requirements.

Vehicle safety standards—In U.S.: comprehensive standards for components such as antilock brakes, underride guards, night visibility of vehicle; in Mexico: newly enacted standards for vehicle inspections are voluntary for the first year and less rigorous than U.S. rules.

The PRESIDING OFFICER (Mrs. CARNAHAN). The time under the control of the majority has expired.

Under the previous order, the time until 1 p.m. shall be under the control of the Senator from Wyoming, Mr. THOMAS, or his designee.

The Senator from Arizona.

Mr. KYL. Madam President, I am going to talk about two different subjects this morning. The two subjects are the energy crisis, No. 1, and, No. 2, the situation in the Middle East. There is some connection between those two, and I will go into that in a moment. But I would like to treat them as separate subjects and begin with the discussion of what I still refer to as the energy crisis. My colleague from Wyoming, Senator THOMAS, will be addressing that briefly as well.

THE ENERGY CRISIS

Mr. KYL. I suspect that most of my colleagues, as myself, talked to a lot of our constituents over the Fourth of July recess who reminded us of the fact that out in America there is still a problem with an energy shortage. I know I had to gas up my vehicle, as did a lot of other Americans, when I drove up to the mountains in Arizona. I had a wonderful time. I marched in a Fourth of July parade in Show Low, AZ, really the heart of America as far as I am concerned. Folks out there are still concerned because they recognize that Washington is dithering; that we are not doing anything to solve the problem of an energy shortage in this country.

Some people may call it a crisis; other people may not; but the fact is we have had a wake-up call. The question is, Will we answer the call or are we simply going to dither around, ignore it, and play partisan politics?

My own view is that there is no better opportunity for us to show bipartisanship, to work together toward a solution to a common problem that affects all Americans, than working together to solve this energy shortage problem.

This is something on which the administration has weighed in. They have taken the issue very seriously. Very early in his term, the President asked Vice President CHENEY to convene a group of people to come up with some suggestions on what we could do—both short term and long term—to address this energy shortage problem.

The Vice President, along with a lot of others, came up with a series of recommendations which I would like to have us consider in the Senate. They are recommendations which deal with new production, with conservation—a majority of the recommendations, incidentally, deal with conservation, even though that has largely been ignored in the media—and recommendations dealing with new energy sources, something in which I am very interested—hydrogen fuel cells, and a whole lot of things.

The fact is, this is a serious effort. While the Republicans held the majority in the Senate, a bill was introduced which embodied many of these recommendations. Under the then-Republican leadership, it was going to be our program to take up that energy legislation in this Senate Chamber starting today or tomorrow. Sadly, that is not going to happen. The Democratic leadership announced some time ago that it had different priorities and that the Senate Chamber would not be the place for debate about the energy shortage the week following the Fourth of July recess.

It is my understanding that hearings have been scheduled and both the Finance Committee and the Energy Committee will be taking up different pieces of legislation. There will be hearings on the administration's plan, as well as other ideas. And that is good. But we need to deal with this problem while we have had this wake-up call and not kick it to the back burner where we will forget about it and then, in another year or two, realize we wasted a couple of years that could have been spent in finding new energy sources, putting them into play, and providing an opportunity for Americans to enjoy the kind of prosperity we can enjoy with the proper mix of good energy sources.

There are basically two issues. One deals with the cost of producing electricity and how that electricity will be produced. The other has to do with the reality that Americans are going to use a great deal of energy—petroleum products primarily, and primarily for transportation. That is not going to change in the near term, despite the fact that over the long run we will have to come up with some alternatives.

I mentioned hydrogen fuel cells as one of those possibilities. It is a little closer than I think most people would recognize. We put money into basic research at the Federal Government level. The administration has pushed for that as part of their energy plan. I hope we can move down that path.

But in the meantime, we have to be realistic about the fact that Americans are going to continue to drive their automobiles. We are going to have to continue to have gasoline. We cannot wish that problem away. The question is, Do we rely strictly on the sources of oil from the Middle East, for example, or do we recognize that it really puts us behind the 8 ball if the OPEC countries want to constrain supplies and increase prices? Or if there is jeopardy to those sources from military conflict, will we have to once again send our troops and spend a great deal of energy and money to protect those energy sources as we did during the Persian Gulf war? That is one path we can take.

There are some in this country who would have us ignore the potential for energy development in this country. I think we ought to have a plan that both recognizes the potential within the United States for oil production as well as buying what we can on the market internationally.

The other aspect of that problem is refineries. We have not built new refineries in this country for 20 to 25 years. We have actually had some shut down. As one of my Democratic colleagues said during a hearing in the Finance Committee a couple weeks ago, she is a little disappointed about the fact that there is criticism of refineries making money. She said: What are my business folks in my State to do—be in the business to lose money? The fact is, they are in the business to make money. In the process of making money, they make petroleum products that we demand when we go to the service station.

When I filled up my vehicle last week, I wanted gasoline to be in that pump so I could drive my family where we were going. We have a lot of demand in this country. It is we who have the demand, not the oil companies. They are the ones that provide the product and the refineries that refine that product so that we can meet our demand. Yet there is a great deal of criticism about anybody who would make money in producing one of these products. That is the only way we get the products.

The free market system has served us well. We ought to be very careful about denigrating the suppliers who have made it possible for us to enjoy our standard of living.

So my view, just to summarize, is that we should consider the President's recommendations in a bipartisan spirit. We should move along quickly with the hearings that I understand have been scheduled. And we should bring to this Senate Chamber, as soon as possible, the legislation or other recommendations that will enable us to deal with this issue now, when we have had the wake-up call, and not kick it down the road a couple years to when we can see some real problems not just in the State of California but spreading throughout this country in energy cost increases, potential blackouts and brownouts, and the like. This is the time to deal with that problem.

Mr. President, to conclude, I rise today to express my concern that the Senate Democratic leadership has not yet scheduled floor time to allow the full Senate to promptly address the energy crisis that threatens all Americans. Having just returned from the July 4th recess in Arizona, I can tell you that not all Americans share the view that this should be a low legislative priority. Most of them want to deal with the problem in a bipartisan way.

Because of its effect on the national economy as well as peoples' individual pocketbooks, I am particularly troubled that the energy crisis seems to take a back seat to other issues on the new leadership's agenda. This is not the bipartisanship those leaders urged when they were in the minority.

The United States faces the most serious energy shortage since the oil embargoes of the 1970s. We all know about California's problems with rolling blackouts and soaring energy bills. The President thought it important enough to travel to California last month to address this problem firsthand. Unfortunately, energy shortages and price increases are spreading to other parts of the country.

I want to make it as clear as I can that we should quickly address the energy recommendations offered by the administration. With oil consumption expected to grow by over six million barrels per day over the next 20 years, natural gas consumption to jump 50 percent and electricity demands to rise by 45 percent, we must act aggressively to increase production in each of these areas before the entire nation suffers from the shortfall. Just to meet expected electricity demands, for example, we must begin now to build between 1,300 and 1,900 new power plants over the next 20 years.

To address this reality, we should act now on the 105 recommendations of Vice President CHENEY's energy task force. This plan makes 45 recommendations to modernize and increase conservation through tax credits and the expansion of Energy Department conservation programs. It proposes 35 ways to diversify our energy supply and expand our infrastructure by encouraging new pipelines, generating plants and refineries, and streamlining our regulatory process. And this proposal strengthens America's national security by decreasing our dependence on foreign oil through increased energy production within our borders.

Some opponents of the President and Vice President rely on ad hominem attacks, misinformation, and demagoguery to cast aspersions on the administration's proposals. They claim that, because the President and Vice President were once connected to the oil business, they somehow are disqualified from energy discussions. On the contrary—these are people who actually know something firsthand about the problems in the energy industry. They do not benefit personally from efforts to increase energy production.

Opponents of this energy strategy applaud the recent imposition of price caps to the western states. However, price caps do nothing to increase energy supplies, and could very well discourage investment in new generation power production by artificially limiting a producer's return on his or her investment. Indeed, California's two largest utilities are basically bankrupt as a result of artificial price caps on retail electricity prices. I am particularly concerned about price caps because Arizona, unlike California, has moved aggressively to permit new power plants needed to satisfy the state's growing demand for electricity. FERC's recent imposition of price caps could result in delayed construction or cancellation of these new facilities.

Opponents also say that the President's proposal will not encourage conservation. As an Arizonan, I certainly support commonsense conservation efforts that help preserve our natural resources. But these opponents must not have read the President's plan, for he devotes the bulk of his recommendations to efforts to enhance conservation. Among many provisions, the administration endorses tax credits to encourage use of more energy efficient products, such as hybrid or fuel-cell vehicles. It extends conservation programs in the Environmental Protection Agency and the Department of Energy. It increases funding for conservation technologies and orders federal agencies to reduce their energy usage by at least 10 percent. In total, the administration proposes $795 million for conservation programs as part of its overall budget allocation for the Department of Energy.

While these conservation efforts are important, we must also acknowledge that we cannot conserve our way out of an energy crisis. California has dramatically reduced its electricity use over the last two months, yet still faces the possibility of rolling blackouts. We must increase supply in the near-term or face even worse shortages than we have now.

Opponents also claim that we can meet our increased demand with renewable energy sources. We should support research into renewable energy technologies, such as hydrogen and fuel cells. Remember that, even so, non-hydro renewable energy produced only two percent of our energy supply last year and the Department of Energy reports that renewable energy will only produce, at most six percent of our energy supply by the year 2020. That isn't nearly enough to meet the growing demands of the next few decades.

Opponents also claim that the President's energy plan promotes "dangerous" energy use, such as nuclear energy and oil drilling. Let's address nuclear energy first. This is an energy resource that currently provides 22 percent of America's electricity needs, while producing no harmful emissions. Nuclear energy is safer than any comparable energy generation; capacity is more than 90 percent; power production is at an all-time high; and the costs are the lowest on record and continuing to fall. Nuclear energy use is neither a novel nor a risky concept; France receives 80 percent of all of its electricity from nuclear power.

There is a problem with disposal of nuclear waste, but it isn't so serious that the critics of nuclear power are concerned with finding an answer. They appear to be happy enough with current on-site storage. Obviously, other countries more "green" than the U.S. have resolved the waste issue. The fact is that it's not a technology problem but a political problem.

Increased oil drilling has proven as controversial, yet it shouldn't be. Drilling in the Arctic National Wildlife Refuge, for example, is a commonsense and safe proposal to increase domestic oil production. It is also very limited in scope. Oil exploration would occur in only a small portion of ANWR, in an area one-fifth the size of Washington's Dulles Airport. Technological advances have reduced any supposed risks to the environment. Drilling pads are roughly 80 percent smaller than they were a generation ago and high-tech drilling allows for access to supplies as far as six miles away from a single, compact drilling site.

Two concerns are raised: oil spills and harm to wildlife. The threat of spills is far greater from ocean-going tankers than from the Alaska pipeline. And the caribou have prospered since drilling began on Alaska's North Slope.

This modest effort in ANWR would provide enormous benefits, producing as much as 600,000 barrels of oil a day for the next 40 years—exactly the amount we currently import from Iraq. Moreover, oil drilling utilizes a smaller portion of our environment than the alternative energy sources advocated by others. The Resource Development Council for Alaska reports that, to produce 50 megawatts of power, natural gas production uses two to five acres of land, solar energy consumes 1,000 acres, wind power uses 4,000 acres, and oil drilling—less than one-half of an acre. That is real conservation of our natural resources.

As it stands now, American consumers already depend on foreign and often hostile nations for more than half of our oil supply. In 20 years, that percentage will increase to 64 percent. Doesn't it make more sense to invest in domestic production so that we are not held hostage to the whims of OPEC and the need to militarily defend our interests in the major oil-producing regions?

In conclusion, I commend President Bush and Vice President CHENEY for producing serious and honest proposals to enact a long-term energy strategy on behalf of American consumers. A worsening energy crisis requires all of us to act swiftly on these proposals before the situation becomes more widespread.

I urge our new Democratic leaders to take this proposal seriously and find a way to bring solutions to the floor of the Senate. As these leaders know from their days in the minority, it is much easier to find a way to accommodate the minority's requests than fight them. I hope the new leadership will act in a truly bipartisan way and consider the administration's ideas. We're all in this energy shortage together. Democrats should work with Republicans for the good of all Americans.

THE MIDDLE EAST

Mr. KYL. Madam President, I would like to change gears a little bit and talk about another subject that is very distressing. Throughout this break I would turn the television on to the evening news, and invariably there would be a story about yet more violence in the Middle East. It really got me thinking about the fundamental issue that I think a lot of Americans have ignored.

We wring our hands. We wish that the parties could get together, that there could be peace in the Middle East, and that they could put their problems behind them and live in harmony.

So we ask—and I see newspeople basically asking different versions of this question—why can't they just go back to the peace process? Of course, Secretary Powell urged both parties to agree to a cease-fire, which temporarily they did, yet every single day there has been a bombing or other terrorist attack or attempt in the State of Israel.

The Israeli people have said: Peace is a two-way street. If Yasser Arafat and the PLO are not willing to enforce the multiple cease-fire agreements and the peace process that we thought we had agreed to before, then we will have to enforce the law, and that includes going after those terrorists who threaten our people. No nation can do otherwise.

I rise to comment briefly on this notion of "returning to the peace process." The problem is that the 1993 Oslo accords, which were the genesis of this thing we call "the peace process," we now learn were fundamentally flawed. That is now apparent to the Israeli people, despite significant differences. Talk about a robust democracy. It exists in Israel. You have very strongly held views by different citizens in Israel, and they fight it out. During their election process, they had a very robust election contest. Then they come together with a leader, and they hope to be unified as a people.

They had desperately wanted, to borrow someone else's famous phrase, to give peace a chance. As a result, they tried to make the Oslo accords of 1993 work. What they found after Camp David, just about a year ago this month, was that the PLO was unwilling at the end of the day to make the kinds of commitments that would be necessary for a lasting peace in the region. The reason for that is a fundamental difference of approach.

For the Israelis, it has been a question of buying peace with concessions, primarily of land, of territory. But the PLO and other Arab or Muslim groups in the Middle East apparently never had any intention of providing the quid pro quo of peace. Instead, too much of their effort has been focused on the illegitimacy, in their view, of the Israeli State, of the fundamental disagreement with the action that the United Nations took after World War II to literally create a homeland for the Jewish people. Because that homeland was taken from territory which the Palestinians saw as their lands, they have never been willing to concede the legitimacy of the Israeli State.

At Camp David, after historic concessions were made by Prime Minister Barak, concessions which had to do with the most basic rights of the Israeli citizens—to name their own capital and to have that capital an undivided city, Jerusalem; concessions with respect to over 90 percent of the West Bank land returned to the Palestinians; concessions made in removing its troops from Lebanon and a whole variety of other things—after all of those concessions had been made and there was an opportunity to seize the moment, Yasser Arafat, on behalf of the PLO, said no, he wanted one more thing. He wanted the right of return of all of the Palestinians, maybe 2 to 4 million people, maybe more, who he claims were dispossessed in order to create the Jewish state. All of those people had to have the right to go back to their homes.

That, of course, was the ultimate deal breaker. No Israeli leader could ever agree to that concession. That would literally have meant the end of the Jewish state as it is. As a result, those accords of a year ago, that discussion at Camp David of a year ago, concluded with no agreement. It exposed the fundamental fallacy of the Oslo accords in the first instance.

Very briefly, there were three essential premises of the Oslo accords. The first was that if the PLO was given this 30,000-manned armed force, that could be used to suppress violence rather than to promote more agitation in the Middle East. The idea was that whereas a democratic society such as Israel had a hard time dealing with these terrorists, a firm dictatorial Yasser Arafat, with an armed 30,000-manned force, could put down these terrorists and bring peace to the area. Of course, the force expanded significantly beyond that which had been agreed to and eventually it was used to promote violence, not to suppress it.

The second premise was that Israel could withdraw from the territory before a final peace accord was reached without losing its bargaining power or military deterrent. It had worked the other way around with regard to Egypt. Egypt, in good faith with President Sadat, dealt with the Israeli leaders up front. Israel ceded the land after the peace agreement was obtained. But peace was restored between Israel and Egypt as a result. That withdrawal of Israeli forces from Egyptian land prior to the peace ensuing was a true trade of land for peace. But under the Oslo accords, the situation was reversed. Israel was required to withdraw first and then negotiate. The result, of course, has been no credible peace.

The third premise is that peace could be made with the PLO. In Israel there had been a consensus all along among all of the parties, including Labor and Likud, that it was not possible to deal with the PLO because, A, the Palestinian organization was philosophically committed to Israel's destruction. It is hard to deal with people in a peace process who are absolutely committed to your destruction.

Secondly, the PLO's previous negotiations had been based on terrorism as the means of achieving their objectives. No Israeli government had been willing to negotiate with an entity committed to its destruction through violence.

This peace process changed that. The Israeli leaders, in a leap of faith, said: All right, we will deal with the PLO, despite this historic background.

The process itself became the basis for this understanding. A new assumption was basically created. If you are in the process of negotiating, then the quality of the people on the other side really didn't matter. That is why the Israelis were willing to make this leap of faith. It almost became a secular religion. In this country people talked about the peace process almost as the end in itself rather than the means to an end.

It turns out that the nature of the leadership of the negotiating parties does matter. So do the actions on the ground. The quality of the other people is fundamental to the success of the negotiations. The parties were never close, as some thought. Rather, the question really is whether peace was ever achievable given the Palestinian objectives.

That is why I say the fundamental assumptions of the peace process, of the Oslo accords, were flawed. In the end, none of the three premises turned out to be correct. They all turned out to be false. The Israeli people now understand that.

The question now is how to repair the damage that resulted from an adherence to this peace process where Israel gave up more and more and more and, in the end, got no peace. Ever since the Secretary of State and other officials before him went to the Middle East, there has been a bombing or an attempt every single day, an attempt of terrorism. There is no peace.

Hopefully, this helps to explain in brief form why it is not possible to simply return to the peace process as if there were some magic in that Oslo process. The Oslo process is dead. The reason it is dead is because it was premised on fundamental fallacies. That is why the Israeli people cannot go back to that flawed process.

We in the United States should not be critical of that decision on the part of the Israeli people. The Israeli people are not to blame for dealing now with a situation of violence and lawlessness and terror in as firm a way as they possibly can to protect their own citizens. No country could do otherwise. And for Americans to be so presumptuous as to lecture the Israelis about overreacting and urging them to return to a peace process which they now recognize was fundamentally flawed is the height of arrogance. We in the U.S. have to be much more understanding about the difficulties of achieving peace.

Fundamentally, Madam President, I think what we have to recognize is that as long as the leadership of the other side in this controversy—primarily the PLO—is not democratically based but is totalitarian, as long as there is not an involvement of all of the Palestinian people in the decisions on the other side, there will continue to be conflict.

The nature of the leadership on the other side matters, and it matters greatly. Until there is a democratically elected Palestinian Government, until the leaders are accountable to the people, whom I suspect want peace as much as anybody else in the region or in the world, then we are not likely to get the kind of peaceful resolution for which we all hope.

So what I hope right now is that the American people will be understanding of the position of the Israeli Government; that they will be supportive of this long-time ally, the nation of Israel; that they will recognize that there is no moral equivalence between acts of terror on the one hand and attempting to enforce the law on the other hand; that they will be supportive both in terms of military and economic support but also psychologically and not buy into this notion that there is repression on the part of the Israeli Government against the Palestinians which is the cause of the problem.

This whole idea of moral equivalence is wrong. If we go back to the founding of the Jewish state by the United Nations and recognize what was attempted there and the moral legitimacy of the Israeli State, then I think Americans will more carefully calibrate their criticism of the Israeli Government and understand that it is going to take a long time; that hearts have to change before there can be peace; and probably the best opportunity is for democracy to take hold in the Arab States so that the leaders are accountable to the people because in the long run, most people really want peace. They want to live together; they want to engage in commerce together; and they do not want to continue to send their sons and daughters to die for causes that are whipped up by their leadership—to die unnecessarily.

That is why I urge my colleagues in the Senate today, the administration in Washington, and the American people generally, to learn to listen carefully and to recognize that the peace process was based upon flawed assumptions, and not to urge the Israelis to act in ways that would be inimical both to their own immediate self-interests in terms of safety and the long-term interests of peace. It is a difficult subject, one that we have to confront; and we have to stand by an ally and also recognize the legitimacy of other Arab aspirations and Muslim aspirations in the Middle East, in which we have a great stake as well. As long as we fail to recognize the complexity of this situation and understand the process that was urged for so long cannot be the basis for future peace negotiations, we are not going to be able to proceed in a constructive way.

I hope the American people, as a result of these comments and others, will support the administration in its very delicate and difficult negotiations in that region and will be supportive of the Members of this body who seek to promote the kind of peace that will be not just temporary but lasting.

Mr. President, yet again Israel's restraint and unilateral acceptance of a "cease fire" has been met with terrorist acts perpetrated against an innocent civilian population. The recent tragic deaths of 20 Israeli teenagers and serious wounding of another 48 by a Palestinian suicide bomber were stark and deeply sad reminders that the key to peace in the Middle East does not depend on the State of Israel.

I am extremely concerned that the doctrine of moral equivalence has taken root among many in the United States and around the world with respect to perceptions of Arab-Israeli violence. While over the years Israel may have taken steps with which we do not always agree, the notion that it operates on the same moral plane as its adversaries is patently false. The suicide bombing, deliberately targeted against Israeli youth, was not the result of individuals driven to extremes by perceived Israeli intransigence in peace talks. It was, in fact, the action of organized groups committed to Israel's total destruction.

At the urging of Secretary of State Colin Powell, the Israeli Government has entered into cease fires. The attacks continue. When the Israelis identify and eliminate the specific perpetrators of these mass terrorist killings, they are called murderers. Meanwhile, the world wrings its hands and asks why the parties can't just return to the "peace process." This is a good time to answer that question, beginning with an assessment of what went wrong with the Oslo peace process.

The effect of the violence in Israel today cannot be overstated. After the failure of the Camp David summit just a year ago, and the subsequent reignition of violence, Israel has suffered from an unrelenting assault on its people. The result has been a total reassessment in Israel of the premises of the Oslo peace process—premises which have turned out to be invalid.

Let's go back to 1993. The first of three basic premises of Oslo was that, if the PLO were given a 30,000-man armed force, it would be used to suppress, not to perpetuate, armed violence. Yitzhak Rabin was Defense Minister back in 1987 when the intifada started. The failure to stop it was a turning point for Rabin; it caused him to decide then to begin a peace process. He thought that if Israel couldn't handle the intifada, maybe Arafat could. But soon the 30,000-man force became a 40,000-man force, and anti-tank weapons, shoulder-fired weapons and other prohibited arms found their way into the Palestinian force's arsenal—weapons that are now pointed and fired at Israeli communities. All of this has occurred in violation of the Oslo Accords.

So the first premise—that the PLO would actually control the intifada with a 30,000-man force—turned out to be false.

The second premise was that Israel could withdraw from territory before a final peace accord was reached without losing its bargaining power or sacrificing physical security. In the case of its dealings with Egypt, Israel had ceded land after the peace agreement was obtained. That withdrawal had worked as a true trade of land for peace. But, under the Oslo Accords, Israel was required to withdraw first and then negotiate. The result has been no credible peace.

This premise of Oslo had been based on the assumption that Israel was finally strong enough to be able to relinquish land while preserving its ability to deter violence. So Israel withdrew from the West Bank, except for a few military posts authorized in the Oslo agreement, and in May of 2000 also withdrew from southern Lebanon. Both actions appeared to the Arab terrorist organizations and the Palestinian Authority as a retreat from a successful campaign of violence. After the intifada, Israel withdrew from the West Bank. After the terrorism of Hezbollah, Israel withdrew from Lebanon. The PA understandably saw violence as a way to achieve its goals.

So the second premise of Oslo—that Israel could withdraw first and achieve its peace objectives later—has also proven false. Arafat and the PA interpreted the withdrawals simply as a sign of weakness thus emboldening them to incite the violence that has continued unabated since Rosh Hashana.

The third, and central, premise of Oslo was that peace could be made with the PLO. In Israel, there was a consensus until 1993 among all parties, including Labor and Likud, that it was not possible to deal with the PLO. There were two reasons for this view: first, the PLO was philosophically committed to Israel's destruction; and, second, the PLO's negotiations had been historically based on terrorism. No previous Israeli government had been willing to negotiate with an entity committed to its destruction through violence.

But in 1993, Oslo created a new assumption: If you had a process—a process of negotiating—then the quality of people on the other side did not really matter. The process became almost like a secular religion. The process was the important thing, and so actions on the ground didn't matter. This notion had roots in Western dealings with leaders in countries like North Korea, Iraq, and the Soviet Union.

It turns out, though, that the nature of leadership does matter, and so do actions on the ground. The quality of people on the other side is fundamental to the success of negotiations. It is the people, not the process, that matters.

The fact is, the parties were never as close as many believed. The issue was never the desirability of peace, or what either the United States or Israel could do to bring it about. Rather, the question was whether peace was ever achievable given Palestinian objectives. Yet when Barak and Arafat were near the end of negotiations, Arafat raised one more demand: that Israel must agree to the right of return, and admit more than a million Palestinians into Israel.

This notion is anathema to all Israelis. Even those on the left oppose the right of return because of its consequences; literally, the end of Israel as a Jewish state. Israel could not survive the return of over a million Palestinians and continue to exist as a Jewish state. Barak made unprecedented concessions at Camp David. Even Leah Rabin complained that Barak's concessions would cause her late husband to turn over in his grave. This move by Arafat was so shocking that virtually all Israelis lost confidence in the process. Barak lost all support. And a radical reassessment of realities set in.

Despite the disappointment at the failure of negotiations, the awakening of the Israeli people to the faulty premises and the reality of the failure of the Oslo Accords is a healthy development. The Bush Administration seems to have assimilated much of the Israeli attitude, and has been careful to avoid involving itself in the effort to restart the "peace process" at this time. For the future, it is helpful to acknowledge the falseness of the three key Oslo premises. The Oslo process had ended up doing severe damage to Israel's deterrent—its ability to match concessions with tangible peace.

The principal goal now should be to repair that damage. Amid all the Israeli concessions and gestures, it was assumed that there would be reciprocity on the part of the Palestinians. But the Arabs believed showing reciprocity would be a sign of weakness on their part. The evidence abounds. More Israelis were killed by terrorist acts after Oslo then in the decade before. The PLO did not fulfill the promises it made; for example, disarming the terrorists—in fact, releasing from prison some of the most dangerous Hamas terrorists—limiting its arms, and guaranteeing peace.

Moreover, and perhaps even more disturbing for the long run, the Palestinian authority created schools with a curriculum of brainwashing their children in hatred and violence. A shocked New York Times reporter last summer wrote of the creation of summer camps that even taught assassination. Former Prime Minister Benjamin Netanyahu paints the picture of posters throughout Palestinian communities showing a menacing Israeli soldier, armed to the teeth, towering over a pitiful looking Arab youngster who holds only one thing. Do you know what it is? A key. And every Arab child knows what it is. The Key to an Arab home in Jaffa, or Haifa, or any other Arab community of pre-1967 Palestine. So much for the view that the parties were "just this close." All of this has caused a reassessment of the realities, and, as I said, that is a healthy development at this point.

One must view the situation today clear eyed and in strategic terms. It is a situation of more than just military or economic power. For Israel it is quite simply a question of morale. Israel's problem right now is not that it lacks either economic or military power, but rather that its people have been following a conceptual and intellectual approach to achieving peace which has turned out to be false. The result has been confusion, frustration, and a problem of morale that can only be dealt with by reevaluation of the conceptual and intellectual approach to achieving peace. The people were sold on a "process," and now find that the presumptions underlying that process were illusions. Their disillusionment has set them adrift because they see they have lost territory and credibility that would never have been lost by military force.

The Camp David concessions are especially galling now that there is a recognition that they were based upon false premises, a quid pro quo that was never to be reciprocated by the Palestinians. It makes the last several years seem very lost indeed. So the Israelis are revising their thinking.

Those of us who have cared about the security of Israel and have watched the process over the years, viewed it with great anxiety because we worried it might have resulted in irreversible losses. And yet, with the last election, we see the Israeli people rethinking the premises of Oslo and charting a course to recover the initiative. The fact that Ariel Sharon, with all his political baggage, won so overwhelmingly suggests that the Israeli people are prepared to do what it takes to defend their state and to survive. Like England fighting back from its unpreparedness in the 30's and the United States after its military decline of the 1970's, Israel seems to have said, "This far and no more," and begun to rethink its approach to achieving peace and security. Countries seem to have a way of being better than their failed leaders, and we can hope that the Israelis are on their way back with a more realistic and sober view of what will be required for their long-term security—what kind of approach will provide real, lasting peace.

It is recognized that peace is not available now, but that it can become available in the future. The key to peace is a more democratic and much less corrupt leadership. There are moderate Palestinians, but they are not politically relevant right now. The Palestinians have been cursed with leaders who have always seemed to be wrong for the times. In World War I, Palestinian leaders sided with the Turks against the British; in World War II, with the Nazis against the allies; in the Cold War, with the Soviets against the West; and in the Persian Gulf War, with Saddam against the coalition of allies.

Given his long record as an ideologue, a terrorist, a breaker of promises and fount of untruth, it should not really surprise anyone that Arafat remains what he has always been. As Charles Krauthammer recently noted in the Weekly Standard, "[Arafat] proved, even to much of the Israeli left, that the entire theory of preemptive concessions, magnanimous gestures, rolling appeasement was an exercise in futility."

The key to peace is a Palestinian leadership that would appeal to the better nature of the Palestinian people, one that would reflect their aspirations for a prosperous and peaceful future—not one that exploits their misery through a policy of physically and vitriolically attacking Israel. In short, a democratic government. As my friend Douglas Feith expressed the point in an article in Commentary: "A stable peace [is] possible . . . only if the Palestinians first evolved responsible administrative institutions and leadership that enjoyed legitimacy in the eyes of its own people, refrained from murdering its political opponents, operated within and not above the law, and practiced moderation and compromise at home and abroad." This would, of course, be a boon not only for the Israelis, but for the Palestinians—indeed especially for the Palestinians.

For over fifty years, the United States and Israel have been bound together in a relationship that has weathered many efforts to drive a wedge between us. With the coincident election of a new leader in each country, our two great nations have an opportunity to reassess the lessons recent history has to teach us. For my part, I am optimistic that the new American administration will place a great value on our relationship with the Israeli people; and I am optimistic that the Israelis will maintain the strength and morale that they will need to await a change in Palestinian leadership. At that point there will be much more the Israelis can do to secure their future.

The United States should not push Israel into a process or into an agreement with which the government and people of Israel are not completely comfortable, with their security ensured. It is their existence that is at stake, and we must take no actions that jeopardize their security.

My colleague from Wyoming would like to use the remainder of our time.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

ENERGY

Mr. THOMAS. Madam President, I appreciate the time. I thank my friend from Arizona for his comments on energy. Certainly, I can't think of an issue that affects more people and is more likely to become a crisis again than energy. We had some touch of it and backed off of it a little. California is doing a little better than it was. Gas prices are tending to stabilize or even come down.

The real cause of the problem is still there. I am surprised, frankly, that the Senate leadership hasn't been willing to go forward and at least give us a date as to the time in which we can undertake this question of energy and energy supply. We have gone now 8, 10 years without a policy regarding energy, not having any real direction with regard to what we are going to do. We have become 60-percent dependent on OPEC and overseas oil. We haven't developed refineries, new transmission lines, or pipelines in order to move energy from where it is to where it is needed, and still our leadership here refuses to move forward.

I think we will again be facing the same kind of situation we just had if we don't move to find a long-term resolution, and we can.

We now have a policy from the administration, one that deals with domestic production. There is access to public lands, much of it standing in Alaska or in many places that could indeed have production without damage to the environment. We can do that.

We can talk about conservation. We can talk about renewables. We have to have a policy to cause us to do some of these things.

The transportation is vitally important. In Wyoming, we have great supplies of coal, for example. In order to mine and move that energy to where the market is, you have to have some transmission. There are a number of ways to do that, and we can if we decide to and commit ourselves to do it.

Research, clean coal: Our coal in Wyoming is clean, and it can be cleaner if we have research to do that.

Diversity: We can't expect to have only one source of supply for all the energy we use. We are heavy energy users, and most of us are not willing to make many changes to that.

I am grateful for the comments of my friend, and I hope we can get the leadership here to set the agenda to move toward doing something there.

USING SNOW MACHINES IN YELLOWSTONE PARK

Mr. THOMAS. Madam President, I know it is now summer, but I will now talk about using snow machines in the Yellowstone Park in the wintertime. It is a question that has become quite political, as a matter of fact. There have been letters sent to the Department of the Interior from the Senate on both sides.

For a number of years, in Grand Teton, in Yellowstone Park, and many of the other parks, the principal access people have had in the wintertime to enjoy their park was with snow machines. It has been done for a long time, really. Frankly, there hasn't been much management of that technique, unfortunately. The park officials have not had much to do with it. They have not sought to organize how and where it is done, separate the snow machines from the cross-country skiers, which can be done so each can have their own opportunity. It has to manage numbers sometimes, for instance, if they become too large around Christmas vacation.

They can make changes, but they have not done that. They have an opportunity, and we have an opportunity to have much cleaner machines, which are less noisy and which are less polluting. The manufacturers have indicated they can and will do this. Of course, they need some assurance from EPA that having done it, they will be able to use these machines. But none of these things have happened. Instead, because of the difficulties that are, in fact, there and without management, an EIS study went on for several years.

Unfortunately, toward the end, instead of going on through with the regular system of input, the Assistant Secretary of the Interior went out and said this is what the answer is going to be. The answer was to do away with individual snow machines in the parks over a period of a couple of years. That isn't what is designed to happen when you have EIS studies and when you involve local communities and local people and then have somebody from Washington come and make the decision. But that is what did happen.

Furthermore, the regulation that was agreed to in the study was put before the public the last day of the last administration when there was no opportunity to do anything about it. So what has happened is that there has been a lawsuit filed. I have introduced a bill that would allow not to continue snow machines the way they have been but, rather, to do the management technique, manage the numbers and the sites, and also set specifications so that manufacturers can meet them and you can go forward.

What is the purpose of the park? It is to preserve the resources and to allow the owners to enjoy them. This is the way that you have access in the wintertime.

So this has become somewhat of a discussion, somewhat of a controversy. I am hopeful that they can come to an agreement—and this administration is working toward coming to an agreement—in which these changes could be made. Nobody is suggesting to continue to do it the way it has been done in the past. But there can be changes made that will indeed allow access and protect the environment and the animals and the rural environment at the same time. We can do those things.

One other word on national parks.

The Grand Teton National Park was expanded in 1950. When that was done, there were a number of lands that were brought into the park, and among them were several school sections that belonged to the State of Wyoming.

They are now in the park as inholdings and therefore cannot be managed by the park but cannot be used for anything else. Therefore, we have two losers: One is the park which has these inholdings it cannot handle; second is the school sections are to finance education, and they are not bringing in revenue to the State of Wyoming.

To make a long story short, I have a bill I hope will be before the committee soon to allow the Secretary of the Interior and the State of Wyoming to come to some agreement in finding a value for those lands by using an appraiser upon which they agree and then work out an arrangement to either trade those lands for other Federal lands outside the park, trade them for mineral royalties, or sell but come to some financial arrangement.

I hope we can get some support for something that will be useful to Grand Teton National Park as well as the State of Wyoming.

I think our time has expired. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SUPPLEMENTAL APPROPRIATIONS ACT, 2001

The PRESIDING OFFICER (Mr. KYL). Under the previous order, the Senate will now proceed to the consideration of S. 1077, which the clerk will report.

The senior assistant bill clerk read as follows:

> A bill (S. 1077) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, today, the Senate is debating S. 1077, the Supplemental Appropriations Act for Fiscal Year 2001.

On June 1, 2001, President Bush asked Congress to consider a supplemental request for $6.5 billion, primarily for the Department of Defense. The draft supplemental bill that is before us totals $6.5 billion, not one dime above the President's request—not one thin dime above the President's request. It contains no emergency funding. The President has said that he will not support such emergency spending, so the Committee has not included any emergency designations in this bill. Unrequested items in the bill are offset.

S. 1077 funds the President's request for additional defense spending for health care, for military pay and benefits, for the high costs of natural gas and other utilities, for increased military flying hours, and for other purposes. The bill includes a net increase of $5.54 billion for the Department of Defense and $291 million for defense-related programs of the Department of Energy.

While the Appropriations Committee has approved most of the President's request for the Department of Defense, I stress the importance of accountability for these and future funds. Financial accountability remains one of the weakest links in the Defense Department's budget process. Just last month, the General Accounting Office reported that, of $1.1 billion earmarked for military spare parts in the fiscal year 1999 supplemental, only about $88 million could be tracked to the purchase of spare parts. The remaining $1 billion, or 92 percent of the appropriation, was transferred to operations and maintenance accounts, where the tracking process broke down.

Perhaps a substantial portion of the money appropriated for spare parts was spent on spare parts; perhaps it was not. But, given the way the money was managed, nobody knows for sure and that, it seems to me, is an unacceptable circumstance, because one thing we do know for sure is that an adequate inventory of spare parts is a key component of readiness and the Defense Department apparently does not have an adequate inventory of spare parts. So we must do better in making sure these dollars for spare parts go for spare parts.

The supplemental funding bill before us today includes another $30 million for spare parts, this time specifically for the Army. As former President Reagan would have said, here we go again. To forestall a repeat of the problems that arose in accounting for spare parts expenditures provided in the fiscal year 1999 supplemental, the committee, at my request, approved report language requiring the Secretary of Defense to follow the money and to provide Congress with a complete accounting of all supplemental funds appropriated for spare parts. The intent of this provision is to ensure that money appropriated by Congress for the purchase of spare parts does not get shifted into any other program.

The supplemental appropriations bill, as reported by the Senate Appropriations Committee, provides $300 million for the Low Income Energy Assistance Program, an increase of $150 million above the President's request, to help our citizens cope with high energy costs. The bill also includes $161 million that was not requested for grants to local education agencies under the Education for the Disadvantaged Program in response to the most recent poverty and expenditure data. Also provided is $100 million as an initial United States contribution to a global trust fund to combat AIDS, malaria, and tuberculosis. In addition, $92 million requested by the President for the Coast Guard is included, as is $115.8 million requested for the Treasury Department for the cost of processing and mailing out the tax rebate checks.

In addition, the bill includes $84 million for the Radiation Exposure Trust Fund to provide compensation to the victims of radiation exposure. We thank Senators DOMENICI and BINGAMAN for their leadership in assisting those who were involved in the mining of uranium ore and those who were downwind from nuclear weapons tests during the Cold War.

The Senate Appropriations Committee's bill includes a number of offsets to pay for these additional items. Members should be on notice that, with passage of this bill, we are at the statutory cap for budget authority in Fiscal Year 2001. I say to colleagues on both sides of the aisle that any amendments that are offered will need to be offset. Exceeding the statutory cap could result in an across-the-board cut in all discretionary spending, both for defense programs and for non-defense programs. I urge Members to avoid the spectacle of a government-wide sequester by finding appropriate offsets for amendments.

There is another reason to insist on offsets for any additional spending. During debate on the recent tax-cut bill, I argued that the tax cuts contained in that bill could return the Federal budget to the deficit ditch. I stressed that the tax cuts were based on highly suspect ten-year surplus estimates and that if those estimates proved illusory, the tax-cut bill would result in spending the Medicare surplus. Now, before the ink is even dry on the President's signature on that tax bill, we may find ourselves headed back into the deficit ditch and headed in the direction of cutting into the Medicare surplus.

Our distinguished Chairman of the Senate Budget Committee, KENT CONRAD, has prepared an analysis of the budget picture for Fiscal Year 2001, the current fiscal year, based on recent economic projections from the President's own Director of the National Economic Council, Lawrence Lindsey. The tax-cut bill reduced the surplus by $74 billion in Fiscal Year 2001 alone. As a result, Chairman CONRAD is projecting a raid on the Medicare Trust Fund in Fiscal Year 2001 of $17 billion.

Any efforts to increase spending in this bill without offsets will only make this problem worse.

The President asserted in his Budget Blueprint that the authority of the Congress and the President to designate funding as an emergency has been abused. The Administration has indicated in its Statement of Administration Policy of June 19, 2001, that the President does not intend to designate the $473 million of emergency funding contained in the House-passed bill as emergency spending.

The administration further states that, "emergency supplemental appropriations should be limited to extremely rare events." The Senate supplemental bill contains no emergency designations. Nonetheless, I do believe that it is appropriate for Congress and the President to use the emergency authority from time to time in response to natural disasters and other truly unforseen events in the nature of disasters.

As I mentioned earlier, this supplemental appropriations bill provides immediate relief through the Low-Income Home Energy Assistance Program, LIHEAP, for American families being hit hard by this energy crisis. Moreover, it includes funding to help educate our most needy students through the Education for the Disadvantaged Program. To help offset the cost of these two supplementals, a rescission of unallocated dislocated worker funds under the Workforce Investment Act was also included in the committee bill.

The States have accumulated a large, unexpended balance of dislocated worker funds due to start-up delays with the Workforce Investment Act of 1998. These funds are estimated to exceed $600 million for the program year that ended on June 30, 2001. Although the rescission of dislocated worker funds will reduce the Fiscal Year 2001 appropriation from $1.59 billion to $1.37 billion, the Labor Department projects that the carryover funds from the previous program year will more than offset the rescission. Federal funding, including carryover balances, will actually increase by $423 million in program year 2001, or 25 percent above the level for program year 2000.

Furthermore, report language was included in the supplemental appropriations bill expressing the Senate Appropriations Committee's support for the Workforce Investment Act, the dislocated worker program, and the committee's intent to carefully monitor the need for enhanced job-training services. Should it be determined that additional funds are needed, the Appropriations Committee will do all it can to ensure that sufficient funds are included in the Fiscal Year 2002 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations bill.

Pursuant to the unanimous consent agreement, Senator STEVENS and I will be offering a managers' amendment that contains a number of amendments that have been agreed to by both sides. One of the items in the managers' amendment is an amendment of mine to provide $3 million to hire additional USDA inspectors to promote the proper treatment of livestock. Another item would provide $20 million to help farmers in the Klamath Basin in Oregon and California. The cost of these and other provisions contained in the managers' amendment is fully offset.

I have noted in the press recently some stories that greatly concern me. I believe the American people are concerned and are becoming increasingly sensitive to the treatment of animals. Reports of cruelty to animals through improper livestock production and slaughter practices have hit a nerve with the American people. The recent announcements by major food outlets, such as McDonalds, that they would only buy products from suppliers that could assure certain levels of humane animal treatment speak volumes to changes in public expectations.

The managers' amendment will provide an additional $3 million through the USDA Office of the Secretary for activities across three department mission areas to protect and promote humane treatment of animals. Of the $3 million provided, no less than $1 million is directed to enforcement of the Animal Welfare Act, under which standards for livestock production, laboratory animals, and so-called puppy mills are established. In addition, no less than $1 million is directed for activities under the Federal Meat Inspections Act, which will enhance humane treatment in the slaughter of animals in facilities under the jurisdiction of Federal inspection. Finally, an amount up to $500,000 is directed for the development and demonstration of technologies that can be used by producers, processors, and others to provide better care of animals at all stages of their lives.

Mr. President, I shall, in conclusion, ask unanimous consent—but not right at this point—that certain newspaper articles which have been written with respect to the slaughter of animals, and the inhumane slaughter of animals, be printed in the RECORD at the conclusion of my remarks.

This bill responds to the President's supplemental request for necessary defense spending, and it also provides funding for important domestic priorities. It is not one dime—not one thinly, much-worn dime—over the President's request. It is within the statutory spending limits. It is a responsible bill, and I urge Members to support it.

Before yielding the floor, let me express my thanks to the distinguished senior Senator from Alaska, Mr. STEVENS, who is the ranking member on the Appropriations Committee in the Senate. He is the former chairman of the committee with whom I had the great pleasure of serving for several years in that position. And I believe it is a blessing, indeed, for me, as I stand on this floor today to present this bill, to also be able to say that Senator STEVENS and I stood shoulder to shoulder, and we shall continue to work shoulder to shoulder, as we moved forward with this bill.

I cannot adequately express my appreciation to him and to his staff and to my own staff for the great work and the excellent cooperation that have been shown in connection with the preparation and presentation of this bill.

I yield the floor.

The PRESIDING OFFICER. Does the Senator make his unanimous consent request at this time?

Mr. BYRD. Yes, I do make that unanimous consent request.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 10, 2001]

THEY DIE PIECE BY PIECE

IN OVERTAXED PLANTS, HUMANE TREATMENT OF CATTLE IS OFTEN A BATTLE LOST

(By Joby Warrick)

PASCO, WASH.—It takes 25 minutes to turn a live steer into steak at the modern slaughterhouse where Ramon Moreno works. For 20 years, his post was "second-legger," a job that entails cutting hocks off carcasses as they whirl past at a rate of 309 an hour.

The cattle were supposed to be dead before they got to Moreno. But too often they weren't.

"They blink. They make noises," he said softly. "The head moves, the eyes are wide and looking around."

Still Moreno would cut. On bad days, he says, dozens of animals reached his station clearly alive and conscious. Some would survive as far as the tail cutter, the belly ripper, the hide puller. "They die," said Moreno, "piece by piece."

Under a 23-year-old federal law, slaughtered cattle and hogs first must be "stunned"—rendered insensible to pain—with a blow to the head or an electric shock. But at overtaxed plants, the law is sometimes broken, with cruel consequences for animals as well as workers. Enforcement records, interviews, videos and worker affidavits describe repeated violations of the Humane Slaughter Act at dozens of slaughterhouses, ranging from the smallest, custom butcheries to modern, automated establishments such as the sprawling IBP Inc. plant here where Moreno works.

"In plants all over the United States, this happens on a daily basis," said Lester Friedlander, a veterinarian and formerly chief government inspector at a Pennsylvania hamburger plant. "I've seen it happen. And I've talked to other veterinarians. They feel it's out of control."

The U.S. Department of Agriculture oversees the treatment of animals in meat plants, but enforcement of the law varies dramatically. While a few plants have been forced to halt production for a few hours because of alleged animal cruelty, such sanctions are rare.

For example, the government took no action against a Texas beef company that was cited 22 times in 1998 for violations that included chopping hooves off live cattle. In another case, agency supervisors failed to take action on multiple complaints of animal cruelty at a Florida beef plant and fired an animal health technician for reporting the problems to the Humane Society. The dismissal letter sent to the technician, Tim Walker, said his disclosure had "irreparably damaged" the agency's relations with the packing plant.

"I complained to everyone—I said, 'Lookit, they're skinning live cows in there,'" Walker said. "Always it was the same answer: 'We know it's true. But there's nothing we can do about it.'"

In the past three years, a new meat inspection system that shifted responsibility to industry has made it harder to catch and report cruelty problems, some federal inspectors say. Under the new system, implemented in 1998, the agency no longer tracks the number of humane-slaughter violations its inspectors find each year.

Some inspectors are so frustrated they're asking outsiders for help: The inspectors' union last spring urged Washington state authorities to crack down on alleged animal abuse at the IBP plant in Pasco. In a statement, IBP said problems described by workers in its Washington state plant "do not accurately represent the way we operate our plants. We take the issue of proper livestock handling very seriously."

But the union complained that new government policies and faster production speeds at the plant had "significantly hampered our ability to ensure compliance." Several animal welfare groups joined in the petition.

"Privatization of meat inspection has meant a quiet death to the already meager enforcement of the Humane Slaughter Act," said Gail Eisnitz of the Humane Farming Association, a group that advocates better treatment of farm animals. "USDA isn't simply relinquishing its humane-slaughter oversight to the meat industry, but is—without the knowledge and consent of Congress—abandoning this function altogether."

The USDA's Food Safety Inspection Service, which is responsible for meat inspection, says it has not relaxed its oversight. In January, the agency ordered a review of 100 slaughterhouses. An FSIS memo reminded its 7,600 inspectors they had an "obligation to ensure compliance" with humane-handling laws.

The review comes as pressure grows on both industry and regulators to improve conditions for the 155 million cattle, hogs, horses and sheep slaughtered each year. McDonald's and Burger King have been subject to boycotts by animal rights groups protesting mistreatment of livestock.

As a result, two years ago McDonald's began requiring suppliers to abide by the American Meat Institute's Good Management Practices for Animal Handling and Stunning. The company also began conducting annual audits of meat plants. Last week, Burger King announced it would require suppliers to follow the meat institute's standards.

"Burger King Corp. takes the issues of food safety and animal welfare very seriously, and we expect our suppliers to comply," the company said in a statement.

Industry groups acknowledge that sloppy killing has tangible consequences for consumers as well as company profits. Fear and pain cause animals to produce hormones that damage meat and cost companies tens of millions of dollars a year in discarded product, according to industry estimates.

Industry officials say they also recognize an ethical imperative to treat animals with compassion. Science is blurring the distinction between the mental processes of humans and lower animals—discovering, for example, that even the lowly rat may dream. Americans thus are becoming more sensitive to the suffering of food animals, even as they consume increasing numbers of them.

"Handling animals humanely," said American Meat Institute president J. Patrick Boyle, "is just the right thing to do."

Clearly, not all plants have gotten the message.

A Post computer analysis of government enforcement records found 527 violations of humane-handling regulations from 1996 to 1997, the last years for which complete records were available. The offenses range from overcrowded stockyards to incidents in which live animals were cut, skinned or scalded.

Through the Freedom of Information Act, The Post obtained enforcement documents from 28 plants that had high numbers of offenses or had drawn penalties for violating humane-handling laws. The Post also interviewed dozens of current and former federal meat inspectors and slaughterhouse workers. A reporter reviewed affidavits and secret video recordings made inside two plants.

Among the findings:

One Texas plant, Supreme Beef Packers in Ladonia, had 22 violations in six months. During one inspection, federal officials found nine live cattle dangling from an overhead chain. But managers at the plant, which announced last fall it was ceasing operations, resisted USDA warnings, saying its practices were no different than others in the industry. "Other plants are not subject to such extensive scrutiny of their stunning activities," the plant complained in a 1997 letter to the USDA.

Government inspectors halted production for a day at the Calhoun Packing Co. beef plant in Palestine, Tex., after inspectors saw cattle being improperly stunned. "They were still conscious and had good reflexes," B.V. Swamy, a veterinarian and senior USDA official at the plant, wrote. The shift supervisor "allowed the cattle to be hung anyway." IBP, which owned the plant at the time, contested the findings but "took steps to resolve the situation," including installing video equipment and increasing training, a spokesman said. IBP has since sold the plant.

At the Farmers Livestock Cooperative processing plant in Hawaii, inspectors documented 14 humane-slaughter violations in as many months. Records from 1997 and 1998 describe hogs that were walking and squealing after being stunned as many as four times. In a memo to USDA, the company said it fired the stunner and increased monitoring of the slaughter process.

At an Excel Corp. beef plant in Fort Morgan, Colo., production was halted for a day in 1998 after workers allegedly cut off the leg of a live cow whose limbs had become wedged in a piece of machinery. In imposing the sanction, U.S. inspectors cited a string of violations in the previous two years, including the cutting and skinning of live cattle. The company, responding to one such charge, contended that it was normal for animals to blink and arch their backs after being stunned, and such "muscular reaction" can occur up to six hours after death. "None of these reactions indicate the animal is still alive," the company wrote to USDA.

Hogs, unlike cattle, are dunked in tanks of hot water after they are stunned to soften the hides for skinning. As a result, a botched slaughter condemns some hogs to being scalded and drowned. Secret videotape from an Iowa pork plant shows hogs squealing and kicking as they are being lowered into the water.

USDA documents and interviews with inspectors and plant workers attributed many of the problems to poor training, faulty or poorly maintained equipment or excessive production speeds. Those problems were identified five years ago in an industry-wide audit by Temple Grandin, an assistant professor with Colorado State University's animal sciences department and one of the nation's leading experts on slaughter practices.

In the early 1990s, Grandin developed the first objective standards for treatment of animals in slaughterhouses, which were adopted by the American Meat Institute, the industry's largest trade group. Her initial, USDA-funded survey in 1996 was one of the first attempts to grade slaughter plants.

One finding was a high failure rate among beef plants that use stunning devices known as "captive-bolt" guns. Of the plants surveyed, only 36 percent earned a rating of "acceptable" or better, meaning cattle were knocked unconscious with a single blow at least 95 percent of the time.

Grandin now conducts annual surveys as a consultant for the American Meat Institute and McDonald's Corp. She maintains that the past four years have brought dramatic improvements—mostly because of pressure from McDonald's, which sends a team of meat industry auditors into dozens of plants each year to observe slaughter practices.

Based on the data collected by McDonald's auditors, the portion of beef plants scoring "acceptable" or better climbed to 90 percent in 1999. Some workers and inspectors are skeptical of the McDonald's numbers, and Grandin said the industry's performance dropped slightly last year after auditors stopped giving notice of some inspections.

Grandin said high production speeds can trigger problems when people and equipment are pushed beyond their capacity. From a typical kill rate of 50 cattle an hour in the early 1900s, production speeds rose dramatically in the 1980s. They now approach 400 per hour in the newest plants.

"It's like the 'I Love Lucy' episode in the chocolate factory," she said. "You can speed up a job and speed up a job, and after a while you get to a point where performance doesn't simply decline—it crashes."

When that happens, it's not only animals that suffer. Industry trade groups acknowledge that improperly stunned animals contribute to worker injuries in an industry that already has the nation's highest rate of job-related injuries and illnesses—about 27 percent a year. At some plants, "dead" animals have inflicted so many broken limbs and teeth that workers wear chest pads and hockey masks.

"The live cows cause a lot of injuries," said Martin Fuentes, an IBP worker whose arm was kicked and shattered by a dying cow. "The line is never stopped simply because an animal is alive."

A "BRUTAL" HARVEST

At IBP's Pasco complex, the making of the American hamburger starts in a noisy, blood-spattered chamber shielded from view by a stainless steel wall. Here, live cattle emerge from a narrow chute to be dispatched in a process known as "knocking" or "stunning." On most days the chamber is manned by a pair of Mexican immigrants who speak little English and earn about $9 an hour for killing up to 2,050 head per shift.

The tool of choice is a captive-bolt gun, which fires a retractable metal rod into the steer's forehead. An effective stunning requires a precision shot, which workers must deliver hundreds of times daily to balky, frightened animals that frequently weigh 1,000 pounds or more. Within 12 seconds of entering the chamber, the fallen steer is shackled to a moving chain to be bled and butchered by other workers in a fast-moving production line.

The hitch, IBP workers say, is that some "stunned" cattle wake up.

"If you put a knife into the cow, it's going to make a noise: It says, 'Moo!'" said Moreno, the former second-legger, who began working in the stockyard last year. "They move the head and the eyes and the leg like the cow wants to walk."

After a blow to the head, an unconscious animal may kick or twitch by reflex. But a videotape, made secretly by IBP workers and reviewed by veterinarians for The Post, depicts cattle that clearly are alive and conscious after being stunned.

Some cattle, dangling by a leg from the plant's overhead chain, twist and arch their backs as though trying to right themselves. Close-ups show blinking reflexes, an unmistakable sign of a conscious brain, according to guidelines approved by the American Meat Institute.

The video, parts of which were aired by Seattle television station KING last spring, shows injured cattle being trampled. In one graphic scene, workers give a steer electric shocks by jamming a battery-powered prod into its mouth.

More than 20 workers signed affidavits alleging that the violations shown on tape are commonplace and that supervisors are aware of them. The sworn statements and videos were prepared with help from the Humane Farming Association. Some workers had taken part in a 1999 strike over what they said were excessive plant production speeds.

"I've seen thousands and thousands of cows go through the slaughter process alive," IBP veteran Fuentes, the worker who was injured while working on live cattle, said in an affidavit. "The cows can get seven minutes down the line and still be alive. I've been in the side-puller where they're still alive. All the hide is stripped out down the neck there."

IBP, the nation's top beef processor, denounced as an "appalling aberration" the problems captured on the tape. It suggested the events may have been staged by "activists trying to raise money and promote their agenda. . . .

"Like many other people, we were very upset over the hidden camera video," the company said. "We do not in any way condone some of the livestock handling that was shown."

After the video surfaced, IBP increased worker training and installed cameras in the slaughter area. The company also questioned workers and offered a reward for information leading to identification of those responsible for the video. One worker said IBP pressured him to sign a statement denying that he had seen live cattle on the line.

"I knew that what I wrote wasn't true," said the worker, who did not want to be identified for fear of losing his job. "Cows still go alive every day. When cows go alive, it's because they don't give me time to kill them."

Independent assessments of the workers' claims have been inconclusive. Washington State officials launched a probe in May that included an unannounced plant inspection. The investigators say they were detained outside the facility for an hour while their identities were checked. They saw no acts of animal cruelty once permitted inside.

Grandin, the Colorado State professor, also inspected IBP's plant, at the company's request; that inspection was announced. Although she observed no live cattle being butchered, she concluded that the plant's older-style equipment was "overloaded." Grandin reviewed parts of the workers' videotape and said there was no mistaking what she saw.

"There were fully alive beef on that rail," Grandin said.

INCONSISTENT ENFORCEMENT

Preventing this kind of suffering is officially a top priority for the USDA's Food Safety Inspection Service. By law, a humane-slaughter violation is among a handful of offenses that can result in an immediate halt in production—and cost a meatpacker hundreds or even thousands of dollars per idle minute.

In reality, many inspectors describe humane slaughter as a blind spot: Inspectors' regular duties rarely take them to the chambers where stunning occurs. Inconsistencies in enforcement, training and record-keeping hamper the agency's ability to identify problems.

The meat inspectors' union, in its petition last spring to Washington state's attorney general, contended that federal agents are "often prevented from carrying out" the mandate against animal cruelty. Among the obstacles inspectors face are "dramatic increases in production speeds, lack of support from supervisors in plants and district offices . . . new inspection policies which significantly reduce our enforcement authority, and little to no access to the areas of the plants where animals are killed," stated the petition by the National Joint Council of Food Inspection Locals.

Barbara Masters, the agency's director of slaughter operations, told meat industry executives in February she didn't know if the number of violations was up or down, thought she believed most plants were complying with the law. "We encourage the district offices to monitor trends," she said. "The fact that we haven't heard anything suggests there are no trends."

But some inspectors see little evidence the agency is interested in hearing about problems. Under the new inspection system, the USDA stopped tracking the number of violations and dropped all mentions of humane slaughter from its list of rotating tasks for inspectors.

The agency says it expects its watchdogs to enforce the law anyway. Many inspectors still do, though some occasionally wonder if it's worth the trouble.

"It always ends up in argument: Instead of re-stunning the animal, you spend 20 minutes just talking about it," said Colorado meat inspector Gary Dahl, sharing his private views. "Yes, the animal will be dead in a few minutes anyway. But why not let him die with dignity?"

[From the Washington Post, Apr. 10, 2001]

BIG MAC'S BIG VOICE IN MEAT PLANTS

(By Joby Warrick)

KANSAS CITY, MO.—Never mind the bad old days, when slaughterhouses were dark places filled with blood and terror. As far as the world's No. 1 hamburger vendor is concerned, Happy Meals start with happy cows.

That was the message delivered in February by a coterie of McDonald's consultants to a group of 140 managers who oversee the slaughter of most of the cattle and pigs Americans will consume this year. From now on, McDonald's says, its suppliers will be judged not only on how cleanly they slaughter animals, but also on how well they manage the small details in the final minutes.

Starting with cheerful indoor lighting.

"Cows like indirect lighting," explained Temple Grandin, an animal science assistant professor at Colorado State University and McDonald's lead consultant on animal welfare. "Bright lights are a distraction."

And only indoor voices, please.

"We've got to get rid of the yelling and screaming coming out of people's mouths," Grandin scolded.

So much attention on atmosphere may seem misplaced, given that the beneficiaries are seconds away from death. But McDonald's, like much of the meat industry, is serious when it comes to convincing the public of its compassion for the cows, chickens and pigs that account for the bulk of its menu.

Bloodied in past scrapes with animal rights groups, McDonald's has been positioning itself in recent years as an ardent defender of farm animals. It announced last year it would no longer buy eggs from companies that permit the controversial practice of withholding food and water from hens to speed up egg production.

Now the company's headfirst plunge into slaughter policing is revolutionizing the way slaughterhouses do business, according to a wide range of industry experts and observers.

"In this business, you have a pre-McDonald's era and a post-McDonald's era," said Grandin, who has studied animal-handling practices for more than 20 years. "The difference is measured in light-years."

Others also have contributed to the improvement, including the American Meat Institute, which is drawing ever-larger crowds to its annual "humane-handling" seminars, such as the one in Kansas City. The AMI, working with Grandin, issued industry-wide guidelines in 1997 that spell out proper treatment of cows and pigs, from a calm and orderly delivery to the stockyards to a quick and painless end on the killing floor.

But the driving force for change is McDonald's, which decided in 1998 to conduct annual inspections at every plant that puts the beef into Big Macs. The chain's auditors observe how animals are treated at each stage of the process, keeping track of even minor problems such as excessive squealing or the overuse of cattle prods.

The members of McDonald's audit team say their job is made easier by scientific evidence that shows tangible economic benefits when animals are treated well. Meat from abused or frightened animals is often discolored and soft, and it spoils more quickly due to hormonal secretions in the final moments of life, industry experts say.

"Humane handling results in better finished products," AMI President J. Patrick Boyle said. "It also creates a safer workplace, because there's a potential for worker injuries when animals are mishandled."

Not everyone is convinced that slaughter practices have improved as much as McDonald's surveys suggest. Gail Eisnitz, investigator for the Humane Farming Association, notes that until the past few months, all McDonald's inspections were announced in advance.

"The industry's self-inspections are meaningless," Eisnitz said. "They're designed to lull Americans into a false sense of security about what goes on inside slaughterhouses."

But Jeff Rau, an animal scientist who attended the Kansas City seminar on behalf of the Humane Society of the United States, saw the increased attention to animal welfare as a hopeful step.

"The industry has recognized it has some work to do," Rau said. "The next step is to convince consumers to be aware of what is happening to their food before it gets to the table. People should understand that their food dollars can carry some weight in persuading companies to improve."

Eulogy of the Dog

(By George G. Vest)

WARRENSBURG, MO, Sept. 23, 1870.—Gentlemen of the jury. The best friend a man has in the world may turn against him and become his enemy. His son or daughter whom he has reared with loving care may prove ungrateful. Those who are nearest and dearest to us, those whom we trust with our happiness and our good name, may become traitors to their faith. The money that a man has he may lose. It flies away from him perhaps when he needs it most. A man's reputation may be sacrificed in a moment of ill-considered action. The people who are prone to fall on their knees to do us honor when success is with us may be the first to throw the stone of malice when failure settles its cloud upon our heads. The one absolutely unselfish friend that a man can have in this selfish world, the one that never deserts him, the one that never proves ungrateful or treacherous, is the dog.

Gentlemen of the jury, a man's dog stands by him in prosperity and in poverty, in health and in sickness. He will sleep on the cold ground when the wintry winds blow and the snow drives fiercely, if only he can be near his master's side. He will kiss the hand that has no food to offer, he will lick the wounds and sores that come in encounter with the roughness of the world. He guards the sleep of his pauper master as if he were a prince.

When all other friends desert, he remains. When riches take wings and reputation falls to pieces, he is as constant in his love as the sun in its journey through the heavens. If fortune drives the master forth an outcast into the world, friendless and homeless, the faithful dog asks no higher privilege than that of accompanying him, to guard him against danger, to fight against his enemies. And when the last scene of all comes, and death takes his master in its embrace and his body is laid in the cold ground, no matter if all other friends pursue their way, there by his graveside will the noble dog be found, his head between his paws and his eyes sad but open, in alert watchfulness, faithful and true, even unto death.

Mr. BYRD. Mr. President, after Senator STEVENS presents his statement, if he has no objection, I will present the managers' amendment. And at that time I will also ask unanimous consent that if that managers' amendment may be agreed to, that a second managers' amendment may be in order if necessary.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I join the chairman of the Appropriations Committee in presenting this bill, S. 1077, to the Senate today. It provides necessary supplemental funds for the remainder of fiscal year 2001.

Let me start off by thanking Senator BYRD for his kind comments. It is a pleasure, once more, to present a supplemental bill to the Senate together with my great friend from West Virginia. He is chairman now. I was chairman last year. I can tell the Senate, it makes no difference as far as we are concerned. We work together. We may have slight disagreements from time to time, but we work those out before coming to this Chamber. I commend him for the way he is now proceeding—as rapidly as possible—to catch up on the schedule of the appropriations bills so we may do our best to complete them all by the end of this fiscal year.

As stated by Senator BYRD, this bill, as reported by our committee, conforms to the budget resources available for this year in both budget authority and outlays. The bill also matches the total request submitted by President Bush of $6.5 billion.

The bill does not present any emergency appropriations. All spending is within the budget caps set by Congress and within the President's request.

I commend the chairman for reporting this bill out of the committee just 1 day after the House passed the companion measure, H.R. 2216. Our committee had only 2 weeks to consider the President's request and House adjustments, and sent this bill forward with a unanimous vote in the committee. That is a great compliment to Senator BYRD as the chairman of the committee.

I am pleased to join him in recommending the bill to the Senate. I urge all Members to support the bill and to adhere to the tight spending limits that have been adhered to by the committee itself. Nearly 90 percent of the funding provided in this bill meets the ongoing needs of the Department of Defense.

I join also in commending the senior Senator from Hawaii, Mr. INOUYE, the chairman of the Defense Subcommittee, for his determination to meet the readiness, quality of life, and health care needs of the men and women who serve in our Nation's Armed Forces.

In addition to the amounts requested by the President, funds are provided in the bill for the direct care system for military medicine. Additional funds are also proposed for Army real property maintenance and spare parts advocated by General Shinseki, the Army Chief of Staff. Funds are also provided for Navy ship depot maintenance and engagement initiatives for the commander in chief of the U.S. Pacific Command.

Based on extensive hearings by the Defense Subcommittee and numerous discussions with the Secretary of Defense, these amounts are adequate to meet the military's needs through the end of this fiscal year.

This bill is no substitute for the significant increase in defense funds that have been sought by the President in his budget amendment. He has sought an additional $18.4 billion over the original request for fiscal year 2002. We are looking here only at amounts needed through September 30 of this year, 2001. Just 83 days from now, we will see the end of this fiscal year.

Amendments may be offered that would provide additional funds for this year—for 2001. I urge my colleagues to withhold such amendments. We have adequately discussed the needs with the Department, and we believe there are no additional funds that could be spent within this fiscal year of 2001.

We will have an opportunity to assess the needs of the Department through the Defense authorization and appropriations bills for 2002, the fiscal year that we will address starting on October 1 of this year. We cannot address all those needs here. We do not need to deal with the 2002 requests in a 2001 supplemental appropriations bill.

I join my colleagues in their belief that we need additional resources for our national defense. I shall do my best to support the request of the President, and all other funding that we might be able to achieve, to really deal with the Department of Defense needs.

The underfunding of the past cannot be corrected in one supplemental bill. The new Secretary and the President of the United States have asked for our patience while they set new priorities and determine the most vital needs for our Armed Forces. We have had significant changes in our military strategy, and we should accord the President of the United States and the Secretary of Defense the courtesy they have requested and wait for their report.

We need to move this bill out of the Senate today. I join Senator BYRD in committing to hold this bill to the level set by the committee and by the President for this fiscal year.

We need to get the military the money they need by getting this bill to conference and out of conference this week so that they will have these funds available for the remainder of this year. I also commit to working with my colleagues to secure the funding later this month, and in September, for fiscal year 2002 and future years.

In addition to the military requirements, there are several pressing disaster relief challenges that face our National Government. Through several conversations with the Director of the Federal Emergency Management Agency, Joe Allbaugh, I am anxious about the level of FEMA disaster relief funding available for the rest of this calendar year.

So far, no further supplemental request has been received from the Office of Management and Budget for this fiscal year. It is my hope that additional information will be available to the conferees on this bill later this week.

Challenges from tropical storm Allison, ice storms in the Southeast, and other disasters continue to stress our response capability. Especially damaging was the loss to the medical research programs in Houston, TX, during the storm Allison.

The Senator from Texas, a member of our committee, has worked tirelessly to find means to address that crisis, and I look forward to working with her on that effort to the maximum extent possible.

With no budget constraints, I could support additional funding for the Department of Defense, for FEMA, for LIHEAP, and several other priorities sought by many of our colleagues.

We were asked by the President to limit funding in this bill to such amounts as could be spent during the remainder of this fiscal year. That is a reasonable request. We were also asked to live within the moneys available under the funding caps set by the Congress. We have already voted on that this year, and we feel constrained by those limits.

We were asked to break the cycle of "emergency" appropriations as simply a tool to get around budget limits. We do not support those actions, and the executive branch in the past has required emergency appropriations each year. We hope we will not have to pursue that policy in the future.

This bill meets the demands of the Congress and the President of the United States for budget constraints.

We hope we can go to conference this week with the House. If the Senate passes this bill, as we hope, early tomorrow morning, that will take place.

I implore all Senators to work with us today to complete this bill so the funds can get to the Armed Forces by the end of this week.

We have been in sort of a vicious cycle in recent years whereby the Chairman of the Joint Chiefs and the Chiefs themselves have had to determine how much they could spend in the early parts of the fiscal year because of constraints placed on them due to the deviation of funds for peacekeeping and other activities. That has led every year to a supplemental. This is one of those supplementals for funds necessary to carry out the basic needs of our military during the summertime. The steaming hours of our Navy, the flying hours of our Air Force and our Marines and Navy, the ground exercises by our Army, and the activities that take place throughout the world by our men and women in the armed services demand additional money.

This is the bill to fund those for the remainder of July and August and September. Those activities will depend upon the passage of this bill.

The sooner we can pass this bill, the better off we will be in terms of the training and the activities of our men and women in the armed services to assure their capabilities to defend this country.

I urgently support this bill. I urgently urge the Senate to pass it as soon as possible.

I request the cooperation of every Member of the Senate in trying to help us accomplish that objective no later than tomorrow morning.

Mr. CONRAD. Mr. President, I am pleased to rise today in support of S. 1077, the Supplemental Appropriations Act for Fiscal Year 2001.

The Senate bill provides $8.477 billion in new discretionary budget authority, offset by the rescission of $1.933 billion of budget authority provided in previous years, for a net increase of $6.544 billion. As a result of this additional budget authority, outlays will increase by $1.291 billion in 2001. The Senate bill meets its revised section 302(a) and 302(b) allocations for budget authority and is well under—by more than $1 billion—those allocations for outlays.

I commend Chairman BYRD and Senator STEVENS for their bipartisan effort under unusual circumstances in bringing this important measure to the floor within its allocation and without resorting to unnecessary emergency designations. This bill provides important resources to our uniformed personnel, including funding statutory increases in pay and health care. In addition, it provides assistance to low-income families for heating and education.

I urge adoption of the bill.

I ask for unanimous consent that a table displaying the Budget Committee scoring of this bill printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

S. 1077, SUPPLEMENTAL APPROPRIATIONS ACT, 2001

[Spending comparsions—Senate-reported bill (in millions of dollars)]

	Discretionary	Mandatory	Total
Senate-reported bill:			
Budget Authority	6,544	936	7,480
Outlays	1,291	936	2,227
Amounts available within Senate 302(a) allocation:			
Budget Authority	6,545	936	7,481
Outlays	2,487	936	3,423
House-passed bill:			
Budget Authority	6,545	936	7,481
Outlays	1,341	936	2,277
President's request:			
Budget Authority	6,543	936	7,479
Outlays	1,232	936	2,168
SENATE-REPORTED BILL COMPARED TO			
Amounts available within Senate 302(a) allocation:			
Budget Authority	(1)	0	(1)
Outlays	(1,196)	0	(1,196)
House-passed bill:			
Budget Authority	(1)	0	(1)
Outlays	(50)	0	(50)
President's request:			
Budget Authority	1	0	1
Outlays	59	0	59

Notes: Details may not add to totals due to rounding. Prepared by SBC Majority Staff, June 26, 2001.

Mr. CONRAD. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

AMENDMENT NO. 861

Mr. BYRD. Mr. President, I shall send to the desk a managers' amendment supported by Senator STEVENS and myself. It consists of a package of amendments. These amendments have been cleared on both sides, and I know of no controversy concerning them.

The first is an amendment by Senators HUTCHISON and INHOFE for storm damage repair at military facilities in Texas and Oklahoma.

The next amendment is offered by Senators TORRICELLI and CORZINE to convey surplus firefighting equipment in New Jersey.

The next is an amendment by myself to make technical corrections in the energy and water chapter in title I.

Next is an amendment for storm damage repair at military facilities in Texas and Oklahoma offered by Senators HUTCHISON and INHOFE.

Next is an amendment by Senator STEVENS to increase the authorization for the Bassett Army Hospital.

Next is an amendment to provide $3 million for the U.S. Department of Agriculture for humane treatment of animals. That is my amendment. It is fully offset by a later amendment.

Next is an amendment offered by Senators GRASSLEY, ROBERTS, and STEVENS to expedite rulemaking for crop insurance.

Next is an amendment by Senators FEINSTEIN and BOXER and SMITH of Oregon and WYDEN to provide $20 million for the Klamath Basin. Funding is offset in a later amendment.

This will be followed by an amendment by myself in the agriculture chapter to provide an offset for the $3 million for humane treatment of animals.

Next is an amendment to increase a rescission in the committee bill for the oil and gas guarantee program by $4.8 million.

Next is an amendment to strike section 2101 of the committee bill dealing with the Oceans Commission.

Next is an amendment to clarify the use of D.C. local funds to prevent the demolition by neglect of historic properties, followed by an amendment to redirect the expenditure of $250,000 within the Western Area Power Administration, followed by an amendment by Senator BURNS to provide a transfer of $3 million for the Bureau of Land Management energy permitting activities.

Next is an amendment by Senator HARKIN to clarify the timing of the dislocated worker rescission in the committee bill.

This will be followed by a technical change to a heading in the bill.

Next is an amendment offered by Senator DOMENICI to make a technical date correction in the Perkins Vocational Education Act.

Next is an amendment by myself and Senator STEVENS to authorize the expenditure of $20 million previously appropriated, subject to authorization, to the Corporation for Public Broadcasting for digital conversion by local stations.

Next is an amendment to allow the Architect of the Capitol to make payments to Treasury for water and sewer services provided by the District of Columbia.

These will be followed by amendments by Senators MURRAY and STEVENS to, one, appropriate $16,800,000 to repair damage caused in Seattle by the Nisqually earthquake; two, appropriate $2 million for a joint U.S.-Canada commission dealing with connection of the Alaska Railroad to the North American system; and, three, make certain technical corrections. The funding is offset by rescissions.

Next is an amendment by Senator INOUYE to transfer $1 million from the Morris K. Udall Foundation to the Native Nations Institute.

And finally an amendment to name a building in the State of Virginia for a late House colleague, Norm Sisisky, on behalf of Senator WARNER.

I ask unanimous consent that the amendments be considered en bloc and that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the managers' amendment be agreed to and that it be considered as original text for the purpose of further amendment.

Mr. STEVENS. Reserving the right to object, Mr. President, it is my understanding that the chairman of the committee will offer another unanimous consent request for a second managers' amendment.

Mr. BYRD. Yes. I make that request in conjunction with the request pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the amendment by number for the information of the Senate.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. STEVENS, proposes an amendment numbered 861.

The PRESIDING OFFICER. The amendment has been agreed to.

The amendment (No. 861) was agreed to:

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. The Senator's unanimous consent request included the request for a second managers' amendment; am I correct?

The PRESIDING OFFICER. That request has been granted.

Mr. STEVENS. I thank the Chair.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this would be a very good time for all of our colleagues to offer their amendments if they have amendments. Senator STEVENS and I are prepared to listen to Senators propose their amendments, and we are prepared to respond to their proposals. Much time could be saved if Senators will come to the floor and offer those amendments at the very earliest. Of course, if Senators don't have amendments, that will suit the two of us just as well.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, seeing no other Senator who seeks recognition at this time, I shall speak on another matter notwithstanding the fact that the Pastore rule has not run its course.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRUELTY TO ANIMALS

Mr. BYRD. Mr. President, a few months ago, a lady by the name of Sara McBurnett accidentally tapped a sports utility vehicle from behind on a busy highway in California. The angry owner of the bumped vehicle, Mr. Andrew Burnett, stormed back to Ms. McBurnett's car and began yelling at her; and then reached through her open car window with both hands, grabbed her little white dog and hurled it onto the busy roadway. The lady sat helplessly watching in horror as her frightened little pet ran for its life, dodging speeding traffic to no avail. The traffic was too heavy and the traffic was too swift.

Imagine her utter horror. Recently, Mr. Burnett was found guilty of animal cruelty by a jury in a California court, so my faith in the wisdom of juries was restored. Ever since I first heard about this monstrous, brutal, barbaric act, I have wondered what would drive any sane person to do such a thing. There are some people who have blamed this senseless and brutal incident on road rage. But it was not just road rage, it was bestial cruelty. It was and is an outrage. It was an act of sheer depravity to seize a fluffy, furry, innocent little dog, and toss it onto a roadway, and most certainly to be crushed under tons of onrushing steel, iron, glass, and rubber, while its terrified owner, and perhaps other people in other vehicles, watched.

There is no minimizing such cruelty and resorting to the lame excuse that, "after all, it was just a dog."

The dog owner, Ms. McBurnett, puts the incident in perspective. Here is what she said: It wasn't just a dog to me. For me, it was my child. A majority of pet owners do believe their pets to be family members. That is the way I look at my little dog, my little dog Billy—Billy Byrd. I look at him as a family member. When he passes away, I will shed tears. I know that. He is a little white Maltese Terrier. As a pet owner and dog lover, I know exactly what that lady means, and so did millions of other dog lovers who could never even fathom such an act.

For my wife and me, Billy Byrd is a key part of our lives at the Byrd House in McLean. He brings us great joy and wonderful companionship. As I said on this floor just a few months ago, if I ever saw in this world anything that was made by the Creator's hand that is more dedicated, more true, more faithful, more trusting, more undeviant than this little dog, I am at a loss to state what it is. Such are the feelings of many dog owners.

Dogs have stolen our hearts and made a place in our homes for thousands of years. Dogs fill an emotional need in man and they have endured as our close companions. They serve as guards and sentries and watchdogs; they are hunting companions. Some, like Lassie and Rin Tin Tin, have become famous actors. But mostly, these sociable little creatures are valued especially as loyal comforters to their human masters. Petting a dog can make our blood pressure drop. Try it. Our heart rate slows down. Try it. Our sense of anxiety diminishes, just goes away. Researchers in Australia have found that dog owners have a lower risk of heart disease, lower blood pressure, and lower cholesterol levels than those people who do not own dogs. Researchers in England have demonstrated that dog owners have far fewer minor health complaints than those people without a dog. Our dogs are about the most devoted, steadfast companions that the Creator could have designed. They are said to be man's best friend and, indeed, who can dispute it?

The affection that a dog provides is not only unlimited, it is unqualified, unconditional. A faithful dog does not judge its owner, it does not criticize him or her, it simply accepts him or her; it accepts us as we are, for who we are, no matter how we dress, no matter how much money we have or don't have, and no matter what our social standing might be or might not be. No matter what happens, one's dog is still one's friend.

A long, frustrating day at work melts into insignificance—gone—with the healing salve of warm, excited greetings from one's ever faithful, eternally loyal dog.

President Truman was supposed to have remarked: If you want a friend in Washington, buy a dog. I often think about Mr. Truman's words. No wonder so many political leaders have chosen the dog as a faithful companion and canine confidante. Former Senate Republican leader, Robert Dole, was constantly bringing his dog, "Leader"—every day—to work with him. President Bush has "Barney" and "Spot." President Truman had an Irish setter named "Mike." President Ford had a golden retriever named "Lucky." The first President Bush had Millie.

Of course, there was President Franklin Roosevelt and his dog, "Fala." They had such a close relationship that his political opponents once attempted to attack him by attacking his dog. Eleanor Roosevelt recalled that for months after the death of her husband, every time someone approached the door of her house, Fala would run to it in excitement, hoping that it was President Roosevelt coming home.

The only time I remember President Nixon becoming emotional, except when he was resigning the Presidency, perhaps more so in the first instance, was in reference to his dog "Checkers."

At the turn of the century, George G. Vest delivered a deeply touching summation before the jury in the trial involving the killing of a dog, Old Drum. This occurred, I think, in 1869. There were two brothers-in-law, both of whom had fought in the Union Army. They lived in Johnson County, MO. One was named Leonidas Hornsby. The other was named Charles Burden.

Burden owned a dog, and he was named "Old Drum." He was a great hunting dog. Any time that dog barked one could know for sure that it was on the scent of a raccoon or other animal.

Leonidas Hornsby was a farmer who raised livestock and some of his calves and lambs were being killed by animals. He, therefore, swore to shoot any animal, any dog that appeared on his property.

One day there appeared on his property a hound. Someone said: "There's a dog out there in the yard." Hornsby said: "Shoot him."

The dog was killed. Charles Burden, the owner of the dog, was not the kind of man to take something like this lightly. He went to court. He won his case and was awarded $25. Hornsby appealed, and, if I recall, on the appeal there was a reversal, whereupon the owner of the dog decided to employ the best lawyer that he could find in the area.

He employed a lawyer by the name of George Graham Vest. This lawyer gave a summation to the jury. Here is what he said:

> The best friend that a man has in this world may turn against him and become his enemy. His son or daughter whom he has reared with loving care may prove ungrateful. Those who are nearest and dearest to us, those whom we trust with our happiness and our good name may become traitors to their faith. The money that a man has, he may lose. It flies away from him perhaps when he needs it most. A man may sacrifice his reputation in a moment of ill-considered action. The people who are prone to fall on their knees and do us honor when success is with us may be the first to throw the stone of malice when failure settles its cloud upon our heads. The one absolutely unselfish friend that a man can have in this selfish world, the one that never deserts him, the one that never proves ungrateful or treacherous, is the dog.
>
> Gentlemen of the jury, a man's dog stands by him in prosperity and in poverty, in health and in sickness. He will sleep on the cold ground when the wintry winds blow, and the snow drives fiercely, if only he can be near his master's side. He will kiss the hand that has no food to offer, he will lick the wounds and sores that come in encounter with the roughness of the world. He guards the sleep of his pauper master as if he were a prince.
>
> When all other friends desert, he remains. When riches take wings and reputation falls to pieces, he is as constant in his love as the Sun in its journey through the heavens.
>
> If fortune drives the master forth and outcast into the world, friendless and homeless, the faithful dog asks no higher privilege than that of accompanying him, to guard him against danger, to fight against his enemies.
>
> And when the last scene of all comes, death takes the master in its embrace and his body is laid in the cold ground, no matter if all other friends desert him and pursue their way, there by his graveside will the noble dog be found, his head between his paws and his eyes sad but open in alert watchfulness, faithful and true, even unto death.

Well, of course, George Vest won the case. It was 1869 or 1870. In 1879 he ran for the U.S. Senate and was elected and served in the Senate for 24 years. The citizens in Warrensburg, MO, decided to build a statue to Old Drum, and that statue stands today in the courtyard at Warrensburg. Harry Truman contributed $250 to the building of the statue. I generally ask new Senators from Missouri have they heard about Old Drum. I asked that of KIT BOND one day and he remembered, so upon his first occasion to visit Warrensburg, MO, after that, he brought me a picture of the statue of Old Drum.

So, just a little pat, a little treat, a little attention for the dog is all that a pet asks. How many members of the human species can love so completely? How does man return that kind of affection?

I remember a recent news program that told of a man who was going around killing dogs and selling the meat from them. A couple of years ago, NBC News reported that American companies were importing and selling toys made in China that were decorated with the fur from dogs that were raised and then slaughtered just for that purpose.

And now we have this monster—I do not hesitate to overrate him—who, because of cruelty and rage, decided that he had the right to grab a harmless little dog and hurl it to its certain death. It makes one ponder the question, doesn't it, Which was the animal? Burnett, or Leo, the little dog? Of course we know the answer.

The point is this: We have a responsibility to roundly condemn such abject cruelty. Apathy regarding incidents such as this will only lead to more deviant behavior. And respect for life, all life, and for humane treatment of all creatures is something that must never be lost.

The Scriptures say in the Book of Proverbs, "A righteous man regardeth the life of his beast, but the tender mercies of the wicked are cruel."

Mr. President, I am concerned that cruelty toward our faithful friend, the dog, may be reflective of an overall trend toward animal cruelty. Recent news accounts have been saturated with accounts of such brutal behavior. A year or two ago, it was revealed that macabre videos showing small animals, including hamsters, kittens, and monkeys, being crushed to death were selling for as much as $300 each. And just a few day ago, there were local news accounts of incidents in Maryland involving decapitated geese being left on the doorsteps of several homes in a Montgomery County community.

Our inhumane treatment of livestock is becoming widespread and more and more barbaric. Six-hundred-pound hogs—they were pigs at one time—raised in 2-foot-wide metal cages called gestation crates, in which the poor beasts are unable to turn around or lie down in natural positions, and this way they live for months at a time.

On profit-driven factory farms, veal calves are confined to dark wooden crates so small that they are prevented from lying down or scratching themselves. These creatures feel; they know pain. They suffer pain just as we humans suffer pain. Egg-laying hens are confined to battery cages. Unable to spread their wings, they are reduced to nothing more than an egg-laying machine.

Last April, the Washington Post detailed the inhumane treatment of livestock in our Nation's slaughterhouses. A 23-year-old Federal law requires that cattle and hogs to be slaughtered must first be stunned, thereby rendered insensitive to pain, but mounting evidence indicates that this is not always being done, that these animals are sometimes cut, skinned, and scalded while still able to feel pain.

A Texas beef company, with 22 citations for cruelty to animals, was found chopping the hooves off live cattle. In another Texas plant with about two dozen violations, Federal officials found nine live cattle dangling from an overhead chain. Secret videos from an Iowa pork plant show hogs squealing and kicking as they are being lowered into the boiling water that will soften their hides, soften the bristles on the hogs and make them easier to skin.

I used to kill hogs. I used to help lower them into the barrels of scalding water, so that the bristles could be removed easily. But those hogs were dead when we lowered them into the barrels.

The law clearly requires that these poor creatures be stunned and rendered insensitive to pain before this process begins. Federal law is being ignored. Animal cruelty abounds. It is sickening. It is infuriating. Barbaric treatment of helpless, defenseless creatures must not be tolerated even if these animals are being raised for food—and even more so, more so. Such insensitivity is insidious and can spread and is dangerous. Life must be respected and dealt with humanely in a civilized society.

So for this reason I have added language in the supplemental appropriations bill that directs the Secretary of Agriculture to report on cases of inhumane animal treatment in regard to livestock production, and to document the response of USDA regulatory agencies.

The U.S. Department of Agriculture agencies have the authority and the capability to take action to reduce the disgusting cruelty about which I have spoken.

Oh, these are animals, yes. But they, too, feel pain. These agencies can do a better job, and with this provision they will know that the U.S. Congress expects them to do better in their inspections, to do better in their enforcement of the law, and in their research for new, humane technologies. Additionally, those who perpetuate such barbaric practices will be put on notice that they are being watched.

I realize that this provision will not stop all the animal life in the United States from being mistreated. It will not even stop all beef, cattle, hogs and other livestock from being tortured. But it can serve as an important step toward alleviating cruelty and unnecessary suffering by these creatures.

Let me read from the Book of Genesis. First chapter, versus 24–26 reads:

> And God said—

Who said? God said.

> And God said, Let the Earth bring forth the living creature after his kind, cattle, and creeping thing, and beast of the Earth after his kind: and it was so.
>
> And God made—

Who made?

> And God made the beasts of the earth after his kind, and cattle after their kind, and every thing that creepeth upon the earth after his kind: and God saw that it was good.
>
> And God said—

Who said? God said. Who said?

> And God said, Let us make man in our image, after our likeness: and let them have dominion over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the Earth.

Thus, Mr. President, God gave man dominion over the Earth. We are only the stewards of this planet. We are only the stewards of His planet. Let us not fail in our Divine mission. Let us strive to be good stewards and not defile God's creatures or ourselves by tolerating unnecessary, abhorrent, and repulsive cruelty.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

SUPPLEMENTAL APPROPRIATIONS ACT, 2001—Continued

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I wish to request—I understand my colleague, Senator STEVENS, has already done this with respect to his cloakroom—that our cloakrooms send out a call to various Senators and staffs who are in town to let Senator STEVENS and me and the floor staffs know by 3 p.m. today if they have amendments which they expect to offer. If Senators expect to offer amendments and have not already informed Senator STEVENS and myself and our floor staffs, they should do so by 3 p.m. today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

AMENDMENT NO. 862

Mr. REID. Mr. President, on behalf of Senator SCHUMER and others, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

> The Senator from Nevada [Mr. REID], for Mr. SCHUMER, Mr. REED, Mr. REID, Mr. DODD, Mr. LIEBERMAN, and Mr. CORZINE, proposes an amendment numbered 862.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To rescind $33,900,000 for the printing and postage costs of the notices to be sent by the Internal Revenue Service before and after the tax rebate, such amount to remain available for debt reduction)
>
> On page 44, line 20, strike "$66,200,000" and insert "$32,300,000".

Mr. REID. Mr. President, this amendment has been sent to the desk on behalf of Senators SCHUMER, REED, DODD, LIEBERMAN, and CORZINE that would rescind $33.9 million in unnecessary spending from the supplemental appropriations bill.

This money would finance an unnecessary and inappropriate notice to taxpayers on the rebate they will receive as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

This amendment is offered to help uphold the standards of professionalism and integrity that the Internal Revenue Service has historically tried to maintain.

These standards are threatened by this partisan notification.

The letter reads:

> We are pleased to inform you that the United States Congress passed and President George W. Bush signed into law the Economic Growth and Tax Relief Reconciliation Act of 2001, which provides long-term relief for all Americans who pay income taxes. The new tax law provides immediate tax relief in 2001 and long-term tax relief for the years to come.

In 1975, a similar rebate was made available to taxpayers and it was simply included in the refunds.

I look forward to working with my colleague on this amendment, as does Senator SCHUMER, as debate on the supplemental appropriations proceeds. I hope this amendment will be accepted.

Mr. President, I ask unanimous consent that the amendment be laid aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 863

Mr. REID. Mr. President, on behalf of Senator FEINGOLD, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

> The Senator from Nevada [Mr. REID] for Mr. FEINGOLD, proposes an amendment numbered 863.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To increase the amount provided to combat HIV/AIDS, malaria, and tuberculosis, and to offset that increase by rescinding amounts appropriated to the Navy for the V–22 Osprey aircraft program)
>
> On page 28, beginning on line 9, strike "$100,000,000" and all that follows through line 13, and insert the following: "$693,000,000, to remain available until expended: *Provided*, That this amount may be made available, notwithstanding any other provision of law, for a United States contribution to a global trust fund to combat HIV/AIDS, malaria, and tuberculosis: *Provided, further*, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section

251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided, further,* That the entire amount under this heading shall be available only to the extent that an official budget request for that specific dollar amount that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided, further,* That the total amount of the rescission for 'Aircraft Procurement, Navy, 2001/2003' under section 1204 is hereby increased by $594,000,000.''.

Mr. REID. Mr. President, I ask unanimous consent that amendment be laid aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I am going to ask that the Senate recess awaiting the call of the Chair. I will be available, and Senator STEVENS will be available anytime a Senator comes to the floor and wishes to offer an amendment or to make a statement on any matter. This will merely free the floor staff for a moment to have lunch, if necessary.

Mr. President, seeing no Senator seeking recognition, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 3:24 p.m., recessed until 3:27 p.m. and reassembled when called to order by the Presiding Officer (Mr. GRAHAM).

The PRESIDING OFFICER. The Senator from Idaho is recognized.

AMENDMENT NO. 864

Mr. CRAIG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. ROBERTS, for himself, Mr. CLELAND, Mr. CRAIG, Mr. MILLER, Mr. CRAPO, and Mr. BROWNBACK, proposes an amendment numbered 864.

Mr. CRAIG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of funds for reorganizing certain B-1 bomber forces)

At the appropriate place, insert the following:

SEC. . None of the funds available to the Department of Defense for fiscal year 2001 may be obligated or expended for retiring or dismantling, or for preparing to retire or dismantle, any of the 93 B-1B Lancer bombers in service as of June 1, 2001, or for transferring or reasigning any of those aircraft from the unit, or the facility; to which assigned as of that date.

Mr. CRAIG. Mr. President, recently the Air Force revealed as part of its programmed budget decision its plan to cut the B-1B force structure by more than one-third. This has a substantial impact on a variety of Air Force bases that currently have a B-1B mission, and actually eliminates the B-1B entirely from Mountain Home Air Force Base in my State, from McConnell Air Force Base in Kansas, and from Robbins Air Force Base in Georgia.

Such a drawdown in the B-1B fleet has the same national impact as would BRAC. Clearly, decisions of this magnitude should not be made without consultation with Congress. There was no opportunity for advice and consent on the part of the Air Force or the Office of the Secretary of Defense.

Therefore, I offer this amendment on behalf of myself and Senator ROBERTS to preempt any precipitous action by the Department of Defense that could circumvent the right of Congress to review such a significant change in our Air Force defense structure.

This amendment will prevent any 2001 funds from being used for the preparation of retiring, dismantling, or reassigning any portion of the B-1B fleet. This would allow Congress the necessary time to consider the significance of the Air Force's decision and its impact with regard to the fiscal year 2002 defense budget.

The B-1B satisfies a very specific warfighting requirement as our fastest long-range strategic bomber capable of flying intercontinental missions without refueling. With its flexible weapons payloads and a high carrying capacity, it is extremely effective against time-sensitive and mobile targets.

While cutting the force structure is advocated as a means of cost savings and weapons upgrade, it comes at a significant national security cost. Removal of the B-1B from Mountain Home Air Force Base calls into question DOD's support of the composite wing which is the basis for the air expeditionary wing concept and raises other long-term strategic and mission questions.

The composite wing is our Nation's "911 call" in times of conflict that require rapid reaction and deployment over long distances. Do we want to eliminate our nation's 911 call, particularly in light of a future defense strategy that requires the increase capabilities that the B-1B offers as a long-range, low-altitude, fast-penetration bomber?

Mountain Home Air Force Base is unique.

At Mountain Home, we train our men and women in uniform as they are expected to fight by bringing together the composite wing and an adjacent premier training range with significant results that will ensure that we are the next generation air power leader. We have composite wing training twice a month, premier night low-altitude training, dissimilar air combat training, and the current composite wing configuration fulfills the air expeditionary wing requirement 100 percent. Without the B1-B in the composite wing, our target load capability is reduced by 60 percent.

Removal of the B1-B from the three bases will actually increase costs while reducing operational readiness: The B1 missions for the National Guard at McConnell and Robbins Air Force bases have a 15 percent higher mission capable rate than active duty units at Dyess Air Force Base in Texas and Ellsworth Air Force Base in South Dakota, with 25 percent less cost per flying hour, due to decreased wear and tear on the aircraft. Also, the National Guard repairs B-1 engines for the whole fleet at 60 percent of the depot cost. As a result of the high costs associated with traveling to others bases for training, other B1-B wings from Dyess Air Force Base and Ellsworth Air Force Base take part only once a year in composite wing training, whereas the B1-B wing at Mountain Home Air Force Base conducts this type of training twenty four times per year. The result is that aviators from Mountain Home are rated higher in operational inspections and training because of the enhanced training opportunities which they receive at reduced cost to the government.

The Department of Defense shouldn't make budget decisions which change major national security objectives without congressional review. Military budget decision should be made for the right reasons and not be based on playing political favors, especially when it impacts our operational capability and readiness, and will cost the government more money in the long run. Therefore, I urge my colleagues to support this amendment which will provide Congress with time to review the Air Force's decision and its effects on our national defense structure.

I have another amendment for proposal that is to be drafted and that I believe the ranking member will offer before the 6 o'clock deadline. I will speak briefly to that amendment. It deals with grain and commodity sales to Israel.

Israel, as we all know, began to receive cash transfer assistance in 1979 which replaced, in part, commodity import program assistance. In lieu of assistance specifically for commodity purchases, Israel agreed to continue to purchase United States grain, of which it has purchased 1.6 million metric tons every year since, or until this year, 2001, and ship half of it in privately owned United States-flagged commercial vessels. That, in essence, was the agreement in 1979.

Despite a level of United States aid in every year since 1984 that has been higher than the 1979–1983 level, Israel never increased its grain imports. That was kind of the quid pro quo: As our rates increased, support would go up, and so would their purchases of commodities. Had proportionality been the test, Israel would have reached the 2.45 million tons at least at one point. It never has. However, Israel has consistently cited proportionality in reference to the 2001 Foreign Operations appropriation act in stating its intent to cut purchases of approximately 1.2 million metric tons in this fiscal year. This cut is disproportionately greater than the reduction of the U.S. aid from the 2000–2001 fiscal period and is not consistent with congressional intent.

My amendment, which will be proposed later this afternoon, reshapes this, ensuring that a side letter agreement, with the terms of at least as favorable treatment as those in the year 2001, would be more consistent with past congressional intent and previous bilateral relations. Proportionality is something that I don't think can be or should be effectively argued whereas they did not respond when our aid increases went up.

We will be bringing a letter to the floor insisting that Israel stay consistent with what was agreed to following 1979 as it related to turning, if you will, commodity import programs into cash transfer assistance. We think we have honored our agreement with Israel. The amendment simply requires them to honor their agreement with us.

I yield the floor.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

USE OF MEDICARE AND SOCIAL SECURITY TRUST FUNDS

Mr. CONRAD. Mr. President, I enjoyed reading the Washington Post this morning and listening to the weekend talk shows. I noticed I was the subject of a number of the articles and a number of the shows. I must say, I didn't recognize the policy that was being ascribed to me. Somehow, people have taken what I have proposed and twisted it and distorted it in a way that is almost unrecognizable. I think after examination it is clear why they have done that, but we will get into that in a moment.

The first article I would refer to is Robert Novak's piece in this morning's Washington Post that was headlined, "Kent Conrad's Show Trial."

Mr. Novak asserted that a hearing that I will be chairing later this week to talk about the fiscal condition of the country and where we are headed is some kind of a show trial. I want to assure Mr. Novak and anyone else who is listening, I have no interest in show trials. I do have a very serious interest in where we find ourselves after the fiscal policy that the President proposed has been adopted in the Congress because I think it has created serious problems.

Mr. Daniels, the head of the Office of Management and Budget, was on one of the talk shows this weekend and said I was engaged in what he referred to as "medieval economics." I kind of like better the way Mr. Novak referred to me. He accused me of "antique fiscal conservatism." "Antique fiscal conservatism," that is the characterization he applied to the policies I proposed. Mr. Daniels called it "medieval economics."

What is it that I have talked about that has aroused such ire? All I have said is I don't think we ought to be using the trust funds of Medicare and Social Security for other purposes.

That is what I have said. I think that is the right policy. I don't think we should be using the trust funds of Social Security and Medicare for other purposes. After I made that statement, and after I noted that the latest numbers that come from this administration suggest that in fact we will be doing precisely that this year and next year, Mr. Daniels responded by suggesting that means Senator CONRAD favors a tax increase at a time of an economic slowdown.

That is not my proposal. That is not what I suggested. In fact, my record is precisely the opposite of that. They know that. They know that as the ranking Democrat on the Budget Committee this year, I didn't propose a tax increase in the midst of an economic slowdown. It is precisely the opposite of that. I proposed a $60 billion tax reduction as part of the Democratic alternative to the budget the President proposed. In fact, I supported much more tax relief as fiscal stimulus in this year than the President had in his plan.

So, please, let's not be mischaracterizing my position and suggesting I was for a tax increase at a time of economic slowdown. That is not the truth. That isn't my record. My record is absolutely clear. Through all of the records of the Budget Committee and the debate on the floor, both during the budget resolution and the tax bill, my record is as clear as it can be. I favored fiscal stimulus this year, more fiscal stimulus than the President proposed—not a tax increase, a tax cut.

We are going to have a debate, and the debate is required because we have a serious problem developing. Let's have it in honest terms. Let's not mischaracterize people's positions. Mr. Daniels, don't mischaracterize my position. You know full well I have not called for a tax increase in times of an economic slowdown. You know full well that my record was calling for a tax cut—in fact, more of a tax cut in this year of economic slowdown than the President was calling for.

It is true that over the 10 years of the budget resolution I called for a substantially smaller tax cut than the President proposed because I was concerned about exactly what happened. Let's turn to that because this is what set off this discussion.

As we look at the year we are now in, fiscal year 2001, if we start with the total surplus of $275 billion and take out the Social Security trust fund surplus of $156 billion and the Medicare trust fund of $28 billion, that leaves us with $92 billion. The cost of the President's tax cut which actually passed the Congress wasn't what he proposed. It was substantially different than he proposed because it was more front-end loaded, $74 billion this year. And $33 billion of that is a transfer out of this year into next year—a 2-week delay in corporate tax receipts in order to make 2002 look better, because they knew they were going to have a problem of raiding the Medicare trust fund in 2002.

What did they do? They delayed certain corporate receipts by 2 weeks—$33 billion worth—and put them over into 2002. That added to the cost of the tax bill.

There is only $40 billion of real stimulus in this tax bill that is going to go out into the hands of the American people during this year. But the cost is $74 billion because of this cynical device they use to delay corporate tax receipts to make 2002 look better.

As we go down and look at the cost of other budget resolution policies for this year—largely the bill that is on the floor right now, the supplemental appropriations bill for certain emergencies—and we look at possible economic revisions that their own administration has suggested will come—that is, we are not going to receive the amount of revenue anticipated—we then see that we are into the Medicare trust fund by $17 billion this year. That is what it shows for this year.

We had distinguished economists testify before the Budget Committee. Based on what they said, next year we are going to not only be using the entire Medicare trust fund surplus but we are actually going to be using some of the Social Security trust fund as well, $24 billion next year; that is, if we take into account a series of other policy choices that are going to have to be made.

That is the question I am raising. Mr. Daniels wants to change that into a discussion of having a tax increase this year. I don't know anyone who is advocating a tax increase this year. I am certainly not. I advocated a tax reduction. But we don't have a forecast of economic slowdown for the next 10 years. That is not the forecast of the administration. They are forecasting strong economic growth. That is their forecast. Yet with a forecast of strong economic growth starting next year, we see that we are into the Medicare trust fund and the Social Security trust fund next year. We have problems with the two funds in 2003 and 2004, and that is before a single appropriations bill has passed.

This is not a question of the Congress spending more money and putting us back into the deficit ditch. That is not this situation. We are in trouble just based on the budget resolution that was passed—the Republican budget resolution, I might add.

Their tax cut—the tax cut supported by this President, and the reduction in revenue that they themselves are predicting—we have trouble going into the Medicare and Social Security trust funds just on the basis of those factors: The budget resolution that they endorsed, the tax cut that they proposed and the President signed, and the economic slowdown that they are predicting.

We are into the trust funds already. That is before the President's request for additional funding for defense. He has already asked for $18 billion for next year. That has a 10-year effect of over $200 billion.

The question I am raising is, Where should that money come from? We are already into the trust fund before the President's defense request. Should that come out of the trust funds of Medicare and Social Security? Should we raise taxes to fund it? Should we cut other spending to fund it? Where should the money come from? Or, does the administration believe we should just go further into the Social Security and Medicare trust funds? I hope that is not what they believe because I think that would be a mistake.

Again, this is all within the context of their forecast of a stronger economy, of a growing economy. Is that circumstance the right policy to fund the President's additional spending requests for defense and the right policy to take it out of the Medicare trust fund or the Social Security trust fund? I don't think so. I think that is a serious mistake. As I say, we are already in trouble. We are already into the trust funds before the President's defense request, before any new spending for education.

Remember that the Senate just passed, almost unanimously, a bill that authorized more than $300 billion of new spending for education. It is not in the budget resolution. We can see that if we fund just a part of that—if we only fund $150 billion of it—that makes the situation with the trust funds more serious.

This is before any funding for natural disasters. There is no funding for natural disasters in the budget. Yet we know we spend $5 billion to $6 billion a year on natural disasters. Should that funding come out of the Medicare and Social Security trust funds? That is exactly where we are headed.

The question is, Is that the right policy? That is before the tax extenders are dealt with. Those are popular measures such as the research and development tax credit and the wind and solar energy credits. Some of them run out this year. We are going to extend them. Yet that is not in the budget.

Is it the right policy to take the funds necessary to extend those tax credits out of the Medicare and Social Security trust funds? Because that is what we are poised to do.

The alternative minimum tax—that now affects some 2 million taxpayers, but under the tax bill that has passed it is going to affect 35 million taxpayers—just to fix the part of the alternative minimum tax that is caused by the tax bill we just passed would cost over $200 billion to fix. That is not in the budget. Should that money come out of the Medicare and Social Security trust funds? Because that is what we are poised to do.

I have said I do not think that is a good policy. I do not think we should pay for a defense buildup out of the trust funds of Social Security and Medicare. I do not think we should pay for additional education funding out of the trust funds. I do not think we should pay for natural disasters or tax extenders or the alternative minimum tax fix out of the Medicare and Social Security trust funds. Because we need to run surpluses there to prepare for the retirement of the baby boom generation. That is the money that is being used to pay down the publicly held debt.

I think, as I have said, at a time of strong economic growth—which is what is in the forecast—as a policy we should not be using the Medicare and Social Security trust funds to fund other parts of governmental responsibility. I think that is a profoundly wrong policy. Any private-sector organization in America that tried to use the retirement funds of their employees to fund the operations of the organization would be headed for a Federal institution, but it would not be the Congress of the United States; they would be headed for a Federal prison because that is fraud, to take money that is intended for one purpose and to use it for another.

We have stopped that practice. In the last year we stopped raiding the trust funds to use those moneys for other purposes. We have stopped it. We have used that money to pay down debt. That is the right policy.

I hope very much we do not go back to the bad old days of raiding every trust fund in sight in order to make the bottom line look as if it balances. I suggest to my colleagues, using the Medicare trust fund or the Social Security trust fund for the other costs of Government is not a responsible way to operate. That is the point I have made.

I do not advocate a tax increase at a time of economic slowdown. I want to repeat, my proposal that I gave my colleagues was for a substantial tax cut this year, fiscal stimulus, $60 billion of fiscal stimulus that I supported in this year. But we are not talking about an economic slowdown being projected by this administration for the next 10 years. They are projecting a strong return to economic growth.

I just saw the Secretary of the Treasury, the top spokesman on economic policy for this administration, at a meeting overseas saying they anticipate a return to strong economic growth next year. That is their projection. That is their forecast.

What I am saying is, if we are in a period of strong economic growth, it is not right to raid the trust funds of Medicare and Social Security for other purposes. It is just wrong. It should not be done. But that is exactly where we are headed. The record is just as clear as it can be. We are going to be into the Medicare trust fund and even the Social Security trust fund next year just with the budget resolution that has passed, just with the tax cut that has passed, and just with the slowdown in the economy that we already see. That is where we are. That is before any additional money for defense. That is before any additional funding for education. That is before any money for natural disasters or tax extenders or to fix the AMT problem. And that is before additional economic revisions we anticipate receiving in August from the Congressional Budget Office.

When we factor in those matters, what we see is a sea of red ink, what we see is a very heavy invasion of both the Medicare trust fund and the Social Security trust fund. That is where we are headed.

The question I am posing to my colleagues, and to this administration, is, Does that make any sense as a policy? I do not think so. I do not think this is where we want to go, especially given the fact that we know in 11 years the baby boomers start to retire and then our fiscal circumstance changes dramatically.

We have to get ready for that eventuality. The first thing to get ready is not to raid the Medicare trust fund and the Social Security trust fund at a time of surpluses. That is just wrong. They can call me an antique fiscal conservative. They can call me somebody who is advocating medieval economics. I do not think so. I do not think this is antique fiscal conservatism. I think this is good old-fashioned, Midwestern common sense. You do not take the retirement funds of your citizens to fund the operation of Government. You do not take the health care funds of your people for other operations of Government. There is not a private-sector company in America that could do that.

I think this is very clear, the circumstance we face. We are already in trouble just with the budget resolution that has passed, just with the tax cut that has passed, and just with the economic slowdown that is being forecasted in the next 2 years. The trouble only gets more severe, only gets deeper, when you factor in the President's request for a big increase in defense. I think it is fair to ask the President, and this administration, how do you intend to pay for it? Do you intend to use the money from the trust funds to pay for this big buildup in defense? Do you intend to use the Medicare and Social Security trust funds to pay for natural disasters? Do you intend to use the Medicare and Social Security trust funds to pay for the tax extenders? I think people deserve to know what their recommendation is.

Mr. President, I will conclude as I began by saying I am not for a tax increase at a time of economic slowdown. That does not make good economic sense. The administration is not forecasting an economic slowdown next year or for the years to follow. They are forecasting strong economic growth. Yet the policies they have laid out and the plan they have put in place lead to huge, dramatic raids on both the Medicare and the Social Security trust funds each and every year for the next 9 years. I believe that is a mistake. I do not support that policy.

I support, certainly, fiscal stimulus at a time of economic downturn. But when we have forecasts of strong economic growth, to build in a policy that says the way we pay for the operations of this Government is to take money from the Medicare trust fund and the Social Security trust fund—count me out. I don't care what name you call me, I don't want any part of it. I don't care if I am the only vote that says: I am not, at a time of economic growth, for using the trust funds of Medicare and Social Security to fund the other operations of Government. That is wrong. I believe it is wrong in every way. And I want no part of it. But that is where we are headed.

Mr. DORGAN. I wonder if the Senator would yield for a question.

Mr. CONRAD. I am happy to yield.

Mr. DORGAN. Mr. President, I noticed some press coverage today by some folks who were raising some questions about my colleague's numbers. I wonder if the Senator would answer this question. Is it not the case that this question of tax cuts and fiscal policy was always based on surpluses we do not yet have? Is it not the case that this rosy scenario everybody talked about—especially conservatives coming to the floor of the Senate—was: "This economy is going to grow forever. Let's anticipate surpluses year after year after year. And let's put in place tax and spending decisions that anticipate that"?

My colleague, Senator CONRAD, and I and others repeatedly said the conservative viewpoint would be a viewpoint that says let's be cautious. Yes, when we have surpluses, let's provide some tax cuts. Let's provide some investments we need. But let's be a little bit cautious in case those surpluses don't materialize.

Yet here we are, just a couple of months from those fiscal policy decisions, and we are going to have a midsession review by the Office of Management and Budget which is what I would like to ask the chairman of the Budget Committee about. That midsession review almost certainly will tell us this economy is much softer than anticipated and we will not have the surpluses we expected. Things might get better, but they might not. And if they don't, we might very well head back into very significant deficit problems.

I ask my colleague, when does the Office of Management and Budget give us their midsession review? Is that supposed to be in July?

Mr. CONRAD. Typically, we would get it in July or August. We are hearing already from the Congressional Budget Office that they anticipate that the forecast will be somewhat reduced because economic growth is not as strong as was anticipated. That means we will have less revenue than was in the forecast.

My colleague and I warned repeatedly that these 10-year forecasts are uncertain. Nobody should be counting on every penny to actually be realized.

Some said to us in rejoinder: There is going to even be more money. I remember some of my colleagues on the Budget Committee saying they think the forecast is too low.

I hope over time that will be the case. I hope the economy strongly recovers. I hope we have even more revenue. That would be terrific. But I don't think we can base Government policy on that. We certainly can't bet on every dime of the revenue that is in a 10-year forecast.

The reason it matters so much is because if we look ahead—these are the years of surpluses we are in now—but, according to the Social Security, what happens, starting in the year 2016, we start to run into deficits in both Medicare and Social Security. Medicare is the yellow part of the bars; Social Security is the red. These surpluses that we now enjoy turn to massive deficits.

That is why some of us think we have to save the Social Security trust fund for Social Security and the Medicare trust fund for Medicare, and that while that is necessary, it is not sufficient. We need to do even more than that to prepare for what is to come because we have a demographic tidal wave called the baby boom generation. They are going to turn these surpluses we have now into deficits. And if we start, at a time of surpluses, by raiding the trust funds, this situation becomes much worse, far more serious.

I don't think name calling is going to carry the question here. They can accuse me of medieval economics or antique fiscal conservatism. I don't think it is either one to say you ought to reserve the trust funds of Medicare and Social Security for the purposes intended. You ought not to use the money to finance the other functions of Government, however worthy the other functions are. I don't think we should use the money at a time of economic growth, which is what the administration is projecting for next year and beyond. Yet we see, according to the most recent numbers, that we are already into the trust funds. That is before a single appropriations bill has passed the Senate, before a single one has passed.

The question is, Are we going to dig the hole deeper? What are we going to do about the President's defense request? He wants $18 billion next year. The effect over 10 years is in the range of $200 billion from a request like that. That is not in the budget. Since we are already into the trust funds, it simply means that if we were to approve such a request, we would go deeper into the trust funds and Medicare and Social Security to defend or to finance that defense buildup.

How are we going to pay for natural disasters? At a time of economic growth, should we be funding natural disasters out of the trust funds of Medicare and Social Security? I don't think so. Should we fund the tax extenders by taking the money out of the trust funds of Social Security and Medicare? I don't think so.

They may call that antique fiscal conservatism. I will wear that as a badge of honor, that policy of protecting the trust funds of Medicare and Social Security. Call me any name you want. That is exactly the right thing to do. Certainly in a time of economic growth, you should not be using trust fund money to fund the other needs of Government. That is shortsighted. It is irresponsible. It is wrong. I am not going to support it.

I believe at the end of the day the American people will not support it because they have common sense. They know this doesn't add up. They know if you have already got a problem, you don't dig the hole deeper before you start filling it in. That is just common sense.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 5 p.m. today.

Mr. STEVENS. Reserving the right to object, Mr. President, will the Senator indicate whether we can get some time limit to make sure people understand the time limit of submission of amendments today? Parliamentary inquiry, Mr. President, if the Senator will yield for a moment.

Mr. BYRD. Yes, I yield for that purpose.

Mr. STEVENS. Is it not the case that all amendments to this bill must be filed and presented by 6 p.m. today?

The PRESIDING OFFICER. The Senator is correct; all amendments must be offered.

Mr. STEVENS. Offered on the floor of the Senate or they will not be eligible for consideration.

The PRESIDING OFFICER. First-degree amendments must be offered by 6 p.m. today.

The Senator from West Virginia.

Mr. BYRD. I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Senate, at 4:31 p.m, recessed until 5 p.m. and reassembled when called to order by the Presiding Officer (Mr. DAYTON).

SUPPLEMENTAL APPROPRIATIONS ACT, 2001—Continued

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 865

Mr. VOINOVICH. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is laid aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. VOINOVICH], for himself, Mr. HELMS, Mr. SESSIONS, and Mr. CRAPO, proposes an amendment numbered 865.

Mr. VOINOVICH. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect the social security surpluses by preventing on-budget deficits)

At the appropriate place, insert the following:

SEC. ___. PROTECT SOCIAL SECURITY SURPLUSES ACT OF 2001.

(a) SHORT TITLE.—This section may be cited as the "Protect Social Security Surpluses Act of 2001".

(b) REVISION OF ENFORCING DEFICIT TARGETS.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 903) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) EXCESS DEFICIT; MARGIN.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus the margin for that year. In this subsection, the margin for each fiscal year is 0.5 percent of estimated total outlays for that fiscal year.";

(2) by striking subsection (c) and inserting the following:

"(c) ELIMINATING EXCESS DEFICIT.—Each non-exempt account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequesterable budgetary resources in that account at that time by the uniform percentage necessary to eliminate an excess deficit."; and

(3) by striking subsections (g) and (h).

(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Notwithstanding section 254(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(j)), the Office of Management and Budget shall use the economic and technical assumptions underlying the report issued pursuant to section 1106 of title 31, United States Code, for purposes of determining the excess deficit under section 253(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by subsection (b).

(d) APPLICATION OF SEQUESTRATION TO BUDGET ACCOUNTS.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(k)) is amended by—

(1) striking paragraph (2); and

(2) redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(e) STRENGTHENING SOCIAL SECURITY POINTS OF ORDER.—

(1) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

"(g) STRENGTHENING SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend section 13301 of the Budget Enforcement Act of 1990.".

(2) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2),".

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2),".

(3) ENFORCEMENT IN EACH FISCAL YEAR.—The Congressional Budget Act of 1974 is amended in—

(A) section 301(a)(7) (2 U.S.C. 632(a)(7)), by striking "for the fiscal year" through the period and inserting "for each fiscal year covered by the resolution"; and

(B) section 311(a)(3) (2 U.S.C. 642(a)(3)), by striking beginning with "for the first fiscal year" through the period and insert the following: "for any of the fiscal years covered by the concurrent resolution.".

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to fiscal years 2002 through 2006.

Mr. VOINOVICH. Mr. President, one of the primary reasons I wanted to serve as a Senator was to have an opportunity to bring fiscal responsibility to our Nation and help reduce our national debt. As many of my colleagues know, for decades successive Congresses and Presidents spent money on items that, while important, they were unwilling to pay for or, in the alternative, do without. In the process, Washington ran up a staggering debt and mortgaged our future. Today our national debt stands at about $5.7 trillion. That costs about $200 billion a year in interest payments.

From the time I arrived in the Senate, I have worked to rein in spending and lower the national debt. Over the past 2½ years, I have cosponsored and sponsored a number of amendments designed to bring fiscal discipline to the Federal Government. In March of 1999, I offered an amendment to use whatever on-budget surplus as calculated in the fiscal year 2000 budget to pay down the debt. In March of 2000, I again offered my amendment to use the on-budget surplus calculated for fiscal year 2001 for debt reduction. In an effort to bring spending under control, Senator ALLARD and I offered an amendment in June of 2000 to direct $12 billion of fiscal year 2000 on-budget surplus toward debt reduction. The amendment passed by an overwhelming 95–3 and committed Congress to designate the on-budget surpluses to reduce the national debt, keeping these funds from being used for additional Government spending. Our amendment provided the mechanism to assure that Congress would begin the serious task of paying down the debt.

Further, this past April, Senator FEINGOLD, Senator GREGG, and I offered an amendment to the fiscal year 2002 budget designed to tighten enforcement of existing spending controls. Our amendment created an explicit point of order against directed scoring and abuses of emergency spending.

Even with all the amendments I proposed and cosponsored to bring Federal spending under control, I have never lost sight of the fact that we need to enact a Social Security lockbox. Make no mistake, adopting a Social Security lockbox is not about Social Security benefits. Social Security beneficiaries will not know the difference if we pass or do not pass a Social Security lockbox. What we are doing today will not have an impact at all on the beneficiaries. The amendment I am offering today will permanently lockbox the Social Security surplus and prevent it from being used for any other purpose.

For decades, the Social Security surplus was used by Congress after Congress and President after President to offset Federal spending. For many of those years, Members of both the House and Senate worked to put the Social Security surplus off limits from being used for such Federal spending. We talked a lot about it. In 1999, after years of wrangling, in a landmark budget agreement passed in 1995, the Federal Government finally achieved a balanced budget. With this good news, it became apparent that Congress and the President would not need to use the Social Security surplus for spending. This was made possible by our economic prosperity which guaranteed and generated a huge increase in tax revenues, which we know about, and in turn a massive on-budget surplus. Because the United States was running in the black for the first time in recent memory, Social Security surpluses were used to pay down the national debt instead of being used for spending. Indeed, since 1999, there has been a political consensus not to return to spending that surplus.

However, the economic prosperity this Nation enjoyed as recently as months ago is fading, although I hope this is only a temporary situation. Surplus projections are likely to be revised downward. Yet Congressional yearning for more spending has not abated.

For fiscal year 2001, Congress, with the encouragement of the Clinton administration, increased nondefense discretionary spending 14.3 percent. That is something people have not taken into consideration. Nondefense discretionary spending in the last budget was 14.3 percent above the year before and increased overall spending by 8 percent, which was way above inflation. All of this was on top of large increases in the previous years' budgets.

If we fund the education bill that the Senate recently passed, which increases spending by 62 percent or $14 billion, and if we spend the $18.4 billion increase in defense spending that the administration is talking about, we could end up spending a portion of the on-budget surplus of fiscal year 2003 and beyond. Part of the reason for this is the fact that the tax reduction was more front-end loaded than the President had originally planned.

Frankly, if the economy really falters, we could bump up against the Social Security trust fund next year. Nearly everyone in this Chamber agrees we should not spend that surplus, and the public has grown to expect that Congress won't return to spending it. This year's budget resolution was designed in part to avoid spending that surplus.

At the moment, we are de facto lockboxing Social Security. Therefore, it makes perfect sense to take the next step and lockbox these funds permanently. It is the best possible action we could take to bring fiscal discipline to the 107th Congress.

On the one hand, it guarantees we don't touch Social Security, and on the other it ensures we will continue to pay down debt, which fulfills the commitment we have all made and which will give us the interest savings. It is a two-for: We won't spend it; second, it will allow us to continue to pay down the national debt substantially. That is part of what I refer to as the three-legged stool. That three-legged stool in terms of my support for the budget resolution was: Hold spending down, reduce debt, and reduce taxes. But all three of them have to be present. We have to preserve that one stool of reducing the national debt.

If my colleagues think back to the 1980s, they will remember the dramatic increase in the national debt, primarily because of the use of the Social Security surplus. I was here. I was president of the National League of Cities. I came to this Congress before the Finance Committee and supported the Republican proposal to limit spending in 1985. What we saw happen during that period of time was that taxes were reduced and spending went up. Republicans wanted to spend on defense, the Democrats wanted to spend on social programs, and the way they paid for it was to use the Social Security surplus.

I don't want that to happen while I am a Member of the Senate. I don't think any of my other colleagues want that to happen again.

The 1999 budget was the first time in over three decades that Congress did not use Social Security to pay for Federal spending. Again, in 2000, Congress did not use Social Security spending, although I must say it was hand-to-hand combat to make sure it wasn't used. There was direct scoring, there was emergency spending, and all kinds of other gimmicks because CBO had said we were spending the Social Security surplus, and the only thing that saved us was we got back here in January and CBO came out with new projections and said the budget surplus was more than what we had originally anticipated it to be.

Although the economy is not as robust as it was a year ago, we must resist the temptation to fall off the wagon of fiscal responsibility and resist the urge to resume spending that Social Security trust fund. The amendment we are offering guarantees we will not fall off the wagon. It contains two enforcement mechanisms: A supermajority point of order written in statute and automatic across-the-board spending cuts. Our amendment creates a statutory point of order against any bill, amendment, or resolution that would spend the Social Security surplus any of the next 10 years. Waiving the point of order would require the votes of 60 Senators. In addition, if the Social Security surplus were spent, the Office of Management and Budget would impose automatic across-the-board cuts in discretionary and mandatory spending to reduce the amount of the surplus that was spent.

We are talking about mandatory spending; we are talking about the fact that it will exempt Social Security and those things that are contained in the Deficit Control Act of 1985. My understanding is that is about $33 billion that would be subject to sequester or reduction.

This amendment will only trigger the automatic reduction if spending of the surplus exceeds one-half of 1 percent of the total outlay expenditure. In other words, it is not going to be one of those things that will happen automatically. It has a provision that says, if it is shown you have spent over one-half of 1 percent of the Social Security surplus, then the trigger will go into effect.

That is because we are talking about a $2 trillion budget and I think there ought to be some kind of flexibility in the amendment. I think, frankly, it is something that is intellectually honest to do. The only exceptions to the lockbox would be a state of war as declared by Congress or a recession defined as two successive quarters of negative economic growth.

For the past 2½ years I have fought to make sure we in the Senate hold ourselves accountable for the spending decisions that we make. Thus far, our spending choices, whether I have agreed with them or not, have involved on-budget surplus dollars. But I believe we need to prepare to protect Social Security funds from being used for even more spending, should our budget surplus fade. That is what will happen. If we keep this spending up, and then the surplus isn't there, there is going to be a great temptation for this body to invade the Social Security surplus.

Some of my colleagues in the Senate might argue we do not need a separate law establishing a Social Security lockbox since it already exists in the budget. Some of my colleagues might also swear that we would never return to the days when the Social Security trust fund was used as the Government's private piggy bank. Invariably we are told to have faith that this institution called Congress will do the right thing when it comes to spending.

I am a firm believer in Ronald Reagan's philosophy: Trust but verify. In my view, a permanent statutory Social Security lockbox is the best way to verify that the Social Security surplus remains untouched by those who would spend it. It would also force Congress to fiscal discipline and to make the hard choices in prioritizing our spending with the funds that we have today at our disposal.

I urge my colleagues to join me in support of this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. VOINOVICH. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Did the distinguished Senator from Ohio offer his amendment?

The PRESIDING OFFICER. Yes, he offered his amendment.

AMENDMENT NO. 866 TO AMENDMENT NO. 865

Mr. BYRD. Mr. President, on behalf of Senator CONRAD, I offer an amendment authored by Mr. CONRAD to be an amendment in the second degree to the amendment offered by Mr. VOINOVICH.

I ask unanimous consent that after the clerk states the title of this amendment, that it and the amendment in the first degree be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. CONRAD, proposes amendment numbered 866 to amendment No. 865.

The amendment is as follows:

(Purpose: To establish an off-budget lockbox to strengthen Social Security and Medicare)

Strike all after the first word and insert the following:

TITLE ___—SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2001

SEC. ___01. SHORT TITLE.

This title may be cited as the "Social Security and Medicare Off-Budget Lockbox Act of 2001".

SEC. ___02. STRENGTHENING SOCIAL SECURITY POINTS OF ORDER.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

"(g) STRENGTHENING SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend section 13301 of the Budget Enforcement Act of 1990.".

(b) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2),".

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2),".

(c) ENFORCEMENT IN EACH FISCAL YEAR.—The Congressional Budget Act of 1974 is amended in—

(1) section 301(a)(7) (2 U.S.C. 632(a)(7)), by striking "for the fiscal year" through the period and inserting "for each fiscal year covered by the resolution"; and

(2) section 311(a)(3) (2 U.S.C. 642(a)(3)), by striking beginning with "for the first fiscal year" through the period and insert the following: "for any of the fiscal years covered by the concurrent resolution.".

SEC. ___03. MEDICARE TRUST FUND OFF-BUDGET.

(a) IN GENERAL.—

(1) GENERAL EXCLUSION FROM ALL BUDGETS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS

"SEC. 316. (a) EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Hospital Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

"(1) the budget of the United States Government as submitted by the President;

"(2) the congressional budget; or

"(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) STRENGTHENING MEDICARE POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend this section.".

(2) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "316," after "313,".

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "316," after "313,".

(b) EXCLUSION OF MEDICARE TRUST FUND FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the Federal Hospital Insurance Trust Fund in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title."

(c) BUDGET TOTALS.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by inserting after paragraph (7) the following:

"(8) For purposes of Senate enforcement under this title, revenues and outlays of the Federal Hospital Insurance Trust Fund for each fiscal year covered by the budget resolution.".

(d) BUDGET RESOLUTIONS.—Section 301(i) of the Congressional Budget Act of 1974 (2 U.S.C. 632(i)) is amended by—

(1) striking "SOCIAL SECURITY POINT OF ORDER.—It shall" and inserting "SOCIAL SECURITY AND MEDICARE POINTS OF ORDER.—

"(1) SOCIAL SECURITY.—It shall"; and

(2) inserting at the end the following:

"(2) MEDICARE.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on the resolution) that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any of the fiscal years covered by the concurrent resolution.".

(e) MEDICARE FIREWALL.—Section 311(a) of the Congressional Budget Act of 1974 (2 U.S.C. 642(a)) is amended by adding after paragraph (3), the following:

"(4) ENFORCEMENT OF MEDICARE LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any year relative to the levels set forth in the applicable resolution.".

(f) BASELINE TO EXCLUDE HOSPITAL INSURANCE TRUST FUND.—Section 257(b)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "shall be included in all" and inserting "shall not be included in any".

(g) MEDICARE TRUST FUND EXEMPT FROM SEQUESTERS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

"Medicare as funded through the Federal Hospital Insurance Trust Fund.".

(h) BUDGETARY TREATMENT OF HOSPITAL INSURANCE TRUST FUND.—Section 710(a) of the Social Security Act (42 U.S.C. 911(a)) is amended—

(1) by striking "and" the second place it appears and inserting a comma; and

(2) by inserting after "Federal Disability Insurance Trust Fund" the following: ", Federal Hospital Insurance Trust Fund".

SEC. ___04. PREVENTING ON-BUDGET DEFICITS.

(a) POINTS OF ORDER TO PREVENT ON-BUDGET DEFICITS.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by adding at the end the following:

"(h) POINTS OF ORDER TO PREVENT ON-BUDGET DEFICITS.—

"(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would cause or increase an on-budget deficit for any fiscal year.

"(2) SUBSEQUENT LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

"(A) the enactment of that bill or resolution as reported;

"(B) the adoption and enactment of that amendment; or

"(C) the enactment of that bill or resolution in the form recommended in that conference report, would cause or increase an on-budget deficit for any fiscal year.".

(b) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "312(h)," after "312(g),".

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "312(h)," after "312(g),".

The PRESIDING OFFICER. The amendments are laid aside. The Senator from North Dakota.

Mr. CONRAD. Mr. President, very briefly, I thank Senator BYRD for introducing my amendment in the second degree to the amendment of the Senator from Ohio, and indicate to my colleagues the nature of the amendment. I think the Senator from Ohio is going in basically the right direction, but I do not think he is protecting both of the trust funds. I have offered, in the second degree, my amendment that would protect both the Social Security trust fund and the Medicare trust fund because I think both deserve protection. I think both are in danger.

Unfortunately, as I said several moments ago with respect to where we find ourselves, after the budget resolution is passed, after the tax cut is passed, and with the anticipated reduction in the revenue forecast because of the slowdown in the economy, we see we are headed for being into the Medicare trust fund this year, the Medicare and Social Security trust fund next year and for all the years that follow. That is before any appropriations have passed. That is before the President's major request for additional defense spending.

We are already in trouble. We are already headed for raiding the trust funds of Medicare and Social Security. So I am glad the Senator from Ohio has sent up an amendment. I have provided an amendment in the second degree that I think is stronger and provides additional protection and acknowledges that we have a responsibility not just to the Social Security trust fund but to the Medicare trust fund as well.

AMENDMENT NO. 867

Mr. CONRAD. If I could at this moment, on a separate matter, I send an amendment to the desk to the underlying bill. This amendment is to provide emergency funding for a situation we have just encountered on one of the Indian reservations in my State, the Turtle Mountain Indian Reservation. It is offset so it does not add to the overall cost of the supplemental. But we have found a situation that is extraordinarily serious on the Turtle Mountain Indian Reservation.

Very briefly, I will just describe that and then end so my colleague from Missouri, who is seeking recognition, can gain the floor.

Over 200 homes on the Turtle Mountain Reservation are infested with black mold; 40 percent of them that have been tested have the worst kind of black mold. This is throughout the structures. It is in the basements. It is running up the studs, in the ceilings, in the insulation. People in these homes are sick. We have had two infants die. People who are in the families and medical experts on the reservations believe their deaths are related to the conditions in these homes.

It is because of extraordinarily wet conditions in that part of our State. We have had 7 years of wet conditions. It is as though these houses are in a sponge and the sponge is full and the houses are wicking up the surface water. In fact, if you look in the crawl spaces of these homes, they are filled with water and that water has found its way up through the entire structure and has created the perfect environment for this black mold growth.

We have had the CDC there, the Corps of Engineers, and FEMA. It is a crisis situation that requires emergency housing for some 200 families.

The tribal chairman told me he is about to move people into a school gymnasium because the conditions in these homes are so bad.

I went there personally over the break. I can testify it is the worst situation I have seen, and I have dealt with black mold in our own home here in Washington, DC, in just one small area, where seven times our home flooded because the city sewer system could not handle torrential downpours here. We are the low spot on the block. It cost me $4,000 and three contractors to fix just a small part of one corner of our house.

These are houses that have it throughout. The basements are loaded with black mold. It is in the studding. In fact you can see it in the beams across the ceilings of these homes.

In every home we went into, people testified to the illnesses. In fact, the tribal chairman himself is ill from these circumstances.

This is an emergency situation that simply must be addressed. Obviously, the committee could not have known about it because nobody knew about it. But I offer that amendment for that purpose, and I thank my colleagues.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend until the clerk reports the amendment.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 867.

Mr. STEVENS. Mr. President, I ask unanimous consent these amendments not be read. They are being offered for purposes of qualification under the time agreement, and I ask that apply to all amendments, unless Senators wish to make their statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funds for emergency housing on the Turtle Mountain Indian Reservation)

On page 47, between lines 20 and 21, insert the following:

COMMUNITY DEVELOPMENT BLOCK GRANTS

For emergency housing for Indians on the Turtle Mountain Indian Reservation, there shall be made available $10,000,000 through the Indian community development block grant program under the Housing and Community Development Act of 1974. Amounts made available for programs administered by the Department of Housing and Urban Development for fiscal year 2001 shall be reduced on a pro rata basis by $10,000,000. The Federal Emergency Management Agency shall provide technical assistance to Indians with respect to the acquisition of emergency housing on the Turtle Mountain Indian Reservation.

AMENDMENTS NO. 868 AND NO. 869, EN BLOC

Mr. STEVENS. Mr. President, on behalf of Senator MCCAIN, I send two amendments to the desk and ask they be qualified under the time agreement.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. MCCAIN, proposes amendments numbered 868 and 869, en bloc.

The amendments are as follows:

AMENDMENT NO. 868

(Purpose: To increase amounts appropriated to the Department of Defense)

On page 11, between lines 8 and 9, insert the following:

SEC. 1207. In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 in other provisions of this Act or in the Department of Defense Appropriations Act, 2001 (Public Law 106–259), $2,736,100 is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

"Military Personnel, Army", $30,000,000;

"Military Personnel, Navy", $10,000,000;

"Military Personnel, Air Force", $332,500,000;

"Reserve Personnel, Army", $30,000,000;

"Operation and Maintenance, Army", $916,400,000;

"Operation and Maintenance, Navy", $514,500,000;

"Operation and Maintenance, Marine Corps", $295,700,000;

"Operation and Maintenance, Air Force", $59,600,000;

"Operation and Maintenance, Defense-Wide", $9,000,000;

"Operation and Maintenance, Army Reserve", $30,000,000;

"Operation and Maintenance, Army National Guard", $106,000,000;

"Aircraft Procurement, Army", $50,000,000, to remain available for obligation until September 30, 2003;

"Procurement of Weapons and Tracked Combat Vehicles, Army", $10,000,000, to remain available for obligation until September 30, 2003;

"Procurement of Ammunition, Army", $14,000,000, to remain available for obligation until September 30, 2003;

"Other Procurement, Army", $40,000,000, to remain available for obligation until September 30, 2003;

"Aircraft Procurement, Navy", $65,000,000, to remain available for obligation until September 30, 2003;

"Aircraft Procurement, Air Force", $108,100,000, to remain available for obligation until September 30, 2003;

"Other Procurement, Air Force", $33,300,000, to remain available for obligation until September 30, 2003;

"Research, Development, Test and Evaluation, Air Force", $8,000,000, to remain available for obligation until September 30, 2002; and

"USS Cole", $49,000,000;

Provided, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided, further*, That the entire amount under this section shall be available only to the extent that an official budget request for that specific dollar amount that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

AMENDMENT NO. 869

(Purpose: To provide additional funds for military personnel, working-capital funds, mission-critical maintenance, force protection, and other purposes by increasing amounts appropriated to the Department of Defense, and to offset the increases by reducing and rescinding certain appropriations)

After section 3002, insert the following:

SEC. 3003. (a) In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106–259), funds are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(1) Under the heading "MILITARY PERSONNEL, NAVY", $181,000,000, of which $1,000,000 shall be available for the supplemental subsistence allowance under section 402a of title 37, United States Code.

(2) Under the heading "MILITARY PERSONNEL, MARINE CORPS", $21,000,000.

(3) Under the heading "RESERVE PERSONNEL, NAVY", $1,800,000, which shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.

(4) Under the heading "OPERATION AND MAINTENANCE, ARMY", $103,000,000.

(5) Under the heading "OPERATION AND MAINTENANCE, NAVY", $72,000,000, of which $36,000,000 shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.

(6) Under the heading "OPERATION AND MAINTENANCE, MARINE CORPS", $6,000,000.

(7) Under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $397,000,000.

(8) Under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", $21,000,000.

(9) Under the heading "OTHER PROCUREMENT, NAVY", $45,000,000, to remain available for obligation until September 30, 2003, which shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.

(b) The amount appropriated by chapter 10 of title II to the Department of the Treasury for Departmental Offices under the heading "SALARIES AND EXPENSES" is hereby reduced by $30,000,000.

(c) The matter in chapter 11 of title II under the heading "NATIONAL AERONAUTICS AND SPACE ADMINISTRATION HUMAN SPACE FLIGHT" shall not take effect.

(RESCISSION)

(d) Of the unobligated balance of the total amount in the Treasury that is to be disbursed from special accounts established pursuant to section 754(e) of the Tariff Act of 1930, $200,000,000 may not be disbursed under that section.

(RESCISSIONS)

(e) The following amounts are hereby rescinded:

(1) Of the funds appropriated to the National Aeronautics and Space Administration under the heading "HUMAN SPACE FLIGHT" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–377), the following amounts:

(A) From the amounts for the life and micro-gravity science mission for the human space flight, $40,000,000.

(B) From the amount for the Electric Auxiliary Power Units for Space Shuttle Safety Upgrades, $19,000,000.

(2) Of the funds appropriated to the Department of Commerce for the National Institute of Standards and Technology under the heading "INDUSTRIAL TECHNOLOGY SERVICES" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–553), $67,000,000 for the Advanced Technology Program.

(3) Of the funds appropriated to the Department of Commerce for the International Trade Administration under the heading "OPERATIONS AND ADMINISTRATION", $19,000,000 of the amount available for Trade Development.

(4) Of the funds appropriated by chapter 1 of the Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999 (Public Law 106–51, $126,800,000.

(5) Of the funds appropriated to the Department of Transportation for the Maritime Administration under the heading "MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–553), $21,000,000.

(6) Of the funds appropriated for the Export-Import Bank under the heading "SUBSIDY APPROPRIATION" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (as enacted into law by Public Law 106–429), $80,000,000.

(7) Of the funds appropriated to the Department of Labor for the Employment and Training Administration under the heading "TRAINING AND EMPLOYMENT SERVICES" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554), the following amounts:

(A) From the amounts for Dislocated Worker Employment and Training Activities, $41,500,000.

(B) From the amounts Adult Employment and Training Activities, $100,000,000.

(8) Of the unobligated balance of funds previously appropriated to the Department of Transportation for the Federal Transit Administration that remain available for obligation in fiscal year 2001, the following amounts:

(A) From the amounts for Transit Planning and Research, $34,000,000.

(B) From the amounts for Job Access and Reverse Commute Grants, $76,000,000.

AMENDMENT NO. 870

Mr. STEVENS. Mr. President, I send an amendment to the desk for the Senator from Arkansas, Mr. HUTCHINSON, and ask that it be qualified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The pending amendment is laid aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 870.

The amendment is as follows:

(Purpose: To provide additional amounts to repair damage caused by ice storms in the States of Arkansas and Oklahoma)

On page 13, between lines 23 and 24, insert the following:

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for "State and Private Forestry" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

NATIONAL FOREST SYSTEM

For an additional amount for the "National Forest System" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for "Capital Improvement and Maintenance" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

AMENDMENT NO. 871

Mr. STEVENS. Mr. President, I send an amendment to the desk for the Senator from Idaho, Mr. CRAIG, and ask that it be qualified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The pending amendment is laid aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. CRAIG, proposes an amendment numbered 871.

The amendment is as follows:

(Purpose: Regarding the proportionality of the level of non-military exports purchased by Israel to the amount of United States cash transfer assistance for Israel)

On page 29, between lines 2 and 3, insert the following:

SEC. 2502. In exercising the authority to provide cash transfer assistance for Israel for the fiscal year ending September 30, 2001, the President shall—

(1) ensure that the level of such assistance does not cause an adverse impact on the total level of non-military exports from the United States to Israel; and

(2) enter into a side letter agreement with Israel providing for the purchase of grain in the same amount and in accordance with terms at least as favorable as the side letter agreement in effect for the fiscal year ending September 30, 2000.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair, and I thank my distinguished colleague, the manager of the bill.

I have two matters which I wish to address today.

First, I say to my colleague from North Dakota that we are very concerned about the situation he described. And, with the chairman of the

VA-HUD subcommittee, we will look into this serious problem he has outlined. We thank him and commend him for bringing it to the attention of this body.

I have two measures.

First, I don't believe there is a Member of this body who has waterways in his or her State who doesn't understand the importance of the work done by the U.S. Army Corps of Engineers. Within the beltway, however, items such as flood control and river transportation are viewed as some sort of luxury we can do without. We can't do without them. I have been there. I have seen the devastation and the heartbreak. I have seen the families in great crisis. I have seen the farms and the homes and the communities destroyed. Unless you have been there, you cannot really appreciate it.

Clearly, the view in some eastern editorial boardrooms is rather clouded, and elite drawing rooms can't see that there are people who live and work along and depend upon the river. These are the people about whom we should be concerned.

I invite those who can tell us how to manage the rivers to come out and take a look at our rivers sometime. They might be very surprised at what they find.

In the State of Missouri, we have nearly 1,000 miles of land bordering the Missouri and Mississippi Rivers. Water transportation is low cost, safe, fuel efficient, and provides an insurance policy against runaway shipping costs charged by railroads that otherwise would face no competition. The environmental community assumes that monopolists don't raise prices. They do. But on the environmental side, to put the benefits of water transportation in perspective, One medium-sized 15-barge tow carries the same amount of grain as 870 tractor trailor trucks. Clearly, this comparison demonstrates the fuel efficiency and clean air benefits to the environment. It also reduces congestion, reduces highway wear and tear, improves safety, and costs less.

In Missouri, one-third of our agricultural production comes from the 100-year-flood plain. The Washington Post, that still believes food comes from the grocery store and not the farm, believes that this land should not be in production and flood protection should be a low priority.

Those who criticize the projects administered by the Corps typically do it from a safe distance. One of the biggest critics of the Corps in the Midwest sits safely behind a 500-year urban flood wall.

Policymakers in Washington stress exports and jobs but many fail to make the connection between exports and the transportation necessary to export. Unless we have purged the laws of physics and unless there are strange new business practices which don't require buyers to take delivery of sold goods, then transportation ultimately remains necessary.

Policymakers in Washington stress the need for additional power production that is good for the environment but propose inadequate budgets and policies for hydropower generation.

In the last Administration, policy and budgets to undermine the Corps where almost an annual event. Regrettably, the most recent budget proposed for fiscal year 2002 shows no recognition of how important the mission of the Corps is. I have a flood control project in Kansas City that will protect industries employing 12,000 people. The budget request for 2002 asks for enough money to keep the contractors busy for a fraction of the year. So not only is the project delayed, and not only does delay subject the citizens to prolonged flood risk unnecessarily, but the delay increases the cost of the project which I would expect the number-crunchers at OMB to find compelling if nothing else gets their attention.

Regrettably, the supplemental request does not include one red cent for operations and maintenance for the Corps of Engineers notwithstanding flood control, navigation, hydropower generation and environmental needs resulting from Midwestern flooding on the upper Mississippi, a Pacific earthquake which occurred in February, Tropical Storm Allison which occurred weeks ago as well as remaining problems associated with Hurricane Floyd and ice storms in the South.

Specifically, there are needs estimated to be: $50 million in response to the Midwest flooding; $47 million in the Southwest impacted by ice storms; $37 million for the Atlantic Seaboard in response to Hurricane Floyd and other weather events; $59 million for the Pacific Northwest to repair earthquake damage, stabilize hydropower facilities and correct major environmental deficiencies; and $30 million in response to the tropical storm which occurred early this month that affected Galveston and the New Orleans District.

My office has made inquiries at several districts that serve Missouri and have learned that they expect to be out of O&M funds to dredge the Mississippi River in a matter of weeks, which will risk the execution of water commerce on the nation's most important waterway.

When weather events occur, sediments build up, damage is done to levees and engineering structures such as wing dikes making repairs necessary and resources to dredge our ports and rivers necessary.

The House recognized this omission and included an additional $130 million for O&M for the Corps. Their markup occurred before there was any idea of what Allison had left behind.

I do not want to have to wait for economic decline, either regional or national, to try to make the case that we cannot continue to take our factors of production for granted. The growing estrangement of some decisionmakers and the media from the history and reality behind food, energy, and natural resource production in this country must be corrected. It will either be corrected ahead of a crisis or in response to a crisis. We have a strong economy for a reason and if we do not take care of our infrastructure, we will go into economic decline for a reason.

While we are undermining our infrastructure, competing nations are updating theirs. How many states have to have their lights turned out before we consider how are factories are powered, how our trucks are fueled and how our homes are heated? I regret that the need for efficient transportation, energy, and protection of people and property is a case that must be made but we can take action now for a fraction of what neglect, inaction and apathy will cost us later.

I know there is a bipartisan recognition that our water infrastructure is growing old and not serving the American people adequately. While there has always been bipartisan support for the mission of the Corps, I fear that the budgets do not match the need.

Over the last two years Corps projects have experienced a series of weather-related events that have left much of our water resources infrastructure in an alarming state of disrepair. In the most severe cases, temporary repairs were made to correct immediate hazards to public health and safety, while other work still awaits adequate funding. Harbor channels have lost sufficient depth and width for safe navigation, rivers are choked with debris, embankments are dangerously eroded, power outages are more frequent, and environmental preservation measures are short-changed. Unless the Corps receives supplemental funding, many navigation channels will not be able to accommodate normal commercial flow and flood control projects will be in serious jeopardy of failure. Recent damages and deterioration of hydroelectric facilities coupled with the national energy crisis have underscored the urgent need to undertake necessary repairs to hydropower projects in the Pacific Northwest.

While I will withhold offering an amendment at this time, I will do what I can do in conference to urge conferees to accept the House correction of the omission.

I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, my second item deals with the defense budget.

While the administration's request for a supplemental appropriations bill for the Department of Defense includes what the administration believes is the minimum needed to get by for the remainder of this fiscal year (01), I respectfully disagree with their definition of "minimum."

Although we are hearing promises of an amended '02 budget with a huge defense plus-up, it is clear that the Defense Department appropriations bill for 2002 may indeed be the last of the 13 appropriations bills we will consider this year. That unfortunate timing may threaten the availability of all the extra funds many believe the Pentagon desperately needs. Simply put, there is no guarantee that the money the Pentagon needs will be there when the Senate takes up the amended Defense appropriation bill for 2002.

We must stop kicking the can down the road with promises to our forces—their need is urgent, they need help now. The problem will only continue to worsen, we need to act now.

Just last week, the Navy's top officer, Admiral Vern Clark, said he is trying to rid the United States Navy of the "psychology of deficiency"—the acceptance of sustained resource shortages as a normal condition.

Sadly, Mr. President, this "psychology of deficiency" has not only infected the culture of our Armed Forces, but I am afraid it has become the culture.

The vast majority of the enlisted troops and officers on active duty today know only a culture of getting by on the minimum funding possible. They call it "doing more with less," but the reality has been for almost a decade now, one of "doing too much with too little."

That is simply unacceptable. Every day, soldiers, sailors, airmen and marines risk their very lives for the values that have made this country the more powerful beacon of freedom the world has every known.

And in exchange for their lives, what do we do? We give them barely enough money to accomplish their mission safely. The bare minimum and no more. That is how we repay our troops? No wonder our Armed Forces have suffered from a persistent morale problem that has manifested itself in a chronic inability to hold onto large numbers of our most talented troops.

The "bare minimum" of funding is no way for our society to uphold our end of the social contract with our troops. That is not how we keep faith with those who defend our Nation's interests at their own personal risk.

How badly have we fallen short on our end of the social contract?

At the current level of funding, it will take 160 years to replace the Navy's shore infrastructure. The backlog of maintenance and repair exceeds $5.5 billion.

Recently the Marine Corps Commandant spoke about the terrible funding choices we force him to make. In order to keep marines ready for combat in case war breaks out in the near-term, the Commandant has to steal money from accounts dedicated to modernizing the Marine Corps for tomorrow's wars. If this persists, the Marine Corps may find itself on a battlefield in the future without the proper, modern equipment to help guarantee a quick victory with few U.S. casualties.

Even with the supplemental, the Army does not have the $145.1 million it needs to run its specialty training and schools. That means thousands of soldiers may not qualify in their combat specialties, which directly affects the combat readiness of Army units. When we tell our soldiers "sorry, we don't have enough money to train you properly to do your job," what do you think the effect is on morale? The impact is devastating. That is what each of our services has had so much difficulty holding onto: Retaining its most skilled workers.

Our U.S. Air Force is currently operating and maintaining the oldest fleet in our history. On average, our aircraft are about 22 years old and getting older. An aging fleet costs more, both in effort and dollars, to operate and maintain.

Last year, while we flew only 97 percent of our programmed flying hours, doing so cost us 103 percent of our budget. Over the past 5 years, our costs per flying hour have risen almost 50 percent. That is a terrible cycle: Older planes cost more to maintain, which robs money from accounts to buy new planes, and so on. It is a death spiral for our Air Force.

Time and again history has shown us the folly of funding our troops as if peace will persist forever, as if war will never come. I thought this country learned that lesson in the opening days of the Korean war when Americans were caught unprepared, underequipped, and undertrained, and many paid with their lives.

I know the President of the United States knows this. I know Secretary of Defense Rumsfeld knows this. These are good men who know it is time to get the U.S. military on a more solid footing. I have worked closely with them in the past. I will continue to work with them. They will find me to be their most loyal supporter in this effort. But we can no longer afford to wait. We must act now.

That is why I am rising today to offer an amendment to add $1.45 billion to the fiscal year 2001 supplemental appropriations for the Defense Department. The amendment seeks to add the funds to the Defense Department that are needed, and can be spent, in what remains of the fourth quarter of the current fiscal year.

The amendment includes funds that will be directed exclusively to the operations and maintenance accounts of each of the four services. This is money the Pentagon needs right now to ensure that critical repairs and training are not delayed further.

There are emergency designations in this measure. All the money appropriated must be obligated by September 30 of this year. And the money shall be available only to the extent that an official budget request for that specific dollar amount includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and is transmitted by the President to the Congress. We must begin to tell our troops that indeed help is on the way, that this is the time to send the help.

AMENDMENT NO. 872

Mr. President, I send the amendment to the desk and ask unanimous consent that it be included in the qualified list of amendments.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 872.

Mr. BOND. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase amounts appropriated for the Department of Defense)

At the end of title III, add the following:

SEC. . (a) In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106–259), funds are hereby appropriated to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(1) Under the heading "MILITARY PERSONNEL, MARINE CORPS", $21,000,000.

(2) Under the heading "RESERVE PERSONNEL, ARMY", $30,000,000.

(3) Under the heading "OPERATION AND MAINTENANCE, ARMY", $600,000,000.

(4) Under the heading "OPERATION AND MAINTENANCE, NAVY", $577,250,000.

(5) Under the heading "OPERATION AND MAINTENANCE, MARINE CORPS", $6,000,000.

(6) Under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $100,200,000.

(7) Under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", $30,000,000.

(8) Under the heading "OPERATION AND MAINTENANCE, NAVY RESERVE", $19,100,000.

(9) Under the heading "OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD", $39,400,000.

(b) The total amount appropriated under subsection (a) shall be available only to the extent that an official budget request for that specific dollar amount that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

(c) The total amount appropriated under subsection (a) is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(d) All of the funds appropriated and available under this section shall be obligated not later than September 30, 2001.

Mr. BOND. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 873

Mr. REID. Mr. President, I send an amendment to the desk for Senator HOLLINGS under my name under the authorized list.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. HOLLINGS, proposes an amendment numbered 873.

The amendment is as follows:

(Purpose: Ensuring funding for defense and education and the supplemental appropriation by repealing tax cuts for 2001)

At the appropriate place, insert the following:

. ENSURING FUNDING FOR DEFENSE AND EDUCATION AND THE SUPPLEMENTAL APPROPRIATION BY REPEALING TAX CUTS FOR 2001.

(a) REPEAL.—

(1) IN GENERAL.—Section 101 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(2) APPLICATION OF CODE.—The Internal Revenue Code of 1986 shall be applied and administered as if such section 101 (and the amendments made by such section) had never been enacted.

(3) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(i) RATE REDUCTIONS AFTER 2001.—

"(1) 10-PERCENT RATE BRACKET.—

"(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2001—

"(i) the rate of tax under subsections (a), (b), (c), and (d) on taxable income not over the initial bracket amount shall be 10 percent, and

"(ii) the 15 percent rate of tax shall apply only to taxable income over the initial bracket amount but not over the maximum dollar amount for the 15-percent rate bracket.

"(B) INITIAL BRACKET AMOUNT.—For purposes of this paragraph, the initial bracket amount is—

"(i) $14,000 ($12,000 in the case of taxable years beginning before January 1, 2008) in the case of subsection (a),

"(ii) $10,000 in the case of subsection (b), and

"(iii) ½ the amount applicable under clause (i) (after adjustment, if any, under subparagraph (C)) in the case of subsections (c) and (d).

"(C) INFLATION ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2001—

"(i) the Secretary shall make no adjustment to the initial bracket amount for any taxable year beginning before January 1, 2009,

"(ii) the cost-of-living adjustment used in making adjustments to the initial bracket amount for any taxable year beginning after December 31, 2008, shall be determined under subsection (f)(3) by substituting '2007' for '1992' in subparagraph (B) thereof, and

"(iii) such adjustment shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) REDUCTIONS IN RATES AFTER DECEMBER 31, 2001.—In the case of taxable years beginning in a calendar year after 2001, the corresponding percentage specified for such calendar year in the following table shall be substituted for the otherwise applicable tax rate in the tables under subsections (a), (b), (c), (d), and (e).

"In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2002 and 2003	27.0%	30.0%	35.0%	38.6%
2004 and 2005	26.0%	29.0%	34.0%	37.6%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%

"(3) ADJUSTMENT OF TABLES.—The Secretary shall adjust the tables prescribed under subsection (f) to carry out this subsection.".

(B) CONFORMING AMENDMENTS.—

(i) Subparagraph (B) of section 1(g)(7) of such Code is amended by striking "15 percent" in clause (ii)(II) and inserting "10 percent.".

(ii) Section 1(h) of such Code is amended—

(I) by striking "28 percent" both places it appears in paragraphs (1)(A)(ii)(I) and (1)(B)(i) and inserting "25 percent", and

(II) by striking paragraph (13).

(iii) Section 531 of such Code is amended by striking "equal to" and all that follows and inserting "equal to the product of the highest rate of tax under section 1(c) and the accumulated taxable income.".

(iv) Section 541 of such Code is amended by striking "equal to" and all that follows and inserting "equal to the product of the highest rate of tax under section 1(c) and the undistributed personal holding company income.".

(v) Section 3402(p)(1)(B) of such Code is amended by striking "7, 15, 28, or 31 percent" and inserting "7 percent, any percentage applicable to any of the 3 lowest income brackets in the table under section 1(c),".

(vi) Section 3402(p)(2) of such Code is amended by striking "15 percent" and inserting "10 percent".

(vii) Section 3402(q)(1) of such Code is amended by striking "equal to 28 percent of such payment" and inserting "equal to the product of the third lowest rate of tax applicable under section 1(c) and such payment".

(viii) Section 3402(r)(3) of such Code is amended by striking "31 percent" and inserting "the fourth lowest rate of tax applicable under section 1(c)".

(ix) Section 3406(a)(1) of such Code is amended by striking "equal to 31 percent of such payment" and inserting "equal to the product of the fourth lowest rate of tax applicable under section 1(c) and such payment".

(x) Section 13273 of the Revenue Reconciliation Act of 1993 is amended by striking "28 percent" and inserting "the third lowest rate of tax applicable under section 1(c) of the Internal Revenue Code of 1986".

(C) EFFECTIVE DATES.—

(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by this paragraph shall apply to taxable years beginning after December 31, 2001.

(ii) AMENDMENTS TO WITHHOLDING PROVISIONS.—The amendments made by clauses (v), (vi), (vii), (viii), (ix), and (x) of subparagraph (B) shall apply to amounts paid after December 31, 2001.

(b) RESERVE FUND FOR DEFENSE AND EDUCATION.—Subtitle B of title II of H. Con. Res. 83 (107th Congress) is amended by inserting at the end the following:

"SEC. 219. STRATEGIC RESERVE FUND FOR DEFENSE AND EDUCATION.

If legislation is reported by the Committee on Appropriations of the Senate or the Committee on Appropriations of the House of Representatives, or an amendment thereto is offered or a conference report thereon is submitted, that would increase funding for defense or education, the chairman of the appropriate Committee on the Budget shall revise the aggregates, functional totals, allocations, and other appropriate levels and limits in this resolution for that measure by not exceeding the amount resulting from the repeal and amendments made by section (a) of the Supplemental Appropriations Act, 2001 for fiscal years 2001 and 2002, as long as that measure will not, when taken together with all other previously enacted legislation, reduce the on-budget surplus below the level of the Medicare Hospital Insurance Trust Fund surplus in any fiscal year provided in this resolution.".

Mr. REID. Mr. President, I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 874

Mr. REID. Mr. President, I send an amendment to the desk for Senator WELLSTONE under the authorized list.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. WELLSTONE, proposes an amendment numbered 874.

The amendment is as follows:

(Purpose: To increase funding for the Low-Income Home Energy Assistance Program, with an offset)

On page 11, between lines 8 and 9, insert the following:

(RESCISSIONS)

SEC. 1207. (a)(1) Effective July 31, 2001, of the funds provided to the Secretary of Defense, for fiscal year 2001 administrative expenses, under the Department of Defense Appropriations Act, 2001, the Military Construction Appropriations Act, 2001, and the Energy and Water Development Appropriations Act, 2001, and remaining in Federal appropriations accounts, an amount equal to $150,000,000 is rescinded.

(2) Such amount shall be rescinded from such Federal appropriations accounts as the Secretary of Defense shall specify before July 31, 2001. In determining the accounts to specify, the Secretary of Defense shall take into consideration the need to promote efficiency, cost-effectiveness, and productivity within the Department of Defense, as well as to maintain readiness and troop quality of life.

(b) Effective August 1, 2001, if the Secretary of Defense has not specified accounts for rescissions under subsection (a), of the funds described in subsection (a)(1) and remaining in Federal appropriations accounts,

> an amount equal to $150,000,000 is rescinded through proportional reductions to the portions of such accounts that contain such funds.
>
> On page 36, line 9, strike "$300,000,000" and insert "$450,000,000".

AMENDMENT NO. 875

Mr. REID. Mr. President, I ask unanimous consent that the amendment be set aside, and I send an amendment to the desk on behalf of Senator JOHNSON.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Nevada [Mr. REID], for Mr. JOHNSON, proposes an amendment numbered 875.

The amendment is as follows:

> (Purpose: To amend the Higher Education Act of 1965 to make certain interest rate changes permanent)
>
> At the appropriate place, insert the following:
>
> **SEC. ___. EXTENSION OF INTEREST RATE PROVISIONS.**
>
> (a) TECHNICAL CORRECTION.—Paragraph (6) of section 455(b) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)), as redesignated by section 8301(c)(1) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 498) is redesignated as paragraph (8) and inserted after paragraph (7) of that section.
>
> (b) EXTENSION.—
>
> (1) AMENDMENTS.—Sections 427A(k), 428C(c)(1), 438(b)(2)(I), and 455(b)(6) of such Act (20 U.S.C. 1077a(k), 1078–3(c)(1), 1087–1(b)(2)(I), 1087e(b)(6)) are each amended by striking "and before July 1, 2003," each place it appears.
>
> (2) CONFORMING AMENDMENTS.—
>
> (A) Section 427A(k) of such Act is amended by striking the subsection heading and inserting the following: "INTEREST RATES FOR NEW LOANS ON OR AFTER OCTOBER 1, 1998.—".
>
> (B) Section 438(b)(2)(I) of such Act is amended—
>
> (i) by striking the subparagraph heading and inserting the following: "LOANS DISBURSED ON OR AFTER JANUARY 1, 2000.—"; and
>
> (ii) in clause (i), by striking "2000," and inserting "2000".
>
> (C) Section 455(b)(6) of such Act is amended—
>
> (i) by striking the paragraph heading and inserting the following: "INTEREST RATE PROVISION FOR NEW LOANS ON OR AFTER OCTOBER 1, 1998.—"; and
>
> (ii) in subparagraph (D), by striking "1999," and inserting "1999".

Mr. REID. Mr. President, this amendment for Senator JOHNSON preserves a bipartisan compromise achieved in the 1998 Higher Education Act that reduced and stabilized higher education loan interest rates. The amendment that has been offered amends the Higher Education Act to continue the current student loan interest rate formulas, preserving the successful system that helps put millions of students through school every year.

The budget resolution includes a Technical Reserve Fund that makes it possible to fix the problem in 2001 before a crisis develops in 2003 when the current formula for calculating interest rates is due to expire. But the reserve fund in the resolution will expire early next year. Therefore, action is needed now so that Congress and the financial aid community can turn to improving financial aid programs all over this country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, in relation to the amendment I offered on behalf of Senator HOLLINGS, the RECORD should reflect that I have spoken to the Senator from South Carolina on several occasions today. He feels very strongly about the subject matter of this amendment. I am glad I had this slot available for the Senator, and I am happy to have offered this amendment on his behalf. Senator HOLLINGS will be available to speak more on the subject at a later time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, under the order, Senators, to be eligible to call up their amendments, had to offer those amendments by no later than 6 p.m. today; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Will the Chair please have the clerk state the amendments that qualify on the morrow?

The PRESIDING OFFICER. The clerk will read the qualified amendments.

The assistant legislative clerk read as follows:

> Senator SCHUMER, amendment No. 862; Senator FEINGOLD, amendment No. 863; Senator ROBERTS, amendment No. 864; Senator VOINOVICH, amendment No. 865; Senator CONRAD, second-degree amendment No. 866 to amendment No. 865; Senator CONRAD, amendment No. 867; Senator MCCAIN, amendment No. 868; Senator MCCAIN, amendment No. 869; Senator HUTCHINSON, amendment No. 870; Senator CRAIG, amendment No. 871; Senator BOND, amendment No. 872; Senator REID for Senator HOLLINGS, amendment No. 873; Senator WELLSTONE, amendment No. 874; and Senator JOHNSON, amendment No. 875.

Mr. BYRD. I take it that the hour of 6 p.m. has arrived?

The PRESIDING OFFICER. The Senator is correct; it has arrived.

Mr. BYRD. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, subject to change by the leadership, I ask unanimous consent that there now be a period for the transaction of morning business, not to extend beyond the hour of 6:30 p.m., and that Senators may be permitted to speak for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. HELMS. I ask it be in order for me to deliver my remarks seated at my desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

RES IPSA LOQUITUR

Mr. HELMS. Mr. President, the July edition of the American Legion magazine features a remarkable statement of obvious truth by a much maligned American who deserves far better than the petty sniping he endures at the hands of cunning politicians and the media, neither of whom would acknowledge the truth if they fell over it in the middle of the street.

U.S. Supreme Court Justice Clarence Thomas pulled no punches in this article. His piece in the American Legion magazine was headed, appropriately, "Courage v. Civility." Mr. Justice Thomas knows a good bit about both. He is, himself, a civil gentleman who possesses great courage.

The subhead on his piece pinpoints a great deal about how a good many American freedoms are being lost. One of the things he says is, those who censor themselves put fear ahead of freedom. I will quote briefly from two or three statements made by the distinguished Justice of the Supreme Court.

He said:

> I do not believe that one should fight over things that don't really matter. But what about things that do matter? It is not comforting to think that the natural tendency inside us is to settle for the bottom, or even the middle of the stream.
>
> This tendency, in large part, results from an overemphasis on civility. None of us should be uncivil in our manner as we debate issues of consequence. No matter how difficult it is, good manners should be routine. However, in the effort to be civil in conduct, many who know better actually dilute firmly held views to avoid appearing "judgmental." They curb their tongues not

only in form but also in substance. The insistence on civility in the form of our debates has the perverse effect of cannibalizing our principles, the very essence of a civil society. That is why civility cannot be the governing principle of citizenship or leadership.

By yielding to a false form of civility, we sometimes allow our critics to intimidate us. As I have said, active citizens are often subjected to truly vile attacks; they are branded as mean-spirited, racist, Uncle Tom, homophobic, sexist, etc. To this we often respond (if not succumb), so as not to be constantly fighting, by trying to be tolerant and nonjudgmental—i.e., we censor ourselves. This is not civility. It is cowardice, or well-intentioned self-deception at best.

I shall not quote further from this super article written by Mr. Justice Clarence Thomas, but I do ask unanimous consent the article by him be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the American Legion Magazine, July 2001]

COURAGE *v.* CIVILITY

THOSE WHO CENSOR THEMSELVES PUT FEAR AHEAD OF FREEDOM

(By Clarence Thomas)

My beliefs about personal fortitude and the importance of defending timeless principles of justice grew out of the wonderful years I spent with my grandparents, the years I have spent in Washington and my interest in world history—especially the history of countries in which the rule of law was surrendered to the rule of fear, such as during the rise of Nazism in what was then one of the most educated and cultured countries in Europe.

I have now been in Washington, D.C., for more than two decades. When I first arrived here in 1979, I thought there would be great debates about principles and policies in this city.

I expected citizens to feel passionately about what was happening in our country, to candidly and passionately debate the policies that had been implemented and suggest new ones.

I was disabused of this heretical notion in December 1980, when I was unwittingly candid with a young Washington Post reporter. He fairly and thoroughly displayed my naive openness in his op-ed about our discussion, in which I had raised what I thought were legitimate objections to a number of sacred policies, such as affirmative action, welfare, school busing—policies I felt were not well serving their intended beneficiaries. In my innocence, I was shocked at the public reaction. I had never been called such names in my entire life.

Why were these policies beyond question? What or who placed them off limits? Would it not be useful for those who felt strongly about these matters, and who wanted to solve the same problems, to have a point of view and to be heard? Sadly, in most forums of public dialogue in this country, the answer is no.

It became clear in rather short order that on very difficult issues, such as race, there was no real debate or honest discussion. Those who raised questions that suggested doubt about popular policies were subjected to intimidation. Debate was not permitted. Orthodoxy was enforced.

Today, no one can honestly claim surprise at the venomous attacks against those who take positions that are contrary to the canon laid down by those who claim to shape opinions. Such attacks have been standard fare for some time.

If you trim your sails, you appease those who lack the honesty and decency to disagree on the merits but prefer to engage in personal attacks. A good argument diluted to avoid criticism is not nearly as good as the undiluted argument, because we best arrive at truth through a process of honest and vigorous debate. Arguments should not sneak around in disguise, as if dissent were somehow sinister. One should not be cowed by criticism.

In my humble opinion, those who come to engage in debates of consequence, and who challenge accepted wisdom, should expect to be treated badly. Nonetheless, they must stand undaunted. That is required. And that should be expected, for it is bravery that is required to secure freedom. * * * For brutes, the most effective tactic is to intimidate an opponent into the silence of self-censorship.

In September 1975, The Wall Street Journal published a book review by Michael Novak of Thomas Sowell's book, "Race and Economics." The opening paragraph changed my life. It reads:

"Honesty on questions of race is rare in the United States. So many and unrecognized have been the injustices committed against blacks that no one wishes to be unkind, or subject himself to intimidating charges. Hence, even simple truths are commonly evaded."

This insight applies with equal force to very many conversations of consequence today. Who wants to be denounced as a heartless monster? On important matters, crucial matters, silence is enforced.

Even if one has a valid position, and is intellectually honest, he has to anticipate nasty responses aimed at the messenger rather than the argument. The objective is to limit the range of the debate, the number of messengers and the size of the audience. The aim is to pressure dissenters to sanitize their message, so as to avoid being subjected to hurtful ad hominem criticism. Who wants to be caluminated? It's not worth the trouble.

But is it worth it? Just what is worth it, and what is not? If one wants to be popular, it is counterproductive to disagree with the majority. If one just wants to tread water until the next vacation, it isn't worth the agony. If one just wants to muddle through, it is not worth it. In my office, a little sign reads: "To avoid criticism, say nothing, do nothing, be nothing."

None of us really believes that the things we fear discussing honestly these days are really trivial—and the reaction of our critics shows that we are right. If our dissents are so trivial, why are their reactions so intense? If our ideas are trivial, why the headhunting? Like you, I do not want to waste my time on the trivial. I certainly have no desire to be browbeaten and intimidated for the trivial.

What makes it all worthwhile? What makes it worthwhile is something greater than all of us. There are those things that at one time we all accepted as more important than our comfort or discomfort—if not our very lives: Duty, honor, country! There was a time when all was to be set aside for these. The plow was left idle, the hearth without fire, the homestead abandoned.

To enter public life is to step outside our more confined, comfortable sphere, and to face the broader, national sphere of citizenship. What makes it all worthwhile is to devote ourselves to the common good.

It goes without saying that we must participate in the affairs of our country if we think they are important and have an impact on our lives. But how are we to do that? In what manner should we participate?

I do not believe that one should fight over things that don't really matter. But what about things that do matter? It is not comforting to think that the natural tendency inside us is to settle for the bottom, or even the middle of the stream.

This tendency, in large part, results from an overemphasis on civility. None of us should be uncivil in our manner as we debate issues of consequence. No matter how difficult it is, good manners should be routine. However, in the effort to be civil in conduct, many who know better actually dilute firmly held views to avoid appearing "judgmental." They curb their tongues not only in form but also in substance. The insistence on civility in the form of our debates has the perverse effect of cannibalizing our principles, the very essence of a civil society. That is why civility cannot be the governing principle of citizenship or leadership.

By yielding to a false form of civility, we sometimes allow our critics to intimidate us. As I have said, active citizens are often subjected to truly vile attacks; they are branded as mean-spirited, racist, Uncle Tom, homophobic, sexist, etc. To this we often respond (if not succumb), so as not to be constantly fighting, by trying to be tolerant and nonjudgmental—i.e., we censor ourselves. This is not civility. It is cowardice, or well-intentioned self-deception at best.

The little-known story of Dimitar Peshev shows both the power of self-deception and the explosive effect of telling the truth and the dangers inherent in allowing the rule of law and the truth to succumb to political movements of the moment.

Peshev was the vice president of the Bulgarian Parliament during World War II. He was a man like many—simple and straightforward, not a great intellectual, not a military hero—just a civil servant doing his job as best he could, raising his family, struggling through a terrible moment in European history.

Bulgaria was pretty lucky because it managed to stay out of the fighting, even though the Nazis had placed the Bulgarian government—and the king—under enormous pressure to enter the war on the side of the Axis, or at a minimum to permit the destruction of the Bulgarian Jews. Bulgaria had no tradition of widespread anti-semitism, and the leaders of the country were generally unwilling to turn over their own citizens to certain death. But like all the other European countries, Bulgaria moved toward the Holocaust in small steps.

Peshev was one of many Bulgarian officials who heard rumors of the new policy and constantly queried his ministers. They lied to him, and for a time he believed their lies. Perhaps the ministers somehow believed the lies themselves. But in the final hours, a handful of citizens from Peshev's hometown raced to Sofia to tell him the truth: that Jews were being rounded up, that the trains were waiting.

According to the law, such actions were illegal. So Peshev forced his way into the office of the interior minister, demanding to know the truth. The minister repeated the official line, but Peshev didn't believe him. He demanded that the minister place a telephone call to the local authorities and remind them of their legal obligations. This brave act saved the lives of the Bulgarian Jews. Peshev then circulated a letter to members of Parliament, condemning the violation of the law and demanding that the government ensure that no such thing take place.

According to his biographer, Peshev's words moved all those "who until that moment had not imagined what could happen but who now could not accept what they had discovered." He had broken through the wall of self-deception and forced his colleagues to face the truth.

There is no monument to this brave man. Quite the contrary, the ministers were embarrassed and made him pay the price of their wickedness. He was removed from the position of vice president, publicly chastised for breaking ranks and politically isolated.

But he had won nonetheless: The king henceforth found ways to stall the Nazis; the leader of the Bulgarian Orthodox Church publicly defended the country's Jews; and even the most convinced anti-Semites in the Bulgarian government dared not advocate active cooperation with the Third Reich.

After the war, when the communists took over Bulgaria, they rewrote the wartime history to give the Communist Party credit for saving the Jews. Peshev was sent to the Gulag, and his story was only rediscovered after the collapse of the Soviet Union.

Pope John Paul II has traveled the entire world challenging tyrants and murderers of all sorts, speaking to millions of people, bringing them a single, simple message: "Be not afraid."

He preached this message to people living under communist tyranny in Poland, in Czechoslovakia, in Nicaragua and in China: "Be not afraid." He preached it to Africans facing death from marauding tribes and murderous disease: "Be not afraid." And he preached it to us, warning us how easy it is to be trapped in a "culture of death" even in our comfortable and luxurious country: "Be not afraid."

Those three little words hold the power to transform individuals and change the world. They can supply the quiet resolve and unvoiced courage necessary to endure the inevitable intimidation.

Today we are not called upon to risk our lives against some monstrous tyranny. America is not a barbarous country. Our people are not oppressed, and we face no pressing international threat to our way of life, such as the Soviet Union once posed.

Though the war in which we are engaged is cultural, not civil, it tests whether this "nation: conceived in liberty . . . can long endure." President Lincoln's words do endure: "It is . . . for us [the living] to be here dedicated to the great task remaining before us . . . that from these honored dead we take increased devotion to the cause for which they gave the last full measure of devotion . . . that we here highly resolve that these dead shall not have died in vain . . . that this nation, under God, shall have a new birth of freedom . . . and that government of the people . . . by the people . . . for the people . . . shall not perish from the earth.

The founders warned us that freedom requires constant vigilance and repeated action. It is said that, when asked what sort of government the founders had created. Benjamin Franklin replied that they had given us "a republic, if you can keep it." Today, as in the past, we need a brave civic virtue, not a timid civility, to keep our republic. Be not afraid.

THE ANNUAL MEETING OF THE CORPORATION FOR NATIONAL SERVICE

Mr. LOTT. Mr. President, I would like to take this opportunity to recognize the recent meeting of the board of directors of the Corporation for National Service which was hosted by my home State of Mississippi. Mississippians are known for their hospitality and compassion, so playing host to this meeting in Jackson was a natural fit.

The board members used this forum to elect Stephen Goldsmith, chairman of the board of directors for the Corporation for National Service. As the former mayor of Indianapolis, Chairman Goldsmith earned a reputation for innovative thinking, reducing spending, and improving infrastructure. I wish him the best of luck in his new role as chairman.

I also understand that at this year's meeting of the board, a coalition of religious and community leaders praised President Bush for his faith-based and community initiatives, and announced the creation of the Mississippi Faith-Based Coalition for Community Renewal. My constituents advise me that this coalition will work with the President to implement his faith-based plan and bring hope and opportunity to all Mississippians.

Mississippi is truly proud to have been chosen as the host site for the 2001 meeting of the board of directors of the Corporation for National Service. I want to encourage other boards, organizations, corporations, and groups to hold their special events in Mississippi and share in all we have to offer.

HONORING NOBEL LAUREATES

Mr. BIDEN. Mr. President, on July 18 here in Washington, the American College of Neuropsychopharmacology will be honoring its members who have won the Nobel Prize for Medicine or Physiology. The honorees include the three Nobel Prize winners from the year 2000: Dr. Arvid Carlsson from Goteborg University in Sweden, Dr. Paul Greengard from Rockefeller University in New York City, and Dr. Eric Kandel from Columbia University in New York City. Also being honored is the 1970 Nobel Prize winner, Dr. Julius Axelrod from the National Institutes of Health in Maryland. Together, these Nobel Prize winners have helped us begin to understand how that most mysterious and important human organ, the brain, actually works.

The brain is a huge collection of nerve cells, connected to each other in complicated networks. Nerve impulses, which are the means of communicating information from the brain to the various parts of the body, are conducted from one end of a nerve cell to another by a form of electrical action. Dr. Axelrod's work set the stage for our modern knowledge of brain neurochemistry by establishing the important role of neurotransmitters, which are chemicals that serve to transmit these nerve impulses from one nerve cell to another through a connecting region called the synapse. A key first step in understanding the brain was this discovery that, as nerve impulses move from nerve cell to nerve cell, they switch from an electrical conduction to a chemical conduction and then back again to an electrical conduction.

Dr. Carlsson started to fill in this general outline by discovering that the chemical dopamine was one of these important chemicals that transmits nerve signals from one nerve cell to another. Moreover, dopamine seemed to be very important in controlling body motions. Dr. Carlsson's work with experimental animals who were deficient in dopamine led to the seminal discovery that Parkinson's disease in humans, a disabling and progressive disease associated with tremors and impaired mobility, was directly related to a deficiency of dopamine in certain parts of the brain. This landmark finding led directly to the treatment of Parkinson's disease with L-dopa, a drug that is converted to dopamine in the body. To this very day, the foundation for treatment of this illness is the use of medications that increase dopamine in the brain or mimic its action there.

Dr. Carlsson also discovered that the drugs used to treat schizophrenia, a severe mental illness affecting thought processes, also seemed to work by affecting the action of dopamine in the brain. In contrast to the situation with Parkinson's disease, in which administration of L-dopa seemed to work by increasing dopamine in the brain, the antipsychotic drugs such as thorazine, which are used to treat schizophrenia, seemed to work by blocking the action of dopamine in the brain. To this very day, medications that block the effects of dopamine remain the mainstay of treatment for schizophrenia. Dr. Carlsson's work was instrumental in establishing the biological foundation of mental illness, which has led to our ability to target treatment of such disorders with medications based on their specific biochemical cause.

Dr. Greengard carried this line of work one step further, examining exactly how such neurotransmitters work as they transfer nerve impulses from one nerve cell to another through the connecting region called the synapse. He described in detail the cascade of chemical reactions that occurs as the neurotransmitter chemicals stimulate the next nerve cell in the nerve pathway, which results in conversion of the nerve impulse back into an electrical signal. Particularly important was the discovery of the different speeds at which these nerve signals are transmitted across the synapse. This framework enabled him to establish, on a molecular and biochemical level, the mechanism of action of various drugs that act on the central nervous system.

Finally, Dr. Kandel expanded the context of this research area by showing how such complex processes as memory and learning are directly related to the basic biochemical foundations outlined by Drs. Greengard, Carlsson, and Axelrod. In detailed studies in animals, Dr. Kandel showed that the process of memory was associated with specific changes in the shape and functioning of the synapse region that connects pairs of nerve cells. This research revealed that these connections between nerve cells, rather than being just passive junctions, are actually vitally important in the complicated processes of the nervous system.

The brain could be said to be the ultimate human frontier. As scientists pieced together the function of all the other organs in the body over the last few centuries, the brain remained an enigma. The work of Drs. Axelrod, Carlsson, Greengard, and Kandel starts to clear away some of the mystery that surrounds the brain, and this research has already led to practical, clinical advances to help millions of people with neurological and mental disorders such as Parkinson's disease and schizophrenia. This basic understanding of how the brain works is clearly necessary for understanding of the numerous brain disorders that affect many more millions of people worldwide, some of which are just starting to be elucidated. Moreover, these pioneering studies have opened the door to the development of targeted medications to treat such illnesses. I am particularly excited about the possibility that this research will unlock the key to the medical treatment of substance abuse disorders, whose social impact in our country is enormous. On behalf of the many people who stand to live longer and more fulfilling lives as a result of their discoveries, I extend my deepest congratulations to these esteemed Nobel laureates.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 2, 1999 in Greenfield, MA. Jonathan Shapiro, 18, and Matthew Rogers, 20, used a pocketknife to cut an anti-gay slur into the back of a high school classmate.

Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

UNITED NATIONS CONFERENCE ON THE ILLICIT TRADE IN SMALL ARMS AND LIGHT WEAPONS IN ALL ITS ASPECTS

Mrs. FEINSTEIN. Mr. President, today in New York the United Nations convened the conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects, the first effort by the U.N. to address the pressing issue of small arms trafficking.

The mass proliferation of small arms—shoulder-mounted missiles, assault weapons, grenade launchers, high-powered sniper rifles and other tools of death—is fueling civil wars, terrorism and the international drug trade throughout the world.

The grimmest figures come from developing countries where light, cheap and easy to use small arms and light weapons, such as AK-47s and similar military assault rifles, have become the weapons of choice of narco-traffickers, terrorists and insurgents.

The problem is staggering: An estimated 500 million illicit small arms and light weapons are in circulation around the globe, and in the past decade four million people have been killed by them in civil war and bloody fighting.

Nine out of 10 of these deaths are attributed to small arms and light weapons. According to the International Committee of the Red Cross, more than 50 percent of those killed are believed to be civilians.

Starting today, the United Nations will host a conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects. At this conference, the U.N., for the first time, will seek to devise international standards and procedures for curtailing small arms trafficking. It is an issue of extreme importance to the United States. Not only because of the violence and devastation itself, but because of the threat these weapons pose to our political, economic and security interests.

The volume of weaponry has fueled cycles of violence and been a major factor in the devastation witnessed in recent conflicts in Africa, the Balkans, and South Asia, among other places. These conflicts undermine regional stability and endanger the spread of democracy and free-markets around the world. Here are a few examples.

In Mexico a lethal flow of guns south from the United States has fed that nation's drug war. Hundreds of thousands of weapons over the last decade have flooded into Mexico from the United States. Authorities recently traced a sale of 80 Chinese assault weapons from a San Diego gunshop to a Tijuana weapons dealer for $27,000. Many of these ended up in the hands of the Arellano Felix drug cartel and are believed responsible for at least 21 deaths, including two infants, six children and a pregnant 17- year-old girl shot and killed during a mass murder at Rancho el Rodeo in September 1998.

In Albania more than 650,000 weapons and 20,000 tons of explosives disappeared from government depots in the three years leading up to the outbreak of violence in the Balkans, according to the U.N. The continued presence of the weapons poses a very real threat to NATO and U.S. peacekeepers in the region.

And in Colombia, the continued instability is in part due to the torrential flow of rifles and pistols to rebel groups and drug gangs who have used the imported weapons to murder judges, journalists, police officers, as well as innocent passers-by.

The increased access by terrorists, guerrilla groups, criminals, and others to small arms and light weapons puts in jeopardy U.S. law enforcement efforts, business people based or traveling overseas, and even U.S. tourists.

In approaching the United Nations Conference, it is critical that the U.S. government negotiate and support making the trafficking of small arms traceable and eliminate the secrecy that permits thousands of weapons to fuel crime and war without anyone's knowledge of their source.

It is my hope the United Nations will move to create international procedures to control the proliferation of small arms and light weapons. The United States has some of the strongest arms export controls in the world, and it is in the U.S. interest to see that those standards are equaled by the world community.

In addition, the United States has a moral responsibility to push for the development of measures that stop weapons from winding up in the hands of abusive government forces, terrorists and drug-traffickers.

Specifically, the U.S. Government should champion a conference program of action that mandates countries' early negotiations on legally binding procedures: a Framework Convention on International Arms Transfers that sets out export criteria based on countries' current obligations under international law; and an International Agreement on Marking and Tracing that develops systems for adequate and reliable marking of arms at manufacture and import and record-keeping on arms production, possession and transfer.

The Program of Action must also include the establishment of regional and international transparency mechanisms and concrete steps to achieve improved implementation and enforcement of arms embargoes.

United States leadership should ensure that the conference is the first step, not the last, in the international community's efforts to control the spread of small arms and light weapons.

Mr. SESSIONS. Mr. President, several people who opposed the nomination of Theodore B. Olson to be Solicitor General made charges that contained serious factual errors. These are not, I believe, debatable questions of interpretation when the facts are carefully examined. We have had our bipartisan investigation and hearing, and we have confirmed Mr. Olson, and we should move on; but we owe it to Mr. Olson, to future nominees, and to the Senate as an institution to make sure that the record is correct.

Before turning to some specific errors, I want to emphasize that Mr. Olson responded to all of the committee's questions. Mr. Olson is one of the Nation's most talented lawyers and most dedicated public servants. He completed our questionnaire; he answered the questions asked at the hearing; he responded to more than one hundred written follow-up questions; and he repeatedly offered to meet with any Senator who had any further questions. He was clear, he was candid, he was responsive. Indeed, every thing that critics suggest Mr. Olson tried to hide, Mr. Olson in fact volunteered to the Committee, either in his response to the committee's questionnaire or in his responses to our questions.

One inaccurate claim was that Mr. Olson engaged in word games in his answers about the American Spectator's "Arkansas Project." In fact, at the committee hearing, it was clear that the committee and Mr. Olson had a shared understanding of that phrase, and Mr. Olson's answers expressly responded within that framework. The questions specifically characterized the "Arkansas Project" as involving only the project pursuant to which "Richard Mellon Scaife funneled money through the American Spectator" to investigate the Clintons. Those were the words used in the question, and Mr. Olson adopted those words in his answers. There is no indication that any Senator, or Mr. Olson, intended the term "Arkansas Project" to refer to anything other than the Scaife-funded journalistic efforts to investigate the Clintons' history in Arkansas.

Thus, there were no word games by Mr. Olson. It is Mr. Olson's critics who played word games, by retroactively changing the meaning of the "Arkansas Project" to embrace essentially every Clinton-related article published or even considered by the American Spectator magazine in the 1990s. That was not the way the committee or Mr. Olson used that term at the hearing, and it is wrong and unfair to suggest otherwise.

At the very least, if any Senator was somehow personally uncertain what Mr. Olson intended when he was answering questions concerning the "Arkansas Project," that Senator could have followed up at the hearing. No Senator did.

Second, some have argued that Mr. Olson improperly attempted to minimize his role in the so-called "Arkansas Project" during his confirmation hearing. The charges include allegations that only belatedly did Mr. Olson "admit" that he and his firm provided legal services to the American Spectator, that he had discussions in social settings with those working on Arkansas Project matters, and that he himself authored articles for the magazine paid for out of the special Richard Mellon Scaife fund.

Each of these allegations, however, is contradicted by the factual record. Mr. Olson consistently stated that he and others at his law firm performed legal services for the American Spectator beginning in 1994, that they billed the magazine for those services at their normal market rates, and that the magazine paid them only for the legal services actually performed. Indeed, that Mr. Olson's firm provided legal services to the American Spectator has been widely known and a matter of public record for several years. It is not something that he "admitted" under close questioning. Those legal services—involving such things as book contracts and employee disputes—were not "in connection with" the "Arkansas Project," and any suggestion to the contrary, based on the record as I know it, is wrong as a matter of fact.

As for Mr. Olson's presence in social settings with individuals associated with the "Arkansas Project," the questions were asked and Mr. Olson never made any attempt to conceal or minimize his attendance at those social events. He stated that he was unaware of any discussions at those events concerning the Scaife-funded efforts to investigate Clinton scandals, and no one has contradicted that testimony. Indeed, every knowledgeable individual—including one of Mr. Olson's chief critics—has confirmed that testimony. I also understand that journalists employed by other magazines and newspapers—competitors of the American Spectator—and a wide range of other persons also attended those social events. Thus, they also had discussions "in social settings" with those working on Arkansas Project matters, but no responsible person would assert that their attendance at those events made them participants in the American Spectator's "Arkansas Project."

Mr. Olson also testified during his hearing about his authorship and co-authorship of several articles critical of the Clintons and other public officials. Indeed, he voluntarily provided copies of those American Spectator articles to the Judiciary Committee in his response to the committee's standard questionnaire, well in advance of his confirmation hearing. It is simply not correct, as a matter of fact, to suggest that he only "admitted" his authorship of the articles after the committee hearing.

As to the American Spectator's internal bookkeeping for its payments to Mr. Olson or his law firm, it seems plain that Mr. Olson had no way of knowing how the Spectator categorized those payments for its own purposes, any more than taxpayers will know from the face of the check to what internal account the Government will charge the rebate checks flowing from President Bush's tax cut. Mr. Olson said that he never even saw the checks which were sent to his law firm's headquarters in Los Angeles in payment of routine client billings. All of this is in the record.

There was no "expansion" or change in Mr. Olson's testimony on the foregoing points over the last several weeks. It is similarly inaccurate to say, as some critics do, that Mr. Olson "modified" his answers, "changed" his recollections, or "conceded" additional knowledge. To a remarkable degree, Mr. Olson has clearly and consistently answered the questions we asked him. His testimony, moreover, has been fully confirmed by the individuals most closely associated with the "Arkansas Project," including the editor-in-chief, editor, and publisher of the American Spectator magazine during the relevant time period, as well as the three individuals who primarily performed the investigative journalism funded by the "Arkansas Project." Each of these individuals stepped forward voluntarily to confirm the accuracy of Mr. Olson's testimony. Indeed, there is no one with percipient knowledge of these events who has contradicted Mr. Olson.

Third, some mistakenly attempt to create a conflict in Mr. Olson's testimony by confusing the amounts he was paid for writing articles for the American Spectator with the very different amounts that Mr. Olson's law firm received for providing legal services to the American Spectator over a span of many years. Mr. Olson told the Senate that he was paid from $500 to $1,000 for his articles that appeared in the American Spectator magazine, whereas his firm received $94,405 for legal services.

The attempt to create a conflict on this issue requires mixing apples with oranges. There were two different types of payments, for different types of services. In his April 19 answers, Mr. Olson explained that in addition to the $500 to $1,000 fees he received for the articles, his law firm "has received payments for legal services rendered to the [American Spectator] Foundation from time to time, by me and by others at the firm, at our normal market rates." Given that those legal fees were for legal services provided to the magazine over a period of more than 5 years, involving the work of several attorneys, the $94,405 figure is in no way surprising. More significantly, Mr. Olson at all times distinguished between the firm's legal fees, and the separate, comparatively modest amounts he received personally for writing articles for the magazine. It is, again, a factual mistake to suggest that he ever sought to confuse those two amounts.

Fourth, some have criticized Mr. Olson for allegedly refusing to respond to an allegation about American Spectator dinner parties. I question whether the Senate should even get into this issue of who attended what dinner parties, given the absence of any serious issue here, and the freedom of speech and press values inherent in a magazine's activities. But this particular allegation was dubious and made by a source who publicly contradicted himself on this very allegation. The allegation appeared only in the pages of the Washington Post. No Senator asked Mr. Olson about that particular allegation, and we have never imposed on nominees of either party an obligation to track down and respond to every farfetched or baseless charge that might find its way into print. Moreover, one member of the committee did make an inquiry about Mr. Olson's social contacts with employees of the American Spectator and Mr. Olson fully answered that question in writing. So it is factually incorrect to state that he refused to respond to that question.

Fifth, Mr. Olson's statement that his legal services for the American Spectator magazine were not for the purpose of conducting investigations of the Clintons is allegedly contradicted by the fact that Mr. Olson's firm was compensated for legal research to prepare a chart outlining the Clintons' criminal exposure, as research for a February 1994 article Mr. Olson co-authored entitled, "Criminal Laws Implicated by the Clinton Scandals: A Partial List." This charge again is contradicted by record facts. The 1994 engagement letter for Mr. Olson's professional services expressly provided that Mr. Olson and his firm were not engaged "to do any independent factual research." In fact, there is nothing in the public record to suggest that Mr. Olson's work in connection with that article, or for the magazine at any time, involved factual investigation of the Clintons. Comparing the publicly-available applicable Federal criminal code provisions, to publicly-available newspaper stories concerning allegations regarding the Clintons, cannot be described as an "investigation" of the Clintons.

While there were other factual inaccuracies in the attacks on Mr. Olson, this list demonstrates that the concerns raised regarding Mr. Olson's candor before the Judiciary Committee were unjustified.

It is particularly noteworthy that Robert Bennett, one of the most notable lawyers in this country and counsel to then-President Clinton, rejected the claim that Mr. Olson was less than candid in his responses to the Senate Judiciary Committee. More than almost any other person, he knows that facts of the Clinton matters. During an interview with Wolf Blitzer on CNN on May 22, Mr. Bennett stated: "I have recently read [Mr. Olson's] responses to the Senate, and I have looked at a lot of the material, and if I were voting, I would say that Ted Olson was more than candid with the Senate." Mr. Bennett is independent; he had no partisan axe to grind in favor of Mr. Olson in connection with this nomination; he, in fact, was a lead counsel for President Clinton for several years; he was not maneuvering for advantage in future nomination battles; he is a lawyer experienced in weighing evidence and cross-examining witnesses; he looked at the evidence; and his conclusion that these allegations are ill-founded is worthy of our respect.

I agree wholeheartedly with Mr. Bennett. I too have reviewed Mr. Olson's statements before the committee regarding his role in the "Arkansas Project," and I find Mr. Olson's statements to be clear and accurate.

The Washington Post editorial board also shares this view. On May 18, after all of the questions regarding the "Arkansas Project" had been raised, the Washington Post endorsed Mr. Olson's nomination to be Solicitor General, noting "Mr. Olson is one of Washington's most talented and successful appellate lawyers, a man who served with distinction in the Justice Department during the 1980s and whose work is widely admired across party lines." According to the Washington Post, "Mr. Olson's prior service at the Justice Department indicates that he understands the difference between the roles of private citizen and public servant." As for Mr. Olson's testimony regarding his role in the "Arkansas Project," the Washington Post concluded that "*there's no evidence that his testimony was inaccurate in any significant way,*" and that "the Democrats would be wrong to block Mr. Olson." [Emphasis added.]

The Senate thus far has not done a good job of reviewing President Bush's nominees, and in many cases has made upstanding individuals the victims of partisan attacks. The deeply partisan vote over the Solicitor Generalship was a low point. I strongly believe that every nominee deserves fairness in this process and a full chance to get his or her position into the record and considered. It is not right to leave the record incomplete. I hope that, by setting the record straight, the Senate can move on and treat future nominees more fairly.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, July 6, 2001, the Federal debt stood at $5,710,979,327,576.62, five trillion, seven hundred ten billion, nine hundred seventy-nine million, three hundred twenty-seven thousand, five hundred seventy-six dollars and sixty-two cents.

One year ago, July 6, 2000, the Federal debt stood at $5,665,885,000,000, five trillion, six hundred sixty-five billion, eight hundred eighty-five million.

Twenty-five years ago, July 6, 1976, the Federal debt stood at $613,075,000,000, six hundred thirteen billion, seventy-five million, which reflects a debt increase of more than $5 trillion, $5,097,904,327,576.62, five trillion, ninety-seven billion, nine hundred four million, three hundred twenty-seven thousand, five hundred seventy-six dollars and sixty-two cents during the past 25 years.

ADDITIONAL STATEMENTS

IN RECOGNITION OF REVEREND HURLEY J. COLEMAN SR.

• Mr. LEVIN. Mr. President, today I acknowledge the life and accomplishments of a distinguished and principled public servant who served as a minister in my home State of Michigan, Reverend Hurley J. Coleman Sr. Today, people will be gathering in Saginaw, MI, to pay tribute to and celebrate the life of a man who for nearly five decades, served as a leader, spiritual mentor and role model in his community.

Throughout his life, Reverend Coleman dedicated himself to serving his family, his church and his God. The esteem in which he was held by all who knew him is due to the fact that Pastor Coleman's life was a powerful testimony to the message he preached weekly at Coleman Temple Church of God in Christ.

Considered one of the deans of the Saginaw clergy, Pastor Coleman's career had a humble beginning. Licensed as a minister in the Church of God in Christ in 1953, Pastor Coleman's first congregation gathered for worship in his home. A short four years after the inception of this congregation, they broke ground for a new church. This facility now serves over 300 members—an amazing number considering that the Pastor's first congregation included only six members.

During his tenure as pastor, Hurley Coleman played a pivotal role in the struggle for racial equality and other civil rights causes. In these efforts, he has been able to unite people of different races and denominations around the common goal of improving life for all people.

I believe that nothing bears witness to the depth and integrity of Pastor Coleman's ministry and life more than his family. Pastor Coleman and his wife Martha were married for 51 years. During this time they served the community and were able to raise 10 children. These children: Hurlette Dickens, Hurley Jr., Charles, Ritchie, Ronnie, E. Yvonne Lewis, Myra Williams, Elaine Bonner, Evelyn Yeager and Edna Coleman, are pillars in their community who have followed their parent's example of service to others.

The vitality and strength of our Nation is due, in a large part, to the dedication and efforts of individuals like the Reverend Hurley J. Coleman Sr. Reverend Coleman and his wife were a dedicated couple whose love for one another and their family touched the entire community that they tirelessly sought to serve. I am sure that my Senate colleagues will join me in honoring the memory of the Reverend Hurley J. Coleman Sr., and in wishing his family well in the years ahead.•

TRIBUTE TO ANGELA PEREZ BARAQUIO

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Angela Perez Baraquio of Honolulu, HI, on being named as Miss America 2001.

Angela received a BA in education from the University of Hawaii, Manoa, and earned academic awards in college including: University Dean's List, Golden Key National Honor Society Member, 1998–1999, Donna Mercado Kim Academic Scholarship, Sibyl Nyborg Haide Student Teaching Grant and Evelyn Siu Foo Scholarship in Elementary Education.

Angela is a K–3rd grade physical education teacher and 5th–8th grade coach and athletic director at Holy Family Catholic Academy. She is active in her local community as Choir Director at St. Augustine by the Sea Catholic Church in Waikiki.

Her platform, Character in the Classroom: Teaching Values, Valuing Teachers, recognizes the important contributions that teachers make in our country and encourages the adoption of character development programs in schools throughout the United States. Angela aspires to complete a Master's degree in Education to accomplish her platform goals.

Angela is visiting New Hampshire for the first time on July 11, 2001. She has been invited by the University of New Hampshire to be a keynote speaker at "New Hampshire Celebrates Team Nutrition Day." The special event held during the University of New Hampshire's 2-week institute for school professionals recognizes the efforts of administrators and teachers who develop programs that provide nutritional and fitness instruction for the youth of the state. Now in its fifth year, the institute is the only one of its kind in the United States.

The Miss America Organization is one of the Nation's leading achievement programs and the world's largest provider of scholarships for young women. The Miss America Organization provides young women with the opportunity to grow personally and professionally while instilling a spirit of community service through a variety of community-based programs.

As a former schoolteacher, I commend Angela for her selfless dedication to the education of the young people of Hawaii and our country. I wish her well as she continues her education and continues to enrich the lives of the children in Hawaii.•

WESTMINSTER CHRISTIAN ACADEMY

• Mr. BOND. Mr. President, I rise to recognize Westminster Christian Academy in St. Louis on winning the Region 3 award at the We the People . . . The Citizen and the Constitution national finals held on April 21–23, 2001.

This award is presented to the school in each of five geographic regions with the highest cumulative score during the national finals. The students of Westminster Christian Academy competed against 49 classes throughout the Nation. They demonstrated a remarkable understanding of the fundamental ideas and values of American constitutional Government.

I had the pleasure to meet with this group of outstanding students during their visit in April, and I am pleased to congratulate them and their teacher Mr. Ken Boesch on such a fine accomplishment. I also congratulate Westminster Christian Academy as well, for proving to be a model school that has installed an example that should be followed by schools throughout the nation. Through hard work, dedication, and discipline they have surpassed the medium.•

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HUTCHINSON (for himself and Mr. DURBIN):

S. Con. Res. 59. A concurrent resolution expressing the sense of Congress that there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 258

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 258, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of annual screening pap smear and screening pelvic exams.

S. 281

At the request of Mr. HAGEL, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 326

At the request of Ms. COLLINS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 326, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas.

S. 392

At the request of Mr. SARBANES, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 392, a bill to grant a Federal Charter to Korean War Veterans Association, Incorporated, and for other purposes.

S. 452

At the request of Mr. MURKOWSKI, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 452, a bill to amend title XVIII of the Social Security Act to ensure that the Secretary of Health and Human Services provides appropriate guidance to physicians, providers of services, and ambulance providers that are attempting to properly submit claims under the medicare program to ensure that the Secretary does not target inadvertent billing errors.

S. 543

At the request of Mr. DOMENICI, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 583

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 588

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 588, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 657

At the request of Mr. LUGAR, the name of the Senator from Kentucky

(Mr. BUNNING) was added as a cosponsor of S. 657, a bill to authorize funding for the National 4-H Program Centennial Initiative.

S. 661

At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 661, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel exercise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 690

At the request of Mr. WELLSTONE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 690, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S. 754

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 754, a bill to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs.

S. 804

At the request of Mrs. FEINSTEIN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 804, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks; to required fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight; to raise the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 913

At the request of Ms. SNOWE, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 1025

At the request of Mr. LIEBERMAN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1025, a bill to provide for savings for working families.

S. 1078

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1078, a bill to promote brownfields redevelopment in urban and rural areas and spur community revitalization in low-income and moderate-income neighborhoods.

S. 1079

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1079, a bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites.

S. 1095

At the request of Mr. THOMPSON, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1095, a bill to amend title 38, United States Code, to restore promised GI Bill educational benefits to Vietnam era veterans, and for other purposes.

S. 1153

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1153, a bill to amend the Food Security Act of 1985 to establish a grassland reserve program to assist owners in restoring and protecting grassland.

S. RES. 61

At the request of Mr. HUTCHINSON, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Res. 61, a resolution expressing the sense of the Senate that the Secretary of Veterans Affairs should recognize board certifications from the American Association of Physician Specialists, Inc., for purposes of the payment of special pay by the Veterans Health Administration.

S. RES. 71

At the request of Mr. HARKIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. RES. 72

At the request of Mr. SPECTER, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Res. 72, a resolution designating the month of April as "National Sexual Assault Awareness Month."

S. RES. 119

At the request of Mr. BAYH, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 119, a resolution combating the Global AIDS pandemic.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 45

At the request of Mr. FITZGERALD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

S. CON. RES. 53

At the request of Mr. HAGEL, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 59—EXPRESSING THE SENSE OF CONGRESS THAT THERE SHOULD BE ESTABLISHED A NATIONAL COMMUNITY HEALTH CENTER WEEK TO RAISE AWARENESS OF HEALTH SERVICES PROVIDED BY COMMUNITY, MIGRANT, PUBLIC HOUSING, AND HOMELESS HEALTH CENTERS

Mr. HUTCHINSON (for himself and Mr. DURBIN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 59

Whereas community, migrant, public housing, and homeless health centers are non-profit and community owned and operated health providers that are vital to the Nation's communities;

Whereas there are more than 1,029 of these health centers serving nearly 12,000,000 people at 3,200 health delivery sites, spanning urban and rural communities in the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands;

Whereas these health centers have provided cost-effective, quality health care to the Nation's poor and medically underserved, including the working poor, the uninsured, and many high-risk and vulnerable populations;

Whereas these health centers act as a vital safety net in the Nation's health delivery system, meeting escalating health needs and reducing health disparities;

Whereas these health centers provide care to 1 of every 9 uninsured Americans, 1 of every 8 low-income Americans, and 1 of every 10 rural Americans, who would otherwise lack access to health care;

Whereas these health centers, and other innovative programs in primary and preventive care, reach out to 600,000 homeless persons and more than 650,000 farm workers;

Whereas these health centers make health care responsive and cost-effective by integrating the delivery of primary care with aggressive outreach, patient education, translation, and enabling support services;

Whereas these health centers increase the use of preventive health services such as immunizations, Pap smears, mammograms, and glaucoma screenings;

Whereas in communities served by these health centers, infant mortality rates have been reduced between 10 and 40 percent;

Whereas these health centers are built by community initiative;

Whereas Federal grants provide seed money empowering communities to find partners and resources and to recruit doctors and health professionals;

Whereas Federal grants, on average, contribute 28 percent of these health centers' budgets, with the remainder provided by State and local governments, Medicare, Medicaid, private contributions, private insurance, and patient fees;

Whereas these health centers are community oriented and patient focused;

Whereas these health centers tailor their services to fit the special needs and priorities of communities, working together with schools, businesses, churches, community organizations, foundations, and State and local governments;

Whereas these health centers contribute to the health and well-being of their communities by keeping children healthy and in school and helping adults remain productive and on the job;

Whereas these health centers engage citizen participation and provide jobs for 50,000 community residents; and

Whereas the establishment of a National Community Health Center Week for the week beginning August 19, 2001, would raise awareness of the health services provided by these health centers: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers; and

(2) the President should issue a proclamation calling on the people of the United States and interested organizations to observe such a week with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 861. Mr. BYRD (for himself and Mr. Stevens) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

SA 862. Mr. REID (for Mr. Schumer (for himself, Mr. Reed, Mr. Dodd, Mr. Lieberman, Mr. Corzine, and Mr. Reid)) proposed an amendment to the bill S. 1077, supra.

SA 863. Mr. REID (for Mr. Feingold) proposed an amendment to the bill S. 1077, supra.

SA 864. Mr. CRAIG (for Mr. Roberts (for himself, Mr. Cleland, Mr. Craig, Mr. Miller, Mr. Crapo, and Mr. Brownback)) proposed an amendment to the bill S. 1077, supra.

SA 865. Mr. VOINOVICH (for himself, Mr. Helms, Mr. Sessions, and Mr. Crapo) proposed an amendment to the bill S. 1077, supra.

SA 866. Mr. BYRD (for Mr. Conrad) proposed an amendment to amendment SA 865 proposed by Mr. Voinovich to the bill (S. 1077) supra.

SA 867. Mr. CONRAD proposed an amendment to the bill S. 1077, supra.

SA 868. Mr. STEVENS (for Mr. McCain (for himself, Mr. Lieberman, and Ms. Landrieu)) proposed an amendment to the bill S. 1077, supra.

SA 869. Mr. STEVENS (for Mr. McCain (for himself, Mr. Lieberman, and Ms. Landrieu)) proposed an amendment to the bill S. 1077, supra.

SA 870. Mr. STEVENS (for Mr. Hutchinson) proposed an amendment to the bill S. 1077, supra.

SA 871. Mr. STEVENS (for Mr. Craig) proposed an amendment to the bill S. 1077, supra.

SA 872. Mr. BOND (for himself and Mr. McCain) proposed an amendment to the bill S. 1077, supra.

SA 873. Mr. REID (for Mr. Hollings) proposed an amendment to the bill S. 1077, supra.

SA 874. Mr. REID (for Mr. Wellstone) proposed an amendment to the bill S. 1077, supra.

SA 875. Mr. REID (for Mr. Johnson) proposed an amendment to the bill S. 1077, supra.

TEXT OF AMENDMENTS

SA 861. Mr. BYRD (for himself and Mr. Stevens) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 11, after line 8, insert the following:

"Sec. 1207. Of the amounts appropriated in this Act under the heading 'Operation and Maintenance, Army', $8,000,000 shall be available for the purpose of repairing storm damage at Fort Sill, Oklahoma, and Red River Army Depot, Texas.".

On page 11, after line 8, insert the following:

"Sec. 1208. (a) Of the total amount appropriated under this Act to the Army for operation and maintenance, such amount as may be necessary shall be available for a conveyance by the Secretary of the Army, without consideration, of all right, title, and interest of the United States in and to the firefighting and rescue vehicles described in subsection (b) to the City of Bayonne, New Jersey.

"(b) The firefighting and rescue vehicles referred to in subsection (a) are a rescue hazardous materials truck, a 2,000 gallon per minute pumper, and a 100-foot elevating platform truck, all of which are at Military Ocean Terminal, Bayonne, New Jersey.".

On page 11, line 15, before the period, insert: ": *Provided*, That funding is authorized for Project 01–D–107, Atlas Relocation and Operations, and Project 01–D–108, Microsystems and Engineering Science Application Complex".

On page 13, after line 8, insert the following:

"GENERAL PROVISIONS—THIS CHAPTER

"Sec. 1401. (a) In addition to amounts appropriated or otherwise made available elsewhere in the Military Construction Appropriations Act, 2001, and in this Act, the following amounts are hereby appropriated as authorized by section 2854 of title 10, United States Code, as follows for the purpose of repairing storm damage at Ellington Air National Guard Base, Texas, and Fort Sill, Oklahoma:

"'Military Construction, Air National Guard', $6,700,000;

"'Family Housing, Army', $1,000,000: "*Provided*, That the funds in this section shall remain available until September 30, 2005.

"(b) Of the funds provided in the Military Construction Appropriations Acts, 2000 and 2001, the following amounts are rescinded:

"'Military Construction, Defense-Wide', $6,700,000;

"'Family Housing, Army', $1,000,000.".

On page 13, after line 8, insert the following:

"Sec. 1402. Notwithstanding any other provision of law, the amount authorized, and authorized to be appropriated, for the Defense Agencies for the TRICARE Management Agency for a military construction project for Bassett Army Hospital at Fort Wainwright, Alaska, shall be $215,000,000.".

On page 13, after line 12 insert the following:

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $3,000,000, to remain available until September 30, 2002: *Provided*, That of these funds, no less than $1,000,000 shall be used for enforcement of the Animal Welfare Act: *Provided further*, That of these funds, no less than $1,000,000 shall be used to enhance human slaughter practices under the Federal Meat Inspections Act: *Provided further*, That no more than $500,000 of these funds shall be made available to the Under Secretary for Research, Education and Economics for development and demonstration of technologies to promote the humane treatment of animals: *Provided further*, That these funds may be transferred to and merged with appropriations for agencies performing this work.

On page 14, after line 25, insert the following:

"Sec. 2103. (a) Not later than August 1, 2001, the Federal Crop Insurance Corporation shall promulgate final regulations to carry out section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 522(b)), without regard to:

"(1) the notice and comment provisions of section 553 of title 5, United States Code;

"(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

"(3) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

"(b) In carrying out this section, the Corporation shall use the authority provided under section 808 of title 5, United States Code.

"(c) The final regulations promulgated under subsection (a) shall take effect on the date of publication of the final regulations.".

On page 14, after line 25, insert the following:

Sec. 2104. In addition to amounts otherwise available, $20,000,000 from amounts pursuant to 15 U.S.C. 713a–4 for the Secretary of Agriculture to make available financial assistance related to water conservation to eligible producers in the Klamath Basin, as determined by the Secretary.

On page 14, after line 25 insert the following new section:

Sec. 2105. Under the heading of "Food Stamp Program" in Public Law 106–387, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, in the sixth proviso, strike "$194,000,000" and insert in lieu thereof "$191,000,000".

On page 15, after line 22, strike "$110,000,000" and insert "$114,800,000".

On page 16, beginning with line 25, strike all through line 4 on page 17.

On page 17, line 5, strike "2202" and insert "2201".

On page 17, line 24, strike "2203" and insert "2202".

On page 22, line 13, after "purposes of D.C. Code, sec. 5-513:", strike "*Provided*," and insert: "*Provided*, That the Department shall transfer all local funds resulting from the lapse of personnel vacancies, caused by transferring Department of Consumer and Regulatory Affairs employees into NSO positions without the filling of the resultant vacancies, into the general fund to be used to implement the provisions in DC Bill 13–646, the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, pertaining to the prevention of the demolition by neglect of historic properties: *Provided further*,".

On page 28, after line 2, insert the following:

"SEC. 2402. Of the funds provided under the heading 'Power Marketing Administration, Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration', in Public Law 106–377, not less than $250,000 shall be provided for a study to determine the costs and feasibility of transmission expansion: *Provided*, That these funds shall be non-reimbursable: *Provided further*, That these funds shall be available until expended.".

On page 29, after line 4, insert the following:

"BUREAU OF LAND MANAGEMENT

"MANAGEMENT OF LANDS AND RESOURCES

"(INCLUDING TRANSFERS OF FUNDS)

"For an additional amount to address increased permitting responsibilities related to energy needs, $3,000,000, to remain available until expended, and to be derived by transfer from unobligated balances available to the Department of the Interior for the acquisition of lands and interests in lands.".

On page 34, before the colon on line 18, insert the following: ": *Provided further*, That the rescission of funds under section 132(a)(2)(B) is effective at the time the Secretary re-allots excess unexpended balances to the States".

On page 39, line 22, strike "PROVISION" and insert "PROVISIONS".

On page 41, line 6 strike "September 30, 2001" and insert "August 4, 2001".

On page 41, after line 6, insert the following new section:

"SEC. 2702. (a) ESTABLISHMENT OF GRANT PROGRAM.—Section 396 of the Communications Act of 1934 (47 U.S.C. 396) is amended by adding the following new subsection:

"'GRANT ASSISTANCE FOR TRANSITION TO DIGITAL BROADCASTING.

"'(n)(1) The Corporation may, by grant, provide financial assistance to eligible entities for the purpose of supporting the transition of those entities from the use of analog to digital technology for the provision of public broadcasting services.

"'(2) Any "public broadcasting entity" as defined in section 397(11) of the Communications Act of 1934 (47 U.S.C. 397(11)) is an entity eligible to receive grants under this subsection.

"'(3) Proceeds of grants awarded under this subsection may be used for costs associated with the transition of public broadcasting stations to assure access to digital broadcasting services, including for the support of digital transmission facilities and for the development, production, and distribution of digital programs and services.

"'(4) The grants shall be distributed to the eligible entities in accordance with principles and criteria established by the Corporation in consultation with the public broadcasting licensees and officials of national organizations representing public broadcasting licensees. The principles and criteria shall include special priority for providing digital broadcast services to:

"'(A) rural or remote areas;

"'(B) areas under-served by public broadcasting stations; and

"'(C) areas where the conversion to, or establishment of primary digital public broadcasting services, is impaired by an insufficient availability of private funding for that purpose by reason of the small size of the population or the low average income of the residents of the area.' ".

"(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (k)(1) of section 396 of the Communications Act of 1934 (47 U.S.C. 396) is amended—

"(1) by re-designating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

"(2) by inserting after subparagraph (C) the following new subparagraph (D):

"'(D) In addition to any amounts authorized under any other provision of this or any other Act to be appropriated to the Fund, funds are hereby authorized to be appropriated to the Fund solely (notwithstanding any other provision of this subsection) for carrying out the purposes of subsection (n) as follows:

"'(i) For fiscal year 2001, $20,000,000 to carry out the purposes of subsection (n);

"'(ii) For fiscal year 2002, such sums as may be necessary to carry out the purposes of subsection (n).' ".

On page 42, after line 19, insert the following:

"SEC. 2803. Notwithstanding any limitation in 31 U.S.C. sec. 1553(b) and 1554, the Architect of the Capitol may use current year appropriations to reimburse the Department of the Treasury for prior year water and sewer services payments otherwise chargeable to closed accounts.".

On page 42, after line 25, insert the following:

"ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

"For an additional amount for 'Acquisition, Construction, and Improvements', $4,000,000, to remain available until expended, for the repair of Coast Guard facilities damaged during the Nisqually earthquake or for costs associated with moving the affected Coast Guard assets to an alternative site within Seattle, Washington.

"FEDERAL AVIATION ADMINISTRATION

"GRANTS-IN-AID FOR AIRPORTS

"(AIRPORT AND AIRWAY TRUST FUND)

"(RESCISSION OF CONTRACT AUTHORIZATION)

"Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $30,000,000 are rescinded.".

On page 43, after line 1, insert the following:

"EMERGENCY HIGHWAY RESTORATION

"For the costs associated with the long term restoration or replacement of seismically-vulnerable highways recently damaged during the Nisqually earthquake, $12,800,000, to remain available until expended: *Provided*, That of the amount made available under this head, $3,800,000 shall be for the Alaskan Way Viaduct in Seattle, Washington and $9,000,000 shall be for the Magnolia Bridge in Seattle, Washington.".

On page 43, at the end of line 6, insert the following: "Public Law 102–240,".

On page 43, line 7, strike "$10,000,000" and insert "$14,000,000".

On page 43, after line 7, insert the following:

"ALASKA RAILROAD COMMISSION

"To enable the Secretary of Transportation to make an additional grant to the Alaska Railroad, $2,000,000 for a joint United States-Canada commission to study the feasibility of connecting the rail system in Alaska to the North American continental rail system.".

On page 43, after line 24, insert the following:

SEC. 2902. Notwithstanding section 47105(b)(2) of title 49, United States Code or any other provision of law, an application for a project grant under chapter 471 of that title may propose projects at Abbeville Municipal Airport and Akutan Airport, and the Secretary may make project grants for such projects.

SEC. 2903. Hereafter, funds made available under 'Capital Investment Grants' in Public Law 105–277 for item number 15 and for any new fixed guideway system project cited as a 'fixed guideway modernization' project shall not be made available for any other federal transit project.".

On page 44, between lines 21 and 22, insert the following:

FEDERAL PAYMENT TO MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Of the funds available under this heading in H.R. 5658 of the 106th Congress, as incorporated by reference in Public Law 106–554, $1,000,000 shall be transferred and made available for necessary expenses incurred pursuant to section 6(7) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5604(7)), to remain available until expended.

On page 48, after line 20, insert the following:

SEC. 3003. DESIGNATION OF ENGINEERING AND MANAGEMENT BUILDING AT NORFOLK NAVAL SHIPYARD, VIRGINIA, AFTER NORMAN SISISKY. The engineering and management building (also known as Building 1500) at Norfolk Naval Shipyard, Portsmouth, Virginia, shall be known as the Norman Sisisky Engineering and Management Building. Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Norman Sisisky Engineering and Management Building.

SA 862. Mr. REID (for Mr. SCHUMER (for himself, Mr. REED, Mr. DODD, Mr. LIEBERMAN, Mr. CORZINE, and Mr. REID)) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 44, line 20, strike "$66,200,000" and insert "$32,300,000".

SA 863. Mr. REID (for Mr. FEINGOLD) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 28, beginning on line 9, strike "$100,000,000" and all that follows through line 13, and insert the following: "$693,000,000, to remain available until expended: *Provided*, That this amount may be made available, notwithstanding any other provision of law, for a United States contribution to a global trust fund to combat HIV/AIDS, malaria, and tuberculosis: *Provided, further*, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section

251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided, further*, That the entire amount under this heading shall be available only to the extent that an official budget request for that specific dollar amount that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided, further*, That the total amount of the rescission for 'Aircraft Procurement, Navy, 2001/2003' under section 1204 is hereby increased by $594,000,000.''.

SA 864. Mr. CRAIG (for Mr. ROBERTS (for himself, Mr. CLELAND, Mr. MILLER, Mr. CRAPO, and Mr. BROWNBACK)) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . None of the funds available to the Department of Defense for fiscal year 2001 may be obligated or expended for retiring or dismantling, or for preparing to retire or dismantle, any of the 93 B–1B Lancer bombers in service as of June 1, 2001, or for transferring or reassigning any of those aircraft from the unit, or the facility, to which assigned as of that date.

SA 865. Mr. VOINOVICH (for himself, Mr. HELMS, Mr. SESSIONS, and Mr. CRAPO) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. PROTECT SOCIAL SECURITY SURPLUSES ACT OF 2001.

(a) SHORT TITLE.—This section may be cited as the "Protect Social Security Surpluses Act of 2001".

(b) REVISION OF ENFORCING DEFICIT TARGETS.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 903) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) EXCESS DEFICIT; MARGIN.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus the margin for that year. In this subsection, the margin for each fiscal year is 0.5 percent of estimated total outlays for that fiscal year.";

(2) by striking subsection (c) and inserting the following:

"(c) ELIMINATING EXCESS DEFICIT.—Each non-exempt account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequesterable budgetary resources in that account at that time by the uniform percentage necessary to eliminate an excess deficit."; and

(3) by striking subsections (g) and (h).

(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Notwithstanding section 254(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(j)), the Office of Management and Budget shall use the economic and technical assumptions underlying the report issued pursuant to section 1106 of title 31, United States Code, for purposes of determining the excess deficit under section 253(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by subsection (b).

(d) APPLICATION OF SEQUESTRATION TO BUDGET ACCOUNTS.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(k)) is amended by—

(1) striking paragraph (2); and

(2) redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(e) STRENGTHENING SOCIAL SECURITY POINTS OF ORDER..—

(1) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

"(g) STRENGTHENING SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend section 13301 of the Budget Enforcement Act of 1990.".

(2) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2),".

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2),".

(3) ENFORCEMENT IN EACH FISCAL YEAR.—The Congressional Budget Act of 1974 is amended in—

(A) section 301(a)(7) (2 U.S.C. 632(a)(7)), by striking "for the fiscal year" through the period and inserting "for each fiscal year covered by the resolution"; and

(B) section 311(a)(3) (2 U.S.C. 642(a)(3)), by striking beginning with "for the first fiscal year" through the period and insert the following: "for any of the fiscal years covered by the concurrent resolution.".

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to fiscal years 2002 through 2006.

SA 866. Mr. BYRD (for Mr. CONRAD) proposed an amendment to amendment SA 865 proposed by Mr. VOINOVICH to the bill (S. 1077) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

Strike all after the first word and insert the following:

TITLE ___—SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2001

SEC. ___01. SHORT TITLE.

This title may be cited as the "Social Security and Medicare Off-Budget Lockbox Act of 2001".

SEC. ___02. STRENGTHENING SOCIAL SECURITY POINTS OF ORDER.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

"(g) STRENGTHENING SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend section 13301 of the Budget Enforcement Act of 1990.".

(b) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2),".

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2),".

(c) ENFORCEMENT IN EACH FISCAL YEAR.—The Congressional Budget Act of 1974 is amended in—

(1) section 301(a)(7) (2 U.S.C. 632(a)(7)), by striking "for the fiscal year" through the period and inserting "for each fiscal year covered by the resolution"; and

(2) section 311(a)(3) (2 U.S.C. 642(a)(3)), by striking beginning with "for the first fiscal year" through the period and insert the following: "for any of the fiscal years covered by the concurrent resolution.".

SEC. ___03. MEDICARE TRUST FUND OFF-BUDGET.

(a) IN GENERAL.—

(1) GENERAL EXCLUSION FROM ALL BUDGETS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS

"SEC. 316. (a) EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Hospital Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

"(1) the budget of the United States Government as submitted by the President;

"(2) the congressional budget; or

"(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) STRENGTHENING MEDICARE POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend this section.".

(2) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "316," after "313,".

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "316," after "313,".

(b) EXCLUSION OF MEDICARE TRUST FUND FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the Federal Hospital Insurance Trust Fund in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title."

(c) BUDGET TOTALS.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by inserting after paragraph (7) the following:

"(8) For purposes of Senate enforcement under this title, revenues and outlays of the Federal Hospital Insurance Trust Fund for each fiscal year covered by the budget resolution.".

(d) BUDGET RESOLUTIONS.—Section 301(i) of the Congressional Budget Act of 1974 (2 U.S.C. 632(i)) is amended by—

(1) striking "SOCIAL SECURITY POINT OF ORDER.—It shall" and inserting "SOCIAL SECURITY AND MEDICARE POINTS OF ORDER.—

"(1) SOCIAL SECURITY.—It shall"; and

(2) inserting at the end the following:

"(2) MEDICARE.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on the resolution) that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any of the fiscal years covered by the concurrent resolution.''.

(e) Medicare Firewall.—Section 311(a) of the Congressional Budget Act of 1974 (2 U.S.C. 642(a)) is amended by adding after paragraph (3), the following:

''(4) Enforcement of medicare levels in the senate.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any year relative to the levels set forth in the applicable resolution.''.

(f) Baseline to Exclude Hospital Insurance Trust Fund.—Section 257(b)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''shall be included in all'' and inserting ''shall not be included in any''.

(g) Medicare Trust Fund Exempt From Sequesters.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''Medicare as funded through the Federal Hospital Insurance Trust Fund.''.

(h) Budgetary Treatment of Hospital Insurance Trust Fund.—Section 710(a) of the Social Security Act (42 U.S.C. 911(a)) is amended—

(1) by striking ''and'' the second place it appears and inserting a comma; and

(2) by inserting after ''Federal Disability Insurance Trust Fund'' the following: '', Federal Hospital Insurance Trust Fund''.

SEC. 04. PREVENTING ON-BUDGET DEFICITS.

(a) Points of Order To Prevent On-Budget Deficits.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by adding at the end the following:

''(h) Points of Order To Prevent On-Budget Deficits.—

''(1) Concurrent resolutions on the budget.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would cause or increase an on-budget deficit for any fiscal year.

''(2) Subsequent legislation.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of that bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of that bill or resolution in the form recommended in that conference report,

would cause or increase an on-budget deficit for any fiscal year.''.

(b) Super Majority Requirement.—

(1) Point of Order.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(h),'' after ''312(g),''.

(2) Waiver.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(h),'' after ''312(g),''.

SA 867. Mr. CONRAD proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 47, between lines 20 and 21, insert the following:

Community Development Block Grants

For emergency housing for Indians on the Turtle Mountain Indian Reservation, there shall be made available $10,000,000 through the Indian community development block grant program under the Housing and Community Development Act of 1974. Amounts made available for programs administered by the Department of Housing and Urban Development for fiscal year 2001 shall be reduced on a pro rata basis by $10,000,000. The Federal Emergency management Agency shall provide technical assistance to Indians with respect to the acquisition of emergency housing on the Turtle Mountain Indian Reservation.

SA 868. Mr. STEVENS (for Mr. McCAIN (for himself, Mr. LIEBERMAN, and Ms. LANDRIEU)) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 11, between lines 8 and 9, insert the following:

Sec. 1207. In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 in other provisions of this Act or in the Department of Defense Appropriations Act, 2001 (Public Law 106–259), $2,736,1000 is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

''Military Personnel, Army'', $30,000,000;

''Military Personnel, Navy'', $10,000,000;

''Military Personnel, Air Force'', $332,500,000;

''Reserve Personnel, Army'', $30,000,000;

''Operation and Maintenance, Army'', $916,400,000;

''Operation and Maintenance, Navy'', $514,500,000;

''Operation and Maintenance, Marine Corps'', $295,700,000;

''Operation and Maintenance, Air Force'', $59,600,000;

''Operation and Maintenance, Defense-Wide'', $9,000,000;

''Operation and Maintenance, Army Reserve'', $30,000,000;

''Operation and Maintenance, Army National Guard'', $106,000,000;

''Aircraft Procurement, Army'', $50,000,000, to remain available for obligation until September 30, 2003;

''Procurement of Weapons and Tracked Combat Vehicles, Army'', $10,000,000, to remain available for obligation until September 30, 2003;

''Procurement of Ammunition, Army'', $14,000,000, to remain available for obligation until September 30, 2003;

''Other Procurement, Army'', $40,000,000, to remain available for obligation until September 30, 2003;

''Aircraft Procurement, Navy'', $65,000,000, to remain available for obligation until September 30, 2003;

''Aircraft Procurement, Air Force'', $108,100,000, to remain available for obligation until September 30, 2003;

''Other Procurement, Air Force'', $33,300,000, to remain available for obligation until September 30, 2003;

''Research, Development, Test and Evaluation, Air Force'', $8,000,000, to remain available for obligation until September 30, 2002; and

''USS Cole'', $49,000,000;

Provided, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided, further*, That the entire amount under this section shall be available only to the extent that an official budget request for that specific dollar amount that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

SA 869. Mr. STEVENS (for Mr. McCAIN (for himself, Mr. LIEBERMAN, and Ms. LANDRIEU)) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

After section 3002, insert the following:

Sec. 3003. (a) In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106–259), funds are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(1) Under the heading ''Military Personnel, Navy'', $181,000,000, of which $1,000,000 shall be available for the supplemental subsistence allowance under section 402a of title 37, United States Code.

(2) Under the heading ''Military Personnel, Marine Corps'', $21,000,000.

(3) Under the heading ''Reserve Personnel, Navy'', $1,800,000, which shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.

(4) Under the heading ''Operation and Maintenance, Army'', $103,000,000.

(5) Under the heading ''Operation and Maintenance, Navy'', $72,000,000, of which $36,000,000 shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.

(6) Under the heading ''Operation and Maintenance, Marine Corps'', $6,000,000.

(7) Under the heading ''Operation and Maintenance, Air Force'', $397,000,000.

(8) Under the heading ''Operation and Maintenance, Army Reserve'', $21,000,000.

(9) Under the heading ''Other Procurement, Navy'', $45,000,000, to remain available for obligation until September 30, 2003, which shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.

(b) The amount appropriated by chapter 10 of title II to the Department of the Treasury for Departmental Offices under the heading ''Salaries and Expenses'' is hereby reduced by $30,000,000.

(c) The matter in chapter 11 of title II under the heading ''National Aeronautics and Space Administration human space flight'' shall not take effect.

(RESCISSION)

(d) Of the unobligated balance of the total amount in the Treasury that is to be disbursed from special accounts established pursuant to section 754(e) of the Tariff Act of 1930, $200,000,000 may not be disbursed under that section.

(RESCISSIONS)

(e) The following amounts are hereby rescinded:

(1) Of the funds appropriated to the National Aeronautics and Space Administration under the heading "HUMAN SPACE FLIGHT" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–377), the following amounts:

(A) From the amounts for the life and micro-gravity science mission for the human space flight, $40,000,000.

(B) From the amount for the Electric Auxiliary Power Units for Space Shuttle Safety Upgrades, $19,000,000.

(2) Of the funds appropriated to the Department of Commerce for the National Institute of Standards and Technology under the heading "INDUSTRIAL TECHNOLOGY SERVICES" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–553), $67,000,000 for the Advanced Technology Program.

(3) Of the funds appropriated to the Department of Commerce for the International Trade Administration under the heading "OPERATIONS AND ADMINISTRATION", $19,000,000 of the amount available for Trade Development.

(4) Of the funds appropriated by chapter 1 of the Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999 (Public Law 106–51), $126,800,000.

(5) Of the funds appropriated to the Department of Transportation for the Maritime Administration under the heading "MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–553), $21,000,000.

(6) Of the funds appropriated for the Export-Import Bank under the heading "SUBSIDY APPROPRIATION" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (as enacted into law by Public Law 106–429), $80,000,000.

(7) Of the funds appropriated to the Department of Labor for the Employment and Training Administration under the heading "TRAINING AND EMPLOYMENT SERVICES" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554), the following amounts:

(A) From the amounts for Dislocated Worker Employment and Training Activities, $41,500,000.

(B) From the amounts Adult Employment and Training Activities, $100,000,000.

(8) Of the unobligated balance of funds previously appropriated to the Department of Transportation for the Federal Transit Administration that remain available for obligation in fiscal year 2001, the following amounts:

(A) From the amounts for Transit Planning and Research, $34,000,000.

(B) From the amounts for Job Access and Reverse Commute Grants, $76,000,000.

SA 870. Mr. STEVENS (for Mr. HUTCHINSON) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 13, between lines 23 and 24, insert the following:

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for "State and Private Forestry" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

NATIONAL FOREST SYSTEM

For an additional amount for the "National Forest System" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for "Capital Improvement and Maintenance" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $4,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

SA 871. Mr. STEVENS (for Mr. CRAIG) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 29, between lines 2 and 3, insert the following:

SEC. 2502. In exercising the authority to provide cash transfer assistance for Israel for the fiscal year ending September 30, 2001, the President shall—

(1) ensure that the level of such assistance does not cause an adverse impact on the total level of non-military exports from the United States to Israel; and

(2) enter into a side letter agreement with Israel providing for the purchase of grain in the same amount and in accordance with terms at least as favorable as the side letter agreement in effect for the fiscal year ending September 30, 2000.

SA 872. Mr. BOND (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the end of title III, add the following:

SEC. . (a) In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106–259), funds are hereby appropriated to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(1) Under the heading "MILITARY PERSONNEL, MARINE CORPS", $21,000,000.

(2) Under the heading "RESERVE PERSONNEL, ARMY", $30,000,000.

(3) Under the heading "OPERATION AND MAINTENANCE, ARMY", $600,000,000.

(4) Under the heading "OPERATION AND MAINTENANCE, NAVY", $577,250,000.

(5) Under the heading "OPERATION AND MAINTENANCE, MARINE CORPS", $6,000,000.

(6) Under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $100,200,000.

(7) Under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", $30,000,000.

(8) Under the heading "OPERATION AND MAINTENANCE, NAVY RESERVE", $19,100,000.

(9) Under the heading "OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD", $39,400,000.

(b) The total amount appropriated under subsection (a) shall be available only to the extent that an official budget request for that specific dollar amount that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

(c) The total amount appropriated under subsection (a) is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(d) All of the funds appropriated and available under this section shall be obligated not later than September 30, 2001.

SA 873. Mr. REID (for Mr. HOLLINGS) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC ___. ENSURING FUNDING FOR DEFENSE AND EDUCATION AND THE SUPPLEMENTAL APPROPRIATION BY REPEALING TAX CUTS FOR 2001.

(a) REPEAL.—

(1) IN GENERAL.—Section 101 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(2) APPLICATION OF CODE.—The Internal Revenue Code of 1986 shall be applied and administered as if such section 101 (and the amendments made by such section) had never been enacted.

(3) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(i) RATE REDUCTIONS AFTER 2001.—

"(1) 10-PERCENT RATE BRACKET.—

"(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2001—

"(i) the rate of tax under subsections (a), (b), (c), and (d) on taxable income not over the initial bracket amount shall be 10 percent, and

"(ii) the 15 percent rate of tax shall apply only to taxable income over the initial bracket amount but not over the maximum dollar amount for the 15-percent rate bracket.

"(B) INITIAL BRACKET AMOUNT.—For purposes of this paragraph, the initial bracket amount is—

"(i) $14,000 ($12,000 in the case of taxable years beginning before January 1, 2008) in the case of subsection (a),

"(ii) $10,000 in the case of subsection (b), and

"(iii) ½ the amount applicable under clause (i) (after adjustment, if any, under subparagraph (C)) in the case of subsections (c) and (d).

"(C) INFLATION ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2001—

"(i) the Secretary shall make no adjustment to the initial bracket amount for any taxable year beginning before January 1, 2009,

"(ii) the cost-of-living adjustment used in making adjustments to the initial bracket amount for any taxable year beginning after December 31, 2008, shall be determined under subsection (f)(3) by substituting '2007' for '1992' in subparagraph (B) thereof, and

"(iii) such adjustment shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) REDUCTIONS IN RATES AFTER DECEMBER 31, 2001.—In the case of taxable years beginning in a calendar year after 2001, the corresponding percentage specified for such calendar year in the following table shall be substituted for the otherwise applicable tax rate in the tables under subsections (a), (b), (c), (d), and (e).

"In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2002 and 2003	27.0%	30.0%	35.0%	38.6%
2004 and 2005	26.0%	29.0%	34.0%	37.6%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%

"(3) ADJUSTMENT OF TABLES.—The Secretary shall adjust the tables prescribed under subsection (f) to carry out this subsection.".

(B) CONFORMING AMENDMENTS.—

(i) Subparagraph (B) of section 1(g)(7) of such Code is amended by striking "15 percent" in clause (ii)(II) and inserting "10 percent.".

(ii) Section 1(h) of such Code is amended—

(I) by striking "28 percent" both places it appears in paragraphs (1)(A)(ii)(I) and (1)(B)(i) and inserting "25 percent", and

(II) by striking paragraph (13).

(iii) Section 531 of such Code is amended by striking "equal to" and all that follows and inserting "equal to the product of the highest rate of tax under section 1(c) and the accumulated taxable income.".

(iv) Section 541 of such Code is amended by striking "equal to" and all that follows and inserting "equal to the product of the highest rate of tax under section 1(c) and the undistributed personal holding company income.".

(v) Section 3402(p)(1)(B) of such Code is amended by striking "7, 15, 28, or 31 percent" and inserting "7 percent, any percentage applicable to any of the 3 lowest income brackets in the table under section 1(c),".

(vi) Section 3402(p)(2) of such Code is amended by striking "15 percent" and inserting "10 percent".

(vii) Section 3402(q)(1) of such Code is amended by striking "equal to 28 percent of such payment" and inserting "equal to the product of the third lowest rate of tax applicable under section 1(c) and such payment".

(viii) Section 3402(r)(3) of such Code is amended by striking "31 percent" and inserting "the fourth lowest rate of tax applicable under section 1(c)".

(ix) Section 3406(a)(1) of such Code is amended by striking "equal to 31 percent of such payment" and inserting "equal to the product of the fourth lowest rate of tax applicable under section 1(c) and such payment".

(x) Section 13273 of the Revenue Reconciliation Act of 1993 is amended by striking "28 percent" and inserting "the third lowest rate of tax applicable under section 1(c) of the Internal Revenue Code of 1986".

(C) EFFECTIVE DATES.—

(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by this paragraph shall apply to taxable years beginning after December 31, 2001.

(ii) AMENDMENTS TO WITHHOLDING PROVISIONS.—The amendments made by clauses (v), (vi), (vii), (viii), (ix), and (x) of subparagraph (B) shall apply to amounts paid after December 31, 2001.

(b) RESERVE FUND FOR DEFENSE AND EDUCATION.—Subtitle B of title II of H. Con. Res. 83 (107th Congress) is amended by inserting at the end the following:

"SEC. 219. STRATEGIC RESERVE FUND FOR DEFENSE AND EDUCATION.

If legislation is reported by the Committee on Appropriations of the Senate or the Committee on Appropriations of the House of Representatives, or an amendment thereto is offered or a conference report thereon is submitted, that would increase funding for defense or education, the chairman of the appropriate Committee on the Budget shall revise the aggregates, functional totals, allocations, and other appropriate levels and limits in this resolution for that measure by not exceeding the amount resulting from the repeal and amendments made by section (a) of the Supplemental Appropriations Act, 2001 for fiscal years 2001 and 2002, as long as that measure will not, when taken together with all other previously enacted legislation, reduce the on-budget surplus below the level of the Medicare Hospital Insurance Trust Fund surplus in any fiscal year provided in this resolution.".

SA 874. Mr. REID (for Mr. WELLSTONE) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 11, between lines 8 and 9, insert the following:

(RESCISSIONS)

SEC. 1207. (a)(1) Effective July 31, 2001, of the funds provided to the Secretary of Defense, for fiscal year 2001 administrative expenses, under the Department of Defense Appropriations Act, 2001, the Military Construction Appropriations Act, 2001, and the Energy and Water Development Appropriations Act, 2001, and remaining in Federal appropriations accounts, an amount equal to $150,000,000 is rescinded.

(2) Such amount shall be rescinded from such Federal appropriations accounts as the Secretary of Defense shall specify before July 31, 2001. In determining the accounts to specify, the Secretary of Defense shall take into consideration the need to promote efficiency, cost-effectiveness, and productivity within the Department of Defense, as well as to maintain readiness and troop quality of life.

(b) Effective August 1, 2001, if the Secretary of Defense has not specified accounts for rescissions under subsection (a), of the funds described in subsection (a)(1) and remaining in Federal appropriations accounts, an amount equal to $150,000,000 is rescinded through proportional reductions to the portions of such accounts that contain such funds.

On page 36, line 9, strike "$300,000,000" and insert "$450,000,000".

SA 875. Mr. REID (for Mr. JOHNSON) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. __ . EXTENSION OF INTEREST RATE PROVISIONS.

(a) TECHNICAL CORRECTION.—Paragraph (6) of section 455(b) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)), as redesignated by section 8301(c)(1) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 498) is redesignated as paragraph (8) and inserted after paragraph (7) of that section.

(b) EXTENSION.—

(1) AMENDMENTS.—Sections 427A(k), 428C(c)(1), 438(b)(2)(I), and 455(b)(6) of such Act (20 U.S.C. 1077a(k), 1078–3(c)(1), 1087–1(b)(2)(I), 1087e(b)(6)) are each amended by striking "and before July 1, 2003," each place it appears.

(2) CONFORMING AMENDMENTS.—

(A) Section 427A(k) of such Act is amended by striking the subsection heading and inserting the following: "INTEREST RATES FOR NEW LOANS ON OR AFTER OCTOBER 1, 1998.—".

(B) Section 438(b)(2)(I) of such Act is amended—

(i) by striking the subparagraph heading and inserting the following: "LOANS DISBURSED ON OR AFTER JANUARY 1, 2000.—"; and

(ii) in clause (i), by striking "2000," and inserting "2000".

(C) Section 455(b)(6) of such Act is amended—

(i) by striking the paragraph heading and inserting the following: "INTEREST RATE PROVISION FOR NEW LOANS ON OR AFTER OCTOBER 1, 1998.—"; and

(ii) in subparagraph (D), by striking "1999," and inserting "1999".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet on July 12, 2001, in SR–328A at 8:30 a.m. The purpose of this hearing will be to consider nominations for positions with the United States Department of Agriculture, and to discuss the next Federal farm bill.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold a hearing entitled "What Is the U.S. Position on Offshore Tax Havens?" The upcoming hearing will examine past and current U.S. efforts to convince offshore tax havens to cooperate with U.S. efforts to stop tax evasion, the role of the Organization of Economic Cooperation and Development, (OECD), tax haven project in light of U.S. objectives, and the current status of U.S. support for the project, in particular for the core element requiring information exchange.

The hearing will take place on Wednesday, July 18, 2001, at 2 p.m. in room 628 of the Dirksen Senate Office Building. For further information, please contact Linda J. Gustitus of the subcommittee staff at (202) 224-3721.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 17, 2001, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 281, to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial;

S. 386 and H.R. 146, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Great Falls Historic District in the city of Paterson, New Jersey, as a unit of the National Park System, and for other purposes;

S. 513 and H.R. 182, to amend the Wild and Scenic Rivers Act to designate a segment of the Eightmile River in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

S. 921 and H.R. 1000, to adjust the boundary of the William Howard Taft National Historic Site in the State of Ohio, to authorize an exchange of land in connection with the historic site, and for other purposes; and

S. 1097, to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of the Great Smoky Mountains National Park.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224-9863.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 26, 2001, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 423, to amend the Act entitled "An Act to provide for the establishment of Fort Clatsop National Memorial in the State of Oregon," and for other purposes:

S. 817, to amend the National Trails System Act to designate the Old Spanish Trail as a National Historic Trail;

S. 941, to revise the boundaries of the Golden Gate National Recreation Area in the State of California, to extend the term of the advisory commission for the recreation area, and for other purposes;

S. 1057, to authorize the addition of lands to Pùuhonua o Hōnaunau National Historical Park in the State of Hawaii, and for other purposes;

S. 1105, to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park, and for other purposes; and

H.R. 640, to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224-9863.

BIPARTISAN PATIENT PROTECTION ACT

On June 29, 2001, the Senate passed S. 1052, as follows:

S. 1052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Patient Protection Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

Sec. 101. Utilization review activities.
Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.
Sec. 103. Internal appeals of claims denials.
Sec. 104. Independent external appeals procedures.
Sec. 105. Health care consumer assistance fund.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Timely access to specialists.
Sec. 115. Patient access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved clinical trials.
Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

Subtitle C—Access to Information

Sec. 121. Patient access to information.
Sec. 122. Genetic information.

Subtitle D—Protecting the Doctor-Patient Relationship

Sec. 131. Prohibition of interference with certain medical communications.
Sec. 132. Prohibition of discrimination against providers based on licensure.
Sec. 133. Prohibition against improper incentive arrangements.
Sec. 134. Payment of claims.
Sec. 135. Protection for patient advocacy.

Subtitle E—Definitions

Sec. 151. Definitions.
Sec. 152. Preemption; State flexibility; construction.
Sec. 153. Exclusions.
Sec. 154. Coverage of limited scope plans.
Sec. 155. Regulations.
Sec. 156. Incorporation into plan or coverage documents.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.
Sec. 203. Cooperation between Federal and State authorities.
Sec. 204. Elimination of option of non-Federal governmental plans to be excepted from requirements concerning genetic information.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

Sec. 301. Application of patient protection standards to Federal health care programs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 401. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.

Sec. 402. Availability of civil remedies.
Sec. 403. Limitation on certain class action litigation.
Sec. 404. Limitations on actions.
Sec. 405. Cooperation between Federal and State authorities.
Sec. 406. Sense of the Senate concerning the importance of certain unpaid services.
TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION
Sec. 501. Effective dates.
Sec. 502. Coordination in implementation.
Sec. 503. Severability.
TITLE VI—MISCELLANEOUS PROVISIONS
Sec. 601. No impact on Social Security Trust Fund.
Sec. 602. Customs user fees.
Sec. 603. Fiscal year 2002 medicare payments.
Sec. 604. Sense of Senate with respect to participation in clinical trials and access to specialty care.
Sec. 605. Sense of the Senate regarding fair review process.
Sec. 606. Annual review.
Sec. 607. Definition of born-alive infant.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) Compliance With Requirements.—

(1) In general.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section and section 102.

(2) Use of outside agents.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) Utilization review defined.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) Written Policies and Criteria.—

(1) Written policies.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) Use of written criteria.—

(A) In general.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) Continuing use of standards in retrospective review.—If a health care service has been specifically pre-authorized or approved for a participant, beneficiary, or enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) Review of sample of claims denials.—Such a program shall provide for a periodic evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) Conduct of Program Activities.—

(1) Administration by health care professionals.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) Use of qualified, independent personnel.—

(A) In general.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) Prohibition of contingent compensation arrangements.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) Prohibition of conflicts.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) Accessibility of review.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) Limits on frequency.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary and appropriate.

SEC. 102. PROCEDURES FOR INITIAL CLAIMS FOR BENEFITS AND PRIOR AUTHORIZATION DETERMINATIONS.

(a) Procedures of Initial Claims for Benefits.—

(1) In general.—A group health plan, or health insurance issuer offering health insurance coverage, shall—

(A) make a determination on an initial claim for benefits by a participant, beneficiary, or enrollee (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant, beneficiary, or enrollee is required to pay with respect to such claim for benefits; and

(B) notify a participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant, beneficiary, or enrollee may be required to make with respect to such claim for benefits, and of the right of the participant, beneficiary, or enrollee to an internal appeal under section 103.

(2) Access to information.—

(A) Timely provision of necessary information.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the claim. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of subsection (b)(1), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) Limited effect of failure on plan or issuer's obligations.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) Oral requests.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for benefits, the making of the request (and the timing of such request) shall be treated as the making at that time of a claims for such benefits without regard to whether and when a written confirmation of such request is made.

(b) Timeline for Making Determinations.—

(1) Prior authorization determination.—

(A) In general.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a prior authorization determination on a claim for benefits (whether oral or written) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 28 days after the date of the claim for benefits is received.

(B) Expedited determination.—Notwithstanding subparagraph (A), a group health plan, or health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits described in such subparagraph when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE.—

(i) CONCURRENT REVIEW.—

(I) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

(II) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(2) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days after the date of receipt of the claim for benefits.

(c) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of the determination (or, in the case described in subparagraph (B) or (C) of subsection (b)(1), within the 72-hour or applicable period referred to in such subparagraph).

(d) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under subsection (c) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(1) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(2) the procedures for obtaining additional information concerning the determination; and

(3) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with section 103.

(e) DEFINITIONS.—For purposes of this part:

(1) AUTHORIZED REPRESENTATIVE.—The term "authorized representative" means, with respect to an individual who is a participant, beneficiary, or enrollee, any health care professional or other person acting on behalf of the individual with the individual's consent or without such consent if the individual is medically unable to provide such consent.

(2) CLAIM FOR BENEFITS.—The term "claim for benefits" means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(3) DENIAL OF CLAIM FOR BENEFITS.—The term "denial" means, with respect to a claim for benefits, a denial (in whole or in part) of, or a failure to act on a timely basis upon, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

(4) TREATING HEALTH CARE PROFESSIONAL.—The term "treating health care professional" means, with respect to services to be provided to a participant, beneficiary, or enrollee, a health care professional who is primarily responsible for delivering those services to the participant, beneficiary, or enrollee.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) RIGHT TO INTERNAL APPEAL.—

(1) IN GENERAL.—A participant, beneficiary, or enrollee (or authorized representative) may appeal any denial of a claim for benefits under section 102 under the procedures described in this section.

(2) TIME FOR APPEAL.—

(A) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage, shall ensure that a participant, beneficiary, or enrollee (or authorized representative) has a period of not less than 180 days beginning on the date of a denial of a claim for benefits under section 102 in which to appeal such denial under this section.

(B) DATE OF DENIAL.—For purposes of subparagraph (A), the date of the denial shall be deemed to be the date as of which the participant, beneficiary, or enrollee knew of the denial of the claim for benefits.

(3) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination on a claim for benefits under section 102 within the applicable timeline established for such a determination under such section is a denial of a claim for benefits for purposes this subtitle as of the date of the applicable deadline.

(4) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer offering health insurance coverage, may waive the internal review process under this section. In such case the plan or issuer shall provide notice to the participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee (or authorized representative) involved shall be relieved of any obligation to complete the internal review involved, and may, at the option of such participant, beneficiary, enrollee, or representative proceed directly to seek further appeal through external review under section 104 or otherwise.

(b) TIMELINES FOR MAKING DETERMINATIONS.—

(1) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this section that involves an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may request such appeal orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for an appeal of a denial, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for an appeal without regard to whether and when a written confirmation of such request is made.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the appeal. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of paragraph (3), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) PRIOR AUTHORIZATION DETERMINATIONS.—

(A) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a determination on an appeal of a denial of a claim for benefits under this subsection in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 28 days after the date the request for the appeal is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, or health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on an appeal of a denial of a claim for benefits described in subparagraph (A), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for such appeal is received by the plan or issuer under this subparagraph.

(C) Ongoing care determinations.—

(i) In general.—Subject to clause (ii), in the case of a concurrent review determination described in section 102(b)(1)(C)(i)(I), which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal under this section by telephone and in printed form to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an external appeal under section 104 to be completed before the termination or reduction takes effect.

(ii) Rule of construction.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(4) Retrospective determination.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a claim for benefits in no case later than 30 days after the date on which the plan or issuer receives necessary information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 60 days after the date the request for the appeal is received.

(c) Conduct of Review.—

(1) In general.—A review of a denial of a claim for benefits under this section shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

(2) Peer review of medical decisions by health care professionals.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts—

(A) shall be made by a physician (allopathic or osteopathic); or

(B) in a claim for benefits provided by a non-physician health professional, shall be made by reviewer (or reviewers) including at least one practicing non-physician health professional of the same or similar specialty;

with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) and acting within the appropriate scope of practice within the State in which the service is provided or rendered, who was not involved in the initial determination.

(d) Notice of Determination.—

(1) In general.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such subparagraph).

(2) Final determination.—The decision by a plan or issuer under this section shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this section within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104.

(3) Requirements of notice.—With respect to a determination made under this section, the notice described in paragraph (1) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(B) the procedures for obtaining additional information concerning the determination; and

(C) notification of the right to an independent external review under section 104 and instructions on how to initiate such a review.

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) Right to External Appeal.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide in accordance with this section participants, beneficiaries, and enrollees (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

(b) Initiation of the Independent External Review Process.—

(1) Time to file.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial under section 103(d) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision under section 103(d)(2) and notifies the participant or beneficiary that it has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) Filing of request.—

(A) In general.—Subject to the succeeding provisions of this subsection, a group health plan, and a health insurance issuer offering health insurance coverage, may—

(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

(ii) limit the filing of such a request to the participant, beneficiary, or enrollee involved (or an authorized representative);

(iii) except if waived by the plan or issuer under section 103(a)(4), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 103;

(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $25; and

(v) require that a request for review include the consent of the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

(B) Requirements and exception relating to general rule.—

(i) Oral requests permitted in expedited or concurrent cases.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v). In the case of such an oral request for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such an external review without regard to whether and when a written confirmation of such request is made.

(ii) Exception to filing fee requirement.—

(I) Indigency.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the appropriate Secretary) that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(II) Fee not required.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(III) Refunding of fee.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

(IV) Collection of filing fee.—The failure to pay such a filing fee shall not prevent the consideration of a request for review but, subject to the preceding provisions of this clause, shall constitute a legal liability to pay.

(c) Referral to Qualified External Review Entity Upon Request.—

(1) In general.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer's initial decision (including the information described in section 103(d)(3)(A)), to a qualified external review entity selected in accordance with this section.

(2) Access to plan or issuer and health professional information.—With respect to an independent external review conducted under this section, the participant, beneficiary, or enrollee (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in clause (ii) or (iii) of subsection (e)(1)(A), by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) Screening of requests by qualified external review entities.—

(A) In general.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in clauses (ii) or (iii) of subsection (b)(2)(A) have not been met;

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

(iii) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant, beneficiary, or enrollee who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

(iv) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2).

Upon making a determination that any of clauses (i) through (iv) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (C).

(B) PROCESS FOR MAKING DETERMINATIONS.—

(i) NO DEFERENCE TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer or the recommendation of a treating health care professional (if any).

(ii) USE OF APPROPRIATE PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(C) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—

(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by a participant or enrollee;

(II) shall include the reasons for the determination;

(III) include any relevant terms and conditions of the plan or coverage; and

(IV) include a description of any further recourse available to the individual.

(ii) GENERAL TIMELINE FOR DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, or enrollee (or authorized representative) within such timeline and within 2 days of the date of such determination.

(d) INDEPENDENT MEDICAL REVIEW.—

(1) IN GENERAL.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

(2) MEDICALLY REVIEWABLE DECISIONS.—A denial of a claim for benefits is eligible for independent medical review if the benefit for the item or service for which the claim is made would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

(A) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—A determination that the item or service is not covered because it is not medically necessary and appropriate or based on the application of substantially equivalent terms.

(B) DENIALS BASED ON EXPERIMENTAL OR INVESTIGATIONAL TREATMENT.—A determination that the item or service is not covered because it is experimental or investigational or based on the application of substantially equivalent terms.

(C) DENIALS OTHERWISE BASED ON AN EVALUATION OF MEDICAL FACTS.—A determination that the item or service or condition is not covered based on grounds that require an evaluation of the medical facts by a health care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

(3) INDEPENDENT MEDICAL REVIEW DETERMINATION.—

(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent determination with respect to whether or not the denial of a claim for a benefit that is the subject of the review should be upheld, reversed, or modified.

(B) STANDARD FOR DETERMINATION.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigation nature, or the evaluation of the medical facts of the item, service, or condition shall be based on the medical condition of the participant, beneficiary, or enrollee (including the medical records of the participant, beneficiary, or enrollee) and valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert opinion.

(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in the plain language of the plan document (and which are disclosed under section 121(b)(1)(C)). Notwithstanding any other provision of this Act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plain language of the plan or coverage documents) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required: *Provided*, That the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

(D) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence, guidelines, or rationale used by the plan or issuer in reaching such determination.

(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

(iii) Additional relevant evidence or information obtained by the reviewer or submitted by the plan, issuer, participant, beneficiary, or enrollee (or an authorized representative), or treating health care professional.

(iv) The plan or coverage document.

(E) INDEPENDENT DETERMINATION.—In making determinations under this subtitle, a qualified external review entity and an independent medical reviewer shall—

(i) consider the claim under review without deference to the determinations made by the plan or issuer or the recommendation of the treating health care professional (if any); and

(ii) consider, but not be bound by the definition used by the plan or issuer of "medically necessary and appropriate", or "experimental or investigational", or other substantially equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment.

(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(G) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determination under subparagraph (F), the reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(e) TIMELINES AND NOTIFICATIONS.—

(1) TIMELINES FOR INDEPENDENT MEDICAL REVIEW.—

(A) PRIOR AUTHORIZATION DETERMINATION.—

(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date of receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services and in no case later than 21 days after the date the request for external review is received.

(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made as soon in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for external review is received by the qualified external review entity.

(iii) ONGOING CARE DETERMINATION.—Notwithstanding clause (i), in the case of a review described in such subclause that involves a termination or reduction of care, the notice of the determination shall be completed not later than 24 hours after the time the request for external review is received by the qualified external review entity and before the end of the approved period of care.

(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in no case later than 30 days after the date of receipt of information under subsection (c)(2) and in no case later than 60 days after the date the request for external review is received by the qualified external review entity.

(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by a participant.

(f) COMPLIANCE.—

(1) APPLICATION OF DETERMINATIONS.—

(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure to comply is caused by the plan or issuer, the participant, beneficiary, or enrollee may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—Where a participant, beneficiary, or enrollee obtains items or services in accordance with subparagraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made to the treating health care professional or to the participant, beneficiary, or enrollee (in the case of a participant, beneficiary, or enrollee who pays for the costs of such items or services).

(ii) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) so long as the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

(C) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the professional, participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is owed by the plan or issuer and any necessary legal costs or expenses (including attorney's fees) incurred in recovering such reimbursement.

(D) AVAILABLE REMEDIES.—The remedies provided under this paragraph are in addition to any other available remedies.

(3) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(A) MONETARY PENALTIES.—

(i) IN GENERAL.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(ii) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(B) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in subparagraph (A) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such subparagraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity to be covered, or has failed to take an action for which such person is responsible under the terms and conditions of the plan or coverage and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(i) to cease and desist from the alleged action or failure to act; and

(ii) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(C) ADDITIONAL CIVIL PENALTIES.—

(i) IN GENERAL.—In addition to any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(I) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity to be covered; or

(II) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or coverage.

(ii) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(I) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(II) $500,000.

(D) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in subparagraph (C)(i) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(4) PROTECTION OF LEGAL RIGHTS.—Nothing in this subsection or subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(3) INDEPENDENCE.—

(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

(i) not be a related party (as defined in paragraph (7));

(ii) not have a material familial, financial, or professional relationship with such a party; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(I) a non-affiliated individual is not reasonably available;

(II) the affiliated individual is not involved in the provision of items or services in the case under review;

(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative), and neither party objects; or

(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

(4) Practicing health care professional in same field.—

(A) In general.—In a case involving treatment, or the provision of items or services—

(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(ii) by a non-physician health care professional, a reviewer (or reviewers) shall include at least one practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(B) Practicing defined.—For purposes of this paragraph, the term "practicing" means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 2 days per week.

(5) Pediatric expertise.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

(6) Limitations on reviewer compensation.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) not exceed a reasonable level; and

(B) not be contingent on the decision rendered by the reviewer.

(7) Related party defined.—For purposes of this section, the term "related party" means, with respect to a denial of a claim under a plan or coverage relating to a participant, beneficiary, or enrollee, any of the following:

(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

(B) The participant, beneficiary, or enrollee (or authorized representative).

(C) The health care professional that provides the items or services involved in the denial.

(D) The institution at which the items or services (or treatment) involved in the denial are provided.

(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

(h) Qualified External Review Entities.—

(1) Selection of qualified external review entities.—

(A) Limitation on plan or issuer selection.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

No such selection process under the procedures implemented by the appropriate Secretary may give either the patient or the plan or issuer any ability to determine or influence the selection of a qualified external review entity to review the case of any participant, beneficiary, or enrollee.

(B) State authority with respect to qualified external review entities for health insurance issuers.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) Contract with qualified external review entity.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(3) Terms and conditions of contract.—The terms and conditions of a contract under paragraph (2) shall—

(A) be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) Qualifications.—

(A) In general.—In this section, the term "qualified external review entity" means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

(v) The entity meets such other requirements as the appropriate Secretary provides by regulation.

(B) Independence requirements.—

(i) In general.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

(I) is not a related party (as defined in subsection (g)(7));

(II) does not have a material familial, financial, or professional relationship with such a party; and

(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(ii) Exception for reasonable compensation.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) Limitations on entity compensation.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on any decision rendered by the entity or by any independent medical reviewer.

(C) Certification and recertification process.—

(i) In general.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the appropriate Secretary; or

(II) by a qualified private standard-setting organization that is approved by the appropriate Secretary under clause (iii).

In taking action under subclause (I), the appropriate Secretary shall give deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(ii) Process.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case recertification, shall review the matters described in clause (iv).

(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the appropriate Secretary may approve a qualified private standard-setting organization if such Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the appropriate Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(V) Compliance with the requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement of subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 2 years.

(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the appropriate Secretary or by the organization providing such certification upon a showing of cause. The Secretary, or organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.

(vii) PETITION FOR DENIAL OR WITHDRAWAL.—An individual may petition the Secretary, or an organization providing the certification involves, for a denial of recertification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of such entity failing to meet a requirement of this section.

(viii) SUFFICIENT NUMBER OF ENTITIES.—The appropriate Secretary shall certify and recertify a number of external review entities which is sufficient to ensure the timely and efficient provision of review services.

(D) PROVISION OF INFORMATION.—

(i) IN GENERAL.—A qualified external review entity shall provide to the appropriate Secretary, in such manner and at such times as such Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as such Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

(I) The number and types of denials for which a request for review has been received by the entity.

(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

(III) The length of time in making determinations with respect to such denials.

(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the appropriate Secretary under clause (i).

(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the appropriate Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

(E) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(5) REPORT.—Not later than 12 months after the general effective date referred to in section 501, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish a fund, to be known as the "Health Care Consumer Assistance Fund", to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) STATE ELIGIBILITY.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that the health care consumer assistance office (established under paragraph (4)) will educate and assist health care consumers in accessing needed care;

(B) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by Federal, State and local health-related ombudsman, information, protection and advocacy, insurance, and fraud and abuse programs;

(C) the manner in which the State will provide information, outreach, and services to underserved, minority populations with limited English proficiency and populations residing in rural areas;

(D) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluate program effectiveness;

(E) the manner in which the State will ensure that funds made available under this section will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this section and those described in subparagraphs (C) and (D);

(F) the manner in which the State will ensure that health care consumer office personnel have the professional background and training to carry out the activities of the office; and

(G) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours.

(3) AMOUNT OF GRANT.—

(A) IN GENERAL.—From amounts appropriated under subsection (b) for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a group health plan or under health insurance coverage offered by a health insurance issuer bears to the total number of individuals so covered in all States (as determined by the Secretary). Any amounts provided to a State under this subsection that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this subparagraph.

(B) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this subsection for a fiscal year be less than an amount equal to 0.5 percent of the amount appropriated for such fiscal year to carry out this section.

(C) NON-FEDERAL CONTRIBUTIONS.—A State will provide for the collection of non-Federal contributions for the operation of the office in an amount that is not less than 25 percent of the amount of Federal funds provided to the State under this section.

(4) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(A) IN GENERAL.—From amounts provided under a grant under this subsection, a State shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(B) ELIGIBILITY OF ENTITY.—To be eligible to enter into a contract under subparagraph (A), an entity shall demonstrate that it has the technical, organizational, and professional capacity to deliver the services described in subsection (b) to all public and private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(C) EXISTING STATE ENTITY.—Nothing in this section shall prevent the funding of an existing health care consumer assistance program that otherwise meets the requirements of this section.

(b) USE OF FUNDS.—

(1) BY STATE.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activities directly or by contract with an independent, non-profit organization. An eligible entity may use some reasonable amount of such grant to ensure the adequate training of personnel carrying out such activities. To receive amounts under this subsection, an eligible entity shall provide consumer assistance services, including—

(A) the operation of a toll-free telephone hotline to respond to consumer requests;

(B) the dissemination of appropriate educational materials on available health insurance products and on how best to access health care and the rights and responsibilities of health care consumers;

(C) the provision of education on effective methods to promptly and efficiently resolve questions, problems, and grievances;

(D) the coordination of educational and outreach efforts with health plans, health care providers, payers, and governmental agencies;

(E) referrals to appropriate private and public entities to resolve questions, problems and grievances; and

(F) the provision of information and assistance, including acting as an authorized representative, regarding internal, external, or administrative grievances or appeals procedures in nonlitigative settings to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a group health plan or health insurance coverage offered by a health insurance issuer.

(2) CONFIDENTIALITY AND ACCESS TO INFORMATION.—

(A) STATE ENTITY.—With respect to a State that directly establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(B) CONTRACT ENTITY.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols, consistent with applicable Federal and State laws, to ensure the confidentiality of all information shared by a participant, beneficiary, enrollee, or their personal representative and their health care providers, group health plans, or health insurance insurers with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations). The office shall provide a written description of the policies and procedures of the office with respect to the manner in which health information may be used or disclosed to carry out consumer assistance activities. The office shall provide health care providers, group health plans, or health insurance issuers with a written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) to allow the office to obtain medical information relevant to the matter before the office.

(3) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information, referrals, and services regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under a group health plan or health insurance coverage offered by a health insurance issuer, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(4) DESIGNATION OF RESPONSIBILITIES.—

(A) WITHIN EXISTING STATE ENTITY.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall ensure that—

(i) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(ii) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee or their personal representative and their health care providers, group health plans, or health insurance issuers with the office and to ensure that no information is disclosed to the State agency or office without the written authorization of the individual or their personal representative in accordance with paragraph (2).

(B) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State under subsection (a)(3), the entity shall provide assurances that the entity has no conflict of interest in carrying out the activities of the office and that the entity is independent of group health plans, health insurance issuers, providers, payers, and regulators of health care.

(5) SUBCONTRACTS.—The health care consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this section are complied with by the office.

(6) TERM.—A contract entered into under this subsection shall be for a term of 3 years.

(c) REPORT.—Not later than 1 year after the Secretary first awards grants under this section, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities funded under this section and the effectiveness of such activities in resolving health care-related problems and grievances.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary and appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term "emergency services" means, with respect to an emergency medical condition—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term "to stabilize", with respect to an emergency medical condition (as defined in subparagraph (A)), has the meaning give in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—A group health plan, and health insurance coverage offered by a health insurance issuer, must provide reimbursement for maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of the Social Security Act (42 U.S.C. 1395w-22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(c) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage provided by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) EMERGENCY AMBULANCE SERVICES.—For purposes of this subsection, the term "emergency ambulance services" means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) TIMELY ACCESS.—

(1) IN GENERAL.—A group health plan or health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or coverage.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan or health insurance coverage of benefits or services;

(B) to prohibit a plan or issuer from including providers in the network only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees; or

(C) to override any State licensure or scope-of-practice law.

(3) ACCESS TO CERTAIN PROVIDERS.—

(A) IN GENERAL.—With respect to specialty care under this section, if a participating specialist is not available and qualified to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a nonparticipating specialist.

(B) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a participant, beneficiary, or enrollee receives care from a nonparticipating specialist pursuant to subparagraph (A), such specialty care shall be provided at no additional cost to the participant, beneficiary, or enrollee beyond what the participant, beneficiary, or enrollee would otherwise pay for such specialty care if provided by a participating specialist.

(b) REFERRALS.—

(1) AUTHORIZATION.—Subject to subsection (a)(1), a group health plan or health insurance issuer may require an authorization in order to obtain coverage for specialty services under this section. Any such authorization—

(A) shall be for an appropriate duration of time or number of referrals, including an authorization for a standing referral where appropriate; and

(B) may not be refused solely because the authorization involves services of a nonparticipating specialist (described in subsection (a)(3)).

(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

(A) IN GENERAL.—Subject to subsection (a)(1), a group health plan or health insurance issuer shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan (if any) referred to in subsection (c) with respect to the condition.

(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term "ongoing special condition" means a condition or disease that—

(i) is life-threatening, degenerative, potentially disabling, or congenital; and

(ii) requires specialized medical care over a prolonged period of time.

(c) TREATMENT PLANS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided—

(A) pursuant to a treatment plan, but only if the treatment plan—

(i) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee, and

(ii) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval; and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other reasonably necessary medical information.

(d) SPECIALIST DEFINED.—For purposes of this section, the term "specialist" means, with respect to the condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

SEC. 115. PATIENT ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) GENERAL RIGHTS.—

(1) DIRECT ACCESS.—A group health plan, or health insurance issuer offering health insurance coverage, described in subsection (b) may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan or health insurance issuer described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) APPLICATION OF SECTION.—A group health plan, or health insurance issuer offering health insurance coverage, described in this subsection is a group health plan or coverage that—

(1) provides coverage for obstetric or gynecologic care; and

(2) requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan, or health insurance coverage offered by a health insurance issuer, if the plan or issuer requires or provides for the designation of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan or issuer.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

(1) IN GENERAL.—If—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or

(B) benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage,

the plan or issuer shall meet the requirements of paragraph (3) with respect to each continuing care patient.

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient involved, or arrange to have the patient notified pursuant to subsection (d)(2), on a timely basis of the termination described in paragraph (1) (or paragraph (2), if applicable) and the right to elect continued transitional care from the provider under this section;

(B) provide the patient with an opportunity to notify the plan or issuer of the patient's need for transitional care; and

(C) subject to subsection (c), permit the patient to elect to continue to be covered with respect to the course of treatment by such provider with the provider's consent during a transitional period (as provided for under subsection (b)).

(4) CONTINUING CARE PATIENT.—For purposes of this section, the term "continuing care patient" means a participant, beneficiary, or enrollee who—

(A) is undergoing a course of treatment for a serious and complex condition from the provider at the time the plan or issuer receives or provides notice of provider, benefit, or coverage termination described in paragraph (1) (or paragraph (2), if applicable);

(B) is undergoing a course of institutional or inpatient care from the provider at the time of such notice;

(C) is scheduled to undergo non-elective surgery from the provider at the time of such notice;

(D) is pregnant and undergoing a course of treatment for the pregnancy from the provider at the time of such notice; or

(E) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of such notice, but only with respect to a provider that was treating the terminal illness before the date of such notice.

(b) TRANSITIONAL PERIODS.—

(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this subsection with respect to a continuing care patient described in subsection (a)(4)(A) shall extend for up to 90 days (as determined by the treating health care professional) from the date of the notice described in subsection (a)(3)(A).

(2) INSTITUTIONAL OR INPATIENT CARE.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(B) shall extend until the earlier of—

(A) the expiration of the 90-day period beginning on the date on which the notice under subsection (a)(3)(A) is provided; or

(B) the date of discharge of the patient from such care or the termination of the period of institutionalization, or, if later, the date of completion of reasonable follow-up care.

(3) SCHEDULED NON-ELECTIVE SURGERY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(C) shall extend until the completion of the surgery involved and post-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(4) PREGNANCY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(D) shall extend through the provision of post-partum care directly related to the delivery.

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend for the remainder of the patient's life for care that is directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement from the plan or issuer and continuing care patient involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract with the group health plan or health insurance issuer) and not to impose cost-sharing with respect to the patient in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(e) DEFINITIONS.—In this section:

(1) CONTRACT.—The term "contract" includes, with respect to a plan or issuer and a treating health care provider, a contract between such plan or issuer and an organized network of providers that includes the treating health care provider, and (in the case of such a contract) the contract between the treating health care provider and the organized network.

(2) HEALTH CARE PROVIDER.—The term "health care provider" or "provider" means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term "serious and complex condition" means, with respect to a participant, beneficiary, or enrollee under the plan or coverage—

(A) in the case of an acute illness, a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

(B) in the case of a chronic illness or condition, is an ongoing special condition (as defined in section 114(b)(2)(B)).

(4) TERMINATED.—The term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) In General.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary;

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate and, in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) Coverage of Approved Drugs and Medical Devices.—

(1) In general.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) Construction.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) Coverage.—

(1) In general.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) Exclusion of certain costs.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) Use of in-network providers.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) Qualified Individual Defined.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) Payment.—

(1) In general.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the appropriate Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) Payment rate.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) Approved Clinical Trial Defined.—

(1) In general.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation—

(A) approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(i) the National Institutes of Health;

(ii) a cooperative group or center of the National Institutes of Health, such as a qualified nongovernmental research entity to which the National Cancer Institute has awarded a center support grant;

(iii) either of the following if the conditions described in paragraph (2) are met—

(I) the Department of Veterans Affairs;

(II) the Department of Defense; or

(B) approved by the Food and Drug Administration.

(2) Conditions for departments.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the appropriate Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest ethical standards by qualified individuals who have no interest in the outcome of the review.

(e) Construction.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) Inpatient Care.—

(1) In general.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) Exception.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) Prohibition on Certain Modifications.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(c) Secondary Consultations.—

(1) In general.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(2) Exception.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(d) Prohibition on Penalties or Incentives.—A group health plan, and a health insurance issuer providing health insurance coverage, may not—

(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant, beneficiary, or enrollee in accordance with this section;

(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant, beneficiary, or enrollee for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (c).

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) Requirement.—

(1) Disclosure.—

(A) In general.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) Participants, beneficiaries, and enrollees.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) Provision of information.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) Required Information.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) Benefits.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(d)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) Cost sharing.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) Disenrollment.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(4) Service area.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(5) Participating providers.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(6) Choice of primary care provider.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(7) Preauthorization requirements.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(8) Experimental and investigational treatments.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(9) Specialty care.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(10) Clinical trials.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(11) Prescription drugs.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(12) Emergency services.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(13) Claims and appeals.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(14) Advance directives and organ donation.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(15) Information on plans and issuers.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(16) Translation services.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(17) Accreditation information.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(18) Notice of requirements.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Bipartisan Patient Protection Act (excluding those described in paragraphs (1) through (17)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such

combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(19) Availability of additional information.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(20) Designated decisionmakers.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(o) of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.

(c) Additional Information.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under a group health plan or health insurance coverage the following:

(1) Status of providers.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(2) Compensation methods.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(3) Prescription drugs.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

(4) Utilization review activities.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 101 and 102, including any drug formulary program under section 118.

(5) External appeals information.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) Manner of Disclosure.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by a participant or enrollee.

(e) Rules of Construction.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

SEC. 122. GENETIC INFORMATION.

(a) Definitions.—In this section:

(1) Family member.—The term "family member" means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

(2) Genetic information.—The term "genetic information" means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(3) Genetic services.—The term "genetic services" means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

(4) Genetic test.—The term "genetic test" means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include a physical test, such as a chemical, blood, or urine analysis of an individual, including a cholesterol test, or a physical exam of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.

(5) Group health plan, health insurance issuer.—The terms "group health plan" and "health insurance issuer" include a third party administrator or other person acting for or on behalf of such plan or issuer.

(6) Predictive genetic information.—

(A) In general.—The term "predictive genetic information" means—

(i) information about an individual's genetic tests;

(ii) information about genetic tests of family members of the individual; or

(iii) information about the occurrence of a disease or disorder in family members.

(B) Limitations.—The term "predictive genetic information" shall not include—

(i) information about the sex or age of the individual;

(ii) information about chemical, blood, or urine analyses of the individual, including cholesterol tests, unless these analyses are genetic tests, as defined in paragraph (4); or

(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.

(b) Nondiscrimination.—

(1) No enrollment restriction for genetic services.—A group health plan, and a health insurance issuer offering health insurance coverage, shall not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan or coverage based on genetic information (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in relation to the individual or a dependent of the individual.

(2) No discrimination in rate based on predictive genetic information.—A group health plan, and a health insurance issuer offering health insurance coverage, shall not deny eligibility or adjust premium or contribution rates on the basis of predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(c) Collection of Predictive Genetic Information.—

(1) Limitation on requesting or requiring predictive genetic information.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage, shall not request or require predictive genetic information concerning an individual or a family member of the individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(2) Information needed for diagnosis, treatment, or payment.—

(A) In general.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage, that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

(B) Notice of confidentiality practices and description of safeguards.—As a part of a request under subparagraph (A), the group health plan, or a health insurance issuer offering health insurance coverage, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

(d) Confidentiality With Respect to Predictive Genetic Information.—

(1) Notice of confidentiality practices.—A group health plan, or a health insurance issuer offering health insurance coverage, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

(A) a description of an individual's rights with respect to predictive genetic information;

(B) the procedures established by the plan or issuer for the exercise of the individual's rights; and

(C) a description of the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

(2) Establishment of safeguards.—A group health plan, or a health insurance

issuer offering health insurance coverage, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.

(3) Compliance with certain standards.—With respect to the establishment and maintenance of safeguards under this subsection or subsection (c)(2)(B), a group health plan, or a health insurance issuer offering health insurance coverage, shall be deemed to be in compliance with such subsections if such plan or issuer is in compliance with the standards promulgated by the Secretary of Health and Human Services under—

(A) part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.); or

(B) section 264(c) of Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(e) Special Rule in Case of Genetic Information.—With respect to health insurance coverage offered by a health insurance issuer, the provisions of this section relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law that establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by the individual or a family member of such individual); or

(2) prohibits discrimination on the basis of genetic information than does this section.

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) General Rule.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) Nullification.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) In General.—A group health plan, and a health insurance issuer with respect to health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) Construction.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular benefit or service or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) In General.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) Application.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) Construction.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner consistent with the provisions of section 1842(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) Protection for Use of Utilization Review and Grievance Process.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) Protection for Quality Advocacy by Health Care Professionals.—

(1) In general.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) Good faith action.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) Exception and special rule.—

(A) General exception.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) Notice of internal procedures.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) Internal procedure exception.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) Additional considerations.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved

demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) Notice.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) Constructions.—

(A) Determinations of coverage.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) Enforcement of peer review protocols and internal procedures.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) Relation to other rights.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) Protected health care professional defined.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) Incorporation of General Definitions.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) Secretary.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974.

(c) Additional Definitions.—For purposes of this title:

(1) Applicable authority.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) Enrollee.—The term "enrollee" means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(3) Group health plan.—The term "group health plan" has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974, except that such term includes a employee welfare benefit plan treated as a group health plan under section 732(d) of such Act or defined as such a plan under section 607(1) of such Act.

(4) Health care professional.—The term "health care professional" means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(5) Health care provider.—The term "health care provider" includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(6) Network.—The term "network" means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(7) Nonparticipating.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(8) Participating.—The term "participating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(9) Prior authorization.—The term "prior authorization" means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(10) Terms and conditions.—The term "terms and conditions" includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) Continued Applicability of State Law With Respect to Health Insurance Issuers.—

(1) In general.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) Continued preemption with respect to group health plans.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) Construction.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) Application of Substantially Compliant State Laws.—

(1) In general.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c)) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this Act (except in the case of other substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), subject to subsection (a)(2)—

(A) the State law shall not be treated as being superseded under subsection (a); and

(B) the State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) Limitation.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) Definitions.—In this section:

(A) Patient protection requirement.—The term "patient protection requirement" means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(B) Substantially compliant.—The terms "substantially compliant", substantially complies", or "substantial compliance" with respect to a State law, mean that the State law has the same or similar features as the patient protection requirements and has a similar effect.

(c) Determinations of Substantial Compliance.—

(1) Certification by states.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) Review.—

(A) In general.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with the patient protection requirement (or requirements) to which the law relates.

(B) Approval deadlines.—

(i) Initial review.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(3) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(C) DEFERENCE TO STATES.—With respect to a certification submitted under paragraph (1), the Secretary shall give deference to the State's interpretation of the State law involved and the compliance of the law with a patient protection requirement.

(D) PUBLIC NOTIFICATION.—The Secretary shall—

(i) provide a State with a notice of the determination to approve or disapprove a certification under this paragraph;

(ii) promptly publish in the Federal Register a notice that a State has submitted a certification under paragraph (1);

(iii) promptly publish in the Federal Register the notice described in clause (i) with respect to the State; and

(iv) annually publish the status of all States with respect to certifications.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) PETITIONS.—

(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 501, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification under this subsection, is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) OPINION.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term "State" includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term "fee-for-service coverage" means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

SEC. 154. COVERAGE OF LIMITED SCOPE PLANS.

Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act and section 714 of the Employee Retirement Income Security Act of 1974, section 2791(c)(2)(A), and section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974 shall be deemed not to apply.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services and Labor shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR COVERAGE DOCUMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2707. PATIENT PROTECTION STANDARDS.

"Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.".

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "(other than section 2707)" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

"SEC. 2753. PATIENT PROTECTION STANDARDS.

"Each health insurance issuer shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.".

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-91 et seq.) is amended by adding at the end the following:

"SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

"(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

"(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.".

SEC. 204. ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.

Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg-21(b)(2)) is amended—

(1) in subparagraph (A), by striking "If the plan sponsor" and inserting "Except as provided in subparagraph (D), if the plan sponsor"; and

(2) by adding at the end the following:

"(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (b), (c), and (d) of section 122 of the Bipartisan Patient Protection Act and the provisions of section 2702(b) to the extent that the subsections and section apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).".

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS.

(a) APPLICATION OF STANDARDS.—

(1) IN GENERAL.—Each Federal health care program shall comply with the patient protection requirements under title I, and such requirements shall be deemed to be incorporated into this section.

(2) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—Any individual who receives a health care item or service under a Federal health care program shall have a cause of action against the Federal Government under sections 502(n) and 514(d) of the Employee Retirement Income Security Act of 1974, and the provisions of such sections shall be deemed to be incorporated into this section.

(3) RULES OF CONSTRUCTION.—For purposes of this subsection—

(A) each Federal health care program shall be deemed to be a group health plan;

(B) the Federal Government shall be deemed to be the plan sponsor of each Federal health care program; and

(C) each individual eligible for benefits under a Federal health care program shall be deemed to be a participant, beneficiary, or enrollee under that program.

(b) FEDERAL HEALTH CARE PROGRAM DEFINED.—In this section, the term "Federal health care program" has the meaning given that term under section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b) except that, for purposes of this section, such term includes the Federal employees health benefits program established under chapter 89 of title 5, United States Code.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 714. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

"(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Patient Protection Act with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) Section 111 (relating to consumer choice option).

"(B) Section 112 (relating to choice of health care professional).

"(C) Section 113 (relating to access to emergency care).

"(D) Section 114 (relating to timely access to specialists).

"(E) Section 115 (relating to patient access to obstetrical and gynecological care).

"(F) Section 116 (relating to access to pediatric care).

"(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(H) Section 118 (relating to access to needed prescription drugs).

"(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

"(J) Section 120 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

"(K) Section 134 (relating to payment of claims).

"(2) INFORMATION.—With respect to information required to be provided or made available under section 121 of the Bipartisan Patient Protection Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

"(3) INTERNAL APPEALS.—With respect to the internal appeals process required to be established under section 103 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

"(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 104 of such Act, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

"(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections of the Bipartisan Patient Protection Act, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 131 (relating to prohibition of interference with certain medical communications).

"(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

"(C) Section 133 (relating to prohibition against improper incentive arrangements).

"(D) Section 135 (relating to protection for patient advocacy).

"(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(7) TREATMENT OF SUBSTANTIALLY COMPLIANT STATE LAWS.—For purposes of applying this subsection, any reference in this subsection to a requirement in a section or other provision in the Bipartisan Patient Protection Act with respect to a health insurance issuer is deemed to include a reference to a requirement under a State law that substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provisions.

"(8) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 135(b)(1) of the Bipartisan Patient Protection Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

"(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

"(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Bipartisan Patient Protection Act may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

"(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

"(d) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Bipartisan Patient Protection Act with the reporting and disclosure requirements imposed under part 1, so long as such coordination does not result in any reduction in the information that would otherwise be provided to participants and beneficiaries.".

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a)" after "SEC. 503." and by adding at the end the following new subsection:

"(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title I of the Bipartisan Patient Protection Act, and compliance with regulations promulgated by the Secretary, in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.".

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Patient protection standards.".

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 135(b))" after "part 7".

SEC. 402. AVAILABILITY OF CIVIL REMEDIES.

(a) AVAILABILITY OF FEDERAL CIVIL REMEDIES IN CASES NOT INVOLVING MEDICALLY REVIEWABLE DECISIONS.—

(1) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsections:

"(n) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—

"(1) IN GENERAL.—In any case in which—

"(A) a person who is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor upon consideration of a claim for benefits of a participant or beneficiary under section 102 of the Bipartisan Patient Protection Act of 2001 (relating to procedures for initial claims for benefits and prior authorization determinations) or upon review of a denial of such a claim under section 103 of such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision—

"(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage,

"(ii) regarding whether an individual is a participant or beneficiary who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage), or

"(iii) as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage, and

"(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary,

such plan, plan sponsor or issuer shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary or punitive damages) in connection with such personal injury or death.

"(2) CAUSE OF ACTION MUST NOT INVOLVE MEDICALLY REVIEWABLE DECISION.—

"(A) IN GENERAL.—A cause of action is established under paragraph (1)(A) only if the decision referred to in paragraph (1)(A) does not include a medically reviewable decision.

"(B) MEDICALLY REVIEWABLE DECISION.—For purposes of this subsection, the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001 (relating to medically reviewable decisions).

"(3) LIMITATION REGARDING CERTAIN TYPES OF ACTIONS SAVED FROM PREEMPTION OF STATE LAW.—A cause of action is not established under paragraph (1)(A) in connection with a failure described in paragraph (1)(A) to the extent that a cause of action under State law (as defined in section 514(c)) for such failure would not be preempted under section 514.

"(4) DEFINITIONS.—For purposes of this subsection.—

"(A) ORDINARY CARE.—The term 'ordinary care' means, with respect to a determination on a claim for benefits, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claims involved.

"(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(C) CLAIM FOR BENEFITS; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' have the meanings provided such terms in section 102(e) of the Bipartisan Patient Protection Act of 2001.

"(D) TERMS AND CONDITIONS.—The term 'terms and conditions' includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Bipartisan Patient Protection Act of 2001.

"(E) GROUP HEALTH PLAN AND OTHER RELATED TERMS.—The provisions of sections 732(d) and 733 apply for purposes of this subsection in the same manner as they apply for purposes of part 7, except that the term 'group health plan' includes a group health plan (as defined in section 607(1)).

"(5) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

"(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment).

"(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Bipartisan Patient Protection Act of 2001 upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits.

"(C) DIRECT PARTICIPATION.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

"(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in paragraph (1)(A) on a particular claim for benefits of a participant or beneficiary, including (but not limited to)—

"(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

"(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

"(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

"(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

"(iii) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

"(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

"(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

"(D) APPLICATION TO CERTAIN PLANS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty under the plan.

"(ii) DEFINITION.—A group health plan described in this clause is—

"(I) a group health plan that is self-insured and self administered by an employer (including an employee of such an employer acting within the scope of employment); or

"(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

"(6) EXCLUSION OF PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS.—

"(A) IN GENERAL.—No treating physician or other treating health care professional of the participant or beneficiary, and no person acting under the direction of such a physician or health care professional, shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

"(ii) NON-MEDICALLY REVIEWABLE DUTY.—The term 'non-medically reviewable duty' means a duty the discharge of which does not include the making of a medically reviewable decision.

"(7) EXCLUSION OF HOSPITALS.—No treating hospital of the participant or beneficiary shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty (as defined in paragraph (6)(B)(ii)) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

"(8) RULE OF CONSTRUCTION RELATING TO EXCLUSION FROM LIABILITY OF PHYSICIANS, HEALTH CARE PROFESSIONALS, AND HOSPITALS.—Nothing in paragraph (6) or (7) shall be construed to limit the liability (whether direct or vicarious) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

"(9) REQUIREMENT OF EXHAUSTION.—

“(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

“(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

“(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

“(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

“(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

“(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

“(10) STATUTORY DAMAGES.—

“(A) IN GENERAL.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection.

“(B) ASSESSMENT OF CIVIL PENALTIES.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, payable to the claimant may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and flagrant disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

“(11) LIMITATION ON ATTORNEYS' FEES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

“(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney's fee to ensure that the fee is a reasonable one.

“(12) LIMITATION OF ACTION.—Paragraph (1) shall not apply in connection with any action commenced after 3 years after the later of—

“(A) the date on which the plaintiff first knew, or reasonably should have known, of the personal injury or death resulting from the failure described in paragraph (1), or

“(B) the date as of which the requirements of paragraph (9) are first met.

“(13) TOLLING PROVISION.—The statute of limitations for any cause of action arising under State law relating to a denial of a claim for benefits that is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

“(14) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

“(15) EXCLUSION OF DIRECTED RECORDKEEPERS.—

“(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

“(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term ‘directed recordkeeper’ means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act of 2001 and whose duties do not include making decisions on claims for benefits.

“(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

“(16) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to a person whose sole involvement with the group health plan is providing advice or administrative services to the employer or other plan sponsor relating to the selection of health insurance coverage offered in connection with the plan.

“(17) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(c)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsection (a)(1)(C) and this subsection.

“(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

“(A) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (5)(C)(i)) of an employer or plan sponsor, in any case in which there is deemed to be a designated decisionmaker under subparagraph (B) that meets the requirements of subsection (o)(1) for an employer or other plan sponsor—

“(i) all liability of such employer or plan sponsor (and any employee thereof acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

“(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or plan sponsor (or employee) in the action and may not raise any defense that the employer or plan sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

“(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

“(19) PREVIOUSLY PROVIDED SERVICES.—

“(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

“(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

“(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

“(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

“(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

“(20) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

“(A) a member of a board of directors of an employer or plan sponsor; or

“(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

“(o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH

“(1) IN GENERAL.—For purposes of subsection (n)(18) and section 514(d)(9), a designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

“(A) such designation is in such form as may be prescribed in regulations of the Secretary,

“(B) the designated decisionmaker—

“(i) meets the requirements of paragraph (2), "(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee thereof acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary,

"(iii) agrees to be substituted for the employer or plan sponsor (or employee) in the action and not to raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

"(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, and

"(C) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(19) of the Bipartisan Patient Protection Act.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

"(2) Qualifications for designated decisionmakers.—

"(A) In general.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(18)(B) or section 517(d)(9)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

"(B) Special qualification in the case of certain reviewable decisions.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issue, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

"(3) Requirements relating to financial obligations.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

"(A) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this part; or

"(B) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this part.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect. The provisions of this paragraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

"(4) Limitation on appointment of treating physicians.—A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decisionmaker under this subsection with respect to such participant or beneficiary.".

(2) Conforming amendment.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking "or" at the end of subparagraph (A);

(B) in subparagraph (B), by striking "plan;" and inserting "plan, or"; and

(C) by adding at the end the following new subparagraph:

"(C) for the relief provided for in subsection (n) of this section.".

(b) Rules Relating to ERISA Preemption.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

"(d) Preemption Not To Apply to Causes of Action Under State Law Involving Medically Reviewable Decision.—

"(1) Non-preemption of certain causes of action.—

"(A) In general.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any person if such cause of action arises by reason of a medically reviewable decision.

"(B) Medically reviewable decision.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001 (relating to medically reviewable decisions).

"(C) Limitation on punitive damages.—

"(i) In general.—Except as provided in clauses (ii) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal injury or death, all the requirements of the following sections of the Bipartisan Patient Protection Act of 2001 were satisfied with respect to the participant or beneficiary:

"(I) Section 102 (relating to procedures for initial claims for benefits and prior authorization determinations).

"(II) Section 103 of such Act (relating to internal appeals of claims denials).

"(III) Section 104 of such Act (relating to independent external appeals procedures).

"(ii) Exception for certain actions for wrongful death.—Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

"(iii) Exception for willful or wanton disregard for the rights or safety of others.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

"(2) Definitions.—For purposes of this subsection and subsection (e)—

"(A) Group health plan and other related terms.—The provisions of sections 732(d) and 733 apply for purposes of this subsection in the same manner as they apply for purposes of part 7, except that the term 'group health plan' includes a group health plan (as defined in section 607(1)).

"(B) Personal injury.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(C) Claim for benefit; denial.—The terms 'claim for benefits' and 'denial of a claim for benefits' shall have the meaning provided such terms under section 102(e) of the Bipartisan Patient Protection Act of 2001.

"(3) Exclusion of employers and other plan sponsors.—

"(A) Causes of action against employers and plan sponsors precluded.—Subject to subparagraph (B), paragraph (1) does not apply with respect to—

"(i) any cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

"(ii) a right of recovery, indemnity, or contribution by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action to which paragraph (1) applies.

"(B) Certain causes of action permitted.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action that is brought by a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment) if such cause of action arises by reason of a medically reviewable decision, to the extent that there was direct participation by the employer or other plan sponsor (or employee) in the decision.

"(C) Direct participation.—

"(i) Direct participation in decisions.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in subparagraph

(B), the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

“(ii) Rules of construction.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in subparagraph (B) on a particular claim for benefits of a particular participant or beneficiary, including (but not limited to)—

“(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

“(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

“(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

“(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

“(iv) Irrelevance of certain collateral efforts made by employer or plan sponsor.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

“(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

“(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

“(4) Requirement of exhaustion.—

“(A) In general.—Except as provided in subparagraph (D), a cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

“(B) Late manifestation of injury.—

“(i) In general.—A participant or beneficiary shall not be precluded from pursuing a review under section 104 of the Bipartisan Patient Protection Act regarding an injury that such participant or beneficiary has experienced if the external review entity first determines that the injury of such participant or beneficiary is a late manifestation of an earlier injury.

“(ii) Definition.—In this subparagraph, the term ‘late manifestation of an earlier injury’ means an injury sustained by the participant or beneficiary which was not known, and should not have been known, by such participant or beneficiary by the latest date that the requirements of subparagraph (A) should have been met regarding the claim for benefits which was denied.

“(C) Exception for needed care.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

“(D) Failure to review.—

“(i) In general.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(i), a participant or beneficiary may bring an action under section 514(d) after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(i).

“(ii) Expedited determination.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(ii), a participant or beneficiary may bring an action under this subsection and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(ii).

“(E) Receipt of benefits during appeals process.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

“(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

“(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

“(F) Admissible.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

“(5) Tolling provision.—The statute of limitations for any cause of action arising under section 502(n) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

“(6) Exclusion of directed recordkeepers.—

“(A) In general.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

“(B) Directed recordkeeper.—For purposes of this paragraph, the term ‘directed recordkeeper’ means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act of 2001 and whose duties do not include making decisions on claims for benefits.

“(C) Limitation.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

“(7) Construction.—Nothing in this subsection shall be construed as—

“(A) saving from preemption a cause of action under State law for the failure to provide a benefit for an item or service which is specifically excluded under the group health plan involved, except to the extent that—

“(i) the application or interpretation of the exclusion involves a determination described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001, or

“(ii) the provision of the benefit for the item or service is required under Federal law or under applicable State law consistent with subsection (b)(2)(B);

“(B) preempting a State law which requires an affidavit or certificate of merit in a civil action;

“(C) affecting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A); or

“(D) affecting a cause of action under State law other than a cause of action described in paragraph (1)(A).

“(8) Purchase of insurance to cover liability.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action described in paragraph (1)(A).

“(9) Relief from liability for employer or other plan sponsor by means of designated decisionmaker.—

“(A) In general.—Paragraph (1) shall not apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action provides for liability of an employer or plan sponsor (or an employee thereof acting within the scope of employment) with respect to a participant or beneficiary, if with respect to the employer or plan sponsor there is deemed to be a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law against the designated decisionmaker of such employer or other plan sponsor with respect to the participant or beneficiary.

“(B) Automatic designation.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

“(10) Previously provided services.—

“(A) In general.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

"(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

"(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

"(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

"(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

"(11) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

"(A) a member of a board of directors of an employer or plan sponsor; or

"(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

"(12) CHOICE OF LAW.—A cause of action brought under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

"(13) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one.

"(C) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

"(e) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

"(1) affecting any State law relating to the practice of medicine or the provision of, or the failure to provide, medical care, or affecting any action (whether the liability is direct or vicarious) based upon such a State law,

"(2) superseding any State law permitted under section 152(b)(1)(A) of the Bipartisan Patient Protection Act of 2001, or

"(3) affecting any applicable State law with respect to limitations on monetary damages.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after October 1, 2002.

SEC. 403. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 402, is further amended by adding at the end the following:

"(p) LIMITATION ON CLASS ACTION LITIGATION.—

"(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.".

SEC. 404. LIMITATIONS ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by section 402(a)) is amended further by adding at the end the following new subsection:

"(q) LIMITATIONS ON ACTIONS RELATING TO GROUP HEALTH PLANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 101, subtitle B, or subtitle D of title I of the Bipartisan Patient Protection Act (as incorporated under section 714).

"(2) CERTAIN ACTIONS ALLOWABLE.—An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 101, 113, 114, 115, 116, 117, 118(a)(3), 119, or 120 of the Bipartisan Patient Protection Act (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

"(A) such an action may not be brought or maintained as a class action; and

"(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

"(3) OTHER PROVISIONS UNAFFECTED.—Nothing in this subsection shall be construed as affecting subsections (a)(1)(C) and (n) or section 514(d).

"(4) ENFORCEMENT BY SECRETARY UNAFFECTED.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.".

SEC. 405. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191 et seq.) is amended by adding at the end the following new section:

"SEC. 735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

"(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

"(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.".

SEC. 406. SENSE OF THE SENATE CONCERNING THE IMPORTANCE OF CERTAIN UNPAID SERVICES.

It is the sense of the Senate that the court should consider the loss of a nonwage earning spouse or parent as an economic loss for the purposes of this section. Furthermore, the court should define the compensation for the loss not as minimum services, but, rather, in terms that fully compensate for the true and whole replacement cost to the family.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, and 403 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2002 (in this section referred to as the "general effective date").

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 401, and 403 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (excluding any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date;

but shall apply not later than 1 year after the general effective date. For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Subject to subsection (d), the amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term "religious nonmedical provider" means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

(d) TRANSITION FOR NOTICE REQUIREMENT.—The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to a individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 502. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 503. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

SEC. 602. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "2003" and inserting "2011, except that fees may not be charged under paragraphs (9) and (10) of such subsection after March 31, 2006".

SEC. 603. FISCAL YEAR 2002 MEDICARE PAYMENTS.

Notwithstanding any other provision of law, any letter of credit under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) that would otherwise be sent to the Treasury or the Federal Reserve Board on September 30, 2002, by a carrier with a contract under section 1842 of that Act (42 U.S.C. 1395u) shall be sent on October 1, 2002.

SEC. 604. SENSE OF SENATE WITH RESPECT TO PARTICIPATION IN CLINICAL TRIALS AND ACCESS TO SPECIALTY CARE.

(a) FINDINGS.—The Senate finds the following:

(1) Breast cancer is the most common form of cancer among women, excluding skin cancers.

(2) During 2001, 182,800 new cases of female invasive breast cancer will be diagnosed, and 40,800 women will die from the disease.

(3) In addition, 1,400 male breast cancer cases are projected to be diagnosed, and 400 men will die from the disease.

(4) Breast cancer is the second leading cause of cancer death among all women and the leading cause of cancer death among women between ages 40 and 55.

(5) This year 8,600 children are expected to be diagnosed with cancer.

(6) 1,500 children are expected to die from cancer this year.

(7) There are approximately 333,000 people diagnosed with multiple sclerosis in the United States and 200 more cases are diagnosed each week.

(8) Parkinson's disease is a progressive disorder of the central nervous system affecting 1,000,000 in the United States.

(9) An estimated 198,100 men will be diagnosed with prostate cancer this year.

(10) 31,500 men will die from prostate cancer this year. It is the second leading cause of cancer in men.

(11) While information obtained from clinical trials is essential to finding cures for diseases, it is still research which carries the risk of fatal results. Future efforts should be taken to protect the health and safety of adults and children who enroll in clinical trials.

(12) While employers and health plans should be responsible for covering the routine costs associated with federally approved or funded clinical trials, such employers and health plans should not be held legally responsible for the design, implementation, or outcome of such clinical trials, consistent with any applicable State or Federal liability statutes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) men and women battling life-threatening, deadly diseases, including advanced breast or ovarian cancer, should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician;

(2) an individual should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician if—

(A) that individual—

(i) has a life-threatening or serious illness for which no standard treatment is effective;

(ii) is eligible to participate in a federally approved or funded clinical trial according to the trial protocol with respect to treatment of the illness;

(B) that individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual; and

(C) either—

(i) the referring physician is a participating health care professional and has concluded that the individual's participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A); or

(ii) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A);

(3) a child with a life-threatening illness, including cancer, should be allowed to participate in a federally approved or funded clinical trial if that participation meets the requirements of paragraph (2);

(4) a child with a rare cancer should be allowed to go to a cancer center capable of providing high quality care for that disease; and

(5) a health maintenance organization's decision that an in-network physician without the necessary expertise can provide care for a seriously ill patient, including a woman battling cancer, should be appealable to an independent, impartial body, and that this same right should be available to all Americans in need of access to high quality specialty care.

SEC. 605. SENSE OF THE SENATE REGARDING FAIR REVIEW PROCESS.

(a) FINDINGS.—The Senate finds the following:

(1) A fair, timely, impartial independent external appeals process is essential to any meaningful program of patient protection.

(2) The independence and objectivity of the review organization and review process must be ensured.

(3) It is incompatible with a fair and independent appeals process to allow a health maintenance organization to select the review organization that is entrusted with providing a neutral and unbiased medical review.

(4) The American Arbitration Association and arbitration standards adopted under chapter 44 of title 28, United States Code (28 U.S.C. 651 et seq.) both prohibit, as inherently unfair, the right of one party to a dispute to choose the judge in that dispute.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) every patient who is denied care by a health maintenance organization or other health insurance company should be entitled to a fair, speedy, impartial appeal to a review organization that has not been selected by the health plan;

(2) the States should be empowered to maintain and develop the appropriate process for selection of the independent external review entity;

(3) a child battling a rare cancer whose health maintenance organization has denied a covered treatment recommended by its physician should be entitled to a fair and impartial external appeal to a review organization that has not been chosen by the organization or plan that has denied the care; and

(4) patient protection legislation should not pre-empt existing State laws in States where there already are strong laws in place regarding the selection of independent review organizations.

SEC. 606. ANNUAL REVIEW.

(a) IN GENERAL.—Not later than 24 months after the general effective date referred to in section 501(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine of the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the amendments made by this Act, on the number of individuals in the United States with health insurance coverage.

(b) LIMITATION WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted under subsection (a), determines that more than 1,000,000 individuals in the United States have lost their health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 402 of this Act shall be repealed effective on the date that is 12 month after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide for such funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences under this section.

SEC. 607. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant

"(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant member of the species homo sapiens who is born alive at any stage of development.

"(b) As used in this section, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

"(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

"8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.".

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—MOTION TO PROCEED

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 17, H.R. 333, the House bankruptcy reform bill.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, therefore, I move to proceed to the consideration of H.R. 333, and I will send a cloture motion to the desk. I also ask unanimous consent that on Thursday, July 12, beginning at 9 a.m., there be a period for debate of 3 hours prior to the cloture vote to be divided as follows: 2 hours under Senator WELLSTONE's control, and 1 hour equally divided between the chairman and ranking member of the Judiciary Committee, or their designees; that if cloture is invoked, the Senate proceed to the bill by consent and Senator LEAHY, or his designee, be recognized to offer the text of S. 420, the Senate-passed bankruptcy bill, as a substitute amendment; that if a cloture motion is filed on that amendment, the cloture motion on the substitute amendment mature on Tuesday, July 17; that prior to that vote, there be a period for debate beginning at 9 a.m., divided as follows: 2 hours under the control of the senior Senator from Minnesota, Mr. WELLSTONE, and 1 hour equally divided between the chairman and ranking member of the Judiciary Committee, or their designees; that once the substitute amendment has been offered and cloture filed, the bill be laid aside until Tuesday, July 17; and that both mandatory quorum calls be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. REID. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 17, H.R. 333, the bankruptcy reform bill:

Harry Reid, John Breaux, James M. Jeffords, Ben Nelson, Daniel K. Inouye, Max Baucus, Blanche L. Lincoln, Evan Bayh, Zell Miller, Joseph I. Lieberman, Byron L. Dorgan, Daniel K. Akaka, Kent Conrad, Chuck Grassley, Robert Torricelli, Joe Biden.

UNANIMOUS CONSENT AGREEMENT—S. 1077

Mr. REID. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the supplemental appropriations bill tomorrow, Tuesday, at 10 a.m., there be 2 hours of concurrent debate equally divided between Senator VOINOVICH and Senator CONRAD, or their designees, in relation to the lockbox amendments, No. 866 and No. 865. Further, that following the use or yielding back of time, the amendments be laid aside.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mr. REID. Mr. President, I also announce to the Senate that there will be every attempt made to have a vote at 2:15 p.m. on this or in relation to these two amendments. We are working on that now. We were very close to having agreement on that but were unable to do it.

ORDERS FOR TUESDAY, JULY 10, 2001

Mr. REID. Mr. President, I ask consent when the Senate completes its business today, it adjourn until the hour of 10 a.m. Tuesday, July 10. I further ask consent that on Tuesday, immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the supplemental appropriations bill; further, that the Senate recess from 12:30 to 2:15 for our weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, on Tuesday, the Senate will convene at 10 a.m. and resume consideration of the supplemental appropriations bill. The Senate is going to recess from 12:30 to 2:15 for the weekly party conferences. Rollcall votes are expected as the Senate works to complete action on the supplemental appropriations bill tomorrow. It could be a late evening. We have a number of amendments we are trying to resolve. Senator BYRD and Senator STEVENS want to finish that, as does the majority leader, Senator DASCHLE.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Tuesday, July 10, 2001, at 10 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 10, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 11

9 a.m.
Governmental Affairs
Business meeting to consider the nomination of Othoneil Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority; and the nomination of Kay Coles James, of Virginia, to be Director of the Office of Personnel Management.
SD–342

9:30 a.m.
Governmental Affairs
To hold hearings on S. 803, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services.
SD–342

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine genomic research issues.
SH–216

Commerce, Science, and Transportation
To hold hearings to examine existing laws protecting Internet privacy both in the United States and abroad, and the impact privacy legislation may have on the market.
SR–253

Armed Services
Readiness and Management Support Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the readiness of United States military forces and the fiscal year 2002 budget amendment.
SR–232A

10 a.m.
Finance
To continue hearings to examine the role of tax incentives in energy policy.
SD–215

Health, Education, Labor, and Pensions
To hold hearings to examine the achievement of parity for mental health services.
SD–430

2 p.m.
Appropriations
District of Columbia Subcommittee
To continue hearings on proposed legislation making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002.
SD–192

Armed Services
Strategic Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the budget request for national security space programs, policies, operations, and strategic systems and programs.
SR–222

2:30 p.m.
Intelligence
To hold closed hearings on intelligence matters.
SH–219

3 p.m.
Foreign Relations
To hold hearings on the nomination of Aubrey Hooks, of Virginia, to be Ambassador to the Democratic Republic of the Congo; and the nomination of Donald J. McConnell, of Ohio, to be Ambassador to the State of Eritrea; the nomination of Peter R. Chaveas, of Pennsylvania, to be Ambassador to the Republic of Sierra Leone; the nomination of Nancy J. Powell, of Iowa, to be Ambassador to the Republic of Ghana; and the nomination of George McDade Staples, of Kentucky, to be Ambassador to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador to the Republic of Equatorial Guinea.
SD–419

5:45 p.m.
Armed Services
Closed business meeting with British Secretary of State for Foreign and Commonwealth Affairs.
SR–236

JULY 12

8:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the nomination of James R. Moseley, of Indiana, to be Deputy Secretary of Agriculture; and the nomination of Joseph J. Jen, of California, to be Under Secretary of Agriculture for Research, Education, and Economics, to be followed by hearings to examine the context, framework, and content of the comprehensive federal Farm Bill reauthorization and new agriculture policy that can provide a more sustainable and predictable long-term economic safety net.
SR–332

9 a.m.
Appropriations
Energy and Water Development Subcommittee
Business meeting to markup H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002.
S–128, Capitol

9:15 a.m.
Energy and Natural Resources
Business meeting to consider the nomination of Patricia Lynn Scarlett, of California, to be Assistant Secretary for Policy, Management and Budget, the nomination of William Gerry Myers III, of Idaho, to be Solicitor, the nomination of Bennett William Raley, of Colorado, to be Assistant Secretary for Water and Science, the nomination of Frances P. Mainella, of Florida, to be Director of the National Park Service, the nomination of John W. Keys, III, of Utah, to be Commissioner of Reclamation, all of the Department of the Interior; the nomination of Vicky A. Bailey, of Indiana, to be Assistant Secretary of Energy for International Affairs and Domestic Policy; a proposed revision of the statement for completion by presidential nominees; and the appointment of subcommittee membership.
SD–366

9:30 a.m.
Armed Services
To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on ballistic missile defense policies and programs.
SH–216

Energy and Natural Resources
To hold hearings on provisions to protect energy supply and security (Title I of S. 388, The National Energy Security Act of 2001); oil and gas production (Title III and Title V of S. 388; Title X of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001); drilling moratoriums on the Outer Continental Shelf (S. 901, the Coastal States Protection Act; S. 1086, the COAST Anti-Drilling Act; S. 771, to permanently prohibit the conduct of offshore drilling on the Outer Continental Shelf of the State of Florida); energy regulatory reviews and studies (Title III of S. 597); S. 900, the Consumer Energy Commission Act of 2001; and provisions to promote nuclear power (sections 126 and 128 130 of Title I, and Titles II and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

III of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; S. 919, to require the Secretary of Energy to study the feasibility of developing commercial nuclear energy production facilities at existing Department of Energy sites; and S. 1147, to amend Title X and Title XI of the Energy Policy Act of 1992.

SD–366

10 a.m.

Appropriations

Transportation Subcommittee

Business meeting to markup H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002.

SD–116

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Mark B. McClellan, of California, to be a Member of the Council of Economic Advisers; and the nomination of Sheila C. Bair, of Kansas, to be Assistant Secretary of the Treasury for Financial Institutions; and to hold a business meeting to consider the nomination of Roger Walton Ferguson, Jr., of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System; the nomination of Donald E. Powell, of Texas, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation; the nomination of Angela Antonelli, of Virginia, to be Chief Financial Officer, and the nomination of Ronald Rosenfeld, of Maryland, to be President, Government National Mortgage Association, both of the Department of Housing and Urban Development; and the nomination of Jennifer L. Dorn, of Nebraska, to be Federal Transit Administrator, Department of Transportation.

SD–538

Budget

To hold hearings to examine the current economic and budget situation.

SD–608

2 p.m.

Appropriations

Business meeting to markup H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002; H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002; and proposed legislation making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002.

S–128, Capitol

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on Cooperative Threat Reduction, chemical weapons demilitarization, Defense Threat Reduction Agency, nonproliferation research and engineering, and related programs.

SR–222

4 p.m.

Foreign Relations

Business meeting to consider pending calendar business.

S–116, Capitol

JULY 13

9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to energy efficiency, including S. 352, the Energy Emergency Response Act of 2001; Title XIII of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 602 606 of S. 388, the National Energy Security Act of 2001; S. 95, the Federal Energy Bank Act; and S.J. Res. 15, providing for congressional disapproval of the rule submitted by the Department of Energy relating to the postponement of the effective date of energy conservation standards for central air conditioners.

SD–366

Armed Services

Readiness and Management Support Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on installation programs, military construction programs, and family housing programs.

SR–232A

JULY 17

9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to reducing the demand for petroleum products in the light duty vehicle sector, including Titles III and XII of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Title VII of S. 388, The National Energy Security Act of 2001; S. 883, the Energy Independence Act of 2001; S. 1053, Hydrogen Future Act of 2001; and S. 1006, Renewable Fuels for Energy Security Act of 2001.

SD–366

JULY 18

9:30 a.m.

Governmental Affairs

To hold hearings on S. 1008, to amend the Energy Policy Act of 1992 to develop the United States Climate Change Response Strategy with the goal of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, while minimizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technological breakthroughs that make significant progress toward the goal of stabilization of greenhouse gas concentrations, and to establish the National Office of Climate Change Response within the Executive Office of the President.

SD–342

Energy and Natural Resources

To hold hearings on proposals related to energy and scientific research, development, technology deployment, education, and training, including Sections 107, 114, 115, 607, Title II, and Subtitle B of Title IV of S. 388, the National Energy Security Act of 2001; Titles VIII, XI, and Division E of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 111, 121, 122, 123, 125, 127, 204, 205, Title IV and Title V of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; S. 90, the Department of Energy Nanoscale Science and Engineering Research Act; S. 193, the Department of Energy Advanced Scientific Computing Act; S. 242, the Department of Energy University Nuclear Science and Engineering Act; S. 259, the National Laboratories Partnership Improvement Act of 2001; and S. 636, a bills to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the Sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

SD–366

2 p.m.

Governmental Affairs

Investigations Subcommittee

To hold hearings to examine past and current U.S. efforts to convince offshore tax havens to cooperate with U.S. efforts to stop tax evasion, the role of the Organization of Economic Cooperation and Development tax haven project in light of U.S. objectives, and the current status of U.S. support for the project, in particular for the core element requiring information exchange.

SD–628

JULY 19

9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to removing barriers to distributed generation, renewable energy and other advanced technologies in electricity generation and transmission, including Sections 301 and Title VI of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 110, 111, 112, 710, and 711 of S. 388, the National Energy Security Act of 2001; S. 933, the Combined Heat and Power Advancement Act of 2001; hydroelectric relicensing procedures of the Federal Energy Regulatory Commission, including Title VII of S. 388, Title VII of S. 597; and S. 71, the Hydroelectric Licensing Process Improvement Act of 2001.

SD–366

2:30 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 976, to provide authorization and funding for the enhancement of ecosystems, water supply, and water quality of the State of California.

SD–366

JULY 24

9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to global climate change and measures to mitigate greenhouse gas emissions, including S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; S. 388, the National Energy Security Act of 2001; and S. 820, the Forest Resources for the Environment and the Economy Act.

SD–366

JULY 25

9:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

HOUSE OF REPRESENTATIVES—*Tuesday, July 10, 2001*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

> WASHINGTON, DC,
> *July 10, 2001.*
>
> I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.
>
> J. DENNIS HASTERT,
> *Speaker of the House of Representatives.*

PRAYER

The Reverend Larry D. Ferguson, Senior Pastor, Christ Church, Plymouth, Indiana, offered the following prayer:

Dear Heavenly Father, Creator of the Universe, we come to You on behalf of this Nation and more particularly on behalf of the United States House of Representatives.

Lord, we come here for several reasons.

You said in Jeremiah 33:3, "Call unto Me and I will answer you."

We are calling unto You now, Lord.

You said in Your great book of wisdom, Proverbs, Chapter 3, Verses 5 and 6, "Lean not on your own understanding, acknowledge Me in all of your ways, and I will direct your paths."

Lord, we are acknowledging You right now.

Father, You said in Matthew, 7:7, "Ask and it shall be given to you, seek and you shall find, knock and it shall be opened unto you."

Lord, we are asking, seeking and knocking right now.

Father, You are our Jehovah Jireh, our Provider, and we are looking unto You. We recognize that You have all wisdom, all power, and all understanding.

So, Father, as this House argues and debates important issues, when the vote is taken and the dust settles, we pray that the consensus will be Your will. We seek for Your will to be done on Earth, as it is in Heaven.

We pray, Lord, that when decisions have been made, that there will be a mutual respect and camaraderie between those that have taken different positions on each issue. And, Lord, after this day is completed, that somehow, You will be glorified and we and this Nation will be blessed.

In the name of our Lord and Saviour Jesus Christ, the One that died on the Cross and rose again that we might have victory over sin and death. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Indiana (Mr. BUYER) come forward and lead the House in the Pledge of Allegiance.

Mr. BUYER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING THE REVEREND LARRY D. FERGUSON, SENIOR PASTOR, CHRIST CHURCH, PLYMOUTH, INDIANA

(Mr. BUYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUYER. Mr. Speaker, the opening prayer for today's House session has been given to us by Pastor Larry Ferguson. Pastor Ferguson ministers at Christ Church in Plymouth, of Marshall County, Indiana, where he has been a Senior Pastor for 6 years with his wife Kathy, and the Pastor's son Darin, and his wife Kathy, who is also in the United States Air Force and is present in the gallery today.

Pastor Ferguson preached his first sermon as a freshman in high school and later completed 4 years of training for the ministry at Cincinnati Bible Seminary in Cincinnati, Ohio. Since that time, he has been involved in providing spiritual nourishment to many. Whether it is in providing leadership as a principal to a Christian school, giving guidance to Christian churches who are struggling, or nurturing the health of marriages and families, Pastor Ferguson has been following the Biblical admonition to "heal the broken-hearted."

Pastor Ferguson has also used his talents to proclaim the Gospel through song and over the airwaves in Christian radio ministry.

For 35 years, Pastor Ferguson has been ministering, and he has touched more lives than he may ever know. I am thankful for his prayer today, and in his prayer I agree that in this House, we do quest for the greater understanding.

ALLOW HOUSE TO VOTE OPPOSING HOLDING OLYMPICS IN CHINA

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, as probably one of the most bipartisan Members of this body, I call on the Republican leadership to allow this House to vote on whether the Olympics should be held in the Communist dictatorship of China.

Three months ago, with an overwhelming bipartisan vote, the House Committee on International Relations expressed itself against China holding the Olympics by approving H. Con. Res. 73. I am asking the Speaker and the majority leader no longer to bottle up our legislation and to allow the representatives of the American people to speak their minds on this issue.

Religion is persecuted, political freedom does not exist, media freedom does not exist, our airplane is forced down, our servicemen and women are held in captivity for 11 days; yet this body is not allowed to vote on whether the Olympics should be held in Beijing.

Mr. Speaker, allow us a vote.

TIME FOR GOVERNOR DAVIS TO TAKE A STAND

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I rise today to discuss the real cause of the rolling blackouts and out-of-control energy prices in California. Governor Davis and his big government cronies caused California's energy crisis through their backward and politically motivated approach to energy. Bowing to pressure from radical environmentalists and advice from his pollsters, Governor Davis increased regulation of the energy industry, thus prohibiting increased energy production and limiting modernization of infrastructure. The Davis approach is the wrong approach.

Now, in order to save his political future, Governor Davis has put political

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

advisors on the government payroll. Not only do Californians have to pay outrageous prices to cool their homes, but they now have to pay for consultants to tell Governor Davis how to minimize the political damage caused by his mishandling of California's energy needs. Even California's Democrat State comptroller has said that she will not pay for Davis's political expenses with the taxpayers' dime.

Throughout this crisis, Gray Davis has been seeking political remedies instead of looking for positive solutions to solve the real-life problems of his citizens. All the while, California families are suffering. It is time for the Governor to take a stand and do what is right for California, instead of what is right for his career.

CORRUPTION AT THE JUSTICE DEPARTMENT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, FBI Agent Hanssen pleaded guilty to spying for Russia. Now, think about it: First he said, the devil made me do it; now he says he just wants to make amends. Spare me.

The truth is Janet Reno sold the farm to China, FBI agents are spying for Russia, nuclear military secrets are disappearing faster than Viagra at Niagara, and nobody is doing anything about it. Nothing.

Beam me up.

Wake up, Congress, and smell the espionage.

I yield back the massive corruption at the Justice Department that goes without meaningful oversight.

AMERICANS DESERVE ENERGY SOLUTIONS, NOT BLACKOUTS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the United States of America has the strongest economy in this world, and to maintain America's prosperity, America must have energy.

Over the past few months, California, an undisputed driving force in our Nation's economy, has had to endure rolling blackouts during the past several months. And now, the fastest growing city in the United States, Las Vegas, Nevada, has also witnessed rolling blackouts due to energy shortages.

Blackouts cannot and should not be tolerated.

It is time to implement real solutions to reverse the energy shortage. Through conservation methods and through expansion and development of our natural energy resource base, we can provide abundant and less costly energy. But to do this we need to implement a national energy policy that includes greater production of diverse energy supplies and an equal reliance on bold conservation measures.

This balanced energy policy will ensure that when Americans flick on that light switch, that their lights always go on, and blackouts will be a thing of the past.

SIGN DISCHARGE PETITION NO. 2

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, here we are, a year after the electricity crisis hit California and the West. The crisis and suffering continues. And where is the President? Not one item in his energy plan addresses the crisis in the West. And where is FERC, the Federal Energy Regulatory Commission? They seem more intent on protecting the industry than the consumers who pay their bills. And where is this Congress? A year after the crisis, we have not yet had a debate on this House floor on resolving the issues in California and the West.

The bill that is coming up through the Committee on Commerce does nothing to address this crisis in California. The only way to get a fair discussion on the House floor is to sign Discharge Petition No. 2. That allows and puts in order any bill that really addresses the issues in the West and electricity.

It is time to put cost-based rates on the price of electricity and refund the criminal overcharges since last year.

Mr. Speaker, let us have a debate on this House floor. Sign Discharge Petition No. 2.

PRESIDENT SHOWS STRONG COMMITMENT TO NASA

(Mr. BRADY of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADY of Texas. Mr. Speaker, as a former member of the House Committee on Science, I am a strong supporter of NASA and our international space station. So is President Bush, but you would not know so if you listened to some of the rumors going around Houston and our Johnson Space Center.

But here are the facts. Only last year NASA told us on the Committee on Science that they would need $14.4 billion for the coming year. Even after they raised the request recently, the President's budget meets that request at $14.5 billion; meets NASA's request. The President also increases funding for the space station, for the launch initiative, and keeps a sustained level of six space shuttle flights.

Understandably, at budget time you are going to have some partisan spin, but, seriously, how can you criticize the President when he gives NASA what it asked for, at a level nearly $1 billion higher than where it has languished for 4 of the last 5 years?

The fact is, for space supporters in Congress, we have never started a budget year so strongly, and our congressional appropriators are trying to do more. Unfortunately, only in Washington are budget increases spun as budget cuts.

SUPPORT BIPARTISAN PATIENT PROTECTION ACT OF 2001

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, now that we are back from the Independence Day recess and the celebrations, the passage of the Patients' Bill of Rights, the one introduced by the gentleman from Michigan (Mr. DINGELL), the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD), must be at the top of our agenda.

This bill, the Bipartisan Patient Protection Act of 2001, is the only one which comprehensively reforms the current managed care system to better meet the needs of those who elected us.

During the break misinformation and scare tactics continued. It is important that the American public know the truth. Many of the ads say that the bill would raise the cost of insurance. Not true. What they fail to say is that in the past 3 years or so, the cost of managed care has already increased at an average of 7.1 percent, and the increase is projected to be in double digits for this year. The ads also fail to tell us that while the costs have gone up, less services are covered.

Where the same provisions have been enacted in States, there have not been any extraordinary increases in premiums or significant increases in lawsuits. What has happened is that the people in those States have been able to access medically necessary health care, and we need to extend that to the rest of the Nation.

Mr. Speaker, let us pass the bill and let us move on to reduce disparities and provide universal coverage.

DENY OLYMPICS TO CHINA

(Mr. SPENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SPENCE. Mr. Speaker, what fellowship does light have with darkness? What fellowship does the symbol of the human spirit, the Olympic Games, have with Chinese tyranny?

Sixty-four years ago the Nazi propaganda machine proudly flaunted the

1936 Olympic Games as an example of the leadership of Adolph Hitler. That horrible miscalculation by the International Olympic Committee gave credibility to a man and a regime that killed 6 million Jews.

☐ 1415

Amazingly, 44 years later, the IOC granted the games, the 1980 games to the Soviet Union on the very eve of their launch of the war against Afghanistan. Today, the IOC is ignoring history and considering awarding the international games of peace to the People's Republic of China in 2008.

I say again, Mr. Speaker, what fellowship does light have with darkness? What fellowship does the symbol of the human spirit have with Chinese tyranny? Let it be the voice from this citadel of liberty that the International Olympic Committee should say "no" to Beijing for the 2008 Olympic games.

PATIENTS' BILL OF RIGHTS

(Mr. BERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERRY. Mr. Speaker, here we go again. Once again, we are taking up the Patients' Bill of Rights in this House. We have already passed a good, a true, an honest Patients' Bill of Rights in the House of Representatives. We passed it in the 105th Congress; we passed it in the 106th. It was a bipartisan effort. Now we are going to be presented with a new Patients' Bill of Rights that they say is 80 percent like the real Patients' Bill of Rights, the Ganske-Dingell-Norwood-Berry bill.

Mr. Speaker, it is amazing that we are going to try once again to fool the American people and trick them into believing that the insurance companies are not going to control their destiny when it comes to health care. The fact is, if we do not pass the Ganske-Dingell-Norwood-Berry bill in this House, the American people will still be at the mercy of the insurance companies.

Mr. Speaker, I urge the passage of the Ganske-Dingell-Norwood-Berry Patients' Bill of Rights.

A STRONG NATIONAL ENERGY POLICY

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, today the Blue Dog Democrats will unveil our version of what our national energy policy should look like and should be. We believe that most, if not all, of our colleagues will find tremendous interest in a program that creates a balanced approach, one that expands energy supplies, one that recognizes that energy production in the United States is equally important as that produced outside of the United States. In fact, more so. It enhances environmental standards. It promotes energy efficiency. It promotes research and development, and it provides reliable and affordable supplies.

Mr. Speaker, it matches a very important truism: we cannot produce food and fiber in the United States without oil and gas, and we cannot produce oil and gas without food and fiber. We need to be a partnership in all aspects of producing the energy needs of this country.

We encourage our colleagues to take a good look at our suggestion. We look forward to working with both sides of the aisle in developing this national energy policy, as well as with the administration.

COMMUNICATION FROM THE HONORABLE MARK E. SOUDER, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from the Honorable MARK E. SOUDER, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 3, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that my office has been served with a civil subpoena for documents issued by the Superior Court for Allen County, Indiana in a civil case pending there.

After consultation with the Office of General Counsel, I have determined that it is consistent with the precedents and privileges of the House to advise the party who issued the subpoena that I have no documents that are responsive to the subpoena.

Sincerely,

MARK E. SOUDER,
Member of Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which a vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 6 p.m. today.

ENCOURAGING CORPORATIONS TO CONTRIBUTE TO FAITH-BASED ORGANIZATIONS

Mr. WHITFIELD. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 170) encouraging corporations to contribute to faith-based organizations.

The Clerk read as follows:

H. CON. RES. 170

Whereas America's community of faith has long played a leading role in dealing with difficult societal problems that might otherwise have gone unaddressed;

Whereas President Bush has called upon Americans "to revive the spirit of citizenship . . . to marshal the compassion of our people to meet the continuing needs of our Nation";

Whereas although the work of faith-based organizations should not be used by government as an excuse for backing away from its historic and rightful commitment to help those who are disadvantaged and in need, such organizations can and should be seen as a valuable partner with government in meeting societal challenges;

Whereas every day faith-based organizations in the United States help people recover from drug and alcohol addiction, provide food and shelter for the homeless, rehabilitate prison inmates so that they can break free from the cycle of recidivism, and teach people job skills that will allow them to move from poverty to productivity;

Whereas faith-based organizations are often more successful in dealing with difficult societal problems than government and non-sectarian organizations;

Whereas, as President Bush recently stated, "It is not sufficient to praise charities and community groups; we must support them. And this is both a public obligation and a personal responsibility.";

Whereas corporate foundations contribute billions of dollars each year to a variety of philanthropic causes;

Whereas according to a recent study produced by the Capital Research Center, the 10 largest corporate foundations in the United States contributed $1,900,000,000 to such causes;

Whereas according to the same study, faith-based organizations only receive a small fraction of the contributions made by corporations in the United States, and 6 of the 10 corporations that give the most to philanthropic causes explicitly ban or restrict contributions to faith-based organizations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) Congress calls on corporations in the United States, in the words of the President, "to give more and to give better" by making greater contributions to faith-based organizations that are on the front lines battling some of the great societal challenges of our day; and

(2) it is the sense of Congress that—

(A) corporations in the United States are important partners with government in efforts to overcome difficult societal problems; and

(B) no corporation in the United States should adopt policies that prohibit the corporation from contributing to an organization that is successfully advancing a philanthropic cause merely because such organization is faith based.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky (Mr. WHITFIELD) and the gentleman from Texas (Mr. EDWARDS) each will control 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. WHITFIELD).

GENERAL LEAVE

Mr. WHITFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. WHITFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of House Concurrent Resolution 170, which calls on America's corporations to increase their support of faith-based charities.

In 1999, the last year in which facts were available, a total of $190.16 billion were contributed to charities throughout America. Of that amount, corporations contributed $11.02 billion to charities, which is 5.8 percent of the total amount given to charities in America came from corporations. Unfortunately, some of America's largest corporations as a matter of policy explicitly discriminate against faith-based organizations.

Now, there are many effective charitable groups throughout our country. These organizations have developed effective programs to assist people to recover from drug and alcohol addiction, provide food and shelter for the homeless, rehabilitate prison inmates, and to teach job skills that will allow individuals to move from poverty to productivity, from dependence to independence.

Now, in this resolution, we are not encouraging faith-based groups to do any proselytizing. As a matter of fact, they do not proselytize and recommend their particular religion. They are there for one purpose and one purpose only, and that is to provide assistance to people who need assistance.

For example, charities like the Alpha Alternative Pregnancy Care Center in my hometown of Hopkinsville, Kentucky. Alpha Alternative is a place where women in an unwanted pregnancy situation can turn for Christian compassion and help in a time of great personal crisis. They minister to their clients with parenting skills, classes, material assistance, and counseling. If this faith-based charity were to receive more corporate support, perhaps Alpha Alternative could also expand its services to include other medical diagnostic services and job training programs. But with corporate policies banning support for worthwhile faith-based charities, community groups like Alpha Alternative will never reach their true potential.

I ask my colleagues today to join with me in voting for this resolution calling on the conscience of America's largest companies not to discriminate against an organization that is successfully advancing philanthropic and human causes, and not to discriminate merely because they happen to be faith based. As I said earlier, these groups are not out proselytizing. They are not out trying to impose their religion on anyone, and this legislation is not trying to impose religion on anyone. This legislation simply asks corporate America to help effective organizations, whether they be faith based or secular.

Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am not sure exactly what role Congress should have in trying to dictate to American families or American corporations how they should contribute their charitable contributions and to whom they should contribute those dollars, but I would point out that this particular resolution has, in effect, no real legal teeth to it. Much of it is a sense of Congress, and to the extent that the goal of this resolution is to say to individuals and corporate leaders to take a look at faith-based organizations in America, they are doing a lot of good work addressing social problems, then I endorse that approach.

Were this resolution more than, in effect, a sense of Congress and was actually going to dictate policy to corporate trusts, I certainly would have thought it would have made sense for the House committees to have met either the Committee on the Judiciary, or the Committee on Commerce, to at least have a hearing on this to try and direct $1.9 billion in charitable giving. It is my understanding that there was no House committee hearing of either the Committee on the Judiciary or the Committee on Commerce on this measure. However, because this resolution is basically a voluntary message to corporations to consider the good work of many faith-based charities, I would not adamantly object to the principal goal of this.

But what, Mr. Speaker, I would like to comment on today is why this voluntary approach toward giving to faith-based charities is much more acceptable to me and other Members of Congress and religious leaders than the President's faith-based initiative. The President's faith-based initiative in contrast to this has several fundamental flaws, and if this bill had any of these flaws built into it in the essence of law, I would oppose this resolution.

First of all, the President's faith-based initiative as exemplified in H.R. 7 would, for the first time in our country's history, direct Federal tax dollars going immediately into the coffers of our houses of worship, our churches, our synagogues, and other houses of worship. I think that approach to supporting faith-based charities is patently unconstitutional. I think giving billions of Federal dollars directly to faith-based organizations, tax dollars to faith-based organizations would inevitably and absolutely lead to government regulation of religion and our churches.

Thirdly, I think the administration approach toward faith-based initiatives as exemplified in H.R. 7 would lead to religious strife, as thousands of different faith-based groups would be coming to Washington, D.C. competing for tens of billions of Federal tax dollars. If one wants to write a prescription for religious strife in America, Mr. Speaker, I could think of no better way to do it than to have thousands of churches and houses of worship coming to our Nation's capital and competing before Cabinet Members for tens of billions of dollars of Federal money.

The fourth problem I have with the faith-based initiative and the President's program in contrast to this resolution is that the President's faith-based initiative would actually subsidize, subsidize religious discrimination. It would actually take Federal tax dollars and allow a faith-based group to put up a sign, paid for by our tax dollars, that would say, no Jew, no Catholic, no Mormon, no Baptist need apply here for a federally funded job. I think that type of approach to helping charities is really a great retreat in our 40-year march toward greater civil rights in America.

The fifth objection I have to the President's proposal on faith-based initiatives versus this sense of Congress resolution is that the President's proposal really puts Congress and faith-based groups into a Catch-22. If we say that they cannot use Federal dollars to proselytize, to push their religion and their faith upon others, then, in effect, what we are doing is giving Federal dollars to faith-based groups and saying that one cannot use their faith in carrying out one's social mission. So in effect, the President's program, if implemented, would actually take the faith out of faith-based organizations, the very thing I would believe the gentleman from Kentucky (Mr. WHITFIELD) and I would agree makes many faith-based organizations so special, the fact that they can inject their faith into their process of turning around people's lives and solving their problems.

□ 1430

So my point, Mr. Speaker, is this: I am not sure exactly whether this should be a top priority today for Congress, and in fact a sense of Congress resolution, to be telling corporate foundations how to spend billions of dollars, but I do applaud the gentleman from Kentucky (Mr. WHITFIELD) in what I interpret is his basic approach, to send a message to America to say, look at the good work of faith-based organizations.

As a person of faith, I believe these organizations are doing excellent work in many cases. Not in all cases, but in many cases, they truly are changing people's lives in a positive manner.

But I think it is very important for Members to know that in supporting this resolution today, they are not adopting the provisions of H.R. 7 as proposed by the gentleman from Oklahoma (Mr. WATTS) and the gentleman from Texas (Mr. HALL) and others. We are not endorsing those resolutions that would actually allow Federal tax dollars to go directly to houses of worship. I would passionately oppose such a bill, such a proposal, or such a resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITFIELD. Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin (Mr. GREEN), who was the author and primary sponsor of this resolution.

Mr. GREEN of Wisconsin. Mr. Speaker, I thank my friend and colleague, the gentleman from Kentucky, for yielding time to me, and for his kind words.

Mr. Speaker, the seeds for this resolution come from a speech that our President gave at the University of Notre Dame commencement ceremony a few months ago. In that speech, President Bush laid out for America a great challenge. In his words, that challenge "was to revive the spirit of citizenship, to marshall the compassion of our people to meet the continuing needs of our Nation."

He went on to remind us that, in his words, "It is not sufficient to praise charities and community groups. We must support them." This is both a public obligation and a personal responsibility.

Mr. Speaker, unlike my friend and colleague, the gentleman from Texas, I hope this body will take up H.R. 7, the Community Solutions Act, and take it up soon. It will create enhanced incentives for charitable giving, it will expand charitable choice, it will break down the barriers that prevent charitable sectors from being greater partners in the war on poverty.

I believe the debate on the faith-based initiative will be a great and historic one, one that may help us turn the corner in the war on poverty, so I am a strong and passionate supporter.

But in the meantime, this resolution that is before us today is designed to nudge corporate America into providing even more immediate reinforcements to faith-based organizations that are already taking up the mission that the President has called for, organizations that have heeded the President's call, and that of so many, many American leaders that have gone before him.

This resolution seeks to draw attention to charitable efforts that are already under way, that are already working so beautifully; more importantly, to draw attention to the sad lack of support that these groups have received, not from individuals but from America's wealthiest foundations.

This resolution celebrates good news, and it points out tragic news.

First, the good news. As both of the previous speakers have noted, each Member of this House can point with pride and with gratitude to organizations in his or her community that are lifting lives and healing neighborhoods and making a wonderful difference. These groups are the conscience of our people. They are helping people recover from drug and alcohol addiction. They are providing shelter, comfort, and food for the homeless. They are rehabilitating prison inmates and breaking the cycle of recidivism.

Hundreds of these organizations were represented recently at the faith-based summit here in Washington. As a participant in that summit, I can say there was more positive energy for poverty relief gathered here in the Capital than at any time in decades.

There were wonderful organizations like Rawhide Boys Ranch from northeastern Wisconsin. Established nearly four decades ago as a faith-based alternative to juvenile detention, Rawhide accepts 100 troubled boys each year without regard to race or religious belief or economic background. These boys are counseled, given personal academic and vocational training, and they are taught discipline and given love. This program changes lives because it changes hearts.

There were organizations like Urban Hope, a faith-based ministry in Green Bay, Wisconsin, committed to empowering and revitalizing people and communities through entrepreneurship; yes, entrepreneurship. It teaches credit and budgeting, entrepreneurial ideas, and has a microloan program. In its brief time of existence, it has launched over 121 new businesses in the Green Bay area.

Of course, nearly every community in America has a Bureau of Catholic Charities. There are over 1,400 agencies, institutions, and organizations that make up Catholic Charities. Over 9½ million people each year, people who are in need, turn to them for services ranging from adoption to soup kitchens, child care to prison ministry, disaster relief to refugee and immigration assistance.

In summary, these armies of compassion are fighting brush fires all across this great land.

Now the sad news, the tragic news. According to the Capital Research Center my colleague, the gentleman from Kentucky (Mr. WHITFIELD) has just mentioned, the 10 largest U.S. corporate foundations have given out roughly $2 billion each year to charities, but a mere fraction of that has gone to these very organizations that each of us have referred to.

It has given little to them regardless of their effectiveness. In fact, of the 10 largest corporations in America, six have specific restrictions that either ban outright giving to faith-based organizations, or greatly restricting it. In fact, of the 10 which have provided enough information, not one of them has given 5 percent.

Mr. Speaker, according to that same Capital Research Center report, the leading 1,000 foundations in America have targeted just 2.3 percent of their grants to faith-based organizations. The top 100 foundations have given just 1.5 percent.

I do not know if this is political correctness, I do not know if this is a lack of awareness of what these great organizations are doing. I am wondering if these organizations, these corporations, these foundations, have become conscientious objectors in the battle against poverty. I hope not. I am sure my colleagues share that sentiment.

Whatever the cause, whatever the reason, it is time for these restrictions to fall. It is time for the reticence of corporate America to end. It is time for corporate America, it is time for foundations and American citizens everywhere, to take up the cause of these organizations; to contribute, to give them what they can, whether it be financial resources, tools, expertise, whatever they can give to help them help us fight poverty and the consequences of poverty.

We are not asking these corporations to do any more than we should do each as individuals to turn citizenship and civic responsibility from an all too passive term to an activist philosophy, because it is only when each of us and these foundations and these corporations take up the fight, I believe it is only when that happens that we will make a difference.

I urge my colleagues to support this resolution. It is a sense of the Congress resolution, but it shines a spotlight on the wonderful work that is being done, and it shines a spotlight on the sad tragedy that too many corporations, too many foundations have not been there to help. I think shining this spotlight is important, and I hope it will make a difference.

Mr. EDWARDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out, not knowing the facts, since there was not a committee hearing on this, that some of the corporations whose charitable contributions are in effect being criticized today might not want to give to some faith-based groups because they do proselytize.

I know the gentleman from Kentucky talked about groups that do not proselytize. There are many faith-based groups that provide soup kitchens, alcohol and drug rehabilitation programs, and they do not proselytize. But there are many other faith-based groups that part of their very mission as a religious, pervasively sectarian entity is to proselytize, to sell their faith to others to try to change their lives.

So not knowing what the policy is, these corporations, that might be one valid reason why many of these corporations choose not to give their philanthropy to faith-based organizations.

Again, I commend the gentleman from Kentucky today for pointing out the good work done by faith-based groups of many different religious faiths across the country. But Mr. Speaker, as we begin this opening chapter in the debate this summer on the role of government and faith-based organizations, I think it is important that we keep in historical perspective the reason why our Founding Fathers felt so strongly about the separation of government and its ability to regulate religion.

Mr. Speaker, many Americans would be surprised that God is not mentioned in America's governing document, our Constitution. Was this an unintended omission? Did our Founding Fathers intend to show disrespect toward God and faith? Did they not understand the importance of religion in our country?

One could imagine modern-day politicians railing against this "discrimination" against religion shown by our Founding Fathers. Worse yet, they could be attacked for beginning the Bill of Rights with these words: "Congress shall make no law respecting an establishment of religion."

Were Madison, Jefferson, and others guilty of anti-religious, anti-faith discrimination? The truth is, our Founding Fathers did not mention God in our Constitution not out of disrespect to God or religion, but out of total reverence for religious liberty. They believed human history proved that government involvement harmed rather than helped religion.

Jefferson wrote reverently of the wall of separation between church and State. Mr. Speaker, that wall of separation is not designed to keep people of faith out of government, but rather, to keep government and its regulations out of religion and our faith.

Were our Founding Fathers right or wrong in separating politics from religion? Let us fast-forward to today's world. In Denmark, churches are subsidized by taxes, and church attendance is extremely low. In China, citizens are put in prison for their religious beliefs. In Afghanistan, the government is taking religious minorities and forcing them to wear identification symbols that evoke Nazi tactics. In the Middle East and Sudan, religious differences have been the basis for conflict and hatred and terrorism.

In contrast to those countries where government and religion are so entwined, in the United States religious faith and freedom, tolerance, and generosity are flourishing. The difference is that in the other countries, government and religion are intertwined. But in the United States, our Bill of Rights prohibits government from direct involvement in our religion and our own personal faith.

Madison and Jefferson were not so anti-religion after all when they created the wall of separation between church and State. As I said, that wall is not intended to keep people of faith out of being involved in government or having a voice in government, but rather, it was clearly intended to keep government from being able to control religion.

How wise they were in establishing that wall. Maybe our Founding Fathers expressed true reverence in recognizing that faith should be a matter only between an individual and God, with no need for government interference.

Despite the wisdom of our Founding Fathers and all the lessons of human history, I believe it should alarm Americans of all faiths that the administration and some Members of Congress propose other legislation, in contrast to this, that would allow the Federal government to send billions of dollars directly to churches, synagogues and houses of worship. This proposal, soon to be voted on in the House, is known as charitable choice. Unlike this resolution, it would have the teeth of law.

So-called charitable choice legislation is a bad choice. Direct government funding of our houses of worship would inevitably lead to government regulation of religion. Government simply cannot spend billions of tax dollars without audits and regulations. Do we really want Federal auditors and investigators digging through the financial records of our churches, synagogues, and houses of worship? Do we really want prosecutors going after pastors and rabbis who have not handled their faith-based Federal money properly?

It would be also a huge step backwards in our march of civil rights for charitable choice legislation to not only allow but to actually subsidize religious discrimination. Under that bill, a religious group using tax dollars could refuse to hire someone for a secular job simply because of that person's sincere religious faith.

Do we really want government officials deciding which religions and which houses of worship should receive billions of Federal tax dollars? I could not think of a better cause or a better basis for religious strife in America than to encourage the competition between churches, synagogues, and mosques, causing them to compete for billions of Federal dollars.

Even the short recent debate over the charitable choice issue has already caused religious tension in our country as some religious leaders have recently said they do not want other religions different from their own to receive Federal tax dollars. The President even several weeks ago accused those opposed to his faith-based initiatives as being skeptics who do not understand the power of faith.

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Forgetting the fact that numerous religious leaders oppose the President's proposals on church-State grounds, is it healthy to have a President challenging citizens' religious faith because they differ with him on a public policy issue? I think not.

In the face, Mr. Speaker, of religious strife throughout the world, I would hope that Americans would understand that religious freedom and tolerance, protected by the Bill of Rights, is the crown jewel of America's experiment in democracy. We tamper with that freedom at our own peril.

As a person of faith, I am willing to say that this resolution today is well intended, is intended to voluntarily encourage corporations to give their money to faith-based organizations if they believe those organizations are doing good work for our country. But let us be very clear in drawing the line between this voluntary-type Sense of Congress Resolution and actually using the power of government to regulate and fund our faith in our houses of worship.

Mr. Speaker, I yield back the balance of my time.

Mr. WHITFIELD. Mr. Speaker, I yield 7 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, first I would like to thank the gentleman from Wisconsin (Mr. GREEN) for his leadership in bringing this resolution to the floor, his enthusiasm for the concept, as he has battled through committee and defended the whole concept, but particularly this in the private sector.

I would like to make a couple other comments here at the beginning as well. Those in the gallery and those who have been here to the House floor can see we are surrounded by lawgivers, all whose heads are turned sideways, except for Moses, who looks straight down on the Speaker of the House, or the acting Speaker; and it says "In God We Trust." Clearly, Congress has decided that what is wrong, and the reason in the Constitution they decided what was wrong, was to use government funds to proselytize for sectarian purposes. They did not mean a total separation of church and State.

When the wall of separation line was developed, it was developed in Virginia because they were paying even for the pastor's home and the actual church in Virginia, and the Evangelicals objected to funding the Anglicans. That is not what the founding fathers intended. They did not want proselytization, but they did not have a complete separation as long as there was no proselytizing.

I also want to thank my friend, the gentleman from Texas (Mr. EDWARDS). I appreciate his support of this resolution today and working with me and others on tax alternatives. He has been consistent. We have a disagreement on charitable choice and government funding, but we do not oppose private funding. It is wrong for us to cast aspersions on others who disagree with certain parts because we have an honest disagreement about what this country should do and how we should proceed. And we have had several good debates on that. This resolution is not part of that debate.

This resolution should be unanimous because those who oppose public funds also speak in favor of private funds, and this encourages more private-sector funding. But if corporate private-sector funding does not go to faith-based and is biased against faith-based organizations as well, where do these resource-poor organizations go?

Many of our most effective poverty-fighting organizations are in the country's poorest areas, in the poorest areas of my hometown of Fort Wayne, of Milwaukee, of Chicago, of New York, of Boston, wherever you go, they are people rich but resource poor. They are often struggling to get through that day or that week. They often have volunteers who work many, many hours and into the night. When government employees often leave at 5 o'clock, we see these people volunteering, because many of the problems in our toughest neighborhoods occur between 10 at night and 4 in the morning; not often when government employees are there. Often they work without health benefits or any other kind of benefits. Also, the churches from which they rise often have no financial resources.

We are not here talking about the church itself or the ministry. Because I agree, if the money goes straight to the churches and gets incorporated and they become dependent on that, we will wreck the churches of America, like has happened to some degree, as the gentleman from Texas (Mr. EDWARDS) pointed out, around the world. But this is in their outreach ministries. Can they, if they do not proselytize with government funds, can they be included in faith-based organizations?

Now, the problem, as President Bush has pointed out and the Capital Research Center and as previous speakers have previously pointed out, many of our top organizations ban funding for faith-based organizations. Number one, General Motors, says that contributions generally are not provided to religious organizations. Number three, the Ford Motor Company, says as a general policy they do not support religious or sectarian programs. Number four, ExxonMobile, says we do not provide funds for political or religious causes. Number six, IBM, does not make corporate donations or grants from corporate philanthropic funds to religious groups.

Where are they to turn? If the biggest funders deny them, if the government denies them, if their churches are poor, and yet they are the most effective, where do they turn?

In President Bush's Notre Dame commencement speech, and I am proud I graduated from Notre Dame and I am thrilled he gave this speech at Notre Dame, he quoted Knute Rockne, certainly the most famous football coach in American history, next to our fellow congressman, the gentleman from Nebraska (Mr. OSBORNE), Knute Rockne said, "I have found prayers work best when you have big players." Big players in this case are the volunteers and also the dollars.

There has been a lot of misunderstanding about President Bush's faith-based initiative. He has always said from the beginning that private giving is first and foremost. The amount of private giving in America far exceeds anything that the government will do in these areas.

Number one are individual contributions, which are in this bill, which would allow nonitemizers to tax deduct, as well as some other incentives for individual giving and corporate giving; and, number two, is to urge corporate foundations and corporate entities themselves to give private donations. That is where the real dollars will come, and that is where there is the least strings. At a minimum, this Congress should not only pass this resolution today but the tax part of the President's initiative.

His second most important part was the so-called compassion fund, because even now faith-based organizations are eligible but they have no idea where the grants are. They have no idea, a lot of times, what the laws are on proselytizing, how to set up 501(c)(3)'s, how to have an isolated fund so they do not get sued and so they do not get intermingled. That compassion fund is a critical part of the President's agenda. All the focus has been on number three, which we have already passed through the House, which is already law in welfare reform, and which is law in other areas, and that is the so-called charitable choice provision. It is important. I strongly support it.

The bill that passed out of the committees just before we left for the July 4th break made the differentiations that I believe are needed to follow constitutional law, and I strongly support that. But it is most important for us to remember that the key thing is to get the dollars to where the resources, the people resources are. And that starts first and foremost with individual giving and corporate giving.

Once again, I commend the gentleman from Wisconsin (Mr. GREEN) for his resolution today, for our House leadership, for the gentleman from Kentucky (Mr. WHITFIELD), and the gentleman from Texas (Mr. EDWARDS), and others, for doing this. We are a diverse country. We need to protect our diversity. But our multiple faiths in this country will always be the anchor of our diversity.

Mr. Speaker, I include for the RECORD the commencement speech the President gave at Notre Dame, which I referred to earlier.

REMARKS BY THE PRESIDENT IN COMMENCEMENT ADDRESS

THE PRESIDENT: Thank you, Father Malloy. Thank you all for that warm welcome. Chairman McCartan, Father Scully, Dr. Hatch, Notre Dame trustees, members of the class of 2001. (Applause.) It is a high privilege to receive this degree. I'm particularly pleased that it bears the great name of Notre Dame. My brother, Jeb, may be the Catholic in the family—(laughter)—but between us, I'm the only Domer. (Laughter and applause.)

I have spoken in this campus once before. It was in 1980, the year my Dad ran for Vice President with Ronald Reagan. I think I really won over the crowd that day. (Laughter). In fact, I'm sure of it, because all six of them walked me to my car. (Laughter.)

That was back when Father Hesburgh was president of this university, during a tenure that in many ways defined the reputation and values of Notre Dame. It's a real honor to be with Father Hesburgh, and with Father Joyce. Between them, these two good priests have given nearly a century of service to Notre Dame. I'm told that Father Hesburgh now holds 146 honorary degrees. (Applause.) That's pretty darn impressive. Father, but I'm gaining on you. (Laughter.) As of today, I'm only 140 behind. (Laughter.)

Let me congratulate all the members of the class of 2001. (Applause.) You made it, and we're all proud of you on this big day. I also congratulate the parents, who, after these years, are happy, proud—and broke. (Laughter and applause.)

I commend this fine faculty, for the years of work and instruction that produced this outstanding class.

And I'm pleased to join my fellow honorees, as well. I'm in incredibly distinguished company with authors, executives, educators, church officials and an eminent scientist. We're sharing a memorable day and a great honor, and I congratulate you all. (Applause.)

Notre Dame, as a Catholic university, carries forward a great tradition of social teaching. It calls on all of us, Catholic and non-Catholic, to honor family, to protect life in all its stages, to serve and uplift the poor. This university is more than a community of scholars, it is a community of conscience—and an ideal place to report on our nation's commitment to the poor, and how we're keeping it.

In 1964, the year I started college, another President from Texas delivered a commencement address talking about this national commitment. In that speech, President Lyndon Johnson issued a challenge. He said, "This is the time for decision. You are the generation which must decide. Will you decide to leave the future a society where a man is condemned to hopelessness because he was born poor? Or will you join to wipe out poverty in this land?

In that speech, Lyndon Johnson advocated a War on Poverty which has noble intentions and enduring success. Poor families got basic health care; disadvantaged children were given a head start in life. Yet, there were also some consequences that no one wanted or intended. The welfare entitlement became an enemy of personal effort and responsibility, turning many recipients into dependents. The War on Poverty also turned too many citizens into bystanders, convinced that compassion had become the work of government alone.

In 1996, welfare reform confronted the first of these problems, with a five-year time limit on benefits, and a work requirement to receive them. Instead of a way of life, welfare became an officer of temporary help—not an entitlement, but a transition. Thanks in large part of this change, welfare rolls have been cut in half. Work and self-respect have been returned to many lives. This is a tribute to the Republicans and democrats we agreed on reform, and to the President who signed it: President Bill Clinton. (Applause.)

Our nation has confronted welfare dependency. But our work is only half done. Now we must confront the second problem: to revive the spirit of citizenship—to marshal the compassion of our people to meet the continuing needs of our nation. This is a challenge to my administration, and to each one of you. We must meet that challenge—because it is right, and because it is urgent.

Welfare as we knew it has ended, but poverty has not. When over 12 million children live below the poverty line, we are not a post-poverty America. Most states are seeing the first wave of welfare recipients who have reached the law's five-year time limit. The easy cases have already left the welfare rolls. The hardest problems remain—people with far fewer skills and greater barriers to work. People with complex human problems, like illiteracy and addiction, abuse and mental illness. We do not yet know what will happen to these men and women, or to their children. But we cannot sit and watch, leaving them to their own struggles and their own fate.

There is a great deal at stake. In our attitudes and actions, we are determining the character of our country. When poverty is considered hopeless, America is condemned to permanent social division, becoming a nation of caste and class, divided by fences and gates and guards.

Our task is clear, and it's difficult: we must build our country's unity by extending our country's blessings. We make that commitment because we are Americans. Aspiration is the essence of our country. We believe in social mobility, not social Darwinism. We are the country of the second chance, where failure is never final. And that dream has sometimes been deferred. It must never be abandoned.

We are committed to compassion for practical reasons. When men and women are lost to themselves, they are also lost to our nation. When millions are hopeless, all of us are diminished by the loss of their gifts.

And we're committed to compassion for moral reasons. Jewish prophets and Catholic teaching both speak of God's special concern for the poor. This is perhaps the most radical teaching of faith—that the value of life is not contingent on wealth or strength or skill. That value is a reflection of God's image.

Much of today's poverty has more to do with troubled lives than a troubled economy. And often when a life is broken, it can only be restored by another caring, concerned human being. The answer for an abandoned child is not a job requirement—it is the loving presence of a mentor. The answer to addiction is not a demand for self-sufficiency—it is personal support on the hard road to recovery.

The hope we seek is found in safe havens for battered women and children, in homeless shelters, in crisis pregnancy centers, in programs that tutor and conduct job training and help young people when they happen to be on parole. All these efforts provide not just a benefit, but attention and kindness, a touch of courtesy, a dose of grace.

Mother Teresa said that what the poor often need, even more than shelter and food—though these are desperately needed, as well—is to be wanted. And that sense of belonging is within the power of each of us to provide. Many in this community have shown what compassion can accomplish.

Notre Dame's own Lou Nanni is the former director of South Bend's Center for the Homeless—an institution founded by two Notre Dame professors. It provides guests with everything from drug treatment to mental health service, to classes in the Great Books, to preschool for young children. Discipline is tough. Faith is encouraged, not required. Student volunteers are committed and consistent and central to its mission. Lou Nanni describes this mission as "repairing the fabric" of society by letting people see the inherent "worth and dignity and God-given potential" of every human being.

Compassion often works best on a small and human scale. It is generally better when a call for help is local, not long distance. Here at this university, you've heard that call and responded. It is part of what makes Notre Dame a great university.

This is my message today: there is no great society which is not a caring society. And any effective war on poverty must deploy what Dorothy Day called "the weapons of spirit."

There is only one problem with groups like South Bend's Center for the Homeless—there are not enough of them. It's not sufficient to praise charities and community groups, we must support them. And this is both a public obligation and a personal responsibility.

The War on Poverty established a federal commitment to the poor. The welfare reform legislation of 1996 made that commitment more effective. For the task ahead, we must move to the third stage of combating poverty in America. Our society must enlist, equip and empower idealistic Americans in the works of compassion that only they can provide.

Government has an important role. It will never be replaced by charities. My administration increases funding for major social welfare and poverty programs by 8 percent. Yet, government must also do more to take the side of charities and community healers, and support their work. We've had enough of the stale debate between big government and indifferent government. Government must be active enough to fund services for the poor—and humble enough to let good people in local communities provide those services.

So I have created a White House Office of Faith-based and Community Initiatives. (Applause.) Through that office we are working to ensure that local community helpers and healers receive more federal dollars, greater private support and face fewer bureaucratic barriers. We have proposed a "compassion capital fund," that will match private giving with federal dollars. (Applause.)

We have proposed allowing all taxpayers to deduct their charitable contributions—including non-itemizers. (Applause.) This could encourage almost $15 billion a year in new charitable giving. My attitude is, everyone in America—whether they are well-off or not—should have the same incentive and reward for giving.

And we're in the process of implementing and expanding "charitable choice"—the principle, already established in federal law, that faith-based organizations should not suffer discrimination when they compete for contracts to provide social services. (Applause.) Government should never fund the teaching of faith, but it should support the good works of the faithful. (Applause.)

Some critics of this approach object to the idea of government funding going to any group motivated by faith. But they should take a look around them. Public money already goes to groups like the Center for the Homeless and, on a larger scale, to Catholic Charities. Do the critics really want to cut them off? Medicaid and Medicare money currently goes to religious hospitals. Should this practice be ended? Child care vouchers for low income families are redeemed every day at houses of worship across America. Should this be prevented? Government loans send countless students to religious colleges. Should that be banned? Of course not. (Applause.)

America has a long tradition of accommodating and encouraging religious institutions when they pursue public goals. My administration did not create that tradition—but we will expand it to confront some urgent problems.

Today, I am adding two initiatives to our agenda, in the areas of housing and drug treatment. Owning a home is a source of dignity for families and stability for communities—and organizations like Habitat for Humanity make that dream possible for many low income Americans. Groups of this type currently receive some funding from the Department of Housing and Urban Development. The budget I submit to Congress next year will propose a three-fold increase in this funding—which will expand homeownership, and the hope and pride that come with it. (Applause.)

And nothing is more likely to perpetuate poverty than a life enslaved to drugs. So we've proposed $1.6 billion in new funds to close what I call the treatment gap—the gap between 5 million Americans who need drug treatment, and the 2 million who currently receive it. We will also propose that all these funds—all of them—be opened to equal competition from faith-based and community groups.

The federal government should do all these things; but others have responsibilities, as well—including corporate America.

Many corporations in America do good work, in good causes. But if we hope to substantially reduce poverty and suffering in our country, corporate America needs to give more—and to give better. (Applause.) Faith-based organizations receive only a tiny percentage of overall corporate giving. Currently, six of the 10 largest corporate givers in America explicitly rule out or restrict donations to faith-based groups, regardless of their effectiveness. The federal government will not discriminate against faith-based organizations, and neither should corporate America. (Applause.)

In the same spirit, I hope America's foundations consider ways they may devote more of their money to our nation's neighborhood and their helpers and their healers. I will convene a summit this fall, asking corporate and philanthropic leaders throughout America to join me at the White House to discuss ways they can provide more support to community organizations—both secular and religious.

Ultimately, your country is counting on each of you. Knute Rockne once said, "I have found that prayers work best when you have big players." (Laugher and applause.) We can pray for the justice of our country, but you're the big players we need to achieve it. Government can promote compassion, corporations and foundations can fund it, but the citizens—it's the citizens who provide it. A determined assault on poverty will require both an active government, and active citizens.

There is more to citizenship than voting—though I urge you to do it. (Laughter.) There is more to citizenship than paying your taxes—though I'd strongly advise you to pay them. (Laughter.) Citizenship is empty without concern for our fellow citizens, without the ties that bind us to one another and build a common good.

If you already realize this and you're acting on it, I thank you. If you haven't thought about it, I leave you with this challenge: serve a neighbor in need. Because a life of service is a life of significance. Because materialism, ultimately, is boring, and consumerism can build a prison of wants. Because a person who is not responsible for others is a person who is truly alone. Because there are few better ways to express our love for America than to care for other Americans. And because the same God who endows us with individual rights also calls us to social obligations.

So let me return to Lyndon Johnson's charge. You're the generation that must decide. Will you ratify poverty and division with your apathy—or will you build a common good with your idealism? Will you be the spectator in the renewal of your country—or a citizen?

The methods of the past may have been flawed, but the idealism of the past was not an illusion. Your calling is not easy, because you must do the acting and the caring. But there is fulfillment in that sacrifice, which creates hope for the rest of us. Every life you help proves that every life might be helped. The actual proves the possible. And hope is always the beginning of change.

Thank you for having me, and God bless. (Applause.)

Mr. WHITFIELD. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Kentucky has 2 minutes remaining.

Mr. WHITFIELD. Mr. Speaker, I yield myself the balance of my time.

I want to thank the gentleman from Wisconsin (Mr. GREEN) for bringing this important issue to the forefront. We have a lot of people in America reaching out asking for a helping hand. We have a lot of organizations who have programs in place that can assist those people. This resolution today simply calls on corporate America to not discriminate against a group simply because they are faith based.

I would also like to thank the gentleman from Texas for his remarks today.

Mr. TAUZIN. Mr. Speaker, I too rise in support of H. Con. Res. 170, which calls for increased support of faith-based charities by U.S. corporations.

The United States is blessed with an industrious people and great wealth; we are the envy of the world. But a great and prosperous nation can and must do better—each of us has a duty to alleviate the suffering of the poor and oppressed in our own communities. Some of the most effective organizations for meeting the needs of impoverished Americans are faith-based, yet these are the very groups that face discrimination by corporate America.

According to Leslie Lenkowsky in last month's edition of Commentary, in 1998 only some 2 percent of the money donated by the nation's largest foundations went to religiously affiliated institutions, and much of that was earmarked for institutions like hospitals and universities. The Capital Research Center found that six of the ten largest companies in America explicitly "ban or restrict" donations to faith-based charities.

Why would some of the greatest corporations in the country institute policies that prevent funding of some of America's most effective charities at a time when Congress has taken a leading role in knocking down discriminatory barriers that prevent faith-based charities from competing for government grants and contracts?

On a bipartisan basis, Congress first started the work of expanding charitable choice in 1996 with welfare reform, and followed up with the welfare-to-work grant program in 1997. In 1998, Congress added charitable choice to the Community Services Block Grant Program and in 2000 we added charitable choice to substance abuse treatment and prevention services under the Public Health Services Act.

We know that these programs work, and the States are also finding great success. A study of Indiana's "Faith Works" program, which allows welfare recipients to get assistance from faith-based charities instead of secular providers, found that those opting for such charities came from more distressed family situations and had deeper personal crises than those opting for the secular alternative. The study concluded that what these people found at faith-based charities was more emotional and spiritual support than what could ever be offered by a secular institution. In some personal situations, that additional support might be the difference between life and death.

I predict that Congress will knock down more barriers against faith-based charities in programs like the Community Health Centers program this year, and many more next year. As Congress has already moved to provide more access to faith-based charities by Americans in the greatest need, I believe that Congress should call on American corporations to give more even-handedly and generously to faith-based charities.

Mr. STARK. Mr. Speaker, I rise today in opposition of H. Con. Res. 170, a Resolution Encouraging Corporations to Contribute to Faith-Based Organizations.

I am a strong supporter of corporations increasing donations to philanthropic organizations to help the most needy in our society. Even with the strong economy over the past few years, many Americans have not shared in this nation's prosperity. Thus, more corporate donations are needed to help the many Americans living in poverty.

However, I do not support the government advocating corporate support of one charitable organization over another. Our Founding Fathers included the establishment clause in the United States Constitution to ensure that the government did not play the role of endorsing religion. This policy has given Americans the freedom to carry out their religious worship in whichever manner they choose without fear of government oppression. Today, this resolution takes the first step toward the government playing the role of supporting religious charitable organization over others and challenging the Founding Fathers' wisdom to include the establishment clause in our constitution.

Even more disturbing, it appears that this resolution is the first step in the Bush Administration attempt to promote their faith-based initiative that supports the ungodly action of promoting government sponsored discrimination. it has been reported that the Bush administration has agreed to create a regulation that would allow religious charitable organizations to legally avoid hiring gay employees because of their sexual orientation in exchange for these groups' support for their faith-based initiative.

In the mid-20th century, many racial minorities, women and gays began the long fight for equal rights in this nation. It is a fight that still has a long way to go. The struggle of these groups to obtain equality continues to inspire a nation to make America a better place where all men and women are truly created equal.

If the reported allegation about the administration creating a regulation to promote discrimination is true, then the Bush Administration has signaled to the nation that it wants to return to the dark days in this nation's history when our government sponsored discrimination against certain groups. If today, the Bush Administration is willing to support government sponsored discrimination against homosexuals, then which group is next? Will it be women? Will it be African Americans or Hispanics? Will it be religious worshipers of Catholicism, Judaism or the Nation of Islam?

It is time that the leaders in this country stood up together and stopped usurping the principles of separation of church and state and the principle that all are created equal. These principles help to create a nation that cherishes tolerance for all groups and should be preserved.

I urge my colleagues to oppose H. Con. Res. 170 and say no to discrimination.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of H. Con. Res. 170, which encourages corporations in the United States to increase their support of faith-based organizations.

America is privileged materially, but there still remains poverty and a lack of hope for some. Government has a duty to meet the needs of poor Americans, but it does not have to do it alone. The indispensable and gracious work of faith-based and other charitable service groups must be encouraged as a means of people helping people—as a significant addition to government service.

Faith has played an important role in America's handling of serious social problems. Faith-based organizations in the United States help people recover from drug and alcohol addiction, provide food and shelter for the homeless, and teach people job skills that will allow them to move from poverty to productivity. These organizations have proven to be effective in solving some of society's troubles.

Corporations donate billions of dollars to philanthropic causes every year. However, of these billions of dollars, faith-based organizations receive only a small portion. In fact, many corporations specifically ban or restrict contributions to faith-based organizations.

This legislation encourages them to make greater contributions to faith-based organizations and recommends that they refrain from policies that prohibit corporations from donating to faith-based organizations. I urge my colleagues to support H. Con. Res. 170.

Mr. WHITFIELD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. WHITFIELD) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 170.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. WHITFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXPRESSING SENSE OF CONGRESS IN SUPPORT OF VICTIMS OF TORTURE

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 168) expressing the sense of Congress in support of victims of torture.

The Clerk read as follows:

H. CON. RES. 168

Whereas the people of the United States abhor the use of torture by any government or person;

Whereas the existence of torture creates a climate of fear and international insecurity that affects all people;

Whereas torture results in mental and physical damage to an individual that destroys the individual's personality and terrorizes society and the effects of torture can last a lifetime for the individual and can also affect future generations;

Whereas repressive governments often use torture as a weapon against democracy by eliminating the leadership of their opposition and frightening the general public;

Whereas more than 500,000 survivors of torture live in the United States;

Whereas torture has devastating effects on the victim which often require extensive medical and psychological treatment;

Whereas both the Torture Victims Relief Act of 1998 (Public Law 105–320) and the Torture Victims Relief Reauthorization Act of 1999 (Public Law 106–87) authorize funding for rehabilitation services for victims of torture so that these individuals may become productive and contributing members of their communities;

Whereas the United States played a leading role in the adoption of the Universal Declaration of Human Rights and has ratified the United Nations Convention Against Torture and Other Forms of Inhuman and Degrading Treatment or Punishment; and

Whereas June 26th of each year is the United Nations International Day in Support of Victims of Torture: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That, on the occasion of the United Nations International Day in Support of Victims of Torture, Congress pays tribute to all victims of torture in the United States and around the world who are struggling to overcome the physical scars and psychological effects of torture.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment underscores that freedom, justice, and peace rests on the recognition of the inalienable rights of all members of the human family.

It further states that these basic rights derive from the inherent dignity of the human person. Thus, when one individual suffers, all of humanity suffers. When one individual is tortured, the scars inflicted by such horrific treatment are not only found in the victim but in the global system, as the use of torture undermines, debilitates, and erodes the very essence of that system.

Torture not only terrorizes individuals but entire societies, the impact of which is felt in future generations as well. It is used as a weapon against democracy by eliminating the leadership of the opposition and by frightening the general population into submission.

As a Member of Congress who represents men, women, and children who have fled repressive regimes, I have witnessed firsthand the mental and physical damage that torture inflicts on the individual and on society as a whole. I have constituents who are Cuban refugees, for example, who have been subjected to electroshock treatment by Castro's authorities because of their pro-democracy activities.

I represent one of the largest Holocaust survivor communities in North America. My district includes victims of right-wing authoritative regimes as well as oppressive leftist totalitarian dictators. I have seen the anguish in their eyes as well as the strength of their spirit, their courage, and their determination.

There are more than 500,000 survivors of torture in the United States: and this resolution, Mr. Speaker, seeks to honor them.

House Concurrent Resolution 168 uses the occasion of the United Nations Day in Support of Victims of Torture as an opportunity to remember and pay homage to the victims of torture and to underscore the commitment that the United States Congress has outlined in the last few years through passage of the Torture Victims Relief Act of 1998 and the Torture Victims Relief Reauthorization Act of 1999.

It is a message to the survivors in the U.S., and indeed throughout the world, that the U.S. has not forgotten their suffering nor its obligation as a global leader to help prevent such violations of the inherent dignity of human beings. I ask my colleagues to support this bipartisan resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume; and I rise in strong support of H. Res. 168. I want to commend my dear friend and colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN), for introducing this important resolution.

Mr. Speaker, I have the dubious distinction of being the only Member of Congress ever to have lived under and fought against both a Nazi and a communist dictatorship. So torture is something with which I am personally and intimately familiar with.

The resolution before this House today pays tribute to the millions of courageous men and women who have suffered truly terrible mental and physical damage perpetrated by other human beings. It is an unfortunate reality, Mr. Speaker, that around the globe on every continent men, women, and even children are abused by those who are in positions of authority and who abuse their power by inflicting harm on others.

□ 1500

Mr. Speaker, every year our Department of State in its country reports on human rights practices, catalogs for us the numerous countries involved in this heinous practice. Torture and other cruel, inhuman and degrading treatment or punishment is a violation of international law, Mr. Speaker, as reflected in the Convention Against Torture to which I am proud to say the United States is a party. But more than that, it is an attack on the decency of every human being who lives in a world where such heinous practices exist.

Mr. Speaker, this House has been at the forefront of trying to ease the suffering of the many who have survived these awful practices. We have initiated and passed legislation creating U.S. programs that address the psychological and physical needs of those who have survived brutal torture. These programs have helped thousands of such victims. It is only fitting that the House pay tribute to all of the victims of torture around the globe who are struggling to overcome the effects of torture.

Mr. Speaker, I urge all of my colleagues to support H. Res. 168.

Ms. ROS-LEHTINEN. Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although the gentlewoman from Minnesota (Ms. MCCOLLUM) has been with us only a short time, she has made an excellent name for herself in her commitment to the finest causes that we deal with.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, I thank the gentleman from California for his kind words.

Mr. Speaker, I am proud to be part of a special organization located in Minnesota. It is The Center for Victims of Torture. The Center was established in 1985 to healed the emotional and physical scars of government-inflicted torture on individuals, their families, and our communities. Torture victims face debilitating and unimaginable social, physical, emotional and spiritual scarring.

Many survivors are challenged with daily constant anxiety, depression, and suffer from fear. Torture is a crime against humanity. It is a crime against all of us.

Today I stand here with my colleagues to ensure that the United States works in collaboration with all nations to end government-sponsored torture, to end policies and practices that violate human rights. Although the memories cannot be erased, the wounds can be healed.

Mr. LANTOS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WATSON).

Ms. WATSON of California. Mr. Speaker, I rise in support of H. Con. Res. 168, the resolution that expresses the sense of Congress in support of victims of torture. But first I wish to commend the gentlewoman from Florida (Ms. ROS-LEHTINEN) for introducing this important legislation. I also wish to express my gratitude to the honorable gentleman from California (Mr. LANTOS), the ranking member of the Committee on International Relations, for allowing me the opportunity to speak on this very important international issue. As both a former Ambassador and member of the Committee on International Relations, I stand before this esteemed body to speak on the necessity of highlighting the plight of the many victims of torture around the world.

Today, there are over 500,000 survivors of torture who live in the United States as a result of fleeing from those repressive governments that use various tactics to torture to combat democracy.

This bill is very significant, for it pays tribute to all the victims in the United States and the world who are struggling to overcome the physical and mental scars of torture on the occasion of the United Nations International Day in Support of Victims of Torture.

Torture is a violation of international law as reflected in the convention against torture and other cruel, inhuman or degrading treatment or punishment to which the United States is a party. Furthermore, such actions are an attack on the decency of every human being who lives in a world where such horrible practices exist.

In light of these atrocities, I urge all of my colleagues to support this legislation.

Mrs. MORELLA. Mr. Speaker, I rise in support of H. Con. Res. 168, to express support for victims of torture, and I thank Congresswoman ROS-LEHTINEN for bringing this issue to the floor.

Although torture and other cruel, inhumane or degrading treatment is prohibited under international human rights law, state-officials in countries all over the world are responsible for the ill-treatment of individuals. Today, hundreds of thousands of victims of torture live in the United States. They are typically well-educated, well-trained people who were subjected to politically motivated torture by repressive regimes. They were tortured because of what they believe, what they said or did, or for what they represented.

Many torture survivors suffer in silence, enduring incessant physical and emotional anguish. These courageous individuals, who often suffered for speaking out for freedom and justice, deserve, our full and uncompromising support.

When Congress passed the Torture Victims Relief Act of 1998, we agreed that victims should have access to rehabilitation services, enabling them to become productive members of our communities. I also encourage my colleagues to support the Torture Victim's Relief Re-authorization Act—H.R. 1405, to fund domestic torture treatment centers and the Human Rights Information Act—H.R. 1152, to facilitate the prosecution of torturers.

As a member of the Congressional Caucus on Human Rights, I join Congresswoman ROS-LEHTINEN and Congressman SMITH in this recognition of all victims of torture in the United States and around the world who are struggling to overcome their physical and psychological scars. I urge support of H. Con. Res. 168.

Mr. GILMAN. Mr. Speaker, at this time I want to thank the Chairwoman of the Subcommittee on International Operation and Human Rights, the gentlelady from Florida (Ms. ROS-LEHTINEN), for reminding us of the role that the United States must take in combating the use of torture and other forms of degrading treatment or punishment throughout the world.

However, it is not enough to merely denounce torture without assisting the victims in their recovery from the physical and psychological effects that they suffer. People suffering from the effects of torture suffer from severe impediments, often requiring lengthy medical and psychological treatments. Torture victims are often ashamed or too traumatized to speak out against the practice, both in their countries of origin and abroad.

Because torture victims sometimes cannot speak for or help themselves, Americans want their government to speak for those victims, to provide assistance to stop human rights abuses, to investigate allegations of torture, and also to provide rehabilitation services for the victims of torture through the Torture Victims Protection Act. They also want us to press for universal protection against torture through the enforcement of the rights set out in the Universal Declaration of Human Rights, the Convention Against Torture, and the UN Charter. These are the themes of the worthy resolution now before us, and we should start with expressing our solidarity with the victims of torture in the United States and throughout the world.

Accordingly, I am pleased to join my colleagues in supporting H. Con. Res. 168.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 168.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. ROS-LEHTINEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

TROPICAL FOREST CONSERVATION ACT REAUTHORIZATION

Mr. CHABOT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2131) to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, as amended.

The Clerk read as follows:

H.R. 2131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY FOR BENEFITS.

Section 805(a)(2) of the Tropical Forest Conservation Act of 1998 (22 U.S.C. 2431c(a)(2)) is amended by striking "major".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS TO SUPPORT REDUCTION OF DEBT UNDER THE FOREIGN ASSISTANCE ACT OF 1961 AND TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

(a) REAUTHORIZATION.—Section 806 of the Tropical Forest Conservation Act of 1998 (22 U.S.C. 2431d) is amended by adding at the end the following new subsection:

"(d) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS AFTER FISCAL YEAR 2001.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section or section 807, there are authorized to be appropriated to the President the following:

"(1) $50,000,000 for fiscal year 2002.

"(2) $75,000,000 for fiscal year 2003.

"(3) $100,000,000 for fiscal year 2004.".

(b) CONFORMING AMENDMENT.—Section 808(a)(1)(D) of the Tropical Forest Conservation Act of 1998 (22 U.S.C. 2431f(a)(1)(D)) is amended by striking "to appropriated under sections 806(a)(2) and 807(a)(2)" and inserting "to be appropriated under sections 806(a)(2), 807(a)(2), and 806(d)".

SEC. 3. CHAIRPERSON OF THE ENTERPRISE FOR THE AMERICAS BOARD.

Section 811(b)(2) of the Tropical Forest Conservation Act of 1998 (22 U.S.C. 2431i(b)(2)) is amended by striking "from among the representatives appointed under section 610(b)(1)(A) of such Act or paragraph (1)(A) of this subsection" and inserting "and shall be the representative from the Department of State appointed under section 610(b)(1)(A) of such Act".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. CHABOT) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. CHABOT).

GENERAL LEAVE

Mr. CHABOT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2131, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CHABOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2131, the Tropical Forest Conservation Act reauthorization, and I want to commend the gentleman from Ohio (Mr. PORTMAN) for his leadership and hard work on this important legislation. I am proud to be one of the 28 original cosponsors of this piece of legislation.

Tropical forests provide a wide variety of benefits to the entire world. They act as carbon sinks, helping to reduce greenhouse gases as they absorb large amounts of carbon dioxide from the atmosphere, and provide habitat for many plant species that are used to develop lifesaving medicines and pharmaceutical products.

It has been estimated that up to 30 million acres of tropical forests are lost each year, an area roughly the size of Pennsylvania. This alarming rate of destruction emphasizes the need to act, and act quickly, to preserve these valuable assets for future generations.

The Tropical Forest Conservation Act reauthorization is a sound, free-market approach to a very serious global environmental problem. It will encourage the preservation of tropical forests without creating a burden on the American taxpayer. It is a good, sensible piece of legislation. It is worthy of our support, and I urge its adoption.

Mr. Speaker, I commend my colleague, the gentleman from Ohio (Mr. PORTMAN) for proposing this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2131 which reauthorizes the Tropical Forest Conservation Act of 1998, and commend the gentleman from Ohio (Mr. PORTMAN) for introducing this reauthorization bill, and the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, for moving it so expeditiously through the legislative process.

Mr. Speaker, 3 years ago Congress overwhelmingly approved the landmark Tropical Forest Conservation Act. This legislation provided funding for the administration to pursue actively debt swaps, buybacks and other devices with developing nations in return for concrete efforts to protect tropical forests. Since Congress enacted this important legislation, the Clinton administration successfully concluded an agreement to reduce debt owed by the Government of Bangladesh to the United States in exchange for a new plan to protect 4 million acres of mangrove forests in that country. These forests protect the world's only genetically secure population of Bengal tigers.

At the moment, Mr. Speaker, there are 11 nations on 3 continents interested in negotiating new tropical forest conservation debt reduction agreements with the United States. It is critical that the Bush administration continue the active implementation of the Tropical Forest Conservation Act. Tropical forests around the globe are rapidly disappearing. The latest figures indicate that 30 million acres of tropical forests are being lost every single year. This is an area larger than the State of Pennsylvania. Tropical forests harbor much of the world's biodiversity. They act as carbon sinks, absorbing massive quantities of carbon dioxide from the atmosphere, thereby reducing greenhouse gases. The United States National Cancer Institute has identified over 3,000 plants that are active against cancer, 70 percent of which can be found in tropical forests.

Mr. Speaker, the U.S. must continue to play a leadership role in protecting the world's tropical forests. By reauthorizing this act and providing reasonable funding for the next 3 fiscal years, I am confident that we can help save tens of thousands of acres of tropical forests around the globe. I urge all of my colleagues to support H.R. 2131.

Mr. Speaker, I reserve the balance of my time.

Mr. CHABOT. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN), the principal sponsor of the legislation.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman from Ohio (Mr. CHABOT) for yielding me this time, and I thank the distinguished gentleman from California (Mr. LANTOS) for his statement and for his strong support of this legislation.

Mr. Speaker, I rise today in strong support of this legislation. It is bipartisan, it is bicameral, and it is reauthorizing a program which can work well to address serious problems.

Mr. Speaker, we introduced this bill with 33 other colleagues in order to continue what is a very innovative conservation program which helps protect the world's most valuable tropical forests through these debt-for-nature mechanisms.

Mr. Speaker, I also thank the gentleman from Illinois (Mr. HYDE) and the ranking member (Mr. LANTOS) gentleman from Nebraska (Mr. BEREUTER) and other members of the Committee on International Relations, including the gentleman from Ohio (Mr. CHABOT), for their expedited consideration of the legislation and unanimous approval of it on June 20.

I also want to thank them for the improvements they made to the legislation. The three amendments that were accepted in committee, I think, perfect the legislation and make it work better, given the evolving nature of some of the debt-for-nature relationships we might have.

Four years ago I introduced this original bill with our former colleagues Lee Hamilton and John Kasich. It was approved by the House and passed by the Senate under unanimous consent, and was signed into law by President Clinton. The legislation was developed with the support and input of a lot of people, including some of the major respected international environmental organizations such as the Nature Conservancy, the World Wildlife Fund and Conservation International. Their support and ongoing commitment to this program and their involvement in this program as a potential third party has been and will continue to be very valuable to its success.

Mr. Speaker, I also note that our freshman colleague, the gentleman from Illinois (Mr. KIRK), was instrumental in developing the original Tropical Forest Conservation Act when he was a senior member of the Committee on International Relations staff. I am delighted that he is an original cosponsor of this legislation before us today.

The United States has a significant national interest in protecting these forests around the world. As has been said by the gentleman from California (Mr. LANTOS), these forests provide a wide range of benefits. We know they harbor between 50 and 90 percent of the terrestrial biodiversity on Earth. We know that they act as carbon sinks, absorbing massive quantities of carbon dioxide from the environment, and we know that carbon dioxide taken out of the atmosphere helps reduce the effect of greenhouse gases. They also help regulate rainfall on which agriculture and coastal resources depend, and they are important to regional and global climate.

Furthermore, these tropical forests are the breeding ground for new medicines. We are told that fully a quarter of the prescription drugs currently used in the United States come from tropical forests. We are also told that of the more than 3,000 plants the National Cancer Institute has identified as being active against cancer, 70 percent are found in these tropical forests.

Regrettably, these forests are rapidly disappearing. The gentleman from California (Mr. LANTOS) talked about that, and stated an area the size of Pennsylvania is being destroyed every year. We believe that half the tropical forests are already gone.

The heavy debt burden of these countries that have these forests is a contributing factor to the disappearance of these forests. Why? Because these countries must resort to exploitation of their natural resources, timber, minerals, and precious metals, to generate revenue to service burdensome external debt.

At the same time, poor governments tend to have very few resources to set aside and protect their tropical forests. This act addresses these economic pressures by authorizing the President to allow eligible countries to engage in debt swaps, buybacks or restructuring in exchange for protecting threatened tropical forests on a sustained basis over time.

The legislation is based on the previous Bush administration's Enterprise for the Americas Initiative that allowed the President to structure certain debt in exchange for conservation efforts, but only in Latin America.

This legislation and its predecessor expands on the countries eligible, the requirements, and the legislation expands it beyond Latin America to protect tropical forests that are threatened worldwide. The bill provides for very innovative ways to leverage scarce resources available for international conservation.

Under two of the three options made available under this bill, third-party debt swaps where third parties can come in, such as the Nature Conservancy or Conservation International, and also debt buybacks, in those two cases, there is no cost at all to the United States Government.

□ 1515

Under the third option provided for under this legislation, the United States and an eligible country can agree to restructure the debt. Our Government in this case does provide a subsidy to cover the difference between the so-called net present value of the debt and the net present value of whatever the new debt is. Now, net present value is a fancy term, but it refers to what an investment bank, say, on Wall Street might use as they look at the debt to determine what it is really worth, what its actual value is.

Our Government provides this subsidy because we get something in return for it. We get something in return in the sense that the amount of debt forgiven is often lower than the amount that is placed in these tropical forest funds. Therefore, we get leverage. In fact, taxpayers will usually get at least $2 in conservation funds back into the fund in local currency for every $1 of Federal funds that would be spent.

Part of this leverage comes from the fact that the host country is required to use local currency in a tropical forest fund. Second, these tropical forest funds have integrity, are broadly supported within the host country; and, therefore, conservation organizations are interested in placing their own private money in these funds. We believe this is producing additional private sector leverage of government conservation dollars, and we believe the potential for that is great.

The final point I would just like to make about the restructuring option is that I believe if we are going to reduce or eliminate debts that are owed by poorer countries to the United States, it only makes sense that we get something in return for it. In this case we do, in fact, get something in return through this initiative. It is a win-win-win, for us, for the poorer country, and for the environment.

Last year, as mentioned earlier, the United States did conclude a tropical forest debt reduction agreement with Bangladesh, which is a less developed country that is heavily burdened by foreign debt. The gentleman from Nebraska (Mr. BEREUTER), who is with us this afternoon, has been quite focused on Bangladesh. In fact, I can remember at the first hearing we had on this subject 3 or 4 years ago, he raised the fact that Bangladesh was a country that ought to be included within the requirements because they could use this initiative in order to reduce some of their debt and save some of their endangered tropical forests. In fact, that has happened. It allows in Bangladesh the protection of over 4 million acres of endangered mangrove forests, and it protects the world's only genetically secure population of Bengal tigers.

At present, we believe there are at least 11 nations on three continents interested in negotiating these kinds of Tropical Forest Act debt reduction agreements. In fact, we have reason to believe that Belize, El Salvador, and Thailand are ready to move on such agreements this year. Furthermore, as many Members know, President Bush has expressed his strong support for this program.

I would also like to briefly address the authorization for funds included in this legislation. First, I want to make the point this authorization is actually less than the authorization over the last 3 years. In fact, looking out over the 3-year period, it is roughly $100 million less than was provided in the previous and original authorization.

Second, I would say this authorization is consistent with what the Bush administration has said is their commitment to providing adequate funding for this initiative. In other words, it fits within the budget so long as we are making progress toward restructuring agreements around the world, and, again, I think there is adequate evidence that we have lots of countries lined up and interested, and we will be able to move forward aggressively from this point on.

Before I close, Mr. Speaker, I would like to offer my thanks and appreciation, also, to some key staff members who got us here today: Adolfo Franco, Frank Record, Peter Yeo, David Abramowitz, Keith O'Neil, and Carol Doherty of the Committee on International Relations majority and minority staffs for their expertise and all their diligent work on this legislation. I would also like to thank Tim Miller and Maile Gradison of my office for their dedication to this initiative, and Jeff Burnam with Senator LUGAR and Jim Green with Senator BIDEN for helping to develop the companion bill on the Senate side, which is identical to the legislation introduced in the House and almost identical to the legislation that we have on the floor this afternoon.

Again, this is a good program, worthy of reauthorization. It holds great promise. I urge my colleagues on both sides of the aisle to enthusiastically support the passage today of H.R. 2131.

Mr. LANTOS. Mr. Speaker, I want to commend my friend for his eloquent statement, and I want to identify myself with it.

Mr. Speaker, it gives me a great deal of pleasure to yield such time as he may consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA), one of the nationally recognized leaders in this field.

Mr. FALEOMAVAEGA. Mr. Speaker, I am honored to be a cosponsor of H.R.

2131, which reauthorizes the Tropical Forest Conservation Act of 1998.

I want to commend the author of the legislation, the gentleman from Ohio (Mr. PORTMAN), and the chairman and ranking Democratic member of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE), and the distinguished gentleman from California (Mr. LANTOS) for their leadership in moving consideration of this important measure which facilitates debt reduction in Third World countries by supporting their efforts for conservation of fragile tropical forests.

Mr. Speaker, the provisions of the Tropical Forest Conservation Act basically allow less-developed nations that owe loans to the United States to restructure their debt repayment, funneling savings into a tropical rain forest protection fund which provides for the conservation and maintenance of native forest resources in each participating country.

According to the World Wildlife Fund, Mr. Speaker, in recent years up to 42 million acres of tropical forests have been devastated annually throughout the world. Indeed, approximately one-half of the planet's tropical forests no longer exist. In the Asia-Pacific region alone, it is estimated that 88 percent of original forest lands have now been destroyed.

Mr. Speaker, these careless actions have a dramatic negative impact on the environment that is global in nature. The destruction of tropical forest lands on this scale destroys the Earth's ability to recycle carbon dioxide, significantly contributing to greenhouse gases and climate warming.

Perhaps more importantly, we sacrifice and lose the rich and unique biodiversity of these tropical forest ecosystems which, incidentally, contain over half of the world's plant and animal species.

Mr. Speaker, tropical forest plants have been used for centuries by indigenous native peoples to treat illnesses and disease. Most of the Earth's 265,000 flowering plants are located in tropical regions, and less than 1 percent of these plants have been scientifically tested for effectiveness against disease.

I am appreciative of the fact that the gentleman from Ohio (Mr. PORTMAN) had alluded earlier about a win-win situation for the reauthorization of this legislation. Mr. Speaker, over the years, as a classic example, it has been my privilege to know one of the world's leading ethnobotanists, Dr. Nafanua Paul Cox, for the tremendous work that he has done in saving rain forests and tropical forests in the South Pacific region.

I say this personally, because of his efforts over the years, he has sent hundreds of herbal plant medicines that were used by my people for centuries and now the latest discovery by the National Institutes of Health, a certain drug that has come out of this research conducted by Dr. Cox is a substance called protrastin that may have very positive effects in curing HIV. I am talking about AIDS. That is all because of the preservation of these plants.

Mr. Speaker, we must preserve these tropical resources that may hold the key to curing cancer, even AIDS and other deadly diseases afflicting humanity. If rare tropical plants are not protected, their genetic codes and potential benefits will be lost forever to mankind.

Mr. Speaker, I urge my colleagues to support this piece of legislation. I thank my good friend from Ohio for his management of this legislation and especially the ranking member, the gentleman from California (Mr. LANTOS), for his leadership in bringing this legislation to the floor. Again, I urge my colleagues to support this bill.

Mr. CHABOT. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska (Mr. BEREUTER), one of the distinguished members of the Committee on International Relations.

Mr. BEREUTER. Mr. Speaker, I rise in very strong support of this legislation. It has been very well explained by many of my colleagues, including the distinguished primary sponsor of this legislation and the original act, the gentleman from Ohio (Mr. PORTMAN). So I will not have to go over the details, that is for sure; but I do want to mention and reemphasize one thing the gentleman from Ohio said and, that is, that the program builds upon former President George Bush's innovative Enterprise for the Americas Initiative and is another creative example of how our country can address developing-country debt while helping to protect the environment.

The act gives the President the authority to reduce certain forms of development assistance and food aid debt owed to the United States in exchange for the deposit by eligible developing countries of local currencies in a tropical forest fund to preserve, restore and maintain tropical forests. These funds are used by qualified nongovernmental organizations working to preserve the world's most endangered tropical forests.

A board of directors in the United States comprised of U.S. public and private officials oversees this program and annually reports to Congress on progress made to implement the program.

The gentleman from Ohio was gracious in mentioning at the time the House International Relations Committee proceeded to mark up the original act. Frankly, I was interested in Bangladesh because when it has come to debt forgiveness or debt reduction in the past, by a strange set of circumstances, Bangladesh has fallen through the cracks and they needed some assistance. I wanted to make sure that they were not neglected. It turns out they are the first beneficiary of the Tropical Forest Conservation Act.

Before I offered my amendment to assure eligibility for Bangladesh I had to look to see if it had a tropical forest to be saved in that country of such huge population density with all of its drought and flooding problems. They do. As mentioned in terms of square miles, I will put it in square kilometers, 14,000 square kilometers of tropical forest areas in the Chittagong Hill Tracts and in the Sunderbans. As mentioned by the gentleman from Ohio, this is one of the few remaining refuges for the Bengal tiger. Currently, the Bangladeshi board of directors, which will disburse the trust funds, is reviewing how similar boards operate in establishing its procedures for implementing the agreement.

There are only 11 countries considering it right now on three different continents, but I have no doubt the number will expand dramatically when interested people and their governments understand the benefits.

Mr. Speaker, this Member would like to very specifically commend the distinguished gentleman from Ohio (Mr. PORTMAN), the sponsor of this legislation and the original act; and the ranking member of the Committee on International Relations, the distinguished gentleman from California (Mr. LANTOS), for their leadership and support for conservation efforts in the developing world and for their work to reauthorize this program. Of course, the expedited treatment of this legislation by our chairman, the distinguished gentleman from Illinois (Mr. HYDE), is also to be commended; and I am pleased to be an original cosponsor.

Mr. Speaker, this Member urges all of our colleagues to support the reauthorization of the Tropical Forest Conservation Act, as it provides direct benefits to both developing and developed countries.

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Mr. CHABOT. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. ROHRABACHER), also a distinguished member of the Committee on International Relations.

Mr. ROHRABACHER. Mr. Speaker, I rise in support of H.R. 2131.

Mr. Speaker, let me just note that the argument that we must try to preserve our tropical rain forests because the tropical rain forests have a possible treasure house of biodiversity for this generation and future generations I think is a very valid argument.

I have lived in jungles in my life. I understand the many thousands, if not tens of thousands, of variety of not only animal and insect and plant life but all kinds of life that is surrounding one in the jungle. And, yes, in future generations we may find tremendous assets that are right in front of our face but we do not recognize it now.

The idea of trading debt with some of these countries and getting for that debt a commitment to try to preserve these rain forests, I think, is a very good idea. Let us just remember that in many cases these countries would not be repaying that debt anyway. So this is a win-win proposal.

Let me just say, however, that believing in this bill and believing in the biodiversity of the jungles does not mean that one has to believe that the jungles in some way contribute to helping the global warming situation. I have heard that several times in the arguments here on the floor.

Let me just say that global warming, if one takes it by the people who advocate that, I believe global warming is a bunch of global baloney myself, but even if one does believe in global warming as precisely presented by those people who are trying to convince the rest of us that it is true, one would not want to preserve the rain forests. In fact, consistent with the global warming theory what one would want to do is to clear-cut all of the rain forests and bulldoze them because the rain forests are one of the major contributors on this planet of CO_2 and methane, which are the global-warming gases.

Termites eating in the jungles produce more of what they call greenhouse gases than does the internal combustion engine. By the way, I do not believe in global warming so I would never advocate bulldozing the jungles, but if one believes in it that is what they want to do and they, of course, want to also get rid of old growth trees. The older the growth of the trees, the more one wants to cut it down and replant young trees. The essence of global warming is saying that one wants young, vibrant trees and plants to take in carbon dioxide and give out oxygen.

Let me just say, our jungles and our old growth trees do just the opposite. They give out more CO_2 than they are taking in oxygen. So let us support this effort to try to save the jungles and save those forests and rain forests around the world and let us take advantage of this very commonsensical approach of debt restructuring. Let us not get trapped into using arguments that just do not hold water and are not scientifically viable. There has been enough nonsense on global warming and other areas.

Let us just say that the rain forests are valuable and let us save them.

Mr. GILCHREST. Mr. Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Speaker, I would just like to say that the number of facts that are out there dealing with carbon dioxide, methane, and a number of other greenhouse gases show that in the last 50 years the dramatic increase in those gases are evidence that human activity is causing the climate to warm.

Mr. ROHRABACHER. Mr. Speaker, reclaiming my time, let me say that means one would clear-cut all of the jungles to get rid of the CO_2 buildup if that was true.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

Mr. CHABOT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I thank the gentleman from Ohio (Mr. CHABOT) for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 2131. I would like to particularly thank the gentleman from Ohio (Mr. PORTMAN) for his strong leadership on this issue. He is one of our environmental leaders here in the Congress, and I salute him.

I also want to thank the gentleman from Illinois (Mr. HYDE), the gentleman from California (Mr. LANTOS), and the gentleman from Nebraska (Mr. BEREUTER) for bringing this legislation to the floor and thank Tim Miller from the staff of the gentleman from Ohio (Mr. PORTMAN) for his work.

Under President Bush's 1990 Enterprise for the Americas Initiative Act, the United States sponsored many debt-for-nature swap programs. The Tropical Forest Conservation Act, based on this idea, was first introduced by the gentleman from Ohio in 1997 with bipartisan support and was signed into law in 1998.

As a congressional staffer, I had the honor to work on that legislation and help him achieve that goal. I am pleased to support this bill which continues in that tradition.

Bangladesh is the first country which benefited from this program. Because Bangladesh has been able to restructure its debt, it was able to create a national forest fund of almost $9 million, which went to protecting the Mangrove Swap area, home to over 500 wild tigers. Currently, there are 11 nations on three continents interested in considering debt forgiveness under this program, including places like Belize and El Salvador.

I think the United States has an important national interest in supporting the protection of the world's natural resources, including tropical forests. Tropical forests are home to half of all known plants and animals. We are losing an area equal to a football field a minute, and this must stop.

The gentleman from Ohio (Mr. PORTMAN) is our leader on this issue and built on the work of the previous Bush and Clinton administrations. Later this year, the Congress will consider legislation building on this model to protect coral reefs. Coral reefs are home to most aquatic plants and animals. Many reefs are disappearing, and most of them are in developing countries.

I salute the leaders on this issue, commend the gentleman for this legislation, and urge the House adoption of this bill.

Mr. BLUMENAUER. Mr. Speaker, I rise today in support of the Tropical Forest Conservation Act Reauthorization. This bill extends the Tropical Forest Conservation Act of 1998, which passed in this body and was signed into law by President Clinton. Today's legislation allows the U.S. Agency for International Development to relieve some of the foreign debt owed to the United States. In return, participating nations agree to establish trust funds to protect local tropical rainforests and other environmentally sensitive areas. This bill authorizes $225 million to be spent over the next three fiscal years to pay for this important conservation program and for the cost of debt forgiveness.

This innovative tool, the so-called "debt for nature swap", helps countries with undeveloped natural resources reduce their foreign debts by buying it back and agreeing to spend a portion of the proceeds on conservation projects. This is especially vital because tropical forests contain half of the world's known species of plants and animals. They contain a diversity of organic materials that could lead to the development of life-saving new medicines and tropical forests help slow global climate change by absorbing carbon dioxide. Increasingly, however, these fragile forests are succumbing to logging, roadbuilding and development. Since 1950, half of the world's tropical forests have disappeared and they are disappearing at a rate of 30 million acres each year. The countries that carry the heaviest debt contribute significantly to this loss because they extract valuable natural resources in order to generate needed revenue.

A recent report in the Journal of Science highlights the problems affecting Brazil's tropical forests. The report states that the rapid growth of Brazil's population is leading to the equally rapid expansion of railroads, pipelines and highways into the delicate Amazon forest areas. The devastation of the Brazilian rainforest will take place in only 20 years because of a $40 billion project to encourage development.

In tropical countries throughout the world, the deterioration of the rainforest will have dramatic and devastating effects on wildlife habitat, genetic diversity, the quality of watersheds and the global climate. The United States, because of our role as an economic leader, should promote creative solutions such as the one contained in this bill.

Mr. GILMAN. Mr. Speaker, at this time I want to thank the gentleman from Ohio (Mr. PORTMAN) for reminding us of tragedy of the rapidly disappearing tropical forests, and the importance of protecting the world's most diverse ecosystems.

Tropical forests contain approximately half of the world's species of plants and animals. Unfortunately, over half of the tropical forests on Earth have disappeared, and, with more than 30 million acres which are lost each year, the destruction of these volatile ecosystems continues.

The majority of those forests are located in developing nations that are plagued by poverty and extensive debt burdens. The Tropical Forests Conservation Act offers up to $325 million in debt relief to developing nations in exchange for the sustained protection of threatened tropical forests. These conditions also include the creation of a favorable climate for private sector investment, cooperation on narcotics measures, on state-sponsored terrorism, and a democratically elected government.

This bill enjoys wide bipartisan support, support from the administration, and from various environmental groups. I urge support for this bill, and, once again, commend the gentleman from Ohio (Mr. PORTMAN) for introducing legislation to extend this important environmental program.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and pass the bill, H.R. 2131, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

"A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, and for other purposes."

A motion to reconsider was laid on the table.

AMENDMENT PROCESS FOR CONSIDERATION OF H.R. 2360, CAMPAIGN FINANCE REFORM AND CITIZEN PARTICIPATION ACT OF 2001, AND H.R. 2356, BIPARTISAN CAMPAIGN REFORM ACT OF 2001

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, the Committee on Rules is planning to meet this week to grant a rule which may limit the amendment process on campaign finance reform legislation. Let me say that I and Members of the Committee on Rules and our staff have been working very closely with the key authors of this very important legislation, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN). And we have the distinguished chairman of the House Committee on House Administration, the gentleman from Ohio (Mr. NEY), here, and we have been working with him on that.

I would like to say that the Committee on House Administration, as we all know, reported H.R. 2360, the Campaign Finance Reform Citizen Participation Act of 2001, as well as H.R. 2356, the Bipartisan Campaign Reform Act of 2001 on June 28; and the reports are expected to be filed later this afternoon.

While we have made no final decision on which version will actually end up being the base text for further amendment, I would like to ask Members to draft their amendments to both bills, both the Shays-Meehan bill and the Ney legislation as they were introduced in the House.

Members must submit 55 copies of each amendment and one copy of a very brief explanation of each amendment to the Committee on Rules in room H-313 no later than 8 p.m. today. So they have until this evening, Tuesday, June 10.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain that their amendments comply with the Rules of the House.

Mr. Speaker, I am going to run upstairs to see if there are any amendments that have been filed.

AUTHORIZING ROTUNDA OF CAPITOL TO BE USED FOR A CEREMONY TO PRESENT CONGRESSIONAL GOLD MEDALS TO THE ORIGINAL 29 NAVAJO CODE TALKERS

Mr. NEY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 174) authorizing the Rotunda of the Capitol to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers.

The Clerk read as follows:

H. CON. RES. 174

Resolved by the House of Representatives (the Senate concurring), That the Rotunda of the Capitol is authorized to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during the Second World War, the United States Government called upon 29 Navajo men from the Navajo Nation to support the military effort by serving as Marine Corps radio operators. The actual number of enlistees later increased to over 350.

The Japanese had deciphered the military code developed by the United States for transmitting messages and the Navajo Marine Corps radio operators, who became known as the Navajo Code Talkers, developed a new code using their language to communicate military messages in the Pacific.

Throughout its extensive use, the code developed by these Native Americans proved unbreakable. The Navajos were people who had been discouraged from using their own language. Ultimately, the code they developed using the same language would be credited with saving the lives of many American soldiers and several successful United States military engagements during World War II. It is an extreme honor to bring this legislation to the floor today authorizing a ceremony to be held in the Capitol Rotunda presenting Congressional Gold Medals to the original 29 Navajo Code Talkers. Their contribution to this Nation proved immeasurable.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. NEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from Ohio (Mr. NEY) for yielding.

Mr. Speaker, I would simply like to congratulate the gentleman on his statement and say that we look anxiously towards that program which will be held later this month.

I, last week, had the opportunity to meet with some people at MGM, and the motion picture which is going to be coming out on the work of the Navajo Code Talkers should be fascinating. I have the trailer upstairs. I have not seen it yet, but I know from the early reports we have seen that it will be a wonderful presentation of the work of these courageous people and the role that that they played during the Second World War.

I would like to strongly support the effort that is being led by the gentleman from Ohio (Mr. NEY), and it looks to me as if the gentleman from New Mexico (Mr. UDALL) is also working on this. I believe that it should be a great motion picture and a wonderful ceremony here, and I thank my friend for the leadership role he has played on this.

Mr. NEY. Mr. Speaker, I want to thank the chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), for his support on this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me begin by thanking the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) for their efforts in bringing House Concurrent Resolution 174 to the floor today.

I introduced H. Con. Res. 174 on June 26, 2001, to authorize the Rotunda of the Capitol to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers. This legislation will bring us one step closer to making the special and long overdue ceremony a reality.

I would also like to thank the 14 Members on both sides of the aisle who joined as original cosponsors to this measure.

During the 106th Congress, Senator JEFF BINGAMAN introduced legislation to honor the Navajo Code Talkers who played a pivotal role in World War II. I introduced the companion measure so that both Chambers could support these original 29 heroic men with the Congressional Gold Medal. In addition, a Silver Medal will be presented to the other Navajo Code Talkers who later followed the original 29.

Thanks to Senator BINGAMAN's efforts, language was included in the last year omnibus bill to honor these men. This was an effort that I and many of my colleagues supported in the House. These Code Talkers will soon receive their long overdue recognition for their service and the honor they brought to our country and to their people. This is a historic moment for the Navajo Nation and for all World War II veterans.

The medals that the President will present to these 29 men on behalf of Congress will express our appreciation for their dedication and service as Navajo Code Talkers. Of the 29 original Navajo Code Talkers, 5 are still alive today. They are John Brown, Jr., of Navajo, New Mexico; Chester Nez of Albuquerque, New Mexico; Allen Dale June of West Valley City, Utah; Lloyd Oliver of Phoenix, Arizona; and Joe Palmer of Yuma, Arizona.

Mr. Speaker, during World War II, the Navajo Code Talkers took part in many assaults conducted by the U.S. Marines in the Pacific. In May 1942, the original 29 Navajo recruits attended Marine Boot Camp and worked to create the Navajo Code. The Navajo Code Talkers created messages by first translating Navajo words into English and then using the first letter of each English word to decipher their meaning. Because different Navajo words might be translated into different English words for the same letter, the code was especially difficult to decipher.

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The use of Native American languages in coded military communications was not new to World War II. Choctaw Indians, for example, served as Code Talkers in World War I. The idea of using Navajo as code in World War II came from a veteran of World War I, Phillip Johnston. Johnston knew of the military's search for a code that would withstand all attempts to decipher it. He was also the son of a missionary, raised on the Navajo Indian Reservation, spoke fluent Navajo, and believed that the Navajo language was the answer to the military requirement for an indecipherable code, given that it was an unwritten language of extreme complexity.

The Navajo Code Talkers served in all six Marine divisions, Marine Raider battalions and Marine parachute units. They transmitted messages by telephone and radio in a code derived from their Native language, a code, I may add, that was never broken by the Japanese. The Navajo code remained so valuable that the Department of Defense kept the code secret for 23 years after World War II. Therefore, the Code Talkers never received the recognition they deserved.

The ceremony on July 26 will at long last pay full tribute to the brave Americans who used their Native language to help bring an end to World War II in the Pacific. I would also like to mention that a separate ceremony is being planned for later this fall in Arizona or New Mexico to present a silver medal to each man who later qualified as a Navajo Code Talker.

In closing, let me say that the Navajo language imparts a sense of feeling, history and tradition to all the Code Talkers who served valiantly in World War II. To the five Code Talkers who are with us today, to their families, and to those who are with us in spirit, I say a few words in Navajo, which I will translate.

Dine bizaad chooz' iidgo silaoltsooi niha nidaazbaa

Aadoo ak'ah dadeesdlii.

Nitsaago baa aheeh daniidzin.

Ahehee.

Which in English translates to, "Let me express my deep gratitude to the Navajo Code Talkers who provided and helped to develop an ingenious code based on your language, and became the communications link to and from the front lines of the Allies in the Pacific War." Through the Navajo Code Talkers' bravery, their sacrifice, and the unbreakability of the code, the United States military was able to communicate with one another.

Mr. Speaker, it is with great pride that I urge my colleagues to come together and support this resolution, support our Navajo veterans and every veteran who sacrificed their very lives for the liberties and freedoms we enjoy today.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. KILDEE), the cochair of the Native American Caucus, who has also been a staunch leader on Native American issues in this body for many years.

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in strong support of House Concurrent Resolution 174, the resolution sponsored by the gentleman from New Mexico (Mr. UDALL), that authorizes the use of the Capitol Rotunda on July 26, 2001, for a ceremony to present the Congressional Gold Medal to the original 29 Navajo Code Talkers.

I am honored to have been an original cosponsor of H.R. 4527, the legislation sponsored by my good friend the gentleman from New Mexico (Mr. UDALL) that authorizes the President of the United States to award the gold medal on behalf of the Congress to each of the original Navajo Code Talkers.

I also want to acknowledge the work of Senator JEFF BINGAMAN for his efforts in getting the Senate version of the bill included in the Consolidated Appropriations Act of Fiscal Year 2001.

Mr. Speaker, awarding these medals to the brave Navajo men that served this country at a time of war by using the Navajo language to develop a unique and unbreakable code to communicate military messages in the Pacific is long overdue.

The United States Marine Corps recruited and enlisted 29 Navajo men to serve as Marine Corps radio operators. These men are referred to today as the Navajo Code Talkers. The number of Code Talkers would later increase to over 350. So successful was the code that the Code Talkers were sworn to secrecy, an oath they honored until 1968, when the Department of Defense declassified the code.

Mr. Speaker, the heroic efforts of these men saved the lives of many, including probably my own brother Kenneth Robert Kildee, and hastened the end of World War II in the Pacific theater.

I ask my colleagues for their support of this resolution so that Congress, through the presentation of the Congressional Gold Medal, can finally express the gratitude of an entire Nation to these brave men for the contributions they made during a time of war and the valor with which they served their country.

Mr. UDALL of New Mexico. Mr. Speaker, I yield 6 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I certainly would like to thank the original sponsor of this legislation, the gentleman from New Mexico (Mr. UDALL), for his leadership and for bringing this legislation to the floor. I would also be remiss if I did not express my gratitude to the gentleman from Ohio (Mr. NEY), the chairman of the Committee on House Administration, for his support, and also the gentleman from Maryland (Mr. HOYER), the ranking member of the Committee on House Administration, for his support in bringing this legislation.

Mr. Speaker, as a former student of Brigham Young University, it was my privilege to know many students who are Americans of Navajo descent. If I could, I would like to say a fond hello in Navajo, Yateeh.

Mr. Speaker, I am honored as an original cosponsor to speak today in support of House Concurrent Resolution 174 to authorize the use of the Rotunda of the Capitol to be used later this month for a ceremony to present

Congressional Gold Medals to the original 29 Navajo Code Talkers, a ceremony that is certainly long, long overdue.

Mr. Speaker, the idea of using an Indian language as a code was first tried during World War I by the Canadians. The Canadians used Choctaw Indians in their effort, but the experiment was not successful. The failure of this effort is attributed to the Indians knowing very little English and there being no equivalent terminology for the military terms.

The next effort to use an Indian language for a code during wartime was made by the Americans in World War II. The origin of this effort is credited to Phillip Johnston, who was the son of missionaries who did a lot of work among the Navajo Indians. Mr. Johnston brought their idea to the U.S. Marines in California. Because of the bad experience during World War I, still our government was very reluctant to be receptive to this kind of an idea.

Eventually the supporters of the Code Talkers prevailed, at least enough to conduct a test. Two Navajos were sent into one room, and two were put in a second room without visual contact. A message was given to the Navajos in the first room, and they were instructed to translate the message and send it to the other room. The three-line message was encoded, transmitted and decoded in 20 seconds. Encoding and decoding the same message by machine took 30 minutes, and the viability of using the Navajo for military encryption became readily apparent.

Nevertheless, there was still some resistance to using American Indians to transmit military messages. An authorization was given to recruit only 30 Navajos for a pilot program. Recruiting potential Code Talkers and getting them through military training was not easy. Most Navajo did not speak English, and they were all coming from a very different culture.

Parts of their training, such as long runs in the hot sun or surviving in the desert with one canteen of water, came quite naturally to them. Other parts of the training, such as certain aspects of military discipline and the maintenance and repair of radio transmitters and receivers, were somewhat alien to them.

In constructing a code, the Navajo had to take several things into consideration. The code would have to be memorized. It would then be used in periods of conflict when tensions were running high and transmissions could be difficult to hear clearly because of static, close-by rifle fire and explosions.

With those constraints in mind, the Navajo used four basic rules in developing this code: 1. Each code word must have some logical connection to the actual word; 2. Each code word should be unusually descriptive or creative; 3. Each code word should be short; and, 4. No code word should be easily confused with another.

While developing the code, the Navajo were placed in battle simulations, and transmissions were monitored by military code breakers and Navajos who did not know the code. No one broke the code during these tests.

Mr. Speaker, the first 30 Code Talkers were sent into battle, and the pilot program was a success. Eventually 350 Code Talkers were employed in battle, including the battles of Guadalcanal, Tarawa, Saipan, Iwo Jima and Okinawa. At Iwo Jima alone, the Navajo Code Talkers passed over 800 error-free messages in a 48-hour period.

The bottom line, Mr. Speaker, is that thousands of lives of our soldiers, sailors and marines were saved due to the outstanding job our Navajo Code Talkers made as part of our war effort during World War II, especially in places I had previously mentioned.

About 4 years ago, Mr. Speaker, I was privileged to travel with the late Senator John Chafee from Rhode Island to represent the Congress at a special ceremony whereby our government had authorized construction of a parliamentary building for the Solomon Islands Government as a gift from the people of the United States to commemorate one of the most fierce battles that took place in the South Pacific, the battle of Guadalcanal, where thousands of Marines lost their lives, and the late Senator John Chafee was among the few 19-year-old Marines who fought in that terrible battle. It was a moving experience for both Senator CHAFEE and I to visit the remnants of that terrible conflict. The Navajo Code Talkers were a critical part of our success in winning the war in the Pacific.

Mr. Speaker, I am pleased that 29 of the original Code Talkers will be recognized later this month for their work. Because of the secrecy placed on the program, the valor the Navajo displayed during World War II was not recognized for decades. Their code was finally declassified in 1968, and it was only declassified then because electronic equipment had been developed that would be sufficient to meet military needs. The Navajo Code Talkers were also used in Korea in the 1950s, and even in Vietnam in the 1960s.

Mr. Speaker, again, I thank the gentleman from New Mexico, Mr. UDALL, for his leadership in bringing this legislation, and I urge my colleagues to support this legislation.

Mr. UDALL of New Mexico. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, it is with great pleasure that I rise today in support of this resolution and in support of the valiant men who served their country in World War II. Those men, known today as the Navajo Code Talkers, played a key role in our Nation's victory in that great war.

Mr. Speaker, it was the cryptic language of the Navajo that was essential in the U.S. Marine takeover of vital areas like Guadalcanal, Tarawa, Peleliu and Iwo Jima. Well-known to the Code Talkers are the words of Major Howard Connor, who said, "Without the Navajos, the Marines would never have taken Iwo Jima."

Today, we open up our Nation's Capitol to the few surviving Navajo Code Talkers. Later this month, the President will give them an honor long overdue. Mr. Speaker, only 5 of the original 29 Code Talkers are alive today. I am proud to say that one of those, Mr. Allan Dale June, lives in my home State of Utah. Mr. June, like so many others during World War II, sacrificed years of his life for the love of his country.

I would ask that all Members of this body join me today in thanking these men for their service. These medals, which can never fully compensate these men for their sacrifice, will at least ensure that their heroic deeds will never again be forgotten.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just once again thank the chairman for his leadership on this issue.

Mr. Speaker, I yield back the balance of my time.

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also want to thank the ranking member, the gentleman from Maryland (Mr. HOYER), for his dedication to this issue, and also the gentleman from New Mexico (Mr. UDALL) for his tremendous support of a very important issue.

Mrs. WILSON. Mr. Speaker, I rise today in support of H. Con. Res. 174, authorizing a ceremony in the Rotunda of the Capitol to present Congressional Gold Medals to the original 29 Navajo Code Talkers.

At the start of World War II, operations in the Pacific were compromised because the Japanese were breaking U.S. radio codes. Philip Johnson, the son of a missionary to the Navajos and one of the few non-Navajos, who spoke their language fluently, suggested using Navajo for secure communications.

In the 1940s, Navajo was an unwritten language and is extremely complex. It answered the military requirement for an indecipherable code. Its syntax and tonal qualities make it unintelligible to anyone without extensive exposure and training. It has no alphabet or symbols, and is spoken only on the Navajo lands of the American Southwest.

In 1942, Navajo men were recruited by the Marines to be radio operators, called Navajo Code Talkers. Most of them were barely out of high school and from the reservation just north of Gallup, New Mexico. The Navajo Reservation is about the size of the state of West Virginia and is located in my state of New Mexico and extends into Arizona.

The Navajo radiomen served from 1942 to 1945, and often the code talkers were in the forefront of the bloody battles of the Pacific. The Japanese never broke the Navajo code or captured a Navajo Code Talker. The code talkers are credited with saving thousands of American lives.

The Navajo Code Talker's work remained classified until 1968 because the Pentagon was unsure whether the Navajo Language might be needed again.

The Navajo Code talkers played an important role in winning the war in the Pacific. They deserve our thanks and support.

Ms. McCOLLUM. Mr. Speaker, I am pleased to support H. Con. Res. 174 today to authorize the use of the rotunda to honor and celebrate the heroic work of the Navajo Code Talkers. I thank my colleague from New Mexico, Mr. TOM UDALL, for sponsoring this resolution.

During World War II, about 400 Navajo tribe members served as code talkers for the United States Marines. They transmitted messages by telephone and radio in their native language—a code that the Japanese never broke. Navajo is an unwritten language of extreme complexity and one estimate indicated that fewer than 30 non-Navajos could understand the language at the outbreak of World War II. Navajos demonstrated that they could encode, transmit and decode a three-line message in English in just 20 seconds. Machines of the time required 30 minutes to do the same job.

This resolution does great justice by recognizing the contributions of these great people to our nation's collective security and history.

Mr. PALLONE. Mr. Speaker, in May 1942 twenty-nine Navajos entered boot camp and later went to Camp Pendleton to develop a code that used the Navajo language as its basis. They worked at finding new words or meaning for military terms, which had no actual Navajo translation as well as an alphabetical way of spelling out other words. So began the career of the Navajo Code Talkers who were the secret weapon of the Marine Corps against Japan. Their unbreakable code would play a vital part in the United States ability to win World War II.

The man credited for the idea of a code based on Navajo language goes to Philip Johnston, an engineer in Los Angeles. His father had been a Protestant missionary; therefore, as a child he moved to a Navajo reservation where he grew up and learned the culture and the language. Knowing that the Navajo language had been orally handed down through the centuries was Johnston's main argument for this code. He argued that it was a system that would not have to be changed on a regular basis, and because it had never been written down it could not result in falling into the hands of the enemy.

Ironically, Navajos were subjected to alienation in their own homeland and discouraged from speaking their language yet they still came willingly forward and used their language to defend their country and help develop the most successful military code of the time.

The code was such a success that the Department of Defense kept the Code secret for 23 years after World War II. It was finally declassified in 1968. The Code Talkers had been sworn to secrecy, an oath they kept and honored. Imagine these unsung heroes returned home with no special recognition for what they had accomplished and sadly over the years some have died never receiving the honor and accolades that they so deserved.

The time has come for us to recognize the Navajo Code Talkers with a Congressional Gold Medal—the most distinguished honor a civilian can receive. It is for that reason I support House Concurrent Resolution 174, authorizing use of the rotunda to present Congressional Gold Medals to the original 29 Navajo Code Talkers. This honor has been a long time in coming.

Mr. NEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 174.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. NEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 174.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 6 p.m.

Accordingly (at 4 p.m.), the House stood in recess until approximately 6 p.m.

□ 1800

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ISAKSON) at 6 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

House Concurrent Resolution 170, by the yeas and nays;

House Concurrent Resolution 168, by the yeas and nays;

House Concurrent Resolution 174, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

ENCOURAGING CORPORATIONS TO CONTRIBUTE TO FAITH-BASED ORGANIZATIONS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 170.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. WHITFIELD) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 170, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 391, nays 17, not voting 22, as follows:

[Roll No. 211]

YEAS—391

Abercrombie
Ackerman
Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss

Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller, Gary
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—17

Baird
Conyers
DeGette
Dingell
Frank
Hinchey
Honda
Inslee
Jackson (IL)
Lofgren
McDermott
McKinney
Obey
Olver
Rivers
Schakowsky
Stark

ANSWERED "PRESENT"—3

Allen
Snyder
Tierney

NOT VOTING—22

Cannon
Capuano
Carson (IN)
Coyne
Engel
Evans
Hulshof
Jackson-Lee (TX)
Kennedy (MN)
Larson (CT)
Lewis (CA)
Millender-McDonald
Miller, George
Paul
Riley
Scarborough
Taylor (MS)
Toomey
Waters
Watts (OK)
Wicker
Young (AK)

□ 1826

Messrs. DINGELL, JACKSON of Illinois, and CONYERS changed their vote from "yea" to "nay."

Mr. GIBBONS changed his vote from "nay" to "yea."

Mr. TIERNEY changed his vote from "yea" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

EXPRESSING SENSE OF CONGRESS IN SUPPORT OF VICTIMS OF TORTURE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 168.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspended the rules and agree to the concurrent resolution, H. Con. Res. 168, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows:

[Roll No. 212]

YEAS—409

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller, Gary
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky

Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—24

Cannon
Capuano
Carson (IN)
Cox
Coyne
Engel
Gekas
Hulshof
Jackson-Lee (TX)
Keller
Kennedy (MN)
Kennedy (RI)
Lewis (CA)
Millender-McDonald
Miller, George
Paul
Riley
Scarborough
Taylor (MS)
Toomey
Waters
Watts (OK)
Wicker
Young (AK)

☐ 1835

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. KENNEDY of Rhode Island. Mr. Speaker, on rollcall No. 212, H. Con. Res. 168, had I been present, I would have voted "yea."

Mr. KELLER. Mr. Speaker, on rollcall No. 212, I am not recorded. Had I been present I would have voted "yea."

AUTHORIZING ROTUNDA OF CAPITOL TO BE USED FOR A CEREMONY TO PRESENT CONGRESSIONAL GOLD MEDALS TO THE ORIGINAL 29 NAVAJO CODE TALKERS

The SPEAKER pro tempore (Mr. ISAKSON). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 174.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 174, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows:

[Roll No. 213]

YEAS—409

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller, Gary
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
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Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
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Schaffer
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Schrock
Scott
Sensenbrenner
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Smith (MI)
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Smith (TX)
Smith (WA)
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Taylor (NC)
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Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
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Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson
Wolf
Woolsey
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Wynn
Young (FL)

NOT VOTING—24

Cannon
Capuano
Carson (IN)
Coyne
Engel
Gutierrez
Hulshof
Jackson-Lee (TX)
Kennedy (MN)
Lantos
Lewis (CA)
Lucas (OK)
Millender-McDonald
Miller, George
Paul
Riley
Scarborough
Shimkus
Taylor (MS)
Toomey
Waters
Watts (OK)
Wicker
Young (AK)

☐ 1843

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1845

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. ISAKSON). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AGRICULTURAL APPROPRIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, tomorrow we are going to be taking up the agricultural appropriation bill;

and I would like to for a couple of minutes discuss, number one, the seriousness of the agricultural problem; but, secondly, an amendment that I have tomorrow that deals with how we distribute some of this Federal money to farmers.

There are a lot of us that would hope that these extra funds go to help support the traditional family farmers in this country. However, our farm programs since we started them back in 1934 have tended to favor the large farmer. And so what has happened over the years is the small farmer has been forced out because of the advantages of Federal farm policy to the middle-sized and larger farmer; and the middle-sized farmer, figuring that they might survive, have bought out the small farmer and become bigger.

Specifically, we have legislation that says the price support for farmers in this country through the Federal Government should be limited to $75,000. If a farmer wants to include their spouse or usually their wife for a separate producer payment, then they have to jump through all kinds of hoops to borrow money in the spouse's name and then document that it was invested in the farm operation, then the farm operation can pay it back. It is a disadvantage.

My amendment tomorrow does essentially three things: it says automatically the wife is included as a producer without jumping through these bureaucratic hoops, eligible for an additional $75,000 payment limitation. The average size of a farm in this country now, Mr. Speaker, is about 448 acres. But some farms, some huge, giant corporation-type farms are up to 80,000 acres and 100,000 acres; and there is no payment limitation on those farms. So as you can guess, millions of dollars go out to those huge farming operations.

My amendment tomorrow says, let us stick to our guns of the historic $75,000 limitation but automatically include spouses. That would move it up to $150,000. And let us make sure that there is no loophole such as forfeiting a nonrecourse loan or such as certificates that can be issued by the Federal Government in lieu of forfeiture of that particular loan, because those certificates, the alternative of those forfeitures of that loan, has resulted in approximately $400 million extra payment going to those giant farmers.

Mr. Speaker, I request that my colleagues look at this amendment, that they consider the policy of how we want to spend this extra money, that they face the decision of what should farm programs try to do in this country; and I would suggest humbly that part of what we should be trying to do is help the small family farmer. The large farmer already has a competitive advantage, simply because of the size of their operation. We expand that advantage as we pay them on the bushels produced on each acre or the tons produced. Whether it is rice or corn or soybeans or cotton, we help that large farmer.

I feel it is important that we look at this policy, and I would request that my colleagues look at my amendment that will reaffirm the historical provision of limiting those payments to $75,000 rather than the $150,000 per producer that was passed out on a suspension vote late in June when the House went through that particular legislation without the opportunity for any amendments.

ELECTRICITY CRISIS IN CALIFORNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, the electricity crisis continues 1 year later in San Diego, in California and the West. Scores of businesses in my hometown of San Diego have gone out of business. People on fixed incomes are suffering because they have to make choices between buying food and prescription drugs and air conditioning. This should not be happening in America.

Now, we have called for price controls, we have called for a refund of the overcharges, and people from my State on the other side of the aisle have said, Let the free market work. Price controls don't work. I say to my colleagues, there is no free market. The system is completely out of whack. There is an energy cartel which dominates our lives in California.

I want to give you a specific example, Mr. Speaker, of how the market in California is being manipulated by this energy cartel and what we in San Diego hope to do about it.

There is a 700 megawatt power plant in my district. We call it the South Bay Power Plant. It is operated by the Duke Energy Corporation. It looks like in the last year, Mr. Speaker, Duke Energy has made close to $800 million off that plant while 65 percent of the businesses in our area face bankruptcy. They paid for the operation of that plant in 3 months for what they thought would take 5 years or more to pay off.

Now recently, five former employees of Duke Energy, five former employees of the South Bay Energy Plant, testified under oath, testified with 100 years of experience in that plant, Mr. Speaker, and what they said should be taken very seriously by anybody studying this crisis. They said that the generators were turned up and down not because of the need of the people of San Diego or of California but because of the price at a given moment that the market was bringing. In fact, a 250 megawatt generator was turned off at a time when we had blackouts in San Diego, at a time when people were sent home from their jobs and not getting paychecks, at a time when there were near-fatalities at a traffic intersection because the lights were off, at a time when elevators had people stuck in them. Yet the biggest generator in our county was turned off.

These employees further said that they were told to throw away spare parts so maintenance would take a lot longer, supply could be withheld and the prices increased. They talked about how the trading floor where the prices were set for electricity was in direct contact with the generating floor; and so the generators were ramped up and down, as I said, not by the need of California or of San Diego, but by the price that could be gotten. So Duke Energy has stolen $800 million from the citizens of San Diego and of California. They have charged up to $4,000 a megawatt hour for something that cost $30 only a year ago. That, Mr. Speaker, is not the free enterprise system at work; that is stealing from people who could not afford the cost.

Now, to add insult to injury, Mr. Speaker, that theft took place from a power plant which the citizens of San Diego own. Yes, Mr. Speaker, we own that plant through the San Diego Unified Port District, a public agency; and that public agency, at very, very good terms for the lessee, leased the plant to this Duke Energy Corporation to operate, as the lease says, in the public interest. Well, that lease has not been operated in the public interest. That lease has allowed Duke Energy Corporation to steal hundreds of millions of dollars from the people of San Diego.

Mr. Speaker, since the public owns the South Bay Power Plant, I call upon the San Diego Unified Port District to take back that plant and to operate the lease in the public interest.

IN MEMORY OF SANDY POLICE CHIEF SAM DAWSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MATHESON) is recognized for 5 minutes.

Mr. MATHESON. Mr. Speaker, it is with great sadness that I come before the House today to memorialize the death of Police Chief Sam Dawson of Sandy, Utah. Chief Dawson, who served faithfully for 7 years as the head of the police department of Utah's fourth largest city, passed away July 2, 2001, doing what he loved best, riding his Harley-Davidson motorcycle.

Chief Dawson lived up to the sign he had on his desk that said, "Lead, follow, or get out of the way." Chief Dawson was a leader for 30 years in Utah law enforcement. He started as a Salt Lake County sheriff's deputy in 1971. He became the chief police investigator for the Salt Lake county attorney's office after that and became the head of Sandy City's police department in 1994.

Chief Dawson was an outspoken leader in his field. In the year 2000 he spearheaded a project to produce and distribute a video called "Your Kid May Have a Secret," which describes the growing problem of methamphetamine use in Utah communities. Keeping true to his style, Chief Dawson sent a copy to every county sheriff and every city police chief, asking them to freely distribute the video throughout the State.

Chief Dawson was also a leader among his peers. He led an effort to increase the size of the Sandy Police Department while at the same time increasing officer pay. He succeeded at both, increasing his department by 30 officers during his tenure and significantly increasing the wages of those who worked for him.

In closing, Mr. Speaker, I end with the words of Lieutenant Kevin Thacker of the Sandy Police Department. He said, "Sam Dawson will be greatly missed by all who knew him. He will always be remembered for his leadership abilities and dedication to the community. His death leaves a void in the police department."

Mr. Speaker, I would encourage the Members of the House of Representatives to join me in heartfelt appreciation for the service this great man provided my community. I would also like to ask the House to join me in extending our deepest condolences to the wife of Chief Dawson, Bridgett Dawson, and her three children, Sam Jr., Chris, and Angela.

POSTAL BOARD OF GOVERNORS DECISION REGARDING 6-DAY MAIL DELIVERY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, earlier today Mr. Robert Rider, chairman of the Postal Board of Governors, released a statement indicating that 6-day mail delivery would continue without any further study. The Postal Board of Governors had commissioned a study on April 3 to study cost savings associated with reducing delivery service to 5 days.

In response to the idea of cutting mail delivery to 5 days, I, along with the gentleman from New York (Mr. MCHUGH), the gentleman from California (Mr. WAXMAN), and the gentleman from Indiana (Mr. BURTON), introduced H. Res. 154, a bill to preserve 6-day mail delivery.

□ 1900

The bill we introduced enjoys wide bipartisan support and has more than 55 cosponsors. This bill is the companion to Senate Resolution 71 introduced by Senator HARKIN. I applaud the Postal Board of Governors' decision today to continue 6-day mail delivery. This decision means that businesses, advertisers, and others who want to reach citizens on Saturday will be able to do so.

In addition, citizens who receive paychecks, Social Security, food coupons, and other important mail will not see an interruption in their basic service. Also, it means that postal workers and letter carriers will win because cutting mail delivery to 5 days could have led to mail piling up, delivery delays, and other problems.

I commend the leadership and efforts of Moe Biller, and the American Postal Workers Union; Vincent Sombrotto; George Gould and the Letter Carriers; Kevin Richardson and the Printers; Jerry Cerasale and the Direct Marketing Association; and all of those who worked to preserve 6-day mail delivery.

Truly, Mr. Speaker, the Postal Service is an important entity in all of our communities. As chair of the Postal Caucus, I look forward to the continued focus on the U.S. Postal Service and assuring its viability not only today but into the future.

Mr. Speaker, knowing that the agriculture appropriations bill is going to be on the floor tomorrow, let me just take a moment and remind us that the sugar subsidy program is keeping prices extraordinarily high and is driving candy makers and food processors out of my community and out of many other communities throughout the country because they end up paying an enormously high price for sugar, which is the main ingredient used in their product. As a matter of fact, Brach's Candy Company, located in the heart of the community where I live, just announced that they are going to move their plant to Argentina. Fifteen hundred jobs, 1,500 people, will be out of work. So as we look at agriculture appropriations and rewrite our agricultural policy, let us be reminded that the sugar subsidies are bad for my community, bad for the City of Chicago, bad for the food processors and candy makers and bad for America.

PEOPLE WITH DISABILITIES CAN SERVE IN HOUSE OF REPRESENTATIVES OR ANY FIELD OF ENDEAVOR WITH JUST MINOR CHANGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

Mr. LANGEVIN. Mr. Speaker, just a few weeks ago, I was up here speaking as the proud sponsor of a resolution honoring Erik Weihenmayer, a young man who inspires not only people with disabilities but all of us struggling to overcome our own obstacles and challenges. As the first blind person to summit Mount Everest, he illustrates the immense power of the human spirit. However, while it is important to pay homage to such remarkable people, I believe it is equally important that we honor those who make such special achievements possible.

Tonight I would like to pay tribute to the gentleman from Illinois (Speaker HASTERT); the gentleman from Missouri (Mr. GEPHARDT), the minority leader; the gentleman from Ohio (Mr. NEY); and the gentleman from Maryland (Mr. HOYER), the ranking member of the Committee on House Administration; the gentleman from Rhode Island (Mr. KENNEDY); the Committee on Armed Services and the Committee on Small Business and all their dedicated staff, as well as those who manage the floor activity on a daily basis. They have all provided tremendous support to me as a freshman Member of the United States Congress.

My experience illustrates the compassionate understanding one can receive from his colleagues and employers once they are aware of his or her needs. I have been overwhelmed by just how considerate and flexible my colleagues have been in ensuring that I can work effectively in Congress.

When I dreamed of running for this office, I was not sure how accessible the congressional buildings would be, but from the moment I was elected in November of last year, the hardworking engineers, architects, design managers, and my fellow Members of Congress made it clear that they would do whatever was necessary to make my office, the committees on which I serve, and the House floor accessible. One of the products of this generous response to my needs, in fact, is the lectern and microphone that I am using right now. It took months to design and build this remarkable podium which can be easily raised and lowered and is truly a work of art.

I gratefully recognize all the time and resources that were dedicated to making this lectern, to installing additional voting machines on the floor, and placing ramps in my committee rooms and providing accessible office space. What everyone involved in this process may not realize, however, is that beyond enabling me to better serve my constituents, they have also opened the doors for people with disabilities to serve in this Chamber in the future.

As I have said many times before, I may be the first quadriplegic elected to the United States Congress but most certainly I will not be the last. The invaluable message that has been delivered in making this Chamber accessible is that any one of the nearly 53 million people with disabilities in this country can become a Member of the United States Congress or can serve in any other field of endeavor with just minor changes.

Mr. Speaker, people with disabilities are an integral but underutilized part of our workforce. With minor accommodations they can become an even more important part of our society and be involved in strengthening America's communities, businesses, and government. That is why I am so thankful to President Bush, who has highlighted the need to make workplaces, housing, education, technology, and our society in general, more accessible to all Americans. The President's new Freedom Initiative is an important proposal which calls for funding of a broad range of programs that together can help create countless new opportunities for many Americans who continually face unnecessary obstacles because of their disabilities.

Mr. Speaker, I am eager to work with President Bush to make this new Freedom Initiative a reality. To this end, I recently sent a letter co-signed by 23 of my colleagues to the House appropriators seeking their support in providing funds for the President's proposals. This is an issue on which we can all come together regardless of party background and help open doors for millions of people who are eager to conquer new challenges.

Mr. Speaker, once again, I extend my heartfelt thanks to the dozens of people who have made my tenure in Congress possible. Ensuring that some day every workplace in America will be able to respond to the special needs of employees in the same way is one of my top priorities in Congress. When that happens, we will all benefit from the remarkable talents and contributions of the millions of Americans with disabilities who are eager to pursue their dreams just as I have.

TRIBUTE TO BIRDIE KYLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. RAHALL) is recognized for 5 minutes.

Mr. RAHALL. Mr. Speaker, in the rush to greatness upon which many of us embark in this city, in the heat of the TV camera lights, in the chaos of clashing interests, it is important that we pause and take stock of those who brought us here, keep us here, and help make us. So this evening I thank and I pay respect to my long-time legislative director Birdie Kyle who passed away over our recent work period.

Birdie once wrote, "I am a native West Virginian born in Fayette County at MacDunn but raised up on Cabin Creek in the coalfields. I was born in a one-room abandoned boxcar. When I was little, my older sister tormented me when she felt like it by calling me 'Old Boxcar Bill.' I do not remember which made me the madder, being reminded that I was born in a boxcar or being called Bill when I was a girl. Probably both."

That was Birdie Kyle writing for West Virginia's Goldenseal Magazine in 1980.

Well, Boxcar Bill traveled far from her humble beginnings, but she never lost sight of the hills of home or the people there.

Birdie Kyle, a true coal miner's daughter, a native West Virginian in every sense, served West Virginia and our Nation in the Congress for more than 3 decades. Birdie served with me since 1989, and I appreciate deeply her loyalty and dedication. Before that, she spent most of her career with the late Senator Jennings Randolph.

Her mainstay of work for the Senator and for me was education. For Birdie, education was not a part of one's life. It was life itself. Teachers captivated her. Students compelled her.

Books were with her always, from her earliest moments to her latest nights. If books were her backbone, words were her blood. She was the mother of wordsmiths and, boy, could she make me sound good.

Birdie's letters, more often than not, prompted replies, and I got more kudos from her letters than anything.

Her list of legislative responsibilities in my office over the years reads like a record of the republic itself: Education to health care, the Postal Service to the Middle East. As one person who called to express their sympathy said, "She knew everything and everybody."

How true. She could converse on every subject, but that was not her most unique attribute. She did not care if one was king or commoner. She was going to sway you to her belief before you left the building, and most of the time she did.

Will there ever be another Birdie Kyle? No. Can one person fill her shoes? No.

Birdie was, in addition, the poet laureate of the office. Each Christmas and on my birthday she composed wonderful verses that not only made me feel special but it was so wonderful I started believing it.

She gave me my voice on many issues, issues of life and death, on wealth and poverty, on education and ignorance, health care and child care.

Her deep compassion infected us all. In a city where a lot of people can make a buck off an issue, Birdie poured her heart and soul into those issues and sought nothing in return.

Her family, her mother, her sisters, her children, and grandson all meant everything to Birdie. In fact, I think she would have liked to adopt me because sometimes she thought I needed a mom in town, and she was probably right.

Each time that she came in to see me in my office to offer her advice and wisdom, she would tap lightly on my door. No one else ever did that. I knew that I was either in trouble for a vote I had cast on the floor that day contrary to her suggestions, or I was in store for a witty argument on an upcoming vote in this body.

There will be many days and many nights ahead when I will miss that tapping at my door, but I will have many years of memories, many years of good counsel and many years of friendship upon which to reflect and rely.

Washington is a city of monuments hewn of stone and sewn with mortar. We can admire these great people and we should, but Washington is also the city that spreads forth the ray of hope for our Nation and our world. Birdie Kyle spent her life igniting that hope.

I was honored to know and work with Birdie. Without her, I would not have been as good a representative nor as good a person as I am. Many of us in this body can say that about our staff.

About right now, somebody up there in heaven is getting a morning briefing from Birdie, and I am sure it is not a pretty sight with all that needs to be righted in the world. We all know that heaven is in good hands with Birdie Kyle up there at the helm.

☐ 1915

SALVATION ARMY DISCRIMINATING AGAINST GAYS AND LESBIANS

The SPEAKER pro tempore (Mr. PENCE). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I come to the floor this evening because of a shocking story that appeared on the front page of the Washington Post this morning about a secret deal between, of all people, of all organizations, the Salvation Army, to support charitable choice in exchange for the issuance of a White House regulation, OMB Circular No. A–102, that would deny assistance to States or localities that require religious charities to adhere to their nondiscrimination laws as they apply to gay men and women. Now, of course, these nondiscrimination laws have to do with the activities of these religious charities that do not relate to their religions.

A political deal should be beneath the dignity of the Salvation Army, given its long Christian heritage, not to mention the President of the United States. It is a deal to discriminate under the table.

According to the lead document, this cannot be done in the legislative process very easily, so they had to do it by regulation. Charitable choice already contains a fatal flaw, because, as put forward by the administration, it would allow a religious organization to discriminate using government money by requiring people it hires to do a government task to be of their religion. That is a direct violation of Title VI and of the Constitution of the United States.

I am a former Chair of the Equal Employment Opportunity Commission. I strongly support an exemption in the law that I administered, Title VII, which allows a religious denomination an exemption to the antidiscrimination law in hiring people of their own religion with their own money. But we cannot give the Baptists and the Lutherans and the Catholics and the Jews our money and say you can discriminate when you perform services in our name. That is already a problem with the bill.

But in order to make it perfectly clear, in case that does not survive, that at least people who are gay and lesbian should not be discriminated against, this would be done by regulation.

Mr. Speaker, why the Salvation Army would engage in this deal is really perplexing. The Salvation Army already gets $300 million in funds from the Federal Government to do their wonderful work. They get it because they abide by government regulations that say when you use government money, you cannot proselytize, you cannot engage in religion, because this is America, and this is what we have stood for, for everybody. So they already get money, just like Catholic charities and just like Lutheran charities and just like Jewish charities all get money, and they have accepted it, and I hope they will continue to get it on the basis that everybody else who does the government's work accepts it, and that is as long as we are doing the government's work, then your money is the public money, and we cannot discriminate against anybody when giving those services.

This body has already a long history of discriminating against gays and lesbians in the District of Columbia, because whenever there is anything in our law that allows equal protection for people of a different sexual orientation, then somebody hops up here and tries, and often succeeds, in overturning the law. Now we are trying to do to do what you do to the District of Columbia to hundreds of localities and States in the United States.

I hope everybody understands what it feels like to intrude in the affairs of local jurisdictions in a federalist society, a society where we say, look, different strokes for different folks. Some of us behave one way with respect to our laws, others another way. Some people have chosen to protect gay men and lesbians against discrimination, and I say God bless them. In the 21st century we should not be discriminating against any Americans based on a characteristic that has nothing to do with performance. Sexual orientation has nothing to do with performance, and the last people, the last organizations who should be engaged in such discrimination are organizations that go by the name "Christian," and the Salvation Army should be ashamed of itself that it has been caught red-handed on the front page of the Washington Post in the column where you put war and peace. Thank God that they were exposed.

NATURAL RESOURCES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. McINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. McINNIS. Mr. Speaker, I am a little surprised by the previous speaker and her unrelenting attack against the Salvation Army. She apparently got the merits for this attack from one newspaper article. I have heard the gentlewoman previously speak from here. I think she is well-educated. She comes generally with numerous sources when she speaks. That is why I am very surprised that she takes one newspaper article and launches an attack against the Salvation Army, which I would like to say to the gentlewoman has helped millions and millions of people throughout the history of this country. I think such an attack is unfounded, and I think you should hear the other side of the story.

I would advise the gentlewoman from the District of Columbia to immediately go to a TV, turn on CNN on the half-hour, or some other broadcast, and she will find that the other side of the story has come out. In fact, I just spent some time, I was not looking for the story, I was grabbing a snack and watching the other side of the story being played out, and once the gentlewoman sees that, she will moderate the comments against the Salvation Army.

I do not disagree with her point, I want to make this clear to the gentlewoman. I do not think any kind of secret deal should be made. But I do not think the Salvation Army went out and made a secret deal to discriminate against people, contrary to the laws of the United States. And I think that in all fairness to the Salvation Army, as well as the President of the United States, that both sides of the story should be read, both sides of the story should be analyzed, and then the concluding remarks that the gentlewoman has could then be made on the House floor.

Now, that is not the purpose of my comments this evening. My real focus this evening is on natural resources. But before we go to natural resources, I want to spend a couple of moments also on the comments of another speaker.

Unfortunately, as my colleagues know, we have one speaker at a time. We only have one speaker at a time that gets the opportunity up here. So I have heard some of these, and I heard another attack regarding the energy situation in the State of California. So I want to reiterate a couple of points that I think are important for the energy situation that we have in California.

Remember that the energy crisis that exists in California does not exist in 50 States. In fact, in 49 of the 50 States, they are not having the kind of problems that California is having. In other words, the problems in California are as a result of a combination of a number of different factors that have come into play, not the least of which is that the State of California has refused to help itself, has refused to help itself, by allowing power plants to be built over the last 10 years, by allowing natural gas transmission lines to go into their State, by allowing electrical transmission lines to go into their State.

California has paid a very dear price. Of all 50 States out there, of all 50 States, California has been the lead State opposing any kind of energy transmission in their State, opposing power plants. They are the ones where the old saying, "Not in my backyard," it is out of that State that that came.

So I do not think a speaker, I do not think one should stand up here and make California look like some poor innocent victim in the Western United States who somehow is picked out of 50 States and is the only State in the kind of crisis they are in, and then have one stand up here and accuse the power companies of theft. I do not know whether there has been theft or not, but let me tell you, the problem is much broader than a power company like Duke Energy.

The problem that you have got out there is you have to face a couple realities. Number one, conservation is absolutely critical, and it is going to be a critical component about how California, and, frankly, the rest of the Nation, can avoid getting into the same spot that California got into by adopting some pretty simple methods of conservation.

Conservation does not mean you have to suffer in your life-style. There are a lot of very simple things that you can do in your life-style that do not give you a negative impact, that do not serve as an inconvenience for you. Just think of them: Shut the lights off when you leave the room; make sure your fan is turning in a clockwise fashion in the summer; make sure you change your oil when the owner's manual tells you to change the oil on your car, instead of being marketed into changing your oil every 3,000 miles by the quick-lubes. There are a lot of things we can consider. Conservation is very critical for California.

The second thing that is very critical for California is you have got to get over that habit, I guess you would say, or almost an idealism that you have locked into, and that is "not in my backyard." In other words, let the other 49 States build the power plants, let the other 49 States worry about electrical transmission lines, let the other 49 States worry about natural gas exploration and oil exploration, et cetera, et cetera. You cannot do that, California. California, you are going to have to help yourself. You are going to have to help pull yourself up by the bootstraps.

Now, let me say, I am a fan of California. I like the State of California, and California is a State. We have 50 States. We are unified like brothers and sisters. We should not abandon California. I do not think we should stand up here and bash California.

But we need to be frank with each other. California, quit pointing the finger at everybody else. California, quit saying it is everybody else's fault. You know what you need to do is help pull yourself up by your own bootstraps. And we should help, too. I do not think California should be left to die on the vine out there, so to speak.

California, after all, if it were a country, it would be the seventh most powerful country in the world. It is huge in economics for this country, and every State of the Union is dependent upon good economic health in the State of California. But I think it is grossly unfair for any of my colleagues to stand up here and make it sound like it is everybody's fault but California's, and that everybody ought to pitch in but California, and that California has been abused here and California has been abused there.

There are a lot of good minds in California, and a lot of those people will say, you know, we have to have conservation, number one; and, number two, we have got to have power plants.

The fact is we need electricity in our everyday lives. We need oil. We need gas. We need it in a balanced fashion. And, to California's credit, although in many cases they may have gone overboard, in many cases California has been the leading State in demanding that the energy production be clean production, in demanding that we have higher efficiencies, and, to California's credit, just here in the last month or 2 months, California is responding to conservation. My understanding is their conservation has resulted in about a 10 percent decrease in the demand for energy that that State is having.

So, the only reason I am making my comments, which are a little off the subject of which I wanted to talk about this evening, water, although when we talk about water, we are going to talk about energy and the renewable energy of water and its resource, my purpose in commenting is I just think somebody has to stand up here when some of my colleagues take this microphone and talk about "poor old California" and how it is everybody else's fault.

You know, California, what you try to do, I will tell you what got California in this mess. They had a new theory of deregulation, and they went out to the customers in California and said, we will keep your price the same, no matter what happens out here in the market. We will buy on the spot market, and, regardless of what happens, the average will always allow us, even though it goes up and down, the average line in there will always allow you to be sold power at the same price. Something for nothing. That is exactly what they promised, something for nothing.

For a little while it worked. Forty-nine other States did not adopt that policy. Forty-nine other States did not think they could get something for nothing. Forty-nine other States allowed power production to be built in their State. Forty-nine other States allowed electrical transmission lines. Forty-nine other States allowed natural gas transmission lines. But California thought they discovered something new, and that is by denial, by guaranteeing flat rates, and by shoving the obligations on the other 49 States, they thought they could sail through this, and they have not been able to.

Now, what is happening out there, I think that the Governor finally, I notice a couple of weeks ago he went over and cut the ribbon for a new power generation facility. Finally they are going to allow some generation to be built in that State. Finally this "not in my own backyard" is going to be adjusted, not eliminated, because I do not think it should be put in every backyard, but it is going to be adjusted, and California is going to get back on its feet.

I do not think California is in for the kind of crisis that some people on this floor think it is going to be in for. It has been a good lesson not just for the State of California, but a good lesson for all 50 States, that, look, we need to plan for our future. We have an obligation to have some kind of vision into the future, to talk about what the energy needs are not only of today's generation, but what we can do for energy for tomorrow's generation, and that means serious discussions on alternative energy, although, as you know right now, do not be led down the path that alternative energy today is the answer.

If you took all the alternative energy in the world, all of the alternative energy in the world, and devoted every bit of it to the United States, it only supplies 3 percent of our needs.

□ 1930

So do not exaggerate what alternative energy can do for us today. But we should focus on what alternative energy can do for us tomorrow. All 50 States should do this. What happened in California was a warning shot to the entire Nation, and that is, we need to have an energy policy. That is exactly what has been missing here in the last few years. During the Clinton administration we had zero energy policy.

I am very interested, by the way, to read the newspapers. I cannot find a newspaper, and maybe there is one out there, maybe the Wall Street Journal, but I cannot find much coverage or any kind of criticism of the Clinton administration for not having an energy policy for the last 8 years. But we can pick up any newspaper on a daily basis and see criticism against the current administration because they are trying to develop an energy policy.

We need to put all of these things on the table. We need to discuss and debate and analyze exactly what it is that we have put on that table. We need to add things or take things off. But in the end we need a product that is called an energy policy that will allow us and instill upon us a vision for the future of this country, that will allow us to avoid the very kind of crisis that California got into, that will allow us less dependency on foreign oil.

But we will not get that without some type of policy, and we will not come to that policy without some kind of debate. But instead, they are criticizing the debate; instead they are criticizing the administration in trying to put an energy policy together to put some ideas on the table and let us have discussions on this floor. Do not continually, colleagues, come to this floor and criticize. Everybody is to blame for California. Do not come to this floor, colleagues, and try and let all of us believe that the answer to this, the sole answer to this, is alternative energy or more conservation. All of those factors have to come together for the answer that we need.

As much as you want to deny it, the fact is we are going to have to have more electrical generations. I think we are going to be responsive to that. In fact, in the rest of the Nation, in the other 49 States we are going to have a number of States that will have an electrical glut in about a year. Part of the problem is we do not have the electrical transmission lines to move that electricity. But my point is this, and that is that it is unfair for my good colleague from the State of California to speak at this microphone and act as if California's problems belong to the energy companies in the other 49 States. This was a problem that was brought upon themselves. It is a problem that all of us should help them get out of, but they have got to lead. They have got to have a little self-help. They have got to pull themselves up by their own bootstraps. And for the rest of us, colleagues, we have to sit down and work with the administration and come up with an energy policy that gives us vision for the future.

Let me move from that subject to another subject. A subject that is near and dear to my heart. It is going to be a boring subject to my colleagues. I know that many of you will probably find yourself snoring or not find this of particular interest, because it is about water.

Water is one of the most wonderful things of our life. It is one of the more wonderful creations of God, if one believes in God, which I do. It is something that obviously we all know sustains life. It sustains a number of different factors in life.

Water is pretty boring. Why? Because we have been blessed in most cases with plenty of water. As long as water runs out of the faucet, as long as the toilet flushes, as long as there is drinking water out of the sink it is not such a big issue. It is when it stops that all of the sudden it becomes a big issue.

Just the same as energy, I think we need to have a vision for water in the future. Frankly, we have had from the generations and generations of people that have preceded us, we have seen vision for water. We have seen different types of utilizations of water and different planning for water for future generations. But in order for us to continue that kind of vision, we need to understand what water is about and what it has that is so valuable to our everyday lives.

So I thought I would start out and visit just a little about the importance of our water.

Let me say, first of all, in the State capital, my district is obviously in Colorado, my district is the highest district in the Nation, so I am at the highest elevation in the Nation. Up in my district, it snows year-round up on top of those mountain peaks. It is cold up there. It gets high. That is where a lot of this Nation's water comes from, are off the mountain peaks in my congressional district. So I think I know a little about water.

In our State capitol of the State of Colorado, if any of my colleagues ever have an opportunity to go visit, go take a look at it. It is a beautiful building to start off with, but it has a number of different murals throughout the capitol building. Do you know what you see in every mural in the State capitol building in Colorado? Somewhere in that mural, you will see water, because water is the lifeblood in the West. Water is the lifeblood everywhere; but in the West, we are in a unique part of this Nation. There is a distinct difference between the eastern United States and the western United States.

Mr. Speaker, one-half of the Nation is blessed with a lot of water. In fact, in the eastern United States, you see lawsuits or disagreements about: hey, put that water on my neighbor's land. I do not want that water. In the West, the suits are just the opposite. In the West, there are range wars fought, not only over sheep and cattle, but over water. They say water out there in the West does run like blood, and it is fought over with blood, and that it is as valuable as blood. That is the importance of water in the West; and there is a distinction, as I said.

But in the State capitol there in Colorado, there is this language: "Here is a land where life is written in Water. The West is where the Water was and is Father and Son of old Mother and Daughter following Rivers up immensities of Range and Desert, thirsting the Sundown ever crossing a hill to climb a hill still Drier, naming tonight a City by some River a different Name from last night's camping Fire. Look to the Green within the Mountain cup; Look to the Prairie parched for Water lack; Look to the Sun that pulls the Oceans up; Look to the Cloud that gives the oceans back. Look to your Heart and may your Wisdom grow to power of Lightning and to peace of Snow." That is Thomas Hornsby Ferril.

That is a saying in our capitol. That is why water is so critical.

Let us look over a few statistics that are important. First of all, the interesting thing that I found about water, if we look at all of the water in the world, all of the water in the world, 97 percent of the water is the salt water; 97 percent. So only 3 percent of the water we have in the world is drinking-type of water, is nonsalt water, is clear water. And of the remaining 3 percent, if we took 75 percent of that 3 percent, that is all tied up in the ice caps up in the polar ice caps. So when we take a look at the amount of water worldwide, without the technological advances that perhaps the future will bring us for salinity and desalinization, we find that there is not really a large amount of water that we can use out of that big pot of water out there.

When we take a look at our country, we can see that stream flow in the United States; and as I said earlier, there is a difference between the eastern United States and the western United States, but 73 percent of the stream flow in the United States is in the eastern United States. It is not in the western United States. So we have 73 percent in the East, and then in the Pacific Northwest we have another 12 percent, and then the rest of the West, which makes up over half of the Nation. Remember, the West is vast in quantity of land. If we take the West, minus the Pacific Northwest, which consists of more than half of the Nation, we have 14 percent of the Nation's water. So in other words, more than half of the Nation has 14 percent of the water to provide life. That is pretty amazing.

So we should understand that it is important that our water does not come on a consistent basis and it does not come in the same amount of quantity every year, year after year. In fact, day after day, the quantity of water that we have varies in the West, and it is not at all consistent. Some years we have great snowfall; but it gets too warm in the spring too early, and it runs off before we can use it. Some winters we do not get great snowfall, so we have drought. In much of the West right now we are facing drought conditions.

The critical issue to remember about the West when we talk about water is that in the West, we have to store our water. We are going to talk about the mighty Colorado River. The State of Colorado is called the "Mother State of Rivers," and we will go into that. It has four major rivers that come out of Colorado. In fact, the Colorado River out of the State of Colorado provides drinking water for 25 million people, 25 million people. So my good friends in Phoenix or Las Vegas or Tucson, you are totally dependent upon the Colorado River. In Los Angeles, you are almost totally dependent on the Colorado River.

The thing to keep in mind is that in the West, since we do not have consistent rainfall, we have very low rainfall. In fact, in the State of Colorado, we get about 16 inches a year, 16 inches a year. In some of the communities here, they get 2, 3, 4, 5, 6, 18 inches in a heavy rain storm in a day, and that is pretty remarkable. So in the West, we have to be able to store our water, because when we do have a lot of water, we do have a lot of water during one period of time generally, and that is called spring runoff. When the high snows come into the mountains in the wintertime and it accumulates and accumulates and accumulates, and then in the springtime, when the flowers start to pop up, everything starts to green, the snow starts to melt, and very rapidly, and for about 30 to 90 days, for about 30 to 90 days, really probably 30 to 60 days, we have all the water we need in the West. It is called the spring runoff. We have all the water we need. But the problem is, for the balance of the year, we do not. That is in part one of the reasons we need to store our water in the West, why we need to have dams in the West.

Now, in the East there are some radical environmental organizations, Earth First and some of the groups like that. Frankly, the national Sierra Club, which has never supported a water storage project in the history of that organization, they would like to make people in the East believe that in the West, a dam is an abuse of the environment, that these dams are nothing but atrocious toys for construction companies. We are totally dependent in the West.

Mr. Speaker, any family or friends that we have in the West, they are totally dependent on our capability to store water. By the way, you know when the first dam was that we could find on the Colorado River? One thousand years ago. One thousand years ago the Anasazi Indians down at Mesa

Verde, Mesa Table, Verde Green, the Green Table, down in Mesa Verde we found proof that the Anasazi Indians were the first ones to come up with a dam; and they had reservoirs and they had canals, and then the Indian tribe, the Anasazis went extinct. We think the reason they went extinct was because they did not have enough runoff to store the water. So after hundreds of years, a period of time, the Anasazi goes out, we think the reason they became extinct was because of the lack of water.

So those are some very interesting things. Let us look very quickly here, I covered here pretty much, so I think this is the critical point here: there is only 14 percent of the total stream flow to be shared by 14 States which make up over half of the Nation's land use.

Now, let us talk, just for a moment, because I think this next chart I want to show really was stunning to me. I found it fascinating. I had no idea how much water is required in our everyday life. I am not talking about showers or using the restroom or drinking water. I am talking about water for agriculture.

□ 1945

This is about water for agriculture. I watched with some interest the fact that out in the West the Federal Government has shut down farmers because they need to protect the sucker fish. I do not know enough about the dispute to argue on either side of that, but it has been on the national news the last few days. Watch and see how critical that issue becomes. It is critical for life out there in the West.

Look at this chart. See if the Members are as interested in this as I am. Direct use of the water. This is water we would use every day. The average person uses two gallons to drink and cook in, two gallons of water.

Imagine, at the grocery store, we all have an idea what a gallon of milk jug looks like. Two of those are necessary just for the drinking and cooking. For flushing the toilet for one's own personal use, we need about five to seven of those gallons of water.

We have the grocery cart. We have two gallons for drinking and cooking. Now we have to put six, between five and seven, so say six more gallons for the use of the toilet. If we do wash that day we will have to put 20 more gallons into the shopping cart.

Now it is time for a second shopping cart. If we use the dishwasher that day, we will need 25 more gallons into that shopping cart. Then, if we take a shower because we sweated so much from putting all of that water into the shopping carts, it is another nine gallons.

Now take a look at what growing food takes, because growing food is what uses the most water. But what is the most beautiful aspect of water? What is the key ingredient of water? It is a renewable resource. One person's waste is another person's water.

I remember years ago in Colorado when they came out and said that what we need to do, they demand that we go and lay concrete in all the ditches; line the ditches, because that water seeping into the ground is a huge waste of water.

Do Members know what happens when we line a ditch and stop the seepage of the water within that ditch? We may be drying up a spring of somebody 3 miles away. Unfortunately, Mr. Speaker, we do not have the technology today to look underneath the Earth and see where every little vein of water goes and how it connects.

The generations that will follow us will find it fascinating, because they will have the technological apparatus to take a look and say, gosh, this ditch provides for this spring, which is 10 miles away, and this aquifer, which has been under the ground for thousands of years, it provides a stream to this aquifer which connects over here and pops up in a spring somewhere. Those are the kinds of things that this future generation will be able to see that we cannot see today.

But what we do know today is that water is, number one, renewable. It is not like gasoline, where we use a gallon of gasoline and it is gone forever. It is not like natural gas, where we turn on the heater and bring the natural gas through. It is gone forever. It is not like nuclear with uranium, it is gone. Water is renewable, and that is why it is so important.

Take a look. Most of the use of water is in agriculture. Now, it is interesting to me. In fact, I had the privilege, really the privilege, of being up in Jackson Hole, Wyoming. I happen to think I have the prettiest district in the Nation. I have resorts, Aspen, Durango, I have all the Rockies, almost all the mountains in Colorado, but Jackson Hole comes pretty close.

I was up in Jackson Hole. It was just beautiful, gorgeous. Of course, there is the national park, Yellowstone, the Teton National Park. I would love to discuss, and I intend to one of these nights soon, talk about the national parks and how important the national parks are for our Nation, and how many millions of people enjoy our national parks every year.

But what was interesting is that we were looking out at Jackson Lake, which is north of Jackson Hole. As we were looking out there, they have a dam on Jackson Lake. That is what created the lake was the dam. I was listening. Somebody said, "Well, the unfortunate thing about this dam is that the Idaho farmers, the Idaho farmers get the top 36 feet. They get the first 36 feet of storage. It is let out into the Snake River and it goes to the farmers in Idaho. That is really bad."

I thought, bad? This person is probably going to eat a potato for lunch. This person was probably going to eat lots of agricultural products during her day that were provided by water. Agriculture is not a bad thing, but we have to make the connection. We could not have a lot of agriculture in the West if we did not have the water storage to provide for it.

In fact, what we would do is have very, very little agriculture in the West, very little way to sustain life in the West. The same thing with the Anasazi 1,000 years ago. When they ran out of the capability to have water for storage, the storage would not hold enough for them, they became extinct. That is why water is so important. That is why, when we look at a dam, we should look at what all it provides.

Take a look at agriculture. This is amazing. One loaf of bread, I will bet Members did not know this, one loaf of bread, from the time we cultivate the soil to raise the wheat and to be able to process the wheat, to be able to turn it into a loaf of bread, we will have gone through 150 gallons of water, 150 gallons of water. That is what is necessary to have the final product of one loaf of bread.

One egg, this is almost unbelievable, 120 gallons for one egg. We have to raise the chicken, give the chicken water, the chicken has to have the water on a regular basis, the egg has to be cleaned and processed, there is water within the egg, et cetera, et cetera. It is 120 gallons.

To produce one quart of milk, we have to have 223 gallons of water; for one quart of milk, one quart, 223 gallons; for a pound of tomatoes, 125 gallons; a pound of oranges, 47 gallons; a pound of potatoes, 23 gallons.

So here is what happens, just so we have a comparison here. If we put 50 glasses of water, 50 of these glasses of water out, of these, how were they used? Forty-four glasses of that would be used for agriculture, for our food products, 44 of those 50 glasses. Three glasses would be used by industry, two glasses would be used by cities, and half a glass would be used in the country for rural areas. Water is critical. Mr. Speaker, this gives us somewhat of an idea of just how important it is for all of us in our everyday life.

Let me focus us back, Mr. Speaker, to the State of Colorado, because Colorado is a very unique State. As I said, it is the highest point in the Nation. It is also the only State in the Nation out of 50 States whereupon all of its water runs out. It has no incoming water for its use that comes into the State of Colorado. It all goes out. This gives an idea of the quantity of water that goes out of Colorado, the average annual outflow of major rivers through 1985.

Now, this chart is old, so these numbers are off a little, but they are not off by a lot. They are still pretty close. These are acre feet. An acre foot is how much water it would take to put one foot of water on an acre of land for 1 year, 4,540,000 acre feet right out of the Colorado River.

Up here off the Yampa River in the green, 1,576,000. Every point that we see here, here is the South Platte that goes into Nebraska, almost 400,000 acre feet of water. Down here on the Arkansas River, 133,000 acre feet. Over here on the Animas River, 700,000 acre feet. Here, of course, is the mighty Colorado.

This chart right here, Mr. Speaker, gives us an idea of the State of Colorado, which is a critical State for the West. Of all of the States in the West, I cannot think of any State that is more important for the water supply of the West. Remember, this is not just water for agriculture but it is water for hydropower, hydroelectric, whether Lake Mead or Lake Powell, Glen Canyon or the Hoover Dam, water for recreation, et cetera. Here Colorado is the key State because of its high elevation, because of its snowfall, which provides the flow of water.

Colorado is really divided here into four major water basins: the Missouri; here we have the South Platte River; the Arkansas, we have the Arkansas River that goes through here. We also have down in here the Rio Grande, the Rio Grande River, which goes down near Alamosa, Colorado. Here on the Western side of the State we have the mighty Colorado River.

Remember that, regarding the rivers in the West, as well as in the East, in the old days we used to have to live close to the rivers, but as man has evolved with technology, we can live further and further away from the rivers. So while the Colorado River, of which 70 percent of the water within that river basin is provided by the State of Colorado, and by the way, the Colorado River is one of the longest rivers in the Nation, but because of the technology, that water is moved.

For example, in Colorado it is moved from the western part of the State, my district, which has 80 percent of the water resources. There is a good quantity of water that is moved from our part of the State to the eastern part of the State, which has 80 percent of the population.

It is the same thing in Arizona. We have the Central Arizona Water Project, where we move water away from the basin into the cities, like Phoenix and Tucson or Los Angeles. We have the water project down in Los Angeles. So we move water from these basins. We have to have the capability to divert.

This real quickly just gives us an idea. I mentioned that the Colorado River is one of the longest rivers in the Nation. This gives us an idea.

Now, out here we have the Gulf of California, but in actuality most of the water that is left, when it enters Mexico near Baja, it is used by the country of Mexico.

It is interesting that when the Colorado River was first divided up, they figured there were about 15 million acre feet of water a year that came down the Colorado River, 15 million acre feet. So they divided it, and in about 1922 they had what they called the Colorado River Compact. That is a very important compact for the West, and probably of all the water compacts in the West, that is the most critical. It divided what we called the Upper Basin States and the Lower Basin States. The Upper Basin got 7½ million acre feet, and the Lower Basin got 7½ million acre feet of water every year.

But unfortunately, when those calculations were made, they were made when we had a very unusual year. We had the highest flow in any number of years. They were recorded at the highest record of flow. So in fact, we really do not produce 15 million acre feet of water on an average year out of the Colorado, which means that a lot of the Colorado River water is overappropriated.

Now, on top of the 15 million acre feet, here is an interesting story for us. In World War II, the United States was concerned, as was the country of Mexico, that the Japanese would try and invade the United States through the country of Mexico. So the Mexican authorities and the United States, the American authorities, got together. Mexico wanted the defense of their country. The Americans did not want the Japanese in Mexico, so the Americans agreed to supply reinforcements or troops to the country of Mexico to defend Mexico if the Japanese invaded.

The Mexican government, being the better negotiator of the two, said that we should want to keep the Japanese out of their country, and it is nice of us to protect them, but we ought to give them something for it, like 1½ million acre feet of the Colorado River.

So that is exactly what happened. In 1944, the United States government agreed to give the country of Mexico 1.5 million acre feet, 750,000 from the Lower Basin States, 750,000 from the Upper Basin States, of the surplus waters. Of course, there is a dispute over "surplus," which is going on between the Upper Basin States and Lower Basin States.

They are getting too technical right now, my comments, but suffice it to say that the Colorado River Compact is really the point I want to make here. That is what has taken one of the longest rivers of the Nation and has divided it between the States that benefit from it. The Colorado River supplies drinking water for about 25 million people.

One of the first people to explore, and we have all heard this name before, was John Wesley Powell. He explored. This, of course, had been discovered before by the Spanish, by the Anasazis, et cetera, et cetera, but John Wesley Powell and his party mapped and explored the Colorado River.

They used wooden boats, and Mr. Speaker, I am sure some of my colleagues have rafted in Colorado. We think we have some of the best rafting, if not the best rafting, in the Nation. It is pretty scary. Imagine before those rivers were controlled by dams, before we had flood control, imagine the kind of rafts back then. They were big wooden barges, as we would see them today. That is what he went down on.

Think of the disease and unknown territory. In fact, some of them probably still believed the Earth was flat. It was a pretty challenging thing. You died at a young age if you wanted to go out and explore the West. But John Powell and his parties did exactly that. In 1869 he described the roil and boil of the rivers that pass through the treacherous passages, like the Grand Canyon, and the hard labor of the boat crews just to keep it going.

But John Wesley Powell mapped the Colorado River, and talked in his journal, in his diaries, and explained much of what he saw in the Colorado River. The result of the Colorado River, by the way, is what has provided absolute beauty, the Grand Canyon and the canyons in Utah.

Mr. Speaker, if Members have never been out to the West, go to Colorado first, and of course spend money in the Third District, but go little further West and go into Utah and see those gorgeous canyons. Go into Arizona and see exactly what this mighty river has carved over all of these hundreds and thousands of years.

Here is a good example. The Colorado River carved many of the gorges and canyons in the Colorado plateau. Dead Horse Point State Park in eastern Utah preserves the natural state of Meander Canyon, aptly named for the fantastic twists and turns the river etched into the soft sedimentary rock of the plateau.

When Members stand from this position, where my pointer is, and they look out, these are huge canyon walls. We can see where the river is from the green that goes through, that cuts through all of this. This was all cut by the Colorado River.

□ 2000

It is a fabulous study, our history of this Nation and what it has provided for us. But it is also critical for the life-style of the people out there.

Now, my colleagues will find that there is focused attention on the West. Remember that almost all of the Nation's public lands are in the Western United States. They are not in the Eastern United States. Let me very quickly kind of give a brief history on how that occurred.

When we first settled our country, most of our population was on the eastern seaboard, and this country, this United States of America, wanted to grow. But back then, to grow, you had to buy land. And if you bought the land, the title did not mean much. If you had a deed, you had a deed that said, hey, you own the State of Colorado or you own out there in the West this chunk of land, these millions of acres, but it did not mean much. The only way that you could obtain your land after you bought it was to get out there with a six-shooter on your side and possess the land. That is where the saying came from, the old saying that "possession is nine-tenth's of the law."

That is exactly what happened that created public lands in the West and almost no public lands in the East. Why? Because our leaders in Washington, D.C. knew we needed to settle the frontier. We had gotten the Louisiana Purchase, we had gotten a number of other lands, and we needed to somehow give incentive to the population in the east to go west. "Go west, young man, go west," as the saying went. So they decided to have land grants. They decided to have the Homestead Act, where if a person went out to Kentucky, and that was west to them, Kentucky was west, or go out to Missouri and Kansas and even to eastern Colorado, 160 acres back then could provide for a family. So they gave this land to the citizens of the United States who would go out and occupy the land, or possess the land on behalf of the United States of America. And after so many years, 5 or 6 years of working that land, you would own the land.

Well, the problem was when they got to the Colorado Rockies, guess what happened? One hundred sixty acres did not even feed a cow. So they came back to Washington and said people are going west but when they hit the mountains they are going around trying to figure a way to get to the ocean side, the Pacific Ocean, but they are not staying in the mountains. How do we get them there? Somebody said maybe we should give them an equivalent amount of land. We give 160 acres in Kansas or even in eastern Colorado, let us give them what it would take, the equivalent amount of land, let us say 3,000 acres in the mountains. Somebody else said, no, no, we cannot politically do that. There is no way we could give out 3,000 acres to a particular individual and survive politically.

So somebody came up with the idea, well, let us just go ahead in the west and let us let the government go ahead and hold the title in our name, the government's name, and let the people use the land. Let us have a concept called multiple use, "a land of many uses." Let us have the West be a land of many uses. That is how we can get around that. We can get people to settle there. We will say, look, you do not get to put the land in your name, but you get to use it for yourself.

Now, in recent times, that has been misinterpreted in many cases by some of the more extreme environmental radicals in the country, who say, look, the land in the West was intended to be set aside for all future generations. While we are comfortable here in the East, they should set that land, those public lands in the West, aside. And they are doing the same kind of thing for the water.

Clearly, we have to have a balance. And thank goodness we had somebody like Theodore Roosevelt, who took a look at Yellowstone and with awe and a great deal of thought and, frankly, a great deal of brilliance put that into a national park. We have wonderful national parks on those public lands. We are pretty proud of those public lands. My district has huge amounts of public lands. But we have to be able to utilize those public lands, and it is the same thing with our rivers.

We have to have dams in the West. My point in speaking tonight is not to just have my colleagues walk out of here with some book knowledge on the topic of water, but to understand the difference between the Western United States and the Eastern United States when it comes to water and the necessity of water resources and the necessity to store water and the necessity to use hydropower.

By the way, in all of our discussions, especially of the last few months, when we have had debates and so on about the energy crisis, remember the cleanest energy producer out there is water. We do not need fuel to put water into a hydroelectric facility. All we do is take the energy of the water as it drops, turn a turbine, and we create electricity and then we can move the electricity.

My real focus here this evening in front of my colleagues, especially those from the East, is to ask you to remember that life is different in the West. Sure, we are all American citizens and we are not saying we are being picked upon but we are saying there is a difference. There is a difference between night and day. A part of it is caused by the fact that most of the public lands are in the West. They are not here in the East. It is very easy, colleagues, to put regulations on us in the West, on public lands, because those in the East feel no pain. The East does not have any public lands. Well, there are the Appalachians, and a chunk down there in the Everglades, but, in essence, when we talk about public lands in the East, we are talking about the local courthouse or the property around the courthouse.

When we talk about lands in the West, we are talking about 98 percent of some of our States, like Alaska. In my State alone, in my district alone, now get ahold of this, in my district I have over 22 million acres of public lands. And there is water on there. And that water is absolutely essential, one, for diversion, and, two, for the protection of the environment that we have. But my focus here this evening is that I hope, as my colleagues leave and that as I conclude my remarks, that everyone understands how important water is in the West; that we are arid out there in the West.

We have over half of the Nation's land in the Western United States, over half of it, and we have 14 percent of the water. That means that I think my colleagues have to approach us with a little more open mind. When we talk about water storage projects in the West, when we are trying to stop a bill, for example, backed by the national Sierra Club, that we understand their number one goal is to take down Lake Powell. Now, Lake Powell and Lake Meade, those dams provide 80 percent of the water storage for the West, yet the national Sierra Club wants to take out almost half, almost half of our water storage in the West because they do not like dams.

That is their number one goal. I am not making this up. It is in their publications. Their president's number one goal is to tear down Lake Powell, the second largest recreational, just behind Lake Mead for recreation, the second largest recreational facility in the West, despite the hydropower that it produces, the amount of water it stores for us out there. So, colleagues, when the national Sierra Club comes and talks to you and wants you to sign on to taking down Lake Powell, please, please understand that life in the West, when it comes to water, when it comes to public lands is different than back here. Listen to our side of the story before you sign on to any of these bills that take fairly dramatic steps not in your area of the Nation but in our area of the Nation.

Before you sign on as a sponsor or cosponsor, take a look at the impact it creates on us. Take a look at what it does to your colleagues; take a look at the history of the Nation. I have 25 charts here that I can walk through depicting life in the West since the Anasazi Indians and since the Spanish explorers. We can walk through the time of John Wesley Powell and about how the West has managed those resources. And with all due respect, I would venture to say that many of us in this room, many of my colleagues in the room, especially those from the East, have no idea of the kind of lifestyle that is required in the West, and the natural resources and our use of the natural resources and our conservation of the natural resources.

So, please, colleagues, do not let some of these organizations convince you that all of a sudden you are an expert in western water law. Do not let these experts or groups like the national Sierra Club convince you that you should become an expert and cosponsor a bill to take down Lake Powell, which is exactly what they want to do, or to stop the Animus La Plata water project, which was promised to the Native Americans 30 or 40 years ago. Those issues are critical for us out there. This is a Nation where the Eastern United States should understand the problems of the West and understand that the water situation here is different than our water situation back there in the West.

My whole point here tonight is to tell my colleagues that in the West, as they say, our life is written in water and water is so, so critical. It has all come together. It all comes together when we begin to understand the geographical conditions, the historical conditions, the political conditions. Then we begin to say, you know, there is another side to this story that is important for all of us to understand.

Mr. Speaker, let me wrap up this portion of my comments about water by just simply reiterating one point, and that is that there is a difference between the Eastern United States and the Western United States when it comes to natural resources. There is a difference between the Eastern United States and the Western United States when it comes to public lands. There are very few public lands in the Eastern United States. There are vast quantities of public lands in the West.

The concept of multiple use, a land of many uses, that is how I grew up. When you would enter the government lands, which we are completely surrounded in my district, I have over 100 communities, I have a district larger than the State of Florida, and every community except one is completely surrounded by public lands, and when we enter the national forest and so on, if any of my colleagues have ever been out to the national parks or public lands, it says something like, "you are now entering the White River National Forest." And there used to be a sign under that that said, "a land of many uses." A land of many uses.

Now we are seeing groups like the national Sierra Club or Earth First or more radical environmental groups coming out and saying they want to take that sign, "the land of many uses," they want to take it off and put on a sign that says "no trespassing." And it is the same thing with our water. The quickest way to drive people out of the West is to cut off their water. And it is not complicated. In the Eastern United States it would be very complicated to shut off the water. You have a lot of it. It rains all the time. In the West, all we have to do is take down a couple of dams.

Go ahead, let the national Sierra Club take down Lake Powell. You take down Lake Powell, and you will shut off a large portion of the west. You would take away life, the human population, and, by the way, a great deal of vegetation and animal population out there because we have been able to utilize that water and store that water so we can use it beyond the spring runoff. So keep in mind in the west life is written in water.

Let me use my final concluding remarks on a topic that is obviously totally unrelated, but I want to go back to my remarks at the beginning of this and that is on this energy thing. By the way, I heard some comments earlier today that we have no free market in the energy, that we need to have the government run the energy business in this country. Nothing would be worse than inviting the government into our front doors to begin running our energy companies for us. Nothing would be worse than allowing the government to intercede in the private marketplace.

Now, I am not speaking about stopping antitrust, where intercession is necessary. According to Adam Smith, and he is right, a monopoly is a dangerous tool to management. But to intercede and to actually become almost socialistic like, where we would have the government supply the power and the gasoline, and we would have the government guarantee it will all come at a reasonable price, we should not buy into this concept that the government is going to be able to give us something for nothing.

Take a look, for example, at the government's intercession in lots of other different programs. In almost every case, when the government takes over or begins to think that it can do better than the private marketplace, we end up with lots of regulation, we end up with subsidies, and we never get something for nothing. This energy is a problem that we all have to work through.

The way we work through it is we put several components together. One of those critical components is conservation. Now, not every citizen can go out and find natural gas, not every citizen is going to be able to build a transmission line out there, and not every citizen can build a generation plant, but one thing that every citizen in our Nation can do is to help conserve. And if we want to keep the government out of our lives, we only need to help conserve energy. Because the more energy that we waste, the more energy shortages we then have, the more temptation there is to have the government come in as a quick fix, as some kind of waving of the magic wand that the government is going to be able to deliver to us any kind of product at a cheaper price. The private marketplace does pretty good if we can all help.

So to conclude this portion of my remarks, let me say that I think it is incumbent upon every citizen in this country, and I speak through my colleagues, that we have to go out into our districts and encourage our constituents. Because if there is one thing that every citizen in this country can do to help alleviate the energy crisis, that exists primarily in California but is a warning shot to the rest of the Nation, it is to conserve.

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And we can all do it by simply shutting off our lights, changing our car oil when the owner's manual says it instead of when the lube market tells you to do it. I am optimistic about future energy of this country. Slowly but surely we are building an energy policy, and conservation is going to be an important part of it. You cannot conserve your way out of the situation that we are in.

Alternative energy is an important part, but do not overplay it. As I said earlier, if you took all of the alternative energy in the world and delivered it all to the United States, it would only supply 3 percent. Certainly this young generation behind us, their brilliant minds will be able to make that much, much larger because they will find ways to take energy out of water.

The first and most immediate thing we can do is come up with an energy policy as a government. We can urge our constituents to conserve. But the worst thing we can do is propose that the government put on price controls, that they take over industries, that they seize power plants and the government becomes your local electric utility. It would be the most inefficient operation in the history of our government. Do not let them do it. You cannot get something for nothing out of this government. If it is the government running it, you usually pay a higher price than if you as a community can have the private sector with checks and balances. I have spoken primarily about energy, about water.

Mr. Speaker, one last shot on water and then I am done. That is keep in mind in the East and West of this Nation, there are differences in water and differences in public lands. I would urge all of my colleagues in the East and all of their constituents in the East to please take the time before signing on a petition to take on Lake Powell or kick people off public lands, take a look at both sides of the story. If you take a look historically, politically, environmentally at both sides of the story, I think you will have a better understanding of what I have said tonight and a much deeper appreciation for our message from the West.

HIV/AIDS

The SPEAKER pro tempore (Mr. REHBERG). Under the Speaker's announced policy of January 3, 2001, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 60 minutes as the designee of the minority leader.

Mrs. CLAYTON. Mr. Speaker, oftentimes we act on perceptions rather than reality, and when we discuss HIV and AIDS, indeed that has been one based on perception. Oftentimes we have felt, those of us who live in the rural South, have felt that AIDS was an issue of the North. Those of us who lived in small towns felt it was an issue of the big cities. Heterosexual persons thought this was only an issue for gays or that it was indeed white male gays. What we are finding is that those perceptions were ill-founded, and that the disease has affected all phases of the United States, particularly the South.

HIV/AIDS is becoming more prevalent in rural areas and in the South. AIDS cases in rural areas represent only about 5 percent of all reported HIV cases in 1995. Only 5 percent. However, the pattern of HIV infection suggests that the epidemic is spreading in rural areas throughout the United States. HIV in the rural South is growing at one of the fastest rates in the Nation. The Southeast as a whole has the highest number of those infected. The southern region of the United States accounts for the largest proportion; that is, 34 percent, 34 percent of 641,886 AIDS cases. The latest figures we have is for 1997, and 54 percent of the 56,689 cases are among persons residing in rural areas.

However, according to a Boston Globe article, which I include for the RECORD, according to this article it references that in six Southern States, including my State, North Carolina, and South Carolina, Georgia, Alabama, and Mississippi as well as Louisiana, 70 percent of those with HIV are African American, and 25 percent are women, according to a Duke University study.

But more importantly, here is what it says. Both of these figures are higher than the national average, but few are saying anything about it, keeping the disease nearly invisible as it spreads. It is a deadly, silent disease. It is the silence that worries many of the AIDS activists who are fearful that as the silence continues, the government will not know that they have a problem.

The text of the article is as follows:

[From the Boston Globe, June 1, 2001]

IN THE SOUTH, DEADLY SILENCE

SHAME AND FEAR CONTRIBUTE TO RAPID SPREAD OF HIV IN RURAL AREAS

(By John Donnelly)

SCOTLAND NECK, NC.—In the short, grim history of AIDS, this rural town surrounded by cotton and tobacco fields would probably go unnoticed. The virus hasn't killed people here in great numbers, as it has in Africa, nor has it devastated a whole sector of the population, as it did to gay men in the cities of America in the 1980s.

But as observers reflect on the two decades since the first public mention of a disease that was later named Acquired Immune Deficiency Syndrome, the overarching reality is that the virus has stealthily managed to infect roughly 60 million people all over the world, including here on Roanoke Street, inside the four-room house of the Davis family, in the person of one Jeff Davis.

And that remains, largely, a secret here.

"I keep it pretty quiet," said Davis, 26, his skinny 6-foot-3 frame sprawled out over a worn-out sofa as his mother hovered nearby. "I'm not sure people would like being around people like me. If they find out I'm HIV-positive and their reaction was bad, I don't think I could take it." HIV in the rural South is growing at one of the fastest rates in the nation. The Southeast, as a whole, has the highest numbers of those infected. In six Southern states—North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Louisiana—70 percent of those with HIV are African-American and 25 percent are women, a Duke University study found. Both figures are higher than national averages.

But few say anything, keeping the disease nearly invisible as it spreads. It is this silence that worries many AIDS activists, who are fearful that as the US government grapples with the out-of-control pandemic in parts of sub-Saharan Africa, it will neglect the increasingly costly programs to treat infected citizens at home. In at least a dozen states, there are waiting lists of people infected with HIV who want to get the drugs.

At home, the Bush administration's initial position has been to put a lid on treatment funds. It has proposed no increase next year for the $1.8 billion Ryan White Care Act, which pays for AIDS cocktails for Americans not covered by Medicaid or other insurance programs. Abroad, the administration has put $200 million in additional HIV money into a newly created Global AIDS and Health Fund, a sum belittled by many advocates as a trivial response to a problem that Secretary of State Colin L. Powell calls a war without equal. "It's our responsibility as a world leader to fight AIDS at home and around the world," said Ernest C. Hopkins, director of federal affairs for the San Francisco AIDS Foundation. "Furthermore, the crime of someone in rural North Carolina not getting treatment is far more egregious than the reality of that happening in sub-Saharan Africa, where countries spend a few dollars per capita on health care. This is an incredibly resourced nation, and yet there are people here who are basically being written off."

In the past 20 years, AIDS has killed 438,795 people in America, 23 million worldwide. In the United States, an estimated 1 million people are now infected with HIV or have full-blown AIDS, but only about a third of them are receiving treatment. The federal Centers for Disease Control and Prevention estimates that another third of a million have been diagnosed but either aren't medically eligible for treatment or can't pay for it, while the remaining third don't know they are infected or refuse to be tested.

AIDS has remained largely an urban epidemic in America, but infection rates have been rising rapidly in rural areas. Interstate highways act like spigots that flush the disease deep into the back country. Sex workers set up shop along the highways. And from rural Southern towns, as elsewhere, people like Davis travel to neon-bedecked bars or strip joints located near interstate highway ramps, pay for sex, and bring the virus back home. Some, like Duke public health specialist Kathryn Whetten-Goldstein, "see echoes of Africa in HIV in the South," because of the barriers to care as well as the way the virus is increasingly transmitted through heterosexual contact. In the rural South, about 45 percent of women with HIV were infected by having sex with infected men, compared with 15 percent nationally; in Africa, as much as 80 percent of the transmission is heterosexual.

"When you think about the epidemics being similar," said CDC epidemiologist Amy Lansky, "in the rural areas, particularly in the South, there is a lot more transmission occurring through heterosexual contact than you see as a nation as a whole."

It is an outrage, in Whetten-Goldstein's thinking, because heterosexual transmission carries far less of a stigma than homosexual transmission. And yet, few talk about it, which she believes is rooted in racism.

"If the rates of heterosexual transmission were as high in middle-class white women and men as they are among African-American men and women, policymakers and power holders would be terrified and acting quickly," she said.

But Whetten-Goldstein believes the similarities between the rural South and Africa go deeper than the mode of transmission.

"There's a great stigma here attached to the disease, a sense of fatalism that it doesn't matter what they do and the great distances people have to travel to see a doctor," she said.

In both Africa and the rural South, a lack of education about how the virus is spread has allowed it to flourish. In North Carolina, for instance, state law forbids schools to teach that condoms can help prevent the spread of AIDS; teachers can only talk about abstinence.

And like many places in Africa, the stigma of living with HIV/AIDS is reinforced by attitudes of some fundamentalist Christians. Here, many fervently believe that God is punishing those with AIDS for their sins.

One woman in rural North Carolina who would be identified only as Sylvia said she travels 180 miles to see an AIDS doctor three times a month, even though there is an AIDS specialist 40 miles away. "If you go to the local doctor, everyone knows you have HIV," said Sylvia, a local PTA president and a Cub Scout den mother.

"It's a modern-day leprosy here," said Dr. Mario G. Fiorilli, the only AIDS doctor in Halifax County in northeastern North Carolina. The great differences between the United States and Africa, of course, are that antiretroviral AIDS drugs are widely available here. But availability of drugs does not always guarantee access, and flat-funding of the Ryan White Care Act would mean that many newly infected Americans will be denied drugs, advocates say.

In interviews with several dozen AIDS caseworkers and patients in rural areas of North Carolina, many said that potentially thousands of people refuse to get tested for HIV, while others fail to adhere to the daily regimen of pills for a variety of reasons, including painful side effects. "I have friends—and I don't agree with them—who are sleeping around with it," said a man who asked to be identified only as J-Ray, a now-celibate drag queen who adheres to the strict drug regimen. "They're just spreading it. That's what's going on here. You have people who are either too scared to get tested, or find they have it and basically don't care at all. They're just angry."

Like many interviewed, J-Ray did tell family members he had the disease. "My mother hugged me," he said. My father looked at me, and said, "Do you have life insurance?"

Beamon Vann's family reacted by kicking him out of the house. For 14 months, with no independent source of income, he lived in a leaky aluminum box 6 feet high and 8 feet wide behind his family's three-bedroom house, allowed in only twice a week for showers. His mother handed him meals out the back door. She gave him a metal bucket for a toilet.

"It was because of her ignorance, her faith, her feeling that the disease was God's punishment," said Vann, 41, in his new three-room home, staring at a game of solitaire, three aces showing.

Vann, who is gay, began to weep. "The first words out of my mother's mouth were, 'I told you God would get you one day for what you've been doing.'" Vann's caseworker is Terry Mardis, who is retired from the Army after 26 years in the special forces. He carried out secret missions in Vietnam, Nicaragua, and Panama. It's natural for him to use war metaphors in describing his work with AIDS patients.

"Are we making a dent? No," said Mardis, 53, who works for the Tri County Community Health Center in Newton Grove. "I doubt it very seriously. People are afraid to get tested."

On the road one day recently, in between visits to clients dozens of miles apart, Mardis said poverty often interferes with treatment. "I have one woman whose daughter takes money from her. She has Social Security, which pays her bills and her phone, barely. Then family members run up $600, $700 in phone bills," Mardis said.

"We're concerned about her" staying on her medication, he added. "You're fighting a war here—on several fronts," Mardis said. "You have families working against you. You've got communities working against you. I go and ask some businesses for donations to help those with AIDS, and they look at you like you're strange. Their idea of a crisis is the Red Cross helping you if you're burned out, not if you have AIDS."

In Halifax County, HIV case manager Kathy W. Knight has worked hard to get African-American ministers to fight the stigma of the disease. "People won't change their attitudes until it comes from the pulpit. If it doesn't come from the pulpit, it ain't the truth. If ministers think they can get it from eating at McDonald's, which is what one told us, then we're still going to have trouble here."

Few say a kind word. One who won't is Bishop Moses Williams Jr., pastor of the Love of God Church of Christ. "These diseases come upon people because they are not obeying the work of God," he said waiting in line at a Roanoke Rapids pharmacy checkout.

Jeff Davis, who believes he contracted HIV one night when he had sex with a stripper in Roanoke Rapids, just off interstate 95, is responding well to his combination of antiretroviral drugs. His weight rebounded to 164 pounds, from 142, but he is wary because his health has gone up and down before. "There was a time when Jeff was falling away to nothing," said his father, Perry Lee Davis, 68. "I felt like then just as I did when he was a small child. We all love him. How would I feel as a father if I turned my back on him because he has HIV? I would be less than a father."

Jeff Davis, sitting on his father's bed, listened to him. "I read my Bible every day," he said softly. "I'm back in church. It's made me better. I think everyone in there knows about me. But no one says anything."

Mr. Speaker, tomorrow we will be offering an amendment to make sure that sufficient food goes to those persons in Africa who are suffering from the AIDS pandemic and their children and families who are taking care of them.

But if we do not recognize here in the United States, and particularly in the South, that we have this disease, it is unlikely we will get additional funds. In fact, when we look at the budget, the Ryan White Care Act, which pays for AIDS cocktails, is maintained about where it was.

The Globe article further says that in the rural South, about 45 percent of women with HIV/AIDS are infected by having sex with infected men, again breaking one of the perceptions we have that heterosexual persons will not be subject to it. But, indeed, the infection rate is 15 percent above what it is nationally. The spread of AIDS in Africa is being spread through heterosexual transmission of the disease rather than homosexual. In fact, women and children are the ones who are most infected.

Again, one doctor in this area, and they are referencing North Carolina and referencing Halifax County, which is in my district, this doctor says, Dr. Fiorilli, the only AIDS doctor in Halifax County, "This is like a modern day leprosy, no one wants to claim or talk about it."

Mr. Speaker, the big difference between the United States and Africa are that the medications we have are more available here, but availability of drugs does not guarantee access because there are people failing to take the test to find out whether they are eligible, and then there are people who are failing to follow their prescription.

In interviews many said that potentially thousands of people refuse to get tested for HIV, and one person states she travels 180 miles to get treated twice a month when she could travel 40 miles and be treated, but everyone knows her in her area. This person is president of the PTA and very active as a leader, and so the culture of the area does not allow her to seek out medical care, and in some instances not even to tell their own family members. We have a problem in the Southeast and in those six States.

The number of new AIDS cases in the United States began to decline in the mid-1990s, but actually the rate went up in the South. While everybody else was kind of dealing with the problem and acknowledging that we had a problem, actually it went up. Particularly we find this happening in the South among black women as well as with children. It is true there are still more males than females, but the growth rate for women is extremely high in that area.

Mr. Speaker, from 1981 to 1999, 26,522 black women developed AIDS in 11 States of the former Confederacy. In Mississippi and in North Carolina, statistics show that more black women than white men have contracted HIV.

By region of the United States, AIDS incidence increased in all regions from 1994, with the most dramatic increases in the South. In 1996, however, AIDS incidence dropped in the Midwest, dropped in the West and the Northeast, and just began to level off a little bit in the South.

Now, again back to North Carolina, the HIV epidemic continues in North Carolina. Rates of infection continue to grow among adolescents and among women, with heterosexual contact as their primary mode of transmission. The minority population is disproportionately affected by the AIDS epidemic in all risk groups. The geographic distribution of cases for HIV/AIDS and bacterial STDs indicate the high correlation of STDs, which is sexually transmitted disease, and as a predictor of the risk of AIDS.

Mr. Speaker, this chart shows that persons living with HIV and AIDS, and this was as of the end of last year, the percentage by gender, 68.4 percent are male; 31.6 percent are females. And then when you begin to look at the ethnicity of it, 72.4 percent are African American or blacks; 23.9 percent are white non-Hispanic; 1.9 percent are Hispanic, and the Hispanic population is growing in our State, so that increase is in some way related to the growth. You see the proportion, that indeed it is growing.

Of the 20,525 individuals reported through December 2000, 10,329 have been reported with AIDS, including 8,189 adult adolescent males, 2,013 adult adolescent females, and 127 children.

According to figures from last year, North Carolina ranked 23rd among 50 States, including the District of Columbia, in terms of the number of AIDS cases. Most North Carolina HIV disease reports highlight the male population, African Americans 72 percent, falling within the age group between 30 and 39. Thirty and thirty-nine are our most active, productive citizens. This is the time when people are forming families and building careers. This is the time when people ought to be the most productive in their community; but at this time we are finding within the age group 30 to 39, 72 percent are African Americans.

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In the First Congressional District as well as in eastern North Carolina, including the third district, African Americans accounted for as much as 87 percent of HIV/AIDS cases that were reported in this year alone, the new cases that were reported.

The House of Representatives and the General Assembly of North Carolina recently passed under the leadership of Representative Wright a resolution declaring HIV/AIDS as a public health crisis, that we need to acknowledge that and get our community involved, get our faith-based community involved and our education system involved, because without the public recognition, we are not going to deal with that.

While only 1 percent of AIDS cases are found among teenagers aged 13 through 19, an additional 18 percent are found among those who are in their early 20s, who may have acquired the infection while they were teens because many of them had the infection, but we are now just discovering it while they are in their early 20s. Likewise, we are finding infection of teenagers is increasing. Additionally, some 26 percent are found among those who are now in their 20s, assuming they might have been infected some years earlier.

As of December 31, 68 percent or 13,943 of all HIV disease reports in North Carolina were among those who were from 20 to 39, regardless of race. From 20 to 39. That is an astounding, large number of people. Let me repeat that: 13,943 were reported last year. Of those reported, 68 percent of those reported were between the ages of 20 and 39.

Now, earlier I had said that there was a correlation between STD, sexually transmitted disease, as a predictor of HIV.

I want to show you another chart as well. This is alarming because syphilis and gonorrhea and other transmitted disease, we thought those had been eliminated. In fact, I have a map that I do not have with me; but if you look at this map, it is almost completely eliminated, other than in the South and in one or two places in the Midwest. Completely eliminated. In fact, there is no reason why sexually transmitted disease should be growing. There indeed is a bacterium treatment for it, but it is growing in the South; and it is growing in my State in alarming numbers.

Although it cannot be said that the STDs cause HIV/AIDS, it can be said there is a correlation between them. Indeed, you can begin to see the large number of them growing in North Carolina. But also you see a high percentage of them being related to African Americans. Gonorrhea percentage, almost a relationship between what you see in gonorrhea and syphilis as the HIV chart. There is no reason for this. This is unexplainable why this is happening. One is a disease by a behavior pattern that we can correct, but also there is no public outcry in understanding this. One, we assign to the fact, well, this is their own doing and, therefore, we shouldn't be concerned.

There is a glaring racial disparity in North Carolina cases. Seventy-one percent of them are among African Americans. The infectious syphilis rate is almost 12 times greater for African Americans, 11 times greater for Native Americans, and eight times greater for Hispanics than the rate for non-Hispanic whites.

In 1998, half of all syphilis cases were confined to 1 percent, 1 percent now, of all the counties in the United States. These cases of syphilis were found in 28 counties, primarily located in the South, and three independent cities: Baltimore, St. Louis, and the District of Columbia. North Carolina had five nationally significant high syphilis morbidity counties: Guilford, not in my district, but certainly a large county in my State; Forsyth, again not in my district, but a large county in my State; Mecklenburg, which is our largest city; Wake County, which is our capital; and Robeson County, growing at significant rates higher than all of the other southern States.

The National Alliance of State and Territorial AIDS Directors, something called NASTAD, did a report. I have that report. This report is entitled "HIV Services in Rural Areas." They studied New Mexico and South Carolina experiences.

Mr. Speaker, I include this study for the RECORD.

NATIONAL ALLIANCE OF STATE AND TERRITORIAL AIDS DIRECTORS, NASTAD MONOGRAPH, EXECUTIVE SUMMARY

HIV SERVICES IN RURAL AREAS

Introduction

AIDS cases in rural areas (less than 50,000 persons) represented approximately five percent of all reported AIDS cases in 1995. Patterns of HIV infection suggest that the epidemic is spreading in rural regions of the United States. Estimating the prevalence of HIV infection, based on AIDS cases, is complicated by the tendency of rural residents to go to urban areas for diagnosis and treatment, if possible. Research findings indicated that the majority of HIV infections in rural areas tend to occur in young adults (15–29 years), primarily females. Rates of heterosexual transmission are more prevalent than homosexual transmission and appear to be compounded by the presence of other sexually transmitted diseases and the use of crack/cocaine. Geographic areas with populations of 50,000 or fewer residents are considered rural. In 1997, over 54 million Americans lived in rural areas, composing 20 percent of the U.S. population (see Appendix A).

The HIV/AIDS Bureau (HAB) has set, as part of its policy agenda, an objective to document the experience of vulnerable populations and the changing nature of the epidemic. One population that has been historically under served is rural residents. In response, the National Alliance of State and Territorial AIDS Directors (NASTAD) developed this monograph on HIV Services in Rural Areas, as part of a cooperative agreement with the HIV/AIDS Bureau (HAB), Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services.

HIV Services in Rural Areas describes approaches that states are using to address the health care and social service needs of rural residents living with HIV/AIDS. NASTAD selected two states, New Mexico and South Carolina, to highlight in this monograph because they are located in regions of the United States that are considered rural. Additionally, these two states were selected because their populations include a disproportionately high number of rural communities of color—African, Hispanic, and Native Americans—who are very high risk populations for new HIV infections—living in areas with limited resources to address their health care needs (see Appendix B).

NASTAD conducted interviews with the state AIDS directors and program staff and local providers in both New Mexico and South Carolina in fall 1999. Based upon these interviews, NASTAD identified barriers to access to HIV health care and key program components that support and link HIV health services in rural areas.

Barriers to Providing HIV Services in Rural Areas

Long Distance Travel—Almost every service provider interviewed for this monograph identified transportation as a barrier to overcome in the provision of services for persons living with HIV/AIDS in rural areas. Providers acknowledged that travel options exist: (1) commercial transportation services; (2) volunteer drivers; (3) staff home visits, or (4) mileage reimbursement for the use of a personal vehicle. However, in cases of acute illness, the lack of an adequate transportation plan may make a critical difference.

Inadequate Supply of Health Care Providers with HIV/AIDS Expertise—Providers express frustration about the lack of physicians with expertise in HIV treatment, despite the wide availability of training and consultation opportunities. They also reported that it is difficult to monitor the quality of care that persons living with HIV/AIDS receive from local health care providers and that these providers, in turn, may not be highly motivated to monitor care due to small client caseloads. In the absence of local medical expertise, a social service provider, such as a case manager, may become the local "HIV expert." In cases in which the provider has little or not medical training, serving as the local expert is a difficult and isolated job because clients living with HIV and their families rely on this individual for a breadth of information that she or he may or may not be able to provide.

Linking HIV Counseling and Testing with Care—Many of the providers reported having either formal or informal relationships with local counseling and testing sites. Despite these linkages, providers also reported that a large number of persons living with HIV/AIDS, as high as 50% for some, are referred to services either from hospitals or emergency rooms. While many of these clients are receiving their diagnosis for the first time, others are aware of their HIV status but have not sought services. Some providers report relying heavily on "word-of-mouth" to reach clients but acknowledged that stronger ties between testing sites and other organizations that may be in a position to refer clients need to be developed.

The Lack of Available Medical Facilities—Since the early 1980's, the number of rural hospitals and medical facilities has dwindled primarily due to financial cutbacks. Many facilities have closed or have been consolidated with other organizations or agencies, or the number of services has been drastically reduced due to managed care penetration, or the disappearance of an adequate supply of specialist, or the need to acquire new and expensive technology. Such trends have exacerbated the limited supply of comprehensive health care services needed by rural residents living with HIV/AIDS.

Limited Availability of Social Services—Rural areas, especially poor ones, may have few agencies to provide social or support services. The lack of available services restricts opportunities for agency and/or organization collaboration and prevents the formation of service networks. Linkages to community-based social service agencies have become more critical as HIV has become a chronic condition and clients' needs have become more diverse.

The Stigma Attached to HIV/AIDS—The stigma attached to HIV/AIDS may result in community-wide denial that HIV is a problem that needs to be addressed. Medical providers may resist treating persons living with HIV/AIDS. In contrast, clients may be reluctant to seek services in rural areas "where being socially ostracized.

In addition, there may be a sense of mistrust of medical and related health care providers by individual clients and/or the community at large, especially if such service providers are unknown to the client or from outside the local community.

Client Adherence to Treatment—With improved HIV/AIDS care and treatment, treatment adherence may become a more important concern. Promoting adherence to antiretroviral treatment regimens can be difficult when clients are isolated and face-to-face contact between case managers, physicians, treatment educators and persons living with HIV/AIDS is limited. It also is difficult to assure client adherence to treatment on a regular schedule if the ability to refill prescriptions is problematic, or if the client has issues of stigma to overcome.

Substance Abuse—Several providers noted that the provision of long-term substance abuse services is a significant service delivery barrier in rural areas. Distance and limited client contact compound the challenge. Substance abuse treatment services may not be readily available outside of urban areas. There may be a sense of denial, both in the community and on the part of the clients who are using drugs and alcohol, because substance abuse is not identified openly as a problem in rural areas, resulting in little effort to secure treatment services.

Addressing the Special Needs of Communities of Color in Rural Areas—Communities of color, including Africans, Hispanic, Native, and Asian Americans, are at high risk for HIV infection. Rural communities of color, like other rural residents, experience the same barriers—stigma, poverty, and the absence of accessible care vulnerability of these communities to HIV is further compromised by additional factors: discrimination, distrust of the medical establishment and the health care system, diverse nationalities, language differences, severe poverty and unemployment, and social-cultural differences and isolation.

State Components that Link HIV Services in Rural Areas

The providers interviewed for this monograph have developed and described various strategies for providing HIV services to clients living in rural areas based on client needs and available resources. State strategies include:

Addressing Clients' Needs Beyond HIV—Service providers who address the entire range of client needs are more likely to maintain clients in care. Poverty, substance abuse, mental illness and other problems that are often associated with urban life also affect people living in rural areas. For example, the Palmetto AIDS Life Support Services (PALSS), in Columbia, SC, operates the Women's Resource Center. Approximately 25 percent of PALSS clients live in rural areas. The center provides a range of services that address the needs, both HIV-related and those not related to HIV, of their female clients. PALSS offers parenting classes, breast and cervical cancer screening, nutrition classes, exercise classes, social activities such as crafts and sewing classes, and a library with resources specific to women and HIV, creating a link between service provider and client.

Client-Centered Approach—It is not always practical to develop services targeting a specific population in a rural area. The caseload is often small and resources are extremely limited. These circumstances necessitate that staff be culturally sensitive and focus on the clients as individuals, since the client population, though small, may be very diverse. For example, one of New Mexico AIDS Services' (NMAS) case managers is Native American and works with the organization's Native American clients in Albuquerque. The case manager also understands the cultural importance of using Native American healing methods and administers NMAS's complementary medicine program.

Flexibility—Service providers stressed the importance of designing and administering programs that are flexible enough to accommodate the unique needs of individuals living with HIV/AIDS. Many agencies allow clients to designate where they will meet with their case managers, whether at their home, a local health department or library, or even for lunch at a local restaurant. Such arrangements require additional driving on the part of case managers and allows the client to identify a "safe site" in his or her community where individual confidentiality can be maintained. Limited clinic hours present another challenge for providers. If a person living with HIV/AIDS cannot schedule an appointment during regular clinic hours and needs to see a physician in between weekly clinics, several service providers reported that the physicians will frequently allow office visits, even though they are contracted to do so.

Working with Available Resources—It is important to identify and to link collaborative partners in rural networks, even with limited resources. For example, the Edisto Health Department in central South Carolina works with the Cooperative Church Ministries of Orangeburg (CCMO), a coalition of churches in the area that have combined their resources to offer some services such as a small food and clothing bank to persons living with HIV/AIDS, CCMO also administers the Housing Opportunities for People With AIDS (HOPWA) funds for the health department.

Fostering Informal Relationships—Service providers in rural areas stressed the importance of informal relationships that repeatedly prove to be invaluable in identifying resources and developing service networks. These relationships may develop unexpectedly. The ACCESS Network in Hilton Head, SC works closely with "Volunteers in Medicine," a medical clinic staffed by retired health care professionals, who moved next door to ACCESS several years ago. Some ACCESS clients now receive services at the clinic. Case managers work closely with the clinic's staff to coordinate clients' care. They also provide clinic staff with information on HIV/AIDS treatment developments.

Providers reported fostering informal relationships between their own physicians and infectious disease (ID) specialists outside their service area who are available for phone consultation. Providers also cited the importance of working with local media to raise awareness about HIV/AIDS and the agency's services by running public service announcements (PSAs) or providing coverage of agency activities and events.

Conclusion

Both New Mexico and South Carolina have implemented strategies that seem to be working well for their respective residents who are living with HIV/AIDS. Both states also have found it necessary to remain flexible in implementing these strategies to meet the needs of specific group of residents who have unique challenges from one geographic area to another within each state. The selection of these two states in no way suggests that other states are not conducting exemplary work to assure positive outcomes for their respective residents. The selection of these states simply presents an opportunity to share information about HIV services in rural areas with other jurisdictions and stimulate national discussion among states on how best to meet the needs of persons living with HIV/AIDS.

HIV Services in Rural Areas: The New Mexico and South Carolina Experiences

INTRODUCTION

AIDS cases in rural areas represent approximately five percent of the all AIDS cases in the United States. Long distances between residents and accessible health care services, social isolation as a result of social sigma related to HIV/AIDS, lack of adequate, if any, health insurance coverage, insufficient medical facilities, few medical specialists, and limited support services like transportation and child care challenge the efforts of rural communities (see Appendix A) to serve residents living with HIV/AIDS.

State health departments, in collaboration with local health agencies and organizations, are focusing on preventing new infections in rural areas, getting persons living with HIV into care (see Appendix B), and improving access to HIV health care services in rural areas. State health departments offer experienced insight, methodological research and analysis, and documented evidence of the success or failure of specific program strategies that collectively are designed to improve the quality of life for persons living with HIV/AIDS. State health departments also have the expertise to provide technical assistance and support for capacity building to local health care agencies and organizations that serve persons living with HIV/AIDS and to develop linkages between HIV/AIDS health care and related services in urban as well as rural areas.

HIV Services in Rural Areas is a monograph developed by the National Alliance of State and Territorial AIDS Directors (NASTAD), under a cooperative agreement with the HIV/AIDS Bureau (HAB), Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services. NASTAD conducted interviews with state AIDS directors and local service providers receiving Ryan White CARE Act funds in fall 1999. This monograph highlights activities in New Mexico and South Carolina, two states that have developed strategies to address the primary care and support service needs of people living with HIV/AIDS in rural areas. These two states were selected because they are located in regions of the United States that are sparsely populated and are characterized as rural with remote populations. Additionally, these two states were selected because their populations include a disproportionately high number of rural communities of color—African, Hispanic, and Native Americans—who are at high risk for new HIV infections.

NEW MEXICO

Total Population: 1,737,000.

Area: 121,593 sq. miles.

Population Density: 14 persons per sq. mile.

HIV/AIDS Cases (cumulative reported through June 1999) (HIV reporting was initiated in January 1998).

People living with HIV/AIDS (reported): 1,334.

AIDS cases reported in 1999: 125 (annual rate per 100,000 population: 7.2).

HIV cases reported in July 1998-June 1999: 318.

Cases of AIDS reported (Cumulative through June 1999): 1,866.

Ryan White CARE Act Title II Base Grant Award, FY 1999: $1,125,079.

ADAP, FY 1999: $1,351,076.

Total Title II Funds, FY 1999: $2,476,155.

Over 75 percent of the cases of HIV/AIDS reported in New Mexico are attributed to male to male sexual contact (MSM). Women compose only eight percent of reported cases of HIV/AIDS. Fifty-six percent of persons reported with HIV/AIDS are white, 35 percent are Hispanic, five percent are Native American, and four percent are African American. Over two-thirds of HIV/AIDS cases are reported in Bernalillo and Santa Fe Counties, where the cities of Albuquerque and Santa Fe are located. The number of cases reported in New Mexico's other 31 counties range from zero to 124.

In July 1997 the HIV/AIDS/STD Bureau of the New Mexico Department of Health (DOH) created the HIV/AIDS Medical Alliance of New Mexico (HMA). The HMA is a capitated system that provides medical care, case management, home care, support services including counseling, housing and nutritional assistance, and work re-entry programs through partnerships among regionally-based organizations.

Under the HMA system, the state is divided into four districts: Albuquerque, Santa Fe, Las Cruces, and Roswell. Each of the four HMAs is a self-contained, multidisciplinary provider or an association of providers, designed to provide cost-effective continuum of care including a prevention focus. Racial/ethnic distributions for HIV/AIDS caseloads in each of the four HMA districts is reported in Appendix D.

The HMA model resulted from a field review commissioned by DOH in November 1996. The review was conducted to identify and clarify shifts in the case and treatment of persons living with HIV/AIDS, such as the introduction of antiretroviral combination therapy and the impact of deeper penetration of managed care health care into both the urban and rural areas of the state. These shifts necessitated an examination of the statewide HIV/AIDS service system and consideration of new models of case management and service delivery.

The field review involved an inventory of existing services within each of the four districts. The review included: (1) an examination of each contract managed by the state HIV/AIDS/STD Bureau; (2) the identification of services provided through other agencies such as the Veterans Administration and the Indian Health Agency; and (3) a review of the HIV Coordinating Council's services guide. Epidemiological data was used to assess the density of client access to the available services.

In addition to the review, task forces were organized in each district. These task forces were composed of representatives from community-based organizations, clinical systems, regional DOH agencies, advocacy groups, and home care and prevention agencies. The insights from these groups on access to services, competence of service providers, completeness of service continuums, and gaps in services were invaluable to the process.

The findings of the review process identified needs in rural areas of the state. The final report states:

Access to adequate services diminishes the further away from Santa Fe or Albuquerque one lives. Taos, Los Alamos, Roswell, Las Cruces, and Farmington provide pockets of services that meet the immediate needs of many persons living with HIV/AIDS. The rural regions from the four corners of the state are underserved and force persons living with HIV/AIDS to relocate, to drive long distances, or to cross state lines to pursue adequate services. Many in the task forces reported that while there were physicians available to see persons living with HIV/AIDS, their knowledge about the disease was insufficient and resulted in misdiagnoses of opportunistic infections and inappropriate treatments. Physician HIV/AIDS competency is a serious issue in rural areas (Finney, 1999).

HMAs Respond to Local Needs

FUNDING FISCAL YEAR 1999

District	State funds	CARE Act funds	Total
District 1	$730,000	$115,000	$845,000
University Hosp.*	$270,000	$115,000	$385,900
District 2	$509,000	$115,000	$624,000
District 3	$170,000	$115,000	$285,000
District 4	$95,500	$115,000	$210,500

(*University Hospital has a separate contract to provide primary care in District 1.)

The HMA system allows HIV case management to be specialized within an agency and specific to the needs of persons living with HIV/AIDS. Before the HMAs, the state subcontracted with approximately 100 providers. Most of the providers did not specialize in HIV services and there was great variation in the case management services provided. The formation of the HMAs resulted in statewide availability of comprehensive case management and support services for persons living with HIV/AIDS.

Consolidation has been an important part of the HMAs. With the establishment of the HMAs, person living with HIV/AIDs enroll in and receive services from only one organization. Referral to services is facilitated because there is only one access point in each district and HMAs have publicized their services throughout their service area. Clients receive all necessary services from one provider, not various providers scattered throughout the region. Accessing services from several providers greatly increased the possibility of breaches in confidentiality, a major concern for persons living with HIV/AIDS in rural areas.

Service providers for each district were selected through a state request for proposal (RFP) process. The state review process identified services considered necessary for an integrated continuum of care for persons living with HIV/AIDS and their families. Findings from the state review process were used to develop the HMA model. Applicants are required to provide the identified services either directly or through contracts with other organizations. Providers have contracts for three years.

Key Factors in the Development of HMAs

According to Donald Torres, Section Head of the New Mexico's DOH, HIV/AIDS Bureau, the HMA model works well for low incidence, rural states where the number of service providers is relatively small. Under these conditions, the service delivery network is compact enough that adjustments can be easily made across the program.

At the time of model was being considered there were only a few HIV-specific providers in the state. DOH contracted with various organizations throughout the state to provide case management services but the contracts were not large enough to jeopardize the agencies' viability if funding was discontinued. Therefore, most service providers did not resist the formation of the HMAs because it would not negatively impact the well-being of individual organizations.

Clients also were generally in favor of some change to the existing system. The development of the HMAs paralleled the move toward Medicaid managed care in the state which created an environment where people expected change in the health care delivery system. As with any major change, the move toward HMAs created some concerns. The HMAs were caught up in the partisan political debate on managed care. Additionally, there were concerns that the HMAs would not be sensitive to the needs of people of color and that they might divert funds from HIM prevention programs.

Two Years Later * * *

Since their establishment, HMAs have become identified as the source of HIV care in New Mexico. Of the approximately 1,300 persons living with HIV/AIDS, 1,100 persons living with HIV/AIDS access case management services throughout the HMAs.

In New Mexico, anyone who tests positive for HIV is eligible for case management services. To be eligible for services through the HMA a person must: 1) have a documented diagnosis of HIV disease from a qualified licensed medical provider; 2) be a resident of the service area (district); and 3) have a documented income at or below 300% of the federal poverty level (FPL). Members may elect to enroll in a HMA other than the one providing service where they reside but HMAs do not recruit members from outside their service area.

Since their initiation, the HMAs have been integrated with other HIV services in the state. The DOH operates a health insurance continuation program. The program pays up to $400 per month for the premiums of a participating client's existing health insurance. The program also reimburses the patient's share (co-pays) for HIV medications under the New Mexico Medication Assistance Program (ADAP). The state will purchase health insurance for eligible clients through NMCHIP, the state's health insurance risk pool. This reduces the amount of money spent by the HMAs for health care services.

The University of New Mexico's Health Science Center (University Hospital), a Ryan White CARE Act (RWCA) Title III grantee, administers the "Partners in Care Program." Medical services are provided at the hospital in Albuquerque and the grantee also recruits physicians across the state to provide services to persons living with HIV/AIDS. To be eligible for the program, physicians must treat a certain number of persons living with HIV/AIDS. University Hospital physicians are available for consultation and the hospital also operates a hotline that physicians may call with treatment-related questions. HMA clients, especially in three of the four districts, often access medical services through the Title III program.

Successful Cost Containment

The New Mexico DOH reports significant cost savings as a result of implementing the HMA model. The cost of providing HIV-related care and support services, including medications, to New Mexico's caseload of persons living with HIV/AIDS climbed from $5.2 million in 1995 to $8.2 million in 1996, a 37 percent increase. The increase was primarily due to the expense of antiretroviral combination therapy. Overall costs of care jumped significantly between 1995 and 1996, rose slightly in 1997, then in 1998 fell to the

1996 level. It is estimated that if the HMA system had not been implemented, the cost of HIV care in New Mexico would have increased between five percent and 20 percent in 1998. HMA implementation saved the state between $400,000 and $1.7 million. These cost savings resulted even as the number of people being served increased. The net number of clients served increased by an average of six percent each year.

In the coming year, DOH plans to more thoroughly integrate the Title III grant with the HMA program. Even though training is available for physicians in outlying areas, the HMAs report that care is still problematic and that some physicians lack the required expertise to provide quality HIV care. By integrating the Title III funds into the HMA system, HMAs will be able to select physicians in their districts who are motivated to treat persons living with HIV/AIDS and to develop their HIV-related expertise.

Additionally, these physicians are more likely to work with case managers and persons living with HIV/AIDS in the development of overall care plans.

The state's early intervention nurses also play a key role in linking persons living with HIV/AIDS with services. Five nurses are employed by the state. In post-test counseling, persons living with HIV/AIDS are linked with early intervention nurses who conduct an initial assessment, refer clients to the appropriate HMA, and follow-up clients who do not access care. The nurses also conduct partner notification services.

As of the end of 1999, DOH plans to expand the HMA system. A fifth, statewide HMA will be added that will serve Native American persons living with HIV/AIDS. It will be based in Albuquerque. The state also plans to contract with an agency to provide benefits advocacy services. The new contractor will help persons living with HIV/AIDS obtain benefits and also address emerging needs such as education and re-employment. Additionally, the contractor will provide advocacy services, including mediating grievances with HMAs. The contract will be awarded through a Request for Proposal (RFP) process.

Addressing Needs in Rural Areas

Each of the HMAs has developed a unique service delivery system based on available resources in the district and local challenges. All four districts serve clients who reside in rural areas. Albuquerque (District 1), Las Cruces (District 3) and Santa Fe (District 2) contain urban areas, where most clients reside, surrounded by rural areas. Roswell (District 4) is predominantly rural.

The New Mexico DOH has established different capitation rates for the HMAs based on the greater per client expense of serving clients in rural areas. The larger HMAs, Albuquerque and Santa Fe, are able to achieve some "economies of scale" because they serve a larger number of clients. Additionally, they have access to more resources, including more fundraising opportunities. In rural areas, the distance that clients and staff are required to travel also can escalate costs for mileage reimbursement and staff driving time. To facilitate access for clients in rural areas, all the HMAs reimburse clients for travel expenses (mileage) and all the HMAs have toll-free telephone numbers.

Quality Assurance Activities

DOH has adopted a variety of measures to assure the quality of services delivered by the HMAs. Contracts with the HMAs stipulate the number of clients to be served (a range is specified), the number of contacts with each client per reporting period, travel reimbursement, emergency procedures, and confidentiality and grievance procedures. HMAs are required to maintain records on member enrollment status, provision of covered services, and relevant medical information on individual members. DOH also is administering a client satisfaction survey to assess whether the HMAs are meeting clients' needs and to determine client satisfaction with the HMA service delivery system.

The New Mexico DOH initiated a process to identify statewide HIV/AIDS "best practices" guidelines to be used to direct the cost-effective design and delivery of HIV/AIDS services throughout the state. The guidelines are intended: (1) to support the management and, where appropriate, the elevation of the quality of HIV/AIDS care throughout the state, (2) to improve access to quality care in both urban and rural areas, (3) to provide a measuring device against which HIV/AIDS care system services might be objectively evaluated, and (4) to provide the HMAs with a product with which they might competitively position their services.

The state guidelines present an integrated "care team" process based on collaboration between primary care physicians, case managers, and the client in the development of an individualized care strategy to delay or reverse disease progression. The guidelines identify core services (clinical, prevention, practical support, educational support and mental health) and procedures for enrollment, assessment, chronic management, acute events and palliative care. To develop the guidelines, DOH held a retreat attended by the executive directors of two HMAs (one urban and one rural), two physicians, three case managers, three persons living with HIV, four early intervention nurses, and representatives of the DOH. Guidelines also have been developed to address case management in rural areas.

Challenges

Accessing Services Based at the Main Office—The HMA has developed alternative approaches for clients living in rural areas because it is not possible to provide all the services that are available at the main office and in the field office in Farmington. For example, clients in rural areas requested that the food bank services be made more accessible. Many were driving long distances (and getting reimbursed for the mileage) for a relatively small amount of food. Now, the HMA purchases gift certificates from the major supermarkets in the rural areas of the district and sends them to clients twice a month. Any client living more than 50 miles from the main office is eligible for the food voucher program.

Obtaining Client Feedback—Providing opportunities for clients to give feedback on their needs and the services they receive can be difficult in rural areas. To facilitate the process, the District 4 HMA holds their Community Advisory Committee meetings at six different sites throughout the service area. The meetings are open to all clients. Local physicians who treat clients also are invited. At the meetings, clients can raise concerns about services or other personal issues. To encourage attendance, dinner is served and incentives, such as grocery store vouchers, are provided. Twice a year, the HMA surveys clients about their needs. Based on the findings of the survey, the HMA will tailor information provided at the meetings to client needs and depending on the topics, the agency's nurse, therapist or other appropriate staff will attend. Treatment issues are always a popular topic at the meetings.

Lack of Medical Providers with HIV Expertise—According to many of the HIV service providers interviewed, local doctors do not take advantage of the availability of training opportunities to increase their knowledge of HIV treatment. In District 4, two physicians treat the majority of the clients. Approximately 12 other physicians see one or two clients. With a large number of physicians providing services and the informal nature of the relationship between the HMA and these physicians, it is difficult to monitor the quality of care clients receive.

The move to consolidate the Title III services with the HMA system will allow the HMAs to focus on a limited number of physicians in the region and build their expertise. Additionally, HMAs that do not have on-site medical services will be able to move toward a care team model with physicians, case managers and persons living with HIV/AIDS working together to develop a treatment strategy. Consolidation will improve the monitoring of clients' medical care.

For more information about the activities of each of the four districts in the New Mexico HMA system, please refer to Appendix D.

SOUTH CAROLINA

Total Population: 3,836,000.

Area: 31,113 sq. miles.

Population Density: 123 persons per sq. mile.

HIV/AIDS Cases (cumulative reported through June 1999) (HIV reporting was initiated in February 1986).

People living with HIV/AIDS (reported): 10,108.

AIDS cases reported in 1999: 984 (annual rate per 100,000 population: 25.7).

HIV cases reported in 1999: 877.

Cases of AIDS reported (Cumulative): 8,352.

Ryan White CARE Act Title II Base Grant, FY 1999: $4,968,208.

ADAP, FY 1999: $5,966,180.

Total Title II Funds, FY 1999: $10,934,388.

The HIV Epidemic in South Carolina—In rural areas of the southeastern United States, the HIV epidemic is increasingly concentrated in the heterosexual population and associated with high rates of sexually transmitted diseases (STDs), especially syphilis, alcohol abuse and crack cocaine use. In South Carolina, 71 percent of HIV/AIDS cases reported in 1998 were among men, 29 percent among women. African Americans made up 75 percent of reported HIV/AIDS cases. Twenty-seven percent of HIV/AIDS cases are attributed to male sexual contact (MSM), including MSM and injection drug use, 27 percent are attributed to heterosexual contact and nine percent to injection drug use (36 percent have no reported risk). One third (33 percent) of the people reported with HIV/AIDS in 1998 reside in rural areas.

Characteristics of Newly-Diagnosed People with HIV/AIDS: Urban vs. Rural—From January 1991—December 1998, the Department of Health and Environmental Control (DHEC) conducted the Supplement to HIV/AIDS Surveillance (SHAS) Project (supported by CDC). The project initially included Charleston County and the Edisto Health District (a three county area). A third county, Richland, was added in 1993. The project staff conducted interviews with newly reported/diagnosed people with HIV/AIDS, 18 years of age or older, who were residents in the study area. During the course of the project, 1,146 eligible persons were interviewed. Of these, 78 percent were from urban communities and 22 percent were from rural communities.

The Rural SHAS Project was implemented in Edisto Health District between January 1995 and December 1996. Seventy interviews were completed as part of this study. The majority of respondents were male (72 percent) and African American (77 percent). Approximately 47 percent of the Rural SHAS participants had never lived outside of the county. The findings of the study include:

At the time of diagnosis, 28 percent of rural participants had AIDS, as compared to 34 percent in the urban counties;

Sixty-one percent of rural participants had 12 years of education or less, as compared to 69 percent in the urban counties;

Sixty-nine percent of rural participants were unemployed at the time of diagnosis, as compared to 57 percent in the urban counties; and

Sixty-nine percent of rural participants had household incomes of $10,000 a year or less, as compared to 39 percent in the urban counties.

The study also revealed that participants in rural areas were more likely to have used crack cocaine than those in urban areas (33 percent rural, 28 percent urban) but were less likely to have injected drugs (14 percent rural, 16 percent urban). Rural participants were more likely to have not used condoms with their steady sexual partner (48 percent rural, 38 percent urban) and were less likely to have received money or drugs for sex (12 percent rural, 18 percent urban).

The State Consortia—South Carolina relies primarily on eleven Title II-funded regional consortia to provide primary care and support services to persons living with HIV/AIDS. CARE Act-funded services also are provided by two Title III grantees and one Title IV grantee. The DHEC administers the Title IV grant on a statewide basis that provides mostly tertiary and specialty care and assures that primary care is easily accessible for infants, children, youth, and women infected and affected by HIV. The two Title III grantees that focus on outpatient early intervention and primary care services are based in Columbia, the state's capital, and in Ridgeland, in the southern section of the state. The Ridgeland Title III provider was first funded in fiscal year 1998, so it is still a relatively new component to the service network in this area (note: two new Title III grantees were funded in 1999—Greenville Community Health Center in Greenville and Low Country Health Care Systems in Fairfax. The addition of these two primary care providers brings additional federal resources to two rural consortia).

The state opted for the consortia system due to a lack of support service and medical providers, especially in rural areas. The statewide plan developed in 1990 identified primary medical care as the greatest need in the state. The formation of consortia was seen as a way to stimulate the development of local service networks.

Initially, the state funded consortia in four areas. By 1994, statewide coverage was achieved through the formation of seven more consortia. The consortia basically mirror the geographic boundaries of the state's public health districts to each consortia region also includes a local health department.

The consortia, which vary in size from three to six counties, are charged with assessing needs and resources in their region and developing and maintaining a service delivery network. Each consortium has developed a unique system of care based on existing needs and available resources in the service area. The following variables influenced the development service networks in the consortia:

Existence of AIDS service organizations (ASOs) prior to the formation of the consortium.

Ability of the lead organization to identify and recruit other providers into the services network,

Availability of primary care providers in the service area and their willingness to work with persons living with HIV/AIDS,

Availability of training opportunities and information sources on HIV treatment for primary care providers, and

Access to specialty providers.

Several providers stressed the role personality plays in developing service networks in rural areas. Many relationships between service providers are informal and are forged between staff members in various agencies. Service delivery systems must be flexible enough to allow staff to take advantage of these informal linkages that can provide access to necessary expertise or resources.

Currently, 39 percent of the state's Title II funds (including ADAP) go to the consortia. Funds received by each consortium are based on the estimated number of persons living with HIV/AIDS in the region, with some variance in the formula due to demonstrated need. Consortia are funded through a request for proposal (RFP) process and awarded funds on a five-year cycle. While the process is designed to be competitive, only a single applicant has applied for each region. Service and reporting requirements are outlined in the RFP and any necessary changes can be made in the annual contracts. DHEC meets quarterly with consortia contacts.

The consortia developed into one of three basic structures:

Lead agency and subcontractors,

Single lead agency providing both primary care and support services, and

Single lead agency providing case management with informal linkages to primary care.

The structure that evolved depended greatly on the resources available in the communities. For example, the Midlands AIDS Consortium, based in Columbia, SC serves both urban and rural areas. The consortium focused on establishing linkages through a system of subcontracts because there already were agencies providing HIV-related services. In other consortia regions, a single agency was identified and funded to provide HIV-related services that may or may not already have been available in the region.

Quality Assurance—The Ryan White CARE Act Peer Review Committee oversees the activities of Title II consortia in the state. It is made up of eleven members, one for each consortium, and DHEC representatives. When the committee was formed in 1996, each consortium completed a self assessment. The committee established a mission statement based on the findings of this process. For the last two years the committee was developing standards and guidelines that consortia can use as tools to assess services.

The committee has developed guidelines for case management services and is also developing outcome measures for primary care. To develop the guidelines for case management services, the committee surveyed all case managers in the state and held a series of meetings for additional input. Based on the findings of this process, the committee has developed standards for intake, assessment, and discharge.

State Efforts to Link HIV Services in Rural Areas—While the state relies primarily on the consortia to meet needs in their own regions, the state does conduct activities that assist in the provision of services in rural areas. The state has consolidated the ADAP program in a centralized pharmacy operated by DHEC which allows the state to administer the program in a cost-effective manner while rapidly dispensing medications. Medications are mailed to clients at their homes. Initially, medications were distributed through local health department pharmacies but increases in the number of persons living with HIV/AIDS soon exceeded the capacity of the regional pharmacies to carry out the necessary services.

A major advantage of the centralized pharmacy approach is that it allows DHEC to assess adherence to U.S. Public Health Service treatment guidelines through monitoring prescriptions for persons living with HIV/AIDS in rural areas. DHEC pharmacists review prescriptions for any deviation from the standard protocol. If an irregularity is identified, the physician is contacted to find out why the medications were prescribed and to discuss treatment decisions before the prescription is filled. This provides a training opportunity for physicians in rural areas who may not have treated a large number of persons living with HIV/AIDS and may lack expertise in HIV treatment.

Local providers frequently report the shortage of physicians with expertise in HIV treatment. The state employs a Title II-funded medical consultant who is available to consult with physicians. All physicians treating HIV are encouraged to develop an informal relationship with the medical consultant. For the Title III providers, the state plans to move toward a primary provider model, in which persons living with HIV/AIDS access medical services through a physician in their community who has access to specialty providers who can be contacted for either consultation or referral.

Challenges

Serving a Large Region—Initially, most of the services provided by the CARETEAM, the lead agency of the Waccamaw Care Consortium and based in Myrtle Beach, were concentrated in Horry County, near Myrtle Beach, and all staff members resided in this area. To meet with clients in the two southern counties required staff to make a round trip from the agency's office in the northern part of the service area. To alleviate some of this travel, case managers who reside in the outlying counties were hired. On days when case managers see clients in the southern part of the service area, these case managers do not go into the office to reduce driving time. Staff also may see clients at either the beginning or the end of the day, before or after they have been to the office.

Within a large service area, outlying areas may have access to fewer services and feel less connected to a service provider. In addition to improving services for clients, hiring staff from that area help to facilitate linkages with the community. CARETEAM found that as they increased their presence in the two southern counties, it was much easier to work within these communities in terms of raising awareness of HIV and of CARETEAM services.

According to Jeff Kimbro, Executive Director of CARETEAM, "We have worked hard to make sure that Georgetown and Williamsburg Counties feel they have a stake in the organization and know that we are here to serve them. Even though these counties will never have the same level of resources as Horry County, as we've expanded our efforts in the area we have seen the community gradually become more involved in the response to the epidemic."

Knowledge Level of Primary Care Providers—Because it does not have physicians on staff or have contracts with medical providers, the ACCESS Network has had to work hard to assure that physicians in the service areas have access to information on the treatment of HIV. Located in Hilton Head and Hampton, ACCESS Network is the lead agency for the Low Country Care Consortium. According to Jerry Binns, President of ACCESS Network, physicians have become much more knowledgeable about HIV in the past few years but it is still necessary to provide educational opportunities.

ACCESS Network has used a variety of approaches. They regularly provide written materials on treatment developments to local practitioners. They also hold informal meetings between ACCESS Network staff and local practitioners, organize educational presentations by experts (sometimes done with support from pharmaceutical companies), and foster relationships between local practitioners and HIV experts in the state who are available for phone consultation. While knowledge level is important in terms of the quality of care, ACCESS Network acknowledged that the stigma attached to HIV is still a barrier in terms of physicians' willingness to treat persons living with HIV/AIDS. Other deterrents include a fear of being perceived as an "AIDS doctor," the perception that HIV/AIDS needs to be treated by a specialist, the potential financial costs of treating people with HIV (low reimbursement rates), scheduling time to attend training activities and the distance providers must travel for training. For more information about each of South Carolina's consortium, please refer to Appendix E.

CONCLUSION

State Efforts that Support HIV Services in Rural Areas

Local providers in both states identified several ways that the state HIV/AIDS Program (Title II grantees) can support the delivery of HIV services in rural areas in program components that are often difficult to resolve.

Assistance in Diversifying Funding Sources—Although sources of financial support can be limited in rural areas, service providers expressed concern about being overly dependent on the state and the Ryan White CARE Act for funding. Rarely do rural areas have access to a fundraising base or grant opportunities from foundations and corporate donors as do service providers in urban areas. Providers also acknowledged that many do not possess the organizational capacity to conduct fundraising activities or prepare grant proposals and/or contracts. Providers suggested that states provide technical assistance on fundraising, grant writing, and financial and organizational capacity building. States may have the resources to hire a fundraiser who can focus on identifying new sources of funding for HIV services for rural areas. States can assist in identifying funding sources in the private sector and pass information about such sources to providers at the local level.

Identification of Outcome Measures—States can play a role in initiating and maintaining a process to develop outcome measures for rural medical and support services. While conducting this type of program evaluation can mean additional work for providers, it helps them to focus on the effectiveness of their services, account for funds, and demonstrate that they are improving the health status of persons living with HIV/AIDS in rural areas in which they provide services.

Fostering Ryan White CARE Act Cross-Title Collaboration—Especially in rural areas, service providers can be separated by significant distances making the establishment of linkages more difficult. The absence of established links, especially in areas in which other CARE Act providers (Title III, IV, and SPNS) are present, but are not participating in the state's Title II-funded activities, can lead to duplication of and/or significant gaps in service delivery. States can play a role in facilitating cross-title collaboration within service areas to assure more coordinated service delivery.

Strengthening Prevention Efforts—Rural areas can be more conservative than urban areas and more resistant to HIV prevention efforts. The lack of prevention efforts can result in less public awareness which, in turn, may reinforce the perception that HIV is not a problem in rural areas. This lack of awareness on the part of the public, especially in rural areas, may lead to increased spread of HIV and delays in accessing services. Since states administer HIV prevention funds as well, they can provide leadership in recommending or mandating HIV prevention programs at the local level and providing technical assistance in implementing such programs. Additionally, states can move to strengthen linkages between HIV counseling and testing services and HIV-related primary care and support services to facilitate access to care.

State Responses to the Challenges of Serving Persons Living with HIV/AIDS—Both New Mexico and South Carolina have implemented strategies that seem to be working well for their respective residents who are living with HIV/AIDS. Both states also have found it necessary to remain flexible in implementing these strategies to meet the needs of specific groups of residents who have unique challenges from one geographic area to another within each state. The selection of these two states in no way suggests that other states are not conducting exemplary work to assure positive outcomes for their respective residents. The selection of these states simply presents an opportunity to share information with other jurisdictions and stimulate national discussion among states on how best to meet the needs of persons living with HIV/AIDS in rural areas.

INTERVIEWS

NEW MEXICO

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APPENDIX A: FEDERAL DEFINITION OF A RURAL AREA

One of the challenges of addressing needs in rural areas from a policymaker's perspective is that the term "rural" is not easily defined. Of the various definitions, two of the most commonly used by federal programs were developed by the Office of Management and Budget (OMB) and the Bureau of the Census. Both of these definitions establish a quantitative measure to define rural.

The Bureau of the Census defines an urbanized area (UA) by population density. Each UA includes a central city and the surrounding densely settled territory that together have a population of 50,000 or more and a population density exceeding 1,000 people per square mile. A UA may cover parts of several counties. Additionally, places (cities, towns, villages, etc) with a population of 2,500 or more outside of a UA are considered to be an urban.

OMB designates Metropolitan Statistical Areas (MSAs) as one city with 50,000 or more inhabitants or an urbanized area (defined by the Bureau of Census) with at least 50,000 inhabitants and a total MSA population of at least 100,000 (75,000 in New England). Each MSA must include the county in which the central city is located and additional contiguous counties that are economically and socially integrated with the central county. Any county that is not included in an MSA is considered to be non-metropolitan. Periodically, OMB reclassifies counties on the basis of Census data and population estimates.

It is generally agreed that in rural areas, unless additional encouragement or support is provided, easy geographical access to health and social services is lacking. However, the definitions start to get blurry when considering some metropolitan counties that are so large they contain small towns and rural areas. By one estimate, based on 1980 decennial census data, of the slightly over 32 million persons who live in large metropolitan counties, approximately two million lived in small towns and rural areas without easy geographical access to central areas (Goldsmith, 1993).

Appendix B: Characteristics of U.S. Rural Population

In 1997, over 54 million Americans lived in rural areas, making up 20 percent of the U.S. population. During much of the 1990s, the rural population grew faster than urban populations.

Race/Ethnicity—Eighty-three (83) percent of rural residents are white, as compared to 69 percent of urban residents. African Americans make up nine percent of the rural population and 14 percent of the urban population. Hispanics account for five percent of the rural population and 11 percent of the urban population.

Income Level—In 1996, real per capita income in rural areas was $18,527 as compared to $25,944 in urban areas. Sixteen percent of rural residents live in poverty as compared to 13 percent of urban residents. Poverty is especially high among rural minorities with 35 percent of African Americans, 33 percent of Hispanics, and 34 percent of Native Americans in rural areas living in poverty. In comparison, 27 percent of African Americans, 27 percent of Hispanics, and 29 percent of Native Americans living in urban areas live in poverty.

Unemployment—In 1997, unemployment in rural areas was 5.2 percent as compared to 4.9 percent in urban areas.

Health Insurance—In 1996, 46 percent of rural residents lacked private health insurance as compared to 38 percent of urban residents.

Access to Health Care Providers—Over 22 million rural Americans live in areas that are designated Primary Care Health Professional Shortage Areas (HPSAs).

Source: "Facts about the Rural Population of the United States," Rural Information Center Health Service, August 1998.

Appendix C: Characteristics of Communities of Color at Risk for HIV/AIDS

Although African Americans account for approximately 13 percent of the U.S. population, they represent 36 of all AIDS cases and 45 percent of all new HIV infections. Similarly, Hispanic Americans constitute approximately 8 percent of the U.S. population, but account for 18 percent of all AIDS cases and 22 percent of new HIV infections. Risk for HIV infection may be compounded by diversity in nationalities and cultural practices, language and poverty.

Native Americans often live in geographically remote areas in the United States. Native Americans represent less than one percent of the total United States population and comprise at least 557 federally recognized tribes with each tribe having its own traditions, beliefs, and cultural practices. Approximately 1,800 cases of AIDS have been reported among Native Americans through 1997.

Asian Americans have come to the United States from more than forty countries and territories and speak more than one hundred languages and dialects. Generally, Asian Americans live in more urban areas, as opposed to remote rural locations. As HIV/AIDS infections increase throughout South and Southeast Asia, the likelihood of a rise in new infections among Asian Americans accelerates as families traverse back and forth between their home countries and the United States.

Appendix D: New Mexico AIDS Services; Descriptions of Four HMA Districts

District 1, Albuquerque (Counties served: Bernalillo, Cibola, McKinley, Sandoval, San Juan, Socorro, Torrance and Valencia).

Caseload—495 clients.

Client Characteristics:

Male: 90%, Female: 10%.

African American: 4%, Hispanic: 37%, Native American: 7%, White: 50%.

Clients with a third party payer: 36%.

Rural clients: 14% (any client residing outside of Bernalillo County).

Capitation Rate:

Case Management: $221 per client/month.

Primary Care: $109 per client/month.

The state contracts with two agencies, both based in Albuquerque, to provide services in the District 1 HMA. Since initiation of the HMA, New Mexico AIDS Services (NMAS) and the University of New Mexico, Health Science Center, Infectious Disease Clinic have worked closely to coordinate case management services and primary care, even though services are provided at separate sites. In 2000, both case management/support services and clinical care will be available at one location in Albuquerque. The HMA also has a field office in Farmington, New Mexico. One case manager is based in Farmington and clients in outlying areas can either access primary care in Albuquerque or from local physicians funded through the Title III program. If a client does chose to travel to Albuquerque, mileage is reimbursed.

The case manager in Farmington will make home visits or meet clients at a designated location. The Farmington case manager carries a caseload of approximately 40 clients, in comparison to the 48–55 clients served by case managers in Albuquerque because of the additional travel time required.

Regional community task force meetings are held four times a year for clients, families, and rural providers. Two of the meetings are held in Farmington and two are held in other regions of the HMA. The meetings allow an opportunity for clients to provide feedback on services. Dinner is provided at the meeting to encourage attendance.

District 2, Santa Fe—(Counties served: Colfax, Harding, Los Alamos, Mora, Rio Arriba, San Miguel, Santa Fe, Taos, and Union)

Caseload—285 are enrolled in the HMA—the maximum stipulated in the contract with the state (of a total of 317 clients).

Client Characteristics:

Male: 90%, Female: 10%.

African American: 2%, Hispanic: 39%, Native American: 4%, White: 54%.

Clients with a third party payer: 94% (43% are on CHIP).

Rural clients: 43% (any client residing outside of the City of Santa Fe).

Capitation Rate:

Under 300% FPL: $305/mo.

Over 300% FPL: $50/mo.

The District 2 HMA is administered by the Southwest C.A.R.E. Center (SCC), an AIDS service organization (ASO) based in Santa Fe. SCC's clinic is staffed with physicians, nurses, and case managers and provides one-stop shopping for clients. Centralized services have allowed SCC to adopt a care team model, in which the case manager, physician and client work closely to determine an appropriate course of treatment and support for the client.

Many clients in outlying counties prefer to go to Santa Fe, if at all possible, because of the quality of primary care services provided at the Santa Fe clinic. Mileage is reimbursed to all primary care and case management appointments. For those who prefer not to or cannot go to Santa Fe, case management services are available in Taos. The two case managers in Taos have about half the caseload of those in Santa Fe due to the travel required to meet with clients.

District 3, Las Cruces—(Counties served: Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, and Sierra)

Caseload—90 clients.

Client Characteristics:

Male: 83%, Female: 16% (1% other).

African American: 3%, Hispanic: 52%, Native American: 2%, White: 43%.

Rural clients: 50% (any client residing outside of the City of Las Cruces).

Capitation Rate:

$387 per client/month.

Camino de Vida Center for HIV Services is based in Las Cruces, the second largest city in the state. The HMA employs two full-time case managers. A promotor, an additional staff member not funded through the HMA, works with case managers and focuses on trans-border services. The promotor sees clients who travel regularly between the United States and Mexico. Even though more than half of their caseload is Hispanic, neither of the HMA-funded case managers is bilingual. The agency would like to hire a part-time bilingual case manager. Currently, the client resource coordinator, who is bilingual, will travel to appointments with the case managers when it is necessary.

Case managers see most clients once per month, but the amount of contact depends on clients' need. Case managers make home visits but many clients from rural areas also travel to Las Cruces.

The agency's medical director sees clients at the Las Cruces clinic. Private physicians participating in the state's Title III program provide services outside of Las Cruces. Some clients see a physician in District 4 because it is closer to where they reside and some clients with private insurance go to El Paso for primary care since there is more access to infectious disease physicians there.

District 4, Roswell—(Counties served: Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Lincoln, Quay, and Roosevelt)

Caseload—82 clients.

Client Characteristics:cell 078

Male: 81%, Female: 19%.

African American: 10%, Hispanic: 36%, White: 54%.

Rural clients: 100%.

Capitation Rate:

$314 per client/month.

Pecos Valley HIV/AIDS Resource Center is an ASO that provides case management and support services and also conducts HIV prevention activities, including syringe exchange. The agency provides HIV counseling and testing, which serves as a direct link to services for newly diagnosed persons living with HIV/AIDS. However, approximately 50 percent of the HMA's clients first are diagnosed with HIV in the hospital or emergency room.

This HMA does not provide on-site medical services. The staff nurse handles most of the assessment and referral of clients. For example, clients will call the nurse to see if a certain condition is severe enough to warrant a trip to the emergency room or if it can be addressed at their next medical appointment. This approach is more cost effective than having a physician on staff. The HMA has a memoranda of agreement (MOAs) to provide services to their clients with two physicians in the area that are funded through the Title III program.

One case manager is on staff and the agency also contracts with another agency to provide case management services. This agency was providing case management services before the HMA was formed and some of the clients preferred to remain with their original case manager. Case managers get to know clients personally and address their needs on an individual basis because the caseload is small. Contact with the case manager is dependent on client need. Approximately 30–40 percent of clients meet with their case manager at least once every two months. About ten percent of clients come into the office for appointments. The case manager travels to the remaining 90 percent of clients. Travel time can be as long as 3.5 hours one way.

Appendix E: South Carolina's Lead Primary Care and Support Service Agencies

Tri-County Interagency AIDS Coalition—(Counties served: Bamberg, Calhoun, and Orangeburg)

Caseload—355 clients.
Client Characteristics:
Male: 61%, Female: 39%.
African American: 93%, White: 7%.
Uninsured: 70%.
Rural: 100%.

The Edisto Health Department, based in Orangeburg, is the lead agency of the Tri-County Interagency AIDS Coalition. The health department estimates that there are between 500–700 persons living with HIV/AIDS in the service area and it plans to increase outreach efforts to bring more people into care.

The lead agency administers all the Title II funds received by the consortium. There are few service providers in the area and many support services, such as the local food and clothing banks, are provided on a very limited basis by the local churches. The churches have formed a coalition, called the Cooperative Church Ministries of Orangeburg (CCMO) and combined their resources for a more coordinated approach of helping the community. CCMO administers the Housing Opportunities for People with AIDS (HOPWA) funds for the consortium (writing the checks to the landlords).

The health department employs three nurses (two full-time and one part-time) as case managers. Due to the staffing at the health department, nurses were more readily available than social workers to fill the case manager positions. Case managers focus much of their time on treatment education and arranging access to prescriptions in addition to assuring that the other needs of clients are addressed.

Flexibility is an important element of the relationship between clients and their case manager. Case managers see clients during clinic visits and also maintain phone contact. Since many of the clients are isolated, home visits strengthen the provider/client relationship and the health department believes that face-to-face interaction is important in helping clients adhere to their treatment regimens. The case mangers can assess the client's environment and identify factors that may make adherence difficult. For example, a client may live with people who are not aware of his or her HIV status and feels that he or she cannot take medications without having his or her HIV status discovered.

The case managers also will meet with clients at other sites that the client may designate and will drive clients to appointments if they prefer to meet at the agency's office. The disease intervention specialist, who works for the same department that administers the HIV/AIDS program, will visit clients if they are in the area doing partner notification.

The health department provides both primary and specialty care. It contracts on an hourly basis (the most cost effective way for the health department to provide care) with four general practitioners and an Infectious Disease (ID) Physician (there is only a small number of IDs in the state and most are in Charleston and Columbia). The ID physician consults with the four other physicians.

The health department's clinic for clients is open every Thursday from 5–9 p.m. Each week it is staffed by three physicians, including the ID physician. The commitment of the physicians involved is a critical component. For example, some clients are resistant to attending the clinic, whether they fear loss of confidentiality or are just not emotionally prepared in their acceptance of their HIV status. The ID physician will see these clients in his office on a routine or emergency basis. One of the concerns about limited clinic hours is that clients may not have access to care when they need it. For example, if a client calls on Monday with a sore throat, they will have to wait until Thursday to see a physician. If the situation requires, the client is referred to the emergency room.

Once again, transportation can serve as a major barrier for clients attending the weekly clinic. The health department contracts with a transportation service. When they were considering the contract, it was discovered that if they paid by the mile they could only pay a contractor the health department's standard reimbursement rate. This was far too low for a professional provider. Instead, the health department pays the provider a flat fee per week (about $10,000 per year) to bring clients to the Thursday night clinic. The health department carefully monitors the contract to make sure it is cost effective.

Waccamaw Care Consortium, Myrtle Beach—(Counties served: Georgetown, Horry, and Williamsburg)

Caseload—350 active clients (will serve nearly 450 over the course of the year)
Client Characteristics:
Male: 60%, Female: 40%.
African American: 57%, Hispanic: 1%, White: 40%, Other: 1%.
Uninsured and underinsured: 80%.
Rural: 50%.

CARETEAM, based in Myrtle Beach, is the lead agency of the Waccamaw Care Consortium, which is composed of ten agencies. Horry County is primarily middle class and the other two counties are more rural and have fewer resources. The lead agency provides both medical care and support services. One of the challenges identified in service delivery in the region is that the service area is long and narrow, and the lead agency is located in the northern part of the region. It may take more than 1.5 hours, one way, to travel to the outlying areas because of the geographic configuration of the service area.

CARETEAM employs four case managers. Three have caseloads of about 90–100 clients. The Director of Case Management has a smaller caseload of about 40 clients because this caseload requires more intensive management. Case managers contact clients by phone at least once a month and meet with clients on a face-to-face basis at least once every three months (when applicable). Case managers will meet with clients at the office, clients' homes, or at a designated location.

The agency contracts with five physicians that have been recruited (either paid per month or per patient). Two of the doctors reside in the region. The other three are ID physicians that commute from Charleston. The clinics are operated all day Monday and half day on Tuesday and Wednesday. Limited clinic hours have not been a problem since clients can see a physician during off-hours if necessary. All clinics are held off-site at three physicians' offices located throughout the service area. A key component in the provision of primary care is the medical case manager, who is a medical technician. The medical case manager does all the administrative work, including scheduling appointments, lab work and prescriptions assistance (i.e. state, ADAP, pharmaceutical companies) for the phyisican to cut down on their work. The medical case manager is present at all the clinics.

Transportation is provided to medical visits by either volunteers or through contracts with individual drivers who are paid by the hour. CARETEAM has used taxis in the past but these proved to be too expensive. While some providers in rural areas have been reluctant to use volunteers to provide transportation, fearing clients will be resistant to riding with volunteers due to confidentiality concerns, this has not been the experience of CARETEAM. In the future, CARETEAM would like to acquire a van and hire a driver on a part-time basis to provide transportation to clients.

Pee Dee Care Consortium—(Counties served: Chesterfield, Darlington, Dillion, Florence, Marion and Marlboro)

Caseload—410 clients.
Client Characteristics:
Male: 65%, Female: 35%.
African American: 96%.
Uninsured: 96%.
Rural: 70%.

Hope for the Pee Dee, an ASO based in Florence, is the consortium's lead agency and the sole recipient of Title II funds. The agency provides case management services and onsite primary medical care. The agency's medical clinic is open three days a week and staffed by a general practitioner. The agency will contract with an ID physician in the near future who will be available for consultation.

The clinic employs three full-time case managers, each with a caseload of approximately one hundred twenty clients. Most of the clients (about 80 percent) come into the medical clinic at least once a month and meet with their case manager at the same time. Case managers contact clients by phone every six weeks. For the majority of clients, medical services are not the top priority. Instead, they are much more concerned with issues related to daily living such as access to benefits, housing, food, and job training.

In the consortium region, access to other community-based support services is limited. Lack of transportation can impact access but there are other challenges. For example, the local food bank recently experienced funding problems that could have jeopardized food services for persons living with HIV/AIDS. As the only agency of its kind in the region, if it had to close, even temporarily, it would have been difficult to arrange an alternative source of food for the agency's clients.

Most clients can find some way to get to the clinic, such as the Rural Transit System, but this travel can be time consuming and inconvenient. The agency will help arrange local transportation and will pay when necessary. The agency would like to either establish a mobile clinic or find physicians in the region who would donate office space in which the agency could hold off-site clinics.

Low Country Care Consortium, Hilton Head—(Counties served: Beaufort, Colleton, Hampton, and Jasper)

Caseload—190 clients.

Client Characteristics:

Male: 58%, Female: 42%.

African American: 65%, Asian/Pacific Islander: 1%, Hispanic: 5%, White: 29%.

Uninsured: 85%.

Rural: 100%.

ACCESS Network, located in Hilton Head and Hampton, is the lead agency for the Low Country Care Consortium, which serves a four-county area in the southeastern section of the state. The service area is about the size of Delaware and Rhode Island combined and has a population of about 200,000. The consortium considers the entire service area to be rural in nature.

ACCESS Network is an ASO providing a full range of support services. In the service area, primary care is provided by various clinics, including Beaufort/Jasper Comprehensive Health Services, a Title III-funded provider, and private physicians. The Title III provider was first funded in 1998 and operates five local clinics serving Beaufort, Hampton and Jasper Counties. This additional funding for primary case services allowed the consortium to expand support services with Title II funds that had been previously used for primary care.

ACCESS Network employs two case managers, each serving a specific geographic area. One serves approximately 110 clients, the other 65–85. The case managers focus on the assessment of client needs through face-to-face interaction. Most meetings with clients take place off-site, requiring significant travel on the part of case managers. The agency utilizes support personnel to carry out the benefits management process and complete paper work in order to provide sufficient time for the case managers to meet with clients. Contact with case managers depends on the severity of the client's needs. Approximately 20 percent of the caseload requires intensive contact either daily or once a week. Other clients see their case manager every 6–9 months.

Case managers link clients with primary care providers in the service region. There are no formal linkages between ACCESS Network and these providers. Primary care is available from clinics operated by rural health services, private physicians and nonprofit health care providers. Since ACCESS is not formally linked to primary health care providers, case managers play an important role in assuring that clients access care. At intake, clients are asked if they already have a physician that they would like to continue to see and whether they have a source of payment. If the client does not have a physician, a referral is made based on geography and ability to pay. Low-income clients are treated in various local clinics that provide services on a free or sliding-scale basis to eligible clients.

Because the physicians in these clinics see more HIV-infected clients, they often have greater expertise in the treatment of HIV than other physicians in the community. Clients who are not eligible for these clinics (because of income level or they have private insurance) may end up seeing local physicians with less experience in treating HIV or having to drive to Savannah or Charleston to see an infectious disease specialist (anywhere from 50–110 miles one way). ACCESS provides some funds to primary care providers for services such as diagnostic tests, lab work or co-payments that are not covered by other payment sources. The primary care providers invoice ACCESS for these agreed upon services.

In the last eighteen months, ACCESS has been strengthening its ties with primary care providers and there has been greater coordination between physicians and case managers. Physicians and case managers consult about the clients' course of treatment and other factors impacting the client's overall wellbeing. Case managers also serve as a treatment advocate for the client.

As in many rural areas, informal linkages can be very important in obtaining a full range of medical and support services for clients. For example, situated next to ACCESS Network's Hilton Head office is "Volunteers in Medicine," a clinic staffed by retired health professionals who provide free health care. While it was a coincidence that the clinic opened next door to ACCESS Network, it has resulted in a close collaboration between the two agencies and allows case managers to be much more involved in the care of clients receiving treatment at the "Volunteers in Medicine" clinic.

Mr. Speaker, what this report talks about, it kind of looks in depth at two rural States. They chose New Mexico because it had a high incidence of minorities and had a lot of rural cities with small towns in those areas and Hispanics and Indians were in New Mexico. They chose South Carolina again because of the smallness and the rural nature of the State and the high incidence of African Americans. What they found in both of those cases is that there were some challenges in both of those States.

In addition to all the things I talked about earlier, there is a lack of Federal dollars; there is a lack of public awareness, inadequate housing and unstable home environment. There is just a lack of community understanding, of family support, that they could not, in fact, have the kind of support that would enable people in the South to get it. Also there is a lack of transportation services in those areas, a lack of case management and services and a comprehensive program to respond to AIDS programs, a lack of services to assist people in understanding they need to stay on their drug treatment and have a management system, have a disciplined system where, indeed, they were under those areas, certainly a lack of mental counseling or religious counseling in these areas, and a lack of actually just an appreciation of the disease.

There are issues that indeed affect us in more ways than we would think. But my reason in bringing this, Mr. Speaker, is to have my colleagues to recognize that AIDS is an issue that is affecting the South and is going unnoticed. It is a silent disease killing people. We cannot work on those perceptions that we have had. We need to understand the fact. We really need to look and to see what we can do to curb and certainly the whole issue of sexually transmitted disease and it being a predictor for the likelihood of getting HIV, that ought to be addressed. Only 28 counties in more than 3,000 counties in the country really have any significant cases of sexually transmitted disease, and in North Carolina we certainly have it. There is a relationship. We can fight that. We can fight that only by education and awareness.

The final article I wanted to reference is indeed the impact it is having on women. Again, one of the misperceptions is that this is a disease of white gay men. That could not be further from the truth. As I have said, although men constitute more than female, but the rate at which the growth is going is happening much faster, as I said earlier, again this is North Carolina. And in North Carolina although 68 percent are male, roughly 32 percent are female, that rate is growing faster now for females than for males. And the rate is growing faster for African American females than it is for non-African American females. This article is from the New York Times. Again, Mr. Speaker, I include the article for the RECORD.

[From the New York Times, July 3, 2001]

AIDS EPIDEMIC TAKES TOLL ON BLACK WOMEN

(By Kevin Sack)

GREENWOOD, MISS.—Here is the rural South, the image of AIDS today looks very much like Tyeste W. Roney.

Not a gay white man. Not a crack-addicted prostitute. But a 20-year-old black woman with a gold stud in her nose, an orange bandanna covering her braids, and her nickname, Easha, tattooed on one leg.

In the back of her mind at least, Ms. Roney had known for years that she could contract H.I.V. by having unprotected sex. Her mother had been telling her so since Ms. Roney was 13, when she lost her virginity. But either the lesson did not stick, or Ms. Roney did not have the power to negotiate safer sex with older lovers. She says that many of the men she can count as partners did not use condoms.

In February, after enduring 10 days of bleeding, Ms. Roney went to a health clinic. First a nurse surprised her by telling her that she had been pregnant and had miscarried. Then the nurse asked Ms. Roney if she knew she was carrying the virus that causes AIDS.

"I said, 'Get out of here, that can't be so,'" Ms. Roney recalled. "I just broke down and cried. I thought I wasn't going to be here long. Maybe a month."

It is a scene that has become all too familiar for poor black women here in the Mississippi Delta and across the rural south. Even as the AIDS epidemic has subsided elsewhere in the United States, it has taken firm root among women in places like Greenwood, where messages about prevention and protection are often overtaken by the daily struggle to get by.

Researchers say that in many ways the epidemic in the south more closely resembles the situation of the developing world than of the rest of the country. Joblessness, substance abuse, teenage pregnancy, sexually transmitted diseases, inadequate schools, minimal access to health care and entrenched poverty all conspire here to thwart the progress that has been made among other high-risk groups, particularly gay men.

While AIDS rates in the United States remain lower among women than men, women now account for a fourth of all newly diagnosed cases, double the percentage from 10 years ago. That growth has largely been driven by the disproportionate spread of the disease among heterosexual black women, particularly in the South.

For those who contract H.I.V. or AIDS in the rural South, life can become intensely isolated. Because of widespread misunderstandings about the ways H.I.V. is transmitted, the stigma facing those who are infected is often suffocating.

Many women are terrified to tell even their families, and they find their only comfort in the monthly meetings of a support group. One woman here, who lives with her son, is convinced that he would make her eat on paper plates and would keep her away from her grandchildren if he knew of her illness. Ms. Roney, who has informed only her family members, said she lost several neighborhood friends after they saw a health department van pull into her driveway to pick her up for a clinic visit.

Black women, who make up 7 percent of the nation's population, accounted for 16 percent of all new AIDS diagnoses in 1999, a percentage that has grown steadily since the syndrome was first identified 20 years ago. By comparison, black men made up 35 percent, white men 27 percent, Latino men 14 percent, and white and Latino women were each 4 percent.

While the number of new AIDS cases in the United States began to decline in the mid-1990's, the reversal started later for Southern black women, and the drop has been slower.

From 1981 to 1999, 26,522 black women developed AIDS in the 11 states of the former Confederacy. In Mississippi and North Carolina, statistics show that more black women than white men have contracted H.I.V. over the epidemic's course.

Unless a cure is found, the share of AIDS patients who are black and female is likely to rise. The trend is strikingly visible in Southern states with large black populations. Here in Mississippi, 28.5 percent of those reporting new H.I.V. infections in 2000 were black women, up from 13 percent in 1990. In Alabama, the number rose to 31 percent, from 13 percent. In North Carolina, it rose to 27 percent, from 18 percent.

"While the H.I.V. epidemic is also increasingly affecting men in the South and black men, the overall trends for women are distinct," concluded researchers with the Centers for Disease Conrol and Prevention in a paper published in March in The Journal of the American Medical Association. "The H.I.V. epidemic in women initially centered on injection drug-using women in the urban Northeast, but now centers on women with heterosexual risk in the South."

AN EXPLOSIVE INCREASE

In 1997, Dr. Hamza O. Brimah, a Nigerian-born physician who received training in AIDS care in London and New York, opened the Magnolia Medical clinic in a strip mall here in affiliation with the Greenwood Leflore Hospital. Dr. Brimah is the only AIDS specialist in a nine-county area. He started with fewer than 10 AIDS patients. Now he has 185. He assumes he is seeing only a fraction of those who are actually infected.

"In the beginning, I remembered everybody's name," Dr. Brimah said. "Now I have a hard time. Who's this? Who's that? They're coming at me so fast."

Sixty percent of Dr. Brimah's AIDS patients are women and 95 percent are black, in an area where 61 percent of the population is black. Almost all were infected through heterosexual transmission, and a majority, he estimates, came to him with a history of sexually transmitted disease.

Research has shown that people with sexually transmitted diseases like syphilis, gonorrhea and chlamydia have twice to five times the risk of contracting H.I.V., because the diseases cause ulcerations in protective mucous membranes. The South has consistently had the country's highest rates of sexually transmitted diseases. In 1999, for instance, 9 of the 10 states with the highest rates of gonorrhea and syphilis and 7 of the 10 with the highest rates of chlamydia were in the South, according to C.D.C. figures.

Dr. Brimah hears from his patients that H.I.V. is often the least of their worries. "There are issues," he said, "of looking after children, trying to get insurance, the lack of a father in the home, alcohol, drugs. They have so much going on."

Because of that, he said, women rarely seek out H.I.V. testing for themselves or their partners. Many of his patients, like Ms. Roney, learn that they are positive only when they become pregnant.

The other thing Dr. Brimah hears repeatedly from his patients is that they understood before they were infected that H.I.V. could be transmitted hetrerosexually. Typically, they hold no misconceptions that H.I.V. victimizes only gay white men. And yet, like smokers, speeders and drug users, they place themselves knowingly at risk.

Dr. Brimah told of one patient who dutifully took annual H.I.V. tests for three years, who clearly understood the nature of the virus and who then tested positive in the fourth year. "She was clued up, but she took the risk," he said. "She really couldn't explain it."

The women often struggle to explain their recklessness. They look down at the floor when asked to discuss their sexual behavior. Even those who have had many sexual partners will say they were choosy, that they had known their partners for years, sometimes for a lifetime and that they trusted them. Over and over, they say, they just did not think it could happen to them.

"I just wasn't thinking about no H.I.V., and I wasn't thinking about no AIDS and I wasn't thinking about no pregnancy," Ms. Roney said. "I was just being hardheaded. I don't know any other way to break it down."

Jean, a 44-year-old woman with AIDS who did not want her last name used, said she fell into a fast lifestyle after getting divorced in 1987. She said she might have had 30 to 35 partners over the last 10 years, and that they only occasionally used condoms.

"I guess I just blocked it out of my mind," she said. "I thought I had a good heart so it wouldn't happen to me. I knew it could happen, I guess, but I was just being stupid."

Health workers and researchers who hear these stories say that such high-stakes risk-taking may seem to make no sense, but that it must be viewed within the context of lives defined fatalism, faith and powerlessness. Often they say, there is little to break the tedium and despondency of life here, and certainly little that provides pleasure, other than sex.

"There's a sense that you don't control your life that much, and if God wants me to have H.I.V. I'll get it," said Kathryn Whetted-Goldstein, an assistant professor of public policy at Duke who has been studying AIDS in Southern states. "All of their life experiences teach them that they have very little control over their future."

Some girls start having sex at extremely young ages, almost always with older men, and find they have little ability to persuade their partners to use condoms.

"Most times I asked them to use one," "said Ms. Roney, a ninth-grade dropout, "but you know how guys are. They do their little sweet talk. 'It doesn't feel the same. Let's use one next time.' I just went along with it. I fell into that trap."

POVERTY, DRUGS AND RISK

Often, though not always, drugs and money play a vital role as well. Indeed, Dr. Brimah said the desperate need for money had become an H.I.V. risk factor in the Delta in the same way that needle-sharing was in the cities.

The Mississippi Delta, where the young green cotton crop shares the summer landscape with immense catfish farming ponds, has for years been among the poorest regions in America.

The median income here in Leflore County was $21,027 in 1997, more than $7,000 below the state median, which is itself the second lowest in the country. Three of every 10 Leflore residents live below the poverty line. The unemployment rate in April was 7.1 percent (some neighboring counties have broken well into double digits) and the recent closing of several large plants has made work even harder to find than usual.

The poverty is apparent on the rough streets and unpaved alleys of black neighborhoods like Baptisttown and McLaurin, where men and women sweat out steamy nights on the porches of dilapidated shotgun shacks. Just across the Yazoo River lies another world of brick mansions and lovingly tended lawns, where the white people live.

As everywhere, some poor women here make ends meet through prostitution, But the more common practice is a less formalized sex-for-money exchange in which nothing is negotiated up front. Rather, several women and health workers explained, there is an unstated assumption that a woman who engaged in casual sex with a man will be rewarded with a little financial help, perhaps in paying the rent, perhaps in buying groceries. As one woman explained it to Dr. Brimah: "You know how it is with men, doc. No honey, no money.

Gina M. Wingood, assistant professor of public health at Emory University who has studied AIDS in rural Alabama, said "It's just trying to make ends meet, day-to-day survival. We sort of see it in terms of prostitution, but they see it as how they have to frame their lives, especially if they have children or elderly parents to care for."

Jean, the 44-year-old AIDS patient, said she regularly operated that way. "Some of them would pay for sex but it wasn't like I was out on the street," she said. "The guy would just give me a little something sometimes. I had an apartment and had bills and I wasn't working."

Jerome E. Winston, a health department worker who tracks the sexual networks of infected people in the Delta, said he had heard complaints from some women about other women who accepted insufficient compensation for their companionship.

"What we had said to us a couple of times by the other girls is that the younger girls are messing up the system because they're giving it away virtually for free," Dr. Winston said. "They don't negotiate anything except for maybe a new CD or a pair of shoes."

Sex is also sometimes exchanged for drugs, particularly crack cocaine, though this seems to be more common in larger towns in the southern part of the state.

Sharyn Janes, a professor of nursing at the University of Southern Mississippi, said she heard horror stories while conducting interviews with people considered at high risk of infection. One man, she said, told her that he once drove a woman out of town when she refused his demand for sex after he gave her crack. He told her that "nobody gets a free ride" and left her to walk home, Ms. Janes said.

TRACING SEXUAL NETWORKS

Because of the breadth and casualness of sexual networks here, an infection can be virtually impossible to track and control.

In the first half of 1999, for instance, health officials untangled a trail left by two H.I.V.-positive men in Greenwood who had had sex with 18 women over a three-year period. Two of the women had had sex with both men. Five were themselves infected with the virus, and they in turn had had sex with 24 other men.

A study of the cluster by the C.D.C. found that half of those interviewed had a history of other sexually transmitted diseases, that some of the H.I.V.-infected women were as young as 13, and that the median age of the infected women was 16, compared with 25 for the infected men.

"The teenager's concept is that this guy is older so he's going to know what he's doing and he will take care of me," said Dr. Shannon L. Hader, a Centers for Disease Control researcher who studied the Greenwood cluster. "The reality is that older men have had more partners and are therefore more likely to have S.T.D.'s."

Clearly, Dr. Hader said, messages about prevention are not getting through. The rural South is politically conservative, and prevention programs in the schools tend to be episodic and focused on abstinence. Parents of students in the Greenwood schools must grant written permission before their children can be taught about condoms. Many local pastors are also reluctant to encourage explicit discussions about sex.

Dr. Hader also found a lack of knowledge about H.I.V. treatment. Five of the seven infected members of the Greenwood cluster had no idea that those with H.I.V. could now live for long periods with the help of antiretroviral drugs. That misconception has made it difficult to get patients into care, where they could also receive information about not spreading the virus.

Those who do seek care have few options. Before Dr. Brimah opened his clinic here, AIDS patients had to travel more than two hours to Jackson or Memphis, a trip that many could not make. Sandra Moore, a 32-year-old Greenwood woman who first learned that she had AIDS in 1990, would sometimes drive as far as New Orleans for treatment. Ms. Moore had withered to 60 pounds when she first visited Dr. Brimah, and was seemingly weeks away from death. Now on medication, she has increased her weight to 105 pounds and talks of living to see her four young children graduate from high school.

The cost of treatment is also prohibitive for many here. The pills typically prescribed by Dr. Brimah can cost up to $1,200 a month. Medicaid covers many of the poorest patients, and other state and federal programs help. But the working poor often have trouble qualifying for the programs.

Last year, Dr. Brimah received a three-year, $1.2 million grant under the Ryan White Care Act, the primary source of federal money for AIDS treatment. He uses the money to pay staff members, to buy equipment, supplies and medication, and to provide transportation to needy patients.

But in general, many Southern states have received a disproportionately small share of Ryan White funds. The money is appropriated to states by a formula based on the number of people living with AIDS in that state. But the growth of the epidemic in the South has been relatively recent, and many of those infected have not progressed from H.I.V. to AIDS. Congress changed the formula last year so that money will eventually be based on H.I.V. counts, but the new system might not take effect for years.

The other factors obstructing treatment, and thus prevention, are denial and stigma. Many infected women here never tell family members and close friends for fear of being shunned and abandoned.

"A lot of people don't understand about it," said Jane Smith, who has only told her pastor and her mother-in-law since learning two years ago that she has AIDS. "I guess they're scared they can catch it from being around people with it, if they cough on them or shake their hands."

One married couple, both infected, said they were open about their status when they lived in New York but had told no one since moving to Mississippi, not even their friends at Narcotics Anonymous meetings. "Everybody would scatter if they knew," said the wife.

Jean has lied to her family members, telling them that she has cancer, and has batted away their questions. Her joy, she said, is her grandchildren, and she is convinced that her son would not let her near them if he knew.

"I want to tell my family," she said, "but I know they're not going to accept it, and I'm just not strong enough right now for them to reject me. It would just send me over the edge."

This article is entitled "AIDS Epidemic Takes Toll on Black Women." Let me just cite a couple of things from it.

It says: "While AIDS rates in the United States remain lower among women than men, women now account for a fourth of all newly diagnosed cases, double the percentage from 10 years ago. That growth has largely been driven by the disproportionate spread of the disease among heterosexual black women, particularly in the South." Again, the South.

"Black women, who make up 7 percent of the Nation's population, accounted for 16 percent of all new AIDS diagnoses in 1999, a percentage that has grown steadily since the syndrome was first identified 20 years ago. By comparison, black men made up 35 percent, white men 27 percent, Latino men 14 percent, and white and Latino women were each 4 percent." Again, in women.

One of the doctors who looked at this says that he hears repeatedly by his patients in New York, and this is a doctor in New York who treats HIV patients, says that his women patients understand clearly, or they say they understand clearly, that they were infected or could be infected with HIV transmitted heterosexually, but nevertheless they go ahead and do it. It is almost like smoking. They say it is like smokers knowing indeed that the smoking is killing them, but they go ahead and do it. It is almost like a death wish. The issue is, is it drugs or is it the need for money? What is driving this kind of reckless behavior?

He says that women often struggle to explain this recklessness. They look down at the floor and they say, I know that what has happened to me is that I was not sure, I didn't protect myself, but yet I knew I should have. I trusted this person. I knew this person. And I just wasn't thinking about getting HIV. These are older women.

Health workers and researchers are struggling to know, How do you make sense of this? How is the relationship between poverty and drugs and risk often a part of this? We just have to find how we address those issues and make sure that as the life and the quality of life in these communities, that people are not walking into their own death trap. Poverty is apparently on rough streets and in the cities, and the exchange of sex for money or the exchange of drug needles that cause that has a strong part to play in it.

"Clearly," Dr. Hader said, "messages about prevention are not getting through." We need to find a way to get those messages through. The rural South is politically conservative, and prevention programs in the schools tend to be episodic at best and more focused on abstinence rather than on protection. Parents of students in many of the schools must have written permission before anything happens. Yet those children are getting the wrong message from other places, many of them becoming pregnant and their children are likewise infected. Most local pastors are reluctant to encourage an explicit or a frank dialogue among their young people so they understand the choices they have. You see, in the South there is indeed, we are fighting not only the lack of infrastructure, we are fighting the issue of attitude.

Mr. Speaker, there is indeed an issue of AIDS across our country. There is an issue of AIDS across this Nation. Certainly there is a severe pandemic in Africa, but there is a creeping disease that is indeed affecting us in the South and in rural communities throughout the United States, particularly in the South. It has the deadly effect of a silent killer. Those of us who know better are charged with the responsibility of waking our citizens up to this horrific disease and making sure that there are programs of intervention, programs of nurturing, care and counseling, and that our communities indeed will respond to it.

□ 2045

OUTRAGEOUSLY HIGH DRUG PRICES

The SPEAKER pro tempore (Mr. Rehberg). Under the Speaker's announced policy of January 3, 2001, the gentleman from Minnesota (Mr. Gutknecht) is recognized for 60 minutes.

Mr. GUTKNECHT. Mr. Speaker, I will later be adding some items to the Record.

Mr. Speaker, I rise tonight to talk about an issue that in some respects is a dirty little secret. Yet more and more of us in Washington and more and more seniors around the country know about this dirty little secret. It is about the outrageously high prices that Americans pay for prescription drugs.

Now, I think most Americans are appreciative to the pharmaceutical industry for the miracles they have created over the last number of years. We are all delighted that we have drugs today to treat diseases which just a few years ago were untreatable. We are not unappreciative to what the pharmaceutical industry has done. But the dirty little secret is that the Americans are paying the lion's share, in fact, I might even argue that the Americans are paying the entire share of the research and development costs for these miracle drugs for all the other consumers around the rest of the world.

Several years ago, I talked to some seniors back in Minnesota and they talked to me about going to Canada to buy prescription drugs. But they told me that when they came back after they had their little vials of whatever drug it was, whether it was Claritin or Coumadin or Glucophage or whatever the drug would be, when they would try to reorder that drug from the pharmacy up in Winnipeg or wherever they had bought the drugs in from Canada, when they tried to reorder the drugs and when the drugs came into the United States, they were stopped by the FDA. The FDA then sent a very threatening letter to those seniors saying that if they tried to do this again that, in effect, they could be prosecuted.

Now, if one was a 78-year-old grandmother getting a letter from the Food and Drug Administration in effect saying that she could be prosecuted, that what she is doing is illegal and if she tries to do this again, there are serious consequences, that is a very threatening thing to happen to a senior.

Now, they told me this story. They told me what was happening in their trips, their bus trips to Canada. I have to be very honest. It really did not register with me. In fact, it was not until almost 2 years later when a seemingly unrelated event occurred.

What happened was hog prices to our hog producers, to our farmers in Minnesota, the prices collapsed. In fact, they reached Depression-era prices. Hogs dropped to $8 per hundred weight. Now, today hogs in Minnesota are selling for about $69 to $70 per hundred weight. So now hogs are profitable again. But we had a tremendous collapse in the price of hogs.

Now, to make matters worse there was a packing plant up in Canada that was supposed to come online. There was some construction delays. For whatever reason the plant was delayed in being brought online. The net result was there were thousands of Canadian hogs, at perhaps the worst time in the history of hog production in the United States, thousands of hogs were coming across and making a disaster even worse.

Not surprisingly many of our hog producers complained about all of these Canadian hogs coming into our markets. Those of us who represent those districts, we brought those complaints and concerns to some of the Federal officials in Washington. The answer we got was relatively short and simple. "Well, that is NAFTA, the North American Free Trade Agreement. That is what free trade is all about. You support free trade, do you not, Congressman Gutknecht?" I had to say, "Yes, I do."

It was then that the light bulb really went on. Because I said if we are going to have free trade in terms of pork bellies, we ought to have free trade in terms of Prilosec.

I began to do some research. I feel sometimes like that little boy who came in and asked his mother a question. His mother was busy, and she said, "Why do you not go ask your dad?" And the little boy said, "Well, I do not want to know that much about it."

Well, I feel like that little boy sometimes because the more I have learned about this prescription drug issue, the more angry I become.

There is really something wrong with a system that says that American consumers on average pay $69.99 for a month's supply of Allegra 120 while our friends over in Europe enjoy exactly the same drug made in exactly the same plant under the exact same FDA approval, our friends in Europe can buy that same drug for $20.88.

If you look at this list, this is not a complete list, in fact, this is not even my list. These numbers were compiled by a group who have been studying this issue for more years certainly than I have, a group called the Life Extension Foundation, and just recently they sent us a listing. They had done a study between the United States and Europe, and here are some of the numbers.

I hope people will look at this. Let us look at commonly prescribed drugs for senior seniors. I know it is commonly prescribed because my 82-year-old father takes Coumadin. He is fortunate. He worked for a union employer all of his life. He has a pretty generous prescription drug benefit as part of his insurance package; and as a result, he does not pay the full price. But if he did, and millions of American seniors do pay full price for Coumadin, the average price in the United States for a month's supply of Coumadin is $37.74. That exact same drug in Europe sells for an average of $8.22.

Let us look at Glucophage. That is a drug that is taken principally by diabetics. If you are a diabetic in the United States and you are on Glucophage, you are probably going to be on it for the rest of your life. A 30-day supply here in the United States sells for an average of $30.12. That exact same drug made in the same FDA-approved facility in Europe sells for only $4.11.

Let me say that again. The price in the United States, $30.12. The exact same drug in Europe sells for $4.11.

As you look at some of the more expensive drugs, and this is where it becomes incredibly problematic, where you have seniors or you have other consumers that do not have prescription drug coverage, they are paying full bore for these drugs, and more and more we are seeing drugs coming on to the market like, for example, Zithromax 500, a 30-day supply in the United States sells for $486. That is the average retail price. But our friends over in Europe, and let us remember the European Union now has a gross domestic product almost equal to the United States, their standard of living is almost equal to the United States. At one time after World War II and we had the Marshall Plan, certainly it was important for Americans to help rebuild Europe and in effect to subsidize Europe; but today Zithromax 500 sells for $486 in the United States. The same drug in Europe sells for $176.19.

Mr. Speaker, this is indefensible. This is unsupportable. There is no one in this body, there is no public policymaker in America, that can defend this chart. What is worse, the pharmaceutical industry cannot defend this chart. We have had representatives of what we call PHRMA into our office. We have showed them this chart and said please explain this chart.

These are multinational companies. Many of them are based in Europe. Many of the big pharmaceutical companies now are based in Geneva or London or Paris. How is it that you are willing to sell these drugs so much cheaper in European Union countries than you are here in the United States? Now the interesting thing is they do most of the research here in the United States and we are happy for that. We want the research to remain here in the United States. But the dirty little secret is, we subsidize the starving Swiss.

All I am saying with the simple amendment that I intend to offer tomorrow is that it is time to level the playing field. I do not believe in price controls. I do not believe in more government regulations. I think in the long run both price controls and government regulations are the wrong way to go. If you doubt that, just do a brief study of the former Soviet Union, because for over 70 years there is an experiment that failed. They tried to set prices. They tried to control markets.

Mr. Speaker, markets are more powerful than armies. What the Soviet Union proved more than anything else is that you cannot hold back markets. We are in the Information Age, Mr. Speaker, and these kinds of numbers, these huge differences between what Americans pay and what Europeans pay for exactly the same drugs, that system could only survive before the Information Age. Now people can get on their computer, they can go online and they can get this information. And they can find out that in Switzerland they are able to buy Biaxin for half the price that we pay in the United States. Once Americans realize this, because information is power, once Americans realize the huge differences that they pay for the same drugs, they are not going to stand for it. They are going to start marching on this Congress and they are going to demand that we do something.

In fact, how many times do we hear at some of our town hall meetings, Congress needs to do something? Well, I am going to go back to the point I made earlier. I do not support price controls, and the truth is some of the countries in the European Union have price controls. I think it is a bad idea, and I do not want to join them. But some of the countries in the European Union do not have price controls. Switzerland does not have price controls. Germany does not have price controls.

A German can go in and buy drugs in Switzerland or a German can go in and buy drugs in France or in any other country. The European Union allows free markets within that area.

It is interesting, because just a few years ago we passed the North American Free Trade Agreement and so pork bellies can go across the borders, and fruits and vegetables can go across the borders and lumber can go across the border. There is nothing to stop one of my constituents from going to Winnipeg, Manitoba and buying a Chevrolet. As a matter of fact, I do not think there is anything that would stop that consumer from going online and on the Web and ordering almost any product they want from Winnipeg, Manitoba; or Paris, France; or Rome; or Frankfurt, Germany; or anywhere else. There is only one product which we for some reason have singled out and said American consumers do not have access to world market prices, and those are pharmaceuticals.

Now I am not here tonight to beat up on the pharmaceutical industry. As I said earlier in the discussion, I am appreciative to what the pharmaceutical industry has done. Almost every one of us has a relative, a neighbor, a parent, a child, that has benefited from the research that the pharmaceutical industry has done.

Before I yield to my friend, the good doctor, the gentleman from Des Moines, Iowa (Mr. GANSKE), I want to talk about the three ways that we as Americans subsidize the pharmaceutical industry, because this is not largely understood. The truth of the matter is, we subsidize the pharmaceutical industry in three different ways. First of all, we subsidize them through the Tax Code. What the pharmaceutical industry is saying today is well, we spend billions of dollars on research and most of it is done here in the United States. I said earlier in my discussion I am delighted that they do the research here in the United States. The numbers that we have, the latest numbers, is that the pharmaceutical industry in the last year that we have numbers for spent about $12 billion here in the United States on research, and that is good.

What they do not say is that on the tax forms, most of these corporations are so profitable that they are at the 50 percent tax bracket, that at least half of that gets written off on their Federal income tax form. More of that gets written off on their State income tax form. Now what they are also eligible in some circumstances for is an investment tax credit. So we subsidize the pharmaceutical industry and the research that they do through the Tax Code.

Secondly, this year we will spend close to $14 billion through the NIH and other various government agencies, including the Defense Department, on basic research, most of which is available to the pharmaceutical industry free of charge. In other words, we are putting all this money into NIH and through NIST and other science agencies, also through the Department of Defense, and most of that information, once a discovery is found, is made available to the public and to the pharmaceutical industry free of charge. So there is about $14 billion worth of public research that is paid for by the American taxpayers. That is the second way we subsidize the research that they do.

The final way that we subsidize them is in the prices that we pay. These are outrageous. These are indefensible. Again, I am not here to really beat up on the pharmaceutical industry, because they are only doing what any industry, what any business, would do in terms of exploiting a market opportunity that we have given them. We give them a 17-year patent in which they can sell these drugs in the United States and really no one can compete against them. In other words, we give them a monopoly and on balance I think that is a good idea. They are exploiting this market opportunity. No, it is not "shame on the pharmaceutical industry for creating this kind of an environment." It is shame on us. It is shame on our own FDA for allowing this system to develop whereby Americans are paying for all of the research and most of the profits of the large pharmaceutical companies, many of which are not even based here in the United States.

□ 2100

I am delighted to have joining us today one of the physicians who serves here in the House, the gentleman from Des Moines, Iowa (Mr. GANSKE), a former wrestler and Iowa Hawkeye, a good friend, and one who is not afraid to take on giants.

I have to tell the gentleman, I reread the story from the Book of Samuel tonight of David and Goliath, and it was a powerful story. And sometimes when I think about the huge pharmaceutical industry and the simple little amendment, I feel like David, who went out on to that field, and he took from his sack a small stone, and he slung it at Goliath, and that is sort of where we are with this small amendment.

But I want to welcome the gentleman from Iowa (Mr. GANSKE), who is one, as I say, who we do not always agree, but, I will tell you, I have always admired and respected, and we are delighted to have the gentleman here tonight to talk a little bit about pharmaceuticals. I will yield to the gentleman.

Mr. GANSKE. I thank the gentleman from Minnesota and would like to enter into a colloquy with him.

I think the gentleman is pointing out an important difference in the price in the United States for some of those drugs and the price in Europe. Now, correct me if I am wrong, but most of those European countries do not have price controls; is that correct? Some do, some do not.

Mr. GUTKNECHT. Some do, some do not. We do not want to get into a debate, because, in truth, I do not support price controls. I think the best way to break the backs of price controls is to have open markets, because once the pharmaceutical industry and European countries realize that American consumers are going to be buying from them at their prices, I think it is going to force the European Union and the pharmaceutical industry to come to a better agreement so we level the playing field. That is really what I am trying to say.

Yes, some have price controls, some do not. Every country has a slightly different regimen in how they deal with monopolies.

Mr. GANSKE. But it is a fair statement that the prices are significantly lower for the very same prescription drugs that are made in the United States that are sent overseas, that they are significantly lower, sometimes half as much or even a quarter as much, in some countries, as they are in the United States. Is that not a fair statement?

Mr. GUTKNECHT. That is absolutely correct. As I say, these are not my numbers. This was an Independent Life Extension Foundation study done just recently between the United States and countries in the European Union.

Let me point out, and the gentleman is more familiar with some of these drugs than I am, that Glucophage, which is a drug that I understand that once many diabetes patients take, they take it daily, in fact I guess they have given them a new patent now. Instead of a twice-a-day tablet, there is a once-a-day tablet, which gives them an extra 17 years on their patent.

We are talking about seven times more. You talk about a patient who is going to have to take that perhaps for the next 30 years, you start multiplying that difference, we are talking about thousands and thousands and thousands of dollars, multiplied by, I do not remember the exact number, but something like 35 percent of all Medicare expenditures are in one way or another related to diabetes-related illnesses.

I believe the amendment we are talking about ultimately, when fully implemented, when consumers have access and understand how it works, could save American consumers $30 billion a year.

Mr. GANSKE. I want to just pin this down. The gentleman would say it is fair to say that there are many countries in the world where the prices are significantly less than they are in the United States; even though the drugs are exactly the same, they are made in the United States, they are shipped overseas, where they do not have price controls in those countries, but that the price is set by what the market will bear. Would the gentleman say that is a correct statement?

Mr. GUTKNECHT. That is a correct statement based on all of the evidence and research that I have received from independent agencies. That is correct. In fact, we even have an independent study of Canada, where they do have price controls, but they are not as firm as some people think. But a study done by the Canadian Government suggests that they are saving Canadian consumers upwards of 50 percent.

Mr. GANSKE. Now, the difference, the reason that we have these very high prices in United States, as versus, say, Switzerland, is because we cannot reimport those drugs from Switzerland into the United States because we have a Federal law that prevents that from happening. Is that the correct story?

Mr. GUTKNECHT. There again, the FDA holds that, yes, we have that law. Now, last year in Congress we passed legislation by overwhelming votes, it was something like 376 to 25 here in the House, it was 90-some to 3, I think, in the Senate, essentially going on record that we want to make it clear that law-abiding citizens should not be prevented from bringing legal drugs back into the United States, especially for personal use. So, the law, in my opinion, today is not clear.

What we want to do with the amendment that I intend to offer tomorrow is clarify the legislative intent so there is no misunderstanding between the pharmaceutical industry, the FDA and American consumers that law-abiding citizens who have a legal prescription from a physician do have the right, using mail order, using the Web, using other methods, the telephone, they can call a pharmacy in Ireland or Geneva and be able to order that drug and have it brought back in the United States, so long, again, as it is a legal, non-narcotic drug. That is the amendment I intend to offer. That, I believe, will ultimately level the playing field between the prices that Americans pay and what consumers in other countries pay, regardless of whether or not they have price controls.

Mr. GANSKE. That would mean, for instance, that a citizen in Minnesota could cross the border into Canada with a prescription and get it filled there, or a citizen in Texas or Arizona or New Mexico could cross the border and get a prescription filled there, and that would not be illegal. They could bring that back into the United States. That is the gist of the gentleman's amendment; is that correct?

Mr. GUTKNECHT. That is correct.

Mr. GANSKE. Okay. Now, then, we had hearings in my committee, the Committee on Energy and Commerce, talking about how there are some counterfeit drugs that get into the market. These hearings primarily focused on some very expensive drugs, like growth hormones, that are used for body building and other types of uses and sometimes can cost as much as $2,000 a vial. It has been reported in the press that some of that medicine is not real, that there has been adulteration or false packaging.

Now, my understanding is that this has happened within the United States. Is that the gentleman's understanding?

Mr. GUTKNECHT. Absolutely. The counterfeit drugs that some of these people are talking, or adulterated drugs, first of all, I want to make it clear, my amendment does not make them legal. We are only talking about drugs that are otherwise legal in the United States, where people have a legitimate prescription from a doctor. Principally what we are talking about, where this really happens, is when people travel.

For example, let me give you a story from one of the ladies at one of my town hall meetings. She has a skin condition, I think called eczema or psoriasis, but, anyway, she has a skin condition, and to deal with that and manage it, her doctor in Rochester, Minnesota, has prescribed a particular ointment only available with a prescription, and in Minnesota it sells for about $130 for one tube.

She was traveling in Ireland a couple of years ago and began to run out of this cream. She went to a pharmacy in Ireland, she had her prescription with her, she went into the local pharmacy, took her prescription, they had exactly the same drug, in exactly the same tube, made by exactly the same company, and it was $30.

Now, when she got back to the United States, she said to herself, because she needs about a tube of this ointment every month, so $130 times 12 versus $30 times 12 is a saving of $1,200 per year to this one individual.

She looked at the tube, and on the tube or on the box that it came in, it had the name of the pharmacy, and it had the phone number. Now, she did what a lot of American consumers would do to save $1,200 a year. She picked up the phone, made a $2 phone call to Ireland and said, could I get that prescription refilled? The pharmacist over there said, absolutely. So he shipped her another supply.

Mr. GANSKE. But there is nothing in the gentleman's amendment that would prevent the FDA from intercepting that shipment, that drug that she had ordered, and testing it, just like they would do if she had ordered it from a retailer in the United States and had it shipped to her home, is there?

Mr. GUTKNECHT. No. In fact, if the FDA wants to test it, and, frankly, I want the FDA to enforce laws against illegal drugs. But can I just show the gentleman another chart, because I think it talks to this very point.

The problem with the FDA is not that they do not have the power to inspect; it is that they spend all of their time chasing legal drugs and law-abiding citizens. They are focusing on the wrong end.

Last year, for example, instead of stopping illegal drugs imported by illicit traffickers, some of the people the gentleman heard testimony about, what they have done is spent most of their effort going after approved drugs with law-abiding citizens. Last year the FDA detained 18 times more packages coming in from Canada than from Mexico.

We do not have a problem with Canada. We know a lot about the pharmacies in Canada. They have strong and stringent regulations in Canada. So why is the FDA detaining 90 times more packages from Canada? This was last year. Last year the FDA detained 90 times more packages from Canada than from Mexico.

They are chasing law-abiding citizens bringing legal drugs in. What they need to do is focus on the traffic that the gentleman was talking about, where you have adulterated drugs, where you have got illegal drugs, where you have got all kinds of mischief going on, which, incidentally, the gentleman and I both know that as long as we try to play by the rules that the FDA has set in place now, you are going to get more of. Because more and more consumers who cannot afford some of these very expensive drugs, as we talked about before the gentleman arrived, Zithromax 500, $486 in the United States, $176 in Europe, what you are going to do is get more and more law-abiding citizens trying to figure out, how can I get those drugs, either legally or illegally, in the United States? Because the truth of the matter is that a drug somebody cannot afford is neither safe nor effective.

Mr. GANSKE. So let me get this straight. What the gentleman would like is he would like the FDA to have enhanced enforcement to make sure that not only drugs coming into the United States from other countries are checked to make sure they are valid, but also to make sure that shipments that originate within the United States are not adulterated and are real drugs, too. And I believe at the bottom of the gentleman's other thought, the gentleman points out that we appropriated additional millions of dollars for border enforcement last year.

Mr. GUTKNECHT. And the FDA refused to use it, and that is why we need this amendment this year, is to clarify what we said last year, stop chasing law-abiding citizens with legal drugs and legal prescriptions.

Let me just suggest this: I do not know how many of our colleagues have gotten a package recently from UPS or Federal Express, I believe even the Post Office does it now, but they put a bar code on those packages. The truth of the matter is I believe that within a matter of months, if the FDA was serious about this and did not want to pursue law-abiding American citizens who are trying to save a few bucks on their prescription drugs, they could create a bar coding technology to know where that package came from, when it was shipped, and, frankly, they could even put what is in it.

In fact, we now have the technology, and it is used in most hospitals, the software was developed in Minneapolis, Minnesota, I can put them in touch with the people that developed it, in virtually every hospital now, when you go in the hospital, they put a bar-coded bracelet around your arm, and when they dispense prescription drugs in the hospital, when they bring them in, they take the wand across your bracelet and a wand across the bar code on the package so that they know, they can literally go back to their computer and know that at 3:10 p.m. this afternoon, you were given two tablets of Tylenol, or whatever the drug happened to be.

That kind of technology is not science fiction. This is available today. And if the FDA is serious about this, we can help them solve the problem.

The real issue is I do not think the FDA wants to solve this problem. They continue to commingle illegal drugs with legal drugs, and they continue to pursue the law-abiding citizens bringing in legal drugs, and yet there are literally millions of dollars of illegal drugs not only coming in from outside the United States, but, as the gentleman suggested, they are originating in the United States, and little or nothing is being done about that.

□ 2115

Mr. GANSKE. Mr. Speaker, I think this is a very, very important point; and I hope that some of our colleagues are in their offices working tonight, listening to the gentleman's presentation, because for sure, when the gentleman's amendment comes up, we are going to hear tomorrow all kinds of horror stories about how an adulterated drug or a fake substance could be imported from the United States so the patient would not be getting the medicine that they need, or even worse. But the real point is that that can happen within the United States just as easily, and that what we really want is we want the FDA to do its job, both on drugs that would come back into this country, but also on drugs that would be moving within this country, from one State to another State.

It is easy to think, if we have a drug that could cost $2,000 a vial, that we could have organized crime create some labels in New York, put some substance into that vial, and ship it over to California and have a big scam operation going on. I mean, that is happening within the United States.

But what the gentleman is talking about for the vast majority of our senior citizens or others who need medicines are not that that vial of growth hormone that costs $2,000, but the difference in, if the gentleman would put the other chart up with some of the examples of the prices, let us take, for example, Coumadin. That is a blood thinner. In the United States, it is going to cost $37 for a 30-day supply; in Europe it will cost $8.22. It does not make sense for organized crime to get involved with changing labels for a drug of that price range when it is going to an individual.

Now, if we are talking about wholesale, larger shipments, then I think it is a legitimate concern; but it is also one that I would answer just like we did last year, by appropriating more money for the FDA to step up its surveillance and make sure that it does not happen. But I will tell the gentleman something. If we take that drug that costs $500, the Zithromax, $486 for a 30-day supply, we can have just as big of a problem with a fake drug within the United States as from anything coming from overseas.

So I believe that these issues are being mixed up in an effort to basically defeat what I see as a free market approach to helping bring drug prices down in the United States. We have very high prices here because there is protection for the high prices here when we cannot introduce competition with lower-priced drugs, the same drugs from overseas. If we would allow our constituents to be able to order that drug from Pharmaworld in Geneva, Switzerland, at half the price, we know what would happen here. We know that the competition would drive the prices down at our pharmacies in this country too.

Mr. GUTKNECHT. Mr. Speaker, as I said earlier, markets work.

Mr. GANSKE. Or, for example, someone's local pharmacist would be able to order that drug from the wholesaler at the lower price and would be able to pass those savings on to the consumer. That is why this idea passed the House of Representatives with 350-plus votes just a year or so ago. But I believe, then, that the opponents to that legislation brought forward this issue of the fact that there are fake drugs that are occasionally found and then used that to try to knock down the whole idea of increased competition from overseas.

Really, the solution is simply, both within the United States and from drugs that could come in from abroad, making sure that the FDA does its job. This is part of a bill that I introduced on prescription drugs. The other main aspect of that bill is that for low-income seniors, we would allow them to utilize the State Medicaid drug programs up to 175 percent of poverty and get a Medicaid card and be able to go to their local pharmacist; and I believe that there is a way to work with the pharmaceutical houses on that issue and avoid a national drug pricing mechanism. That is a little different issue, but the idea that the gentleman from Minnesota (Mr. GUTKNECHT) has, I think, is a legitimate one, and it basically is a free market approach. It just makes the market a little bigger. It makes it more global than a protectionist policy that stops at our borders that prevents the very same drugs made in the United States, made in New Jersey and shipped overseas as versus consumed here, the very same drugs, from coming back in at a somewhat less price.

So tomorrow, when we debate this, we will probably not have that much time. It will probably be a time-limited amendment. There have been a lot of opponents that have been putting newspaper ads into newspapers around the country or even running television and radio ads on this issue; but I will tell the gentleman, I have a lot of constituents back in Des Moines, Iowa, who, when they go down to Texas for the winter, they take their prescriptions, they go across, they look at the labels, they see it is made in the United States, the same drug, they bring it back for half price. The gentleman's amendment tomorrow would allow them to continue to do that. I think that it would be somewhat difficult for many Members of this House to switch their vote from supporting that idea last year to voting against it this year.

I yield back to the gentleman from Minnesota.

Mr. GUTKNECHT. Mr. Speaker, I agree with the gentleman. I think Members understand this issue, and it really is a choice between are you going to stand with your seniors who are having a difficult time affording their prescription drugs, or are you going to defend the FDA bureaucracy and the pharmaceutical industry. I think that really is the vote. At some point, if they vote, particularly if they change their vote this year, they are going to have to explain this chart to their constituents. They are going to have to explain why they should have to pay $30.12 for Glucophage in the United States when their European friends can buy it for $4.11.

Let me just talk briefly, if I can, about the whole issue of safety because frankly, that is an area where our opponents have really focused in and there have been a lot of scare tactics, as the gentleman mentioned, running newspaper ads and radio ads and television ads. But the interesting thing is at least in my area, my seniors are a whole lot smarter than those ads, because most of the calls that are coming in are saying absolutely, this is the right way to go. They understand these price differences, they understand safety, they understand that they are willing to take a slight risk. The most important thing is when they go down to the local pharmacy, they might get the wrong medication. It might get in the wrong bottle. There is always some element of risk.

Out there in New York Harbor, it is called the Statue of Liberty, it is not called the Statue of Security. We always take some risk. I cannot say that my amendment is risk-free, but as the gentleman indicated, the system today is not risk-free. But here is the interesting thing. In all of the advertising, they do not mention any people who have ever been injured by bringing legal drugs into the United States with a prescription. Not one. There is no known study that demonstrates that public health has been injured by patients importing legal medications with a prescription under the order of their doctor.

What is more, millions of Americans have no prescription drug coverage. And as I said earlier, a drug that one cannot afford is neither safe nor effective. That is when people start cutting up their pills. That is when they start looking to back-street vendors or people who may be selling adulterated drugs. Let us just talk about safety, because when we mention the FDA, we talk about drugs and medical devices and so forth, but we forget that part of the reason this amendment is in order to the agriculture appropriations bill is because it is the Food and Drug Administration. They get their money through the agriculture appropriation bill.

I asked my staff a few weeks ago, I said, now, wait a second. We import literally hundreds of thousands of pounds of raw meat every day. We import millions of pounds of fruits and vegetables. There must be some studies that people get sick, because I remember a couple of years ago, there were some kids who had gotten sick, about 200 kids who got sick from eating strawberries imported from Mexico. Maybe the gentleman remembers the story, that somehow, some pathogen had gotten on the strawberries and they got sick. Well, what did the FDA do about that? The truth is, almost nothing.

Mr. GANSKE. Mr. Speaker, if the gentleman would yield, in that situation, what Congress responsibly does is it provides the resources to the USDA to do those inspections at the border. That is why, for instance, we have increased our funding for making sure that Foot and Mouth Disease does not get into the United States. That is why last year we appropriated $23 million extra dollars for the FDA to do its appropriate job with monitoring to make sure that drug shipments that will come back in are the real thing.

But still, I just have to get back to this point, and that is that one can go down to the local pharmacy, they have their medicine from somewhere in California or New Jersey or Florida. What is their level of confidence? Their level of confidence is that we have an FDA that monitors that every so often. But every so often, once in a while, very rarely, especially with this particularly very, very high-priced drugs, they have found that there have been some fraudulent drugs. They are doing their job when they find that. And they will do their job if Congress appropriates the appropriate amount of money to monitor any medicines coming back into the country from Switzerland or Germany or Ireland or Canada. I mean, it is not a problem that cannot be solved.

Mr. Speaker, I would tell the gentleman, the savings to the individual that we are talking about is the difference between, as the gentleman has already said, is the difference between many times their having the drug at all for their heart failure or for their high blood pressure or for other serious conditions. There is no question. We would not be dealing with the issue of high cost of prescription drugs in this Congress, it would not have been such a big issue in the last presidential campaign if this were not a real problem.

So I commend my colleague from Minnesota for talking about this. I look forward to the debate tomorrow on this amendment. I do think that the gentleman's amendment is well thought out because, correct me on this, but there is nothing in the gentleman's amendment that would prevent any funding for the FDA to do its job; is that correct?

Mr. GUTKNECHT. No, it just simply says you cannot use the money to pursue law-abiding citizens who have a legal prescription.

Mr. GANSKE. But there is no decrease in the funding overall for the FDA's surveillance.

Mr. GUTKNECHT. No. We have made it clear to the FDA, as we did last year, you tell us what you need to do this job, and we will see that you get the funding. They asked for $23 million. We appropriated $23 million. Then after we had appropriated the $23 million and literally let them write the language, they reneged on the deal. So this year, in effect we are saying, and we really mean it.

Now, in conference committee I am willing to work with them to get this done.

Mr. Speaker, I do want to come back briefly, and I know the gentleman has to go; but I want to come back to the safety issue. There is another secret that the FDA does not want to talk about, and I started to mention how many tons of raw meat and fruits and vegetables come into the United States. There has been concern about pathogens and what they can do. The gentleman is a physician; and I might just ask him, if someone gets salmonella, what can happen?

□ 2130

Mr. GANSKE. Well, one can die.

Mr. GUTKNECHT. One can die. In fact, I had a friend who got salmonella. He was virtually blinded. He can still see, and I do not know what his vision level is, but he almost died, and he ended up with a severe loss of vision from salmonella.

I did not know until this particular episode how serious it was, and that one of the consequences can be a loss of vision. This is a study done by the FDA in 1999. They analyzed 1,003 samples of produce items coming into the United States from other countries. I have the numbers here in terms of how much we import from different countries.

From Canada, for example, the latest year we have, we imported 335,000 metric tons of beef into the United States. We imported 322,000 pounds of pork. We imported from Mexico a grand total of 3.1 million metric tons of fruits and vegetables from Mexico. We imported from South America over $742 million worth of fruits and vegetables from South America.

Now, we import a lot of food into this country every single day. Here are the numbers. According to their study, the total percentage of food that was contaminated with either salmonella, shigella, and I am probably not saying that right, or E. Coli, the total percentage of that sample that they took was 4.4 percent.

Now, we know people get sick every single day in the United States. I have had food poisoning twice in my life. We know there are thousands of people who get sick from food poisoning, from salmonella. We know that is serious. What is the FDA doing to inspect every single piece of produce, every pork belly, every carcass of beef that comes into the United States?

Do Members know what they are doing? It would not be fair to sày nothing, but it would be almost fair. Almost nothing is done.

I just want to make one last point, and it is this. What the FDA is doing in terms of prescription drugs is they are going to build a wall about a mile high. Yet, when it comes to food that we eat every day, of which, by their own study, 4.4 percent is contaminated with salmonella and other dangerous pathogens, there is almost no inspection, almost none. It comes right across the border.

If we are going to say we have to be absolutely certain of every single package of pharmaceuticals, then by golly, should we not say the same for fruits, for vegetables, for pork bellies? That is all I am saying. I am willing to work with them, and with new technology I think we can have a system that will be far safer than it is today, but they do not want to work with us.

Mr. GANSKE. Continuing the gentleman's analogy, Mr. Speaker, what the gentleman is saying is that there is not anyone in this House who is going to propose that we cut off all imports of beef or vegetables or fruits that come into the United States. Nobody is proposing that. If there is a problem related to pathogens in meat or in some of those vegetables, that is why we have a USDA. That is why we have an inspection process. That is why we appropriate a certain amount of money.

If there is a problem, then we will appropriate more funds for the inspection to make sure that our food and vegetables coming into the United States are safe. But as the gentleman has pointed out on prescription drugs, there is no known scientific study demonstrating a threat of injury to patients importing medications with a prescription from industrialized countries.

When we went to the Food and Drug Administration last year, we said, "If there is an increase in the flow of reimported drugs, what do you think you need to do to adequately inspect those to make sure there is not a problem?" They told us, and we appropriated that. We can continue to do the same.

The real question is, do we allow some competition to help lower the cost of prescription drugs. I think it will be a very interesting vote here on the floor tomorrow on this amendment, because I think that the opponents to last year's legislation have seized upon a red herring. They have seized upon the fact that even within the United States there have been a few examples of exceptionally high-priced drugs where there has been fraud. Then they say, "Well, see, if there have been a few cases here in the United States, that could happen from drugs imported from abroad."

I think my response and the gentleman's response to that would be that that is even more reason why we adequately fund the FDA, but it can happen in the United States just the same as it could happen on a reimported drug. That is not a reason per se to argue against reimportation.

Mr. GUTKNECHT. Mr. Speaker, here is another chart that basically says we have to do something to bring our prices into line. Last year the average senior in the United States, well, seniors in the United States got a cost of living adjustment in Social Security of 3–½ percent. Total expenditures on pharmaceuticals went up 19 percent. We cannot continue this. This will eat us out of house and home. This kind of thing, this is what is causing consumers to look at ways that they can save some money.

This chart, as I say, when our colleagues vote tomorrow, and I have prepared this and I will make this available to any Member who wants a mailing in a sense explaining, A, the problem, the chart, the differentials, and it also answers the four most commonly asked questions or arguments against this simple little amendment. Anybody who wants a copy can get a copy of the amendment. It is a very simple amendment.

Mr. GANSKE. Mr. Speaker, I wonder if the gentleman would mind reading that amendment.

Mr. GUTKNECHT. I would be happy to. It is now in the CONGRESSIONAL RECORD, "Amendment to H.R. 2330 as reported offered by Mr. GUTKNECHT of Minnesota."

"At the end of Title VII, insert after the last section preceding any short title the following section, section 7: None of the amounts made available in this act to the Food and Drug Administration may be used under Section 801 of the Food and Drug and Cosmetic Act to prevent an individual who is not in the business of importing prescription drugs within the meaning of Section 801(g)," and I am not a lawyer, but we had three very smart ones help write this, "of such act from importing a prescription drug that, 1, appears to be FDA approved; 2, does not appear to be a controlled substance," and we do not even allow codeine under my amendment, we are not talking about any controlled substances or narcotics, "or, number 3, and appears to be manufactured, prepared, propagated, compounded, or processed in an establishment registered pursuant to section 510 of such act."

In other words, it has to be made in an FDA-approved plant. It has to be sold through FDA-approved channels. It has to be sold with a legal prescription.

Again, simply put, this says the FDA cannot spend its resources chasing law-abiding citizens who are bringing in legal drugs with a legal prescription. That is all we are saying in this amendment. We are not talking about bulk reimportation.

Mr. GANSKE. If the gentleman will yield further, Mr. Speaker, there is nothing in the gentleman's amendment that reduces the amount of funding to the FDA?

Mr. GUTKNECHT. No. It just says they cannot spend the money chasing law-abiding citizens. Go after the people who really are the problem.

More importantly, I would love to see the FDA do a better job of policing the fruits and vegetables, and the pork bellies and all the beef and raw meat that comes into this country every day.

I do not want to scare people, but that was a scary number to me. Does it not bother the gentleman that 4.4 percent of the samples that they tested had either salmonella, shigella, or other dangerous pathogens present on the product? That bothers me.

The gentleman has a pretty good solution to some of this. It is electronic pasteurization. That is the term I like to use. Frankly, I think we need to move down that path. But this is the scary thing. If the gentleman has ever had food poisoning, in some respects I think it is far more dangerous than people trying to save a few bucks on coumadin by buying it through a pharmacy in Winnipeg, Manitoba.

Mr. GANSKE. If the gentleman will yield further, Mr. Speaker, speaking from personal experience, I have had a life-threatening experience with food poisoning, which became a case of encephalitis. It is a serious problem.

I believe that the USDA is doing a pretty good job on its inspection of meat and vegetables, fruit. I would certainly be in favor of additional funding for that, and I am in favor of additional funding to help the FDA do its job of monitoring the validity of drugs in this country, as well as that that would be imported or reimported.

I just want to commend my colleague, the gentleman from Minnesota, for bringing this important issue to the attention of our colleagues.

Mr. GUTKNECHT. I thank the gentleman from Iowa (Mr. GANSKE) for coming down to visit with us tonight. This is a very important issue.

Ultimately, if we open up the markets and we allow American consumers to have access to prescription drugs at world market prices, I believe that this simple little amendment, once fully implemented, could save American consumers $30 billion.

I may be wrong, it may be $28 billion, it may be $31 billion, but even here in Washington, that is a lot of money. If one is a consumer that needs a drug, like that lady with that ointment, and one can save $1,200 a year buying the same drug that comes from the same manufacturer from the same FDA-approved facility simply by picking up a phone and making a $2 phone call to Ireland, I do not think we as public policymakers should stand idly by and allow our own FDA to stand between American consumers, and particularly American senior consumers, we should not and cannot stand idly by and allow our own FDA to stand between those people and lower prescription drug prices.

I just want to close with a few other points. Some say a Medicare drug benefit will eliminate the need for importation and open markets. Mr. Speaker, if we think about that argument for even a moment we will realize that simply shifting high drug prices to the government only transfers these huge pharmaceutical bills to the American taxpayers.

Moreover, Medicare coverage will not help the millions of Americans who currently have no prescription drug benefit. So simply shifting the burden of $300 billion, or whatever the number we ultimately come up with, and I support expanding the Medicare program. In fact, I think the gentleman from Iowa (Mr. GANSKE) has the best program in doing it through the Medicaid systems that every State already has in place.

But it is not an answer to just create a new entitlement funded by the Federal Government. If we do not get control of prices of prescription drugs, if we continue to allow what really amounts to unregulated monopolies, where American consumers, through the Tax Code, through the research dollars that taxpayers pay for and ultimately through the prices that they pay for, if we stand idly by and say, well, I guess American consumers have to pay for all of the research of all of the governments and all the other people of the rest of the world, then shame on us. Shame on us. We have an opportunity tomorrow to set the record straight.

We do not necessarily want price controls in the United States. We do not want a huge bureaucracy and more regulations. But we do want to have access to markets.

In a couple of weeks, we are going to have another great debate about free trade. The President of the United States, I have supported giving the President what used to be called fast track trading authority. Now I think we have a somewhat different name, advanced trade authority or trade promotion authority. There is some other term for it.

Basically, I support giving the President more lattitude to negotiate trade agreements. I support that idea. I support free markets.

However, Mr. Speaker, I support free markets when it comes to American consumers, too. We cannot just have free markets when it benefits large corporations, we have to have free markets when they benefit consumers, too.

This idea that we are going to stand idly by and allow American consumers to pay three, four, five, six, seven times more for the same prescription drugs in the Information Age, as they say back home, that dog will not hunt.

I do not know if we are going to win this debate tomorrow on the amendment or not. I do not know what is going to happen. We have given every good argument. We have talked about free trade, about safety, about prices, about how we can help American consumers.

I do not know whether we are going to win this amendment tomorrow, but we are going to fight a good fight. We are saying to the administration, it is time for them to decide, are they going to stand on the side of the big pharmaceutical industries? Are they going to defend an FDA bureaucracy which cannot even protect American consumers all that well from food-borne pathogens? Or are they going to stand with American consumers, stand with seniors?

I will say this, if the FDA decides that they want to take Grandma to court for trying to save an extra $35 on a three-months' supply of coumadin, some of the people in this room are going to be there on the courthouse steps to meet them.

This is an important issue. It amounts to billions of dollars. It is the right thing to do. It is good policy, and ultimately, it means good things for American consumers.

Frankly, I think in the long light of history it will be good for the pharmaceutical industry, because it will force the Europeans to rethink their pricing structures. It will level the playing field. That is what we want to do, and we hope tomorrow, with the support of the Members of this Congress, we are going to get that done and send a clear message that we stand with American consumers, we stand with free markets.

It is time for us to say the subsidization of the starving Swiss must end.

RECESS

The SPEAKER pro tempore (Mr. FLAKE). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 45 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2149

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. FLAKE) at 9 o'clock and 49 minutes p.m.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON-LEE of Texas (at the request of Mr. GEPHARDT) for today on account of attending a funeral for a family member.

Ms. MILLENDER-MCDONALD (at the request of Mr. GEPHARDT) for today on account of official business in the district.

Mr. PUTNAM (at the request of Mr. ARMEY) for June 25 and the balance of the week on account of attending the birth of his first child.

Mr. PAUL (at the request of Mr. ARMEY) for today and the balance of the week on account of a death in the family.

Mr. TOOMEY (at the request of MR. ARMEY) for today on account of travel delays.

Mr. WATTS of Oklahoma (at the request of Mr. ARMEY) for today on account of travel delays.

Mr. WICKER (at the request of Mr. ARMEY) for today on account of travel delays.

Mr. CANNON (at the request of Mr. ARMEY) for today on account of family medical issues.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:

Ms. NORTON, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mrs.MALONEY of New York, for 5 minutes, today.

Mr. MATHESON, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. RAHALL, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes,today.

The following Member (at the request of Mr. FLAKE) to revise and extend his remarks and include extraneous material:

Mr. SIMMONS, for 5 minutes, July 12.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. SMITH of Michigan, for 5 minutes, today.

ADJOURNMENT

Mr. GUTKNECHT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 50 minutes p.m.), the House adjourned until Wednesday, July 11, 2001, at 10 a.m.

OMISSION FROM THE CONGRESSIONAL RECORD OF TUESDAY, JUNE 26, 2001

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 107th Congress, pursuant to the provisions of 2 U.S.C. 25:

Honorable J. RANDY FORBES, 4th Virginia.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2743. A letter from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Cranberries Grown in the States of Massachusetts, et al.; Establishment of Marketable Quantity and Allotment Percentage; Reformulation of Sales Histories and Other Modifications Under the Cranberry Marketing Order [Docket Nos. FV01-929-2 FR and FV00-929-7 FR] received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2744. A communication from the President of the United States, transmitting the District of Columbia Fiscal Year 2002 Budget Request Act and Fiscal Year 2001 Supplemental Budget Request, pursuant to Public Law 105-33 section 11701(a)(1) (111 Stat. 780); (H. Doc. No. 107-94); to the Committee on Appropriations and ordered to be printed.

2745. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General James C. King, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2746. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Donald L. Peterson, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2747. A letter from the Under Secretary, Department of Defense, transmitting the Department's revisions to both the Fiscal Year (FY) 2001 and FY 02 Annual Materials Plan (AMP); to the Committee on Armed Services.

2748. A letter from the Secretary, Department of Defense, transmitting the Department's review of policy on payment of claims; to the Committee on Armed Services.

2749. A letter from the Assistant General Counsel, Department of the Treasury, transmitting the Department's final rule—Resolution Funding Corporation Operations (RIN: 1505-AA79) received June 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2750. A letter from the Assistant General, Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Mortgage Insurance Premiums in Multifamily Housing Programs [Docket No. FR-4679-I-01] (RIN: 2502-AH64) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2751. A letter from the Acting Deputy Assistant Secretary for Congressional and Intergovernmental Relations, Department of Housing and Urban Development, transmitting the Federal Housing Administration's (FHA) Annual Management Report for Fiscal Year 2001, pursuant to 31 U.S.C. 9106; to the Committee on Financial Services.

2752. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a copy of the Corporation's Annual Report for calendar year 2000, pursuant to 12 U.S.C. 1827(a); to the Committee on Financial Services.

2753. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations [Docket No. FEMA-B-7415] received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2754. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final—National Flood Insurance Program (NFIP); Clarification of Letter of Map Amendment Determinations (RIN: 3067-AD19) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2755. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final—Final Flood Elevation Determinations—received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2756. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Electronic Submission of Securities Transaction Information by Exchange Members, Brokers, and Dealers [Release No. 34-44494; File No. S7-12-00] (RIN: 3235-AH69) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2757. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

2758. A letter from the Deputy Assistant Secretary for Policy, Planning and Innovation, Department of Education, transmitting Final Regulations—Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2759. A letter from the Deputy Director, National Institute on Disability and Rehabilitation Research, Department of Education, transmitting Final Priority—Improving Vocational Rehabilitation Services for Individuals who are Blind or have Severe Visual Impairments and on Improving Vocational Rehabilitation Services for Individuals Who Are Deaf or Hard of Hearing, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2760. A letter from the Deputy Director National Institute on Disability and Rehabilitation Research, Department of Education, transmitting Final Priority—Strategies for Promoting Information Technology (IT)-based Educational Opportunities for Individuals with Disabilities, Strategies for Promoting Information Technology (IT)-based Employment and Training Opportunities for Individuals with Disabilities, and Wayfinding Technologies for Individuals Who Are Blind, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2761. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—American Indian and Alaska Native Education Research Grant Program—received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2762. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Special Leveraging Educational Assistance Partnership Program—received June 25, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2763. A letter from the Chairperson, National Council on Disability, transmitting the Council's Report entitled, "The Accessible Future"; to the Committee on Education and the Workforce.

2764. A letter from the Secretary, Department of Commerce, transmitting the third annual report mandated by the International Anti-Bribery and Fair Competition Act of 1998; to the Committee on Energy and Commerce.

2765. A letter from the Secretary, Department of Commerce, transmitting the Department's report on the effectiveness of delivery of electronic records to consumers using electronic mail as compared with the delivery of written records via the US Postal Service and private express mail services, pursuant to Section 105(a) of the Electronic Signatures in Global and National Commerce Act of 2000; to the Committee on Energy and Commerce.

2766. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—National Research Service Awards (RIN: 0925–AA16) received June 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2767. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—State Child Health; Revisions to the Regulations Implementing the State Children's Health Insurance Program [HCFA–2006–IFC] (RIN: 0938–AL00) received June 28, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2768. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule—Secondary Direct Food Additives Permitted in Food for Human Consumption [Docket No. 00F–1482] received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2769. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Colorado; Long-Term Strategy of State Implementation Plan for Class I Visibility Protection: Craig Station Requirements [CO–001–0055; FRL–7005–8] received June 28, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2770. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Texas; Houston/Galveston Ozone Nonattainment Area Vehicle Miles Traveled Offset Plan [TX 28–1–7382a; FRL–7008–3] received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2771. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval Of Section 112(I) Program of Delegation; Ohio [FRL–7009–6] received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2772. A letter from the Program Analyst, Federal Communications Commission, transmitting the Commission's "Major" final rule—Assessment and Collection of Regulatory Fees for Fiscal Year 2001 [MD Docket No. 01–76] received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2773. A letter from the Chairman and Secretary, Federal Trade Commission and Department of Commerce, transmitting a joint report entitled, "Electronic Signatures in Global and National Commerce Act: The Consumer Consent Provision in Section 101(c)(1)(C)(ii)"; to the Committee on Energy and Commerce.

2774. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—List of Approved Spent Fuel Storage Casks: Standardized NUHOMS –24P and –52B Revision (RIN: 3150–AG75) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2775. A communication from the President of the United States, transmitting a 6-month periodic report on the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986, pursuant to 50 U.S.C. 1641(c); (H. Doc. No. 107–95); to the Committee on International Relations and ordered to be printed.

2776. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Sweden [Transmittal No. DTC 073–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2777. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the Netherlands [Transmittal No. DTC 072–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2778. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 062–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2779. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective June 17, 2001, the Central African Republic has been designated as a 20% danger pay location, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

2780. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Solicitation for Proposals: To Promote the use of Market Based Mechanisms to Address Environmental Issues—received June 21, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

2781. A letter from the Secretary, Department of Education, transmitting the twenty-fourth Semiannual Report to Congress on Audit Follow-Up, covering the period from October 1, 2000 to March 31, 2001 in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 app; to the Committee on Government Reform.

2782. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2783. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2784. A letter from the Attorney/Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2785. A letter from the Counsel to the Inspector General, General Services Administration, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2786. A letter from the Counsel to the Inspector General, General Services Administration, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2787. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the semiannual report on activities of the Inspector General for the period ending March 31, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2788. A letter from the Acting Chairman, Postal Rate Commission, transmitting the FY 2000 annual report on International Mail Volumes, Costs, and Revenues; to the Committee on Government Reform.

2789. A letter from the Acting Associate Deputy Administrator for Management and Administration, Small Business Administration, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2790. A letter from the General Counsel, U.S. Trade and Development Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2791. A letter from the Chairman, Federal Election Commission, transmitting a copy of the report entitled, "Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1999–2000," pursuant to 42 U.S.C. 1973gg–7; to the Committee on House Administration.

2792. A letter from the Public Printer, Government Printing Office, transmitting the Annual Report for Fiscal Year 2000; to the Committee on House Administration.

2793. A letter from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Spruce-fir Moss Spider (RIN: 1018–AG38) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2794. A letter from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for Wintering Piping Plovers (RIN: 1018–AG13) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2795. A letter from the Deputy Assistant Attorney General, Department of Justice, transmitting the Department's final rule—Regulations under the DNA Analysis Backlog Elimination Act of 2000 [OAG 101I] (RIN: 1105–AA78) received June 25, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2796. A letter from the Acting Secretary, Federal Trade Commission, transmitting the Commission's report Regarding Merger Review Procedures, required by Public Law 106–533, section 630(c), 114 Stat. 2762 (2000); to the Committee on the Judiciary.

2797. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Fee for Services to Support FEMA's Offsite Radiological Emergency Preparedness Program (RIN: 3067–AC87) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2798. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Supplemental Property Acquisition and Elevation Assistance (RIN: 3067–AD06) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2799. A letter from the The President Of The United States, transmitting notification of his intention to add the Republic of Georgia to the list of beneficiary developing countries under the Generalized System of Preferences (GSP), pursuant to Public Law 104–188, section 1952(a)(110 Stat. 1917); (H. Doc. No. 107–96); to the Committee on Ways and Means and ordered to be printed.

2800. A letter from the Deputy Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting the Department's final rule—Delegation of Authority [T.D. ATF-450] (RIN: 1512-AC19) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2801. A letter from the Chief, Regulations Division, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury, transmitting the Department's final rule—Volatile Fruit-Flavor Concentrate Shipments and Alternation With Other Premises (2000R-290P) [T.D. ATF-455; Ref: Notice No. 823] (RIN: 1512-AB59) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2802. A letter from the Acting Director, Statutory Import Programs Staff, Department of Commerce, transmitting the Department's final rule—Changes in Procedures for Florence Agreement Program [Docket No. 000331091-0177-02] (RIN: 0625-AA47) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2803. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 2001-39] received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2804. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Guidance on Implementation of Withholding and Reporting Regulations [Notice 2001-43] received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2805. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Removal of Federal Reserve Banks as Federal Depositaries [TD 8952] (RIN: 1545-AY10) received June 25, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2806. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Amendment of Qualified Plans for the Economic Growth and Tax Relief Reconciliation Act of 2001 [Notice 2001-42] received June 28, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2807. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Qualified Pension, Profit Sharing and Stock Bonus Plans [Rev. Rul. 2001-30] received June 28, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2808. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Nondiscrimination Requirements for Certain Defined Contribution Retirement Plans [TD 8954] (RIN: 1545-AY36) received June 28, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2809. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Notional Principal Contracts—received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2810. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Extension of Expiration Dates for Several Body System Listings (RIN: 0960-AF59) received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2811. A letter from the Assistant Secretary, Department of Defense, transmitting notification that the proposed plan for the U.S. Army Communications—Electronics Command (CECOM) Research, Development, and Engineering Community (RDEC), have been approved under authority of the National Defense Authority Acts for Fiscal Years 1995 and 2001; jointly to the Committees on Armed Services and Government Reform.

2812. A letter from the Board Members, Railroad Retirement Board, transmitting the Annual Report required by the Railroad Retirement Act of 1974 and Railroad Retirement Solvency Act of 1983, pursuant to 42 U.S.C. 231u(b)(1); jointly to the Committees on Transportation and Infrastructure and Ways and Means.

2813. A letter from the Secretary, Department of Health and Human Services, transmitting a draft bill entitled, "Medicare Contracting Reform Amendments of 2001"; jointly to the Committees on Ways and Means and Energy and Commerce.

2814. A letter from the Board Members, Railroad Retirement Board, transmitting the 2001 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly to the Committees on Ways and Means and Transportation and Infrastructure.

2815. A communication from the President of the United States, transmitting an account of Federal expenditures for climate change programs and activities; jointly to the Committees on Appropriations, International Relations, Science, Energy and Commerce, and Ways and Means.

2816. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2001, and for other purposes; jointly to the Committees on Armed Services, International Relations, Energy and Commerce, Education and the Workforce, Veterans' Affairs, the Judiciary, Transportation and Infrastructure, Resources, Government Reform, the Budget, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 271. A bill to direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center (Rept. 107-122). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 695. A bill to establish the Oil Region National Heritage Area; with an amendment (Rept. 107-123). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 1628. A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail (Rept. 107-124). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2215. A bill to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes; with an amendment (Rept. 107-125). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2137. A bill to make clerical and other technical amendments to title 18, United States Code, and other laws relating to crime and criminal procedure (Rept. 107-126). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1892. A bill to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked; with an amendment (Rept. 107-127). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 807. A bill for the relief of Rabon Lowry of Pembroke, North Carolina (Rept. 107-128). Referred to the private calendar and ordered to be printed.

Mr. SENSENBRENNER: Committee on the Judiciary. S. 560. An act for the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe) (Rept. 107-129). Referred to the private calendar and ordered to be printed.

Mr. HEFLEY: Committee on Standards of Official Conduct. In the Matter of Representative Earl F. Hilliard (Rept. 107-130). Referred to the House Calendar and ordered to be printed.

Mr. NEY: Committee on House Administration. H.R. 2356. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform (Rept. 107-131 Pt. 1); adversely.

Mr. NEY: Committee on House Administration. H.R. 2360. A bill to amend the Federal Election Campaign Act of 1971 to restrict the use of non-Federal funds by national political parties, to revise the limitations on the amount of certain contributions which may be made under such Act, to promote the availability of information on communications made with respect to campaigns for Federal elections, and for other purposes; with an amendment (Rept. 107-132). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committees on Energy and Commerce and the Judiciary discharged from further consideration. H.R. 2356 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2356. Referral to the Committees on Energy and Commerce and the Judiciary extended for a period ending not later than July 10, 2001.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of June 28, 2001]

By Mr. GEORGE MILLER of California (for himself, Mr. LANTOS, Ms. ESHOO, Ms. PELOSI, Mr. BACA, Mr. FILNER, and Ms. SANCHEZ):

H.R. 2404. A bill to authorize Federal agency participation and financial assistance for programs and for infrastructure improvements for the purposes of increasing deliverable water supplies, conserving water and energy, restoring ecosystems, and enhancing environmental quality in the State of California, and for other purposes; to the Committee on Resources.

[Submitted July 10, 2001]

By Mr. TOM DAVIS of Virginia (for himself, Mr. MORAN of Virginia, Mr. ISAKSON, and Mr. SESSIONS):

H.R. 2435. A bill to encourage the secure disclosure and protected exchange of information about cyber security problems, solutions, test practices and test results, and related matters in connection with critical infrastructure protection; referred to the Committee on Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANSEN (for himself, Mr. YOUNG of Alaska, Mr. TAUZIN, Mrs. CUBIN, Mr. THORNBERRY, Mr. OTTER, and Mr. CALVERT):

H.R. 2436. A bill to provide secure energy supplies for the people of the United States, and for other purposes; referred to the Committee on Resources, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Michigan:

H.R. 2437. A bill to deem hospitals in Hillsdale County, Michigan, as being located in the Kalamazoo-Battle Creek, Michigan, Metropolitan Statistical Area for purposes of reimbursement under the Medicare Program; to the Committee on Ways and Means.

By Mr. BOEHLERT:

H.R. 2438. A bill to elevate the Environmental Protection Agency to Cabinet-level status and redesignate such agency as the Department of Environmental Protection; to the Committee on Government Reform.

By Mr. ROSS (for himself, Mr. BERRY, Mr. PICKERING, Mr. THOMPSON of Mississippi, Mr. SHOWS, Mr. FORD, Mr. SANDLIN, Mr. CARSON of Oklahoma, Mr. THOMPSON of California, Mr. TURNER, and Ms. HARMAN):

H.R. 2439. A bill to amend the Agricultural Marketing Act of 1946 to require retailers of farm-raised fish inform consumers, at the final point of sale to consumers, of the country of origin of the commodities; to the Committee on Agriculture.

By Mr. TOM DAVIS of Virginia:

H.R. 2440. A bill to rename Wolf Trap Farm Park as "Wolf Trap National Park for the Performing Arts", and for other purposes; to the Committee on Resources.

By Mr. BAKER:

H.R. 2441. A bill to amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GRUCCI:

H.R. 2442. A bill to provide veterans benefits to certain individuals who serve in the United States merchant marine during a period of war; to the Committee on Veterans' Affairs.

By Mr. LAMPSON:

H.R. 2443. A bill to promote the development of the United States space tourism industry, and for other purposes; referred to the Committee on Science, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MYRICK:

H.R. 2444. A bill to suspend temporarily the duty on 9,10–Anthracenedione,1,8-dihydroxy-4-[[4-(2-hydroxyethyl)phenyl]amino]-5-nitro-); to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2445. A bill to suspend temporarily the duty on Colbaltate(2-), [6-(amino-.kappa.N)-5-[[2-(hydroxy-.kappa.O)-4-nitrophenyl]az o-.kappa.N1]-N-methyl-2-naphthalenesulfonamidato(2-)][6-(amino-.kappa.N)-5-[[2-(hydroxy-.kappa.O)-4-nitrophenyl]azo-.kappa.N1]-2-naphthal nesulfonato,(3-)]-, disodium; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2446. A bill to suspend temporarily the duty on Chromate(2-), [3-(hydroxy-.kappa.O)-4-[[2-(hydroxy-.kappa.O)-1-naphthalenyl]azo-kappa.N2]-1-naphthalenesulfonato(3-)] [1-[[2-(hydroxy-.kappa.O)-5-[4-methoxyphenyl)azo]phenyl]azo-kappa.N2]-2-naphthalenolato(2-)-.kappa.O]-, disodium; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2447. A bill to suspend temporarily the duty on Benzenesulfonic acid,2,2'-[(1-methyl-1,2-ethanediyl)bis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino[2-[(aminocarbonyl)amino]-4,1-phenylene]azo]]bis[5-[(4-sulfophenyl)azo]-, sodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2448. A bill to suspend temporarily the duty on a mixture of 2-Naphthalenesulfonic acid, 6-amino-5-[[2-[(cyclohexylm ethylamino) sulfonyl]phenyl]azo]-4 -hydroxy-, monosodium salt, 2-Naphthalenesulfonic acid, 6-amino-5-[[4-chloro-2-(trifluoromethy)phenyl]azo]-4-hydroxy-, monosodium salt, and 2-Naphthalenesulfonic acid, 6-amino-4-hydroxy-5-[[2-(trifluoromethyl)phenyl]azo]-, monosodium salt; to the Committee on Ways and Means.

By Mr. NUSSLE:

H.R. 2449. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to primary health providers who establish practices in health professional shortage areas; to the Committee on Ways and Means.

By Mr. SCHIFF (for himself, Mr. TOM DAVIS of Virginia, Mr. STUPAK, Mr. SOUDER, Mr. FROST, Ms. JACKSON-LEE of Texas, Mr. LANTOS, Ms. MCKINNEY, and Ms. ROYBAL-ALLARD):

H.R. 2450. A bill to authorize grants for the construction of memorials to honor men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers; to the Committee on Resources.

By Mr. SHAYS (for himself, Mrs. LOWEY, Mr. ROTHMAN, Mr. LIPINSKI, and Mr. PASCRELL):

H.R. 2451. A bill to require recreational camps to report information concerning deaths and certain injuries and illnesses to the Secretary of Health and Human Services, to direct the Secretary to collect the information in a central data system, to establish a President's Advisory Council on Recreational Camps, and for other purposes; to the Committee on Education and the Workforce.

By Mr. SIMMONS (for himself and Mr. NEAL of Massachusetts):

H.R. 2452. A bill to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to provide for implementation of the management plan for the Corridor to protect resources critical to maintaining and interpreting the distinctive character of the Quinebaug and Shetucket Rivers Valley National Heritage Corridor; to the Committee on Resources.

By Mr. UPTON (for himself, Mr. MORAN of Virginia, Mr. GREENWOOD, Mr. ROEMER, Mr. BROWN of Ohio, Mrs. ROUKEMA, and Mr. ROHRABACHER):

H.R. 2453. A bill to amend the Foreign Assistance Act of 1961 to improve injection safety in immunization and other disease control programs administered under that Act; to the Committee on International Relations.

By Ms. WATSON:

H.R. 2454. A bill to redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the "Congressman Julian C. Dixon Post Office Building"; to the Committee on Government Reform.

By Mr. TOM DAVIS of Virginia (for himself, Mr. SMITH of Michigan, Mrs. MORELLA, Mr. SCHAFFER, Mr. MCGOVERN, Mr. PETERSON of Minnesota, and Mr. MORAN of Virginia):

H. Con. Res. 183. A concurrent resolution expressing the sense of Congress regarding the United States Congressional Philharmonic Society and its mission of promoting musical excellence throughout the educational system and encouraging people of all ages to commit to the love and expression of musical performance; to the Committee on Education and the Workforce.

By Mr. DELAY (for himself, Mr. HALL of Ohio, Mr. LEWIS of Georgia, Mr. WOLF, Mr. BLUNT, Mr. BISHOP, Mr. SOUDER, Mr. TURNER, Mr. SHOWS, Mr. PITTS, Mr. PETERSON of Minnesota, Mr. HOSTETTLER, Mr. TANCREDO, Mr. MCINTYRE, and Mr. PICKERING):

H. Con. Res. 184. A concurrent resolution providing for a National Day of Reconciliation; to the Committee on House Administration.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

123. The SPEAKER presented a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 403 memorializing the United States Congress to pass legislation reforming the Federal Freedom to Farm law and the sugar support program to correct the current inequities; to the Committee on Agriculture.

124. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 11 memorializing the United States Congress to call for a repudiation of the agreement reached last year to allow the Navy to resume firing training on the island of Vieques; to the Committee on Armed Services.

125. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 140 memorializing the United States Congress to study the feasibility of insurance coverage for loss, damage, or diminution in value to property caused by drought; to the Committee on Financial Services.

126. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 214 memorializing the United States Congress to fully fund its obligations under the

Individuals with Disabilities Education Act; to the Committee on Education and the Workforce.

127. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 385 memorializing the United States Congress to ensure ethanol and biodiesel are included as part of any lasting energy policy; to the Committee on Energy and Commerce.

128. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 405 memorializing the United States Congress and the Environmental Protection Agency to increase Illinois' nitrogen oxide emission allowances budget; to the Committee on Energy and Commerce.

129. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 92 memorializing the United States Congress to offer condolences to the people of the State of Israel and especially to the families of those victims who suffered losses in the terrorist attack of June 1, 2001, in Tel Aviv; Strongly condemn that attack and any use of terrorism in order to achieve political gains or for any other reason; and, Reaffirm the desire of the people of the United States to assist the parties in their efforts to achieve a full and lasting peace; to the Committee on International Relations.

130. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 76 memorializing the United States Congress to direct the Minerals Management Service of the United States Department of the Interior to develop a plan for impact mitigation relative to the Outer Continental Shelf oil and gas lease sales in the Gulf of Mexico; to the Committee on Resources.

131. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 50 memorializing the United States Congress to express its desire to the National Marine Fisheries Service that the pending charter boat moratorium in the Gulf of Mexico not be implemented; to the Committee on Resources.

132. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 230 memorializing the United States Congress to make the $1.5 billion of Federal moneys already earmarked for abandoned mine land reclamation available to states to clean up and make safe abandoned mine lands; to the Committee on Resources.

133. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 93 memorializing the United States Congress to ratify the Southern Dairy Compact; to the Committee on the Judiciary.

134. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 75 memorializing the United States Congress to repeal mandatory minimum sentences; to the Committee on the Judiciary.

135. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 370 memorializing the United States Congress to support reform of our Federal immigration laws to allow the many hard working immigrants in Illinois to work towards becoming citizens through a legalization program; to the Committee on the Judiciary.

136. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 340 memorializing the United States Congress to initiate an investigation of possible collusion among petroleum companies resulting in rapid unexplained price increases in motor fuel throughout the Midwest; to the Committee on the Judiciary.

137. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 86 memorializing the United States Congress to support, with funding, the expeditious implementation of the proposed Maurepas Swamp diversion from the Mississippi River; to the Committee on Transportation and Infrastructure.

138. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 24 memorializing the United States Congress to urge the United States Army Corps of Engineers to replace the proposed St. Claude Avenue Bridge and the Claiborne Avenue Bridge in Orleans Parish with tunnels or fixed high-rise bridges in conjunction with a project to replace the Inner Harbor Navigation Canal lock; to the Committee on Transportation and Infrastructure.

139. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 124 memorializing the United States Congress to enact legislation to provide for government-furnished markers for the graves of all veterans; to the Committee on Veterans' Affairs.

140. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 36 memorializing the United States Congress to take certain actions to increase efforts to halt the illegal dumping of foreign steel in this country; to the Committee on Ways and Means.

141. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 238 memorializing the United States Congress to fully fund and deploy as soon as technologically possible an effective, affordable global missile defense system, including a sea-based system to intercept theater and long-range missiles, space-based sensors and ground-based interceptors and radar, to protect all Americans, United States troops stationed abroad and our nation's allies from ballistic missile attack; jointly to the Committees on Armed Services and International Relations.

142. Also, a memorial of the Legislature of the State of Maine, relative to Joint Resolution No. 651 memorializing the United States Congress to support significant reforms to our nation's voting system; jointly to the Committees on House Administration and the Judiciary.

143. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 167 memorializing the United States Congress to fully fund the Estuary Restoration Act of 2000; jointly to the Committees on Transportation and Infrastructure and Resources.

144. Also, a memorial of the House of Representatives of the State of Missouri, relative to House Concurrent Resolution No. 14 memorializing the United States Congress to support the Railroad Retirement and Survivors Improvement Act introduced in the 107th Congress; jointly to the Committees on Transportation and Infrastructure and Ways and Means.

145. Also, a memorial of the Senate of the State of Missouri, relative to Senate Concurrent Resolution No. 10 memorializing the United States Congress to support the Railroad Retirement and Survivors Improvement Act introduced in the 107th Congress; jointly to the Committees on Transportation and Infrastructure and Ways and Means.

146. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 137 memorializing the United States Congress to enact the Steel Revitalization Act of 2001; jointly to the Committees on Financial Services, Education and the Workforce, and Ways and Means.

147. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 129 memorializing the United States Congress to fully implement the Gulf Hypoxia Action Plan in cooperation with the Gulf of Mexico/Mississippi River Watershed Nutrient Task Force; jointly to the Committees on Science, Resources, and Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. QUINN introduced a bill (H.R. 2455) to authorize the Secretary of Transportation to convey the vessel U.S.S. *SPHINX* to the Dunkirk Historical Lighthouse and Veterans Park Museum for use as a military museum; which was referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 17: Ms. BROWN of Florida, and Ms. JACKSON-LEE of Texas.

H.R. 31: Mr. CULBERSON.

H.R. 35: Mr. GREEN of Wisconsin.

H.R. 64: Mr. FATTAH and Mr. SHUSTER.

H.R. 65: Mr. BERRY.

H.R. 91: Ms. ROYBAL-ALLARD, Mr. HORN, Mr. CUNNINGHAM, Mr. FILNER, Ms. MCKINNEY, and Mr. MURTHA.

H.R. 147: Mr. BRADY of Pennsylvania, Ms. MCKINNEY, Mr. CUMMINGS, Mrs. MEEK of Florida, and Mr. RAHALL.

H.R. 162: Mr. KIRK.

H.R. 175: Mr. LARGENT.

H.R. 183: Mr. WATT of North Carolina and Mr. ABERCROMBIE.

H.R. 236: Mr. NUSSLE.

H.R. 239: Mr. PASCRELL, Mr. MARKEY, and Ms. JACKSON-LEE of Texas.

H.R. 257: Mr. LATHAM and Mr. BURTON of Indiana.

H.R. 267: Ms. HARMAN, Mr. TIAHRT, Mr. NUSSLE, and Ms. WATSON.

H.R. 269: Mr. BAIRD.

H.R. 281: Mr. TOM DAVIS of Virginia.

H.R. 303: Mr. SMITH of Michigan.

H.R. 335: Mr. NUSSLE.

H.R. 389: Ms. LEE.

H.R. 415: Mr. BACA.

H.R. 425: Mr. RANGEL.

H.R. 439: Ms. MCKINNEY, Ms. ROYBAL-ALLARD, and Mr. WU.

H.R. 440: Mr. INSLEE and Mr. GEORGE MILLER of California.

H.R. 443: Mr. BAIRD.

H.R. 448: Mr. WAMP.

H.R. 471: Mrs. JONES of Ohio, Mr. FROST, Ms. MCKINNEY, and Mr. WALSH.

H.R. 500: Mr. ANDREWS.

H.R. 506: Mr. HILLIARD.

H.R. 536: Mr. BOSWELL, Mr. ISRAEL, Mrs. TAUSCHER, and Mr. BAKER.

H.R. 537: Mr. Reyes.

H.R. 548: Mr. Lewis of Kentucky, Ms. Baldwin, Mr. Goodlatte, Mrs. Clayton, Mrs. Kelly, Mr. Clyburn, Ms. DeLauro, Mr. Ehrlich, Mr. Bishop, Mr. Udall of Colorado, Mr. Lampson, Mr. Hall of Texas, Mr. Berry, Ms. Berkley, and Mr. Langevin.

H.R. 595: Mr. Nethercutt.

H.R. 599: Mr. Gutierrez.

H.R. 632: Mr. Smith of New Jersey.

H.R. 663: Mr. Ehrlich and Ms. Roybal-Allard.

H.R. 664: Mr. Doolittle.

H.R. 677: Mrs. Thurman, Mr. Pombo, Mr. McGovern, and Mr. Filner.

H.R. 687: Ms. Eshoo.

H.R. 701: Mr. Payne, Mr. Hastings of Florida, Mr. Rothman, Mr. Spence, Mr. Gallegly, Mr. Portman, Mr. Israel, Mr. Davis of Illinois, Mr. Matsui, Mr. Hill, Mr. Baca, and Ms. Slaughter.

H.R. 702: Mr. Blumenauer.

H.R. 703: Mr. Lewis of Georgia and Mr. Rangel.

H.R. 781: Mr. Cardin, Mr. Berry, Mr. Bishop, Mr. Clyburn, Mr. Ford, Mr. Owens, Mr. Phelps, Mr. Sawyer, Mr. Snyder, Mr. Hilliard, Mr. Israel, and Mr. Weiner.

H.R. 782: Mr. Kucinich and Ms. Harman.

H.R. 794: Mr. Baca.

H.R. 817: Mr. Shows and Mr. Buyer.

H.R. 827: Mr. McIntyre and Mr. Reyes.

H.R. 848: Mr. Berman, Mr. DeFazio, Mr. Watkins, Mr. Hilliard, Mr. Hefley, Ms. McKinney, and Mr. Davis of Illinois.

H.R. 854: Ms. Waters, Mr. Lewis of California, and Ms. Solis.

H.R. 866: Mr. Hyde.

H.R. 932: Mr. Gutierrez.

H.R. 937: Mr. Kennedy of Minnesota.

H.R. 952: Mr. Rahall and Mr. Crowley.

H.R. 964: Ms. Pelosi.

H.R. 978: Mr. Hinchey.

H.R. 1004: Mrs. Jones of Ohio.

H.R. 1011: Mr. Ford and Mr. Pickering.

H.R. 1070: Mr. Crowley, Mr. Hoekstra, Ms. Kilpatrick, Mr. Rogers of Michigan, Ms. Kaptur, Mr. Dingell, Mr. Kildee, Mrs. Jones of Ohio, Mr. Pascrell, and Mr. LaTourette.

H.R. 1090: Ms. Kilpatrick, Mr. Baker, Mr. Frank, Mr. Smith of Washington, Mr. Gutierrez, Mr. Filner, and Mr. DeFazio.

H.R. 1109: Mr. Stump, Mr. Brady of Texas, Mr. Portman, Mr. Tiberi, and Mr. Bilirakis.

H.R. 1110: Mr. Cummings, Mr. Sawyer, Mr. Barr of Georgia, Mr. Upton, and Mr. Pickering.

H.R. 1112: Mr. Capuano, Mr. Filner, and Mr. Tierney.

H.R. 1129: Mr. Gutierrez.

H.R. 1143: Mr. Capuano and Mr. Matsui.

H.R. 1150: Mr. Green of Wisconsin.

H.R. 1162: Mr. Gutierrez.

H.R. 1170: Mr. Borski, Mr. Allen, Mrs. Maloney of New York, Mr. Dingell, Ms. Rivers, Mrs. Tauscher, Mr. Udall of New Mexico, and Mr. Hoyer.

H.R. 1177: Mr. Bentsen.

H.R. 1191: Mr. McNulty.

H.R. 1192: Mr. Baird.

H.R. 1198: Mr. Matheson, Mr. Tauzin, Mr. Traficant, Mr. George Miller of California, Mr. Crenshaw, Mr. Turner, Mr. Latham, Mr. Peterson of Pennsylvania, Mr. King, Ms. Dunn, and Mr. Visclosky.

H.R. 1254: Mrs. Christensen, Ms. Hooley of Oregon, and Mr. Farr of California.

H.R. 1266: Ms. Pelosi and Mr. Visclosky.

H.R. 1276: Ms. Roybal-Allard.

H.R. 1293: Mr. Stupak, Mr. Shimkus, and Mr. Allen.,

H.R. 1305: Mr. Taylor of North Carolina and Mr. Reyes.

H.R. 1330: Ms. Lee.

H.R. 1338: Mr. Capuano.

H.R. 1348: Mr. Boswell.

H.R. 1354: Mr. Capuano, Mr. Neal of Massachusetts, and Mr. Hastings of Florida.

H.R. 1360: Mr. Allen.

H.R. 1367: Mr. McGovern.

H.R. 1371: Ms. Pelosi.

H.R. 1377: Mr. Price of North Carolina, Mr. Nethercutt, Mr. Wolf, Mr. Pence, Mr. Ramstad, Mr. Lucas of Oklahoma, Mr. Pickering, Mr. Rohrabacher, and Mrs. Roukema.

H.R. 1382: Mr. McDermott and Mr. Thompson of California.

H.R. 1388: Mr. Souder, Mr. Cooksey, Mr. Greenwood, and Mr. Hoeffel.

H.R. 1431: Mr. Greenwood and Mr. McGovern.

H.R. 1452: Mrs. Jones of Ohio.

H.R. 1464: Mr. Watt of North Carolina.

H.R. 1465: Ms. Pelosi, Mr. Schiff, and Mr. McDermott.

H.R. 1485: Mrs. Jo Ann Davis of Virginia, Mr. Smith of New Jersey, Mr. Frost, and Ms. Jackson-Lee of Texas.

H.R. 1486: Ms. Eshoo.

H.R. 1487: Mr. Moore and Mr. Shays.

H.R. 1488: Mr. Manzullo.

H.R. 1520: Mr. McGovern, Mr. McDermott, Ms. Norton, Mr. Bishop, Mr. Watt of North Carolina, and Ms. Watson.

H.R. 1522: Mr. Davis of Illinois.

H.R. 1553: Mr. Wu, Mr. Gordon, Ms. Harman, Mr. Boucher, Mr. Pence, and Mr. Upton.

H.R. 1556: Mr. Peterson of Minnesota, Mr. Larson of Connecticut, Mr. Rush, Mr. Borski, Mr. Ford, Mr. Costello, Mr. Shimkus, Mrs. Napolitano, and Mr. Filner.

H.R. 1581: Mr. Whitfield.

H.R. 1582: Mr. Filner, Mr. Farr of California, Mr. McGovern, Ms. Schakowsky, Ms. Brown of Florida, Mr. Frank, Mrs. Mink of Hawaii, Ms. McKinney, and Mr. Clay.

H.R. 1592: Mr. Doolittle.

H.R. 1609: Mr. Jones of North Carolina, Mr. Costello, Mr. Hinojosa, Mr. Borski, Mr. Shimkus, and Mr. Evans.

H.R. 1624: Ms. Watson, Mr. Latham, Mr. Wexler, Mr. Pascrell, Mr. Boehlert, Mr. Maloney of Connecticut, Mr. Leach, Mr. Cunningham, Mr. Hutchinson, and Mr. Burton of Indiana.

H.R. 1644: Mr. Thune.

H.R. 1672: Mr. Baca and Ms. Schakowsky.

H.R. 1673: Mr. Baldacci, Ms. McKinney, and Ms. Carson of Indiana.

H.R. 1694: Mr. Hefley and Ms. Hart.

H.R. 1700: Mr. George Miller of California, Mr. Tiahrt, and Ms. Roybal-Allard.

H.R. 1701: Mr. Reyes, Mr. Shays, Mr. Meeks of New York, Mr. Ney, and Mr. Carson of Oklahoma.

H.R. 1718: Ms. Watson, Mr. Brady of Pennsylvania, Mr. Clement, Mr. Crowley, Mr. Doggett, Mr. Evans, Mr. Faleomavaega, Mr. Baca, Mr. Green of Texas, Mr. Wynn, Mr. Hinchey, Mr. Maloney of Connecticut, Mr. Gonzalez, Mr. Nadler, Mr. Neal of Massachusetts, Mr. Markey, Mr. Becerra, Mr. Strickland, Mrs. Tauscher, Mr. Pomeroy, Mrs. McCarthy of New York, Mr. Foley, Mr. Scott, Mr. Ross, Mr. Reyes, and Mrs. Jones of Ohio.

H.R. 1726: Mr. Bonior, Ms. McKinney, Mrs. Clayton, Mr. Meeks of New York, Mr. Towns, Mr. Jackson of Illinois, Mrs. Christensen, and Mr. Hastings of Florida.

H.R. 1733: Mr. Brady of Pennsylvania, Mr. Olver, and Mr. Rush.

H.R. 1744: Mr. Frost, Mr. Frank, and Mr. Hutchinson.

H.R. 1750: Mr. McDermott and Mr. Frost.

H.R. 1751: Mr. McDermott and Mr. Frost.

H.R. 1759: Mr. Kingston, Mr. Schiff, Mr. Rangel, and Mr. Smith of Washington.

H.R. 1770: Mr. Taylor of North Carolina and Mr. Sessions.

H.R. 1773: Mr. Peterson of Pennsylvania and Mr. Green of Wisconsin.

H.R. 1790: Mr. McHugh.

H.R. 1795: Mr. Shays, Ms. Ros-Lehtinen, Ms. Schakowsky, Ms. Harman, and Mr. Frost.

H.R. 1810: Mr. Rush, Ms. Jackson-Lee of Texas, Ms. Lofgren, Mr. Wexler, and Mr. Filner.

H.R. 1822: Mrs. Christensen.

H.R. 1841: Mr. Hinchey, Mr. Pastor, Mr. Strickland, Mr. Tierney, Mr. Payne, and Mr. Pallone.

H.R. 1847: Mr. Pombo.

H.R. 1882: Mrs. Meek of Florida.

H.R. 1891: Mr. Barrett, Mr. Baldacci, Mr. Holden, Mr. Ryan of Wisconsin, Mr. Boswell, Mr. Hutchinson, Mr. Cannon, Mr. Price of North Carolina, and Mr. Norwood.

H.R. 1896: Mr. Lantos, Mr. Bonior, Ms. Waters, Mr. Payne, Mr. Ross, Mr. Hilliard, and Mr. Stupak.

H.R. 1908: Mr. Latham.

H.R. 1909: Mr. Matsui.

H.R. 1911: Ms. McKinney.

H.R. 1930: Ms. McKinney, Mr. Watt of North Carolina, and Mr. Ross.

H.R. 1939: Mr. Wolf.

H.R. 1948: Mrs. Capps, Mr. Bishop, and Mr. Ehrlich.

H.R. 1954: Mr. McIntyre, Mr. Ryan of Wisconsin, and Mr. Green of Wisconsin.

H.R. 1972: Mr. Latham.

H.R. 1973: Mr. DeFazio.

H.R. 1975: Mr. Deal of Georgia, Mrs. Northup, Mr. Souder, Mr. Knollenberg, Mr. Larsen of Washington, Mr. Watkins, Mr. Kerns, Mr. Nussle, Mr. Flake, Mr. Istook, Mr. Hostettler, Mr. Smith of New Jersey, Mr. LaHood, Mr. Whitfield, and Mr. Paul.

H.R. 1990: Mr. Hinojosa, Mr. Owens, Mr. Gutierrez, and Ms. Norton.

H.R. 2009: Mr. Baca and Ms. Waters.

H.R. 2013: Ms. Hooley of Oregon and Ms. Eshoo.

H.R. 2018: Mrs. Maloney of New York, Mr. DeLay, Mr. Brady of Texas: Mr. Hostettler, Mr. Reyes, Mr. Rogers of Michigan, and Mr. Lewis of Kentucky.

H.R. 2029: Mr. Peterson of Minnesota.

H.R. 2036: Mrs. Johnson of Connecticut and Ms. Roybal-Allard.

H.R. 2057: Mr. Petri, Mr. Baldacci, Mr. Sawyer, Mr. Owens, Mr. Weldon of Florida, Ms. Hart, Mr. Brown of Ohio, Mr. Wolf, Mr. Platts, and Mr. Honda.

H.R. 2058: Mr. Wexler.

H.R. 2059: Ms. Eshoo, Mr. Farr of California, Mrs. Maloney of New York, and Mr. Frost.

H.R. 2074: Ms. Lee, Ms. Woolsey, Mrs. Jones of Ohio, Mr. Rothman, Ms. Roybal-Allard, Mr. Brady of Pennsylvania, Mr. Rangel, and Mr. Hinchey.

H.R. 2079: Mr. Stark.

H.R. 2080: Mr. Stark.

H.R. 2081: Mrs. Maloney of New York.

H.R. 2088: Mr. Latham.

H.R. 2095: Ms. Brown of Florida and Mr. Boucher.

H.R. 2107: Mr. Costello, Mr. Gutierrez, Mr. Kucinich, Mr. Menendez, Mr. DeFazio, Mr. Evans, Mr. Meeks of New York, Mr. Dingell, Mr. Filner, Mr. Rahall, Ms. Kaptur, Ms. Brown of Florida, Mr. LaTourette, Mr. Sawyer, Mr. Nadler, Mr. Quinn, Mr. Sanders, Mr. Clement, Mr. Frost, Mr. Boswell, Mr. Duncan, Mr. Ehrlich, Mr. Petri, Mr. Carson of Oklahoma, and Mr. Pastor.

H.R. 2109: Mr. Diaz-Balart.

H.R. 2117: Mrs. Johnson of Connecticut, Mr. Costello, and Mr. Waxman.

H.R. 2122: Mr. Green of Wisconsin, and Mr. Goss.

H.R. 2125: Mr. Smith of New Jersey, Mr. Jones of North Carolina, Ms. Carson of Indiana, Mr. Manzullo, Mr. Bishop, Mr. Gordon, and Mr. Hostettler.

H.R. 2134: Mr. Payne.

H.R. 2145: Ms. Velázquez.

H.R. 2148: Mr. Coyne, Mr. Kind, Mr. Crowley, Mr. Clay, and Mr. Hall of Ohio.

H.R. 2154: Ms. Solis, Mr. Acevedo-Vilá, Mr. Bonior, and Mr. Kucinich.

H.R. 2158: Mrs. Davis of California, Ms. McKinney, Ms. Lee, Mr. George Miller of California, and Mr. Frank.

H.R. 2163: Mr. Brady of Pennsylvania, Ms. Brown of Florida, Mr. Filner, Mr. Hoyer, Mr. Kildee, and Ms. Kilpatrick.

H.R. 2166: Ms. Schakowsky, Mrs. Christensen, and Mr. Gutierrez.

H.R. 2173: Mr. McDermott, Mr. Frost, Mr. Berry, Mrs. Emerson, Mr. Pascrell, Mr. Payne, Mr. Peterson of Pennsylvania, Mr. Stark, Ms. Kaptur, and Mrs. Mink of Hawaii.

H.R. 2174: Ms. Baldwin and Mr. McKeon.

H.R. 2175: Mr. Schrock, Mr. LaHood, Mr. Buyer, Mr. Stump, Mr. Crenshaw, Mr. Ryun of Kansas, and Mr. Shimkus.

H.R. 2178: Mr. Brady of Pennsylvania and Mr. Rangel.

H.R. 2200: Mrs. Johnson of Connecticut.

H.R. 2230: Ms. McKinney.

H.R. 2233: Mr. Filner, Ms. Lee, and Mr. Frost.

H.R. 2240: Mr. Crenshaw and Mr. Wexler.

H.R. 2263: Mr. Sanders, Mr. McGovern, and Mr. McDermott.

H.R. 2277: Ms. Lofgren.

H.R. 2281: Ms. Eddie Bernice Johnson of Texas.

H.R. 2294: Ms. Jackson-Lee of Texas and Mr. McGovern.

H.R. 2319: Ms. Schakowsky, Mr. Brady of Pennsylvania, Mr. Hilliard, Ms. McKinney, and Ms. Carson of Indiana.

H.R. 2323: Mr. Lucas of Kentucky, Mr. Bryant, Mr. LaHood, and Mr. Holden.

H.R. 2327: Mr. Gibbons, Mr. Weldon of Florida, Mr. Ballenger, Mr. Barr of Georgia, Mr. Hulshof, Mr. Flake, Mr. Doolittle, Mr. Culberson, and Mr. Sensenbrenner.

H.R. 2328: Ms. Solis, Ms. Schakowsky, Mr. McDermott, Mr. Lantos, and Mr. Baird.

H.R. 2331: Mr. Ose.

H.R. 2338: Ms. Carson of Indiana and Ms. Pelosi.

H.R. 2339: Mrs. Jo Ann Davis of Virginia, Mr. Gordon, Mr. Mascara, and Mr. Pallone.

H.R. 2340: Mr. George Miller of California, Mr. Baldacci, Mr. Frost, Ms. Schakowsky, and Mr. Stark.

H.R. 2348: Mr. Lewis of Georgia, Mr. Blumenauer, Mr. Filner, Ms. McKinney, Mr. Gutierrez, Ms. Roybal-Allard, Mr. Towns, Mr. McDermott, Mr. Traficant, Ms. Eshoo, and Mr. Thompson of Mississippi.

H.R. 2349: Mr. McGovern.

H.R. 2360: Mr. Portman and Mr. Forbes.

H.R. 2375: Ms. McKinney, Ms. Lee, Mrs. Mink of Hawaii, Ms. DeLauro, Mr. Brown of Ohio, and Mr. Grucci.

H.R. 2392: Mr. Bartlett of Maryland.

H.R. 2412: Mrs. Christensen and Mr. Acevedo-Vilá.

H.R. 2413: Mr. Rush and Mrs. Thurman.

H.J. Res. 42: Mr. Tiahrt, Mr. Cunningham, Mr. Taylor of North Carolina, Mr. Taylor of Mississippi, Mr. Smith of Michigan, Mr. Calvert, Mr. Goode, Mr. Brady of Pennsylvania, and Mr. Thompson of Mississippi.

H. Con. Res. 17: Mr. Sawyer, Mr. Farr of California, Mr. Larsen of Washington, Mr. Horn, Mr. Frost, Mr. Markey, and Mr. Olver.

H. Con. Res. 36: Mr. Waxman, Mr. Hall of Ohio, Mr. Coyne, Ms. Eshoo, Mr. Barrett, Ms. Lofgren, Mr. Baker, Ms. Kilpatrick, Mr. Pascrell, Mr. Frost, Mr. Holt, Mr. Cunningham, Mr. Shays, Ms. Norton, Mr. Pallone, Ms. Sanchez, Ms. Jackson-Lee of Texas, Mr. Ose, Mr. Sherman, Mr. Engel, Mr. Nadler, Mr. Sandlin, Mr. Serrano, Mr. Tierney, Mr. Wynn, Mr. Edwards, Mr. Upton, Mr. Taylor of Mississippi, Mr. Isakson, Mr. Blagojevich, Mr. DeFazio, Mr. Davis of Illinois, Mr. Menendez, Mr. McGovern, Mr. Wicker, Mr. Hilleary, and Mrs. Roukema.

H. Con. Res. 42: Mr. George Miller of California.

H. Con. Res. 89: Ms. Ros-Lehtinen and Mr. Schiff.

H. Con. Res. 102: Mr. Pomeroy, Mrs. Capps, Mr. Nadler, Mr. Hastings of Florida, Ms. Kilpatrick, Mr. Kildee, Mr. Rush, Mr. Schiff, Mr. Clement, Mr. Gilman, Mr. Farr of California, Mr. Lampson, Mr. Evans, and Mr. Shimkus.

H. Con. Res. 104: Mr. Visclosky.

H. Con. Res. 121: Mr. Green of Wisconsin.

H. Con. Res. 164: Mr. McDermott, Mr. Levin, and Mr. McIntyre.

H. Con. Res. 170: Mrs. Roukema.

H. Con. Res. 174: Mr. Honda.

H. Res. 75: Mr. Davis of Illinois, Mrs. Clayton, Mr. Crenshaw, Ms. Ros-Lehtinen, Mr. Evans, and Mr. Hulshof.

H. Res. 152: Mr. Sawyer, Mr. Evans, Mr. Farr of California, and Mr. Moore.

H. Res. 154: Ms. Brown of Florida, Mr. Sanders, Mr. Hilliard, Mr. Rodriguez, Ms. Jackson-Lee of Texas, Ms. Harman, Mr. Levin, Mr. Neal of Massachusetts, Ms. Eshoo, Mr. Stark, and Ms. Kilpatrick.

H. Res. 159: Mr. Turner.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2330

Offered By: Mr. Smith of Michigan

Amendment No. 30: Add before the short title at the end the following new section:

Sec. ___. None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who permit the payment limitation specified in section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) to be exceeded in any manner (whether through payments in excess of such limitation, permitting repayment of marketing loans at a lower rate, the issuance of certificates redeemable for commodities, or forfeiture of a loan commodity when the payment limitation level is reached), except, in the case of a husband and wife, the total amount of the payments specified in section 1001(3) of that Act that they may receive during the 2001 crop year may not exceed $150,000.

H.R. 2360

Offered By: Mr. Roemer

Amendment No. 1: Insert after title III the following:

TITLE IV—MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS

SEC. 401. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) Increased Limits for Individuals.—

(1) In general.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended—

(A) in subsection (a)(1), by striking "No person" and inserting "Except as provided in subsection (i), no person"; and

(B) by adding at the end the following:

"(i) Increased Limit To Allow Response to Expenditures From Personal Funds.—

"(1) Increase.—

"(A) In general.—Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator or Representative in or Delegate or Resident Commissioner to the Congress exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the 'applicable limit') with respect to that candidate shall be the increased limit.

"(B) Threshold amount.—

"(i) State-by-state and district-by-district competitive and fair campaign formula.—In this subsection, the threshold amount with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of—

"(I) $150,000; and

"(II) $0.04 multiplied by the voting age population.

"(ii) Voting age population.—In this subparagraph, the term 'voting age population' means—

"(I) in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)); or

"(II) in the case of a candidate for the office of Representative in or Delegate or Resident Commissioner to the Congress, the voting population of the district the candidate seeks to represent (as certified under section 315(e)).

"(C) Increased limit.—Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over—

"(i) 2 times the threshold amount, but not over 4 times that amount—

"(I) the increased limit shall be 3 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

"(ii) 4 times the threshold amount, but not over 10 times that amount—

"(I) the increased limit shall be 6 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(iii) 10 times the threshold amount—

"(I) the increased limit shall be 6 times the applicable limit;

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

“(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

“(D) OPPOSITION PERSONAL FUNDS AMOUNT.—The opposition personal funds amount is an amount equal to the excess (if any) of—

“(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

“(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

“(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT.—

“(A) IN GENERAL.—Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

“(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

“(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

“(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE.—A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

“(3) DISPOSAL OF EXCESS CONTRIBUTIONS.—

“(A) IN GENERAL.—The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

“(B) RETURN TO CONTRIBUTORS.—A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

“(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS.—Any candidate who incurs personal loans made after the date of enactment of the Bipartisan Campaign Reform Act of 2001 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.”.

(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS.—Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (E); and

(2) by inserting after subparagraph (A) the following:

“(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS.—

“(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS.—In this subparagraph, the term 'expenditure from personal funds' means—

“(I) an expenditure made by a candidate using personal funds; and

“(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

“(ii) DECLARATION OF INTENT.—Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator or Representative in or Delegate or Resident Commissioner to the Congress, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State and District-by-District competitive and fair campaign formula with—

“(I) the Commission; and

“(II) each candidate in the same election.

“(iii) INITIAL NOTIFICATION.—Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with—

“(I) the Commission; and

“(II) each candidate in the same election.

“(iv) ADDITIONAL NOTIFICATION.—After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed $10,000 with—

“(I) the Commission; and

“(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

“(v) CONTENTS.—A notification under clause (iii) or (iv) shall include—

“(I) the name of the candidate and the office sought by the candidate;

“(II) the date and amount of each expenditure; and

“(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

“(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS.—In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(i)) and the manner in which the candidate or the candidate's authorized committee used such funds.

“(D) ENFORCEMENT.—For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309.”.

(c) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

“(20) ELECTION CYCLE.—The term 'election cycle' means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

“(21) PERSONAL FUNDS.—The term 'personal funds' means an amount that is derived from—

“(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

“(i) legal and rightful title; or

“(ii) an equitable interest;

“(B) income received during the current election cycle of the candidate, including—

“(i) a salary and other earned income from bona fide employment;

“(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

“(iii) bequests to the candidate;

“(iv) income from trusts established before the beginning of the election cycle;

“(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

“(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

“(vii) proceeds from lotteries and similar legal games of chance; and

“(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of ½ of the property.”.

H.R. 2360

OFFERED BY: MR. ROEMER

AMENDMENT NO. 2: Insert after title III the following:

TITLE IV—REQUIRING CANDIDATES USING CORPORATE AIRCRAFT TO REIMBURSE CORPORATION AT CHARTER RATE

SEC. 401. REQUIRING CANDIDATES USING CORPORATE AIRCRAFT TO REIMBURSE CORPORATION OR UNION AT CHARTER RATE.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

“(c)(1) No candidate, agent of a candidate, or person traveling on behalf of a candidate may use an airplane which is owned or leased by a corporation for travel in connection with a Federal election unless the candidate, agent, or person in advance reimburses the corporation an amount equal to the usual charter rate for such use.

“(2) Paragraph (1) shall not apply with respect to the use of an airplane which is owned or leased by a corporation which is licensed to offer commercial services for travel.”.

SENATE—*Tuesday, July 10, 2001*

The Senate met at 10 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, almighty Sovereign of our beloved Nation, and loving Lord of our lives, our hearts overflow with gratitude. Thank You for the privilege of living in this land You have blessed so bountifully. You have called this Nation to be a demonstration of the freedom and opportunity, righteousness and justice You desire for all nations. Help us to be faithful to our destiny. May our response be spelled out in dedicated service.

Dear God, empower the women and men of this Senate as they seek Your vision and wisdom for the problems we face as a nation. Proverbs reminds us that "When the righteous are in power, the people rejoice." We rejoice in the Senators in both parties who seek to be right with You so they will know what is right for our Nation. You have told us, "Righteousness exalts a nation."—Proverbs 14:34.

Lord, we live in times that challenge faith in You. As a nation, secularity often replaces spirituality and humanistic materialism substitutes for humble mindedness. Bless the Senators as they give dynamic leadership. Grant them wisdom, grant them courage, for the facing of this hour. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 10, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SUPPLEMENTAL APPROPRIATIONS ACT, 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1077, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1077) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

Pending:

Reid (for Schumer) amendment No. 862, to rescind $33,900,000 for the printing and postage costs of the notices to be sent by the Internal Revenue Service before and after the tax rebate, such amount to remain available for debt reduction.

Reid (for Feingold) amendment No. 863, to increase the amount provided to combat HIV/AIDS, malaria, and tuberculosis, and to offset that increase by rescinding amounts appropriated to the Navy for the V–22 Osprey aircraft program.

Craig (for Roberts) amendment No. 864, to prohibit the use of funds for reorganizing certain B–1 bomber forces.

Voinovich amendment No. 865, to protect the social security surpluses by preventing on-budget deficits.

Byrd (for Conrad) amendment No. 866 (to amendment No. 865), to establish an off-budget lockbox to strengthen Social Security and Medicare.

Conrad amendment No. 867, to provide funds for emergency housing on the Turtle Mountain Indian Reservation.

Stevens (for McCain) amendment No. 868, to increase amounts appropriated to the Department of Defense.

Stevens (for McCain) amendment No. 869, to provide additional funds for military personnel, working-capital funds, mission-critical maintenance, force protection, and other purposes by increasing amounts appropriated to the Department of Defense, and to offset the increases by reducing and rescinding certain appropriations.

Stevens (for Hutchinson) amendment No. 870, to provide additional amounts to repair damage caused by ice storms in the States of Arkansas and Oklahoma.

Stevens (for Craig) amendment No. 871, regarding the proportionality of the level of non-military exports purchased by Israel to the amount of United States cash transfer assistance for Israel.

Bond amendment No. 872, to increase amounts appropriated for the Department of Defense.

Reid (for Hollings) amendment No. 873, ensuring funding for defense and education and the supplemental appropriation by repealing tax cuts for 2001.

Reid (for Wellstone) amendment No. 874, to increase funding for the Low-Income Home Energy Assistance Program, with an offset.

Reid (for Johnson) amendment No. 875, to amend the Higher Education Act of 1965 to make certain interest rate changes permanent.

AMENDMENTS NOS. 866 AND 865

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 2 hours of concurrent debate, equally divided, in relation to the lockbox amendments, Nos. 866 and 865.

The Senator from Nevada.

Mr. REID. Mr. President, I ask the time I consume not be charged against either Senator CONRAD or Senator VOINOVICH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. REID. First of all, as has been announced, we have now resumed consideration of the supplemental appropriations bill. The majority leader indicated that both Senator STEVENS and Senator BYRD have every intention of finishing this bill today so we can go on to the Interior appropriations bill tomorrow. The majority leader has authorized me to state it is his wish we could complete that legislation sometime on Thursday—Interior appropriations. If we did that, the majority leader said there would be no votes on Friday. So it would be really good if we could do that. It will take a lot of cooperation from everyone.

The majority leader has also asked me to express his appreciation to everyone for the cooperation on the Patients' Bill of Rights. It was a very contentious issue. Both sides worked, offered very difficult amendments for everyone to consider. It was done. It was done in an expedient way, and we arrived at a conclusion at an earlier time than people expected.

There are 14 amendments today. We have every expectation that some of them will be accepted by the managers of the legislation. Others, perhaps, can be worked out. The two managers of the bill have asked that we work to try to get time agreements on each of the amendments, and we will do that.

We hope we can arrive at a situation today where there can be votes at 2:15, as has been announced earlier. We expect, with the cooperation of Senator VOINOVICH and Senator CONRAD, that can be done, and we will work toward that end.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I ask the time be equally charged against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, how much time remains on the Conrad amendment as a result of the quorum call?

The ACTING PRESIDENT pro tempore. There is 47½ minutes on each side.

Mr. REID. For the edification of Members, we have had a general agreement that we will try to put in writing that we will complete this debate on these two amendments in approximately 90 minutes. They have agreed and consented to having a vote at 2:15 on Conrad first and Voinovich second, with 6 minutes equally divided between the two before the vote. We will write that up. I have explained to the Senators that when we get that written up, we will interrupt them so people will know definitely when the votes will occur.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, one of the primary reasons I wanted to serve as a U.S. Senator was to have an opportunity to bring fiscal responsibility to our Nation and help eliminate the terrible debt with which we will surely burden our children and grandchildren. As my colleagues know, for decades successive Congresses and Presidents spent money on things that, while important, they were unwilling to pay for or do without. In the process, we ran up a staggering debt and mortgaged our future.

Today, our national debt is at $5.6 trillion, which costs us over $200 billion every year in interest payments. From the time I arrived in the Senate, I have been working to rein in spending and lower our national debt. Over the past 2½ years, I have sponsored and cosponsored a number of amendments designed to bring fiscal discipline to the Federal Government.

For instance, in 1999 and 2000, we offered an amendment to use the entire on-budget surplus to pay down the debt. Also, in an effort to bring spending under control, Senator ALLARD and I offered an amendment in June of 2000 to direct $12 billion of the fiscal year on-budget surplus toward debt reduction. The amendment passed by an overwhelming margin of 95–3 and committed Congress to designate the on-budget surpluses to reduce the national debt, keeping those funds from being used for additional Government spending.

Our amendment provided the mechanism to assure that Congress will begin the serious task of paying down the debt. Further, this past April, Senators FEINGOLD, GREGG, and I offered an amendment to the fiscal year 2000 budget resolution designed to tighten the enforcement of existing spending controls. Our amendment created an explicit point of order against directed scoring and abuses of the emergency spending. Given this commitment to fiscal responsibility, the huge spending increases we have seen in the past 2 years have been troubling for me and for a lot of other Members of this body. I am worried that they will lead us back to our deficit spending and debt accumulation.

I was encouraged, however, with the budget that the President sent to us this year. The President's budget relies equally on three primary principles. I refer to them as the "three-legged stool." They are tax cuts, restrained spending, and debt reduction; all three of them fit together. This isn't just what the President proposed. It was what Federal Reserve Chairman Alan Greenspan called for in his groundbreaking testimony before the Senate Budget Committee earlier this year. Chairman Greenspan said that he hoped the recent increases in Federal spending was only an aberration. He went on to say that we needed a tax reduction because surpluses were accumulating so fast that they were overwhelming our ability to repay the national debt without having to pay a premium. This is precisely what the President's tax cut did.

The President's proposal to cut taxes was responsible precisely because it was coupled with two other legs of this budgetary stool. Without limits on spending and maximum efforts to pay down the debt, I could not have supported in good conscience the proposed tax cuts.

Ultimately, Congress passed the budget that achieves all three objectives of the three-legged stool. It cuts taxes, restrains spending to a responsible level, and pays down the available publicly held debt over a 10-year period. Little did we know how the tax cut would be needed to jump start the economy and restore consumer confidence. I don't think we knew that until recently when we saw what has been happening to our economy.

Hopefully, with the tax reduction, lower interest rates, and action by Congress to curb energy costs, we will see an improvement in the economy and a restoration of the public's confidence in the economy.

We have taken the first step to implement the budget agreement by enacting the President's proposed tax cuts with a large bipartisan majority. Tax cuts are now law and are a done deal. I know some Members of this body believe that those tax cuts were too much. But the fact is that a majority of us felt they were reasonable and less than what the President asked for.

But our work is not yet finished. We still need to enact legislation to lock in the other two legs of the budgetary stool. We need a mechanism to restrain spending and pay down the debt. That is precisely what our amendment does. It is the teeth that ensures that we will pay down the debt and limit spending. Lockboxing the Social Security surplus is the key to protecting our accomplishments thus far and enforcing our budget agreement.

I want to call your attention to this chart, which basically shows that all during the 1990s we had the deficit, but that deficit would have been much larger than was reported because we used the Social Security surplus to pay for things that Congress was unwilling to pay for or to do without. So as you can see, all the way up until the year 2000, we had a real deficit; there was no surplus whatsoever. It was only until 2000 that we saw a real on-budget surplus, and it wasn't until 1998 that we weren't using the Social Security surplus. The point is that we do not want to return to what we were doing in the past, and that is using the Social Security surplus.

I think that my colleagues can see on this chart, and so can the American taxpayers, that the Social Security surplus, if you can see this, is significant all the way during this next decade. What my amendment would basically do is to make sure that all of this money is used to pay down the debt and to restrain spending by the Members of this Senate.

I have every reason to believe if we don't pass this amendment, there is a good chance this money will be used to pay for spending.

Mr. President, as you can see, Congress has not been able to resist spending Social Security. I was an earlier supporter of the Abraham-Domenici Social Security lockbox that was first offered in 1999.

I voted in favor of the lockbox on several occasions. Laying out a thoughtful and well-reasoned budget plan is not enough to guarantee we do not stray back to spending the Social Security surplus. Good intentions are not enough.

Our lockbox strengthens the existing point of order against spending the Social Security surplus. Our lockbox makes it out of order to use the Social Security surplus in any one of the next 10 years, contrasted with the current budget resolution.

This is an important improvement. The existing point of order is written so it is possible to use the Social Security surplus in the future and is not possible to call a point of order. My amendment would prevent that.

Most important, my amendment contains an automatic enforcement mechanism. If OMB reports that the Federal Government will spend the Social Security surplus, an automatic across-the-board sequester will be put in place by OMB, and the size of the sequester will offset the use of the surplus.

This is the ultimate enforcement mechanism. If the Social Security surplus looks as if it will get spent, OMB stops it from happening. This mechanism is our safety valve which will ensure we stay on course to limit spending and pay down our debt.

Spending cuts under my amendment would cut into both discretionary and mandatory spending. Mandatory spending for the most needy in society would not be affected by these cuts. My amendment would exclude Social Security, food stamps, and other programs that are excluded from sequesters under the Deficit Control Act of 1985, and to prevent an inadvertent sequester, my amendment builds in a margin of error. This margin is equal to one-half of 1 percent of outlays. Because it is so hard to calculate the aggregate level of spending from year to year, I think this is a reasonable measure and OMB supports it. It would prevent inadvertent sequesters.

My amendment is straightforward and relies on existing law. I primarily build on existing budget process and mechanisms. We all know Social Security is off budget, and my amendment reinforces that position.

My amendment does not modify any budgetary conventions or pretend Social Security is something that it is not. Everyone knows the Budget Act points of order have their limitations. Someone has to call them, and too often no one does call them.

Take the use of Budget Act points of order against appropriations bills. The appropriations bills that pass early in the session can contain outrageous spending increases, and they are immune from the Social Security point of order because they do not threaten the Social Security surplus. It is only when we take up the last appropriations bills that it is obvious that the cumulative effect of our actions might cause a problem.

Until we take up the last appropriations bill, it is pure conjecture as to whether we might spend the Social Security surplus. The use of omnibus appropriations bills makes this all the more problematic. By the time we reach that last appropriations bill around here, it is too late. Large spending increases could have already been done, and we all know how bad Congress wants to get out of town when that last bill rolls around. For this reason, no one is willing to call a point of order that threatens to derail the train or a carefully worked out compromise needed to pass the last appropriations bills.

This is the shortcoming of points of order, and that is why we need an automatic enforcement mechanism to protect the Social Security surplus. The existence of an automatic Social Security sequestration will force Congress to act. I am no fool, however. I know that if Congress wants to spend money, it will. With 60 votes, we can do just about anything here, and just as we raise the discretionary spending caps and the debt ceiling, we can vote to undo this mechanism, but it will force Congress to act and will put Congress on record as violating the Social Security surplus. People of America should know that is what we are doing. It should not be hidden.

My colleague across the aisle, on the other hand, relies exclusively on points of order to enforce his lockbox which we will be hearing more about and, in my opinion, this is a serious weakness.

We in Congress spend and spend. For fiscal year 2001, with strong encouragement of the Clinton administration, my colleagues in Congress increased nondefense discretionary spending by a staggering 14.3 percent. I want everybody to hear that—14.3 percent. Think of it, a 14.3-percent growth in nondefense discretionary spending, and we increased overall spending by 8 percent. We grew the size of the Federal Government by 8 percent. We spend, and we spend.

As we begin to consider spending for fiscal year 2002, the President presented a modest, responsible budget that called for a 4-percent growth rate. Congress tacked on more spending and passed a bipartisan budget that called for a 4.7-percent increase in Federal spending. We spend.

We then took up an education bill intended to reform schools in an effort to ensure we were properly preparing our children for the 21st century, a goal I wholeheartedly support. Unfortunately, reform in Congress means more spending. We passed an education bill that authorized an incredible 62-percent increase in Federal spending on education—62 percent. Again, we spend.

If I can refer to this chart, my colleagues can see just what has happened to spending in Congress in the last couple of years. The budget caps that were put in place in 1997 in the budget agreement were supposed to cap spending in 1998 at 52.7, in 1999 at 53.3, in 2000 at 53.7, and in 2001 at 54.2. The red line is what we actually spent. Look at this increase. Starting in 1997, we increased spending.

From looking at that, one can see that walling off the Social Security trust fund from spending is something that has to be done. We have proven time and again that we are very good at one thing: spending other people's money. I remind the President and others that prior to 1999 we were spending that Social Security surplus regularly. This amendment ensures we will not spend that money. It ensures it will go where it belongs: paying down the national debt and providing a firewall against irresponsible spending. We must make sure history does not repeat itself.

If, however, the economic prosperity this Nation has enjoyed recently continues to fade—and I hope it is just a temporary situation—any surplus projections are likely to be revised downward and that Social Security surplus will, again, be in the crosshairs. It will be in the crosshairs because Congress's yearning for spending has not abated, for example, as I mentioned, the 62-percent increase in education. The President now is asking for more money in defense spending.

Given the spending trajectory and the possibility of continued economic softness and that the surplus will not be as large as projected, we could be bumping against the Social Security trust fund. We cannot let that happen. There is a real risk of it happening. We need to rein in the spending and protect Social Security from these spending threats. We need to lockbox it. Once lockboxed, the Social Security surplus will go to our debt reduction as our budget and the President's original plan intends and Federal Reserve Chairman Alan Greenspan has recommended.

It is Congress's irresponsible record of spending that has accumulated the $5.6 trillion in debt that now hangs over our children and our children's children. Paying off the debt will free up the 11 percent of the Federal budget which currently goes to debt service so we can focus on other needs such as Social Security reform.

There is what at first appears to be an alternative to my amendment, and that is the amendment offered by my colleague from North Dakota, the chairman of the Budget Committee. Unfortunately, I do not think it measures up to the amendment I have offered. I would like to take a moment to address the second-degree amendment of my colleague from North Dakota.

Its enforcement measure, in my opinion, is not as tough as mine. Therefore, my colleague's measure can easily be dodged by a Congress under pressure to spend more or which simply lacks the same commitment to debt reduction and spending restraint we have shown in our budget resolution.

The Senator's amendment purports to lockbox the Medicare surplus, but there is no such surplus. There is no Medicare surplus. It is money that does not exist. The Part B deficit exceeds the so-called Part A surplus. For fiscal year 2002, the net position of the Medicare Program, when we combine Part A and Part B, we have a negative $52 billion that is coming from the general fund. Medicare is an on-budget account, unlike Social Security, which is currently in a huge deficit and which relies upon direct infusions from the general fund.

I note that some tried harsh words to differentiate between Parts A and B, but the fact is we are still talking about the same program. Considering them separately and pretending they are off budget are simply not intellectually honest deductions and are a faulty premise on which to base legislation. If you want the appearance of action, coupled with the security of inaction, don't vote for my amendment, vote for the amendment of the Senator from North Dakota.

I want to be frank with the President and my colleagues in the Senate. Many gave thought to the idea of "lockboxing" Part A of Medicare. I think our colleagues know there is a Part A and Part B. Part A is funded by deducting money from people's Social Security check and by everyone paying into the Medicare trust fund. We take in more money than is spent out for Part A.

However, Part B, which is the nonhospital portion of Medicare, does not take in enough money. The Medicare Part A surplus projected for the year 2002 is $36 billion; Medicare Part B deficit is $88 billion. In effect, we are taking $52 billion out of the general fund of the United States to support Medicare. I am sure a lot of people getting Medicare today think the money coming out of their Social Security, the money sons and daughters are paying into the Medicare fund, is taking care of it. That is not the case. That is not the case.

When you combine Part A and Part B, the taxpayers of the United States subsidize Medicare. There is not enough money in the Medicare fund from the money coming in every year and the money being taken out of people's Social Security and the money they pay in for Part B. We are subsidizing it. To talk of a Medicare surplus when you see these numbers, is not being truthful. The surplus projected for the next 10 years shows the Medicare surplus for Part A is $393 billion. Whoopee. Part B, the deficit is $1.36 trillion. The overall subsidy coming from the general fund of the United States is $643 billion. For us to talk about lockboxing this, to me, really does not make sense. I know some talked about doing this last year, but the only reason it was brought up was the concept it would help restrain spending. When you see the total budget picture, the Medicare surplus is part of the on-budget surplus. It is in deficit. We ought not talk about locking off something that is not there.

I urge my colleagues to reject the Conrad second-degree amendment because I don't think it will be enacted. In my opinion, it is a poison pill. It pretends there is a sacrosanct Medicare surplus which does not exist and which was never walled off. I predict today if the second-degree amendment is passed by the Senate, the entire provision will be removed from the conference report of this bill. That money is going to be needed to pay for spending in the budget we now have, particularly if we increase education 62 percent, as some colleagues would like to do, and we entertain the President's request for more money for defense.

On the other hand, if you want to make sure the money is there to follow through on what we promised the American people, if we want to pay down the debt as we promised—we said we want to pay down the debt and we want to restrain spending—if we want to do that without gimmicks, the pure Social Security lockbox that will do that, I request my colleagues support this amendment.

I am not proposing this today for political reasons. It is popular. I want to lockbox Social Security. I want to lockbox Medicare. The fact is, this is very serious business. I testified before Congress in 1985 as president of the National League of Cities. At that time, spending was out of control. What happened was during the Reagan years—some of my colleagues might not like to hear it—we reduced taxes, but at the same time we reduced taxes which was supposed to stimulate the economy, at the same time we increased spending astronomically. What President Reagan received was money for the defense initiative, and what the other colleagues received was money for domestic spending. It was during that period of the 1980s where we saw the national debt skyrocket, and we gobbled up Social Security.

We need to be fiscally responsible. The way to do that is lockbox Social Security so it can be used for deficit reduction; lockbox it so it can not be used for spending. I think we can leave here with our head high and it will be something we may very well need by the end of this year if things do not work out as well as we hoped.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Senator from Ohio and I see the same problem, but we have a different approach to solving the problem.

The Senator from Ohio says the Social Security is endangered. I agree. I say not only is the Social Security trust fund endangered but so, too, is the Medicare trust fund. Despite the words from the Senator from Ohio, there really is a Medicare trust fund. It really is in surplus. We know that. That is from the reports from this administration. Those are what the reports from the Congressional Budget Office make very clear.

Here is the "Medicare Budget Outlook," from chapter 1, from the CBO, table 1-7 "Trust Fund Surpluses."

Under "Medicare, Hospital Insurance (Part A)," the trust fund is in surplus each and every year of the years under consideration.

Part B, referenced by the Senator from Ohio, is in rough balance.

What the Senator from Ohio has confused with his charts, is that Part A has always been funded in one way, under one formula, and Part B has been funded under a different formula. Part A is funded by deductions from payrolls of employees all across the country. As I indicate, Part A is in surplus.

Part B is funded by premiums paid by Medicare beneficiaries and by general fund contributions. That is not in deficit as asserted by the Senator from Ohio. That is incorrect. Long ago, Congress determined Part B would be funded in part by contributions from the general fund, in part by premiums. We decide that level of contribution from the general fund as a matter of law. We make that determination. It has nothing to do with the Part B trust fund being in surplus or deficit. In fact, the reports of the Office of Management and Budget and the reports of the Congressional Budget Office show that the Part B trust fund is in rough balance because of that funding mechanism. It is not in deficit. That is an inaccurate statement. Part A is in surplus. So I believe the proper policy here is to give protection to both the Social Security trust fund and the Medicare trust fund, not just the Social Security trust fund, because the truth is Medicare is headed for insolvency even sooner than Social Security.

I believe we ought to save the Social Security surplus and save the Medicare surplus; we ought to provide protection to both. It is critically important that we do so.

The amendment I have offered in the second degree to the amendment of the Senator from Ohio protects the Social Security surpluses in each and every year, takes the Medicare Part A trust fund surplus off budget, just as we have done with Social Security, and gives Medicare, the same protections as Social Security and contains strong enforcement for both. This is an amendment that received 60 votes on the floor of the Senate last year. Sixty Members voted for protecting both Social Security and Medicare. I hope we will do that again.

To go to the specific comparison of the two amendments I think would be useful to our Members.

First, on the question of taking Medicare off budget, my amendment does so, to provide the same protection we have provided to Social Security. The basic idea is a simple one. Should we be using Medicare trust fund money or Social Security trust fund money for other purposes? Should we be using that money to fund the other operations of Government? My answer would be that at a time of economic growth we simply should not. We should not be raiding trust funds, retirement funds, health care funds, to pay for other functions of Government. We should not be using Medicare trust fund money to pay for national defense. We should not be using Medicare trust fund money or Social Security trust fund money to pay for education. We should not be using trust fund money to pay for tax cuts. We should not be using trust fund money to pay for the park system. The fundamental reason not to is we need that money to make the funds solvent.

We have the baby boom generation coming along. If we use that money for other purposes, it is not available to pay down debt or to address the long-term liability in those programs. The fundamental effect is we dig the hole deeper before we start refilling it.

My amendment would take the Part A trust fund off budget and protect it just as we do Social Security. The Voinovich amendment does not. He does not protect Medicare like Social Security.

The second question is, Does it protect Medicare surpluses? My amendment, the Conrad amendment, does. It creates supermajority points of order against any legislation that would decrease the Medicare trust fund or increase trust fund deficits in any fiscal year. The Voinovich amendment has no such provision.

On the third question of protecting Medicare against cuts, yes, on the Conrad amendment. We exempt Medicare trust funds from mandatory sequesters. We do not think those funds that are dedicated to Medicare should be used to cover up the deficit in other places in the budget. We do not think Social Security funds should be used for that purpose. We do not believe Medicare funds should be used for that purpose. We have already separately taxed people for Medicare and Social Security. They are in surplus. To take their funds to pay for other functions of the Federal Government is just wrong. No private sector entity could do that. There is not a private sector entity in America that could raid the retirement funds of their employees to pay the operating expenses of the company. There is not a private sector firm in America that could take the health care trust funds of their employees and use them to fund the other operations of the company. That is illegal. It would be illegal under Federal law if any private sector organization tried to do it.

Why don't we apply the same principle to ourselves? Why don't we say: Look, trust fund money? That is a different category. It is a different category from other spending. If we are going to do that, we have to treat the Social Security trust fund and Medicare trust fund in the same way. My amendment does. The amendment of the Senator from Ohio simply does not. In fact, the amendment of the Senator from Ohio would require Medicare to be cut. Under his sequester, Medicare could be cut, defense could be cut, any other part of Federal spending could be cut; it is undifferentiated. It doesn't matter whether it is a trust fund or other operations of Government; under the amendment of the Senator from Ohio, they could all be cut.

I do not think that is right. I do not think it is right to treat the Medicare trust fund the same way as other Federal programs when there is a shortfall in Social Security—to cut Medicare to make up for it? I don't think so. I do not think that is the right principle at all.

The fourth question: Do we protect on-budget surpluses? Yes, under the Conrad amendment we create a supermajority point of order against the budget resolution or other legislation that would cause or increase an on-budget deficit for any fiscal year; in other words, taking out Social Security and Medicare, treating them as trust funds. That is what they are supposed to be, that is what they are designed to be, and we ought to treat them as such. The amendment of the Senator from Ohio is the same as my amendment in that regard.

Protecting Social Security? The two are the same.

On the final question, providing for cuts in Medicare, education, defense, and other programs, no, my amendment does not provide new sequesters beyond existing mandatory and discretionary sequesters under the Budget Enforcement Act. The amendment of the Senator from Ohio amends the Budget Enforcement Act to sequester spending in any year the estimated on-budget spending exceeds one-half of 1 percent of total estimated outlays, regardless of what caused the deficit—regardless of what caused it.

Under his proposal, even if it was a tax cut that caused the shortfall, you have to go out and cut Medicare; you have to go out and cut defense; you have to go out and cut education, even though it was not a spending increase that caused the problem. If it was, instead, a shortfall in revenue or if, instead, it was some other provision that created the problem—a tax cut, for example, that caused the shortfall—his answer is the same in every case: You cut spending. It doesn't matter what the cause of the problem is; you treat them all the same. I do not think that makes sense or stacks up.

Under the amendment my colleague from Ohio is offering—I call it the Republican broken safe because there is not a penny reserved for Medicare—you are protecting Social Security, which my amendment does as well, but he does nothing for Medicare. I do not think that is the way we want to go.

I will go back to my colleague from New Mexico, who I see is on the floor now. This was his statement back in 1998:

> For every dollar you divert to some other program you are hastening the day when Medicare falls into bankruptcy, and you are making it more and more difficult to solve the Medicare problem in a permanent manner into the next millennium.

He was exactly right when he made that statement. That is why I offer this amendment today, to protect Social Security and Medicare, to treat them as trust funds, because that is the way they were designed, that is the way they were set up, and that is the way we ought to treat them.

This chart shows we are already in trouble. Under the budget that was passed, with the tax cut that was passed, with the economic slowdown that is occurring, in the fiscal year 2001, the year we are in right now, you can see we started with a $275 billion forecasted surplus, but $156 billion of that is Social Security money and $28 billion is Medicare trust fund money. When you take those out, you have $92 billion left. Then you take out the tax bill. That is $74 billion. If you take out what is in the budget resolution that passed both the Senate and the House, that is another $10 billion out of this year—most of it in the bill that is before us right now, the supplemental appropriations bill. Then when you look at the interest associated with the first two, we are down to a margin of only $6 billion this year.

Now we have been told by the administration we can anticipate—to be fair, this is Mr. Lindsey, Larry Lindsey, the President's Chief Economic Adviser, who did a back-of-the-envelope calculation and said when we adjust the number that he used for the different baselines, we would lose another $20 billion this year because of the economic downturn. That puts us in the hole this year by $17 billion. That puts us into the Medicare trust fund by $17 billion.

That is before any appropriations bill has passed. No appropriations bill has passed. There is no spending beyond what is in the budget, and we are already in trouble. And for next year you can see the same pattern, but it is more serious in that we are using all of the Medicare trust fund next year, plus we are even using some of the Social Security trust fund—only $4 billion but, nonetheless, the numbers show that with the economic slowdown this year, we can anticipate lower receipts next year. If you look at all of the numbers and you look at how much of the money is in the trust funds, you find that we have a problem this year and next year.

If we go even further and look at the next 10 years, what we see is that we have problems in the Medicare trust fund in the first 4 years. Every year we are into the Medicare trust fund just based on the budget that has passed, based on the tax cut that has passed, based on the economic downturn we see so far. And that is before we consider the President's request for billions more for national defense. We are in trouble already. We are into the trust funds already before we consider the President's defense requests, before we consider any new money for education.

Remember, we just passed an authorization bill with over $300 billion of new money for education. This is before we have any money for natural disasters. And we typically have $5 to $6 billion for natural disasters every year. This is before the tax extenders are passed. Those are popular provisions. The research and development tax credit—does anybody believe we are not going to extend the research and develop tax credit? Does anybody believe we are not going to extend the wind and solar tax credits? If we do, it is not in the budget. And it just makes the problem more severe.

I say to my colleagues, we are into the trust funds before any of these additional measures, before the President's defense requests, before any new money for education, before money for natural disasters, before the tax extenders are provided for, before the alternative minimum tax problem is fixed. And I am not talking about a total fix to the alternative minimum tax; I am just talking about a fix to the problem created by this tax bill that has been passed. Just fixing that matter is a $200 billion cost. This is before any further economic revisions. And we have been alerted by the Congressional Budget Office to expect a further downward revision to the long-term forecast because of the weakening economy.

Colleagues, what could be more clear? We have a responsibility to deal not just with the short term but with the long term as well.

Mr. REID. Will the Senator yield for a unanimous consent agreement?

Mr. CONRAD. I would be happy to yield.

Mr. REID. Mr. President, these unanimous consent requests have been cleared by both leaders and both managers of the bill that is now before us.

So, Mr. President, I ask unanimous consent that there be 90 minutes for debate equally divided between Senators VOINOVICH and CONRAD—and this would go back to the time when they started their debate earlier today, which there is probably——

Mr. DOMENICI. Reserving the right to object.

Mr. REID. Pardon me.

Mr. DOMENICI. I am reserving the right to object.

Mr. REID. If I could complete the request—on the subject of both the Voinovich amendment No. 865 and the Conrad amendment No. 866, that at 2:15 p.m. there be 2 minutes for debate equally divided between Senators VOINOVICH and CONRAD prior to a vote in relation to the Conrad amendment; that following the disposition of his amendment—that is, the Conrad amendment—there be 6 minutes equally divided between Senators VOINOVICH and CONRAD followed by a vote in relation to the Voinovich amendment, as amended, if amended.

I want to make sure it is clear, all time already consumed by Senator VOINOVICH and Senator CONRAD be charged against the 90 minutes. I also say, to alleviate any questions anyone might have, there will be points of order raised against both amendments.

The PRESIDING OFFICER (Mr. CARPER). Is there objection?

Mr. DOMENICI. Reserving the right to object, and I will not object—maybe I didn't hear it—did you reserve some time for the Senator from New Mexico to speak?

Mr. REID. Senator VOINOVICH has some time. I assume that is where your time will come from, because we are already working under a time agreement that was entered into yesterday.

How much time remains for Senator VOINOVICH?

The PRESIDING OFFICER. Twenty-four minutes.

Under the unanimous consent request, there would be 21 minutes remaining.

Mr. REID. Twenty-one minutes.

I ask Senator VOINOVICH, would you yield some of that time to the ranking member of the Budget Committee?

Mr. VOINOVICH. I would be more than happy to.

Mr. DOMENICI. You said you would?

Mr. VOINOVICH. Yes. Absolutely.

Mr. DOMENICI. I will not use over 10 minutes, I say to the Senator. It would be 7 to 10 minutes.

Mr. VOINOVICH. Fine.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Thank you.

Mr. President, I ask unanimous consent that with respect to the Feingold amendment No. 863, there be 30 minutes for debate divided as follows prior to a vote in relation to the amendment: 20 minutes under the control of Senator FEINGOLD, 10 minutes equally divided between the chairman and ranking member, with no second-degree amendments in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. REID. Further, Mr. President, I ask unanimous consent that with respect to the Hollings amendment No. 873, there be 40 minutes for debate divided as follows prior to a vote in relation to the amendment: 20 minutes under the control of the Senator from South Carolina, Mr. HOLLINGS; 20 minutes equally divided between the chairman and ranking member of the Appropriations Committee, with no second-degree amendments in order prior to the vote; further, that this debate commence upon the conclusion of the debate on the lockbox amendments this morning—that is, the Voinovich and Conrad amendments—and that, further, a vote in relation to the Hollings amendment occur upon disposition of the Voinovich amendment, as amended, if amended, with 4 minutes for debate equally divided prior to the vote. And to clarify, the chairman and the ranking member of the Appropriations Committee or their designees would control the 20 minutes.

The PRESIDING OFFICER. Is there objection to this unanimous consent request?

The Chair hears none, and it is so ordered.

Mr. REID. Mr. President, let me, through you, to my friend from North Dakota, express my appreciation for his courtesy in yielding the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me just pick up where I left off and point out that while we are in a period of surpluses now with respect to Medicare and Social Security, we all know what is to come. The Congressional Budget Office has alerted us. The Comptroller General of the United States has alerted us. The Social Security Administration has alerted us. Medicare has alerted us. And they all have told us the same thing: That when we get past this decade—in the next decade when the baby boomers start to retire—these surpluses turn to massive deficits. That is what happens. The cash deficits begin in the year 2016, and then they grow geometrically as more and more baby boomers retire.

That should warn us, that should alert us that we should not be using the trust funds for other purposes. We should not be using the Medicare and Social Security trust funds to fund other operations of Government. Yet we are poised to do that this year. We are poised to do it to an even greater degree next year. And we are poised to do it for the next decade even in a time of strong economic growth.

Let's think about that. Let's think about it soberly. The administration is not forecasting an economic slowdown next year or the years thereafter; they are forecasting strong economic growth. In that context, the numbers reveal we will be using trust fund monies to fund the other operations of the Federal Government. I do not think that is right.

Mr. Novak said, in a column yesterday, that I am—what did he say?—an antique fiscal conservative.

Whatever name one applies to it doesn't make much difference to me. It doesn't have anything to do with antique. It has to do with common sense. You don't take trust fund money to pay for other programs when you know what is to come, and there is no one in this Chamber who doesn't know what is to come. We know we are facing a demographic tidal wave unlike anything we have ever seen in our Nation's history. We are going to go from a time of surpluses in these trust funds to deficits.

One of the ways to deal with it is not to use the money in the trust funds for other purposes. That is the heart and soul of my amendment. We ought to pass it.

Does that mean you are forced to have a tax cut in a time of economic slowdown? No, absolutely not. We have an economic slowdown now. I proposed $60 billion of tax cuts, of fiscal stimulus this year. That was part of the proposal I put before my colleagues—far more fiscal stimulus than the President proposed. That isn't the correct suggestion, that somehow we would force tax increases or spending cuts at a time of an economic slowdown.

They are not forecasting an economic slowdown for this year or next year or the year thereafter. They are forecasting strong economic growth. We see from the numbers that their plan has put us into the trust funds of Medicare and Social Security even at a time of economic growth. That doesn't make sense to this Senator. I don't think it makes any sense at all.

My colleague on the other side put up a chart suggesting that spending is out of control, that that is the problem. I have to give the other side of the story. That may be the popular view, but it doesn't match the facts.

This chart shows Federal spending as a share of the economy has gone down each and every year for the last 9 years. There hasn't been some big spending splurge. He talks about one part of Federal spending. That is the chart he had. The chart he had was not all Federal spending. No, the chart he had was one part of Federal spending that has shown significant increases. He didn't tell Members that he was showing a chart that has just one-third of Federal spending. He didn't say that. He made people believe that was all of Federal spending on that chart. He knows and I know that is not the case.

He knows and I know that the proper way to compare Federal spending is as a share of our gross domestic product because that takes out the effects of inflation. That is the way to make the best comparison.

What do we see when we do that? We see that Federal spending in 1992 was 22 percent of gross domestic product. Federal spending in this year, 2001, is going to be 18 percent of gross domestic product. There has not been some big spending explosion. That is not an accurate characterization to the American people.

The fact is, the share of money out of national income going to the Federal Government has gone down dramatically, from 22 percent of gross domestic product to 18 percent of gross domestic product today. That is about a 20-percent reduction, not some big spending binge. That has been a reduction in the share of national income going to the Federal Government for spending. That is a fact.

Under the budget we passed, spending is not going up as a share of gross domestic product or as a share of our national income; Federal spending is going to continue to decline. It is going to go down to 16 percent of gross domestic product. That will be the lowest level since 1951.

Facts are stubborn things. The fact is, we do not have runaway Federal spending. We have Federal spending going down and going down sharply as a share of our national income, which every economist asserts is the appropriate way to measure so that we take out the effects of inflation and show real trends, what is really happening.

This is what has happened to Federal spending. Right now it is at the lowest level since 1966 on a fair comparison basis, measured as a share of gross domestic product. We can see we did have sharp increases back in the 1980s. That is true. He was correct on that. But since then we can see Federal spending as a share of GDP has gone down and gone down sharply, gone down to the lowest level since 1966. We are poised, with the budget under which we are operating, to go down to the level last seen in 1951.

This is an important subject. We do have a growing problem of dipping into the trust funds to finance the other operations of Government, even in a time of economic growth. It is economic growth that is forecasted next year. Those are all the numbers that are being used to make these analyses. The problem is significant and growing.

I urge my colleagues to take a stand and vote to protect not only the Social Security trust fund but the Medicare trust fund as well. That is common sense.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota has 17 minutes remaining. The Senator from Ohio has 21 minutes remaining.

The Senator from Ohio.

Mr. VOINOVICH. I yield 10 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not here in the Chamber to discuss the economics of the next 4, 5, 6, 10 years, nor am I here to conduct an argument with the Budget chairman with reference to the status of the economy, what we are getting versus what we projected. In due course, we will get some projections that are authentic and we will be down here to talk about the shortfall, which perhaps is a shortfall in revenue, but we have nothing official. We have a statement out of the White House. There is a formula that could be applied if the economy comes down by x amount or the tax take could be reduced by a certain amount. My good friend Senator CONRAD is building a proposed set of hearings around that. I look forward to them.

For now, let me say the biggest thing that has happened with reference to the surplus is, No. 1, the Congress, led by the Senate, decided to increase the stimulus this year in this remaining part of the budget cycle. We decided in conference and then voted, with very large votes, that $72 billion would be given back to the American people during the remainder of this year. That is a very large sum. It is the most prudent thing we could have done.

Looking back, I am very glad we did it. The only thing we have going governmentally that might help this economy is to get some of these tax dollars back into the hands of taxpayers to see if it will build on their confidence as consumers or if they will use it to purchase items that are currently under the rubric of heavy inventories that are driving the economy down.

No. 1, the only big thing we have done is put in place a tax cut of around $72 billion in the first year, this year, and about $30 billion plus next year. To the extent that that reduced the surplus, I guess one would have to ask: Should we now undo that tax measure?

I understand somebody is going to propose as an amendment that we reduce the tax cuts. I don't know if it is in the first year or what, but the Senate followed our good friend, Senator HOLLINGS, here in the Chamber while we were doing the budget resolution and said we should do more in the first and second years, and essentially the conference on the tax bill gave in to the proposals coming forth from this body.

The second thing that has happened is even though the Congressional Budget Office had dramatically reduced the expectation of growth, they went from about a 5.1 growth to an estimate for the relevant year of 2.5 percent, so we were operating on a rather conservative set of economics, but what has happened is a shortfall in the American economy, or the downturn, which has gone on pretty long—much longer than many expected—is apparently going to cause some diminution, some lessening of the taxes coming into the coffers than was expected. We don't have the exact information from how or from whence.

So we have a tax cut that is our best hope of bringing this economy back and causing this downturn to be minimum, at its minimal duration, and to start back up as early as possible. I did not promote that tax package with enough enthusiasm about it being needed for the economy because I didn't believe we had the shortfall coming and it would last this long. I spoke of that tax cut to make Government smaller and leave money in the hands of the people. Other people thought it was an antirecessionary measure, and I am grateful they did it because it turns out to be right.

The $70 billion this year and the $30 billion-plus next year are probably as close to what the economic doctor would have prescribed to us if he were looking at the veins of our economy and saying we better make some of them a little more robust. So that happened. The economic estimate went from 5.5 plus to 2.5 by the CBO. Apparently, it is coming down beyond that, but for how long and how much, I don't know. We will be getting our numbers together and we can have a very interesting debate. What do we do if, in fact, this recession, this downward trend, lasts a little longer than expected? What do we do with reference to the shortfall in revenues? Do we increase taxes? Of course not. Do we just cut everything in the Federal programs 10 percent or 8 percent? Of course not. We won't do that.

Today, we have an amendment by the new chairman of the Budget Committee that, I regret to say, I cannot support. I don't think it is the right thing to do. First of all, this amendment is the same amendment that was offered in the Senate and defeated by the Senate on the Bankruptcy Act. The amendment the distinguished chairman is offering now, he offered then. Approval of it was denied by the Senate.

The second thing is, if we look at the entire Medicare Program instead of just Part A, we will see that Medicare is already running a deficit of $58 billion in 2002 and nearly a trillion dollars over 10. For what does that cry out? It cries out for reform of the Medicare system, and it cries out loudly for a different delivery system and prescription drugs.

Incidentally, there is $300 billion sitting in this budget to be used for prescription drugs if and when we get a bill. But we have said all of the moneys that are part of Medicare should be used to reform this, and certainly Medicare money should be used as part of a reform measure, including prescription drugs.

The second point is that it was voted down in the Senate on a point of order. This splits Medicare in half. For the first time, we had half of Medicare off budget, half of Medicare on budget. That doesn't mean anything to anyone out there. But it is just totally the wrong way to help solve the long-term problem in Medicare. Doesn't everyone in this Chamber hope that as part of prescription drugs we actually reform Medicare so that it can deliver more for less? It is a 25- or 30-year-old regime, in terms of what is paid for and deducted and all of those things. Those should be made modern in the reform package.

This amendment won't permit that because it says the portion of the trust fund that is for Medicare Part A is totally off budget, but Part B is on budget.

From my standpoint, we are going to just encourage more gimmicks when we do this kind of thing. We are all aware that the surpluses were generated because we shifted home health services from Part A to Part B in 1997—a charade of sorts because that was a way of saying Medicare looks better—but at the same time we took one of the biggest components of their responsibility away from them. Anybody can do better on money if they have five mortgages and somebody says: Well, don't count three of them; we will put them somewhere else and you can run around and say all you owe are two mortgages and the other three are sitting over there somewhere and you are not going to do anything about them.

I believe the most important thing we can do—and everybody has priorities—the most important thing we can do this year—and I think the President is taking the first step tomorrow—is to get started on Medicare reform. My concept would be that the money in Medicare, Part A and Part B—and the $300 billion in this budget for additional prescription drugs—we package all that and pass a Medicare bill this year. I think that is the right thing to do.

I could talk a lot longer about trust funds and how they relate to the budget of the United States. But, for today, I believe the chairman of the Appropriations Committee, or the ranking member, whose bill is on the floor, will make a point of order. The distinguished majority whip has said a point of order will be made. I think it will be made in each case by a different Senator, one from each side of the aisle. This violates the Budget Act and therefore a point of order lies against it. I don't think anybody who votes for that is going to make it stick that they are against Medicare.

As a matter of fact, one might make the argument that if the Conrad amendment is adopted and made law, which is a long way from now, you might make it harder to get reform in prescription drugs because you will be working off some arbitrary lines that took part of it off budget and left part on budget. So we need reform, not just shuffling money around.

I look forward to many days of discussions with my friend, the new chairman. I look forward with enthusiasm to discussing what is happening to the American economy. What should we do since the lull is a little longer? I think we ought to start talking about that.

I yield the floor and thank the Senator from Ohio for yielding time to me.

The PRESIDING OFFICER. The Senator from Ohio has 10 minutes remaining. The Senator from North Dakota has just over 17 minutes.

The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, we always welcome the sage observations of the former chairman of the Budget Committee and, probably not surprisingly, we disagree. There is nothing in my amendment that precludes reform of Medicare. I not only serve on the Budget Committee, I serve on the Finance Committee. I have been part of every reform effort on Medicare that has occurred. So I am in favor of Medicare reform, and there is nothing in my amendment that prevents further Medicare reform.

In fact, I believe this amendment is part of Medicare reform because it recognizes that the trust funds of Social Security and Medicare both deserve protection. That is the reality. That is what is at the heart of this discussion and debate today.

Make no mistake, this talk about Medicare being in deficit is just erroneous. Let's review the Congressional Budget Office report.

Here is Medicare. Under the table that is headlined "Trust Fund Surpluses," Medicare Part A, which is financed out of payroll deductions, is in surplus each and every year of the 10 years of the forecast period.

Medicare Part B is in rough balance over the 10 years. In some years, it is down $1 billion and then it is in surplus by $3 billion, $2 billion, $2 billion. The fact is Part B is in rough balance over the 10 years.

The Senator says it is a deficit. It is not a deficit. It is a funding mechanism we decided on in Congress for Medicare Part B. Part of the money comes from premiums. Part of the money comes from the general fund. It is not in deficit.

The report of the Congressional Budget Office shows very clearly it is in rough balance. Part A is in clear surplus.

If you allow the money that is in surplus in the trust funds of Medicare to be used for other purposes, which we are now poised to do because of an unwise fiscal policy that has been put in place, guess what happens.

What does that mean? I do not think we want to force the Medicare trust fund to go broke faster. It does not make sense to me.

The Senator from Michigan is seeking time. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Ms. STABENOW. I thank the Chair.

Mr. President, I thank our Budget Committee chairman for his leadership on this issue. I am proud to be cosponsoring the amendment he has offered to protect Medicare and Social Security.

I ask unanimous consent to add my name as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, this is a very simple, straightforward debate: Are we going to protect Social Security and Medicare trust funds for their intended purpose, or are we going to allow them to be used for other purposes?

My friend from Ohio speaks about Social Security trust funds, and I share his concern about protecting them, but that is not enough without including Medicare. I find it so interesting that in the Budget Committee we have heard testimony from the Secretary of the Treasury about protecting Social Security, and we have heard from the OMB Director about protecting Social Security, but nowhere do they talk about protecting Medicare.

Then we turn around and review over 30 years of reports regarding the Medicare trust fund, the solvency of the Medicare Part A trust fund. For over 30 years, we have acted as if there is a Medicare trust fund.

Now we are being told magically this year, with the new administration, that there is no trust fund. I find that quite amazing. In fact, there is a Medicare Part A trust fund. It is in surplus. It goes for important health care purposes. Just ask our hospitals. It is important we protect those dollars for those who receive health care through Medicare.

I also find quite interesting the logic that if, in fact, there is not a Medicare trust fund, there is no surplus; then rather than putting money into Medicare in order to strengthen it, we should spend it for other items. That is basically what we are hearing; that it is all right to spend Medicare for something other than health care for seniors and the disabled because somehow, through accounting mechanisms, we decided there is no trust fund.

The Conrad amendment, which is so fundamental and so important to the people of our country, simply says we will not spend Social Security and Medicare trust funds for something other than the intended purpose. This is absolutely critical. Those of us who stood in this Chamber and expressed concern about the budget resolution, expressed concern that, in fact, Medicare and Social Security would be used to pay for the tax cut that passed, to pay for other spending, the reason Senator EVAN BAYH, Senator OLYMPIA SNOWE, I, and others offered something called a budget trigger during that debate was simply to say we did not want to be in this situation and that phase-in of the tax cuts would be suspended if we were dipping into Medicare and Social Security.

That received 49 votes, not quite enough for adoption. We now move on throughout the year, and we find ourselves, as our Budget chairman has indicated, poised to spend Medicare health care dollars for other purposes, not in the future but this year and every year until 2010.

The Conrad amendment simply says we will not do that; we will protect the sacred promise of Social Security and Medicare; we will not spend Social Security or Medicare for other than the intended purpose.

This is what we ought to make sure we put into place and protect for the future, for those who are counting on us, who are paying into Medicare as well as Social Security and are counting on us to make sure that health care is available to them when they need it.

I believe Medicare and Social Security are great American success stories and we ought to do everything in our power to guarantee that both of those trust funds are strengthened and protected, not weakened. The Conrad lockbox amendment protects those promises and those trust funds for the future, and I urge my colleagues on both sides of the aisle to strongly support the Conrad amendment.

I yield back any time remaining.

The PRESIDING OFFICER. Who yields time?

Mr. VOINOVICH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Ohio controls 9 minutes 40 seconds. The Senator from North Dakota controls exactly 9 minutes.

The Senator from Ohio.

Mr. VOINOVICH. How much time does the Senator from North Dakota have?

The PRESIDING OFFICER. Nine minutes forty seconds.

Mr. VOINOVICH. How much time do I have remaining?

The PRESIDING OFFICER. Nine minutes forty seconds, and the Senator from North Dakota controls 9 minutes exactly.

Mr. VOINOVICH. Mr. President, I will make a couple of remarks and let the Senator from North Dakota finish up on his time, and then I want to give Senator GRAMM of Texas the last part of my time, if that is acceptable to the Chair.

The PRESIDING OFFICER. The Senator from Ohio may proceed.

Mr. VOINOVICH. Mr. President, we have a saying in Ohio, especially north of Route 40, that you cannot make a silk purse out of a sow's ear. We are talking about a Medicare Part A surplus, and to not also recognize that we have a Part B Medicare responsibility and argue that we have a surplus when the figures show that when we put A and B together they are in deficit some $52 billion—there is no such thing as a Medicare surplus, if you are looking at Medicare as it really is, and that is Part A and Part B.

In this budget, we are going to have about $36 billion more than what we expected in Part A, but on Part B—that is the out of hospital—we are going to be in deficit some $88 billion. When we put the two of them together, we are in deficit $52 billion.

How can one talk about a Medicare surplus when we are in debt $52 billion? If we take the next 10 years, we are going to take in $393 billion more in Part A, but in Part B we are going to have to subsidize $1.36 trillion, and it all works out to be a deficit of $643 billion.

The point I am making is this: There is no Medicare surplus; it is a fiction. If we are to go along with the amendment of the Senator from North Dakota, in fact, what is going to happen is it will be used to pay down debt, and we will not have it to reform Medicare, which we need to do. We will not have it to pay for the prescription drug benefits that the American people are demanding we provide, and hopefully we are going to do something about it this year. I urge my colleagues to vote against that amendment and to support the real pure lockbox of Social Security that I suggest today.

I point out to the Senator from North Dakota that the sequester does not take Medicare or Social Security. It exempts those under the Budget Act of 1985 so you don't have to worry, if the sequester goes into force, taking anything—Social Security, Medicare, and some of the other things to which the Senator made reference. It is written in my amendment and references the 1985 budget agreement.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, my staff says the Senator is incorrect when he says his amendment protects Medicare from the sequester, protects Social Security. They assert after examining the amendment that it does not protect Medicare from a sequester.

More importantly is the question of whether there is a trust fund surplus. I ask the Senator from Ohio, does he dispute the report of the Congressional Budget Office? The report of the Congressional Budget Office is as clear as it can be on page 19. I refer the Senator to "Trust Fund Surpluses."

Here is Social Security. We all know it is in surplus. Medicare, hospital insurance, Part A, is in surplus every single year. Part B is in rough balance over the 10 years.

The Senator from Ohio has confused the funding mechanism for Part B. The funding mechanism is part of the cost, for Part B is premiums paid by those who are Medicare eligible and the other part is a general fund contribution. It is not in deficit. It is a choice made by Congress as to how to fund Part A, which are payroll deductions. That is how it is funded. It is in surplus. Part B is funded by premiums for part of the costs and by general fund contributions for the other part. It is not in deficit. It is a funding decision made by the Congress. Part A is in surplus; Part B is in rough balance.

To suggest there is no surplus, I ask the Senator, what is his conclusion, this money doesn't exist? There is no surplus in Part A year by year? I don't think so. It is as clear as it can be.

If one says there is no surplus and make it a jump ball, make this money available for other purposes, that is what will happen around here. That is the implication of the Senator's position. I don't think that is a wise position. I don't think it is a prudent position. It is certainly not a conservative position. It is a position that says we can use this money for any purpose; it doesn't matter. It doesn't matter that we have a trust fund. It doesn't matter that these moneys are supposed to be protected. We will use them any place.

That is exactly what got us back into trouble in the 1980s. We raided every trust fund in sight and put this in the deficit ditch and exploded the deficits and exploded the debt. I don't want any part of repeating that process.

I yield the floor.

Mr. VOINOVICH. I yield time to the Senator from Texas.

The PRESIDING OFFICER. There remains 6 minutes 24 seconds controlled by the Senator from Ohio.

Mr. GRAMM. I thank the Senator from Ohio. There is only one person in this Congress who has done anything to control spending thus far, and his name is GEORGE VOINOVICH of Ohio. He got 35 Members of the Senate to sign a letter urging the President to veto spending bills that were over budget, that threatened the viability of Social Security and Medicare, and threatened the surplus. I congratulate him on that. He has proposed a mechanism to be sure we do not spend the Social Security surplus.

First of all, let me make it clear there is not a Medicare surplus. If ever there has been a fraud, this is it. It is true that one part of Medicare has a surplus of $29 billion. But it is also true that the other part of Medicare has a deficit of $73 billion, so Medicare in terms of taking general revenue, losing money, is running a deficit of $44 billion.

Even the surplus in Part A is the product of a gimmick from the Clinton administration where we took the fastest growing part of Part A, home health care, and "saved" $174 billion by paying for it out of Part B rather than Part A.

I am tempted to vote for the Senator from North Dakota's amendment because it makes it harder to spend money. I rejoice in that. But don't act as if there is a real surplus in Medicare and it is equivalent to the genuine surplus which exists in Social Security.

There is an additional problem in that the Senator from Ohio has a sequester to enforce the protection of the Social Security surplus which does not exist under the amendment of the Senator from North Dakota.

Let me outline what this is about. This is not about solvency of Medicare. It is not about solvency of Social Security. There are not real trust funds for either. Both of these programs have phony IOUs that the Federal Government prints, but it is a debt of the Federal Government to the Federal Government. It is like writing yourself an IOU and putting it in your left pocket and saying: I am richer by that amount. The problem is you have to take money out of the right pocket to pay for it.

We are not using either one of these surpluses to provide for these programs in the future. If the money were being invested in the name of the people who are paying these taxes and those investments could be sold in the future to pay benefits, this would be a real debate about protecting Social Security and protecting Medicare.

I am very interested in this debate because it is about protecting freedom. It is about stopping a runaway spending machine. In the last 6 months of the Clinton administration, we increased spending by $561 billion over the next 10 years, in a 6-month period. There has never been anything comparable to that in American history. There is still a mentality in this Senate that we can afford to do everything anybody wants to do. In fact, in the supplemental appropriations bill before the Senate, we have half a dozen amendments that simply add more spending for little pork barrel projects and for great big programs, for important items such as defense, for unimportant items such as somebody's pet project. But the point is, we are still spending money as if it is water.

I am for both these amendments because they both make it harder to spend money. I would have to say that the distinguished chairman of the Budget Committee has a power that no other Member of the Senate has because under the budget resolution he unilaterally controls $423.8 billion worth of reserve funds, and simply by saying "no," that money cannot be spent. No one is in a better position than the distinguished chairman of the Budget Committee to deal with the crisis that he has talked about.

When Senator DOMENICI was chairman, we had a surplus. We were not spending any of the so-called surplus in Medicare. We were not spending a penny of the Social Security surplus. We had general surplus in the rest of the budget. Now that the Senator from North Dakota has taken control and apparently things have almost spontaneously gone to hell, it seems to me he has a lot of explaining to do. I look forward to hearing it.

But the bottom line is, we have a proposal before us that sets up a process to make it much harder to spend the Social Security surplus. Then, if we spend it, it has an enforcement mechanism through a sequester. Every Member of the Senate that means it when they say anything about Social Security ought to vote for the amendment of the distinguished Senator from Ohio.

In my opinion, the case for the amendment of the Senator from North Dakota is a much weaker case. There is not a Medicare surplus. There is a surplus in one part of it, there is a deficit in the other, and we created the surplus by taking the fastest growing part out of it during the Clinton administration and putting it into Part B. So the whole thing is kind of a fabrication. On the other hand, if we actually did not allow this surplus to be—quote—spent, it would be harder to spend money. But there is another paradox, and that is you could not even spend it for Medicare.

So whatever you do on the amendment of the Senator from North Dakota, I urge you to support the amendment of the Senator from Ohio.

The PRESIDING OFFICER. Time controlled by the Senator from Ohio has expired. The Senator from North Dakota has 5½ minutes remaining.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Senator from Texas is wrong about the amendment of the Senator from Ohio.

I just say this. Some of what the Senator from Texas says I agree with. I really do think we have a circumstance that requires us to think very carefully about how we are going to deal with requests for additional spending, requests for additional tax reductions, because, as I calculate it, the cupboard is bare. We are already into the trust funds or are poised to be if the items in the budget resolution are enacted. We are into the trust funds, just based on the tax cut that has passed, based on the budget resolution that has passed, and based on reductions in revenue because of the economic slowdown.

Tongue in cheek, the Senator from Texas suggests it is my ascension to chairman of the Budget Committee that has somehow led to these events. I can assure the Senator from Texas that it was not my becoming chairman of the Budget Committee that led to the economic slowdown, and it was not my ascension to the Budget Committee chairmanship that led to the passage of the budget resolution. I opposed it. It wasn't my position as Budget Committee chairman that led to the passage of the tax bill. I opposed it because I predicted then we would face the circumstance I believe we face now. That is, we have just done too much and the result is we have a problem.

I am not for raising taxes at a time of economic slowdown. I am not for cutting spending at a time of economic slowdown because that would counter fiscal stimulus, and we need fiscal stimulus. But looking ahead to times when the administration projects strong economic growth, it does not seem wise to me that we use the trust funds of Social Security and Medicare for other purposes. That just does not seem to be a wise thing to do. My amendment would prevent us from doing it.

It would not absolutely prevent us because you could get around it with 60 votes. That is always true here. The Senator from Texas talks about the power that I have. The power I have is actually rather limited. The power I have is to release reserve funds that are in the budget, but any action I take can be overcome by 60 votes in the Senate.

I have sent the very clear signal to the Secretary of Defense and the administration with respect to their request for additional spending for defense. By the way, I believe we need more money for defense. But, given our fiscal situation, the question becomes, Will it be taken out of the trust funds of Medicare and Social Security, or will it be paid for by spending cuts elsewhere, or will it be paid for by additional revenue? I do not believe it should come out of the trust funds of Medicare and Social Security. I think that is wrong. I think that is a mistake.

I think the amendment of the Senator from Ohio is deficient. No matter what the cause of the shortfall is, he has only one answer. His answer is: Cut spending everywhere else, other than Social Security. I do not think that is the right answer. I think everything has to be on the table, revenue and spending cuts, especially if the problem is caused by tax cuts that were too big.

No matter what the cause, whether it is economic downturn, whether it is a tax cut that was too big, he has only one answer: Cut all spending other than Social Security. I do not think that is a balanced response. I do not think that is a balanced response.

Let me go again to the question of spending. I ask the Chair how much time is remaining on my side?

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator has 55 seconds.

Mr. CONRAD. Again, the Senator from Texas talked about spending being out of control. I just beg to differ. I do not think that is what the record shows. As a share of GDP, Federal spending has gone down each and every year for the last 9 years, from 22 percent of GDP to 18 percent this year. Under the budget resolution that passed, Federal spending as a share of gross domestic product is going to continue to decline, from 18 percent of GDP down to 16.3 percent, the lowest level of GDP since 1951. Discretionary spending, domestic discretionary spending is going to be at the lowest level in our history.

So, please, let's not be telling the American people there is some big spending binge that has been going on here and put up a chart such as the one the Senator from Ohio has up there that has just one part of Federal spending.

AMENDMENT NO. 873

The PRESIDING OFFICER. The time of the Senator has expired. Under the previous order, the Senate will now debate the amendment of the Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Chair. Madam President, I want to yield to the distinguished ranking member of our Finance Committee because he has a conflict. We want to try to accommodate that.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I yield myself such time as I might consume. I will not consume all the time that has been allocated to our side. I will not be here to allocate other time, so anybody who wants to speak in opposition to the Hollings amendment is free to yield themselves what time I might have remaining.

Even though Senator HOLLINGS has not discussed his amendment—he is going to do that very shortly—I have strong opposition to his amendment because his amendment would repeal the retroactive marginal rate cuts enacted on June 7, this year, barely 1 month ago. My opposition to the amendment of the distinguished Senator from South Carolina is based both on procedural and substantive grounds. First, procedural problems with the amendment: It is a tax amendment. As a tax amendment, it obviously falls within the jurisdiction of the Finance Committee. The bill before the Senate is an appropriations bill, not a finance bill. As the senior Finance Committee Republican, I must oppose this tax amendment on an appropriations bill.

Furthermore, if Senator HOLLINGS were to prevail, this appropriations bill would become a Senate-originated revenue bill and, as such, it would be blue-slipped when sent to the other body. In other words, this amendment, if added to the underlying supplemental appropriations bill, would kill the appropriations bill we are now considering, a bill that is so badly needed.

As bad as this amendment is procedurally, it is even worse substantively. This amendment would repeal all the retroactive marginal rate reductions in a recently passed tax bill. Those tax rate cuts are based principally on the new 10-percent bracket for the first $6,000 of income for single taxpayers and $12,000 of income for married taxpayers. The retroactive, new tax percent bracket is the basis, then, for the advanced refund checks of $300 for single people and $600 for married couples that will soon by mailed out by the Treasury Department starting July 23. So the Hollings amendment, then, would stop these checks dead in their tracks. A vote for the Hollings amendment is a way to say no to American taxpayers who now expect to receive the refund checks.

These checks and the other retroactive rate cuts are, of course, a stimulus in the tax legislation that we just enacted. Just when the economy is slowing down and when the economy, then, is in need of a stimulus, the Hollings amendment would pull the rug out from under our attempt to stimulate it. Frankly, I cannot think of a proposal more damaging to the potential return to economic growth than the amendment on which we will soon vote.

Soon, in a separate speech, I am going to discuss in some depth the tax legislation just enacted. Let me point out one important fact for one to chew on in the meantime. According to the Congressional Budget Office, Federal taxes are at an all-time high of 20.6 percent of the economy. That is higher than taxes were even in World War II. Individual income taxes are at record levels as a percentage of the GDP. The tax legislation returns this overpayment—which is dragging down American workers, investors, businesses, and collectively the American economy—to the people.

What the Hollings amendment really says is, return taxes to their record levels. The Hollings amendment says high taxes are no problem and should be ignored in a slowing economy. Think about this, my fellow Senators. This amendment, in effect, raises taxes at a time we have a slowing economy.

Madam President, I yield the floor and thank Senator HOLLINGS for yielding to me to make these remarks at this point ahead of him.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, the distinguished then-chairman of the Finance Committee, when they reported out the tax cut, did not include a rebate, did not include a tax cut for this present fiscal year, 2001. But to not have it in all of a sudden has become, in his words, dangerous: Oh, this is a dangerous thing. I am just doing what he, as the chairman of the Finance Committee, reported out.

I have said: Look, let's not have a tax cut for the year 2001. That is exactly what President Bush said when he submitted his tax cut: Let's not have a tax cut for 2001. We will begin in 2002. That is what the House of Representatives said when they passed the tax cut. They said: Don't have it for 2001. Let's begin in 2002.

Now, all of a sudden, to do that has become dangerous? a constitutional question? I originated this particular rebate, which I ask now to be repealed, in the Senate. The Senate did not raise a constitutional point of order that it was a revenue measure that should derive in the House. Every one of the Republicans voted for it, without question, without point of order, without constitutional question. They did not blue-slip it when it got over to the House of Representatives.

Now where are we? They talk about campaign finance in the morning paper and say the House is debating it and they are only going to have 1 day of debate. But we are only going to have 15 minutes of debate here this morning on campaign finance because that is all this is. Nobody thinks now the minimal, too late, too little rebate is going to work. I have not found anybody who really thinks mailing somebody $300 or $600 is all of a sudden going to trigger a recovery in a $10 trillion economy—let me emphasize this. When it got to be about February and March, and I really began to worry about the economy, wondering if there was anything that could be done, yes, there was a rebate being discussed. So I went to the financial minds on Wall Street and the economists—because I am a former chairman of the Budget Committee, and I know whom to call and whom to talk to—and I said: Look, do you think a rebate will work? They said: It's 50-50, a flip of the coin. It might, but probably will not. To make sure it works, they told me the rebate ought to be at least 1 percent of the gross domestic product of $10 trillion, which is $100 billion. And it certainly ought to cover as many taxpayers as possible.

So we set out with $100 billion, and we included the 95 million income-tax payers and the 25 million payroll-tax payers, and do you know what those rascals did? Listen to this. They gimmickly said: The corporate taxes due in September—namely, fiscal year 2001—we are going to move that over to October so we will have enough money for the campaign next year.

Talk about campaign financing. Where are we going to take it away? We are going to take it away from, of all people, Dicky Flatt.

The Senator from Texas is always talking about little Dicky Flatt who pulls the wagon and pays the taxes and builds the country and sits around the kitchen table. Poor Dicky Flatt gets nothing. And what does this amendment say? Let's put everybody in Dicky Flatt's shoes. If he and the 25 million payroll-tax payers are not going to get anything, then let's not give it to anybody because we can save $40 billion. To pay for what? To pay for the defense, the $18 billion increase that Secretary Rumsfeld says we are going to need. To pay for what? The distinguished Senator from Iowa re-allocated $250 million over 10 years for education.

Everybody is asking: Where is the money? Instead of sobering up and looking at it in a judicious fashion and saying, wait a minute, what we are really doing is borrowing, we will have to borrow some $40 billion to distribute around when we know it is not going to do the job.

Let me emphasize why I say borrow. Here in my hand is the debt to the penny. The U.S. Department of the Treasury publishes this on the Internet. The national debt now is up to $5.710 trillion. At the beginning of the fiscal year it was $5.674 trillion. So, a surplus? Come on. The debt has gone up. We have a deficit, as of this minute, of $36 billion and it is going up.

I will take another bet if the distinguished former chairman of the Budget Committee, the Senator from New Mexico, will come out. I will still jump off the Capitol dome. He wants me to, I know. But I will jump off that dome if the deficit is less than $50 billion by the end of September. You watch. It is going up, up, and away.

Here are the CBO figures. These are my realities. You can see here, we have ended the fiscal year 2000 with a $22.7 billion deficit, and at the beginning of this year, CBO was projecting a $26 billion surplus for 2001.

Then in May, they verified that $26 billion by saying: We are going to have to adjust it down by $6 billion. So it went down to $20 billion. You can see that we Democrats have been fiscally responsible. When President Clinton came in office, he came in with a $403.6 billion increase in the debt—a deficit of $403.6 billion. We have been going down, down, down in the red, and we lost the Senate. Yes, because we voted for an increase in taxes, a cut in the size of Government—over 300,000 slots—and a cut in spending of over $350 billion. And what did that do? The market and technology boomed for 8 years, and for 8 years straight we have been reducing into the black and going right into surplus. As of April 3, we had a $102 billion surplus.

Now, today, July 10, we are already back in the red. I voted for a balanced budget under Lyndon Johnson, but I haven't been able to for the past 34 years. I thought I could have until they came with the tax cut. And now they insist on it when they are going to give it to the rich. A stimulus was not even contemplated by President Bush, not contemplated by Chairman GRASSLEY of Finance, not contemplated by the House of Representatives. And it was certainly not contemplated for Dicky Flatt, not for the 25 million payroll tax payers who really need the relief. I had to put it in on the Senate side.

Oh, yes, they are buying the vote. That is all this is, campaign finance. It is a sad thing because we thought we could stay on course financially.

You can see on the chart how at 22.7, we started going down in the red. Then we started back up, and now we are headed down to 75 and staying. If we had stayed on course, we were going to remain in the black, surplus, surplus, surplus. And that is what we heard from President Bush. Now he talks about stimulating, stimulating, when he had no idea of stimulating. His tax cut included nothing for this particular fiscal year.

I do not touch his tax cut. I lost on that particular vote. They still have their tax cut beginning next fiscal year. But they put in, rather than a rebate, as I had it, of $500 and $1,000 and going to 120 million taxpayers in America, a rebate of just $300 and $600. They also left out the most important of all taxpayers, the payroll tax payers, some 25 million, who get nothing.

All I am saying is, wait a minute, let's save the money. Let's don't go out and borrow it because we don't have it. Go over to the Treasury Department. And don't let them give you the doubletalk, either, when you get over to Treasury. When I mention doubletalk, this is what I mean. Let me explain to my colleagues. They talk about private debt and public debt, unified budget deficits and all this; we have had this gamesmanship for 34 years now. Debt held by the public has gone down $137 billion, but the debt held by the Government has gone up $173 billion. That is where you get the deficit of $36 billion. So we are borrowing now.

I don't want to get into it with my distinguished chairman who is doing an outstanding job trying to save Social Security and Medicare. I can tell him, according to the Treasury records, as of this minute, they have spent $173 billion of trust funds. You have a computer. Just look up this information on the Internet.

I don't know where they got the $173 billion. I have my ideas where they get it. They continue to spend. We passed 13-301. You have a Secretary of the Treasury running around, Secretary O'Neill, saying there never has been any money in the Social Security trust fund. The Greenspan Commission, section 21, said put Social Security off budget. On November 5, 1990, George Herbert Walker Bush signed it into law, 13-301, to put Social Security off budget in the sense that the President and the Congress were forbidden to report a budget that included the Social Security trust funds. Everybody voted for it, 98-2 here in the Senate. But they totally ignore it. And now we have the Secretary of the Treasury saying there never has been a trust fund.

That is how run amok this Government has become. It is time we sober up and stop spending money we don't have. Everybody is talking about paying down the debt, paying down the debt. A vote against this is to increase the debt. I am saying let's hold the tax schedule where it is and, in short, do away with the rebate because it is not going to do any good. Everybody knows there is no chance of it. And in time, Madam President, we might find some money to take care of defense, take care of education, take care of the $6.5 billion for this supplemental bill. That was never contemplated. We are looking for money as a way to pay it, and rather than going out and borrowing it, we are distributing it around to buy the vote. That is all it is going to do politically. It is not going to do anything economically. Maybe we can get back to some rational approach to our fiscal affairs.

Mr. Greenspan can do all he will with respect to the monetary policy, but it is up to us to take care of the fiscal policy, the long-range interest rates and everything else.

A headline from the Financial Times reads, "Hard Landing Alert Sounded for U.S. Economy." And again, Mort Zuckerman, editor in chief of U.S. News and World Report, says that consumer spending, capital spending, and exports are declining rapidly, that the economy is in worse shape than it looks.

With that confronting us, why are we running around borrowing some $40 billion to mail around knowing it is not going to do any good, confronting funding Social Security, funding Medicare, funding the education increase of $30 billion a year, funding the increase that Secretary Rumsfeld wants of $18 billion?

I retain the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. REID. I have spoken to Senator HOLLINGS. He has no more time he wishes to use. The opposition has used some of his time. I don't think we have any more time. The hour of 12:30 is quickly approaching. I ask unanimous consent that we recess for our Tuesday morning conferences of the parties at this time.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:28 p.m., recessed until 2:16 p.m., when called to order by the Presiding Officer (Mr. CLELAND).

SUPPLEMENTAL APPROPRIATIONS ACT, 2001—Continued

AMENDMENT NO. 866

The PRESIDING OFFICER. There will be 2 minutes equally divided before the vote on the Conrad amendment.

The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, the amendment I am offering today is an amendment I offered last year that got 60 votes on the floor of the Senate. Earlier this year, it got 53 votes on the floor of the Senate. It says we should protect both the Social Security and the Medicare trust funds. We already provide some protection of the Social Security trust fund. It would strengthen those protections. We would also provide those same protections to the Medicare trust fund. Both of these trust funds deserve protection. If we don't provide it, the money will be used for other purposes.

I hope my colleagues will support this amendment.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. May I ask, how much time do we have?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. VOINOVICH. Thank you.

Mr. President, I urge my colleagues to vote against the Conrad amendment. In fiscal year 2002, the overall Medicare Program would require over $50 billion in general tax revenues. Over the next 10 years, the Medicare Program would require over $600 billion in general tax revenues. We can't lockbox something that simply does not exist. It is a fiction.

This amendment, in my opinion, will harm our ability to reform Medicare and also harm our ability to provide a prescription drug benefit that is so long due for the American people.

Furthermore, the Conrad amendment does not contain any real teeth in terms of a Social Security lockbox. It lacks any automatic enforcement mechanism to protect Social Security. I urge my colleagues to vote no on the amendment and against the waiver of the point of order.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, on behalf of myself and the chairman of the Appropriations Committee, Senator BYRD, I raise a point of order that this amendment violates section 306 of the Budget Act.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable section of that act for the purpose of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mrs. CLINTON), the Senator from New York (Mr. SCHUMER), and the Senator from North Carolina (Mr. EDWARDS) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SANTORUM), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 42, nays 54, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—42

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Cantwell
Carnahan
Carper
Cleland
Conrad
Corzine
Daschle
Dayton
Dorgan
Durbin
Feingold
Graham
Harkin
Hollings
Hutchinson
Johnson
Kennedy
Kerry
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Nelson (FL)
Nelson (NE)
Reid
Rockefeller
Sarbanes
Smith (OR)
Specter
Stabenow
Torricelli
Wellstone
Wyden

NAYS—54

Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Dodd
Domenici
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchison
Inhofe
Inouye
Jeffords
Kohl
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Murray
Nickles
Reed
Roberts
Sessions
Shelby
Smith (NH)
Snowe
Stevens
Thomas
Thcmpson
Thurmond
Voinovich
Warner

NOT VOTING—4

Clinton
Edwards
Santorum
Schumer

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained. The amendment falls.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EDWARDS. Mr. President, I was unavoidably detained during this vote on the motion to waive the Budget Act with regard to the Conrad amendment, vote No. 221. Had I been present I would have voted "aye."

AMENDMENT NO. 865

The PRESIDING OFFICER. Who yields time on the Voinovich amendment?

Mr. STEVENS. May we have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I ask unanimous consent to add Senators ALLARD, FITZGERALD, and HAGEL as cosponsors, and I also thank Senators SESSIONS, HELMS, and CRAPO for their help on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. I ask my colleagues to vote to support our Social Security lockbox amendment. Our lockbox strengthens the existing point of order against spending the existing Social Security surplus. Our lockbox makes it out of order to use the Social Security surplus in any single year of the next decade. More important, our amendment contains an automatic enforcement mechanism. If OMB reports the Federal Government will spend the Social Security surplus, an automatic across-the-board cut in spending, a sequester will be put in place. The size of this sequester will offset the use of the surplus. This is the ultimate enforcement mechanism. If the Social Security surplus looks like it will get spent, the OMB stops it from happening. This will ensure we stay the course on limiting spending and pay down the national debt as we promised when we passed the budget resolution.

Spending cuts under this amendment would impact both discretionary and mandatory spending. Mandatory spending for the most needy in society would not be affected by these cuts. My amendment would exclude Social Security, food stamps, and other programs that are excluded from sequesters under the Deficit Control Act of 1985. In reality, about $33 billion of mandatory spending is subject to sequester. Hopefully, we would never have to use the sequester.

This amendment is straightforward. It relies largely on existing law. It primarily builds upon the existing budget process. We all know Social Security is off budget and my amendment reinforces that position. Our amendment does not modify any budgetary conventions, nor does it pretend Social Security is something it is not. We must make sure history does not repeat itself. For years the Social Security surplus has been an all too readily available source of cash for Congress to spend. However, since 1999, there has been a political consensus not to return to spending of the Social Security surplus, in large part because we have had an on-budget surplus that supplied the extra money.

If, however, the economic prosperity that this Nation enjoyed recently continues to fade, although I hope this is a temporary situation, and surplus projections are likely to be revised downward, then the Social Security surplus will again be in the crosshairs. It will be in the crosshairs because of Congressional yearning for more spending.

If you want to make sure money is there to follow through on what we promised the American people, if you want to pay down the debt, if you want to control spending, and if you want to do it in an accountable, enforceable way, without gimmicks, vote for this amendment. I think everyone in this room knows this is the right thing to do. I urge my colleagues to vote for this amendment and urge them to vote for waiving the point of order that will be raised against it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Voinovich amendment does nothing to protect Medicare. Just a few short months ago, every member of the Republican caucus voted for protection for both Medicare and Social Security. What has occurred that would lead them now to forget Medicare?

This is not a wise course. In the name of protecting Social Security, this amendment would cut Medicare. The sequester that is provided for in this amendment says, if we are on the edge of going into Social Security, cut Medicare, cut defense. It is a one-trick pony. It does not matter whether the deficiency was caused by a tax cut, by an economic downturn, or by excessive spending, the answer to each and every one of them is the same: cut spending. It does not matter if the problem was caused by too big a tax cut: cut spending. It does not matter if the problem was caused by an economic downturn, the answer is cut spending. It is not a balanced approach.

The assertion that there is no Medicare surplus simply does not fit the facts. This is the report of the Congressional Budget Office. On page 19, under the table "Trust Fund Surpluses," it shows Social Security in surplus, it shows Medicare Part A in surplus, it shows Medicare Part B in rough balance.

The argument that the Senator from Ohio is making is that because we have chosen, as a Congress, to fund Part B, in part by general fund transfers, that that means Medicare is in deficit. That is not the case. That is not the definition of the Congressional Budget Office; that is not the definition of the Office of Management and Budget. All of them assert there is a surplus in Part A and rough balance in Part B.

We, as a Congress, have made the determination to finance Part B, by premiums in part, by general fund transfer in part.

This is not an amendment we should adopt.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, we already have a Social Security lockbox. The pending amendment contains matter within the jurisdiction of the Senate Budget Committee; therefore, I raise a point of order against the amendment pursuant to section 306 of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I move to waive the applicable provisions of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mrs. CLINTON) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SANTORUM) is necessarily absent.

The PRESIDING OFFICER (Mr. JOHNSON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 54, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—43

Allard
Allen
Brownback
Bunning
Campbell
Collins
Craig
Crapo
DeWine
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Thompson
Voinovich
Warner

NAYS—54

Akaka
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Burns
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Cochran
Conrad
Corzine
Daschle
Dayton
Dodd
Domenici
Dorgan
Durbin
Edwards
Feinstein
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Stabenow
Stevens
Thurmond
Torricelli
Wellstone
Wyden

NOT VOTING—3

Clinton
Santorum
Schumer

The PRESIDING OFFICER. On this vote, the yeas are 43 and the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

Mr. STEVENS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 873

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided before a vote in relation to the Hollings amendment. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, in the first part of April when we passed my amendment authorizing a rebate, we had a $102 billion surplus. Now, as of 3 o'clock this afternoon, according to the Secretary of the Treasury, the public debt to the penny—and anybody can read it on the Internet—the debt now, instead of being a surplus, has increased since the beginning of the fiscal year to $36 billion in the red. In other words, we don't have the $41 billion for a rebate. We have to go out and borrow it.

Common sense says that rather than going out and borrowing money and throwing it to the winds, increasing the debt, the public would prefer that we pay down the debt. At least that is what we tell them we are doing.

If you look on the screen on channel 2, the Republican channel says "abolishes a tax rebate." "President Bush and Congress promise to the American people. . . ."

They didn't promise it. It was my amendment. I promised, as the financial world advised me, that it should apply to all taxpayers. What they have done is broken my promise. Nothing is in this bill for the 25 million payroll-tax payers. In other words, you and I, Mr. President, will get a rebate, unless you vote for my amendment. But the payroll-tax payers, such as Dicky Flatt—I don't know where the Senator from Texas is, but Dicky Flatt, the fellow who "pulls the wagon and pays the taxes, and builds the country, and sits around the kitchen table" gets nothing.

Now, come on. If there is a conscience around here, let's talk sense. Save that $41 billion. We need it for defense. We need it for education. We have increased education spending to $25 billion a year, $250 billion over 10 years. We need it for prescription drugs. Let's don't throw the money around and then cry the rest of the year here that we don't have the money.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. Mr. President, I rise in strong opposition to the Hollings amendment. The Hollings amendment would repeal the retroactive marginal rate cuts enacted on June 7th of this year. That is barely over 1 month ago.

My opposition to the amendment is based on both procedural and substantive grounds.

On the first problem the amendment's procedural problems, it is clear that, if adopted, this amendment will cause the underlying supplemental appropriations bill to violate the origination clause of the U.S. Constitution. If sent to the House, the bill would certainly be "blue slipped." So, this amendment, if adopted, kills the supplemental.

The second problem is the substance of the amendment. This amendment would repeal all of the retroactive marginal rate reductions in the recently passed tax bill. Those rate cuts are based principally on the new ten percent bracket for the first $6,000 of income for single taxpayers and $12,000 of income for married couples.

The retroactive new ten percent bracket is the basis for the advance refund checks of $300 for a single person and $600 for a married couple. The Hollings amendment stops these checks dead. A vote for the Hollings amendment is a way to say no to American taxpayers who now expect to receive refund checks. A vote for the Hollings amendment is a vote against the stimulus in the tax bill we just passed.

Mr. LIEBERMAN. Mr. President, I will vote for the Hollings amendment and wish to explain my reasoning. The amendment focuses on the consequences of the massive tax cut, namely that we are facing a Hobson's choice—either raid the Social Security and Medicare HI trust funds or forgo needed spending on defense, education and other priorities. This is a choice that will bedevil us for years to come until we come to our senses regarding a tax cut we can afford.

The Hollings amendment seeks to avoid this Hobson's choice by rescinding a portion of the excessive tax cut. I would prefer that he rescinded aspects of the tax cut other than the rebates. I was an early advocate of rebates to help us with the current economic slowdown. I was disappointed in the rebate that was finally adopted in the tax bill because it is not being paid to tens of millions who filed tax returns, but I still support rebates.

If we don't face reality regarding the tax cut, however, we will be faced again and again with the Hobson's choice regarding the trust funds. We have urgent priorities to modernize our defense establishment and to fund the education reform initiative, both issues where I have expended considerable effort over the years. The problem we will face is that so much of the government's revenue base has now been spent that any national priority that requires more support, like defense or education, will have to be shelved or funded at the expense of the trust fund surpluses.

As Chairman CONRAD has explained, the President's budget plan means we may well raid these trust funds this year even if we do not go forward with these urgent priorities. We won't know for sure until the new budget estimates are provided in August and at the end of the fiscal year, but we may spend down these trust funds even if we do not exceed the budget resolution limits.

I applaud Senator HOLLINGS for raising this issue, and for seeking to avoid this Hobson's choice. While this amendment affects rebates that I support, it brings needed attention to the overall box the Administration has placed us in and the difficult choices we will have to make. This amendment attempts to avoid our dipping into the trust fund surpluses. There are other ways to accomplish the same goal and I will be exploring them as we struggle with the consequences of the tax bill, the need to defend the trust funds and fund urgent defense and education reforms. This is a Hobson's choice we did not have to face and that is why I voted against the tax bill and will vote for the Hollings amendment.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. DOMENICI. Mr. President, I have 2 minutes. I yield 1 minute to Senator BAUCUS.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, with deep reluctance, I oppose my good friend from South Carolina. I must say that I compliment him because it was earlier that he suggested to me the stimulus to get the economy going. He was foresightful of that fact, and because of that recognition, we now find that the economy does need to be stimulated a little bit. I compliment him for that.

I must oppose him on this amendment, however. This is a revenue measure. It has not been before the Finance Committee. In fact, it has in a certain sense been before the committee because it was part of a larger bill and the committee voted against it.

Second, this is a revenue provision on an appropriations bill. Under the Constitution, it will be blue-slipped by the House. The House will automatically reject it.

Beyond that, we just passed a tax bill. Let's not have a yo-yo, up-and-down tax bill. We can modify it later.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the American people should understand that if this amendment is adopted, it will stop the rebate checks in their tracks. It is almost as if we want to take the money back from the people before we ever give it to them.

They are saying: Congress did something right. And those who look at the American economy say: Hey, they did something right. It is about the right time to have a big tax cut.

I do not believe you will find one economist of renown and repute in the United States who will say in the middle of this downturn we should increase taxes. Ask somebody. I asked a bunch of them. They said this might not be the greatest tax plan, but cut the taxes and leave it alone.

I say to my friend, Senator HOLLINGS, he did a good thing when we had the budget resolution before us. He was ahead of us. He said put more of it in the early years. We went off to conference and followed his admonition. Now he thinks that is too much.

The checks that are in the mail, if they could get at them, knowing the post office, could even be stopped in a week if we adopted this amendment.

It is the wrong thing to do to the people; it is the wrong thing to do for the American economy, and certainly for the Congress it is absolutely the epitome of moving in the wrong direction when the country has problems.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 873. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mrs. CLINTON) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SANTORUM) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 3, nays 94, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—3

Hollings
Lieberman
Mikulski

NAYS—94

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—3

Clinton
Santorum
Schumer

The amendment (No. 873) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that when the Senate considers the following amendments, they be considered with the following limitations, with no second-degree amendments in order prior to the vote in relation to the amendment: Wellstone amendment No. 874, there will be 60 minutes equally divided and controlled in the usual form; on the Schumer amendment, No. 862, there will be 30 minutes equally divided and controlled in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I suggest the absence of a quorum so we may examine this amendment for just a minute.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll

Mr. WELLSTONE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I say to my friend from Minnesota, we almost have this worked out so that everyone will know what is happening until the end of the day. I know my friend from Minnesota is anxious to offer his amendment. We have imposed upon him to offer his amendment out of order. If we wait another 2 or 3 minutes, everything could be done. I ask if my friend objects if we go into a quorum call for a couple more minutes.

Mr. WELLSTONE. Mr. President, I was trying to accommodate Senators.

I suggest the absence of a quorum.

Mr. BYRD. Will the Senator yield before he puts in the quorum call?

Mr. WELLSTONE. I yield.

Mr. BYRD. I merely want to say, in explanation, that the Senator from Minnesota was about to proceed at my request. I did not know the state of the situation. I apologize for that. But I thank the Senator for yielding.

Mr. REID. I say to my friend, before we go into a quorum call, that very efficient staff have typed up a couple different versions of a unanimous consent request, the final one of which should be here momentarily. I have been conferring with the minority manager, and we should have it just about wrapped up, I say to my friend from West Virginia.

Mr. BYRD. Mr. President, if the Senator would yield, in the words of Alexander Pope: "Thou art my guide, philosopher, and friend."

Mr. WELLSTONE. Mr. President, has my colleague suggested the absence of a quorum?

The PRESIDING OFFICER. No.

Mr. WELLSTONE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the following be the only first-degree amendments remaining in order to S. 1077; that any votes ordered with respect to these amendments occur in the order in which the amendment is debated, and that no second-degree amendment be in order prior to a vote in relation to the amendment: Wellstone amendment No. 874; Bond amendment No. 872, with 30 minutes equally divided and controlled in the usual form; McCain amendment No. 869; Feingold amendment No. 863; Schumer amendment No. 862; a managers' amendment, with 5 minutes equally divided; provided further that there be 30 minutes of general debate on the bill, with Senators MCCAIN and GRAMM of Texas controlling 5 minutes each, and the remainder equally controlled by the two managers, Senators BYRD and STEVENS; that upon the use or yielding back of all time, the Senate proceed to vote in a stacked sequence, with 5 minutes equally divided and controlled between each vote, and that the votes, after the first vote, be 10-minute votes, and that the first vote in the sequence not occur prior to 7:45 this evening.

Madam President, we are hopeful and confident we can make the 7:45 time. We have spent a little time trying to come up with this agreement. This has been gone over with Senator BYRD.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, reserving the right to object, the 30 minutes equally divided between Senator BYRD and myself includes the 10 minutes for Senators GRAMM and MCCAIN, but we are at liberty to yield that to any person on the other amendments, if necessary; is that correct?

Mr. REID. That is correct.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Madam President, I express my appreciation to my friend from Minnesota who is his usual courteous self. He has been very patient. I yield the floor for the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 874

Mr. WELLSTONE. Madam President, I call up amendment No. 874.

The PRESIDING OFFICER. The amendment is now pending.

Mr. WELLSTONE. I thank the Chair.

Madam President, this amendment would increase funding for what is called the LIHEAP, the Low Income Energy Assistance Program. It would provide $150 million in emergency funding for this fiscal year for the LIHEAP program.

The amendment would be offset directing the Secretary of Defense to rescind $150 million in fiscal year 2001 funds out of administrative costs.

There have been many General Accounting Office Inspector General studies of the Pentagon budget that have talked about administrative waste going far beyond $150 million. Out of the whole budget, we are just saying take $150 million from all of the administrative waste—talking about tens of billions of dollars—and transfer that to the Low Income Energy Assistance Program.

This is a safety net program which provides essential heating and cooling assistance to almost 5 million low-income people, many of them senior citizens, many of them disabled, many of them working poor, many of them working poor families with children.

Let me explain why I bring this amendment to the floor. Right now, national estimates show—and this is shameful—that only 13 percent of the households eligible for the Low Income Energy Assistance Program actually receive any assistance at all. That is because since 1985, accounting for inflation, the truth is, the funding has declined by 70 percent. For many low-income families, the energy costs are as much as 20 percent of the monthly budget.

The Low Income Energy Assistance Program is a lifeline program that provides additional grants of money to people when they are in dire need of such assistance. When they don't get this help, if they are elderly, they don't buy the prescription drugs they need. They don't eat what they should be eating.

They don't have enough money for food. I am not exaggerating.

I am also talking about cooling assistance. While I come from a cold-weather State, we also have emergency cooling assistance, but for many States that is not unimportant. There are poor people, many of them elderly, who run into a lot of difficulty. We have had some summers when they died from exposure to the heat, struggling with asthma and whatnot and without any cooling assistance whatsoever.

I recognize the hard work that has been done by the Senate Appropriations Committee. In his supplemental request to the Congress, President Bush requested only $150 million of additional money for LIHEAP emergency funding. I am sorry. I have to say it: This does not represent "compassionate conservatism." It was inadequate. The President's request would not even have been enough to assist low-income families who are currently in arrears from this past year's devastating winter.

Chairman BYRD and Chairman STEVENS, recognizing the inadequacy of the administration's request, doubled it. They deserve the credit for doing so. However, while the $150 million requested by the President was inadequate, the $300 million certainly does a better job, but it is far from adequate. It doesn't meet the needs of millions of working families and seniors who are facing unbelievable energy costs no matter where one goes in the United States.

In addition, all of the LIHEAP funds appropriated for this year have been released, and nearly half the States have already exhausted or nearly exhausted their funding.

It is clear that we are currently nearing a crisis situation. A study was just completed by the National Energy Assistance Directors Association, and they found that 28 States and the District of Columbia were either out of funding or had very low balances; States reporting that they were out of funds: The District of Columbia, Iowa, Kansas, Maine, Minnesota, Montana, New Hampshire, New Mexico, Rhode Island, Washington, and Wisconsin; States reporting very low balances: Alabama, Colorado, Delaware, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, Nevada, New York, North Carolina, Texas, Vermont, Virginia, and Utah.

This survey also found that arrearages and threats of shutoffs increased to 4.3 million households. This past winter was a living hell for a lot of low-income people. Energy costs in the State of Minnesota went up 40 percent. We have this deadly combination of our not providing the funding that is needed over the years, so that only about 15 percent, 14 percent of the people who are eligible get the help, and in addition, with the dramatic increase in energy prices, it is an even far worse situation.

Let me be specific. Alabama needs an additional $5 to $6 million for summer cooling, especially if the State experiences the severe summer that has been predicted. Colorado may have to discontinue its summer crisis intervention program and the summer fan distribution program for lack of funding. Georgia needs an additional $1 million for summer cooling and to provide assistance to the 20,000 households that owe approximately $80 million in natural gas bills alone.

The Illinois program estimates it needs $15 to $20 million for a statewide summer program and $15 million for arrearage shutoff avoidance assistance. Kansas has had to resort to prorated benefits for winter heating assistance to compensate for the higher number of applicants and fuel costs. Kentucky needs $7 million to operate a cooling program. Minnesota needs an additional $13 million to cover the applications received this year and provide the same level of services as last year. New Hampshire has responded to the increased demand for assistance this winter season. It goes on and on.

Madam President, many States need the help and, as I said before, it is the cooling assistance. It also provides the money right now over this critical period for the cold-weather States to purchase energy at a lower price than they would be able to do later. It also provides resources for States to help low-income people pay some of the bills they have not been able to pay so that they are not shut off, because right now they can be shut off by the utility companies. Again, many Senators come from States where home heating prices went up by 40 percent this past winter.

I also want to make clear to my colleagues that this emergency funding will carry over to the next fiscal year. Advance appropriations were eliminated in last year's appropriations cycle. As of October 1, 2001, States will have totally exhausted their LIHEAP funds. The carryover of this amendment will ensure that many States will be able to pre-buy heating fuels for the next heating season, and summer purchases have greatly benefited low-income households, providing them with more fuel for their money.

This amendment could be offset again by directing the Secretary of Defense to transfer $150 million from the whole Pentagon budget in administrative expenses for fiscal year 2001. I want to remind colleagues that the President has requested $343 billion for the defense budget in the next fiscal year, at a time when the Department can't even complete an internal audit. I am just saying transfer $150 million in administrative expenses.

Now, again, let me be really clear. This is a successful program. It is a lifeline program. It is for the most vulnerable citizens in our country. We have not provided the funding and the assistance that is necessary, and it is the reason I bring this amendment to the floor—recognizing the good work of the Appropriations Committee. As a Senator from Minnesota, I listed all sorts of other States that are in trouble right now either for cooling assistance or in trouble as they look to this next year.

We ought to be providing the funding. This is just one vote that calls on us to try to get our priorities straight.

The President's $150 million was hardly compassionate conservatism; doubling it was good work, but it doesn't come close to meeting the needs over the next 3-month period, doesn't come close for what is needed for cooling assistance, doesn't come close for what use States can make to provide assistance to people so they don't get cut off by utilities. It doesn't provide advance funding for States such as Minnesota that are going to wind up in a real financial crunch next year because the home heating costs are going to be high and we are not going to provide the necessary funding.

At the very minimum, can't we take $150 million in administrative costs from the whole Department of Defense budget, which is well over $300 billion, and put it into emergency low-income energy assistance for poor people, working poor people, for children, for the elderly, and for the disabled?

I say to my colleagues that we know right now this has been a successful program. We also know that the program has continued to be underfunded, and we know firsthand that over half the States in the United States of America are out of money. I gave you a report on which States are almost out of money. We have a hot summer month coming up. I do not believe we should pass this opportunity to utilize the supplementary emergency vehicle, which is for emergency purposes, to bring additional relief to vulnerable citizens in this country. This amendment is a modest step in this direction, and I urge my colleagues to support it.

Also, because I know that the chairman and the ranking minority member want to continue to move things forward, I believe I have made my case, but I also want to kind of put this into a broader context. I really worry about where we are heading. We pass these tax cuts, we pass this budget resolution, and every day you read editorials and articles and you are looking at the figures which Senator CONRAD and Senator BYRD have laid out for us, and it is becoming crystal clear that what we have done is we have not been very intellectually rigorous.

We are not going to have the funding on present course. We had these Robin-Hood-in-reverse tax cuts. It is really over $2 trillion over the next decade, and it is only going to get worse. And now, at the very time when I thought we were going to have additional resources to work with, we are being told that soon we are going to be dipping into Medicare trust funds, Social Security trust funds, and that we don't have any funding. We can't help, in the year 2001, people who need lifeline assistance, low-income people who need emergency assistance.

And then I say to the ranking member, who has been such a leader on education, we were told during this debate about the ESEA that there would be the funding. Where is the funding going to come from? Where will we get the money to fully fund the IDEA program? Where is the money coming from for title I?

Then there is the prescription drug benefit. Everybody who campaigned for office campaigned on this issue. Are we going to say we have actually so little money, that the copays are so high—I don't know about the State of Washington, but I bet it is the same. The income profile of senior citizens in Minnesota is not high at all. You have too high a copay and people—if you don't deal with the catastrophic expenses, you are not providing the help. Are we going to be told again we can't afford to do it?

Are we going to be told we can't do anything on affordable housing? Barbara Ehrenreich wrote a book called "Nickle and Dimed." She is a fine writer. She went incognito and lived in different communities trying to find out what you do. She worked at Wal-Mart. She had a chapter about Minnesota, and there is a paucity of affordable housing, rental or home ownership. For many, it is just not there. But we can't do anything. We are in a straitjacket. So we have amendments proposed that will add to the Pentagon budget and take away from workforce development, take away from dislocated worker funds. On the Iron Range in Minnesota, LTV just shut down; 1,400 workers are out of work.

I say to my colleague from West Virginia, take away from the steel loan fund. What kind of tradeoffs are we getting into? This is becoming a zero-sum game. We have a strong defense, but we don't help people who are out of work. We don't help rebuild industries that are so critical, as a matter of fact, to our national defense. We put more money into education, and we don't have money for prescription drugs or for job training.

We passed the Patients' Bill of Rights. I am proud of this piece of legislation: The whole question of health security for all is still out there.

Affordable child care: We all say we are for the children. Where is the funding for Head Start, and for affordable child care, and for affordable higher education?

What about veterans? Who is going to make the commitment to a decent health care budget for veterans? Who is going to do anything about homeless veterans?

I am just telling you that this is a small amendment, but this small amendment tells a larger story. I am not raiding Medicare or Social Security. I am not doing any of that. This is just a transfer. I am just saying, out of the whole Pentagon budget—the huge, over $300 billion budget—$150 million in administrative costs can be transferred to this program so that we can do a little bit better by way of helping vulnerable citizens in our country.

That is the amendment. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from West Virginia.

Mr. BYRD. Madam President, I yield time in opposition to the distinguished Senator from Hawaii, Mr. INOUYE.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, the Wellstone amendment, dealing with the Low Income Home Energy Assistance Program, is a very noble goal. I have no quarrel with this goal but, most respectfully, this matter has been addressed in this bill.

The amendment that is proposed would cut funding for the Department of Defense by $150 million at a time when we are trying our best to increase funding. The amendment would allow the Secretary of Defense to choose which programs under his jurisdiction would be curtailed.

None of us wants to curtail readiness, but this blank check to administrative programs would force the Secretary to identify those that he considers of lower priority. I always ask myself: In a Senate of 100 Members, can we ever agree upon what is of more priority?

Most respectfully, I inform my colleagues that the Secretary could take funding from several items that this body has supported over DOD's reluctance, and we have done this for many years.

For example, we have a fund for the Youth Challenge Program which takes high school dropouts and turns their lives around. It is a most successful program that is under the auspices of the National Guard. It has saved our Nation countless millions of dollars. We have kept these young students out of prison. We have kept them out of crime. I do not think any one of us would want to cut off that program.

This amendment could very well force the Secretary to stop programs to clean up the environment. One may ask: In what environmental program is the Defense Department involved? Over the years, we have been closing bases, and all of our military bases, because of the nature of the work, are polluted. We have unexploded ordnance in the target ranges. There is oil pollution all over the place because we have had oil dumps. If the communities want to use these bases, how can they go about it under our laws? They have to be clean before people of the United States can utilize the bases that have been closed by the action of Congress. Do we want to stop that program?

Then we speak of our cultural heritage. The Department of Defense now has a Legacy Program which protects cultural heritage.

There is a program I am certain the author of this measure wants to see continued, and that is the program which supports Native American tribes. For example, at this moment, we are closing clinics and hospitals, not only here but in Europe. We constantly find that our Native Americans do not have proper hospital facilities, and so we get these old, secondhand beds, old secondhand operating tables, and old secondhand x ray machines to help the first citizens of this land. Is that high priority or low priority?

Then we come to the National Guard. This has been a battle from day one. Is the National Guard of low priority or is it of high priority?

These are the types of programs the Secretary is likely to curtail or cut out to carry out the intent of this amendment.

I argue that we are already underfunded in the Department of Defense. That is why we are hopeful this Senate will approve this measure which will add $5.5 billion to the Department.

This amendment is a noble one, but I believe it aims at the wrong target. Others can speak more knowledgeably about the adequacy of funding. I know it is a worthwhile program, but understand, it is already fully funded for this fiscal year.

I have had people ask me: Why is the Department of Defense spending money for defense when we do not use an aircraft, when we do not use the carriers, when we do not use the submarines? Thank God, Madam President, we do not use the submarines. Thank God we do not have to use the bombers. Thank God we do not have to use the carriers because if we were using them, we would be at war. But since we are prepared, potential adversaries think twice before they decide to get into action with us.

Much as I admire the purpose, much as I admire the noble goal, I urge my colleagues to vote against the amendment.

I yield back any time remaining.

The PRESIDING OFFICER. Who yields time? The Senator from Minnesota.

Mr. WELLSTONE. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 12 minutes 20 seconds.

Mr. WELLSTONE. I will take 3 minutes, I say to my colleague. I want to respond to my good friend from Hawaii by saying three things. First, there is not a better person in the Senate. I hate disagreeing with him.

I listened carefully, and I want him to know in the language of this amendment, we make it clear:

> In determining the accounts to specify, the Secretary of Defense shall take into consideration the need to promote efficiency, cost-effectiveness, and productivity within the Department of Defense, as well as to maintain readiness and troop quality of life.

We do not talk about taking money out of any of the programs. We are not talking about cutting programs that are especially important for youth or especially important for Native American people. We are certainly not talking about anything that goes away from readiness and troop quality of life.

The only thing we are talking about is administrative expenses. The Pentagon has not even been able to complete its internal audit. We all know there is way more than $150 million in administrative waste in an over $300 billion budget. I am saying do not take it out of programs, and I am certainly saying do not take it out of anything that deals with troop quality of life or readiness. I am simply saying take it out of the administrative waste and put it into the Low Income Home Energy Assistance Program.

The vote is about whether or not we want to take some money out of administrative expenses from over a $300 billion budget and put it into this program.

My colleague talked about this program being fully funded, but the fact is, we have only 14 percent of the families who are eligible who are able to benefit because it has been so underfunded over the years. We just went through a 40-percent increase in heating costs this past winter which has thrown everything helter-skelter with States not having the money, with not enough cooling assistance, people in arrears, people faced with utility shutoffs, with States worrying about next year. I don't think anybody from any of these States can make a point that we don't need more funding for this program. If I thought we already had the funding we need, I would not bring this amendment to the floor. I believe it is quite to the contrary.

I reserve the remainder of my time.

Mr. INOUYE. How much time do we have?

The PRESIDING OFFICER. The Senator from West Virginia controls 23½ minutes.

Mr. BYRD. Would the distinguished Senator from Hawaii yield me 3 minutes?

Mr. INOUYE. I yield 3 minutes.

Mr. BYRD. Madam President, this amendment would add another $150 million for the Low-Income Home Energy Assistance Program, in addition to the $300 million already included in the bill. The additional LIHEAP funds are offset by an administrative cut in the Department of Defense to which Mr. INOUYE has very ably addressed his remarks in opposition thereto.

I am a strong supporter of LIHEAP; it helps many low-income households facing rising fuel costs, pay to heat their homes. However, both the House-passed and the Senate committee-reported version of this supplemental already recommend an additional $300 million for LIHEAP, which is double the amount recommended in the President's budget request. The committee-reported bill brings the fiscal year 2001 LIHEAP appropriation to $2 billion, and with the carryover funds from the prior year, funds available for LIHEAP would total $2.155 billion in fiscal year 2001. This compares to $1.844 billion in fiscal year 2000—an increase of $311 billion.

I commend the distinguished Senator from Minnesota. He makes a very compelling argument. Ordinarily I would want to support him in the position he has taken. However, the committee-reported supplemental, as I have already indicated, is a balanced bill; it is a fair bill. While I would like to provide additional resources for energy assistance to low-income people in the country, I believe the best way to quickly get supplemental LIHEAP funding to members in need is to approve the committee bill without this amendment so that the bill can be more immediately sent to conference and on to the President for his signature.

If I have any time remaining, I yield it back.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. On behalf of the committee, I move to table the amendment.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will occur in a stacked sequence later this evening.

The Senator from Missouri.

AMENDMENT NO. 872

Mr. BOND. I call up amendment numbered 872.

The PRESIDING OFFICER. The amendment is pending.

Mr. BOND. Madam President, in recent years we have witnessed some very serious and troubling discussions in the Appropriations Defense Subcommittee. We have noticed how American fighting men and women are being committed to engagements of all kinds all around the world. We know that the budget for the Defense Department has come down dramatically.

I was one saying when the Berlin Wall fell we could probably save 30 percent or more of our military budget because we could cut back and still maintain the force we needed. We were in a position where we were supposedly able to pursue two major regional contingencies at once. That was the theory.

Unfortunately, as we went farther and farther into more assigned missions, it became very questionable whether we could even do that. We asked questions from both sides of the aisle in our Appropriations Defense Subcommittee hearings about the resources we were providing for the Department of Defense. I believe it was about 2 years ago about this time of year we had then-Secretary of Defense Bill Cohen before our committee, a former member of this body. We all respect him greatly.

I asked point blank: Mr. Secretary, do we have the money that is necessary to support our fighting men and women?

I believe his answer was something like: We do not have the resources available for the missions we have been assigned.

That was the beginning of the realization we had grossly underfunded the Department of Defense.

I am very pleased we have a defense supplemental before the Senate. I know these are tight times. There has been an effort to work with the administration, with the bipartisan leadership of both bodies, to find how we can provide vitally needed resources for the Department of Defense. My personal view is we may not have provided enough. That is why I have offered this amendment.

On May 24 of this year, the Associated Press ran a story on cannibalization, the lack of military spare parts. According to a GAO report, the Pentagon system for dispensing spare parts for airplanes, tanks, and other equipment is broken and officials are not sure how to fix it. At least 154,000 times a year a military mechanic takes a part from one airplane and puts it on another because a new spare part is not on hand, according to the GAO.

This cannibalization is a very questionable process. It is a waste of time and money. It costs 1 million extra work hours a year and risks damaging the aircraft, as well as the morale of the mechanics doing the work, several testified. Once cannibalized, a multimillion-dollar aircraft can sit idle for months or years, said Neal Curtin, GAO Director of Defense Issues. In one case, about 400 parts were removed from a plane that eventually had to be shipped by truck to the maintenance depot to be rebuilt. Witnesses said the cannibalization is widespread because the services are trying to maintain readiness on an aging fleet in a time of increased deployments.

LTG Michael Zettler, Deputy Chief of Staff for Air Force Installation, said cannibalization is only used when it is absolutely mission critical, and acknowledged in a prepared statement that it is done more than is desirable but blames some of it on design problems showing up years after abuse, resulting in a widespread need for more parts than specified, and fewer companies are making fewer parts—having left the market during the Pentagon 1990 downsizing.

Pentagon spokesman RADM Craig Quigley said: You do what you need to do given the availability of parts. It is largely an issue of funding. I use the family car as a good example. The older it gets, the more repairs you will do, but it is expensive to buy a new car.

This GAO report follows an earlier report that said the Department inventory management is ineffective and results in excessive stocks of some parts more than others. Though the problem has been under scrutiny since 1990 and the services have formed committees, study groups, and programs to fix it, no one has the statistics on how big the problem is, according to the GAO Director. Because they view cannibalization as a symptom of spare part shortages, they have not closely analyzed other possible causes or made concerted efforts to measure the full extent of the practice.

The Pentagon has been unable to document how many times it is done, the reasons, or how much time and money it has cost. It also cannot determine which cannibalizations are necessary, what alternatives are available, what improvements or changes need to be implemented, to what extent morale would be increased by reducing the workload.

My point in going through that article is simply to note that we are in a sorry situation where we are preparing to send our air men and women into combat without the spare parts we need. We grab a part from a Hangar Queen, another aircraft that is increasingly disabled, and take that one part to keep the planes flying. That means the planes we are cannibalizing are less and less able to carry out their assigned mission.

My amendment is, I believe and I hope, a responsible amendment which adds $1.430 billion for the fiscal year to the Defense Department. I believe the money is desperately needed by forces and can be spent in what remains of the fourth quarter of the current fiscal year. The amendment is operative only if and to the extent that the President declares it an emergency. The President would have control over whether to spend these funds. They could only be spent in the current fiscal year on problems which are very serious and which we understand from our sources are in dire need.

This amendment includes funds that will be directed exclusively to operations and maintenance and personnel accounts of each of the four services. This is money the Pentagon, in our view, needs right now to ensure that critical repairs and training are not delayed further. Our troops need to believe there is truth behind our words and that help is, indeed, on the way.

Consider this pressing challenge, the parts shortages and cannibalization from other pieces of equipment to which I just referred, specifically to aircraft. It is required throughout the military to keep our aging equipment going. To give an idea of the impact of the shortages, the GAO report found that shortcomings in spare parts increase maintenance costs by forcing maintainers to do things such as cannibalize needed parts from other aircraft, taking parts from one airplane to another to get one operational, meaning it takes two airplanes to get one ready to go. That essentially doubles the maintainer workloads, turning one repair into two.

Parts swapping also pushes costs up by increasing part failure rates. Components are more susceptible to breakdown when they are removed from one unit to another. Previously-installed parts have shorter in-service life than new parts.

When maintainers cannot do what they have been trained to do—that is, to fix airplanes—that leads to lower retention rates. The people who are in the job of doing the very critical work—making sure we provide the very best machines for our pilots—leave and go into the private sector. It is demoralizing to watch the mission-capable rates of airplanes drop due to a lack of spare parts. The maintainers want nothing more than to be provided the equipment and parts they need to do their jobs.

I applaud and thank the President for his initiative in submitting this supplemental, but I do differ with the administration's view that the funding currently provided is sufficient. Saying we will solve the problem in fiscal year 2002 is not going to help the problems we currently face as a result of the circumstances we have created. Our troops are tired of hearing us say help is on the way, only to be disappointed when it never comes.

It is time for us to show them that we, indeed, want to provide them the resources they need efficiently and safely to do the missions we give them. There are far too many examples of services being forced into situations where they must borrow from operations and maintenance accounts just to keep operations going and to purchase much-needed spare parts and equipment. Meanwhile, infrastructure continues to deteriorate at an alarming rate.

I will have printed in the RECORD excerpts from testimony of our most senior military personnel before the House Armed Services Committee in September of last year. For the benefit of my colleagues, allow me to read just a few.

From Admiral Vern Clark, Chief of Naval Operations, Department of the Navy:

> I currently have a backlog of . . . $5.5 billion in infrastructure. . . . We are currently not funding this account sufficiently so that we arrest the growth in critical backlog and we have to do better.

General Shelton had this to say:

> We can ill afford to take away from the current readiness accounts today. In fact, in some cases I think you've heard the Chiefs say they've still got shortfalls. . . . We have

got to find a way—and that means more money to be able to modernize the force.

Madam President, there are quotes from other members of the Joint Chiefs, and others, pointing out just how far we have come and how much further we need to go. This amendment before us provides $27 million for the Marine Corps. During last month's testimony, General Jones, the Marine Corps Commandant, told me he would have to find this money elsewhere by reprogramming funds if he did not receive it prior to the end of the fiscal year.

Real property maintenance shortfalls remain incredibly high. Just consider a recent report that two-thirds of the Army National Guard installations will maintain a status of C-4, which means "significantly impairs mission performance." Installations continue to deteriorate because the funding we are providing is not sufficient to halt the decline.

Madam President, the current supplemental does not begin to reverse the slide in real property maintenance, and we cannot be sure future budgets will either. My colleague from Delaware, Senator BIDEN, refrained from offering an amendment to this supplemental that would have added $204 million for additional Blackhawk helicopters, but he made the point our Army aviation program is in deep trouble and is in dire need of additional funds if we are to get it back on track.

I came to the floor a month or so ago to point out that in the National Guard in Missouri, 75 percent of the helicopters are not operational. If we were running a museum, that would not be bad. But we expect our National Guard to be ready to be called on in a national emergency, and I can guarantee in our State of Missouri, and every other State, when there is a natural disaster, whether it is a flood, tornado, fire, or some other disaster, we want to be able to call on the National Guard. Three out of four planes in the Missouri National Guard are not airworthy. That means not only are they not ready, but the men and women who are supposed to fly them cannot train in them.

This is a serious situation that affects all branches of the Active and Reserve and the Guard. No matter where we turn, we find pressing needs both in our readiness accounts and in our modernization accounts. That is why I think it is essential we plus-up the current supplemental. Every dollar counts. I hope we can find support for it. I know the Members of this body understand the situation. I have been assured by people at the Pentagon that funding I seek to add could and would be used to fund current needs, and therefore I ask my colleagues to support this amendment that adds slightly more than $1.4 billion to the supplemental.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, I yield myself just a couple of minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I have great respect for the Senator from Missouri. I am constrained to advise him, Senator BYRD and I gave our word to the Director of the Office of Management and Budget that we would not include any emergency funds in this supplemental appropriations bill this year. We did so because we were informed that there was, in fact, a substantial increase request to be presented by the President for the year 2002. We have, as all Members of the Senate know, received that request. It is substantial—over $18 billion. This money that is in the amendment of the Senator from Missouri could not be spent before that would be available anyway.

So I hope the Senator might consider relying upon us to work with him in the future and help us honor our commitment to the Director of the Office of Management and Budget.

I see my good friend from Hawaii seeks some time. Would he like to comment also?

Mr. INOUYE. Yes, if I may.

Mr. STEVENS. I yield to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. I wish to advise my colleagues that in crafting this supplemental bill we considered two criteria, and both of them were requested by the Republican administration, requested by the Department of Defense.

First, any program receiving supplemental funding must be able to execute this funding during the current fiscal year. The current fiscal year ends in 2½ months, just a few days away. Second, that the funding could not wait until fiscal year 2002. It is the view of President Bush that the supplemental request has satisfied this objective.

I believe the modest changes made by the committee have improved this measure, increasing readiness and health care funding by $229 million.

I will remind the Senate that from fiscal year 1994 to fiscal year 2001, the Congress added $49 billion to the DOD budget, much of it for various programs that concern the distinguished Senator from Missouri, in some cases operation and maintenance funds appropriated for the same activities identified in the supplemental request, such as spare parts, base operations, and depot maintenance.

My point is, the Defense Subcommittee has a demonstrated record of considering both the funded and the unfunded requirements of the Department before marking up a piece of legislation. The funding provided in this bill, most respectfully, I believe meets the urgent needs of the military within the funding constraints set by the budget resolution for fiscal year 2001 approved by this body.

This act avoids emergency spending to demonstrate fiscal restraint. Much of the funding proposed by this amendment could not be spent responsibly in 2½ months. The Department would struggle to obligate the funds before the end of the fiscal year. Some would even be obligated to cover workload at the maintenance depots that would carry over to next year in violation of the Department's own restrictions.

I point out to the Senator from Missouri that the Appropriations Committee has addressed programs that he seeks to fund with his amendment. Specifically, runway repairs for the Masirah Airfield in Oman are addressed in the military construction section. The committee has addressed the Army's second destination transport costs. Those funds were reduced in the bill passed by the House. It seems that the unfunded requirement list submitted to the Senator is currently outdated.

So for all the above reasons, Madam President, I therefore must oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, I wonder if the Senator from Missouri would yield 2 or 3 minutes to the Senator from Arkansas.

Mr. BOND. Madam President, I would be happy to yield.

The PRESIDING OFFICER. The Senator from Missouri controls 36 seconds.

Mr. BOND. How much?

The PRESIDING OFFICER. The Senator from Alaska controls 10 minutes in opposition.

Mr. BOND. How much in support?

The PRESIDING OFFICER. The Senator from Missouri controls 36 seconds.

Mr. BOND. Thirty-six seconds. I would like to reserve the 36 seconds.

Mr. STEVENS. I yield the Senator from Arkansas 4 or 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Madam President, I thank the Senator from Alaska for yielding a brief period of time out of order.

I express my gratitude and my appreciation to Senator STEVENS for his willingness to accept into the managers' amendment an amendment I had proposed that provides $24 million in emergency funding that is offset in the amendment but is essential for cleanup from devastating ice storms in the States of Arkansas and Oklahoma.

I also express my appreciation to the chairman, Chairman BYRD, for his cooperation in this very vital funding.

I will make my comments brief. I know there are many desiring to speak and many amendments we are considering. But while December of 2000 has come and gone, and many have forgotten those many months ago, it will not be a time that is quickly forgotten in the State of Arkansas. It is certainly a time I will never forget.

For many, it was anything but a merry holiday season. On December 12, and again on December 26, Arkansas was hit by two major winter storms. The Arkansas Department of Emergency Services said: "These two storms combined created the most widespread and financially devastating disasters in our state's history."

Life in most parts of Arkansas came to a halt as snow, sleet, and 2 to 4 inches of ice covered much of my State for weeks. To the Senator from Alaska, that may not sound like much, but I will tell you, the damage, the devastation that was done was unparalleled and unprecedented in Arkansas history.

As a result of the December 12 storm, more than 250,000 Arkansans lost power. At the time, that was considered the worst storm in 70 years.

By the time the first storm passed, more than 40 counties in Arkansas had been declared disaster areas. FEMA officials came in and said they would be in the State to do preliminary damage assessments on December 26, but they could not do it on December 26 because on Christmas morning Arkansans awoke to sleet, which turned to freezing rain by late afternoon and continued for 3 days. Western Arkansas was covered with more than 3 inches of ice. Power lines were down, homes and vehicles were damaged by falling limbs, and over half a million electrical customers lost their power just at the time many of them had their power restored from the first storm.

Arkansas received a Federal disaster declaration on December 29. Eventually, 65 out of 75 Arkansas counties were declared disaster areas.

Despite the recovery efforts, many scars are going to remain in Arkansas for years and years to come. It is July and the Forest Service personnel are still working to remove damaged timber, reopen roads and trails, and repair facilities.

The Ouachita National Forest in western and central Arkansas took the brunt of the damage. The weight of the ice brought down an estimated 500 million board feet of timber. Now that Forest Service personnel have fought their way into many of the most remote areas of the forest, that estimate may increase to as much as 800 million board feet.

I personally visited the forest this spring. I was shocked at the extent of the damage. All 1.8 million acres of the Ouachita National Forest were damaged to some extent. Twenty-six hundred miles of roads and six hundred and twenty-five miles of trails were closed or blocked. Roads, trails, and recreation areas in the heaviest damaged areas remain closed even to this day.

Now fire experts have evaluated the fuel loading in the forest and found that it is more than 10 times normal levels. Normally, there is about 5 tons of timber lying on the forest floor per acre. After the storms, that number jumped from 40 to 60 tons per acre. And in the hardest hit areas you get a little idea of it: The hardest hit areas have 80 tons of fuel per acre.

Wildfires on a 1.8 million-acre forest are difficult to respond to under normal conditions, but roads and trails into the most remote parts of the Ouachita are still impassable.

So as the threat of fire grows with each passing summer month, my main concern is for the 843,000 Arkansans living along and around the Ouachita National Forest. And that doesn't include the three ranger districts in Oklahoma that are of interest to Senator NICKLES and Senator INHOFE as well.

The Forest Service is doing everything it can, but if this situation does not change, in the next two summers we will see uncontrollable wildfires in the Ouachita National Forest.

So I appreciate this $24 million being included in the managers' amendment. I repeat the words of the Arkansas Department of Emergency Services: "These two storms combined created the most widespread and financially devastating disasters in our state's history." It is now impacting tourism. It is impacting our entire economy.

I have been working with the Forest Service, and I believe this $24 million will provide the kind of relief to ensure the proper cleanup of that fuel in the Ouachita National Forest.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HUTCHINSON. I thank Senators STEVENS and BYRD and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri.

AMENDMENT NO. 872, WITHDRAWN

Mr. BOND. Madam President, I claim the remaining time I have.

I appreciate very much the very strong statements made by the chairman and the ranking member of the Defense Appropriations Subcommittee. These are men of great experience, dedication, and understanding. I look forward to working with them to achieve what we think is vitally important in filling the readiness gap.

Madam President, I would like to have been able to pass the amendment that I have introduced, but having learned to count in third grade and having some experience counting in this body, I defer to the greater wisdom of the senior Members and request that my amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

AMENDMENT NO. 863

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Senate now turn to my amendment, No. 863.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I ask unanimous consent that Senator McCAIN be permitted to offer his amendment upon completion of debate on the Feingold amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Senator from Illinois, Mr. DURBIN, and the Senator from Massachusetts, Mr. KERRY, be added as original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, this amendment strengthens America's contribution to the Global Fund for HIV/AIDS, Tuberculosis, and Malaria, the plagues of the 21st century, and some of the foremost threats to security in the world. To pay for this funding increase, my amendment would make additional rescissions in procurement funds for the troubled V–22 Osprey program.

The global HIV/AIDS pandemic threatens security and stability around the world in a chillingly comprehensive way.

As Dr. Donald Berwick movingly wrote last month in the Washington Post:

> The earth has AIDS; 36.1 million people at the end of the year 2000. In Botswana, 36 percent of adults are infected with HIV; in South Africa 20 percent. Three million humans died of AIDS in the year 2000, 2.4 million of them in sub-Saharan Africa. That is a Holocaust every two years; the entire population of Oregon, Iowa, Connecticut or Ireland dead last year, and next year, and next. More deaths since the AIDS epidemic began than in the Black Death of the Middle Ages. It is the most lethal epidemic in recorded history.

The International Crisis Group, or ICG, is a well-respected private, multinational organization founded to build international capacity to prevent and contain conflict. Many of my colleagues are familiar with their reports on international hot spots from Macedonia to Burundi.

The ICG recently released a report entitled "HIV/AIDS as a security issue." This report states:

> Where it reaches epidemic proportions, HIV/AIDS can be so pervasive that it destroys the very fibre of what constitutes a nation: individuals, families and communities; economic and political institutions; military and police forces. It is likely then to have broader security consequences, both for the nations under assault and for their neighbors, trading partners, and allies.

The report goes on to note that the crisis also affects personal security. As was noted on this floor recently, some reports indicate that if current trends continue, 15-year-olds in some of the most severely-affected countries will actually be more likely than not to die of AIDS.

The crisis affects economic security. Analysts predict that in Botswana, the pandemic will reduce government revenues by 7 percent, while the costs of fighting the disease increase by 15 percent.

The crisis affects communal security. In Lusaka, Zambia, I visited an orphanage, of sorts, where committed volunteers worked by day with nearly 500 children orphaned by AIDS. But by night, there was space for only fifty of these children. The rest were on the streets.

By 2020, some 40 million African children will have lost one or both parents to the disease. In Zimbabwe, even the healthy find it increasingly difficult simply to attend the many funerals of their families and friends and still fulfill their job responsibilities.

The crisis affects national security. According to UNAIDS, in sub-Saharan Africa, some military forces have infection rates five times higher than those of their civilian populations.

The crisis affects international security. Sub-Saharan Africa is in the midst of an urgent crisis. Infection rates are on the rise in Eastern Europe, Central Asia, South Asia, and the Caribbean. The consequences of this pandemic at all societal levels poses a serious threat to international peace and stability. Our country's prosperity and progress cannot be divorced from the global context in which we live.

That HIV/AIDS is a security issue is no longer revolutionary thinking. In January of last year, the National Intelligence Council produced an intelligence estimate entitled "The Global Infectious Disease Threat and Its Implications for the United States," a report which framed the issue in much the same fashion.

Secretary of State Colin Powell said recently that he "know[s] of no enemy in war more insidious or vicious than AIDS, an enemy that poses a clear and present danger to the world."

But while many have absorbed the astounding—in many ways terrifying—statistics about this crisis, and many, including our Secretary of State, appear to have grasped its terrible implications, the U.S. policy response remains woefully inadequate.

We have all talked about the need to do more. Today we have an opportunity actually to do it.

Of course, addressing AIDS takes leadership, and as the chairman of the Committee on Foreign Relations Subcommittee on Africa, I am aware of the difference that energized leadership, such as that exhibited in Uganda and Senegal, makes and that it makes a critical difference when countries take on in a meaningful manner the fight against AIDS.

But America's leadership is required as well. UN Secretary General Kofi Annan has called for a global fund to fight AIDS, tuberculosis, and malaria. This is a true emergency affecting national security. The United States must answer the call.

My amendment would increase funding for this vital effort by $593 million. And the funding in this amendment is completely paid for. According to the Congressional Budget Office, this amendment is budget neutral. The amendment offsets the increased funding, dollar for dollar, with reductions in procurement of the troubled V–22 Osprey program.

Over the last 2 decades, HIV/AIDS has infected 60 million people, killed more than 20 million people, slashed life expectancies, and has left millions of orphans in its wake. We now know to a certainty the national security reality of the AIDS pandemic. But even after 20 years of research, development, and testing, we still don't know if the V–22 Osprey will work.

This amendment would not endanger the integrity of the Osprey production line, nor would it affect money that has been obligated as of April 2001.

But serious questions and concerns continue to cloud the Osprey program. Thirty Marines have died in Osprey crashes since 1991. Unanswered questions remain regarding the validity of maintenance records and the safety and viability of this aircraft.

The final report of the blue ribbon panel appointed by former Secretary of Defense William Cohen to review the program recommended a "phased approach" to proceeding with the Osprey program. The blue ribbon panel concluded that the Osprey "is not ready for operational use."

I agree with that conclusion. I also concur with the panel's recommendation that procurement should be reduced to the minimum necessary to maintain the production line until the myriad design and safety problems are addressed and further testing is done to ensure that this aircraft is safe. My amendment does just that.

The underlying bill rescinds $513 million in Osprey procurement funds—$150 million from the Navy and $363 million from the Air Force. While I am pleased that the underlying bill zeros out the Air Force procurement budget for the Osprey, it still leaves about $944 million in the Navy's aircraft procurement account for a program that has been grounded indefinitely and that is headed back into the research, development, testing, and evaluation stage for the foreseeable future.

The committee report accompanying this bill says that this funding will be used to procure eleven of the Marine Corps version of the aircraft, the deeply flawed MV–22. This is five fewer Ospreys than were authorized for fiscal year 2002, but in my view, it is still eleven more than we should build this year.

My amendment would rescind an additional $594 million intended for the Osprey from the Navy's aircraft procurement account. It leaves enough funding in place to maintain the integrity of the production line, and it does not affect the funding that the Navy has obligated for this program as of April 2001.

Based on the formula that was used when the Navy suspended production on two other troubled aircraft programs, the T–45A and the SH–60F, the minimum required to sustain the production line for the MV–22 is about $350 million. In the case of the T–45A, the Navy maintained the production line with 28 percent of its original funding; 34 percent of the funding was maintained for the SH–60F. The $350 million that my amendment would leave in place is the average of what the Navy left in place to maintain the production lines for these two programs.

We know the Osprey is broken. The Navy and Marine Corps are working on ways to fix it. And we should allow that process to move forward. But, we should not spend scarce taxpayer resources on building new Ospreys that will require costly and extensive retrofitting later.

So I think this is a great example of where we have to make a choice, and I think the choice is clear.

My amendment would scale back funding on a troubled program that plainly needs a thorough review. And it would increase our response to the world's greatest urgent threat to human life, the AIDS pandemic.

AIDS is a security issue, but it is also unquestionably a moral one. Our response is a measure of our humanity. We are not civilized, we are not just, and we cannot lay claim to common decency, if we simply accept millions of deaths and dismiss them as simply the problem of another continent.

Sadly, we are living in a time of plague. We have an obligation to fight it. History will judge us all.

Last month, the UN General Assembly conducted a special session on the pandemic. Let us begin today to match our response to our rhetoric. This amendment is fiscally responsible, it is the right thing to do, it is in the U.S. interest, and it reflects our national values. I urge my colleagues to support it.

I reserve the remainder of my time and I yield the floor.

The PRESIDING OFFICER. Who yields time to the Senator from Arkansas?

Mr. BYRD. How much time do we have, I ask the Chair?

The PRESIDING OFFICER. There are 5 minutes each under the control of the managers, and 8½ minutes is under the control of the Senator from Wisconsin.

Mr. BYRD. How much time does the Senator from Arkansas want?

Mrs. LINCOLN. If either the Senator from Alaska or the Senator from West

Virginia will yield it, I will need about 3 or 4 minutes.

Mr. BYRD. I yield 4 minutes to the Senator.

Mrs. LINCOLN. Madam President, I am simply here to extend my heartfelt thanks to the chairman of the Appropriations Committee and to Senator STEVENS from Alaska for the people of Arkansas.

Right before we broke for the Fourth of July recess, I joined with my colleague, JIM INHOFE from Oklahoma, in writing to both the chairman and the ranking member to express to them our concern on behalf of our constituents. During the winter of 2001, our home States of Arkansas and Oklahoma suffered through some of the most devastating storms in recorded history. On December 29, 2000, President Clinton declared a major disaster for our States, triggering the release of Federal funds to help people and communities recover from the severe ice storms that had blanketed our home States.

Unfortunately, the assistance provided to date has not been sufficient in getting our communities back on their feet. Farmers, ranchers, and timberland owners have been hardest hit. These ice storms added more than 10 times the normal amount of downed timber on the ground in Arkansas' Ouachita National Forest.

This year, Arkansas and Oklahoma have the potential to have one of the worst fire seasons in our history. With the massive amount of fuel on the ground, wildfires will burn extremely hot and fast, which will make it difficult to control or to contain. With the funding outlined in the emergency supplemental bill, our residents can complete the cleanup effort while also working to prevent massive forest fires this fall.

It would not be possible without the wonderful bipartisan working relationship of these two gentlemen who have worked steadfastly with both of our delegations to make sure we can provide our residents with what they need in order to keep our families, our forests, and certainly our communities safe. I thank both of these Senators on behalf of my constituents in Arkansas for the work they have been willing to put into this effort.

I yield back my time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the distinguished Senator from Arkansas for her exceedingly kind remarks concerning my efforts and the efforts of my distinguished colleague, Senator STEVENS from Alaska. There need not be any doubt in anybody's mind that the Senator stands up for her constituents and ably represents them. This is just another example of that.

Madam President, how much time remains?

The PRESIDING OFFICER. The Senator from West Virginia has 2½ minutes. The Senator from Alaska has 5 minutes. The Senator from Wisconsin has 8½ minutes.

The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Senator from West Virginia for allowing me to proceed on this amendment. I do oppose the amendment Senator FEINGOLD has offered. I do so because of my great interest in this system.

The V-22 represents the best new technology in aeronautics adapted by the military air system that I have seen in my time in the Senate. Unfortunately, it has had some bad circumstances, and we all regret deeply the difficulty it has had.

I have spent a considerable amount of time with the Marines, in particular, on this system and have discussed them personally with the Commandant of the Marine Corps. I will be very brief in saying that I believe this amendment is untimely and it is not in the best interests of our Marine Corps system.

I do believe, as the Commandant has written to me today, that the V-22 Osprey is the Marine Corps' No. 1 aviation priority. I think we should be very slow to terminate or disturb such a system which is being developed in the best interests of our men and women in the Marines.

In particular, if it proves successful, as I pray it will, it will take our men and women across the beach. We will not see visions again in any war of our people hitting the beach and being slaughtered at the edge of the water. They will be able to fly from smaller ships and all over the place and enter into any battle zone by air, and they will have a better opportunity of survival and success in defending our Nation's interests in a time of war. It is a military asset of great value to our Department of Defense.

I intend to oppose the amendment.

I ask unanimous consent that the letter sent to me today by General James L. Jones, Commandant of the Marine Corps, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 10, 2001.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS, the restructuring of the V-22 program as recommended by the Panel to Review the V-22 resulted in proposed changes to the FY01 funding profile. Those changes were presented in the Administration's FY2001 Supplemental request. Your committee subsequently marked the program, making adjustments to the Navy funding and zeroing the Air Force procurement funding. While the Marine Corps would prefer that the Air Force remain an active participant at this stage of the V-22 program restructure, we understand your Committee's mark. That mark does allow the program to remain viable.

Unfortunately, Amendment 863 of S. 1077, currently being considered on the floor of the Senate, so radically reduces aircraft procurement funding that the resultant effect is termination of the V-22 program in FY 2001.

As you know, Senator Stevens, the V-22 Osprey is the Marine Corps' number one aviation priority. It will revolutionize combat assault in a manner not seen since the introduction of the helicopter more than 50 years ago. The V-22 Osprey is the only vertical lift, assault support aircraft that provides the combination of range, speed, and payload which fulfills the Marine Corps' medium lift requirement. The Osprey met or exceeded all Marine Corps' key performance requirements and is projected to meet or exceed all Air Force/SOCOM key requirements. It carries three times as much, five times as far, twice as fast as the Vietnam era CH-46 Sea Knight it is replacing. The V-22 Osprey is a key enabler allowing Marine expeditionary forces to rapidly respond to unpredictable, unstable situations throughout the world. Additionally, the V-22 is also the only vertical lift aircraft that can rapidly self-deploy to meet USSOCOM's mission requirement—completion of the critical long-range infiltration/exfiltration mission in one period of darkness.

Senator Stevens, a better course of action would be to support the Review Panel's recommendation to restructure the V-22 program that uses a phased approach to a return to flight and tactical introduction. However, the amendment currently under consideration by the Senate would cause a production line shut down and any remaining FY01 funding would be used to terminate the contract. Other potential impacts include:

Labor rate increases due to business base reduction;

Production loss of learning due to potential layoffs (loss of experience, going back up the curve);

Inflation cost increases due to moving quantities to the right;

Material burden increases;

Material cost increases due to economies of scale impacts (quantity reductions);

Vendor elimination causing loss of learning for materials and re-qualification costs;

Obsolescence costs and other non-recurring cost;

Increased manufacturing inefficiency; and

Personnel layoff.

Should quantities change for V-22, labor wrap rates for other Bell and Boeing Programs would also be adversely impacted.

Senator Stevens, clearly these negative impacts were not intended by the Panel to Review the V-22, the Administration's restructuring of the program or your Committee mark-up of the FY2001 Supplemental bill. In a world that is often chaotic and unpredictable, the V-22 Osprey provides the Nation with an aircraft that can deal with any situation—from humanitarian relief to full combat operations. I request your support to keep this critical program viable as the FY2001 Supplemental request proceeds through the Senate.

I have provided a similar letter to Chairman Inouye, requesting his support.

Semper Fidelis,

JAMES L. JONES,
General, U.S. Marine Corps,
Commandant of the Marine Corps.

Mr. STEVENS. I yield the remainder of my time to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, I realize that time is limited. If I may, I will quote from the letter dated July 10, 2001, from the Commandant of the U.S. Marine Corps, GEN James L. Jones. I believe this one paragraph, the third paragraph, says it all:

> As you know, Senator Stevens, the V-22 Osprey is the Marine Corps' number one aviation priority. It will revolutionize combat assault in a manner not seen since the introduction of the helicopter more than 50 years ago. The V-22 Osprey is the only vertical lift assault weapon aircraft that provides the combination of range, speed, and payload, which fulfills the Marine Corps' medium lift requirement. The Osprey met or exceeded all Marine Corps' key performance requirements. . . . It carries three times as much, five times as far, twice as fast as the Vietnam era CH-46 Sea Knight it is replacing. The V-22 Osprey is a key enabler, allowing Marine expeditionary forces to rapidly respond to unpredictable, unstable situations throughout the world.

Mr. INOUYE. Madam President, this amendment will wipe out the V-22 program, and if at a later time we find it necessary to revive that program, it will cost billions.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, of course, I have enormous regard for both speakers in opposition, the Senator from Alaska and the Senator from Hawaii, but I want them to know how carefully we crafted this amendment to avoid the consequence they both mentioned.

This amendment does not kill the Osprey program. It is not inconsistent with the statement of the Senator from Alaska that this may well turn out to be the best new technology. It is not inconsistent with the Commandant's letter where he says this is the No. 1 priority of the Marines. We do not contradict that at all.

In fact, I respect the fact there is a real effort out there to try to fix the problems with the Osprey. This does not kill the Osprey program. I understand some of our people sadly have died in these helicopters, but I also know yesterday there was an unfortunate accident involving the helicopters they want to replace.

I want to be candid about this. There may well be a need for an improved helicopter. This amendment does not kill the Osprey program, and that is the only argument that has been made against the amendment.

The amendment is carefully crafted. What this amendment allows is to have the research and the consideration that needs to be done on the Osprey actually completed, to have the tests done, to make sure people are going to be safe in this helicopter, and at the same time allow Senators to vote to do what they must do: To enhance the international effort against the AIDS pandemic. It is truly a win-win proposition that does not threaten the Osprey.

Specifically, in response to the Commandant's letter that was just printed in the RECORD, it simply is incorrect in terms of the budget implications. This amendment does not shut down the production line. That is what is being suggested, but it does not. There are still Ospreys in various stages of construction that are being built with both fiscal year 1999 and fiscal year 2000 resources. We do not impact those Ospreys. They will continue to be produced on the production line.

More important, the experts at the GAO have specifically stated a very different conclusion. According to the GAO, the Osprey production line is currently being maintained with the completion of between four and seven planes per calendar year. Four planes were delivered to the Marines in 1999; five were delivered in 2000; six planes have been completed since December 2000 but have not yet been delivered because the fleet remains grounded and no flight testing of those planes can take place.

Each Osprey costs about $83 million to produce. This amendment carefully leaves in place—it does not wipe out the program—$350 million in fiscal year 2001 money, plus the $102 million the Navy has already obligated, for a total of $452 million remaining in the program.

At $83 million per aircraft, this $452 million would purchase five Ospreys, and given the current production rate, as I just pointed out, no more than seven Ospreys have been delivered in any one calendar year anyway.

In my view and in the view of the blue ribbon panel, this program should be reduced to the minimum necessary to maintain production until the aircraft undergoes redesign and further testing. It is still unclear how much retrofitting will need to be done on the existing Ospreys and how much it will cost or if it will be cost-effective or even possible to retrofit the existing Ospreys. The Department of Defense has said it will take about 1 year to do the additional research and testing needed to determine the status of the Osprey program.

Clearly, if we are talking about budget prudence and caution and making sure we do not waste millions of dollars, this amendment is the way to go. It is prudent to wait and see what the results of the tests are, obviously, before we increase the rate of production above the current five to seven per year.

I reiterate, we do not kill the Osprey program. We do not stop it. We simply make sure we only use it at the minimum level that it is currently at and maintain the production line so it can be studied and so the additional resources that would have gone to it make a serious contribution to the fight against HIV/AIDS around the world.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. FEINGOLD. Madam President, I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I thank the Senator. I hope my colleagues who are following this debate in their offices will pause for a moment to consider what we are about. How many times have we come to this Senate Chamber and voted for resolutions, voted for ideas that say we are pledged to fighting the AIDS epidemic in Africa? Sadly, it has almost become commonplace here.

We voted for amendments and budget resolutions because, frankly, they are messages we send out for the world to read. But this amendment from the Senator from Wisconsin is real. It is an amendment which comes up with millions of dollars to deal with a crisis that faces the world; not just a crisis facing the United States, it faces the world.

This crisis is the AIDS epidemic in Africa. The Senator from Wisconsin visited Africa a week or two before I did last year. We both talked about it. It was a profound, transforming experience to visit a continent that is consumed with disease and to realize that people with whom you are having casual conversations are likely to be the casualty of those diseases. Whether it is AIDS, tuberculosis, or malaria, Africa is dying.

The question for all of us who live in this prosperity and wealth in the rest of world is whether we care, and if we care, it is not enough to pass a resolution saying we care. The important test is whether we will put our money on the table. That is the test not only for this President and this administration, it is the test for all of us.

I support this amendment. I believe the Senator from Wisconsin is showing real leadership, and if all of the Senators who have voted for the resolutions expressing their heartfelt concern about this epidemic in Africa will come forward and vote for this amendment, I think we will have shown that we are prepared to put our money where our mouths have been.

I still think back to those moments in Africa when I was visiting. I just read on the way over here some of the things I had written and about which I had forgotten. I thought about going to a clinic in Mbale, Uganda, and listening to a beautiful choir of Ugandans who were all dying from AIDS, who set up in front of us and sang a song entitled, "Why Me, Why You, Why Him, Why Her, Why Me."

As I looked into their eyes, I thought: I will never forget this, ever, the courage I saw in that clinic.

Their courage should be matched by our commitment. This disease, this epidemic is not just destroying Africa; it is a test for the rest of the world. Will we respond to this holocaust of the 21st century or will we turn away and say the most prosperous nation in the world cannot come up with a singular symbolic contribution to end this scourge?

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I thank the Senator from Illinois not only for his tremendous eloquence but for his genuine compassion and commitment on this issue. It is moving to me to see a Senator stick to this effort and be willing to race down to the Chamber and speak in such a moving way. I thank him and hope we get the kind of vote this clear choice deserves.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, in 1983, at my request, we started the Army's infectious disease section to determine whether there could be a cure for AIDS or prevention of its transmission. Since that time, we have spent more money than all the world put together in trying to defeat AIDS. The way to help our great friends in Africa is to find a way to cure AIDS but not to take money from a system that needs protection under the Department of Defense.

Mr. BYRD. Does the Senator have anything further?

Mr. FEINGOLD. If the other Senators yield their time, I will yield mine.

Mr. BYRD. I have a brief statement.

Mr. FEINGOLD. I reserve my time.

Mr. BYRD. I intend to move to table if the Senator would like to speak prior to that motion.

Mr. FEINGOLD. If the Senator wants to proceed, I have no objection.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I oppose the amendment proposed by the Senator from Wisconsin, Mr. FEINGOLD. This amendment provides funding to address the AIDS epidemic, which is a problem of astounding proportions affecting millions in the world today. There is a very laudable purpose behind the amendment. Unfortunately, in my opinion, the committee-reported bill which contains $100 million for the Global AIDS Program is a fair and commendable approach under the present circumstances and at the present time. The $100 million for the Global AIDS Program was included in the committee bill at my own request. I made the request at the urging of the distinguished majority leader, Mr. DASCHLE. The President did not request supplemental funds for this purpose, but we worked in committee to identify noncontroversial offsets for this important program.

I believe the committee has produced a fair bill, a responsible bill, a balanced bill. I believe the most effective way to get this essential aid to the people who need it is to approve the committee bill, without this amendment, so the bill can be taken to conference and sent to the President for his signature.

I shall move to table and I do so with apologies to the distinguished Senator from Wisconsin, who is, as I have already indicated, offering an amendment that is laudable. I think we have responded in the committee, and under the circumstances I think the committee bill should be approved as is with respect to this amendment.

I move to table the amendment, and I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered. The vote will be delayed until later this evening under the previous order.

Under the previous order, the Senator from Arizona is recognized to debate his amendment numbered 869, with 2 hours equally divided. The Senator from Arizona.

Mr. McCAIN. Madam President, I am not quite ready with the amendment so I suggest the absence of a quorum. I understand the time will be taken from my allotted time.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

AMENDMENT NO. 869, AS MODIFIED

Mr. McCAIN. Madam President, I ask unanimous consent to send a modification to my amendment to the desk.

The PRESIDING OFFICER. Is there objection to the Senator's modification of his amendment?

Mr. BYRD. Madam President, reserving the right to object—I have no intention of objecting—if we may just study the modification momentarily?

Mr. McCAIN. Yes.

Madam President, I suggest the absence of a quorum, the time to be taken from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I remove my reservation.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 869), as modified, is as follows:

After section 3002, insert the following:

SEC. 3003. (a) In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106–259), funds are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(1) Under the heading "MILITARY PERSONNEL, NAVY", $181,000,000, of which $1,000,000 shall be available for the supplemental subsistence allowance under section 402a of title 37, United States Code.

(2) Under the heading "MILITARY PERSONNEL, MARINE CORPS", $21,000,000.

(3) Under the heading "RESERVE PERSONNEL, NAVY", $1,800,000, which shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.

(4) Under the heading "OPERATION AND MAINTENANCE, ARMY", $103,000,000.

(5) Under the heading "OPERATION AND MAINTENANCE, NAVY", $72,000,000, of which $36,000,000 shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.

(6) Under the heading "OPERATION AND MAINTENANCE, MARINE CORPS", $6,000,000.

(7) Under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $397,000,000.

(8) Under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", $21,000,000.

(9) Under the heading "OTHER PROCUREMENT, NAVY", $45,000,000, to remain available for obligation until September 30, 2003, which shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.

(b) The amount appropriated by chapter 10 of title II to the Department of the Treasury for Departmental Offices under the heading "SALARIES AND EXPENSES" is hereby reduced by $30,000,000.

(c) The matter in chapter 11 of title II under the heading "NATIONAL AERONAUTICS AND SPACE ADMINISTRATION HUMAN SPACE FLIGHT" shall not take effect.

(RESCISSION)

(d) Of the unobligated balance of the total amount in the Treasury that is to be disbursed from special accounts established pursuant to section 754(e) of the Tariff Act of 1930, $200,000,000 may not be disbursed under that section.

(RESCISSIONS)

(e) The following amounts are hereby rescinded:

(1) Of the funds appropriated to the National Aeronautics and Space Administration under the heading "HUMAN SPACE FLIGHT" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–377), the following amounts:

(A) From the amounts for the life and micro-gravity science mission for the human space flight, $40,000,000.

(B) From the amount for the Electric Auxiliary Power Units for Space Shuttle Safety Upgrades, $19,000,000.

(2) Of the funds appropriated to the Department of Commerce for the National Institute

of Standards and Technology under the heading "INDUSTRIAL TECHNOLOGY SERVICES" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–553), $67,000,000 for the Advanced Technology Program.

(3) Of the funds appropriated to the Department of Commerce for the International Trade Administration under the heading "OPERATIONS AND ADMINISTRATION", $19,000,000 of the amount available for Trade Development.

(4) Of the funds appropriated by chapter 1 of the Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999 (Public Law 106–51, $126,800,000.

(5) Of the funds appropriated to the Department of Labor for the Employment and Training Administration under the heading "TRAINING AND EMPLOYMENT SERVICES" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554), the following amounts:

(A) From the amounts for Dislocated Worker Employment and Training Activities, $41,500,000.

(B) From the amounts Adult Employment and Training Activities, $100,000,000.

(6) Of the unobligated balance of funds previously appropriated to the Department of Transportation for the Federal Transit Administration that remain available for obligation in fiscal year 2001, the following amounts:

(A) From the amounts for Transit Planning and Research, $90,000,000.

(B) From the amounts for Job Access and Reverse Commute Grants, $116,000,000.

Mr. MCCAIN. I want to explain the modifying amendment removes the offsets of title XI of the maritime subsidies and also the cut in the Export-Import Bank subsidy. So the remaining offsets will remain. I will go through those in a few minutes, but I want to emphasize that both the Export-Import Bank rescission and the Maritime Guaranteed Loan Program have also been removed. There have been increases in the amounts of offsets for transit planning and research to $90 million and job access to $116 million. So I will now be glad to discuss that with the managers of the bill, if they have any additional questions.

I am pleased to have the support and cosponsorship of Senators LIEBERMAN, LANDRIEU, KYL, and CARNAHAN as cosponsors to this amendment.

Basically what it does is it adds a total of $847.8 million in additional spending, all of it for personnel, operations and maintenance, and a very small amount, $45 million, for procurement. So virtually all of this—$800 million of the $847 million—is for the men and women in the military, the Reserve personnel, including funds to remove sailors and Marines from food stamps, and operations and maintenance, which, as we all know, is very badly underfunded.

This amendment funds the bare minimum that the military services have said they need. We must prioritize our spending and, in my judgment, fully funding the readiness of our forces must be our first obligation. This amendment will add $847.8 million to the defense portion of the supplemental appropriations bill for fiscal year 2001, yet it will not exceed the budget resolution caps because it is fully offset by 12 separate rescissions from non-defense programs. This amendment will increase the President's supplemental budget request from $5.5 billion to $6.34 billion. Most of the funding offsets in the amendment were added last year by Congress in the fiscal year 2001 appropriations bills and will not be obligated by this October, according to various agency heads. In other words, much of the money I propose to rescind will not be spent this year—no matter how seemingly worthy the cause.

Later this month, the President will send to Congress the Pentagon's Omnibus Reprogramming Request for Fiscal Year 2001. I am told that the reprogramming request is about $850 million. The services will have to reprogram or transfer critical money from other key readiness and modernization accounts to adequately pay and train our service men and women. Our military services, stretched thin and overworked, are raiding Real Property Maintenance readiness funding—already $16 billion underfunded—and other key accounts, just to ensure that they can pay much-needed bonuses to retain servicemembers.

We have sailors, soldiers, airmen, and marines—some still on food stamps—living in very old, dilapidated homes because the military services keep reprogramming critical funds to shore up other equally urgent needs. In Arizona, for example, there are marines at Yuma Marine Corps Air Station living in World War II-era barracks. Base Commanders tell me that they have deferred maintenance for the past 10 years because they need to fund higher priorities—and who can blame them. We should fund the services adequately, instead of forcing them to make a Hobson's choice.

Recent terrorist threats have clearly demonstrated the dangerous impact of the military funding shortfalls. In late June, U.S. Navy 5th Fleet warships in ports of the Persian Gulf, the Red Sea, and the Gulf of Oman, were ordered to sea, after several reports that Osama Bin Laden, the world's most notorious terrorist, was said to be planning a comprehensive attack on U.S. and Israeli targets in the Mideast.

The U.S. ships had to leave port, since the U.S. Coast Guard—which had primary responsibility for protecting U.S. Naval ships after the USS *Cole* attack—had to pull out its port security forces due to lack of adequate funding or reimbursement from the U.S. Navy, whose budget already is underfunded. The U.S. Navy then had to implement an emergency Presidential recall of Navy Reservists, resulting in a nearly $2 million unfunded liability not addressed in this supplemental. This amendment pays for these critical force protection efforts.

In 1998, the service chiefs confirmed many of the alarming readiness deficiencies that had been identified by countless sources.

The imperative for increasing military readiness and reforming our military is as strong today as it was then, It is my firm belief that as elected officials, providing for a strong national defense is our most serious obligation. Anyone who dismisses our readiness problems, our concerns with morale and personnel retention, and our deficiencies in everything from spare parts to training is blatantly ignoring the dire reality of this situation.

Too often in the last century, we ignored warnings from the military that our armed forces were too weak to meet the many grave challenges they face. Today, we must listen to our commanders, so as not to repeat the mistakes of the past.

The service chiefs have indicated that they need at least $30 billion more per year for modernization and readiness accounts. Listen to detailed testimony before the House and Senate Armed Services Committees on September 27, 2000—just eight months ago—by our current Joint Chiefs on the underfunded needs of our military services, and the dramatic, harmful consequences likely to occur if we fail to adequately fund these requirements.

General Henry H. Shelton, Chairman of the Joint Chiefs of Staff:

> [C]ontinuing to improve our current readiness posture to desired levels while preparing for tomorrow's challenges will require additional resources. . . . The $60 billion projected by the QDR [for procurement] will not be enough to get the job done.

General Shelton continues:

> [O]ur long-term ability to sustain our [military] equipment is slipping. One cause is due to the negative effects of a higher than planned tempo of operations on our aging equipment. This high tempo and the associated wear-and-tear require more frequent maintenance and repair, further highlighting the need for recapitalization and modernization of our forces. Moreover, we have not been able to procure enough new equipment to reduce the average age of our force structure. It is also important to note that we believe this higher maintenance tempo has also had a deleterious effect on the hardworking troops attempting to maintain this aging equipment, which directly impact retention of our quality force. At posts, camps and stations, such items as housing, fuel lines and water lines, as well as facilities where people work and live, have outstripped their useful life. . . . and this directly impacts our ability to provide a decent quality of life for our troops. . . . How much more funding is needed? . . . Well in excess of $60 billion is needed to maintain our readiness.

Gen. Eric Shinseki, U.S. Army Chief of Staff, testified that $30 billion more per year is a move in the right direction, but even that does not take into account Army transformation costs or shortages in critical ammunition needs:

> We have training shortfalls in institutional training, training support, training range modernization, and combat training center modernization. Real Property Maintenance is currently funded at 75 percent of requirement, a funding level that will not slow or prevent the ongoing deterioration of existing Army facilities. . . . At this rate, it will take the Army about 157 years to fully revitalize our infrastructure.

Any of my colleagues who read the recent study conducted by the U.S. Army about the personnel situation in the U.S. Army today should be appalled and deeply disturbed by the findings of the U.S. Army about the lack of confidence amongst the young men and women about their leadership, about their future, about their lack of desire in retention. We are losing captains in the U.S. Army at a greater rate than at any time in the history of the U.S. Army.

Adm. Vern Clark, Chief of Naval Operations, concurred in testimony that $30 billion more in total each year is required:

> I am concerned about the inventory levels of Precision Guided Munitions. . . . We are still below the current warfighting requirement. The shortfall of precision munitions is a major risk driver for our forces . . . with our current inventory, execution of a second MTW will rely more on the use of non-precision munitions, thereby increasing the risk to our pilots and the potential for collateral damage.

Madam President, I have a lot of quotes.

Admiral Clark continues:

> It is critical that we begin to fund 100 percent of our manning, maintenance, ordnance, modernization, recapitalization and training requirements. . . . We have not been doing that. Improving the quality of our workspaces requires a commitment to both Real Property Maintenance and MILCON, both of which are seriously underfunded.

Admiral Clark continues:

> [M]anpower is our most urgent challenge. . . . In retention we remain below our goal. [T]oday—

He is talking about last September—

> I am 14,000 people short: almost 8,000 at sea, and 6,000 ashore. That has to be redressed soon. We are at war for people. It has to be reflected in our budget. . . . [A]nd we will need the help of Congress.

Gen. Michael E. Ryan, Air Force Chief of Staff, testified that the Air Force needs at least $11 billion more per year:

> [A]ir Force readiness has not turned around—at best these efforts have leveled off the decline. . . . The overall combat readiness of our combat units is down 23 percent since 1996. Because we must assure the readiness of our engaged forces overseas, we have done it at the expense of our stateside units. The reasons for these readiness declines have their basis in operations tempo, past underfunding of spares, dealing with older and aging systems, and a workforce that is less experienced because of retention declines.

General Ryan also contends:

> [T]he Mission Capable (MC) rates of our aircraft have continued to decline by over 10 percent since 1991. Mission Capable rates are directly proportional to how much time an aircraft is not available because of not having parts in supply or because maintenance work needs to be done on the aircraft to make it ready. Some of our units are not getting as much flying as they should get, because of our inability to generate the aircraft because of mission capability rates. We have not had enough funding to do that adequately.

He continues:

> [T]he overall retention rate remains a serious concern. We fell below our end strength authorization of 361,000 active duty members by 5,300. . . . And that is probably 5,000 under what is required. So a total of 10,000 short right now.

Madam President, I am again reminding my colleagues, I am talking about testimony that was given last September to the Armed Services Committee.

> Enlisted retention levels are below goal. . . . A shortage of 1200 pilots exists today, the additional bonuses have made an impact. [Moreover,] [b]ecause of funding shortfalls, we have significantly under-invested in base operating support, Real Property Maintenance, family housing, and military construction. We cannot continue to mortgage this area of our force readiness without significant long-term effects. Over the past six years we have averaged an investment in infrastructure at a 250-year replacement rate. Industry standard is 50 years. We have a $4.3 billion Real Property Maintenance backlog.

The Commandant of the Marine Corps, Gen. James L. Jones, testified that the Marine Corps needs at least $1.5 billion more per year for modernization alone, including $220 million for basic ammunition:

> We are at a point where failure to rectify modernization and readiness shortfalls can no longer be ignored. . . . It is readily apparent that we are fast running out of short-term fixes for budget shortfalls. One-time increases in defense spending are not the solution. A sustained period of increased funding is required in order to ensure the future readiness of your Corps.

He continues:

> [T]he countless hours of maintenance on our aging ground systems directly impacts the life of our Marines. Many of our aircraft are approaching block obsolescence. The majority of our key aviation equipment is older than the Marines who use it. . . . Since 1995, the direct maintenance man-hours per hour of flight increased by 33 percent and there has been a 58 percent increase in our "cannibalization" rate.

"Cannibalization" means stealing parts from one airplane to make another one operationally capable.

> During the same time period the full mission capable rate, though still within acceptable parameters, has decreased by 9.45 across the force. These statistics represent data for all Marine Corps aircraft and show a declining level of readiness.

General Jones also maintained that:

> [W]e continue to have a deficit of approximately 10,000 family units. Our backlog of Maintenance and Repair . . . amounts to over $600 million. Budget limitations force us to make hard choices that result in funding only our most critical construction requirements. Although we have reduced our MILCON—

Military construction—

> replacement cycle to approximately 100 years, it is still twice the industry standard.

The testimony of the service chiefs is alarming. It underscores the rationale for this amendment. It seeks simply to respond to basic requirements of our military services just until the end of this fiscal year, which occurs in fewer than 75 days from now.

The amendment will help our service men and women recognize their Government's firm commitment to: Adequately provide for modernization; ensuring equipment maintenance—including reversing the deficiency in spare parts availability—is adequately funded; sufficiently funding critical training needs, including flying hours; beginning to resolve the broad pay and benefits disparity that affects our service men and women; starting to reverse the high rates of attrition across the services; continuing to take service members off the food stamp rolls; and ensuring at least minimum force protection efforts to help prevent further U.S.S. *Cole*-type terrorist attack.

I urge your support for this critical amendment.

Madam President, I outlined shortfalls and deficiencies within the Department of Defense that far exceed—far, far exceed—this $847 million amendment.

But I would point out that this administration, with my wholehearted support, and this Secretary of Defense are doing everything they can to restructure and reorganize the military and impose necessary savings. I believe a very good faith effort is being made on the other side of the river at the Pentagon. I am proud of the efforts Secretary Rumsfeld is making. I look forward eagerly to supporting him in whatever conclusions and recommendations they make because he has gathered together some of the best military minds in America to come up with these proposals.

But they have not been forthcoming yet. We have some very deep and severe short-term needs. I was fully expecting—fully expecting—when this administration came in that there would be significant increases, including in this supplemental appropriations bill. I appreciate the efforts of the managers. But I say to the managers, it is not enough, nor is this amendment enough. But I cannot imagine why these urgent needs, which are being addressed on a personnel and operations and maintenance basis, would be rejected.

There may be some questions about the offsets.

There is a $30 million offset from the Department of the Treasury "Salaries & Expenses" for the 2002 Winter Olympics security. In this rescission we only cut half of the money added for the Olympics by the Senate Appropriations Committee during markup of the supplemental bill. We still leave $30 million for this program, adding to the $220 million in total Federal funding in the fiscal year 2002. It is difficult to understand why the need for Federal funding for safety and security purposes for the Olympic games has more than quadrupled since the 1984 Summer Games in Los Angeles and more than doubled since the 1996 Summer Olympics in Atlanta.

Compared to the 23 venues spread over a 500-square-mile area used for the Los Angeles Olympic Games and the 31 venues located in 8 cities that spread from Miami, FL, to Washington, DC, for the Atlanta Games, the Salt Lake Games will utilize only 14 venues located within a significantly smaller geographical perimeter. Yet the current total of Federal funding for safety and security purposes, which includes this $60 million in supplemental funding, is $220 million. The total funding for safety and security for Los Angeles, $68 million, and Atlanta, $96 million, combined was far less than what will be spent on the Salt Lake Winter Games. Last year's GAO report demonstrated that taxpayers have shelled out $1.3 billion in subsidies for Salt Lake City alone.

As to the NASA shuttle electric auxiliary power units, $19 million: This amendment would rescind the remaining $19 million of FY 2001 funds for this program, whose implementation NASA has chosen to terminate. According to NASA, the anticipated remaining funding for FY 2001 is $19 million. Following the results of the EAPU review process that found technical flaws and cost overruns in the program, NASA has determined that the prudent action at this time is to terminate EAPU implementation while NASA formulates a plan on how to proceed with this upgrade project. The electric auxiliary power unit, EAPU is one of the several upgrade programs that NASA is developing for the Space Shuttle program.

As to the NASA life and micro-gravity research, $40 million: The FY 2000 VA/HUD appropriations bill earmarked $40 million for a space shuttle mission, R-2 for life and micro-gravity research. Due to delays in overhauling the Shuttle *Columbia* the shuttle mission has been delayed and will not be launched in 2001. The supplemental appropriations bill would broaden the use of the $40 million for life and micro-gravity research that was earmarked for a special shuttle mission and other Space Station research in FY 2001. This amendment would rescind this earmark.

As to the Commerce Department's "Advance Technology Program," known as ATP, $67 million: This amendment would rescind the funds that the Commerce Department carried over from last fiscal year and again and expects to be left over again at the end of this fiscal year. The President's FY 2002 budget request has requested no funds for the program. Historically, I have fought this program as corporate welfare, because it has given awards to Fortune 500 companies such as General Electric, Dow Chemical, the 3M Company, and Xerox.

As to the Labor Department unspent balances in worker employment training activities, $141.5 million: This is the same amount rescinded by the other body for this program. The House supplemental appropriations bill rescinded $359 million from the $1.8 billion in advanced funding provided in the FY 2001 Labor/HHS Appropriations Act for adult and dislocated worker employment and training activities. The Senate bill only rescinded $217.5 million from these employment and training activities. We increase the amount rescinded by $141.5 million from these same activities so that we merely do the same thing as the House did and rescinded $359 million in total. Even with the rescission, States will still have $5.1 billion available to support these activities in 2001—$455 million over amounts available in 2000. The reason for this rescission is that when the advance appropriations were provided, it was not anticipated that there would be such high levels of unspent balances in these programs.

As to the Transportation Department Job Access Reverse Commute Grants Program, $76 million: This offset in the amount of $76 million represents surplus funds from the Job Access Reverse Commute Program account that remained unused at the end of FY 2000. The enacted FY 2001 budget authority for this account was approximately $100 million. When added to the surplus funds from FY 2000, this account contained nearly $176 million. I have been informed by the budget office of the Department of Transportation that this account has a current unobligated balance of $146 million, which means that in the past 9 months of the current fiscal year, only about $30 million has been spent. We are thus rescinding only $76 million out of the total amount, leaving nearly $50 million for the Transportation Department to use over the next 82 days for this purpose.

The Transportation Department transit planning and research, $34 million: The offset of $34 million is surplus funds which remained in the transit planning and research account at the end of fiscal year 2000.

As to the Commerce Department International Trade Administration, Export Promotion Program, $19 million: The International Trade Administration's trade development program helps U.S. industries export their products. This program amounts to a corporate subsidy. There is no need to burden the American taxpayers with this program. U.S. industries wishing to export goods and services should pay for this type of counseling themselves. The fiscal year 2001 omnibus appropriations bill appropriated $64.7 million to this program. According to the Department of Commerce, $21 million remains unexpended in this account.

As to the Emergency Steel Guaranteed Loan Program, $126.8 million: These are loan guarantees to qualified steel companies. There remains $126.8 million in unspent balances in the account for fiscal year 2001 out of a total appropriation of more than $129 million. I am told that none of this money will be spent in the 82 days left in this fiscal year.

As to the Treasury Department U.S. Customs Service Byrd antidumping amendment funds rescission, $200 million: The "continued dumping and subsidy offset" was added in the fiscal year 2001 Agriculture appropriations conference report—the wrong way to do business, I say to the managers of the bill, the wrong way to do business. However, the important point is that the entire sum of money collected during the current fiscal year under this law is not being spent. CBO scores the Byrd amendment at $200 to $300 million annually, and the chief financial officer of the Customs Service confirms this figure for fiscal year 2001. None of the money that is being collected throughout fiscal year 2001 will be disbursed to companies this year. In fact, it will not be disbursed until the second quarter of fiscal year 2002. The money that has been collected since the law was signed in October 2000 but which will not be disbursed in fiscal year 2001 is currently sitting unused in the general treasury.

I am philosophically opposed to this program that distorts trade policy by taking antidumping duties levied to protect U.S. companies and actually redistributing duties collected to those very companies, providing them a double reward: punitive tariff rates for imports from overseas competitors, as well as a slush fund of public money.

Again, the point here is that none of the $200 million collected annually for this program will be spent this year and sufficient funds will be collected next year to meet the law's fiscal year 2002 obligations.

I have described the offsets because every one of those programs which this money is being reduced from, most of it unused at this time, pales in significance to the importance of taking care of the men and women in the military. Which is more important, decent housing for the men and women in the military or Commerce Department international trade administration export promotion programs?

We have to always set priorities. I argue that the priority that exists today and that those of us on this side of the aisle promised the American people as a result of the election last year was that we would do a much better job of taking care of the men and women in the military than had been happening in the previous 8 years.

I strongly urge adoption of this amendment.

I yield such time as the Senator from Texas may consume.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I rise in support of this amendment. I support the amendment for a lot of reasons.

The most important reason I support it is that this is an amendment where a Member of the Senate has actually gone through a $2 trillion budget, a budget that spends $7,000 per man, woman, and child in America, and found $800 million that he believes is a lower priority than the things for which he would increase funding in the military.

It never ceases to amaze me that in a government where we spend $2 trillion—that is with a "t"—every year, over and over again, Members of the Senate stand up and offer amendments to increase spending on some favored program, and almost never, ever do they suggest that there is something in the Federal Government that is a lower priority than the thing they believe is a high enough priority to increase spending to fund.

I think you can quarrel, though I do not quarrel, but you can quarrel with almost any one of the choices the Senator from Arizona has made. But you can't quarrel with the logic of the Senator from Arizona, which is that our job is setting priorities. He argues that operation and maintenance, housing, and improved capacity in the military, exceed in value the list of the $800 million worth of expenditures he would reduce or terminate in order to fund his amendment.

I believe these kinds of amendments need to be encouraged. I am in support of the amendment and I intend to vote for it. Let me also say that it is hard for me to judge the statements being made about defense. I can't forget that many of the same people who are now saying that there is virtually no limit to what we could use in defense, either they or their predecessors, 2 or 3 years ago, were saying that everything was great in an administration that was dramatically reducing the real level of defense spending.

I believe we do need a top-to-bottom review at the Pentagon. I agree with the Senator from Arizona that a good-faith effort—perhaps the best effort in 10 or 20 years—is being undertaken by the Secretary of Defense. That effort is not going to produce results that will be uniformly happy, and I would have to say that of all of the proposals that have been looked at—and I agree with all the people who, with unhappiness and bluster, say it was done the wrong way, we weren't notified, and there are 101 explanations for being opposed to cutting one program to fund another—but the bottom line is, we had an effort underway to undo the one proposal to reprogram that had been made by the Pentagon. I think, quite frankly, that sets a very bad precedent. So I believe we do need a comprehensive review.

My dad was a sergeant in the Army. That is the extent of my knowledge about the military. I believe in a strong defense. I am proud of my record in supporting defense. I think I have a base of support for people who wear the uniform that is virtually second to none. But whether or not we need to be in a position to fight two major conflicts at once is something subject to question. I am a lot more concerned about modernization and recruitment and retention than I am about continuing to keep production lines alive. I think Eisenhower clearly was right when he warned us so long ago that even with our best intentions about defense, defense spending would be driven by political interests—something he called the "industrial military complex."

Let me sum up what I came over to say today. First of all, I commend the Senator from Arizona for being the first person in this Congress and the first person in a long time who really not only thought we ought to spend money on something we weren't spending it on, but who was willing to actually name things he was willing to take it away from. It is interesting that all over America every day families make these kinds of choices. The washing machine breaks down and so they have to make choices. Maybe they don't go on vacation. Or Johnny falls and breaks his arm and it has to be set and it costs money. They have to make choices, and they are hard choices. We never seem to make any of those choices. I am attracted to this amendment because it does make those choices, whether you agree with them or not.

Secondly, I believe we need more money for defense, but I think it has to come in the context of a dramatic reform of defense spending. I think one of the worst things we can do is to simply have a dramatic increase in defense spending without going back and making fundamental decisions about where the money needs to be spent. So I am not unhappy with where we are in terms of a comprehensive review. Once we have a new plan, once we set new priorities, then I am willing to do what the Senator's amendment has done, which is to take money away from lower priority uses. But I do think it is important that we know what we want to do.

So I commend our colleague for the amendment. I support it. I did want to go on record as saying that I am concerned that many of our colleagues are ready to stop the one effort the administration has made in terms of changing priorities. I think that sends a very bad signal. I think whether it affects individual States—and this is one that happens to negatively affect my State—I don't think we can take the position that every program change ought to be opposed if it affects our particular State. I think in the end you have to look at the big picture. I think we are all expected to work for the interests of our States, but, in the end, it is the interest of the common defense of the country that defense spending is about.

I thank the Senator for yielding me time and for his amendment. I don't have any doubt that, looked at in the aggregate, the $800 million of programs—no matter how meritorious any one individual might be, the merits of those programs pale by comparison to the merits of the programs he has proposed to take the money from and use for the purposes of defense funding. That is what our appropriations process ought to be about. Unfortunately, it is not, and I think our Government is diminished as a result.

I yield the floor.

The PRESIDING OFFICER. Who yields time to the Senator from Minnesota?

Mr. WELLSTONE. I wonder if I might yield myself 10 minutes to speak in opposition to the McCain amendment.

The PRESIDING OFFICER. Off of whose time does the Senator wish to consume time?

Mr. WELLSTONE. In opposition to the McCain amendment.

Mr. STEVENS. There is an hour in opposition to the McCain amendment. On behalf of the chairman, I yield the Senator 10 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. WELLSTONE. Mr. President, first of all, I think we would be making a mistake to gut some important domestic programs that I think are critical to our being competitive in the global economy. I think it is critical that we make sure we also live up to the national security of our own country, which is the security of local communities where people really have the opportunity for dislocated workers to rebuild their lives, where we are able to make investments in industries that are critical to the economic life of our communities and our country.

I don't doubt the judgment of the Senator from Arizona on some of the new spending that he believes is critical for defense. I argue that I believe we should be able to find this money within DOD's budget.

I want to go over inspector general reports, which point to a very bloated, wasteful Pentagon budget, where there is more than enough money to meet my colleague's challenge. I think the amendment turns our priorities on their head, and I think it is a mistake. The Senator's amendment would rescind $141.5 million, and that is on top of the $217 million that we have already rescinded for job training programs under the Workforce Investment Act. My colleague from Arizona said the workforce investment decision was designed to bring the Senate rescission to what the House did but, in fact, the House did not rescind any funds. So I think my colleague is in error on that point.

More important, I think it is a mistake in these times. I am speaking as a Senator from Minnesota, but as I said earlier, on the Iron Range—which is a second home for me and my wife Sheila in terms of how strongly we feel about the people up there—we saw LTV Company pull the plug, and 1,300 steelworkers are out of work. These are taconite workers. These were $60,000-a-year jobs, including health care. These families are trying to recover. These workers are now dislocated. They are looking for other work. In farm country and in rural parts of the State, many people have been left behind.

I think it is simply the wrong priority to make additional cuts to additional rescissions in assistance for dislocated workers. It is just not right. It is not right. Moreover, in the Workforce Investment Act, which I wrote with Senator DEWINE in a bipartisan effort, we did things to make sense by way of streamlining and having a good public-private partnership, and by way of being consistent in terms of what our national priorities are, which I think is all about, again, the importance of human capital, the importance of education, the importance of people having the skills training and the people finding employment so they can support themselves and their families. I do not think it makes sense to make additional cuts in this priority program.

My colleague also would rescind nearly $127 million from the Steel Loan Guarantee Program. I do not know, but there are a lot of Senators, and I know there are Republicans as well, who come from a part of the country where the industrial sector is really important, where we have had an import surge, where many workers, hard-working people—you cannot find any more hard-working people—are now losing their jobs, and we are talking about how to make an investment in this industry.

By the way, the steel industry is one of those industries that is critical to our national security, in the critical role the steel industry has always played by way of contributing to defense, much less the infrastructure of highways and bridges within our own country.

Again, I find myself in major disagreement with this amendment.

Finally, if we are going to look for resources for the new needs identified by Senator McCAIN, I think we can find it right out of this bloated Pentagon budget. I have no doubt there is at least $1 billion of waste that the Secretary of Defense can identify. Let me talk about what the Pentagon inspector general found by way of bookkeeping entries that could not be tracked or justified:

> We identified deficiencies in internal controls and account systems related to General Property, Plant and Equipment; Inventory; Environmental Liabilities; Military Retirement Health Benefits Liability; and material lines within the Statement of Budgetary Resources. We identified $1.1 trillion in departmental-level accounting entries to financial data used to prepare DOD component financial statements that were not supported by adequate audit trials or by sufficient evidence to determine their validity.

This is not a new problem. In fiscal year 1999, the inspector general reported there were $2.3 trillion in entries that could not be corroborated.

Six years ago, the General Accounting Office put the Pentagon's financial management on its list of agencies that are at high risk for waste, fraud, and abuse.

The inspector general also has uncovered many other examples of gross overcharges in the Pentagon's accounting system. A March 13, 2001, report listed the following gross abuses:

The Pentagon paid $2.10 for a body screw that cost the vendor 48 cents, a 335-percent markup.

The Pentagon paid 25 cents for a dust protection plug that cost the vendor 3 cents, a 699-percent markup.

The Pentagon paid $409.15 for a washroom sink that cost the vendor $39.17, a 945-percent markup.

The source: Office of Inspector General, Department of Defense report. This was March 13, 2001.

If we want to find the money, let's look at some of the administrative waste within the Pentagon. We can surely find that money. We can surely make that transfer instead of going after priority programs that are also all about our national defense.

I argue, again, part of the definition of national defense is the security of local communities where dislocated workers have the opportunity to rebuild their lives, to develop their skills, to find gainful employment where we have industries that have the capital that can generate the jobs on which people can support their families.

Why in the world would we want to make cuts in these programs? I believe this amendment reflects the wrong priorities, and I hope my colleagues will vote no.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. The Senator from Wyoming wishes to have time. I yield him 7 minutes from the time in opposition to Senator McCAIN.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank the Chair.

Mr. President, I congratulate the Appropriations Committee for the fact they covered all of the expenditures. Senator McCAIN has covered the expenditures, but before we vote for Senator McCAIN's amendment, I ask that we give some serious concern to from where some of this money is coming.

I serve on the Small Business Committee, and we have worked on a number of ways to be sure people who lost jobs could have additional training. So I rise today to express some serious concern over the use of workforce investment funds to offset 2001 supplemental appropriations. While I do support additional appropriations for the purposes outlined in the underlying bill, dramatically reducing funding for State and local workforce development programs to pay for it does not seem prudent.

Again, I recognize the pressures placed on the appropriators, but I would have expected that the Members responsible for oversight of such programs would have been consulted as to the impact of such cuts on the program's ability to fulfill its purpose.

The programs authorized by the Workforce Investment Act were agreed to through a strong bipartisan process, led by Senators DEWINE, KENNEDY, JEFFORDS, WELLSTONE, and myself. I fear, given the apparent willingness to cut funding for the act, that we did too good of a job in 1998 when Workforce Investment Act was enacted. What I mean by that is that we successfully streamlined the often duplicative and disjointed collage of job training programs in existence prior to 1998. So now, if these rescissions are adopted, there will not be any alternative workforce investment programs for people to access. The point is, this money is the program. None of us can support this rescission and walk away thinking another workforce initiative will simply absorb our constituents.

Moreover, a retroactive cut of this size will compound the challenges that many States are already facing during the transition from the Job Training Partnership Act, which my colleagues know as JTPA, to the Workforce Investment Act. Also—and no one is really talking about this part—since States were due a portion of their annual allotment on July 1, they now are going to have to turn around and send a large portion of that back to Washington in the form of a rebate check. This just does not seem right to me.

I do not have any formulas at hand to demonstrate the value of workforce development programs in the face of a slowed economy. It is simply too early too soon, but what I can offer my colleagues is common sense. Now is not the time for us to scale back basic skills training, re-training of displaced workers, or innovative initiatives designed to spur long-range economic development in struggling communities. It is these communities that need our help, and that is help that we promised last year in the "regular" FY 2001 appropriations bill.

Again, I know the dilemma facing our appropriators is not easy. There is consensus that we need to provide immediate additional resources to our military, our farmers and others whose distress is our responsibility. I also recognize that identifying unobligated current year appropriations in July is like finding a needle in a haystack, but rescinding funds from people who are trying to make themselves employable, to make themselves contributing members of their community is not exactly skimming fat off the top. This cuts to the bone in Wyoming and in countless other States. My State, for instance, was due to receive $555,420 on July 1 for dislocated workers. I know this does not sound like a lot to those of you from larger States, and it is not a lot even in Wyoming, but it is crucial in Wyoming in the effort to address the counties that have been hard hit by unemployment. So now instead of $555,000, we will receive 62 percent of that, or $345,000. That is a 38-percent cut of already appropriated money. We are not talking about cutting a request; it is already appropriated and should have been sent.

I can assure Members it will have an adverse impact on the progress we have made in the implementation of the Workforce Investment Act and will impact getting people retrained for currently useful jobs. My concern over this rescission is clear, and I will not belabor my opposition. I ask that the able managers of the bill reconsider using workforce investment funds to offset supplemental spending. I am happy to work with them and their House counterparts as they reconcile the two bills in conference.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I thank my friend from Alaska for yielding time. I wish to remind my colleagues, in crafting this supplemental bill the Department of Defense considered two criteria. These requirements were that any program receiving supplemental funding must be able to execute this funding during the current fiscal year, and the current fiscal year has just about 2½ months remaining, and that the funding cannot wait until fiscal year 2002.

I also wish to remind the Senate that from fiscal year 1994 to fiscal year 2001 the Congress of the United States added $49 billion to the Department of Defense budget, much of it to the very programs that concern Senators from Arizona. Some of the unfunded requirements addressed by the Senator in this amendment were identified by the services in January and February before the Bush administration began its own defense review. And some of these items are funded in the fiscal year 2002 request.

We are committed to working with the Defense Department to avoid a supplemental next year and fund all legitimate requirements. Many of the items identified by the distinguished Senator will be funded in fiscal year 2002 or through the omnibus reprogramming request.

We understand the Senator's amendment seeks to fund anticipated costs that DOD expects to materialize later this year. I wish to underline "anticipated costs" because the intent of the Senator's amendment to cover this cost is very meritorious. However, the committees of jurisdiction, the Armed Services Committee and the Appropriations Committee, have yet to receive this request. We have not received a request from the Department of Defense. The increases in question have not been scrutinized by either of these committees. Therefore, we cannot validate to our colleagues this day that the amounts identified by the distinguished Senator from Arizona are the ones that the Department of Defense truly needs. We understand and support the concept that the Senator offers in the amendment, but we do not believe we can support the amendment until the committees have had a chance to study, to scrutinize the specific details of the request.

Until such time, we cannot advise our colleagues that this is what DOD really needs. Therefore, I must stand in opposition to the McCain amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I will read from an article in the Washington Post dated May 31, 2001, titled "Bush Eyes Additional $5.6 Billion For Military: Increase Is Far Less Than Services Expected," by Robert Suro and Thomas Ricks, Washington Post staff writers.

In part it states:

> The supplemental budget request . . . does not include any new money for ballistic missile defense which [Bush] has depicted a top priority, or for the weapons systems and operating costs that he said the Clinton administration had grossly underfunded. Some senior military officers and defense experts said yesterday the president's request is so small that it will not fully cover the Pentagon's current expenses.
>
> "This request is the barebones, just the items that are absolutely to get by, and no one has any illusions that it is anything more than that," said a senior military officer speaking on the condition of anonymity.

The article goes on to say:

> In the early days of the new administration, top military officials said they hope to get much more, at least $8 billion to $10 billion, in a supplemental that would, in effect, be the first installment of a Bush buildup. But the White House and Defense Secretary Donald H. Rumsfeld decided they would take care of only immediate needs in modifying this year's defense budget. . . . The new priorities will not be fully felt until the 2003 budget is unveiled next winter . . .
>
> Although relatively small sums are at play, compared to the size of the defense budget, some senior military officers have complained. "On the campaign trail he said over and over, 'Help is on the way,'" said a flag officer . . . "Well, we are going to need help when the fourth quarter of this budget year rolls around, and it is not going to be there."
>
> In principle, supplemental spending requests are meant to provide relatively small amounts for contingencies that arise after the Federal budget is enacted. But the Pentagon. unlike other Federal agencies, has regularly used supplementals to fill out identity funds for basic operations, maintenance, and supplies. Rumsfeld has warned that he intends to put an end to this practice, beginning with a crackdown this year.

I certainly hope that will be the case.

I challenge a Member of this body to find any member of the U.S. military leadership, any chief petty officer or sergeant who would tell them this is enough, that what is in the supplemental is enough.

I reserve the remainder of my time.

Mr. STEVENS. I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I don't intend to be an expert in military matters, and I yield to those who do understand those matters. But I have to rise to oppose Senator McCAIN's amendment with respect to one of the offsets he has created that would cut the provisions in the supplemental in half for those funds that would be appropriated in support of the Olympics.

I understand concern about the Olympics. I understand the sense that this is a sporting event. What is the Federal Government doing with respect to a sporting event? But I have to point out a few things with respect to the Olympics that take it out of the realm of the pure sporting event.

The Senator from Arizona has talked about the Olympics in Atlanta as well as the Olympics in Los Angeles. I attended the Olympics in Los Angeles because I was living there, and I recognize that we live in a very different world than we did in 1984. The Olympics in Atlanta was the first Olympics at which we had a bomb in the United States, and as a result of the bomb that went off in Atlanta and the scare that came following that, President Clinton issued Presidential Decision Directive No. 62, PDD 62, designating this as a Presidential event, changing the security arrangements of the Olympics forever. The whole circumstance surrounding the Olympics, now, as a result of PDD 62 are focused on international terrorism in a way that they were not in the more simple days of the Los Angeles Olympics in 1984 or certainly even in Atlanta.

Now, as a result of PDD 62 creating this as a Presidential event, we as a government are now faced with these circumstances. And $52 million of the $62 million called for in the supplemental go to the Treasury Department and the Secret Service for a variety of functions surrounding PDD 62 and its requirements. The first deals with the core mission of the Secret Service which has to do with protecting the President, protecting foreign dignitaries, and dealing with counterterrorism. We are going to have an unprecedented number of foreign dignitaries attending these Olympics. That goes with every new Olympics. Every time there is a new Olympics, more foreign dignitaries show up than 4 years before.

We must understand that the venues for these games, they being winter Olympics, are not focused around a stadium or a swimming pool. We are talking about a 900 square mile area, including some of the most mountainous territory in the United States. To protect all of that area requires a tremendous amount of effort on the part of the Secret Service. That is what the money is going for.

There is a question of customs. We are getting people from all over the world to come to the Olympics—people who, as we saw in Munich, can pose as athletes and turn out to be terrorists, as well as athletes, their coaches, families, and, of course, spectators.

Dealing with customs in the Treasury Department is where part of this money will go. The ATF, the Bureau of Alcohol, Tobacco and Firearms, energized obviously by the experience in Atlanta where there was a bomb that went off, is now making sure that a great deal more activity is done to prevent that than was done in Atlanta. It is only prudent to do this. That is $52 million of the $60 million we are talking about in this supplemental going to the Treasury Department for those kinds of functions.

The other $8 million goes to the Justice Department, the Agriculture Department, and the Interior Department. You would ask: What does Agriculture and Interior have to do with the Olympics? The fact is that a very large portion of the Olympics will take place on Forest Service land, which is policed by the Department of Agriculture, and BLM land, which is policed by the Department of the Interior. These agencies have the adequate facilities to deal with this, but, in the heightened activity surrounding the Olympics, they will have to pay their people overtime. They will get their people there. They have the trained people to do it, but they will have to pay airfare. There will have to be lodging. They will have to pay overtime. These agencies have been putting together this information.

We can complain maybe this should have been done in the previous bill, it should have been taken care of in the 2001 appropriations bill and we should not have it before us as a supplemental, but the fact is, if we do not get it prior to the end of this fiscal year, the proper preparations will not be able to be made.

This money is in the 2002 bill. The full $60 million is in the 2002 bill, which, in the normal course of governmental activity, that would be the proper way to do it. The fact is, however, we cannot change the time of the Olympic games. That is set in concrete, and if we do not do the money in a more readily available upfront manner, we will find we are facing the challenge of trying to have the money in the pipeline while the games are taking place.

It seems in this situation, in the middle of the summer when the Sun is shining and it is hot outside, that this may not be a matter of that much pressing urgency. But if we have an international incident at the Olympics in Utah in 2002—if a foreign dignitary is attacked; if a terrorist attack goes on to try to embarrass any country—ours or any other—if there is a lapse in security and the fingers start to be pointed as to where were the Americans, why weren't they prepared—it will be a little difficult to say we wanted to put it off, we wanted to take it out of the supplemental and have it take place in the 2002 budget; we were only saving 4 or 5 months, but we wanted to use the money for something else for that 4- or 5-month period. I do not want to run that risk. I do not want to have the opportunity handed to an international terrorist that says the American Secret Service is underfunded, the Forest Rangers and others involved with policing the public lands have not been able to get their overtime in the right appropriations bill; we waited too late; the preparations were not made; therefore, we had this event.

I respectfully suggest we reject the amendment of the Senator from Arizona and, instead of having this money come in the 2002 bill, have it stay where it is now, in the supplemental bill. It will be easier to get a delay on some of these other things for 4 months, things that do not have a firm time scale connected to them, than it will be to have this money delayed for the Olympics.

I yield the floor.

Mr. HATCH. Mr. President, today I rise to speak against Senator McCAIN's amendment to the fiscal year 2001 supplemental appropriations legislation. I fully appreciate the sentiment underlying this amendment. The men and women of our Armed Forces deserve nothing but the best in living conditions, pay, and working environment. I understand that this amendment would enhance the operations and maintenance of the services. I have always supported legislation that provides for our soldiers, airmen, and marines. However, I find that one of the offsets to Senator McCAIN's amendment is totally without merit.

I am vehemently against section 3003, paragraph (b) in Senator McCAIN's amendment which reduces the salaries and expenses in the Department of Treasury by $30 million. The amendment does not address what the $30 million is for, but I will tell you this funding is for security for the 2002 Winter Olympics. It pays the salaries and expenses of law enforcement personnel.

Senator McCAIN's amendment seeks to add funding to the military that would not dramatically improve our national security but the $30 million that he takes away from the Treasury Department's budget can have a dramatic impact on safety at this international event.

For several years now we have worked very hard to ensure the public safety of this major international event. The law enforcement budget has been carefully planned, fully justified, and endorsed by this body. Any reduction to this budget would have a severe impact on the security of the Olympics and impose unacceptable risks. I am sure my colleagues agree that the safety of the Olympic athletes and spectators is of paramount importance, and a national responsibility when this Nation agreed to host the 2002 Olympic Games.

Mr. SARBANES. Mr. President, I rise to express my serious concern about a provision in Senator McCAIN's amendment which I believe would significantly undermine the commitment we made in the Transportation Equity Act for the 21st Century, (TEA–21), to address our citizens' mobility needs. This provision would rescind funding for two crucial programs run by the Federal Transit Administration: the Job Access and Reverse Commute Program, and the Transit Planning and Research Program.

TEA–21 created the Job Access and Reverse Commute Program to provide transit grants to assist states and localities in developing flexible transportation services to connect welfare recipients and other low-income people to jobs and other employment-related services. In addition, the program provides support for transportation services to suburban employment centers from urban, suburban, and rural locations—"reverse commutes"—for all populations.

Even in a time of low unemployment, a person who cannot get to the workplace cannot hold a job. Not everyone can afford access to an automobile, especially those who are looking for employment. Public transportation can be a vital component in helping these individuals leave the welfare rolls and enter the workforce.

In fact, investment in public transportation benefits all Americans. As the numbers emerging from the 2000 Census show, the shape of America has changed in recent years. The fact is that two-thirds of all new jobs are now located in the suburbs, while much of the workforce lives in the city. For millions of Americans, transit is the answer to this spatial mismatch. And as cities and towns across America are discovering, public transit can stimulate the economic life of any community. Studies have shown that a nearby transit station increases the value of local businesses and real estate. Increased property values mean more tax revenues to states and local jurisdictions; new business development around a transit station means more jobs.

I am therefore quite concerned to see that the McCain amendment would take over $200 million away from transit programs. This amendment would be a significant setback in our efforts to make transit services more accessible and improve the quality of life for all Americans. I urge my colleagues to vote against it.

Mr. BAUCUS. Mr. President I rise today to further explain my opposition to the pending amendment offered by my good friend from Arizona, Senator McCain. The Senator's amendment seeks to address worthwhile objectives such as providing for the operation and maintenance of our armed forces and increasing funding for personnel needs. I support these goals and believe they should be addressed.

However, the offset for this amendment troubles me for two reasons and it is because of these reservations that I cannot support the amendment offered by Senator McCain. The first issue concerns the specific funding recissions in the designated offset. For example, the amendment rescinds $141,500,000 in Department of Labor funding earmarked for Dislocated Worker Employment and Training Activities and Adult Employment and Training Activities.

This funding is critical for my home State of Montana because we are in the midst of an energy crisis that has to date been responsible for over 1000 lost jobs. Retraining dollars are essential for helping these newly laid-off workers develop new skills and learn new trades so they can more quickly rejoin the workforce in a state that is already struggling economically.

The second issue is the lack of separation between non-defense and defense funding that this amendment proposes. The separation of defense and non-defense spending has served us well in meeting our nation's budget priorities and making fiscally responsible decisions. Utilizing non-defense funding to offset the additional spending of this amendment sets a precedent that I do not believe we should set. We should fund the priorities, laid forth by Senator McCain, in a timely manner, but we should not use existing funding in non-defense programs to accomplish our goal.

Mrs. CLINTON. Mr. President, I rise today in opposition to provisions in the McCain amendment, and in underlying bill, S. 1077, which rescind funds from programs supported under the Workforce Investment Act, including the Dislocated Worker Employment and Training Program and the Adult Employment and Training Activities.

The underlying bill rescinds funds from WIA in order to pay for important increases in funding for title I education services and Low Income Home Energy Assistance Program. I support the need to increase essential funds for students in our highest-poverty schools and for low-income individuals who are being hardest hit by increasing energy costs. Indeed, I signed on in support of the increases for title I and LIHEAP. I do not think, however, we should increase funding for these, defense or any other programs by taking money away from New York workers at a time when these employment and training programs are most in need and are beginning to meet their potential.

At this time when upstate New York is facing more notice of layoffs, we should not be cutting back our support for dislocated workers. Last year, over 25,000 New York workers received notices warning them of layoffs—an increase of over 7,000 workers from 1998.

Over the past several months, we have learned that hundreds of workers at the Xerox facility in Webster, NY, will soon find themselves out of work; several hundred more New Yorkers who have spent years working for Nabisco in Niagara Falls also recently received notice that they would no longer have a job. Corning announced just yesterday that it will have to close three factories, resulting in a loss of nearly 1,000 jobs.

At a time when we see signs of our economy weakening, this bill would reduce funds specifically designated to assist workers who are victims of mass layoffs and plant closures. With the rescission in the base bill alone, New York can expect to lose approximately 29 percent of its dislocated worker funds. I have received hundreds of letters from New Yorkers—not only from concerned workers, but also from businesses who need trained workers.

Why are my colleagues suggesting that we should rescind WIA funds at a time when our economy is weakening and many of our workers will need these critical funds to be retrained and relocated in new jobs?

They are claiming that States are not spending and obligating funds quickly enough. I agree. But, I also agree that States and local communities have made tremendous progress in implementing the Workforce Investment Act.

Let's get the facts straight. States were not required to implement the Workforce Investment Act until July 1, 2000. Beginning July 1, 2000, States had 2 years to spend funds and were required to obligate 80 percent of their funds. Many counties in New York are doing a tremendous job—Chautauqua County, for example, has obligated 95 percent of its dislocated worker funds, as well as 95 percent of adult funds; the Town of Hempstead has allocated 90 percent of both its dislocated and adult worker funds; as has Erie County—all of which can expect to lose funds under this rescission.

I do know that there are at least eight counties in New York that have struggled in their implementation—working to get up to 19 Federal partners at the local level to offer services in One Stop training centers—and, as a result have obligated 70 percent or less of their funds. These counties need to do better and the State needs to do better in supporting their efforts. But, the way to do so is not to take funds away from a fledgling program that is aimed to assist our workers most in need of training and assistance.

I oppose these efforts to undermine the new Workforce Investment Act. I agree with accountability of Federal dollars, but I do not agree that we should unnecessarily punish workers before allowing the program to get up and running.

Mr. McCAIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. McCAIN. Mr. President, I think the Senator from Minnesota, Mr. Wellstone, may be mistaken. In fact, $359 million was rescinded in the House supplemental from the programs. I think he was inaccurate in his statement that none was rescinded.

I am sorry the Senator from Utah may have to leave the floor. The Senator from Utah fails to mention that we have already shelled out $1.3 billion—"b," billion—in subsidies for the Salt Lake Olympics, far more than any other Olympics in history, far more, for all kinds of pet projects.

I asked 3 years ago, a simple request of the Senator from Utah, if he would give us an assessment of how much in Federal dollars would be needed. Of course, I never got an answer. In fact, we had a little dialog on the floor of the Senate.

Never once, never on any occasion has the Commerce Committee, of which I am the ranking member, had a request for authorization for funds for the Salt Lake City Olympics—never once. Not on any single occasion, even though I have requested time after time, the committee of oversight that authorizes the funds and what may be required has never, ever been approached.

Why not? Perhaps one of the reasons might be because we found out in a

GAO report that the taxpayers have shelled out $1.3 billion already for the Salt Lake City Olympics for every kind of imaginable thing—I will include the GAO report—every imaginable kind of project, none of which—or very little of which had to do with security. It had to do with land acquisitions; it had to do with all kinds of things. Of course, we have never yet had a request for an authorization.

What do we find? We find a supplemental appropriations bill for $30 million for security. It sounds good. Why was the request not made a long time ago? Perhaps, if the Senator from Utah had complied with the simple request that I made as chairman of the oversight committee, that we could get some kind of estimate as to how much it would cost the taxpayers, we would not be going through this drill we are going through now.

I, again, urge the Senator from Utah to tell us how many of the taxpayers' dollars are going to be needed to fund the Olympics, No. 1; and, No. 2, seek authorization through the authorizing committee for those funds—which happens to be the Committee on Commerce, Science, and Transportation.

I point out on this amendment that the Office of Management and Budget and the Department of Defense have not voiced objections. In the interests of straight talk, they have not expressed support for this amendment either. But there has not been any objection raised by the Office of Management and Budget or by the Department of Defense to this amendment. I hope Senators will take that into consideration.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, how much time remains in opposition?

The PRESIDING OFFICER. There remains 34 minutes.

Mr. STEVENS. Mr. President, I share many of the concerns that have been expressed by my colleague from Arizona. I am sure he understands I join him in the desire that we assure the adequate protection and support for our men and women in the armed services. I do think the amendment of the Senator is well intentioned. It is consistent with the priorities identified by Secretary Rumsfeld in his budget request for the fiscal year 2002. That request provides for a substantial increase, which I shall discuss further, in defense spending, commencing with October 1 of this year—82 days away.

By the time this bill gets to the President, probably it will be 75 days; by the time he signs it, it will be about 70 days; by the time the money could be released by the OMB, and then released by the Comptroller of the Department of Defense, that is about 60 days later. So we are talking about the same time because their machinery over there is designed to follow through on the amendment that has already been submitted by the Secretary.

I believe it is my duty to join the Senator from Hawaii, and others, in stating that we think this matter is better addressed in the fiscal year 2002 Defense authorization and appropriations bills.

The Senator from Arizona talks about authorization. This matter is before the Armed Services Committee now. The Secretary has testified before that committee. They may come up with different priorities. I believe the Senator is right; we have a role in helping to determine the priorities for defense spending.

We share that with the House of Representatives. Congress has the power of the purse. I do believe we should use it. But with the situation going on now, Secretary Rumsfeld and the Joint Chiefs are working on a comprehensive effort to redefine defense priorities. He has submitted this amendment for 2002.

We are just now reviewing the details of the total request that was received just prior to the Fourth of July recess. I do not think there is any way we can determine the merit of Senator McCAIN's amendment until we better understand what the Secretary of Defense and the services have presented to us in the amendment to the budget for 2002.

Several items in this amendment are likely to be accommodated in the Department's annual omnibus reprogramming. Every year, as we get down to this last quarter, the Department comes to us with reprogramming requests which are approved, under existing law, by the Appropriations Committees of both the House and the Senate. That shifts considerable money. We gave the Department of Defense, this year, through the Defense Appropriations Act, the authority to shift $2 billion from one fund to a fund of higher priority. We have to approve that, of course, but that lifted the ceiling considerably. Annually, the Department presents to Congress reprogramming requests that shift from one purpose to an alternative higher priority. That is what we should do. We should let the Department shift these funds and tell us where they want them shifted to, if they wish to do so.

But I am constrained to point out that the budget resolution for this fiscal year contains what we call a wall. It is a wall between defense and nondefense spending. The amendment by the Senator from Arizona calls upon us to make moneys available from a substantial number of nondefense accounts for defense spending.

I want to assure you if the amendment were the other way around, suggesting we should take money from defense and put it in nondefense, I am certain the Senator from Arizona would join me in vigorously opposing such an amendment. I think, in my role on the Appropriations Committee, it is my duty to vigorously oppose this amendment because of the attempt to shift money from nondefense accounts to defense accounts for this fiscal year.

Later this month we are going to review the $330 billion spending proposal of the Department of Defense for 2002. I am sure that as a member of the Armed Services Committee, Senator McCAIN will work very hard on these matters. I am certain he will assist in determining whether the priorities are correct as submitted by the Secretary, with the approval of President Bush.

I do not believe we should shift funds from the nondefense priorities until we are certain that the funds are in excess of those programs' needs. As a matter of fact, I do not think we should do it at all because that was our commitment, that we would keep a wall between defense and nondefense spending. The budget resolutions for the last 4 years—I believe 5 years—have spelled that out. And we have adhered to it. We, in the Appropriations Committee, have been quite clear about that.

I have to confess, I did suggest that some of the defense moneys go to the Coast Guard, but I made that request because I believe they are a semimilitary agency. They carry out some military functions, and they have to have military equipment, military training, and military assets on board their ships. But we have vigorously defended the concept of the wall. Those people who vote for the McCain amendment are, for the first time, going to set the Senate on record as abandoning the concept of the wall.

I have asked the Parliamentarian if this is subject to a point of order because of this fact, and I have to ascertain that later. But I, for one, believe in the wall because we put it up to protect defense spending, not the other way around.

I don't want to get political here, but in the last few years the President was not as much in favor of defense spending as the Congress, and therefore we protected the defense spending with the wall. I do not see any reason now for us to turn around and renege on the commitment we have made to protect that concept of separating defense and nondefense spending.

We should not shift these funds from other nondefense priorities. It is a matter of fact that there are substantial needs out there for the Department of Defense. I do not argue about that at all. I have to confess, if I were the Secretary of Defense, I would be among those who would be asking for even more than has the Secretary of Defense. I have every reason to believe the Secretary of Defense has asked for more money than OMB has submitted to us because the OMB, with the overall problem of controlling expenditures and meeting objectives in the nondefense area, has limited the Secretary of Defense in his request for 2002. I think we understand that.

We are going to push that envelope as far as we can. But clearly the moneys that have been requested now put this administration on record of requesting more moneys—I think almost $80 billion more—than the level of 2001 that will be spent in 2002 for defense. And that is—what?—less than 3 months away.

I really have objection to the McCain amendment because of where the money comes from. It cuts $41.5 million from the dislocated workers assistance program. It rescinds $100 million from the job training program. The committee bill already took some money from this dislocated workers program, but ours is from unexpended balances of the program. This rescission takes it from the program, actually cuts job training programs for dislocated workers. And I will vote against that as a separate amendment.

Senator McCain's amendment also makes substantial reductions, significant reductions, in the international space station account. This is at a time of extreme need. I have been spending some time looking into the space program because of my extreme confidence in the Administrator there and his demonstrated interest in pursuing the space program.

I am told the space program has some $4 billion in potential cost overruns already to meet the full promise of the first-class orbiting space laboratory. The rescissions in this amendment would impact needed upgrades to the space shuttle, critical upgrades needed to ensure the safety of our astronauts. I do not think we can afford to make a snap judgment because of a perceived need in the Department of Defense—perceived because I think those needs have been already met by the submission by the Department.

Why should we take moneys from the space account? We do not have any justification for that that I can find, that I can see. I think it is a critical juncture now in the future of the space station. I believe we should demonstrate our continued support for it.

There are a great many items in the Senator's amendment that disturb me. I hope other Members will take a look at it to see where these moneys are coming from. They start on page 3 of the amendment. Not only are the funds reduced from the space account I just mentioned, there are funds from the National Institute of Standards and Technology, under the heading "Industrial Technology Services," that are reduced by $67 million for the Advanced Technology Program. There is another $19 million from the Department of Commerce for the International Trade Administration. There are moneys that were provided under the Emergency Steel Loan Guarantee and Emergency Oil and Gas Guarantee Loan Act.

I do appreciate the fact that the Senator has deleted the suggested reductions in the Maritime Guarantee Loan Program Account.

We also have a suggestion to take from the Department of Labor for the Employment and Training Administration under the heading "Training and Employment Services" and for the dislocated worker account, as I mentioned, $41.5 million; adult employment and training activities, $100 million. Then from the Department of Transportation—here again, I think this would be subject to a point of order—as I understand TEA-21, there is a wall in that, too. That money cannot be used for other purposes, but the amendment of the Senator from Arizona would take $90 million from the transit planning and research and $16 million from job access and reverse commute grants under the Federal Transit Administration.

All of this, to me, means that I appreciate the attempt of the Senator from Arizona to increase the amount of money for defense. If we had money that would be free under the budget for 2001 as it exists now, I would support the Senator's amendment to do so. But the Senator's amendment takes money from other accounts. I am being redundant now. These are nondefense accounts. And it takes the money to put it into the defense accounts to meet needs already covered by a budget submission delivered to the Senate prior to the Fourth of July recess which will for approximately the same time as this money could be made available, it will be made available under the 2002 bill.

I cannot support it. I hope the Senate will not support the Senator's amendment. At the appropriate time, I will make a motion to table the Senator's amendment. I do not wish to do so at this time because he still has time remaining.

I ask how much time do I have remaining.

The PRESIDING OFFICER. The Senator has 20 minutes 30 seconds. The Senator from Arizona has 12 minutes.

Mr. STEVENS. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to print in the Record the expenditures that have been made according to the GAO for the Olympics.

There being no objection, the material was ordered to be printed in the Record, as follows:

APPENDIX III.—FEDERAL FUNDING AND SUPPORT PLANNED AND PROVIDED TO THE 2002 WINTER OLYMPIC GAMES IN SALT LAKE CITY

[1999 dollars in thousands[1]]

Federal organization	Project or activity	Planning and staging the 2002 Winter Games			Preparing the host city of Salt Lake City		
		Planned[2]	Expenditure	Designated by Congress[3]	Planned[2]	Expenditure	Designated by Congress[3]
Department of Agriculture		$7,242	$2,901		$8,887	$5,473	$4,546
U.S. Forest Service	Olympic planning and increased services	7,242	2,901				
	Forest improvements				8,887	5,473	4,546
Department of Commerce		205		92			
National Oceanic and Atmospheric Administration	Increased weather forecasting services for Olympic events	205		92			
Department of Defense	Safety- and security-related services	24,691	45	45			
Department of Education	Paralympics	876	44	876			
Department of Energy	Safety- and security-related services	1,586	194				
Department of Health and Human Services		9,494					
Food and Drug Administration	Public health safety- and security-related services	598					
Centers for Disease Control	Safety- and security-related services	1,923					
Office of Emergency Preparedness	Public health safety- and security-related services	6,973					
Department of Housing and Urban Development		3,172					
	Housing for media	1,894					
	Housing for security personnel	1,278					
Department of the Interior		1,270	153				
National Park Service	Increased park services	1,252	153				
Bureau of Land Management	Increased Bureau services	5					
	Safety- and security-related services	13					
Department of Justice		47,060	14,960	16,950			
Federal Bureau of Investigation	Safety- and security-related services	21,486	767				
Immigration and Naturalization Service	Safety- and security-related services	2,431	3				
Office of Community Oriented Policing	Grants for safety- and security-related services	10,417	10,417	10,417			
Office of Justice Programs	Grants to local law enforcement	8,806	3,692	3,692			
Executive Office of U.S. Attorneys	Safety- and security-related services	1,027	81				
Community Relations Service	Assess racial tensions	52					
Counter terrorism fund	Safety- and security-related services	2,841		2,841			
Department of State	Increased agency services	663	3				
Department of Transportation		83,854	26,838	36,896	998,275	257,318	318,783

APPENDIX III.—FEDERAL FUNDING AND SUPPORT PLANNED AND PROVIDED TO THE 2002 WINTER OLYMPIC GAMES IN SALT LAKE CITY—Continued

[1999 dollars in thousands[1]]

Federal organization	Project or activity	Planning and staging the 2002 Winter Games			Preparing the host city of Salt Lake City		
		Planned[2]	Expenditure	Designated by Congress[3]	Planned[2]	Expenditure	Designated by Congress[3]
Federal Highway Administration	Olympic transportation planning	10,227	5,785	5,682			
	Accelerated road and bridge projects				645,315	199,678	18,541
	Olympic event access road: Snow Basin	14,962	14,962	14,962			
	Olympic event access road: Winter Sports Park	4,106	3,162				
Federal Transit Administration	Olympic Transportation System (OTS)[4]	47,348	1,402	2,788			
	Olympic infrastructure improvements	(5)	465	9,291			
	Olympic park and ride lots	(5)	1,024	4,173			
	Light rail: Downtown to University of Utah line				91,369	5,019	91,369
	Light Rail: North/South line				228,598	48,850	202,919
	Olympic intelligent transportation system deployment				3,788		
	Commuter rail				3,788	1,849	3,776
	Intermodal centers				9,470		2,178
Federal Aviation Administration	Safety- and security-related services	6,098					
	Facility improvements				15,947	1,922	
Federal Railroad Administration	Safety- and security-related services	388					
U.S. Coast Guard	Safety- and security-related services	407					
Office of Secretary of Transportation	Safety- and security-related services	318	38				
Department of the Treasury		58,693	71				
Bureau of Alcohol, Tobacco and Firearms	Safety- and security-related services	8,811					
Internal Revenue Service	Safety- and security-related services	1,520					
U.S. Secret Service	Safety- and security-related services	13,704	46				
U.S. Customs Service	Safety- and security-related services	19,320	21				
Wireless Program	Safety- and security-related services	15,285					
Office of Enforcement	Safety- and security-related services	53	4				
Department of Veterans Affairs	Safety- and security-related services	2,746	1				
Environmental Protection Agency		2,961		2,083			
	Olympic venue-related sewer construction	2,083		2,083			
	Planning and increased services	473					
	Safety- and security-related services	405					
Federal Communications Commission	Communications systems improvements	137					
Federal Emergency Management Agency	Safety- and security-related services	6,107					
General Services Administration	Safety- and security-related services	1,472					
U.S. Information Agency	Education, cultural affairs	80					
U.S. Postal Service	Increased postal services	1,894			4,673		
	Facilities improvements				4,673		
	Increased postal services	1,894					
Total		254,203	45,210	56,942	1,011,835	262,791	323,329

[1] 1999 dollars were calculated by dividing 2002 dollars by 1.056, a conversion factor derived from chain-type price indexes for gross domestic product.

[2] Planned includes funds already expended.

[3] "Designated by Congress" refers to funds that were specifically designated for an Olympian-related purpose in appropriations acts or committee reports accompanying those acts.

[4] In July 1998 the SLOC requested $137 million in FTA funds for the Olympic Spectator Transit System (OSTS). In February 2000, the SLOC revised this request to $91 million. On March 3, 2000, FTA proposed a maximum contribution of $47.3 million for the 2002 Olympics and Paralympics. However, a current bill in the House of Representatives, H.R. 4475, provides $56.8 million for Olympic buses and facilities and $9.5 million for the Olympic Infrastructure Investment.

[5] Included in above for OTS.

Mr. McCAIN. It includes things such as land acquisition, Olympic infrastructure, Olympic park-and-ride lots, light rail downtown to the University of Utah, Olympic intelligent transportation system, commuter rail, intermodal centers, the list goes on and on of the $1.3 billion that has already been spent before we tack some more onto this supplemental appropriations bill.

I hope the Senator from Alaska will also work very hard to remove the nondefense appropriations from the defense appropriations bills.

I yield 7 minutes to the Senator from Connecticut and reserve the remaining 4½ or 5 minutes for me before all time expires.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment offered by my friend from Arizona. I do so because I think this amendment makes two very important points. Those are points that have strength and with which I want to identify whether or not this amendment has any possibility of passing.

The two points are these: First, that we are not spending enough on our national security; second, Congress has recently adopted and the President has signed a tax cut package that will make it increasingly difficult for us in the months and years ahead to find the resources to meet the needs of our defense systems and structures and forces. Those are the two critical points.

We have in recent years tried in Congress, and succeeded on a bipartisan basis, to significantly increase the recommended budget levels to sustain real growth in our defense spending. Beginning in the mid 1980s and going through about 2 or 3 years ago, every year spending on defense dropped in real dollars. That was a peace dividend, people said. In fact, when you look at the constriction of spending in the Federal Government over the last decade or so, most of it comes at the expense of defense; some of it obviously justified by the end of the cold war.

At the end of the cold war, America emerged in a very different world as the one superpower with extraordinary responsibilities for maintaining the peace in our own interest and the world's interest around the world.

As I say, we began to turn that around. In real dollars we began to increase defense spending 2 or 3 years ago.

Continuing this support must be a priority. We have to provide for immediate needs in the fiscal year 2001 supplemental and to commit to funding levels to maintain current readiness, as well as to modernize and transform our forces in the coming defense budget. I am deeply concerned that if we do not, we may jeopardize our capacity to defend our interests here and abroad.

I have heard what my friend from Arizona has said. I couldn't agree with him more about the statements made last year that "help is on the way." In some sense, it appears that the check may have been lost in the mail because although there are increases in defense in this supplemental appropriations and in the budget President Bush has recommended, they are inadequate to the needs of our defense. That is where I hope we in this body and Members of Congress, the other body, will join together on a bipartisan basis to give the Department of Defense the funds it needs to protect us.

The defense supplemental for fiscal year 2001, as has been said, is $5.6 billion, which, as I understand it, is about half of the amount that the service chiefs asked for. Although the fiscal year 2002 budget request from the administration is an increase, again, I don't think it is enough to meet our national security needs.

For instance, by my calculation, both procurement and research and development for the Army are less than that appropriated last year.

Navy procurement is lower by almost $2 billion than last year. As Admiral Clark, the Chief of Naval Operations, testified at the Armed Services Committee today, we are now a 314-ship Navy and on a course to head to 240 ships. It wasn't so long ago that we thought we needed 600 to protect us in the waters of the world. We are not meeting the needs of the Navy.

Air Force research and development, the investments in the ideas and technologies that will maintain our dominance in a high-technology world are lower in this budget than they were last year.

It is all that which brings me to join with Senator MCCAIN in this amendment to make a statement not only about the short-term needs of the military this year, which respectfully are inadequately met in this supplemental appropriations bill, but also to raise an alarm about the inadequate funding in the budget submitted for fiscal year 2002 and about the ever more difficult problems we will face in the years ahead as a result of the national resources that have been squandered in the adoption of a tax bill that gives most to the few and leaves little for the broad national needs of our Nation.

This amendment adds $847.8 million to the amount requested by the President, a reasonable amount, mostly targeted toward short-term needs in the personnel and operation and maintenance accounts that must be fixed within the next 3 months. This is not extra, surplusage.

This money will be put immediately to critical national security uses, including $1 million to remove additional sailors and marines from food stamps—a national disgrace—and for the protection of our forces in the Arabian Gulf. To do this, this measure includes offsets. So it is, in that sense, balanced.

I realize that every dollar has an advocate and every cut here will pain someone. In fact, some of them pain me. Senator MCCAIN has chosen some programs that I have supported and identified with. But the point is that there is a larger interest here, and that is that the short-term military needs of our country are a higher priority now.

I believe the short-term military needs are a higher priority now. But this, of course, is more than an issue of short-term spending. It is also a question of long-held values and responsibilities.

One of the most fundamental responsibilities we have under the Constitution is to provide for the common defense of our Nation. To fulfill that obligation, I am convinced we will have to significantly increase defense spending over the next decade. This amendment is a small, but significant, step in that direction; immediately, it is a large statement of what is to come. I hope that together we will meet our obligations to our men and women in uniform and, therefore, meet our responsibility to provide for the common defense.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 20 minutes under the Senator's control.

Mr. BYRD. I thank the Chair.

Mr. President, I yield myself such time as I may consume.

The McCain amendment provides $848 million for defense that the President has not requested, is not assumed in the budget resolution and is not authorized. Many of the items that would be funded in the McCain amendment will be considered as part of the annual DoD omnibus reprogramming request. DoD will cover many of these costs with their own offsets rather than through cutting non-defense programs.

Many of the non-defense offsets contained in the amendment are objectionable:

Job training: The McCain amendment rescinds an additional $141.5 million from the FY01 job training funds, $41.5 million from dislocated workers and $100 million from adult job training. This is in addition to the $217.5 million rescission already included in the bill. Increasing the rescission above the $217.5 million risks actual cuts on job training services.

Security at Winter Olympics: The McCain amendment would cut $30 million from the Committee bill. The committee approved the funds to provide security for participants and visitors to the 2002 Salt Lake City Winter Olympics. The federal government is mandated under Presidential Decision Directive 62 to provide security for officially designated National Security Special Events. These funds were requested and fully paid for.

Advanced Technology Program: The amendment would rescind $67 million from the National Institutes for Standards and Technology Advanced Technology Program. ATP is a valuable and well-managed innovation program. From the telegraph to the Internet to biomedical research, government investment has spurred the development of new technologies and new fields, which have had great impact on and held enormous benefit for the American people. According to the National Academy of Sciences' National Research Council, ATP's approach is funding new technologies that contribute to important societal goals.

International Trade Administration, Trade Development: The amendment would rescind $19 million. TD is responsible for negotiating and enforcing industry sector trade agreements such as these on autos, textiles and aircraft. TD's mission is extremely important in the era of trade agreements such as NAFTA and the African Free Trade Agreement.

Oil/gas: $114.8 million has already been rescinded from the Emergency Oil and Gas Loan Guaranteed Loan Program to help pay for the Radiation Exposure Compensation Act, RECA, and Global AIDS. This funding is no longer available for rescission.

Steel: The amendment would rescind $126.8 million from the oil and gas and steel loan guarantee programs. The committee bill already rescinds $114.8 million from the oil and gas program. If the entire $126.8 million rescission came from the steel loan guarantee program, then the ability of the steel loan guarantee board to help the steel industry receive needed capital would be eliminated. This reduction would come at a time when a record number of steel companies have filed for bankruptcy (eighteen companies) and steel prices have fallen below levels that prevailed during the depths of the 1998 steel crisis.

Access to Work: The McCain amendment would rescind over 80 percent of Access to Work funding. This program has been very successful at starting new programs at transit agencies to get welfare recipients to employers that want to hire them. Many studies have shown that one of the biggest problems in getting welfare recipients off the welfare roles and on to payrolls is transportation—getting them to work.

Antidumping: In the last 4 years, continued dumping or subsidization has been found in roughly 80 percent of all administrative reviews conducted by the Department of Commerce. Industries affected include many parts of agriculture, chemicals, consumer goods, industrial goods and components, and metals. The amendment would rescind $200 million from the Treasury program established last year to assist companies impacted by unfair foreign trade practices. This rescission would eliminate the program just when it is anticipated that the first offset disbursements will be made by Customs toward the end of November 2001.

NASA: The amendment would rescind $40 million from Life and Micro-Gravity research. In FY 2000, Congress fenced $40 million for a life and microgravity mission aboard the space shuttle. However, due to delays in overhauling the Space Shuttle *Columbia*, and the need to accelerate the Hubble space telescope servicing mission, NASA was forced to reschedule the launch date May 2002. As a result of the delay, the committee included bill language that lifts a restriction on the use of the funds to give NASA the flexibility to reprogram the funds for a Shuttle mission that will include a life and microgravity research experiment. Rescinding these funds will prohibit NASA from conducting a life and microgravity research experiment as directed by Congress, and put in jeopardy future research missions by threatening the viability of NASA's contractor.

NASA electric auxiliary power units: The Senate should not rescind $19 million from the electric auxiliary power units. As part of the space shuttle safety upgrades program, NASA initiated an effort to develop an electric auxiliary power unit in FY 2000 to upgrade the existing power units to make them safer and more reliable. However after the initial development phase, it became clear that there were significant technical hurdles that could not be overcome without a significant increase in the budget.

While this particular program was canceled by NASA, the overall Space Shuttle Safety Program remains a top priority. NASA will redirect the remaining funds to address other key safety and reliability upgrades for the space shuttle. There is no higher priority than protecting our astronauts.

Transit research and planning: The McCain amendment would virtually eliminate funding for transit planning and research −$90 million, provided in the FY 2001 Transportation Appropriations Act.

Mr. President, I hope the Senate will oppose and defeat the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Will the Senator from West Virginia yield me 5 minutes?

Mr. BYRD. Mr. President, I gladly yield 5 minutes to the distinguished majority whip.

Mr. REID. Mr. President, will someone get Senator MCCAIN? He wanted to close. He has about 4 minutes remaining.

I want to spend a little time speaking tonight before we have these series of votes. Floor staff has been kind enough to gather for me some information. Since the leadership has changed in the Senate, we indicated we were going to try to stick to 15-minute votes and extend the time for 5 minutes, to make it a 20-minute vote, and with 10-minute votes, extend it to 5 minutes to make it a 15-minute vote.

In the 13 days we have had votes, we have spent 179 minutes over those times for a total of 3 hours. If one multiplies that out, over 1 month it will probably be about 5 hours. We are in session 9 or 10 months, so it is 45 or 50 hours we waste waiting for Senators to vote because committees are not adjourned in time—the excuses are unbelievable why Senators cannot get here within 20 minutes.

I hope everyone will respect other people's time. We are going to do our very best to stick to the 20-minute time limit. I have spoken with Senator DASCHLE. He agrees. Everyone will acknowledge that it is time wasted for everyone.

Since June 6, 179 minutes have been wasted. There are a lot of things each of us can do in 45 or 50 hours a year in wasted time. We, of course, could answer mail probably more precisely than we do if we had an extra 45 or 50 hours. We could review our mail more closely. We could visit with constituents who come here. A lot of time we are waiting for other Senators to vote and we are not able to see our constituents or, if we do see them, we give them the bum's rush. We could participate in congressional hearings more deliberately with an extra 45 or 50 hours. We could make telephone calls we simply do not have time to make. We could do something such as go home and visit with our families and have dinner.

I hope everyone understands, there will be people who are going to miss votes, but in fairness to everyone here, that is the way it has to be. I hope committee chairs will allow members to leave early. It is very difficult for us to say: Turn in the vote.

What we are doing is not partisan. Democrats and Republicans are just as responsible for the standing and waiting around. I wish it were just the Republicans and we could blame them for it, but it is us. We are just as bad as they are.

There are going to be Democrats who will complain: Why did you terminate the vote? I had something real important to do. I was having dinner with my son; I was at a key point in the hearing. The excuses, most of them, are very valid. But in fairness to all 100 Senators, we have to have a time limit that is enforced.

I say that the staff, which is very good about this—they hate to turn in a vote when there are people not here because people yell at them, but we need to move along and do this.

It is going to be bipartisan. We are going to do our best to make sure it is fair to everybody. Remember, we are talking about 50 hours a year wasted just in not having our votes, not in 15 minutes, but in 20 minutes; not in 10 minutes—sometimes we have 10-minute votes—not having those votes in 10 minutes but 15 minutes. I am talking about the time wasted over the 20-minute time limit.

I hope people will not be upset about this. I know some will. Maybe if we get in the habit of calling the votes on time, Senators will come on time.

I thank Senator BYRD for yielding me time.

Senator MCCAIN is not yet here. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, how much time remains on the McCain amendment?

The PRESIDING OFFICER. Four minutes for the Senator from Arizona; 7 minutes for the opposition.

Mr. REID. I say to my friend from Alaska, Senator MCCAIN asked to close. What we could do is reserve his time and the motion to table and go on to Senator SCHUMER to save time. Would that be appropriate?

Mr. STEVENS. It is my understanding the Senator from Missouri wishes 5 minutes of the time in support of the McCain amendment.

Mr. REID. There are not 5 minutes. There are 4 minutes.

The PRESIDING OFFICER. There are 4 minutes left for Senator MCCAIN.

Mr. STEVENS. We will be glad to accord the Senator from Missouri 5 minutes of our time. The Senator is right; let's hold the time and let Senator SCHUMER start his amendment.

Mr. REID. Mr. President, I ask unanimous consent that the McCain amendment be set aside, and that the 4 minutes be reserved for Senator MCCAIN and 4 minutes be reserved for Senator STEVENS and Senator BYRD, and we go to the Schumer amendment, which is the last amendment in order tonight.

Mr. STEVENS. Reserving that right to object, I wish the Senator would allocate that time to the Senator from Alaska. I have 2 minutes; Senator MCCAIN has 4; the Senator from Missouri has 5 minutes.

Mr. REID. That will be taken from the Senator's time?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. Does the Senator so modify the request?

Mr. REID. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York is recognized.

AMENDMENT NO. 862

Mr. SCHUMER. Mr. President, I call up amendment No. 862.

The PRESIDING OFFICER. The amendment is pending.

Mr. SCHUMER. I believe it is by the unanimous consent request of the Senator from Nevada.

The PRESIDING OFFICER. The amendment is pending.

Mr. SCHUMER. I thank my friend, the Presiding Officer. Amendment No. 862 is an amendment I have sponsored with Senator REED of Rhode Island, Senator REID of Nevada, Senator DODD, Senator LIEBERMAN, Senator CORZINE, and Senator JOHNSON.

It is a very simple amendment. It rescinds in this emergency supplemental $33.9 million for advance mailings from the IRS to the General Treasury.

I ask for the yeas and nays if they have not been ordered. Have they been ordered?

The PRESIDING OFFICER. They have not been ordered.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SCHUMER. I thank the Chair. I believe I have 15 minutes to debate on this side.

The PRESIDING OFFICER. The Senator has 14½ minutes.

Mr. SCHUMER. I ask the Chair to notify me after I have consumed 7 of those minutes.

The PRESIDING OFFICER. The Chair will do so.

Mr. SCHUMER. Mr. President, this amendment is a simple one. There is money in this supplemental appropriation to send out a notice within the next week to 112 million taxpayers telling them they will get a rebate. The amendment is a simple one. It rescinds that money and gives it back to the committee. It does not spend it on any other specific purpose, but rather at this time when we are all desperate for money—we just spent 2 hours on Senator McCAIN's amendment cutting money from domestic programs so we can fund defense—this $33.9 million is needed.

Why do I think this money should be rescinded? Because the notices they will fund are unnecessary, they are inappropriately political, and they cost money that can be spent on other things, and I will talk about each. Unnecessary. It makes no sense that we send each taxpayer a notice that they are going to get a rebate. The rebate is self-explanatory. It has been in all the newspapers. More people will have read it in their newspapers than a notice they get from the IRS. And if, indeed, we thought it so necessary to do, which I don't think we should, it is certainly unnecessary to do it as a separate notice which will cost all this extra money.

The idea that we have to notify taxpayers that they are getting a rebate doesn't make sense. We have never done it before—not in the 1975 rebate, not when we have changed other tax laws. We have never done it.

Second, I am against it because it is a political message. The message in this notification of the rebate says: We are pleased to inform you that the United States Congress passed, and President George W. Bush signed into law, the Economic Growth and Tax Reconciliation Relief Act of 2001 which provides long-term relief for all Americans who pay income taxes.

It sounds to me a bit like a political ad. The IRS has always had a reputation for being apart from politics. When the IRS gets too political we try, justifiably, to pull it back. Yet here from the IRS is a notice. We don't send notices out to people when bad things happen: We are happy to let you know because of laws that the President proposed and the Congress passed that you will get a lien on your property, that your property will get a lien because you haven't paid your taxes. We just put on the lien. We don't send out notices about all the other changes in the law. We publish them in the Register and then we go forward.

Finally, of course, I support this amendment because we are in very tough times. How many Americans would make it their highest priority to spend this $33.9 million on sending a notice of a rebate?

My colleague from Nevada, when I yield time to him, will give examples of the alternatives on how we could spend the money. Clearly, there are better purposes.

Secretary O'Neill wrote me that it wasn't feasible for mechanical reasons to include notification with the check itself. I take that to mean that, despite a quarter of a century of dramatic technological advances and the impressive stewardship of Commissioner Rossotti, hailed as a world-renowned technology expert, the IRS is unable to get two pieces of paper into the same envelope—or less able than it was in 1975 because they did it then.

Now, to boot, 523,000 taxpayers will receive an inaccurate notice, erroneously informing them that they will receive a larger rebate than they will actually get. Some have said if we don't send this notice, there will be lots of phone calls deluging the IRS. We are not in tax season. I think they can handle the phone calls. I argue that knowing a small percentage of these notices are erroneous will trigger more phone calls than if we didn't send this false message at all.

The bottom line is simple: We know why this mailing is being sent. We now see political figures on television, Governors and mayors, putting their faces on, saying: Come to my State for tourism; or, sign up for our children's health care plan.

We all know what the purpose is, but never before has the Federal Government stooped to this level. And never before has the IRS, which I think we all agree must remain above politics, been used for such a message. This notification is unnecessary and can be accomplished in other ways. It is political, in an agency which should remain above politics. And it wastes a badly needed $33.9 million.

This amendment was narrowly defeated in the House. I hope this body has its usual good sense, higher sense than the House, and passes this amendment.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself such time as I may consume. We are hearing a great deal about politics in the debate regarding this amendment of the Senator from New York. We hear the notices in the mail to inform taxpayers of the rebate checks are somehow about "politics." We hear the language used in a notice is about politics.

Let me assure that the only thing that is about politics is the amendment before the Senate. I make very clear the notices are being issued, being sent by Congress, because we gave that direction in the legislation we passed. I read from the conference report of the recently passed tax cut bill. Page 127 of the report says:

> The conferees anticipate that the IRS will send notices to most taxpayers, approximately one month after enactment. The notices will inform taxpayers the computation of their checks and the approximate date by which they can expect to receive their check. This information should decrease the number of telephone calls made by taxpayers to the IRS inquiring when their check will be issued.

That is a quote from the conference report of the Congress of the United States, directing the Treasury Department to do what has been labeled as pure politics. This is a statement of the conference report. That is why these notices are being issued.

We are seeking to reduce confusion of taxpayers and minimize the burden on IRS employees. That is why the National Treasury Employees Union, the union that negotiates with the Treasury Department, representing those employees, supports the issuance of the letters being criticized.

I read from the last paragraph of the letter I have received from the National Taxpayers Union:

> On behalf of the employees of the IRS who are charged with implementing the decisions of Congress with regard to the tax code, I urge you to oppose efforts to cut funding for the mailing of a notification to taxpayers with regard to their tax rebates.

I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NTEU,
THE NATIONAL TREASURY EMPLOYEES UNION,
Washington, DC, June 20, 2001.

I am writing with regard to funding included in the FY 2001 supplemental funding bill, H.R. 2216, that will allow the IRS to mail notices to taxpayers informing them of the timing and amount of tax rebate they will be getting. While NTEU has no position on the wording of such notice, we strongly believe that a notice will significantly reduce the amount of telephone calls coming into the IRS with questions about the tax rebate and ultimately reduce the costs associated with administering the rebate.

The IRS already has great difficulty responding to all of the telephone calls from taxpayers with questions. The volume of calls will increase dramatically as anticipation of rebate checks grows, thereby making it even more difficult for taxpayers with other questions to get their calls answered. Providing taxpayers with a notice in advance will hold down the increase in calls and prevent a significant decrease in the IRS' ability to provide customer service.

It is my understanding that the IRS has indicated that it may go forward with a notice on the tax rebate even if funds to mail it out are cut. Such a move would inevitably cause erosion of customer service levels that are already suffering from underfunding.

On behalf of the employees of the IRS who are charged with implementing the decisions of Congress with regard to the tax code, I urge you to oppose efforts to cut funding for the mailing of a notification to taxpayers with regard to their tax rebates.

Sincerely,

COLLEEN M. KELLEY,
National President.

Mr. GRASSLEY. Mr. President, these concerns about the impact on services at the IRS are very real. The newsletter, Tax Notes, reported on June 9, 2001, that when Minnesota issued rebate checks, the U.S. West Company had to cut off phone service to the tax agency in Minnesota because the volume of calls brought down the system for the entire Minnesota State capital exchange.

In addition, notices are important to prevent taxpayers being subject to con games. The USA Today newspaper reported on July 5, 2001, that taxpayers are receiving solicitations from con artists offering to calculate their refund for $14.95. These letters being found fault with will go far in preventing frauds and cons such as reported in USA Today.

Some want no notices at all sent, and some want the words of the notice changed. Why are they upset? Because the letters start out by mentioning that we, the Congress, passed a bill that cuts taxes—the bill that provides long-term tax relief for all Americans who pay income taxes and was passed by the Congress, in fact, and was signed by the President of the United States.

That is the only way you increase or decrease taxes. It is not done by some magic wand being waved by somebody in Washington, DC. But this comes as a shock, supposedly, to my colleagues. Some people are a little too busy with their lives to be thumbing through the CONGRESSIONAL RECORD after work, like maybe we do, but our constituents don't do this.

So this letter provides a little overview and guidance, so people have some contact as to what the letter discusses.

It should be clear this is not the first time the President by name has been mentioned in some IRS notice. For example, a little less than 2 years ago the IRS sent out a notice mentioning President Clinton. Can you believe that? They sent out a notice mentioning President Clinton.

I have searched the CONGRESSIONAL RECORD in vain to find any complaints from any Senator about that specific notice.

Also, if this notice were only about politics, why would the administration also send out a notice to 32 million taxpayers, informing them they will not receive a refund check? That hardly seems a political thing to do. It is said we often find our own faults in others.

Mr. SCHUMER. Will the Senator yield?

Mr. GRASSLEY. I do not think I will yield. The last time I yielded to you on the bankruptcy bill I did not get through my speech. I want to finish my speech and then if you want to ask me a question, I will do it.

Mr. SCHUMER. A 10-second question.

Mr. GRASSLEY. No, I will not, please. I appreciate the man, he is a friend of mine, and I do not have any ill will towards him, but I just do not want to yield at this point.

Would I suggest this amendment is about politics? I could not suggest this amendment is about politics. But here is what we have to do. We have to think of the reality of it. We are trying to make Government work. When you are sending out $60-some billion in checks, you want to make sure they go to the people they are supposed to go to, and you want to know that the people know this is happening and what they are supposed to do with it.

Some suggest we should have the notices, but the wording should be changed. As stated earlier, I believe the wording is important to better inform taxpayers. Further, to rewrite and reprint the notice will cost millions of dollars and delay the notices by weeks. Delay would undermine the whole point of the notice: To better inform the people prior to checks being issued.

Remember, you want to get the checks out on time because of the stimulus benefit that comes from this. That is not just my saying this as a Republican because you want to remember, the last week of March people on the other side of the aisle said we ought to have an immediate tax rebate to help the economy. So that is something we both agreed ought to be done.

This notice, the Treasury Department informs me, will actually be cost-effective. If there is no notice, the IRS will be flooded with calls and will not be able to perform other valuable and important activities. The language regarding notices is in the conference report because of concerns about the impact of issuing checks on IRS operations.

Finance Committee staff has met with the Treasury Department several times to ensure that the notice and check effort is performed with minimal trouble.

In addition, Senator BAUCUS and I have asked the GAO to oversee the notice and check effort to ensure it is properly managed.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I yield 2 minutes to a cosponsor of the amendment, the Senator from South Dakota.

Mr. JOHNSON. Mr. President, I congratulate the Senator from New York for the fiscal responsibility he is exhibiting with this amendment. The amount of money to be saved, again, is $34 million, roughly? Mr. President, $34 million—this is astonishing, $34 million to send out a mailing? This doesn't pass the laugh test, frankly.

If I were to go home to my home State of South Dakota and talk to people in the street to tell them we are going to send some checks—by the way, which I voted for; I voted for the stimulus package, but we are going to add $34 million to the cost, from the taxpayers, to brag about what we did in advance—they would not know whether to laugh or whether to cry.

This is just astonishing, $34 million for a mailing. Are we going to do this now when we do Patients' Bill of Rights? Are we going to send out a $34 million mailing? How about ag disaster payments? What else are we going to pass this year about which we are going to send out to everybody in the country what a wonderful job we are doing for them, thanks to your dollars?

Here we are in this body talking about, well, it doesn't look as if we can afford to do as much as we should with school construction; probably not enough money to advance Head Start where it ought to be; our GI bill enhancement, where we are trying to catch up with inflation so our military can get the education opportunities they should have, we might not have the money; prescription drugs, we probably do not have enough to set aside to do what we need to do. But wait, we are going to take $34 million of your money and send you a letter telling you what fabulous things we are doing for you.

I don't know whether or not it is political. What I care about is if you are going to carefully mind the people's money, this is not how you ought to go about doing it.

I congratulate the Senator from New York for a little common sense, something I see all too seldom in the course of some of these political debates.

Thank you to the Senator from New York. It seems to me this amendment deserves support. Let's save $34 million, put it back in the kitty where the American people can have it for their benefit.

I yield.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. I yield 6 minutes, or the remainder of my time, to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator who is just leaving the floor needs to know that $34 or $33 million represents about 30 cents a letter. I think both he and I wish we could send out any kind of campaign solicitation for 33 cents or 30 cents a letter. It seems to be a pretty efficient operation to me. But here is what the IRS is saying today. Even though the Senator from New York is talking politics, the IRS is talking fraud. The IRS is talking scam. The IRS is trying to warn the American taxpayer, who may or may not receive a rebate check, that they better beware that there is somebody out there who wants to take $14 or $15 or $20 of their money.

Let me refer to a scam operation known as Revenue Resource Center in Boca Raton, FL. Send in your check for $12.95 and an extra $2, and we will calculate for you what your rebate is going to be.

The IRS is already going to calculate for you what your rebate is going to be. The Senator from New York knows that. What the Senator ought to be saying is: Bravo, IRS, you may be stopping a multi-multimillion-dollar scam operation.

The IRS has identified scams in four other States: in Mississippi, Missouri, Ohio, and Oklahoma, and they are anticipating there will be a good many others before this is over with.

What does the IRS do in its letter? Not only does it say the Congress and the President provided this, on an effort on their part, but it says here is how the calculation was made. If you have a question, make a phone call. Here is the phone number.

That sounds pretty responsible to me. I suggest that is the kind of government we ought to have. Is it political? I don't think it is. The Senator from Iowa mentioned that President Clinton was mentioned in an IRS letter. I have a copy of that IRS letter. Bravo. Bravo. Whether we take credit for it—in fact, it was the Senator from New York who, in 1995 said: When you do something you ought to tell your constituent about it. So he quoted himself in the New York Daily News.

Is there anything wrong with what is going on? There is nothing wrong with what is going on, in fact. I think what the Senator from New York and I know is you take this form right here; it is called 2001 Form 16–D. It looks like an official IRS form. Let me tell you it is a scam form provided by this group from Boca Raton, FL.

Right here it says:

> Processing fee $12.95. Rush service add $2. Total payment [$14.95].

If you got $14.95 from a few hundred thousand or a few million taxpayers, my guess is you walk away with a bundle because you have a mailing address and you have a computer and you have a printer.

What the IRS is saying when they notify the taxpayer is: You are going to get your check and here is how it is going to be calculated.

They are even saying to some taxpayers: You are not going to get a check, and here is why you are not going to get a check.

My guess is this may have a lot less to do with politics, at least from the standpoint of the IRS, and a great deal more to do with efficiency of government. But most important, should not we go the extra step so we avoid the scams that the great genius of the human mind creates when they see an opportunity to take advantage of an older person, or an innocent person who might be concerned that somehow they are not going to get their appropriate check? So they are going to fill out this form and send it in to a group in Boca Raton, FL?

That is what the issue is all about. So we are going to use $34 million at a cost of about 30 cents a letter to about 130 million Americans to notify them that all the information they need is right there available to them, even how their check was calculated, and all of that is going to be made available by the IRS. And, oh, by the way, yes, you are right, Senator from New York. The front paragraph says: And this tax relief was provided for you by the Congress—I believe that is Democrat and Republican—and by the President of the United States, George W. Bush.

Let's stop the scam artists. Let's notify the American people when they are going to get it, how they are going to get it, and how it is calculated. It seems like the right thing to do—not the political thing to do.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SCHUMER. Mr. President, I yield 4 minutes to the cosponsor of this legislation, the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, this legislation has nothing to do with scams. It has nothing to do with partisan politics. It has everything to do with saving $34 million of taxpayer money.

As the Senator, for whom I have the greatest respect, and the 19 members of the Finance Committee say, this will provide a little review and guidance. Yes, it will, for $34 million.

There are a lot of domestic programs in need of funding. Thirty-four million dollars would do so much for education. We could do something that deals with dropouts. Three thousand children are dropping out of school every day.

We could do something about the national treasure of Nevada and California called Lake Tahoe. It is deteriorating every day because of pollution. We could stop it if we had the money. It is a program that we need to help. There are water systems all over America, in rural America, that need help. We could do part of that with this money.

Our Nation is facing an energy shortage. The Energy and Water Subcommittee will fight for money to provide research and development for energy. Thirty-four million dollars would mean a lot to our subcommittee.

We ought do so many things.

Veterans: There has been a cutback in the veterans' budget this year by $30 million. We could take $343 million and provide help to the veterans. Grants are provided to the States for extended care facilities, specifically talking about veterans.

On Medicare prescription drugs, we could do a little bit. But that would certainly be something we could do.

Senator CHAFEE and I have a bill that gives centers of excellence $30 million a year so they can study links between breast cancer and the environment. That is certainly more important than a $34 million notice that is going to go out.

There are disasters happening all the time. We used to have $250 million for Federal safe project impact grant programs. That was deleted. It is wrong. The State of Washington found out how much that program helped.

This is something for which I don't blame the President. I don't blame the Finance Committee. I don't blame anybody. I think what we should do, though, is recognize that dollars are very scarce. We should do everything within our power to provide additional money for the programs that are desperately needed; $34 million would do that. It is more than the letter that would give a little bit of review and guidance, as my friend from Iowa said.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The sponsor has 3 minutes 5 seconds. The opposition has 1 minute, 17 seconds.

Mr. SCHUMER. Does the Senator from North Dakota wish a minute?

I will reserve the remainder at the conclusion.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I intend to support the amendment. I don't know how it got to this point. But I was a tax administrator before I came to the Congress. It is not, in my judgment, necessary to send out a letter to say: By the way, here is what you are going to get. And then you get it. Maybe afterwards they will send a letter to them saying: Here is what you got.

That doesn't make any sense to me. It is $34 million. There are a whole host of important things that can be done with $34 million.

The tax bill stands on its own. It was passed. It is now law. The American people will be receiving a rebate. There does not need to be a substantial amount of money spent to tell them: By the way, this is what you will get in the mail very shortly. Send the check in the mail. They would be much more appreciative of receiving the check than receiving a letter saying they are going to get a check. Do not send them a letter saying they are going to get a check. They will get a check. And maybe people will come to the floor asking to send them a letter saying they got a check.

None of this makes sense. This doesn't pass the test. Let's not do this. This is a waste of money.

I will support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, parliamentary inquiry: Is it not the case that we must finish the Schumer amendment before we go back to the McCain amendment?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Is the Senator from New York willing to yield the remainder of his time?

Mr. SCHUMER. No. Mr. President, I believe I have 2 minutes. I would like to conclude. If the other side would like to use their 1 minute remaining, I would then yield. I will wait for them.

Mr. GRASSLEY. Mr. President, I yield myself the remaining time.

There are three things to remember: Remember that the union members working this issue for the Treasury Department to make sure the Government's work is done right and done on time said it is very important that these notices be mailed out. That letter is a matter of record and is printed in the RECORD.

No. 2, remember that Congress ordered these letters to be sent. It is a conference report from which I have already quoted. But remember we said that.

No. 3, these letters are already printed and in the envelopes. There was a lot of labor put into this process. There was a lot of effort put into it. If you want to waste that money, you waste that money by voting for this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first, in reference to the debate we have heard, give me a break. This letter, if you read it, is not going to reduce fraud. In fact, if we want to reduce fraud, we contain it right with the check—not a letter that people are going to read through a month and a half in advance and then get the check. That is a bogus argument.

Second, President Clinton put his name on the notice that was on 527. The letter of the Secretary of the Treasury is wrong. All that was printed in the RECORD. President Clinton did not send out 112 million pieces of paper bragging about what he was going to do.

The bottom line is simple. We all know what is going on here. This is not an attempt to help the taxpayers; this is an attempt to pat ourselves on the back because we did something good. We could spend billions of dollars doing that. We all know that the same goal could be accomplished by putting the same notification in the same letter as the check. We are not doing that either.

At a time, I appeal to my colleagues, when we are scrounging around for $5 million here and $10 million there, the chairman of the Appropriations Committee and the ranking member are trying their best as the members of the committee to find the dollars we need, give me a break. This is not the best, the second best, the third best, the hundredth best, or the thousandth best way to spend $34 million to send a notification patting ourselves on the back that you are going to get a rebate check and there is going to be a long-term tax reduction. It is an absurdity.

If any of us cares about fiscal responsibility and balancing the budget, we will vote for this amendment.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The time on the amendment has expired.

The question occurs on the McCain amendment.

The Senator from Arizona withholds 4 minutes. The Senator from Missouri withholds 5 minutes.

Who yields time?

Mr. MCCAIN. Mr. President, I understand the Senator from Alaska is giving time to the Senator from Missouri. Is that correct?

Mr. STEVENS. Mr. President, that is correct—in order to accommodate the Senator's request.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. CARNAHAN. Mr. President, I rise to support the McCain amendment. Our military has a number of pressing needs that simply are not being met this year. I have seen this first hand in my home State of Missouri. Senator MCCAIN has done the hard work by requesting that Federal agencies identify funds that are not being spent in this fiscal year. These funds should be available and can be put to good use for basic military operations and supplies.

This amendment will provide $200 million for quality-of-life improvements for our military personnel, $600 million for operations and maintenance of our military equipment, and $45 million for force protection of our fleet in the Arabian Gulf. Senator MCCAIN has identified these needs, and he has uncovered the resources to relate to them.

I urge my colleagues to vote for this amendment.

I yield the remainder of my time to Senator DODD.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Connecticut.

Mr. DODD. I thank my colleague from Missouri.

Mr. President, I want to take a couple minutes to speak. I know others have spoken at length about this underlying supplemental appropriations bill.

I say to the Senator from Alaska, the Senator from Missouri yielded me her remaining time.

I commend the Senator from West Virginia and the Senator from Alaska and the Senator from Hawaii. It is a hard job. It is not easy. We are talking 80 days. And those days are shrinking as long as we take to resolve this in the supplemental.

There are a number of amendments that have been offered that under normal circumstances I would probably support. The LIHEAP amendment is a very important amendment for those of us who come from the Northeast. I find many down the list that are very appealing.

I think our colleagues on the Appropriations Committee have done a good job. I do not suggest that my good friend from Arizona, and others, are not making a good case that additional resources may be necessary to help our service men and women to improve equipment, but it seems to me that we are just a few days away from dealing with a larger issue, the budget issue, in which these matters could be addressed. So when it comes to the pending amendment, I am going to reject the additional spending that is being proposed and support the committee's desire to adopt this supplemental, if we can.

I notice, as well, there are arguments being made that some of these funds have been unexpended. I appreciate that. That is true. That is the case, but it is also the case that we are not yet at the end of the fiscal year.

One of the things I want to see us discourage is agencies rushing out to spend dollars so that they will not face the kind of arguments they get here, where we are a few months away from the end of the fiscal year and we start demanding that agencies spend money quickly because an amendment may be offered to take any unexpended funds. That is irresponsible spending, it seems to me.

So there are a number of areas here that are being targeted as resources to pay for some of these amendments that I hope my colleagues will take some note of.

Worker training is one. Again, all of us understand the benefits of worker training. We have just heard news in the last few days that there has been a loss of some 125,000 jobs in the month of June alone in the United States. I do not need to tell anyone in this Chamber how job training and worker training programs can make a difference for those people. Those people getting new jobs, getting the skill levels, also contribute to the strength of America. Certainly, the job access program is another one that has been tremendously helpful to so many millions of Americans across the country.

So while all the money has not yet been expended in job access or job training programs, we are still several months away from the end of the fiscal year. In light of some of the new unemployment figures, those dollars may be very necessary before the end of the fiscal year.

So again, my compliments to those on this committee crafting this supplemental appropriations bill. It is not perfect. They have not argued it is perfection. But I think it has done a good job in providing additional resources for our military needs. And, in the weeks to come, we will be given the opportunity to debate the authorization bill and the appropriations bill for the coming fiscal year, at which point we can best address the matters raised in this debate.

So my hope would be that my colleagues would applaud the work of the Appropriations Committee here and adopt this supplemental bill. The temptation to support a number of these amendments is strong. But I think we ought to resist that temptation and support the work of this committee, and then get about the business of dealing with the various appropriations bills as they come to this Chamber.

If there is any time left, I will be glad to yield it to those who may want to debate this amendment further. But if not, I would yield back whatever time may remain.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. McCAIN. Mr. President, I have 4 minutes remaining?

The PRESIDING OFFICER. That is correct.

Mr. McCAIN. I yield 1 minute to the Senator from Arizona, Mr. KYL.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I want to simply urge the support of my colleagues for the amendment that my colleague, Senator McCain, has brought forward. We have to care about the lives and the safety, as well as the ability to carry out the mission that we have entrusted to them, of the young men and women in our military.

What Senator McCAIN is doing is nothing more than taking the word of the military—the chiefs and the other military leaders of our country—about what they need, and providing a small amount of that as a part of this supplemental appropriations bill—$847 million worth.

All of that money is offset from programs, frankly, that either can be deferred or from funds which are not going to be spent before the beginning of the next fiscal year. So there is very little in terms of loss of any program from the offsets. But this money would make a huge difference to the men and women of our military, if we can get it into the pipeline before October 1.

So I hope my colleagues will support the amendment of Senator McCAIN to help the folks in our military and enable them to do the job we have entrusted them to do.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield myself what time is remaining.

The PRESIDING OFFICER. The Senator has 2 minutes 45 seconds.

Mr. McCAIN. Mr. President, I outlined in some detail the testimony of the service chiefs last September: The need for $30 billion more than the current defense budget dollars. In a few days, the Department of Defense will come over with a reprogramming request. That will be for $850 million, which is really what this request is all about.

What is a reprogramming request? It is a requirement to take money out of one category and put it into another because the wheels are about to come off. They are going to have to take money from existing programs and put it into what this amendment is all about: Personnel, readiness, operations and maintenance, and the lives of the men and women in the military. This amendment puts money in the right accounts, and that is readiness and personnel.

Nothing is more important than the men and women in the military and national defense. The Department of Treasury salaries and expenses isn't more important than defense. The NASA Shuttle Electric Auxiliary Power Units are not more important than defense. The Life and Micro-Gravity Science Research is not more important than defense. The Advance Technology Program is not more important than defense. The Job Access & Reverse Commute Grants Program is not more important than defense, nor is Export Promotion Programs or Emergency Loan Guarantees.

Nothing is more important than the security of this Nation. I hope this modest amendment, which does have offsets, will be agreed to by this body. It does not have an objection from the Office of Management and Budget nor from the Department of Defense.

So, Mr. President, the men and women of our military are suffering. They need help. I promised them that help during the last campaign. This is one very small way of beginning to deliver.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am constrained to point out to the Senate that part of the Budget Act gives us the power, in the Appropriations Committee, to make allocations to specific portions of the budget. We have 13 separate bills.

The allocation to the Defense Department under the Defense appropriations bill for 2001 I made when I was chairman—and Senator BYRD from West Virginia has modified that slightly, but it is still a limitation—it is a limitation that prevents us from transferring money from one bill to another without the consent of the Senate.

The amendment of the Senator from Arizona would increase the amount allocated to the Department of Defense for 2001 in excess of the current budget allocation that both Senator BYRD as chairman, and I, when I was chairman, submitted to the Senate. The amendment by the Senator from Arizona has the unfortunate consequence of exceeding our allocation.

I make a point of order against the McCain amendment under section 302(f) of the Budget Act. If adopted, this would exceed the allocation for the Department of Defense for 2001.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I am deeply, deeply disturbed that the Senator from Alaska would not allow an up-or-down vote on this amendment, which is paid for—which is paid for. And if we are going to play that kind of parliamentary game, the Senator from Alaska can plan on a lot of fun in the ensuing appropriations bills.

I move at this point to waive all points of order that may lie against this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. I raise a question about this.

All points of order?

Mr. McCAIN. That may lie against this amendment.

Mr. STEVENS. Parliamentary inquiry: Is that in order under the Budget Act? This is a specific point of order. There are other points of order I may want to try, too.

The PRESIDING OFFICER. The Senator may make a motion to cover all Budget Act points of order.

Mr. McCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. There is a sufficient second. The vote will be delayed under the current sequence.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of general debate on the bill.

Mr. STEVENS. Mr. President, don't we have a managers' amendment still on the agenda?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Now that Senator McCAIN's time has expired, that is in order?

The PRESIDING OFFICER. That would be appropriate at this time.

AMENDMENT NO. 876

Mr. BYRD. Mr. President, I shall send to the desk a managers' amendment. It consists of a package of amendments. These have been cleared on both sides, and I believe there is no controversy on them.

The first items are amendments by Senator STEVENS, Senator LINCOLN, and Senator HUTCHINSON for storm damage repair and relief in Arkansas and Oklahoma and emergency response and firefighting needs in Alaska. The amendment provides a total of $26,500,000 with the necessary offsets.

The next amendment is offered by Senator INHOFE concerning the Education Impact Aid Program. No additional funds are involved.

Next is an amendment by Senator BOXER to provide $1,400,000 for the so-called "sudden oak death syndrome". This is from within existing funds in the U.S. Department of Agriculture.

Next is an amendment by Senators DORGAN and CONRAD to provide $5 million for emergency housing for Indians on the Turtle Mountain Indian Reservation in North Dakota. It, too, is fully offset.

Next is an amendment by Senator MCCONNELL making a slight modification in the Energy Employees Occupational Illness Compensation Program Act. No funding is involved.

Next is an amendment to establish the new Senate committee ratio for the Joint Economic Committee as a result of the recent change in the Senate majority. This requires an amendment to the underlying law;

An amendment concerning the B–1 bomber for Senators ROBERTS, MILLER, CRAIG, CLELAND, CRAPO, and BROWNBACK;

An amendment for Senator PATTY MURRAY and Senator CANTWELL providing $2 million for drought assistance in Yakima Basin in the State of Washington. It is fully offset.

Finally, an amendment by myself to provide $5 million for providing relief from the severe recent flooding in my State of West Virginia. This amendment is also fully offset.

Over the last several days and nights, thousands of West Virginians have been digging out from the mud and muck left behind from severe flooding over the weekend.

Throughout southern West Virginia, especially, the rain fell hard and fast, dropping 8 inches of rain across the region before the clouds finally let up. By then, the damage was done. The Guyandotte River was measured at 18 feet at Pineville, 5 feet above flood stage and above the 1977 record of 17.76 feet. The Tug Fork was at 17.5 at Welch, 7.5 feet over its banks and more than 4 feet above the previous high.

It is an almost indescribable scene for many families who have watched their homes and their belongings washed away by the torrent of flood waters. For many families, this latest flood comes just a few weeks after they finished cleaning up from May's heavy rains that prompted a Federal disaster declaration from President Bush.

Today West Virginia's streams, creeks, and rivers are carrying refrigerators, stoves, cars, and trucks. Tree branches are filled with ruined clothing and debris. Water and sewer systems are washed out. Roads and bridges are buckled. Power is out. More than 3,000 homes have been damaged or destroyed.

In the McDowell County town of Kimball, the community is covered with thick mud. One woman described it aptly when she said: "This whole town is gone."

For everyone, there is a feeling of disbelief at the devastation. But there is also a strong determination to recover.

In an effort to speed Federal assistance, the managers' amendment contains $5 million to boost the recovery effort. This is the amount that the Natural Resources Conservation Service has stated that it needs to remove debris and obstructions to waterways that pose a threat to private property or human safety. This is just a small step in the recovery process, but it is an important step to make.

I personally thank the thousands of National Guardsmen, local firefighters, sheriffs' departments, police officials, Red Cross volunteers, State Office of Emergency Services personnel, and the countless others who have worked to save lives over the last few days. Their efforts have helped to prevent this disaster from taking an even larger tool on West Virginia.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD], for himself and Mr. STEVENS, proposes an amendment numbered 876.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

Mr. MCCAIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. I am asking that they be considered, not adopted.

Mr. MCCAIN. I object. I want the amendment read.

Mr. BYRD. I didn't understand the Senator.

Mr. MCCAIN. I want the continued reading of the amendment.

Mr. BYRD. Very well.

The PRESIDING OFFICER. Objection is noted. The clerk will continue the reading of the amendment.

The legislative clerk continued the reading of the amendment.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The regular order is the reading of the amendment. The clerk will continue the reading of the amendment.

The legislative clerk continued the reading of the amendment.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Does the Senator yield back the time?

Mr. REID. Mr. President, I ask unanimous consent that the motion to waive the Budget Act with respect to the point of order against the amendment of the Senator from Arizona be withdrawn and insert in lieu thereof a motion to table the amendment of the Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Do the Senators yield back time on the managers' amendment?

Mr. BYRD. Mr. President, the name of Senator PATTY MURRAY was inadvertently omitted from the sponsorship of the $2 million drought assistance in the State of Washington. I add that name at this time. So it will read: An amendment by Senators PATTY MURRAY and MARIA CANTWELL providing $2 million for drought assistance in the Yakima Basin in the State of Washington. It is fully offset. I ask unanimous consent that Senator MURRAY's name be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. If the Senator will yield, I ask unanimous consent that the amendment be amended to add a million dollars for FEMA for the disaster storm Allison. I will present an amendment to the desk in writing.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment be agreed to.

Mr. MCCAIN. Mr. President, I object. Is the amendment debatable?

The PRESIDING OFFICER. There are 5 minutes equally divided on the amendment.

Mr. MCCAIN. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. The Senator has 5 minutes under the time agreement.

The PRESIDING OFFICER. The Senator has 5 minutes in general debate time. He may use it now.

Mr. MCCAIN. Mr. President, parliamentary inquiry: Is this concerning the amendment on the B–1 that is included in this, or is this in addition to the 5 minutes?

The PRESIDING OFFICER. Senator BYRD has 5 minutes of general debate on the bill. There are 5 minutes evenly divided between the two managers on the managers' amendment. Senator BYRD has 5 minutes in his own right.

Mr. MCCAIN. On the managers' amendment, none of us had ever seen it. It was just presented. I notice that it is now an emergency for an additional amount for State and private forestry, $750,000 to the Kenai Peninsula Borough Spruce Bark Beetle Task Force for emergency response and communications equipment, and $1.75 million to be provided to the municipality of Anchorage for emergency firefighting equipment and response to respond to wildfires in Spruce bark beetle-infested forests. Provided, that such amount shall be provided as direct lump sum payments within 30 days of enactment of this act.

That is an unusual amendment. There are forest fires all over the West, including in my State. But, again, here is a managers' amendment worth many millions of dollars which none of us had seen or heard about, but we will go ahead and pass it by a voice vote.

On the issue of the B–1, I believe very strongly that what we are doing is micromanaging the Department of Defense. The amendment is led on this side. I think the communications could have been and should have been established with the Secretary of Defense. I believe strongly that this amendment, which is going to be accepted, will not allow the transfer of one B–1 bomber from one base to another—not one will be allowed to be transferred from one to another.

The sponsors of the amendment at least removed the preparation and planning clause that was also preventive. I think it is a very dangerous precedent for us to start at the beginning of a new administration and pass an amendment that says not one single airplane that is a B–1 can be transferred from one place to another. Yes, there should have been better communications. Yes, the affected Senators whose bases have B–1 bombers in that State should have been better informed. All of those things.

But for us to act in this Draconian fashion is something I think sets a very bad precedent. We all know the Department of Defense needs to be restructured and reorganized. This message being sent by this amendment—don't tamper with our planes in our State—is not the right message to begin this very important period of restructuring and reorganizing our Nation's national security capabilities.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Arizona for working with us on the amendment he has just discussed. It is a question of notification. We have not blocked—nor would we want to block as a Senate—the ability of this Defense Department to plan. What we do want them to do is plan with us in the process. We think the notification point does that, and the amendment directs this in that order.

Mr. STEVENS. Mr. President, I ask unanimous consent that the managers' amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 876) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that all remaining amendments be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENS. Mr. President, I will file the amendment I referred to for the managers' amendment.

The PRESIDING OFFICER. Is all time yielded back on the bill?

Mr. STEVENS. Mr. President, I am informed that we have just made an error. I ask unanimous consent that in section 210(f) of the managers' amendment the figure "$38.5 million" be "$39.5 million."

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

On page 48, after line 3, insert the following:

"FEDERAL EMERGENCY MANAGEMENT AGENCY
DISASTER RELIEF

"For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,000,000, to remain available until expended for costs related to tropical storm Allison."

On page 14, after line 25, insert the following:"

"SEC. 2106. Of funds which may be reserved by the Secretary for allocation to State agencies under section 16(h)(1) of the Food Stamp Act of 1977 to carry out Employment and Training programs, $39,500,000 made available in prior years are rescinded and returned to the Treasury."

The PRESIDING OFFICER. Is all general debate time yielded back?

Mr. BYRD. I yield back the remainder of my time.

AMENDMENT NO. 874

The PRESIDING OFFICER. All time is yielded back.

The question recurs on the amendment of the Senator from Minnesota. There are 5 minutes of debate evenly divided.

Who yields time?

Mr. WELLSTONE. Mr. President, my amendment takes $150 million and adds it to LIHEAP. This is a lifeline program for low-income families, many of them with disabilities, many elderly, many working poor with children.

Unfortunately, right now, only about 13 percent of households are able to benefit because this program is so severely underfunded. The money comes from administrative expenses in the whole Pentagon budget. It does not come from any programs. It does not come from readiness or quality of life for our armed services. It comes out of administrative inefficiencies, and believe me, from inspector general to the General Accounting Office, there is way more than $150 million when it comes to administrative inefficiency.

A study by the National Energy Assistance Directors' Association says that 28 States and the District of Columbia are out of money or about to run out of money. These are our States that are telling us: We do not have the money for cooling assistance this summer; we do not have the money to help for those in arrears and could be faced with utility shutoff; we do not have the money as we approach this winter.

Last year, energy prices went up 40 percent. The very least we can do is to give this program, which is so important to the most vulnerable citizens in this country, an additional $150 million to help us over the next 3 months. It is not taken out of any significant program.

I am going to vote for this bill, but I certainly think, in the overall Pentagon budget of over $300 billion, we can find the $150 million in administrative inefficiencies.

I thank my colleagues.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. STEVENS. Mr. President, I yield back the time in opposition to the Wellstone amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table amendment No. 874. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 77, nays 22, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—77

Akaka
Allard
Allen
Bayh
Bennett
Biden
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Craig
Crapo
Daschle
DeWine
Dodd
Domenici
Dorgan
Edwards
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Johnson
Kyl
Landrieu
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thompson
Thurmond
Voinovich
Warner

NAYS—22

Baucus
Bingaman
Boxer
Cantwell
Conrad
Corzine
Dayton
Durbin
Feingold
Harkin
Jeffords
Kennedy
Kerry
Kohl
Lincoln
Murray
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

NOT VOTING—1

Thomas

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. We will have order in the Senate.

Mr. REID. Mr. President, under the order previously entered, all the rest of the votes will be 10-minute votes. We were able to stick with our 20 minutes on this one. We will stick with 15 on the others and move this along as quickly as possible.

AMENDMENT NO. 863

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Wisconsin. Who yields time?

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the Feingold-Durbin-Kerry amendment would increase funding for the Global Fund for AIDS, TB, and Malaria by $593 million, and it would offset that increase in funding by rescinding funds from the Navy V-22 Osprey aircraft procurement account.

This is a chance for this body to move beyond rhetoric and take action in a fiscally responsible fashion to address the greatest health crisis of our time, a pandemic that has killed 22 million people and may infect 100 million by the year 2005.

U.S. leadership in the fight against AIDS is desperately needed now. Obviously, there are problems with the Osprey program. Thirty Marines have died in Osprey crashes since 1991. This troubled program is currently suspended, pending the outcome of investigations and further research, testing, and evaluation.

My amendment does not endanger the integrity of the Osprey production line. Let me repeat this. This amendment does not kill the Osprey program and does not affect the ongoing construction of planes that are being built with money from fiscal years 1999 and 2000.

What we have here is a clear choice, to use funds that are currently allocated somewhat irrationally and to redirect them towards fighting AIDS, an unquestionably worthwhile purpose that reflects our values, serves our interests, and may well be the greatest challenge confronting the world today.

I urge my colleagues to support this amendment and oppose the motion to table.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Hawaii.

Mr. INOUYE. Mr. President, this amendment will wipe out the V-22 Osprey program. One of the best-kept secrets in the United States is the role the U.S. Army has played in the battle against AIDS. The U.S. Army, Department of Defense, has spent more money than all the moneys spent by other countries on the battle against AIDS. Our research has come closest to victory. We have, in the next fiscal year, 2002, the full amount requested by the administration.

We have not forgotten the problem. Yes, the United Nations has passed a resolution, but we are still waiting for other countries to come forth with their moneys. Our country will come forth with our money but not at the expense of the V-22 Osprey.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the motion to table amendment No. 863.

The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER (Mr. NELSON of Florida). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—79

Akaka
Allard
Allen
Bayh
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Craig
Crapo
Daschle
Dodd
Domenici
Dorgan
Edwards
Ensign
Enzi
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Johnson
Kennedy
Kyl
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Snowe
Specter
Stevens
Thompson
Thurmond
Voinovich
Warner

NAYS—20

Baucus
Biden
Boxer
Cantwell
Corzine
Dayton
DeWine
Durbin
Feingold
Feinstein
Jeffords
Kerry
Kohl
Leahy
Murray
Smith (OR)
Stabenow
Torricelli
Wellstone
Wyden

NOT VOTING—1

Thomas

The motion was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 869

The PRESIDING OFFICER. The question recurs on the McCain amendment. There are 5 minutes of debate evenly divided.

Who yields time?

The Senator from Arizona.

Mr. McCAIN. Mr. President, this amendment is not objected to by the Department of Defense or the Office of Management and Budget. The amendment adds a bare minimum to fund defense readiness and personnel programs. It is $850 million. There are offsets. Whenever there are offsets, there are some objections.

Nothing is more important, I believe at this time, than national defense. And this money is earmarked for the men and women in the military and their operations and maintenance accounts.

Very soon the administration will come over with a reprogramming request for $850 million, meaning that the wheels are going to come off unless they devote more money to exactly these accounts.

I hope we can vote to take care of the lifestyle, the readiness, and the operations of the men and women in the military.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Alaska.

Mr. STEVENS. Mr. President, this amendment would mean that we would exceed the budget allocation for defense. There are 82 days left in this fiscal year. The Department of Defense has already sent us, with the President's approval, a request for $18.4 billion for 2002. That money will be readily available. This amendment is redundant in that respect.

I have always supported defense in my day. I cannot remember ever disagreeing on a defense amendment, but on this occasion it violates the commitment we made to stay within the amount of the President's budget. It takes funds from nondefense accounts and puts them in defense accounts violating the wall concept that we have followed now for 4 years. For 4 years, we have agreed to the amount to be spent for defense and the amount to be spent for nondefense.

This amendment takes money exclusively from nondefense and puts it in defense. If the tables were turned, I would obviously be violently opposed to taking money from defense and putting it into nondefense. I feel obligated to defend the process which has saved the defense accounts over the past 4 years, and I urge that the McCain amendment be tabled.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. STEVENS. I yield back my time.

The PRESIDING OFFICER. The motion to table was previously made.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table amendment No. 869.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 16, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—83

Akaka
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Grassley
Gregg
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Leahy
Levin
Lincoln
Lott
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thurmond
Torricelli
Voinovich
Wellstone

NAYS—16

Allard
Carnahan
Ensign
Gramm
Hagel
Inhofe
Kyl
Landrieu
Lieberman
Lugar
McCain
Nickles
Smith (NH)
Thompson
Warner
Wyden

NOT VOTING—1

Thomas

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 862

The PRESIDING OFFICER. There are now 5 minutes of debate evenly divided with respect to the Schumer amendment.

Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in opposition to the Schumer amendment. Earlier today, we had a 3–94 vote on the Hollings amendment. You will remember the vote of 3–94 earlier today when the Senate rejected the Hollings amendment on repealing the tax decrease of a month ago. I think that was a vote of this body saying send the checks. The conference report on that same bill directed the IRS, for very good reasons, to issue these notices that the Schumer amendment wants to repeal. We have had the Treasury Employees Union saying send out a notice to inform the taxpayers so that the Treasury employees would be able to do their job well, without always being on the phone informing the taxpayers of what their tax refund might consist.

So if this amendment would pass, it would keep the taxpayers in the dark. It would help the scam artists preying on the poor and elderly, as we have been told before. It would play havoc with the important work of the IRS. So I strongly urge my colleagues to vote no on this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, this amendment is simple. It has nothing to do with the tax cuts and getting back your checks. It has to do with perhaps the most foolish exercise that is part of this bill: $33 million so we can send people a notice that they are going to get a check. Well, if we were awash in money, maybe we should do that. But we are scrounging. I have such great respect for our leaders from West Virginia and from Alaska who are looking for $5 million here and $10 million there. And here we are going to spend $33 million to notify people that they might get a check. Why not put the notice in the same envelope as the check and save the money?

We all want to practice some form of fiscal conservatism—some of us so we might have a little money to spend on other programs, and some so there might be more tax cuts. But no one from one end of this country to the other can justify spending $33 million to send a notice out ahead of time saying: Your check is in the mail. It doesn't stop fraud; it doesn't serve a purpose. At a time when we are desperate for finding dollars, to waste money on this is a disgrace.

I urge all of my colleagues, regardless of party, to give our appropriations leaders some help and a little more money so they might be able to do their jobs better. If you had to make a list of 10,000 things we would want to spend the money on, this would not be it. I urge my colleagues to make this bill just a little bit better by cutting out this $33 million waste of money and use it for something better.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GRASSLEY. How much time remains?

The PRESIDING OFFICER. There is 1 minute 13 seconds.

Mr. GRASSLEY. Mr. President, let me take advantage of that time. I will take advantage of the opportunity to say, first of all, that all of these notices are already printed and ready to go. Do you want to throw that money away?

No. 2, it is only part of the story that there is a message going out to tell people they are going to get a check and to expect it. There is also a notice going out to 32 million people that they are not going to get a check, and that is a very important notice to go out, so that the IRS is not bothered by phone calls wondering whether or not they are going to get a check. I think it is very important that we do this right.

I ask for the defeat of the Schumer amendment and I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the Schumer amendment No. 862.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER (Mr. DORGAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—49

Akaka
Allen
Biden
Bingaman
Boxer
Cantwell
Carnahan
Carper
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Ensign
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NAYS—50

Allard
Baucus
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Chafee
Cochran
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Miller
Murkowski
Nickles
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—1

Thomas

The amendment (No. 862) was rejected.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. That is all the amendments; is that correct?

The PRESIDING OFFICER. The Senator is correct.

FORT GREELY

Mr. NELSON of Florida. I would like to ask the Senator from Alaska to confirm my understanding of the intent of the provision regarding Fort Greely, AK, in section 1205 of this supplemental. I understand this provision will allow the Secretary of the Army to modify a previously made determination that the property in question was excess to the needs of the Army and surplus to the needs of the Federal Government. Modifying this decision will allow the Secretary of the Army to retain this property until such time as a determination is made as to whether this property is needed for any defense purpose.

Is that the intent of this provision?

Mr. STEVENS. The Senator from Florida is correct. Clarifying the ability of the Army to retain this property will allow the Secretary of the Army to heat and otherwise maintain the buildings through the Alaska winter so that they are not irreparably damaged. This will allow the buildings to be preserved until a future decision is made.

Mr. NELSON of Florida. I thank the Senator from Alaska for this clarification. I was concerned that this provision was an attempt to predetermine a missile defense deployment decision.

Mr. LEVIN. I, too, thank the Senator from Florida for this clarification.

WORKFORCE INVESTMENT ACT DISLOCATED WORKER FUNDING

Mr. WELLSTONE. Mr. President, I want to enter into a colloquy with my good friend from Iowa, the chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, and my friend from Pennsylvania, the ranking member of that subcommittee. I wonder if they will respond to a few questions regarding job training programs under the legislative jurisdiction of a subcommittee that I chair, the Subcommittee on Employment, Safety and Training.

Mr. HARKIN. I will be delighted.

Mr. WELLSTONE. I know my friend agrees with me that the supplemental appropriations bill before us presents a difficult situation affecting programs funded by his Subcommittee. We both are very strong supporters of the $300 million in low-income energy assistance funding and the $161 million in title I education spending in the bill. That spending is urgently needed. The problem is that we must try to pay for that supplemental spending from a pot of money that is simply too small. The bill as reported by the Appropriations Committee thus would offset a portion of that important new spending by making a rescission from unspent funds in a job training program for dislocated workers. I know my friend is also a supporter of that important program, and I appreciate that the full Committee reiterated its support for the program in the committee report.

Mr. HARKIN. Yes, my good friend is correct. We are now having to make some very, very difficult choices—really impossible choices—because the pot of resources we are working with is too small. And you have correctly stated both what the committee has done as well as the committee's strong support for the job training program for dislocated workers under the Workforce Investment Act. Our intent is to carefully monitor the need for dislocated worker assistance to ensure that this commitment is met and to take that need into account as we take up funding for fiscal year 2002.

Mr. WELLSTONE. I thank the Senator. As I understand it, one of the factors that the committee observed was a variation among the States in the rate at which each State was drawing down their dislocated worker funding allocations. My State of Minnesota, for example, has obligated virtually all of its dislocated worker funding for this program year and will have expended nearly 85 percent of its funding. Other States—for a number of understandable reasons—are predicted to have significant unexpended balances by the end of the fiscal year. To avoid undue hardships for States, such as Minnesota, that have been expending funds at the expected pace, my understanding is that the bill contains a "hold harmless" provision. That is, it provides a mechanism for excess unspent funds to be re-alloted to States that have reached their limits up to the levels these States would have received but for the rescission. Is this correct?

Mr. HARKIN. Yes. That is correct. In addition, subsequent to our full committee action, we received Congressional Budget Office scoring that has allowed inclusion of language postponing the rescission until the Secretary of Labor reallots the excess unexpended balances to the States. Our goal with respect to the Dislocated Worker Program has always been to try to ensure that no state finds itself without the resources to meet its obligations. We believe that is accomplished through the "hold harmless" provisions.

Mr. WELLSTONE. I thank my good friend from Pennsylvania. Now I want to clarify how it is we find ourselves in this situation of having to make such difficult choices. Am I correct that at least part of the reason we are faced with a pot of resources that is so small is because of decisions made during the budgeting process to cap supplemental discretionary spending at $6.5 billion, to avoid triggering a governmentwide sequester during fiscal year 2001?

Mr. HARKIN. Yes. My friend is absolutely correct.

Mr. WELLSTONE. And, of course, it is also true that a huge portion of the supplemental appropriations is going to support defense spending; am I not correct? So, another part of the reason that we are faced with these difficult choices on where to find the resources to support urgently needed programs that provide a safety net for American families is because of the priority being given to defense spending; is that correct?

Mr. HARKIN. Yes.

Mr. WELLSTONE. Is it fair to say this is just the tip of the iceberg? That the truly perverse choices we are being asked to make today between educating our children, heating our homes, and training dislocated workers are ominous harbingers of things to come as the full impact of the $1.3 trillion tax cut is felt? Is that fair to say?

Mr. HARKIN. Again, my good friend is absolutely correct. Many of us predicted during the debate on the tax cut that we would be facing precisely these impossible choices. It is upon us and it will only get worse.

Mr. WELLSTONE. I thank my good friend. This is not a happy day, and I agree with the Senator's predictions that it will only get worse. I think we need to look for some solutions to this larger problem. It seems to me inevitable that we must re-visit the unfortunate fiscal and budgetary priorities that have been set.

CRISIS IN ARMY AVIATION

Mr. BIDEN. Mr. President, I had planned to offer an amendment to this supplemental appropriations that would have alleviated the emergency shortages of utility helicopters in the Army National Guard. Senators LEAHY, BOND, CARNAHAN, DODD, LIEBERMAN, and CARPER were cosponsors of the amendment and some have short statements that they will enter.

Our amendment would have procured 20 new Blackhawks for those Guard units in States with the most serious shortages of modern lift helicopters. It is my understanding that there are between seven and nine States that are at a critical level, having no modern aviation assets.

Delaware is one of those States. The people of my State expect the Army Guard to be there when emergencies hit. Unfortunately, the Army Guard may not be there because they do not have lift helicopters that are flyable. Let me repeat that and be more specific. Since January, the Delaware National Guard has had no more than two UH–1 Huey helicopters that were flyable—two out of a fleet of twenty-three, and they have had two only rarely. The norm has been one. One vintage Vietnam-era helicopter out of a fleet of twenty-three is all they have had to fly for 6 months—6 months. This is absolutely insupportable. Pilots cannot fly and stay proficient and the people who depend on the Guard can no longer be sure of their assistance in emergencies.

A week ago, the Secretary of Defense released his amended budget for 2002. Unfortunately, there was only enough funding for 12 new Blackhawk helicopters for the Army. This is incredible. It is completely insufficient to deal with this problem. Over the next 5 years, the Army is retiring over 700 Vietnam-era helicopters that are no longer safe to fly, but nothing is replacing them. Instead of the 330 Blackhawks that are needed—130 for the active duty and 200 for the National Guard—less than 70, or about twenty percent of the requirement, are funded.

I have a copy of a letter sent to all of the leaders of the congressional defense committees and the appropriations committees that details this critical problem. It describes the concern these generals have that their ability to do their national security missions today is severely impaired and that the situation will only get worse and qualified pilots and technicians leave the Guard because they are not able to do their missions or even train for them. The letter was signed by the 50 Adjutant Generals of the United States.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GUARD ASSOCIATION
OF THE UNITED STATES,
Washington, DC, February 27, 2001.

Hon. DANIEL K. INOUYE,
Ranking Member, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: The FY2001 Army Aviation Modernization Plan requires the Army National Guard to significantly reduce its aviation force structure by retiring over 700 grounded Vietnam vintage utility aircraft by FY2004. These aircraft have been replaced by requirements for 330 UH-60L utility and HH-60L MEDEVAC helicopters. However, less than 20% of these helicopters are funded from FY2002 through FY2007. Virtually every state is currently short of its required H-60 helicopters, and many states' capability to perform their national security mission including protecting our nation against the threat of weapons of mass destruction is severely impaired by the lack of flyable aircraft.

The H-60 helicopter is the number 1 unfunded equipment requirement in the Army National Guard. As the Defense Committees discuss the FY2001 supplemenal and the FY2002 defense budget, we request your support in two areas. First, to add the procurement of 20 additional UH-60L Black Hawk utility helicopters ($204 million) and 6 HH-60L (formerly UH-60Q) MEDEVAC helicopters ($95.4 million) for the Army National Guard to the budget. This will help alleviate an immediate shortfall within the Army National Guard. Second, to fix this problem in the long term we need your support for a multi-year procurement of H-60s at a rate of 60 aircraft per year for the next five years.

This problem has reached a critical phase. Without the procurement of additional H-60 aircraft for our aviation force to train and utilize, we will soon face a significant loss of valuable pilots and technicians. Your support in funding will assist in our efforts to continue to modernize the aging National Guard fleet and provide our nation with the best equipped and most relevant National Guard force.

Sincerely,

Major General Ronald O. Harrison, The Adjutant General of Florida and President, National Guard Association of the United States; Major General Stephen P. Cortright, The Adjutant General of Oklahoma and President, The Adjutants General Association; Brigadier General Randall Horn, The Adjutant General of New Mexico; Brigadier General Giles E. Vanderhoof, The Adjutant General of Nevada; Brigadier General Martha T. Rainville, The Adjutant General of Vermont; Major General Warren L. Freeman, Commanding General Washington, DC; Major General Paul D. Monroe, Jr., The Adjutant General of California; Major General Mason C. Whitney, The Adjutant General of Colorado; Major General David P. Poythress, The Adjutant General of Georgia; Major General Benny M. Paulino, The Adjutant General of Guam; Major General Edward L. Correa, Jr., The Adjutant General of Hawaii; Major General Ron Dardis, The Adjutant General of Iowa; Major General Eugene R. Andreotti, The Adjutant General of Minnesota; Major General John D. Havens, The Adjutant General of Missouri; Major General John E. Prendergast, The Adjutant General of Montana; Major General Gerald A. Rudisill, Jr., The Adjutant General of North Carolina; Brigadier General Michael J. Haugen, The Adjutant General of North Dakota; Major General William A. Cugno, The Adjutant General of Connecticut; Major General John H.V. Fenimore, The Adjutant General of New York; Major General Philip G. Killey, The Adjutant General of South Dakota; Major General Jackie D. Wood, The Adjutant General of Tennessee; Major General Daniel James III, The Adjutant General of Texas; Brigadier General Brian L. Tarbet, The Adjutant General of Utah; Major General Claude A. Williams, The Adjutant General of Virginia; COL (P) Cleave A. McBean, The Adjutant General of the Virgin Islands; Brigadier General Roger P. Lempke, The Adjutant General of Nebraska; Major General Paul J. Glazar, The Adjutant General of New Jersey; Major General Timothy J. Lowenberg, The Adjutant General of Washington; Major General Walter Pudlowski, Commander, 28th ID Pennsylvania National Guard; Major General Alexander H. Burgin, The Adjutant General of Oregon; Major General Francis D. Vavala, The Adjutant General of Delaware; Major General Edmond Boenisch, The Adjutant General of Wyoming; Major General Allen E. Tackett, The Adjutant General of West Virginia; Major General James G. Blaney, The Adjutant General of Wisconsin; Major General John F. Kane, The Adjutant General of Idaho; Major General Don C. Morrow, The Adjutant General of Arkansas; Major General Willie A. Alexander, The Adjutant General of Alabama; Major General E. Gordon Stump, The Adjutant General of Michigan; Major General James F. Fretterd, The Adjutant General of Maryland; Major General John R. Groves, Jr., The Adjutant General of Kentucky; Major General Robert J. Mitchell, The Adjutant General of Indiana; Major General John H. Smith, The Adjutant General of Ohio; Major General David P. Rataczak, The Adjutant General of Arizona; Major General Phillip E. Oates, The Adjutant General of Alaska; Major General James H. Lipscomb III, The Adjutant General of Mississippi; Major General Joseph E. Tinkham II, The Adjutant General of Maine; Major General Bennett C. Landreneau, The Adjutant General of Louisiana; Brigadier General Gary A. Pappas, Deputy Commander, Massachusetts National Guard; Major General Gregory B. Gardner, The Adjutant General of Kansas; COL (P) Francisco A. Marquez, The Adjutant General of Puerto Rico.

Mr. BIDEN. I have repeatedly asked the Army how it plans to address the immediate needs of States like Delaware and the larger issue of a clear crisis in Army aviation. A crisis that impacts the readiness of our Army today and in the future. It was my hope that we would have a plan early this year. Nine months later, I am still waiting for a comprehensive plan from the Army and I see no evidence that the new budget addresses this problem.

I ask the distinguished Chairman of the Defense Appropriations Subcommittee, who I know has long supported adequate funding for our National Guard units, to seriously consider the problem this amendment was intended to address. Twenty new Blackhawks this year is only the tip of the iceberg, but I believe we have a genuine crisis on our hands. It was an emergency nine months ago and it has only gotten worse today. Certainly, that is true in the state of Delaware and I have heard nothing from the Army to make me think that the same is not true in aviation units throughout the nation.

If, as I understand to be the case, the distinguished managers of this bill believe that this funding cannot be designated as emergency funding, then I hope that they will pledge to adequately address this issue within the fiscal year 2002 defense budget. I cannot go home to Delaware and tell them that we are aware of this crisis, have been for almost a year, and yet did nothing and have no plans to do anything. This problem must be addressed this year.

Mr. INOUYE. The Appropriations Subcommittee on Defense has consistently been a strong supporter of, and advocate for, the National Guard. We have historically provided significant additional funding for the National Guard where critical shortfalls were identified.

As my distinguished colleague from Delaware is aware, we have only recently received the budget request for the Department of Defense and there are ongoing discussions as to what the top line will ultimately be for fiscal year 2002. However, we have appropriated additional funding for National Guard Blackhawks for several years;

for example, in fiscal year 2001, the Defense Appropriations Committee added funding for the purchase of 6 additional Blackhawks for the Guard and for 11 aircraft in fiscal year 2000. I agree with you that the National Guard must be provided sufficient funding to carry out their important responsibilities and aviation missions and we will do all that we can to address your concerns in the fiscal year 2002 Appropriations bill.

Mr. BIDEN. I thank my colleague, and with his assurances, I will not offer this amendment. I do so only because of his assurances that we will deal with this aviation crisis in the fiscal year 2002 defense bill and because I believe this supplemental is so vital to our military that I do not wish to endanger its speedy passage.

I yield the floor.

Mr. BOND. Mr. President, I enthusiastically support Senator BIDEN's colloquy. As a cochair of the Senate Guard Caucus, I find it alarming that of the 1,885 Army National Guard helicopters nationwide, over a 1,000 were recently reported as grounded because of a lack of spare parts. As recently as May it was reported that only 40 percent of the fleet of Army National Guard helicopters were flying.

Our skyrocketing maintenance costs require ever increasing resources just to maintain our aging fleet. Consequently our modernization accounts remain insufficient to replace aging aircraft, creating a viscious cycle. Senator BIDEN's effort today draws needed attention to the alarming trends that we have seen in Army aviation within the past few years.

I yield the floor.

Mr. LEAHY. Mr. President, I rise today to lend my support to the spirit and intentions of the Biden amendment. The National Guard suffers from a serious shortage of helicopters, and it is critical that the Senate do more to address this threat to the readiness of the citizen-soldier force.

The National Guard needs at least an additional 200 helicopters. This is not a number pulled out of thin air. It is the minimum number of aircraft needed to carry out the Army Aviation Modernization Plan, which was developed by the office of the Chief of Staff of the Army. It is the road map for the entire Army's helicopter inventory for the next 50 years. The plan will streamline the Army's aviation regiments. It reduces the overall number of helicopters in the Army's inventory, including the National Guard, while increasing capabilities through technological advances. Specifically, the service will retire 700 Vietnam-era UH–1 Hueys, in exchange for 330 advanced UH–60L Blackhawks.

In streamlining and modernizing this force, the plan reaffirms the critical role of our citizen-soldiers in our Nation's defense. It recognizes that the National Guard is doing more than ever to defend the Nation, whether at home or abroad. Indeed, every Member of the U.S. Senate will can tell you what a difference advanced helicopters have made in a flood or medical emergency, while every field commander will similarly point out the critically important role of National Guard aviation assets in a combat environment.

But the plan also has a much more practical bent. It seeks to avoid a looming crisis in National Guard aviation. The Guard's current inventory of UH–1 Blackhawk and AH–1 Cobra helicopters is old, expensive, and increasingly unsafe to operate. Units that possess upwards of 15 aging Huey and Cobra helicopters, may have only 2 to 6 aircraft actually flying. By legislative mandate, the National Guard must remove all of these obsolete aircraft from the flight-line by 2004. Even when these units take full advantage of additional Kiowa helicopters, they will be hard-pressed to maintain qualified pilots and an acceptable state of readiness when newer aircraft do not arrive to replace them.

Given the Army's sensible plans and the looming dangers to National Guard aviation readiness, I have been surprised and disappointed by the Army's reluctance to buy more UH–1's. For the past several fiscal years, the Army has requested only 10 helicopters a year. In this fiscal year, the service has asked for a 12. It will take well over 20 years to complete the plan at that pace.

I am especially disappointed by this meager request because the National Guard Caucus, including members with helicopter units in their States, have expressed its concern to the Army several occasions. At every one of these briefings, meetings, and extended discussions Army leaders have admitted that a serious problem exists. Yet, when the budget request moved forward, we get this paltry number.

I recognize that fiscal realities limit what Congress can do to rectify this situation on the supplemental. Nonetheless, I urge the Senate to examine this situation closely when it reviews the fiscal year 2002 defense budget. I look forward to working with the Defense Appropriations Subcommittee, fellow Guard caucus cochair Senator BOND, and longtime caucus member Senator BIDEN on this issue. I thank Senator BIDEN in particular for offering this amendment and bring further attention to this problem.

Mr. FEINGOLD. Mr. President, I offered an amendment to the supplemental appropriations bill to increase funding for the Global Fund for AIDS, TB and malaria. My amendment was an attempt to get this Senate to put its money where its mouth is, and in a fiscally responsible fashion to make a significant contribution to the multilateral effort to fight the AIDS pandemic—a contribution that could leverage more funds from other donors. In the wake of the recent U.N. special session on AIDS, it seemed especially appropriate to take concrete action rather than rely on mere rhetoric.

The amendment failed, but I do not want that vote to leave anyone with the impression that there is no will in this Senate to address the global AIDS pandemic. Some were uncomfortable with the offset, which involved rescinding funds from the troubled V–22 Osprey procurement program for the remainder of the 2001 fiscal year. I believed that the offset was reasonable. Some were uncomfortable with the emergency designation in the amendment. The emergency designation was necessary, because the bill was already up against the cap on non-defense spending. It was also accurate. The AIDS pandemic is, unquestionably, an emergency.

While these issues may have led my amendment to defeat today, I do believe that this Senate will take meaningful action to address this crisis. The very fact that the supplemental contains $100 million for the Global Fund is a testament to the efforts of the appropriators and the leadership. Indeed, I suspect that many Senators, including many colleagues who opposed my amendment, are left uneasy by the AIDS-related consequences of the vote on my amendment, and I believe that unease will only strengthen our collective resolve to work together, in a bipartisan and inclusive fashion, to make certain that the U.S. takes meaningful action to strengthen prevention efforts, improve AIDS awareness and education, increase global access to treatment, support vaccine research, improve health infrastructure, provide services to orphans, and support the Global Fund at an appropriate level—one far exceeding $200 million.

Mr. MCCONNELL. Mr. President, I rise today in support of language which was included in the manager's amendment to S. 1007. I am pleased that Senators BYRD and STEVENS have agree to accept my language which will extend compensation to Department of Energy employees and DoE contractor employees who suffered kidney cancer due to exposure to radiation while working at a DoE defense nuclear facility or nuclear weapons testing site.

Last year, Congress passed the Energy Employees Occupational Illness Compensation Program Act as part of the FY 2001 Department of Defense Authorization bill. This measure provides $150,000 lump sum payments as well as payments for medical coverage to Department of Energy Workers who were made ill as a result of exposure to radiation. Unfortunately, when the final version of the bill was drafted the list of covered diseases mistakenly did not include kidney cancer. This was unintentional, and the amendment I have offered will correct this oversight.

The EEOICPA is well on its way toward implementation. Just last week, the Department of Labor opened a resource center in Paducah, KY which will assist workers and their families who were made sick from exposure to radiation while working at the Paducah Gaseous Diffusion Plant. As many have pointed out, the employees who worked at these facilities producing the technology which helped America win the Cold War deserve a grateful Nation's support and appreciation. This must include compensation for those workers and their families who may have contracted cancer as a result of their employment.

Again, I thank the managers for their agreement on this important issues of fairness.

Mr. DOMENICI. Mr. President, I rise today in support of the supplemental appropriations bill's inclusion of $84 million for the bankrupt Radiation Exposure Compensation Trust Fund.

From the 1940s through 1971, uranium miners, Federal employees who participated in above-ground nuclear tests, and downwinders from the Nevada test site were exposed to dangerous levels of radiation. As a result of this exposure, these individuals contracted debilitating and too often deadly radiation-related cancers and other diseases.

These folks helped build our nuclear arsenal—the nuclear arsenal that is responsible, at least in part, for ending the cold war. In 1990, Congress recognized their contribution by passing the Radiation Exposure Compensation Act to ensure that these individuals and their families were indemnified for their sacrifice and suffering.

However, the RECA Trust Fund ran out of money in May, 2000. Consequently, for over a year most eligible claimants have been receiving nothing more than a five-line IOU from the Justice Department explaining that no payments will be made until Congress provides the necessary funds. Some of these claimants are dying while awaiting their payments.

Frankly, this is unconscionable. Those who helped protect our Nation's security through their work on our nuclear programs must be compensated for the enormous price they paid. Anything less is unacceptable.

The $84 million in supplemental appropriations would help rectify this grave injustice by paying all of last year's approved claims as well as the estimated claims for fiscal year 2001.

Passage of this appropriations bill does not end Congress' work. We must also pass the Domenici-authored S. 448 or the Hatch-Domenici bill, S. 898. Both of these bills would make all future payments to approved RECA claimants mandatory and, thus, not subject to the annual appropriations process.

It is imperative that America not forget those who have tragically suffered from their work on our Nation's behalf. This supplemental bill is a good step in the right direction.

Mr. CAMPBELL. Mr. President, today I take this opportunity to express my support of the fiscal year 2001 supplemental appropriations bill. This bill contains funding, not only for the defense and security of our country, but also funding for the health and well being of American citizens.

This bill contains funding I supported in committee for two issues that are vital to many in my home State of Colorado. I am referring first to the funding for the Radiation Exposure Compensation Act, RECA. Far too many people, especially in the West, now suffer from terminal illnesses that are the result of their work as miners who collected and transported uranium ore that was used in the production of weapons for our Nation's defense. For many, the risk of working with radioactive materials was unknown, hidden or minimized. The $84 million included in this bill will pay the IOU's our Nation made to these terminally ill workers in lieu of money. We, as a Nation, have a history of issuing IOU's a shameful practice of which I am sure I don't need to remind my colleagues. As a Nation we can and must do more than issue IOU's. Hundreds of these beneficiaries live in Colorado and they are in desperate need of that money that was promised to them last year. Dying has a way of making people desperate, especially when the money promised them in useless IOU's could be used for their care. There are many times we in this body act because we can. In this matter, we have the opportunity to act because we ought to.

I thank my friends and colleagues, Senators DOMENICI and BINGAMAN, for their assistance and support with this, as many of their constituents are claimants as well.

I would also like to express my strong support for additional funding for USDA's Animal Plant Health Inspection Service (APHIS). The $35 million included in this bill will allow APHIS to strengthen border inspections and improve monitoring of emerging animal and plant diseases, including Mad Cow disease, Foot-and-Mouth disease, and other livestock diseases. There has never been a case of Mad Cow disease in the United States, and there has not been an outbreak of Foot-and-Mouth Disease since 1929. But, considering the potentially disastrous effects if either disease spreads to our country, we must do everything we can to protect the American food supply. As a rancher myself, and having heard from fellow cattlemen, I share their growing concern about the potential devastating impact of these diseases. Colorado is home to 12,000 beef producers and 3.15 million head of cattle—more than the human population of 20 of our States. We must do all we can to protect them. I would like to thank my friend and colleague Senator KOHL for his support and assistance in this effort.

Finally, I would like to express my gratitude to Chairman BYRD and Senator STEVENS for their leadership and support of this bill and particularly for their support of funding for RECA and APHIS.

Mr. President, I urge my colleagues to join me in support of this important funding bill.

Mrs. FEINSTEIN. Mr. President, I want to first express my appreciation to the chairman of the Appropriations Committee for his work on the fiscal year 2001 supplemental appropriations bill. It is only through his persistence and determination that we are able to bring this bill to floor within the spending limits proposed by the President.

I want to specifically thank Chairman BYRD for his work on an issue of great importance to California. This bill includes $20 million in disaster assistance to crop growers in the Klamath Basin of northern California and southern Oregon who are faced with a total loss of income resulting from a lack of water. I am very grateful that Chairman BYRD saw the true emergency in this situation.

This year, the Klamath Basin is facing one of the worst, if not the worst drought in the Klamath River Project's 90-year history. Federal disaster declarations have been issued by the USDA for Modoc and Siskiyou Counties in California and Klamath County, OR. Economic losses to the farming communities have been estimated at up to $220 million.

Over 200,000 acres of farmland are irrigated in the Klamath River Basin. There are roughly 1500 farming families in the Klamath Irrigation Project.

The Endangered Species Act requires the Bureau of Reclamation to review its programs with consultation from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, with the obligation to protect endangered species. In Klamath this includes two species of suckerfish, the coho salmon, and the bald eagle. In addition to the Endangered Species Act, the Bureau of Reclamation must protect tribal fishing and water rights.

What little rainfall that has occurred this year must be first applied to minimize endangered fish species losses and then to mandatory Tribal Treaty obligations. This leaves literally no water for about 85 percent of the Klamath Project-dependent farmers. And this problem is not going to go away. Based on Bureau of Reclamation estimates, there will not be enough water for all users in 7 out of the next 10 years in the Klamath Basin.

Lack of water in the Klamath Basin is a problem that requires a long term solution. I am committed to working with the administration and my colleagues here in the Senate to develop that solution.

Unfortunately, a long-term solution will not help the farmers today. That is why this assistance is so critical and so necessary. I am grateful that Chairman BYRD recognizes this need. I want to again thank the chairman for making this assistance possible.

Mr. NELSON of Florida. Mr. President, I rise today to clarify a provision of the fiscal year 2002 supplemental appropriations bill regarding human space flight funding within the National Aeronautics and Space Administration NASA. In its report, the Appropriations Committee included language removing a restriction placed on $40 million in fiscal year 2000 Human Space Flight funding. The restriction required these funds to be used for a dedicated shuttle research mission. With various delays in the shuttle manifest, the STS 107 mission has been rescheduled for May 2002. Removing the restriction will allow NASA to use the $40 million to cover costs associated with the delay of STS 107 mission and for research to be conducted abroad the International Space Station.

The followon shuttle dedicated research mission, also known as "R 2," is now not expected to fly until at least 2004. This mission was intended as a "gap-filler" to support the scientific community during construction of the International Space Station. At the same time, the agency is proposing to decrease funding for Space Station research in order to pay for cost overuns associated with building the vehicle itself. The life and microgravity science community is already under funded. Continuing to delay the "R 2" mission will only exacerbate the research community's already strained situation.

While I do not oppose this reprogramming request, I agree with my colleagues on the Appropriations Committee about the need to balance such requests with maintaining life and microgravity research conducted aboard the shuttle and space station. While NASA certainly needs to meet its obligations, I am concerned that the redirection of these funds will ultimately preclude NASA from pursuing the dedicated research flight entirely. The Senate language associated with the supplemental appropriations bill directs NASA to consult with Congress on the research planned for the R 2 mission in the context of the future funding required to support space station research. I expect NASA to continue to work on the R 2 mission, or a suitable equivalent, and look forward to working with NASA and my colleagues on the Appropriations Committee in receiving and reviewing these research plans.

ISRAELI PURCHASES OF U.S. GRAIN

Mr. CRAIG. Mr. President, I have offered an amendment to the fiscal year 2001 supplemental appropriations bill regarding the purchase of U.S. grain by Israel. This issue is of concern because Israel has stated its intention to cut its U.S. grain purchases by more than 22 percent in the current year.

Historically, in every year since the Camp David Accords of 1978, Israel has agreed to purchase 1.6 million metric tons of grain grown by American farmers and to ship at least half that amount in United States-flag commercial vessels. These are purchases important to American agriculture and to the U.S. citizen merchant mariners critical to our national security. Every year, these purchases have been consistent, until now.

Starting in 1979, and in every year since then, Israel has entered into a side letter agreement with the United States for the purchase of grain, recognizing that the cash transfer economic assistance Israel has received replaced, in part, a previous commodity import assistance program for Israel.

Despite a level of U.S. aid in every year since 1984 that has been higher than the 1979–1983 level, Israel never increased grain imports. Had proportionality been the test, Israel's purchases should have reached 2.45 million tons at least at one point. The commitment to purchase never grew as Israel's economic support fund assistance grew. America, in generous friendship, didn't push for those purchases to grow. And, as economic assistance to Israel has recently decreased, Israel's commitment to purchase didn't change until now.

The Government of Israel has announced its intention to reduce grain purchases by more than 22 percent this year, from 1.6 million tons to 1.24 million tons. This is not proportional, but disproportional. U.S. economic assistance to Israel has declined only 12.5 percent this year. If Israel's purchases of U.S. grain were not tied to increasing levels of U.S. economic aid, then those purchases should not be tied to a recent downward fluctuation in economic aid. Such an overreaction ignores history, is disappointing in view of our long-term friendship and overall relationship, and ignores the express intent of this Congress in providing aid in the past. Several times in recent years, Congress has enacted laws providing that, in administering assistance, the President would guard against an adverse impact on such exports from the United States to Israel.

The amendment I offered this week simply would have reiterated for fiscal year 2001 the past Congressional commitment that this year's side letter agreement should be in accordance with terms as favorable as last year's agreement. I was prepared to pursue that amendment further. I remain concerned and disappointed over this year's side letter. However, with most of fiscal year 2001 past, with the need for this supplemental bill to move quickly for the benefit of our national defense and our men and women in uniform, and based upon discussions with the Chairman and Ranking Member of the Foreign Operations Subcommittee, I would be willing to withhold at this time. I would like to yield to those two colleagues for a discussion on this matter.

Mr. LEAHY. The Senator is correct in stating that Congress, and our subcommittee, has had a longstanding interest in this area and has consistently monitored this issue. We are prepared to turn very shortly to consideration of the fiscal year 2002 foreign operations appropriation bill. I believe that would be the best vehicle for consideration of this issue, in the regular order, when we can consider all the policy ramifications for the entire, upcoming year. I can assure the Senator of our continued attention to this matter, and of thoughtful, thorough consideration.

Mr. McCONNELL. I appreciate the Senator of Idaho's concerns, and give him my assurances that we will work together on this issue. Coming from a farming State myself, I fully understand his interests in the purchase of American grain by Israel. Senator LEAHY and I anticipate that within the next few weeks the Subcommittee will mark up the fiscal year 2002 foreign operations bill, and we look forward to working with the Senator toward an acceptable resolution of this matter.

Mr. CRAIG. I appreciate my colleagues' comments and their willingness to address this issue again. I withdraw my amendment and thank them for their consideration.

Mr. HATCH. Mr. President, I want to take this opportunity to comment specifically on Chapter 1 of the supplemental appropriations legislation, S. 1077, and the provision of funding for the Radiation Exposure Compensation Act, or RECA as it is more commonly known.

Since the enactment of RECA in 1990 and the subsequent amendments in 2000, thousands of Americans have received compensation based on their unknowing exposure to harmful radiation caused by the government's nuclear production and testing activities.

As many of my colleagues will recall, last year, Congress passed the Radiation Exposure Compensation Amendments of 2000, S. 1515. This law made important changes to the original 1990 Act by updating the list of compensable illnesses—primarily cancers—based on scientific and medical information gathered over the past decade.

However, even before the enactment of RECA 2000, the Trust Fund became financially depleted. Starting in the Spring of last year, approved claimants began receiving "IOUs" from the Department of Justice rather than their checks.

Many of us are totally dismayed that the RECA Trust Fund is depleted. It is totally unfair for the government to issue IOUs rather than checks to the hundreds and potentially thousands of individuals who are expected to be approved for compensation.

I know that my colleagues on the Appropriations Committee agree, and that is why they have included $84 million for RECA claims in this bill. It is my understanding that these funds are the amount necessary to cover all approved claims pending at the Justice Department through the end of this fiscal year. And that is good news.

The bad news is that we still face a shortfall in funding over the course of the next 10 years. That is why I introduced legislation, S. 898, along with my distinguished colleagues Senator DOMENICI and Senator DASCHLE to provide permanent funding for the RECA trust fund. Such action would provide certainty to the thousands of claimants for whom the program was enacted 10 years ago.

As I am sure my colleagues recognize, for the Federal Government to promise compassionate compensation to the RECA downwinders and workers and then not honor that commitment is simply unacceptable. It is inexcusable for the government to pledge this compensation and then issue nothing more than a simple IOU. This strikes at the very heart of our citizens' ability to have confidence in their government.

I have met with many of the RECA claimants in my state. It does not take long to see the pain and suffering they have endured over the years. This pain and suffering, I would add, has taken a toll on their lives and the lives of their families as well. Most of these individuals are now retired; they live on modest incomes and fear that their declining health will only exacerbate their limited family finances.

And let us not ignore the overwhelming and personal human tragedy that many of these individuals already have died as a result of the injuries they sustained while working for the government's nuclear production program. Today, we have the opportunity to right a wrong through passage of this legislation, and I hope that we do so at the earliest opportunity.

In closing, I particularly want to thank my good friend Senator DOMENICI, and his excellent staff, for their work on the Appropriations Committee in securing these funds. Senator DOMENICI and I have worked together since 1990 on RECA. We have done so in the name of thousands of individuals across many states who were literally innocent victims of our nation's nuclear weapons program. I am appreciative for all Senator DOMENICI has done to make this program the success it has been.

Mr. WARNER. Mr. President, my amendment to the bill will redesignate Building 1500 at the Norfolk Naval Shipyard, Portsmouth, VA, as the Norman Sisisky Engineering and Management Building. I am joined by my Virginia colleague, Senator GEORGE ALLEN.

As a Navy veteran of World War II, Congressman Sisisky was proud to be a part of one of the most extraordinary chapters in American history, when America was totally united at home in support of our 16 million men and women in uniform on battlefields in Europe and on the high seas in the Pacific—all, at home and abroad, fighting to preserve freedom.

During our 18 years serving together, Congressman Sisisky's goal, our goal, was to provide for the men and women in uniform and their families.

The last 50 years have proven time and again that one of America's greatest investments was the G.I. Bill of Rights, originated during World War II, which enabled service men and women to gain an education such that they could rebuild America's economy. The G.I. Bill was but one of the many benefits that Congressman Sisisky fought for and made a reality for today's soldiers, sailors, airmen, and Marines.

His strength in public life was supported by his wonderful family; his lovely wife Rhoda and four accomplished children. They were always by his side offering their love, support, and counsel.

He worked tirelessly throughout Virginia's 4th District, however, there was always a special bond to the military installations under his charge. As a former sailor, the Norfolk Naval Shipyard was high among his priorities. He knew the workers by name and the monthly workload in the yard. In consultation with his family and delegation members, we chose this building at the shipyard as a most appropriate memorial to our friend and colleague.

I waited until the special election was concluded so the entire Virginia delegation could join together on this legislation.

Norman Sisisky was always a leader for the delegation on matters of national security. We are honored to join in this bi-partisan effort to remember Congressman Norman Sisisky and his life's work; ensuring the Nation's security and the welfare of the men and women in uniform and their families.

Along with my remarks, I would like to include the remarks of the Commander Chief of the Atlantic Fleet, Admiral Bob Natter. Admiral Natter worked very closely with Norman Sisisky throughout his career and joins me and the entire Virginia delegation in supporting the naming of Building 1500; the Norman Sisisky Engineering and Management building.

Admiral Bob Natter, Commander in Chief, Atlantic Fleet writes:

It is highly fitting to name the Norfolk Naval Shipyard's Engineering and Management building at the Navy's oldest and most historic shipyard after Representative Norman Sisisky. Mr. Sisisky was on hand in 1983 for the dedication and ribbon cutting of this building, which has become the most recognizable building on the shipyard. His dedication and service to our Navy, this great shipyard, and its many employees mirror the Norfolk Naval Shipyard motto of "Service to the Fleet, any ship, anytime, anywhere."

From improvements in quality of life to technology that have made Norfork Naval Shipyard one of the finest yards in the nation, Mr. Sisisky strongly supported the best interests of our Navy and our Nation. Among a wide range of projects at the shipyard, he supported a new bachelor enlisted quarters which today houses 300 Sailors and served as a model for the entire Navy. He was an ardent supporter of a waterfront improvement project that significantly expanded shipyard capabilities, including the capacity to conduct simultaneous repairs on two DDG 51 class ships. He was personally dedicated to keeping this great public shipyard competitive, in cost and in unparalleled quality.

Perhaps most of all, the Sailors of the Atlantic Fleet and the dedicated men and women of the Norfolk Naval Shipyard who work tirelessly on our ships and submarines knew Norm Sisisky was their strongest supporter and would fight for their best interests. His presence at nearly every important Navy event in the community made him a popular, recognizable and appreciated friend among uniformed Sailors and civilians alike. He has made an indelible mark on this community and a lasting contribution to the Atlantic Fleet. We are honored to have this centerpiece of the Norfork Naval Shipyard named after Norman Sisisky, a great patriot who will forever be remembered as a great friend of the Navy.

Mr. COCHRAN. Mr. President, I am pleased that the supplemental appropriations bill which we will vote on today includes much needed funding for education.

Federal support to improve the educational opportunities of disadvantaged students is provided under title I of the Elementary and Secondary Education Act. Earlier this year, the Department of Education announced the allocation of title I funds for qualified schools. The Department was forced to make cuts in the expected funding for all of these school districts, due to a shortfall in the amounts appropriated for this purpose last year.

This bill provides $161 million to cover that shortfall; $2.4 million of these funds will be allocated to schools in my State. With this funding, schools in Mississippi will be able to continue to provide essential learning resources to students from preschool through 12th grade.

In April of this year, in his capacity as chairman of the Senate Subcommittee on Labor, Health and

Human Services, Education and Related Agencies, Senator SPECTER authorized me to chair a hearing in Mississippi to examine the effectiveness of title I in my State. Our panel of witnesses included Mississippi Department of Education officials and local school superintendents. The resounding message from the hearing was that title I funds are vital to making good learning opportunities available to all of Mississippi's students.

One of the most compelling statements was that of Yazoo City School Superintendent, Dr. Daniel Watkins who told of his experience at Montgomery Elementary School in Louise, MS. I want to share with the Senate some of his testimony, which I quote here:

> I began my educational career in 1964 in Louise. My mother was a single parent with 7 children.
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> My first 3 years at elementary school, I had a severe speech impediment that allowed me to be quiet when I knew answers. But I do remember, through title I funding, a speech pathologist, to bring me out of my shyness. Again, I grew up in a small delta town called Louise, with my mother being the mother, the father, a provider and whatever else she needed to be. Besides school, our work consisted of working in the cotton fields.
>
> My mother drove a school bus and worked in the school's cafeteria. One of the happiest days of my mother's life was when she received her GED. Needless to say, she stressed education daily and yearly throughout my grade school life. There were many needs in our school system back then, to the extent that I did not quite understand, but I have since learned that through the Elementary and Secondary Education Act, the Federal Government reduced many of these needs. In later years, I have seen the happiness of my mother as she observes her daughter working with a parenting program in Louisville, Mississippi, and two of her sons receiving Ph.D's. Without the increasing help of title I, none of these could have been achieved in the lives a poor Delta family.

Hearing Dr. Watkins' personal experiences is helpful in understanding the real life consequences of title I and what it can do to broaden the horizons of a young student. Dr. Watkins' story is, I think, a marvelous testimony to the success of title I.

Dr. Watkins and the other witnesses at that hearing went on to tell in just as riveting testimony newer stories of title I providing the resources to reduce dropout rates, provide tutoring, increase literacy of parents and students, enhance teachers' skills, and overall increase the likelihood of high achievement among the most disadvantaged students.

I am happy to provide the Senate with some of the good news about title I and I am very pleased that this bill will allow the continuation of the much needed services it provides.

Mr. WYDEN. Mr. President, I sincerely thank Chairman BYRD and his staff, Galen Fountain and Chuck Kieffer, for all their hard work and consideration on this bill. I would especially like to thank the Chairman for his understanding the needs of my constituents in the Klamath Basin and thereby including these much needed payments in this bill. I would also thank Senator STEVENS and his staff, Rebecca Davies, for their understanding and support.

This amendment provides $20,000,000 for the farmer families in the Klamath Basin. While the Secretary has the discretion to disseminate this money as she sees fit, I am pleased that we have an understanding with the Bush administration that this money will be distributed as grants or direct payments but not as loans.

The Klamath Basin stretches between southern Oregon and northern California. The water in the Basin is managed primarily by the Department of Interior's Bureau of Reclamation. The management of this water has assured the continuation of a significant agricultural community in the Basin. But this growing season the Basin is home to 1,500 growers and their families whose farms are parched. It is home to three National Wildlife Refuges and fish bearing lakes and rivers that are also parched. There is not enough water to go around.

I, and several colleagues, fought so hard for the $20,000,000 contained in this bill for these farmer families because this money provides our farmers the assurances they need to get through this season. It provides the Basin farmers with the safety net they need as the tightrope between agriculture and the environment is traversed. This $20,000,000 safety net is necessary to keep these folks alive while the larger natural resource issues evident in the Klamath Basin are debated and ecological balance in the Basin is pursued. There is a balance that can and should be struck and this money is, unfortunately, a necessary step on that long and arduous journey.

There is a precedent for this appropriation in other USDA conservation programs. For instance, this money may be able to be used by the Secretary to purchase, under short term contracts, water easements for the sake of water conservation in the Basin. In this way, the money will get directly to the farmer much like land easement payments under the conservation Reserve Program are made directly to the farmer.

I am pleased to be joined by my colleague and friend from Oregon, Senator SMITH, and my colleagues and friends from California, Senators FEINSTEIN and BOXER, in thanking the Chairman and Senator STEVENS for their inclusion of this important provision in this supplemental appropriations bill.

Mr. BROWNBACK. Mr. President, I have come to the floor today to speak out on the Air Force's decision to substantially cut America's B–1 Bomber force. As many of my colleagues know, as part of the 2002 Defense budget amendment, the Air Force announced its intentions to remove the B–1 Bomber from the Air National Guard Wings at McConnell Air Force Base in Kansas, and Warner Robins Air Force Base in Georgia, and consolidate the remaining bombers at two active duty Air Force bases in Texas and South Dakota.

The Air Force intends for this proposal to take effect immediately after funds become available following the passage of the 2001 supplemental appropriations bill, and desires that the entire project be completed in a year or so. The Air Force justified this announcement to Congress by stating that this cut was a good way to realize cost savings in 2002 Defense Budget.

The decision to cut and realign the B–1 force has been mishandled from the start. I support and have cosponsored this amendment in an effort to urge and allow the Air Force to give due consideration to important decisions.

I guess if you are not familiar with the men and women of the 184th Bomb Wing, or if you just are not a student of defense policy, you might be wondering what the big deal is. I think the best way to explain what happened with this decision is to offer an analogy.

If a family decided to remodel their old house, the first thing they would do is sit down with an architect and sketch out their ideas of what they want their house to look like. The architect would then take these sketches and form a blueprint, the final plan that gives the instructions to the carpenter who would in turn remodel the house.

The carpenter would never dream of deviating from this blueprint. After all, his job is to follow the architect's instructions, and respect the family's wishes. It really wouldn't matter if he thought his ideas were better than the family's. No family in their right mind would ever hire a carpenter who wanted to re-design their home according to his whims and wishes.

This is exactly what happened with the announcement to pull the B–1's from the Air National Guard. The Air Force is now on the verge of reversing a longstanding policy by saying that our national defense needs would be better served if the B–1's were flown exclusively by the Active Duty forces. This decision was made in spite of the fact that the blueprint for our national defense policy, the Quadrennial Defense Review, has yet to be completed by the Secretary of Defense.

It is as if the carpenter has decided to begin construction before he has been handed the plans. This questionable practice has raised other questions: One, how can the Air Force make a decision to remodel the Air Force to meet future threats if the plans for meeting those threats are still works in progress? Two, in some of his previous statements, Secretary Rumsfeld has acknowledged that future combat missions will depend on long range, precision strike bombers which are capable of reaching their targets from airbases within the United States. How can the Air Force make a decision to cut the B–1 Bomber fleet when such a decision seems to run contrary to Secretary Rumsfeld's previous statements?

As a member of the Foreign Relations Committee, I fully agree with this assessment. It is becoming increasingly difficult for the U.S. to rely on other country's airstrips to stage our Air Force operations. We must look to platforms that enable us to conduct missions from the safety of America's shores.

No other bomber in today's Air Force can match the B–1 for accomplishing these missions. The B–1 has more payload capacity than the Stealth B–2, and is much faster than either the B–2 and B–52.

While I agree that stealth technology is important to our Air Force, we should be cautious about becoming overly reliant on it. If we cannot always depend on stealth for surprise and protection, we will have to return to speed and maneuverability. The B–1, is the only bomber today that meets this requirement.

So if the Air Force still needs the B–1, why cut the fleet from 93 to 60? One excuse is that it will be cheaper, and that the Active Duty can accomplish this mission better than the Air National Guard.

But according to figures released by the Guard Wing at Mcconnell, the Air Force is simply wrong in this estimation. Consider just a few simple facts.

The average B–1 Mission Capable rate for the Air National Judd is 61.5 percent. The active component only rates 53.4 percent.

The average Total Mission Capable rate for the Air National Guard is 19.9 decent, compared to the Active Duty's rate of 24.6 percent.

The Kansas Air National Guard opetes one of the Air Force's two Engine Regional Repair Centers and the Georgia Unite Provides avionics systems repair for all the B–1's providing high-level expertise in reducing costs.

When confronted with these figures, how can the Air Force conclude that the Active Duty can accomplish this mission in a more cost-effective manner than the Air National Guard? I am pleased that Senators ROBERTS and CLELAND will be calling on the General Accounting Office to see if this decision would make more economic sense that keeping the Guard flying the B–1.

A force structure decision should never have been made without the guidance of a new national security blueprint. Even more important, such a decision should never have been made on false economic assumptions. We cannot afford to make hasty decisions.

Today, I join a bipartisan group of Senators consisting of Senators ROBERTS, CLELAND, MILLER, CRAIG, and CRAPO in offering an amendment to the 2001 Defense Supplemental Bill that will prohibit 201 funds from being used to carry any orders to cut or transfer the B–1. In spite of the Air Forces announcement, we offer this amendment to put the Air Force on notice that hasty decisions regrading our national security are unacceptable to Congress.

Mr. DODD. Mr. President, I understand the very difficult job the Appropriations Committee has faced in producing this supplemental appropriations bill and I commend the leadership of the committee for its work.

However, it is very unfortunate that it was necessary to rescind $217 million in critical dislocated worker funding. I hope that this will be a short-lived reduction and that it will be possible to eliminate this cut in conference. Further, I urge the committee to also reject the administration's proposed further $600 million reduction in training programs in the fiscal year 2002 appropriations.

In the 105th Congress the Workforce Investment Act was overwhelmingly supported on a bipartisan basis. Few issues that we debate in Congress are as important to the future of this country as the lifelong education and training of our workforce. We live in an era of a global economy, emerging industries and company downsizing. It is imperative that our delivery of services meet the employment and educational needs of the 21st century.

We now are embarking on the creation of a streamlined and vitally necessary workforce development system. More authority is given to State and local representatives of government, business, labor, education, and youth activities. There is a true collaborative process between the state and local representatives to ensure that training and educational services provided will be held to high standards.

Our global economy is creating wonderful opportunities for American workers, but also great stress and anxiety. Today, the knowledge and skills workers must have on the job changes very rapidly. Companies and even industry segments enter and leave our States and communities with unprecedented speed.

Layoffs are announced throughout the country every week as a result of business consolidation, financial re-organization, a changing marketplace or a slowing economy. For many years, the Connecticut economy was dependent on defense-oriented industries. Training programs under the Workforce Investment Act ensure that employees who are adversely affected by military and other downsizing will have access to job training and supportive services in order to acquire the skills needed for employment in the technology driven economy of the 21st century.

Last week, Challenger, Gray and Christmas reported that U.S. companies cut nearly 125,000 jobs in June. The Department of Labor reported that new claims for unemployment benefits increased by 7,000. On one day alone at the end of June three separate companies announced plans to eliminate 800 jobs in Connecticut. In the technology sector alone, almost 1,000 jobs cuts have been announced in Connecticut since the beginning of the year.

I urge the committee to re-evaluate these cuts to the dislocated worker program. Now is not the time to be short-changing our workers or our communities.

Mr. STEVENS. Mr. President, this is the first bill that Senator BYRD has handled now as chairman of the Appropriations Committee, and I in my new role as ranking member of the Appropriations Committee. I thank Senator BYRD for his courtesy. I have not seen the supplemental handled as fairly and evenly as this has been. We have responded to almost every request made by Senators from either side. I congratulate the Senator for this night and for the fact that the bill presented by the Appropriations Committee has been sustained.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I tender my thanks to my friend, Senator STEVENS. Without his able cooperation and assistance all the way, we would not have completed this bill today.

Mr. STEVENS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays will be required after the clerk reads the bill for the third time.

The bill was ordered to be engrossed for a third time and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2216, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 2216) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 2216 is stricken, and the text of the Senate bill S. 1077, as amended, is inserted in lieu thereof.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER (Mr. NELSON of Florida). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—98

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—1

Feingold

NOT VOTING—1

Thomas

The bill (H.R. 2216), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. GRAHAM. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. I move the Senate insist on its amendment to H.R. 2216 and request a conference with the House of Representatives, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. STEVENS, and Mr. COCHRAN conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I thank the chairman of the Appropriations Committee and the ranking member for their work on the supplemental. We have come a long way since we closed prior to the Fourth of July recess. We had indicated our desire to finish our work on the supplemental by Tuesday night. We have done so. I am grateful for that.

We will now be taking up the Interior appropriations bill. It was my hope to be able to move to proceed to the appropriations bill tomorrow at 9:30. Some of our Republican colleagues have objected to going to the bill until matters pertaining to certain nominations could be clarified. As a result, we will not have a specific time we can announce that we will be going to the bill. I am hopeful we can clarify this matter involving nominations at the earliest possible time so that there will not be any objections on the other side to moving to the Interior bill. My hope and my expectation is that we can finish the bill by Thursday night. Obviously, if we have to be here on Friday to finish it, we will do that.

I indicated to Senator LOTT that if we have finished with the Interior bill on Thursday night, my expectation would be we would not have any rollcall votes on Friday.

I will shortly make a unanimous consent request with regard to the schedule tomorrow. We are not quite prepared to do that at this time. But until that time, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 1

Mr. REID. Mr. President, I ask unanimous consent that with respect to H.R. 1, the elementary and secondary education bill, the Senate insist on its amendment and request a conference with the House and the Chair be authorized to appoint conferees.

There being no objection, the Presiding Officer (Mr. NELSON of Florida) appointed Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. JEFFORDS, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mr. REED of Rhode Island, Mr. EDWARDS, Mrs. CLINTON, Mr. LIEBERMAN, Mr. BAYH, Mr. GREGG, Mr. FRIST, Mr. ENZI, Mr. HUTCHINSON of Arkansas, Mr. WARNER, Mr. BOND, Mr. ROBERTS, Ms. COLLINS, Mr. SESSIONS, Mr. DEWINE, Mr. ALLARD, and Mr. ENSIGN conferees on the part of the Senate.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate go into a period of morning business with Senators permitted to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ASSIGNMENTS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the following Committee assignments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AGRICULTURE

Senator Harkin, Chairman; Senators Leahy, Conrad, Daschle, Baucus, Lincoln, Miller, Stabenow, Ben Nelson, Dayton, and Wellstone.

ARMED SERVICES

Senator Levin, Chairman; Senators Kennedy, Byrd, Lieberman, Cleland, Landrieu, Reed, Akaka, Bill Nelson, Ben Nelson, Carnahan, Dayton, and Bingaman.

APPROPRIATIONS

Senator Byrd, Chairman; Senators Inouye, Hollings, Leahy, Harkin, Mikulski, Reid, Kohl, Murray, Dorgan, Feinstein, Durbin, Johnson, Landrieu, and Reed.

BANKING

Senator Sarbanes, Chairman; Senators Dodd, Johnson, Reed, Schumer, Bayh, Miller, Carper, Stabenow, Corzine, and Akaka.

COMMERCE

Senator Hollings, Chairman; Senators Inouye, Rockefeller, Kerry, Breaux, Dorgan, Wyden, Cleland, Boxer, Edwards, Carnahan, and Bill Nelson.

ENERGY

Senator Bingaman, Chairman; Senators Akaka, Dorgan, Graham, Wyden, Johnson, Landrieu, Bayh, Feinstein, Schumer, Cantwell, and Carper.

ENVIRONMENT

Senator Jeffords, Chairman; Senators Reid, Baucus, Graham, Lieberman, Boxer, Wyden, Carper, Clinton, and Corzine.

FINANCE

Senator Baucus, Chairman; Senators Rockefeller, Daschle, Breaux, Conrad, Graham, Jeffords, Bingaman, Kerry, Torricelli, and Lincoln.

FOREIGN RELATIONS

Senator Biden, Chairman; Senators Sarbanes, Dodd, Kerry, Feingold, Wellstone, Boxer, Torricelli, Bill Nelson, and Rockefeller.

GOVERNMENT AFFAIRS

Senator Lieberman, Chairman; Senators Levin, Akaka, Durbin, Torricelli, Cleland, Carper, Carnahan, and Dayton.

HEALTH, EDUCATION, LABOR AND PENSIONS

Senator Kennedy, Chairman; Senators Dodd, Harkin, Mikulski, Jeffords, Bingaman, Wellstone, Murray, Reed, Edwards, and Clinton.

JUDICIARY

Senator Leahy, Chairman; Senators Kennedy, Biden, Kohl, Feinstein, Feingold, Schumer, Durbin, Cantwell, and Edwards.

BUDGET

Senator Conrad, Chairman; Senators Hollings, Sarbanes, Murray, Wyden, Feingold, Johnson, Byrd, Bill Nelson, Stabenow, Clinton, and Corzine.

RULES

Senator Dodd, Chairman; Senators Byrd, Inouye, Feinstein, Torricelli, Schumer, Breaux, Daschle, Dayton, and Durbin.

SMALL BUSINESS

Senator Kerry, Chairman; Senators Levin, Harkin, Lieberman, Wellstone, Cleland, Landrieu, Edwards, Cantwell, and Carnahan.

VETERANS

Senator Rockefeller, Chairman; Senators Graham, Jeffords, Akaka, Wellstone, Murray, Miller, and Ben Nelson.

INTELLIGENCE

Senator Graham, Chairman; Senators Levin, Rockefeller, Feinstein, Wyden, Durbin, Bayh, Edwards, and Mikulski.

SPECIAL COMMITTEE ON AGING

Senator Breaux, Chairman; Senators Reid, Kohl, Jeffords, Feingold, Wyden, Lincoln, Bayh, Carper, Stabenow, and Carnahan.

JOINT ECONOMIC

Senators Reed, Kennedy, Sarbanes, Bingaman, Corzine, and Torricelli—subject to statutory change.

INDIAN AFFAIRS

Senator Inouye, Chairman; Senators Conrad, Reid, Akaka, Wellstone, Dorgan, Johnson, and Cantwell.

ETHICS

Senator Reid, Chairman; Senators Akaka, and Lincoln.

Mr. LOTT. On behalf of the Republican members of the Senate, I submit the following committee assignments for the Republican party and ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AGRICULTURE, NUTRITION AND FORESTRY

Senators Lugar, Helms, Cochran, McConnell, Roberts, Fitzerald, Thomas, Allard, Hutchinson (AR), and Crapo.

APPROPRIATIONS

Senators Stevens, Cochran, Specter, Domenici, Bond, McConnell, Burns, Shelby, Gregg, Bennett, Campbell, Craig, Hutchinson (TX) and DeWine.

ARMED SERVICES

Senators Warner, Thurmond, McCain, Smith (NH), Inhofe, Santorum, Roberts, Allard, Hutchinson (AR), Sessions, Collins, and Bunning.

BANKING

Senators Gramm, Shelby, Bennett, Allard, Enzi, Hagel, Santorum, Bunning, Crapo, and Ensign.

BUDGET

Senators Domenici, Grassley, Nickles, Gramm, Bond, Gregg, Snowe, First, Smith (OR), Allard, and Hagel.

COMMERCE

Senators McCain, Stevens, Burns, Lott, Hutchison (TX), Snowe, Brownback, Smith (OR), Fitzgerald, Ensign, and Allen.

ENERGY

Senators Murkowski, Domenici, Nickles, Craig, Campbell, Thomas, Shelby, Burns, Kyl, Hagel, and Smith (OR).

ENVIRONMENT AND PUBLIC WORKS

Senators Smith (NH), Warner, Inhofe, Bond, Voinovich, Crapo, Chafee, Specter, and Campbell.

FINANCE

Senators Grassley, Hatch, Murkowski, Nickles, Gramm, Lott, Thompson, Snowe, Kyl, and Thomas.

FOREIGN RELATIONS

Senators Helms, Lugar, Hagel, Smith (OR), Frist, Chafee, Allen, Brownback, and Enzi.

GOVERNMENTAL AFFAIRS

Senators Thompson, Stevens, Collins, Voinovich, Domenici, Cochran, Bennett, and Fitzgerald.

HEALTH, EDUCATION, LABOR AND PENSIONS

Senators Gregg, Frist, Enzi, Hutchinson (AR), Warner, Bond, Roberts, Collins, Sessions, and DeWine.

JUDICIARY

Senators Hatch, Thurmond, Grassley, Specter, Kyl, DeWine, Sessions, Brownback, and McConnell.

RULES

Senators McConnell, Warner, Helms, Stevens, Cochran, Santorum, Nickles, Lott, and Hutchison (TX).

SMALL BUSINESS

Senators Bond, Burns, Bennett, Snowe, Enzi, Fitzgerald, Crapo, Allen, and Ensign.

INDIAN AFFAIRS

Senators Campbell, Murkowski, McCain, Domenici, Thomas, Hatch, and Inhofe.

ETHICS

Senators Roberts, Voinovich, and Thomas.

INTELLIGENCE

Senators Shelby, Kyl, Inhofe, Hatch, Roberts, DeWine, Thompson, and Lugar.

EXPLANATION OF ABSENCE

Mr. DOMENICI. Mr. President, on Friday, June 29, I was necessarily absent because I was needed in New Mexico. Anyone who is familiar to New Mexico knows that water is a matter of life and future for us. On this day, the Department of interior, the Attorney General for the State of New Mexico, the State Engineer, the Interstate Stream Commission, the Middle Rio Grande Conservancy District and the city of Albuquerque all reached a 3-year agreement regarding one of the endangered species, the Silvery Minnow on the Rio Grande River.

There are many parties interested in the needs and recovery of the minnow and many groups have been working on river and riparian ecosystem restoration efforts upstream. The settlement proposal mentions that naturalized refuges are a necessary component of saving the silvery minnow and I remain committed to helping make that happen over the next three years.

This agreement temporarily solves one of the most difficult to solve water problems on the Rio Grande. I can't think of an issue that affects more New Mexicans, for this reason I decided that it was essential that I be in New Mexico and therefore, necessarily absent.

I would have voted for the First substitute version of the Patients Bill of Rights had I been in Washington.

ON THE FAIRNESS OF THE ADMINISTRATION OF THE DEATH PENALTY

Mr. FEINGOLD. Mr. President, "The system may well be allowing some innocent defendants to be executed."

Were these the words of Governor George Ryan, the Illinois Governor who placed a moratorium on executions last year? They could have been, but they were not. Were these the words of an attorney defending someone facing the death penalty? They could have been, but they were not. Rather, these were the remarkable words of Supreme Court Justice Sandra Day O'Connor—the same Justice O'Connor who has generally supported the death penalty during her twenty years on the Court, the same Justice O'Connor who has championed states' rights, including the right to carry out executions, the same Justice O'Connor who joined or wrote key opinions that made it more difficult for defendants facing the death penalty to have their state sentences overturned in federal court, and the same Justice O'Connor who voted in favor of allowing executions of teenage children who committed crimes at age 16 or 17.

Justice O'Connor said, "After 20 years on the high court, I have to acknowledge that serious questions are being raised about whether the death penalty is being fairly administered in this country." She uttered these words at a meeting before the Minnesota Women Lawyers in Minneapolis last Monday. Coincidentally, Justice O'Connor made these remarks on the 25th anniversary of the Supreme Court's 1976 *Gregg v. Georgia* decision, which reinstated the death penalty as we know it today. Only four years earlier, in 1972, the Court had found the death penalty unconstitutional. But in Gregg, the Court found that sufficient safeguards had been implemented to allow states to resume use of the death penalty.

Since the Gregg decision, over 700 people have been executed in the United States and today over 3,700 people sit on death row awaiting execution. Since the *Gregg* decision, the rate of executions have increased: from one execution in 1981 to 98 executions in 1999, 85 in 2000, and 39 so far this year.

Justice O'Connor also said, "Unfortunately, as the rate of executions have increased, problems in the way which the death penalty has been administered have become more apparent."

She also said, "Perhaps most alarming among these is the fact that if statistics are any indication, the system may well be allowing some innocent defendants to be executed."

Justice O'Connor now joins Supreme Court Justices Harry Blackmun and Lewis Powell, who also late in their lives came to reconsider their support of the death penalty.

But most importantly Justice O'Connor now joins the growing chorus of Americans who are concerned about the risk of executing the innocent and the fairness of the administration of the death penalty.

Congress can and should play a role in ensuring fairness. We can create an independent, blue ribbon panel to review the fairness of the administration of the death penalty at the state and federal levels. With so many serious concerns about how the death penalty is applied by the States and Federal Government, a simple, yet necessary, step is to create a commission to review these concerns. In addition, the Federal Government and all States that authorized the use of capital punishment should suspend executions while a thorough review of the death penalty system is undertaken.

I am pleased to be a cosponsor of legislation introduced by Senator LEAHY that will take some important steps towards reducing the risk of executing the innocent, the Innocence Protection Act. But more can be done and Congress should do more. Congress should create a national commission on the death penalty and support a moratorium on executions while the commission conducts its work.

If we can agree that the system is flawed and runs the risk of executing innocent people, then we can also agree that we should undertake a thorough top-to-bottom review of the death penalty system. And while we do so, it is simply unjust to proceed with executions. I urge my colleagues to sponsor the National Death Penalty Moratorium Act. Congress should do everything it can to prevent even one innocent person from being sentence to death.

I yield the floor.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred December 20, 1991 in Russian River, CA. A 45-year-old gay man, Joseph Mitchell, was stabbed to death along Highway 116 by a hitchhiker. Paul Daniel Huyck, 19, was arrested in Springfield, Oregon the first week of January 1992 in connection with the crime. He was charged with murder and violation of parole.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

NEW MEXICO FLOOD AND FEMA

Mr. DOMENICI. Mr. President, I rise today to thank my colleagues for acting quickly last summer in sending support to the Los Alamos community following the Cerro Grande fires. This swift response, coupled with the work of County officials, the Federal Emergency Management Agency and the Army Corps of Engineers helped control another act of mother nature that befell Los Alamos this past week.

Torrential rainstorms struck the region resulting in substantial flooding. In some areas the water swelled 60 feet as 1.75 inches of rain fell in less than one hour. Roads flooded and pavement was uprooted. Although at least six homes were evacuated, post-fire flood mitigation efforts prevented a much greater calamity.

Federal and local officials recognized a year ago that some of the fire damage created infrastructure problems that could lead to future flooding. This foresight proved decisive against the rushing floodwaters.

For example, the largest bridge in the town of Los Alamos—which spans the Pueblo Canyon—was saved by Congress' action and the efforts of the Army Corps of Engineers. Last year, recognizing the potential for floods, the Corps extended an 18-inch culvert to 7 feet in record time. I visited the culvert site during construction and was very impressed with the skill, dedication, and professionalism of the Corps of Engineers crew.

During the recent storms, the water swelled 55 feet and was within five feet from the top of the bridge. The bridge withstood the pressure, which it could not have done without the culvert. Without that culvert, the waters would have flowed over the roadway and probably destroyed the road and bridge. It would have cost $15 million to replace the bridge.

More importantly, if the bridge had been destroyed half of the community would have been cut off from the laboratories and from all paved access to services and hospital facilities. Instead of direct access to the town, residents north of the bridge would have been rerouted twenty miles on dirt roads that traverse deep canyons.

Fortunately, Mr. President, this culvert and other mitigation measures protected Los Alamos from its second natural disaster in two years. This is in large part due to the actions of my colleagues in Congress, and for this I extend my utmost gratitude. This assistance helped the people of Los Alamos to once again persevere against the odds.

SOUTH CAROLINA PEACHES

Mr. HOLLINGS. Mr. President, I rise to recognize South Carolina's peach farmers for their hard work and their delicious peaches.

Today, peaches from my home State have been delivered to offices throughout the Senate and the U.S. Capitol. Thanks to South Carolina's peach farmers, those of us here in Washington will be able to cool off from the summer heat with delicious peaches.

For a relatively small State, South Carolina is second in the Nation in peach production. In fact, this year farmers across my State planted more than 16,000 acres of peaches. However, a late freeze has reduced this year's crop size by 40 percent. Nevertheless, South Carolina's peach farmers wanted to give us, here in Washington, a taste of South Carolina. And as my colleagues can attest, these are some of the finest peaches produced anywhere in the United States.

As we savor the taste of these peaches, we should remember the work and labor that goes into producing such a delicious fruit. While Americans enjoy peaches for appetizers, entrees and desserts, most do not stop to consider where they come from. Farmers will be laboring all summer in the heat and humidity to bring us what we call the "perfect candy." What else curbs a sweet tooth, is delicious, nutritious and satisfying, but not fattening?

The truth is, our farmers are too often the forgotten workers in our country. Through their dedication and commitment, our Nation is able to enjoy a wonderful selection of fresh fruit, vegetables, and other foods. In fact, our agricultural system, at times, is the envy of the world.

As Senators and their staff feast on these delicious peaches, I hope they will remember the people in South Carolina who made this endeavor possible: The South Carolina Peach Council, David Winkles and the entire South Carolina Farm Bureau. They have all worked extremely hard to ensure that the U.S. Senate gets a taste of South Carolina.

I am sure everyone in our Nation's Capitol will be smiling as they enjoy these delicious South Carolina peaches.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 9, 2001, the Federal debt stood at $5,709,925,391,754.47, five trillion, seven hundred nine billion, nine hundred twenty-five million, three hundred ninety-one thousand, seven hundred fifty-four dollars and forty-seven cents.

Five years ago, July 9, 1996, the Federal debt stood at $5,151,107,000,000, five trillion, one hundred fifty-one billion, one hundred seven million.

Ten years ago, July 9, 1991, the Federal debt stood at $3,536,850,000,000, three trillion, five hundred thirty-six billion, eight hundred fifty million.

Fifteen years ago, July 9, 1986, the Federal debt stood at $2,073,910,000,000, two trillion, seventy-three billion, nine hundred ten million.

Twenty-five years ago, July 9, 1976, the Federal debt stood at $615,209,000,000, six hundred fifteen billion, two hundred nine million, which reflects a debt increase of more than $5 trillion, $5,094,716,391,754.47, five trillion, ninety-four billion, seven hundred sixteen million, three hundred ninety-one thousand, seven hundred fifty-four dollars and forty-seven cents during the past 25 years.

ADDITIONAL STATEMENTS

TENTH ANNIVERSARY OF COURT TV

• Mr. SMITH of New Hampshire. Mr. President, this month marks the 10th anniversary of Court TV, which has played a crucial role in educating the public about our nation's criminal justice system. When Court TV went on the air in July of 1991, about nine out of ten Americans had never seen a trial. Now ten years later, Court TV has aired more than 732 trials nationally and provides more than 60 million households with the opportunity to watch trials—as well as other criminal justice-related programming—on a daily basis.

During those years, Court TV has provided the Nation with an extraordinary civics lesson, enabling Americans to see their own criminal justice system first-hand. Viewers have seen some of the nation's finest judges, prosecutors and defense attorneys at work and have watched the judicial process unfold—with the benefit of expert commentators and analysts. As part of that civics lesson, Court TV has enabled viewers to watch live trial coverage—for the first time ever—of cases involving such issues as, among other things: appellate arguments, breach of contract, jury selection, libel, medical malpractice, negligence, parole hearings, product liability, and even war crimes.

Mr. President, Court TV has also made a special commitment to helping reduce youth violence. Its public affairs initiative, "Choices and Consequences," has received the cable television industry's highest public service award, the Golden Beacon Award, for its efforts to keep our Nation's children out of our Nation's courts. A middle school curriculum, based on trial coverage of cases involving youth offenders, has been provided to more than 10,000 schools. A new high school curriculum, which addresses bullying among other issues, is now available online and through Court TV's "Cable in the Classroom" feed. Cable television operators in more than 50 cities in 24 states, plus the District of Columbia, have also partnered with Court TV in supporting "Your Town" town meetings, which have addressed a wide range of issues affecting adolescents and have been aired nationally.

Earlier this year, Court TV chairman and CEO Henry Schleiff was honored to be joined by the Speaker of the U.S. House of Representatives, J. Dennis Hastert, as well as Minority Leader Richard Gephardt and our colleague, Senator Sam Brownback, among other Congressional leaders, in announcing a new "media literacy" campaign designed to help students distinguished between the positive and negative images that they see in all forms of media—and to help them understand the consequences of actions in the real world that may seem inconsequential onscreen.

Court TV offers a unique mix of programming, including trial coverage by day and compelling stories of the criminal justice system in the evening. That mix has now made Court TV the fastest-growing basic cable network in the nation. Its growth is testament to the fact that high-quality programming can be both educational and entertaining.

Today, I am pleased to recognize the important contribution that Court TV has made to public understanding of the judicial branch of Government and to criminal justice issues more broadly, and we applaud and encourage its continued efforts to work with our nation's schools to reduce youth violence and help students understand that choices made in a moment can have consequences for a lifetime.•

CELEBRATING THE 150TH ANNIVERSARY OF THE PHOENIX HOME LIFE MUTUAL INSURANCE COMPANY

• Mr. DODD. Mr. President, I rise today to congratulate the Phoenix Home Life Mutual Insurance Company as it celebrates its 150th anniversary.

From its modest birth in 1851 as the Hartford-based American Temperance Life Insurance Company, the Phoenix has evolved into one of the largest and most well-respected insurance companies in the world. It has weathered many global watersheds of the nineteenth and twentieth centuries—including civil war, depressions, and world wars. But true to its name, the Phoenix has emerged from these and other trials with an unswerving commitment to corporate innovation, social progress, and community service.

The Phoenix's corporate ethos thrives on a unique and important principle—one that encourages employees to invest human capital as a means of promoting community development. As a result, Phoenix serves as a paradigm for businesses truly committed to improving the quality of life of the people they serve. In 2000 alone, the Phoenix Foundation contributed $1.6 million to charitable organizations across the country.

The Phoenix encourages its employees to devote 80 hours of company and personal time to community activities each year. The company also rewards its top 20 professional advisors through the Donor Award Program, which enables award recipients to designate up to $2,000 to a local charity. Over the years, the Donor Award Program has provided vital funds to many organizations, including the Juvenile Diabetes Foundation, Lou Gehrig Baseball, and the Make-A-Wish Foundation. Furthermore, Phoenix field offices have established a plethora of independent donation programs—many of which have benefited organizations such as the American Cancer Society, Habitat for Humanity, the YMCA, and the March of Dimes Birth Defects Foundation.

I am proud that the Phoenix's commitment to community development has helped many local organizations in the State of Connecticut. By lending their professional expertise, leadership, and time to a number of local outreach initiatives, Phoenix employees have worked assiduously to make a difference in their communities. For example, Phoenix employees in the Hartford office work in conjunction with Foodshare each summer to deliver vegetables donated by Connecticut farmers to area soup kitchens and homeless shelters. And in 1999, a group of Phoenix employees planned and organized Connecticut's first Adoption and Foster Care Exposition—an event that successfully promoted greater public awareness of these two important social issues.

The Phoenix has made significant contributions to the education of children. Through long-term partnerships with local schools such as the Fred D. Wish Elementary School in Hartford, Phoenix employees have worked individually with students in grades three through six to sharpen math skills and proficiency in the language arts. As a result, schools are seeing improved student attendance and higher student test scores. Phoenix also contributed $75,000 toward the establishment of the Trinity College Boys and Girls Clubs—two Hartford-based organizations that provide education, culture, citizenship, health, and physical education programs for neighborhood children and adolescents. In terms of higher education, the Phoenix annually contributes $250,000 to a matching gifts program. The company has also spearheaded a $3 million "Legacy Campaign" to sustain and cultivate the Walter J. "Doc" Hurley Foundation. Phoenix's generous contribution to this worthy campaign will assist high school students in Connecticut and across the country through various scholarship and guidance programs.

In recent years, Phoenix has made a strong commitment toward promoting the Special Olympics. In 1995, the company pledged an eight-year commitment to Special Olympics International as its first Official Worldwide Partner, setting a new and unprecedented standard for civic responsibility, a standard that few corporations can match. When the Special Olympics World Games were held in New Haven, CN, six years ago, over 60 percent of Phoenix employees volunteered their time while field offices across the country raised money to assist local chapters with travel and lodging expenses.

Over the past decade, much of the Phoenix's financial vitality and community commitment can be attributed to the hard work and vision of Robert W. Fiondella, the company's President and Chief Executive Officer. Since taking the reigns of Phoenix in 1992, Mr. Fiondella has successfully undertaken the challenge of further molding and guiding the company in this new evolving era of business. With more than 30 years of experience, Bob Fiondella represents the epitome of the Phoenix tradition by dedicating himself to both the company and the surrounding community.

In its 150 years of existence, the Phoenix has become an indispensable asset to people and businesses of Connecticut and the country. Its contributions to both the business world and surrounding communities have been tremendous. It is therefore with great appreciation that I offer congratulations to the Phoenix Home Life Mutual Insurance Company on its 150th anniversary, and wish the company and all those associated with it continued success for many years to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the President Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2661. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report required by the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on the Budget.

EC–2662. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy, nomination, and the designation of acting officer for the position of Administrator, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2663. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy, the designation of acting officer, and the discontinuation of service in acting role for the position of Administrator, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2664. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy, the designation of acting officer, and the discontinuation of service in acting role for the position of Administrator, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2665. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy, the designation of acting officer, and the discontinuation of service in acting role for the position of Chief Counsel for Advocacy, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2666. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Chief Counsel for Advocacy, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2667. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Administrator, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2668. A communication from the Public Printer of the United States Government Printing Office, transmitting, the Annual Report for Fiscal Year 2000; to the Committee on Rules and Administration.

EC–2669. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report on the impact of the National Voter Registration Act of 1993 (NVRA) on the administrative of elections for federal office during the preceding two-year period, 1999 through 2000; to the Committee on Rules and Administration.

EC–2670. A communication from the Acting Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Cranberries Grown in the States of Massachusetts, et al.; Establishment of Marketing Quantity and Allotment Percentages; Reformation of Sales Histories and Other Modifications Under the Cranberry Marketing Order" (FV01–929–2 FR and FV00–929–7 FR) received on July 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2671. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Aminoethoxyvinylglycine (AVG); Time-Limited Pesticide Tolerances" (FRL6790–7) received on July 6, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2672. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Aminoethoxyvinylglycine, Temporary Tolerance" (FRL6788–7) received on July 6, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2673. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "NIDRR—Rehabilitation of Persons who are Blind or Visually Impaired and Rehabilitation of Persons who are Deaf or Hard of Hearing" received on July 2, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2674. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "NIDRR—Strategies for Promoting Information Technology—Based Educational Opportunities for Individuals with Disabilities; Strategies for Promoting Information Technology—Based Employment and Training Opportunities for Individuals with Disabilities; and Wayfinding Technologies for Individuals who are Blind" received on July 2, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2675. A communication from the Special Assistant, White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Commissioner of Rehabilitative Services Administration, Office of Special Education and Rehabilitative Services, received on July 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2676. A communication from the Special Assistant, White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Office of Vocational and Adult Education, received on July 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2677. A communication from the Special Assistant, White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Commissioner of Education Statistics, Office of Educational Research and Improvement, received on July 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2678. A communication from the Special Assistant, White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Office of Special Education and Rehabilitative Services, received on July 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2679. A communication from the Acting Chairman of the Postal Rate Commission, transmitting, pursuant to law, the Annual Report on International Mail Costs, Revenues, and Volumes for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–2680. A communication from the President and Chief Executive Officer of the Federal Home Loan Bank of Pittsburgh, transmitting, pursuant to law, the management reports of the twelve FHL Banks for calendar year 2000; to the Committee on Governmental Affairs.

EC–2681. A communication from the Counsel to the Inspector General, General Services Administration, the report of a nomination for the position of Inspector General, received on July 5, 2001; to the Committee on Governmental Affairs.

EC–2682. A communication from the Executive Director of the Committee for Purchase from People Who are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the procurement list, received on July 5, 2001; to the Committee on Governmental Affairs.

EC–2683. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2000 to March 31, 2001; to the Committee on Governmental Affairs.

EC–2684. A communication from the Chief Operating Officer/President of the Financing Corporation, transmitting, pursuant to law, the Annual Report of Internal Controls and the Audited Financial Statements for 2000; to the Committee on Governmental Affairs.

EC–2685. A communication from the Acting Director of the Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Spruce-fir Moss Spider" (RIN1018–AG38) received on June 29, 2001; to the Committee on Environment and Public Works.

EC–2686. A communication from the Director of the Office of Congressional Affairs, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: Standardized NUHOMS –24P and –52B Revisions" (RIN3150–AG75) received on June 29, 2001; to the Committee on Environment and Public Works.

EC–2687. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Houston/Galveston Ozone Nonattainment Area Vehicle Miles Traveled Offset Plan" (FRL7008–3) received on July 2, 2001; to the Committee on Environment and Public Works.

EC–2688. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Wintering Piping Plovers" (RIN1018–AG13) received on July 2, 2001; to the Committee on Environment and Public Works.

EC–2689. A communication from the Principal Deputy Associate Administration of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(1) Program of Delegation; Ohio" (FRL7009–6) received on July 3, 2001; to the Committee on Environment and Public Works.

EC–2690. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to Georgia State Implementation Plan" (FRL7009–3) received on July 3, 2001; to the Committee on Environment and Public Works.

EC–2691. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan; Imperial County Air Pollution Control District, Monterey Bay Unified Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management District" (FRL6997–6) received on July 6, 2001; to the Committee on Environment and Public Works.

EC–2692. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Finding of Attainment for Carbon Monoxide (CO); Anchorage CO Nonattainment Area, Alaska" (FRL7010–6) received on July 9, 2001; to the Committee on Environment and Public Works.

EC–2693. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Group I Polymers and Resins and National Emission Standards for Hazardous Air Pollutants: Group IV Polymers and Resins" (FRL7010–1) received on July 9, 2001; to the Committee on Environment and Public Works.

EC–2694. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996 and Emission Guidelines and Compliance Times for Large Municipal Waste Combustors that are Constructed On or Before September 20, 1994" (FRL7010–3) received on July 9, 2001; to the Committee on Environment and Public Works.

EC–2695. A communication from the Secretary of the Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Rule 17a–25 under the Securities Exchange Act of 1934 relating to the electronic submission of securities transaction information by exchange members, brokers, and dealers" (RIN3235–AH69) received on July 2, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2696. A communication from the Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Mortgage Insurance Premiums in Multifamily Housing Programs" (RIN2502–AH64) received on July 2, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2697. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the continuation of emergency with respect to the Taliban; to the Committee on Banking, Housing, and Urban Affairs.

EC–2698. A communication from the President of the United States, transmitting, pursuant to law, a report on the National Emergency with respect to the Taliban in Afghanistan; to the Committee on Banking, Housing, and Urban Affairs.

EC–2699. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, the Annual Report on operations for calendar year 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–2700. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the Annual Report for calendar year 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–2701. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" received on July 5, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2702. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Supplemental Property Acquisition and Elevation Assistance" (RIN3067–AD06) received on July 5, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2703. A communication from the Deputy Secretary of the Investment Management Office of Regulatory Policy, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Treatment of Repurchase Agreements and Refunded Securities as an Acquisition of the Underlying Securities" (RIN3235–AH56) received on July 6, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2704. A communication from the President of the United States, transmitting, pursuant to law, a Proclamation to Modify Duty-free Treatment under the Generalized Systems of Preferences; to the Committee on Finance.

EC–2705. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Notice 2001–39) received on July 2, 2001; to the Committee on Finance.

EC–2706. A communication from the President of the United States, transmitting, pursuant to law, a report concerning a waiver of Jackson-Vanik Amendment for the Republic of Belarus; to the Committee on Finance.

EC–2707. A communication from the President of the United States, transmitting, pursuant to law, a report concerning emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, The Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; to the Committee on Finance.

EC–2708. A communication from the Social Security Administration Regulation Officer, transmitting, pursuant to law, the report of a rule entitled "Extension of Expiration Dates for Several Body System Listings" (RIN0960–AF59) received on July 5, 2001; to the Committee on Finance.

EC–2709. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notional Principal Contracts" (Notice 2001–44 and 2001–30) received on July 5, 2001; to the Committee on Finance.

EC–2710. A communication from the Regulations Coordinator of the Health Care Financing Administrator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "State Child Health; Revisions to the Regulations Implementing the State Children's Health Insurance Program" (RIN0938–AL00) received on July 5, 2001; to the Committee on Finance.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. BIDEN for the Committee on Foreign Relations.

Pierre-Richard Prosper, of California, to be Ambassador at Large for War Crimes Issues.

FEDERAL CAMPAIGN CONTRIBUTION REPORTS

Nominee: Pierre-Richard Prosper.

Post: Ambassador at Large for War Crimes Issues.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self:

$500, 1/31/01, Republican National Committee
$500, 10/28/00, Lazio 2000
$1000, 4/26/00, Bush-Cheney 2000 Compliance Committee
$500, 10/25/00, Republican National Committee
$1000, 8/23/99, Bush for President Inc.
$250, 10/8/99, N.Y. Republican Fed. Campaign Committee
$100, 5/29/00, Liddy for Congress
$100, 11/12/99, Liddy for Congress

2. Spouse: N/A.

3. Children: N/A.

4. Jacques Prosper (father)

$300, 9/15/95, Republican Senatorial Committee
$50, 2/11/99, Republican National Committee
$50, 2/15/99, National Republican Senatorial Committee
$50, 4/20/99, National Republican Congressional Committee
$50, 5/27/99, Republican Senatorial Committee
$50, 8/22/99, National Republican Senatorial Committee
$100, 9/27/99, Bush for President
$50, 10/29/99, Republican Senatorial Committee
$50, 1/26/00, National Republican Congressional Committee
$50, 2/14/00, National Republican Senatorial Committee
$50, 4/27/00, Republican Presidential Committee
$50, 6/26/00, Republican Congressional Committee
$100, 9/3/00, Republican Presidential Task Force
$50, 11/12/00, Republican National Committee
$100, 11/21/00, Republican Presidential Task Force
$50, 12/1/00, National Republican Congressional Committee

Jeanine C. Prosper (mother): none.

5. Grandparents: N/A.

6. Brothers: N/A.

7. Genevieve Prosper Bates (sister) none; Marty Bates (brother-in-law): none; Marjorie Prosper Gouraige (sister) none; Ghislain Gouraige (brother-in-law): $100, 11/99, Bush for President.

Charles J. Swindells, of Oregon, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Samoa.

Nominee: Charles J. Swindells.

Post: Ambassador to New Zealand and Samoa.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self:

$1,000, 6/3/97, Molly Bordonaro for Congress 1998
$500, 8/1/97, Linda Peters for US Congress
$500, 8/14/97, Dirk Kempthorne for Senate
$1,000, 8/20/97, Campaign America Inc
$1,000, 1/27/98, Molly Bordonaro for Congress 1998
$250, 4/15/98, Linda Peters for US Congress
$250, 5/12/98, Walden for Congress Inc
$500, 6/26/98, Blumenauer for Congress
$500, 7/17/98, Wyden for Senate
$1,000, 12/4/98, Freedom and Free Enterprise PAC
$1,000, 5/1/99, Bush for President Inc
$1,000, 11/1/99, Bush-Cheney 2000 Compliance Committee
$500, 2/9/00, Friends of Giuliani Exploratory Committee
$5,000, 3/1/00, Impact America
$1,000, 4/20/00, Alive Schlenker for Congress
$10,000, 5/5/00, Republican National Committee Presidential Trust
$15,000, 6/11/00, Republican Naitonal Committee Presidential Trust
$2,500, 9/20/00, Oregon Republican Party/Oregon Victory 2000
$1,000, 12/4/00, Gordon Smith for US Senate 2002
($13,000), 6/14/01, Contribution Refund from RNC

2. Spouse—Caroline H. Swindells: $,1000, 6/30/97, Molly Bordonaro for Congress 1998.

3. Children and Spouses—Grant C. Swindells (no spouse):

$1,000, 5/1/99, Bush for President Inc
$1,000, 10/10/99, Senator Gordon Smith

Whitney C. Swindells (no spouse):

$1,000, 5/1/99, Bush for President Inc
$1,000, 10/10/99, Senator Gordon Smith

4. Parents—James G. Swindells, deceased; Helen A. Swindells:

$1,000, 5/1/99, Bush for President Inc
$1,000, 10/10/99, Senator Gordon Smith

5. Grandparents: Charles Jay and Rose Swindells, deceased, and Joseph and Sarah Matschiner, deceased.

6. Brothers and spouses: none.

7. Sisters and Spouses—Patricia Riedel (no spouse): $1,000, 5/1/99, Bush for President Inc.

Margaret DeBardeleben Tutwiler, of Alabama, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to be Kingdom of Morocco.

Nominee: Margaret DeBardeleben Tutwiler.

Post: Ambassador to the Kingdom of Morocco. Nominated May 16, 2001.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self:

$250, 4–1–99, Robb for Senate
$500, 11–2–99, Friends of Giuliani Exp. Comm.
$500, 10–6–,99, Friends of Giuliani Exp. Comm.
$1,000, 4–20–99, Bush for President
$250, 9–5–99, Friends of Dylan Glenn
$200, 11–1–00, Kirk for Congress
$250, 4–2–99, Elizabeth Dole for Pres. Exp.
$1,100 7–9–99, Cellular Telecommunications Industry Association PAC
$250, 9–29–00, Lazio 2000 Inc.
$1,200, 9–29–00, Cellular Telecommunications Industry Association PAC
$250, 6–29–99, McCain 2000
$500, 9–29–97, Cellular Telecommunications Industry Association PAC
$250, 10–13–98, Value In Electing Women PAC
$500, 3–1—98, McCain for Senate 98
$1,000, 5–21–98, Cellular Communications Industry Association PAC
$300, 6–10–96 Friends of John Warner 1996 Committee
$250, 3–1–96 Forbes for President Inc.
$250, 11–9–00, Kolbe 2002

2. Spouse: N/A.

3. Children and Spouses: N/A.

4. Parents: Margaret Prince DeBardeleban—deceased; Temple Wilson Tutwiler, II—deceased.

5. Grandparents: Prince DeBardeleben—deceased; Mary Louise DeBardeleben—deceased; Herbert and Mary Addison—deceased.

6. Brothers and spouses—Temple Wilson Tutwiler (brother):

$250, 6–9–98, Alabama Republican Party Federal Account
$1,000, 6–30–99, Bush for President
$300, 11–6–95, Alabama Republican Party Federal Account

Lucy A. Tutwiler: none

7. Sisters and spouses—Ann Tutwiler West (sister):

$1,000, 4–5–99, Alexander for President
$1,000, 12,22–99, Bush for President
$1,000, 3–9–95, Alexander for President
$250, 10–18–95, Alexander for President

Axon West: none.

Wendy Jean Chamberlin, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

Nominee: Wendy J. Chamberlin.

Post: Islamic Republic of Pakistan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self: none.

2. Spouse: none.

3. Children and Spouses: Chynna C. Hawes, none; Jade H. Hawes, none.

4. Parents: deceased.

5. Grandparents: deceased.

6. Brothers and spouses: Henry B. Chamberlin (brother) $100, 2000, Mr. Phiester, City Council Georgetown, Texas; William Chamberlin (brother), none.

7. Sisters and spouses: Shanta Chamberlin (sister-in-law), none; Ruth Chamberlin (sister-in-law), none.

William S. Farish, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Kingdom of Great Britain and Northern Ireland.

Nominee: William S. Farish, III.

Post: U.S. Ambassador to the United Kingdom Nominated: May 22, 2001 of Great Britain.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self:

$500, 02/25/97, Republican Party of Kentucky
$1,000, 03/07/97, National Republican Senatorial Committee
$1,000, 04/23/97, New Republican Majority Fund
$1,000, 05/21/97, Baesler for Senate
$1,000, 06/30/97, Citizens for Bunning
$1,000, 06/30/97, Citizens for Bunning
$2,000, 06/30/97, Anne Northrup for Congress
$1,000, 10/23/97, Am. Horse Council Committee Taxation/Legis.
$1,500, 04/15/98, Harry Reid
$2,000, 05/08/98, Charles J. Crist
$2,000, 05/27/98, National Republican Senatorial Committee
$1,000, 05/28/98, Fletcher for Congress
$125, 06/09/98, McConnell Senate Committee
$2,000, 07/09/98, National Republican Senatorial Committee
$1,000, 07/09/98, Fletcher for Congress '98
$1,000, 10/26/98, Scotty Baesler for U.S. Senate
$100, 02/18/99, Republican National Committee
$2,000, 03/31/99, Anne Northup for Congress
$2,000, 05/28/99, Fletcher for Congress[1]
$1,000, 06/15/99, McConnell Senate Committee[2]
$1,000, 07/01/99, George Bush Presidential Exploratory
$1,500, 09/07/99, Churchill Downs Federal PAC
$5,000, 09/07/99, Republican Party of Kentucky
$5,000, 09/20/99, American Horse Council
$1,000, 12/30/99, Baesler for Congress
$1,000, 12/30/99, Friends of Guilani[3]
$1,000, 03/02/00, Republican Senatorial Inner Circle[4]
$5,000, 06/16/00, Republican Party of Kentucky
$1,000, 08/03/00, Lazio 2000
$5,000, 08/13/00, Victory 2000 (NY Rep. Party)
$2,000, 08/13/00, Lazio 2000[5]
$1,000, 10/19/00, Anne Northup for Congress[6]
$5,000, 10/26/00, Churchill Downs Federal PAC

[1] Believe that $2,000 Fletcher Campaign reported as received from me on 06/28/99 was actually a contribution made by my son, W.S. Farish, Jr.

[2] FEC reports only an $875 contribution.

[3] FEC reports include second contribution to Guilani dated 03/09/2000 believed to be in error.

[4] Believed to be same as contribution to NRSC dated 03/06/00 on FEC report.

[5] FEC reports show ($1,000) credit against this contribution.

[6] Contribution refunded by Northup Campaign 06/12/01.

2. Spouse—Sarah S. Farish:

$1,000, 07/21/99, George W. Bush
$1,000, 09/16/99, Ernest Fletcher[1]
$1,000, 11/12/99, Anne Northup[2]
$2,000, 09/02/00, Rick A. Lazio
$1,000, 09/29/00, Ernest Fletcher
$5,000, 11/00, Florida Recount Fund

[1] Check originally issued by W.S. Farish and later corrected and credited to Sarah Farish.

[2] Northup Campaign reported second $1,000 contribution dated 10/23/2000 to FEC in error.

3. Children and spouses—W.S. Farish, IV and Kelley Farish:

$1,000, 05/19/98, Ernest Fletcher
$1,000, 09/25/98, Ernest Fletcher
$1,000, 09/25/98, Ernest Fletcher
$2,000, 06/18/99, Ernest Fletcher
$1,000, 06/30/99, George W. Bush
$1,000, 07/13/99, George W. Bush
$1,000, 09/29/99, American Horse Council
$1,000, 06/30/00, Ernest Fletcher

Stanford C. and Hillary F. Stratton:

$1,000, 07/21/99, George W. Bush
$1,000, 7/21/99, George W. Bush
$1,000, 08/30/00, Bush-Cheney 2000 Compliance
$1,000, 08/30/00, Bush-Cheney 2000 Compliance

Dennis N. and Mary F. Johnston:

$1,000, 06/07/1999, George W. Bush
$500, 10/11/2000, Republican National Committee
$2,000, 12/22/2000, Florida Recount

John H. and Laura F. Chadwick:

$1,000, 07/30/1999, George W. Bush
$1,000, 09/05/1999, Bill Frist
$250, 04/03/2000, Bill Frist
$1,000, 08/12/2000, Rudolph W. Giuliani
$2,000, 09/25/2000, Tennessee Republican Party

4. Parents—William S. Farish, Jr. and Mary Wood Farish: Deceased.

5. Grandparents—William S. Farish and Libbie Rice Farish: Deceased.

6. Brothers and spouses: N/A.

7. Sisters and spouses: N/A.

Francis Xavier Taylor, of Maryland, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

Nominee: Francis Xavier Taylor.

Post: Coordinator for Counterterrorism.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self: None.

2. Spouse—Constance O. Taylor: None.

3. Children and spouses: Jacquis B. Taylor, none; Justin X. Taylor, none.

4. Parents: Shari A. Taylor, none; Francis X. Taylor, deceased; Virginia T. Morgan, deceased.

5. Grandparents: Isreal W. Millsap, deceased; Hattie Millsap, deceased.

6. Brothers and spouses: Benjamin E. Taylor, deceased; Patricia Taylor, none.

7. Sisters and spouses; Agnes T. Jordan, none; William A. Jordan, none.

Robert D. Blackwill, of Kansas; to be Ambassador Extraordinary and Plenipotentiary of the United States of America to India.

Nominee: Robert Dean Blackwill.

Post: India.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self: $1,000.00; 11/28/99, George W. Bush.

2. Spouse: None.

3. Children and spouses: Sarah Blackwill, none; Hannah Blackwill, none; Kirsten Blackwill, none.

4. Parents: Albert Blackwill, none; Roma Blackwill, deceased.

5. Grandparents: Charles and Mabel Blackwill, deceased.

6. Brothers and spouses: None.

7. Sisters and spouses: None.

Anthony Horace Gioia; of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

Nominee: Anthony H. Gioia.

Post: Ambassadorship.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self:

$1,000, 1/29/97, Paxon for Congress
$1,000, 2/3/97, Quinn for Congress
$1,000, 10/7/98, NY Republican Federal Campaign Committee
$1,000, 3/3/98, Quinn for Congress
$1,000, 4/1/98, Reynolds for Congress
$200, 10/13/98, Friends of Houghton
$1,000, 11/2/98, Friends of John LaFalce
$1,000, 2/24/99, Reynolds for Congress
$1,000, 3/8/99, Quinn for Congress
$1,000, 6/17/99, Friends of Giuliani Exploratory Cte.
$1,000, 6/30/99, Bush for President
$1,000, 11/2/99, Bush-Cheney 2000 Compliance Committee, Inc.
$1,000, 2/22/00, Quinn for Congress
$5,000, 3/3/00, NY Republican Federal Campaign Committee
$1,000, 3/13/00, Reynolds for Congress
$1,000, 3/20/00, Friends of LaFalce
$1,000, 4/26/00, Friends of Giuliani Exploratory Cte.
$3,600, 6/29/00, RNC Republican National State Elections Cte.—returned
$1,000, 6/30/00, Lazio 2000—Primary
$1,000, 6/30/00, Lazio 2000—General
$7,000, 10/10/00, RNC Victory 2000
$250, 10/30/00, Dallas County Republican Party
$1,000, 2/27/01, Reynolds for Congress
$1,000, 2/27/01, Quinn for Congress
$1,000, 3/6/01, Friends of Schumer

In-kind contributions generated by me for the fundraiser—Bush for President held in my home:

$100*, 8/10/00, Carol Buckowski
$250*, 8/23/00, Carol Buckowski
$335*, 8/24/00, Carol Buckowski
$200*, 8/29/00, Carol Buckowski
$250*, 9/8/00, Carol Buckowski
$250*, 9/15/00, Carol Buckowski
$3,909, 9/29/00, Floristry

*Clerical and administrative support.

2. Spouse—Donna:

$1,000, 6/01/97, Friends of D'Amato
$1,000, 5/28/99, George W. Bush Compliance Funds
$1,000, 9/2/99, George W. Bush Compliance Funds
$1,000, 10/15/99, Governor George W. Bush for President
$561, 10/17/00, RNC State Elections Cte.—returned
$1,000, 4/10/00, Friends of Giuliani
$2,000, 6/28/00, Lazio 2000
$1,000, 9/4/00, Reynolds for Congress

3. Children and spouses: Anthony Jr. Bioia: $1,000, 9/99, Governor George W. Bush for President; David Gioia: $1,000, 9/99, Governor George W. Bush for President;

Laura Gioia (daughter-in-law):

$1,000, 9/99, Governor George W. Bush for President

$1,000, 10/00, Lazio 2000

Elizabeth Gioia: $1,000, 9/99, Governor George W. Bush for President.

4. Parents—Anna Gioia:

$500, 3/98, Friends of D'Amato

$1,000, 9/99, Governor George W. Bush for President;

$1,000, 6/00, Lazio 2000

$2,500, 9/00, RNC-Presidential Trust

Horace Gioia, deceased.

5. Grandparents: not given.

6. Brothers and spouses Horace and Wendy Gioia, Jr., none; Frederick and Maureen Gioia, none.

Robert and Sally Gioia:

$1,000, 10/25/98, Committee to elect LaFalce

$1,000, 6/12/99, Governor Bush Presidential

$1,000, 9/19/99, Bush for President

$5,000, 9/14/00, RNC-Presidential Trust

Richard and Anne Gioia: $5,000.00, 10/00, RNC-Presidential Trust.

7. Sisters and spouses Angela and Gary Porter, none; Joyce Gioia, deceased.

Howard H. Leach, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

Nominee: Howard H. Leach.

Post: Ambassador to France.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—Amount, Date, and Donee

$1,000, 14-Jan-97, Frank Riggs for Congress, California

$35,000, 17-Mar-97, RNSEC

$1,000, -20-Mar-97, Shelby for U.S. Senate, US Senate, Alabama

$1,000, 03-Apr-97, Missourians for Kit Bond Committee

$15,000, 23-May-97, 1997 Republican Senate, Senate-House Dinner

$1,000, 27-May-97, Citizens for Arlen Specter, US Senate, Pennsylvania

$1,000, 30-Jun-97, Friends of Senator Nickles, US Senate, Oklahoma

$1,000, 24-Jul-97, Randy Hoffman for Congress

$1,000, 24-Jul-97, Matt Fong, US Senate, California

$5,000, 07-Aug-97, Campaign America, Vice President-Dan Quayle

$1,000, 07-Aug-97, The Freedom Project, Congressman John Boshner-Ohio

$1,000, 07-Aug-97, Gisele Stavert, Congress, California

$10,000, 17-Sep-97, Gopac, 440 First Street, N.W.-Suite 400, Washington, D.C. 20077-0245

$1,000, 17-Sep-97, Christopher Cox, Congressional Committee, California

$1,000, 24-Sep-97, David Drier for Congress, Congress, California

$20,000, 17-Oct-97, Foundation of Responsible Government, 501(c)(4)

$5,000, 17-Oct-97, Republican Natioanl Leadership Council

$15,000, 29-Oct-97, Senate Majority Dinner

$25,000 29-Oct-97, American Education Reform Foundation, 501(c)(4)

$1,000, 07-Nov-97, McCain for Senate '98 Committee, Arizona

$1,000, 10-Nov-97, Tom Campbell for Congress

$5,000, 11-Dec-97, California Republican Party, Federal Account

$6,000, 11-Dec-97, RNSEC

$1,000, 12-Feb-98, Christopher Cox, Congressional Committee

$1,000, 19-Feb-98, Friends of D'Amato, Senate, New York

$10,000, 25-Feb-98, Republican National Committee

$15,000, 25-Feb-98, Republican National

$2,000, 14-Apr-98, State Election Committee

$25,000, 14-Apr-98, Americans for Hope Growth and Opportunity, Steve Forbes, 501(c)(4)

$25,000, 05-Aug-98, National Republican Senatorial Committee

$10,000, 05-Aug-98, GOPAC

$5,000, 25-Aug-98, Campaign American, Dan Quayle

$1,000, 01-Sep-98, Hosemann for Congress Mississippi

$20,000, 18-Sep-98, Foundation for Responsible Gov't, 501(c)(4), polling, advertising research issues advocacy

$5,000, 18-Sep-98, Republican National Leadership Council, Republican Candidates

$1,000, 27-Jan-99, Quayle 2000 Exploratory Committee

$1,000, 9-Mar-99, Governor George W. Bush Presidential Exploratory Committee

$1,000, 31-Mar-99, Tom Campbell for Congress Committee

$350, 31-Mar-99, Christopher Cox Congressional Committee

$20,000, 13-Apr-99, Republican National State Election Committee

$5,000, 13-Apr-99, Republican National State Election Committee

$2,000, 10-May-99, Friends of Guiliani

$1,000, 27-May-99, Rogan Campaign Committee

$2,000 2-Jun-99, Frist 2000

$1,000, 2-Jun-99, Friends of George Allen

$20,000, 15-Jun-99, 1999 Republican Senate-House Dinner

$410.89, 28-Jul-99, RNSEC, Dinner—Jim Nicholsen

$1,000, 16-Aug-99, Snowe for Senate

$10,000, 16-Aug-99, GOPAC

$1,000, 30-Sep-99, George W. Bush Compliance Committee

$10,000, 1-Nov-99, Republican Jewish Coalition 501(c)(4)

$1,000, 10-Nov-99, Christopher Cox for Congress, California

$1,000, 10-Nov-99, Abraham Senate 2000, Michigan

$5,000, 11-Nov-99, California Republican Party, Victory 2000—Federal

$1,000, 7-Dec-99, Friends or Dick Lugar, Indiana

$1,000, 7-Dec-99, Ashcroft for Senate, Senate, Missouri

$1,000, 7-Dec-99, Cunneen for Congress, Congress, California

$50,000, 2-Feb-00, Shape the Debate, Pete Wilson, 501(c)4

$25,000, 1-Feb-0, Republican Leadership council

$1,000, 22-Feb-00, McCollum for US Senate, Florida

$1,000, 22-Feb-00, Tom Campbell for Senate, California, primary

$20,000, 13-Mar-00, Giuliani Victory Committee, National Republican Senatorial Committee

$1,000, 13-Mar-00, Claude Hutchinson for Congress Committee

$65, 29-Mar-00, California Republican Party, Delegate Selection Convention

$1,000, 26-Apr-00, Tom Campbell for Senate, California—General

$46,000, 4-Apr-00, RNSEC

$400, 27-Apr-00, California Republican National, Convention Delegation

$25,000, 18-May-00, The Senatorial Trust

$1,000, 20-Jun-00, Giuliani Reimbursement

$2,500, 30-Jun-00, NRSC Convention

$50,000, 6-Jul-00, 2000 RNC Convention Gala

$5,000, 24-Jul-00, New Republican Majority Fund

$1,000, 24-Jul-00, Jim Cunneen for Congress, General

$10,000, 24-Jul-00, GOPAC

$25,000 (check from Leach Carital LLC), 24-Jul-00, RNSEC

$15,000, RNSEC

$50,000 (check from San Francisco Aviation Co), RNSEC

$1,000, 29-Jul-00, Roth Senate Committee

$1,000, 29-Jul-00, Friends of George Allen

$1,000, 25-Sep-00, Lazio 2000, Senate, New York

$1,000, 25-Sep-00, Bob Franks for U.S. Senate—General

$5,300, 23-Oct-00, RNSEC

$5,000, 13-Nov-00, Bush-Cheney Recount Fund

$5,000, 28-Nov-00, Bush-Cheney Presidential Transition Foundation

$100,000, 22-Dec-00, Presidential Inaugural Committee

2001, None.

2. Spouse, Gretchen C. Leach:

$1,000, 3-Apr-97, Missourians for Kit Bond Committee

$1,000, 27-May-97, Citizens for Arlen Specter

$1,000, 11-Dec-97, Matt Fong, U.S. Senate Committee

$1,000, 30-Apr-98, Gisele Stavert for Congress '98 California

$1,000, 27-May-98, The Coverdell Good Government Committee, Georgia

$1,000, 28-May-98, Oxley for Congress, California

$1,000, 30-Jun-98, Charles Ball for Congress, California

$1,000, 14-Jul-98, Matt Fong U.S. Senate, California

$5,000, 6-Aug-98, American Success PAC, David Drier, PAC

$1,000, 6-Mar-99, Governor George W. Bush Exploratory Committee

$1,000, 1-Mar-99, Tom Campbell for Congress, California.

$2,000, 10-May-99, Friends of Guiliani, Senate, New York

$2,000, 02-Jun-99, Friends of Frist, Tennessee

$1,000, 28-Jun-99, Friends of George Allen, Virginia

$1,000, 06-Aug-99, Snowe for Senate, Olympia Snowe, Maine

$1,000, 30-Sep-99, George W. Bush Compliance Committee

$1,000, 07-Dec-99, Aschroft for Senate, Tennessee

$5,000, 11-Nov-99, California Republican Party-Victory 2000

$20,000, 11-Nov-99, Republican National Committee

$1,000, 22-Feb-00, McCollum for US Senate, Florida

$1,000, 22-Feb-00, Tom Campbell-Primary, US Senate, California

$1,000, 26-Apr-00, Tom Campbell-General, US Senate, California

$1,000, 20-Jun-00, Friends of Giuliani Refund

$1,000, 25-Sep-00, Lazio 2000, Rick Lazio, New York

$10,000, 27-Oct-00, Republican National Committee

$5,000, 13-Nov-00, Bush-Cheney Recount Fund

$5,000, 28-Nov-00, Bush-Cheney Presidential Transition Foundation

2001, none

3. Children and spouses:

Howard A. Leach (son), $1,000, 6/20/99, G.W. Bush Exploratory Committee.

Elizabeth M. Leach (Betsy) (daughter-in-law), $1,000, 6/20/99, G.W. Bush Exploratory Committee.

Elizabeth Leach (daughter), none.

Michael H. Leach (son):

$35, 1/1/97, Republican National Committee

$35, 12/6/98, Repbulican National Committee

Elizabeth K. Leach (Lisa) (daughter-in-law), none.

Thomas H. Leach (son):

$20, 11/1/97, SAFEPAC, Safeway Stores Political Action Comm.
1998, none
$50, 3/12/99, Republican National Committee
$50, 5/22/99, Republican National Committee
$500, 7/7/99, George W. Bush for President
$100, 4/14/00, SAFEPAC, Safeway Stores Political Action Comm
$50, 4/15/00, Republican National Committee
2001, none

Margaret M. Leach (daughter-in-law): $500.00, 7/7/99, George W. Bush for President.

Stephanie Leach (daughter), none.

Lisa Colgate (step-daughter), none.

Stephen Green (son-in-law):

$1,000 6/27/00, Lazio 2000 Inc
$1,000 6/27/00, Lazio 2000 Inc
$500 11/3/00, Abraham for Senate
$500 11/5/00, Rehberg for Congress

Adreinne Colgate Jones (step-daughter): $1,000, 10/12/00, Lazio 2000 Inc.

Hugh Milton Jones: $100, 2000, McCain for President.

Hilary Colgate McInerney (step-daughter): $1,000, 1999, Bush for President.

Mark McInerney (son-in-law):

$1,000, 4/14/99, Bush for President
250, 3/21/00, Campbell for Senate-California

4. Parents: Deceased.
5. Grandparents; Deceased.
6. Brother and spouses:
Edmund J. Leach, Jr., none.
Carol Leach, none.
7. Sisters and spouses:
Eleanor Merritt, none.
Jack Merritt, none.

William A. Eaton, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State (Administration).

Alexander R. Vershbow, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Russian Federation.

Nominee: Alexander R. Vershbow.

Post: U.S. Ambassador to Russian Federation.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee

1. Self, none.
2. Spouse, none.
3. Children and spouses, Benjamin and Gregory (sons), none.
4. Parents, Arthur and Charlotte Z. Vershbow, none.
5. Grandparents, names (deceased).
6. Brothers and spouses, none.
7. Sisters and spouse, Ann R. Vershbow and Charles Beitz.

$100, 11/27/97, Tom Allen, Maine Congressman
$100, 8/3/98, Tom Allen, Maine Congressman
$100, 10/13/00, Tom Allen, Maine Congressman

Clark T. Randt, Jr., of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

Nominee: Clark T. Randt, Jr.

Post: Ambassador to China.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee

1. Self, Clark T. Randt, Jr.:

$1,000, 5/26/1999, Governor George W. Bush Presidential Exploratory Committee
$20,000, 6/5/2000, RNC President Trust
$1,000, 7/24/2000, RNC Republican National State Elections Committee
$1,000, 12/1/2000, Bush-Cheney Recount Fund
$1,000, 12/6/2000, Bush/Cheney Presidential Transition Foundation
$2,200, 2/13/2001, RNC Republican National State Elections Committee

2. Spouse, Sarah T. Randt:

$1,000, 5/26/1999, Governor George W. Bush Presidential Exploratory Committee
$1,096.77, 10/4/2000, in-kind contribution of breakfast expenses to RNC Presidential Trust

3. Children and spouses: Clark T. Randt, III, none; Paull M. Randt, none; and Clare T. Randt, none.
4. Parents (deceased).
5. Grandparents (deceased).
6. Brothers and spouses: Thomas P. Randt:

$1,000, 5/20/1999, Governor George W. Bush Presidential Exploratory Committee; Kim-Kay Randt, none; Dana M. Randt, none; and Virginia H. Randt, none.

7. Sisters and spouses, none.

C. David Welch, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

Nominee: Charles David Welch.

Post: Cairo, Egypt.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee

1. Self, none.
2. Spouse: Gretchen Gerwe Welch, none.
3. Children and spouses: Emma F. Welch, none; Margaret E. Welch, none; and Hannah A. Welch, none.
4. Parents: Donald M. Welch, $51, 10/4/96, Republican National Committee; and Jackie B. Welch, none.
5. Grandparents (deceased).
6. Brothers and spouses: Joseph M. Welch

$25, 3/4/99, Libertarian Party
$10, monthly, beginning January 2001, Libertarian Party

7. Sisters and spouses: Donna Elizabeth Welch, none; and Thomas Fisk, $100, 12/07/00, George W. Bush, Republican Recount Campaign.

Douglas Alan Hartwick, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Lao People's Democratic Republic.

Nominee: Douglas Alan Hartwick.

Post: Laos.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee

1. Self, Douglas Hartwick, none.
2. Spouse, Regina Zuehlke Hartwick, none.
3. Children and spouses; Andrea Hartwick, none; and Kirsten Hartwick, none.
4. Parents: Tobias and Kay Hartwick, none.
5. Grandparents: Tolley/Emma Hartwick, none; and Mary/Elmer Thomas, none.
6. Brothers and spouses: Philip Hartwick, none; and Rachel Hartwick, none.
7. Sisters and spouses: Mrs. Marcia Mahoney, none; and Mr. Peter Mahoney, none.

Daniel C. Kurtzer, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Nominee: Daniel Charles Kurtzer.

Post: Ambassador to the State of Israel.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee

1. Self, Daniel Charles Kurtzer, none.
2. Spouse, Sheila Kurtzer, none.
3. Children and spouses: David Shimon Kurtzer, none; Jared Louis Kurtzer, none; and Jacob Doppelt Kurtzer, none.
4. Parents: Nathan and Sylvia Kurtzer, none; and Minnie Doppelt, none.
5. Grandparents (deceased).
6. Brothers and spouses: Benjamin and Melissa Kurtzer, none; and Ira Doppelt, none.
7. Sisters and spouses: Max and Gale Bienstock, none; Richard and Debra Forman, none; and Arthur and Joyce Miltz, none.

Clark Kent Ervin, of Texas, to be Inspector General, Department of State.

Mr. BIDEN. Mr. President, for the Committee on Foreign Relations, I report favorably the following nomination list which was printed in the RECORDS of the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Foreign Service nominations beginning Stephen K. Morrison and ending Joseph Laurence Wright II, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 12, 2001.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly considered committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 1158. A bill to amend the Internal Revenue Code of 1986 to modify the active business definition relating to distributions of stock and securities of controlled corporations; to the Committee on Finance.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 1159. A bill to direct the Secretary of the Army to repair and expand a wave attenuation system to protect fishermen and other boaters and promote the welfare of the town of Lubec, Maine; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER:

S. 1160. A bill to amend section 1714 of title 38, United States Code, to modify the authority of the Secretary of Veterans Affairs to provide dog-guides to blind veterans and authorize the provision of service dogs to hearing-impaired veterans and veterans with spinal cord injuries, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CRAIG (for himself, Mr. MCCONNELL, Mr. COCHRAN, Mr. ENZI, Mr. BURNS, Mr. FRIST, and Mr. HUTCHINSON):

S. 1161. A bill to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers; to provide a stable, legal, agricultural work force; to extend basic legal protections and better working conditions to more workers; to provide for a system of one-time, earned adjustment to legal status for certain agricultural workers; and for other purposes; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Mr. BIDEN, Mr. MCCAIN, Mr. CAMPBELL, Ms. MIKULSKI, and Mr. CARPER):

S.J. Res. 18. A joint resolution memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. Res. 124. A resolution congratulating the University of the Pacific, and its faculty, staff, students, and alumni on the University's 150th anniversary; considered and agreed to.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. Res. 125. A resolution commemorating the Major League Baseball All-Star Game and congratulating the Seattle Mariners; considered and agreed to.

ADDITIONAL COSPONSORS

S. 345

At the request of Mr. ALLARD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to strike the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 367

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 367, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 411

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 411, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 530

At the request of Mr. GRASSLEY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 530, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind.

S. 543

At the request of Mr. WELLSTONE, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 550

At the request of Mr. DASCHLE, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 550, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 582

At the request of Mr. GRAHAM, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 582, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance program.

S. 583

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 638

At the request of Mr. DOMENICI, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 638, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 756

At the request of Mr. GRASSLEY, the names of the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 756, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from biomass, and for other purposes.

S. 803

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 803, a bill to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

S. 805

At the request of Mr. COCHRAN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 805, a bill to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and emery-dreifuss muscular dystrophies.

S. 824

At the request of Mr. GRAHAM, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 824, a bill to establish an informatics grant program for hospitals and skilled nursing facilities.

S. 829

At the request of Mr. BROWNBACK, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 829, a bill to establish the National Museum of African American History and Culture within the Smithsonian Institution.

S. 838

At the request of Mr. DODD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 838, a bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

S. 847

At the request of Mr. DAYTON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 860

At the request of Mr. GRASSLEY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 866

At the request of Mr. REID, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 880

At the request of Mrs. LINCOLN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 880, a bill to amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received an organ transplant, and for other purposes.

S. 897

At the request of Mr. BAUCUS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 897, a bill to amend title 39, United States Code, to provide that the procedures relating to the closing or consolidation of a post office be extended to the relocation or construction of a post office, and for other purposes.

S. 906

At the request of Mr. ENZI, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 906, a bill to provide for protection of gun owner privacy and ownership rights, and for other purposes.

S. 994

At the request of Mr. SCHUMER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 994, a bill to amend the Iran and Libya Sanctions Act of 1996 to extend authorities under that Act.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1002

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1002, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1006

At the request of Mr. HAGEL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1006, a bill to provide for the energy security of the United States and promote environmental quality by enhancing the use of motor vehicle fuels from renewable sources, and for other purposes.

S. 1021

At the request of Mr. LUGAR, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1021, a bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004.

S. 1032

At the request of Mr. FRIST, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1032, a bill to expand assistance to countries seriously affected by HIV/AIDS, malaria, and tuberculosis.

S. 1033

At the request of Ms. STABENOW, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1033, a bill to amend the Federal Water Pollution Control Act to protect 1/5 of the world's fresh water supply by directing the Administrator of the Environmental Protection Agency to conduct a study on the known and potential environmental effects of oil and gas drilling on land beneath the water in the Great Lakes, and for other purposes.

S. 1125

At the request of Mr. MCCONNELL, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1125, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1135

At the request of Mr. GRAHAM, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1135, a bill to amend title XVIII of the Social Security Act to provide comprehensive reform of the medicare program, including the provision of coverage of outpatient prescription drugs under such program.

S. RES. 121

At the request of Mr. KERRY, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Oregon (Mr. WYDEN) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. Res. 121, a resolution expressing the sense of the Senate regarding the policy of the United States at the 53rd Annual Meeting of the International Whaling Commission.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 34

At the request of Mr. CAMPBELL, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Con. Res. 34, a concurrent resolution congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the tenth anniversary of the reestablishment of their full independence.

S. CON. RES. 45

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

AMENDMENT NO. 862

At the request of Mr. SCHUMER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 862 proposed to S. 1077, an original bill making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 863

At the request of Mr. FEINGOLD, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 863 proposed to S. 1077, an original bill making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 865

At the request of Mr. VOINOVICH, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Illinois (Mr. FITZGERALD), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of amendment No. 865 proposed to S. 1077, an original bill making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 866

At the request of Ms. STABENOW, her name was added as a cosponsor of amendment No. 866.

At the request of Mr. FEINGOLD, his name was added as a cosponsor of amendment No. 866, supra.

At the request of Mr. CONRAD, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of amendment No. 866, supra.

AMENDMENT NO. 869

At the request of Mr. KYL, his name was added as a cosponsor of amendment No. 869 proposed to S. 1077, an original bill making supplemental appropriations for the fiscal year ending

September 30, 2001, and for other purposes.

At the request of Mrs. CARNAHAN, her name was added as a cosponsor of amendment No. 869 proposed to S. 1077, supra.

At the request of Mr. INHOFE, his name was added as a cosponsor of amendment No. 869 proposed to S. 1077, supra.

AMENDMENT NO. 870

At the request of Mr. HUTCHINSON, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of amendment No. 870 proposed to S. 1077, an original bill making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 1158. A bill to amend the Internal Revenue Code of 1986 to modify the active business definition relating to distributions of stock and securities of controlled corporations; to the Committee on Finance.

Mr. BREAUX. Mr. President, I rise today to introduce tax legislation which proposes only a small technical modification of current law, but, if enacted, would provide significant simplification of routine corporate reorganizations. The legation is identical to S. 773 which I introduced on April 13 of last year.

This proposed change is small but very important. It would not alter the substance of current law in any way. It would, however, greatly simplify a common corporate transaction. This small technical change will alone save corporations millions of dollars in unnecessary expenses and economic costs that are incurred when they divide their businesses.

Past Treasury Departments have agreed, and I have no reason to believe the current Treasury Department will feel any differently, that this change would bring welcome simplification to section 355 of the Internal Revenue Code. Indeed, the Clinton Administration in its last budget submission to the Congress had proposed this change. The last scoring of this proposal showed no loss of revenue to the U.S. Government, and I am aware of no opposition to its enactment.

Corporations, and affiliated groups of corporations, often find it advantageous , or even necessary, to separate two or more businesses. The division of AT&T from its local telephone companies is an example of such a transaction. The reasons for these corporate divisions are many, but probably chief among them is the ability of management to focus on one core business.

At the end of the day, when a corporation divides, the stockholders simply have the stock of two corporations, instead of one. The Tax Code recognizes this is not an event that should trigger tax, as it includes corporate divisions among the tax-free reorganization provisions.

One requirement the Tax Code imposes on corporate divisions is very awkwardly drafted, however. As a result, an affiliated group of corporations that wishes to divide must often engage in complex and burdensome preliminary reorganizations in order to accomplish what, for a single corporate entity, would be a rather simple and straightforward spinoff of a business to its shareholders. The small technical change I propose today would eliminate the need for these unnecessary transactions, while keeping the statue true to Congress's original purpose.

More specifically, section 355, and related provision of the Code, permits a corporation or an affiliated group of corporations to divide on a tax-free basis into two or more separate entities with separate businesses. There are numerous requirements for tax-free treatment of a corporate division, or "spinoff," including continuity of historical shareholder interest, continuity of the business enterprises, business purpose, and absence of any device to distribute earning and profits. In addition, section 355 requires that each of the divided corporate entities be engaged in the active conduct of a trade or business. The proposed change would alter none of these substantive requirements of the Code.

Section 355(b)(2)(A) currently provides an attribution or "look through" rule for groups of corporations that operate active businesses under a holding company, which is necessary because a holding company, by definition, is not itself engaged in an active business.

This lookthrough rule inexplicably requires, however, that "substantially all" of the assets of the holding company consist of stock of active controlled subsidiaries. The practical effect of this language is to prevent holding companies from engaging in spinoffs if they own almost any other assets. This is in sharp contrast to corporations that operate businesses directly, which can own substantial assets unrelated to the business and still engage in tax-free spinoff transactions.

In the real world, of course, holding companies may, for many sound business reasons, hold other assets, such as non-controlling, less than 80 percent, interests in subsidiaries, controlled subsidiaries that have been owned for less than five years, which are not considered "active businesses" under section 355, or a host of non-business assets. Such holding companies routinely undertake spinoff transactions, but because of the awkward language used in section 355(b)(2)(A), they must first undertake one or more, often a series of, preliminary reorganizations solely for the purpose of complying with this inexplicable language of the Code.

Such preliminary reorganizations are at best costly, burdensome, and without any business purpose, and at worst, they seriously interfere with business operations. In a few cases, they may be so costly as to be prohibitive, and cause the company to abandon an otherwise sound business transaction that is clearly in the best interest of the corporation and the businesses it operates.

There is no tax policy reasons, tax advisors agree, to require the reorganization of a consolidated group that is clearly engaged in the active conduct of a trade or business, as a condition to a spinoff. Nor is there any reason to treat affiliated groups differently than single operating companies. Indeed, no one has ever suggested one. The legislative history indicates Congress was concerned about non-controlled subsidiaries, which is elsewhere adequately addressed, no consolidated groups.

For many purposes, the Tax Code treats affiliated groups as a single corporation. Therefore, the simple remedy I am proposing today for the problem created by the awkward language of section 355(b)(2)(A) is to apply the active business test to an affiliated group as if it were a single entity.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF ACTIVE BUSINESS DEFINITION.

(a) IN GENERAL.—Section 355(b)(2) of the Internal Revenue Code of 1986 (defining active conduct of a trade or business) is amended by adding at the end the following: "For purposes of subparagraph (A), all corporations that are members of the same affiliated group (as defined in section 1504(a)) shall be treated as a single corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions or transfers after the date of the enactment of this Act.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 1159. A bill to direct the Secretary of the Army to repair and expand a wave attenuation system to protect fishermen and other boaters and promote the welfare of the town of Lubec, Maine; to the Committee on Environment and Public Works.

Ms. COLLINS. Mr. President, I rise today to introduce the Lubec Safe Harbor Act of 2001.

Small communities up and down the coast of Maine literally depend upon the sea for their survival. From the rich fishing grounds that supply Maine's great fishing industry to the beautiful coastlines that draw tourist by both land and water, the sea provides Maine's coastal communities with their livelihoods.

But while the sea provides life and income to Maine's coastal communities, it can also take back what it gives.

One small community in Maine that has been particularly hard hit by the sea's fury is Lubec. In 1997, a winter storm took the lives of two Lubec fishermen.

Earlier this year, storms destabilized the existing wave attenuation system in Lubec and consequently caused extensive damage to the Lubec marina. The destruction has been very difficult for this small town, whose existence, like many coastal Maine communities, is largely dependent on fishing and tourists who arrive by boat. Without the attenuator, the marina, the pier, and the harbor will cease to function effectively. Without a harbor, Lubec can neither support its fishing industry nor provide landing capacity for tour boats. Without a safe berth for their boats, the lives of Lubec's fishermen are further at risk.

Today, I am introducing legislation that directs the Army Corps of Engineers to construct a wave attenuation system for the Town of Lubec. For the sake of the safety of the fishermen of Lubec and the well being of the community, this legislation directs the Army Corps to begin work immediately. My legislation authorizes $2.2 million dollars for the Army Corps to complete this project.

I call upon my colleagues to recognize the urgency of this situation. The longer Lubec goes without a safe harbor, the greater the risk to the lives of Lubec's fishermen, and the greater the threat to the economic well-being of this coastal community. I ask my colleagues to help me pass this legislation as soon as possible.

I am pleased to be joined in this effort by my colleague from Maine, Senator SNOWE. I know she will also work very hard on behalf of the people of Lubec to see this legislation enacted.

By Mr. ROCKEFELLER:

S. 1160. A bill to amend section 1714 of title 38, United States Code, to modify the authority of the Secretary of Veterans Affairs to provide dog-guides to blind veterans and authorize the provision of service dogs to hearing-impaired veterans and veterans with spinal cord injuries, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I am pleased to introduce legislation today that would make guide dogs more available to veterans in need.

Service dogs, or "guide dogs", have traditionally been viewed as being helpful only to those who are visually impaired. However, in recent years, primarily as a result of the Americans With Disabilities Act, there has been a push to find alternative methods of providing assistance to people with various kinds of disabilities. While there have been many technological developments in this field, there still remains a need for long-term assistance that allows for the most possible independence on the part of the disabled individual.

Specifically, my legislation would enable the Department of Veterans Affairs to provide hearing-impaired veterans and veterans with spinal cord injury or dysfunction, in addition to blind veterans, the ability to obtain service dogs to assist them with everyday activities.

There are numerous ways in which service dogs can assist their owners. Tasks such as opening and closing doors, turning switches on and off, carrying bags, and dragging a person to safety in the case of an emergency are just a few of the standard duties for service dogs. Their ability to perform these types of duties makes them invaluable to those who require day-to-day aid. Having this sort of assistance can make a big difference in terms of offering not only physical support, but companionship as well.

Various types of evidence illustrate the value of companion pets, not just to the disabled, but to everyone. The Journal of the American Medical Association published a trial study a few years ago that examined the impact of service dogs on the lives of people with disabilities—both in terms of economic and social impacts.

With regard to social considerations, researchers found that all participants had increased levels of self-esteem, independence, and community integration. The economic benefit was exemplified through a sharp decrease in the number of paid assistance hours. Overall, the JAMA study concluded that service dogs can greatly improve the quality of life for the disabled.

In closing, I extend my thanks to the Paralyzéd Veterans Association, who assisted me invaluably in preparing this legislation. Their hard work and dedication to this issue have been a great help, and I am proud to have worked with them to develop this bill.

I urge my Senate colleagues to join me in seeking to provide greater accessibility to assistance for disabled veterans. They have sacrificed for all of us, and deserve every effort we can make to restore their sense of independence.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. MODIFICATION AND ENHANCEMENT OF AUTHORITY TO PROVIDE DOG-GUIDES AND SERVICE DOGS TO VETERANS WITH DISABILITIES.

(a) ENHANCEMENT OF AUTHORITY.—Subsection (b) of section 1714 of title 38, United States Code, is amended to read as follows:

"(b)(1) The Secretary may provide any blind veteran who is entitled to disability compensation with—

"(A) a dog-guide trained for the aid of the blind; and

"(B) mechanical or electronic equipment for aid in overcoming the disability of blindness.

"(2) The Secretary may provide a service dog to the following:

"(A) Any hearing-impaired veteran who is entitled to disability compensation.

"(B) Any veteran with a spinal cord injury or dysfunction who is entitled to disability compensation.

"(3) In providing a dog-guide or service dog to a veteran under this subsection, the Secretary may pay travel and incidental expenses (under the terms and conditions set forth in section 111 of this title) of the veteran to and from the veteran's home and incurred in becoming adjusted to the dog-guide or service dog, as the case may be.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading of that section is amended to read as follows:

"§ 1714. Fitting and training in use of prosthetic appliances; dog-guides and service dogs".

(2) The table of section at the beginning of chapter 17 of that title is amended by striking the item relating to section 1714 and inserting the following new item:

"1714. Fitting and training in use of prosthetic appliances; dog-guides and service dogs.".

By Mr. CRAIG (for himself, Mr. MCCONNELL, Mr. COCHRAN, Mr. ENZI, Mr. BURNS, Mr. FRIST, and Mr. HUTCHINSON):

S. 1161. A bill to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers; to provide a stable, legal, agricultural work force; to extend basic legal protections and better working conditions to more workers; to provide for a system of one-time earned adjustment to legal status for certain agricultural workers; and for other purposes; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, I am pleased to have joined several colleagues this week in introducing a new, improved version of the Agricultural Job Opportunity, Benefits, and Security Act, the "AgJOBS" bill.

We are facing a growing crisis, for both farm workers and growers.

We want and need a stable, predictable, legal work force in American agriculture.

Willing American workers deserve a system that puts them first in line for available jobs with fair, market wages. We want all workers to receive decent treatment and equal protection under the law.

Consumers deserve a safe, stable, domestic food supply.

American citizens and taxpayers deserve secure borders and a government that works.

Yet Americans are being threatened on all these counts, because of a growing labor shortage in agriculture, while the only program currently in place to respond, the H–2A Guest Worker Program, is profoundly broken.

The problem is only growing worse. Therefore, we are introducing a new, improved bill. The name of the bill says it all—“AgJOBS”.

Our farm workers need this reform bill.

There is no debate about whether many, or most, farm workers are aliens.

They are. And they will be, for the foreseeable future. The question is whether they will be here legally or illegally.

Immigrants not legally authorized to work in this country know they must work in hiding.

They cannot even claim basic legal rights and protections. They are vulnerable to predation and exploitation. They sometimes have been stuffed inhumanly into dangerously enclosed truck trailers and car trunks, in order to be transported, hidden from the view of the law.

In fact, they have been known to pay “coyotes”, labor smugglers, $1,000 and more to be smuggled into this country.

In contrast, legal workers have legal protections.

They can assert wage, safety, and other legal protections. They can bargain openly and join unions. H–2A workers, in fact, are even guaranteed housing and transportation.

Clearly, the status quo is broken.

Domestic American workers simply are not being found to fill agricultural jobs.

Our own government estimated that half of the total 1.6 million agricultural work force are not legally authorized to work in this country.

That estimate is probably low; it’s based on self-disclosure by illegal workers to government interviewers.

Some actually have suggested that there is no labor shortage, because there are plenty of illegal workers. This is not an acceptable answer.

Congress has shown its commitment over the past few years to improve the security of our borders, both in the 1996 immigration law and in subsequent appropriations.

Between computerized checking by the Social Security Administration and audits and raids by the Immigration and Naturalization Service, more and more employers are discovering they have undocumented employees; and more and more workers here illegally are being discovered and evicted from their jobs.

Outside of H–2A, employers have no reliable assurance that their employees are legal.

It’s worse than a Catch-22, the law actually punishes the employer who could be called “too diligent” in inquiring into the identification documents of prospective workers.

The H–2A status quo is slow, bureaucratic, and inflexible. It does nothing to recognize the uncertainties farmers face, from changes in the weather to global market demands.

The H–2A status quo is complicated and legalistic. DOL’s compliance manual alone is 325 pages.

The current H–2A process is so hard to use, it will place only about 40,000 legal guest workers this year, 2 to 3 percent of the total agricultural work force.

Finally, the grower can’t even count on his or her government to do its job.

A General Accounting Office study found that, in more than 40 percent of the cases in which employers filed H–2A applications at least 60 days before the date of need, the DOL missed statutory deadlines in processing them.

The solution we need is the AgJOBS Act of 2001.

This is win-win legislation.

It will elevate and protect the rights, working conditions, and safety of workers. It will help workers, first domestic American workers, then other workers already here, then foreign guest workers, find the jobs they want and need.

It will assure growers of a stable, legal supply of workers, within a program that recognizes market realities. The adjusted-worker provisions also will give growers one-time assistance in adjusting to the new labor market realities of the 21st Century.

It will assure all Americans of a safe, consistent, affordable food supply.

The nation needs AgJOBS. I invite the rest of my colleagues to join us as cosponsors; and I urge the Senate and the House to act promptly to enact this legislation into law.

I ask unanimous consent that a summary of this bill be included in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

THE AGRICULTURAL JOB OPPORTUNITY, BENEFITS, & SECURITY ACT OF 2001—SUMMARY

AgJOBS II is legislation reforming the current, cumbersome H–2A agricultural guest worker program and, for non-H–2A agricultural workers, creating a program in which farmworkers now in the U.S. without legal documentation could adjust to legal status.

This bill builds on the significant progress made last year, in legislation, hearings, and extensive discussions among Members of Congress, the Administration, and the agriculture community. This new bill chooses from among the best ideas in similar legislation introduced in the 106th Congress (S. 1814, the original Agricultural Job Opportunity, Benefits, and Security Act (AgJOBS)) and other proposals and ideas discussed before and since.

Enactment of H–2A reform and adjustment of status legislation is critically important to the continued health of American agriculture. Reform is needed to provide a stable, legal workforce and to extend basic legal protections and better conditions to more workers.

According to the federal government’s own estimates, about half of our 1.6 million agriculture work force is not legally authorized to work here. This is certain to be a low estimate, because it is based upon self-disclosure by illegal workers to government interviewers.

Highlights of reforms to the H–2A program

American workers should have the first opportunity to hold American jobs. When enough domestic farmworkers are not available for upcoming work, growers currently are required to go through a lengthy and uncertain process of demonstrating that fact to the satisfaction of the federal government. A GAO study found that, under the current system, the Department of Labor misses processing deadlines 40 percent of the time, which increases costly delays and discourages use of the program.

The new bill would replace the current quagmire with a streamlined “attestation” process like the one now used for H–1B high-tech workers, speeding up certification of H–2A employers and the hiring of guest workers.

The new bill sets the prevailing wage as the standard, minimum wage for guest workers admitted under the H–2A program, instead of the unrealistic “premium” wage currently mandated on H–2A employers (called the Adverse Economic Wage Rate), that often combines completely dissimilar worker categories in computing one wage rate.

Participating employers would continue to furnish housing and transportation for H–2A workers. Other current H–2A labor protections for both H–2A and domestic workers would be continued.

Highlights of the new status adjustment program

To qualify for adjustment to legal status, an incumbent worker must have worked in the United States in agriculture for at least 150 days in any 12-month period in the last 18 months. (The average non-casual farm worker works 150 days a year.) The bill creates a one-time adjustment opportunity, only for experienced and valued workers who are already in the United States by July 4, 2001.

To earn adjustment of status and the right to stay and work legally in the United States, a qualified worker must continue to work in U.S. agriculture at least 150 days a year, in each of 4 of the next 6 years.

During this 4-6 year period, the adjusting worker would have non-immigrant status and would be required to return to his or her home country for at least 2 months a year, unless he or she is the parent of a child born in the United States (i.e., a U.S. citizen), gainfully employed, actively seeking employment, or prevented by a serious medical condition from returning home. The worker may also work in another industry, as long as the agriculture work requirement is satisfied. The worker would have to check in once a year with the INS to verify compliance with the law and report his or her work history.

Upon completion of the status adjustment program, the adjusted worker would be eligible for legal permanent resident status. Considering the time elapsed from when a worker first applies to enter the adjustment process, this gives adjusting workers no advantage over regular immigrants beginning the legal immigration process at the same time.

By Mr. SARBANES (for himself, Mr. BIDEN, Mr. MCCAIN, Mr. CAMPBELL, Ms. MIKULSKI, and Mr. CARPER):

S.J. Res. 18. A joint resolution memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland; to the Committee on the Judiciary.

Mr. SARBANES. Mr. President, today I am introducing legislation, together with my colleagues Senators BIDEN, MCCAIN, CAMPBELL, MIKULSKI and CARPER, to recognize the courage and commitment of America's fire service and to pay special tribute to those firefighters who have made the ultimate sacrifice in the line of duty. Specifically, this legislation requires that the United States flag be flown at half-staff at all Federal facilities on the occasion of the annual National Fallen Firefighters Memorial Service at Emmitsburg, MD.

Our Nation's firefighters are among our most dedicated public servants. Indeed, few would question the fact that our fallen firefighters are heroes. Throughout our Nation's history, we have recognized the passing of our public servants by lowering our Nation's flag to half-staff in their honor. In the past, this list has included elected officials, members of the Armed Services and America's peace officers. In my view, our fallen firefighters are equally deserving of this high honor.

For the past nineteen years, a memorial service has been held on the campus of the National Fire Academy in Emmitsburg, to honor those firefighters who have given their lives while protecting the lives and property of their fellow citizens. Since 1981, the names of 2,081 fallen firefighters have been inscribed on plaques surrounding the National Fallen Firefighters Memorial, a Congressionally designated monument to these brave men and women. On October 7, at the 20th Annual National Fallen Firefighters Memorial Service, an additional 93 names will be added.

Over the years, I have worked very closely with the National Fallen Firefighters Foundation to ensure that the National Fallen Firefighters Memorial Service is an occasion befitting the sacrifices that these individuals have made. In my view, lowering the United States flag to half-staff is an essential component of this "Day of Remembrance." It will be a fitting tribute to the roughly 100 men and women who die each year performing their duties as our Nation's career and volunteer firefighters. It will also serve to remind us of the critical role played by the 1.2 million fire service personnel who risk their lives every day to ensure our safety and that of our communities.

I ask unanimous consent that this joint resolution be printed in the RECORD and urge my colleagues to support its swift passage.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 18

Whereas 1,200,000 men and women comprise the fire service in the United States;

Whereas the fire service is considered one of the most dangerous jobs in the United States;

Whereas fire service personnel selflessly respond to over 16,000,000 emergency calls annually, without reservation and with an unwavering commitment to the safety of their fellow citizens;

Whereas fire service personnel are the first to respond to an emergency, whether it involves a fire, medical emergency, spill of hazardous materials, natural disaster, act of terrorism, or transportation accident; and

Whereas approximately 100 fire service personnel die annually in the line of duty: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each year, the United States flags on all Federal facilities will be lowered to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 124—CONGRATULATING THE UNIVERSITY OF THE PACIFIC, AND ITS FACULTY, STAFF, STUDENTS, AND ALUMNI ON THE UNIVERSITY'S 150TH ANNIVERSARY

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 124

Whereas the University of the Pacific, founded in 1851 as California's first chartered university, includes 11 schools and colleges on 3 different campuses with 130 majors and programs of study, including 18 graduate programs;

Whereas the University of the Pacific has gained national recognition as a pioneering independent university;

Whereas the University of the Pacific has remained, throughout its history, devoted to the teaching and development of students by a faculty of outstanding scholars;

Whereas the University of the Pacific's devotion to student learning and development has prepared more than 60,000 graduates for lasting achievements and responsible leadership in their careers and communities;

Whereas in the spirit of its pioneering heritage, the University of the Pacific was the first university to enroll women and to introduce coeducation and women's athletics in the West;

Whereas in 1871, the University of the Pacific established California's first school of medicine, known today as the Pacific Medical Center of San Francisco;

Whereas the University of the Pacific established the first Conservatory of Music in the West;

Whereas the University of the Pacific was the first university in the Nation to offer an undergraduate teacher corps;

Whereas the University of the Pacific was the first degree-granting university to be established in California's San Joaquin Valley;

Whereas the University of the Pacific's alumni are leaders in California and the western States in the professions of government, dentistry, pharmacy, law, education, religion, musical and theatrical performance, business, and engineering; and

Whereas in recognition of the historic chartering of the University of the Pacific by the California Supreme Court, the Chief Justice of California is joining with others to recognize fulfillment of the University of the Pacific's Charter of Establishment: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the University of the Pacific as a leader and pioneering innovator in higher education; and

(2) congratulates the University of the Pacific, and its faculty, staff, students, and alumni on the occasion of the Sesquicentennial Anniversary of the granting of the University of the Pacific's charter.

SENATE RESOLUTION 125—COMMEMORATING THE MAJOR LEAGUE BASEBALL ALL-STAR GAME AND CONGRATULATING THE SEATTLE MARINERS

Ms. CANTWELL (for herself and Mrs. MURRAY) submitted the following resolution; which was considered and agreed to:

S. RES. 125

Whereas the City of Seattle and the Seattle Mariners franchise are honored to host the Major League Baseball All-Star Game (in this resolution referred to as the "All-Star Game") for the second time, and the first time at beautiful Safeco Field;

Whereas the game of baseball is widely considered America's pastime, inspiring, challenging, and bringing together generations of all backgrounds;

Whereas the 72nd All-Star Game on July 10, 2001, is the fans' tribute to the skill, work ethic, dedication, and discipline of the best players in the game of baseball;

Whereas the players selected for the All-Star Game are an inspiration to baseball fans across the world;

Whereas 4 Seattle Mariners players (Bret Boone, Edgar Martinez, John Olerud, and Ichiro Suzuki) were selected by fans from around the world to start for the American League in the All-Star Game, and American League All-Star Game Manager Joe Torre chose three Mariners pitchers (Freddy Garcia, Jeff Nelson, and Kazuhiro Sasaki), and one Mariners fielder (outfielder Mike Cameron) to be on the All-Star Game roster, and Mariners Manager Lou Piniella to be an assistant coach;

Whereas Ichiro Suzuki, in his first year in Major League Baseball, received more votes to play in the All-Star Game than any other player;

Whereas the Seattle Mariners have reached the All-Star break with a record of 63-24, the fourth best record at such point in the season in the history of Major League Baseball;

Whereas this remarkable record has been reached not only because of the individual efforts of the team's 8 All-Stars, but because of the teamwork and timely contributions of every teammate and an extraordinary coaching staff led by Manager Lou Piniella;

Whereas the teamwork, work ethic, and dedication of the players and coaches of the

Seattle Mariners have been an inspiration to baseball fans across the world; and

Whereas it is appropriate and fitting to congratulate every All-Star Game participant and member of the Seattle Mariners baseball team for the records and accolades they have achieved: Now, therefore, be it

Resolved, That the Senate congratulates—

(1) every player participating in the 2001 Major League Baseball All-Star Game; and

(2) the Seattle Mariners team for their remarkable achievements and the skill, discipline, and dedication necessary to reach such heights.

AMENDMENTS SUBMITTED AND PROPOSED

SA 876. Mr. BYRD (for himself, Mr. STEVENS, and Mr. HUTCHINSON) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

TEXT OF AMENDMENTS

SA 876. Mr. BYRD (for himself, Mr. STEVENS, and Mr. HUTCHINSON) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 31, after line 3, insert the following:

STATE AND PRIVATE FORESTRY

For an additional amount for "State and Private Forestry" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended.

For an additional amount for "State and Private Forestry", $750,000 to be provided to the Kenai Peninsula Borough Spruce Bark Beetle Task Force for emergency response and communications equipment and $1,750,000 to be provided to the Municipality of Anchorage for emergency fire fighting equipment and response to wildfires in spruce bark beetle infested forests, to remain available until expended: *Provided*, That such amounts shall be provided as direct lump sum payments within 30 days of enactment of this Act.

NATIONAL FOREST SYSTEM

For an additional amount for the "National Forest System" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended."

On page 31, after line 14, insert the following:

"For an additional amount for "Capital Improvement and Maintenance" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $4,000,000, to remain available until expended."

On page 13, after line 23, insert the following:

NATURAL RESOURCES CONSERVATION SERVICE WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for 'Watershed and Flood Prevention Operations', to repair damages to waterways and watersheds, resulting from natural disasters occurring in West Virginia on July 7 and July 8, 2001, $5,000,000, to remain available until expended.

On page 14, after line 25, insert the following:

SEC. 2106. Of funds which may be reserved by the Secretary for allocation to State agencies under section 16(h)(1) of the Food Stamp Act of 1977 to carry out Employment and Training programs, $38,500,000 made available in prior years are rescinded and returned to the Treasury.

On page 14, after line 25, insert the following:

SEC. 2107. In addition to amounts otherwise available, $2,000,000 from amounts pursuant to 15 U.S.C. 713a–4 for the Secretary of Agriculture to make available financial assistance related to water conservation to eligible producers in the Yakima Basin, Washington, as determined by the Secretary.

On page 41, between lines 6 and 7, insert the following:

SEC. 2703. IMPACT AID.

(a) LEARNING OPPORTUNITY THRESHOLD PAYMENTS.—Section 8003(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(3)(B)(iv) (as amended by section 1806(b)(2)(C) of the Impact Aid Reauthorization Act of 2000 (as enacted by law by section 1 of Public Law 106–398)) is amended by inserting "or less than the average per-pupil expenditure of all the States" after "of the State in which the agency is located".

(b) FUNDING.—The Secretary of Education shall make payments under section 8003(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 from the $882,000,000 available under the heading "Impact Aid" in title III of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1 of Public Law 106–554) for basic support payments under section 8003(b).

On page 33, after line 7, add the following:

SEC. 2608. SUDDEN OAK DEATH SYNDROME.

In addition to amounts transferred under section 442(a) of the Plant Protection Act (7 U.S.C. 7772(a)), the Secretary of Agriculture shall transfer to the Forest Service, pursuant to that section, an additional $1,400,000 to be used by the appropriate offices within the Forest Service that carry out research and development activities to arrest, control, eradicate, and prevent the spread of Sudden Oak Death Syndrome, to be derived by transfer from the unobliged balance available to the Secretary of Agriculture for the acquisition of land and interests in land.

On page 46, after line 2, insert the following:

NATIVE AMERICAN HOUSING BLOCK GRANTS

For an additional amount for "Native American Housing Block Grants", $5,000,000, to remain available until expended: Provided, That these funds shall be made available to the Turtle Mountain Band of Chippewa for emergency housing, housing assistance and other assistance to address the mold problem at the Turtle Mountain Indian Reservation: Provided further, That these funds shall be released upon the submission of a plan by the Turtle Mountain Band of Chippewa to the Secretary of Housing and Urban Development to address these emergency housing needs and related problems: Provided further, That the Federal Emergency Management Agency shall provide technical assistance to the Turtle Mountain Band of Chippewa with respect to the acquisition of emergency housing and related issues on the Turtle Mountain Indian Reservation.

SECTION 2403. INCLUSION OF RENAL CANCER AS BASIS FOR BENEFITS UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000.

Section 3621(17) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398); 114 Stat. 1654A–502) is amended by adding at the end the following new subparagraph:

"(C) Renal cancers.".

On page 42, after line 19, insert the following:

SEC. 2804. That notwithstanding any other provision of law, and specifically section 5(a) of the Employment Act of 1946 (15 U.S.C. 1024(a)), the Members of the Senate to be appointed by the President of the Senate shall for the duration of the One Hundred Seventh Congress, be represented by six Members of the majority party and five Members of the minority party.

On page 11, after line 8, insert the following:

SEC. 1209. None of the funds available to the Department of Defense for fiscal year 2001 may be obligated or expended for retiring or dismantling any of the 93 B–1B Lancer bombers in service as of June 1, 2001, or for transferring or reassigning any of those aircraft from the unit, or the facility, to which assigned as of that date.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on July 12, 2001, at 10 a.m. in room 485 Russell Senate Building to conduct a hearing to receive testimony on the goals and priorities of the member tribes of the Montana Wyoming Tribal Leaders Council for the 107th session of the Congress.

Those wishing additional information may contact Committee staff at 202/224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, July 10, 2001, at 9:30 a.m., in open session to receive testimony on the fiscal year 2002 budget amendment, in review of the defense authorization request for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, July 10, 2001, at 9:30 a.m. on climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, July 10, 2001, to hear testimony regarding The Role of Tax Incentives in Energy Policy, Part I.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 10, 2001 at 2:15 p.m. to hold a business meeting.

The committee will consider and vote on the following agenda items:

Nominations:

1. The Honorable Robert D. Blackwill, of Kansas, to be Ambassador to India.
2. The Honorable Wendy J. Chamberlin, of Virginia, to be Ambassador to the Islamic Republic of Pakistan.
3. Mr. William A. Eaton, of Virginia, to be Assistant Secretary of State (Administration).
4. Mr. Clark K. Ervin, of Texas, to be Inspector General, Department of State.
5. Mr. William S. Farish, of Texas, to be Ambassador to the United Kingdom of Great Britain and Northern Ireland.
6. Mr. Anthony H. Gioia, of New York, to be Ambassador to the Republic of Malta.
7. Mr. Douglas A. Hartwick, of Washington, to be Ambassador to the Lao People's Democratic Republic.
8. The Honorable Daniel C. Kurtzer, of Maryland, to be Ambassador to Israel.
9. Mr. Howard H. Leach, of California, to be Ambassador to France.
10. Mr. Pierre-Richard Prosper, of California, to be Ambassador at Large for War Crimes Issues.
11. Mr. Clark T. Randt, Jr., of Connecticut, to be Ambassador to the People's Republic of China.
12. Mr. Charles J. Swindells, of Oregon, to be Ambassador to New Zealand, and to serve concurrently and without additional compensation as Ambassador to Samoa.
13. General Francis X. Taylor, of Maryland, to be Coordinator for Counterterrorism, with the rank of Ambassador at Large.
14. The Honorable Alexander R. Vershbow, of the District of Columbia, to be Ambassador to the Russian Federation.
15. The Honorable Margaret D. Tutwiler, of Alabama, to be Ambassador to the Kingdom of Morocco.
16. The Honorable C. David Welch, of Virginia, to be Ambassador to the Arab Republic of Egypt.
17. FSO promotion list—Mr. Morrison, et. al., dated June 12, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 10, 2001 at 2:30 p.m. to hold a nomination hearing on Mrs. Lori A. Forman, of Virginia, to be an Assistant Administrator (for Asia and Near East) of the United States Agency for International Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Airland of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, July 10, 2001, at 2:30 p.m., in open session, to receive testimony on the F-22 Aircraft Program, in review of the defense authorization request for fiscal year 2002 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that Patrick Thompson, who is from my committee staff, be granted the privilege of the floor during the remainder of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE UNIVERSITY OF THE PACIFIC

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 124 submitted earlier today by Senators Feinstein and Boxer.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 124) congratulating the University of the Pacific, and its faculty, staff, students and alumni on the University's 150th anniversary.

There being no objection, the Senate proceeded to the resolution.

Mrs. FEINSTEIN. Mr. President, I am pleased that the Senate will pass this resolution to honor the 150th anniversary of the University of the Pacific. Today, the University of the Pacific celebrates its founding in 1851.

The University of the Pacific has remained throughout its history, devoted to the teaching and development of students by a faculty of outstanding scholars. It has prepared more than 60,000 students for lasting achievement and responsible leadership in their careers and communities.

The University of the Pacific is also a trailblazer in higher education. Pacific was the first university in the West to enroll women and to introduce coeducation. It also established California's first medical school and music conservatory.

I am pleased to sponsor this resolution to congratulate the University of the Pacific, and its faculty, staff, students, and alumni on the university's 150th anniversary.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 124) was agreed to.

The preamble was agreed to.

(The text of S. Res. 124 is located in today's RECORD under "Submitted Resolutions.")

TRIBUTE TO MLB ALL-STAR GAME AND THE SEATTLE MARINERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 125 submitted earlier today by Senators CANTWELL and MURRAY.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res 125) commemorating 72nd Major League Baseball All-Star game and to congratulate the Seattle Mariners on hosting the All-Star game and on their extraordinary start to the season.

There being no objection, the Senate proceeded to consider the resolution.

Ms. CANTWELL. Mr. President, today I rise to introduce a resolution to commemorate the 72nd Major League Baseball All-Star Game and to congratulate the Seattle Mariners on their extraordinary start to the season.

The game of baseball is widely considered America's pastime. Walt Whitman once said: "I see great things in baseball. It's our game—the American game. It will take our people out-of-doors, fill them with oxygen, give them a larger physical stoicism, tend to relieve us from being a nervous, dyspeptic set, repair these losses, and be a blessing to us."

Baseball also has been a reflection of our nation's struggles and triumphs. During the Civil War, soldiers played baseball during their free moments, whether in a fort or in a prison camp. In 1942, President Franklin Delano Roosevelt requested that professional baseball continue during the war effort to help maintain our nation's morale, even as baseball stars such as Ted Williams and Bob Feller contributed to the war effort on the front lines as soldiers. During the civil rights movement, Jackie Robinson epitomized the struggle of African Americans as he broke baseball's color barrier and continued to fight prejudice throughout his career. Now today, as our world has become smaller, the game has become larger, uniting fans and attracting star players from around the world.

The All-Star game is a showcase of this special sport and of baseball's most talented players, selected by baseball fans around the world and by

All-Star Managers Joe Torre and Bobby Valentine. It is also a broader celebration of baseball as fans are treated to not only the All-Star game between the National League and the American League, but other events as well, including a FanFest featuring interactive games and displays, a homerun derby by baseball's greatest sluggers, a game between the top minor league baseball prospects of the American League and National League, and a softball game featuring All-Star game legends and other celebrities.

It is an honor and pleasure for the City of Seattle to once again host this celebration. In 1979, Seattle hosted the 50th All-Star game in just the third season for the Seattle Mariners. After two years of planning, Seattle gave baseball fans what is still considered one of the greatest All-Star celebrations in the history of the event.

That year, the Mariners were represented by only one All-Star, first baseman Bruce Bochte. A deserving player on a struggling team, Bochte had a pinch-hit, run-scoring single that evening—the first hit and RBI for a Mariners All-Star.

This season, as Seattle hosts the 72nd All-Star Game, the Mariners are represented by eight players and Manager Lou Piniella. The eight Mariners players are the most to participate from one team since the 1960 Pittsburgh Pirates also had eight players. This collection of talent—and the hard work, discipline, and determination that these players have demonstrated to reach All-Star status—is at the core of one of the best starts in Major League Baseball history. The Mariners have compiled a 63–24 record, the fourth best of all time after 87 games. Importantly though, the team's success has resulted not only from the talents of All-Stars Bret Boone, Mike Cameron, Freddy Garcia, Edgar Martinez, Jeff Nelson, John Olerud, Kazuhiro Sasaki, and Ichiro Suzuki, but the contributions and teamwork of each player and coach.

The work of Mariners General Manager Pat Gillick must also be recognized. Mr. Gillick has shrewdly made trades and acquired free agents who have contributed to the improvement of the Mariners both years he has been with the franchise. The result has been a team of remarkable consistency, discipline, and talent. Last year the Mariners finished with a franchise-record 91 victories and this year they are on pace to win over 110 games.

Once again, I would like to commemorate the 72nd Major League Baseball All-Star game and the remarkable start by the Seattle Mariners.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, and the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 125) was agreed to.

The preamble was agreed to.

(The text of S. Res. 125 is located in today's RECORD under "Submitted Resolutions.")

EXECUTIVE SESSION

NOMINATION OF EUGENE HICKOK, OF PENNSYLVANIA, TO BE UNDER SECRETARY OF EDUCATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session and the HELP Committee be discharged from the consideration of the following nomination: Eugene Hickok, to be Under Secretary of Education, that the nomination be considered and confirmed, the motion to reconsider be laid upon the table, that any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF EDUCATION

Eugene Hickok, of Pennsylvania, to be Under Secretary of Education.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, JULY 11, 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Wednesday, July 11. I further ask consent that on Wednesday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the following exception: Senator SPECTER from 10:15 to 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DASCHLE. Mr. President, on Wednesday, the Senate will convene at 10 o'clock in the morning with a period for morning business until 10:30 a.m. We expect to begin consideration of the Interior appropriations bill on Wednesday.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DASCHLE. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:23 p.m., adjourned until Wednesday, July 11, 2001, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 2001:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MELODY H. FENNEL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE HAL C. DECELL III.

SECURITIES AND EXCHANGE COMMISSION

HARVEY PITT, OF NORTH CAROLINA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2005, VICE ISAAC C. HUNT, JR., TERM EXPIRED.

DEPARTMENT OF ENERGY

THERESA ALVILLAR-SPEAKE, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF MINORITY ECONOMIC IMPACT, DEPARTMENT OF ENERGY, VICE JAMES B. LEWIS, RESIGNED.

DEPARTMENT OF STATE

J. RICHARD BLANKENSHIP, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE COMMONWEALTH OF THE BAHAMAS.

THOMAS J. MILLER, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GREECE.

LARRY C. NAPPER, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KAZAKHSTAN.

THOMAS C. HUBBARD, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

OVERSEAS PRIVATE INVESTMENT CORPORATION

ROSS J. CONNELLY, OF MAINE, TO BE EXECUTIVE VICE PRESIDENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION, VICE KIRK K. ROBERTSON, RESIGNED.

DEPARTMENT OF LABOR

EMILY STOVER DEROCCO, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE RAYMOND L. BRAMUCCI.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JOAN E. OHL, OF WEST VIRGINIA, TO BE COMMISSIONER ON CHILDREN, YOUTH, AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE PATRICIA T. MONTOYA, RESIGNED.

THE JUDICIARY

JAMES E. GRITZNER OF IOWA, TO THE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF IOWA, VICE CHARLES R. WOLLE, RETIRED.

MICHAEL J. MELLOY, OF IOWA, TO THE UNITED STATES CIRCUIT JUDGE FOR THE EIGHT CIRCUIT, VICE GEORGE G. FAGG, RETIRED.

MICHAEL P. MILLS, OF MISSISSIPPI, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF MISSISSIPPI, VICE NEAL S. BIGGERS, RETIRED.

CONFIRMATION

Executive nomination confirmed by the Senate July 10, 2001:

DEPARTMENT OF EDUCATION

EUGENE HICKOK, OF PENNSYLVANIA, TO BE UNDER SECRETARY OF EDUCATION.

EXTENSIONS OF REMARKS

TRIBUTE TO COLONEL DANIEL W. KRUEGER

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great American soldier and citizen, and I am proud to recognize Colonel Daniel W. Krueger in the Congress for his invaluable contributions and service to the Mid-South region and our nation.

Colonel Krueger has served for the past three years as the Memphis District Commander for the U.S. Army Corps of Engineers, and he has distinguished himself by focusing on meeting the region's water resource needs, reducing costs, and decreasing project delivery time without sacrificing quality. His exceptional leadership skills guided the Memphis District into the 21st Century with an engaged workforce dedicated to open communications, improved safety and mission focused training.

Key projects completed under his command include: Hickman Bluff Stabilization, Whiteman's Creek, Francis Bland Floodway, and the initial on-farm construction phase of the Grand Prairie Demonstration Project.

He has dedicated his life to serving his fellow soldiers and citizens as a leader in both his profession as an engineer and his military service, and he deserves our respect and gratitude for his contributions.

On behalf of the Congress, I extend congratulations and best wishes to this faithful servant, Colonel Daniel W. Krueger, on his successes and achievements.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

SPEECH OF

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. ROGERS of Michigan. Mr. Chairman, I want to commend my colleague from Michigan.

This is a solution though, that is looking for a problem. There is not one State in the Great Lakes Basin that allows off-shore drilling, not one. In Michigan, there is a moratorium on new directional angle drilling wells. What are we doing with this amendment?

This amendment is not about protecting the Great Lakes. For instance, it does nothing to address the potential for diversion of our fresh Great Lakes water. This amendment goes in a direction that I hope many in this chamber find disagreeable as it deeply involves the federal government in Great Lakes decision-making. I trust my Governor. I trust the Governors of the Great Lakes States to be in charge of the water of the Great Lakes States.

As a matter of fact, underneath the Great Lakes today, there are roughly 22,000 barrels of crude oil that float per hour under the Great Lakes. There are 550 off-shore wells operated by Canadians. This bill addresses none of that. There are 5 million tons of oil bobbing around on the Great Lakes every year via cargo ship, which leads to an average of 20 spills a year on our Great Lakes. This amendment does nothing to address any of those issues.

This amendment is not about protecting the Great Lakes; instead, it is about the federal government going into the State of Michigan and telling the legislators in Lansing that they do not know what they're doing. There are some great protections of our Great Lakes, and I trust those Governors, and I trust those Great Lakes state legislators to do the right thing.

I want to say it again, because this is very important, and I've heard it 10 times if I've heard it once, that somebody is out there trying to build an oil rig in the Great Lakes and that President Bush is leading the charge. This is ridiculous. There is not one State in the Great Lakes Basin that permit off-shore drilling. Not one. There is a moratorium on new licenses for directional drilling in the State of Michigan today. So what is the purpose for the Bonior Amendment?

Mr. Chairman, I do not believe that a bureaucrat in Washington, DC, whose only experience with Michigan's Upper Peninsula is a picture in the National Geographic, is better equipped to protect our shoreline and our Great Lakes. I want the people who live on the Great Lakes to make those decisions. The gentlewoman from Ohio talked about HOMES, the acronym by which schoolchildren learn the names of the Great Lakes. HOMES is appropriate because the people who make their homes in the Great Lakes States should be making decisions about the Great Lakes. Why? Because we live there. We see the water, we see the pollution, we fought back and reclaimed Lake Erie. We can again eat the fish that swim in our lakes. Why? Because the people of the Great Lakes States took action. It is nothing that Congress did. That is why this argument should not be taking place on the floor of the United States House, it should be taking place in the legislatures of the Great Lakes States.

Mr. Chairman, I am passionate about the Great Lakes, but we have a true difference of opinion on the proper role of Congress in this debate. For example, look at the issue of water diversion. There is a bill in this House to empower Congress to decide what happens on diversion issues in the Great Lakes. The last I checked, the dry states of the Plains and Southwest could use a bit more extra water; and, the last I checked, there are more members from those states in this chamber than from Great Lakes States. These issues have no business in this Chamber. It has all the business in the chambers in our State legislatures back home.

This is a solution that is looking for a problem.

There is a package of bills in the House to address this issue in a manner that doesn't encroach on our States' rights. One concerns the diversion and export of Great Lakes water. Another is a resolution urging States to continue the ban on off-shore drilling in our Great Lakes and that goes after those 550 wells currently in operation in Canada.

It is important to remember that what the Federal Government can give us, they can take away. Pretty soon, maybe the faces of this Chamber will change, and maybe pretty soon the folks in this Chamber will decide that we want oil production from the Great Lakes. And since most of the members of this Chamber do not reside in the Great Lakes Basin, nor do the Washington, DC bureaucrats overseeing federal policy, the decision may come from Washington to tap into the Great Lakes oil reserves.

There is only one thing that can protect us from that: Our state legislators and our governors of the Great Lakes States.

Mr. Chairman, I want to urge this body to reject the Bonior Amendment, to throw out all the rhetoric about how without this amendment there will be polluted water, people rushing to put oil rigs on the Great Lakes, and how oil will start gushing into the waters of Lake Michigan or Superior. This is just absolutely untrue.

What I would encourage the gentleman from Michigan to do is to work with us. We should take a look at studying the quality of those pipes that are pumping those 22,000 barrels an hour under the Great Lakes today. Let us get together and tell Canada, get off the water. Shut down those rigs that are pumping on the water as we speak. We should work together to ensure that those ships bobbing around on the Lakes carrying 5 million tons of oil are safe and don't continue to average 20 spills each year.

Does the gentleman want to do something for the Great Lakes? Let us partner with our states and help solve this issue. The federal government should not come in and flex its muscles and tell state legislators that they really don't know what they are doing.

I used to be an FBI agent, and when I would walk into a local police station and tell them the federal government was here to help, I can tell you I never received a warm welcome. And I can tell you that passing legislation like the Bonior Amendment ensures that Congress will not receive a warm welcome in the State halls of Lansing and other Great Lakes capitals.

Mr. Chairman, this is an important issue. It is an extremely important issue. I grew up on

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

a lake. I want that lake safe for my kids. I want them to go to Lake Michigan and be able to play in the water and not have to worry about turning green when they come home. I want them to be able to eat the fish in Lake Erie.

I mean no disrespect to this Chamber; but, I just came from the State legislature, and I have seen the good things that Congress can do, and I have seen the bad things that Congress can do. I also served with some very bright people in that State legislature. I served with a great Governor who understood that we had to protect our Great Lakes while we have a moratorium on new drilling. I want those people empowered to make a difference for our Great Lakes.

I would urge this today's strong rejection of the Federal Government encroaching into the business of the Great Lakes States.

I applaud all of the Members for getting up on the floor and talking about their passion for protecting one of our greatest natural resources. Well, let us do just that, but let us be a partner with the States.

Talk to our state legislators, talk to our governors. They will be with us. Talk to the people who live there and ask them who do they best trust to protect our Great Lakes? Is it the people that get up every morning and eat breakfast, go to work, and send their children to school in the shadow of the Lakes, or is it a bureaucrat that they have never met in the halls of some Washington, DC bureaucracy? Or is it a future member of Congress from a dry state like California who stands up, maybe 50 years from now, and argues that it is worth the risk to stick a pipe in fresh water to extract oil? The answer is clear, our States are the best guardians of the Great Lakes.

I urge my colleagues to stand up for the Great Lakes today. Stand up for the environment of Michigan, Ohio, Pennsylvania, Indiana, Minnesota, New York, and Wisconsin. Stand up for these states by rejecting the Federal Government's role of encroaching on our ability back home to protect our greatest natural resource. I would urge this body's rejection of the Bonior Amendment.

2001 OHIO YOUTH HUNTER EDUCATION CHALLENGE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. TRAFICANT. Mr. Speaker, today I want to congratulate the extraordinary young people that excelled in the 2001 Ohio Youth Hunter Education Challenge.

This respectable program is a comprehensive youth program of outdoor skills and safety training for young hunters who have completed hunter-safety training at the state-or provincial-level. Developed by the National Rifle Association in 1985, volunteer hunting education instructors provide expertise and hands-on training in various methods of take and game. The Challenge offers young people the opportunity to show their knowledge and ability, which was earned through hard work and dedication.

The following is a list of this year's winners:

2001 OHIO YOUTH HUNTER EDUCATION CHALLENGE

Top Senior Overall: Bryan Hum, Columbiana Pathfinders, 2112 pts. 2nd place: Tony Utrup, Putnam Sr., 1984 pts. 3rd place: Jeremy McCoy, 1796 pts.

Top Junior Overall: David Tobin, Columbiana Hawkeyes, 1807 pts. 2nd place: Travis Tourjee, Putnam Jr., 1777 pts. 3rd place: Nathan Mullen, Columbiana Hawkeyes, 1636 pts.

Rifle: Senior: 1st place: Bryan Hum, Col., 260 pts. 2nd place: Brandon McCoy, Putnam, 260 pts. 3rd place: Jerrod Miller, Col., 260 pts. Junior: 1st place: Megan McCoy, Putnam, 170 pts. 2nd place: Bill McGuire, Columbiana, 160 pts. 3rd place: Derek Haselman, Putnam, 150 pts.

Muzzleloader: Senior: 1st place: Tony Utrup, Putnam, 300 pts. 2nd place: Judson Sanor, Col.,300 pts. 3rd place: Bryan Hum, Col., 275 pts. Junior: 1st place: David Tobin, Col., 275 pts. 2nd place: Travis Tourjee, Putnam, 275 pts. 3rd place: Nathan Mullen, Col., 250 pts.

Shotgun: Senior: 1st place: Bryan Hum, Col., 275 pts. 2nd place: Tony Utrup, Putnam, 250 pts. 3rd place: Josh Heckman, Putnam, 220 pts. Junior: 1st place: David Tobin, Col., 270 pts. 2nd place: Travis Tourjee, Putnam, 250 pts. 3rd place: Bill McGuire, Col., 200 pts.

Archery: Senior: 1st place: Bryan Hum, Col., 272 pts. 2nd place: Tony Utrup, Putnam, 269 pts. 3rd place: Jerrod Miller, Col., 244 pts. Junior: 1st place: Nathan Mullen, Col., 256 pts. 2nd place: Travis Tourjee, Putnam, 252 pts. 3rd place: Kyle Westbeld, Putnam, 252 pts.

Orienteering: Senior: 1st place: Matt McSherry, Fitchville, 275 pts. 2nd place: Bryan Hum, Col., 260 pts. 3rd place: Judson Sanor, Col., 260 pts. Junior: 1st place: David Tobin, Col., 280 pts. 2nd place: Nathan Mullen, Col., 265 pts. 3rd place: Colin Grosse, Fitchville, 230 pts.

Safety Trail: Senior: 1st place: Tyler Finley, 265 pts. 2nd place: Bryan Hum, Col., 260 pts. 3rd place: Jeremy McCoy, Putnam, 260 pts. Junior: 1st place: Kyle Westbeld, Putnam, 255 pts. 2nd place: Tiffany Utrup, Putnam, 251 pts. 3rd place: Andy Clutter, Col., 245 pts.

Exam: Senior: 1st place: Tony Utrup, Putnam, 260 pts. 2nd place: Bryan Hum, Col., 255 pts. 3rd place: Jeremy McCoy, Putnam, 255 pts. Junior: 1st place: David Tobin, Col., 250 pts. 2nd place: Nathan Mullen, Col., 225 pts. 3rd place: Travis Tourjee, Putnam, 225 pts.

Wildlife ID: Senior: 1st place: Jeremy McCoy, Putnam, 300 pts. 2nd place: Tony Utrup, Putnam, 285 pts. 3rd place: Bryan Hum, Col., 260 pts. Junior: 1st place: Kyle Westbeld, Putnam, 265 pts. 2nd place: Travis Tourjee, Putnam, 245 pts. 3rd place: Megan McCoy, 240 pts.

Top Teams: Senior: Putnam Senior, 8673 pts.—Josh Heckman, Brandon McCoy, Jeremy McCoy, Tony Utrup, Trevor Utrup, Justin Winstead. 2nd place: Columbiana Pathfinders, 8190 pts.—Chris Dattilio, Jamie Garrod, Bryan Hum, Jerrod Miller, Judson Sanor, Justin Ross. Junior: Columbiana Hawkeyes, 7535 pts.—Andy Clutter, Bill McGuire, Samantha Miller, Nathan Mullen, David Tobin, Candie Grubbs. 2nd place: Putnam Juniors, 7337 pts.—Derek Haselman, Megan McCoy, Travis Tourjee, Tiffany Utrup, Kyle Westbeld.

HONORING THE EFFICIENCY OF NISSAN'S SMYRNA PLANT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. GORDON. Mr. Speaker, I rise today to honor the hard work and dedication of the employees of Nissan's Smyrna, Tennessee, plant. Their work ethic has produced the most efficient car and small truck assembly plant in North America.

The Harbour Report, an annual study in productivity that's used as an industry benchmark, has picked the Smyrna plant as the most efficient for seven consecutive years. At a time when the sluggish economy forced most automakers to slow production at their assembly plants, Nissan's Smyrna plant boosted its overall productivity by seven percent. That's a real indication of the know-how and dedication of the plant's work force.

Since June 16, 1983, when the first automobile rolled of the Smyrna plant's assembly line, Nissan has contributed immensely to the area's quality of life with good-paying jobs and responsive corporate citizenship. Nissan's corporate commitment to diversity within its employee population, supplier base and dealer body, encourages a variety of ideas and opinions that inspire the team behavior that wins these kinds of accolades.

My home is in Rutherford County, Tennessee, where the Smyrna plant is located. I was excited when I heard the news that Nissan was building a new plant in Smyrna. As the plant was being built, I watched its progress knowing that good-paying jobs were coming to Middle Tennessee. Since its completion, I have visited the plant on numerous occasions.

One of my more memorable visits came on the day the 1 millionth vehicle rolled off the assembly line. On that day, a young lady who worked at the Smyrna plant spoke to a large crowd that had gathered for the special occasion. She recalled for us the time she and her children were waiting at a traffic light in their car when a Nissan pickup truck pulled up to the same traffic light. She said her children asked if she had built the vehicle. With a wide smile and obvious pride, she told us that she responded to the question with an emphatic, "Yes, I did."

That young woman's story is a perfect example of the pride all Nissan employees have in their workmanship. I congratulate each and every Nissan employee at the Smyrna facility for a job well done.

TRIBUTE TO CHARLES "CHICKEN" JEANS

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and an outstanding citizen, and I am proud to recognize Charles "Chicken" Jeans in the Congress for his invaluable contributions and service to his community, to our state, and our nation.

"Chicken" has worn many hats during his lifetime: husband, father, grandfather, farmer, car salesman, and county road supervisor—to name just a few. But he will always tell you that he is "nothing but a bird."

In Lonoke County and around Arkansas, "Chicken" is well known as the man to see if you need anything. "Chicken" came to work for the county on September 24, 1984, and he retired sixteen years later, on September 16, 2000 after serving under three county judges. Judge "Dude" Spence, Judge Don Bevis, and Judge Carol Bevis all valued "Chicken" for his experience and knowledge of the county.

Ask any politician, farmer, or businessman in central Arkansas what they will be doing on the second Thursday in August, and they will say, "I'm going to Coy for the Po' Boy Supper to see Chicken!" The Po' Boy Supper has been an annual event for many years. Several hundred people gather to eat barbecue bologna with all the trimmings, and to listen to Chicken laugh and tell tall tales.

On behalf of the Congress, I extend congratulations and best wishes to Charles "Chicken" Jeans, on his successes and achievements. He has made life better for Lonoke County citizens, and richer for all—like me—who are lucky enough to call him a friend.

PAYING TRIBUTE TO KATHERINE E. WHITE

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to congratulate Katherine E. White of Ann Arbor, Michigan for being named a 2001–2002 White House Fellow by President Bush.

Lyndon Johnson once said "a genuinely free society cannot be a spectator society." Through her hard work and service, Katherine White has proven to be anything but a spectator.

Mrs. White is an assistant professor of law at Wayne State University where she teaches about intellectual property laws.

In previous experience, Mrs. White was a Fulbright Senior Scholar, a Major in the U.S. Army Judge Advocate General's Corp, as well as a legal clerk for Judge Randall R. Rader, U.S. Court of Appeals. She currently serves on the National Patent Board and is a member of the University of Michigan's Board of Regents. She was chosen out of a field of 540 applicants to receive a White House Fellowship.

Therefore Mr. Speaker, I respectfully ask my colleagues to join me in paying tribute to Katherine E. White for appointment as one of the 12 new White House fellows.

FRENCH HERITAGE WEEK IN THE U.S. VIRGIN ISLANDS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mrs. CHRISTENSEN. Mr. Speaker, I rise today on behalf of all the people of French descent in my district, the U.S. Virgin Islands, on the occasion of the annual observance of French Heritage Week, an event that revolves around Bastille Day—which commemorates the destruction of the Bastille, the state prison in Paris, France, on July 14, 1789, which brought about one of the most significant movements in world history—the French Revolution.

The destruction of the Bastille, Mr. Speaker, was a significant act of bravery that not only brought on the French Revolution, but also became the symbol of democracy and human rights and the founding event for the movement towards liberty and liberal democracy around the world.

Today, I am proud to represent a striving and vibrant community of people of French descent who have inhabited the U.S. Virgin Islands for centuries—contributing their expertise in fishing, farming, the professions and other vocations that have made significant differences in the political, social, cultural and economic progress and growth on the Territory.

Among the many treasures that make the Virgin Islands unique and special is our diversity. In particular, the French community has been a cultural asset through its presence and the many cultural, business and civic activities it promotes. One event put on by the Virgin Islands French Community that comes to mind, is the Father's Day celebration held each year in Frenchtown. Here, the French community recognizing the value in our fathers sponsors a weeklong celebration in their honor.

I am especially pleased and privileged to be able to pay homage to our French Community and the Virgin Islands community at-large during the 2001 French Heritage Week celebrations. While it is not generally known, my maternal great grandmother was a Parisian, and so I proudly claim kinship, although my command of the French language is limited.

This U.S. Virgin Islands French Heritage Week is a celebration of our heritage and national pride—two things that are important to the survival of any society. I congratulate Senator Lorraine L. Berry, a ten-term member of the Virgin Islands Legislature, for her continual efforts to enlighten her fellow Virgin Islanders on the rich traditions of French culture and history.

On behalf of my family, staff and myself, I wish to congratulate the members of the French community of the U.S. Virgin Islands for their many contributions to our community and for so generously sharing their history, culture and crafts with each generation of Virgin Islanders.

May God continue to bless our citizens of French descent and may they continue in the rich and strong democratic traditions of their motherland, France. Best wishes for an eventful, fulfilling "French Heritage Week."

HONORING VACHE AND JANE SOGHOMONIAN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Vache and Jane Soghomonian for being named Honorary Presidents at the 26th Annual Homenetmen Navasartian Games. The announcement was made on May 28 in Los Angeles, CA.

The Soghomonians are long-time supporters and activists within the Armenian community. Vache has been a member of the Homenetmen since age seven. Vache and Jane have both remained active in the physical, moral, and social education of Armenian youth, organizing many events and fund-raisers. Vache and Jane Soghomonian are active participants in the Fresno, CA community, and continue to support the Armenian population. They have recently made a generous donation to the Homenetmen Navasartian Games, and will always keep their hearts close to the Armenian community.

Mr. Speaker, I am pleased to recognize Vache and Jane Soghomonian for their dedication to the local Armenian community. I urge my colleagues to join me in honoring Mr. and Mrs. Soghomonian and wishing them continued success.

TRIBUTE TO WILLIAM JACKSON BEVIS, SR.

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and an outstanding citizen, and I am proud to recognize William Jackson Bevis, Sr. in the Congress for his invaluable contributions and service to his community, to our state, and our nation.

William was from Scott, Arkansas, and was born on August 14, 1922, in Pulaski County, Arkansas. He married Mary Jo Barnett in 1942, and they were blessed with three sons, Bill Bevis, Jr., Don R. Bevis, and Bob Bevis.

William was President of W.J. Bevis & Sons, Inc. and owner of William J. and Mary Jo Bevis Farms. He attended Peabody School and graduated from Scott High School in 1941. He was elected to Lonoke County Agriculture Conservation and Stabilization Service Commission in 1950 and served off and on for 25 years. He served 20 years on the District Soil and Water Conservation Board and was appointed by then-Gov. Dale Bumpers to chair a study of water diversion from the Arkansas River to the eastern Arkansas Delta. He served on the Lonoke School Board from 1962 and 1972. William was elected to the Federal Land Bank Board and served 15 years, 10 years as chairman. He was President of Farm Credit Services of Central Arkansas for 10 years and was appointed by Farm Credit of St. Louis to a task force for Missouri, Illinois, and Arkansas, to restructure regulations for farm loans and credit in these states.

He was appointed by then Gov. David Pryor to the State Board of Corrections for a five-year term. He was appointed by then Gov. Bill Clinton to the Arkansas Agriculture Museum Board in Scott and he, along with Governor Clinton and State Rep. Bill Foster were instrumental in securing funding for this preservation project for the farming community of Scott. "This," as said by William, "is a project that is very dear to me."

William was a life-long member of All Souls Church in Scott. He has served as Sunday School Superintendent, Chairman of the church Board of Directors, and as All Souls Church Trustee until the age of 75.

Sadly, William died last month. He was preceded in death by one son, Judge Don Bevis of Cabot, and he is survived by his wife of 58 years, Mary Jo Bennett Bevis, two sons—Rep. Bill Davis, Jr. and his wife Kay of Scott and Bob Bevis and his wife Liz of Scott—along with numerous grandchildren and great-grandchildren and a host of friends.

On behalf of the Congress, I extend sympathies and condolences to the family of William Jackson Bevis, Sr. His name commands respect and honor from all who knew him.

TRIBUTE TO MRS. OLLYE BALLARD CONLEY OF HUNTSVILLE, ALABAMA

HON. ROBERT E. "BUD" CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. CRAMER. Mr. Speaker, I rise today to honor Mrs. Ollye Ballard Conley on her June 30th retirement after more than 35 years of dedicated service to the Huntsville City school system. Mrs. Conley has made the students of the Huntsville community shine through her creation of a top-notch magnet school, the Academy for Science and Foreign Language.

Her career in education is extensive and very impressive. Beginning as a teacher in Limestone County, Mrs. Conley has spent time teaching in Germany with the Department of Defense as well. After returning to Huntsville, her career took off and she soon rose through the ranks to become an administrator and then principal. She has led the schools of University Place, Rolling Hills and most recently the Academy for Science and Foreign Language to be more efficient, better organized schools. She believes in mission and her mission has been to provide the best environment possible for children to excel. She is innovative bringing in new curriculums such as the National Service-Learning program. The Academy is the only middle school in Alabama and only one of 34 nationwide to implement the service-learning program. She has shared her knowledge and the benefits of the service-learning program as a Regional Trainer for the Southern Region Corporation for National Service-Exchange.

Mrs. Conley believes that an education does not have to be limited to the classroom. Along with her students whom she inspires to achieve more and give back to their community, she established the first annual Community Day at Glenwood cemetery earning the Huntsville Historical Society Award and the Alabama Historical Commission Distinguished Service Award.

On behalf of the United States Congress and the people of North Alabama, I want to personally thank Mrs. Conley and pay tribute to her for her being an unsung hero. The difference she has made in countless children's lives over the years is incalculable. I would like to extend my best wishes to her, her family, friends and colleagues as they celebrate her well-deserved rest and a job well done.

INTRODUCTION OF THE CYBER SECURITY INFORMATION ACT OF 2001

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. TOM DAVIS of Virginia. Mr. Speaker, I am pleased to rise today to reintroduce legislation with my good friend and colleague from northern Virginia, Representative, JIM MORAN. Last year, we introduced H.R. 4246 to facilitate the protection of our nation's critical infrastructure from cyber threats. We aggressively pushed forward with the legislation and held a productive Subcommittee hearing with the then-Subcommittee on Government Management, Information, and Technology on the importance of the bill. Based on comments made at that hearing, we have worked hard with a wide range of industries to refine and improve this legislation. Today, we are again introducing this legislation with the full partnership of the private sector. Over the past several months, I have worked with the industry leaders from each of our critical infrastructure sectors to draft consensus legislation that will facilitate public-private partnerships to promote information sharing to prevent our nation from being crippled by a cyber-terrorism threat.

In the 104th Congress, we called upon the previous Administration to study our nation's critical infrastructure vulnerabilities and to identify solutions to address these vulnerabilities. Through that effort, a number of steps were identified that must be taken in order to eliminate the potential for significant damage to our critical infrastructure. Foremost among these suggestions was the need to ensure coordination between the public and private sector representatives of critical infrastructure. The bill we are again introducing today is the first step in encouraging private sector cooperation and participation with the government to accomplish this objective.

Since early spring of this year, Congress has held a number of hearings examining the ability of our nation to cope with cyber security threats and attacks. For instance, the House Energy and Commerce has held numerous hearings regarding the vulnerability of specific Federal agencies and entities, and how those agencies are implementing—or not implementing—the appropriate risk management tools to deal with these threats. The House Judiciary Subcommittee on Crime has held a number of hearings specifically looking at cybercrime from both a private sector and a federal law enforcement perspective. These hearings have demonstrated the importance of better, more efficient information sharing in protecting against cyber-threats as is encompassed in the legislation I have introduced today.

Also, the National Security Telecommunications Advisory Committee (NSTAC) met in early June of this year to discuss the necessary legislative action to encourage industry to voluntarily work in concert with the federal government in assessing and protecting against cyber vulnerabilities. The bill I am introducing today was endorsed at the June meeting. In recent months, the Bush Administration has aggressively been working with industry to address our critical infrastructure protection needs and ensure that the federal government is better coordinating its' cybersecurity efforts. I look forward in the coming weeks to working with the Administration to enhance the public-private partnership that industry and government must have in order to truly protect our critical infrastructure.

The critical infrastructure of the United States is largely owned and operated by the private sector. Critical infrastructures are those systems that are essential to the minimum operations of the economy and government. Our critical infrastructure is comprised of the financial services, telecommunications, information technology, transportation, water systems, emergency services, electric power, gas and oil sectors in private industry as well as our National Defense, and Law Enforcement and International Security sectors within the government. Traditionally, these sectors operated largely independently of one another and coordinated with government to protect themselves against threats posed by traditional warfare. Today, these sectors must learn how to protect themselves against unconventional threats such as terrorist attacks, and cyber intrusions.

These sectors must also recognize the vulnerabilities they may face because of the tremendous technological progress we have made. As we learned when planning for the challenges presented by the Year 2000 rollover, many of our computer systems and networks are now interconnected and communicate with many other systems. With the many advances in information technology, many of our critical infrastructure sectors are linked to one another and face increased vulnerability to cyber threats. Technology interconnectivity increases the risk that problems affecting one system will also affect other connected systems. Computer networks can provide pathways among systems to gain unauthorized access to data and operations from outside locations if they are not carefully monitored and protected.

A cyber threat could quickly shutdown any one of our critical infrastructures and potentially cripple several sectors at one time. Nations around the world, including the United States, are currently training their military and intelligence personnel to carry out cyber attacks against other nations to quickly and efficiently cripple a nation's daily operations. Cyber attacks have moved beyond the mischievous teenager and are now being learned and used by terrorist organizations as the latest weapon in a nation's arsenal. During this past spring, around the anniversary of the

U.S. bombing of the Chinese embassy in Belgrade, U.S. web sites were defaced by hackers, replacing existing content with pro-Chinese or anti-U.S. rhetoric. In addition, an Internet worm named "Lion" infected computers and installed distributed denial of service (DDOS) tools on various systems. An analysis of the Lion worm's source code revealed that it could send password files from the victim site to e-mail address located in China.

We have learned the inconveniences that may be caused by a cyber attack or unforeseen circumstance. Last year, many of individuals and companies were impacted by the "I Love You" virus as it moved rapidly around the world disrupting the daily operations of many of our industry sectors. The Love Bug showed the resourcefulness of many in the private sector in identifying and responding to such an attack but it amply demonstrated the weakness of the government's ability to handle such a virus. Shortly after the attack, Congress learned that the U.S. Department of Health and Human Services' (HHS) operating systems were so debilitated by the virus that it could not have responded adequately if we had faced a serious public health crisis at the same time. Additionally, the federal government was several hours behind industry in notifying agencies about the virus. If the private sector could share information with the government within a defined framework, federal agencies could have been made aware of the threat earlier on.

Last month, NIPC and FedCIRC received information on attempts to locate, obtain control of and plant new malicious code known as "W32-Leaves.worm" on computers previously infected with the SubSeven Trojan. SubSeven is a Trojan Horse that can permit a remote computer to gain complete control of an infected machine, typically by using Internet Relay Chat (IRC) channels for communications. In June 1998 and February 1999, the Director of the Central Intelligence Agency testified before Congress that several nations recognize that cyber attacks against civilian computer systems represent the most viable option for leveling the playing field in an armed crisis against the United States. The Director also stated that several terrorist organizations believed information warfare to be a low cost opportunity to support their causes. We must, as a nation, prepare both our public and private sectors to protect ourselves against such efforts.

That is why I am again introducing legislation that gives critical infrastructure industries the assurances they need in order to confidently share information with the federal government. As we learned with the Y2K model, government and industry can work in partnership to produce the best outcome for the American people. Today, the private sector has established many information sharing organizations (ISOs) for the different sectors of our nation's critical infrastructure. Information regarding a cyber threat or vulnerability is now shared within some industries but it is not shared with the government and it is not shared across industries. The private sector stands ready to expand this model but have also expressed concerns about voluntarily sharing information with the government and the unintended consequences they could face for acting in good faith. Specifically, there has been concern that industry could potentially face antitrust violations for sharing information with other industry partners, have their shared information be subject to the Freedom of Information Act, or face potential liability concerns for information shared in good faith. My bill will address all three of these concerns. The Cyber Security Information Act also respects the privacy rights of consumers and critical infrastructure operators. Consumers and operators will have the confidence they need to know that information will be handled accurately, confidentially, and reliably.

The Cyber Security Information Act is closely modeled after the successful Year 2000 Information and Readiness Disclosure Act by providing a limited FOIA exemption, civil litigation protection for shared information, and an antitrust exemption for information shared among private sector companies for the purpose of correcting, avoiding, communicating or disclosing information about a cyber-security related problem. These three protections have been requested by the U.S. Chamber of Commerce, the National Association of Manufacturers, the Edison Electric Institute, the Information Technology Association of America, Americans for Computer Privacy, and the Electronics Industry Alliance. Many private sector companies have also asked for this important legislation. I have attached to my statement a letter from the many professional associations and private sector companies supporting the introduction of this measure.

This legislation will enable the private sector, including ISOs, to move forward without fear from the government so that government and industry may enjoy a mutually cooperative partnership. This will also allow us to get a timely and accurate assessment of the vulnerabilities of each sector to cyber attacks and allow for the formulation of proposals to eliminate these vulnerabilities without increasing government regulation, or expanding unfunded federal mandates on the private sector.

ISOs will continue their current leadership role in developing the necessary technical expertise to establish baseline statistics and patterns within the various infrastructures, as clearinghouses for information within and among the various sectors, and as repositories of valuable information that may be used by the private sector. As technology continues to rapidly improve industry efficiency and operations, so will the risks posed by vulnerabilities and threats to our infrastructure. We must create a framework that will allow our protective measures to adapt and be updated quickly.

It is my hope that we will be able to move forward quickly with this legislation and that Congress and the Administration will work in partnership to provide industry and government with the tools for meeting this challenge. A Congressional Research Service report on the ISOs proposal describes the information sharing model as one of the most crucial pieces for success in protecting our critical infrastructure, yet one of the hardest pieces to realize. With the introduction of the Cyber Security Information Act of 2001, we are removing the primary barrier to information sharing between government and industry. This is landmark legislation that will be replicated around the globe by other nations as they too try to address threats to their critical infrastructure.

Mr. Speaker, I believe that the Cyber Security Information Act of 2001 will help us address critical infrastructure cyber threats with the same level of success we achieved in addressing the Year 2000 problem. With government and industry cooperation, the seamless delivery of services and the protection of our nation's economy and well-being will continue without interruption just as the delivery of services continued on January 1, 2000.

JULY 5, 2001.

Hon. ——
U.S. House of Representatives,
Washington, DC

DEAR REPRESENTATIVE: We, the undersigned, representing every sector of the United States economy, write today to strongly urge you to become an original cosponsor of the Cyber Security Information Act to be shortly introduced by Representatives Tom Davis and Jim Moran. This important bill will strengthen information sharing legal protections that shield U.S. critical infrastructures from cyber and physical attacks and threats.

Over the past four years, industry-government information sharing regarding vulnerabilities and threats has been a key element of the federal government's critical infrastructure protection plans. Several industry established information sharing organizations, including Information Sharing and Analysis Centers (ISACs) and the Partnership for Critical Infrastructure Security (PCIS), have been set up to support this initiative. The National Plan for Information Systems Protection, version 1.0, also calls for private sector input about actions that will facilitate industry-government information sharing.

As representative companies and industry associations involved in supporting the ongoing development of a National Plan for critical infrastructure protection, we believe that Congress can play a key role in facilitating this initiative by passing legislation to support the Plan's strategic objectives.

Currently, there is uncertainty about whether existing law may expose companies and industries that voluntarily share sensitive information with the federal government to unintended and potentially harmful consequences. This uncertainty has a chilling effect on the growth of all information sharing organizations and the quality and quantity of information that they are able to gather and share with the federal government. As such, this situation is an impediment to the effectiveness of both industry and government security and assurance managers to understand, collaborate on and manage their vulnerability and threat environments.

Legislation that will clarify and strengthen existing Freedom of Information Act and antitrust exemptions, or otherwise create new means to promote critical infrastructure protection and assurance would be very helpful and have a catalytic effect on the initiatives that are currently under way.

Companies in the transportation, telecommunications, information technology, financial services, energy, water, power and gas, health and emergency services have a vital stake in the protection of infrastructure assets. With over 90 percent of the country's critical infrastructure owned and/or operated by the private sector, the government must support information sharing between the public and private sectors in order to ensure the best possible security for all our citizens. A basic precondition for this cooperation is a clear legal and public policy framework for action.

Businesses also need protection from unnecessary restrictions placed by federal and state antitrust laws on critical information sharing that would inhibit identification of R&D needs or the identification and mitigation of vulnerabilities. There are a number of precedents for this kind of collaboration, and we believe that legislation based on these precedents will also assist this process.

Faced with the prospect of unintended liabilities, we also believe that any assurances that Congress can provide to companies voluntarily collaborating with the government in risk management planning activity—such as performing risk assessments, testing infrastructure security, or sharing certain threat and vulnerability information—will be very beneficial. Establishing liability safeguards to encourage the sharing of threat and vulnerability information will add to the robustness of the partnership and the significance of the information shared.

Thank you for considering our views on this important subject. We think that such legislation will contribute to the success of the institutional, information-sharing, technological, and collaborative strategies outlined in Presidential Decision Directive—63 and version 1.0 of the National Plan for Information Systems Protection.

Sincerely,

Americans for Computer Privacy.
Edison Electric Institute.
Fannie Mae.
Internet Security Alliance.
Information Technology Association of America.
Microsoft.
National Center for Technology and Law, George Mason University.
Owest Communications.
Security.
Computer Sciences Corporation.
Electronic Industries Alliance.
The Financial Services Roundtable.
Internet Security Systems.
National Association of Manufacturers.
Mitretek Systems.
The Open Group.
Oracle.
U.S. Chamber of Commerce.

WHY INFORMATION SHARING IS ESSENTIAL FOR CRITICAL INFRASTRUCTURE PROTECTION

FREQUENTLY ASKED QUESTIONS

What are Critical Infrastructures?

Critical Infrastructures are those industries identified in Presidential Decision Directive—63 and version 1.0 of the National Plan for Information Systems Protection, deemed vital for the continuing functioning of the essential services of the United States. These include telecommunications, information technology, financial services, oil, water, gas, electric energy, health services, transportation, and emergency services.

What Is the Problem?

90% of the nation's critical infrastructures are owned and/or operated by the private sector. Increasingly, they are inter-connected through networks. This has made them more efficient, but it has also increased the vulnerability of multiple sectors of the economy to attacks on particular infrastructures. According to the Carnegie-Mellon Computer Emergency Response Team (CERT), cyber attacks on critical infrastructures have grown at an exponential rate over the past three years. This trend is expected to continue for the foreseeable future. In our free market system, it is not feasible to have a centralized-government monitoring function. A voluntary national industry-government information sharing system is needed in order for the nation to create an effective early warning system, find and fix vulnerabilities, benchmark best practices and create new safety technologies.

How Do Industries and the Government Share Information?

Based on PDD-63 and the National Plan, a number of organizations have been created to foster industry-government cooperation. These include Information Sharing and Analysis Centers (ISACs). ISACs are industry-specific and have been set up in the financial services, telecommunications, IT, and electric energy industries. Others are in the process of being organized. ISACs vary in their membership structures and relationship to the government. Most of them have a formal government sector liaison as their principal point of contact.

What Are Current Concerns?

Companies are concerned that information voluntarily shared with the government that reports on or concerns corporate security may be subject to FOIA. They are also concerned that lead agencies may not be able to effectively control the use or dissemination of sensitive information because of similar legal requirements. Access to sensitive information may fall into the hands of terrorists, criminals, and other individuals and organizations capable of exploiting vulnerabilities and harming the U.S. Unfiltered, unmediated information may be misinterpreted by the public and undermine public confidence in the country's critical infrastructures. Also, competitors and others may use that information to the detriment of a reporting company, or as the basis for litigation. Any and all of these possibilities are reasons why the current flow of voluntary data is minimal.

What Can Be Done?

Possible solutions include creating an additional exemption to current FOIA laws. There are currently over 80 specific FOIA Exemptions throughout the body of U.S. law, so it is clear that exempting voluntarily shared information that could affect national security is consistent with the intent and application of FOIA. Another solution is to build on existing relevant legal precedents such as the 1998 Y2K Information and Readiness Disclosure Act, the 1984 National Cooperative Research Act, territorially limited court rulings, and individual, advisory Department of Justice Findings.

Why Pursue a Legislative Solution?

The goal is to provide incentives for voluntary information sharing. Legislation can add legal clarity that will provide one such incentive, as well as also demonstrate the support and commitment of Congress to increasing critical infrastructure assurance.

PERSONAL EXPLANATION

HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Ms. BERKLEY. Mr. Speaker, flight delays caused me to miss rollcall votes Nos. 186, 187, and 188. Had I been present, I would have voted "yes" on No. 186, "yes" on No. 187, and "yes" on No. 188.

CELEBRATING THE DEFENSE LOGISTICS AGENCY'S 40TH ANNIVERSARY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. MORAN of Virginia. Mr. Speaker, I rise today to congratulate the Defense Logistics Agency's 40th anniversary. The Defense Logistics Agency has a distinguished history as the nation's combat support agency. Its origins date back to World War II when America's entrance into the global conflict required the rapid procurement of large amounts of munitions and supplies. When the agency was first founded, managers were appointed from each branch of the armed services for this task. In 1961, the Department of Defense centralized management of military logistics support by establishing the Defense Supply Agency. After 16 years of increasing responsibilities, the Defense Supply Agency expanded its original charter and was renamed the Defense Logistics Agency in 1977.

I would like to commend the Defense Logistics Agency's impeccable record of supporting defense and humanitarian missions. It stands as a testament to the agency's commitment to provide seamless support of our armed forces around the world and to extend a helping hand to victims of all types of adversity.

As the world has changed and evolved, the Defense Logistics Agency also has adapted and proven its ability to streamline. Agency employees have shown dedication to improving quality, reducing costs and improving responsiveness to their warfighter customer needs. They have also demonstrated their ability to embrace the latest technologies of today's competitive business world, which has resulted in saving the taxpayers billions of dollars. The Defense Logistics Agency's record of achievement serves as an example of government service at its best, highlighted by two Joint Meritorious Service Awards.

On behalf of my colleagues, I would like to praise the individual efforts of the men and women involved in the Defense Logistics Agency, and thank them for making the Agency a world-class organization. In honor of the 40th anniversary of the Defense Logistics Agency, we are proud of the Defense Logistics Agency's past endeavors and look forward to a bright and successful future of continued commitment and service to our nation.

Mr. Speaker, I ask you to join me in extending congratulations and best wishes to the employees of the Defense Logistics Agency on this memorable occasion and achievement.

TRIBUTE TO JAMES H. MULLEN

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and outstanding educator. I am proud to recognize James H. Mullen in the Congress for his invaluable contributions and service to his community, to our state, and to our nation.

For over three decades James Mullen of DeWitt, Arkansas has made a profound impact on the lives of people. Born in Mendenhall, Mississippi, James served in the United States Air Force during World War II. After being honorably discharged, he used the GI benefits to attend Mississippi State University, where he earned a degree in agriculture. That government investment would reap tremendous returns.

After graduating from Mississippi State, James moved to DeWitt, an area primarily dependent on its agrarian strengths. It was his responsibility to assist other veterans in developing their agricultural proficiency.

In 1955, James accepted a job with the DeWitt Independent School system teaching agriculture. For the next eleven years he would remain in this position. His influence far exceeded his teaching responsibilities.

It was not uncommon for young men to seek him out for personal counsel. His home was always open to young men who needed a listening ear, wise counsel, or any type of support. On one occasion a former student came to James and informed him he was going to quit college because of lack of funds. Although James didn't have the money to loan the student, he did the next best thing and went to the bank and secured a personal loan.

Each summer, in addition to visiting in the home of each student, James would take a group of students to camp. He had the unique ability to have fun with the students while maintaining an authoritarian position. On one visit to summer camp, the students destroyed his hat. With James, there were two things you never messed with: his hat or his pipe! Before nightfall, he had driven all those boys to town and required them to purchase a new hat. He never lost control!

In 1966, James joined the Arkansas State Department of Education as Associate Director of Petit Jean Vocational Technical School in Morrilton, Arkansas. He would remain in that position until 1970 when he was named Director of the Crowley's Ridge Vocational Technical School in Forrest City, Arkansas. At Crowley's Ridge, he inherited a fledgling institution and successfully restored the integrity of the institution.

Construction of the Rice Belt Vocational Technical School was approved in 1974. Community leaders from DeWitt would accept no other than James Mullen as first choice to head the school. Building a school from the ground had been his ambition, and he quickly acquiesced to return to his adopted hometown. Because of the strong foundation laid by James and others, Rice Belt still stands as a model institution for continuing education.

James is probably most proud of his long marriage to Mary Helen, and his children: Terry Mullen of Canyon Lake, Texas and Steve Mullen of Burleson, Texas.

James H. Mullen is an educator, advisor and friend to many. He has dedicated his life to serving his fellow citizens as a leader in both his profession and his community, and he deserves our respect and gratitude for his priceless contributions. On behalf of the Congress, I extend congratulations and best wishes to my good friend James H. Mullen, on his successes and achievements.

WE MUST NOT REWARD CHINESE TYRANNY BY GIVING THE OLYMPICS TO BEIJING

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. LANTOS. Mr. Speaker, I rise today to call the attention of my colleagues to a powerful testimonial that appeared in today's Wall Street Journal by three human rights heroes, Wei Jingsheng, Vladimir Bukovsky, and Gerhard Loewenthal who are united in opposition to China's bid to host the 2008 Summer Olympics. The authors are witnesses to and victims of human rights violations by three of the most brutal regimes of recent history, Communist China, the Soviet Union, and Nazi Germany. In the article, they urge the International Olympic Committee (IOC), when it votes on the host city for the 2008 Olympics in Moscow this Friday, July 13th, to avoid the shameful decision of two past IOC's to award the games to totalitarian states—Germany in 1936, and the Soviet Union in 1980.

The Chinese leadership in Beijing has argued strenuously that "politics" should be kept out of the IOC's decision. They assert that the potential candidates should only be judged by their ability to build a new sports facility, construct a new subway stop or erect more shining hotels. But focusing on bricks and mortar—and turning a blind eye to the egregious human rights violations taking place every day in China—does not remove politics from the Olympics. It simply permits a brutal regime to exploit the Olympics to prop up its faltering legitimacy—as Nazi Germany did in 1936 and the Soviet Union did in 1980—by basking in the reflected glow of the Summer Games.

Four months ago, I was joined by my colleagues from California, Mr. COX and Ms. PELOSI, and by Mr. WOLF from Virginia in introducing H. Con. Res. 73, which expresses strong opposition to Beijing's Olympic bid due to China's horrendous human rights record. This resolution was overwhelmingly approved by the International Relations Committee on March 27th by a vote of 27–8. Unfortunately, the leadership has failed to schedule a vote on the resolution.

Mr. Speaker, I ask that the entire article "Don't Reward Beijing's Tyranny," by Wei Jingsheng, Vladimir Bukovsky, and Gerhard Loewenthal and published in the July 10th edition of The Wall Street Journal be placed in the CONGRESSIONAL RECORD. I urge my colleagues to consider the poignant testimony provided in this article to the tragic human suffering that was contributed to by granting the Olympics to Nazi Germany in 1936 and the Soviet Union in 1980. In the hope of preventing a similar travesty in 2008, I call on the leadership to immediately schedule a vote on H. Con. Res. 73. The House must be given an opportunity to express its views on this critical moral issue.

DON'T REWARD BEIJING'S TYRANNY

Wei Jingsheng, Vladimir Bukovsky and Gerhard Loewenthal

The International Olympic Committee should not offer the 2008 Olympic Games to the one-party dictatorship of the Chinese government. Such a decision would not only be harmful to the interests of the Chinese people, but it could also threaten the interests of China's neighbors and ultimately world peace. That's hardly what the Olympic spirit is all about. The IOC offered the 1936 games to Nazi Germany. Adolf Hitler and his party exploited that opportunity to fan their political fanaticism, and ultimately initiated a war that caused tens of millions of deaths. Although the Olympic Games were not the cause of World War II, they were indeed one of the tools Hitler used for his purposes. Does the IOC feel no shame for offering the games to a regime that killed six million Jews and many millions more? I, Gerhard Loewenthal, am one of the witnesses and victims of that tragedy.

The IOC offered the 1980 games to the Communist Soviet Union, which cruelly oppressed its own people and the Eastern Europeans, and sought control of the rest of the world too. The Soviet Communist Party used the games as an opportunity to shore up faith in their system. Moscow also started a war in Afghanistan that resulted in many Soviet and Afghan deaths. Only the effort and unity of various peace-loving parties turned back that aggression and stopped the spread of the war. Does the IOC feel regret for helping the Soviet dictators? I, Vladimir Bukovsky, witnessed the disaster of the former Soviet Union and the Eastern European countries.

Apparently ignorant of history, the IOC may now be on the verge of giving the Chinese Communist dictatorship the honor of hosting the 2008 Olympic Games. The Chinese Communist government is already using this opportunity to whip up extreme nationalism and fanaticism in China, in an effort to encourage and prepare for military aggression that could threaten China's neighbors and ultimately world peace.

Beijing will surely use this opportunity to oppress those Chinese who fight for human rights and democracy. This oppression will delay China's democratic progress and extend the life of a dictatorial and corrupt government. I, Wei Jingsheng, have seen what the Chinese people have had to suffer for the last half century. I protest the wrongful deaths of 80 million Chinese under the Communists. I do not want to see more disasters in the future.

All three of us are pleading with you, the members of the IOC, to cast your votes for the 2008 host city with your conscience, to avoid the regret you may have when the future replays the nightmares we had.

Mr. Wei spent 18 years in Chinese prison for dissident activity. Mr. Bukovsky spent 12 years in Soviet prison for opposing the government. Mr. Loewenthal, a Jew, is a German TV journalist and a concentration camp survivor.

SENATE—*Wednesday, July 11, 2001*

The Senate met at 10 a.m. and was called to order by the Presiding Officer, the Honorable MARK DAYTON, a Senator from the State of Minnesota.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, we belong to You. You gave us our talents, nurtured us by parents and teachers and friends, opened doors of opportunity we could never have pried open without You, and gave us creative vision of what we were to accomplish. You have been the author of our insights and the instigator of solutions to problems. We praise You for all that You have provided us so we can serve our Nation.

We thank You for the people You have sent to the Senate. Today we especially thank You for Gary Sisco as he completes his time of service as Secretary of the Senate. We thank You for his deep faith, his commitment to the work of Government through the Senate, and his loyalty to all of us as friends. We humbly thank You for all that we have and are because of Your incredible generosity. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK DAYTON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 11, 2001.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK DAYTON, a Senator from the State of Minnesota, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. DAYTON thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for up to 10 minutes each.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Pennsylvania be given his full 15 minutes. The two 15-minute spots would take us probably to 10:35 or thereabouts. I ask unanimous consent that Senator SPECTER control the first 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 2217

Mr. REID. Mr. President, I further ask unanimous consent that the Senate proceed to H.R. 2217 at 10:35 this morning. I note to anyone within the sound of my voice, we have been in touch with Senator CRAIG and Senator KYL who had some suggestions last night in moving to this bill. Their questions have been answered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

NOMINATION OF ROBERT MUELLER

Mr. SPECTER. Mr. President, I have sought recognition this morning to comment about the confirmation hearings which are scheduled later this month for Mr. Robert Mueller to be Director of the Federal Bureau of Investigation. That position arguably is as important as any position in the United States of America, perhaps even the most powerful position.

The statutory 10-year term is 2 years longer than the maximum a President may serve under the Constitution. The Director of the FBI has power over the largest investigative organization in the world, global in its exposure.

There are an enormous number of problems which have befallen the agency in recent years. The confirmation hearing will provide a unique opportunity for oversight for the U.S. Senate to seek to establish standards as to what the FBI should be doing in cooperating with congressional oversight.

The FBI is a well-respected organization. I have had very extensive opportunities to work with the FBI. After graduation from college, I was in the Air Force Office of Special Investigations for 2 years and had training from the FBI. The commanding officer of the OSI was a former top aide to Director J. Edgar Hoover. I worked with the FBI on the prosecution of the Philadelphia Teamsters, an investigation which was conducted by the McClellan committee, with then-general counsel, Robert Kennedy, and saw their very fine work. Then, as Assistant Counsel to the Warren Commission, I worked with the FBI; then as district attorney of Philadelphia and for the last 20 years extensively on the Judiciary Committee.

I have great respect for the Federal Bureau of Investigation. At the same time, my experience has shown me that there is an over concern by the personnel of the FBI with their so-called institutional image and that there cannot be a concession of any problems, which is really indispensable if problems are to be corrected.

(Disturbance in the visitors' galleries.)

The ACTING PRESIDENT pro tempore. Will the Sergeant at Arms restore order in the galleries.

Mr. SPECTER. We have a nominee who has been put forward by the President who has very impressive credentials: United States Attorney in Boston, United States Attorney in San Francisco, 3 years as Assistant Attorney General in the Justice Department, where I had contacts and saw his impressive work.

He will be succeeding a man, Director Louis Freeh, who came to the Bureau with extraordinary credentials and overall did a good job, although he presided over the Bureau at a time when there were many institutional failures.

I analogize Director Freeh to the little boy on the Netherlands dike running around putting his finger in all the holes to try to stop the water from coming through. With so many holes and so many problems, it was not possible.

I believe similarly that the Congress, including the Senate and the Senate Judiciary Committee, has not been sufficiently active on oversight. These hearings will give us an opportunity to set standards as to what the FBI

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

should be doing in response to oversight activities by the Senate Judiciary Committee.

I had an opportunity to talk for the better part of an hour yesterday to FBI Director-designee Mueller and went over quite a number of issues that I intend to ask him in the public forum.

I comment about these today because the Senate ought to be preparing for this hearing with unique care for this very important position.

One of the matters I intend to discuss with Mr. Mueller in the confirmation hearings is the failure of the FBI to turn over for congressional Senate oversight a memorandum dated December 9, 1996, which was written at a time when there was a question as to whether Attorney General Reno was going to be reappointed by President Clinton. At that time, the campaign finance investigation was just being started. There was a conversation by a top FBI official Esposito, with a top Department of Justice official Lee Radek, and FBI Director Freeh wrote this memorandum to the file to Mr. Esposito actually. Referring to a meeting that he had with the Attorney General on December 6, Director Freeh wrote this memo December 9:

> I also advised the Attorney General of Lee Radek's comment to you that there was a lot of "pressure" on him and the Public Integrity Section regarding this case because the "Attorney General's job might hang in the balance" (or words to that effect).

This memorandum did not come to the attention of the Judiciary Committee until April of 2000, some 3½ years later, when, in my capacity as chairman of the subcommittee on Department of Justice oversight, a subpoena was issued for all of the FBI records and writings relating to the campaign finance investigation. When this memo was discovered, Director Freeh was questioned as to why he hadn't turned it over for Judiciary Committee oversight, because it was the view of many that it absolutely should have been done.

Director Freeh defended his inaction on the ground that it would have compromised his relationship with Attorney General Reno. But notwithstanding that fact, it is my view that this is the sort of oversight the Judiciary Committee must undertake. This will be the subject of my questioning of Mr. Mueller during the confirmation hearing.

Director Freeh declined to appear voluntarily before the Judiciary Committee or the subcommittee to comment about this memorandum, and the committee decided not to issue a subpoena, which I thought should have been done.

It is my view that when a matter of this importance comes to light there ought to be a public inquiry as to what happened between the Attorney General and the Director of the FBI. It takes a congressional committee to get to the bottom of that. When Attorney General Reno testified, she said, "I don't recall that, but if that had come to my attention, I certainly would have done something about it." In my view, anybody who is going to be confirmed for FBI Director has to have a commitment to making this sort of information available to Senate oversight.

Another matter which I intend to question Mr. Mueller about is the insistence of the FBI on not cooperating with Senate oversight where there is a pending criminal investigation. Now, I understand the sensitivity of a pending criminal investigation, having some experience as a prosecutor myself, but the case law is plain that congressional oversight is so fundamental and so important that it may proceed even as to pending criminal investigations. But that has not been honored by the Department of Justice or by the FBI. And in the case involving Dr. Wen Ho Lee, the subcommittee on the Department of Justice oversight was stymied at every turn by the FBI refusing to make available information, citing a pending criminal investigation.

Now, the chairman of the committee and the ranking member, or chairman and the ranking member of the subcommittee, have standing, it seems to me, on a discrete inquiry, carefully controlled, where the prosecution would not be compromised. That is the role of oversight. But when Wen Ho Lee was indicted on December 11, 1999, immediately, the FBI used that as a reason to resist any further Senate oversight. And there was a real question of why the FBI and the Department of Justice allowed Dr. Lee to remain at large after a search of his premises in April of 1999 was conducted, and then he was at liberty, at large, until December when an arrest warrant was issued. Suddenly, he became more problematic than public enemy No. 1, when he was put in manacles and solitary confinement, in a situation which had all the earmarks of an effort at the top of the Justice Department and FBI to coerce a guilty plea.

After the guilty plea was entered, Judiciary Committee oversight had been further stymied by the refusal of the FBI to allow access to what was going on because Dr. Lee was still being debriefed. Here again, I believe the Judiciary Committee is entitled to a commitment that oversight will be respected, and the case law will be respected, and that there may be oversight even on pending criminal investigations.

In the case of Hanssen, who has just entered a guilty plea on an arrangement to be spared the death penalty, raises some very fundamental questions that need to be answered as to procedures in the Federal Bureau of Investigation. Although this matter did not come to light until very recently, in August of 1986, Hanssen's voice was recorded by an FBI wiretap on his Soviet contact's telephone. In 1992, Hanssen improperly accessed his supervisor's computer. In 1997, Hanssen began to search the FBI computerized case database for his name, his home address, and for terms referring to espionage activities.

A question arises, what steps have been taken by the FBI to detect a spy such as Hanssen? There was a very probing report issued by the inspector general of the CIA after Aldrich Ames was detected as a spy, and the inspector general of the CIA, Fred Hitz, wrote this in the report:

> We have no reason to believe that the directors of Central Intelligence who served during the relevant period were aware of the deficiencies described in this report.

That relates to Aldrich Ames.

> But directors of Central Intelligence are obligated to ensure that they are knowledgeable of significant developments relating to crucial agency missions. Sensitive human source reporting on the Soviet Union and Russia during and after the Cold War clearly was such a mission, and certain directors of Central Intelligence must therefore be held accountable for serious shortcomings in that reporting.

Now, what that does essentially is to say that the Directors are at fault, even though they didn't know about Aldrich Ames, or have reason to know about Aldrich Ames, because the presence of spies in the Central Intelligence Agency so threatens national security that the Directors have an obligation to find out about it. If you make it an absolute responsibility, that, according to the CIA inspector general, would put the pressure on the Directors to find out about it.

The three Directors of the Central Intelligence Agency who were in office during the time Aldrich Ames functioned—Judge Webster, Gates, and Woolsey—responded with a very hot letter denying responsibility and saying that the standard set by the CIA inspector general was too high. Well, this is a subject I have discussed preliminarily with Mr. Mueller and intend to ask him about.

It is a very tough standard to say that a public official is liable for matters that he didn't know about or didn't have reason to know about. But if our Nation's secrets are to be guarded, and if we are to be secure from spies such as Ames and Hanssen, this is a matter that we are going to have to determine as to what is the appropriate standard.

When I talked to Mr. Mueller, I didn't ask him for a response, but this is another subject that will be probed during the course of the confirmation hearings. The issues of management in the FBI are just gigantic; they are enormous. We have seen repeated failures by the Federal Bureau of Investigation to come forward with documents in a timely manner. In the

McVeigh case, for example, the FBI had reason to know as early as January of this year that all of the documents relating to McVeigh had not been turned over to McVeigh's lawyers. Yet those documents were not made available until May. And then there was the issue about the fairness to McVeigh. No doubt he was guilty; he had confessed to the most horrendous crime in American history, where 168 people were killed in a Federal building in Oklahoma City—women, children, men, going there for official business, blameless, and it was done in a cold, calculated way.

There was no doubt as to guilt or as to the justification for the death sentence which was imposed, but there was an obligation on the part of the prosecution to turn over all the papers. There may have been something which bore on sentencing. Here you had a 5-month delay where the Federal Bureau of Investigation had reason to know that all those documents were not turned over.

The question is: What is to be done in the management of the Federal Bureau of Investigation to avoid this sort of an error? In an age of computerization and mechanization, we search for an answer and really must find a way that the FBI will correct these kinds of problems.

A similar issue was confronted in the Waco matter. It was an incident which occurred on April 19, 1993, where the compound was attacked and where so many people lost their lives in one of the most controversial incidents in American history, but it was not until August of 1999 that the FBI suddenly found a whole ream of records. Here again, management responsibilities require something much, much better than that.

The incident at Waco is really a very sad chapter in American history for many reasons: The confrontation, the deaths, the failure of congressional oversight, the failure of candid disclosure by the officials who were in charge.

On April 28 of 1993, Attorney General Reno and then FBI Director William Sessions testified before Congress that no pyrotechnic tear gas rounds were used at Waco. The hostage rescue team commander, Richard Rogers, who was present for their testimony but who did not testify, did not correct them.

Regrettably, that is an occurrence which has happened too often where there is a concern about the FBI institutional image which blinds people who ought to be coming forward and who ought to be making a disclosure as to what the facts were when there is congressional oversight and you have critical testimony by the Attorney General of the United States and by the Director of the FBI.

When Mr. Mueller and I talked yesterday, we discussed at some length the culture of the Federal Bureau of Investigation and the difficulties of even the Director finding out what is going on in the FBI. That is a challenging task which Robert Mueller is going to have to confront.

In the context of what has happened with Wen Ho Lee, Waco, McVeigh, Hanssen, and the campaign finance investigation, these are issues which need to be very thoroughly explored in the confirmation hearing, and we ought to come to some common understanding between those of us who have oversight responsibilities on the Judiciary Committee and the Director of the FBI as to what his standard will be and what we think the standard should be so that we can come to a meeting of the minds or so that we may not confirm a Director who does not measure up to what Congress thinks is required as a matter of legitimate oversight.

At the same time, as I suggested before, Congress has not done its job on oversight. We had the incident at Waco on April 19 of 1993. In my view, there should have been a prompt, detailed, piercing oversight investigation of what went on there. It was not until former Senator Danforth undertook that investigation in 1999 that anything really was done.

Who can say as to the bombing of the Oklahoma City Federal building 2 years to the day after the Waco incident, when the Oklahoma City bombing occurred on April 19, 1995, whether that was related to the Waco incident or whether it might have been prevented had there been vigorous congressional oversight?

In 1995, I served as the chairman of the Subcommittee on Terrorism and moved to have oversight hearings at that time on both Waco and Ruby Ridge because I thought a great deal more needed to be done. Finally, the subcommittee was permitted to have oversight as to Ruby Ridge.

That was an incident where Randy Weaver was on the mountain and refused to come down. There was a veritable army which approached him and had a firefight, and a U.S. marshal was killed in the process.

The oversight in which the Terrorism Subcommittee got to the bottom of the matter, and to the credit of FBI Director Louis Freeh, the FBI changed the rules of engagement related to the use of deadly force in what was a very important matter.

When we finished the hearings, Mr. Weaver said in the hearing room, had he known there was going to be this kind of congressional oversight, he would have come down from the mountain if he had believed there would be an inquiry and an appropriate resolution.

It was at that time that militia were springing up in some 40 States across the United States. If Congress exercises appropriate oversight, it is my view that will do a great deal to quell public unrest and public doubts as to what is happening with Federal action in a place such as Ruby Ridge and Federal action in a place such as Waco.

In summary, these are matters which are of the utmost importance when we will be confirming the next Director of the FBI, an occurrence which happens only once every 10 years because it is a 10-year turn, although a Director may leave earlier. Louis Freeh is leaving after 8 years, a term of office longer than the maximum a President may serve under the Constitution. The Justices of the Supreme Court have enormous power on 5-4 decisions establishing the law of the land, but there are four others who go with the one deciding vote.

The FBI, with all of its power—most of what it does is necessarily confidential and secret—requires that there be very profound changes in FBI management on the items which have been mentioned and an attitude that will not emphasize the institutional image to the sacrifice of not having appropriate congressional oversight, not having appropriate congressional disclosure of the memorandum referred to, having appropriate congressional disclosure when a matter is pending, even if it is a criminal matter.

Mr. President, I ask unanimous consent that the full text of the memorandum from Director Freeh, dated December 9, 1996, be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 9, 1996.

To: Mr. Esposito.
From: Director, FBI.
Subject: Democratic National Campaign Matter.

MEMORANDUM

As I related to you this morning, I met with the Attorney General on Friday, 12/6/96, to discuss the above-captioned matter.

I stated that DOJ had not yet referred the matter to the FBI to conduct a full, criminal investigation. It was my recommendation that this referral take place as soon as possible.

I also told the Attorney General that since she had declined to refer the matter to an Independent Counsel it was my recommendation that she select a first rate DOJ legal team from outside Main Justice to conduct the inquiry. In fact, I said that these prosecutors should be "junk-yard dogs" and that in my view, PIS was not capable of conducting the thorough, aggressive kind of investigation which was required.

I also advised the Attorney General of Lee Radek's comment to you that there was a lot of "pressure" on him and PIS regarding this case because the "Attorney General's job might hang in the balance" (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.

I also stated that it didn't make sense for PIS to call the FBI the "lead agency" in this matter while operating a "task force" with DOC IGs who were conducting interviews of

> key witnesses without the knowledge or participation of the FBI.
>
> I strongly recommend that the FBI and hand-picked DOJ attorneys from outside Main Justice run this case as we would any matter of such importance and complexity.
>
> We left the conversation on Friday with arrangements to discuss the matter again on Monday. The Attorney General and I spoke today and she asked for a meeting to discuss the "investigative team" and hear our recommendations. The meeting is now scheduled for Wednesday, 12/11/96, which you and Bob Litt will also attend.
>
> I intend to repeat my recommendations from Friday's meeting. We should present all of our recommendations for setting up the investigation—both AUSAs and other resources. You and I should also discuss and consider whether on the basis of all the facts and circumstances—including Huang's recently released letters to the President as well as Radek's comments—whether I should recommend that the Attorney General reconsider referral to an Independent Counsel.
>
> It was unfortunate that DOJ declined to allow the FBI to play any role in the Independent Counsel referral deliberations. I agree with you that based on the DOJ's experience with the Cisneros matter—which was only referred to an Independent Counsel because the FBI and I intervened directly with the Attorney General—it was decided to exclude us from this decision-making process.
>
> Nevertheless, based on information recently reviewed from PIS/DOC, we should determine whether or not an Independent Counsel referral should be made at this time. If so, I will make the recommendation to the Attorney General.

Mr. SPECTER. Mr. President, I ask unanimous consent that an extract of a report from CIA Inspector General Frederick Hitz be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> We have no reason to believe that the DCIs who served during the relevant period were aware of the deficiencies described in this report. But DCIs are obligated to ensure that they are knowledgeable of significant developments related to crucial Agency missions. Sensitive human source reporting on the Soviet Union and Russia during and after the Cold War clearly was such a mission, and certain DCIs must therefore be held accountable for serious shortcomings in that reporting.

Mr. SPECTER. I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I rise to express grave disappointment and concern that yesterday the Secretary of Health and Human Services, Tommy Thompson, indicated he would not implement a bipartisan law passed by this Congress last session. This legislation would open the borders of our country so that American citizens, who pay for a good share of the research done on prescription drugs in this country, to support the development of medications that are desperately needed, could get the best price for American-made, FDA-safety-approved medications from other countries such as Canada.

Last year, Congress passed a bill that says we will no longer protect the prices charged in this country that disadvantage our citizens by stopping us from free commerce across the border. I supported this effort in the House of Representatives. I find it ironic, at a time when our President talks about wanting free trade authority and expanding free trade, that we stop our citizens at the border from being able to benefit from free trade regarding the purchase of prescription drugs.

Yesterday, the Secretary of Health and Human Services said he was concerned about the safety of reimported prescription drugs. We addressed those concerns in the previously approved legislation. Further, I have introduced legislation called the Medication Equity and Drug Savings Act, S. 215, the MEDS Act, that addresses the safety concerns expressed by former Secretary Shalala. My bill guarantees in the clearest terms that American labels will be used on the wholesale products that come from another country and that there will be complete safety precautions to make sure Americans will be receiving American-made, safe, FDA-approved drugs.

What is the difference in cost for prescription drugs? The difference is clear when I stand in Detroit, MI, and I look across the river, I know that prices for American-made prescription drugs can be cut in half for my constituents with a quick 5 minute drive across the bridge to Canada. In some cases, the savings are even greater. Tamoxifen, a breast cancer treatment drug, is $136 a month in Michigan. Last year, we drove across the bridge with a group of seniors to purchase the exact same medicine; the price was only $15. There is something wrong with this picture.

The bill the Secretary chose not to implement would have begun to address this price difference by opening the borders, to make sure our hospitals, our businesses, and our pharmacists, could develop business relationships with wholesalers in other countries to bring back drugs at a lower cost and make sure our citizens could get medication at lower prices.

Today I urge my colleagues to join together again in a bipartisan way to act. We must guarantee that this law will be put into effect this year, whether it be by passing my legislation, making changes on another bill, or including it in Medicare prescription drug legislation which is so critical. We must act now. Over and over again I hear from families in my State and States across our country. Families, seniors, individuals with disabilities, and working people with ailments are all concerned about the high costs of prescription drugs. People are having to choose between paying the electric bill, getting their food, or getting their medicine. In the great United States of America, this great country, that should not be happening.

I express grave concern and disappointment about the decision and the information released yesterday by the Secretary. I urge him and invite all my colleagues to join with me to address this issue in a way that will allow opening of the borders to reaffirm competition for the best, lowest price for the safest prescription drugs that are manufactured in this country, that our citizens help to subsidize. Whether through the R&D tax credit, through funding the Federal labs, or through other efforts, taxpayers help to develop these prescriptions. We helped fund the development of the medication, and Americans pay top dollar compared to anybody in the world for these same prescription drugs. It is not right.

It is time now to act to make sure we can truly reduce the costs of one of the most important parts of the health care system today—medicines for our people, for the families of America. We deserve a break. Unfortunately, the roadblock was maintained yesterday. It is time to take down the barrier at the border and allow our people to buy prescription drugs wherever they can get the best price. I urge we act as quickly as possible.

Mr. BURNS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will begin consideration of H.R. 2217, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 2217) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30th, 2002, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $775,962,000, to remain available until expended, of which $1,000,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E)(xii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act; of which $4,000,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487 (16 U.S.C. 3150); and of which not to exceed $1,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–6a(i)); and of which $3,000,000 shall be available in fiscal year 2002 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation, to such Foundation for cost-shared projects supporting conservation of Bureau lands and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred; in addition, $32,298,000 for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $775,962,000, and $2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities: Provided, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors: Provided further, That of the amount provided, $28,000,000 is for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided further, That balances in the Federal Infrastructure Improvement account shall be transferred to and merged with this appropriation, and shall remain available until expended.

WILDLAND FIRE MANAGEMENT

For necessary expenses for fire preparedness, suppression operations, fire science and research, emergency rehabilitation, hazardous fuels reduction, and rural fire assistance by the Department of the Interior, $589,421,000, to remain available until expended, of which not to exceed $19,774,000 shall be for the renovation or construction of fire facilities: Provided, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: Provided further, That unobligated balances of amounts previously appropriated to the "Fire Protection" and "Emergency Department of the Interior Firefighting Fund" may be transferred and merged with this appropriation: Provided further, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: Provided further, That notwithstanding 42 U.S.C. 1856d, sums received by a bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., protection of United States property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without fiscal year limitation: Provided further, That using the amounts designated under this title of this Act, the Secretary of the Interior may enter into procurement contracts, grants, or cooperative agreements, for hazardous fuels reduction activities, and for training and monitoring associated with such hazardous fuels reduction activities, on Federal land, or on adjacent non-Federal land for activities that benefit resources on Federal land: Provided further, That the costs of implementing any cooperative agreement between the Federal government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: Provided further, That in entering into such grants or cooperative agreements, the Secretary may consider the enhancement of local and small business employment opportunities for rural communities, and that in entering into procurement contracts under this section on a best value basis, the Secretary may take into account the ability of an entity to enhance local and small business employment opportunities in rural communities, and that the Secretary may award procurement contracts, grants, or cooperative agreements under this section to entities that include local non-profit entities, Youth Conservation Corps or related partnerships, or small or disadvantaged businesses: Provided further, That funds appropriated under this head may be used to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act in connection with wildland fire management activities.

For an additional amount to cover necessary expenses for burned areas rehabilitation and fire suppression by the Department of the Interior, $70,000,000, to remain available until expended, of which $50,000,000 is for wildfire suppression and $20,000,000 is for burned areas rehabilitation: Provided, That the entire amount appropriated in this paragraph is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That these funds shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), $9,978,000, to remain available until expended: Provided, That notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account to be available until expended without further appropriation: Provided further, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $12,976,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–6907), $220,000,000, of which not to exceed $400,000 shall be available for administrative expenses and of which $50,000,000 is for the conservation activities defined in section 250(c)(4)(E)(xiii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than $100.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579, including administrative expenses and acquisition of lands or waters, or interests therein, $45,686,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $106,061,000, to remain available until expended: Provided, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEMS HEALTH AND RECOVERY FUND

(REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102–381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, and monitoring salvage timber sales and forest ecosystem health and recovery activities such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181–1 et seq., and Public Law 103–66) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and *mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,000,000, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses.*

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: Provided, That notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: Provided further, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on her certificate, not to exceed $10,000: Provided, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards: Provided further, That section 28f(a) of title 30, United States Code, is amended:

(1) In section 28f(a), by striking the first sentence and inserting, "The holder of each unpatented mining claim, mill, or tunnel site, located pursuant to the mining laws of the United States, whether located before, on or after the enactment of this Act, shall pay to the Secretary of the Interior, on or before September 1 of each year for years 2002 through 2006, a claim maintenance fee of $100 per claim or site"; and

(2) In section 28g, by striking "and before September 30, 2001" and inserting in lieu thereof "and before September 30, 2006".

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, $845,714,000, to remain available until September 30, 2003, except as otherwise provided herein, of which $31,000,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That balances in the Federal Infrastructure Improvement account shall be transferred to and merged with this appropriation, and shall remain available until expended: Provided further, That not less than $2,000,000 shall be provided to local governments in southern California for planning associated with the Natural Communities Conservation Planning (NCCP) program and shall remain available until expended: Provided further, That not less than $2,000,000 for high priority projects which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E)(xii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided further, That not to exceed $9,000,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)): Provided further, That of the amount available for law enforcement, up to $400,000 to remain available until expended, may at the discretion of the Secretary, be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on her certificate: Provided further, That of the amount provided for environmental contaminants, up to $1,000,000 may remain available until expended for contaminant sample analyses.

CONSTRUCTION

For construction, improvement, acquisition, or removal of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $55,526,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $108,401,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

LANDOWNER INCENTIVE PROGRAM

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $50,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: Provided, That the amount provided herein is for a Landowner Incentive Program established by the Secretary that provides matching, competitively awarded grants to States, the District of Columbia, Tribes, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, and American Samoa, to establish, or supplement existing, landowner incentive programs that provide technical and financial assistance, including habitat protection and restoration, to private landowners for the protection and management of habitat to benefit federally listed, proposed, or candidate species, or other at-risk species on private lands.

STEWARDSHIP GRANTS

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $10,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: Provided, That the amount provided herein is for the Secretary to establish a Private Stewardship Grants Program to provide grants and other assistance to individuals and groups engaged in private conservation efforts that benefit federally listed, proposed, or candidate species, or other at-risk species.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended, $91,000,000, to be derived from the Cooperative Endangered Species Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(v) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $14,414,000.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, $42,000,000, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E)(vi) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4261–4266), the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301–5306), and the Great Ape Conservation Act of 2000 (16 U.S.C. 6301), $4,000,000, to remain available until expended: Provided, That funds made available under this Act, Public Law 106–291, and Public Law 106–554 and hereafter in annual *appropriations acts for rhinoceros, tiger, Asian elephant, and great ape conservation programs are exempt from any sanctions imposed against any country under section 102 of the Arms Export Control Act (22 U.S.C. 2799aa–1).*

STATE WILDLIFE GRANTS

(INCLUDING RESCISSION)

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and American Samoa, under the provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, $100,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That the Secretary shall, after deducting administrative expenses, apportion the amount provided herein in the following manner: (A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof: and (B) to Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: Provided further, That the Secretary shall apportion the remaining amount in the following manner: 30 percent based on the ratio to which the land area of such State bears to the total land area of all such States; and 70 percent based on the ratio to which the population of such State bears to the total population of the United States, based on the 2000 U.S. Census; and the amounts so apportioned shall be adjusted equitably so that no State shall be apportioned a sum which is less than one percent of the total amount available for apportionment or more than 10 percent: Provided further, That the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 50 percent of the total costs of such projects: Provided further, That the non-Federal share of such projects may not be derived from Federal grant programs: Provided further, That no State, territory, or other jurisdiction shall receive a grant unless it has developed, or committed to develop by October 1, 2005, a comprehensive wildlife conservation plan, consistent with criteria established by the Secretary of the Interior, that considers the broad range of the State, territory, or other jurisdiction's wildlife and associated habitats, with appropriate priority placed on those species with the greatest conservation need and taking into consideration the relative level of funding available for the conservation of those species: Provided further, That any amount apportioned in 2002 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2003, shall be reapportioned, together with funds appropriated in 2004, in the manner provided herein.

Of the amounts appropriated in title VIII of Public Law 106–291, $49,890,000 for State Wildlife Grants are rescinded.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 74 passenger motor vehicles, of which 69 are for replacement only (including 32 for police-type use); repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management and investigation of fish and wildlife resources: Provided, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: Provided further, That the Service may accept donated aircraft as replacements for existing aircraft: Provided further, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in Senate Report 105–56.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, $1,473,128,000, of which $10,881,000 for research, planning and interagency coordination in support of land acquisition for Everglades restoration shall remain available until expended; and of which $17,181,000, to remain available until September 30, 2003, is for maintenance repair or rehabilitation projects for constructed assets, operation of the National Park Service automated facility management software system, and comprehensive facility condition assessments; and of which $2,000,000 is for the Youth Conservation Corps, defined in section 250(c)(4)(E)(xii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, for high priority projects: Provided, That the only funds in this account which may be made available to support United States Park Police are those funds approved for emergency law and order incidents pursuant to established National Park Service procedures, those funds needed to maintain and repair United States Park Police administrative facilities, and those funds necessary to reimburse the United States Park Police account for the unbudgeted overtime and travel costs associated with special events for an amount not to exceed $10,000 per event subject to the review and concurrence of the Washington headquarters office.

UNITED STATES PARK POLICE

For expenses necessary to carry out the programs of the United States Park Police, $66,106,000.

CONTRIBUTION FOR ANNUITY BENEFITS

For reimbursement (not heretofore made), pursuant to provisions of Public Law 85–157, to the District of Columbia on a monthly basis for benefit payments by the District of Columbia to United States Park Police annuitants under the provisions of the Policeman and Fireman's Retirement and Disability Act (Act), to the extent those payments exceed contributions made by active Park Police members covered under the Act, such amounts as hereafter may be necessary: Provided, That hereafter the appropriations made to the National Park Service shall not be available for this purpose.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $65,886,000.

URBAN PARK AND RECREATION FUND

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.), $20,000,000, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E)(x) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333), $74,000,000, to be derived from the Historic Preservation Fund, to remain available until September 30, 2003, and to be for the conservation activities defined in section 250(c)(4)(E)(xi) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That of the amount provided $30,000,000 shall be for Save America's Treasures for priority preservation projects, including preservation of intellectual and cultural artifacts, preservation of historic structures and sites, and buildings to house cultural and historic resources and to provide educational opportunities: Provided further, That any individual Save America's Treasures grant shall be matched by non-Federal funds: Provided further, That individual projects shall only be eligible for one grant, and all projects to be funded shall be approved by the House and Senate Committees on Appropriations prior to the commitment of grant funds: Provided further, That Save America's Treasures funds allocated for Federal projects shall be available by transfer to appropriate accounts of individual agencies, after approval of such projects by the Secretary of the Interior: Provided further, That none of the funds provided for Save America's Treasures may be used for administrative expenses, and staffing for the program shall be available from the existing staffing levels in the National Park Service.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, $338,585,000, to remain available until expended, of which $60,000,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 2002 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, $287,036,000, to be derived from the Land and Water Conservation Fund, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E)(iii) of the Balanced Budget and

Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, of which $164,000,000 is for the State assistance program including $4,000,000 to administer the State assistance program, and of which $11,000,000 shall be for grants, not covering more than 50 percent of the total cost of any acquisition to be made with such funds, to States and local communities for purposes of acquiring lands or interests in lands to preserve and protect Civil War battlefield sites identified in the July 1993 Report on the Nation's Civil War Battlefields prepared by the Civil War Sites Advisory Commission: Provided, That lands or interests in land acquired with Civil War battlefield grants shall be subject to the requirements of paragraph 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(f)(3)): Provided further, That of the amounts provided under this heading, $15,000,000 may be for Federal grants to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under terms and conditions deemed necessary by the Secretary to improve and restore the hydrological function of the Everglades watershed; and $16,000,000 may be for project modifications authorized by section 104 of the Everglades National Park and Expansion Act: Provided further, That funds provided under this heading for assistance to the State of Florida to acquire lands within the Everglades watershed are contingent upon new matching non-Federal funds by the State and shall be subject to an agreement that the lands to be acquired will be managed in perpetuity for the restoration of the Everglades: Provided further, That none of the funds provided for the State Assistance program may be used to establish a contingency fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 315 passenger motor vehicles, of which 256 shall be for replacement only, including not to exceed 237 for police-type use, 11 buses, and 8 ambulances: Provided, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided further, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage employees receiving workers' compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; $892,474,000, of which $64,318,000 shall be available only for cooperation with States or municipalities for water resources investigations; and of which $16,400,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which $8,000,000 shall remain available until expended for satellite operations; and of which $23,226,000 shall be available until September 30, 2003 for the operation and maintenance of facilities and deferred maintenance; and of which $164,424,000 shall be available until September 30, 2003 for the biological research activity and the operation of the Cooperative Research Units: Provided, That none of these funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: Provided further, That of the amount provided herein, $25,000,000 is for the conservation activities defined in section 250(c)(4)(E)(viii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided further, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase of not to exceed 53 passenger motor vehicles, of which 48 are for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: Provided, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only, $151,933,000, of which $84,021,000, shall be available for royalty management activities; and an amount not to exceed $102,730,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993: Provided, That to the extent $102,730,000 in additions to receipts are not realized from the sources of receipts stated above, the amount needed to reach $102,730,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993: Provided further, That $3,000,000 for computer acquisitions shall remain available until September 30, 2003: Provided further, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721(b) and (d): Provided further, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: Provided further, That notwithstanding any other provision of law, $15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service (MMS) concurred with the claimed refund due, to pay amounts owed to Indian allottees or tribes, or to correct prior unrecoverable erroneous payments: Provided further, That MMS may under the royalty-in-kind pilot program use a portion of the revenues from royalty-in-kind sales, without regard to fiscal year limitation, to pay for transportation to wholesale market centers or upstream pooling points, and to process or otherwise dispose of royalty production taken in kind: Provided further, That MMS shall analyze and document the expected return in advance of any royalty-in-kind sales to assure to the maximum extent practicable that royalty income under the pilot program is equal to or greater than royalty income recognized under a comparable royalty-in-value program.

OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,118,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; $102,144,000: Provided, That the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected in fiscal year 2002 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, $203,171,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to $10,000,000, to be derived from the Federal Expenses Share of the Fund, shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines, and for associated activities, through the Appalachian Clean Streams Initiative: Provided, That grants to minimum program States will be $1,600,000 per State in fiscal year 2002: Provided further, That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 percent shall be used for emergency reclamation projects in any one State and funds for federally administered emergency reclamation projects under this proviso shall not exceed $11,000,000: Provided further, That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 percent limitation per State and may be used without fiscal year limitation for emergency projects: Provided further, That pursuant to Public Law 97–365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That funds made available under title IV of Public Law 95–87 may be used for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: Provided further, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: Provided further, That the State of Maryland may set aside the greater of $1,000,000 or 10 percent of the total of the grants made available to the State under title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1231 et seq.), if the amount set aside is deposited in an acid mine drainage abatement and treatment fund established under a State law, pursuant to which law the amount (together with all interest earned on the amount) is expended by the State to undertake acid mine drainage abatement and treatment projects, except that before any amounts greater than 10 percent of its title IV grants are deposited in an acid mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, $1,804,322,000, to remain available until September 30, 2003 except as otherwise provided herein, of which not to exceed $89,864,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed $130,209,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2002, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; and up to $3,000,000 shall be for the Indian Self-Determination Fund which shall be available for the transitional cost of initial or expanded tribal contracts, grants, compacts or cooperative agreements with the Bureau under such Act; and of which not to exceed $436,427,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2002, and shall remain available until September 30, 2003; and of which not to exceed $58,540,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: Provided, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed $43,065,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with the operation of Bureau-funded schools: Provided further, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2003, may be transferred during fiscal year 2004 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: Provided further, That any such unobligated balances not so transferred shall expire on September 30, 2004.

CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87–483, $360,132,000, to remain available until expended: Provided, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: Provided further, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: Provided further, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: Provided further, That for fiscal year 2002, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: Provided further, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: Provided further, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: Provided further, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): Provided further, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $60,949,000, to remain available until expended; of which $24,870,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 101–618 and 102–575, and for implementation of other enacted water rights settlements; of which $7,950,000 shall be available for future water supplies facilities under Public Law 106–163; of which $21,875,000 shall be available pursuant to Public Laws 99–264, 100–580, 106–263, 106–425, 106–554, and 106–568; and of which $6,254,000 shall be available for the consent decree entered by the U.S. District Court, Western District of Michigan in United States v. Michigan, Case No. 2:73 CV 26.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans, $4,500,000, as authorized by the Indian Financing Act of 1974, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $75,000,000.

In addition, for administrative expenses to carry out the guaranteed loan programs, $486,000.

ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 229 passenger motor vehicles, of which not to exceed 187 shall be for replacement only.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations, pooled overhead general administration (except facilities operations and maintenance), or provided to implement the recommendations of the National Academy of Public Administration's August 1999 report shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No *funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act").*

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $76,450,000, of which: (1) $71,922,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $4,528,000 shall be available for salaries and expenses of the Office of Insular Affairs: Provided, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: Provided further, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104–134: Provided further, That of the amounts provided for technical assistance, not to exceed $2,000,000 shall be made available for transfer to the Disaster Assistance Direct Loan Financing Account of the Federal Emergency Management Agency for the purpose of covering the cost of forgiving the repayment obligation of the Government of the Virgin Islands on Community Disaster Loan 841, as required by section 504 of the Congressional Budget Act of 1974, as amended (2 U.S.C. 661c): Provided further, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: Provided further, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): Provided further, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $23,245,000, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $67,541,000, of which not to exceed $8,500 may be for official reception and representation expenses, and of which up to $1,000,000 shall be available for workers' compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $44,074,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $34,302,000, of which $3,812,000 shall be for procurement by contract of independent auditing services to audit the consolidated Department of the Interior annual financial statement and the annual financial statement of the Department of the Interior bureaus and offices funded in this Act.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $99,224,000, to remain available until expended: Provided, That funds for trust management improvements may be transferred, as needed, to the Bureau of Indian Affairs "Operation of Indian Programs" account and to the Departmental Management "Salaries and Expenses" account: Provided further, That funds made available to Tribes and Tribal organizations through contracts or grants obligated during fiscal year 2002, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: Provided further, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss: Provided further, That notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of $1.00 or less: Provided further, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder.

INDIAN LAND CONSOLIDATION

For consolidation of fractional interests in Indian lands and expenses associated with redetermining and redistributing escheated interests in allotted lands, and for necessary expenses to carry out the Indian Land Consolidation Act of 1983, as amended, by direct expenditure or cooperative agreement, $10,980,000, to remain available until expended and which may be transferred to the Bureau of Indian Affairs and Departmental Management.

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (Public Law 101–380) (33 U.S.C. 2701 et seq.), and Public Law 101–337, as amended (16 U.S.C. 19jj et seq.), $5,872,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: Provided, That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: Provided further, That no programs funded with appropriated funds in the "Departmental Management", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That for wildland fire operations, no funds shall be made available under this authority until the Secretary determines that funds appropriated for "wildland fire operations" shall be exhausted within thirty days: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: Provided, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Annual appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of 12 months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore oil and natural gas preleasing, leasing, and related activities, on lands within the North Aleutian Basin planning area.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 111. Advance payments made under this title to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) may be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

(1) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or

(2) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

SEC. 112. Appropriations made in this Act under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any available unobligated balances from prior appropriations Acts made under the same headings, shall be available for expenditure or transfer for Indian trust management activities pursuant to the Trust Management Improvement Project High Level Implementation Plan.

SEC. 113. A grazing permit or lease that expires (or is transferred) during fiscal year 2002 shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752) or if applicable, section 510 of the California Desert Protection Act (16 U.S.C. 410aaa–50). The terms and conditions contained in the expiring permit or lease shall continue in effect under the new permit or lease until such time as the Secretary of the Interior completes processing of such permit or lease in compliance with all applicable laws and regulations, at which time such permit or lease may be canceled, suspended or modified, in whole or in part, to meet the requirements of such applicable laws and regulations. Nothing in this section shall be deemed to alter the Secretary's statutory authority.

SEC. 114. Notwithstanding any other provision of law, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior, the hearing requirements of chapter 10 of title 25, United States Code, are deemed satisfied by a proceeding conducted by an Indian probate judge, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service, for such period of time as the Secretary determines necessary: Provided, That the basic pay of an Indian probate judge so appointed may be fixed by the Secretary without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, governing the classification and pay of General Schedule employees, except that no such Indian probate judge may be paid at a level which exceeds the maximum rate payable for the highest grade of the General Schedule, including locality pay.

SEC. 115. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to redistribute any Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring funds to address identified, unmet needs, dual enrollment, overlapping service areas or inaccurate distribution methodologies. No tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2002. Under circumstances of dual enrollment, overlapping service areas or inaccurate distribution methodologies, the 10 percent limitation does not apply.

SEC. 116. Funds appropriated for the Bureau of Indian Affairs for postsecondary schools for fiscal year 2002 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Postsecondary Funding Formula adopted by the Office of Indian Education Programs.

SEC. 117. (a) The Secretary of the Interior shall take such action as may be necessary to ensure that the lands comprising the Huron Cemetery in Kansas City, Kansas (as described in section 123 of Public Law 106–291) are used only in accordance with this section.

(b) The lands of the Huron Cemetery shall be used only (1) for religious and cultural uses that are compatible with the use of the lands as a cemetery, and (2) as a burial ground.

SEC. 118. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104–134, as amended by Public Law 104–208, the Secretary may accept and retain land and other forms of reimbursement: Provided, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by Public Law 100–696; 16 U.S.C. 460zz.

SEC. 119. Section 412(b) of the National Parks Omnibus Management Act of 1998, as amended (16 U.S.C. 5961) is amended by striking "2001" and inserting "2002".

SEC. 120. Notwithstanding other provisions of law, the National Park Service may authorize, through cooperative agreement, the Golden Gate National Parks Association to provide fee-based education, interpretive and visitor service functions within the Crissy Field and Fort Point areas of the Presidio.

SEC. 121. Notwithstanding 31 U.S.C. 3302(b), sums received by the Bureau of Land Management for the sale of seeds or seedlings including those collected in fiscal year 2001, may be credited to the appropriation from which funds were expended to acquire or grow the seeds or seedlings and are available without fiscal year limitation.

SEC. 122. TRIBAL SCHOOL CONSTRUCTION DEMONSTRATION PROGRAM. (a) DEFINITIONS.—In this section:

(1) CONSTRUCTION.—The term "construction", with respect to a tribally controlled school, includes the construction or renovation of that school.

(2) INDIAN TRIBE.—The term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(3) SECRETARY.—The term "secretary" means the Secretary of the Interior.

(4) TRIBALLY CONTROLLED SCHOOL.—The term "tribally controlled school" has the meaning given that term in section 5212 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2511).

(5) DEPARTMENT.—The term "Department" means the Department of the Interior.

(6) DEMONSTRATION PROGRAM.—The term "demonstration program" means the Tribal School Construction Demonstration Program.

(b) IN GENERAL.—The Secretary shall carry out a demonstration program to provide grants to Indian tribes for the construction of tribally controlled schools.

(1) IN GENERAL.—Subject to the availability of appropriations, in carrying out the demonstration program under subsection (b), the Secretary shall award a grant to each Indian tribe that submits an application that is approved by the Secretary under paragraph (2). The Secretary shall ensure that an eligible Indian tribe currently on the Department's priority list for constructing of replacement educational facilities receives the highest priority for a grant under this section.

(2) GRANT APPLICATIONS.—An application for a grant under the section shall—

(A) include a proposal for the construction of a tribally controlled school of the Indian tribe that submits the application; and

(B) be in such form as the Secretary determines appropriate.

(3) GRANT AGREEMENT.—As a condition to receiving a grant under this section, the Indian tribe shall enter into an agreement with the Secretary that specifies—

(A) the costs of construction under the grant;

(B) that the Indian tribe shall be required to contribute towards the cost of the construction a tribal share equal to 50 percent of the costs; and

(C) any other term or condition that the Secretary determines to be appropriate.

(4) ELIGIBILITY.—Grants awarded under the demonstration program shall only be for construction on replacement tribally controlled schools.

(c) EFFECT OF GRANT.—A grant received under this section shall be in addition to any other funds received by an Indian tribe under any other provision of law. The receipt of a grant under this section shall not affect the eligibility of an Indian tribe receiving funding, or the amount of funding received by the Indian tribe, under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) or the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

SEC. 123. WHITE RIVER OIL SHALE MINE, UTAH. (a) SALE.—The Administrator of General Services (referred to in this section as the "Administrator") shall sell all right, title, and interest of the United States in and to the improvements and equipment described in subsection (b) that are situated on the land described in subsection (c) (referred to in this section as the "Mine").

(b) DESCRIPTION OF IMPROVEMENTS AND EQUIPMENT.— The improvements and equipment referred to in subsection (a) are the following improvements and equipment associated with the Mine:

(1) Mine Service Building.

(2) Sewage Treatment Building.

(3) Electrical Switchgear Building.

(4) Water Treatment Building/Plant.

(5) Ventilation/Fan Building.

(6) Water Storage Tanks.

(7) Mine Hoist Cage and Headframe.

(8) Miscellaneous Mine-related equipment.

(c) DESCRIPTION OF LAND.—The land referred to in subsection (a) is the land located in Uintah County, Utah, known as the "White River Oil Shale Mine" and described as follows:

(1) T. 10 S., R 24 E., Salt Lake Meridian, sections 12 through 14, 19 through 30, 33, and 34.

(2) T. 10 S., R. 25 E., Salt Lake Meridian, sections 18 and 19.

(d) USE OF PROCEEDS.—The proceeds of the sale under subsection (a)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) shall be available until expended, without further Act of appropriation—

(A) first, to reimburse the Administrator for the direct costs of the sale; and

(B) second, to reimburse the Bureau of Land Management Utah State Office for the costs of closing and rehabilitating the Mine.

(e) MINE CLOSURE AND REHABILITATION.—The closing and rehabilitation of the Mine (including closing of the mine shafts, site grading, and surface revegetation) shall be conducted in accordance with—

(1) the regulatory requirements of the State of Utah, the Mine Safety and Health Administration, and the Occupational Safety and Health Administration; and

(2) other applicable law.

SEC. 124. The Secretary of the Interior may use or contract for the use of helicopters or motor vehicles on the Sheldon and Hart National Wildlife Refuges for the purpose of capturing and transporting horses and burros. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

SEC. 125. Upon application of the Governor of a State, the Secretary of the Interior shall (1) transfer not to exceed 25 percent of that State's formula allocation under the heading "National Park Service, Land Acquisition and State Assistance" to increase the State's allocation under the heading "United States Fish and Wildlife Service, State Wildlife Grants" or (2) transfer not to exceed 25 percent of the State's formula allocation under the heading "United States Fish and Wildlife Service, State Wildlife Grants" to increase the State's formula allocation under the heading "National Park Service, Land Acquisition and State Assistance".

SEC. 126. Section 819 of Public Law 106–568 is hereby repealed.

SEC. 127. Moore's Landing at the Cape Romain National Wildlife Refuge in South Carolina is hereby named for George Garris and shall hereafter be referred to in any law, document, or records of the United States as "Garris Landing".

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, $242,822,000, to remain available until expended.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, $287,331,000, to remain available until expended, as authorized by law, of which $101,000,000 is for Forest Legacy and Urban and Community Forestry, defined in section 250(c)(4)(E)(ix) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That none of the funds provided under this heading for the acquisition of lands or interests in lands shall be available until the House Committee on Appropriations and the Senate Committee on Appropriations provide to the Secretary, in writing, a list of specific acquisitions to be undertaken with such funds: Provided further, That notwithstanding any other provision of law, of the funds provided under this heading, $5,000,000 shall be made available to Kake Tribal Corporation as an advanced direct lump sum payment to implement the Kake Tribal Corporation Land Transfer Act (Public Law 106–283).

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, $1,324,491,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): Provided, That unobligated balances available at the start of fiscal year 2002 shall be displayed by extended budget line item in the fiscal year 2003 budget justification: Provided further, That of the amount available for vegetation and watershed management, the Secretary may authorize the expenditure or transfer of such sums as necessary to the Department of the Interior, Bureau of Land Management for removal, preparation, and adoption of excess wild horses and burros from National Forest System lands: Provided further, That of the funds provided under this heading for Forest Products, $5,000,000 shall be allocated to the Alaska Region, in addition to its normal allocation for the purposes of preparing additional timber for sale, to establish a 3-year timber supply and such funds may be transferred to other appropriations accounts as necessary to maximize accomplishment: Provided further, That of the funds provided for Wildlife and Fish Habitat Management, $600,000 shall be provided to the State of Alaska for wildlife monitoring activities.

WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, and for emergency rehabilitation of burned-over National Forest System lands and water, $1,115,594,000, to remain available until expended: Provided, That such funds including unobligated balances under this head, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: Provided further, That not less than 50 percent of any unobligated balances remaining (exclusive of amounts for hazardous fuels reduction) at the end of fiscal year 2001 shall be transferred, as repayment for past advances that have not been repaid, to the fund established pursuant to section 3 of Public Law 71–319 (16 U.S.C. 576 et seq.): Provided further, That notwithstanding any other provision of law, $4,000,000 of funds appropriated under this appropriation shall be used for Fire Science Research in support of the Joint Fire Science Program: Provided further, That all authorities for the use of funds, including *the use of contracts, grants, and cooperative agreements, available to execute the Forest and Rangeland Research appropriation, are also available in the utilization of these funds for Fire Science Research: Provided further, That funds provided shall be available for emergency rehabilitation and restoration, hazard reduction activities in the urban-wildland interface, support to federal emergency response, and wildfire suppression activities of the Forest Service: Provided further, That amounts under this heading may be transferred as specified in the report accompanying this Act to the "State and Private Forestry", "National Forest System", "Forest and Rangeland Research", and "Capital Improvement and Maintenance" accounts to fund state fire assistance, volunteer fire assistance, and forest health management, vegetation and watershed management, heritage site rehabilitation, wildlife and fish habitat management, trails and facilities maintenance and restoration: Provided further, That transfers of any amounts in excess of those specified shall require approval of the House and Senate Committees on Appropriations in compliance with reprogramming procedures contained in House Report No. 105–163: Provided further, That the costs of implementing any cooperative agreement between the Federal government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: Provided further, That in entering into such grants or cooperative agreements, the Secretary may consider the enhancement of local and small business employment opportunities for rural communities, and that in entering into procurement contracts under this section on a best value basis, the Secretary may take into account the ability of an entity to enhance local and small business employment opportunities in rural communities, and that the Secretary may award procurement contracts, grants, or cooperative agreements under this section to entities that include local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or disadvantaged businesses: Provided further, That:*

(1) In expending the funds provided with respect to this Act for hazardous fuels reduction, the Secretary of the Interior and the Secretary of Agriculture may conduct fuel reduction treatments on Federal lands using all contracting and hiring authorities available to the Secretaries applicable to hazardous fuel reduction activities under the wildland fire management accounts. Notwithstanding Federal government procurement and contracting laws, the Secretaries may conduct fuel reduction treatments on Federal lands using grants and cooperative agreements. Notwithstanding Federal government procurement and contracting laws, in order to provide employment and training opportunities to people in rural communities, the Secretaries may award contracts, including contracts for monitoring activities, to—

(A) local private, nonprofit, or cooperative entities;

(B) Youth Conservation Corps crews or related partnerships, with State, local and non-profit youth groups;

(C) small or micro-businesses; or

(D) other entities that will hire or train a significant percentage of local people to complete such contracts. The authorities described above relating to contracts, grants, and cooperative agreements are available until all funds provided in this title for hazardous fuels reduction activities in the urban wildland interface are obligated.

(2)(A) The Secretary of Agriculture may transfer or reimburse funds to the United States Fish and Wildlife Service of the Department of the Interior, or the National Marine Fisheries Service of the Department of Commerce, for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference as required by section 7 of such Act in connection with wildland fire management activities in fiscal years 2001 and 2002.

(B) Only those funds appropriated for fiscal years 2001 and 2002 to Forest Service (USDA) for wildland fire management are available to the Secretary of Agriculture for such transfer or reimbursement.

(C) The amount of the transfer or reimbursement shall be as mutually agreed by the Secretary of Agriculture and the Secretary of the Interior or Secretary of Commerce, as applicable, or their designees. The amount shall in no case exceed the actual costs of consultation and conferencing in connection with wildland fire management activities affecting National Forest System lands.

For an additional amount to cover necessary expenses for emergency rehabilitation, wildfire suppression and other fire operations of the Forest Service, $165,000,000, to remain available until expended, of which $100,000,000 is for emergency rehabilitation and wildfire suppression, and $65,000,000 is for other fire operations: Provided, That the entire amount appropriated in this paragraph is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That these funds shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

For an additional amount, to liquidate obligations previously incurred, $274,147,000.

CAPITAL IMPROVEMENT AND MAINTENANCE

For necessary expenses of the Forest Service, not otherwise provided for, $541,286,000, to remain available until expended for construction, reconstruction, maintenance and acquisition of buildings and other facilities, and for construction, reconstruction, repair and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205, of which $61,000,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That fiscal year 2001 balances in the Federal Infrastructure Improvement account for the Forest Service shall be transferred to and merged with this appropriation and shall remain available until expended: Provided further, That up to $15,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: Provided further, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project: Provided further, That the Forest Service shall transfer $300,000, appropriated in Public Law 106–291 within the Capital Improvement and Maintenance appropriation, to the State and Private Forestry appropriation, and shall provide these funds in an advance direct lump sum payment to Purdue University for planning and construction of a hardwood tree improvement and generation facility.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $128,877,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(iv) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

For necessary expenses of the Forest Service to manage federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487), $5,488,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of not to exceed 132 passenger motor vehicles of which eight will be used primarily for law enforcement purposes and of which 130 shall be for replacement; acquisition of 25 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed seven for replacement only, and acquisition of sufficient aircraft from excess sources to maintain the operable fleet at 195 aircraft for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein, including the Oscoda-Wurtsmith land exchange in Michigan, pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as *authorized by 5 U.S.C. 5901–5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).*

None of the funds made available under this Act shall be obligated or expended to abolish any region, to move or close any regional office for National Forest System administration of the Forest Service, Department of Agriculture without the consent of the House and Senate Committees on Appropriations.

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions if and only if all previously appropriated emergency contingent funds under the heading "Wildland Fire Management" have been released by the President and apportioned.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report No. 105–163.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in House Report No. 105–163.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Funds available to the Forest Service shall be available to conduct a program of not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E)(xii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

Of the funds available to the Forest Service, $2,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, up to $2,250,000 may be advanced in a lump sum as Federal financial assistance to the National Forest Foundation, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: Provided, That of the Federal funds made available to the Foundation, no more than $400,000 shall be available for administrative expenses: Provided further, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: Provided further, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: Provided further, That hereafter, the National Forest Foundation may hold Federal funds made available but not immediately disbursed and may use any interest or other investment income earned (before, on, or after the date of the enactment of this Act) on Federal funds to carry out the purposes of Public Law 101–593: Provided further, That such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98–244, up to $2,650,000 of the funds available to the Forest Service shall be available for matching funds to the National Fish and Wildlife Foundation, as authorized by 16 U.S.C. 3701–3709, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefitting National Forest System lands or related to Forest Service programs: Provided, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds advanced by the Forest Service: Provided further, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, 80 percent of the funds appropriated to the Forest Service in the "National Forest System" and "Capital Improvement and Maintenance" accounts and planned to be allocated to activities under the "Jobs in the Woods" program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to sections 14(c)(1) and (2), and section 16(a)(2) of Public Law 99–663.

The Secretary of Agriculture is authorized to enter into grants, contracts, and cooperative agreements as appropriate with the Pinchot Institute for Conservation, as well as with public and other private agencies, organizations, institutions, and individuals, to provide for the development, administration, maintenance, or restoration of land, facilities, or Forest Service programs, at the Grey Towers National Historic Landmark: Provided, That, subject to such terms and conditions as the Secretary of Agriculture may prescribe, any such public or private agency, organization, institution, or individual may solicit, accept, and administer private gifts of money and real or personal property for the benefit of, or in connection with, the activities and services at the Grey Towers National Historic Landmark: Provided further, That such gifts may be accepted notwithstanding the fact that a donor conducts business with the Department of Agriculture in any capacity.

Funds appropriated to the Forest Service shall be available, as determined by the Secretary, for payments to Del Norte County, California, pursuant to sections 13(e) and 14 of the Smith River National Recreation Area Act (Public Law 101–612).

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service not to exceed $500,000 may be used to reimburse the Office of the General Counsel (OGC), Department of Agriculture, for travel and related expenses incurred as a result of OGC assistance or participation requested by the Forest Service at meetings, training sessions, management reviews, land purchase negotiations and similar non-litigation related matters. Future budget justifications for both the Forest Service and the Department of Agriculture should clearly display the sums previously transferred and the requested funding transfers.

The Forest Service shall fund indirect expenses, that is expenses not directly related to specific programs or to the accomplishment of specific work on-the-ground, from any funds available to the Forest Service: Provided, That the Forest Service shall implement and adhere to the definitions of indirect expenditures established pursuant to Public Law 105–277 on a nationwide basis without flexibility for modification by any organizational level except the Washington Office, and when changed by the Washington Office, such changes in definition shall be reported in budget requests submitted by the Forest Service: Provided further, That the Forest Service shall provide in all future budget justifications, planned indirect expenditures in accordance with the definitions, summarized and displayed to the Regional, Station, Area, and detached unit office level. The justification shall display the estimated source and amount of indirect expenditures, by expanded budget line item, of funds in the agency's annual budget justification. The display shall include appropriated funds and the Knutson-Vandenberg, Brush Disposal, Cooperative Work-Other, and Salvage Sale funds. Changes between estimated and actual indirect expenditures shall be reported in subsequent budget justifications: Provided, That during fiscal year 2002 the Secretary shall limit total annual indirect obligations from the Brush Disposal, Knutson-Vandenberg, Reforestation, Salvage Sale, and Roads and Trails funds to 20 percent of the total obligations from each fund. Obligations in excess of 20 percent which would otherwise be charged to the above funds may be charged to appropriated funds available to the Forest Service subject to notification of the Committees on Appropriations of the House and Senate.

Any appropriations or funds available to the Forest Service may be used for necessary expenses in the event of law enforcement emergencies as necessary to protect natural resources and public or employee safety: Provided, That such amounts shall not exceed $750,000.

The Secretary of Agriculture may authorize the sale of excess buildings, facilities, and other properties owned by the Forest Service and located on the Green Mountain National Forest, the revenues of which shall be retained by the Forest Service and available to the Secretary without further appropriation and until expended for maintenance and rehabilitation activities on the Green Mountain National Forest.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and *disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), $604,090,000, to remain available until expended, of which $11,000,000 is to begin construction, renovation, acquisition of furnishings, and demolition or removal of buildings at National Energy Technology Laboratory facilities in Morgantown, West Virginia and Pittsburgh, Pennsylvania, and of which $33,700,000 shall be derived by transfer from funds appropriated in prior years under the heading "Clean Coal Technology", and of which $150,000,000 is to be made available, after coordination with the private sector, for a request for proposals for a Clean Coal Power Initiative providing for competitively-awarded demonstrations of commercial scale technologies to reduce the barriers to continued and expanded coal use: Provided, That the request for proposals shall be issued no later than one hundred and twenty days following enactment of this Act, proposals shall be submitted no later than ninety days after the issuance of the request for proposals, and the Department of Energy shall make project selections no later than one hundred and sixty days after the receipt of proposals: Provided further, That funds shall be expended in accordance with the provisions governing the use of funds contained under the heading "Clean Coal Technology" in prior appropriations: Provided further, That the Department may include provisions for repayment of Government contributions to individual projects in an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department including repayments from sale and licensing of technologies from both domestic and foreign transactions: Provided further, That such repayments shall be retained by the Department for future coal-related research, development and demonstration projects: Provided further, That any technology selected under this program shall be considered a Clean Coal Technology, and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. §7651n, and Chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: Provided further, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: Provided further, That up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this account.*

ALTERNATIVE FUELS PRODUCTION

(RESCISSION)

Of the unobligated balances under this heading, $2,000,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, $17,371,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

ELK HILLS SCHOOL LANDS FUND

For necessary expenses in fulfilling installment payments under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104–106, $36,000,000, to become available on October 1, 2002 for payment to the State of California for the State Teachers' Retirement Fund from the Elk Hills School Lands Fund.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $870,805,000, to remain available until expended: Provided, That $251,000,000 shall be for use in energy conservation grant programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507): Provided further, That notwithstanding section 3003(d)(2) of Public Law 99–509, such sums shall be allocated to the eligible programs as follows: $213,000,000 for weatherization assistance grants and $38,000,000 for State energy conservation grants.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, $1,996,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $169,009,000, to remain available until expended, of which $8,000,000 shall be available for maintenance of a Northeast Home Heating Oil Reserve.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $75,499,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private or foreign: Provided, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: Provided further, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: Provided further, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

In addition to other authorities set forth in this Act, the Secretary may accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State or private agencies or concerns.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $2,388,614,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: Provided, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: Provided further, That $430,776,000 for contract medical care shall remain available for obligation until September 30, 2003: Provided further, That of the funds provided, up to $22,000,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: Provided further, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): Provided further, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 2003: Provided further, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: Provided further, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed $288,234,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2002, of which up to $40,000,000 may be used for such costs associated with the Navajo Nation's new and expanded contracts, grants, self-governance compacts or annual funding agreements: Provided further, That funds available for the Indian Health Care Improvement Fund may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related *auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $362,854,000, to remain available until expended: Provided, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: Provided further, That from the funds appropriated herein, $5,000,000 shall be designated by the Indian Health Service as a contribution to the Yukon-Kuskokwim Health Corporation (YKHC) to continue a priority project for the acquisition of land, planning, design and construction of 79 staff quarters at Bethel, Alaska, pursuant to the negotiated project agreement between the YKHC and the Indian Health Service: Provided further, That this project shall not be subject to the construction provisions of the Indian Self-Determination and Education Assistance Act and shall be removed from the Indian Health Service priority list upon completion: Provided further, That the Federal Government shall not be liable for any property damages or other construction claims that may arise from YKHC undertaking this project: Provided further, That the land shall be owned or leased by the YKHC and title to quarters shall remain vested with the YKHC: Provided further, That $5,000,000 shall remain available until expended for the purpose of funding joint venture health care facility projects authorized under the Indian Health Care Improvement Act, as amended: Provided further, That priority, by rank order, shall be given to tribes with outpatient projects on the existing Indian Health Services priority list that have Service-approved planning documents, and can demonstrate by March 1, 2002, the financial capability necessary to provide an appropriate facility: Provided further, That joint venture funds unallocated after March 1, 2002, shall be made available for joint venture projects on a competitive basis giving priority to tribes that currently have no existing Federally-owned health care facility, have planning documents meeting Indian Health Service requirements prepared for approval by the Service and can demonstrate the financial capability needed to provide an appropriate facility: Provided further, That the Indian Health Service shall request additional staffing, operation and maintenance funds for these facilities in future budget requests: Provided further, That not to exceed $500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: Provided further, That not to exceed $500,000 shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: Provided further, That not to exceed $500,000 shall be placed in a Demolition Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings: Provided further, That notwithstanding the provisions of title III, section 306, of the Indian Health Care Improvement Act (Public Law 94–437, as amended), construction contracts authorized under title I of the Indian Self-Determination and Education Assistance Act of 1975, as amended, may be used rather than grants to fund small ambulatory facility construction projects: Provided further, That if a contract is used, the IHS is authorized to improve municipal, private, or tribal lands, and that at no time, during construction or after completion of the project will the Federal Government have any rights or title to any real or personal property acquired as a part of the contract.*

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefore as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title III of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title III of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

Funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act. With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment, and the reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding, said amounts to remain available until expended. Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance. The appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $15,148,000, to remain available until expended: Provided, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: Provided further, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: Provided further, That no relocatee will be provided with more than one new or replacement home: Provided further, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56 part A), $4,490,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, $401,192,000, of which not to exceed $43,713,000 for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain *available until expended, and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: Provided further, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: Provided further, That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: Provided further, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.*

REPAIR, RESTORATION AND ALTERATION OF FACILITIES

For necessary expenses of maintenance, repair, restoration, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $67,900,000, to remain available until expended, of which $10,000,000 is provided for maintenance, repair, rehabilitation and alteration of facilities at the National Zoological Park: Provided, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $25,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used for the Holt House located at the National Zoological Park in Washington, D.C., unless identified as repairs to minimize water damage, monitor structure movement, or provide interim structural support.

None of the funds in this or any other Act may be used to make any changes to the existing Smithsonian science programs, including closure of facilities, relocation of staff or redirection of functions and programs, without approval by the Board of Regents of recommendations received from the Science Commission.

None of the funds available to the Smithsonian may be reprogrammed without the advance written approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in House Report No. 105–163.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $68,967,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $14,220,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $15,000,000.

CONSTRUCTION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $19,000,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $7,796,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $98,234,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, for program support, and for administering the functions of the Act, to remain available until expended.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $109,882,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $15,622,000, to remain available until expended, of which $11,622,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out subtitle C of the Museum and Library Services Act of 1996, as amended, $26,899,000, to remain available until expended.

CHALLENGE AMERICA ARTS FUND

CHALLENGE AMERICA GRANTS

For necessary expenses as authorized by Public Law 89–209, as amended, $17,000,000 for support for arts education and public outreach activities to be administered by the National Endowment for the Arts, to remain available until expended.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: Provided further, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $1,174,000: Provided, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956(a)), as amended, $7,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), $3,310,000: Provided, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $7,253,000: Provided, That all appointed members of the Commission will be compensated at a rate not to exceed the daily equivalent of the annual rate of pay for positions at level IV of the Executive Schedule for each day such member is engaged in the actual performance of duties.

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

HOLOCAUST MEMORIAL MUSEUM

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106–292 (36

U.S.C. 2301–2310), $36,028,000, of which $1,900,000 for the museum's repair and rehabilitation program and $1,264,000 for the museum's exhibitions program shall remain available until expended.

PRESIDIO TRUST

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, $23,125,000 shall be available to the Presidio Trust, to remain available until expended.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: Provided, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless advance notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 307. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2001.

SEC. 308. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 309. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when such pedestrian use is consistent with generally accepted safety standards.

SEC. 310. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2002, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 311. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103–138, 103–332, 104–134, 104–208, 105–83, 105–277, 106–113, and 106–291 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2001 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 312. Notwithstanding any other provision of law, for fiscal year 2002 the Secretaries of Agriculture and the Interior are authorized to limit competition for watershed restoration project contracts as part of the "Jobs in the Woods" Program established in Region 10 of the Forest Service to individuals and entities in historically timber-dependent areas in the States of Washington, Oregon, northern California and Alaska that have been affected by reduced timber harvesting on Federal lands. The Secretaries shall consider the benefits to the local economy in evaluating bids and designing procurements which create economic opportunities for local contractors.

SEC. 313. None of the funds collected under the Recreational Fee Demonstration program may be used to plan, design, or construct a visitor center or any other permanent structure without prior approval of the House and the Senate Committees on Appropriations if the estimated total cost of the facility exceeds $500,000.

SEC. 314. None of the funds made available in this or any other Act for any fiscal year may be used to designate, or to post any sign designating, any portion of Canaveral National Seashore in Brevard County, Florida, as a clothing-optional area or as an area in which public nudity is permitted, if such designation would be contrary to county ordinance.

SEC. 315. Of the funds provided to the National Endowment for the Arts—

(1) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(2) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(3) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 316. The National Endowment for the Arts and the National Endowment for the Humanities are authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

SEC. 317. (a) In providing services or awarding financial assistance under the National Foundation on the Arts and the Humanities Act of 1965 from funds appropriated under this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) In this section:

(1) The term "underserved population" means a population of individuals, including urban minorities, who have historically been outside the purview of arts and humanities programs due to factors such as a high incidence of income below the poverty line or to geographic isolation.

(2) The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1);

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act; and

(4) the Chairperson shall encourage the use of grants to improve and support community-based music performance and education.

SEC. 318. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the 5-year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 319. None of the funds in this Act may be used to support Government-wide administrative functions unless such functions are justified in the budget process and funding is approved by the House and Senate Committees on Appropriations.

SEC. 320. None of the funds in this Act may be used for planning, design or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the House and Senate Committees on Appropriations.

SEC. 321. Amounts deposited during fiscal year 2001 in the roads and trails fund provided for in the fourteenth paragraph under the heading "FOREST SERVICE" of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.

SEC. 322. Other than in emergency situations, none of the funds in this Act may be used to operate telephone answering machines during core business hours unless such answering machines include an option that enables callers to reach promptly an individual on-duty with the agency being contacted.

SEC. 323. No timber sale in Region 10 shall be advertised if the indicated rate is deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar: Provided, That sales which are deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar may be advertised upon receipt of a written request by a prospective, informed bidder, who has the opportunity to review the Forest Service's cruise and harvest cost estimate for that timber. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 2002, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar, all of the western red cedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in fiscal year 2002, less than the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar, the volume of western red cedar timber available to domestic processors at prevailing domestic prices in the contiguous 48 United States shall be that volume: (i) which is surplus to the needs of domestic processors in Alaska; and (ii) is that percent of the surplus western red cedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a "rolling basis" shall mean that the determination of how much western red cedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western red cedar shall be deemed "surplus to the needs of domestic processors in Alaska" when the timber sale holder has presented to the Forest Service documentation of the inability to sell western red cedar logs from a given sale to domestic Alaska processors at price equal to or greater than the log selling value stated in the contract. All additional western red cedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.

SEC. 324. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

SEC. 325. The Forest Service, in consultation with the Department of Labor, shall review Forest Service campground concessions policy to determine if modifications can be made to Forest Service contracts for campgrounds so that such concessions fall within the regulatory exemption of 29 CFR 4.122(b). The Forest Service shall offer in fiscal year 2002 such concession prospectuses under the regulatory exemption, except that, any prospectus that does not meet the requirements of the regulatory exemption shall be offered as a service contract in accordance with the requirements of 41 U.S.C. 351–358.

SEC. 326. A project undertaken by the Forest Service under the Recreation Fee Demonstration Program as authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1996, as amended, shall not result in—

(1) displacement of the holder of an authorization to provide commercial recreation services on Federal lands. Prior to initiating any project, the Secretary shall consult with potentially affected holders to determine what impacts the project may have on the holders. Any modifications to the authorization shall be made within the terms and conditions of the authorization and authorities of the impacted agency.

(2) the return of a commercial recreation service to the Secretary for operation when such services have been provided in the past by a private sector provider, except when—

(A) the private sector provider fails to bid on such opportunities;

(B) the private sector provider terminates its relationship with the agency; or

(C) the agency revokes the permit for noncompliance with the terms and conditions of the authorization.

In such cases, the agency may use the Recreation Fee Demonstration Program to provide for operations until a subsequent operator can be found through the offering of a new prospectus.

SEC. 327. The authority to enter into stewardship and end result contracts provided to the Forest Service in accordance with section 347 of title III of section 101(e) of division A of Public Law 105–277 is hereby expanded to authorize the Forest Service to enter into an additional 28 contracts subject to the same terms and conditions as provided in that section: Provided, That of the additional contracts authorized by this section at least 9 shall be allocated to Region 1 and at least 3 to Region 6.

SEC. 328. Any regulations or policies promulgated or adopted by the Departments of Agriculture or the Interior regarding recovery of costs for processing authorizations to occupy and use Federal lands under their control shall adhere to and incorporate the following principle arising from Office of Management and Budget Circular, A–25; no charge should be made for a service when the identification of the specific beneficiary is obscure, and the service can be considered primarily as benefiting broadly the general public.

SEC. 329. Notwithstanding any other provision of law, for fiscal year 2002, the Secretary of Agriculture is authorized to limit competition for fire and fuel treatment and watershed restoration contracts in the Giant Sequoia National Monument and the Sequoia National Forest. Preference for employment shall be given to dislocated and displaced workers in Tulare, Kern and Fresno Counties, California, for work associated with the establishment of the Giant Sequoia National Monument.

SEC. 330. The Secretary of Agriculture, acting through the Chief of the Forest Service shall:

(1) extend the special use permit for the Sioux Charlie Cabin in the Absaroka Beartooth Wilderness Area, Montana, held by Montana State University—Billings for a period of 50 years; and

(2) solicit public comments at the end of the 50 year period to determine whether another extension should be granted.

SEC. 331. Section 323 of the Department of the Interior and Related Agencies Appropriations Act, 1999, as included in Public Law 105–277, Division A, section 101(e), is amended by striking "and 2001," and inserting ", 2001 and 2002,".

SEC. 332. Section 551(c) of the Land Between the Lakes Protection Act of 1998 (16 U.S.C. 460lll–61(c)) is amended by striking "2002" and inserting "2004".

SEC. 333. LOCAL EXEMPTIONS FROM FOREST SERVICE DEMONSTRATION PROGRAM FEES. Section 6906 of Title 31, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "Necessary"; and

(2) by adding at the end the following:

"(b) LOCAL EXEMPTIONS FROM DEMONSTRATION PROGRAM FEES.—

"(1) IN GENERAL.—Each unit of general local government that lies in whole or in part within the White Mountain National Forest and persons residing within the boundaries of that unit of general local government shall be exempt during that fiscal year from any requirement to pay a Demonstration Program Fee (parking permit or passport) imposed by the Secretary of Agriculture for access to the Forest.

"(2) ADMINISTRATION.—The Secretary of Agriculture shall establish a method of identifying persons who are exempt from paying user fees under paragraph (1). This method may include valid form of identification including a drivers license.".

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 2002".

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be terminated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am very honored to join with my colleague, the distinguished Senator from Montana, Mr. BURNS, in bringing before the Senate H.R. 2217, the Interior and related agencies bill for fiscal year 2002, as amended, by the Senate Appropriations Committee.

This is the first of the 13 annual appropriations measures to be considered by the Senate this year. In my opinion, this is a well-crafted bill. It balances both the needs of the American people and the resources available to the committee. We only have so much money available and "we ain't going to spend what we ain't got."

That being the situation then, I urge my colleagues to adopt this bill in a timely fashion so we can proceed to conference with the House of Representatives. We have gotten a late start this year and we have to work hard and long to catch up. Darkness may have fallen, from time to time, before we catch up on these appropriations bills.

H.R. 2217 provides more than $1.2 billion in much-needed funding to attack the deferred maintenance problems at our national parks, our national wildlife refuges, our national forests, and other federal recreational facilities across this nation. The bill would provide $480 million to the National Park Service, $108 million to the Fish and Wildlife Service, $78 million to the Bureau of Land Management, and $541 million to the Forest Service for literally hundreds, hundreds and hundreds of important maintenance projects.

In addition, the bill restores $35 million in abandoned mine clean-up funds that were unwisely proposed to be cut by the administration. We are not going down that road, Mr. President. It restores nearly $80 million in proposed cuts to the budget of the U.S. Geological Survey, a matter of great importance to many of our colleagues. The bill fully funds the construction needs of the next six schools on the priority list of the Bureau of Indian Affairs, while increasing funding for the Indian Health Service. It increases funding for important energy research programs overseen by Department of Energy, another issue of particular importance to those from the West. Finally, this bill provides nearly $895 million in funding for various cultural agencies: agencies such as the Smithsonian Institution, the National Gallery of Art, the Kennedy Center for the Performing Arts, the National Endowment for the Arts, the National Endowment for the Humanities, and the Office of Museum Services.

I am proud of the fact that the committee has kept its previous commitment and has fully funded the Conservation Spending Category established in title VIII of last year's Interior appropriations bill. Included in that amount is $406 million for federal land acquisition; $221 million for State and other conservation programs such as endangered species programs and wetland conservation programs; $137 million for historic preservation programs; an additional $50 million for the Payment-In-Lieu-of-Taxes program; and $180 million for Federal infrastructure improvements.

This is a well balanced bill, given the demands placed on the committee as a result of 1,799 Member requests versus the resources available to it. Despite that, I know there are Members who are passionate about some of the programs funded in this bill, and they would like to increase funding in one area or another. I appreciate that. I respect the right of every Member to come to the floor and offer such an amendment. But let me unfurl the warning flag. As reported by the Appropriations Committee, this bill is fully consistent with the 302(b) allocation provided to the Interior Subcommittee.

In short, in plain, simple, mountain language, that means there is no extra money on the table waiting to be spent—none, no extra money waiting on the table, waiting to be spent.

Friends, Romans, countrymen, lend me your ears: There is no extra money on the table. Any amendment proposing to increase spending in one area of the bill will have to be offset with a cut in some other area. Any Senator who wishes to add money may have to think whether or not he wants to take that money away from CONRAD BURNS or the minority leader or the majority leader or the humble slave, ROBERT C. BYRD.

With respect to offsets, let me add that Senator BURNS and I, as managers of this bill, will generally oppose amendments which propose to cut the so-called travel and administrative expenses accounts.

The agencies funded in this bill have done a good job generally in trimming these expenses to the bone, and unless Members are willing to offer real, honest to goodness programmatic cuts as a way to pay for their amendments, we will oppose all bogus offsets.

I urge my colleagues to come to the floor. I have heard it said that some Senators think we are working too hard in the Senate. Let the record show that a great stillness fell over the Chamber upon my saying that. I have heard rumors that some Senators are concerned that we are working too late, too long, too hard.

It is mortifying to hear such rumors. I can remember when for Easter Sunday we were out on Friday and came back here on Monday. We didn't used to have so-called "breaks." We were also in session Mondays through Fridays, and sometimes we were in on Saturdays.

God made the universe—all of creation, the beasts of the fields, the fowl of the air, fruits and herb yielding seed—and he made man, not in 3 days. He didn't have a 3-day work week.

We have gotten used to 3-day workweeks here; come in late on Tuesday, vote late on Tuesday, vote on Wednesday, vote Thursday, and be out Friday, out Saturday, and out Sunday. God said keep the Sabbath day holy. But that is not why the Senate lets out on Sunday.

Let us not be stunned if we are asked to work a little later or a little longer. I would be happy to start voting on Monday and vote late on Friday. I would just as soon be here as to be at home on Saturday mopping the floor.

Let some of these Senators learn how to mop the floor for their wives. Then they, too, will probably be married 64 years, as I have been. Mop the floor, keep the wrists and the fingers strong. There is no arthritis in my fingers. They tremble, but the bones are strong. The wrists are strong, You would be surprised how many men I can wrestle to their knees with these strong wrists. These strong wrists come from mopping the floors. Yes. I mop the bathroom. I mop the kitchen floor. I mop the utility room. I vacuum. I dust. It is good for me. It keeps me humble. I even clean the commodes around my house. Things have changed in this country. It used to be that we ate on the inside of the house and went outside to the toilet. But anymore we eat on the outside of the House and go inside to the toilet.

A Senator? Surely, a Senator wouldn't be concerned about working a little longer or a little later. We have become spoiled. It is all right for Senator REID and me to become spoiled on Fathers' Day. But to say that we don't want to vote on Mondays, and we don't want to vote on Tuesdays until after the conference—we didn't even have weekly conferences here when I was majority whip. We Democrats didn't have conferences every Tuesday. We didn't need them.

But when I ran for the office of United States Senator for the eighth consecutive 6-year term, I didn't say just sign me up for 3 days a week. I didn't tell the majority leader when I was sworn in here, don't count on me on any Fridays or Saturdays. I didn't say that.

I hope this is mere rumor that I hear that certain Senators have been complaining that they have been working too long, too late, too many days a week. I hope the majority leader will keep us in late tonight. I hope he will keep us in late tomorrow night, if we don't finish this bill. I hope he will say we will be in Friday, and with votes, if we don't finish this bill today. And if we aren't finished by Saturday, I hope the leader will say: Let's go at it, boys. We will be in Saturday.

But if there is a Senator who is complaining about working too hard, Mr. Majority Whip, tell them where my office is. While we are on this bill, I am for working. I want to get this bill finished. We have 12 more appropriations bills behind this bill.

I urge my colleagues to come to the floor today to offer any amendment they may have and to allow us to conclude debate on this measure no later than tomorrow so I can be with Lady Byrd and my little dog, Billy Byrd. The bill and report have been available for more than a week, and Senator BURNS and I are here ready and willing to work with our colleagues.

Mr. President, I thank, at this time, my colleague, Mr. BURNS, for his steady hand and for the leadership he has demonstrated in the markup, in the hearings on the bill, and for his splendid cooperation, for his always charitable attitude toward other Senators, and for his fairness.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend and colleague from West Virginia, the chairman of the Interior Appropriations Subcommittee. I am recommending that this body pass the Interior appropriations bill for fiscal year 2002.

I join my colleague in what he said in relation to folks who would complain about working too much. I come from an agricultural background. I was raised on a small farm in northwest Missouri. My dad always had a little saying: When you look like a mule, you've got to work like one. So I guess I have hired on for the duration.

We will get this bill completed. I was lucky enough to hold the chairmanship of this Interior Subcommittee earlier this year, and I made it a priority to move this bill forward in a noncontroversial and bipartisan way. I was extremely pleased to learn, when the Senator from West Virginia took control of the gavel, that he also shared this vision. He and his staff have been extremely gracious in dealing with all the requests before the subcommittee.

The bill up for consideration is a delicate balance of meeting our Nation's needs while remaining fiscally responsible.

Not everyone will be happy with every portion of this bill—it has never happened with this particular piece of legislation since I have been in the Senate for the last 12 years—but I can guarantee you, the bill is extremely fair. We had to make some tough choices, but I believe those who have worked with us to put this bill together will agree that the chairman has done an exemplary job in dealing with the resources we had available to us in the subcommittee.

The bill before us provides over $18.5 billion in budget authority. This number is $343 million above the President's request; however, it is over $470 million less than has been requested by the House of Representatives and almost $420 million below last year's appropriations for the same activities.

The unprecedented and unsustainable increases of previous years have been checked, but we have still upheld our commitments as stewards to our public lands.

If time will allow, I would like to highlight some of the accomplishments in this bill.

The Bureau of Land Management receives a substantial increase in funding to help address our Nation's energy needs while balancing these needs with the ongoing maintenance necessary to keep our public lands healthy.

Initiatives of which I am especially proud include an increase in excess of $15 million over last year's level for energy and minerals management to help address the current backlog in energy-related permitting, an increase above the budget request for noxious weed research, control, and outreach, and the highest funding level ever for the payments in lieu of taxes account.

Let me tell you, I am especially thankful to our chairman. Noxious weeds is not a great—for the lack of another word—"sexy" issue. When you start talking about things around Washington, DC, folks do not think a lot about weeds, but they are something that we deal with across this Nation on a daily basis; and also payments in lieu of taxes, which means in the areas of counties that have a big preponderance of BLM land, they are paid, as if taxes will be collected on that land, by the Government. In other words, if the Federal Government has made the choice they want to own that land, then they have to pay taxes like everybody else—county taxes—that go to support schools, public services, roads, and other demands of local government.

Our commitment to the Nation's wild spaces is continued in the U.S. Fish and Wildlife Service budget, which has received a $62 million increase over last year's level. This level allows us to address habitat needs while working with private landowners through brand new initiatives such as the Landowner Incentive Program. These new initiatives will allow us to focus on a new idea of working across land-ownership lines to do what is best to help the species and their needs.

The National Park Service remains one of my top priorities. After all, I have two of the really crown jewels of the National Park System in my State: Yellowstone Park, of which part is in the State of our friends to the south, in Wyoming, and Glacier National Park. It receives an increase of almost $161 million above a year ago. This funding helps address our crumbling infrastructure in our most treasured public areas while increasing our assistance to States to protect the areas that are high on their priority lists.

I am also pleased the bill provides $11 million for grants to preserve Civil War battlefields.

Also, within the Bureau of Indian Affairs, no other priority is higher on my list than the education of our Native American children. We have been able to continue our aggressive attack on the construction backlog of schools in Indian country by providing funds to replace the next six schools on the Bureau of Indian Affairs' replacement list. Again, the chairman has done an admirable job in attempting to meet my request for a substantial increase in the operating funds available to tribally controlled community colleges. It remains one of my top priorities, and I hope to work with the chairman to increase the funding level even further in future years.

We have seen great strides made, especially in the 2-year colleges on our reservations. In fact, the gentleman who operates one of the tribal colleges in our State is probably one of the best educators I have ever known, and the impact he has had on his people on that reservation has been tremendous.

Additionally, I am pleased that we have been able to match the President's request for trust reform and management issues. And there are many.

The Forest Service's largest initiative in recent years is the new Interagency Fire Plan. We have continued to support the efforts of the Bureau of Land Management and the Forest Service to address the dangerous build-up of fuel in our national forests and adjacent lands.

Fire operations will continue to drain hundreds of millions of dollars again this year as we enter another historic fire year, but the investment in hazardous fuel reductions will pay off tenfold in future years.

Last year was a devastating fire year in the West. We are still experiencing drought in those areas. We can expect fires again this year.

Unfortunately, the Department of Energy received massive proposed cuts in this year's budget request. However, I believe the chairman has restored these accounts in a very responsible manner. Working with the rest of the committee and me, he has focused the fossil energy accounts toward technologies that will increase efficiency and the cleanliness of our aging power infrastructure, while addressing the negative impacts of power generation.

We have started a new clean fuels initiative and increased our research in methods to control and capture greenhouse gases. The conservation accounts under the Department of Energy also receive substantial increases over last year, including an addition of over $60 million from last year's weatherization assistance, and large increases to make our buildings and transportation methods more efficient.

Finally, the conservation spending category created in last year's final appropriations negotiations has been retained, and the compromise of last year has been upheld both in the spirit and in the execution. The bill contains $1.32 billion for the conservation spending category, continuing our focus on protecting our wild areas while taking care of our publicly owned facilities.

Clearly, a bill of this magnitude is difficult to craft, especially considering the volume of requests that we field in this subcommittee every year and those with which we have to deal. I thank the chairman for his willingness to address the requests of all Members to the best of his ability. I urge our colleagues to recognize his generosity and take a hard look at the bottom line prior to attempting to amend this bill.

I also ask our colleagues to respect our collective request that legislative riders be avoided so we can get this bill to the President as soon as possible.

Mr. CONRAD. Mr. President, I am pleased to rise today in support of H.R. 2217, the Interior and Related Agencies Appropriations Act for Fiscal Year 2002.

The Senate provides $18.5 billion in nonemergency discretionary budget authority including an advance appropriation into 2002 of $36 million, which will result in new outlays in 2002 of $11.5 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the Senate bill total $17.6 billion in 2002. Of that total, $1.32 billion in budget authority and $1.03 billion in outlays falls under the new cap for conservation spending. The remaining amount counts against the general purpose cap for discretionary spending. The Senate bill is within its Section 302(b) allocations for budget authority and outlays for both general purpose and conservation spending.

In addition, the Senate bill provides new emergency spending authority of $235 million for wildland fire management, which will result in outlays of $167 million. In accordance with standard budget practice, the budget committee will adjust the appropriations committee's allocation for emergency spending at the end of conference.

I again commend Chairman BYRD and Senator STEVENS for their bipartisan effort in moving this and other appropriations bills quickly, in order to meet our responsibilities to maintain an effective federal government. Their bill limits the use of the contentious legislative riders that have hampered its predecessors, and provides vital funding to manage our nation's natural resources, to support better and more efficient use of our energy supplies, and to meet our commitments to Native American tribes.

I urge the adoption of the bill.

Mr. President, I ask for unanimous consent that a table displaying the budget committee scoring of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2217, INTERIOR AND RELATED AGENCIES, 2002

[Spending comparisons—Senate-reported bill (in millions of dollars)]

	General purpose	Conservation	Mandatory	Total
Senate-reported bill:				
Budget Authority	17,150	1,320	59	18,529
Outlays	16,539	1,029	77	17,645
Senate 302(b) allocation:				
Budget Authority	17,151	1,376	59	18,586
Outlays	16,626	1,030	77	17,733
House-passed:				
Budget Authority	17,621	1,320	59	19,000
Outlays	16,726	1,031	77	17,834
President's request:				
Budget Authority	16,857	1,226	59	18,142
Outlays	16,396	823	77	17,296
SENATE-REPORTED BILL COMPARED TO—				
Senate 302(b) allocation:				
Budget Authority	(1)	(56)	0	(57)
Outlays	(87)	(1)	0	(88)
House-passed:				
Budget Authority	(471)	0	0	(471)
Outlays	(187)	(2)	0	(189)
President's request:				
Budget Authority	293	94	0	387
Outlays	143	206	0	349

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions, including removal of emergency funding ($235 million in budget authority and $167 million in outlays) and inclusion of 2002 advance appropriation of $36 million (budget authority and outlays). The Senate Budget Committee increases the committee's 302(a) allocation for emergencies when a bill is reported out of conference. Prepared by SBC Majority Staff, 7–10–01.

Mr. CONRAD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, will the Senator from West Virginia yield for a comment?

Mr. BYRD. Yes.

Mr. REID. Mr. President, around here it is easy for us to forget people. I want the record to reflect what a good job Slade Gorton did on this bill during the time he was the chairman of this subcommittee. Slade is not in the Senate anymore. The record should be spread with the fact that he did an outstanding job when he was chairman of the subcommittee.

He was always willing to listen to us. He held meetings and was very inclusive. I don't want to dwell on it other than to say that I have not forgotten Slade Gorton and the good work he did on this bill. I am confident that his successor, the Senator from Montana, will do just as well.

I know as a Senator I learned a lot from Senator Gorton from the way he handled things. I hope we will all remember Slade Gorton for his dedication to the Senate and the good work he did.

Mr. BYRD. Mr. President, I join the distinguished Democratic whip in recalling Slade Gorton. Slade Gorton was an outstanding chairman of this subcommittee. On many occasions, I lauded Slade Gorton's chairmanship. He was eminently fair, preeminently knowledgeable of the bill. In conferences, he knew everything that a Senator ought to know about the projects and the items at issue between the two Houses. I have never seen a subcommittee chairman who was better than Slade Gorton when he was chairman of this subcommittee.

He was also very kind and good to me. I am glad the distinguished majority whip has had the thoughtfulness to mention Slade Gorton today.

Along this line, let me say that on yesterday, and the day before, we worked hard to complete the supplemental appropriations bill. Senator STEVENS is the former chairman of the Appropriations Committee in the Senate, about whom I have no hesitancy in saying, he was the best chairman of the Appropriations Committee that I have seen in my 43 years in the Senate, including ROBERT BYRD. I have no hesitancy, not a bit, in lauding a Republican. I have no hesitancy in saying, "He is a better man than I am, Gunga Din."

I have seen some great chairmen of this committee, the Appropriations Committee. Senator Russell, to me, was the finest Senator, the best Senator with whom I have ever served in my 43 years in the Senate. He was chairman of the Appropriations Committee at one time. There have been other great Senators, such as Senator Stennis of Mississippi. He was always courteous, always the gentleman. Then there was Senator Mark Hatfield.

But times have changed and chairmen have to change in accordance with the times and the circumstances. So in our time, in our day, TED STEVENS is the best. I don't mind thinking I might have been second. But I won't dare say that. It is a bit like Publius Cornelius Scipio Africanus Major, who defeated Hannibal in the Battle of Zama in 202 B.C. He met Hannibal at Ephesus, and they walked together upon one occasion and he asked Hannibal, "Who was the greatest general?" Hannibal thought for a moment, and then he said, "Pyrrhus the Greek from Epirus was the greatest. The second was Alexander. The third was I, Hannibal." Whereupon, Scipio Africanus Major asked, "Where would you have placed yourself if I had not defeated you at

Zama?" Hannibal thought for a moment, and then said, "I would have been first."

I did have the good fortune to chair this committee for 6 years. But TED STEVENS I salute. He is a Republican, yes, but a great one, a fine gentleman, a gentleman always, somebody who keeps his word. And he doesn't put politics at the apex of all things that matter. Well, with his assistance and his leadership, on yesterday we passed the supplemental appropriations bill. The President requested $6.5 billion and that bill did not exceed that request one thin dime.

The Senators' amendments were offset. The amendments that Senators offered and were considered, if they were adopted, if they had to do with money, were offset. Senators had offsets—meaningful offsets, not "waste, fraud and abuse." There is no doubt but that there is some waste, fraud, and abuse in the budget in every department, I would say, in this Government. But we don't offset with false offsets. We had everything appropriately offset.

There wasn't a single amendment designated as an "emergency" in this Senate. The President had complained about the use of "emergencies." Mr. STEVENS and I believe there is a time and place for emergencies, yes, but there is no question but that the designation of "emergency" has been overdone in both Houses. And in the supplemental appropriations bill that passed the House, there are $473 million in emergencies. Not $1 in the bill that passed the Senate was designated as an emergency.

Where is the President going to stand on this when the bill goes to conference? I hope he will let us know. What is his position going to be with regard to the emergencies that were in the Republican-controlled House bill? The first question that was ever asked in the history of the human race was, when God entered the Garden of Eden in the shadow of the evening, in the cool of the day, and he started looking for Adam. Adam had hidden himself, and God said: "Adam, where art thou?" That was the first question ever asked in the history of mankind. "Adam, where art thou?"

So, if I might, in my small way as a direct descendent of Adam, let me ask the question of the President: Mr. President, where art thou in regard to the $473 million in emergencies that are contained in the House-passed bill? Let us know, Mr. President, where art thou? If I get a chance to ask the President, I am going to say: Mr. President, where art thou with respect to the $473 million that was added as emergencies in the House bill? Where art thou? Let us know. We would like to know.

In any event, that is the kind of bill we passed in this Senate. No emergencies, not one Indianhead copper penny above the President's request, not one! Mr. STEVENS and I had cooperation of the Senators on both sides of the aisle. I could not resist the opportunity to say that without TED STEVENS and his help, his assistance, his leadership on that bill, the cooperation of Senators and staff on both sides, the help of our distinguished Democratic whip, and our leaders, we could not have accomplished that. So I take this opportunity to compliment our colleagues.

AMENDMENT NO. 877

Mr. BYRD. Mr. President, I send a technical amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 877.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make a technical correction)

On page 152, line 4, strike "$17,181,000" and insert "$72,640,000".

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the amendment and that it be adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 877) was agreed to.

Mr. BYRD. Mr. President, Senator BURNS and I are here. We are at our posts of duty. We are ready to entertain any requests for an amendment by any Senator. The clock is running.

Mr. BURNS. We are open for business.

Mr. BYRD. The sign is out: Open for business. Senator BURNS and I join in urging the leadership and all Senators to let us know of any amendments Senators intend to offer by no later than 4 p.m. today, and it will be my hope that at 4 p.m. we can close out the window for amendments. I hope all Senators within the sound of my voice and all staffs within the reach of our joint voice will be alerted to the fact that when the clock strikes 4 this afternoon, we expect to close out the window on all amendments.

Mr. REID. Will the Senator from West Virginia yield for a comment?

Mr. BYRD. Absolutely; gladly.

Mr. REID. As directed by the two managers of this bill, we have asked both Cloakrooms to clear their request: that there be a filing of amendments by 4 o'clock today, which gives people ample time, many hours. It was announced even prior to the break that the Interior bill would be the first bill brought up, and we even indicated when it would be brought up. So I hope we can get this cleared right away.

I say to my friend, the junior Senator from Montana, who has done such a good job in getting this bill to this point, the holdup now is on that side. Maybe if we go into a quorum call Senator BURNS will be gracious enough to see if he can move this along. Until that happens, my experience is this bill is in a flounder.

Mr. BYRD. I thank the distinguished whip.

Mr. BURNS. Mr. President, it is my hope that we can do this by 4 o'clock this afternoon. There is no need for us to dillydally around here when we have other things to do. I only have one thing I have to do at 2 o'clock this afternoon. I have to introduce a couple of judges who have been nominated to the Montana district court system. By the time I get that done, 4 o'clock should be our cutoff.

We should be talking about amendments right now. There is no reason why we cannot move this bill to final conclusion tomorrow.

Mr. REID. I believe the Senator from West Virginia still has the floor, if I can make another comment.

Mr. BYRD. Surely.

Mr. REID. It is my thought, if the two managers agree, that at 12:30 p.m., if there is still a problem with hotlining, a unanimous consent request be made and if anybody objects to it, they are going to have to come here in person to object to it. That is my suggestion. On a bill as important as this, we need to have the Senators, not the staff lurking in some of these rooms around the Capitol complex making objections for their Senators.

After we go into a quorum call, upon consulting with the two managers, I make the suggestion that perhaps that is what we should do.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Nevada, the majority whip, for his suggestion. I like it. We have just heard Senator BURNS voice his opinion.

Mr. BURNS. We will do everything we can to get that taken care of. We do not want to close anybody out either, understanding the sensitivity of that. I believe we have made a reasonable request. I thank the chairman.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, there being no Senators seeking recognition and having discussed the following request with the distinguished majority whip and the distinguished manager on the other side of the aisle, it appears it might be best if the Senate stood in recess until 12:15 p.m., during which time some work may be done hopefully that will speed up the entire process to some extent.

I, therefore, ask unanimous consent that the Senate stand in recess until the hour of 12:15 p.m. today.

There being no objection, at 11:39 a.m., the Senate recessed until 12:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. STABENOW).

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. With the consent of Senator BYRD, I ask unanimous consent all first-degree amendments to H.R. 2217, the Interior appropriations bill, be filed at the desk by 4 p.m. today, Wednesday, July 11.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 880

Mr. BYRD. Madam President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 880.

Mr. BYRD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, line 7, insert "Protection" after the word "Park".

Mr. BYRD. Madam President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

AMENDMENT NO. 879

Mr. DURBIN. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mrs. MURRAY, and Mr. DAYTON, proposes an amendment numbered 879.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of funds for the conduct of preleasing, leasing, and related activities within national monuments established under the Act of June 8, 1906)

On page 194, between lines 9 and 10, insert the following:

SEC. 1 . PRELEASING, LEASING, AND RELATED ACTIVITIES.

None of the funds made available by this Act shall be used to conduct any preleasing, leasing, or other related activity under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundary (in effect as of January 20, 2001) of a national monument established under the Act of June 8, 1906 (16 U.S.C. 431 et seq.), except to the extent that such a preleasing, leasing, or other related activity is allowed under the Presidential proclamation establishing the monument.

Mr. DURBIN. Madam President, I note that the Republican ranking member is not on the floor at this time. I will proceed and, of course, afford all opportunity for him for comment or rebuttal or perhaps a speech in support of my amendment. I want to make sure I extend that courtesy to him since he is not currently in the Chamber.

The amendment I bring before us today is one that is very straightforward. I suppose I could have had it read, and it would have made it very clear what I am setting out to do. It basically will prohibit any preleasing or other related activity within the boundaries of a national monument.

What it boils down to is, there are certain lands in the United States which have been designated as important national treasures. We call them national monuments. Virtually every President in the last century, save three, decided to designate certain areas of land in America that were so important they wanted to preserve them so that future generations could enjoy the bounty which God has left us.

There are those, of course, who see that land not as a great treasure to be valued but as a resource to be used. The purpose of my amendment is to stop oil and gas drilling on national monuments across the United States.

We owe the existence of many of America's natural treasures to pioneers of yesterday. Their appreciation of our rugged, untamed new country gave them the foresight to preserve many of our natural resources and public lands for future generations to enjoy.

Theodore Roosevelt was one such pioneer. In 1906, he established Devils Tower in Wyoming, the first national monument.

Right outside this Chamber in the hallway is one of the most remarkable busts of a former Vice President—the bust of Theodore Roosevelt. Every time I walk by it, I can just feel the life in that piece of stone. He has his jaw stuck out as if he is ready to take on the world. I can imagine in 1906 when Teddy Roosevelt said to a lot of people in this country: You know what. We have resources in this country that are worth fighting for and worth preserving, and we are going to do it. There were probably people standing on the sideline saying that Teddy Roosevelt was crazy, that he certainly did not want to set aside land that might have had great value to our future. Yet he did it. Not only did he do it; he established a standard that President after President followed.

The Republican Party, of which Theodore Roosevelt was a proud member at one time, certainly was that party of preservation and conservation. It set a standard that the Democratic Party followed, and I am glad they did. It was a bipartisan idea. These are treasures that don't know the difference between parties, the treasurers which our children and future generations should enjoy. Roosevelt said this at one point, and his words I think tell the story: "We must ask ourselves if we are leaving for future generations an environment that is as good or better than what we found."

That is simple. That inspired him in 1906 to create the first national monument at Devils Tower, WY. Unfortunately, not every President has been inspired by Teddy Roosevelt. Sadly, I come to the floor today because of threats by this new administration in Washington to at least consider the option of drilling for oil and gas in these national monuments across the United States.

Some leaders in Washington lack the foresight of our Founding Fathers and pioneers. They hide today behind the shield of an "energy crisis"—an energy crisis, which they believe means that we have to change all the rules, saying we can no longer keep this land at least protected so future generations can enjoy it. They say because of our need for energy we have to break a lot of rules; we have to start drilling in the Arctic National Wildlife Refuge; we have to start drilling in the national monuments; we have to start looking for oil and gas in places that a lot of Americans honestly believed we had declared off limits.

President Bush and Interior Secretary Gale Norton have publicly stated they believe that some of our national monuments would be good places for oil and gas drilling or coal mining. Oddly, the monuments being targeted have one thing in common: Every single one was designated by one President, President William Jefferson Clinton. So when they look at monuments across the United States that they want to go drilling on, they have only picked one group—those designated by President Clinton.

President Bush needs to realize that damaging these irreplaceable lands is not going to solve America's energy crisis, but it could cause a crisis in conservation. Americans are rightfully concerned about energy security. But I don't think that most Americans believe that we are in such dire straits that we should invite the big oil and gas producers into these protected lands.

My amendment would simply prohibit new mineral leases from being issued in designated national monuments. My amendment does not affect any valid existing rights or prevent leasing in any area that was authorized for mineral activity when the monument was established. I want to make that point clear. Some will come before us and say: You are going to shut down oil and gas drilling and mining in these monuments, and it has been going on for years. If it took place before, if it is existing, if it has been approved, this amendment has no impact whatsoever. But it is the new drilling, the new mining, this new exploration in these national monuments that would be prohibited by this amendment.

When a President issues a proclamation designating a national monument, it is not unusual for existing rights to drill to be maintained. The real intent of this amendment is to preserve the existing boundaries of monuments so this administration can't shrink them to make even more lands available for energy exploration.

Since 1906—the day of Teddy Roosevelt that I noted earlier—14 of the next 17 Presidents of the United States, Democrat and Republican alike, unapologetically and proudly designated national monuments under the Antiquities Act, for a total of 118 national monuments. Only three Presidents in the 20th century did not designate national monument territory—Presidents Nixon, Reagan, and the elder George Bush.

People say, well, I have heard of national parks and national forests. What is a national monument? Half of our national parks started out as national monuments. Let me tell you what they include. The Grand Canyon was designated as a national monument; Glacier Bay; Zion; and Acadia National Park. The national monument is the first designation of a piece of land in America that can have lasting values as part of our national heritage. Can you imagine, for a moment, if those who preceded us did not have the foresight to protect those lands, what America would have given up not to have these resources available, so that families of today and tomorrow can take their children and look out at that magnificent expanse of the Grand Canyon and stand in awe and wonder of God's creation? Thank God, someone had the foresight to think ahead and believe it was worth designating that, first, as a national monument and then as a national park, to be protected.

This amendment is addressing a new mindset that says when it comes to today's national monuments, it is a different story; they are up for grabs. We are involved in an energy crisis. People can drill for oil and gas on these new monuments designated by President Clinton. That is so shortsighted. It loses vision when it comes to what our country is all about and should be all about.

The Bureau of Land Management has the responsibility of managing public lands across the United States, and we have thousands and thousands of acres. I see Senator HARRY REID from Nevada is here. I don't know what percentage of his home State is Federal land——

Mr. REID. It is 87 percent.

Mr. DURBIN. It is 87 percent. Many Western States have similar percentages of Federal land within their boundaries. In the earliest days of our country, of course, there wasn't a great hue and cry to have private ownership in this land. The Federal Government owned it, and some of it may never have any real practical value when it comes to residential or commercial development. But the Federal Government took the responsibility under an agency known as the Bureau of Land Management. This is kind of the landlord for America's public lands. The Bureau of Land Management has determined that 95 percent of the lands they manage across the United States are already available for oil and gas leasing. So if you hear an argument from the other side that we now have to go and drill into the national monument lands because we have nowhere else to look for oil and gas and precious minerals, that is just not the fact. Ninety-five percent of the Federal lands managed by the Bureau of Land Management are already available for oil and gas leasing.

Instead of hopping onto the drilling bandwagon, we should first focus on energy exploration in existing areas before we turn to these precious national monuments. I am afraid that the President and many of the people in the energy industry talk about oil and gas development as though it were the cure for all of our energy woes in America—drill and burn, drill and burn, drill and burn. There is much more to the challenge that faces our Nation.

The President has to acknowledge that the longstanding supply and demand and balance in the United States will not be solved overnight, and it won't be solved with 19th and 20th century thinking. Our Nation consumes 9.1 million barrels of oil a day. We import about half of that—more than half, frankly. Oil production from Federal lands—all Federal lands—supplies about 10 percent of our total oil needs. This isn't enough to bring U.S. energy independence or significantly meet the U.S. demand. It is interesting that the Wilderness Society——

Mr. REID. Will the Senator from Illinois yield for a question?

Mr. DURBIN. Yes.

Mr. REID. First, I ask the Senator to list me as a cosponsor.

Mr. DURBIN. Madam President, I ask unanimous consent that that be the case.

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

Mr. REID. I say to my friend, is the Senator aware that the U.S. Geological Survey has estimated that the reserves within the 15 national monuments designated since 1996 would produce 15 days' worth of oil and 7 days' worth of natural gas for our country? Is the Senator aware of that?

Mr. DURBIN. The Senator is right. Those are the numbers I was about to quote.

Mr. REID. I am sorry.

Mr. DURBIN. I am happy to have the Senator add that to the debate. Frankly, if we are talking about energy needs in America and drilling in places we never would have considered drilling before, whether in the Arctic National Wildlife Refuge or national monuments, certainly someone has to make a compelling argument there is so much energy there that America cannot turn its back. The statistics the Senator from Nevada has quoted and an analysis by the Wilderness Society come to the same conclusion.

The total economically recoverable oil from the monuments that I protect in this amendment is the equivalent of 15 days, 12 hours, 28 minutes' worth of energy for the United States. Economically recoverable gas, as a portion of total U.S. consumption, is 7 days, 2 hours, 11 minutes.

What would we give up for that small opportunity to bring that much energy into the picture in the United States? Frankly, we would be drilling in areas which have been designated as special and important treasures that the United States should preserve.

I am glad we are having this national debate about energy conservation and energy efficiency. It is important that we have it, but it is also important that we do not believe the answer to all of our energy problems is to find new places to drill.

Just last week I joined my colleagues, Senator FITZGERALD of Illinois and Senator DEBBIE STABENOW of Michigan, at a press conference on the banks of Lake Michigan on a rainy Tuesday before the Fourth of July. As hard as it is to believe, there is one Governor of a State adjoining Lake Michigan who now believes we should drill for oil and gas in Lake Michigan and the Great Lakes. There are those of us who think that, too, is a rash judgment and one we can come to regret.

A lot of people say: It would only be a small little derrick or a small drill out there. I had the experience, I guess it has been over 15 years ago or close to it, of going up to Alaska after the *Exxon Valdez* spill. *Exxon Valdez*, if I remember correctly, was about the size of three football fields. It was a long vessel. When it ran ashore and when its tanks and all its crude oil spread out across the area, it devastated wildlife and left contamination for decades to come.

When we talk about drilling for oil and gas, we have to be careful that we do it in a responsible environmental way so that we do not run the risk of contamination or ruination of important national treasures, such as the Great Lakes, the Arctic National Wildlife Refuge, or the national monuments designated by President Clinton.

As we can see from the situation in California, energy conservation does work. When they saw the high prices, they reduced their consumption by over 11 percent in a short period of time. It is a lesson to all of us. We can all do better, every single one of us. Before we start drilling into these pristine areas, should we not have a national policy that talks about sustainable, renewable fuels and energy conservation?

I am afraid this administration focuses on drilling and drilling and drilling, and that just is not the answer to all of our challenges.

This land is protected as national monuments because we realize all of the Nation's public landscapes are not appropriate for oil and gas drilling. These lands have intrinsic value. Just because there may be some energy there, even if it is very limited, does not mean we need to drill for it and run the risk of contamination and ruining these great national treasures.

The national monuments belong to the American people. The Government has agreed to hold these lands in trust for our generation and future generations to appreciate. The President of the United States, as a successor to George Washington, as a successor to previous Presidents, was given the responsibility of protecting these lands—first and foremost, protect our national natural heritage—not destroy them.

This energy crisis should not be used as an excuse for us to do things we will rue in the days and years to come. Exploiting our national monuments for a tiny bit of mineral resources will not ease energy prices today, tomorrow, or even next year.

Let's not be misguided. Let's focus the energy debate on responsible energy development, renewable energy, efficiency, and conservation efforts. I urge my colleagues to support my amendment.

I leave my colleagues with this quote, again from Theodore Roosevelt whose words still ring true today:

> Conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use the natural resources of our land, but I do not recognize the right to waste them or to rob by wasteful use the generations that come after us.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I oppose this amendment. It seems we want to make a blanket assertion on what we should do with our monuments. We have to remind ourselves that we are energy deficient.

As for Montana, where there was a national monument created, there are 77,000 acres of privately held land. Even the former Secretary of the Interior, Bruce Babbitt, recommended that oil and gas production in that area should be sustained.

There was a public process. The resource advisory committees in each of these areas made the same recommendation: Gas and oil production could be sustained without harming the land in that national monument.

These areas have also been studied. They have been studied by different committees whose members live in the area. They understand that land and the recommendations that were made.

We in Montana want to contribute something to the energy situation in this country. So far, no one has come up with any solid replacement to oil and gas production for transportation or power generation fuels.

I, therefore, urge my colleagues to oppose this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I thank the Chair.

Madam President, I rise today to support the Durbin amendment that will protect our national monuments from energy exploration. I am pleased to be a cosponsor of this important amendment, and I thank Senator DURBIN from Illinois for his work and tremendous efforts on behalf of our national heritage and our national monuments.

The truth is, we should not need an amendment to protect our country's national monuments from energy exploration. These unique landscapes, including the Hanford Reach National Monument in my home State of Washington, were designated as national monuments because they are important in their own right and they deserve to be protected.

We should not need an additional amendment to keep oil derricks out of these lands, but unfortunately that is where we find ourselves today. The Bush administration has proposed exploring for energy even in our national monuments.

When I go home every weekend and talk to my friends and neighbors and go to the grocery store, my constituents come up to me and ask: Is nothing sacred anymore? Drilling in our national monuments is just wrong. This amendment says the Federal Government should not promote energy exploration on our most precious lands, on our heritage.

I recognize the need to find new sources of energy. The Federal Government has always actively promoted the extraction of new energy resources. This can and will continue. During the Clinton administration, thousands of new drilling permits were actually issued for Federal lands. Since the early 1980s, the projection of natural gas on Federal lands has been increasing steadily. Efforts to find energy on our Federal lands must continue. But attempts to find energy in our national monuments must never begin.

Today, 95 percent of Bureau of Land Management lands in the Western States are open to coal, oil, and gas leasing. We do not need to open up our national monuments, as well. I realize this is a challenging time because we are facing an energy crisis. In my home State of Washington, we are experiencing dramatic rate increases because of the many factors involved, including a drought and too little energy production and a spike in gas prices.

Thousands of my constituents are out of work because of high energy costs. No one needs to tell anyone in Washington State we have to increase energy production. We know we need to increase capacity and that is what we are doing. We are working to site new generation capacity. On the Oregon and Washington border, we are constructing the country's largest wind farm. We have natural gas plants going up. We have a proposal for a coal-fired plant. We are upgrading our transmission system to deliver new generation supplies.

We know what we need to do and we are taking action. But we know we don't need to drill for natural gas in our national monuments.

The Hanford Reach National Monument is a national treasure. It includes the last free-flowing stretch of the Columbia River. It is the most productive spawning ground for threatened salmon in the entire Columbia River Basin. It is home to threatened sage grouse and 2 plant and 40 insect species that are brand-new to science.

The monument also includes and borders important historic and cultural features. The area is rich in important Native American, early pioneer, and nuclear production history. The Hanford Reach National Monument may be the most unique monument in the entire country.

I have heard some people suggest that the national monument designations made by President Clinton were made too quickly, without public involvement, and without consideration of energy production values. That is simply not true. I have been working since my first year in the Senate, 9 years ago, to protect the Hanford Reach. I introduced legislation in the previous three Congresses to protect that area. We held numerous public meetings, we got lots of local input from local leaders, local folk, and we debated a lot of different proposals.

The administration had 8 years of knowledge developed by the consideration of various protection proposals. The plans considered irrigation, farming, and the potential for gas outside the monument's boundaries. The plan considered commercial development of lands by ports and cities. In fact, the final designation even included a provision ensuring a new right-of-way for energy transmission lines to go across the Hanford Reach. All of those considerations helped define the final boundaries of that national monument. So for some to suggest now that we never thought about our future energy needs is just plain wrong.

In the end, the final decision was that the ecological and historical values of the Hanford Reach merited protection as a national monument. We knew what we were doing by that designation. We knew we were choosing to protect the unique and vital habitats. We knew we were honoring important cultural sites, and we intended to leave this legacy to future generations.

Protecting certain areas for generations to come is an admirable goal. These designations were made after full consideration. This Congress should not now in any way undermine those legacies in favor of the energy industry. We should not have to fight back these attacks on our very limited protected lands.

I believe we should preserve these ecological and historic treasures for future generations. These lands belong to all of us. We are responsible for protecting them. That is why the Durbin amendment is so important. I urge my colleagues to support it.

I thank my colleague from Illinois.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I rise today to support also the amendment offered by my colleague from Illinois, Mr. DURBIN. I am proud to join him in this effort and to be an original cosponsor of his amendment.

My colleague from Illinois seeks to make certain that amendment language offered by the Congressman from West Virginia, Mr. RAHALL, which would prohibit drilling for oil and gas and mining in our national monuments is included in the Senate bill. The Rahall amendment passed the House overwhelmingly by a vote of 242–173.

Madam President, I support this amendment because I believe that to not speak loudly against the Bush administration's proposals to re-open many of these monuments under the guise of our present energy concerns is a dereliction of responsibility for this body and this Senator.

It is the responsibility of this body to review areas designated as national monuments to determine whether or not additional designations should be conferred—such as creating a national park or a wilderness area out of lands administratively protected as a monument.

Presidents have designated about 120 national monuments, totaling more than 70 million acres, and given that Congress has done its review, most of this acreage is no longer in monument status. For instance, Grand Canyon National Park initially was proclaimed a national monument but was converted by Congress into a national park.

Congress should responsibly exercise its authority, and be clear about its intent, which this amendment does. This amendment prohibits the administration from proceeding with drilling for oil and gas and mining in our national monuments. This amendment will prevent these activities which are incompatible with many of the federal land use designations Congress might confer until we truly examine these areas. Monument designations create expectations on behalf of our constituents, Madam President, that these areas are protected and we should work to make certain that is so.

I am aware that Presidential establishment of national monuments under the Antiquities Act of 1906 has protected valuable sites but also has been contentious. President Clinton used his authority 22 times to proclaim 19 new monuments and to enlarge 3 others. The monuments were designated during his last year in office, with one exception, and I will speak about that exception in greater detail. President Clinton's 19 new and 3 enlarged monuments comprise 5.9 million Federal acres. Only President Franklin Delano Roosevelt used his authority more often—28 times—and only President Jimmy Carter created more monument acreage—56 million acres in Alaska.

The monument actions, regardless of one's position on them, were needed because Congress had not acted quickly enough to protect these Federal lands. The best response to concerns about the monument process is to support my colleague from Illinois, Mr. DURBIN, and not allow modifications to the monuments that some perceive were created unfairly to be made in an equally concerning fashion.

My constituents do not support expansion of oil and gas drilling and mining in lands designated by Presidential declaration as national monuments. I personally know the value of wild areas, and the threats that mineral, coal and oil and gas exploration pose. Though I have not been to all the monuments designated by President Clinton, I have hiked the Grand Staircase-Escalante National Monument, an area that the Senator from Illinois and I believe should be designated as wilderness.

I hiked down a 65-degree slope to Upper Calf Creek Falls in the Grand Staircase. It was a challenging and spectacular trip. Calf Creek meanders along a shallow valley with several deep clear pools before the upper falls, where the creek drops 88 feet over a cliff face at the head of Calf Creek Canyon. This deepens gradually for 2.5 miles south then doubles in size below the 126-foot lower falls. The path to the falls is down a steep slope of white slickrock marked by cairns of dark, volcanic pebbles then across flatter sandy ground to the canyon edge, with a total elevation loss of almost 600 feet. My experience is that this monument is a spectacular place and one with now tremendous recreational value and use. I should be preserved that way.

I use my Upper Calf Creek trip as an example of why the Senator's amendment is needed. We should be preserving our options with these lands, not opening them for development. I support this amendment and urge my colleagues to do so as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I don't know if any Senators are here to speak in opposition. If there are, I will yield to them. I would like to speak and close debate, but I want to make certain the other side has ample opportunity to express its point of view.

Mr. BURNS. I ask the Senator from Illinois, as I understand it, the amendment prevent any further drilling, or does it bar all drilling, even though there are rights there in the first place?

Mr. DURBIN. The amendment clearly states if there is existing drilling, existing rights, it does not in any way infringe upon those. It is a question of new drilling, new leasing in these areas.

Mr. BURNS. If that resource is there and it can be done in an environmentally sensitive way, why is that bad or wrong?

Mr. DURBIN. I say to the Senator from Montana, I don't believe either of us would consider drilling on the Capital Mall or perhaps in the Grand Canyon or near it. There are certain things where we draw the line and say we know there may be energy resources, but if we are so desperate in this country that we have to reach that point, we have gone too far.

I think when you look at the estimated resources available in these monuments, they are so minuscule in terms of our national energy picture, many of us believe it is far better to say to future generations: Listen, we found another way to find energy, to conserve energy. We didn't spoil something that future generations will treasure.

Mr. BURNS. We had the Secretary of the Interior up in Montana. In the upper Missouri, which was designated as a national monument, I tell my good friend from Illinois, we asked the Secretary, No. 1, to find the gas well and then find the pipeline that carried the gas from the wellhead into the main pipeline. He could not find it. He could not find either one of them—he tried by air and by land—until we showed him where they were.

What I am saying is we should consider the new technologies and how we regard our lands, especially the big open lands. I am not talking about a monument such as The Mall; I am talking about land that is in bigger country that is very seldom ever walked upon by the people who probably own the grazing lease. We still allow grazing in national monuments. Very seldom are those lands ever walked on by anybody else.

We have an area in Montana that is going to demand some more attention in the next 2 or 3 years because it is along the Missouri River and that was the route of Louis and Clark. Of course, this will be the 200th anniversary of the Louisiana Purchase, and the trek of Louis and Clark will draw a little more attention to that area.

But tell me why we would completely close out the possibility, even under emergency conditions, in areas where we could develop that energy—and especially natural gas, which is the cleanest of all energy that is coming from the fossil fuels we take from the Earth—why we would close out that possibility.

Mr. DURBIN. I say this to the Senator from Montana, whom I respect. We come at this with a different attitude towards national monuments and national lands. I think we do have a genuine difference of opinion. I am aware, and I am sure my colleague is, too, that 95 percent of the Federal public lands under the management of the Bureau of Land Management are currently open for oil and gas drilling. I do believe it is not unreasonable to say that 5 percent of the Federal lands that we own are so important to our national heritage that we are not going to go in and drill.

No matter whether you can sneak in there and come out again and folks say, "We were not even sure they were there," every time you do that you run a risk—I am sure the Senator from Montana knows that—that it will not be as clean an operation as you want it to be. You run a risk you will change an ecological balance in an area that has been the same for centuries.

I think it is not unreasonable for us to say, as we do in our normal lives, there are certain places that are treated differently than others. We treat our churches a little differently than we treat our shopping malls. We just view them differently. I think when it comes to our national treasures, our national monuments, it is not unreasonable to say these are areas which will be treated differently.

Mr. BURNS. I tell my good friend, it is that kind of mind-set that said we are going to save the suckerfish in Klamath Falls, OR, and it takes precedence over 1,500 families and their future and our ability to provide food and fiber for this country. It is a trash fish. That is going on right now in that basin.

That is what I am saying. When we take a look at what our attitude is about a certain thing and hide behind the screen of green and throw out all logic on the management of those lands, then we may have to reassess how we look at all lands, even those that exist in the State of Illinois. That is what I am saying. It is something that creeps into the mind-set, that it is all right to disrupt our lives and our families—even though we do it right and in an environmentally sensitive manner—because of a mind-set. I think that is where we have a basic philosophical difference on how we manage land.

I look at it much differently. I know you come from down there not too far from where I was raised. I was raised in Missouri. I never thought about water rights until I went west, where there wasn't any. There wasn't any water. Those things become very important. But they never entered our life when I lived in the lower Midwest.

I just think it is a mistake whenever we close up an area because of a mind-set that we cannot do it right and we here in Washington, DC, are basically in a better position to make the decision, more than having the decision made locally. Even the Senator from Washington says we had local input. We did the boundaries originally. We looked at the land that was sensitive, and we set it aside.

I agree with that. There are areas in the Missouri Breaks that I think should be set aside and even made wilderness. The river is already a protected river. I agree with that.

But whenever you take one broad swipe across a huge amount of land, especially when you have 77,000 acres of in-holdings and you have to cross public lands just to get to them, then we make a decision here that impacts people's lives in a real way. Those people have faces. That is why I oppose this amendment. I am not calling for the repeal of the Antiquities Act. What I am saying is we are impacting our own Nation's ability to produce food and fiber and energy because of a mind-set that sounds warm, green, and fuzzy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Senator from Montana. I know his opinions are heartfelt. He and I have talked about this on the floor on previous occasions. But I hope we can put this in some perspective.

America is a great nation. God has blessed us with resources that many nations around the world envy. Fortunately, leaders in this country with foresight decided long ago that there were certain treasures, national treasures in America, that needed to be protected and preserved.

Mark my words, when they made those suggestions they were not always popular. There were people who had ideas that something else could be done with that national park or that national monument. But those leaders stood their ground and said: We can find other ways to provide for the occupations and professions of people living in these States. We can find other sources of energy. We do not have to spoil a national asset, part of our national heritage that we can never, ever again reclaim.

The Senator from Montana talked about national monuments, and, I guess, the energy potential that they offer to the United States. Here is a summary from the U.S. Geological Service about the economically recoverable oil and gas from national monuments.

I might remind those following the debate that it is now President Bush who wants to initiate new drilling for oil and gas in national monuments—protected lands set aside by the previous administration to be preserved for future generations. This President wants to let the oil and gas companies come in and drill on these lands.

When the Senator from Montana talked about trash fish, I can't argue the story. I don't know that side. This is not trash. This is a national monument. This is a beautiful span of land set aside for future generations by the previous President.

Picture, if you will, in this rare piece of real estate in America, oil and gas drilling. Have we reached that point? This is not trash. This is a treasure. We shouldn't take it lightly when it comes to oil and gas drilling in America's treasures.

Let me give you an example of some of the national monuments and what the geological survey estimates is available there if we follow President Bush's recommendation to go ahead and keep drilling; let's find new areas for oil and gas drilling in these national monuments.

In the Upper Missouri River Breaks in Montana, which the Senator from Montana made reference to earlier, the economically recoverable oil from that entire national monument is the equivalent of one hour's worth of gas consumption in the United States.

I didn't take those numbers because the Senator mentioned his own State but just to put this in some perspective.

We are going to go drilling in these national monuments to try to recover one hour's worth of energy for our country. And what do we leave behind? If we are lucky, not much—maybe a few footprints in the soil. But we can never be certain that we haven't spoiled or changed that forever.

All of the economically recoverable oil from all of the national monuments—where President Bush now wants to go drill—is the equivalent of 15 days, 12 hours, and 28 minutes of America's energy consumption. All of the economically recoverable gas as a portion of the total U.S. consumption from these monuments where the President now wants to go drilling is the equivalent of 7 days, 2 hours, and 11 minutes' worth of America's energy.

I listened to the news this morning. I hear there is a bill over in the House of Representatives on energy, and they are talking about perhaps for the first time that we are going to start establishing fuel-efficient standards for SUVs and trucks in this country. That is not radical thinking. I think it is sensible. I voted for it in the Senate. Just a little bit of energy conservation and a little bit of fuel efficiency makes this debate totally meaningless. With just a little change in Detroit we can save more oil than we can possibly derive from monuments. But the oil and gas companies want to get in there, and they want to make a profit. They have put these national treasures in the United States on the altar of greed and profit and the bottom line. That is just plain wrong.

I don't think I will prevail on this amendment. But I tell you that, as Senator FEINGOLD from Wisconsin, Senator MURRAY from Washington, and Senator REID from Nevada said, this is worth a fight.

You don't get many opportunities to cast a vote while on the floor of the Senate that have a lasting impact for generations to come. This is worth a fight. This is worth a vote.

I hope some of the Republican Members who come to the floor will remember one of the greats in their political party, Teddy Roosevelt—whose bust is right outside this door—who really defended conservation for America and made his party the proud patriarch for conservation in America. I hope they will remember when they come to the floor and take real pride in that rather than the oil and gas companies that just want to get their dirty hands on our national monuments.

We can do a lot better in this country. The oil and gas people have 95 percent of the Federal land to deal with. They do not need the 5 percent that we should be preserving and protecting for future generations. This amendment says to them: Keep your hands off of it. Leave it for future generations. Let's find other ways to meet our energy needs that are environmentally sensible and responsible.

If I lose on this amendment, and if the Bush administration goes forward with the oil and gas drilling, a lot of people will, frankly, never know it. How many of us visit all these national monuments? But some people will—some who go to look for that treasure that was set aside will find it is no longer the treasure it once was; it has been used; It has been exploited; it has been spoiled and perhaps even ruined in the name of profit.

The starting point, for those following the debate, is these are public lands. This is not private property. These are national monuments and public lands. They are lands that belong to all of us as Americans. It is not just the 285 million alive today but our children and grandchildren as well. If we don't have the courage to stand up and say protect and preserve a small part of it for future generations, then we are turning our back on the legacy of wise stewardship that has guided this country for so many years. It has been 95 years since a Republican President named Teddy Roosevelt had the courage to stand up and say they were going to protect that heritage. Ninety-five years later, another Republican President says, no; we are going to drill for oil and gas in that heritage.

What a difference. We will put an end to it with this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, there is a great deal of what my colleague from Illinois has said that I just won't disagree with at all. This is an important thing to be corrected, though, in his statement because we must deal with facts here when we are talking to the American people about the choices they will have to make depending on the policies we create.

First, the Bush administration is not advocating drilling in all of the monuments of the lower 48 States. That is a falsehood. What is important to say is that the Bush administration is proposing an energy policy that would open up public lands to be explored for the purpose of finding additional energy resources to determine whether or not they ought to be developed. That is a very real and different statement than the one my colleague from Illinois just made.

What is important about this debate is a choice that we are asking the American people to make. I think it is an important choice. I think it is worthy of the debate that we are having.

Energy security, the right of the family to know that their energy is secure, that their lights won't go out, or the cost of driving their minivan or their SUV is going to double or triple over the next couple of years, or the right and the power of big oil and OPEC to dictate that because policymakers were asleep at the switch or used false arguments to cause fear amongst the American people—if that is true, then shame on those policymakers. But bravo to the policymaker that is willing to stand up for the security of our country and the security of the American family.

That is what is important. Should the mom have to pay three or four times what she is paying now to drive her son or her daughter to a soccer game? Well, her costs have doubled in the last year. The reason they have doubled is because this country has not had a national energy policy. We had to go begging to the thieves in the Middle East, the OPEC crowd. That was the policy of the past administration—grab my tin cup and beg and let mom pay at the gas pump.

Was it the right policy? I don't think it was. I am not even going to suggest that drilling or allowing exploration in monuments is the right policy.

But what I will suggest to you today and to my colleague from Illinois is, do we have to make very hard-line choices in a world of modern technology and the talent that we possess today? Can we not shape an environment and shape a national economy that are compatible?

I agree with my colleague from Illinois. If you want to step back 30 years and use the argument of 30 years ago, he wins. If he is opposed to drilling or if he is opposed to exploration, that is correct. And I lose, if I am for it being based on 30-year-old technology. If you want the technology of today and tomorrow, then my guess is that it is a bit of a tossup.

We have preserved and protected the environment. But most importantly, we haven't forced mom to go to the gas pump and double her prices.

I recently talked to a young man who is vice president of a new technology company out in California. We know what has gone on out in California, and we can pick losers and winners and those to blame. I will tell you what was wrong with that young man. He had not made any bad choices. He was frightened. He drives a minivan; He has an economy car; and he has a house. But he said: Senator CRAIG, I am frightened I am going to lose my job. I have spent 20 years building a retirement, and the company I work for is teetering today because their energy costs have tripled, their profitability is disappearing, and they are laying off people.

That is as a result of this Senate, and others, not making the right policy choices over the last decade. That is why that young man in California is frightened today about his future.

What does that have to do with national monuments or the 23 new monuments that former President Clinton created in the lower 48? I believe it has something to do with it. I believe it has to do with the fundamental question that is being asked of my colleague from Illinois today, and that I ask of all of us: Can we live together compatibly in an environment in which we can apply new technologies to have abundant energy or do we have to pick winners and losers?

I totally disagree with him on his using Teddy Roosevelt as a facade to argue. Yes, you are right, Teddy Roosevelt, in 1908, created the great forest preserves of our country. I know. I am a bit of a student of Teddy Roosevelt. I do not use him when it is comfortable. I study him, and I believe in him. And he went on to create some of the grand national parks. But my guess is, he would not have run around the country in his last 5 years creating all kinds of monuments for the sake of developing environmental votes. He did it because he saw the need to create and protect the true jewels of our country's environment. What Teddy Roosevelt also knew was that you had to have something that was in balance.

I will tell you, the Senator from Illinois is absolutely right: If we take all of these monuments off the table and we do not drill in them, we will not feel it tomorrow, and we will not feel it the next day, and our dependency on foreign oil will grow from 50 percent to 60 percent to 70 percent. If we can play games with the OPEC boys and we can keep them at about $28 a barrel, then we are OK—probably.

Now your gas prices have doubled. For a family making $15 to $25,000 a year, that means 30 percent of their income gets spent on energy. But for somebody such as the Senator from Illinois or myself—we are making pretty good money—it probably will not affect our lives very much because it is a smaller percentage of our total spendable income.

Shame on a country today that understands technology and understands the environment and isn't willing to try to make both of them work together. The Senator from Illinois and I want clean air, we want clean water, and we are going to insist on it because we think that is the right public policy. And we want to preserve the crown jewels of our Nation because that is the right public policy.

But when a President comes to my State and carves out 250,000 acres, it is not the Washington Monument; it is 250,000 acres of sagebrush land with a few rocks on it and a few unique geologic features. Interestingly enough, there is no hydrocarbon because it is a volcanic formation, and they were all burnt out about 2½ million years ago. So the argument does not apply to Idaho.

But my guess is, the Senator from Illinois has picked something that is very popular, if you argue it only on one side. But I challenge my colleague from Illinois to tell the American household and the American mom that they will forever be secure in that the lights will never go out or the gas bills will never go up much more than they have gone up now, and we will work collectively together to build a national energy policy that includes conservation and modernization and technology, and that we become self-reliant, and that we build a national security that says we can produce our own energy and we do not have to ask the world at large to provide it for us.

That is a part of this debate. It really is a part of what we ought to be considering today when we decide whether we are going to deny the right to explore on public lands in this country. I think that is a worthy debate. I thank my colleague from Illinois for bringing the issue to this Chamber because it is important for all of us to understand: 20 years ago, you bet, lock it up to protect it; today, modernization and technology says—and I think America believes—that we have come a long way and we can do a better job of balancing the environment and the economy and the use of it all together in an effective manner. And today's debate is just a little bit about a lot of that.

I am concerned about the families of America and their energy security. I do not want them paying more and more of their hard-earned money on energy. But I am not sure that the kind of policy that is being advocated today in this amendment will guarantee that. And I am not at all confident that the Senator from Illinois can assure it. But that is the crux of the debate.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I thank my colleague, the Senator from Idaho. We clearly have a different point of view. If you listened to his argument, you would think the Durbin amendment would prohibit oil and gas exploration on 95 percent of Federal lands saying that we can only use 5 percent for that purpose. Exactly the opposite is true.

Currently, we can explore for oil and gas on 95 percent of lands under the Bureau of Land Management—Federal public lands which are open to find energy resources to serve our Nation's needs. I am not arguing with that. I accept that.

This amendment says that for 5 percent—1 acre out of 20—we are going to treat it differently. These are national monuments. These are special lands. These are not your run-of-the-mill pieces of real estate. These are lands designated by President Clinton, and monuments that have been designated by previous Presidents, that are being protected and treated differently.

The Durbin amendment says: No oil and gas drilling or mining in the new national monuments designated by the previous administration—a relatively small piece of real estate that has special important value.

The Senator from Idaho has said I am trying to come up with a hard-line choice here. Guilty as charged. It is a hard-line choice. It is a choice that says there are certain pieces of real estate in America worth fighting for and worth protecting and worth saying to private industry—whether it is big oil or big gas—keep your hands off. You have plenty of other real estate to look at. Don't go up to the Arctic National Wildlife Refuge and don't go into the national monuments designated by President Clinton because I want to be able to take my grandson one day to take a look at them and see the beauty that God created and not have to duck the pipelines and the trucks and all the economic activity of people trying to make a buck off Federal public lands.

Ninety-five percent of the Federal public lands are open to this exploration. For 5 percent there should be a different standard. Yes, there should be a hard-line choice.

Let me address for a second the issue that has been brought up over and over again: What about our energy crisis? We do face an energy challenge. There is no doubt about it. In my home State of Illinois, and across the United States, in the last calendar year we have seen some terrible examples. Home heating bills have gone up dramatically in my home State of Illinois, and other places; electric bills in the State of California; gasoline prices between Easter and Memorial Day—that has now become the play period for big oil companies. They run the gasoline prices up a buck a gallon between Easter and Memorial Day, and then after every politician gets a head of steam and starts screaming at them, they bring them back down. I would like to believe this has something to do with whether or not we are going to drill for oil in a national monument, but honestly I do not.

We are victims of oil companies now that are making decisions that have little or nothing to do with supply and demand. This is the only industry I know that can consistently guess wrong in terms of the supply available to sell and make record profits. And they have done it consistently for 2 straight years.

So to argue that the only way to deal with our energy challenge and the OPEC stranglehold is to start drilling for oil and gas in precious lands set aside as national monuments is so shortsighted. Are we so bereft of original and innovative ideas in Congress and in Washington that we cannot think of another way to help provide modern, sustainable, reliable energy to America other than to drill for oil and gas in our national monument lands? I do not think so.

I think there are other ways—sustainable, renewable fuels, conservation; things that work, things you will be proud of, 21st century thinking—not the drill-and-burn thinking of the 20th century and the 19th century that has inspired this administration to decide that, unlike President Teddy Roosevelt, this Republican President is ready to start exploring and looking for oil and gas in these national monuments.

We can end our dependence on foreign oil, but we don't have to do it at the expense of America's national and natural treasures. I urge my colleagues in both political parties to agree with me that setting aside 5 percent of Federal lands, keeping them separate and sacred, is worth the investment. We can find another answer, an answer that preserves those lands for future generations and still meets the energy needs of America.

If there are other Senators seeking recognition on this amendment, I yield the floor.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Utah.

Mr. BENNETT. Mr. President, there has been a lot of historic revision going on with respect to the creation of national monuments. I rise to set the record straight.

The record is available for those who will research it, but for those who may have been listening to this debate, it needs some accuracy in terms of what happened.

I was involved in it right from the public beginning, but I cannot say I was involved in it from the real beginning because the creation of the Grand Staircase Escalante National Monument was done in the dark. It was done without consultation with any member of the Utah delegation. And when members of the Utah delegation called the administration and asked what was going on, we were told: It is not happening.

To be very specific, in one example, let me describe to the Members of the Senate and to the Chair an exchange I had with Katie McGinty, chairman of the Council on Environmental Quality.

First, to put this in historic context, a story appeared in the Washington Post saying that President Clinton was considering a major national monument in the State of Utah. Immediately after that story appeared, the administration denied it and said it was just a consideration, just an idea, and under no circumstances were they that far along in serious consideration of a national monument.

Understand that the law required, under NEPA and appropriate environmental laws, that there be full public examination and consultation. The administration knew that. So they said, no, there will be no consultation because this is just an idea.

I had had experience. I called Bruce Babbitt. Bruce Babbitt and I had a very frank relationship. Even though we disagreed on many things, we could be honest with each other. I called Bruce Babbitt. He was appropriately professional; he didn't let out any secrets. But he let me know that it was perhaps more than just an idea.

I said: What should we be worried about? He told me some things we should be worried about in a theoretical sense. In case this was a real monument, we should be worried about the following. I wrote him a letter about them.

Finally he called me. He said: Come on down to the Department of the Interior and we will talk about this. And with the other members of the Utah delegation, Senator HATCH and Congressman HANSEN, I went down to Department of the Interior. It was on a Saturday morning when there was nobody else around. We sat in his conference room. Katie McGinty was there, along with a large number of his staff.

I asked him repeatedly and directly: Mr. Secretary, will the President announce the creation of a national monument on Wednesday of this coming week, as the press is speculating that he will?

Bruce Babbitt, being a careful lawyer, looked at me and said: No decision has been made. He didn't say yes and he didn't say no. He just said: No decision has been made.

I took that, from my experience with the Clinton administration, to mean "yep, it is a done deal; I can't tell you about it, but it is done."

So convinced that the monument was going to be created, on Monday morning, in my office, Katie McGinty was there as the leading administration spokesperson on this issue. And I said: Ms. McGinty, you say this is under consideration but no decision has been made. Given the consideration, can you give me a copy of the map so that I can see what lands are under consideration?

She looked me in the eye and said: Senator, there is no map. We are not that far along. This is just an idea. There is no map.

I said: As soon as there is a map, can I have a copy?

Oh, yes, Senator, as soon as we have a map, but we are not that far along.

That was Monday morning. On Wednesday morning I get a phone call from Leon Panetta, Chief of Staff to President Clinton.

Leon Panetta said: Senator, I am calling to tell you that this afternoon in Arizona, President Clinton will announce the formation of the Grand Staircase-Escalante National Monument, the details of where it will be and everything with respect to it.

I held my anger because Mr. Panetta obviously had nothing to do with this. This was a done deal outside even the office of the Chief of Staff of the White House.

I said: National monuments require—and I listed all of the things that were involved in the creation of a national monument.

He said: Yes, national monuments require all those things. There will be a 3-year period after the creation of the monument in which we will deal with those issues.

Every one of those issues should have been dealt with publicly and openly prior to the creation of the national monument, but all of them had been held in secret.

I expressed my disappointment in that. Mr. Panetta, in a moment of candor said: Well, Senator, we have 3 years in which to try to clean it all up.

When Katie McGinty appeared before the appropriations subcommittee, I sat with the subcommittee and I said to her: I want to see all of the documents relating to this decision. You didn't create this out of whole cloth in a 24-hour period.

I made it very clear that I did not believe her earlier statement that there was no map and no consideration if, in less than 48 hours, the President made a complete public disclosure of it. Presidents don't do things in 24-hour periods. Something as major as this doesn't just happen overnight. It isn't an immediate decision. It is staffed out somewhere.

I said to her: I want to see all of the documents relating to the decision to create this national monument.

Oh, yes, Senator. I will provide this. It was a completely open process.

And then we got a map. I discovered, by the way, that the map had been in circulation among environmental groups for 3 months prior to the time when I asked her for a copy, and she told me none existed.

We looked at the map to see how carefully drawn the boundaries were of this national treasure we were hearing about. In one of the towns in Utah, the high school football field was in the national monument. The map was drawn in secret. The map was drawn with people who would not consult with those who knew what was going on, and they had drawn the line so wildly that they had picked up the football field of a high school, thinking that was part of the national monument.

One of my constituents found his front driveway in the national monument. He had to drive across national monument lands to get to his house because they had ignored the procedures so fully, they were so anxious to do this in secret and not consult with anybody so that they would have a political coup to announce in the middle of a Presidential campaign, that they made those kinds of mistakes.

Is it now so sacred a land that we cannot take the football field out and turn it back to the high school?

Is it so sacred a piece of land that we can't give the man his driveway back? I ask those questions rhetorically because we did that. In one of the previous Congresses, we redrew the boundaries and took out the football field and the driveway and some other mistakes that were made. I got my first set of documents from Katie McGinty, which were a speech made 3 years before and a travel bureau brochure. I went back to the Appropriations subcommittee meeting. It is not usually my style, but I am afraid I embarrassed her by holding these up and saying, "You are suggesting that these are the basis of a decision to lock up 1.7 million acres in my home State? You are saying this is the complete record? I am sorry, I cannot accept that."

Finally, at a later time, we got the complete file that she had with respect to the creation of this monument. I will say this in her defense. She did not shred any documents. When she turned the documents over to me, the file was complete. It contained the following documents in it: One dated several months before, where she says, "We will have to abandon the project of trying to find lands in Utah that qualify for a national monument because it is clear there are none that do. Let's forget the Utah project because we can't find any lands that will qualify." And then, what I consider the smoking gun, there was a 5½ by 8½ piece of paper in which she had written in her own hand a note to the Vice President. The Vice President had been her boss. She was on his staff while he was a Senator. That would explain the familiarity of the note. It said: Al, the enviros have $500,000 to spend on this campaign, either for us or against us, depending on what we do in Utah. Signed, Katie.

I can't vouch for that being the exact language, but that is close enough. I read and reread that note many times. The national monument was being created in southern Utah in the dark to stimulate the expenditure of $500,000 of campaign activity on behalf of the Clinton-Gore ticket in 1996. There was the entire motivation following on the earlier document where she said there aren't any lands that qualified.

Now, the Senator from Illinois has said these are special lands and that they can explore for oil and gas on 95 percent of the public lands. This is reminiscent of a statement President Clinton made when he announced that monument. He said, "Mining jobs are good jobs, but we can't have mines everywhere. So we will set this land apart so there won't be any mines here."

If I had been there and had the opportunity to have an exchange with President Clinton, I would have said: President Clinton, you are exactly right. We cannot have mines everywhere. We can only have mines where there are minerals. Sure, you say 95 percent of the land is open for exploration. But nobody wants to explore lands where there is nothing to look for. Nobody wants to explore lands where there are no mineral resources. Why was this land set aside in a national monument?

The Senator from Illinois says he wants to take his grandson out some day to look at the beauty of the land. I suggest to him, bring your grandson to look at it right now. You will have the same reaction we are getting from tourists who are coming. We were told when this was created that we would have an economic bonanza of tourists coming to look at this magnificent piece of scenery. I have gone to the county commissioners of the counties around there and said, "How much tourism have you had?" They said, "None." None? This has had so much publicity, surely people have come from all over the world to see this scenic wonder. Yes, they come—once. They say we have come to see this magnificent scenery President Clinton talked about on the rim of the Grand Canyon. He picked that as his backdrop to make the announcement. That is scenic and it is worth coming from all over the world to see. That was his visual aid when he talked about the land in Utah. The folks show up from Germany and Japan and elsewhere to look at the land in Utah, but they say: This doesn't look any different than any of the other BLM land we can see. What is the big deal?

They don't come back. We have seen two counties be destroyed economically since the creation of the Grand Staircase-Escalante Monument, as people were afraid to invest in those counties. They were not very viable to begin with and have no tourism. With all of the publicity, there is no tourism.

All right. I suggest to the Senator from Illinois, if he wants to take his grandchild to see this grand scenery, he can do it, and it will be there in future generations because it will look like all the rest of the scenery around it. Why was this monument created? It was created for one purpose, and one purpose only, and the documents I got from Katie McGinty that are made part of the public record make this abundantly clear, along with the smoking gun saying we are going to have $500,000 spent on our behalf if we do this, or spent against us if we don't.

The reason the environmental groups were so anxious to see to it that this monument was created was because of the coal on the Kaiparowits Plateau. Let me describe to you how much coal there is there. It is not available on any of the other 95 percent of public lands. It is only available on the Kaiparowits Plateau. The average coal seam is about 4 to 6 feet high. You go into a mine that has a coal seam in West Virginia—and I see the senior Senator from West Virginia here, and he knows more about coal than any of the rest of us—you are going to think you have a pretty good seam if it is 6 feet high. The coal seam in Kaiparowits is 16 feet high. It runs back from where the mine mouth will be, over 160 miles. There is enough energy in that coal to heat and light the city of San Francisco for 300 years. And it has been known for decades. You don't have to explore this. You don't have to go looking for it. People have known about it.

Over and above the coal generated by that incredible seam of coal is a pool of methane gas—coal methane gas, which, if tapped, would produce even more energy than the coal itself. There are no reliable estimates as to how much coal-based methane gas there is, other than "huge."

Now, neither the coal nor the coal methane gas can be used to deal with America's energy crisis. Instead, we are told: Go look someplace else. You have 95 percent of the public lands to look for. Don't look here where the coal is. Don't talk about a pipeline for methane gas here, where the methane gas is. Go look on lands we don't care about.

The sole purpose of the monument was to prevent the development of that resource at Kaiparowits. Here I go way back in history and share with you this insight: When my father was here—he came here in 1951, elected in 1950—the No. 1 issue facing the West was water. One of the proposals that was made during the Eisenhower administration was that we build a dam on the Colorado River that would be known as the Glen Canyon Dam and would create behind it Lake Powell. The predecessors of today's environmental groups came and testified against the building of the Glen Canyon Dam.

One of their arguments was: We will never, ever, need that much power. You have Boulder Dam—or Hoover Dam. It was called Boulder Dam in those days; now it is called Hoover Dam—we have all the power we will ever need for southern California, Arizona, Nevada, and Utah. To build the Glen Canyon Dam to produce that power will give us a glut of power, and we absolutely do not need it and never will need it. However, they said—and here is the point—if by some possible chance we are wrong and we do need that power, you still do not need the dam because there is all that coal at Kaiparowits. Let's burn the coal at Kaiparowits.

This was in the 1950s when my father was here. I remember the debate. I was serving on his staff while much of it went on.

Now the time has come when we need all the power at the Glen Canyon Dam which, incidentally, the Sierra Club wants to tear down, and we need some more power, and there sits a source of power perhaps unique in the world. But, no, we cannot touch it. The way to make sure we cannot touch it is to create a national monument around it and to do it in such a way that it will never be subject to public comment or review. We will do it in secret. We will do it without telling anybody, and when members of the Utah delegation ask us about our plans, we will lie to them.

I am sorry to be that strong, but that is what happened because I asked the question directly, and I was given the answer directly, and the answer was a lie, demonstrable, provable in the RECORD. The answer I got was a lie.

Now we are being told: Oh, these are special lands that we must preserve for our grandchildren, when in fact the genesis of this monument makes it clear these are special lands primarily because of the mineral resources that are in them, the energy sources that are there, the low-sulfur coal which, by the way, if mixed with more traditional coal, would lower emissions at every powerplant where it was used.

For those who are concerned about greenhouse gases, they ought to be clamoring to open Kaiparowits to lower the emissions of greenhouse gases. If you say let's not do the coal, the coal is too bad, how about the coal-based methane gas? How about getting that out in these tremendous quantities? Oh, no, no, that would involve building a pipeline; we can't build a pipeline over these lands.

That is the history, Mr. President. This is not as it has been painted to be. And I do not impugn the motives of those who are painting it differently because they were not there. They do not understand the degree of duplicity that went into the creation of this monument.

If I sound angry, it is because, frankly, I was, as was everyone else associated with it, everyone else who was involved with the chicanery that was employed to create this monument.

Are there portions of the Kaiparowits Plateau that probably belong in national monument status? The answer to that is yes, there are. Am I and the other members of the Utah delegation in favor of preserving those lands in national monument status? The answer is yes, we are, but it should be done in the kind of open process that the Congress decreed when they created NEPA. It is too late for that now.

As Leon Panetta said to me, we have 3 years to pick up the pieces. The 3 years have passed and, quite frankly, the Interior Department and the folks at the BLM have, indeed, come up with what I consider to be an acceptable and logical management plan for the monument. But the fact is that all of those marvelous qualities for preservation in a national monument can be preserved and the coal can still be taken out.

I have been to the site where the mine mouth will be, and I say mine mouth singularly because you can get at that entire seam that I described through a single mine entrance. It would not require multiple entrances.

As luck would have it, or as nature has created it, that particular mine mouth is at the bottom of a circular canyon, which means it cannot be seen unless you are standing at the edge of the canyon looking down on it. It could not be seen by anybody 200 yards away. They would look right over the top of it on to the other side of the canyon and not even know it is there.

The entire facility to take the coal out of the Kaiparowits mine could be on 60 acres at the bottom of that circular canyon. We are not talking about a huge environmental disaster that will spread over several square miles. We are not talking about a visual blight that could be seen for hundreds of miles. We are talking about a mine mouth at the bottom of a circular canyon that could go right into a sheer cliff, into the seam of coal, and bring out enough coal to light and heat the city of San Francisco for 300 years, and we are talking about coal-based methane gas on top of that coal seam that has even greater energy potential.

It could be exploited without affecting in any way, other than psychologically, the beauty and power of the landscape on top of it. It can all be done underground—no strip mining, no open pits, no oil derricks. It can all be done in such a way that people who want a wilderness experience can have it unless somebody tells them: There is a pipeline 40 miles away from you. Oh, well, that spoils my experience to know there is a pipeline there.

You cannot see it. It does not affect you in any way. You cannot hear it. But the fact that it was put in there somehow will spoil the experience.

I am not suggesting we need to automatically go in there and start mining the coal right now, nor am I suggesting that we need to start putting down the initial wells to start getting the methane gas right now, because that would be as precipitous as the action was to create the monument in the first place. That would be a political action rather than an intelligent examination of this resource and what needs to be done.

I am saying let's give the President the authority to do the studies, make the examination, receive the public comment, go through the process that should have been done in the first place; then, with all of the facts on his plate, make a decision that I hope will not be driven by political considerations. I hope that nowhere in the files will be a note that says: There is $500,000 for the campaign if we act this way, and $500,000 against us if we act that way.

To summarize: I, the other Members of the Utah delegation, and the citizens of my State are as proud of the national heritage that we have received as anyone in this country. We take no back seat to anyone in our determination to see to it that these lands are kept as pristine and as preserved as they can possibly be.

I will share an experience I had on the campaign trail for the first time I was down in that part of the State. A woman I had been talking to, hoping to get her to support me, walked out of the restaurant where we were meeting, in a small Utah town. She said: BOB, look around.

I had no idea what she was talking about, but I looked around; I dutifully looked around.

And she said: What do you see?

Again, I didn't realize what she was talking about, so I didn't answer.

She said: It is pristine, isn't it?

It was then I realized she was looking at the land.

I said: Yes, it is pristine. It is beautiful.

Then she said: My family and I have been earning our living off this land for five generations. Tell me we don't love it. Tell me we have not been good stewards and can't take care of it and somebody else has to come in and order us off it in order for it to remain in good hands.

I have always remembered that comment. It is indicative of the way the people of Utah feel about our State. We are making plans to do everything we can as we look ahead. The demographic trends say our State will double in population within the lifetime of my children. We are making plans now to preserve the open spaces, to preserve as much of that which is beautiful and magnificent as can be preserved. We take our stewardship very seriously and we take a back seat to no one in our determination to see that stewardship is passed on to our grandchildren and our great grandchildren. But we want to do it intelligently. We want to do it in a way that makes sense. We want to do it with everybody participating in the process who will come to the table and talk to us. We want to hear every idea. We want to hear every point of view.

We don't want to see a repeat of what Katie McGinty and others in the Clinton administration did, of creating something in the dark, cramming it down people's throat without any opportunity for comment, and then declaring that it is forever and ever inviolate. That process only breeds ill will. That process only creates bad feelings. There is no place for that kind of process to ever be repeated.

My objection to the amendment by the Senator from Illinois is—and he would enshrine the results of that process—not the process; he had nothing to do with the process. He didn't know what was going on. If he had, given his sense of fair play, he probably would have objected to it, but he would enshrine the results of that process into law forever. That, frankly, doesn't make sense. It is a process that does not deserve to be rewarded with that kind of perpetual reference. We need to deal with our lands in a way that is good for the lands, a way that is good for the people, a way that is good for our posterity, and enshrining what was done in the case of the Grand Staircase-Escalante Monument is not the way to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that Senators FEINGOLD and BOXER be added as cosponsors to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DURBIN. I ask the majority whip if this is appropriate, we have a unanimous consent that the rollcall vote on this amendment be scheduled for 2:45.

Mr. REID. We will work on the exact time.

Mr. DURBIN. I will suspend a unanimous consent request on a specific time.

I will respond to my colleague and friend, the Senator from Utah, Mr. BENNETT. I have heard him speak before about the Grand Staircase-Escalante National Monument. He is a man of great control and moderation. I can tell it brings his blood pressure to a high level to recall the creation of this particular monument. He has heartfelt feelings about this process and he has expressed them, hopefully, in private.

I do say in fairness that one of the people he mentioned several times on the floor is someone I respect very much and worked with for many years, Miss Katie McGinty, who worked for the Clinton administration. I found her to be entirely professional and ethical, with the highest integrity and great skill. I want to make certain that is part of the record.

I also do want to make note of the following for the record, as well. With regard to the Grand Staircase-Escalante National Monument, the Bureau of Land Management has utilized an extensive process to develop a management plan to administer the new monument. The planning team included five representatives nominated by the Governor of Utah, Mike Leavitt. Over 28 meetings were held and over 9,000 comments considered prior to finalizing the monument management plan in February of 2000. In addition, following establishment of the monument, the Department of the Interior worked closely with the State of Utah to negotiate a major land exchange that traded State and Federal land so as to help maximize the value of State lands for the benefit of Utah's schoolchildren and provided a $50 million payment to the State.

My amendment addresses whether or not we will drill for oil and gas and mine minerals, particularly coal in this case, in the Grand Staircase-Escalante National Monument.

I make the following comments for the record: According to the U.S. Geological Service, all of the recoverable oil in the Grand Staircase-Escalante National Monument would provide for America's energy needs for a total of 4 hours. All of the recoverable gas in the Grand Staircase-Escalante National Monument would provide for America's energy needs for 1 hour.

On the issue of coal, fortunately, we are not at the mercy of anything like OPEC when it comes to coal in the United States. The U.S. Department of the Interior has estimated we have 250 years worth of coal reserves right here in the United States. The Senator has said repeatedly that the coal in this national monument can light all the lights in San Francisco for a long period of time. I suggest all the coal in the United States could light the lights of most of the western civilization for a pretty substantial period of time. We have a lot of coal. I am glad we do. I have three times more coal in my State of Illinois than the Senator from Utah believes he has in his State, at least by estimates from the Department of Energy.

The Interior Department bought back all of the Federal coal leases within the Grand Staircase at a cost to taxpayers of $20 million. There are no existing leaseholders, no coal development taking place in this national monument. So those who were there were compensated when they left.

Let me go back to what this amendment is all about and why I have offered it. The Bush administration said they are prepared to explore the possibility of drilling for oil and gas in national monuments. When visiting Washington, DC, and you hear the words "national monument" you think of the Washington Monument and the Lincoln Memorial. But national monuments under Federal lands are tracts of land set aside by Presidents over the history of this country to be preserved for future generations.

Beginning with Republican President Teddy Roosevelt, 14 of the 17 Presidents who served since 1906 have used the power to set aside land, saying this is special land and is part of our natural national heritage that should not be developed and should be protected. In all, these Presidents, Democrats and Republicans alike, have established 122 national monuments. After the Presidents did that, Congress came in and agreed with the President in at least 30 different instances, saying these national monuments should be national parks, the next stage of the process.

We are talking about the California Coastal National Monument, the Giant Sequoia National Monument in California, Craters of the Moon National Monument in Idaho, Vermilion Cliffs National Monument in Arizona. The Grand Canyon was once a national monument that became a national park. Those who support my amendment believe we ought to take this special real estate in America and treat it in a special way. We ought to say that for a small percentage of the land that we call America, that God has given us, we are going to protect it from economic exploitation.

But not President Bush. President Bush and his administration says no; we are prepared to drill for oil and gas and mine coal in these lands.

You cannot protect the special character of these lands and use them economically. You cannot hope to say to your children, grandchildren, and their children and grandchildren, that they will be able to see something spectacular and special, untouched by man, if you allow this kind of economic exploration.

This is a photograph taken of one of these national monuments. It is a beautiful piece of land. I am sure we are all proud it has been set aside so future generations can come to see it, visit it, and know it is to be protected. Mr. President, 95 percent of all the Federal lands we own in America—and we own millions of acres—can be drilled for oil and gas, and mined for coal. We believe that is appropriate because we are not going to sacrifice something that is really special. My amendment says that for 5 percent, 1 acre out of 20, special rules will apply: No drilling for oil and gas, no mining of coal.

I hope those who have followed this debate will understand that existing leaseholders on these lands will not be disadvantaged. In fact, all we are saying is that this heritage, to be left to future generations, should be protected.

At the end of consideration of this amendment, there will be some people watching the final vote very carefully. They will be people who work for the big oil companies and the gas drilling companies, some coal mining companies out west, who really think if they can get their hands on this land there is money to be made.

There will be others watching, too: People across America who understand a special responsibility which elected officials have today in the Senate and in the House of Representatives and, yes, in the White House as well, to preserve this national heritage.

I encourage all my colleagues to join me in voting for this amendment. It had a strong bipartisan vote in the House of Representatives: Democrats and Republicans and an Independent alike, believing it was important we speak with one voice when it comes to something as basic as this.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that beginning at 4 p.m. second-degree amendments be relevant to the first-degree amendments under the previous order already entered.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I listened with great attention to the debate concerning the amendment that is before us. I would like to specifically identify the amendment in some detail because I think Members should have an understanding of just what the intention of the Senator from Illinois is.

In the amendment, the specific purpose is to prohibit the use of funds for the conduct of preleasing, leasing, and related activities within national monuments established under the act of June 8, 1906.

It is further appropriate to reflect on the concluding sentence of the amendment, which states:

> . . . a national monument established under the Act of June 8, 1906 (16 U.S.C. 431 et seq.), except to the extent that such a preleasing, leasing, or other related activity is allowed under the Presidential proclamation establishing the monument.

So one has to question just what the purpose of the amendment is. It says, on one hand, no funds will be allowed for preleasing within national monuments, and then it concludes by saying: "except to the extent that such preleasing, leasing, or other related activity is allowed under the Presidential proclamation establishing the monument."

What we have here, in the establishment of a monument, in the normal course of events, is a Presidential proclamation. And in that proclamation it is specifically addressed as to what can occur within the monument.

I really question the necessity of the amendment. I question the applicability of the amendment. I question the application of the amendment. I question the purpose and objective of the amendment.

I am not one of the managers of the bill, but one of the more expeditious alternatives would be to accept the amendment because the amendment does not do a thing. It implies that you are not going to have any funds for preleasing and related activities—and I assume we mean oil and gas or mineral exploration in national monuments—but then it goes on and says: "except to the extent that such preleasing . . . or other related activity is allowed under the [authority of the President]," which basically states the authorization for the proclamation establishing the monument. Hopefully, that is clear.

I assume there are some out there who would say, we do not want oil and gas or mineral exploration occurring in national monuments. We have heard from Senators who have had some experience with national monuments, the creation of these monuments under the Antiquities Act. Certainly one of the more recent States is the State of Utah and the case of the Grand Staircase-Escalante episode where a monument was created with very significant acreage. It took off the development scenario of some coal leases that the State of Utah was going to use to fund their educational system. I think, unfortunately, the application of the Antiquities Act in that particular case was inappropriate.

Our previous President took that action. He did it without the knowledge of the Governor of Utah, and without the knowledge of the congressional delegation of Utah. Furthermore, he did not have the compassion to even make the announcement in the State of Utah. I believe it was made in Arizona.

So the application of the Antiquities Act, traditionally, on national monuments is well established. But the criteria of what can be done in those national monuments are ordinarily left up to the Presidential proclamation establishing the monument, which certainly is the case in the amendment pending before this body. I hope Senators, upon reflection, will recognize that this particular amendment really accomplishes no purpose.

One of the things that concerns me, however, is the implication and the lack of understanding of terminology associated with the designation of public land.

We have all seen the concern expressed on the floor—both in the House and in the Senate—as to the issue of developing resources offshore or within our States or within specific designated areas. But I would like to share with you a chart that shows the designated areas that have been taken off limits in recent years by State and Federal action. It is kind of interesting to note the entire east coast—from Maine to Florida—has been removed from any OCS (Outer Continental Shelf) activity. And the merits of those action speak for themselves. These States simply do not want any activity off their shore.

We saw an agreement on lease sale 181 in Florida the other day where a significant portion of the lease was removed. Yet the inconsistency is, Florida wants very much to receive a portion of the energy that would come from exploration offshore in the gulf. It is kind of hard to have it both ways, but some would like that.

The chart also shows the Pacific coast—the entire area from Washington State to California—is off limits. In other words: NIMBY, Not In My Backyard. We have in the overthrust belt the States of Wyoming, Colorado, Utah, and Montana. These are States that have oil and gas development and production. As a consequence of the roadless area promulgated by the previous administration, we have seen a significant area of prospect for oil and gas, particularly natural gas, taken off limits. There were estimated to be about 22 to 23 trillion cubic feet of natural gas in this overthrust area. We have taken it off limits. That means basically no resource development.

There you have it. With the exception of the gulf area—Texas, Mississippi, Louisiana, and Alabama, that support OCS leasing—we find ourselves in a position where we have an energy crisis. We find ourselves in a position where we are becoming more and more dependent on sources overseas coming into the United States.

We debate the merits of the inconsistency in our foreign policy where we find ourselves dependent on 750,000 barrels of oil a day from Iraq, from our old friend Saddam Hussein, where we fought a war in 1991 and 1992. We lost 148 U.S. lives in that war. And now we are importing oil from that country. We buy Iraq's oil, put it in our airplanes, and then go bomb him while enforcing a no-fly zone, basically a blockade in the air. We risk U.S. lives in doing that. We have flown over 230,000 individual sorties over Iraq.

So here we are putting our own area off limits, going overseas, not really caring where our oil comes from. Whether it comes from a scorched-earth refinery or a scorched-earth oil field in OPEC, we find ourselves subject to the cartel of OPEC. Cartels are illegal in the United States. We would not even pass the test associated with that type of business in this country because we have antitrust laws, but we are, in effect, supporting the viability of the OPEC cartel by becoming more and more dependent.

I am sure the Presiding Officer remembers, back in 1973, we had gas lines going around the block in this country. We had the Arab oil embargo at the Yom Kippur war. We had the public indignant, outraged because there were gas lines around the block. We were 37-percent dependent on imported oil at that time. Today, we are 57-percent dependent. The Department of Energy says the way we are going, we are going to be 63- or 64-percent dependent by the year 2007 or 2008. Where is it going to come from?

People generalize, very conveniently, that we have alternatives: We have renewables; we have solar power; we have wind power; we have new technology. If you really think about it, most of these sources are for stationary power generation. But they do not move America. They do not move the world.

Mr. President you, and I, and others, do not fly in and out of Washington, DC, on hot air. Somebody has to produce the oil, refine it, and put the kerosene in the jet. Only then do you take off. Whether it is your planes or your trains or your automobiles or your boats, America and the world are dependent on oil. And we are becoming more and more dependent on one source, and that is OPEC.

We are sacrificing our national security interests; there is no question about it. To give a recent example, just a few weeks ago, Saddam Hussein didn't get his way with the U.N. So he cut his oil production. He pulled 2½ million barrels of oil a day off the world market. We thought OPEC would make up that difference. They took one look at it and said: No, we are going to hold off. So we were short that month. This previous month, about 60 million barrels were held off the world market. It kept the price up.

Look at what happened in this last year with OPEC in developing their internal discipline. They developed a floor and a ceiling on oil: $22 was the floor; $28 was the ceiling. It has gone over that. They have a discipline. We are becoming more and more dependent on that source, and we are becoming more and more exposed from the standpoint of our national security.

Where is it going? We are debating an amendment that doesn't do a thing to address supply. We should be debating an energy bill at this time in a timely manner to address the crisis ahead. As we saw out in California, it can happen very fast. When we look at the concern the American people are exposed to over the coming blackouts, how does that affect the security of the American taxpayer? Maybe there are some children at home and there is a blackout. There is a lack of power. What does that do to increase crime? These are exposures that real people have and real concerns that can be alleviated if we take up an energy policy in a prompt and efficient manner.

As we look at this chart, there is no exploration everyplace: No exploration in the Great Lakes, no exploration on the west coast, no exploration on the east coast, no exploration in the eastern Gulf of Mexico, and eventually no exploration in the 40 percent of the land in the Western U.S. owned by the Federal Government.

I am not here to promote the amendment of my friend from Illinois in the sense of oil and gas activities in the national monuments, because the Presidential proclamation will make a determination of that. What I am concerned about is where this energy is going to come from.

We have all heard the issue associated with the Arctic National Wildlife Refuge or ANWR. I want to communicate to my colleagues the difference associated with some of the nomenclature that flows around here.

We are dealing currently with an amendment that would prohibit the use of funds in the conduct of preleasing within national monuments. Does the public know what a national monument is? I think they have a perception. Maybe it is a park. Maybe it is kind of a wilderness. Maybe it is kind of a refuge.

The reality is, a national monument can be just about anything that it is designated to be in the Presidential proclamation. You can have oil and gas activity, if it is permitted. Mostly it is not. National monuments are created by the Antiquities Act. The Antiquities Act can preclude oil and gas or mineral leasing. These are all alternatives that are determined at the time that the national monument is established.

That is why the application of this amendment has no meaning because, again, it says: No money for preleasing within national monuments except to the extent that such preleasing or other related activity is allowed under Presidential proclamation establishing the monument.

There we have it. Let me just take my colleagues for a little walk into the wildlife refuges. What is a refuge? What does that mean? It might mean in the minds of some, a place for wildlife, but we have oil production in many refuges. We have mineral production in many refuges. We have gas production in many refuges. We have coal production. We have salt water conversion. We have many activities in this particular nomenclature of refuges.

Here are the States. We have 17 refuges in Louisiana, Texas, Alabama, Mississippi, four in California, Montana, Michigan, my State of Alaska. These are activities that are authorized under the terminology of refuges.

This chart shows where these refuges are. It is important that the public understands the difference between national monument designation under proclamation by the President and what is allowed in them by the proclamation and refuges. In Alabama, there is the Choctaw National Wildlife Refuge. Oil production in national refuges and wetlands management districts is a concept that has long been fostered by the Congress. It is specifically the balanced use of Federal funds and the reality that it is accepted and is commonplace.

This is oil and gas activity in 30 refuges, and there are 118 refuges from coast to coast where we are safely exploring for oil and gas. We have over 400 wells in Louisiana refuges alone. And we have them in Alabama, Arkansas, Kansas, Louisiana, Texas, Alaska—the Kenai National Wildlife Refuge—North Dakota, Mississippi, Michigan, and Montana.

I am not going to get into a presentation of the merits of ANWR. What makes it any different than any of the rest of these refuges? Certainly not from the establishment of the terminology "refuge." ANWR is included as a refuge, therefore oil and gas activity is allowed, subject to the authority of the Congress. That is what that debate is all about.

But as we look at the reality associated with the energy crisis, we have to recognize we are going to have to look for relief. You are not going to get it from alternatives. You are not going to get it from renewables. In spite of the fact that I support the technology, I support the subsidy, I support continued taxpayer support of these, they still constitute less than 4 percent of the total energy mix. We have expended about $6 billion in the last 10 years. It has been money well spent, but it is not going to replace our dependence on conventional sources of energy.

How did we get into this thing? Why are things different now? I could talk about oil and gas, but if we look at foreign oil dependence—now at 56 percent, up to 66 percent by the year 2010—the national security interest of this country is in jeopardy. What are we going to use as leverage?

In 1973, we created the Strategic Petroleum Reserve. Some people say that can be our relief. Do you know what we found out when the previous administration took 30 million barrels out of the Strategic Petroleum Reserve? We found out we didn't have the refining capacity to refine it into the heating oil that was needed to meet the crisis at that time in the Northeast Corridor. We were genuinely concerned.

When we took that oil, we simply found we had to offset what we would ordinarily import. We didn't have the refining capacity. I think we achieved, out of that 30 million barrels, somewhere in the area of a 1-day supply of heating oil for the Northeast Corridor. It just won't work. If you don't have the refining capacity, you can have all the oil in the ground you want, it isn't going to do the job. You are not going to be able to increase, if the need is there, any more than the extent of the capacity of your refineries.

The reason things are different this time is we have natural gas prices that have soared. They have gone up as high as $10. They are down now, thank God, but we are still using our reserves faster than we are finding them. We haven't had a new nuclear plant licensed in this country in 10 years. We haven't had a new coal-fired plant of any consequence built in this country since 1995, and coal is our most abundant resource.

We have technology for clean coal. Nothing has been done in that area. Why? It isn't because the supply isn't adequate; it is because we haven't had the conviction to come to grips with the reality of the law of supply and demand. Even Congress can't resolve the law of supply and demand, unless we increase the supply or reduce the demand.

Demand has gone up and supply hasn't. That is why it is different this time. I indicated that there have been no new gasoline refineries in 10 years. So if we look at our increased dependence on foreign oil, increased price of natural gas, no nuclear plants—nuclear is 22 percent of our stationary energy—no new gasoline refineries, no new coal-fired plants, and to top it off, we find our capacity to transmit our natural gas and electricity is inadequate. Why? Because we have become more of an electronic society. We leave our computers on; we leave our air-conditioning on. We could, perhaps, buy a more fuel-efficient refrigerator and use half of the energy, but if the old one isn't worn out, you won't do it.

The point is that the "perfect storm" has come together in the sense of energy. We have an energy crisis. As a consequence of that crisis, I would have hoped that we would be debating how to address this energy situation as opposed to debating the merits of a national monument determination that isn't going to result in any significant activity, other than some of the media might be misled that it is going to terminate any activity in areas of national monuments, which it will not. We have skyrocketing energy prices, gas shortages, and I guess I will conclude with a reference to, again, how important energy is, how we have a tendency to take it for granted.

You know, the American standard of living is based on one thing: affordable and adequate supplies of energy. That is why we prosper. If we don't keep up with the increased demand by increasing the supply by conservation, alternatives, renewables, we are going to jeopardize that standard of living. And with it goes our economic security, and with it goes our national security.

I think we all feel exposed to the potential of being held hostage by a foreign leader such as Saddam Hussein. We have our job security at risk—to keep Americans working and create more jobs. Energy certainly powers our workplace. It moves the economy—moves it forward and brings each of us along with it, giving us personal security and flexibility to live our lives as we choose. We saw in California what happens when stoplights don't work and when the elevators become jammed.

I think we have to focus in on what we must do for American families—the consumers—and address the reality that we do have a crisis. I am going to conclude with a reference to something that I think America sells itself short on in times such as this, and that is America's technology and ingenuity. We have the capability to meet the challenges associated with a responsible environmental sensitivity and the reality that we can do things better. But there is no magic to it. Somebody has to produce this energy. It has to come from some identifiable source. I am speaking primarily of what moves America, and right now that is oil. I wish we had another alternative, but for the foreseeable future, we simply do not.

As a consequence of that reality, we have before us an energy plan. I intend to work cooperatively with Senator BINGAMAN toward a chairman's mark. We have an outline given by the President and the Vice President and their energy task force report. So I guess everybody is waiting, if you will, on the process in the Senate. It is moving in the House. The House is moving on an energy bill. We should be moving on it here. I am very pleased to see that it is now in the Democratic leadership's recommendations of activities. We haven't gotten a schedule on it at this time, but I hope we will in the very near future.

So, again, to get back to the debate at hand with regard to the amendment, prohibiting preleasing-related activities within national monuments by disallowing any funding and, yet, recognizing in the amendment to the extent that such a preleasing or other related activities is allowed under the Presidential proclamation establishing the monument, would seem that the amendment is neutral to the issue of supply, neutral to the issue of whether or not there is any authority for oil or gas and mineral activity within any new national monuments that might be created in the future is certainly not applicable to those already in existence.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I believe all debate on this amendment is completed, and the yeas and nays have been ordered.

The PRESIDING OFFICER. That is correct, the yeas and nays have been ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the vote on or in relation to the Durbin amendment occur at 4:10 p.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. Mr. President, I move to table the Durbin amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, I ask the Senator to allow an amendment to his motion to table—that there be no second-degree amendments allowed to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there objection to the request to have the vote occur at 4:10 p.m.?

Mr. BURNS. I move that the Durbin amendment be tabled, and I ask for the yeas and nays, which vote will occur at the agreed time.

The PRESIDING OFFICER. First, the Senate needs to address the request raised by the Senator from Nevada of having the vote at 4:10 p.m. He propounded a unanimous consent request to have the vote at 4:10 p.m. Is there objection?

Mr. BYRD. Reserving the right to object, what is the request?

Mr. REID. Mr. President, I say to my friend, the manager of the bill, we will have a motion to table the amendment at 4:10 p.m. today, and prior to the vote there will be no second-degree amendments to the Durbin amendment.

Mr. BYRD. A vote on the motion to table would occur at 4:10 p.m. today.

Mr. BURNS. Yes.

The PRESIDING OFFICER. The Senator from Nevada asked unanimous consent the vote occur at 4:10 p.m. There has been no objection. The Senator from Montana has moved to table and asked for the yeas and nays at 4:10.

Mr. BURNS. And the vote occur at the agreed time at 4:10.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BYRD. What was the request, "and then 4:15"?

Mr. BURNS. The meeting with the President and the group downtown was not in until 4:15. We are going to begin the vote at 4:10 and they will have time to vote; 4:15 had nothing to do with it. We agreed at 4:10 to table the Durbin amendment.

Mr. BYRD. I remove my reservation.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second on the motion to table.

The yeas and nays were ordered.

Mr. REID. I ask unanimous consent the Senator from New Jersey be allowed to speak for up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. TORRICELLI are located in today's RECORD under "Morning Business.")

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the vote now scheduled for 4:10, on a motion to table, be rescheduled to 4:20. This has been cleared with the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, in 10 minutes or so, the Senate will be voting on my pending amendment. I believe the Senator from Montana has been given authority to offer a motion to table the amendment. But I want my colleagues who come to this Chamber to understand what the nature of this amendment is because it is very simple and straightforward.

My amendment will simply prohibit new mineral leases from being issued in designated national monuments. It does not affect any existing, valid right, or prevent leasing in any area that was authorized for mineral activity when the monument was established.

That description is pretty legal. Let me try to translate it so that those who have not followed this debate will understand what is at issue.

We have designated, in this country, various national monuments. These are tracts of land which Presidents of the United States, since Teddy Roosevelt, have set aside saying that they have special importance and value to the future of our country. These tracts of land have been set aside by all but three Presidents since President Roosevelt. President Nixon, President Reagan, and former President Bush did not establish national monuments. Virtually every other President—Democrat and Republican alike—made these designations. And, of course, this national monument land occasionally will mature into something which Congress decides is of great value.

When you look at former national monuments, they include the Grand Canyon—designated first as a national monument—Glacier Bay, Zion National Park, and Acadia National Park.

So though I use the term "national monument," most Americans are familiar with the term "national park." Although they are not the same legally, the fact is that many of our national parks began as national monuments.

We have taken great care when it comes to these national monuments to say that they are so special and important that we will be careful what we do with them once we have designated them as treasures for our Nation to protect.

The reason I have offered this amendment is that we have had a clear indication from the current administration and the White House—President George W. Bush and his Secretary of the Interior, Gale Norton—that they are now going to explore the options of drilling for oil and gas and mining minerals in this national monument space designated by the previous administration.

The House of Representatives, when they considered this, on a strong bipartisan rollcall, agreed with my amendment and said we should prohibit this administration and this White House from drilling for oil and gas in national monument tracts across America.

This land is too valuable to our Nation, it is too valuable to our national heritage, to say to any oil company or gas drilling company or mining company: Please come take a look at our national monuments as a possible place to drill and to make a profit.

Some will argue—and they have in this Chamber—that it is shortsighted for us to limit any drilling for oil and gas or the mining of minerals at a time when our Nation faces a national energy crisis or an energy challenge. I disagree. Of all of the Federal land owned in the United States by taxpayers, 95 percent of it is open to oil and gas drilling and mining. We have said, if you can find those resources on that public land, we believe it will not compromise the environment nor jeopardize an important national treasure to go ahead and drill. But for 5 percent—one acre out of 20—of Federal public lands which we have designated as special lands—monuments; some may someday be a national park—in those lands we do not want to have that kind of exploration and economic exploitation.

If some step back and say: You must be turning your back on a great amount of energy resources if the Durbin amendment is enacted and prohibits the oil and gas drilling on these national monument lands, in fact, that is not the case at all. The U.S. Geologic Service did a survey of these national monument lands to determine just how much oil and gas there would be available. After they had done their survey, they established that all of the monuments I have protected with this amendment all of them combined have economically recoverable oil as a portion of total U.S. consumption that amounts to 15 days, 12 hours, and 28 minutes of energy. When it comes to gas: 7 days, 2 hours, and 11 minutes in terms of our national energy consumption. It is a tiny, minuscule, small part of the energy picture.

I have listened to some of my colleagues from other States talk about our energy crisis. You would believe that the only way we could keep the price of a gallon of gasoline under control is to allow the oil companies to go in and drill on lands that have been set aside by administrations to be protected because of their important historic and natural value to the United States. That is not the case.

In fact, there are many things we can and should do to deal with our energy crisis. I do not believe we have reached a point where this energy crisis or challenge should be used as a battering ram to beat down that which we hold sacred in this country. I think it is pretty clear, on a bipartisan basis, that at least Senators in this Chamber do not want to see us drill for oil in the Arctic National Wildlife Refuge, as President Bush has proposed.

I think it is also clear when it comes to drilling off our coastal shores, there are many States, including the State of Florida—coincidentally, governed by a man with the same surname as the President—that don't want to see drilling offshore. They think it is too dangerous when it comes to spoiling the beaches and the recreational activity that are part of the States of Florida, California, and others.

This amendment says there is also an area of America we should take care not to exploit as well, and it is the national monument space.

The Senator from Montana has offered a motion to table my amendment. He opposes it. He has stated his position very effectively. But I would implore my colleagues on both sides to understand that this is a bipartisan amendment. It is an amendment which was supported by Democrats and Republicans in the House of Representatives because when it comes to conservation and the protection of our natural resources, why in the world should this be a partisan issue?

Teddy Roosevelt was a great Republican. Franklin Roosevelt was a great Democrat. All of these Presidents set aside land that was important for future generations.

I am certain that some Republican President—either now or in the future—will do the same. And I hope that Democratic Members of Congress will respect it. But if we are going to show respect for these national monuments, we have to understand that allowing for the drilling of oil and gas runs the risk of spoiling a national treasure.

I have asked my colleagues to also consider the fact that the Bureau of Land Management has told us that 95 percent of the Federal land is already open for this kind of exploration to find these sources of energy. We are not closing that down.

This amendment makes it very clear that if there is a national monument designated somewhere where they have established that oil and gas drilling will not jeopardize it, that will continue. If it is an existing lease, this amendment does not affect it. The only impact it will have is on the national monument space designated by the previous administration.

One of my colleagues from the State of Utah came to this Chamber and was clearly disappointed, to say the least, by the designation of a national monument in his State. The fact is, the national monument is there. We are saying, with this amendment: Keep the oil companies, keep the gas companies, keep the mining companies off of that national monument land.

In 1906, Teddy Roosevelt established Devils Tower in Wyoming as our first national monument. I take great pride in hoping that the Senate will carry on in his tradition of standing up to special interest groups which, frankly, want to make a profit; they want to come in and drill on Federal public land, land owned by all of us as taxpayers to make a profit. They are in business to make a profit. But I invite them to make that profit in other places, not on these lands that have a special import and a special significance for all of Americans living today and for future generations.

This administration has been challenged for the last 6 months on environmental issues. They have not been as sensitive as they should have. The American people have said, overwhelmingly, they want an administration in the White House that understands that though energy is important, we cannot compromise important values in this country such as environmental protection and protecting our national monument lands.

I hope this Senate, on a strong bipartisan vote, will reject the motion to table offered by the Senator from Montana and will enact the Durbin amendment which protects these lands and says to the Bush White House: Help us find other sources of energy, other sources of energy that do not compromise important and pristine areas in this country.

There are things we can and should do as a nation to deal with energy: Sustainable, renewable, clean energy; finding ways to conserve; having Congress accept its responsibility when it comes to fuel efficiency in the vehicles that we drive.

These are the things that are going to help us be a better nation in the 21st century. To stick with the philosophy and notion of the 19th and 20th centuries, to drill and burn our way into the future is so shortsighted. To think we would even consider going to lands such as national monument land that has such special value to every American citizen would be a serious mistake.

I urge all of my colleagues to vote against the motion to table and, once it has been defeated, to support the passage of the Durbin amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I ask unanimous consent that I may summarize my argument.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, Mr. President.

Mr. BURNS. I will be very short.

Mr. DURBIN. I have no objection.

Mr. BURNS. The figures the Senator cited are from a USGS survey taken in 1995. Those figures have changed and moved up. No. 2, if he doesn't want people to drill there, where can they drill? How many people in this body or in this town drove an automobile or rode something here that required energy? How many? Do we close off the whole Nation because somebody is making a profit? Do we take the same mindset into agriculture, into production agriculture, as they have in Klamath Falls where 1,500 farmers cannot irrigate because of a suckerfish? It is a mindset.

I move to table this amendment for the simple reason that it will impact the country. You say only 5 percent or 2 percent or 1 percent. I say to the Senator: $5 is not very much to some of us. But it is when you don't have it. We have that possibility with this kind of a mindset.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the order was that amendments should be filed by 4 p.m. today. I have in my hand a list of the amendments that were filed by 4 o'clock and the authors thereof.

I shall state them at this point: An amendment by Mr. CRAPO; Mr. DURBIN—that is the pending amendment—Mr. BYRD; Mr. KYL, three amendments; Mr. KERRY; Mr. MURKOWSKI; Mr. SESSIONS; Ms. COLLINS; Mr. HARKIN; Mr. ENZI; Mr. BREAUX; Mr. CORZINE; Mr. STEVENS; Mr. NELSON of Florida; Mr. NELSON of Florida; Mr. KERRY; Mr. NICKLES; Mr. ENZI; Mr. SESSIONS; Mr. SMITH of Oregon; Mr. ALLARD; Mr. DURBIN; Mrs. FEINSTEIN; Mrs. FEINSTEIN; Mr. MCCAIN; Mrs. BOXER; Ms. CANTWELL; Ms. LANDRIEU has six amendments; Mr. BINGAMAN, four amendments; Mr. LEVIN; and Mr. CRAIG. The amendments are numbered from 878 to 918 inclusive.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 879. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—42

Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cochran
Craig
Crapo
Ensign
Enzi
Frist
Gramm
Grassley
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Landrieu
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thompson
Thurmond
Voinovich

NAYS—57

Akaka
Allard
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Thomas

The motion was rejected.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment.

Mr. NICKLES. I ask unanimous consent to vitiate the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 879) was agreed to.

Mr. DASCHLE. I move to reconsider that vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, we have been working with the distinguished managers of the bill. I would like to propound a unanimous consent request. I think it has the agreement of both sides. I have consulted with the managers of the bill.

I ask unanimous consent the Nelson amendment be the next order of business; that it be debated for a period of 3 hours, equally divided, and that the vote occur following the expiration of the 3 hours tonight.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I do not object. Would the distinguished majority leader make that verbiage "not to exceed 3 hours"?

Mr. DASCHLE. Mr. President, I would so ask, that it not exceed 3 hours; that the time be equally divided, and that there be no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, I ask the majority leader, I think there were two Nelson amendments, one was a 1-year and one is a permanent ban. Would you tell us which one this is?

Mr. REID. One is a year and one is 6 months.

Mr. NELSON of Florida. It is the 6-month ban identical to the House provision, amendment No. 893.

Mr. NICKLES. I shall not object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 893

Mr. NELSON of Florida. Mr. President, I call up amendment No. 893.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 893.

Mr. NELSON of Florida. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of funds to execute a final lease agreement for oil and gas development in the area of the Gulf of Mexico known as "Lease Sale 181")

On page 194, between lines 9 and 10, insert the following:

SEC. 1 . LEASE SALE 181.

None of the funds made available by this Act shall be used to execute a final lease agreement for oil or gas development in the area of the Gulf of Mexico known as "Lease Sale 181", as identified in the Outer Continental Shelf 5-Year Oil and Gas Leasing Program, before April 1, 2002.

Mr. BYRD. Will the distinguished Senator yield for a unanimous consent request without losing his right to the floor?

Mr. NELSON of Florida. Of course, I yield.

Mr. BYRD. I ask unanimous consent the committee amendment be agreed to, that the bill as thus amended be considered original text for the purpose of further amendment, and that no points of order be waived by this request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The committee amendment was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Florida.

The PRESIDING OFFICER (Ms. LANDRIEU). The Senator from Florida.

Mr. NELSON of Florida. Madam President, in offering this amendment, let me frame the amendment so everyone understands the context of the amendment. In the House of Representatives' discussion of the Interior appropriations bill some 3 or 4 weeks ago, a bipartisan amendment was offered by two Members of Congress from Florida.

The amendment that was attached by an overwhelming vote in the House of Representatives was with regard to a proposed lease sale, designated as 181, in the Gulf of Mexico, for the purpose of drilling for oil and gas. The House of Representatives, in a fairly substantial bipartisan vote passed a prohibition of the offering of the lease sale for 6 months. Specifically, this amendment tracks the House amendment identically, in essence saying no money appropriated under this act, the Interior appropriations bill, can be used for the purpose of offering for oil and gas drilling lease sale 181.

Lease sale 181 was originally proposed as a tract of some 6 million acres. It is in the eastern planning area of the gulf, an area that heretofore has not been violated with any drilling.

When the White House saw that there was considerable opposition, almost unanimous, from the Florida congressional delegation, the White House scaled back the proposal from approximately 6 million acres to some 1.5 million acres. It is in a location that starts to violate the eastern planning area of the gulf by some 1.5 million acres, in which drilling for oil and gas could occur.

Why am I opposed to that? I could say that clearly the people of Florida have expressed their opinion over and over and over again, in huge numbers, with huge majorities, whether that be in the expressions through previous bills in previous years, by both the Senate and the House delegations from Florida, or whether that has been in the body in which I last served as an elected, statewide cabinet official of the State of Florida, in resolutions by the Governor and the cabinet of Florida opposing offshore oil drilling off Florida.

Why is there such intensity in Florida about not having drilling in the eastern planning area of the gulf?

It is simply this: We have a $50 billion-a-year industry of tourism. A lot of that tourism is concentrated along the coast of Florida. The Good Lord has given us the beneficent sugary white, powdered sand beaches. The beauty of those beaches has attracted, over decades and decades—indeed, over the last century—people to come to Florida to enjoy our beautiful environment.

It is without question in most Floridians' minds that they see the possibility of oil spills from drilling off of Florida in the eastern gulf planning area, and it would, in fact, be a devastating economic blow—a spike right to the heart in our $50 billion-a-year tourism industry.

Floridians happen to have another reason for not wanting drilling. That is the fact that we are very sensitive about our environment. As a matter of fact, so much of our tourism is inextricably intertwined with preserving our environment and protecting it. The bottom line is that Floridians simply do not want waves of oil lapping onto the beaches.

I think we will hear testimony today by those who are on the opposite side of the issue who will say that drilling for oil and gas in the offshore Outer Continental Shelf has, in fact, became a lot safer. That well may be the case. But the fact is that according to the Minerals Management Service, the chance of an oil spill in lease sale 181 is all the way up to a 37-percent chance. Floridians simply do not want to take the risk of a 37-percent chance of an oil spill and that slick floating across the waters of the Gulf of Mexico and washing up onto the beaches of Florida where so much of our prized environment is displayed for the wonderful people who come to enjoy the natural bounty and beneficence of Florida.

I want to draw your attention to this map of the Gulf of Mexico. This map is very revealing with regard to the Florida story. I have talked to Senators in this Chamber who have had the White House tell them their side of the story. When they see this map, they say: I had no idea it was like that.

This map tells a completely different story. The story they are being told by the White House is that a compromise has been made that is acceptable, a compromise in which originally lease sale 181 included 6 million acres, part of which was this stovepipe that came up close to the Alabama shoreline, which was, in fact, within about 30 miles of Perdido Key, which is our western most beach in the State of Florida.

What they are being told by the White House is that the compromise of shrinking lease sale 181 is acceptable because it narrows it down, as represented here by the yellow, to a tract of 1.5 million acres instead of 6 million. They point out that it is 100 miles from Pensacola Beach, and that it is some 280 miles from Clearwater and St. Petersburg. Whereas, the original lease sale 181 was 213 miles from the west coast of Florida, and still 100 miles from here up at the top of the stovepipe. Of course, it was much closer.

But what they are not telling is the full story, and that is what I wanted to show with this map.

The green color indicates the existing drilling leases in the Gulf of Mexico. Beyond this boundary is the eastern planning area in which there is no drilling for the simple reason that Floridians have insisted each year that the threat is too great and the risk is too great to despoil our beaches and our environment.

As well as that, the estimated future reserves were expected to be very little. In all of the Outer Continental Shelf, which includes not only the Atlantic seaboard, all of the gulf, as well as the Outer Continental Shelf off of the west coast of the United States, California, Oregon, and Washington, 80 percent of the future gas reserves are estimated to be in the area that is already being drilled in the Gulf of Mexico—not in the eastern gulf planning area. And 60 percent of the future oil reserves are estimated to be in that area that is already being drilled known as the western gulf planning area and the central planning area—not in the eastern planning area.

We come to the table quite naturally to make our case to the Senate, having had the case overwhelmingly made to the House already that if the future reserves are mostly off the States of Texas, Louisiana, Mississippi, and Alabama, the area already being drilled, and the future reserves are not here, why take the risk of an oil spill that would despoil some of the world's most beautiful beaches that support the economy of Florida. To repeat myself, the Minerals Management Service says the chance of a spill in lease sale 181 is up to 37 percent. That is a risk simply not worth taking.

I think this map tells the whole story. This area has not been violated—an area called the eastern planning area. Now in the attempt at a so-called compromise, the White House is pushing 1.5 million acres that now go eastward into this area that has not been violated in the past.

As you can see, with all of this drilling activity, that yellow spot right there on this map of the gulf is what I call the proverbial camel's nose under the tent. You can see that dirty little nose sticking underneath the edge of that tent.

What is going to happen in the future? That camel is going to start crawling into that tent, and that drilling is going to proceed in an inevitable march eastward straight for Tampa Bay. The people of Florida think that is too much of a risk.

We could talk about energy and a lot of the things that we ought to be doing that are not the subject of this particular amendment, but I am compelled to bring up the fact that, goodness gracious, if we but improve the miles per gallon for new automobiles manufactured—and there is another very controversial lease sale, the Arctic National Wildlife Refuge—by 3 miles per gallon on all new vehicles—not the existing vehicles, new vehicles—it would save the equivalent amount of energy that would be produced by all of the oil to be drilled in the Arctic National Wildlife Refuge.

So as we approach an energy crisis—and I am looking forward to having a debate when the Department of Energy authorization bill comes to this Chamber—what Senator GRAHAM of Florida and I will probably be offering at that point is a complete moratorium. But for purposes of this Interior appropriations bill, I am offering an amendment that is identical to what was adopted in the House so that if adopted here this will not be an issue in the conference committee but, rather, would be accepted in the conference committee and would become a 6-month moratorium on the offering of this lease sale.

So perhaps what we ought to do is to rethink the White House's energy policy of drill, drill, drill. Drill in the areas where the future reserves are already proven. Drill in the areas where the States do not object to the drilling off their shore. Drill in the area where a State such as Louisiana really does not have the God-given beaches, the white sand beaches that we have in Florida that are so much a part of our economy.

Save energy by conservation. Use our technological prowess to produce an automobile that will have a much higher miles-per-gallon average.

I had the pleasure of riding in one of these hybrids. I could not believe it. It was just as comfortable. The car was just as roomy. The car had just as much pickup. In the hot summer Florida Sun, the air-conditioning worked just as well as any other car. All of the electrical demands of radio and CDs and tape players were all there, with no sacrifice.

As we drove down the road, I, as the passenger, could not help but have my eyes riveted to the TV screen in the middle of the console that showed how the engine would be running partly from the gasoline and partly from the battery, and when it was not running from the battery, that the battery, in fact, was recharging—a vehicle known as a hybrid. And I was astounded for my host, the driver, the owner of the vehicle, to tell me that, in fact, this hybrid got a total, in city driving, of 53 miles per gallon.

Can you imagine, if we used our technological prowess to get serious about our automobile and transportation fleets, how much energy we could save. Regardless of what we do here, I think that makes just good, sound national energy policy and that we ought to pursue using our technology to improve our miles per gallon.

But I bring that point up to say that we have an old country expression in Florida: There are many ways to skin a cat. And you don't just have to skin that cat by saying: We are going to drill, drill, drill; and we are going to do it to the risk of a $50 billion a year tourism economy in Florida. We know in this Nation what the spill of the *Exxon Valdez* tanker did to the shores of Alaska. We also know what the winds and the wave currents can do with an oil slick in carrying it hundreds of miles within days. And, ladies and gentlemen, Senators all, it is not fair and it is not worth the risk to Pensacola and Fort Walton Beach and Destin and Panama City and Mexico Beach, and all these fragile areas of the ecosystem around Apalachicola Bay, and the big bend of Florida, and down into Cedar Key and the mouth of the Suwannee River, and coming on down to the white sand beaches of Clearwater Beach and St. Petersburg, and then into the very fragile ecosystems of Tampa Bay, and on south from Manatee County and Bradenton, all the way south past Sarasota, down near Charlotte, and into Fort Myers—some of the most beautiful beaches in the world—and south of Fort Myers to Naples—one of the hottest spots for new people to come to Florida and enjoy the environment of Florida—just south of there to Marco Island—a place known as the "Ten Thousand Islands"—one of the most productive fisheries in the world, and not to speak of coming on around into the Florida Straits into this beautiful land known as the Florida Keys—something that ballads have made famous by people such as Jimmy Buffett who would tell you the same thing that I am telling you today: It is not worth the risk to the Florida environment nor to our economy. That 37-percent risk of oil drilling off of Florida could produce an oilspill that would become a slick that could travel, by wind and wave action, miles within days to despoil these Florida beaches.

So I make a plea on behalf of 16 million Floridians that the Senate will debate this, understand it. Do not confuse it by saying that this line is not over the Alabama line. Where is the Alabama line? The Alabama-Florida line is up here as shown on this map. These are the waters of the Gulf of Mexico. And this line right here is the line of demarcation, the beginning of the eastern gulf planning area that has never been violated by drilling.

So do not listen to the arguments that this is not over the line. This is over the line, 1½ million acres over the line. That simply is not worth the risk to us.

There are others who have a similar set of circumstances. I want to remind the Senators, the Senators of the Great Lakes, they do not want drilling off their shores. The Senators of New England, especially off of Maine, and that great lobster industry, they do not want the drilling off of their shores. The Senators of the eastern seaboard, with all of their tourism and ecological activities, don't want the drilling there. The Senators off the west coast of the United States don't want the drilling there either.

The fact is, the drilling has not occurred here for years because the future reserves are simply not there.

I am expecting others and I expect to be joined by my senior Senator, Mr. GRAHAM. What I will do is reserve the remainder of my time.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BREAUX. Madam President, parliamentary inquiry: What is the time sequence and who is in control of the time?

The PRESIDING OFFICER. There are 3 hours evenly divided on this amendment, and the Senator from Florida has used 25 minutes. There is an hour and a half remaining on the opposing side.

Mr. BREAUX. I yield myself 10 minutes from the time in opposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized.

Mr. BREAUX. Madam President, the subject matter is energy. I just came from a meeting with the Vice President and a group of Senators, both Republicans and Democrats, who are trying to see what we can do as a Congress to come up with an energy policy that makes sense for this country.

It is very clear that the United States at this time is in dire circumstances with regard to where we get energy, how much we get, and how much it costs. Over the last several weeks and the last couple of months, we have seen the price of gas go up. We have seen people panicking because they cannot afford their electricity bills because of the high price of natural gas. We see the uncertainty of areas of this country suffering blackouts and businesses having to close and suffer economic damage because they don't have enough energy.

At the same time, we import 57 percent of the energy we consume every day from foreign sources. Many of these foreign sources are undependable. They are not our allies, and they certainly do not have the best interests of the United States as the premise for their operations. Yet 57 percent of our energy comes from overseas. It comes from organized cartels that regularly do things for which, if done in this country, they would go to the penitentiary.

What they do every day is fix prices of energy that we have to buy from them. They tell us how much we are going to have to pay by controlling the amount they produce. Yet we as a nation, in the year 2001, have been comfortable with allowing that type of energy policy to govern how we exist when it comes to energy supplies.

If we imported 57 percent of the food we eat, people would be marching on the capital of this country saying that is an unacceptable condition because food obviously is important to our national security and the way we live in America. That is absolutely true. But it is no less true that when we import 57 percent of the energy, that is an unacceptable set of circumstances we must address.

How do we address it? Unfortunately, one of the ways that we have, over the years and over several administrations and over several Congresses, was to say what we were not going to do. We have said that we are not going to look for oil in the Outer Continental Shelf, which has some of the most promising resources of any place in the world off the coast of the United States; that we are not going to do anything from Canada to the Florida Keys because those areas are too valuable and should not be touched; and through congressional moratoriums and through Presidential moratoriums, basically everything from Key West to the border of Canada is off limits: Don't touch it.

In addition to that, when we look over to the west coast, which happens to have some of the States that consume by far the greatest amount of energy per capita, we have said, through moratoriums, both congressional and Presidential, that we are not going to do anything from Canada on the west coast all the way to Mexico on our southern border because those areas are pristine, they are nice, we should not have the potential for having an oil spill.

The only area of our Outer Continental Shelf in which we have had production, which produces the greatest amount of natural gas, the greatest amount of oil and gas, and has done so for the last 60 years, of the offshore areas is the Gulf of Mexico.

We have said we are not going to touch ANWR. We are not going to touch the Arctic National Wildlife Refuge. We will not touch the monuments. We will not touch the east coast. We are not going to touch the west coast. But go drill for oil and gas in the Gulf of Mexico.

I represent Louisiana. I am happy with that policy because it provides jobs. It provides energy. We make a contribution to solving the energy policy of this country. We understand it. We have developed the industry. We know its faults. We know what it can do and what it cannot do, and we have done it for 60 years. The technology that has been developed in the Gulf of Mexico is the technology that is used worldwide.

Less than 2 percent of the oil that is spilled in the oceans of the world comes from offshore exploration and production activities. Where does it come from? It comes from seepage, which is natural. It comes from ballast discharges from ships. And it comes from rusty, leaky tankers that import oil from all over the world.

The Senator from Florida mentioned the *Exxon Valdez*. That was not a drilling accident, that was a ship accident. That was a tanker delivering oil, as they do every day to the ports of the United States, where we import 57 percent of the oil that we use, coming to this country in tankers that have a far greater risk than any risk that possibly could occur from drilling activities in the offshore waters of the United States.

The State of Florida, under a Democratic Governor, Lawton Chiles, our good friend and our former colleague with whom I served in the Senate, and a Democratic President of the United States—at that time, President Clinton—reached an agreement on lease sale 181. It was proposed under a Democratic administration, and it was agreed to by a Democratic Governor. The original sale has the potential to supply Florida with as much as 7 years of the natural gas they use every day to cool their homes in the summer and to possibly heat their homes if it gets cold enough in the winter months. That sale can provide 7 years of their natural gas supplies.

They import 99 percent of the natural gas they use. Yet now they say: We are going to object to a sale that has been worked out, carefully crafted, proposed by a Democratic administration, approved by a previous Democratic Governor, because it has the potential to damage their coastline.

We have done that in Louisiana for 60 years. While the beaches of Florida may be prettier than the beaches of Louisiana, I argue that the value of the coastal estuarial area is no less valuable in Louisiana and Texas and Alabama and Mississippi than it is on the coast of Florida. In fact, I argue that the coastal estuaries of Louisiana are far more important in the sense that they are the habitat for waterfowl, for ducks, and for geese, and for finfish, and for shrimp, and for oysters, and for fur-bearing animals, alligators, everything that is important to an ecosystem.

We have been able to preserve those areas and to do so while producing the largest amount of oil and gas for our neighbors in the other 49 States in the history of this country. We have done so successfully. We have done so in a balanced fashion, and we have done so with a minimum impact. Is it perfect? Of course not, but nothing is perfect.

It is fine to drive around in battery-operated cars. I am all for that. It is great to have windmills, and it is great to have geothermal power. What is not great is to import 57 percent of our energy from foreign sources which are undependable and unacceptable. What if we start blocking the Gulf of Mexico? Are we going to fight to open up California? Are we going to fight to open up George's Banks? That is not going to happen.

I daresay we make a very serious mistake to say: Oh, let them do it over there, but not in my backyard. We will consume; we want it cheap; we want a plentiful supply; but, by golly, don't do it in my backyard. Do it somewhere else. We are too good to have oil and gas production off our coast because our beaches are clean.

Well, my beaches and coastline are also very valuable, but we also show that it can be done in a compatible fashion to produce energy needs for this country and at the same time preserve and protect the environment and wetlands.

The Democratic bill offered by the chairman, Senator BINGAMAN, calls for going forward with lease sale 181. A Democratic President proposed lease sale 181, and a previous Democratic Governor of the State of Florida approved lease sale 181. I don't know what has happened, and I don't understand the politics of it, but something has changed. The administration, in an effort to say, all right, we are going to do something—I think what they did was terrible. They took sale 181 and cut it by 75 percent. They said we are going to cut out 75 percent of the size of this lease sale and only allow 25 percent. I think that was a terrible decision. I told them that.

For them to now say Congress has to come in and postpone all of that—even the 25 percent remaining—is absolutely, in my opinion, unacceptable. If we are going to have an energy policy in this country that makes sense, we are going to have to have a balanced policy. I suggest that saying "not in my backyard, never, ever, don't want to see it, let's get it from somebody else" is unacceptable, not prudent, and is bad public policy. I think it is something that should not be adopted. At the appropriate time, I am sure we will have a vote on this. I hope colleagues will join with me in saying that at least in the Gulf of Mexico—if we can have it nowhere else—we will be willing to have a reasonable exploration program in an area where we have already done it for the past 60 years.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. NICKLES. I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Madam President, I yield myself 10 minutes in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 10 minutes.

Mr. NICKLES. Madam President, I listened to my colleague and friend from Florida on his amendment that would basically block any production in a large area of waters, not only off the coast of Florida, but also off Alabama, Mississippi, and Louisiana.

I have great respect for State sovereignty and for listening to Senators who are dealing with areas surrounding their States. When they talk about the Everglades, I want to listen. I want them to listen to me when I talk about Oklahoma. I have a tendency to give great deference to Senators from their home States. I think the Senators from Alaska know Alaska much better than we do, and we should listen when they have recommendations to make about their lands, the development of it, and the balance of policies.

I also think we should listen to Governors. I know this lease sale 181 was somewhat controversial. I was kind of disappointed. I know originally Governor Bush of Florida was opposed to it. He is not opposed to the modification. The amendment of the Senator from Florida would stop any lease in this entire area. This lease, as modified, has been reduced by 75 percent. The lease that we now have, which the administration has negotiated with the Governors of Florida, Alabama, Mississippi, and Louisiana, has been agreed to by all of the Governors, including the Governor of Florida.

So I am thinking, wait a minute, I want to listen to the Senator from Florida and give him some deference, but this is not just off the coast of Florida. This is not even close to the coast of Florida. This is 285 miles from Tampa—285 miles. If someone visits the coast of California, they will see a lot of rigs that are in State-controlled waters. That is within 3 miles of the coast of California, which also prides itself on beautiful beaches and shoreline. They don't want those desecrated in any way. Neither do I. I happen to be a fan of the beaches, and I want to keep them as pristine as possible. But I want to use common sense, too—285 miles from Tampa, 138 miles from Panama City, 100 miles from Pensacola.

I heard my colleague say, "This is in Florida waters." It is not in Florida waters. This actually goes down the borderline, and it is on the Alabama side. The negotiated deal—and maybe this was to get the Governor of Florida to support this deal, but all of the lands directly south of Florida were taken out of the lease.

I agree with my colleague from Louisiana; I think the administration gave up too much in the negotiation. They took a lot of potential area—area that is well beyond the boundaries—and said we are not going to ever look at those lands. I heard my colleague from Florida say that there is not much there. Well, we don't know because there hasn't been any exploration. There is not simultaneous desecration of the beaches because somebody happens to do some exploring to find out whether there is any potential for gas.

I am bothered by the fact that maybe there are people saying, yes, we know this is an energy problem, but don't touch it in my backyard. I understand that. But this is not somebody's backyard when it is 285 miles away or it is 100 miles from the closest point to someone's State. That is not in their backyard; that is a long way away.

As a matter of fact, we have formulas that share royalties and lands that are offshore areas that are close to lands and get a higher royalty. This is not close; this is in Federal waters a long way from the State of Florida. The very fact that the Governors of Alabama, Mississippi, Louisiana, and Florida support this modified sale tells me it is a reasonable compromise and one that should not be vitiated or postponed indefinitely.

I know one amendment says to postpone it permanently and another says for a certain period of time. It basically says: We don't want to drill or explore or have oil and gas, but, incidentally, we would like to have a pipeline to run from Mobile, AL, down to southern Florida because we are going to need gas.

As a matter of fact, the State of Florida is the third largest consumer of petroleum products in the country. Yet they are saying don't drill or touch or explore anywhere hundreds of miles from our coast. I find that to be inconsistent. Are we going to say you don't get to use natural gas or oil? Don't they use oil and gas? Yes, they are the third largest consumer of petroleum products in the country. It is a growing State and a beautiful State. There is nothing inconsistent with having some exploration off the gulf coast.

If you listen to my colleagues from Louisiana, Mississippi, and Alabama, there is a lot of drilling off the coast of Louisiana. If you look at the map in the Venice area, and so on, there is a lot of activity in those areas. They have been able to do it in ways that preserve the beautiful environment of southern Louisiana and Mississippi. Southern Mississippi and southern Alabama also have a coast, and they have casinos, and they have a lot of tourism in those areas. They are concerned about them. It can be done in an environmentally safe and compatible manner and in a way that provides energy resources that are needed to keep the lights on, to keep the jobs going, to keep the economy growing, to keep the tourists renting cars and visiting the beaches and enjoying the Florida coast.

To say we want to have a moratorium on any exploration this far removed—285 miles from Tampa or 100 miles from the coastal point in Florida—I think goes way too far. At some point, somebody is going to have to say, wait a minute; use a little common sense.

I do not think, with all due respect, this amendment should be adopted. I understand the intention. I do not question the motivation of my colleagues from Florida for offering the amendment, but when the Florida Governor supports this modified lease, when the other Governors who are logistically much closer to this potential lease support it, I say let this go forward; let's not block it; let's not block it indefinitely; let's not make this dependency on unreliable sources even greater.

That is exactly what we are doing. Some people are asking the question: How did we get into this energy crisis? Why are we importing 56, 57 percent of our gas needs? And that number will increase as the years go by, especially if we adopt these kinds of amendments.

If my colleagues want to increase our dependence on unreliable sources, such as in the Middle East, on Saddam Hussein, on people who have political agendas directly contrary to ours, then support this amendment. It is very shortsighted for energy policy; it is very shortsighted for the well-being and future national security of our country; and it is very shortsighted for the people of Florida who need energy, who happen to live in one of the growing, thriving economies in our country which needs energy—oil and gas.

This amendment is a serious mistake, and I urge my colleagues to support us. When we make a motion to table the amendment, I urge our colleagues to support that motion.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana.

Mr. BREAUX. Madam President, I am not sure who controls the time in opposition. I yield whatever time the Senator needs. Ten minutes?

Mr. MURKOWSKI. I am looking for the brilliant staff to plead my case.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. BREAUX. I will take 5 minutes off the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Madam President, so that people who may be watching on their monitors in their offices can understand a couple things about lease sale 181, this lease sale did not happen overnight. As I indicated before, when President Clinton was serving in office and negotiating with Governor Lawton Chiles —two Democrats—on this lease sale 181, President Clinton said: We are going to set off limits all the areas in the eastern gulf, but we are going to have lease sale 181.

In 1996 when they released the plan, the Governor of Florida, Lawton Chiles, expressed his appreciation for Minerals Management designating lease sale 181 to not be within 100 miles of the coast of Florida. It is 70 miles off the coast of Louisiana. It is much closer to Louisiana, but in no case is it within 100 miles of the coast of Florida. It is 285 miles from Tampa, 213 miles from their coast, 138 miles from Panama City. It is only 70 miles, as I indicated, from the coast of Louisiana.

In 1996 when we had a Democratic Governor and a Democratic President, they thought this compromise was fine and agreed to the compromise at that time and said this is something that fits into our plans for energy and thank you very much for making sure it does not come within 100 miles of the coast of Florida. That was their agreement.

It has proceeded forward under those terms until, because of opposition of the current Governor of Florida, the administration lopped off 75 percent of the sale in addition to that agreement in 1996. This amendment takes the remaining 25 percent and says we cannot have that either.

As the Senator from Oklahoma has indicated, when one is talking about a balanced energy policy in the country, this is something that is not acceptable.

The other point I will make is we have done exploration in the eastern Gulf of Mexico for decades. This is not a first movement into the eastern Gulf of Mexico. Drilling for natural gas and oil has occurred in the eastern Gulf of Mexico for more than three decades. For more than three decades we have had activities off the Destin Dome, which I happen to love, which is a beautiful part of the country. I spent many summers on the beautiful beaches in Destin.

They have not gotten anything. They have had extensive exploratory wells. Shell had in the past a bunch of dry holes right off Pensacola.

We have been drilling in the eastern gulf for three decades. I suggest it has been done without any problems, without any spills or anything of that nature.

We have a compromise based on a compromise based on a compromise. Yet today we have an effort to say even those compromises are unacceptable.

If you have a State that imports 99 percent of the natural gas they consume, they, too, have an obligation to help contribute to the supply of something that is clearly the cheapest burning fuel in the world.

Unfortunately the area they knocked off, the top area, is the area that has the greatest potential for natural gas because the natural gas fields are flowing off the coast of Louisiana, moving in a northeast way. All the activity has been in that area. That is where the natural gas is. Unfortunately, it has already been removed. That is where most of the natural gas potential is.

As I indicated, the Minerals Management survey said if you have wholesale gas, that could supply as much as 14 years of the natural gas needs for the State of Florida. With the reduced area, the projection is, even lopping this off, it has enough potential natural gas alone to supply Florida with 7 years of their natural gas needs for cooling, operating their industries and businesses, and also for heating in the winter whenever it might be necessary on those rare days.

To say this compromise is still not acceptable is, in fact, unacceptable and the amendment should be tabled.

Mr. NICKLES. Will my colleague yield?

Mr. BREAUX. I will be happy to yield.

Mr. NICKLES. I know in the State of Louisiana and I know also in the State of Texas there is a lot of activity off the coast. I asked my staff to find out what percent of our domestic oil production and gas production right now comes from the Gulf of Mexico. They told me about 25 percent of our domestic oil and 30 percent of our gas is produced in those areas.

That is a big chunk of our domestic production: A fourth of the oil and almost a third of our gas. Has that production caused harm to the ecology, to the environment, to the coast of Louisiana, to the wildlife which is so abundant in the southern part of the State of Louisiana?

Mr. BREAUX. The Senator makes a very good point. I answer his question with two points. Some in Florida—and I understand their argument—say we have beautiful beaches; we do not want oil to be spilled around our beaches.

I do not want it to happen either. I argue the wetlands in Louisiana, which are about 25 percent of all the wetlands in North America, with the wildlife—the birds, the ducks, the geese, fish, shrimp, oysters, fur-bearing animals, alligators—all of that ecosystem which is probably the most complicated anywhere in the world has been able to thrive and do very well in supporting those wildlife features and at the same time support the largest amount of oil and gas production anywhere in the world.

In addition to that, the statistics say what the risk is. Advances in technology have made this operation the cleanest activity of finding energy anywhere in the world. For example, for the period between 1980 and 1999, a 20-year period, 7.4 billion barrels of oil have been produced in the Outer Continental Shelf with less than .001 percent spill. That is a 99.999 percent safety record for oil.

I dare any industry anywhere to come up with those safety numbers. That shows we can have that kind of activity which produces that amount of oil with that little oil spill.

If we had a lousy track record out here, the Senator would be correct in saying do not put it here because it is going to damage our coast. But if one looks at the last 60 years, one can see what has occurred is huge amounts of production and yet a very insignificant amount of spill into the waters of the ocean.

Mr. NICKLES. Will the Senator yield for one other comment?

Mr. BREAUX. Yes, I yield.

Mr. NICKLES. Isn't the risk of spillage even greater from shipping, tanker movements than it is from the production record in the Gulf of Mexico?

Mr. BREAUX. We have been doing this for a long time. I say to the Senator from Oklahoma, when I was in the House in the seventies—it seems like the Dark Ages now—we wrote the Outer Continental Shelf Lands Act. We had the National Academy of Sciences—and it has been updated. This is not the National Petroleum Institute; this is not the State of Louisiana, but the National Academy of Sciences said less than 2 percent of the oil that is spilled in the oceans of the world come from offshore drilling activity—less than 2 percent. Most of it comes from tanker discharges with rusty bucket tankers bringing in oil from foreign countries, as we have happening in this country, from natural seepage, from ballast discharges, and from other activities, allowing nonpoint source runoff into the Nation's waters, into rivers, and finding its way into our bodies of water. Less than 2 percent of oil that is spilled in the oceans of the world, the National Academy of Sciences says, comes from OCS activities.

I think that is an enviable record for anyone.

I yield whatever time the Senator from Alaska requires.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I would like to reflect on some realities associated with this project because I think there is a question as to what the risk is. What is the risk to the residents of Florida? What is the true understanding of what this risk is? What are we talking about developing? We are talking about developing, in this lease sale, a significant, known deposit of natural gas.

When you take natural gas out of the reserve and you take it ashore and condition it, basically you are taking out the impurities, the wet gas. You are taking the oil that happens to be mixed in it, you are taking it ashore, conditioning it, and then moving the clean gas, in theory, to Tampa where it would be utilized for the benefit of Floridians.

What is the risk associated with that conditioned gas? It is pretty minimal. If you had some kind of fracture of that pipeline, you are not talking about unconditioned gas, which includes oil and various components associated with hydrocarbons; you are talking about pure, conditioned gas. It would bubble up and dissipate. You are not talking about moving crude oil or the risks associated with crude oil from a pipeline.

We have heard of the NIMBY theory: not in my backyard. I think that has been pretty well exercised. But one of the things that is frustrating—obviously, I do not have a constituency in Florida, but I am sensitive to the concerns of my friend from Florida relative to what is good for his State. But at what point do we have a reasonable definition of what is offshore of my State or the State of Louisiana or any other State? This is 285 miles, in one case, to this area which is now the alternative that has been agreed upon. According to my understanding, it has been agreed upon by basically all the parties concerned.

The Secretary of the Interior modified the boundaries of the lease sale in response to the concerns of the State of California, the Governor of California. The indication by this agreement is there will be absolutely no new leases off the coast of Florida. They have modified the sale to one-fourth of the original lease area. What constitutes a reasonable determination of what is offshore? We used to have the 3-mile limit. We have the 12-mile limit. We have the economic zone. Now we are 285 miles to 213 miles offshore and we are saying that is offshore. I think we have to be reasonable.

Therefore, the amendment proposed by my colleague from Florida that would cancel the authorization for even the compromise, I have to state in my own opinion, is rather unrealistic.

I want to show another chart because I think it reflects a reality that is occurring. That is the NIMBY theory: not in my backyard. We have taken the entire east coast off limits for oil and gas exploration. We have taken the entire west coast off limits for exploration. We have taken an area of the overthrust belt in Montana, Colorado, Wyoming, a number of States known to have significant deposits of natural gas. As I recall, it is about 23 trillion cubic feet of natural gas that was found in this area, known to exist, available for commercial recovery, and with the last administration banning road access into these areas we made these areas off limits. Where is the energy going to come from in this country?

If we look at realities associated with the status of the OCS leasing program as evidenced by the next chart, I think we can get a better understanding of just what is happening.

These are various provinces. These estimates show oil and gas potential reserves; whether you start in Washington-Oregon or northern California or central California or southern California, you note and identify reserve estimates of considerable merit. The only problem is the areas were withdrawn from leasing through January 30, 2012.

These were done, for the most part, without any public hearing process before congressional bodies. These were done at the request of individual Members, attaching riders to legislation moving on the floor. So they really have not been subject to any debate. Some have been included in previous Interior appropriations bills. If you look at the entire east coast, you will look at the North Atlantic area, the mid-Atlantic area, the South Atlantic area, all with considerable oil and gas potential from the standpoint of estimated reserves. They, too, are off limits—everything in the buff color.

If we go down to Florida the same thing is true in the eastern Gulf of Mexico; it is off limits. The remaining area, the blue area, is off the coast of Texas, Louisiana, Mississippi, and Alabama. The occupant of the chair is well versed, obviously, in the significance of what oil and gas development does in the State of Louisiana. But why should Louisiana alone, and to a degree Texas and Alabama and Mississippi, have to bear the brunt of the requirements of the rest of the Nation when they do not have to share in any of the impact?

The occupant of the chair was very active in CARA legislation last year, which was to suggest that, indeed, these States impacted deserve some consideration associated with the impact of activity off the shores of Louisiana, Texas, Alabama, and Mississippi—and justifiably so. That was not resolved to the satisfaction of those of us who supported it. That was, indeed, unfortunate. We are going to come back again. Because if you are looking to just a few States to support the rest of the Nation, those States that have to bear that impact are entitled to some consideration. That consideration was to come from the Federal account associated with oil and gas funding that came into the Treasury.

I think we have, if you will, an obligation to address the responsibility of those States that have to bear this burden and have not been given the courtesy, or the consideration of any sharing of funds that go into the general fund, a portion of which should certainly go to these States.

As we look at reality, again the red indicates existing leases; the buff color is the national marine sanctuaries; we have my State of Alaska here, an area off the Aleutian Islands in Bristol Bay that is also off limits, but we have 31,000 miles of coastline in the State of Alaska.

What has happened over an extended period of time is not much credit has been given to the capability of the industry to develop oil and gas safely in OCS areas. They have a remarkable safety record. It is not perfect by any means, but it is improving with advanced technology and will continue to improve because the consequences of an accident are so devastating. So the interest is certainly there as is American ingenuity, American know-how, and American capability, to ensure, if you will, that the risk is minimal.

Make no mistake about it. I think it is disingenuous, in a sense, to simply take for granted that most of the 50 States enjoy oil and gas, and they don't give a moment's consideration that it has to be produced from somewhere. Somebody has to discover it. Somebody has to produce it, refine it, and distribute it. We all take these things for granted.

When we recognize how significant it is that there are so few areas supporting the rest of the Nation, I think we have to recognize reality and where we go from here. If we want to import energy, that is fine. Then we are going to be beholding more and more to the merits of the OPEC cartel and others who have traditionally had a significant capability in producing energy. But the ramifications of that dependence speak for itself. If you look at our relationship with Iraq, on the one hand we are importing oil and on the other hand we are enforcing an air embargo. An air embargo for all practical purposes is similar to what you do in the ocean when you stop all shipping. That kind of an action is potentially an act of war in the minds of many.

As a consequence of our increased dependence on foreign energy sources, we sacrifice to some extent the national security of this Nation. We sacrifice as well our oil dependence. We increase our balance of payments. I could go on and on with the dangers associated with increasing dependence on imported oil.

I think we should go back again to the chart and ask what is reasonable relative to States that do not want oil and gas activity off their shores. The proposed agreement put together with the cooperation of the Secretary of Interior and the Governor was basically three-quarters of the area has been withdrawn and we are still looking at something like 213 or 285 miles offshore. It is certainly beyond the reasonable consideration given to the protection of individual States from oil and gas. This is 100 miles from Pensacola; 100 miles from Mobile, AL; Biloxi, 123 miles; Venice, 70 miles. It is a long way out there.

Again, if you look at the experience of the industry in the Gulf many miles offshore from Louisiana, they are drilling now in 3,000 feet of water. They have developed the technology to have lease sales on 6,000 feet of water.

When you have an agreement put together, you have to respect it. What does the Governor of Florida say about the Secretary's decision? My understanding is that he supports it. The statement by Governor Jeb Bush regarding Lease Sale 181 is that today's unprecedented decision reflects a significant problem in Florida's fight to protect our coastline. In its defense of Florida's coastal waters, the Department of Interior's proposal under President Bush goes far beyond any previous proposals contemplated by past administrations, including the Clinton and Chiles administrations. As a result, there will be no new drilling in the Lease Sale 181 areas off the coast of Florida. That is a statement of the Governor of Florida.

There is an agreement. It has been developed as a compromise between the Secretary of Interior, the Governor, and certainly it is beyond the reasonable consideration of what point are we going to put our body, so to speak, in front of the reality that we have to develop energy in this country. You can say, if 285 miles is too close, why don't we go 500 miles? Where is the limit? This is truly beyond the limit of reasonableness.

I think the amendment by the Senator from Florida really is unnecessary. You have an agreement now. It appears that most parties are happy.

Again, if the argument of the Senator from Florida prevails, then to what extent are we going to limit, if you will, reasonableness in determining where a lease sale offshore can take place, if one can't take place as proposed in the amendment between 213 and 285 miles offshore?

For the time being, that pretty well accounts for my opinion as to the necessity of recognizing where energy comes from and the reality that we have a workable compromise which certainly seems fair and equitable.

When you consider reasonableness on the distance from the coast of Florida, the reality that Florida will benefit in receiving conditioned gas from this lease sale and the practicality that if it doesn't go to Florida, Floridians are going to be paying a higher transportation cost at least for their gas because that gas will have to come overland from either Louisiana, Mississippi, or Alabama, then across country and down into Florida, Floridians will then be paying undoubtedly a higher price. But the most efficient way to transport their gas is through a pipeline to Tampa.

I yield the floor.

The PRESIDING OFFICER (Mr. REED). Who yields time?

Ms. LANDRIEU. Mr. President, I do.

The PRESIDING OFFICER. Without objection, the Senator from Louisiana may proceed under the time in opposition.

Ms. LANDRIEU. Mr. President, my colleague from Florida wishes to speak at this time. I will reserve my time after he speaks for about 10 minutes and will speak in opposition to the amendment. But in all fairness to the proponents, I would be happy to allow him to go first.

Mr. BREAUX. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The sponsor has 64 minutes. The opponent has 45 minutes.

Without objection, the request of the Senator from Louisiana is agreed to.

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I want to respond to some of the things that have been said on the floor. The Senator from Alaska has referred to the proponents of this amendment throwing their bodies in front of the train, a vehicle, or whatever. I gladly do so because of the stakes that are in this for the State of Florida.

I would like to point out that according to the statistics compiled by the Department of Interior, during the period between 1980 and 1999—almost two decades—some 3 million gallons of oil was spilled from Outer Continental Shelf oil and gas operations in 73 incidents. In addition, in one incident in April of this year, more than 90,000 gallons of saltwater and crude oil spilled out of a pipeline in Alaska's North Slope, becoming the fourth major incident there.

I point out the Department of Interior statistics simply to counter the perception that all of the Senators who have spoken in opposition to this amendment, of invading the eastern Gulf by drilling in an area which heretofore has been off limits to drilling, come from an oil-producing State.

What do you expect? They articulate the interests of the economic engines of their State. But when they give the impression that, in fact, offshore oil drilling is so safe, that there is no risk, and say instead the risk is in tankers, indeed, we know the risk in tankers because we saw what happened with the *Exxon Valdez*. But when they point out the fact that oil drilling and gas drilling is so safe and there are no spills, that is not what the facts say as compiled by the Department of the Interior.

Some 3 million gallons of oil from Outer Continental Shelf have been spilled in 73 incidents in time period between 1980 and 1999.

I want to clear up another statement that was made. It is stated there is all this oil out there. That is contrary to all of the engineering and the technology we have seen.

Indeed, let me tell you what has been estimated is in this lease sale 181. It is not some huge find. In this new lease sale 181, it is, in fact, a find of only 10 days' worth—10 days, T-E-N, 1-0—of energy for this country. Is that worth the risk to an industry that needs to protect its beaches and its environment? I say that it is not worth the tradeoff. It is not worth the risk.

As a matter of fact, the Natural Resources Defense Council has stated that in the eastern Gulf of Mexico, where the oil and gas industry has been pressing to drill—this area that, as you can see, is not violated, including this area shown on the map that is shaded in yellow, which is the subject of the lease sale we are trying to block—indeed, it said 60 percent of the Nation's undiscovered economically recoverable Outer Continental Shelf oil and 80 percent of the Nation's undiscovered economically recoverable Outer Continental Shelf gas is located in the central and western Gulf of Mexico.

So protecting this area that for years we have had a moratorium on because of its sensitivity to the ecology and economy of the surrounding areas—protecting that area will still leave a vast majority of the Nation's Outer Continental Shelf oil and gas available to the industry.

According to one study that even minimizes the risk of an oil spill, the chance of an oil spill in this area is as high as 37 percent. That is according to the Minerals Management Service.

So I want to respond to my colleagues, all of whom are from oil States, I want to make it very clear to them, this is not a NIMBY amendment that we are offering. We are not saying: Not in my backyard because oil rigs might spoil the view from our famous beaches. Indeed, we acknowledge that the latest plan—not the former one but the latest—would keep them out of sight. But Florida is unique in its dependence on those beaches, and it is unique on its dependence on the visitors who come to those beaches. Expanding drilling into this eastern gulf poses a serious risk not only to our precious natural resources but also to our entire economy.

Tourism is the lifeblood of that economy. It is in the range of $50 billion a year. Nothing could wreck our tourist industry quicker than waves of black oil lapping up on our white-sand beaches, regardless of whether the spill occurred 30 miles offshore or whether it is 100 miles offshore.

By the administration's own reckoning, the new leases would provide only enough oil and natural gas to meet just a few days of our Nation's needs. Is that worth the risk? Of course not. This is a commonsense approach. It is not worth the risk—not to Florida, not to the Nation—and it is not worth the risk to an area whose economy is so intertwined with a lot of the population that do not want this drilling.

My amendment would prohibit the Interior Department from selling new oil and gas leases anywhere in this eastern gulf planning area for 6 months from the time of enactment of this bill—only 6 months. It is intended to be a first step toward what I hope Senator GRAHAM and I will be able to offer—and I think we have assurances of offering an amendment to the Energy Department authorization bill for a continuation of this moratorium. For the sake of Florida, and for the sake of our Nation, I ask for your support.

I reserve the remainder of our time and yield the floor.

Mr. DASCHLE. Mr. President, we have been consulting with Senators on both sides of the aisle. I appreciate very much the help and cooperation of both our managers. I am now at a point where I can make a unanimous consent request.

I ask unanimous consent that the vote in relation to Senator NELSON'S amendment No. 893 occur tomorrow morning immediately following the cloture vote on the motion to proceed to the House bankruptcy bill, H.R. 333, and that there be 4 minutes of debate equally divided between the votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, in light of this agreement, there will be no further votes today. We will resume consideration of the bill tomorrow after the cloture vote. The managers have indicated to me that they believe we can finish the bill tomorrow. If we finish the bill tomorrow and dispose of the Griles nomination tomorrow, then we will have no other rollcall votes on Friday or on Monday. There will be tomorrow, as I noted in the unanimous consent request, a debate for a period of 3 hours, beginning at 9 o'clock, on the House bankruptcy bill, H.R. 333.

Following that, we will then come back to the Nelson amendment on which there will be 4 minutes of debate equally divided.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Louisiana is recognized.

Ms. LANDRIEU. Thank you, Mr. President.

Mr. President, I have the greatest respect for my colleague who has recently joined us in the Senate from the great State of Florida. I have so enjoyed working with him on many issues that are important to us, such as education and health care, issues on which our constituencies have a great deal in common. I look forward to working with him in the future as well. But I am unwilling to support his amendment on this particular issue for, I think, many good reasons.

I urge my colleagues to vote against this amendment because not only is it not the right thing for Florida or for Louisiana or the gulf coast, it is not the right direction we need to take for our Nation. It will not put us on the right path for a sound energy policy, self-sufficiency, or necessarily for a cleaner environment in this world that we need to treasure more.

I associate myself with the remarks of my senior colleague from Louisiana, who has been a wonderful and very eloquent spokesperson, displaying a lot of expertise in this particular area both during his years in the House and now in the Senate. He continues to bring this Congress, both Democrats and Republicans, to some reasonable arrangements regarding the energy needs for our Nation.

I also associate myself with the remarks of the ranking member of the Energy Committee, Senator MURKOWSKI, and acknowledge his leadership in this area.

Mr. President, as the Scripture says: "Come, let us reason together." If there was ever a time when Members of the Senate —both Democrats and Republicans—need to sort of lay down our swords and come, reason together, this is it because our country needs a well thought out, well-balanced energy policy. And in crafting one, we are all going to have to give a little as well as bend a little to do what we need for this Nation to sustain, support and protect the economic growth that is threatened by backward politics as in this case.

This is much broader than a few oil and gas States against the one State of Florida.

This debate is about national security and our economy. It is about compromise and common sense. It is an important debate.

To answer some of the points raised by the Senator from Florida, first, it is important to say that one of the proponents of this argument in the House said that people such as myself, or those of us who are trying to make the argument that if you want to consume oil and gas, you need to be willing to produce it as well, said if that was the case, then it goes to say, if you don't raise pigs in your backyard, you shouldn't eat bacon.

That might make some sense initially in its first blush. However, the fact is, every State produces some food product that we all consume. Florida produces wonderful oranges. I have enjoyed them every year. Louisiana produces some as well. The State of the Presiding Officer has commodities of which it is proud. Some of us grow cotton. Some of us grow soybeans. Some of us grow wheat. Some of us run cattle. Some of us grow other food products. We all contribute to the overall food supply of this Nation.

While we don't all grow the same crop, while we don't all run the same kind of cattle or livestock, every State in the Union contributes to the food supply of this Nation. That is the way it should be.

Every State should also contribute to the energy supply of the Nation. We have great resources in oil and natural gas. In addition, there is clean coal, nuclear and hydropower. We have a diversity of fuels to choose from in this nation and we should make use of all of them.

This attitude of "I want to consume the power, but I refuse to produce the power" has got to come to an end. It is not fair. It is not right. It is not smart. If we get caught up in this hysteria, we are going to lead this Nation into a dangerous place where our businesses are hurt and our economy cannot survive.

Let me talk about the State of Florida.

The State of Florida is the third largest consumer of petroleum products in the Nation. The State of Florida only produces, however, roughly 2 percent of the petroleum that it consumes and a very small percentage of the natural gas.

From 1960 to 1994, Florida electrical demand increased 700 percent. It is not the only State that has increased its demands, but it has been one of the fastest growing States. We are all happy and proud of the development in Florida and we want Florida to continue to grow and to expand, as we want all of our States in this Union to grow and to prosper but it must hold up it's end of the bargain as well.

From 1960 to 1994, Florida's fossil fuel use for electrical generation, made necessary by this extraordinary growth in population and electrical demand, has increased 551 percent. More than 80 percent of Florida's electrical demand is met today by fossil fuels.

Right now Florida, as every State, uses energy produced by fossil fuels. In south Florida, the natural gas demand for electricity generation purposes is expected to double by the year 2008. However, there are no increases in the number or size of nuclear power or hydroelectric power foreseen in Florida to supplement this need.

There is rising demand in Florida but it makes it quite difficult for those of us from Alabama and Florida to want to help in Florida when they are not willing to help themselves. It makes it very difficult for us to want to help Florida when they are not willing to help themselves.

There is not yet the significant increase in solar or wind production in Florida or generally in the United States, to adequately take the place of fossil fuels. Although those technologies are very promising we have not made the adjustment yet. I disagree with the President's decision to cut funding for those kinds of research and development projects. We need to increase funding.

In addition, from 1995 to 2002, a minimum of 24 new electrical generating plants will be added to Florida's power grid, and 21 out of the 24 new plants that are being planned for and designed today have to run by natural gas.

This amendment doesn't make sense for Florida. It doesn't make sense for Louisiana, Alabama, Texas, Mississippi, or the Nation but it certainly does not make sense for Florida. Florida needs more natural gas, not less.

I grew up on the beaches of Florida and appreciate their beauty. My family vacations all over the gulf coast. The compromise announced by the Administration, which is threatened by this amendment, allows us to salvage almost half of the natural gas and oil resources from the original lease sale area and is more than 100 miles from any part of Florida's coast.

It is not just Louisiana or Florida waters where there is gas and oil but the waters of the United States. In this day and age we can drill with minimal footprints and minimal risk to not only the Florida coast, but the entire gulf coast, and also provide states such as Florida, Mississippi, Alabama and Georgia with the power we need to grow.

I want to talk about that growth for a minute. When we talk about growth, we are talking about jobs, about people creating wealth, about people having a dream to start a business, about a new family buying their first home, and the electricity they need to run that home. This is about people who need to get to work, and the transportation they need to get there. This is real. This isn't about mere statistics. If we can't power our economy, how can people feed their children and families?

Let me talk about risk for a moment. We have had people come on the floor and say we can't risk the beaches. However, in reality there is minimal risk. As the senior Senator from Louisiana pointed out, there is minimal risk associated with drilling. There is more risk from the possibility of oil spills when tankers have to transport the oil to our country.

This amendment, and others like it, will not decrease the risk, it will increase the risk because we will have more tankers coming into this Nation. The environmental leaders should be strong enough in this Nation to stand up and admit this fact.

There are also other risks to consider. The risk of a recession. I want the President to know I strongly disagree with his decision to modify this lease sale. He should have held his ground. We should be exploring for oil and gas in this entire lease sale area as originally proposed. If we do not supply states such as Ohio, California, Illinois or Louisiana, with the oil and natural gas to generate the power they need, we risk jeopardizing the economic future for our Nation. So if we are going to talk about risk, let's not just talk about environmental risk, let's talk about other risks to this Nation.

Another important risk to consider is that of our national security. The risk of our dependence on oil from the Mideast is well known. I don't mean to be overly dramatic, but I want this Senate to know that this is not just a fight between Alabama and Florida or a fight between Louisiana and Florida; this issue involves the entire country. I urge my colleagues to vote against this amendment.

Let me talk about a more parochial issue as a Senator from Louisiana. We are proud of the contribution we have made to the oil and gas production in this country. However, the people in Louisiana also want a clean environment. The industry that operates off our coast has made great strides in making sure we can produce the oil and gas necessary to support the electricity needs of this nation while doing so in an environmentally responsible manner.

Louisiana and other gulf coast States have argued for some time now that if we are going to continue to drill in the central and western gulf there should be reasonable compensation not only for the environmental impact, but also for the infrastructure necessary to produce this oil and gas that is crucial to our nation.

Louisiana, Alabama, Mississippi, Texas and other States are asking to share more equitably in the revenues that are produced from this offshore development. Currently, if $2 billion in royalties is collected from production in the Gulf of Mexico, all of it goes into the Federal Treasury and is being spent in a variety of different ways. However, the states that permit production off their shores should be compensated fairly for their contribution to the nation as well as the impacts they incur. Whatever we decide and however we can come to terms, as reasonable people can agree, I hope one thing we will agree on is that, because interior States get to keep 50 percent of the revenues from development in their states, the States that are serving as a platform for offshore production will be fairly compensated as well.

In conclusion, we do not want to drive this industry off the shores of our Nation to other places in the world. We need a viable industry here for economic as well as national security reasons.

I urge my colleagues to vote against this amendment. With all due respect to my good friend, the Senator from Florida, this is not the right direction in which to lead our Nation.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, this is not related to the issue at hand, although I want to speak on that under whatever time I am yielded. This is under leader time on a resolution. I believe Senator DASCHLE will be joining me momentarily. We want to be sure to do this when we both can be here.

COMMENDING GARY SISCO FOR HIS SERVICE AS SECRETARY OF THE SENATE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 127, which is at the desk, and ask that the resolution be read in total.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 127) commending Gary Sisco for his service as Secretary of the Senate:

S. RES. 127

Whereas, Gary Sisco faithfully served the Senate of the United States as the 29th Secretary of the Senate from the 104th to the 107th Congress, and discharged the difficult duties and responsibilities of that office with unfailing dedication and a high degree of competence and efficiency; and

Whereas, as an elected officer, Gary Sisco has upheld the high standards and traditions of the United States Senate and extended his assistance to all Members of the Senate; and

Whereas, through his exceptional service and professional integrity as an officer of the Senate of the United States, Gary Sisco has earned the respect, trust, and gratitude of his associates and the Members of the Senate: Now, therefore, be it

Resolved, That the Senate recognizes the notable contributions of Gary Sisco to the Senate and to his Country and expresses to him its deep appreciation for his faithful and outstanding service, and extends its very best wishes in his future endeavors.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Gary Sisco.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 127) was agreed to.

The preamble was agreed to.

Mr. LOTT. Mr. President, I wanted the entire resolution to be read in the RECORD because I did want a complete record of the appreciation of the entire Senate for Gary Sisco who has served so capably over the past 5 years as the Secretary of the Senate.

I appreciate Senator DASCHLE joining me for this time because he knows, as I know, that we have some very dedicated officers of the Senate and other employees of our floor staff who put in long hours and do a great job in making this institution function the way it should. We do not say thank you enough to those who serve in the Chamber with us who make it possible for us to do our job, and we do not say thank you enough to the officers of the Senate, people such as the Secretary of the Senate, the Sergeant at Arms, the Chaplain, and others who work every day to help make this place function.

I have a very personal warm feeling for Gary Sisco. He is from Tennessee. He was born in Bolivar, TN, a small town. He grew up in strictly a blue-collar family. I believe his father did serve for a period of time as sheriff in that county in Tennessee.

I got to know him way back in, I guess, 1962 or 1963 at the University of Mississippi. We became friends. I managed to even talk him into joining the fraternity to which I belonged. We developed a very close friendship.

He wound up having a blind date with his now wife, thanks to the arrangement of my wife. Mary Sue Sisco is from Pascagoula, MS.

He went on to work with IBM after graduation and was involved in gubernatorial campaigns in Tennessee. He served Gov. Lamar Alexander, and then wound up in Washington and worked for Congressman Robin Beard as his administrative assistant. He worked for Howard Baker reaching the position of executive assistant. He then returned to Tennessee and had a very successful business life.

Five years ago, I called on him and said: We need somebody who understands computers, somebody who understands how to manage a pretty good size operation, somebody who knows how to keep the books straight, somebody who has political instinct and knows and loves the Senate. You are the man.

He left his business in Nashville, TN, and came to Washington and has been in the position of Secretary of the Senate for 5 years. He has done a wonderful job.

The only thing I ever asked of him was: Gary, when we have a few things that need to be changed, need to be approved, let's just make sure when you leave and I leave the position I am in, it is better than it was when we got here.

I believe Gary Sisco has achieved that goal. To show you the kind of man he is, Senator DASCHLE had agreed, frankly, that the officers of the Senate could stay on through this session of Congress, even though the majority might change. So I know he would have kept his word and Gary could have stayed, but he submitted his resignation, and I agreed that I think the majority leader should have officers of the Senate of his selection. It was the right thing to do, but it was his idea; it was not mine.

Senator DASCHLE has been very gracious in the way he has treated the employees in the Office of the Secretary of the Senate. He has selected an outstanding, capable, experienced person and one who also understands the Senate very well, Jeri Thomson. I know she will continue the great legacy Gary Sisco has built.

To my colleagues in the Senate, I thank them all for the courtesies and support they have given to Gary Sisco, and I wish my friend the very best in his next career.

Some of us, as Senator DASCHLE and myself, have been in the Congress for many, many years now, in my case 28 years. I have to confess, in a way, I am a little envious of a guy who was in the business sector, in the political arena, in the congressional arena, back in the business world, back in the Senate arena, and is now going out to the next stage of his life. I am sure it will be an outstanding one.

I, again, extend my best wishes to Gary Sisco, his wife Mary Sue, and their children. I know they will always have a special feeling in their hearts for the Senate, and I believe the Senate also has that feeling for them.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, first, I compliment the distinguished minority leader on his remarks. I appreciate very much the opportunity to address the resolution this afternoon.

Five years ago, Gary Sisco came to Washington and came to the job as Secretary of the Senate with the full confidence of then-majority leader TRENT LOTT. Today he leaves the Senate, leaves his job as Secretary of the Senate, having earned the full confidence of now-majority leader TOM DASCHLE.

That did not just happen because he had the title. It happened because he worked at it. It happened because, in spite of the long tradition that he had of working for very able Members of the Senate on the Republican side in the Senate and the House and Governor, he came leaving his Republican credentials at home. He came working with us as Democrats and Republicans, equally serving his country and serving this institution as ably as anyone can.

As Senator LOTT has noted, the mark of a good and able public servant is one who leaves his job in a better position than when he came. I can say without equivocation Gary Sisco has met that test. It has been my pleasure to work with him. I have come to admire him and respect him, and I also respect the position he has taken with regard to this particular resignation.

I confirm exactly what Senator LOTT has just noted, that because of my respect, not only for Senator LOTT but for Gary Sisco and the Sergeant at Arms, it was my view, in keeping the continuity of the officers of the Senate, as well as because they were serving us so well, they had every right and could have every expectation that regardless of what may happen to the majority in the Senate, they would have the full confidence and have the full support of both caucuses for the duration of this Congress.

Gary Sisco has made his decision, and I respect it, but I do so with a great deal of appreciation. I do so with the hope that he will come back often. I do so with a realization that in this business we get to work with quality people, people who give back to their country, to their community, and to each of us in ways that I think is admirable. He has done so. Our country owes him a debt of gratitude. This Senate owes him a debt of gratitude.

On behalf of our caucus, I thank him for all he has given us. I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, again, I thank Senator DASCHLE for coming to the Chamber and making that statement, and I look forward to working with him and the new Secretary of the Senate to continue the very efficient and fine way the Senate has been conducted, in the way the Office of the Secretary of the Senate has been run. I know she will do a great job.

Mr. President, I do not know who is controlling the time now, but I want to be yielded time to speak against the pending amendment.

Several Senators addressed the Chair.

Mr. SESSIONS. Mr. President, will the majority leader yield for 1 minute to comment on Mr. Sisco?

Mr. LOTT. I will be happy to do so.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. I yield to Senator SESSIONS from Alabama.

Mr. SESSIONS. Mr. President, I thank the Republican leader and the Democratic leader and others for their kind comments about Gary Sisco.

In short, he is one of the finest people I know. He served the Senate with great integrity, ability, and fidelity. He has a wonderful family, high personal values, the kind of person you like to know, like to call your friend, you want to have in your home. He has served so well, and he leaves with grace and style quite in harmony with his whole lifestyle. I thank Senator LOTT for raising this point, and I join in his compliments.

Mr. LOTT. I believe the time has been off the leader time.

The PRESIDING OFFICER. That is correct.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—Continued

AMENDMENT NO. 893

Mr. LOTT. Mr. President, I rise to speak against the pending amendment. My question is, If we are not going to have exploration in the Gulf of Mexico in a limited area for oil and gas, where are we going to do it? Not in the Atlantic along the coast. Not in the Pacific along the coast. Some people say not in Alaska in the area that has been pursued. Then where? I believe we can do it effectively, efficiently, responsibly, and productively in the Gulf of Mexico.

For years, exploration in the gulf and, in fact, drilling activity occurred primarily in Texas and Louisiana waters. But in more recent years it has moved over under Mississippi and Alabama. It has been very productive.

This is an interesting map to which others have referred. The Florida coastline goes to Pensacola, Alabama with Mobile, Biloxi, and New Orleans. I live right here; that is where my house sits. I can step off my front porch and put a rock in the Gulf of Mexico. I can sit out on my front porch and I can see a natural gas well working right in this area. In the daytime you can see it. It is clear. And at night sometimes they flare it off. It has never been a problem and it is producing natural gas. As a matter of fact, it is closer to my front doorstep, literally, than it is to Panama City, Florida, or Pensacola, or Biloxi or New Orleans. I am perfectly comfortable with this. There is no risk.

Those who live in the gulf area know that some of the most effective drilling and exploration drilling anywhere in the world is done in the gulf. It has become more efficient, with greater accuracy. If there has ever been a spill in the gulf, it must have been very minor and certainly never affected my State, I don't believe, since we have had the drilling off the coast of Alabama and Mississippi. I don't believe we have ever had one.

It also is a wonderful place to fish around the oil rigs. We take old liberty ships out and sink them in the gulf so they will form fishing mounds. It is very effective. The rig serves the same purpose.

But now we have people who say we should not have it in the Gulf of Mexico, or we should delay it even further, even though there has been a compromise. I think this whole area should be opened up for lease. But now it is down to just this green area, a very small area. The Governors of the States that are involved—Louisiana, Mississippi, Alabama, and I believe this compromise provision is supported even by Jeb Bush—all of our leaders and all of the people who live in this area support this.

What are we going to do? We are depending on foreign oil for 56 percent of our energy needs, and it is going up. It will be 60 percent. Can we get everything we need just from wind and sun? If we triple what we got from those areas, it wouldn't get us at 6 percent. As I said before, maybe we will have to harness some of the speeches around here to produce more energy needs in this country. But we need exploration for oil and gas. We need to look at greater use of nuclear power. We need to take advantage of clean coal technology. We do need alternative sources of energy—wind, solar, hydro. We need energy efficiency. We need to encourage conservation. But we need a national energy policy—the whole thing, the whole package—so that we will not be in danger of the threat of OPEC countries saying they will cut us off.

By the way, every time we have a decline or some sort of a threat from OPEC countries, we get oil out of the SPR. Where do you think the SPR is, the strategic petroleum? I think most of it is in Texas and Louisiana.

Now people are saying, well, in south Florida, let's build a 1.6 billion pipeline from my hometown and from Mobile, AL, across the Gulf of Mexico into Florida and supply their energy needs. We are supposed to take the risk in those areas of the exploration and the drilling for natural gas, and of course, sometimes for oil, and now we are going to build this pipeline and lay it across the Gulf of Mexico to supply the natural gas for people who say they don't want us to explore and produce. This makes no sense.

The people have to decide. Are we going to continue to go down this trail of not producing for our energy needs? Are we going to have this national security risk, facing the danger of loss of freedoms in America? Who thinks gasoline prices will not go up again next summer? They are. And so will diesel fuel prices. The families won't be able to afford to drive to their vacation spots. The small business men and women are going to have trouble paying their electricity bills. The farmers will have difficulty paying for the cost of diesel fuel for their tractors. It will ripple through the economy.

This is probably the most serious problem this country faces today. Meanwhile, we fiddle in Washington while the country has a heat stroke and is threatened with not having the energy to keep the economy growing. I think the American people realize this is a very serious problem. Some people shy away from calling it a crisis. OK, don't use that word. There is no imminent danger now. But there could be tomorrow, there could be next week.

OPEC countries could say: We will cut you off. We could have rolling brownouts in California, blackouts in New York City. They will run short of power in south Florida.

This is the least we can do. We should do it now, not later. We have been wrestling around over this for months—in fact, years. This can be done safely, effectively. I understand it is projected this area could produce enough natural gas to provide 1 million families in America with the supply of natural gas they need for 15 years. I don't know whether that is accurate. It has been very productive in this part of the gulf. It is done efficiently and in very targeted ways. They know now where the oil and gas is. They can probably put a pin on it—and from long distances.

I urge my colleagues, this may be the only real vote we have on energy production in America this summer. Senator DASCHLE said we will focus on appropriations bills. He is right for doing that. We should try to help him move the appropriations bills. We will not get to a free-standing energy bill probably until the fall. But we should do it. In the meantime, we should not take this step of prohibiting or delaying exploration and development of the resources that we know are in the Gulf of Mexico.

My beach is closer to this area than the beaches in Florida. I say, bring it on. I am worried about the future of my country and my children's economic future. I urge my colleagues, this should be an overwhelming bipartisan defeat on an amendment that really, in view of all that has gone on, should not be passed.

I thank my colleague from Louisiana for yielding me this time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. I yield to my colleague, the senior Senator from Florida, such time as he consumes.

Mr. GRAHAM. Mr. President, I am proud to join my colleague from Florida, Senator BILL NELSON, as we offer this amendment to help assure that America will have a policy of energy that is also a policy for our economic future and for the protection of important environmental treasures.

Let us clearly understand what the amendment we offer will do. It will provide for a short, 6-month delay, in the leasing of property in the area that is known as lease sale 181. This short delay, 6 months from the time the bill is enacted, will allow time to make some important decisions before we are committed to an option that may not be in the best interests of our Nation.

This is also an issue, while it is today in the context of the eastern Gulf of Mexico, the exact same issues which I will speak about are relevant to other areas of the country which share a similar concern, whether or not it is on the Atlantic coast. I heard this weekend of concerns off the northeast coast regarding a proposal for drilling in areas that have been very significant parts of the American tradition and history of commercial fishing for hundreds of years.

We know our friends who live in the area of the Great Lakes are concerned about proposals for drilling in Lake Huron and Lake Superior—again, areas that have in the past been off limits for drilling. California is another area that has expressed concern about the proposals for drilling under the rules as they currently exist.

While this may be characterized as a Gulf of Mexico issue, or even more specifically a Florida issue, it raises important implications for the Nation. Let me discuss two of those issues which I believe justify the 6-month delay we are requesting through this amendment.

First, the current laws that govern Outer Continental Shelf drilling in my judgment are imbalanced. They do not give proper consideration to other factors in addition to energy production, factors such as economic and environmental needs. We are all aware that America has needs for increased energy production. We are not insensitive to that. But we also are not myopic, that that is the only issue America needs to take in the balance in making these judgments. We believe balanced legislation on Outer Continental Shelf drilling would include the other factors that might be affected by that drilling. Let me give, as an example, what is happening today as a result of our law.

A number of years ago, leases were granted in these areas that are within 40 miles of the coast of Florida. Those are depicted on this map in the light pink and blue. The blue area is what is called Destin Dome. It is an area that is approximately 35 miles south of Pensacola. That lease has been outstanding for a number of years but was dormant. Then a few years ago the owner of that lease, the Chevron Oil Company, made an application for a drilling permit, to start production on that property. What was discovered was that basic environmental analysis, which in my judgment should have preceded the lease being granted in the first place, had not been done and it was deferred until the drilling permit was requested. As an example of those basic studies, one of them is the Coastal Zone Management Act. The Coastal Zone Management Act is administered in a joint program between the U.S. Department of Commerce and the various coastal States affected. The result of that analysis of the Coastal Zone Management Act was a determination by the State of Florida that it was a violation of the act and of the management plan, which had been approved by the U.S. Department of Commerce, to drill on this Destin Dome. That has now precipitated a series of litigation and administrative actions which have drawn this process out for many years.

In my judgment, the lesson of Destin Dome is let's do the environmental surveys before we grant the lease, before we create the expectations that a lease carries with it, before people apply for the permit to drill, so we have satisfied ourselves on environmental, economic, and the other considerations that this is a property which will be appropriate to drill should a lease be granted.

One of the things we could do, during this 6 months of deferral, would be to do an analysis of our current law to see if it is appropriately representing the wide range of interests that should be considered. We know we are going to be doing a major energy bill sometime in the next few months. Our Republican leader has indicated he thinks that will be on the Senate floor sometime this fall. I know the chairman of the Energy Committee is driving a schedule that would have it considered in committee this month. So we are not talking about long delays. We are talking about legislation that is viable at this moment and would be the appropriate means by which to raise these issues as to whether our current laws are adequate to represent the range of interests.

The second point I would make, that in my opinion justifies the 6-months delay which the House of Representatives has voted by an overwhelming margin, is the very fact of these existing leases outstanding. If we were looking at a map, not a current map but a map as recent as the early 1990s, we would also have seen lots of these little pink squares in this area adjacent to the Florida Keys. What happened there was that there was great concern about the potential adverse effects on one of the most fragile environmental areas in the world, the Florida Keys and their adjacent coral reefs. The President, George Herbert Walker Bush, announced that in his judgment that danger should be eliminated by the Federal Government reacquiring those leases in the vicinity of the Florida Keys. Over a period of less than 10 years, an aggressive program of reacquisition of those leases has, in fact, eliminated those leases.

I believe today we should be entering into negotiation during the administration of George W. Bush to do the same thing in the northern Gulf of Mexico, to eliminate those inappropriate leases that have been granted in years past, that now threaten the beaches of the Panhandle of Florida. Again, the 6-months delay would give us the opportunity, would give us the time to undertake exactly that type of analysis.

This idea is an idea which has been long under consideration. When some of the initial proposals were being made for lease site 181, our former colleague and then Governor of Florida, the now deceased Governor Lawton Chiles, wrote a letter, on October 28, 1996, to the Director of the Minerals Management Service about lease site 181. In that letter, Governor Chiles made this statement:

> A remaining concern, however, is the potential for development of the existing leases in the eastern gulf. I am still quite concerned about the dangers the State's pristine coastline faces from production activities on these leases offshore Northwest Florida.

Governor Chiles was talking about this cluster of leases in the Florida Panhandle section of the north Gulf of Mexico.

> While the final program represents a tremendous victory for Florida, I know the victory will not be complete until there are no existing leases off our coast.

This letter is now almost 5 years old and no progress has yet been made towards achieving that goal of eliminating those leases off the coast of Florida. This 6-month period should be a time in which we start the serious negotiations with the current administration of President Bush that proved to be so effective in the administration of his father in eliminating a similar cluster of oil and gas leases in the area of the Florida Keys.

This is not 6 months which would be frittered away. This is 6 months in which we can reexamine the fundamental law that currently governs the leasing of Outer Continental Shelf lands for oil and gas production, to assure that appropriate environmental studies are done before the leases are granted, not after the leases are granted, precipitating the kind of contentious litigation and administrative procedures we have been dealing with as it relates to Destin Dome.

It would also give us 6 months in which we could commence the serious negotiations with the current administration, as was the case in the late 1980s and early 1990s with the administration of the previous President leading to the elimination of the oil and gas leases in the southern Gulf of Mexico.

I believe our request is fair; that it is reasonable; that it has a specific purpose to be accomplished by the brief delay. It is the same amendment that the House of Representatives has already adopted by an overwhelming margin. It is one which I commend to my colleagues in the Senate, not only as it relates to the specific very fragile environmental area of our Nation but also for the precedent that was set in terms of establishing appropriate laws for the future and a reexamination of possibly ill-considered decisions in the past, such as granting these leases in appropriate areas which would be beneficial to all Americans.

I urge adoption of the amendment. Thank you.

The PRESIDING OFFICER (Mr. SCHUMER). Who yields time?

Mr. BURNS. Mr. President, I watched the debate with a great deal of interest. I can only think of the amendment a little while ago that was offered by the Senator from Illinois. The Minerals Management Service has been working on this lease sale for quite a while, and includes the current 5-year Outer Continental Shelf Oil and Gas Program. This was put on the table under the Clinton administration. The service prepared the draft EIS. They have ensured that the proper public hearings have taken place, including the hearings in Pensacola, Tallahassee, and Mobile. But despite the fact that service has jumped through all of the required administrative hoops, some opponents are now trying to foul the whole thing up in the end game right before the lease, of course, is finalized.

When we take a look at the Land and Water Conservation Fund, it is interesting that Members who have been leaning towards voting for this amendment are the same Members who have submitted healthy requests for money out of that Land and Water Conservation Fund for some of their projects. It is also interesting to note that in this very bill, Florida has approximately $42 million in items that are funded under the Land and Water Conservation Fund. It is likely that State has been the single largest draw on the Land and Water Conservation Fund in the last 5 years. That money is derived from royalties from offshore drilling and production. It is ironic to note that the State of Florida is actually the third largest consumer of petroleum products. However, it only produces about 2 percent of the petroleum that it consumes.

Basically, this amendment on the surface appears to be one of those "not in my backyard" kinds of situations or games.

To top it off, this amendment totally ignores the fact that last week the administration announced that it decided to reduce the size of the lease sale and in particular decided to make sure that the lease sale is much further away from Florida's shores.

A while ago, we had the amendment of the Senator from Illinois. Now we have the proponents of this amendment pleading with us to heed the local concerns for the protection of Florida's beaches, of which I would concur. I will say right now that I think the offshore drilling probably does less damage than the tankers that go up and down and unload in the Gulf of Mexico every day. They want those decisions to be made locally. But when it comes to voting on an issue that affected the West, they disregarded that.

When voting, I ask my fellow Members to think about the fact that this is a legislative rider that could ultimately reduce the amount of funds contributed to the Land and Water Conservation Fund, and it might interfere with our country's ability to produce its own oil and gas during a time when the country is facing a very serious energy crunch.

If local concerns are in play in Florida, why aren't they in Montana? I call that the lack of fairness. I think that is all we ever want in this body—fairness.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, this is a very serious national issue. It is not a Florida issue in any strict legal sense at all.

I used to be the U.S. attorney and represented the Federal Government. I know that these Federal waters are 260 miles away from Tampa, FL. It is a Federal decision about whether to lease it and produce oil and gas from it.

As a resident of Mobile, AL, which is right here at the tip of OCS central planning area, I am pretty familiar with the facts in this case and what happens.

Frankly, I have to say I am a little bit disappointed. The President of the United States, in my view, made a mistake when he cut back huge portions of this lease that is on that map to accommodate and appease the political leaders in Florida. What did he get? They still opposed the sale and are still opposing it right on this floor.

Yet this map shows a dotted line from my hometown of Mobile, AL, over to Tampa, FL. I wonder if anybody knows what those dotted lines reflect. They reflect a pipeline. That pipeline is being built at this moment. It started in June. The pipeline is to take natural gas produced in the western gulf to Tampa, FL, and to south Florida to meet their surging demands for natural gas. Yet when it comes time for them to go along with a national goal of producing natural gas way out in the Gulf of Mexico, far from where you can see it from land, they say: Oh, no. We can never allow that to happen.

They have fought it natural gas production consistently. I am really concerned about this position. We have natural gas here in the Gulf of Mexico. It is being produced off the shores of Alabama, Mississippi, Louisiana and Texas. Now they want to transport that gas over to Florida. What is that going to do to the price of natural gas for the homeowners in Alabama and electricity users in Alabama?

They are going to bid it up. This demand on the limited supply in the western Gulf of Mexico is going to drive up the price of natural gas for the people in Alabama; and, at the same time, Florida refuses to allow any production in Federal waters 100 or more miles from their shore.

This is a national issue. One reason, in my view, we have an economic slowdown—and I do not think anybody can dispute it—is an increase in energy prices. Fifty-seven percent of our fossil fuels comes from outside the country. And that amount is growing. What does that mean? What it means is, American wealth is going overseas to Saudi Arabia, to Venezuela, to Iraq and other foreign countries, to pay for oil and gas that we have right here off our coast. Whom do we pay when we produce it here? We pay us. We pay the United States. We keep American wealth.

The oil companies agreed to pay $136 million just for the right to bid on this property and are projected to pay $70 million, at least, per year of royalty. More than that will probably go into the Treasury.

A big chunk of offshore royalty goes to the Land and Water Conservation Fund. The Land and Water Conservation Fund funds the purchase of parks and recreation areas, estuaries, and to protect environmentally sensitive areas that need to be preserved.

So the question is really simple for Americans: Whom are we going to pay? Are we going to transfer our wealth overseas? Keep it within the United States? Or are we going to send it abroad?

Make no mistake, people act as if the price of energy makes no difference. But when a family had a $100-a-month gasoline bill several years ago, and now has a $150-a-month gasoline bill, they have $50 less per month to spend for things their family needs. It is right out of their pocket. When that $50—or a big portion of it—is sent over to Saudi Arabia or Iraq and Saddam Hussein, for their oil and gas, we are not helping America.

Let me tell you, we do not just have oil and gas wells off the Alabama, Mississippi, Texas, and Louisiana coast 100 miles away, we have them right up in Mobile Bay, in some instances less than a mile from homes. I drove over to Gulf Shores right near Pensacola this Saturday to visit my brother-in-law, and he was there with his grandson. They were so proud. They had a picture of a 40-pound ling, a great fish. Where did they catch it? Under an oil rig about 1 mile off the gulf shore's coast—1 mile.

We have never had a problem with these oil and gas wells. Offshore oil and gas production in state waters has helped to generate for the State of Alabama a trust fund of $2 billion. The interest on that fund contributes over 10 percent of our general fund budget on an annual basis.

America has benefited from that. That supply has allowed American money to stay in Alabama and the producing States and not to go off to Saudi Arabia. It has helped to build wealth in America as a whole. You may say: You just want the money for Alabama. The truth is, Alabama is not going to get a dime out of this lease except as any other State would under the Land and Water Conservation Fund. The proposed lease sale is in Federal waters. It is not in State waters.

But we have produced oil in State waters right off the beaches, right in the bay here, and we have had no problems. People fish around it on a regular basis. It has created a steady flow of income and has been good for America.

The President, in trying to be accommodating, agreed to cut back this lease sale to less than one-quarter of the original area proposed by President Clinton. He tried to do that. He moved it off on the Alabama side—nothing in the Florida waters—to try to accommodate Florida. And the Florida politicians are still not happy. But they want this pipeline built. They want this pipeline built so they can get natural gas. And why do they want the natural gas? Because it is needed to fuel the new cleaner burning electricity plants they need to heat and cool their homes, shops and offices.

What is particularly valuable in the Gulf are the huge reserves of natural gas. The wells in the remaining lease area are going to be a mixture of oil and gas. But the neck, the "stovepipe", that the President shut off as part of his compromise to appease Florida's political leaders was virtually all natural gas.

So I think the Senators from Florida are asking a bit much. I would ask them to think about this. Is not this the philosophy that got California in the fix they are in today? For decades California was facing the question of offshore drilling: No. Nuclear power: No. Coal plants: No. Electric plants: No. And what happened? They have brownouts and prices going through the roof. And they want to blame somebody else. They won't blame themselves.

But energy is going to come from somewhere. It is either going to come from foreign sources or our own sources. We should not threaten our economy. We should not press down on the brow of American working men and women, with the burden of paying 20, 30, 40, cents more a gallon for gasoline, or twice as much perhaps for natural gas to heat their homes to accommodate some sort of political fear that exists out there.

So what I think is important is that we, as America, just relax a little bit. Let's be rational. Let's think this thing through. Let's ask ourselves: What real threat is there? And what are the benefits from producing out there? We simply cannot allow people over in Naples, FL, in their beach houses, worth probably $2, $3, $4 million each, worrying about running their air-conditioners all the time to dictate national energy policy.

Do you know how you generate electricity for air-conditioners in south Florida? They use natural gas because it is efficient and clean burning, much better than coal. So they want that natural gas. They just do not want it 213 miles or 260 miles away. "Oh, no, we can't have this" they say. I really do not think they know what has happened. I think they have been misled by some politicians and environmentalists who are not responsible.

This is an extreme position. I hate to say that. This is an unhealthy position to have this Senate take. We ought not to adopt this amendment that would stop us from producing oil and gas in one-quarter of the previously approved area. It is going to hurt us in America. It is going to hurt us economically.

The demands in Florida are significant. Thirty percent of all natural gas produced in America comes out of the gulf, and Florida will consume huge amounts. Their demand is going to double in the next 15 years, and increase over 142 percent in the next 20 years, according to experts.

Yes, we should conserve. Yes, I hope people will use those hybrid automobiles. I would like to have one myself. I don't know why everybody doesn't buy one. There must be some reason they don't buy them. If they are so wonderful, why doesn't everybody go out and buy one, if you get 50 miles to the gallon? But I think they have potential. I am interested in looking at them and support the efforts of our automakers to improve efficiency. But it is a free country. Are we going to make everybody go out and buy one?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I will just say that I believe the President has submitted a scaled-down, fair, and reasonable proposal—too scaled down, frankly. It ought to have satisfied those who would object. Unfortunately, it has not. We have had to have this debate. And though it is healthy to have the debate, I am confident that the amendment will be defeated and that this small production area will be opened for the benefit of American taxpayers and the American economy.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, how many minutes remain in opposition?

The PRESIDING OFFICER. The opposition's time has expired.

Mr. NELSON of Florida. How many minutes remaining do I have as the proponent?

The PRESIDING OFFICER. Forty-one minutes twenty-one seconds.

Mr. NELSON of Florida. I do not intend to take that. I see all of the staff smiling at me.

But I would like to summarize. I would like to see if I can bring to closure a 3-hour debate on a part of setting any energy policy in this country that is very important not only to us along the gulf coast but to the Nation as a whole.

I want to mark the contrast in the debate that you have heard: Every Senator who has spoken in opposition to this amendment to stop oil drilling off Florida in the eastern Gulf of Mexico planning area is from an oil State.

That is the beauty of the United States of America. We come, each State represented by two Senators, and bring all of our different interests and constituencies here. But it is an interesting contrast that every opponent to us trying to protect against oil drilling in the eastern Gulf of Mexico is from an oil State.

Senator GRAHAM, my senior colleague from the State of Florida, has eloquently pointed out a number of things. He pointed out in his summary that these light-colored areas are active leases but no drilling has occurred. Senator GRAHAM and I have offered a bill to buy back these leases, just as President George Herbert Walker Bush had proposed buying back a bunch of leases off of the Ten Thousand Islands off of Naples, off of Fort Myers that occurred about a decade ago. We want to get rid of these, including the lease called the Destin Dome, where Chevron has an active permit to drill.

Let me give you some statistics about Chevron and its offshore rigs in the Gulf of Mexico and what they have experienced between 1956 and 1995.

There were 10 gas blowouts and an additional 5 blowouts of oil and a combination of gas. There were 65 fires and explosions of which at least 28 originated from natural gas, 14 significant pollution incidents, and 40 major accidents, resulting in at least 19 fatalities. There were five pipeline breaks or leaks.

I don't have any particular reason to cite this with regard to Chevron, except that Chevron came up because they have an active lease that is ready to be drilled 30 miles off of some of the world's most beautiful beaches called the Destin Dome. What Senator GRAHAM and I would like to do is to see us buy back that lease so that drilling, with a safety record and a blowout record as has been shown by the facts—and remember, facts are stubborn things—so that that won't occur right off of the sugary white sand beaches of Destin, FL.

We would like to reacquire that lease, just as the first President Bush had acquired so many leases down here threatening the 10,000 islands of the Florida Keys.

That is not the issue here today. The issue today is taking these active drilling leases in the central and western planning areas of the Gulf of Mexico and thrusting eastward toward the coastline of Florida with a new sale of 1.5 million acres.

They had 6 million acres in this original lease sale 181. They knew they were not going to pass it. They knew there was too much political opposition. So what they have done is they have scaled it back to 1.5 million acres, thinking they can get it through.

It is, in fact, the eastward inevitable march of drilling into the eastern planning area, an area that heretofore has not been violated with this drilling.

Let me cite some more statistics as we wrap up this debate. The Department of the Interior, on the day that the Senate and the House goes home for the Fourth of July, on Monday, July 2, announces this deal, that they are shrinking 181. In the course of that announcement, they put out a news bulletin: Secretary Norton announces area of proposed 181 lease sale on Outer Continental Shelf. And in that, the release states: The area also contains 185 billion barrels of oil.

You have heard the statistics of how much oil is there. The fact is, it is not 185 billion barrels of oil; it is 185 million barrels of oil that MMS, a part of the Department of the Interior, estimates is in this lease sale 181.

So I raise the question again, since this equates to about 10 days' worth of oil and gas energy for this country, is it worth the risk to the beaches of Florida and to the environment of Florida, this eastward march that will inextricably, inexorably happen, is it worth the risk? It is not.

I said earlier in my remarks, if ever I have seen anything that looks like the nose of a camel suddenly under the tent, it is that yellow-colored, 1.5 million acres coming into the eastern planning area that has no drilling.

Back in the middle 1980s, I was a junior Congressman from the east coast of Florida. The Reagan administration had a Secretary of the Interior named James Watt. James Watt was absolutely intent on drilling for oil off the entire eastern coast of the United States and was offering for lease sale leases from as far north as Cape Hatteras, NC, all the way south to Fort Pierce, FL. I went to work, as the Congressman from the middle eastern coast of Florida, to try to defeat that. And we defeated it in the appropriations bill, in an appropriations subcommittee on this very same Interior Department appropriations.

They left me alone. And 2 years later, they came back. This time they had worked the full Appropriations Committee in the House so that they thought they had the votes. And they were running that train down the track for oil drilling from North Carolina to south Florida. The only way that we beat it was to finally get NASA and the Department of Defense to own up to the fact that off the east coast of Florida, where we were launching the space shuttle, you couldn't have oil rigs out there where you were dropping the solid rocket boosters from the space shuttle launches and where you were dropping off the first stages of the expendable booster rockets that were going out of the Cape Canaveral Air Force Station.

They have left us alone on oil drilling until now. That was almost 16, 17 years.

What we happened to do was call the the Pensacola Naval Air Station.

Fast forward 17 years. We decided to call one of the greatest military installations in the world, the naval air station at Pensacola, the place where almost every naval aviator has learned to fly, and we asked if this lease sale 181 were to have a spill—remember, I cited statistics earlier that the Minerals Management Service says this lease sale has up to a 37- percent possibility of having an oilspill—we said to the executive officer at the Naval Air Station Pensacola: What would happen to Pensacola Naval Air Station and to the Air Force installations at Eglin Air Force Base at Fort Walton and Hurlburt Air Force Base near Fort Walton Beach?

No. 1, for both of those military complexes, virtually all testing, training, and operations over water would cease until the oil slick was completely cleaned up.

No. 2, flights would cease due to the hazards to pilots if they had to eject over oily water.

No. 3, water training and equipment testing would cease.

No. 4, test firing of weapons would cease over and into oily water.

In other words, the Pensacola Naval Air Station would virtually cease to operate as one of our greatest national assets.

We have not even talked about something that is a natural phenomenon in the State of Florida. Look at this peninsula. It is a land that I call paradise, but paradise happens to be a peninsula that sticks down into something known as hurricane highway, for in the course of the summer and into the early fall, because the Lord designed the Earth this way, hurricanes spring up in the gulf, they spring up in the Atlantic, and they go from the Atlantic into the gulf. It is an additional reminder of the additional hazards of Florida offshore oil drilling.

As we bring to a close this 3-hour debate, the risk of spill, according to the Government, on this lease sale 181 is all the way up to 37 percent. This lease sale, by the Department's own recognition, is only going to have about 10 days of oil and gas for the entire country. It is not going to lessen the dependence on foreign oil.

My goodness, the United States has 5 percent of the world's population, 3 percent of the reserves, but we consume 25 percent of the world's oil. We cannot drill our way out of dependence on foreign oil. We have to have a balanced energy policy which includes the use of technology to get greater miles-per-gallon in our transportation, as well as conservation, as well as being balanced with drilling.

I recite the statistic I cited that of all the future reserves, they are not in the eastern gulf planning area. Sixty percent of the Nation's undiscovered economically recoverable Outer Continental Shelf oil is in the central and western gulf area where they are already drilling, and for natural gas, of the entire Outer Continental Shelf, 80 percent of the future reserves are from the central and western areas, not from the eastern area.

I come back to the point at which we began 3 hours ago: Is it worth the risk? Is it worth the tradeoff: Little oil and gas, and yet the first invasion of the eastern planning area, a huge invasion, a million and a half acres? Is it worth the risk to an economy of a State that has pristine, white sandy beaches on which its economy is so dependent because of a $50 billion-a-year tourism economy? Is it worth it to the estuaries of Apalachicola, the Big Ben, and the Ten Thousand Islands, Tampa Bay, and the Caloosahatchee River, and the sandy beaches from Tampa all the way to Marco Island? It is not worth the risk. It is not worth the tradeoff.

That is why for years we see, as depicted by the green color, the active drilling leases off Texas, Louisiana, Mississippi, and Alabama, but not off Florida in the eastern planning area of the gulf.

I know the White House is putting on a full-court press. I know the oil and gas industry, through all of their innumerable lobbyists, are putting on a full-court press. We heard the Senators from each of the oil States. Not one non-oil-producing State spoke against this today. Yet we have our hands full because the full court lobbying press by every special interest involved in drilling in oil and gas is going to be working this issue as hard as it can before our vote that is going to occur sometime late tomorrow morning.

I ask my colleagues to consider the risk to their Outer Continental Shelf and to consider what is in the best interest of the Nation.

I am deeply honored that this is one of the first great debates in which I have engaged, in which I have joined so many of those with whom I argued in many of the other debates, such as budget, education, and the Patients' Bill of Rights. This, however, is one of the great debates that will take place, and it is an honor for me to have participated in it.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, OCS Lease Sale 181 is an essential element of a national energy policy that will provide affordable and secure supply of energy.

Sale 181, the most promising domestic opportunity for newly-available leases in many years is a resource rich area for new supplies of natural gas and oil. It will play an important role in meeting the Nation's energy needs.

Sale 181 is the work-product of more than five years of planning and preparation by the Federal Government, affected States, and industry, and should proceed as scheduled in December 2001.

The Nation's demand for natural gas is expected to grow significantly.

According to a 1999 National Petroleum Council study, the nation's demand for natural gas is expected to increase by 32 percent to 29 trillion cubic feet by 2010 and by 41 percent to 31 trillion cubic feet by 2015.

Current demand is 22 trillion cubic feet. Natural gas is essentially a North American commodity.

If the Nation is to meet its growing natural gas demand, access to gas resource rich areas like the Sale 181 area is an indispensable element of the energy policy agenda.

Major reserves of oil and natural gas are believed to exist in the eastern gulf. According to a study conducted in conjunction with the 1999 National Petroleum Council study, the Sale 181 area may hold 7.8 trillion cubic feet of natural gas and 1.9 billion barrels of oil.

This is enough natural gas to supply 4.6 million households for 20 years and enough oil to fill the Strategic Petroleum Reserve for three and one-half years or make enough gasoline to fuel 3.1 million cars for 20 years.

This is also three and one-half times the amount of oil currently in the Strategic Petroleum Reserves.

Sale 181 was recently modified to ensure a balance between state and federal interests.

Key affected constituencies including Alabama, Florida, and the Department of Defense were consulted during development of the current five-year plan to ensure that all concerns were addressed.

For example, the sale area was drawn to insure it was consistent with the State of Florida's request for no oil and gas activities within 100 miles of its coast, including limiting the number of tracts offered for lease.

In 1996, Florida Governor Lawton Chiles expressed appreciation to MMS for developing a program that recognized the need to exclude any tracts within 100 miles of Florida's coasts.

The sale area, with full recognition by Florida, including Florida congressional delegation, was specifically excluded from current leasing moratoria language under both Congressional action and President Clinton's 1998 Executive order.

Other tracts are expected to be deferred to assure smooth operations when the military and industry operate in the same area.

Sale 181 is a regional opportunity that impacts 5 Gulf States; all 5 Gulf States were consulted. Mississippi, Alabama, Louisiana, and Texas support Sale 181.

These States will enjoy significant economic benefits as a result of exploration and production activities in the area.

In addition, the coastal area of Louisiana will be the most heavily impacted of the five States.

The impact on Florida will be minimal. Many tracts in the sale area are closer to Louisiana, Mississippi, and Alabama than to Florida. In fact, Cuba is closer to Florida shore than is this lease.

Parts of the sale area come within about 40 miles of Mississippi, 64 miles of Louisiana, and about 18 miles of Alabama.

Florida could benefit significantly from Sale 181. Florida's population is expected to grow by 29 percent between now and 2020.

Florida's total demand for natural gas is expected to grow by 142 percent during the same period.

About two-thirds of this growth in demand is for natural gas to generate electricity.

Some of the potential 7.8 trillion cubic feet of natural gas that could be produced from Sale 181 could help meet the State's significant demand for natural gas during this time.

Making more natural gas available to Florida utilities for electricity generation should lead to better air quality in the state.

Mr. McCAIN. Mr. President, I would like to clarify for the RECORD why I voted to table the Durbin amendment to H.R. 2217, the Interior appropriations bill for fiscal year 2002.

First of all, once national monuments are designated, similar to other federal designations, those lands are withdrawn from any further mining activity, with exception to existing leases. My understanding is that nearly all of the recent monuments designated by the prior Administration are protected in this manner. Only one of the newly established monuments in Colorado has specific provisions in its proclamation that could potentially allow some type of oil or gas mining development. Unless the Congress or the President by executive action changes the terms of the original proclamation that established these monuments, these lands areas are protected. I would imagine that such changes would be difficult to approve.

The second reason I opposed this amendment is that I object to the process by which many of these monuments were designated by the previous Administration. If important land use issues like this one had been thoroughly evaluated during an open and fair public process prior to the monument designation, the Senate would not have to vote on this type of amendment. The use of the 1906 Antiquities Act is not an appropriate way to unilaterally cut off millions of acres of land from public use by fiat nor does it allow for the type of open and fair input to those living and working on and near those lands. Our democratic process should promote such procedural fairness and consultation.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMPAIGN FINANCE REFORM

Mr. TORRICELLI. Mr. President, no matter what other issues are discussed in this Senate, what other concerns are brought before the body, the Nation's attention is turned again to the issue of campaign finance reform, the seemingly never-ending effort to restore integrity to this process and change the Nation's campaign finance laws.

In March, the Senate passed a comprehensive and workable piece of legislation; it required 2 weeks and 22 amendments. One of those amendments I offered together with my colleagues, Senator CORZINE, Senator DURBIN, and Senator ENSIGN. It was the other part of the equation: As we reduce the amount of money that is raised, to reduce the amount that must by necessity be spent.

Campaign spending in America is easily defined. It is used for television overwhelmingly: 80 or 85 percent of the cost of the Senate campaign goes to a television network.

This amendment was passed overwhelmingly by the Senate. I take the floor today because it is now in jeopardy. It is unconscionable, while the American people have demanded a control on the amount of political money being spent in America, unconscionable while this Congress has fought for campaign finance reform, the broadcast industry is fighting to the death to reverse this amendment in the House of Representatives and allow the television networks to charge whatever they want to charge for political advertising.

I take the floor today as one who has voted for campaign finance reform since I came to the Congress 18 years ago. I have always voted for campaign finance reform. I always want to vote for it because I believe the system must be fundamentally changed to restore integrity to the system and gain the confidence of the American people.

I take the floor to make this very clear: Reducing campaign fundraising without reducing the cost of campaigns is not reform. That reduces the amount of communication. It makes it more difficult for the political parties and candidates to communicate their message. This cannot be reform. This is silencing political debate in America.

The bill that passed this Senate reduced the amount of soft money, eliminated the amount of soft money and, correspondingly, in a balanced fashion, dealt with this cost of advertising.

In 1971, the Congress believed we had faced this problem and required the charging of the lowest unit charge. Over 30 years, the law became ineffective. That is why I offered this amendment. This chart shows, by 1990, an audit by the FEC found that 80 percent of television stations were failing to give the lowest rate. These are examples from around the country. The price of a typical ad is a percent greater than the lowest rate that should have been offered: NBC in New York, 21 percent higher than by law should have been charged; WXYZ in Detroit, 124 percent; KGO, San Francisco, 62 percent higher than the lowest rate. These are the numbers that convinced 69 Democrats and Republicans in the Senate to pass this amendment.

The second reason for the amendment is that stations are charging candidates the lowest rate, looking back 365 days. So they cannot simply charge the lowest rate available on that day, which they were not doing anyway, but had to look back for what was the lowest rate during the course of the year. The fact is, the broadcast industry in America has been profiteering at the expense of the political system. There is not another democracy in the world where the public airwaves, licensed to private companies, are used for profiteering and price gouging when a public candidate attempts to communicate with people in the country.

The patterns are quite clear. This chart indicates the percentage of ads sold above or below the lowest unit cost per station. Below the unit rate, Philadelphia, KYW, 9 percent; Detroit, XYZ, 8 percent; Los Angeles, one of the better in the country, is only 63 percent. NBC in New York, 15 percent of their ads are sold in accordance with the 1971 law at the lowest unit rate.

It isn't that the law is not being obeyed; it is being violated wholesale. Compliance with the law is the rare, rare, exception.

Here is the magnitude of the problem. In the 2000 political season, political advertisers spent $1 billion on television ads; $1 billion was raised, fundraiser by fundraiser, mailer by mailer, telephone call by telephone call. And an extraordinary percentage of this advertising, if it had been paid for at the lowest unit rate, would have saved hundreds of millions of dollars in political fundraising.

My message out of this, I hope, is clear. I speak not to my colleagues, but I speak to the broadcast industry, to the network televisions, which since the 2000 Presidential campaign have carried on a campaign of their own, criticizing the political community, attacking individual candidates, railing against the problems of political fundraising.

Instead of being part of the problem, be part of the solution. Campaign finance reform does not simply mean the Democrat and Republican Parties. It means ABC, NBC, CBS. It means you. Get your lobbyists out of the House of Representatives, out of these Chambers, and be part of a solution of campaign finance reform. Allow a balanced piece of legislation to pass this Congress that deals with this problem.

The National Association of Broadcasters has been fighting against this provision in an exercise of their own greed on two myths: First, that this will lead to perpetual campaigns because the low rates will mean this will go on and on forever in advertising.

That simply is not the case. The look-back will only allow the lowest rates for 365 days. Mr. SHAYS and MEEHAN have only proposed 180 days. That is the extent, in the primary season, campaigns are taking place anyway. The campaigns will not be longer; they will just be less expensive. And that is the problem for the broadcasters.

Second, that this is somehow unconstitutional, that we are taking private property. For 30 years this has already been the law. The broadcasters, as a condition of their license, are required to do public broadcasting, sometimes children's broadcasting. They comply with all kinds of Federal requirements as a condition of having a public license. This is one more, but it is not even a new requirement. For 30 years we have required them to sell at the lowest unit rate. They simply are not doing it. We are just strengthening the law; we are not fundamentally changing the law.

Third, they allege the amendment could force a TV station to sell a 30-second spot during a prime time television show for a de minimus amount of money. Actually, that would not be bad if it were true, but it is not. The FCC, in mediating pricing disputes under the law as it now stands, has always taken viewership levels into account, that they must be comparable. You cannot take a 2 o'clock in the morning television show that sells at a discount rate and compare it with prime time. It simply is not true.

Fourth, the broadcasters say lowering the costs of candidate advertising will result in candidates running more ads. As my friend MITCH MCCONNELL commented on occasion, the Nation does not suffer from too much political discussion. It would not be a bad thing if there were more advertising, discussing more issues. But that is probably not the result of this amendment.

It simply means candidates will raise less money because of campaign finance reform and hopefully be able to have the same amount of advertising because rates are lower.

This is all part and parcel of eliminating a major source of revenue for the broadcasters, and that is the problem. Political advertising is a paid form, in my judgment, of community service. This is not running a public service ad for the Boy Scouts, but it should not be akin to charging General Motors to advertise a new car either. And that is exactly what has happened.

Here, political ads have now become the third highest source of revenue for the broadcasters. In 1998, the automobile industry was the source of 25 percent of advertising dollars in America. Political candidates, using the public airwaves to discuss public policy issues under campaign finance law restrictions, are 10 percent of advertising dollars in America. This is growing faster than any other component of advertising in the Nation. Political advertising is not an industry; it is how we conduct public policy in a democracy. That is why we have offered this amendment as well.

This legislation will be voted upon in the House of Representatives in only another day. The House of Representatives has a choice that was before this Senate. The national broadcasters have spent $19 million since 1996 to lobby this Congress. They have spent $11 million to defeat no fewer than 12 campaign finance bills that would have reduced the cost of candidate advertising. It is unconscionable and it is wrong. It is also hypocrisy. The very news departments and executives that come to this Congress and complain about the state of politics in America, the lack of public confidence, the declining levels of integrity in the public discourse because of campaign fundraisers, are now a principal obstacle to reform.

I want to vote for McCain-Feingold when that legislation returns to this Senate after a conference, but I will make it very clear: Restricting campaign fundraising with no restriction on the cost of campaign advertising, in the region of the country in which I live, and Los Angeles and Chicago and Miami and Boston and other large cities in America, means that candidates will not be able to communicate with the public. There will be no independent means of the political parties actually getting their message to American voters.

I am prepared to vote to limit campaign spending, to eliminate soft money, but the test, in my judgment, at least for the region of the country in which I live, is whether we can overcome this hurdle of the broadcasters as well.

Mr. President, I hope the House of Representatives meets its responsibility. I hope we can get a bill that in good conscience many of us in the Senate can vote to support.

I yield the floor.

H-2A REFORM

Mr. BURNS. Mr. President, I rise today to express my support of the Agriculture Job Opportunity, Benefits, and Security Act of 2001. I am proud to join my colleague Senator CRAIG as a cosponsor of this important legislation.

I am a strong believer that American workers should have the first chance to have American farm and ranch jobs. However, when there are not enough American workers, our agricultural producers should be able to find farmworkers elsewhere. Under the current H-2A agricultural guest worker program, producers are required to go through a lengthy, uncertain, and undoubtedly costly process to demonstrate to the Federal Government that American workers are not available in order to gain authorization for guest workers. During this long process, Montana crops are not being harvested and cattle and sheep herds are not being tended to the degree they require. A General Accounting Office study recently found that the Government's inefficiency in processing such claims discourages use of the program. As a result, the Federal Government estimates that only half of this country's 1.6 million agricultural workers are authorized to work in the U.S., and the figure may be higher since the estimate is based on self-disclosure by illegal workers.

Let me give you an example of how H-2A reform will benefit real producers. We have a number of large sheep operations in Montana. All of these sheep need to be sheared in the spring of the year, and as any sheep rancher will tell you, this is a job that needs to be done quickly, safely, and accurately. Shearers need to pay close attention to detail, lest sheep could be severely injured. With the number of sheep ranches in this country dwindling, there are few Americans who shear professionally, so guest workers from countries such as Argentina must be brought in to do the job. Reform of the H-2A program would make this process easier for our sheep producers.

It is high time we reformed the H-2A program. This legislation will replace the current system with a more efficient process for certification of H-2A employers looking to hire agricultural guest workers. It will also replace the current, unrealistic premium wage mandated for H-2A employers with the standard, minimum wage. Employers will continue to furnish housing and transportation to H-2A workers.

This bill makes sense for producers in Montana, Senator CRAIG's home State of Idaho, and other agricultural States across the country. It also provides a better environment for our guest workers. I look forward to working with my colleagues on this important legislation.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred January 14, 1999 in El Dorado, AR. Thomas Gary, 38, was run over by a truck he owned after he suffered a blow to the head and shotgun injuries that killed him. Chuck Bennett, 17, who has been charged with the crime, claimed that Gray made a sexual advance toward him.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, July 10, 2001, the Federal debt stood at $5,710,436,329,428.99, five trillion, seven hundred ten billion, four hundred thirty-six million, three hundred twenty-nine thousand, four hundred twenty-eight dollars and ninety-nine cents.

One year ago, July 10, 2000, the Federal debt stood at $5,662,950,000,000, five trillion, six hundred sixty-two billion, nine hundred fifty million.

Five years ago, July 10, 1996, the Federal debt stood at $5,148,771,000,000, five trillion, one hundred forty-eight billion, seven hundred seventy-one million.

Ten years ago, July 10, 1991, the Federal debt stood at $3,533,712,000,000, three trillion, five hundred thirty-three billion, seven hundred twelve million.

Fifteen years ago, July 10, 1986, the Federal debt stood at $2,071,214,000,000, two trillion, seven-one billion, two hundred fourteen million, which reflects a debt increase of more than $3.5 trillion, $3,639,222,329,428.99, three trillion, six hundred thirty-nine billion, two hundred twenty-two million, three hundred twenty-nine thousand, four hundred twenty-eight dollars and ninety-nine cents during the past 15 years.

ADDITIONAL STATEMENTS

PAYING TRIBUTE TO THE KNOLL MOTEL IN BARRE, VERMONT

• Mr. LEAHY. Mr. President, I rise today to pay tribute to the Knoll Motel in Barre, VT, a pioneer establishment of the VT tourism industry.

In April 2000, the Knoll Motel celebrated its 50th anniversary of offering warm and courteous hospitality to visitors of the Green Mountain State. Founded in April of 1950, it is the State's first and longest operating motel.

During the period following World War II, the number of Americans traveling for recreational purposes increased dramatically. As more and more citizens traveled the country's expanding network of highways, the touring public were in need of economical and conveniently located overnight accommodations. Responding to this trend, the American tourist industry established motels that catered to the needs of family highway travelers.

Recognizing the economic potential associated with the growing tourist industry in Vermont, Stanley and Minnie Sabens established the Knoll Motel on 1015 North Main Street in Barre. Located near the State Capital, Montpelier, and what eventually became Interstate 89, the original eight-room facility became a model for the motel industry in Vermont, where tourism is vital to the success of the state's economy.

Keeping with Vermont's proud tradition of family-owned businesses, Stanley Sabens II has assumed the management of the Knoll Motel, ensuring that future generations of visitors to Vermont will be able to enjoy the Sabens' hospitality for years to come.

I congratulate the Sabens family and the Knoll Motel for their many years of service to Vermont and its visitors, and I wish them success in the future.•

IN MEMORY OF ROSEMARIE MAHER

• Mr. MURKOWSKI. Mr. President, I rise today to speak in remembrance of a wonderful Alaskan, Mrs. Rosemarie Maher, the President and Chief Operating Officer of the Doyon Native Regional Corp. based in Fairbanks, Alaska.

On Monday, I attended the moving memorial service in Fairbanks in Rosemarie's Maher's honor, who tragically died quite suddenly last week at far too young an age—53. Along with my wife Nancy, I want to express my deepest sympathies to Rosemarie's husband, Terry J. Maher, their children: Malinda and husband Jim Holmes, Warren J. and wife Angela Westfall, and Kerry-Rose and Kevin Maher, and all other family members.

I also want to express my condolences to the employees and all of the nearly 14,000 shareholders of Doyon Ltd. upon the death of a very dedicated and talented woman, who successfully advanced the causes of both Doyon members and of all Alaska Natives.

Rosemarie Maher showed uncommon grace and perseverance during her three decade career working on behalf of Alaska Natives. For 21 years, she served as a member of the Doyon corporation's board of directors and assumed the role of daily leadership of the corporation under such difficult circumstances in winter 2000.

Rosemarie Maher began her involvement in Alaska Native organizations and public service while still in her 20's. As a devoted wife and mother, she helped to steer development of several organizations, including the Interior Village Association and the Tanana Chiefs Conference. In 1979, she was first elected to the Doyon Ltd. Board of Directors. Seven years later, she was elected Chairman of the Board, a position she held until her appointment as President and Chief Executive Officer after the tragic plane-crash death in January 2000 of long-time Doyon President Morris Thompson.

Mrs. Maher was born in a fish camp on the Nabesna River near her home of Northway along the Alaska Highway in Central Alaska. As a child she was raised as a traditional Athabascan Indian, but as a young teen she was educated at Sheldon Jackson School in Sitka and later at East High School in Anchorage. After graduating from high school, she trained at Alaska Business College and in 1969 moved to Fairbanks, working for several U.S. Government agencies.

During the mid 1970s, Mrs. Maher moved back to Northway where she was elected President of the Northway Village Council and helped form the Upper Tanana Alcohol Program in the Tok area. She also played a key role in the incorporation of Greater Northway Inc., the non-profit organization formed to administer local infrastructure and economic development projects in the region. She was a shareholder of Northway Natives Inc., the Alaska Native Claims Settlement Act Village Corporation for Northway, serving as the first President of that organization. She also was President of Naabia Niign, a Northway Native subsidiary.

From 1976 to 1984 she entered governmental public service as a member of the Alaska Gateway School District Board and was a director of the Northwest Regional Education Lab, a nonprofit, federally and privately funded educational research organization based in Portland, Ore. She also was a member of the Teamsters Union, working summers in road construction and hazardous waste cleanup between 1992 and 2000.

At the statewide level, Rosemarie served as Co-Chair of the Alaska Federation of Natives from 1997-2000 and was a member of the Alaska Board of Game. She also served as a member of the Governor's Commission on Local Governance and Empowerment and on the Governor's Highway and Natural Gas Policy Council.

Rosemarie truly did commit her life to the success of Alaska Native corporations and to the betterment of her neighbors and of all Alaska Natives. Her death is a great loss, not just to Doyon and her Native culture, but to all who knew and loved her. Again our deepest sympathies to her family and friends. She will always be remembered with great fondness.•

MESSAGES FROM THE HOUSE

At 12:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 2131. An act to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 168. Concurrent resolution expressing the sense of Congress in support of victims of torture.

H. Con. Res. 170. Concurrent resolution encouraging corporations to contribute to faith-based organizations.

H. Con. Res. 174. Concurrent resolution authorizing the Rotunda of the Capitol to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2131. An act to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, and for other purposes; to the Committee on Foreign Relations.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 168. Concurrent resolution expressing the sense of Congress in support of victims of torture; to the Committee on the Judiciary.

H. Con. Res. 170. Concurrent resolution encouraging corporations to contribute to faith-based organizations; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2711. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Assistance Regulation; Administrative Amendment" (RIN1991–AB58) received on July 9, 2001; to the Committee on Energy and Natural Resources.

EC–2712. A communication from the Director of the Office of Regulations Management, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Payment or Reimbursement for Emergency Treatment Furnished at Non-VA Facilities" (RIN2900–AK08) received on July 10, 2001; to the Committee on Veterans' Affairs.

EC–2713. A communication from the Acting Administrator of the Small Business Administration, transmitting, pursuant to law, a report concerning Minority Small Business and Capital Ownership Development for Fiscal Year 2000; to the Committee on Small Business and Entrepreneurship.

EC–2714. A communication from the Counsel for Legislation and Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Designation of Round III Urban Empowerment Zones and Renewal Communities" (RIN2506–AC09) received on July 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2715. A communication from the Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law. the report of a rule entitled "Prohibited Purchasers in Foreclosure Sales of Multifamily Projects with HUD–Held Mortgages and Sales of Multifamily HUD-Owned Projects" (RIN2501–AC89) received on July 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2716. A communication from the Chairman of the Board of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2000 to March 31, 2001; to the Committee on Governmental Affairs.

EC–2717. A communication from the Acting Chief Administrative Officer/Secretary of the Postal Rate Commission, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Chairman/Commissioner, received on July 10, 2001; to the Committee on Governmental Affairs.

EC–2718. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to sexual harassment complaints and sexual misconduct for Fiscal Year 1998; to the Committee on Armed Services.

EC–2719. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–2720. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report relative to the Administrative/Management Support function at Naval Air Systems Command, Naval Air Warfare Center Aircraft Division at Lakehurst, Ocean County, New Jersey; to the Committee on Armed Services.

EC–2721. A communication from the Assistant Secretary of the Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Employee Retirement Income Security Act of 1974; Rules and Regulations for Administrative and Enforcement; Claims Procedure" (RIN1210–AA61) received on July 9, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2722. A communication from the Assistant Secretary for Administrative and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Wage and Hour Administrator, EX–V, Wage and Hour Division, received on July 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2723. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the designation of acting officer for the position of Wage and Hour Administrator, EX–V, received on July 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2724. A communication from the Acting Assistant Attorney General for Administration, Justice Management Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "National Automated Immigration Lookout System (NAILS); Immigration and Naturalization Service (INS)" (Justice/INS–032) received on July 10, 2001; to the Committee on the Judiciary.

EC–2725. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Refugee Resettlement Program for the period from October 1, 1998 through September 30, 1999; to the Committee on the Judiciary.

EC–2726. A communication from the Chief of the Division of General and International Law, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Service Obligation Reporting Requirement for USMMA Graduates and State Maritime School Graduates" (RIN2133–XX01) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2727. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 135 and EMB 145 Series Airplanes" ((RIN2120–AA64)(2001–0282)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2728. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328–300 Series Airplanes" ((RIN2120–AA64)(2001–0278)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2729. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model SAAB 2000 Series Airplanes" ((RIN2120–AA64)(2001–0279)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2730. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 10 Series Airplanes" ((RIN2120–AA64)(2001–0280)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2731. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 120 Series Airplanes" ((RIN2120–AA64)(2001–0281)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2732. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model BAe 125 Series 800A (C–29A and U–125 Military), 1000A, and 1000B Airplanes; Hawker 800 (U–125A Military) Airplanes, and Hawker 800 XP and 1000 Series Airplanes" ((RIN2120–AA64)(2001–0275)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2733. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 200, 300 and 747SP Series Airplanes" ((RIN2120–AA64)(2001–0276)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2734. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–300, 400, 500, 600, 700, 800, 757–200, 200PF, 200CB, and 757 300 Series Airplanes" ((RIN2120–AA64)(2001–0277)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2735. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–800 Series Airplanes" ((RIN2120–AA64)(2001–0272)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2736. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330 and A340 Series Airplanes" ((RIN2120–AA64)(2001–0271)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2737. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Kaman Aerospace Corp Model K 1200 Helicopters" ((RIN2120–AA64)(2001–0270)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2738. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model EC 155B Helicopters" ((RIN2120–AA64)(2001–0269)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2739. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron Canada Model 407 Helicopters" ((RIN2120–AA64)(2001–0267)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2740. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron Inc., Model 205A, B, 212, 412, 412EP, and 412CF Helicopters" ((RIN2120–AA64)(2001–0268)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2741. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 200, 300, 747 SP and 747 SR Series Airplanes; Powered by P and W JT9D–3 and –7 Series Engines" ((RIN2120–AA64)(2001–0265)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2742. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9–81, 82, 83, and 87 Series Airplanes and MD 88 Airplanes" ((RIN2120–AA64)(2001–0264)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2743. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC–8–400 Series Airplanes" ((RIN2120–AA64)(2001–0262)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2744. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Quota Harvested for Period 1" received on July 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2745. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Amendment to the Steller Sea Lion Emergency Interim Rule (removes seasonal allocation of Pacific halibut prohibited species catch apportioned to the "shallow water trawl fishery" and closes that fishery)" (RIN0648–AO82) received on July 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2746. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Pacific halibut and Red King Crab By Catch Rate Standards for the Second Half of 2001" received on July 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2747. A communication from the Deputy Chief of the Competitive Pricing Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Access Charge Reform, CC Docket No. 95–262, Order" (FCC 01–166) received on July 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2748. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna Recreational Fishery; Retention Limit Adjustments" (I.D. 051701G) received on July 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2749. A communication from the Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Security Requirements for Unclassified Information Technology Resources" (48 CFR Parts 1804 and 1852) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2750. A communication from the Secretary of the Army and the Secretary of Agriculture, transmitting jointly, pursuant to law, a report relative to the interchange jurisdiction of Army and National Forest Service lands at Fort Leonard Wood Military Reservation in the State of Missouri; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2751. A communication from the Congressional Review Coordinator of Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Uruguay Because of Foot-and-Mouth Disease" (Doc. No. 00–11–2) received on July 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2752. A communication from the Acting Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the State of Michigan, et al.; Modifications to the Rules and Regulations under the Tart Cherry Marketing Order" (Doc. No. FV01–930–3 IFR) received on July 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2753. A communication from the President of the United States, transmitting, pursuant to law, a report relative to Federal Climate Change Expenditures; to the Committee on Foreign Relations.

EC–2754. A communication from the Deputy Director of the United States Trade and Development Agency, transmitting, pursuant to law, the report of the discontinuation in acting role and a nomination confirmed for the position of Director, received on July 5, 2001; to the Committee on Foreign Relations.

EC–2755. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning the Central African Republic; to the Committee on Foreign Relations.

EC–2756. A communication from the Assistant Secretary of Legislative Affairs, Department of States, transmitting, pursuant to law, the report of a rule entitled "VISAS: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Application for Nonimmigrant Visas: XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah, 2002; to the Committee on Foreign Relations.

EC–2757. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "VISAS: Documentation of Immigrants under the Immigration and Nationality Act, as amended—Diversity Visas" (22 CFR Part 42) received on July 5, 2001; to the Committee on Foreign Relations.

EC–2758. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Taiwan; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Douglas Jay Feith, of Maryland, to be Under Secretary of Defense for Policy.

*Jessie Hill Roberson, of Alabama, to be an Assistant Secretary of Energy (Environmental Management).

*Jack Dyer Crouch, II, of Missouri, to be an Assistant Secretary of Defense.

*Steven John Morello, Sr., of Michigan, to be General Counsel of the Department of the Army.

*Michael Montelongo, of Georgia, to be an Assistant Secretary of the Air Force.

*Michael W. Wynne, of Florida, to be Deputy Under Secretary of Defense for Acquisition and Technology.

*Dionel M. Aviles, of Maryland, to be an Assistant Secretary of the Navy.

By Mr. WARNER for the Committee on Armed Services.

*Susan Morrisey Livingston, of Montana, to be Under Secretary of the Navy.

*Peter W. Rodman, of the District of Columbia, to be an Assistant Secretary of Defense.

*Thomas P. Christie, of Virginia, to be Director of Operational Test and Evaluation, Department of Defense.

*Diane K. Morales, of Texas, to be Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

*William A. Navas, Jr., of Virginia, to be an Assistant Secretary of the Navy.

*Reginald Jude Brown, of Virginia, to be an Assistant Secretary of the Army.

*John J, Young, Jr., of Virginia, to be an Assistant Secretary of the Navy.

*Alberto Jose Mora, of Virginia, to be General Counsel of the Department of the Navy.

*Stephen A. Cambone, of Virginia, to be Deputy Under Secretary of Defense for Policy.

By Mr. LIEBERMAN for the Committee on Governmental Affairs.

*Kay Coles James, of Virginia, to be Director of the Office of Personnel Management.

*Othoneil Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority for a term of five years expiring July 1, 2005.

*Nomination was reported with recommendation that it be confirmed subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. FEINSTEIN (for herself and Mr. THOMPSON):

S. 1162. A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, to provide for a 9.6 percent increase in judicial salaries, and for other purposes; to the Committee on the Judiciary.

By Mr. CORZINE (for himself, Mr. CARPER, and Mr. SCHUMER):

S. 1163. A bill to increase the mortgage loan limits under the National Housing Act for multifamily housing mortgage insurance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EDWARDS:

S. 1164. A bill to provide for the enhanced protection of the privacy of location information of users of location-based services and applications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN (for himself, Mr. KOHL, and Mr. REED):

S. 1165. A bill to prevent juvenile crime, promote accountability by and rehabilitation of juvenile crime, punish and deter violent gang crime, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself and Mr. DEWINE):

S. 1166. A bill to establish the Next Generation Lighting Initiative at the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself and Mr. HAGEL):

S. 1167. A bill to amend the Immigration and Nationality Act to permit the substitution of an alternative close family sponsor in the case of the death of the person petitioning for an alien's admission to the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself, Mr. STEVENS, Mr. REID, Mr. CONRAD, Mr. HARKIN, Mr. DORGAN, and Mr. SARBANES):

S. Res. 126. A resolution expressing the sense of the Senate regarding observance of the Olympic Truce; to the Committee on Foreign Relations.

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. BYRD, and Mr. THURMOND):

S. Res. 127. A resolution commending Gary Sisco for his service as Secretary of the Senate; considered and agreed to.

By Mr. TORRICELLI (for himself, Mr. CORZINE, Mr. KERRY, Mr. ALLEN, Mr. WELLSTONE, Mr. THOMAS, and Mr. BROWNBACK):

S. Res. 128. A resolution calling on the Government of the People's Republic of China to immediately and unconditionally release Li Shaomin and all other American scholars of Chinese ancestry being held in detention, calling on the President of the United States to continue working on behalf of Li Shaomin and the other detained scholars for their release, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 170

At the request of Mr. REID, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 252

At the request of Mr. VOINOVICH, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 252, a bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

S. 356

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 356, a bill to establish a National Commission on the Bicentennial of the Louisiana Purchase.

S. 358

At the request of Mr. BREAUX, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 358, a bill to amend the Social Security Act to establish a Medicare Prescription Drug and Supplemental Benefit Program and for other purposes.

S. 392

At the request of Mr. SARBANES, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 392, a bill to grant a Federal Charter to Korean War Veterans Association, Incorporated, and for other purposes.

S. 527

At the request of Mrs. HUTCHISON, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 527, a bill to amend the Internal Revenue Code of 1986 to exempt State and local political committees from duplicative notification and reporting requirements made applicable to political organizations by Public Law 106–230.

S. 654

At the request of Mr. TORRICELLI, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 654, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 694

At the request of Mr. LEAHY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 694, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 706

At the request of Mr. KERRY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 706, a bill to amend the Social Security Act to establish programs to alleviate the nursing profession shortage, and for other purposes.

S. 721

At the request of Mr. HUTCHINSON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 721, a bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes.

S. 742

At the request of Mr. COCHRAN, his name was added as a cosponsor of S. 742, a bill to provide for pension reform, and for other purposes.

S. 744

At the request of Mrs. HUTCHISON, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 744, a bill to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law.

S. 778

At the request of Mr. HAGEL, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

At the request of Mr. EDWARDS, his name was added as a cosponsor of S. 778, supra.

S. 805

At the request of Mr. WELLSTONE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 805, a bill to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and emery-dreifuss muscular dystrophies.

S. 834

At the request of Mr. MURKOWSKI, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 834, a bill to provide duty-free treatment for certain steam or other vapor generating boilers used in nuclear facilities.

S. 836

At the request of Mr. CRAIG, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 836, a bill to amend part C of title XI of the Social Security Act to provide for coordination of implementation of administrative simplification standards for health care information.

S. 838

At the request of Mr. DODD, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 838, a bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

S. 866

At the request of Mr. REID, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 870

The request of Mr. SMITH of New Hampshire, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 870, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for public-private partnerships in financing of highway, mass transit, high speed rail, and intermodal transfer facilities projects, and for other purposes.

S. 913

At the request of Ms. SNOWE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 917

At the request of Ms. COLLINS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 937

At the request of Mr. CLELAND, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 937, a bill to amend title 38, United States Code, to permit the transfer of entitlement to educational assistance the Montgomery GI Bill by members of the Armed Forces, and for other purposes.

S. 972

At the request of Mr. MURKOWSKI, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 972, a bill to amend the Internal Revenue Code of 1986 to improve electric reliability, enhance transmission infrastructure, and to facilitate access to the electric transmission grid.

S. 979

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 979, a bill to amend United States trade laws to address more effectively import crises, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1018

At the request of Mr. LEVIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1018, a bill to provide market loss assistance for apple producers.

S. 1021

At the request of Mr. LUGAR, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1021, a bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004.

S. 1098

At the request of Mr. SMITH of Oregon, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1098, a bill to amend the Food Stamp Act of 1977 to improve food stamp informational activities in those States with the greatest rate of hunger.

S. 1140

At the request of Mr. HATCH, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. CON. RES. 53

At the request of Mr. HAGEL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mr. THOMPSON):

S. 1162. A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, to provide for a 9.6 percent increase in judicial salaries, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise, along with Senator THOMPSON, to introduce legislation to restore pay equity for our Federal judges. This legislation would guarantee judges automatic and annual cost-of-living adjustments, COLAs, just like other rank-and-file Federal employees.

In addition, the legislation would end a decade of Federal judicial salary neglect by giving judges a one-time salary increase of 9.6 percent. In the past decade, Congress has denied COLAs for judges in four separate years, in 1994, 1995, 1996, and 1998. This bill would restore to Federal justices the four COLAs they have lost.

In his year-end report on the state of the Federal Judiciary, Chief Justice William Rehnquist called the "the need to increase judicial salaries" the most pressing issue facing the Federal judiciary.

Simply put, while government service offers its own rewards, we should not create financial disincentives to service on the Federal bench.

Federal judges bear enormous responsibility as they preside over the most pressing legal issues. Often, they must render life-or-death decisions or preside over cases with millions of dollars at stake. For this vitally important work, they deserve appropriate compensation.

Recently, Congress took some action to restore equity in Federal salaries by doubling the salary of the President of the United States from $200,000 to $400,000.

Congress should now consider an appropriate pay adjustment for the Federal judiciary. As of January 2001, Federal district judges receive an annual salary of $145,000. If judges had received the COLAs to which they were entitled, a Federal District judge's salary would actually be $164,700, nearly $20,000 higher.

Now, $145,000 is a lot more money than the salary of a typical worker but it is not so high when you compare it to equivalent positions of authority in the private sector. For example, the average partner in a major national law firm earns well over $500,000 per year.

It is even more striking to note that major national law firms are offering first-year associates salaries topping $125,000 a year. With bonuses, some of these newly minted lawyers are earning more than appellate judges.

The bottom line is that we cannot expect to keep our country's best lawyers interested in serving on the Federal bench if we continue to denigrate the salary of the post. Just since 1993, the salary of Federal judges, adjusted for inflation, has declined by 13 percent.

Not surprisingly, more and more judges are leaving the Federal bench. Between 1991 and 2000, 52 Federal judges resigned their seats, many of them for the purposes of returning to private practice. These 52 judges represent 40 percent of the 125 Federal judges who have left the bench since 1965.

Attorneys should not expect to become wealthy through an appointment as a Federal judge. Neither should judges expect to have their salaries eroded by Congress' failure to give them Cost-of-Living Adjustments.

Preserving judicial salaries is vital to maintaining the high quality of our Federal judiciary. I look forward to working with my colleagues in the Senate to restore fairness to judicial compensation.

By Mr. CORZINE (for himself, Mr. CARPER, and Mr. SCHUMER):

S. 1163. A bill to increase the mortgage loan limits under the National Housing Act for multifamily housing mortgage insurance; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, I am pleased to join with my distinguished colleague, Senator CARPER, in introducing legislation, the FHA Multifamily Housing Loan Limit Adjustment Act, that would improve access to affordable housing.

Our Nation currently faces a critical housing shortage. A report released recently by the Center for Housing Policy, "Housing America's Working Families," documented the overwhelming need for affordable housing. The report indicates that in 1997, nearly 14 million families had a critical housing need, meaning they either lived in substandard housing conditions or spent more than half their monthly income on the cost of housing. The FHA Multifamily Housing Loan Limit Adjustment Act would provide America's working families with increased access to affordable rental housing.

The bill is simple, it increases by 25 percent the statutory limits for multifamily project loans that can be insured by the FHA. This increase reflects the increased costs associated with the production of multifamily units since 1992, when these limits were last revised. The bill also would index the loan limits for inflation and increases to the Annual Construction Cost Index, which is published by the Census Bureau.

Rising construction costs have resulted in a shortage of moderately priced affordable rental units. Rent increases now exceed inflation in all regions of the country, and new affordable rental units have become increasingly harder to find. Because of the current dollar limits on loans, FHA insurance cannot be used to help finance construction in high-cost urban areas such as the New York/New Jersey metropolitan area, Philadelphia and San Francisco.

By increasing the limits on loans for rental housing we will create more incentives for public/private investment in communities through America and spur the new production of cooperative housing projects, rental housing for the elderly, and new construction or substantial rehabilitation of apartments by for- and non-profit entities.

Late last year, Congress sought, through a number of initiatives, to implement programs aimed at increasing the production of affordable housing for the millions of Americans who currently face critical housing needs. For example, we expanded the Low Income Housing Tax Credit, the one Federal program designed to produce new housing. We also increased the supply of housing vouchers. However, these programs were targeted largely at families with very low incomes. Currently, there are no programs designed specifically to provide access to affordable rental housing for America's working middle class, the people who serve as the engine of our nation's economy. Far too many of these individuals, including vital municipal workers like teachers, nurses and police officers, are struggling to gain access to affordable housing even remotely near where they work.

Without this much-needed adjustment to the FHA multifamily loan limits, access to affordable housing for our working-citizens will continue to lag, thousands of more families will join the 14 million people who currently face severe housing needs and our nation's economy will suffer.

This bill is modeled after bipartisan legislation introduced in the House by my colleague from New Jersey, Congresswoman MARGE ROUKEMA, and Congressman BARNEY FRANK of Massachusetts. The bill is supported by housing and community advocates and has also been endorsed by the National Association of Home Builders, the National Association of Realtors, and the Mortgage Bankers Association.

I hope my Senate colleagues will support the legislation and help us ensure that America's working families have access to affordable housing.

Mr. CARPER. Mr. President, I am very pleased to join today with my distinguished colleague from new Jersey to introduce the FHA Multifamily Housing Mortgage Loan Limit Adjustment Act of 2001.

A recent report published by the National Housing Conference's Center for Housing Policy found that in 1997, nearly 14 million families either lived in substandard housing or spent more than half of their monthly income on housing costs. This affordable housing shortage also comes at a time of limited resources. Thus, we have to find the best use of each dollar at our disposal, as well as the most effective use of existing Federal programs to stimulate new production and substantial rehabilitation.

The Federal Housing Administration's, FHA, multifamily mortgage insurance is an important financing device for housing production. Unfortunately, production through this public/private partnership has been low in recent years. One of the reasons for FHA's absence from the rental housing market is that the multifamily loan limits have not been increased since 1992. While the annual Construction Cost Index, published by the Census Bureau, has increased over 23 percent since 1992, FHA's multifamily loan limits have remained static.

These rising construction costs have contributed to FHA's inability to be a significant participant in the production of multifamily housing. Increasing these loan limits by 25 percent, as this legislation does, is something Congress can do today to address immediately the shortage is affordable rental housing. This bill modifies a current federal program, FHA multifamily insurance, to make that program more effective. Importantly, this legislation also indexes the loan limits to the Annual Construction Cost Index.

I ask my colleagues to join with Senator CORZINE and me to increase these multifamily loan limits so that more working families will have access to affordable rental housing.

By Mr. EDWARDS:

S. 1164. A bill to provide for the enhanced protection of the privacy of location information of users of location-based services and applications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. EDWARDS. Mr. President, I rise today to introduce much-needed legislation to protect the privacy of consumers who use technologies that can pinpoint their location. Under my bill, the Location Privacy Protection Act, any company that monitors consumers' physical location will be prohibited from using or disclosing that information without express permission from the consumer. And third parties that gain access to the information cannot use or disclose it without the individual's permission first.

Within the next few years, new technologies will allow companies to know our location any time of day or night. Our cell phones, pagers, cars, palm pilots and other devices will enable companies to constantly track where we go and how often we go there. These services can have enormous advantages. For example, public safety and rescue teams can save lives with systems that enable them to quickly locate crash victims. Imagine being able to ask your cell phone for directions to the nearest Italian restaurant. Or imagine you are traveling in a new city and your pager alerts you when you are within a block of your favorite coffee shop, which happens to be running a sale on coffee. The possibilities for location-based services and application are endless.

But these new technologies also raise serious privacy issues. Location information is very private, sensitive information that can be misused to harass consumers with unwanted solicitations or to draw inaccurate or embarrassing inferences about them. And in extreme cases, improper disclosure of location information to a domestic abuser or stalker could place a person in physical danger.

The wireless industry is unique in that it has worked with Congress to guarantee some privacy protections in the law, and it should be commended for recognizing the sensitivity of location information. However, although these laws are a good first step, we need to build on them and strengthen them. For example, although under the law customers must give their permission before wireless carriers can use or disclose their location information, the law does not require carriers to clearly notify consumers about how their location information will be used if they do grant their permission. Consumers also have no control over what happens to their information once third parties gain access to it. These parties are free to share it with anyone they please. And shockingly, there are no laws that protect the privacy of users of new technologies like telematics, services that allow drivers to get directions at the push of a button in their cars, and global positioning systems.

My legislation puts control over location information in the hands of the consumer. It requires the FCC to issue new regulations prohibiting all providers of location-based services and applications from collecting, using, disclosing, or retaining location information without the customer's permission first. And customers must be given clear and conspicuous notice about what the company is going to do with their location information. Customers also will have the right to ensure the accuracy of the information that is collected and companies will be required to keep that information safe from unauthorized access.

Third parties will not be able to use or disclose location information without prior authorization from the customer. In this regard, my bill makes an exception if the third party is an emergency service. I believe that the FCC must be very careful not to interfere with the laws that have been carefully crafted to allow emergency medical rescue teams, public safety, fire services, hospital emergency facilities and other emergency services to respond to the user's call for help. These laws are critical to saving lives and I believe we should do everything we can to make sure they work.

I would also like to point out that while my bill requires that the FCC rules not interfere with the ability of law enforcement to obtain location information pursuant to an appropriate court order, it does not provide the FCC with extraordinary authority to control when law enforcement can and cannot gain access to location information. Although I have concerns about unnecessary and surreptitious government surveillance, I believe that this issue is best addressed either separately, or at a later date. The purpose of my bill is primarily to lay down guidelines for when private persons, such as businesses, are able to use and disclose consumers' location information.

The law needs to be strengthened, and we have the opportunity to do so while these location-based technologies are in their infancy. We have a unique opportunity to give consumers power over their location information before its commercial value becomes so great that it is impossible for consumers to prevent the buying and selling of this very personal information.

In sum, I believe the Location Privacy Protection Act is a common sense measure offered at an ideal time. I know that wireless carriers and many companies such as OnStar, ATX, Qualcomm and others care deeply about privacy. I applaud them for their efforts and I look forward to continuing working with them on this issue.

I ask unanimous consent that the text bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Location Privacy Protection Act of 2001".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Location-based services and applications allow customers to receive services based on their geographic location, position, or known presence. Telematics devices, for instance, permit subscribers in vehicles to obtain emergency road assistance, driving directions, or other information with the push of a button. Other devices, such as those with Internet access, support position commerce in which notification of points of interest or promotions can be provided to customers based on their known presence or geographic location.

(2) There is a substantial Federal interest in safeguarding the privacy right of customers of location-based services or applications to control the collection, use, retention of, disclosure of, and access to their location information. Location information is nonpublic information that can be misused to commit fraud, to harass consumers with unwanted messages, to draw embarrassing or inaccurate inferences about them, or to discriminate against them. Improper disclosure of or access to location information could also place a person in physical danger. For example, location information could be misused by stalkers or by domestic abusers.

(3) The collection or retention of unnecessary location information magnifies the risk of its misuse or improper disclosure.

(4) Congress has recognized the right to privacy of location information by classifying location information as customer proprietary network information subject to section 222 of the Communications Act of 1934 (47 U.S.C. 222), thereby preventing use or disclosure of that information without a customer's express prior authorization.

(5) There is a substantial Federal interest in promoting fair competition in the provision of wireless services and in ensuring the consumer confidence necessary to ensure continued growth in the use of wireless services. These goals can be attained by establishing a set of privacy rules that apply to wireless location information, regardless of technology, and to all entities and services that generate or receive access to such information.

(6) It is in the public interest that the Federal Communications Commission establish comprehensive rules to protect the privacy of customers of location-based services and applications and thereby enable customers to realize more fully the benefits of location services and applications.

SEC. 3. PROTECTION OF LOCATION INFORMATION PRIVACY.

(a) RULEMAKING REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Federal Communications Commission shall complete a rulemaking proceeding for purposes of further protecting the privacy of location information.

(b) ELEMENTS.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2), the rules prescribed by the Commission under subsection (a) shall—

(A) require providers of location-based services and applications to inform customers, with clear and conspicuous notice, about their policies on the collection, use, disclosure of, retention of, and access to customer location information;

(B) require providers of location-based services and applications to obtain a customer's express authorization before—

(i) collecting, using, or retaining the customer's location information; or

(ii) disclosing or permitting access to the customer's location information to any person who is not a party to, or who is not necessary to the performance of, the service contract between the customer and such provider;

(C) require that all providers of location-based services or applications—

(i) restrict any collection, use, disclosure of, retention of, and access to customer location information to the specific purpose that is the subject of the express authorization of the customer concerned; and

(ii) not subsequently release a customer's location information for any purpose beyond the purpose for which the customer provided express authorization;

(D) ensure the security and integrity of location data, and give customers reasonable access to their location data for purposes of verifying the accuracy of, or deleting, such data;

(E) be technology neutral to ensure uniform privacy rules and expectations and provide the framework for fair competition among similar services;

(F) require that aggregated location information not be disaggregated through any means into individual location information for any commercial purpose; and

(G) not impede customers from readily utilizing location-based services or applications.

(2) Permitted uses.—The rules prescribed under subsection (a) may permit the collection, use, retention, disclosure of, or access to a customer's location information without prior notice or consent to the extent necessary to—

(A) provide the service from which such information is derived, or to provide the location-based service that the customer is accessing;

(B) initiate, render, bill, and collect for the location-based service or application;

(C) protect the rights or property of the provider of the location-based service or application, or protect customers of the service or application from fraudulent, abusive, or unlawful use of, or subscription to, the service or application;

(D) produce aggregate location information; and

(E) comply with an appropriate court order.

(3) Additional requirement.—Under the rules prescribed under subsection (a), any third party receiving, or receiving access to, a customer's location information from a provider of location services or applications pursuant to the express authorization of the customer, shall not disclose or permit access to such information to any other person without the express authorization of the customer.

(4) Express authorization.—

(A) Form.—For purposes of the rules prescribed under subsection (a) and section 222(f) of the Communications Act of 1934 (47 U.S.C. 222(f)), the Commission shall specify the appropriate methods, whether technological or otherwise, by which a customer may provide express prior authorization. Such methods may include a written or electronically signed service agreement or other contractual instrument.

(B) Modification or revocation.—Under the rules prescribed under subsection (a), a customer shall have the power to modify or revoke at any time an express authorization given by the customer under the rules.

(c) Application of Rules.—The rules prescribed by the Commission under subsection (a) shall apply to any person that provides a location-based service or application, whether or not such person is also a provider of commercial mobile service (as that term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)).

(d) Relationship to Wireless Communications and Public Safety Act of 1999.—The rules prescribed by the Commission under subsection (a) shall be consistent with the amendments to section 222 of the Communications Act of 1934 (47 U.S.C. 222) made by section 5 of the Wireless Communications and Public Safety Act of 1999 (Public Law 106–81; 113 Stat. 1288), including the provisions of section 222(d)(4) of the Communications Act of 1934, as so amended, permitting use, disclosure, and access to location information by public safety, fire services, and other emergency services providers for purposes specified in subparagraphs (A), (B), and (C) of such section 222(d)(4).

(e) State and Local Requirements.—

(1) In general.—No State or local government may adopt or enforce any law, regulation, or other legal requirement addressing the privacy of wireless location information that is inconsistent with the rules prescribed by the Commission under subsection (a).

(2) Preemption.—Any law, regulation, or requirement referred to in paragraph (1) that is in effect on the date of the enactment of this Act shall be preempted and superseded as of the effective date of the rules prescribed by the Commission under subsection (a).

(f) Definitions.—In this section:

(1) Aggregate location information.—The term "aggregate location information" means a collection of location data relating to a group or category of customers from which individual customer identities have been removed.

(2) Customer.—The term "customer", in the case of the provision of a location-based service or application with respect to a device, means the person entering into the contract or agreement with the provider of the location-based service or application for provision of the location-based service or application for the device.

By Mr. BIDEN (for himself, Mr. Kohl, and Mr. Reed):

S. 1165. A bill to prevent juvenile crime, promote accountability by and rehabilitation of juvenile crime, punish and deter violent gang crime, and for other purposes; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce, along with Senator Kohl and Senator Reed, the Juvenile Crime Prevention and Control Act of 2001. This is a balanced bill that recognizes the need to get tough on juvenile crime and violence, attempts to break the dangerous link between kids and guns, and, most importantly, puts the Federal Government firmly behind the proposition that preventing juvenile violence is the most effective crime fighting measure any of us could craft.

Before I discuss the specifics of the bill, let me give a brief overview of the current state of juvenile crime in America. Juvenile crime, like almost all other categories of crime, is down. Last December, the FBI released statistics that show the homicide arrest rate for juveniles down 68 percent from its 1993 peak. We are now experiencing the lowest rate of juvenile homicide arrests since 1966. Between 1994 and 1999, the arrest rate of juveniles for violent crimes, murder, rape, robbery, and aggravated assault, dropped 36 percent.

These statistics have not eased public concern about the scope and nature of juvenile crime. One 1998 poll showed that 62 percent of those asked believed juvenile crime was increasing. A poll conducted in 1999 revealed that 71 percent thought it likely that a shooting could occur in a school in their community. In the face of these popular perceptions, the Education Department reports that American children face a one in 2 million chance of being killed in their school.

Why the disparity? There are several reasons, in my opinion. First, and probably most importantly, while arrests of juveniles are unquestionably down, juvenile crime is still too high. The incidence of the most common crime committed by juveniles, property offenses, changed little throughout the last two decades. The rate of juvenile violent crime arrests has not yet returned to its 1988 level.

Second, and this cannot be understated, too many of our kids have access to guns, and those guns are finding their way into our Nation's schools at an alarming rate. A report released last year by the Education Department revealed that over 3,500 students were expelled in 1998 and 1999 for bringing guns to school, that's an average of 88 kids per week. The juvenile arrest rate for weapons crimes fell 39 percent from 1993 to 1999, but it too has not yet returned to 1988's low point.

Third, the American people understand that crime cannot stay down forever. I like to say that fighting crime is like mowing the grass, If you don't keep at it, it's going to come back up. We have good, demographic reasons to think this is particularly true in the case of juvenile crime. Today, there are approximately 39 million children younger than age 10. These kids, the children of the baby boom generation, stand on the edge of their teen years, the years when every reliable study reveals they are most at-risk of turning to drugs and crime.

What does this mean for juvenile crime? Even if we do everything right, even if we fund programs that work, put incorrigible juveniles behind bars, crack down on gun crimes, the demographic inevitability of this so-called "baby boomerang" means there is likely to be a 20 percent increase in juvenile murders by 2005. Such a jump would increase the overall murder rate by 5 percent. Our challenge is to make sure that does not happen.

We need to take another look at the Juvenile Justice and Delinquency Prevention Act of 1974. That Act expired on September 30, 1996, and, despite the good efforts of several Congresses, Members on both sides of the aisle, and the prior Administration, it has not been reauthorized. We should get that job done in the 107th Congress. The bill I introduce today includes provisions to reauthorize the Act, to fine tune some of its grant provisions, and to make some common sense changes to our firearms laws, changes that respect the rights of gun owners.

My bill reauthorizes the Community Prevention Grant Program, commonly known as Title V. It funds this critical juvenile crime prevention initiative at $250,000,000 per year for the next six years and mandates that no State would receive less than $200,000 in annual prevention grants. These funding levels would more than double juvenile crime prevention funding, enough resources for localities to implement a comprehensive delinquency prevention strategy and then fund smart prevention programs that work. In Delaware, Title V funds have been used to sponsor programs to reduce school violence, provide transition counseling to students returning to their local school from alternative school placement, reduce suspensions, expulsions, truancy, and teen pregnancy, and provide services to the children of incarcerated adult offenders. Prevention is the key to keeping our juvenile crime rate down, and we need to extend Title V to guarantee that these funds continue to flow to States and localities.

The bill also reauthorizes the Formula Grant Program for the next six years at $200,000,000 per year. I have included provisions to expand the permissible uses of these funds so as to make clear that employment training, mental health treatment, and other effective programs that meet the needs of children and youth in the juvenile system could be funded. The bill reauthorizes gang prevention programs and emphasizes the disruption and prosecution of gangs. It extends the juvenile justice mentoring program, and adds a pilot program to encourage and develop mentoring initiatives that focus on entire families. The bill also includes funds for grants to States to upgrade and enhance their juvenile felony criminal record histories.

My bill includes important provisions to continue the core protections for incarcerated youths that were included in the original Juvenile Justice and Delinquency Prevention Act of 1974. It continues the Act's function of protecting children from abuse and assault by adults in jails by prohibiting any contact between juveniles and adult inmates. The bill ensures that children are not detained in any jail or lockup for adults, except for very limited periods of time and under very limited circumstances. And it continues current law's requirement that States address the disproportionate number of minority children in confinement.

The bill authorizes $500,000,000 per year over the next six years for the Juvenile Accountability Block Grant program. Funded for the past three fiscal years, this program has never been authorized. Its purpose is to strengthen State juvenile justice systems. States would receive funds as long as they implement or consider implementing graduated sanctions, though this condition can be met through a reporting requirement. The language I have included in my bill is drawn from H.R. 863, a measure which is currently working its way through the other body. I am supportive of that measure, as it will provide much needed funds for States to hire additional prosecutors, juvenile court judges, probation officers, and court-appointed defenders and special advocates. In years past, my State has used these funds to establish a Serious Juvenile Offender program through the Delaware Division of Youth Rehabilitative Services, which provides an immediate secure placement of violent youth offenders who have violated the terms of their probation. Delaware has also used these funds to expand diversionary programs such as Teen Court and Drug Court, thus reducing the time between arrest and disposition of juvenile offenders, and to add psycho-forensic evaluators in the Delaware Office of the Public Defender to identify and address mental illness as a cause for delinquent conduct. This is a good program and it needs to be authorized.

My bill also reauthorizes the Violent Crime Reduction Trust Fund. The Trust Fund, created in the 1994 Crime Bill, has been the key to our successful fight against crime over the past several years. Unfortunately, it expired in 2000. The Violent Crime Reduction Trust Fund was the vehicle for providing billions of dollars to State and local governments to implement a variety of law enforcement and crime-fighting initiative, from the COPS program to the Violence Against Women Act to youth violence programs. Without the Trust Fund, I fear we may not have the resources necessary to continue our struggle to keep our streets safe. I am pleased to include provisions in this bill that will extend the Fund through fiscal year 2007.

Finally, the bill I am introducing today includes several common sense gun safety provisions. First, it incorporates Senator Reed's Gun Show Background Check Act. This language will ensure that criminals cannot purchase guns at gun shows, and I applaud Senator Reed for his leadership in this area. Second, I have included Senator Kohl's Child Safety Lock Act. This moderate provision would require handguns to be sold with government-certified trigger locks. Studies indicate trigger locks save lives; I was pleased to see the Administration's endorsement of this idea in its budget request for the upcoming fiscal year; and I thank Senator Kohl for including his bill in this larger measure today. Third, the bill would extend the Brady Law to dangerous juvenile offenders. This provision would make it unlawful for any person adjudicated a juvenile delinquent for serious drug offenses or violent felonies to possess firearms. This is an important step toward getting guns out of the hands of criminals, and its enactment will prevent violent juveniles from accessing weapons and thus make it difficult for them to commit gun crimes as adults.

This is not a perfect bill, and I am not wedded to each and every line. I welcome comments from my colleagues, the juvenile justice community, and anyone interested, in preventing and controlling juvenile crime. I am committed, however, to renewing our efforts to keep our children and our communities safe from crime and violence. I am committed to protecting our kids through meaningful prevention and intervention programs, to cracking down on drugs and the violence that accompanies them, and to ensuring that meaningful, appropriate and swift punishment is imposed on all juvenile offenders. I believe the Juvenile Crime Prevention and Control Act that I introduce today is an important step toward accomplishing these goals.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Juvenile Crime Prevention and Control Act of 2001".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—JUVENILE CRIME PREVENTION AND CONTROL

Sec. 101. Findings; declaration of purpose; definitions.
Sec. 102. Juvenile crime control and prevention.
Sec. 103. Juvenile offender accountability.
Sec. 104. Extension of violent crime reduction trust fund.

TITLE II—PROTECTING CHILDREN FROM VIOLENCE

Subtitle A—Gun Show Background Checks

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Extension of brady background checks to gun shows.

Subtitle B—Gun Ban for Dangerous Juvenile Offenders

Sec. 211. Permanent prohibition on firearms transfers to or possession by dangerous juvenile offenders.

Subtitle C—Child Safety Locks

Sec. 221. Short title.
Sec. 222. Requirement of child handgun safety locks.
Sec. 223. Amendment of consumer product safety act.

TITLE I—JUVENILE CRIME PREVENTION AND CONTROL

SEC. 101. FINDINGS; DECLARATION OF PURPOSE; DEFINITIONS.

Title I of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended to read as follows:

"TITLE I—FINDINGS AND DECLARATION OF PURPOSE

"SEC. 101. FINDINGS.

"Congress finds that—

"(1) the juvenile crime problem should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

"(A) quality prevention programs that—

"(i) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether juveniles have ever been the victims of family violence (including child abuse and neglect); and

"(ii) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent, and reduce the rate of, violent delinquent behavior; and

“(B) programs that assist in holding juveniles accountable for their actions, including a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts; and

“(2) action is required now to reform the Federal juvenile justice program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their acts.

“SEC. 102. PURPOSES.

“The purposes of this Act are—

“(1) to support State and local programs that prevent juvenile involvement in delinquent behavior;

“(2) to assist State and local governments in promoting public safety by encouraging accountability for acts of juvenile delinquency; and

“(3) to assist State and local governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency.

“SEC. 103. DEFINITIONS.

“In this Act:

“(1) Administrator.—The term ‘Administrator’ means the Administrator of the Office of Juvenile Crime Control and Prevention, appointed in accordance with section 201.

“(2) Adult inmate.—The term ‘adult inmate’ means an individual who—

“(A) has reached the age of full criminal responsibility under applicable State law; and

“(B) has been arrested and is in custody for, awaiting trial on, or convicted of criminal charges.

“(3) Bureau of justice assistance.—The term ‘Bureau of Justice Assistance’ means the bureau established by section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741).

“(4) Bureau of justice statistics.—The term ‘Bureau of Justice Statistics’ means the bureau established by section 302(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732(a)).

“(5) Collocated facilities.—The term ‘collocated facilities’ means facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds.

“(6) Combination.—The term ‘combination’ as applied to States or units of local government means any grouping or joining together of States or units of local government for the purpose of preparing, developing, or implementing a juvenile crime control and delinquency prevention plan.

“(7) Community-based.—The term ‘community-based’ facility, program, or service means a small, open group home or other suitable place located near the home or family of the juvenile and programs of community supervision and service that maintain community and consumer participation in the planning, operation, and evaluation of those programs which may include, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, alcoholism treatment, drug treatment, and other rehabilitative services.

“(8) Comprehensive and coordinated system of services.—The term ‘comprehensive and coordinated system of services’ means a system that—

“(A) ensures that services and funding for the prevention and treatment of juvenile delinquency are consistent with policy goals of preserving families and providing appropriate services in the least restrictive environment so as to simultaneously protect juveniles and maintain public safety;

“(B) identifies, and intervenes early for the benefit of, young children who are at risk of developing emotional or behavioral problems because of physical or mental stress or abuse, and for the benefit of their families;

“(C) increases interagency collaboration and family involvement in the prevention and treatment of juvenile delinquency; and

“(D) encourages private and public partnerships in the delivery of services for the prevention and treatment of juvenile delinquency.

“(9) Construction.—The term ‘construction’ means erection of new buildings or acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects’ fees but not the cost of acquisition of land for buildings).

“(10) Federal juvenile crime control, prevention, and juvenile offender accountability program.—The term ‘Federal juvenile crime control, prevention, and juvenile offender accountability program’ means any Federal program a primary objective of which is the prevention of juvenile crime or reduction of the incidence of arrest, the commission of criminal acts or acts of delinquency, violence, the use of alcohol or illegal drugs, or the involvement in gangs among juveniles.

“(11) Gender-specific services.—The term ‘gender-specific services’ means services designed to address needs unique to the gender of the individual to whom such services are provided.

“(12) Graduated sanctions.—The term ‘graduated sanctions’ means an accountability-based juvenile justice system that protects the public, and holds juvenile delinquents accountable for acts of delinquency by providing substantial and appropriate sanctions that are graduated in such a manner as to reflect (for each act of delinquency or offense) the severity or repeated nature of that act or offense, and in which there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender.

“(13) Home-based alternative services.—The term ‘home-based alternative services’ means services provided to a juvenile in the home of the juvenile as an alternative to incarcerating the juvenile, and includes home detention.

“(14) Indian tribe.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(15) Juvenile.—The term ‘juvenile’ means a person who has not attained the age of 18 years and who is subject to delinquency proceedings under applicable State law.

“(16) Juvenile population.—The term ‘juvenile population’ means the population of a State under 18 years of age.

“(17) Jail or lockup for adults.—The term ‘jail or lockup for adults’ means a locked facility that is used by a State, unit of local government, or any law enforcement authority to detain or confine adults—

“(A) pending the filing of a charge of violating a criminal law;

“(B) who are awaiting trial on a criminal charge; or

“(C) who are convicted of violating a criminal law.

“(18) Juvenile delinquency program.—The term ‘juvenile delinquency program’ means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including—

“(A) drug and alcohol abuse programs;

“(B) any program or activity that is designed to improve the juvenile justice system; and

“(C) any program or activity that is designed to reduce known risk factors for juvenile delinquent behavior, by providing activities that build on protective factors for, and develop competencies in, juveniles to prevent and reduce the rate of juvenile delinquent behavior.

“(19) Law enforcement and criminal justice.—The term ‘law enforcement and criminal justice’ means any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

“(20) National institute of justice.—The term ‘National Institute of Justice’ means the institute established by section 201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3721).

“(21) Nonprofit organization.—The term ‘nonprofit organization’ means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

“(22) Office.—The term ‘Office’ means the Office of Juvenile Crime Control and Prevention established under section 201.

“(23) Office of justice programs.—The term ‘Office of Justice Programs’ means the office established by section 101 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711).

“(24) Outcome objective.—The term ‘outcome objective’ means an objective that relates to the impact of a program or initiative, that measures the reduction of high risk behaviors, such as incidence of arrest, the commission of criminal acts or acts of delinquency, failure in school, violence, the use of alcohol or illegal drugs, involvement in youth gangs, violent and unlawful acts of animal cruelty, and teenage pregnancy, among youth in the community.

“(25) Process objective.—The term ‘process objective’ means an objective that relates to the manner in which a program or initiative is carried out, including—

“(A) an objective relating to the degree to which the program or initiative is reaching the target population; and

“(B) an objective relating to the degree to which the program or initiative addresses known risk factors for youth problem behaviors and incorporates activities that inhibit the behaviors and that build on protective factors for youth.

“(26) Prohibited physical contact.—The term ‘prohibited physical contact’ means—

"(A) any physical contact between a juvenile and an adult inmate; and

"(B) proximity that provides an opportunity for physical contact between a juvenile and an adult inmate.

"(27) RELATED COMPLEX OF BUILDINGS.—The term 'related complex of buildings' means 2 or more buildings that share—

"(A) physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or

"(B) the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of title 28, Code of Federal Regulations, as in effect on December 10, 1996.

"(28) SECURE CORRECTIONAL FACILITY.—The term 'secure correctional facility' means any public or private residential facility that—

"(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

"(B) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense.

"(29) SECURE DETENTION FACILITY.—The term 'secure detention facility' means any public or private residential facility that—

"(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

"(B) is used for the temporary placement of any juvenile who is accused of having committed an offense or of any other individual accused of having committed a criminal offense.

"(30) SERIOUS CRIME.—The term 'serious crime' means criminal homicide, rape or other sex offenses punishable as a felony, mayhem, kidnapping, aggravated assault, drug trafficking, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence, and arson punishable as a felony.

"(31) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(32) STATE OFFICE.—The term 'State office' means an office designated by the chief executive officer of a State to carry out this title, as provided in section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

"(33) SUSTAINED ORAL AND VISUAL CONTACT.—The term 'sustained oral and visual contact' means the imparting or interchange of speech by or between an adult inmate and a juvenile, or clear visual contact between an adult inmate and a juvenile in close proximity.

"(34) TREATMENT.—The term 'treatment' includes medical and other rehabilitative services designed to protect the public, including any services designed to benefit addicts and other users by—

"(A) eliminating their dependence on alcohol or other addictive or nonaddictive drugs; or

"(B) controlling or reducing their dependence and susceptibility to addiction or use.

"(35) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means—

"(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

"(B) any law enforcement district or judicial enforcement district that—

"(i) is established under applicable State law; and

"(ii) has the authority to, in a manner independent of other State entities, establish a budget and raise revenues;

"(C) an Indian tribe that performs law enforcement functions, as determined by the Secretary of the Interior; or

"(D) for the purposes of assistance eligibility, any agency of the government of the District of Columbia or the Federal Government that performs law enforcement functions in and for—

"(i) the District of Columbia; or

"(ii) any Trust Territory of the United States.

"(36) VALID COURT ORDER.—The term 'valid court order' means a court order given by a juvenile court judge to a juvenile—

"(A) who was brought before the court and made subject to the order; and

"(B) who received, before the issuance of the order, the full due process rights guaranteed to that juvenile by the Constitution of the United States.

"(37) VIOLENT CRIME.—The term 'violent crime' means—

"(A) murder or nonnegligent manslaughter, forcible rape, or robbery; and

"(B) aggravated assault committed with the use of a firearm.

"(38) YOUTH.—The term 'youth' means an individual who is not less than 6 years of age and not more than 17 years of age.".

SEC. 102. JUVENILE CRIME CONTROL AND PREVENTION.

(a) IN GENERAL.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended to read as follows:

"TITLE II—JUVENILE CRIME PREVENTION AND CONTROL

"PART A—OFFICE OF JUVENILE CRIME CONTROL AND PREVENTION

"SEC. 201. ESTABLISHMENT OF OFFICE.

"(a) IN GENERAL.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of Juvenile Crime Control and Prevention.

"(b) ADMINISTRATOR.—

"(1) IN GENERAL.—The Office shall be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who have had experience in juvenile delinquency prevention and crime control programs.

"(2) REGULATIONS.—The Administrator may prescribe regulations consistent with this Act to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, amounts made available under this title.

"(3) RELATIONSHIP TO ATTORNEY GENERAL.—The Administrator shall have the same reporting relationship with the Attorney General as the directors of other offices and bureaus within the Office of Justice Programs have with the Attorney General.

"(c) DEPUTY ADMINISTRATOR.—There shall be in the Office a Deputy Administrator, who shall—

"(1) be appointed by the Attorney General; and

"(2) perform such functions as the Administrator may assign or delegate and shall act as the Administrator during the absence or disability of the Administrator.

"(d) ASSOCIATE ADMINISTRATOR.—

"(1) IN GENERAL.—There shall be in the Office an Associate Administrator, who shall be appointed by the Administrator, and whose position shall be treated as a career reserved position within the meaning of section 3132 of title 5, United States Code.

"(2) DUTIES.—The duties of the Associate Administrator shall include informing Congress, other Federal agencies, outside organizations, and State and local government officials about activities carried out by the Office.

"(e) DELEGATION AND ASSIGNMENT.—

"(1) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided by this title, the Administrator may—

"(A) delegate any of the functions of the Administrator, and any function transferred or granted to the Administrator after the date of enactment of the Juvenile Crime Prevention and Control Act of 2001, to such officers and employees of the Office as the Administrator may designate; and

"(B) authorize successive redelegations of such functions as may be necessary or appropriate.

"(2) RESPONSIBILITY.—No delegation of functions by the Administrator under this subsection or under any other provision of this title shall relieve the Administrator of responsibility for the administration of such functions.

"(f) REORGANIZATION.—The Administrator may allocate or reallocate any function transferred among the officers of the Office, and establish, consolidate, alter, or discontinue such organizational entities in that Office as may be necessary or appropriate.

"SEC. 202. PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS.

"(a) IN GENERAL.—The Administrator may select, employ, and fix the compensation of officers and employees, including attorneys, who are necessary to perform the functions vested in the Administrator and to prescribe the functions of those officers and employees.

"(b) OFFICERS.—The Administrator may select, appoint, and employ not to exceed 4 officers and to fix the compensation of those officers at rates not to exceed the maximum rate payable under section 5376 of title 5, United States Code.

"(c) DETAIL OF FEDERAL PERSONNEL.—Upon the request of the Administrator, the head of any Federal agency may detail, on a reimbursable basis, any of its personnel to the Administrator to assist the Administrator in carrying out the functions of the Administrator under this title.

"(d) SERVICES.—The Administrator may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the rate now or hereafter payable under section 5376 of title 5, United States Code.

"SEC. 203. NATIONAL PROGRAM.

"(a) NATIONAL JUVENILE CRIME CONTROL, PREVENTION, AND JUVENILE OFFENDER ACCOUNTABILITY PLAN.—

"(1) IN GENERAL.—Subject to the general authority of the Attorney General, the Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out those plans, for all Federal juvenile crime control, prevention, and juvenile offender accountability programs and activities relating to improving juvenile crime control, the rehabilitation of juvenile offenders, the prevention of juvenile crime, and the enhancement of accountability by offenders within the juvenile justice system in the United States.

"(2) CONTENTS OF PLANS.—

"(A) IN GENERAL.—Each plan described in paragraph (1) shall—

"(i) contain specific, measurable goals and criteria for reducing the incidence of crime and delinquency among juveniles, improving juvenile crime control, and ensuring accountability by offenders within the juvenile justice system in the United States, and shall include criteria for any discretionary grants and contracts, for conducting research, and for carrying out other activities under this title;

"(ii) provide for coordinating the administration of programs and activities under this title with the administration of all other Federal juvenile crime control, prevention, and juvenile offender accountability programs and activities, including proposals for joint funding to be coordinated by the Administrator;

"(iii) provide a detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, the time served by juveniles in custody, and the trends demonstrated by such data;

"(iv) provide a description of the activities for which amounts are expended under this title;

"(v) provide specific information relating to the attainment of goals set forth in the plan, including specific, measurable standards for assessing progress toward national juvenile crime reduction and juvenile offender accountability goals; and

"(vi) provide for the coordination of Federal, State, and local initiatives for the reduction of youth crime, preventing delinquency, and ensuring accountability for juvenile offenders.

"(B) Summary and analysis.—Each summary and analysis under subparagraph (A)(iii) shall set out the information required by clauses (i), (ii), and (iii) of this subparagraph separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders, and shall separately address with respect to each category of juveniles specified—

"(i) the types of offenses with which the juveniles are charged;

"(ii) the ages of the juveniles;

"(iii) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

"(iv) the length of time served by juveniles in custody; and

"(v) the number of juveniles who died or who suffered serious bodily injury while in custody and the circumstances under which each juvenile died or suffered that injury.

"(C) Definition of serious bodily injury.—In this paragraph, the term 'serious bodily injury' means bodily injury involving extreme physical pain or the impairment of a function of a bodily member, organ, or mental faculty that requires medical intervention such as surgery, hospitalization, or physical rehabilitation.

"(3) Annual review.—The Administrator shall annually—

"(A) review each plan submitted under this subsection;

"(B) revise the plans, as the Administrator considers appropriate; and

"(C) not later than March 1 of each year, present the plans to the Committee on the Judiciary of the Senate and the Committee on Education and the Workforce of the House of Representatives.

"(b) Duties of Administrator.—In carrying out this title, the Administrator shall—

"(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile crime control, prevention, and juvenile offender accountability programs, and Federal policies regarding juvenile crime and justice, including policies relating to juveniles prosecuted or adjudicated in the Federal courts;

"(2) implement and coordinate Federal juvenile crime control, prevention, and juvenile offender accountability programs and activities among Federal departments and agencies and between such programs and activities and other Federal programs and activities that the Administrator determines may have an important bearing on the success of the entire national juvenile crime control, prevention, and juvenile offender accountability effort including, in consultation with the Director of the Office of Management and Budget listing annually those programs to be considered Federal juvenile crime control, prevention, and juvenile accountability programs for the following fiscal year;

"(3) serve as a single point of contact for States, units of local government, and private entities for purposes of providing information relating to Federal juvenile delinquency programs or for referral to other agencies or departments that operate such programs;

"(4) provide for the auditing of grants provided pursuant to this title;

"(5) collect, prepare, and disseminate useful data regarding the prevention, correction, and control of juvenile crime and delinquency, and issue, not less than once each calendar year, a report on successful programs and juvenile crime reduction methods utilized by States, localities, and private entities;

"(6) ensure the performance of comprehensive rigorous independent scientific evaluations, each of which shall—

"(A) be independent in nature, and shall employ rigorous and scientifically valid standards and methodologies; and

"(B) include measures of outcome and process objectives, such as reductions in juvenile crime, youth gang activity, youth substance abuse, and other high risk factors, as well as increases in protective factors that reduce the likelihood of delinquency and criminal behavior;

"(7) consult with appropriate authorities in the States and with appropriate private entities regarding the development, review, and revision of the plans required by subsection (a) and the development of policies relating to juveniles prosecuted or adjudicated in the Federal courts;

"(8) provide technical assistance to the States, units of local government, and private entities in implementing programs funded by grants under this title;

"(9) provide technical and financial assistance to an organization composed of member representatives of the State advisory groups appointed under section 222(b)(2) to carry out activities under this paragraph, if that organization agrees to carry out activities that include—

"(A) conducting an annual conference of the member representatives for purposes relating to the activities of the State advisory groups;

"(B) disseminating information, data, standards, advanced techniques, and programs models developed through the Institute and through programs funded under section 241; and

"(C) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

"(10) provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under section 222(b)(2) to assist that eligible organization in—

"(A) conducting an annual conference of member representatives of the State advisory groups for purposes relating to the activities of those groups; and

"(B) disseminating information, data, standards, advanced techniques, and program models developed through the Institute and through programs funded under section 241.

"(c) Utilization of Services and Facilities of Other Agencies; Reimbursement.—The Administrator, through the general authority of the Attorney General, may utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

"(d) Coordination of Functions of Administrator and Secretary of Health and Human Services.—All functions of the Administrator shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III.

"(e) Annual Juvenile Delinquency Development Statements.—

"(1) In general.—Each Federal agency that administers a Federal juvenile crime control, prevention, and juvenile offender accountability program shall annually submit to the Administrator a juvenile crime control, prevention, and juvenile offender accountability development statement.

"(2) Contents.—Each development statement submitted under paragraph (1) shall contain such information, data, and analyses as the Administrator may require and shall include an analysis of the extent to which the program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile crime control, prevention, and juvenile offender accountability, prevention, and treatment goals and policies.

"(3) Review and comment.—

"(A) In general.—The Administrator shall review and comment upon each juvenile crime control, prevention, and juvenile offender accountability development statement transmitted to the Administrator under paragraph (1).

"(B) Inclusion in other documentation.—The development statement transmitted under paragraph (1), together with the comments of the Administrator under subparagraph (A), shall be—

"(i) included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation that significantly affects juvenile crime control, prevention, and juvenile offender accountability; and

"(ii) made available for promulgation to and use by State and local government officials, and by nonprofit organizations involved in delinquency prevention programs.

"(f) Joint Funding.—Notwithstanding any other provision of law, if funds are made available by more than 1 Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile crime control, prevention, or juvenile offender accountability program or activity—

"(1) any 1 of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced; and

“(2) a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such Federal agency to waive any technical grant or contract requirement (as defined in those regulations) that is inconsistent with the similar requirement of the administering agency or that the administering agency does not impose.

“SEC. 204. COMMUNITY PREVENTION GRANT PROGRAM.

“(a) Purposes.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for youth who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to children, youth, and families of—

“(1) recreation services;

“(2) tutoring and remedial education;

“(3) assistance in the development of work awareness skills;

“(4) child and adolescent health and mental health services;

“(5) alcohol and substance abuse prevention services;

“(6) leadership development activities; and

“(7) the teaching that people are and should be held accountable for their actions.

“(b) Eligibility.—The requirements of this subsection are met with respect to a unit of general local government if—

“(1) the unit is in compliance with the requirements of part B of title II;

“(2) the unit has submitted to the State advisory group a 3-year plan outlining the local front end plans of the unit for investment for delinquency prevention and early intervention activities;

“(3) the unit has included in its application to the Administrator for formula grant funds a summary of the 3-year plan described in paragraph (2);

“(4) pursuant to its 3-year plan, the unit has appointed a local policy board of no fewer than 15 and no more than 21 members with balanced representation of public agencies and private, nonprofit organizations serving children, youth, and families and business and industry;

“(5) the unit has, in order to aid in the prevention of delinquency, included in its application a plan for the coordination of services to at-risk youth and their families, including such programs as nutrition, energy assistance, and housing;

“(6) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

“(7) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

“(c) Priority.—In considering grant application under this section, the Administrator shall give priority to applicants that demonstrate ability in—

“(1) plans for service and agency coordination and collaboration including the collocation of services;

“(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities; and

“(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention.

“SEC. 205. GRANTS TO INDIAN TRIBES.

“(a) In General.—From the amount reserved under section 206(b) in each fiscal year, the Administrator shall make grants to Indian tribes for programs pursuant to the permissible purposes under section 204 and part B of this title.

“(b) Applications.—

“(1) In general.—To be eligible to receive a grant under this section, an Indian tribe shall submit to the Administrator an application in such form and containing such information as the Administrator may by regulation require.

“(2) Plans.—Each application submitted under paragraph (1) shall include a plan for conducting projects described in section 204(a), which plan shall—

“(A) provide evidence that the Indian tribe performs law enforcement functions (as determined by the Secretary of the Interior);

“(B) identify the juvenile justice and delinquency problems and juvenile delinquency prevention needs to be addressed by activities conducted by the Indian tribe in the area under the jurisdiction of the Indian tribe with assistance provided by the grant;

“(C) provide for fiscal control and accounting procedures that—

“(i) are necessary to ensure the prudent use, proper disbursement, and accounting of funds received under this section; and

“(ii) are consistent with the requirements of subparagraph (B);

“(D) comply with the requirements of section 222(a) (except that such subsection relates to consultation with a State advisory group) and with the requirements of section 222(c); and

“(E) contain such other information, and be subject to such additional requirements, as the Administrator may reasonably prescribe to ensure the effectiveness of the grant program under this section.

“(c) Factors for Consideration.—In awarding grants under this section, the Administrator shall consider—

“(1) the resources that are available to each applicant that will assist, and be coordinated with, the overall juvenile justice system of the Indian tribe; and

“(2) for each Indian tribe that receives assistance under such a grant—

“(A) the relative juvenile population; and

“(B) who will be served by the assistance provided by the grant.

“(d) Grant Awards.—

“(1) In general.—

“(A) Competitive awards.—Except as provided in paragraph (2), the Administrator shall—

“(i) annually award grants under this section on a competitive basis; and

“(ii) enter into a grant agreement with each grant recipient under this section that specifies the terms and conditions of the grant.

“(B) Period of grant.—The period of each grant awarded under this section shall be 2 years.

“(2) Exception.—In any case in which the Administrator determines that a grant recipient under this section has performed satisfactorily during the preceding year in accordance with an applicable grant agreement, the Administrator may—

“(A) waive the requirement that the recipient be subject to the competitive award process described in paragraph (1)(A); and

“(B) renew the grant for an additional grant period (as specified in paragraph (1)(B)).

“(3) Modifications of processes.—The Administrator may prescribe requirements to provide for appropriate modifications to the plan preparation and application process specified in subsection (b) for an application for a renewal grant under paragraph (2)(B).

“(e) Reporting Requirement.—Each Indian tribe that receives a grant under this section shall be subject to the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

“(f) Matching Requirement.—Funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of any program or project with a matching requirement funded under this section.

“(g) Technical Assistance.—From the amount reserved under section 206(b) in each fiscal year, the Administrator may reserve 1 percent for the purpose of providing technical assistance to recipients of grants under this section.

“SEC. 206. ALLOCATION OF GRANTS.

“(a) In General.—Subject to subsections (b), (c), and (d), the amount allocated under section 261 to carry out section 204 in each fiscal year shall be allocated to the States as follows:

“(1) The amount allocated to any State shall not be less than $200,000.

“(2) Not less than 75 percent of the funds made available under Part A of this title shall be used to carry out section 205.

“(b) Reservation of Funds.—Notwithstanding any other provision of law, from the amounts allocated under section 261 to carry out section 204 and part B in each fiscal year the Administrator shall reserve an amount equal to the amount which all Indian tribes that qualify for a grant under section 205 would collectively be entitled, if such tribes were collectively treated as a State for purposes of subsection (a).

“(c) Exception.—The amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 and not more than $100,000.

“(d) Administrative Costs.—A State, unit of local government, or eligible unit that receives funds under this part may not use more than 5 percent of those funds to pay for administrative costs.

“PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

“SEC. 221. AUTHORITY TO MAKE GRANTS AND CONTRACTS.

“(a) In General.—The Administrator may make grants to States and units of local government, or combinations thereof, to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

“(b) Training and Technical Assistance.—

“(1) In general.—With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide training and technical assistance to States, units of local government (or combinations thereof), and local private agencies to facilitate compliance with section 222 and implementation of the State plan approved under section 222(c).

“(2) ELIGIBLE RECIPIENTS.—

“(A) IN GENERAL.—Grants may be made to and contracts may be entered into under paragraph (1) only with public and private agencies, organizations, and individuals that have experience in providing training and technical assistance required under paragraph (1).

“(B) ACTIVITY COORDINATION.—In providing training and technical assistance required under paragraph (1), the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section 222(a)(1).

“SEC. 222. STATE PLANS.

“(a) IN GENERAL.—In order to receive formula grants under this part, a State shall submit a plan, developed in consultation with the State Advisory Group established by the State under subsection (e)(2)(A), for carrying out its purposes applicable to a 3-year period.

“(b) ALLOCATION.—A portion of any allocation of formula grants to a State shall be available to develop a State plan or for other activities associated with such State plan which are necessary for efficient administration, including monitoring, evaluation, and one full-time staff position.

“(c) ANNUAL REPORTS.—The State shall submit annual performance reports to the Administrator, each of which shall describe progress in implementing programs contained in the original State plan, and amendments necessary to update the State plan, and shall describe the status of compliance with State plan requirements.

“(d) CONTENTS OF PLAN.—In accordance with regulations that the Administrator shall prescribe, a State plan shall—

“(1) designate a State agency as the sole agency for supervising the preparation and administration of the State plan;

“(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement the State plan in conformity with this part;

“(3) provide for the active consultation with and participation of units of local government in the development of a State plan that adequately takes into account the needs and requests of units of local government, except that nothing in the State plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies, including religious organizations;

“(4) to the extent feasible and consistent with paragraph (5), provide for an equitable distribution of the assistance received with the State, including rural areas;

“(5) require that the State or unit of local government that is a recipient of amounts under this part distribute the amounts intended to be used for the prevention of juvenile delinquency and reduction of incarceration, to the extent feasible, in proportion to the amount of juvenile crime committed within those regions and communities;

“(6) provide assurances that youth who come into contact with the juvenile justice system are treated equitably on the basis of gender, race, family income, and disability;

“(7) provide for—

“(A) an analysis of juvenile crime and delinquency problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the State (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the State;

“(B) an indication of the manner in which the programs relate to other similar State or local programs that are intended to address the same or similar problems; and

“(C) a strategy for the concentration of State efforts, which shall coordinate all State juvenile crime control, prevention, and delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile crime control and delinquency programs and activities, including a provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

“(D) needed gender-specific services for the prevention and treatment of juvenile delinquency;

“(E) needed services for the prevention and treatment of juvenile delinquency in rural areas; and

“(F) needed mental health services to juveniles in the juvenile justice system;

“(8) provide for the coordination and maximum utilization of existing juvenile delinquency programs, programs operated by public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;

“(9) provide for the development of an adequate research, training, and evaluation capacity within the State;

“(10) provide that not less than 75 percent of the funds available to the State under section 221, other than funds made available to the State advisory group under this section, whether expended directly by the State, by the unit of local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

“(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, including—

“(i) for youth who need temporary placement, the provision of crisis intervention, shelter, and after-care; and

“(ii) for youth who need residential placement, the provision of a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

“(B) programs that assist in holding juveniles accountable for their actions, including the use of graduated sanctions and of neighborhood courts or panels that increase victim satisfaction and require juveniles to make restitution for the damage caused by their delinquent behavior;

“(C) comprehensive juvenile crime control and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, public recreation agencies, and private nonprofit agencies offering youth services;

“(D) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to the families of those juveniles, in order to reduce the likelihood that those juvenile offenders will commit subsequent violations of law;

“(E) educational programs or supportive services for delinquent or other juveniles—

“(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations;

“(ii) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; and

“(iii) to enhance coordination with the local schools that juveniles would otherwise attend, to ensure that—

“(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

“(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

“(F) expanding the use of probation officers—

“(i) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

“(ii) to ensure that juveniles follow the terms of their probation;

“(G) one-on-one mentoring programs that are designed to link at-risk juveniles and juvenile offenders, particularly juveniles residing in high-crime areas and juveniles experiencing educational failure, with responsible adults (such as law enforcement officers, adults working with local businesses, and adults working with community-based organizations and agencies) who are properly screened and trained;

“(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other juveniles with disabilities;

“(I) projects designed to deter involvement in illegal activities and promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

“(J) programs and projects designed to provide for the treatment of a youth who is dependent on or abuses alcohol or other addictive or nonaddictive drugs;

“(K) community-based programs and services to work with juveniles, their parents, and other family members during and after incarceration in order to strengthen families so that such juveniles may be retained in their homes;

“(L) activities (such as court-appointed advocates) that the State determines will hold juveniles accountable for their acts and decrease juvenile involvement in delinquent activities;

“(M) establishing policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing treatment plans for juvenile offenders;

“(N) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and other barriers that may prevent the complete treatment of the juveniles and the preservation of their families;

"(O) programs that utilize multidisciplinary interagency case management and information sharing, that enable the juvenile justice and law enforcement agencies, schools, and social service agencies to make more informed decisions regarding early identification, control, supervision, and treatment of juveniles who repeatedly commit violent or serious delinquent acts;

"(P) programs designed to prevent and reduce hate crimes committed by juveniles;

"(Q) court supervised initiatives that address the illegal possession of firearms by juveniles;

"(R) programs for positive youth development that provide delinquent youth and youth at-risk of delinquency with—

"(i) an ongoing relationship with a caring adult (such as a mentor, tutor, coach, or shelter youth worker);

"(ii) safe places and structured activities during nonschool hours;

"(iii) a healthy start;

"(iv) a marketable skill through effective education; and

"(v) an opportunity to give back through community service;

"(S) programs and projects that provide comprehensive post-placement services that help juveniles make a successful transition back into the community, including mental health services, substance abuse treatment, counseling, education, and employment training;

"(T) programs and services designed to identify and address the health and mental health needs of youth; and

"(U) programs that have been proven to be successful in preventing delinquency, such as Multi-Systemic Therapy, Multi-Dimensional Treatment Foster Care, Functional Family Therapy, and the Bullying Prevention Program;

"(11) provide that—

"(A) a juvenile who is charged with or who has committed an offense that would not be criminal if committed by an adult shall not be placed in a secure detention facility or secure correctional facility unless the juvenile—

"(i) was charged with or committed a violation of section 922(x)(2) of title 18, United States Code, or of a similar State law;

"(ii) was charged with or committed a violation of a valid court order; or

"(iii) was held in accordance with the Interstate Compact on Juveniles as enacted by the State; and

"(B) a juvenile shall not be placed in a secure detention facility or secure correctional facility if the juvenile—

"(i) was not charged with any offense; and

"(ii) is—

"(I) an alien; or

"(II) alleged to be dependent, neglected, or abused.

"(12) provide that—

"(A) a juvenile who is alleged to be or found to be delinquent or a juvenile who is described in paragraph (11) will not be detained or confined in any institution in which prohibited physical contact or sustained oral and visual contact with an adult inmate can occur; and

"(B) there is in effect in the State a policy that requires an individual who works with both juveniles and adult inmates, including in collocated facilities, to be trained and certified to work with juveniles;

"(13) provide that no juvenile will be detained or confined in any jail or lockup for adults except—

"(A) juveniles who are accused of nonstatus offenses and who are detained in such jail or lockup for a period not to exceed 6 hours—

"(i) for processing or release;

"(ii) while awaiting transfer to a juvenile facility; or

"(iii) in which period such juveniles make a court appearance;

"(B) juveniles who—

"(i) are accused of nonstatus offenses;

"(ii) are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays); and

"(iii) are detained in a jail or lockup—

"(I) in which such juveniles do not have prohibited physical contact, or sustained oral and visual contact, with adults incarcerated because such adults have been convicted of a crime or are awaiting trial on criminal charges;

"(II) where there is in effect in the State a policy that requires individuals who work with both such juveniles and such adults in collocated facilities have been trained and certified to work with juveniles; and

"(III) that is located—

"(aa) outside a metropolitan statistical area (as defined by the Office of Management and Budget) and has no existing acceptable alternative placement available;

"(bb) where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable; or

"(cc) where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;

"(14)(A) provide assurances that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency; and

"(B) approaches under subparagraph (A) should include the involvement of grandparents or other extended family members, when possible, and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible;

"(15) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to the services provided to any individual under the State plan;

"(16) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

"(17) provide reasonable assurances that Federal funds made available under this part for any period shall be used to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would, in the absence of the Federal funds, be made available for the programs described in this part, and shall in no event replace such State, local, and other non-Federal funds;

"(18) provide that the State agency designated under paragraph (1) shall, not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of the State and local needs, that the agency considers necessary;

"(19) provide assurances that the State or unit of local government that is a recipient of amounts under this part require that any person convicted of a sexual act or sexual contact involving any other person who has not attained the age of 18 years, and who is not less than 4 years younger than that convicted person, be tested for the presence of a sexually transmitted disease and that the results of that test be provided to the victim or to the family of the victim as well as to any court or other government agency with primary authority for sentencing the person convicted for the commission of the sexual act or sexual contact (as those terms are defined in paragraphs (2) and (3), respectively, of section 2246 of title 18, United States Code);

"(20) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense—

"(A) an appropriate public agency shall be promptly notified that the juvenile is being taken into custody for violating the court order;

"(B) that within 24 hours of the juvenile being taken into custody, an authorized representative of the public agency shall interview the juvenile in person; and

"(C) that within 48 hours of the juvenile being taken into custody—

"(i) the authorized representative shall submit an assessment regarding the immediate needs of the juvenile to the court that issued the order; and

"(ii) the court shall conduct a hearing to determine—

"(I) whether there is reasonable cause to believe that the juvenile violated the order; and

"(II) the appropriate placement of the juvenile pending disposition of the alleged violation;

"(21) specify a percentage, if any, of funds received by the State under section 221 that the State shall reserve for expenditure by the State to provide incentive grants to units of local government that reduce the case load of probation officers within those units;

"(22) provide that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to that juvenile that are on file in the geographical area under the jurisdiction of that court will be made known to that court;

"(23) unless the provisions of this paragraph are waived at the discretion of the Administrator for any State in which the services for delinquent or other youth are organized primarily on a statewide basis, provide that at least 50 percent of funds received by the State under this section, other than funds made available to the State advisory group, shall be expended—

"(A) through programs of units of general local government, to the extent that those programs are consistent with the State plan; and

"(B) through programs of local private agencies, to the extent that those programs are consistent with the State plan, except that direct funding of any local private agency by a State shall be permitted only if the local private agency requests direct funding after the agency has applied for and been denied funding by a unit of general local government;

“(24) provide for the establishment of youth tribunals and peer ‘juries’ in school districts in the State to promote zero tolerance policies with respect to misdemeanor offenses, acts of juvenile delinquency, and other antisocial behavior occurring on school grounds, including truancy, vandalism, underage drinking, and underage tobacco use;

“(25) provide for projects to coordinate the delivery of adolescent mental health and substance abuse services to children at risk by coordinating councils composed of public and private service providers;

“(26) provide assurances that—

“(A) any assistance provided under this title will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any currently employed employee;

“(B) activities assisted under this title will not impair an existing collective bargaining relationship, contract for services, or collective bargaining agreement; and

“(C) an activity that would be inconsistent with the terms of a collective bargaining agreement shall not be undertaken without the written concurrence of the labor organization involved; and

“(27) address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups, if such proportion exceeds the proportion such groups represent in the general population.

“(e) Approval by State Agency.—

“(1) State agency.—The State agency designated under subsection (d)(1) shall approve the State plan and any modification of that plan prior to submission of the plan to the Administrator.

“(2) State advisory group.—

“(A) Establishment.—

“(i) In general.—The State advisory group referred to in subsection (a) shall be known as the ‘State Advisory Group’.

“(ii) Members.—The State Advisory Group shall—

“(I) consist of representatives from both the private and public sector, each of whom shall be appointed for a term of not more than 6 years; and

“(II) include not less than 1 prosecutor and not less than 1 judge from a court with a juvenile crime or delinquency docket.

“(iii) Member experience.—The State shall ensure that members of the State Advisory Group shall have experience in the area of juvenile delinquency prevention, the prosecution of juvenile offenders, the treatment of juvenile delinquency, the investigation of juvenile crimes, or the administration of juvenile justice programs.

“(iv) Chairperson.—The chairperson of the State Advisory Group shall not be a full-time employee of the Federal Government or the State government.

“(B) Consultation.—

“(i) In general.—The State Advisory Group established under subparagraph (A) shall—

“(I) participate in the development and review of a State plan under this section before the plan is submitted to the supervisory agency for final action; and

“(II) be afforded an opportunity to review and comment, not later than 30 days after the submission to the State Advisory Group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under subsection (d)(1).

“(ii) Authority.—The State Advisory Group shall report to the chief executive officer and the legislature of a State that has submitted a plan, on an annual basis regarding recommendations related to the compliance by that State with this section.

“(C) Funding.—From amounts reserved for administrative costs, the State may make available to the State Advisory Group such sums as may be necessary to assist the State Advisory Group in adequately performing its duties under this paragraph.

“(f) Compliance With Statutory Requirements.—If a State fails to comply with any of the applicable requirements of paragraph (11), (12), (13), or (27) of subsection (d) in any fiscal year beginning after September 30, 2001, the amount allocated to that State for the subsequent fiscal year shall be reduced by not to exceed 12.5 percent for each such paragraph with respect to which the failure occurs, unless the Administrator determines that the State—

“(1) has achieved substantial compliance with the applicable requirements with respect to which the State was not in compliance; and

“(2) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance with the applicable requirements within a reasonable time.

“SEC. 223. ALLOCATION OF GRANTS.

“(a) In General.—Subject to subsections (b), (c), and (d), of the amount allocated under section 261 to carry out this part in each fiscal year that remains after reservation under section 206(b) for that fiscal year—

“(1) no State shall be allocated less than $750,000; and

“(2) the amount remaining after the allocation under paragraph (1) shall be allocated proportionately based on the juvenile population in the eligible States.

“(b) System Support Grants.—Of the amount allocated under section 261 to carry out this part in each fiscal year that remains after reservation under section 206(b) for that fiscal year, up to 10 percent may be available for use by the Administrator to provide—

“(1) training and technical assistance consistent with the purposes authorized under sections 203, 204, and 221;

“(2) direct grant awards and other support to develop, test, and demonstrate new approaches to improving the juvenile justice system and reducing, preventing, and abating delinquent behavior, juvenile crime, and youth violence;

“(3) for research and evaluation efforts to discover and test methods and practices to improve the juvenile justice system and reduce, prevent, and abate delinquent behavior, juvenile crime, and youth violence; and

“(4) information, including information on best practices, consistent with purposes authorized under sections 203, 204, and 221.

“(c) Exception.—The amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 and not more than $100,000.

“(d) Administrative Costs.—A State, unit of local government, or eligible unit that receives funds under this part may not use more than 5 percent of those funds to pay for administrative costs.

“PART C—GANG-FREE SCHOOLS AND COMMUNITIES; COMMUNITY-BASED GANG INTERVENTION

“SEC. 231. DEFINITION OF JUVENILE.

“In this part, the term ‘juvenile’ means an individual who has not attained the age of 22 years.

“SEC. 232. GANG-FREE SCHOOLS AND COMMUNITIES.

“(a) In General.—

“(1) Family and community grants.—The Administrator shall make grants to or enter into contracts with public agencies (including local educational agencies) and private nonprofit agencies, organizations, and institutions to establish and support programs and activities that involve families and communities and that are designed to—

“(A) prevent and reduce the participation of juveniles in criminal gang activity by providing—

“(i) individual, peer, family, and group counseling, including a provision of life skills training and preparation for living independently, which shall include cooperation with social services, welfare, and health care programs;

“(ii) education, recreation, and social services designed to address the social and developmental needs of juveniles that those juveniles would otherwise seek to have met through membership in gangs;

“(iii) crisis intervention and counseling to juveniles who are particularly at risk of gang involvement, and the families of those juveniles, including assistance from social service, welfare, health care, mental health, and substance abuse prevention and treatment agencies where necessary;

“(iv) an organization of neighborhood and community groups to work closely with parents, schools, law enforcement, and other public and private agencies in the community; and

“(v) training and assistance to adults who have significant relationships with juveniles who are or may become members of gangs so the adults may provide constructive alternatives to participating in the activities of gangs;

“(B) develop within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles who have been convicted of serious drug-related and gang-related offenses;

“(C) target elementary school students, with the purpose of steering students away from gang involvement;

“(D) provide treatment to juveniles who are members of gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent;

“(E) promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes;

“(F) promote and support, with the cooperation of community-based organizations experienced in providing services to juveniles engaged in gang-related activities and the cooperation of local law enforcement agencies, the development of policies and activities in public elementary and secondary schools that will assist those schools in maintaining a safe environment conducive to learning;

“(G) assist juveniles who are or may become members of gangs to obtain appropriate educational instruction, in or outside a regular school program, including the provision of counseling and other services to promote and support the continued participation of those juveniles in the instructional programs;

"(H) expand the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substance analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802)) by juveniles, provided through State and local health and social services agencies;

"(I) provide services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity;

"(J) provide services authorized in this section at a special location in a school or housing project or other appropriate site; or

"(K) support activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this section.

"(2) Research and evaluation.—From not more than 15 percent of the total amount appropriated to carry out this part in each fiscal year, the Administrator may make grants to and enter into contracts with public agencies and private nonprofit agencies, organizations, and institutions—

"(A) to conduct research on issues related to juvenile gangs;

"(B) to evaluate the effectiveness of programs and activities funded under paragraph (1); and

"(C) to increase the knowledge of the public (including public and private agencies that operate or desire to operate gang prevention and intervention programs) by disseminating information on research and on effective programs and activities funded under this section.

"(b) Approval of Applications.—

"(1) In general.—Any agency, organization, or institution that seeks to receive a grant or enter into a contract under this section shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.

"(2) Application contents.—In accordance with guidelines established by the Administrator, each application submitted under paragraph (1) shall—

"(A) set forth a program or activity for carrying out 1 or more of the purposes specified in subsection (a), and specifically identify each purpose the program or activity is designed to carry out;

"(B) provide that the program or activity shall be administered by or under the supervision of the applicant;

"(C) provide for the proper and efficient administration of the program or activity;

"(D) provide for regular evaluation of the program or activity;

"(E) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(F) describe how the program or activity is coordinated with programs, activities, and services available locally under part B of this title and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801–11805);

"(G) certify that the applicant has requested the State planning agency to review and comment on the application and to summarize the responses of that State planning agency to the request;

"(H) provide that regular reports on the program or activity shall be sent to the Administrator and to the State planning agency; and

"(I) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

"(3) Priority.—In reviewing applications for grants and contracts under this section, the Administrator shall give priority to an application—

"(A) submitted by, or substantially involving, a local educational agency (as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891));

"(B) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicant proposes to carry out the programs and activities for which the grants and contracts are requested; and

"(C) for assistance for programs and activities that—

"(i) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in the geographical area in which the applicant proposes to carry out the programs and activities; and

"(ii) will substantially involve the families of juvenile gang members in carrying out the programs or activities.

"SEC. 233. COMMUNITY-BASED GANG INTERVENTION.

"(a) In General.—The Administrator shall make grants to or enter into contracts with public and private nonprofit agencies, organizations, and institutions to carry out programs and activities—

"(1) to reduce the participation of juveniles in the illegal activities of gangs;

"(2) to develop regional task forces involving State, local, and community-based organizations to coordinate the disruption of gangs and the prosecution of juvenile gang members and to curtail interstate activities of gangs;

"(3) to facilitate coordination and cooperation among—

"(A) local education, juvenile justice, employment, recreation, and social service agencies; and

"(B) community-based programs with a proven record of effectively providing intervention services to juvenile gang members for the purpose of reducing the participation of juveniles in illegal gang activities; and

"(4) to support programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(A) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, and secure community-based treatment facilities linked to other support services such as health, mental health, remedial and special education, job training, and recreation); and

"(B) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States, in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior.

"(b) Eligible Programs and Activities.—Programs and activities for which grants and contracts are to be made under this section may include—

"(1) the hiring of additional State and local prosecutors, and the establishment and operation of programs, including multijurisdictional task forces, for the disruption of gangs and the prosecution of gang members;

"(2) developing within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles who are convicted of serious drug-related and gang-related offenses;

"(3) providing treatment to juveniles who are members of gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent;

"(4) promoting the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes;

"(5) expanding the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substances analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802)), by juveniles, provided through State and local health and social services agencies;

"(6) providing services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity; or

"(7) supporting activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this section.

"(c) Approval of Applications.—

"(1) In general.—Any agency, organization, or institution that seeks to receive a grant or enter into a contract under this section shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.

"(2) Application contents.—In accordance with guidelines established by the Administrator, each application submitted under paragraph (1) shall—

"(A) set forth a program or activity for carrying out 1 or more of the purposes specified in subsection (a), and specifically identify each purpose the program or activity is designed to carry out;

"(B) provide that the program or activity shall be administered by or under the supervision of the applicant;

"(C) provide for the proper and efficient administration of the program or activity;

"(D) provide for regular evaluation of the program or activity;

"(E) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(F) describe how the program or activity is coordinated with programs, activities, and services available locally under part B of this title and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801–11805);

"(G) certify that the applicant has requested the State planning agency to review and comment on the application and to summarize the responses of the State planning agency to the request;

"(H) provide that regular reports on the program or activity shall be sent to the Administrator and to the State planning agency; and

"(I) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

"(3) Priority.—In reviewing applications for grants and contracts under subsection (a), the Administrator shall give priority to an application—

“(A) submitted by, or substantially involving, a community-based organization experienced in providing services to juveniles;

“(B) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicant proposes to carry out the programs and activities for which the grants and contracts are requested; and

“(C) for assistance for programs and activities that—

“(i) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in the geographical area in which the applicant proposes to carry out the programs and activities; and

“(ii) will substantially involve the families of juvenile gang members in carrying out the programs or activities.

“SEC. 234. PRIORITY.

“In making grants under this part, the Administrator shall give priority to funding programs and activities described in subsections (a)(2) and (b)(1) of section 233.

“PART D—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS

“SEC. 241. GRANTS AND PROJECTS.

“(a) Authority To Make Grants.—The Administrator may make grants to, and enter into contracts with, States, units of local government, Indian tribal governments, public and private agencies, organizations, and individuals, or combinations thereof, to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency.

“(b) Distribution.—The Administrator shall ensure that, to the extent reasonable and practicable, a grant made under subsection (a) is made to achieve an equitable geographical distribution of such projects throughout the United States.

“(c) Use of Grants.—A grant made under subsection (a) may be used to pay all or part of the cost of the project for which the grant is made.

“SEC. 242. GRANTS FOR TRAINING AND TECHNICAL ASSISTANCE.

“The Administrator may make grants to, and enter into contracts with, public and private agencies, organizations, and individuals to provide training and technical assistance to States, units of local government, Indian tribal governments, local private entities or agencies, or any combination thereof, to carry out the projects for which grants are made under section 241.

“SEC. 243. ELIGIBILITY.

“To be eligible to receive assistance pursuant to a grant or contract under this part, a public or private agency, Indian tribal government, organization, institution, individual, or combination thereof, shall submit an application to the Administrator at such time, in such form, and containing such information as the Administrator may reasonably require by rule.

“SEC. 244. REPORTS.

“Each recipient of assistance pursuant to a grant or contract under this part shall submit to the Administrator such reports as may be reasonably requested by the Administrator to describe progress achieved in carrying the projects for which the assistance was provided.

“PART E—MENTORING

“SEC. 251. MENTORING.

“The purposes of this part are to, through the use of mentors for at-risk youth—

“(1) reduce juvenile delinquency and gang participation;

“(2) improve academic performance; and

“(3) reduce the dropout rate.

“SEC. 252. DEFINITIONS.

“In this part:

“(1) At-risk youth.—The term ‘at-risk youth’ means a youth at risk of educational failure, dropping out of school, or involvement in criminal or delinquent activities.

“(2) Mentor.—The term ‘mentor’ means a person who works with an at-risk youth on a one-to-one basis, provides a positive role model for the youth, establishes a supportive relationship with the youth, and provides the youth with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the youth to become a responsible adult.

“SEC. 253. GRANTS.

“(a) Local Educational Grants.—The Administrator shall make grants to local education agencies and nonprofit organizations to establish and support programs and activities for the purpose of implementing mentoring programs that—

“(1) are designed to link at-risk children, particularly children living in high crime areas and children experiencing educational failure, with responsible adults such as law enforcement officers, persons working with local businesses, elders in Alaska Native villages, and adults working for community-based organizations and agencies; and

“(2) are intended to—

“(A) provide general guidance to at-risk youth;

“(B) promote personal and social responsibility among at-risk youth;

“(C) increase participation by at-risk youth in, and enhance the ability of at-risk youth to benefit from, elementary and secondary education;

“(D) discourage the use of illegal drugs, violence, and dangerous weapons by at-risk youth, and discourage other criminal activity;

“(E) discourage involvement of at-risk youth in gangs; or

“(F) encourage at-risk youth to participate in community service and community activities.

“(b) Family-to-Family Mentoring Grants.—

“(1) Definitions.—In this subsection:

“(A) Family-to-family mentoring program.—The term ‘family-to-family mentoring program’ means a mentoring program that—

“(i) utilizes a 2-tier mentoring approach that matches volunteer families with at-risk families allowing parents to work directly with parents and children to work directly with children; and

“(ii) has an after-school program for volunteer and at-risk families.

“(B) Positive alternatives program.—The term ‘positive alternatives program’ means a positive youth development and family-to-family mentoring program that emphasizes drug and gang prevention components.

“(C) Qualified positive alternatives program.—The term ‘qualified positive alternatives program’ means a positive alternatives program that has established a family-to-family mentoring program, as of the date of enactment of the Juvenile Crime Prevention and Control Act of 2001.

“(2) Authority.—The Administrator shall make and enter into contracts with a qualified positive alternatives program.

“SEC. 254. REGULATIONS AND GUIDELINES.

“(a) Program Guidelines.—To implement this part, the Administrator shall issue program guidelines which shall be effective only after a period for public notice and comment.

“(b) Model Screening Guidelines.—The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.

“SEC. 255. USE OF GRANTS.

“(a) Permitted Uses.—Grants awarded under this part shall be used to implement mentoring programs, including—

“(1) the hiring of mentoring coordinators and support staff;

“(2) the recruitment, screening, and training of adult mentors;

“(3) the reimbursement of mentors for reasonable incidental expenditures, such as transportation, that are directly associated with mentoring; and

“(4) such other purposes as the Administrator may reasonably prescribe by regulation.

“(b) Prohibited Uses.—Grants awarded pursuant to this part shall not be used—

“(1) to directly compensate mentors, except as provided pursuant to subsection (a)(3);

“(2) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the operations of the grantee;

“(3) to support litigation of any kind; or

“(4) for any other purpose reasonably prohibited by the Administrator by regulation.

“SEC. 256. PRIORITY.

“(a) In General.—In making grants under this part, the Administrator shall give priority for awarding grants to applicants that—

“(1) serve at-risk youth in high crime areas;

“(2) have 60 percent or more of the youth eligible to receive funds under the Elementary and Secondary Education Act of 1965; and

“(3) have a considerable number of youths who drop out of school each year.

“(b) Other Considerations.—In making grants under this part, the Administrator shall give consideration to—

“(1) the geographic distribution (urban and rural) of applications;

“(2) the quality of a mentoring plan, including—

“(A) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and

“(B) the degree to which parents, teachers, community-based organizations, and the local community participate in the design and implementation of the mentoring plan; and

“(3) the capability of the applicant to effectively implement the mentoring plan.

“SEC. 257. APPLICATIONS.

“An application for assistance under this part shall include—

“(1) information on the youth expected to be served by the program;

“(2) a provision for a mechanism for matching youth with mentors based on the needs of the youth;

“(3) an assurance that no mentor or mentoring family will be assigned a number of youths that would undermine the ability of that mentor to be an effective mentor and ensure a one-to-one relationship with mentored youths;

“(4) an assurance that projects operated in secondary schools will provide the youth with a variety of experiences and support, including—

"(A) an opportunity to spend time in a work environment and, when possible, participate in the work environment;

"(B) an opportunity to witness the job skills that will be required for the youth to obtain employment upon graduation;

"(C) assistance with homework assignments; and

"(D) exposure to experiences that the youth might not otherwise encounter;

"(5) an assurance that projects operated in elementary schools will provide the youth with—

"(A) academic assistance;

"(B) exposure to new experiences and activities that the youth may not otherwise encounter; and

"(C) emotional support;

"(6) an assurance that projects will be monitored to ensure that each youth benefits from a mentor relationship, and will include a provision for a new mentor assignment if the relationship is not beneficial to the youth;

"(7) the method by which a mentor and a youth will be recruited to the project;

"(8) the method by which a prospective mentor will be screened; and

"(9) the training that will be provided to a mentor.

"SEC. 258. GRANT CYCLES.

"Each grant under this part shall be made for a 3-year period.

"SEC. 259. FAMILY MENTORING PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) COOPERATIVE EXTENSION SERVICES.—The term 'cooperative extension services' has the meaning given that term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

"(2) FAMILY MENTORING PROGRAM.—The term 'family mentoring program' means a mentoring program that—

"(A) utilizes a 2-tier mentoring approach that uses college age or young adult mentors working directly with at-risk youth and uses retirement-age couples working with the parents and siblings of at-risk youth; and

"(B) has a local advisory board to provide direction and advice to program administrators.

"(3) QUALIFIED COOPERATIVE EXTENSION SERVICE.—The term 'qualified cooperative extension service' means a cooperative extension service that has established a family mentoring program, as of the date of enactment of the Juvenile Crime Prevention and Control Act of 2001.

"(b) MODEL PROGRAM.—The Administrator, in cooperation with the Secretary of Agriculture, shall make a grant to a qualified cooperative extension service for the purpose of expanding and replicating family mentoring programs to reduce the incidence of juvenile crime and delinquency among at-risk youth.

"(c) ESTABLISHMENT OF NEW FAMILY MENTORING PROGRAMS.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Agriculture, may make 1 or more grants to cooperative extension services for the purpose of establishing family mentoring programs to reduce the incidence of juvenile crime and delinquency among at-risk youth.

"(2) MATCHING REQUIREMENT AND SOURCE OF MATCHING FUNDS.—

"(A) IN GENERAL.—The amount of a grant under this subsection may not exceed 35 percent of the total costs of the program funded by the grant.

"(B) SOURCE OF MATCH.—Matching funds for grants under this subsection may be derived from amounts made available to a State under subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343), except that the total amount derived from Federal sources may not exceed 70 percent of the total cost of the program funded by the grant.

"PART F—ADMINISTRATIVE PROVISIONS

"SEC. 261. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this title, and to carry out part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee et seq.), $1,065,000,000 for each of fiscal years 2002 through 2007.

"(b) ALLOCATION OF APPROPRIATIONS.—Of the amount made available under subsection (a) for each fiscal year—

"(1) $500,000,000 shall be for programs under sections 1801 and 1803 of part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee et seq.);

"(2) $75,000,000 shall be for grants for juvenile criminal history records upgrades pursuant to section 1802 of part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee–1);

"(3) $250,000,000 shall be for programs under section 204 of part A of this title;

"(4) $200,000,000 shall be for programs under part B of this title;

"(5) $20,000,000 shall be for programs under parts C and D of this title; and

"(6) $20,000,000 shall be for programs under part E of this title, of which $3,000,000 shall be for programs under section 259.

"(c) SOURCE OF SUMS.—Amounts authorized to be appropriated pursuant to this section may be derived from the Violent Crime Reduction Trust Fund.

"(d) ADMINISTRATION AND OPERATIONS.—There is authorized to be appropriated for the administration and operation of the Office of Juvenile Crime Control and Prevention such sums as may be necessary for each of fiscal years 2002 through 2007.

"(e) AVAILABILITY OF FUNDS.—Amounts made available pursuant to this section and allocated in accordance with this title in any fiscal year shall remain available until expended.

"SEC. 262. ADMINISTRATIVE PROVISIONS.

"(a) AUTHORITY OF ADMINISTRATOR.—The Office shall be administered by the Administrator under the general authority of the Attorney General.

"(b) APPLICABILITY OF CERTAIN CRIME CONTROL PROVISIONS.—Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d(c), 3789f(a), 3789f(b), 3789f(c), 3789g(a), 3789g(b), and 3789g(d)) shall apply with respect to the administration of and compliance with this title, except that for purposes of this Act—

"(1) any reference to the Office of Justice Programs in such sections shall be considered to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

"(2) the term 'this title' as it appears in such sections shall be considered to be a reference to this title.

"(c) APPLICABILITY OF CERTAIN OTHER CRIME CONTROL PROVISIONS.—Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a), 3711(c), and 3787) shall apply with respect to the administration of and compliance with this title, except that, for purposes of this title—

"(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be considered to be a reference to the Administrator;

"(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be considered to be a reference to the Office of Juvenile Crime Control and Prevention; and

"(3) the term 'this title' as it appears in those sections shall be considered to be a reference to this title.

"(d) RULES, REGULATIONS, AND PROCEDURES.—The Administrator may, after appropriate consultation with representatives of States and units of local government, and an opportunity for notice and comment in accordance with subchapter II of chapter 5 of title 5, United States Code, establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

"(e) WITHHOLDING.—The Administrator shall initiate such proceedings as the Administrator determines to be appropriate if the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

"(1) the program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or

"(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title.".

(b) REPEAL.—Title V of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781 et seq.) is repealed.

SEC. 103. JUVENILE OFFENDER ACCOUNTABILITY.

(a) GRANT PROGRAM.—Part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee et seq.) is amended to read as follows:

"PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS

"SEC. 1801. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Attorney General is authorized to provide grants to States, for use by States and units of local government, and in certain cases directly to specially qualified units.

"(b) AUTHORIZED ACTIVITIES.—Amounts paid to a State or a unit of local government under this part shall be used by the State or unit of local government for the purpose of strengthening the juvenile justice system, which includes—

"(1) developing, implementing, and administering graduated sanctions for juvenile offenders;

"(2) building, expanding, renovating, or operating temporary or permanent juvenile correction, detention, or community corrections facilities;

"(3) hiring juvenile court judges, probation officers, and court-appointed defenders and special advocates, and funding pretrial services for juvenile offenders, to promote the effective and expeditious administration of the juvenile justice system;

"(4) hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and case backlogs reduced;

"(5) providing funding to enable prosecutors to address drug, gang, and youth violence problems more effectively and for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;

"(6) establishing and maintaining training programs for law enforcement and other court personnel with respect to preventing and controlling juvenile crime;

"(7) establishing juvenile gun courts for the prosecution and adjudication of juvenile firearms offenders;

"(8) establishing drug court programs for juvenile offenders that provide continuing judicial supervision over juvenile offenders with substance abuse problems and the integrated administration of other sanctions and services for such offenders;

"(9) establishing and maintaining a system of juvenile records designed to promote public safety;

"(10) establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice system, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts;

"(11) establishing and maintaining accountability-based programs designed to reduce recidivism among juveniles who are referred by law enforcement personnel or agencies;

"(12) establishing and maintaining programs to conduct risk and need assessments of juvenile offenders that facilitate the effective early intervention and the provision of comprehensive services, including mental health screening and treatment and substance abuse testing and treatment to such offenders;

"(13) establishing and maintaining accountability-based programs that are designed to enhance school safety;

"(14) establishing and maintaining restorative justice programs;

"(15) establishing and maintaining programs to enable juvenile courts and juvenile probation officers to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism; and

"(16) hiring detention and corrections personnel, and establishing and maintaining training programs for such personnel to improve facility practices and programming.

"(c) Definition.—In this section the term 'restorative justice program' means—

"(1) a program that emphasizes the moral accountability of an offender toward the victim and the affected community; and

"(2) may include community reparations boards, restitution (in the form of monetary payment or service to the victim or, where no victim can be identified, service to the affected community), and mediation between victim and offender.

"SEC. 1802. GRANT ELIGIBILITY.

"(a) State Eligibility.—To be eligible to receive a grant under this part, a State shall submit to the Attorney General an application at such time, in such form, and containing such assurances and information as the Attorney General may require by guidelines, including—

"(1) information about—

"(A) the activities proposed to be carried out with such grant; and

"(B) the criteria by which the State proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

"(2) assurances that the State and any unit of local government to which the State provides funding under section 1803(b), has in effect (or shall have in effect, not later than 1 year after the date that the State submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the State submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (c).

"(b) Local Eligibility.—

"(1) Subgrant eligibility.—To be eligible to receive a subgrant, a unit of local government, other than a specially qualified unit, shall provide to the State—

"(A) information about—

"(i) the activities proposed to be carried out with such subgrant; and

"(ii) the criteria by which the unit proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

"(B) such assurances as the State shall require, that, to the maximum extent applicable, the unit of local government has in effect (or shall have in effect, not later than 1 year after the date that the unit submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the unit submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (c).

"(2) Special rule.—The requirements of paragraph (1) shall apply to a specially qualified unit that receives funds from the Attorney General under section 1803(e), except that information that is otherwise required to be submitted to the State shall be submitted to the Attorney General.

"(c) Graduated Sanctions.—A system of graduated sanctions, which may be discretionary as provided in subsection (d), shall ensure, at a minimum, that—

"(1) sanctions are imposed on a juvenile offender for each delinquent offense;

"(2) sanctions escalate in intensity with each subsequent, more serious delinquent offense;

"(3) there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and

"(4) appropriate consideration is given to public safety and victims of crime.

"(d) Discretionary Use of Sanctions.—

"(1) Voluntary participation.—A State or unit of local government may be eligible to receive a grant under this part if—

"(A) its system of graduated sanctions is discretionary; and

"(B) it demonstrates that it has promoted the use of a system of graduated sanctions by taking steps to encourage implementation of such a system by juvenile courts.

"(2) Reporting requirement if graduated sanctions not used.—

"(A) Juvenile courts.—A State or unit of local government in which the imposition of graduated sanctions is discretionary shall require each juvenile court within its jurisdiction—

"(i) which has not implemented a system of graduated sanctions, to submit an annual report that explains why such court did not implement graduated sanctions; and

"(ii) which has implemented a system of graduated sanctions but has not imposed graduated sanctions in all cases, to submit an annual report that explains why such court did not impose graduated sanctions in all cases.

"(B) Units of local government.—Each unit of local government, other than a specially qualified unit, that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the State each year.

"(C) States.—Each State and specially qualified unit that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the Attorney General each year. A State shall also collect and submit to the Attorney General the information collected under subparagraph (B).

"(e) Definitions.—In this section:

"(1) Discretionary.—The term 'discretionary' means that a system of graduated sanctions is not required to be imposed by each and every juvenile court in a State or unit of local government.

"(2) Sanctions.—The term 'sanctions' means tangible, proportional consequences that hold the juvenile offender accountable for the offense committed. A sanction may include counseling, restitution, community service, a fine, supervised probation, or confinement.

"SEC. 1803. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) State Allocation.—

"(1) In general.—In accordance with regulations promulgated pursuant to this part and except as provided in paragraph (3), the Attorney General shall allocate—

"(A) 0.25 percent for each State; and

"(B) of the total funds remaining after the allocation under subparagraph (A), to each State, an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of people under the age of 18 living in such State for the most recent calendar year in which such data is available bears to the population of people under the age of 18 of all the States for such fiscal year.

"(2) Prohibition.—No funds allocated to a State under this subsection or received by a State for distribution under subsection (b) may be distributed by the Attorney General or by the State involved for any program other than a program contained in an approved application.

"(b) Local Distribution.—

"(1) In general.—Except as provided in paragraph (2), each State which receives funds under subsection (a)(1) in a fiscal year shall distribute among units of local government, for the purposes specified in section 1801, not less than 75 percent of such amounts received.

"(2) Waiver.—The percentage referred to in paragraph (1) shall equal the percentage determined by subtracting the State percentage from 100 percent, if a State submits to the Attorney General an application for waiver that demonstrates and certifies to the Attorney General that—

"(A) the State's juvenile justice expenditures in the fiscal year preceding the date in which an application is submitted under this part (the 'State percentage') is more than 25 percent of the aggregate amount of juvenile justice expenditures by the State and its eligible units of local government; and

"(B) the State has consulted with as many units of local government in such State, or organizations representing such units, as practicable regarding the State's calculation of expenditures under subparagraph (A), the State's application for waiver under this paragraph, and the State's proposed uses of funds.

"(3) Allocation.—In making the distribution under paragraph (1), the State shall allocate to such units of local government an amount which bears the same ratio to the aggregate amount of such funds as—

"(A) the sum of—

"(i) the product of—

"(I) three-quarters; multiplied by

"(II) the average juvenile justice expenditure for such unit of local government for the 3 most recent calendar years for which such data is available; plus

"(ii) the product of—

"(I) one-quarter; multiplied by

"(II) the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, bears to—

"(B) the sum of the products determined under subparagraph (A) for all such units of local government in the State.

"(4) Expenditures.—The allocation any unit of local government shall receive under paragraph (3) for a payment period shall not exceed 100 percent of juvenile justice expenditures of the unit for such payment period.

"(5) Reallocation.—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (4) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

"(c) Unavailability of Data for Units of Local Government.—If the State has reason to believe that the reported rate of part 1 violent crimes or juvenile justice expenditures for a unit of local government is insufficient or inaccurate, the State shall—

"(1) investigate the methodology used by the unit to determine the accuracy of the submitted data; and

"(2) if necessary, use the best available comparable data regarding the number of violent crimes or juvenile justice expenditures for the relevant years for the unit of local government.

"(d) Local Government With Allocations Less Than $10,000.—If under this section a unit of local government is allocated less than $10,000 for a payment period, the amount allotted shall be expended by the State on services to units of local government whose allotment is less than such amount in a manner consistent with this part.

"(e) Direct Grants to Specially Qualified Units.—

"(1) In general.—If a State does not qualify or apply for funds reserved for allocation under subsection (a) by the application deadline established by the Attorney General, the Attorney General shall reserve not more than 75 percent of the allocation that the State would have received under subsection (a) for such fiscal year to provide grants to specially qualified units which meet the requirements for funding under section 1802.

"(2) Award basis.—In addition to the qualification requirements for direct grants for specially qualified units the Attorney General may use the average amount allocated by the States to units of local government as a basis for awarding grants under this section.

"SEC. 1804. GUIDELINES.

"(a) In General.—The Attorney General shall issue guidelines establishing procedures under which a State or unit of local government that receives funds under section 1803 is required to provide notice to the Attorney General regarding the proposed use of funds made available under this part.

"(b) Advisory Board.—

"(1) In general.—The guidelines referred to in subsection (a) shall include a requirement that such eligible State or unit of local government establish and convene an advisory board to review the proposed uses of such funds.

"(2) Membership.—The board shall include representation from, if appropriate—

"(A) the State or local police department;

"(B) the local sheriff's department;

"(C) the State or local prosecutor's office;

"(D) the State or local juvenile court;

"(E) the State or local probation officer;

"(F) the State or local educational agency;

"(G) a State or local social service agency;

"(H) a nonprofit, nongovernmental victim advocacy organization; and

"(I) a nonprofit, religious, or community group.

"SEC. 1805. PAYMENT REQUIREMENTS.

"(a) Timing of Payments.—The Attorney General shall pay to each State or unit of local government that receives funds under section 1803 that has submitted an application under this part not later than the later of—

"(1) 180 days after the date that the amount is available, or

"(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by subsection (c).

"(b) Repayment of Unexpended Amounts.—

"(1) Repayment required.—From amounts awarded under this part, a State or specially qualified unit shall repay to the Attorney General, before the expiration of the 36-month period beginning on the date of the award, any amount that is not expended by such State or unit.

"(2) Extension.—The Attorney General may adopt policies and procedures providing for a one-time extension, by not more than 12 months, of the period referred to in paragraph (1).

"(3) Penalty for failure to repay.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

"(4) Deposit of amounts repaid.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States and specially qualified units.

"(c) Administrative Costs.—A State or unit of local government that receives funds under this part may use not more than 5 percent of such funds to pay for administrative costs.

"(d) Nonsupplanting Requirement.—Funds made available under this part to States and units of local government shall not be used to supplant State or local funds as the case may be, but shall be used to increase the amount of funds that would, in the absence of funds made available under this part, be made available from State or local sources, as the case may be.

"(e) Matching Funds.—

"(1) In general.—The Federal share of a grant received under this part may not exceed 90 percent of the total program costs.

"(2) Construction of facilities.—Notwithstanding paragraph (1), with respect to the cost of constructing juvenile detention or correctional facilities, the Federal share of a grant received under this part may not exceed 50 percent of approved cost.

"SEC. 1806. UTILIZATION OF PRIVATE SECTOR.

"Funds or a portion of funds allocated under this part may be used by a State or unit of local government that receives a grant under this part to contract with private, nonprofit entities, or community-based organizations to carry out the purposes specified under section 1801(b).

"SEC. 1807. ADMINISTRATIVE PROVISIONS.

"(a) In General.—A State or specially qualified unit that receives funds under this part shall—

"(1) establish a trust fund in which the government will deposit all payments received under this part;

"(2) use amounts in the trust fund (including interest) during the period specified in section 1805(b)(1) and any extension of that period under section 1805(b)(2);

"(3) designate an official of the State or specially qualified unit to submit reports as the Attorney General reasonably requires, in addition to the annual reports required under this part; and

"(4) spend the funds only for the purposes under section 1801(b).

"(b) Title I Provisions.—Except as otherwise provided, the administrative provisions of part H shall apply to this part and for purposes of this section any reference in such provisions to title I shall be deemed to include a reference to this part.

"SEC. 1808. ASSESSMENT REPORTS.

"(a) Reports to Attorney General.—

"(1) In general.—Except as provided in paragraph (2), for each fiscal year for which a grant or subgrant is awarded under this part, each State or unit of local government that receives such a grant or subgrant shall submit to the Attorney General a report, at such time and in such manner as the Attorney General may reasonably require, which report shall include—

"(A) a summary of the activities carried out with such grant or subgrant; and

"(B) an assessment of the effectiveness of such activities on achieving the purposes of this part.

"(2) Waivers.—The Attorney General may waive the requirement of an assessment in paragraph (1)(B) for a State or unit of local government if the Attorney General determines that—

"(A) the nature of the activities are such that assessing their effectiveness would not be practical or insightful;

"(B) the amount of the grant or subgrant is such that carrying out the assessment would not be an effective use of those amounts; or

"(C) the resources available to the State or unit are such that carrying out the assessment would pose a financial hardship on the State or unit.

"(b) Reports to Congress.—Not later than 90 days after the last day of each fiscal year for which 1 or more grants are awarded under this part, the Attorney General shall submit to the Congress a report, which shall include—

"(1) a summary of the information provided under subsection (a);

"(2) the assessment of the Attorney General of the grant program carried out under this part; and

"(3) such other information as the Attorney General considers appropriate.

"SEC. 1809. DEFINITIONS.

"In this part:

"(1) Unit of local government.—The term 'unit of local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes;

"(B) any law enforcement district or judicial enforcement district that—

"(i) is established under applicable State law; and

"(ii) has the authority, in a manner independent of other State entities, to establish a budget and raise revenues; and

"(C) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.

"(2) Specially qualified unit.—The term 'specially qualified unit' means a unit of local government which may receive funds under this part only in accordance with section 1803(e).

"(3) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as 1 State and that, for purposes of section 1803(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

"(4) JUVENILE.—The term 'juvenile' means an individual who is 17 years of age or younger.

"(5) JUVENILE JUSTICE EXPENDITURES.—The term 'juvenile justice expenditures' means expenditures in connection with the juvenile justice system, including expenditures in connection with such system to carry out—

"(A) activities specified in section 1801(b); and

"(B) other activities associated with prosecutorial and judicial services and corrections as reported to the Bureau of the Census for the fiscal year preceding the fiscal year for which a determination is made under this part.

"(6) PART 1 VIOLENT CRIMES.—The term 'part 1 violent crimes' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

"SEC. 1810. AUTHORIZATION OF APPROPRIATIONS.

"(a) OVERSIGHT ACCOUNTABILITY AND ADMINISTRATION.—

"(1) IN GENERAL.—Of the amount authorized to be appropriated under section 261 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.), there shall be available to the Attorney General, for each of the fiscal years 2002 through 2007 (as applicable), to remain available until expended—

"(A) not more than 2 percent of that amount, for research, evaluation, and demonstration consistent with this part;

"(B) not more than 1 percent of that amount, for training and technical assistance; and

"(C) not more than 1 percent, for administrative costs to carry out the purposes of this part.

"(2) OVERSIGHT PLAN.—The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients.

"(b) FUNDING SOURCE.—Appropriations for activities authorized in this part may be made from the Violent Crime Reduction Trust Fund.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first fiscal year that begins after the date of the enactment of this Act.

(c) TRANSITION OF JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANTS PROGRAM.—For each grant made from amounts made available for the Juvenile Accountability Incentive Block Grants program (as described under the heading "VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE" in the Department of Justice Appropriations Act, 2000 (as enacted by Public Law 106–113; 113 Stat. 1537–14)), the grant award shall remain available to the grant recipient for not more than 36 months after the date of receipt of the grant.

SEC. 104. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) IN GENERAL.—Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) is amended by striking paragraphs (1) through (5) and inserting the following:

"(1) for fiscal year 2002, $6,025,000,000;

"(2) for fiscal year 2003, $6,169,000,000;

"(3) for fiscal year 2004, $6,316,000,000;

"(4) for fiscal year 2005, $6,458,000,000;

"(5) for fiscal year 2006, $6,616,000,000; and

"(6) for fiscal year 2007, $6,774,000,000.".

(b) DISCRETIONARY LIMITS.—Title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.) is amended by inserting after section 310001 the following:

"SEC. 310002. DISCRETIONARY LIMITS.

"For the purposes of allocations made for the discretionary category pursuant to section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)), the term 'discretionary spending limit' means—

"(1) with respect to fiscal year 2002—

"(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Budget Committee; and

"(B) for the violent crime reduction category: $6,025,000,000 in new budget authority and $5,718,000,000 in outlays;

"(2) with respect to fiscal year 2003—

"(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Budget Committee; and

"(B) for the violent crime reduction category: $6,169,000,000 in new budget authority and $6,020,000,000 in outlays;

"(3) with respect to fiscal year 2004—

"(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Budget Committee; and

"(B) for the violent crime reduction category: $6,316,000,000 in new budget authority and $6,161,000,000 in outlays;

"(4) with respect to fiscal year 2005—

"(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Budget Committee; and

"(B) for the violent crime reduction category: $6,458,000,000 in new budget authority and $6,303,000,000 in outlays;

"(5) with respect to fiscal year 2006—

"(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Budget Committee; and

"(B) for the violent crime reduction category: $6,616,000,000 in new budget authority and $6,452,000,000 in outlays; and

"(6) with respect to fiscal year 2007—

"(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) and determined by the Chairman of the Budget Committee; and

"(B) for the violent crime reduction category: $6,774,000,000 in new budget authority and $6,606,000,000 in outlays;

as adjusted in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)) and section 314 of the Congressional Budget Act of 1974;".

TITLE II—PROTECTING CHILDREN FROM VIOLENCE

Subtitle A—Gun Show Background Checks

SECTION 201. SHORT TITLE.

This subtitle may be cited as the "Gun Show Background Check Act of 2001".

SEC. 202. FINDINGS.

Congress finds that—

(1) more than 4,400 traditional gun shows are held annually across the United States, attracting thousands of attendees per show and hundreds of Federal firearms licensees and nonlicensed firearms sellers;

(2) traditional gun shows, as well as flea markets and other organized events, at which a large number of firearms are offered for sale by Federal firearms licensees and nonlicensed firearms sellers, form a significant part of the national firearms market;

(3) firearms and ammunition that are exhibited or offered for sale or exchange at gun shows, flea markets, and other organized events move easily in and substantially affect interstate commerce;

(4) in fact, even before a firearm is exhibited or offered for sale or exchange at a gun show, flea market, or other organized event, the gun, its component parts, ammunition, and the raw materials from which it is manufactured have moved in interstate commerce;

(5) gun shows, flea markets, and other organized events at which firearms are exhibited or offered for sale or exchange, provide a convenient and centralized commercial location at which firearms may be bought and sold anonymously, often without background checks and without records that enable gun tracing;

(6) at gun shows, flea markets, and other organized events at which guns are exhibited or offered for sale or exchange, criminals and other prohibited persons obtain guns without background checks and frequently use guns that cannot be traced to later commit crimes;

(7) many persons who buy and sell firearms at gun shows, flea markets, and other organized events cross State lines to attend these events and engage in the interstate transportation of firearms obtained at these events;

(8) gun violence is a pervasive, national problem that is exacerbated by the availability of guns at gun shows, flea markets, and other organized events;

(9) firearms associated with gun shows have been transferred illegally to residents of another State by Federal firearms licensees and nonlicensed firearms sellers, and have been involved in subsequent crimes including drug offenses, crimes of violence, property crimes, and illegal possession of firearms by felons and other prohibited persons; and

(10) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to ensure, by enactment of this subtitle, that criminals and other prohibited persons do not obtain firearms at gun shows, flea markets, and other organized events.

SEC. 203. EXTENSION OF BRADY BACKGROUND CHECKS TO GUN SHOWS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(35) GUN SHOW.—The term 'gun show' means any event—

"(A) at which 50 or more firearms are offered or exhibited for sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce; and

"(B) at which—

"(i) not less than 20 percent of the exhibitors are firearm exhibitors;

"(ii) there are not less than 10 firearm exhibitors; or

"(iii) 50 or more firearms are offered for sale, transfer, or exchange.

"(36) GUN SHOW PROMOTER.—The term 'gun show promoter' means any person who organizes, plans, promotes, or operates a gun show.

"(37) GUN SHOW VENDOR.—The term 'gun show vendor' means any person who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a gun show, regardless of whether or not the person arranges with the gun show promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms."

(b) REGULATION OF FIREARMS TRANSFERS AT GUN SHOWS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"§931. Regulation of firearms transfers at gun shows

"(a) REGISTRATION OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

"(1) registers with the Secretary in accordance with regulations promulgated by the Secretary; and

"(2) pays a registration fee, in an amount determined by the Secretary.

"(b) RESPONSIBILITIES OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

"(1) before commencement of the gun show, verifies the identity of each gun show vendor participating in the gun show by examining a valid identification document (as defined in section 1028(d)(1)) of the vendor containing a photograph of the vendor;

"(2) before commencement of the gun show, requires each gun show vendor to sign—

"(A) a ledger with identifying information concerning the vendor; and

"(B) a notice advising the vendor of the obligations of the vendor under this chapter; and

"(3) notifies each person who attends the gun show of the requirements of this chapter, in accordance with such regulations as the Secretary shall prescribe; and

"(4) maintains a copy of the records described in paragraphs (1) and (2) at the permanent place of business of the gun show promoter for such period of time and in such form as the Secretary shall require by regulation.

"(c) RESPONSIBILITIES OF TRANSFERORS OTHER THAN LICENSEES.—

"(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

"(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

"(A) shall not transfer the firearm to the transferee until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

"(B) notwithstanding subparagraph (A), shall not transfer the firearm to the transferee if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

"(3) ABSENCE OF RECORDKEEPING REQUIREMENTS.—Nothing in this section shall permit or authorize the Secretary to impose recordkeeping requirements on any nonlicensed vendor.

"(d) RESPONSIBILITIES OF TRANSFEREES OTHER THAN LICENSEES.—

"(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to receive a firearm from another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

"(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

"(A) shall not receive the firearm from the transferor until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

"(B) notwithstanding subparagraph (A), shall not receive the firearm from the transferor if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

"(e) RESPONSIBILITIES OF LICENSEES.—A licensed importer, licensed manufacturer, or licensed dealer who agrees to assist a person who is not licensed under this chapter in carrying out the responsibilities of that person under subsection (c) or (d) with respect to the transfer of a firearm shall—

"(1) enter such information about the firearm as the Secretary may require by regulation into a separate bound record;

"(2) record the transfer on a form specified by the Secretary;

"(3) comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee (although a licensed importer, licensed manufacturer, or licensed dealer complying with this subsection shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the nonlicensed transferor), and notify the nonlicensed transferor and the nonlicensed transferee—

"(A) of such compliance; and

"(B) if the transfer is subject to the requirements of section 922(t)(1), of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or would violate State law;

"(4) not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

"(A) shall be on a form specified by the Secretary by regulation; and

"(B) shall not include the name of or other identifying information relating to any person involved in the transfer who is not licensed under this chapter;

"(5) if the licensed importer, licensed manufacturer, or licensed dealer assists a person other than a licensee in transferring, at 1 time or during any 5 consecutive business days, 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the reports required under paragraph (4), prepare a report of the multiple transfers, which report shall be—

"(A) prepared on a form specified by the Secretary; and

"(B) not later than the close of business on the date on which the transfer occurs, forwarded to—

"(i) the office specified on the form described in subparagraph (A); and

"(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs; and

"(6) retain a record of the transfer as part of the permanent business records of the licensed importer, licensed manufacturer, or licensed dealer.

"(f) RECORDS OF LICENSEE TRANSFERS.—If any part of a firearm transaction takes place at a gun show, each licensed importer, licensed manufacturer, and licensed dealer who transfers 1 or more firearms to a person who is not licensed under this chapter shall, not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

"(1) shall be in a form specified by the Secretary by regulation;

"(2) shall not include the name of or other identifying information relating to the transferee; and

"(3) shall not duplicate information provided in any report required under subsection (e)(4).

"(g) FIREARM TRANSACTION DEFINED.—In this section, the term 'firearm transaction'—

"(1) includes the offer for sale, sale, transfer, or exchange of a firearm; and

"(2) does not include the mere exhibition of a firearm.".

(2) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

"(7)(A) Whoever knowingly violates section 931(a) shall be fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever knowingly violates subsection (b) or (c) of section 931, shall be—

"(i) fined under this title, imprisoned not more than 2 years, or both; and

"(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

"(C) Whoever willfully violates section 931(d), shall be—

"(i) fined under this title, imprisoned not more than 2 years, or both; and

"(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

"(D) Whoever knowingly violates subsection (e) or (f) of section 931 shall be fined under this title, imprisoned not more than 5 years, or both.

"(E) In addition to any other penalties imposed under this paragraph, the Secretary may, with respect to any person who knowingly violates any provision of section 931—

"(i) if the person is registered pursuant to section 931(a), after notice and opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 931(a); and "(ii) impose a civil fine in an amount equal to not more than $10,000.".

(3) Technical and Conforming Amendments.—Chapter 44 of title 18, United States Code, is amended—

(A) in the chapter analysis, by adding at the end the following:

"931. Regulation of firearms transfers at gun shows.";

and

(B) in the first sentence of section 923(j), by striking "a gun show or event" and inserting "an event"; and

(c) Inspection Authority.—Section 923(g)(1) is amended by adding at the end the following:

"(E) Notwithstanding subparagraph (B), the Secretary may enter during business hours the place of business of any gun show promoter and any place where a gun show is held for the purposes of examining the records required by sections 923 and 931 and the inventory of licensees conducting business at the gun show. Such entry and examination shall be conducted for the purposes of determining compliance with this chapter by gun show promoters and licensees conducting business at the gun show and shall not require a showing of reasonable cause or a warrant.".

(d) Increased Penalties for Serious Recordkeeping Violations by Licensees.—Section 924(a)(3) of title 18, United States Code, is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

"(B) If the violation described in subparagraph (A) is in relation to an offense—

"(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

"(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.".

(e) Increased Penalties for Violations of Criminal Background Check Requirements.—

(1) Penalties.—Section 924(a) of title 18, United States Code, is amended—

(A) in paragraph (5), by striking "subsection (s) or (t) of section 922" and inserting "section 922(s)"; and

(B) by adding at the end the following:

"(8) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.".

(2) Elimination of Certain Elements of Offense.—Section 922(t)(5) of title 18, United States Code, is amended by striking "and, at the time" and all that follows through "State law".

(f) Gun Owner Privacy and Prevention of Fraud and Abuse of System Information.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting before the period at the end the following: ", as soon as possible, consistent with the responsibility of the Attorney General under section 103(h) of the Brady Handgun Violence Prevention Act to ensure the privacy and security of the system and to prevent system fraud and abuse, but in no event later than 90 days after the date on which the licensee first contacts the system with respect to the transfer".

(g) Effective Date.—This subtitle and the amendments made by this subtitle shall take effect 180 days after the date of enactment of this Act.

Subtitle B—Gun Ban for Dangerous Juvenile Offenders

SEC. 211. PERMANENT PROHIBITION ON FIREARMS TRANSFERS TO OR POSSESSION BY DANGEROUS JUVENILE OFFENDERS.

(a) Definition.—Section 921(a)(20) of title 18, United States Code, is amended—

(1) by inserting "(A)" after "(20)";

(2) by redesignating subparagraphs "(A)" and "(B)" as clauses "(i)" and "(ii), respectively";

(3) by inserting after subparagraph (A) the following:

"(B) For purposes of subsections (d) and (g) of section 922, the term 'adjudicated delinquent' means an adjudication of delinquency based upon a finding of the commission that an act by a person prior to the eighteenth birthday of that person, if committed by an adult, would be a serious drug offense or violent felony (as defined in section 3559(c)(2) of this title), on or after the date of enactment of this paragraph."; and

(4) by striking "What constitutes" through the end and inserting the following: "What constitutes a conviction of such a crime or an adjudication of delinquency shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any State conviction or adjudication of delinquency which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored by the jurisdiction in which the conviction or adjudication of delinquency occurred shall be considered a conviction or adjudication of delinquency unless (i) the expunction, set aside, pardon or restoration of civil rights is directed to a specific person, (ii) the State authority granting the expunction, set aside, pardon or restoration of civil rights has expressly determined that the circumstances regarding the conviction and the person's record and reputation are such that the person will not act in a manner dangerous to public safety, and (iii) the expunction, set aside, pardon, or restoration of civil rights expressly authorizes the person to ship, transport, receive or possess firearms. The requirement of this subparagraph for an individualized restoration of rights shall apply whether or not, under State law, the person's civil rights were taken away by virtue of the conviction or adjudication.".

(b) Prohibition.—Section 922 of title 18, United States Code is amended—

(1) in subsection (d)—

(A) by striking "or" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; or;" and

(C) by inserting after paragraph (9) the following:

"(10) has been adjudicated delinquent."; and

(2) in subsection (g)—

(A) by striking "or" at the end of paragraph (8);

(B) by striking the comma at the end of paragraph (9) and inserting "; or", and

(C) by inserting after paragraph (9) the following:

"(10) who has been adjudicated delinquent,".

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle C—Child Safety Locks

SECTION 221. SHORT TITLE.

This subtitle may be cited as the "Child Safety Lock Act of 2001".

SEC. 222. REQUIREMENT OF CHILD HANDGUN SAFETY LOCKS.

(a) Definitions.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(38) The term 'locking device' means a device or locking mechanism—

"(A) that—

"(i) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

"(ii) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

"(iii) is a safe, gun safe, gun case, lock box, or other device that is designed to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means; and

"(B) that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.".

(b) Unlawful Acts.—

(1) In general.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

"(z) Locking Devices.—

"(1) In general.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

"(2) Exceptions.—Paragraph (1) does not apply to—

"(A) the—

"(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a firearm; or

"(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a firearm for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a firearm for purposes of law enforcement (whether on or off duty).".

(2) Effective date.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 180 days after the date of enactment of this Act.

(c) Liability; Evidence.—

(1) Liability.—Nothing in this section shall be construed to—

(A) create a cause of action against any firearms dealer or any other person for any civil liability; or

(B) establish any standard of care.

(2) Evidence.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible

as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(y) of that title.

(d) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) PENALTIES RELATING TO LOCKING DEVICES.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for a hearing—

"(i) suspend or revoke any license issued to the licensee under this chapter; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.".

SEC. 223. AMENDMENT OF CONSUMER PRODUCT SAFETY ACT.

(a) IN GENERAL.—The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end the following:

"SEC. 38. CHILD HANDGUN SAFETY LOCKS.

"(a) ESTABLISHMENT OF STANDARD.—

"(1) IN GENERAL.—

"(A) RULEMAKING REQUIRED.—Notwithstanding section 3(a)(1)(E) of this Act, the Commission shall initiate a rulemaking proceeding under section 553 of title 5, United States Code, within 90 days after the date of enactment of the Child Safety Lock Act of 2001 to establish a consumer product safety standard for locking devices. The Commission may extend the 90-day period for good cause. Notwithstanding any other provision of law, including chapter 5 of title 5, United States Code, the Commission shall promulgate a final consumer product safety standard under this paragraph within 12 months after the date on which it initiated the rulemaking. The Commission may extend that 12-month period for good cause. The consumer product safety standard promulgated under this paragraph shall take effect 6 months after the date on which the final standard is promulgated.

"(B) STANDARD REQUIREMENTS.—The standard promulgated under subparagraph (A) shall require locking devices that—

"(i) are sufficiently difficult for children to deactivate or remove; and

"(ii) prevent the discharge of the handgun unless the locking device has been deactivated or removed.

"(2) CERTAIN PROVISIONS NOT TO APPLY.—

"(A) PROVISIONS OF THIS ACT.—Sections 7, 9, and 30(d) of this Act do not apply to the rulemaking proceeding under paragraph (1). Section 11 of this Act does not apply to any consumer product safety standard promulgated under paragraph (1).

"(B) CHAPTER 5 OF TITLE 5.—Except for section 553, chapter 5 of title 5, United States Code, does not apply to this section.

"(C) CHAPTER 6 OF TITLE 5.—Chapter 6 of title 5, United States Code, does not apply to this section.

"(D) NATIONAL ENVIRONMENTAL POLICY ACT.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321) does not apply to this section.

"(b) NO EFFECT ON STATE LAW.—Notwithstanding section 26 of this Act, this section does not annul, alter, impair, affect, or exempt any person subject to the provisions of this section from complying with any provision of the law of any State or any political subdivision of a State, except to the extent that such provisions of State law are inconsistent with any provision of this section, and then only to the extent of the inconsistency. A provision of State law is not inconsistent with this section if such provision affords greater protection to children with respect to handguns than is afforded by this section.

"(c) ENFORCEMENT.—Notwithstanding subsection (a)(2)(A), the consumer product safety standard promulgated by the Commission under subsection (a) shall be enforced under this Act as if it were a consumer product safety standard described in section 7(a).

"(d) DEFINITIONS.—In this section:

"(1) CHILD.—The term 'child' means an individual who has not attained the age of 13 years.

"(2) LOCKING DEVICE.—The term 'locking device' has the meaning given that term in clauses (i) and (iii) of section 921(a)(38)(A) of title 18, United States Code.".

(b) CONFORMING AMENDMENT.—Section 1 of the Consumer Product Safety Act is amended by adding at the end of the table of contents the following:

"Sec. 38. Child handgun safety locks.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Consumer Product Safety Commission $2,000,000 to carry out the provisions of section 38 of the Consumer Product Safety Act, such sums as necessary to remain available until expended.

Mr. KOHL. Mr. President, I rise today with Senator BIDEN to introduce the Juvenile Crime Prevention and Control Act of 2001.

This bill is an important step forward in the debate on juvenile justice. It is a comprehensive approach that recognizes prevention and enforcement are indispensable partners in combating juvenile crime. This bill addresses the issues most important to our communities, to the police, to the teachers, to the social workers, and most importantly, to the at-risk children whom we need to help. The legislation does this by giving crime prevention programs the priority, attention, and funding they deserve while recognizing that enforcement programs are indispensable to safer communities.

Let me focus on one part of the legislation. The Juvenile Crime Prevention and Control Act increases the authorization of Title V, the Community Prevention Grant program, to $250 million. I worked closely with Senator Hank Brown to create the Title V program in 1992 because we listened to local law enforcement experts who told us that prevention works. Almost a decade later, they still say the same thing: a crime bill without adequate prevention is only a half-measure. That's just common sense.

Congress has slowly realized the merits of crime prevention funding. Since 1992, funding for Title V has increased from $20 million to $95 million. Unfortunately, almost two-thirds of that money has been consistently earmarked for purposes other than crime and delinquency prevention. The bill remedies this problem by ensuring that at least 75 percent of all Title V Community Prevention Grants be spent on pure prevention and not set aside for other purposes.

We now know that crime prevention programs like Title V work. Studies prove that crime prevention programs mean less crime. For example, a RAND Study found that crime prevention efforts were three times more cost-effective than increased punishment. A study of the Big Brothers/Big Sisters' mentoring program showed that mentees were 46 percent less likely to use drugs, 27 percent less likely to use alcohol, 33 percent less likely to commit assault, and skipped 50 percent fewer days of school. A University of Wisconsin study of 64 after-school programs found that participating children became better students and developed improved conflict resolution skills; in addition, vandalism decreased at one third of the schools that participated in the programs.

One of the reasons these programs work is that Title V is designed to let the people with the real expertise do what they know best. Title V is a flexible program of direct local grants. The flexibility permits each locality, through a local planning board of experts from the community, to determine how to best fight juvenile crime and delinquency. Title V trusts each community to address its unique problems.

Law enforcement officials appreciate the importance of juvenile crime prevention programs and crave more. Last year, I surveyed every sheriff and chief of police in Wisconsin and found that 100 percent of Wisconsin's sheriffs and 100 percent of the police chiefs of Wisconsin's largest cities who responded to the questionnaire believe more Federal money needs to be spent on crime prevention programs. Similarly, more than 80 percent of the police chiefs of small and mid-size cities in Wisconsin want more prevention funding.

When asked how much of Federal juvenile crime funding should go to prevention, these same law enforcement officials answer that close to 40 percent should be spent on prevention programs, far more than the current level of prevention funding. The Juvenile Crime Prevention and Control Act of 2001 listens to what local law enforcement experts have been telling us for years and addresses their needs.

Of course, prevention is not the sole answer to juvenile crime. Indeed, we need a comprehensive crime-fighting strategy aimed at juvenile offenders and potential offenders, from violent predators to children at-risk of becoming delinquent. This legislation understands that. Tough law enforcement plays an essential role. Certain violent juveniles should be incarcerated, and hopefully rehabilitated, and this bill provides the States with sufficient funds to get them off the streets and safeguard our communities.

Finally, no sensible juvenile crime fighting strategy is complete if it does not address the toxic combination of children and guns. This bill does that as well by mandating the sale of child safety locks with every handgun and insisting that those locks are designed well enough to work as intended.

Each year, teenagers and children are involved in more than 10,000 accidental shootings in which close to 800 people die. In addition, every year 1,300 children use firearms to commit suicide. Safety locks can be effective in deterring some of these incidents and in preventing others.

The sad truth is that we are inviting disaster every time an unlocked gun is stored but is still easily accessible to children. In fact, guns are kept in 43 percent of American households with children. In 23 percent of the gun households, the guns are kept loaded. And, in one out of every eight of those homes the guns are left unlocked.

During the last decade, crime rates, including juvenile crime rates, have decreased. Since 1994, the juvenile arrest rate for violent crime has dropped 36 percent. Nonetheless, the public perceives that juvenile crime is a growing problem, especially school violence.

We need to remain vigilant and think creatively about how to maintain this trend in falling juvenile crime. This measure provides a comprehensive approach. Prevention, enforcement, and keeping guns out of the hands of children are three essential elements to a common sense juvenile crime strategy.

By Mr. BINGAMAN (for himself and Mr. DEWINE):

S. 1166. A bill to establish the Next Generation Lighting Initiative at the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today with Senator DEWINE to introduce a bill authorizing the Secretary of Energy to lead the United States into the next generation of lighting technology. If this bill is enacted, I believe it will allow us not only to maintain a world leadership role that Thomas Edison started, but promote efficiency advances in a market which consumes 19 percent of our electrical energy supply.

Lighting is a 40-billion-dollar global industry. The United States occupies roughly one-third of that market. It's an extremely competitive industry whose technology has been well established over the course of 80 years. Today's lighting market primarily consists of two technologies. The first technology is incandescent lighting, it's the one Thomas Edison invented over 100 years ago. Incandescent lighting relies on running a current through a wire to heat it up and illuminate your surroundings. Only 5 percent of the electricity in a conventional bulb is converted into visible light. The second type of lighting is fluorescent lights, which use a combination of chemical vapors, mainly mercury, to discharge light when current is passed through it. Flourescent lights are six times more efficient than a light bulb.

As I have mentioned, today's lighting uses up about 19 percent of our electricity supply. In 1998, lighting electricity cost about 47 billion dollars which accounted for about 100 million tons of carbon equivalent from fossil energy plants.

Today, this paradigm is changing, because some scientists recently made a leap ahead in lighting research. Technology leaps displace, very quickly, traditional markets. We know the stories all too well, the horse courier, the telegraph, the telephone and finally the Internet.

That is why Senator DEWINE and I are proposing this legislation, because some advances have been made in the areas of solid state lighting that require a national investment that no one lighting industry can match. This emerging technology has the capability to disrupt our existing lighting markets. So quickly in fact, that other countries have formed consortia between their governments, industries, laboratories and universities. Solid state lighting is being taken very seriously around the world.

Let me describe solid state lighting. The best examples are red light emitting diodes, or "LED's", found in digital clocks. LED's produce only one color but they do not burn up a wire like a bulb and are seven times more efficient.

Until recently LED's were limited to yellow or red. That all changed in 1995. In 1995, some Japanese researchers developed a blue LED. Soon other bright colors started to emerge, such as green. That is when things started to change. Because, white light is a combination of red, blue, the recent Japanese breakthrough, and green or yellow. The recent Japanese breakthrough of that simple blue LED has now made it possible to produce white light from LED's ten times more efficient than a light bulb.

If it is successful, white light LED's will revolutionize lighting technology and will disrupt the existing industries. It's imperative that we move quickly on these advances. We need a consortia between our government, industry, research labs and academia to develop the necessary pre-competitive research to maintain our leadership role in this field.

I would like to mention one other technology that will change lighting. That technology is found in your cell phone and on your computer screen. It's called conductive polymers. Three Nobel Prizes were just awarded for this technology. Conductive polymers offer the possibility of covering large surface areas and replacing fluorescent lamps. These materials will not only provide white light, but like your computer screen, display text or programmed color pictures. These technologies can be Internet controlled to adjust building lighting across the country.

Given these advances, I would like to describe the Next Generation Lighting Initiative Act. If enacted, it will move our country to capture these revolutionary mergers between lighting and information. It will supply the necessary pre-competitive R&D which no one industry alone can provide, and, which we as holders of the public trust of basic research owe a duty to further. It will keep the United States in a leadership role of commercial lighting while promoting energy efficiency that can either be ten times that of incandescent lights or twice that of fluorescent lights. We need to enact this legislation now.

The Next Generation Lighting Initiative authorizes the Department of Energy to grant up to $480 million over ten years to a consortium of the United States lighting industry and research institutions. The goals of the Act are to have a 25 percent penetration of solid state lighting into the commercial markets by the year 2012. The Next Generation's consortium, will perform the basic and manufacturing research. The lighting industry will take this R&D and develop the necessary technologies to make it commercially viable.

This is precompetitive research. It is research that no one industry by itself can achieve and which we have a duty to promote together with industry. It has implications for our country's energy policy far broader than economic competitiveness. It is the reduction in energy consumption that makes it a national initiative. Once the pre-competitive research is transitioned to industry then it should be terminated, we think that will take about 10 years.

If this initiative is successful, then by 2025, it can reduce our energy consumption by roughly 17 billion watts of power or the need for 17 large electricity generating plants. That's as much as 17 million homes consume in a single day. That's more homes than in California, Oregon, and Washington combined.

So let me conclude that the Next Generation Lighting Initiative will carry the U.S. lighting industry into the twenty first century. It capitalizes on technologies that have emerged only five years ago but have the potential to quickly displace our lighting industry. This Initiative will reduce our nation's energy consumption and greenhouse gas emission. The research necessary to advance this technology requires a national investment that must be in partnership with industry.

I encourage my colleagues to review this bill, offer their comments, and, join Senator DEWINE and me in its bipartisan support. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Next Generation Lighting Initiative Act".

SEC. 2. FINDING.

Congress finds that it is in the economic and energy security interests of the United States to encourage the development of white light emitting diodes by providing financial assistance to firms, or a consortium of firms, and supporting research organizations in the lighting development sectors.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONSORTIUM.—The term "'consortium" means the Next Generation Lighting Initiative Consortium established under section 5(b).

(2) INORGANIC WHITE LIGHT EMITTING DIODE.—The term "inorganic white light emitting diode" means a semiconducting package that produces white light using externally applied voltage.

(3) LIGHTING INITIATIVE.—The term "Lighting Initiative" means the Next Generation Lighting Initiative established by section 4(a).

(4) ORGANIC WHITE LIGHT EMITTING DIODE.—The term "organic white light emitting diode" means an organic semiconducting compound that produces white light using externally applied voltage.

(5) PLANNING BOARD.—The term "planning board" means the Next Generation Lighting Initiative Planning Board established under section 5(a).

(6) RESEARCH ORGANIZATION.—The term "research organization" means an organization that performs or promotes research, development, and demonstration activities with respect to white light emitting diodes.

(7) SECRETARY.—The term "Secretary" means the Secretary of Energy, acting through the Assistant Secretary of Energy for Energy Efficiency and Renewable Energy.

(8) WHITE LIGHT EMITTING DIODE.—The term "white light emitting diode" means—

(A) an inorganic white light emitting diode; and

(B) an organic white light emitting diode.

SEC. 4. NEXT GENERATION LIGHTING INITIATIVE.

(a) ESTABLISHMENT.—There is established in the Department of Energy a lighting initiative to be known as the "Next Generation Lighting Initiative" to research, develop, and conduct demonstration activities on white light emitting diodes.

(b) OBJECTIVES.—

(1) IN GENERAL.—The objectives of the Lighting Initiative shall be to develop, by 2011, white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are—

(A) longer lasting;

(B) more energy-efficient; and

(C) cost-competitive.

(2) INORGANIC WHITE LIGHT EMITTING DIODE.—The objective of the Lighting Initiative with respect to inorganic white light emitting diodes shall be to develop an inorganic white light emitting diode that has an efficiency of 160 lumens per watt and a 10-year lifetime.

(3) ORGANIC WHITE LIGHT EMITTING DIODE.—The objective of the Lighting Initiative with respect to organic white light emitting diodes shall be to develop an organic white light emitting diode with an efficiency of 100 lumens per watt with a 5-year lifetime that—

(A) illuminates over a full color spectrum;

(B) covers large areas over flexible surfaces; and

(C) does not contain harmful pollutants typical of fluorescent lamps such as mercury.

SEC. 5. ADMINISTRATION.

(a) PLANNING BOARD.—

(1) IN GENERAL.—The Secretary shall establish a planning board, to be known as the "Next Generation Lighting Initiative Planning Board", to assist the Secretary in developing and implementing the Lighting Initiative.

(2) COMPOSITION.—The planning board shall be composed of—

(A) 4 members from universities, national laboratories, and other individuals with expertise in white lighting, to be appointed by the Secretary; and

(B) 3 members nominated by the consortium and appointed by the Secretary.

(3) STUDY.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the planning board shall complete a study on strategies for the development and implementation of white light emitting diodes.

(B) REQUIREMENTS.—The study shall—

(i) develop a comprehensive strategy to implement, through the Lighting Initiative, the use of white light emitting diodes to increase energy efficiency and enhance United States competitiveness; and

(ii) identify the research and development, manufacturing, deployment, and marketing barriers that must be overcome to achieve a goal of a 25 percent market penetration by white light emitting diode technologies into the incandescent and fluorescent lighting markets by the year 2012.

(C) IMPLEMENTATION.—As soon as practicable after the study is submitted to the Secretary, the Secretary shall implement the Lighting Initiative in accordance with the recommendations of the planning board.

(b) CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall solicit the establishment of a consortium, to be known as the "Next Generation Lighting Initiative Consortium", to initiate and manage basic and manufacturing related research contracts on white light emitting diodes for the Lighting Initiative.

(2) COMPOSITION.—The consortium may be composed of firms, national laboratories, and other entities so that the consortium is representative of the United States solid state lighting industry as a whole.

(3) FUNDING.—The consortium shall be funded by—

(A) membership fees; and

(B) grants provided under section 6.

SEC. 6. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall make grants to firms, the consortium, and research organizations to conduct research, development, and demonstration projects related to white light emitting diode technologies.

(b) REQUIREMENTS.—To be eligible to receive a grant under this section, a consortium shall—

(1) enter into a consortium participation agreement that—

(A) is agreed to by all members; and

(B) describes the responsibilities of participants, membership fees, and the scope of research activities; and

(2) develop a Lighting Initiative annual program plan.

(c) ANNUAL REVIEW.—

(1) IN GENERAL.—An annual independent review of firms, the consortium, and research organizations receiving a grant under this section shall be conducted by—

(A) a committee appointed by the Secretary under the Federal Advisory Committee Act (5 U.S.C. App.); or

(B) a committee appointed by the National Academy of Sciences.

(2) REQUIREMENTS.—Using clearly defined standards established by the Secretary, the review shall assess technology advances and commercial applicability of—

(A) the activities of the firms, consortium, or research organizations during each fiscal year of the grant program; and

(B) the goals of the firms, consortium, or research organizations for the next fiscal year in the annual program plan developed under subsection (b)(2).

(d) ALLOCATION AND COST SHARING.—

(1) IN GENERAL.—The amount of funds made available for any fiscal year to provide grants under this section shall be allocated in accordance with paragraphs (2) and (3).

(2) RESEARCH PROJECTS.—Funding for basic and manufacturing research projects shall be allocated to the consortium.

(3) DEVELOPMENT, DEPLOYMENT, AND DEMONSTRATION PROJECTS.—Funding for development, deployment, and demonstration projects shall be allocated to members of the consortium.

(4) COST SHARING.—Non-federal cost sharing shall be in accordance with section 3002 of the Energy Policy Act of 1992 (42 U.S.C. 13542).

(e) TECHNICAL AND FINANCIAL ASSISTANCE.—The national laboratories and other pertinent Federal agencies shall cooperate with and provide technical and financial assistance to firms, the consortium, and research organizations conducting research, development, and demonstration projects carried out under this section.

(f) AUDITS.—

(1) IN GENERAL.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds made available under this Act have been expended in a manner that is consistent with the objectives under section 4(b) and the annual operating plan of the consortium developed under subsection (b)(2).

(2) REPORTS.—The auditor shall submit to Congress, the Secretary, and the Comptroller General of the United States an annual report containing the results of the audit.

(g) APPLICABLE LAW.—The Lighting Initiative shall not be subject to the Federal Acquisition Regulation.

SEC. 7. PROTECTION OF INFORMATION.

Information obtained by the Federal Government on a confidential basis under this Act shall be considered to constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential under section 552(b)(4) of title 5, United States Code.

SEC. 8. INTELLECTUAL PROPERTY.

Members of the consortium shall have royalty-free nonexclusive rights to use intellectual property derived from consortium research conducted under this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to carry out this Act—

(1) $30,000,000 for fiscal year 2002; and

(2) $50,000,000 for each of fiscal years 2003 through 2011.

(b) Availability.—Amounts made available under this section shall remain available until expended.

By Mrs. FEINSTEIN (for herself and Mr. Hagel):

S. 1167. A bill to amend the Immigration and Nationality Act to permit the substitution of an alternative close family sponsor in the case of the death of the person petitioning for an alien's admission to the United States; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce on behalf of myself and Mr. Hagel, the Family Sponsor Immigration Act of 2001. This legislation would address the situation of those whose U.S. sponsor dies while they have the chance to adjust status or receive an immigrant visa.

Under current law, a family member who petitions for a relative to receive an immigrant visa must sign a legally binding affidavit of support promising to provide for the support of the immigrant. This is the last step before a green card is issued. If the family sponsor dies while the green card application is pending, the applicant is forced to find a new sponsor and restart the application process, usually a 7- to 8-year process, or face deportation.

The legislation I have introduced today would correct this anomaly in the law by permitting another family member to stand in for the deceased sponsor and sign the affidavit. Without this legislation, another relative who qualifies as a family sponsor would have to file a new immigrant visa petition on behalf of the relative and the relative would have to go to the end of the line if the visa category is numerically limited. Thus, the beneficiary would lose his priority date for a visa based on the filing of the first petition, and in some cases, face deportation.

With the passage of this legislation, even though there may be a different sponsor, the beneficiary would not lose his or her priority date to be admitted as a permanent resident of the United States. Nor will the beneficiary be subject to deportation even though they meet all the requirements for an immigrant visa.

A classic example of this situation was presented to my office just recently. Earlier this year I introduced a private bill on behalf of Zhenfu Ge, a 73-year-old Chinese grandmother whose daughter died before the Immigration and Naturalization Service, INS, was able to complete the final stage of application process: her interview. As a result, her immigration application is no longer valid and she is now subject to deportation. The private bill I introduced would allow her to adjust her status, given that she has met all the requirements for a visa.

In previous years, I have introduced other private bills which eventually became law. One bill was on behalf of Suchada Kwong, whose husband was killed in a car accident just weeks before her final interview with the INS. In 1997, I introduced a private bill on behalf of Jasmin Salehi, a Korean immigrant who became ineligible for permanent residency after her husband was murdered at a Denny's in Reseda, California, where he worked as a manager.

In all of these cases, a family's grief was compounded by the prospect of the deportation of a family member, who had met all the requirements for a green card. This legislation is an efficient way to alleviate the need for private legislation under these circumstances by making the law more just for those who have chosen to become immigrants in our country through the legal process.

We introduce the "Family Immigration Act of 2001," in the hopes that it will go further to alleviate some of hardships families face when confronted by the untimely death of a sponsor. Similar legislation has gained bipartisan support in the House of Representatives. I look forward to working with my colleagues to move it quickly through the Senate.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Sponsor Immigration Act of 2001".

SEC. 2. SUBSTITUTION OF ALTERNATIVE SPONSOR IF ORIGINAL SPONSOR HAS DIED.

(a) Permitting Substitution of Alternative Close Family Sponsor in Case of Death of Petitioner.—

(1) Recognition of alternative sponsor.—Section 213A(f)(5) of the Immigration and Nationality Act (8 U.S.C. 1183a(f)(5)) is amended to read as follows:

"(5) Non-petitioning cases.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who—

"(A) accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line; or

"(B) is a spouse, parent, mother-in-law, father-in-law, sibling, child (if at least 18 years of age), son, daughter, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild of a sponsored alien or a legal guardian of a sponsored alien, meets the requirements of paragraph (1) (other than subparagraph (D)), and executes an affidavit of support with respect to such alien in a case in which—

"(i) the individual petitioning under section 204 for the classification of such alien died after the approval of such petition; and

"(ii) the Attorney General has determined for humanitarian reasons that revocation of such petition under section 205 would be inappropriate.".

(2) Conforming amendment permitting substitution.—Section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1182(a)(4)(C)(ii)) is amended by striking "(including any additional sponsor required under section 213A(f))" and inserting "(and any additional sponsor required under section 213A(f) or any alternative sponsor permitted under paragraph (5)(B) of such section)".

(3) Additional conforming amendments.—Section 213A(f) of such Act (8 U.S.C. 1183a(f)) is amended, in each of paragraphs (2) and (4)(B)(ii), by striking "(5)." and inserting "(5)(A).".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to deaths occurring before, on, or after the date of the enactment of this Act, except that, in the case of a death occurring before such date, such amendments shall apply only if—

(1) the sponsored alien—

(A) requests the Attorney General to reinstate the classification petition that was filed with respect to the alien by the deceased and approved under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) before such death; and

(B) demonstrates that he or she is able to satisfy the requirement of section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1182(a)(4)(C)(ii)) by reason of such amendments; and

(2) the Attorney General reinstates such petition after making the determination described in section 213A(f)(5)(B)(ii) of such Act (as amended by such subsection).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 126—EXPRESSING THE SENSE OF THE SENATE REGARDING OBSERVANCE OF THE OLYMPIC TRUCE

Mr. DASCHLE (for himself, Mr. Stevens, Mr. Reid, Mr. Conrad, Mr. Harkin, Mr. Dorgan, and Mr. Sarbanes) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 126

Whereas the Olympic Games are a unique opportunity for international cooperation and the promotion of international understanding;

Whereas the Olympic Games bring together embattled rivals in an arena of peaceful competition;

Whereas the Olympic Ideal is to serve peace, friendship, and international understanding;

Whereas participants in the ancient Olympic Games, as early as 776 B.C., observed an "Olympic Truce" whereby all warring parties ceased hostilities and laid down their weapons for the duration of the games and during the period of travel for athletes to and from the games;

Whereas war extracts a terrible price from the civilian populations that suffer under it, and truces during war allow for the provision of humanitarian assistance to those suffering populations;

Whereas truces may lead to a longer cessation of hostilities and, ultimately, a negotiated settlement and end to conflict;

Whereas the Olympics can and should be used as a tool for international public diplomacy, rapprochement, and building a better world;

Whereas terrorist organizations have used the Olympics not to promote international understanding but to perpetrate cowardly acts against innocent participants and spectators;

Whereas, since 1992, the International Olympic Committee has urged the international community to observe the Olympic Truce;

Whereas the International Olympic Committee and the Government of Greece established the International Olympic Truce Center in July 2000, and that Center seeks to uphold the observance of the Olympic Truce and calls for all hostilities to cease during the Olympic Games; and

Whereas the United Nations General Assembly, with the strong support of the United States, has three times called for member states to observe the Olympic Truce, most recently for the XXVII Olympiad in Sydney, Australia: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE WITH RESPECT TO THE OLYMPIC TRUCE.

(a) COMMENDATION OF THE IOC AND THE GOVERNMENT OF GREECE.—The Senate commends the efforts of the International Olympic Committee and the Government of Greece to urge the international community to observe the Olympic Truce.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States Government should join efforts to use the Olympic Truce as an instrument to promote peace and reconciliation in areas of conflict; and

(2) the President should continue efforts to work with Greece—

(A) in its preparations for a successful XXVIII Olympiad in Greece in 2004; and

(B) to uphold and extend the spirit of the Olympic Truce during the XXVIII Olympiad.

SEC. 2. TRANSMITTAL OF RESOLUTION.

The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he further transmit such copy to the International Olympic Committee and the Government of Greece.

SENATE RESOLUTION 127—COMMENDING GARY SISCO FOR HIS SERVICE AS SECRETARY OF THE SENATE

Mr. LOTT (for himself, Mr. DASCHLE, Mr. BYRD, and Mr. THURMOND) submitted the following resolution; which was considered and agreed to:

S. RES. 127

Whereas, Gary Sisco faithfully served the Senate of the United States as the 29th Secretary of the Senate from the 104th to the 107th Congress, and discharged the difficult duties and responsibilities of that office with unfailing dedication and a high degree of competence and efficiency; and

Whereas, as an elected officer, Gary Sisco has upheld the high standards and traditions of the United States Senate and extended his assistance to all Members of the Senate; and

Whereas, through his exceptional service and professional integrity as an officer of the Senate of the United States, Gary Sisco has earned the respect, trust, and gratitude of his associates and the Members of the Senate: Now, therefore, be it

Resolved, That the Senate recognizes the notable contributions of Gary Sisco to the Senate and to his Country and expresses to him its deep appreciation for his faithful and outstanding service, and extends its very best wishes in his future endeavors.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Gary Sisco.

SENATE RESOLUTION 128—CALLING ON THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA TO IMMEDIATELY AND UNCONDITIONALLY RELEASE LI SHAOMIN AND ALL OTHER AMERICAN SCHOLARS OF CHINESE ANCESTRY BEING HELD IN DETENTION, CALLING ON THE PRESIDENT OF THE UNITED STATES TO CONTINUE WORKING ON BEHALF OF LI SHAOMIN AND THE OTHER DETAINED SCHOLARS FOR THEIR RELEASE, AND FOR OTHER PURPOSES

Mr. TORRICELLI (for himself, Mr. CORZINE, Mr. KERRY, Mr. ALLEN, Mr. WELLSTONE, Mr. THOMAS, and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 128

Whereas in recent months the Government of the People's Republic of China has arrested and detained several scholars and intellectuals of Chinese ancestry with ties to the United States, including at least 2 United States citizens and 3 permanent residents of the United States;

Whereas according to the Department of State's 2000 Country Reports on Human Rights Practices in China, and international human rights organizations, the Government of the People's Republic of China "has continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms";

Whereas the harassment, arbitrary arrest, detention, and filing of criminal charges against scholars and intellectuals has created a chilling effect on freedom of expression in the People's Republic of China, in contravention of internationally accepted norms, including the International Covenant on Civil and Political Rights, which the People's Republic of China signed in October 1998;

Whereas the Government of the People's Republic of China frequently uses torture and other human rights violations to produce coerced "confessions" from detainees;

Whereas the Department of State's 2000 Country Reports on Human Rights Practices in China has extensively documented that human rights abuses in the People's Republic of China "included instances of extrajudicial killings, the use of torture, forced confessions, arbitrary arrest and detention, the mistreatment of prisoners, lengthy incommunicado detention, and denial of due process", and also found that "[p]olice and prosecutorial officials often ignore the due process provisions of the law and of the Constitution . . . [f]or example, police and prosecutors can subject prisoners to severe psychological pressure to confess, and coerced confessions frequently are introduced as evidence";

Whereas the Government of the People's Republic of China has reported that some of the scholar detainees have "confessed" to their "crimes" of "spying", but it has yet to produce any evidence of spying, and has refused to permit the detainees to confer with their families or lawyers;

Whereas the Department of State's 2000 Country Reports on Human Rights Practices in China also found that "police continue to hold individuals without granting access to family or a lawyer, and trials continue to be conducted in secret";

Whereas Dr. Li Shaomin is a United States citizen and scholar who has been detained by the Government of the People's Republic of China for more than 100 days, was formally charged with spying for Taiwan on May 15, 2001, and is expected to go on trial on July 14, 2001;

Whereas Dr. Li Shaomin has been deprived of his basic human rights by arbitrary arrest and detention, has not been allowed to contact his wife and child (both United States citizens), and was prevented from seeing his lawyer for an unacceptably long period of time;

Whereas Dr. Gao Zhan is a permanent resident of the United States and scholar who has been detained by the Government of the People's Republic of China for more than 114 days, and was formally charged with "accepting money from a foreign intelligence agency" on April 4, 2001;

Whereas Dr. Gao Zhan has been deprived of her basic human rights by arbitrary arrest and detention, has not been allowed to contact her husband and child (both United States citizens) or Department of State consular personnel in China, and was prevented from seeing her lawyer for an unacceptably long period of time;

Whereas Wu Jianmin is a United States citizen and author who has been detained by the Government of the People's Republic of China, has been deprived of his basic human rights by arbitrary arrest and detention, has been denied access to lawyers and family members, and has yet to be formally charged with any crimes;

Whereas Qin Guangguang is a permanent resident of the United States and researcher who has been detained by the Government of the People's Republic of China on suspicions of "leaking state secrets", has been deprived of his basic human rights by arbitrary arrest and detention, has been denied access to lawyers and family members, and has yet to be formally charged with any crimes;

Whereas Teng Chunyan is a permanent resident of the United States, Falun Gong practitioner, and researcher who has been sentenced to three years in prison for spying by the Government of the People's Republic of China, apparently for conducting research which documented violations of the human rights of Falun Gong adherents in China, has been deprived of her basic human rights by being placed on trial in secret, and her appeal to the Beijing Higher People's Court was denied on May 11, 2001;

Whereas Liu Yaping is a permanent resident of the United States and a businessman who was arrested and detained in Inner Mongolia in March 2001 by the Government of the

People's Republic of China, has been deprived of his basic human rights by being denied any access to family members and by being denied regular access to lawyers, is reported to be suffering from severe health problems, was accused of tax evasion and other economic crimes, and has been denied his request for medical parole;

Whereas because there is documented evidence that the Government of the People's Republic of China uses torture to coerce confessions from suspects, because the Government has thus far presented no evidence to support its claims that the detained scholars and intellectuals are spies, and because spying is vaguely defined under Chinese law, there is reason to believe that the "confessions" of Dr. Li Shaomin and Dr. Gao Zhan may have been coerced; and

Whereas the arbitrary imprisonment of United States citizens and residents by the Government of the People's Republic of China, and the continuing violations of their fundamental human rights, demands an immediate and forceful response by Congress and the President of the United States: Now, therefore, be it

Resolved, That

(1) the Senate—

(A) condemns and deplores the continued detention of Li Shaomin, Gao Zhan, Wu Jianmin, Qin Guangguang, Teng Chunyan, and other scholars detained on false charges by the Government of the People's Republic of China, and calls for their immediate and unconditional release;

(B) condemns and deplores the lack of due process afforded to these detainees, and the probable coercion of confessions from some of them;

(C) condemns and deplores the ongoing and systematic pattern of human rights violations by the Government of the People's Republic of China, of which the unjust detentions of Li Shaomin, Gao Zhan, Wu Jianmin, Qin Guangguang, and Teng Chunyan, are only important examples;

(D) strongly urges the Government of the People's Republic of China to consider carefully the implications to the broader United States-Chinese relationship of detaining and coercing confessions from United States citizens and permanent residents on unsubstantiated spying charges or suspicions;

(E) urges the Government of the People's Republic of China to consider releasing Liu Yaping on medical parole, as provided for under Chinese law; and

(F) believes that human rights violations inflicted on United States citizens and residents by the Government of the People's Republic of China will reduce opportunities for United States-Chinese cooperation on a wide range of issues; and

(2) it is the sense of the Senate that the President—

(A) should make the immediate release of Li Shaomin, Gao Zhan, Wu Jianmin, Qin Guangguang, and Teng Chunyan a top priority of United States foreign policy with the Government of the People's Republic of China;

(B) should continue to make every effort to assist Li Shaomin, Gao Zhan, Wu Jianmin, Qin Guangguang, and Teng Chunyan, and their families, while discussions of their release are ongoing;

(C) should make it clear to the Government of the People's Republic of China that the detention of United States citizens and residents, and the infliction of human rights violations upon United States citizens and residents, is not in the interests of the Government of the People's Republic of China because it will reduce opportunities for United States-Chinese cooperation on other matters; and

(D) should immediately send a special, high ranking representative to the Government of the People's Republic of China to reiterate the deep concern of the United States regarding the continued imprisonment of Li Shaomin, Gao Zhan, Wu Jianmin, Qin Guangguang, Teng Chunyan, and Liu Yaping, and to discuss their legal status and immediate humanitarian needs.

AMENDMENTS SUBMITTED AND PROPOSED

SA 877. Mr. BYRD proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

SA 878. Mr. CRAPO (for himself, Mr. MURKOWSKI, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 879. Mr. DURBIN (for himself, Mrs. MURRAY, Mr. DAYTON, Mr. REID, Mr. FEINGOLD, and Mrs. BOXER) proposed an amendment to the bill H.R. 2217, supra.

SA 880. Mr. BYRD proposed an amendment to the bill H.R. 2217, supra.

SA 881. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 882. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 883. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 884. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 885. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 886. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 887. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 888. Mr. HARKIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 889. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 890. Mr. BREAUX (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 891. Mr. CORZINE (for himself and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 892. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 893. Mr. NELSON, of Florida (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra.

SA 894. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 895. Mr. KERRY (for himself, Ms. SNOWE, Ms. COLLINS, Mr. KENNEDY, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 896. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 897. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 898. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 899. Mr. SMITH, of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 900. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 901. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 902. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 903. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 904. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 905. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 906. Ms. CANTWELL (for herself, Mr. BINGAMAN, and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 907. Ms. LANDRIEU (for herself, Mr. SMITH, of New Hampshire, Mr. BREAUX, and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 908. Ms. LANDRIEU (for herself, Mr. BREAUX, Mr. LOTT, and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 909. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 910. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 911. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 912. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 913. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 914. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 915. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 916. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 917. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 918. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 919. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 920. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 921. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 922. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 923. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 877. Mr. BYRD proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 152, line 4, strike "$17,181,000" and insert "$72,640,000".

SA 878. Mr. CRAPO (for himself, Mr. MURKOWSKI, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table, as follows:

On page ___, between lines ___ and ___, insert the following:

SEC. 3___. BACKCOUNTRY LANDING STRIP ACCESS.

(a) IN GENERAL.—Funds made available by this Act shall not be used to permanently close any aircraft landing strip described in subsection (b) without public notice, consultation with appropriate Federal and State aviation officials, and the consent of the Federal Aviation Administration.

(b) AIRCRAFT LANDING STRIPS.—An aircraft landing strip referred to in subsection (a) is a landing strip on Federal land that—

(1) is officially recognized by an appropriate Federal or State aviation official;

(2) is administered by the Secretary of the Interior or the Secretary of Agriculture; and

(3) is commonly known for use for, and is consistently used for, aircraft landing and departure activities.

(c) PERMANENT CLOSURE.—For the purposes of subsection (a), an aircraft landing strip shall be considered to be closed permanently if the intended duration of the closure is more than 180 days in any calendar year.

SA 879. Mr. DURBIN (for himself, Mrs. MURRAY, Mr. DAYTON, Mr. REID, Mr. FEINGOLD, and Mrs. BOXER) proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 194, between lines 9 and 10, insert the following:

SEC. 1___. PRELEASING, LEASING, AND RELATED ACTIVITIES.

None of the funds made available by this Act shall be used to conduct any preleasing, leasing, or other related activity under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundary (in effect as of January 20, 2001) of a national monument established under the Act of June 8, 1906 (16 U.S.C. 431 et seq.), except to the extent that such a preleasing, leasing, or other related activity is allowed under the Presidential proclamation establishing the monument.

SA 880. Mr. BYRD proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 157, line 7, insert "Protection" after the word "Park".

SA 881. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 4, before ":" insert the following: "of which $2,000,000 shall be provided to the Ecological Restoration Institute".

SA 882. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, line 10 before ":" insert the following, ", and of which $500,000 is provided to the Ecological Restoration Institute for assistance to communities and land management agencies to support the design and implementation of forest restoration treatments."

SA 883. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, line 16, insert before ":" the following, "and of which $338,000 shall be provided for Mt. Trumbull".

SA 884. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, line 16, strike "longitude" and insert "longitude, or for the conduct of preleasing activities in those areas".

SA 885. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(a) SHORT TITLE AND FINDINGS.—

(1) This Title can be cited as the "Iraq Petroleum Import Restriction Act of 2001".

(2) FINDINGS.—Congress finds that—

(A) the government of the Republic of Iraq—

(i) has failed to comply with the terms of United Nations Security Council Resolution 687 regarding unconditional Iraqi acceptance of the destruction, removal, or rendering harmless, under international supervision, of all nuclear, chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities, as well as all ballistic missiles with a range greater than 150 kilometers and related major parts, and repair and production facilities and has failed to allow United Nations inspectors access to sites used for the production or storage of weapons of mass destruction.

(ii) routinely contravenes the terms and conditions of UNSC Resolution 661, authorizing the export of petroleum products from Iraq in exchange for food, medicine and other humanitarian products by conducting a routine and extensive program to sell such products outside of the channels established by UNSC Resolution 661 in exchange for military equipment and materials to be used in pursuit of its program to develop weapons of mass destruction in order to threaten the United States and its allies in the Persian Gulf and surrounding regions.

(iii) has failed to adequately draw down upon the amounts received in the Escrow Account established by UNSC Resolution 986 to purchase food, medicine and other humanitarian products required by its citizens, resulting in massive humanitarian suffering by the Iraqi people.

(iv) conducts a periodic and systematic campaign to harass and obstruct the enforcement of the United States and United Kingdom-enforced "No-Fly Zones" in effect in the Republic of Iraq.

(v) routinely manipulates the petroleum export production volumes permitted under UNSC Resolution 661 in order to create uncertainty in global energy markets, and therefore threatens the economic security of the United States.

(B) further imports of petroleum products from the Republic of Iraq are inconsistent with the national security and foreign policy interests of the United States and should be eliminated until such time as they are not so inconsistent.

(b) Prohibition on Iraqi-Origin Petroleum Imports.—The direct or indirect import from Iraq of Iraqi-origin petroleum and petroleum products is prohibited, notwithstanding an authorization by the Committee established by UNSC Resolution 661 or its designee, or any other order to the contrary.

(c) Termination/Presidential Certification.—This Act will remain in effect until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that—

(1) the United States is not engaged in active military operations in—

(A) enforcing "No-Fly Zones" in Iraq;

(B) support of United Nations sanctions against Iraq;

(C) preventing the smuggling of Iraqi-origin petroleum and petroleum products in violation of UNSC Resolution 986; and

(D) otherwise preventing threatening action by Iraq against the United States or its allies; and

(2) resuming the importation of Iraqi-origin petroleum and petroleum products would not be inconsistent with the national security and foreign policy interests of the United States.

(d) Humanitarian Interests.—It is the sense of the Senate that the President should make all appropriate efforts to ensure that the humanitarian needs of the Iraqi people are not negatively effected by this Act, and should encourage through public, private, domestic and international means the direct or indirect sale, donation or other transfer to appropriate non-governmental health and humanitarian organizations and individuals within Iraq of food, medicine and other humanitarian products.

(e) Definitions.—

(1) 661 committee.—The term "661 Committee" means the Security Council Committee established by UNSC Resolution 661, and persons acting for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the U.N. Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 986.

(2) UNSC resolution 661.—The term "UNSC Resolution 661" means United Nations Security Council Resolution No. 661, adopted August 6, 1990, prohibiting certain transactions with respect to Iraq and Kuwait.

(3) UNSC resolution 986.—The term "UNSC Resolution 986" means United Nations Security Council Resolution 986, adopted April 14, 1995.

(f) Effective Date.—The prohibition on importation of Iraqi origin petroleum and petroleum products shall be effective 30 days after enactment of this Act.

SA 886. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . GULFSTREAM NATURAL GAS PROJECT.

Notwithstanding any other provision of this Act, none of the funds made available under this Act shall be used to authorize or carry out construction of the Gulfstream Natural Gas Project.

SA 887. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 195, line 3, strike "Act:" and insert "Act (of which $4,000,000 shall be available for the Tumbledown/Mount Blue conservation project, Maine):".

SA 888. Mr. HARKIN (for himself and Mr. Grassley) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

(1) The National Park Service shall make further evaluations of national significance, suitability and feasibility for the Glenwood locality and each of the twelve Special Landscape Areas (including combinations of such areas) as identified by the National Park Service in the course of undertaking the Special Resource Study of the Loess Hills Landform Region of Western Iowa.

(2) The National Park Service shall provide the results of these evaluations no later than January 15, 2002, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives.

SA 889. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the Land and Water Conservation Fund, insert: "$33,000 shall be made available for the purchase of land for the United States Forest Service's Bearlodge Ranger District Work Center (Old Stoney) in Sundance, Wyoming;"

And, at the appropriate place in the report, insert: "$244,000 for the design of historic office renovations of the Bearlodge Ranger District Work Center (Old Stoney) in Sundance, Wyoming."

SA 890. Mr. BREAUX (for himself and Ms. Landrieu) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 9 and 10, insert the following:

SEC. 1 . LEASE OF FACILITY CONNECTED WITH THE NATIONAL WETLANDS RESEARCH CENTER.

Notwithstanding any other provision of law, if the University of Louisiana at Lafayette or the University of Louisiana at Lafayette Foundation makes a commitment to construct a facility adjacent to and connected with the National Wetlands Research Center, Louisiana, the Director of the United States Geological Survey, before commencement of construction, may enter into a long-term lease of the facility.

SA 891. Mr. CORZINE (for himself and Mr. Torricelli) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 184, line 6, after "activities", insert "(including related studies)".

SA 892. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill insert the following new General Provision:

Sec. . From within available funds in the Alaska Region including entrance fees generated in Glacier Bay National Park, the National Park Service shall conduct an Environmental Impact Statement on cruise ship entries into such park taking into account possible impacts on whale populations; Provided, That none of the funds available under this Act shall be used to reduce or increase the number of permits and vessel entries into the Park below or above the levels established by the National Park Service effective for the 2001 season until the Environmental Impact Statement required by law is completed and any legal challenges thereto are finalized notwithstanding any other provision of law.

SA 893. Mr. NELSON of Florida (for himself and Mr. Graham) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 194, between lines 9 and 10, insert the following:

SEC. 1 . LEASE SALE 181.

None of the funds made available by this Act shall be used to execute a final lease agreement for oil or gas development in the area of the Gulf of Mexico known as "Lease Sale 181", as identified in the Outer Continental Shelf 5-Year Oil and Gas Leasing Program, before April 1, 2002.

SA 894. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 9 and 10, insert the following:

SEC. 1 . LEASE SALE 181.

None of the funds made available by this Act shall be used to execute a final lease agreement for oil or gas development in the area of the Gulf of Mexico known as "Lease Sale 181", as identified in the Outer Continental Shelf 5-Year Oil and Gas Leasing Program.

SA 895. Mr. KERRY (for himself, Ms. SNOWE, Ms. COLLINS, Mr. KENNEDY, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, line 11, after "offshore", insert "preleasing,".

SA 896. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, line 9 strike "$2,388,614,000" and insert "$2,408,614,000."

On page 235, line 14 strike "$98,234,000" and insert "$78,234,000."

SA 897. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 202, line 5, after 205 insert "of which, $244,000 is to be provided for the design of historic office renovations of the Bearlodge Ranger District Work Center (Old Stoney) in Sundance, Wyoming, and".

SA 898. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, strike line 4 and all that follows through page 153, line 22 and insert "$109,901,000, to be derived from the Land and Water Conservation Fund, of which $4,000,000 shall be made available for land acquisition for the establishment of the Cahaba River National Wildlife Refuge, authorized by PL 106-331, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

LANDOWNER INCENTIVE PROGRAM

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $50,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: *Provided*, That the amount provided herein is for a Landowner Incentive Program established by the Secretary that provides matching, competitively awarded grants to States, the District of Columbia, Tribes, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, and American Samoa, to establish, or supplement existing, landowner incentive programs that provide technical and financial assistance, including habitat protection and restoration, to private landowners for the protection and management of habitat to benefit federally listed, proposed, or candidate species, or other at-risk species on private lands.

STEWARDSHIP GRANTS

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $10,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: *Provided*, That the amount provided herein is for the Secretary to establish a Private Stewardship Grants Program to provide grants and other assistance to individuals and groups engaged in private conservation efforts that benefit federally listed, proposed, or candidate species, or other at-risk species.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), as amended, $91,000,000, to be derived from the Cooperative Endangered Species Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(v) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $14,414,000.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101-233, as amended, $42,000,000, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E)(vi) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201-4203, 4211-4213, 4221-4225, 4241-4245, and 1538), the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4261-4266), the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301-5306), and the Great Ape Conservation Act of 2000 (16 U.S.C. 6301), $4,000,000, to remain available until expended: *Provided*, That funds made available under this Act, Public Law 106-291, and Public Law 106-554 and hereafter in annual appropriations acts for rhinoceros, tiger, Asian elephant, and great ape conservation programs are exempt from any sanctions imposed against any country under section 102 of the Arms Export Control Act (22 U.S.C. 2799aa-1).

STATE WILDLIFE GRANTS

(INCLUDING RESCISSION)

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and American Samoa, under the provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, $100,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided*, That the Secretary shall, after deducting administrative expenses, apportion the amount provided herein in the following manner: (A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof: and (B) to Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: *Provided further*, That the Secretary shall apportion the remaining amount in the following manner: 30 percent based on the ratio to which the land area of such State bears to the total land area of all such States; and 70 percent based on the ratio to which the population of such State bears to the total population of the United States, based on the 2000 U.S. Census; and the amounts so apportioned shall be adjusted equitably so that no State shall be apportioned a sum which is less than one percent of the total amount available for apportionment or more than 10 percent: *Provided further*, That the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 50 percent of the total costs of such projects: *Provided further*, That the non-Federal share of such projects may not be derived from Federal grant programs: *Provided further*, That no State, territory, or other jurisdiction shall receive a grant unless it has developed, or committed to develop by October 1, 2005, a comprehensive wildlife conservation plan, consistent with criteria established by the Secretary of the Interior, that considers the broad range of the State, territory, or other jurisdiction's wildlife and associated habitats, with appropriate priority placed on those species with the greatest conservation need and taking into consideration the relative level of funding available for the conservation of those species: *Provided further*, That any amount apportioned in 2002 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2003, shall be reapportioned, together with funds appropriated in 2004, in the manner provided herein.

Of the amounts appropriated in title VIII of Public Law 106-291, $49,890,000 for State Wildlife Grants are rescinded.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 74 passenger motor vehicles, of which 69 are for replacement only (including 32 for police-type use); repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That the Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in Senate Report 105–56.

National Park Service

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, $1,473,128,000, of which $10,881,000 for research, planning and interagency coordination in support of land acquisition for Everglades restoration shall remain available until expended; and of which $17,181,000, to remain available until September 30, 2003, is for maintenance repair or rehabilitation projects for constructed assets, operation of the National Park Service automated facility management software system, and comprehensive facility condition assessments; and of which $2,000,000 is for the Youth Conservation Corps, defined in section 250(c)(4)(E)(xii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, for high priority projects: *Provided*, That the only funds in this account which may be made available to support United States Park Police are those funds approved for emergency law and order incidents pursuant to established National Park Service procedures, those funds needed to maintain and repair United States Park Police administrative facilities, and those funds necessary to reimburse the United States Park Police account for the unbudgeted overtime and travel costs associated with special events for an amount not to exceed $10,000 per event subject to the review and concurrence of the Washington headquarters office.

UNITED STATES PARK POLICE

For expenses necessary to carry out the programs of the United States Park Police, $66,106,000.

CONTRIBUTION FOR ANNUITY BENEFITS

For reimbursement (not heretofore made), pursuant to provisions of Public Law 85–157, to the District of Columbia on a monthly basis for benefit wayments by the District of Columbia to United States Park Police annuitants under the provisions of the Policeman and Fireman's Retirement and Disability Act (Act), to the extent those payments exceed contributions made by active Park Police members covered under the Act, such amounts as hereafter may be necessary: *Provided*, That hereafter the appropriations made to the National Park Service shall not be available for this purpose.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $64,386,000.

SA 899. Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert:

"None of the funds made available under this or any other Act may be used to provide any flows from the Klamath Project other than those set forth in the 1992 biological opinion for Lost River and shortnose suckers and the July 1999 biological opinion on project operations issued by the National Marine Fisheries Service, until the Fish and Wildlife Service takes the following actions identified or discussed in the April 1993 recovery plan for Lost River suckers and shortnose suckers:

(a) establishes at least one stable refugial population with a minimum of 500 adult fish for each unique stock of Lost River and shortnose suckers;

(b) secures refugial sites for upper Klamath Lake suckers;

(c) uses aeration for improving water quality and to expand refugial areas for relatively good water quality within Upper Klamath Lake;

(d) improves larval rearing and refuge habitat in the lower Williamson and Wood Rivers through increased vegetative cover;

(e) extirpates exotic species that are predators of the suckers;

(f) assesses the need for captive propagation and the potential for improving sucker stocks through supplementation, and the Secretary has submitted a report, including recommendations, to the Congress;

(g) implements a plan to monitor relative abundance of all life stages for all sucker populations;

(h) develops a plan to reduce losses of fish due to water diversions;

(i) determines the distribution and abundance of suckers in all waterbodies in the Upper Klamath Basin;

(j) implements the plan for wetland rehabilitation pilot projects;

(k) implements the most effective strategy to provide fish passage upstream of the Sprague River Dam;

(l) implements the plan to enhance spring spawning habitat in Upper Klamath Lake and Agency Lake;

And develops water management plans and land management plans, including sump rotations where appropriate, for the national wildlife refuges that receive water from the Klamath Project; and subsequently completes an evaluation of the impact of these actions on the recovery of the suckers before determining whether further modifications to project operations are needed and submits such evaluation to the Secretary of the Interior and to the Congress.

SA 900. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ (a) RESCISSIONS.—There is rescinded an amount equal to 1 percent of the discretionary budget authority provided (or obligation limit imposed) for fiscal year 2002 in this Act for each department, agency, instrumentality, or entity of the Federal Government funded in this Act: *Provided*, That this reduction percentage shall be applied on a pro rata basis to each program, project, and activity subject to the rescission.

(b) DEBT REDUCTION.—The amount rescinded pursuant to this section shall be deposited into the account established under section 3113(d) of title 31, United States Code, to reduce the public debt.

(c) REPORT.—The Director of the Office of Management and Budget shall include in the President's budget submitted for fiscal year 2003 a report specifying the reductions made to each account pursuant to this section.

SA 901. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 9 and 10, insert the following:

SEC. . No funds provided in this Act may be expended to conduct preleasing, leasing and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are allowed under the Presidential proclamation establishing such monumental.

SA 902. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table, as follows:

On page 145, line 9, before the period at the end, insert the following: ", of which $500,000 shall be available to acquire land for the Don Edwards National Wildlife Refuge, California".

SA 903. Mrs. FEINSTEIN submitted an amendment intended to the proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table, as follows:

On page 256, between lines 7 and 8, insert the following:

SEC. 3___. FOREST LEGACY PROGRAM.

Section 7(l) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c(l)) is amended by adding at the end the following:

"(3) STATE AUTHORIZATION.—Notwithstanding any other provision of this Act, a State may authorize a local government, or any qualified organization (as defined in section 170(h)(3) of the Internal Revenue Code of 1986) that is organized for 1 or more purposes described in clauses (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986, to acquire land and interests in land to carry out the Forest Legacy Program in the State.".

SA 904. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, line 22, before the period, insert the following: "of which no funds shall be used for any purpose relating to Vulcan Monument, Alabama".

SA 905. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, line 26 strike "$20,000,000" and insert the following: "$23,363,000, of which $3,363,000 shall be derived by transfer from the Department Management fund".

SA 906. Ms. CANTWELL (for herself, Mr. BINGAMAN, and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, line 25, strike "$870,805,000" and insert "$882,805,000".

On page 217, line 7, strike the period and insert ": *Provided further*, That $23,300,000 shall be available for the Federal Energy Management Program and $20,788,000 shall be available for the Community partnerships.".

On page 217, strike lines 17 through 19 and insert "$157,009,000, to remain available until expended, of which $8,000,000 shall be available for maintenance of a Northeast Home Heating Oil Reserve.".

On page 217, line 19, strike the period and insert "and of which $132,000,000 shall be for non-phase specific activities: *Provided*, That the Department of Energy shall conduct a management review study of the Strategic Petroleum Reserve and report the findings to Congress not later than June 30, 2002.".

SA 907. Ms. LANDRIEU (for herself, Mr. SMITH, of New Hampshire, Mr. BREAUX, and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 148, strike line 6 and all that follows through page 150, line 7, and insert the following:

FUNDING FOR WILDLIFE CONSERVATION AND RESTORATION ACCOUNT

(INCLUDING RESCISSION)

For transfer to the Wildlife Conservation and Restoration Account established by section 3(a)(2) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(2)), $100,000,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

SA 908. Ms. LANDRIEU (for herself, Mr. BREAUX, Mr. LOTT, and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 9 and 10, insert the following:

SEC. 1___. SENSE OF CONGRESS CONCERNING COASTAL IMPACT ASSISTANCE.

(a) FINDINGS.—Congress finds that—

(1) the United States continues to be reliant on fossil fuels (including crude oil and natural gas) as a source of most of the energy consumed in the country;

(2) this reliance is likely to continue for the foreseeable future;

(3) about 65 percent of the energy needs of the United States are supplied by oil and natural gas;

(4) the United States is becoming increasingly reliant on clean-burning natural gas for electricity generation, home heating and air conditioning, agricultural needs, and essential chemical processes;

(5) a large portion of the remaining crude oil and natural gas resources of the country are on Federal land located in the western United States, in Alaska, and off the coastline of the United States;

(6) the Gulf of Mexico has proven to be a significant source of oil and natural gas and is predicted to remain a significant source in the immediate future;

(7) many States and counties oppose the development of Federal crude oil and natural gas resources within or near the coastline, which opposition results in congressional, Executive, State, or local policies to prevent the development of those resources;

(8) actions that prevent the development of certain Federal crude oil and natural gas resources do not lessen the energy needs of the United States or of those States and counties that object to exploration and development for fossil fuels;

(9) actions to prevent the development of certain Federal crude oil and natural gas resources focus development pressure on the remaining areas of Federal crude oil and natural gas resources, such as onshore and offshore Alaska, certain onshore areas in the western United States, and the central Gulf of Mexico off the coasts of Alabama, Alaska, Louisiana, Mississippi, and Texas;

(10) the development of Federal crude oil and natural gas resources is accompanied by adverse effects on the infrastructure services, public services, and the environment of States, counties, and local communities that host the development of those Federal resources;

(11) States, counties, and local communities do not have the power to tax adequately the development of Federal crude oil and natural gas resources, particularly when those development activities occur off the coastline of States that serve as platforms for that development, such as Alabama, Alaska, Louisiana, Mississippi, and Texas;

(12) the Mineral Leasing Act (30 U.S.C. 181 et seq.), which governs the development of Federal crude oil and natural gas resources located onshore, provides, outside the budget and appropriations processes of the Federal Government, payments to States in which Federal crude oil and natural gas resources are located in the amount of 50 percent of the direct revenues received from the Federal Government for those resources; and

(13) there is no permanent provision in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), which governs the development of Federal crude oil and natural gas resources located offshore, that authorizes the sharing of a portion of the annual revenues generated from Federal offshore crude oil and natural gas resources with adjacent coastal States that—

(A) serve as the platform for that development; and

(B) suffer adverse effects on the environment and infrastructure of the States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should provide a significant portion of the Federal offshore mineral revenues to coastal States that permit the development of Federal mineral resources off the coastline, including the States of Alabama, Alaska, Louisiana, Mississippi, and Texas.

SA 909. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 10 and 11, insert the following:

SEC. 1___. MODIFIED LEASE SALE 181.

Notwithstanding any other provision of this Act, not later than December 31, 2001, the Secretary of the Interior shall use such funds made available by this Act as are necessary to proceed with the sale of the area known as "Modified Lease Sale 181", located in the eastern portion of the Gulf of Mexico, consisting of 256 lease blocks for a total of approximately 1,470,000 acres, as depicted on the map entitled "Eastern Gulf of Mexico and Sale 181 Area", dated June 29, 2001.

SA 910. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 9 and 10, insert the following:

SEC. 1___. LEASE SALE 181.

Notwithstanding any other provision of this Act, not later than December 31, 2001, the Secretary of the Interior shall use such funds made available by this Act as are necessary to proceed with the sale of the area known as "Lease Sale 181", located in the eastern portion of the Gulf of Mexico, modifying the sale by excluding from Lease Sale 181 the area comprised of 120 blocks that forms a narrow strip beginning 15 miles south of the coast of Alabama.

SA 911. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, line 9, before the period, insert the following: ", of which not more than $250,000 shall be used for acquisition of 1,750 acres for the Red River National Wildlife Refuge and not more than $250,000 shall be available for use by the Louisiana herbivory (nutria) control program".

SA 912. Ms. LANDRIEU submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 10 and 11, insert the following:

SEC. 1. . LEASE SALE 181.

Notwithstanding any other provision of this Act, none of the funds made available by this Act shall be used to reduce the size of the area known as "Lease Sale 181", located on the outer Continental Shelf in the eastern portion of the Gulf of Mexico, as originally proposed in 1997.

SA 913. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. . NATIONAL CAVE & KARST INSTITUTE.

$350,000 of the funds provided to the National Park Service in this Act shall be available for the National Cave & Karst Institute in New Mexico.

SA 914. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. . VALLES CALDERA TRUST.

On page 195, line 19, strike "1,324,491,000" and insert "1,324,841,000".

SA 915. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. . RIO PUERCO MANAGEMENT COMMITTEE.

$300,000 of the funds provided to the Bureau of Land Management shall be available for erosion control and watershed rehabilitation projects and initiatives developed by the Rio Puerco Management Committee (section 401 of Public Law 104–333) in New Mexico.

SA 916. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. . SANTO DOMINGO PUEBLO CLAIM SETTLEMENT.

$2,200,000 of the funds provided to the Bureau of Indian Affairs shall be available for deposit into a fund to meet current obligations with the Santo Domingo Pueblo Claims Settlement Act of 2000 (Public Law 106–425).

SA 917. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

No funds contained in this or any other Act shall be used to approve the transfer of lands on South Fox Island, Michigan, until Congress has authorized such transfer.

SA 918. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Under United States Fish and Wildlife Service—Resource Management, on page 143, starting in line 5, strike "$845,714,000, to remain available until September 30, 2003, except as otherwise provided herein," and insert in lieu thereof, "846,214,000, to remain available until September 30, 2003, except as otherwise provided herein, of which $500,000 is for the University of Idaho for developing research mechanisms in support of salmon and trout recovery in the Columbia and Snake River basins and their tributaries, and".

Under Bureau of Land Management—Land Acquisition: On page 137, in line 26, strike "$45,686,000" and insert in lieu thereof, "45,186,000"; on page 138, in line 5, before the period insert ", of which $2,500,000 is for the Upper Snake/South Fork Snake River in Idaho".

SA 919. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 146, line 5, strike "lands." And insert "land: *Provided further*, That no funds shall be available for the Landowner Incentive Program until the program is authorized by an Act of Congress enacted after the date of enactment of this Act.".

On page 146, line 22, strike "species." And insert "species: *Provided further*, That no funds shall be available for the Private Stewardship Grants Program until the program is authorized by an Act of Congress enacted after the date of enactment of this Act.".

SA 920. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 145, strike line 10 and all that follows through page 146, line 22.

Proposed Reallocations:

On page 132, line 9, strike "$1,000,000" and insert "$3,000,000".

On page 137, line 15, strike "$50,000,000" and insert "$100,000,000".

On page 143, line 19, strike "$2,000,000" and insert "$4,000,000".

On page 152, line 9, strike "$2,000,000" and insert "$4,000,000".

On page 207, line 12, strike "$2,000,000" and insert "$6,000,000".

Description: The Committee-reported bill includes $50 million in funding for a "Landowner Incentive Program" and $10 million for a "Stewardship Grants" Program as part of the conservation spending category. Neither program was authorized in last year's agreement establishing the conservation spending category and neither program is authorized as a stand-alone program. This amendment strikes the funding for both programs and reallocates it to other authorized programs within the category: $50 million in additional funding for the Payments in Lieu of Taxes Program and $10 million in additional funding for Youth Conservation Corps Programs.

SA 921. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 144, line 22, strike "expended." and insert "expended: *Provided*, That $498, 000 shall be used for the Moosehorn National Wildlife Refuge to develop and display exhibits in the Downneast Heritage Center in Calais, Maine."

SA 922. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 144, line 15, strike "analyses." and insert "analyses: *Provided further*, That $1,100,000 shall be made available to the National Fish and Wildlife Foundation to carry out a competitively awarded grant program for State, local, or other organizations in Maine to fund on-the-ground projects to further Atlantic salmon conservation and restoration efforts, at least $550,000 of which shall be awarded to projects that will also assist industries in Maine affected by the listing of Atlantic salmon under the Endangered Species Act."

SA 923. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, line 7, after "herein," insert "of which $140,000 shall be made available for the preparation of, and not later than July 31, 2002, submission to Congress of a report on, a feasibility study and situational appraisal of the Hackensack Meadowlands, New Jersey, to identify management objectives and address strategies for preservation efforts, and".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, July 11, 2001, at 5:45 p.m., in Executive Session to meet with the British Secretary of State for Foreign and Commonwealth Affairs, the Right Honorable Jack Straw.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 11, 2001, at 9:30 a.m. on Internet Privacy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 11, 2001, to hear testimony regarding the Role of Tax Incentives in Energy Policy, Part II.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 11, 2001 at 3 p.m. to hold a nomination hearing.

Nominees:

Mr. Peter R. Chaveas, of Pennsylvania, to be Ambassador to the Republic of Sierra Leone.

Mr. Aubrey Hooks, of Virginia, to be Ambassador to the Democratic Republic of the Congo.

Mr. Donald J. McConnell, of Ohio, to be Ambassador to the State of Eritrea.

Ms. Nancy J. Powell, of Iowa, to be Ambassador to the Republic of Ghana.

Mr. George M. Staples, of Kentucky, to be Ambassador to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador to the Republic of Equatorial Guinea.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 11, 2001, at 9 a.m. for a business meeting to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 11, 2001, at 9:30 a.m. for a hearing regarding S. 803, the e-Government Act of 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on achieving parity for mental health treatment during the session of the Senate on Wednesday, July 11, 2001, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a nominations hearing on Wednesday, July 11, 2001, at 2 p.m., in Dirksen 226.

Panel I: Roger L. Gregory, of Virginia, to be U.S. circuit judge for the Fourth Circuit.

Panel II: Richard F. Cebull, of Montana, to be U.S. district judge for the District of Montana; Sam E. Haddon, of Montana, to be U.S. district judge for the District of Montana.

Panel III: Eileen J. O'Connor, of Maryland, to be Assistant Attorney General for the Tax Division.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 11, 2001 at 2:30 p.m., to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT

Mr. REID. Mr. President, I ask unanimous consent that the subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, July 11, 2001, at 9:30 a.m., in open session to receive testimony on the readiness of the U.S. Military Forces and the FY2002 budget amendment, in review of the Defense authorization request for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, July 11, 2001, at 2:00 p.m., in open session to receive testimony on the budget request for national security space programs, policies operations and strategic systems and programs, in review of the Defense authorization request for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BYRD. Mr. President, I ask unanimous consent that Scott Dalzell, a detailee with the majority staff, and Mark Davis, a detailee with the minority staff, be afforded privileges of the floor during the pendency of H.R. 2217.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS ACT, 2001

On July 10, 2001, the Senate amended and passed H.R. 2216, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2216) entitled "An Act making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, and for other purposes, namely:

TITLE I—NATIONAL SECURITY MATTERS

CHAPTER 1

DEPARTMENT OF JUSTICE

RADIATION EXPOSURE COMPENSATION

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For an additional amount for "Payment to Radiation Exposure Compensation Trust Fund" for claims covered by the Radiation Exposure Compensation Act, $84,000,000, to remain available until expended.

CHAPTER 2

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $164,000,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $84,000,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $69,000,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $126,000,000.

RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army", $52,000,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve Personnel, Air Force", $2,000,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", $6,000,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force", $12,000,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $784,500,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $1,037,900,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $62,000,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $824,900,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-wide", $62,050,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $20,500,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $12,500,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $1,900,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", $34,000,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $42,900,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $119,300,000.

PROCUREMENT

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $3,000,000, to remain available for obligation until September 30, 2003.

SHIPBUILDING AND CONVERSION, NAVY

(TRANSFER OF FUNDS)

For an additional amount for "Shipbuilding and Conversion, Navy", $297,000,000: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amount specified: Provided further, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1995/2001":

Carrier Replacement Program, $84,000,000;

DDG–51 Destroyer Program, $300,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2001":

DDG–51 Destroyer Program, $14,600,000;

LPD–17 Amphibious Transport Dock Ship Program, $140,000,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1997/2001":

DDG–51 Destroyer Program, $12,600,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2001":

NSSN Program, $32,000,000;

DDG–51 Destroyer Program, $13,500,000.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $78,000,000, to remain available for obligation until September 30, 2003.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for "Missile Procurement, Air Force", $15,500,000, to remain available for obligation until September 30, 2003.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for "Procurement of Ammunition, Air Force", $31,200,000, to remain available for obligation until September 30, 2003.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $165,650,000, to remain available for obligation until September 30, 2003.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-wide", $5,800,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $123,000,000, to remain available for obligation until September 30, 2002.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $227,500,000, to remain available for obligation until September 30, 2002.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-wide", $35,000,000, to remain available for obligation until September 30, 2002.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for "Defense Working Capital Funds", $178,400,000, to remain available until expended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $1,522,200,000 for operation and maintenance: Provided, That of the funds made available under this heading, not more than $655,000,000 may be used to cover TRICARE contract costs associated with the provision of health care services to eligible beneficiaries of all the uniformed services: Provided further, That of the funds made available under this heading, not less than $220,000,000 shall be made available upon enactment only for the requirements of the direct care system and military medical treatment facilities, to be administered solely by the uniformed services Surgeons General.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1201. Fuel transferred by the Defense Energy Supply Center to the Department of the Interior for use at Midway Island during fiscal year 2000 shall be deemed for all purposes to have been transferred on a nonreimbursable basis.

SEC. 1202. Funds appropriated by this Act or made available by the transfer of funds in this Act for intelligence activities are deemed to be specifically authorized by the Congress for the purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(INCLUDING TRANSFER OF FUNDS)

SEC. 1203. In addition to the amount appropriated in section 308 of Division A, Miscellaneous Appropriations Act, 2001, as enacted by section 1(a)(4) of Public Law 106–554 (114 Stat. 2763A–181 and 182), $44,000,000 is hereby appropriated for "Operation and Maintenance, Navy", to remain available until expended: Provided, That such amount, and the amount previously appropriated in section 308, shall be for costs associated with the stabilization, return, refitting, necessary force protection upgrades, and repair of the U.S.S. COLE, including any costs previously incurred for such purposes: Provided further, That the Secretary of Defense may transfer these funds to appropriations accounts for procurement: Provided further, That funds so transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: Provided further, That the transfer authority provided herein is in addition to any other transfer authority available to the Department of Defense.

(RESCISSIONS)

SEC. 1204. Of the funds provided in Department of Defense Appropriations Acts, the following funds are rescinded, from the following accounts in the specified amounts:

"Overseas Contingency Operations Transfer Fund, 2001", $200,000,000;

"Aircraft Procurement, Navy, 2001/2003", $150,000,000;

"Shipbuilding and Conversion, Navy, 2001/2005", LPD–17(AP), $75,000,000;

"Aircraft Procurement, Air Force, 2001/2003", $363,000,000;

"Research, Development, Test and Evaluation, Defense-wide 2001/2002", $4,000,000.

SEC. 1205. Notwithstanding any other provision of law, the Secretary of Defense may retain all or a portion of Fort Greely, Alaska as the Secretary deems necessary, to meet military, operational, logistics and personnel support requirements for missile defense.

SEC. 1206. Of the funds appropriated in the Department of Defense Appropriations Act, 2001, Public Law 106–259, in Title IV under the heading, "Research, Development, Test and Evaluation, Navy", $2,000,000 may be made available for a Maritime Fire Training Center at the Marine and Environmental Research and Training Station (MERTS), and $2,000,000 may be made available for a Maritime Fire Training Center at Barbers Point, including provision for laboratories, construction, and other efforts associated with research, development, and other programs of major importance to the Department of Defense.

SEC. 1207. Of the amounts appropriated in this Act under the heading "Operation and Maintenance, Army", $8,000,000 shall be available for the purpose of repairing storm damage at Fort Sill, Oklahoma, and Red River Army Depot, Texas.

SEC. 1208. (a) Of the total amount appropriated under this Act to the Army for operation and maintenance, such amount as may be necessary shall be available for a conveyance by the Secretary of the Army, without consideration, of all right, title, and interest of the

United States in and to the firefighting and rescue vehicles described in subsection (b) to the City of Bayonne, New Jersey.

(b) The firefighting and rescue vehicles referred to in subsection (a) are a rescue hazardous materials truck, a 2,000 gallon per minute pumper, and a 100-foot elevating platform truck, all of which are at Military Ocean Terminal, Bayonne, New Jersey.

SEC. 1209. None of the funds available to the Department of Defense for fiscal year 2001 may be obligated or expended for retiring or dismantling any of the 93 B–1B Lancer bombers in service as of June 1, 2001, or for transferring or reassigning any of those aircraft from the unit, or the facility, to which assigned as of that date.

CHAPTER 3

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount for "Weapons Activities", $140,000,000, to remain available until expended: Provided, That funding is authorized for Project 01–D–107, Atlas Relocation and Operations, and Project 01–D–108, Microsystems and Engineering Science Application Complex.

OTHER DEFENSE RELATED ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For an additional amount for "Defense Environmental Restoration and Waste Management", $95,000,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS

For an additional amount for "Defense Facilities Closure Projects", $21,000,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

For an additional amount for "Defense Environmental Management Privatization", $29,600,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For an additional amount for "Other Defense Activities", $5,000,000, to remain available until expended.

CHAPTER 4

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", $18,000,000, to remain available until September 30, 2005: Provided, That notwithstanding any other provision of law, such amount may be used by the Secretary of the Air Force to carry out a military construction and renovation project at the Masirah Island Airfield, Oman.

FAMILY HOUSING, ARMY

For an additional amount for "Family Housing, Army", $27,200,000 for operation and maintenance.

FAMILY HOUSING, NAVY AND MARINE CORPS

For an additional amount for "Family Housing, Navy and Marine Corps", $20,300,000 for operation and maintenance.

FAMILY HOUSING, AIR FORCE

For an additional amount for "Family Housing, Air Force", $18,000,000 for operation and maintenance.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

For an additional amount for deposit into the "Department of Defense Base Realignment and Closure Account 1990", $9,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1401. (a) In addition to amounts appropriated or otherwise made available elsewhere in the Military Construction Appropriations Act, 2001, and in this Act, the following amounts are hereby appropriated as authorized by section 2854 of title 10, United States Code, as follows for the purpose of repairing storm damage at Ellington Air National Guard Base, Texas, and Fort Sill, Oklahoma:

"Military Construction, Air National Guard", $6,700,000;

"Family Housing, Army", $1,000,000: Provided, That the funds in this section shall remain available until September 30, 2005.

(b) Of the funds provided in the Military Construction Appropriations Acts, 2000 and 2001, the following amounts are rescinded:

"Military Construction, Defense-Wide", $6,700,000;

"Family Housing, Army", $1,000,000.

SEC. 1402. Notwithstanding any other provision of law, the amount authorized, and authorized to be appropriated, for the Defense Agencies for the TRICARE Management Agency for a military construction project for Bassett Army Hospital at Fort Wainwright, Alaska, shall be $215,000,000.

TITLE II—OTHER SUPPLEMENTAL APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $3,000,000, to remain available until September 30, 2002: Provided, That of these funds, no less than $1,000,000 shall be used for enforcement of the Animal Welfare Act: Provided further, That of these funds, no less than $1,000,000 shall be used to enhance humane slaughter practices under the Federal Meat Inspection Act: Provided further, That no more than $500,000 of these funds shall be made available to the Under Secretary for Research, Education and Economics for development and demonstration of technologies to promote the humane treatment of animals: Provided further, That these funds may be transferred to and merged with appropriations for agencies performing this work.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $35,000,000, to remain available until September 30, 2002.

FARM SERVICE AGENCY

AGRICULTURAL CONSERVATION PROGRAM

(RESCISSION)

Of the funds appropriated for "Agricultural Conservation Program" under Public Law 104–37, $45,000,000 are rescinded.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and Flood Prevention Operations", to repair damages to waterways and watersheds, resulting from natural disasters occurring in West Virginia on July 7 and July 8, 2001, $5,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2101. Title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549, 1549A–10) is amended by striking "until expended" under the heading "Buildings and Facilities" under the heading "Animal and Plant Health Inspection Service" and adding the following: "until expended: Provided, That notwithstanding any other provision of law (including chapter 63 of title 31, U.S.C.), $4,670,000 of the amount shall be transferred by the Secretary and once transferred, shall be state funds for the construction, renovation, equipment, and other related costs for a post entry plant quarantine facility and related laboratories as described in Senate Report 106–288".

SEC. 2102. The paragraph under the heading "Rural Community Advancement Program" in title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549, 1549A–17) is amended—

(1) in the third proviso, by striking "ability of" and inserting "ability of low income rural communities and"; and

(2) in the fourth proviso, by striking "assistance to" the first place it appears and inserting "assistance and to".

SEC. 2103. (a) Not later than August 1, 2001, the Federal Crop Insurance Corporation shall promulgate final regulations to carry out section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 522(b)), without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(b) In carrying out this section, the Corporation shall use the authority provided under section 808 of title 5, United States Code.

(c) The final regulations promulgated under subsection (a) shall take effect on the date of publication of the final regulations.

SEC. 2104. In addition to amounts otherwise available, $20,000,000 from amounts pursuant to 15 U.S.C. 713a–4 for the Secretary of Agriculture to make available financial assistance related to water conservation to eligible producers in the Klamath Basin, as determined by the Secretary.

SEC. 2105. Under the heading of "Food Stamp Program" in Public Law 106–387, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, in the sixth proviso, strike "$194,000,000" and insert in lieu thereof "$191,000,000".

SEC. 2106. Of funds which may be reserved by the Secretary for allocation to State agencies under section 16(h)(1) of the Food Stamp Act of 1977 to carry out Employment and Training programs, $39,500,000 made available in prior years are rescinded and returned to the Treasury.

SEC. 2107. In addition to amounts otherwise available, $2,000,000 from amounts pursuant to 15 U.S.C. 713a–4 for the Secretary of Agriculture to make available financial assistance related to water conservation to eligible producers in the Yakima Basin, Washington, as determined by the Secretary.

CHAPTER 2

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

COASTAL AND OCEAN ACTIVITIES

(INCLUDING RESCISSION)

Of the funds made available in Public Law 106–553 for the costs of construction of a research center at the ACE Basin National Estuarine Research Reserve, for use under this heading until expended, $8,000,000 are rescinded.

For an additional amount for the activities specified in Public Law 106–553 for which funds were rescinded in the preceding paragraph, $3,000,000, to remain available until expended for construction and $5,000,000, to remain available until expended for land acquisition.

DEPARTMENTAL MANAGEMENT

EMERGENCY OIL AND GAS GUARANTEED LOAN PROGRAM

(RESCISSION)

Of the funds made available in the Emergency Oil and Gas Guaranteed Loan Program Act (chapter 2 of Public Law 106–51; 113 Stat. 255–258), $114,800,000 are rescinded.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING RESCISSION)

Of the funds made available in Public Law 106–553 for the costs of technical assistance related to the New Markets Venture Capital Program for use under this heading in only fiscal year 2001, $30,000,000 are rescinded.

For an additional amount for the activities specified in Public Law 106–553 for which funds were rescinded in the preceding paragraph, $30,000,000, to remain available until expended.

BUSINESS LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION)

Of the funds made available in Public Law 106–553 for the costs of guaranteed loans under the New Markets Venture Capital Program for use under this heading in only fiscal year 2001, $22,000,000 are rescinded.

For an additional amount for the activities specified in Public Law 106–553 for which funds were rescinded in the preceding paragraph, $22,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2201. Section 144(d) of Division B of Public Law 106–554 is amended—

(1) in paragraph (1) and paragraph (5)(B) by striking "not later than May 1, 2001" and inserting in lieu thereof "as soon as practicable";

(2) in paragraph (2)(B)(i) by striking "paragraph" and inserting in lieu thereof "paragraph: Provided, That regulations published by the Secretary to implement this section shall provide for replacement vessels and the marriage of fishing history from different vessels, and no vessels shall be prevented from fishing by virtue of this sentence until such regulations are final";

(3) in paragraph (3) by striking "the May 1, 2001 date" and inserting in lieu thereof "the direction to issue regulations as soon as practicable as"; and

(4) in paragraph (3) by striking "with that date".

SEC. 2202. (a) Section 12102(c) of title 46, United States Code is amended—

(1) in paragraph (2)(B) by striking "or the use" and all that follows in such paragraph and inserting in lieu thereof "or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be a preferred mortgagee under section 31322(a) of this title, provided that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking or berthing changes."; and

(2) by striking paragraph (4) and renumbering the remaining paragraph accordingly.

(b) Section 202(b) of the American Fisheries Act (Public Law 105–277, Division C, Title II) is amended by striking paragraph (4)(B) and all that follows in such paragraph and inserting in lieu thereof the following:

"(B) a state or federally chartered financial institution that is insured by the Federal Deposit Insurance Corporation;

"(C) a farm credit lender established under Title 12, Chapter 23 of the United States Code;

"(D) a commercial fishing and agriculture bank established pursuant to State law;

"(E) a commercial lender organized under the laws of the United States or of a State and eligible to own a vessel under section 12102(a) of this title; or

"(F) a mortgage trustee under subsection (f) of this section.".

(c) Section 31322 of title 46, United States Code is amended by adding at the end the following new subsections:

"(f)(1) A mortgage trustee may hold in trust, for an individual or entity, an instrument or evidence of indebtedness, secured by a mortgage of the vessel to the mortgage trustee, provided that the mortgage trustee—

"(A) is eligible to be a preferred mortgagee under subsection (a)(4), subparagraphs (A)–(E) of this section;

"(B) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

"(C) is authorized under those laws to exercise corporate trust powers;

"(D) is subject to supervision or examination by an official of the United States Government or a State;

"(E) has a combined capital and surplus (as stated in its most recent published report of condition) of at least $3,000,000; and

"(F) meets any other requirements prescribed by the Secretary.

"(2) If the beneficiary under the trust arrangement is not a commercial lender, a lender syndicate or eligible to be a preferred mortgagee under subsection (a)(4), subparagraphs (A)–(E) of this section, the Secretary must determine that the issuance, assignment, transfer, or trust arrangement does not result in an impermissible transfer of control of the vessel to a person not eligible to own a vessel with a fishery endorsement under section 12102(c) of this title.

"(3) A vessel with a fishery endorsement may be operated by a mortgage trustee only with the approval of the Secretary.

"(4) A right under a mortgage of a vessel with a fishery endorsement may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under this section only with the approval of the Secretary.

"(5) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this subsection is voidable by the Secretary.

"(g) For purposes of this section a 'commercial lender' means an entity primarily engaged in the business of lending and other financing transactions with a loan portfolio in excess of $100,000,000, of which not more than 50 per centum in dollar amount consists of loans to borrowers in the commercial fishing industry, as certified to the Secretary by such lender.

"(h) For purposes of this section a 'lender syndicate' means an arrangement established for the combined extension of credit of not less than $20,000,000 made up of four or more entities that each have a beneficial interest, held through an agent, under a trust arrangement established pursuant to subsection (f), no one of which may exercise powers thereunder without the concurrence of at least one other unaffiliated beneficiary.".

(d) Section 31322 of title 46, United States Code as amended in this section, and as amended by section 202(b) of the American Fisheries Act (Public Law 105–277, Division C, Title II) shall not take effect until April 1, 2003, nor shall the Secretary of Transportation, in determining whether a vessel owner complies with the requirements of section 12102(c) of title 46, United States Code, consider the citizenship status of a lender, in its capacity as a lender with respect to that vessel owner, until after April 1, 2003.

CHAPTER 3

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

For an additional amount for "Governmental Direction and Support", $5,400,000 from local funds for a natural gas increase.

ECONOMIC DEVELOPMENT AND REGULATION

For an additional amount for "Economic Development and Regulation", $1,000,000 from local funds for the implementation of the New E-Conomy Transformation Act of 2000, (D.C. Act 13–543), and $624,820 for the Department of Consumer and Regulatory Affairs for the purposes of D.C. Code, sec. 5–513: Provided, That the Department shall transfer all local funds resulting from the lapse of personnel vacancies, caused by transferring Department of Consumer and Regulatory Affairs employees into NSO positions without the filling of the resultant vacancies, into the general fund to be used to implement the provisions in DC Bill 13–646, the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, pertaining to the prevention of the demolition by neglect of historic properties: Provided further, That the fees established and collected pursuant to Bill 13–646 shall be identified, and an accounting provided, to the Committee on Consumer and Regulatory Affairs of the Council of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

For an additional amount for "Public Safety and Justice", $8,901,000 from local funds, including $2,800,000 for the Metropolitan Police Department ($800,000 for the speed camera program, $2,000,000 for the Fraternal Order of Police arbitration award and the Fair Labor Standards Act liability), $5,540,000 for the Fire and Emergency Medical Services Department's pre-tax payments for pension, health and life insurance premiums, $400,000 for the fifth firefighter on trucks initiative, and $161,000 for the Child Fatality Review Committee established pursuant to the Child Fatality Review Committee Establishment Emergency Act of 2001 (D.C. Act 14–40) and the Child Fatality Review Committee Establishment Temporary Act of 2001 (Bill 14–165).

In addition, all funds whenever deposited in the District of Columbia Antitrust Fund established pursuant to section 2 of the District of Columbia Antitrust Act of 1980 (D.C. Law 3–169; D.C. Code § 28–4516), the Antifraud Fund established pursuant to section 820 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code § 1–1188.20), and the District of Columbia Consumer Protection Fund established pursuant to section 1402 of the District of Columbia Budget Support Act for Fiscal Year 2001 (D.C. Law 13–172; D.C. Code § 28–3911), are hereby made available for the use of the Office of the Corporation Counsel of the District of Columbia until September 30, 2002, in accordance with the statutes that established these funds.

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 2001, in the District of Columbia Appropriations Act, 2001, approved November 22, 2000 (Public Law 106–522), $131,000 for Taxicab Inspectors are rescinded.

PUBLIC EDUCATION SYSTEM

For an additional amount for "Public Education System", $1,000,000 from local funds for the State Education Office for a census-type audit of the student enrollment of each District of Columbia Public School and of each public charter school and $12,000,000 from local funds for the District of Columbia Public Schools to conduct the 2001 summer school session.

In addition, Section 108(b) of the District of Columbia Public Education Act, Public Law 89–791 as amended (sec. 31–1408, D.C. Code), is amended by adding a new sentence at the end of the subsection, which states: "In addition, any proceeds and interest accruing thereon, which remain from the sale of the former radio station WDCU in an escrow account of the District of Columbia Financial Management and

Assistance Authority for the benefit of the University of the District of Columbia, shall be used for the University of the District of Columbia's Endowment Fund. Such proceeds may be invested in equity based securities if approved by the Chief Financial Officer of the District of Columbia.''.

HUMAN SUPPORT SERVICES

Notwithstanding any other provisions of the District of Columbia Appropriations Act, 2001, for an additional amount for "Human Support Services", $28,000,000 from local funds (including $19,000,000 for Medicaid expansion and increased utilization and a DSH cap increase, $3,000,000 for a disability compensation fund, $1,000,000 for the Office of Latino Affairs, and $5,000,000 for the Children Investment Trust).

PUBLIC WORKS

For an additional amount for "Public Works", $131,000 from local funds for Taxicab Inspectors.

FINANCING AND OTHER USES

WORKFORCE INVESTMENTS

For expenses associated with the workforce investments program, $40,500,000 from local funds.

WILSON BUILDING

For an additional amount for "Wilson Building", $7,100,000 from local funds.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

For an additional amount for "Water and Sewer Authority", $2,151,000 from local funds for initiatives associated with complying with stormwater legislation and proposed right-of-way fees.

GENERAL PROVISION—THIS CHAPTER

SEC. 2301. REPORT BY THE MAYOR. Pursuant to Section 222 of Public Law 104–8, the Mayor of the District of Columbia shall provide the House and Senate Committees on Appropriations, the Senate Committee on Governmental Affairs, and the House Committee on Government Reform with recommendations relating to the transition of responsibilities under Public Law 104–8, the District of Columbia Financial Responsibility Act of 1995, at the earliest time practicable.

CHAPTER 4

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $50,000,000, as authorized by Section 5 of the Flood Control Act of August 18, 1941, as amended, to remain available until expended.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For an additional amount for "Non-Defense Environmental Management", $11,400,000, to remain available until expended.

URANIUM FACILITIES MAINTENANCE AND REMEDIATION

(TRANSFER OF FUNDS)

For an additional amount for "Uranium Facilities Maintenance and Remediation", $18,000,000, to be derived from the Uranium Enrichment Decontamination and Decommissioning Fund, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2401. AUTHORIZATION TO ACCEPT PREPAYMENT OF OBLIGATIONS. (a) IN GENERAL.—Notwithstanding section 213(a) of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(a)), the Bureau of Reclamation may accept prepayment for all financial obligations under Contract 178r–423 (including Amendment 4) (referred to in this section as the "Contract") entered into with the United States.

(b) CONTRACTUAL OBLIGATIONS.—If full prepayment of all financial obligations under the Contract is offered—

(1) the Secretary of the Interior shall accept the prepayment; and

(2) on acceptance by the Secretary of the prepayment all land covered by the Contract shall not be subject to the ownership and full cost pricing limitation under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

SEC. 2402. Of the funds provided under the heading "Power Marketing Administration, Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration", in Public Law 106–377, not less than $250,000 shall be provided for a study to determine the costs and feasibility of transmission expansion: Provided, That these funds shall be non-reimbursable: Provided further, That these funds shall be available until expended.

SEC. 2403. INCLUSION OF RENAL CANCER AS BASIS FOR BENEFITS UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000. Section 3621(17) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398); 114 Stat. 1654A–502) is amended by adding at the end the following new subparagraph:

"(C) Renal cancers.".

CHAPTER 5

BILATERAL ECONOMIC ASSISTANCE

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND DISEASE PROGRAMS FUND

(INCLUDING RESCISSION)

For an additional amount for "Child Survival and Disease Programs Fund", $100,000,000, to remain available until expended: Provided, That this amount may be made available, notwithstanding any other provision of law, for a United States contribution to a global trust fund to combat HIV/AIDS, malaria, and tuberculosis.

Of the funds made available under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, (as contained in section 101(a) of Public Law 106–429) which are designated for a contribution to an international HIV/AIDS fund, $10,000,000 are rescinded.

GENERAL PROVISION—THIS CHAPTER

SEC. 2501. The final proviso in section 526 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as enacted into law by section 1000(a)(2) of Public Law 106–113), as amended, is hereby repealed, and the funds identified by such proviso shall be made available pursuant to the authority of section 526 of Public law 106–429.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount to address increased permitting responsibilities related to energy needs, $3,000,000, to remain available until expended, and to be derived by transfer from unobligated balances available to the Department of the Interior for the acquisition of lands and interests in lands.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

(INCLUDING RESCISSIONS)

Of the amounts made available to the National Park Service under this heading in Public Law 106–291, $200,000 for completion of a wilderness study at Apostle Islands National Lakeshore, Wisconsin, are rescinded.

For an additional amount for "Operation of the National Park System", $200,000, to remain available until expended, for completion of a wilderness study at Apostle Islands National Lakeshore, Wisconsin: Provided, That these funds shall be made available under the same terms and conditions as authorized for the funds in Public Law 106–291.

Of the amounts transferred to the Secretary of the Interior, pursuant to section 311 of chapter 3 of division A of appendix D of Public Law 106–554 for maintenance, protection, or preservation of the land and interests in land described in section 3 of the Minuteman Missile National Historic Site Establishment Act of 1999, $4,000,000 are rescinded.

For an additional amount for "Operation of the National Park System", $4,000,000, to remain available until expended, for maintenance, protection, or preservation of the land and interests in land described in section 3 of the Minuteman Missile National Historic Site Establishment Act of 1999: Provided, That these funds shall be made available under the same terms and conditions as authorized for the funds pursuant to section 311 of chapter 3 of division A of appendix D of Public Law 106–554.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Operation of Indian Programs", $50,000,000, to remain available until September 30, 2002, for electric power operations at the San Carlos Irrigation Project, of which such amounts as necessary may be transferred to other appropriations accounts for repayment of advances previously made for such power operations.

RELATED AGENCY

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for "State and Private Forestry" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended.

For an additional amount for "State and Private Forestry", $750,000 to be provided to the Kenai Peninsula Borough Spruce Bark Beetle Task Force for emergency response and communications equipment and $1,750,000 to be provided to the Municipality of Anchorage for emergency fire fighting equipment and response to respond to wildfires in spruce bark beetle infested forests, to remain available until expended: Provided, That such amounts shall be provided as direct lump sum payments within 30 days of enactment of this Act.

NATIONAL FOREST SYSTEM

For an additional amount for the "National Forest System" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended.

CAPITAL IMPROVEMENT AND MAINTENANCE

(INCLUDING RESCISSION)

Of the funds appropriated in Title V of Public Law 105–83 for the purposes of section 502(e) of that Act, the following amounts are rescinded: $1,000,000 for snow removal and pavement preservation and $4,000,000 for pavement rehabilitation.

For an additional amount for "Capital Improvement and Maintenance", $5,000,000, to remain available until expended, for the purposes of section 502(e) of Public Law 105–83.

For an additional amount for "Capital Improvement and Maintenance" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $4,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING TRANSFER OF FUNDS)

Sec. 2601. Pursuant to title VI of the Steens Mountain Cooperative Management and Protection Act, Public Law 106–399, the Bureau of Land Management may transfer such sums as are necessary to complete the individual land exchanges identified under title VI from unobligated land acquisition balances.

Sec. 2602. Section 338 of Public Law 106–291 is amended by striking "105–825" and inserting in lieu thereof: "105–277".

Sec. 2603. Section 2 of Public Law 106–558 is amended by striking subsection (b) in its entirety and inserting in lieu thereof:

"(b) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act.".

Sec. 2604. Federal Highway Administration emergency relief for Federally owned roads, made available to the Forest Service as Federal-aid highways funds, may be used to reimburse Forest Service accounts for expenditures previously completed only to the extent that such expenditures would otherwise have qualified for the use of Federal-aid highways funds.

Sec. 2605. Notwithstanding any other provision of law, $2,000,000 provided to the Forest Service in Public Law 106–291 for the Region 10 Jobs in the Woods program shall be advanced as a direct lump sum payment to Ketchikan Public Utilities within thirty days of enactment: Provided, That such funds shall be used by Ketchikan Public Utilities specifically for hiring workers for the purpose of removing timber within the right-of-way for the Swan Lake-Lake Tyee Intertie.

Sec. 2606. Section 122(a) of Public Law 106–291 is amended by:

(1) inserting "hereafter" after "such amounts"; and

(2) striking "June 1, 2000" and inserting "June 1 of the preceding fiscal year".

Sec. 2607. Section 351 of Public Law 105–277 is amended by striking "prior to September 30, 2001" and inserting in lieu thereof: "and hereafter".

Sec. 2608. Sudden Oak Death Syndrome. In addition to amounts transferred under section 442(a) of the Plant Protection Act (7 U.S.C. 7772(a)), the Secretary of Agriculture shall transfer to the Forest Service, pursuant to that section, an additional $1,400,000 to be used by appropriate offices within the Forest Service that carry out research and development activities to arrest, control, eradicate, and prevent the spread of Sudden Oak Death Syndrome, to be derived by transfer from the unobligated balance available to the Secretary of Agriculture for the acquisition of land and interests in land.

CHAPTER 7

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISSIONS)

For an additional amount to carry out chapter 4 of the Workforce Investment Act, $45,000,000 to be available for obligation for the period April 1, 2001 through June 30, 2002.

Of the funds made available under this heading in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554), $45,000,000 are rescinded including $25,000,000 available for obligation for the period April 1, 2001 through June 30, 2002 to carry out section 169 of the Workforce Investment Act, and $20,000,000 available for obligation for the period July 1, 2001 through June 30, 2002 for Safe Schools/Healthy Students.

Of the funds made available under this heading in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554), for Dislocated Worker Employment and Training Activities, $217,500,000 available for obligation for the period July 1, 2001 through June 30, 2002 are rescinded: Provided, That, notwithstanding any other provision of law, $160,000,000 is from amounts allotted under section 132(a)(2)(B), and $57,500,000 is from the National Reserve under section 132(a)(2)(A) of the Workforce Investment Act: Provided further, That notwithstanding any other provision of law, the Secretary shall increase State allotments under section 132(b)(2) of the Workforce Investment Act for program year 2001 by the reallotment of excess unexpended balances, as determined by the Secretary, as of June 30, 2001, from those States determined to have excess unexpended balances: Provided further, That the rescission of funds under section 132(a)(2)(B) is effective at the time the Secretary re-allots excess unexpended balances to the States: Provided further, That the amount reallocated to any State, when added to the State's formula allotment under section 132(b)(2), shall equal, to the extent possible, the amount the State would have received on July 1, 2001 had no rescission been enacted.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

The matter under this heading in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554) is amended by striking "$226,224,000" and inserting "$224,724,000".

The provision for Northeastern University is amended by striking "doctors" and inserting "allied health care professionals".

NATIONAL INSTITUTES OF HEALTH

(TRANSFER OF FUNDS)

Funds appropriated to the Office of the Director, National Institutes of Health, in fiscal year 2001 for the Office of Biomedical Imaging, Bioinformatics and Bioengineering are transferred to the National Institute of Biomedical Imaging and Bioengineering.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out the Public Health Service Act with respect to mental health services, $6,500,000 for maintenance, repair, preservation, and protection of the Federally owned facilities, including the Civil War Cemetery, at St. Elizabeths Hospital, which shall remain available until expended.

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW INCOME HOME ENERGY ASSISTANCE

For an additional amount for "Low Income Home Energy Assistance" under section 2602(e) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621(e)), $300,000,000, to remain available until expended: Provided, That these funds are for the home energy assistance needs of one or more States, as authorized by section 2604(e) of that Act and notwithstanding the designation requirement of section 2602(e) of such Act.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

In the statement of the managers of the committee of conference accompanying H.R. 4577 (Public Law 106–554; House Report 106–1033), in title III of the explanatory language on H.R. 5656 (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001), in the matter relating to Technology Innovation Challenge Grants under the heading "Education Reform", the amount specified for Western Kentucky University to improve teacher preparation programs that help incorporate technology into the school curriculum shall be deemed to be $400,000.

EDUCATION FOR THE DISADVANTAGED

The matter under this heading in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554) is amended by striking "$7,332,721,000" and inserting "$7,237,721,000".

For an additional amount (to the corrected amount under this heading) for "Education for the Disadvantaged" to carry out part A of title I of the Elementary and Secondary Education Act of 1965 in accordance with the eighth proviso under that heading, $161,000,000, which shall become available on July 1, 2001, and shall remain available through September 30, 2002.

IMPACT AID

Of the $12,802,000 available under the heading "Impact Aid" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554) for construction under section 8007 of the Elementary and Secondary Education Act of 1965, $6,802,000 shall be used as directed in the first proviso under that heading, and the remaining $6,000,000 shall be distributed to eligible local educational agencies under section 8007, as such section was in effect on September 30, 2000.

SPECIAL EDUCATION

In the statement of the managers of the committee of conference accompanying H.R. 4577 (Public Law 106–554; House Report 106–1033), in title III of the explanatory language on H.R. 5656 (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001), in the matter relating to Special Education Research and Innovation under the heading "Special Education", the provision for training, technical support, services and equipment through the Early Childhood Development Project in the Mississippi Delta Region shall be applied by substituting "Easter Seals—Arkansas" for "the National Easter Seals Society".

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

The matter under this heading in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554) is amended by striking "$139,624,000" and inserting "$139,853,000".

In the statement of the managers of the committee of conference accompanying H.R. 4577 (Public Law 106–554; House Report 106–1033), in title III of the explanatory language on H.R. 5656 (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001), in the matter relating to the Fund for the Improvement of Education under the heading "Education Research, Statistics and Improvement"—

(1) the aggregate amount specified shall be deemed to be $139,853,000;

(2) the amount specified for the National Mentoring Partnership in Washington, DC for establishing the National E-Mentoring Clearinghouse shall be deemed to be $461,000; and

(3) the provision specifying $1,275,000 for one-to-one computing shall be deemed to read as follows:

"$1,275,000—NetSchools Corporation, to provide one-to-one e-learning pilot programs for

Dover Elementary School in San Pablo, California, Belle Haven Elementary School in East Menlo Park, California, East Rock Magnet School in New Haven, Connecticut, Reid Elementary School in Searchlight, Nevada, and McDermitt Combined School in McDermitt, Nevada;".

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2701. (a) Section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2327) is amended—

(1) in subsection (a), by inserting "that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)" after "institutions";

(2) in subsection (b), by adding "institutional support of" after "for";

(3) in subsection (d), by inserting "that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)" after "institution"; and

(4) in subsection (e)(1)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following:

"(D) institutional support of vocational and technical education.".

(b) EFFECTIVE DATE.—

(1) The amendments made by subsection (a) shall take effect on the date of enactment of this section.

(2) The amendments made by subsection (a) shall apply to grants made for fiscal year 2001 only if this section is enacted before August 4, 2001.

SEC. 2702. (a) ESTABLISHMENT OF GRANT PROGRAM.—Section 396 of the Communications Act of 1934 (47 U.S.C 396) is amended by adding the following new subsection:

"GRANT ASSISTANCE FOR TRANSITION TO DIGITAL BROADCASTING.

"(n)(1) The Corporation may, by grant, provide financial assistance to eligible entities for the purpose of supporting the transition of those entities from the use of analog to digital technology for the provision of public broadcasting services.

"(2) Any 'public broadcasting entity' as defined in section 397(11) of the Communications Act of 1934 (47 U.S.C. 397(11)) is an entity eligible to receive grants under this subsection.

"(3) Proceeds of grants awarded under this subsection may be used for costs associated with the transition of public broadcasting stations to assure access to digital broadcasting services, including for the support of digital transmission facilities and for the development, production, and distribution of digital programs and services.

"(4) The grants shall be distributed to the eligible entities in accordance with principles and criteria established by the Corporation in consultation with the public broadcasting licensees and officials of national organizations representing public broadcasting licensees. The principles and criteria shall include special priority for providing digital broadcast services to:

"(A) rural or remote areas;

"(B) areas under-served by public broadcasting stations; and

"(C) areas where the conversion to, or establishment of primary digital public broadcasting services, is impaired by an insufficient availability of private funding for that purpose by reason of the small size of the population or the low average income of the residents of the area.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (k)(1) of section 396 of the Communications Act of 1934 (47 U.S.C. 396) is amended—

(1) by re-designating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) In addition to any amounts authorized under any other provision of this or any other Act to be appropriated to the Fund, funds are hereby authorized to be appropriated to the Fund solely (notwithstanding any other provision of this subsection) for carrying out the purposes of subsection (n) as follows:

"(i) For fiscal year 2001, $20,000,000 to carry out the purposes of subsection (n);

"(ii) For fiscal year 2002, such sums as may be necessary to carry out the purposes of subsection (n).".

SEC. 2703. IMPACT AID. (a) LEARNING OPPORTUNITY THRESHOLD PAYMENTS.—Section 8003(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(3)(B)(iv) (as amended by section 1806(b)(2)(C) of the Impact Aid Reauthorization Act of 2000 (as enacted into law by section 1 of Public Law 106–398)) is amended by inserting "or less than the average per-pupil expenditure of all the States" after "of the State in which the agency is located".

(b) FUNDING.—The Secretary of Education shall make payments under section 8003(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 from the $882,000,000 available under the heading "Impact Aid" in title III of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1 of Public Law 106–554) for basic support payments under section 8003(b).

CHAPTER 8

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $35,000.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For an additional amount for "Congressional Printing and Binding", $9,900,000.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

For payment to the "Government Printing Office Revolving Fund", $6,000,000, to remain available until expended, for air-conditioning and lighting systems.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2801. Section 101(a) of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h–6(a)) is amended—

(1) by inserting after the second sentence the following: "The President pro tempore emeritus of the Senate is authorized to appoint and fix the compensation of one individual consultant, on a temporary or intermittent basis, at a daily rate of compensation not in excess of that specified in the first sentence of this subsection."; and

(2) in the last sentence by inserting "President pro tempore emeritus," after "President pro tempore,".

SEC. 2802. The Abraham Lincoln Bicentennial Commission Act, Public Law 106–173, February 25, 2000 is hereby amended in section 7 by striking subsection (e) and inserting the following:

"(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Librarian of Congress shall provide to the Commission, on a reimbursable basis, administrative support services necessary for the Commission to carry out its responsibilities under this Act, including disbursing funds available to the Commission, and computing and disbursing the basic pay for Commission personnel.".

SEC. 2803. Notwithstanding any limitation in 31 U.S.C. sec. 1553(b) and 1554, the Architect of the Capitol may use current year appropriations to reimburse the Department of the Treasury for prior year water and sewer services payments otherwise chargeable to closed accounts.

SEC. 2804. That notwithstanding any other provision of law, and specifically section 5(a) of the Employment Act of 1946 (15 U.S.C. 1024(a)), the Members of the Senate to be appointed by the President of the Senate shall for the duration of the One Hundred Seventh Congress, be represented by six Members of the majority party and five Members of the minority party.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $92,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, Construction, and Improvements", $4,000,000, to remain available until expended, for the repair of Coast Guard facilities damaged during the Nisqually earthquake or for costs associated with moving the affected Coast Guard assets to an alternative site within Seattle, Washington.

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $30,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

EMERGENCY HIGHWAY RESTORATION

For the costs associated with the long term restoration or replacement of seismically-vulnerable highways recently damaged during the Nisqually earthquake, $12,800,000, to remain available until expended: Provided, That of the amount made available under this head, $3,800,000 shall be for the Alaskan Way Viaduct in Seattle, Washington and $9,000,000 shall be for the Magnolia Bridge in Seattle, Washington.

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under Public Law 94–280, Public Law 95–599, Public Law 97–424, Public Law 102–240, and Public Law 100–17, $14,000,000 are rescinded.

ALASKA RAILROAD COMMISSION

To enable the Secretary of Transportation to make an additional grant to the Alaska Railroad, $2,000,000 for a joint United States-Canada commission to study the feasibility of connecting the rail system in Alaska to the North American continental rail system.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2901. (a) Item 143 in the table under the heading "Capital Investment Grants" in title I of the Department of Transportation and Related Agencies Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–456) is amended by striking "Northern New Mexico park and ride facilities" and inserting "Northern New Mexico park and ride facilities and State of New Mexico, Buses and Bus-Related Facilities".

(b) Item 167 in the table under the heading "Capital Investment Grants" in title I of the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–69; 113 Stat. 1006) is amended by striking "Northern New Mexico Transit Express/Park and Ride buses" and inserting "Northern New Mexico park and ride facilities and State of New Mexico, Buses and Bus-Related Facilities".

SEC. 2902. Notwithstanding section 47105(b)(2) of title 49, United States Code or any other provision of law, an application for a project grant under chapter 471 of that title may propose projects at Abbeville Municipal Airport and Akutan Airport, and the Secretary may make project grants for such projects.

SEC. 2903. Hereafter, funds made available under "Capital Investment Grants" in Public Law 105–277 for item number 15 and for any new fixed guideway system project cited as a "fixed guideway modernization" project shall not be made available for any other Federal transit project.

CHAPTER 10

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses" to reimburse any agency of the Department of the Treasury or other Federal agency for costs of providing operational and perimeter security at the 2002 Winter Olympics in Salt Lake City, Utah, $59,956,000, to remain available until September 30, 2002.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $49,576,000, to remain available through September 30, 2002.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For an additional amount for "Processing, Assistance, and Management", $66,200,000, to remain available through September 30, 2002.

FEDERAL PAYMENT TO MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Of the funds made available under this heading in H.R. 5658 of the 106th Congress, as incorporated by reference in Public Law 106–554, $1,000,000 shall be transferred and made available for necessary expenses incurred pursuant to section 6(7) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5604(7)), to remain available until expended.

GENERAL PROVISION—THIS CHAPTER

SEC. 21001. Section 413 of H.R. 5658, as incorporated by reference in Public Law 106–554, is amended to read as follows:

"SEC. 413. DESIGNATION OF THE PAUL COVERDELL BUILDING. The recently-completed classroom building constructed on the Core Campus of the Federal Law Enforcement Training Center in Glynco, Georgia, shall be known and designated as the 'Paul Coverdell Building'."

CHAPTER 11

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and Pensions", $589,413,000, to remain available until expended.

READJUSTMENT BENEFITS

For an additional amount for "Readjustment Benefits", $347,000,000, to remain available until expended.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

(TRANSFER OF FUNDS)

Of the amounts available in the Medical Care account, not more than $19,000,000 may be transferred not later than September 30, 2001, to the General Operating Expenses account, for the administrative expenses of processing compensation and pension claims, of which up to $5,000,000 may be used for associated travel expenses.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

NATIVE AMERICAN HOUSING BLOCK GRANTS

For an additional amount for "Native American Housing Block Grants", $5,000,000, to remain available until expended: Provided, That these funds shall be made available to the Turtle Mountain Band of Chippewa for emergency housing, housing assistance and other assistance to address the mold problem at the Turtle Mountain Indian Reservation: Provided further, That these funds shall be released upon the submission of a plan by the Turtle Mountain Band of Chippewa to the Secretary of Housing and Urban Development to address these emergency housing needs and related problems: Provided further, That the Federal Emergency Management Agency shall provide technical assistance to the Turtle Mountain Band of Chippewa with respect to the acquisition of emergency housing and related issues on the Turtle Mountain Indian Reservation.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

(INCLUDING RESCISSION)

Except for the amount made available for the cost of guaranteed loans as authorized under section 108 of the Housing and Community Development Act of 1974, the unobligated balances available in Public Law 106–377 for use under this heading in only fiscal year 2001 are rescinded as of the date of enactment of this provision.

The amount of the unobligated balances rescinded in the preceding paragraph is appropriated for the activities specified in Public Law 106–377 for which such balances were available, to remain available until September 30, 2003.

The referenced statement of the managers under this heading in Public Law 106–377 is deemed to be amended with respect to the amount made available for Rio Arriba County, New Mexico by striking the words "for an environmental impact statement" and inserting the words "for a regional landfill".

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(TRANSFER OF FUNDS)

Of the amounts available for administrative expenses and administrative contract expenses under the headings, "FHA—Mutual Mortgage Insurance Program Account", "FHA—General and Special Risk Program Account", and "Salaries and expenses, management and administration" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, as enacted by Public Law 106–377, not to exceed $8,000,000 is available to liquidate deficiencies incurred in fiscal year 2000 in the "FHA—Mutual Mortgage Insurance Program Account".

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

The matter under this heading in title IV of the Legislative Branch Appropriations Act, 2001, as enacted by reference by Public Law 106–554 (114 Stat. 2763A–124), is amended by striking the three provisos.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

STATE AND TRIBAL ASSISTANCE GRANTS

The referenced statement of the managers under this heading in Public Law 106–377 is deemed to be amended by striking all after the words "Beloit, Wisconsin" in reference to item number 236, and inserting the words "extension of separate sanitary sewers and extension of separate storm sewers".

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,000,000 to remain available until expended for costs related to Tropical Storm Allison.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

Notwithstanding the proviso under the heading, "Human Space Flight", in Public Law 106–74, $40,000,000 of the amount provided therein shall be available for preparations necessary to carry out future research supporting life and micro-gravity science and applications.

TITLE III—GENERAL PROVISIONS

SEC. 3001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 3002. UNITED STATES-CHINA SECURITY REVIEW COMMISSION. There are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $1,700,000, to remain available until expended, to the United States-China Security Review Commission.

SEC. 3003. DESIGNATION OF ENGINEERING AND MANAGEMENT BUILDING AT NORFOLK NAVAL SHIPYARD, VIRGINIA, AFTER NORMAN SISISKY. The engineering and management building (also known as Building 1500) at Norfolk Naval Shipyard, Portsmouth, Virginia, shall be known as the Norman Sisisky Engineering and Management Building. Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Norman Sisisky Engineering and Management Building.

This Act may be cited as the "Supplemental Appropriations Act, 2001".

UNANIMOUS CONSENT AGREEMENT—H.R. 333

Mr. REID. Mr. President, I ask unanimous consent that the previously ordered debate with respect to the Nelson of Florida amendment No. 893 occur immediately following the vote on cloture on the motion to proceed to H.R. 333; the offering of the substitute amendment, and cloture being filed on that amendment, as under the previous order; further, that no amendments be in order to the substitute amendment to H.R. 333 prior to the cloture vote on the substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 174 just received from the House.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 174) authorizing the Rotunda of the Capitol to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 174) was agreed to.

EXECUTIVE SESSION

NOMINATION OF OTHONEIL ARMENDARIZ TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY

NOMINATION OF KAY COLES JAMES TO BE DIRECTOR OF THE OFFICER OF PERSONNEL MANAGEMENT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations reported earlier today by the Government Affairs Committee:

Othoneil Armendariz, to be a member of the Federal Labor Relations Authority;

Kay Coles James, to be the Director of the Office of Personnel Management;

that the nominations be confirmed, the motions to reconsider be laid on the table, that any statements thereon appear at the appropriate place in the RECORD, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

OFFICE OF PERSONNEL MANAGEMENT

Kay Coles James, of Virginia, to be Director of the Office of Personnel Management.

FEDERAL LABOR RELATIONS AUTHORITY

Othoneil Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority for a term of five years expiring July 1, 2005.

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Nos. 182 through 196 and all nominations on the Secretary's desk; that the nominations be confirmed, en bloc; that any statements therein be printed at the appropriate place in the RECORD; the motions to reconsider be laid upon the table; the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Pierre-Richard Prosper, of California, to be Ambassador at Large for War Crimes Issues.

Charles J. Swindells, of Oregon, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Samoa.

Margaret DeBardeleben Tutwiler, of Alabama, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

Wendy Jean Chamberlin, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

William S. Farish, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Kingdom of Great Britain and Northern Ireland.

Francis Xavier Taylor, of Maryland, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

Robert D. Blackwill, of Kansas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to India.

Anthony Horace Gioia, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

Howard H. Leach, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

William A. Eaton, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State (Administration).

Alexander R. Vershbow, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Russian Federation.

Clark T. Randt, Jr., of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

C. David Welch, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

Douglas Alan Hartwick, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Lao People's Democratic Republic.

Daniel C. Kurtzer, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

FOREIGN SERVICE

PN508 Foreign Service nominations (110) beginning Stephen K. Morrison, and ending Joseph Laurence Wright, II, which nominations were received by the Senate and appeared in the Congressional Record of June 12, 2001.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 104

Mr. REID. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may turn to the consideration of Executive Calendar No. 104, the nomination of John Graham to be the Administrator of the Office of Regulatory Affairs at OMB and that it be considered under the following time limitation:

One hour under the control of Senator LIEBERMAN, 3 hours under the control of Senator THOMPSON, 2 hours under the control of Senator DURBIN, 2 hours under the control of Senator WELLSTONE, 15 minutes under the control of Senator KERRY; that upon the use or yielding back of the time, the Senate vote at a time to be determined by the two leaders on the nomination; that upon the disposition of the nomination, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JULY 12, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9 o'clock a.m., on Thursday, July 12. I further ask consent that on Thursday immediately following the prayer and the pledge, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the motion to proceed to H.R. 333, the House Bankruptcy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, on Thursday, the Senate will convene at 9 a.m. and resume consideration of the motion to proceed to the House Bankruptcy Reform Act, with 3 hours for debate prior to a cloture vote on the motion to proceed.

Following consideration of the bankruptcy act on Thursday, the Senate will resume consideration of the Interior appropriations bill with a vote in relation to Nelson of Florida amendment No. 893.

At 11:30 a.m., the Senate will swear in the new Secretary of the Senate, Jeri Thomson.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, I ask unanimous consent that following the remarks of Senator MURRAY and Senator

CANTWELL, who will be recognized to speak on matters of importance to them and their States and the country, the Senate stand in adjournment under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the majority leader has indicated that the two managers of the bill have stated they believe they can complete the bill tomorrow. If not, we will have to complete it on Friday. We are quite certain that will not happen, but the leader wanted us to notify people in case we were unable to finish tomorrow.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington is recognized.

LOSS OF FOUR WASHINGTON FIREFIGHTERS

Mrs. MURRAY. Mr. President, I come to the Senate Chamber this evening to join my colleague, Senator MARIA CANTWELL, in acknowledging four young Americans who lost their lives in service to our country last evening.

Like many Americans, this morning I awoke to the very tragic news that four firefighters had died while battling a wildfire near Winthrop, WA.

Today I want my colleagues and the American people to know the names of those four brave firefighters: Tom Craven, 30 years old, of Ellensburg, WA; Karen Fitzpatrick, 18 years old of Yakima, WA; Devin Weaver, 21, of Yakima; and Jessica Johnson, 19, also from Yakima.

These were young people.

These were people who put themselves in harms way to keep the rest of us safe.

Today, my thoughts and prayers are with the families of those four courageous firefighters.

It's hard to imagine the dangers that firefighters face every day. But they choose to fight fires to help protect the rest of us—our families and our communities.

When something like this happens, it makes all of us stop and think about what they've sacrificed for our safety.

My brother is a firefighter. For years, he fought fires. My family and I understand the risks.

I know how those families feel every day when they send their loved ones off to work.

They are proud of them.

They know they are doing something important for their neighbors and their community.

And they are always hoping they will get back home safely at the end of the day.

This tragedy reminds us all of the dangers that firefighters face every day.

To the families of those four brave young people, please know that we are a grateful nation, and you are all in our thoughts and prayers.

I also want to wish a speedy recovery for the other firefighters who were injured while battling the wildfire.

I want to thank the firefighters in Washington State—and across the country—for the work they do to protect us.

We own them a debt of gratitude.

Today, we owe four families our condolences and our thanks for their sacrifice. I yield to Senator CANTWELL from Washington State.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, it is with a heavy heart that I come to the floor today after learning of the tragic deaths of four firefighters in the Wenatchee National Forest in Washington state. These courageous firefighters died yesterday battling a wildfire in Okanogan County. A tragedy of this magnitude is felt throughout Washington state, but should also be recognized and mourned by a grateful nation.

This is the nation's deadliest wildfire since 1994. On behalf of the citizens of Washington State, I extend my deepest sympathies to the families of the four brave men and women who gave their lives to protect their neighbors. Squad Leader Tom Craven of Ellensburg, Devin Weaver of Yakima, Jessica Johnson of Yakima, and Karen Fitzpatrick of Yakima gave their lives to keep us safe. This tragedy is compounded because these firefighters were so young—the youngest being just 18 years old.

We join their families and friends in mourning their loss.

As Senator MURRAY pointed out, this tragedy reminds us that we often take for granted the men and women who routinely put their lives on the line to protect us. Every state in the nation has experienced the loss of people involved in fighting fires.

I hope the families and friends of these brave firefighters know that the courage and sacrifice of their loved ones will not be forgotten and that our sympathies reach out to their families.

I also want to recognize the hard work of those firefighters who are still fighting; to those who are injured, I also wish them a speedy recovery. The firefighters of the U.S. Forest Service come from all over the country. They have been battling fires for years. This year alone, 300 firefighting personnel are available on the Okanogan and Wenatchee National Forests. These firefighters work year after year in service to their country with little recognition.

On behalf of the residents of Washington State and the Nation, I thank them for their hard work and their dedication under very trying circumstances. We all remember the sacrifice that each and every one of you have made.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MILLER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FBI OVERSIGHT

Mr. GRASSLEY. Mr. President, I want to discuss with my colleagues the issue of the Federal Bureau of Investigation oversight, and how we can help the Bureau regain the trust and confidence of the American people.

First, I find it very pleasant today to commend Attorney General Ashcroft for something he did. He announced today action to enlarge the jurisdiction of the Office of Inspector General of the Justice Department so that that Office of Inspector General would be able to work with the FBI and the DEA on its own initiative, without jumping through a lot of hoops which were some hoops that were put in place in the previous administration, which, in a sense, put the FBI and the DEA out of bounds from things that you would expect an inspector general of a department to be looking into.

So, effective immediately, then, the inspector general will have primary jurisdiction over allegations of misconduct against employees of the Federal Bureau of Investigation and the Drug Enforcement Agency. This is an important and encouraging step towards overall FBI reform, one which I hope will help to solve the problems that the FBI has with their management culture.

Previous to this, the inspector general could not initiate an investigation within the FBI, or the Drug Enforcement Agency, without the express permission from the Deputy Attorney General. Contrariwise, in most other Departments, the inspector general can do any investigation they want to, unimpeded in any way. It is very important for the inspector general to have that freedom to function. They are not only an agent for the Cabinet Department head, but they are also an agent of the Congress because they can report directly to the Congress. It is essential to have that type of oversight, that type of policing to ferret out wrongdoing.

I have been saying for many years that the FBI should not be allowed to police itself, and I am encouraged by this new step taken today towards the establishment of a free and independent oversight entity which now, truly, the Department of Justice inspector general will be.

I am also pleased to see as part of this order that the Attorney General has enhanced whistleblower protection for FBI employees who come forward with protected disclosures. As an author of legislation that is on the books now for whistleblower protection, the last time we enhanced the protection for whistleblowers there was just enough sympathy—and unjustified sympathy—within this body for the FBI that somehow the FBI could have a separate set of regulations just for whistleblowers within the FBI. As a result, whistleblowers within the FBI have not had the same amount of protection that whistleblowers in any other agency of the Federal Government might have. So this will also help in that direction. I thank the Attorney General for that.

Today, then, following up on this action of the Attorney General, I have forwarded a letter to Attorney General Ashcroft, commending him on these steps, and also request that his office provide me with additional details regarding how the various investigative and audit entities within the Department of Justice, the FBI, and the DEA are to be administered and organized.

Earlier this week, I had the opportunity to meet with FBI Director nominee Robert Mueller. I discussed with Robert Mueller several concerns that I have with how the Bureau has been managed over the past several years. I also discussed with Mr. Mueller my views on the type of leadership that I think the FBI needs.

We have a once-every-10-year opportunity to find someone who can fix the problems inherent in the management culture at the Bureau because that appointment comes up for a 10-year length of time. I want to make sure, during this once-in-a-10-year opportunity, Mr. Mueller understands my concerns.

Part of our discussion concerned the need for strengthening FBI oversight, both on the part of the executive branch, along the lines of what I have been saying about the inspector general, but also from the Congress—oversight, constitutional oversight over the executive branch agencies.

Without asking Mr. Mueller to comment on pending legislation, I mentioned to Mr. Mueller I am working on a bill to permanently extend by statute the jurisdiction that was given today by the Attorney General to the Department of Justice inspector general, so that some future Attorney General cannot put impediments in the way of the inspector general investigating things within the FBI. I encourage Mr. Mueller, should he be confirmed, to make it a priority to ensure that he and the FBI will cooperate fully with whatever oversight entity is in place.

I also discussed with Mr. Mueller the need for increased whistleblower protection for FBI employees. Over the years the FBI has been notorious for retaliating against those who would expose the types of waste, fraud, and abuse in cases that have now become synonymous with a culture of arrogance within the FBI. These are cases such as Ruby Ridge, Waco, the TWA-800 investigation, the FBI crime lab investigation, Richard Jewell, Wen Ho Lee, Robert Hanssen, and most recently the Oklahoma bombing investigation in the McVeigh case.

I will be introducing legislation that will provide statutory protection for FBI whistleblowers to overcome the shortcomings of the legislation that was signed by President Bush in 1989. Those exemptions that were made from the FBI need to be taken out so the whistleblowers in the FBI have the same protection as whistleblowers in any other agency of Government. I hope the new Director will not only support this important reform but will work to ensure these important reforms are communicated clearly throughout the entire Bureau.

I believe that in order to regain the trust and confidence of the American people, the FBI must be open and fully responsive to differing points of view within its own ranks. More importantly, employees must be able to present these opinions in an atmosphere that is free of retaliation that happens so often against people whom we call whistleblowers.

Basically, within any organization there is a great deal of peer pressure to go along to get along. But that peer pressure also has the capability of covering up wrongdoing and bad administration. That is why the process of people telling the truth and coming out in the open is so important.

Without this freedom, the FBI will only continue to suppress and marginalize those who speak out, and things will go on as they have for so long. That is not good. That is what has brought about a culture of arrogance—of believing within the FBI that the FBI can do no wrong.

Perhaps the greatest example of this type of retaliation against a whistleblower occurred in an investigation I made involving a whistleblower by the name of Dr. Fred Whitehurst. You may remember that when Dr. Whitehurst came forward with proof of abusive practices at the FBI crime lab, he was shamelessly discredited by senior FBI officials. An inspector general investigation—after going through all of those hoops I talked about—later supported the assertions made by Dr. Whitehurst. In an effort to get back his good name, Dr. Whitehurst won a settlement that ended up costing the American taxpayers $1 million.

There is something wrong when a whistleblower comes forward and he is not listened to, and he has to sue, and it costs the taxpayers $1 million to settle. He should have been listened to in the first instance.

We want to encourage an environment within all government agencies, but particularly the FBI, that wrongdoing is not covered up; that people who whistleblow aren't treated like a skunk at a picnic on a Sunday afternoon, that they are held up as somebody who ought to be honored rather than somebody who ought to be suppressed.

I want to make sure to mention that the comments I make about the FBI today, though, should in no way minimize the great sacrifices made every day by hard-working FBI agents and support personnel. These men and women serve their nation proudly. They deserve an organization that has integrity and credibility.

The FBI management system is broken. This does a real disservice to the hard-working agents on the street. When the FBI does what they are set up to do—to seek the truth and let the truth convict—they do their job right. But when there is an effort to cover up something that has gone wrong and people are more concerned about the headlines and the public relations of the organization as opposed to the fundamentals of law enforcement—that is, these cases and a lot of others I have already listed—that is when their agency gets in trouble and loses credit.

In regard to these agents who do their work and do it right and because of this management culture that must be changed by the new Director, I have asked the Attorney General to provide me with information regarding the extent to which the new FBI Director will be able to institute the departmentwide reforms and to make staffing changes, including changes at the senior staff and management level.

I believe that a new FBI Director will only have a certain period of time—maybe a couple of months—in which he can make real change. In order for the new Director to take advantage of that time, he must be afforded maximum flexibility for staffing and policy setting.

I also agree that we have not done enough in Congress. I am not putting the blame just on the Department of Justice and the FBI. We have a constitutional responsibility of oversight. We spend all of our time legislating, giving speeches, passing laws, voting, and offering amendments. That is what most people think being a Congressman is all about. But also, once laws are passed, the checks and balances of our Constitution require that we do our constitutional job of oversight; that is, to see that the laws are faithfully executed and that money spent appropriated by Congress is spent within the intent of Congress and that the law is enforced within the intent of Congress.

Congress does not do a good enough job. For too long we have seen mishap after mishap occur, with the end result being more money and more jurisdiction for the FBI. The Director of the

FBI comes up to Capitol Hill, everybody sees the Director of FBI, and they just melt. The Director of the FBI says a couple of mea culpas and walks out of here with a nice pat on the back, and probably a bigger appropriation.

That is not oversight. That is just business as usual. One way this can be improved is through the creation of a subcommittee within the Committee on the Judiciary that would be directly responsible for FBI oversight.

We need to help the FBI change the kind of culture that places image and publicity before basics and fundamentals. We need to help the FBI change the kind of culture that holds press conferences in high-profile cases before the investigation is complete and all the facts are in, and when all the facts are in, then the FBI has egg on its face.

Yes, the American people deserve the kind of agency that won't make the kind of mistakes the FBI has made in the Wen Ho Lee and the Atlantic Olympic bombing case, and the Waco case and the Ruby Ridge case. But, more importantly, the American people deserve an agency that is honest and forthright about their errors; in other words, very transparent.

As one of our Supreme Court Justices said 80 or 100 years ago, the best disinfectant is sunshine. Let the Sun shine in and there won't be mold. That is transparency. That is the way the American Government ought to operate.

I look forward to getting down to the business of helping the FBI and its next Director regain the trust and confidence of the American people.

I yield the floor. I thank the Presiding Officer for waiting for me to speak tonight.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9 a.m. tomorrow, Thursday, July 12, 2001.

Thereupon, the Senate, at 8:23 p.m., adjourned until Thursday, July 12, 2001, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 2001:

THE JUDICIARY

JAMES E. GRITZNER, OF IOWA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF IOWA, VICE CHARLES R. WOLLE, RETIRED.

MICHAEL J. MELLOY, OF IOWA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT, VICE GEORGE G. FAGG, RETIRED.

MICHAEL P. MILLS, OF MISSISSIPPI, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF MISSISSIPPI, VICE NEAL B. BIGGERS, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 11, 2001:

DEPARTMENT OF STATE

PIERRE-RICHARD PROSPER, OF CALIFORNIA, TO BE AMBASSADOR AT LARGE FOR WAR CRIMES ISSUES.

CHARLES J. SWINDELLS, OF OREGON, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO NEW ZEALAND, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SAMOA.

MARGARET DEBARDELEBEN TUTWILER, OF ALABAMA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

WENDY JEAN CHAMBERLIN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

WILLIAM S. FARISH, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

FRANCIS XAVIER TAYLOR, OF MARYLAND, TO BE COORDINATOR FOR COUNTERTERRORISM, WITH THE RANK AND STATUS OF AMBASSADOR AT LARGE.

ROBERT D. BLACKWILL, OF KANSAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO INDIA.

ANTHONY HORACE GIOIA, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALTA.

HOWARD H. LEACH, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO FRANCE.

WILLIAM A. EATON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE ASSISTANT SECRETARY OF STATE (ADMINISTRATION).

ALEXANDER R. VERSHBOW, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE RUSSIAN FEDERATION.

CLARK T. RANDT, JR., OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF CHINA.

C. DAVID WELCH, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ARAB REPUBLIC OF EGYPT.

DOUGLAS ALAN HARTWICK, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE LAO PEOPLE'S DEMOCRATIC REPUBLIC.

DANIEL C. KURTZER, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

OFFICE OF PERSONNEL MANAGEMENT

KAY COLES JAMES, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT.

FEDERAL LABOR RELATIONS AUTHORITY

OTHONEIL ARMENDARIZ, OF TEXAS, TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS EXPIRING JULY 1, 2005.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING STEPHEN K. MORRISON, AND ENDING JOSEPH LAURENCE WRIGHT II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 12, 2001.

HOUSE OF REPRESENTATIVES—*Wednesday, July 11, 2001*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. COOKSEY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 11, 2001.

I hereby appoint the Honorable JOHN COOKSEY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Tommy Nelson, Pastor, Denton Bible Church, Denton, Texas, offered the following prayer:

Our Father, You have made us as You have made all things. You have established the nations and their boundaries, You have ordained their leaders, their authority and the absolutes by which they rule. To You, who are the foundation of justice, of love and equality, we ask Your sovereign mercy.

Grant these men and women, whom You have vested, the wisdom to perceive Your pleasure, the skill to implement it, the courage to stand by the right, and the consistency and the integrity of life to merit the trust of this Nation, who has looked unto them. Encourage them and surround their families and marriages with Your blessing and help and truth.

Have mercies on this Nation through them, to walk in Thy way and know Thy peace.

In Thy Holy and Merciful Name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Oregon (Mr. WU) come forward and lead the House in the Pledge of Allegiance.

Mr. WU led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1. An act to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.

H.R. 2216. An act making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1) "An Act to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. JEFFORDS, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mr. REED, Mr. EDWARDS, Mrs. CLINTON, Mr. LIEBERMAN, Mr. BAYH, Mr. GREGG, Mr. FRIST, Mr. ENZI, Mr. HUTCHINSON, Mr. WARNER, Mr. BOND, Mr. ROBERTS, Ms. COLLINS, Mr. SESSIONS, Mr. DEWINE, Mr. ALLARD, and Mr. ENSIGN, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2216) "An Act making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. STEVENS, and Mr. COCHRAN, to be the conferees on the part of the Senate.

WELCOMING THE REVEREND TOMMY NELSON, PASTOR, DENTON BIBLE CHURCH, DENTON, TEXAS

(Mr. THORNBERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THORNBERRY. Mr. Speaker, on behalf of the gentleman from Texas (Mr. ARMEY), the majority leader, and my colleague the gentleman from Texas (Mr. HALL), it is my privilege to welcome as our guest chaplain today Tom Nelson, the Senior Pastor of Denton Bible Church in Denton, Texas.

Tom was born and raised in Waco and grew up in a family of four boys. He attended what is now the University of North Texas in Denton, where he played quarterback for the football team and earned his degree in 1973. From there, he attended Dallas Seminary.

Tom has been pastoring at Denton Bible Church for 23 years. With over 4,000 members, Denton Bible Church is the largest church in Denton. Beside the four services he leads each Sunday, Tom disciples over 30 young men and teaches two men's bible studies.

In addition, Tom has served as a national speaker for the Fellowship of Christian Athletes, Campus Crusade for Christ, and Navigators. He is the author of two books and three video series. His taped messages have been heard throughout the world. Tom and his wife Teresa have two sons, Benjamin and John Clark.

Once again, Mr. Speaker, it is my privilege to welcome Tom Nelson to the Congress of the United States. I would like to thank him for his leadership in the community of Denton and express my appreciation for his leading the House today in prayer.

SUPPORT FLETCHER-PETERSON BALANCED PATIENTS' BILL OF RIGHTS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, today I rise to express my strong support for a meaningful and responsible Patients' Bill of Rights recently introduced by my colleagues and friends, the gentleman from Kentucky (Mr. FLETCHER)

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and the gentleman from Minnesota (Mr. PETERSON).

We have been debating this issue for years, and it is time to give Americans what they need and what they deserve. This bill ensures that Americans will have access to medical care, including pediatric services, OB-GYN, specialists and emergency care. It further provides accountability by assuring those who make medical decisions which result in an injury are held responsible for their actions.

And this bill assures Americans can count on affordable health care. After all, what good is a Patients' Bill of Rights if millions of more Americans are unable to afford health care?

I call upon everyone in this Chamber to support the Fletcher-Peterson bill. It is a balanced Patients' Bill of Rights, which ensures that medical decisions are made by doctors and patients, and not by HMO gatekeepers or lawyers.

APPROVE FEDERAL FUNDING OF STEM CELL RESEARCH

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, I was recently visited in my office here in Washington by two of my young constituents, Mary Lucas, 9 years old, and Kelsey Kagle, 15. They both have juvenile diabetes.

Mary Lucas, the 9-year-old, said something to me that has remained with me and I think always will. She told me that if we found a vaccine or a cure for diabetes, and if there was not enough for everyone, she would give up her share to someone who needed it more than her. Her unselfish words, I think, are instructive to us.

How will we cure juvenile diabetes? One promising method is by investing in stem cell research, which has the potential to cure diseases that afflict tens of millions of Americans today, diseases like cancer, Alzheimer's and Parkinson's.

According to a recent article in the New York Times, a study by the NIH sites the dazzling array of treatments that may result from research on both embryonic and adult stem cells. The report makes clear that embryonic stem cells are clearly superior to adult stem cells for stem cell research.

Most Americans understand that stem cell research is not about destroying lives, but prolonging and bringing quality to and curing American lives today. So let us get this out of political science and keep it in the hands of the real scientists that understand this, and let us take a giant step, Mr. President, and allow Federal funding for stem cell research.

WALK FAR FOR NATIONAL ALLIANCE FOR AUTISM RESEARCH

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, these posters portray two beautiful, happy children, Bonnie and Willis Flick. What these pictures do not portray is that Bonnie and Willis cannot effectively communicate with their parents or their playmates because they live with autism.

In recent years autism has risen dramatically across our Nation, and although it typically affects 1 in every 500 children, in my hometown of Miami-Dade County, the rate of autism in young children has jumped to about 1 in every 250.

On Saturday, November 3, I will participate in Walk Far for NAAR, the National Alliance for Autism Research. This will raise funds for research projects and fellowships to fight this devastating disorder.

I ask my colleagues to join me in congratulating the chair of this year's walkathon, Patricia Cambo, and the co-chairs, Rene Vega and Dr. Michael Alessandri, as well as last year's cochairs, Michelle Cruz and Marie Ilene Whitehurst.

Due to the success of Walk Far, the National Alliance for Autism Research more than doubled its level of funding for this year, and we hold promise that a cure for autism is just around the bend for Bonnie and Willis Flick and many other children with autism.

SUPPORT USE OF FEDERAL FUNDS FOR STEM CELL RESEARCH

(Ms. DeGETTE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeGETTE. Mr. Speaker, why should we use Federal money for embryonic stem cell research? While it is a difficult medical-ethical decision to make sure we put controls in place, embryonic stem cell research promises new breakthroughs in science that will help literally tens of millions of Americans.

There are three reasons why we need to make sure this research is federally funded and federally supervised.

First, medical breakthroughs of underestimated value are available through funding of this research. A large body of successful work with mouse embryonic stem cells shows these cells are superior to adult stem cells in the development of what may be cures for diabetes, Parkinson's disease, Alzheimer's and other chronic diseases.

Second, Federal funding provide necessary oversight of stem cell research. This is the new frontier, and we need to make sure we keep control of it.

Finally, America has the greatest health, medical and science community in the world. Federal funding will help U.S. scientists keep pace with international researchers. We need to find the cure for diabetes, we need to find the cure for Parkinson's, for Alzheimer's and so many other diseases. Let us keep this research going.

FUND ADULT STEM CELL RESEARCH GENEROUSLY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, we must have stem cell research. Alzheimer's, Parkinson's and diabetes, these are all very serious diseases that have no cures. But our research must be ethical. Adult stem cell research holds the most promise for finding cures.

We should fund adult stem cell research, and fund it generously, but not embryonic stem cell research. Creating human embryos for research, experimentation, harvesting and destruction is not ethical. Killing one human life, even though very tiny, on the off chance of maybe one day saving another, is not ethical, moral, and, I should add, even legal to do with taxpayer money.

Since 1996, our laws ban government funding of research that involves killing human embryos. We should keep that ban. Now we have a study that shows that embryonic stem cells may be too unstable to be of much use anyway, unless they are produced in huge numbers. But there is no such evidence that adult stem cells are unstable.

Adult stem cell research holds great promise. Adult stem cell research promises to help us find cures to diseases that have plagued mankind for centuries. Let us fund adult stem cell research, and fund it generously.

CHINA DOES NOT DESERVE TO HOST 2008 OLYMPIC GAMES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, China has executed 1,781 citizens in the last 90 days. That is more executions than the entire world performed over the last 3 years. China is now even executing citizens for pimping and prostitution. It is getting so bad that Chinese citizens, Chinese lovers, in fact, are afraid to kiss in public. Meanwhile, China says it is necessary to ensure "social stability."

Now, if that is not enough to power surge your electric chair, China is in line to host the 2008 Olympic games.

Beam me up. The Olympic games are designed to be a celebration of life, not death. China does not deserve to host these games.

I yield back the human rights abuses, the death and dying at the hand of Communist Chinese dictators.

□ 1015

GOVERNMENT SPENDING CAUSES DEFICIT SPENDING

(Mr. BRADY of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADY of Texas. Mr. Speaker, Washington is out of touch with the real world again. Tax relief does not cause deficit spending, as we hear; spending causes deficit spending.

Washington spends every dime we send up here. That is the reason why this Congress stopped deficit spending in America. That is why this Congress stopped 40 years of dipping into the Social Security and Medicare Trust Funds, and that is why this Congress has started to pay down a good amount of the national public debt. Mr. Speaker, make no mistake. The very reason we sent money back home to the people is because we will spend every dime of it.

Look what we spend. Let us talk about the outhouse, the $1 million, two-seater outhouse that our National Parks and Wildlife built a year ago. Let us talk about the salmon. We spend $5 billion a year helping salmon swim upstream to their spawning grounds. We could put each fish in a first-class ticket seat and fly them to the top of the river each year and still save money. We have enough dollars for the priorities of America. What we do not have is enough for the priorities of silliness. Tax relief does not cause deficit spending, spending causes deficit spending.

STEM CELL RESEARCH IS PRO-LIFE

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, I rise today to urge strong support in Congress and the administration for a vital field of medical research. Federal funding for embryonic stem cell research should not be caught up in the abortion debate. As many antichoice proponents have courageously noted, stem cell research is pro-life. It will save lives, not take them.

Let me review what we know about stem cell research.

First, research using embryonic stem cells is helping us understand and treat not just Parkinson's disease, spinal cord injuries, and Alzheimer's, but possibly heart disease, arthritis and cancer.

Second, stem cell research is going on today and should be subject to Federal guidelines. Research of the type described in the lead story in today's Washington Post is not permitted under NIH's ethical standards.

Third, adult stem cells are not able to develop into as many kinds of tissue as embryonic cells.

Fourth, the embryos used in stem cell research would otherwise be destroyed by fertility clinics.

Mr. Speaker, if the embryos used in this research are simply discarded, we discard with them the hope of patients across the country and the promise of a new generation of medical cures.

HYDROPOWER FOR CLEAN AND SAFE ENERGY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, we in the House will be marking up an energy policy this week, and part of this policy will include hydropower. Hydropower provides a clean and safe source of energy. Hydropower is the fourth largest source of total generation, making it an important part of America's energy supply mix. In addition to providing sustainable power at a low cost, hydropower production has significant environmental benefits. Hydropower production has no emissions. Every kilowatt of power that is produced from hydropower reduces the need to burn oil and coal to produce the same amount of energy.

I am pleased that the Republican energy package will include elements to assure that we maximize the potential of our existing hydropower facilities. While we work to implement policies and strategies to conserve energy, we must also work to increase energy supply to keep pace with growing demand. Mr. Speaker, I believe that maximizing the benefits of our hydropower resources is an important part of meeting that challenge.

CHOOSING TO BE RELEVANT TO SCIENCE

(Mr. WU asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WU. Mr. Speaker, stem cell research offers the prospect for cures for diseases such as diabetes, Alzheimer's, and Parkinson's disease. It is a development of such great historic significance that I want to hearken back to another era when science was under threat from a theocracy.

About 400 years ago, Galileo Galilee was forced to recant the evidence of his eyes that the moons and the planets revolved around each other rather than all of them revolving around the Earth, as the church then insisted that we all believe. But even as the theocracy forced Galileo to recant his views, he was heard to mutter, "But the planets do move."

Mr. Speaker, just as the planets move, stem cell research will go forward. The only question is whether it goes forward in this country or in foreign countries; with government support or without government support; subject to NIH guidelines or subject to no ethical guidelines whatsoever.

Our choice here is not about stem cell research or not. Just as no theocracy can prevent the planets from moving, no theocracy can prevent stem cell research from going on. The only choice is whether we choose to be relevant to science.

AMERICA IS A NATION OF THE PEOPLE, BY THE PEOPLE, AND FOR THE PEOPLE

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, do my colleagues know what? Our taxes were lowered on July 1. That means we will take home more of our own money. We can thank President Bush for that.

When I was home in Texas over July 4, I met Kris and Melissa Kelly who are constituents of mine, and I asked them, what are you going to do with that tax refund? They said they are going to put a down payment on a brand-new minivan for their family. Is that not what America is all about?

Instead of allowing the Federal Government to keep our hard-earned money, creating new and expensive government programs, we gave the people their own money back so they can buy the things they need.

So I salute President Bush for all he has done for the hard-working people of this great Nation. America really is a Nation of the people, by the people, for the people.

STEM CELL RESEARCH

(Mr. EVANS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS. Mr. Speaker, there should really be no debate about stem cell research, given the immense promise that it holds for a number of diseases. This is an issue that is of paramount importance to millions of Americans who stand to benefit from this groundbreaking research. I know, because I am one of them. I suffer from Parkinson's disease.

This debate is being mired down in the politics of abortion, but it has nothing to do with abortion. This is an issue of medicine. Stem cells are never derived from an embryo that a woman intends to be implanted into her womb, nor are embryos ever created for their use in stem cell research. Researchers only use embryos which were scheduled to be discarded.

Clearly, these embryos can be put to better use. The scientific promise of embryonic stem cells offer hope that simply did not exist a few years ago. We cannot afford to literally throw away such potential. Every day that we continue research brings with it astonishing possibilities for enhanced treatments and cures for now-irreversible diseases and injuries.

Let us come together as a body in support of stem cell research.

SUPPORT ETHICAL AND RESPONSIBLE STEM CELL RESEARCH

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, I rise in support of ethical stem cell research and in opposition to the destruction of human life. I firmly believe that we have a responsibility to respect and protect life at every stage.

The issue we face is not whether we allow this research. Both the ethical adult stem cell research that I support and the controversial embryonic research will continue on.

However, we must now decide if we are going to force taxpayers to fund this controversial embryonic research. Allocating Federal dollars for research that retires destruction of human embryos would require many Americans to fund something that they morally oppose. I urge the President and my colleagues to join me in supporting responsible and ethical stem cell research and standing for what is right and moving ahead with this research.

JULIAN C. DIXON POST OFFICE

(Ms. WATSON of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON of California. Mr. Speaker, on December 8, 2000, Julian Dixon, a Member of Congress, died of a heart attack at age 66. On that day, Congress lost an experienced leader, and California lost a tireless advocate. But the loss of Julian Dixon was felt the hardest in the 32nd Congressional District of California where Angelenos lost a beloved friend and neighbor.

Yesterday, I introduced a bill to rename a post office in the 32nd district as the "Congressman Julian C. Dixon Post Office." This one small effort pales in comparison to the years of devoted service Julian provided to his community.

But as a friend and a school chum of Julian Dixon, I know that my neighbors in the 32nd Congressional District would be proud to have Julian remembered in this way. What an appropriate way to honor him, since he was well known for corresponding with his constituents by mail.

Mr. Speaker, I ask the entire California delegation, as well as any other Member, to join me in cosponsoring this piece of legislation.

FROZEN EMBRYOS ARE BEING ADOPTED

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, Hannah is a happy 2½-year-old little girl. She is a normal, healthy toddler discovering the joys of life. In a few days I hope to meet Hannah and when I do, I will reassure her that there is no such thing as a "spare" or "leftover" person.

Although she may not yet understand what that means, her parents sure do. They understand perfectly, because little Hannah used to be a frozen embryo in an invitro fertilization clinic. She was what those who support embryonic stem cell research—research that destroys human embryos—callously call "spare" and "leftover" embryos.

But Hannah is neither "spare" nor "leftover," despite the fact that she spent a considerable amount of time in a deep-freeze tank that served as her frozen orphanage. The perky toddler could have been fodder for researchers, but instead today is talking a blue streak, and in a few years will go to school.

Mr. Speaker, the story of Hannah and other adopted embryos underscores why we should not spend Federal tax dollars to destroy human embryos to steal their precious stem cells. These stem cells are not ours to take. And given the breathtaking discoveries from adult stem cell research, which does not rely on destroying human embryos, arguments for federally funding embryonic stem cells is less persuasive than ever.

PUT POLITICS ASIDE AND SUPPORT STEM CELL RESEARCH

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise today in support of stem cell research. It is time for people on all points of the political spectrum to come together, support efforts to make stem cell research safe, legal and ethical. Stem cell research has the potential to unlock the door to medical knowledge for a host of diseases. We cannot allow America's health to be held hostage to politics, while medical research stagnates.

For people suffering from Alzheimer's or Parkinson's, or for those who have loved ones with these diseases, including cancer and juvenile diabetes, stem cell research represents hope for a cure. Yet by banning this research, either adult or embryonic research, we foreclose the possibility of improving or saving many, many lives. And who will pay the price? A mother fighting Parkinson's or a child battling juvenile diabetes. That is why I strongly urge my colleagues to put politics aside, support the promising scientific research of stem cell research.

□ 1030

RESEARCH MONEY SHOULD GO TOWARD ADULT STEM CELL RESEARCH

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, prior to coming to the United States Congress, I practiced internal medicine for 15 years, including treating many patients with diabetes, Alzheimer's disease, and Parkinson's disease. For that reason, I was very interested in this issue of stem cell research.

I have reviewed the medical literature on this issue. Today, most of the people advocating for the use of embryonic stem cells are bench researchers who like to use them because they tend to proliferate very nicely in the U.S. culture. That very same property makes them very problematic in using them in clinical applications.

There is today the use of adult stem cells in treating diseases. There is no use of embryonic stem cells in treating any diseases. Indeed, there is not even an animal model where we can take a rat with a disease and treat it with an embryonic stem cell.

Using embryonic stem cells in clinical applications is very problematic for the very same reason that the bench researchers like to use it, the cells tend to proliferate and behave like malignancies. It is not only ethical to use adult stem cells, it makes the most sense, and it is where the research money should be going.

EMBRYONIC STEM CELL RESEARCH IS A MEDICAL ISSUE

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHAKOWSKY. Mr. Speaker, the issue of embryonic stem cell research has been misrepresented as one of abortion. It is not an abortion issue. Stem cell research is a medical issue, one that should transcend political lines and instead focus on human lives.

One such life is that of Carolyn Laughlin, a mother of two diabetic sons in my hometown of Evanston, Illinois, who wrote me this past April to share her family's struggle and urge my support for federally-funded stem cell research.

She said, "Diabetes haunts my family every waking hour. Injections, blood testing, calculating food portions are constant companions of my sons. Overnight, I fear insulin reactions that will leave them unconscious. Longterm we face the concerns of kidney failure, blindness, and amputations."

Most scientists are in agreement that embryonic cell research offers the greatest hope for families like the Laughlins. Federal funding guidelines assure that research will meet ethical standards and allow advancements to be made as quickly as possible in diseases like Parkinson's and Alzheimer's, cancer, heart disease, spinal cord injury.

The Laughlins and millions of other families are counting on us.

ETHICAL STEM CELL RESEARCH USES ADULT STEM CELLS

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in strong support of ethical stem cell research that uses adult stem cells instead of embryonic stem cells. Life begins at conception, and the use of embryos for research destroys young life.

I support the use of adult stem cells, not just because no young lives are lost, but also because research using adult stem cells has already produced exciting results. Large Scale Biology Corporation, a biotechnology company in the Second District of Kentucky, has produced a growth factor using tobacco-based plant proteins that causes adult stem cells to behave like embryonic stem cells.

Using their patented method, Large Scale Biology Corporation has successfully produced breast cancer and leukemia vaccines in conjunction with a joint Navy-NIH research team.

We all want to see diseases like cancer and Alzheimer's cured, so let us support a proven alternative that we can all agree on and is not controversial. I urge my colleagues and President Bush to support funding for adult stem cell research and oppose life-destroying embryonic stem cell research.

WE MUST ALLOW FEDERAL FUNDING FOR LIFE-SAVING EMBRYONIC STEM CELL RESEARCH

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, throughout time people have resisted scientific advancement. History is replete with the examples of fundamentalist religious leaders issuing scientific decisions based on absolutely no evidence.

It is deja vu all over again today with this current administration as they inject politics into the single most promising medical research of the century. The Bush administration is unfortunately not committed to research that would hasten medical discoveries, but rather, to hold science hostage to the Catholic vote.

Carl Rove, the President's chief political adviser, is concerned about the views of the Catholic Church because the Catholic voters are seen as a swing vote in the elections. This administration has degraded medical research and the tremendous potential of embryonic stem cell research into an anti-abortion vote.

The White House is currently reviewing the matter. In other words, they are looking at the polls. "A responsible leader," and this is a quote, "is someone who makes decisions based upon principles, not based upon polls or focus groups." The New York Times reminds us that President Bush said those words a few days before Election Day. Perhaps he needs to be reminded.

Without a microscope, one cannot even see what this debate is all about. The center of the controversy is a microscopic cluster of cells stored in test tubes like this one. It is smaller than the period at the end of a sentence.

When ORRIN HATCH says he can tell the difference between cells in the test tube and those in a woman's body, then we know that this is a nonsense argument. We should continue this research.

GUTKNECHT AMENDMENT ALLOWS ACCESS TO REASONABLY-PRICED DRUGS FOR SENIORS

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, later today we are going to have a very heated debate about a simple amendment that I am going to offer to make it clear what the Congress intended last year in terms of prescription drugs and allowing seniors and other Americans access to drugs from other places.

Much of the debate is going to revolve around this chart and the issue of safety. I just want to talk about a couple of these items here. For Glucophage, a commonly-prescribed drug for diabetes, in the United States the average price is $30.12 for a 30-day supply. That same drug made in the same plant sells in Europe for $4.11.

Mr. Speaker, a lot of people are going to say, what about safety? What about safety? Well, there is not a single piece of evidence, not one piece of evidence, that anyone has been injured by bringing legal drugs back into the United States where they have a prescription. That is a fact.

It is also a fact that 4.4 percent of the fruit and produce that comes into this country every day is tainted with serious pathogens.

Mr. Speaker, we are going to have a chance to vote on this amendment. We are going to have to decide whether we are going to defend and explain this chart, and say that Americans should not have the access to legal drugs from legal countries around the world.

URGING THE PRESIDENT TO ALLOW STEM CELL RESEARCH TO PROCEED

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I urge the President to allow stem cell research to proceed.

Along with the gentlewoman from Maryland (Mrs. MORELLA) and many others in this Congress, we have introduced House Resolution 17 that calls on Federal funding of human pluripotent stem cell research to continue.

As the recent statements by a number of prominent Republicans, such as Andy Card and Tommy Thompson, have said, they have come out in support of stem cell research. They underscore that this should not be a partisan issue. After a lengthy public comment period on August 25, the NIH published guidelines on human pluripotent stem cell research. Additionally, they accepted applications for research projects through March, 2001.

However, President Bush has put a hold on this work, calling for a review of the guidelines. I say to the President that it is estimated that over 100 million Americans are living with diseases like Parkinson's, Alzheimer's, diabetes. These people could be helped by stem cell research. We need to support science. We need to support medical knowledge. We need to support stem cell research.

EMBRYONIC STEM CELL RESEARCH DESTROYS LIFE

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, I rise in support of stem cell research, research that is ethical and which has been proven effective. The stem cell research I am referring to is derived from adults, umbilical cord blood, and placental blood, to name just a few sources. I, however, am not talking about stem cell research extracted from human embryos.

We can and are saving lives with stem cells gathered from adults even more effectively than the stem cell research from embryos that some of my colleagues favor. We would think that this would be enough to convince folks where they should be on this important issue.

In case it is not, the fact that living human embryos would be deliberately destroyed in order to obtain their stem cells to me is absolutely appalling. Once we begin justifying the killing of human beings at one stage of development, we invite other troubling applications.

Stem cell research from human embryos establishes a bad precedent and is ethically wrong. Human life is too valuable. Let us condemn the logic of faulty research that extinguishes one life on the pretext of extending others. Instead, we should support the promising research methods that will save lives without ending others.

THE SUGAR PROGRAM

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, some of our colleagues defend the sugar subsidy as a no-net-cost program. If that was ever true, it is not true today. The sugar program costs plenty.

It costs tax dollars. Last year the Department of Agriculture spent $465 million on sugar subsidies.

It costs consumers. The General Accounting Office, a congressional agency, estimates that the people who consume and use sugar, which is all of us, pay an additional $1.9 billion a year because the Federal sugar subsidy keeps prices higher than they would be in a free market.

And the sugar program costs industry. Companies in my community, in my neighborhood, and other places throughout the country are moving away because the price is too high. That is unfair. It is unfair to consumers, it is unfair to workers, and it is unfair to America.

COMMITTEE ON ENERGY AND COMMERCE IS CRAFTING BALANCED, LONG-TERM ENERGY POLICY

(Mrs. WILSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. WILSON. Mr. Speaker, the Committee on Energy and Commerce of the House today starts working on a comprehensive energy bill. It is going to be a balanced, long-term approach on energy policy for the Nation.

We have made wonderful strides in the last 20 years in conserving energy in this country. The refrigerator that we can buy today down at our local appliance store is one-third more efficient than it was in 1972.

We also have to increase supplies of energy and reduce our reliance on foreign oil. We have to improve our energy infrastructure, strengthen it, and give ourselves safe pipelines and modern transmission grids and refineries to get the energy where it needs to be.

We have a wonderful opportunity this summer to craft a policy important to the future of this country and to every citizen who pumps gas into their car or pays the family electric bill. We should seize that opportunity.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. COOKSEY). Although some minutes have passed since the remarks that prompt the Chair to mention it, the Chair must remind all Members that remarks in debate in the House may not include quotations of Senators, except in making legislative history on a pending measure.

FLAG PROTECTION AMENDMENT

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, I rise today in support of House Joint Resolution No. 36, the flag protection constitutional amendment.

The flag stands for all of us in this wonderful country, and the honor we bestow upon it as our symbol is as great as the contributions each of us should hope to make for our Nation.

If the Stars and Stripes could talk, I am sure that they would say, "I am what you make of me. It is up to you to keep me raised high and flying. I am your belief in yourself, your dream of what a people may become. I am all that you hope to be and have the courage to try for.

"I am song and fear, struggle and panic, and ennobling hope. I am the day's work of the weakest man, and the largest dream of the most daring. I am the battle of yesterday and the mistake of tomorrow. I am the clutch of an idea and the reasoned purpose of resolution.

"I am no more than what you believe me to be, and I am all that you believe I can be. I am what you make of me, nothing more."

Mr. Speaker, I consistently vote for this amendment because I believe that all Americans should be allowed to vote on whether to protect our flag.

THE LAW AND ETHICAL STANDARDS DEMAND DISCONTINUATION OF FEDERAL FUNDING OF DESTRUCTIVE HUMAN EMBRYO RESEARCH

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, adult stem cell research is pro-life, but destroying nascent human beings for research is not pro-life.

It is said that facts are stubborn things. Fact No. 1 in this debate, Mr. Speaker, is that Congress outlawed Federal funding of destructive human embryo research in 1996. When the Clinton administration authorized the use of Federal funding for embryo stem cell research, that law became yet another law trampled by the Clinton administration. I pray that President Bush and his administration will not follow suit.

Fact No. 2, Mr. Speaker: As Dr. Weldon said, not one medical treatment has been developed from research done on stem cells from human embryos. Virtually every advancement cited today on this floor was accomplished with adult stem cell research. Researchers describe the usefulness of embryonic stem cells as conjecture.

The Washington Post today alarmingly reports of the creation of human embryos for the express purpose of their destruction. I implore the President to make the morally right decision regarding embryo stem cell research. The ethics and the law demand that we discontinue Federal funding.

The President should do justice, enforce the law, and choose life so that we and our children may live.

□ 1045

CAMPAIGN FINANCE REFORM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, it is time to pass meaningful campaign finance reform legislation. Let us take soft money out of politics, let us restore integrity to our political system.

The bipartisan Shays-Meehan Campaign Reform Act has passed in this body twice before. We should finally move to make it law. Shays-Meehan bans soft money for national parties, it reins in campaign advertisements masquerading as issue advocacy, enhances disclosure of political expenditures, and provides the Federal Election Commission with the teeth it needs to enforce the law.

Unfortunately, the Republican leadership is determined to drive a stake through the heart of all campaign finance reform. They have introduced a sham alternative that is intended to delay, distract, and to ultimately kill real reform. The bill will not clean up our campaign finance system but rather allow even more money to flow through it.

Their bill would allow a wealthy couple to give $1.26 million in hard and soft money to a national party in an election campaign, and it allows Federal candidates to raise unlimited amounts of soft money for State parties to spend on TV attack ads.

Let us stand up for clean elections, let us stand up for good political discourse in this country, let us stand up for real campaign finance reform.

STEM CELL RESEARCH

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise to voice my support for stem cell research under the strict NIH guidelines. I want to thank the Members on both sides of the aisle who have joined with me, both pro choice and pro life, in support of this important research.

This is not a political issue, it is not a partisan issue, it is a medical issue and it is a human issue. It is, for some, a life and death issue. It affects our seniors, women and men; and it affects our children. It goes without saying that the children of this country deserve the best medical research that one can find.

I speak of the children with juvenile diabetes, known as the silent killer. More than 1 million Americans have Type 1, which is the juvenile diabetes, a disease that strikes children suddenly, makes them insulin dependent for life, and carries the constant threat of devastating complications. Someone is diagnosed with Type 1 diabetes every hour. It can and does strike adults as well.

In diabetes research, it is hoped that stem cells can be differentiated into insulin-producing islet cells. In essence, this would be a cure. There are children fighting cancer, and stem cell research offers them hope. Stem cell research will no doubt, in one way or another, touch all Americans. We cannot, we must not shut that door.

Mr. Speaker, I urge President Bush to keep the NIH guidelines in place.

STEM CELL RESEARCH

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, many of us just came out of a meeting with the President, and after the meeting he was asked about this issue. He is conflicted. It is a difficult decision on stem cell research. He is not polling. I reject any argument that that has been done, and I am really disappointed in my colleagues for mentioning this. This has long-term implications.

One of my colleagues talked about Galileo and that the planets move and science. Science indicates that individual distinct life begins at conception and a distinct DNA, a distinct life entity is there. That is why to pro-life supporters, this is an abortion debate.

We should use adult stem cell research to cure these diseases. We should protect the most vulnerable. We should support life from conception to natural death.

FEDERAL FARM POLICY

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, today, in a few minutes, we will take up the agricultural bill. In agricultural appropriations we do several things: we have a program in this country with our Federal agricultural policy that guaranties a farmer a minimum price that they can receive from the program commodity crops that they grow.

The problem we are dealing with in an amendment I will offer today says there should be a limitation on how much money goes to any particular producer. The limitation under current law is $75,000. In the bill that was debated under suspension, unavailable for any amendments 2 weeks ago, we increased that to $150,000.

I think when we consider that the giant farm operations are taking a lot of that price support money and realistically taking away from the small family farmer, we need to decide what Federal farm policy should be. I would ask my colleagues to consider an amendment of $75,000 per producer.

We have producers in this country that are now getting $1.2 million. The average size of farm in this country is 420 acres. We have farms up to 80,000 acres. We should be looking at helping family farmers with Federal farm policy.

THE JOURNAL

The SPEAKER pro tempore (Mr. COOKSEY). Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HINCHEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 42, answered "present" 2, not voting 23, as follows:

[Roll No. 214]

YEAS—366

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Cox
Cramer
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Rivers
Rodriguez

Roemer
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus

Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman

Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—42

Aderholt
Baird
Borski
Brady (PA)
Costello
Crane
Crowley
DeFazio
English
Green (TX)
Gutknecht
Hastings (FL)
Hefley
Hilliard

Jones (OH)
Kennedy (MN)
Kucinich
Larsen (WA)
Latham
LoBiondo
McDermott
McNulty
Menendez
Moran (KS)
Oberstar
Pallone
Peterson (MN)
Ramstad

Sabo
Schaffer
Stark
Strickland
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Visclosky
Waters
Weller
Wu

ANSWERED "PRESENT"—2

Carson (IN)
Tancredo

NOT VOTING—23

Ballenger
Boucher
Cantor
Capuano
Clayton
Coyne
Dingell
Engel

Filner
Gutierrez
Hoyer
Hunter
Hutchinson
Jones (NC)
Knollenberg
Lewis (CA)

Norwood
Paul
Reynolds
Riley
Rogers (MI)
Scarborough
Weldon (PA)

□ 1117

Mr. OBERSTAR changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 214, I was unavoidably detained. Had I been present, I would have voted "nay."

MOTION TO ADJOURN

Mr. McNULTY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. COOKSEY). The question is on the motion to adjourn offered by the gentleman from New York (Mr. MCNULTY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. McNULTY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 11, noes 405, not voting 17, as follows:

[Roll No. 215]

AYES—11

Boehlert
Clay
Conyers
DeFazio

Eshoo
Frank
Gekas
Holt

McDermott
McNulty
Tiberi

NOES—405

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal

DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa

Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Napolitano

Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross

Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak

Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—17

Capuano
Coyne
Dingell
Dooley
Engel
Evans

Filner
Hutchinson
Knollenberg
Lewis (CA)
Maloney (NY)
Myrick

Nadler
Paul
Riley
Roemer
Weldon (PA)

□ 1135

Mr. HILLEARY changed his vote from "aye" to "no."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 215, I was unavoidably detained. Had I been present, I would have voted "aye."

GENERAL LEAVE

Mr. BONILLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the further consideration of H.R. 2330 and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to House Resolution 183 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2330.

☐ 1135

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, with Mr. GOODLATTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 28, 2001, the amendment by the gentleman from New York (Mr. ENGEL) had been disposed of and the bill was open for amendment from page 49, line 9, through page 57, line 15.

Pursuant to the order of the House of that day, no further amendment to the bill shall be in order except the following amendments, which may be offered only by the Member designated in the request, or a designee, shall be considered read, shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

An amendment by the gentleman from Ohio (Mr. TRAFICANT) regarding Buy American for 10 minutes;

An amendment by the gentleman from Maine (Mr. ALLEN) related to total cost of research and development and approvals of new drugs for 10 minutes;

Three amendments by the gentlewoman from Ohio (Ms. KAPTUR) related to biofuels, BSE, and the 4–H Program Centennial, each for 10 minutes;

An amendment by the gentleman from Oklahoma (Mr. LUCAS) related to watershed and flood operations for 10 minutes;

Two amendments by the gentlewoman from Hawaii (Mrs. MINK) related to the Hawaii Agricultural Research Center and the Oceanic Institute of Hawaii, each for 10 minutes;

An amendment by the gentleman from Oregon (Mr. BLUMENAUER) related to price supports for 10 minutes;

An amendment by the gentleman from California (Mr. ROYCE) related to allocations under the market access program for 10 minutes;

Three amendments by the gentleman from Michigan (Mr. SMITH) related to the Food Security Act, the Agricultural Market Transition Act, and the nitrogen-fixing ability of plants, each for 10 minutes;

An amendment by the gentleman from California (Mr. BACA) related to Hispanic-serving institutions for 10 minutes;

An amendment by the gentlewoman from California (Ms. PELOSI) related to HIV for 10 minutes;

An amendment by Mr. BROWN related to abbreviated applications for the approval of new drugs under section 505(j) of the Food, Drug and Cosmetic Act for 20 minutes;

An amendment by the gentleman from Michigan (Mr. STUPAK), or the gentleman from New York (Mr. BOEHLERT), related to elderly nutrition, for 20 minutes;

An amendment by the gentlewoman from North Carolina (Mrs. CLAYTON) related to socially disadvantaged farmers for 20 minutes;

An amendment by the gentleman from New York (Mr. HINCHEY) related to American Rivers Heritage for 30 minutes;

An amendment by the gentleman from Ohio (Mr. KUCINICH) related to transgenic fish for 30 minutes;

An amendment by the gentleman from Minnesota (Mr. GUTKNECHT) related to drug importation for 30 minutes;

An amendment by the gentleman from Vermont (Mr. SANDERS) related to drug importation for 40 minutes;

An amendment by the gentleman from New York (Mr. WEINER) related to mohair for 40 minutes; and

An amendment by the gentleman from Massachusetts (Mr. OLVER), or the gentleman from Maryland (Mr. GILCHREST), related to Kyoto, which may be brought up at any time during consideration, for 60 minutes.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent to strike the last word to permit me to engage in a colloquy with the distinguished chairman of our Committee on Agriculture, the gentleman from Texas (Mr. BONILLA).

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, I appreciate the efforts of the gentleman from Texas (Mr. BONILLA) to provide assistance to all of the farmers throughout our Nation. Our onion growers in Orange County, New York, have suffered devastating losses over the past 5 years due to weather problems and are in desperate need of meaningful assistance.

The small sums which crop insurance have paid to these onion growers due to their losses failed to provide anything close to minimal relief. Accordingly, our farming families continue to lose their farms. Individuals are being uprooted in and a traditional way of life is being jeopardized and a segment of our national food supply is being further diminished.

Our Hudson Valley onion growers represent one of the largest onion growing areas east of the Mississippi. These are the very upheavals which crop insurance was designed to prevent.

While I know it will come as no surprise to our distinguished chairman that our onion growers in Orange County are proud that they have sought very few government subsidies, however the current plight of these hardworking producers threaten the overall fate of our Hudson Valley, our State, and our Nation's agricultural industry. As their representative, I can no longer allow this devastating situation to go unnoticed and unassisted and will greatly appreciate the willingness of the chairman to work with me on this important matter.

Accordingly, can I ask the commitment of the gentleman from Texas (Mr. BONILLA) to work with me in the conference committee to provide assistance to our onion growers in Orange County, New York, who have incurred substantial crop losses due to the damaging weather-related conditions in 3 of the last 4 years?

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I would first of all like to say that I hope that the constituents back home of the gentleman from New York (Mr. GILMAN) understand how hard he has been working on this issue.

Mr. GILMAN. I appreciate that.

Mr. BONILLA. This is not something that, as the gentleman is presenting it to us today, we are hearing for the first time. The gentleman has done yeoman's work on bringing this issue to our attention; and we know it is a very serious problem.

It is going to be a difficult issue for us to deal with, but I do commit to the gentleman that we will do what we can and whatever might be possible between now and conference to help the growers back home.

Mr. GILMAN. I thank the gentleman from Texas (Chairman BONILLA) for his encouraging words, and I look forward to working with him.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, $2,950,000, solely for carrying out section 804 of the Federal Food, Drug, and Cosmetic Act, to be available only after the requirements of section 804(l) have been satisfied.

In addition, mammography user fees authorized by 42 U.S.C. 263(b) may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $34,281,000, to remain available until expended (7 U.S.C. 2209b).

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109, $70,700,000, including not to exceed $2,000 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION OF ADMINISTRATIVE EXPENSES

Not to exceed $36,700,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for fiscal year 2002 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 379 passenger motor vehicles, of which 378 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by sections 1 and 10 of the Act of June 29, 1935 (7 U.S.C. 427, 427i; commonly known as the Bankhead-Jones Act), subtitle A of title II and section 302 of the Act of August 14, 1946 (7 U.S.C. 1621 et seq.), and chapter 63 of title 31, United States Code, shall be available for contracting in accordance with such Acts and chapter.

SEC. 704. The Secretary of Agriculture may transfer unobligated balances of funds appropriated by this Act or other available unobligated balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: *Provided*, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: *Provided further*, That none of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, fruit fly program, integrated systems acquisition project, boll weevil program, up to 25 percent of the screwworm program, and up to $2,000,000 for costs associated with colocating regional offices; Food Safety and Inspection Service, field automation and information management project; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)), funds for the Research, Education and Economics Information System (REEIS), and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program and up to $2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of August 28, 1954 (7 U.S.C. 1766b).

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 710. None of the funds in this Act shall be available to pay indirect costs charged against competitive agricultural research, education, or extension grant awards issued by the Cooperative State Research, Education, and Extension Service that exceed 19 percent of total Federal funds provided under each award: *Provided*, That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under section 9 of the Small Business Act (15 U.S.C. 638).

SEC. 711. Notwithstanding any other provision of this Act, all loan levels provided in this Act shall be considered estimates, not limitations.

SEC. 712. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in fiscal year 2002 shall remain available until expended to cover obligations made in fiscal year 2002 for the following accounts: the Rural Development Loan Fund program account; the Rural Telephone Bank program account; the Rural Electrification and Telecommunications Loans program account; the Rural Housing Insurance Fund program account; and the Rural Economic Development Loans program account.

SEC. 713. Notwithstanding chapter 63 of title 31, United States Code, marketing services of the Agricultural Marketing Service; the Grain Inspection, Packers and Stockyards Administration; the Animal and Plant Health Inspection Service; and the food safety activities of the Food Safety and Inspection Service may use cooperative agreements to reflect a relationship between the Agricultural Marketing Service; the Grain Inspection, Packers and Stockyards Administration; the Animal and Plant Health Inspection Service; or the Food Safety and Inspection Service and a state or cooperator to carry out agricultural marketing programs, to carry out programs to protect the nation's animal and plant resources, or to carry out educational programs or special studies to improve the safety of the nation's food supply.

SEC. 714. Notwithstanding any other provision of law (including provisions of law requiring competition), the Secretary of Agriculture may hereafter enter into cooperative agreements (which may provide for the acquisition of goods or services, including personal services) with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Natural Resources Conservation Service; and (2) all parties will contribute resources to the accomplishment of these objectives: *Provided*, That Commodity Credit Corporation funds obligated for such purposes shall not exceed the level obligated by the Commodity Credit Corporation for such purposes in fiscal year 1998.

SEC. 715. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 716. Of the funds made available by this Act, not more than $1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 717. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 718. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 719. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 720. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 721. (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2002, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2002, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(c) The Secretary of Agriculture shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

SEC. 722. With the exception of funds needed to administer and conduct oversight of grants awarded and obligations incurred prior to enactment of this Act, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out section 793 of Public Law 104–127, the Fund for Rural America (7 U.S.C. 2204f).

SEC. 723. With the exception of funds needed to administer and conduct oversight of grants awarded and obligations incurred prior to enactment of this Act, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out the provisions of section 401 of Public Law 105–185, the Initiative for Future Agriculture and Food Systems (7 U.S.C. 7621).

SEC. 724. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out a conservation farm option program, as authorized by section 1240M of the Food Security Act of 1985 (16 U.S.C. 3839bb).

SEC. 725. None of the funds appropriated by this Act or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2003 appropriations Act.

SEC. 726. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan.

SEC. 727. None of the funds made available by this Act or any other Act may be used to close or relocate a state Rural Development office unless or until cost effectiveness and enhancement of program delivery have been determined.

SEC. 728. In addition to amounts otherwise appropriated or made available by this Act, $4,000,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships through the Congressional Hunger Center.

SEC. 729. Hereafter, refunds or rebates received on an on-going basis from a credit card services provider under the Department of Agriculture's charge card programs may be deposited to and retained without fiscal year limitation in the Departmental Working Capital Fund established under 7 U.S.C. 2235 and used to fund management initiatives of general benefit to the Department of Agriculture bureaus and offices as determined by the Secretary of Agriculture or the Secretary's designee.

SEC. 730. Notwithstanding section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f) any balances available to carry out title III of such Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act.

SEC. 731. Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) is amended by striking "$25,000,000" and inserting "$26,000,000".

SEC. 732. None of the funds appropriated or otherwise made available by this Act shall be used to issue a notice of proposed rulemaking, to promulgate a proposed rule, or to otherwise change or modify the definition of "animal" in existing regulations pursuant to the Animal Welfare Act.

SEC. 733. Notwithstanding any other provision of law, the City of Cabot, Arkansas, and the City of Coachella, California, shall be eligible for loans and grants provided through the Rural Community Advancement Program.

SEC. 734. Notwithstanding any other provision of law, the Secretary shall consider the City of Casa Grande, Arizona, as meeting the requirements of a rural area in section 520 of the Housing Act of 1949 (42 U.S.C. 1490).

SEC. 735. Notwithstanding any other provision of law, the City of Saint Joseph, Missouri, shall be eligible for grants and loans administered by the rural development mission areas of the Department of Agriculture.

SEC. 736. Notwithstanding any other provision of law, the Secretary of Agriculture shall consider the City of Hollister, California, as meeting the requirements of a rural area for the purposes of housing programs in the rural development mission areas of the Department of Agriculture.

SEC. 737. None of the funds appropriated or otherwise made available by this Act may be used to maintain, modify, or implement any assessment against agricultural producers as part of a commodity promotion, research, and consumer information order, known as a check-off program, that has not been approved by the affected producers in accordance with the statutory requirements applicable to the order.

SEC. 738. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Drug Analysis (recently renamed the Division of Pharmaceutical Analysis) in St. Louis, Missouri, except that funds could be used to plan a possible relocation of this Division within the city limits of St. Louis, Missouri.

SEC. 739. None of the funds made available to the Food and Drug Administration by this Act shall be used to reduce the Detroit, Michigan, Food and Drug Administration District Office below the operating and full-time equivalent staffing level of July 31, 2000; or to change the Detroit District Office to a station, residence post or similarly modified office; or to reassign residence posts assigned to the Detroit Office: *Provided*, That this section shall not apply to Food and Drug Administration field laboratory facilities or operations currently located in Detroit, Michigan, except that field laboratory personnel shall be assigned to locations in the general vicinity of Detroit, Michigan, pursuant to cooperative agreements between the Food and Drug Administration and other laboratory facilities associated with the State of Michigan.

MARKET LOSS ASSISTANCE FOR APPLE PRODUCERS

SEC. 740. (a) ASSISTANCE AVAILABLE.—The Secretary of Agriculture shall use $150,000,000 of funds of the Commodity Credit Corporation to make payments as soon as possible after the date of the enactment of this Act to apple producers to provide relief for the loss of markets for their 2000 crop.

(b) PAYMENT BASIS.—The amount of the payment to a producer under subsection (a) shall be made on a per pound basis equal to each qualifying producer's 2000 production of apples, except that the Secretary shall not make payments for that amount of a particular farm's apple production that is in excess of 20,000,000 pounds.

(c) DUPLICATIVE PAYMENTS.—A producer shall be ineligible for payments under this section with respect to a market loss for apples to the extent of that amount that the producer received as compensation or assistance for the same loss under any other Federal program, other than under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(d) OTHER TERMS AND CONDITIONS.—The Secretary shall not establish any terms or conditions for producer eligibility, such as limits based upon gross income, other than those specified in this section.

(e) APPLICABILITY.—This section applies only with respect to the 2000 crop of apples and producers of that crop.

Mr. BONILLA (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 74 line 21 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT NO. 12 OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Ms. KAPTUR:

Add before the short title at the end the following new section:

SEC. ___. Of the amount provided in title I under the heading "EXTENSION ACTIVITIES", $500,000 shall be available to support the National 4-H Program Centennial Initiative, as authorized by the Act entitled "An Act to authorize funding for the National 4-H Program Centennial Initiative".

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentlewoman from Ohio (Ms. KAPTUR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I intend to withdraw the amendment after a brief discussion due to an understanding with the gentleman from Texas (Mr. BONILLA) to look for funds for the celebration of the centennial anniversary of National 4-H as we move toward conference.

Also, I do this out of respect for the National 4-H leadership that has committed not to have those funds come at the expense of existing extension programs which are already stretched.

□ 1145

Our amendment would provide funding pursuant to an authorization that was approved by the House 2 weeks ago when we voted for S. 657, the National 4-H Program Centennial Initiative. The centennial will occur next year, but planning obviously needs to begin immediately. In fact, the President signed the relevant legislation yesterday. That measure was a companion bill to H.R. 1388, introduced by the gentleman from Iowa (Mr. GANSKE). That measure authorized $5 million for the National 4-H Council, with the expectation that those funds would be matched by private contributions, and it also assumed the Secretary could use the Fund for Rural America to finance some of the operations. However, there is money for neither of these options in the bill.

Now, I think every American has been touched in some way by 4-H. It operates in over 3,000 counties in each of our States and provides truly constructive opportunities to young men and women in both rural and urban areas. Just the fact that this magnificent organization has existed for a century is something all Americans can truly celebrate.

But should this appropriation bill move forward without at least beginning to address the funding issue, there is the risk that the support for the centennial initiative would come too late. The amount today that is in my amendment, $500,000, is only one-tenth of the amount that is necessary, but it would get the activity going and demonstrates we are serious about full support.

Over the coming months, between now and the final conference on the bill, proponents will be in a position to work to identify the right amount of resources needed for the program and to secure additional funds for this bill. While today's amendment suggests that $500,000 out of existing extension funds could be used, the long-term intention is to obtain an increase for extension to finance the activity.

So, Mr. Chairman, in withdrawing this amendment, let me just say that this Member, and I think the entire membership of the House, in voting for this centennial celebration, would want to assure the success of all activities related to it. The planning that must begin this year and all the celebrations in the year 2002, will touch thousands and thousands of lives of young people in our communities and all the good works that they do. The 4-H deserve the full support of this Congress, and we look forward to working with the chairman as we move toward conference.

The CHAIRMAN. Without objection, the amendment of the gentlewoman from Ohio (Ms. KAPTUR) is withdrawn.

There was no objection.

Mr. BONILLA. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) is recognized for 5 minutes.

Mr. BONILLA. Mr. Chairman, just briefly, I would like to acknowledge the gentlewoman's hard work on this issue and commit to working with her as we move to conference to addressing the needs of our good 4-H people around the country.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I thank the chairman very much for his openness and willingness to work with us as we move toward conference.

AMENDMENT OFFERED BY MS. PELOSI

Ms. PELOSI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. PELOSI:

At the end of title VII, insert after the last section (preceding any short title) the following section:

SEC. 7___. Of any shipments of commodities made pursuant to section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Secretary of Agriculture shall, to the extent practicable, direct that tonnage equal in value to not more than $25,000,000 shall be made available to foreign countries to assist in mitigating the effects of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome on communities, including the provision of

(1) agricultural commodities to—

(A) individuals with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome in the communities, and

(B) households in the communities, particularly individuals caring for orphaned children; and

(2) agricultural commodities monetized to provide other assistance (including assistance under microcredit and microenterprise programs) to create or restore sustainable livelihoods among individuals in the communities, particularly individuals caring for orphaned children.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentlewoman from California (Ms. PELOSI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as a member of the Committee on Appropriations, I am pleased to rise and join the gentlewoman from North Carolina (Mrs. CLAYTON), a member of the authorizing committee, the Committee on Agriculture, in offering this amendment to ensure continued funding to reduce the burden of hunger for HIV-AIDS patients and children orphaned by AIDS in the developing world.

I commend the gentlewoman from North Carolina (Mrs. CLAYTON) for her leadership on this issue. She worked with us on this issue in the Committee on Agriculture as well as a member of the Congressional HIV Task Force. She developed this proposal, and her leadership has been very important, because this amendment affects so many millions of families worldwide.

I would like to thank the gentleman from Texas (Chairman BONILLA) and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR), for their leadership on the subcommittee and their support for this amendment.

Mr. Chairman, I will submit my statement for the record, but I just want to make two quick points. Poor nutrition accelerates the progression of HIV to AIDS, and an adequate food supply is critical to any prevention and care strategy. When a family member becomes infected with HIV, household food production is undermined, limited financial resources are used for medical costs rather than crop production, and family members are forced to care for the sick, rather than work in the fields.

Starting last year, $25 million was provided through the Food for Peace program to reduce the burden of hunger for families impacted by AIDS through agricultural improvement, maternal and child health programs and direct distribution of food commodities. Today's amendment will continue this vital funding. I wish that we could have the number be higher in the future, but the $25 million called for here is a very, very important addition.

I thank my colleagues for their support of this important amendment.

Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON), the real author of this amendment, and commend her for her tremendous leadership.

Mrs. CLAYTON. Mr. Chairman, I want to thank the gentlewoman from California for her leadership on this and also her continuous and longstanding leadership in fighting AIDS.

This is a unique opportunity to do good while doing well. The Food for Peace program allows us to make contributions all across world where there is suffering. What better effort than to direct $25 million of the Food for Peace program to intervene and make the quality of life of families who are suffering from AIDS, of children who are orphaned from AIDS, to make this as an opportunity.

As the gentlewoman from California (Ms. PELOSI) said already, this program is available to be a prevention-intervention program. We are increasingly aware that the medication alone does not improve health by itself. Not only that, but because of the health condition of the individual, their productivity and ability to afford food has been decreased drastically.

I am very happy that the Republicans, as well as the Democrats, all support this, and I want to commend the chairman for his support of this amendment.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) is recognized for 5 minutes.

Mr. BONILLA. Mr. Chairman, I rise to simply state that I am not opposed to the gentlewoman's amendment. A similar provision was included in the conference agreement last year as section 743 of our bill, without any objection of which I am aware. I would hope that we can quickly move to a vote on this issue, and commend the gentlewoman's work on this very important issue.

Ms. PELOSI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the distinguished chairman of the committee for his words of cooperation.

Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR), the very distinguished ranking member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, I want to compliment the wonderful, wonderful gentlewoman from California (Ms. PELOSI) and the gentlewoman from North Carolina (Mrs. CLAYTON). Would I not know that the two of them would do something this significant? What they are proposing is only to continue what the House had agreed to do in conference last year, and that is to use the food power of this country to help alleviate suffering around the world, and certainly the plague of HIV/AIDS.

Their effort uses the power of food in the most creative way possible. Yet the sponsors of the amendment and all who support it should keep in mind that the President's budget proposes a review of the 416 programs with an eye toward reducing their availability. So, those who utilize and understand these programs need to be prepared to speak out before these programs are eliminated or reduced.

I want to thank the gentlewomen for bringing this up before the full House to make sure that we effectively use the dollars that are there, and not permit the food surplus of this country to be subscribed in a way that would not be made available to those who truly need it globally. I support them in their efforts.

Ms. PELOSI. Mr. Chairman, I rise to join Representative CLAYTON in offering this amendment to ensure continued funding to reduce the burden of hunger for HIV/AIDS patients and children orphaned by AIDS in the developing world. I commend Representative CLAYTON for her leadership on this issue, which affects so many millions of families worldwide. I would also like to thank Ranking Member KAPTUR and Chairman BONILLA for their leadership on the Subcommittee and their support for this amendment.

We have all heard the staggering statistics—36 million people infected with HIV, 22 million deaths from AIDS, and nearly 14 million children orphaned. Archbishop Desmond Tutu has said, "AIDS in Africa is a plague of biblical proportions. It is a holy war that we must win." It is indeed, and the battles in this war occur on many fronts.

Poor nutrition accelerates the progression from HIV to AIDS. In addition to the prevention, treatment, and infrastructure needs that must be addressed to stem the tide of the pandemic, we must also recognize that good nutrition is critical to any prevention and care strategy.

The impact of HIV/AIDS on poor families goes beyond the pain that accompanies the loss of a loved one. AIDS strikes people during their most productive years, and family income is cut by more than half when a parent is sick.

Household food production is undermined as limited financial resources are used for medical costs rather than crop production, and family members are forced to care for the sick rather than work in the fields. Many families must mortgage their land and sell productive assets, including livestock, to pay for food and medicine.

The U.S. has sought to reduce the burden of hunger that results from families' diminished ability to produce food. Starting last year, $25 million was provided through the Food for Peace program to improve food security through agricultural improvement, maternal and child health programs, and direct distribution of food commodities.

Today's amendment continues this vital funding. I thank my colleagues for their support of this important amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. PELOSI).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HINCHEY

Mr. HINCHEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HINCHEY:

Insert before the short title the following new section:

SEC. ___. None of the funds appropriated or otherwise made available by this Act shall be used to eliminate the two river navigator positions, including the contract position, for the Hudson River and Upper Susquehanna/Lackawanna Rivers or to alter the tasks assigned to the persons filling such positions.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from New York (Mr. HINCHEY) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an amendment that ensures that two Federal positions designated as river navigator positions, including the contract positions for the Hudson River and the Susquehanna River, will continue to function, and that they will be funded in this appropriations bill.

I want to express my appreciation to the chairman of the subcommittee, the gentleman from Texas (Mr. BONILLA), for working with us on this very important subject. I also want to express my appreciation to the gentleman from Pennsylvania (Mr. KANJORSKI), who has also been very deeply concerned about the continuation of these positions, particularly in his case the position of river navigator for the Susquehanna River, which is a river that flows through Pennsylvania as well as New York.

I believe that the language that we have arrived at here is language which is acceptable to the chairman of the subcommittee, and that the amendment will be accepted by him.

Before I ask him that, I just want to make the point that these two positions are very, very important. What they do is they coordinate all Federal programs on these two rivers. These two rivers are two very important rivers, the Susquehanna, of course, feeding into the Chesapeake Bay, and there are a great many Federal programs, including programs consistent with the Federal Clean Water Act and others, that are very important to these rivers and the people who live along them. Therefore, Federal coordination of all programs associated with these rivers is very important.

I thank the chairman of our subcommittee, the gentleman from Texas, for recognizing that importance, and I want to express to the gentleman my appreciation for the ability to work with him and express my pleasure in having had the opportunity to work with him on this important issue.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. BONILLA. Mr. Chairman, I want to acknowledge the good amendment that the gentleman from New York is offering, and tell him that we are delighted to accept the amendment.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I just want to thank the chairman for his support of our very able colleague from New York who has such a persevering record on attempting to get the American Heritage Rivers Initiative fully operational for the city of New York and for rivers immediately adjacent to and in his district, so that these local river conservation plans become more than plans, but, in fact, help us to preserve the precious fresh water resource that is ours alone in this quadrant of the United States.

I would have to just say as the ranking member on the subcommittee, no Member has fought harder for this program than the gentleman from New York (Mr. HINCHEY), and the people of New York have sent the right man here to represent them.

Mr. HINCHEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the gentlewoman from Ohio (Ms. KAPTUR), the ranking member on our Subcommittee on Agriculture of the Committee on Appropriations, for those very kind words, and for her diligent and very effective work on the committee. Once again, I want to extend my appreciation to the chairman of our subcommittee and also to the staff that works under his direction for their assistance in putting this amendment together and for its successful acceptance.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HINCHEY).

The amendment was agreed to.

AMENDMENT NO. 20 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. SANDERS:

At the end of title VII, insert after the last section (preceding any short title) the following section:

SEC. 7 . None of the amounts made available in this Act for the Food and Drug Administration may be used for enforcing section 801(d)(1) of the Federal Food, Drug, and Cosmetic Act.

□ 1200

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this tripartisan amendment is offered by the gentleman from New York (Mr. CROWLEY), the gentlewoman from Connecticut (Ms. DELAURO), the gentleman from California (Mr. ROHRABACHER), and the gentleman from Texas (Mr. PAUL).

It is about lowering the cost of prescription drugs so that the American people do not have to pay by far the highest prices in the world for prescription drugs. It is about ending the national disgrace of tens of thousands of American citizens in New England, the Midwest, the Northwest, from having to go across the Canadian border in order to purchase the same exact prescription drugs that they buy at home for 50 percent of the cost or 60 percent of the cost or 20 percent of the cost.

It is about ending the absurdity of American citizens in California, Texas, Arizona, and the southern parts of our country of having to go to Mexico for the same exact reason.

It is about allowing women in the United States who are fighting for their lives against breast cancer so they do not have to pay 10 times more than the women in Canada for Tamoxifen, a widely prescribed breast cancer drug.

It is about telling the drug companies that they can no longer charge the American people $1 for drugs when those same exact products are sold in Germany for 60 cents, France for 51 cents, and Italy for 49 cents, the same exact products made by the same exact companies.

Mr. Chairman, for decades now, good people, Democrats, Republicans, in the House and in the Senate, have attempted to do something about lowering the cost of prescription drugs in this country so that the American people do not have to pay outrageously high prices for their medicine, so that doctors do not have to write out prescriptions knowing that their patients cannot afford to fill them. But year after year with lies, with scare tactics, with well-paid lobbyists and massive amounts of campaign contributions the pharmaceutical industry always wins. They never lose.

In the last three years alone the drug companies have spent $200 million in campaign contributions, lobbying and political advertising. In the last election cycle they doubled the amount of campaign contributions from 9 million to $18 million, and I have no doubt that they are prepared to double it again.

The issue today is not only the high cost of prescription drugs. The issue today is whether the Congress has the guts to stand up for their constituents, people who are being ripped off, people who are dying and suffering because they cannot afford sky-high prescription drug prices; or do we cave in again to the pharmaceutical industry that is spending so much money trying to buy our votes.

The pharmaceutical industry has endless amounts of money. Year after year the industry sits at the top of the charts in profits. The top 10 companies last year made $27 billion in profits. They have a lot of money to spend on Congress. Their top executives, well, they have a lot of money to spend too.

A report came out yesterday from Families U.S.A., which talked about the compensation of executives in the pharmaceutical industry.

At a time when Americans die and suffer because they cannot afford prescription drugs, you might be interested to know that the CEO of Bristol-Myers Squibb has unexercised stock options of over $227 million. Elderly people cannot afford prescription drugs, and this CEO has unexercised stock options of over $227 million. Pfizer has $130 million in unexercised stock options. Merck has $180 million, and on and on it goes.

Mr. Chairman, today in a tripartisan amendment, the gentlewoman from

Connecticut (Ms. DELAURO), the gentleman from New York (Mr. CROWLEY), the gentleman from California (Mr. ROHRABACHER), the gentleman from Texas (Mr. PAUL), and I are offering an amendment that is exactly the same as the Crowley amendment that won overwhelmingly in the House last year by a vote of 363 to 12.

As was the case last year, this amendment will serve as a place-holder that will allow the Senate and conference committees to address the pricing loopholes contained in last year's bill.

Mr. Chairman, a lot of people here talk about free trade. In a globalized economy where we import millions of tons of beef, pork, vegetables, and all kinds of food products from virtually every country on earth, it is high time that we end the monopoly that the drug companies have on the importation and reimportation of prescription drugs in this country.

Prescription drug distributors and pharmacists should be able to purchase and sell FDA safety-approved medicines at the same prices as they are bought and sold in Canada, England, and every other major country. The passage of reimportation could lower the cost of medicine in this country by 30 to 50 percent and enable Americans to pay the same prices as other people throughout the world. In a Nation which spends $150 billion a year on prescription drugs, lowering the cost by a conservative 30 percent could result in a $45 billion-a-year savings.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

The gentleman seeks to solve one problem by creating another, and I am going to cite some very, very serious testimony here from the Food and Drug Administration that was presented in front of the gentleman from Pennsylvania (Mr. GREENWOOD) and his Subcommittee on Oversight and Investigations just last month.

At the hearing, the FDA stated, and I quote: "From a public health standpoint, importing prescription drugs for personal use is a potentially dangerous practice. FDA and the public do not have any assurance that unapproved products are effective or safe or have been produced under U.S. good manufacturing practices. U.S.-made drugs that are reimported may not have been stored under proper conditions or may not be the real product, because the U.S. does not regulate foreign distributors or pharmacies. Therefore, unapproved drugs and reimported approved medications may be contaminated, subpotent, superpotent, or even counterfeit."

The FDA also said, and I quote: "Under FDA's personal importation policy, FDA inspectors may permit the importation of certain unapproved prescription medications for personal use. The current policy permits the exercise of enforcement discretion to allow entry of an unapproved prescription drug if: the product is for personal use, (a 90-day supply or less, and not for resale); the intended use is for a serious condition for which effective treatment may not be available domestically (and, therefore, the policy does not permit inspectors to allow foreign versions of U.S.-approved drugs into the U.S.); or there is no known commercialization or promotion to U.S. residents by those involved in the distribution of the product."

There are several other points here, but the bottom line is, this could be a dangerous threat to consumers in this country. This is ironclad testimony from the FDA on indicating that this could be potentially dangerous.

The FDA has not officially permitted the importation of foreign versions of U.S.-approved medications, even if sold under the same name, because these products are unapproved, and the agency has no assurances that these products are safe or effective. I would like to inform my colleagues that both the Committee on Energy and Commerce, which is the authorizing committee for the FDA, and the administration strongly oppose this language and any other language allowing for importation of drugs.

So I rise in strong opposition. We will be hearing from other good Members from the Committee on Commerce as well in just a few minutes.

Mr. Chairman, I reserve the balance of my time.

Mr. SANDERS. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Connecticut (Ms. DELAURO), the cosponsor of this legislation and a real fighter in terms of lowering the price of prescription drugs.

Ms. DELAURO. Mr. Chairman, I rise in strong support of the Sanders-Crowley-Rohrabacher-DeLauro-Paul amendment to help American families and seniors get the necessary prescription drugs at affordable prices. With spending on prescription drugs by seniors and others up by 18 percent last year to nearly $21 billion, we need to do everything that we can to make them safe, effective, and affordable, make these drugs accessible to those who need them.

One would think that this is a goal that we could rally around. But no, once again, we are being fought by the pharmaceutical industry. They oppose reimportation. That poses the question: What exactly are they for?

They are against the Medicare prescription drug benefit for all seniors. They are opposed to the Allen bill that would allow for pharmacists to be able to purchase at a discounted rate, the pharmaceuticals that Germany, France, Britain, and others can purchase. They are against across-the-board price reductions. They never tell us what they are for.

In fact, the only thing they seem to be for is extending their patents and seeing their profits increase.

Last year, the top 10 pharmaceutical companies earned $26 billion in profits. They oppose this amendment because the bill might cut into its considerable profit margin. They are waging a massive million dollar campaign to protect their agenda across the board. Over the past five election cycles, the Pharmaceutical Research and Manufacturers Association, the trade group for brand-name drug companies, gave nearly $360 million in political contributions, lobbying and advertising campaigns, to protect its legislative agenda.

Mr. Chairman, there are opponents of this amendment who raise the safety issue. The fact is that reimportation is safe. It has worked for years in Europe. Twenty-five percent of drugs consumed in European countries are reimported. This legislation requires all imported drugs to be the exact same FDA-approved medications that are sold in the United States. Pharmaceutical labels must comply with FDA regulations.

Last year, Dr. David Kessler, the former FDA Commissioner under Presidents Bush and Clinton, stated that U.S.-licensed pharmacists and wholesalers would be able to safely import quality prescription drugs. He believes the importation of prescription drugs can be done without causing a greater health risk to American consumers.

Let me just say that GlaxoWellcome is a British company. They send drugs to the United States, and they are perfectly well approved.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I absolutely believe that we need to control the cost of prescription drugs for seniors, but this is a terribly misguided way to do it. I understand that the people who speak for this amendment are very well motivated, but the fact is that they run the risk because they are tackling this issue indirectly rather than directly, they run the risk of allowing large numbers of adulterated drugs into this country.

It is one thing to fight for access to affordable drugs for seniors; it is another thing in the process to open our seniors up to the dangers of adulterated or expired drugs, and that is exactly what this amendment does.

If we take a look at what happened last year when we ran into a similar approach, try though the Congress did, we wound up producing an importation process which the Secretary of Health and Social Services said she could not certify as to efficacy or safety, and so that proposal could not go forward.

I would point out that every Member of the House has a letter from the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce, and the gentleman from Michigan (Mr. DINGELL), the ranking member, and various other members of the committee, which says the following: "Despite anybody's best intention, if the Sanders amendment becomes law, our citizens will have no idea whether the source of their pills is an FDA-approved facility or an unregulated warehouse rented for the weekend by big business counterfeiters and larcenists seeking to penetrate the U.S. market. Drug counterfeiters present a severe and growing threat to the health and safety of the United States consumers."

If we want to deal with this problem, in my view, the correct way is to support the Allen legislation, because that attacks this issue directly. It directly lowers the price that is charged to seniors; it does not force seniors to have to rely on questionable products introduced into this country by larcenist sellers and winds up threatening the health of senior citizens.

Mr. Chairman, I urge a "no" vote on this amendment.

Mr. SANDERS. Mr. Chairman, just as a point of fact, Donna Shalala did not implement last year because of safety. It had nothing to do with safety; it had to do with pricing loopholes.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. GUTKNECHT), who has done an excellent job on this issue.

□ 1215

Mr. GUTKNECHT. Mr. Chairman, I thank the gentleman from Vermont for yielding time to me. I want to show a couple of charts, because we are going to have several debates. This amendment is somewhat broader than the one that I have drafted, but it really revolves around a couple of important points.

One is the issue of price. I do not think anybody here today is going to dispute this chart. I did not make this chart. This was done by the Life Extension Foundation. The information is about 2 weeks old.

If we compare what Americans pay to what Europeans pay, and we are talking about Europe here, not Mexico, not Third World countries, but we are talking about Switzerland and Germany, where they do not have price controls, at some point we are going to have to explain to our constituents why we stand idly by and allow this chart to exist.

The issue they are going to raise, and it is going to be a red herring, is safety. Safety. Understand this, Mr. Chairman, every day millions of pounds of raw meat and vegetables come into this country, and we have checked with the FDA, it is the Food and Drug Administration, their own study in 1999 said that 4.4 percent of the produce coming into the United States has dangerous pathogens, including 3.3 percent have salmonella.

Do Members know what can happen if we get salmonella? We can get real sick. In fact, we can die. That is every day that is coming into the United States. Yet, there is no known scientific study where consumers in the United States have been injured importing legal drugs from G–8 countries, not one. As a matter of fact, if we had heard that, it would be all over. I suspect the pharmaceutical industry would have that over every newspaper and on television.

The truth of the matter is that there is almost no risk to consumers to bringing legal drugs back into the United States.

They are going to talk about illegal drugs. Nothing in the Sanders amendment, nothing in my amendment, nothing that is going to be discussed today is about legalizing illegal drugs. We are not talking about the Medellin drug cartel, which incidentally does ship billions of dollars worth of illegal drugs into the United States, and the FDA is unable to do almost anything about it. What we are talking about today is law-abiding citizens that have legal prescriptions that are buying FDA-approved drugs from other countries.

If Members cannot explain that earlier chart, they should vote for this amendment and they should vote for my amendment.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. GREENWOOD), who is the chairman of the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce.

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding time to me. I applaud the motives of the makers of the amendment. I voted for the measure of the gentleman from Minnesota (Mr. GUTKNECHT) last year. I have looked into the issue a lot further since then and now oppose it.

The previous speaker talked about the ability to assure that these drugs are safe. Our seniors need safe and cost-effective drugs, affordable drugs.

Here is what we found out. Institutions like this, counterfeiters, are able to produce drugs in vermin-filled, filthy, and unhygienic conditions. This is what they produce. They produce drugs, counterfeit drugs, that look exactly like the real thing. There is another example of that that we will put up of a drug that looks exactly like ours.

The point of the matter is, if we want seniors to have affordable drugs and safe drugs, help is on the way. This morning's Washington Post says, "Bush Has Pharmacy Discount Card Plan." We are on the verge of providing senior citizens affordable drugs. We can assure that they are safe, and they are not dangerous drugs that are imported from rat-infested, filthy laboratories like this one.

Mr. SANDERS. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER), our cosponsor.

Mr. ROHRABACHER. Mr. Chairman, I rise in strong support of the Sanders amendment. We have to take a look at the substance here, instead of trying to be diverted away from the central point of what is going on by scare tactics.

I do not know if any Members have had calls come to their office last night, but I had calls. My office was flooded with calls from people who had been told that the Sanders amendment meant that marijuana and heroin and all sorts of drugs would be permitted to flow across the border. That type of scare tactics is unseemly in a debate as important to the health of the American people as the issue that we are discussing today.

It appears that the people on the other side of this issue are so afraid of the actual facts that they have succumbed to this type of scare tactic and dishonesty. That should play no part of this debate.

Let me note that we are being told that there will be a few Americans who will be hurt if we pass the Sanders amendment because some people will get hold of counterfeit drugs, some people will get hold of drugs that are not exactly regulated correctly and produced correctly.

Yes, a few Americans might be hurt, and let us admit that. But what we are talking about is the vast number of Americans who will be hurt if they cannot afford to buy drugs. Certainly the number of people who will be hurt by this is far less than the number of people who are deterred from taking drugs that are important to their health because they just cannot afford them.

This bill permits people, American citizens, and especially those who live near the borders of another country, to go across those borders and buy drugs that are being sold at a cheaper rate. Sometimes we have seen it to be half as much, a third as much, sometimes one-quarter or 20 percent the price across that border than what they would have to pay in the United States.

It makes no sense for us to talk about globalizing the economy and globalizing the world economy without letting our people benefit from the competitive advantages, the consumers' competitive advantages in dealing on an international market.

We believe, okay, in free trade. We believe in a competitive market and a global market. Let us let the American consumer benefit from that. What will happen if we pass this amendment is that there will be pressures, competitive and market pressures, on our own drug producers here in the United States to lower the price of their product in the United States as well. By defeating the Sanders amendment, we are not protecting anybody. What we are doing is keeping the prices high and protecting the pharmaceutical companies from competition.

I like the pharmaceutical companies, and I appreciate the good job that they have done for the American people and for the people of the world in developing new drugs. But that does not mean that they should be free of competition. That does not mean that they should be able to have differential pricing in one country versus another.

Let us stand up for the American people and also stand up for competition at the same time.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it was pointed out by the distinguished gentleman from Minnesota (Mr. GUTKNECHT) a moment ago that in this letter that comes from the gentleman from Louisiana (Chairman TAUZIN), the gentleman from Michigan (Mr. DINGELL), and other subcommittee chairs, the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Florida (Mr. DEUTSCH), it points out clearly, the ALS Association, the National Prostate Cancer Coalition, the Cystic Fibrosis Foundation, the Pancreatic Cancer Action Network, the National Kidney Cancer Association, the National AIDS Treatment Advocacy Project, all of these groups are adamantly opposed to the Sanders amendment.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. BURR).

Mr. BURR of North Carolina. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this is not about bringing illegal drugs in. This is about whether we are going to withhold the gold standard of the Food and Drug Administration in the United States of America.

In 1997, this House in a bipartisan way, and as a matter of fact, under suspended rules in a unanimous vote, voted to modernize the Food and Drug Administration. The one vigilant thing that every Member did was to assure that the gold standard, that stamp of approval that we say to the American people passes on from the FDA on manufactured pharmaceuticals, was maintained.

As a matter of fact, when my good friend, the gentleman from California, talked about global trade, one of our objectives with global trade was to harmonize the standards of approval so that we could reach the efficiencies of a global manufacturing base. We have yet today to reach harmonization standards with the EU because we cannot accept the Italian standard for drug approval.

But what this amendment does, it says we are going to defund any, any and all reviews at our borders of reimported or imported drugs. The gentleman from Pennsylvania (Mr. GREENWOOD) just showed the awful conditions where drugs are manufactured, where they look identical, where they are packaged identically. Today the DEA, the FDA, the Customs Department, they are all against this amendment. They are all against reducing the gold standard that we currently find at the FDA.

As a matter of fact, the executive director of the trade program at U.S. Customs had this quote: "Counterfeit pharmaceuticals enter in both wholesale and retail quantities. Additional problems include expired material, products that have not been approved by the FDA, products made in facilities under no proper regulation, and products not having the proper instructions for consumers to use."

Mr. Chairman, we should not do this to the American people. We should maintain the gold standard.

Mr. SANDERS. Mr. Chairman, I yield 2½ minutes to the gentleman from New York (Mr. CROWLEY), a cosponsor of this amendment.

Mr. CROWLEY. Mr. Chairman, I rise in strong support of the Sanders-Crowley-DeLauro-Paul-Rohrabacher amendment. This language offered today is the same language I offered last year in the agriculture appropriations bill. We again offer this amendment as a first start to provoke a discussion and get real reimportation language enacted into law.

This is the only way Democrats and Independents can get heard on this issue. The GOP-controlled House authorizing committees are not doing their jobs. All we have seen to date was a hearing held earlier this month in the Committee on Commerce on the horrors of reimportation, and the arguments of that hearing have hardened my resolve in supporting reimportation legislation.

Why? In part because of the comments from that hearing, such as the opening statement of the chairman, the gentleman from Louisiana (Mr. TAUZIN), where he remarked on June 7 of 2001, "The problem of counterfeit drugs is not just a phenomenon of the developing world. Our lucrative market and ineffective import controls are increasingly making the United States an attractive target for drug counterfeiters and diverters.

"Last month three counterfeit prescription drugs were found in the shelves of pharmacies of several States. It is not known whether these fake drugs were made in the United States or overseas, but such a cluster of counterfeits has not been seen for years in this country."

The hearing proved that the FDA is unable to assure the U.S. public that it can prevent unsafe imports from entering this country at this point in time.

Yes, in fact counterfeit drugs are making their way onto the shores and onto the shelves of pharmacies around this country. The legislation that was enacted to stop it, the Prescription Drug Marketing Act enacted in 1987, which included Section 801(d)1 that we are striking funding for today, has not been successful in protecting consumers. It has been tremendously successful in protecting, though, the interests of the drug companies.

We as Democrats have been trying to pass legislation to find a remedy, a legislative remedy to address the spiraling cost of medications. Each time the leaders of the Congress have rebuffed us.

The GOP passed a fake prescription drug bill benefit last year so weak that 178 of their Members later backed my amendment to the agriculture appropriations bill last year making the reimportation a better alternative to lowering the price of prescription drugs than their party's plan.

This year, Congress expressed a collective round of laughter at the drug proposal advanced by the White House, representing one of the greatest feats of bipartisanship in recent memory.

Mr. SANDERS. Mr. Chairman, we have so many speakers who feel strongly about it that I ask unanimous consent that each side have an additional 7½ minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

Mr. BONILLA. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SANDERS. Does the gentleman not have people who want to debate the issue?

Mr. BONILLA. I object.

The CHAIRMAN. Objection is heard.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I would yield to no Member of this House in terms of my efforts to lower prescription drug costs for seniors in America. I support the efforts of the gentleman from Vermont (Mr. SANDERS) to allow importation of drugs from outside the United States.

However, this amendment is not the way to do it. If we look specifically at what this amendment does, it stops all funding for FDA in terms of importation. That is what the amendment actually does. That is a scary thing if we start to think about it.

What our subcommittee has done is actually we went essentially to the borders, which is to the airport location where drugs come in. We have also had hearings about drug labs that are taking place right now producing some of these importations.

This is not Novartis in Switzerland, this could be in some back alley somewhere in Mexico where it is not the drug, it is paint that is coming in. This amendment cuts out all FDA funding in terms of literally looking at the substance that would come into the United States of America, and zip, nothing. We could not review that if this amendment actually became law.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. DEUTSCH. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, the gentleman knows this is not what we are doing. This is a place holder for the Senate and the conference committee to do what we did last year in developing a comprehensive bill and doing away with the pricing loopholes.

Mr. DEUTSCH. I support the gentleman's efforts, but again, as a place holder, we do not do place holders, we do real amendments. We do real law.

□ 1230

And, unfortunately, I understand the limitations that the gentleman had in the appropriations process, and that this was a way to raise the issue. It is an important issue, and I am glad it is being raised. But when we vote, we actually vote on real things. Members that support this legislation, in fact, are supporting no funding for the FDA to regulate drugs that come into the United States of America. If any of my colleagues had joined me in looking at the drugs that come in, I am sure they would vote against this amendment.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise to strongly oppose this amendment. However, I agree with the makers of the amendment and what they are trying to do. We all do, indeed, want to see the price of medications come down, especially for our senior citizens. But this is simply the wrong way to do it.

I am very fond of, for example, the President's initiative on a senior citizen's discount card. We should turn over every leaf to try to lower it. But the most expensive drugs there are are drugs that do not work.

Let us be very clear what this amendment would do to drug safety in America. This amendment would allow anyone, individuals and import companies, to import any drug with no FDA inspection for alteration, misbranding, or strength. Any company in the country, in the world, could ship any product in a bottle, label it any way they wanted, be totally fraudulent in their claim, while we sit here and ban the FDA from doing anything about it. If my colleagues liked the Mexican strawberries that poisoned our schoolchildren, then they are going to love the Red Chinese sugar pills labeled amoxicillin that allows the child's strep throat to become heart disease.

When a drug is prescribed, a doctor or dentist has to know with absolute certainty that the drug is precisely what he ordered. This bill will destroy that certainty and undermine the safety of American patients.

Vote "no," then let us work together on a real effort to try to reduce the cost of prescription drugs for our senior citizens.

Ms. KAPTUR. Mr. Chairman, I was just rising to either ask unanimous consent to strike the last word to get some of my own time on this or to plead with the chairman to see if we could not even get a few more minutes on each side. We have more speakers than we had anticipated, and it is an important issue and lives actually hang in the balance on it. I wondered if we might take a few additional minutes on each side.

The CHAIRMAN. Is the gentlewoman making a unanimous consent request?

Ms. KAPTUR. I am.

The CHAIRMAN. What is that request?

Ms. KAPTUR. My request is to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

Mr. BUYER. I object.

Mr. SANDERS. Mr. Chairman, can I have a point of personal something or other?

On this issue of enormous consequence our friends do not want to add a few more minutes to debate? I think that is really unfortunate.

I want to ask the chairman again, the gentleman from Texas (Mr. BONILLA), who I know is a decent man and I respect his opinion, but we have many people here, so what is wrong with 5 more minutes on either side?

The CHAIRMAN. Is the gentleman making a unanimous consent request?

Mr. SANDERS. I am.

The CHAIRMAN. What is that request?

Mr. SANDERS. That the chairman grant us 5 minutes more so people on both sides can have the opportunity to debate this issue. Five minutes on both sides.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

Mr. BUYER. I object.

The CHAIRMAN. Objection is heard.

Mr. SANDERS. Mr. Chairman, may I know what the time frame is?

The CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) has 4½ minutes remaining and the gentleman from Texas (Mr. BONILLA) has 8 minutes remaining.

Mr. SANDERS. I would urge the other side to go ahead.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, why have all of us from the Committee on Commerce come up here to debate this issue and are opposed to it? Because this is exactly what happened. For 2 years we have been working on this project: reimportation. When it leaves this country and comes back into this country, we do not know what it is.

This is one post office, where 721 parcels came back in. We cannot tell what it is, how it got here, how it was made, what it even is made of. This is the yellow powder we speak of. This is boric acid and yellow highway paint. They do it to put on these pills which they put in this blister pack for Poncet. Nothing we can use medically in this country.

This is about drug safety. It is not priced for senior citizens. All of us Democrats, most of us Republicans, would like to see lower drug prices. This is drug safety. For 2 years we have been working on this issue. Do not limit the FDA's ability to do enforcement when these drugs like this highway paint are coming in and being put on pills and we are supposed to take it as a safe drug.

Reject this amendment. If you want to pass meaningful legislation, pass the Allen bill.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, I do agree on one thing with the gentleman from Vermont (Mr. SANDERS). This amendment is important. It is important because if it passes, people will die, and that is no exaggeration.

Why would we ever want to permit a system that is one of the best in the world, like the FDA, which ensures that we have drug safety in our Nation, why do we want to open it up so we are not able to have that gold standard that a former colleague talked about? When people see an FDA-approved drug, they know about the efficacy and safety of that particular drug.

The Food and Drug Administration and the Customs Service have testified as recently as June 7th that "Drugs being imported from outside the United States pose considerable risk to consumers because they may be counterfeit, expired, superpotent, subpotent, simply tainted, or mislabeled."

American consumers should not have to worry that the drugs they take may be adulterated, just as the gentleman from Michigan (Mr. STUPAK) said, with yellow highway paint, which the FDA has found with imported drugs. Defeat the Sanders amendment.

Mr. SANDERS. Mr. Chairman, I yield 45 seconds to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Chairman, I was going to ask a lot of other questions, however, some of them have been covered here on the floor already.

So, I wish to ask the gentleman from Vermont (Mr. SANDERS), we have been hearing about who is against this amendment, but could the gentleman give me an indication of who is for this? And, also, for the record, this was 363 to 12 the last time we took a vote on this.

Mr. SANDERS. Mr. Chairman, will the gentlewoman yield?

Mrs. THURMAN. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, that is absolutely correct. Some groups supporting it are Public Citizens Network, the National Catholic Social Justice Lobby, the National Educational Association, Communication Workers of America, the Children's Foundation, the Alliance for Retired Americans, the Gray Panthers, and a number of other organizations. And I thank the gentlewoman for asking that question.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Chairman, all of us, all of us want to see lower drug prices, and all of us are frustrated by the high price of drugs. It does no good, though, to import these drugs if we cannot be guaranteed of their efficacy.

In my hand I have three packages of Viagra, all of them imported. Two of these packages are counterfeit. All the packages look the same. The holograms on the back are the same and the blister packs holding the pills are exactly the same in all three boxes. I am sure that two of these boxes are cheaper than the third, but I would ask my gentlemen colleagues if they would rather have lower prices, or which two of these boxes would they take?

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of the Sanders amendment, not because it is the perfect amendment but because I believe it is a step in the right direction.

During all this debate, few people, no one really, has asked why are drugs so much less expensive in other countries. The reason is because other countries do not allow the pharmaceutical companies to gouge their citizens, senior citizens or others.

In Canada, in all the rest of the G–7, there are caps on what the pharmaceutical industry can charge. In those countries the pharmaceutical industry sells lots of drugs, they make profits, and they do just fine. Only in America, only in America do we basically allow them to charge the highest prices in the world to seniors, who can least afford it.

That is why this is a step in the right direction. I do believe we need a prescription drug cap here in the United States so that our seniors are not discriminated against and our seniors no longer pay the highest prices in the world.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, I thank the gentleman for yielding me this time. Congress does have an obligation to help Americans who cannot afford the prescription drugs that they need, and seniors deserve a voluntary universal prescription drug benefit under Medicare. We can all agree on that. But making it easier to bring counterfeit substandard medicines into the United States is not the way to help seniors get these medications, not the way to help families.

The Sanders amendment is a step backward. The FDA and the Customs Service have a huge challenge keeping counterfeit drugs out of this country. Consumers in New Jersey and California and Kansas can take prescription medicines today with the certain knowledge that they are putting safe, tested, clean medicines into their bodies.

It is not just agencies like the Customs Service that oppose this, it is also patients' groups, like the National Prostate Cancer Coalition, the Cystic Fibrosis Foundation, and the ALS Foundation. They all strongly oppose it. It is simply not the way to provide seniors with affordable prescription drugs. It would undermine confidence that doctors and patients have in their ability to make informed decisions about patient care.

PARLIAMENTARY INQUIRY

Mr. ROHRABACHER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. ROHRABACHER. During this debate we have had this photo displayed of what has been called a foreign drug lab. Several Members here believe that is a picture of a laboratory in the United States. How would I inquire as to the validity of that evidence that has been presented today?

The CHAIRMAN. The gentleman could ask the Members in control of the debate time to yield to him to give such an explanation.

Mr. ROHRABACHER. So who would I be able to ask that of?

The CHAIRMAN. A Member in control of time for this debate.

Mr. ROHRABACHER. Thank you very much.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. FRELINGHUYSEN), a member of the Committee on Appropriations.

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in opposition to the Sanders amendment, which will literally endanger the safety of our constituents.

First, there is no doubt that we must and will act to help seniors with the high cost of prescription medicines, but this amendment is not the answer. Secondly, we debated this same issue a year ago. The only thing that has changed is that we now have confirmation from both the former Secretary of Health and Human Services, Donna Shalala, and her successor that this amendment could endanger our constituents.

Anyone who thinks the threat is not real, I would refer them to the recent testimony of the U.S. Customs Service and the recent news reports that counterfeit drugs are already coming into this country that pose a serious health threat to our citizens. This amendment would essentially make that practice legal and allow unscrupulous marketers to invade our markets and endanger our constituents.

Our Nation, with the FDA, has the world's gold standard for ensuring the quality and safety of medicines used by consumers here in the United States and around the globe. Let us not undermine these high standards for consumer safety.

Mr. SANDERS. Mr. Chairman, I would once again ask unanimous consent to ask the chairman now just for 3 minutes on each side of additional time, because we have many speakers who feel strongly about this; and I am sure the gentleman does as well.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

Mr. LUCAS of Oklahoma. Objection, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Ms. KAPTUR. Mr. Chairman, I would inquire of the Chair, I stood up before to ask for additional time as the ranking member of the subcommittee and could not get additional time. I wish to personally speak in favor of the Sanders amendment. Do I understand the procedures here to disallow me, as ranking member, the highest member of my party on this committee, from being allowed to speak on behalf of this amendment? Is there no procedure available to me to use today because of this unrealistic time limitation?

The CHAIRMAN. The gentlewoman can seek unanimous consent. The time is controlled by prior agreement.

Ms. KAPTUR. So could I ask unanimous consent, could I plead with the chairman of our subcommittee, to give us 2 additional minutes on each side to fully debate, not even fully debate, to partially debate an amendment of this consequence that would allow the ranking member to at least offer an opinion in favor of this amendment?

☐ 1245

The vote last year was 363 to 12 in favor of the Crowley-Sanders amendment.

Mr. BONILLA. Mr. Chairman, would the Chair repeat the unanimous consent request.

The CHAIRMAN. The unanimous consent request is that each side would have 2 additional minutes for speakers controlled by the gentleman from

Vermont (Mr. SANDERS) and the gentleman from Texas (Mr. BONILLA).

Mr. BONILLA. Mr. Chairman, reserving my right to object, I do not object if the gentlewoman asks unanimous consent for 2 additional minutes to speak.

The CHAIRMAN. The unanimous consent request is that the gentlewoman from Ohio (Ms. KAPTUR) has 2 additional minutes to speak.

Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Sanders amendment. Again I repeat, last year the vote on this issue passed overwhelmingly 363 to 12 in this House. Indeed the House has spoken. Let no one confuse what the issues are. First of all, drugs are already being brought into this country. People from my district go up to Canada and buy prescription drugs all the time. That is true for people from San Diego going to Tijuana; or New York to Niagra Canada. In fact, most drugs sold here are manufactured in Puerto Rico anyway! They are not even made in the United States, and we require the FDA to inspect those laboratories. So we are not talking about anything different with this amendment. We are talking about expanding an existing system that works and provides the safest drug and food supply in the world.

Mr. Chairman, some of my colleagues came up here and said this amendment poses a threat to consumers. The only threat to consumers is that our seniors and others cannot afford to buy the drugs that they need to keep them alive; that is the threat out there! No industry, no industry in this country should be allowed to keep prescription drugs away from people to save their lives.

Someone else talked about the effect of this amendment reducing the gold standard of drug inpsection. In fact with this amendment, we want to apply the gold standard of inspection more broadly to make more medications available that are approved by the FDA.

Let me say that we even inspect meat plants and license meat plants all around the world when they ship products in here. We can certainly do that more comprehensively for prescription drugs.

Finally, let me end by stating that when we went to conference on this important item last year, we offered four amendments to deal with some of the important regulatory questions that were raised by the FDA. We were defeated on a totally partisan vote each time. I will say to the Republican Party in this institution, they caused this amendment to be unworkable. Give us the right with this amendment to fix the system as we tried last year when we went to conference and our four amendments were defeated.

Mr. Chairman, we want to provide the safest food and drug supply to the people of this country. Allow us to do that. Again, support the Sanders amendment.

Mr. BONILLA. Mr. Chairman, what is the remaining time for each side?

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) has 3 minutes remaining; and the gentleman from Vermont (Mr. SANDERS) has 3 minutes remaining.

Mr. BONILLA. Mr. Chairman, I reserve the balance of my time.

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, we have heard a lot from the other side of the aisle about the FDA is the gold standard. It is fool's gold. Guess what? U.S. drugs are manufactured mostly in Puerto Rico with major components imported from China and India with no mandatory testing. None.

This bill would impose mandatory testing, a whole new regime. The EU has been doing this for 25 years. What is the result, counterfeit drugs and people dying? No. The result is drugs are much cheaper in the European Union; and in Britain they are on average 36 percent cheaper, and there has not been a single incidence of all of these chimaeras that are raised.

What really happened was the pharmaceutical industry was caught napping last year. The seniors that I have seen divide their pills in half, against doctor's orders, and I have seen spouses that have to choose, one gets drugs and the other does not. We are doing nothing about that. We are supporting the profits of this industry. If the other side reverses their vote from last year, they will be held accountable by the tens of millions of Americans who cannot afford their pharmaceutical drugs. This is not about safety, it is about affordability, and it is about lives.

Mr. BONILLA. Mr. Chairman, we only have one remaining speaker, and we reserve the right to close.

Mr. Chairman, I reserve the balance of my time.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The jurisdiction of the Committee of the Whole to enlarge the time prescribed by the Order of the House depends on congruent division of the time. The gentleman from Texas (Mr. BONILLA), therefore, has 2 additional minutes as a consequence of the 2 additional minutes granted to the gentlewoman from Ohio (Ms. KAPTUR).

Mr. SANDERS. Mr. Chairman, I do not object; but my understanding of the unanimous consent that the gentleman from Texas (Mr. BONILLA) gave was to give Ms. KAPTUR 2 minutes.

Mr. Chairman, I ask unanimous consent for 2 additional minutes for both sides.

Mr. LUCAS of Oklahoma. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SANDERS. Mr. Chairman, I yield 45 seconds to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Chairman, this is really an unfortunate circumstance that we are being forced as citizens of our country to have to reimport drugs that are manufactured in our country under our country's supervision in FDA-approved laboratories, but in order to be able to get affordable prescription medicines to our citizens.

Our citizens are paying 33 to 50 percent higher for the same drugs. This is no different from some of our agriculture farmers who recognize the importation of products that are manufactured here but sold overseas cheaper. It is cheaper to bring it in than it is to pay for it at the same level in our own country, and we are being put through this process.

Mr. Chairman, this amendment will allow us to get those safe, FDA-approved, reviewed and supervised prescription drugs to our seniors that need them. Our State needs this relief now.

Mr. SANDERS. Mr. Chairman, I yield 45 seconds to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, it seems to me that the honest opponents of this bill are focusing on the trees and, therefore, cannot see the forest. The forest is that Americans pay exorbitantly high prices for pharmaceuticals. We subsidize the price of pharmaceuticals everywhere else in the world.

If we were running this place properly, we would have an honest debate on a pharmaceutical drug program under Medicare. We are not going to have that. We would have an honest debate about health insurance for all Americans. We are not going to have that.

Mr. Chairman, this is the only vehicle that we are permitted. If Members want to move us closer to honest prices for pharmaceuticals for senior citizens and everyone else in America, vote for this amendment.

The CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) has 30 seconds remaining; and the gentleman from Texas (Mr. BONILLA) has 5 minutes remaining.

Mr. SANDERS. Mr. Chairman, is the procedure that the gentleman from Texas has the right to close?

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA), as the chairman of the subcommittee, has the right to close.

Mr. SANDERS. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, it is a shame we have not had more time for this debate because our constituents do not have time to survive when they cannot afford prescription drugs because the drug companies are gouging consumers. Everyone in America knows this. It is time that this House takes a stand, as it did a year ago, to make sure that prescription drug prices are kept low. We have the ability to do that with the Sanders amendment, and we ought to vote to make sure that we hold the pharmaceutical companies accountable.

Mr. Chairman, it is time that we did that instead of the pharmaceutical companies reaching in and trying to control votes in this Congress. It is time we took a stand on behalf of senior citizens who are suffering because of the high cost of prescription drugs.

Mr. BONILLA. Mr. Chairman, I yield all remaining time to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Chairman, one of the former speakers complained about the scare tactics that have been used in discussions and debates on this bill. Let me assure Members, they need to be afraid of this amendment.

My mother, my 82-year-old mother, is a three-time cancer survivor and needs to be afraid of this amendment. This amendment effectively repeals an important consumer protection law designed to protect my mother and other consumers from bad drugs.

Mr. Chairman, the FDA was created not to protect pharmaceutical companies, whether they are here in the United States or foreign countries. The FDA was created to protect consumers like myself, my mother and everybody's mother from bad, illegal, counterfeit, dangerous drugs.

If Members do not believe there are people preparing those kinds of drugs and trying to send them to Members' mothers today, be afraid.

Let me read from testimony before the Committee on Energy and Commerce, Subcommittee on Oversight and Investigations hearing. This is about a U.S. Customs effort in Thailand called Operation Chokepoint. What they discovered in this kitchen cooking up drugs for America was 18.5 kilograms of powder steroids and Viagra. The processing took place on the counter of a filthy, vermin-infested kitchen and on the floor of a spare bedroom of the house. The tools and scales were never cleaned, and used for both steroids and Viagra. The British national who was running this operation had just been released from the hospital for hepatitis treatment, was still under medication, was processing and packaging these drugs with the assistance of a Thai female prostitute.

Mr. Chairman, the picture complained about is from Colombia. This is one of the kitchens in Colombia that is cooking up drugs for Members' mothers and mine, and importing them into the United States.

Mr. Chairman, the FDA was created and this important consumer protection law was created to protect our seniors and loved ones from this stuff. This amendment removes that protection.

I want to ask Members, in the interest of cheaper tires, are Members willing to repeal NHTSA, our Highway Safety Commission? Are Members willing to take away the consumer protections we have built around the law that says people cannot sell us tires that will blow up and flip our trucks over? In the interest of cheaper energy, are Members ready to repeal the EPA so anyone can do anything they want in this country to the environment?

Mr. Chairman, in the interest of cheaper toys and sleepwear, are Members ready to repeal the Consumer Products Safety Commission so our kids can have cheaper toys and sleepwear, but they might burn to death at night because sleepwear is flammable and nobody is looking after them?

Mr. Chairman, the FDA was created to protect us, not the companies; to protect my mom and other moms. When we passed this ban on reimportation, we did something very important. We said to our Secretary, unless we can satisfy that the drugs coming into this country are going to be safe, they are not going to kill my mother, they are not coming from these drug kitchens in Colombia and Thailand, unless the Secretary can satisfy us, keep the ban.

Do Members know what the Secretary said in the last administration? "I cannot tell you that we can satisfy you that without FDA approval these drugs are safe."

Yes, we all want cheaper drugs for our mothers and fathers; and yes, we are working on bills to do that. The administration is working on a project to provide discount cards to all seniors. Yes, we ought to be concerned about the high cost of those drugs, but are we going to trade drug safety for drug prices? Are we going to put everybody at risk for the sake of a cheaper drug?

I suggest to Members this is the wrong remedy for the problem. We can all agree that is a problem. We can all agree that there is something wrong about the way that drugs are priced in America, and we are working on something in the Subcommittee on Oversight and Investigations. We can all agree that the Medicare system ought to make drugs more affordable; and the copayment is too high when seniors need treatment for cancer therapy.

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But this is a wrong remedy. This lets these operations become legal. It takes away the enforcement arm of the Government designed to protect our seniors from this kind of an operation and says from now on, This is legal, this is okay. You can cook it up in a kitchen in Colombia, and you can cook it up in a kitchen in Thailand, using whatever systems you want, whatever unsanitary conditions you want; and you can ship it into America because we think cheaper drugs are so important, we do not care how unsafe they are.

Mr. Chairman, this Sanders amendment is dangerous. It needs to be defeated.

Mr. GARY G. MILLER of California. Mr. Chairman, I rise today to speak in opposition to the amendment offered by my colleague from Vermont, Mr. SANDERS.

In 1988, Congress passed legislation that banned the reimportation of prescription drugs because it recognized that there was a significant risk to the American people associated with counterfeit, adulterated or sub-potent medication.

In fact, recognizing the importance of quality prescription drugs, Congress required not only that all domestic distribution centers be licensed, but also that the FDA develop a stringent set of guidelines to regulate domestic prescription drugs.

These guidelines called for detailed recordkeeping, including guidelines which outlined very specific temperature and humidity control parameters.

The Sanders Amendment clearly contradicts the reasoning behind these efforts and would instead allow unrestricted reimportation of prescription drugs.

Moreover, the Sanders Amendment would delete the provision which Congress passed last year directing the Secretary of Health and Human Services to demonstrate that any cost-savings derived from reimported drugs be passed to the American consumer.

Last December, then-HHS Secretary Donna Shalala found she could not demonstrate that the reimportation law would not jeopardize patient safety, nor could she demonstrate that savings would be passed on to consumers.

Moreover, Mr. SANDERS' amendment would likely lead to an increase in the flow of counterfeit drugs into the U.S., which is already a growing problem the Government cannot control.

At a June 7, 2001 hearing, Ms. Elizabeth Durant, Executive Director of Trade Programs at the U.S. Customs Service, testified that "perhaps as much as 90 percent of the pharmaceuticals that enter the U.S. via the mail do so in a manner that violates FDA and/or DEA requirements. . . . To offer an example, one seizure included a 3,000-tab shipment of a counterfeit drug with an expiration date of 1980. . . . We have counterfeit drugs. We have gray-market drugs. We have prohibited drugs and we have unapproved drugs. The whole gamut of illegal substances pass through our mail facility at Dulles. And this is a situation that is pretty much replicated around the country."

While I am concerned about the rising cost of pharmaceuticals in the U.S., I am more concerned that Mr. SANDERS' amendment would compromise the health and safety of millions of Americans who count on the quality and purity of pharmaceuticals approved by the FDA to treat their illnesses. What we cannot afford to do is knowingly expose American consumers to drugs and pharmaceuticals that may jeopardize their health, and yet that is precisely what the Sanders amendment would do.

Again, I urge my colleagues to put the welfare of Americans first and vote against the Sanders amendment.

Ms. LEE of California. Mr. Chairman, I rise in strong support of the Sanders/Crowley/DeLauro prescription drug reimportation amendment to the Agriculture Appropriations bill. This amendment will lay the groundwork for lowering the cost of prescription drugs in the U.S. by 30 to 50 percent.

This amendment will allow prescription drug distributors and pharmacists to purchase FDA-approved prescription drugs from anywhere in the world at competitive and reasonable prices.

It is a shame that millions of Americans are not able to afford the outrageously high cost of prescription drugs in this country. Their quality of life continues to deteriorate while we continue to limit their access to basic health necessities.

Citizens of the United States pay the highest prices in the world for prescription drugs. Many of our constituents will travel to Mexico or Canada to buy the same drugs for a lesser value. In my district in California, the average prices that senior citizens must pay are 97% higher than the prices that Canadian consumers pay and 96 percent higher than the prices that Mexican consumers pay.

For every $1 spent in the United States for prescription drugs, those same drugs are purchased in Switzerland for .65, the United Kingdom for .64, France for .51, and Italy for .49.

Why should patients have to continually compromise their health while being forced to decide which prescription drugs to buy and which drugs not to take because they cannot afford to pay for all of them. These patients cannot afford to pay such burdensome costs.

These patients are forced to gamble with their health when they cannot afford to pay for the drugs needed to treat their conditions. Every day, these patients have to live with the fear of having to encounter major medial problems because they were denied access to prescription drugs they could not afford to pay out of their pocket. Often times, these individuals must choose between buying food or medicine. With outrageously high energy costs in California right now, some seniors and other Californians have to choose between paying their electric bill or their drug bills. This is wrong!

All Americans should be entitled to medical treatment at affordable prices. The Sanders/Crowley/DeLauro amendment will allow these patients to buy the prescription drugs needed to lead a healthy and productive life.

This amendment will break the monopoly the pharmaceutical industry now has over reimportation.

Let's stop gambling with the lives of our patients and support this reimportation amendment in order to cut these outrageous prescription drug prices. Americans deserve the right to lead healthy lives by purchasing prescription drugs at reasonable and competitive prices.

Mr. PAUL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Vermont. As I am sure I need not remind my colleagues, many Americans are concerned about the high prices of prescription drugs. The high prices of prescription drugs particularly effect low-income senior citizens since many seniors have a greater than-average need for prescription drugs. One of the reasons prescription drug prices are high is because of government policies which give a few powerful companies a monopoly position in the prescription drug market. One of the most egregious of those policies are those restricting the importation of quality pharmaceuticals. If members of Congress are serious about lowering prescription drug prices they should support this amendment.

As a representative of an area near the Texas-Mexican border I often hear from constituents angry that they cannot purchase inexpensive quality pharmaceuticals in their local drug store. Many of these constituents regularly travel to Mexico on their own in order to purchase pharmaceuticals. Mr. Chairman, where does the federal government get the Constitutional or moral right to tell my constituents they cannot have access to the pharmaceuticals of their choice?

Opponents of this amendment have been waging a hysterical campaign to convince members that this amendment will result in consumers purchasing unsafe products. I dispute this claim for several reasons. Unlike the opponents of this amendment I do not believe that consumers will purchase an inferior pharmaceutical simply to save money. Instead, consumers will carefully shop to make sure they are receiving the highest possible quality at the lowest possible price. In fact, the experience of my constituents who are currently traveling to Mexico to purchase prescription drugs shows that consumers are quite capable of ensuring they only purchase safe products without interference from Big Brother.

Furthermore, if the supporters of the status quo were truly concerned about promoting health, instead of protecting the special privileges of powerful companies, they would consider how our current policies endanger safety by artificially raising the cost of prescription drugs. Oftentimes lower income Americans will take less than the proper amount of a prescription medicine in order to save money or forgo other necessities, including food, in order to afford their medications.

Mr. Chairman, I urge my colleagues to show they are serious about lowering the prices of prescription drugs and that they trust the people to know what is in their best interest by voting for the Sanders amendment to the Agricultural Appropriations bill.

Mr. CROWLEY. Mr. Chairman, I move to strike the last word.

I rise in strong support of the Sanders/Crowley/DeLauro/Paul/Rohrabacher amendment.

This language offered today is the same as language I offered last year.

We again offer this amendment as a first start to provoke a discussion and get real reimportation legislation enacted into law.

This is the only way Democrats and Independents can get heard on this issue—the GOP controlled House authorizing committees are not doing their jobs.

All we have seen to date was a Commerce Committee hearing held earlier this month on the horrors of reimportation—and the arguments from that hearing have hardened my resolve in supporting reimportation.

Why?

In part because of the comments from that hearing, such as Chairman TAUZIN'S opening statement where he remarked on June 7, 2001:

> The problem of counterfeit drugs is not just a phenomenon of the developing world. Our lucrative market and ineffective import controls are increasingly making the United States an attractive target for drug counterfeiters and diverters. Last month, three counterfeit prescription drugs were found in the shelves of pharmacies of several states. It is not known whether these fake drugs were made in the United States or overseas. But such a cluster of counterfeits has not been seen for years in this country.

Yes, in fact, counterfeit drugs are making it onto our shores and the legislation that was enacted to stop it—the Prescription Drug Marketing Act (PDMA) enacted in 1987, which includes section 801(d)(1) that we are striking funding for today, has not been successful in protecting consumers.

It has been tremendously successful in protecting drug company profits though.

We, as Democrats, have been trying legislative remedy after legislative remedy to address the spiraling costs of medications—and each time the leaders of this Congress have rebuffed us.

The GOP passed a fake prescription drug benefit last Congress—so weak that 178 of their members later backed my amendment to Agricultural Appropriations last year making reimportation a better alternative to lowering drug prices then their Party Plan.

This year, Congress expressed a collective round of laughter at the Drug proposal advanced by this White House—representing one of the greatest feats of bi-partisanship in recent memory.

I recognize the safety concerns advanced by Commerce Chairman TAUZIN and Ranking Member DINGELL are legitimate and I greatly respect their diligence on this issue and their hard working in protecting American consumers—their motives cannot be questioned here.

But the current laws are not working, as we all readily admit.

Something new must be done.

We cannot protect people from medications by not allowing them to have any access to affordable drugs at all—and unfortunately that is more and more the case throughout the U.S.A.

I remember the thoughts of a local pharmacists who told me that American seniors pay the highest drug prices on Earth.

Some Members will oppose this amendment on fair grounds and for valid reasons—but we offer it as a starting point for discussion to get Congress to act and act this year to lower drug prices for Americans—especially our seniors.

Let me put this in perspective, I have a constituent in Long Island City, NY who must purchase 100 capsules of Prilosec every three months for his wife. He pays almost $400 for these drugs.

I have this letter from a gentleman who writes "Isn't that an outrageous price for a medication my wife will have to take on a regular basis".

Yes it is, sir.

Especially, in light of the fact that this same drug that costs $400 in Queens New York, would have cost him $107 in Mexico and $184 in Canada.

Price gouging is wrong and needs to be stopped.

Price gouging medications is illegal in Canada and Mexico, and—surprise—their drug prices are half the cost of what they are in the U.S.—even for the same drugs, with the same FDA-approved label.

This amendment this year will allow for reimportation of FDA-approved drugs and will serve as an important place marker for more comprehensive reimportation language to be included by the Democratically-controlled Senate.

Americans are turning more and more to giant super stores for their consumer needs—because they can get great bargains at places like WalMart—but they have no such large wholesaler to purchase their medications.

Something that is not a luxury but a necessity.

What upsets me most is that the drug companies get away with it—they give super discounts to seniors in every other country in the world, because they know those governments would never allow for price gouging of their elderly.

But knowing full well they can commit gouging in the U.S.—they mark up their products well beyond what any reasonable senior can afford.

This price gouging must stop.

We can no longer, in good conscience, as a nation allow our seniors to ration their medications, or have to choose between paying their rent and purchasing their drugs.

Representative SANDERS and I are offering this reimportation amendment as the first of a three pronged approach to helping America's seniors afford their medications.

Besides reimportation, we argue for the passage of the Prescription Drug Fairness for Seniors Act by Congressman TOM ALLEN of Maine.

And I hope that all of the sponsors of this amendment will join me in this fight—the goals are the same here—lowering drug prices and protecting American seniors.

This legislation would automatically lower the drug prices paid by American seniors by an average of 40 percent overnight at negligible cost to the Government by mandating that the drug manufacturers sell drugs to seniors at the same price they sell them for in the other six major industrialized nations.

These two approaches lead us to our final and long term goal—that of a prescription drug benefit under Medicare.

We cannot have millions of Americans go without their medications.

We need to pass real reimportation language this year—and begin to lower the skyrocketing costs of drugs for Americans.

Mr. DINGELL. Mr. Chairman, once again I find it necessary to oppose amendments to the Agriculture Appropriations bill designed to gut the protection the Prescription Drug Marketing Act (PDMA) affords all Americans. Once again we find ourselves debating ill-conceived efforts to convince our people, particularly the elderly, that a panacea for high drug prices can be found in re-imports of American manufactured prescription drugs.

Make no mistake—despite the good intentions of their proponents, nothing in these amendments will lower drug prices one dime for consumers. Nothing in these amendments will benefit any consumer, directly or indirectly. Instead, consumers will be put at risk, because drug re-importation would be a welcome mat for crooks and frauds.

Foreign wholesalers were cut out of the drug distribution system in 1987 because of the flood of contaminated, counterfeit, and mislabeled products. These shady characters have taken advantage of the appropriate public outrage over drug prices to encourage America to once again open its borders to these dangerous drugs.

Proponents of the amendments argue that if the drugs are made in America they must be safe. They are wrong. Our Committee's investigation in the middle 1980's showed that American packaging and labeling was duplicated perfectly by counterfeiters entering their product as re-imports. Unfortunately, they had not duplicated the FDA vigilance that Americans believe is attached to such packaging. Counterfeit after counterfeit was imported into the U.S. as "American Goods Returned" before the PDMA put an end to it. Ask the women who took the two million counterfeit birth control pills—in packaging that duplicated Searle's—just how good the crooks are at graphic design. The cycles, the boxes they came in, and the instructions that accompanied the pills were knocked off perfectly in Spain and in Guatemala. The Spanish product had so much excess hormone that it caused excessive bleeding. The Guatemalan product contained no active ingredient so it went undetected, except, of course, for the unwanted pregnancies that resulted.

I could go on with many more examples such as the perfectly packaged Naprosyn from Mexico that contained aspirin as the only active ingredient. That must have come as a shock (or worse) to those hypersensitive to aspirin. Even the non-counterfeit products were often so poorly stored that safety was frequently compromised.

Did these counterfeiters and diverters produce any savings to the American consumer? We looked in depth at this $500 million a year market and found no evidence that consumers saved so much as a penny. No compensation was provided to unsuspecting consumers for all the risks they unknowingly assumed.

We should be able to find a way to address effectively the problem of high priced drugs and to protect consumers from risky products. The amendments offered today do neither, and should be rejected.

Mrs. MALONEY of New York. Mr. Chairman, I come to the floor today in support of the Sanders/Crowley/DeLauro amendment.

Prescription drug costs are a life and death issue for thousands of Americans. Making these life saving and health sustaining drugs affordable for our citizens, and especially our seniors, is simply the right thing to do.

Just look at the cost of prescription drugs in my district. Last year, I conducted three different studies in New York City that showed rampant price discrimination against uninsured seniors by pharmaceutical companies. Beyond a shadow of a doubt, New Yorkers are being skewered by inflated drug prices.

For instance, Tamoxifen—which is sold under the brand name Nolvadex—is the most frequently prescribed breast cancer drug in this nation. It is used by thousands of women across this state and across the country to treat early and advanced breast cancer. In fact, in 1998, total sales of Tamoxifen were over $520 million.

Women in my district who need Tamoxifen must pay ten times what seniors in other countries pay. According to the study I conducted, a one month supply of Tamoxifen costs only nine dollars in Canada—yet it costs over one-hundred dollars in my district. That means that, over the course of a year, a woman in my district will pay roughly twelve-hundred dollars more than women in Canada.

That's a price differential of over one-thousand percent. This is a life-saving drug that thousands of women need to survive. Many women in New York are forced to dilute prescriptions they need to fight breast cancer—forced to cut their pills in half or in thirds—in order to get by financially. No doctor recommends this. No person deserves this.

All eight of the drugs I studied cost at least forty percent more in my district than they do abroad. The average price differential with Canada was 112 percent, and with Mexico it was 108 percent.

Prilosec, an ulcer medication and the U.S.'s top prescription drug in dollar sales in 1998, cost $49.80 for a one month supply in Canada, but cost $121.83 for a one month supply in my Congressional District, that's a 145 percent price differential.

Prescription drugs costs are too high for America's families and are now the largest out-of-pocket health care expense for America's seniors.

Congress recognized this crisis last year when both the House and Senate passed a drug reimportation bill by wide margins.

Once passed, however, significant flaws were detected in the details of the bill that jeopardized our ability to ensure lower prices and safe products for U.S. consumers through the new policy.

The bill before us today tries to get us back on track by more explicitly preserving the Food and Drug Administration's authority to ensure the safety and efficacy of a system to reimport prescription drugs.

I urge passage of this reimportation amendment which would allow U.S. pharmacists and prescription drug distributors to purchase and sell locally FDA-approved medicines purchased from abroad. This measure should lower the price of prescription drugs, perhaps as much as 50 percent.

I strongly support adoption of the Sanders/Crowley/DeLauro amendment.

Mr. BLUMENAUER. Mr. Chairman, today the House of Representatives is faced with an amendment, offered by Representative SANDERS of Vermont, which attempts to address the problem of high drug prices in the United States. Seniors in the United States pay the highest prices in the industrialized world for prescription medicines and are often the victims of discriminatory pricing. This amendment, however, seriously undermines the current system that protects U.S. consumers from reimporting potentially tainted drugs from abroad and this is why I play to vote against this measure. We will likely consider additional amendments to the Agriculture Appropriations bill today that attempt to accomplish similar goals, but unless they address the need for strong consumer protections, I also plan to vote against these amendments.

Prescription drugs are an increasingly vital part of health care and are the fastest growing component of health care expenditures. Spending on prescription drugs is expected to continue to rise. Seniors, who comprise only 13% of the total population, account for more than a third of the annual expenditure on prescription drugs. The average senior uses 18 prescriptions a year and these vital prescriptions are absolutely essential to their quality of life. The rising costs of pharmaceuticals, combined with the increasing reliance on drugs for medical treatments, have created a serious threat to the financial security of a particularly vulnerable population, seniors who are on fixed incomes.

We must provide relief to seniors in the United States. My concern though is that this amendment would eliminate our ability to ensure the integrity of drug products and could put American consumers, especially our seniors, in serious jeopardy. Counterfeit medicines have already infiltrated the U.S. market and we must make sure that any reimportation proposal addresses consumer safety and the need for thorough drug inspections. It does seniors no good to allow the importation of less costly prescription drugs if we cannot also ensure their safety and efficacy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BONILLA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Vermont (Mr. SANDERS) will be postponed.

AMENDMENT NO. 16 OFFERED BY MR. LUCAS OF OKLAHOMA

Mr. LUCAS of Oklahoma. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. LUCAS of Oklahoma:

Insert before the short title the following new section:

SEC. ____. The amounts otherwise provided by this Act are revised by increasing the total amount provided in title II under the heading "WATERSHED AND FLOOD PREVENTION OPERATIONS" (to be used to carry out section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), as added by section 313 of Public Law 106-472 (114 Stat. 2077)), and none of the funds made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who carry out the programs authorized by section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524) in excess of a total of $3,600,000 for all such programs for fiscal year 2002, by $5,400,000.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Oklahoma (Mr. LUCAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. LUCAS).

Mr. LUCAS of Oklahoma. Mr. Chairman, I yield myself such time as I may consume.

The amendment that I am offering today will provide $3 million to be used for the rehabilitation of aging watershed dams. Public Law 106-472 authorizes USDA to assist local communities with rehabilitation of their aging flood-control dams constructed with USDA assistance. The authorizing legislation, which I authored, received widespread bipartisan support in both the Committee on Agriculture and on the House floor.

Since the authorizing legislation was signed into law, NRCS has been flooded with requests from communities for assistance on rehabilitation for their aging dams. As of March of this year, 434 communities have requested rehabilitation assistance on more than 1,400 dams in 35 States. The cost to rehabilitate these dams is estimated to be in excess of $500 million.

In fact, nearly 10,500 small watershed dams have been built in the United States since 1944. Many of these dams, which were built and designed with a 50-year life span, will reach their life expectancy over the next few years.

These watershed projects are extremely important to our communities. They provide flood control, municipal water supply, recreation, soil erosion control, water quality improvement, wetland development, and wildlife habitat enhancement on more than 130 million acres in this Nation. These dams benefit thousands of people's lives every day.

In fact, the small watershed program has proven to be one of our Nation's most successful public-private partnerships. The program represents an $8.5 billion Federal investment and an estimated $6 billion local investment in the infrastructure of this Nation. These completed small watershed projects have provided $2.20 in benefits for every $1 of cost. Very few Government projects can make that claim.

We must continue to build on this program that our predecessors started 50 years ago. I hope that my colleagues will support this very important amendment to begin the process of rehabilitating these dams before we have a tragic dam failure.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent to claim the time in opposition notwithstanding my support of the amendment.

The CHAIRMAN. Without objection, the gentleman from Texas (Mr. BONILLA) is recognized for 5 minutes.

There was no objection.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the amendment offered by my friend the gentleman from Oklahoma. I want to commend him for the work that he and his staff have put into the amendment. This amendment makes additional funds available to the Watershed and Flood Prevention Operations account specifically for the small watershed rehabilitation program that passed this House last year. This is a good amendment, and I urge all Members to support the amendment.

In fact, I think the amendment is so good that I have not heard one word of opposition from anyone on this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. LUCAS of Oklahoma. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. LUCAS).

The amendment was agreed to.

AMENDMENTS NO. 17 AND 18 OFFERED BY MRS. MINK OF HAWAII

Mrs. MINK of Hawaii. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendment No. 17 offered by Mrs. MINK of Hawaii:

Insert before the short title at the end the following new section:

SEC. ____. Of the amount for the Department of Agriculture provided under the heading "AGRICULTURAL RESEARCH SERVICE"—"SALARIES AND EXPENSES" in title I, the Secretary of Agriculture shall provide $950,000, the same amount as was provided for fiscal year 2001, for the Hawaii Agriculture Research Center to maintain competitiveness and support the expansion of new crops and products.

Amendment No. 18 offered by Mrs. MINK of Hawaii:

Insert before the short title at the end the following new section:

SEC. ____. Of the amount for the Department of Agriculture provided under the heading "AGRICULTURAL RESEARCH SERVICE"—"SALARIES AND EXPENSES" in title I, the Secretary of Agriculture shall provide $1,603,000, the same amount as was provided for fiscal year 2001, for tropical aquaculture research for the Oceanic Institute of Hawaii for continuation of the comprehensive research program focused on feeds, nutrition, and global competitiveness of the United States aquaculture industry.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentlewoman from Hawaii

(Mrs. MINK) and a Member opposed each will control 5 minutes.

Mr. BONILLA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Texas reserves a point of order.

The Chair recognizes the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I yield myself such time as I may consume.

Both of these amendments go to the Agricultural Research Service. One has to do with the earmarking of $950,000 for the Hawaii Agricultural Research Center. The other is an earmark of $1,603,000 for the Oceanic Institute. Both of these programs are long existing and have been funded at this level in the past fiscal year. Both of these programs, the Oceanic Institute and the Hawaii Agricultural Research Center, are included in the President's budget.

I think that the importance of these two amendments is to recognize and to herald the tremendous contributions that these two centers have made, not only to Hawaii as a single State but to the entire United States and perhaps even globally with reference to the Oceanic Institute research.

The Hawaii Agricultural Research Center provides vital services to Hawaii's farmers, and particularly now with the loss of our sugar industry with only two plantations remaining, the existence of this center and its support is even more vital as the State struggles to find additional crops to grow on the vast acreages that are being fallowed as a result of the closure of the agricultural industry. We do have tremendous potential in coffee, tropical fruits, vegetables, macadamia nuts, and many other industries.

In respect to the Oceanic Institute, this program assists the expansion of aquaculture and feed manufacturing sectors and to develop new products, processes and markets for U.S. grains. The Oceanic Institute in Hawaii manages the program and is a world leader in feeds and nutrition technology with extensive experience in a variety of marine finfish.

Some of the program's research highlights in the past year have included the development of new feed formulations that enabled the production of market-size shrimp in only 8 weeks. The program has recently assumed a critical role in the development of a new technology package that offers the United States substantial worldwide competitive advantage in the domestic farming of marine shrimp.

It is because of the importance of both of these research centers that I rise today to ask this House to include specific designation of these two programs in allocation of funding for the overall Agricultural Research Service.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Texas insist on his point of order?

Mr. BONILLA. Mr. Chairman, it is my understanding that the gentlewoman is going to withdraw her amendments, but we are willing to work with the gentlewoman as we move toward conference on this issue. I know it is a very important issue to her.

Mrs. MINK of Hawaii. I thank the gentleman from Texas. It is very important that report language include these two projects. I am heartened to hear that the gentleman will work towards this effort when the matter goes to conference.

With that assurance, Mr. Chairman, I withdraw both my amendments.

The CHAIRMAN. Without objection, the two amendments are withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. GUTKNECHT

Mr. GUTKNECHT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GUTKNECHT:

At the end of title VII, insert after the last section (preceding any short title) the following section:

SEC. 7___. None of the amounts made available in this Act for the Food and Drug Administration may be used under section 801 of the Federal Food, Drug, and Cosmetic Act to prevent an individual who is not in the business of importing prescription drugs within the meaning of section 801(g) of such Act from importing a prescription drug that (1) appears to be FDA-approved; (2) does not appear to be a narcotic drug; and (3) appears to be manufactured, prepared, propagated, compounded, or processed in an establishment registered pursuant to section 510 of such Act.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Minnesota (Mr. GUTKNECHT) and the gentleman from Texas (Mr. BONILLA) each will control 15 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this debate is going to be very similar to the debate we had just a few minutes ago concerning the price of prescription drugs. I supported the Sanders amendment even though it was a bit broader than the amendment that I offer. I hope Members will take a few minutes to at least read the amendment that I am offering. Essentially what I am saying is, let us not stop law-abiding citizens from importing drugs from G–8 countries for personal use. The issue again is price. If Members do nothing else, please pay attention to this chart. Because at the end of the day, sooner or later we are all going to have to try at least to explain this, and there is no explanation.

Americans, it is a fact, it is a dirty little secret in three different ways, we are paying all the research cost for all the other countries in the world, and we are doing it in three ways: first of all in the prices that we pay for prescription drugs, as Members can see, anywhere from 30 to 70 to 80 percent more than other countries in Europe; secondly, we are paying for the research in the money that we put into the NIH and some of the other science programs here in the United States. It amounts to almost $14 billion a year that the taxpayers are subsidizing research; and, finally, we subsidize the research through the Tax Code. When the pharmaceutical industry says, well, we are spending billions of dollars on research, that is true. The last year that we have numbers for, they spent about $12 billion on research. But do understand they pay hefty taxes, and as a result they can write off all of that research and in some cases they even qualify for research and development tax credits. So the real net cost to the pharmaceutical industry is far lower than most people say.

What we are saying in this amendment is the game has to stop. We have been subsidizing Europe for a long time. It is time for us to stop subsidizing the starving Swiss.

My amendment is very simple. It simply says that an individual who is not in the business of reimporting drugs shall have the right to bring those drugs in either on their person or by mail from any of the G–8 countries. This does not even include Mexico.

We heard this big safety issue. We are going to talk a little bit about that. The truth of the matter is most of the safety issues that were talked about in the previous amendment exist today. We are not changing anything. We are not going to legalize illegal drugs. We are not going to tell people that they can bring in adulterated drugs. We are talking about law-abiding citizens that have a legal prescription that are bringing in FDA-approved drugs made in FDA-approved facilities.

We have a problem right now, as I mentioned earlier, in terms of contamination on all of the food and produce we bring in. Yet we do not hear this ballyhoo because there is not a company out there, there is not an industry out there like the pharmaceutical industry that stands to make billions of dollars.

Make no mistake, at the end of this debate, this is about money. I believe my simple little amendment that simply opens the door for personal importation could at the end of the day save American consumers upwards of $30 billion. Now, if Members wonder why individuals and groups have been spending millions of dollars over the last couple of weeks, it is about money.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, once again we have an effort here to solve one problem by creating another, and in fact it could create a series of additional problems. Let me just mention once again a few of the facts that have been stated clearly by the Food and Drug Administration. This presents a clear danger, a potential danger, a serious threat to consumers who could use drugs that are dangerous, that have not been stored under proper conditions, have not been manufactured properly, do not conform to the standards of drug manufacturing in our country. This is simply something that, as we have just heard in the debate in the last half-hour or so, would not be in the best interest of consumers.

We are all in agreement here on both sides of the political aisle that we want to do something about the high cost of drugs in this country, but we want to do it the right way and not add language on an appropriations bill that is not supported by anyone who has been working on this issue in a very serious and sincere way on the authorizing committee for many months now.

I rise in strong opposition to this amendment and would urge its defeat.

Mr. Chairman, I reserve the balance of my time.

□ 1315

Mr. GUTKNECHT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just bring to the attention of the body that last year a much broader amendment than the one that I am offering, that would have had blanket reimportation, passed this House by a vote of 363-to-12. So we are talking about a very targeted amendment to essentially reinforce what the Congress said last year on a bill that passed the House overwhelmingly, passed the Senate overwhelmingly, and was signed by the President. So we are not opening new ground.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Chairman, I thank the gentleman from Minnesota (Mr. GUTKNECHT) for once again bringing up a good, commonsense amendment to help seniors throughout this country, seniors in my district. My district in Florida, the median age is 47. My district has more Medicare recipients than any other district in the Nation, save one.

The seniors in my district worked hard their entire life and do not expect a free lunch from government. However, what I do hear from my seniors is the frustration about the disparity of prices here in the United States and overseas. I have hardworking and informed seniors who recognize that their heart medicine is 60 percent cheaper in Canada than in Florida. They do not know, and I cannot explain, why United States seniors, in the age of free trade and NAFTA, cannot take advantage of lower prices for products in another country.

Mr. Chairman, I am a free trader. I believe bringing the elements of free trade will solve many issues in America, whether it is the outrageous costs to consumers of the anti-free trade sugar program or whether it is a difference for seniors in drug prices across our border. Americans are free to buy pork chops, fruit, and other food from across the border. Why can we not do the same with FDA-approved drugs?

The amendment of the gentleman from Minnesota (Mr. GUTKNECHT) is carefully drafted to concentrate on personal use of FDA-approved products made in FDA-approved facilities. It allows Americans to have greater access to cheaper drugs. It is a commonsense measure that deserves everyone's support.

I fully recognize that this amendment alone will not solve the problem of high drug prices, and I oppose price controls on prescription drugs or other products. I have no interest in bashing the pharmaceutical industry because I recognize how important they are, especially for the future production of new drugs. However, I believe that this bill will introduce an additional source of needed supply to help lower prices. It is something that should be a starting point to allow the free market to work to the benefit of all seniors, and I urge a yes vote.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, it is with great respect that I rise in opposition to the amendment of my good friend, the gentleman from Minnesota (Mr. GUTKNECHT). I did support this last year. But since that time, as a Member of the Committee on Commerce, we have held numerous hearings on the safety of drugs and the possibility of reimporting these drugs; and I have seen very direct evidence that has caused my concern to change enough to oppose that amendment this year.

We have seen films of laboratories overseas that produce counterfeit drugs. We know that drugs are tampered with overseas. The effectiveness of it is sometimes wasted because of age. The FDA has no way to protect our American citizens from this type of action; and my concern is when it is all said and done, when somebody is actually hurt because of this or someone actually dies because the medicine is paint and not really medicine, what are we going to do about it? What is that consumer going to do? Who is that consumer going to seek redress from?

Surely they cannot expect the real drug company to stand up and stand behind their product. How are they going to get to Europe and who are they going to sue there? How are they going to find these people to be adequately and fairly compensated for these injuries and deaths that are surely going to come into this?

Because of this, I do have concern, even though as I said before I voted for this last year, and I would urge my colleagues to oppose this amendment this year.

Mr. GUTKNECHT. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Chairman, I rise in support of the Gutknecht amendment. Let me say as one of the Members of the subcommittee who tried to shepherd through last year's reimportation bill, I find it incredulous that every single person who has spoken today against the Sanders amendment or the Gutknecht amendment voted for both of them last time.

Now, of course, there was not a recorded vote on the amendment of the gentleman from Minnesota (Mr. GUTKNECHT) but there was the amendment of the gentleman from Vermont (Mr. SANDERS), or rather the amendment of the gentleman from New York (Mr. CROWLEY) which was identical to the amendment of the gentleman from Vermont (Mr. SANDERS), and every person who was in favor of it is opposed at this time and that is interesting, because I understand PHRMA, the trade association for the pharmaceutical companies, has spent millions of dollars this week advertising against this.

Needless to say, this is a very critical issue. I have constituents who have to go to Canada to get drugs for their children, one of whom has a very severe form of epilepsy. This woman is a single mom and not able to afford to buy this drug in the United States because in Canada, of course, it is only a third of what it costs here in the United States.

The Gutknecht amendment simply allows the reimportation of American-manufactured drugs, in approved, safe FDA facilities, to be brought back here without punishment. I think that it is very important in a nonelection year to be in favor of lower prescription drug costs.

I might also add that safety really is not an issue with regard to the Gutknecht amendment. And it preserves all of the FDA's legal duty to approve all imports. And under the current law, FDA's mandate is to stop drugs that appear to be unapproved; and nothing in the Gutknecht amendment changes that. So I would certainly urge all of those people who supported this and other bills last year to vote for it again this year.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. WAXMAN), the author of the Hatch-Waxman Act.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the Gutknecht amendment. I am opposed to it because the amendment is so vaguely drafted it can be interpreted as either ineffective or dangerous, but under no reading is it worth doing. I strongly agree with all of those who have argued that pharmaceutical prices are too high, and that drug companies discriminate against U.S. citizens in their pricing policies. I would urge the Committee on Commerce to take up legislation to right this wrong, but the Gutknecht amendment does not fix the problem.

My reading of the amendment is that a drug must be FDA approved to be allowed to be imported under this amendment. Since under the law a drug cannot be FDA approved unless it is accompanied by appropriate labeling and since virtually no foreign drug will have this labeling, I believe that few, if any, drugs will be allowed to be imported under this amendment.

There is a different reading of the amendment that it would allow importation if the basic chemical substance has been approved by the FDA. If this is the case, the amendment is dangerous because it would allow drugs to be brought in without allowing FDA to ensure that they are not adulterated not misbranded and are indeed the right dosages and strengths. Moreover, all the consumer labeling that we have worked so hard to assure will be missing.

Under this reading, once FDA approves a drug in theory it may not ensure that it is safe and effective in practice. So that is the choice. Is the amendment ineffective or bad? Either way, I oppose it and urge all of my colleagues to join me in asking that the House investigate the high cost of prescription drugs and the price discrimination that is practiced against Americans.

This amendment, while many see good in it, I see no redeeming value in it because it will either be ineffective or dangerous, and I urge opposition to it.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I thank the gentleman from Texas (Mr. BONILLA) for yielding me this time.

Mr. Chairman, on this amendment, with all due respect to the author of the amendment, it is a poorly drafted amendment. What it says is the FDA has to approve drugs if they appear to be FDA-approved drugs and do not appear to be a controlled substance and appears to be manufactured or processed in an establishment registered pursuant to section 501.

Well, look at these drugs we found in our investigation. Again, energy and commerce has done this investigation. This is Hong Kong, 1999, here is the counterfeit. Here is the genuine. It appears to be the same, even though they are not. Here is one from 1986, Great Britain. This is Zantac. Again, there is a counterfeit; and there is a genuine. Everything appears to be the same all the way down to the blister pack, all the writing, everything on here.

The Gutknecht amendment says this "all appears." I do not think we want "to appear" with the health and safety of our people. Where is the safety net for our senior citizens underneath this amendment? We cannot allow reimportation if it "appears" okay.

The FDA, the Customs do not have the resources to open up every one of these and make sure it is the real thing. We have had example after example given here under the Sanders amendment and now the Gutknecht amendment. Do not allow this amendment to go through because it appears that the senior citizen is going to be helped out, or the single mother, or whoever it may be. They cannot be distinguished.

To run the tests are $6,000 to $8,000 per test to determine if it is the genuine thing. There are letters in the offices of my colleagues from the U.S. Department of Justice. There are letters in the offices of my colleagues from the FDA asking us not to approve the Gutknecht amendment, not to approve the Sanders amendment; and I would submit both of these letters for the RECORD as they are both the FDA and the Department of Justice Drug Enforcement Administration opposition to these amendments.

DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, July 11, 2001.

Hon. W.J. TAUZIN, *Chairman,*
Hon. JOHN D. DINGELL, *Ranking Member,*
Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN AND RANKING MEMBER DINGELL: Thank you for asking the Drug Enforcement Administration (DEA) to comment on two certain proposed amendments to H.R. 2330. In furtherance of the efforts of the Energy and Commerce Committee, the DEA is pleased to address the importation of drugs in the United States and submits the following comments on the proposed amendments. These proposed amendments would prohibit the Food and Drug Administration (FDA) from using any of its funds received under the Agriculture Appropriations Act to enforce certain provisions of the Federal Food, Drug, and Cosmetic Act (FDCA) that pertain to the importation of prescription drugs. We oppose both of these proposed amendments because they would hinder the ability of federal law enforcement officials to ensure that drugs are imported into the United States in compliance with long-standing federal laws designed to protect the public health and safety.

One of the proposed amendments would prohibit the FDA from using any of its appropriated funds to prevent a person "who is not in the business of importing prescription drugs" from importing from certain specified countries "FDA-approved" prescription drugs that are not controlled substances. This proposal would be in conflict with the Controlled Substances Act (CSA), which is DEA's governing statute. The basic foundation of the CSA is the "closed" system of distribution of controlled substances, under which all persons in the legitimate distribution chain (manufacturers, wholesalers, and retailers) must be registered with DEA and maintain strict accounting for all transactions. This regulatory scheme, administered by DEA, is designed to prevent diversion of controlled substances into illicit channels. However, DEA can maintain no control over the distribution chain and prevent diversion where American consumers purchase their drugs abroad. Somewhat similarly, the law that the FDA administers (the FDCA), cannot be effectuated where American consumers purchase their drugs abroad. Among the ways that the FDCA protects the American public is by requiring good manufacturing practices, proper labeling, and safe handling to prevent adulteration. There is no way to ensure such protections to American consumers if they are allowed to purchase drugs from foreign sellers without FDA oversight.

We recognize that the proposed amendment states that it does not apply to controlled substances. However, despite this wording, the proposed amendment would provide a potential loophole that could be exploited by traffickers in controlled substances. Every day, prescription drugs, including controlled substances, are illegally shipped into the United States by mail or private carrier. Those who ship controlled substances in this fashion do not label their packages as containing controlled substances. Under the proposed amendment, drug traffickers could send shipments of controlled substances into the United States marked "FDA-approved noncontrolled substance" and the FDA would be powerless to take any investigative steps or to assist the United States Customs Service (USCS) or DEA in intercepting these illegal shipments.

An additional concern with the proposal is the use of the phrase "an individual who is not in the business of importing prescription drugs." This terminology is vague, impractical, and inconsistent with that use historically in American drug laws. The FDCA and the CSA have always used the concept of "registration." Under the FDCA, only those manufacturers registered with the FDA may import prescription drugs. Under the CSA, persons must be registered with DEA to import controlled substances.[1] Moreover, it would be an undue burden on law enforcement (and a benefit to traffickers) to require the government to prove that someone is "in the business of importing prescription drugs" before even commencing an investigation. Many unscrupulous persons would simply claim they are "not in the business of importing prescription drugs" in order to stifle investigation of potential criminal activity.

As with the proposed amendment described above, another proposal would likely be exploited by drug traffickers. This proposal would prevent the FDA from enforcing section 801(d)(1) of the FDCA (21 USC 381(d)(1)), which prohibits the reimportation into the United States of prescription drugs, except by the manufacturer of the drug. Under this proposal, a drug trafficker could stymie legitimate efforts by the FDA to assist in preventing illegal drug shipments into the United States simply by attaching a deceptive label to the shipment (e.g., by labeling a shipment of controlled substances as containing "FDA-approved, reimported prescription drugs").

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[1] The CSA makes an allowance for individuals to import and export small amounts of controlled substances that are medically necessary while traveling to and from the United States—but only for the legitimate personal medical use of the traveler and in strict compliance with DEA regulations; not by mail or private carrier. 21 USC 956(a); 21 CFR 1301.26.

DEA, FDA and the USCS are currently facing enforcement challenges on many fronts with respect to prescription drug importation and smuggling. Information obtained from the USCS indicates that there is an increased volume of prescription drugs being imported through the mail as a result of the Internet. Although the CSA clearly prohibits importation of controlled substances in this manner, the FDA and USCS must inspect each package to ascertain the contents. Identifying a drug by its appearance and labeling is not an easy task. From a practical standpoint, inspectors cannot examine drug products and accurately determine the identity of such drugs or the degree of risk they pose to the individual who will use them. This is particularly true since these drugs are often intentionally mislabeled. Shipments from countries identified in the section 804(f) of the FDCA have been the source of a large amount of controlled substances that have been illegally imported. Additionally, the USCS inspectors on the southern and northern borders must determine whether each traveler entering the United States with a drug is complying with the FDCA and the CSA. By preventing the FDA from enforcing certain provisions of the FDCA regarding the importation of drugs, these amendments could be a windfall for criminals, giving them a new way to hide their activities behind a new restriction on law enforcement.

For these reasons, we respectfully oppose the foregoing amendments to H.R. 2330. Thank you for your attention to this mater. If we may be of additional assistance, we trust that you will not hesitate to call upon us.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

WILLIAM B. SIMPKINS,
Acting Administrator.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, PUBLIC HEALTH SERVICE, FOOD AND DRUG ADMINISTRATION,
Rockville, MD, July 10, 2001.

Hon. W.J. "BILLY" TAUZIN,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.
Hon. JOHN DINGELL,
Ranking Minority Member, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN AND MR. DINGELL: Thank you for your continued interest in the safety of medicines available in the United States. This is in response to your letter of July 5, 2001, regarding Representative Gil Gutknecht's proposed amendment to the FY 2002 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriation bill, and in follow-up to questions raised by Committee staff.

As you know, the amendment offered by Mr. Gutknecht would prohibit the Food and Drug Administration (FDA or the Agency) from using appropriated funds to enforce section 801 of the Federal Food, Drug, Cosmetic (FD&C) Act to prevent an individual from importing for personal use a non-controlled substance, prescription drug that is approved by FDA and offered for import from a country referred to in section 804(f) of the FD&C Act.

Your questions are restated, followed by the Agency's response.

1. Section 801 of the FFDCA requires the FDA to take certain actions when the drug presented for import "appears from the examination of such samples" to be manufactured in insanitary conditions or adulterated or misbranded, among other things. The Gutknecht Amendment, however, requires the FDA to make a determination about whether "a prescription drug [has been] approved by such Administration" when presented for import. Isn't it true under present law FDA is not required to determine whether or not a drug is approved prior to import, and that the Gutknecht Amendment imposes a higher standard on the Agency? If so, what mechanisms would FDA have to implement to determine whether a drug is FDA-approved when presented for importation?

Yes, the Gutknecht Amendment does create new substantial duties for the Agency:

1. It requires FDA to first determine whether or not an imported drug is approved before the Agency can take action against the drug; and,

2. It dramatically increases the burden of proof the Agency must meet in deciding whether to refuse the importation for personal use.

Prescription drugs imported for personal use are rarely, if ever, accompanied by data from the manufacturer that is sufficient to establish—with certainty—whether the drug was in fact produced at a facility holding a valid FDA approval under the conditions and labeling requirements specified in that approval. An Agency official may be able to visually identify the drug and determine whether the drug "appears" to be approved under current law. However, meeting the standard of certainty required by the amendment—that is, determining whether the drug is, or is not, approved—would require the Agency to compile evidence and make judgments and determinations far beyond that required under current law.

To compile such evidence, FDA could perform laboratory analyses on random samples from each shipment, a process that is time-consuming, resource-intensive, and expensive. Depending on the nature of the drug and the dosage form, we estimate a single test can cost between $6,000 and $15,000. This would, at best, serve to determine whether the drug is the drug identified in its labeling and is composed of the FDA-approved formulation. However, first, FDA would have to develop such testing methodologies, and substantially increase Agency laboratory capability to handle the anticipated influx of products needing to be validated. FDA would also have to determine if that drug is made in a facility registered with FDA.

Another potential method to determine identity is to try to trace the product back to the manufacturer. However, FDA lacks oversight of foreign wholesalers and pharmacists. A trace back may be feasible if the imported product is labeled with a lot number, which can be traced back to the manufacturer, although, without laboratory testing, it is possible that the drug and its labeling are counterfeits. However, small shipments of medications for personal use usually do not provide the lot number and may be composed of medications from multiple lots.

If enacted, the Gutknecht amendment would, in many instances, make it virtually impossible for FDA to stop the personal importation of adulterated or misbranded drugs from the identified countries that pose public health risks because of the insurmountable burden on the Agency to first demonstrate that these drugs are not approved products.

2. The Gutknecht Amendment would also require the FDA to determine from what country a prescription drug is being imported. Does the FDA presently have the duty to make such a determination?

No, currently FDA does not have the responsibility to determine the country from which a product is being imported. This would be a new duty for FDA. In addition, the amendment could be construed to allow the importation of approved drugs stored or handled in countries not listed in section 804(f) of the FD&C Act as long as the final country from which the drugs are shipped is listed in 804(f). For example, FDA and the U.S. Customs Service conducted a pilot study earlier this year at the Carson international mail facility in California. FDA identified a large volume of imported drugs originating in Vanuatu, a country not listed in 804(f), but transshipped through New Zealand, a country that is listed in 804(f). Many countries, even some of those listed in 804(f), lack adequate controls on transshipment. This amendment would seriously impair FDA's ability to ensure that such drugs are not subpotent, counterfeit, contaminated, or otherwise a threat to public health and safety.

3. Section 801(g)(1)(A)(i) prohibits the FDA from sending "warning letters" to individuals who are not in the business of importing prescription drugs, unless the Secretary makes a determination that "importation is in violation of section 801(a) because the drug is or appears to be adulterated, misbranded, or in violation of section 595[.]" The Gutknecht Amendment would allow individuals not in the business of importing prescription drugs to import prescription drugs if the drugs are FDA-approved. If the Gutknecht provision were to pass, the FDA's inquiry would be whether the drug is approved, not whether it is misbranded or adulterated. Could the FDA still send warning letters to individuals not in the business of importing prescription drugs if the prescription drugs appeared to be adulterated and/or misbranded?

If the drug is FDA-approved and imported from a country referred to in 804(f) of the FD&C Act, under this amendment, FDA could not issue such a notice as the first step in preventing the importation even if the product is adulterated or misbranded. Only if FDA first determines that the drug is either not approved or is approved but not imported from a country referred to in section 804(f) and, is adulterated or misbranded, may FDA send such a notice to the importing individual if he or she is not in the business of importing prescription drugs.

As you know, under current law, FDA can send a warning notice if it first makes a determination that the imported drug appears to be adulterated, misbranded, or it is not approved by FDA, or is in violation of other provisions of section 801. Under the amendment, FDA must determine if the drug is or is not FDA-approved and from what country the drug is imported, even if, it also determines that the product is adulterated or misbranded.

Thank you again for your interest in this issue. Please let us know if you have further questions.

Sincerely,

WILLIAM K. HUBBARD,
Senior Associate Commissioner for Policy, Planning, and Legislation.

Let us not be fooled by the real thing. Let us make sure it is the real thing and not a counterfeit. Reject this amendment.

Mr. GUTKNECHT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in terms of those pictures, I just want to point out that those happened years ago and are not happening now. Most importantly, I believe I am correct, those drugs were actually purchased on shelves in the United States. These are not drugs being brought in by Americans going to other places.

Mr. Chairman, I yield 1 minute to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I thank the gentleman from Minnesota (Mr. GUTKNECHT) for yielding me the time.

Mr. Chairman, whether the idea comes from a Republican or an Independent or a Democrat, who is trying to lower the outrageously high cost of prescription drugs in this country, there goes the pharmaceutical industry again, which has spent $200 million in the last 3 years to make sure that women in this country who have breast cancer have to pay ten times more for Tamoxifen than they do in Canada. The gentleman from Minnesota (Mr. GUTKNECHT) has a good idea. It will save substantial sums of money for millions of Americans.

I should point out, by the way, that the concept of reimportation that we are talking about today has been in existence for 25 years in Europe; and I do not know of one problem that has existed there. Let us stand up today to the pharmaceutical industry. Let us support this amendment. Let us support my amendment. Let us represent the people back home rather than the big money interests who would defeat both of these amendments.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Chairman, let me just say that the women of this country who have breast cancer desperately want Tamoxifen but they do not want counterfeit Tamoxifen, and that is the problem with some of these amendments. There are a number of problems with this amendment, and that is why I rise in opposition to it.

First of all, the terms of this amendment are vague; and it is not even clear how it is intended to function. For example, the amendment only applies to an individual who is not in the business of importing prescription drugs. Who is this person, and what business is this person in?

The key question is: Why does one want to give a person not in the drug-import business free rein to import drugs?

Secondly, the amendment makes a number of references to the requirement that these incoming drugs appear to not violate certain FDA rules and are not controlled substances. The problem with this approach is one cannot tell whether or not they are, in fact, safe drugs. On the Committee on Energy and Commerce, we saw some drugs that looked perfectly fine and they were made out of yellow paint. So one cannot tell upon inspection whether or not they are a controlled substance or whether or not they are legitimate.

Third and most importantly, this amendment directly affects section 801 of the Food, Drug and Cosmetic Act. This section is the safety section which provides the U.S. Customs Service and FDA the ability to process and examine foreign shipments of drugs to prevent potentially tainted, adulterated, or counterfeit drugs from being delivered to unsuspecting customers.

□ 1330

Defunding, or doing anything to undermine this section, will obviously lead to serious problems.

I would suggest, Mr. Chairman, if this amendment passes, this will not do anything to help legitimate cheaper drugs coming into this country, and instead what we should probably do is hammer signs into the ground at the borders announcing, welcome to the U.S., drug counterfeiters and criminals. You are welcome here in the land of opportunity.

Mr. GUTKNECHT. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I stand in support of the Gutknecht amendment, and I think there are two reasons we should focus on this. Number one is cost, and number two is safety.

I have to ask Members, 435 Members, how many have heard the story from a senior citizen about someone in El Paso, Texas, or Detroit, Michigan, or some other border city, who has to take Lipitor or some other prescription drug on a regular basis, and they go to the neighborhood pharmacy and it is $60; but they can go over the border and get the exact same drug made by the exact same American pharmaceutical company, exact same dosage, same box, for $20?

Now, we all, if we have been doing our homework on prescription drugs, have heard that story. And that is what we are talking about. We are talking about letting our constituents, not just seniors, but young mothers and families, save lots of money.

Just listen again to the differences in these prices. Allegra, in U.S. dollars, $69; in Europe, $20. Lipitor, in America, $52; in Europe, $41. Premarin, $17 in America; $9.90 in Europe. Prozac, $71 in America; $44 in Europe.

These are real dollars. This is not just like the difference in gasoline, as you drive from town to town and State to State.

But we have to ask ourselves, if we allow more competition, will it not bring down the prices? Certainly it will. Do our constituents deserve this? Absolutely they do.

I want to also talk about safety, because is it safe not to take your Lipitor, is it safe not to take your Prozac, is it safe to not take your Zyrtec? This is the issue that seniors and everyday Americans are faced with, not taking their drugs because it is too expensive to.

We appropriated $23 million to the FDA. We are not bypassing them. We are saying control this, but let us give American consumers the savings.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I would confess that the Gutknecht amendment sounds good on the surface, but when you begin to scratch that surface, it is not so good. In fact, as some have suggested this afternoon, it is outright dangerous. Americans want a standard of excellence, and this amendment, at least the way it is worded, simply does not work.

Under present law, the FDA can stop drugs at the border if they appear to not be approved. That is sensible. If something looks bad, it certainly should not be allowed into this country. But under this amendment, it says that the FDA cannot stop a drug if it appears to be in compliance, even if it is not approved.

The FDA simply does not have the resources or the manpower to enforce an amendment of this magnitude, and as my colleague from Michigan (Mr. STUPAK) suggested a little bit earlier, this amendment could actually legitimize counterfeiting of drugs.

I would urge my colleagues to vote no on this amendment.

Mr. GUTKNECHT. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I rise in support of the Gutknecht amendment. I practiced medicine for 15 years, internal medicine. I treated diabetes, heart disease. I wrote a lot of prescriptions, 100 to 200 prescriptions a day.

Most of the criticisms that have been raised by this amendment I think can be worked through and solved. What this really boils down to is there are millions of senior citizens in the United States who cannot afford their prescription drugs, and, for many of them, going to Canada or doing a mail order arrangement is a very nice solution to the cost problems.

To say that this is so dangerous, to me, I think, is a little bit of a red herring. In terms of the appearance language, as I understand it, that is the standard in the law as it currently exists. The gentleman from Minnesota (Mr. GUTKNECHT) was just following the current standard in the law.

This amendment will help a lot of people. The majority of seniors have a prescription plan that is paid for by their previous employer, so this is not going to affect them. But, for those in need, and I used to take care of those people, this can be very, very helpful.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, we all want to do whatever we can do to lower the prescription drug costs for patients, and the sponsors of this amendment obviously intend to do just that. My friend the gentleman from Minnesota (Mr. GUTKNECHT), that is what he is after. But there is more to this than just lowering the cost. The corresponding cost to public safety under this amendment is simply unacceptable.

Under this amendment, overseas scam artists can counterfeit a label, claiming their product is a brand name, and we ban the FDA from even investigating? Would you vote to ban the FDA from investigating medications prescribed in this country? Even when they suspect exactly what is happening, the FDA is banned from investigating.

Mr. Chairman, I, too, wrote a lot of prescriptions as a practicing dentist for 25 years before I came here. I can tell you, America's health providers must know beyond any doubt that the medicines that they give their patients are what they say on the label.

Now, I know that some medications can come in, and it does save some people some money. But I do not want it imported through the port of Savannah to be spread out through my State, not knowing what is in that medicine.

Mr. GUTKNECHT. Mr. Chairman, I yield 1 minute to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Chairman, I would like to thank the gentleman for introducing this amendment today, which is similar to his amendment which was passed with broad support last year during the consideration of the agriculture appropriations bill.

Living in a border State, many of my constituents are burdened with large prescription bills and travel to Canada to purchase their medication. This is a hard trip for these people who are driven to such an extreme because of the high cost of prescription drugs in this country.

Most of my constituents who board buses to Canada are elderly and in need of medication to manage chronic conditions. They rely on these medications to keep them out of costly and unnecessary hospital care. This amendment enables Americans to obtain their medications from Canada through personal reimportation.

We must ensure that all of our constituents have access to these more affordable prescription drugs. Certainly reimportation is not a panacea, it is not the answer to this problem in itself, but it is a step, and it is a step, an important step, in the right direction, and important to the constituents that we represent.

Mr. Chairman, I urge my colleagues to support the Gutknecht amendment.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, there are some concerns that have been raised here by the DEA. They sent a letter to the gentleman from Louisiana (Chairman TAUZIN) and the ranking member, the gentleman from Michigan (Mr. DINGELL), dated July 11, 2001, which I will refer to and have placed in the record. When you look at the actual language, two of the concerns that they raise in the debate here today is this issue of appearance.

Under the present law, the FDA can stop drugs at the border if they appear not to be approved. That is sensible and workable. But the new Gutknecht amendment shifts the burden. The Gutknecht amendment says the FDA cannot stop a drug if it appears to be in compliance. If it appears to be in compliance.

Then it goes even one step further. It says you cannot prevent an individual who is not in the business of importing a prescription drug. This is going to be a safe haven for defense lawyers. They are going to love this. They are going to attack a lot of cases.

Let me refer here to the DEA. DEA says, you know, this will create an undue burden on law enforcement to require the government to prove that someone is in the business of importing prescription drugs before even commencing an investigation. Many unscrupulous persons will simply claim they are "not in the business of importing prescription drugs" in order to stifle investigations of potential criminal activity.

Mr. Chairman, we try to create laws with the best of intentions, and we create loopholes in the process, because sometimes there are things that get beyond us. The last thing we want to do is to send a signal to the international drug cartels, stop hiding your cocaine and your heroin. I tell you what, just put it in the form of an aspirin, label it, and it will come into the country. That is the wrong thing that we do not want to do.

I think this is a well-intentioned amendment, but completely misguided. Please vote against the Gutknecht amendment.

Mr. Chairman, I include for the RECORD the letter from the Drug Enforcement Administration to the chairman and ranking member of the Committee on Energy and Commerce.

DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, July 11, 2001.

Hon. W.J. TAUZIN, *Chairman,*
Hon. JOHN D. DINGELL, *Ranking Member,*
Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN AND RANKING MEMBER DINGELL: Thank you for asking the Drug Enforcement Administration (DEA) to comment on two certain proposed amendments to H.R. 2330. In furtherance of the efforts of the Energy and Commerce Committee, the DEA is pleased to address the importation of drugs in the United States and submits the following comments on the proposed amendments. These proposed amendments would prohibit the Food and Drug Administration (FDA) from using any of its funds received under the Agriculture Appropriations Act to enforce certain provisions of the Federal Food, Drug, and Cosmetic Act (FDCA) that pertain to the importation of prescription drugs. We oppose both of these proposed amendments because they would hinder the ability of federal law enforcement officials to ensure that drugs are imported into the United States in compliance with long-standing federal laws designed to protect the public health and safety.

One of the proposed amendments would prohibit the FDA from using any of its appropriated funds to prevent a person "who is not in the business of importing prescription drugs" from importing from certain specified countries "FDA-approved" prescription drugs that are not controlled substances. This proposal would be in conflict with the Controlled Substances Act (CSA), which is DEA's governing statute. The basic foundation of the CSA is the "closed" system of distribution of controlled substances, under which all persons in the legitimate distribution chain (manufacturers, wholesalers, and retailers) must be registered with DEA and maintain strict accounting for all transactions. This regulatory scheme, administered by DEA, is designed to prevent diversion of controlled substances into illicit channels. However, DEA can maintain no control over the distribution chain and prevent diversion where American consumers purchase their drugs abroad. Somewhat similarly, the law that the FDA administers (the FDCA), cannot be effectuated where American consumers purchase their drugs abroad. Among the ways that the FDCA protects the American public is by requiring good manufacturing practices, proper labeling, and safe handling to prevent adulteration. There is no way to ensure such protections to American consumers if they are allowed to purchase drugs from foreign sellers without FDA oversight.

We recognize that the proposed amendment states that it does not apply to controlled substances. However, despite this wording, the proposed amendment would provide a potential loophole that could be exploited by traffickers in controlled substances. Every day, prescription drugs, including controlled substances, are illegally shipped into the United States by mail or private carrier. Those who ship controlled substances in this fashion do not label their packages as containing controlled substances. Under the proposed amendment, drug traffickers could send shipments of controlled substances into the United States marked "FDA-approved noncontrolled substance" and the FDA would be powerless to take any investigative steps or to assist the United States Customs Service (USCS) or DEA in intercepting these illegal shipments.

An additional concern with the proposal is the use of the phrase "an individual who is not in the business of importing prescription drugs." This terminology is vague, impractical, and inconsistent with that used historically in American drug laws. The FDCA and the CSA have always used the concept of "registration." Under the FDCA, only those manufacturers registered with the FDA may import prescription drugs. Under the CSA, persons must be registered with DEA to import controlled substances. Moreover, it would be an undue burden on law enforcement (and a benefit to traffickers) to require the government to prove that someone is "in the business of importing prescription drugs" before even commencing an investigation. Many unscrupulous persons would simply claim they are "not in the business of importing prescription drugs" in order to stifle investigation of potential criminal activity.

As with the proposed amendment described above, another proposal would likely be exploited by drug traffickers. This proposal would prevent the FDA from enforcing section 801(d)(1) of the FDCA (21 USC 381(d)(1)), which prohibits the reimportation into the United States of prescription drugs, except by the manufacturer of the drug. Under this proposal, a drug trafficker could stymie legitimate efforts by the FDA to assist in preventing illegal drug shipments into the United States simply by attaching a deceptive label to the shipment (e.g., by labeling a shipment of controlled substances as containing "FDA-approved, reimported prescription drugs").

DEA, FDA and the USCS are currently facing enforcement challenges on many fronts with respect to prescription drug importation and smuggling. Information obtained from the USCS indicates that there is an increased volume of prescription drugs being imported through the mail as a result of the Internet. Although the CSA clearly prohibits importation of controlled substances in this manner, the FDA and USCS must inspect each package to ascertain the contents. Identifying a drug by its appearance and labeling is not an easy task. From a practical standpoint, inspectors cannot examine drug products and accurately determine the identity of such drugs or the degree of risk they pose to the individual who will use them. This is particularly true since these drugs are often intentionally mislabeled. Shipments from countries identified in the section 804(f) of the FDCA have been the source of a large amount of controlled substances that have been illegally imported. Additionally, the USCS inspectors on the southern and northern borders must determine whether each traveler entering the United States with a drug is complying with the FDCA and the CSA. By preventing the FDA from enforcing certain provisions of the FDCA regarding the importation of drugs, these amendments could be a windfall for criminals, giving them a new way to hide their activities behind a new restriction on law enforcement.

For these reasons, we respectfully oppose the foregoing amendments to H.R. 2330. Thank you for your attention to this matter. If we may be of additional assistance, we trust that you will not hesitate to call upon us.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

William B. Simpkins,
Acting Administrator.

Mr. GUTKNECHT. Mr. Chairman, I yield myself the balance of my time.

First of all, I just want to make it clear to all Members the word "appears" is what is in the statute today. We are using exactly the same standard. If Members would like a copy, we certainly can get it to you.

Ultimately, it comes down, as I said earlier, to this chart. Now, if Members can explain this chart, if they can defend this chart to their constituents, then go ahead and vote against my amendment.

It is a very simple amendment. Earlier today we had a special guest who came and spoke to the Republican Conference, all the way up from Pennsylvania Avenue. I took some notes, and here are some of the things that he said. We all ought to pay attention. He said all wisdom does not reside here in Washington. We trust the people.

Do we really? Do we trust the people to make decisions about their own health care?

It is important to do what is right for the American people, he said. This is not a world of the perfect, he said.

Finally, he said, and I quote, "We have to be a Nation of free trade."

Mr. Chairman, if we believe in free trade, if we believe in empowering the American people, should they not have a right to be able to import legal, FDA-approved drugs from G–8 countries?

This amendment does not even include Mexico. It does not include narcotics. My amendment does not include codeine. This is a very simple, small amendment to say to the FDA, stop pestering law-abiding citizens. Stop pestering those senior citizens who are trying to save $37 on their Coumadin. That is ridiculous, it is indefensible, and this Congress ought to stop it.

We are going to either stand today for free trade in America for consumers, we are going to stand for our senior citizens who are being gouged by the big pharmaceutical companies, or we are not, and we are going to have to make that choice, and every one of us is going to have to defend that vote. There are many votes we are going to take in the next year, and many of them we are not going to hear about again. But, I guarantee, this is one we are going to hear about, because we are going to be asked by our senior citizens, who did you vote with? When you had the chance to decide, were you with them, or were you with us?

This is a simple amendment that says law-abiding citizens should have access to legal FDA-approved drugs from FDA-approved facilities, and it excludes narcotics. How simple is that?

Now, last year a similar amendment passed this House, a much broader amendment, passed with over 370 votes.

This is a time for choosing. Do we believe in free trade? Do we believe in competition? Do we believe that free trade is only about helping the big corporations, or is it about helping our consumers?

We have a chance to make a very clear message to the FDA, to the bureaucracy, that they work for us, not the other way around.

Mr. BONILLA. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would like to clarify that the Bush administration has sent us a letter clearly opposing any amendment such as being offered now that could result in unsafe, unapproved or counterfeit drugs.

Mr. Chairman, I yield the balance of my time to the gentleman from North Carolina (Mr. Burr).

The CHAIRMAN. The gentleman from North Carolina is recognized for 2 minutes, 45 seconds.

Mr. BURR of North Carolina. Mr. Chairman, this is not about "them or us." This is not a fight between Americans about what our policy is going to be. This is a question of whether we are going to keep the promise to all Americans to protect the gold standard of the pharmaceutical inventory in this country.

We currently through the FDA have compassionate use exceptions. We have the ability for individuals to cross the borders at Mexico, where there are 1,500 pharmacies in Tijuana, and we watch that very carefully. But we have also learned from that experience that we cannot determine the difference between real and fake.

□ 1345

What this amendment does is it defunds the enforcement mechanism at the FDA. It says that by defunding section 801, we do not allow the FDA to do any of these things that we see on this chart.

Let me go down a few of them. We prohibit drugs that contain filth. We defund the ability to stop drugs manufactured under unsanitary conditions. We defund our ability to stop drugs packaged in potentially unsafe containers. We defund our ability to enforce drugs made with unsafe filler additives.

In a hearing of the Subcommittee on Oversight and Investigation, we had Customs and DEA testify that they found drugs manufactured in Colombia; and visibly, one could not tell the difference between that and the real thing except one: it had no active ingredient. Therefore, it did nothing. The yellow color came from leaded yellow highway paint. It also contained boric acid, floor wax; and this is what this amendment would allow people throughout this country to purchase and to take only with whatever health conditions it might cause.

This would defund our ability to assure quality or purity that falls below our standards. It would not let us enforce drugs that are diluted; drugs that have false or misleading labels; drugs with labeling that does not identify the manufacturer, packer or distributor; labeling that does not include the name and quantity of active ingredients; labeling that does not require adequate warning. And, most important, this would defund any effort by our enforcement mechanism to stop drugs that do not comply with child-resistant packaging requirements under the Poison Packaging Act.

Mr. Chairman, it could not have been said better than by the gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Energy and Commerce: "I wrote this provision because we had counterfeiting years ago. If we change this provision, we will have counterfeiting in the future."

Defeat this amendment. Stand up for the safety of our pharmaceuticals in this country.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the Gutknecht amendment.

Like the Sanders amendment, this amendment would expose our constituents to potentially unsafe and harmful drugs. We all want to do more to help our seniors with access to affordable medicines but exposing them to potentially unsafe medicines as a way to do so is unacceptable.

As Members of the authorizing committee will rightfully argue, any proposed changes to the consumer safety standards in our country—a system that now ensures our medicines are the safest in the world—should only be done after thorough investigation and consideration.

To date, that investigation has shown that the Customs Service and the FDA are already overwhelmed at the border and at international mail facilities with drugs being shipped in for personal use and only a small portion of those shipments are currently investigated for their safety. In fact, our health and safety experts are recommending that we strengthen protections against these imported mail order drugs, not weaken them.

And if you won't heed the warnings of the experts, listen to the people who rely on us to keep their medicines safe. The ALS, Lou Gehrigs's Association wrote with their concerns:

> This amendment would deprive the FDA, pharmacies and thus, our patients and families of the confidence we now have that our medicines are safe, have been properly stored, and are not counterfeit.

The Gutknecht amendment would only compound the safety risk to our constituents of counterfeit and unsafe medicines. I urge opposition to the amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GUTKNECHT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT) will be postponed.

AMENDMENT OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. KUCINICH:
>
> At the end of title VII, insert after the last section (preceding any short title) the following section:
>
> SEC. 7 . None of the funds made available in this Act for the Food and Drug Administration may be used for the approval or process of approval, under section 512 of the Federal Food, Drug, and Cosmetic Act, of an application for an animal drug for creating transgenic salmon or any other transgenic fish.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Ohio (Mr. KUCINICH) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

I offer this amendment today to ensure the livelihood of commercial fishermen and protect our oceans, lakes and streams. This amendment is a reasonable and moderate safeguard. It will delay FDA approval of genetically engineered fish for 1 year.

This amendment is necessary because commercial fishermen and environmentalists have raised concerns that GE fish may pose ecological risks that have not been carefully considered by Federal marine agencies. This amendment corrects this situation by providing a 1-year moratorium, giving Congress the opportunity to investigate and authorize an agency with environmental expertise clear authority to regulate the environmental impacts of genetically engineered fish.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, I recognize that there are legitimate concerns for the safety of genetically engineered animals, including transgenic fish. However, I am concerned that the proposed amendment would actually delay advancement in the state of scientific knowledge. It would prevent FDA from reviewing any applications related to transgenic fish. The process of consulting with sponsors and reviewing applications that advances scientific understanding in both the public and private sectors, I do not wish to halt this learning process.

Furthermore, in reviewing these applications, FDA addresses the safety of the animal, the environment, and the consumer. In addition, the sponsor must assure that the transgenic fish are contained and not introduced into the environment or the food chain until safety is assured. This is a responsible approach. The scientific integrity and discipline of the drug-approval process makes it a reliable, effective, and safe venue for advancing scientific knowledge and getting needed products to the marketplace.

So I oppose this amendment, and I urge my colleagues to do the same.

Mr. Chairman, I reserve the balance of my time.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

I would just like to say in response that what we are proposing here is not to block research, but to block FDA final approval. Our approach would mean that the FDA would have to actually do more research. Scientists from Purdue University and the University of Minnesota have raised a number of serious questions about the ecological impacts of genetically engineered fish. These risks include genetically engineered fish escaping from ocean pens into the environment, which would impact wild populations of fish. Studies show that genetically engineered fish are more aggressive, consume more food, and attract more mates than wild fish. These studies also show that although genetically engineered fish will attract more mates, their offspring will be less fit and less likely to survive. As a result, some scientists predict that genetically engineered fish will cause some species to become extinct within only a few generations.

As a result of genetically engineered fish producing unfit offspring that are more successful in mating, the Purdue scientists predict that if 60, 60 genetically engineered fish were introduced into a population of 60,000 wild fish, the species would become extinct within only 40 fish generations. They refer to these disturbing results as the trojan gene effect.

Here we can see why a genetically engineered fish, this would be represented as a genetically engineered fish and is, in fact, what we are speaking about, as opposed to two conventionally developed fish, and we see the difference in size. What happens is, if they are released into the wild, they become much more attractive for mating; but they are not as fit. Their offspring are not as fit to survive, and eventually we end up with an extinct species.

Mr. Chairman, I reserve the balance of my time.

Mr. BONIOR. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. KUCINICH), denying the Food and Drug Administration's scientific experts the funding necessary to review the application of transgenic fish.

I oppose this amendment because it does not give the FDA, the experts in this field, the power to make informed decisions about the safety of transgenic fish. Congress does not possess the depth of scientific knowledge needed to determine the safety of transgenic fish. We should go forward with the review. There is also already a comprehensive regulatory process at FDA's Center for Veterinary Medicine to evaluate any risk associated with transgenic species.

Now, the fundamental flaw also in the Kucinich amendment is that it is not restricted just to transgenic salmon, but applies more broadly to transgenic fish. For example, the amendment would severely hamper ongoing research efforts, including catfish research. Catfish is the Nation's largest aquaculture sector, providing over $500 million in revenue to farms covering over 190,000 acres in 13 States and is extremely important to my home State of Mississippi. Also, research on transgenic catfish is targeted to the development of disease-resistant stocks and novel veterinary medicine. This research is vital because catfish farmers can identify disease and, once identified, can remove the single greatest barrier to improved farm production and human health.

Mr. Chairman, U.S. agriculture producers and consumers have benefited greatly from advances in transgenic technology and in plant sciences. These new tools allow farmers to produce better products, while reducing chemical use, which provides a tremendous benefit to our environment. In addition, biotechnology holds the keys to eliminating world hunger and wiping out global poverty. While this technology has not been used widely in animal production, the promise for results similar to those that we have seen within the realm of plant science is evident.

Let me just close real quickly by saying, oppose the Kucinich amendment. Stand for sound science. Do not stick our heads in the mud. This is a great technology that will make species stronger, healthier and better.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

For the record, this amendment does not restrict any research funding. I will say it again. This amendment does not restrict any research funding. Now, in case my colleagues did not hear that, this amendment does not restrict any research funding. It only restricts FDA funding related to their approval of the fish, but they do not do research. Any research funding comes from other USDA research accounts, and that is not impacted by this amendment.

Mr. Chairman, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO), whose work on this amendment I appreciate.

Mr. DEFAZIO. Mr. Chairman, let us just get this straight one more time: no impact on research. Companies that are investing in research are free to continue to research. They are free to continue to consult with the FDA.

But what we want is a full scientific analysis of the potential impact of the release of these transgenic fish into the environment. That is what we are talking about. The FDA has no qualifications in the area of environmental science. They admit it. They have deemed, under their authority, that transgenic fish are new drugs. Therefore, they have the authority to pass on the viability of a new drug and the safety of a new drug; but the drug that they are approving is a living fish, a fish that will grow at many times the rate of its natural cousins; and it will outcompete them for food, outcompete them for mating activity, and ultimately bring extinction.

Mr. Chairman, in the Pacific Northwest we are spending $400 million a year to try and recover endangered salmon. Just a few of these transgenic salmon released into the environment could wipe out some of the remaining stocks which are struggling to survive.

□ 1400

We are spending $400 million on one side and we are going to release something that threatens that on the other side. "Well, we will not release them. We will put them in net pens." They get out of them all the time. Storms come, they slosh out. Birds come, pick them up, then they drop them. That is an accepted fact.

They say, "Do not worry, they will not be able to mate." Then the same companies that are manufacturing these transgenic fish admit that, "Actually, our process is not quite foolproof, some probably can mate. But do not worry about it, do not worry about it, we do not think there will be a problem."

The companies go on to say that they have not evaluated the problem. They have not evaluated the potential impact on native fish stocks. They have not evaluated the environmental impacts. But they say, "Do not worry, the FDA has approved it."

The FDA has approved transgenic fish as a new drug, not as a living creature to be released into the environment to interbreed with existing species. This is extraordinary.

The agency that should have jurisdiction perhaps would be the National Marine Fisheries Service. They know about fish. Maybe it would be the Environmental Protection Agency. They know a little bit about the environment. No, we are doing this in the FDA.

Here is what the agricultural coordinator for the National Marine Fisheries Service said. He was surprised to hear that the FDA was overseeing the environmental review regarding new salmon and making decisions on such things as whether fish would be grown in net pens.

Mr. Rhodes said, "The National Marines Fishery Service, not the Food and Drug Administration, has the expertise to make such decisions and would need to be involved." That was May 1 of last year. Yet now we are rushing forward for the profits of a few companies to endanger the environment of the United States and the world. These fish should not be released into our environment until we fully understand the effects.

This amendment does not affect consultation between the FDA and the manufacturers, it does not in any way impact their research or their development, but it does say, "Before we allow you to put them into the common environment of the United States of America, into our bays, our tributaries, our rivers, or even our ponds, because sometimes they get out of there, too, we want to know what the potential impact is on other species of fish."

That is all we are asking for here. It is a simple request: Bring in an agency that knows something about fish, not the people at the FDA. Find one person at the FDA who has a degree in marine biology and I will buy dinner. There are not any over there. They do not know a darned thing about this issue or the potential impacts on the environment and other species of fish.

So this is a very, very prudent and conservative amendment. I urge Members to adopt it.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise reluctantly to oppose this amendment today, because of my respect for the gentleman from Ohio (Mr. KUCINICH), a good friend of mine. But I think his amendment that would cut off funding for the FDA to go through the approval process or issue the final approval is bad policy.

I do not believe the anti-biotech position is supported by the facts. Even the Washington Post in this Monday's editorial entitled "Food Fight" called efforts to ban biotech murderous nonsense. Let me read from the article.

"Is this technology safe? No test has suggested that genetically-engineered crops harm human health. On the other hand, a lack of plentiful, cheap food harms human health enormously. Half the children in South Asia and one-third in sub-Saharan Africa are malnourished today. Among other consequences, these children suffer iodine deficiency disorder, which causes mental retardation, and vitamin A deficiency, which causes blindness.

"Some anti-genetic activists say the poor will not be able to afford or benefit from these new genetic products." They say also that the so-called "green revolution", which was supposed to conquer hunger and in their view did not, "the green revolution, which involved improving seeds and fertilizers and pesticides, actually more than doubled cereal production in South Asia between 1970 and 1995. Despite enormous population growth during that period, it reduced the malnutrition rate in the world from 40 percent to 23 percent."

So what the green revolution began, the gene revolution can continue. Today's amendment would stop the approval process or the approval. I think that is a mistake. I urge my colleagues to oppose the amendment.

Mr. KUCINICH. Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have heard several times on the floor that this does not stop funding for research, all it does is stop funding for final approval by the FDA of that research. We might as well stop funding for research, because who is going to put money into the research if there is no provision for final approval for use of that research once it is done?

The FDA has the legal authority to regulate products derived from transgenic animals. Although significant public and private research to develop commercially useful transgenic fish is ongoing, none have completed the FDA process at this time. Products regulated as new animal drugs in the United States are subject to rigorous premarket requirements to determine effectiveness, to ensure food, animal, and environmental safety. This process includes targeting animal safety, safety to the environment, and safety for consumers who eat foods derived from genetically-engineered animals.

The Center for Veterinary Medicine intends to use various approaches, including a contract with the National Academy of Sciences, to identify further environmental safety issues associated with the investigation and commercial use of transgenic animals.

To do this, the agency will cooperate closely with other Federal and State agencies that have related authorities, such as the Fish and Wildlife Service and the National Marine Fisheries Service, in the case of transgenic Atlantic salmon. Last year, the U.S. National Academy of Sciences concluded that the regulatory system for biotech foods is appropriate and effective.

These are some of the reasons why this amendment is strongly opposed by a coalition of agricultural interests, including the American Farm Bureau Federation, the American Soybean Association, the Grocery Manufacturers of America, the National Corngrowers Association, the National Cotton Council, the National Fruit Processors Association, and many, many more.

Mr. Chairman, I urge my colleagues to reject this step back into the dark ages.

Mr. KUCINICH. Mr. Chairman, I yield 2¼ minutes to the distinguished gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding time to me, and I want to compliment my colleagues, the gentleman from Ohio (Mr. KUCINICH) and the gentleman from Oregon (Mr. DEFAZIO), for bringing this extremely important issue before the full House as we debate this 2002 agriculture appropriations bill.

Let me say to the gentleman that I think what is so important about what he has done is he has drawn a line in the sand. He is saying to us that before we cross the line between the green revolution and the genetic revolution, somebody here in Congress had better pay attention that our government is not even properly structured to deal with this significant scientific leap.

We are not talking about the marriage of genes between necessarily like species that have mated in nature, or pollinated in nature. But rather, we are addressing the injection of growth hormones into fish that have never mated, producing species that we have never seen the likes of, and nature has never seen the likes of since the dawn of time.

From an administrative standpoint, we could ask ourselves, who is in charge of fish, anyway? We cannot even get the government of the United States to inspect fish that is coming over our borders and causing people to get sick across this country.

So who is in charge of fish? We have the Commerce Department, with NOAA, the National Oceanic and Atmospheric Administration. We have the Interior Department with the Fish and Wildlife Service. We have the USDA, with the Food Safety Inspection Service. We have the EPA, which issues these advisories such as "Do not eat fish from Lake Erie but one per week because of mercury levels being too high."

I can tell the Members this, that we know today that we have half as many fish in our oceans as we did 25 years ago. This diminishment of the natural system of oceanic fish production is a serious international problem. If we think about the dawn of genetic engineering, this is but another transgenic product that we should be concerned about when it is released from containment into the natural environment. We do not know its consequences on the ecosystem, in the same way as we do not know the consequences of transgenically-altered plants in the natural environment. We are ill-equipped as a country to deal with these issues in any intelligent way, so we sort of get into using current unprepared bureaucracies, like FDA, which this amendment addresses.

Mr. Chairman, nothing in the gentleman's amendment stops research. But what it does is it says let us take a pause for thought here with the FDA. Let us take a look as a Congress to investigate and authorize the appropriate agency with environmental expertise and clear authority to regulate the impacts of these genetically-engineered fish, wherever that might be.

I fully support the amendment and urge adoption of this amendment.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, there is a reason America has the highest standards and the safest foods in the world, safer than Europe, more nutrition than Asia, using less pesticides and preserving more of the environment than any other Nation in the world. The reason is that time and time again America has refused to inject politics into our food safety process.

However, that is what this amendment does. It contaminates our scientifically sound food safety process with politics. There is no scientific reason for the moratorium. The FDA already requires all food applicants, whether they are scientifically improved or not, to meet their highest safety standards, not just for human food consumption but for animal welfare and environmental safety.

This amendment not only does not contribute to food safety, it actually harms it, because it says no matter how beneficial, no matter how strong and valuable this research is, we cannot even consider it. This does discourage research into aquaculture breakthroughs which help us develop fish stocks that are healthier, more abundant, and more immune to disease.

That is important not just to farm catfish, not because we have decimated the world's fishing, but it helps to save the 30 percent of fish killed needlessly each year because of illness. If fish are healthy, the food is going to be healthy.

Finally, this amendment feeds the European hysteria, and feeds upon normal people who have not thought about the progress and benefits of biotechnology, too. The fact of the matter is that we produce more food on less land, more environmentally safe food with less pesticides in America and around the world because of biotechnology.

At Texas A&M, which I represent, we work with the Medical Center in Houston to develop plants and vegetables that have cancer-fighting oxidants. As we said here today, scientists have rice that will address the vitamin A deficiency which could help prevent 500,000 children each year from going blind in this world.

This is a risky amendment. This is a scientifically unsound amendment. Most importantly, it injects politics into food. Let us keep the politics out of food safety and in Washington where it belongs.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to point out, there seems to be some misunderstanding about the purpose of this amendment. It is not a ban, it is a 1-year moratorium to begin to study the effects on the environment, on consumers.

I also want to point out that something the Washington Post cited on May 19, 2001, basically supporting the approach of the gentleman from Oregon (Mr. DEFAZIO).

Mr. Chairman, the Post points out that the FDA has classified what they call genetic enhancement, these bigger fish, as a drug for animals. Now, follow this. The FDA says it is a drug for animals. That technically means, according to the Post, the main task of its review will not be to look at the effects of the fish on the environment or fish on the consumer, but to study the effect of the growth hormone on the fish. That is all the FDA does.

So here we have people advocating the right of fish to have growth hormones, and saying that that is more important than the right of people to be defended against possible adverse human health consequences, or the right that we have and the responsibility we have to protect our environment.

Protecting the right of fish to have growth hormones, indeed. Something smells fishy about the opposition, which would want to protect the right of fish to have growth hormones. That is all the FDA does here.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri (Ms. MCCARTHY).

Ms. MCCARTHY of Missouri. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise, very respectful of the gentleman offering the amendment, to oppose the amendment offered today.

While I, too, have concerns for the safety of our food that has been genetically engineered, we need to continue the FDA's oversight and expertise in this area. Handcuffing the FDA by prohibiting their review process has very broad policy implications.

The risks associated with transgenic fish, and specifically salmon, are overstated. Claims that transgenic salmon will create genetic pollution are unfounded because only sterile all-female stock would be commercialized, virtually eliminating any risk of crossbreeding with wild salmon.

Legislating the approval process of FDA has far-reaching implications which could negatively impact future innovations to improve our food supply and our health.

□ 1415

We have a world to feed, Mr. Chairman, and I urge my colleagues to oppose the amendment.

Mr. KUCINICH. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, the gentleman who preceded me in the well quoted from The Washington Post on an editorial about plants. Let us read the editorial The Washington Post wrote about fish. "The ecosystem may or may not be ready for the first genetically engineered salmon, but the regulatory system emphatically is not. Environmental issues will be covered, the FDA promises, but the environmental and marine specialists who could best address them are housed at other agencies, and no law requires the routine involvement in decisions about the handling of genetically modified organisms that might get released into the environment."

The gentlewoman who preceded me in the well said there will be virtually no risk because they will be sterilized. But the companies who manufacture these fish admit they cannot sterilize them all. Come on, they are not perfect. So some of them will get into net pans that will not be sterile, and we know some of the fish in net pans will get out. But if we are lucky, it will not be the ones who are not sterile; and if we are really lucky, if they are the ones who are not sterile, they will get caught before they breed. But if they breed, they could cause an unmitigated environmental disaster.

That is why a huge number of organizations, of fishers across the United States, bicoastal, and on the Gulf oppose the release of these fish before we know their potential impact on the environment.

Mr. KUCINICH. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) has 2¼ minutes remaining and the gentleman from Texas (Mr. BONILLA) has 5 minutes remaining.

Mr. KUCINICH. Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, we have only one remaining speaker and the right to close, therefore I would reserve the balance of my time.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

This amendment puts the scientific decision-making process into the hands of the best scientists for the job. I oppose the FDA making environmental decisions on GE fish. The FDA does not staff fish scientists, and has not consulted with the National Marine Fisheries Service or the Fish and Wildlife Service.

The following passage is from an article in The Washington Post.

> Edwin Rhodes, aquaculture coordinator for the National Marine Fisheries Service, said he was surprised to hear that the Food and Drug Administration was overseeing the environmental review regarding new salmon and making decisions on such things as whether fish would be grown in net pans. Mr. Rhodes said the National Marine Fisheries Service, not the Food and Drug Administration, had the expertise to make such decisions and would need to be involved.

So I think we have to look at the scientific issues here. And does this sound like the FDA is adequately addressing the environmental concerns that are raised? It does not. But a 1-year delay would give Congress the opportunity to make sure that the National Marine Fisheries Service and the Fish and Wildlife Service are included in the process. I want to make sure that Congress will include the appropriate scientists in the approval process.

This amendment is about a 1-year moratorium to give us the chance to make sure that the right decisions are being made, or else, my colleagues, we may soon see a version of Frankenfish which will exterminate whole species of fish. We have an obligation to consumers to look at this and not to jump to a hasty decision which would involve the FDA giving approval for fish when in fact the FDA is not involved with health issues and environmental issues relating to consumers.

This amendment is strongly supported by commercial fishermen, including the Pacific Coast Federation of Fishermen's Association, the Alaska Trawlers Association, and the Washington Trawlers Association because their struggling industry, industries important to this country, cannot afford a negative ecological impact on the wild fish species that they depend on for their livelihood.

Vote for this amendment. It is to protect our people's health, our environmental health, and it is only for a 1-year moratorium.

Mr. BONILLA. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I rise in opposition to this amendment; and I want to approach this from really just a broad and general perspective.

If we look over the next 25 years, the world's population is going to increase by 2.5 billion. This 2.5 billion increase in population is going to be occurring primarily in the developing countries of the world. When we look at the tremendous demand for food, and in particular for protein, in order to ensure that these people are going to have adequate nutrition, we have to be ensuring that we are investing in new science and research that is going to ensure that we have the capacity to produce these food products.

My concern with the amendment that we are considering today is, one, that it will circumvent our science-based regulatory process. I am concerned that it will set the process back, that it will ensure that we can have politics that can intercede all too often that will preclude our ability to ensure that we can see progress in the development of these new technologies.

One of my colleagues earlier today in this debate mentioned we have half as many fish in the ocean today as we did some few decades ago. A lot of this is due to overfishing and fishing that was occurring because of the demand to provide an adequate food source for a lot of people today. When we are looking at the potential for this technology, the technology that can be advanced through transgenic fish, this is something that in many ways could almost relieve some of this pressure on our natural fisheries by ensuring that we can continue to see progress in the commercial production of food and fish products.

So I think this is another argument for us to ensure that we are again continuing this science-based process. Some of the concerns that my colleagues raise I think are adequate. We ought to ensure we are using the most appropriate science. But FDA today is required, when they are considering the approval of these new transgenic products, to have a dialogue, to be consulting with EPA, with U.S. Fish and Wildlife, and the National Marine Fisheries Service and NOAA, as well as USDA.

Furthermore, it is this amendment that would preclude that continued research and investigation through those bodies that have the scientific expertise. In fact, this amendment would set back our ability to fully understand the science and the threat that transgenic fish might pose for human consumption as well as the threat it might potentially pose to the environment.

Once FDA is confident that, through their investigation and the scientific process, that there is not a significant or marginal threat to both consumers as well as the environment, before anyone can even get a permit to produce transgenic fish, they are also going to have to go through a permitting process at both the Federal and the State level; that they will have to be dealing once again with EPA and other agencies, the National Marine Fisheries Service and U.S. Fish and Wildlife and EPA, which will be mandatory. So we have another safeguard there to ensure we will have adequate protections to the environment to ensure that we will not see any negative impacts.

In closing, I just ask my colleagues to respect the process. One of my colleagues earlier said that this is an amendment to protect the ability to use hormones in fish. Nothing could be further from the truth. Opposing this amendment is to protect a science-based process, to protect a process that will ensure that we will be able to reach out to the best scientists in the country that we have available to ensure that we will have adequate protections. And when we go through that process, we also then will have the promise. We will have the promise that we can see the increase in food production, in this case, in the production of fish, that can meet the protein and nutritional needs of hundreds of thousands if not billions of people that are going to be populating this Earth.

I ask my colleagues to vote "no" on this amendment.

Mr. KIND. Mr. Chairman, I want to thank you for the opportunity to speak on behalf of this amendment and urge my colleagues to support the amendment which would preserve funding for the American Heritage Rivers Initiative. I also want to extend my gratitude to my colleagues for introducing this important amendment.

The Heritage Rivers Initiative is entirely voluntary and locally-driven. This program is composed of local river pilots who work for a federal agency. These pilots help communities locate the resources they need to improve water quality, reduce flood losses, and promote environmental and riverfront development along some of the nation's significant waterways, including the Upper Mississippi River.

This program has been extremely successful in the designated areas along the Upper Mississippi River that include 58 communities in Illinois, Iowa, Minnesota and Missouri. Along the Upper Mississippi River, the American Heritage Rivers Initiative has been instrumental in bringing communities together to link existing trails and greenways, establish and improve interpretive centers, restore habitat and promote riverfront revitalization. I fully support this program, and I also support the proposed designations of Alma and Prairie du Chien, Wisconsin.

Thank you again for the opportunity to speak in support of this amendment and the American Heritage Rivers Initiative.

Mr. SMITH of Michigan. Mr. Chairman, I rise in opposition to the amendment from the gentleman from Ohio. This proposal is a thinly disguised attack on biotechnology. It would prohibit the Food and Drug Administration from using finding to review and approve applications for salmon and fish improved from biotechnology.

This amendment not only wastes money that already has been spent assessing the health and environmental safety of these biotech fish, it also would prevent FDA from meeting its obligations to review new foods under the Federal Food, Drug and Cosmetic Act.

Current law and regulations require applicants who wish to bring a new fish on the market to undergo a "new animal drug" review process by the Center for Veterinary Medicine. In meeting these requirements, an applicant must meet rigorous safety standards, which include strict requirements on animal welfare, the environment, and human health. This premarket review process ensures that the products of biotechnology are safe to grow and eat.

It is interesting to note that while research to develop commercially-viable biotech fish is well underway, none has completed the FDA review process. This amendment would effectively end current research projects and would put future private and public research efforts to improve quality and lower cost at risk.

Today, for example, disease is the biggest impediment to improved production of farm-raised catfish. This amendment would seriously undermine research that could improve these yields and reduce losses from disease.

Quick-growing biotech salmon could reduce the pressure on wild fish stocks that are used for feed. Salmon farmers also use only sterile, all-female stock to prevent cross-breeding with wild populations. The gentlemen's amendment would throw out all of the research and capital that were used to develop these new varieties and that is needed to move toward more sustainable fish production and harvesting.

FDA's policy on biotechnology has been in place for nearly ten years and has allowed the safe introduction of wholesome and safe food. Incidentally, FDA's policy applies to all foods, not just those produced using biotechnology. The gentleman's amendment implies that biotech foods are inherently different and more risky than foods produced using traditional techniques such as cross breeding. There is no scientific evidence to justify this assertion.

Rather than incite unfounded, ideologically-driven fears of this technology, we should recognize the incredible potential of biotechnology. Biotechnology will help alleviate hunger in the developing world, promote more environmentally-friendly and sustainable farming practices, reduce pressures on arable land, and create new markets for farmers.

Mr. Chairman, make no mistake: this is a measure aimed at stopping aquacultural biotechnology. FDA's current regulatory process should not be short circuited. I urge my colleagues to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KUCINICH).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KUCINICH. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. KUCINICH) will be postponed.

AMENDMENT NO. 5 OFFERED BY MRS. CLAYTON

Mrs. CLAYTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mrs. CLAYTON:

At the end of the bill (before the short title), insert the following new section:

SEC. 738. The amounts otherwise provided by this Act are revised by reducing the amount made available for "AGRICULTURAL PROGRAMS—AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS", by reducing the amount made available for "AGRICULTURAL PROGRAMS—Cooperative State Research, Education, and Extension Service—research and education activities" (and the amount specified under such heading for competitive research grants (7 U.S.C. 450i(b)), by reducing the amount made available for "AGRICULTURAL PROGRAMS—Farm Service Agency—salaries and expenses", and by increasing the amount made available for "AGRICULTURAL PROGRAMS—Cooperative State Research, Education, and Extension Service—research and education activities" (and the amount specified under such heading for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee University), by increasing the amount made available for "AGRICULTURAL PROGRAMS—Cooperative State Research, Education, and Extension Service—research and education activities" (and the amount specified under such heading for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222)), and by increasing the amount made available for "AGRICULTURAL PROGRAMS—Outreach for Socially Disadvantaged Farmers", by $5,521,000, $10,000,000, and $7,007,000, respectively.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentlewoman from North Carolina (Mrs. CLAYTON) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have agreed to present my amendment with the understanding that the chairman is going to work with us during conference, and then I will withdraw it. But he has graciously allowed us to get the argument into the RECORD.

This amendment is an en bloc amendment and has three phases to it. The first part is to indeed allow for justification for the outreach to small and disadvantaged farmers. The reason why we need these extra resources for small and disadvantaged farmers is because small farmers, all farmers are having difficulty, but small farmers and disadvantaged farmers and minority farmers are especially having difficulty.

We are all aware of the issue around farmers not being able to get credit, farmers not being able to get the technical assistance, farmers not being able to keep up with the new technology. Well, providing monies to what we call the 2501 program allows them to do that. So we are asking for an increase to indeed have those resources.

The second part of this amendment would include the research. Now, I understand that many people have problems where we are suggesting the money should be coming from. But the issue we want for our colleagues to understand on this, is that the research and extension for the 1890 institutions has been woefully underfunded. I brought this chart so it could be put in as part of the RECORD. Indeed, this is the national research initiative, the competitive grant in the 1999 fiscal year, where we could find the records. All of the seventeen 1890 colleges got 5/10 of 1 percent of the money.

Now, why is this an inequity we want to bring to the attention of my colleagues? Well, most of the small farmers and disadvantaged farmers are more concentrated where the 1890 institutions are. And to the extent that they are not allowed to provide the research to add to the understanding of the research in those areas it would be indeed an error.

The third part of this amendment was the whole issue of capacity building. The capacity building of the grant would allow the opportunity to provide monies for graduate students, for professors, and those who would have the opportunity to build up the capacity of these universities. Now, I understand that this is perceived as impossible, as being too expensive. Is it too expensive to make these 1890 universities, some 17 of them, as capable as any other university? It adds to the capacity of the American rural structure. It adds to the capacity and the research that we are providing new people about the understanding of our food and our fiber.

So I would ask my colleagues as we move forward to support this.

Mr. Chairman, I am glad to be joined by one of the cosponsors of this amendment. Her particular interest was the research, but she is interested in all parts of the en bloc amendment.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentlewoman from North Carolina for allowing me the opportunity to work with her. I also thank the chairman of this committee and the ranking member for their leadership and their concern.

This is not a new attempt. This is an initiative that we worked on with the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies and the authorization committee last year dealing with the 1890 land grant colleges. I am on the Committee on Science, and I know the value of R&D. I also know the value of the history of farmers as well as those farmers in the African community.

But generally speaking, the history of the land grant colleges were around the rural communities in particular. They came out of the soil, if you will. In fact, many of the colleges still have very large agricultural programs now and teach agricultural science, such as Prairie View A & M.

□ 1430

It is interesting we are not in this amendment asking, if you will, to take over the percentages and the dollars given to other colleges, in particular the 1862 land grant. But what we are highlighting is that the research dollars to the 1890 land grant is less than 1 percent. It is .5. So the opportunity for innovative research that can help in nutrition, that can help in agricultural science as it relates to the research done with farm animals, if you will, if an urbanite can suggest that particular type of research, soil research, environmental research, coming from these kinds of campuses, dealing with small farmers is an enormous asset to what is a very important part of our economy, and that is farming and food and agriculture.

So I would simply ask and join the gentlewoman from North Carolina in asking for our amendment to be supported along the lines of research in enhancing the opportunity for these colleges. In my State it is Prairie View A & M, but there are many, many colleges that can benefit by this research. It is, again, not to take away, it is to enhance.

I would hope that we would want to enhance the opportunities for research among these particular colleges. I ask for support of this amendment.

Mr. BONILLA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) is recognized for 10 minutes.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I understand clearly that we are to work on this in the weeks ahead and the months ahead to try to address the concerns of the gentlewoman from North Carolina and would like to inquire if the gentlewoman from North Carolina is still intending to withdraw her amendment.

Mrs. CLAYTON. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentlewoman from North Carolina.

Mrs. CLAYTON. Mr. Chairman, I do, but I do have another speaker, if the gentleman will allow me to do that.

Mr. BONILLA. Mr. Chairman, I reserve the balance of my time.

Mrs. CLAYTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member on the Subcommittee on Agriculture of the Committee on Appropriations.

Ms. KAPTUR. Mr. Chairman, I thank the gentlewoman from North Carolina (Mrs. CLAYTON) for yielding time to me.

Mr. Chairman, I wanted to publicly acknowledge the incredible work that the gentlewoman from North Carolina (Mrs. CLAYTON) has done in proposing this amendment along with the gentlewoman from Texas (Ms. JACKSON-LEE). Were it not for their vision and leadership last year, we would not have had any increase to these accounts.

Without question these colleges and institutes have such an enormous impact in our country, but also can be pivotal institutions for advancement in other countries. I envision the day when these additional dollars will be able to link these institutions to even some of the most underdeveloped areas of Africa. There, I think, cooperative research projects could benefit both nations, the farmers of both nations, the people of both nations.

I also want to thank both the gentlewomen from North Carolina (Mrs. CLAYTON) and the gentlewoman from Texas (Ms. JACKSON-LEE) for taking a hard look at the full potential of these historically black colleges and universities and the Tuskegee Institute and the needs of our smaller African American farmers.

In supporting this amendment, I am reminded of my travels to one State where there were significant civil rights suits against the U.S. Department of Agriculture. It was unbelievable to me that loans were not being made to very worthy endeavors by minority farmers for food processing. We run into this age-old problem of discrimination even by some of the local loan committees that still exist across this country.

I think that these universities and the Tuskegee Institute and these colleges can help lead America forward in a very important way. They can be of special assistance because of the trust with which they and their researchers are held by the very communities that we want to assist.

Mr. Chairman, I would have to say to these two gentlewomen—who really cannot be viewed as only gentle for some of what they have to address in serving at the national level and dealing with some of the issues that we contend with—that they are leading America forward in this new millennium in a way that is so vitally necessary. They certainly have my support in their intentions to increase funding in these categories.

Mr. Chairman, I know the gentlewoman wishes to withdraw the amendment at some point, but hopefully as we move toward the Senate, we will be able to take my colleague's excellent recommendations and enact them into law through conference.

Mrs. CLAYTON. Mr. Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank the ranking member for the sensitivity and enormity of her leadership in feeding the world.

I wanted to restate something that is crucial: The kind of partnerships that can be established between the historically black colleges and developing nations in terms of nutrition and agriculture science and opportunities to enhance their ability to provide food for themselves, which is a great problem in developing nations.

I thank the gentlewoman from Ohio (Ms. KAPTUR) for her leadership. I thank the gentlewoman from North Carolina (Mrs. CLAYTON).

Ms. KAPTUR. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, certainly we know in most of those places it is women who are raising most of the food and feeding their villages. We know that the historically black colleges and Tuskegee Institute will be especially sensitive to that. Without a doubt their reach can be worldwide.

Mrs. CLAYTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank all of those who are sensitive to this issue; but I want to raise the issue of the contribution that small family farmers and minority farmers are making to the vitality of the agricultural community. And to the extent we help them, and 2501 is that outreach program, it is administered by nonprofit groups and 1890 colleges, and that is why it is essential to get sufficient funds for it.

The research that the gentlewoman from Texas (Ms. JACKSON-LEE) emphasized so strongly, already there is a connection between the developing countries. Tuskegee is doing biotechnology in Nigeria. There is a program, Farmers to Africa, Farmers to Caribbean. 1890 is taking sustainable agricultural know-how to these small, struggling countries to transfer the knowledge we have. So Americans are doing good and well at the same time.

Finally, the capacity-building of the 1890 colleges is sustained to add to the credibility and the strength of our higher education system. Research is an important part of agriculture, and to that extent we want to strengthen all of the land grant colleges, and this allows us to strengthen the 1890 land grant colleges.

Mr. Chairman, I thank the chairman for his willingness to work with us as we go forward in the conference committee.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. BACA

Mr. BACA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BACA:

Page 74, after line 21, insert the following new section:

SEC. 741. The amount otherwise provided by this Act in title I under the heading "AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES" for an education grants program for Hispanic-serving Institutions (7 U.S.C. 4231) is hereby increased by $16,508,000.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from California (Mr. BACA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of my amendment to increase funding for USDA grants for Hispanic-serving institutes for agricultural research. Hispanic-serving institutes, or HSIs, are the backbone of Hispanic college education. These schools have great research capabilities and have much to offer, but because they do not have a land grant or are not necessarily historical, they sometimes do not receive all of the resources they deserve.

I salute the efforts of the chairman, the gentleman from Texas (Mr. BONILLA), on behalf of the Hispanic-serving institutions on his work towards allowing HSIs to gain a foothold into agricultural research grants. Yet I am certain that the gentleman from Texas (Mr. BONILLA) would agree with me that these schools merit more funding, especially to increase the growth and development of Hispanics in our institutions.

Mr. Chairman, 41 percent of all USDA research project proposals for HSIs are funded. Forty-one percent is a remarkable success rate for proposal acceptance. We obviously have a great resource here that we are not using nearly enough, and we need to tap into that.

In addition, I would like to ask Secretary Veneman and the administration to understand that these institutions are important to the Congressional Hispanic Caucus, and we will work and fight for more resources.

FY 2000 HIGHER EDUCATION HISPANIC-SERVING INSTITUTIONS EDUCATION GRANTS PROGRAM TOTAL FUNDS AWARDED TO STATES AND LEAD INSTITUTIONS

State and lead institution	Awards
California:	
Hartnell Community College	$299,932
California State University—San Bernardino	150,000
West Hills Community College	300,000
New Mexico:	
New Mexico State University	149,585
Luna Vocational Technical Institute	150,000
Puerto Rico: University of Puerto Rico	148,770
Texas:	
Texas A&M University—Corpus Christi	149,974
Palo Alto College	299,992
St. Edwards University	299,875
University of Texas at Brownsville	263,664
Houston Community College	299,995
Texas A&M University—Corpus Christi	161,313
Texas A&M University—Kingsville	55,664

FY 2000 HIGHER EDUCATION HISPANIC-SERVING INSTITUTIONS EDUCATION GRANTS PROGRAM TOTAL FUNDS AWARDED TO STATES AND LEAD INSTITUTIONS—Continued

State and lead institution	Awards
Total	2,728,764

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. BACA. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I want to commend the work of the gentleman from California (Mr. BACA) on this very important issue on Hispanic-serving institutions, and I want to also express my gratitude for his acknowledging what this subcommittee has done; and also what has been done historically on the Subcommittee on Labor, Health and Human Services and Education over the last few years in a bipartisan way to take care of many of the problems that exist at many institutions in terms of funding.

Mr. Chairman, as I discussed with the gentleman before, we are willing to work to see if there is a possibility at all to try to increase this number down the road. We do not know if that is going to be possible, but we certainly will make every effort. We have given increases in this bill over the last 2 years as well, and we are doing all we can; and we certainly will continue to do that.

Mr. BACA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from California (Mr. BACA) for his leadership in bringing this issue to the attention of our subcommittee. The gentleman from California is particularly well suited to sensitizing the Congress for the extra attention that needs to be put to identify those institutions serving higher numbers of Hispanic populations, and to help to place those in a more competitive position with larger and more established institutions that tend to have first call at the U.S. Department of Agriculture, even in their research protocols.

Mr. Chairman, I assure the gentleman that he will have my full support in identifying ways to move funding to those institutions to reach a broader array of the American public, and, as with some of the other institutions we were talking about a little bit earlier, particularly those serving African American populations, to look also toward a global role for those institutions because of their inherent bilingual capabilities and the historic ties that exist, certainly with Latin America and other places.

So we do not have a narrow view of only one State or even our own country, but we have this tremendous resource in our own country if we but see it and enhance it.

Mr. Chairman, I thank the gentleman for coming to us and for being the leader in this Congress and for bringing this issue to our attention. California could not have sent a more capable representative here, and the gentleman certainly has my pledge to work with him as we move toward conference to see if we cannot do it better in this new millennium than perhaps some of those who served here in the past.

Mr. BACA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentlewoman for her comments. We all realize that it is important to support institutions such as the HSIs, and I appreciate the lead that the gentleman from Texas (Mr. BONILLA) has taken in the past years ensuring funding, and I look forward to working with him in the future in conference committee to increase funding for this wonderful grant program.

Mr. Chairman, I understand that my amendment is subject to a point of order. I concede to that point of order, and I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 20 offered by the gentleman from Vermont (Mr. SANDERS); amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT); amendment No. 13 offered by the gentleman from Ohio (Mr. KUCINICH).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 20 OFFERED BY MR. SANDERS

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 20 offered by the gentleman from Vermont (Mr. SANDERS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 159, noes 267, not voting 7, as follows:

[Roll No. 216]

AYES—159

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bereuter
Berry
Bishop
Blagojevich
Bonior
Boswell
Brady (PA)
Brown (OH)
Burton
Capito
Capps
Carson (IN)
Carson (OK)
Castle
Chabot
Clay
Clement
Condit
Conyers
Costello
Cramer
Crowley
Cummings
Davis (IL)
DeFazio
Delahunt
DeLauro
Doggett
Emerson
Engel
Evans
Fattah
Filner
Flake
Frank
Gephardt
Gibbons
Gilchrest
Goodlatte
Green (TX)
Gutierrez
Gutknecht
Hall (OH)
Hastings (FL)
Hastings (WA)
Hill
Hinchey
Hinojosa
Hooley
Hunter
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kind (WI)
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Largent
Larson (CT)
Leach
Lee
Lewis (GA)
Luther
Maloney (NY)
Mascara
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Miller, George
Mink
Mollohan
Moran (KS)
Nadler
Napolitano
Neal
Oberstar
Olver
Ortiz
Otter
Owens
Pallone
Pastor
Payne
Peterson (MN)
Petri
Platts
Pomeroy
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rohrabacher
Ross
Rothman
Royce
Sabo
Sanders
Sandlin
Sawyer
Scarborough
Schaffer
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shadegg
Shays
Shows
Skelton
Slaughter
Smith (MI)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Tancredo
Taylor (MS)
Thune
Thurman
Tiahrt
Tierney
Turner
Udall (NM)
Waters
Watson (CA)
Watt (NC)
Weiner
Wexler
Wilson
Woolsey
Wu
Wynn

NOES—267

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bilirakis
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Cardin
Chambliss
Clayton
Clyburn
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
English
Eshoo
Etheridge
Everett
Farr
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gillmor
Gilman
Gonzalez
Goode
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Hall (TX)
Hansen
Harman
Hart
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inslee

Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kilpatrick
King (NY)
Kingston
LaHood
Larsen (WA)
Latham
LaTourette
Levin
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Moore
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Osborne
Ose
Oxley
Pascrell
Pelosi
Pence
Peterson (PA)
Phelps
Pickering
Pitts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Saxton
Schrock
Sessions
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stump
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Toomey
Towns
Traficant
Udall (CO)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Capuano
Coyne
Dingell
Knollenberg
Lewis (CA)
Paul
Riley

☐ 1508

Messrs. LaTOURETTE, HOYER, MANZULLO, PHELPS, BARTLETT of Maryland, WALDEN of Oregon, Ms. HART, Ms. KILPATRICK, Ms. VELÁZQUEZ, Mrs. NORTHUP, and Ms. ROYBAL-ALLARD changed their vote from "aye" to "no."

Mr. LARSON of Connecticut and Mr. ROSS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. LEWIS of California. Mr. Chairman, on rollcall No. 216, I was unavoidably detained. Had I been present I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. GUTKNECHT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT), on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 324, noes 101, not voting 8, as follows:

[Roll No. 217]

AYES—324

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Burton
Calvert
Cannon
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
DeFazio
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Doyle
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Evans
Fattah
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frost
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Linder
Lipinski
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matsui
McCarthy (NY)
McDermott
McGovern
McHugh
McInnis
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Mink
Mollohan
Moore
Moran (KS)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Northup
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Pallone
Pastor
Payne
Peterson (MN)
Petri
Phelps
Pickering
Platts
Pomeroy
Portman
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Sweeney
Tancredo
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Traficant
Turner
Udall (NM)
Velázquez
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—101

Armey
Baker
Berman
Biggert
Bilirakis
Blunt
Boehner
Bonilla
Borski
Bryant
Burr
Buyer
Callahan
Camp
Cantor
Collins
Crane
Culberson
Cunningham
Davis, Tom
Deal
DeGette
DeLay
Dooley
Doolittle
Dreier
Ehrlich
Eshoo
Etheridge
Everett
Farr
Ferguson
Frelinghuysen
Gallegly
Graves
Greenwood
Grucci
Herger
Hoeffel
Holt
Honda
Hostettler
Houghton
Hulshof
Hutchinson
Jefferson
John
Johnson, E. B.
Johnson, Sam
Keller
Kerns
Lewis (KY)
LoBiondo
Lofgren
Markey
Matheson
McCarthy (MO)
McCollum
McCrery
McKeon
Miller, Gary
Miller, George
Moran (VA)
Myrick
Nethercutt
Norwood
Obey
Oxley
Pascrell
Pelosi
Pence
Peterson (PA)
Pitts
Pombo
Price (NC)
Pryce (OH)
Radanovich
Rogers (KY)
Roukema
Rush
Ryun (KS)
Saxton
Sessions
Sherman
Skeen
Smith (WA)
Souder
Spence
Stupak
Sununu
Tanner
Tauzin
Thomas
Tiberi
Towns
Udall (CO)
Upton
Visclosky
Watts (OK)
Waxman
Weller

NOT VOTING—8

Capuano
Coyne
Dingell
Knollenberg
Lewis (CA)
McKinney
Paul
Riley

☐ 1522

Ms. LOFGREN changed her vote from "aye" to "no."

Ms. KILPATRICK, Ms. ROYBAL-ALLARD, Mrs. JoANN DAVIS of Virginia, Ms. MILLENDER-McDONALD and Messrs. SANDLIN, GRAHAM, ROGERS of Michigan, BECERRA, ROEMER, WHITFIELD and PICKERING changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. LEWIS of California. Mr. Chairman, on rollcall No. 217, I was unavoidably detained. Had I been present I would have voted "no."

AMENDMENT NO. 13 OFFERED BY MR. KUCINICH

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. KUCINICH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 145, noes 279, not voting 9, as follows:

[Roll No. 218]

AYES—145

Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bentsen
Berkley
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Burton
Capps
Cardin
Carson (IN)
Clay
Clement
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Dicks
Doggett
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank
Gilchrest
Gonzalez
Goode
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hinchey
Hinojosa
Hoeffel
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind (WI)
Kleczka
Kucinich
Lampson
Langevin
Larsen (WA)
Lee
Lipinski
LoBiondo
Lowey
Luther
Maloney (CT)
Maloney (NY)
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller, George
Mink
Morella
Nadler
Napolitano
Oberstar
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Sawyer
Schakowsky
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Scott
Serrano
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Slaughter
Smith (NJ)
Smith (WA)
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Udall (NM)
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NOES—279

Abercrombie
Aderholt
Akin
Armey
Bachus
Baker
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Bartlett
Barton
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Bereuter
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Brady (TX)
Brown (SC)
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Capito
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dooley
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Doyle
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Hall (OH)
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Holden
Holt
Horn
Hostettler
Houghton
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Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kilpatrick
King (NY)
Kingston
Kirk
Kolbe
LaFalce
LaHood
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Lucas (KY)
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Markey
Mascara
Matheson
McCarthy (MO)
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McHugh
McInnis
McIntyre
McKeon
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
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Peterson (PA)
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Price (NC)
Pryce (OH)
Putnam
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Rahall
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Rogers (KY)
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Ros-Lehtinen
Ross
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Royce
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Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
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Sherwood
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Simmons
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Sununu
Sweeney
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Taylor (MS)
Taylor (NC)
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Thompson (MS)
Thornberry
Thune
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Tiberi
Toomey
Towns
Traficant
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NOT VOTING—9

Capuano
Coyne
Dingell
Knollenberg
Lewis (CA)
Oxley
Paul
Riley
Watson (CA)

□ 1532

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. LEWIS of California. Mr. Chairman, on rollcall No. 218, I was unavoidably detained. Had I been present I would have voted "no."

AMENDMENT OFFERED BY MR. BLUMENAUER

Mr. BLUMENAUER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BLUMENAUER:

Insert before the short title at the end the following new section:

SEC. ___ . Effective three months after the date of the enactment of this Act, none of the funds appropriated or otherwise made available in this Act may be used to pay the salaries or expenses of personnel of the Department of Agriculture to make price support available (in the form of loans, direct payments to producers, or other subsidies) with respect to an agricultural commodity in the absence of a report to Congress by the Secretary of Agriculture that (1) fully specifies the amount of Federal funds being used to provide such price support and (2) describes the full effect of import quotas and tariffs imposed by the United States to protect such commodity.

Mr. BONILLA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Oregon (Mr. BLUMENAUER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer an amendment that would direct the Department of Agriculture to submit a report to Congress that details the full amount of Federal funds being used to provide price support and describe the full effects of quotas and tariffs imposed on our Government protecting commodities.

Mr. Chairman, we have a strange patchwork of policies that date back two-thirds of a century to the Depression Era, back to a time when there were 6 million family farmers, when 25 percent of our population lived on the farms. Today, we have a crazy patchwork of programs that have serious environmental impacts, which is why this amendment has been endorsed by Friends of the Earth and the Environmental Working Group, but it also has distorting impacts as far as the economy is concerned. It is estimated that worldwide, there are over $150 billion in extra costs that are added; and for the United States consumer, it is the equivalent of a 3 percent food sales tax, and the most regressive because of the impacts this has on the poor who spend more, $18 billion a year.

We deserve, Mr. Chairman, the opportunity to see the big picture before we move forward with other elements that deal with agriculture, that deal with international trade.

Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. MILLER) to speak to a specific example of the impacts that we are concerned about.

Mr. MILLER of Florida. Mr. Chairman, I rise in support of this amendment, and I thank the gentleman for introducing it.

All we are asking for is transparency, and let me use the illustration of the sugar program that was passed in 1996, when we were told, no cost to the American taxpayer. Well, let us look at the facts. Let us look at the facts.

First of all, GAO says it cost $1.9 billion for the American consumer. The American consumer is the American taxpayer, so it cost $1.9 billion. Last year, the Federal Government had to buy $430 million worth of sugar, and it does not have any use for it. It is having to store it. We are spending $20 million a year to store all of this sugar that we have no use for, and yet we were told that it had no cost. The price of sugar in the United States is more than double what it is elsewhere around the world, as if the Federal Government were a major purchaser of sugar, whether it is in VA hospitals or schools and such.

In addition, under the environmental issue, sugar is a major contributor to the pollution of the Everglades. We are going to spend $8 billion to clean up the Everglades, and we are going to pay a lot of that cost because the sugar program is causing the problem.

So these agriculture programs that say, oh, it does not cost the Government anything, we do not know what it costs us. It has direct costs and it has indirect costs, and all this amendment says is let us have transparency, and let us figure out what it really costs.

Mr. BLUMENAUER. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, I appreciate the gentleman from Oregon bringing this important amendment to the floor.

It is also important to remember that in 1996, this Congress brought the Freedom to Farm Act to this floor. The professed plan was to phase out farm subsidies in 7 years by spending $36 billion on additional subsidies.

Well, 7 years later we have spent over $80 billion instead of $44 billion, and that has not even been enough for subsidy supporters. In emergency funding for agriculture alone, Congress has spent an additional $38 billion. That means we either made a very bad guess back in 1996, or we are dealing with very bad public policy.

Today we find that the Freedom to Farm Act that was supposed to free America from farm subsidies while freeing American taxpayers from price supports, has actually backfired; and now. Congress once again is paying two, three, even four times the amount of subsidies that we pledged to the American people in 1996.

Congress passed welfare reforms for struggling, single parents; and now Congress needs to pass similar reforms for the American farmer. Americans should not continue paying people for not planting their crops.

The Freedom to Farm Act failed because Congressional courage failed all American taxpayers. We need to look at these misguided policies again, and stop subsidy payments that continue to cost American taxpayers billions of dollars.

Mr. BLUMENAUER. Mr. Chairman, I yield myself such time as I may consume.

I would hope that we on this floor of both parties, people of disparate philosophical orientations, could agree on one thing: the American public deserves to know the big picture, how much it costs, who is paying, and the impacts of these programs so that we can make the appropriate decisions for agriculture, for the environment, and sound economic policy.

I understand there may be some question as to the acceptability of this amendment, that it may be subject to a point of order and I respect that, and I will be willing to withdraw my amendment. But I hope that we can work with the members of this subcommittee to be able to work to make sure that we have the information available to protect the environment, to provide sound agricultural policy, and be able to deal with our trade responsibilities in the international arena.

Mr. Chairman, I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. BONILLA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BONILLA. Is the gentleman going to withdraw his amendment?

Mr. BLUMENAUER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AMENDMENT NO. 1 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TRAFICANT:

SEC. ___. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act").

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Ohio (Mr. TRAFICANT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

I would like the appropriators, if they would, to listen to my brief remarks, and the other Members. We just celebrated a great holiday, the independence of the United States of America; and right down here on the Mall when the national symphony was performing in celebration of our great democracy and republic, vendors were handing out souvenir small, plastic American flags that were made in China. The national symphony is performing, people are in Washington to celebrate this great holiday, and the vendors are distributing small flags that I will send over; I do not have them with me. This is ridiculous.

Mr. Chairman, this is a very simple amendment. It gets right to the point. Anybody that has violated our Buy American laws will not be eligible to get money under the bill.

I would ask that it be approved, as it has been to other bills.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BONILLA), the distinguished chairman in his first term, and I commend him for his work.

Mr. BONILLA. Mr. Chairman, I thank the gentleman for yielding me this time. I want to commend the gentleman for offering this amendment. We support the amendment and would hope that we could move to a vote quickly on this amendment.

Mr. TRAFICANT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio (Ms. KAPTUR), my distinguished colleague.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for proposing this Buy American amendment to this bill as well as many other bills that he has been successful in achieving this added language. I would not only like to support the gentleman on this effort, but to work with him to assure that both the letter and spirit of the law, as the gentleman has been able to pass here regarding Buy American, are working in every program of our government, let me point out, for example, the Department of Defense's purchase of food commodities, should be oriented toward U.S. farmers, U.S. produced commodities, not food brokers that might acquire their product from foreign sources.

Mr. Chairman, I just want to commend the gentleman and say I support the Buy American Act, and congratulations to the gentleman for bringing this Buy American amendment to America's attention.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentlewoman's comments. One of the reasons for the technicalities is that they say the Buy

American law does not deal with service contracts, and we are going to address ourselves to that through the authorizing process. So the gentlewoman is exactly correct.

I ask for an "aye" vote.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment was agreed to.

AMENDMENT NO. 21 OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. SMITH of Michigan:

Add before the short title at the end the following new section:

SEC. ___. Section 135(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7235(a)(2)) is amended by striking "2000 crop year" and inserting "2000 and 2001 crop years".

Mr. BONILLA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Michigan (Mr. SMITH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, I yield myself such time as I may consume.

I presume that nobody is going to oppose this amendment, except maybe on a point of order. It is language that now exists over this past year for American farmers, and I simply want to bring to the body's attention that this amendment concerns a matter of fairness and equity to American farmers.

Very simply, my amendment would maintain the number of farmers eligible for the price support program that we have in the Federal Government.

□ 1545

We have a price support program that provides that if market prices fall below a certain level for these programs' crops, someone is eligible for an LDP, a loan deficiency payment, or a commodity nonrecourse loan.

Under the provisions of the law, though, technically, only those individuals that were enrolled in farm programs and designated their program crop acreage back in the late 1980s are eligible for this kind of support.

So what we did last year is allow every American farmer, those cattle and livestock farmers, those dairy farmers that did not have program crops and report them back in the 1980s, to be eligible for that same kind of federal price support as those individual crop farmers that had program crops.

We are basing our farm programs on antiquated crop history that was established from 1986 to 1991. This amendment provides that those other farmers that today are growing that corn, that rice, that cotton, the soybeans, that corn, will still be eligible for the Federal Government price support program.

It is a matter of fairness, and I say to the gentleman from Iowa (Mr. LATHAM), the deputy chairman, that the Senate has indicated they are interested in putting this in the Senate version of their agricultural appropriation bill. It is important that we, as quickly as possible, tell the American farmers, that otherwise might not be eligible for this kind of support help, that we intend to pass this amendment.

We had it in the chairman's mark of the appropriation bill supplemental. That bill was changed with the Stenholm substitute. This amendment needs to be accomplished. I would ask the leadership in their efforts, when we go to conference, if this is in the Senate bill, can we move ahead on this amendment?

Mr. LATHAM. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Iowa.

Mr. LATHAM. Mr. Chairman, I appreciate very much the gentleman from Michigan's interest in this matter.

I understand there is strong bipartisan support to remedy this inequity in our farm program laws. I support the gentleman's efforts to accomplish this.

I am sorry that, because of the legislative nature of this amendment, the bill before us today is not the appropriate vehicle for this provision. However, I look forward to working with the gentleman in the future on this problem, and if the provision is in the Senate bill, we will consider this correction in our conference committee. I thank the gentleman for his efforts.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I rise to bring to the body's attention an amendment I have prepared that concerns a matter of fairness and equity to American farm policy. Very simply, my amendment would maintain the number of farmers eligible for Loan Deficiency Payments (LDPs) under language included in last year's Agricultural Risk Protection Act (Crop Insurance Reforms).

The explanation for this need is as follows: for farmers to be eligible for LDP payments under the current farm bill, they must have had their land enrolled in farm program acreage back in 1986–91 crop years. This means that farmers that have decided to go into farming in the past ten years have not been eligible to receive loans or LDP's unless they have purchased farmland that was enrolled in the 1986–91 acreage. This would also include those farmers that did have acreage enrolled at the inception of the base acreage allotments, but later shifted acreage from another use into program crop production. For instance, if a corn/soybean farmer that also grazes some land enrolled in program acreage decides to shift that grazed acreage into corn/soybean production, his new cropping acreage would not be eligible for the Loan Deficiency Payment.

This problem was recognized last year and LDP eligibility was expanded to include farmers not enrolled in program acreage—language included in Crop Insurance legislation. However, this provision was only for crop year 2000, and another legislative remedy is needed for crop year 2001.

My amendment, which I have also introduced as a stand-alone bill, H.R. 2089, would do just that. The idea of LDP eligibility equity has garnered strong bipartisan support within the Ag Committee, and was included in Chairman COMBEST's original mark for the 2001 Crop Year Economic Assistance Act that was voted on earlier this week (H.R. 2213), but was narrowly eliminated along with all other fiscal year 2002 spending that was included in the mark.

The Congressional Budget Office estimates that approximately 98.6 percent of program crop production is eligible for LDP payments. While that number is significantly high and captures most commodity producers, it is still unfair for the other 1.4 percent to be ineligible simply because those farmers are not enrolled in farm program base acreage. It is important that we enact this provision and eliminate this loophole that places some farmers at a competitive disadvantage. I urge members to vote for passage of this amendment so that we may correct this problem.

The CHAIRMAN. Does the gentleman from Iowa (Mr. LATHAM) insist on his point of order?

Mr. LATHAM. I reserve a point of order, Mr. Chairman.

Mr. SMITH of Michigan. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The amendment of the gentleman from Michigan (Mr. SMITH) is withdrawn.

AMENDMENT NO. 30 OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 30 offered by Mr. SMITH of Michigan:

Add before the short title at the end the following new section:

SEC. . None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who permit the payment limitation specified in section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(a)(2)) to be exceeded in any manner (whether through payments in excess of such limitation, permitting repayment of marketing loans at a lower rate, the issuance of certificates redeemable for commodities, or forfeiture of a loan commodity when the payment limitation level is reached), except, in the case of a husband and wife, the total amount of the payments specified in section 1001(3) of that Act that they may receive during the 2001 crop year may not exceed $150,000.

Mr. LATHAM. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. A point of order is reserved.

Pursuant to the order of the House of Thursday, July 28, 2001, the gentleman from Michigan (Mr. SMITH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am disappointed in this amendment because earlier I had an indication from the Parliamentarian that this would be in order. We added some language that apparently is now going over the line in terms of legislating in an appropriation bill.

But let me just emphasize the importance of policy as we consider this amendment. The question befor this body is should the huge, large agricultural farm corporations get the most benefit from Federal agricultural programs? This amendment reinstates the $75,000 limit for payments.

Our agriculture programs, ever since we started these programs in the 1930s, have tended to benefit the large, and very large farmers, so in part the large farmers have bought out the small farmers because they have had the advantage in farm program payments.

My amendment, reinstates the $75,000 payment limitation on loan deficiency payments and it makes it a real $75,000 limitation on these producers. At the same time, and I would call this to the attention of the ranking member and chairman, at the same time, this amendment allows spouses of these farmers to be considered an equal partner in the farm operation, in other words, be eligible for the $75,000 payment limitation.

What we do now is make those spouses jump through, if you will, bureaucratic hoops to become qualified. We require such action as requiring the spouse to borrow money in their own name, put it into the farm operation, and then they can be eligible as a separate partner.

This amendment says that married couples would have the $150.000 payment limitation.

Let me go little further on what this amendment really does. Historically, net benefits from loan deficiency payments have been capped at $75,000 per producer, but this limit was doubled in the bill that went through on special orders a couple of weeks ago.

The increased payments to producers over the current $75,000 limit are estimated to be over $350 million. The huge, giant farmers are taking $350 million over and above the $75,000 limitation. This benefits only the very largest farmers.

The average farm size in the U.S. is about 420 acres, but one would have to raise 4,000 acres of corn at current prices to exceed or to go over the $75,000 limitation. There are many large farm operations that exceed 20,000 acres, so they are taking all of this extra money in and, in effect, taking it away from the family farmer.

Amazingly, this flawed system has allowed payments over $1 million to go to some of these farmers. Farmers that receive these large subsidies, and the grain traders that profit from expanded production, oppose this amendment. I think it is so important that we consider this kind of policy in terms of focusing the benefits on the small- and moderate-sized family farm operations.

This amendment accomplishes several things. It gives the spouse of a farmer the same kind of considerations as a partner. It provides that we hold to the $75,000 payment limitation, at a time when we are considering being frugal in our spending so that we do not start reaching into the Medicare and Social Security trust fund. It says, let us save that $350 million that is spent on those huge farmers by locking in the limit that would also apply to the nonrecourse loan and the forfeiture provisions or the commodity certificates that are offered to that farmer if they exceed the limitation.

Mr. Chairman, I would urge this body to consider the kind of agricultural farm policy that we want for the future of American agriculture.

Mr. Chairman, I have an amendment concerning payment limitations for marketing loan gains and loan deficiency payments (LDPs) to farmers, as well as limits on benefits received through the USDA commodity certificate program and nonrecourse loan forfeitures. This amendment would cap payments to individual farmers from these programs at $75,000.

Mr. Chairman, few people are aware that many of our farm commodity programs, for all of their good intentions, are set up to disburse payments with little regard to farm size. Often in our rush to provide support for struggling farmers we overlook just where that support is going.

The limit on price support payments to farmers was increased when we passed H.R. 2213, the 2001 Crop Year Economic Assistance Act on June 26th. Historically, net benefits from loan deficiency payments and marketing loan gains has been capped at $75,000 per farmer. However, H.R. 2213, which passed under the suspension calendar and was not subject to amendment, doubled the benefit cap to $150,000. Even this limitation is exceeded when USDA authorizes a commodity certificate program to pay farmers that reach the payment limit.

The increased costs to government by doubling the benefit cap from the current $75,000 limit is estimated at over $50 million. Furthermore, additional payments to large producers received through the commodity certificate program are staggering—over $320 million in crop year 2000 alone.

A Congressional Research Service report on commodity certificates stated that, "while purported to discourage commodity forfeitures, certificates effectively serve to circumvent the payment limitation." Amazingly, this flawed system allowed a single farmer to receive $1,201,677 in commodity support payments in 1999.

My amendment would simply restore a $75,000 limit on price support payments to individual farmers—including benefits via commodity certificates and loan forfeitures, but increase the limit to $150,000 for husband and wife farming operations. Currently spouses have to jump through several bureaucratic hoops to qualify.

With increased spending a concern, along with the fact that the additional benefits from the "certificate" program go to huge farm operations, I urge your consideration of my amendment. Boosting farm program payment limitations disproportionately skews federal agriculture support to the largest of producers, while doing nothing to alleviate the difficulties faced by small and medium-sized farmers. Let's do more to focus benefits on small and moderate size family farm operations.

USDA STATISTICS

Average acreage where $75,000 LDP payment is reached (crop year 2000): Corn, 1886 acres; soybeans, 2116 acres; wheat, 4,067 acres; cotton, 2,976 acres; and rice, 404 acres.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Iowa (Mr. LATHAM) insist on his point of order?

Mr. LATHAM. Mr. Chairman, I continue to reserve my point of order. If there are no other speakers, I would make a point of order.

The CHAIRMAN. Is the gentleman withdrawing the amendment?

Mr. SMITH of Michigan. I am not withdrawing the amendment. I question the point of order. It does not legislate, if I may speak.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. LATHAM).

POINT OF ORDER

Mr. LATHAM. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill, and therefore violates clause 2 of rule XXI.

The rule states, in pertinent part, "An amendment to a general appropriation bill shall not be in order if changing existing law." The amendment imposes additional duties, and I ask for a ruling from the Chair.

Mr. SMITH of Michigan. Mr. Chairman, I would like to speak on the point of order.

The CHAIRMAN. The gentleman from Michigan (Mr. SMITH) is recognized.

Mr. SMITH of Michigan. Mr. Chairman, hoping the Chair is open to discussion and debate on this issue, I would call to the Chairman's attention to the fact that we simply say in this amendment, "None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture" to accomplish these certain purposes.

This type of amendment has been put in former appropriation bills, so I would like a more detailed explanation from the Chair if he rules this amendment out of order.

The CHAIRMAN. The Chair is prepared to rule.

The Chair finds that this amendment in the last phrase includes language imposing a new duty. The amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the amendment is not in order.

AMENDMENT OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STUPAK:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ___. For an additional amount for the Secretary of Agriculture to carry out section 311 of the Older Americans Act of 1965, and the amount otherwise provided by this Act for "Agriculture Buildings and Facilities and Rental Payments" is hereby reduced by, $10,000,000.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Michigan (Mr. STUPAK) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased for the second year in a row to offer this important bipartisan amendment with the gentleman from New York (Mr. BOEHLERT). Unfortunately, the gentleman from New York cannot be here as he is on his way down to the White House, but we have his full support for this amendment.

Our amendment adds $10 million to USDA's nutrition program for elderly meal programs, known as senior citizen meals and Meals on Wheels. This amendment offsets this additional spending by reducing by $10 million from the agriculture building and facilities and rental payments.

Our amendment has the support of the Meals on Wheels Association of Michigan, the National Association of Nutrition and Aging Services Program, the TREA Senior Citizens League, the National Council on the Aging, and the National Association of Area Agencies on Aging.

I am sure all of us have met and spoken with seniors in our districts. I am sure they have told us how much they have come to depend upon the senior meals they receive, be it Meals on Wheels or meals at their senior centers.

Senior meal providers receive funding for the meals they distribute to seniors under the Older Americans Act through several avenues: first, through private donations; second, through the Department of Health and Human Services; and third, through the U.S. Department of Agriculture meal reimbursements.

Let me explain why a funding increase for USDA's nutrition program for the elderly program is so important. Unlike funding from the U.S. Department of Health and Human Services, HHS, which is distributed to the States based on population, the USDA reimbursement to States is according to the amount of meals served at each senior center. The money they receive is actually based on meals served at the senior center.

Our amendment is the best way to ensure that proper distribution of these funds are going to the centers where they prepare the meals.

Why do we need more money? Why are we back for a second year in a row? Why does this amendment go above the President's request? As our chart indicates here, if we take a look at this chart, according to the Administration on Aging, 253 million meals were served in 2000, but the agency admits that this year the estimates will be 291 million. That is a 15 percent increase over last year.

Even though we increased the funding last year for the meals, it is not going to be able to cover the dramatic rise in demand we see for senior meals. So the President's budget request, and the good work by the committee, it was good work, would be short of what we need just to cover our basic costs.

What our amendment does, the Stupak-Boehlert amendment will allow this important funding to reflect the inflation and the increase in demand for these meals. We can help senior meal providers that so desperately need assistance in these times of high gas prices, high cost of meals, and the increasing number of seniors who have come to depend on these meals, even in these good economic times.

I offer this amendment because of conversations I had last year with one such meal provider and about the plight of his agency. Bill Dubord and Sally Kidd of the Community Action Agency in Escanaba, Michigan, in my northern Michigan District, told me that their agency every year is having a tougher and tougher time keeping its head above water to provide senior meals.

I am sure all of us have heard similar stories as we travel about senior centers. According to a recent study, there are now an average of 85 people on waiting lists for home-delivered meal services, and are on the waiting list for an average of 2.6 months.

The bottom line is, our senior meal providers need more money to provide the meals. Increased funding will give them more money to provide more meals. More meals means more senior health. It is health. It is really that simple.

To pay for the amendment, as I have stated earlier, we have taken $10 million of a $187 million budget from the Department of Agriculture's building and facilities and rental payments. I fully recognize the importance of maintaining the Department's facilities. However, it is simply a necessity. We need to provide for our seniors.

□ 1600

When my colleagues are casting their votes, I hope they will think of the seniors they have met back home and the senior providers they have spoken with. Cast a vote for them and support this Stupak-Boehlert amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LATHAM. Mr. Chairman, I just congratulate the gentleman on the amendment. I rise to simply state that I am not opposed to his amendment.

The CHAIRMAN. Does the gentleman seek unanimous consent to seek the time in opposition even though the gentleman is not in opposition?

Mr. LATHAM. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 10 minutes.

Mr. LATHAM. Mr. Chairman, I yield myself such time as I may consume to just simply once again state I am not opposed to the gentleman's amendment, in fact support it, and I would hope we could quickly move to a vote on the issue.

Mr. Chairman, I reserve the balance of my time.

Mr. STUPAK. Mr. Chairman, I yield the balance of my time to the gentlewoman from Ohio (Ms. KAPTUR).

The CHAIRMAN. The gentlewoman from Ohio (Ms. KAPTUR) is recognized for 6 minutes.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding me this time on this important amendment to increase funding for the elderly food program and to take funds that may be available from rental payments that USDA does not have to make because it no longer is occupying certain facilities.

Without question, across our country the costs of even paying utility bills are rising significantly for seniors. Electric bills, gas bills in the Midwest, for example, have just risen at astronomical rates. And any way we can find to help seniors make it through this year and next I think are worthy of consideration. This is certainly one of those at the very basic level of decent nutrition.

We know that in many of our senior feeding programs, in fact, the programs are oversubscribed. I have been surprised in my own district on related programs, such as the Seniors Farmers' Market Nutrition Program, where seniors are allowed to use food coupons to purchase fruits, vegetables, herbs and so forth, the enrollment in the program is just growing exponentially because people are pinching every penny because of other expenditures that they have had.

So I think we really have to look carefully at any ways we can move food to the seniors' tables, and these particular meals programs operated through our area offices on aging are eminently successful across the country. I know in many cases I have sat in my own district and I have watched seniors being asked to contribute money in little envelopes to help pay for these meals at these senior centers to offset rising costs when they have very little to give anyway.

So I would say to the gentleman that I think he has a very worthy amendment this year. He was successful in leading our country last year with a similar amendment to increase funding for the program, and the number of meals, according to the charts that he has provided, have gone up. So it has been successful.

Certainly no person in America, no senior in this country should go without decent nutrition. We know that the poorest people in our country are women over the age of 85, and many of them are too weak sometimes to even get to the senior centers, so we have home-delivered meals being taken across our country in various neighborhoods. Sometimes the only contact that that senior has are with the person who delivers the noon meal.

So I want to thank the gentleman from Michigan (Mr. STUPAK), whose district actually spans the entire northern region of Michigan, who understands the problems of rural isolation of people in poverty and thank him for leading us all. And I am sure that the USDA, within its various accounts, can find the funds to cover the gentleman's proposed expansion, and I just want to compliment the gentleman for doing what is right, what is moral, and what we have the eminent capability to do in this country.

Mr. Chairman, I ask our colleagues to support the Stupak amendment.

Mr. STUPAK. Mr. Chairman, I yield myself the balance of my time, in closing, to thank the committee and the subcommittee and the ranking member for their support of this amendment. I would like to once again point out that the gentleman from New York (Mr. BOEHLERT) wanted to be here but he was called away to the White House. He has been of great assistance to us, not only in drafting and working this amendment, but in addressing the concerns of seniors throughout this country.

We thought the debate on this bill would go a little longer and we could do our amendment later when he got back from the White House. Unfortunately, he could not be here, but I wanted to recognize his efforts as well as that of the committee in helping us bring forth this amendment.

Mr. BOEHLERT. Mr. Chairman, I rise in strong support for the Stupak-Boehlert amendment to increase funding for the USDA's Nutrition Program for the Elderly by $10 million. This vital program helps provide over 3 million senior citizens with nutritionally sound meals in their homes through the meal-on-wheels programs, or in senior centers, churches, and in my district a few fire halls through the congregate meals program.

I would venture a guess that almost every single Member of this House has visited a congregate meal site or volunteered to ride along with a meal-on-wheels program. I want to remind everyone that these programs are important to our communities and that the need is quite real. Participants in this program are disproportionately poor. 33% of congregate meal participants and 50% of home delivered meal participants have incomes below the poverty level. A majority of meal-on-wheels participants live alone and have twice as many physical impairments as the average elderly person. The Nutrition Program not only feeds seniors in need but also allows those seniors to remain connected to their communities. Congregate meal sites give participating seniors the opportunity to socialize with members of the community. And Meals-on-Wheels volunteers deliver meals to frail, sick, home bound seniors most whom do not leave their homes even once a week.

Let me take just a moment to share with you the comments of some of the congregate meal program participants from the Town of New Harford Senior Center located in my home town.

Juanita, age 76, says: "Meals are important. I come every day."

Margaret, age 78, says: "The meals are very nutritional. I like food! It helps me feel good and want to be active."

Helen, age 91, says: "I enjoy coming here for the meals and the company. There is always something new that I hear and learn. The food, I enjoy immensely."

Carlton, age 88, says: "It is a chance to get out and enjoy the company of seniors that makes my day!"

In order to fund this needed increase for senior meals, the Stupak-Boehlert amendment offsets $10 million for the Agriculture Building and Facilities account. I do not doubt the need for these funds. But the number of seniors needing nutrition services continues to grow and we must make a larger commitment to ensure that Nutrition Program for the Elderly is properly funded.

The Stupak-Boehlert amendment is endorsed by the Meals on Wheels Association of America, the National Association of Nutrition and Aging Services Programs, the TREA Senior Citizen League, the National Council on the Aging, and the National Association of Area Agencies on Aging. This amendment represents a small investment in a program that helps to fight the malnutrition and isolation far too many needy senior citizens face.

I urge my colleagues to vote for the Stupak-Boehlert amendment. Vote to support our nation's seniors.

Mr. STUPAK. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. STUPAK).

The amendment was agreed to.

AMENDMENT NO. 25 OFFERED BY MR. WEINER

Mr. WEINER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 25 offered by Mr. WEINER:

Insert before the short title the following new section:

SEC.   . None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel of the Department of Agriculture to make any payment to producers of wool or producers of mohair for the 2000 or 2001 marketing years under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–55).

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from New York (Mr. WEINER) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

First, let me begin, Mr. Chairman, by offering my sincere thanks to the chairman of the subcommittee, the gentleman from Texas (Mr. BONILLA), and his staff for all the assistance they provided, as well as the gentlewoman from Ohio (Ms. KAPTUR) and her staff. I would also like to thank the gentleman from California (Mr. ROYCE) and the gentleman from Wisconsin (Mr. RYAN), who are also joining me in offering this amendment.

I stand as an urban member, someone who represents Brooklyn and Queens, the garden spot of the five boroughs perhaps, but not exactly a bastion of agriculture. But I am someone who strongly supports farm bills when they are offered. I have never voted against one and plan to vote for this one with enthusiasm. But just as during the 1980s and a period thereafter, as we have sought to make government programs more efficient and many social and urban programs were made more efficient by the actions of this body, we have an opportunity today to end what is quite literally a fleecing of America.

The wool and mohair program, which will cost in the area of some $20 million to the United States taxpayer next year, is a program that has been ended by this body and now revived by the President with the assistance of this bill. My amendment seeks to eliminate the subsidy.

First of all, let me explain that this is a program that has, I guess, the agriculture version of mission creep. It was started out in the 1930s and 1940s as an effort to protect the strategically needed resource, that is wool; to make sure that wool was available to be used in our military uniforms. Well, those of my colleagues who serve on the Committee on Armed Services recognize that since the 1950s or so it has been removed as a strategically necessary resource because we do not make uniforms out of wool any more. In fact, I have a uniform here that is made out of 100 percent cotton. And all of the uniforms are made out of either cotton or nylon.

So once that rationale was removed, then it became an emergency subsidy intended to get the industry over a hump that it faced in the early 1990s. When it was clear that the program was not as effective and perhaps a little more wasteful than some would want, this body ended the program in 1993. Now there is an effort to revive it again under the rubric that we need to be able to deal with foreign competition and the only way to do it is with this subsidy.

The second thing about this subsidy is that it is not cheap. We have throughout the 1990s provided more than a billion dollars to this industry. Just last year it was in the neighborhood of $10 million. It is not really clear where next year's number will end up, but it is somewhere in the range of $10 million, $15 million, or $20 million.

It is also very clear from our history with this program that it is not helping the family farmer. According to a study done in 1993, the average payment is some $44, though there are many who get much more than that. The top 1 percent who benefit from this program, including Mr. Sam Donaldson, gets in the neighborhood of $100,000 or more. So the idea this is something that is helping to augment the family farm is simply not borne out by the facts.

Fourth, as a matter of pure economics, this program is a failure. Wool has seen a price drop since the reinstitution of this programming from some 63 percent. Why are we seeing that? It is because most likely, in combining with the subsidy, we are doing nothing to control supply. So we are continuing to sheer more and more animals, more and more stockpiles are building up, the supply keeps on growing and growing and growing, and the price remains depressed. There is nothing in this program that does anything to change that behavior.

But perhaps the most damning economic line in this whole issue is that the price of mohair, which is about 20 percent of this program, has increased about 88 percent since 1995. If there was any better evidence that it is market forces and not this subsidy that is having an impact on the price and, therefore, the success of the farmers, it is that fact; that wool and mohair are bunched together in this program. And one is seeing a dramatic drop in price and one is seeing a dramatic increase in price. The program simply does not make sense from that perspective. If anything, if we are trying to drive up the price on some level, then at least mohair should be dropped from the program. The final irony is that there is a greater subsidy for mohair in this bill than there is for wool.

I would make one final point. There was a period of time between the time this program died and then like Frankenstein that it resurrected itself, and that was the year 1997 and 1998. And if we look at the statistics as to how the industry did in the last year we had the subsidy and the first year that it returned, the industry got worse, not better. There was a reduction in wool, in wool production, of about 11 percent. There was an 11 percent reduction in the profits to wool farmers in 1996. And when the subsidy ended, they actually had smaller losses of only about 3 percent. The same is true in the mohair industry. Mohair prices and mohair jobs actually reduced when we had the subsidy and then came back slightly when we got rid of the subsidy.

I would ask my colleagues to consider very frankly why it is that we have these programs in general. All of us want to be able to support farm programs. I believe the farm bill, as I said from the outset, is a worthy document we should support. Very often I am calling upon my colleagues to support purely urban things. But if someone comes to me and says, you know, this program that operates in the urban centers, like many of the housing programs of the 1980s, it simply is not working, I believe it is incumbent on Members that have those interests at heart to try to weed out the waste. This is, the wool and mohair subsidy program, is simply a waste of taxpayer money.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I rise in strong opposition to the amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 20 minutes.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume, and I would first like to ask my colleague from New York if he would answer a question.

Has the gentleman ever visited a wool house or visited any of the areas where the sheep and goat raisers exist?

Mr. WEINER. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from New York.

Mr. WEINER. I would have to answer no, but that is true of most of the food products I eat every day. I have not visited where they were farmed either.

Mr. BONILLA. Reclaiming my time for another question, does the gentleman also oppose the apple program to deal with the hardships that apple producers are currently facing in the State of New York? Does the gentleman also oppose that?

Mr. WEINER. Mr. Chairman, if the gentleman will continue to yield, I would be happy to answer that question.

When we offer in this body emergency programs to deal with exigent circumstances, we expect that that is not going to be in perpetuity. That is why if I were in this body, I would not have opposed the first time this emerged as an emergency subsidy.

So I would say I support the judgment of the chairman. If there is an emergency situation existing in the apple industry, I would clearly support it. If the gentleman came to me for 10 years in a row and said it is an emergency because now we are getting competition from applesauce manufacturers, that is why we need to keep it going, I would probably have reservations regardless of the State.

Mr. BONILLA. So the short answer would be no, the gentleman does not oppose the apple money in the bill, and it is not a designation of an emergency line item.

Mr. WEINER. If the gentleman will continue to yield, if the apple program is, in the judgment of the chairman, a worthy program to help, I would imagine it is a program that is designed, and it is one that I am not nearly as expert on as the gentleman is, but I imagine it is designed to deal with this temporary circumstance and not to exist into perpetuity; is that correct?

Mr. BONILLA. Well, the program was proposed by one of the gentleman's colleagues from New York, and that is why I am asking a question. It is a hardship that exists on apple growers in New York and in other parts of the country that is in this bill. It is not an emergency line item either.

I am just trying to draw the comparison that hardships exist in different parts of the country and it is interesting that the gentleman does not oppose the $150 million apple line item in here, and there was money for apple producers last year as well. So there are continuing programs on occasion that do help producers that are doing all they can to pay their bills back home that are not part of permanent law.

The Wool Act, as the gentleman knows, was eliminated several years ago, I believe it was 6 years ago, and is not in permanent law. The program that the gentleman is trying to remove from the bill today is one that is not permanent law either. We are just trying to assist producers out there now that have gone through some very difficult times.

Mr. WEINER. If the gentleman will continue to yield, I guess the concern that some of us have that are concerned about this program, and to use the apple example, if we were to stand here in 1950 or 1945 and say, you know what, we need to defend the apple producers because the apple seeds are a vital resource, and then it turned out apple seeds were not that important; and then we come back and said it is the apple core that is very important; and then a few years later we killed the program because it is no longer worthy, I think the point I am trying to make is this is a program that has been tried, it has been offered several different justifications, it has failed by most economic sources I can look to, it has not been successful, and Congress did the right thing in pulling the plug on it.

I guess I would agree with the gentleman that the same standard should be used for the apple program or any other program, sir.

Mr. BONILLA. Well, let me again summarize it, and I do not want to put words in the gentleman's mouth, but clearly the gentleman does not oppose a program for example in his State that is a big line item in this bill, but is yet trying to remove this program from this bill.

Let me point out some statistics, and perhaps the gentleman can identify with some hardships that exist currently for wool and mohair producers. Since 1993, 16,000 family farms and ranches have left the sheep industry. The U.S. breeding herd has dropped by over 20 percent. Lamb imports have increased over 50 percent, and it is currently 20 percent of the domestic market. U.S. wool production has dropped to record lows, and imports have increased by 11 percent.

□ 1615

The Nation's largest wool textile company filed for bankruptcy. Wool prices in 2000 were the lowest in 30 years.

We in Congress do the best we possibly can for whatever part of the agriculture industry that exists around the country that is suffering hardship. There is nothing more American and traditional in this country than to try to preserve family farms and ranches; and there are many, many programs in this bill that do just that, including the one I pointed out that was in the gentleman's home State as well, which he supports.

All we are saying is whether we are talking about apples, corn, cotton, tobacco, wheat, soybeans or whatever, all of these are part of the American fabric. Wool and mohair producers are part of the American fabric that we do not want to see become extinct. So for that reason I stand in strong opposition to this amendment today.

As a nation, we can no longer afford to arbitrarily attack agriculture because it has the fewest voices representing it. Less than 2% of the American population is involved with agriculture, yet we feed and clothe all of America and most of the world!

What I find even more strange is that the amendment singles out a total of less than $40 million in much needed assistance to wool and mohair producers. Yet the sponsors have no problem with the rest of the $5.5 billion dollars that Congress just approved for corn, cotton, tobacco, wheat and soy bean producers. If they did, I assume they would try to kill that relief as well.

Yet, those commodities have a much larger voice and support base in Congress so I guess we'll just go after the little guys. And they are small producers. . . .

Twenty-one percent of the 12,825 payments went to sheep ranchers in the Navajo Nation. I'm sure that the gentleman would not even begin to insinuate that the Navajo people are wealthy corporate ranchers.

This amendment would hit them harder than any other group of individuals.

Mr. Chairman . . ., many of the statistics the gentleman is using do not even relate to the emergency payments they are trying to stop. They refer to the old wool program which ended in 1995.

Mr. Chairman . . ., I urge all of my colleagues to oppose this amendment, it's the wrong amendment, the wrong time and the wrong place. Oppose this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WEINER. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I think the Congress has been a little sheepish when it comes to reducing wasteful programs, especially during times when we have had a Federal surplus.

I would just make the point that Congress did end the wool and mohair subsidy. It was phased out in 1994. I think that was a good thing. Subsequent to that taxpayers did save about $200 million a year. That was good.

However, like a wolf in sheep's clothing, this subsidy came back in the fiscal 1999 omnibus appropriations bill and again in the fiscal 2000 agriculture appropriations bill. Now wool and mohair producers have become eligible to receive these payments again.

I do oppose the subsidy for apple producers. I think that is another rotten apple in this agriculture measure that is before us. But let me make the observation that while in the old program farmers were paid a subsidy for the wool and mohair they sold, in this new program, if I understand it right, the way it works now is the farmers do not need to attempt to sell their goods necessarily. The Agricultural Department will pay farmers by the pound just to produce mohair. Under the new program not only can farmers make money without selling their crop, they can make money without trying to market it, if I read it correctly.

In 1999, taxpayers provided wool and mohair farmers, I believe, 10.3 million in subsidy. As explained, the original concept of this had to do with our national security. It had to do with the fact that military uniforms were wool. But the reality is that in 1959 they changed to synthetic fabrics and cotton. That is the situation today.

I just think it is time to end this waste of taxpayers' dollars. I think it is time to shear the wool and mohair subsidy and stop the fleecing of tax dollars.

Mr. WEINER. Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield 2½ minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I rise in opposition to this amendment.

The prior speaker said we are a little sheepish. I do not want him to pull the wool over the eyes of the American public in this Congress. You have to be in the business to receive the help in opposition to what he stated in his testimony.

The farmers and ranchers of the United States that produce wool and mohair are suffering the same crisis in agriculture as producers of other crops. Sheep producers pay the same increased cost of fuel as the grain farmer and are suffering undue hardships because of the value of foreign currency to the U.S. dollar in unfair trade practices. Loopholes remain open that allow foreign products access to U.S. markets through Mexico and Canada.

Producers in the United States continue to produce some of the world's finest wool and mohair, and yet for many producers wool prices do not even cover the cost of shearing the sheep. As a result, short-term financial relief through a market loss assistance program is vital to U.S. producers. Market loss assistance has had a positive impact for producers in all 50 States.

I am in the cashmere goat production business, which is not under this particular amendment. I receive no financial assistance. But I can state that we are trying to help people within agriculture to diversify the income on their farms or ranches so they do not have to be dependent upon Federal help.

This amendment goes against every principle of trying to help people in agriculture help themselves. We do not want to be dependent on the Federal Government; but until this government gets a handle on energy costs, on import problems, and understands that, unless this government steps forward and solves many of the problems that are creating the crisis in the Federal farm communities of this Nation, we will continue to have to come in and look to the Federal Government for relief.

We cannot let the people that want to destroy agriculture get our goat. I urge the Members to vote no on this amendment.

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

First of all, let me address some of the points that have come up by the very distinguished chairman about the inconsistency in his mind of my supporting a program that is in New York. Well, I also support programs that are in Mississippi, Montana and North Carolina and all across this country because I support the bill. I think it is a good bill.

Mr. Chairman, I would ask both the chairman and members of the committee and all of my colleagues, if we had a program that was in place under various guises since 1938, and still we were seeing that the marketplace was not responding to the subsidy, that we were still hemorrhaging market share, and still losing the jobs and had fewer and fewer heads of sheep that were being lost, why would you deem it to be a successful program?

Can anyone argue by any measure that it is a successful program? Is it successful for the average farmer that will get $44? The gentleman from Montana said we need to keep it in place because of the strength of the dollar or because of trade disputes. We will add those to the list of justifications and reasons that have been growing since 1938.

Let me reiterate the statistics of this. 1993 we had a subsidy. There was a 5.2 percent reduction in wool production. 1994 we had a subsidy, 11 percent loss. 1995 we had a subsidy, 8 percent loss. 1996 we had a subsidy, 11 percent loss. 1997 we did not have a subsidy, we only had a 3 percent loss.

Perhaps there was something about the marketplace in 1997, perhaps it was the Democratic Presidency, but the fact of the matter is there seems to be no correlation between the subsidy and the success of the program.

Mr. Chairman, I think it is reasonable for Members of Congress who support ag programs to say this one is a bust. It is not working. I think we have to make those distinctions both in agriculture programs, and I would say this to my most fervent colleague in the urban areas, we have to make those determinations with urban areas as well. If a colleague from an urban area said we need to continue the subsidy for mass transit for all of those coal-powered subways, I would say there are no coal-powered subways.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, what is the time remaining?

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) has 13 minutes remaining. The gentleman from New York (Mr. WEINER) has 9½ minutes remaining, and the gentleman from Texas as the chairman of the subcommittee has the right to close.

Mr. BONILLA. Mr. Chairman, we only have one additional speaker, so I reserve the balance of my time.

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not have a great deal to add on the importance of preserving what I believe will turn out to be on the final vote on this bill a continuation of the very strong urban-rural coalition that exists in this House. I and many of my colleagues are going to be supporting the agriculture bill with enthusiasm. We recognize the matrix that exists between farm programs that are miles away from our communities and the importance that they play to our economies and our communities.

All of that being said, it should never be a substitute for us making wise decisions about what programs work and what programs do not work. In 1993, this body took several steps to reduce the size of government to make thing more efficient.

In 1993, after years of being hammered on television shows which were frequently unfair about a fleecing of America, we finally decided to see what we could do about ending this program. The program ended; and, unfortunately, there continued to be a decline in the production of wool and mohair in this country. That decline slowed, and since then we have had an increase in mohair prices.

There has been an 88 percent increase since 1995, yet we continue the subsidy. The subsidy for mohair is 40 cents, as opposed to a 20-cent subsidy for wool, despite the fact that we say we are trying to help the family farmer. Many more people are producing wool. They are in a much more dire situation, yet they get half the subsidy of those who produce mohair.

We still have the terrible imbalance that exists in this program between the average farmer who gets $44 and the top 1 percent that get over $100,000 each.

Mr. Chairman, I stand shoulder to shoulder with the chairman, who has done a terrific job on this bill, in saying that there are many areas that we have to step in and provide assistance to. But if we are standing here in 38 years, God willing, or 50 years, God willing, and we are debating the apple program, the tobacco program or the corn program, or any of the programs that may or may not be in this bill, and if we are still having the same problems as we had from 50 years ago, believe me, I would be the first to say we should eliminate that program.

Mr. Chairman, I urge Members to eliminate the wool and mohair subsidy, save our constituents 10 to 15 to $20 million; and even more important, end a program that has long since proven itself to be ineffective. More importantly than that, show that we understand and have the ability to separate a program that truly does work from those that do not.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Mr. Chairman, we work in a funny place. It helps if one knows the facts; it really helps if one understands the facts. But if one neither knows nor understands the facts, it causes a great deal of confusion.

Mr. Chairman, let me talk about the "Dear Colleague" letter that went out. It says this subsidy began during World War II and the Korean War, and obviously it is no longer necessary because the military does not need this wool anymore. This is not the original program for the military in World War II. This is an economic disaster, market loss assistance program, which was put into place.

Our agricultural producers that raise sheep and mohair are suffering the same economic consequences as everybody else is in the agricultural industry; and to pick them out and say we are not going to help them, we are not going to have an assistance program for them and we are going to for everybody else is wrong. This is not the old program put into place during the war.

Mr. Chairman, the other part of the "Dear Colleague" says, "The average farmer received $44 for this subsidy. The largest factory farms, representing 1 percent of all growers, received 25 percent of the subsidy." That is blatantly not true. There are no facts which support that. To support this, the largest producer would have to raise 62,000 sheep. There are no producers that large.

□ 1630

Mr. WEINER. Mr. Chairman, I yield myself the balance of my time.

If I can just address the remarks of the previous speaker who was not here earlier, that is exactly my point, that the program that we had since 1938 has evolved so many times; yet we continue to find another justification for it. We say, well, it was because we needed the uniforms; well, now we need an emergency in the 1990s; well, now it is to compete with foreign competitors; well, now it is to make up for the loss in the strength of the dollar.

The fact remains that that is the definition of a program that ain't working. If you have a program since 1938, if you keep changing the name and changing the justification and still the facts remain the same, that the decline in the industry domestically has been unfettered by these programs. In fact, I earlier read a statistic that I will repeat for the gentleman, that the year that the program went out of effect for 2 years, the industry did better. It did better. The losses were smaller in 1997 than they were in 1996 in both wool and mohair.

If you want to find a program that works, you say, here is what the subsidy did. I defy anyone in this Chamber to point to me a success story from this program. Tell me one year that this program has been in effect that there is a single farmer that got $44 on the average, a single farmer that said, oh, I got my 44 bucks.

Mr. SIMPSON. Mr. Chairman, will the gentleman yield?

Mr. WEINER. I yield to the gentleman from Idaho.

Mr. SIMPSON. Mr. Chairman, I would like to know where he got the average of $44 per farmer, because we cannot find anywhere where that information comes from. In fact, it comes to about $800 per farmer from our information. And the information that he suggests that 1 percent of those sheep producers got 25 percent of the payments is just blatantly false.

Mr. WEINER. I will be glad, reclaiming my time, to give the gentleman the source for that. That was the 1993 National Performance Review performed by the office of Vice President Gore, which was the rationale for a bill that came to this floor providing for greater efficiency in government that ended this program.

Mr. SIMPSON. So these are decade-old figures that he is quoting to us, 8 years, from 1993?

Mr. WEINER. I have been quoting numbers out the yingyang today, but which one is the gentleman referring to?

Mr. SIMPSON. Any ones that he understands.

Mr. WEINER. That should narrow it down.

No, anything after 1993 obviously did not come from that study. Anything after 1993 came from the Agricultural Statistical Service, sir.

Mr. SIMPSON. That is interesting because they did not have any information for us.

Mr. WEINER. I will be glad to provide it for the gentleman. But one thing, and I would yield to anyone, since I have a couple of moments left, anyone that can point to a year the subsidy was in place that it did anything to reverse the trend. The trend has been consistent right along. The only time there has been a blip in the trend was 1997 and 1998 when the program was phased out momentarily. Then the losses were reduced. They did not gain, but the losses were reduced.

So the argument for a program is not simply that I came up with a new rationale for it. I could do that for any program. The argument has to be, here is how it worked. And we have not seen any demonstration that it has worked.

Mr. Chairman, I yield back the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. STENHOLM), the ranking member on the Committee on Agriculture, a hero to agriculture, and someone who is going to tie all this up in a little package for us at the conclusion of this debate.

The CHAIRMAN. The gentleman from Texas is recognized for 12 minutes.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me this time.

In light of the last exchange, I am often reminded but never more so than this afternoon on this amendment of the late Will Rogers' quote when he said, "It ain't people's ignorance that bothers me so much, it's them knowing so much that ain't so is the problem."

That is the problem with this amendment. The gentleman from New York and the gentleman from California are still attacking a program that was eliminated in 1994. They keep referring and all of these letters that we get from various groups keep talking about the wool and mohair program like it is still here. It was eliminated in 1994. Even the money the gentleman is talking about for striking is not even in the bill we are discussing today. It is in the emergency bill that passed the House Committee on Agriculture and this body to provide assistance to wool and mohair producers.

Now, this gentleman stood on this floor in 1994 and opposed the elimination of the wool and mohair program because we believed it would do damage to an industry that we did not believe was ready to be eliminated because of unfair foreign competition. We lost. I lost. The gentleman from New York and the gentleman from California won that amendment. We predicted the demise of the wool and mohair industry. And, guess what? Here in 2001, we have 25,000 less wool producers in the United States. They are gone. The gentleman from New York said there is no supply reduction. I would guarantee you there has been a supply reduction. Production has gone down in the United States; 25,000 producers are gone. We have eliminated 70 percent of the mohair producers. They are gone, thanks to the philosophy of the gentleman from New York.

Now, we might say, Well, that is the way it should be. Well, in April of 1999, the United States International Trade Commission determined that the domestic lamb industry suffered from extremely low prices and a flood of imports which constitutes a substantial cause of threat of serious injury to the domestic lamb industry.

In July of 1999 because of the commission's finding, President Clinton issued Presidential Proclamation 7208 establishing a tariff rate quota on lamb meat for a 3-year adjustment period. The 3-year adjustment period was established so the domestic sheep industry could recover from unfair trade. Unfair trade.

Now, we have accomplished what this body wanted to accomplish with the elimination of the wool and mohair program. It is gone. Now what some of us are interested in doing is trying to assist those wool and mohair producers that believe that they can compete in the international marketplace if their government would stand shoulder to shoulder with them as just this year the European Union will spend $2 billion, that is with a B, subsidizing their wool industry.

Now, I would ask anyone in this body that represents any interest, whether it be agricultural, airplanes, anything that you are manufacturing in this country, if your competitor is spending $2 billion and we are spending $16.9 million, why is that excessive? What is it that we are doing that has brought this amendment to the floor today to suggest that by trying to stand with an industry that is trying to survive in the marketplace, in the marketplace now, not with subsidies. The old program cost $200 million a year. We are providing $16.9 million, exactly like we are doing for apples, for cotton, for wheat. That is all that is being done. Not in this bill, but in some other bill. Since 1999, depressed wool prices. In 1995 wool was selling for $1 a pound. Today it is 33 cents a pound. That is in constant dollars. Real dollars. Yet you stand on the floor today and say there has been no market reaction, that somehow we are doing something that is unfairly subsidizing the wool producers? Come on.

We have a letter from the American Textile Manufacturers Institute saying, "Please do not be misled into thinking that the money for wool and mohair producers is actually a continuation or revival of funding provided by the Wool Act which Congress eliminated in the 1990s."

That is the truth. The gentleman from New York and the gentleman from California have taken some other individuals who have no knowledge whatsoever of the industry and have suggested that somehow we are putting the wool and mohair back into place. All we are trying to do, in another bill, at another time, in another place, is saying to those wool and mohair producers who have survived the elimination of the Wool and Mohair Act that we want to stand shoulder to shoulder with you and we want to give you a little assistance, and it is a very little assistance, and we are struggling now in the Committee on Agriculture to come up with a program that will hopefully give them the opportunity to compete in the marketplace, as the gentleman from New York's rhetoric has suggested; but his facts are so far off base that I know the gentleman did not mean to misstate to this House what he has stated over and over again today. But I believe he has been misled.

For that reason, I state the Weiner-Royce amendment is misguided, inconsistent with the commission's findings, the commission's findings, not the House Committee on Agriculture. The International Trade Commission in looking at the results of the elimination of the wool and mohair program suggested that we ought to do something to stand with our producers, and we have been doing that and the Committee on Agriculture and others who have a little more knowledge about the industry, and I say this respectfully because I know the gentleman did not mean to misstate.

Mr. WEINER. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from New York.

Mr. WEINER. Mr. Chairman, I appreciate the gentleman yielding. I have questions for the gentleman because he is much more expert at this than I am. But the statistics on the production of wool bear out certain trends; and one is that during the years that the previous, using his words, the previous wool and mohair subsidy, although was identical but for all intents and purposes we are paying farmers based on how much wool and mohair they shear, a certain amount, go warehouse it or sell it, is there anything in the trend to show that the years that the subsidy was in place were good for farmers or better than anything in the period that it was out of place?

Mr. STENHOLM. I take my time back. There he goes again. He keeps referring to the old program. It is gone. I am not standing here today defending the wool and mohair program of 1994. I fought for that then. I believed it was in the best interest. We lost. We lost. It is gone. He keeps talking about what used to be. I am talking about what is. And what is today is a $16.9 million program that is designed to help those who have survived. Twenty-five thousand wool producers are gone, out of business, eliminated. Seventy percent of our mohair producers are gone, eliminated, financially.

Mr. WEINER. If the gentleman would indulge me then in his experience with the last program. We had a subsidy that he supported. He said earlier in his statement that as a result of the victors in eliminating the program, there has been a dramatic decline. Is that borne out anywhere in the statistics?

Mr. STENHOLM. Sure it is. Absolutely. I reclaim my time. Twenty-five thousand less wool producers. The gentleman is not listening. In 1995, we had 5,000 mohair producers. In the year 2001, we had 1,400. That is a 70 percent reduction. They are gone.

Mr. WEINER. Unfortunately, the problem with that reasoning is that they hemorrhaged worse during the last wool and mohair subsidy program.

Mr. STENHOLM. Wrong.

Mr. WEINER. I can provide the gentleman with the numbers, of the number of sheep and goats being farmed in this country. 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999 we lost during every one of those years. But we lost less during the years there was no subsidy, irrespective of whether it is wool and mohair 1, 2, 3 or 5.

Mr. STENHOLM. Again I reclaim my time because the gentleman is stating something that is completely erroneous.

I conclude my remarks to my colleagues today by saying, please oppose this amendment. It should not even be on this bill. The money he is talking about is in the other bill. That is where we ought to be discussing this. But when you start looking at what we are trying to do, and we will have plenty to say about that when the farm bill comes up, what we are trying to do with the money he is trying to eliminate is to stand and give a helping hand to the remaining wool and mohair producers, trying to come up with some new ideas in the marketplace in which we can survive.

The gentleman from New York would just say, Adios. We don't give a rip about that. We just think you ought to compete in the international marketplace. I ask you again: How could any wool producer in the United States with $16.9 million total support that the Congress is giving them compete with the European Union that is putting in $2 billion?

Let us talk about Australia. He poohpoohed a minute ago the idea that the value of dollar and currency values had anything to do with this. The Australians have an advantage in cotton and in wool of 50 percent because the value of the Australian dollar is 50 percent of the United States dollar.

I ask you a simple question: if you are selling wool, and we are selling it for 33 cents today, way below what it costs to produce. The Australians are getting twice that much, 66 cents, just the value of their currency. That to me is a justification for the expenditure of $16.9 million of our taxpayer money attempting to help our wool producers, exactly like we are doing it for apples and exactly like we are doing it for wheat and corn and soybeans and rice and all of the other commodities.

That is why I ask and I commend the chairman of the committee and others who have participated today, I believe that this is clearly an amendment that needs to be soundly defeated and let us get on with the passing of this bill that the committee has worked so diligently on.

The CHAIRMAN pro tempore (Mr. CHABOT). The question is on the amendment offered by the gentleman from New York (Mr. WEINER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WEINER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. WEINER) will be postponed.

AMENDMENT NO. 19 OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 19 offered by Mr. ROYCE:

Insert before the short title the following new section:

SEC. ___. None of the funds appropriated or otherwise made available by this Act may be used to award any new allocations under the market access program or to pay the salaries of personnel to award such allocations.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from California (Mr. ROYCE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in a true market economy, advertising is a function of the private sector. It should not be in the public sphere. The public in my view should not be forced to subsidize corporations.

□ 1645

This is a philosophical point but it goes to the question of this Market Access Program. Let me make the point that the Market Access Program is a leftover product of two previously failed USDA programs. One was the market promotion program and then the targeted export assistance program, both of which we debated on this floor, both of which we tried to reform.

Basically, the Market Access Program funnels tax dollars to corporate trade associations and to cooperatives to advertise private products overseas. While proponents of the program claim that the Market Access Program boost its exports and creates jobs, there is no evidence to support that. As a matter of fact, the General Accounting Office studies indicate that this program has no discernible effect on U.S. agricultural exports.

I believe the private sector knows how to advertise. It does not need government interference. I think that taxpayer dollars merely replace money that would be spent by private companies on their own advertising, and provisions in the 1996 farm bill have attempted to reform MAP but thus far have failed. Although the percentage of large companies that get this MAP money has decreased, a number of large corporations still receive millions indirectly through trade associations.

In the last 10 years, America's taxpayers basically paid out $1.5 billion for this particular subsidy. I think the American people would agree that their money would be better spent if this was relegated back to the private sector.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. SIMPSON). Does the gentleman from Texas (Mr. BONILLA) claim the time in opposition?

Mr. BONILLA. Mr. Chairman, yes.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. BONILLA) is recognized for 5 minutes.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from Texas (Mr. BONILLA) for yielding me this time.

Mr. Chairman, I rise in opposition to the Royce amendment. I think that the proof is in the pudding, and the pudding is in the trade accounts of the United States, which show that in spite of an unbelievably large trade deficit in almost every other sector, in the agricultural arena we have been able to keep our nose above water barely, because we have exported more than we have imported. With dropping prices for product and so forth, we have managed to double some exports. In specialty areas, whether we are talking about fish or packaged juices, we have been able to keep moving product outside this country. That takes effort. The Market Access Program helps.

With changes made in prior farm bills, we have limited those who can apply for assistance in order to move product into the international market; but my goodness I would not want to stand on this floor and oppose a program that has helped America maintain positive trade accounts in agriculture internationally when every other single account in petroleum and imported oil products, in manufactured goods, in electrical equipment, no matter where one goes in the trade accounts, the United States has historic trade deficits but for agriculture. Though the going is getting rougher in international waters in terms of trade, my goodness, this would be the last program one would want to eliminate in terms of helping both farmers in this country move product and in maintaining and turning around that yawning trade deficit which is a very serious underbelly inside this economy. So I rise in opposition to the Royce amendment.

Mr. ROYCE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Chairman, I thank the gentleman from California (Mr. ROYCE) for yielding me this time.

Mr. Chairman, I rise in strong support of the Royce amendment, and I commend the gentleman from California (Mr. ROYCE) for his hard work on this issue.

Mr. Chairman, this is one of the most egregious examples of taxpayer subsidized corporate welfare, the MAP program. Hardworking taxpayers should not have to subsidize the advertising costs of America's private corporations. Yet that is exactly what the MAP program does.

Since 1986, the Federal Government has extracted nearly $2 billion from the pockets of American taxpayers and handed it over to multimillion dollar corporations and cooperatives to subsidize their marketing programs in foreign countries.

When Congress, back in 1996, in the farm bill required MAP funds to be limited to farmer cooperatives and trade associations, proponents argued that the MAP funds would only be used to help small businesses and farmers. In fact, much of the funding went to large trade associations made up of some of the largest and most profitable corporations.

Mr. Chairman, Congress should end the practice of wasting tax dollars on special-interest spending programs and unfairly take money from hard working families to help profitable private companies pad their bottom line. MAP is a massive corporate welfare program that we should eliminate today.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman, I would say to my colleagues, wake up, wake up and smell the coffee. How do we know the coffee is brewing? How do we know that there are French and Italian wines at the market? The answer is because these countries that grow these products also advertise these products in our country.

They want us to buy agriculture in other countries. That is why we see oranges from South America being advertised in the United States, coffee from Colombia, wine from France and Italy and so on; and yet when it comes to our own agriculture, the most abundant agriculture in the world, where we grow more than we can consume and where we actually grow products for other countries, we should not be allowed to be on a competitive field where everybody has a fair chance by small matching money that the private sector has to put up and match by the Federal Government?

The Federal Government spends $3.187 billion on advertising and recruiting for the military. Our States advertise for tourism. Let us also advertise for agriculture.

Mr. ROYCE. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I appreciate the opportunity to speak once again on the MAP program. One of the arguments that was made by my colleague from California is that, well, other countries are in a position that they can do this advertising and it has been advantageous to them. The fact of the matter is that our consumer marketplace encourages that type of advertisement to go on of our products that are here made domestically in the United States, irrespective of what is going on in Chile or what is going on in France. I do not believe that the United States taxpayer should be subsidizing these advertising programs because, in fact, what winds up happening is that much of this advertising, I would argue all of it that is subsidized by the MAP program, would go on anyway because of the decisions made by the industry; that it is in their interest to encourage this type of development.

The MAP program is another example of a program where I do not see it is very easy for us to point to demonstrated areas where the advertising has led to any more farmers, any more ranchers, any more production or sales. I am firmly of the belief, and perhaps I am wrong on an economic level, that if the U.S. Government leaves this field it would quickly be occupied.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. Mr. Chairman, I thank the gentleman from Texas (Mr. BONILLA) for yielding me this time.

Mr. Chairman, I rise in strong opposition to this amendment. I would just like to make a couple of points. Number one, these funds are not available to large international corporations. These funds are matched by people like the corn growers, the beef producers, the pork producers, people who care about their product and want to promote their products overseas so that we can expand our exports for the American farmers.

There is a prohibition from these corporations who are making corporate welfare out of this. These programs are absolutely essential for the future in agriculture so that we can add value to American agriculture, so that we can go out into the world marketplace and talk about the quality and the supply of good American food products.

If anything, Mr. Chairman, we should be increasing these funds. We should be proud of what we stand for in agriculture. We should stand up and say to our American farmers that they do have the best products in the world and we want to go tell the world about it. That is what we need to do is to protect this program. It is not large enough as it is.

Mr. ROYCE. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I would just point out that, according to the General Accounting Office studies, there is no evidence that MAP increases exports or increases jobs. Any increase cited and attributed to the Market Access Program would have occurred whether MAP existed or not.

The private sector, I would also point out, knows better to whom to advertise and how to advertise and can do it more efficiently. I think that government hand-outs merely replace money that would be spent by private companies on their own advertising.

The last point I would like to make is MAP, in some cases, uses tax money derived from the competitors of these MAP recipients. So I would urge adoption.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. BOYD), a member of the subcommittee.

Mr. BOYD. Mr. Chairman, I thank the gentleman from Texas (Mr. BONILLA) for yielding me this time.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from California (Mr. ROYCE). Mr. Chairman, as we continue to open our borders and expand trade, we continue to put our own small producers at a disadvantage because of the increased pressure from other countries that are heavily subsidizing.

This is one program, one program, that is really working well to enable some of our smaller producers and processors to gain access in the foreign markets.

Now, the gentleman from California talked about the GAO study but I want to say, Mr. Chairman, the GAO study did not go to Florida where we have used the program very successfully in the citrus and grapefruit industry. We do a 100 percent match of the Federal funds and since the inception of this program we have increased the grapefruit exports from $40 million to $190 million.

I strongly suggest that we vote down this amendment.

Mr. BONILLA. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, there seems to be an annual debate on this amendment so I will make my remarks brief. We are going to rehash what the benefits of this are very quickly.

I want to point out the positive aspects of the Market Access Program. Each year $90 million is spent out of the Commodity Credit Corporation on MAP to help initiate and expand sales of U.S. agricultural, fish, and forest products overseas. Rural American farmers and ranchers, as the primary suppliers of commodities, benefit from MAP. All regions of the country benefit from the program's employment and economic effects from expanded agricultural exports markets.

In 2000, agricultural exports totalled nearly $51 billion and that generated almost three-quarters of a million jobs. About half a million jobs out of that total were also related to other areas like processing, packaging, storing and financing of exports.

Mr. Chairman, agricultural exports are expected to increase by another $2 billion this year to $53 billion. More than 1 million Americans now have jobs that depend on U.S. agricultural exports. This program goes a long way toward making sure that we have these export markets. I strongly oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYCE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROYCE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. ROYCE) will be postponed.

AMENDMENT NO. 11 OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. KAPTUR:

Add before the short title at the end the following new section:

SEC. ___. In addition to amounts otherwise appropriated or made available by this Act, $500,000,000 is appropriated to the Secretary of Agriculture to carry out and support (utilizing existing authorities of the Secretary and subject to the terms and conditions applicable to those authorities) research, technical assistance, loan, and grant programs regarding the development of biofuels (including ethanol, biodiesel, and other forms of biomass-derived fuels), the production of such biofuels, the establishment of farmer-held reserves of fuel stocks, and demonstration projects regarding such biofuels, as part of a Biofuels and Biomass Energy Independence effort and to augment the President's National Energy Policy: *Provided*, That the entire amount shall be available only to the extent an official budget request for $500,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

Mr. BONILLA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. A point of order is reserved.

Pursuant to the order of the House of Thursday, June 28, 2001, the gentlewoman from Ohio (Ms. KAPTUR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wanted to especially thank my dear colleagues, the gentleman from Maryland (Mr. HOYER) and the gentleman from Illinois (Mr. DAVIS), for reserving time this afternoon and checking in as this debate ensued on the floor in order to be able to join me in this debate.

Let me say that our amendment proposes that as a part of our national energy strategy that biofuels and bioenergy be more than an afterthought but, in fact, be a central pillar of helping America reach a renewable energy future.

□ 1700

If you look at America's trade accounts, our chief strategic vulnerability relates to imported fuels. We are willing to go to war, to send our young men and women to war, for oil, but we are not willing to invest the dollars here at home to propel ourselves into a more energy self-sufficient future.

When the President of the United States and new Vice President produced a national energy report with solutions for the future, there was one gaping hole: Not a single recommendation relates to renewables and the use of biofuels, what we can take off our fields and forests, in order to have ethanol, biodiesel, and other such fuels made a part of America's energy future.

We declare an emergency, we set aside $500 million, and we say that biofuels are as important as natural gas, they are as important as petroleum, they are as important as any other fuel, whether it is windmills or turbines or whatever, in order to put America on a sound energy footing. We want to make sure that our message is heard loudly and clearly.

Mr. Chairman, I yield 1½ minutes to the gentleman from Maryland (Mr. HOYER), who has experience in this area, and again I express gratitude for his coming to the floor.

Mr. HOYER. Mr. Chairman, I thank the gentlewoman for her amendment, and I thank her for her comments and her hard work on this committee and on so many other areas. She has touched on a critically important issue to our country.

Mr. Chairman, I rise in support of the gentlewoman's amendment to provide half a billion dollars in emergency spending on biodiesel, ethanol and biomass research and development.

Mr. Chairman, since 1999, the Beltsville Agricultural Research Center, which is located in my district, has been conducting a pilot project using biodiesel. At BARC they use 80 percent diesel and 20 percent soybean oil mix. Their test results found that using biodiesel reduces carbon dioxide emissions 16 percent; particulate matter, which is a major component of smog, 22 percent; and sulfur emissions, 20 percent.

Equally important to the environmental benefits of these fuels is the fact that their use, as has been so well articulated by the gentlewoman from

Ohio, lessens our dependence on foreign oil and opens up new markets for our farmers. So, from every perspective, this is a very positive direction for our country to move, and I thank the gentlewoman for her leadership.

Ms. KAPTUR. Mr. Chairman, I yield 1¼ minutes to the gentleman from Illinois (Mr. DAVIS), who has waited all afternoon in order to make these comments. I thank the gentleman sincerely.

Mr. DAVIS of Illinois. Mr. Chairman, I rise in strong support of the Kaptur amendment.

To say that we have an energy crisis is an understatement, but the State of Illinois stands ready to help find a solution. The State of Illinois is a major producer of corn, which, when used in the development of ethanol, makes good sense. This amendment makes good economic sense, environmental sense and common sense.

Ethanol is an additive which, when used in gasoline, produces cleaner and more efficient energy. To help this country to become more energy-efficient, we can and should employ greater use of ethanol. Ethanol makes us more energy-efficient, more self-reliant and environmentally protected. It is a good amendment, Mr. Chairman, and I urge its adoption.

Mr. Chairman, I thank the gentlewoman from Ohio for introducing this amendment.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in closing this afternoon, let me say that oil ministers of the Middle East should not be put in charge of setting energy prices in the United States of America. We should have that control inside of our border.

This amendment would merely replace one one-hundredth of the nearly $70 billion that we send to the Middle East oil ministers every year for petroleum imported here, and replace it with investments we make in ourselves for the future. It gives the Secretary of Agriculture very flexible authority in order to spend these dollars in order to make agriculture an equal pillar along with other old fossil fuels.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. I continue to reserve the point of order.

Mr. Chairman, I would like to inquire if the gentlewoman is going to withdraw her amendment?

Ms. KAPTUR. Mr. Chairman, if the gentleman will yield, I would say to the chairman of our subcommittee, very reluctantly, very, very, very reluctantly, very, very, very, very reluctantly, I am going to be forced, because of the rules, to withdraw my amendment to put America on a more renewable energy future. But I would hope that our words today have been heard at the U.S. Department of Agriculture. I appreciate the chairman for his indulgence, and I would hope that wisdom will prevail in the days and months ahead.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. KAPTUR:

At the end of title VII, insert after the last section (preceding any short title) the following section:

SEC. 7__. Of the amounts appropriated in this Act in the item relating to "DEPARTMENT OF HEALTH AND HUMAN SERVICES—FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES", the amount appropriated in the second undesignated paragraph of such item (relating to section 804 of the Federal, Food, Drug, and Cosmetic Act) is transferred and made available as an additional appropriation under the first undesignated paragraph of such item.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentlewoman from Ohio (Ms. KAPTUR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR)

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have witnessed a great debate today about the importation and reimportation of prescription drugs. Yesterday Secretary Thompson finally rendered his decision regarding the fate of the reimportation provision attached to the fiscal year 2001 agriculture appropriation bill. My amendment takes the $2.95 million designated in this bill for costs associated with the reimportation provision and would transfer the funds back to the Food and Drug Administration general account.

Clearly, in the wake of the Secretary's decision, the Agency no longer needs the funds for the purposes of reimportation, and my amendment would simply keep those funds within the Agency so they are not penalized to be used for program priorities at the Agency's discretion within such accounts as the prevention of BSE, TSE, mad cow disease and hoof and mouth disease, many of the challenges that are facing our country today.

Given its tremendous responsibilities and challenges, FDA needs every resource available to keep our food and drug supply safe. I encourage the membership to vote yes to keep these funds within the Agency.

Mr. BONILLA. Mr. Chairman, I rise in strong support of this amendment, and ask unanimous consent to control the time in opposition.

The CHAIRMAN. Without objection, the gentleman will be recognized for 5 minutes.

There was no objection.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend the gentlewoman for finding these funds at the eleventh hour. Hopefully these funds will be put to good use, as the gentlewoman is pointing out. So I commend her good work on this amendment and would be delighted to support it.

Mr. Chairman, I yield back the balance of my time.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the chairman very much. It has been a pleasure to work with the gentleman on this bill. We are proceeding expeditiously, in view of the large number of amendments. I am deeply grateful for the gentleman's support.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROWN of Ohio:

At the end of title VII, insert after the last section (preceding any short title) the following section:

SEC. 7 . Of the amounts appropriated in this Act for carrying out the responsibilities of the Food and Drug Administration with respect to abbreviated applications for the approval of new drugs under section 505(j) of the Federal Food, Drug, and Cosmetic Act, $1,000,000 is available for the purpose of carrying out section 314.53(b) of title 21, Code of Federal Regulations, in addition to any other allocation for carrying out such section 314.53(b) made from amounts appropriated in this Act for the Food and Drug Administration.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Ohio (Mr. BROWN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to start with what the Brown-Emerson amendment does not do: It does not legislate on an appropriations bill; it does not spend extra dollars; it does not reduce legitimate patent protection for brand-name drugs; and, most importantly, it does not permit FDA to continue to squander billions in consumer savings, making excuses instead of making the brand-name drug industry abide by Federal law.

Under FDA laws and regulations, a generic must certify it is not infringing on patents that are directly related to a brand-name drug as approved by FDA. Remember the phrase "as approved by FDA." It is important.

If a generic drug company is sued for potentially infringing on these type of patents, FDA automatically suspends approval of the generic for 30 months. Because the drug industry knows that FDA does not actually enforce its regulations, I repeat, because the drug industry knows that FDA does not actually enforce these regulations and weed out patents that under no circumstances should trigger that 30-month delay, drug companies therefore are conjuring up patents that by no stretch of the imagination fit any FDA criteria, just to trigger the 30-month delay, just to enjoy 30 months more of profits, patents on unapproved formulations of the drug, patents on unapproved uses of the drugs, patents on the shape of the pills, patents on the grooves in the pills, patents even on the bottle holding the pills. Each of these patents, when challenged, triggers the 30-month delay.

These totally unnecessary delays cost consumers billions of dollars in lost savings, while the brand-name companies reap those same billions in additional profits.

Seven years ago CBO estimated that generics save consumers $8 billion to $10 billion per year. Utilization and prices have both increased dramatically since 1994. So have the potential savings associated with generic drugs.

Take Prilosec, for example. Prilosec generates $283 million per month in sales. Astra Zeneca has filed several unapproved use patents on Prilosec, each of which could trigger a 30-month delay in generic competition, even though under FDA regulations only patents on the approved use of a brand name should trigger the 30-month delay.

Remember, generics save consumers, save employer-sponsored plans, save all levels of government 40 to 80 percent over the brand-name price. After a few years, the price differential sometimes grows to 90 percent. Over the next 10 years, brand-name drugs with sales topping $40 billion annually will reach the end of their patent life. If we do not do something to prevent drug companies from gaming the system to extend their lock on the market to make their patents grow, if you will, we are perpetuating needlessly inflated drug prices. I do not want to do that to the consumers in my district.

Our amendment equips FDA to enforce its regulations and at least prevent the most blatant abuses of its 30-month delay provision and stop the gaming of the patent system by the name-brand drug manufacturers.

It permits the Agency to use up to $1 million to get its act together to enforce its laws, to stop brand-name drug companies from walking all over the Agency, and, more importantly, walking all over the public.

We have an opportunity today to help our constituents without changing a word of the existing FDA statute. I urge my colleagues to take advantage of that opportunity and vote for the Brown-Emerson amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) is recognized for 10 minutes.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in lukewarm opposition to this amendment. This concept sounds like a good one, and possibly there are some abuses that are occurring. All of us should be concerned about that. However, I have also got some concerns about finding the proper way to fix this problem. The FDA is not exactly the right solution.

FDA prints a so-called "Orange Book" listing innovator drugs and the patents that protect them. FDA's role is purely administrative. The Agency does not evaluate the patents themselves. Ruling on patent rights is a job for the courts, not the FDA.

FDA does not have the proper authority or expertise to evaluate patents. We have got a Patent Office for that. Taking $1 million from generic drug review to referee patent disputes seems to defeat the purpose. Why would the sponsor seek to increase drug review times?

Again, I must oppose the amendment, reluctantly so, and ask my colleagues to do the same.

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I want to reiterate that these are FDA regulations that FDA claims it cannot enforce. It is not doing its job. This $1 million will help it do its job.

Mr. Chairman, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of this amendment because it would equip the FDA to prevent blatant patent abuses. This amendment does not open up Waxman-Hatch, cut into patent protection, legislate on an appropriations bill or spend new money. What this amendment does is to enable the FDA to exercise the existing authority to prevent blatant patent abuses under the Waxman-Hatch Act.

Today, some drug companies attach unrelated patents to approved drugs and then sue companies that want to produce a generic equivalent for patent infringement. As the gentleman from Ohio (Mr. BROWN) indicated, this can produce a 30-month delay in generic drug approvals and result in substantial delays in consumer access to generic drugs.

Mr. Chairman, let me point out, the FDA has the authority to prevent these blatant abuses right now. What they need is $1 million through the Office of Generic Drugs in order to enforce this agreement and ensure that patents are not inappropriately listed.

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Mr. BONILLA. Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentlewoman from Missouri (Mrs. EMERSON), who has been a real leader in the fight to keep prescription drug prices down.

Mrs. EMERSON. Mr. Chairman, I rise in strong support of the Brown-Emerson amendment, which will help FDA exercise its existing authority to prevent blatant patent-listing abuses under the Hatch-Waxman Act.

As many people may know, since the passage of Hatch-Waxman, brand-name pharmaceutical companies have really become quite proficient in manipulating the law to keep generic alternatives from reaching the market. I do not think that the authors of this law would want that to be happening today.

Just, for example, one of the brand industry's favorite and most frequently used methods to delay generic competition is to make insignificant changes to their products and secure new patents just as the patent on the original product is set to expire. Under current law, once such new patents are granted by the Patent Office, no matter how frivolous or invalid they may be, the generic drug is prohibited from going to market for 30 months.

In one instance a brand-name company triggered the 30-month prohibition and delayed generic competition by patenting the color of the bottle, the color of the bottle in which the pharmaceuticals are typically dispensed. In another example, a brand company was able to delay generic competition by claiming the generic version infringed on the brand patent because, like the brand, the generic pill had two grooves in it.

These types of delay tactics cost our constituents billions of dollars every year. For example, Bristol-Myers Squibb listed a frivolous patent with the FDA on the eve of its patent expiration for the drug BuSpar. After months of delay, a Federal court ruled that the patent was improperly listed and ordered Bristol to delist its patent with the FDA. So the cost to consumers for this 5-month delay was $57 million.

The situation is getting so out of hand that on May 16 of this year, the Federal Trade Commission had to send a citizens' petition to the FDA questioning the possible improper or untimely listing of patents by brand-name drug companies.

Mr. Chairman, our amendment is very simple. It would reallocate already-appropriated FDA funds in the amount of $1 million to the FDA's generic drug office. The money would allow the FDA to use its authority to review and prevent the abuse of patent listings by drug companies who want to extend the patent laws of their blockbuster drugs. This amendment does not add any additional money, no additional money. All it does is reallocate already-appropriated money.

Let us all make sure that the FDA devotes the resources necessary to prevent the exploitation of patent listings, because each 30-month delay of generic drugs costs consumers billions of dollars in lost savings.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio (Mr. BROWN).

Mr. Chairman, the problem right now is that brand-name drug companies have been attaching unrelated patents on to existing drug patents. They are required to list patents of drugs that directly relate to existing patents. However, one of the brand-name industry's tactics for extending patents is to stack a list of patents that simply relate to and do not directly affect existing patents.

As the brand-name industry engages in this so-called "patent stacking," unfortunately generic drug approvals are automatically basically tagged with a 30-month delay, and this delays consumer access to necessary prescription drugs and further delays the process from making prescription drugs more affordable.

The FDA currently has the authority to ensure that only patents in compliance stay on the books, and this amendment helps the FDA Office of Generic Drugs use its $1 million in increased funding to exercise this authority and remove barriers to generic competition.

Mr. Chairman, numerous pharmaceutical companies have listed patents for unapproved uses and inappropriate forms of the drug. I am not going to get into all the examples, but this adds up to billions of dollars lost in consumer savings. We need to pass this amendment.

Mr. BONILLA. Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. WAXMAN), the author of the Waxman-Hatch bill.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Look, when we adopted the law, we wanted to balance generic drugs, brand-name drugs; and if a generic went in to FDA, FDA is supposed to evaluate whether they are violating a patent. But some of these patents are frivolous patents, and all the Brown amendment seeks to do is to give FDA more funds so that they can figure out how to find out whether a patent is frivolous or real. Why should consumers have to pay higher prices for drugs and not allow competition with a generic availability because of a frivolous patent?

So I strongly support this amendment, and I urge all Members to support this very well-though-out, clear, and helpful, constructive amendment.

Mr. BROWN of Ohio. Mr. Chairman, I yield back the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield the remaining time to the gentleman from Florida (Mr. BILIRAKIS).

Mr. BILIRAKIS. Mr. Chairman, I would like to support this amendment because of the intent behind the amendment. The gentleman from California (Mr. WAXMAN) and others, including the gentlewoman from Missouri (Mrs. EMERSON), are correct in terms of problems, or at least perceived problems insofar as FDA approving generics or enlisting the patents of generics, but we are talking here about reallocating needed funds.

Just a few days ago, the gentleman from Ohio (Mr. Brown) offered an amendment to increase the funds for FDA use towards approval of generic drugs by $2.5 million. I supported that amendment. It passed this House, if I remember correctly. Now, the point is, we are now in effect saying we are going to take $1 million out of that $2.5 million, or at least out of the amount that FDA ordinarily would use, towards approval of generic drugs and put it into something like this.

Now, I am quoting, "which will help FDA do their job; delaying tactics, things of that nature." If, in fact, there are delaying tactics; if, in fact, the FDA is not doing its job, there are things that we can do. I do not think that throwing $1 million the FDA's way will encourage them to do the job that they are required to do. That is just not the answer to it at all.

The Brown amendment does not serve a legitimate purpose. It purports to provide the FDA's Office of Generic Drugs, as we have already said, with $1 million to ensure that patents are not inappropriately listed. The law requires, the FDA law, sections 505 and 506 make it clear that they will list these patents. It does not say anything about analyzing the patents. If they are not listed on a timely basis, if there is something inappropriate insofar as their listing is concerned, let us look into that through hearings, through discussions with the FDA and whatnot and do something about it, rather than just saying, we are going to give them $1 million, reallocating $1 million to say that this will ensure that you do the job you are required to do under the statute. Mr. Chairman, I think not.

The FDA has absolutely no authority under present law to judge the validity of patents. I say again, it has no authority to judge the validity of patents. Their function is purely ministerial. It gets the patent; it lists the patent. If it does not list the patent when they get the patent, by gosh, there is something wrong with that and it has to be taken care of. But they have no authority. They do not review patents. They are forbidden by the law from reviewing patents. I will not say that they are necessarily forbidden, but there is no language in the law that basically gives them that authority.

The Patent and the Trademark Office, as has been said by others, and the courts that judge patent validity say the FDA does not have the experts to do so and, basically, they do not have the authority to do so.

When Dr. Janet Woodcock, director for FDA's Center for Drug Evaluation was asked by, I believe, one of our colleagues who has already made a statement here, at the Committee on Energy and Commerce hearing whether the FDA had authority to review patents, she said no. She went on to say, when asked whether FDA should have the authority to do so, she said, and I quote her, "If we were asked to do such a thing, I would have to say that it would significantly divert resources from the scientific review of generic drugs that we are currently undertaking."

So if FDA were to get into the job of judging patent validity, they tell us, the people that do this job, that the agency would be subject to countless lawsuits. The $1 million provided for in the Brown amendment would be spent very, very quickly.

So we understand, and I have already admitted, that there are legitimate questions associated with additional patents being listed very late in a patent term. The gentleman from Ohio knows how I feel about generics. I bring them up all the time, and I am concerned about the fact that they are possibly not being approved on a more timely fashion.

This concerns us so much that just last month in the Committee on Energy and Commerce we held a hearing on this matter that I have already referred to. At this hearing we learned many things, including the fact that the FDA cannot, under the law, judge the validity of patents. The Brown amendment does not do what the author says. I would hope that it would do, maybe if it passes, what the author says; but I do not feel that it does. It would not allow FDA to review patents; it merely would reallocate $1 million and say, hey, we trust you to use this $1 million to do a better job insofar as analyzing and listing patents. The FDA cannot do so under the law and they should not be able to do so, and for those reasons, unfortunately, I would ask my colleagues to vote "no" on the Brown amendment.

Mr. BONILLA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. ALLEN

Mr. ALLEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. ALLEN:

At the end of title VII, insert after the last section (preceding any short title) the following section:

SEC. 7___. None of the amounts made available in this Act for the Food and Drug Administration may be expended to approve any application for a new drug submitted by an entity that does not, before completion of the approval process, provide to the Secretary of Health and Human Services a written statement specifying the total cost of research and development with respect to such drug, by stage of drug development, including a separate statement specifying the portion paid with Federal funds and the portion paid with State funds.

Mr. BONILLA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. A point of order is reserved.

Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Maine (Mr. ALLEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maine (Mr. ALLEN) for 5 minutes.

Mr. ALLEN. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer an amendment with the gentleman from Ohio (Mr. BROWN) to provide American taxpayers with information about our collective investment in the research and development of new prescription drugs. The Food and Drug Administration should not approve, in our opinion, a new drug application unless the total cost of the research and development of that drug is available to the public. We are particularly interested in knowing how much money the taxpayers have contributed.

The pharmaceutical industry claims that efforts to make drugs affordable for seniors would reduce the industry's ability to conduct research and to develop new drugs. I disagree. This industry is the most profitable in the country. Their profits last year were more than $27 billion. The manufacturers will always be able to attract capital in order to do R&D.

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The industry asserts that they have a right to charge high prices to those least able to afford it because of the $500 million, more or less, that they claim it takes to launch a new drug.

What the industry consistently fails to disclose is that new drugs are usually the result of a partnership with the public. A good portion of our Nation's pharmaceutical research is conducted by publicly-funded entities. We deserve to know how much.

The pharmaceutical industry says we do not deserve to know. They say this amendment is unjustified. I say there is no justification for the way America's seniors are currently treated. Seniors pay taxes which are used to fund research, but the product of that research, which saves lives, is too expensive for many of them to afford.

The drug manufacturers say no other industry has to disclose R&D figures. But no other industry gouges the needy as they do, or operates in such a shroud of secrecy.

We are not asking that the FDA make an approval decision based on the R&D data. We are not asking that trade secrets be made public. We are simply asking the FDA to inquire about the data on the cost of R&D and to make it available.

The industry has attacked this amendment. I can only assume they know their arguments about their R&D expenses will be undermined if the public is told how much of the cost of the development of new drugs is actually paid by the public.

We know that the taxpayer contribution to the development of innovative medicines is significant. NIH estimates that taxpayer-funded research, combined with private foundation-funded research, accounts for about 50 percent of all medical research in this country. Now we need to know the details, just how much public and private funding is involved in the development of new drugs.

We do not want to slow the approval of or access to new drugs, but there are too many patients who cannot afford the drugs, even if they are approved by the FDA. Proving a drug safe and effective can take years. Providing the cost of development should be easy. A memo to the FDA would do the job. I can assure the Members that the pharmaceutical industry is capable of tracking expenditures in their development of new drugs. I am confident that this Congress and this administration can find a way to implement this amendment successfully.

Because the cost of R&D is one of the most important components of our debate over prescription drug costs for the elderly and disabled, it is hard to believe that anyone could object to making basic information on those costs available to the public.

Millions of our seniors have paid taxes for decades and contributed to the development of new drugs. Now, in their retirement, they pay the highest prices in the world for those drugs. The pharmaceutical industry spends millions of dollars on TV ads about their miracle drugs, but does not want the public to know how much the public has contributed to those miracles. The public deserves to know. I urge passage of this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. I would inquire, Mr. Chairman, if the gentleman is going to withdraw his amendment.

Mr. ALLEN. Mr. Chairman, I have one more speaker. I am not willing to withdraw the amendment.

Mr. BONILLA. Mr. Chairman, I continue to reserve my point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Maine (Mr. ALLEN) for 30 seconds, the balance of his time.

Mr. ALLEN. Mr. Chairman, I yield the balance of our time to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman for yielding time to me.

Prescription drug companies consistently depend on one argument and one argument only, to defend charging U.S. consumers two and three and four times higher prices in the U.S. than they do in other developed countries.

The one argument they use to justify grossly inflated drug prices is that those prices are necessary to sustain R&D. Yet, we know that American taxpayers fund almost half of all the R&D that is done in the drug industry development in this country.

It is an insult for the industry to ask American taxpayers to willingly pay the highest price in the world when they will not tell us what they spend when they are the most profitable industry in America, when they spend more money lobbying this institution than anybody else. They pay back American taxpayers by charging us more than anybody in the world.

I ask support for the Allen amendment.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) insist upon his point of order?

POINT OF ORDER

Mr. BONILLA. Mr. Chairman, I make a point of order against the amendment. It proposes to change existing law and constitutes legislation in an appropriations bill, and therefore violates clause 2 of rule XXI.

The rule states, in pertinent part, "An amendment to a general appropriations bill shall not be in order if changing existing law." The amendment imposes additional duties. I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Maine (Mr. ALLEN) wish to speak on the point of order?

Mr. ALLEN. I simply await the ruling of the chair.

The CHAIRMAN. The Chair is prepared to rule.

The Chair finds this amendment imposes additional duties not required by existing law. Therefore, the amendment constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the amendment is not in order.

AMENDMENT OFFERED BY MR. OLVER

Mr. OLVER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OLVER:

Strike section 726 of the bill.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Massachusetts (Mr. OLVER) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, for the most part, this bill is an excellent bill.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, just to inform the gentleman, we are just delighted to accept this amendment. If the gentleman would like to offer any more debate time, that is fine, but in the good spirit of trying to work in agreement here, I just want to let the gentleman know that we are prepared to accept the amendment and move it forward.

Mr. OLVER. Mr. Chairman, I thank the gentleman for his acceptance of the amendment. We do have several speakers who wish to speak on it.

Mr. Chairman, this is an excellent bill. I greatly respect the outstanding work of the chairman of the subcommittee, the gentleman from Texas (Mr. BONILLA), and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR), but I rise to strike section 726, an anti-environmental rider which is meant to prevent any and all action to address the climate change caused by global warming.

Mr. Chairman, section 726 is equivalent to burying our heads in the sand, and hot sand, at that. Regardless of the fate of the Kyoto Protocol, there is overwhelming, peer-reviewed, sound scientific evidence for global warming. The National Academy of Sciences has very recently reaffirmed that fact.

Placing a gag order on Federal agencies can only stifle our ability to address what will be the most critical environmental issue of the 21st century at a time when carefully considered but comprehensive action is needed.

This old rider dates back to the Clinton administration when the majority believed, with good reason, that President Clinton would have acted to implement Kyoto. But President Bush has made it clear that he has no intention of implementing the Kyoto Protocol. He has declared the Kyoto Protocol dead, dead. So, at the very least, the rider is unnecessary, and resuscitating it shows a lack of trust in the President's intentions and in the President's word, which I am sure the majority does not mean to do.

So why has the rider appeared? Because it has been used to badger agencies and demand repeated explanations of environmental activities. The Inspector General was recently forced to investigate alleged violations by the EPA, the Department of Energy, and the State Department, and found no instances of violations. It is the President of the United States who will not implement Kyoto, who runs the executive departments.

This rider jeopardizes the executive agency work on every issue related to climate change, which the U.S. is obligated to address as part of the United Nations Framework Convention on Climate Change. Remember, the U.N. Framework Convention on Climate Change was proposed for ratification by then President George Herbert Walker Bush in September of 1992, was ratified by the Senate in October of 1992, and took force in 1994.

It states that, and I quote, "The parties to the convention are to implement policies with the aim of returning to their 1990 levels of anthropogenic emissions of carbon dioxide and other greenhouse gases."

Mr. Chairman, the consequences of global warming will not be mild. If we do not begin to act soon, it may be too late to preserve our coastlines and our agriculture. The American public wants this Congress and this administration to find a way to address global warming.

How we do that is not the subject of today's debate. This vote has nothing to do with implementing or even liking the Kyoto Protocol. But a yes vote to remove this ill-conceived and unneeded rider allows our agencies to search for ways and measures authorized by the already-ratified U.N. framework to begin addressing greenhouse gases.

I urge a yes vote on the Gilchrest-Olver amendment.

Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. BOEHLERT), the distinguished chairman of the Committee on Science, who is showing every day great leadership on this issue of climate change.

Mr. BOEHLERT. Mr. Chairman, I will spare my colleagues all the arguments against the language in the bill and in support of the Olver-Gilchrest language.

But in the spirit of the subcommittee chairman, who has acknowledged his willingness to accept that, I want to applaud that action, because I think for years now the language this amendment would strike has been used to hound Federal agencies that try to address climate change. It was used to harass agencies who sent government officials to international climate change meetings, and it has been used in attempts to thwart voluntary agreements, voluntary agreements, with industries that offered to cut their greenhouse gas emissions.

Yet, both President Bushes, 41 and 43, acknowledged that climate change is a serious problem. In fact, President George Herbert Walker Bush even signed an international agreement to reduce U.S. emissions of greenhouse gases, and that treaty was ratified by the U.S. Senate.

Despite its misgivings about the Kyoto Protocol, this administration too has acknowledged the seriousness of climate change. As many know, after receiving last month the report he requested from the National Academy of Sciences, a report that underscored yet again the scientific consensus that exists on climate change, President Bush pledged that the U.S. will take a leadership role to address it.

I, for one, want to help him do that. I want the U.S. to take the lead on dealing with climate change responsibility, and the obstructionist language in this bill does not help do that.

So I want to commend the gentleman from Massachusetts (Mr. OLVER) and I want to commend the gentleman from Maryland (Mr. GILCHREST) for their steadfast support of reasonableness as we shape public policy, and I want to extend to the subcommittee chairman, the gentleman from Texas (Mr. BONILLA), my appreciation for his cooperation.

Mr. Chairman, I rise today, in support of the Olver-Gilchrest amendment, but frankly, I'm disappointed that we have to have this debate at all. I am disappointed that the language that we are attempting to strike has been included in the Agriculture Appropriations Bill in the first place, because today the scientific consensus on global climate change is stronger than ever.

Mr. Chairman, the opponents of this amendment will tell you that the language included in this bill—the language the amendment would strike—simply prevents the Administration from implementing the international agreement, known as the Kyoto Protocol, to reduce greenhouse gases and curb global climate change.

The opponents say that the Administration should not implement the Kyoto Protocol because it is fatally flawed and unrealistic.

They say the Administration shouldn't implement the Protocol because it would exempt developing countries from requirements to reduce their greenhouse gas emissions.

They say the Administration shouldn't implement the Kyoto Protocol. Period.

Well guess who agrees with them entirely? The Administration.

So if this Administration isn't even remotely thinking about implementing the Kyoto Protocol, what is the language this amendment would strike really about?

It is not about the Kyoto Protocol. It is not about fears the Administration will sneakily conduct "back-door" implementation.

It is really about preventing any serious progress at all on the serious environmental problem of global climate change. The truth is that this amendment is really about who is for dealing with climate change responsibly, and who is not.

For years now, the language this amendment would strike has been used to hound federal agencies that tried to address climate change. It was used to harass agencies who sent government officials to international climate change meetings. And it has been used in attempts to thwart voluntary agreements—voluntary agreements—with industries that offered to cut their greenhouse gas emissions.

Yet, both Presidents Bush have acknowledged that climate change is a serious problem. In fact, George H.W. Bush even signed an international agreement to reduce U.S. emissions of greenhouse gases—and that treaty was ratified by the U.S. Senate.

Despite its misgivings about the Kyoto Protocol, this Administration, too, has acknowledged the seriousness of climate change. As many of you know, after receiving last month the report he requested from the National Academy of Sciences—a report that underscored yet again the scientific consensus that exists on climate change—President Bush pledged that the U.S. will take a leadership role to address it.

I, for one, want to help him do that. I want the U.S. to take the lead on dealing with climate change responsibly. And the obstructionist language in this bill does not help do that.

It is time this House took the issue of climate change seriously, as our President has said he does. I urge my colleagues to support the Olver-Gilchrest amendment. Let's strike this troublesome language from the bill, and put the tired old bogeyman of Kyoto behind us.

Mr. OLVER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I thank my friends across the aisle, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Maryland (Mr. GILCHREST), for cosponsoring this effort to strike an anti-environmental rider.

I just want to share an experience I had last week when I was up on the Arctic plain on the shores of the Arctic Ocean talking to biologists and geophysicists about what is going on in the Arctic.

What I learned was that, in a relatively stunning development, fully 50 percent of the depth of the pack ice above the North Pole, the Arctic oceans, have dissipated in the last several decades. Half of the depth has gone away, and 10 percent of the extent of the ice is gone because of global warming that has occurred.

I talked to rangers at Denali National Park who have worked there about 15 years and have seen the treeline move north just during their experience. The fact is, this is happening. It is happening four or five times more rapidly in the Arctic than it is in temperate zones, but it is a harbinger of things to come.

I am hopeful that the House will not move backwards with this, but in fact will strike this language so we can make a positive statement and move forward. The United States should be a leader. We have been a leader in freedom. It is time for us to become a leader in global climate change, and realize the development for our economy at the same time.

Mr. OLVER. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. GILCHREST), and want to recognize in general the leadership the coauthor on this amendment has provided on climate change.

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding time to me, and for the part the gentleman from Massachusetts (Mr. OLVER) has played in the process, and thank all the other Members for their work.

I also want to thank, with a great deal of gratitude, the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations, the gentleman from Texas (Mr. BONILLA), for accepting our amendment.

As Members might observe, the picture next to the podium is our home. I think it is our responsibility to preserve it and protect it.

□ 1745

Three quick points: Number one, I want to thank the gentleman from Texas (Mr. BONILLA) for accepting the amendment so that the language is taken out of the bill. This gives the Bush administration the opportunity to discuss this in an international way.

Number two, it gives us, as Members of the House, a sense of responsibility for protecting the planet, so we will not pass that burden and that responsibility off to the next generation, which will have a much more difficult time.

Number three, very quickly, everybody talks about the weather, but not a lot of people, including us, know a lot about the weather or where does the air that we breathe come from, how does it sustain us, how is the air sustained, and over what period of time did it create what we now see.

Well, there is a word that I think is interesting called coevolution, and that means the biological diversity of the web of life, on land and in the oceans, over eons of time, has produced and sustained the atmosphere that surrounds this planet, unique in the known universe, in which life through nature's bounty thrives as we know it today.

And the last comment I want to make is can man, through polluting, degrading, and fragmenting the environment, have the capacity to change the atmosphere and actually change the climate? This is a report that the Bush administration had a number of scientists from the National Academy of Science review and come back and tell the Bush administration the answers to those two questions. Does man have the capacity to change the atmosphere, thus changing the climate?

To read just a couple of sentences from this report commissioned by the Bush administration from the National Academy of Sciences, "Greenhouse gases are accumulating in Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise. Temperatures are, in fact, rising. Human-induced warming and associated sea level rises are expected to continue through the next century." That is throughout the 21st century.

Can we change the atmosphere? If we look on this chart produced by the National Oceanic and Atmospheric Administration, we can see from 1860 to the year 2000 the acceleration of the accumulation of carbon dioxide in the atmosphere. This is from our Federal Government, commissioned by the Bush administration. We can change the atmosphere by increasing the greenhouse gas of carbon dioxide, thereby increasing warming.

This chart, produced by NASA, shows since 1860 the level of increase in warming which affects the climate, and it is dramatic during the industrial age.

So the questions are: Can we affect our atmosphere? Can we change climate? The answer to those two questions is yes, and now it is time for us to do something about it.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent to claim the time in opposition, though I am not opposed to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) is recognized for 30 minutes.

Mr. BONILLA. Mr. Chairman, I yield back the balance of my time.

Mr. OLVER. Mr. Chairman, I yield myself such time as I may consume to thank the gentleman for his acceptance, and I thank him for yielding back his time. I do have two people who wish to make very short statements.

Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time and for his leadership on this issue. I stand in strong support of this amendment, which will ensure that we move forward to combat global warming.

Global climate change is underway. Denying the existence of global warming will not make it go away nor can the United States afford to deny its role. Just last week I had the opportunity to talk to European leaders about climate change and, believe me, they have grave concerns about our retrenchment. Our country must bear its share of this burden.

Now, President Bush recently asked the National Academy of Sciences to revisit the issue. They concluded greenhouse gases are accumulating in the Earth's atmosphere as a result of human activities. Temperatures are in fact rising. Their report goes on to say the national policy decisions made now and in the long-term future will influence the extent of any damage suffered by vulnerable human populations and ecosystems later in this century.

Voluntary reductions, which the President advocates, are not sufficient. I urge adoption of this amendment. We need to send a clear message that this Congress is committed to protecting our environment, protecting the public health, and protecting our future.

Mr. OLVER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Missouri (Ms. McCARTHY).

Ms. McCARTHY of Missouri. Mr. Chairman, I rise in support of the Olver-Gilchrest amendment to strike the Kyoto rider language.

The President has already indicated that he has no intention of implementing the Kyoto Protocol. That is unfortunate because we need to stay engaged at the table to encourage progress on this critical issue. However, it makes this rider unnecessary.

Science has confirmed the existence of global climate change is real. The effects of this have significant implications for agriculture in our nation and around the world. The mix of crop and livestock production is influenced by climatic conditions and water availability. Increases in climate variability already make adaptation by farmers more difficult. In my state of Missouri, agriculture is a $4 billion annual industry, one-half of which comes from livestock, especially cattle. The major crops in my state are corn, soybeans, and hay. Corn and soybean yields could fall by as much as 22% or rise by as much as 6%, depending on the climate variability resulting from global climate change.

As a result of global warming, we expect to see more frequent anomalies in our weather, with more frequent severe storms, floods, and droughts. Clearly these volatile weather patterns can have a highly negative impact on our ability to farm and protect and secure families and property.

We might also expect to see more pests in our plants and food stream. We may see more insects, and plant disease is expected to become more prevalent. There may be many pests that are new to our area, and we might expect to see greater numbers of insects, some of which carry diseases like malaria. The insects could travel further north—into MO—as a result of global warming. Again, this could have a potentially significant adverse effect on plants and crops by destroying our nation's precious resources and jeopardizing human health.

This morning, Deborah Clark from the University of Missouri-St. Louis, at a National Academy of Sciences forum, spoke about the ability of plants to sequester carbon. While planting trees and other carbon-sequestering crops will capture more carbon dioxide, many plants will be less productive if global warming continues because high temperatures limit the ability of plants to photosynthesize, thus reducing their ability to capture carbon.

Our Nation's strategy to address climate change can produce a reliable supply of diverse fuels that minimize greenhouse gases and secure our leadership in energy technology to benefit our consumers and to export around the world.

We must make the necessary investments in emerging technologies which will allow the United States to gain the edge in developing and marketing new products and lead to job creation. If we fail to act, we will lose the edge to other nations like Japan and Germany who are committed to this course of action.

A decade of progress has occurred since former President Bush signed the original climate treaty in Rio in 1992. This rider makes it difficult for federal agencies to work on any issues related to climate change, which the U.S. is obligated to address as part of the Rio agreement.

I urge others to join with me in voting in favor of this amendment, because whether or not the Kyoto protocol moves forward, we have an obligation to maintain our global leadership role in developing new technologies that will enable us to reduce emissions of greenhouse gases and promote the agricultural economy. The rider is unnecessary and I urge my colleagues to support the Olver/Gilchrest amendment.

Mr. OLVER. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in allowing a brief comment.

America is the largest polluter dealing with greenhouse gases and it is appropriate for us to exercise some leadership. The gentleman from Maryland (Mr. GILCHREST) has, I think, identified why in fact it is a problem, the single greatest environmental threat that we face. Unfortunately, this administration has been slow to acknowledge the problem, and sadly slower to embrace American leadership, which is needed in a global sense.

I am pleased with the gentleman's willingness to accept the amendment. I hope that it portends greater things in the course of this session where Congress can provide some leadership on this critical environmental level; that we can be promoting a bipartisan commonsense approach to reduce the greenhouse gases, and to encourage American industry and individuals to all play their role.

I think this is an important first step, and I appreciate the leadership that the committee has been exerting.

Mr. OLVER. Mr. Chairman, I yield myself such time as I may consume and thank very much the chairman of the subcommittee for his indulgence, even after he had agreed to accept the amendment. We appreciate that very much.

Mr. SMITH of Michigan. Mr. Chairman, I am in opposition to implementing the Kyoto Protocol.

Under the Kyoto Protocol, by 2008 to 2012 the U.S. would be required to slash emissions of greenhouse gases to seven percent below the 1990 level—a level last achieved in 1979. Based on projections of the future growth in U.S. energy use, this would require a real cut in emissions of over 30 percent. In the meantime, major greenhouse-gas emitters, such as China, India, Mexico, and Brazil, would be able to continue business as usual.

In July 1997, before the Kyoto Protocol was signed, the Senate passed on a vote of 95 to 0 the Byrd-Hagel resolution, which states that the U.S. should not sign any treaty that (1) would mandate cuts in emissions only for developed countries and (2) would result in serious economic harm.

This commonsense resolution set the absolute minimum criteria for Senate ratification of any climate treaty. The Clinton Administration never submitted the Kyoto Protocol to the Senate for ratification because it knew that it would be dead on arrival.

In a breath of fresh air, President Bush said succinctly, "I will not accept a plan that will harm our economy and hurt American workers." In stating the obvious and pulling the plug on this flawed treaty, the President has spared us from a U.N. boondoggle that would harm American workers, consumers, and businesses.

The proponents of this amendment argue that, because the Administration does not support the Kyoto Protocol, the language in the bill is superfluous. Further, they argue that striking the language will send a positive message to the international community that the U.S. is willing to play a leadership role in climate change. We are a leader in the world on reducing and sequestering harmful emissions.

Annually we spend nearly $2 billion on climate change research, more than the rest of the world combined. There are many things about the climate system we still do not understand. That is why we need to continue this research and increase our knowledge of climate variability and the potential human impact of greenhouse gas emissions.

Current computer models predicting warming over the next century may prove to be no more reliable than the five-day weather forecast. But even assuming that these models are right, achieving the emission goals in the treaty would reduce projected warming by less than one-tenth of a degree by 2050. So we still have time to do the necessary research to fill in the gaps and get it right instead of lurching ahead with a treaty that would cost too much and do nothing to solve the problem it is intended to solve.

The Administration also has said that it will be working to develop new technologies, market-based incentives, and other approaches to increase energy efficiency and reduce greenhouse emissions. I fully support these approaches, which make much more sense than the commend-and-control dictates that would flow from the Kyoto process.

Mr. OLVER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. OLVER).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: the amendment offered by the gentleman from New York (Mr. WEINER); the amendment offered by the gentleman from California (Mr. ROYCE); the amendment offered by the gentleman from Ohio (Mr. BROWN).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

PARLIAMENTARY INQUIRY

Ms. KAPTUR. Parliamentary inquiry, Mr. Chairman. We were just presented a list of potential amendments for consideration by the full membership, and I wonder if the Chair would again repeat which amendments the Members will be asked to vote on and the order that they will be presented.

The CHAIRMAN. The amendments on which further proceedings were postponed will be voted on in the following order: the amendment offered by the gentleman from New York (Mr. WEINER); the amendment offered by the gentleman from California (Mr. ROYCE); and the amendment offered by the gentleman from Ohio (Mr. BROWN).

Ms. KAPTUR. Mr. Chairman, we believe that that third amendment was accepted; voice voted.

The CHAIRMAN. The gentlewoman is correct, the amendment was approved by voice vote and no recorded vote was requested.

Ms. KAPTUR. Mr. Chairman, for all the Members who are watching from their offices, then, in terms of the order of the votes, it would then be?

The CHAIRMAN. The amendment offered by the gentleman from New York (Mr. WEINER) will be first, followed by the amendment offered by the gentleman from California (Mr. ROYCE).

Ms. KAPTUR. Then we will move to final passage?

The CHAIRMAN. That is correct.

Ms. KAPTUR. I thank the Chair very much.

AMENDMENT NO. 25 OFFERED BY MR. WEINER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. WEINER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 272, not voting 6, as follows:

[Roll No. 219]

AYES—155

Ackerman
Akin
Andrews
Armey
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett
Bass
Bereuter
Berkley
Berman
Biggert
Blumenauer
Borski
Brown (SC)
Burton
Camp
Cantor
Cardin
Castle
Chabot
Clay
Costello
Cox
Coyne
Crane
Crowley
Culberson
Cummings
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
DeGette
DeMint
Deutsch
Doggett
Duncan
Ehlers
Ehrlich
Engel
English
Evans
Fattah
Ferguson
Filner
Flake
Forbes
Fossella
Frank
Frelinghuysen
Goss
Graham
Green (WI)
Greenwood
Gutierrez
Hayworth
Hoeffel
Hoekstra
Holt
Hostettler
Hutchinson
Inslee
Israel
Istook
Johnson (CT)
Keller
Kelly
Kerns
Kind (WI)
Kirk
Kolbe
LaFalce
Langevin
Lantos
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
McCarthy (NY)
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Moore
Moran (VA)
Morella
Nadler
Neal
Owens
Pallone
Pascrell
Payne
Petri
Portman
Pryce (OH)
Ramstad
Rangel
Rivers
Roemer
Rogers (MI)
Rohrabacher
Rothman
Roukema
Royce
Ryan (WI)
Saxton
Scarborough
Schaffer
Schakowsky
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Slaughter
Smith (NJ)
Smith (WA)
Solis
Souder
Stark
Stearns
Stupak
Sununu
Tancredo
Taylor (MS)
Terry
Tiberi
Tierney
Toomey
Towns
Upton
Velázquez
Wamp
Waxman
Weiner
Weldon (FL)
Wu

NOES—272

Abercrombie
Aderholt
Allen
Baca
Bachus
Baker
Ballenger
Bartlett
Barton
Becerra
Bentsen
Berry
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Buyer
Callahan
Calvert
Cannon
Capito
Capps
Carson (IN)
Carson (OK)
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Cramer
Crenshaw
Cubin
Davis (CA)
Davis (IL)
Deal
DeFazio
Delahunt
DeLauro
DeLay
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Emerson
Eshoo
Etheridge
Everett
Farr
Fletcher
Foley
Ford
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kingston
Kleczka
Knollenberg
Kucinich
LaHood
Lampson
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (KY)
Lucas (KY)
Lucas (OK)
Mascara
Matheson
Matsui
McCarthy (MO)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Mica
Mink
Mollohan
Moran (KS)
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Rogers (KY)
Ros-Lehtinen
Ross
Roybal-Allard
Rush
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schiff
Scott
Serrano
Sessions
Sherwood
Shows
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Snyder
Spence
Spratt
Stenholm
Strickland
Stump
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Udall (CO)
Udall (NM)
Visclosky
Vitter
Walden
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—6

Capuano
Conyers
Herger
Jones (OH)
Lewis (CA)
Paul

□ 1819

Messrs. GONZALES, WYNN, DAVIS of Illinois, NEAL of Massachusetts, Ms. PELOSI, Mr. HYDE, and Mr. WATT of North Carolina changed their vote from "aye" to "no."

Mrs. KELLY and Messrs. SCHROCK, TERRY, KERNS, STUPAK, BERMAN, SAXTON, FATTAH, GOSS, BROWN of South Carolina, SHERMAN, BALDACCI, and EHLERS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. LEWIS of California. Mr. Chairman, on rollcall No. 219, I was unavoidably detained. Had I been present I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 19 OFFERED BY MR. ROYCE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. ROYCE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 85, noes 341, not voting 7, as follows:

[Roll No. 220]

AYES—85

Akin
Andrews
Armey
Bachus
Barr
Barrett
Bartlett
Bass
Berkley
Brown (OH)
Brown (SC)
Cantor
Cardin
Castle
Chabot
Coble
Collins
Cox
Crane
Cubin
Culberson
Davis, Jo Ann
DeLay
DeMint
Doggett
Doyle
Duncan
Ehlers
Ehrlich
English
Ferguson
Filner
Flake
Fossella
Frelinghuysen
Graham
Grucci
Hall (OH)
Hayworth
Hoekstra
Holt
Horn
Hostettler
Istook
Keller
Kelly
Kind (WI)
Kleczka
Kucinich
Linder
LoBiondo
Luther
McInnis
Meehan
Miller (FL)
Morella
Pallone
Payne
Petri
Portman
Ramstad
Rivers
Rohrabacher
Rothman
Roukema
Royce
Scarborough
Sensenbrenner
Shadegg
Shaw
Shays
Smith (NJ)
Stark
Stearns
Stump
Sununu
Tancredo
Taylor (MS)
Taylor (NC)
Tiberi
Tierney
Toomey
Wamp
Waters
Weiner

NOES—341

Abercrombie
Ackerman
Aderholt
Allen
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barton
Becerra
Bentsen
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Capito
Capps
Carson (IN)
Carson (OK)
Chambliss
Clay
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Dreier
Dunn
Edwards
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Fletcher
Foley
Forbes
Ford
Frank
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Honda
Hooley
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (KY)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Capuano
Jones (OH)
Lewis (CA)
Lewis (GA)
Manzullo
Paul
Turner

□ 1828

Mr. NADLER changed his vote from "aye" to "no."

Mr. TAYLOR of North Carolina changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. LEWIS of California. Mr. Chairman, on rollcall No. 220, I was unavoidably detained. Had I been present I would have voted "no."

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002".

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. GOODLATTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, pursuant to House Resolution 183, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 16, not voting 3, as follows:

[Roll No. 221]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn

Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—16

Bass
Cox
Crane
Doggett
Flake
Green (WI)
Hefley
Hostettler
Rohrabacher
Royce
Scarborough
Sensenbrenner
Shays
Stark
Tancredo
Toomey

NOT VOTING—3

Capuano
Lewis (CA)
Paul

☐ 1848

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LEWIS of California. Mr. Speaker, on rollcall No. 221, I was unavoidably detained. Had I been present I would have voted "aye."

RESIGNATION AS MEMBER OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER pro tempore (Mr. SIMPSON) laid before the House the following resignation as a member of the Committee on Standards of Official Conduct.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 29, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am writing to submit my resignation from the Committee on Standards of Official Conduct.

I will consider my resignation effective immediately.

Sincerely,

ROB PORTMAN,
Representative.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. WALDEN of Oregon. Mr. Speaker, I offer a resolution (H. Res. 187) and ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 187

Resolved, That the following Member be and is hereby elected to the following standing committee of the House of Representatives:

Standards of Official Conduct: Mr. Hulshof.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF MEMBERS TO CONGRESSIONAL-EXECUTIVE COMMISSION ON PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Without objection, and pursuant to section 303(a) of Public Law 106–286, the Chair announces the Speaker's appointment of the following Members of the House to the Congressional-Executive Commission on the People's Republic of China:

Mr. LEVIN of Michigan
Ms. KAPTUR of Ohio
Ms. PELOSI of California
Mr. DAVIS of Florida.

There was no objection.

COMMUNICATION FROM THE HON. STEPHEN E. BUYER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable STEPHEN E. BUYER, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
July 11, 2001.

Hon. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that my office has been served with a civil subpoena for documents issued by the Superior Court for Allen County, Indiana in a civil case pending there.

After consultation with the Office of General Counsel, I have determined that it is consistent with the precedents and privileges of the House to advise the party who issued the subpoena that I have no documents that are responsive to the subpoena.

Sincerely,

STEPHEN E. BUYER,
Member of Congress.

TRIBUTE TO THE LATE JUSTICE STANLEY MOSK

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to Justice Stanley Mosk, a justice of the California Supreme Court, who died a couple of weeks ago after 37 years on the California Supreme Court.

He was remembered at his funeral service for what speaker after speaker called his "legacy of justice." Stanley Mosk was the only Democrat on the State High Court and a very progressive member. He died in San Francisco.

He was my neighbor and he was my friend. Our colleague, the gentleman from California (Mr. SCHIFF), will be speaking more specifically about Stanley Mosk's contribution to the law in California and our country. I want to speak briefly about him personally.

Stanley Mosk was a genius. He was a great tennis player. He took great pride in that. He might have wanted that to be first. He was a great family person. Of course, that did come first. He was a person of such great intellect that his decisions when he wrote them were the subject of great admiration and study by law students and admired by those who followed the law. He will be greatly missed in San Francisco, where the supreme court resides in California.

He was the first person elected statewide in California, when he ran for office many years ago, the first person of the Jewish religion ever elected. Once and for all, he settled that issue. Because of Stanley Mosk, Jewish candidates know that their religion is not a factor in elections in this great State. Indeed, if they were a factor at all, it is a plus.

With that, Mr. Speaker, I want to mention further that it is said of him that many people learned much about pain and much about joy from him.

Stanley Mosk did not want to retire. He went home, he was with his family, but he planned to retire in the fall. So, if I am hesitant about this, it is with great sorrow that I tell our colleagues that Stanley was vigorous to the end, of course, with his great and powerful intellect, benefiting all of us to the end.

His plan was to retire in the fall. That was not in the cards for him. God took him sooner. But I want his family to know that many of us in the Congress mourn his passing, and I hope it is a comfort to them that so many people share their grief, but also their great pride in California Justice Stanley Mosk.

PLIGHT OF PUBLIC HOSPITAL SYSTEMS IN NATION

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this evening I would like to talk about the plight of the public hospital systems in this Nation, and use as an example my own public hospital system, the Harris County Hospital District.

First of all, let me applaud the district for being such a vital part of our community, both in times of need and in times of tragedy. In particular over the last couple of weeks, it is the Harris County Hospital District that has stood up under the burden of Tropical Storm Allison. When any number of our private hospitals were closed, the Harris County Hospital District had its doors open. The trauma center, the Trauma 1 Emergency Center, was available for those who were in need. Now this hospital district is in need, and we need to rally around it to support it.

First of all, there is an enormous nursing shortage, as we well know, throughout this Nation. We must find ways to enhance and grow nurses, as well as provide opportunities for existing nurses who are immigrants to come in and provide assistance.

Furthermore, we must address the funding issue that plagues the Harris County Hospital District as it relates to the formula utilized for Medicaid dollars in this Congress. I hope that my colleagues on several committees that I will be approaching along with Members of the United States Senate, can help us assist in obtaining additional funding, at least providing some minimal relief to the Harris County Hospital District, but addressing the need across the Nation for our public hospital systems. I applaud them and thank them for their service to the health needs of America.

TRIBUTE TO THE LATE JUSTICE STANLEY MOSK

(Mr. FARR of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR of California. Mr. Speaker, I rise tonight to speak on the memorial of Justice Stanley Mosk. Many of you know that as a fifth-generation Californian, born in San Francisco, where Stanley Mosk died, that he was a giant among supreme court Justices in the United States. He left a legacy of justice in California, having served on the supreme court in that State for 37 years.

I knew him as a lawyer. My father was in the State legislature and was very close to the Mosk family and to the Pat Brown family. Governor Pat Brown appointed him to the bench.

The tragedy of his loss is that one of the greatest legal minds of this century served in all of that time when California was emerging as a State, growing to be the incredible nation-state that it is, and the California Supreme Court rose to, I think, in respect probably the highest among all State supreme courts in the United States. Stanley Mosk led that drive. It is a great tragedy that we lost him before we could totally record all of his memories, but his legacy will live on in the history of California. He was one of the men that matched our mountains.

SPECIAL ORDERS

The Speaker pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

REMEMBERING THE HONORABLE STANLEY MOSK

The Speaker pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, I want to thank my colleagues for their kind remarks.

Mr. Speaker, I rise today to pay my deepest respects to the memory and legacy of California State Supreme Court Justice Stanley Mosk, a longstanding champion of civil rights and free speech, who passed away in his home on June 19, 2001, at the age of 88. Justice Mosk loved serving on the court and had very reluctantly decided to retire due to his advancing age. Sadly, Justice Mosk died on the day he was to submit his resignation to the Governor of California.

I first learned of Justice Mosk as a law student in the 1980s when I studied his opinions as required reading at Harvard Law School, along with the opinions of Justices Tobriner and Traynor. Traynor, Tobriner and Mosk were the giants of the California courts. They were the three gentlemen who made the California court, in many people's view, many scholars around the country, truly the highest court in the land.

Justice Mosk served 37 years on that court, the longest of any justice, and served with remarkable productivity, authoring 1,688 rulings. Smart, eloquent and principled, he had a magnificent record of upholding and expanding the rights of individuals.

Born on September 4, 1912, in San Antonio, Texas, Stanley Mosk was educated in public schools in Rockford, Illinois, and attended the University of Chicago Law School, earning his J.D. from Southwestern University in Los Angeles.

He was elected to serve as California attorney general in 1959 after campaigning in which he overcame tactics making his religious faith as a Jew an issue, and won by more than a 1-million-vote margin over his opponent, the largest majority in any contest in America that year. He was overwhelmingly reelected in 1962.

As attorney general for nearly 6 years, he issued approximately 2,000 written opinions, appeared before the U.S. Supreme Court in the Arizona v. California water case, and other landmark matters. He served on numerous boards and commissions, handled antitrust matters, constitutional rights, consumer fraud, investigative fraud, authoring some of California's most constructive legislative proposals in the field of crime and law enforcement.

□ 1900

He established the Attorney General's Civil Rights Division and fought to force the Professional Golfers Association to amend its bylaws denying access to minority golfers.

Governor Pat Brown appointed Mosk to the California Supreme Court in 1964. I note with pride that the late Senator Sam Ervin of North Carolina, on the floor of Congress on August 5, 1964, referred to Mosk as "one of the finest constitutional lawyers in the United States." While on the court, Justice Mosk authored decisions that presaged decisions later reached by the U.S. Supreme Court. Mosk, as a superior court judge in 1947, overturned a restrictive covenant that had prevented African Americans and other minorities from moving into particular neighborhoods a year before the United States Supreme Court voided such covenants. He wrote a 1978 decision barring prosecutors from using preemptory challenges to eliminate minority or female jurors in criminal cases, a trailblazing ruling that later became Federal constitutional law when the U.S. Supreme Court reached the same conclusion 8 years later.

Mosk, as commentators have noted, was consistent in upholding the rights of individuals. He detested quotas and led the court majority in striking down admission formulas used by the medical school at the University of California at Davis. "Originated as a means of exclusion of racial and religious minorities, a quota becomes no less offensive when it serves to exclude a racial majority," he wrote. Personally opposed to the death penalty, Mosk nonetheless upheld the law in capital cases.

As the Sacramento Bee columnist Peter Schrag has eloquently noted, Justice Mosk exhibited a "combination of judicial creativity and practical sense that produced a string of imaginative legal departures." Among those imaginative legal departures, as Schrag notes, are decisions that handicapped parents could not be stereotyped and automatically ruled unfit to raise their children; that victims of a pharmaceutical drug who could not identify the specific maker of the pharmaceutical product they consumed could collect damages from all manufacturers in proportion to their market share when injured; and upholding State law requiring private owners of tidelands to permit public access.

As the Sacramento Bee recently editorialized, "Mosk's greatest contribution to the law and rights was pioneering the theory of 'independent state grounds.' The rights of the people were lodged not just in the Bill of Rights and transitory interpretations of the Supreme Court majority," Mosk argued. "They were embedded as well in State Constitutions, which sometimes offered greater protection to individuals than the minimum required by the Federal courts. The doctrine, widely adopted by State courts around the country, is the source of many path-breaking privacy rulings and has given States the chance to become agents for legal change."

Justice Mosk is survived by his wife, Kaygey Kash Mosk; his son, Richard; and his grandson, Matthew Mosk, is in attendance in the House gallery here tonight. To them, I want to extend my sincere condolences and, as the gentlewoman from California (Ms. PELOSI) indicated, all of our sincere pride in the work of that great man. As the Sacramento Bee editorialized so appropriately, Justice Mosk was "California's brightest beacon of liberty." While his life has ended, his legacy shines brightly for all Californians and for our great Nation.

CRISIS IN KLAMATH RIVER BASIN

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Oregon (Mr. WALDEN) is recognized for 5 minutes.

Mr. WALDEN of Oregon. Mr. Speaker, I rise tonight to again talk about the saga of the Klamath Basin and the farmers who have lived there and tilled the ground and fed the Nation.

As my colleagues know, Mr. Speaker, on April 6, they cut off the water. They said, no water for the farmers this year; the suckerfish would prevail. Mr. Speaker, word is finally getting out about this crisis. There have been stories in The New York Times, and today in the Washington Post there is a story. It has been on Fox News and other networks, CNN and others, who are beginning to cover this story and the tragedy that is occurring at ground zero of the Endangered Species Act debate.

Today, in the Washington Post, Michael Kelly, a columnist, writes, "The Endangered Species Act has worked as intended, but it has been exploited by environmental groups whose agenda is to force humans out of lands they wish to see returned to a prehuman state. Never has this been made more nakedly, brutally clear than in the battle of Klamath Falls."

Mr. Speaker, I want to read today from a couple of letters I have received from constituents. These folks, Bill and Ethel Rust wrote, "We have not written sooner as shock and disbelief have kept us almost immobilized and so sick at heart.

My husband is 76 years old and a Navy veteran of World War II, having lost a brother in this war. We have been ranchers our entire life and depended on this for our livelihood. We are still in shock that our own government has taken this away from us. We recently retired to a small 75-acre alfalfa ranch that was just perfect for us to handle at our age, and you have just destroyed it. Without water, our alfalfa is dying. What are we to do to replace this income? Is the suckerfish more important to you than we are? Having raised nine children to be hard workers and contributors to our society, are we now to apply for welfare or live off our children?

"We have sold our cattle. We are in the process of selling our horses. After a lifetime of getting up in the morning to care for our livestock and ranch chores, what would you suggest we do with our mornings? What reason do you give us to get out of bed?

"We need the help of our government. Will we get that?"

Mr. Speaker, this is typical of hundreds, if not thousands of letters I have received from the people of Klamath Falls.

Mr. Speaker, as my colleagues know, this House, prior to the July 4 recess, passed $20 million in aide to the farmers and ranchers of Klamath Basin, and the Senate has now approved that. It will be in conference next week, and soon it should be on the President's desk.

Mr. Speaker, today I had the opportunity to speak with President Bush personally about the crisis in the Klamath Basin and he offered his help and urged me to continue to contact and work with Secretaries Norton and Veneman. So later this afternoon, I spoke with Secretary Veneman, Agriculture Secretary, about the problem. Because, Mr. Speaker, the word is getting out, and now the help must get in. Good people are being urged to do bad things, as frustration levels rise in the Klamath Basin. Twenty million dollars, Mr. Speaker, that will be available to these farmers and ranchers in the Klamath Basin sooner rather than later if the U.S. Department of Agriculture acts expeditiously to get these funds that we have approved in this Congress into the hands of farmers whose fields are drying out.

The land, instead of green, is parched and brown. Wind is stirring up the dust. The costs continue. Mortgages have to be paid. Equipment payments have to be met. Bankers are knocking on the door. People are scared. Their livelihoods are at stake.

We need also to work with USDA to get feed and water for livestock. Literally, a crisis is at the doorstep. We also need in the long term, which has to be shorter, rather than longer, to improve water quality, but moreover, improve water quantity; to get biological opinions for next year's operations plan that are above question that have been blind peer-reviewed so we know the science is valid but, moreover, the conclusions are sound, so that we can open the gates legally and get water into the fields and the farms for the people of the Klamath Basin.

Mr. Speaker, we have a crisis on our hands, a crisis that is getting worse, not better, as people's frustration levels rise, not fall. They need our help, Mr. Speaker. They need help in us changing the Endangered Species Act. They need help financially; but most of all, they need the water they were promised so that next year they can plant the crops like they have for the past 85 years.

Mr. Speaker, I want to thank my colleagues in the Oregon congressional delegation, members of both parties, for working with me on this issue, for helping secure the $20 million. It is a start, but it is not the end. It must be distributed rapidly and not parceled out over the months. We need to act.

It took an overnight to cut off the water; it cannot take months to get relief to these same people.

Mr. Speaker, these people who settled this country were invited there by this Federal Government with the promise of land and water if they would simply homestead the land and produce food for the country. People who were invited to this area were the very people who fought for our freedom in a far-off land. Veterans of America's Armed Forces were given priority. It is our turn now, Mr. Speaker, to step up and take care of those people.

PROBLEMS IN AMERICAN AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, today we passed an appropriations bill for agriculture. Let me first spend a second giving my impressions of the predicament that American agriculture is now facing.

On a level playing field, American agriculture could compete favorably with most any other country in the world on most any of the commodities that we produce. Part of the challenge in our Federal agricultural policy is the fact that other countries subsidize their farmers much more than we subsidize our farmers in this country. So, for example, Europe subsidizes five times as much as we do, and the consequences are that the additional production from those farmers and in those countries that are heavily subsidized often take what would otherwise be our markets to sell our particular agricultural products. Farmers today face some of the lowest commodity prices they have seen in the last 15, 20, 25 years, depending on the particular commodity.

So as we try to develop agricultural policy in the next several weeks for what is going to partially determine the destiny and, in many cases, the survival or bankruptcy or going out of business of many farmers in the United States, we need to look at how we spend Federal taxpayer dollars to most effectively, number one, assure that the agricultural industry that we want to keep in America stays here and is able to survive; number two, that still the marketplace and those individual farmers that are efficient and productive tend to have the kind of incomes that are going to allow them and their families to stay on that family farm operation.

One of the amendments I had today on the agricultural appropriations bill was an amendment that would put a payment limitation on farmers. We are now seeing a situation where our farm programs, our Federal farm policy, since we started it in 1934, has tended to favor the large farmers. The result is that those large farmers, with the additional advantage of Government payments, ended up trying to buy out the smaller farms and became even larger. If there is some merit in having a Federal agricultural policy that helps the traditional family farm survive without giving, then it is going to be a situation that does not give an additional advantage to the huge, large farmer.

Some farmers in the loan program, the price support program for commodities that we have as part of our Federal farm policy, still continue to favor that large farmer. The average farm size in the United States is about 420 acres. To exceed the current limits in law of not more than $75,000 per farmer in this loan, minimum price protection policy that we have, we see a lot of farmers now that have gone way over the average of 420 acres. We have 20, 30, 40, 50, 60, 70, 80,000 acre farms.

□ 1915

Because we have no limit on the price support of those farmers, then some of these farms are taking in $1 million, or some of these farmers are taking in $1 million-plus in farm payments.

As we face the predicament of trying to be as frugal and as well-managed as we can on the available resources in this country, we need to look at the kind of policy that does not continue to favor those large farmers, and putting a real limit on how much taxpayers should be paying to any farmer should be part of that consideration.

I am disappointed that my amendment today was ruled out of order, but it is an issue as we start developing new farm legislation that we have to deal with in terms of assuring not only that we have the kind of agricultural production in this country that is not going to put us at a security disadvantage, and I use the comparison of oil.

In concluding, Mr. Speaker, we are now dependent almost 40 percent on imported energy from petroleum products. We have seen the power of OPEC in raising their prices and making us pay the higher price.

That same thing could happen to agriculture, so the decisions we make in agricultural policy are extremely important. Favoring the traditional family farm and not favoring the huge farm corporations must be part of our agricultural agenda.

SMALL BUSINESS REFINERS' COMPLIANCE WITH THE HIGHWAY DIESEL FUEL SULFUR CONTROL REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, at the beginning of this year, on January 18, 2001, the Environmental Protection Agency, EPA, implemented heavy-duty engine and vehicle standards and highway diesel fuel sulfur control requirements.

I strongly supported the final rule by the EPA as a necessary tool to reduce pollution. Under this new regulation, oil refiners must meet rigorous new standards to reduce the sulfur content of the highway diesel fuel from its current level of 500 parts per million to 15 parts per million by June, 2006. The diesel rule goes a long way in reducing the amount of pollution in our air.

Small business refineries produce a full slate of petroleum products, including everything from gasoline to diesel to jet fuel to asphalt, lube oil, and specialty petroleum products.

Today, among the 124 refineries operating in the United States, approximately 25 percent are small independent refineries. These small business refineries contribute to the Nation's energy supply by manufacturing specific products such as grade 80 aviation fuel, JP4 jet fuel, and off-road diesel fuel.

In order for oil refineries to comply with the new rule, the Environmental Protection Agency estimated capital costs at an average of $14 million per refinery. This is a relatively small cost for major multinational oil companies, but for smaller refineries this is a very high capital cost that is virtually impossible to undertake without substantial assistance.

Small business refiners presented information in support of this position to EPA during the rule-making process. In fact, EPA said that small business refiners would likely experience a significant and disproportionate financial hardship in reaching the objectives of the diesel fuel sulfur rule.

There is currently no provision that helps small business refiners meet the objectives of the rule. That is why I am introducing a tax incentive proposal that would provide the specific targeted assistance that small refiners need to achieve better air quality and provide complete compliance with EPA's rule.

A qualified small business refiner, defined as refiners with fewer than 1,500 employees and less than a total capacity of 155,000 barrels a day, will be eligible to receive Federal assistance of up to 35 percent of the costs necessary, through tax credits, to comply with the highway diesel fuel sulfur control requirements of the EPA.

Without such a provision, many small business refiners will be unable to comply with the EPA rule and could be forced out of the market. Individually, each small refiner represents a small share of the national petroleum marketplace. Cumulatively, however, the impact is substantial. Small business refiners produce about 4 percent of the Nation's diesel fuel, and in some regions, provide over half.

Small business refiners also fill a critical national security function. For example, in 1998 and in 1999, small business refiners provided almost 20 percent of the jet fuel used by the U.S. military bases. Small business refiners' pricing competition pressures the larger integrated companies to lower prices for the consuming public. Without that competitive pressure, consumers will certainly pay higher prices for the same products.

Over the past decade, approximately 25 United States refineries have shut down. Without assistance in complying with the EPA rule, we may lose another 25 percent of U.S. refineries.

This legislation is critical, not because small business refiners do not want to comply with the EPA rule due to differences in environmental policy, but because it will help keep small business refiners as an integral part of the industry and on the way to cleaner production and full compliance with all environmental regulations.

SENATE MANAGED CARE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN of Texas. Mr. Speaker, I rise tonight to encourage our House leadership to bring the Patients' Bill of Rights to the floor as soon as possible, hopefully next week.

The Senate took historic steps before the July 4 recess to pass a bipartisan, meaningful Patients' Bill of Rights. The McCain-Kennedy compromise legislation includes strong patient protections that will ensure high quality health care for millions of Americans with private health insurance coverage.

These protections include:

Access. Patients will be able to go directly to specialists. Women have the right to go to their OB-GYNs, and children directly to their pediatricians.

Communication. The Senate bill eliminates gag clauses which prohibit doctors from discussing all the treatment options, even those not covered by the plan, with their patients.

Emergency room care for patients who reasonably believe that they are suffering from an emergency medical condition, so they do not have to drive by an emergency hospital to go to the one that is on their list.

Internal-external appeals, which ensures that patients have access to timely and appropriate health care.

And probably the most important is accountability if an HMO's denial or delay of treatment causes a person's injury or death.

Many critics of this legislation say it would result in an onslaught of frivolous and expensive litigation, but this compromise bill also included many provisions to prevent such lawsuits from taking place.

For example, the legislation requires patients to exhaust all their appeal procedures before they can sue their health plan. By requiring that patients utilize an independent review panel, the bill makes sure that medical decisions are made in the best interests of medical practice in a timely manner.

In my home State of Texas, we have been using independent review organizations, or IROs, as we call them, to resolve HMO and patient coverage disputes since 1997, 4 years. These IROs are made up of experienced physicians who have the capability and the authority to resolve disputes for cases involving medical judgment.

These provisions have been successful not only because they protect patients, but also because they protect the insurers. Plans that comply with the independent review organization's decision cannot be held liable for punitive damages if they do go to court.

This plan has worked well. Since 1997, more than 1,000 patients and physicians have challenged the decisions of HMO plans. The independence of this process is demonstrated by its fairly even split. Of this about 1,000 appeals, in only 55 percent of these cases did the IRO fully or partially reverse the decision of that HMO.

The Senate legislation protects employers from unnecessary litigation.

Let me go back to the independent review organizations. Fifty-five percent of the time, these IROs found that there was something wrong with the HMO's decision. I would hope that our medical decisions have a better percentage than to flip a coin, so in 55 percent of the cases in Texas, either partially or totally the HMO was reversed by the independent review organization.

The bill goes so far because it protects employers against any liability unless they are directly participating in the decision on a claim for benefits which result in personal injury or death.

The bill specifically lists a number of areas that are not considered direct participation. In other words, as an employer, one could select the health plan, choose benefits to be covered under the plan, buy a Cadillac plan or a Chevrolet plan, and the employer would not be sued for that, or for advocating with the health plan on behalf of the beneficiary for coverage.

I know in my own experience as a small business, oftentimes my biggest problem was advocating for our employees with our health insurance plan to say it should be covered.

The only case where an employer would be liable would be if they choose to make medical decisions which harm or kill a patient. If the employer acts like a doctor, then the McCain-Kennedy bill hold them responsible like a doctor.

Mr. Speaker, I mentioned earlier, we have had many of these same provisions in Texas law now for 4 years. Yet, we have not seen a barrage of frivolous lawsuits, nor have insurance premiums risen at a faster rate than anywhere else in the Nation.

Mr. Speaker, the Dingell-Ganske bill here in the House is very similar to the McCain-Kennedy bill, which is very similar to a law that we have had on the books in Texas for 4 years. It contains many of the same compromise provisions, which at the same time ensure that these protections can be enforced.

It is time that the House followed suit and passed a real, meaningful, strong, bipartisan Patients' Bill of Rights. I urge the leadership not to delay in bringing the Dingell-Ganske bill to the floor for a vote.

GENERAL LEAVE

Ms. WATSON of California. Mr. Speaker, I ask unanimous consent that Members have 5 days to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

THE LEGACY OF CALIFORNIA STATE SUPREME COURT JUSTICE STANLEY MOSK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON of California. Mr. Speaker, today I stand before this august body to pay tribute to a superb colleague, friend, and fighter for justice, the late Honorable California State Supreme Court Justice Stanley Mosk.

As a State Supreme Court Justice, Stanley Mosk fought repeatedly for civil rights and individual liberties. He constantly strove for fairness for all Californians. Judge Mosk did not view his judicial task as a job, but as a mission for humanity. Judge Mosk understood the pain of racism.

It was during his election to statewide office that his faith was made an issue. Judge Mosk, as a Los Angeles Superior Court judge, threw out a restrictive real estate covenant that prevented a black family from moving into a white neighborhood. A year later, the U.S. Supreme Court voided such covenants.

It was Judge Mosk's ability to relate to the pain caused by racism that allowed him to approach legal decisions with a touch of humanity and fairness.

Even before his career as a judge, Mosk had the ability to tell the difference between right and wrong. As a State Attorney General in the late 1950s and early 1960s, he established the office's civil rights division, and helped to persuade the Professional Golfer's Association to drop its whites-only rule.

Judge Mosk, a longtime Democrat and self-described liberal, was appointed to the State's highest court in 1964 and served until his death, a 37-year tenure that made him the State's longest-serving Justice. During that time, he wrote 1,500 opinions.

Judge Mosk often produced opinions separate from the court majority. He opposed the death penalty, but also showed flexibility and a knack for anticipating political currents. His decisions continued to reflect his quest for fairness and the desire to correct existing wrongs.

In 1972, Judge Mosk's ruling extended to private developers a law requiring a study of each major project's likely environmental impact and ways to avoid the harm.

□ 1930

In 1978, Judge Mosk ruled to ban racial discrimination in jury selections. He rendered this decision 8 years before the U.S. Supreme Court made the same decision. In light of his judicial decisions and opinions, Judge Stanley Mosk remained a champion for fairness and humanity.

Today, I am honored as a Californian and as a former State Senator to pay homage to the career and the legacy of this great man.

Ms. WATERS. Mr. Speaker, I speak today to honor a man who was a tribute to his court, his state, and his nation. Justice Stanley Mosk of the California State Supreme Court leaves behind a legacy of his strong belief in civil rights and free speech. It is my hope that Governor Gray Davis will seek out another advocate for the people to step into Justice Mosk's shoes.

Justice Mosk will be remembered for many things. He was often on the forefront of legal issues. Back in 1947, when he was a judge on the Los Angeles Superior Court, Justice Mosk threw out a racially restrictive covenant that prevented a black family from moving into a white neighborhood. That case, *Wright* v. *Drye*, came out a year before the United States Supreme Court made its own similar decision in *Shelley* v. *Kramer*.

In 1978, Justice Mosk again led the U.S. Supreme Court in ground-breaking decisions. In that year, he ruled for a ban on racial discrimination in jury selection. The U.S. Supreme Court waited eight years before making the same ruling.

Justice Mosk promoted civil rights from an early stage in his career. While serving as the California State Attorney General in the late 1950s and early 1960s, Justice Mosk established the office's civil rights division. He also successfully fought against the Professional Golf Association's bylaws that denied access to minority golfers. Justice Mosk went further than that—actually contacting each state's attorney general on this matter, to ensure that no state would provide the PGA with a place to hide. Charlie Sifford, the African-American golfer whose cause Justice Mosk took up, sent a note to the Mosk family after hearing of Justice Mosk's death.

Justice Mosk worked to improve voting rights long before the disasters that occurred in last year's election. He fought successfully for Latino voting rights in the 1960 election in Imperial Valley. He did what we should do in our present day elections—he sent agents down to the Valley to be sure that the voters weren't being intimidated.

Justice Mosk was also an extremely productive judge, producing nearly 1700 rulings during his tenure on the California State Supeme Court.

The State of California has lost not only a great justice and strong advocate, but a true legacy. His presence will be missed by those who worked with him, and his absence will be felt by those on whose behalf he worked.

Ms. MILLENDER-McDONALD. Mr. Speaker, I wish to pay tribute to a renowned man who has had a tremendous impact on our country. "Libertas per Justitiam"—Liberty through Justice, was a phrase that Justice Mosk had sewn into the collar of his judicial robes. It is a fitting inscription for a man who embodied the phrase so completely. We come today to reflect on the life and legacy of Justice Stanley Mosk of the California Supreme Court. Justice Mosk spent more than half a century on the bench, including 37 years as a justice of the California Supreme Court. During his time on the bench, Justice Mosk dedicated his life to ensuring and protecting individual rights for the people of California. He remained steadfast in his liberal views, despite serving the last fourteen years as the only liberal on the high court.

Justice Mosk's distinguished career began immediately after law school with his own private practice from 1935 to 1939. He then became Executive Secretary to the Governor, and later served as Attorney General of California for nearly six years before his tenure on the bench. Despite the often-contradictory opinions of his colleagues, Justice Mosk never backed down from what he believed to be fair and just.

I would like to take a moment to highlight a couple of his important achievements. In 1947, as a Los Angeles Superior Court judge, he struck down as unconstitutional the racially restrictive real estate covenants used to prevent minorities from buying houses in certain neighborhoods. When he became Attorney General in 1958, he fought to eradicate the Professional Golfers Association's whites-only clause, which prohibited minorities from being a part of the PGA. Justice Mosk remained an unassuming and unpretentious man who took pride in his judicial activities as well as his civic activities. For instance, he was involved actively with the problems of children who could not live with their families, as the president of the Vista Del Mar-Child Care Agency.

Justice Mosk served the state of California until the day before he died, and with his death, the state of California lost what many considered to be a true champion of justice. Justice was not only his well deserved title, but was also characteristic of his personal mission—to find fairness in a world filled with injustice. As a devoted liberal, his eloquence and principles shined through his work on the court. Among his many great contributions he will be remembered for pioneering the theory of "independent state grounds." This is the source of many path-breaking state privacy rulings and has given states the chance to become agents for legal change.

Mr. Speaker, I am proud to stand here today to honor Justice Stanley Mosk, a glorious man who has left an indelible impression on our state and our country. Through his body of accomplishments his passion for justice shall live beyond his tenure on earth. His family, friends, colleagues, and the state of California will miss him dearly.

Mr. BERMAN. Mr. Speaker, I rise today to honor Justice Stanley Mosk, who died last month after serving 37 years on the California Supreme Court. He was California's longest serving Justice, a highly respected, even revered judge who delivered almost 1,700 opinions in his remarkable career. He was repeatedly honored for his contributions to the caliber of our judiciary and the quality of justice meted out by our courts in California. He was a distinguished lawyer, a renowned author and an outstanding jurist.

I have had the honor of knowing Justice Mosk and his family for many years and he was, to me, one of those special people who had a profound influence on my political life. He was a tremendously impressive individual who embodied a unique combination of political savvy and legal scholarship with an abiding commitment to justice.

From 1939 to 1942 he served as executive secretary and legal adviser to the Governor of California, and for the 16 years from 1943 to 1959 he was a judge of the Superior Court in Los Angeles. After serving in the Coast Guard Temporary Reserve during the early days of World War II, Judge Mosk left the Superior Court bench and enlisted in the army as a private. He served until the end of the war and then returned to the court.

In 1958, Mosk was elected Attorney General of California with more than a million vote margin over his opponent, the largest majority of any contest in America that year. He was overwhelmingly re-elected in 1962.

He was the first person of the Jewish faith to be elected to a statewide office after a campaign in which his religion was made an issue and his decisive victories were enormously important to Jewish candidates who followed him into public service, because it established the fact that their religion would not be a factor in California elections.

He was appointed to the state's high court in 1964 by then-Governor Pat Brown. Justice Mosk loved being on the court and hated the thought of retirement, but fearing that his age was slowing him down, he had reluctantly decided to step down this year. He died the day he planned to submit his resignation letter to Governor Davis.

Justice Mosk fought doggedly for civil rights and individual liberties. He threw out restrictive real estate covenants that kept black families out of white neighborhoods and opened professional golf to nonwhites. He barred prosecutors from removing jurors on racial grounds. He declared that handicapped parents could not be stereotyped and automatically disqualified from raising their own children.

He was revered for his independence as well as his intelligence, his dedication to equal justice and his wisdom and common sense.

In November of 1998, Justice Mosk offered this list of his top priorities should he be reelected to the Supreme Court: (1) Properly apply the law, (2) Independence and impartiality, and (3) Justice. He can be no better eulogized than by this short list, which be honored throughout his brilliant career. I ask my colleagues to join me today in paying tribute to Justice Stanley Mosk, a legal giant of California.

COUNTRY-OF-ORIGIN LABELING FOR FARM-RAISED FISH

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Arkansas (Mr. ROSS) is recognized for 5 minutes.

Mr. ROSS. Mr. Speaker, the farm-raised catfish industry is an important part of the economy in my congressional district that covers the southern third of Arkansas. In fact, Arkansas is third in catfish sales in the Nation, behind only Mississippi and Alabama, with nearly $66 million, or 13 percent, of the total U.S. sales.

I recently met with catfish farmers in southeast Arkansas, and I can tell my colleagues that catfish producers in my district are upset that so-called catfish are being dumped into our markets from Vietnam and sold as farm-raised catfish. The truth is that it is not farm raised, and I am not even sure it is catfish. Last year, imports of Vietnamese catfish totaled 7 million pounds, more than triple the 2 million pounds imported in 1999 and more than 12 times the 575,000 pounds imported in 1998.

In Vietnam, these so-called catfish, also known as basa, can be produced at a much lower cost, due to cheap labor and less stringent environmental regulations. In fact, many of these fish are grown in floating cages in the Mekong River, exposing the fish to pollutants and other conditions. They are then dumped into American markets and often marketed as farm-raised catfish. Many catfish producers believe that these imports have taken away as much as 10 percent of our markets here at home.

It is really quite simple. Farmers do not mind competition, but they do mind when the competition is unfair and untruthful. This is why today my colleagues, including the gentleman from Arkansas (Mr. BERRY), the gentleman from Mississippi (Mr. SHOWS), and the gentleman from Mississippi (Mr. PICKERING) introduced, along with me, a bipartisan bill, H.R. 2439, the Ross-Berry-Pickering bill, that would amend the Agricultural Marketing Act of 1946 to require retailers to inform consumers of the country of origin of the fish that they sell.

Under the bill, all fish would be covered. Each retailer would be required to notify the consumer at the final point of sale of the country of origin of the fish. And a fish product could only be designated as being from the United States if it is from a farm-raised fish that is exclusively born, raised, and processed in the United States.

When our consumers go into the store and ask for farm-raised catfish, they deserve to know what they are getting is actually farm raised and catfish. By letting consumers know where the product is coming from, this bill will encourage the people in Arkansas and all across America to buy catfish grown by our farm families, not fish grown in a polluted river in another country.

I urge my colleagues to join me in protecting consumers and to support a level playing field for America's farm-raised fish producers by supporting this measure.

TRIBUTE TO THE LATE JUDGE STANLEY MOSK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

Mr. WAXMAN. Mr. Speaker, I am pleased to join my California congressional colleagues in honoring the memory of Justice Stanley Mosk and the great legacy he left the people of California and our Nation.

Justice Mosk was in public service for sixty years. He was a trial judge on the Superior Court of Los Angeles. He served as the Attorney General for the State of California. He was the longest serving member in California State's Supreme Court 151-year history. He served on the court for 37 years under five chief justices until his death on June 19, 2001 at the age of 88.

My colleagues who have preceded me have spoken very eloquently about Judge Mosk's contributions to our Nation. I want to take a moment to speak of Justice Mosk's personal influence on me as a Jewish American. Today, we take for granted that individuals of different racial and ethnic ancestry serve in public office. Last year, when Senator JOE LIEBERMAN ran on the national ticket for vice president, he was the first Jewish American to do so, but his religious and ethnic background did not cause a strong reaction in most Americans. He was judged as an individual on his abilities, his political beliefs, and his record.

In the late 1950's, Stanley Mosk was the first Jewish American to run for statewide office in California, and his candidacy caused some concern and trepidation in the Jewish community. American Jews were very active in politics, and they made great public service contributions, but there was enormous hesitancy in running for public office and assuming such a visible a position. Today, those of us who are Jewish and from California feel an enormous amount of pride in Justice Mosk because he was one of the premier constitutional lawyers in our Nation and he met the highest standards for public officials.

As a trailblazer in the Jewish community, Stanley Mosk never forgot that he helped pave the way for Jews and other minority Americans who faced professional and social hurdles. He was an unflagging champion of civil rights and individual liberties. He was also a shining inspiration to all of us who followed. When I ran for a seat in the House of Representatives more than twenty-five years ago, I was the first Jewish American from Southern California to be elected to Congress, and the first in the State in forty years. It is tribute to our Nation that Jewish Americans today represent not only districts with large Jewish populations, but those with small Jewish constituencies as well.

Stanley Mosk was mentor to a whole generation of Jewish activists. He will be affectionately remembered and sorely missed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members not to refer to individual Senators.

AMERICA'S ENERGY POLICY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 60 minutes as the designee of the minority leader.

Mr. DEFAZIO. Mr. Speaker, this evening I rise, hopefully to be joined by others, to discuss the energy situation in the United States of America. It was James Watt, when President Bush unveiled the national energy policy, so-called here in this blue book, who said, "Well, they just took out my work of 20 years ago." This is James Watt, mind you, not exactly an enlightened individual when it comes to present-day energy policy. He said, "They just dusted off my work of 20 years ago. It is really good work." A 20-year-old energy policy for the 21st century?

Well, after I read through it, upon hearing Mr. Watt's comments, I would observe it a little differently. I would say this is not James Watt's energy policy of 1980, this is actually our father's energy policy. It is much more 1950s energy policy. It is Dick Cheney's energy policy, and it reflects a bygone era of limitless frontiers, dig, drill, and burn. It is not and does not offer America a new sustainable and more affordable energy path to the next century.

So we will be talking about that a bit tonight, about electricity, electric deregulation, and other subjects. But before I go there, I would like to recognize the gentlewoman from California who introduced important legislation today in the area of our future energy supply to talk a bit about her proposal.

Ms. WOOLSEY. Mr. Speaker, I want to thank my colleague from Oregon for organizing this special order tonight because the timing is absolutely perfect. We have just returned from the July 4 district work period and House committees are gearing up to tackle energy policy.

Since passing the national Energy Policy Act in 1972, Congress has generally ignored energy issues, but energy problems in California and higher prices for natural gas and oil throughout the country have brought energy back to the top of our Nation's agenda. We are finally beginning to realize that the debate over the Nation's energy policy will probably be, if not the, one of the most important issues addressed in this Congress.

The energy shortage we are experiencing in California is a signal to be heeded by the rest of the country. The signal is that the Congress must raise the stakes in search of a sensible energy policy because, obviously, what we are doing is not enough. I am here tonight to remind my colleagues that as Congress and the administration work to forge a long-term energy policy, it is absolutely imperative we make a true commitment to renewable energy sources, to efficiency, and to conservation in order to prevent a future energy crisis and to protect our environment.

As the ranking Democrat on the Subcommittee on Energy of the Committee on Science, I am working to do just that. In fact, as the gentleman from Oregon (Mr. DEFAZIO) mentioned, earlier today I introduced CREEEA, the Comprehensive Renewable Energy and Energy Efficiency Act of 2001. It is to be used as a blueprint for renewable energy sources and energy efficiency measures. It is to ensure that we make renewable energies a more important part of any national energy policy we put in place in this country.

We can no longer afford to make large investments in outdated energy technologies, like fossil fuels, coal, and nuclear. Increasing our reliance on 20th century technology is not in the best interest of the 21st century, and it is certainly not an answer to our energy future. Instead, with the energy challenges we are experiencing across the country, it is more important than ever that we take this opportunity to craft a more responsible policy. By leveling the playing field for renewables and efficiency measures, we can and must ensure that our national security becomes more safe and secure through diverse energy sources.

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Of course, we cannot expect renewable energy to meet all of our energy needs right away. I wish we could, but we cannot. We can make it a Federal priority to give renewables a more prominent role among energy sources. Unfortunately, Federal investment in renewables and energy efficiency has declined over the last 20 years. That is why CREEEA, my bill, aims not only to reverse that harmful funding trend, but also to set a goal for our Nation that at least 20 percent of the energy generated in the United States be produced from nonhydro renewable energy sources by the year 2020.

CREEEA calls for new investments in renewable energy and energy efficiency research and development, as well as competitive grants to help bring these green technologies to market. In the bill, regulatory provisions will eliminate barriers to development to put renewables on par with traditional energy sources.

Aside from energy efficiency provisions for schools, homes and vehicles, CREEEA also calls on the Federal Government and the Architect of the Capitol to set an example here in Washington by adopting renewable energy standards and improved energy efficiency measures. After all, the Federal Government must do our part, its part, to use more clean, renewable and efficient energy resources and technologies.

CREEEA also offers tax incentives to both individuals and corporations for increased investments in renewable technologies and for embracing energy efficiency products, buildings and technologies. With smart, aggressive policies, we will encourage the development of green industries.

Mr. Speaker, putting a priority on forward-thinking domestic options like renewable energy and energy efficiency technologies and encouraging conservation is smart public policy, policy that will protect our environment and provide a secure energy future for our children, and I urge my colleagues to support this approach as we debate the national energy policy for the future of this Nation.

Mr. Speaker, I thank the gentleman from Oregon for including me in this special order.

Mr. DEFAZIO. Mr. Speaker, I thank the gentlewoman for her comments.

Mr. Speaker, it is important that we look toward the future and not toward the past for the energy supply for the United States of America. We can both have energy sources that are more gentle on the environment and deal with the problem of global warming, and are more stable and more affordable for the people of our Nation so we will no longer be held hostage to OPEC and other cartels around the world who basically blackmail us from time to time in jacking up the price of oil and extorting from American consumers.

I think her legislation is a very, very important addition to getting something that looks forward instead of back, and I thank the gentlewoman for her contribution.

Mr. Speaker, today we had Secretary Norton come before the Committee on Resources to update us on where they are on the President's national energy policy. In reading her testimony, I was interested to see that she said despite the statements of Vice President Cheney of about 6 weeks ago where he said conservation and renewables, that might be a personal virtue, but it is nothing for a national energy policy to be based upon.

Despite the fact that over the last 20 years this Nation has gained 4 times as much energy from efforts in conservation and renewables than from new energy development based on fossil fuels, nuclear and other traditional sources, 4 times as much, the Vice President says that might be a personal virtue, but we cannot base policy on it.

Mr. Speaker, there seems to have been a backlash, and the administration seems to be very quickly backpedaling on the statements of Vice President Cheney. In fact, today Secretary Norton said, remember, the President's energy policy, this blue book written by Vice President Cheney, 50 percent of that is based on conservation renewables and other sustainable energy sources. I said, Madam Secretary, that is an extraordinary statement. I said, tell me, 50 percent of what in this book, 50 percent of the projected new energy supply? When I look in the back, I see that they are projecting 2.8 percent of our energy over the next 50 years might come from sustainable renewable sources and conservation, so it was not 50 percent of the new energy. They are projecting 93.2 percent will come from conventional fossil fuels and nuclear power. I said, I am a bit puzzled. Is it 50 percent of the investment? I said, I remember the President's budget dramatically slashed investment in conservation renewables and sustainable energy sources, things that could make the United States of America energy-independent.

She said it is 50 percent of the words in this proposal were on conservation, renewables and others. I would even challenge that, but I have not gone back to count up to see really whether 50 percent relates to those things.

So words are what we are getting here in this blue book and not a forward-thinking energy policy. The administration again staunchly defended going into ANWR, despite the fact that they admitted that no one has come anywhere near fully exploring the potential of the National Petroleum Reserve, which was just let out for leasing last year by the Clinton administration just before they left office, and the potential finds and the already discovered finds in the former National Petroleum Reserve, it will no longer be a reserve for national security purposes, will be diverted into the existing pipeline system and may well exceed the capacity of that system for some time to come.

She admitted, as has every other administration witness, if there was recoverable energy at economic values in the Alaskan National Wildlife Refuge, they want to lease it now to be sure that it gets drilled; but they do not expect that a drop of that oil will flow for 10 years. Not a drop. So it is not addressing our immediate concerns.

Beyond that, I said, Madam Secretary, if it is such a crisis that we have to go into the last pristine area in the United States of America to explore for oil, does the administration think that oil should be kept here at home in the United States of America, as the law provided until 1996 when the Republicans took over Congress, and at the behest of the oil companies lifted the ban on the export of oil from Alaska?

She said she would have to get back to me on that. She certainly intended that the oil produced in Alaska should principally benefit the people of the United States of America, but she would not go so far to say that oil ought to be kept home, processed in the United States and used by the citizens of our country; but she will get back to me on that. I pointed out that President Bush could do that tomorrow by Executive Order. There is authority in the law for President Bush, if he believes that there is an energy crisis and a shortage and that is what is driving up the prices, he could tomorrow with a simple stroke of his pen rescind the authority for those oil companies to export our oil from Alaska.

Mr. Speaker, that would be a concrete step that could be taken, and certainly sending a message to the American people, and also sending a message to OPEC, which is we are not going to take this. We are not going to let them jack up prices over there and extort our consumers in the short run while hopefully this Congress acts to adopt a more forward-thinking energy policy for the future based on new technologies so we can break our dependence on the oil cartels in the long term. In the short term, we do not want to have consumers extorted and bankrupted by them.

Let us send them a strong message. We could do that by the President saying he is going to keep the Alaska oil home. We could do that in a number of other ways to show that we, in fact, in the United States are not going to be patsies, but this administration has chosen so far not to do that.

Mr. Speaker, there are so many subjects to be covered in this area, this is just sort of a beginning. I see the gentleman from Oregon (Mr. BLUMENAUER) has joined me, and I wonder if he might like to address some of these subjects.

Mr. BLUMENAUER. Mr. Speaker, I thank the gentleman for yielding.

I do appreciate our taking the time this evening to explore in greater detail the other side of some of these questions because it is indeed complex. It is indeed important.

As the gentleman pointed out, there are a wide range of interests that are coalescing. They may not agree on a lot. Conservatives, liberals, people from the East and the West, even some of our friends from California step back, and they are looking at what has been advanced by the administration with skepticism and in some cases wonder.

I personally just returned from the Arctic Wildlife Refuge. It is an area that I have not visited before in previous trips to Alaska, and I have heard people on the floor make some assertions. I wanted to take the time to see for myself, to put in context the reports that we are given, the information that comes forward. I must say that I do not pretend to be an expert based on less than a week of hiking, camping, exploring the wilderness, flying over some of the vast stretches, talking to Alaskans of a variety of different perspectives, including spending time in the Prudhoe Bay area with representatives of the petroleum industry.

Mr. Speaker, I must say having visited some of the BP operations, having Fourth of July in the snow, roasting hot dogs as part of their Fourth of July celebration on a man-made island on the Arctic Ocean, I came away impressed with the professionalism and dedication of the men and women working in the industry. But I also came away struck with the rather wide range of the area that is already available for oil exploration, the billions of cubic feet of natural gas that are being pumped down back into the ground that are available for energy purposes, and, if the circumstances and costs are right, that would be available to us.

I was struck by the magnitude of the Alaska pipeline, which is now 25 years old. I have a certain personal relationship to this. My father worked on the pipeline until the day he died. I had some input from him about the challenges based on his experiences there. But it is aging.

Just yesterday we saw in the Wall Street Journal a front-page article that the State of Alaska, covering the inspections of people in this area for this vast infrastructure which pumps more oil in 3 days than is pumped from the entire State of Indiana in a year, and it has approximately one-half the inspectors, only five people inspecting this vast infrastructure which is aging and subjected, despite the professionalism and dedication of the employees and, I think, the good intentions of the industry, I take it at face value, but there is not much that inspires my confidence when I think of the volume of it. Then when I consider what was there in the Arctic Wildlife Refuge, this amazing vista, the tussock grass, where you could literally see for miles and hike for hours and be completely unaware of how far you had gone, seeing hundreds of caribou in a relatively small area, and in the course of 3 days had seen thousands of them, and had some sensitivity to how fragile that area is and how fragile it is in terms of the habits, in terms of the calving cycle of this vast caribou.

I did see some caribou around Prudhoe Bay that we see in some of the pictures, but I had an appreciation for the vast fragility of the tundra; small willows that are 10, 20, 30 years old that are only inches high and thinking about what would happen if there were problems there. I came away with a profound sense that the American public is right. The Arctic Wildlife Refuge is absolutely the last place we should be exploring for oil, not the first.

□ 2000

The gentleman referenced the much-debated comment from our Vice President dismissing the notion that conservation may be a virtue, but it should not be the basis for a rational national energy policy. I think the American public, and I certainly agree, conclude that he has it 180 percent wrong. You cannot have a rational national energy policy without beginning with the notion of conservation and wiser use of our energy resources. And it does not have to drive the American public back to the Stone Age. Our friends in Japan have been able to manufacture a hybrid vehicle that will get 60, 70 miles per gallon. There is a 6-month waiting list for American consumers. Yet the American Government in the 5 years I have been in Congress, we have been prohibited from even studying extending the vehicle miles for the CAFE standards and having more fuel-efficient automobiles.

It has been represented to me that the difference between SUVs that get the abysmal mileage that they get now and the potential for bringing it up to the overall fleet average would be the difference for the typical SUV, the gap here is the equivalent of leaving your refrigerator running with the door open for 6 years. This is not technology that is beyond us.

We hear people making rash claims that we have to have the administration's proposal of building a power plant a week and the attendant economic cost, the attendant environmental cost, and they will throw out arguments like, Well, we haven't had a nuclear plant licensed in this country in 20 years. Well, they are right, we have not had a nuclear plant licensed in this country in 20 years, but what they do not tell you is that we have not had an application for licensing in more than 20 years. Industry has recognized that it is not a good investment. And for the administration to put forward half-representations, arguing for the notion that we are going to build a plant a week and ignore simple, commonsense steps to improve energy conservation, I think completely misses the target.

Again, two last things and I will turn this time back to the gentleman. I know that there are others that wish to join the gentleman from Oregon (Mr. DEFAZIO), and the last thing I want to do is disrupt his train of thought too much. As dean of the Oregon delegation, I have too much respect for his rhetorical and intellectual capacity to do that, but if he will permit me to make two other observations.

Number one, it seems to me that we can take steps, and we may hear from some of our friends in California who have had some energy difficulties which they are working their way through, we may be hearing about that this evening, but the simple, expedient step of having roof colors, and you do not have to go all the way to having a green roof, but just having a reflective color, can cut the energy requirements for air conditioning one-third. Having concrete instead of asphalt can lower the temperatures of our cities 2 degrees, the heat island effect that we are seeing in major metropolitan areas. Not only will those roads last longer, but that will save energy.

Last but not least, it seems to me that if in fact we have several trillion dollars that we do not need to invest in essential government services over the next 10 years, which as we note as each day goes by it looks as though we do not quite have the resources that were represented to us; a better use of this, rather than some of the tax reductions for people who need help the least, would be to provide tax credits and incentives for our citizens, particularly low- and moderate-income citizens, to be able to afford more fuel-efficient air conditioners, heating, other appliances which again would save huge amounts of money for not having to invest in energy production, would save the cost of energy for these individuals, and would be a shot in the arm for American industry. I think these are more appropriate approaches, rather than discounting energy conservation and simply building an energy plant a week.

I appreciate the opportunity to join the gentleman this evening. I appreciate his leadership and look forward to further discussion.

Mr. DEFAZIO. Just taking up what the gentleman was talking about, tax credits for Americans, for consumers, to help them meet their needs at home or at work or purchase more energy-efficient transportation, to create a market for that and help our people, that unfortunately did not make the cut in the blue book here. But what did make the cut, for instance, is royalty relief.

For those poor suffering oil companies, we have got to have some royalty relief. Of course I am certain that they will pass those lowered costs on to the consumers. The estimate is that the Bush energy plan would lower royalties by $7.4 billion over 2 years. That is money that should flow to the Federal Treasury for all the taxpayers in the United States of America because of the extraction in our coastal areas and inland areas of oil and gas, would be reduced by $7.4 billion under the proposal of the Bush administration.

Now, of course, these are the same companies that just last year entered into a plea bargain in a criminal case for defrauding the taxpayers of royalty revenues and entering into an unprecedented $443 million civil settlement with the Justice Department. But, of course, that was the Clinton Justice Department, and I do not think the Bush Justice Department is going to be pursuing too many defrauded American taxpayers' royalty claims. In fact, no, they are much more up-front about it: Hey, let's just forgive the royalties altogether. This is the basis for an energy policy.

Certainly we do not need to forgive the royalties to get these people to explore or pump oil. Let us look at the profits. Last year, ExxonMobil profits, $15.9 billion, a 1-year, 102 percent increase. Chevron, $5.1 billion, a 150 percent, 1-year increase. Texaco, $2.5 billion, 116 percent, 1 year. Conoco, $1.9 billion, 155 percent. Phillips Petroleum even better, 205 percent. And on down the list. These people need relief? They need encouragement from the taxpayers? They need subsidies from the taxpayers to explore for oil and gas? I do not think so. In fact they should be giving money back to the taxpayers because they are fleecing the taxpayers to show those sorts of profit increases in one year.

So the gentleman is exactly right with his orientation of where we should be investing or forgoing revenue for the Federal Government, should be oriented toward small businesses and consumers and others who want to invest in energy-efficient measures, not those who want to go out and extract yet more oil and gas from sensitive areas in our coastal plain, our national monuments and elsewhere.

From there, I believe we would be well served to get into the area of electricity. Most recently in the western U.S., the most extraordinary manifestation of an energy crisis that we have seen has been the rolling blackouts and brownouts in California, the fact that the total electricity energy bill in California went from $7 billion 2 years ago to $27 billion last year and is projected to go to over $50 billion this year. The fact that we have found out that even in the Pacific Northwest, we are paying higher average wholesale prices but thankfully thus far have been buffered by our Bonneville Power Administration and our own energy production from having to buy too much; but next winter we may be in the very same soup that California has seen over the last year.

Now, the question would be, Is this a justified increase? Is this such a shortage and such a precious commodity that you can justify increases of up to, well, if you went from $30 an hour average megawatt 2 years ago to the high price that has been charged up over $3,000 a megawatt, a 1,000 percent increase in 1 year in the price, there is a real question. There is no one who is more expert on that than the gentleman from San Diego, who comes from ground zero in terms of the electricity energy crisis, market manipulation and price gouging in the western United States. I yield to the gentleman to educate us a bit on what has been going on down in his district.

Mr. FILNER. I thank the gentleman from Oregon for yielding, and I thank him for his leadership. I recall over the last few years the gentleman from Oregon talking about the problems with deregulation. Very few of our colleagues listened. But now we are witnessing them, and he was right. And California has been the greatest example of that. He mentioned rolling blackouts. He mentioned manipulated markets.

Let me tell you what happened one day in January of this year. We suffered several hours of rolling blackouts in San Diego. That had, just a few hours, a tremendous impact. Companies in production lost millions of dollars worth of production. People who could not deal with the traffic lights off, we had near fatal accidents. People stuck in elevators. The largest company sending people home and not getting a paycheck. At that time, at a time of the rolling blackout, with all these disruptions, the biggest generator in San Diego County was not in operation. It was shut down, not due to any maintenance; it was just taken out of service.

Now, we have examples of that all through the last year where production was down, not for maintenance, not for any environmental reason but to bolster the price, because in a controlled market, if you withhold supply, you can increase the price. What occurred in San Diego at what we call the South Bay Power Plant in my district operated by the Duke Energy Corporation, they took generators out of service, not only during the blackout but many times during the year.

We just recently had five former employees of that plant who worked there for a total of 100 years. These are not newcomers. They know what is going on in that plant. They testified under oath to a State Senate committee that not only were these generators down not because there was any real lack of need for them, we were in a rolling blackout, but purely related to the price that could be gotten or withheld because of an attempt to raise the price. They testified that the generator floor was in constant contact with the marketing floor of the corporation. And they ramped up and down their production according to the price, not according to the need. They testified that they were asked to throw away spare parts, so it would take longer in any maintenance situation.

That leads me to believe that this is not primarily a supply and demand problem, although we have tight supplies and the Governor of California is doing everything he can to increase those supplies; but this was a crisis of a manipulated market brought on by deregulation which the gentleman from Oregon foresaw.

Mr. DEFAZIO. I think the key point and one of my principal objections to deregulation was that it severed the relationship between a utility and the consumer. Historically in this country from 1932 until very recently with deregulation, utilities had a duty to serve. Their highest duty was to keep the lights on. They maintained a buffer over and above their demand or their anticipated demand. They were required to do that. They were required to, except in times of catastrophe, provide as nearly as possible 100 percent reliability.

Mr. FILNER. And they made a healthy profit doing that.

Mr. DEFAZIO. They certainly did. They always were favored by investors. They had no problem raising money. It was an industry that was known as a good place to put your money for a reliable and very healthy rate of return.

Now, what happened as the gentleman just pointed out with Duke and with all the others, they are no exception, is that they no longer had under deregulation a duty to serve their customers. Their only duty is to serve their stockholders and the people on Wall Street. If they can make more money by blacking you out, shutting you down, closing other businesses for lack of power, it is their duty, their fiduciary responsibility as their board of directors sees it to do that. That is why they tied their floor traders to the plant operators.

□ 2015

It is absolutely outrageous to think that that is what the system has come to.

Mr. FILNER. They made almost a billion dollars doing that in the course of the year. By the way, just to emphasize the gentleman's point of the cut in relationship to the community, the five employees I mentioned lived in our area were community members, paid taxes, had their kids go to school. They were let go. Apparently, Duke did not want people tied to the community working in their own plant.

There is insult to injury. I would say to the gentleman from Oregon (Mr. DEFAZIO) that in this case I just told him about, the plant was being ramped up and down for profit, which stole a billion dollars out of our economy, is a public plant. Under the deregulation law, the San Diego Unified Port District bought that plant and leased it to Duke and leased it for very, very, let us say, favorable terms. The terms under which they leased the plant they thought they would recoup their investment in 5, 7 years. They got it back in 3 months. That shows what the prices were that they charged.

They leased this plant from the public so they are stealing from the people who own this plant. They have violated the lease terms that they were under. They were supposed to operate that plant in a prudent manner. It is a prima facie case that they had not and these employees testified that they had not.

I think the Port District, a public agency in San Diego, ought to break that lease, take back the plant, operate it in the public interest. They produce power there for three or four cents a kilowatt. As the gentleman pointed out earlier, a thousand percent increase in the price they were charging us up to $4.00 a kilowatt. So here we have the most obscene price gouging.

Duke, by the way, was the one that charged that $4,000 a megawatt, or $4.00 a kilowatt, hour and they did it out of a public plant. I think San Diego consumers ought to demand that that plant be taken back. It is our plant. Let us show that we can produce the electricity at a reasonable rate and still protect our environment. So this is a case study of enormous greed, and I think San Diegans understand that they have been gouged and they are ready, in fact, to embark with a municipal utility district, take over plants such as the one I mentioned, the South Bay Power Plant, and begin to get out of the control of this energy cartel.

Let me just conclude this part by saying, the gentleman made the point earlier about how we need renewables. He made the point earlier about how we need conservation. Everybody in California, as I am sure in Oregon, is doing everything that they can to do that. Only the Federal Government can deal with the wholesale prices. Only the Federal Government can regulate that. Our President has chosen not to be involved. Our vice president has refused to listen. The Federal Energy Regulatory Commission has taken some baby steps in this direction, but the Congress should impose what is called cost-based rates on wholesale electricity prices and refund all the criminal overcharges since last summer when this started. Then we can begin to talk about a national energy policy, and as the gentleman pointed out, the President's plans say nothing about this area.

Mr. DEFAZIO. Unfortunately, the President's plans do say something about this, but it says what we should do is spread retail deregulation nationwide. We are going to take the model of California and we are going to impose it on the rest of the States of the United States of America.

Now, if there was some place we could turn to and say, well, look, look how great deregulation has worked, well, first off the model was Great Britain. They are still trying to fix the problems they created with deregulation. Their prices are 70 percent higher than the average in the United States. They suffer a much higher percentage of blackouts, brown-outs. They have extraordinary complaints about service. That is the model on which the 1992 deregulation was written.

Maybe we have done better in the States. Let us turn to some of the pioneers in the United States. Montana in my region, they have seen rates for industry, which was deregulated, as were the rates in Montana, go up by 1,000 percent because Pennsylvania Power and Light bought all of the generation in Montana, which is a State that can produce 150 percent of its needs and they can make more money by exporting that power, some of it to the gentleman, and charging extraordinary prices for it. So that has not worked out real well in Montana.

Rhode Island, another pioneer, prices are up 66 percent. The list goes on and on and on. Everywhere that we have seen energy deregulation, with the promise of competition, lower prices, better service, we have seen higher prices, worse service and now rolling blackouts and brownouts. Guess what? I have never had an Oregonian come up to me and say, Congressman, I am tired of this utility that provides me electricity day in and day out at a reasonable price; I want a chance to choose my energy provider the way I get those phone calls at 5:00 at night from AT&T and MCI and all the others, offering me stuff that I cannot quite fathom and does not ever really seem to work out quite the way they promised it but every once in awhile they send me a $15 check if I change from one to the other. No one has come to me and said I want to impose that system on my electricity, I want to guess whether my electricity, my lights, are going to go on or off, what my bill is going to be. No, they do not want that. Americans want reliable, affordable electricity and they are not getting it under this system.

Now some people are doing very well. We have mentioned a few. The gentleman mentioned Duke Energy. Their profits were $1.8 billion last year. That is a 109 percent 1-year increase. That was before they got into this really overt manipulation described by the employees to drive the prices even higher. So we can expect that they will do even better in the next year.

El Paso Natural Gas, of course, is now under investigation for having withheld gas from the pipeline. Somehow gas provided in Texas shipped to California, which is a little closer to Texas than New York City, was sold at four times the price in California than it was sold in New York City and somehow they did not use a very significant portion of the pipeline capacity, which contributed to the run-up in the price. They had a $1.2 billion profit, a 381 percent 1-year increase. Not bad, and, of course, they share the wealth. Now do they share it with the consumers? Well, no, not exactly. But they do share the wealth.

A number of these companies have very generously shared the wealth with their CEOs. For instance, with Enron, who I mentioned earlier, who had a $979 million, nearly a billion in profits last year, the CEO netted $123 million all by himself by cashing in stock options which the company created, both hurting other stockholders and obviously money extracted from a whole lot of consumers. He only got $40 million in 1999 and ten times what he got in 1998.

Mr. FILNER. It works.

Mr. DEFAZIO. Deregulation is working for a few individuals.

Mr. FILNER. When I hear those figures, I wonder how these people sleep at night. I can again look at my own district where we have been experiencing these problems now for a year. We have scores of small businesspeople just had to close up. I mean, we have had people in my office in tears that their family businesses that have been in their family for 40, 50, 60 years, they could not sustain electricity cost increases of first 100 and then 200 percent. There was no way. In fact, 65 percent of small businesses in San Diego County, by a recent Chamber of Commerce report, face bankruptcy this year if these prices continue, 65 percent of small businesses.

Now, if this were an earthquake or a hurricane or a tornado, the Feds would be in there instantly and offering loans and helpful economic incentives. This is worse than 10 or 20 earthquakes and the Federal Government has not been seen. I do not care if it was the Clinton administration or the Bush administration, the Federal Government chose not to help out. These are incredible human problems. It is not just statistics. When the person on a fixed income whether, they be older or younger, who is faced with a doubling or tripling of his or her utility bills and they have to chose now not between just food and medicine but between food, medicine and a comfortable sleep with air conditioning, this is ridiculous. This is tragic. This is criminal, in my opinion. We have not acted. We have not even had a debate on the House floor about any of the legislation that we have proposed to try to deal with this. The leadership of this House has chosen not to bring up any bill, any bill.

We have what is called a discharge petition. That is a mechanism that if a majority of the Members of this body want to discuss a bill, whether the leadership does or not, we can. We have had to go to those lengths to try to get a discussion of a situation which can still destroy the economy of the western States. I do not understand it. I have been struggling to have my constituents' voices heard in Washington, but there seems to be a deaf ear to our complaints.

When I listen to the recital of the kind of income that the CEOs have made, I just get madder and madder. Those people ought to be in jail, not receiving these kinds of checks.

Mr. DEFAZIO. If the gentleman would yield back, we have not had yet the extraordinary impact that the gentleman has felt in San Diego but it is coming. We are looking at a 47 percent rate increase this winter with the Bonneville Power Administration because we are having a drought. That normally would not be a big problem because we normally would turn to our neighbors in California and say look, wintertime, you have a lot of excess capacity, we would like to buy some electricity from you for the winter. We have traditionally done that. In the summertime, during the gentleman's high demand season, we have sold to him. We cannot sell to him this year because of the drought, but we would buy from the gentleman next winter and hopefully it will snow and rain next winter and we will be back into that normal equilibrium.

Confronted with these kinds of markets, our Bonneville Power Administration has to go to extraordinary lengths to shed load for the coming winter, closing down the aluminum industry, getting all the other utilities to guarantee that they would reduce their consumption by a minimum of 10 percent, and still we are going to see this 47 percent rated increase because they are going to have to buy some power in this outrageously priced wholesale market. In anticipation of that, some of our utilities have already raised their rate. A little tiny municipal utility in Drain, Oregon, raised rates this winter. When I had a town meeting there back in April I had a kid come in from the school and say, do you know that last winter we asked if we could bring blankets to school to wrap ourselves during class because it was so cold in the schools? She says it was so cold in the school, they could not afford the heat, she says that the pipes burst during a cold spell, and we are sitting there wrapped in blankets. Yet, Ken Lay at Enron gave himself $123 million bonus. Some of that money came from the kids' parents in Drain, Oregon. A lot of that money came from the small businesses in San Diego, California.

Now this same gentleman is one of the principal authors of the national energy policy. When Vice President CHENEY was asked to name who he met, he said I met with lots of people when I developed this document, lots of people. They said, well, name some. He said, well. They said, Ken Lay of Enron? And they said, was that the only person? He said, no, I met with lots of people, but he will not tell us who the other lotses are.

He did admit that he met with Ken Lay of Enron, the same Ken Lay of Enron who called the chair of the Federal Energy Regulatory Commission, who is no friend of consumers, Mr. Hebert of Louisiana, who has refused to act to rein in prices, but he even called him to say that what he was doing was not enough for his company as chair of the Federal Energy Regulatory Commission and if he would do what Mr. Lay wanted, well, then they might be able to assure him that he could continue to be chairman.

Mr. Hebert, again no friend of consumers, was outraged. He went to the press about this and said I cannot believe that this gentleman called me.

Well, this is who is writing the energy policy of this country.

Mr. FILNER. Some of our colleagues do watch us as we make these statements and talk about the situation in the West, and they say stop your whining. It is your own damn fault. If you did not have these environmental whackos in California and Oregon who stopped the building of power plants, you would not be in this situation.

Now I would like to hear what the gentleman says to them, but I say that is the ridiculous argument. Number one, it was the private sector in the West that chose not to build power plants because they had calculated that they had a surplus. They miscalculated that, but that was a decision made in their economic interest, they thought, not because of any environmental regulations.

I am going to soon announce in San Diego the building of a new power plant, hopefully about a thousand megawatts, built by a responsible citizen of San Diego who has built power plants all over the country and in fact has won environmental rewards for them.

□ 2030

He is going to show that you can follow every environmental regulation that is there to protect us, every permitting policy, build a plant in a rather quick amount of time, and charge what would be the price under previously regulated rates, say a nickel a kilowatt, as opposed to the 40 cents, $1 or even $4 we have been charged. He is going to put a lie to the notion that it was environmental wackos who caused this.

We are going to have a plant in San Diego that is environmentally sound and produces electricity in a reliable fashion and at moderate price, at a price we can afford in San Diego. When we have control, I hope the City of San Diego or the County of San Diego will own that power plant. That will give us one-third of our needs and give us tremendous leverage over the whole system.

But I am sick of hearing that somehow we caused this thing because we were trying to protect the environment. I know the gentleman has heard the same arguments. I think we have to answer those directly and show that what we are proposing makes more sense to solve this issue.

Mr. DEFAZIO. In fact, I would quote from a spokesman for Reliant Energy on January 25 from the Los Angeles Times. He stated that "claims that air quality restrictions were holding back output were absolutely false."

Similarly, in May in the New York Times, "Industry executives have been pressing to get relief from environmental laws, most notably the Clean Air Act and land use restrictions, but such regulations are viewed by many executives as nuisances," of course, they do not live there and breathe the air there, "rather than barriers to meeting demand. This is borne out by the ongoing surge in construction of transmission lines and power plants that has occurred without any easing of environmental regulations, despite the best efforts of the Bush Administration."

So, this is a falsehood that was initially and early widely perpetuated across the West that this was a self-induced trauma. Of course, that was before we had the numbers to show that all these plants were off line and driving up the price. In fact, California was about 30 percent below its maximum production a number of times when the lights went out. The winter is your low demand period. That is when you usually export energy. Yet the prices were sky high and you were experiencing rolling blackouts and brown outs. This was not the fault of environmental restrictions, it was the fault of greedy companies.

The interesting thing is they have been reined in a little bit. As the gentleman and I know, we tried to get the Federal Energy Regulatory Commission for months to act. Their own staff had found that these prices violated the law, they were not just and reasonable. That was a staff finding by the Federal Energy Regulatory Commission.

But Mr. Hebert, as Chairman, refused to take action and do anything about that, refused to do further investigations beyond one whitewash investigation saying there was no manipulation of the market. We now have a GAO report saying there is no way they could have reached that conclusion. They do not have the documentation to reach that conclusion. Yet he refused, stonewalled, stonewalled, it was called a sit down strike at FERC. I attended one meeting where he said he would pray for us, but that was all he could do.

Mr. FILNER. I think this administration has a faith-based energy policy. They not only pray for us to do something, they pray to the market where there is no market.

Mr. DEFAZIO. Well, that is exactly it, worshipping the market where there is no market. But, finally, and strangely, after the Senate changed hands from Republican to Democrat and two committees subpoenaed in the Federal Energy Regulatory Commission and their staff to come in under oath and testify about what was going on in western energy markets, somehow 2 days before they were supposed to testify in the United States Senate under the new Democrat control, FERC held an emergency meeting and imposed some minimal price caps.

Now, this is something they refused steadfastly to do for the first 6 months of the Bush Administration. But, suddenly, just because of a little tiny bit of scrutiny, let alone real scrutiny, let alone real regulation, let alone enforcement of the law, investigation by the Justice Department for price fixing, market manipulation, price gouging and all of the other things we know is going on, you cannot take the price of an essential commodity and drive it from $7 billion for the same amount of energy to $27 billion in one year, have profits increase by 300 percent, and then drive it the next year up by another 100 percent, without there being collusion and manipulation in that marketplace. Yet the watchdogs, the toothless, sleeping watchdogs at FERC, led by Mr. Hebert of Louisiana, are just like, oh, we are not quite sure what is going on.

In fact, I had some FERC people into my office last week and we talked about there is a new area coming. They are going to game transmission right now. Right now they are just gaming generation, but they figured out a new, bigger, more lucrative potential game for the future, and it is transmission.

Mr. FILNER. The gentleman said it earlier, that Enron and the President were trying to get a national system which this could then more readily control. But I would like to also underline what the gentleman just said both manipulation of the market to increase the prices and also the incredible suffering in California and the West.

Not only does that market control give them the ability to fix the prices, but, tragically, for the future it allows them to pick and choose which energy sources will be studied and given development, and they have chosen, because they cannot control it, not to allow research and development into solar, into wind power, into geothermal and all these other renewables, where we know a big part of the answer for our future energy needs lies, and yet we have had no interest in them because these companies, which control the price, control the research and development also and have refused to allow that to occur.

So this Congress ought to be looking not only at, as the President, new production and et cetera of the fossil fuels, but the structure, the economic structure of the energy industry, which not only has fixed the prices, but has foreclosed or attempted to foreclose part of our future by not allowing the research and development that we so desperately need in these other areas.

Mr. DEFAZIO. If the gentleman will remember back 20 years, back in 1980 the United States of America through our labs, Federal labs in Golden, Colorado, was the world leader in photovoltaics, an endless source of energy coming from the sun, that could replace fossil fuels, could provide for quality electric, if we could get the price of photovoltaics down.

The Reagan Administration sold that research and all of the proprietary work that had been done to the ARCO Corporation, and then the ARCO Corporation sold it to Siemens of Germany, and now the Germans are the world leaders in photovoltaics based on research payed for by U.S. taxpayers, and some day we will probably be buying photovoltaic solar cells from the Germans, like we are having to buy oil from the OPEC cartel.

These future supplies of renewable and sustainable energy are going to be more important to us, and for the United States of America, for the President of the United States to slash investment, which he did in his budget, in these sorts of research, is cutting the legs out from underneath the American consumers, the American people and American business and industry, to make us a sustainable and affordable energy future.

We need to be investing more in fuel cells, more in photovoltaics, more in wind energy and tidal sources of energy being used in Europe. All these extraordinary, absolutely benign renewable resources are being ignored with one focus, and that focus is on fossil fuels and the profits of that industry and perpetuating that industry.

I had a constituent testify at a hearing, and said Congressman, the stone age did not end because they ran out of rocks. He said they developed new technology. But this administration is attempting to stonewall that new technology. In fact, they want to turn back to the technology of the fifties. They want to go back to nuclear energy, let alone the fact we have not figured out what to do with the waste we have now and it is disbursed all around the country.

Mr. FILNER. What they have done with their tax plan is, of course, give several trillion dollars to the wealthiest of our Nation, where if you put tax incentives into the photovoltaic technology you mentioned, put tax incentives into some of these renewables, we could bring down the price and make it affordable.

We in San Diego boast of our 330 days or so of sunny weather. That sustains solar panels, that sustains photovoltaic cells. If we could bring down that price and put that technology into work in our homes and businesses, we would be free of this energy cartel that we have been talking about tonight that has so disrupted our lives and future.

So, in every way where you look, tax policy, FERC, the way the President's energy policy is, we see a dedicated effort to deny American citizens a future of low-cost, reliable sustainable energy. I think that is a criminal offense, in my opinion, and this Congress should take greater heed of what is occurring.

I thank the gentleman for educating us tonight.

Mr. DEFAZIO. Our time is about expired. I do not think really I can end on a much more eloquent note than the gentleman just made, which is that there is sort of two paths that can be chosen for the American people at this point in time. One is a sustainable, reliable inexpensive energy for the future, and the other is more of what is going on today, crisis after crisis, higher prices, price gouging, manipulation, and being held hostage by the OPEC cartel and the other traditional proponents of the energy industry.

I would like to choose a new path for the 21st century. So far the administration is choosing the 1950 path.

Mr. FILNER. Amen.

THE PRESIDENT'S PLAN FOR ENERGY

The SPEAKER pro tempore (Mr. OSBORNE). Under the Speaker's announced policy of January 3, 2001, the gentleman from California (Mr. RADANOVICH) is recognized for 60 minutes as the designee of the majority leader.

Mr. RADANOVICH. Mr. Speaker, I appreciate the privilege to come on this floor and talk about the President's plan for energy and for the future of the United States of America.

I wanted to make a couple of points in response to the speakers of the previous hour regarding the situation in California. I am from California. I represent Fresno, California, and the central part of the state, where we too are at ground zero of the California energy crisis.

There were a couple of statements made earlier which spoke ill of deregulation and used California as an example of that, and I would like to clarify that in California there was never really a deregulation plan. It was half a deregulation plan.

In California's deregulation plan, the rates and the charges that the utilities were able to charge consumers were frozen. They were frozen rates and were not allowed to be increased, whereas the wholesale rates, or those rates that utilities had to go out and purchase energy for, were unlimited and put on the spot market, so that they would change minute by minute, hour by hour, every 24 hours, which made them very susceptible to high price spikes and such.

That was the problem in California, the problem that the price increases could not be passed on as signals to the consumer to start conserving was what created the energy crisis in California.

It was half of a deregulation plan, and under such a situation, it could have been easily corrected, up to a year ago. In May of the year 2000, when evidence started showing in San Diego that prices were starting to go through the roof, the Governor of California, who I believe was more concerned about providing leadership in a crisis than, frankly, his own reelection prospects and obtaining the presidency, had he acted earlier and imposed or allowed the PUC, the State PUC, to impose a 20 to 25 percent rate increase, not like the 48 percent rate increase that was passed because he waited so long, I think, people would have been able to begin conserving and he would have been able to get a lot of those utilities off the spot market and into some long-term contracts that made sense, and we would never have faced a $20 billion hit to the State of California. The minimum damage that could have been done would likely have been around $500 million to $1 billion.

It was due to lack of leadership in California that created the energy crisis, and it was lack of leadership from the Governor and the State of California that caused the problems.

I cannot explain that more. To be blaming a President who has only been in office for less than 6 months for all the woes of California I think is just unjust and unfair, and it is a diversion of what the real issue is, and that is that we have got poor leadership on this issue in the State of California.

If California really wants to get out of their energy crisis, they only need to do a couple of things. I would say three things.

First, the Governor has to stop buying power. I think the Governor has been taking on this responsibility for about 6 months now, and, since then, he has been purchasing energy up to seven times more than what the utilities are able to charge for and get back.

□ 2045

That is an upside down equation that leads to billions and billions of dollars worth of debt that the utilities, after $9 billion in debt, could not manage. So the State has started incurring those losses, and still do. Today, California's Department of Water Resources, under the eye of the governor, is purchasing power right now 3 to 7 times more than what utilities are able to get from it. Now, granted, those prices are starting to come down, because a rate increase of 48 percent was imposed by the governor a year after he could have done it and averted this whole problem, has come into effect, and people are starting to conserve, and the future prices of energy are beginning to come down. This is what should have happened a year ago and did not happen until now. My own utility bill that I just got from my residence in California right now is about 4 times more than average of it. I think people in general are experiencing a doubling to tripling of their retail rates because of this. A 20 to 25 percent rate increase early on, with decisive leadership from the governor, would have prevented this entire thing and, instead, in waiting so long and in purchasing energy at such convoluted prices, he has led California into this crisis and we are still in the middle of it.

Mr. Speaker, in addition to that, the governor has entered into long-term contracts that do not start for about another year, but the average of those long-term contract prices range from about, again, 3 to 7 times more than what the utilities are able to charge for. I had a company in my office the other day that talked about the inability of the governor to sit down with all those that are involved in the energy crisis in California; that would be the utilities, that would be the marketers, that would be public officials, everybody that cares about California and who has a business stake in California, not only in the short term, but in the long term, and to sit down and work through this process, really resulted in nothing; in fact, did not happen until at least 8 months after the crisis began. Had the governor gotten people into his room, he would have been able to negotiate things.

As an example, one company that has a geothermal plant in southern California, close to the gentleman from California who just spoke from southern California, went to the governor and was willing to sell energy at 7 cents per kilowatt hour and was frustrated so much by the governor and was rebuffed, clear up until the governor finally took 21 cents per kilowatt hour on a long-term contract when they had been offering 7. It is this kind of, I do not even want to say the word "leadership," in California that has caused our problems. It has not involved the environmentalists to a degree that has caused the shortage in California, it has really been a shortsightedness I think on the part of Californians to think that we can bury our heads in the sand and pretend that our rapid increases in population are somehow going to get their energy from some source unknown or unnamed, so let us not take care of our own energy needs.

Mr. Speaker, my own congressional district in California grew by 20 percent over the last 10 years. We are one of the faster growing parts of the State, but it is very obvious in all of California that our population was growing, our energy demands were increasing, and nobody, nobody was making the efforts not only to increase the capacity of the natural gas lines that come into the State of California from other areas, but also to license and permit other plants and facilities in the State in order to make up for it.

It is much the same I think with Americans. We like to have the lights come on when we flip the switch; we love to have water come out of the faucet when we turn it on, but very few of us want one of those own facilities in our own backyard to provide that for us. As individuals in our local communities, we are like that, but we are also that way nationally, when it comes to the national energy policy that we have.

The United States consumes over 25 percent of the energy produced in the world today, and yet we utilize and use about 2 percent of our natural resources to get it. It is this kind of nimbi attitude I think on a local level that has caused problems in California and, kind of on a national level, in our participation in the world's energy reserves that we think that we can have our cake and eat it too.

Mr. Speaker, I am grateful that the President has taken the initiative on this energy policy to change that, because not only is it hypocritical, it is not serving in our best interests, it is a threat to our national security, and I think it is morally wrong to demand a lifestyle and yet not pay up for it to develop the resources to provide it. I commend the President for coming up with the energy policy that he has so that we can not only provide increased energy from alternate sources like wind and solar, but also realizing that they are never going to be able to take the place of natural fuels, coals, oils; they are not going to be a significant part of the energy mix in the United States, ever. I think that we can work to increase that, but the percentage increases that we get are not going to be that great.

So it is wise for us to begin to look at developing our own resources so that we can make up the energy difference that is caused by the increased population in the United States, but also to begin to think about our national security. That is why I commend the President of the United States for doing what he is doing, providing the leadership. It may not be popular to some people; it may not be a thrill to talk about more nuclear plants or developing coal reserves, but I have to tell my colleagues, what is more important I think is keeping the lights on and keeping the water running and keeping our national boundaries secure.

So that is why I want to thank the President.

I have to tell my colleagues, today we took 2 very important steps forward on the development of our national energy policy. One was in the Committee on Resources where we began hearings on the Energy Security Act with the gentleman from Utah (Mr. HANSEN), the chairman of the committee. This bill focuses on increased production of diverse fields beneath Federal lands and the outer continental shelf. It instructs the Secretary of the Interior to establish an environmentally sound program for exploration, development and production of oil and natural gas in ANWR, the Arctic National Wildlife Refuge. Again, the exploration in this wilderness accounts for about the size of one-fifth of Dulles International Airport. For those of us in America that have not flown into Dulles International Airport, it is about one-fifth the size of your own airport if you are in an urban setting. It is a very, very small piece of this vast, vast wilderness, about half a percent of the total landmass in general.

It also adds 5 areas for increased production: hydropower, gas, geothermal, solar and wind energy. As my colleagues know, part of the problem in California was our overreliance on one single source of energy, and that was natural gas. Even in that situation, with the transmission lines in California, there was no increased technology to increase the capacity of the flow of natural gas within the State of California, which caused the high prices for those that were bringing natural gas into the line. It is California's fault, and it is time to stop blaming the bogeyman or the evil-doers for victimizing poor California. It was bad leadership that caused the energy crisis in California, and I am very thankful that we had the President come to the plate with this energy plan.

Also, in the Committee on Energy and Commerce, we marked up the Energy Advancement and Conservation Act of 2001. It does the following: it leads with conservation, which is one of the most important aspects of the President's plan. It mandates that the Federal Government take the leadership role, leading by example and making conservation happen. It establishes a Federal energy bank to fund energy conservation projects. It expands LIHEAP and weatherization assistance.

Now, LIHEAP is typically a program, a Federal program that makes up for the high cost of heating oil in the northeast. Typically, that is the history of the program, but it is being expanded so that those of us in California that cannot afford the increased costs because we have to run our air conditioners a little bit more because it got up to even last week 108 in some parts of the central valley, these LIHEAP funds are being extended to help those rising costs because our air conditioners are running so high. That program is being expanded in California. It provides assistance to schools and hospitals for energy conservation, and for consumers it provides new appliance standards and expands the energy star program to provide better consumer education.

This is just a piece of what is beginning to happen in Washington today because of the initiative of the President of the United States, President Bush, who has seen that we have been shortsighted over the last 8 to 10 years and not developed a policy that leaves us vulnerable to foreign countries all across the world.

With that, I would like to invite the gentleman from Utah (Mr. HANSEN), the chairman of the Committee on Resources, to begin perhaps a little dialogue on the bill that was begun in his committee today, and that is the Energy Security Act.

Mr. Speaker, I welcome the gentleman.

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman from California for inviting me to be a part of this Special Order tonight. I would like to explain, with the gentleman's permission, some of the things about the plan that we introduced today.

Mr. RADANOVICH. Please do.

Mr. HANSEN. Mr. Speaker, let me point out that for 8 years we have just kind of been Moses in the desert wandering, trying to find out where we are going on this thing. I think Mr. Richardson, who is the Secretary of Energy, made an interesting statement when he said, for 8 years we have not had a policy, and now it is about time that we started putting one together. So for 8 years we have kind of wandered around wondering where we were going. In fact, if we did anything, we ruined a lot of areas because of monuments that were not thought out and things along that order.

Vice President Cheney was given the assignment to work on the energy program and did a very commendable job. I read it very carefully and, in my opinion, if there is one word that would explain what the present administration has come up with, it is the word "realistic." They came up with a realistic program on how to face some of these things.

Now, I enjoy hearing my colleagues talk about all of these wonderful things that are going to happen and how it is going to come together, but when we get right down to it, in all honesty, what is "going to happen" is not there. We cannot drive into a gas station and go to this alternative energy pump because there is nothing there yet. As we look at where we get our energy, 2 percent comes from alternative areas such as wind and solar and things such as that, and I definitely feel we should do the technology and advance it as far and as rapidly as we can. However, it is not there right now.

I would like to use the illustration of a gentleman that came into my office about 5 or 6 years ago and he started telling me about all of the interesting things that have occurred in transportation. He said, years ago, we used to use horses and then we went to cars and most people went on buses or trains, and it was really a big deal when the 2 trains came together in Promontory, Utah, in my district, incidentally, and every May we celebrate the idea of driving the golden spike. Gosh, we could get on a train and instead of doing 4 miles an hour on a horse, we could breeze across the country in 3 or 4 weeks. That was a wonderful thing. People really thought it was a Utopian idea. Then came along airplanes and, of course, now we do not see too many people travel on trains, most of us go by air.

Well, he made an interesting statement. He said, I am working on a program, and, he said, I think it will be there, where you walk into a thing like a phone booth and you punch in San Francisco and zap, you end up in a San Francisco. Well, at that point I got just a tad nervous talking to this gentlemen. I said, when is it going to be working? He said, I do not know, but I know it is going to work. I did not ask how you change the molecules around and all that because he loved the idea, but that, in a way, I say to the gentleman from California, strikes me with a lot of these things we are hearing about alternative sources: 2 percent, tripled to 6 percent. When are we going to get to that area?

In the interim period, when someone comes up with this wonderful invention that moves us within seconds from one place to another, we still have to take that airplane, we still have to drive our cars, we still have to heat our homes, we still have to light our homes.

So while we are waiting, let us go back to what the Vice President was talking about. We are talking about a realistic program to get us out of this energy problem that we are in.

□ 2100

That is why this bill was introduced today in the Committee on Energy and Commerce today, so we could take care of these things.

I was interested, in listening to the former speakers. When I was listening to them, I thought back to that gentleman who came in and talked to me about this wonderful idea.

Gosh, I know there is a lot of energy from the sun. I agree with the gentleman from Oregon. It is too bad we cannot capture it and make it all work right now. If someone would step up to the plate and say, here is the technology we have, and doggone it, we are going to do it right now, I commend them, and I hope they come up with something good.

But right now, the plan that we have introduced in both of these committees is around this word "realistic," and realistically, where are we getting our energy? Our energy is basically coming from fossil fuels. Also, it is coming from other areas. We do get some out of water. We do get some out of various sources of energy. But right now, the one that they have come up with takes care of that.

I notice the one gentleman from California talked about the idea that it was not California's problem, it was the problem of these big energy guys who would not build these things. Well, no disrespect to our good friend from California, and especially my friend, the gentleman from California (Mr. RADANOVICH), but let us look at what California has put in the way of restrictions compared to other areas.

California has made it so difficult to build a nuclear plant, a coal-fired plant, especially a coal-fired plant, a gas-fired plant, that it makes it totally impossible to do it.

A lot of these people come and say there are too many regulations, too many hoops to go through, and therefore, we do not want to do it.

Mr. RADANOVICH. If I may weigh in a little, too, California used to have three nuclear facilities. We only have one, now. A few years ago, the Rancho Seco Nuclear Power Plant, which was in the Sacramento area, the voters in the area voted to shut the thing down, so they not only discouraged new ones, they actually went after existing power-generating facilities.

So it was, unfortunately, the view that we could have increased population and not increase energy capacity. That is not realistic, but I think that is the view that the gentleman so well expounded. That alternative energy is great, I think it needs to be expanded, but it is not realistic to think that it is ever going to meet a significant portion of our energy needs. It is just another way of saying that we do not want to develop our own energy resources.

Mr. HANSEN. That is sad, in a way. Because if America is willing to say, all right, we do not want to drive our cars, heat our homes, we do not want power or air conditioning, we will just go back to the Stone Age, so to speak, then let us all stand around and say, gee, this is wonderful. Look at this beautiful environment.

But America is not going to do that. America is a forward, progressive country, always looking for that edge of the envelope where we can get ahead. Gosh, will that not be nice when we do develop these things. I hope it is in our lifetime where we can see these things come about, and we will not have the energy pollution and that type of thing.

But I hasten to say that a lot of these things are much better. We just talked about nuclear. They are very, very safe. It is kind of sad, but a lot of politicians like to get up and talk about how terrible it is, we are all going to die because we have that. A lot of people do not realize that we have not built these new nuclear plants, but we have gone from 12 percent of nuclear dependency up to 20 percent just through efficiency.

I think really, I would say to my friend, the gentleman from California, that the thing we have to realize is that we are now 57 percent dependent on foreign sources, 57 percent, according to testimony today in the committee from the Department of the Interior.

It was not too long ago, in fact I think right at the start of President Clinton's administration, where we were about in the thirties. So we have really gone in a hurry to get ourselves up to this amount.

What does America want to do? Where are we getting that 57 percent? Some of it is from our friends from Venezuela, some of those areas. But let us just have the American public look at this. That is, do we want to depend on those we can least depend upon? Do we want to depend upon Iraq, with a man like Saddam Hussein having his hand on the spigot of the oil we get? Do we want to depend on Iran? Do we want to depend on Libya? Do we want to depend on countries that we can hardly depend on who are sworn enemies to us, who many of them practice terrorism on us? Do we want to depend on those people?

People say, OPEC surely does not have the range of this thing. Who are we kidding? They can make this go up and down in the matter of a blink of an eye, and have shown that they can do that.

What was so bad about the idea of looking at other sources? Now, a real great actor who considers himself a great environmentalist, who has probably done more to foul it up than anybody I know, wrote a letter to the administration criticizing them for going to ANWR, and made the statement in his letter, well, we are only getting 6 months' worth out of that.

Come on, let us think about that a while. Where do we get this? Does it all come out of one big spigot? Of course not. We get some from Texas, some from Indiana, some from Utah, some from Venezuela, some from California, some from Saudi Arabia, some out of Alaska, we get some offshore, so it is an aggregate.

If we just took one of those, we could say that about any source there is, that that is the only source. Now we look at this thing at ANWR up on the North Slope of Alaska. What do we have up there? It is east of Prudhoe Bay. The last time I was there and heard these people talk about it, they used a lot of figures. One that jumps out at me was 1 million barrels a day for 100 years. That would be about 11 percent of what we are getting.

Then I debated one of our Senators. He said, there is no infrastructure. Where has he been? It is only 74 miles over to the Alyeska pipeline. That is a lot better than we have in the West in a lot of different instances where they could pipe it to the Alyeska pipeline, down to Valdez, and we could use that source.

Today in testimony it went on ad nauseum, and Secretary Norton did a very fine job in explaining the position of the administration about fouling up ANWR.

The gentleman from Alaska (Mr. YOUNG) was there, and very admirably talked about what ANWR is. Frankly, as we look at it, that is 19,600,000 acres. That is the size of South Carolina. If we look at that, we will say, how much are we going to use? The figure now is about 2,000 acres, but it could even be 10,000, but they said 2,000 today. Figure the percentages in that. That is an infinitesimal drop in the bucket.

Also, they talked about the technology, where they can use that small area, and tentacles go in, they can go to the oil areas, and we would never even know it was there.

The gentleman from Massachusetts said, yes, that is all right, who would be against that? But how do we get it out of there? Do we fly it out, balloon it out? He made light of the idea. He said no, what we do is put in oil lines. That is true, but they are not going all over the place.

Secondly, do they recover? Years ago, we moved some natural gas from Wyoming to California. It came out of a beautiful area in Wyoming. It came through Utah. I still remember one of my colleagues from Utah standing on this House floor holding that picture up and saying, "Look at that scar. It will never go away. We are stuck with that scar forever."

I am going to bring that same picture in today. I would defy any of our 435 Members, or the 100 over on the other side, to find that scar. Mother Nature took care of it. Even at that, they did a fairly good job in doing it.

So when we say that we are going to dig a trench, every time we fix a road we make a little mess, but Mother Nature can reclaim it, and will do it. So to give up on ANWR does not make a lick of sense to me when I think of the mix we are looking at. We have a mix of fossil fuels, of natural gas, of other areas, of nuclear, of water that we have to use.

Out in Salt Lake last Monday, I chaired a meeting with the seven States that use the Colorado River. The issue came up on hydropower. Hydropower is the cleanest and probably the best source we have, because once we put those turbines in, we do not see anything come out. It is a clean power.

It amazes me that some people will stand on this floor and other areas and criticize the use of hydropower. What is better than that?

I was talking to a gentleman. He said, let us all go to wind. Maybe that is good, I do not know, but I have gone through some of those areas with wind. Maybe they are doing it. But here are these beautiful green acres, and they are all filled up with propellers spinning around. I do not know if that is better. It bothers me maybe as much as an oil rig would. The Audubon Society points out they do not like all the birds going through and getting creamed by those things.

Let me just say to my friend, the gentleman from California, that the bill we have introduced today is a good mix, a good step forward. Four committees of Congress are going to have to be involved, the Committee on Energy and Commerce, the Committee on Resources, the Committee on Ways and Means, and the Committee on Science, to determine if we can come up with a package.

I would just ask the people in America, let us get off this political nonsense. Let us not try to make political hay on this. Let us say we have a President, and we do not care if he is a Democrat or Republican, but this Republican President has decided he wants to cure a problem before it gets disastrous. Let us get behind him and get this done.

The cheap political points some people make on this do not make much sense to me. It makes more sense to say, all right, everyone is going to have to bend a little bit.

In my 42 years as an elected official, the thing that bothers me the most is the person who sees a beautiful piece of legislation, but boy, he cannot go along with it because it has two sentences in it that bother him. If he cannot get them changed, put it on a scale of one to ten, and if it is an eight or nine, why does he not go with it?

Years ago, I took my young family down to the Grand Canyon. We were standing on one of those beautiful points on the North Rim and looking at one of these seven wonders of the world. It boggles your mind. It is awesome.

My one little son, about 6, he says "Hey, Dad, what about that ugly worm down there?" I said, "Paul, what is the matter with you? Here is the beautiful canyon, and this is the thing that you are worried about?" He said, "Dad, look at the worm." I looked at the worm. I could not get Paul off the idea of that little worm.

Every time I hear somebody say this is a great bill, but it only goes 90 percent, I cannot go for it, for heaven's sakes, if it is a 90 percenter, go for it. Give it some thought.

Maybe this bill will have something in it, it will have something that the gentleman does not like or I do not like, but right now it is the Grand Canyon. Let us not look at the worm.

Mr. RADANOVICH. Mr. Speaker, I thank the gentleman from Utah for that, and for all his work on the Committee on Resources regarding the national energy policy.

Mr. Speaker, there are a couple of things that the previous speakers were speaking about that stick in my craw. I just have to address them.

One was regarding the issue of price-gouging. There was a lot of talk about price spikes and all these out-of-State generators that were making incredibly large fortunes.

FERC did a study. They came back, or at least the judge that is trying to resolve the dispute between all those involved in the California energy crisis, he came back with the numbers. The out-of-State generators, out-of-State of California, made up or earned about 10 percent of those monies that are alleged to be overcharged during these last 6 months. The other 90 percent went to in-State-qualified facilities and also public utilities, like SMUD, the Sacramento Metropolitan Utility District, and in L.A., the similar utility district in California.

Ninety percent of that number that is alleged to be price-gouged went to utilities within the State of California. So we had just better get our numbers right, and better yet, they had better stop doing the blame game and get to solving the problem in California.

There is another thing that was talked about. That is the price caps, the issue of price caps in California, keeping the price down. The FERC did react by providing what they call a 7-24 monitoring system, where 7 days a week, 24 hours a day they will monitor prices, rather than just doing it during the time of a stage 3 alert. They will authorize the resubmittal of funds that were overcharged.

The ISO, the independent system operator in California, is the one who has the ability to use those caps. They chose not to use them a couple of days ago because energy was at $84 a megawatt, and if they had put the cap that was provided for them by FERC on, it would have driven the price down to half of that, which would have been about $42 per megawatt.

The hydro facility that they were depending on getting energy from, which was up in the Northwest somewhere, and forgive me, I don't know which State, was going to refuse to sell California the power because they were going to hold the water behind the dam, in effect hold the energy back until the price went back up because they could get it for a higher price, or they could keep it in their reservoirs for their own use later on.

This is what we feared about price caps in the first place. That was that we are in the unfortunate position of having to worry about the price of energy, but also the number of blackouts that are caused by having no energy. Those of us who did not support caps were fearful that blackouts would increase by half again as much in California, and I think we are vindicated by the fact that even the independent system operator will not use the ability to lower their prices in California when they have the ability, because the lights will go out. This is what we have been saying all along.

Mr. Speaker, I really think if we want to solve the energy crisis in California, we need to get the Governor out of the energy purchasing business. We need to restore the credibility or the creditworthiness of the utilities, get them back in business, and worry about our State's infrastructure, and get that up and running just as fast as possible.

If the Governor and leader of the State of California would focus on that, rather than trying to focus blame on anybody but them, I think we would be moving to a solution faster.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. EHLERS), a good friend who is here to talk about science and technology as related to the production of energy in the United States.

I welcome the gentleman and thank him for coming down this evening.

Mr. EHLERS. I thank the gentleman from California for yielding to me, Mr. Speaker. I am very pleased to join him and the gentleman from Utah (Mr. HANSEN) in a discussion of the Republican energy plan, which is progressing nicely through the House of Representatives, and I hope we will be able to enact it fairly soon.

I will be taking a totally different tack in discussing this. This is because of my background as a professor, a nuclear physicist, and also because I have done a fair amount of research on energy over the years. So I am going to deal with the long-term view, but also talk about some basic facts of energy.

Part of the reason is that I listened to the previous hour of debate here in which the other party seemed to be implying that the Republicans do not know anything about energy or energy policy. Well, we have just heard from two speakers on the Republican side who know a great deal about energy policy, first about the situation in California, and secondly, about extraction of resources.

□ 2115

I am going to talk about it from the standpoint of basic science and what we can learn from that and what we can and cannot do and how that impacts us in the future. I am also going to take a rather long-term view on some of these issues because we have to think long term on this.

I do have to say that dealing with energy and public policy has been very frustrating to me because when I was first elected to the Michigan legislature and worked in both the House and the Senate, I tried to work on developing a solid energy policy for the State of Michigan. I could not get anyone interested either in the public or the legislature because we did not have a crisis at that point. Eventually I decided I could better spend my time elsewhere.

When I came to the Congress, I tried to do the same, and again no interest. Once the crisis hits, and by a crisis I mean the price of gas at the pump going up and the price of utility bills going up, suddenly everyone is interested then. I am a little concerned now that the price of gas at the pump is going down that the public may lose interest again. But regardless of what they say or do, we must have a good energy policy, and I hope that will emerge from my comments.

In the study of energy, one of the first things we encounter is the three laws of thermodynamics. Now, thermodynamics, that very word, means heat going into motion. And that was extremely important about 150 years ago when the laws of thermodynamics were developed because that helped us build steam engines, and not only just build steam engines but helped to build efficient steam engines that led to the industrial revolution in terms of steam engines to do work in the factories and also steam engines to move trains across continents.

The laws of thermodynamics, and I do not want to get into a lot of detail, the first one we can ignore, it is very elementary, just dealing with temperature. The second is the law of conservation of energy, which simply says that in a closed system, energy can be neither created nor destroyed but can change form, from one form to another.

Well, what are the forms of energy? There are many, but I will just mention a few. First of all, let me explain that energy represents the ability to do work. And so when we apply a force through a distance, we do work. I happen to have here a rather giant rubber band, and when I pull on it, I have to exert a force. I exert a force through a distance. I am doing work on it. I am imparting energy to this. It is stored as potential energy in this rubber band; or at the molecular level it is stored in the molecular stretching of the bonds within the molecules and between the molecules. When I stop exerting the force, it pulls my hands back in. That energy was stored there and it was used to pull my hands back together. But we lost some in the process.

As I said, in a closed system we do not lose energy, but we have lost some to heat, that is because this is not a closed system, and that helps to warm the room. In fact, we could easily make a heat machine out of this if we wanted to use it for a heating system. Very inefficient, but we could have one that would just simply stretch rubber bands and the heat generated would result in being able to heat a substantial space.

The third law of thermodynamics is even more important than the second, even though the second is extremely important. The third one is the statement that entropy and any reaction, any transfer of energy, always increases. Now, I am not going to get into entropy here. It is a very complex concept. But it basically means every time we transfer from one form of energy to another, the quality of the energy degrades. That means it is less useful. It cannot do as much work.

Remember, energy represents the ability to do work, and that is why it is so important to us. We went, as human beings, from the nomadic existence to an agricultural existence, or the agricultural age, when we first learned how to tame nonhuman energy to do work. In other words, animal energy. Before that, humans had to do everything. They tried agriculture and it just did not work that well. There were various agricultural communities, but they all had trouble and many of them failed. Once we had animal energy to use, they learned how to harness domestic animals to do the work, the plowing, et cetera, and agriculture flourished and continued to grow and increase for years.

The next big change was when we learned how to use nonanimal energy, that is the industrial age, where we built steam engines and other machines that allowed us to do more work. And the better the quality of the energy, the more work we can do with it. But as I said, the third law of thermodynamics says every time we use energy, it degrades to a lower level. It is not able to do as much work.

In a modern power plant, we burn natural gas or burn coal, and that produces heat, which we either use to generate steam or operate a turbine. Out of that we get waste heat. We use cooling towers to get rid of it, but we could heat a lot of homes or greenhouses with that if we chose to. But we cannot get much more work out of it. Eventually, whatever we have done radiates out into space.

Now, those are very important concepts because what we have to remember about energy is it is our most basic natural resource simply because we cannot use any of our other natural resources without using energy. If we decide we want to dig a mine in Utah, for example, and extract some materials, and there is a huge copper mine in Utah, as I recall, that takes a lot of energy to extract the copper, to haul it to the mill where it is extracted and smelted, rolled, then transferred to a fabric factory, fabricated, and finally transferred to the consumer. Every single step of the way takes energy, and that is why energy is our most basic natural resource. But it is also our only nonrecyclable resource. The copper that is pulled out of that mine, we can use it, and when we are finished with it in a product, we can recycle it and put it in a different product. But energy cannot be recycled. Once we use it, it is gone.

Now, all of these principles make it very important for us to develop an energy policy that recognizes this, and I believe that the energy policy that Mr. Bush has presented recognizes these issues and begins us on the road for a very long-term plan. There are many different ways of obtaining energy. We have talked tonight about retrieving energy from fossil fuels, primarily oil and natural gas. Another fossil fuel is coal, and that is very useful to us. These involve burning these fossil fuels, because they are combustible, and extracting the heat energy from them and converting that into electrical energy or into energy of motion or things of that sort.

We also know of other ways of using energy. We have Einstein's famous equation, E equals MC squared, which means that mass can be converted into energy and vice versa. But if we can learn how to convert mass into energy, we get huge amounts of energy out of small amounts of mass. And that is what we have with nuclear power and nuclear weapons. It is just amazing when we consider that the bomb that exploded in Hiroshima had just basically a handful of enriched uranium, of which only a part was converted into energy but was sufficient to destroy a major city; or that a nuclear reactor, rather small, can generate huge amounts of power for a long time out of small amounts of fuel.

We also have another means of nuclear energy, and that is fusion, where we combine hydrogen nuclei or Lithium nuclei and extract energy that way, because we lose some mass in the process. And fusion, I hope someday, will be a very good source of energy, but it is a number of years away. But, again, we have to do the planning, we have to do the research, because we cannot recycle energy, and someday we are simply going to run out of the traditional sources.

Now, there are other things we can do. People talk about conserving energy. I do not really like to use that term, even though I support it. But I think it is much better to talk about efficiency of use of energy. Because conservation, I find, gives the image of people freezing in the dark. If we are heating our homes and we want to conserve, we turn the thermostat down, turn the lights out, and freeze in the dark.

In fact, I remember once I was at an event during the first energy crisis we know about, in 1973, and one of the speakers got up and he was very proud because they turned the heat down to 55 degrees. This is in Michigan, where I live. And they turned most of the lights out, and he told his teenaged daughters that they were not allowed to use hair dryers. They just had to let their hair dry naturally, and so forth. And he went on and on about conservation.

I asked him afterwards what kind of house he lived in. He said, well, we have a cement block house. I said do you realize that for a small amount of money you could insulate that concrete block house and still live comfortably with the same fuel bills? He did not realize that. He did not realize, for example, that concrete is not a good insulator. In fact, one-inch of Styrofoam has the same insulating power as four feet of concrete. In other words, by putting just one-inch of Styrofoam around his house, he would have saved as much as having a four foot concrete wall. And if they added a little more insulation, they would have been very comfortable.

That is what I mean about using energy efficiently. It is not a matter of using less, it is a matter of using it efficiently. And everyone, I believe, supports efficient use of resources. That is how businesses make more money, by being more efficient in their use of their material resources, human resources and machinery. So I think it is very important that we try to be as efficient as possible in our use of energy.

We also have to look at alternative ways of using energy. As an example, hydrogen. I think one of the better developments in automobiles that is coming along the path is the use of fuel cells, where we will be able to use hydrogen, combine it with the oxygen in the atmosphere, and with almost no pollution produce electricity to drive an electric motor. Now, this is not easy technology, but we know it works because we used it on space vehicles, we have used it on the shuttle and other places for energy purposes, and we have trial automobiles which use fuel cells. Right now they are still expensive because they are experimental. But someday, when we get the design down and manufacture them in bulk, I am hoping that we will be able to use fuel cells as a good source of energy. We can either use gasoline in them or some other fossil fuel and preform it, as they say, so that we extract the hydrogen from it and run the hydrogen through the fuel cell and get our power that way.

Even better would be if we developed a hydrogen economy, where we develop hydrogen out of our fossil fuel resources, or by electrolyzing water, H_2O, remember, and separating it into hydrogen and oxygen, and that way we could, using electrical energy from nuclear plants or other plants, generate hydrogen and pipe it around, sell it at hydrogen stations instead of gasoline stations, and power our automobiles that way.

The Hybrid, incidentally, is an interesting way of improving mileage, and again using the energy more efficiently. A couple of manufacturers are doing that now. I expect a few more will be developed. But I regard that as an interim. It is slightly more efficient but not as good as the fuel cell is going to be.

We have to look at other possibilities for alternative sources of energy. Solar energy is tremendously promising in terms of its potential. We get as much energy on this earth from the sun per day as we expend from all our other energy sources for quite a number of years. Huge amounts of energy from the sun hitting the earth. The problem is it is very diffuse and, therefore, very low quality, very hard to use. But we are making progress in photovoltaic cells, and I expect in not too many years we will find new homes built with solar shingles on the roof, shingles that will generate electricity and help heat the hot water in the House, help heat and cool the house, provide electricity for cooking, for the clothes dryer, and things of this sort, and with some electronics can actually provide high enough quality electricity to run TVs, VCRs, and so forth.

So that is I think a promising alternative that is coming down the pike. I would estimate probably 10 years from now that will be economical. It is not going to be economically feasible to take our existing shingles off and put these others on. That would be costly. But as part of a new building or as part of a required replacement of shingles, it will become economically feasible.

□ 2130

We have others. Wind as power, of course, has potential. It is not a stable source of energy. We need an energy storage device or supplementary energy. The same of course is true for solar, but it again depends where one lives. I think it has real promise, particularly for less developed countries. That, incidentally, is one of reasons and the main reason I was opposed to the Kyoto protocol.

I think President Bush was exactly right in saying that it is dead because it only put restrictions on the developed nations, not to developing nations. If we do not have some restriction on them or at least tell them at a certain date they have to meet these requirements just as we do, we will soon find all of them putting in highly polluting coal burning plants that produce a lot of CO_2, greenhouse gases, a lot of pollutants. Then when we say, there is too much production. There needs to be a cutback. They will say, look, we have all these investments now and all of these marvelous plants. We cannot cut back now.

I think if we have an international agreement, if we ever reach one that places restrictions on us, it also has to place restrictions on less developed countries because then they will make investments in alternative sources of energy such as solar, which is certainly the best answer in many places such as Africa and parts of Asia, rather than building these power plants which will create more problems.

So I have talked about a whole range of different issues tonight, and I did not get into the specifics of some of our current problems. But I am simply saying that the plan that the Republicans are developing is a good launching pad for the things that I have been talking about that we have to move towards in the future. It contains the seeds of a long term national energy policy and certainly will provide the good short term energy policy that we need right now to address the problems of prices at the gas pump and the crisis in California.

One last thought on that. We have to not only consider energy issues as we have talked about now, but we also have to consider the international relations or foreign policy aspects of it. We are 70 percent dependent right now on oil from other countries. As I said earlier, energy is our most basic natural resource.

We are at the mercy of other countries because if they cut off our supply for whatever reason, political or war or whatever, we are at their mercy because our industry cannot operate without energy and we cannot produce enough internally instantaneously. That is why it is very important, as the energy plan of President Bush points out, that we must establish our independence from the fossil fuels of other countries. We have to develop our own sources. We have to develop alternative sources so we can truly be energy independent and not depend on the good will of individuals who may not feel very kindly toward us at various times.

Mr. RADANOVICH. Mr. Speaker, in closing I would say I hope that the lessons that are being learned in California do not have to be learned in the United States to get a decent energy policy. Even though California is second only to Rhode Island in energy conservation, we have had 68 stage one power emergencies, 63 stage two power emergencies and 38 stage three power emergencies.

The way it happens is when electricity begins to run out, that is a stage one alert. When it gets worse, that is a stage two alert. When that gets worse, that is a stage three alert and from there we enter into rolling blackouts.

We are having to suffer through that because I think we have not been keen on making sure that California has had adequate energy supply and we will create that. We will become a great State or continue to be the great State that we are. But I do not want the country to have to go through the same problems that California is because of an unrealistic expectation out of energy and where the supply needs to go.

California is getting real real fast. I think the rest of country needs to learn to get real about where our energy supplies need to come from. That is why I applaud the leadership in the House and also the President of the United States for putting this energy plan together, a realistic one that also includes alternative fuels, energies and conservation and puts them in their proper perspective.

ROLE OF THE FEDERAL GOVERNMENT IN AGRICULTURE AND EDUCATION

The SPEAKER pro tempore (Mr. KERNS). Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, today we concluded the appropriations debate and passed an agricultural appropriations bill for $74.6 billion. I think that it passed with a minimum amount of discussion and controversy.

I think we had an overwhelming vote from all the members. I voted for it myself, even though in the past I have been wary of agricultural bills that have large amounts of subsidies for farmers for crops that no longer need subsidies. But that is not a point that I want to expand on. I want to say that we have passed a bill for $74.6 billion, the Federal Government's involvement in agriculture, and the farmers of the United States are less than 2 percent of the population.

We take good care of our farmers and they give us good return. We are the best fed Nation in the world, but we certainly take very good care of them. Any people among those farmers and that particular group that continues to talk about not wanting the help of government or complaining about big government, telling government to get off their back, et cetera, it is hypocritical because the government is very much involved in producing the best agricultural system in the world. It is a monument to the achievement of government and education. The Morrell Act which created the land grant colleges in all of the States set off a process which created agricultural engineering and science, an approach to implementing new theories rapidly, the county agents, and a number of different innovations that still survive to this day. There are still committees in every county that relate to the Department of Agriculture.

The system has been very productive. The system is, however, a system that we oversee as the Federal Government, and it is fed and kept alive by the Federal Government. Most people do not know it, but the department of government in Washington which has the second largest number of employees, second only to the Pentagon, is the Department of Agriculture, although we now have less than 2 percent of the population which are actually farmers, bodies who can be called farmers.

Mr. Speaker, we take good care of agriculture and as a result, we get good return. There are 53 million children in the public schools of the Nation. That is far more than 2 percent of the population. If we want to put the same kind of investment into education, we would reap greater and greater returns, I assure my colleagues, on education. As I said before, the productivity of our agriculture system is directly related to the fact that we understood the role of education in agricultural production very early in the life of the Nation. Land grant colleges were not established to teach theology or philosophy. They were established to bring a new approach to teaching engineering, agriculture and biology in all kinds of things that were very practical and productive. So the great system for feeding America which feeds a large part of the world is based on a step taken by the United States government in the area of education. One of our monumental achievements in the area of education was the Morrell Act which established the land grant colleges in all of the States of the United States.

The Morrell Act, of course, was inspired by Thomas Jefferson's genius when he created the University of Virginia, a State-based university. He took the first step and Morrell followed through, and every single State benefited from the same vision, an extension of the vision of Thomas Jefferson.

We need the same kind of vision as we look at the 53 million children that are in our public schools. We need to understand that a large part of what we have been able to accomplish as a Nation is based on the fact that we have subscribed from the early days to the philosophy of universal education.

The Federal Government has not played the first role, but the Federal Government certainly has never interfered with the States, and every State accepted the responsibility. It is the ethic of the American people which lead to the creation in the constitution of every State the responsibility for education.

The Federal Government discovered in World War I and World War II that it had to go beyond that in terms of the development of its youth population, its scientists and technicians, and so it began to play a greater role in higher education in general. Now following the genius of Lyndon Johnson and the great society era where he established the first Federal support for elementary and secondary education, the Federal government has been a partner. We are weak partners. We do not have a major role in terms of funding. We actually only fund about 7 percent of the total education budget for the Nation. It is the State and local governments that fund the rest of the education budget, but we are involved.

We recognize the necessity for that involvement and I think every State education official and local education official, and certainly teachers and principals throughout the Nation, will indicate that since the Federal Government got involved to the present there have been improvements.

The Federal Government's role in education has been a very positive role, a role that we can be proud of. I am here today to sort of remind us that we should not allow this lull in the attention being offered by the Federal Government, by the people here in the Congress and the White House to education, do not let this lull allow us to take for granted what is going to happen next in the area of education in terms of this year's legislative agenda.

We have passed a bill here in the House of Representatives, Leave No Child Behind, the President's bill, and the bill has passed in the other body. It is now waiting deliberation by conference. I read in the paper that the other body has appointed its conferees, the people who will sit on the conference committee. We have not done that in the House, but I assume that we will do that fairly soon. It is likely this process will go beyond the August recess, and that the climax will take place in September when we return from the August recess.

In the meantime, I want Members to still be aware of the fact that the last word has not been stated, it is not over yet by a long shot. We have a major dilemma. We have to confront a major dilemma with respect to the bills that have passed in the House of Representatives and the other body. The dilemma is this. We have authorized in both cases amounts of money to implement the Leave No Child Behind education program, amounts of money that are far greater than the amounts of money that have been reserved in the budget, the budget which has been passed in this House and in the other body, does not allow for the implementation of the most important provisions of the Leave No Child Behind legislation.

For example, one very important piece, Title I, Title I has been the major instrument for granting and providing public assistance, Federal assistance to education agencies across the country. It is about $8 billion. Title I in the Leave No Child Behind legislation is supposed to double in the next 5 years beginning with increments which will go into effect this year. So in this year's budget, there has to be the first increment for the movement of Title I forward. And in a 5-year period, it will reach $17.2 billion, according to the authorization. It is hypocritical to have all of the powers that be, the White House, both parties agreed on this, and then to have the authorization sitting there without an appropriation to back it up. There is no room in the budget at this point.

□ 2145

So it is going to have to be negotiated through some extraordinary effort. We are going to have to break the budget or greatly shift some items around in order to accommodate the authorized amount. We certainly want to make certain that the priorities are such that this authorized amount will be honored before some other items may be honored. In order to do this, we cannot leave it to the processes here in Washington. The same processes that have generated this movement forward, however small it may be, and I am not pleased with the fact that Leave No Child Behind is inadequate in so many ways. It is inadequate because it has no money, not a single penny, for school construction. The Leave No Child Behind legislation that passed the House of Representatives did not allow a single penny for school construction. There is some hope because the other body did place $175 million in the budget for charter school construction.

It is very interesting, in an era where the majority party has insisted that it would not move forward on any school construction appropriation because it is not the job and the duty of the Federal Government, they do not want to get involved, the same leadership of the same party put in $175 million for charter school construction. I am all in favor of leaving the $175 million in there for charter school construction, but I would like to see it expanded so that we can at least get back to the $1.2 billion that the previous administration had appropriated for emergency school construction across the board, not just charter schools but all schools that had need.

So we have work to do. There are inadequacies and some of those inadequacies cannot be addressed in the appropriation process. They require new authorization. But some of the inadequacies can be addressed. The one that I have just given as an example can be addressed. And since there is $175 million in the budget for charter school construction, then it is in order, it is certainly in order, to expand that school construction money to move it to encompass more than just charter schools, and I certainly will be intending to offer an amendment to that effect when the bill comes back to us. If you cannot offer an amendment, I certainly will seek through the conferencing process to have the conferees consider moving from $175 million just for charter schools to a larger amount which would deal with school construction emergencies across the board where they are needed.

There are many other items that they can deal with also because they are in the authorization language and we can move in that respect. I think that the other body had a set of authorizing figures, the amounts for authorization, in a number of areas that are higher than the authorization figures in the House of Representatives bill. So there is hope there that in the conferencing process, we can move in the direction of the amounts of money that have been established by the other body and be able to deal with some of the inadequacies that are left.

I think the important thing is the public must realize that the fact that education is on the agenda at all, the fact that it was one of the first items the new administration placed before the Congress is due to the commonsense pressure that is being applied from the bottom. It is the public opinion that keeps consistently stating to the elected officials that education has to be one of our priority items. It seems that we are always running away from it. Elected officials have not really engaged the education agenda the way they should. Considering the fact that for the last 5 years, it has been among the top items and for the last 2 years it has been number one on the agenda of the public opinion polls, we should have done more. We should have done more. But our engagement has been of a shadow boxing approach where we engage in it with rhetoric, there is a lot of talk about education, there is a lot of discussion, and then when the authorizing and the appropriation process takes place, there is minimum effort. In the Leave No Child Behind legislation, we do not have maximum effort, we have minimum effort. It is important for the public to remember that. Whatever we are going to conclude with this year is still far short of where we should be in terms of the Federal involvement in education.

People say, "Well, it's really a local and a State matter." Yes, it should primarily remain a local and State matter. In terms of support for education, financing of education, funding of education should remain primarily a State and local matter. But that does not mean that the Federal Government cannot be more involved than 7 percent. Seven percent leaves us a lot of room. Why do we not shoot for 25 percent? There are people who fear that greater Federal involvement will mean a loss of local control, a loss of State control of the schools. With 7 percent involvement, and the local government and State government have 93 percent of the funding, then certainly you cannot control anything. If you have 93 percent, if the other party has 93 percent, you cannot control it with 7 percent. Let us not kid ourselves. If we increase it, the Federal share, from 7 percent to 25 percent, we still are not in a position to control, and that is a bogeyman that should be shot down and forgotten. We should be moving toward more Federal funding in terms of a greater percentage of the bill for education should be paid by the Federal Government.

All taxes, all revenue comes from the local area, anyhow. All politics is local, all revenue is local. The money we print in Washington is symbolic, it is symbolic of the taxes that are flowed in here from the States and the localities. So give it back to them in ways which promote the item that the American public has indicated is the number one item. They would like to see more Federal involvement in education. Let us keep the debate going, let us continue to talk in terms of what is needed, instead of merely settling for the parameters that have been established by the Leave No Child Behind legislation.

I want to take the opportunity today to talk about two groups, two statements of vision that have come to my office very recently. One is a book that is written by Dwight Allen who is an education professor at Old Dominion University and William Cosby, Bill Cosby. Most people do not know that Bill Cosby has a Ph.D. in education and that he has always been interested in schools and in children. Cosby wrote several books on children and families that were best sellers some years ago. This book is a combination with an education professor friend of his. The title of the book is "American Schools, the $100 Billion Challenge." The $100 billion does not refer to $100 billion over the next 10 years, Mr. Speaker, it refers to $100 billion per year that ought to be added to the Federal effort in education. It is interesting that they would think in those terms, when a second presentation by the Children's Defense Fund, the Act to Leave No Child Behind as a bill that has been introduced in the Senate, S. 940, and in the House as H.R. 1990. Senator CHRISTOPHER DODD of Connecticut is the sponsor in the Senate and the gentleman from California (Mr. GEORGE MILLER), the highest ranking Democrat on the Committee on Education and the Workforce in the House is the sponsor. They are talking about $100 billion, also. It is very interesting. What can we make of this and should I waste your time with utopian proposals for the Federal involvement in education? Frankly, I do not believe they are utopian.

Because we operate within the parameters of political practicality, I have not offered an amendment to the effect of levels of funding as high as proposed in these two documents, but they make sense. Their proposals make sense. Their proposals talk about moving away from incremental, nickel-and-dime approaches to reform and let us do the things that are really necessary on a scale that is necessary to move us forward. What has America got to lose by having a greater Federal investment in education? And what does it have to gain? I think that the gains in investment in education are tremendously geometric. The gains are fantastic in terms of what you invest and the educated population that you get as a result, what they produce. What are we producing in America now? We are way ahead of the rest of the world. Agriculture is just an old-fashioned basic example. We got way ahead of the world by investing heavily in education in agriculture. We are way ahead of the world right now in terms of digitalization, computerization and anything involving science and the application of science. Our pharmaceutical industries, our medical. Why are we there? Because in addition to the Morrill Act which established the land grant colleges, on several occasions the Federal Government has acted with broad and thorough funding powers to boost education.

The GI bill. When the men who fought in World War II came back, every single one of them was given the right to an education financed by the Federal Government, from A to Z. There are some who went to barber school, some who went to business school. Many went into our universities. Our universities had never had such an enrollment. Enrollment was doubled and tripled in many of our universities as a result of the GI bill, a Federal bill that paid the bill, paid the expenses for men, veterans, to become educated. What came out of that? Large numbers of men who would never have gone to college, who would never have become technicians or never have become scientists, they entered the workforce and entered our economy at a time when automation was taking place. The great jump forward, the great leap forward after World War II was automation in our plants. We had the technicians and the mechanics and the people to do that because of this tremendous investment that this Nation made in education.

We have not looked back and really thoroughly examined what we have done. The institutional memory of the American citizens in terms of what we have done in education and what we have reaped as a result is not there automatically. You have to talk about it. But we got a great boost. The fact that we are ahead in computer science is not by accident. We filled our universities and the great expansion that took place in education following the GI bill, once the GI bill recipients were out of college, every university that was publicly financed found its enrollment still going up, because through that experience, they expanded greatly, and they made it possible to have lower tuition and more and more young people could go to college and the age of the computer, digitalization, communications improvements, and all the kinds of things that we take for granted now were made possible by the crop of technicians and scientists who came forward through that process.

It is likely that if we were to invest $100 billion in education every year for the next 10 years, we will reap 10 times that much incrementally, it will probably be geometric, to heights that we cannot conceive. Most people cannot conceive the need for that many educated people. They say that you do not need that many educated people. When I came out of college, there was a raging debate in certain places about do we need more people, more educated people? They will only take the jobs of those who now have the jobs. Do we need more teachers? There was a limited supply of teacher jobs. We would have a pressure on the professions that could not be met by educating all these new people.

What has happened? We have gone through a process where now there is a tremendous shortage of teachers. Let us take teachers, because teachers outnumber lawyers. Teachers outnumber doctors. That is a profession that has large numbers of people involved, large numbers in school who come through the process and become teachers, and we used to take for granted, if you could not do anything else, you could teach and therefore you would always have a large number of people who on the way to some other profession would teach for a while first and then for various reasons teaching was a profession that we had no shortages. Women who were not allowed to get into corporations to the degree that they are today and many other professions had sort of walled them off, medicine, law, sort of hemmed women in, they kept them in teaching and nursing. All those barriers have fallen now and we have a tremendous shortage of teachers right now at this very moment and the shortage is increasing geometrically. It is increasing right now greatly.

New York City had 4,000 teachers who resigned or retired over a 2-year period 2 years ago. In this last year, they had 4,000 teachers in one year. They expect to have 6,000 retire next year. We are into a situation where they can see the number of people qualified in terms of years spent in the system and the other pressures will lead to a tremendous drain on the number of teachers.

□ 2200

There is a great shortage of teachers in New York City right now. We are not able to get trained, certified teachers to fill all of our classrooms, and many other big cities have the same problem.

The other pressure, other than just not having the bodies that come out of the process of education, is that the surrounding suburbs, which usually are more wealthy sometimes in other States, in New Jersey or Pennsylvania, New York is surrounded by suburbs that can pay much higher salaries for teachers. So they have shortages in those areas and it speeds up, it escalates, the drain of teachers in New York City.

I am told that one of the big problems we have with school construction is that school construction has now hit a problem because the construction industry certainly in the New York area has sort of over booked. They have more than they can handle because the construction industry has a great shortage of skilled personnel, carpenters, sheet metal workers. The people who make construction go are in short supply. So we have a skills problem in the area of construction.

We have a problem recruiting policemen. There is a difficulty. There is a big debate. They have lowered the standard for policemen. Whenever you move in search of some skills that go beyond just a high school education, there are shortages developing in big metropolitan areas. I am certain that the experience in Los Angeles and Chicago and Detroit and some other areas is not going to be so different. There is unemployment at the lower levels where you have no skills and no education, but in the areas where the people are semi-professional or professional, the shortages have already shown up. So just to fill the shortages, just to fill nurses, nurses is another area which we are hearing more and more about every day. I have heard some 1-minute speeches on the floor of the Congress. I have seen items in the newspapers repeatedly about hospitals not having enough nurses and other medical personnel. So that is another area of skilled and professional people where you have a shortage.

Just to fill those traditional positions, just to take care of the careers that we are all familiar with, you need more people who are educated. But when I talk about a great geometrical increase in the benefits that you get from having an educated population, I mean more than just replacement of the usual professionals, I am talking about professions that we have not even conceived yet that are just shaping up. The people in the area of genetics, a large numbers of people in the field of genetics, who were not there 10 years ago, it is an exploding field. People in biotechnology, on and on it goes in terms of the kinds of research that if you have the personnel, if you have the people who have the scientific know-how and have been trained, you can move much more rapidly to unearth new discoveries in science. Whether you are talking about discoveries in biotechnology and microbiology, in physics, all kinds of discoveries, telecommunications, can take place in direct proportion to the number of people who are educated. All of the forward motion in terms of technology and science can also move forward without the costs being so great. The greater the supply of professionals and technicians, the less the costs. We have some high cost scientists and some high cost scientific projects because there are too few scientists available.

In the area of computer technology, it is kind of a recession, a correction, they say, in the dot com industry. Computer specialists were in high demand. Information technology personnel is in high demand and I am told this is only a blip on the screen, that pretty soon the demand for information technology personnel will be as great as it was before. So an investment in education pays off geometrically. If we spend a billion dollars more per year on education for the next 10 years, it will give this society benefits which are worth far more than we invest. If you have to state everything in terms of dollar value, trillions and trillions of dollars would be realized because we would develop, we know that there are secrets out there waiting to be unlocked in biotechnology alone, that if you put more people to work there is a correlation between the ratio of people put to work and the benefits that you would achieve. The same thing is true in certain areas of digitalization, computerization and those areas. They reap benefits, what they call in economic terms productivity. American productivity has greatly increased, and one of the downsides of the great increase in productivity is that it puts out of work a lot of people who did mundane tasks but at the same time it creates a need for a different kind of employee and personnel with much more know-how.

We want to have the personnel with the know-how available to take the jobs. So our investment in education has a dual effect of moving us forward to an era where more will be unlocked at a faster and faster pace, new technology, new medical benefits, new ways to decrease the energy employed to produce items and all other so-called seemingly unsolvable problems, problems that cannot be solved now, seemed they cannot be solved. You can solve them if you get more personnel, if you get more trained people. The training process, the education process from the first grade to graduate school and beyond graduate school, is such that you are only going to produce a certain number of geniuses, but you can rest assured if you put a certain number of people through that process there will be geniuses discovered. The world is not run by geniuses. Geniuses are regular people who serve with partners with them, other scientists and theoreticians, and the theoreticians and scientists have to have technicians to work with them. The technicians have to have mechanics. All up and down the line of the funnel you will have developed people breaking out in their own capacity.

If you give them the opportunity, they will develop to their fullest capacity, which means that everybody will be improved and everybody will be able to make a contribution that they could not make if they did not have the education.

We should not hold back and hesitate as most of our political leaders are. The governors and the mayors and the people who are in charge continually become an obstacle in the forward movement of the appropriation of the adequate sums of money for education. They are the ones who prefer to talk about education without really improving education.

We have a problem in New York City with the receipt of State aid over the years has been clearly unfair. They have not given the city pupils the same kind of support from the State that the other pupils have gotten outside of New York City. A court suit was mounted and a judge came to the conclusion that, yes, it is true. The State has not been appropriately financing the schools in the city and the State should take corrective action. The governor of the State has appealed that decision, and one of the things he said in his appeal is quite frightening. The firm that was hired by the State of New York, which is the firm that has been used in a lot of school segregation cases in the south, that firm has based its defense, its appeal on the following theory: That city students failed in school because of their poverty. No amount of money, whether to raise teachers' salaries, to build more schools or to install science labs, would make a difference. That is what the States attorneys are saying, that poverty is the cause of the failure of the school system; the inability of the children to learn is due to their poverty.

Now, we know that there would be a revolution if the governor had dared to say due to their race, due to their ethnicity or due to their religion. That would be clearly discrimination. Clearly, he would get a reaction from right across the country about that kind of approach. But it is a hidden statement. Most of the poor children in New York City are minority children, either Hispanic or children of African descent and they are being told in this defense that the governor has put up that poverty is a problem.

It is not the lack of funding. I do not want to go into that too far. I just want to point out that it is a frightening notion. If you move in that direction and do not challenge that kind of theory, the problem is that in 10 years you would end up with a clear statement by policymakers in the State that the State does not owe any children universal education because if they are too poor to learn then we should not invest the money trying to make them learn. The implications of assuming that poverty blocks learning, poverty dooms the school system, the implications are devastating and we hope to deal with that argument right away.

I got something from one of my constituents about a new proposal about reparations. There is a young man that has caused a stir by putting out a pamphlet about reparations, makes a statement about 10 reasons why reparations for blacks is a bad idea for blacks and it is a racist idea also. Reparations become suddenly not only a bad idea and something that we should not talk about but it is also a racist notion for any group to say we may be owed reparations. I can see 10 years from now if you let the governor go unchallenged with poor students, whether they are African American or Hispanic, being told it is a bad idea for you to demand a universal free education because, after all, we have tried and we could not educate you because you are poor.

I do not want to go too deeply into the implications of that kind of argument. My point is that the governors and the mayors and the people who are blocking the way, and people in high places, of course, in the Federal level, blocking the way in terms of the appropriations of ample resources for education, they are refusing to respond to the public outcry for improvements by dealing with basics. Basically, you need whatever it takes to provide certain physical facilities that are safe, physical facilities that are conducive to education. You need to provide basic instructional assistance by having trained teachers, teachers who are certified and know what they are doing. You need to have decent equipment, decent supplies, decent sized laboratories. You need a library at every school. The basics are not there.

Before we move to more theoretical kinds of considerations of accountability and testing and blaming the teachers, let us put the basics in place. The basics are not there, however. These people who talk about $100 billion per year are on track because instead of proposing utopian ideas, Dwight Allen and Bill Cosby are proposing ideas that make a lot of sense. Senator CHRISTOPHER DODD and the gentleman from California (Mr. GEORGE MILLER) in the Act to Leave No Child Behind, S. 940, H.R. 1990, are making some sound proposals. I must point out that the Act to Leave No Child Behind is not just an education bill. This is about children. It goes beyond education, to health, environment, nutrition, housing. This is about a program for children. In terms of the dollar figures, they come out at the same point as the cost by proposals, but nothing proposed here is outlandish, outrageous, utopian. It is all very sound and very on target.

□ 2215

But we have lost sight of that. In the deliberation of the education bill, I offered a motion to instruct which was related to construction. Now, because of the atmosphere, we were tempted to compromise and to try to win votes by watering down the original amendment that I had made. We came all the way down from an amendment that I made which would have appropriated $10 billion a year over a 10 year period for school construction, to $1.2 billion, the amount equal to the amount appropriated by the outgoing Clinton Administration for school repairs, mostly emergency repairs.

So even though the need clearly is up at the point where you need at least $10 billion a year just for school construction, and that is based on several studies that have been conducted by the General Accounting Office and conducted by the National Education Association showing that you needed about $320 billion. The National Education Association study, if you combined school construction and repair with new technology, you need $320 billion. New York State had the highest need of about $44 billion in order to bring the schools up to par to a level where they could serve the present population appropriately.

So my estimates and my figures on school construction were not pulled out of the air. They were already a compromise. But on the floor here I offered a motion to instruct which was watered down to $1.2 billion per year. Of course, that failed. It got a party line vote, and we failed to pass it. But it was a far cry from the need.

We have to do that. As people who are trying to compromise and get something done, we have to sacrifice our vision of what the need is. But I do not want the people out there who have had the common sense all these years to keep the pressure on elected officials to lose sight of what is needed. We do not need $1.2 billion for school construction, we need $10 billion a year for school construction. We need the kind of figures that are stated in this book, American Schools, the $100 Billion Challenge.

I am going to read a few examples from this $100 billion challenge which Bill Cosby and Professor Dwight Allen put forth. I am going to read these, as I said before, not as a politician, an elected official offering these as suggestions that I intend to put in legislation tomorrow, but as mind-stretching exercises.

Let us stretch our minds and try to look at education from the point of view of these experts. They are both Ph.D.s in education, they are both very concerned about it, but they are outside looking into the governmental process, and some of the conclusions they come to would be very instructive. We did not hear from these people in hearings before we passed the Leave No Child Behind legislation. Nobody was interested in hearing these kinds of statements.

But here is a vision that is worth consideration by all that really care about education. In the section $100 billion for teachers, a summary of the listing, they start out with $6 billion regular in-service training on the Internet for all teachers.

Now, we have pages and pages of discussion of teacher training and teacher improvement, but I do not think any one of our legislative proposals dealt with anything of this nature, certainly not with that kind of figure. I think our total amount for training of teachers is something close to $4 billion for all training, and in-service training and upkeep for teachers.

Here, in this proposal, just to read a few examples, $6 billion for regular in-service training on the Internet for all teachers. Compensate every teacher in America $2,000 per year extra to spend 2 hours a week on the Internet upgrading their knowledge of his or her subjects, their teaching methods and of the newest research. We all agree that lots of teachers are out-of-date in their knowledge of both content and method of teaching. Current methods are hit and miss and often not valued by teachers who receive such training. The Internet offers a dramatic new potential. Developing and presenting new content and methods in a systematic way for all teachers can now be routine and cost-effective in a way never before possible—$6 billion they propose to spend on regular in-service training on the Internet for all teachers in the Cosby-Allen proposals.

Another area that they propose expenditures which I found to be interesting was the expenditure of $2 billion to train a corps of master teacher mentors. Provide a trained corps of clinical master teacher mentors for each teacher in training and for beginning teachers. There would be several concomitant benefits of paying mentor teachers $2,000 to $5,000 stipends each year. This is above their salary. First of all, well-trained mentors would provide better supervision and guidance for new teachers, and if the mentors are well paid, they will be encouraged to provide more and more and better assistance and they will stay in the school system, instead of moving on to higher paying jobs elsewhere.

Another item, $5 billion, $5 billion, this is one I have never seen before, for a corps of $100,000 classroom teachers. Listen closely, $5 billion for a core of $100,000 classroom teachers. Pay 5 percent of all teachers, pay 5 percent of all teachers, an added $50,000 per year to attract and hold a share of the brightest college and university graduates as master teachers.

In other words, you get master teachers who would be making up to $100,000 a year. Pay 5 percent of all teachers $100,000 a year. We need to break the mold of a single salary schedule for all teachers. Just as the dream of a NBA million dollar contract does energize sandlot and school basketball all over the Nation, realistic aspiration of $100,000 stipends per year for even a small percentage of teachers would energize applicants at all levels and increase the recruitment pool. We are a Nation that responds to financial incentives.

Another item, $10 billion, $10 billion, for teaching assistance and other support staff for teachers. Now, I would wholeheartedly endorse this one as being practical, being necessary, and we ought to write it into our legislation right away. Teaching assistance and other support staff for all teachers.

Build the concept of a teacher and his or her staff with clerical and technical support in the classroom, including teaching assistants and interns. Teachers are now required to do it all. Teachers are self-contained in their classrooms. Sporadically they may have teaching assistants or some volunteer support. If we are to make the most efficient use of our most valuable resource in education, well-trained teachers, we must begin to provide them the support that is routine for all other professionals.

I think we ought to stress that. Real professionals, every other professional, whether you are talking about lawyers or doctors or engineers, they have staff; they have staff assistants, they have people at various levels of support. Teachers deserve the same kind of support, and you would actually have a more efficient and more effective classroom, a more effective use of your highest price personnel, if you were to have each teacher being seen as part of a unit, where they are the head of the unit, directing the unit, but they are not weighted down with a lot of tasks that are not professional, not productive and do not involve learning. So I would wholeheartedly endorse that proposal as being a very practical one and one we should have moved on long ago.

We talk a lot of technology in the classroom and about the use of technology in the classroom, computers in the classroom. I do not think teachers should have to learn how to make computers do new things in terms of their curriculum and opening the eyes of youngsters with more creative approaches to teaching. They should not have to do all that and also learn how to fix the machine when it breaks.

When computers are on the blink, they should not have to be the ones to fix them, the servicing of the computers, the servicing of any equipment. There is a whole array of things that teachers should not have to do, and if you had that built in a system, that taken care of by a unit, you would have more people staying in teaching instead of resigning and retiring as quickly as they can.

Another item they have here in the Cosby-Allen proposals is a $1 billion item, challenge grants for teacher initiatives for educational reform. Teachers should be encouraged to examine their own practices and to try new initiatives. A series of challenge grants should be established, with teachers from other states making a judgment about the priorities of which initiatives to fund.

The whole debate on education and the production of the Leave No Child Behind Act in both Houses of the Congress, the people who were consulted least were the teachers. We talk a lot about what teachers should do, we have prescriptions in here for their training, we even talk about teacher preparation institutions, penalizing them if they do not graduate teachers who can pass the certification tests. We are deeply into education and the molding of teachers and the use of teachers, but very few teachers were consulted, I assure you, in this process.

Because of the pressure of public opinion, we politicians, we elected officials, have gotten involved, but we have left out the most important ingredient, and that is the input, the advice and consultation of the teaching profession and the teachers themselves.

So this $1 billion challenge grant would recognize that teachers have initiatives and teachers are sometimes the best teachers of other teachers. Teachers should be encouraged to examine their own practices and to try new initiatives.

Another item, $6 billion for 6 years of pre-service training for teachers. Provide $10,000 per year for 6 years of universal teacher training for 100,000 teachers each year. There is a wide consensus that we need to attract a share of the brightest student to the profession of teaching. They propose 6 years of funding, an incentive to increase the time of training profession and to raise the standards of the teaching profession generally.

There are all sorts of variations possible. For example, funding can be in the form of loans that include one year of funding forgiven for every year as a teacher. We have had those proposals offered in terms of forgiving loans, but we have not had any proposals that talked about $10,000 per year in order to allow students to get a 6 year education.

Another item, $3 billion, one-year internship for teachers after professional training. These are items which coincide with some practical proposals that have been made in legislation already. $1 billion for higher salaries for more teacher educators. Increasing salaries of $10,000 teacher educators by $25,000 to $75,000 per year. Again, the same principle, to attract the brightest graduates into teacher education.

Another $1 billion is proposed for the development of teacher training materials. Then technology, $15 billion proposed for technology for all schools, the purchase, maintenance and replacement. And on and on it goes, into a budget which concludes with $100 billion per year for education, American schools.

Again, I have been talking about a vision offered by Bill Cosby and Dwight Allen. Dwight Allen is a noted Professor of Education Reform at Old Dominion University, and Bill Cosby has a Ph.D. in education and has been interested in education for a number of years and has written several books on children and families.

In conclusion, I have offered these two visions which are outside the usual discussion that takes place here on the Hill. It just so happens that they come at a time when there is a great need to keep the dialogue going.

We cannot sit still and wait until the conference committee acts. We should not sit still and wait until the final negotiation takes place, probably at the end of September. We need to keep the pressure on. The public needs to remind each one of us in the Congress that they have made education a priority, and making education a priority, there is a need to have resources behind the rhetoric.

The dilemma we face is that we have two bills that have passed, one in the other body and one here in the Congress, and both have authorization figures much higher than any provisions that have been made in the budget. We need to solve that dilemma in a positive way. We need to have the pressure applied from those who care about education to make the appropriations figure measure up to the authorization figures as a one first positive step.

At least the Leave No Child Behind legislation should not be hypocritical, it should do what it says it is going to do in the authorization bill. That is the first step. The other steps require the kind of vision to go forward that is indicated in these two visions, one from the book written by Bill Cosby and Dwight Allen, and the other from the Leave No Child Behind legislation which deals with more than just education, and is sponsored really with the backing of the Children's Defense Fund.

□ 2230

We are going to hear more about this as we go toward September. The important thing is that the door is not closed, and the final decision has not been made. There is room for an appropriation which measures up to the authorization and all of us should dedicate ourselves to the proposition that we will fight to have the appropriation measure up to the authorization for education.

NIGHTSIDE CHAT

The SPEAKER pro tempore (Mr. KERNS). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

HONORING OUR FALLEN FIREFIGHTERS

Mr. MCINNIS. Mr. Speaker, I would like to take a few moments of my Special Order to address a very sad situation that occurred yesterday in Winthrop, Washington State. As my colleagues know, this time of year is the time of year in our Nation across the Nation that we face horrible forest fires. Most of the time, we are able to conquer those fires through the able leadership of the Forest Service, the BLM, our professional fire departments, our volunteer fire departments and volunteers across the country. But every once in a while the fire gets the best of us, as it did in Storm King Mountain in Glenwood Springs, Colorado, the town that I was born and raised in.

I was in Storm King at the time of the incident and I remember the situation very well. I remember the horrifying fire that took Storm King Mountain. I remember the horrible tragedies and the tears of the young children and the widows and the mothers and the fathers and all the families and the friends and the shock of that community. We had hoped that Storm King Mountain in Glenwood Springs, that the incident would never repeat itself, but we knew at some point in time that it would, because it is almost like part of a fate of fighting fires. Over a period of time, we are going to have casualties. It is a war of its own, really. We think about it, thinking about a fire that is unpredictable, in some cases; some cases it is predictable, an enemy that has no discrimination as far as who it picks to destroy. We see it destroy animals, we see it destroy mountains.

We know that basically, it is a force that can erupt, just like the force erupted yesterday. Yesterday we had a fire of about 5 acres and we had what we call the blowup. The thing that scares anybody dealing with fires, the worst condition that we can have are the conditions that accumulate in the incident called fire blowup. That means we have low humidity, we have very dry timber, and we have a wind that is unexpected that comes in. This fire which burns 5 acres over some period of time exploded from 5 acres to 2,005 acres in a matter of moments. These firefighters that lost their lives yesterday, 4 of them, had no chance. By the way, I understand we lost another firefighter who was a pilot on a slurry bomber at another fire; not this fire, but at another fire somewhere in the northwest as well.

So my words of honor this evening are for all 5 of those firefighters. But I am only knowledgeable on the incident of the 4 firefighters who lost their lives yesterday. I would like to mention their names. Tom Craven, Tom was 30 years old. He was from Ellensburg, Washington. Karen L. Fitzpatrick. Karen was 18 years old, of Yakima. Devon A Weaver. Devon was 21 years old of Yakima. Jessica L. Johnson. Jessica was 19, of Yakima.

Tom, Karen, Jessica and Devon 2 days ago were alive. Two days ago, when our country called upon them to respond to a fire, they did so without hesitation. Now, despite the young age and, in fact, this was one of the first fires, or not the first fire for one of those individuals, despite the age, they received training. And at some point, one has to fight their first fire. At some point, one has to pick up actual field experience.

Almost every firefighter we have had in the history of this country gets through those first few fires. In fact, almost all of our firefighters are able to retire, or at least leave it without a fatality. But that was not meant to be the case for these 4 young people. We lost a lot of spirit. We lost a lot of youth. Two days ago, we did not have families in mourning, we had families who were excited that their children, in most cases, and I am sure in this case, were doing what they dreamed of doing for a long time, and that is going out and taking on fire, and going out and helping our country in a time of need. Going out and literally saving communities, saving animals, saving vegetation, saving our mountains. We have seen it. We have seen it throughout our country, what these people do. I saw it at Storm King Mountain in Glenwood Springs, Colorado, about 7 years ago.

So my comments tonight are intended to be in honor of these 4 firefighters. In fact, I expand that beyond those 4 firefighters to the fifth firefighter who I understand lost their life yesterday, to all firefighters across the Nation. To those firefighters who today cannot of course hear these words because they are camped out on the side of a mountain fighting a fire somewhere in Colorado or fighting a fire in Oregon or Washington or out there in California. These are gutsy people, and they carry out a mission that takes a lot of risk. They know the risk. They go into it with full knowledge. But I guess if one is a young spirit, one always goes into it thinking, I can overcome, I can get by it, but they did not get by it, and we should recognize them for the hero status that is properly bestowed upon them.

I can say to the families of these 4 deceased, our Nation, the United States of America, owes your family a great deal of gratitude, that we consider these lost firefighters heroes, the way the word "hero" should be used, not for some celebrity sports figure, but for a figure to me that is much more of a hero than any movie star or sports figure could ever be, and that is these 4 young people who gave their lives yesterday for the United States of America.

ENERGY CRISIS IN CALIFORNIA

Mr. Speaker, I would like to move on to my topic discussion. As usual, as my colleagues know, we have had preceding speakers here on the floor, and it was interesting when I listened to my good friend, the respected gentleman from California (Mr. FILNER) and the respected gentleman from California (Mr. DEFAZIO). Both, most of the time, seem to be fairly knowledgeable on the subjects that they address, but I have disagreements with the statements that they made this evening. I was surprised that the gentlemen from California, when they talked about the energy shortage that they have had in California, as has become typical with some of the people out of California, blame everybody else; blame everybody else.

If we listen to the gentlemen from California this evening, or if we listen to the gentleman from the northwest, one would think that everybody in this Nation is to blame for the shortage, the energy crisis that they have experienced in California, that the blackouts in California have nothing to do with the political leadership of the State of California. That the energy blackouts in the State of California have nothing to do with the fact that they have not been able to build a power generation plant in California for years and years and years. The fact that they have an energy crisis in California has nothing to do with the attitude of some people out there in that State that say, do not build in my State, do not build in my backyard. We do not need electrical generation plants. We do not need gas transmission lines in our State. Let the other States generate it and we will buy it from them.

It was interesting to hear that the gentleman in the northwest is blaming what he calls the greedy companies. Well, I have seen plenty of greed in my life, and perhaps that is one of the contributing factors, but do not continue to run away from the fact that it was poor policy in California. I say California versus the northwest, because in the northwest it was not necessarily poor policy. In the northwest, they have a minor problem. The Columbia River is going dry. They have had a drought. They did not get the rain or the moisture that they expected, so they were not able to generate the hydropower which, by the way, is very clean power, a very clean way to generate energy. So the northwest is a little unique.

But let me focus in on California. They did not have a river go dry on them. What happened out there is that they refused to accept the responsibility, especially the political leaders in California, to look to the future, to have a vision for the future, to know that they have to provide energy for their constituents.

Now, I also heard the gentleman say, whacko environmentalists, that those who have criticized the State of California say it is because of whacko environmentalists. Well, there are some whacko environmentalists, there are some whacko developers. But putting that aside, the fact is that California has got a lot of balanced, reasonable environmentalists who understand the fact that they need clean generation of power. But the leadership in California, whether it is at the local level or the State level or the governor's level, have refused to allow it to occur. They kind of brought it upon themselves.

Mr. Speaker, I know that the gentleman from California says he was tired of hearing people say, California brought it upon themselves. Well, let me say how interesting it is that out of 50 States, California stands alone. Do they in California not think that the political leaders in California had a little something to do with the problems that they are facing out there?

Now, my colleague mentioned, well, several of his colleagues have said, the heck with California, that is their problem, let them suffer. That is not the attitude of this Congressman. I think California is a very important State in our Nation. I do not think we can just walk away from California. But it is awful frustrating for those of us who want to help the State of California to see that there are those in California who are too stubborn or too lazy or have an idealogical philosophy that they will not even pull themselves up by their own bootstraps, that some in California will not provide self-help. That is what the problem is. We cannot walk away from California. This is a nation. This is a nation of 50 States. We are like brothers and sisters. We are tied together. It is a good union of being tied together.

But the fact is, when somebody is not pulling their load, we have to be frank about it and say, you are not pulling your load. It is like pulling a wagon up a hill. If we have somebody that is supposed to be pulling and they continually jump in the back and ride the wagon and you say to them, hey, Johnny, you got to get out of the wagon, you got to help pull it. Johnny gets out and says well, the whole reason I have to get out of this wagon is because the rest of you are not pulling hard enough. That is exactly what California is saying and that is exactly what some of my colleagues from California, especially the gentleman who spoke earlier, and that is a good analogy. We have said to the gentleman from California, look, we are not going to let the wagon go, we still have to get this wagon to the top of the hill, but you have to get out of the wagon and help pull the wagon up the hill. Do not just sit there and complain about how abused you are because the rest of us asked you to get out of the wagon to help us pull the wagon up the hill. Get out of the wagon, get off your duff and help the rest of us.

Mr. Speaker, ever since I was young my folks took us camping. My district is the Rocky Mountains of Colorado, born and raised, multi-generations in Colorado. My folks had a little rule. That is, if you went camping with them and you wanted to enjoy the campfire in the early mornings when it was quite chilly, as we know it gets, my district is the highest in the Nation, so it gets cool there in the mornings, or cold. So if you want to enjoy the camp fire, guess what you got to do? You got to help gather the firewood.

In California, it is the same thing. If you want to have enough energy, not just for this generation, but for future generations, you got to help gather the firewood. You got to help build electrical generation facilities. You have to plan natural gas transmission lines in your State. You have to be serious about conservation. To California's credit, let me say that this energy problem that we have, conservation can make a big dent in it, and California does deserve credit. In the last couple of months, the citizens of California have been responsive to conservation issues, although I am concerned that as this energy problem begins to resolve itself, people will put conservation along the side. I think in this Nation, all of us, every American, needs to adopt conservation on a permanent adoption basis.

□ 2245

Conservation is important. But California, do not expect the rest of us not to be frustrated if they are not going to help themselves get out of this mess. Do not continue to blame the President. That is what Gray Davis, the Governor out there, did for some period of time. When he found out that was not working, he blamed the greedy companies down in California. Then he threatened to seize the companies, like it was some type of socialistic government that we operate in this country. Everything except themselves they have blamed for this crisis.

I am saying to the leaders and I am saying to the Governor of the State of California and I am saying to my good colleagues here on the floor from California who are taking these issues up about how badly treated California is, we want to help, but they have to help, too. Simply going up and saying, "In 2 weeks I am going to show up in San Diego and cut the ribbon for a power generation company, now pat me on the back, and by the way, you are responsible for our power crisis," that does not cut it, California. We want to help, but they have to help themselves.

How do they help themselves? The entire Nation can help itself with conservation and alternative fuels, those things. But alternative fuels really are something of the future. Today if we took all of the alternative energy in the world, all of the alternative energy in the world, and we put it all into the United States of America, we are talking about 3 percent of our power needs, 3 percent of our energy needs.

So clearly, alternative energy is going to be what the generation behind myself, my children's generation, my three kids and their generation, they are going to be primarily dependent on that like we are dependent on fossil fuels for our generation, and the two generations preceding us were dependent upon it.

That is going to be important. But in the meantime, what do we do for the current generation? We have to do a couple of things. California has to allow generation facilities to be built on a reasonable basis.

The gentleman from California, as supported by the gentleman from Oregon, seemed to suggest that we set aside, or people on both sides of the aisle say that the suggestion is that we set aside their environmental regulations and safeguards and build generation facilities wherever we want. They want to sound like heroes, that, "We are not going to let these environmental regulations be set aside. Why should we destroy our environment, like everybody outside of California wants us to do?"

That is absurd on its face. We can build generation facilities that are balanced. We can build generation facilities that have an acceptable impact on the environment. I am not asking, and I do not think many of my colleagues, are asking for the State of California to drop all of their environmental laws. I do not know anybody in here who really is calling the mainstream environmental community in California wackos. I do not think they are wackos at all, and that is a direct quote from the gentleman from California who had spoken previously, about an hour ago.

What we are saying to California is, hey, there is a balance with the environmental regulation. There is a balance with the zoning. They are going to have to have a power line in somebody's backyard in order for everybody's backyard to enjoy power. They have to be reasonable.

It is unreasonable for California to be the only State in the last 10, 15, 20 years that has not allowed an electrical generation power facility to be built in their State. California, is it not a little odd that they are one out of 50? Is it not a little odd that they are now the one out of 50 that is suffering the crisis out there?

The rest of the country is not in an energy crisis. Now, we have gotten a very clear warning, no doubt about it, but we are not in an energy crisis. Why? Because the other States have taken a more reasonable approach than has the political leadership of the State of California.

I am telling the Members, in my opinion, the Governor of California has taken absolutely the wrong direction on how to solve the problem. First of all, about 2 or 3 or 4 weeks ago, maybe 5 weeks ago, at the height of the market, the Governor finally decides he is going to sign long-term contracts, so he has bound the people of California into long-term contracts at the highest possible price that we have seen in any number of years for electrical power. So if they think they are going to get rate relief in California, citizens of California, through my colleagues here, they are not.

The second thing is, the Governor of California has tried to say to the people, let us put on price caps. In other words, they say, let us artificially lower the price of the power. Let us not have them pay what the power actually costs to produce, the price that allows for some margin for reinvestment for the next generation, but let us subsidize the power price by either selling bonds, which is what the Governor of California has done, he has indebted in billions, by billions of dollars future generations to pay for this generation's power.

If I was talking to the Governor, I would say that that is the wrong approach. First of all, this generation ought to pay for this generation's power. Furthermore, this generation has an obligation to exercise some type of leadership, some type of responsibility, some type of vision for the next generation. We need to start planning for their energy needs.

California can join in and do it with us. Let me reiterate, I do not think California should be left alone. California, if it were a country of its own, would be the sixth most powerful country economically in the world. California has a lot of American citizens. It is a big part of our Union. It would be a deep, deep mistake for anybody on this House floor to turn their back and walk away from California.

But it is not a mistake for anybody on this floor to look at our colleagues from the State of California and say, quit blaming everybody else, Governor. Quit blaming everybody else, newspaper editorials out there. Accept some of the blame. Consider and accept the fact that they have to have self-help, and let us move forward as a team.

That is my message to California: We want to help them pull the wagon up the hill, but they need to help us pull the wagon up the hill. For 10 or 15 years they have gotten a free ride by riding in the back of the wagon. Now all of a sudden it is time for them to come up and help the rest of us. When they do, they are going to find out, just like I found out, when we help gather firewood at the campsite we get to sit by the campfire. But if they are not going to help gather firewood when they have the capability to gather firewood, then they should not sit by the campfire and enjoy the benefits of that fire.

Let me talk just for a moment about conservation, because while we are on energy, I think it is important that we discuss conservation.

I had a fascinating thing happen to me not long ago. I was talking to a young person. I would guess the person was 23, 24 years old, and seemed to me to be very, very bright, very capable. I got to talking, as I often do with that generation, and saying, what are you going to do? What is your career orientation?

This particular individual said to me, well, my orientation, my career, is how do we get energy out of the ocean. How do we get energy out of movement? Every time there is movement, as those who have studied physics and so on know, every time there is movement, there is energy.

In this particular thing, she said, I think there is energy in movement. How do we become more expedient, more efficient at being able to take movement, seize energy from it, and utilize it for or energy needs?

It was not long after I visited with this young person that I ran into a gentleman. He was in the energy field. I was telling him about it. He reached in his pocket and he said, let me show you what she is talking about. I have one right here. See this?

Members are not going to be able to see my demonstration, other than the fact that they are going to have to take my word that it is occurring. If the Chamber, Mr. Speaker, was dark, we could see the demonstration.

This is simply a strip of material encased in a sheet of plastic. It has two wires going to a miniature light bulb right here on top. This is the miniature light bulb. What this person did to me, he said, this could capture energy from the waves. He began to go like this, showing movement. Now, Members are not able to see this because of the distance away from this, but I can tell the Members that as this moves up and down, this little light right here goes on. That is what is generating electricity, this simple movement.

This gentleman said, just imagine if we could put this in the ocean, where we have natural, continuous movement, we could generate electricity. I thought that little thing right there was fascinating. I think that is what is the ticket for the future. That is what our generation has an obligation to try and help the future generation, encourage that generation, and then the generations that are not yet born to become dependent upon, to be more creative than using fossil fuels.

But at the same time, we as a generation have an obligation to accept the responsibility that fossil fuels are what we primarily depend upon right now.

I heard my colleagues earlier criticizing the Bush administration about the energy policy. Ironically, I would mention that the Clinton administration and Clinton and Gore had no energy policy for 8 years, had no vision into the future about what to do in regard to energy. The only one who has come up recently, stepping forward, stepping out of the line to take a leadership role, has been President Bush.

I notice that they criticize right off the bat the fact that the President, in his budget, has cut some funds for some research. Let me tell the Members, this is an old-time Washington, D.C. trick. Every program in the Federal budget has a good name to it. It is either for the children or it is for the future or it is alternative energy.

Why does every program have a good name to it? Because it is hard to cut it. It is hard to take money out of it. Once we create a program back in Washington, D.C., we can pretty well be assured that program has a life, a long life of being able to use taxpayer dollars.

The first thing that happens back here with the special interests, and special interests that go the entire band of interests, these special interest groups, the first thing they do when they get a program, and this includes Federal agencies, the first thing they do when they get a program put into place is to put a protective shield around it, in case somebody ever comes and says, look, what is the bottom line? Tell me, what are we doing for accountability? Tell me what the results are. Oh, we would like to do an audit to see if you are doing what you said you are going to do. What kind of results have you given us for this money?

Then they can immediately deploy their weapons, the weapons of special interest. That is to say, how dare you ask a question about whether or not, for example, money is being spent efficiently on the school lunch program? You must want children to starve. It is the same kind of thing we are seeing here. We have research programs that we have funded for years, year after year after year on energy, and the bottom line is the results are not there. They are not there.

The minute we go up to them, as the President has done, and said, look, we are going to have to not take the money away and use it for some other purposes, use it for highways or something, we are going to put this money and put it into research we think is going to make a difference, the first thing they do is run to the local or national media and say, my gosh, the President is proposing that we cut research. How terrible, in an energy crisis. This is a President who only wants oil drilling. He wants to cut our research dollars.

At best, at best that is a misleading statement. That is giving them the benefit, here. In fact, most of these programs, when we go after accountability, they are well-designed to do whatever is necessary to protect that program and keep that program alive.

Let me talk for a moment about the energy policy of this country. I mentioned earlier that President Clinton, the former President and the Vice President, they had no energy policy. We need an energy policy. What happened in California, what happened up in the Northwest, now, the Northwest was primarily because of the Columbia River, but what happened in the Northwest was a warning shot to all 50 States. It was a warning shot saying to us, hey, one of these days we are going to face a real energy crisis. One of these days, we had better be prepared for it, because we are not going to get a second chance. We have to be prepared with energy alternatives.

What do we need to do that? We need to have some kind of energy policy. That is exactly what the President has done. Now, Members may not agree with the policy. Members may not agree with elements of the policy. But I think every person in this country should agree with the fact that we need a policy.

Now, it is debate on this House floor, it is debate that really should start in the kitchen of every household of this Nation, as to what kind of energy policy should this country have; what kind of components should we put together so that our Nation as a unified group of 50 States has a policy that will allow us to get through future energy crises, that will allow us the kind of vision, leadership, and responsibility that is necessary for future generations, that will allow us to propel our economy and keep it strong, that will allow us to do all of these things that energy allows us to do?

Let us look at some of the elements that I think are important for an energy policy. First of all, there is discussion and debate. What President Bush has done is a favor to all of us by stepping forward and putting an energy policy on the table.

□ 2300

And by saying we ought to put conservation on the table, and we ought to put alternative energy on the table. We have to talk about supply. We have to talk about exploration. Put it on the table. We have to talk about what areas of the country should or should not be explored for fossil fuel or should or should not be explored for other types of energy recovery. At least the discussion has begun.

Now, that does not mean that we have to adopt everything they have put on the table. That is not what it means. But what it does mean is that we have an opportunity now to start to put this policy together. So discussion is an important benefit of what the President's energy policy has put forward.

Now, let us talk about some of the other elements that are obviously very important for any energy policy. First of all, we have to ask what is it that every American could do? What could every American out there do to help our Nation on an energy policy, to help our Nation through these energy problems, to help our Nation assure future generations that an energy crisis is not going to be something they have to worry about?

The first thing every American can do, every American that is capable of moving and thinking, is conservation. Even simple conservation. Now, there is a lot of conservation that can take place in our Nation without an inconvenience to our lifestyles. Let me give a couple of examples. Turn out the lights when we leave the room. Now, that sounds kind of simplistic. Sounds like, gosh, that is so basic, of course we turn off the lights. But what difference does it make if I walk out of the room over here and I have the lights off for 2 minutes? I am going to be back there in 2 minutes anyway. Imagine the difference if every American that is using lights right now as I speak shut off their lights for 2 minutes. How much energy would we save? How much conservation is that? It is significant.

And let us put that together with a little less idling of our cars; maybe turning our air conditioning a little higher, at 70 degrees instead of having it set at 68 degrees; maybe in the winter having the heat set at 68 degrees instead of 75 degrees; maybe just simply checking our ceiling fans to make sure they are turning in a clockwise direction or motion so that they draw the cool air up and help cool our homes; maybe going to our car owner's manual and determining that we only need to change the oil of the engine of our car every 6,000 miles instead of every 3.000 miles, as the people out there that market oil products are trying to get us to do. There are a lot of ways that average Americans, every American, can help conserve energy, and that is a very critical part of an energy package.

I think it is important for all of us to assume that we have an obligation to help with that. All of us have that obligation. But that is only a part of the energy package that we need for this country. What other element should be in that energy package? Well, of course, alternative energy.

As I mentioned, I was fascinated by this little device, this device that I showed my colleagues earlier, which seizes energy from motion. That simple motion turns this little light on. That motion, through the physics and all the other engineering, we need to have that. We need to have research. But when we put research aside for alternative energy, we need to be able to have accountability from the people that we give this money to. We need to know that our research is at least moving us in the right direction. We need to know that the people doing this research have oversight. Because we do have an obligation not just to throw money at anybody that says I have an idea for future alternative energy, so give me money, Federal taxpayers.

There are a lot of scams that take place out there, and most of the people getting scammed in this country are taxpayers. And most of the scamming is done by special interest groups who know how to give a program a great name and then take gobs and gobs of money without results. So while I say research is very important, it has to be research that means something. It has to be research that is going to come up with a result or at least move us towards the path of a result.

So we know we need to have conservation. We know we need to have research for alternative fuels. We also need to face the fact, as I said earlier in my comments, that if we took all of the alternative energy in the world, all of it, whether it is wind power, whether solar power, whether it is some other type of generational electrical power, even like this little device, if we took all of it around the world and directed all of it to the United States of America, it would only supply 3 percent of our needs.

So we need to face the fact that as we put this energy policy on the table and we are crafting what a future energy policy should look like, we need to face the fact that we are going to have to drill for oil. We have to come up with additional fossil fuel until that point in time that we have conserved and reached alternative energies so that we can lessen our dependence on fossil fuels. If we do not do that, the demand for fossil fuels still exists.

So how do we fill that gap? I will show my colleagues. On this chart right here, this is oil field production. This is the oil that we are now bringing out at the 1990–2000 growth rates. It is flat. It is actually not flat, as we can see from the angle of my pointer. It actually is declining. Our oil production is declining. Yet if we look at the red line to my left, we will see a line that is labeled oil consumption, and we see that that is going at an angle up and the oil production, field production, is at an angle going down. That means we have a projected shortfall. That is the blue.

How do we make up the difference? How can we possibly have oil consumption up here when we have energy production down here? Does not make sense, does it? Well, it does. Because what fills that blue spot on this chart, what goes in there and fills that big hole is foreign oil. Foreign oil. Our dependency on foreign oil.

Remember the other energy crisis? Many are too young to remember, but the energy crisis in the early 1970s is when we were 40 or 30 percent dependent on foreign oil. Today we are over 50 percent dependent on foreign oil. This gap right here is becoming larger and larger and larger. We need to begin to close oil consumption through conservation, and we need to bring up our energy resources through not just alternative energy but also through our own resources so that we become less dependent on countries like Iraq and so on.

So in my opinion an energy policy needs to be put together by this Congress. And we should commend the President. We do not have to agree with all the elements of an energy policy, but certainly everybody in these chambers should commend the President for at least stepping forward and saying, number one, we need an energy policy, which is a dramatic change from what we have had over the last 8 years under the previous administration; and, number two, we need to put an energy policy together that makes sense on a number of different fronts: Conservation, alternative fuels, research, and further exploration of fossil fuels.

Now, there are some other areas that an energy policy brings up debate on this floor: Nuclear. Nuclear energy. Now, probably some of the most socialistic liberal groups in the world are the Europeans. Guess what, they have a 70 or 80 percent dependency on nuclear plants. The problem with nuclear, of course, is disposal. It burns cleanly, but we have disposal issues. Maybe we ought to put more of our research money into disposal.

Then there is hydropower. That is the energy of movement from water as it drops from a high point to a low point, and we grab that energy as it comes down to spin a turbine to create electricity. The most beautiful thing about hydropower is we do not have to use gasoline. We do not have to fuel it. It is a natural occurrence of energy. We are capturing that natural occurrence of energy. Hydropower is by far the cleanest energy that we have out there, and it uses a renewable resource.

The energy that we use to run our cars, called gasoline, is not renewable. It has become more efficient, and frankly it has to become more efficient than it is today, but it is not renewable. Hydropower provides us with a renewable resource.

So my concluding remarks regarding energy this evening, before I move on to my other subject, are this: Number one, we heard previously comments from my colleagues from California and the State of Oregon.

□ 2310

My message to the State of California is we are not turning our backs on California. We cannot. You are like a brother or a sister. We have 50 states. We all stick together. But the fact is, California, we cannot afford to have you riding in the back of the wagon anymore. We cannot continue to provide your energy or if we do, you will have to pay the price that we need to get to provide it for you. You need to get out of the wagon and help yourself.

California, you have to help 49 other states that are not in the same predicament you are in for good solid reasons. You have got to help them pull the wagon. You cannot continue, California, to sit in the back of the wagon and point at everybody else and blame them for the fact that you are going to have to get out of the wagon and help pull too.

California, the frustration that some of us have on this House floor is the frustration that you do not want to seem to use self-help. In the last 15 or 20 years you have not wanted any self-help. You have refused to allow generation facilities in your State. You have not allowed gas transmission lines in your State for probably 8 or 10 years. You need some self-help.

California is too important to walk away from, even if they were not the economic power base that they are in this country. Even if it was the smallest State of the union like the State of Wyoming for population, we could not afford to walk away from California because we have an inherent obligation to the citizens of America to help our fellow States. But we also have the right within the realm of fairness to say, hey, if you are going to sit by the camp fire, you help collect the fire wood.

Now, from these chambers we should be open to some type of energy policy. The President has got to start it. He has put some ideas on the table. He does not live or die by those ideas, but he has exercised vision for this country and leadership in saying that at least begin the debate, Congress. Let us put an energy policy together, Congress. We cannot afford, as we have done for the last 8 or 9 years, not to have an energy policy. So at least give credit to the President for stepping forward and putting an energy policy on the table.

Now, it is up to us to add or delete. In the elements of that, number one, look at conservation. Number two, look at exploration of fossil fuels and other ways it can be picked up. Number three, ask the legitimate question: How dependent should we be on foreign oil? Is over 50 percent a safe number? Should we continue to buy in that quantity or should we begin to accept a little of that obligation or a little of that reservoir ourselves to go into our own resources? Those are all questions that I hope we have good healthy debate on.

I know next week in several of the committees, including the Ways and Means Committee on which I sit, we are going to have that kind of debate.

So energy is an important thing in this country.

Let me conclude my energy remarks with one final caution. We have seen in the last three or four weeks, although it may not be seen at the local pump, it should be seen at the local pump. If not, there should be questions asked. But the price of gasoline in this country has dropped dramatically in the last 3 to 4 weeks. We now have a position where demand has dropped in part to conservation and supply has increased, so price has dropped.

I am a little concerned that as prices finally begin to drop at the pumps out there as they should, as heating and air conditioning bills begin to drop as they should, as our electrical generation facilities around this Nation become on line, and by the way, if every generation plant currently on the drawing board today is constructed we will have a new one line every day 5 days a week for the next 5 years so we will have adequate electricity, we are going to be put back into that comfort zone. We will not only not be facing an energy crisis, we will have energy comfort.

As we go into that it would be a very serious mistake, probably for our generation, certainly for the next generation, to believe that, one, we do not need to conserve; that, two, we do not need to look at alternative energy for the future; and that, three, we do not have some kind of obligation to continue to meet this generation's needs by looking at our resources located within the boundaries of this country.

Let me move on from that.

Mr. Speaker, I had a discussion last night about public lands in the West, and I had some questions come up today which I thought would be worthy of clarification.

As many of my colleagues know, this is one of my favorite charts. Why? Take a look at this. This chart shows the people of America that there are distinctions, there are differences between the eastern United States and the western United States. Let me just point out a couple of them.

First of all, water. The State of Colorado, and my district is this color, the poster here to the left. My district is about 64,000 square miles. My district is larger than the entire State of Florida. This is the highest point in the United States right here. As a result, we have water and lots of snow. Our State provides water, just the Colorado River, which goes like this, that river alone provides drinking water for 25 million people. But that water comes from snow melt. Colorado, this State in the center of the United States, has no water. It is the only State in the lower 48, Colorado, that has no free flowing water that comes into its State for its use. The only State out of the lower 48.

When one takes a look at water in the West, you have the western United States, a chunk about like this, that is over half of the United States, yet that area that I have just pointed out that I have the pointer on, while it consists of over half the land of the United States, it only has 14 percent of the water in the United States. We do not have much rainfall in the West. In the East, people sue each other to shove water, make sure that water is diverted over to their neighbor's property.

In the West, out in the West, life is written in water. Water is like blood in the West. We are an arid region. I had not seen a heavy rain until I came East. Our rain in Colorado is cold and does not last a long time. Once in awhile we get some heavy storms, but generally we do not get much rain. We depend very heavily in the West on water storage because for about 6 to 8 weeks, we get all of the water we could possibly ask for generally, and that is in the spring runoff as the high snows begin to melt and come down. But the rest of the year we do not have that kind of water. Even that 6 weeks, it is not on a consistent basis. Some years we have more snow, and some years we have less snow.

So in the West, we are dependent on water storage. In the West we have Hoover Dam with Lake Mead and we have the Glen Canyon Dam with Lake Powell that provides 80 percent of our water storage. Our water storage is necessary to get us from year to year. It is not nearly as critical in the East as it is in the West. In fact, primarily a lot of your water storage facilities in the East are flood control. You have got too much water.

Our water storage facilities in the West are also flood control, but primarily utilized to store these waters. That is the difference between the East and the West. Let me tell you another difference between the East and the West, and that is public lands. Follow my pointer over here to the left. In the early days of our country, our population really was on the East Coast like this up in this area. And our Nation began to acquire through the Louisiana Purchase and the Missouri buys and things like that large chunks of land out here. In the East our political leaders decided as we grow this great Nation of ours, we have to figure out how to get ahold of this land and put people out on this land. You see back then, simply having a title, having a piece of paper that said you owned the land, it did not mean a hoot.

□ 2320

What you needed to do if you wanted to own the land is you needed to possess it probably with a six shooter on your side. That is where the old saying came from, "Possession is nine-tenths of the law."

So they came up with a problem, how do we influence people to move to the West? West being just Kentucky, out here in the Virginias. How do we get them to move west? Somebody came up with the idea, "Let's do what we did in 1776."

What did they do in 1776? We all remember that date. What did they do in 1776? Believe it or not, the government decided, hey, let's give land to deserters, or people who will defect, soldiers who will defect from the British army. As a reward we'll give them land if they will be defectors. So let's deploy the same type of strategy, not for defectors but since land seemed to work pretty well then, let's give away land. Let's tell people that if they move to the West, we will give them 160 acres. We'll call it the Homestead Act.

Here is kind of a demonstration of it. In 1862, this is later on, because for a while, we could not get the Homestead Act because the North and the South were constantly fighting because they did not want too much of a population in one area that might go slavery or might be opposed to slavery. But in 1862 the U.S. Congress passed the first of many homestead laws that opened settlement of the West. The law provided that anyone was entitled, either the head of a family, 21 years old or a veteran of 14 days of active service in the U.S. Armed Forces, and who was a citizen or had filed a declaration intending to become a citizen could acquire a tract of land in public domain not exceeding 160 acres. It included federally owned lands in all the States except the original 13, Maine, Vermont, West Virginia, Kentucky, Tennessee and Texas. The land was often desolate without trees, wood or adequate water. Many homesteaders' homes were made of sod bricks from their land. It was a tough life. How do you get people to go out there and live a tough life? You gave them land.

Well, there happened to be a problem. As people began to come out here, they took up those offers of homesteading and they settled. This is where they settled. All of a sudden when they hit, including the eastern district of the Third Congressional District of Colorado, word got back to Washington, D.C., these people aren't settling here. They're either turning back and going back into the main part of the United States or they're trying to go up and around and come out here on the coast of California where you see this large white patch, but they are not settling in this area. That set off alarm bells in Washington.

Remember what I said. In order for us to grow this Nation, we had to have people in possession. So this great Nation of ours that owned these large, hundreds of millions of acres out here but nobody was on them to defend them. Nobody was possessing them. So in Washington, the alarm bells went off. We have got to get people into these lands. Somebody said, well, 160 acres in eastern Colorado or Nebraska or Kansas or out here in Missouri, 160 acres is enough to support a family.

They said, well, in the mountains, at those high elevations, in a lot of cases, 160 acres, it won't even feed a cow.

What do we do? Somebody says, I'll tell you what we do. Let's give the people 3,000 acres. Let's give them several thousand acres, compared to the 160 acres where the ground is much more fertile and where you can support a family.

Somebody else said, we can't do that politically. There's no way that we can give individuals thousands of acres each. Somebody else came up with an idea and they said, you know what we ought to do, just for formality, let's go ahead and keep the title to all this land in the Federal Government, let's just allow the people to use the land. That is where the concept of public lands came from, and that is where the concept of multiple use came from and that is where the sign that I grew up, when I would go into the forest or Federal lands and, by the way, in my district almost every community in my district is completely surrounded by public lands, when we went on those public lands, there was a large sign there, "You are now entering the Roosevelt National Forest, a land of many uses." A land of many uses. That is just what I have here to the left of my chart.

What has happened is of late, we have organizations like the National Sierra Club who would like to take down the water storage project at Lake Powell which consists of about 40 percent of our water storage in the West. We have groups like Earth First that are coming out and trying to educate people out here in the East that in the West all this land, the reason it was never put into private ownership was so that it could be conserved for all future generations and not to be used by the people in the West and really we ought to get rid of the concept of multiple use.

What they do not tell you is there were some lands, like right up there, the great Yellowstone National Park, Teton National Park, fabulous areas. Everybody should go see those areas. Those were set aside specifically as national parks and so on. But this land out here was never intended to be a land with a no trespassing sign on it. It was thought to be a land that could support life, a land of which the people could have multiple uses, whether it was recreation, whether as we know today protection of the environment, whether it was farming or skiing or having a highway or having a power line or having your home or being able to go out and hunt or fish, just watch, be a wildlife watcher. That is a big difference between the East and the West.

In the East they do not know what public land is in a lot of States. In the East not a lot of people understand the issues and the differences between water in the East and water in the West. In the East if you are going to build a power line or something like that, you go to your county planning board. Here in the West, our planning board is right back here in Washington, D.C. So you can see why the people of the West get a little sensitive when people in the East start dictating the terms of which the people in the West must live under.

And so my purpose here tonight, after my discussion last night, was not an attack on the East obviously, but to help my dear colleagues from the East, so that you can talk to your constituents and say, you know, life in the West really is different. I mean, they are Americans, we are one country, but we need to take into consideration public lands and private lands. We need to take into consideration the different water issues of the West, compared with the water issues of the East. We need to take into consideration the fact that in the West, they deal with much different geographic differences, or elevations even, than we do in the East. And as you begin to look at those things, as you begin to hear our side of the story in the West, a lot of you begin to say, wow, I did not realize that. I did not know that. Gosh, that map that you showed us this evening really does show something that we ought to think about, something we ought to consider when we make legislation off this fine floor of the House of Representatives.

So my purpose again to reiterate tonight is simply to demonstrate that there are differences that we must consider as we have legislation dealing with everything from water to public lands.

Mr. Speaker, let me very quickly end my remarks as I started my remarks, and, that is, I wish to honor this evening four firefighters who lost their lives yesterday in service to their country. Those firefighters were Tom L. Craven, 30 years old, of Ellensburg; Karen L. Fitzpatrick, 18 years old, of Yakima; Devin A. Weaver, Devin was 21 years old, of Yakima; and Jessica L. Johnson, who was 19 years old, of Yakima.

If some of you colleagues have just come in towards the end of my remarks, let me tell you that 2 days ago, these four young people were called to service to fight a fire, a fire that started at five acres and within minutes moved to 2,500 acres. From five to 2,500. These firefighters and some of the others that managed to survive on that fire experienced the horror every firefighter has, the bad dream that every firefighter has, and that is called a blowout. These four people fit the classification of the definition of the word hero as we see it in our dictionary, as we feel it in our mind, as we think about it in our emotions.

In my concluding remarks tonight, I would ask that this body and every citizen in America, all your constituents, extend their sympathies and their prayers to the families of these firefighters who lost their young loved ones, and also, it also gives us a little time for consideration. The next time you see a fireman, whether it is a volunteer fireman, professional fireman, a police officer, an EMT or just the local volunteer from the community that helps us take on the battle of fires which we face every summer, pat them on the back, tell them thanks, tell them we care about them.

But tonight, colleagues, before you go to sleep, if you say prayers, and I do, if you say prayers, say just a little prayer for those firefighters who gave their lives in the last 24 hours as the duty of their Nation called.

□ 2330

They answered that call. They fulfilled their duty and they are now part of history. I ask for your consideration and your prayers.

RECESS

The SPEAKER pro tempore (Mr. KERNS). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 31 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0123

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 1 o'clock and 23 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2356, BIPARTISAN CAMPAIGN REFORM ACT OF 2001

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–135) on the resolution (H. Res. 188) providing for consideration of the bill (H.R. 2356) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 36, CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF FLAG OF UNITED STATES

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–136) on the resolution (H. Res. 189) providing for consideration of the bill (H.J. Res. 36) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CAPUANO (at the request of Mr. GEPHARDT) for July 10 and today on account of illness.

Mr. LEWIS of California (at the request of Mr. ARMEY) for July 10 and the balance of the week on account of personal business in California.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Ms. WATSON of California, for 5 minutes, today.

Mr. ROSS, for 5 minutes, today.

(The following Members (at the request of Mr. WALDEN of Oregon) to revise and extend their remarks and include extraneous material:)

Mr. WALDEN of Oregon, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. WELDON of Florida, for 5 minutes, today. (The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WAXMAN, for 5 minutes, today.

ADJOURNMENT

Mr. REYNOLDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 25 minutes a.m.), the House adjourned until Thursday, July 12, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2817. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Aminoethoxyvinylglycine (AVG); Time-Limited Pesticide Tolerances [OPP–301147; FRL–6790–7] (RIN: 2070–AB78) received July 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2818. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Aminoethoxyvinylglycine; Temporary Tolerance [OPP–301144; FRL–6788–7] (RIN: 2070–AB78) received July 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2819. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department's final rule—Application Guidelines for Archeological Research Permits on Ship and Aircraft Wrecks Under the Jurisdiction of the Department of the Navy (RIN: 0703–AA57) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2820. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department's final rule—Disposition of Property (RIN: 0703–AA60) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2821. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department's final rule—Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public (RIN: 0703–AA58) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2822. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department's final rule—Rules Applicable to the Public (RIN: 0709–AA62) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2823. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department's final rule—Assistance to and Support of Dependants; Paternity Complaints (RIN: 0703–AA66) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2824. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department's final rule—Garnishment of Pay of Naval Military and Civilian Personnel for Collection of Child Support and Alimony (RIN: 0703–AA67) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2825. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department's final rule—Rules Limiting Public Access to Particular Installations (RIN: 0703–AA63) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2826. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department's final rule—Naval Discharge Review Board (RIN: 0703–AA64) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2827. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department's final rule—Rules Applicable to the Public (RIN: 0703–AA69) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2828. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General David S. Weisman, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2829. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Group I Polymers and Resins and National Emission Standards for Hazardous Air Pollutants: Group IV Polymers and Resins [AD–FRL–7010] (RIN: 2060–AH47) received July 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2830. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District, Monterey Bay Unified Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management District [CA 071–0283; FRL 6997–6] received July 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2831. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996 and Emission Guidelines and Compliance Times for Large Municipal Waste Combustors that are Constucted On or Before September 20, 1994 [AD–FRL–7010–3] (RIN: A2060–AJ51) received July 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2832. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Finding of Attainment for Carbon Monoxide (CO); Anchorage CO Nonattainment Area, Alaska [Docket No. AK–01–002; FRL–7010–6] received July 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2833. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to Georgia State Implementation Plan [GA–47; GA–52; GA–55–200111; FRL–7009–3] received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2834. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting annual report covered by section 655 of the Foreign Assistance Act of 1961, pursuant to Public Law 104–164, section 655(a) (110 Stat. 1435); to the Committee on International Relations.

2835. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2836. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2837. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2838. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2839. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2840. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2841. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2842. A letter from the Acting Secretary & CAO, Postal Rate Commission, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2843. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Highly Migratory Species; Bluefin Tuna Recreational Fishery [I.D. 051701G] received July 9. 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2844. A letter from the Acting Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Correction to the Emergency Interim Rule; Closure [Docket No, 010112013–1160–05; I.D. 061401A] (RIN: 0648–AO82) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2845. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Quota Harvested for Period 1 [Docket No. 010319071–1103–02; I.D. 061501C] received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2846. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Bycatch Rate Standards for the Second Half of 2001 [I.D. 053101F] received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2847. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Fireworks Display, Hyannis, MA [CGD01–01–090] (RIN: 2115–AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2848. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Festa Italiana 2001, Milwaukee Harbor, Wisconsin [CGD09–01–043] (RIN: 2115–AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2849. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Fireworks Display, Provincetown, MA [CGD01–01–074] (RIN: 2115–AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2850. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Kewaunee Annual Trout Festival, Kewaunee Harbor, Lake Michigan, WI [CGD09–01–045] (RIN: 2115–AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2851. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Lake Erie, Huron, OH [CGD09–01–057] (RIN: 2115–AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2852. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Milwaukee Harbor, Milwaukee, WI [CGD09–01–059] (RIN: 2115–AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2853. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Lake Erie, Huron, OH [CGD09–01–052] (RIN: 2115–AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2854. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Tall Ships Challenge 2001, Moving Safety Zone, Muskegon Lake, Muskegon, MI [CGD09–01–009] (RIN: 2115–AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2855. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Northcoast Rockin' & Roarin' Offshore Grand Prix, Lake Erie and Cleveland Harbor, Cleveland, OH [CG09–01–033] (RIN: 2115–AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2856. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Swampscott July 2nd Fireworks, Swampscott, Massachusetts [CGD1–01–099] (RIN: 2115–AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2857. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Sabine Lake Texas [CGD08–01–013] received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2858. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Disaster Assistance; Debris Removal (RIN: 3067–AD08) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHLERT: Committee on Science. H.R. 100. A bill to establish and expand programs relating to science, mathematics, engineering, and technology education, and for other purposes; with an amendment (Rept. 107–133 Pt. 1).

Mr. BOEHLERT: Committee on Science. H.R. 1858. A bill to make improvements in mathematics and science education, and for other purposes; with an amendment (Rept. 107–134 Pt. 1).

[July 12 (legislative day of July 11), 2001]

Mr. REYNOLDS: Committee on Rules. House Resolution 188. Resolution providing for consideration of the bill (H.R. 2356) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform (Rept. 107–135). Referred to the House Calendar.

[July 12 (legislative day of July 11), 2001]

Mr. LINDER: Committee on Rules. House Resolution 189. Resolution providing for consideration of the joint resolution (H.J. Res. 36) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States (Rept. 107–136). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Education and the Workforce discharged from further consideration H.R. 100 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

Pursuant to clause 2 of rule XII the Committee on Education and the Workforce discharged from further consideration. H.R. 1858 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 100. Referral to the Committee on Education and the Workforce extended for a period ending not later than July 11, 2001.

H.R. 1858. Referral to the Committee on Education and the Workforce extended for a period ending not later than July 11, 2001.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BURTON of Indiana (for himself and Mrs. MORELLA):

H.R. 2456. A bill to provide that Federal employees may retain for personal use promotional items received as a result of travel taken in the course of employment; to the Committee on Government Reform.

By Mr. CANNON (for himself, Mr. BISHOP, Mr. WHITFIELD, Mr. RADANOVICH, Mr. LEWIS of Kentucky, Mr. HUTCHINSON, Mr. GOODE, Mr. SHIMKUS, Mr. PICKERING, Mr. McHUGH, Mr. SAXTON, Mr. JENKINS, Mr. GREEN of Wisconsin, Mr. SHOWS, Mr. KELLER, Mr. PUTNAM, Mr. GRAHAM, and Mr. SWEENEY):

H.R. 2457. A bill to amend the Immigration and Nationality Act to impose a limitation on the wage that the Secretary of Labor may require an employer to pay an alien who is an H–2A nonimmigrant agricultural worker; to the Committee on the Judiciary.

By Mr. TURNER (for himself, Ms. HARMAN, Mr. SANDLIN, Mrs. McCARTHY of New York, Mrs. TAUSCHER, Mr. SCHIFF, Mr. MORAN of Virginia, Mrs. CAPPS, Mr. DOOLEY of California, Mr. McINTYRE, Mr. KIND, Mr. CRAMER, Mr. TANNER, Mr. STENHOLM, Mr. THOMPSON of California, Mr. FORD, Mr. MOORE, Mr. CARSON of Oklahoma, Mr. ROSS, Mr. DAVIS of Florida, Mr. SMITH of Washington, Ms. ESHOO, Mr. ETHERIDGE, Mr. BOSWELL, Mr. BOYD, Mr. BENTSEN, Mr. EDWARDS, Mr. WU, Ms. HOOLEY of Oregon, Mr. HILL, Mr. LAMPSON, Mr. PRICE of North Carolina, Mr. DOGGETT, Mr. HOLT, Mr. LARSON of Connecticut, Mrs. THURMAN, and Mr. GREEN of Texas):

H.R. 2458. A bill to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes; to the Committee on Government Reform.

By Mr. KUCINICH (for himself, Mr. Conyers, Mr. Lewis of Georgia, Mr. Hinchey, Mr. Rahall, Ms. Lee, Mr. Clay, Ms. Woolsey, Mrs. Maloney of New York, Mr. Udall of Colorado, Mr. Brown of Ohio, Ms. Solis, Mr. Farr of California, Mrs. Jones of Ohio, Mr. Stark, Ms. McKinney, Mr. Jackson of Illinois, Mr. Payne, Mr. Sanders, Ms. Jackson-Lee of Texas, Ms. Watson, Mr. Filner, Mr. Davis of Illinois, Ms. Velázquez, Mr. DeFazio, Mr. Gutierrez, Mr. Honda, Mr. Owens, Mr. Evans, Ms. Schakowsky, Mr. Towns, Ms. Carson of Indiana, Mr. Serrano, Mr. Baird, Mr. Holt, Mr. McGovern, Ms. Waters, and Mr. Scott):

H.R. 2459. A bill to establish a Department of Peace; to the Committee on Government Reform, and in addition to the Committees on International Relations, the Judiciary, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOEHLERT:

H.R. 2460. A bill to authorize appropriations for environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology programs, projects, and activities of the Department of Energy and of the Office of Air and Radiation of the Environmental Protection Agency, and for other purposes; to the Committee on Science.

By Mr. ANDREWS:

H.R. 2461. A bill to amend the Federal Election Campaign Act of 1971 to provide for public funding for House of Representatives elections, and for other purposes; to the Committee on House Administration.

By Mr. BRADY of Pennsylvania:

H.R. 2462. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion from gross income for that portion of a governmental pension received by an individual which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year; to the Committee on Ways and Means.

By Mr. BRADY of Texas:

H.R. 2463. A bill to provide limits on contingency fees in health care liability actions; to the Committee on the Judiciary.

By Mr. BRADY of Texas:

H.R. 2464. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for contributions to candidates for Federal office; to the Committee on Ways and Means.

By Mr. BRYANT (for himself and Mr. Hilleary):

H.R. 2465. A bill to amend the Appalachian Regional Development Act of 1965 to add Hickman, Lawrence, Lewis, Perry, and Wayne Counties, Tennessee, to the Appalachian region; to the Committee on Transportation and Infrastructure.

By Mr. COBLE (for himself, Mr. Ehrlich, Mr. Goss, Mr. Barr of Georgia, Mr. Isakson, Mr. Hefley, Mrs. Cubin, Mr. Culberson, Mr. Otter, Mr. Tiberi, Mrs. Biggert, Mr. Hilliard, and Mr. Bachus):

H.R. 2466. A bill to amend title 49, United States Code, to permit an individual to operate a commercial motor vehicle solely within the borders of a State if the individual meets certain minimum standards prescribed by the State, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. COBLE:

H.R. 2467. A bill to suspend temporarily the duty on [3,3′-Bianthra[1,9-cd]ptrazole]-6,6′(1H,1′H)-dione,1,1′-diet yl-; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 2468. A bill to extend the suspension of duty on 3-amino-2′-(sulfato-ethyl sulfonyl) ethyl benzamide; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 2469. A bill to extend the suspension of duty on MUB 738 INT; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 2470. A bill to extend the suspension of duty on 5-amino-N-(2-hydroxyethyl)-2,3-xylenesulfonamide; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 2471. A bill to extend the suspension of duty on 2-amino-5-nitrothiazole; to the Committee on Ways and Means.

By Ms. LOFGREN:

H.R. 2472. A bill to protect children from unsolicited e-mail smut containing sexually oriented advertisements offensive to minors; to the Committee on Science, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROGERS of Michigan:

H.R. 2473. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRABACHER:

H.R. 2474. A bill to amend the Immigration and Nationality Act to specify that imprisonment for reentering the United States after removal subsequent to a conviction for a felony shall be under circumstances that stress strenuous work and sparse living conditions, if the alien is convicted of another felony after the reentry; to the Committee on the Judiciary.

By Mr. ROHRABACHER:

H.R. 2475. A bill to provide for the distribution to coastal States and counties of revenues collected under the Outer Continental Shelf Lands Act; to the Committee on Resources.

By Mr. SANDERS (for himself, Mr. McGovern, Mr. Allen, Mr. Baldacci, Mr. Bishop, Mr. Blagojevich, Mr. Boucher, Mr. Conyers, Mr. Crowley, Mr. DeFazio, Mr. Delahunt, Mr. Evans, Mr. Filner, Mr. Ford, Mr. Frank, Mr. Hinchey, Mr. Lantos, Ms. Lee, Ms. McCarthy of Missouri, Ms. McKinney, Mr. Meeks of New York, Mrs. Mink of Hawaii, Mrs. Napolitano, Mr. Olver, Mr. Owens, Mr. Pascrell, Mr. Payne, Ms. Schakowsky, Ms. Slaughter, Mr. Waxman, and Mr. Weiner):

H.R. 2476. A bill to amend the Highter Education Act of 1965 to increase the funds available for the provision of student financial assistance, and for other purposes; to the Committee on Education and the Workforce.

By Ms. WATERS:

H.R. 2477. A bill to amend title 49, United States Code, to prohibit the expansion of the passenger or cargo capacity of any airport that is located in a county with a population of more than 9,000,000 and that has the capacity to serve 80,000,000 or more air passengers annually; to the Committee on Transportation and Infrastructure.

By Ms. WOOLSEY (for herself, Mr. Filner, Mr. Sanders, Ms. McKinney, Mr. Hoeffel, Mr. Thompson of Mississippi, Mr. Payne, Mr. Baird, Mr. Baca, Mr. Baldacci, Ms. Rivers, Mr. Blumenauer, Mr. Lantos, Mrs. Mink of Hawaii, Mr. Wu, Mr. Honda, and Mr. Udall of Colorado):

H.R. 2478. A bill to establish a balanced energy program for the United States that unlocks the potential of renewable energy and energy efficiency, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Science, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H.R. 2479. A bill to ratify an agreement between The Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes; to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALDEN of Oregon:

H. Res. 187. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. Calvert, Mr. Norwood, and Mr. Wicker.

H.R. 13: Mr. Rohrabacher.

H.R. 17: Mr. Kucinich and Mr. Owens.

H.R. 31: Mr. Bishop.

H.R. 91: Mr. Schaffer.

H.R. 116: Ms. Solis, Mr. Crowley, Mr. Clay, Mr. Horn, Ms. Schakowsky, and Mr. Hoeffel.

H.R. 150: Mr. Green of Wisconsin.

H.R. 169: Mrs. Mink of Hawaii.

H.R. 218: Mr. Davis of Illinois and Mr. Hall of Ohio.

H.R. 303: Mr. Jackson of Illinois and Mr. Lantos.

H.R. 325: Mr. Blumenauer and Mr. Skelton.

H.R. 368: Mr. Pence.

H.R. 369: Mr. Pence.

H.R. 460: Ms. Watson.

H.R. 510: Ms. Eshoo.

H.R. 526: Mr. Ortiz, Mr. Spratt, Mr. Gutierrez, and Mr. Borski.

H.R. 600: Mr. Ross and Mr. Reyes.

H.R. 612: Mr. Hilleary and Mr. Costello.

H.R. 635: Mr. Kucinich.

H.R. 664: Mr. Thompson of Mississippi, Mr. Shows, Ms. Watson, and Ms. Millender-McDonald.

H.R. 678: Mr. Baird.

H.R. 690: Mr. Bonior.

H.R. 709: Ms. Schakowsky and Ms. Brown of Florida.

H.R. 716: Mr. Rothman.

H.R. 717: Mr. Deutsch.

H.R. 721: Mr. Larsen of Washington, Mr. Quinn, Mr. Edwards, and Ms. Berkley.

H.R. 778: Ms. Pelosi.

H.R. 781: Mr. Cramer and Mr. Wynn.

H.R. 817: Mr. Hoeffel, Mr. Brown of Ohio, Ms. Pryce of Ohio, Mr. Dicks, and Mr. Weldon of Florida.

H.R. 839: Mr. Owens.

H.R. 862: Mr. Manzullo.

H.R. 868: Mrs. McCarthy of New York, Mr. Thune, Mr. Davis of Illinois, Mr. LaHood, and Ms. Eshoo.

H.R. 902: Mr. McIntyre.

H.R. 903: Ms. McKinney.

H.R. 917: Ms. Solis.

H.R. 918: Mr. Cardin, Mr. Weiner, and Mrs. Napolitano.

H.R. 933: Mr. Watt of North Carolina.

H.R. 950: Mr. Goodlatte.

H.R. 951: Mr. Rush, Mrs. Biggert, Mr. Scott, Mr. McDermott, Mr. Meehan, Ms. McKinney, Mr. Taylor of North Carolina, Mr. Owens, and Mr. Etheridge.

H.R. 968: Mr. Turner, Mr. Reyes, and Mr. Kerns.

H.R. 975: Mr. Watt of North Carolina.

H.R. 1007: Mr. Horn, Mrs. Tauscher, Ms. Schakowsky, Ms. McCollum, Mr. Rush, Mr. Hall of Ohio, Mr. Weiner, and Mr. Calvert.

H.R. 1014: Mr. Jackson of Illinois, Mr. Clyburn, Mr. Stark, and Mr. Farr of California.

H.R. 1032: Ms. Pelosi, Mr. Sanders, and Mr. McDermott.

H.R. 1038: Mr. Delahunt.

H.R. 1073: Mr. Thompson of California, Mr. Deal of Georgia, Mr. McDermott, Mr. Hefley, Mr. Moore, Mr. Ortiz, and Ms. Watson.

H.R. 1086: Mr. DeFazio.

H.R. 1097: Mr. Allen.

H.R. 1110: Mr. Chambliss.

H.R. 1111: Mr. Rush, Ms. Lofgren, Mr. Horn, Mr. Smith of Washington, and Mr. Cardin.

H.R. 1136: Mr. Calvert, Mrs. Thurman, Mr. Wexler, Mr. Nussle, Mr. Schiff, and Mr. Sandlin.

H.R. 1146: Mr. Hefley and Mr. Sessions.

H.R. 1155: Mr. Rush, Mr. McDermott, Mr. Markey, Ms. Kaptur, Mr. Davis of Illinois, Ms. Eddie Bernice Johnson of Texas, Mrs. Meek of Florida, and Mr. Toomey.

H.R. 1171: Mr. Kennedy of Minnesota.

H.R. 1194: Mr. Coyne, Mr. LoBiondo, Mr. Waxman, and Mr. Kucinich.

H.R. 1263: Mr. Latham.

H.R. 1266: Mr. Issa.

H.R. 1273: Mr. Spence, Ms. Hart, Mr. Ryun of Kansas, and Mr. Goodlatte.

H.R. 1296: Mr. Tiberi, Mr. Ryun of Kansas, Mr. Pascrell, and Ms. Eddie Bernice Johnson of Texas.

H.R. 1298: Mr. Neal of Massachusetts and Mr. Matsui.

H.R. 1310: Ms. McKinney.

H.R. 1354: Mr. Baird.

H.R. 1356: Mr. Kucinich and Ms. Lee.

H.R. 1377: Mr. Norwood, Mr. Scarborough, Mr. LaTourette, Mr. Largent, Mr. Gilchrest, Mr. Jenkins, and Mr. Bryant.

H.R. 1401: Mr. English, Mr. Gilchrest, Mr. LaHood, Ms. Roybal-Allard, and Mr. Peterson of Pennsylvania.

H.R. 1405: Mr. DeFazio, Ms. Norton, Ms. McCollum, Mr. Brown of Ohio, Mr. Brady of Pennsylvania, Ms. Schakowsky, and Mr. McDermott.

H.R. 1427: Ms. Jackson-Lee of Texas.

H.R. 1433: Ms. McCollum and Mr. George Miller of California.

H.R. 1435: Mrs. McCarthy of New York.

H.R. 1459: Mr. Bereuter, Ms. Dunn, Mr. Inslee, and Mr. Peterson of Minnesota.

H.R. 1460: Mr. Stump, Mr. Wicker, Mr. Hall of Texas, Mr. Barcia, Mr. Doolittle, Mr. Otter, Mr. English, Mr. Gordon, Mr. Shadegg, Mr. Smith of Washington, Mr. Lucas of Kentucky, Mr. Nethercutt, Mr. Bartlett of Maryland, Mr. Sununu, and Mr. Kerns.

H.R. 1509: Mrs. Jo Ann Davis of Virginia, Mr. Abercrombie, Mr. Bachus, Mr. Stark, and Mr. Young of Alaska.

H.R. 1524: Mr. Hilleary.

H.R. 1543: Ms. Lofgren.

H.R. 1601: Mr. Peterson of Minnesota.

H.R. 1605: Ms. McKinney.

H.R. 1642: Mr. Lampson.

H.R. 1644: Mr. LaHood and Mr. Fletcher.

H.R. 1675: Mr. Cunningham and Mr. Pence.

H.R. 1679: Mr. Wynn.

H.R. 1682: Mr. Payne and Mr. Smith of New Jersey.

H.R. 1690: Mr. Watt of North Carolina.

H.R. 1723: Mr. Blagojevich, Mr. Engel, and Mrs. Tauscher.

H.R. 1781: Mr. Rehberg.

H.R. 1798: Mr. Latham, Mr. Wexler, and Mrs. Morella.

H.R. 1806: Mr. Levin and Ms. McKinney.

H.R. 1835: Ms. Eddie Bernice Johnson of Texas.

H.R. 1858: Mr. Hall of Texas, Mr. Smith of Michigan, Ms. Eddie Bernice Johnson of Texas, Mr. Ehlers, Mr. Gordon, Mrs. Morella, Mr. Barcia, Mr. Shays, Ms. Jackson-Lee of Texas, Mr. Calvert, Mr. Etheridge, Mr. Bartlett of Maryland, Mr. Udall of Colorado, Mr. Gutknecht, Mr. Baird, Mr. Nethercutt, Mr. Baca, Mrs. Biggert, Mr. Matheson, Mr. Johnson of Illinois, Mr. Israel, Mr. Grucci, Mr. Honda, and Ms. Hart.

H.R. 1862: Ms. McKinney, Ms. Roybal-Allard, and Mr. Tierney.

H.R. 1873: Mr. Bonior, Mr. Blumenauer, and Mr. Baldacci.

H.R. 1891: Mr. Linder.

H.R. 1922: Mr. Waxman.

H.R. 1938: Mr. Blagojevich.

H.R. 1943: Mr. Traficant.

H.R. 1949: Mrs. Napolitano, Ms. McKinney, and Ms. Schakowsky.

H.R. 1950: Mr. Pombo.

H.R. 1956: Mr. Terry.

H.R. 1961: Mrs. Wilson and Ms. Lee.

H.R. 1979: Mr. Watts of Oklahoma, Mr. Doolittle, and Mr. Flake.

H.R. 1990: Mr. Kucinich, Mr. Bonior, and Mr. Clay.

H.R. 1992: Mr. Deutsch.

H.R. 2001: Mr. Nussle.

H.R. 2005: Mr. Bonior.

H.R. 2014: Mr. Terry.

H.R. 2055: Mr. Kolbe.

H.R. 2078: Mr. Deutsch and Mr. Sawyer.

H.R. 2098: Mr. LaTourette, Mrs. Morella, and Mr. Nadler.

H.R. 2117: Mr. Sawyer.

H.R. 2118: Mr. Payne and Mr. Farr of California.

H.R. 2123: Mr. Reyes, Mr. McGovern, Mrs. Jones of Ohio, Mr. Rahall, Mr. Filner, Mrs. Thurman, Mr. Rush, Mr. Baca, Mr. Issa, Mr. Tauzin, and Mr. Gutierrez.

H.R. 2125: Mrs. Davis of California and Mr. Schaffer.

H.R. 2138: Mrs. Capps, Mr. Baldacci, Mr. Sandlin, and Mr. Terry.

H.R. 2143: Mr. Calvert, Mr. Simmons, and Mr. Hefley.

H.R. 2149: Mrs. Roukema.

H.R. 2152: Mr. Hilliard, Mr. Kennedy of Rhode Island, Ms. Kilpatrick, Mrs. Napolitano, Ms. Lee, Mr. Filner, Mr. Frost, Mr. Jefferson, Mr. Faleomavaega, Mr. Bonior, Mr. Hoyer, Mr. Baca, Mr. Stupak, Ms. McKinney and Mr. Honda.

H.R. 2167: Ms. Pelsoi, Mr. Sanders, and Mr. McDermott.

H.R. 2172: Ms. Eshoo, Mr. Towns, Mr. Langevin, and Mr. Wu.

H.R. 2206: Mr. Bonior.

H.R. 2207: Mrs. Meek of Florida and Mrs. Tauscher.

H.R. 2221: Mr. McGovern, Mr. Filner, Mr. Rush, Mr. Nadler, and Mr. George Miller of California.

H.R. 2249: Mr. Isakson and Mr. Manzullo.

H.R. 2283: Mr. Udall of New Mexico, Mr. Rodriguez, Mr. Brady of Pennsylvania and Ms. Woolsey.

H.R. 2286: Ms. Schakowsky and Mr. Price of North Carolina.

H.R. 2348: Mr. Jefferson, Mr. Kildee, Mr. Baird, Ms. Lofgren, and Mr. Rodriguez.

H.R. 2349: Ms. DeLauro and Ms. Lofgren.

H.R. 2365: Ms. Woolsey and Mr. LaHood.

H.R. 2368: Ms. Lee.

H.R. 2369: Ms. McKinney, Ms. Lofgren, and Mr. English.

H.R. 2375: Mr. Neal of Massachusetts, Ms. Rivers, and Mr. Sabo.

H.R. 2377: Mr. Hastings of Florida.

H.R. 2379: Mr. McGovern, Mr. Gutierrez, Mr. Wynn, Mr. Frost, Mr. Rangel, and Mrs. Jones of Ohio.

H.R. 2390: Mr. Sam Johnson of Texas and Mr. Lewis of Kentucky.

H.R. 2413: Mr. Kucinich and Ms. Woolsey.

H.R. 2417: Mr. Watkins and Mr. Herger.

H.R. 2423: Mr. Moran of Kansas.

H.R. 2436: Mr. Peterson of Pennsylvania.

H.R. 2453: Ms. Eshoo.

H.J. Res. 6: Mr. Brady of Pennsylvania.

H.J. Res. 54: Mr. Baker, Mr. Combest, and Mr. Hefley.

H. Con. Res. 17: Mr. Barrett and Mr. Gilchrest.

H. Con. Res. 67: Mr. Green of Wisconsin.

H. Con. Res. 97: Mr. LoBiondo.

H. Con. Res. 102: Mr. Tiberi, Mr. Cummings, Mr. LaTourette, Mr. Levin, Mr. Capuano, Ms. Woolsey, Mrs. Napolitano, Mr. Neal of Massachusetts, Mr. Green of Wisconsin, Mr. Gutierrez, Ms. Eshoo, and Ms. Waters.

H. Con. Res. 116: Mr. Holden, Mr. Gutierrez, and Mr. Terry.

H. Con. Res. 164: Mr. McNulty.

H. Con. Res. 177: Ms. Kilpatrick, Mr. Sabo, Ms. Schakowsky, Mr. Rangel, Mr. McDermott, Ms. Harman, Mrs. Jones of Ohio, Mr. Wynn, Mr. Blagojevich, Ms. Baldwin, Mr. Brady of Pennsylvania, Mr. Langevin, and Ms. Lofgren.

H. Con. Res. 181: Mr. Riley, Mr. Sanders, Mr. Shimkus, Mr. Jenkins, Mr. Moran of Kansas, Mr. Etheridge, and Mr. Kucinich.

H. Res. 26: Mr. Quinn.

H. Res. 173: Mr. Calvert.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2330

Offered By: Mr. Baca

Amendment No. 31: Page 74, after line 21, insert the following new section:

Sec. 741. The amount otherwise provided by this Act in title I under the heading "AGRICULTURAL PROGRAMS—Cooperative State Research, Education, and Extension Service—research and education activities" for an education grants program for Hispanic-serving Institutions (7 U.S.C. 4231) is hereby increased by **$16,508,000**.

H.R. 2356

Offered By: Mr. Bentsen

Amendment No. 1: Amend section 308(a)(1) to read as follows:

(1) in subparagraph (A), by striking "$1,000" and inserting "$2,000"; and

H.R. 2356

Offered By: Mr. Bentsen

Amendment No. 2: Strike subsections (a) and (b) of section 308 and insert the following:

(a) Increase in Limits on Individual Contributions to National Parties.—Section 315(a)(1)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(B)) is amended by striking "$20,000" and inserting "$25,000".

(b) Aggregate Individual Limit.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)), as amended by section 102(b), is amended by striking "$30,000" and inserting "$25,000".

H.R. 2356

Offered By: Mr. Terry

Amendment No. 3: Amend section 308 to read as follows:

SEC. 308. INCREASE IN CONTRIBUTION LIMITS.

(a) Increase in Individual and Political Committee Contribution Limits.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "$1,000" and inserting "$3,000";

(B) in subparagraph (B), by striking "$20,000" and inserting "$60,000"; and

(C) in subparagraph (C), by striking "$5,000" and inserting "$15,000"; and

(2) in paragraph (3) (as amended by section 102(b))—

(A) by striking "$30,000" and inserting "$75,000"; and

(B) by striking the second sentence.

(b) Increase in Multicandidate Limits.—Section 315(a)(2) of such Act (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "$5,000" and inserting "$7,500"; and

(B) by inserting "except as provided in subparagraph (D)," before "to any candidate";

(2) in subparagraph (B)—

(A) by striking "$15,000" and inserting "$30,000"; and

(B) by striking "or" at the end;

(3) in subparagraph (C), by striking "$5,000" and inserting "$7,500; or"; and

(4) by adding at the end the following:

"(D) in the case of a national committee of a political party, to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $15,000.".

(c) Indexing.—Section 315(c) of such Act (2 U.S.C. 441a(c)) is amended—

(1) in paragraph (1)—

(A) by striking the second and third sentences;

(B) by inserting "(A)" before "At the beginning"; and

(C) by adding at the end the following:

"(B) Except as provided in subparagraph (C), in any calendar year after 2002—

"(i) a limitation established by subsection (a), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A); and

"(ii) each amount so increased shall remain in effect for the calendar year.

"(C) In the case of limitations under subsection (a), each amount increased under subparagraph (B) shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election."; and

(2) in paragraph (2)(B), by striking "means the calendar year 1974" and inserting "means—

"(i) for purposes of subsections (b) and (d), calendar year 1974; and

"(ii) for purposes of subsections (a) and (h), calendar year 2001".

(d) Increase in Senate Candidate Contribution Limits for National Party Committees and Senatorial Campaign Committees.—Section 315(h) of such Act (2 U.S.C. 441a(h)) is amended by striking "$17,500" and inserting "$90,000".

(e) Effective Dates.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to calendar years beginning after December 31, 2001.

(2) the amendments made by subsection (c) shall apply to calendar years after December 31, 2002.

EXTENSIONS OF REMARKS

INDIA, RUSSIA AGREE ON $10 BILLION IN DEFENSE CONTRACTS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. BURTON of Indiana. Mr. Speaker, on June 4, the Information Times reported that India and Russia have signed $10 billion worth of defense contracts. This is not good for American interests in the world or for the cause of freedom.

Much has been written lately about the Indian Government's desire to improve its relations with the United States. However, we must not forget that India just recently voted to oust the United States from the UN Human Rights Commission. It supported a Chinese bid to table our resolution condemning Chinese human-rights violations. In May 1999, according to the Indian Express, Defense Minister George Fernandes convened a meeting with the ambassadors to India from Cuba, Communist China, Libya, Yugoslavia, and Russia to construct a security alliance "to stop the U.S." India was an ally of the former Soviet Union and publicly supported its invasion of Afghanistan.

Mr. Speaker, America's national interests are best served by seeking new allies in south Asia. The best way to achieve that is to support the legitimate aspirations for freedom of the occupied and oppressed nations of South Asia such as Khalistan, Kashmir, Nagalim, and several others by means of a free and fair plebiscite under international supervision on the question of independence. Until India allows that democratic vote and permits all the minorities and every citizen to exercise their rights freely, we should cut off all aid to India. That should focus their attention on practicing democratic principles, not on grabbing every available military technology in pursuit of hegemony in South Asia. These are the best measures we can take to support the cause of freedom in the Indian subcontinent.

Mr. Speaker, I would like to place the Information Times article of June 4 into the RECORD.

INDIA, RUSSIA SIGN ABOUT 10 BILLION DOLLARS DEFENSE CONTRACTS

RUSSIA, 4 June 2001 (VOA): India and Russia have signed defense contracts worth some $10 billion as the two countries seek to increase their military cooperation.

The signing came during a visit to Russia by Indian Foreign Minister Jaswant Singh.

Singh arrived in Moscow late Sunday for a series of meetings with Russian officials that will also focus on the United States' proposal for a national missile defense system.

Russia opposes the plan, while India has indicated it is open to the idea.

Among the agreements already concluded are major Indian purchases of Russian Su-30MKI fighter jets and T-90 tanks.

Russian Deputy Prime Minister Ilya Klebanov says the two countries will sign an agreement later this year to jointly develop a military transport aircraft and a next-generation fighter plane.

Klebanov says contracts for the sale of a Soviet-era aircraft carrier to India will be signed later this year.

India has traditionally been one of the largest customers for Russian weapons.

RECOGNITION OF THE VETERANS OF WORLD WAR II

HON. MICHAEL FERGUSON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. FERGUSON. Mr. Speaker, in recent years there has been an increased movement to recognize veterans of World War II. Despite improved awareness, there are many veterans whose heroic efforts to preserve this great country are still overlooked. Accordingly, we must continue to take greater strides to demonstrate the appreciation and gratitude these loyal Americans deserve for the sacrifices they made.

During World War II, tens of thousands of U.S. POWs were captured and either killed under unspeakable conditions or forced into slave labor for Japanese companies. After the United States surrendered its forces on the Bataan Peninsula, Philippines in early 1942, the infamous 60-mile Bataan Death March claimed the lives of hundreds of Americans. In fact, more than 14,000 American POWs perished from disease, starvation, injury, brutality or execution at an appalling 40 percent death rate that proved it was more deadly to be a prisoner of the Japanese than to fight in battle. The prisoners who survived the Bataan Death March were joined by other American prisoners who were taken at Corregidor and throughout the Pacific—Guam, Wake Island, and survivors of the sinking of the U.S.S. *Houston.*

Any words used to describe the conditions these American prisoners faced cannot do justice to the pain and suffering that they experienced. Upon arrival in Japan and Japanese-occupied territories such as Manchuria, they were sent to work as slaves for some of Japan's richest companies like Mitsubishi and Nippon Steel—companies that remain wealthy and powerful today.

The U.S. played an instrumental role in the discussions between German companies and their victims during the Holocaust litigation, and it is now time that our government extend the same gesture of gratitude and support for the POW veterans of World War II. As such, I am proud to voice my strong support for H.R. 1198, the "Justice for United States Prisoners of War Act of 2001", introduced by Representatives DANA ROHRABACHER (R–CA) and MICHAEL HONDA (D–CA).

I applaud Representatives ROHRABACHER and HONDA for their leadership in bringing these Japanese companies to justice on behalf of the well-deserving veterans who suffered and lost their lives. The bipartisan legislation will rightfully allow American POW's to sue Japanese companies in U.S. state or federal court for losses and injuries sustained during the time they were imprisoned and forced into slave labor. Moreover, the bill also provides that if Japan enters into peace settlement terms with another country more beneficial to that country than to the United States, those additional benefits will also be extended to the United States.

I believe our POWs, who have given years of their lives to serve the cruel interests of our wartime enemies should at least be allowed the opportunity to have their grievances redressed in an international court of law. As a nation, which has thrived because of the sacrifices of these brave men, we must do everything in our power to recognize and repay their courageous efforts.

We owe it to these POW's—both the survivors and those killed in action—who made immeasurable sacrifices for the brighter future of this great nation. We owe it to their families, who also made sacrifices by losing precious days, weeks and months with loved ones who were off serving, preserving the peace and freedom we have in this country today.

CONSECRATION OF FATHER JACOB ANGADIATH

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. HASTERT. Mr. Speaker, today, I would like to congratulate Father Jacob Angadiath, who will head up the newly created diocese in Chicago to serve Syro-Malabar Catholics in the United States and Canada. The consecration of Father Angadiath as bishop of the diocese will take place on July 1st.

Earlier this year, Pope John Paul II created the new diocese to serve the Syro-Malabarians of North America. The Syro-Malabar Archiepiscopal Church is an Eastern Catholic Church with more than 3 million faithful, and they trace their roots to St. Thomas the apostle, who brought the Gospel to Southern India. Though the vast majority of Syro-Malarbians live in India, about 75,000 live in North America, including about 7,000 in Chicago.

The creation of the new St. Thomas Syro-Malabar Catholic diocese of Chicago is truly a recognition by Pope John Paul II of this faithful community, which refers to itself as "oriental in worship, Indian in culture and Christian in religion." It is the first Syro-Malabar diocese outside of India.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I want to again congratulate Father Angadiath, and wish him the best of luck as he takes on his new responsibilities as bishop. The St. Thomas Syro-Malabar Catholic diocese will provide a spiritual home for the Syro-Malabar Catholics outside of India, and it will be a wonderful addition to Chicago's many other religious communities.

CONGRATULATING STEVE SAMUELIAN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Steve Samuelian for being presented with the Chair's Award from the United Way of Fresno County (UWFC). The Chair's Award is selected by the Chair of the Board of Directors of the UWFC, and is awarded to the board member who has demonstrated outstanding service to community improvement.

The main goal of the United Way is to maximize financial resources in order to build a healthier community while improving the quality of life. Steve's exemplary service to the UWFC has helped advance the mission, values, and goals of the United Way. In addition to his work on the Board of Directors, Steve recruited and chaired the Leadership Giving Committee of the United Way of Fresno County. The Leadership Giving Committee is the group that recruits and handles major donors to the United Way of Fresno County. The amount of contributions to this committee has doubled under Steve's guidance.

Steve serves on the Board of Directors of the Clovis District Chamber of Commerce and participates in the National Education Association's Read Across America Program. He is also a member of the Resource Development Committee for the Fresno Leadership Foundation. In addition, Steve is actively involved in the Armenian-American community, and serves on the Board of Advisors for the Armenian Studies Program at California State University, Fresno.

Mr. Speaker, I want to congratulate Steve Samuelian for earning the United Way of Fresno County Chair's Award. I urge my colleagues to join me in recognizing Steve Samuelian's contributions and dedication to the community.

TRIBUTE TO COLONEL TIMOTHY M. DANIEL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate and pay tribute to Colonel Timothy M. Daniel, who recently retired from the United States Army Corps of Engineers where he served as Chief, Commander's Planning Group. He has distinguished himself, the Army, and our nation with dedicated service.

Colonel Daniel, originally from Wyoming, enlisted as a soldier in 1970. Following his tour of duty as a construction surveyor and instructor, he returned to the University of Wyoming where he graduated in 1975. He accepted a ROTC commission and reentered active duty in July 1975.

Colonel Daniel is a graduate of the engineer officer basic and advanced courses, Command and General Staff College. He holds a bachelor's degree in International Relations. A master's degree in Public Administration and attended Harvard University's John F. Kennedy School of Government as a fellow in their national security program.

Prior to his assignment as Chief, Commander's Planning Group, United States Army Corps of Engineers, he served as the Garrison Commander of the United States Army Garrison, Fort Leonard Wood, Missouri. His other commands include the 35th Engineer Battalion and company command at the United States Army Engineer Center, serving again at Fort Leonard Wood, Missouri.

Other assignments of Colonel Daniel include Long Range Planner, Strategic Plans and Policy Division, Office of the Chief of Staff for Operations and Plans at Headquarters, Department of the Army: Area Engineer for Israel: executive officer, 14th Combat Engineer Battalion, TRADOC Liaison Officer to the French Corps of Engineers, Angers, France; and Group Engineer, United States Army Artillery Group, Cakmakli, Turkey.

Mr. Speaker, Colonel Daniel has dutifully served our nation. As he prepares to spend more time with his wife Carol and his children, Thomas and Kelly, I know the members of the House will join me in expressing appreciation for his years of service.

IN HONOR OF ARTHUR MAYER, JR. WHO HAS BEEN ELECTED NATIONAL PRESIDENT OF THE BENEVOLENT AND PROTECTIVE ORDER OF ELKS

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Arthur Mayer, Jr., who formally became President of the Benevolent and Protective Orders of Elks on Saturday, July 7, 2001. Mr. Mayer assumed his presidency at the 133rd Elks National Convention in Philadelphia, Pennsylvania.

Arthur Mayer, Jr. is a native of Bergenfield, New Jersey and has been an active member of the Bergenfield Elks Lodge #1477 for the past 35 years. In 1978, he was appointed District Deputy Grand Exhalted Ruler for the Northeast District of New Jersey. He also served as President of the New Jersey Elks Association from 1985 to 1986. As President of the New Jersey Elks Association, he managed and supervised over 120 lodges throughout New Jersey.

The Benevolent and Protective Order of Elks of the United States of America is one of the largest fraternal organizations in the country. Currently, over 1.2 million men and women serve as members of this prestigious association. In the organization's 132-year history, it has disbursed over $2 billion in goods and services for patriotic and civic programs that assist armed service veterans and students in over 2,000 communities nationwide.

As a result of his hard work and diligent efforts, Arthur Mayer, Jr. has helped improve the lives of thousands of families across the country.

Today, I ask my colleagues to join me in honoring Arthur Mayer, Jr. for his commitment to helping others and for his years of distinguished service at the Benevolent and Protective Order of Elks of the United States of America.

INTRODUCTION OF THE "QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR PROTECTION ACT OF 2001"

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. SIMMONS. Mr. Speaker, I rise today with my colleague from Massachusetts, RICHARD NEAL, to introduce the "Quinebaug and Shetucket Rivers Valley National Heritage Corridor Protection Act of 2001."

The bill would provide for the implementation of a management plan for the Corridor to protect resources critical to maintaining and interpreting the distinctive character of the Quinebaug and Shetucket Rivers Valley National Heritage Corridor.

Created by Congress in 1999, the Quinebaug-Shetucket Rivers Valley National Heritage Corridor (QSHC) encompasses about 695,000 acres in northeastern Connecticut and south-central Massachusetts.

Called "the Last Green Valley" in the sprawling metropolitan Boston-to-Washington, D.C. corridor, the QSHC has successfully assisted in the development and implementation of integrated cultural, historical, and recreational land resource management programs that has and will continue to retain, enhance and interpret these significant features. But much more needs to be done, which is why Mr. NEAL and I introduced this legislation.

The QSHC will embark on two very significant projects. The Green Valley Institute is an expansion of the successful natural resource education program that will serve as a key educational tool for the scores of volunteers who work on the municipal boards, committees and commissions making those important decisions regarding land use and natural resource conservation. The program will also provide much needed information in estate planning, forestland management, and technical assistance in GIS training and other important technology. The Green Valley Institute may be the single most important program that the QSHC can provide its 35 towns.

The other significant project is the planning and consideration of the Gateway Center proposed for I–395 in Thompson, Connecticut. Many entities in northeast Connecticut and south-central Massachusetts are looking to the

QSHC as the unifying element to carry the project forward.

The Gateway Center will fill a significant need for the communities, businesses, attractions and recreational facilities in the region.

It's imperative that the Quinebaug-Shetucket Rivers Valley National Heritage Corridor be given the resources to continue to conserve, celebrate and enhance the significant historical, cultural, natural and scenic resources in the region while at the same time promoting a quality of life based on a strong, healthy economy compatible with the region's character.

The Quinebaug and Shetucket Rivers Valley National Heritage Corridor Protection Act will go a long way toward accomplishing these important goals. I hope my colleagues will join Rep. NEAL and me in support of this worthy initiative.

RECOGNIZING MISS ARKANSAS 2001 JESSIE WARD

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. ROSS. Mr. Speaker, It is with honor and great pride that I wish to recognize and congratulate the new Miss Arkansas 2001 Jessie Ward, who was crowned Saturday, June 16th, in Hot Springs, Arkansas. Jessie is a native of my hometown of Prescott, and I have watched her grow up since she was a little girl.

Jessie has always been a caring, talented, and hard-working young lady.

At her first press conference following her crowning as the new Miss Arkansas, Jessie said that during the competition she wanted to be different—to stand out, if you will—while remaining true to herself. I think it's safe to say she succeeded. In the talent competition, she performed an energetic tap-dance routine to "The King of Pop," a medley of hits by the world famous pop singer, Michael Jackson. Her performance earned her preliminary talent winner honors as well as the coveted $1,000 Coleman Dairy Talent Scholarship.

During an on-stage interview, Jessie explained to the crowd that she enjoys not only bass fishing with her father, but also a rather unique hobby, taxidermy. In her words, she said, "to me, taxidermy is an art form, and everyone needs a little art in their life."

In addition to her hobby, Jessie is also co-authoring a book with her mother, Karen Ward, on perseverance, which is something I think we could all use a lesson on from time to time.

Jessie's platform as a contestant, and now as Miss Arkansas, is School Violence Prevention Awareness, and she has spent the past three years traveling through Arkansas and Texas to promote this message. In her program, she stresses the importance of recognizing warning signs and being aware of safe reactions to potentially violent situations. Just recently, she has developed a scholarship program to reward a graduating senior each year who exhibits dedication to his or her school and community.

Jessie is affiliated with the National Center for the Prevention of School Violence, and her goal, she says, is to rally the state and national governments for funding of preventative programs and to reach at least two schools in every school district in Arkansas with her school violence prevention message.

I know this is an issue that she cares very deeply about, and I want to applaud her for her interest and leadership in helping to make our schools and communities safer.

Jessie is currently completing undergraduate degrees in biology and radio, television, and film at the University of Arkansas at Little Rock. She plans to attend medical school and begin working in rural medicine—something that is very important to south Arkansas. She eventually hopes to establish herself as a medical correspondent in the national broadcast arena.

Again, I say to Jessie, "Congratulations. We're proud of you, and we wish you all the best."

HONORING WAIN JOHNSON

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor the retirement of Wain Johnson after his twenty years faithful dedication to Mariposa County. Mr. Johnson's agricultural vision revised and shaped Mariposa County's grape growing industry.

In March of 1981, Wain began working as the University of California Farm Advisor for Mariposa County. Wain is a past President of the Mariposa Wine Grape Growers Association. His impact on the grape growing industry, in Mariposa County has been great. Wain's dream was for the county to become a premier grape growing and winemaking region. He helped Mariposa County realize this dream by educating the County's grape growers, providing classes and seminars in viticulture to local farmers.

Mr. Speaker, I am pleased to pay tribute to Wain Johnson for his service to the people of Mariposa County. I urge my colleagues to join me in wishing him a long and happy retirement.

PERSONAL EXPLANATION

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. MOORE. Mr. Speaker, on June 25, 2001, I inadvertently failed to record my vote on vote No. 4187, H. Res. 99. This motion to suspend the rules adopted a resolution that would urge Lebanon, Syria and Iran to push Hezbollah to allow Red Cross staff to visit four Israelis abducted by that group in Lebanon last year. I strongly support this resolution and intended to vote "aye."

RECOGNITION OF FORT CHADBOURNE, COKE COUNTY, TEXAS

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. STENHOLM. Mr. Speaker, I rise today to recognize Fort Chadbourne, which is located in Coke County, Texas. I commend local citizens, including Garland and Lana Richards, along with many others who have worked to preserve this important part of Texas history.

A part of the Texas Fort Trails, Fort Chadbourne was established in 1852 as one of eight frontier posts set up to provide settlers protection while venturing into the Indian Territory. It also provided a stage stop for the Butterfield Overland Mail Route. The Fort, which is listed in the National Registry of Historic Places, is open to the public for the first time in 120 years.

The Fort Chadbourne Foundation, established in 1999 to preserve and protect the Fort, is currently in the process of stabilizing the Fort ruins and also plans to restore four buildings. In addition, the Foundation has raised more than $1,000,000 and is pursuing funding through the Statewide Transportation Enhancement Program in order to establish a visitors center and museum. The center will enable visitors to learn the history of the Fort and the area.

I wish to include in the RECORD an excellent article by Preston Lewis, a free-lance writer based in San Angelo, that appeared in Sunday's edition of The Dallas Morning News.

I know that many of my colleagues join me in recognizing the important historic preservation work at Fort Chadbourne.

[From The Dallas Morning News, July 8, 2001]

PIECES OF THE PAST, FORT CHADBOURNE PRESERVATION WORK IS COUPLE'S MISSION

(By Preston Lewis)

FORT CHADBOURNE, Texas.—Not until college did Garland Richards truly realize that not everyone grew up with a genuine frontier fort in the back yard.

Today the 49-year-old, sixth-generation Coke County rancher is opening up his back yard so that all of Texas can share his fascination with the ruins that provided his imagination such a captivating playground during his youth.

Mr. Richards' mission—or possibly his obsession—is to preserve the history of Fort Chadbourne and to stop the deterioration of the remaining structures. Ultimately, he and his wife, Lana, hope to build a visitors center where travelers on U.S. Highway 277 between San Angelo and Abilene can stop for a break and a history lesson.

"Fort Chadbourne has been good to our family," Mr. Richards said. "It's been home. It's been shelter under the storms and a place where you could keep your saddles dry. The historical value of Fort Chadbourne, which I took for granted for so many years, belongs not just to our family but to everyone."

Through his personal research of books and of original source materials in Texas repositories and the National Archives, Mr. Richards estimates that about 6,000 soldiers were stationed at the fort during its brief life. In addition to those and the various other men and women associated with frontier forts, hundreds if not thousands more traveling the Butterfield Trail stopped at the stage station adjacent to the fort.

Established Oct. 28, 1852, by Companies A and K of the 8th U.S. Infantry, Fort Chadbourne was the midpoint of a line of U.S. military posts stretching from the Red River to the Rio Grande in pre-Civil War Texas. The fort was named for 2nd Lt. Theodore Lincoln Chadbourne, who had died in the Battle of Resaca de la Palma during the Mexican War.

Though officially closed as a military post in 1867 in favor of the newly established Fort Concho about 45 miles to the southwest, the site and buildings continued to be used by the Army in West Texas through 1873).

Three years after the Army left the site for good, T.L. Odom—Mr. Richards' great-great-greatgrandfather—purchased the half section encompassing the fort near Oak Creek and another half section where the Army cut its timber.

Mr. Odom established the O–D Ranch headquarters at the fort site. That land and the fort have been in the family ever since. The property today is known as the Chadbourne Ranch, and it encompasses

"Back then, Fort Chadbourne didn't mean anything to them other than a place to stay, a roof to keep the rain off their heads and some place to get in out of the sun," Mr. Richards said.

The roofs on all of the fort structures are gone now. During a 1957 West Texas windstorm, the last surviving roof was blown off a barracks building that was being used as a tool and tack shed.

Today, that barracks's roofless sandstone walls, some with prickly pear growing out the top, are braced against collapse as they are being prepared for a stabilization project that should be completed by the end of the year.

FATHER WAS INSPIRATION

Mr. Richards' father, the late Conda Richards, provided both the inspiration and the grubstake for him to revive Fort Chadbourne from gradual decay and to save its legacy from historical oblivion.

"He and I talked at length about preserving the fort," Mr. Richards said. "He was excited and very supportive."

When his father died in 1998, Mr. Richards used all of the money from his inheritance to start the Fort Chadbourne Foundation, a 501 (c)3 nonprofit charitable foundation.

"It has been a learning process from the word go," he said. "I've run budgets on cattle and I've run budgets on wheat and everything else, but as far as me going in and making a seven-year projected budget on a fort and submitting it to the IRS for a 501 (c)3, I was pretty much at a loss."

Mr. Richards majored in agriculture at Angelo State University, but over the last five years, he and his wife have probably earned the equivalent of a Ph.D. in history, grant-writing and nonprofit management in their efforts to preserve the fort and its heritage.

Mrs. Richards said she has supported her husband in the project from the beginning.

"I'm not as knowledgeable a history buff as Garland is, but this is the kind of enterprise where he and I can use our strengths," she said. "I told him if he wanted to go to grant-writing classes, I'd go with him. I'm not the writer he is, but I'm a better speller. What he can't come up with, I usually can."

She has learned that the history can become fascinating.

"You never know what you are going to come up with," she said. "Today I've been taking pictures where we uncovered some more stones with names carved on them. That is exciting, a real energizer."

The creation of the foundation opened up the possibility of grant monies to support the work that the couple had been funding out of their own pockets. It was more money than Mr. Richards cares to admit, plus "four years of our lives."

To help cover the expenses, they started writing grant proposals. Through support from the Summerlee Foundation, the Dodge-Jones Foundation and the Texas Historical Commission, they have brought in an additional $414,000.

RESEARCH PROJECT

In addition to the stabilization project, the grants have helped fund a billboard on Highway 277 pointing to the turnoff to the ruins. A historical research project is in progress to identify documents and other primary source materials necessary to write the first history of Fort Chadbourne.

Each fall, the foundation also has a fund-raiser for the preservation efforts. The event includes reenactors, programs on the fort, and skits reflecting stories and vignettes from the fort's past. Last year, for instance, Mr. Richards included in the program a newly discovered letter from the post surgeon to the War Department stating in the most formal language that he was unable to give his monthly meteorological report in full because the Comanches had stolen his rain gauge. This year's fund-raiser is scheduled for Sept. 22.

"We've looked every way we could look trying to figure out a way for Fort Chadbourne to pay for itself," Mr. Richards said. "We've pretty much determined that Fort Chadbourne will never pay for itself or make an income. As far as the dollars Lana and I have invested in the fort, I don't think that anybody will ever recover those dollars. This is just something I wanted to do, and I convinced her that we needed to do it."

If the site can be preserved and developed, Mr. Richards said he believes it can bring in significant revenue to the area. He said studies indicate that visitors to historic sites spend an average of $94 a day in the area.

"If we are capable of bringing in 80,000 visitors a year, which the numbers indicate to us we are capable of doing," Mr. Richards said, "theoretically, that could put another $7.5 million into the economy of San Angelo, Abilene, Ballinger, Bronte and Winters."

Even if the economics of the fort never reach that level, Mr. Richards said he's glad he made the effort to save Fort Chadbourne.

"It has been a lot of work, but it's been a lot of fun. I've met some neat people along the way and they are what keeps us going," he said.

For example, an article on the Texas Forts Trail in the November issue of Texas Highways ran a photograph of a carved inscription in the barracks wall: Albert Haneman, Oct. 19, 1858, Co. B 2 Cav.

Two days after the magazine appeared on newsstands, Mr. Richards received a call from John and Laura Haneman of Austin, indicating that Albert Haneman was his great-grandfather. Barely weeks after the photo appeared, Haneman family members from Austin and El Paso met at Fort Chadbourne for a family reunion and the chance to see in person the graffiti of their ancestor.

"I've got a cool job," Mr. Richards said. "It doesn't pay well, but things like that are what makes what we are doing worthwhile."

HONORING LARRY HOLMAN ON HIS RETIREMENT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to honor Larry Holman on the occasion of his retirement later this summer. Mr. Holman has served 30 years as the Bureau of Indian Affairs' Superintendent for Education of the Eastern Navajo Agency. Since beginning his BIA career in 1966 as a Wingate Elementary school teacher, he has dedicated his life to bringing equal opportunity education to the Navajo youth of New Mexico.

Mr. Holman has seen many changes during his term. In the late sixties, families would bring their children to school in horse-drawn wagons. In the seventies, there was a lot of pressure to only emphasize English instruction. One of his many distinguished accomplishments was instituting a new Bureau of Indian Affairs personnel system. Through his efforts, BIA teachers' salaries were raised to equal the Department of Defense teacher's rate. This led to a superior teaching staff, and it has increased the quality of education for students.

Such dedication to our teachers and our students, the future of our world, is one of the greatest gifts that a person can give. Mr. Holman has touched many lives and affected a strong beginning for a successful education for many New Mexicans.

Today we recognize Larry Holman's distinguished career and his remarkable service to the youth of the Navajo nation. Mr. Speaker, I believe that I speak for every citizen in the State of New Mexico when I extend our congratulations and best wishes for a retirement filled with happiness.

TRIBUTE TO THE LATE POLICE OFFICER LOIS MARRERO

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. DAVIS of Florida. Mr. Speaker, today I joined thousands of Floridians in saying goodbye to one of Tampa's finest, Police Officer Lois Marrero, who was struck down when a bank robber opened fire on four pursuing officers. Marrero was Tampa's first female police officer killed in the line of duty, but she will be remembered in Florida for so much more.

A devoted officer, Marrero never let her diminutive stature slow her down. Today, her friends and colleagues recalled her feisty spirit, her dedication to the job and as one officer described it, her "heart that was twice as big as her physical size."

Marrero, who was just 15 months shy of retirement, impressed her superiors throughout her career for her energy and professionalism. She was praised for her crime fighting efforts in Ybor City's neighborhoods, and as head of the Tampa Police Department's community affairs bureau and gang suppression units, Marrero was credited for cutting back a rash of car thefts that plagued our city in the mid-1990s.

To her friends and family, Marrero will be remembered as a caring person who was always ready to lend a helping hand. In the words of one neighbor, Lois Marrero was "the kind of person you could count on."

For those of us who never had the privilege of getting to know Officer Marrero, it is our duty to remember Lois for the ultimate sacrifice that she made to keep our community safe. This terrible tragedy reminds us that law enforcement officers put their lives on the line every day to protect us and our families, friends and neighbors. In honoring Lois Marrero, we show our gratitude to the entire law enforcement community.

So today, on behalf of the citizens of Tampa Bay, who came together this week in an outpouring of sympathy, prayers and tributes, I thank Officer Marrero and Tampa's Police Department for their commitment to our neighborhoods and I send our deepest sympathies to Lois' family, friends and colleagues for this great loss.

TRIBUTE TO DR. RICHARD W. McDOWELL

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. KNOLLENBERG. Mr. Speaker, today I pay tribute to Dr. Richard W. McDowell, the longest-serving President in Schoolcraft College's history. He will be retiring on June 30, 2001. Dr. McDowell has been a great asset to his students, and served the Michigan educational community with diligence and excellence. In addition to his tenure as president, he has served on numerous educational and commerce boards, including the Livonia Chamber of Commerce, American Association of Community Colleges, and Council of North Central Two-year Colleges.

After completing his tenure as vice-president and acting-president at two community colleges in Pittsburgh and Florida respectively, Richard McDowell joined Schoolcraft College in 1981, and helped guide the college through a 20-year period of academic growth and brilliance. On this end, he achieved high standards in increasing staff development, employee recognition, and provided the necessary direction to establishing the Business Development Center that has generated a billion dollars in grants to various local companies.

The increased funds have enabled Schoolcraft College to be expanded considerably, which has made for a livelier and richer educational environment for students. On May 16th, 2001 the college broke ground on a $27 million facility that will house a state-of-the-art information technology center, and it's culinary arts department, which is recognized nationally.

Through his dedication and hard work to Schoolcraft College and the Michigan educational community, Dr. McDowell is a prime example of the kind of people that we need running the affairs of colleges and universities dedicated to providing the best environment and education possible to our students. I congratulate Richard on his fine achievements and wish nothing but the best in his future endeavors.

A TRIBUTE TO KELLY AIR FORCE BASE

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. RODRIGUEZ. Mr. Speaker, on Friday, July 13, 2001, after 85 years the flag will be brought down for the final time at Kelly Air Force Base in San Antonio, Texas. In recognition of this momentous occasion I offer the following tribute of Kelly AFB and its lasting legacy to the United States Air Force, the nation, and the San Antonio community.

Seventy-four years after Travis, Crockett and Bowie manned the battlements at the Alamo, a different kind of warrior made his appearance over the South Texas City of San Antonio. He rode on wings of wood and fabric. In January 1910, on orders from Major General James Allen, Chief of the Army Signal Corps, Lieutenant Benjamin Foulois established a flying field at Fort Sam Houston, Texas. Foulois arrived at the Fort with a Wright flyer, the only airplane in the air service. In April 1911, three young Army officers joined Foulois fresh from Glenn Curtiss' Flying School at San Diego. Among them was a thirty-year-old lieutenant from London, England, George Edward Maurice Kelly. Kelly immigrated to America, enlisted in the United States Army and eventually received his citizenship and gained a commission. Volunteering for duty in the Air Service, he trained briefly with Curtis and then joined Foulois at San Antonio. Lieutenant Kelly's aviation career would be short lived. On May 10, 1911, he crashed his Curtis Type-4 Pusher into the brush near Fort Sam Houston's Drill Field. Lieutenant Kelly became the first American military aviator to die in the crash of a military aircraft. Six years later, one of the nation's premier flying fields would bear the name of this brave young aviator.

Lieutenant Kelly's death caused the Commander at Fort Sam Houston to call a halt to flying at the Post. Aviation didn't return to the Alamo City until November 1915, when the First Aero Squadron arrived from Fort Sill, Oklahoma. It did not stay long. In March 1916, the Mexican Revolutionary leader, Pancho Villa, attacked Columbus, New Mexico, and the First Aero Squadron, commanded by Foulois, joined a punitive expedition commanded by General John J. Pershing. Within months all its few aircraft were grounded. With World War I raging in Europe, it was clear that American military aviation needed to expand. Foulois, now a major, was called upon to form new squadrons and find a training site. In November 1916, he returned once again to San Antonio. Lacking space to expand at Fort Sam Houston, Foulois looked for another site for an aviation camp, choosing a 700-acre track of land southwest of San Antonio. The land was leased in January 1917. What was once cotton, cabbage, mesquite and cactus, was overrun with men and machines clearing the way for a landing field. On April 5th 1917, the first four planes slid out of the sky to land at the new field. The United States entered World War I the next day. Named Kelly Field in July, the new field was seen training aviators, mechanics, and support personnel destined for duty in France. Within 18 months, Kelly was the largest aviation training, classification and reception center in the United States. With the end of the war to end all wars, Kelly Field was consumed by the lethargy that follows most armed conflicts. The United States adopted an isolationist attitude and military aviation lapsed into a period of near hibernation. Aircraft that has been built for war were now turned to barnstorming and amusement. Throughout the nation aviation camps and depots were closing, but at Kelly Field the pace had merely slowed not stopped. For a time, all the active flying groups were stationed at Kelly. Then in 1922, the Air Service restructured its training program, making Kelly home to the Air Service Advanced Flying School. For the next two decades, Kelly would become famous as the alma mater of the Air Corps. during these years, some of aviation's greatest names pressed the rudder pedals of Kelly trainers. Early graduates of the Advanced Flying School include "long eagle" Charles Lindbergh; General Curtis LeMay, cigar chopping advocate of strategic air power; and future Air Force Chiefs of Staff Hoyt S. Vandenburg, Thomas D. White, John McConnell and George S. Brown.

With the acquisition of more land west of Frio City Road in 1917, Kelly Field was divided into two areas, Kelly Number I and Kelly Number 2. While Kelly Number 2 was busy turning out dashing aviators, Kelly Number 1, renamed Duncan Field in 1925, was engaged in a less glamorous task of aviation supply and maintenance. This humble stepchild spawned out of necessity would eventually thrive and go on to become an Air Force logistical giant. By 1935, most world powers were struggling to free themselves from the grip of worldwide depression. In Germany, Adolph Hitler had seized the reigns of power. On the other side of the globe, Japan was running rampid through Manchuria. The clouds of depression were clearing, but clouds of war were rapidly taking their place. Aircrew training at Kelly was stepped up; courses were conducted in nearly every form of military aviation including attack, pursuit, observation and bombardment. Paved runways and permanent facilities sprouted throughout the installation. When Japanese bombs rained on Pearl Harbor on December 7th, 1941, Kelly Field was ready to take its place as a major cog in America's war machine. Midway through World War II, Kelly's logistical role came to the forefront. Pilot training moved to Randolph and other new airfields while an organization known as the San Antonio Air Service Command sought to repair and supply the nation's aerial fighting force. In two short years, the workforce expanded from 1,000 too over 20,000. Many were women, Kelly Katies, the Kelly equivalent of Rosie the Riverter. Peace came in August 1945. Kelly Katy went home. The base paused, caught its breath, and then put itself to the task of supporting the most powerful Air Force in the world. one September 18, 1947, president Harry S. Truman signed the national Security Act. Among the articles contained in this legislation was one establishing the Air Force as an independent military service. Duncan Field and Camp Normoyle had been absorbed during World War II, and in January 1948, the field became Kelly Air Force Base. Within a year, the base would once more respond to an international challenge. The Russian bear was putting paw prints all over Eastern Europe. When the Soviets attempted to slam the door on West Berlin, allied air power came to its rescue. Kelly engine maintenance shops operated night and day. Pratt and Whitney R2000 engines rolled off the production lines destined for installation on C–54 aircraft flying the Berlin Airlift. The Russian bear hug on Berlin was broken after 11-months of Herculean effort by crews, aircraft and dedicated support by San Antonio Air Materiel Area workers. Less than a year later, the outbreak of the Korean War dropped the temperature of Cold War even further. Kelly personnel labored around the clock to prepare B–9 bombers and Mustang fighters for service overseas. The outdoor lighting lit up the sky at night and became famous as San Antonio's "Great White Way". Nuclear deterrent was the "watch word" and Kelly's people worked in support of the intercontinental B–36 bomber, the first capable of flying anywhere in the world, dropping its nuclear payload and returning home. Its Pratt and Whitney R4360 engines monopolized Kelly's overhaul facilities for over a decade. A proud yet poignant story revolves around the cargo version of the B–36. The XC–99 transport was the largest cargo aircraft ever built until the advent of the massive C–5A. The huge bird nested at Kelly and from this base of operations set numerous cargo hauling records, but logistics theorists at the time balked at having too many eggs in one basket. Cost of maintaining this one-of-a-kind aircraft grew prohibitive. It not sits next to Kelly's runway; silently watching the C–5s fly the role it pioneered.

In the early '50s, propeller whine was replaced by jet roar. Boeing B–47s, first operational all jet strategic bombers, began to line Kelly ramps awaiting their turn to pass through the overhaul and modification lines in building 375, at that time the world's largest hangar. They would be followed by a succession of aerial armament including the B–58 Hustler, the F–102 Delta Dagger, and now the venerable B–52 Stratofortress. For over forty-five years the B–52 filled the role of manned strategic bombers; and for thirty-six of those years, the San Antonio Air Materiel Area and its successor, the San Antonio Air Logistics Center, strengthened its airframe and modified its offensive and defensive capabilities. In January 1970, a cavern with wings shared the maintenance area with the camouflaged B–52s. It is the world's largest aircraft, the Lockheed C–5. This enormous cargo and troop carrier, longer than the area covered by the Wright brothers' first flight, was the most ambitious workload ever assumed by this or any other Air Logistics Center. From the tip of its liftable nose, to the top of its five-story tail, the C–5 was a Kelly management responsibility for over 35 years. Less visible was the vital support given to other aircraft and weapon systems. Kelly personnel managed over half of the Air Force engine inventory, repairing and managing the C–5's TF39 engine and the F100 engine, which powers the F–15 and F–16 aircraft. Kelly personnel also managed engines for the T–37 and T–38 trainers, the A–10 Attack aircraft and C–130 transport. Other members of the Kelly team manage all the fuel used by the Air Force and NASA and monitor all Air Force nuclear weaponry.

Although the Berlin Wall came down in 1989, Kelly AFB remained a vital part of American defense of freedom. During Operation JUST CAUSE in December 1989, Kelly was a staging area for troops on their way to Panama and was a reception point for wounded Americans. Less than a year later Kelly's people worked 24–hour days in support of American and Allied efforts to drive Iraqi invaders from Kuwait in Operations DESERT SHIELD/DESERT STORM. By March 1991, Kelly had sent nine million pounds of munitions to the theatre of operations along with 7,400 tons of other supplies and 4,700 passengers. In April 1999, Kelly employees again were called upon to perform their "logistical magic." Engines were surged to support NATO's efforts to end brutal ethnic cleansing in Kosovo.

Even before the end of the Cold War, America's military services saw their budgets grow smaller, and by the early 1990s, people expected to see a "peace dividend" to help reduce the budget deficit and pay for soaring costs of social services. Continuing efforts to cut defense spending by relocating some missions and closing some bases put Kelly and the San Antonio Air Logistics Center at risk. In May 1993, the Base Realignment and Closure Commission added the San Antonio ALC and three other air logistics centers to its list of places to conisder for closure. While Kelly escapted the bullet in 1993, it did not do so again. In 1995 the BRAC was determined to close one, or possibly, two of the Air Force's giant depots. Once again, the city and the base marshaled its forces to persuade the commission that this depot was too important to close. Despite heroic efforts, on June 22, 1995, the commission voted first to close the Sacramento ALC at McClellan AFB in California and then voted to close the San Antonio ALC and realign Kelly AFB west of the landing strip to the adjoining Lackland AFB. The ALC would close July 31, 2001.

The center had the maximum of six years to relocate its missions and turn over a going concern to the city's redevelopment authority. Center officials used three guiding principles in its planning: the first was continued support to maintain Air Force readiness; the second was taking care of the Kelly work force; and finally, minimizing the impact on the San Antonio Community.

Both the city and the Air Logistics Center were determined to make this transition a success. Kelly created the Privatization and Realignment Directorate, headed by Tommy Jordan, to handle the Air Force side of the operation. The city created the Greater Kelly Development Corporation (later Authority) to carry out the strategies and plans to redevelop the base. The group went right to work, signing its first lease for a portion of East Kelly to Rail Car Texas for a rail car repair facility. Less than a month later, aircraft engine giant Pratt & Whitney signed a lease to perform upgrades on the F100 engines. And in November 1997, Ryder International Logistics, Inc. signed a lease for warehouse space.

However, the dream to keep all of the Center's workload at Kelly never materialized. The Air Force ran public-private competitions for Kelly's workload. The first went to another ALC. In September 1997, the Air Force announced that Warner Robins ALC won the C–5 depot maintenance contract. Only 200 Kelly workers moved to the Georgia base, but thousands upon thousands of pounds of equipment necessary for C–5 maintenance were loaded on 18-wheelers for the trek to south Georgia. Over the next year, as workers finished maintenance on the C–5s, Kelly's giant aircraft hangar got emptier and emptier. On 15 September 1998, the last C–5 to undergo PDM at Kelly lifted off the runway, ending nearly eight decades of aircraft depot maintenance.

But building 375 didn't remain empty for long. On 20 February 1998, representatives from Boeing, GKDC, and the city of San Antonio signed letters of intent for the lease of five buildings. Workloads at the new Boeing Aerospace Support Center included C–17s, KC–10s and KC–135s for the Air Force and MD–10s for commercial companies like Federal Express. By May 1999, this new center had over 1,300 employees with prospects of more workload and more workers every day.

Kelly's other large workload, the Propulsion Business Area, went on the bidding block in March 1998. In February 1999, the Air Force announced that Oklahoma City ALC and its bidding partner Lockheed Martin had won the contract. The news for Kelly and San Antonio was not all bad, however. Early on, Oklahoma City ALC announced it was only interested in Kelly's F100 workload, which left in December 1999. Work on the TF39 and T56 engines, and about 1,400 former Kelly federal workers, would stay at Kelly in building 360 under contract with Lockheed.

The rest of Kelly's depot maintenance workload, automatic test equipment, gas turbine engines, and ICBM reentry vehicles for example, moved to the other ALCs between 1997 and 2000. The remaining three ALCs picked up Kelly's materiel management responsibilities beginning with ICBM reentry vehicle items in August 1997 and ending with secondary power systems in June 2001. In the intervening four years, millions of pounds of equipment needed to perform Kelly's various missions left the base for their new homes across the country.

Kelly's remaining base operating support transitioned to Lackland AFB, beginning with the 76th Medical Group in October 1999. The final realignment of base support and Kelly's major tenant units to Lackland was completed by April 2001. Meanwhile, the GKDA's vision of a "new Kelly" had taken off. The city-appointed authority renamed the base KellyUSA as a way to convey the nonmilitary focus of the burgeoning 2,000-acre industrial and commercial park. By 2000, GKDA was already well on its way to its goal of replacing the civil service jobs lost at Kelly.

Although the flag came down on the San Antonio Air Logistics Center on July 13, 2001, it was not the end of Kelly's story. Kelly's legacy will live on for generations. Kelly was a place where people from all backgrounds came together to roll up their sleeves and work for a united cause—our country's freedom. For 85 years Kelly AFB made major contributions to the military strength of the United States and the prosperity of San Antonio. Kelly was the largest single employer in San Antonio and South Texas for over 50 years, and year-after-year Kelly was the largest contributor to the Combined Federal Campaign within the city. Kelly was a place where the workers prospered, purchased better homes, and provided family members the resources to pursue more education and more opportunities. Kelly Field provided tens of thousands of civil service jobs, and was the birth and backbone of the Hispanic middle class in the Alamo City. Generations of Hispanic families were employed at Kelly throughout its history, and, today many of the city business leaders and even congressional members have their roots as Kelly families.

For decades the men and women of Kelly AFB dedicated their hearts and lives to the service of their country. From its beginnings as a farmer's cotton field in 1916, Kelly became the largest recruit and aviation training camp in the United States during World War I. In the interwar years, Kelly served as the Alma Mata of the Air Corps while its neighbor Duncan Field provided repair and supply support for America's small air arm.

Following World War I, Kelly became one of the country's largest logistical supermarkets, supporting the Air Force around the globe. During the most recent conflicts of JUST CAUSE, DESERT SHIELD/DESERT STORM, and Kosovo, the Kelly employees had the greatest logistical support of all the ALCS, shipping more components, more engines, and more munitions. From the beginning of Kelly Field to the end of the San Antonio Air Logistics Center, the logistical impact and support of Kelly and its employees were vital for the United States to be successful in completing the mission. Today, Kelly transitions again, becoming KellyUSA, an industrial, commercial park for the 21st century. But, throughout this tradition of service remains and will continue to be—Kelly Forever!

HONORING EDWARD PAELTZ

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. SHIMKUS. Mr. Speaker, I rise today to honor Mr. Edward Paeltz of Godfrey, Illinois. Mr. Paeltz is a veteran of World War II and was recently awarded the "General William C. Westmoreland Award" from the National Society of the Sons of the American Revolution for his distinguished service to veterans.

Since he was discharged from the Army 55 years ago, Edward Paeltz has spent countless hours helping veterans in need of care. With the help of his wife, Nancy, he frequently visits veterans in hospitals, nursing homes, and veterans homes throughout Illinois. During the Christmas season, he brings them cookies and other gifts to put a smile on their faces. In addition, Mr. Paeltz helps transport veterans from the Veterans Hospital in Marion, Illinois, to a lodge and retreat center in Carbondale so they can participate in recreational activities.

Edward Paeltz is a former commander of Alton American Legion Post 126. He recently fulfilled his dream by designing and organizing the construction of a Veterans' Memorial in Alton, Illinois, to honor the veterans of all branches of the armed forces. Mr. Paeltz is an inspiration to us all.

A TRIBUTE TO HERB OBERMAN

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Ms. SOLIS. Mr. Speaker, I rise today to recognize the retirement of Mr. Herb Oberman, who will step down from his job as a Los Angeles County social worker on July 12, 2001. A dedicated public servant, Herb has served the people of Los Angeles County for the past 35 years.

Herb has proven that he truly cares about protecting children's rights. He received his Master's Degree of Social Work from the University of California Los Angeles in 1966 and spent seven years dedicating himself as a Children's Service Worker in the Foster Care Program. In 1973, he participated in the formation of Community Service Centers.

Herb has served on the board of directors of several social service organizations. He is the past president of the Santa Clarita Valley Girls and Boys Club and served on the board of directors of the Los Angeles Regional Foodbank between 1973–1993.

Herb Oberman's contributions have received recognition for his programs, which include the Los Angeles Efficiency and Productivity Program administration of the Los Angeles Citizenship Assistance Campaign; the Ford Foundation's "Innovations in State and Local Government" award in 1986 for his administration of the county's Federal Food Commodities Distribution Program; and the Parents Fair Share Project, a national demonstration project which helps noncustodial parents find employment and pay.

As Herb moves on to new pursuits, I would like to thank him for his remarkable work. I ask my colleagues to join me in honoring his hard work and extraordinary contributions and wish him luck on his retirement.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

SPEECH OF

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes:

Mr. UDALL of New Mexico. Mr. Chairman, I would like to explain my position on the Kucinich amendment that would reduce funding for the National Ignition Facility at Lawrence Livermore National Laboratory and move some of the NIF money into the nonproliferation programs of the national Nuclear Security Administration. There is clearly a need to avoid the damage that would occur to our nonproliferation programs if funding is not increased. The President made a mistake in his budget when he made deep cuts in the non-proliferation programs. The cuts make little sense in a world where many nations have the capability and desire to develop weapons of mass destruction including nuclear, chemical and biological weapons. We must therefore increase our capability to monitor developments around the globe in this area.

The President's budget already cuts the NIF programs. I support that cut given the troubling history of this program. I am very concerned about the recent GAO report findings, which concluded that not only will NIF cost at least $1 billion more than planned and take six years longer than expected to begin operations, but also that the program poses a serious number of unresolved technical problems. Moreover, because of the critical nature of the GAO findings, the agency reportedly is doing a follow-up report, which it intends to submit to Congress.

Mr. Speaker, furthermore, in an article in the Albuquerque Tribune, the Director of Sandia National Laboratory, Mr. Paul Robinson, criticized NIF suggesting there be a reduction in its design and cost to protect other nuclear weapons program components. Moreover, a report by Dr. Robert Civiak, a physicist and former OMB Program Examiner for the Department of Energy, spells out the need to cancel NIF before any further spending occurs.

For these reasons and others, Congress needs to closely examine the NIF program and determine whether it warrants future funding. That is why I am voting NO on the Kucinich amendment.

PROJECT VOTE SMART

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. HYDE. Mr. Speaker, I was recently informed of the efforts of an organization called Project Vote Smart—a group of dedicated individuals who work tirelessly in a non-partisan fashion to develop dependable facts about various national and state issues affecting all Americans while encouraging eligible citizens to vote. I am pleased to share some background information about the organization, which I hope my colleagues will find interesting and beneficial.

PROJECT VOTE SMART

A few years ago a handful of people, a mixture of young energetic students and retired leaders from fields in politics, academia and various other civic fields, held a meeting about the increasing use of media and technology by campaigns to manipulate information, and the citizen's diminishing access to dependable, abundant information on issues and political candidates.

That meeting gave birth to Project Vote Smart (PVS), a small 501(c)(3) now engulfed in its own success. In the beginning the idea seemed simple: use young people from throughout the country to collect millions of documented facts about issues, candidates and other pertinent information about politics; index the information and then categorize it so that citizens could easily access the information through local libraries, toll-free hot lines, the internet and published reports.

Specifically, the Project is in a national library of factual information on over 40,000 candidates and incumbents in public office—all presidential, congressional, gubernatorial, state legislative seats, county, and local candidates and incumbents. They are researched in five basic areas: backgrounds, voting records, campaign finances, performance evaluations by over 100 conservative to liberal special interests, and campaign issue positions on the issues they will likely have to deal with if elected.

Project Vote Smart does not lobby, support or oppose any candidate or cause, and does not accept financial support from any organization that does—it is supported entirely by philanthropic foundations and the individual contributions of over 45,000 members. Election-year programs are sponsored by over 4,000 public libraries and hundreds of national and local news organizations. National leaders are not allowed to join the founding board without a political opposite—founding board members are national leaders as diverse a Goldwater and McGovern, Carter and Ford, Hatfield and Ferraro, Gingrich and Dukakis. PVS is staffed by volunteers, interns and a small staff paid only minimal salaries. They are conservatives and liberals of various parties who have volunteered for up to two years in order to help citizens get the facts about candidates instead of just the rhetoric.

TRIBUTE TO 2001 LEGRAND SMITH SCHOLARSHIP FINALISTS

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is a sincere pleasure to recognize the finalists of the 2001 LeGrand Smith Scholarship Program. This special honor is an appropriate tribute to the academic accomplishment, demonstration of leadership and responsibility, and commitment to social involvement displayed by these remarkable young adults. We all have reason to celebrate their success, for it is in their promising and capable hands that our future rests:

Brian Anderson of Lansing, Michigan; Nicole Beil of Tecumseh, Michigan; Leah Brady, of Battle Creek, Michigan; Jeremy Connin of Jackson, Michigan; Lindsay Elliott of Pittsford, Michigan; Calby Garrison, of Onsted, Michigan; Aaron Heinen of Battle Creek, Michigan; Sarah Holliday of Hillsdale, Michigan; Stephanie Lallemand of Battle Creek, Michigan; Tabbetha McLain of Quincy, Michigan; Molly Miller of Marshall, Michigan; Jessica Muterspaugh of Spring Arbor, Michigan; Teresa Reinker of Horton, Michigan; Adam Shissler of Jackson, Michigan; Anna Vanderstelt of Charlotte, Michigan; and Randi Wigent of Reading, Michigan.

The finalists of the LeGrand Smith Congressional Scholarship Program are being honored for showing that same generosity of spirit, depth of intelligence, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan. They are young men and women of character, ambition, and initiative, who have already learned well the value of hard work, discipline, and commitment.

These exceptional students have consistently displayed their dedication, intelligence, and concern throughout their high school experience. They are people who stand out among their peers due to their many achievements and the disciplined manner in which they meet challenges. While they have already accomplished a great deal, these young people possess unlimited potential, for they have learned the keys to success in any endeavor. I am proud to join with their many admirers in extending our highest praise and congratulations to the finalists of the 2001 LeGrand Smith Congressional Scholarship Program.

HONORING THE RETIREMENT OF SERGEANT RON PACKARD, OFFICER JOE REIS AND OFFICER JOHN NYIKES OF THE UNION CITY POLICE DEPARTMENT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. STARK. Mr. Speaker, on July 14, 2001, the Union City Police Department will celebrate the retirement of three of its finest officers, Sergeant Ron Packard, Officer Joe Reis and Officer John Nyikes.

Sergeant Ron Packard began his law enforcement career with the Union City Police Department on November 1, 1968. His first assignment was undercover at a local high school, posing as a student. During the day, he attended classes with the intention of identifying sales and distribution of illegal drugs on campus. In the evenings, he completed class homework assignments and police reports. Sergeant Packard progressed in his career and was promoted from Officer to Sergeant on January 16, 1974. He has served as a Firearms Instructor and Range Master, SWAT member, and has supervised a number of divisions, including Traffic Investigations and Patrol. Sergeant Packard was instrumental in developing the Union City Police Department's current Canine Program and is currently the Canine Program Manager. During his off-duty hours, Sergeant Packard enjoys participating in local and international Police and Fire Olympic Games, and is the recipient of numerous silver and gold medals in archery.

Officer Joe Reis, President of the Union City Police Officers Association, began his career in law enforcement on December 16, 1974. During his tenure with the Union City Police Department, Officer Reis worked as a Field Training Officer for ten years. He was responsible for training new Police Officers in Union City and assisted in developing a Recruit Training Manual for the Department. Officer Reiss continued his enthusiasm for teaching by becoming the instructor of "Introduction of Administration of Justice" at James Logan High School for five years. In addition, Officer Reis was one of the Department's Firearms Instructors for nineteen years and was assigned as the Court Liaison Officer with the District Attorney's Office for four years. For the past eight years, Officer Reis has served on an assignment he considers the most rewarding, as a D.A.R.E. officer working with the New Haven Unified School District.

Officer John Nyikes began his career in law enforcement as a Detroit Police Officer for eight years where he was awarded a meritorious citation. He was hired by the Union City Police Department on July 2, 1980. While assigned Patrol duties with the Department, Officer Nyikes worked as a Field Training Officer and was responsible for training new police officers in Union City. Officer Nyikes was transferred from the Patrol Division to the Investigations Division where he has received many letters of commendation for his teamwork and clearances of crimes ranging from homicides to arson, and recovery of stolen property.

I am honored to join the colleagues of Sergeant Packard and Officers Reis and Nyikes in commending them for their many years of dedicated and exemplary service to law enforcement. They have left their indelible mark of excellence on the Union City Police Department.

PAYING TRIBUTE TO LANSING, MI, FOR "HIGH GROWTH" STATUS

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the City of Lansing, Michigan, for having been named one of the top five cities in its population category for high-growth companies. The National Commission on Entrepreneurship released a study on High Growth Companies this week. This study was the first of its kind and examined entrepreneurial-growth companies in communities across the country.

Surprisingly to some, but not to the people of Michigan, the report found that the bulk of high-growth companies in the past ten years are not in "high tech" areas, but are instead found in the industrial sectors of America.

High-Growth status is achieved by few companies. It is given only to those that have attained a 15% employment growth per year for 5 years or 100% employment growth over 5 years.

Among the communities recognized for High-Growth is the City of Lansing, Michigan, located in the 8th Congressional District, in the heart of Michigan and the greater Mid-west. Since 1996, the city of Lansing has generated more than 300,000 new jobs, more than New York, Los Angeles, or San Diego.

I urge my colleagues in the U.S. House of Representatives to join me in congratulating and expressing pride in the city of Lansing, Michigan, and the community businesses that work for job growth and development of the city's entrepreneurial landscape.

PERSONAL EXPLANATION

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. WATTS of Oklahoma. Mr. Speaker, I was unavoidably detained due to a delayed flight arriving into the Ronald Reagan National Airport on July 10, 2001, and unfortunately missed the following recorded votes: No. 211 on H. Con. Res. 170; No. 212 on H. Con. Res. 168; and No. 213 on H. Con. Res. 174.

I ask that the RECORD reflect that, had I not been delayed, I would have voted "yea" on all of the above bills.

TRIBUTE TO ERIN DOHERTY OF JONESVILLE, MI, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. SMITH of Michigan. Mr. Speaker, It is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Erin Doherty, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Erin is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Erin Doherty is an exceptional student at Jonesville High School and possesses an impressive high school record. Erin has received numerous awards for her academic achievement and her success as a young athlete. She is active in student government, serving as President of her class, and participates in the high school and pep bands. Erin is active in S.A.D.D. and the Jr. Rotary, Interact.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Erin Doherty for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

TRIBUTE TO THE 18TH ANNUAL FREMONT FESTIVAL OF THE ARTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. STARK. Mr. Speaker, I would like to pay tribute to the 18th Annual Fremont Festival of the Arts sponsored by the Fremont Chamber of Commerce. The two-day Festival, to be held on July 28 and 29, 2001, is expected to attract over 450,000 attendees and has become a model of success for the modern festival. This single event provides some $400,000 in contributions to non-profits for the betterment of communities in Fremont, California.

Over 780 artists, 35 culinary selections and 20 bands will be featured at the Festival. Three thousand volunteers give willingly of their time to contribute to the Festival's success.

It takes generous and concerned individuals, such as the volunteers, to reach out and make a difference, ensuring promise and opportunity for this and future generations. It also takes the support of business sponsors and patrons to ensure the success of the Festival.

The Festival typifies the spirit of community service, which is alive and thriving in Fremont. I am proud to salute the efforts of this year's Festival Chairman, David M. O'Hara, the organizers, the volunteers, the sponsors and the patrons of the Fremont Festival of the Arts for their generous and untiring efforts to ensure continued success.

PAYING TRIBUTE TO THE LANSING BOARD OF WATER & LIGHT

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the proactive efforts of the Lansing Board of Water and Light in Lansing, Michigan, to develop a program aimed at using environmentally friendly energy to generate the electricity it provides in the Lansing metropolitan area.

The Board of Water and Light has launched a Green Wise Electric Power program that encourages customers to voluntarily pay an additional minimal fee to cover the added cost of purchasing electricity from "clean" sources. The program allows the municipal utility to buy some or all of its electricity from clean, renewable sources such as wind, water and biomass generation. While the cost of cleaner electricity may be higher than that provided through conventional sources such as coal or natural gas, the environmental advantages make this a highly worthy program.

As America struggles to meet its environmental challenges, the Lansing Board of Water and Light has shown extraordinary vision and commitment to protecting our precious resources while continuing to meet the electric power needs of its customers. They are working hard to achieve that balance between environment and economy which is essential for the future of every community across the nation.

I urge my colleagues in the U.S. House of Representatives to join me in congratulating the Lansing Board of Water and Light and to extend to its board of directors and staff our admiration for their service in the interest of the nation, the State of Michigan, and their own community. We wish them well in their future endeavors.

PERSONAL EXPLANATION

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Ms. CARSON of Indiana. Mr. Speaker, on Tuesday, July 10, I was in my district attending to official business and as a result missed rollcall votes 211, 212 and 213. Had I been present, I would have voted "yea" on all three votes.

TRIBUTE TO ELLEN V. FUTTER, NASA PUBLIC SERVICE MEDAL RECIPIENT

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. NADLER. Mr. Speaker, I rise to express my pride, and that of New York, that on June 21, 2001, Ellen V. Futter, President of the world-renowned American Museum of Natural History, was awarded NASA's prestigious Public Service Medal by NASA Administrator Daniel S. Goldin. She was presented this medal in recognition of her leadership in advancing the highest quality science education.

Through Ms. Futter's leadership, the American Museum of Natural History is bringing NASA's cutting-edge science to children and families of New York, the nation, and the world through the Rose Center for Earth and Space and the NASA-sponsored National Center for Science Literacy and Education Technology. Her achievements rest on a keen appreciation of the importance of scientific literacy in the 21st century and a unique vision for bridging the gap between science and the public.

With the leadership of Congress, the American Museum of Natural History and NASA have forged a productive scientific and educational partnership that advances their shared goals of advancing science and scientific literacy nationwide. The National Center for Science Literacy, Education, and Technology was conceived by the Museum; approved, advanced, and supported by Congress; and sponsored by NASA. It is a model partnership of which we can all be proud.

Founded in 1869, the American Museum of Natural History is one of the nation's preeminent science and education institutions. Throughout its history, its efforts have been directed to its twin missions: to examine critical scientific issues and increase public knowledge about them. Its rich scientific legacy includes an irreplaceable record of life on Earth in collections of some 32 million natural specimens and cultural artifacts. The Museum's power to interpret wide-ranging scientific discoveries and convey them imaginatively has inspired generations of visitors and educated millions about the marvels of the natural world and the vitality of human cultures.

I congratulate Ellen Futter, the American Museum of Natural History, Daniel Goldin and NASA on their remarkable accomplishments.

TRIBUTE TO KRISTIN ANDERSON OF BROOKLYN, MICHIGAN LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Kristin Anderson, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Kristin is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Kristin is an exceptional student at Columbia Central High School and possesses an impressive high school record. Kristin has received numerous awards for her excellence in academics, as well as her involvement in soccer and volleyball. She is active in student government, serving as President of the National Honor Society and Secretary of the student body. Kristin's volunteer efforts include helping to organize a local coat drive and working with the Toys for Tots Program.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Kristin Anderson for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

IN HONOR OF THE LATE JUSTICE STANLEY MOSK

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Ms. PELOSI. Mr. Speaker, I rise to pay my final respects to California Supreme Court Justice Stanley Mosk. It is with great sadness and deep respect that I share with my colleagues the following words on the life of Justice Stanley Mosk.

Justice Mosk was born in San Antonio, Texas, graduated from the University of Chicago Law School, and in 1933 he moved to California. Justice Mosk served for his country in WWII before returning to his family and career as a judge of the Superior Court in Los Angeles. Justice Mosk was elected Attorney General in 1958 with an overwhelming million vote majority—the largest of any election that year. During his six years as the Chief Law Officer of the State of California he argued before the United States Supreme Court in the Arizona v. California water case and other landmark cases before the California Supreme Court. In 1961 Justice Mosk was credited with persuading the Professional Golf Association to admit African American golfers. In 1964 Justice Mosk was appointed to the California Supreme Court by Governor Pat Brown.

Justice Mosk was an astute, independent thinker whose tenure as a California Supreme Court Justice was both brilliant and controversial. As Mosk's former colleague California Chief Justice Ronald George stated correctly, "Stanley Mosk was giant in the law". He revealed that status by writing nearly 1,500 opinions while serving for 37 years, the longest tenure of any California Supreme Court Justice. Stanley Mosk continued his tireless efforts until his last day. Each year in the last decade, Justice Mosk authored more opinions than any other Supreme Court Justice. Although widely considered a liberal, he chose not to abide to any limitations on his opinions. On several occasions, Justice Mosk's decisions stunned the legal and political community.

As Justice Mosk traveled extensively, he observed the South-West Africa case at the World Court, on behalf of the State Department. He lectured throughout Africa thereafter. Justice Mosk traveled to the Netherlands in 1970 to participate in summer sessions of The Hague Academy of International Law at the Peace Palace. Justice Mosk lectured at Universities throughout the United States as well.

Justice Mosk was valued and respected by his colleagues. He will be remembered as a passionate proponent of the will of the law. Justice Mosk was one of the most influential figures in shaping California law and his death brings a void to the bench that will not easily be filled. Justice Mosk was confirmed for a new twelve-year term in November of 1998. Sadly, he was not able to fulfill the wishes of the California people. The death of Justice Stanley Mosk is a tremendous loss to the California Supreme Court, to California, and to America's judicial system. My thoughts and prayers are with Justice Mosk's wife Kaygey, and his son Richard. We will all miss him greatly.

RICHARD HENRY LEE "DICK" KOPPER, 1948–2001, A JOURNALIST, A PRESS SECRETARY AND A FRIEND IS REMEMBERED

HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. WAMP. Mr. Speaker, on Monday, July 2, 2001 in the historical federal courthouse where a consummate young reporter named Dick Kopper gained his reputation for accuracy, integrity and style, many of his friends and admirers gathered for his memorial service. They laughed and cried together in his honor and memory.

Prominent citizens from law, government, journalism and academia came to remember the unique life and times of a brilliant journalist, press secretary, friend and associate who loved life and who was loved by all that came to know him well. They remembered a man of unfailing honesty, of incurable curiosity and a keen sense of humor.

For more than 6 years, Dick Kopper served as my Press Secretary, but he was much, much more than that. He was a valuable resource. If I needed to find a quotation from Sir Winston Churchill or President Ronald Reagan—I would simply ask Dick. If I needed sound policy advice on a difficult decision pending before the House—I would ask Dick. Even if I needed to know where a semicolon went instead of a simple comma—I would always ask Dick. His institutional knowledge consistently amazed me.

As I said at the memorial service, if you knew Dick you would know that he loved Episcopal High School, The University of the South, The Chattanooga Times and it's reporters, the Republican Party and this great nation. He read, he wrote and he ran (3 miles or so) virtually every day. He also loved to tell stories, do impersonations and he especially loved to talk politics.

Before joining my Washington staff in 1995, Dick was a reporter for The Chattanooga Times for 23 years. During the time that he covered the federal courts, many of his colleagues fondly remember Dick making his way through the courthouse—extremely tight lipped—so as not to let on to his latest story.

Dick's extensive political knowledge was also useful in the successful 1994 campaign of Senator Fred Thompson—where he served as the Tennessee Press Secretary.

Even at the end, Dick was courageous and unselfish. He knew that his illness was serious but he downplayed its effect on his life. Before going into the hospital, he worked every day and insisted to many people that if the doctors hadn't told him that he was sick, he would not have known it. He was a professional in every sense of the word. Dick's spirit was inspiring and his grace was impeccable.

He was indeed, a unique (and some might say eccentric) person, but in my opinion the world needs more folks like Dick Kopper . . . colorful and full of joy. I will miss my good friend.

IN HONOR OF DR. DOROTHY IRENE HEIGHT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. HOYER. Mr. Speaker, on July 17, the University System of Maryland Board of Regents will honor civil rights pioneer Dorothy Irene Height with the sixth annual USM Regents' Frederick Douglass Award.

Dr. Height, chair and president emerita of the National Council of Negro Women (NCNW) in Washington, D.C., is a legendary figure in the civil rights movement. In 1989, President Reagan acknowledged her achievements by presenting her with the Citizens Medal Award. In 1993, the NAACP awarded her its prestigious Spingarn Medal. That was followed by the Presidential Medal of Freedom Award, bestowed by President Clinton in 1994. Last August, a feature story on Dr. Height in the Cincinnati Enquirer declared that every president since Eisenhower has called on her for advice. In their book, The African American Century, Cornel West and Henry Louis Gates, Jr., cited her as one of the 100 most influential African-Americans of the 20th century.

Dr. Height was born in Richmond, Virginia, in 1912, but grew up near Pittsburgh in a household where volunteerism prevailed. In those days, blacks from the southern states were migrating north to jobs in the steel mills. Height's mother and father, a nurse and building contractor respectively, helped these families settle in, thus instilling in her a sense of responsibility and integrity. Dr. Height earned both bachelor's and master's degrees in educational psychology from New York University in four years and graduated in 1933—the height of the Depression. She then turned her attention to social work in New York City, later working for the Young Women's Christian Association (YWCA). During those years, she also was active in community service and religion, and eventually became one of the first leaders of the United Christian Youth Movement.

From her position in the church and at the YWCA in Harlem, she spanned caps between the city's impoverished ethnic groups and the government, spotlighting the plight of unemployed domestic workers for national figures such as Eleanor Roosevelt and Langston Hughes.

Dr. Height's successes did not escape notice by the leadership of the NCNW. In 1937, she was approached to conduct committee work for the organization, an affiliation of civic, education, labor, community, church, and professional institutions headquartered in Washington. By 1957, she was its president. Under the guidance of educator and NCNW founder Mary McLeod Bethune, she organized voter registration drives in the South, testified repeatedly before Congress on social issues, and worked tirelessly on the more mundane tasks of the civil rights movement, such as jobs programs and food drives. She became an international leader in the burgeoning field of humanitarianism, working closely with Martin Luther King, Jr., Roy Wilkins, and a host of other legendary leaders.

Dr. Height, who has been called the "grande dame" of the civil rights movement, has served in the leadership of dozens of organizations devoted to social change, most notably as president of Delta Sigma Theta sorority from 1947 to 1956. In 1986, she founded and organized the Black Family Reunion Celebration, a national coming together of African-American families designed to promote historic strengths and traditional values.

The Frederick Douglass Award will be presented to Dr. Height at Westminster Hall, in Baltimore, adjacent to the University of Maryland School of Law. Those in attendance will include Maryland Governor Parris N. Glendening, USM Board of Regents Chairman Nathan A. Chapman, Leronia A. Josey, member of the USM Board of Regents, Thelma T. Daley, past national president of Delta Sigma Theta sorority, and USM Chancellor Donald N. Langenberg. Frederick Douglass IV, professor at Morgan State University and a direct descendent of Douglass, will provide a dramatic reading from the latter's work. David J. Ramsay, president of the University of Maryland, Baltimore, will welcome the audience.

The Frederick Douglass Award was established in 1995 by the USM Board of Regents to honor individuals "who have displayed an extraordinary and active commitment to the ideals of freedom, equality, justice, and opportunity exemplified in the life of Frederick Douglass." Previous recipients include the Honorable Parren J. Mitchell, a member of Congress for the 7th District of Maryland (1996); Benjamin Quarles, scholar at Morgan State University (1997, posthumously); Samuel Lacy, Jr., sports writer for the Baltimore Afro-American (1998); the Hon. Kweisi Mfume, president of the National Association for the Advancement of Colored People (1999); and Beatrice "Bea" Gaddy, advocate for the poor and homeless and a member of the Baltimore City Council (2000).

Statesman, publisher and abolitionist Frederick Douglass was the leading spokesman of American blacks in the 1800s. Born a slave in 1817 in Tuckahoe, MD, he devoted his life to the abolition of slavery and the fight for black rights. Douglass's name at birth was Frederick Augustus Washington Bailey, but he changed it when he fled from his master in Baltimore in 1838. He ended up in New Bedford, Mass., where he attempted to ply his trade as a ship caulker, but settled for collecting garbage and digging cellars. In 1841, at a meeting of the Massachusetts Antislavery Society, Douglass delivered a lecture on freedom that so impressed the society that it hired him to talk publicly about his experiences as a slave. He then began a series of protests against segregation, and published his autobiography, Narrative of the Life of Frederick Douglass, in 1845.

Mr. Speaker, I know the Members of the House take great pride in joining me in congratulating Dr. Dorothy Irene Height on this very special day for her lifelong work. She is truly deserving of the Frederick Douglass Award and I rise to congratulate her on this esteemed award.

TRIBUTE TO JENNIFER ARVER OF BRONSON, MICHIGAN, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Jennifer Arver, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Jennifer is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Jennifer Arver is an exceptional student at Bronson High School and possesses an impressive high school record. Jennifer has received numerous awards for her involvement in 4–H, as well as high school athletics. She has participated in student government and is a member of the Youth Advisory Council. Jennifer is active in her community, volunteering as a mentor with the Big Brothers Big Sisters Program, and as a member of the Branch County Finance Board.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Jennifer Arver for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

THE NEW DETROIT SCIENCE CENTER

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Ms. KILPATRICK. Mr. Speaker, I rise today to congratulate The New Detroit Science Center on its grand opening. I am pleased to say that The New Detroit Science Center will be partnering with Marshall Field's in its grand opening festivities which will be attended by Governor and Mrs. John Engler on July 28. The celebration, "Marshall Field's Weekend of Wonder at The New Detroit Science Center—32 Hours of Exploration," will kick off at 10 AM on July 28 and continue around the clock until 6 PM on July 29.

The Detroit Science Center was founded by Detroit businessman and philanthropist Dexter Ferry nearly 30 years ago. In 1998, plans were made to transform the Detroit Science Center into a leading center for science education. The Center broke ground on its expansion and renovation in 1999. The New Detroit Science Center will serve as a vehicle to educate our children and their families in the areas of science and technology. Detroit is known as a technological hub, and this new Center will involve our children and expose them to the resources that surround them.

This Center will serve as a tremendous resource for teachers, children, and families across the State of Michigan. Its exciting programs, which include an IMAX theater, five hands-on laboratories, the DaimlerChrysler Science Stage and Sparks Theater, the Ford Learning Center, and the Digital Dome Planetarium, will create an interest in science, engineering, and technology. The New Detroit

Science Center will open up a whole new world of opportunities for the children of Detroit.

I am especially pleased that so many of our community members and businesses have contributed their time and funds to this project. This commitment to our children by the community is vital. I know that the benefits of bringing such a center to our children will prove to be immeasurable.

I invite all of my colleagues to come and bring their families to visit Detroit's newest star, The New Detroit Science Center.

TRIBUTE MR. ELIO RODONI

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. HONDA. Mr. Speaker, I rise today to honor Mr. Elio Rodoni, who has been named Santa Cruz County Farm Bureau's 2001 Farmer of the Year.

Mr. Rodoni, is the son of Andreina and the late Dante Rodoni, and the younger brother of Mario Rodoni. Mr. Rodoni's sister Jeanne passed away two years ago. Mr. Elio Rodoni celebrates this great honor with his many friends, colleagues, and family. Mr. Rodoni and his wife Joy have three children, Catherine, Stephen, and Robert. Both of Mr. Rodoni's sons farm in the Watsonville and Moss Landing areas.

Mr. Speaker, it is a pleasure to honor Mr. Rodoni, who has been a member of the Farm Bureau for over 35 years. Mr. Rodoni grew up on a Brussel sprout farm on the coast just north of Santa Cruz, in the 15th Congressional District. He always helped on the farm, and knew early on that he wanted to be a farmer. The skills that Mr. Rodoni developed as a child, combined with the knowledge he gained from his involvement with Future Farmers of America while he was a student at Santa Cruz High School, led the way to Mr. Rodoni's successful career as a farmer. Mr. Rodoni, who began working fulltime as a farmer immediately after graduating from high school, purchased an interest in a Brussel sprout farm in 1960. He later ran this farm with the help of his partners, brother Mario and his late sister's husband Mac Morelli.

Mr. Rodoni has served as a dedicated and innovative member of the Santa Cruz County Community, and the entire farming community. As a member of the Future Farmers of America, he helped with displays at county fairs, served as a delegate to the California State Convention, and was chapter president during his senior year at Santa Cruz High School. For most of his life, Mr. Rodoni has dedicated his time and energy to his farms. He was one of the first farmers to utilize mechanical harvesting, and has always understood the importance of diversity in his crops. He is a hardworking farmer, and knowledgeable businessman.

Mr. Speaker, it is an honor to pay tribute to the Mr. Elio Rodoni for his contributions to the farming community and the 15th Congressional District. I commend and congratulate him on this important occasion.

PERSONAL EXPLANATION

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. PUTNAM. Mr. Speaker, I was absent the week of June 25, 2001, attending to my wife Melissa during the birth of our first child, Abigail Anna Putnam. Had I been present this is how I would have voted on the following roll call votes.

June 25, 2001:

On Roll Call 186—I would have voted Yea in support of H. Res. 160 calling on the Government of the People's Republic of China to immediately and unconditionally release Li Shaomin and all other American scholars of Chinese ancestry being held in detention, and calling on the President of the United States to continue working on behalf of Li Shaomin and the other detained scholars for their release.

On Roll Call 187—I would have voted Yea in support of H. Res. 99 expressing the sense of the House of Representatives that Lebanon, Syria, and Iran should call upon Hezbollah to allow representatives of the International Committee of the Red Cross to visit four abducted Israelis, Adi Avitan, Binyamin Avraham, Omar Souad, and Elchanan Tannenbaum, presently held by Hezbollah forces in Lebanon.

On Roll Call 188—I would have voted Yea in support of H. Con. Res. 161 honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996.

June 26, 2001:

On Roll Call 189—I would have voted Yea on Approving the Journal.

On Roll Call 190—I would have voted Yea on the motion to consider H. Res. 178.

On Roll Call 191—I would have voted Yea on agreeing to H. Res. 178 providing for the consideration of H.R. 2299, Transportation and Related Agencies Appropriations Act for FY 2002.

On Roll Call 192—I would have voted Yea on agreeing to H. Res. 166 recognizing disaster relief Assistance Provided to Houston, TX after Tropical Storm Allison.

On Roll Call 193—I would have voted Yea on the Sabo amendment to H.R. 2299.

On Roll Call 194—I would have voted Yea in support of H.R. 2299, the Transportation and Related Agencies Appropriations Act for FY 2002.

On Roll Call 195—I would have voted Yea on agreeing to the approval of the Journal.

On Roll Call 196—I would have voted Yea on agreeing to H. Res. 180, providing for consideration of H.R. 2311; Energy and Water Development Appropriations Act for FY 2002.

On Roll Call 197—I would have voted Yea on H. Res. 172 honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters.

On Roll Call 198—I would have voted Yea on H.R. 2213 to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education.

June 28, 2001:

On Roll Call 199—I would have voted Nay on the Tancredo amendment to H.R. 2311.

On Roll Call 200—I would have voted Nay on the Tancredo amendment to H.R. 2311.

On Roll Call 201—I would have voted Nay on the Hinchey amendment to H.R. 2311.

On Roll Call 202—I would have voted Nay on the Kucinich amendment to H.R. 2311.

On Roll Call 203—I would have voted Nay on the Bonior amendment to H.R. 2311.

On Roll Call 204—I would have voted Nay on the Berkley amendment to H.R. 2311.

On Roll Call 205—I would have voted Yea on the Davis amendment to H.R. 2311.

On Roll Call 206—I would have voted Yea on final passage of H.R. 2311, the Energy and Water Development Appropriations Act for FY 2002.

On Roll Call 207—I would have voted Yea on H. Res. 183, providing for consideration of H.R. 2330; Agriculture Appropriations Act for F.Y. 2002.

On Roll Call 208—I would have voted Yea on the Brown of Ohio amendment to H.R. 2330.

On Roll Call 209—I would have voted Yea on the Brown of Ohio amendment to H.R. 2330.

On Roll Call 210—I would have voted Yea on the Engel amendment to H.R. 2330.

HONORING WAYNE SCOTT ON HIS RETIREMENT AS EXECUTIVE DIRECTOR OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE

HON. JIM TURNER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. TURNER. Mr. Speaker, I rise to pay tribute and to express the thanks of Texans to our friend Wayne Scott on the occasion of his retirement as Executive Director of the Texas Department of Criminal Justice. His leadership of the fastest growing agency in the State of Texas during years of difficult transitions have earned him the respect and admiration of all Texans.

Wayne began his professional journey in 1972 as a correctional officer at the Huntsville unit of the Texas Department of Corrections. While working there, Wayne Scott received his Bachelor of Business Administration from Sam Houston State University in 1973. Making his way into the system, he became warden of the facility in 1984. In the following years, Wayne served as regional director, deputy director for operations, and institutional division director. In 1996, Wayne Scott was promoted to Executive Director of the Texas Department of Criminal Justice, the largest agency in the state of Texas. It can be said that Wayne began at the bottom of the ladder and climbed to the top through a firm commitment to hard work, a willingness to make the tough decisions, and a constant pursuit of the highest ethical standards for both himself and the department.

With the responsibility of more than 40,000 employees and more than 150,000 felony offenders, Wayne Scott has been recognized by his fellow criminal justice professionals in the American Correctional Association, the Southern States Correctional Association, and the

Association of State Correctional Administrators as an outstanding correctional administrator.

Under Wayne's leadership, the Texas Department of Criminal Justice confinement facilities were accredited by the American Correctional Association. The agency also received Awards of Excellence in community service for its partnership with Habitat for Humanity, and for the nation's largest correctional employee training facility, the Edmundo Mireles Criminal Justice Training Academy. While Executive Director, Wayne developed the Advisory Council on Ethics in order to aid the agency in the awareness of ethical issues and assure the execution of ethical behavior.

Not only has Wayne Scott been a hard working administrator, but he has also been a leader in innovations for rehabilitation of prison inmates. In 1996, he started the Inner Change Freedom Initiative, which was the first faith-based pre-release program in a penal institution in the United States. Also, under Scott's leadership, the Texas Department of Criminal Justice has worked to modify the agency's mission statement to assure justice for victims.

Wayne Scott has served the State of Texas for more than 28 years in the criminal justice field. His leadership in the fastest period of growth in the Texas Department of Criminal Justice have made him well-known in the field of criminal justice not just in Texas, but across the country. The Texas Department of Criminal Justice—and indeed, the entire state of Texas—has been the beneficiary of his service, dedication, and leadership over the last three decades.

TRIBUTE TO EMILY STACK OF HILLSDALE, MICHIGAN, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Emily Stack, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Emily is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Emily Stack is an exceptional student at Lenawee Christian High School and possesses an impressive high school record. Emily has received numerous awards for her academic achievement, as well as receiving state recognition for her excellent oratory skills. She is active in student government, serving as President of her class for two years. Emily has volunteered her time to various community service projects, such as Big Brothers Big Sisters and Project Build.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Emily Stack for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

IN TRIBUTE TO PERSIS "PERKY" HORNER HYDE

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. FARR of California. Mr. Speaker, I rise today to honor Persis "Perky" Horner Hyde who passed away on June 15, 2000 of breast cancer. During her lifetime, Mrs. Hyde was an active community member and a dedicated mother and wife. She is survived by her husband of 52 years, Harold "Hal" Hyde, four children, one brother, and three grandchildren.

Mrs. Hyde, a 50-year resident of Watsonville, was born in San Francisco on October 2, 1924. She received her education at the University of California at Berkeley, and later became a devoted mother and active community volunteer. She was a leader and board member of many local nonprofit, church, and civic groups which include, but are not limited to, the Girl Scouts, the Santa Cruz Symphony Guild, the Cabrillo College Foundation, and the Pajaro Arts Council. Although she devoted much time and effort to numerous organizations, one of her most cherished causes was the Cabrillo Advancement Program. Mrs. Hyde, and her husband, offered $1000 scholarships to local county schools to encourage kids to stay in school.

During her lifetime, Mrs. Hyde was honored with various awards commemorating her service to the community. In 1977, the Watsonville Chamber of Commerce named her Woman of the Year, and in 2000, Mrs. Hyde was honored by the Watsonville Soroptimists Club with the Women of Distinction Award. Most recently, the United Methodist Church honored Mrs. Hyde for her dedication and continuous service. Although service in local organizations and her family took up much of her time, she still managed to travel, which she enjoyed and often encouraged her children to do; her travels took her to Sweden, Germany, Africa, and South America.

Mr. Speaker, I applaud Mrs. Hyde's achievements and accomplishments. The service of local members of this community are an asset to this nation and I commend Mrs. Hyde for her lifelong dedication to her community and her family. Mrs. Hyde's service is admirable and her character and dedication have made lasting impacts on our community and the people with whom she has worked. I join the County of Santa Cruz, and friends and family in honoring this truly commendable woman and all of her lifelong achievements.

A TRIBUTE TO CAROLINE R. JONES, A WOMAN OF MANY FIRSTS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Caroline R. Jones for her tremendous contributions during her shortened life.

Born and raised in Benton Harbor, Michigan, as Caroline Richardson, the eldest daughter in a family of ten children, she graduated from the University of Michigan with a degree in English and science.

Caroline traveled to New York City in 1963 to look for teaching positions. She ended up taking a job as a secretary at J. Walter Thompson, at the time the world's largest advertising firm. She soon switched career paths after she was moved to the creative department. It was there that she was selected for a junior copywriter program. With this selection, Caroline became the first African American trained as a copywriter in the firm's 140 year history.

Caroline's success did not end at J. Walter Thompson. She worked at a number of leading general market and black-owned agencies as both a copywriter and as a creative director. Caroline later became the first black woman elected vice president of a major advertising firm. Caroline also helped to found the Black Creative Group as well as Mingo-Jones Advertising, where she served as executive vice president as well as creative director. During her time at Mingo-Jones, Jones created the "We Do Chicken Right" campaign for Kentucky Fried Chicken.

Jones started her own firm in the 1980s, Creative Resources Management, as well as many shops under her name. She was also the successful television and radio host of two programs, "In the Black: Keys to Success" and "Focus on the Black Woman."

Mr. Speaker, Caroline Richardson Jones devoted her life to eliminating the barriers of sex and racial discrimination in the advertising arena. Only 59 at her death on June 28 from cancer, she will always be remembered for her tireless efforts in promoting the agenda of Annual Legislative Weekend sponsored by the Congressional Black Caucus. As such, she and her family are more than worthy of receiving our recognition today. I hope that all of my colleagues will join me in remembering and honoring the life of this remarkable woman.

TRIBUTE TO THE 12TH GREAT DOMINICAN PARADE AND CARNIVAL OF THE BRONX

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. SERRANO. Mr. Speaker, once again it is an honor for me to recognize the Great Dominican Parade and Festival of the Bronx on its twelfth year of celebrating Dominican culture in my South Bronx Congressional District.

This year's festivities will take place on July 15, 2001.

Under its Founder and President, Felipe Febles the parade has grown in size and splendor. It now brings together an increasing number of participants from all five New York City boroughs and beyond. I also would like to recognize all the people who, under the leadership of Director Rosa Ayala, are making sure that this year's events will be successful as in the past.

On Sunday, July 15, thousands of members and friends of the Dominican community will march from Mt. Eden and 172nd Street to East 161st Street and the Grand Concourse in celebration of their Dominican heritage and their achievements in this nation. Among other accomplishments, Dominicans have been instrumental in transforming New York City into a great bilingual city. Moreover, the parade has served as a national landmark in which people from all ethnic groups unite to commemorate our Nation's glorious immigrant history.

Mr. Speaker, the Board of Directors of the Dominican Parade of the Bronx has chosen me to be their "International Godfather" and I have gladly and humbly accepted that honor.

As one who has participated in the parade in the past, I can attest that the excitement it generates brings the entire City together. It is a celebration and an affirmation of life. It feels wonderful to enable so many people to have this experience—one that will change the lives of many of them.

The event will feature a wide variety of entertainment for all age groups. This year's festival includes the performance of Merengue and Salsa bands, crafts exhibitions, and food typical of the Dominican Republic.

Mr. Speaker, it is with enthusiasm that I ask my colleagues to join me in paying tribute to this wonderful celebration of Dominican culture, which has brought much pride to the Bronx community.

IN RECOGNITION OF MT. ROSE CHURCH OF GOD IN CHRIST

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. BENTSEN. Mr. Speaker, I rise today to recognize the 11th Annual Founder's Day celebration of the Mt. Rose Church of God In Christ and the ground breaking ceremony of their new facility.

The Mt. Rose Church of God was founded in 1944 and is located in Barrett Station, Texas. Though located in Barrett Station, the ministry performed at Mt. Rose Church of God In Christ is felt throughout the greater Houston area. The goal of Mt. Rose Church of God In Christ is to create "The City of Refuge." A place where the vision of salvation, deliverance, Christian maturity, and support are shared; a place where the doors are always open to those enduring hardships.

The prayerful and Spirit-filled members of Mt. Rose Church of God In Christ have come to the aid of the community in need time and time again. Through their compassionate offerings, these leaders have enhanced the lives of the entire community. Their actions provide a flicker of hope to individuals who were otherwise in despair.

Mr. Speaker, I commend the members of Mt. Rose Church of God In Christ and in particular Pastor Elder Ron Eagleton, whose passionate and dedicated leadership has borne the commitment to service that is so much a part of this congregation.

The 11th Annual Founder's Day Celebration on Sunday, July 15, 2001, is especially significant because it also marks the ground breaking of the new 43,000 square foot facility to be completed next year. The new sanctuary will seat 1,100 people and the facility will house the more than 20 ministries of Mt. Rose Church of God In Christ. In addition, it will also include a gymnasium for recreational activities.

Mr. Speaker, as Mt. Rose Church of God In Christ continues to grow in size and members, I applaud their efforts to embrace the community of Harris County. Their work sets an example for the entire community to follow.

MEDICARE EDUCATION AND REGULATORY FAIRNESS ACT OF 2001

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. DAVIS of Illinois. Mr. Speaker, I'd like to preface my comments by saying that Medicare is a wonderful program. Since the enactment of Medicare in 1965, seniors and disabled individuals have had better access to physicians and more access to life-saving treatments. And in comparison to managed care, Medicare is also extremely cost-effective. It's an under-appreciated fact that Medicare is administrated for just two cents on the dollar, while managed care is typically administrated at a rate twelve times greater.

Still, it's absolutely amazing how much bureaucratic red tape you can generate for two cents on the dollar. This is 500 sheets of paper. If you write double-sided, it's 1000 pages. Now, if you imagine 110 of these stacks piled on top of each other, you begin to have an idea of how complicated Medicare is. 110,000 pages of regulations—that's over three times the length of the U.S. tax code.

Every month, physicians receive pages upon pages from their Medicare carriers describing ever-changing policies and regulations. Keeping track of everything is frankly impossible. Yet, if a physician doesn't follow one of the rules, no matter how unintentionally, he or she can be subjected to the draconian process of a Medicare audit. Currently, when carriers identify an alleged physician billing error, they can "extrapolate" the single identified error to the physician's other claims. This would be like the IRS identifying an error on your most recent tax return, and then assuming that you made that error on every tax return you ever filed.

The "Medicare Education and Regulatory Fairness Act of 2001" is a common-sense piece of legislation that addresses this injustice, as well as many others. This act will guarantee that physicians receive the same due process that we guarantee all our citizens. If this alone were the only virtue of this bill, it would still be worth passing. But there is a larger significance here that extends beyond physicians, and it can be summarized with a simple equation: Less time spent on paperwork means more time spent on patient care. Therefore, as much as physicians will benefit from this legislation, let us always keep in mind that the true beneficiaries are the patients.

INTRODUCTION OF LEGISLATION TO ALLOW FEDERAL CIVILIAN EMPLOYEES TO RETAIN FREQUENT FLYER MILES THEY RECEIVE WHILE TRAVELING ON OFFICIAL GOVERNMENT BUSINESS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. BURTON. Mr. Speaker, today I am introducing a bill that would assist federal departments and agencies in their efforts to recruit and retain employees. This bill would allow federal civilian employees to keep frequent flyer miles and other promotional benefits they receive while traveling on official government business. Unlike private-sector employees, federal workers are currently prohibited by law from keeping these benefits for personal use.

The existing law, enacted in 1994, intended to save the government money. However, the law has been difficult to implement because the airlines regard frequent flyer miles as belonging to the individual traveler and are generally unwilling to create separate official and personal frequent flyer accounts for the same individual. Overall, the burdens and costs of administering this program have limited its benefits to the government.

The private sector commonly allows its employees to keep the frequent flyer miles they receive while on business travel, giving private companies, including government contractors, a competitive edge over federal agencies in attracting and retaining skilled employees. Changing this policy would help level the playing field.

However, in order for federal employees to keep these benefits, the bill would require that they be obtained under the same terms as provided to the general public and must be at no additional cost to the government. Frequent flyer miles that are accrued during employees' official travel will also help compensate employees for the sacrifices and frustrations often associated with air travel. Similar to private-sector employees, federal employees must often travel on their personal time to meet work schedules.

This is just one small step to help counteract the effects of the expected retirements in the federal workforce in the coming years, and it would help the government compete for top-quality employees.

I urge my colleagues to cosponsor this legislation.

HONORING THE CITY OF TRINIDAD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. McINNIS. Mr. Speaker. It gives me great pleasure to recognize the city of Trinidad, Colorado as the city celebrates its 125th anniversary.

Throughout Trinidad's town history, the city has been a melting pot for various cultures. In its defining years, Trinidad was a bustling city founded on coal mining and cattle ranching. Trinidad was also a stopping point for the railroad as it progressed westward. Today, it is a city of rich historical significance and livelihood located on the western slope of Colorado.

The 125th anniversary of Trinidad presents a wonderful opportunity for many residents to recall the valuable memories that have shaped this dynamic community. For others, it highlights historical notes that illuminate an era when Bat Masterson was the town marshal in the 1880's and when Trinidad was frequented by such famous western legends as Kit Carson, Wyatt Earp, Doc Holliday and Billy the Kid.

Mr. Speaker, I would especially like to commend the men and women who have impacted the city of Trinidad and made it the delightful place it is today. For example, Felipe Baca was an early businessman who built and resided in the notorious Baca Mansion. Sister Blandina was a pioneer for the Catholic nuns in the territory and Father Charles M. Pinfo was the first Jesuit pastor of Holy Trinity Catholic Church, erected in 1886. These are just a few of the many personalities that have molded not only the city of Trinidad, but also the western territory in general.

Mr. Speaker, as the members of this historic community reminisce of days gone by and anticipate those yet to come, I am proud to honor and congratulate the residents of Trinidad on their anniversary. It is truly a remarkable accomplishment to celebrate 125 years of prosperity and good fortune.

RECOGNITION OF EXTRUDE HONE CORPORATION

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Ms. HART. Mr. Speaker, I submit the following Wall Street Journal article printed on Friday, July 6th. The story discusses the importance of small manufacturers in our economy, and specifically talks about the success of Extrude Hone Corp. in Irwin, PA. This company is located in my district and produces a special abrasive putty to smooth metal products. Along with thousands of other successful small businesses in western Pennsylvania, Extrude Hone Corp. represents the hard work and entrepreneurial spirit that helps to sustain and drive the American economy.

[From the Wall Street Journal, July 6, 2001]

BY RESISTING LAYOFFS, SMALL MANUFACTURERS HELP PROTECT ECONOMY

(By Clare Ansberry)

IRWIN, PA.—Extrude Hone Corp. is one of the reasons that the bottom hasn't fallen out of the U.S. economy.

Quietly, but profitably, the company is going about its business: making machines that use a special abrasive putty to smooth out rough edges on aircraft engines, fuel-injection systems, artificial knee joints and heart valves. By itself, Extrude Hone, which has a work force of less than 200 locally and 400 world-wide, hardly registers beyond its rural hometown near Pittsburgh and the large community of its customers. But its broader significance lies in the fact that it's far from alone.

Extrude Hone is just one of about 4,000 manufacturers in this southwest corner of Pennsylvania, nearly all with fewer than 500 workers. As a group, they employ about 170,000 people, and their payrolls total $7.1 billion annually. Most are too small to show up on Wall Street's radar screen. But these stealth manufacturers, principally durable-goods makers, have an outsized impact on the nation's economy, and many of them are showing surprising strength.

LAYOFFS VS. HIRING

Though there have been some recent signs of a pickup, the durable-goods sector, which produces big-ticket items designed for repeated use, has borne the brunt of the manufacturing slump that began in the second half of 2000. Many of the sector's publicly traded giants, such as General Electric Co., Eaton Corp. and International Paper Co., have responded by announcing major layoffs.

But despite all that, about 60% of southwestern Pennsylvania's durable-goods manufacturers plan to add workers this quarter, according to a recent survey by staffing agency Manpower Inc.

Why? Larry Rhoades, Extrude Hone's chief executive, can cite several reasons. So can Kurt Lesker III, whose family-owned company makes vacuum systems, or Robert Moscardini of U.S. Tool & Die Inc., who has nearly tripled his work force to 110 people since 1994 and whose board wants him to increase it to as many as 500.

All three businesses have been understaffed in recent years and have had to invest heavily in recruiting and training. Mr. Moscardini figures U.S. Tool & Die spent 3,000 hours training workers last year, even paying an outside welding company to help it in the effort. "You figure every hour is worth $60 to $100," he says, "That's a big investment. You don't just let those people go."

EIGHT GREAT YEARS

Nor are many small to midsize manufacturers elsewhere in the nation rushing to cut back. Though some have had no choice but to lay off employees, even many of those whose business has softened are holding on to their workers, both out of loyalty to their communities and employees and out of fear that they will be left without much-needed talent when the economy strengthens. And, without public shareholders breathing down their necks demanding that they maximize returns, they have the flexibility to eschew layoffs in favor of longer-range business goals.

"They're not crying the blues because they had eight great years," says Dean Garritson of the National Association of Manufacturers, a trade group based in Washington. Most such businesses keep overhead low, and their owners can still afford to put "dollars into the company," he says. "They're less apt to let people go, and that creates a stabilizing force."

UPBEAT IN A SLOWDOWN

And a significant one. Those largely anonymous businesses account for about 9.8 million, or more than half, of the nation's manufacturing jobs. And their seeming resistance to layoffs helps explain why consumers, who are also employees, have remained relatively upbeat, despite the current slowdown.

Jerry Letendre owns Diamond Casting Corp. in Hollis, N.H., where he and his 50 employees pour molten aluminum into shapes for high-tech pumps. Last year, his profits dropped 50% and sales fell 30%. But rather than make big layoffs, he decided to hold off buying a new computerized milling machine and dug deeper into his own pockets to rebuild inventory and introduce new products. Twenty-five percent of his products were introduced in the past 10 months.

"During good times you conduct yourself so you can comfortably sustain not-so-good times like now," Mr. Letendre says. And, he adds, "I don't have Wall Street calling me asking, 'What have you done for me this week?' "

Here in southwest Pennsylvania, industrial stalwarts such as U.S. Steel Corp., Alcoa Inc. and Westinghouse Electric Corp. drove the economy, spawning thousands of smaller operations that were formed solely to supply and serve them. Many of those operations dried up over the decades as Westinghouse left town and steel's presence here shrank. The small manufacturers that have survived the shakeout have done so by keeping in step

Extrude Hone is one of them. Mr. Rhoades's father started the business 35 years ago in the back of a tire shop. The company's purpose was to polish rough edges and holes in metal parts. Though that sounds like a minor adjustment, such fine-tuning can greatly enhance a product's performance. Having a smooth hole, rather than a jagged one, in a fuel-injection system, for example, even when the hole is only twice the diameter of a hair, can increase the flow of fuel by 20%. That means improved fuel economy and lower emissions. When it comes to heart valves and knee joints, the difference means better blood flow and less chance of contamination. When it comes to aircraft engines, it means more power.

And if the customer doesn't want to do that kind of work itself, Extrude Hone will finish the parts for it in one of its several shops around the world, from Ireland to Japan. It also sells the proprietary putty used in its machines.

EXPLOITING ADVANTAGES

The fact that Extrude Hone is growing makes it an anomaly among the nation's machine-tool producers, whose overall sales have slumped since the late 1990s. In a recent speech before a business group in Birmingham, England, where the decline of heavy industry has paralleled that of Pittsburgh's, Mr. Rhoades shared his company's survival strategy with an audience eager to know how his manufacturing business had weathered the U.S. steel industry's diminished local presence.

The key, Mr. Rhoades said, was exploiting the advantages inherent in being a small manufacturer. Having relatively few employees, he said, helps his company to remain flexible and stay close to the factory floor and customers. Making things more economically, precisely or consistently isn't enough, he told the group. A small manufacturer, he said, has to make something distinctive and difficult for its customers to do without, and that requires investing in new designs and processes.

Mr. Rhoades spends about 15% of his company's sales on research and development, a surprisingly high percentage for a machine-tool maker. Many small and private companies are conservative and cautious about spending, in part because they don't have public investors to help them raise cash. That's where being private has its limitations, he says. The upside, he says, is that he is freer to focus on the long term, rather than on quarterly results.

Mr. Rhoades's newest and most promising technology, invented at the Massachusetts Institute of Technology, is a process for custom-making hundreds of different parts using a single machine. Rather than stamping a piece out of metal, the new process uses a computer scan of a part to create a copy of it, building it up layer by layer from a mixture of powdered metal and glue, which is then fused in a furnace.

Mr. Rhoades says the process eventually could be used by airlines or by auto shops that want to make replacement parts on site, rather than waiting for them to be delivered.

And that's why he's hiring. He needs metallurgists and people with computer and software skills, many of whom as recently as two years ago wouldn't have considered working for a machine-tool maker. "It just got to an unhealthy point where people were being drawn out of the work force and into dot-coms when they could make a bigger economic contribution" by working in mainstream manufacturing, he says.

Manufacturers create a local multiplier effect. They go through a lot of nuts, bolts, grease and paper clips, often relying on other local businesses and keeping their dollars in the community. They use the local delivery service, the local trucking company. Home sales here rose 41% in May, and while there's no direct correlation between robust real-estate sales and an uninterrupted flow of coated metal, it can't hurt either.

Last year, U.S. Tool & Die spent $467,853 buying office supplies, gloves, cleaning materials, fasteners, bolts, grinding wheels, sanding belts and lifting devices such as slings from local suppliers. Steel to make its products comes from nearby Allegheny Ludlum Corp.

U.S. Tool & Die has survived by evolving. Formed about 50 years ago, it was engaged in the most basic aspect of manufacturing: making parts under contract for customers in the steel industry. In the mid-1970s, it began making racks to store spent nuclear fuel. It didn't change its business, remaining a contract manufacturer, but it changed markets completely. Now, it has contracts all over the world.

While U.S. Tool & Die's Mr. Moscardini credits the company's strong sales to dominating a particular niche, others seem to be doing well, too. "People I associated with in metal working and manufacturing, everyone seems healthy. We probably have 15 to 20 machine shops supporting us with subcontract work, and these guys are all busy."

John Ross, executive vice president of manufacturing at Kurt J. Lesker Co.,

Last year, Lesker, which has 200 employees and $40 million a year in sales, expanded its work force by 15%. This year, Mr. Ross says, it plans to expand another 7%. He says Lesker's biggest problem is a shortage of skilled workers, such as welders and machinists.

A few years ago, Mr. Ross got together with some other area manufacturers to discuss the problem. With the help of Duquesne University in Pittsburgh and a local foundation, they developed a training program aimed at people who had planned to go to college and indicated an interest in a career but had ended up in dead-end jobs. So far, Lesker has hired about 15 graduates of the program, which is called Manufacturing 2000, including Dan McKenzie.

MORE EARNING POWER

Mr. McKenzie, 27, had just finished a stint with the Marine Corps and was working in a pizza shop. He saw the program's ad for free training and jumped on it. Now, he works for Lesker as a machinist and has taken some college courses toward an industrial-engineering degree. As a result, Mr. McKenzie, who made $8.50 an hour delivering pizza, has seen his earning power increase substantially. The average annual wage in the manufacturing sector here is $42,000. The sector, which employs about 15% of the region's workers, accounts for 20% of the region's wages, according to Barry Maciak of Duquesne's Institute for Economic Transformation.

Local companies paid $1,250 for each Manufacturing 2000 graduate and considered it a bargain. "We don't have the resources to train and recruit that larger companies have," says Lesker's Mr. Ross. Once it gets people, the company is loath to lose them.

Moreover, the average age of machinists, welders and tool grinders is 43, and welders rarely wait until they are 65 to retire because their work is so physically demanding. So, the company has to think about the future.

But Lesker also feels a loyalty to its work force, a luxury many public companies can't afford. Kurt Lesker III, Lesker's president, remembers sales plummeting after the fall of the Berlin Wall dried up the company's defense-related business. "We went through several years of break even. We could have laid off. We decided to keep everyone because it had to get better," he says. "If it was a public company, I would have been fired."

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 211, Encouraging Corporations to Contribute to Faith-Based Organizations. Had I been present I would have voted "yea". I was also unavoidably detained for rollcall No. 212, Expressing the Sense of Congress in support of Victims of Torture. Had I been present I would have voted "yea". I was also unavoidably detained for rollcall No. 213, Authorization of the Use of the Rotunda for Presenting Congressional Gold Medals to the Navajo Code Talkers. Had I been present I would have voted "yea".

PERSONAL EXPLANATION

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mrs. CLAYTON. Mr. Speaker, on Tuesday morning June 26, 2001, I was unavoidably detained and as a result missed one rollcall vote. Had I been present, I would have voted "yea" on rollcall No. 195, on approval to the House Journal of Tuesday, June 26, 2001.

PERSONAL EXPLANATION

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mrs. CLAYTON. Mr. Speaker, on Thursday morning June 28, 2001, I was unavoidably detained and as a result missed one rollcall vote. Had I been present, I would have voted "nay" on rollcall No. 199, on agreeing to the Tancredo of Colorado Amendment on H.R. 2311.

HONORING FRITZ BRENNECKE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. McINNIS. Mr. Speaker, it is with great pleasure that I take this opportunity to recognize a courageous man for his dedicated years of service to the United States during some of the most horrific times of World War II. I am proud to honor Mr. Fritz Brennecke—a devoted veteran—for his enduring flights over war-stricken Europe as he aided in the effort to ensure Allied victory during the war.

As Mr. Brennecke was harnessed in his waist gunner position aboard a B–24, he fought valiantly against German fighter planes that were attempting to hinder the bombing runs. The waist gunner position, appropriately named for its location behind the wings of the B–24 at the waist of the airship, was capable of defending the aircraft by firing out either side of the fighting bomber. Amidst flak bombs and insistent attacks, it was not unusual for a mission to return to base with only three or four planes out of the original group with nearly seven planes. Throughout his noble service to the United States, Fritz participated in missions attacking Grottaglie, Italy, Ploesti and other German strongholds.

In 1945, the bombing runs subsided and offered the distinguished war veteran an opportunity to return home. Upon returning to Colorado, Fritz completed his formal education at the University of Denver and eventually retired to Montrose after establishing a career in livestock and produce.

Mr. Speaker, while Fritze Brennecke considers the real heroes of World War II to be those who were never able to return home, his recognition with two Presidential Citations and an Air Medal with five oak clusters testify to his selfless service to America and to his 50 combat flights. These are distinctions one earns for going above and beyond the call of duty.

I am proud to honor Fritz with this Congressional Tribute as he is truly an American hero who exemplifies the spirit of patriotism. He is one individual who added to the collective effort to perpetuate peace and reconciliation following World War II. I commend his notable service and his efforts on the behalf of this country and wish him all of the best in the years to come.

EUROPEAN UNION OPPOSES BEIJING'S OLYMPIC BID—CONGRESS REMAINS SILENT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. LANTOS. Mr Speaker, on July 5th the 626-member European Parliament meeting in Strasbourg, France, adopted a resolution opposing China's bid to host the 2008 Summer Olympics. In finding that China "clearly fails to uphold universal human, civil and political rights, including freedom of religion," the European Parliament urges that the International Olympic Committee (IOC) "reconsider Beijing's candidacy," only when China has made "fundamental change in their policy on human rights, and the promotion of democracy and the rule of law."

Last March, with an overwhelming bipartisan vote, the House Committee on International Relations expressed itself against China holding the Olympics by approving H. Con. Res. 73. Now the 626 Members of the European Parliament have voted and approved a similar resolution, yet we in the U.S. House of Representatives have not been given the opportunity to speak as a whole on this critical moral issue. I implore the Speaker and the Majority Leader—stop bottling up this legislation.

Mr. Speaker, I ask that the entire text of the resolution concerning Beijing's application to host the 2008 Olympic Games, as adopted by the European Parliament on July 5th, be placed in the CONGRESSIONAL RECORD. I urge my colleagues to review this resolution and consider our obligation to join our European colleagues in speaking out on China's Olympic bid in the few hours that remain before the IOC vote on Friday in Moscow. Religion is persecuted, political freedom does not exist, media freedom does not exist, our airplane is forced down, our servicemen and women are held in captivity for 11 days; yet this body is not allowed to vote on whether the Olympics should be held in Beijing.

EUROPEAN PARLIAMENT RESOLUTION ON BEIJING'S BID TO HOST THE 2008 OLYMPIC GAMES

The European Parliament resolution on Beijing's bid to host the 2008 Olympic Games The European Parliament, having regard to its previous resolutions on the situation in the People's Republic of China (PRC), having regard to the conclusions of the General Affairs Council of 19 March 2001, in which the Council expressed its concern at the serious human rights violations in the PRC, recalling the city of Beijing's bid to host the 2008 Olympic Games, recalling that the Charter of the Olympic Games states that Olympism has as a goal ‘to place sport at the service of the harmonious development of humankind, with the object of creating a peaceful society with the preservation of human dignity’.

A. Whereas the repression of freedom of opinion and freedom to hold demonstrations in favour of democracy that has been practised for decades, is continuing in the PRC, despite international protests.

B. Having regard to the repression of religious, ethnic and other minorities, in particular Tibetans, Uighurs and Mongolians and the Falun Gong movement.

C. Having regard to the frequent imposition of capital punishment, leading to over a thousand reported executions in China every year, as well as the widespread use of torture on the part of the Chinese police and military forces.

D. Recalling that the PRC has still not ratified the International Covenant on Civil and Political Rights.

E. Whereas the Chinese authorities have taken no significant initiatives on respect for human rights, despite the ongoing political dialogue between the EU and the PRC.

F. Concerned with regard to environmental and animal welfare issues in the PRC.

G. Stressing that the plans relating to Beijing's bid to host the 2008 Olympic Games would involve the destruction of a large part of the old city and the obligatory transfer of the inhabitants to the surrounding areas.

H. Recalling that the International Olympic Committee is due to designate, on 13 July 2001 in Moscow, the city that will host the 2008 Olympic Games.

1. Invites the International Olympic Committee to establish guidelines to include respect for human rights and democratic principles to be applied as a general rule to host countries of Olympic Games.

2. Regrets that the PRC clearly fails to uphold universal human, civil and political rights, including freedom of religion and therefore believes that this negative record and the repression in Tibet as well as in Ouighouristan and in South Mongolia, make it inappropriate to award the 2008 Olympic Games to Beijing.

3. Urges the International Olympic Committee in any case to make a thorough environmental impact assessment with regard in particular to the recurrent water shortages, the impact of mass tourism and the social repercussions in the region surrounding Beijing.

4. Invites the International Olympic Committee to reconsider Beijing's candidacy when the authorities of the PRC have made a fundamental change in their policy on human rights, and the promotion of democracy and the rule of law.

5. Instructs its President to forward this resolution to the Council, the Commission, the Presidents of the parliaments of the Member States, and to the International Olympic Committee.

CAMPAIGN FINANCE REFORM

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. MORAN of Kansas. Mr. Speaker, the House this week begins debate on campaign finance reform. This debate is important for a number of reasons. We need to end the practice of unlimited soft money contributions from corporations and labor unions. We need to improve disclosure requirements so that ordinary citizens know who is paying for campaigns. Most importantly, we need to restore people's confidence that their elected officials are looking out for their interests.

In previous debates on campaign finance reform, I have supported a ban of soft money. These unregulated, unlimited contributions have cast a shadow of impropriety over electioneering efforts by both political parties. Soft money circumvents current campaign finance laws which prohibit corporate contributions to federal campaigns and limit how much an individual can contribute. Banning soft money would eliminate the largest source of questionable campaign money in elections and would help repair Congress's tarnished public image.

Another key principle of campaign finance reform is improved disclosure. Voters have a right to know who is contributing to campaigns, how much and when. They also have a right to know who is paying for advertising and other political activities on behalf of or in opposition to candidates. Armed with this information, voters are more than capable of judging who is representing them and who is representing special interest contributors. Reform legislation should strengthen disclosure requirements and improve electronic access to campaign finance information.

While I strongly support reforming our campaign finance laws, I do not support taxpayer financing of federal elections. Nor do I support proposals that infringe on the free speech rights of individuals or groups. The freedom to support or oppose candidates is fundamental to the American system of government. Public financing forces citizens to support with their tax dollars candidates they oppose at the ballot box. Similarly, it is wrong to prohibit citizens from using their own resources to advocate the election or defeat of a candidate. We need to ensure that we do not use the banner of reform to silence the voices of those who oppose us.

I will work to pass and send to President Bush a campaign finance reform bill that accomplishes true reform while protecting the rights of all citizens to participate in our democracy.

INDIAN MINORITIES SEEKING THEIR OWN STATES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. TOWNS. Mr. Speaker, I was interested in a Washington Post article on Sunday, July 8 which reported that all across India, minorities are demanding their own states. For example, the article reports that the Bodos, who live in the northeast part of India, are demanding a separate state of Bodoland.

This demand underlines the fact that India is not one country any more than the Soviet Union was. Much of India's instability can be traced to the fact that it is a multinational state thrown together by the British for their administrative convenience, a vestige of the colonial era. The Soviet experience showed how difficult it is to keep such a multinational state together.

Unfortunately, instead of listening to the demands of the people, India has responded by stepping up the oppression of its minorities. Instead of listening to the people, the Indian government has killed more than 250,000 Sikhs since 1984, over 75,000 Muslims in Kashmir since 1988, over 200,000 Christians in Nagaland since 1947, and tens of thousands of other minorities. India was caught by the Movement Against State Repression admitting that it held over 52,000 Sikh political prisoners under the so-called "Terrorist and Disruptive Activities Act," known as TADA, which is one of the most repressive laws in the world. TADA expired in 1995. India also holds political prisoners of other minorities, according to Amnesty International. In 1994 the State Department reported that the Indian government paid more than 41,000 cash bounties to police officers for killing Sikhs.

Recently in a village in Kashmir, Indian soldiers were caught red-handed in the act of trying to set fire to a Sikh temple, known as a Gurdwara, and some Sikh homes. This appears to have been aimed at setting the Sikh and Muslim residents against each other. Village residents, both Sikh and Muslim, came out and intervened to stop the soldiers from carrying out this nefarious plan.

Unfortunately, this is only one recent chapter in an ongoing saga of repression of minorities and denial of basic human rights in "the world's largest democracy." In India, minorities have seen the destruction of the Muslims' most revered mosque to build a Hindu temple, the burning death of a missionary and his two sons while they slept in their jeep followed by an effort to expel his widow from the country, church burnings, the murder of priests, the rape of nuns, attacks on schools and prayer halls, the massacre of 35 Sikhs in the village of Chithisinghpora, a recent attack on a train carrying Sikh religious pilgrims, troops attacking a crowd of religious pilgrims with lathis, police breaking up a religious festival with gunfire, and many other such intolerant acts.

In November 1994 the Indian newspaper Hitavada reported that the Indian government paid Surendra Nath, then the governor of Punjab, the equivalent of $1.5 billion to generate terrorist activity in Punjab and in Kashmir. In India, half the population lives below the international poverty line. About 40 percent lives on less than $2 per day. Yet they could find $1.5 billion to pay a government official to generate and support terrorism. We have programs in our government that don't cost $1.5 billion. This is not a small amount of money.

Mr. Speaker, India has been caught red-handed engaging in domestic terrorism against its minorities. This is why they are seeking their own states. This is why there are 17 freedom movements within India's artificial, colonial-era borders. The minorities are looking for any means of protection against the brutal Indian state.

America is the beacon of freedom, and as an old song from the 70s said, "you can't be a beacon if your light don't shine." We must do what we can to shine the light of freedom on all the people of south Asia. We can do this by maintaining the existing sanctions against India, by stopping our aid to India until it stops denying basic human rights that are the cornerstone of real democracies, and by supporting self-determination for the peoples of South Asia in the form of a free and fair plebiscite on their political status. By these measures, we can help bring freedom, security, stability, and prosperity to the subcontinent and bring America new allies and new influence in this dangerous region.

HONORING NANCY MACCONELL

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor a great wife, mother, sister, aunt, grandmother, great grandmother and friend. Eighty years ago this Saturday, July 14th, Nancy Leigh MacConell, was born in Globe, Arizona, eldest daughter of Elijah and Alta Phillips.

Nancy is also a treasure to one and all. She has brought great joy to all her family including her beloved sisters Joan and Sidney and her late husband Michale MacConell, Jr.

Nancy is the mother of three; Suzanne Du Pree, Michele King and Michale, the grandmother of ten and the great grandmother of thirteen. And all firmly believe she has the patience of Job and is the greatest mom there ever was.

I rise today to celebrate and honor Nancy MacConell's 80th birthday and wish her as much and love and joy in the next 80.

SUPPORTING A COMMEMORATIVE STAMP FOR THE HONORABLE ADAM CLAYTON POWELL, JR.

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. RANGEL. Mr. Speaker, I rise to urge my colleagues to support House Concurrent Resolution 182, which recommends a long overdue commemorative stamp for a lawmaker, civil rights advocate and American statesman whose achievements continue to resonate.

Congressman Adam Clayton Powell, Jr. remains one of the greatest and most effective legislators in the history of the U.S. Congress. When he was first elected to Congress in 1945, he was one of only two African-American members, and became the first of his race to chair the powerful Committee on Education and Labor from 1961 to 1967.

As Chairman, he spearheaded the legislation that authorized the Medicare, Medicaid, Head Start and school lunch progams, increased the minimum wage and established student loan programs. Chairman Powell also pushed through the landmark Civil Rights Act of 1964, finally codifying his famous "Powell Amendment"; a rider that would deny federal dollars to institutions who practice racial discrimination, which he had introduced repeatedly for years.

Congressman Powell was a pioneer among lawmakers whose legacy continues to inspire countless generations of Americans of all backgrounds, colors, creeds and religions to take part in this grand experiment we call "representative government".

I respectfully urge my colleagues to join me and cosponsor H. Con. Res. 182 to celebrate a lawmaker whose accomplishments are among the greatest examples of perseverance and triumph in our democratic system.

IN RECOGNITION OF EDUCATOR LARRY RATTO

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. STARK. Mr. Speaker, I would like to pay tribute to a legendary educator in my congressional district who retired on June 30, 2001 after an illustrious thirty-six year career filled with memorable contributions to the Hayward, California school district.

A native of Alameda, California, Larry began his career in 1965, when he worked as a history/government teacher and counselor at Mt. Eden High School. Four years later, he became an administrator at Tennyson High School where he took the reins and lead with vigor and creativity.

He stood on hot coals more than once for a good five to ten minutes during pep talks to student leaders at their annual weekend retreat.

Many recall the time in 1970 when Larry rode a galloping horse between the Tennyson High School buildings to chase down a truant student—a legendary story that people still talk about three decades later.

In 1971, Larry became vice principal at Hayward High School and five years later he led as principal of Sunset High School until it closed in 1990. He returned to the 1,900-student Hayward High School as principal, the last position he held before his retirement.

"You got to have some pizzazz," Larry said, while wrapping up his final days as a public school administrator. "You are competing with the MTV culture." Larry describes his career as "fun." He said, "There were days when it was not fun and hours that I thought, "Why am I doing this?"

Having once considered being a lawyer, Larry enjoyed the excitement of a high school principal's life, that every day was different. He is proud of Hayward High School and its wide class offerings and plethora of extracurricular student activities.

Parents, teachers, students, administrators and community leaders express great admiration for Larry Ratto's three decades of outstanding leadership in education as well as his exemplary involvement in community activities. I ask my colleagues to join me in paying tribute to this colorful, legendary educator, and community leader.

IN HONOR OF THE REOPENING OF THE LESBIAN, GAY, BISEXUAL & TRANSGENDER COMMUNITY CENTER

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. NADLER. Mr. Speaker, I rise today to recognize the reopening of the newly renovated and recently renamed Lesbian, Gay, Bisexual & Transgender Community Center located in New York City. The stated mission of the Center is to provide a home for the birth, nurture and celebration of lesbian, gay, bisexual, and transgender organizations, institutions and culture. For nearly two decades the Center has successfully fulfilled that mission by providing groups and individuals a safe space in which to achieve their fullest potential. The newly renovated space at 208 West 13th Street in Manhattan, will be a permanent home for the local LGBT community, fostering creativity, compassion, and activism.

The Lesbian, Gay, Bisexual & Transgender Community Center has long been a beacon of hope for many in the community, serving thousands upon thousands of residents from all walks of life and from every corner of the world. The Center is not only a host to a wide variety of civic, athletic, health, and cultural groups, but it also provides an array of its own programming. Programs such as Project Connect, CenterBridge, Center Kids, the Pat Parker/Vito Russo Center Library, and the National Museum and Archive of Lesbian and Gay History add to the expansive fabric that binds New York's LGBT Community.

Mr. Speaker, I salute The Lesbian, Gay, Bisexual & Transgender Community Center in its ongoing effort to better enrich the LGBT Community and society as a whole. I am eminently proud to represent such a living landmark. I urge my colleagues to join me in wishing them well and all the hope for the future in their new spectacular facility.

HONORING SUPERINTENDENT GEORGE KELEDJIAN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Central Unified School District Superintendent George Keledjian. After many years of dedicated service to the district and the community, Mr. Keledjian has announced his plans to retire.

George Keledjian has an extensive educational background and a remarkable life story. After completing high school in Cyprus, Keledjian attended the Teacher's Training Institute where he decided education would be his focal point. While teaching high school in Lebanon, he earned the equivalent of three dollars a month. After five years of teaching in Lebanon, he boarded a ship for Pasadena, CA. Keledjian then attended Point Loma Nazarene College. After four years of schooling he received his Bachelor's and Master's degrees, both in Education. He began working towards his Ph.D., but due to a serious car accident he was unable to obtain his degree. After many years teaching at a junior high school in Southern California, George Keledjian came to Fresno, CA in 1966. He became Principal at Madison Elementary School in 1971. In 1984, he accepted the position of Superintendent of Central Unified School District.

In his 35 years with the district, Keledjian has overseen the building of five new schools and the renovation of many others. Performance on standardized test scores has increased to above state and county averages. Under George Keledjian's management, the district's General Fund remains financially solvent. He has also led many Central Unified schools to recognition for various awards. Two schools were recognized as California State Distinguished Schools; one school was recognized as a Bonner Foundation Virtues and Character School; two schools were recognized as 2000 Governor's Reading Award Recipients; and Central Unified's Future Farmers of America program is recognized nationally.

Mr. Speaker, I want to pay tribute to George Keledjian for his accomplishments and his years of service to Central Unified School District. I urge my colleagues to join me in wishing George Keledjian a happy retirement.

ADAK ISLAND TRANSFER LEGISLATION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to introduce legislation which will facilitate and promote the successful commercial reuse of the former Naval Air Facility on Adak Island, Alaska. At the same time, this legislation will allow the Aleut people of Alaska to reclaim the island and to make use of its modern developments and important location.

The legislation I introduce today ratifies an agreement between The Aleut Corporation, an Alaska Native Regional Corporation, the Department of the Interior, and the Department of the Navy. "The Agreement Concerning the Conveyance of Property at the Adak Naval Complex, Adak," Alaska was signed last September and is the result of more than four years of discussions and negotiations among the three parties.

The bill and the Agreement also further the conservation of important wildlife habitat. A portion of Adak is within the Aleutian Islands subunit of the Alaska Maritime National Wildlife Refuge. The Agreement facilitates the Department of the Interior's continued management and protection of the Refuge lands on Adak and even adds some of the Navy lands to the Refuge. Moreover, in exchange for the developed Navy lands, which are not suitable for the Refuge, but are commercially useful, The Aleut Corporation will convey environmentally sensitive lands it holds elsewhere in the Refuge to the Department of the Interior.

For many years the Navy was an important constituent in Alaska's Aleutian Chain. Its presence was first established during World War II with the selection and development of the island because of its combination of ability to support a major airfield and its natural and protected deep water port. The Navy's presence there contributed greatly to the defense of our Pacific coast during World War II and throughout the Cold War. Through the Navy's presence, Adak became the largest development in the Aleutians as well as Alaska's sixth largest community. With the end of The Cold War our defense needs changed, however, and Adak was selected for closure during the last base closure round.

Those very same features that made Adak strategically important for defense purposes also make it important for commercial purposes. Adak is a natural stepping stone to Asia and is at the crossroads of air and sea trade between North America, Europe, and Asia. With the ability to use Adak commercially, the Aleut people, through The Aleut Corporation can establish it as an important intercontinental location with enterprise enough to provide year round jobs for the Aleut people. These goals are consistent with the promises and the Alaska Native Claims Settlement Act, the legislation that created the corporation.

This rebirth of Adak is already well underway. The Aleut people assumed responsibility for the operation of the Island from the Navy last October and there are a number of new commercial enterprises and endeavors. At the same time a new community has begun to take shape. Just last month the new City of Adak was established as a result of a public referendum and is in the process of taking over responsibility for the many public facilities.

The Agreement resolves a number of important issues related to the transfer of this former military base and the establishment of the new community on Adak, including responsibility for environmental remediation, institutional controls, indemnification, required public access, and reservation of lands for government use.

This legislation furthers this country's objectives of conversion of closed defense facilities into successful commercial reuse, it benefits the Aleut people and restores them to their ancestral lands and it benefits the National Wildlife Refuge System. I believe everyone will agree that such legislation is important and worthy of our support.

PRESCRIPTION DRUG BENEFIT

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Ms. McCOLLUM. Mr. Speaker, it is far past the time for us to address the intolerable discrimination in drug pricing and provide a comprehensive prescription drug benefit now. These drug re-importation amendments fail to address the real issue of the lack of affordable prescription drugs and in turn provide no real relief.

Seniors should be able to buy American prescription drugs for the same price in Rochester as you can in Rio, in Mankato as you can in Mexico City, at their own pharmacies. We pass "buy America" legislation in this body all the time; yet here we are asking American Seniors to buy American alright, just not in America—go to Canada, or Mexico, or the Islands—just not at their local pharmacy.

Congress should pass legislation now to prevent drug companies from discriminating against U.S. Seniors, allowing them to get their drugs at the same prices as their counterparts in other countries. I urge Congressional leaders to bring to the floor the Prescription Drug Fairness for Seniors Act (H.R. 1400), which I am a cosponsor of, to directly tackle the issue of price discrimination. It's time to stop the current price discrimination and provide a comprehensive prescription drug benefit for all Seniors. Not debate re-importation amendments that only provide band-aids and not real answers.

HONORING THE 125TH ANNIVERSARY OF THE VILLAGE OF BALDWIN, ILLINOIS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the 125th anniversary of the Village of Baldwin, Illinois.

The Village of Baldwin originally was settled about one mile north of it's present location. The early settlers were the Henderson, Allen and Preston families. In 1874, the Mobile and Ohio Railroad built a railroad line at it's present location. Later, a grain elevator was built along the railroad and the village started to develop. In 1876, villagers circulated a petition requesting the official incorporation of the Village of Baldwin. On July 12, 1876, at a special term of the County Court, this petition was presented to Presiding Judge John H. Lindsey and County Clerk, John T. McBride. The petition, signed by fifty legal voters, requested that the organization of the Village of Baldwin located in the County of Randolph be approved.

County Judge Lindsey approved the petition and ordered an election be held on Tuesday July 11, 1876 at the office of RH Preston Esq. for the purposes of voting for or against the organization of the Village under the general laws of the State of Illinois. William L. Wilson and James C. Holbrook, Justices of the Peace of Randolph County, canvassed the election returns, finding that all votes cast were unanimously for the organization of the Village. Judge Lindsey ordered that on August 8, 1876 at the office of RH Preston Esq., an election be held for six Village trustees and one Village Clerk. The first Village Board that was elected then was S.H. Johnson, J.E. Davis, W.T. Thompson, James R. Holden, W.M. Wilson and S.B. Adams. The elected Village Clerk was S.D. Lindsey. On August 11, 1876, the Board of Trustees held it's first meeting. S.B. Adams was chosen as the President of the Board and W.S. Johns was appointed Village Constable and S.D. Lindsey was appointed Village Treasurer.

The Village of Baldwin prospered as a small trading Village throughout the years. The main business being a grain elevator, of which there has been one in Baldwin since it's incorporation. At present, the elevator is owned and operated by Gateway FS. In 1932, Highway 154 was built through Baldwin to provide all-weather transportation to neighboring towns and communities. In September of 1940, the Mobile and Ohio Railroad was purchased by the Gulf, Mobile and Northern Railroad and renamed the Gulf, Mobile and Ohio. Later it merged with the Illinois Central Railroad and today it is part of the Canadian National System. Passenger and freight service was provided on the railroad until October 1958, when passenger service was discontinued in the 1980's. The present rail system supplies services to the Baldwin Power plant, Fairmont Minerals, the Kaskaskia Regional Port District and Gateway FS.

In the Village of Baldwin the educational system consisted of a three-year high school, a public grade school and a Lutheran grade school. The high school was discontinued in the mid 1940's and the school district became part of the Red Bud School District. In 1959, the public grade school closed and children were sent to Red Bud schools. The Lutheran grade school also closed in the mid 1970's and children attend either Prairie or Red Bud. Baldwin is also the home to many churches. Both the St. John's Lutheran Church and the Baldwin Community Presbyterian Church have organizations to promote the welfare of their members. The Village also has many varied civic organizations which include the American Legion Nicholas Laufer Post 619, the Baldwin Athletic Club, the Baldwin Community

In 1964, the Village installed both water and sewer systems. The water plant received severe damage from the 1993 flood and the plant needed to be moved out of the flood plain. After deliberation by the Board, it was determined that the Village became part of the newly formed rural water system. In early last year, the Village water system became part of the Egyptian Water Company, which purchases water from the City of Sparta. The Village sanitary sewer system was upgraded in 1987 and with federal and state assistance, their water system is about to be improved.

In 1999, the old school building, which previously served as the Village Hall, was razed. With assistance from local political leaders, funds were made available for a new Community Center. Both State Senator David Luechtefeld and State Representative Dan Reitz helped to secure the new Center. This center, when completed, will be used for all community functions and also serve as a meeting room for the Village Board. Offices for the Village President and Village Clerk will also be included in this facility. Today, the Village of Baldwin is presided over by Jeffrey S. Rowold, Village President, Wesley G. Stellhorn-Village Clerk, Eileen Mehring-Village Treasurer, Craig Hartman, James Mueller, Darrell Mueth, Tammy Prost, Gary Schoenbeck and Cheryl Sellers all Village Trustees.

Mr. Speaker, I ask my colleagues to join me in honoring the 125th Anniversary of the Village of Baldwin and to salute it's past, present and future residents.

HONORING ALLEN RAMSEY

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. HILLEARY. Mister Speaker, I rise today to commend Mr. Allen Ramsey of Sullivan County, Tennessee for his meritorious service to the people of Tennessee and to wish him good luck representing the State of Tennessee at the National Auctioneer Association meeting.

Allen Ramsey exemplifies the best of our great state. He works hard and gives his all to everything he does. Like many native Tennesseans, Allen grew up on a farm, and has become a farmer himself. In addition to raising cattle and tobacco on his farm, Allen has become a very accomplished auctioneer.

Last December, Allen Ramsey was recognized as the "Tennessee Grand Champion Auctioneer." He competed against seventeen other entries and was among five finalists before winning the coveted title of "Tennessee Grand Champion Auctioneer."

Mr. Speaker, next week, Allen will represent Tennessee at the National Auctioneer Association meeting in Boise, Idaho. I congratulate Allen on being named "Tennessee Grand Champion" and wish him the best of luck when he travels to Boise to represent our great state.

COMMERCIAL DRIVER'S LICENSE DEVOLUTION ACT OF 2001

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. COBLE. Mr. Speaker, today I am introducing the "Commercial Driver's License Devolution Act of 2001." This legislation will give states the option to establish their own commercial driver's license (CDL) requirements for intrastate drivers.

As many in this House already know, I have always been a strong advocate for taking power out of Washington and returning it to the states. I do not believe that our traditional, one-size-fits-all approach to governing is effective, efficient or economical for the American taxpayer.

The legislation which I propose today would return power to the states by giving states the option (and I emphasize option) to license intrastate drivers of commercial motor vehicles based upon testing standards determined by the individual states. As you know, the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) required states to establish a new and uniform program of testing and licensure for all operators of commercial vehicles both intra- and interstate. The principal objectives of this Act have been met and would not be harmed by this legislation.

The CMVSA is good law, and its provisions were necessary and timely for improving standards of performance for long-haul truck drivers. The CMVSA, however, was also imposed upon intrastate commerce where the operation of trucks may be a small but necessary part of an individual's job. We imposed our will on thousands of small businesses not involved in long-haul trucking and somehow expected them to adjust to any circumstance that might arise. Under these conditions, I believe it should be within a state's discretion to determine what kind of commercial vehicle licensure and testing is required for commerce solely within its borders.

I again want to emphasize that it would be entirely up to each state whether it chooses to reassume authority over licensing and testing of intrastate drivers. A state that chooses to exercise this option would in no way diminish the role of the CDL in the long-haul trucking industry. Additionally, this legislation effectively precludes two or more states from using this option as the basis for an interstate compact. I am confident that those states taking advantage of this option will develop testing standards that maintain the same level of safety offered by the federal program. After all, the primary mission of all state DOTs is to ensure the safety of those travelling on their roads.

This legislation is extremely important to our nation's small businesses, and I urge the House to adopt this measure.

RECOGNIZING THE CONTRIBUTIONS OF FUJIFILM TO THE SMITHSONIAN INSTITUTION

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. GRAHAM. Mr. Speaker, I rise today to congratulate Fujifilm for recently receiving the Smithsonian Institution's 2001 Corporate Leadership Award for its role as lead sponsor of Mei Xiang and Tian Tian, the new giant panda pair at the Smithsonian's National Zoo. The award recognizes the gift made on behalf of Fujifilm's 8,000 U.S. associates at 47 separate facilities.

Additionally, I would like to commend Fujifilm for the significant contribution that organization has made to the Smithsonian's National Zoo in donating $7.8 million, the largest donation in the Zoo's distinguished history. Fujifilm's generous gift and lead sponsorship of the project to bring a new giant panda pair to the Zoo and to construct the Fujifilm Giant Panda Conservation Habitat which will serve as the new, permanent home for the pandas.

Mei Xiang and Tian Tian have quickly become national treasures. Their arrival at the Zoo, as well as the extensive giant panda education and research activities, initiated through their sponsorship, have been beneficial to the visiting public. Fujifilm hopes that its involvement will create a gateway that will help people better understand the broader issues of species conservation worldwide. Additionally, many items from Fujifilm's wide range of state-of-the-art imaging, data storage and information products will be used by Zoo researchers as they conduct their projects in the study of the giant pandas.

Mr. Speaker, I urge my colleagues to join me in lauding the outstanding corporate citizenship of Fujifilm and its leadership in conservation efforts. Additionally, I would hope that the members of this body will join me in thanking Fujifilm's 8,000 U.S. associates for their valuable gift to the National Zoo, its visitors, and its researchers.

PERSONAL EXPLANATION

HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. KENNEDY of Minnesota. Mr. Speaker, on rollcall Nos. 211, 212 and 213 I was unavoidably detained by airline delays.

Had I been present, I would have voted "yea" on each rollcall.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 12, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 13

9:30 a.m.
Energy and Natural Resources
To hold hearings on proposals related to energy efficiency, including S.352, the Energy Emergency Response Act of 2001; Title XIII of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 602-606 of S. 388, the National Energy Security Act of 2001; S. 95, the Federal Energy Bank Act; and S.J. Res. 15, providing for congressional disapproval of the rule submitted by the Department of Energy relating to the postponement of the effective date of energy conservation standards for central air conditioners.
SD-366

Armed Services
Readiness and Management Support Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on installation programs, military construction programs, and family housing programs.
SR-232A

JULY 16

1 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine security risks for the E-consumer.
SR-253

JULY 17

9:30 a.m.
Energy and Natural Resources
To hold hearings on proposals related to reducing the demand for petroleum products in the light duty vehicle sector, including Titles III and XII of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Title VII of S. 388, The National Energy Security Act of 2001; S. 883, the Energy Independence Act of 2001; S. 1053, Hydrogen Future Act of 2001; and S. 1006, Renewable Fuels for Energy Security Act of 2001.
SD-366

Commerce, Science, and Transportation
To hold hearings to examine media concentration.
SR-253

10 a.m.
Judiciary
To hold hearings on executive branch nominations.
SD-226

2:30 p.m.
Judiciary
Immigration Subcommittee
To hold hearings on S. 121, to establish an Office of Children's Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children.
SD-226

JULY 18

9:30 a.m.
Governmental Affairs
To hold hearings on S. 1008, to amend the Energy Policy Act of 1992 to develop the United States Climate Change Response Strategy with the goal of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, while minimizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technological breakthroughs that make significant progress toward the goal of stabilization of greenhouse gas concentrations, and to establish the National Office of Climate Change Response within the Executive Office of the President.
SD-342

Commerce, Science, and Transportation
Surface Transportation and Merchant Marine Subcommittee
To hold hearings to examine NAFTA trucks.
SR-253

Armed Services
Personnel Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the

Future Years Defense Program, focusing on active and reserve military and civilian personnel programs.

SR–222

Energy and Natural Resources

To hold hearings on proposals related to energy and scientific research, development, technology deployment, education, and training, including Sections 107, 114, 115, 607, Title II, and Subtitle B of Title IV of S. 388, the National Energy Security Act of 2001; Titles VIII, XI, and Division E of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 111, 121, 122, 123, 125, 127, 204, 205, Title IV and Title V of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; S. 90, the Department of Energy Nanoscale Science and Engineering Research Act; S. 193, the Department of Energy Advanced Scientific Computing Act; S. 242, the Department of Energy University Nuclear Science and Engineering Act; S. 259, the National Laboratories Partnership Improvement Act of 2001; and S. 636, a bills to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the Sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

SD–366

Indian Affairs

To hold oversight hearings on tribal good governance practices and economic development.

Room to be announced

10 a.m.

Judiciary

To hold hearings to examine reforming the Federal Bureau of Investigation management reform issues.

SD–226

Health, Education, Labor, and Pensions

Employment, Safety and Training Subcommittee

To hold hearings to examine the protection of workers from ergonomic hazards.

SD–430

2 p.m.

Governmental Affairs

Investigations Subcommittee

To hold hearings to examine past and current U.S. efforts to convince offshore tax havens to cooperate with U.S. efforts to stop tax evasion, the role of the Organization of Economic Cooperation and Development tax haven project in light of U.S. objectives, and the current status of U.S. support for the project, in particular for the core element requiring information exchange.

SD–628

2:30 p.m.

Intelligence

To hold closed hearings on intelligence matters.

SH–219

JULY 19

9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to removing barriers to distributed generation, renewable energy and other advanced technologies in electricity generation and transmission, including Sections 301 and Title VI of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 110, 111, 112, 710, and 711 of S. 388, the National Energy Security Act of 2001; S. 933, the Combined Heat and Power Advancement Act of 2001; hydroelectric relicensing procedures of the Federal Energy Regulatory Commission, including Title VII of S. 388, Title VII of S. 597; and S. 71, the Hydroelectric Licensing Process Improvement Act of 2001.

SD–366

2:30 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 976, to provide authorization and funding for the enhancement of ecosystems, water supply, and water quality of the State of California.

SD–366

JULY 24

9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to global climate change and measures to mitigate greenhouse gas emissions, including S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; S. 388, the National Energy Security Act of 2001; and S. 820, the Forest Resources for the Environment and the Economy Act.

SD–366

10 a.m.

Indian Affairs

To hold hearings on S. 266, regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon.

SR–485

2:30 p.m.

Veterans' Affairs

To hold hearings to examine prescription drug issues in the Department of Veterans' Affairs.

SR–418

JULY 25

9:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

10 a.m.

Indian Affairs

To hold oversight hearings on the implementation of the Indian Gaming Regulatory Act.

SH–216

JULY 31

10 a.m.

Indian Affairs

To hold hearings on the implementation of the Indian Health Care Improvement Act.

SR–485

AUGUST 2

10 a.m.

Indian Affairs

To hold hearings on S. 212, to amend the Indian Health Care Improvement Act to revise and extend such Act.

SR–485

HOUSE OF REPRESENTATIVES—*Thursday, July 12, 2001*

The House met at 10 a.m.

Rabbi Solomon Schiff, Director, Greater Miami Jewish Federation, Miami, Florida, offered the following prayer:

Heavenly Creator, we ask for Thy blessings upon the Members of this sanctified chamber who have accepted the sacred responsibility to serve with partiality to none and compassion to all. May their deliberations be guided by wisdom, purpose, and dedication.

Bless, we pray, our Nation. Thou has created this land as a haven of hope for the tired, the poor, the huddled masses yearning to breathe free. From the raw elements of justice, liberty, and equality, Thou has created here Heaven on Earth. May we ever remain worthy of this precious gift.

May this Nation serve as an inspiring beacon, whose light will dispel the darkness of despair and will guide the ship of mankind safely home to the port of peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

> H. Con. Res. 174. Concurrent resolution authorizing the Rotunda of the Capitol to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers.

WELCOMING RABBI SOLOMON SCHIFF, DIRECTOR, GREATER MIAMI JEWISH FEDERATION, MIAMI, FLORIDA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I am so very pleased to introduce my congressional constituent, Rabbi Solomon Schiff, of the Greater Miami Jewish Federation, who led us in our opening prayer today.

I am proud to have a spiritual leader from Miami chosen for this special opportunity, and I thank Rabbi Schiff for sharing his compassionate prayer of hope and peace with our colleagues.

Within the south Florida community, Rabbi Schiff is well-known for his many acts of kindness and charity. In addition to his many duties, he finds time to serve as a member of the Governor's Commission on Aging with Dignity, as well as the People United to Lead the Struggle for Equality, an African American clergy group.

Rabbi Schiff is currently the executive vice president of the Rabbinical Association of Greater Miami, a position he has held since 1964. He is the longest-serving executive of any board of rabbis.

Additionally, he has served as the President of the Florida Chaplains Association and the South Florida Chaplains Association, and was recently elected as President of the National Association of Jewish Chaplains.

Rabbi Schiff is married to the former Shirley Miller, and they have three sons, Elliott, Jeffrey and Steven, as well as seven grandchildren.

Rabbi Schiff is an exemplary man of faith, and all of us in south Florida share tremendous pride that he is here with us today.

Welcome, Solomon Schiff, the rabbi of our community.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair will entertain 10 one-minute speeches per side.

SUPPORT ENERGY SECURITY ACT TO MEET ENERGY NEEDS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, due to recent current events, I do not think anyone can deny nor can anyone argue that this country needs more energy. Every estimate I have seen points to a sharp rise in our Nation's energy demands over the next 20 years. The demand for electricity, for example, is expected to rise 45 percent, according to the DOE, and the demand for natural gas will be even greater. It is expected to rise 62 percent by the year 2020.

Now, everyone knows that conservation can take the edge off that demand, and, in fact, the Republican energy package offers a framework for energy conservation that we have long needed. But, as Californians know quite well, even the best conservation efforts will not solve this problem. They are experiencing about a 15 percent gain in that demand due to conservation. That still leaves us about 40 to 50 percent short, and, without new energy supplies, more businesses, more hospitals, and more homes are going to go dark unnecessarily. We need to produce more energy.

Therefore, I encourage my colleagues to support H.R. 2436 the Energy Security Act, which provides a multifaceted energy package.

ALLOW UP OR DOWN VOTE ON CAMPAIGN FINANCE REFORM

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, today was the day that we were supposed to debate at long last campaign finance reform. The public understands that if we are to pass campaign finance reform, it will be embodied in the principles of McCain-Feingold or Shays-Meehan. But, unfortunately, the Committee on Rules is recommending a rule that will make it extremely difficult, if not impossible, for this body to have an up-or-down vote on the McCain-Feingold/

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Shays-Meehan campaign finance reform proposal.

That is not right. Those of us who favor reform, unfortunately, will have to oppose this rule so that we can, in fact, have an honest debate and vote up or down campaign finance reform.

IMPLEMENT PRESIDENT'S ENERGY PLAN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, in the last few weeks we have seen gas prices go up and down, and I think we all hope they keep coming down. Energy prices are still too high, supply is not meeting demand, and we are still expecting rolling blackouts in California, and we could still see gas prices as high as $2 a gallon.

This is the time for leadership. We need real solutions. The President has taken the initiative and is working hard to implement his 105-point plan to increase supply and correct the market, but some politicians just cannot resist the temptation to politicize this for personal gain. They are telling people that there is a quick fix and pointing fingers at anyone who says there is not.

But we cannot just put price caps on energy. If anything, that will make the problem worse, by removing any incentive to increase production. We need to remove impediments to production so supply can go up and prices can come down.

The last two economic recessions were preceded by similar energy crunches. Hopefully we can still avert a recession, but only if we stop playing games and implement the President's energy plan.

RETURN GOVERNMENT BACK TO THE PEOPLE

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, it is most unfortunate that the Committee on Rules of this House is thwarting the will of the Members of this House and of the American people to clean up our campaign finance system in this country.

For all too long we have seen the flow of special interest money into the coffers of politicians on both sides of the aisle, in the House and the Senate and the White House, and we have seen the effect of this flow of money. It is now corroding the very pillars of our democracy. It is undermining the foundations of our deliberations in the House and the Senate and at the White House. It means that the people's business does not get done on a fair and level playing field. It means that there is special access for those who can give huge amounts of money, but there is very little access for those who simply have their voice.

This is not about the first amendment; this is about whether or not this House, this Congress, this Presidency, will return the Government of the United States back to the people and take it away from those who have no end to the amount of money that they can contribute to Members of Congress or the President, those who have so often distorted the debate about the real needs of the American people at this time in our history.

INFLUENCE PEDDLING OF SO-CALLED REFORMERS

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the words of my friend from California, and I just find it ironic; he hails from a State that once championed the free speech movement at Berkeley, and today on this floor, with a rule that will allow to come to the floor amendments that doctor the so-called campaign reform bill, we will have a chance to see just how corrupting a process can be.

Talk about dirty money, Mr. Speaker. Take a look at the influence-peddling of the so-called reformers.

The simplest way to handle this would be to heed the words of Mr. Justice Brandeis who said that sunlight is the best disinfectant. Yes, it is going to be very enlightening, and I find it fascinating that my friends on the left suddenly now find it unfair to completely debate this important issue. Curiouser and curiouser, said Alice. Today the American people will find out just how corrupt and curious the process has become.

SUCKER FISH DESTROYING LIVELIHOOD OF OREGON FARMERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the endangered sucker fish is living up to its reputation, sucking the livelihood from 1,400 farmers in Oregon. That is right. This protected bottom feeder now has more rights than farmers out there. If that is not enough to fry your mackerel, this region has now been without irrigated water since April, turning 200,000 acres of farmland into near desert.

Beam me up. Stop this sucker fish crusade. Free these farmers.

I yield back the fact that this sucker fish sucks.

THE PROMISE OF STEM CELLS

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, I rise today in strong support of the NIH guidelines for stem cell research. We must look to the promise of stem cell research. The NIH guidelines will enable scientists to proceed with this revolutionary medical breakthrough.

Pluripotent stem cells have the ability to develop into nearly any cell in the human body. This research initiative gives hopes to millions of Americans. Stem cells offer hope to patients suffering from diabetes, Parkinson's disease, cancer and AIDS.

□ 1015

In addition, the research offers hope to those suffering from spinal cord injuries, neurological disorders, sickle cell anemia and muscular dystrophy. Stem cells could also help determine the cause of many birth defects.

Mr. Speaker, millions of Americans are depending on stem cell research to help rid them of painful diseases. Millions of Americans continue to wait as our Government delays in considering this critical form of research. We have a genuine bipartisan opportunity to apply innovative research to take real steps in treating and eliminating a wide range of diseases. The NIH guidelines will help us do that.

MOMENT OF TRUTH FOR CAMPAIGN FINANCE REFORM

(Mr. ISRAEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISRAEL. Mr. Speaker, I rise as a very proud cosponsor of the Bipartisan Campaign Finance Reform Act. It was one of the first bills that I cosponsored in this House because it puts people first.

Earlier this week, I had the privilege of standing with our colleagues, Senators MCCAIN and FEINGOLD and the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN), at the birthplace of one of America's truly great reformers, President Teddy Roosevelt. We stood together in a bipartisan call for campaign finance reform, united in an urgency to restore faith in our democracy.

In his day, President Roosevelt said this: "One of the fundamental necessities in a representative government such as ours is to make certain that the men to whom they delegate their power shall serve the people by whom they are elected and not the special interests."

Mr. Speaker, today is literally the moment of truth in this House on campaign finance reform. We can keep our promises for reform, or we can pretend to keep our promises. The only true reform is known by McCain-Feingold and Shays-Meehan. Let us pass that today.

OPPOSE THE RESTRICTIONS ON FREE SPEECH IN SHAYS-MEEHAN MEASURE

(Mr. CANTOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANTOR. Mr. Speaker, this body is on the verge of a very important vote today, a vote that at its essence is really a vote on whether or not to uphold the constitutional right Americans have to free speech.

The restrictions in the Shays-Meehan bill are an affront to the Jeffersonian values of individual liberty and freedom that form the foundation of our country and its rule of law. Individuals, organizations, and businesses in our great land should be able to support the viewpoint and the party of their choice. If we place burdensome restrictions on how citizens are allowed to participate in our electoral process, we begin to undermine the basis of our Government by the people, a government to which citizens must be able to contribute freely.

As we cast our vote today on campaign finance reform, I urge my colleagues to remember the most essential reform is to ensure that everyone in America has the right to decide how to contribute to our system of democracy.

SUPPORT REAL CAMPAIGN FINANCE REFORM

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I rise today in support of real campaign finance reform.

Why is this so critical? Why is it so important to us today? There is far too much special interest money in our political democracy. Special interests are drowning out the voice of the American people, and they are sick of it.

In my race in San Diego, my opponent and I were outspent by special interests by a ratio of 4 to 1. Special interests' television and mailers flooded the 49th district constituents. All of this soft money made it virtually impossible for the candidates to communicate directly to the voters. Voters were frustrated with a lack of honest information. There was so much information coming from so many undisclosed sources that they did not know whom to believe and what was coming from whom.

Mr. Speaker, we need to make sure that voters are the center of our democratic election system. They deserve nothing less. So I urge this House to pass strong and effective campaign finance reform today, to do it without games, and to do it in an honest and straightforward way. The American public is depending upon us.

MINNESOTANS WANT REAL CAMPAIGN FINANCE REFORM

(Ms. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McCOLLUM. Mr. Speaker, Minnesotans want real campaign finance reform. They want it now. My State has led the Nation in how we run our elections. From our voters registering on election day to limiting our campaign spending, Minnesota campaigns have a reputation of being open, honest and competitive; and we consistently lead the Nation in voter turnout.

One of the reasons why I ran for Congress was to work to help to restore the public's trust in our elected leaders. The Shays-Meehan bill is the first good step in cleaning up our campaign finance system. By eliminating soft money, Americans' confidence in our electoral system will be restored.

Mr. Speaker, this bill helps to control the amount of money contributed in campaigns, but we need to go farther. We must take control of how much money is spent on elections. I will work to take the next step on campaign finance reform by limiting the hundreds of millions of dollars spent on our elections. However, we must begin now. We must begin today.

Mr. Speaker, I urge my colleagues to support Shays-Meehan and begin the process.

DEFEAT CERTAIN AMENDMENTS TO CAMPAIGN FINANCE REFORM BILL

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, today we have a very important issue before us: campaign finance reform. I want to talk about two amendments that are going to be coming up before us.

One is known as the Linder-Schrock amendment, and it bans the use of funds that unions and corporations would give to communicate with their members and stockholders. How ridiculous.

In California we had a similar proposition, and it failed miserably; and that proposition was known as Prop 226. I am glad to say that the residents and those that voted in that election defeated that overwhelmingly. Let us make sure that we defeat that amendment here also.

Another amendment that I believe is egregious would also restrict and limit legal immigrants from making contributions to Federal candidates. Again, we are limiting their ability to voice their opinions. This is known as the Bereuter-Wicker amendment, which would preclude individuals from communicating with people and ideals that they support.

If this is truly America, then we have to stand up for all legal immigrants that are tax-paying, that serve our country, that are playing by the rules, and that are maybe one step away of becoming citizens. Let us do the right thing and defeat these two amendments.

OPPOSE THE RULE ON CAMPAIGN FINANCE REFORM

(Mr. SHERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHERMAN. Mr. Speaker, I am anxious, we are all anxious, to begin campaign finance reform and to begin it by making our rules more fair. Unfortunately, we need to oppose the rule that is coming before this House this morning. It is a rule that tells the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) that they cannot present their bill to this House in the form that they want to present it. Instead, the manager's amendment is chopped up into 12 pieces.

This is unprecedented. This is unfair. This is not reform. This is not the way this House should conduct its business. A vote on Shays-Meehan should be a vote on the bill that the authors would like us to vote on, not an old draft from 3 or 4 weeks ago. If we have a manager's amendment that comes before this House, it should be one amendment, not chopped up into 12 time-wasting pieces.

Vote "no" on the rule.

TIME TO END CORRUPTING INFLUENCE OF MONEY ON PUBLIC POLICY

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, the corrupting influence of money on public policy is evident in this House every day. It is evident not only as a principal concern that arises here on vote after vote, significantly influenced by who, gave how much, to whom, when, but it is also particularly evident in the silence on critical issues of public policy, on what is never discussed. When we are unable to consider critical issues of public health because of the soft money contributions from Philip Morris and the tobacco industry; when we are never able to debate the outrageous price discrimination against our seniors on their pharmaceuticals because of the millions of dollars that the pharmaceutical companies contribute, and by the multiple issues never considered that impact our children, who make no campaign contribution.

Today we have an opportunity to consider a very modest, a very incomplete and imperfect answer to this troubling predicament through bipartisan legislation. This legislation represents our best hope to begin to correct this outrage and restore our democracy to the people.

PASS MEANINGFUL CAMPAIGN FINANCE REFORM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the time has come to pass meaningful campaign finance reform. What it will do, what the bipartisan Shays-Meehan Campaign Reform Act will do is to take the soft money out of politics, take the special interest money out of politics. It will help us to restore the integrity to our political system. It will help us today to restore the confidence that the American public needs to have in people who serve in public life, restore their confidence in our government that, in fact, we can act on behalf of the interests of the people that we represent and not the interests of the moneyed interests in this country.

Mr. Speaker, we have an obligation here to pass meaningful campaign finance reform so that, in fact, we can get about the business of making sure that we have a Patients' Bill of Rights, which is a bipartisan piece of legislation; that we have a prescription drug benefit so that we can bring some relief to people who are struggling with the high cost of drugs in this country; that we can have a clean and a safe environment.

That is what this bill is about. It is a bipartisan bill. It is authored by the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN). This bill has passed twice in this House before, and we should take today that opportunity to make it a law.

THE JOURNAL

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 362, nays 50, answered "present" 1, not voting 20, as follows:

[Roll No. 222]

YEAS—362

Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Coyne
Cramer
Crenshaw
Cubin
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Largent
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Sununu
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (FL)

NAYS—50

Aderholt
Baird
Baldwin
Becerra
Bonior
Borski
Brady (PA)
Brown (OH)
Capuano
Costello
Crane
Crowley
DeFazio
English
Filner
Gephardt
Gutierrez
Gutknecht
Hastings (FL)
Hefley
Hilliard
Hinchey
Kennedy (MN)
Kucinich
Larsen (WA)
Lewis (GA)
LoBiondo
McDermott
McGovern
McNulty
Menendez
Moran (KS)
Oberstar
Peterson (MN)
Ramstad
Sabo
Schaffer
Stark
Stupak
Sweeney
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (NM)
Velázquez
Visclosky
Wamp
Waters
Weller
Wu

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—20

Abercrombie
Clayton
Cox
Culberson
Fattah
Hutchinson
Lantos
Leach
Lewis (CA)
McKinney
Murtha
Paul
Platts
Rangel
Shaw
Smith (NJ)
Spence
Thomas
Watkins (OK)
Young (AK)

□ 1049

Mr. THOMPSON of California changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MOTION TO ADJOURN

Mr. MCNULTY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the motion to adjourn offered by the gentleman from New York (Mr. MCNULTY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. McNULTY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 7, noes 412, not voting 14, as follows:

[Roll No. 223]

AYES—7

Bentsen
Carson (IN)
Filner
Hastings (FL)
McNulty
Smith (NJ)
Towns

NOES—412

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
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Bonilla
Bonior
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Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
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Buyer
Callahan
Calvert
Camp
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Cantor
Capito
Capps
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Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
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Edwards
Ehlers
Ehrlich
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English
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Farr
Ferguson
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Frelinghuysen
Frost
Gallegly
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Gibbons
Gilchrest
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Goode
Goodlatte
Gordon
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Graham
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Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
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Hastings (WA)
Hayes
Hayworth
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Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
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Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
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Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Young (FL)

NOT VOTING—14

Bass
Cox
Fattah
Gephardt
Hall (OH)
Hilliard
Horn
Hutchinson
Lewis (CA)
Paul
Shaw
Spence
Wynn
Young (AK)

□ 1110

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

APPOINTMENT OF CONFEREES ON H.R. 2216, 2001 SUPPLEMENTAL APPROPRIATIONS ACT

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2216) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Florida?

Mr. OBEY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

MOTION OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Speaker, pursuant to clause 1 of rule XXII and by direction of the Committee on Appropriations, I offer a motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves that the bill (H.R. 2216) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes, with a Senate amendment thereto, be taken from the Speaker's table, that the House disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The gentleman from Florida (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, the motion to go to conference is basically a routine motion. We need to get to conference on this supplemental. We have military operations, training activities, we have readiness issues ready to close down if we do not provide the additional money that is needed. Much of the money that has been used already from the fourth quarter accounts of the military have gone to pay for things like higher fuel costs, like all of us will have to do at the fueling pumps, to pay for medical expenses that have already been incurred by members of the military, their families and retirees, that have already been incurred but have not been paid. They need to be paid.

There are other items included in this conference, and time is extremely important. I suggest that we should get on with moving this bill into the conference so that we can actually sit down with our counterparts in the other body, have the conference, and have a supplemental bill ready to report back to the House early next week.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. Of course I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, does the gentleman intend to yield to this side of the aisle any time?

Mr. YOUNG of Florida. Mr. Speaker, I was not going to until the gentleman asked. I would be more than happy to yield to the gentleman. Would he like to name a specific amount of time?

Mr. OBEY. Mr. Speaker, it depends on how much time the gentleman intends to take. Normally it is an hour, but it can be less than that.

Mr. YOUNG of Florida. Mr. Speaker, actually I am ready to vote, but I would yield to the gentleman 10 minutes.

Mr. OBEY. Mr Speaker, could we make it 20 minutes on this side?

Mr. YOUNG of Florida. Mr. Speaker, I would yield 20 minutes to the gentleman from Wisconsin (Mr. OBEY), and I would advise him that I do not intend to use much more time on this. The issue is so important that we need to get to it.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. OBEY) for 20 minutes to control of debate.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are caught up in two issues here this morning. One is, of course, the issue before us, the question of the proper disposition of the motion to go to conference on the supplemental appropriations. But we are also, in debating that issue, caught up in the larger question this morning of what is going to happen for the rest of this day as we move into the subject that will dominate debate for the rest of the day, campaign finance legislation.

□ 1115

It had been the reasonable expectation of reformers on both sides of the aisle, I believe, that the two competing propositions would be allowed to face each other in a stand-up, fair fight, Shays-Meehan on one side of the issue and the Ney-Wynn proposition on the other side of the issue. Instead, the Committee on Rules has not allowed that to happen. What they have done is report a rule which will require campaign finance legislation to be debated under very strange circumstances. It will not allow Shays-Meehan to present their package as a coherent whole. It requires some 12 amendments to be voted on separately. I would say that that is sort of like telling people to go into a car dealer if they want to buy a car and telling them they have to buy one that is disassembled; they will have to buy a transmission separately; they will have to buy the tires separately; they will have to buy the motor separately.

That is not the way you buy cars, and that is not the way we ought to legislate. We ought to have a fair fight between the two principal propositions that we will be asked to choose between today. But instead we are not going to be given a fair fight, because apparently the people who designed these rules think the only way they can win the debate is to stack the deck. I think that is unfortunate because I think we have evidence on both sides of the aisle that there are Members who want true reform and are willing to vote for it.

I would simply say that I have substantial doubts about the wisdom of either of the propositions that will be brought before us. But if the House leadership will go through these kind of machinations and this kind of manipulation and these kind of contortions in order to block the incredibly tepid reform represented by Shays-Meehan, I would hate to see what they would do to block comprehensive reform of campaign finance legislation.

Let me also say a bit about the motion before us. I do not, when the time comes, expect to vote against the motion to go to conference; but I will ask for a rollcall vote on it. I want to express some concerns about what we ought to do on that proposition.

We are being asked to go to conference on a bill which everyone understands is totally inadequate even by administration standards. The administration has told us in the words of the FEMA director, Mr. Albaugh, and also in the words of Mr. Daniels, the OMB director as quoted in the Houston Chronicle, that they will probably need considerably more money than is presently appropriated for FEMA. Yet the House bill for the supplemental actually rescinds existing appropriations for FEMA. That makes no sense whatsoever.

Secondly, the administration is planning to spend $30 million on a political mailing to tell people that they are going to get a tax cut check, and they already know they are going to get a tax cut check. Meanwhile, the Congress is refusing to appropriate the money necessary to the victims of radiation poisoning, a claim which has already been clearly established and an entitlement which has already been clearly established. So they are willing to spend money on this political mailing, but they are not willing to deliver these payments to people who are sick and dying who have been literally fried by their own government. I do not think that makes much sense.

Thirdly, even though the administration has asked us to provide funding to protect public health and to protect the health of our farm stock from the twin problems of mad cow disease and foot and mouth disease, this Congress has chosen not to appropriate funds requested by the administration for those items. When the proper time comes, I will have a motion instructing conferees to accept those three changes in the House bill. But for now I want to make clear that this additional step this morning has been required because of the anger that is felt I think on the part of people on both sides of the aisle about the stacked deck that has been provided to us in the rule on campaign finance.

This House ought to be able to debate these two issues straight up and not be hampered by indirection and manipulation. The name of the game is clear. It is the hope of the people who designed this rule on campaign finance that they can pick off one or more of those 12 separate fix-up amendments to Shays-Meehan and in the process prevent people from voting on the entire comprehensive, coherent package. That is indeed unfortunate. I think it is an abuse of the process, but it is not the first time we have seen that around here.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

I listened with interest to the gentleman's discussion. I checked my schedule, the card that I carry to tell me where I am supposed to be all day long. I thought we were here talking about a supplemental appropriations bill for national defense and for other health issues and other emergency disaster issues. I did not realize that this motion had anything at all to do with campaign finance reform. That is because it does not. Absolutely nothing. And then I thought, are we on a tax bill? No, we are not on a tax bill. This has nothing to do with a tax bill. So I am not sure where we are going with this debate.

I mentioned in my opening comments about the needs of the Army, the Navy, the Air Force, the Marine Corps and the Coast Guard. Let me tell Members what else is in this supplemental bill, that has nothing to do with campaign finance reform or with the tax refund except for the money to mail out the refund checks.

This legislation will address emergency needs related to natural disasters, a number of which have occurred; including recent floods, ice storms, in Illinois, Iowa, Minnesota, Wisconsin, New Mexico, Oklahoma and Texas; the Seattle earthquake; and approximately 300 wildland fires that we have had to deal with. These needs are also covered in this supplemental appropriations bill. Assistance is important to all of the communities that suffered these terrible disasters.

Additional energy needs are met for the poorest of the poor, those who need help with their energy assistance. LIHEAP, a program that everybody in this Chamber knows about, is provided $300 million in this bill. I think that is a program that the gentleman from Wisconsin supports enthusiastically. We did increase it over the President's request to the $300 million mark. Also in this bill is $160 million to implement last year's conference agreement on Title I, Education for the Disadvantaged. There is $115 million to enable the Department of Treasury to mail out the tax rebate checks. If people have tax rebate checks coming to them, we ought to mail them out.

Mr. Speaker, the discussion today is about sending this bill to conference. We need to get this bill to conference so we can work out the differences between the House bill and the Senate bill. They are not that great, actually. We will be able to bring this conference back to the House, I believe, early next week if we can get to conference today.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, let me reiterate one thing that the gentleman from Florida spoke about. There is a problem called "hold harmless" in title I education funds, to where the States that are losing population maintain a certain level, but those States that are gaining children that are impoverished do not get additional dollars. I worked with a Senator in the other body from California, we brought it to conference; and we decided to fund both until we can find resolution to that. Guess what? There was not enough money to do that. So those children that are the poorest of the poor in title I funds, this supplemental takes care of it. That is one of the reasons this is important.

Secondly, we met with Secretary Rumsfeld this morning. While all the 12 appropriations bills have been going up, if you have got a baseline, up to a level like this, Defense with all of the deployments we have had, the cost is down here in the cellar. Even this supplemental will only bring us up to a level here. It will not even bring us back up to the baseline.

Secretary Rumsfeld said that one of the most important things that will happen if we do not get this besides all of the ships and things and the repairs and the training that stops, our TDY personnel, that is temporary duty orders, and our permanent moves, right now it is the summertime when our military folks' kids are out of session and they are trying to get their families moved in to their next base so that they can enroll their children into the schools. If we do not hurry up and do this, that is going to be delayed; and all of those families, the disruption of not having your child entered into a school is going to be affected. So we strongly support this amount in this supplemental. It is critical. We should have done it before we left for our Fourth of July break, and now it is even more critical.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, my good friend from Florida has indicated what is in this bill. There is no argument about what is in this bill. I intend to vote to go to conference. The problem is what is not in this bill. It does not contain the roughly $1 billion that we have been given indications from the administration itself that in the end we will need to meet our obligations in dealing with the disasters cited by the gentleman from Florida, including the huge disaster in Houston and several in other States, including my own. It does not contain the money requested by the administration to protect this country from foot and mouth disease and from mad cow disease. And it does not contain the money that is needed to pay the victims of radiation poisoning who are entitled to that money. We will have a motion to instruct asking that those three items be included.

With respect to the other point made by the gentleman, I fully grant that this issue does not involve campaign finance. But when what I believe to be a majority of this House, composed of people on both sides of the aisle, when that House majority has been denied the opportunity by the Committee on Rules that runs this House, when they have been denied the opportunity to vote on the package that they believe ought to pass for campaign finance reform, except in piecemeal fashion, then there are only so many tools available for that majority to protest what is going on. That is why we are having this additional debate this morning. I regret the fact that it takes the time, but not nearly as much as I regret what the Committee on Rules did to what I believe is the majority will of this House.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. HOBSON), who is a member of the Defense Appropriations Subcommittee and chairman of the Subcommittee on Military Construction.

Mr. HOBSON. Mr. Speaker, I normally would not rise to get into this debate, but I just got back from visiting our troops in Korea. They need our help. I just got back from Italy from visiting our troops. They need our help. I visited my base at home. They need our help.

I think, with all due respect to the gentleman from Wisconsin, I like the gentleman from Wisconsin and we are friends, but I think to use our servicepeople and involve them in a disagreement over a political matter in this House, I cannot stand idly by and not speak that I think that is inappropriate. Our people in the field need to train, they need care, they need help. To allow them to become part of a partisan battle here I think is inappropriate.

□ 1130

We voted on this. We should pass this. We should get this help.

I just came back from the Defense Department. They need a lot more help, because we have underfunded the Defense Department. They admit they have waste, they admit they have problems, and they are trying to change them. I think that we should get on with that and not bring other debates into a situation where our troops and their lives and their training and their families on these PCS changes and everything else is affected. It is not appropriate.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would point out it is the majority in this House that held this supplemental up for 4 months. This debate does not have one whit to do with whether our military personnel will get the help they need or not. They will. They will have virtually unanimous support on both sides of the aisle. To suggest that aid to them will be delayed by 1 day is absurd, preposterous, nonsense. Everybody on both sides of the aisle is going to be for that aid. What we want to see in addition is other obligations of the government also met to American citizens, including the American citizens who were literally killed by their own government through the use of nuclear testing and other problems associated with conducting nuclear tests. That has nothing whatsoever to do with whether our military personnel will get the funds they need. Of course they will.

I challenge the gentleman to name one person involved in this bill on either side of the aisle who is opposed to that money. He cannot because there are not any.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am curious where the figure of 4 months comes from, where they held this bill up for 4 months. We passed this bill on the June 20, which was about 2 weeks after we got the request from the White House. The House expedited consideration of this measure, brought it to the floor; and we passed this bill.

The problem has been that the other body did not take it up right away, and they just passed it a few days ago. So I do not know where the gentleman got the idea that we delayed it for 4 months, because we did not delay it at all.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would be happy to tell the gentleman. The White House itself announced they were not going to send down the request for the supplemental until after the tax bill was finished because they did not want to upset the apple cart on their tax bill.

The last time I looked, the White House was in Republican hands, as is the majority of this House.

Mr. YOUNG of Florida. I just wanted to make sure that the gentleman was not saying that the House delayed this bill, because the House did not delay this bill.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. No, I am not saying that. I am saying that the administration itself delayed the request for over 2 months until they could get their precious tax gift to rich people out of the Congress.

Mr. YOUNG of Florida. Mr. Speaker, I would yield to the gentleman if he would answer this question: Will the gentleman agree then that the House actually did expedite the bill once we got the request?

Mr. OBEY. Absolutely, no problem with the timing. I have a lot of problems with the timing of the White House on this one.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. OBEY) for that response.

Mr. Speaker, I am not sure what this argument is about today, because everybody knows we have to go to conference on this bill. Now when we bring the conference report back or during the conference itself, there will be some negotiations and there will be some discussions. There may be some things added and some things taken away, but the truth of the matter is, we sent this bill to the Senate at $6.5 billion, which was the amount that was agreed upon by the House and the Senate. The Senate leadership said that they would not go above $6.5 billion. Their bill is a little different than ours, but that is also not unusual. That is why we go to conference, to work out those differences.

So I am not sure what this argument is all about. In the beginning, it sounded like it was about campaign finance reform, but I do not think that is the case. We need to get this bill into conference, Mr. Speaker, so I am going to ask for a very strong yea vote so that we can continue the process.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I rise in support of the supplemental but in opposition to the rule for the Shays-Meehan bill. What we needed was a fair fight, an up or down vote on Shays-Meehan, a quality, balanced, bipartisan campaign finance bill that a majority of this House has supported twice and that has already passed the Senate.

We needed a fair rule. But what did we get? We got a mine field. We got Shays-Meehan shattered, fragmented, broken into 14 separate parts that needs to be reassembled in separate votes into that fragile flower called consensus. After the mine field, more poison pill votes. Apparently the leadership felt they could not win on the merits so they had to manipulate the process to shortchange the American people once again. Campaign finance reform is the litmus test for real change in this Congress. And the real litmus test for supporters of campaign finance reform is voting against this destructive, unfair, undemocratic rule.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. OBEY), our ranking member, for yielding me this time.

Mr. Speaker, I rise in support of the motion to go to conference, and also support of the later motion to instruct conferees to oppose rescission of funds from the Federal Emergency Management Agency, FEMA, the disaster relief fund. The Senate restored the $389 million that was cut in our original supplemental that passed here, but estimates now say that FEMA may need as much as a billion dollars between now and October 1. The need for money in this fund is real and it is pressing and we should not be reducing or cutting any funding from FEMA.

Already this year there will be 27 major disaster declarations across our country, including the devastating funds in my hometown of Houston and across southern Texas, southeastern Texas, Louisiana, and even up into Philadelphia from Tropical Storm Allison. The damage estimates from this declaration alone are estimated to be $5 billion. Traditionally, FEMA pays about half of this amount in damage assistance so we are talking about $2.5 billion.

Since FEMA's disaster budget is only $1.6 billion total, we need to make sure that funding is increased and not decreased. There is still a lot of time left in this fiscal year, and I would expect we have not seen the last of the disaster declarations and thus need more funding for disaster relief.

To date, FEMA has had 85,000 disaster relief applications in the Houston area from Tropical Storm Allison. Of the 70,000 homes that FEMA inspected, 67,000 of those inspections are completed and 3,500 were completely destroyed. Over 10,000 suffered major damage and 33,000, almost 34,000, have minor damage, totaling 47,999 affected properties.

Of the more than $500 million initially allocated for this disaster by FEMA, $434 million, or 84 percent of these funds, have already been committed; and we are not even 2 months after the disaster. That is, they either have been or will be sent out to those in need of assistance.

That $434 million is already more than the $389 million that we cut in the last supplemental that passed this House. Remember, this is just one disaster with $5 billion in damages. Twenty-six other parts of our country have suffered disasters of varying degrees. That is why I would hope the House would agree with the Senate and restore the $389 million as the first step, and we need to make sure that we provide FEMA the money not just for my own constituents but also for all the people in our country who have experienced disasters.

Mr. YOUNG of Florida. Mr. Speaker, I continue to reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. OBEY) for yielding me this time.

Mr. Speaker, I rise today in strong support of the motion to instruct that the gentleman from Wisconsin (Mr. OBEY) will offer shortly. As my colleague, the gentleman from Houston, Texas (Mr. GREEN) just spoke of Tropical Storm Allison, the damage that has been done is unbelievable. Last week, my colleagues the gentlemen from Texas (Mr. DELAY) and (Mr. BRADY) and I were joined by Secretary of Health and Human Services Thompson when we toured the Texas Medical Center, which is in the 25th district that I represent. This is the largest medical center in world.

As a result of Tropical Storm Allison, it is estimated the damage to that medical center alone will exceed $2 billion. The three main hospitals are shut down. The City of Houston and Harris County, the fourth largest city, the third largest county in the United States, is now operating with one level-one trauma center because the other level-one trauma center, Herman Hospital, has been shut down and will be shut down for several months.

The two main medical schools, Baylor College of Medicine and the University of Texas Health Science Center are shut down as a result of this storm. This is an area that trains a large portion of our doctors, including one of the largest percentages of pediatricians are trained through the Texas Medical Center, and a large portion of that is shut down. As my colleague mentioned, the Harris County Tax Collector Assessor estimates the damage close to $5 billion and FEMA now estimates their obligation to date to be about $2.4 billion, of which they paid out already about $400 million.

That being said, FEMA only has approximately $800 million in direct and contingency appropriations on hand in order to cover this storm, not to mention the affects of Allison in Louisiana, Florida, and Mississippi; not to mention the storms that just occurred in West Virginia; not to mention other storms that have occurred; not to mention the other storms that will occur for the remainder of the fiscal year.

As my colleague mentioned, 85,000 people in the 30 counties that were affected in Texas have filed claims with FEMA. 60,000-plus homes have been inspected. 3,500 homes are already deemed to have been destroyed beyond repair and that number will certainly go up.

The fact is that the money that FEMA currently has in their disaster accounts now is insufficient, and to take $389 million out would be a grave mistake.

The other body has seen the wisdom of this and they have restored the money; and, in fact, they added a million dollars as a place holder to look at adding to this.

The director of the Office of Management and Budget, Mr. Daniels, told our committee, the Committee on the Budget, the other day, he told the Senate Committee on the Budget subsequently, that they believed that FEMA will need additional money in the current fiscal year.

Now as I said, in the past, when we debated this, when the committee on the House side chose to rescind the $389 million, Tropical Storm Allison had not yet occurred, and had the committee marked up the bill a week later after Tropical Storm Allison, I strongly believe that they would not have chosen to rescind it because they could not have foreseen the disaster that was going to occur.

This was a 500-year event, meaning that it has a half of a percent of a chance of happening in any given year, but it did occur.

So I would hope that the House will adopt the motion of the gentleman from Wisconsin (Mr. OBEY) to instruct, that the House, when it goes to conference with the Senate on this otherwise very important bill, will recede to the Senate's position, restore the $389 million; and I would hope, even more to the point, that the House and the Senate conference will go further and add the billion dollars that is estimated because it is going to be far greater than that. But we know we will have other disasters, and we will have to respond because it is an essential function of the government. And Congress should not be standing in the way of that.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, very briefly, when the vote comes, I will join my friend, the gentleman from Florida (Mr. YOUNG) and ask the people to vote yes on the motion. I will also ask them to vote yes on a later motion that we will make to add three items to this proposition. We will simply be asking the House to approve three Senate actions that would eliminate the rescission for FEMA, that would fund the administration request for mad cow disease and for hoof and mouth disease, and to fund the claims for radiation victims, many of whom are sick or dying and some of whom have already died.

☐ 1145

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I just want to say that I am happy to hear the gentleman from Wisconsin (Mr. OBEY) say that he will vote for this motion. I hope that everybody will vote for this motion so we can get to the business of the conference.

I would point out that the gentleman from Wisconsin will be an important member of that conference committee and will have every opportunity to make whatever suggestions that he has; and I am satisfied that he would be very influential in that conference committee, as he always is. But we need to vote. I do not know if the gentleman is going to ask for a rollcall vote or not, but we need to get on with the conference. I would like to get the conference work done before the House adjourns for the weekend.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2216, as well as on any motion to go to conference on H.R. 2216, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. YOUNG of Florida. Mr. Chairman, I have no further requests for time, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. YOUNG).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 423, nays 3, not voting 7, as follows:

[Roll No. 224]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry

Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—3

DeFazio
Filner
Wu

NOT VOTING—7

Foley
Jefferson
Lewis (CA)
Morella
Paul
Scarborough
Spence

□ 1208

Mr. STARK changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FOLEY. Mr. Speaker, on rollcall No. 224, I was inadvertently detained. Had I been present, I would have voted "yea."

Mr. LEWIS of California. Mr. Speaker, on rollcall No. 224, I was unavoidably detained. Had I been present I would have voted "yea."

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore (Mr. LATOURETTE). The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2216 be instructed:

(1) to insist that no provision to rescind funds from the Federal Emergency Management Agency's Disaster Relief Fund be included in the conference report on H.R. 2216;

(2) to agree to the provision contained in the Senate amendment that appropriates an additional $35,000,000 for "DEPARTMENT OF AGRICULTURE—ANIMAL AND PLANT HEALTH INSPECTION SERVICE—SALARIES AND EXPENSES"; and

(3) to agree to the provision contained in the Senate amendment that appropriates an additional $84,000,000 for "Payment to Radiation Exposure Compensation Trust Fund" for claims covered by the Radiation Exposure Compensation Act.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) and the gentleman from Florida (Mr. YOUNG) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think more than a few Members of this House and a lot of people outside of this institution have been pleasantly surprised at the relative unity this House has had on a bipartisan basis on appropriation bills this year.

Last night we passed the agriculture appropriations bill with 95 percent support in this House. We had similar majorities which supported the transportation bill, the energy and water bill, the interior bill. And it seems to me that that kind of consensus we have been able to develop on each of those bills has been good for both parties, it has been good for the House, it has been good for the country. It helps us to get our work done, and it helps us to build a foundation for cooperation on other items. I think it has been a very positive thing and something we have not seen enough of in this House in recent years.

However, the legislation which the majority is asking us to pass today in this bill does not represent that type of consensus. It is not bipartisan legislation. It has been handed down from on high. I think it is severely constrained by a narrow, partisan, ideological judgment about how we spend our money and how we meet the country's needs, and I think the current situation illustrates clearly how misguided that judgment is.

There are a few people on the other side of the aisle and people in the White House who have taken the position that once Congress has passed a budget plan, we have to put together our bills through the year, and that we cannot address any other needs beyond those anticipated in the original plan. It does not matter how much circumstances change; it apparently does not matter what the magnitude of natural disasters are that strike; it does not matter, I suppose, if we decide to go to war. If we have only a few months left in the fiscal year and a hurricane strikes, we can wait until October 1 to provide assistance, or we can fire IRS agents or close down some other badly needed program in order to find the money to pay for that disaster assistance. That, in essence, is the point of view that is controlling the consideration of this bill.

Now, some people are having difficulty understanding the term "faith-based initiative." I think an example might be our disaster assistance program. We are praying that we do not have any more storms. We are trying to preclude acts of God from getting in the way of our budget process. I think that is an arrogant way for human beings to go about legislating, but so be it; that apparently is the mindset around here.

Mr. Speaker, I would point out, and this chart demonstrates one example, which shows what happened to one highway in Houston after the reign of terror in June of 2001. Currently, we are trying to cope with that huge gulf storm. Damage in a single county in Texas was estimated to be $4.8 billion.

□ 1215

The director of FEMA called me and told me that he thought that it could be possible that they would need significant additional money above the amount already appropriated by this Congress, and when contacted by the Houston Chronicle, OMB director Daniels stated, and I quote, that "It is highly likely" that FEMA's budget will need another boost this year.

What is going to happen with this bill? OMB told my office last night they are not planning to make a request. They are hoping to slide by on existing funds. If everything goes right and if God decides that the weather is not going to operate the way it normally does, we may just make it through. But if we have a normal year and we have a couple of hurricanes after we leave here in August, what then? We are not going to have the money to respond to those disasters.

What are we going to do then? Are we going to go down to Texas and deobligate money that we have initially provided? I would hope not. But whatever happens, without additional funding, we will not be providing normalcy to people who are affected by those storms.

Why is that? The reason is that all of the needs facing the Federal Government apparently must be met within a $6.5 billion package. Why is that? That is because that number was picked out by Congress last December when we were trying to get out of here in time for Christmas.

Does that number have any relationship to the current projected surplus outside of Social Security and Medicare? No, it does not. Did we know at the time how much rising fuel costs would affect steaming costs for the Navy or training exercises in the Air Force? No, we did not. Did we know how much those costs would deplete spare parts inventories for aircraft, tank, and ships? No, we did not.

Did we know we were going to face major electricity blackouts in most of the western United States? No, we did not. Did we know we were going to have a severe storm hit the gulf coast in the month of June? No, we did not. I did not know that a tornado with 250 mile-an-hour winds was going to hit a town in my own congressional district.

We did not know any of those things. Yet, we are being told that we have to stick within that magic number because that is what the number was defined as last summer. That is a ridiculous way to legislate.

When this conference report comes back, it will be the last train through the station for the year. If Mitch Daniels or others at the White House think there is a high probability or even a significant probability that additional FEMA funds will be needed, and evidently they do, then they ought to ask for them, rather than to pretend that this problem does not exist.

In my view, we are playing a stupid numbers game with the lives of people who have already gone through a great deal just to insist that the numbers concocted in the middle of the night 8 months ago are the right numbers.

So consequently, I will be asking the House in this motion to do three things. First, I ask that we accept the Senate judgment and eliminate the action of the House in rescinding previously-approved money for FEMA. Everybody in this House knows that we are going to need that money. Let us fess up.

Secondly, I am going to ask that we instruct the conferees to recede to the Senate and accept the funds which the administration requested but the House deleted to deal with foot and mouth disease and mad cow disease.

Thirdly, I will ask the House to instruct conferees to recede to the Senate and accept the money needed to process the checks that are owed to victims of radiation exposure. Some of those people are extremely ill. Some have already died.

These are people who were exposed, in many instances unknowingly, to radiation as a result of the development, testing, and transportation of radioactive material by the Federal Government. In other words, those people were fried by their own government. It seems to me that a government that can spend $30 million on a political mailing to tell people that they are going to get a tax cut is a government that should not be simultaneously denying already-earned benefits to people who are dying and need that money now, not after they are in the grave.

I would also point out that the administration itself sent a letter commending the Senate "for not including the provision in the House-passed version of the bill that would have rescinded $389 million in disaster relief funding for FEMA."

I would urge Members to listen to the administration on this item, and listen to us on the other two items, do what we know we are going to have to do, and instruct the conferees to accept these three items.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

I would like to start by saying I appreciate the gentleman's comments about the bipartisan way we have been dealing with appropriation bills. He is exactly right, we have worked together very well. We have had some differences, but that is not unexpected nor unusual for the bill we are talking about now, the supplemental appropriations bill.

He mentioned the agriculture bill passing with about 90 percent aye votes. The truth of the matter is that the bill we are now discussing passed the House with 80 percent of the vote. So there was a very large vote in the House for the bill as the committee wrote it as modified by three amendments that were agreed to in the House during the debate on that bill.

So I appreciate the fact that we can work together. I think, before this is over, we will end up having worked together and produced a good conference report.

The difficulty with accepting a motion to instruct on a bill that does not have that many differences to start with is that it really ties the hands of the House negotiators. The gentleman from Wisconsin will be one of the chief negotiators when we go to conference with the Senate.

We should not do that negotiation here on the floor. That is why we have conference committees in the first place.

I was asking the gentleman to yield, but he was very busy with his statement and he did not yield. I was going to ask the gentleman, a question. He talked about the FEMA rescission in the House bill, and we did talk about that at length when we debated the bill on the floor on June 20. The fact is that this Congress, under the Republican majority or the Democratic majority, never ignored the needs of our communities when it came to disasters. Whatever funds were needed, we made them available. I do not think that is a concern.

I was going to ask the gentleman if he would be willing to amend his motion to recommit just to include the issue of FEMA. We would be happy to accept it if he would amend it. But we do not want to have our hands tied going into conference. We need the ability to negotiate with the other body, which is the same ability that the other body has to negotiate with us. Then we will produce a conference report that I think at least 80 percent of the House would agree with.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. If the gentleman would like me to respond, and I thank the gentleman for yielding, let me simply say I appreciate the gentleman's suggestion. I think that demonstrates that even he understands that we need to reject what the House originally did with respect to FEMA.

But I would say that I cannot accept the gentleman's offer because I think there is no rational reason whatsoever for the House not to do what the Senate has already done and to provide the money that we badly need in the agricultural area, and to provide the money that we know we have a moral obligation to provide to the victims of radiation poisoning. I thank the gentleman.

Mr. YOUNG of Florida. Reclaiming my time, Mr. Speaker, I would suggest to the gentleman that we do not do conferences here on the floor of the House or on the floor of the Senate, we do the conferences in conference committees. We do that because there has to be give and take.

There has to be negotiation. If we adopt this motion to recommit, we tie the hands of the conferees. The other body will not tie the hands of their negotiators. So I think it is a mistake to adopt this motion to recommit.

As far as the FEMA issue is concerned, we have had numerous meetings already with the potential conferees in the other body. We are pretty much agreed that we have found other ways to provide that money without getting into the FEMA fund. So we do not really need that part of it.

When the gentleman from Wisconsin chaired the committee, he did not look favorably upon motions to instruct when he took the committee to conference because it tied his hands. That is the same thing here.

We do not have that many differences. We will be able to produce a good conference report that at least 80 percent of the House will agree to, but we need the flexibility. Do not tie our hands as we go to conference with the Senate, because their hands will not be tied in any way.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 20 seconds.

Mr. Speaker, I do want to tie the hands of the conferees on these three items, because I think there is absolutely no reason for us to use these items as leverage.

I think the people who are eligible for these funds and need these funds need to know that they are going to get them, and the sooner we do that, the better off everybody is going to be.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank my colleague for yielding time to me. I thank the chairman of the Committee for going to conference, because obviously I want to go to conference, but my concern is that we need to make sure we restore the funding to FEMA, and even look at the emergency needs that we will have, not just for my area in Houston, but all across the country.

I rise in support of the motion of the ranking member to instruct conferees, particularly the section on restoring funds for FEMA. The need for the money is real. Again, FEMA's budget is $1.6 billion. The flood in Houston alone was $5 billion. FEMA typically pays half of the loss, so that is $2.5 billion. We will have more emergency needs in the last 3 or 4 months of the fiscal year.

I spoke earlier, but let me share with you a story of a frustration that I know a lot of people have when they have these floods. I have a senior citizen couple. He is 70 years old, she is 63. Their house was destroyed. They were on a fixed income. They live on $2,000 a month. Their mortgage is paid off. The only thing they were eligible for was a small business loan. Granted, it was 4 percent, but because of their excellent credit rating, they were not eligible for a grant.

This 70-year-old individual and the 63-year-old person are now looking at a 30-year loan. How many of us are going to be paying our home mortgages at 100 years old, or at 93 years old? That is what worries me about not providing the adequate resources to FEMA, because we will see more of this. A senior citizen should not have to say, "I am going to sign a loan that is for 30 years because my house is destroyed."

That is what is frustrating. That is why we need to make sure we provide the money FEMA needs, not just eliminate the rescission of the $389 million, but we need to provide what FEMA needs between now and October 1 for the losses in Houston, Texas, that we can see from here in this picture. This is not actually my district, this is downtown Houston. But can Members imagine some of the subdivisions that I represent? The water was that high above the homes. We are talking about hundreds and even thousands of homes that were damaged.

That is why we need to make sure that FEMA has that money restored.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Ohio (Ms. KAPTUR), the ranking Democrat on the subcommittee.

Ms. KAPTUR. Mr. Speaker, I wish to thank the gentleman from Wisconsin (Mr. OBEY) and the chairman of the full committee, and rise in very strong support of the Obey motion to instruct.

Mr. Speaker, I want to specifically address the portion of the motion to instruct that involves the $35 million of the request for the Animal Plant Health Inspection Service as part of the U.S. Department of Agriculture.

I would say that if Members have been paying any attention to the newspapers and see what is going on in Europe and in Latin America, they would see the pressures on our Department of Agriculture to keep out of our country these severe animal diseases that are just absolutely devastating both livestock and human lives in places around the world.

Our Department has a special new responsibility that they have been trying to augment with this supplementary appropriation bill. They have asked us for this $35 million to hire additional custom inspectors and veterinarians, and to make sure we have a doubling or tripling of our canine force to try to detect animal and disease problems that may be entering our country.

This really is, I think, a difficult issue for many Americans, yes hard to understand. Life is pretty comfortable for the majority of people in our country. It is hard to understand that there actually could be such serious threats to our food chain. America has not had foot and mouth disease since 1929. But it spreads rapidly. And it will be devastating if it enters this country. We have seen mad cow disease do its damage to millions of animals and now to humans in Europe. Human beings are dying in Europe, in very developed economies, from this. These are almost, it seems, other-worldly experiences, but they could happen to us.

We really need this $35 million to help the USDA. They have asked us for this money, and hopefully with this motion to instruct we will be able to get it. Mr. Speaker, the USDA continues to need the money. The gentleman from North Carolina (Mr. PRICE), who has just been so vigilant on this issue, will be talking about this in a minute. He has another letter from USDA seeking this assistance.

We had a vote in the subcommittee, in the full committee, very close, 27 to 35 when I offered it as an amendment. It was defeated on a close margin at that point, but I urge the conferees and I urge this House to consider this motion to instruct. Give us this $35 million the Administration has requested. Keep America free of these exotic pests and serious animal diseases.

☐ 1230

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BONILLA), the distinguished chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies.

Mr. BONILLA. Mr. Speaker, I thank the gentleman for yielding me this time; and I rise in opposition to the motion to instruct.

My friend from Ohio was just making some points about how we all want to work on stopping any threat from entering our borders and threatening livestock or people in this country from any problem that currently exists overseas. We are in total agreement on wanting to do all we can to stop this from entering our country in any way whatsoever. However, the solution that is being proposed in this motion to instruct is unnecessary because in fact there is a system in place already that can be accessed by the Secretary of Agriculture on a moment's notice if something were to occur in this country.

We have gone over this over and over again as we have moved separately on our agriculture appropriations bill in pointing this out clearly, and we even asked and reviewed with the Secretary that the money that she could access would amount to $30 billion. We are talking about an amount here of $35 million that, when compared to that $30 billion, is a drop in the bucket in terms of what would be necessary to fight whatever threat may enter our borders.

The Secretary gets that authorization from a program that was implemented 20 years ago for the Animal Plant and Health Inspection Service. Twenty years ago, in response to an avian influenza catastrophe, we included the following language in our annual appropriations bill, which has served the purpose over the years, and I read from that bill: "In addition, in emergencies which threaten any segment of the agriculture production industry of this country, the Secretary may transfer from other appropriations or funds available to the Department such sums as may be deemed necessary for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants.

Mr. Speaker, we have carried this language each year for the past 20 years, and this language does permit the Secretary to simply declare that an emergency exists and that simple language would then allow the Secretary to fully access the Commodity Credit Corporation, through that corporation, a $30 billion entity, to take whatever action is necessary to address the emergency. We feel strongly this is the proper approach; and this permits the Secretary to meet any need much faster than waiting for congressional action, followed by OMB apportionment and treasury warrants, and everything else that is required by this action.

So the system that is in place now we feel very confident would address any threat that could enter our country. And if, in fact, it was not, we would have sufficient time to review what threat could possibly enter our country and deal with it appropriately. But to pull a figure out of thin air of $35 million at this point and to say we must insist this money goes into the budget is unnecessary, and I guess an exercise in caution that some feel we need to take but is absolutely not something we need to do at this time.

I, therefore, oppose this motion to instruct and urge its defeat.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

I would simply point out, Mr. Speaker, the administration has asked for the FEMA money. The Congress is rescinding it. The gentleman says this money for agriculture was pulled out of the air. This is the administration request that we are simply trying to comply with.

Thirdly, the radiation item is an item which is owed people who are dying, at least in part because of the action of their own government. I think it will be very difficult for Members to explain their opposition to any of these three items.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend the gentleman from Wisconsin (Mr. OBEY) and the gentlewoman from Ohio (Ms. KAPTUR) for including in this motion language that would instruct conferees to accept the Senate provision to provide $35 million for USDA's Animal and Plant Health Inspection Service, as requested by the Bush administration, to protect American agriculture from serious animal disease threats like foot and mouth disease and mad cow disease.

Unless we take steps now to protect ourselves, an outbreak of these diseases could be absolutely catastrophic for our country. My State of North Carolina is a good example of that. One estimate says that if foot and mouth disease were to break out in certain counties in eastern North Carolina, with concentrated hog operations, within a 20-mile perimeter we would have to destroy more animals than were destroyed in all of the country of England.

Our Governor, Mike Easley, and agriculture commissioner Meg Scott Phipps have worked hard on a prevention effort, but the States need help from the Federal Government. Now, earlier this year Secretary Veneman did authorize the use of $32 million in APHIS funding for foot and mouth and mad cow disease border inspection activities. During our debate in the Committee on Appropriations, we were advised that this and other funds available from the Commodity Credit Corporation were sufficient; that USDA had adequate resources to address foreign animal disease. That, however, was not accurate. And I am amazed to hear the subcommittee chairman repeating that argument this morning.

The President, 8 weeks after Secretary Veneman made these funds available, requested $35 million in supplemental funding for APHIS. I have confirmed with the Agriculture Department just this morning that we still need this $35 million in supplemental funding and that without it the Agriculture Department does not have adequate resources to protect the United States against foreign animal diseases. It is amazing to me, it totally escapes me, how we would not want to prepare ourselves for what could be an absolutely devastating outbreak.

We have to do all we can to protect this country against the threat of foreign animal diseases. We should honor the administration's well-justified request and accept the position of the Senate on this $35 million for the Agriculture Department. So I urge adoption of the motion to instruct.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time until the gentleman is ready to close, as he has the right to do in this particular case, as I have no further requests at this time.

Mr. OBEY. Mr. Speaker, if I could inquire of the gentleman. The last time we were in this situation the gentleman did not use a lot of his time and at the end took about a 10-minute block with several speakers. Is the gentleman indicating that he has no additional speakers except himself?

Mr. YOUNG of Florida. No, I just thought I would save a little time. I might have a few closing remarks for our side prior to the gentleman closing.

Mr. OBEY. Mr. Speaker, may I inquire as to how much time remains on both sides?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Florida (Mr. YOUNG) has 22 minutes remaining and the gentleman from Wisconsin (Mr. OBEY) has 15 minutes remaining.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, I thank the gentleman for yielding me this time. I think this is an excellent motion to instruct, and one of the things this motion does is seek to remedy a long overdue injustice.

U.S. Citizens who went to work in uranium mines and downwinders who lived below atomic bomb explosions have suffered severely at the hands of the United States Government. Government doctors knew they were in danger. The Atomic Energy Commission knew they were in danger. But nobody told them, when they were working in the mines, the mines were dirty and they were going to get lung cancer. Nobody told the people living downwind that they were in danger.

These victims had to go to court to try to seek justice. And they lost in the courts, and the courts came back and said, this situation cries out for justice. Finally, in 1990, the U.S. Congress acted and corrected that injustice and said compensation should be paid and a national apology be given to these individuals. Very few occasions in our Nation's industry has that occurred.

Many of these victims are Navajo Indians who live in the remotest part of the country. They knew nothing of the dangers, and they are entitled to this compensation. But guess what, my colleagues, the government is out of money. The government account is empty, and we are issuing IOUs to those people. We are issuing IOUs to elderly Navajo widows who have large families. We are issuing IOUs to people that are living and have lung cancer and are waiting for this payment, many waiting for 25 years. There are 438 IOUs totaling $31 million.

This is a national outrage, and this motion to instruct will tell the House conferees to accede to the Senate number and put the money in there and do justice.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me this time, and I too rise in strong support of this motion to instruct, especially its support for payments under the Radiation Exposure Compensation Act, or as it is known, RECA.

The people covered by RECA include uranium miners and millers and others who worked to support our nuclear weapons program and those people who were exposed to fallout unknowingly from our program. Because of that exposure, they are sick, sick with cancers and other serious diseases. Many of them are residents of Colorado, New Mexico, and Utah, people like Merle and Richard Leavell of Cortez, Colorado, or Eugene Cox of Montrose.

When Congress enacted this law, we promised to pay compensation for these illnesses, but we have not kept that promise. We have not appropriated enough money to pay everyone who is entitled to be paid. The Department of Justice tells me that on July 6, the end of last week, they had sent 438 people letters that are basically IOUs. Those people should have gotten checks that would have totaled $31 million. In Colorado, 51 Coloradoans have received these IOU letters. They should have been paid $5 million.

What the letters say is that the payment must wait for further appropriations. What the letters mean is that we in the Congress have failed to meet a solemn obligation. Now, the Senate put the $84 million back in the bill for these RECA payments. So it is important that the House accept that addition. That is all this motion to instruct says that should happen and that is why we must approve this motion today.

In conclusion, Mr. Speaker, I remember sitting and listening to these workers in the State of Colorado and looking into their eyes and hearing them speak about how important it was not just for the money but for the principle of this. This is an apology, and this is also an affirmation that the work that they did is work that has not been done in vain. We need to acknowledge the debt we owe to these Americans that put their lives on the line.

Mr. OBEY. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) has 11 minutes remaining and the gentleman from Florida (Mr. YOUNG) has 22 minutes remaining?

Mr. OBEY. Does the gentleman intend to use any more of his time? I only have, I believe, two speakers.

Mr. YOUNG of Florida. Mr. Speaker, I intend to use just a few minutes prior to the gentleman closing on his motion. Other than that, I have no further speakers.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to congratulate the gentleman for submitting this motion to instruct that includes doing the right thing. The Senate recognized it is the right thing to provide this funding for victims of exposure to radiation.

It is interesting. We have a problem in our country where people tend to sometimes lose faith in their government. Here in Congress we stood up, I was not here at the time, but Congress stood up years ago and said, the government did something wrong and we are going to admit responsibility for doing something wrong in terms of inappropriately exposing people to radiation and so we are going to compensate these people. But at this point, it looks like Congress was talking a good game; but they are not backing it up with the actual funds.

I have met so many people who have these letters in hand, these promises that someday we are going to give you this money. These are people that went through the process of filing a claim, filling out all the forms, going through their history, and the government then said, yes, you do qualify, but, gee, we do not have any money. That is just not acceptable.

I challenge anyone in this body to look one of these victims in the eye and say, well, we do not have enough money for you. We are going to spend $35 million to send a letter to everyone telling them they are going to get a tax rebate, but we do not have enough money to compensate you while you are sick and dying from cancers caused by this Government. These actions have affected people in my State and in my own family.

It is time for Congress to stand up and do what is right and fund this. I encourage everyone to support this motion to instruct.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding me this time; and I thank him for this motion.

I stand in strong support of this motion, particularly the portion that gives a certain amount, $35 million, to APHIS. We wish we did not have to call for this emergency, but all of us are keenly aware of the outbreak in England in February of 2001. I can tell my colleagues that it affects all of the United States, but it has a particularly devastating potential effect for the State of North Carolina.

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Mr. Speaker, I also would like to enter into the RECORD a letter from our Governor to President Bush. It is a copy of a letter that goes to President Bush from the commissioner of agriculture as well as the President pro tempore and our Speaker of the House.

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,
Raleigh, NC, March 29, 2001.

Hon. GEORGE W. BUSH,
President of the United States, The White House, Washington, DC.

Hon. ANN VENEMAN,
Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC.

DEAR PRESIDENT BUSH AND SECRETARY VENEMAN: As you are aware, since being confirmed in England on February 19, 2001, Foot and Mouth Disease (FMD) has been extremely active in many sections of the world, culminating in the catastrophic events that have occurred in the United Kingdom and parts of Western Europe over the past 18 months.

Introduction of this virus into the United States remains to be seen, but we do know that it would bring catastrophic consequences to the animal livestock industry, with direct and indirect financial losses in the billions of dollars. Of particular concern here in North Carolina is our extensive swine industry (10 million animals), as well as our precious beef and dairy cattle commodities (950,000 head). We have been working diligently over the past month strengthening our safety net towards minimizing the risk of the introduction of the disease into our state and country.

Because FMD is a foreign animal disease, the USDA has primary jurisdiction over the prevention and eradication of this disease. Through the efforts of our State Veterinarian in the North Carolina Department of Agriculture and Consumer Services, as well as the efforts of members of our General Assembly, we are strengthening the procedures we have in place in North Carolina for disease eradication. However, we have serious concerns that we believe can only be addressed by a stronger USDA, APHIS effort.

The USDA, APHIS should be urged to do the following:

1. To promptly conduct a full risk assessment, particularly identifying the most likely methods of entry of FMD into the U.S., and implement risk management plans of action based upon the identified or perceived risks.

2. To immediately ban all used farm equipment and supplies (including harness and tack) from FMD countries until further notice. Future action would depend upon the outcome of the USDA, APHIS risk assessment and risk management plan.

3. To work with appropriate federal agencies to immediately install effective sanitary footbaths at the point of entry for all international conveyances (by air, sea, land) and complete surveillance and decontamination of all cargo. It should be mandatory that all passengers pass through the footbath upon disembarkation.

4. To conduct a thorough and complete compliance review of the disposal of international garbage from foreign conveyances (by air, sea, land).

5. To work with appropriate federal agencies to ensure that all foreign conveyances (by air, sea, and land) are appropriately decontaminated of possible FMD virus.

6. To immediately enter into active discussions with FEMA officials with the intent of proactively developing a national Emergency Support Function (ESF) for animal industry, with USDA being the primary responsible agency. The ESF should address both natural disaster and animal health emergencies of national importance. In addition, technical advice and assistance should be provided to states to develop regional compacts between state emergency management agencies.

7. To review the FMD diagnostic capabilities at the Foreign Animal Disease Diagnostic Laboratory on Plum Island and develop a plan of action to enhance capabilities to an appropriate level. Such plan of action should consider approaching Congress to allow FMD testing at certified state laboratories.

8. To notify the AVIC and State Veterinarian in the state of destination in advance of imported animals/animal products.

9. To immediately and thorougly review all livestock import protocols at points of entry for Mexico and Canada.

10. To thoroughly review the manufacturing and distribution capabilities of FMD vaccine and the impact of its use in an FMD eradication program.

11. To work with appropriate federal agencies to ensure full surveillance and decontamination of international parcel post packages.

12. To consider the benefits of restricting the importation of any grooming, training, or riding equipment/supplies for imported equine, with the exception of a halter and lead rope.

13. To notify NASDA of the results of above, including needed resources, in order to develop partnerships to help procure necessary resources to fully implement risk management plans.

14. To ensure that funds are available for indemnification to the producer as provided by federal law.

Many of these suggestions were developed by the Georgia Department of Agriculture and forwarded to the National Association of State Departments of Agriculture (NASDA). The State Commissioners and Directors of Agriculture have held several telephone conferences regarding this situation and have expressed similar concerns.

We must be extremely diligent in our efforts to prevent the introduction of this disease into the United States. Your assistance in this will be greatly appreciated.

With kindest regards, we remain

Very truly yours,

MICHAEL F. EASLEY,
Governor.
MEG SCOTT PHIPPS,
Commissioner of Agriculture.
SENATOR MARC BASNIGHT,
President Pro Tempore.
REPRESENTATIVE JAMES B. BLACK,
Speaker of the House.

Mr. Speaker, let me just quote from this.

He wrote to each of us in the North Carolina delegation. He called to our attention that North Carolina would be affected greatly. I will not enter this into the RECORD because it will not come out right, but if indeed there was an outbreak, we can see that poultry, dairy and indeed all the livestock would be immediately impacted. Within 5 to 15 miles, we will have a devastation on our hands unseen before in the

United States. So they are calling not only because they need to have staff, they also are putting more resources of their own.

I entered into the supplemental bill an amendment in the Committee on Agriculture, when we considered the agricultural supplement, to put $50 million. They could not do it within the amount of money they had. This gives the House the opportunity independently to do this. I would think we would want to do that. We would not want to have the outbreak.

Let us do the right thing and prevent the outbreak by giving sufficient money that the staff can be equipped to handle such a devastation.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, I want to pay tribute to the chairman of the Committee on Appropriations and the purposeful way in which the appropriations process has proceeded under his leadership. But it is also true that this motion to instruct draws our attention to some very serious deficiencies in the budgetary process which are becoming more obvious with the passage of every day.

The White House today tells us that the anticipated budget surplus of $200 billion for the year is down very, very substantially, by more than $30 billion, more than 15 percent.

It is very likely that if disaster strikes from natural causes or if we have an invasion of foreign animal disease strike our shores, that we will respond appropriately with the necessary funds. But the question arises where are those funds going to come from if we do not budget for them in the first instance.

Increasingly one is driven to conclude that the answer to that question is going to be from places like the Medicare Trust Fund initially and perhaps even the Social Security Trust Fund if that becomes necessary. That is why this motion to instruct is very appropriate. Every Member of this House ought to give it their very careful consideration.

We are not being honest in the way we are dealing with the people's money here. We are living in a time of budget surpluses, but those surpluses are going down day after day, week after week. If we do not anticipate our needs honestly and appropriately now, sure as we are standing here, we are going to be digging into those trust funds, and the security of our senior citizens who rely upon the Medicare Trust Fund to get their health care needs will be put into jeopardy.

This motion to instruct is very appropriate, very pointed, and we ought to pass it.

Mr. YOUNG of Florida. Mr. Speaker, I yield whatever time he might use to the gentleman from Texas (Mr. BONILLA), the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies.

Mr. BONILLA. Mr. Speaker, sometimes I wonder when we listen to debate in this Chamber if we are not made up of a lot of Chicken Littles with concerns about the money that is put in here for APHIS and trying to prevent the diseases from coming over here. They are not here.

There is absolutely no threat at this point domestically to any of us, humans, plants, animals, because our systems work. We are working every day in a bipartisan way to make sure that we remain safe from these threats that have devastated other countries.

Can anybody guarantee that nothing is going to happen? Of course not. That is why we have over and over again talked to the Secretary and communicated with everyone involved who could possibly have a role in preventing these diseases from entering our country to make sure we are doing everything we can.

Even though there was a request by the administration in this area, we reviewed that with the Secretary of Agriculture over and over again, specifically to find out if she could access this multibillion-dollar fund if, in fact, something happened.

There is also a plan in place that, looking a step further, assuming that the sky does fall and Chicken Little is finally right, there would be an indemnity program for livestock if something were to occur. Of course, we cannot predict, and all we can do is do all we can to be prepared.

Mr. Speaker, at this point I believe in a bipartisan way in this House we should feel comfortable that we are doing all we can, but to stand up and say over and over again, oh, my goodness, we have to pour more money in for inspectors and so forth, it is not prudent. You cannot live by the fact that something terrible may happen every day. Let us be optimistic and look at the positives in the bill. We should feel good about that.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, did the gentleman say there is already a multibillion-dollar fund available for this purpose?

Mr. BONILLA. Mr. Speaker, the gentleman is correct, there is $30 billion that the Secretary of Agriculture could access if one of these threats entered our country domestically.

Mr. YOUNG of Florida. If the gentleman would continue to yield, that money is available today?

Mr. BONILLA. Mr. Speaker, the Secretary could access that, that is correct. If the Secretary or we in this room agreed in a bipartisan way that it was not enough, we could come back and deal with that at the appropriate time.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for that very revealing information.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member for the motion to instruct and the time to respond to a crucial provision, and that is to insist that no provision to rescind funds from the FEMA Disaster Relief Fund be included in the conference report.

We might think this is a benign instruction, but as we move this supplemental to the floor, many of us have to rise and oppose the rescinding of $329 million, as well as attempting to add more dollars, as the Senate had informed us that FEMA at that time, rather than a billion dollars that was discussed on this floor in their coffers, only had about $178 million.

Mr. Speaker, we are devastated in Houston by Tropical Storm Allison. In my community and the surrounding area alone, 5,000 homes were destroyed. The University of Houston is suffering about $100 million and growing worth of damage; the Medical Center, $2.2 billion and growing; St. Joseph's Hospital, $60 million; Texas Southern University, another institution of learning, also with damages that are not covered by flood insurance; and many, many people in my community who have not yet filed their FEMA application.

Mr. Speaker, we need more resources. Tropical Storm Allison dumped 36 inches. It was an unpredictable storm. Many people lost their lives, and this is a vital instruction to be able to provide the necessary funds to help those who are still recovering.

Mr. Speaker, I support the motion to instruct.

Mr. YOUNG of Florida. Mr. Speaker, is the gentleman ready to close?

Mr. OBEY. Mr. Speaker, I have only one remaining speaker, me.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I repeat something that I said at the beginning of the debate in opposition to the motion to instruct. On the issue of FEMA, this Congress never ignored the issues of our communities when it came to natural disasters, and I hope that we never will.

Mr. Speaker, as I offered to the gentleman from Wisconsin (Mr. OBEY) early in the debate, if he would amend his motion just to deal with FEMA, we would be prepared to accept it, but we are not prepared to accept a motion to instruct that really ties our hands when we go to negotiate with the other body.

One of my colleagues on the other side mentioned Social Security and

Medicare. The only way we would use any money set aside for Social Security and Medicare is if those who cannot control their appetite for spending have their way. We are doing the best we can to hold the line on spending so we do not use any monies from Social Security and Medicare funds. I understand that there are demands for more spending on not only this issue, but every issue that comes before us. But we have to constrain our appetites for spending by the Federal Government.

An example of what I am talking about, several of my colleagues talked about 438 outstanding payments, worth $31 million, on point number 3 on the motion to instruct. Well, if that is the case, why would we have to go to $84 million if all we need is the $31 million? I use that as an example. We need to work out these figures, work out these disagreements, and come together on them.

All in all, before I yield back my time, and before the gentleman from Wisconsin (Mr. OBEY) closes on his motion, this motion is asking us on the conference committee to cave in to our brothers and sisters in the Senate before we ever go to conference. That is not why we go to conference. We go to conference to work out the differences. If our ability to negotiate is taken away, then the product we bring back may or may not be an acceptable product.

Mr. Speaker, let us dispose of this motion to instruct now. Let us go to conference, do the best we can to represent the interests of the House of Representatives, and bring back a conference report that is really needed. It is late. This supplemental appropriations needs to get passed and sent to the President. Let us get to our job. Let us do the negotiating. Let us bring back a conference report on the supplemental that 80 percent or more of the House can agree to.

Mr. Speaker, I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are asking the House of Representatives today to approve three items which are supported by the Republican administration.

Number one, FEMA. The Director of the Federal Emergency Management Administration tells us we are going to need more money. The OMB Director is quoted in print as saying we will need more money for disaster assistance. Yet this House, without this motion, will be supporting a proposition that cuts from existing funds $389 million for disaster assistance. This issue is not about spending more money, it is about telling the truth about what our spending plans are.

Secondly, the administration has asked for the money to protect us from foot-and-mouth disease and from mad cow disease. The gentleman from Texas said our system works well. "Do not worry, no worry." Well, I would ask my colleagues to recognize what the administration itself has said. "Given the various foreign animal disease outbreaks in other parts of the world this year, USDA has been conducting a top-to-bottom review of its core programs to ensure we have the necessary resources to protect American agriculture from devastating animal diseases. These additional funds will help strengthen these important programs. MFD is a highly contagious and economically devastating disease. It is one of the animal diseases that livestock owners dread most because it spreads widely and rapidly, and because it has grave economic consequences."

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The way to save money is to spend it on prevention. You do not wait until the epidemic hits and then try to do something. It is too late. We already have had to destroy virtually every citrus tree in Florida because of citrus canker from a blight that was not supposed to come into the United States, either. I would say caution ought to be the watchword here.

Lastly, the gentleman says we do not need the $82 million to pay the victims of radiation poisoning. These are people who are dying, at least in part, because of the action of their own government, and they did not know that they were being exposed to danger. I would point out that the Justice Department itself says that we need $82 million this year; not $31 million, $81 million.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I was just going by what the speakers on the gentleman's side said, that it was $31 million that they needed.

Mr. OBEY. With all due respect, I would prefer to go by what we know. We are told by the Republican Justice Department, not us, that we need $81 million. In each of the three cases, what we are asking you to do is to put in what your own administration has said we will need to spend.

This is not about spending levels. It is about truth-in-budgeting. It is about fessing up to what we actually will have to spend in the end. There is no point in hiding from ourselves what the actual costs of these items will be. Every single one of these items has been requested by the administration. Every single one of these items is in the national interest. Every single one of these dollars will have to be spent in the end. We might as well be honest and face up to it now.

Mr. BENTSEN. Mr. Speaker, I rise today to strongly urge my colleagues to support a motion to instruct conferees to eliminate the $389 million rescission from FEMA's Disaster Relief Fund included in the House version that was not included in the Senate version. I went to the Rules Committee and came to the floor in mid-June to oppose this rescission because I knew the extent of the growing burden from the most current damage assessments and visits to my district and the area. FEMA, OMB, and Senator HUTCHISON from Texas held my same original position on this rescission. I do not completely fault the House Appropriations Committee for initially targeting the Disaster Relief Fund because when they began drafting this bill there was no tropical storm Allison. However, I was very disappointed in the sometimes ugly accusations sent my way that I was playing political games with disaster relief. Instead of politics, let us look at the arithmetic.

The fund currently has only $583 billion in contingency appropriations which OMB expects to be released soon. The fund also has over $200 million in normal appropriated funds, leaving the Disaster Relief Fund with roughly $800 million. The original funds that the rescission had targeted has been spent. The money the House Appropriations Committee thought was available for a rescission is gone, due to the unpredictable financial burden of tropical storm Allison. So far, 85,000 Texans have filed for assistance and FEMA has disbursed well over $300 million, and many sources close to the recovery operation are predicting that federal obligations for recovery will reach $2 billion in Texas alone.

I would like to relate the recent development since we debated this issue in mid-June. The Senate's version of the bill eliminates the rescission and includes an extra $1 million as a placeholder for additional funds. OMB's latest statements say that more, certainly not less, money will be needed in the Disaster Relief Fund this year. Let me stress this again: the Bush administration says it is "highly likely" to request emergency supplemental funds for the Disaster Relief Fund in 2001. I hope this stance by a very fiscally conservative administration will convince my colleagues that I was only reacting to nonpartisan arithmetic—there simply was not going to be enough Disaster Relief Fund moneys to pay for repairs in Texas, Louisiana, Mississippi, Florida, and Pennsylvania. The administration recognized the situation back in June, and I am confident that the House Appropriations Committee is well aware of the Disaster Relief Fund situation now. I ask them, in light of the well-publicized financial situation of the fund, to join me in support of this Motion to Instruct Conferees.

Damage from tropical storm Allison has been appraised at $4.88 billion in Harris County (Houston), TX. I have heard from the hospitals and medical schools of the Texas Medical Center that damage assessments are $2 billion to state-of-the-art, nonprofit health care facilities, 25–30 percent of which is estimated to be covered by insurance. Add this to the fact that over 50,000 Texans in Harris County alone are either in temporary housing or working to make their homes livable again. Given the incredible extent of the damage resulting from tropical storm Allison, the administration is predicting that additional funds will be needed in fiscal year 2001 in addition to the rescission which I urgently hope will be restored.

FEMA, the administration, Senator KAY BAILEY HUTCHISON, and I believe that as much as $1 billion may be needed in additional funds for 2001. As far as I know, Congress rarely failed to come to the aid of a locality stricken by a major natural disaster. I am sure that the Appropriations Committee would not remove a large percentage of funding from the DRF, against the wishes of the administration, when disaster bills from a destructive deadly storm are rising steadily and depleting the DRF.

Finally, I want to remind my colleagues that 28 disaster declarations have already been made in the first half of 2001. At the beginning of hurricane and wildfire season, I think it is a mistake to be undermining FEMA's primary method of assistance, the Disaster Relief Fund.

Mr. DELAY. Mr. Speaker, my colleagues, Messrs. BRADY and CULBERSON, join me in casting our votes against the motion to instruct because it attempted to tie the hands of appropriators as we go to conference. This procedural vote is a party line vote and has no practical effect on Houston.

We can, should, and will continue to meet our commitment to Allison's victims and still meet our commitment to fiscal responsibility. Similarly, we can, should, and will continue to put people before politics.

While it was premature and petty for the Democrats to essentially try to go to conference on the House floor today, rest assured that we will continue to work together for Houston in the most prudent, responsible, and effective way. Notwithstanding the demagoguery from the other side, Houston has nothing to fear.

The Appropriations chairman indicated during the debate on the Democrats' motion to instruct conferees on the supplemental that if they would limit their motion to just the removal of the FEMA rescission, he would accept it. The Democrats declined his offer.

"We will provide whatever funds are necessary to meet these disasters in Texas and nationwide. We have always done so. We will meet our responsibilities with the necessary dollars," said Chairman YOUNG.

We express our appreciation to Chairman YOUNG for his commitment to the victims of tropical storm Allison and vow to fight to restore funds to FEMA as the bill moves through conference.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LATOURETTE). Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 205, nays 219, not voting 9, as follows:

[Roll No. 225]

YEAS—205

Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mink
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—219

Abercrombie
Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Berman
Kirk
Lewis (CA)
McDermott
Miller, George
Paul
Pomeroy
Putnam
Sanchez

☐ 1323

Mr. SAXTON and Mrs. KELLY changed their vote from "yea" to "nay."

Mr. McINNIS changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

Stated for:

Ms. SANCHEZ. Mr. Speaker, during rollcall vote No. 225 on June 12, 2001. I was unavoidably detained. Had I been present, I would have voted "yea."

Stated against:

Mr. LEWIS of California. Mr. Speaker, on rollcall No. 225, I was unavoidably detained. Had I been present I would have voted "nay."

Mr. PUTNAM. Mr. Speaker, I was unavoidably detained and missed the vote on rollcall 225, the motion to instruct conferees on H.R. 2216. Had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. LATOURETTE). Without objection, the Chair appoints the following conferees:

Messrs. YOUNG of Florida, REGULA, LEWIS of California, ROGERS of Kentucky, SKEEN, WOLF, KOLBE, CALLAHAN, WALSH, TAYLOR of North Carolina, HOBSON, ISTOOK, BONILLA, KNOLLENBERG, OBEY, MURTHA, DICKS, SABO, HOYER, MOLLOHAN, Ms. KAPTUR, Mr. VISCLOSKY, Mrs. LOWEY, Mr. SERRANO and Mr. OLVER.

There was no objection.

MOTION TO ADJOURN

Mr. MCNULTY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from New York (Mr. MCNULTY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCNULTY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 6, noes 418, not voting 9, as follows:

[Roll No. 226]

AYES—6

Conyers
Filner
Hall (OH)
Israel
McNulty
Serrano

NOES—418

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McInnis
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Berman
Dooley
Kilpatrick
Lewis (CA)
McHugh
Paul
Pomeroy
Sensenbrenner
Watson (CA)

☐ 1349

Mr. DINGELL and Mr. KIRK changed their vote from "aye" to "no."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 2356, BIPARTISAN CAMPAIGN REFORM ACT OF 2001

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 188 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 188

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2356) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. No amendment to the bill shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. After passage of H.R. 2356, it shall be in order to consider in the House S. 27. All points of order against the Senate bill and against its consideration are waived. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 2356 as passed by the House. All points of order against that motion are waived. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendment to S. 27 and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from

New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 188 is a fair, structured rule that provides for the consideration of H.R. 2356, the Bipartisan Campaign Reform Act of 2001. I would like to point out that this is not an unorthodox rule; rather, this rule is what is known as "regular order."

The rule provides for 1 hour of general debate to be equally divided between the chairman and the ranking minority member of the Committee on House Administration. The rule makes in order 20 amendments that were printed in the report accompanying the resolution. In addition to the full consideration of these amendments, the rule makes in order two substitutes, one offered by the gentleman from California (Mr. DOOLITTLE), which is debatable for 30 minutes, and the other offered by the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. WYNN), which is debatable for 60 minutes.

The rule waives all points of order against consideration of the bill, as well as all points of order against the amendments.

After passage of H.R. 2356, the rule provides that it shall be in order to consider in the House Senate 27. It waives all points of order against the Senate bill and against its consideration.

The rule makes in order a motion to strike all after the enacting clause of the Senate bill and insert in lieu thereof provisions of H.R. 2356 as passed by the House. Furthermore, the rule waives all points of order against the motion to strike and insert. Additionally, the rule provides that if the motion to strike and insert is adopted and the Senate bill, as amended, is passed, it shall be in order to move that the House insist on its amendment and request a conference with the Senate thereon.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, before we begin what is certain to be a very passionate debate, I would first like to commend the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, on his efforts to bring this issue before us today. The Speaker pledged a fair, open, and timely debate on this measure and, as has been the hallmark of his leadership, today has made good on that commitment. I would also like to acknowledge the great strides that have been made to ensure that this rule be made as fair as possible and to ensure a healthy debate on this important issue. As this rule was developed, the committee honored numerous requests from the gentleman from Connecticut to ensure a proper and complete debate. In short, we are here today because the Speaker has facilitated a fair and open process.

Additionally, I would like to commend the gentleman from Ohio (Mr. NEY), the chairman of the Committee on House Administration, for his fair bipartisan handling of this matter. The willingness of both the gentleman from Ohio (Mr. NEY) and the gentleman from Illinois (Mr. HASTERT) to accommodate all parties involved by supporting alternative measures and open debate is a true testament to their leadership on this measure. I thank both the gentlemen.

Mr. Speaker, I have had the unique opportunity to hear testimony on this issue from all sides, both as a member of the Committee on House Administration and as a member of the Committee on Rules. I have witnessed firsthand the process that has brought us to this day, and I stand here before my colleagues proud of both the process and the rule.

Mr. Speaker, when we peel back the layers of debate on the issue before us today, when we remove the emotion and the hyperbole, when we separate the rhetoric from the reality, there is a fundamental question before this Congress today: how far will this Congress go in restricting the rights of the American people, whether individually or collectively, to participate in their political process? It is ironic that as this Congress and this country have achieved so much economically and socially by breaking down government regulation and intrusion, there are those who would have us impose excessive restrictions and undue burdens on the most basic of all human rights: the right of free speech. That we can improve our current campaign finance system is something upon which we can all agree, but to do so by destroying the very fabric of this Nation's political system is not an improvement, nor is it reform.

There are a number of important issues that we face in our shared desire to improve and reform campaign finance in these United States. Most important, we must ensure that we encourage rather than stifle citizen involvement in their political process.

The freedom to express one's views in the form of political speech is one of the inherent rights that this Nation was founded upon. Government restrictions which would limit that speech strike at the very core of our rights and liberties as Americans.

We should recognize, too, the freedom of political parties to encourage voter enrollment and participation. A vibrant party system has been and must continue to promote the free flow of ideas and debate that have shaped this Nation over the past 225 years.

By definition, Webster's dictionary says that "reform" means "to make or become better." What we do today must ensure that our campaign finance system does become better, and it can only become better if we recognize that curbing expensive campaigns should not come at the expense of political liberties. That is why I urge support of this rule and the support of the Ney-Wynn bill.

While neither the Shays-Meehan nor the Ney-Wynn bill bans so-called "soft money," Ney-Wynn at least ensures that such expenditures are used for party activities such as voter registration, getting out the vote, overhead, and fund-raising expenses. Such a provision will ensure that candidates cannot circumvent set limits, while ensuring a continued vibrant party system. Ney-Wynn also contains broader reporting requirements. People have a right to know who is supporting candidates for political office, and under the Ney-Wynn bill they will have that information quickly and completely. Further, Ney-Wynn does more to restrict the influences of special interest groups.

□ 1400

Political parties will be restricted from fund-raising and spending soft money while special interests would still be allowed to spend funds in virtually unlimited amounts, increasing, rather than curtailing, their influence over the electoral process.

Mr. Speaker, there is a solid reason why the Ney-Wynn bill has enjoyed a growing bipartisan support over these past few weeks. That is because it is better, more responsible legislation that, as Webster defines, reforms our campaign finance system by making it better.

Mr. Speaker, let me once again remind my colleagues that our business here today is being conducted under regular order. This fair, standard rule is before this body because of the tireless efforts of both the gentleman from Illinois (Speaker HASTERT) and the gentleman from Ohio (Chairman NEY).

Let us proceed with open debate on both the bill and its amendment. I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Republican leadership has brought us a rule that is the height of cynical political maneuvering, and the rule itself is, quite frankly, one of the most stupid proposals I have seen in my 23 years in this institution.

I want to look at the cynical maneuvering, first. We all know that the Republican leadership wants to defeat

Shays-Meehan. There are, of course, Democrats who have some reservations about Shays-Meehan also, but these Democrats also believe in fundamental fairness, and that Shays-Meehan should have a clean, legitimate shot on the floor.

The Republican leadership has written a rule that everyone knows may well lose. If we assume that this rule is about cynicism, then what the Republican leadership has done is to present a rule to the House that they know will fail, and then they will refuse to reconvene the Committee on Rules to draft another rule.

They will refuse to schedule campaign finance reform for debate and simply explain it away by saying campaign finance reform is dead because the House refused to pass a rule to bring it up. This is, of course, the equivalent of killing your parents and then throwing yourself on the mercy of the court because you are an orphan.

Why do I say that this rule is likely to lose? Experience. It is a repeat of a rule that the then Democratic leadership fashioned in 1981 during the debate on the first Reagan budget. In 1981, the Democratic leadership refused to give the Republican alternative, the now infamous Gramm-Latta substitute, a straight up-or-down vote. Rather, the Democratic leadership broke Gramm-Latta into pieces, requiring a series of votes on its provisions, thinking that that was the way to kill it.

Well, surprise, that rule was rejected by the House. Let me repeat, the House rejected that rule as fundamentally unfair to the minority. Now, 20 years later, the Republican leadership has constructed a rule that divides Shays-Meehan into 13 separate amendments.

Sound familiar? Maybe not, because no one in the current Republican leadership was in Congress in 1981. But I find it hard to believe they and their staff can be totally ignorant of history, and that they all have to know that there is a very good chance this rule will be defeated.

Mr. Speaker, one might have to conclude that this is a cynical way to go about achieving their real objective, which is, of course, to kill Shays-Meehan.

Let us look at how incredibly dumb this rule is. It seems to have been written in such a way as to help the strategic objective of killing Shays-Meehan. I would suggest the way this rule is written that it might have the exact opposite effect.

There are a number of Members on both sides of the aisle who have legitimate and sincere concerns about Shays-Meehan. In the event this rule actually passes, the heavy-handed and cynical maneuvering on the part of the Republican leadership may well drive some of the opponents of Shays-Meehan right into the Shays-Meehan camp.

If that is the case, then the Republican leadership will have orchestrated their own defeat, the proverbial snatching of defeat from the jaws of victory.

There are legitimate issues involved in a discussion of the merits of the two main alternatives, Shays-Meehan and Ney-Wynn. I, for one, am concerned that the absolute prohibition in Shays-Meehan on the right of Members of Congress to raise non-Federal funds for State and local political parties to conduct voter registration and get-out-the-vote activities will weaken the political process and neuter Members of Congress. Members will not be able to play a meaningful role in voter turnout efforts in their home districts, and will become largely irrelevant to their own political parties.

The Ney-Wynn bill does not contain this provision, and it is important for Members to think very carefully about this issue if we get to the point where we might actually vote on the legislation.

However, because of this incredibly dumb rule and the cynical maneuvering on the part of the Republican leadership, we may never get to that point. On the other hand, if this rule is, by some chance, passed, the debate on this issue will be in such a highly charged atmosphere that it may well be impossible to have a rational discussion on the fundamental issues involved. This will be a sad day for the democratic process in this institution and in this country.

Mr. Speaker, this rule should be defeated. The Republican leadership needs to be shamed into bringing back a new rule that is fair to the House, fair to the proponents of both bills, and fair to the American people.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I have not been in Congress for 22 years, like the gentleman from Texas, but I do know the difference between right and wrong. I think the gentleman from Texas (Mr. FROST) knows the difference between right and wrong.

What we recognize about this rule is that this is an honest up-or-down vote. Yesterday in the Committee on Rules the gentleman from Connecticut (Mr. SHAYS) asked for his bill, and got what he asked for. He received it. That was his bill. We did not gut the bill. We are not putting any amendments against the bill. He gets his bill exactly the way that he said in the Committee on Rules he wanted it. He gets all 12 or 13 amendments.

Where I come from in Texas, you vote for what you are for and you vote against what you do not like. The fact of the matter is that this is an honest attempt to give our colleague, who is a Republican, the gentleman from Connecticut (Mr. SHAYS), exactly what he asked for in the Committee on Rules.

We are not hiding anything. We are not making it more difficult. We are simply giving him exactly what he wanted. I have lots of legislation on which I would love to have the same opportunity that we are extending to our colleague.

The fact of the matter is that in the Committee on Rules, it was the Democrats who sit on the Committee on Rules that did the beating up of the gentleman from Connecticut (Mr. SHAYS), that did the beating up of Shays-Meehan. They said that it had virtually no reason to be on the floor of the House of Representatives. It has no reason to take the time that we are spending on it.

The Republican leadership, not only the gentleman from Illinois (Speaker HASTERT) and the gentlemen from Texas, Mr. ARMEY and Mr. DELAY, but also our committee chairman, the gentleman from Califorria (Mr. DREIER), have taken the time to schedule this vote to give the gentleman from Connecticut (Mr. SHAYS) exactly what he asked for yesterday, and to make sure we have a full debate. I think it is not only fair and honest, but it is the right thing to do for our colleagues.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank my colleague for yielding time to me.

I am the ranking member of the Committee on House Administration. As such, I participated in the markup of these two pieces of legislation, the Shays-Meehan legislation, which has in the past had 252 votes each time it was offered for passage on the floor of this House, and the Ney-Wynn bill, which is a new bill.

Mr. Speaker, I beg to differ with my friend, the gentleman from Texas (Mr. SESSIONS). At the markup, which was held on June 28, it was my understanding, and I believe the understanding of the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN), that the gentleman from Ohio (Mr. NEY), the gentleman from Connecticut (Mr. SHAYS), and the gentleman from Massachusetts (Mr. MEEHAN) would have the opportunity, between June 28 and yesterday, to perfect their legislation, to present that perfected legislation to the Committee on Rules, and to have those pieces of legislation presented to the floor for consideration with such further amendments as others might have.

Mr. Speaker, I believe that was our understanding. I tell my friend, the gentleman from Texas, as a result, I did not offer any amendment. The gentleman from Ohio (Mr. NEY) nor any other Member offered any amendments. Why? Because it was the understanding of all 10 of us, in my opinion, that the bills would be perfected in the 10 days between June 28 and July 8 or 9 or 10.

That was not done. What the gentleman suggests is a fair process is to divide up into 14 different sections the perfections of the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) sought, and therefore try to fight each one of those 14 different times.

I frankly think that is not fair. Why is it not fair? Because, as the gentleman from Texas, the ranking member of the Committee on Rules, has put forward, it is a rule which does not comport with what the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) want to offer as their base bill.

Mr. Speaker, on the substance of this, the American public in my opinion is very concerned about the amount of money in politics. Rightly or wrongly, and I cast aspersions on no one in this House, rightly or wrongly, the American public believes that the gargantuan amounts of money that flow into Washington, into State Capitals, into local county seats as political contributions, hard or soft money, and that is a somewhat esoteric distinction that the public does not make, but it is an important one, because one is limited and one is not, they believe this is an important issue. They want to see it considered on its merits, not by procedural dissection, which is essentially what has occurred here.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there seems to be a little bit of blurry history or rewriting history. I certainly was not here in 1981, as my colleague, the gentleman from Texas (Mr. SESSIONS) was not, either. But as I recall, there was a minority substitute to a majority bill that the rule affected that the leadership lost, and the minority had a victorious day. In those days, the Republicans were the minority.

But when we look at today, I have been here today in both the Committee on House Administration and on the Committee on Rules. It was my understanding that on Wednesday evening, at the insistence of the sponsor of Shays-Meehan that we hold a markup before the July district work period, that was scheduled for Thursday before we left.

On Wednesday at 8 p.m. it was agreed upon by both the gentleman from Ohio (Mr. NEY), who had to produce his bill, and the gentleman from Connecticut (Mr. SHAYS) that he would produce his bill, and at 8 o'clock we would have the bill so the House, the entire House, 435 Members, would have the opportunity to learn what was in both bills.

That was because the Shays-Meehan bill that I knew as a State legislator watching the debate of this great body is now so much different than it was back then.

I am a fan of the 1957 T-Bird. It changed so much in the sixties, when I owned a sixties T-Bird, and in the seventies, in the eighties, and in the nineties, so the T-Bird today that is made reference to no longer looks like the 1957 Thunderbird. So you would have to be clarifying exactly what year of Thunderbirds you were referring to if you were an admirer.

In Shays-Meehan, this bill before us today is nothing like the Shays-Meehan bill that was constructed years ago and has been debated in this House in previous years. It is substantially different.

On the Committee on Rules, I have the opportunity to see managers' technical amendments on a frequent occasion. This bill, when we look at what happened with the Committee on Rules, we granted every single request, 12, of the Shays-Meehan bill. Whether they were technical or they were absolute critical changes that were made in the bill that would not be classified a manager's amendment, we gave it to the Shays-Meehan request.

Just as the Speaker said today, this week, we will have the debate on Shays-Meehan and any other amendments on campaign finance reform. It is here today. So the bill introduced by the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) reported by the Committee on House Administration will be debated in its entirety. As a matter of fact, they filed after the deadline, 4½ hours late, these 12 amendments, which were actually put in the rule so they could be debated today in its entirety.

However, when we begin to look at special privileges for any Members, that becomes a political concept of what the Committee on Rules is, in fairness. The gentleman from Connecticut (Mr. SHAYS) is not the manager of the campaign finance bill, it is the gentleman from Ohio (Mr. NEY), the Chair of the Committee on House Administration.

The en bloc amendment has been inaccurately referred to as the manager's amendment. The fact is that the gentleman from Ohio (Chairman NEY) is the manager of this legislation, so the amendment requested by the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) is not a manager's amendment.

Anyway, whether one is a freshman, a sophomore, as I, or a junior member of the Committee on Rules on the majority side, as its most senior Members know, an en bloc amendment has been inaccurately referred to as a manager's amendment in this legislation, and that an amendment en bloc is a clustering of individual amendments.

Mr. Speaker, each and every amendment requested by Shays-Meehan is in this rule, to be debated openly and fairly in this House.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Ms. PRYCE), from the Committee on Rules.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the work of the Committee on Rules is never done. We work hard and we work late into the evening trying to fine-tune some of the most controversial issues that this House ever faces.

□ 1415

And, indeed, that is exactly what we did last night.

My friend, the gentleman from Connecticut (Mr. SHAYS), came to our committee and he made his presentation; and he was passionate, as he always is, because he believes in this. And to a large extent, I do as well. This has been his cause, and he has fought it very well.

So I am very surprised today by all the fanfare over this manager's amendment, because the gentleman from Connecticut (Mr. SHAYS) did not even mention this manager's amendment in his presentation to the Committee on Rules until I brought it up. At that time he said, oh yes, and he explained it briefly, and left us on the committee with the distinct impression that as long as his provisions were included in some way, it was okay to divide it up. Indeed, his words were: "There are about 1, 2, 3, 4, 5, 6, 11, 12, 12 changes, one or two are technical, some are substantive, but this is an amendment that gets our bill in a form that we are most comfortable defending. And so, obviously, we like it. Some people have said you might like to divide them up into pieces; however, you decide."

He told the Committee on Rules, you decide. And so we did. We felt that to divide this up and allow examination of these substantive changes was the right and fair thing to do. So for all of us who have worked so hard to get this bill here today, for everyone who has done so much, no matter where you stand on it, do not kill this rule. Today is the day. Have we not waited long enough?

There is nothing unfair about this rule. And if it is defeated, I hope that this country understands who defeated it.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. HASTINGS), a member of the committee.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman for yielding me this time. It will be very clear that it will be the Republican majority that defeats the rule, if it does go down.

Mr. Speaker, I rise today to oppose this silly rule. This rule provides the American people with a limited opportunity to debate this important issue. It is a rule that was written by the Republican leadership that fears the will of the American people to have an open and honest debate on campaign finance reform.

If we are to maintain this institution's reputation as a representative body, then it is imperative that the American people have an opportunity to freely debate this issue here on the floor of the House. It appears the gentleman from New York (Mr. REYNOLDS) does not understand that when this bill is chopped up like it is, it will not have an up or a down vote, which I assure my colleagues, he is not in favor of.

Mr. Speaker, I have another problem with today's debate. I want to know why we are even talking about campaign finance reform before we are talking about election reform. I would think that after last year's travesty of an election, in which it was discovered that thousands of Americans nationwide had their right to vote stripped from them, Congress would have acted by now.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in support of the rule as well as in strong support of the need for a paycheck protection provision to the campaign finance reform bill, and I will tell my colleagues why.

Banning soft money to the parties does not take the money out of politics, it only takes the money out of the parties. For example, currently a union such as the AFL-CIO can give $1 million to the Democratic party. The Democratic party will then turn around and run attack ads against Republicans like me that say, "Call Rick Keller and ask him why he is a bad guy." Well, if we ban the soft money to the party, we will still see the exact same TV attack ad on the air. The only difference will be the little disclaimer at the bottom of the screen which will now say, "Paid for by AFL-CIO," as opposed to, "Paid for by the Democratic party."

Any attempts to ban these ads 60 days before an election is blatantly unconstitutional. That is why to be fair and balanced we must also couple the ban on soft money with a paycheck protection requirement that requires unions to get the written consent of their workers if they intend to use part of their union dues for political activities. This is critical because fully 40 percent of the union members nationwide are Republicans, yet nearly all of their $100 million per election year is spent by unions on behalf of liberal Democrats. This is blatantly unfair and one-sided.

But I ask my colleagues not to take my word for it. Listen to what Thomas Jefferson, our third President and the author of the Declaration of Independence, had to say about this matter. In 1779, Thomas Jefferson wrote: "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical." Yet the American worker is forced to do just that.

Finally, President Bush has repeatedly said that paycheck protection is an important component to any campaign finance reform bill. We should give the President a fair and balanced campaign finance reform bill that he can sign into law.

I support the rule.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, today we have a historic opportunity to enact meaningful campaign finance reform. The Senate completed its work and passed a bill. The bipartisan Shays-Meehan measure has been twice passed by this House in previous Congresses.

We are on the threshold of bringing real reform to a system that is out of control and overrun by big-monied interest. Yet here we are debating the merits of a procedural rule that can only be characterized as guaranteed to fail. It does not allow the Shays-Meehan bill to be considered as a coherent whole. It is disingenuous and unfair.

This rule allows for 22 amendments designed to eviscerate the Shays-Meehan legislation; designed to kill the bill. Until we can get a clean up or down vote, we might as well tack up a "for sale" sign on all of our office doors.

We need to question the overall strategy behind this rule. If Shays-Meehan does not get defeated on the floor, then the opponents have paved the way for it to die in conference with the Senate.

I urge my colleagues to support genuine reform; that they not be afraid of real action. Restore integrity to our political process, restore America's faith in its political process. Defeat this rule. Support a clean vote on campaign finance reform.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I have the unofficial comments made by my colleague, the gentleman from Connecticut (Mr. SHAYS), last night in the Committee on Rules, which I would like to just share with the House as we look at the rule, the debate of the rule, with the balance of the time we have left.

The gentleman from Connecticut (Mr. SHAYS) said: "I just want people to have a fair and open debate on this process. Even if it disadvantage us if we have 200 amendments to go after our bill, I have always believed that the debate is healthy. I have always taken the position that we could be the substitute or the base bill, as long as ultimately you amend whatever is the base bill.

"Obviously, if you take up the Ney bill and he takes us down, we lost. And then you amend the Ney bill. If we survive, then we amend our bill. I have always taken that basic view.

"A vote for the Ney bill is a vote against our bill. And if he is the base bill and we replace him, then we amend our bill. I have always made that assumption.

"This manager's amendment, as I referred to it, I reluctantly call it the manager's amendment, it sounds ostentatious. I am not sure I feel like a manager. But this is an amendment that gets our bill in a form that we are most comfortable defending. And so obviously we like it. Some people have said you might like to divide them up into pieces; however, you decide."

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, what we are talking about is not really about technicalities, though there is a manager's amendment that we should have been able to offer and, in fact, we will be able to offer, because this rule is going down if we do not get an up or down vote on campaign finance reform.

But what this really is about are technicalities designed to kill a bill to end this soft money abuse. The United States Senate, in a historic vote, voted for a bill we have been working to preconference with Members of the other body. We have negotiated over a period of time and had a final product at 12 o'clock midnight on Tuesday. The Committee on Rules did not meet until Wednesday, sometime around 3 o'clock. We should have had the opportunity to present to the committee and have an up or down vote on the bill that we agreed to. But technicalities were being used to try to defeat campaign finance reform.

There is a strong feel across America these unlimited amounts of money have to be curtailed. We cannot get a patient's bill of rights passed in this body because of the influence of soft money. We cannot get Medicare prescription drug coverage for seniors because $15.7 million in soft money are gumming up the works. It becomes difficult to get legislation passed to protect our environment when continually soft money has played a role in killing that legislation.

So my colleagues can talk all the technicalities that they want. The fact of the matter is, my colleagues will either give us an en bloc amendment or we will defeat the rule. Because the American people want a vote on Shays-Meehan, and they want that bill to be similar enough to the bill passed in the other body so that we can avoid a conference committee, where legislation to reform our campaign finance laws have historically died, where the Patient's Bill of Rights died, where reasonable gun safety measures to protect America's children have died.

We want to avoid that conference committee. So we have preconferenced this bill in an effort to build on the progress that was made in the other body, in an effort to work with Members in a bipartisan way in this body, Republican Members who are willing to take on this issue in a leadership role and a bulk of the Democrat party, to see to it we end this abuse of the soft money system. It is inexcusable to continue to fund political campaigns through unlimited amounts of money.

I believe tonight, as soon as my colleagues acquiesce on this rule, we will be ready to begin that historic debate.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume to comment that I am glad my colleague, the gentleman from Massachusetts (Mr. MEEHAN), addressed the group in the House today, because he was not at the Committee on Rules to present his case before us as we deliberated over the rule.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. ARMEY), the majority leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this has been a very difficult couple of days. I have been working with the gentleman from Connecticut (Mr. SHAYS) on this matter for some time. Some time ago the gentleman from Connecticut, speaking on behalf of himself and his cosponsors, came to me and requested that they be given a fair shake on this, that they get a chance to have their bill heard and have it heard in a timely fashion. We have worked on that. Today is the time that the gentleman from Connecticut and others have agreed to.

The gentleman from Connecticut came to me and said, I do not want anybody stacking the rule against me, I want to make sure it is a fair competition between my bill, which over 2 weeks ago he informed me was written. In fact, the gentleman came to me and exercised his frustration and impatience that the bill that the committee would put up was not yet written when his was already written and ready to go, and would I protect his bill so that he could have a straight up and down bill, as his bill was, and was written and was ready to go at least 2 weeks ago. We assured him that that would happen.

He subsequently came back and said I want my bill as a base bill, not the committee mark. I do not want the conventional thing here, which is to put the committee's mark on as the base bill and have mine as a substitute. I want mine as the base bill, and let the committee's be a substitute. We agreed. We wanted to be fair. We gave him that special consideration. So his bill is the base bill.

And, now, in the last few days, he has come before us and he said I want to amend my bill, and I have a demand that I have my amendment in the way I would like it. And he said, I have 14 different things I would like to do with this bill; 14 different amendments to this bill. Six of the 14 are provisions to strike all together provisions in his bill that was ready to go 2 weeks ago. Six provisions to strike.

Now, what does he want to strike? What are those provisions? I think we ought to talk about it. Three of those were to clarify provisions that he had in his bill, that was ready to go 2 weeks ago. Let us go with it. But now we need time, in this 11th hour, to clarify. What are those three clarifications? What do they mean?

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I think we ought to know about that. Here is one, for example. What does this mean? It says he has one amendment that would increase the aggregate limit on individual contributions to $95,000 per cycle, including not more than $37,500 per cycle to candidates, and reserving $20,000 per cycle for the national party committees.

Is that soft money, or is that hard money? What individuals are we talking about? I think we ought to talk about that amendment.

Our complaint is that I do not get these 14 amendments. Incidentally, I might mention, Mr. Speaker, 145 amendments were submitted to the Committee on Rules. The Committee on Rules accepted 20 amendments. Fourteen of the 20 amendments that were accepted were amendments of the gentleman from Connecticut (Mr. SHAYS). Here is a fellow who has gotten his bill that just 2 weeks ago was ready to go as the base bill, and now he needs 14 amendments to his own bill.

When was the last time we saw anybody in this House come to the House with their bill and need 14 amendments to their own bill, 14 separate amendments to their bill? Also, if I do not get them, I am not being treated fair.

I am a little concerned about that concept of fairness. Fourteen of the 20 were given to the author of the bill himself, to amend his own bill, that just 2 weeks ago was ready to go, 14 substantive amendments.

What we have is a person who got the bill on the floor when he wanted it on the floor, got the bill that he wrote that was ready to go as the base bill ahead of consideration of the committee's bill, who has been given the opportunity to have 14 out of the 20 amendments made available to amend his own bill on the floor, who is now complaining that we are not being fair with this Committee on Rules.

What more could the Rules Committee have done? Who else got that much consideration on any bill at any time? It is not fair.

Then further, not being satisfied to just complain that the Committee on Rules is an unfair committee of our colleagues, we have an attack on the Speaker himself from the New York Times, not a disinterested party.

The New York Times that knows very well their institutional influence over elections will be enhanced by the Shays-Meehan version of the bill more so than the committee mark. The New York Times says the Speaker balkanizes a bill he opposes against the sponsors' wishes, and he calls it an arrogant abuse of power.

The Speaker has put the bill that was ready to go 2 weeks ago through the Rules Committee on the floor as a base bill. The Speaker has said we are going to allow 20 people to offer 20 amendments to that bill in a timely, orderly fashion. Fourteen of the 20 amendments are given to the author of the bill himself, Mr. Speaker.

Mr. Speaker, let me spare myself this embarrassment. I pledge to you right now, should at any time ever in the future of my service in the Congress of the United States I have the honor and the privilege of having the Committee on Rules make my bill in order as the base bill, ahead of the committee's bill, I will not embarrass myself by asking for 16 amendments to rewrite my bill, and further insist that the 16 amendments be made together as one lump-sum amendment not to be examined, not to be dissected, not to be understood, not to be debated, but just an ad hoc rewrite at the moment on the floor.

I will try to the very best of my ability, when I say my bill is ready to go, to be satisfied, to have my bill ready to go and not need to amend it with 16 amendments.

To further save myself the embarrassment, Mr. Speaker, let me pledge right now that should at any time ever in the future of my life as a legislator I have a Committee on Rules that is generous enough to give me, out of 145 requests, 14 of the 20 requests that are honored as amendments to my own bill, I will save myself the indignity of protesting the unfairness of it all.

Let me say to the New York Times, give me a break. What more do they want in the name of fairness?

Here is the deal. We have those people who had a bill passed in the Senate, who have decided that their bill does not need to be subjected to a normal legislative process, which is to be conferenced with a similar bill from the House, that which happens with virtually every piece of legislation ever legislated in the history of this body, a normal conference process, that believes that they will be cheated if they do not get their exact Senate bill passed in the House.

That is unreasonable, uninformed and arrogant. To say that I am being subjected to unfairness when I am asked to go through a normal legislative process is arrogant.

Mr. Speaker, this Committee on Rules is a decent, honorable committee. They have been fair and just. They have been considerate. The Speaker is a decent, honorable man, who has bent over backwards to be generous to the advocates of the Shays-Meehan bill. He does not deserve this kind of diatribe. I regret there are people in our body who are so small.

Mr. FORD. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Tennessee.

Mr. FORD. Mr. Speaker, am I correct that the gentleman from Texas, speaking on behalf of the Speaker, is in support of Shays-Meehan; or is the gentleman against Shays-Meehan?

Mr. ARMEY. Mr. Speaker, I am in support of responsible campaign finance reform that does respect the first amendment rights of the American people and does not trespass against freedom of speech; and I am not confident that Shays-Meehan is done as well as the committee mark. But on the debate of the rule, do not tell me that I am being treated unfairly when I have been given 14 separate opportunities to amend my own bill. That is unreasonable. That is arrogant.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, today we have an extremely important vote for this body, a vote that counts instead of a vote that can be passed off and characterized as it does not make a difference.

Today papers all across the country screamed that the Republican Party raises record amounts of money, and the Democratic Party raises record amounts of money. All this big money hurts the little person. It hurts the little person's voice to be able to participate in this election process.

Mr. Speaker, I would hope that we would defeat this rule as written because this rule not only dissects and bisects the Shays-Meehan language that should have been a manager's amendment to perfect this bill, but it is an unfair rule. Republicans and Democrats should bring this rule down so we can get legitimate debate on the other matters.

Mr. Speaker, the House centrist coalition of five Democrats and five Republicans strongly supports Shays-Meehan; I hope we vote for that bill at the end of the day.

Mr. REYNOLDS. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Speaker, if we are serious about campaign finance reform, this is our one chance. Some of the party leaders in both parties do not want reform, and I think we have seen examples of it during this debate. They do not want reform. They would be delighted for us to turn down the rule. That is exactly what they are waiting for.

Mr. Speaker, I have been a longtime helper with Shays-Meehan, and the money providers who work for each party is what some of these party people are simply working on.

Vote for the rule. It is the one chance we have to make real reform happen. Those who do not vote for this rule will play right into the hands of those who want no reform. I urge my colleagues to vote for this rule.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I stand in strong opposition to this rule. In fact, it amazes me that we would even consider such a convoluted attempt to sabotage true campaign finance reform.

Mr. Speaker, I represent a district that has an 83 to 85 percent voter turnout. So my colleagues know that the people I work for care very much about our Nation. They care about our Constitution, and they care about the campaign process.

Mr. Speaker, my constituents and people all over this Nation want campaign finance reform like the Shays-Meehan bill that will take big money out of the process. And like all people, they want young people in particular to feel that they belong to the process, that they want to be involved, that they are proud to be voters, that they are proud to be part of the democratic process.

The people I represent in Marin and Sonoma Counties know that our democracy depends on getting everybody involved in our electoral system. We must defeat this bill so we can start over.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, when I first came to this House in a special election 3 years ago, my first official act after being sworn in was to sign on to the Shays-Meehan bill. It was one of the proudest moments of my career. Today is one of the darkest days I have ever experienced in this Chamber.

Mr. Speaker, this rule, passed in the dead of night, is unfair. It is undemocratic. It is a cynical parliamentary ploy aimed at stopping a straight up-or-down vote on the Shays-Meehan bill as a whole.

The American people will not stand for this. They want to see democracy restored. They want us to reform a campaign finance system that is awash in unregulated soft money and dominated by special interests.

Mr. Speaker, let us defeat this rule and have a fair and honest debate on the merits of the Shays-Meehan bill. By defeating the rule we can reassure all Americans that our cherished democracy is not for sale.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, rarely are there times that one vote can fundamentally turn the tide of political history. I think today is such a moment. Our generation of political leadership can shape a new future, a future which will be free from the influence of unregulated and unlimited contributions.

Mr. Speaker, I think that we must make it a relic of the past where every issue we consider and every issue we ignore, from health care reform to energy policy, is determined by the clout of one special interest or another, and where the Congress has become more a marionette than a Legislature.

Mr. Speaker, is it any wonder that less than half of the people of our Nation turn out on election days? Weak substitutes allowing soft money and third-party advertising to continue will only foster a disconnect between the people and those who represent them.

I do not like the push to raise the limits for hard dollars because I think this debate is about limiting the influence of money and politics and not increasing it. But this issue is larger than what my concerns are. We should go back to what our Founders both dreamed about and built when they founded the greatest democracy in the history of the world. We should reform the system. We should defeat this rule, and we should adopt real, meaningful campaign finance reform.

□ 1445

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, when I was growing up there was a kid on my street that was not very good at any games we played. He was so bad that he would oftentimes not get a chance to play after his team would lose. But because he owned the football and the basketball that we had, or we played with, he oftentimes got a chance to play. The gentleman from Ohio (Mr. LATOURETTE) is laughing. He may know what I am talking about a little bit. It seems to me we have reached a point here in the Congress where there are some players on the other side of the aisle who simply are not as good as some of the players on this side of the aisle.

In this instance, we have a bill called Shays-Meehan, which is superior to theirs. So my friend, the distinguished majority leader, has come to the floor and suggested to us all that the way in which we are proceeding with this legislation, the way in which my friends, the gentleman from Massachusetts

(Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS), went before the committee somehow or another surprised him.

This is the same United States Congress that kept us here until 4 in the morning to vote on a $1.3 trillion budget, in the wee hours of the morning; the same United States Congress that kept us here until 7 in the morning to vote on a budget. Shame on you, Mr. Leader. Thank you, New York Times.

We ought to be thankful that Shays-Meehan will eventually get an up or down vote and will eventually ban soft money. Mr. Leader, bring the ball back. Let the rest of us play. You have a bad bill, but America wants meaningful campaign finance reform.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. I thank the gentleman for yielding me this time.

Mr. Speaker, every person in this body takes an oath of office to protect and defend the Constitution of the United States from all enemies, foreign and domestic. There is no greater enemy to our Constitution, indeed to our democracy, than the role of money in the political process today. Those of us who take this oath of office to serve in Congress serve in Washington, D.C., a city that was built on a swamp. Two centuries later, it is back to being a swamp, a political swamp.

Today, we have the opportunity to drain the swamp and change the political landscape of political fund-raising in our country. We have an opportunity to empower the people. How many people have been turned off by the political process because of the role of big money? How many people fear that the Speaker's gavel is an auctioneer's gavel, not the gavel of the people? How many people decide not to run for office because of the role money plays?

Today, we have an opportunity to send a message to the American people that their role in the political process is important, in supporting candidates or in being candidates. We have an opportunity to clean up our act. And indeed we have a responsibility to do so. I have great confidence that if we pass the Shays-Meehan bill and when we pass the Shays-Meehan bill, we will clear the way for a new way in America in terms of political involvement. We have the creativity, we have the experience, we have the issues, we have the interest on the part of the American people which will be reawakened to involve them more fully in a government of the people, by the people, and for the people.

I urge my colleagues to take advantage of this historic opportunity and support Shays-Meehan.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman very much for yielding me this time. My applause is to Shays-Meehan and to Ney and Wynn for engaging us in a debate that should be worthy of what the Founding Fathers thought that America was all about, democracy. But I will say to my dear and distinguished colleague, I am embarrassed. I am embarrassed that we would take the Shays-Meehan legislative initiative as we would take any other and totally implode it so that a reasonable debate could not be had up or down on this legislative initiative.

I am reminded of the telling of such an act some years ago when we were in the majority and we decided to play politics with a budget bill. It was wrong and we lost on the rule. So I stand here today saying, I am disappointed that the amendments that I had that dealt with the empowerment, ensuring that ethnic and racial minorities would be empowered to do voter registration and outreach were denied. But I am more embarrassed and I am outraged that we would not give the Shays-Meehan legislation an up or down vote and we would decide to give us this long list of fingers, so confusion will abound and the Founding Fathers' belief in democracy will be extinguished.

We need to defeat this rule so that we can have a fair and democratic process to debate this like our Founding Fathers and I know our Mothers would have wanted us to do.

Mr. Speaker, I rise in opposition to the rule. The purpose of campaign finance reform is to make federal election financing fair and balanced for all candidates. This is something we all agree with, regardless of party. I find it extremely troubling that the Rules Committee would report out a structured rule designed to limit and confuse meaningful debate on H.R. 2356, the "Bipartisan Campaign Finance Act of 2001."

Mr. Speaker, this rule is simply not in the spirit of bipartisan cooperation. Campaign Finance reform is an important issue for the future health of our country. Every person in America will be affected by the debate we hold today. It is a travesty of good government to prohibit an up or down vote on this piece of legislation. By limiting debate on H.R. 2356 to a technical discussion of individual portions of the bill, the Rules Committee has made it virtually impossible for this body to do justice to the magnitude of the decision we make here today.

Mr. Speaker, I am also disappointed in the committee's decision to offer a narrow slate of poison pill amendments for debate. I offered three debates in the spirit of inclusion and good government. The first might have helped this legislation to avoid a constitutional challenge by allowing constituent groups the right to speak with their elected leaders. The second might have allowed for more detailed information on campaign finance reform by tracking its effect on all communities in the United States. The third would have committed this body toward fair and equal participation for all in elections. Rather than consider these proposals, the leadership has stifled considerable debate by reporting a rule designed to push their agenda through without regard to the will of the American people once again.

Mr. Speaker, the United States has reached a crucial point in its history. We could have discussed meaningful amendments that would protect the voices of all Americans. The Rules Committee should have paid attention to both the ancient and recent history of this Nation. Equal access to the right to vote has been a constant struggle within the United States, and until we take seriously the right of every citizen to participate in the political process by developing a campaign finance structure that promotes election reform for all Americans, this country will suffer.

I am disappointed. The American people will be, too. I oppose this rule.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, today we are talking about an issue that over 250 Members of this House have voted for twice and passed in the past. A similar bill has already passed the Senate in April. The leadership of this House promised supporters of campaign finance reform a straight up or down vote on Shays-Meehan, a bill so similar to the Senate version that a conference committee was not required, and we know that the conference committee has been the graveyard for campaign finance reform. I guess the leadership felt they could not win on the merits, so they had to manipulate the process to shortchange the American people once again.

Let us show the American people that our government is not for sale. Let us show the American people that we support elections, not auctions to the highest spender. Let us vote against this undemocratic rule. Let us bring it down so that we can bring Shays-Meehan to the floor for an up or down vote and send it to the Senate so a conference committee is not required, the President can sign it, and we can finally pass meaningful reform.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Speaker, I rise against this rule, and I raise my voice in support of a straight up or down vote on Shays-Meehan.

The Supreme Court of the United States has laid out very clearly for all of us the role that Congress can play in regulating elections in this country. They have told us that Congress can prohibit the use of corporate treasury funds and union dues money in Federal elections. They have told us that we may limit contributions to candidates, parties and political committees; that we may pass laws to combat actual corruption and the appearance of corruption in the operation of the Federal Government; that we can require disclosure of the source and size of certain kinds of spending and most contributions; and that we can regulate coordinated expenditures to thwart attempts to circumvent existing election law. That is what the Supreme Court has already said.

Shays-Meehan does no more than what the Supreme Court has already endorsed, and it does no more than what is right. I urge Members to vote against this rule and support Shays-Meehan.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in opposition to the rule, a rule that in effect takes Shays-Meehan and cuts it into 14 little pieces, a rule that says to the supporters of Shays-Meehan, If you are willing to vote for it once, we are going to put you to the test of voting for it 14 times.

Why is this being offered over the opposition of both Shays and Meehan? Very simply for this reason, the opposition believes they cannot defeat Shays-Meehan in an up or down vote. The only way they can defeat this legislation is if they can obfuscate; if they can make it ambiguous, unclear; if they can conceal to the American people whether they are really for it or against it.

The American people not only have the right to an up or down vote to end soft money and its corrupting influence on the political process, they have the right to the accountability that comes with a clear and unequivocal vote up or down on campaign finance reform. That is what is being denied with this rule. That is why we must reject this rule, so that the American people can have a clear and unequivocal vote for or against campaign finance reform.

I urge a "no" vote.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, to my colleagues, I stand in opposition to this rule. As a second-term Member of Congress, legislation was quite new to me in my first term. What I am seeing happening today is the inability of a legislator with good intention to offer a campaign finance reform bill who, after having had a chance to speak with his or her colleagues, saying, Well, maybe that's a good idea. Maybe I should suggest an amendment or a change. Yes, there are 14. There probably could be 25 amendments that would be offered by colleagues to try and make this a better bill.

I must say very truthfully, I am still torn about how we do campaign finance reform. I support campaign finance reform because I know it is good for all the people of our country. How we get to it seems to be a difficult question. And I say to Mr. Leader and to others here on the floor, let us take some time. The Senate dedicated 2 weeks. Why do we only get 1 day?

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

This is kind of an extraordinary situation we now find ourselves in on the floor. I would like to reiterate something I said at the beginning of this debate. This is a very peculiar result. The Republican leadership has crafted such an unfair and unusual rule that it may have the exact opposite effect of what the Republican leadership intended. They are trying to defeat Shays-Meehan, but they have written such a terrible rule that they may in fact drive some of the opponents of Shays-Meehan into the Shays-Meehan camp. It is a very interesting result.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader.

Mr. GEPHARDT. Mr. Speaker, I hope that we can still have a rule today that is fair and seen as fair by Members on both sides of the aisle. This issue is a bipartisan issue. It is an issue on which we have always had bipartisan support. What we are saying today is that a vote for the rule as it presently reads is a vote against real campaign reform. I know there is disagreement on that, but all we are really saying is that we would like and appreciate what we believe is a fair procedure. And to us that means allowing us to have a manager's amendment putting all of the changes that we want to make in our bill in order with one vote. We then are happy to face any amendments that anyone wants to, in an orderly way, make against this bill and then vote on the Ney bill and then vote, if that does not succeed, on the Shays-Meehan bill.

This is an important moment in our democracy. There are many of us who feel deeply that this system is flawed, that there is too much money involved in campaigns, that the American people have become cynical about politics and about our democracy, and we have to be able to at least have an effort to pass real, meaningful campaign reform now, today, or at the latest tomorrow or next week.

I ask the leadership in all sincerity to give us what we believed was a fair procedure, for us to be able to get our bill perfected and in front of the Congress, take any shots with any amendments that are desired and then give us a vote on Ney and a vote on Shays-Meehan.

I will just finally say again, this is a big moment for our country. A lot of people out there are watching. There are a lot of people out there, just ordinary citizens, who want there to be less special interests involved in the political process. They want the Government and the democracy returned to them. They want to know that their small contributions of participation and checks into this system count as much as the $50,000 and the $100,000 and the $500,000 checks.

□ 1500

I pray that we can come out of this House of Representatives today with real reform.

Mr. REYNOLDS. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS) for yielding me this time.

Mr. Speaker, I rise in strong support of the rule. What could be more fair, Mr. Speaker, than to allow all the changes that Members have requested to be debated and voted in the daylight of public scrutiny on this floor. We are all here because we believe that righteousness exalts a nation, but let us craft a system today that exalts the righteous, brings down the corrupt but does not sacrifice the blood-bought liberties, the freedom of speech of all Americans.

I strongly support the rule and I urge its passage.

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that the debate on the rule be extended for 20 minutes, equal time between the majority and the minority.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from New York?

Mr. FROST. Mr. Speaker, reserving the right to object, I would ask if the gentleman could please restate his unanimous consent request.

Mr. REYNOLDS. Mr. Speaker, if the gentleman will yield under his reservation, I ask unanimous consent that the debate on the rule be extended 20 minutes, and for equal time between the majority and the minority.

Mr. FROST. Mr. Speaker, reserving my right to object, I would ask the gentleman why he is making this request. This is a very unusual request. I have been in the House for 23 years. I do not recall the time being extended on a rule at any time during the 23 years that I have served in the House of Representatives.

Mr. REYNOLDS. Mr. Speaker, if the gentleman will yield under his reservation, I am a new guy in the House. I think that some of my colleagues have expressed that they would spend some time expressing their view on the rule. I think some of my colleagues are seeing some different dimensions on the rule in discussions with some of the colleagues after hearing some of the debate on the rule, and I am one of those that believes that before we conclude our business tonight we are going to have a full and open debate on campaign finance reform.

I think my colleagues are expressing in the debate of the rule the opportunity of how we will continue having an open, fair debate on campaign finance reform.

Mr. FROST. Mr. Speaker, continuing to reserve my right to object, I would ask a question, if I may, and I see that the chairman of the Committee on Rules is on his feet. I would ask the chairman, is it the intention of the majority side to seek a change in the rule at this point to amend the rule at this point?

Mr. DREIER. Mr. Speaker, will the gentleman yield under his reservation?

Mr. FROST. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from Texas (Mr. FROST) for yielding.

Mr. Speaker, let me say it is obvious that we very much, in a bipartisan way, want to move ahead with campaign finance reform. My friend and I discussed this late last night in the Committee on Rules, and we fashioned a rule and it is quite possible that we could, as we have discussed with the side of the gentleman, propose a modification to the rule. As we work on that unanimous consent request which has just been propounded by the gentleman from New York (Mr. REYNOLDS), it is so that we might continue an interesting discussion on the issue of campaign finance reform and, during that time, ensure that we have a package put into place that will allow us to proceed with a full and fair and vigorous debate throughout the rest of the afternoon and evening.

Mr. FROST. Mr. Speaker, further reserving the right to object, I would ask the gentleman, is this discussion about changes in the rule only occurring on his side of the aisle or are there any Members on our side of the aisle who are being consulted about potential changes in the rule?

Mr. DREIER. Mr. Speaker, at this juncture, I will say that I know that there are consultations that have gone on in a bipartisan way.

Mr. REYNOLDS. I think there are conversations going on everywhere.

The SPEAKER pro tempore. The time is controlled by the gentleman from Texas (Mr. FROST) under his reservation of objection.

Mr. FROST. Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER), the ranking member of the Committee on House Administration.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me this time.

Mr. REYNOLDS. Mr. Speaker, I move for a call of the House.

The SPEAKER pro tempore. Without objection, a call of the House is ordered.

Mr. HOYER. I do not believe the gentleman had the floor. He did not have the floor.

Mr. FROST. Mr. Speaker, I believe that I had the floor. I do not believe the other gentleman is recognized.

The SPEAKER pro tempore. Does the gentleman from New York (Mr. REYNOLDS) withdraw his unanimous consent request?

Mr. REYNOLDS. Mr. Speaker, I withdraw my unanimous consent request.

CALL OF THE HOUSE

Mr. REYNOLDS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 227]

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

☐ 1713

The SPEAKER pro tempore (Mr. LATOURETTE). On this rollcall, 422 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 2356, BIPARTISAN CAMPAIGN REFORM ACT OF 2001

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) has 1 minute remaining on debate on the rule.

Mr. REYNOLDS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the time is here. We are going to have a vote on this rule. This is a fair rule. It allows for full debate on Shays-Meehan, along with the 14 changes the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) want to make to their own bill. It provides an opportunity for an amendment of the Ney-Wynn bill, the Doolittle bill and the Linder bill, along with numerous other amendments of Members who appeared before the Committee on Rules.

It is a fair rule, one that allows for a full, balanced debate on this very important legislation. This will bring about, once and for all, a great debate, a debate that the entire House can participate in. The rule that is provided before us, if it is voted up, we have the debate; if it is voted down, it is for those who opposed it to live for another day to demagogue it, rather than vote on it.

Mr. UDALL of New Mexico. Mr. Speaker, the 2000 presidential election may well be remembered for "hanging chads" and other evidence of the imperfections in our electoral system. The right to vote is our most precious freedom. We cannot afford to have a repeat of last fall's problems.

The 2000 presidential election, therefore, should direct our attention once again to the need for campaign and electoral reform. Both political parties are motivated to address the issue in this 107th session of the Congress. I have already cosponsored legislation to provide states with the tools they need to ensure uniformity and improve voter accuracy and access. We must be careful, however, not to let our efforts to achieve voting reform mask the critical problem with our electoral process—the uncontrolled and pernicious influence of big money on the outcome of our elections. So, today, I rise in strong support of the Shays-Meehan legislation, which will help fix many of our system's problems.

It is time for Congress to enact campaign finance reform because quite frankly, Mr. Speaker, our federal campaign finance system is broken. Last year, both parties spent unprecedented amounts in soft money for a new record in the campaigns for control of the White House and Congress.

New Mexicans—like all Americans—are justifiably appalled by the fact that the amount of money spent in elections has increased exponentially with no end in sight. The Democratic and Republican national party committees raised a record $463 million in soft money from January 1, 1999 through December 31, 2000, according to a Common Cause analysis released in February. The amount raised during this past election cycle was nearly double the $235.9 million raised during the 1995–1996 election cycle. We must take action now.

In the 106th Congress, and again in the 107th, I was elected by my colleagues to take a leadership role on the issue of campaign finance reform in the House of Representatives. In September 1999, I helped floor manage the House's passage of the Shays-Meehan legislation which would have closed some of the worst loopholes in the campaign finance laws. However, this bill never became law because of the opposition of a single Senator.

In spite of this setback, a bipartisan group, led by JOHN MCCAIN and RUSSELL FEINGOLD, have passed their legislation in the other body. It is my hope that, this year, the House will follow suit, and pass meaningful campaign finance reform legislation and that the President will sign it into law.

Current law authorizes contributions by individuals of up to $1,000 per candidate per election and up to $5,000 per Political Action Committee (PAC) per election. Corporations and unions are prohibited from making any contributions to candidates or their campaigns.

Nevertheless, individuals, unions, and corporations give contributions of hundreds of thousands of dollars, indeed, millions to campaigns as so-called "soft" money to the political parties themselves. The soft money loophole is based on the fiction that a contribution to the Democratic party or the Republican party is different in reality from a contribution to the party's candidates. It is fiction because parties spend most of the contributions on television campaigns and those campaigns have one goal—electing candidates. Banning unregulated, unlimited contributions to parties is the core of campaign finance reform.

Campaign finance reform is vital to every other piece of legislation that Congress considers. From the very real need for a patients bill of rights to the acute need for a comprehensive national energy policy, to the need for a Medicare prescription drug benefit to education reform, the people's voices should be heard and not drowned out by big money. Vested interests have too often been able to exert influence in Congress and White House through the soft money loophole.

Mr. Speaker, campaign finance reform is the most important step Congress can take to restore citizens' belief in our democratic process. What better motivation for reform than the egregious excesses of the 2000 election—both in voter access and in campaign contributions? We must act before the 2002 election, before the abuses of the electoral process have so distorted the democratic ideal that we are no longer truly a "government of the people, by the people and for the people."

I urge my colleagues to vote for this bill. The time is now for real campaign finance reform. Passage of the Shays-Meehan legislation is the only true way to achieve that goal.

Mr. BALDACCI. Mr. Speaker, I am outraged by the unprecedented rule that has been developed for consideration of the Shays-Meehan campaign finance reform legislation. I have never before seen a rule that divides a Manager's Amendment into 14 separate provisions and requires each of them to be passed individually. The Republican Leadership has really outdone themselves this time in finding new and creative ways to thwart the will of the American people.

Since first being elected to office, I have strongly supported meaningful campaign finance reform. I was so hopeful last year when the House passed Shays-Meehan by an overwhelming vote—only to see it die in the Senate.

This year, we were hopeful again. The Senate has passed McCain-Feingold. The House Leadership committed to allowing a vote on Shays-Meehan.

But the Republican Leadership is still trying to pull the rug from under reform again. The Republican Leadership's rule is designed to make it as difficult as possible for Shays-Meehan to pass in the form its sponsors recommend.

If the Rule is defeated, as I believe it should be, the Leadership should rest assured that supporters of campaign finance reform will not go quietly. The American people have said time and again that they want to see our campaign finance system cleaned up in a meaningful way. Defeating this rule will not defeat this issue. We will be back, and Shays-Meehan will ultimately pass this body.

Americans have lost all confidence in the campaign finance system. Rules like this may cause them to lose all confidence in the U.S. Congress. I urge my colleagues to defeat this rule and to demand that Shays-Meehan be brought back under a fair rule so that we can do the will of the American people and start the process of restoring the faith of the American people in their government.

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 203, nays 228, not voting 3, as follows:

[Roll No. 228]

YEAS—203

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bereuter
Biggert
Bilirakis
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette

Lewis (KY)
Linder
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Vitter
Walden
Walsh
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)

NAYS—228

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Ganske
Gephardt
Gonzalez
Gordon
Graham
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scarborough
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Shows
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wolf
Woolsey
Wu
Wynn

NOT VOTING—3

Lewis (CA)
Moore
Paul

□ 1743

Mrs. JOHNSON of Connecticut changed her vote from "yea" to "nay."

Mr. BARTLETT of Maryland changed his vote from "present" to "yea."

So the resolution was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. LEWIS of California. Mr. Speaker, on rollcall No. 228, I was unavoidably detained. Had I been present I would have voted "yea."

GENERAL LEAVE

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 188.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, I rise to inquire of the gentleman from Missouri the schedule for the remainder of the week and for next week.

Mr. BLUNT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Missouri.

Mr. BLUNT. Mr. Speaker, I thank my friend, the gentleman from Michigan, for yielding.

We have now finished the legislative business for this week. We will have a pro forma session on Monday. On Tuesday, the House meets at 10 a.m. We have votes scheduled beginning as early as noon.

The flag-burning constitutional amendment will be on Tuesday; Commerce-State-Justice appropriations on Tuesday; then the Iran-Libya Sanctions Act.

Then the balance of the week we will finish Commerce-State-Justice; Foreign Operations appropriations; charitable choice; and hope to have a patients' bill of rights on the floor the balance of the week next week.

Mr. BONIOR. Mr. Speaker, if I may inquire further of the gentleman, it is a pretty heavy schedule, the Patients' Bill of Rights, charitable choice, as I understand it.

May I ask the gentleman from Missouri when he expects that the campaign finance bill will come back to the floor? We have a majority, a bipartisan majority in this body who wanted a more fair rule. We hope that the Republican majority will bring another rule that is more equitable, more fair, that recollects the vote that we just had.

I would like to inquire when that might happen.

□ 1745

Mr. BLUNT. If the gentleman will continue to yield, we expected, of course, to have the campaign finance bill on the floor tonight. That bill will not be on the floor because of the defeat of the rule, and I think we will just have to look further at the vote today and the structure of that rule and see when and if that bill can come back to the floor.

Mr. BONIOR. So is the gentleman telling us that it may not come back to the floor of the House?

Mr. BLUNT. I am not saying that. I have not had time to calculate this. We really thought we were going to win this rule and vote on this tonight. We thought it was a fair rule, an equitable rule that clearly gave all options. Apparently, the majority did not think that, and I have no further information.

Mr. BONIOR. Let me ask the gentleman when he expects to bring the Patient's Bill of Rights to the floor; at what point next week?

Mr. BLUNT. We do not know yet, but we are hopeful that that bill could be on the floor next week. We think it would be mid to late in the week, if we get it to the floor, but we are hoping that that is one of the things that will come to the floor next week. It is an important issue; needs to be debated and moved forward. We hope we can start and maybe complete that process next week.

Mr. BONIOR. And do we know under what procedure the Patient's Bill of Rights may be brought to the floor next week?

Mr. BLUNT. I am unaware of any procedural decisions that have been made on that.

Mr. BONIOR. On the question of the faith-based initiatives, is that a probable, a maybe, or a most likely next week?

Mr. BLUNT. I think it is most likely that that bill will come out of the Committee on Ways and Means to the floor next week.

Mr. BONIOR. And if I might ask one other question of my friend from Missouri, what other appropriation bills did the gentleman mention that may see the floor action?

Mr. BLUNT. I mentioned we would go to Commerce-Justice, move to finish that and then move to Foreign Operations appropriations next week, if we meet our schedule.

Mr. BONIOR. I thank my friend, and I encourage him to encourage the rest of the leadership on his side of the aisle to bring back a rule that reflects the vote we just had. The American people I think desperately want us to address this campaign finance issue, they want to do it in a fair way, and I think the gentleman from Massachusetts and the gentleman from Connecticut deserve to have a fair shot at the bill that they want on the House floor.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. BARTON of Texas. I just wanted to announce, for members of the Subcommittee on Energy and Air Quality of the Committee on Energy and Commerce, that we are going to finish our markup this evening. Food will be provided on a bipartisan basis, so I would encourage all members of that subcommittee to come back to the markup, and I thank the gentleman for yielding.

ADJOURNMENT TO MONDAY, JULY 16, 2001

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, July 16, 2001.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT FRIDAY, JULY 13, 2001, TO FILE PRIVILEGED REPORT ON DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight, July 13, 2001, to file a privileged report on a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 2002, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

CAMPAIGN FINANCE REFORM

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is confusing as to what just occurred. I just hope that we will have an opportunity to fully address what a good portion of this House wanted to do today, and that is to debate in front of the American people the whole question of ridding this system of special interests.

I, for one, want to discuss the empowerment of those who are least empowered, the involvement of the grass roots, the inclusion of every voter. And I had hoped that we would have written a rule that would have allowed the kind of formidable debate that would have addressed the question of making sure that democracy prevails in this Nation. I am equally disappointed that we have not given ourselves the opportunity to debate, as the Senate debated, for a period of time for the American voter to understand that we too believe that the best democracy is that of their vote, and that anything that we do in this House is based upon our representation of all of our citizens.

So I hope, as we end this week, that we will act upon the comments of the distinguished minority leader and that we will be able to review this and assess this for further consideration. We do need campaign finance reform.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONSERVATIVE AND LIBERAL GROUPS OPPOSED TO SHAYS-MEEHAN CAMPAIGN FINANCE REFORM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DOOLITTLE) is recognized for 5 minutes.

Mr. DOOLITTLE. Mr. Speaker, I just have some comments on the Shays-Meehan bill. This thing just died of the weight of opposition against it. I just want to read from a list of both conservative and liberal groups who oppose this legislation.

In fact, you could get a positive rating from both the NARL, the National Abortion Rights League, and from the National Right to Life Committee by voting against this terrible bill. And then you can also get the same positive rating from the U.S. Chamber of Commerce and from the AFL–CIO.

I would just like to read into the record all these groups, 81 groups, from information obtained from the Committee on House Administration, all the groups who are opposed to the big government's campaign regulation bill, known as Shays-Meehan.

We have the American Civil Rights Union; the American Conservative Union; the Business-Industry PAC; the Center for Reclaiming America; the Christian Coalition; the Free Congress Foundation; Gun Owners Of America; the National Rifle Association; the National Right to Life Committee; the AFL–CIO; the Alliance for Justice; the American Civil Liberties Union; the Cato Institute; the Freedom Forum; the Libertarian Party; the National Association of Broadcasters; the National Association of Manufacturers; Associated Builders and Contractors; the U.S. Chamber of Commerce; Americans For Tax Reform; the United Auto Workers; the American Society for the Prevention of Cruelty to Animals; the Asian American Legal Defense and Education Fund; the Bazelon Center for Mental Health Law; the Business and Professional People for the Public Interest.

Again, just to remind you, Mr. Speaker, these are all the organizations opposed to the big government campaign regulation known as Shays-Meehan.

The Center for Digital Democracy; the Center for Law and Social Policy; the Center for Law in the Public Interest; the Center for Reproductive Law and Policy; the Center for Science in the Public Interest; the Children's Defense Fund; the Community Law Center; the Consumers Union; the Disability Rights Education and Defense Fund; the Drug Policy Foundation; Earthjustice Legal Defense Fund; Education Law Center; Employment Law Center; and Equal Rights Advocates.

Let me see, the James Madison Center for Free Speech; Gun Owners of America; Free Congress Foundation. Okay, we are at 41. Here are the other 40.

The Food Research and Action Center; the Harmon, Curran, Spielberg & Eisenberg firm; the Human Rights Campaign Foundation; Institute for Public Representation at Georgetown University Law Center; the Juvenile Law Center; the League of Conservation Voters Education Fund; the Legal

Aid Society of New York; the Mexican American Legal Defense and Educational Fund; the National Abortion and Reproductive Rights Action League Foundation; the National Association of Criminal Defense Lawyers; the National Center for Lesbian Rights; the National Center for Youth Law; the National Center on Poverty Law; the National Education Association; the National Employment Lawyers Association; the National Immigration Forum; the National Immigration Law Center; the National Law Center on Homelessness & Poverty; and for number 60, the National Legal Aid and Defender Association; all against the big government, heavy-handed, campaign finance regulation known as Shays-Meehan.

Number 61, and, again, all these groups are opposed, the National Mental Health Association; National Organization for Women Legal Defense; National Partnership for Women and Families; National Veterans Legal Services Program; National Women's Law Center; National Youth Advocacy Coalition; Native American Rights Fund; Natural Resources Defense Council; New York Lawyers for the Public Interest; Physicians for Human Rights; Physicians for Social Responsibility; Planned Parenthood Federation of America; Public Advocates, Inc.; Public Justice Center; the Tides Center; University of Pennsylvania, Public Service Program; Violence Policy Center; Welfare Law Center; the Wilderness Society; Women's Law Project; and the Youth Law Center.

Eighty-one organizations opposed to the big government, heavy-handed campaign finance bill that went down today known as Shays-Meehan or McCain-Feingold in the Senate. No wonder this proposal is not moving forward. All these groups, from liberal to conservative, are opposed to it. And the Democrats voted to kill the rule that would have brought it up.

□ 1800

FUNDING FOR FAITH-BASED INITIATIVES

The SPEAKER pro tempore (Mr. KELLER). Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I stand here in support of faith-based entities who have long worked to address social ills. In fact, we just recently, earlier this week, paid a tribute to the efforts of these entities and encouraged private corporations to contribute to their worthwhile efforts.

This Congress will also likely consider proposals aimed at providing government funding to faith-based entities, Charitable Choice. However, I have grave concerns with those proposals and believe that before adopting them, they merit serious examination to ensure that they do not work to dilute our Nation's constitutional principles and civil rights law.

First, are we prepared to modify our constitutional principle of separation of church and state to one promoting a church state?

The First Amendment says Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. This clause was intended to erect a wall of separation between church and state. In essence, our Nation has been successful in preventing the church from controlling the state and the state from controlling the religion.

The current faith-based proposals threaten this very important principle. Which religious entities will qualify for the government funding? Will the more dominant or better financed faiths be awarded the grants? The government will be forced to choose one religion or denomination over the other.

Once the entities accept government funding, they then must be held accountable for the use of these funds. As such, faith-based entities will open themselves up to government regulation. So we must ask ourselves, will groups forego the full expression of their religious beliefs, their independence and autonomy in exchange for money? Are we comfortable with our houses of worship becoming houses of investigation?

Further, while the proposals state that government funds should not be used for worship or proselytization, meaningful safeguards to prevent such action are not included in the provisions. The consequence is the possibility of use of government funds to promote certain religious beliefs or a beneficiary of social programs being subject to religious influence that is not welcome.

In addition to ensuring that faith-based initiatives do not threaten our Nation's constitutional principles, we must also guarantee that our citizens will remain protected under our civil rights laws. Religious institutions are currently exempted from the ban on religious discrimination and employment provided under Title VII of the Civil Rights Act of 1964. As such, if faith-based proposals do not include a repeal of this exemption, these institutions will be able to engage in government-funded employment discrimination.

Allowing the exemption to be applied to hiring and staffing decisions by religious entities as they deliver critical services flies in the face of our Nation's long-standing principle that Federal funds may not be used in a discriminatory fashion.

As I reflect on those who fought hard to secure civil rights for us all, and as one who has been a strong advocate myself, I cannot sit idly by and watch them be eroded. As such, I believe that any faith-based proposals must include a repeal of the Title VII exemption.

As we review faith-based proposals, it is important to note that under current law religious entities can seek government funding by establishing a 501(c)(3) affiliate organization. Such religiously-affiliated organizations have successfully partnered with government and received government funding for years.

I urge my colleagues to carefully examine these issues. As we continue to support faith-based entities and their good works, we must remember our duty to also protect the very foundation of this Nation, our Constitution and our civil rights laws. Let us stand against discrimination and stand up for religious tolerance and freedom.

PAYING HOMAGE TO A SPECIAL GROUP OF VETERANS, SURVIVORS OF BATAAN AND CORREGIDOR

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes as a designee of the majority leader.

Mr. ROHRABACHER. Mr. Speaker, today I rise to pay homage to a very special group of American veterans. As all veterans, these World War II survivors have sacrificed and have suffered for their country. But this special group is different.

This group that I would like to call attention to tonight are men who continue to fight for justice even though these many years have passed since the close of World War II. These are men who fought and paid an enormous price for our freedom and for the peace and safety of the world, yet today, I repeat, continuing to struggle for justice to their own cause.

Instead of fighting the emperors of Japan which they fought during the second World War, these brave veterans are now forced to fight lawyers, the lawyers of Japanese and international business giants, companies like Mitsubishi, Matsui and Nippon Steel. Instead of battling in the jungles, instead of battling on the islands in the South Pacific, these veterans are battling in the courtroom.

Mr. Speaker, the greatest irony about what is happening today about the veterans of whom I speak, while they battled for our freedom in the Second World War, and today, as they say, they are battling lawyers of some of the biggest Japanese companies, the greatest irony is that these American heroes have the United States Government not on their side, but on the side of their adversary. They find themselves arguing against representatives of their own government.

Let me make this clear. Some heroic veterans from World War II were trying to find justice for their cause, men who put everything on the line and, as we will find out, were held hostage and prisoner of war by the Japanese, these men now in seeking justice for their cause are having to argue against their own government. Their own government is now engaged in a legal process to thwart their efforts.

This is the story of the American survivors of the Bataan Death March in Corregidor. These are some of the most heroic of America's defenders during the Second World War. When they were captured, they were forced to serve as slave labor for private war profiteering companies, Japanese companies during the Second World War. These men, these prisoners of war, these American heroes were deprived of food, medicine and clean water. These large Japanese companies, whose own work force was away fighting the war in the Japanese uniform, these corporations used our POWs as work animals. These Japanese companies, knowing that they were violating the international law, used our American soldiers, sailors, airmen and marines whom they had captured in the Philippines and other places around the Pacific, but mainly the Philippines, they used these people and often worked them to death. The standards they had to endure violated the most basic morality, decency and justice. It also violated international law.

Instead of righting wrongs and admitting that violations had been made and violations of law existed, like German companies have done since the end of World War II, and the German companies have tried to close that chapter by giving compensation and recognizing the violation of rights that took place by their companies to the people whom they wronged, the Japanese corporations have ignored the claims of these American heroes.

And why should they not? These large Japanese corporations ignore the pleas of American survivors for justice. Why not? After all, the United States State Department has sided with the Japanese and is working against our former POWs that were held by the Japanese during the Second World War. This is a travesty.

Mr. Speaker, if the American people knew what was going on, I am sure there would be a wave of protest and indignation that would sweep this country, a wave that would sweep right into the State Department and perhaps sweep out these individuals who are siding in a battle against America's most heroic defenders.

Dr. Lester Tenney, a survivor of the death march, a survivor of slave camps, says, "I feel as if I am once again being sacrificed by our government, abandoned not for the war effort, as in the past, but for the benefit of big Japanese corporations."

Dr. Tenney is right. In the hours following the attack on Pearl Harbor, the Japanese attacked U.S. installations in the Philippines. A U.S. contingent there made up of our military forces retreated to the Bataan Peninsula and made their historic standing. They held off the Japanese military juggernaut while the United States had been crippled in Pearl Harbor, and gave us time to rally America, and gave us time to, and gave us time to organize an offensive to take back the territory that the Japanese had taken.

Our defenders in Corregidor and on the Bataan Peninsula bought time for the whole United States, and they bought time at the greatest risk to their lives. Our government at that time was forced to make a heart-tearing decision, and that decision was that they were going to have to sacrifice our brave heroes in the Philippines. MacArthur was pulled out, and our troops were left behind. And they were sacrificed because the planners in Washington, D.C., knew full well that much of our strength in the Pacific had been destroyed at Pearl Harbor, and if we tried to save these brave heroes on the Bataan Peninsula, we would have risked so many other military personnel. If we lost that battle, the entire war would have been lost. The risk was so great that it was impossible for us to go to save them.

Yet these men and women, these brave defenders stood their ground and fought a heroic battle. As the song of the day went, their song, the battling bastards of Bataan, no mama, no papa, no Uncle Sam.

After the fall of Bataan, after these men were overwhelmed and American-Filipino troops were captured, they were forced to walk more than 60 miles to their places of captivity, to the prison camps and concentration camps in which they were held. That 60-mile march is known in history as the Bataan Death March. They were denied water, beaten; and during the march, hundreds of them, many of them fell, and many of them were bayonetted to death. Some of them were cut to pieces, at least a few beheaded by Japanese officers who were practicing with their samurai sword.

Let us remember at that time the Japanese culture reflected the view that any warrior who survived a battle and was on the losing side of the battle, any warrior who survived and surrendered was unfit to be considered a human being.

□ 1815

The Japanese treated our prisoners as less than human beings. They treated them as animals and they murdered them. Over 650 to 700 Americans died on that 60-mile march, the famous Bataan Death March. These were truly heroes, and their sacrifice inspired our Nation. The outrage that swept across our Nation gave us strength to fight against the Japanese militarist thrust in the Pacific and to stand up to the Nazis in Europe, because we saw the heroism of these men. And then, after enduring this hell and taken out of sight of the American people, our prisoners of war that were being held by Japan there in the Philippines, many thousands of them were taken from the Philippines in what are called hell ships. These hell ships took our prisoners to Japan and to Japanese-occupied territories like Manchuria, they were packed into the cargo hold of these ships, and our POWs struggled just to grasp a little air in temperatures that reached 125 degrees. It is estimated that over 4,000 Americans died aboard these ships that were transporting them to, as I say, other Japanese-held territories, especially the islands of Japan itself and in Manchuria.

Our POWs struggled to survive in the harshest conditions imaginable. These heroes were forced to toil beyond human endurance, in mines, in factories, in shipyards, in steel mills. Yes, they took the place of the Japanese men who were away serving in the Japanese military. This was in itself a violation of international law. But the jobs that these prisoners were given, these American heroes were given by the Japanese and the treatment they received was well beyond just a violation of international law; it was a crime against humanity.

They worked the most dangerous jobs, the most terrible conditions, and were treated like animals. They were treated worse than animals. The Japanese would not have treated their animals as they treated our prisoners. Company employees would beat them and harangue them. They were starved and denied adequate medical care. They suffered from dysentary, scurvy, pellagra, malaria, diptheria, pneumonia and other diseases. One of our prisoners of war had his leg amputated because it was crushed in a rock slide, and it was amputated by another American POW, the only doctor who happened to have survived this long, and that doctor amputated that leg without anesthetic. The rations that they were given were unfit for human consumption. Our POWs were reduced to skin and bone, looking very much like the prisoners in Auschwitz and in the concentration camps in Europe.

Today, while many of those survivors, of course, died during the war and after the war just from the complications, and today those who managed to survive over these many years have many health problems that relate directly to their slave labor and the conditions that they were kept in during the Second World War. When you hear the survivors tell their stories, it raises the hair right in the back of your neck and sends chills down your body.

Frank Bigelow, 78 years old, from Brooksville, Florida, was taken prisoner at Corregidor. Mr. Bigelow was shipped to Japan where he performed labor in coal mines owned and operated by Mitsubishi. Now, this is a name that we have heard. Mitsubishi. "We were told to work or die," Mr. Bigelow recalls. Injured in a mining accident and, as I mentioned a moment ago, it was Mr. Bigelow who had his leg amputated without anesthetic by a fellow POW. At the war's end, though Mr. Bigelow was 6′4″, he weighed just 95 pounds when he was liberated.

Lester Tenney, 80 years old, of La Jolla, California, became a prisoner at the fall of Bataan in April of 1942. He survived the Bataan Death March and was transported to Japan aboard a hell ship. In Japan, he was sold by the Japanese Government to Mitsui and forced to labor for 12 hours a day, 28 days a month in the Mitsui coal mine.

"The reward I received for this hard labor was being beaten by civilian workers in the mine and constantly humiliated," said Dr. Tenney. These are just a couple of stories. The horrors that they suffered at the hands of these Japanese corporations, who were making a profit off the work they were doing for the war, the horrors that these men suffered could fill books; and let us in those books and in this recalling what happened not forget who it was who was doing this. These were Japanese corporations. Many of these same Japanese corporations still exist today.

The case of our POWs is clear. These facts cannot be denied. Their claims cannot be dismissed or just simply explained away. And that is why it makes it even more difficult for us to understand why our State Department refuses to assist these American heroes, these veterans of the Bataan Death March, these men who stood at a time when it took such great courage and endured the unspeakable for us, and now our State Department will not stand with them. In fact, it is standing against them.

It makes it hard to fathom when you think about this why the State Department is doing this when you consider that in Germany, in Nazi Germany, where so many people were wronged and we know about what happened in the concentration camps there and how horrible that was, the Germans have tried to compensate those people, especially German corporations, have tried to compensate those people who they wronged during the war. They have tried to close the book. That is what should happen.

But instead, on the other side of the world, our American heroes have been denied justice by these Japanese corporations. And while our government has encouraged the repayment by German corporations and especially in the case of, for example, Swiss bankers who were ripping off the Holocaust survivors from the deposits that their families had made and the huge German insurance companies, while we have encouraged that and tried to side with those victims, our own State Department and our government are siding against our defenders who were captured by the Japanese and mistreated in a very similar way.

The lawyers for the State Department have allied themselves with the war profiteers, these Japanese corporations who made enormous profits in supplying Tokyo's war efforts, and they have allied themselves against the American victims. Let me just say that their excuse for what they are doing is that they are claiming that the peace treaty that we signed with Japan bars our veterans from these claims. Let me note that that is nonsense. It is total nonsense. If any claims are barred, it is claims against the Japanese Government by American civilians. There is nothing in that treaty that bars our heroic POWs from suing the Japanese corporations that treated them like animals, that violated their human rights and committed war crimes in doing so.

The argument by our State Department is an argument in which our own government is bending over backwards to try to find an excuse for this great violation of rights of our greatest heroes; they are bending over backwards to try to find an excuse when, in fact, these people deserve us to be doing everything we possibly can to try to find the arguments on their side.

These people are not going to be with us for very long. These people might not be with us for another 10 years. They are dying off every day. They are older men. And our government is trying to do its best to try to find arguments, to try to undercut their claims against the people who violated their rights, the Japanese corporations that treated them like slave labor during the war. We should be paying honor to these men, and we should be doing everything we can to help them rather than put roadblocks in their way. The State Department should be ashamed of itself.

First, as the State Department has elsewhere conceded, the waiver of claims by U.S. private citizens against private companies of another country is not merely unprecedented in history, in the history of the United States, it is not recognized in international law and raises very serious constitutional and fifth amendment questions.

What we are talking about here is that there is no State Department waiver of the rights of private citizens to sue people who have violated their rights and they have a just claim. There is no right of our government to waive that, the rights of our citizens. Now, they maybe can waive the rights against a government, but they certainly cannot waive a claim against a corporation that still exists.

By the way, let us remember this: a corporation is a legal entity. If that corporation made mistakes in the past and it is the same corporate entity, it has responsibilities for what the actions of that corporation took in years past. I do not care if it was during the war or during peacetime. A Japanese corporation bears the same responsibility as an individual bears a responsibility. That is why you have corporations. They take upon themselves that legal responsibility.

A close look at the history of the 1951 treaty that we have that ended the war with Japan reveals that the negotiators considered treaty language which would have permitted POW lawsuits against Japanese companies, those same Japanese companies that had used them as slave labor. But that reference was deleted in the final draft after a demand by other Allied powers was made to that agreement, to that wording to the U.S. delegation.

Now, what does that mean? What is going on here is that we considered actually putting something in the treaty that specifically permitted them. Well, the argument was that we can't constitutionally prevent them from doing it, anyway, so why are we putting this in the treaty that could probably be a cause of concern for the Japanese?

And why were we so concerned about the Japanese in 1951? What was that all about? Well, 1951 was another era. And I am afraid that in 1942 when America had to abandon these heroes on the Bataan Peninsula and leave them to their fate and let them be captured and murdered and tortured and worked like slave labor by the Japanese, when we abandoned them to that fate, we abandoned them a second time. That was because again America's security was in jeopardy. America's security was in jeopardy because during the Cold War we needed Japan on our side. And perhaps that was the motive at that time of our government and of the State Department and of people who were concerned about our country, and perhaps these survivors of the Bataan Death March can understand that.

Because at that time had the world witnessed a Japan going towards communism, it would have shifted the balance of freedom and democracy in the world and the whole Cold War might have ended a different way. It might have caused the loss of millions of American lives if just that balance of power in Japan would have been shifted. So maybe we needed to bend over backwards to prevent the Japanese at that time, and I just say maybe.

□ 1830

There is no excuse like that today. The Cold War is over. We should not be bending over backwards today. If we do not move forward today to permit these American heroes to at least redress their grievances and to receive some compensation and to find justice, if we do not act now, we are abandoning them for the third time.

They were abandoned in Bataan. They were abandoned after the war. Are we going to abandon them again? Are we going to watch them slip away quietly without knowing how much the American people appreciated what they did for us? How will they know how much we appreciated it if we are turning our backs on this claim, this legitimate claim they have against Japanese corporations who worked them as slave laborers while all around the world other peoples have been able to sue those corporations that violated their human rights during the Second World War and how other people, in fact, have been able to sue Japan and those corporations for what they did to them.

No, the only people left out will be the survivors of the Bataan Death March. This is an insult. It is absurd. It is insane. It does not speak well of our State Department. It does not speak well of us if we let it happen, and we should not and we will not let that happen.

The treaty in 1951 also includes a clause which automatically and unconditionally extends to the allied powers any more favorable terms than that granted by Japan in any other war claims settlement. Japan has entered into war claims settlements with the Soviet Union, with Burma, Spain, Switzerland, Sweden, the Netherlands and others. These same rights that we are talking about, that we are asking for our own people, have already been granted to the people of other countries. Yet, the State Department in our country continues to work against our heroic Bataan Death March survivors' right to seek justice in the courts against the Japanese corporations that worked them during the war, even though other countries and other peoples have received justice and the book has been closed on their cases.

On the public record to date, the State Department simply ignores these people's claims, these brave heroes' claims, or tries to obfuscate the facts. Several weeks ago, Fox News on the Fox News Sunday program, a news program on the weekend, it was probably more like 2 months ago now, Colin Powell, our Secretary of State, promised to review the State Department's erroneous and unyielding stand against the Bataan Death March survivors. He provided a little bit of hope that the survivors may well be able to obtain justice at long last.

I have yet to hear, and that might have been 6 weeks to 2 months ago, I have yet to hear from the Secretary of State. I would hope that the bureaucrats over at the State Department get this message tonight. We expect the Secretary to pay attention to this issue, and we expect that our country and our government to be more concerned with these claims than they have been in the past and that we expect them to be on the side of our people rather than the side of these Japanese corporations.

We have a Japanese prime minister who has visited this country. We have had exchanges with the Japanese government going on. We have a new ambassador that is being appointed to Japan, Howard Baker. This issue should not go away. This issue should be something that our representatives bring up with representatives of the Japanese government, and that we should change the rules of engagement, so to speak, so that our heroes can at last receive justice.

Of the more than 36,000 American soldiers who were captured by the Japanese, only 21,000 made it home. The death rates for American POWs, this is an important statistic, the death rate for American POWs was 30 times greater in Japanese prison camps than in German prison camps.

I met recently with a member of the Japanese Embassy staff, and he said that it was unfair of me to compare the Japanese in World War II to the Germans and to the Nazis and that is just not the case. I told him, I said with all due respect, sir, the Japanese militarists of World War II, of which this gentleman's generation he was not part of that generation, committed the same type of atrocities and war crimes as did the Germans, and it is very comparable what the Japanese did to the Chinese people, for example, but also to every prisoner that they captured.

Again, I reminded this young man from the Japanese Embassy that his generation does not bear responsibility for this. He was not even alive. But those Japanese corporations that existed at that time and were involved in that behavior do bear legal responsibility, and that the Japanese people today, our efforts to receive justice for these American POWs, we in no way mean it as a slap in the face against the Japanese people of today. The Japanese people of today have a strong democracy and they have around the world proven themselves to be a force for good, but during the Second World War these were not the same Japanese people. They had different values. They had different values and they were a different people. They were told at that time they had been trained from youth to be militaristic and to brutalize anyone who was weaker than them, especially soldiers who surrendered.

Even though the Japanese companies profited from the slave labor, these companies have never even offered an apology, much less repayment to our POWs. Today, as I say, there are fewer than 5,400 surviving POWs. These survivors are pursuing justice not just for themselves but for their widows and for their families of these POWs who died prematurely because of the conditions that they lived under during the war. The POWs finally have a chance for justice and we should not, we cannot, abandon them again.

The gentleman from California (Mr. HONDA) and myself have introduced a bill. It is the Justice for POWs Act of 2001. It is H.R. 1198, and there are over 100 of my colleagues now who have cosponsored this bill which will grant our POWs from the Bataan Death March the right to sue those Japanese corporations that tortured them and worked them as animals during the war. Our legislation gives them that right to seek legal redress against those companies.

Mr. Speaker, I would at this time be happy to yield to my friend, the gentleman from La Jolla, California (Mr. ISSA), from southern Orange County and northern San Diego County.

Mr. ISSA. Mr. Speaker, I rise and came here with the profound desire to speak just a few moments in support of the very courageous legislation of the gentleman from California (Mr. ROHRABACHER). I, like the gentleman, was not alive and did not participate in World War II but what I do understand, having dealt with people from around the world and especially in Asia, that this is exactly the kind of a bill that Japan, for their own sake, needs to make sure is paid.

The people of Japan are very interested in face. They are also a people who never fail to pay a just debt. This is a just debt. When people work in any capacity, they need to be paid. No Japanese employer, not Mitsubishi, not any of the heavy industry companies that we are talking about here today, not one of them would fail to pay a worker for a day's work. This is the only time in which these companies have gotten labor for which they have not yet paid.

I absolutely support the legislation of the gentleman. I commend him for something that has been long overdue for bringing it to the forefront. I am pleased to be one of the cosponsors; and I look forward to pushing this through the Congress to, in fact, remind the Japanese people that this is the only way they will put the war behind them is to pay the debts that they know they owe, have the corporations pay what they need to pay, with interest, and move on. That is what we do in a civilized society.

Japan is now one of the great nations of the civilized world, and we need them to free themselves of the burden of this past debt. I want to thank the gentleman for yielding, and I want to thank the gentleman once again for authoring this bill with the gentleman from California (Mr. HONDA). And I look forward to seeing it on the floor and enacted.

Mr. ROHRABACHER. Mr. Speaker, the gentleman from California (Mr. ISSA), I might add, is one of the great entrepreneurs as well as patriots here in the Congress. I would like to ask him a question. I have no corporate background myself, but I made several times the point that corporations do have responsibility for their actions. Even though it happened a while ago, a corporation would still have legal responsibility for the actions in the past?

Mr. ISSA. Here in America, we have unlimited and permanent liability. There are cases on the American books where a lathe maker who made products in the 1930s had to pay for damages caused to a worker in the 1980s. That is not always considered fair, but corporations understand that one of the advantages they get for that pride of having a plaque that says 50 years or even 100 years in business is in fact that they have to have paid off all of their debts, including the ones that have not yet arisen.

That kind of obligation is understood here in America and very much understood in Japan. As a matter of fact, it is probably more understood in Japan.

Mr. ROHRABACHER. Mr. Speaker, let me also note, and it is important for us to make this point because not only are we talking today to the Japanese people and to the American people, we are talking about our relations between our countries and I do not want anyone to think that the American people or even this American thinks less of the Japanese people and that this is in some way anti-Japanese. The co-author of this bill, the gentleman from California (Mr. HONDA), is one of two Japanese Americans who is a Member of Congress. The gentleman from California (Mr. HONDA), during the Second World War, his family was interned during the Second World War here in the United States. The gentleman from California (Mr. HONDA) is certainly not anti-Japanese whatsoever, and I do not consider myself anti-Japanese at all.

I, in fact, lived in Japan when I was a younger person, and I visited Japan on numerous occasions. My family has many Japanese friends. This in no way is an attack on the Japanese people of today. What we are suggesting in H.R. 1198 is that there is a debt to be paid. Japanese corporations, as the gentleman from California (Mr. ISSA) has just stated, have a legal debt to pay and our State Department and our government should not be thwarting these heroic Americans in trying to go to court and receive justice that they deserve for being treated like they were by Japanese corporations during the Second World War.

However, the Japanese people themselves did not commit these crimes today. The Japanese people of today did not commit these crimes, and I do not believe that they personally should be held responsible at all. In fact, as I say, over the last 20 years, Japan has worked with the United States to promote democracy. Japan has had a democratic system. We have a relatively free press, and we have had a situation of freedom of religion, et cetera. And Japan has played a very positive role in this world; but during the Second World War and in the beginning decades of this century, that was not the case.

Now, many people probably wonder why I got involved in this in the first place. If I do not have a grudge to bear against the Japanese people, which I do not, and I acknowledge they are wonderful people and it is a wonderful country, I acknowledge that today and I have many Japanese friends, why am I doing this?

□ 1845

Why am I the author of H.R. 1198? Well, I can tell you, it is a very easy answer, but it requires a little story. I was married about 3½ years ago to the love of my life, Rhonda Carmony, who is now Rhonda Rohrabacher. Rhonda's father, my wife's father, passed away about 5 years ago of cancer, and at our wedding someone else had to give her away because her father had passed away.

You might say the grand old man of Rhonda's family is a man named Uncle Lou. Now, Uncle Lou is a survivor of the Bataan Death March, who was taken by the Japanese to Manchuria and worked and lived in a slave labor camp, in a concentration camp in Manchuria, until the closing days of the war when he was liberated, and Uncle Lou told me the stories, and I met with Uncle Lou's friends who told me the stories of their ordeal.

These men, who are probably some of the most heroic people I have ever met, told me of the conditions they were kept in, and then they told me that they were unable to sue these Japanese corporations who had used them as slave labor, and they were unable to find justice through the legal system because our own State Department was thwarting them.

My goal is not to humiliate the Japanese or to make the Japanese feel bad, even though in the past they did bad things. The Japanese people did bad things in the distant past, and that was another generation. My goal is to do justice for Uncle Lou and those 5,400 American heroes who survived the Bataan Death March. That is what our goal is.

Before they pass away, let us give them justice. We need to pass H.R. 1198. We need to pass H.R. 1198. It needs to come to the floor for a vote, and we need to do justice by these men and give them a thank you, a thank you for what they did for our country.

Mr. Speaker, there is nothing that would help Japanese-American relations more than to close this chapter in an honest and honorable way. Nothing would be better for Japanese-American relations than for us to pass H.R. 1198 and to have these Japanese corporations then seek to find a settlement with our American POWs and just close the chapter. Let us finish this. Let us end it in an honorable way before these men die.

I would ask my colleagues to join me in requesting our leadership to bring H.R. 1198 to the floor. I would hope that people would talk to their Members of Congress and get them to support my bill, Congressman DANA ROHRABACHER's bill, H.R. 1198.

Now, when we talk about Japan and we talk about how we reacted and how we react today and are we going to do what is right, those same decisions, we are right now trying to close this chapter, but let us learn from this chapter in history. We need to learn from this chapter in history because some other things are going on in this town that go right back to the lessons that we should have learned by the sacrifices of these men in the Bataan Death March and our soldiers who gave their lives, the men and women who gave their lives and put their lives on the line during World War II.

You see, Uncle Lou was captured in the Bataan Death March, but my own father, who passed away 3 years ago, my father was part of the Marine military. He was a pilot during the Second World War who took part in the liberation of the Philippines. So my father helped push the Japanese out of the Philippines, and Uncle Lou was captured there when they took over the Philippines in the first place.

That generation is passing away. My father fought during World War II, and during the Cold War, he was in the Marine Corps, and there are a lot of lessons to learn from that generation. We owe so much to that generation.

Next week, or sometime soon, I am not sure if it will be on the calendar next week, we may be voting on a waiver that will grant normal trade relations to Communist China. We need to learn from the lessons of history. We need to remember the sacrifices of our brave defenders, like Uncle Lou, and, yes, my father as well.

It seems the more things change, the more they stay the same. During the 1920s and 1930s, a militaristic Japan was the primary threat to peace and freedom in Asia, and, yes, as part of its alliance with the Nazis in Europe, that Axis power, that Axis alliance, was the greatest threat to freedom and peace in the world. They were about to usher in a new dark age and destroy or put freedom wherever it was under threat.

During the 1920s and 1930s, and, by the way, Japan could have gone either way at the turn of the century, and we did not support the democratic movement in Japan. They were murdered, and the internal politics in Japan, the militarists kept control of Japan and murdered the democratic opposition there, and by the second decade of that last century, in the 1920s, Japan emerged as a militaristic expansionist power in the Pacific, and they emerged as a potential enemy of the United States because of that.

The Japanese, as I say, were the primary threat in Asia. They were a fanatical tyranny in the 1920s and 1930s. They were racist. They thought they were racially superior and had a right to dominate all of Asia. As I say, they were militaristic, they were beefing up their military, and they were expansionists. They were taking control of islands and fortifying them all over the Pacific as they built up their own military into an offensive power.

Last, which is an interesting comparison, they were also involved with trade with the United States. They were a wealthy power. They had a very strong economy and a high standard of living, and they depended a great deal on trade with the United States. In fact, the Japanese were engaged in a lot of business with American corporations, and we provided them, at a great profit to these American corporations, I might add, we provided them with steel and oil and scrap metal, and, yes, even some of our aerospace companies were involved with working with the Japanese. All of this, if it rings true a little bit when you think about the comparisons about what has been happening with the Communist Chinese, it is rather frightening.

Yes, there have been reports of, and we know now that some of America's aerospace corporations are actually cooperating with them, and one of our companies is actually trying to develop a manufacturing unit that would help them manufacture their equivalent of the B–17, a long-range bomber.

This is incredible now. What American corporation would do this at a time when the Japanese were the biggest human rights abuser in the world by what they had been doing in China and to the people that they had subjugated, and that they were militaristic and a threat, and they were dictatorial, with no sight of liberalization? Why would we let American corporations guide American policy while that was going on?

That is with precisely what was going on then, and that is precisely what happened, and that is what is precisely happening today. The Communist Chinese are the greatest threat to peace and freedom in Asia today, and, in fact, I would say in the world today, because they are allied with the worst and most evil forces in the world, just as the Japanese militarists were during the 1920s and 1930s.

The Chinese Communists are a fanatical tyranny. Those ruthless individuals who control Communist China will let nothing get in their way or nothing threaten their power. They are a fanatical tyranny, just like the Japanese militarists of World War II and before that. If you watch the Chinese military marching along, one can only be reminded of the Japanese troops that marched in that very same arrogant fashion.

Yes, the Chinese who control Beijing today are racist. They believe that they have a superior race and that they have a right to dominate all of Asia. And, yes, of course, they are militaristic.

The worst part of their military expansion, however, is that the United States of America, in permitting the economic rules of engagement in which we interact with Communist China, is permitting the Communist Chinese to have an $80 billion annual trade surplus with the United States. With this $80 billion of hard currency, what is being done by the Communist Chinese? What is being done is they are building up their military. They are acquiring weapons systems that will enable them to incinerate Americans by the millions in terms of their nuclear weapons capacity and their missile capacity. But they are also obtaining weapons that will permit them to sink American aircraft carriers and shoot down American airplanes and to kill American military personnel.

They are not only militaristic, however, they are also expansionists, just as the Japanese were expansionists. Take a look at what the Japanese claimed. They had a map of the coprosperity sphere. We have Chinese maps which show they, too, believe there is a coprosperity sphere, and guess who is in the center of it? And it is a far greater area of control that the Chinese have in mind than the Japanese.

The Chinese have in mind that they control the entire South China Sea, that they control all the way up to the shoreline of the Philippines and of Indonesia and of Vietnam and Southeast Asia. They have a right to control all of Tibet and the greater expanses of Asia and Southeast Asia, and they have a right to the great Siberian areas of Russia.

This is an expansionist power. These are people who are mad with power, just as the Japanese militarists were in the 1920s and 1930s. And just as the Japanese militarists were fortifying islands with their military weapons and their capabilities during the 1920s and 1930s, China is in the process of doing that now.

In the Spratly Islands, which are an island chain that are claimed by five different countries and are 600 miles away from China, but about 100 miles away from the Philippines, and also mainly claimed by the Philippines, Chinese Communists are in the middle of an island grab, and what they are doing is sending their warships there, and they have already built fortifications.

Let me add that I, this Congressman, DANA ROHRABACHER, tried to visit the Spratly Islands. For years I tried to visit the Spratly Islands and was prevented from doing so by roadblocks that were put up by who? Who do you think put up those roadblocks so as a Member of Congress, as a Member of the Committee on International Relations, that I would not be able to see what the Communist Chinese were doing in the Spratly Islands? Who put up those roadblocks? My gosh, the same company that is preventing our POWs from suing the Japanese. It is called the United States State Department.

So when I finally got to the Spratly Islands on an old C–130, I might add, from the Philippine military, it was the only one that could fly, I managed to fly out in an old C–130. I had Skunk Baxter with me and a couple of staffers and some folks from the Government of the Philippines. The pilot did not even have a GPS. That is how poor the Philippines are, they did not have a GPS system in the only C–130 flying, and they had a Radio Shack GPS system.

But we made our way to the Spratly Islands. We came out of a cloud bank, and there were three huge Chinese military warships, and what we saw in the Spratly Islands was the Chinese fortifying those islands with military fortifications. This is somebody else's country and somebody else's territory, and they are fortifying it, and they have Chinese warships in the lagoon. Those Chinese sailors were rushing towards their guns, and we did not know if they were going to try to shoot us down or what, and they did not, and we finally escaped that international incident.

Since that time, guess what has happened? We have let them get away with it. We have let them not only lay their claim, but actually build forts there.

Now what have they done? They have done the same thing in the South China Sea, in the Paracel Islands down off of Vietnam.

□ 1900

They have also, I might add, since that time begun to send their naval war vessels right up to the coast of the Philippines. A few weeks ago, Chinese war ships were within a short distance from the coast of the Philippines. This is an expansionist power. This is a power that threatens. This is the world's worst human rights abuser. As Japan was the world's worst human rights abuser in the 1920s and 1930s, the Chinese are the same with us today. They are expansionist, they are racist, they are militaristic. Yet we have a trade status with them that permits them an $80 billion surplus.

Now, why do we do this? Within the next couple of weeks, why will this body vote to give that kind of country Normal Trade Relations with the United States? I repeat that: Normal Trade Relations. Should a communist dictatorship have Normal Trade Relations? Should a fanatical tyranny that is racist, the world's worst human rights abuser, a country that is expanding its military power, an expansionist in its territory, is this the kind of country that we want to give Normal Trade Relations to?

Mr. Speaker, I believe in free trade. I am a Republican free-trader. But I believe in free trade between free people. If we try to do it the other way around, we are doing nothing but bolstering the regime in power in these dictatorial countries around the world.

How long ago was it? Just a few short weeks ago that 24 military American personnel that were being held hostage by this very same Communist Chinese Government. They, in fact, forced an American surveillance aircraft that was in international waters out of the air in an attempt to murder those 24 American service personnel. Instead, the plane made its way to Hinan Island, luckily; and then they were held hostage for 11 days. That was not so long ago. And now, within a very short period of time, the elected Members of this body are going to vote by a majority to give Normal Trade Relations to that government. That does not make any sense.

Not only were they holding hostage our American military personnel, but we actually have several Americans who are being held right now as we speak, or at least legal residents of the United States, who are being held hostage or being held prisoner by the Chinese, and we are basically talking about giving Normal Trade Relations to a country that is holding Americans, or at least legal residents of our country, holding them illegally, committing torture.

There was a young lady and her daughter who came to our hearing of the Committee on International Relations. Her husband, who is a doctor, a Ph.D., is being held by the Communist Chinese, and her daughter and this lady were begging us: please, please, demand that they bring back my husband, and he is an academic. He is an academic.

The Communist Chinese today are doing what? They are murdering Falon Gong people. Falon Gong, by the way, is nothing more than a meditation cult. I mean, they meditate and they have yoga; and they are being imprisoned by the tens of thousands and hundreds of them are being murdered in jail, hundreds of them. Many of these women, they are being tortured, not to mention Christians, of course, who, if you do not register like the Jews did with the Nazis, if you do not register, you get thrown in a gulag. What happens in China? What happens in China when you get thrown into the gulag? Yes, right back to World War II. Guess what? Their prisoners are worked like animals.

Mr. Speaker, I would suggest that we should not be granting Normal Trade Relations to a country like this. And when those prisoners are executed, and thousands of them are, China is the execution capital of the world, what does this ghoulish regime in China do? It sends doctors, their doctors out to harvest the organs from the bodies of the prisoners that they have just executed.

Mr. Speaker, I say it is time that we learn our lessons from history, not grant Normal Trade Relations with China, and to make sure we stand up for the rights of our own people and the freedom and dignity of our ex-POWs.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 130

Resolved, That the House of Representatives be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 6 P.M., FRIDAY, JULY 13, 2001, TO FILE REPORT ON H.R. 7, COMMUNITY SOLUTIONS ACT OF 2001

Mr. PLATTS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until 6 p.m. on Friday, July 13, 2001, to file a report on the bill, H.R. 7.

The SPEAKER pro tempore (Mr. KELLER). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. PLATTS) is recognized for 5 minutes.

Mr. PLATTS. Mr. Speaker, as a freshman Member of this Chamber, and as one who has supported campaign finance reform and fought for campaign finance reform for close to 10 years, I need to express my great disappointment in the vote that occurred earlier today in which we defeated the rule on campaign finance reform legislation and, thus, have disallowed that legislation from coming forward.

Before I share exactly how I voted, though, I think it is important to share some of my history on this issue and how I live campaign finance reform and not just talk about it.

Over the last 9½ years as a candidate first in the State House and now in Congress, I have never accepted political action committee money. I have limited the amount of money I have spent; I have limited the amount of my personal money I have spent. In fact, in my campaign for Congress a year ago, I limited my expenditures in the primary to less than **$150,000**; and I was outspent five to one by one opponent, three to one by another, two to one by a third opponent. We did grass-roots campaigning; and thanks to the people of my district, we were successful. I ran in that fashion because I believe money is wrongly influencing the governing process, and I think it is time we do better by the people we are elected to represent.

Unfortunately, we did not get that opportunity today; and despite my strong support for campaign finance reform; in fact, in the June 30 reports of this year, I imagine I will probably pretty easily be the Member with the lowest amount, with **$7,000**, maybe **$8,000** in my campaign treasury, compared to hundreds of thousands of dollars, because I am not interested in being a fund-raiser, I am interested in being a public servant. But despite that history, despite that I seek not just to preach about campaign finance reform, but to try to practice campaign finance reform, citizens may be surprised to learn that I voted against the gentleman from Connecticut (Mr. SHAYS), the maker of the underlying bill that was to come before the House; I voted against the position of the distinguished Senator from Arizona who wanted a vote against the rule. I think it is important that we discuss why I voted that way, even as an adamant supporter of campaign finance reform.

I would contend that the defeat of the rule and, thus, the disallowance of the bill coming up for a vote is a huge step backwards. What we have done is send the bill back to committee where it may never come out of for the rest of the session; and under the best-case scenario under the rules of this House, it will at least be several months before we get another opportunity to bring it to the floor.

What was the alternative if we had supported the rule and brought it forward? Was it perfect? No. In fact, if I had my druthers, I would go one heck of a lot further than we were proposing to do in the underlying legislation and the amendments. But if we had allowed it to come forward, if we had approved the rule, we would have had the gentleman's bill before this House, a very comprehensive campaign finance reform piece of legislation. We would have had 17 amendments before this House, 12 of which the gentleman from Connecticut (Mr. SHAYS) was preparing to offer. We would have had the opportunity for two substitute campaign finance reform bills to be discussed, debated, and openly voted on in this House. What did we get? Nothing. Not one vote. We got a rule denial that sent it back to committee, and we have lost tremendous ground.

The worst-case scenario that could have occurred if we had supported the rule, that we would move a piece of legislation forward either that was in such good form and in such similar form as the Senate legislation, as the McCain-Feingold legislation, that the Senate would have concurred in it, and we would have taken a huge step to eliminating soft money, to reducing the influence of money on the process. Under the worst-case scenario, we move forward and come out with a bill that the Senate did not like, we go to conference. So we are in conference where we can hammer it out between the Senate and the House. Instead, we are still in a committee in the House, a long way from getting to a final piece of legislation.

What was the grounds for defeating the rule, those who voted against the rule. Why? What did they not like about the rule? It came down to this. This is important for the citizens of this Nation to understand. It came down to procedure over substance. It was not a question of whether each and every one of the gentleman's amendments was going to get a vote. All 12 of them under the rule would get a vote. It is that he and others wanted them all to be voted as one, in one lump sum, they had to take it or leave it, one lump sum. Do I not think that was a good approach? I think the 12 amendments was fair, was reasonable. Each and every amendment would have gotten a vote on the floor; it would have been openly discussed and debated. Instead, none of them came to the floor and the underlying bill did not.

Mr. Speaker, it is a sad day, I think. As one who has fought for this reform, and we got so close to getting a substantive vote, and instead, we are back in committee. All 228 members who voted against the rule, if they so strongly believe the rule was flawed, I would encourage each and every one of them and I would hope that each and every one of them will bring forward a discharge resolution with what they think we should do and that all 228 are on that discharge resolution.

Mr. Speaker, I urge that we as a House do campaign finance reform once and for all and do it right.

STATUS REPORT ON THE CURRENT LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2002 AND THE 5-YEAR PERIOD FY 2002 THROUGH FY 2006

Mr. NUSSLE. Mr. Speaker, to facilitate the application of sections 302 and 311 of the Congressional Budget Act and section 201 of the conference report accompanying H. Con. Res. 83, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 2002 and for the five-year period of fiscal years 2002 through 2006. This status report is current through July 11, 2001.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set forth by H. Con. Res. 83. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 2002 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority and outlays for discretionary action by each authorizing committee with the "section 302(a)" allocations made under H. Con. Res. 83 for fiscal year 2002 and fiscal years 2002 through 2006. "Discretionary action" refers to legislation enacted after the adoption of the budget resolution. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) discretionary action allocation of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 2002 with the "section 302(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is also needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would breach the applicable section 302(b) suballocation.

The fourth table gives the current level for 2003 of accounts identified for advance appropriations in the statement of managers accompanying H. Con. Res. 83. This list is needed to enforce section 201 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

The fifth table compares discretionary appropriations to the levels provided by section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985. If at the end of a session discretionary spending in any category exceeds the limits set forth in section 251(c) (as adjusted pursuant to section 251(b)), a sequestration of amounts within that category is automatically triggered to bring spending within the established limits. As the determination of the need for a sequestration is based on the report of the President required by section 254, this table is provided for informational purposes only. The sixth and final table gives this same comparison relative to the revised section 251(c) limits envisioned by the budget resolution.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2002 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 83

[Reflecting action completed as of July 11, 2001—On-budget amounts, in millions of dollars]

	Fiscal year—	
	2002	2002–2006
Appropriate Level:		
Budget Authority	1,626,488	(1)
Outlays	1,590,474	(1)
Revenues	1,638,202	8,878,506
Current Level:		
Budget Authority	977,899	(1)
Outlays	1,194,235	(1)
Revenues	1,672,152	8,897,349
Current Level over (+) / under (−) Appropriate Level:		
Budget Authority	−648,589	(1)
Outlays	−396,239	(1)
Revenues	33,950	18,843

[1] Not applicable because annual appropriations Acts for fiscal years 2003 through 2006 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing new budget authority for FY 2002 in excess of $648,589,000,000 (if not already included in the current level estimate) would cause FY 2002 budget authority to exceed the appropriate level set by H. Con. Res. 83.

OUTLAYS

Enactment of measures providing new outlays for FY 2002 in excess of $396,239,000,000 (if not already included in the current level estimate) would cause FY 2002 outlays to exceed the appropriate level set by H. Con. Res. 83.

REVENUES

Enactment of measures that would result in revenue loss for FY 2002 in excess of $33,950,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate level set by H. Con. Res. 83.

Enactment of measures resulting in revenue loss for the period FY 2002 through 2006 in excess of $18,843,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate levels set by H. Con. Res. 83.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION, REFLECTING ACTION COMPLETED AS OF JULY 11, 2001

[Fiscal years, in millions of dollars]

House Committee	2002		2002–2006 total	
	BA	Outlays	BA	Outlays
Agriculture:.				
Allocation	7,350	7,350	7,350	7,350
Current Level	0	2	0	0

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION, REFLECTING ACTION COMPLETED AS OF JULY 11, 2001—Continued

[Fiscal years, in millions of dollars]

House Committee	2002		2002–2006 total	
	BA	Outlays	BA	Outlays
Difference	−7,350	−7,348	−7,350	−7,350
Armed Services:				
Allocation	146	146	398	398
Current Level	0	0	0	0
Difference	−146	−146	−398	−398
Banking and Financial Services:				
Allocation	0	0	0	0
Current Level	8	9	46	47
Difference	8	9	46	47
Education and the Workforce:				
Allocation	5	5	32	32
Current Level	0	0	0	0
Difference	−5	−5	−32	−32
Commerce:				
Allocation	2,687	2,687	−6,537	−6,537
Current Level	0	0	0	0
Difference	−2,687	−2,687	−6,537	6,537
International Relations:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Government Reform:				
Allocation	0	0	−1,995	−1,995
Current Level	0	0	0	0
Difference	0	0	1,995	1,995
House Administration:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Resources:				
Allocation	0	−3	365	88
Current Level	0	−3	0	−3
Difference	0	0	−365	−91
Judiciary:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Small Business:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Transportation and Infrastructure:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Science:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Veterans' Affairs:				
Allocation	264	264	3,205	3,205
Current Level	0	0	0	0
Difference	−264	−264	−3,205	−3,205
Ways and Means:				
Allocation	1,360	900	15,409	15,069
Current Level	6,425	6,425	36,708	36,708
Difference	5,065	5,525	21,299	21,639

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2002—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

[In millions of dollars]

Appropriations Subcommittee	302(b) suballocations as of June 13, 2001 (H. Rept. 107–100)		Current level reflecting action completed as of July 11, 2001		Current level minus suballocations	
	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development	15,519	15,831	13	4,191	−15,506	−11,640
Commerce, Justice, State	38,541	39,000	41	12,755	−38,500	−26,245
National Defense	300,292	294,026	0	92,643	−300,292	−201,383
District of Columbia	382	401	0	48	−382	−353
Energy & Water Development	23,704	23,959	0	8,508	−23,704	−15,451
Foreign Operations	15,168	15,099	0	9,571	−15,168	−5,528
Interior	18,941	17,768	36	6,104	−18,905	−11,664
Labor, HHS & Education	119,758	106,238	18,824	69,432	−100,934	−36,806
Legislative Branch	2,908	2,855	0	389	−2,908	−2,466
Military Construction	10,155	9,448	0	6,469	−10,155	−2,979
Transportation[1]	14,893	53,840	20	32,609	−14,873	−21,231
Treasury-Postal Service	16,880	16,134	340	3,658	−16,540	−12,476
VA-HUD-Independent Agencies	84,159	88,177	3,509	49,771	−80,650	−38,406
Unassigned	0	0	0	0	0	0
Grand Total	661,300	682,776	22,783	296,148	−638,517	−386,628

[1] Does not include mass transit BA.

Statement of FY2003 advance appropriations under section 201 of H. Con. Res. 83, reflecting action completed as of July 11, 2001

[In millions of dollars]

	Budget authority
Appropriate Level	23,159
Current Level:	
Commerce, Justice, State Subcommittee:	
Patent and Trademark Office	0

[In millions of dollars]—Continued

	Budget authority
Legal Activities and U.S. Marshals, Antitrust Division	0
U.S. Trustee System	0
Federal Trade Commission	0
Interior Subcommittee: Elk Hills	0

[In millions of dollars]—Continued

	Budget authority
Labor, Health and Human Services, Education Subcommittee:	
Employment and Training Administration	0
Health Resources	0
Low Income Home Energy Assistance Program	0

[In millions of dollars]—Continued

	Budget authority
Chld Care Development Block Grant	0
Elementary and Secondary Education (reading excellence)	0
Education for the Disadvantaged	0
School Improvement	0
Children and Family Services (head start)	0
Special Education	0
Vocational and Adult Education	0
Treasury, General Government Subcommittee:	
Payment to Postal Service	0
Federal Building Fund	0
Veterans, Housing and Urban Development Subcommittee:	
Section 8 Renewals	0
Total	0
Current Level over (+)/under (−) Appropriate Level	−23,159

COMPARISON OF CURRENT LEVEL TO DISCRETIONARY SPENDING LEVELS SET FORTH IN SECTION 251(c) OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985, REFLECTING ACTION COMPLETED AS OF JULY 11, 2001

[In millions of dollars]

		Statutory cap[1]	Current level	Current level over(+) under(−) statutory cap
General Purpose	BA	546,945	22,783	−524,162
	OT	537,091	269,999	−267,092
Defense[2]	BA	(3)	0	(3)
	OT	(3)	104,037	(3)
Nondefense[2]	BA	(3)	22,783	(3)
	OT	(3)	165,962	(3)
Highway Category	BA	(3)	(3)	(3)
	OT	28,489	20,432	−8,057
Mass Transit Category	BA	(3)	(3)	(3)
	OT	5,275	5,093	−182
Conservation Category	BA	1,760	0	−1,760
	OT	1,232	624	−608

[1] Established by OMB Sequestration Preview Report for Fiscal Year 2002.

[2] Defense and nondefense categories are advisory rather than statutory.

[3] Not applicable.

COMPARISON OF CURRENT LEVEL TO DISCRETIONARY SPENDING LEVELS RECOMMENDED BY H. CON. RES. 83 REFLECTING ACTION COMPLETED AS OF JULY 11, 2001

[In millions of dollars]

		Proposed statutory cap	Current level	Current level over (+) under (−) proposed statutory cap
General Purpose	BA	659,540	22,783	−636,757
	OT	647,780	269,999	−377,781
Defense[1]	BA	(2)	0	(2)
	OT	(2)	104,037	(2)
Nondefense[1]	BA	(2)	22,783	(2)
	OT	(2)	165,962	(2)
Highway Category	BA	(2)	(2)	(2)
	OT	28,489	20,432	−8,057
Mass Transit Category	BA	(2)	(2)	(2)
	OT	5,275	5,093	−182
Conservation Category	BA	1,760	0	−1,760
	OT	1,232	624	−608

[1] Defense and nondefense categories would be advisory rather than statutory.

[2] Not applicable.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 12, 2001.

Hon. JIM NUSSLE,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2002 budget and is current through July 11, 2001. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 83, the Concurrent Resolution on the Budget for Fiscal Year 2002. The budget resolution figures incorporate revisions submitted by the Committee on the Budget to the House to reflect funding for emergency requirements. These revisions are required by section 314 of the Congressional Budget Act, as amended. This is my first letter for fiscal year 2002.

Since the beginning of the first session of the 107th Congress, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for 2002: an act to provide reimbursement authority to the Secretaries of Agriculture and the Interior from wildland fire management funds (P.L. 107–13), the Fallen Hero Survivor Benefit Fairness Act of 2001 (P.L. 107–15), the Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107–16), an act to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees during fiscal year 2001 (P.L. 107–18), and an act to authorize funding for the National 4-H Program Centennial Initiative (P.L. 107–19). The effects of these new laws are identified in the enclosed table.

Sincerely,
BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

FISCAL YEAR 2002 HOUSE CURRENT LEVEL REPORT AS OF JULY 11, 2001

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	0	0	1,703,488
Permanents and other spending legislation	984,540	934,501	0
Appropriation legislation	0	280,919	0
Offsetting receipts	−321,790	−321,790	0
Total previously enacted	662,750	893,630	1,703,488
Enacted this session:			
An act to provide reimbursement authority to the Secretaries of Agriculture and the Interior from wildland fire management funds (P.L. 107–13)	0	−3	0
Fallen Hero Survivor Benefit Fairness Act of 2001 (P.L. 107–15)	0	0	−7
Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107–16)	6,425	6,425	−31,337
An act to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees (P.L. 107–18)	8	9	8

FISCAL YEAR 2002 HOUSE CURRENT LEVEL REPORT AS OF JULY 11, 2001—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
An act to authorize funding for the National 4-H Program Centennial Initiative (P.L. 107-19)	0	2	0
Total, enacted this session	6,433	6,433	−31,336
Entitlements and Mandatories: Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	308,716	294,172	0
Total Current Level	977,899	1,194,235	1,672,152
Total Budget Resolution	1,626,488	1,590,658	1,638,202
Current Level Over Budget Resolution	0	0	33,950
Current Level Under Budget Resolution	−648,589	−396,423	0
Memorandum			
Revenues, 2002–2006:			
House Current Level	0	0	8,897,349
House Budget Resolution	0	0	8,878,506
Current Level Over Budget Resolution	0	0	18,843

Notes: P.L.=Public Law.

Section 314 of the Congressional Budget Act, as amended, requires that the House Budget Committee revise the budget resolution to reflect funding provided in bills reported by the House for emergency requirements, disability reviews, an Earned Income Tax Credit compliance initiative, and adoption assistance. To date, the Budget Committee has increased the outlay allocation in the budget resolution by $184 million for these purposes. These amounts are not included in the current level because the funding has not yet been enacted.

Source: Congressional Budget Office.

TOBACCO IS NUMBER ONE PUBLIC HEALTH CONCERN IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New Mexico (Mr. UDALL) is recognized for 60 minutes as the designee of the minority leader.

Mr. UDALL of New Mexico. Mr. Speaker, it is a real pleasure to be here this evening. Let me begin by talking a little bit this evening about tobacco issues, because I have been involved as a State attorney general on the issue of tobacco. I was involved in the massive piece of tobacco litigation that State attorneys general filed across the country in their respective States, and we also, as a result of that, had a settlement; and we learned a lot about tobacco, about tobacco companies, about tobacco companies targeting kids. It is something that is a pretty incredible story. It also says something about public health in America and where we should be headed.

That is our real purpose here tonight, is to talk about the public health side and to talk also about the side of the administration, this current administration, the Bush administration, carrying on a tobacco lawsuit, the Federal Government versus the tobacco companies; and we will also be talking about that.

First of all, let me talk a little bit about the public health problem when it comes to tobacco, because a lot of people do not understand the massive size of the public health problem that we have here in America when it comes to tobacco. Mr. Speaker, 435,000 people every year are killed by tobacco. These are tobacco-related deaths, and it is a huge number. When we hear the number, we all hear statistics and we wonder what they mean. Take all other causes of death out there, and let us just go through a few here, auto accidents, suicides, murders, deaths by infectious diseases, deaths from AIDS; think of any other chronic illnesses, heart disease. If we add a lot of these up and we total them, we still do not get to the number of deaths caused by tobacco.

So when we talk about the cause of death and talk about public health problems, we clearly have a huge one when it comes to tobacco; and it is one that I think is in a way demonstrated, and I am going to have another Member join me here and maybe others if they want to come down and talk about this; but it is demonstrated by a physician that I talked to, a cancer doctor in New Mexico. She is an oncologist. She told me this story. She said, I work in the cancer field. It is a very trying field to work in. She is very interested in tobacco and lung cancer and that whole relationship.

□ 1915

She said, "If tomorrow we could stop people smoking, one-third of my patients would go away immediately." So the people that she is treating today, if we stopped individuals from smoking, she would lose an entire third of her patients. She of course said that she sees every day all the pain and suffering that people go through. She said, "I would be happy to have that happen, to see that loss of patients."

So when we are talking about cancer docs across the country taking a look at this, we can see the kind of impact it is having.

One of the other facts here that is very, very important is that tobacco companies have targeted our kids in America for addicting them to tobacco. I would just like to give some of the facts here.

People do not realize that the tobacco companies saw their markets going down about 10 or 15 years ago. They saw their markets going down. They saw the number of people shrinking. The older people were quitting. They did a lot of research. This is in their files. There were documents that we recovered from them as State attorneys general.

They discovered several things. They discovered first of all if they build their younger market, then they are able to increase their markets dramatically. That is what they did. They started targeting younger people to start smoking. It is documented. It is in there. It is something that is pretty astounding, when we think about it.

Listen to these figures. Almost 90 percent of the adult smokers began at or before the age of 18. So it is the young people that are starting, and they continue for their whole lives. Each day here in America more than 3,000 kids become regular smokers. That is more than 1 million kids a year. Roughly one-third of them will eventually die from tobacco-related disease.

Fifteen and one-half million kids are exposed to secondhand smoke at home. More than 3 million of our children ages 12 to 17 are current smokers, and 900 million packs of cigarettes are consumed by our children a year. More than one-third of all these children who ever try smoking a cigarette become regular daily smokers before leaving high school.

That is what these tobacco companies knew all along. They knew if they got young people addicted, that they would stay addicted for a lifetime, and keep buying cigarettes, and their profits would keep going up. It is a horrible story to tell, but it is out there and it is it is documented. It is part of these tobacco lawsuits that the State attorneys general brought.

Now, who stepped in to do something about this? Very little was done at the Federal level in the 1990s. Did we see any other people stepping out to do something about it? Private individuals hired attorneys and went to court and tried to sue the tobacco companies.

The tobacco companies had never settled a case. They fought these cases all the way to the U.S. Supreme Court, if they had to, and they always defeated these poor little plaintiffs, many of whom had smoked for 30, 40, or 50 years, and then had contracted lung cancer.

But in the 1990s, there were a group of attorneys general, first led by Attorney General Mike Moore from Mississippi, who filed the first lawsuit down there in Mississippi. It grew over the years, and eventually we had 45 attorneys general join this lawsuit.

These lawsuits were pushed hard. They were fought hard. There was an incredible battle going on in State courts with these lawsuits, but eventually there was a master settlement for $240 billion. As part of that master settlement, the tobacco companies agreed to do a number of things: not target our kids, change their advertising, pay this $240 billion over 25 years.

My little State of New Mexico, this was the largest civil settlement in the State of New Mexico for $1.2 billion. Many of the States had something like that, settlements of that magnitude, so bringing in this kind of money was very important to the State.

I would say at this point that it is very, very important, and this is a side issue, but it is important that the States use this money on health-related issues, rather than using it to build roads or for a tax cut, or some of the other things that they have used it for. These came out of health care monies. These were Medicaid monies that were spent by the States, it was the crux of the lawsuit, so these monies should go back into health care.

I am proud to say that my State of New Mexico has put this in a trust fund and is going to analyze this, and I think is going to head in the right direction.

But the point I wanted to make here in the State attorneys general filing these lawsuits is that we always wondered, when we would talk about bringing our lawsuits, and when we would visit on the telephone and in conferences about the cases, why the Federal Government was never bringing a lawsuit. The crux of our claims were basically Federal claims. They were Federal monies. They were State and Federal monies mixed in, and many of them were 50/50 matches. Why did the Federal Government never join us?

Eventually the Federal Government did, under President Clinton. They realized that we had made enormous progress. They realized that the settlement that had come about was in the interest of the public, so they filed a lawsuit. I think they also realized that $240 billion was left on the table, something in that range that they could have gotten. So they joined in and they said, well, let us file a lawsuit, and they did file that lawsuit. That is what we are here to talk about today is where are we on that lawsuit, what is happening with it in this new administration.

Attorney General John Ashcroft, a very controversial nominee over there in the Senate, did a number of things on tobacco before he got into Office. One of the things he did was lead the fight in the Senate against the tobacco settlement, and he was very proud of the fact that he led the fight against Senator MCCAIN, who at the Federal level tried to pass a bill and deal with the whole issue at the Federal level.

At one press conference, Attorney General Ashcroft was saying "It would be a big-government travesty at its biggest to use the tragedy of tobacco as a smokescreen to cover the expansion of the Nanny State." In other cases, Senator Ashcroft at the time said things like this was a frivolous lawsuit. He was the only one on the Senate Committee on Commerce that voted against reporting the tobacco settlement bill that was sponsored by Senator MCCAIN.

So, basically, we have an individual that is in the Attorney General's office. He is the lead negotiator on this case. He is somebody that can make the decision one way or another as to how this case is handled, what the strategy is to pursue in court, and whether and on what terms it should be settled. That is really the issue that is before us this evening.

We have been joined this evening by the gentleman from Colorado (Mr. UDALL). I know that he has an interest also in tobacco and these public health problems that are out there. I yield to the gentleman from Colorado (Mr. UDALL) to see if he is interested in talking a little bit about this current lawsuit and this current situation, and reflect on his views.

Mr. UDALL of Colorado. Mr. Speaker, I thank my colleague, the gentleman from the State of New Mexico, for yielding to me and providing me some time to talk about this very important issue tonight. I also wanted to applaud his efforts as attorney general of the State of New Mexico, and now as Member of the U.S. House of Representatives.

As I was listening to the gentleman, I was thinking about all of the viewers tonight who have children, and particularly daughters. I have an 11-year-old daughter, a soon to be 11-year-old daughter. She is a very important part of my life.

When I looked at the statistics that the gentleman has shared with us in general, and then broke them down into the statistics that apply to women and girls, I thought it was very striking. I want to share a few of those with the Members tonight, and then talk a little bit about the lawsuit situation, as well. It is stunning to think of some of these statistics and what they really mean.

Smoking prevalence is higher among women with 9 to 11 years of education than women with 13 to 15 years of education, and three times higher than women with 16 or more years of education. Smoking among girls and women has increased dramatically in the 1990s. From 1991 to 1999, smoking among high school girls increased from 27 percent to 34 percent.

A report published in the American Journal of Public Health shows that girls have an easier time buying cigarettes than boys, even at the youngest ages.

Now come the tragic statistics. In 1997, nearly 165,000 women died of smoking-related diseases. Since the Surgeon General's Report on Women and Smoking was released in 1980, about 3 million women in the U.S. have died prematurely. Three million women have died prematurely of smoking-related diseases.

As with men, smoking is related to heart disease and lung cancer, but women smokers also face increased risks of cervical cancer and osteoporosis. In the 1980s, lung cancer overtook breast cancer as the leading cause of cancer death in women. Since 1950, lung cancer mortality rates for women have increased 600 percent.

Cigarette smoking doubles the risk of coronary heart disease, and accounts for more than 80 percent of lung cancers in women. Women also have a more difficult time when they want to quit smoking. They have lower cessation rates, and girls and women aged 12 to 24 are much more likely to report being able to cut down on smoking than men and boys of those same ages.

Females are significantly more likely than boys to report feeling dependent on cigarettes, and are more likely to report feeling sad, blue, or depressed during attempts to quit smoking.

I would remind the viewers that cigarette companies first began targeting women in the 1920s. Up to that point, smoking among women was not particularly socially acceptable, but they were savvy. They equated smoking with freedom and emancipation.

Women continue to be a target of the cigarette companies. Cigarette advertising and promotions use themes of empowerment and sophistication. The cigarette companies, and I think my colleague, the gentleman from New Mexico, touched on this, but they spent more than $8 billion in advertising and promotion in 1999, a 22 percent increase over the $6.7 billion spent in 1998. This is the largest increase in dollar terms since the Federal Trade Commission began tracking industry sales in advertising in 1970.

Clearly, this points out that we have a real public health challenge, and that it is one that we cannot turn our backs on. The gentleman from New Mexico talked a little bit about the history of the lawsuits brought by the States that was then taken up by the Federal Government.

I, too, want to express my concern that Attorney General Ashcroft, given his past skepticism about the tobacco settlement bill, and indeed, his work to stop the tobacco settlement bill, is now heading up these efforts at the Federal level. I, too, want to lend my voice to the calls for the Attorney General to establish a neutral and independent review board to provide oversight of any proposed settlement.

I think such a review board could be composed of a bipartisan slate of attorneys general from the States who could act as neutral arbitrators. I would hope that the Attorney General would recuse himself, at a minimum, from the negotiation process.

This widespread use of tobacco is eating away at our society's physical and financial health. We cannot bear, I think, to wait another day before we continue these efforts to point out the dangers of this real epidemic to our public health.

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I have been pleased to join my colleague, and at this point would yield back to him for further comments.

Mr. UDALL of New Mexico. I very much want to thank the gentleman from Colorado for those comments. I know that he and I and many others here in the House of Representatives are going to be monitoring this very closely and trying to make sure that Attorney General Ashcroft does what is in the public interest if he stays on the case. I think we both feel he should not be on the case.

Let me also talk a little bit about the gentleman's comments about women. The women in America have had a tragic situation when it comes to their relationship with tobacco. The statistics are pretty astounding. And that is why when we do these tobacco settlements, one of the conditions that should be in there and one of the ways settlement monies can be used is to try to do everything we can to educate people about quitting, offering them cessation courses, doing counter advertising.

One of the States that has done an incredible job is the State of California, which has put a tax on cigarettes and then taken that money and advertised and showed everybody that is out there the danger of tobacco, and they in particular target their advertising to young people and say this is going to be your future. They show them lungs that have been damaged. They show older individuals that have wrinkles all over their faces because of premature aging from smoking and try to let them know what kind of damage this is going to do. So it is important that we protect everybody, protect women, and that we come up with a variety of programs with these settlement monies to try to do that.

The gentleman's comments on Attorney General Ashcroft, I think, are crucial. And over and over again we see the statements he made as a United States Senator before he got to be Attorney General. Listen to his statement on FDA authority over the tobacco industry. This was from a letter dated June 7, 2000. "I believe that the most effective way to combat nicotine addiction by people of all ages is not to allow the FDA to regulate the tobacco industry."

Well, that is just the opposite of what we ought to be doing. President Clinton used FDA authority to get out there, to regulate, to say that you cannot target young people in this country, and the courts threw it out. So now we are in a situation where the FDA has no regulatory authority. I have authored a bill in the Congress that gives regulatory authority to the FDA. We have a number of sponsors on that, and I think that is a good solid piece of legislation.

Mr. UDALL of Colorado. If the gentleman will continue to yield.

Did now Attorney General Ashcroft, but then Senator Ashcroft, propose a different system or did he just suggest we throw open the gates and everybody have at it? I cannot imagine where we would be if we had that kind of system up until this point, when after many years we have been able to gather information and data that suggested the addictive qualities and the detrimental qualities of nicotine and other substances.

It strikes me that this is a very illustrative comment, also one that causes me great concern.

Mr. UDALL of New Mexico. The gentleman's comment is correct, and when Senator Ashcroft made that statement he was specifically targeting FDA regulation. And really what he was saying, he was taking a very libertarian approach; just let anybody do whatever they want and let the private sector work. Let the tobacco companies get out there and advertise all they want and get our young people addicted. And he is saying the government should play no role. That, I think, is an irresponsible position.

Mr. UDALL of Colorado. If the gentleman will further yield, the Attorney General is welcome to his own opinions. That is what makes this country so great, the first amendment and all the other traditions we have in our law and in our culture that encourages people to speak out on their point of view. But I would suggest that that particular set of sentiments is not held by the American people; that we have decided as a country that tobacco should be regulated, just like we regulate alcohol and other controlled substances.

That again points out the need to create an unbiased and bipartisan group who would oversee the Federal Government's activities in regards to this lawsuit. And this is not, incidentally, about Democrats or Republicans. There are people who have contracted these diseases and these problems in the 400,000 people the gentleman mentioned who are Republicans, Democrats, Libertarians, Green Party. I am sure there are even some anarchists in this group of people. This is not about partisan advantage, but this is about doing the right thing and representing or reflecting where the American people reside I think on this issue, which is that there is more to be done.

Mr. UDALL of New Mexico. The gentleman is absolutely correct, and I cannot emphasize enough that the lawsuits that were brought by State attorneys general were brought by Democrats and Republicans. As the gentleman knows, in his home State of Colorado, Attorney General Gale Norton, who is now Secretary of the Interior, she brought a lawsuit in the State of Colorado against the tobacco companies. She was part of the master settlement. She, like everyone else, was very concerned about the situation with women, the targeting of young people and trying to addict them over a lifetime. So she was out there as a Republican, very active, and there were many other Republican attorneys general around the country that were involved. So this was a bipartisan effort.

Back to this issue of Attorney General Ashcroft being in charge of this lawsuit. I cannot, with all this evidence we have laid out there, I cannot think of a worse individual to be in charge of the Nation's lawsuit against the tobacco companies. It is really like putting the fox in charge of the hen house. This gentleman has condemned these lawsuits. He fought the tobacco settlement. He was the only one in the committee. The vote in the committee was 19 to 1. He was the one in the committee. And now we have him as Attorney General and he is the head litigator.

One of the first things he did was to announce, well, I think we have a weak lawsuit; we better settle. That is no way to go into a lawsuit. It is no way to go into settlement negotiations. You have to get in there and be tough with these companies, as the State attorneys general were. He seems to be folding his tent before he has even started.

So this raises the whole question of conflict of interest, it raises the question of an appearance problem, and it raises the whole issue of bias. And I think one of the individuals that said it the best was the person that wrote the editorial for The New York Times just a couple of weeks ago when they said "The Bush administration has shown a troubling propensity for putting the interests of industrial campaign backers before its duty to protect public health. The latest case in point is the Justice Department's curious announcement that it will attempt to settle the huge tobacco lawsuit against the tobacco industry brought by the Clinton administration 2 years ago, explaining in part that it thinks the case is weak. Attorney General John Ashcroft, a major opponent of the lawsuit when he was in the Senate, included no funding for the suit in his budget. So in that sense this week's action is no surprise. Mr. Bush's spokesman explains that the President thinks society is 'too litigious,' and that it is preferable to 'reach agreements,' but abandoning the case is not the way to preserve leverage."

Mr. UDALL of Colorado. If the gentleman will yield, that is so true. And in any contest you do not tell the other team before you take the field or take the court or arrive at the golf course that you have a weakened game that day and your team is not really prepared to compete. And that is what lawsuits are. They are often the last resort option that you have; but in many cases in our society, the judicial system has proven to be an important place to play out further the debate that is necessary in our society.

I was interested to also hear the comments about the Attorney General saying there was not enough money to pursue the case. Well, the number I have heard is about $23 million. That is real money. But when we look at the cost of the lives and the cost that we have incurred societally in Medicare and Medicaid and all of our private health systems, that is a small amount of money to invest in doing right in all the areas the gentleman has suggested.

I also find it interesting that perhaps it was suggested that there was not any money available to pursue these lawsuits. But the Attorney General himself is in charge of putting together his budget. So it is a bit like saying I do not have any money, even though I am in charge of how the money is allocated. How you spend money gives a sense of your priorities. This clearly is not a priority for the Attorney General and potentially, by extension, the President.

I think it is a priority for the American people. That is why we are here tonight is to point out that there are thousands of American citizens who think this lawsuit ought to be pursued and that, in the end, this is not about lawsuits, it is not about money, it is not about even keeping score, it is about our children in particular and about the costs that tobacco use imposes on our society.

Mr. UDALL of New Mexico. I thank my colleague very much for those comments. And let me follow on one of the thoughts that came out of what the gentleman just said and this New York Times editorial I just talked about.

There was a paragraph in there that I thought was particularly interesting that should be illuminated on a little bit. People may wonder why the Times said this. They said in the editorial, "the interests of industrial campaign backers before its duty to protect the public health." They were accusing the Bush administration of showing a troubling propensity to put the interests of industrial campaign backers before the duty of public health.

So what are they talking about there? And I have been following this very closely, because we all know when we run in campaigns and we are active and we are out there and doing fund-raising the, fund-raising can tell us a lot about actions and agenda and those kinds of things. We have just finished here tonight a discussion of campaign finance reform, and so if we look at the Center for Responsive Politics and what they have researched on money in the last election, 83 percent, 83 percent of the tobacco contributions went to the Republican Party.

So when they talk about following contributors, I think that is what they are talking about there. If we look at individual contributions, $90,000 went specifically to the Bush campaign, only $8,000 to the Gore campaign. So we are talking about another large amount in terms of differences. A large disparity.

So the bottom line here is that President Bush has got to get a new negotiator. I wrote what I considered a very congenial letter. The gentleman mentioned it in his comments, a congenial letter to the President saying this is a problem, this is a conflict, this has an appearance, a serious appearance problem. This gentleman has come to the job with a bias and you have to get a new negotiator to protect the public interest.

Now, I do not have anybody in mind, and I would not be presumptuous to tell the President who to pick as his negotiator. He clearly needs someone he can trust, and he ought to replace the current Attorney General and just have him step aside on this. But the other way, it seems to me, with this whole cloud that is out there over this settlement, to take care of this, is to involve the State attorneys general.

There is nobody in the Nation with more credibility on this issue than the State attorneys general. They sued the tobacco companies. They were the first ones to bring them to the table. They were the very first ones to get a settlement out of the tobacco companies. No other lawyers had ever done this before. The tobacco companies always used to wave their fingers at us and say, we fight to the end. If you file against us, we are going to fight it to the end and we have never paid a penny. Well, they paid $240 billion. So that is a pretty penny there, I will tell you.

Mr. UDALL of Colorado. Again asking my colleague to yield, I would note that the President certainly is a proponent of Federalism. He certainly has taken the position in many cases that the States ought to have an important role in a lot of the decisions that are made in our country, and this suggestion that my colleague has brought up in his letter, I think, fits his philosophical approach, and bringing in the experts to work on behalf of all of the Americans and the attorney generals as my colleague suggests, Democrat, Republican, covering the whole political ideological spectrum, I think the gentleman mentioned 45 of them joined this case.

I would just urge the President to again look at the gentleman's letter. I am hopeful that we will have a response from him sooner rather than later.

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If I might, since we were talking about the costs, I might touch on that one more time. It is easy to say these are other people's problems. It is easy to say we are all adults, and if one decides to smoke, they should bear some of the responsibility. There is some truth in both of those statements, but we are talking about doing all we can to make sure that children are not targeted. Children who begin smoking are much more likely to remain smokers throughout their lives.

Even if we feel there is some responsibility that adults have, and we do have those responsibilities, the costs that are incurred we all have to bear. We can acknowledge those costs or turn a blind eye to those costs.

The tobacco industry spent over $8 billion in 1999 on advertising and promotional campaigns. That is $22 million a day spent on these campaigns.

Now there is $89 billion in total annual private and public health care expenditures caused by tobacco use; $17 billion annual Federal and State Medicaid payments directly caused by tobacco use; $20.5 billion Federal Government Medicare expenditures each year that are attributed to tobacco use; and $8 billion other Federal Government tobacco-caused health care costs in particular through our Veterans Administration health care.

There is $2.1 billion in addition annual expenditures through Social Security survivors insurance, the SSI program, for kids who have lost one or both parents through smoking-caused death.

Mr. Speaker, one that really catches my attention, $1.4 billion to $4 billion in additional annual expenditures for health and developmental problems of infants caused by mothers who smoke and for those infants who were exposed to secondhand smoke after they were born and, of course, during pregnancy.

These are very significant costs that we all bear as a society, and this is why I think it is very important that we continue to pursue the resolution of this situation. We ask the tobacco companies to carry their fair share.

I was curious to hear a little more, if it fits the rest of the gentleman's comments, about what the State of New Mexico has done about the monies from the settlement. You talked about California, but I am interested in how we can reduce the size of these statistics that I have just shared.

Mr. UDALL of New Mexico. Mr. Speaker, I thank the gentleman from Colorado for his comments. The State of New Mexico is planning to get about $1.2 billion under the master settlement. That is the largest civil settlement in the State of New Mexico. The way that this settlement was worked out, it will flow in over 25 years. We do not have all $1.2 billion at this time. We are getting smaller amounts, and they balloon up over time.

Mr. Speaker, let me talk about some of the proposals that were out there and then what they are actually doing now, and maybe we can get into a discussion on that. First of all, the public health community came forward, many of these cancer doctors, the oncologists came forward, and the American Cancer Society and the American Lung Society, all of them came forward and said, we need to work on specifically how we spend these dollars.

They came up with what I thought were some very good recommendations. First of all, we could start a trust fund. One of the best recommendations, and I was very supportive of this and worked with my legislature, set up a trust fund and try to get the trust fund to the level that it was way up there in dollars so we could then use the principal rather than using the capital. If you took a lot of this money and put it into a trust fund, then there could be a perpetual flow of money to deal with the tobacco issues.

Mr. UDALL of Colorado. Mr. Speaker, so the gentleman is suggesting to treat it as an endowment for our children's future, and direct the return and the interest off the endowment into these efforts, and it would be a very conservative way to proceed, and that would ensure that those monies were there into perpetuity for use of citizens in the gentleman's home State?

Mr. UDALL of New Mexico. Mr. Speaker, the gentleman is correct. And what we were trying to do in recommending some kind of trust fund was to say these issues are not going away. The tobacco companies are advertising, and they are still out there. We prevented them from targeting kids, but they are still out there selling cigarettes. We know how many kids; 3,000 kids are starting smoking every day. The idea is get a trust fund, have those monies, the principal on your trust fund, work toward preventing that.

One of the most effective things that can be done is counteradvertising, and that is one of the recommendations that we were making. Go on television, go out with billboards, and any information you can give to the public about the dangers of smoking and try to target it to specific audiences and have it be relevant to those audiences.

After somebody gets addicted, they start when they are young, one of the next issues is how do you get them off. There are cessation programs. There are a variety of programs to help people wean themselves from cigarettes; and those could also be funded. Give people a chance to get themselves off of tobacco.

The thing that is deplorable to me is that many of the States have not taken this approach, have not headed down this road. New Mexico is not completely down this road either. They have taken the money and just let it flow into the general fund and spent on whatever comes up. Some States have taken the money and built roads.

This is a once-in-a-lifetime opportunity. It is pretty rare that a State has a huge lump sum of money, anywhere from 5 to 6 to 1.2 or $10 billion flowing into the State over 25 years. And if you are creative, inventive, you can really do, I think, some good things as far as public health and as far as our children.

Mr. UDALL of Colorado. Mr. Speaker, in the State of Colorado we had that debate, and our Governor was very involved. If memory serves me right, we directed a significant amount of money into the very programs that have been created in New Mexico, and we have directed some into literacy programs and other programs which have been designated as worthy.

I have mixed feelings. I think a strong case could be made that all of the money ought to be used in the way the gentleman has suggested, where the principal is taken, and it generates a return, and all that can be done over a period of time is done to not only begin to reduce smoking, but eventually reach a point where none of our children start smoking at an age before they really understand the consequences.

Mr. Speaker, if an adult wants to utilize tobacco at some point, that is his or her right to do that. But as the gentleman points out, the statistics are staggering as to how many children start. They then carry that habit and addiction on into their adult years.

I was noting, too, the Attorney General mentioned that he had a concern that it would be a big government travesty to use the tragedy of tobacco as a smoke screen to cover the expansion of the nanny state.

Mr. Speaker, I guess I would beg to differ with him, and I think many Americans would, that this is an appropriate place for government regulation. This is an appropriate place for all of us through our government to come together and make sure that our children are not exposed to the great dangers of tobacco.

Abraham Lincoln, the founder of the Republican Party, suggested that we do together through government what cannot be done solely as individuals.

It is clear that the power and the resources of the tobacco companies are enormous, and that the role that government can play in providing a counterbalance is crucial. Our free enterprise system provides for a lot of freedom, but it also asks corporations and large entities to act responsibly. I think that is the purpose at the heart of the litigation that has been brought, and I think that is again why I share the concerns that the Justice Department needs to look for a broader-based approach. It needs to involve other constituencies on a bipartisan basis in its pursuit of the important lawsuit that we have been discussing tonight.

Mr. UDALL of New Mexico. Mr. Speaker, if the gentleman would yield, there are two important points here. Number one, get a new negotiator. There are plenty of former Attorneys General, there are State attorneys general, there are people in the government. The President should have another negotiator in place.

Secondly, how do you give credibility to this whole process? The process right now has a big cloud over it. There are serious questions that have arisen. I think involving the States attorneys general, a group of attorneys general that can come in and say, we are headed towards a settlement now, is this a good settlement. Then they can visit privately with the administration. Also in the end they should be able to make public pronouncements about the validity of the lawsuit, the size of the settlement, what was extracted in the settlement. There is no group in this country that knows more about what should be in a settlement than State attorneys general.

I would hope that not only would he remove Attorney General Ashcroft from this, but he would also focus on some independent oversight by State attorneys general. I certainly believe that with the combination of those two items, that we would be able to have a good outcome here.

Mr. UDALL of Colorado. Mr. Speaker, if the gentleman would yield, I would appeal to all of our colleagues in the House, all 435 of us, to weigh in with the President, request that he consider what I thought was a very thoughtful request on the part of the gentleman from New Mexico, and I think other colleagues would join the gentleman if they knew the extent to which this is an important issue facing us.

Mr. Speaker, it is an opportunity. It is arguably a health care crisis, but it also presents us with a real opportunity. I hope colleagues who have been here and have listened to our special order tonight would consider also making their own pitch to the President that this is a worthy undertaking and one that will be remembered not just in the near future if we do it right, but will be remembered for decades to come; that we got ahold of this public health problem and that we did something about it when it was appropriate and when our kids are really what are at risk here.

So I want to commend the gentleman for providing the leadership in this important area, and for after 8 years as attorney general and now 3 years in this body is continuing the good work on behalf of our children.

Mr. UDALL of New Mexico. Mr. Speaker, I commend the gentleman from Colorado for his leadership on this issue and caring about our children in this country.

Mr. Speaker, I will say as we wrap up here that these are important issues to the American people.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. WATERS (at the request of Mr. GEPHARDT) for July 10 on account of illness.

Mr. MOORE (at the request of Mr. GEPHARDT) for today after 4:00 p.m. and the balance of the week on account of attending his son's wedding in Hungary.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HASTINGS of Florida) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

(The following Members (at the request of Mr. WICKER) to revise and extend their remarks and include extraneous material:)

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. SIMMONS, for 5 minutes, July 18.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. DOOLITTLE, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

Mr. PLATTS, for 5 minutes, today.

ADJOURNMENT

Mr. UDALL of New Mexico. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock p.m.), under its previous order, the House adjourned until Monday, July 16, 2001, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2859. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Prohibited Purchasers in Foreclosure Sales of Multifamily Projects With HUD-Held Mortgages and Sales of Multifamily HUD-Owned Projects [Docket No. FR-4583-F-02] (RIN: 2501-AC69) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2860. A letter from the Deputy Secretary, Investment Management/Office of Regulatory Policy, Securities and Exchange Commission, transmitting the Commission's final rule—Treatment of Repurchase Agreements and Refunded Securities as an Acquisition of the Underlying Securities [Release No. IC-25058; File No. S7-21-99] (RIN: 3235-AH56) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2861. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Notice of Final Funding Priorities for Fiscal Years (FY) 2001-2002 for two Rehabilitation Research Training Centers—received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2862. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Notice of Final Funding Priorities for Fiscal Years (FY) 2001-2003 for three Disability and Rehabilitation Research Projects—received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2863. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Designation of Round III Urban Empowerment Zones and Renewal Communities [Docket No. FR-4663-I-01] (RIN: 2506-AC09) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2864. A letter from the Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting the Department's final rule—Employee Retirement Income Security Act of 1974; Rules and Regulations for Administration and Enforcement; Claims Procedure (RIN: 1210-AA61) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2865. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2866. A letter from the Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting the semiannual reports of the Pension Benefit Guaranty Corporation and the Office of Inspector General for the period October 1, 2000 through March 31, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2867. A letter from the Federal Co-Chairman, Appalachian Regional Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2000 through March 31, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2868. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List—received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2869. A letter from the Secretary, Department of Housing and Urban Development, transmitting the Department's FY 2000 Performance and Accountability Report; to the Committee on Government Reform.

2870. A letter from the Acting Assistant Attorney General for Administration, Department of Justice, transmitting the Department's final rule—Privacy Act of 1974; Implementation—received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2871. A letter from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2001-2002 Subsistence Taking of Fish and Wildlife Regulations (RIN: 1018-AG55) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2872. A letter from the Secretary, Department of Health and Human Services, transmitting the thirty-third in a series of reports on refugee resettlement in the United States covering the period October 1, 1998 through September 30, 1999, pursuant to 8 U.S.C. 1523(a); to the Committee on the Judiciary.

2873. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Visas: Documentation of Immigrants under the Immigration and Nationality Act, as amended—Diversity Visas—received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2874. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments [USCG-2001-9286] received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2875: A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels [USCG 1999-6094] (RIN: 2115-AF87) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2876. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Maryland Swim for Life, Chester River, Chestertown, Maryland [CGD05-01-031] (RIN: 2115-AE46) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2877. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Patapsco River, Baltimore, Maryland [CGD05-01-032] (RIN: 2115-AE46) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2878. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Northeast River, North East, Maryland [CGD05-01-030] (RIN: 2115-AE46) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2879. A letter from the Attorney, Research and Special Program Administration, Department of Transportation, transmitting the Department's final rule—Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications [Docket No. RSPA-2001-9567 (HM-189R)] (RIN: 2137-AD51) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2880. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc. Model 205A-1, 205B, 212, 412, 412EP, and 412CF Helicopters [Docket No. 2000-SW-48-AD; Amendment 39-12281; AD 2001-13-01] (RIN: 2120-AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2881. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters [Docket No. 99-SW-06-AD; Amendment 39-12282; AD 2001-13-02] (RIN: 2120-AA64) received July 09, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2882. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737-800 Series Airplanes [Docket No. 2001-NM-193-AD; Amendment 39-12294; AD 2001-12-51] (RIN: 2120-AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2883. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-100, 747-200, 747-300, 747SP, and 747SR Series Airplanes Powered By Pratt & Whitney JT9D-3 and JT9D-7 Series Engines [Docket No. 2000-NM-354-AD; Amendment 39-12279; AD 2001-12-23] (RIN: 2120-AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2884. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; American Champion Aircraft Corporation 7, 8, and 11 Series Airplanes [Docket No. 98-CE-121-AD; Amendment 39-12255; AD 2000-25-02 R1] (RIN: 2120-AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2885. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC-8-400 Series Airplanes [Docket No. 2001-NM-144-AD; Amendment 39-12253; AD 2001-11-10] (RIN: 2120-AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2886. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes [Docket No. 2001-NM-177-AD; Amendment 39-12293; AD 2001-13-13] (RIN: 2120-AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2887. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9-81, -82, -83, and -87 Series Airplanes, and MD-88 Airplanes [Docket No. 2000-NM-322-AD; Amendment 39-12278; AD 2001-12-22] (RIN: 2120-AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2888. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model BAe.125 Series 800A (C-29A and U-125 Military), 1000A, and 1000B Airplanes; Hawker 800 (U-125A Military) Airplanes; and Hawker 800XP and 1000 Series Airplanes [Docket No. 2000-NM-212-AD; Amendment 39-12285; AD 2001-13-05] (RIN: 2120-AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2889. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Kaman Aerospace Corporation Model K-1200 Helicopters [Docket No. 2000-SW-50-AD; Amendment 39-12283; AD 2001-13-03] (RIN: 2120-AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2890. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model EC 155B Helicopters [Docket No. 2001-SW-08-AD; Amendment 39-12284; AD 2001-13-04] (RIN: 2120-AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2891. A letter from the Director, Office of Regulations Management, Department of Veterans' Affairs, transmitting the Department's final rule—Payment or Reimbursement for Emergency Treatment Furnished at Non-VA Facilities (RIN: 2900-AK08) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2892. A letter from the Director, Office of Regulations Management, Department of Veterans' Affairs, transmitting the Department's final rule—Board of Veterans' Appeals: Rules of Practice—Effect of Procedural Defects in Motions for Revision of Decisions on the Grounds of Clear and Unmistakable Error (RIN: 2900-AK74) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2893. A letter from the Secretaries, Department of the Army and the Department of Agriculture, transmitting notification of the intention of the Departments of the Army and Agriculture to interchange jurisdiction of civil works and Forest Service lands at the Fort Leonard Wood Military Reservation in the State of Missouri, pursuant to 16 U.S.C. 505a; jointly to the Committees on Armed Services and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on International Relations. H.R. 2069. A bill to amend the Foreign Assistance Act of 1961 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan African and other developing countries; with an amendment (Rept. 107-137). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 7. A bill to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets; with amendments (Rept. 107-138 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Ways and Means discharged from further consideration. H.R. 1140 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LUCAS of Oklahoma:

H.R. 2480. A bill to reauthorize, improve, and expand conservation programs administered by the Department of Agriculture; to the Committee on Agriculture.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. LOBIONDO, and Ms. BROWN of Florida):

H.R. 2481. A bill to improve maritime safety and the quality of life for Coast Guard personnel, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SCHIFF (for himself, Mr. GEORGE MILLER of California, Mr. LANTOS, Mr. FILNER, Ms. SANCHEZ, Ms. ROYBAL-ALLARD, Mr. FARR of California, Mr. FRANK, Mrs. NAPOLITANO, Mr. HONDA, and Ms. WATERS):

H.R. 2482. A bill to repeal the tuition-sensitivity trigger in the Pell Grant program and to expand qualifying expenses and income eligibility for the Hope Scholarship and Lifetime Learning Credits; referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOSWELL (for himself, Mr. BARRETT, and Mr. OSBORNE):

H.R. 2483. A bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in rural areas; referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAPUANO (for himself, Mr. FOLEY, Mr. TOWNS, Mr. WELDON of Florida, Mr. BUYER, and Mr. MCDERMOTT):

H.R. 2484. A bill to amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the Medicare Program; referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself, Mr. NEAL of Massachusetts, Mrs. JOHNSON of Connecticut, Mr. TANNER, and Mr. FOLEY):

H.R. 2485. A bill to amend the Internal Revenue Code of 1986 to allow advanced applied technology equipment to be expensed and to reduce the depreciation recovery periods for certain other property; to the Committee on Ways and Means.

By Mr. ETHERIDGE (for himself, Mr. BOEHLERT, Mr. HALL of Texas, Mr. BRADY of Texas, Mr. MCINTYRE, Mr. JONES of North Carolina, Mr. PRICE of North Carolina, Mr. BARRETT, Mr. MARKEY, Ms. JACKSON-LEE of Texas, Ms. MCKINNEY, Mrs. CHRISTENSEN, Mr. LANTOS, Mr. HOEFFEL, Mrs. CLAYTON, Mr. CRAMER, and Mr. DIAZ-BALART):

H.R. 2486. A bill to authorize the National Weather Service to conduct research and development, training, and outreach activities relating to tropical cyclone inland forecasting improvement, and for other purposes; to the Committee on Science.

By Mr. GUTIERREZ:

H.R. 2487. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Education and the Workforce.

By Mr. HANSEN:

H.R. 2488. A bill to designate certain lands in the Pilot Range in the State of Utah as wilderness, and for other purposes; to the Committee on Resources.

By Ms. HART (for herself, Ms. MILLENDER-MCDONALD, Mr. BILIRAKIS, Mr. OWENS, Mr. LANTOS, Ms. SANCHEZ, Ms. WOOLSEY, Mrs. TAUSCHER, Mrs. MORELLA, Ms. SOLIS, Mr. BALDACCI, Mr. HORN, Ms. BROWN of Florida, Mr. GEORGE MILLER of California, Ms. WATERS, Mr. WATKINS, Mr. ENGLISH, Mr. PLATTS, Mr. GREENWOOD, Mr. PAYNE, Ms. HARMAN, and Mr. SANDERS):

H.R. 2489. A bill to provide effective training and education programs for displaced homemakers, single parents, and individuals entering nontraditional employment; to the Committee on Education and the Workforce.

By Mr. KLECZKA (for himself and Mr. STARK):

H.R. 2490. A bill to amend title XVIII of the Social Security Act to limit the hospital ownership exception to physician self-referral restrictions to interests purchased on terms generally available to the public; referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCKEON:

H.R. 2491. A bill to establish a grant program to train law enforcement officers, and for other purposes; to the Committee on the Judiciary.

By Mr. PENCE (for himself, Mr. BUYER, Mr. HOSTETTLER, Mr. SCHROCK, Mr. MCGOVERN, Mr. KIRK, Mr. KERNS, Mr. SPENCE, Mr. SIMMONS, Mr. VISCLOSKY, Mr. SOUDER, Mr. BURTON of Indiana, Mrs. JO ANN DAVIS of Virginia, Mr. ROHRABACHER, Mr. SHUSTER, Mr. ROGERS of Michigan, Mr. KELLER, Mr. REHBERG, Mr. CULBERSON, and Mr. ISSA):

H.R. 2492. A bill to authorize the President to posthumously advance the late Admiral Raymond Ames Spruance to the grade of Fleet Admiral of the United States Navy; to the Committee on Armed Services.

By Mr. RANGEL:

H.R. 2493. A bill to repeal the requirements under the United States Housing Act of 1937 for residents of public housing to engage in community service and to complete economic self-sufficiency programs; to the Committee on Financial Services.

By Mr. SKELTON (for himself, Mr. BRADY of Pennsylvania, Mr. MCINTYRE, Mr. UNDERWOOD, Mr. LANGEVIN, Mr. REYES, Mr. ANDREWS, Mr. TURNER, Mr. EVANS, Mr. TAYLOR of Mississippi, Mr. ORTIZ, Mr. SNYDER, Mrs. TAUSCHER, Mr. SMITH of Washington, Mr. ABERCROMBIE, and Mr. MALONEY of Connecticut):

H.R. 2494. A bill to provide an additional 2.3 percent increase in the rates of military basic pay for members of the uniformed services above the pay increase proposed by the Department of Defense so as to ensure at least a minimum pay increase of 7.3 percent for each member; to the Committee on Armed Services.

By Mr. STUPAK:

H.R. 2495. A bill to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians; to the Committee on Resources.

By Mr. UDALL of Colorado:

H.R. 2496. A bill to direct the Secretary of Energy to develop and implement a strategy for research, development, demonstration, and commercial application of distributed power hybrid energy systems, and for other purposes; to the Committee on Science.

By Ms. VELAZQUEZ:

H.R. 2497. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish certain requirements for managed care plans; referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS:

H.R. 2498. A bill to amend the Consumer Credit Protection Act to protect consumers from inadequate disclosures and certain abusive practices in rent-to-own transactions, and for other purposes; to the Committee on Financial Services.

By Mr. WU:

H.R. 2499. A bill to terminate funding for the Fast Flux Test Facility at the Hanford Nuclear Reservation in Washington; referred to the Committee on Science, and in addition to the Committees on Energy and Commerce, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BACA:

H. Res. 190. A resolution expressing the sense of the House of Representatives that schools should educate children about and organize community service projects related to the role of Native Americans in American history and culture, and that there should be a paid holiday in honor of Native Americans for all Federal, State, and local government employees; to the Committee on Education and the Workforce.

By Mr. KIRK (for himself, Mr. LANTOS, Mr. GILMAN, Mr. WEINER, Mrs. LOWEY, Mr. CANTOR, Mr. JOHNSON of Illinois, Mr. CROWLEY, Mr. SIMMONS, Mrs. MALONEY of New York, Ms. SCHAKOWSKY, Mr. WEXLER, Mr. SHIMKUS, Mr. PHELPS, Mr. CRANE, Mr. ENGEL, Mr. WELLER, Mr. NADLER, Mr. SAXTON, Mr. ISRAEL, Mr. SMITH of New Jersey, Mr. MCGOVERN, Mr. SCHIFF, and Mr. GRUCCI):

H. Res. 191. A resolution expressing the sense of the House of Representatives that the United Nations should immediately transfer to the Israeli Government an unedited and uncensored videotape that contains images which could provide material evidence for the investigation into the incident on October 7, 2000, when Hezbollah forces abducted 3 Israeli Defense Force soldiers, Adi Avitan, Binyamin Avraham, and Omar Souad; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mr. NUSSLE.

H.R. 17: Mr. BACA.

H.R. 94: Mr. REYES.

H.R. 116: Mr. MEEKS of New York.

H.R. 123: Mr. HAYWORTH, Mr. NETHERCUTT, Mr. PUTNAM, and Mr. STENHOLM.

H.R. 162: Mr. BACHUS.

H.R. 239: Mr. SCHIFF.

H.R. 265: Mrs. MEEK of Florida, Mr. DAVIS of Illinois, and Mr. FILNER.

H.R. 382: Mr. BACA.

H.R. 415: Mr. SHERMAN.

H.R. 435: Mr. NUSSLE.

H.R. 570: Mr. MEEKS of New York.

H.R. 599: Mr. BONILLA.

H.R. 606: Mr. OLVER.

H.R. 658: Mr. REYNOLDS.

H.R. 664: Mr. BOEHLERT, Mr. SHERMAN, Mr. MEEKS of New York, Mr. RANGEL, Mr. LEWIS of Georgia, Mr. FORD, Mr. DAVIS of Illinois, Mr. NADLER, Mr. MORAN of Kansas, Mr. WU, and Mr. FALEOMAVAEGA.

H.R. 684: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. SCHIFF.

H.R. 774: Mr. EHLERS.

H.R. 777: Mr. UDALL of Colorado.

H.R. 804: Mr. LAHOOD.

H.R. 817: Mr. STARK.

H.R. 822: Mr. HILLEARY, Mrs. THURMAN, Ms. JACKSON-LEE of Texas, Mr. COSTELLO, Mr. ORTIZ, Mr. KUCINICH, Mr. SHIMKUS, and Mr. HYDE.

H.R. 831: Mr. KERNS, Mr. SPENCE, Mr. PASTOR, Mr. STUPAK, Mr. BILIRAKIS, Ms. BALDWIN, Mr. CLEMENT, Mr. CARSON of Oklahoma, Mr. GILMAN, Mr. SESSIONS, Mrs. EMERSON, Mr. LANTOS, Mr. WAMP, Ms. LOFGREN, Mr. NUSSLE, Mr. HINCHEY, Mr. NETHERCUTT, Mr. WOLF, Mr. FROST, Mr. GREEN of Texas, Mr. PALLONE, Mrs. MALONEY of New York, and Mr. GUTIERREZ.

H.R. 839: Mr. MEEKS of New York.

H.R. 844: Mr. GREENWOOD.

H.R. 912: Mrs. KELLY, Mr. GILLMOR, Mr. LATOURETTE, Mr. EHRLICH, Mr. HINOJOSA, and Mr. STEARNS.

H.R. 951: Mr. GREEN of Wisconsin and Mr. DAVIS of Illinois.

H.R. 967: Mr. BAIRD and Mr. WALSH.

H.R. 972: Mr. HOLT.

H.R. 984: Mr. FOSSELLA.

H.R. 986: Mr. MCHUGH and Mr. BAIRD.

H.R. 1012: Mr. GARY G. MILLER of California and Ms. HARMAN.

H.R. 1016: Mr. ROGERS of Kentucky.

H.R. 1071: Mrs. DAVIS of California, Ms. JACKSON-LEE of Texas, Mr. PALLONE, Mr. DELAHUNT, Mr. PAYNE, Mr. JEFFERSON, Mr. ALLEN, and Mr. STUPAK.

H.R. 1112: Mr. Lantos.

H.R. 1121: Ms. Roybal-Allard and Mr. Barr of Georgia.

H.R. 1143: Mr. Wexler, Mr. Weiner, and Mr. Borski.

H.R. 1169: Mr. Mascara.

H.R. 1187: Mr. Diaz-Balart.

H.R. 1192: Mr. Rogers of Kentucky.

H.R. 1198: Mr. Weldon of Pennsylvania, Mr. Ramstad, Mr. Doggett, Mr. Kingston, Mr. Upton, and Mr. Issa.

H.R. 1238: Mr. Weller and Mr. Hoyer.

H.R. 1268: Mr. McGovern.

H.R. 1307: Mr. Meeks of New York.

H.R. 1353: Mr. Hastings of Washington.

H.R. 1354: Mr. McHugh and Ms. Ros-Lehtinen.

H.R. 1360: Mr. Sawyer, Mr. Traficant, Mr. Holt, Mr. Blumenauer, Mr. Sherman, Ms. Kaptur, and Ms. Hooley of Oregon.

H.R. 1434: Mr. Hoyer, Mr. McGovern, Mr. Stupak, and Mr. Brady of Pennsylvania.

H.R. 1452: Mr. Olver.

H.R. 1475: Mr. Ryan of Wisconsin, Ms. Jackson-Lee of Texas, Mr. Carson of Oklahoma, Mr. Ross, Mr. Doyle, Mr. Terry, Mr. Evans, Mr. Deutsch, Mr. Larsen of Washington, Mr. Shows, Mr. Gordon, Ms. Harman, Mr. Berry, Mr. Ferguson, and Mr. Hoeffel.

H.R. 1536: Mr. Price of North Carolina, Ms. Waters, Mr. Levin, and Mr. Oberstar.

H.R. 1556: Mr. Hayes, Mr. Lipinski, Mr. Leach, Mr. Baca, Mr. Ortiz, Mr. Clay, Ms. Roybal-Allard, and Mr. Rothman.

H.R. 1582: Mrs. Clayton, Mr. Kucinich, and Mr. Rangel.

H.R. 1591: Ms. Hooley of Oregon.

H.R. 1596: Mr. Rogers of Kentucky.

H.R. 1598: Ms. Roybal-Allard.

H.R. 1600: Mrs. Tauscher and Mr. Etheridge.

H.R. 1604: Mr. Brown of Ohio.

H.R. 1611: Mr. Bartlett of Maryland and Mr. Calvert.

H.R. 1624: Mr. Etheridge, Mr. Baird, Mr. Gekas, Mr. Borski, Mr. Carson of Oklahoma, Mr. Sherwood, Mr. Jackson of Illinois, and Mr. Dicks.

H.R. 1644: Mr. Rogers of Kentucky.

H.R. 1645: Mr. Lantos, Mr. Baird, Mr. Baldacci, and Mr. Barr of Georgia.

H.R. 1650: Mr. Andrews.

H.R. 1657: Mr. Hayworth.

H.R. 1677: Mr. Watkins.

H.R. 1680: Mr. Kirk.

H.R. 1705: Mr. Osborne and Mr. Rehberg.

H.R. 1735: Ms. DeGette.

H.R. 1762: Mr. Doolittle.

H.R. 1797: Mr. Larsen of Washington.

H.R. 1811: Mr. Ose.

H.R. 1832: Mr. Oxley and Mr. McKeon.

H.R. 1861: Mr. Simmons and Mr. Murtha.

H.R. 1864: Mr. Levin, Mr. Grucci, Mr. Matheson, and Mr. Price of North Carolina.

H.R. 1877: Mr. Owens and Mr. Kildee.

H.R. 1897: Mr. McHugh, Mr. Nadler, Mr. Dingell, Ms. Roybal-Allard, Mr. Towns, Mr. Ford, and Mr. Ackerman.

H.R. 1899: Mr. Stenholm.

H.R. 1919: Mr. Cramer, Mr. Taylor of Mississippi, Mr. Reynolds, Mr. Tiahrt, Mr. Miller of Florida, Mr. Ehrlich, Mr. Goodlatte, and Mr. McHugh.

H.R. 1935: Mr. Smith of Washington, Mr. Radanovich, Ms. Harman, Mr. Sweeney, and Mr. Sherwood.

H.R. 1954: Mr. Lucas of Kentucky and Mr. Moore.

H.R. 1975: Mr. Hastings of Washington and Mr. Rogers of Kentucky.

H.R. 1982: Mr. Schrock.

H.R. 1984: Mr. Hoekstra.

H.R. 1990: Mr. Fattah, Mr. Andrews, Mr. Meeks of New York, and Ms. Kilpatrick.

H.R. 1992: Mr. Schrock.

H.R. 1997: Mr. Udall of Colorado.

H.R. 2037: Mr. Moran of Kansas, Mrs. Myrick, Mr. Watts of Oklahoma, Mr. Kennedy of Minnesota, Mr. Everett, Mr. Forbes, Mr. Gekas, and Mr. Taylor of North Carolina.

H.R. 2064: Mr. Filner and Ms. Solis.

H.R. 2069: Mr. Lantos, Ms. Millender-McDonald, Mr. Houghton, Mr. King, Mrs. Mink of Hawaii, Mrs. Morella, Mrs. McCarthy of New York, Mr. Gilman, Mr. Gallegly, Mr. Cooksey, Mr. Tancredo, Mr. Smith of New Jersey, Ms. Ros-Lehtinen, Mr. Kirk, Mr. Cantor, Mr. Ehrlich, Ms. Lee, Mrs. Napolitano, Mr. Leach, Mr. Wexler, and Mr. Blumenauer.

H.R. 2102: Mr. Turner, Mr. Allen, Mr. Boyd, Mr. Lantos, and Mr. Meeks of New York.

H.R. 2117: Mr. Frost.

H.R. 2123: Mr. Meeks of New York and Mr. Farr of California.

H.R. 2126: Mr. Barton of Texas.

H.R. 2145: Mr. Gonzalez.

H.R. 2153: Mrs. Morella.

H.R. 2163: Mr. Mascara, Mr. Skelton, Mr. English, Mr. Berman, and Mr. George Miller of California.

H.R. 2208: Mr. LaFalce, Mr. Filner, and Mr. Owens.

H.R. 2219: Mr. Stupak and Mr. Gutierrez.

H.R. 2244: Mr. Moran of Kansas.

H.R. 2281: Ms. Norton, Mr. Lantos, Mr. Leach, and Ms. Solis.

H.R. 2315: Mr. Rehberg, Mr. Manzullo, Mr. Keller, and Mr. Regula.

H.R. 2329: Mr. Bonior, Mr. Foley, Ms. Eshoo, Mr. Manzullo, Mrs. Davis of California, Mr. Walsh, Mr. Barr of Georgia, and Mr. Putnam.

H.R. 2335: Mr. Pickering, Mrs. Christensen, and Mr. Stupak.

H.R. 2340: Mr. Kleczka.

H.R. 2380: Mr. Blagojevich, Mrs. Morella, Ms. Brown of Florida, Mrs. Roukema, Mr. Hastings of Florida, Mr. Green of Texas, Mr. Stark, Mr. Lipinski, Mr. Tierney, Mr. Oberstar, Mr. Ford, Mr. Thompson of Mississippi, Mr. Upton, and Mrs. Jones of Ohio.

H.R. 2412: Mr. Udall of New Mexico, Mr. Carson of Oklahoma, and Mr. Kind.

H.R. 2420: Mrs. Meek of Florida.

H.R. 2435: Mr. Gillmor and Mr. Strickland.

H.R. 2453: Mrs. Jones of Ohio, Ms. Lofgren, Ms. Eddie Bernice Johnson of Texas, and Mr. Baird.

H.R. 2457: Mr. Issa, Mr. Schrock, Mr. Calvert, Mr. Graves, and Mr. Foley.

H.R. 2478: Ms. Solis and Mr. Costello.

H.J. Res. 2: Mr. DeFazio.

H.J. Res. 20: Mr. Latham.

H. Con. Res. 26: Mrs. Morella.

H. Con. Res. 103: Mr. Reyes.

H. Con. Res. 116: Mr. McDermott.

H. Con. Res. 143: Mr. Waxman, Mr. Brown of Ohio, and Mr. Hastings of Florida.

H. Con. Res. 160: Mr. Cooksey.

H. Con. Res. 162: Mrs. Morella, Mr. Lipinski, Mr. Langevin, Mr. Costello, Mr. McGovern, Mr. Souder, Mr. Thomas, Mr. Filner, Mr. Levin, Mrs. Roukema, Mr. Hoeffel, Mr. McNulty, Mrs. McCarthy of New York, and Mr. Radanovich.

H. Con. Res. 164: Mr. Hilliard, Mr. Bonior, Ms. Baldwin, and Ms. Solis.

H. Con. Res. 180: Mr. Greenwood, Mr. Rahall, Mr. McGovern, Mr. Saxton, Mr. Bass, Mr. Pallone, Ms. Lee, Mr. Filner, Mr. Capuano, Mrs. Roukema, Mr. Boucher, Mr. Shays, Mr. Nadler, Ms. Pelosi, Mr. Schiff, Mr. Moran of Virginia, Mr. Stark, Mr. McDermott, Mrs. Tauscher, and Mrs. Napolitano.

H. Res. 17: Mr. Lewis of Georgia.

H. Res. 117: Mr. Evans.

H. Res. 137: Mr. Wolf.

H. Res. 186: Mr. Smith of Texas.

SENATE—*Thursday, July 12, 2001*

The Senate met at 9 a.m. and was called to order by the Presiding Officer, the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, the width and depth and height of Your love is beyond our understanding but never beyond our acceptance. Out of love for us You offer Your faithfulness, guidance, and strength. Then You give us work to do to accomplish Your plans through us.

So bless the Senators and all of us privileged to work for and with them with an acute awareness of our responsibility to You for what we do with the opportunities that You give us.

In response, we consecrate our lives and our work to You; endue them with Your enabling power. We will cooperate with You, seeking Your guidance and obeying You. And we will anticipate Your interventions to help us when we need You to inspire our thinking, strengthen our resolve, and assure success in our efforts for Your glory.

Today we ask Your special blessing for Jeri Thomson as she is sworn in as the Secretary of the Senate. Be with her, guide her, and direct her.

Now Lord, bring on the day; we are ready. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 12, 2001.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a 3-hour period for debate prior to the cloture vote on the motion to proceed to the consideration of H.R. 333, with 2 hours to be under the control of the Senator from Minnesota, Mr. WELLSTONE, and 1 hour to be equally divided under the control of the chairman and ranking member of the Judiciary Committee or their designees.

The clerk will report the motion.

The legislative clerk read as follows:

> A motion to proceed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, as the Chair has announced, we are now going to resume consideration of the motion to proceed to the House Bankruptcy Reform Act. There are 3 hours of debate, divided as the chair has announced, prior to a cloture vote on the motion to proceed. Following consideration of this bankruptcy debate, under the previous consent order, the Senate will resume consideration of the Interior Appropriations Act with a vote in relation to the Nelson of Florida amendment. So at 12 o'clock there will be one vote, and at approximately 12:20 there will be another.

The majority leader, Senator DASCHLE, has asked me to announce that he has every hope that we can complete this bill—and the two managers last night indicated they believed they were very close to being able to complete the bill—at a reasonable time early this afternoon or this evening. If we cannot, we will work into the evening. And if we cannot finish it then, we will have to come back tomorrow. There is a lot to do. We hope we can finish this tomorrow. There are many things that both the majority and minority would like to do tomorrow if we have the Interior bill out of the way.

Mr. President, at 11:30, as has been announced, the Senate will swear in the new Secretary of the Senate, Jeri Thomson, who has really dedicated her whole life to the U.S. Senate. I know for me it is a special occasion, as I am sure it is for anyone who knows Jeri. So I look forward to that and to a fruitful debate today.

I ask if there is anything from the minority, they be allowed to speak now.

The Senator from Minnesota is here. I did not see him in the Chamber earlier. He has his 2 hours.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, if I could get the attention of the Senator from Alabama.

Does the Senator from Alabama—does the minority need the floor right now to do some things? If so, I will be pleased to wait; otherwise, I am ready to go.

Mr. SESSIONS. No. I think we are here on bankruptcy and are glad to go forward.

Mr. WELLSTONE. Mr. President, normally I do not do it this way. I try not to rely too much on notes. But I want to try to be as detailed and as thorough as I can because what I am asking the Senate to do today is to step back from the brink and decline to go to conference with the House on the so-called bankruptcy reform.

I am going to be in this Chamber a number of times over the next week, maybe over the next several weeks. There is a lot that I want to say. There is a lot I think I should say as a Senator from Minnesota because I think Congress is about to make—or is headed toward—a very grave mistake.

So I will not attempt to say it all today. What I will do, however, is to speak, at least in a broad way, about why I feel so strongly in the negative about this bill.

I ask unanimous consent that several pages I have of titles of editorials about the bankruptcy bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EDITORIALS AGAINST THE BANKRUPTCY BILL

"Bad Timing on the Bankruptcy Bill," Robert Samuelson, the Washington Post, March 14, 2001.

"A Bad Bankruptcy Bill," San Francisco Chronicle, March 15, 2001.

"Reform Choice for Mr. Bush," the Washington Post, February 19, 2001.

"A Debt Bill Bankrupt of Decency," the Chicago Sun Times, March 15, 2001.

"Quid Pro Quo," the Arizona Daily Star, March 3, 2001.

"Deeper Hole for Debtors," Los Angeles Times, March 2, 2001.

"Business Dictated Bankruptcy Law," the New York Times, March 16, 2001.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

"Congress, President Side With Banks, Not Consumers," the Atlanta Journal Constitution, March 16, 2001.

"Compounding Debt," the Boston Globe, March, 2001.

"Contributors to Irresponsible Acts; Credit-Card Firms Not Blameless in Bankruptcy Rise," James Sollisch, the Chicago Tribune, March 20, 2001.

"A Bankrupt Law?," Businessweek, April 23, 2001.

"Quid Pro Quo? Congress Examines Pardons But Overlooks Bankruptcy Bill," Arianna Huffington, the Dallas Morning News, March 6, 2001.

"Bankruptcy Overhaul Hits Needy as Well as Greedy," the Miami Herald, March 19, 2001.

"Congress Pushing Usury," Bismark Tribune, March 8, 2001.

"Hammering Bankrupt Consumers," Chattanooga Times Free Press, March 17, 2001.

"Protect Consumers as Well as Lenders," Chicago Daily Herald.

"Down on Your Luck? Tough," the Chicago Sun Times, March 25, 2001.

"Bankruptcy Change Would Hurt Business," Crain's Detroit Business, March 19, 2001.

"Bankruptcy Bill is anti-Family Measure," Intelligencer Journal (Lancaster, PA), April 3, 2001.

"Bankruptcy Bill Too Forgiving of Lenders," Dayton Daily News, March 18, 2001.

"Bankruptcy for Growth? No More," Nicholas Georgakopoulos, the Hartford Courant, March 21, 2001.

"Not Every Person Who Files for Bankruptcy is a 'DeadBeat'," Melinda Stubbee, the Herald Sun, March 20, 2001.

"A Flawed Bankruptcy Bill," the Milwaukee Journal, March 23, 2001.

"Add Balance to Proposed Law on Bankruptcy," the Morning Call (Allentown, PA), March 19, 2001.

'New Bankruptcy Bill is Still the Wrong Answer," the News & Record, March 5, 2001.

"Banking on Politics," the News Observer, March 7, 2001.

"In Bankruptcy Bill, Money, Talks," the Oregonian, March 18, 2001.

"Bankruptcy Bill Will Be Even More of a Headache," Jane Bryant Quinn, the Orlando Sentinel, April 18, 2001.

"No Interest in Consumers," the Palm Beach Post, March 7, 2001.

"Why Campaign Finance Reform? Look At Bankruptcy Bill," the Palm Beach Post, March 20, 2001.

"Bankruptcy Bill Exploits Students," Kate Giammarise, the Pitt News, March 26, 2001.

"Bankrupt Bill; This Reform Will Hurt Americans Who Are Struggling," Pittsburgh Post-Gazette, March 17, 2001.

"Cruel Bankruptcy 'Reform'," the Providence Journal-Bulletin, March 15, 2001.

"Bankruptcy Bill: So-Called Reforms Make Reckless Lending More Profitable," the Sacramento Bee, March 16, 2001.

"Bankruptcy Overhaul Lacks the Right Balance; While People Should Be Held Responsible for Their Debts, Creditors Also Should Be Regulated," San Antonio Express News.

"Bankruptcy 'Reform' Bill Helps Guess Who," the San Jose Mercury News, March 12, 2001.

"A Bad Piece of Legislation," the Buffalo News, March 3, 2001.

"Wiping the Slate Clean," Albany New York Times Union, March 1, 2001.

"Taking Care of Business," Robert Reich, the American Prospect, April 9, 2001.

"Bankruptcy Reform Law Supports Banks Interests," the Daily University Star (Texas), March 23, 2001.

Mr. WELLSTONE. "Bad Timing on the Bankruptcy Bill," Robert Samuelson, The Washington Post, March 14, 2001; "A Bad Bankruptcy Bill," San Francisco Chronicle, March 15; "A Debt Bill Bankruptcy of Decency," The Chicago Sun Times; "Deeper Hole for Debtors," Los Angeles Times; "Business Dictated Bankruptcy Law," New York Times; "Congress, President Side with Banks, Not Consumers," The Atlanta Journal Constitution; "Compounding Debt," The Boston Globe; "A Bankrupt Law?" Businessweek; "Bankruptcy Overall Hits Needy as Well as Greedy," The Miami Herald; "Congress Pushing Usury," Bismarck Tribune; "Hammering Bankrupt Consumers," Chattanooga Times Free Press; "Down on Your Luck? Tough," The Chicago Sun Times.

These are just kind of random samples:

"Bankruptcy Bill is Anti-Family Measure," Intelligencer Journal; "A Flawed Bankruptcy Bill," the Milwaukee Journal; "Banking on Politics," the News Observer; "In Bankruptcy Bill, Money Talks," the Oregonian; "Why Campaign Finance Reform? Look at Bankruptcy Bill," the Palm Beach Post; "Bankrupt Bill; This Reform Will Hurt Americans Who Are Struggling," Pittsburgh Post-Gazette; "Bankruptcy Bill. So-Called Reforms Make Reckless Lending More Profitable," Sacramento Bee; "Bankruptcy Bill Helps Guess Who?" San Jose Mercury News; "Bad Piece of Legislation," Buffalo News; "Taking Care of Business," Bob Reich in the American Prospect. The list goes on and on.

I have for over 2 years been fighting this bill, with some of my colleagues: Senators KENNEDY, BOXER, DURBIN, SCHUMER, LEAHY, and FEINGOLD. I will give myself a little bit of credit as to why we are still debating this bill and it has not passed. In truth, a great deal of the credit goes to the proponents of the bill because it has been their consistent refusal to compromise on the legislation that has made the job easier. I will go into some of the greedier aspects of this legislation in a moment.

Some have argued that the tactics have been extreme, that I have been at this over and over and over again in trying to block it. I would rather be spending my time not stopping the worst but doing the better. I much prefer to do that. But this is a disastrous piece of legislation. What has been done with this very harsh legislation is basically shredding one of the important safety nets, not just for low-income people but for middle-income people as well. Shredding that safety net so that people can no longer rebuild their financial lives is truly egregious.

To argue that the reason we need to do this is because a lot of people have been filing chapter 7 in order to get out of repaying their debt and that they are untrustworthy, they don't feel any stigma, et cetera, simply doesn't hold up under any kind of scrutiny.

We know in the vast majority of cases, 50 percent of the people who file bankruptcy in this country file bankruptcy because of medical bills. Is somebody going to say they are lazy or they are slackers or cheats? We know beyond that one of the major causes of bankruptcy is loss of a job. More and more people are losing their jobs now; 1,300 taconite workers at LTV Company on the Iron Range of Minnesota just lost their jobs.

Is it divorce? Not surprisingly, many of our citizens who find themselves in the most difficulty are women after a divorce. They are the ones who are taking care of the children in most cases.

It hardly holds up that these are a bunch of slackers and a bunch of cheats we are going after. As a matter of fact, the evidence is clear—I will refer to studies later on—that at best there is maybe 3 percent abuse. What about the other 97 percent of the people?

Major medical illness is a double whammy because not only do you have to pay the doctor and the hospital charges, but in addition quite often you can't work. If it is your child, even if it is not you, it is the same issue: it is the medical bills. But then you are home taking care of the child. Now you have no other choice. You are trying to rebuild your life and file for chapter 7, and you can't do it any longer.

As I said, you can't argue that people overwhelmed with medical debt or sidelined because of an illness are deadbeats. This legislation assumes they are. It would force them into credit counseling before they could file, as if a serious illness or disability is something that could be counseled away. I had an amendment to this bill that would have created an exclusion for people who were filing for bankruptcy because of medical bills. It did not pass.

Women single filers are now the largest group in bankruptcy. They are one-third of all the filers. They are the fastest growing. Since 1981, the number of women filing increased by 700 percent. A woman single parent has a 500 percent greater likelihood of filing for bankruptcy than the population generally.

Divorce is a major factor in causing bankruptcy in America. Are single women with children deadbeats? This bill assumes they are.

The new nondischargeability of credit card debt will hit hard those women who use the cards to tide them over after a divorce until their income stabilizes. The "safe harbor" in the House bill, which proponents argue will shield low- and moderate-income debtors from the means test, will not benefit many single mothers who most need the help because it is based upon the combined income of the debtor and the debtor's spouse, even if they are separated, the spouse is not filing for bankruptcy, and the spouse is providing no support for her, for the debtor and her children.

In other words, a single mother who is being deprived of needed support from a well-off spouse is further harmed by this piece of legislation which will deem the full income of that spouse available to pay debts for determination of whether the safe harbor and means test applies. It makes no sense whatsoever, and it is incredibly harsh.

Over the past 2 years, any pretense that this piece of legislation is urgently needed has evaporated. Now proponents and opponents agree that nearly all the debtors resort to bankruptcy not to game the system but, rather, as a desperate measure of economic survival and that only a tiny minority of chapter 7 filers, as few as 3 percent, can afford any debt repayment, according to the American Bankruptcy Institute.

Yet low- and moderate-income families, especially single-parent families, are those who need most the fresh start provided by bankruptcy protection. The bill will make it harder for them to get out from under the burden of crushing debt, and that is why I oppose it.

The second reason why I oppose this legislation is that the timing of this bill could not be worse. Basically people are not going to be able to file for chapter 7. Chapter 13 is going to be made more unworkable for many debtors. We had a situation where 4 years ago, when we first started this debate, the big banks and credit card companies were pushing so-called bankruptcy reform in good economic times. The stock market was soaring. The unemployment rate was coming down. But given the economy we find ourselves with right now, given the fact that we no longer have the same boom economy, that people are now out of work or underemployed, that these are harder times, rushing this bill through seems completely divorced from reality.

What is the most cited reason for filing for bankruptcy? Job loss, and the unemployment rate is rising. What is the second most cited reason? Excessive medical bills, and the cost of health care is rising, as are the number of uninsured. At the same time, we are going to make it impossible for people to file for chapter 7 and rebuild their lives.

While the bill will be terrible for consumers and for regular working families even in the best of times, its effects will be all the more devastating now because we have a weakening economy. It boggles the mind that at a time when Americans are most economically vulnerable, when they are most in need of protection from financial disaster, we would eviscerate the major safety net in our society for the middle class, and that is precisely what this legislation does. It is the height of insanity that we would be contemplating doing what we are doing given this economy.

It may be the case that the Congress and the President will ignore the plight of these families. Each one of them by themselves is not that powerful. Most folks assume this is never going to happen to us. Most people and most families never expect they are going to have to file for bankruptcy, but at least my colleagues should care about the effect on the economy.

This bill could be a disaster, but I do not want you to take my word for it. I want to quote some excerpts from a column by Robert Samuelson in the March 14 Washington Post. To put it delicately, Mr. Samuelson and I rarely agree on anything. In fact, he likes—I want to be intellectually honest about it—he likes the substance of the bankruptcy bill. All the more reason, I say to my colleagues, to pay attention to him. The title of the editorial is "Bad Timing on the Bankruptcy Bill." He writes:

> The bankruptcy bill about to pass Congress arrives at an awkward moment: the tail end of a prolonged boom in consumer borrowing. From 1995 to 2000, Americans increased their personal debts by about 50 percent to roughly $7.5 trillion—a figure including everything from home mortgages to student loans.
>
> Now comes the bankruptcy bill, which would make it slightly harder for consumers to erase debts through bankruptcy. Although the bill is not especially harsh, it could perversely worsen the economic downturn.

I do not agree with part of his characterization. I am now focusing on his argument about the effect of the economy.

He concludes:

> The real pressures of high debt are now being compounded by scare psychology. "Drowning in Debt," says the cover story of the latest U.S. News & World Report. "Why you're in so deep—and how to get out before it's too late." The bankruptcy bill sends a similar message: Be prudent, don't overborrow. The message is now about four years too late. Now it may simply amplify the growing gloom. This is not a bad bill, but it certainly is badly timed.

There you have it, I say to my colleagues. Not an opponent but a supporter suggesting that now is not the time, that we could end up prolonging or actually worsening the downturn in the economy.

He is not the only one. A May 21 issue of Business Week had an article titled "Reform that Could Backfire." The article begins:

> Just as bankruptcy reform seemed headed for certain passage, the economic omens point to a sharp rise in personal bankruptcies over the next few years. The likely results, says economist Mark Zandi of Economy.com, Inc., will be "much pain for hard pressed households, little if any gain for lenders, and, in the event of even a mild recession, major problems for the overall economy."

Again, this is not some leftwing rag; this is the magazine of note for corporate America—Business Week. If Business Week and PAUL WELLSTONE are in agreement on an issue, then I ask you: How can we be wrong?

The article concludes:

> The drop in bankruptcies in recent years partly reflected the booming economy. Now, with sharply rising unemployment and slowing income gains, Zandi expects high household debt to take its toll. Especially at risk, he believes, are lower income families, for whom debt repayment dictated by the pending bankruptcy reform would entail tremendous hardship. "If the economy becomes mired in recession or sluggish growth," he warns, "the loss of the spending power could significantly retard the recovery."

I ask my colleagues, I ask the majority leader—I am not in agreement with him—what is the rush? Why do you want to do this to the economy? Why do you want to do this to families? Why are you prepared to go to such ridiculous lengths to move this legislation?

Mr. President, I have received a note, I say to Senator SESSIONS, that he wants a few minutes before 9:30 a.m. I did not see it until just now. I will be pleased to yield to my colleague.

Mr. SESSIONS. I will be returning later.

Mr. WELLSTONE. Whatever is best for the Senator from Alabama.

Mr. SESSIONS. Somebody else is going to be replacing me. The Senator can go right ahead. I thank the Senator for his courtesy, as always.

Mr. WELLSTONE. Mr. President, I do not really get this. One of the arguments being made is that what we are going to see is an increase in bankruptcies because of a slowing economy and high consumer debts that are overwhelming families and, therefore, we need to pass legislation to curb access to bankruptcy relief. Try that on for size.

For 2 years, while the good times were rolling, the proponents of this bill were citing the number of bankruptcy filings as a reason to pass the bill, although there actually was a dramatic drop in filings taking place. I never understood that argument.

Now they are turning around and saying we need to rush to do this because the economy is slowing down and many hard-working people, through no fault of their own, are going to find themselves in dire circumstances; therefore, we had better pass legislation that will curb their access to bankruptcy relief.

It is amazing: Increasing hard times, a lot of people finding themselves in these impossible financial circumstances, and now they want to make it harder for them to get a fresh start. The logic of this argument completely escapes me.

The point Mark Zandi makes in the Business Week article, as other economists have done, is that restricting access to bankruptcy protection will actually increase the number of filings and defaults because banks will be more willing to lend to marginal candidates. Indeed, it is no coincidence that the single largest surge in bankruptcy filings began immediately after the last major procreditor reforms were passed by Congress in 1984.

This is not a debate about winners and losers because we all lose if we erode the middle class in this country. We lose if we take away one of the critical underpinnings for middle-class people. Sure, in the short run big banks and credit card companies may pad their profits, but in the long run our families will be less secure and our entrepreneurs will become more risk adverse and less entrepreneurial.

The whole point of bankruptcy is to allow people to get a fresh start. Bankruptcy disproportionately affects the financially vulnerable, but it also disproportionately affects the risk takers, small businesspeople or entrepreneurs. Our bankruptcy system ensures that utter insolvency does not need to be a life sentence, but it can be an opportunity to start over, and that is what this bill erodes.

This is not a debate about reducing the high number of bankruptcies. No one can will a piece of legislation that can do that. Indeed, by rewarding—I make this argument—the reckless lending that got us here in the first place, we are going to see more consumers burdened with that.

It is amazing; there is hardly a word in this whole piece of legislation that calls for these credit card companies or lenders to be accountable as they continue to pump this stuff out to our children and grandchildren every day of every week. But this is perfect for them because they don't have to worry any longer. They get a blank check from the Government. No, this is a debate about punishing failure—whether self-inflicted—and sometimes it is—or uncontrolled or unexpected. This is a debate about punishing failure.

If there is one thing this country has learned, it is that punishing failure doesn't work. You need to correct mistakes. You need to prevent abuse. But you also need to lift people up when they have stumbled, not beat them down. This piece of legislation beats them down.

Both the House and Senate bills basically give a free ride to the banks and credit card companies, that deserve much of the credit—you would not know it from this legislation—for the high number of bankruptcy filings because of their loose credit standards. Even the Senate bill does very little to address this issue.

There are some minor disclosure provisions in the Senate bill. But even these don't go nearly as far as they should. Lenders should not be rewarded for reckless lending. Where is the balance in this legislation? If we are holding debtors accountable, why don't we hold lenders accountable as well? I know the answer. These financial interests have hijacked this legislative process. As high-cost debt and credit cards and retail charge cards and financing plans for consumer goods have skyrocketed in recent years, so have the bankruptcies. As the credit card industry has begun to aggressively court the poor and vulnerable, is anybody surprised that bankruptcies have risen?

Credit card companies brazenly dangle literally billions of dollars of credit card offers to high-debt families every year, and they are not asked to be accountable. They encourage credit card holders to make low payments toward their card balances, guaranteeing that a few hundred dollars in clothing or food will take years to pay off. The length to which the companies go to keep customers in debt is absolutely ridiculous, and they get away with murder in this legislation. After all, debt involves a borrower and a lender. Poor choices or irresponsible behavior by either party can make the transition go sour.

So how responsible has the industry been? It depends on how you look at it. On the one hand, consumer lending is unbelievably profitable, with high-cost credit card lending the most profitable of all, except for perhaps the even higher costs on payday loans. We don't go after any of these unsavory characters. So I guess by the standard of the bottom line, they are doing a great job. This industry is thriving. These credit card companies are making huge profits.

On the other hand, if your definition of responsibility is promoting fiscal health among families, educating them on the judicious use of credit, ensuring that borrowers do not go beyond their means, then it is hard to imagine how the financial services industry could not be a bigger deadbeat. The financial services industry is the big deadbeat. The problem is that it is the heavy hitter, the big giver, and it has so much money that it dominates the politics in the House of Representatives and the Senate. That is part of what this is about.

Theresa Sullivan, Elizabeth Warren, and Jay Westerbrook wrote a book called "Fragile Middle Class." I recommend it to everybody. They write:

> Many attribute the sharp rise in consumer debt—and the corresponding rise in consumer bankruptcy—to lowered credit standards, with credit cards issuers aggressively pursuing families already carrying extraordinary debt burdens on incomes too low to make more than minimum repayments. The extraordinary profitability of consumer debt repaid over time has attracted lenders to the increasingly high risk-high profit business of consumer lending in a saturated market, making the link between the rise in credit card debt and the rise in consumer bankruptcy unmistakable.

Credit card companies perpetuate high interest indebtedness by requiring—and there is not a Senator who can argue against this practice—low minimum payments and, in some cases, canceling the cards of customers who pay off their balance every month. Using a typical monthly payment rate on a credit card, it would take 34 years to pay off a $2,500 loan. Total payments would exceed 300 percent of their original principal. That is really what this is all about. A recent move by the credit card industry to make the minimum monthly payment only 2 percent of the balance rather than 4 percent further exacerbates the problem of some uneducated debtors.

These lenders routinely offer "teaser" interest rates which expire in as little as 2 months, and they engage in "risk-based" pricing which allows them to raise credit card interest rates based on credit changes unrelated to the borrower's account. It is just unbelievable what they get away with.

Even more ironic, at the same time that the consumer credit industry is pushing a bankruptcy bill that requires credit counseling for debtors, the Consumer Federation of America found that many prominent creditors have slashed the portion of debt repayments they shared with credit counseling agencies—in some cases by more than half. This may force some of these agencies to cut programs and serve even fewer debtors.

Well, Mr. President, I am sorry. I am glad there aren't a lot of Senators on the floor because it is hard to say this because you feel as if you are engaging in personal attacking. I don't mean it to be that way. I can't say enough about the hypocrisy of this legislation—not of individual Senators but the content of this legislation. It is incredible to me the way in which these banks and credit card companies have rigged this system, and we have this harsh piece of legislation in increasingly difficult economic times that is going to make it impossible for many families to rebuild their lives. The vast majority find themselves in these horrible circumstances because of medical bills, having lost their jobs, or divorce.

Do you know what. This legislation doesn't do anything about the egregious greed, the exploitive practice of this industry. All of us who have children know what they send out in the mail every day.

So the question is: PAUL, if the bill is as bad as you say, how come it has so much support? This is a lonely fight. Just a few Senators are in strong opposition. I don't mean it in a self-righteous way, and it doesn't make us closer to God or the angels. I don't understand why the bill is going through.

The bill has a lot of support in the Congress, and some of those who are supporting it, such as Senator SESSIONS and others, are worthy Senators. We have an honest disagreement. The President says he supports it. But the fact of the matter is—and I am not talking about a specific Senator; I don't do that because that is not what it is really about. At the institutional level, I believe the reason this legislation has so much support—I will repeat that—at the institutional level, I believe the reason this legislation has so much support is that it is a tribute to the power and the clout of the financial services industry in Washington.

Let's call it what it is. Might makes right. It is the financial might of the credit card companies and the big banks that are big spenders, heavy hitters, and investors in both political parties. It doesn't mean individual Senators support this legislation for that reason. I can't make that argument. People can have different viewpoints. But if I look at it institutionally, I can look at the amount of money those folks deliver, their lobbying coalition, and the ways in which they march on Washington every day, and I can't help but say that is part of what this is about.

Why has the Congress chosen to come down so hard on ordinary working people down on their luck? How is it that this bill is so skewed against their interests and in favor of big banks and credit card companies? These editorials in a lot of newspapers that say the Congress—the House and Senate—comes down on the side of binge banks, not consumers, are right. Well, maybe it is because these families don't have million-dollar lobbyists representing them before the Congress. They don't give hundreds of thousands of dollars in soft money to the Democratic and Republican Parties. They don't spend their days hanging outside the Chamber to bend a Member's ear.

Unfortunately, it looks as if the industry got to us first. The truth is that, outside of this building, the support for this bill is a pittance. I mean the truth of the matter is that if you go outside this building, support for this bill is very narrow. The support has deep pockets. Apparently the Congress responds to deep pockets—not apparently; it does. Everybody knows that. People know it in Nebraska; they know it in Alabama; they know it in Minnesota.

We can agree or disagree about this legislation, but that is the view people have. They say when it comes to our concerns about ourselves and our families, our concerns are of little concern in Washington. Part of that is the mix of money in politics. That is why the vote in the House is important and why everybody should know that McCain-Feingold and Meehan-Shays is just a step. Lord, we will have to do much more.

I am trying to win on a cloture vote on which I will get beat badly. Outside of this building, and I will stake my reputation on this—I hope I have a reputation—outside this building there is no support for this, or very little. People are not running up to us in coffee shops in Nebraska and saying, please pass that bankruptcy bill because, by God, that is the most important thing you can do that will help us.

People are talking about health care costs, childcare costs, good education for their children, a fair price for family farmers, how we can keep our small businesses going, the cost of higher education, the cost of prescription drugs, concern people will not have a pension, what happens when you are 75 or 80, in poor health, and you have to go to the poorhouse before you get help in a nursing home or home-based care and receive medical assistance. That is what people talk about. They don't say, please pass a bankruptcy bill so when we get into trouble, no fault of our own, because of medical bills or we lost our jobs, we will not be able to rebuild our lives. There isn't any support for this legislation outside this building. The deep pocket folks got to the Congress first, as they usually do.

There is opposition. You can know something about a bill by who the enemies are. Labor unions oppose the bill. Consumer groups oppose the bill. Women and children's groups all oppose the bill. Civil rights organizations all oppose the bill. Many members of the religious community oppose the bill. Indeed, it is a fairly broad coalition that opposes this. Behind them are millions of working families who have nothing to gain and everything to lose from this legislation. That is why I have been blocking this bill for over 2 years.

I come from the State of Minnesota. We had a great Senator and Vice President, Hubert Humphrey. He once said that the test of a society or the test of a government is how we treat people in the dawn of life, the children, in the twilight of their lives, the elderly, in the shadow of their lives, people who are poor, people who are struggling with an illness, people struggling with a disability.

By this standard, this bill is a miserable failure. There is no doubt in my mind this is a bad bill. It punishes the vulnerable and rewards the big banks and credit card companies for their own poor practices. For all I know this legislation will only get worse in conference. I hope that is not the case but it is my fear.

Earlier I used the word "injustice" to describe this bill. That is exactly right. It would be a bitter irony if creditors used a crisis, largely of their own making, to talk Congress into this legislation.

Colleagues, it is not too late to reverse the course of the bill. It is never too late to pull back from the brink until we have leaped. We have not leaped yet. Let's step back. Let's do reform the right way. Let's wait until we are not adding to the economic pain that too many American families are already feeling. Let's not prolong the pain.

I urge the Senate to change the course. If I lose on this vote, then we will have to have another cloture vote, which will be next week, and there will be more discussion. From there, we will see.

I ask unanimous consent a number of editorials from newspapers all across our country be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Mar. 2, 2001]

DEEPER HOLE FOR DEBTORS

The bankruptcy reform legislation President Clinton vetoed last year because it was unfair to consumers is being rushed through Congress again. This time, if passed, President Bush is sure to sign it into law. That would be a great victory for banks, paid for by consumers in financial trouble.

Banks and credit card companies pushing for the reform claim that current law is too lenient on those who file for bankruptcy only to avoid paying bills. There are admittedly abuses—3% of bankruptcies are filed by those with enough money to pay at least some of their creditors—but this legislation is too harsh on the genuinely distressed 97%. The House approved its version of the measure Thursday, but there is a chance it will be amended or defeated in the evenly divided Senate next week.

Credit card companies could hardly ask for a better law. They would have to take no responsibility for ever-more-aggressive lending, even to those with poor credit records. The companies know that some of that debt will go sour and they account for it in the high interest rates they charge cardholders. The bankruptcy bill deals them a few more aces, making it harder for debtors to get out from under.

Lenders, who spent millions of dollars lobbying for the legislation, argue that the current law allows too many consumer to walk away from debt. But a recent study by the independent American Bankruptcy Institute shows that in 97 out of 100 bankruptcies, the debtors, facing either catastrophic medical bills or loss of income, have hit bottom and cannot repay. Nearly 90% have no assets and owe, on average, $36,000. They are either renters or live in homes worth less than $100,000. The cars they drive are, on average, eight years old, and seven out of 10 don't earn enough money to cover their living expenses.

The new law would close the door to many consumers filing under Chapter 7, which does not require repayment, and force them into Chapter 13, where they can lose homes and cars. Even in Chapter 7, creditors can force borrowers to repay some of their debt.

Sen. Paul Wellstone (D-Minn.) is leading the battle against the unfair legislation, and he has the support of both California senators. He will need the backing of all Senate Democrats and a Republican or two next week when he takes his fight to the Senate floor.

[From the San Francisco Chronicle, Mar. 15, 2001]

A BAD BANKRUPTCY BILL

One of the low points in life is about to drop even lower. After soaking up record amounts of special-interest money, Washington is preparing a one-sided overhaul of bankruptcy law, a change that will help the credit industry and further punish debtors.

Last year, then-President Clinton wisely vetoed a near-identical plan. The bill, The Bankruptcy Reform Act of 2001, rewrites historic bankruptcy rules that aim to erase uncollectible debts and let consumers and businesses start over.

But with the new administration, the revived measure has easily passed the House and is due for a Senate vote this week. President Bush has indicated he will sign the legislation.

It's hard to know what's worse about this plan: the ingredients making it harder to wipe out debts or the lavish campaign contributions that shadow the bill.

Bankruptcy filings have grown during the last decade, although the numbers declined last year to 1.3 million cases. Most applicants seek the protection of Chapter 7, a category that allows unsecured debts—generally credit cards—to be canceled, while car and house payments remain.

The bill would push many more people to file for bankruptcy under Chapter 13, which would impose a 3- to 5-year repayment period for credit-card debt and allow creditors to go after cars and homes in some cases. The concept of bankruptcy as a fresh start will be ended.

The bill's supporters talk of personal responsibility, abuse of bankruptcy laws by deadbeats and millionaires who pour assets into mansions to shield money from bill collectors. But the real causes of bankruptcy are divorce, illness and layoffs. These are ruinous turning points that bankruptcy was designed to soften.

The money behind the bill is as overboard as the measure's provisions. Finance and credit-card firms gave $9.2 million to both major parties last year, up from $4.3 million in 1996. Bush's largest contributor was MBNA, the world's biggest credit-card issuer.

As the national economy cools, it's worth thinking about the need for effective bankruptcy rules. The law shouldn't be a haven for well-off debt-dodgers or spendthrifts who won't curb bad habits.

But these aren't the targets of this bill. Instead, the legislation hobbles a larger group of lower-income Americans, who will be held back by continuing debt for a longer time.

Debt may be choking the livelihood of more than 1 million Americans. But this problem should not be an opportunity for the credit industry to make even more money. The bankruptcy bill should be rejected by the Senate.

[From the Washington Post, Feb. 19, 2001]

REFORM CHOICE FOR MR. BUSH

Last December President Clinton refused to sign a bankruptcy bill, for the good reason that it was too tough on ordinary debtors who seek the protection of the courts and too generous to high-rollers with fancy tax accountants. Now Congress is returning to the subject: A bill recently moved through a House committee, and the Senate is preparing to mark up its version. Lawrence Lindsey, the White House economics adviser, has suggested that President Bush isn't sure whether to support a bill. The administration should make it clear that bankruptcy reform will only be signed if it is fairly balanced.

The case for reform is that the number of people declaring bankruptcy has nearly doubled over the past decade, and that this represents a damaging cultural shift toward irresponsibility. If the old stigma associated with bankruptcy evaporates, people may get the idea that they can borrow freely and then get off without repaying; this imposes costs on lenders, which in turn may be passed on to honest borrowers in the form of higher interest rates. Up to a point, this case is right—though it is also true that most people who file for bankruptcy do so because of a calamity such as illness, job loss or divorce.

The challenge for reformers is to limit irresponsible abuse of bankruptcy without being too harsh toward those who deserve second chances.

The bill Congress produced last year fell short in several ways. It failed to close the egregious homestead loophole, which allows expensively advised debtors to establish residency in Florida or Texas and buy million-dollar homes that they can keep while thumbing their noses at creditors. It did too little to discourage hard-sell tactics by credit card companies, whose relentless come-ons have done much to seduce consumers into debt and to dissuade them from early repayment. And it fails to restrict creditors' abusive practice of pressuring unsophisticated debtors into reaffirming their intention to repay even when they aren't legally obliged to.

This time around, senators from both parties are preparing amendments that might fix some of these abuses. The credit card industry, on the other hand, will be issuing reminders of the size of its campaign contributions. Experience shows that it will take presidential leadership to tip the scales against the lobbyists. Let's hope Mr. Bush delivers it.

[From the New York Times, Mar. 16, 2001]

A BUSINESS-DICTATED BANKRUPTCY LAW

Business interests generously supported Republican candidates in the last election and are now reaping the rewards. President Bush and Republican Congressional leaders have moved to rescind new Labor Department ergonomics rules aimed at fostering a safer workplace, largely because business considered them too costly. Congress is also revising bankruptcy law in a way long sought by major financial institutions that gave Republicans $26 million in the last election cycle. President Clinton wisely vetoed the proposal last year, but a nearly identical bill has passed the House and another version was approved by the Senate yesterday. President Bush fully supports the overhaul.

The legislation makes it harder for debtors to have their credit card and other unsecured debt erased under Chapter 7 of the bankruptcy code. Instead, a rigid formula would require more debtors to file under Chapter 13 and partially repay all their debts.

The nation's bankruptcy laws have long reflected a delicate weighing of society's interest in giving people in distress a fresh start against the rights of creditors. Proponents of this overhaul claim it is needed to curb abuses by high-income debtors who run up big debts and then use the bankruptcy code to avoid repaying them. But the House bill allows wealthy debtors to keep their pricey homes, if owned more than two years, out of creditors' reach, so it hardly furthers that avowed goal. The Senate, to its credit, voted to set a uniform $125,000 limit on the value of a house that can be shielded. We hope this approach prevails.

On the broader issue, there is scant evidence that bankruptcy abuse is rampant. Studies consistently show that those obtaining Chapter 7 protection are truly in dire straits. That is partly because the credit card industry frequently bombards even low-income Americans who have a checkered credit history with offers for high-interest loans. Now credit card issuers want the government to reduce all risk from their profitable business.

The legislation will weaken an important protection available to people who fall on hard times as the economy slows. Its timing is as poor as are its merits.

[From the Atlanta Journal-Constitution, Mar. 16, 2001]

CONGRESS, PRESIDENT SIDE WITH BANKS, NOT CONSUMERS

Consumer confidence is slipping lower as 401(k) balances shrink amid a Wall Street collapse. Economists fear that fretful Americans will curtail spending enough to turn the hint of a recession into the real thing.

What better time to send consumers the clear signal that if hard times befall them, the government will be on the creditor's side, not theirs? With breakneck speed, Congress and President Bush are moving to do just that, so anxious are they to repay the banks and credit companies that showered them with unprecedented torrents of campaign money last year.

Certainly, the bankruptcy bill rapidly making its way toward the president's desk, written as it was by the creditors' own lobbyists, could be worse. But it could be a whole lot better, and the timing couldn't be farther off-base.

The bill is being sold as necessary to prevent irresponsible high-rollers from escaping debts they could repay. To the extent the bill accomplishes that, it's a good thing. But it also makes it much more difficult for many of us who are middle class by the skin of our teeth to get a fresh start after an unexpected setback, such as a layoff, medical problem or divorce.

For more than a century, bankruptcy law in this country has allowed insolvent debtors to eliminate or reduce credit card and other debt that is not secured by collateral such as a house. Under Chapter 7 bankruptcy, people can erase most unsecured debt. Chapter 13 bankruptcy allows debtors to retain key assets, such as a house, in exchange for repayment of share of debt under a court-ordered plan. Three of four debtors choose Chapter 7.

The current bill would bar most people with income above the median ($39,000 nationally) from filing under Chapter 7 and eliminating credit card debt. Instead, they would be forced to file under Chapter 13.

What does this mean for you, if you're a middle-class worker forced into bankruptcy after a temporary layoff or other exigency? Even after you emerged from bankruptcy, the credit card companies would have as strong a claim to a share of your wages as would child support, alimony or other court-ordered obligation. In other words, your kids could get less of the pie so the banks could get theirs.

Although the scamming high-roller has received all the rhetorical attention, the truth is that most filers are anything but that. The median income is $22,000 a year, and about two-thirds file after an extended period of unemployment.

The bill is good business for the credit companies, though. They'll see even higher profits, about 5 percent higher next year. For companies like MBNA, which would see about $75 million extra, that's a whopping return on last year's investment in electoral campaigns of $3.5 million.

Meanwhile, the blizzard of credit card solicitations continue to blow. There probably is no law Congress could, or should, pass to stop credit companies from bombarding even the most bankruptcy-vulnerable consumers with solicitations for easy, high-interest debt. Democrats couldn't even pass an amendment to place limits on credit cards granted to minors without parental approval. The best check on those lenders' practices is the potential for losses when they give credit cards to consumers with bad credit history.

And we're sure to see a slew of people do just that in the coming year, with or without this bill, as the economic shakeout continues. For most Americans who are only dimly aware of this legislation, the awakening will be rude indeed.

[From the Boston Globe]

COMPOUNDING DEBT

If the credit-card companies really wanted to do something about bankruptcies, they would stop filling the mailboxes of America with ever-more enticing pitches for new credit cards. Instead, they have teamed up with the banks to push a new bill that harshly penalizes families that end up in bankruptcy. Most do so because they lose their jobs, get socked by medical bills, or go through a divorce.

Senator Edward Kennedy calls the bill the "turkey of all turkeys." Laid-off workers will have even worse names for it if it is enacted and the economic slowdown puts more employees on the street.

Kennedy and other Senators get their chance this week to amend legislation that swept through the House on a 306–108 vote and has already been approved by the Senate Judiciary Committee. President Clinton vetoed a similar bill last year, but President George W. Bush has said he would sign it.

The bill's major shortcoming is that it makes it too difficult for families drowning in debt to qualify for Chapter 7 bankruptcy, which lets them wipe out credit-card debt and other unsecured loans. Instead, they would be forced into Chapter 13, which requires sometimes onerous repayments. An especially objectionable provision would force parents and children to fight credit-card companies to get their hands on alimony or child support from debtors going through bankruptcy.

Supporters of the bill, many of them recipients of campaign contributions from credit card companies and banks, in the past election, say it is aimed at the profligate rich who try to walk away from their obligations. In fact, a 1999 study by federal judges found that the median income of debtors seeking bankruptcy protection was $21,500. Another study, done at Harvard, showed that in 1999 no fewer than 40 percent of all bankruptcies were due to unpaid medical bills.

Also, the legislation specifically ducks a chance to go after affluent debtors by keeping a loophole in current law that lets rich deadbeats in states like Texas and Florida shield their mansions in bankruptcy court. The credit industry had to swallow that provision to get the support of powerful politicians from those states.

Another less than creditable argument of the credit industry is that the rate of bankruptcy filings is out of control. Although the total did rise from 718,000 at the beginning of the 1990s to peak of 1.4 million in 1998, it has declined in each of the past two years. What has increased in recent years is the deluge of easy credit solicitations with which the industry swamps the country. According to the Consumer Federation of America, the industry sent out a projected 3.3 billion credit-card pitches last year, an increase of 14 percent over 1999. The Senate should tell the industry to cut back on them before it seeks a more punitive bankruptcy law.

[From the Chicago Tribune, Mar. 20, 2001]

CONTRIBUTORS TO IRRESPONSIBLE ACTS; CREDIT-CARD FIRMS NOT BLAMELESS IN BANKRUPTCY RISE

(By James Sollisch)

Last week the Senate voted 85–13 in favor of tightening the bankruptcy laws and I received nine solicitations in the mail offering me credit lines totaling more than I make in a year. Several were preapproved. The bill is being pushed hard by banks and credit-card companies, including MBNA, the largest donor to the Republican Party this past election year.

Credit-card companies believe people should take more personal responsibility for their debts. A noble aim. And a perfect time to pose the question, "Why not make banks and credit card companies take more responsibility for their lending practices?" Let's make the bill a responsibility in lending and borrowing bill—because there's certainly enough irresponsibility to go around. In 1999, more than 1.3 million Americans filed for bankruptcy. That's up from 650,000 in 1990. Last year, lending institutions mailed out more than 33 billion solicitations. Coincidence? Only in the same way tobacco companies tried to tell us that smoking and cancer were coincidences.

We've spent the past eight years making the tobacco companies take responsibility for their misleading practices. Why are we so eager to give credit-card companies a free ride? These are the friendly folks who interrupt your dinner five nights a week to offer you a zero interest credit card for six months if you transfer all 14 of your other balances. And did we mention you're preapproved? These are the good people who send you that fake check three times a week for $58,017—the amount of equity they figure you have in your home.

These are the decent corporate citizens who target college students, suggesting that a credit card is a smart way to pay for college expenses. Yeah, smart for the company that you repay at 18 percent when you could be repaying a college loan at 8 percent. These are the nice guys who still charge up to 24 percent in the states that will let them.

And these aren't just the small companies on the fringes of the industry—these are respected bricks and mortar institutions. I've gotten three equity lines of credit in the past 15 years on three homes. Each time the bank appraiser found that the value of my home was exactly the inflated number I estimated it to be on my application. How responsible is that?

Of course, lending institutions want us to be more responsible for our debt. But without more regulation of lending practices, lenient bankruptcy law is a much needed check and balance. If these companies want fewer people to go belly up on them, maybe they should tighten their lending requirements. If I invest in a risky stock—and who hasn't lately?—I'm not entitled to get my money back.

And that's what consumers are to credit card companies—investments. They're banking on our ability to repay them. So if they want safeguards, they should be willing to give up something in return. How about a solicitation tax? For every solicitation by phone or mail, the institution must pay a tax. The money could be used to educate consumers about the dangers of overextending their credit.

I'm sure the two chambers, which are about to reconcile their versions of the bill, can come up with additional ideas, some hopefully even more distasteful to the credit card lobby than a solicitation tax.

Mr. WELLSTONE. While I have the floor, I ask unanimous consent that my following remarks be included as part of morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the remarks of Mr. WELLSTONE can be found in today's RECORD under "Morning Business.")

Mr. REID. Madam President, I suggest the absence of a quorum and ask unanimous consent the time be charged equally against the proponent and opponents of the cloture motion now pending.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Madam President, I appreciate the opportunity to make some remarks about our bankruptcy bill that is now back before the Senate again. It is a bill that has been fought over, debated, improved, refined, changed and, I think, gained greater and greater support as we have proceeded.

I know there are some people who remain very emotionally in objection to it, but when analyzed carefully and the provisions in it examined, there is no doubt whatsoever in my mind that this bill is a major step forward for bankruptcy procedure in America.

Let me say what bankruptcy is and what it is not and what the bill is about. Bankruptcy occurs when an individual in America may be being sued and they can't pay their debt. The bill collectors are calling and their income just won't pay their debts. So they can go and file in a Federal bankruptcy court for relief under the bankruptcy laws. They can file under chapter 13, which says to the court, basically, I believe I can pay my debt back, but I can't live and be sued, have creditors calling me at home and that sort of thing. I will take a portion of my money. I will send it off to the bankruptcy court. You pay all my creditors in an orderly fashion, make sure they get paid, but keep them from suing me, harassing me, and bothering me, and then I will be able to recover and get back on my feet.

That occurs a lot. In some States it is very small. In some States only 5 percent of the individuals file under chapter 13. Other States, it is much higher. In my State of Alabama, where chapter 13 originated, the number is almost 50 percent of the filers—I believe it is 50 percent—in some parts of the districts that file under chapter 13. They find it has great advantages. They are able to keep their automobile, for example. They are able to keep their home, keep more of their goods and services. It allows them to stretch out payments, to reduce the interest rates. Normally, the interest rates drop down to zero or whatever, and then they pay it off on a regular basis. It stops the harassment that comes when people legitimately are trying to collect the money the individual owes to them.

That is a good system. Too few people utilize chapter 13. It has some good advantages for themselves, not just for the people they are paying off. It has real advantages for them.

The other process which is more widely used is to file under chapter 7. You are in debt. You go down to the bankruptcy court and it wipes out all your debts. The debts are wiped out. Then the person is able to start afresh and not owe anybody. That is the common thing. It is the traditional great American value. It is referred to in the Constitution that the United States shall establish uniform laws for bankruptcy.

It has always been thought of as something we would do in the Federal Government. Bankruptcy laws are handled in Federal courts, and, therefore, to improve them, unlike most collection cases, unlike most criminal cases that are in State courts, these are in a separate Federal court.

It is important, since the last 1978 bill that passed, that Congress study what has been happening with bankruptcy and see what we can do to improve it. That is what has occurred here. It is not unexpected that people who are dealing in bankruptcy every day and see how the system works would be people who would have some concerns about it and be able to make suggestions about how to improve it.

First and foremost, it ought to be a high value of America that those who incur debt should pay it back if they can. We do not need to get to a point in this society when people can borrow money from someone, promising to pay them back, and just not do so for light or insignificant reasons.

Let me mention the bankruptcy filing issue. We have had a tremendous number of filings. In 1980, 2 years after the new bankruptcy act passed, there were just 287,000 bankruptcy filings. By 1999, 19 years later, the bankruptcy filings had jumped to 1.3 million a year, a 347-percent increase. How did that happen? There are a lot of reasons for it. I suggest that a major factor for it is when you turn on your television at night on a cable station, or pick up your shoppers guide, there are advertisements and there are even billboards with lawyers saying: If you have got debt problems, call me and we will wipe them out. People call them. The lawyers don't get paid unless they take you to court and file for bankruptcy. So there is an incentive there to do that.

I want to mention something. In this 1998-99 period, we were in a very strong economy. Yet we reached the highest point of filings in history. This chart is a little bit out of date. It shows a drop in 1999. Around 2000, it has gone back up. But the numbers are much higher—maybe 3, 4 times what they were 20 years ago. We know we have a problem. Everybody knows that. I believe we can do something good for America.

Let me say this: After all the debate, we had a number of votes on this matter and had strong support each time. It is bizarre to me—and I came here in 1997—how hard it is to get a piece of legislation passed. The procedural posture of this bill is interesting. In 1998, the House passed a bankruptcy bill, and all of these are fundamentally similar to what we have today. It passed in the House 306–118. It passed the Senate 97–1. In 1999, it came back, and I think we recessed or something and we never got it to the President to have him sign it into law.

In 1999, it passed 313–108. In 2000, it passed the Senate 83–14. In the House, in 2000, it passed by a voice vote. It passed in the Senate 70–28 in 2000. In the year 2001, we came back again and the House passed it 306–108, and the Senate passed it 83–15. It still hasn't become law. How did this happen? At any rate, we are now moving to a point where we are going to make this happen. We have discussed and debated these issues, and we are excited now that we can perhaps see an end to this and have some real reform.

Let me mention one thing the bill does, which I think is significant. The bill provides that before you can go into bankruptcy court, you must at least inquire with a credit counseling agency, if there is one available in the community. The bankruptcy judge can certify if there is not one and would excuse this requirement. But most communities—virtually all of them—have a credit counseling agency. That agency is a voluntary group you can go to and discuss with them your debt situation and whether or not you have a chance to work your way out of it. They are very good with families. They bring in the mother, father, and sometimes the children, and they sit around the table and they discuss what is going on in the family's budget.

They call up this washing machine company that you have a debt with, or the bank, or the credit card company, and they say: We are a credit counseling company and we are licensed. This family is in trouble financially. If you will reduce the required payments, reduce your interest, we will commit to you to work with them and see that you get paid so much a month, and in a year, 2 years, 3 years, we will have you paid off. They may even ask them to reduce the amount owed. They may owe you $5,000 and there is no way they can pay that. They might say: They are thinking about bankruptcy. If you will agree to reduce your debt to $3,000, I believe they will pay you all of that.

Sometimes these people do that. Sometimes they work out a budget and they teach the family how to get out of debt and get on their feet and start their lives again. That is a very good thing. My friends in the bankruptcy bar don't do that. When people go to them in response to their ads on television, they go in and talk to them and they say: You have enough debt; we ought to file chapter 7 and wipe this debt out.

So the debt is wiped out, but nothing has been done to deal with the problem in that family that may have caused the debt to begin with. Sometimes there is a gambling addiction, a drug or alcohol problem, and sometimes there are illnesses and problems that maybe this credit counseling agency can help them get help for. Our bill says before you can file for bankruptcy, you have to at least talk to a credit counseling agency and see if they might have a plan for the debtor that might be better than simply filing bankruptcy.

I think a lot of people would choose that option. I don't know how many. It may be 2 percent or it may be 10 percent. But if they know about that option, they will find it will be something good for them to do. We should consider that.

Now, my friend from Minnesota is very aggressive about this bill. He is emotional about this bill. He says two different things. He says, well, only 3 percent of the people will qualify for this thing, so the bill should not pass. Then he says that everybody is going to have their bankruptcy protections eliminated and it is a harsh bill.

Let's talk about the core matter within the bill. The core part of the bill says if you make above median income in America—which is around $45,000 for a family of four—and you are able to pay back a certain percentage of the debt that you owe, you ought not to go into chapter 7 and wipe out all those debts. You ought to be required to go into chapter 13 and pay back the portion of those debts that you can—but under the court's protection, so nobody can sue you for debts and you can't receive phone calls and you are protected from harassment, but you pay the debt back. It is our view that if you can pay some of your debt, you should do that.

I think that is just and fair. I don't think the Federal bankruptcy law was ever conceived to create a situation in which a person can simply, routinely go in and file and wipe out all their debts, even though they can pay them back.

We have story after story of doctors and lawyers making $100,000-plus per year going in and wiping out all their debts and keeping right on with the salary they were making. I don't believe that is justice. I don't believe that is right. I believe we have a right and a responsibility to say if you can pay back some of that debt, you should do that.

How many people will be covered by that? I don't know. Maybe 10 percent, or less probably. But 90 percent of the people, because they will be making below median income, will be able to file in bankruptcy just like they do today with very little change.

So this catches only what I would say are the abuses. Senator WELLSTONE said it is 3 percent. Maybe it is only 3 percent who make above median income. If so, only they will be affected. Even then, if your debts are large enough, you will be able to stay in chapter 7 and wipe them out if the court finds you can't pay them. But if you are making $150,000 and you owe your neighbors and the bank and the hospital a total of $150,000, most people would try to work and pay those debts down in some fashion. But why should a person making that kind of income just wipe them all out? This would say you would go to the court and you have to submit a plan. The court will put you into chapter 13, and the court may say you ought to be able to pay half of those bills, and you will pay them out on a monthly basis over 3, 4, 5 years, and nobody can sue you, nobody can call you at night and harass you. They will take care of the payment of the debt. You simply have to set aside a certain amount of your money. You can't throw it all away and wipe out debts that you owe.

It is true that a lot of people go into bankruptcy because of medical debt, hospital debt, and things of that nature. They didn't have insurance and they owe a lot of money for debts. Well, hospitals are not evil people. They are good institutions. Presumably, they supplied a need that they gave somebody health care and treatment and an operation and surgery, and whatever they needed, or fixed their legs that were broken, or whatever. So are we to say just because it is a hospital debt and you have the money to pay them and you make above median income, that we should never pay a hospital debt?

What kind of thinking is that? We have this growing mentality in America today. It is—I do not know how to describe it, but it reflects a rejection of enforcement of contracts and laws and plain meaning of words.

We have this deal where one has an obligation to pay if one can—I think people should pay—but if you are not able to and you make below median income, you will be able to wipe out all the debts just as in current law today.

A lot of complaints have been made that families will be impacted and that this will be damaging to them. It has been said that the bill is incredibly harsh; that debtors file for bankruptcy for survival, and many do, and that this bill will stop all of that. I do not think that is correct. It was said this bill will eviscerate a major safety net in this economy for middle America.

Let me tell you who benefits from this. Women and children benefit from this. Under the bankruptcy bill, deadbeat dads with above-median income and a moderate ability to repay debts will be required to enter chapter 13, just as I noted, supervised by a bankruptcy judge for 5 years. The deadbeat dads must pay all past due alimony and child support before the bankruptcy judge will confirm the 5-year plan. This Federal judge will make sure that alimony and child support are paid and paid first, ahead of the debts.

Under current Federal law in bankruptcy—and if we reject this bill, we will stay under current law—under current Federal law, child support and alimony payments rank seventh in the list of priority debts to be paid off in a bankruptcy proceeding. Incidentally, attorney's fees are now No. 1. This bankruptcy reform bill, on the other hand, reorganizes the priorities in a way that makes sense. Women and children come out to be No. 1 every time. This new priority list elevates child support and alimony payments to the top priority ensuring that those payments are made before any others, even above attorney's fees.

That is a historic step forward for women and children in America. Why anyone who claims to want to benefit children to further child support payments would want to kill this bill is beyond me.

It provides an automatic stay which is a trick some debtors have been using to get out of paying child support payments after they file for bankruptcy. In bankruptcy, they are given an automatic stay. That means the child support collection agencies that were trying to sue them for child support have to stop their lawsuit when a bankruptcy is filed. That is one of the principles of bankruptcy.

Once a bankrupt files, every litigation against that bankrupt is stayed and is brought into the bankruptcy court, not the State courts unconsolidated, so the bankrupt can get his life together and not be sued in every county and State where he owes money. It is a good thing, but that stay can be abused when it comes to child support.

This legislation ends that practice by exempting child support and alimony support obligations from the automatic stay. They have to continue to pay and the lawyer or the State child support agency that is seeking to collect child support on behalf of a mother and children will be able to continue their efforts to collect the money, even though the deadbeat dad has filed for bankruptcy.

What about past due alimony and child support? The bill requires that a parent filing for bankruptcy must fulfill both their current and past due child support and alimony obligations before a judge can confirm a bankruptcy plan. They will ensure that the custodial parent gets effective and timely assistance from child support collection agencies by requesting the bankruptcy trustee and administrator to notify the parent and the State child support collection agency whenever a debtor owing child support or alimony files for bankruptcy. This notice will provide vital timely information to the custodial parent so that he or she can request help from the State child support enforcement agency if they desire.

What does all this mean? Jonathon Burris, of the California Family Support Council, put it in an open letter to Congress: The provisions included in this bill are "a veritable wish list of provisions which substantially enhances our efforts to enforce support debts when a debtor has other creditors who are also seeking participation in the distribution of the assets of a debtor's bankrupt estate."

In addition, Philip Strauss of the district attorney's Family Support Bureau—and most district attorneys around the country have as one of their obligations collecting child support on behalf of indigent spouses and children—wrote to the Judiciary Committee to express his unqualified support for the bill.

He notes that he has been in the business of collecting child support for 27 years. He knows what he is talking about. Mr. Strauss notes that the National Child Support Enforcement Association, the National District Attorneys Association, and the Western Interstate Child Support Enforcement Council support his views and support this bill.

I think that should put to rest any allegation that somehow we are abusing children in this legislation, that somehow it is harsh and not actually beneficial to them.

When a parent who is not paying child support and makes above-median income is forced into chapter 13 for 5 years, they are under a Federal judge's watch and order that entire time. During that 5 years, they have to send their money for child support or they can be held in contempt of court by the bankruptcy judge or have their bankruptcy benefits all thrown out. That to me is a benefit for families and children that is little understood.

There has been a lot of talk about credit cards. Remember, our bill focuses on how to process bankruptcy cases in bankruptcy courts. What kinds of notices that go on credit cards, how they declare their interest, what kinds of rules should cover them is a banking matter that is covered by an entirely different committee of this Congress, the Banking Committee.

The chairman of the Banking Committee has agreed to allow some provisions to be put in this bill, but he asserts his prerogative and the Banking Committee's prerogative, and has done so, to handle any major reform of credit card laws.

That is not what we are about in this legislation. This is bankruptcy court reform. It is not to reform all problems of credit in America, although we have some, and I am sure we will make progress on them.

I inquire, Madam President, about the time.

The PRESIDING OFFICER. The Senator has 34 minutes remaining.

Mr. SESSIONS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Madam President, we are about to vote on the cloture motion to proceed to the bankruptcy bill. I strongly urge my colleagues to vote for cloture.

I would like to say at the outset that I am pleased Senator DASCHLE has decided to move forward with the bankruptcy bill. It's only fair that we go through the regular order on bankruptcy, which is to take up the House-passed version, substitute that with the Senate-passed bill, and then proceed to conference to resolve differences between the two bills. The Senate bill, S. 420, went through proper procedure—in the 107th Congress, the Judiciary Committee held a hearing and markup of the bill, and then there was extended debate and amendments on the floor. In March, S. 420 passed out of the Senate by a vote of 83 to 15.

But, to tell you the truth, a bankruptcy bill should have been signed into law last year. We've been working on bankruptcy legislation for three Congresses now. The bill has passed both houses several times. Last year, the bill was unfortunately pocket-vetoed by President Clinton at the very last minute. The main reason we don't have a bill enacted into law is because of the determined efforts of certain Senators to delay and obstruct the process, even though a large bipartisan majority of the Congress supports bankruptcy reform. Certain Senators have made a point of impeding progress on this important reform measure every step of the way. They've done this because left-wing interest groups think that bankruptcy should be easy. But the majority of us here in Congress don't think that should be the case.

The bill reforms the bankruptcy system to require repayment of debts by individuals who have the ability to pay their bills, by reinstituting personal responsibility in a bankruptcy system that is now all too often being used as a financial tool for deadbeats. It is clear that the bill reinjects an individual's personal responsibility in regard to his or her financial situation, while at the same time protecting the right of debtors to a financial fresh start when they are in a situation where they cannot repay their debts or have fallen on hard times through no fault of their own. I repeat, the bill does not eliminate bankruptcy as a recourse for people who come on hard times. In fact, the bill clearly indicates that it there is a change in the circumstances of a debtor, that will be taken into account. And that includes the loss of a job or unexpected medical expenses.

Furthermore, the bill strengthens protections for child support and alimony payments by making family support obligations a first priority in bankruptcy, up from number seven. What could help women and children more than moving family support obligations to the first priority in bankruptcy? We can't move them higher than number one, we've put women and children at the top. The bill makes staying current on child support a condition of discharge—debt discharge in bankruptcy is made conditional upon full payment of past due child support and alimony. So the bill makes payment of child support arrears a condition of plan confirmation. In addition, the bill gives parents and state child support enforcement collection agencies notice when a debtor who owes child support or alimony files for bankruptcy.

The bill requires bankruptcy trustees to notify child support creditors of their right to use state child support enforcement agencies to collect outstanding amounts due. I think that these provisions will help ensure that women and children are up front when there is a bankruptcy.

The bill does a lot more to help reform the bankruptcy system. For example, the bill makes permanent chapter 12 bankruptcy for family farmers and lessens the capital gains tax burden on financially strapped farmers who declare bankruptcy. As you know, we just extended chapter 12 for a few more months. It's high time that Congress get down to business and make chapter 12 permanent. I know that this is an important provision for many Senators out in farm country.

In addition, the bill creates new protections for patients when hospitals and nursing homes declare bankruptcy. This was the subject of a hearing that I held in the Aging Committee when I chaired that committee, and so the bankruptcy bill will provide a "patient's bill of rights" to the elderly residents of bankrupt nursing homes.

Finally, the bill requires that credit card companies provide key information about how much people owe and how long it will take to pay off their credit card debt by only making a minimum payment. To help do that, the bankruptcy bill provides a toll-free number to call where individuals can get information on the length of time it will take to pay off their own credit card balances if they make minimum payments.

The bill prohibits deceptive advertising of low introductory rates, and provides for penalties on creditors who refuse to renegotiate reasonable payment schedules outside of bankruptcy. The bill strengthens enforcement and penalties against abusive creditors for predatory debt collection practices. And the bill includes credit counseling programs to help avoid and break the cycle of indebtedness. So, the bankruptcy bill that the Senate passed actually contains some of the most proconsumer provisions we've seen directed toward the credit industry in years.

The reality is that a large majority of the Senate voted for this bill. It's clear to me that the majority of Senators want a bankruptcy bill to pass. We've worked on bankruptcy legislation for three Congresses now, and it is time for us to get down to the business of getting this bill over the goal line once and for all.

We already had an overwhelming vote on the Senate bill—83 to 15 votes. So I'm urging my colleagues to vote for cloture.

Madam President, since I do not see other people ready to speak, I suggest the absence of a quorum. I ask unanimous consent the time for the quorum call be evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Utah.

Mr. HATCH. Madam President, I am pleased to be here today to support the motion to proceed to H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001. As my colleagues may remember, the Senate counterpart to this legislation, S. 420, passed this Chamber in a bipartisan vote of 83–15 on March 15. Additionally, the conference report to last year's bill, H.R. 833, passed the Senate by a similarly wide margin just last December, but was pocket-vetoed by President Clinton at the very end of the legislative session.

Today, we are beginning what I hope will be the final leg of a legislative marathon, a leg I hope we can complete soon. This bill has passed both bodies in the 105th, 106th, and now the 107th Congress. It is time to wrap up this debate, reach consensus and present a good bill to the President for his signature so American consumers can reap the benefits.

I would like to briefly recount the legislative history of S. 420 during this Congress. S. 220, the Bankruptcy Reform Act of 2001 was introduced by Senator GRASSLEY in January and contained the same language as last year's conference report. That bill was given a hearing and amended in mark-up by the Judiciary Committee. After that the committee's bill was reintroduced as S. 420 by Senator GRASSLEY and others, and, after extensive floor debate and the adoption of several important amendments, it passed the Senate in an overwhelming vote. As you can tell, many compromises and agreements have already been reached on this bill. I look forward to working with members of the conference to reconcile the few remaining differences between the two bills.

Let me just take a minute at this point to talk about the highlights of this legislation.

First, it includes new consumer protections under the Truth in Lending Act, such as new required disclosures regarding minimum monthly payments and introductory rates for credit cards. It also protects consumers from unscrupulous creditors with new penalties for creditors who refuse to negotiate reasonable payment schedules outside of bankruptcy.

This bankruptcy reform act also requires credit counseling to help people avoid the cycle of the indebtedness. It provides for protection of educational savings accounts, and gives equal protection to retirement savings in bankruptcy.

The legislation would also put a stop to letting deadbeat parents use bankruptcy to avoid paying child support. It will also put an end to paying the lawyers ahead of children who rely on child support. It gives child support and other domestic support obligations first priority status. I am proud to have worked with Senators TORRICELLI and DODD on these important reforms. I am also proud to have cosponsored Senator CLINTON's amendment that further improved these provisions.

Current bankruptcy law simply is not adequate, and frankly I was outraged to learn of the many ways deadbeat parents are manipulating and abusing the current bankruptcy system in order to get out of paying their domestic support obligations. The bill is a tremendous improvement for children and families over current law. That is why there is such overwhelming support for this legislation from the child support professionals across the country—the very people who go after deadbeats to get children the support they need. In fact, this bill includes a key provision that makes the full payment of past due child support and alimony a condition of getting a discharge in bankruptcy.

I also am pleased to have worked with the chairman of the Judiciary Committee, Senator LEAHY, to include for the first time, privacy protections in bankruptcy. That language protects personally identifiable information given by a consumer to a business debtor by adding new privacy protections to the bankruptcy code and by creating a consumer privacy ombudsman to appear before the bankruptcy court.

Now, I am the first to acknowledge that there are things I would like to see changed in the bill, but I recognize that we all have cooperated and compromised in order to enact this legislation that provides new consumer protections, helps children in need of child support, and makes other necessary reforms to a system that is open to abuse.

I want to emphasize emphatically that his legislation does not make it more difficult for people to file for bankruptcy, but it does eliminate some of the opportunities for abuse that exist under the current system. Our current system allows certain people with the ability to pay to continue to abuse the system at the expense of everyone else. People with high incomes can run up massive debts, and then use bankruptcy to get out of honoring them. In the end, all of us pay for the unscrupulous who abuse the system. In fact, it has been estimated that every American family pays as much as $550 a year in a hidden tax for these abusers. The bankruptcy reform legislation will help eliminate this hidden tax, by implementing a means test to make wealthy people who can repay their debts honor them. I support we could call this a tax cut for the responsible person.

There are numerous examples of people who take advantage of loopholes today at the expense of everyone else. A few months ago, I heard from the president of a credit union in Wisconsin, who told me about a young couple who wanted a "clean financial slate" before they got married. What did they do? They ran up their credit card purchases. One of them prepaid on a car loan with the credit union to have the other cosigner released. Then, although they were both employed full time, they filed for bankruptcy to wipe out all their debt. The credit union—and its members—had to eat the $3,000 in credit card debt and another couple of hundred dollars on the car.

Bankruptcy relief was never meant to allow this kind of abuse. Hard-working Americans, including the members of credit unions nationwide, have been victimized by abusers of the current bankruptcy system long enough.

Bankruptcy abuse also hurts our nation's small businesses. Without reforms from this bill, losses from bankruptcy abuse will continue to break the backs of the Nation's small businesses and retailers, which work with slim profit margins and have even smaller margins for error.

Make no mistake: Misrepresentations about this legislation are still running rampant by those who oppose any meaningful bankruptcy reform. Yet despite the allegations of opponents of reform,the poor are not affected by the means test. The legislation provides a "safe harbor" for those who fall below the median income, so they are not subjected to the means test at all.

Another misrepresentation I have heard again and again is that this legislation won't let people file for bankruptcy relief when they need it. The fact is, this legislation does not deny anyone access to bankruptcy relief, it just requires those who have the means to repay their debts based on their income to do so. It is that simple.

Opponents of this legislation have also waged the claim that it somehow hurts women and children. This falsehood is a particularly disturbing for me to hear, because I have had a long history of advocating for children and families on Congress, and I have worked tirelessly, provision by provision, to make this legislation dramatically improve the position of children and ex-spouses who are entitled to domestic support.

It can be difficult to get the word out, when misrepresentations abound, about what bankruptcy reform legislation really does.

I am optimistic that this much needed bankruptcy reform legislation will be signed into law this year. We have a no-nonsense President in the White House, who understands the importance of personal responsibility. Let's get through these necessary housekeeping votes and move to enact meaningful bankruptcy reform.

I said many times during the debates on bankruptcy that the American people have waited long enough to have these improvements in the bankruptcy code that are fair to everybody and that basically require people to be responsible instead of irresponsible.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I heard the Senator from Alabama, and I believe I heard the Senator from Utah as well, say that the core of the bill is the means test, and all the means test does is force people to go into chapter 13. Therefore, the benefit doesn't affect low-income people, contrary to what I have said in this debate.

The means test is only 9 pages out of a 200-page bill. If the means test was all this bill consisted of, then this bill would have passed 2 years ago or 2½ years ago.

The bankruptcy bill purports to target abuses of the bankruptcy code by wealthy scofflaws and deadbeats who make up, by the way, 3 percent of all the filers, according to the American Bankruptcy Institute. Yet hundreds of thousands of Americans file for bankruptcy every year, not gaming the system—I need to say it more times—but because they are overwhelmed with medical bills.

Unfortunately, there are at least 15 provisions in S. 420 that make it harder to get a fresh start, regardless of whether the debtor is a scofflaw or a person who must file because they are made insolvent because of their medical debt or because they have lost their jobs or because of a divorce in the family and they are now a single parent with children. These measures not only include but also are in addition to the means test. If the means test was the whole piece of legislation, it would be quite a different story.

Neither the means test nor the safe harbor in the bill apply to the vast majority of new burdens that are placed on debtors.

Under S. 420, debtors will face these hurdles to filing regardless of their circumstances.

An analysis in the Wall Street Journal last week put it this way. These are not my words:

> The bill is full of hassle-creating provisions, some reasonable, and some prone to abuse by aggressive creditors trying to get paid at the expense of others. In a thicket of compromises, Congress is losing sight of the goal of making sure that most debtors pay their bills while offering a fresh start to those who honestly can't.

That is the Wall Street Journal analysis.

This amendment will preserve the fresh start for those debtors who honestly can't make it because they are drowning in medical debt.

My colleague from Alabama said this is a bankruptcy bill. It only deals with the bankruptcy code and bankruptcy court reform, including banking measures targeted at credit card companies that Senator WELLSTONE suggested is inappropriate.

Why is it inappropriate? If the point of this legislation is to reduce bankruptcy, then it would seem to me that we might want to take a look at the big banks and credit cards that have been pushing for their legislation. They are the only ones pushing for this legislation. You are hard pressed to find a bankruptcy judge that supports this legislation. You are hard pressed to find a bankruptcy law professor, a bankruptcy expert of any kind, anywhere, any place in the U.S.A. that backs this bill. This bill was written for the lender. It is that simple.

That is why this piece of legislation doesn't hold them accountable. It has basically been written for them.

It is ridiculous on its face that this legislation divorces irresponsible behavior of the credit card companies from the high number of bankruptcies. All of the evidence points to the fact that lenders and their poor practices are a big part of the problem. It is outrageous that we don't confront them. There isn't a parent in this country that is not well aware of the ways in which these credit card companies are constantly pushing these loans onto our children or onto our grandchildren. Everybody knows we are bombarded with it all the time.

Both the House and Senate bills basically give a free ride to banks and credit card companies that deserve much of the blame for the high number of bankruptcies because of their loose credit standards. But even the Senate bill does very little to address this issue. There is a minor disclosure provision, and that is it. It is pathetic. Lenders should not be rewarded for reckless lending.

Where is the blame? If we are holding the debtors accountable, why aren't we holding the lenders accountable?

Again, I want to make the argument one more time. I think we know the answer. This legislation has the support of a lot of people, and the President says he supports it. As a matter of fact, there are going to be precious few votes against cloture.

I am going to come back out here next week again and try to delay this bill. I am not arguing one-to-one correlation of any one Senator's vote on this legislation, but at an institutional level in terms of, if you will, where the mobilization of bias is. It seems to me it is crystal clear that this legislation is a tribute to the power and clout of the financial service industry in Washington. Let's call it what it is. This legislation is a tribute to the power and the financial might of the industry that has plowed millions and millions of dollars into this Congress.

Why has Congress come down so hard on ordinary folks who are down on their luck? Why is it that this legislation is so skewed towards the interest of big banks and big credit card companies?

I think the people who are going to be affected in a very harsh way are the 50 percent who file for bankruptcy because of medical bills. It is a double whammy—a medical bill you can't afford to pay, and maybe you can't work because of your illness or sickness or maybe it is your child's sickness or illness. A large part of the rest are people who are either out of work or because of the dramatic rise in single adult households by women because of divorce with children.

Do you want to say these people are deadbeats? I think these families just do not have these million-dollar lobbyists representing them. They do not get hundreds of thousands of dollars in soft money such as either the Democratic Party or the Republican Party. They do not spend their days hanging outside the Senate Chamber to bend a Member's ear. I think what happened is the industry just got to us first.

The truth is—and I will conclude on this note—outside this building there is hardly any support for this legislation. It is a bad bill. It punishes the vulnerable and rewards the big banks and credit card companies for their poor practices.

I will tell you something. I am just trying to delay this, and then we will do it again next week. There are going to be very few votes, but I will say, even to my colleague from Iowa, who I insist is probably one of the best Senators in the Senate—I believe that; otherwise, I would not say it—this bill makes no sense to me. First of all, it made no sense to me when we started on this issue a number of years ago because the arguments were sort of outpaced by the data because all the bankruptcies supposedly were taking place. We were chasing a problem that did not exist, according to all the studies.

Now we are heading into difficult times. We are heading into hard economic times. More people are losing their jobs and medical costs are going up. We are going to make it hard for people to rebuild their lives. We are going to make it hard for people to rebuild their financial lives.

This piece of legislation is too one-sided, and it is too harsh. I will tell you, it is just testimony to the power of this industry. I do not do any damage to the truth when I say that when I am in a coffee shop in Minnesota, I do not—I repeat this again—have people running up to me saying: Please, Senator WELLSTONE, pass that bankruptcy "reform" bill because we think you ought to go after all the deadbeats and all the people cheating, although you have no evidence to support that you have a lot of cheaters—not when 50 percent of the people who file it do so because of medical bills, with more and more people losing their jobs, and, as I say, the most dramatic rise is among single adult women who head households.

People do not come up to me and say: Please, do that. They want to talk about the health care costs going up. They want to talk about a fair price, if they are farming. They want to talk about their children and education. They want to talk about the struggle to find a good job that pays a good wage so they can support their families. They want to talk about the costs of higher education. They want to talk about their concern that they will not have a pension. That is what they want to talk about.

What in the world is the Senate doing making this a priority? The folks with the clout, with the power, and with the money got here first. I think that is what this is all about. I am going to continue to oppose this legislation.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ELECTING JERI THOMSON AS SECRETARY OF THE SENATE

Mr. DASCHLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 129) electing Jeri Thomson as Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 129) reads as follows:

S. RES. 129

Resolved, That Jeri Thomson be, and she is hereby, elected Secretary of the Senate, effective July 12, 2001.

ADMINISTRATION OF OATH TO THE SECRETARY OF THE SENATE

The PRESIDENT pro tempore. The Secretary-elect will present herself to the podium for the taking of the oath.

The Honorable Jeri Thomson, escorted by the Honorable TOM DASCHLE and the Honorable TRENT LOTT, advanced to the desk of the President pro tempore; the oath prescribed by law was administered to her by the President pro tempore.

[Applause, Senators rising.]

NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF JERI THOMSON AS SECRETARY OF THE SENATE

Mr. DASCHLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 130) notifying the House of Representatives of the election of a Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 130) reads as follows:

S. RES. 130

Resolved, That the House of Representatives be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

NOTIFICATION TO THE PRESIDENT

Mr. DASCHLE. Mr. President, I send a third resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 131) notifying the President of the United States of the election of a Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 131) reads as follows:

S. RES. 131

Resolved, That the President of the United States be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

Mr. DASCHLE. Mr. President, I might take a moment to speak on behalf of what I know is the entire Senate body but in particular the Democratic caucus in congratulating Jeri Thomson. She has been a professional's professional for the last 30 years.

She has served, as most of our colleagues know, as the Executive Assistant/Democratic Representative in the Office of the U.S. Senate Sergeant at Arms. Her responsibilities included managing all institutional issues for the Senate leader and all Democratic Senators. She had the responsibilities for all the plans and the implementation of the issues conferences and other events for the Democratic caucus and managed all aspects of participation by Democratic Senators in the national party conventions.

But that is just the latest in a series of responsibilities that she has had that go back now almost three decades.

She was the Assistant Secretary of the U.S. Senate from 1989 to 1995. She served as the Chief Operating Officer of the Secretary of the Senate, managing 12 departments with approximately 250 staff members. Her responsibilities at that time included budgeting, policy and program development, and implementation of human resources management. The administrative reform and modernization programs were under her responsibility as well.

Prior to serving in that capacity, she was a senior staff member to Senator John Tunney; special assistant to the Sergeant at Arms; and the Deputy Director of the Democratic Congressional Campaign Committee.

Jeri received her bachelor of arts from the University of Washington. She was Kodak fellow at Harvard University's program for senior managers in government. She was selected as one of the 100 top data processors in government, industry, and academia for her work in automating the legislative processes and procedures in the Senate in 1993.

That is her resume. What you don't know in reading the resume is what kind of person she is. I know of no more dedicated person in the Halls of Congress than Jeri Thomson. I know of no one I have had a greater joy working with than Jeri Thomson. I know of no one who loves this institution more than Jeri Thomson. I know of no one who has greater respect among our colleagues in the Senate than Jeri Thomson.

It should come as no surprise that Jeri Thomson is now our Secretary of the Senate. I commend her for all she has done. I thank her for what she has now agreed to do. I wish her well as she begins this very important new responsibility.

I might add that her family, David James and two daughters, Kaitlin and Kristin, and mother Louise are all here to help celebrate this momentous occasion. We welcome Jeri's family. We thank them for being a part of this celebration and we wish them and Jeri well as they begin.

I yield the floor.

The PRESIDENT pro tempore. The Republican leader.

Mr. LOTT. Mr. President, I certainly join the distinguished Democratic leader in congratulating Jeri Thomson on her selection and election to be the Secretary of the Senate. I know that Senator DASCHLE, as majority leader, will have a very effective Secretary of the Senate in this fine person and that she will do her typical nonpartisan, fair and efficient job in this role.

We know Jeri. She has been here a long time. She is one of the institutions, if I might say—except for age, of course—of the Senate. She has always been very fair and very reasonable in her dealings with the Republicans in the Senate. We appreciate that. We know that is the way that she will proceed in the future. This is a very important role. If you go back and look at the history of the Senate, Senator BYRD certainly can tell us that this is a position we have had for years. The first Secretary was chosen on April 8, 1789, two days after the Senate achieved its first quorum for business. It is a very important role in the functioning of the Senate—the paperwork, administratively, the computers, the people serving here in the Chamber. There are so many important roles that that position requires careful consideration of, and work and development. I know she will do that.

I urge Jeri Thomson to do as I urged her predecessor, Gary Sisco, in that position, to make sure you do such a job that when you leave the position, the office and the position will be even better than it was when you took it over. I know you will do that. We extend to you our best wishes and our cooperation.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I offer my personal congratulations and all good wishes to Jeri. I think she is going to be a superb Secretary of the Senate. What most people don't know about Jeri Thomson is that not only is she a talented professional, but she is a very nice person. She and I had knee surgery at approximately the same time, and I really never had a better friend during that period. She sent me books to read, made phone calls, even sent me a special pillow that could be used to help the pain from one knee to another. It was a wonderful gesture.

In the course of discussions about our relative injuries, over the past almost year now, I have come to know her very well. This is truly a distinguished woman because it is very hard to be an excellent professional and also to take the time that is necessary to reach out a hand to make someone feel a little bit better.

Jeri, you are all of the above. Congratulations and godspeed.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mrs. CARNAHAN assumed the chair.)

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I was very pleased to see Jeri Thomson become the new Secretary of the Senate. Knowing my own days as a brandnew Senator, the role of Secretary of the Senate was very important, and it is even more important now. I am delighted she is here.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—MOTION TO PROCEED—Continued

Mr. LEAHY. I understand that the time of the swearing in and the comments may have affected the time as to our 12 o'clock vote. Can the Chair advise me how much time is remaining under controlled time prior to the vote?

The PRESIDING OFFICER. The Senator from Minnesota has 21½ minutes.

Mr. WELLSTONE. I say to my colleague, I think colleagues are expecting a vote at 12. I yield the next 15 minutes to the Senator from Vermont if he wants it.

Mr. LEAHY. I probably won't even use all of that. I thank the Senator from Minnesota for his customary courtesy.

I suggest that we make a few comments, and I will certainly support whatever moves to yield back whatever time we may have so that we can vote at 12. The Senator from Minnesota is absolutely right, Senators are expecting this noon vote.

After today's vote on the motion to proceed, I am going to send an amendment to the desk for myself, the distinguished Senator from Utah, Mr. HATCH, and the Senator from Iowa, Mr. GRASSLEY, and ask for its immediate consideration. So that Senators will know, this amendment will be the text of S. 420, the Bankruptcy Reform Act of 2001, as it passed the Senate on March 15 by a vote of 83–15. I was one of the 83, as were Senators HATCH and GRASSLEY. I voted for the Senate form because it marked a bipartisan effort on the Senate Judiciary Committee and Members on the floor. We worked in the committee and then in the Chamber to produce a more fair and balanced bill because of our bipartisan amendment process.

During our consideration of the Bankruptcy Reform Act, Democratic and Republican Senators authored and passed 38 amendments between the Judiciary Committee and the Senate floor. That improved the bill. I will certainly be able to vote for it on the floor. I will be able to vote for that in conference.

We adopted the Leahy-Hatch amendment to protect the personal privacy of consumers whose information is held by firms in bankruptcy. Our amendment permits bankruptcy courts to honor the privacy policies of business debtors and creates a consumer privacy ombudsman to protect personal privacy in bankruptcy proceedings—the first ever in Federal law.

Unfortunately, we had to do this. The reason the Leahy-Hatch amendment is needed is that the customer lists and databases of failed firms can now be put up for sale in bankruptcy without any privacy considerations. Just so people who don't spend much time on the Internet will understand what I am talking about, many times you go into a Web site and they will have a very clear privacy policy where they say: We will never share your name, disclose your address or your information. They may well mean it. For example, you may have a case where you want your children to be able to go on, but under the clear privacy—they may be children's books or anything else. They are willing to have your children go there, and you rely on the privacy line that says, "Under no circumstances will we reveal these names."

But then if the Web site goes into bankruptcy, the bankruptcy court is faced with this kind of a situation. They look at the failed company, and they say they have a few outdated computers, they have a couple scuffed-up desks, a building. They do have one thing that may be worth something, one asset, and that is the list of all the people who have gone there—the names of your children and everybody else who may be on there. The bankruptcy court is put in this kind of a Hobson's choice. They are sworn to have to seek the best return on whatever assets remain for the creditors. Yet the people who created the assets, those who visit the Web site, are promised nobody is ever going to disclose their names. So this will at least ameliorate, or go a long way toward solving, the problems there.

We adopted the Schumer amendment to prevent the discharge of debts from violence against reproductive health service clinics.

During our hearing on bankruptcy reform legislation, Maria Vullo, a top-rated attorney, testified about the need to amend the bankruptcy code to stop wasteful litigation and end abusive bankruptcy filings used to avoid the legal consequences of violence, vandalism, and harassment to deny access to legal health services.

If somebody is going to break the law and use violence against health clinics, and somebody then brings a suit against them to recover for damages because of their violence, they should not be able to say: I am going to get away with this and go into bankruptcy court. They should not be shielded by bankruptcy.

We adopted the amendment of the distinguished Senator from Wisconsin, Mr. KOHL, to cap homestead exemptions at $125,000, to limit wealthy debtors from abusing State laws to hide million-dollar mansions from their creditors. If somebody knows they are going to declare bankruptcy, they can take whatever cash on hand and in certain States buy a multimillion-dollar mansion knowing they might be protected. Senator KOHL has been a champion of closing this loophole for the rich.

At our hearing in the committee, Brady Williamson, the former chair of the National Bankruptcy Reform Commission, testified that ending homestead abuse was a key and consensus recommendation from the Bankruptcy Reform Commission. They all joined on that.

Last month, the Florida Supreme Court issued a ruling that underscores the need for a national homestead cap to prevent bankruptcy abuses. The highest court in Florida ruled a debtor can still keep the full value of his home even if the homestead is acquired with the specific intent to hinder, delay, or defraud creditors. That should not be the rule.

We adopted several amendments by Senator FEINGOLD to strengthen chapter 12 to help family farmers with the difficulties they face. I hope we can finally make chapter 12 a permanent part of the bankruptcy code. Family farmers and ranchers deserve these protections to help prevent foreclosures and forced auctions.

I know Senator GRASSLEY and Senator CARNAHAN, the distinguished Presiding Officer, and other Senators on a bipartisan basis strongly support permanent bankruptcy protection for family farmers, and I am proud to join Senator GRASSLEY and Senator CARNAHAN in that support.

The complex and competing interests involved in achieving fair and balanced reforms of our bankruptcy system demand we work in a bipartisan manner throughout the legislative process.

I look forward to working with Senators and Representatives on both sides of the aisle to further improve this legislation in conference.

Madam President, I see the distinguished Senator from Iowa is here. I ask unanimous consent that at noon, all time, held by whomever, be deemed to have been yielded back, and we will be prepared then to vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, I stand here today not in opposition to moving forward with the Bankruptcy Reform Act, but to send a clear message that I continue to have strong reservations about whether this bill is both balanced and responsible. I have long said that debtors that have the genuine capacity to repay some of their debt should be required to do so, but abuses by creditors need to be stopped.

I grew up with a father who never accepted any credit—never had a credit card in his life. He taught me the importance of always working hard and paying your debts. I believe every American should work hard to spend responsibly and to repay their debts, but I also know that some families are hit by unexpected hardships.

This bill should not have the effect of targeting our most vulnerable consumers—women who are left with little resources as their husbands who were the primary breadwinners leave the family; or families with no health insurance who are struck with financial hardship when one family member becomes critically ill; or another family who suddenly finds that the primary breadwinner is laid off with little employment opportunities available in the region.

These are not the families who need to be further stuck by hardship of bankruptcy reform that is inflexible or overly harsh on debtors.

I voted for the S. 420, the Bankruptcy Reform Act of 2001, because I believed and still do believe that there were some important protections added to the Senate bill, but I will absolutely not vote in favor of the final bankruptcy reform bill if it does not include at least these minimal protections for our most vulnerable consumers.

During the floor debate on S. 420, the Bankruptcy Reform Act of 2001, I worked with my colleagues on both sides of the aisle to add additional protections for women and children. I worked hard to ensure that once bankruptcy is complete, we do more to ensure that single mothers can collect the child support they depend upon. Senator HATCH and I passed an amendment to ensure that the holder of the claim, meaning the parent with custody of the child, most often the mother, is informed by the bankruptcy trustee of his or her right to have the State child support agency collect the nondischargeable child support from the ex-spouse. I believe this change will help inform women of their rights to have the State help them in their claims to collect child support.

In addition, I was concerned about competing non-dischargeable debt so I worked hard with Senator BOXER to ensure that more credit card debt can be erased so that women who use their credit cards for food, clothing and medical expenses in the 90 days before bankruptcy do not have to litigate each and every one of these expenses for the first $750.

These are the most minimal of changes that I believe need to be in the final bill. I still do not believe that they go far enough. I believe that the final bill should protect child support full stop. I do not believe that child support should have to compete with any credit card debt. But it should certainly not retreat from these changes. The cap on protected expenses should not be lowered to the House version of $250.

I also believe that the bill needs to include Senator SCHUMER's amendment to ensure that any debts resulting from any act of violence, intimidation, or threat would be nondischargeable. It was a victory for the Senate to include this important amendment to ensure that those who are responsible for violence against women's health clinics are held responsible for their actions. I do not believe we should retreat on this point.

Let me be clear. This bill should go further to protect consumers, but it should certainly not retreat from the consumer protections in the bill.

I will vote for cloture on this bill, but I believe that as we move to conference we need to continue to work to ensure that we continue to gain more balance between creditors and debtors.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 17, H.R. 333, the bankruptcy reform bill:

> Harry Reid, John Breaux, James M. Jeffords, Ben Nelson of Nebraska, Daniel K. Inouye, Max Baucus, Blanche L. Lincoln, Evan Bayh, Zell Miller, Joseph I. Lieberman, Byron L. Dorgan, Daniel K. Akaka, Kent Conrad, Chuck Grassley, Robert Torricelli, and Joe Biden.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 333, an act to amend title 11 of the United States Code, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. REID. I announce that the Senator from Washington (Ms. CANTWELL) is necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Ms. CANTWELL) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 88, nays 10, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—88

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Bunning
Burns
Byrd
Campbell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Craig
Crapo
Daschle
DeWine
Domenici
Dorgan
Edwards
Ensign
Enzi
Feinstein
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wyden

NAYS—10

Boxer
Brownback
Corzine
Dayton
Dodd
Durbin
Feingold
Harkin
Hutchison
Wellstone

ANSWERED "PRESENT"—1

Fitzgerald

NOT VOTING—1

Cantwell

The PRESIDING OFFICER (Mrs. LINCOLN). If there are no Senators wishing to vote or change their vote, on this vote the yeas are 88, the nays are 10, and one Senator responded "present." Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 333) to amend title 11, United States Code, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized.

AMENDMENT NO. 974

Mr. LEAHY. Madam President, pursuant to the order of July 9, 2001, I send a substitute amendment on behalf of myself, Mr. HATCH, and Mr. GRASSLEY to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. HATCH, and Mr. GRASSLEY, proposes an amendment numbered 974.

Mr. LEAHY. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Amendments Submitted and Proposed.")

CLOTURE MOTION

Mr. LEAHY. Madam President, on behalf of the majority leader, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 974, the text of S. 420, as passed by the Senate, for H.R. 333, the bankruptcy reform bill:

John Breaux, Harry Reid, Byron Dorgan, E. Benjamin Nelson of Nebraska, Kent Conrad, Thomas Carper, Chuck Grassley, Daniel Inouye, Joe Biden, Robert Torricelli, Joseph Lieberman, Blanche Lincoln, Max Baucus, Zell Miller, James Jeffords, Tim Johnson, and Patrick Leahy.

The PRESIDING OFFICER. Under the previous order, the matter is laid aside until Tuesday, July 17, 2001, at 9 a.m.

Mr. LEAHY. Madam President, I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2217, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 2217) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

Pending:

Byrd amendment No. 880, to make a technical correction.

Nelson of Florida amendment No. 893, to prohibit the use of funds to execute a final lease agreement for oil and gas development in the area of the Gulf of Mexico known as "Lease Sale 181."

AMENDMENT NO. 893

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate prior to a vote in relation to the Nelson amendment No. 893.

Who yields time?

The Senator from Florida.

Mr. NELSON of Florida. Madam President, I yield myself 2 minutes. I say to Senator GRAHAM, if he would like some time of the 2 minutes for closing, I will certainly yield to him.

Madam President, yesterday we had the Durbin amendment, and it was not tabled by a vote of 57-42. It was on the issue of oil drilling in national monuments, national treasures.

Ladies and gentlemen of the Senate, the beaches of Florida are national treasures to us because of the importance of the beaches to our economy. If there is an oilspill, and a slick comes in on one of our beaches, it will shut down a beach, such as Clearwater Beach, for years and years. In an economy with a $50 billion tourism industry, in the Nation's fourth largest State, that is simply not worth the risk to us in Florida.

For the first time, the eastern planning area of the gulf, which heretofore has not been drilled, save for one test drill up here, is being invaded by this offering for lease of 1.5 million acres coming across the line. It is inevitable, in the march eastward, it would go straight toward Tampa Bay.

This is a matter of national treasure to us. You all honored that yesterday in adopting the Durbin amendment, by not allowing drilling in the areas of national monuments. Senator GRAHAM and I ask that you join with us today in helping us preserve our national treasure.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Louisiana.

Mr. BREAUX. I yield 1 minute to my colleague from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I rise to oppose this amendment and urge my colleagues to join with Senator BREAUX, myself, and others—a bipartisan group—in opposing this amendment.

We have a problem in this Nation. Our demand for energy is too high and our supply is not great enough. We use 30 trillion cubic feet of natural gas. We only have 25 trillion cubic feet. We think the Gulf of Mexico, in places far from the shores of Florida, has an ample supply of natural gas.

Let us not move in the wrong direction. Our country needs us to respond in a positive way. This is not a new area. It is rich with natural gas. It was a compromise reached by a Democratic administration with many environmental organizations and with the industry. It is moderate.

If you are for rolling blackouts and high prices, vote with Senator NELSON. If you are for reasonable energy policy, vote with me when I move, on behalf of Senator BREAUX, to table this amendment.

I yield the Senator 30 seconds.

Mr. BREAUX. How much time do we have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. BREAUX. I thank the Chair.

I bring to the attention of my colleagues, lease sale 181 was proposed by President Bill Clinton. It was this entire tract of area that I show you on this map. Democratic President Bill Clinton proposed it. The Democratic Governor of Florida at the time was Governor Lawton Chiles, our former colleague. He agreed to lease sale 181 because he took into consideration where it was located. They signed off on it.

In addition to that, the Democratic energy bill offered by our chairman, JEFF BINGAMAN, calls for going forward with lease sale 181. The potential natural gas in this lease sale, which has now been reduced in size by 75 percent, could supply 7 years' worth of natural gas to the State of Florida.

I ask, if we can't drill for oil and natural gas in the Gulf of Mexico, where in the world are we going to find it?

I think we should table the Nelson amendment. It is bad energy policy. It is not appropriate to undermine the carefully balanced proposal by President Clinton and also now by President Bush. We should table the amendment.

Ms. LANDRIEU. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table amendment No. 893.

The clerk will call the roll.

The result was announced—yeas 67, nays 33, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—67

Akaka
Allard
Allen
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Clinton
Cochran
Collins
Conrad
Craig
Crapo
DeWine
Domenici
Dorgan
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Johnson
Kyl
Landrieu
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Murray
Nelson (NE)
Nickles
Roberts
Santorum
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner

NAYS—33

Bayh
Biden
Boxer
Byrd
Carnahan
Cleland
Corzine
Daschle
Dayton
Dodd
Durbin
Edwards
Feingold
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Mikulski
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Stabenow
Wellstone
Wyden

The motion was agreed to.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, it is my understanding that we automatically go to the Interior bill, is that right, for the purpose of further debate and amendment?

The PRESIDING OFFICER. That is correct.

Mr. REID. The Senator from Oregon has an amendment he wishes to offer.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

AMENDMENT NO. 899

Mr. SMITH of Oregon. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. REED). The pending amendment will be set aside and the clerk will report.

The legislative clerk read as follows.

The Senator from Oregon [Mr. SMITH of Oregon] proposes an amendment numbered 899.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To direct the U.S. Fish and Wildlife Service to take certain actions for the recovery of the lost river sucker and the shortnose sucker, and to clarify the operations of the Klamath Project in Oregon and California, and for other purposes)

At the appropriate place in the bill, insert:

"None of the funds made available under this or any other Act may be used to provide any flows from the Klamath Project other than those set forth in the 1992 biological opinion for Lost River and shortnose suckers and the July 1999 biological opinion on project operations issued by the National Marine Fisheries Service, until the Fish and Wildlife Service takes the following actions identified or discussed in the April 1993 recovery plan for Lost River suckers and shortnose suckers:

(a) establishes at least one stable refugial population with a minimum of 500 adult fish for each unique stock of Lost River and shortnose suckers;

(b) secures refugial sites for upper Klamath Lake suckers:

(c) uses aeration for improving water quality and to expand refugial areas of relatively good water quality within Upper Klamath Lake;

(d) improves larval rearing and refuge habitat in the lower Williamson and Wood Rivers through increased vegetative cover;

(e) extirpates exotic species that are predators of the suckers:

(f) assesses the need for captive propagation and the potential for improving sucker stocks through supplementation, and the Secretary has submitted a report, including recommendations, to the Congress;

(g) implements a plan to monitor relative abundance of all life stages for all sucker populations;

(h) develops a plan to reduce losses of fish due to water diversions;

(i) determines the distribution and abundance of suckers in all waterbodies in the Upper Klamath Basin;

(j) implements the plan for wetland rehabilitation pilot projects;

(k) implements the most effective strategy to provide fish passage upstream of the Sprague River Dam;

(l) implements the plan to enhance spring spawning habitat in Upper Klamath Lake and Agency Lake;

and develops water management plans and land management plans, including sump rotations where appropriate, for the national wildlife refuges that receive water from the Klamath Project; and subsequently completes an evaluation of the impact of these actions on the recovery of the suckers before determining whether further modifications to project operations are needed and submits such evaluation to the Secretary of the Interior and to the Congress.

Mr. SMITH of Oregon. Mr. President, many Americans are becoming familiar with a part of my State and a part of California known as the Klamath Basin because of the coverage of a tragic situation that has developed there in a contest between suckerfish and farmers. If I may be permitted, I will put some context to this conflict.

I am the first Senator to be elected from Oregon who comes from its rural parts—eastern Oregon—in 70 years. I represent all of my State, but I have a special passion to represent those rural parts that I have watched be devastated for too long by Federal action. I believe the Endangered Species Act is a noble act with noble purposes, but I believe it is being used by some to very ignoble ends.

My actions today are not to subvert the Endangered Species Act. This is not reform. This is an act asking that its terms be implemented in a way that will relieve genuine human suffering in a way that may prevent the violence that has already been visited upon Federal property in a contest between farmers and the Bureau of Reclamation for the essential ingredient to life in the West, and that is water.

What has happened to the community of Klamath Falls, by conservative estimates, will cost that county $200 million. I thank the Senator from West Virginia, the chairman of the Appropriations Committee, and others, who helped me to get $20 million of relief to these people. Obviously, it is 10 percent of what is needed, even by conservative estimates.

What I propose to do today is to try to go back to a biological opinion that was in place just last April that would have permitted this drought to be managed as were the droughts in 1992 and in 1994, in which the suckerfish survived, as did the agricultural community around it.

When I speak of the agricultural community, I have to also mention the wildlife refuges that get their water from this basin but which are now drying up. So farmers and fowl are left with nothing under the new biological opinion.

I do this because, in 1993, the Fish and Wildlife Service laid out a plan of action for what it could do to save the suckerfish, so that 200,000 acres of land continue to receive water and that fish could survive. But none of these proposed action plans were pursued. For example, it recommended the removal of the Sprague River Dam, which would have made available tremendous spawning areas for the suckerfish. But that wasn't done. And there were many other actions that could have been taken to provide aeration, to improve the condition of this lake, so that the suckerfish could survive and the farmers along with it.

But now what we are doing is we are raising this lake 3 feet—it is a very big lake, very shallow, but it is being raised 3 feet—and cutting off all the water to farmers and fowl. It is being done to save the suckerfish, and now, while it is being saved, it is warming up. So the coho salmon that will soon be returning expecting to receive the cool waters of the Klamath will receive waters the temperature of a swimming pool. So, potentially, even the coho salmon—which is also a listed species—could be adversely affected by this biological opinion.

Well, there are two agencies of the Federal Government that are competing. One biological opinion is Fish and Wildlife with regard to the suckerfish. The other is the biological opinion of the National Marine Fisheries Service and the Commerce Department that affects the coho salmon. Both biological opinions essentially ask for 100 percent of the water which means cutting off 100 percent of the people.

The point I want to make is that would not be necessary if the Federal Government over the last 8 years would have kept its part of the bargain and done what it could to mitigate the impact to the sucker so that farmers would not be victimized.

What I do is simply reinstate the previous biological opinions that were in effect before this spring until the Federal Government can complete action on numerous recommendations of its 1993 recovery plan. Again, they were not acted upon over the last 8 years. Why? They say budgetary reasons.

I want this to be a priority. I want the budget to fix this problem. I do not want the whole budget burden thrown on the backs of rural people, but that is what was decided to be done.

I want to put some other context to this. This is a current farm family in Klamath Falls. These are the human faces being affected by what is being done. Foreclosure notices are already going out. Let me tell my colleagues about their parents. These are the parents. This is the front cover of Life magazine, January 20, 1947. This is a veteran of the Second World War. These are people who came home, having saved liberty, having defended democracy, having made the United States the power in the world that it is today, the force for good that it is today.

In his wisdom, Franklin Roosevelt, even before the war, began to open up this land so that people would have a way to escape the Great Depression, coming home from the war, and a place to go to work.

This is the land, the valley. I do not know whether my colleagues can see it, but this couple is overlooking the Klamath Basin—farms being developed, hay being raised, corn being raised, potatoes being raised that fill our shelves today. Look at the hopes and dreams in the faces of these people.

This is a little girl at an assembly of people at a rally a few weeks ago. Her sign says: "Mommy says I can't eat, but fish can."

That is what we are driving them to, and it is not right because they are being told they are of lesser value under our law than the shortnosed sucker.

This is a picture of the shortnosed sucker. It is a bottom-feeding fish. It lives in this shallow lake. It has gone through many droughts along with the farmers. It has survived, stressed, I am sure, just as humans are stressed in conditions of drought.

I am not saying this fish has no value. I have never thought the suckerfish is very good looking, but it has a mother, and that mother, I am sure, loves this fish. I know the Native Americans in this area value this fish, and I am not suggesting in any way that we are not interested in saving this fish.

I am saying the purpose of the Endangered Species Act was not to engage in a process of rural cleansing, of throwing off their property people who had been given great promise and hope for the future. They are meeting the mailmen with foreclosure notices because the Federal Government decided it is going to breach its promise.

Let me show you, Mr. President, the deeds of the lands they were given. These are veterans. I doubt you can see it, but this is a deed assigned to a veteran of the Second World War to go to Klamath. The veteran's name goes in this space, and it is signed by Franklin Delano Roosevelt.

My point is that when we proceed to engage in environmental restoration, we must not forget that we have a human concern as well. We can do both, I am absolutely convinced of it, but we cannot do both under this condition.

This Klamath circumstance is different than other endangered species conflicts that always seem to pit the man against the beast. This is different. This is about something that is possible, where we can save the fish and we do not sacrifice the people.

I want to keep Franklin Roosevelt's promise alive today because these reclamation projects were greatly expanded under his leadership and an inland empire was built of rural people, but now those people are being told they are of lesser value than the suckerfish. I do not think Franklin Roosevelt would agree. I do not agree.

Mr. President, I plead for my colleagues to remember the human faces in this picture, to remember the promises made, and to help me help these people. This is not about a fish versus a farmer, unless we go down the road of these current biological opinions which have not been peer reviewed, in which the people there have no confidence. They are biological opinions that began with a determined outcome, and all of the activities that were said would be pursued—to provide offstream impoundment, take out a dam, provide some aeration—none of those things was done.

The only way I am going to get the Interior Department to understand that it cannot forget its human stewardship, that the Bureau's promises still ought to matter, is to go back to the old opinion and tell them that the new one cannot happen until they keep the promises made in 1993. In the meantime, this fish will survive, but my farmers will not if we do not begin to reverse course.

It is too late for this year's crops, I grant you that, but it is turning into a dust bowl that existed prior to Franklin Roosevelt's vision, and foreclosure notices are going out. At least now we can offer some hope that we, on our watch, will not permit this to be repeated. We need to give them some more money to make sure that no farm is lost to foreclosure because of Government inaction and then this action. But we have to help. We have to say this will not happen again.

I do not know how to plead this in as personal terms as I can for the help of this body to head off a disaster. This is not fish versus farmers. It does not have to be that. But it is that now under what has happened over the last 8 years.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. In relation to the Smith amendment, I move to table. I ask for the yeas and nays. And I further ask unanimous consent that the vote be held at 1:45. There are a number of people who are unable to come to the floor.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask that prior to the 1:45 vote, the Senator from Oregon be granted 2 minutes and the Senator from California be granted 2 minutes to explain the amendment to the Members of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I thank my friend from Nevada for making a motion to table the Smith amendment, which we will vote on at approximately 1:45. I wanted to thank my friend from Arizona who has an amendment he wants to lay down. He was gracious to allow me to go ahead of him and just not to interrupt the debate.

I hope the motion to table the Smith of Oregon amendment does carry. We all share deep concerns about the current drought in southern Oregon and in northern California. My constituents have also been hard hit by this very dry year. But I think we cannot legislate on an issue that is so far-reaching by bringing an amendment to the floor before we have even looked at the possible remedies.

I joined my colleague from Oregon in seeking $20 million in economic relief for losses facing Klamath Basin farmers, and I certainly pledge to continue working with him to seek more funding and a long-term solution to this very vexing problem of getting enough water for everyone who needs it and everyone who deserves it.

The whole history of my State is, in many ways, built around the water issue. It is something we deal with all the time because we have more ag than any other State. It is one of our biggest businesses in California. We also know our State thrives because of tourism, our environmental ethic is very strong, and because we have such a magnificent State we get the tourists.

Of course, we have more people than any other State in the Union—now almost 34 million people. So you have a constant debate, if you will, a constant struggle, if you will, between all the stakeholders. Everyone has something at stake with the water supply: The farmer, urban users, suburban users, and certainly the wildlife which do not have a voice, but we have to be their voice.

I can't join my colleague from Oregon in undermining the Endangered Species Act. The U.S. Fish and Wildlife Service in a recent opinion tells us that without this water the endangered fish will go extinct.

Science tells us through the Fish and Wildlife Service that there are two species of fish that will become extinct if we carry out the plan of the Senator from Oregon.

If we are going to take an action that would lead to the extinction of two species of fish, it ought to be done with a little different format and not come as an amendment to the appropriations bill.

I agree that it is very possible that the Fish and Wildlife Service has not fully implemented its 1993 recovery plan for these fish. I call on them to implement that plan. But cutting off water to the fish this year doesn't solve that problem. It will cause the extinction to take place.

I know that the immediate needs of my constituents in the farm areas and those in Oregon will not be helped this year. The reality is that most of the region's farmers didn't plant this year because they knew about this drought. Taking the water from these fish and the needs of these species is not going to help the farmers now. But economic relief will help them. I am certainly committed to that.

We need to answer the dire needs of the farmers of the Klamath Basin. But driving the fish to extinction while providing little real gain to our farmers is certainly the answer.

It is very hard to look constituents in the eye when they have a problem and say: If we help you make a move now that you say will help you even though, in fact, in this case it wouldn't really help this year, we can't do it because there is a bigger question; that is, the delicate balance in terms of who needs this water. It is hard to do that. But I think we can't come running to the floor every time to undermine laws that are in place—for real reasons. I happen to believe that we have the Endangered Species Act because we have to protect God's creatures. That is my own feeling. In fact, it is a responsibility that we have as a people to do that. If we don't do it, it is not going to happen. We have to move to protect these species.

Again, there may be a reason to take another look at this matter, but I hope we will move to table. I am certainly committed to having some hearings and moving forward with more economic relief for the farmers that are affected in this Klamath River Basin.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona

Mr. McCAIN. Mr. President, is the parliamentary situation such that there will be a vote at 1:45?

The PRESIDING OFFICER. There is to be a vote at 1:45 and there is 4 minutes of debate set aside prior to that vote.

Mr. REID. Mr. President, if the Senator from Arizona will yield, if the Senator from Arizona needs the extra 4 minutes, we would be happy to work that out.

Mr. McCAIN. I thank the Senator.

AMENDMENT NO. 904

Mr. McCAIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 904.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of funds for any purpose relating to Vulcan Monument, Alabama)

On page 153, line 22, before the period, insert the following: ", of which no funds shall be used for any purpose relating to Vulcan Monument, Alabama".

Mr. McCAIN. Mr. President, it is with great disappointment I again speak before the Senate about the compounding practice of porkbarrel spending, particularly in this year's Interior appropriations bill. Earlier this year, the administration and, I believe, our leadership pledged to curb the Federal Government's practice of funding extraneous porkbarrel spending.

I applaud the administration for its responsible fiscal stance. There is a chance for us to get serious. It might sound amusing. But let me tell my colleagues that, according to the Washington Post, House Members requested 18,898 earmarks in appropriations bills passed thus far. Considering this bill in the Senate on Interior, the subcommittee reports that it received 1,799 requests for select projects. That is a threefold increase since 1993.

It is shameful.

This year's Interior appropriations bill is no different. It includes $433 million in wasteful and unnecessary spending projects that have not been reviewed to determine if they are indeed the highest funding priorities. This amount is $153 million higher than the bill last year.

Let me highlight a few examples for you: $5 million to pay for fish screens in the Northwest power planning area; an increase of $2 million for the National Fish Health Lab at the Leetown Science Center—you will notice that most of these are designated geographically—an additional $350,000 for the Chicago Wilderness Program; $1 million for noxious weed management at Montana State University; $150,000 to rehabilitate a barn at the John Hay National Wildlife Refuge in New Hampshire; $3.5 million to renovate a single lodge in a wildlife refuge in North Carolina; $700,000 for exhibits at the Rangle National Park in Alaska; and an extra $160,000 set aside for public education on the Yukon River Salmon Treaty. I think that is also Alaska.

One of my favorite monuments of porkbarrel spending, another $2 million is provided to continue refurbishing the Vulcan Monument in Alabama. This particular monument also received $1.5 million last year. Now we are going to spend $3.5 million to refurbish the Vulcan Monument.

Earmarks for Alaska continue to exceed unprecedented levels, some of which are questionable inclusions in this bill. For example, an increase of $1.3 million is earmarked for an Alaska Native aviation training program.

I happen to sit on the Commerce Committee. We were never asked to authorize that.

Another $250,000 for the Alaska Market Access Program; $1.1 million for the Cook Inlet Agriculture Association; and $2 million for construction of kiln drying facilities.

My colleagues are well aware the National Park Service still faces a $5 billion backlog in capital maintenance and resource needs, and we are spending $2 million for the construction of kiln drying facilities.

After years of unchecked, questionable spending, we are in the unfortunate position of facing critical budget constraints that will hamper our ability to fund fully many necessary Federal programs. Instead, we are cutting deep into the taxpayers' pockets once again by expecting them to shell out more than $433 million in porkbarrel spending included in this bill.

I have compiled a 24-page list of objectionable earmarks and provisions in H.R. 2217. Unfortunately, it is too lengthy to include in the RECORD. But it will be available on my Senate Web page.

Now we come to the amendment.

Here is the Vulcan God of Fire and Iron. The colossal statue of Vulcan God of Fire and Iron was in the Palace of Mines and Metallurgy, where it represented the great iron and fuel industries of Alabama. The figure was cast in iron from a model by G. Morelli, a New York sculptor. It was brought to St. Louis in sections in over seven freight cars and mounted on a pedestal of coal and cike. The statue of Vulcan God of Fire and Iron stood 50 feet high and weighed 100,000 pounds. It was the largest iron casting ever made, and next to "Liberty Enlightening the World," was the largest statue ever constructed. At the close of the Exposition the figure was removed to Birmingham and set up in Capital Park to remain as a permanent monument. It is a very impressive statue.

Now, in the bill before the Senate today—which, I mentioned, contains over $430 million in spending items that have not been properly reviewed to determine their worthiness for Federal funding—there is another $2 million to add to the $1.5 million last to continue Vulcan's face-lift.

At first blush, having the Federal Government give money to a Roman god may appear to violate the constitutional separation of church and state. Others, with some reason, may believe that this is a rather strange use of limited tax dollars. After all, while the on-budget Federal surplus is rapidly dwindling, why should Federal dollars pay for a face-lift of a statue of a Roman god in Alabama?

But, Mr. President, I worry this appropriation may set a dangerous precedent for others to follow that will only add millions and millions to the billions and billions and billions in pork barrel spending doled out year after year.

For example, what is to stop a Senator from sunny Arizona or New Mexico from demanding Federal dollars for a statue of Apollo, god of the Sun?

Or how to we prevent a Senator from California to beseech money for a statue of Bacchus, god of wine?

Or a Senator from Georgia, home to the great city of Athens, from asking for Federal funds to pay tribute to the Goddess Athena?

Or even a Senator form the home of some of the best hunting this side of the Mississippi, West Virginia, from getting Federal funds for Artemis, the ancient Greek goddess of the hunt?

Maybe this is the time to stop this. Not one more Federal dollar should be spent on this kind of foolishness.

I ask my colleagues to extinguish this Roman god of fire and strike a victory for taxpayers—and Metis, the goddess of prudence—by throttling down our insatiable appetite for pork barrel spenidng—starting today.

Finally, Mr. President, there are statues—for a moment of seriousness—all over this Nation that require refurbishing.

The PRESIDING OFFICER. Under the previous order, 4 minutes have been reserved at this time for the Senator from Oregon and the Senator from California.

Mr. MCCAIN. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Finally, Mr. President, as I said before, there are statues all over this Nation erected to worthy, wonderful, and patriotic Americans as well as people from other countries that need refurbishment. If we are going to start down this path of millions of dollars to refurbish a statue of Vulcan, I don't know where it all ends.

I yield the floor and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I say to my friend from Arizona, it appears the two parties in relation to the prior amendment are going to talk for a couple minutes.

Mr. MCCAIN. Fine.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 899

Mr. REID. Mr. President, under the previous order, the Senator from California has 2 minutes in opposition to the amendment of the Senator from Oregon. The Senator from Oregon has 2 minutes.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I thank the majority whip and the chairman of the Environment and Public Works Committee for offering to have a hearing. I hope we have a hearing. But, frankly, I need the people of Klamath Falls to know where we are, so I am asking that we proceed with the unanimous consent agreement that is already in place, that we have a vote. And I know I may lose this vote. But I say to my colleagues, these are Federal projects. These were Federal promises. This is a Federal action now that is crushing people, some of whom have been there for 100 years or more. I think it is deplorable that this Government would have had a biological opinion and a whole list of actions they said they would take, and 8 years later there is nothing done except a new opinion that says no water for people, no water for farms.

It is time for us to start caring about rural folks who are increasingly powerless. I ask for a vote on their behalf.

I yield back my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized under the previous order.

Mrs. BOXER. Mr. President, if I could just be told when I have used 30 seconds, and I will leave the remainder of the time for Senator JEFFORDS, my chairman. And I thank him for coming down here.

Water is a vexing issue in California. We have had water wars for a long time. You have to figure out how everyone can be at the table: The farmers, the urban users, suburban users, and the environmental people—people with environmental concerns—because obviously the wildlife has no voice. We have to make sure we protect the wildlife.

If this amendment goes through today——

The PRESIDING OFFICER. The Senator has used 30 seconds.

Mrs. BOXER. I ask for 10 seconds—two species of fish are gone—that is it, extinct. That is the scientific word from Fish and Wildlife. I hope we will defeat this amendment.

I ask my friend to continue this conversation.

Mr. JEFFORDS. Mr. President, unfortunately, I have to rise in support of the motion to table. I had hoped my good friend from Oregon would agree to withdraw his amendment so that I could hold a hearing and ascertain for him and the public whether or not there should be an exception granted to the Endangered Species Act with respect to this particular problem. Unfortunately, I understand he does not desire to do so.

This is a critical issue and for us to summarily do this would be really inconsistent with the purposes of the Endangered Species Act. That act is an important one, and it is one that has saved many species which have resulted in huge breakthroughs in medicine and in other ways.

We have to be very careful about what we do with respect to endangered species. So I will support the motion to table.

Mr. REID. Mr. President, the amendment would prevent the Fish and Wildlife Service from providing water for fish in the Klamath basin. The water at issue here is water the Service has determined is necessary to prevent the extinction of threatened and endangered species like the suckerfish and coho salmon in Oregon and California.

Only 2 days ago, we approved a supplemental appropriations bill. During that debate we heard many Members argue for additional spending for very important priorities. Fiscal constrains prevented us for meeting many of them. But one of the priorities we did address in that bill dealt with the very subject of this amendment.

The bill provided $20 million to assist Oregon farmers who have been impacted by the drought and species concerns in the Klamath basin—$20 million. They are not the only farmers who have been impacted by drought (it's a problem that affects Nevada's farmers and ranchers this year as well), but to my knowledge they are the only farmers that received special aid in the supplemental.

The State of Nevada faces many of the same problems my colleague has spoken about here this afternoon. I would like to work with him to address those problems without modifying the Endangered Species Act in the manner he proposes.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 899. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—52

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Specter
Stabenow
Torricelli
Wellstone

NAYS—48

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Conrad
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner
Wyden

The motion was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Nevada.

AMENDMENT NO. 904

Mr. REID. Mr. President, with permission of the managers of the bill, I ask that the two Senators from Alabama each have 2 minutes to speak in opposition to the McCain amendment, and Senator MCCAIN have the final 2 minutes to speak in favor of his amendment.

This appears to be the last amendment we are going to have on this bill. The managers have informed me, along with the two leaders, that around 4 o'clock we will have a vote on final passage. It will take that much time to work on the managers' amendment to get together the loose pieces.

I ask unanimous consent that we proceed now to a vote on the McCain amendment after the two Senators from Alabama speak and the Senator from Arizona speaks, and I also ask unanimous consent that when that vote is completed, the Senator from Oregon be recognized to speak for 5 minutes in relation to the Smith amendment of which we just disposed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama, Mr. SHELBY.

Mr. SHELBY. Mr. President, I rise in opposition to the McCain amendment to the Interior appropriations bill. I am troubled, quite frankly, that I have to defend Federal funding for historic preservation of the Vulcan Monument, which is of great importance to the people of Alabama and the South.

The Vulcan Monument in Birmingham, AL, is a unique and enduring hallmark of the city. It was constructed in 1904 to mark the 100th anniversary of the Louisiana Purchase and stands as a symbol of economic transformation in the South. Much like the Arch, the Golden Gate Bridge, the Statue of Liberty, and the Liberty Bell represent their respective cities and are symbols representing greater achievements for their communities and our Nation, the Vulcan stands as an important historical landmark for Birmingham and represents the rebirth of industrial development in the South.

I want the record to be clear that while Federal funds are important to the restoration of the Vulcan Monument, city and local fundraising efforts are leading the way toward completing the restoration project. While the Federal share for restoration efforts reaches $3.5 million, private citizens throughout the region have contributed over $10 million.

This is an excellent example of a public-private partnership trying to preserve an important historical treasure for the South and our Nation. It happens to be in Birmingham, AL.

I believe this amendment is misguided, and I pray it will be defeated.

Mr. SESSIONS. Mr. President, I know Senator SHELBY travels throughout Alabama every year in every county, as do I. When we do so, we learn something about the State. As a kid going into Birmingham, I saw the Vulcan statue, the symbol for the steel city of Birmingham. It is a preeminent symbol of Alabama, and there will be no other statue in the State with as much prominence.

With the local citizens raising $10 million, with my support and certainly that of Senator SHELBY, the contribution from the Federal Government will help complete this historical renovation and restoration. It is a good use of the money, in my opinion as a Senator from Alabama. It is a good priority use of money for historic development.

I oppose the McCain amendment.

Mr. MCCAIN. Mr. President, let me quote from an October 23, 2000, issue of U.S. News & World Report entitled "Washington Goes On A Spending Spree."

> . . . a 56-foot, iron rendition of the Roman god of fire and metalwork. Built as an entry for the 1904 World Fair, it won the grand prize in the Palace of Metallurgy. Steward Dansby, executive director of the Vulcan Park Foundation, says officials at the organization talked to Alabama Sen. Richard Shelby about helping to fund the renovation. "Why are federal tax dollars being spent on a statue in Birmingham?" asked Dansby. "Because Vulcan is symbolic of American industrial strength. He represents the working person and . . . [This is the best part.] These are federal dollars that would have gone somewhere."

There are statues all over America that need refurbishment. I hope everybody lines up with statues that need to be refurbished because the store seems to be open.

I know this amendment will not pass, but everybody ought to be on record as to whether they support this kind of porkbarreling.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment

No. 904. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. Enzi) is necessarily abent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 12, nays 87, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—12

Allard
Bayh
Carnahan
Ensign
Feingold
Graham
Gramm
Hollings
Kyl
McCain
Smith (NH)
Stabenow

NAYS—87

Akaka
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Feinstein
Fitzgerald
Frist
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
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Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—1

Enzi

The amendment (No. 904) was rejected.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is recognized for a period of 5 minutes.

AMENDMENT NO. 899

Mr. WYDEN. Mr. President, a few minutes ago the Senate voted on an Endangered Species Act amendment with special impact for farmers and rural people in my home State. I voted against the motion to table with great reluctance and wanted to take just a couple minutes to explain my vote this afternoon.

I think it is dangerous to legislate biological opinions about species without the opportunity to thoughtfully review the effects of such a far-reaching amendment. I think it is just as dangerous to force our citizens in rural communities into dire circumstances when a law that has accomplished many good things contains serious administrative flaws that are producing an increasing number of bad things.

It was my intent, if the Endangered Species Act amendment had not been tabled, to offer a second-degree amendment to it. My amendment would have allowed the Senate to pick up on the very generous offer made by Chairman Jeffords to try to get this job done right.

My amendment would have sought to try to address the problems in the Klamath Basin in a comprehensive way, in a fashion that would have helped farmers produce water conservation and improve water quality and, at the same time, would have protected species.

I think it is very clear that the challenge with the Endangered Species Act is to bring folks together. The challenge is to get everybody at the table—all of the stakeholders; farmers, environmental leaders, scientists, and others—to try to come up with ways that keep the important protections of the Endangered Species Act and, at the same time, encourage the administrative flexibility so we can have more homegrown solutions.

I am absolutely convinced that the objectives of the Endangered Species Act make a lot of sense. But what you do in the Klamath Basin has to be different than what you do in the Bronx. And what you do in Detroit to protect a species is different than the challenge in Coos Bay, OR.

I look forward very much to picking up on the generous offer of Chairman Jeffords to work with our colleagues, on a bipartisan basis, to find comprehensive solutions to this Endangered Species Act challenge.

As I say, I voted against the motion to table today with great reluctance. I am very anxious to work with our colleagues, on a bipartisan basis, for a more comprehensive solution.

Mr. President, I appreciate the Senate, on a hectic day, giving me a few minutes this afternoon to explain my vote. I yield back and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Corzine). Without objection, it is so ordered.

AMENDMENT NO. 975

Mrs. BOXER. Mr. President, I ask unanimous consent the pending amendment be set aside, and further, I ask unanimous consent to send an amendment to the desk, that it be in order, and it also be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. Boxer], for Mr. Byrd, proposes an amendment numbered 975.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the steel loan guarantee program)

At the appropriate place, insert the following:

SEC. ___. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM.

(a) In General.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106-51; 15 U.S.C. 1841 note) is amended as follows:

(1) Requirements for loan guarantees.—

(A) In general.—Subsection (g) is amended in the matter preceding paragraph (1), by striking "a private bank or investment company" and inserting "an institution".

(B) Conforming amendment.—Subsection (f)(1) is amended by striking "private banking and investment".

(2) Terms and conditions.—Subsection (h) is amended—

(A) in paragraph (1), by striking "2005" and inserting "2015"; and

(B) by amending paragraph (4) to read as follows:

"(4) Guarantee level.—

"(A) In general.—Except as provided in subparagraph (B), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

"(B) Increased level.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

"(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $500,000,000; and

"(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $100,000,000.".

(3) Reports to congress.—Subsection (i) is amended by striking "of fiscal years 1999 and 2000, and annually thereafter," and inserting "fiscal year".

(4) Termination of guarantee authority.—Subsection (k) is amended by striking "2001" and inserting "2003".

(5) Monitoring, reporting, and foreclosure procedures.—Subsection (l) is amended by adding at the end the following: "All monitoring, reporting, and foreclosure procedures (and other matters addressed in the guarantee agreement) established with respect to loan guarantees provided under this section shall be consistent with customary practices in the commercial banking industry. Minor or inadvertent reporting violations shall not cause termination of any guarantee provided under this section.".

(6) Definition of steel companies.—Subsection (c)(3)(B) is amended to read as follows:

"(B) is engaged in—

"(i) the production or manufacture of a product identified by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod;

"(ii) the production or manufacture of coke used in the production of steel; or

"(iii) the mining of iron ore; and".

(b) Conforming Amendment.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 is further amended by striking subsection (m).

(c) APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAPO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 878

Mr. CRAPO. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAPO], for himself, Mr. MURKOWSKI, and Mr. CRAIG, proposes an amendment numbered 878.

Mr. CRAPO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To help ensure general aviation aircraft access to Federal land and the airspace over that land)

At the appropriate place, insert the following:

SEC. 3___. BACKCOUNTRY LANDING STRIP ACCESS.

(a) IN GENERAL.—Funds made available by this Act shall not be used to permanently close any aircraft landing strip described in subsection (b) without public notice, consultation with appropriate Federal and State aviation officials, and the consent of the Federal Aviation Administration.

(b) AIRCRAFT LANDING STRIPS.—An aircraft landing strip referred to in subsection (a) is a landing strip on Federal land that—

(1) is officially recognized by an appropriate Federal or State aviation official;

(2) is administered by the Secretary of the Interior or the Secretary of Agriculture; and

(3) is commonly known for use for, and is consistently used for, aircraft landing and departure activities.

(c) PERMANENT CLOSURE.—For the purposes of subsection (a), an aircraft landing strip shall be considered to be closed permanently if the intended duration of the closure is more than 180 days in any calendar year.

Mr. CRAPO. Mr. President, first, I thank the chairman of the Appropriations Committee, Senator BYRD, and the ranking member, Senator BURNS, for the hard work they have put into this year's Interior and related agencies appropriations bill. It is a changing process and they have done an excellent job in balancing the competing interests within the confines of our effort to make sure we maintain a balanced budget.

At this point, I want to explain the amendment I present. I intend to withdraw the amendment when I am finished discussing it for reasons that will become apparent as I discuss it. In the past couple of years, we have seen a disturbing trend in the Department of the Interior and in the Depart of Agriculture regarding our Forest Service relating to back-country airstrips. The administration has begun to follow a pattern of allowing back-country airstrips to either go into a state of disrepair—here they become unusable—or to actually close, permanently close some of them, which is a serious problem to those parts of our public lands that need the services that these back-country airstrips can supply.

Idaho, right now, is home to more than 50 of these landing strips, and our State is known nationwide for its air access to public lands and wilderness and primitive areas. Unfortunately, in the past, many of these airstrips in Idaho, and in other parts of the country, have been rendered unserviceable through the neglect I talked about earlier, or the decisions to close the airstrips without adequate public notice or any justification being provided.

There is a concern about this because these airstrips provide not only access to the back country for recreational use, but they are critical for maintenance and some of the management purposes of the agencies in managing our public lands and fighting forest fires, for example, or in providing the necessary access by agency personnel to perform their work on public lands, and also as part of rescue missions when they find the need to provide for rescue. It is those who use the back-country airstrips who are often the ones who provide the valiant efforts to make rescues of people who are in distress in our national public lands.

Senators CRAIG and MURKOWSKI are cosponsors with me on the legislation to address this issue and to require the agencies to work with State and local communities and to engage in a process of public notice and justification. In fact, it is our hope that, ultimately, we will be able to pass this legislation on a permanent basis. That would require the agencies to obtain the consent of the State personnel who are involved with the management of our airways and aviation concerns.

At this point, we were prepared to offer this amendment to the bill this year to the Interior appropriations bill, which would have, simply for the period of this appropriations bill, required the agencies to consult with the State agency officials involved in aviation management in the States, and to assure that the right kind of consultation would occur between the various State and Federal officials before closure of any of these landing strips in our back-country areas.

However, we have been working with the administration to try to obviate the need to propose this amendment. I am pleased to say, that I am now able to report to the people in the country that both the Department of the Interior and the Department of Agriculture have agreed—and I will be submitting letters for the RECORD in writing to indicate this agreement—that they will honor the purposes of this amendment and make it the policy of those two agencies to comply with the requirements of this amendment and to continue to work with us on our permanent legislation so we can address this issue on a permanent basis.

Mr. MURKOWSKI. I wonder if I can interrupt the Senator from Idaho in an effort to develop a colloquy with the Senator with regard to encouraging various agencies to work with the States on the issue of backcountry airport access.

Mr. CRAPO. I will be glad to yield to the Senator from Alaska.

Mr. MURKOWSKI. It is probably not applicable in areas of high concentration of private land, but out West, we have vast areas of virtually nothing. You can only appreciate that if you get in a small airplane and fly over the western part of the United States or my State of Alaska.

I had a group of Senators in a single-engine airplane a few years ago. We had been in the air 2½ hours cruising along at about 80 knots. Finally, one of them said: How much more wilderness do I have to see to, indeed, believe there is a lot of wilderness to be seen and beauty to be seen?

Nevertheless, when that engine quits, you have a problem. If you do not have some of these areas available—I know many of our friends from the east coast and populated areas cannot quite appreciate why we need them, but we vitally need them.

I join with my colleague in what I understand is a general commitment from the agencies, the Department of Agriculture and the Department of the Interior, to work with the States to identify what is in the interest of the States from the standpoint of safety access.

I commend him in that effort and hope when legislation is necessary that our colleagues will understand we need this in the wide open spaces out West. I see my friend from Montana who also agrees with this. I yield the floor.

Mr. CRAPO. Mr. President, I thank my friend and colleague from Alaska for his strong support on this issue. He is, as I indicated, a cosponsor of the legislation we will be pursuing and was supporting us in the effort to put this amendment on this bill again as it was last year.

Just so we can understand correctly, I want to read into the RECORD what the Department of the Interior and the Department of Agriculture committed to so we can begin the process, which I think is a very important first step in moving toward resolution of this issue.

The first letter is from Secretary Gale Norton, the Secretary of the Interior:

> DEAR SENATOR CRAPO: The U.S. Department of the Interior is committed to working with you and other Members of Congress to develop a comprehensive process to ensure that state and local governments and citizens have an opportunity to participate in issues relating to backcountry airstrips located on lands managed by the U.S. Department of the Interior.
>
> Our Nation's backcountry airstrips are important to many activities that take place on our public lands. Airstrips provide remote access for aerial firefighting efforts, they are an essential safety tool for pilots operating in rural and mountainous areas, and they provide a vital link to the outside world for many rural communities.
>
> It is important to ensure that legitimate uses of backcountry airstrips are protected. It is also a priority for this Department that any proposals to alter use of federal lands must go through open and public process that includes close consultation with local communities. I commit to work with you, and other members of the congressional delegation, the State of Idaho, and local communities on any proposals to change the use of backcountry airstrips on lands managed by the U.S. Department of the Interior.

The second letter is from the Department of Agriculture:

> DEAR SENATOR CRAPO: The U.S. Department of Agriculture is committed to working with you and other Members of Congress to develop a comprehensive, long-term approach for managing backcountry airstrips on lands managed by the USDA Forest Service.
>
> We agree that it is appropriate to maintain airstrips that provide critical air access to rural, backcountry, or wilderness areas; that contribute to pilot safety; or that support aerial firefighting efforts. The Department also agrees that these airstrips should not be permanently closed without prior consultation with State aviation and other appropriate officials.
>
> We appreciate your leadership on this issue and look forward to working with you in the future.
>
> Sincerely,
>
> ANN VENEMAN,
> *Secretary.*

Mr. President, because we have now obtained the commitment of the Department of Agriculture and the Department of the Interior that they will work with us in a public process and in a consultative process with the State officials involved in managing aviation issues, and because they have acknowledged the important critical needs of maintaining these backcountry airstrips in good condition, and instead of closing them, keeping them open and available for use, we do not believe it is necessary to pursue this amendment on this legislation.

I appreciate the Secretaries of the Interior and Agriculture agreeing and working with us to avoid the need for this amendment, and we appreciate their commitment to work with us in the future on permanent legislation that will fully resolve this issue statutorily.

Therefore, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 878) was withdrawn.

Mr. CRAPO. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise to respond to the Senator from Arizona who earlier today, in listing programs in this bill he felt were inappropriate—I believe he used the word "pork" or some other derogatory reference to those programs—cited a $150,000 proposal in this bill to build a barn at the John Hay estate in New Hampshire.

I honestly believe the Senator from Arizona has done a disservice to the people of New Hampshire by citing this item as one of the items on his list. It appears to me the research on that list may be rather weak if he is putting on the list items such as this. I want to give the history of this situation.

The John Hay estate is owned by the Fish and Wildlife Service. John Hay was Abraham Lincoln's secretary. He was Theodore Roosevelt's and William McKinley's Secretary of State. He served for years as a public servant of extraordinary import in our Nation's history in the latter part of the 19th century and into the beginning of the 20th century, playing a major role in a number of very significant events, especially in the period 1890 to 1905 when he died.

As part of his lifestyle, he was a Renaissance man. He had been, as I mentioned, secretary to Lincoln and is quite famous for his notes on Lincoln. In Washington, he started something called the Five of Hearts, a very famous historical group that met regularly at his home, which is now the Hay-Adams—Hay-Adams was not actually his home. His home was where the Hay-Adams is. That is the physical location.

That group involved five people of incredible intellectual capacity, and they became known as the Five of Hearts. He was part of that group and his wife was also.

As part of his effort and as part of the culture of that time actually, he wanted to set up a community which would be a respite from the hectic life of policy and government, and he chose the shores of Lake Sunapee in New Hampshire to try to do that. He came to New Hampshire and purchased a significant amount of land at that time—over a thousand acres—and an old farm and began to try to attract to that part of New Hampshire during the summer people who were world leaders in order to think and relax in what was really a bucolic atmosphere; it still is. It is a fabulous pastoral setting.

It is a lot like what Saint-Gaudens, who was another significant person in that period and tremendous artist in our history, had done in another part of New Hampshire called Cornish.

He built a farmhouse; he took the old farmhouse and renovated it. It was situated on 1,000 acres. Of course, with any farmhouse there was a barn, as one might expect in that period. His family has owned that property for years and years. In the late 1980s, his daughter gave the property as part of her estate to the U.S. Government because she thought it was so important it be preserved as part of history because it is a truly unique piece of property.

One of the things he did on that property was bring in some extraordinary plants. In his travels he collected plants of alpine nature and built an alpine yard which is one of the rarest gardens in this country and has been designated so by the national garden groups. He built other gardens around the home. He had Theodore Roosevelt there and planted trees. There is a Theodore Roosevelt tree which grows outside the house.

The house itself was architecturally unique and presents a classic example of a Greek revival farmhouse in the New England tradition which existed in the late 19th century. But most of those homes have been lost either through fires or being torn down over the years.

The gift of this property to us, the people of America, by his family was an extremely generous act. At that time it was given to us, it involved only 100 acres but over a mile of frontage on the lake. Frontage on the lake is extremely expensive. The house itself was not in good repair, and the barn was not, and the gardens were at risk because the gardener who had been managing them for over 50 years was getting a little old and decided to give it up.

So as a result of a community effort with over 600 people involved, called the Friends of John Hay, we restored this home. There has been a fair amount of Federal dollars committed to trying to restore the home over the years. Senator Rudman, my predecessor, got the initial funds, and I have been successful in obtaining funds to restore the home. Why? Because, of course, it is a Federal property and we have responsibility. It would be as if we owned the home, and we may well own the home of Abraham Lincoln of Illinois, for all I know, and are restoring that home. But it is a Federal responsibility for which we have responsibility.

More importantly than that, it is a property that had such a magnetic effect in the region as a truly unique, historical site architecturally and because of the gardens, that the community around the property has risen up with great energy, enthusiasm, and support. There are over 600 people who participate now in maintaining the gardens in what is a voluntarism that is rather significant and instructive and now has the gardens back to where they should be, as the home is back to where it should be.

As part of this property, as I mentioned, there was a barn. The barn was also an architecturally unique building, with unique windows and unique buttresses inside. But more importantly, as part of the property, being a traditional New England home, it set the nature of the property.

This winter, for those who had the good fortune to go to New Hampshire and ski, we had great snow. We had such great snow, it never stopped snowing all winter long. Throughout our State and Vermont and Maine—Vermont does not get as great snow as we get, but they still get snow—a lot of homes, buildings, schools, in fact, found their roofs caved in. Regrettably, what happened at the Hay estate was, the barn, which was a historical barn, had a snow base on it which it could not maintain, even after 100 years—maybe not 100; maybe 85. Regrettably, the barn collapsed under the weight of the snow.

I guess it is the position of the Senator from Arizona that when a building that is on a historical site, which is the responsibility of the Federal Government to maintain, collapses, we should simply leave it there: Historical building that collapsed? Just leave it there. I guess that is the position of the Senator from Arizona.

What these funds were for—$150,000, which is not a great deal of money when you consider the character and size of the barn—was to restore the barn, put it back together, put it back up, and hopefully put in buttresses which will withstand the next major snow, which, of course, we hope to have again for our skiers.

The fact is, for the Senator from Arizona to come down here and represent it as somehow pork or inappropriate that the Federal Government has a responsibility to maintain a historical site of such significance, which had such huge community involvement when there was a disaster affecting that site which was the result of an act of God—by the way, an excessive snow year is pushing the envelope on how you define what are appropriate expenditures at the Federal level.

I cannot think of anything more appropriate than for the Federal Government to manage the property that has been given to the people of this country in a reasonable way. The reasonable thing to do, of course, is to rebuild the historical barn so the integrity of the property is maintained.

I believe the Senator from Arizona is misguided on this point. I want to put that in the RECORD. I will be happy to invite the Senator from Arizona on his next trip to New Hampshire, which appears to be reasonably frequent, to stop by at the Hay estate and see the barn, see the estate, see the gardens, maybe meet with the 600 people who work there on a regular basis as volunteers, and ask them whether that barn is an important part of that estate and whether the Federal Government has a responsibility to at least rebuild the barn when the people are volunteering literally thousands of hours to maintain the estate for free. I look forward to the Senator stopping by at the John Hay estate.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and wish the Presiding Officer a good afternoon and hopefully a short one.

It was my understanding there was a distinct possibility with the upcoming expiration of the Iran and Libya Sanctions Act, which expires in August, a renewal of the Iran and Libya Sanctions Act might be offered as an amendment to the Interior appropriations bill. If that had been the case, I was prepared to offer a second-degree amendment to the ILSA renewal with respect to our energy dependence on Iraq. I have an amendment at the desk that would do just that.

I will not call up that amendment at this time, but I would like to alert my colleagues of the significance of what is going on with regard to Iraq. I think the occupant and other Members are aware of the Smith-Schumer letter which addresses the ILSA issue by extending for 5 years the moratorium on trade with both Iran and Libya.

The important thing to note is the 71 signatures in favor of extending that moratorium. As we know, it takes a 50-vote point of order to waive rule XVI, which is legislation on appropriations. I am not going to violate that.

We have a great inconsistency here. I have been coming to the floor for a long time talking about energy policies. I am referring today, of course, to our continuing dependence on petroleum from Iraq. We import somewhere between 500,000 and 750,000 barrels of oil from Iraq every day. That is about $6 billion worth in the last year.

Let me share with the Presiding Officer what the curve is relative to the increase in our oil imports from Iraq to the United States. It started in 1997 and has had its ups and downs. In 1998 we had a takeoff, and we are currently importing somewhere in the area of 700,000 barrels a day.

We had an interesting occurrence about 6 weeks ago where Iraq was unhappy with its treatment by the U.N. and made a decision to reduce its production by 2.5 million barrels a day for a month. That took 60 million barrels a day off the market.

Now, there were many in this body who thought OPEC would simply increase their production and offset that. That was not the case. OPEC simply decided to wait 30 days. As a consequence, the 30 days have passed, and Saddam Hussein did not get what he wanted from the U.N., but he did turn back his production level.

As a consequence, I think it is important to recognize what is happening with regard to Iraq. Many people forget we had a war over there in 1990 and 1991. That war cost us some 148 American lives. We had 400-some wounded. We had several taken prisoner. We were successful. The purpose of the war was very simple, it was to keep Saddam Hussein from invading Kuwait and going on into Saudi Arabia and basically controlling the world's supply of oil. Make no mistake about it, that was a real war.

The consequences of that are rather interesting to reflect on now. If we look at the situation with regard to our friend, Saddam Hussein, we find American families are now going to Saddam Hussein for energy. Iraq is the fastest growing U.S. source of oil imports: Again, 750,000 from Iraq; about 2.3 million from the Persian Gulf countries; the OPEC countries, about 5 million barrels a day.

I am not going to stop there because I think that is where the issue is kind of left in the minds of many Americans. But let's think about realities. Since the gulf war, we have enforced an aerial blockade. Perhaps some of my colleagues could share with me the difference between an aerial blockade and a surface blockade. A surface blockade with the Navy is generally considered an act of war. We have been enforcing this no-fly zone. We call it a no-fly zone, but it is really an aerial blockade. We have flown nearly 250,000 individual sorties, flights, over Iraq, enforcing this aerial blockade. We have done it to prevent Saddam Hussein from threatening our allies in the region.

We are spending billions of dollars to keep Saddam Hussein in check. What are we doing with the oil? We take his oil, we fill up our airplanes, and send our pilots to fly over Iraq. They are shot at by Iraqi artillery. Then they return, fill up on Iraqi oil, and do it again.

I find that discomforting, to say the least. I am indignant. It is unacceptable. I could use many adjectives. But Saddam Hussein is heating our homes in the winter, getting our kids ready for school each day, getting our food from the farm to the table, and we pay him pretty well to do that.

Let me refer to what is happening as a consequence of this. I will get back to this chart a little later. We can view it with some reflection because it represents a very significant trend.

Let's talk about what Saddam Hussein does with the money we pay him. He pays his Republican Guards to keep him alive; he supports international terrorist activities—we are aware of that; he funds his military campaign against American interests, American service men and women and our allies; and he is desperately trying to shoot one of our aircraft down.

When that happens, if it happens, God forbid, I don't know what the reaction is going to be. But I know what my personal reaction is. This risk has been evident to the American people and the American Congress. We have condoned it. We have not done anything about it. Why not?

The inconsistency, of course, is we are proposing to extend our sanctions on Iran and Libya for another five years. We have not imported a drop of oil from Iran in 20 years. I am not suggesting we should. But we do not even mention Iraq.

In addition to paying his Republican Guards, supporting international terrorists, he builds an arsenal of weapons of mass destruction with biological capability. Who does he threaten? He threatens our ally, Israel. As a matter of fact, he ends virtually every speech with, "Death to Israel."

I don't know how more pointed I could get. Maybe I am missing something in this. Is this good policy? For a number of years the United States has worked closely with the United Nations on the Oil For Food Program. The program allows Iraq to export petroleum in exchange for funds which can be used for food, medicine, and other humanitarian products. But despite more than $15 billion available for those purposes, Iraq has only spent a fraction of that money for the needs of the Iraqi people. Instead, the Iraqi Government spends it on missile capability, defensive and offensive capability, a highly trained military. One has to wonder why, when billions of dollars are available to care for the people of Iraq; many of whom are malnourished, many of whom are sick, many of whom have inadequate medical care; why would Saddam Hussein withhold the money available and choose, instead, to blame the United States for the plight of his people? Why is Iraq reducing the amount they spend on nutrition and prenatal care? Why are they reducing that amount when millions of dollars are available? Why does $200 million of medicine from the U.N. sit undistributed in Iraqi warehouses? Why, given the urgent state of humanitarian conditions in Iraq, does Saddam Hussein insist that his country's highest priority is the development of sophisticated telecommunications and transportation infrastructure? Why, if there are billions available and his people are starving, is Iraq only buying about $8 million in agricultural products from the United States?

I do not have any quarrel with the Oil For Food Program. It is well intentioned. I do have a problem with the means with which Saddam Hussein has manipulated our growing dependency on Iraqi oil.

Three times since the beginning of the Oil For Food Program Saddam Hussein has threatened, or actually halted, oil production, as I indicated, disrupting energy markets, sending world prices skyrocketing. Why did he do this? I guess he wants to send a message to the United States. The message might be: I have leverage over you.

Every time I look at this chart I look at the increased leverage associated with Saddam Hussein and OPEC and the cartel. We do not have cartels in this country. We cannot. We have antitrust laws against it. But we are feeding this cartel with our appetite for crude oil.

The harsh reality is, as much as we would like to relieve our dependence on oil with alternative energies—we have alternative sources of energy. We have coal, we have natural gas, we have hydro, we have nuclear, but you do not move America or the world on that kind of energy. You move America and the world on oil. We do not have a substitute for that. We do not have anything realistic to replace it.

We are going to become more dependent unless we address the alternative and that is to reduce our dependence here at home by conservation and opening up new sources where we are likely to find a significant volume of oil.

One of the things in my energy bill as a specific goal and target is to reduce the dependence on imports of oil to less than 50 percent by 2010. You can do it in one fell swoop if, indeed, the oil in ANWR is what it purports to be, somewhere between 5.6 billion and 16 billion barrels a day. The question is, Can you do it safely; and the answer is clearly yes.

There is one other thing I would like to mention that has not gone into the ANWR argument to any extent. That is the interests of the residents of the area. That particular issue involved 95,000 acres of land that are in ANWR, up here at this very top of the world, in this area, Kaktovik—these Natives have 95,000 acres of land. I have a chart that shows the Native ownership. But the Native ownership is basically such that it has no access to the existing pipeline. It has no access from the standpoint of producing, even for the villagers there, the gas that is in the village site for use by the villagers. They are simply precluded.

We use the term "corked" in Alaska. Corked means that when you are out fishing and you have your net the way fish are swimming, somebody takes their net and goes in front of you.

That is just what has happened up here with our Native people. The Native people have 95,000 acres of private land. They are precluded from recovering even their own natural gas for development and usage. That is wrong.

As we look at reality, and as we look at our increased dependence on imports, by the votes we have seen here, whether it is on lease sale 181 or some of the issues relative to our national monuments, we had better come to grips with reality. Where are these deposits going to come from if they do not come from areas that are still open?

This is a chart that shows the areas that are closed. The west coast and the east coast are off limits. Take lease sale 181. Three-quarters of that is off limits. The entire overthrust belt is off limits as a consequence of actions by the last administration.

I make this point simply to highlight the reality. Here we are talking about extending moratoriums against Iran and against Libya with no mention of Iraq. We have placed our energy security in the hands of a madman, Saddam Hussein.

The administration has attempted valiantly to reconstruct a sensible multilateral policy towards Iraq. Those attempts, unfortunately, have not been successful. We are still dependent on foreign imports, and a significant portion is coming from Iraq.

I think before we can construct a sensible United States policy towards Iraq, we need to end the blatant inconsistency between our energy policy and our foreign policy. We need to end our addiction to Iraqi oil. We need to basically go cold turkey. To that end, in a moment I will introduce legislation which would prohibit oil imports from Iraq, whether or not under the Oil for Food Program, until it is no longer inconsistent with our national security to resume these imports. I hope that this will be an initial step toward a more rational and coherent policy towards Iraq.

As a consequence, I am withdrawing my amendment at the desk. I trust my colleagues have picked up to some extent the points I have brought out.

Mr. President, I ask unanimous consent for 1 minute as if in morning business to introduce my bill. Then I will yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is withdrawn.

Without objection, the Senator is recognized.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 1170 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MURKOWSKI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I think we are at a stage in the debate on the bill that I can now say we have completed all of our work.

I compliment the chairman and the ranking member for their extraordinary work in the last couple of days in getting us to this point. Let me also thank Senator GRAMM of Texas for his work in the last couple of hours in working with Senator BYRD on a concern of great import to Senator BYRD.

There has been no request for a rollcall vote on final passage. I am now in a position to announce that there will be no more rollcall votes tonight.

There are no rollcall votes scheduled for tomorrow, nor will there be votes on Monday.

My hope is that we will be able to move to the energy and water appropriations bill on Monday for debate only, and then we will move into debate on amendments beginning as early as Tuesday. I hope Senators will file their amendments and will be prepared to offer them even though we will not have votes on Monday. I encourage them to do that.

I am hopeful we can get at least two appropriations bills done, if not more, next week.

We have a lot of work to do. But there are no more votes tonight. As promised, I have also made a commitment that a number of nominations—if I recall, something on the order of 20 nominations—will be offered shortly. We are about ready to do that. There is at least one that will be the subject of some discussion. But I know of no requests for rollcalls on those nominations. No more rollcall votes tonight.

We will begin work on Monday, hopefully, on energy and water.

I yield the floor.

Mr. BURNS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Madam President, I wish to take this opportunity to offer a few observations as we are closing up this Interior appropriations bill. I must thank the senior Senator from West Virginia for his work as chairman of this committee. His staff has been remarkable. They are easy to work with, and they have accommodated, I think, as many people in this body as they possibly could.

Peter Kiefhaber has done a commendable job in his first year as the clerk for the majority. His willingness to work with my staff has ensured that this bill has reached its bipartisan form. He has been assisted by a number of very capable staff members, including Ginny James, Leif Fonnesbeck, Brooke Livingston, and a detailee from the U.S. Fish and Wildlife Service, Scott Dalzell.

On my side of the ring, I thank my staff members who work with me on the minority side.

Bruce Evans lent his expertise after spending numerous years as the majority clerk under the very able chairmanship of Senator Slade Gorton of Washington. I have a lot more respect for the former Senator from Washington and the work he did because this is my first year on Interior appropriations. I personally thank Bruce for continuing his service in the Senate and helping me through my first year as chairman and then ranking member on this bill.

I also thank Christine Drager for her assistance on a number of extremely difficult accounts, as well as Ryan Thomas, who moved from my personal office to the Appropriations Committee to lend a helping hand in crafting this legislation.

While I am thanking those who have helped in the formation of this legislation, I want to single out Mark Davis. Mark has joined my office as a congressional fellow from the U.S. Forest Service. I want my colleagues to know that it was Mark's efforts that ensured we received all of your requests, and all the requests were considered. He sifted through the request letters, organized your request lists, and tracked your staff down to make sure we had the information necessary to help us meet the desires of each Member and make some very tough decisions. I thank him for his service.

Madam President, this has been somewhat of a difficult process. We were not able to fully meet the desires of every Member who offered an amendment to this bill. However, the chairman and I have attempted to remain fair while avoiding adding legislative riders that would slow the progress of this bill.

It is imperative that this bill be moved through Congress and be sent to the President as soon as possible. It is now mid-July and we have a lot of work ahead of us.

Again, I thank my chairman, Senator BYRD of West Virginia. I could not have asked for a better chairman as I enter the first year working on Interior appropriations. I thank him very much for his patience because he helped me through some of the rough spots. I thank him for that.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I express my heartfelt gratitude to my colleague, the distinguished Senator from Montana, who is the ranking member on the subcommittee of the Department of the Interior.

I thank him for his very able representation of his people. I thank him for the consideration he has accorded to all other Senators as we have developed this bill, brought it to the floor and managed it together. I thank him for his equanimity, his very friendly and accommodating spirit. I thank him for being CONRAD BURNS. I thank him for the contribution he has made in the development of this bill in working with me as we have attempted to manage the bill and bring it to a conclusion.

I thank our respective staffs on both sides of the aisle for their courtesies to us and to our colleagues. I thank our colleagues for their cooperation and understanding. I thank the leaders on both sides for the assistance they have given to us. I particularly thank our Democratic whip.

I believe that Members will remember my taking the floor on many occasions to speak on the theme that the dog is man's best friend. Harry Truman said, "If you want a friend in Washington, you better go buy a dog." Well, I believe that. Members often hear me extol the virtues of the dog. Not only can we say that a dog is man's great friend, but for those of us who have to manage bills on the floor, it has been my experience that the majority whip is the best friend that a manager of a bill can have.

I have seen a goodly number of whips in my time on the Senate floor. The Office of Whip goes back a long way, into the 1600s, as a matter of fact, when it was said in the British Parliament that the whipper-in—the individual who kept the hounds from straying from the field during the fox chase. In those days, whips were sent in the form of circular letters to members of the opposition, members of the King's party to northern England, and sent as far away as Paris, France, to tell members to come in on a certain day and be prepared to vote on a certain matter. That was the whip's job.

The whip's position here has grown into an institution. During the early 1900s, during the first quarter of the 20th century, the offices known as majority whip, majority leader, minority leader, minority whip came into being. They are not constitutional offices, but these are offices that have been developed over the years.

The whip system in the House is much more refined and more highly developed than it is in the Senate, not quite so highly developed as it is in the British Parliament. In our body, we do not have the whip system they have in the House, but we have an extraordinarily good whip in HARRY REID from Nevada.

I was what I consider a good whip here for a good many years. I served with Mike Mansfield when he was majority leader. I was the majority whip, and I sat on the floor all the time. I never left the floor but a few minutes at a time. This whip, HARRY REID, performs that same function. He is on the floor. He is helping Senators with their needs. He is helping the managers of the bills to arrive at agreements. He is helping the managers of the bills to reach time agreements on amendments once they have been offered. He does an extraordinarily good job.

I express those compliments concerning HARRY REID. I think he is a better whip than ROBERT BYRD was. He has more patience than ROBERT BYRD had. I would say he has more political gumption than ROBERT BYRD probably had. He is a great whip. I salute him.

I have no hesitancy at all in saying if somebody does a better job than I can do, I salute them for it. He does an excellent job. I thank him.

He helped me and Senator STEVENS on the supplemental bill. He has helped Senator BURNS and myself on this bill. I thank him again.

Madam President, we will be going to conference next week on this bill, and Senator CONRAD BURNS and I will, again, stand shoulder to shoulder with the other members of our team on both sides of the aisle, and we will be working with the House Members in an effort to bring from the conference a bill the President will sign into law.

I merely wanted to express those few compliments, those few expressions of gratitude, and to say I am very glad that the Senate has reached the point now of finalizing the action on this bill prior to it being sent to conference.

The Senate has now approved the fiscal year 2001 Supplemental appropriations bill and the first fiscal year 2002 appropriations bill, the fiscal year 2002 Interior and related agencies appropriations bill. We have scheduled nine bills for action in the Senate Appropriations Committee during July and we hope to have Senate action on those bills before the August recess.

We have a long tradition on the Senate Appropriations Committee of working together on a bipartisan basis to produce fiscally responsible and balanced appropriations bills. Working together with my distinguished colleague and good friend TED STEVENS, we have gotten off to a good start this year.

The fiscal year 2001 supplemental appropriations bill passed the Senate on Tuesday by a vote of 98–1. It totaled $6.5 billion, not one thin dime over the President's request. It is a balanced bill that approved most of the President's request for defense and included a number of other priority programs such as funding for Education for the Disadvantaged, the Low Income Home Energy Assistance Program, and the Global AIDS program. It included no emergency funding. All unrequested items were fully offset so that we remain under the statutory cap on spending for fiscal year 2001.

Today, we have approved the fiscal year 2002 Interior appropriations bill by a voice vote. We have exercised discipline. The budget resolution sets very tight limits on overall discretionary spending. And this bill stays within the 302(b) allocation that the Appropriations Committee approved pursuant to the budget resolution.

In both bills we held the line. We stayed within our budgetary boundaries. We took a deep breath and were able to squeeze in between those narrow walls. But the walls are getting tighter. We have been given a difficult task. Much has been asked of us; a tremendous amount is expected when it comes to providing for the national need.

We are attempting to conduct the people's business—to pass the thirteen bills that fund government in a timely fashion. The clock is ticking. We hope to go to conference soon so that this bill can be sent to the President before the August recess.

The House and Senate Budget Committee are now projecting that we will be dipping into the Medicare surplus in fiscal year 2001 and fiscal year 2002 and that this trend is likely to continue for several years. This is taking place before a single appropriations bill has been sent to the President.

I believe that this change in our budget outlook will result in very tight limits on discretionary spending over the next few years. I don't like it, it won't be good for America, but it is a reality. As we consider the fiscal year 2002 bills, it will be very important that we understand the long term consequences of our actions. We should not be taking actions this year that will lock us into long term costs. We have a long tradition on this committee for working together on a bipartisan basis to produce responsible bills, one year at a time.

There will be a strong temptation to approve provisions this year that will mandate costs for specific programs in future years. We simply can not go down that road when we know that we are facing tight spending limits over the next few years.

Madam President, I ask unanimous consent that during the pendency of H.R. 2217, the managers be permitted to offer a managers' amendment; that once the amendment is reported, it be considered agreed to and the motion to reconsider be laid upon the table; that any amendments laid aside be modified and agreed to, as modified; that the motion to reconsider be laid upon the table; that no further amendments be in order; that the bill be advanced to third reading; that the Senate proceed to vote on passage of the bill with no intervening action; that the Senate insist on its amendment, request a conference with the House of Representatives, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I yield the floor.

Mr. BURNS. Madam President, I again thank Senator BYRD for his leadership on this legislation. We set a record for an Interior appropriations bill due to the chairman's leadership. Two days is about as fast as we have done an Interior appropriations bill. That is a great credit to his leadership. I thank the Senator from West Virginia.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I ask unanimous consent that any statements by Senators in connection with the bill be printed in the RECORD as though spoken.

The PRESIDING OFFICER. Without objection, it is so ordered.A

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF J. STEVEN GRILES

Mr. REID. Madam President, I ask unanimous consent that immediately following the vote on final passage of H.R. 2217, the Senate proceed to executive session to consider the nomination of J. Steven Griles to be Deputy Secretary of the Interior; that the Senate immediately vote on the confirmation of the nomination, with no intervening action; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; that there then be a period for debate regarding the nomination; and that following that debate, the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Oregon.

Mr. WYDEN. Madam President, reserving the right to object, I ask unanimous consent that the agreement be modified to reflect that the vote occur on the nominee following my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I ask for no more than 2 minutes following the comments of the Senator from Oregon.

Mr. REID. I say under my own consent request, it is likely that the junior Senator from Florida will also want to speak. He has indicated that when we take our voice vote, he wants to be one of those known as having voted no. So I reserve some time for him, too, if he desires to come.

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. REID. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 976

The PRESIDING OFFICER. The clerk will report the managers' amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. BURNS, proposes an amendment numbered 976.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 976) was agreed to.

The PRESIDING OFFICER. Under the previous order, all the pending amendments are agreed to.

The amendment (No. 880) was agreed to.

The amendment (No. 975), as modified, as agreed to, as follows:

At the appropriate place, insert the following:

SEC. ___. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM.

(a) IN GENERAL.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106–51; 15 U.S.C. 1841 note) is amended as follows:

(1) TERMS AND CONDITIONS.—Subsection (h) is amended—

(A) in paragraph (1), by striking "2005" and inserting "2015"; and

(B) by amending paragraph (4) to read as follows:

"(4) GUARANTEE LEVEL.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

"(B) INCREASED LEVEL ONE.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 90 percent, of the amount of principal of the loan, if—

"(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $100,000,000; and

"(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $50,000,000.

"(C) INCREASED LEVEL TWO.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

"(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $100,000,000; and

"(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $50,000,000.".

(2) TERMINATION OF GUARANTEE AUTHORITY.—Subsection (k) is amended by striking "2001" and inserting "2003".

(b) APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

Mr. BURNS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WYDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

INDIAN HEALTH SERVICES

Mr. DASCHLE. Madam President, I would like to bring to the attention of the Senate the critical shortfall in Indian Health Service funding. The Indian Health Service is unable to provide basic health services to American Indians and Alaska Natives. We are failing to uphold a promise we made many years ago in federal-tribal treaties as well as federal statute.

The Indian Health Service is tasked with providing full health insurance for American Indians and Alaska Natives, but is so underfunded that patients are routinely denied care that most of us take for granted and, in many cases, call essential. The budget for clinical services is so inadequate that Indian patients are subjected to a "life or limb" test. Unless their condition is life-threatening or they risk losing a limb, their treatment is deferred for higher priority cases; by the time they become a priority, there are often no funds left to pay for the treatment.

I attempted to address this crisis by offering an amendment to the fiscal year 2002 budget resolution. The amendment called for a $4.2 billion increase for the clinical services budget of the Indian Health Service. Seven of my colleagues cosponsored this amendment, which passed the Senate, but was not included in the bill that returned from conference.

I again attempted to address this situation in the Interior Appropriations bill, but it appears that we will be unable to do that at this time due to the inadequate budget allocation facing the Interior Appropriations Subcommittee. I would like to engage in a colloquy with the distinguished chairman of the Appropriations Committee on how we might address this situation in conference and advance the goal of living up to our commitment to provide essential health services to American Indians and Alaska Natives.

Mr. BYRD. Madam President, I am happy to address that issue with the majority leader. Can the leader tell me what would be required to offer the basic health services we promised to American Indians and Alaska Natives?

Mr. DASCHLE. Madam President, we have estimates of the funding that would be required to provide basic clinical services to American Indians and Alaska Natives. The President's fiscal year 2002 budget requests $1.8 billion for Indian Health Service clinical services. While this is an increase over the fiscal year 2001 appropriation, it will not allow the Indian Health Service to meet the basic level of health needs for American Indians and Alaskan Natives. For many years now, appropriations for the Indian Health Service have not even kept pace with medical inflation or population growth. The per capita spending on health care for each Indian Health Service beneficiary is only one-third of what is spent per capita for the general U.S. population. The Department of Health and Human Services and the Indian Health Service produce a tribal needs-based budget that calculates the true cost of meeting the health needs of Native Americans. According to these estimates, a $4.2 billion increase in the 2002 budget is required to meet the most basic health care needs.

The impact of serious, chronic underfunding of the Indian Health Service is immense. The disparities in health outcomes between American Indians and Alaska Natives as compared to other Americans is appalling. Infant mortality is just one example. An American Indian baby is 50 percent more likely to die before the age of one than a Caucasian baby. In some counties of my state, the infant mortality rate is 33.6 per 1,000, more than 5 times the Caucasian rate. The same disparities exist for diabetes, tuberculosis, alcoholism, liver disease, and fetal alcohol syndrome, all of which plague America's native communities at rates far above the incidence for other Americans. Sadly, the mortality rate for American Indians and Alaska Natives is higher than for all races in the United States; life expectancy is the lowest.

I know the distinguished chairman is concerned about these conditions, and I know that his efforts to increase Indian Health Service funding have been undermined by an inadequate budget allocation for this subcommittee. I certainly appreciate the severe constraints on the Appropriations Committee, particularly in light of the tax cut legislation recently enacted and the budget reestimates that indicate the projected budget surpluses are dwindling. Still, I hold out hope that, as he and the other conferees negotiate with our colleagues in the House, they can find some way to provide additional funding for the clinical services budget of the Indian Health Service. I would not make this request unless I were truly convinced that we have fallen far short on our commitment to provide health care services to American Indians and Alaska Natives.

Mr. BYRD. Madam President, I assure the majority leader of my commitment to that effort. While we certainly will not be able to address all of the funding shortfall this year, I, too, am hopeful that we can find additional funds in conference to begin to address that shortfall.

Mr. COCHRAN. Madam President, I am concerned that there are members of the Mississippi Band of Choctaw Indians who are currently not allowed to be provided with health care services under the Indian Health Services Contract Health Services program. It is my understanding that there is a procedure which would allow the Mississippi Band of Choctaw Indians to include the approximately 300 tribal members who reside in Ripley, TN, within their authorized service area.

The Ripley community lacks the most basic health services. There are no resources for preventive health education and no access to either Indian Health Services or tribally operated facilities.

The Mississippi Band of Choctaw Indians has demonstrated a commitment to these tribal members by providing updated housing and other infrastructure and services. The tribe is currently constructing an appropriate health care facility at the Ripley Community. However, it is concerned that it does not yet have the authorization from Indian Health Services to provide those services.

I am sensitive to the constraints in the Interior Appropriations bill, which did not allow an increase in the Contract Services Program. I am hopeful that we can work with our colleagues from the House of Representatives in the conference for this bill to find additional funds for this program, to increase the likelihood that tribal members, no matter where they live, will be able to have access to the health services their tribe can offer.

Regardless of the funding situation, I hope that the Indian Health Services officials here in Washington, D.C., will review this situation and work closely with Chief Phillip Martin, the tribal council, and other officials of the Mississippi Band of Choctaw Indians, to expand its Contract Health Services area.

Mr. BYRD. The Senator from Mississippi has my assurance that I will support his effort to assist the tribe in his State. I encourage the Director of Indian Health Services to pay particular attention to the request of the Mississippi Band of Choctaw Indians to serve its tribal members in Ripley, TN.

ATLANTIC SALMON CONSERVATION

Ms. SNOWE. Madam President, my colleague from Maine and I would like to engage the subcommittee chairman and ranking member if we may.

Mr. BYRD. Please proceed.

Ms. COLLINS. I want to thank my colleagues from West Virginia and Montana for the support they have provided in their bill for Atlantic salmon conservation and restoration efforts in our State. I appreciate their fully funding the administration's request for $597,000 in the Fish and Wildlife Management Account as well as their willingness to make $1.1 million available to the National Fish and Wildlife Foundation to carry out a competitively awarded grant program to fund on-the-ground recovery efforts for Maine's Atlantic salmon.

Ms. SNOWE. I also want to thank my colleagues for their support for Atlantic salmon recovery. As the Senators know, the fiscal year 2001 Interior appropriations bill provided the funding to establish the National Fish and Wildlife Foundation's Atlantic salmon grant program. The program, which has leveraged an even greater amount of non-federal money, has been extremely successful at identifying and supporting innovative projects that will help with the recovery effort.

Mr. BYRD. I appreciate the comments of my colleagues from Maine and commend them for the hard work they have done to secure resources to help with the Atlantic salmon recovery efforts in their State.

Ms. COLLINS. In reporting its bill, the subcommittee originally provided $500,000 for the National Fish and Wildlife Foundation's Atlantic salmon grant program. It is my understanding that, in increasing funding for the program to $1.1 million, the subcommittee continues to meet the administration's request for $597,000 in funding for Atlantic salmon recovery efforts through the Fish and Wildlife Management Account.

Mr. BURNS. The Senator from Maine is correct. The subcommittee recommended an increase of $7,380,000 for Fish and Wildlife Management above the administration's request for this account. Of the $7,380,000, $600,000 has been reallocated as part of the manager's amendment to the U.S. Fish and Wildlife Service's General Administration Account for the National Fish and Wildlife Foundation's Atlantic salmon grant program, bringing the total provided by the bill for this program to $1.1 million.

Ms. SNOWE. The money that was provided last year has been utilized to engage a wide range of stakeholders, including local community groups as well as aquaculture, agriculture, and forestry companies in cooperative restoration efforts. They have worked hard to aid the rebuilding process. It is a reflection of the strong commitment of everyone in Maine that we have far more projects being proposed than funding to accommodate them all. I can assure you that the money you are providing today will make a significant impact. I thank the subcommittee chairman and the ranking member for their courtesy and continued support.

Ms. COLLINS. I also thank the Senators from West Virginia and Montana, and I look forward to continuing to work with them and the senior Senator from Maine to ensure that resources are available to assist in Atlantic salmon recovery efforts.

FUNDING FOR THE URBAN PARKS AND RECREATION RECOVERY FUND

Mrs. BOXER. Madam President, I would like to take this opportunity to clarify that it is the intent to seek additional funding for the Urban Park and Recreation Recovery Fund, UPARR, when the Senate Interior appropriations bill goes to conference.

UPARR plays a vital role in supporting the last remaining green spaces in some of our most congested urban areas. This program takes a relatively small amount of federal funds and leverages them to make a substantial contribution to the development and improvement of our nation's urban parks, playgrounds, and recreational areas. For many of my constituents, these small pockets of open space are a vital part of their community. They serve as playgrounds for children, meeting places for adults, and areas for fun, recreation, and respite from the daily hustle and bustle of our Nation's most economically and socially stressed neighborhoods.

I was pleased to see that the House included $30 million for this important program in its fiscal year 2002 Interior appropriations bill. This amount includes a slight increase over last year's funding levels and is consistent with the commitment made to this program last year in title VIII of the Interior appropriations bill.

I was disappointed, however, that the Senate bill did not match this funding level. I realize that this lower level of funding for UPARR is related to the lower overall level of funding in the Senate bill. When the bill gets to conference with the House, I hope we can accept the House level. Is that the chairman's intent?

Mr. BYRD. I agree with my distinguished colleague from California that UPARR is a worthy program. If additional funds become available in conference, I shall be glad to consider a higher level of funding for UPARR.

SEWALL-BELMONT HOUSE

Mrs. HUTCHISON. Madam President, I rise today to ask my colleagues Senator BYRD and Senator BURNS to work with me in conference on the Interior appropriations bill to ensure that the Interior Department provides funding for an important Capitol Hill landmark, the Sewall-Belmont House.

The Sewall-Belmont House has been a center of political life in Washington for more than 200 years. It was the home of Treasury Secretary Albert Gallatin from 1801 to 1813 and the only site in Washington to offer armed resistance when British troops invaded the city in August 1814. The building later became a beacon of liberty for American women in the 20th century as the headquarters of the historic National Woman's Party and home of the suffragist leader, Alice Paul.

Congress provided $500,000 last year to begin much needed site preservation work at the Sewall-Belmont House. Funds will be needed this year to continue construction and ensure that this home remains a national treasure.

Recognition of the Sewall-Belmont House as a nationally significant heritage site has dramatically increased as a result of this preservation effort. Visitorship is steadily increasing, and the National Trust for Historic Preservation recently called the Sewall-Belmont House "the most significant unrestored women's history site in the country." Again, I look forward to working with my colleagues to ensure funding for the continued preservation of Sewall-Belmont House.

Mr. BYRD. Madam President, I thank my colleague and share her commitment to preserving Sewall-Belmont House. As my distinguished colleague from Texas is undoubtedly aware, it will be difficult to address the funding needs of all the worthy requests before us. Nevertheless, I look forward to working with her in conference to address the funding needs of this unique historic site.

AUXILIARY POWER UNITS AND PORTABLE POWER IN THE DOE TRANSPORTATION FUEL CELL PROGRAM

Mr. HARKIN. Madam President, fuel cells, a family of technologies that produce energy electochemically, without combustion, are being developed for a exciting variety of applications. Some of these applications were not contemplated in 1992 when Congress authorized the Office of Transportation Technologies to support development in a variety of product areas. To its credit, the department has attempted to keep pace and to provide the most meaningful support possible to the research, development and demonstration of fuel cells.

My purpose today is to clarify the Senate's interest in two applications, auxiliary power units for motor vehicles and portable power. Auxiliary power units promise a substantial improvement in energy efficiency of vehicles of all types and may reach commercial readiness before complete fuel cell engine systems for vehicles. APU's might also encourage the development of fuel infrastructure and encourage consumer acceptance, readying the marketplace for fuel cell vehicles.

Successful development of fuel cell portable power units will also accelerate consumer understanding and market acceptance. The manufacture of portable power units would yield important experience in manufacturing technology and the increased production volumes would have a direct benefit in reducing the cost of fuel cell engines and systems for vehicles.

Is it the understanding of the distinguished chairman that these applications fall within the jurisdiction of the Office of Transportation Technology?

Mr. BYRD. Yes. The committee recognizes that vehicle auxiliary power units and portable power systems may be early commercial uses of fuel cells that would also develop infrastructure and experience needed for fuel cell vehicles, and considers these applications to be within the scope of the Office of Transportation Technologies fuel cell program.

Mr. HARKIN. I thank the Senator.

OHIO WATER PROJECTS

Mr. DEWINE. Madam President, I rise to enter into a colloquy with Appropriations Chairman BYRD and the ranking member of Interior Appropriations, Senator BURNS. I want to briefly discuss with my honorable colleagues an important conservation and recreation project that is of great interest to me and request their favorable consideration of $5 million for this project in the fiscal year 2002 Interior appropriations bill.

Madam President, a few miles west of Ohio's State capital of Columbus flow two outstanding waterways: the Big and Little Darby Creeks. These two creeks are recognized as State and National Scenic Rivers for their crystal clear water, their abundance of wildlife, and their importance to many Ohioans as a source of high quality outdoor recreation. The Nature Conservancy has even listed these watersheds as one of the "Last Great Places" in the Western Hemisphere. On more than one occasion, I have had the pleasure of visiting these two creeks. As a matter of fact, Mr. President, I spent a wonderful day canoeing on the Big Darby Creek earlier this week with two of my children.

Since 1959, the Franklin County Metro Parks have been purchasing land from willing sellers along these two creeks as part of their Battelle-Darby Creek Metro Park. The Park currently offers several recreational opportunities including a Streamside Classroom Education Program, a 1.6 mile walking trail, and several canoe access sites. In addition to welcoming the thousands of visitors the park receives each year, the park's dedicated and highly trained staff are conducting important wetland and prairie restoration programs in the area. At this time, there are several potential purchases that could substantially expand the park and ensure the protection of the creek and increase public access opportunities. I have urged my colleagues on the Interior Appropriations Committee to provide funding for these purchases.

I have discussed my interest in providing financial support for further expansion of the park with Senators BYRD and BURNS and I appreciate their willingness to enter into this colloquy. I also appreciate their interest in exploring funding opportunities for this project through the fiscal year 2002 Interior appopriations bill.

Mr. BYRD. Madam President, I have had the opportunity to discuss this project with Senator DEWINE, and I rise today to assure him that I appreciate and understand his interest in this important project and will give it serious consideration during further consideration of the fiscal year 1902 Interior appropriations bill.

Mr. BURNS. Madam President, I too have had the opportunity to discuss this project with my friend from Ohio. I share Senator BYRD's interest in examining potential funding opportunities to support this project.

WOLF RECOVERY PROGRAM

Mr. CRAIG. Madam President, I rise to commend Mr. BYRD and Mr. BURNS on their leadership and hard work on this bill. The subcommittee has had to make hard decisions about scarce resources and has labored to do so fairly. They have made real efforts to make sure the taxpayer's dollar is spent effectively and efficiently. I have seen first-hand, and appreciate, their dedication to the integrity of this process.

Would the distinguished gentlemen form West Virginia and Montana engage in a colloquy with me concerning the Central Idaho Wolf Recovery Program for the nonexperimental population of gray wolves?

Mr. BYRD. I would be pleased to engage in such a colloquy.

Mr. BURNS. As this program also affects my State, I too would be pleased to engage in a colloquy.

Mr. CRAIG. While I wish gray wolves did not reside in my State, they do, and they are not going away. Thus, I believe the U.S. Fish and Wildlife Service must be pro-active and aggressive in addressing issues related to the monitoring of the wolf population and working with the affected States of Idaho, Montana, and Wyoming to delist the population. The wolf population in Central Idaho is growing by leaps and bounds. As a result, permittees are faced with growing livestock-wolf conflicts. In addition, private property rights are infringed as these conflicts occur on private property. Yet the permittee must have a Federal permit to address conflict issues on their own land. Last, as the population grows, management efforts have not increased at the same rate. I feel that these individuals should not be punished because the wolves were re-introduced into central Idaho.

The subcommittee has worked to secure an additional $200,000 for the Central Idaho Wolf Recovery Program. I fee this additional money should be used to increase monitoring efforts and increase communication with potentially affected permittees, as well as, to focus efforts on defining and meeting criteria for delisting the wolves in central Idaho. I believe these funds should work to provide Idaho with flexibility in managing the wolf population to meet the needs of those most affected by the wolves.

Mr. BYRD. I will work with Mr. CRAIG to see that these funds are used for monitoring of the central Idaho wolf population.

Mr. BURNS. I agree with the gentleman from Idaho, these funds should be used to provide flexibility in managing the wolf population of central Idaho.

JUDICIAL TRAINING IN THE PACIFIC ISLANDS

Mr. SMITH of Oregon. Madam President, I would like to discuss with my distinguished colleagues, the chairman of the Appropriations Committee, and the ranking member on the Interior Appropriations Subcommittee, the need for judicial training in the Pacific Islands.

I have been working over the past year with the judges of the ninth circuit, the circuit charged with overseeing the judiciary in the Pacific Islands, to help them secure the funds to conduct a needs assessment for the training of judges in the United States territories and Freely Associated States in the Pacific. That assessment has been completed, and has identified the need for more training programs for nonlawyer and legally trained judges.

The judges of the ninth circuit have worked with the National Judicial College to design two separate one-year training programs for judges in the Pacific Islands. One is aimed at nonlawyer judges, and would be conducted in Pohnpei, the capital of the Federated States of Micronesia, in order to be the most cost effective. The second program would be conducted in the United States, and would be geared toward chief justices or presiding judges.

These training programs are necessary to help Pacific Islands facing burgeoning populations and judicial systems that are not fully developed. The need for further training of these judges has long been recognized by the ninth circuit. This program has the full support of the judiciaries in American Samoa, Guam, the Commonwealth of the Northern Marianas, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

If we are to expect these areas to be able fully and effectively enforce applicable laws, including traditional laws, then we must ensure that the persons who serve in the local judiciaries are fully trained. Of all the technical assistance programs that we provide to improve the operations of government, this particular program has the greatest potential for improving society and the quality of life in these islands.

The cost of this 1-year program would only be approximately $100,000. I ask my colleagues' support in encouraging the Secretary of the Interior to support this effort.

Mr. BYRD. I support the training of these judges and would be pleased to encourage the Secretary to support this effort as well.

Mr. BURNS. I, too, support such an allocation by the Secretary.

DON EDWARDS NATIONAL WILDLIFE REFUGE

Mrs. FEINSTEIN. Madam President, I rise to join the chairman and ranking member of the Interior Subcommittee to discuss an issue important to the State of California. That is the continuing funding for the acquisition of San Francisco baylands adjacent to the Don Edwards National Wildlife Refuge.

Since the early 1900s, more than 90 percent of California's interior wetlands have been lost to development and other land use changes. The property for purchase constitutes more than 13,000 acres of salt ponds at the edge of San Francisco Bay, which itself provides important habitat for more than 1 million birds per year. This purchase will increase the bay's wetland area by 50 percent.

Mr. BYRD. I am familiar with this project. As I understand it, the owner of the land is asking for $300 million in Federal and State funds for the 13,000 acres. While, this may be a worthwhile endeavor, I question whether it will be possible to allocate such a large sum.

Mrs. FEINSTEIN. I understand the chairman's concern about the level of funding required to complete this purchase. I share his concern. I am personally working with all parties involved in the agreement in an effort to substantially reduce the federal share of the purchase price.

I am concerned, however, that by providing no funding in the fiscal year 2002 Interior appropriations bill, the seller will be forced to seek other buyers. This would be a lost opportunity of historic proportions. It would be my intention to secure a small amount of funding in the Senate bill to keep the project alive as we move forward in appropriations process with the goal of increasing the project's appropriation should a more realistic price be negotiated.

Mr. BURNS. As the Senator from California knows, funding for the Fish and Wildlife Land acquisition account has already reached its cap and any new funding would have to be offset from within the account.

Mrs. FEINSTEIN. I am aware of the problem raised by the ranking member. To this end, I am willing to reduce funding for two California land acquisition projects—the San Diego National Wildlife Refuge and the San Joaquin National Wildlife Refuge—by $250,000 each. I want to be very clear—I fully support these projects. In fact, they were included in the bill at my request. I intend to see that they are fully funded by the end of this process. However, due to the procedural necessity of providing an offset, the only way to ensure that all three equally important projects go forward is to make this reduction. Should the interested parties fail to come to an acceptable agreement over the San Francisco baylands, the funding could return to the San Diego and San Joaquin projects.

Mr. BYRD. I thank the Senator from California for this statement. With these assurances, I will support the reduction of funds at the San Diego National Wildlife Refuge and the San Joaquin National Wildlife Refuge, and the increase of funds at the Don Edwards National Wildlife Refuge.

JACOB RIIS PARK

Mr. SCHUMER. Madam President, I want to take a moment to thank Senators BYRD and BURNS for their stewardship of the Interior appropriations bill for fiscal year 2002. Their work on this bill will secure millions of dollars in funding to help preserve our Nation's precious natural resources, and I support their efforts wholeheartedly.

My colleague from New York, Senator CLINTON, and I would like to take a moment to engage our colleague in a colloquy.

Mr. BYRD. I thank my colleague for his kind words and will be happy to engage in a colloquy with the Senators from New York.

Mr. SCHUMER. In 1905, New York City's officials entered into an informal agreement with the New York Association for Improving the Condition of the Poor, an organization co-founded by journalist Jacob Riis, to build a recreational facility for the relief of New York tenement dwellers. The resulting Riis Park, opened to the public in 1936, provided opportunities for diversion to millions of city residents. The facility became part of the National Park Service's Gateway National Recreation Area in 1974, and nearly 30,000 people continue to visit this historic site every weekend.

Over the past few years, I have worked with colleagues from both sides of the aisle, in both the Senate and the House, to try to secure funding toward the construction of a natatorium complex at Jacob Riis Park. This project is supported by the New York Landmarks Conservancy, the Historic Districts Council, and the Queensboro Preservation League, as well as the thousands of constituents who turn to this park as a resource for recreation opportunities every spring, summer, and fall.

Mrs. CLINTON. Madam President, Riis Park serves an ethnically diverse population including hundreds of innercity families, adhering to the ideas envisioned by Jacob Riis and carried on by City Parks Commissioner Robert Moses. By investing in this urban park, our government can ensure that it remains a viable resource for years to come. I stand in full support of funding for the Riis Park Natatorium Complex.

Mr. SCHUMER. My colleague and I have an inquiry to make of the chairman of the Appropriations Committee, the Senator from West Virginia. Both the House and Senate reports to the Interior appropriations bill for fiscal year 2002 have included $4.13 million in National Park Service construction funding for rehabilitation of Jacob Riis Park. Would the chairman support the use of these funds for construction on the Riis Park Natatorium Complex?

Mr. BYRD. I appreciate the remarks of the Senators from New York, and would support the use of these funds for such construction.

Mr. SCHUMER. I thank the Senator from West Virginia. I thank the Chair.

Mrs. CLINTON. I thank the Chair.

DEPARTMENT OF AGRICULTURE, UNITED STATES FOREST SERVICE

Mr. CLELAND. Madam President, I first thank my distinguished colleagues for their leadership and superb management of this bill. I want to take a moment to express my support for a matter of great importance to the people of my State, specifically obtaining funding for land acquisition in the Chattahoochee National Forest. I understand that the $2,320,000 included in the Appropriations Interior Subcommittee report for that purpose will be used to purchase available tracts of land in, or bordering, the Chattahoochee National Forest in Georgia. I inquire of the distinguished Senator from West Virginia and chairman of the committee, am I correct in understanding that $1,300,000 of that total is intended to purchase property at Mount Yonah near Helen, GA, with the remainder being used to purchase property at Jack's River near the Cohutta Wilderness and the Etowah River near Dahlonega, GA?

Mr. BYRD. The Senator from Georgia is correct regarding the committee's intent.

Mr. CLELAND. I thank the Senator for his inclusion of these worthwhile projects in the Interior appropriations bill.

TECHNICAL ASSISTANCE FOR THE NEW RIVER GORGE NATIONAL RIVER PARKWAY

Mr. BYRD. Madam President, I want to take a moment to ask the ranking member for his agreement to continue a program of importance to the State of West Virginia. The New River Gorge National River is a scenic whitewater river that flows through deep canyons and rugged terrain. The Congress has provided $125,000 annually for technical support and maintenance on the New River Gorge National River Parkway. Would the ranking member agree that funding for this purpose be continued within the National Park Service appropriation in fiscal year 2002?

Mr. BURNS. I agree with the distinguished chairman that this funding should be continued in fiscal year 2002.

NORTH AMERICAN WETLANDS CONSERVATION ACT AND CADDO LAKE INSTITUTE WETLANDS PROJECT

Mrs. HUTCHISON. Madam President, I rise today to thank my colleagues Senator BYRD and Senator REID for agreeing to work with me in conference on the Interior appropriations bill to ensure that the Interior Department funds the Caddo Lake Institute's wetlands project in east Texas through the North American Wetlands Conservation Act.

Caddo Lake and its associated wetlands provide habitat for over 150 species of fish and wildlife. It is one of only 17 wetlands in the U.S. that has earned the distinction of being designated a Ramsar wetland of international importance pursuant to the international wetlands convention signed in Ramsar, Iran in 1971. Caddo Lake earned this distinction, in part, because the local community surrounding Caddo Lake spearheaded a long effort to convert the area from an army ammunition plant to a refuge for fish and wildlife. With that accomplished, the next stage of the effort is to secure North American Wetlands Conservation Act funding through the Interior bill for the Caddo Lake Institute so that it may advance the planned restoration and wetlands education work at the lake. The Institute has been the local voice and enduring champion for Caddo Lake.

Mr. REID. I would like to be associated with the remarks of my colleague from Texas. I was fortunate to learn about Caddo Lake and the Institute's wetlands work at an April 10, 2001 Senate Committee on Environment and Public Works Committee hearing on wildlife conservation efforts. The premise of that hearing was that national and international conservation goals stand a better chance of accomplishment if they are driven by the local community.

Caddo Lake is a perfect illustration of that idea. At the lake, the local community organized the Caddo Lake Institute and then worked with the State of Texas and the federal government to further the conservation and educational wetland resources there. This not only implements important wetland conservation goals in the North American Wetlands Conservation Act and the Clean Water Act, but also the charge of the Ramsar Convention; that is, it implements both national and international conservation goals. Congressman MAX SANDLIN from the region testified eloquently about the beauty and value of the lake at my April 10 hearing, and I am happy to work with my colleagues to advance the important conservation and education work at Caddo Lake.

Mr. BYRD. I thank my colleagues for their work on this issue, and will work in conference to encourage the Interior Department to continue the work my colleagues have begun by funding a Ramsar-based wetland science, site management and education program through the Caddo Lake Institute working in partnership with the Division of International Conservation and the National Wetlands Research Center.

HTIRC

Mr. LUGAR. Madam President, I appreciate the previous support the subcommittee has granted to the Fine Hardwoods Tree Improvement and Regeneration Center at Purdue University. The HTIRC is engaged in research problems and technology transfer related to the regeneration of fine hardwoods. It is a regional center emphasizing not only genetic improvements and silvicultural goals, but addressing wildlife and riparian buffer issues and providing information and outreach to forest landowners.

In establishing the center, I worked with Dr. Robert Lewis of the Forest Service. The project has widespread support and is financially supported not only by the Forest Service and Purdue University, but by the Indiana Department of Natural Resources and by a very wide variety of forest landowner, industry groups and foundations. It is designed to improve the quality of hardwood tree seedlings and to address the annual shortage of hardwood tree seedlings in the midwest.

The Forest Service and the Department of Agriculture view the center as an excellent example of cooperation between government, academia, and industry in addressing important issues concerning the regeneration of hardwoods. The proposed new forest biology building and laboratory complex will soon house eighteen Forest Service employees and would provide office space and high tech laboratories for these Forest Service employees rent-free and without any charges for maintenance or services over the lifetime of the facility.

The total cost of the forestry complex is $27 million. Purdue has committed $20 million to this effort. The remaining $7 million would be derived from the Forest Service as its share of the cost to house its employees, who would receive office space rent-free and maintenance-free over the lifetime of the facility. Based on a life cycle analysis, the Forest Service has concluded that this degree of cost sharing is fully justified and is in fact extremely favorable to the Forest Service.

I thank the chairman and the ranking member for including a provision in this bill that releases $300,000 in previously appropriated funds for the design and construction of this facility. Construction of the facility is planned to begin during fiscal year 2002 and the Forest Service share of that fiscal year's funding needs is estimated at $2 million.

Mr. BURNS. I understand the need for the project, and I appreciate the Senator's leadership and strong desire to bring this into fruition.

Mr. BYRD. Senator BURNS and I will work with the Senator from Indiana to see if we can find sufficient resources through the conference process to support the Forest Service's share of this worthy effort.

CANE RIVER NATIONAL HERITAGE AREA

Ms. LANDRIEU. Madam President, I express my sincere appreciation to the distinguished floor manager and chairman of the Appropriations Committee for support of my request to provide funds for the Cane River Creole National Historical Park and Heritage Area. This park, one of America's most unique historical parks, is in Natchitoches Parish, LA, the seat of Louisiana's oldest settlement and home to one of the most interesting and unique cultures in the United States. It is my understanding that the committee report recommends $650,000 for the Cane River National Heritage Area.

Mr. BYRD. The Senator from Louisiana is correct. We were pleased to be able to recommend funding for this high priority of the Senator.

Ms. LANDRIEU. With the Senator's forbearance, I want to clarify the purposes for which these funds are allocated. My request to the committee, and I assume the committee's recommendation, will continue funding for the Cane River Heritage Area at last year's rate of $400,000 for salaries, expenses and grants and will make available to the Creole Center at Northwestern State University $250,000 to support important research and documentation of Creole culture in Louisiana. Is this the committee's intent?

Mr. BYRD. Yes. In developing this recommendation the committee assumed funding for both these activities in the amounts the Senator described.

MINNESOTA FOREST FUNDING

Mr. WELLSTONE. Madam President, I ask consent to engage in a colloquy with my distinguished colleague from West Virginia, the chairman of the Appropriations Committee and of its Subcommittee on Interior. The purpose is to discuss two items in the bill which relate to the management and vitality of national forests in my state of Minnesota—specifically, the Superior and Chippewa National Forests. The chairman and the subcommittee have done a very commendable job in the bill of providing needed funding for the continued multiple uses of our national forests. I would like to draw his attention to two provisions important to Minnesota.

First, as my colleague knows, on July 4, 1999, both the Superior and Chippewa National Forests bore the brunt of a massive, once-in-a-thousand years wind and rain storm that devastated parts of northern Minnesota. The storm damaged over 300,000 acres in seven counties, including as much as 70 percent of the trees in our national forests, and it washed out numerous roads. The damage severely hindered the U.S. Forest Service's ability to responsibly manage both the Chippewa and Superior National Forests.

The "blowdown" of trees created extreme risk of catastrophic fire due to the amount of downed and dead timber. Yet while the storm has changed affected portions of the forests for years to come and has created new risks and experiences for visitors and residents, officials from the Superior and Chippewa National Forests officials have been working with state, county, and local officials on storm recovery activities and planning to meet future needs. Key to that recovery is help provided last year in this bill. The Senate last year provided $14 million for efforts that continue today. I was pleased to work with the chairman, and I still appreciate his support at that time.

At the same time, there remains a dangerous fire threat in Superior and Chippewa, and the Forest Service plans to continue their recovery work there through fuel reduction, reforestation and general rehabilitation. The bill before us contains increased general funding for such management, recovery and rehabilitation, and I would seek my colleague's assurance that it is his understanding that an adequate portion of that funding will allow the Superior and Chippewa National Forests to continue their crucial efforts.

Mr. BYRD. I am aware of the devastating storm that affected my colleague's state in 1999, and I was pleased to assist the Senator from Minnesota at that time. The recovery efforts begun with that funding should certainly continued as needed, and I believe the subcommittee intends that this bill will provide adequate resources to complete scheduled work in the Superior and Chippewa National Forests.

Mr. WELLSTONE. I thank my colleague. The second item I would like to mention is that both the Superior and Chippewa National Forests are currently working to complete their forest management plans. The existing plans for these two forests, last revised in 1986, guide the forests' multiple use missions and lay out goals for habitat protection, resource production, soil protection and other aims. The National Forest Management Act requires an update of forest plans every 10–15 years. The Chippewa and Superior National Forests are now jointly revising their plans. This process allows efficient public participation rather than two parallel processes. It also provides greater consistency in resource management between the forests. Substantial public involvement has already helped develop the purpose and need for revising the plans, defining the issues and building a preliminary set of alternatives. The forests have ongoing consultation with four Minnesota Bands of Ojibwe, the Minnesota Department of Natural Resources, seven adjacent counties, as well as various interested stakeholders. The current forest planning work includes incorporating a required species viability evaluation initiated during 2000. While the 1986 forest plans continue to provide direction during the revision process, with ongoing public involvement, a final environmental impact statement and revised forest plans are expected in next year.

Again, I am seeking my colleague's reassurances that sufficient land management planning funds in this bill should be available to the Superior and Chippewa National Forests to allow for full revision of their forest plans?

Mr. BYRD. I appreciate the Senator's attention to this issue. He is correct to point out the commendable work underway in the Minnesota forests. The Senator is aware that the President requested $70,358,000 for land management planning in fiscal year 2002, while this Appropriations Committee has provided $70,718,000, an increase of $360,000. For that reason, I agree, and I believe the subcommittee would agree, that this legislation should provide adequate resources to the Superior and Chippewa National Forests to complete their forest management plans.

"CRITICAL ENERGY EFFICIENCY PROGRAMS"

Ms. CANTWELL. Madam President, I rise today on behalf of myself and Senators BINGAMAN, BOXER, and DORGAN, to state our strong support for critical energy efficiency programs within the Department of Energy. My colleagues and I have been working with the chairman and ranking member over the last few days to restore and fully fund these important programs. We believe that the proven efficacy of these programs merit allocation of additional funds.

The Federal Energy Management Program, or FEMP, uses alternative financing vehicles, technical assistance, and outreach campaigns to make our federal agencies more energy efficient. Although this program uses only a small amount of federal funding, its energy reduction strategies save the U.S. government, and thus American taxpayers, hundreds of millions of dollars a year. This program has proven to be a great investment. The Federal government is the largest user of energy in the United States and FEMP has helped reduce energy use per square foot of floor area in federal buildings by 19 percent since 1985, resulting in cumulative savings of $6 billion since 1985. FEMP has also trained over 13,000 federal energy managers, assisted with the design of over 200 energy saving projects, and helped federal agencies make use of market-based energy saving performance contracts.

These are the type of programs we must support, programs that provide a great return for our Federal dollars and keep returning those benefits year after year. These programs also lessen the environmental impact of the federal government, reduce our government's dependence on foreign oil, and leverage private sector resources.

I also suggest expanding several successful, community-based building technology assistance programs. These programs provide technical assistance, demonstrations, training, and education to communities to accelerate the use of innovative and cost-effective energy technologies, strategies, and methods. One particularly successful example is the Energy Smart Schools campaign that provides a comprehensive portfolio of energy efficiency technologies, and works directly with national, state, and local organizations that influence school construction and modernization.

Let me share with you how Seattle Public Schools used this program to reap the extensive rewards of energy-saving retrofits. Through a collaborative effort involving Seattle City Light, Seattle Public Utilities, Puget Sound Energy, and the Bonneville Power Administration, dozens of Seattle public schools received lighting retrofits, water conservation measures, upgraded energy management systems, and education on how to use energy more efficiently. Combined, these efforts reduced the school system's annual energy bills by a third, saving 15.5 million kilowatts of energy. I urge the Department to commit these additional funds in the Western states that have been severely impacted by the electricity crisis.

Because the budget allocation in the Senate is significantly less than the House, the Weatherization Program also has received less funding in the Senate than in the House bill. It is an effective program—for every one dollar spent, three are saved.

Mr. Chairman, my colleagues and I appreciate the budgetary constraints that we must operate within for the Interior and related agency appropriations bill. We appreciate the chairman's assistance in increasing funding levels for these programs.

Could the chairman of the Appropriations Committee inform me as to his intention with regard to increasing the funding levels of these key energy conservation programs?

Mr. BYRD. I agree that these energy conservation programs are very important. If additional funds are available during conference, I would consider increases in these programs.

Ms. CANTWELL. Thank you for your support.

RESTORATION AND MAINTENANCE OF THE ARLINGTON HOUSE

Mr. WARNER. Madam President, I rise to enter into a colloquy with Chairman BYRD and Ranking Member BURNS concerning the renovation and restoration needs of the National Park Service property, the Arlington House, across the Potomac River in Arlington National Cemetery.

Arlington House is uniquely associated with the historic Virginia families of Washington, Custis and Lee. It was built by George Washington Park Custis and was the home of Robert E. Lee until the Civil War. Over the years, Arlington House has become an integral part of the core monument area here in the Nation's Capital. Not only is it located at the center of the Arlington National Cemetery, but it is emblematic of the post-Civil War bond between North and South, Abraham Lincoln and Robert E. Lee are symbolically united by the Memorial Bridge which connects the Lincoln Memorial to Arlington House.

In recent years, the National Park Service has been unable to properly maintain the physical structure of Arlington House to safeguard its artifacts and collections, thereby causing many of the rooms in this historic house to be closed to the public.

The National Park Service has identified the total funding requirements to restore Arlington House. It is my understanding that a minimum of $2.5 million is needed in fiscal 2002 to preserve this facility.

I am aware that the chairman and ranking member were faced with many significant funding demands in this bill. They have done an admirable job to provide the maximum amount of funding available to preserve our nation's historic resources. I bring to their attention the significant needs of Arlington House and respectfully request that in conference with the House that this matter be given their attention.

Mr. BYRD. I thank the Senator from Virginia, Mr. WARNER, for his interest in the historic Arlington House. I am aware that funding for the restoration needs for the Arlington House was requested in the President's budget and I can assure the Senator from Virginia that the committee will carefully consider this important project as we continue to assess the maintenance and restoration needs of National Park Service properties.

Mr. BURNS. I concur with Chairman BYRD and can assure the Senator from Virginia that the restoration of the Arlington House will receive our attention during the conference with the House of Representatives. We will make every effort to address the needs of this historic home.

THE FOREST SERVICE AND WILD FIRES

Mr. STEVENS. Madam President there is a serious crisis in my home State of Alaska on the Kenai Peninsula, where literally millions of trees have been killed due to insect infestation. This is causing a major fire danger situation. Many homes and communities are at risk. I was very disturbed to learn recently that the Forest Service had initiated a prescribed burn near Seward that got away from them when the wind shifted. While fortunately the fire was contained before it damaged private property, this incident causes me to be concerned about the level of oversight the agency uses when burning in these very high risk areas.

Mr. BYRD. I recall that my friend from Alaska mentioning this during the committee markup of this bill. I assure you now, as I did then, that I am ready to help in any way possible to be sure the Forest Service applies adequate oversight to its hazard reduction activities.

Mr. STEVENS. I appreciate the chairman's remarks. I just recently met with Chief Dale Bosworth of the Forest Service and expressed my concern. I asked the chief to promptly provide me with a report that addresses how communities that are at risk can be assured when the agency plans a prescribed burn, that all potential factors are taken into account, and the decision to initiate a prescribed burn has been adequately reviewed. I also asked the chief to insure that local elected officials concerns are accounted for before a burn is ignited and to look at naming a Forest Service official in each region who would be in charge of approving any burn plans. I have also provided an amendment that I understand is in the managers package that addresses the specific situation with the prescribed burn I just noted on the Kenai and other areas of high fire risk across the country. This amendment provides the Forest Service with the authority to use $15,000,000 of Wildland Fire Management funds on adjacent non-federal lands, using all authorities available to the agency under its State and Private Forestry Appropriation. These funds will be available for reducing fire hazard on adjacent non-federal lands and protecting communities when hazard reduction activities planned on adjacent national forest lands. The Forest Service assures me that portions of these funds will be used to protect communities on the Kenai Peninsula. I expect the Forest Service to strongly consider areas of the Kenai as candidates for the stewardship end results contracting, as specified in Section 347 of public law 105–277, and which the committee has amended to provide for up to 28 additional contracts.

Mr. BYRD. I am pleased to include this amendment in the managers package and feel it will be extremely helpful in protecting communities from the threat of wild fire.

SMITHSONIAN CENTER FOR MATERIALS RESEARCH AND EDUCATION

Mr. SARBANES. Would the distinguished chairman yield for the purpose of a colloquy regarding language contained in the bill concerning the Smithsonian Center for Materials Research and Education.

Mr. BYRD. I would be happy to yield to my friend, the senior Senator from Maryland.

Mr. SARBANES. Mr. Chairman, I remain deeply concerned with the Secretary of the Smithsonian's decision to close a number of the Institution's scientific and research facilities, including the Smithsonian Center for Materials Research and Education (SCMRE) located in Prince George's County, MD. It is my understanding that language contained in the bill would preclude any funds to be utilized for the purpose of closing SCMRE and the other relevant facilities without the approval by the Board of Regents of recommendations made in this regard by the Secretary's proposed Science Commission.

Mr. BYRD. The Senator is correct.

Mr. SARBANES. It is also my understanding that the bill provides sufficient funding to ensure that SCMRE's programs can continue at last year's level.

Mr. BYRD. The Senator is again correct.

Mr. SARBANES. For nearly 40 years, researchers and scientists at SCMRE have been leaders in the field of preservation research and analysis. They have contributed greatly to the conservation efforts of museums and institutions throughout the nation and around the world by offering training programs and technical assistance. I would like to quote from an editorial that appeared on May 8 in the New York Times that captures the importance of preserving this facility:

> . . . [C]aring for artworks, which can often be done in museum labs, is far different from scientifically studying how to care for them. Over the years, the Materials Research Center has created an extensive store of archaeological data based on its work on collections from around the world. It makes no sense for the Smithsonian—the most remarkable accumulation of objects on earth—to close a national laboratory whose very purpose is to analyze the material basis of its collections.

I thank the chairman for his time and commend him for his leadership and assistance in this matter.

Ms. COLLINS. Madam President, I rise to thank the managers of the fiscal year 2002 Interior appropriations bill for working with me to provide Forest Legacy funding for an important conservation project in the western mountain region of Maine.

In drafting the Interior appropriations bill for fiscal year 2002, the managers have demonstrated, once again, their commitment to promoting conservation. I am particularly pleased that the bill funds Forest Legacy at $65 million—the most that has ever been allocated for this important and growing program—and I am grateful for the support Chairman BYRD and Senator BURNS have given to projects in my Sate this year and in years past.

Neither the Interior appropriations bill that passed in the house nor the Senate bill voted out of committee included funding for the Tumbledown/Mt. Blue conservation project in the western mountain region of Maine. Because of the importance of this project to my State, I proposed an amendment to the bill to dedicate Forest Legacy fund to the Tumbledown/Mt. Blue initiative. Chairman BYRD and Ranking Member BURNS have graciously agreed to accept a modified version of my amendment, which will earmark $1 million for the project.

The western mountain region of my State is a beautiful area that has long been valued for recreation, natural resources, scenic values and productive forest lands that fuel Maine's forest product industries. These traditional uses, which would be protected in perpetuity by this conservation project, are of tremendous value to the local communities and the region's economy.

Recent changes in land ownership and land use has led to local concern that the character of the Tumbledown/Mt. Blue area will be permanently altered. This has prompted the State, local businesses, and conservation groups to promote a long-term conservation vision for the region that will prevent this forested landscape from being converted as a result of development pressures. Making this conservation vision a reality entails the acquisition of 31,240 acres around Mt. Blue State Park and along Tumbledown Mountain through fee and easement purchases.

Funding the Tumbledown/Mt. Blue Conservation project will enable the State to protect critical properties adjacent to the park and some of Maine's most scenic areas—including Tumbledown Mountain, Jackson Mountain, Blueberry Mountain, and trailheads leading to these peaks. I would also proudly point out to my colleagues that Mt. Blue State Park is one of Maine's most popular recreation spots and was recently voted by Outdoor magazine as one of the ten best family vacation areas in the country. The area contains rugged summits, alpine ridges, and wetlands, as well as habitat for the federally listed bald eagle and one of Maine's only successful peregrine falcon nesting terrorities.

I am pleased to say that several landowners within the project area are ready now to put their resource lands into a conservation plan that will permanently protect and allow public access to recreation lands, scenic areas, and trailheads leading up Tumbledown, while providing for sustainable harvesting on the more productive and less environmentally sensitive forested areas. This is a locally driven win-win approach to resolving the various concerns that arise out of changes in the region. I applaud the many individuals and groups that have invested time in bringing this project about. It is heartening to know how deeply they care about their community, and I appreciate having this opportunity to determine my support for their efforts.

Last year, because of the generous funding level the Interior Subcommittee was able to provide the Forest Legacy Program, $1.17 million was allocated to the Mt. Blue/Tumbledown Mountain project for the first phase of acquisition. This year, to complete the project another $4 million is needed. I am concerned that unless we make funding progress in fiscal year 2002 with the willing sellers now in place, Maine will lose a once-in-a-lifetime opportunity to protect a truly wonderful resource.

I want to thank very much the Senators from West Virginia and Montana for their willingness to work with me and Senator SNOWE on this critical important project.

Mr. SMITH of New Hampshire. Madam President, I would like to take this opportunity to commend an agreement that was reached with regards to the Landrieu-Smith amendment to the Interior appropriations bill. Simply put, the purpose of the amendment was to fix what is essentially a technical concern with the bill and improve the way that States received their portions of the $100 million. This would be done by utilizing an already established wildlife conservation fund and its formula parameters instead of creating a new program with a new formula.

I do want to make it clear that I am extremely supportive of the funding that is provided in this Interior appropriations bill for the State Wildlife Grant Fund. I believe that these dollars will be of great benefit to State efforts to protect wildlife populations. I am especially pleased that the bill allows the States to determine the manner in which to utilize these resources.

The Landrieu-Smith amendment would seek to use the Wildlife Conservation and Restoration Program, under the popular and successful Pittman-Robertson Program, that was established in the fiscal year 2001 Commerce-Justice-State appropriation law. The law also provided $50 million under formula apportionment to the States for high priority wildlife conservation, education and recreation projects. That language was included at my request because of my concern for equitable distribution of valuable conservation funds. In fact, I have recently introduced a bill—the American Wildlife Enhancement Act of 2001, S.990—that would extend the authorization of that program through 2006. The Landrieu-Smith amendment would allocate the $100 million set-aside for the State Wildlife Grants Fund to the already established Wildlife Conservation and Restoration Program.

Adoption of our amendment would improve, and make more equitable, the way that these dollars are allocated to the States. Our amendment would allow for the allocation of funds under the formula established last year in the Wildlife Conservation and Restoration Program. Funding in that program is based two-thirds on the population of the State and one-third on the land area. It also guarantees that a single State would receive no less than one percent and no more than five percent of the available funds. This formula was supported by all 50 State fish and wildlife agencies as being the most equitable distribution to address conservation needs throughout the country.

The Interior appropriations bill that was reported by the Appropriations Committee would have changed that formula. This would result in a considerable gain of funds for only 2 States, but a loss for 37 other States. To change the already established formula would compromise the ability of the majority of our states to effectively address their wildlife conservation needs.

I am seeking to change back to what was established last year because I believe that is what is most fair to all States and already has their strong support. Regardless of whether or not our amendment was agreed to, New Hampshire's funding will not be impacted—to me it is an issue of fairness.

It also makes much more sense to appropriate the $100 million to an already existing account with set allocation parameters that has demonstrated success than to create a new bureaucratic process. The U.S. Fish and Wildlife Service and State fish and wildlife are agencies already familiar with the Wildlife Conservation and Restoration Program and could administer the program efficiently. Why impose a new set of criteria for allocation of the fiscal year 02 funds when the previously established criteria works so well?

Through excellent cooperation between the Fish and Wildlife Service and the State fish and wildlife agencies, all 50 States have already qualified to receive their apportionment of the $50 million made available by last year's Commerce-Justice-State appropriations law and are in the process of submitting their project agreements. Adopting this amendment would have allowed this process to continue smoothly into the next fiscal year.

I am pleased to support what I believe is a fair compromise to this amendment. The Interior appropriations bill that passed the Senate this evening reflects the changes in the formula that our amendment intended to make, without sending the funds through the Wildlife Conservation and Restoration Program. Even though the previously established account is not being used to distribute the funds, I am pleased that the funds will be allocated using a formula that all 50 State fish and wildlife agencies have agreed to as fair and equitable.

Mr. VOINOVICH. Madam President, I rise in favor of the Landrieu amendment to the Interior appropriations bill regarding the distribution of $100 million in state wildlife grants for priority wildlife conservation, education, and restoration projects. As currently written, the Interior appropriations bill changes the way these grants are allocated to the States. The change would negatively affect the amount of grant money most states would receive.

Last year, Congress established the Wildlife Conservation and Restoration Account as part of the Pittman-Robertson Wildlife Restoration Fund. It was Congress' intent that funds from the account be distributed to the states through a formula based on one-third of the land area of a state and two-thirds population. Congress also said that no state will receive less than one percent or more than five percent of the total funding.

The Landrieu amendment would distribute the funds under the same formula allocation that was enacted last year by directing them through the Wildlife Conservation and Restoration Account.

All 50 State fish and wildlife agencies agree that the formula Congress enacted last year is the most equitable distribution of these funds. If we agree to the formula proposed in the Interior appropriations bill, 37 States will receive less money. Ohio would receive over $100,000 less than under the already established formula. The Ohio Department of Natural Resources supports the Landrieu amendment.

With so many States facing such large reductions in the amount of grant money they would receive, it makes sense to distribute these funds based on the equitable formula that Congress agreed to last year. Support of the Landrieu amendment will ensure that the $100 million appropriated for State wildlife grants is distributed fairly and provides all states with the funds they need for their most critical wildlife and conservation projects.

Mr. INOUYE. Madam President, in the managers' package is contained an amendment which provides for the repeal of section 819 of the Omnibus Indian Advancement Act.

In my view, this is a matter that is more appropriately addressed in the authorizing committee of jurisdiction, the Committee on Indian Affairs.

Accordingly, I intend to work with my colleagues to see that this proposed repeal of a section of authorizing legislation is removed from the Interior appropriations bill and addressed in the appropriate forum.

Mr. COCHRAN. Madam President, this bill is the first appropriations bill for fiscal year 2002 the Senate is considering. I am pleased to be a member of the subcommittee that has the responsibility for writing this bill each year.

I have enjoyed working on the issues and programs that must be addressed each year during our hearings and the development of this legislation.

The Department of the Interior and the U.S. Forest Service have a major presence in my state. The levels of funding for their activities and responsibilities in Mississippi have a significant impact on our interest in protecting our natural resources and historic attractions.

I'm glad the Committee's bill provides an increase in the funding for operation and maintenance of the Natchez Trace Parkway. The beauty and living history facilities of this parkway attract tourists and local visitors alike, and its completion has been one of my highest personal priorities.

The Vicksburg National Military Park will be enhanced by the acquisition of the house used by General Pemberton as his headquarters during the siege of Vicksburg. Along with funding for a needed stabilization project, this commitment will enable the Park to continue to attract more than one million visitors each year.

There are also funds in this bill to help pay the cost of acquisition, as part of the Gulf Islands National Seashore, of Cat Island, which is located in the Gulf of Mexico off the Coast of Mississippi.

Other provisions of this bill allow the continued construction of the Franklin County Lake in the Homochitto National Forest which will be a very important recreational resource for the people of southwest Mississippi.

An increase in funding is also provided in the bill as payments in lieu of taxes to counties that contain federal lands. This will help offset the losses that have occurred in many of these counties by changes in forest management policies of the U.S. Forest Service.

The bill also includes $6.3 million for research programs that will be performed by the University of Mississippi and Mississippi State University.

The National Park Service is also responsible for the operation and maintenance of the Natchez National Historical Park which contains some of the most interesting properties that reflect the lifestyles and cultural diversity of the early settlers in the oldest continuously inhabited town on the Mississippi River. The City of Natchez is also the southern terminus of the Natchez Trace Parkway.

This bill contains funds for continued enhancement of the historical park which will enrich the experience of visitors to this unique educational resource in my state.

Another interesting destination for visitors is the Corinth Battlefield in northeast Mississippi which was included in a list of the top ten most important Civil War battlefields by former Secretary of the Interior Manuel Lujan. It is located near the Shiloh National Military Park and will be the site of a new Civil War Interpretive Center. This building will be constructed with funds that are included in this bill at the request of our state's delegation in Congress.

My colleague, TRENT LOTT, has taken the lead in making this new addition to our state's list of federally supported projects a reality. Congressman ROGER WICKER has also been a key influence in the appropriations process on this project as well as the Brice's Crossroads site.

Taken as a whole, the provisions of this Interior Appropriations bill will contribute to the economy of our state and at the same time help protect valuable natural resources, historic attractions and our environment.

I appreciate the cooperation and assistance of the managers of the bill and my staff member, Ginger Wallace, who worked hard to help develop the provisions of the bill that were of specific interest in our State of Mississippi.

Mr. DORGAN. Madam President, I rise to support the Education and Training Center for the Power Generation Industry at Bismarck State College. Although funding for this program is not explicitly mentioned in the Interior Appropriations bill, I would like to see the relationship between Bismarck State College (BSC) and the Department of Energy grow during the next fiscal year as BSC builds on its Partnership to Improve Energy Technology Training and Education. Last year, BSC's Energy Technology Program received $50,000 in competitive Federal funding to develop a new curriculum based on conventional and advanced power technologies. Given that the Chairman has been kind enough to increase the budget request for fossil fuel research and development, I would hope that the DoE will provide the funds to expand this program next year, especially given the challenges that the power industry will face in the coming years.

I applaud those at Bismarck State College who have been working on this project, and it is my hope that the Committee could provide some funding for this program as we move this bill to conference so that the College could further develop the curriculum plan and provide nationwide online courses in power generation management.

Mr. KERRY. Madam President, I rise today to discuss an amendment I have offered to section 107 of the Interior Appropriations bill for fiscal year 2002. The amendment is intended to clarify that under that section preleasing activities are prohibited, just as they are in other sections of the bill that restrict oil and gas development in other waters.

Section 107 now reads as follows: "no funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998." This includes the areas of northern, central, and southern California, the North Atlantic, Washington, Oregon, and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

I want to stress that it is my belief that section 107 prohibits preleasing activities because preleasing activities are, by their very nature, related activities. However, sections 108, 109 and 110 create moratoria on offshore leasing for the Mid-Atlantic, South Atlantic, North Aleutian Basin and portions of the Gulf of Mexico, and these sections restrict preleasing, leasing, and related activities. I am concerned that the discrepancy between Section 107 and these other sections creates the potential for legal ambiguity that may put the areas listed in Section 107 at risk. Specifically, it may be argued that a set of activities exists preleasing activities that are prohibited under Sections 108, 109 and 110 but not prohibited under Section 107.

The simple, straightforward amendment I have proposed adds preleasing to the list of prohibited activities in Section 107. It would clarify Congressional intent and serve as a preventative step against any challenge to the meaning of the prohibition. It would do no more than clarify that California, the North Atlantic, Washington, Oregon and portions of the eastern Gulf of Mexico have the same protections now provided to the Mid-Atlantic, South Atlantic and other areas in Sections 108, 109 and 110.

In closing I want to briefly discuss one reason why this amendment and the clarification it would provide is important to Massachusetts and New England. That reason is Georges Bank a natural wonder critically important to our state's economy and environment. Georges Bank supports Atlantic cod, scallops, haddock, yellowtail flounder and other valuable commercial species. Endangered species including the right whale, humpback whale and sei whale rely on Georges Bank and the surrounding area for feeding and as a migratory pathway. The National Oceanic and Atmospheric Administration, the federal agency charged with protecting marine resources, has warned that oil and gas exploration in Georges Bank threatens these commercial and endangered species. NOAA and others have pointed out that despite advances in drilling technology, exploration carries inherent risks from spills, other accidental releases, drilling muds, seepage and other sources. I strongly believe petroleum exploration in the unique and extremely valuable habitat of Georges Bank poses unnecessary economic and environmental risk.

I want to thank Chairman BYRD and Ranking Member BURNS for working with me to secure the passage of this important amendment.

Ms. SNOWE. Madam President, Senator KERRY of Massachusetts and I have introduced the Kerry-Snowe Georges Bank amendment to the fiscal year 2002 Interior Appropriations bill today to make absolutely certain that language in the fiscal year 2002 Interior Appropriations bill before us is modified to ensure that there will be no preleasing activities on Georges Bank. Language in the bill does prohibit the expenditure of funds by the Department of Interior for activities related to offshore leasing in the North Atlantic area, but I wanted the guarantee that pre-leasing activities would be out of bounds as well.

Currently, both the United States and Canada have moratoria on oil and gas exploration until 2012 for the ecologically sensitive Georges Bank. What the Kerry-Snowe amendment does is include language in the Senate bill to prohibit any pre-leasing activities for the Georges Bank area, such as is included for the Mid- and South Atlantic. We are adding this language for the North Atlantic as well because of indications over the past few months that the administration could be considering legal and administrative groundwork for accessing Georges Bank.

Report recommendations to the Secretary of Interior by the Subcommittee on Natural Gas on the U.S. Outer Continental Shelf included a recommendation that the Mineral Management Service, in consultation with industry and affected States, identify the five top geologic places for natural gas reserves in the moratoria areas, where industry would most likely explore, and where seismic data could be collected. Georges Bank is reported to be one of these prospects.

Our added pre-leasing language for the North Atlantic area makes Section 107 of the bill consistent with Section 110 of the bill that does not allow Interior Department funding to conduct oil and natural gas pre-leasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

As I recently wrote the President, I strongly believe that the moratoria should not be lifted on this 185-mile-long bank that stretches from Nova Scotia to Cape Cod—five-sixths of which is owned by the U.S. This broad, shallow fishing ground is one of the world's most productive, and current available natural gas reserves in the U.S. dwarf those which are projected to be available on the Georges Bank.

I want to sincerely thank the Interior Appropriations Subcommittee Chairs BYRD and BURNS for accepting the Kerry-Snowe amendment as part of the Managers amendment.

Mr. DORGAN. Madam President, I rise to support the Trails and Rails Program, a national partnership between Amtrak and the National Park Service. This program provides onboard educational programs to rail travelers. It has played a valuable role in educating Americans about the historic landmark sites in this country. This is an excellent outreach program that allows the National Park Service to reach non-traditional visitors and introduce them to our national parks, trails and historic sites.

I am particularly excited about this program as we begin to celebrate the bicentennial of the Lewis and Clark expedition. Last May, the famous footsteps of the Lewis and Clark along the trail in North Dakota and Montana came alive as their historic journey was retraced by guests aboard Amtrak's Empire Builder train. This program has been laying the foundation for the National Lewis and Clark Bicentennial Commemoration, which will officially begin in 2003. Train passengers have already been able to explore historic areas along the Lewis and Clark trail such as the Union Trading Post National Historic Site in Williston, ND. It is my hope that the National Park Service could continue its partnership so that Amtrak passengers can explore other historic sites in the Lewis and Clark expedition.

Although fiscal year 2002 funding has not yet been identified for this program, I invite my colleagues to join me in supporting this important National Park Service partnership. I trust that some funding will be included for this partnership in the final version of the Interior appropriations bill.

Mr. WELLSTONE. Mr. President, I am pleased to support the provisions in this bill that enhance the Steel Loan Guarantee program. The changes adopted today will provide invaluable assistance to our nation's steel companies as they strive to stay afloat in the face of overwhelming surges of finished and semi-finished steel imports.

As you know, our domestic steel industry finds itself reeling from record import surges. Numerous companies are either in bankruptcy, have filed for bankruptcy, or are on the verge of doing so. On the Iron Range in my home state of Minnesota, for example, citing poor economic conditions, LTV Steel Mining Company halted production at the Hoyt Lakes mine, leaving 1400 workers out of work and affecting another 5000 additional workers as well. These are hard working people who want desperately to work the trades they were trained for and have been doing for generation upon generation.

The changes we are making today in the Steel Loan Guarantee program will make it easier for companies to access much needed capital. In particular, we are increasing the loan coverage for a portion of the loans under this program from 85 percent to 95 percent and extending the duration of financing from 5 to 15 years. These changes represent one component of S. 957, the comprehensive Steel Revitalization Act of 2001 that I, along with Senator BYRD, Senator DAYTON and others introduced earlier this year.

I am pleased that we are taking the opportunity today to move a portion of this comprehensive measure. And I will continue to press this passage of the remaining elements of this much-needed legislation.

Mr. FEINGOLD. Madam President, I wish to comment on the Interior appropriations bill which the Senate has passed by voice vote. I am satisfied, that unlike in years past, this bill is relatively free from anti-environmental riders. I commend the chairman (Mr. BYRD) and the ranking member (Mr. STEVENS) for producing a bill that is largely free from riders which many of my constituents view as an undemocratic way to address environmental issues. I have been pleased by the progress on this bill, and by the manager's efforts to allow important environmental issues the benefit of an up or down vote on the floor.

Though the bill this year has been considered by the Senate with an improved process, I do have some concerns about a few of the bill's provisions. First, I understand that the Senate fiscal year 2002 Interior bill includes $65 million for the Forest Legacy Program of the U.S. Forest Service, a program I strongly support. I further understand that, of the $65 million provided for the Forest Legacy program, $35.26 million has been allocated by the Senate Interior appropriations Subcommittee in the committee report to fund specific projects. I hope that this allocation leaves approximately $29.8 million available to be distributed by the Forest Service to other priority projects, such as the Tomahawk Northwoods project in Northern Wisconsin. The Tomahawk project was specifically enumerated to receive funds by in the House report on the 2002 Interior appropriations bill, and it is my hope that the Senate's bill leaves flexibility so that this project can indeed be funded by the Forest Service.

I also want to share my concern regarding section 330 of the fiscal year 2002 Interior appropriations bill. Section 330 extends for 50 years a special use permit for a cabin located in the Absaroka-Beartooth Wilderness Area in Montana. I hope that the conferees on this legislation will give serious consideration to removing this provision and referring the matters to the Senate Energy Committee for their review. My concern, as a Senator who is concerned about federal wilderness management, is that allowing the cabin to remain, without the benefit of review by the appropriate authorizing committee, could set a precedent that is contrary to the Wilderness Act, Forest Service policy and the Custer National Forest Management plan. It would be my hope that review by the Energy Committee would clarify whether the Montana State University-Billings indeed has the ability to apply for an extension of the special use permit that had been held by the cabin's previous owner.

Finally, I understand that the managers' amendment contains language concerning the management of cruise ships in Glacier Bay National Park. Though I understand that this language represents a compromise worked out over the last few hours, I feel that an important policy matter such as this one would be better left to the authorizing committee. I believe legislative language which seeks to address serious legal issues over the reduction of cruise ship traffic required by Federal courts deserves full and fair consideration through proper hearings and review. I hope that the conference committee will give serious consideration to removing this provision.

I am pleased to support this year's bill, and I hope to see a bill free from environmental riders emerge from conference.

Mr. REID. Madam President, I have been fortunate to be in this Chamber during the entire time the Interior bill has been debated. I would like to take a few minutes to commend the President pro tempore of the Senate, who is also the chairman of the Interior Subcommittee, for the tremendous leadership he has shown not only on the Interior bill but on the supplemental appropriations bill we passed. It shows his experience and his dedication to the Senate. He has taken the helm of the Appropriations Committee firmly and has confidently steered this bill in the right direction. There have been very difficult decisions to make in crafting this bill.

I also want to take a minute to express my public appreciation to Ranking Member BURNS for the work they have done. If there were ever a bipartisan bill—and I hope it remains that way in the remaining hours of this bill, and I am confident it will—this is it.

These two legislators have worked to come up with an appropriate package that has the best they could do with the tools they had, the limited amount of money they had, to satisfy hundreds and hundreds of requests from Members and from different entities making up our Federal Government. It has been a very difficult time. From a personal perspective, I think they have done exemplary work.

About 4 years ago I asked President Clinton to convene a summit in Lake Tahoe. I did that out of desperation. I was at the lake and had, for 15 years, worked to try to do something to improve the quality of a place that has been called by Mark Twain the fairest place in all the Earth. It is a beautiful lake. It is a part of nature that you can only appreciate by being there; it is so absolutely fantastic.

We had a show over here, and there is a display now in the rotunda of the Russell Building that has great photographs of Lake Tahoe. I spoke briefly there last night. A man by the name of Dr. Goldman, who is the leading expert on the ecology of that lake, spoke. He said he has been all over the world. He has been to Lake Baikal in Siberia in the Soviet Union. Lake Baikal has 20 percent of all the fresh water in the world, in one lake. It is well over a mile deep. It is a beautiful lake. I am fortunate; I have been there. But Dr. Goldman said he has been to most all the major lakes in the world, and, by far, Lake Tahoe is the most beautiful.

So I asked the President to convene a summit because I had not been able to accomplish what I needed. Out of desperation, I said to the press that I thought the only thing that would work is to convene a summit and have the world understand what a calamity is about to occur.

I confided in the President that I had done this and asked if he would support me in this effort. He said: Yes, I will come to Lake Tahoe. And he did. It was not a photo opportunity. And that would have been more than I could ask, if the President of the United States would come to Lake Tahoe for a photo opportunity, but he did more than that. We had six Cabinet officers who held townhall meetings in the months prior to the President coming. Over 1,000 people participated in those townhall meetings when the summit was convened, with the President and Vice President there at Lake Tahoe, and the groups concerned about the lake—the environmentalists, the people who had wanted to build homes there, contractors, small businessmen, big businessmen, people who were against gambling, people who were for gambling. They were all there speaking from the same page.

They agreed that something had to be done. So the summit—rather than being a boisterous affair where people were pointing fingers at each other—was a lovefest. As a result of that, we have been able to get a lot of help for Lake Tahoe. Part of that help is in this bill.

This bill increased, by over 100 percent, the amount of money going to Lake Tahoe. Senators FEINSTEIN and BOXER—and now Senator ENSIGN—we have worked together. We have made progress. But it all started as a result of that summit.

I appreciate very much the attention of Senators BURNS and BYRD, recognizing that Lake Tahoe really may be the fairest place in all the Earth.

They have increased funding this year by over 100 percent. This commitment will help make the Federal Government a full partner in the ongoing effort to conserve this exquisite jewel of the American environment. California has done its share. Nevada has done its share by floating bond issues. Now the Federal Government is coming through.

Chairman BYRD and ranking member BURNS also helped improve the prospects for county governments throughout the entire West by allocating $220 million for PILT—Payment in Lieu of Taxes—Programs.

I thank Senators BYRD and BURNS for making an effort to breathe life back into the budget of the United States Geological Survey, which was treated very badly by this administration. The Bush administration did everything it could to kill the Geological Survey, this great institution of government. John Wesley Powell was the first leader of the U.S. Geological Survey, a man whose arm was cut off. The nerves were exposed and whenever he would bump it, it would hurt more than a person can imagine. With that bad arm, he led the first group to float the mighty Colorado. He was the father of the Geological Survey. Senators BYRD and BURNS have breathed life back into this wonderful institution that is so important to our country.

This agency has had a tremendously positive impact all over the United States. For example, the Presiding Officer traveled with me to Fallon, NV, to find out why we have children dying. Since we were there, one child has died. They have discovered two or three other cases of childhood leukemia. We went there seeking evidence as to why these children are sick and dying.

One of the things being done about this is being done by the U.S. Geological Survey. They are testing water wells in Fallon as I speak so people in Nevada know whether the water they are drinking is safe. The U.S. Geological Survey is our preeminent scientific agency, some say the greatest scientific agency we have in Government. That is debatable, but they do great work.

I appreciate the leaders of the subcommittee who recognized this by restoring the budget. The public land agencies funded by the Interior appropriations bill are of great importance to the State of Nevada: the Bureau of Land Management, Bureau of Reclamation. They do tremendous things for our country. I am grateful that Chairman BYRD and ranking member BURNS have done their best to fund these agencies.

I am confident we can finish this bill today. I hope we can. The managers have worked during the night, and staff members are still working to come up with a proposal to end this legislation quickly. There may be a few disputed matters to be resolved this afternoon. I wanted to spend a minute recognizing the great work done by the two managers.

The PRESIDING OFFICER: The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2217), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House of Representatives and the Chair appoints Mr. BYRD, Mr. LEAHY, Mr. HOLLINGS, Mr. REID, Mr. DORGAN, Mrs. FEINSTEIN, Mrs. MURRAY, Mr. INOUYE, Mr. BURNS, Mr. STEVENS, Mr. COCHRAN, Mr. DOMENICI, Mr. BENNETT, Mr. GREGG, and Mr. CAMPBELL, conferees on the part of the Senate.

EXECUTIVE SESSION

NOMINATION OF J. STEVEN GRILES OF VIRGINIA TO BE DEPUTY SECRETARY OF THE INTERIOR

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session to consider the nomination of J. Steven Griles to be Deputy Secretary of the Interior, which the clerk will report.

The legislative clerk read the nomination of J. Steven Griles of Virginia to be Deputy Secretary of the Interior.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise tonight to discuss my opposition to the nomination of J. Steven Griles as Deputy Secretary of the Department of the Interior. In my view, Mr. Griles' past record and recent statements, both public and private, indicate he is lacking the single most important quality needed for this key position; that is, the ability to bring people together despite very disparate and differing views on natural resources issues.

We have learned in the West—and I see my good friend Senator CRAIG from Idaho. He and I, again and again, sat in hearings in the forestry subcommittee, and we have seen how difficult these natural resources issues are. I am proud we have come together on issues such as the county payments bill which the Forest Service said was the most important law in the last 30 years, and Senator CRAIG and I teamed up to get that law passed because we recognized how important it was to bring people together.

What has troubled me about Mr. Griles' past record—and I will discuss that—and his recent statements, both public and private, is that record indicates he really isn't much interested in the kind of work that Senator CRAIG and I have spent many years pursuing.

One of the things that struck me earlier this year was that Mr. Griles told the Washington Post, in effect, that he had changed. He said he had matured, he had learned from his past experience. When I read about these statements, I was very encouraged. I don't oppose people on philosophical grounds; I don't think that is right. I read these statements and I got the distinct impression that Mr. Griles was going to work to be more inclusive, collaborative, and more creative in looking at the difficult natural resources issues.

He said he was going to be a problem solver who would try to listen to all the parties involved and try to take a balanced approach to any and all issues.

Again, I was encouraged by these comments. Mr. Griles came to my office. I told him about my concerns about his past record, and given his statements I was hoping he had, in fact, changed, and if he would give me some examples. He really didn't have any that day. I said: I will ask you about this when you come for your confirmation hearing.

When he came for his confirmation hearing, he was not any more forthcoming. I said after the hearing my door would still be open to him and that I hoped he would give me some examples in areas such as the Endangered Species Act that require so much cooperation, that he would come forward with some specific ideas. He has not. He has not been willing on three separate occasions to show some evidence that he would take a more collaborative, inclusive approach, and that he would be more balanced in his approach to natural resources issues.

My concern is that as of now the record indicates the J. Steven Griles of the past is going to be back in action after the Senate confirms him.

I will talk for a few minutes about that Jay Steven Griles' track record over 20 years. Over 20 years, again and again, he has placed the interests of powerful special interests above the public. This includes the support for environmentally unsound drilling for oil off the coast of California and looking the other way when powerful corporations were fined for breaking the environmental laws.

It is one thing to try to figure out ways to ensure compliance with the environmental laws; however, it is another thing to not follow through when these powerful interests have actually been fined for violating the law.

I was troubled about those past positions. I told Mr. Griles about that. It is certainly his right to hold those views. I have not made it a habit of opposing candidates with whom I differ on substantive issues. Given those past positions, given his public statements and his private statements to me that, in fact, he was going to change, it is troubling we have not seen any evidence of it.

His record is important. I will give a few examples of that record.

During his service with the Reagan administration, Mr. Griles is reported to have single-mindedly pushed for an oil lease sale off the coast of California, despite objections from his own Fish and Wildlife Service biologists. In 1988, he wrote a memo to the Assistant Secretary advising him to change the tone and conclusions of a Fish and Wildlife Service report citing the specific environmental damage that could be caused by a proposed northern California offshore oil lease. Mr. Griles concluded that memo by stating:

> The memorandum is part of the public record and could prove very damaging to this lease sale.

The subsequent final report on the sale, from Fish and Wildlife, did not refer to any potential environmental harm that could result from the lease sale. Within the year, as Americans know, the Exxon Valdez disaster occurred and, by 1990, the first President Bush declared a moratorium on offshore oil leases, so this lease sale was never completed. But it is certainly troubling to me that Mr. Griles wanted Federal researchers not to report accurate conclusions but to prop up a decision, regardless of the environmental facts.

This, in my view, would have been an ideal issue that Mr. Griles could have raised with me and with colleagues and said: Look, there are a variety of ways that I treat these oil sales differently now, having learned from some of the controversy in the past. Yet he was unwilling to say that or anything resembling that.

He has also, as far as the public report, indicated that he has no interest in cracking down on the illegal behavior of polluters and special interests. Of course, that would be a task that he would be expected to perform in this position.

Between 1984 and 1987, the House of Representatives reviewed, for example, the internal workings in the Office of Surface Mining. They found that, under his leadership, this office collected only $6.8 million of an estimated $200 million due in civil penalties for those who broke the environmental laws.

Again, I have tried to single out just the areas of the record that concern me the most. There is not a Member of the Senate who is in favor of breaking the environmental laws. Yet this was an instance where there were violations and they were not followed up. I think that is troubling and, in fact, in successive years the percentage of collection of the civil penalties that were owed continued to go down.

I am concerned about the past public record, but I would not be here making the statement that I am tonight if Mr. Griles had said: Look, all of us change and here are some approaches that I would take in the days ahead to ensure that we could do the kind of work that Senator CRAIG—I see my friend Senator BURNS here as well—that the three of us have sought to do.

These natural resources issues are extraordinarily difficult. The American people want what I call the win-win. They want to protect our treasures and at the same time they want to be sensitive to local economic needs. It is a lot easier said than done. But Senator CRAIG and Senator BURNS and I have teamed up to do just that.

I had been hoping that Mr. Griles would offer some specifics, given that he said he had changed, and would indicate he would want to do the kind of bipartisan work that we Westerners have done on some of these particularly contentious issues. Unfortunately, on three separate occasions, in both public and private, Mr. Griles was unwilling to back up his public statements about how he had changed, how he would take a more collaborative approach. So tonight I want to make clear I am opposed to the nomination of J. Steven Griles to be Deputy Secretary of the Department of the Interior. My questions have not been answered. My reservations about the nominee's commitment to finding common ground have not been resolved.

I tell my colleagues, I do not think we can get on top of these natural resources issues without a collaborative approach. Mr. Griles has said he is in favor of it but has not offered any evidence that he will actually do it. With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask for a couple of minutes. Let me also ask unanimous consent that Senator FRANK MURKOWSKI, who is coming to the floor, be allowed to speak for a period of time prior to the action. I believe Senator NELSON is here to do the same.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I join with my colleague, Chairman RON WYDEN, tonight to visit about Steven Griles and the reality that Steven is about to become a major operative in the Department of the Interior. I stand tonight in full support of the decision of George W. Bush to nominate him to become Deputy Secretary. I do that because I know Steven Griles and I know he will do it when he looks me in the eye and he looks Senator WYDEN in the eye and says he will work in the character of the new Secretary, Gale Norton, as it relates to the four C's that she has so clearly laid out over the time of her confirmation hearings and as, I think, she has clearly demonstrated in the period of time in which she has served our country as our new Secretary of the Interior. That is one of consultation, cooperation, and communication that results in conservation of our natural resources to benefit all of the interests of our country. I believe Steven Griles will do that following the direction of the Secretary of the Interior.

While RON WYDEN and I will disagree a bit, we also understand the critical nature of cooperation, as he has so clearly spelled out, in the collaborative process. The models under which we must make decisions on our public land resources have changed from the days in which Steven Griles served the Reagan administration and in which

Steven Griles will now have the privilege of serving the Bush administration. We have tried to pioneer with the concept of a collaborative process. Clearly, the effort Senator WYDEN and I launched last year that is now law incorporates within it the idea of bringing all of the principals together to sit down to resolve conflict over resource issues at the local level and ultimately we believe we can aspire to that at the national level.

Therefore, I stand in favor of Steven Griles becoming our new Deputy Secretary at the Department of the Interior and I think he will at the end serve us well and I think the record will demonstrate that.

Let me say in closing, and I say it in all fairness to our majority leader, TOM DASCHLE, I thank him and I thank HARRY REID for the cooperation they have offered to all of us tonight in moving expeditiously some of the nominees that were at the desk or other nominees who were just moved out of committee today, both the Armed Services Committee and the Interior Committee.

It is absolutely critical that the President of the United States be allowed to nominate and have people of his choice to serve him in the administration of our Government at the executive level. Tonight we move a great number of people, probably the largest number we have moved to date at one time. That has been because of a cooperative effort on the part of the majority leader, TOM DASCHLE, and all of us working together to make that happen.

I hope to achieve our goal that the some 173 who are now before the authorizing committees across the Senate can be brought to hearings, heard, voted out of committee, brought to the floor and I hope many of them could be moved before the August recess.

A lot of these fine people who have been asked to serve our Government are men and women who have families and who need to make decisions over whether to leave their families and their children in the schools where they now are or whether they are going to be allowed to get them in Washington in time to enroll them in school as it would start in late August or early September. Surely this Senate can operate in a reasonable and responsible fashion to do the appropriate hearings, to find out if these men and women are clearly qualified, as the President believes they are, to serve our country at the executive level, bring them from the committee, bring them to the floor, and allow to happen what is happening this evening.

When disagreements arise, as they do—as with Senator WYDEN and Mr. Griles—they are either voted on or are spread upon the RECORD as a template from which to judge the people who will serve in the executive branch, and to hold before them as a constant reminder of what they pledged to us in their confirmation hearings before the committee. That is fair and responsible, and it is the job of the Senate to respond in that fashion.

I am extremely pleased that we are able to move expeditiously on a good number tonight to give our President the tools by which to operate the executive branch of Government and to allow him, as the citizens of this country have chosen, to govern our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, let me congratulate the floor manager for offering the conclusion associated with the Interior appropriations bill. It has been a difficult battle, and it has been really tough with the many issues that are subject to rule XVI which often come up in this process.

I thank the Senator from Montana and his colleagues on the other side. They have done an extraordinary job.

My purpose in rising is to recognize an injustice that has been done to Steven Griles. The injustice was not on the merits of whether Mr. Griles is qualified or not. It is the manner in which his nomination was delayed.

I think it is appropriate that the RECORD note that the intent to nominate Mr. Griles occurred on March 9. The nomination was received on May 1. Hearings were held May 16. He was reported favorably by the Energy Committee, which I happened to chair at that time, 18 to 4. I repeat—18 to 4 on May 23, 2001.

All of this, of course, occurred before the switch of Senator JEFFORDS and, as a consequence, the control of the Senate.

Mr. Griles was cleared on the Republican side on May 23. In executive session on May 23, we moved one nomination. On May 24 we moved 19 nominations. On May 25 we moved 33 nominations. On May 26 we moved 8 nominations. In each case, Mr. Griles was cleared on our side and was objected to by the Democrats, which they have every right to do.

But during this period, a unanimous consent agreement was offered to allow for 2 hours of debate, and a vote on which the Democrats indicated, according to the RECORD, that they needed 2 hours, with consideration the week we returned from that recess. That was rejected by the Democrats, as was the modification that then deleted the time certain and only included the time limitation.

At that point, it was clear that we would no longer as Republicans control the floor, and hence the timing on our return.

In executive session on June 14, under Democratic control, we cleared three additional nominations, but the Democrats would not agree to Griles. It wasn't agreed to as an issue of the debate on the merits, it was simply an effort to deprive—that is the only conclusion one can come to—the Department of Interior of his services, and hence to the public of this country.

As of today, Mr. Griles has been pending 51 days. Again, I refer to the fact that he was reported out of the committee 18 to 4. He is going to be voted out tonight on a voice vote. But I think it is appropriate to note the manner in which it was handled.

I am very disappointed. I, as chairman under the former administration, felt the obligation to respond to the development of the precedents and the officials within the various Cabinet departments. Under no circumstances had we had a situation similar to this where a nominee was delayed for such an unreasonable amount of time.

Who suffers? Perhaps this body suffers in self-examination.

Again, I am not arguing the merits concerning issues that my friend from Oregon or my friend from Florida may have, but clearly, the way this was handled was delay, delay, delay. The public suffered. The Department of the Interior suffered. Up until a short time ago, the Department of the Interior had one confirmed position. That was the Secretary of the Interior.

I think all of us have a responsibility to work together, in spite of our political differences, to serve the country.

I think it is appropriate that the RECORD note the reality associated with this nominee. It is my hope that situation is not repeated again because I think this body bears the responsibility.

I am happy to yield to my friend from Florida.

I wish the Presiding Officer a good evening, and the rest of my colleagues, and in particular the staff. I hope we get out at a reasonable hour.

Mr. NELSON of Florida. Mr. President, the administration's policy is to try to drill its way out of an energy problem—and that is clearly reflected in their nominee for the number two position at the Interior Department, J. Steven Griles.

I have expressed my opposition to Mr. Griles prior to today, in the form of an objection to a Senate vote on his nomination.

However, based on assurances I received today from Interior Secretary Norton—specifically that the agency's upcoming 5-year plan contains no new drilling in the eastern Gulf of Mexico, beyond the disputed area in lease sale 181—I have withdrawn my objection to proceeding to a vote.

I also met with Mr. Griles this morning. While I respect his commitment to public service, I cannot vote for his nomination.

He has a history of advocating for oil and gas exploration off the coasts of both Florida and California.

In fact, his record as a former Reagan administration official and an oil- and gas-industry lobbyist reveals his aggressive support for expanded oil drilling in sensitive waters.

Mr. Griles' support for drilling is so forthcoming that in biographical information he supplied the Senate for his confirmation he emphasizes his record for helping lease "more Federal offshore oil and gas acreage during 1984–1989 than in any prior period of federal leasing activities."

His position is clear. Unfortunately, this position presents a serious risk to Florida's economy and environment.

I thought I would take this opportunity to clear up for the Senator from Alaska some of the things he said.

The Senator from Alaska should know that this Senator from Florida did not place a hold on the Griles nomination until June 19. That is just a matter of some 2½ weeks ago. It became apparent to me—and it didn't have anything to do with personalities or politics—on the substance of the matter that this was something of such importance to Florida on whether or not we were going to have drilling off the coast of Florida which would threaten the economy of Florida because of its beaches. I think Florida has the longest coastline of any State in the country. So much of our economic lifeblood comes from those pristine beaches.

When I looked at the substance of the nominee's background I saw that he had been an advocate for offshore oil drilling not only over a decade ago in California but where he stated in his testimony that he was in favor of drilling for the entire 6 million acres of the lease sale 181 and what that represented as a threat to Florida in that original lease sale coming to within 30 miles of Perdido Key, which is the westernmost beach of the State of Florida.

It became very clear as a matter of substance to me that it was going to be something that was perceived to be—and he was perceived to be—a threat to the economic lifeblood of the State of Florida.

Only on June 19 did I write a letter to the majority leader asking him to honor my request, which was a hold on the consideration of the nomination.

Today, Mr. Griles came to see me. I find him entirely a delightful fellow, an engaging fellow, and one with whom I shared exactly this story. I asked him the question: Since the likelihood was that the reduced lease sale 181 was in fact going to be approved—the administration apparently had been working it very hard and had the votes, as the vote earlier today showed—what was his intention with regard to the drilling in the rest of the eastern Gulf of Mexico planning area?

He said since he had not been confirmed that he could not speak with the administration. But he offered that he thought he could get an answer from the administration and get back to me before this vote occurred.

Indeed, it was within a few minutes that a phone call came in that Secretary Norton was requesting to come and see me, of which I gladly received her. It is the first time I had met her—a very gracious lady. And I asked her the same question. And she said: Senator, I want to assure you that in the 5-year plan, which is going to be issued next week, there will be no additional lease sales in the 5-year plan. And the 5-year plan that will be issued next week is operative, effectively, as law, since a lease cannot be offered for sale or lease unless it is in the 5-year plan.

That was a little bit of good news. It was on the basis of that that I additionally encouraged the majority leader that I thought he was right. It is his prerogative as majority leader to lift the hold.

I shared with Mr. Griles that I was going to vote against his nomination because of his history. I am glad that I was in this Chamber to hear my friend from Alaska so that he could hear from his colleague from Florida as to exactly what my intention on the substance of the matter has been.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on this nomination?

The Senator from Montana.

Mr. BURNS. Mr. President, I am glad we are finally considering the nomination of Steve Griles. It has been a long time. I can remember going through the hearings on the Energy Committee and him being reported out of that committee on the 23rd. It has been a long 40-some-odd days. It has been too long.

It seems that we are asking our Cabinet Secretaries to do their jobs by themselves. We are having a hard time getting them any help downtown. I just think that is a wrong thing to do to any administration.

I remember when President Clinton first came to town back in 1992, 1993; whenever we went through the process, I always took the position that each President got his Cabinet members and the people he wanted in his administration because he had been duly elected by the people of this country. So he could move his agenda as he saw fit. We have been holding up folks going downtown far too long.

Twenty-eight percent of Montana is public land. With the BLM and the Forest Service and, of course, with the BIA and the Indian lands and Indian country, this position is very important. Of course, with Mr. Griles coming from a standpoint of multiple use, single use does not work. I think that we can balance the use of our lands. We have had a tendency in the last 10 or 15 years to redefine conservation. Conservation is the wise use of any resource. That has been the driving force on any of our resources found on our public lands and on our private lands.

I have an agricultural background. This position in the Department of the Interior requires a man of not only high integrity and high purpose but also to have guts enough to make a decision. We have gone through these situations where nobody wants to make a decision.

We had a situation on the Flathead Lake in just finding its level. We had too many cooks in the kitchen and nobody knew who was in charge when trying to make a decision on what level we wanted to maintain at Flathead Lake in northwestern Montana.

I know there are some of my colleagues in this body who have some real heartburn with Mr. Griles. In fact, I know there are many colleagues in this body who have heartburn with the words "multiple use."

But, nonetheless, we who come from the land and the resources—and especially from a resource-based economy—think we understand just how important renewable resources are. We realize that in oil and gas, it is sort of finite—there may not be any more of it made. But on renewables, we should be using conservation practices that consider wise use.

Tough decisions will have to be made by the Department. We need someone who is confident in making them and also basing the decisions on science and common sense.

So the reason I support Steve Griles is because he brings outstanding credentials to the job. He served at many levels, both inside and outside of Government. I think everybody will find he will be an able listener, and he will also show the cooperation in being a good Deputy Secretary.

The PRESIDING OFFICER. Is there further debate on the nomination?

Mr. BURNS. Are we ready to vote?

Mr. MURKOWSKI. Yes.

Mr. BURNS. Mr. President, I urge that this nomination be confirmed as Deputy Secretary, and on a voice vote.

The PRESIDING OFFICER. Is there further debate on the nomination?

If not, the question is, Will the Senate advise and consent to the nomination of J. Steven Griles, of Virginia, to be Deputy Secretary of the Interior?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President will be immediately notified of the Senate's action.

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

THANKING THE MANAGERS OF INTERIOR APPROPRIATIONS

Mr. REID. Mr. President, while the Presiding Officer is in the Chamber, I rise to express how much I appreciate his work of the last 2 days. It has been very difficult.

He and I worked together on Military Construction when I was chairman and he was ranking member. Through each ordeal we experience we become closer, and I have become more appreciative of his legislative abilities.

For both of us to be able to work with one of the legends of the Senate, Senator BYRD, is always a pleasure and a learning experience. I want to make sure that spread on the RECORD is my appreciation for the good work done by the two managers of this bill.

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consider the nominations reported earlier today by the Foreign Relations Committee as follows: Peter R. Chaveas to be Ambassador to the Republic of Sierra Leone; Lori A. Forman to be Assistant Administrator for the United States Agency for International Development; Aubrey Hooks to be Ambassador to the Democratic Republic of the Congo; Donald J. McConnell to be Ambassador to the State of Eritrea; Nancy Powell to be Ambassador to the Republic of Ghana; George McDade Staples to be Ambassador to the Republic of Cameroon and to the Republic of Equatorial Guinea; that the nominations be confirmed, and the motions to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

DEPARTMENT OF STATE

Peter R. Chaveas, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

Lori A. Forman, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

Donald J. McConnell, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Eritrea.

Aubrey Hooks, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of the Congo.

Nancy J. Powell, of Iowa, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

George McDade Staples, of Kentucky, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

Mr. REID. Mr. President, I ask unanimous consent that the Senate consider and confirm Executive Calendar Nos. 199, 200, 203 through 210, 213, 214, 221 and 222, that the nominations be confirmed and the motions to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

DEPARTMENT OF DEFENSE

Douglas Jay Feith, of Maryland, to be Under Secretary of Defense for Policy.

Peter W. Rodman, of the District of Columbia, to be an Assistant Secretary of Defense.

Thomas P. Christie, of Virginia, to be Director of Operational Test and Evaluation, Department of Defense.

Diane K. Morales, of Texas, to be Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

Steven John Morello, Sr., of Michigan, to be General Counsel of the Department of the Army.

William A. Navas, Jr., of Virginia, to be an Assistant Secretary of the Navy.

Michael Montelongo, of Georgia, to be an Assistant Secretary of the Air Force.

Reginald Jude Brown, of Virginia, to be an Assistant Secretary of the Army.

John J. Young, Jr., of Virginia, to be an Assistant Secretary of the Navy.

Michael W. Wynne, of Florida, to be Deputy Under Secretary of Defense for Acquisition and Technology.

Dionel M. Aviles, of Maryland, to be an Assistant Secretary of the Navy.

DEPARTMENT OF ENERGY

Jessie Hill Roberson, of Alabama, to be an Assistant Secretary of Energy (Environmental Management).

DEPARTMENT OF AGRICULTURE

Joseph J. Jen, of California, to be Under Secretary of Agriculture for Research Education, and Economics.

James R. Moseley, of Indiana, to be Deputy Secretary of Agriculture.

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nominations reported earlier today by the Energy Committee: Patricia Lynn Scarlett to be Assistant Secretary of Interior; William Gerry Myers III to be Solicitor of the Department of Interior; Bennett William Raley to be Assistant Secretary of Interior; Vicky A. Bailey to be Assistant Secretary of Energy; Frances P. Mainella to be Director of the National Park Service; John W. Keys III to be Commissioner of Reclamation; that the nominations be confirmed, and the motions to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

DEPARTMENT OF THE INTERIOR

Patricia Lynn Scarlett, of California, to be an Assistant Secretary of the Interior.

William Gerry Myers III, of Idaho, to be Solicitor of the Department of the Interior.

Bennett William Raley, of Colorado, to be an Assistant Secretary of the Interior.

DEPARTMENT OF ENERGY

Vicky A. Bailey, of Indiana, to be an Assistant Secretary of Energy (International Affairs and Domestic Policy).

DEPARTMENT OF THE INTERIOR

Frances P. Mainella, of Florida, to be Director of the National Park Service.

John W. Keys, III, of Utah, to be Commissioner of Reclamation.

Mr. REID. Mr. President, I ask unanimous consent that the HELP Committee be discharged from consideration of the following nominations:

Grover Whitehurst, to be Assistant Secretary of Educational Research and Improvement; Susan B. Neuman, to be the Assistant Secretary for Elementary and Secondary Education; Rebecca Campoverde, to be the Assistant Secretary for Legislation and Congressional Affairs; Robert S. Martin, to be Director of the Institute of Museum and Library Services; that the Senate proceed to their consideration, en bloc; that they be confirmed; that the motions to reconsider be laid on the table; that any statements on any nominations confirmed today appear at the appropriate place in the RECORD; that the President be immediately notified of all the Senate's actions, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

DEPARTMENT OF EDUCATION

Grover J. Whitehurst, of New York, to be Assistant Secretary for Educational Research and Improvement, Department of Education.

Susan B. Neuman, of Michigan, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

Rebecca O. Campoverde, of Virginia, to be Assistant Secretary for Legislation and Congressional Affairs, Department of Education.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Robert S. Martin, of Texas, to be Director of the Institute of Museum and Library Services.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

BEIJING'S BID FOR THE OLYMPICS

Mr. WELLSTONE. The International Olympic Committee is going to announce tomorrow which country will host the 2008 summer games. The competition is fierce. Toronto and Paris are serious contenders. Yet it seems likely that Beijing will get the prize.

I will speak briefly about this decision because I think there should be some discussion on the Senate floor and the implications. I believe China's authoritarian and oppressive government should not be granted the privilege of hosting the 2008 games. The current Government in Beijing does not deserve the international legitimacy and the spotlight that this honor bestows. Its chronic failure to respect human rights violates the fundamental spirit of the Games, and I think it should disqualify Beijing.

Many of my colleagues argue that human rights should never be a consideration in determining our trade relations with other countries. I don't agree. I do think a government's record on human rights should not be ignored with respect to choosing the site for the Olympics which confers enormous prestige on the host government and which is intended to celebrate human dignity and achievement.

I have a sense-of-the-Senate amendment because the feeling was it would be inappropriate to do it on an appropriations bill. I do not believe doing it that way gets the support that it deserves. I know there are Senators who argue that to say the Olympics should not be in China is to politicize this question. If we are silent about this and Beijing hosts the Olympics, we are making a political statement. The political statement we are making is their violation of human rights does not matter.

Either way, it is a political statement. I prefer to speak out for human rights. The Olympics are first and foremost about sports and the joy of athletic competition, but human rights and dignity are also central to the Olympic ideal. The Olympic charter makes clear "respect for universal fundamental ethical principles" are central to the Olympic ideal.

Look at the State Department report. China's Government record has worsened as it committed "numerous serious abuses" from raiding home churches, imprisoning Tibetan monks and nuns, locking up Internet entrepreneurs, silencing democracy activists, and cracking down on Falun Gong."

The Chinese Government continues to hold a number of American scholars on suspicious charges of spying. Dr. Gao Zhan has not been allowed to contact her husband, her 5-year-old child, both American citizens, or her lawyer or the State Department.

This doesn't matter? Moreover, hundreds of thousands of people languish in jails and prison camps merely because they dared to practice their Christian or Buddhist or Islamic faith. These are the facts. Respected international human rights organizations have documented hundreds of thousands of cases of arbitrary imprisonment, torture, house arrest, or death at the hands of the Government. That is a fact.

What they have done, the brutal crackdown on the Falun Gong is unbelievable. This is a harmless Buddhist sect. According to international media reports, approximately 50,000 of these practitioners have been arrested and detained, more than 5,000 have been sentenced to labor camps without a trial, and hundreds have received prison sentences after sham trials, show trials. Detainees have often been tortured and scores of practitioners of this faith have died in Government custody. These are facts. This is the empirical evidence. Millions of others have been persecuted for so-called crimes such as, if you are ready, advocating for political pluralism and the ideals of democracy. Hundreds continue to languish in jail under a "counterrevolutionary" law which the Government repealed 3 years ago. Some of them are survivors of the Tiananmen Square massacre.

While China signed the International Covenant on Civil and Political Rights—I remember the Clinton administration has made such a big deal of this—the Chinese Government has not ratified it. Instead, it stepped up its repression of individuals seeking to exercise the very rights the covenant is designed to protect. And we do not speak out about this.

We make the argument, to grant this country the honor of hosting the Olympics, we should not raise questions about this because to raise questions would be to make a political statement about the Olympics. Isn't it also making a political statement about the Olympics not to raise questions, to legitimize and validate this repression?

Chinese courts have sentenced members of the Chinese Democracy Party, an open opposition party, to terms of 11, 12, and 13 years for "conspiring to subvert state power." This is a fact.

Charges against these political activists—do you know what they are? They included this: They organized a party—wound up in prison. They received funds from abroad promoting independent trade unions—they wound up in prison. They used e-mails to distribute materials abroad—they wound up in prison. And they gave interviews to foreign reporters—they wound up in prison.

Here is where the Olympics is going to go. Without a word from our Government? Without a word from the Senate?

Chinese officials have also ruthlessly suppressed dissent from ethnic minorities, including Xinjiang and Tibet. According to a report by Amnesty International, the Chinese Government has reportedly committed gross violations, including widespread use of torture to exact confessions, lengthy prison sentences, and numerous executions. Are we not going to speak up about a government that tortures its citizens and that executes its citizens for no other reason than they have had the courage to speak up for democracy or to try to practice their religion?

In an apparent attempt to stop the flow of information overseas about this crackdown, Chinese security officials continue to detain a prominent businesswoman, Ms. Rebiya Kadeer, in the Province of Xinjiang. Her husband is a U.S. resident who broadcasts on Radio Free Asia and the Voice of America, championing the cause of people. She was arrested by the Chinese security forces on her way to meet with members of a visiting Congressional staff delegation.

For years, the same Ms. Kadeer has been praised by the Chinese Government for her efforts to promote economic development, including a project to help women own their own businesses. She has also been praised in the Wall Street Journal for her business savvy. She owned a department store in a provincial capital, as well as a profitable trading company. But now she has been put out of business, charged with—here is the charge, Mr. President—"illegally offering state secrets across the border," and sentenced to 8 years of hard labor. Her son and her secretary were also detained and sent to a labor camp.

Given this horrendous record, I do not believe China should be rewarded for this sort of repression. I am not a cold war warrior. I am not trying to resurrect the cold war. My father was born in Odessa, Ukraine. Then, to stay ahead of Czarist Russia, he was a Jewish immigrant. They moved to Habarovsk in the Far East, Siberia, and then Harbin, and lived in Pakeen, lived in China, and he came to the United States of America at age 17, in 1914. I am an internationalist.

I look forward to the day that Beijing hosts the Olympic games. The Chinese people are some of the most extraordinary, talented, and resourceful people on the planet. I do not for a moment want to bash or overgeneralize. I dream of a day when I can come to the Senate floor and I can celebrate the idea of China hosting the Olympic games. But not now. Not with the persecution, not with the torture, not with the murder of innocent citizens, not with the political oppression, not with the religious persecution, not with what they have done to the country of Tibet, the people of Tibet.

I believe strongly China's authoritarian, repressive Government should not be granted the privilege of hosting the 2008 games. It does not deserve the international legitimacy and spotlight that this honor bestows. Instead, this Government's chronic failure to respect human rights, I believe, violates the fundamental spirit of the Olympic games and should disqualify Beijing.

This is perhaps my morning for tilting at windmills because I believe the international committee will probably give China the Olympic Games, but sometimes it is important just to make that statement on the floor of the Senate. I believe others should speak out as well.

VIOLENCE AGAINST WOMEN OFFICE ACT

Mr. DOMENICI. Mr. President, I rise today to announce my cosponsorship of S. 570, the Violence Against Women Office Act introduced by my colleague Senator BIDEN. This bill will further our efforts in combating the problem of domestic violence. Domestic violence is not simply a localized, private issue, the ripple effect—socially and economically—from this problem makes it a concern for all Americans.

The statistics make my case. The crime of battering occurs every 15 seconds in this country. Over 50 percent of women will experience physical violence in an intimate relationship during their lifetime. Estimates range from 960,000 incidents of violence against a current or former spouse, boyfriend, or girlfriend per year to three million women annually who are physically abused by their husband or boyfriend.

The Violence Against Women Act is a strong indication of our commitment to address this problem. Any possible action we can take to enhance the effectiveness of our government's efforts in this arena must be taken. This bill is one such action.

Establishment of the Violence Against Women Office, (VAWO) by statute will provide permanency in our federal efforts to combat domestic violence. This bill will institutionalize the office and will help to fulfill the federal government's responsibility to meet the goals embodied in the Violence Against Women Act, (VAWA).

This office will be located within the U.S. Department of Justice, placed within the Associate Attorney General's Office, and will be led by a director appointed by the President and approved by the Senate. In addition to running the VAWO, the Director will serve as Special Counsel to the Attorney General on all issues related to violence against women. The office is responsible for the development of policy, programs, public education initiatives, and management of all grant programs funded under the VAWA. I would underscore that this legislation does not contemplate increased staff or require any expenditure of funds beyond that currently appropriated.

In the past, the VAWO director has brought visibility and credibility to the matter of violence against women, making it an issue of national concern and earning the respect of police, prosecutors, and victim service providers. This precedence should be furthered by establishing an office to address violence against women by statute. The Office and its Director will reflect the importance that Congress and the Administration place on making this issue a priority for the federal government and the country.

In addition, this step will insure that succeeding Administrations will continue to fully implement the provisions of the VAWA. An office placed under the direct supervision of the Associate Attorney General will reflect the Justice Department's understanding that non-criminal justice system services should be offered as part of a community coordinated response. By employing a specialized knowledge of the best practices in the field, a statutory mandate will guarantee that grant funds are well utilized. A strong and visible office is necessary to implement the recommendations embodied in the National Agenda and Call to Action on Violence Against Women.

I am proud that New Mexico has many dedicated individuals offering services to battered women in our state. The Violence Against Women Act has bolstered their means to provide shelters for women in crisis, get access to legal assistance, and transition out of abusive situations. Further, VAWA funding is provided for educational outreach to medical providers and local law enforcement to increase their abilities to identify and respond in domestic violence cases.

Just last year, New Mexico entities received numerous grants as a result of the Violence Against Women Office. These grants included:

El Refugio, Inc. of Silver City received $304,931 from the Civil Legal Assistance Grant Program, an increase from their 1998 grant of $295,596. With these monies, they will be able to continue existing project activities in their legal assistance program from low income and indigent battered women.

Likewise, The Eight Northern Indian Pueblos, Inc., the Jicarilla Apache Tribe, the Pueblo of Laguna, and the Santa Ana Pueblo have collectively received $331,593 from the STOP Violence Against Indian Women Discretionary Grant Program. This allocation will be used to enhance and maintain current programs aimed at decreasing violence against women.

Since enactment of VAWA, other grants totaling over $1.5 million have been provided to the City of Albuquerque in support of the Albuquerque Police's Domestic Abuse Response Team (DART), to Santa Fe County for implementation of a judicial oversight program to enhance offender accountability, and to Dona Ana County's efforts to expand prosecutorial services for victims, DART and La Casa Inc., the local battered women's shelter.

This nation-wide problem demands a local response. Federal funding is being effectively used to leverage existing community-based organizations and local law enforcement officials to help prevent and persecute domestic violence.

Last year I cosponsored the Violence Against Women Act. This year I am supporting full funding of VAWA programs for the Justice Department programs and in the Health and Human Services budget, despite the tight fiscal constraints and competing priorities for those agencies.

Domestic violence is a scourge. We must commit to addressing it. This legislation is one concrete step in the right direction.

THE PUBLIC HEALTH IMPLICATIONS OF GUN VIOLENCE

Mr. LEVIN. Mr. President, before we adjourned for the Fourth of July recess, we spent two weeks on the Senate floor discussing the Patients Bill of Rights. I supported the strong, enforceable bill which the Senate finally approved on June 29th. After years of consideration and a hard legislative battle, the bipartisan vote this bill received reflects the overwhelming support the bill has from the American people.

Over the next several months we will continue to discuss the importance of reforming our health care system to make it more affordable and more accessible to the American people. But as we debate the subject, we must not ignore an issue that is often overlooked as a public health problem. I'm talking about gun violence. Because, Mr. President, accompanying the tremendous human costs of gun violence are enormous public health costs that we cannot afford to ignore.

According to a 1999 report from the Office of Juvenile Justice and Delinquency Prevention, every day in the United States, 93 people die as a result of gunshot wounds and an additional 240 sustain gunshot injuries. The report states that "the fatality rate is roughly equivalent to that associated with HIV infection—a disease that the Centers for Disease Control and Prevention has recognized as an epidemic." In addition, according to a 1997 study cited by the Violence Policy Center, the cost of gunshot wounds exceeded $126 billion in 1992 alone. That same year, the injury cost per bullet sold in the United States exceeded $25.

So as we in the Senate work to improve health care for all Americans, we should work just as hard to address the loopholes in our gun laws. Only by doing the latter can we reduce the costs to public health that result from gun violence.

BURMA MILITARY PURCHASES

Mr. McCONNELL. Mr. President, the illegitimate regime in Rangoon has once again shown its true colors. On this bright, sunny morning in Washington, I want to draw the attention of my colleagues to gathering storm clouds in Southeast Asia.

According to Jane's Defence Weekly, Burma's State Peace and Development Council, SPDC, has signed a contract to purchase 10 MiG–29 fighter aircraft from the Russian Aircraft-building Corporation. These fighters were built in the early 1990s and are being stored at the Lukhovitsy machine-building plant. The total cost of the 10 MiGs to the SPDC is $130 million, 30 percent of which will be paid up front and the balance settled over the next decade.

This purchase is troubling for several reasons, and underscores that despite its name the SPDC is neither committed to peace nor the development of Burma. Thailand—and the United States—should be concerned with the acquisition of these aircraft, which boosts the junta's capabilities well beyond the 42 Chengdu F–7M and Nanchang A–5C currently sitting on Burmese runways. Tensions between the Thais and the junta have already spilled over into exchanges of gunfire and mortars; an escalation to an air war would be destabilizing to the entire region. China may be the only country to view the sale in a positive light, as it strengthens the military capability of one its staunchest allies in the region.

From drug dealing to the forced use of child soldiers, the Burmese military has distinguished itself as a world's leading violator of human rights and dignity. This purchase serves as evidence that the regime is committed to remaining in power at any and all costs. The international community must now double its efforts to ensure that even greater human rights abuses are not waged against the innocent people of Burma by the military, which is corrupt to the core.

The acquisition of MiG fighters adds 10 more reasons why the United States should view skeptically the discussions between Rangoon's thugs and thieves and Burma's legitimate leader Daw Aung San Suu Kyi. The contract with Russia sends a signal that despite all the rhetoric and few prisoner releases, the talks may be hollow. What meaningful concessions can the generals make to Suu Kyi if they are arming themselves?

The $130 million contract—and where is that money coming from, Mr. President?—demonstrates yet again that the junta has not made the welfare of the people of Burma a priority. From an escalating HIV/AIDS crisis to forced labor practices, the junta has yet to demonstrate the political will to tackle the hardships the Burmese face every day.

Finally, the sale is an indication that the Russians are willing to sell military hardware to anyone, anywhere. We can add Burma to the growing list, which includes Iran and North Korea, of Russian client countries.

RACISM

Mr. BAUCUS. Mr. President, today I rise to call attention to racism in our society.

There are certain moments when we are reminded that it exists, and that it is a very ugly thing. Recently, the Committee of 100, a group of prominent Chinese-Americans, published a survey that measured attitudes toward Asian-Americans, especially those of Chinese descent. It was the first such comprehensive survey—the group wanted to establish a baseline that can be compared to future studies so that we can determine whether racist attitudes against Chinese-Americans are rising or falling.

The result of this first survey was distressing. Apparently, one-quarter of Americans hold "very negative attitudes" toward Chinese-Americans, and one-third think that Chinese-Americans are more likely to be loyal to China than to the United States. Stop and think about that: a charge of disloyalty is a sensational accusation when it is leveled by one American against another. This survey suggests that 90 million people in this country accuse millions of their fellow Americans of disloyalty.

The same poll also tested attitudes toward Asian-Americans in general, with similar results. Twenty-four percent of Americans would be upset if someone in their family married an Asian-American; 23 percent would be uncomfortable voting for an Asian-American president; and 17 percent would be disappointed if an Asian-American moved into their neighborhood.

Prejudice toward Chinese-Americans, and toward Asian-Americans in general, is not unique. Immigrants from all parts of the world have been stereotyped and reviled at some point in our history, and many groups continue to face these attitudes today. I chose to focus on Chinese-Americans today only because the survey so surprised and concerned me.

Chinese immigrants began entering the country in large numbers in the 1850's. They were initially welcomed in the tight labor market of the rapidly expanding West. In fact, American industry brought many of the immigrants from China as contract laborers. Some of these immigrants toiled in gold mines and on the transcontinental railroad. Others worked in vegetable and fruit farms in California or on sugar plantations in Hawaii. Still others opened grocery stores, laundries, and other businesses.

But as labor became more plentiful and the gold rush petered out, public sentiment toward these new Americans turned. A campaign to drive the Chinese out of the country was fueled by racist slogans and developed, at times, into all-out hysteria. Discriminatory laws and boycotts against Chinese labor resulted, along with lynchings and beatings. In 1882, the federal government put an official stamp on this racism by passing the Chinese Exclusion Act, which made it illegal for Chinese people to emigrate to this country. This unprecedented and embarrassing law stayed on the books until 1943.

Another indignity that immigrants faced was the system of "anti-miscegenation" laws against intermarriage. In 1880, California passed a statute forbidding marriage of a white person to a "Negro, Mulatto, or Mongolian." The federal government passed the Cable Act in 1922, revoking the citizenship of any American woman who married an Asian man. It wasn't until 1967 that the Supreme Court struck down these laws.

I am sorry to report that my own state of Montana was not immune to anti-immigrant action. Census data show that in 1870, the Chinese accounted for the largest foreign-born population in the state—larger even than the Irish. Chinese workers made a particularly significant contribution to the mining town of Butte, but by the 1880's they faced discrimination and hate attacks. Ads in newspapers appeared with the slogan "Chinese need not apply" Anti-peddling ordinances were enacted against Chinese grocers. In fact, the town's fourth mayor rode to victory on the slogan "The Chinese must go."

There is no single description of a Chinese-American. Some Chinese-Americans were already wealthy and well-educated when they arrived here. Others arrived in penury and followed the American path to education and success. Some Chinese-Americans continue to celebrate their Chinese origin. Others deny, or have forgotten completely, the cultural heritage of their ancestors. Yet all are Americans.

Cruz Reynoso, the first Mexican-American to serve on California's Supreme Court, put it this way:

> Americans are not now, and never have been, one people linguistically or ethnically. America is a political union—not a cultural, linguistic, religious, or racial union. It is acceptance of our constitutional ideals of democracy, equality, and freedom which acts as a unifier for us as Americans.

Political scientist Carl Friedrich made a similar point when he wrote in 1935: "To be an American is an ideal, while to be a Frenchman is a fact." An individual is an American if he or she embraces the founding political ideals of our Nation.

It is the responsibility of all of us, as the elected representatives of the

American people, to combat racism in our society, to raise awareness of how racism damages our nation and our society, to point to the ideals that bind us together as citizens of this great nation. Thank you.

SUPPORT FOR THE U.S. COAST GUARD

Mr. DEWINE. Mr. President, I rise today to thank the chairman and ranking member of the Appropriations Committee, Senators BYRD and STEVENS, for working with me and so many others in support of the $92 million for the U.S. Coast Guard. This funding was included in the 2001 Emergency Supplemental Appropriations bill we recently passed.

The Coast Guard needs this assistance to meet basic operational expenses and fund unexpected fiscal year 2001 budget requirements. We must support the critical services that the Coast Guard performs across the country. By passing this bill, we have demonstrated our strong support for its missions and will help it stay in the business of saving lives.

Known as "the rescue expert," our Coast Guard responds to 40,000 search and rescue cases each year, saving 3,800 lives. And, though it is the rescue and response missions that get the headlines, the Coast Guard also is very dedicated to preventing emergencies. The Coast Guard inspects all commercial ships—including cargo ships, tankers, and cruise ships.

There are many other ways that the Coast Guard protects our citizens. One major component of Coast Guard operations is drug interdiction. Last year, the Coast Guard seized more than 66 tons of cocaine, with a street value of $4 billion—that's more than the total operating cost of the entire Coast Guard.

Perhaps one of the Coast Guard's toughest jobs is the day to day enforcement of U.S. immigration law. Coast Guard men and women are challenged daily to carry out their responsibilities with due regard for the law, human dignity, and above all, the safety of human life. It is a tough job, and each case is unique. But day in and day out, the Coast Guard continues to carry out its duties with professionalism and a never-ending commitment to those it serves.

These are just some of the vital missions the Coast Guard conducts. But the Coast Guard is reaching the point where it is stretched so thin and the condition of its equipment is so poor that I fear it will no longer be able to sustain daily operations.

When compared to 41 other maritime agencies around the world, the ships that make up our Coast Guard fleet of cutters are the 38th oldest. Because the fleet is so old, the Coast Guard has had to spend twice as much money to fix equipment and hull problems. This is a very serious problem, Mr. President. It is a problem that does not result from mismanagement, but rather, it is a problem that has resulted from a continual lack of adequate funding for our Coast Guard.

We need to provide the Coast Guard with the resources necessary so the American people can have the services that they require and deserve. The funding included in the 2001 Emergency Supplemental Appropriations bill certainly will help keep our Coast Guard afloat. And, we must remain committed to ensuring that our Coast Guard has adequate resources not just now, but well into the future.

I look forward to continuing to work with my colleagues on this vital issue.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 13, 1998 in San Francisco, California. A gay man, Brian Wilmes, 45, was beaten to death allegedly by another man who yelled anti-gay epithets and then fled with a woman. Edgar Mora, 25, was charged with murder.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

RURAL TRANSPORTATION

Mrs. CARNAHAN. Mr. President, I rise today to acknowledge a group of courageous young men and women from Canton, MO. They are visiting the Nation's capital this week.

The group's journey began more than a year ago on a two-lane road in northeast Missouri. Seventeen-year-old Kristin Hendrickson was killed on Highway 61 when her car struck another vehicle head on. A four-lane road with a divider might have saved her life.

Kristin was just a few months away from graduation at Canton R–5 High School. Her unused prom dress hung in her closet, a reminder of how full of life she had been.

Kristin's friends tried to make sense of what happened.

Determined to make something positive out of this terrible loss, they started a grassroots movement: Students of Missouri Assisting Rural & Urban Transportation, or SMART. Their goal was to "promote and ensure the safety of rural transportation needs in the State of Missouri."

Many of the students who created SMART graduated a few weeks later, but younger students carried on the work. And those who graduated stayed involved as advisors.

The group developed four objectives:

First, to educate the public on the need to improve local transportation;

Second, to grow into other local districts, and then move statewide;

Third, to lobby legislators for funding to improve rural transportation; and

Fourth, to contact candidates for statewide office for their position on transportation, and use this information to educate the public.

SMART has already become a powerful advocacy group in Missouri. Just 2 months after the organization was founded, the nonpartisan group made a presentation at a meeting of the Missouri Highway and Transportation Commission. Their members have also addressed the Missouri Governor's Conference on Transportation. Representatives of the group have met personally with Missouri Governor Bob Holden and members of the Missouri General Assembly to encourage additional funding for rural transportation projects.

But their greatest victory to date came in January when the Missouri Department of Transportation announced that it would upgrade more than 10 miles of highway 61 between Canton and LaGrange to a four-lane road.

Although the victory came too late for Kristin, there is no way to know how many lives it will save in the years to come. It would not have happened without the forceful activism of these young people.

I am extremely proud of these young people. Not only because of what they accomplished, but because of what they still intend to accomplish. They are not yet satisfied, and we have not heard the last of them.

The group continues to organize similar groups throughout Missouri. They have come to Washington this week to encourage Members of Congress to support highway safety and to advocate for additional federal resources for transportation infrastructure.

These committed young people can teach us all a lesson about how to get things done. The example they have set is not just valuable for other young people, but also for adults who have grown cynical about the political process. These young leaders have shown that you can make a difference—through action and determination. And I intend to work with them to increase the Federal Government's investment in our Nation's highways.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 11, 2001, the Federal debt stood at $5,709,374,137,996.57, five trillion, seven hundred nine billion, three hundred seventy-four million, one hundred thirty-seven thousand, nine hundred ninety-six dollars and fifty-seven cents.

One year ago, July 11, 2000, the Federal debt stood at $5,665,065,000,000, five trillion, six hundred sixty-five billion, sixty-five million.

Five years ago, July 11, 1996, the Federal debt stood at $5,152,640,000,000, five trillion, one hundred fifty-two billion, six hundred forty million.

Ten years ago, July 11, 1991, the Federal debt stood at $3,536,904,000,000, three trillion, five hundred thirty-six billion, nine hundred four million.

Fifteen years ago, July 11, 1986, the Federal debt stood at $2,068,672,000,000, two trillion, sixty-eight billion, six hundred seventy-two million, which reflects a debt increase of more than $3.5 trillion, $3,640,702,137,996.57, three trillion, six hundred forty billion, seven hundred two million, one hundred thirty-seven thousand, nine hundred ninety-six dollars and fifty-seven cents during the past 15 years.

ADDITIONAL STATEMENTS

TRIBUTE TO KNIGHTS OF COLUMBUS ROCHESTER COUNCIL NO. 2048

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the Knights of Columbus Council No. 2048 of Rochester, NH, on the creation of the successful Future Unlimited Banquet Program. Future Unlimited is an annual event which recognizes the Valedictorians and Salutatorians from eight high schools in the Seacoast region of New Hampshire.

The eight high schools represented in the program include: St. Thomas Aquinas High School, Berwick, ME, Dover High School, Somersworth High School, Farmington High School, Nute High School, Alton High School, Kingswood Regional High School and Spaulding High School.

I commend the Knights of Columbus Rochester Council for their recognition of the scholastic achievements of the high school seniors in the Seacoast region. As a former schoolteacher, I applaud the efforts of the Knights of Columbus for rewarding students who have established goals and high standards of excellence in their academic, extracurricular and civic endeavors.

The Knights of Columbus Rochester Council No. 2048 have served the citizens of Rochester and our state with pride and honor. The young men and women in the Seacoast region are blessed to have the encouragement and support of an organization which recognizes the qualities of hard work, perseverance and dedication. It is truly an honor and a privilege to represent them in the U.S. Senate.•

TRIBUTE TO LES AND MARILYN GORDON

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Les and Marilyn Gordon, owners of The Candlelite Inn in Bradford, NH, on being named as Inn of the Year by the Complete Guide to Bed & Breakfast Inns and Guesthouses in the United States, Canada and Worldwide.

Built in 1897, The Candlelite Inn has provided a relaxing atmosphere for visiting guests for over 100 years. The Gordons purchased the Inn in 1993, and have successfully continued the tradition of accommodating the needs of discriminating travelers touring the Lake Sunapee Region.

Throughout the year The Candlelite Inn hosts special weeks for their guests to enjoy including: Currier & Ives Maple Sugar Weekend in March, Old Glory Heritage Tours in July, August and September, Foliage Midweek Getaways in September and October, and Murder Mystery Parties throughout the year.

I commend Les and Marilyn for the economic contributions they have made to the hospitality and tourism industries in our state. The citizens of Bradford, and New Hampshire, have benefitted from their dedication to quality and service at The Candlelite Inn. It is truly an honor and a privilege to represent them in the U.S. Senate.•

FORD MOTOR COMPANY'S LIVING LEGENDS TOUR

• Mrs. CARNAHAN. Mr. President, I would like to take this opportunity to recognize Ford Motor Company's Living Legend Tour featuring the new 2002 Thunderbird and the Mustang Bullitt GT. These Ford vehicles will drive across Missouri from July 18–20, allowing Missourians to view them. Ford Motor Company and its employees, including the men and women of the United Auto Workers, have been instrumental in keeping Missouri's economy strong and our communities prosperous. More than 8,000 Missourians are employed in Ford assembly plants, credit locations, and dealerships across the state. We are gifted with a strong automotive industry in both the Kansas City and St. Louis areas.

In addition, at each stop along this tour, Ford is raising money for the Missouri Children's Trust Fund, which is a nonprofit organization started by the state legislature in 1983. This organization provides education and training to reduce abusive situations for children, while creating a friendly environment for them to thrive.

I am very pleased to welcome this automobile tour to Missouri to demonstrate the quality of these vehicles and highlight the hard work and the generosity of Ford's Missouri employees. Thank you to all Ford employees across the State for making me proud to be a Missourian.•

HONORING INDEPENDENCE, MISSOURI AS AN ALL-AMERICAN CITY

• Mrs. CARNAHAN. Mr. President. I am proud to take this opportunity to honor a very special place in Missouri. On Saturday, June 23rd, Independence, MO, the hometown of Harry S. Truman, was selected as an All-American City. The All-American City Competition is the Nation's oldest award for civic accomplishment. The winning cities serve as "models of exemplary grass-roots problem solving."

A 51-member delegation of business interests, community leaders, and nonprofit organizations came together to lead Independence's participation in the competition. While community partnerships are sprouting up in cities across America, Independence is in a league of its own. Under the leadership of Mayor Ron Stewart, Independence has achieved a real sense of unity and community. So many different entities with widely divergent interests were recognized for their ability to successfully work together when faced with civic challenges.

Independence's winning presentation, appropriately themed "Together We Can," highlighted recent citywide improvements such as cleaning up the historic Truman district, a sales tax approved by the voters to repair streets and parks, and the William Chrisman High School program which involved youth in public service programs. Furthermore, even Independence's physical presence at the competition was a united effort. Community groups worked together to raise funds to pay for the trip and prepare the presentation. This truly exceptional community certainly deserves its prestigious recognition as an All-American City.

Congratulations to Mayor Ron Stewart, participation coordinator Larry Kaufman, the delegation, and the residents of Independence. Your passionate work epitomizes the unlimited possibilities of cooperation. Thank you for making me proud to be a Missourian.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:52 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2216) an Act making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Mr. YOUNG of Florida, Mr. REGULA, Mr. LEWIS of California, Mr. ROGERS of Kentucky, Mr. SKEEN, Mr. WOLF, Mr. KOLBE, Mr. CALLAHAN, Mr. WALSH, Mr. TAYLOR of North Carolina, Mr. HOBSON, Mr. ISTOOK, Mr. BONILLA, Mr. KNOLLENBERG, Mr. OBEY, Mr. MURTHA, Mr. DICKS, Mr. SABO, Mr. HOYER, Mr. MOLLOHAN, Ms. KAPTUR, Mr. VISCLOSKY, Mrs. LOWEY, Mr. SERRANO, and Mr. OLVER

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2330. An act making appropriations for Agriculture, Rural Development, Food and Drug Admininistraion, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

The message further announced that pursuant to section 303(a) of Public Law 106–286, the Speaker appoints the following Members of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. LEVIN of Michigan, Ms. KAPTUR of Ohio, Ms. PELOSI of California, and Mr. DAVIS of Florida.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1668. To authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy; to the Committee on Energy and Natural Resources.

H.R. 2330. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

MEASURE PLACED ON THE CALENDAR

The Committee on Appropriations was discharged from further consideration of the following bill, which was ordered placed on the calendar:

H.R. 2311. An act making appropriations to energy and water development for the fiscal year ending September 30, 2002, and other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2759. A communication from the Assistant Attorney General of the Office of Legislative Affairs, transmitting, pursuant to law, the Annual Report of the Office of the Juvenile Justice and Delinquency Prevention for 2000; to the Committee on the Judiciary.

EC–2760. A communication from the Director of the National Legislative Commission, transmitting, pursuant to law, a report relative to consolidated financial statements with supplementary information for 1999 and 2000; to the Committee on the Judiciary.

EC–2761. A communication from the National Treasurer of the Navy Wives Clubs of America, transmitting, pursuant to law, a report relative to financial statements for Fiscal Year 1999; to the Committee on the Judiciary.

EC–2762. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2000 through March 31, 2001; to the Committee on Governmental Affairs.

EC–2763. A communication from the Acting Inspector General of the General Service Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period beginning October 1, 2000 through March 31, 2001; to the Committee on Governmental Affairs.

EC–2764. A communication from the Secretary of the Department of Housing and Urban Development, transmitting, pursuant to law, the Annual Report on Performance and Accountability for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–2765. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2766. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2767. A communication from the Assistant Director for Executive and Political Personnel, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of the Navy, received on July 5, 2001; to the Committee on Armed Services.

EC–2768. A communication from the Assistant Director for the Executive and Political Personnel, Department of the Navy, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Navy, Installations and Environment, received on July 5, 2001; to the Committee on Armed Services.

EC–2769. A communication from the Under Secretary of Defense, Acquisition and Technology, transmitting, pursuant to law, the Annual Materials Plans for Fiscal Years 2001 and 2002; to the Committee on Armed Services.

EC–2770. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled "Naval Discharge Review Board" (RIN0703–AA64) received on July 5, 2001; to the Committee on Armed Services.

EC–2771. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled "Rules Limiting Public Access to Particular Installations" (RIN0703–AA63) received on July 5, 2001; to the Committee on Armed Services.

EC–2772. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled "Garnishment of Pay of Naval Military and Civilian Personnel for Collection of Child Support and Alimony" (RIN0703–AA67) received on July 5, 2001; to the Committee on Armed Services.

EC–2773. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled "Assistance to and Support of Dependents; Paternity Complaints" (RIN0703–AA66) received on July 5, 2001; to the Committee on Armed Services.

EC–2774. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled "Rules Applicable to the Public" (RIN0703–AA62) received on July 5, 2001; to the Committee on Armed Services.

EC–2775. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled "Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public" (RIN0703–AA58) received on July 5, 2001; to the Committee on Armed Services.

EC–2776. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled "Disposition of Property" (RIN0703–AA60) received on July 5, 2001; to the Committee on Armed Services.

EC–2777. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled "Application Guidelines for Archeological Research Permits on Ship and Aircraft Wrecks Under the Jurisdiction of the Department of the Navy" (RIN0703–AA57) received on July 5, 2001; to the Committee on Armed Services.

EC–2778. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled "Rules Applicable to the Public" (RIN0703–AA69) received on July 5, 2001; to the Committee on Armed Services.

EC–2779. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, pursuant to law, a report relative to the review of policy and payment of claims; to the Committee on Armed Services.

EC–2780. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report under the Electronic Signatures in Global and National Commerce Act dated June 2001; to the Committee on Commerce, Science, and Transportation.

EC–2781. A communication from the Program Analyst of the Office of the Managing

Director, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Assessment and Collection of Regulatory Fees for Fiscal Year 2001" (Doc. No. 01-76) received on July 2, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2782. A communication from the Attorney for the Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications" (RIN2137-AD51) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2783. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Fireworks Display, Hyannis, MA" ((RIN2115-AA97)(2001-0037)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2784. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Festa Italiana 2001, Milwaukee Harbor, Wisconsin" ((RIN2115-AA97)(2001-0038)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2785. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Swampscott July 2nd Fireworks, Swampscott, Massachusetts" ((RIN2115-AA97)(2001-0035)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2786. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Northcoast Rockin' and Roarin' Offshore Grand Prix, Lake Erie and Cleveland Harbor, Cleveland, Ohio" ((RIN2115-AA97)(2001-0034)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2787. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Fireworks Display, Provincetown, MA" ((RIN2115-AA97)(2001-0036)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2788. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments" ((RIN2115-ZZ02)(2000-0002)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2789. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Lake Erie, Huron, Ohio" ((RIN2115-AA97)(2001-0030)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2790. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Kewaunee Annual Trout Festival, Kewaunee Harbor, Lake Michigan, WI" ((RIN2115-AA97)(2001-0032)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2791. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Lake Erie, Huron, Ohio" ((RIN2115-AA97)(2001-0031)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2792. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Tall Ships Challenge 2001, Moving Safety Zone, Muskegon Lake, Muskegon, MI" ((RIN2115-AA97)(2001-0033)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2793. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; SLR; Maryland Swim for Life, Chester River, Chestertown Maryland" ((RIN2115-AE46)(2001-0015)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2794. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels" (RIN2115-AF87) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2795. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations: SLR; Patapsco River, Baltimore Maryland" ((RIN2115-AE46)(2001-0016)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2796. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations: SLR; Northeast River, North East, Maryland" ((RIN2115-AE46)(2001-0017)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2797. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Milwaukee, WI" ((RIN2115-AA97)(2001-0029)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2798. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Sabine Lake, Texas" ((RIN2115-AE47)(2001-0048)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2799. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Administrator of the National Highway Traffic Safety Administration, received on July 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2800. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: American Champion Aircraft Corporation 7, 8, and 11 Series Airplanes" ((RIN2120-AA64)(2001-0261)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC-2801. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Annual Report on Transportation Security for Calendar Year 1999; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted on July 12, 2001:

By Mr. DURBIN, from the Committee on Appropriations, without amendment:

S. 1172: An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes (Rept. No. 107-37).

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment and with an amended preamble:

S. RES. 122: A resolution relating to the transfer of Slobodan Milosevic to the International Criminal Tribunal for Yugoslavia, and for other purposes.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with a preamble:

S. RES. 128: A resolution calling on the Government of the People's Republic of China to immediately and unconditionally release Li Shaomin and all other American scholars of Chinese ancestry being held in detention, calling on the President of the United States to continue working on behalf of Li Shaomin and the other detained scholars for their release, and for other purposes.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

S. 1021: A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004.

By Mr. REID, from the Committee on Appropriations, without amendment:

S. 1171: An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with an amended preamble:

S. CON. RES. 28: A concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment and an amendment to the title and with an amended preamble:

S. CON. RES. 34: A concurrent resolution congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the tenth anniversary of the reestablishment of their full independence.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

S. CON. RES. 53: Concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HARKIN for the Committee on Agriculture, Nutrition, and Forestry.

*Joseph J. Jen, of California, to be Under Secretary of Agriculture for Research, Education, and Economics.

*James R. Moseley, of Indiana, to be Deputy Secretary of Agriculture.

By Mr. SARBANES for the Committee on Banking, Housing, and Urban Affairs.

*Roger Walton Ferguson, Jr., of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 2000.

*Angela Antonelli, of Virginia, to be Chief Financial Officer, Department of Housing and Urban Development.

*Donald E. Powell, of Texas, to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation for a term of five years.

*Donald E. Powell, of Texas, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

*Ronald Rosenfeld, of Maryland, to be President, Government National Mortgage Association.

*Jennifer L. Dorn, of Nebraska, to be Federal Transit Administrator.

By Mr. BINGAMAN for the Committee on Energy and Natural Resources.

*Patricia Lynn Scarlett, of California, to be an Assistant Secretary of the Interior.

*William Gerry Myers III, of Idaho, to be Solicitor of the Department of the Interior.

*Bennett William Raley, of Colorado, to be an Assistant Secretary of the Interior.

*Vicky A. Bailey, of Indiana, to be an Assistant Secretary of Energy (International Affairs and Domestic Policy).

*Frances P. Mainella, of Florida, to be Director of the National Park Service.

*John W. Keys, III, of Utah, to be Commissioner of Reclamation.

By Mr. BIDEN for the Committee on Foreign Relations.

*Lori A. Forman, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

*Aubrey Hooks, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador .Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of the Congo.

Nominee: Aubrey Hooks.

Post: Ambassador to the Democratic Republic of the Congo.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses: Leah Jean Hooks Billings and Kevin Billings, none; Michael Aubrey Hooks and Sandra Montero Hooks, none; Keren Jean Hooks Lundy and Michael Lundy, none; Joseph Aubrey Hooks, none; Daniel Aubrey Hooks, none; and Stephanie Jean Hooks, none.
4. Parents (deceased).
5. Grandparents (deceased).
6. Brothers and spouses: Cecil Wayne Hooks and Linda Jean Elliott Hooks, none; Jimmy Hooks, none; Johnnie Hooks and Angela Hooks, none; and Ricky Hooks, none.
7. Sisters and spouses: Wanda Jane Hooks Graham and Michael Graham, none; Mabel Hooks, none; Betty Hooks, none; Judy Pearl Hooks Laxton and Newton Laxton, none; and Jackie Darnell Hooks Strickland and Nelson Strickland, none.

*Peter R. Chaveas, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of American to the Republic of Sierra Leone.

Nominee: Peter R. Chaveas.

Post Ambassador to Sierra Leone.

The following is a list of all members of my immediate family and their spouses. I have asked each of these person to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: $200, 7/1/97, Democratic National Committee; $200, 12/2/97, Democratic National Committee; and $200, 3/22/00, Democratic National Committee.
2. Spouse, none.
3. Children and spouses: Pamela M. Chaveas, none; and Michael M. Chaveas, none.
4. Parents: William and Evelyn Chaveas, none.
5. Grandparents (deceased).
6. Brothers and spouses: Richard and Debbie Chaveas, none; Paul and Carol Chaveas, $50, 8/11/97, Committee for Continued Good Government; $25, 5/12/98, Committee for Continued Good Government; and $50, 6/28/00, Committee to Re-elect Hartman, Johnstone, Renzulli.
7. Sisters and spouses, none.

*Donald J. McConnell, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Eritrea.

Nominee: Donald Joseph McConnell.

Post: Ambassador to Eritrea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3.Children and spouses, none.
4. Parents, none.
5. Grandparents, none.
6. Brothers and spouses, none.
7. Sisters and spouses, none.

*Nancy J. Powell, of Iowa, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

Nominee: Nancy J. Powell.

Post: Accra, Ghana.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, not applicable.
3. Children and spouses, not applicable.
4. Parents: Joseph and J. Maxine Powell, none.
5. Grandparents (deceased).
6. Brothers and spouses: William Powell, none.
7. Sisters and spouses, not applicable.

*George McDade Staples, of Kentucky, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

Nominee: George M. Staples.

Post: Cameroon and Equatorial Guinea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse: Jo Ann Staples, none.
3. Children and spouses: Catherine D. Staples, none.
4. Parents (deceased).
5. Grandparents (deceased).
6. Brothers and spouses, none.
7. Sisters and spouses: Mildred E. Staples, none.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CHAFEE (for himself, Mr. DEWINE, Mr. LEAHY, and Mrs. FEINSTEIN):

S. 1168. A bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of a Clean Water for the Americas Partnership within the United States Agency for International Development; to the Committee on Foreign Relations.

By Mr. FEINGOLD (for himself, Mr. MURKOWSKI, Ms. COLLINS, and Mr. KERRY):

S. 1169. A bill to streamline the regulatory processes applicable to home health agencies under the Medicare program under title XVIII of the Social Security Act and the Medicaid program under title XIX of such Act, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 1170. A bill to make the United States' energy policy toward Iraq consistent with the national security policies of the United States; to the Committee on Finance.

By Mr. REID:

S. 1171. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. DURBIN:

S. 1172. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. BAYH:

S. 1173. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to the employment of any adult food stamp recipient; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. HATCH, and Mr. KENNEDY):

S. 1174. A bill to provide for safe incarceration of juvenile offenders; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 1175. A bill to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Mr. CARPER):

S. 1176. A bill to strengthen research conducted by the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself, Ms. COLLINS, Mr. JEFFORDS, and Mr. LEAHY):

S. 1177. A bill to amend title XI of the Social Security Act to clarify that the Secretary of Health and Human Services has the authority to treat certain State payments made in an approved demonstration project as medical assistance under the medicaid program for purposes of a rebate agreement under section 1927 of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. COCHRAN (for himself, Mr. FRIST, and Mr. LEAHY):

S.J. Res. 19. A joint resolution providing for the reappointment of Anne d'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. COCHRAN (for himself, Mr. FRIST, and Mr. LEAHY):

S.J. Res. 20. A joint resolution providing for the appointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 129. A resolution electing Jeri Thomson as Secretary of the Senate; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 130. A resolution notifying the House of Representatives of the election of a Secretary of the Senate; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 131. A resolution notifying the President of the United States of the election of a Secretary of the Senate; considered and agreed to.

By Mr. CAMPBELL (for himself, Mr. KOHL, Mr. INHOFE, Mr. COCHRAN, Mrs. LINCOLN, Mr. WARNER, Mr. ENSIGN, Mr. DORGAN, Mr. DEWINE, Mr. AKAKA, Ms. LANDRIEU, Ms. STABENOW, Mr. DODD, Mr. SMITH of Oregon, Mr. ENZI, Mr. LOTT, Mr. HELMS, Mr. HAGEL, Mr. DOMENICI, and Mr. MILLER):

S. Res. 132. A resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it; to the Committee on the Judiciary.

By Mr. CORZINE:

S. Res. 133. A resolution expressing the sense of the Senate that information pertaining to Nazi war criminals should be brought to light so that future generations can learn from Holocaust, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 131

At the request of Mr. JOHNSON, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 131, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 145

At the request of Mr. THURMOND, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 145, a bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age, and for other purposes.

S. 233

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 233, a bill to place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty.

S. 492

At the request of Mr. THOMPSON, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 492, a bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax on individuals.

S. 494

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 494, a bill to provide for a transition to democracy and to promote economic recovery in Zimbabwe.

S. 531

At the request of Mrs. LINCOLN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 531, a bill to promote recreation on Federal lakes, to require Federal agencies responsible for managing Federal lakes to pursue strategies for enhancing recreational experiences of the public, and for other purposes.

S. 543

At the request of Mr. WELLSTONE, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 570

At the request of Mr. BIDEN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 570, a bill to establish a permanent Violence Against Women Office at the Department of Justice.

S. 571

At the request of Mr. THURMOND, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 571, a bill to provide for the location of the National Museum of the United States Army.

S. 583

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 624

At the request of Mr. GREGG, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 624, a bill to amend the Fair Labor standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off and biweekly work programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 654

At the request of Mr. TORRICELLI, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 654, a bill to amend the Internal

Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 656

At the request of Mr. REED, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 672

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 672, a bill to amend the Immigration and Nationality Act to provide for the continued classification of certain aliens as children for purposes of that Act in cases where the aliens "age-out" while awaiting immigration processing, and for other purposes.

S. 839

At the request of Mrs. HUTCHISON, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Jersey (Mr. CORZINE), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 910

At the request of Mr. ROCKEFELLER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 910, a bill to provide certain safeguards with respect to the domestic steel industry.

S. 932

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 932, a bill to amend the Food Security Act of 1985 to establish the conservation security program.

S. 942

At the request of Mr. GRAHAM, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 942, a bill to authorize the supplemental grant for population increases in certain states under the temporary assistance to needy families program for fiscal year 2002.

S. 992

At the request of Mr. NICKLES, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 992, a bill to amend the Internal Revenue Code of 1986 to repeal the provision taxing policy holder dividends of mutual life insurance companies and to repeal the policyholders surplus account provisions.

S. 1021

At the request of Mr. BIDEN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1021, a bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004.

S. 1042

At the request of Mr. INOUYE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1075

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1075, a bill to extend and modify the Drug-Free Communities Support Program, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

S. 1087

At the request of Mr. CONRAD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1087, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period of the depreciation of certain leasehold improvements.

S. 1088

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1088, a bill to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, and for other purposes.

S. 1090

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1090, a bill to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 1091

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1091, a bill to amend section 1116 of title 38, United States Code, to modify and extend authorities on the presumption of service-connection for herbicide-related disabilities of Vietnam era veterans, and for other purposes.

S. 1093

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1093, a bill to amend title 38, United States Code, to exclude certain income from annual income determinations for pension purposes, to limit provision of benefits for fugitive and incarcerated veterans, to increase the home loan guaranty amount for construction and purchase of homes, to modify and enhance other authorities relating to veterans' benefits, and for other purposes.

S. 1115

At the request of Mr. KENNEDY, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1115, a bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

S. 1135

At the request of Mr. GRAHAM, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1135, a bill to amend title XVIII of the Social Security Act to provide comprehensive reform of the medicare program, including the provision of coverage of outpatient prescription drugs under such program.

S. 1167

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1167, a bill to amend the Immigration and Nationality Act to permit the substitution of an alternative close family sponsor in the case of the death of the person petitioning for an alien's admission to the United States.

S. RES. 121

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Rhode Island (Mr. REED), the Senator from Hawaii (Mr. AKAKA), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Res. 121, a resolution expressing the sense of the Senate regarding the policy of the United States at the 53rd Annual Meeting of the International Whaling Commission.

S. RES. 128

At the request of Mr. TORRICELLI, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. Res. 128, a resolution calling on the Government of the People's Republic of China to immediately and unconditionally release Li Shaomin and all other American scholars of Chinese ancestry being held in detention, calling on the President of the United States to continue working on behalf of Li Shaomin and the other detained scholars for their release, and for other purposes.

At the request of Mr. BIDEN, the name of the Senator from Connecticut (Mr. DCDD) was added as a cosponsor of S. Res. 128, supra.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 28

At the request of Mr. BIDEN, the name of the Senator from Connecticut

(Mr. DODD) was added as a cosponsor of S. Con. Res. 28, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

S. CON. RES. 53

At the request of Mr. HAGEL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

AMENDMENT NO. 907

At the request of Ms. LANDRIEU, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from South Dakota (Mr. DASCHLE), the Senator from Arkansas (Mrs. LINCOLN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 907 intended to be proposed to H.R. 2217, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 921

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 921 intended to be proposed to H.R. 2217, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 922

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 922 intended to be proposed to H.R. 2217, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself, Mr. MURKOWSKI, Ms. COLLINS, and Mr. KERRY):

S. 1169. A bill to streamline the regulatory processes applicable to home health agencies under the Medicare program under title XVIII of the Social Security Act and the Medicaid program under title XIX of such Act, and for other purposes; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Home Health Nurse and Patient Act of 2001. This legislation reduces administrative burdens, requires a focused analysis of crucial claims processing concerns, and provides the opportunity for constructive reforms of current inefficiencies.

I am especially pleased to be joined by a number of my colleagues, including Senator MURKOWSKI and Senator KERRY who have been leaders in the regulatory reform movement, and Senator COLLINS, who has truly been a champion for preserving access to home health care.

Without Senator COLLINS' leadership on this issue, including the 1999 hearing that she held on the issue of regulatory burdens facing the home health care industry, this legislation would not be where it is today.

Senator COLLINS' legislation to repeal the 15 percent reduction in payments to home health care providers is also of the utmost importance, and is the other piece to the puzzle in terms of preserving access to home health care. It is my hope that the Senate Finance Committee will report out her legislation this year.

Scope of the problem: As many of my colleagues know, home health care provides compassionate, at-home care to seniors and people with disabilities in cities and towns throughout America.

Without it, many patients have no choice but to go to a nursing home, or even an emergency room, to get the care they need. For too many home health patients in my home state of Wisconsin, that day has arrived.

Over the past few years, home health agencies around Wisconsin have closed their doors due to massive changes in Medicare, and seniors and the disabled have been forced to go elsewhere for care.

In Wisconsin, over 40 Medicare home health providers have shut down since the implementation of the Interim Payment System. Still more have shrunken their service areas, stopped accepting Medicare patients, or refused assignment for high cost patients because the payments are simply too low.

Over the past 3 years, nearly 30 of Wisconsin's 72 counties have lost between one and fifteen home health care agencies.

Quite frankly, in many parts of Wisconsin, beneficiaries in certain areas or with certain diagnoses simply don't have access to home health care.

While we have thankfully moved beyond the interim payment system, many home health agencies are facing another cloud in the horizon—an impending nursing shortage and a regulatory system that causes nurses to fill out paperwork instead of caring for patients.

Burdensome and excessive paperwork often causes nurses to leave the home health care profession, and that can mean that patients stay in the hospital longer than necessary.

A 2000 national survey by the Hospital and Healthcare Compensation Service reported a 21-percent turnover rate for home health registered nurses, a 24-percent turnover rate for home health licensed practicing nurses, and a 28-percent turnover for home health aides.

The actual amount of time that a nurse provides medical care during an average "start of care" home health visit is approximately 45 minutes, only 30 percent of the average 2.5 hours of a nurse's time during the admission visit. According to Price Waterhouse Cooper, every hour of patient care time requires 48 minutes of paperwork time for hospital-owned home health agencies.

I would like to share with my colleagues this advertisement from Nursing Spectrum magazine.

Let me read this line here in bold print: "No OASIS."

As you can see the main selling point in the advertisement is the fact that the job will not force nurses to collect OASIS data. This is just one simple example of the administrative burden we have imposed on our nurses.

Our legislation takes a common sense approach to developing Medicare home health regulatory policies that are pro-consumer, provider-friendly, and efficient for the Center for Medicare and Medicaid Services, CMS, to administer.

It would also help to ensure that the policies are successful, fair and effective because all parties would collaborate on recommendations to the Secretary of Health and Human Services, HHS, through joint task forces.

This legislation would significantly alleviate the burdens that the Outcomes Assessment and Information Set (OASIS), the claims process for patients who are enrolled in both Medicare and Medicaid, and certain audit and medical review processes have had on home health providers.

More importantly, the changes to the OASIS and the claims review process also would reduce the stress often experienced by home health patients due to the complexity of both regulations.

It would also create a task force to analyze the appropriateness and efficacy of the OASIS patient assessment instrument on Medicare, Medicaid and non-government financed patients.

During the study, the OASIS process would be optional for the non-Medicare and non-Medicaid patients and inapplicable to those patients receiving personal care services only.

Many beneficiaries are also concerned about arbitrary coverage decisions, that leaves beneficiaries in the lurch. That is why this legislation requires the Secretary to form a task force to develop an efficient process for the handling of Medicare claims related to individuals also eligible for Medicaid coverage where the claim may not be covered under Medicare.

Finally, the Home Health Nurse and Patient Act would create a task force that would engage in a wholesale evaluation of the process used by Medicare to select and review home health services' claims.

The task force would consider such changes as establishing time limits for claim determinations, the use of alternative dispute resolution processes, the development of formal claims sampling protocols, allowing re-submission of corrected claims, and permitting physician assistants and nurse practitioners to establish care plans.

I hope to continue to work with both providers and beneficiaries to take a serious look at what refinements need to occur to ensure the home bound elderly and disabled can receive the services they need.

Without that fine-tuning, I am quite certain that more home health agencies in Wisconsin and across our country will close, leaving some of our frailest Medicare beneficiaries without the choice to receive care at home.

By Mr. MURKOWSKI:

S. 1170. A bill to make the United States' energy policy toward Iraq consistent with the national security policies of the United States; to the Committee on Finance.

Mr. MURKOWSKI. Mr. President, I take the opportunity at this time to introduce S. 1170. It is my intention to introduce the following bill to make the United States energy policy towards Iraq consistent with the national security policies of the United States.

I anticipate that several colleagues will be cosponsoring the bill with me. I will enter into that at a later time.

Mr. MURKOWSKI. Mr. President, for some time I have been coming to the floor to speak of a major inconsistency in our foreign and energy policies. I am referring, of course, to our growing dependence on imported petroleum from Iraq.

We import somewhere between 500,000 to 750,000 barrels of oil from Iraq every day. About six billion dollars worth last year. Since the end of the gulf war, we have also flown some 250,000 sorties to prevent Saddam Hussein from threatening our allies in the region. We spend billions every year to keep him in check.

We fill up our planes with Iraqi oil, send our pilots to fly over and get shot at by Iraqi artillery, and return to fill up on Iraqi oil again.

Saddam heats our homes in winter, gets our kids to school each day, gets our food from farm to dinner table, and we pay him well to do that.

What does he do with the money he gets from oil?

He pays his Republican Guards to keep him safe.

He supports international terrorist activities; he funds his military campaign against American servicemen and women and those of our allies; and he builds an arsenal of weapons of mass destruction to threaten Israel and our allies in the Persian Gulf.

Am I missing something? Is this good policy? For a number of years the United States has worked closely with the United Nations on the "Oil-for-Food" Program.

This program allows Iraq to export petroleum in exchange for funds which can be used for food, medicine and other humanitarian products.

Despite more than $15 billion available for those purposes, Iraq has spent only a fraction of that amount on its people's needs.

Instead, the Iraqi government spends that money on items of questionable, and often highly suspicious purposes. Why, when billions are available to care for the Iraqi people, who are malnourished, sick, and have inadequate medical care, would Saddam Hussein withhold the money available, and choose instead to blame the United States for the plight of his people?

Why is Iraq reducing the amount it spends on nutrition and pre-natal care, when millions of dollars are available?

Why does $200 million of medicine from the UN sit undistributed in Iraqi warehouses?

Why, given the urgent state of humanitarian conditions in Iraq, does Saddam Hussein insist that the country's highest priority is the development of sophisticated telecommunications and transportation infrastructure?

Why, if there are billions available, and his people are starving, is Iraq only buying $8 million of food from American farmers each year?

I have no quarrel with the Oil-for-Food program. It is a well-intentioned effort.

I do, however, have a problem with the means in which Saddam Hussein has manipulated our growing dependency on Iraqi oil.

Three times since the beginning of the Oil-for-Food program, Saddam Hussein has threatened or actually halted oil production, disrupting energy markets and sending oil prices skyrocketing.

Why do this? Simply to send a message to the United States: "I have leverage over you."

Every time he has done this, he has had his way. We have proven ourselves addicted to Iraqi oil. Saddam has been proven right: he does have leverage over us.

We have placed our energy security in the hands of a madman.

The Administration has attempted valiantly to reconstruct a sensible multilateral policy toward Iraq. Those attempts have unfortunately not been successful.

I think that before we can construct a sensible US policy toward Iraq, we need to end the blatant inconsistency between our energy policy and our foreign policy.

We need to end our addiction to Iraqi oil. We need to go "cold turkey."

To that end I have introduced legislation today which would prohibit imports from Iraq, whether or not under the Oil for Food Program, until it is no longer inconsistent with our national security to resume those imports.

I hope that this will be an initial step towards a more rational and coherent policy toward Iraq.

By Mr. LEAHY (for himself, Mr. HATCH, and Mr. KENNEDY):

S. 1174. A bill to provide for safe incarceration of juvenile offenders; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce with Senator HATCH legislation that addresses the problems caused by housing juveniles who are prosecuted in the criminal justice system in adult correctional facilities. In addition, this legislation reauthorizes the Juvenile Justice and Delinquency Prevention Act, to maintain the core protections afforded to juveniles who are adjudicated delinquent and detained in the juvenile court system. This two-pronged approach will help ensure that we treat juvenile offenders with appropriate severity, but also in a way that assists States in providing safe conditions for their confinement and appropriate access to educational, vocational, and health programs that address the needs of juveniles. Improving conditions for juveniles today will improve the public safety in the future, as juveniles who are not exposed to adult inmates have a lower likelihood of committing future crimes.

The Justice Department reported last fall that of the 50 States and the District of Columbia, 44 house juveniles in adult jails and prisons, and 26 of those do not maintain designated youthful offender housing units. As a nation, we are relying increasingly on adult facilities to house juveniles; for example, according to the Bureau of Justice Statistics' survey of jails, there was a 35-percent increase in the number of juveniles held in adult jails between 1994 and 1997. I believe that there is a will in the States to improve conditions for these juveniles, but resources are often lacking. The Federal Government can play a useful role by providing funding to States that want to take account of the differences between juveniles and adults.

Although many juvenile offenders serving time in adult prisons have committed extraordinarily serious offenses, others are there because of relatively minor crimes and will be released at a young age. According to the 1999 report of the Office of Juvenile Justice and Delinquency Prevention, 22 percent of juveniles committed to State prisons were there because they had committed property crimes, 11 percent because they committed drug-related crimes, and only 25 percent because they had committed murder, kidnaping, sexual assault or assault. Certainly, many of those juveniles can be convinced not to commit further crimes. The social and moral cost of not making that attempt is simply incalculable.

There is stunning statistical evidence that something is deeply wrong with our current approach to incarcerating juveniles. According to the Justice Department, the suicide rate for juveniles held in adult jails is five times the rate in the general youth population and eight times the rate for adolescents in juvenile detention facilities. Juveniles in adult facilities are also more likely to be violently victimized. Sexual assault was five times more likely than in juvenile facilities, beatings by staff nearly twice as likely, and attacks with weapons almost 50 percent more common.

Moreover, many scholars have questioned whether housing juvenile offenders with adult inmates serves our long-term interest in public safety. Multiple studies have shown that youth transferred to the adult system recidivate at higher rates and with more serious offenses than youth who have committed similar offenses but are retained in the juvenile justice system. Some would suggest that we should not be transferring youth to the adult system at all, and I am sympathetic to that view. But that is a decision our States must make, and for now most of our States have taken the contrary position. At the very least, then, we must ensure that juveniles are treated humanely in the criminal justice system to reduce the risks that upon release they will commit additional and more serious crimes. One of the ways we can do that is by helping States improve confinement conditions.

The problem this bill is intended to address cannot be described simply through statistics or academic studies. The compelling stories of young people who have been part of the corrections system should command our attention. For example, United Press International and numerous newspapers have reported the story of 15-year-old Robert, who was held in a Kentucky adult jail for the minor infraction of truancy and petty theft. One night during his time there, Robert wrapped one end of his shirt around his neck, and one around the cell bars, and hanged himself. The county has now agreed not to house juveniles and adults together.

The New York Times magazine last year told the story of Jessica, who at 14 was the youngest female in the Florida correctional system and, within her first few weeks in prison, tried to commit suicide. Jessica was then transferred to a rougher Miami prison where she does not receive psychological counseling or attend class to get her GED. Jessica has found an extensive surrogate prison family whom she turns to for advice. The woman she refers to as "Mommy" is serving a life sentence for murder. Jessica will be released at age 22 with no education beyond the sixth grade, no job skills, and no life experience outside of prison after age 13. Now some will point out that Jessica committed a serious criminal offense she and two older teenagers robbed her grandparents and she deserves harsh punishment. And I agree that we must deal severely with such crimes. But the fact remains that when Jessica is released from prison she will be 22, with an entire adult life ahead of her. I believe it is critical for the public safety for her and others like her to have options besides a life of crime.

The Miami Herald reported the stories of Joseph Tejera and Rebekah Homerston. Tejera was sentenced as an adult for a burglary offense, and was placed in an adult prison instead of an intensive juvenile program where he would have received 24-hour supervision, had access to educational and other programs, and been surrounded by other juveniles. Instead, at the age of 16 and weighing 135 pounds, he was surrounded by adult inmates who constantly tried to beat him up. Despite a sterling disciplinary record, he was involved in five fights because of the aggressiveness of adult inmates. Homerston was the daughter of a father serving life in prison for sex crimes against minors and a mother arrested for theft and drunk driving. At the age of 13, she ran away from home, and lived on the streets of Fort Lauderdale. At 15, she too was prosecuted and sentenced to a two-year term as an adult after vandalizing the city's recreation center. Upon her release from that prison term, she was arrested at age 16 for shoplifting a shirt, and is now serving three and a half years in an adult facility for that offense. While in prison, she has witnessed numerous suicide attempts.

Housing juveniles with adult inmates creates problems not just for the juveniles involved. Such policies also create difficulties for corrections administrators, whose prisons and jails often lack the physical structure, programs, and trained personnel to manage a mixed juvenile-adult population. John Gorsik, the head of the Department of Corrections in my State of Vermont, has advised that corrections officials from around the nation dislike having juveniles in their facilities. These officials often become responsible for delivering those services to which juveniles are entitled, including special education services. As one report on Youth in the Criminal Justice System recently recommended: "Administrative staff and people in policy making positions dealing with youth in the adult system should have education, training, and experience regarding the distinctive characteristics of children and adolescents." This bill would provide for such education and training to make the jobs of corrections officials around the nation easier. In addition, the presence of juveniles among adult inmates can lead to increased disciplinary problems and the inculcation of a criminal mentality in young, highly impressionable offenders like Jessica. Our prisons and jails are too often becoming schools for young lawbreakers.

I would like to explain how this bill addresses confinement conditions for juveniles.

Title I: The first title of this bill creates a new incentive grant program for State and local governments and Indian tribes. These grants can be used for the following purposes related to juveniles under the jurisdiction of an adult criminal court: (a) alter existing correctional facilities, or develop separate facilities, to provide segregated facilities for them, (b) provide orientation and ongoing training for correctional staff supervising them, (c) provide monitors who will report on their treatment, and (d) provide them with access to educational programs, vocational training, mental and physical health assessment and treatment, and drug treatment. Grants can also be used to seek alternatives to housing juveniles with adult inmates, including the expansion of juvenile facilities.

It is important to note that States that choose not to house juveniles who are convicted as adults with adult inmates are still eligible for grants under this bill. For example, they could use the money to train staff, or to provide educational or other programs for juveniles, or to improve juvenile facilities.

Applicants for these grants must provide a detailed plan explaining how they will improve conditions for juveniles in their adult corrections system. Let me be clear: the purpose of this grant program is not to fuel a prison-building boom, or to make it easier for States to prosecute juveniles as adults, but to improve conditions for juveniles. States will need to take this purpose into account in making their grant proposals. Moreover, to be eligible for a grant, States must have developed guidelines on the appropriate use of force against incarcerated juveniles, and must also have prohibited the use of electroshock devices, chemical restraints and punishment, and 4-point restraints. The use of such punishment is inconsistent with our commitments to treating juveniles humanely, and is at variance with the very purpose of this grant program. Every State that can meet the requirements of the grant program will receive funding under this title, and rural representation is guaranteed.

Title II: The second title of the bill authorizes States to use their Violent Offender Incarceration/Truth in Sentencing (VOI/TIS) grant money to improve the treatment of juveniles under the jurisdiction of the adult criminal justice system. It also offers States an incentive to use a substantial percentage of their VOI/TIS money for that purpose. States that use 10 percent of their grant money to improve juvenile conditions will receive a bonus of 5 percent above the amount to which they are otherwise entitled under that program. The money can be used to alter existing facilities to provide separate space for juveniles under the jurisdiction of an adult criminal court, or to provide training and supervision of corrections officials and reporting on juvenile conditions. This title, in conjunction with Title I, allows us to make improving conditions for juveniles a national priority by working through the States. No State will be forced to use their money for this purpose or see their funding reduced if they choose not to. But those States that do make a serious effort in this regard will be rewarded.

Title III: The third title of this bill reauthorizes the Juvenile Justice and Delinquency Prevention Act. Under the JJDPA, States receiving federal funds must maintain core protections for detained juveniles. These protections include "sight" and "sound" separation between those in the juvenile detention system and adult offenders. Children cannot be put in adjoining cells with adults, or placed in circumstances that allow them to be subject to threats and verbal abuse from adults in dining halls, recreation areas, and other common spaces. In addition to establishing sight and sound separation, the JJDPA provides three additional core protections: (1) removal of juveniles from adult jails or lockups, with a 24-hour exception for rural areas and other exceptions for travel and weather-related conditions; (2) deinstitutionalization of status offenders; and (3) efforts toward reducing the disproportionate confinement of minority youth in the juvenile justice system.

I am very pleased that Senator HATCH has agreed with me that we need a straightforward reauthorization of the JJDPA. He and I both worked very hard in the last Congress to reauthorize that law, and our efforts were sidetracked by numerous factors.

Title IV: Finally, the fourth title of this bill contains a number of provisions that I would like to highlight today. First, it authorizes funding for rural States and economically distressed communities that lack the resources to provide secure custody for juvenile offenders. Second, this title calls for a study on the effect of sentencing juvenile drug offenders as adults. Many have raised concerns about the toll taken on some of our communities, especially those in poorer areas, by lengthy drug sentences. There is no question that the proliferation of illegal drugs over the last 20 years has presented a social crisis with particularly serious effects on poor and urban communities. But we need to take a systematic look at whether our approach to that crisis has been effective and fair, and the study in this bill should be part of that effort. Third, this bill instructs the General Accounting Office to prepare a report on the prevalence and effects of the use of electroshock weapons, 4-point restraints, chemical restraints, restraint chairs, and solitary confinement against juvenile offenders in both the Federal and State corrections systems. I am deeply concerned about the disciplinary methods being used against juvenile offenders in the U.S., and I believe it is important for Congress to receive an accounting of the problem so we can consider whether further legislation in this area is appropriate. Fourth, this title reauthorizes the Family Unity Demonstration Project, which provides funding for projects allowing eligible prisoners who are parents to live in structured, community-based centers with their young children. A study by the Bureau of Justice Statistics found that about two-thirds of incarcerated women were parents of children under 18 years old. According to the White House, on any given day, America is home to 1.5 million children of prisoners. And according to Prison Fellowship Industries, more than half of the juveniles in custody in the United States had an immediate family member behind bars. This is a serious problem, and reauthorizing the Family Unity Demonstration Project will help us address it.

I would like to thank numerous people who have worked with me and my staff on this proposal: Ken Schatz of the Vermont Children and Family Council, Marc Schindler and Mark Soler of the Youth Law Center, David Doi of the Coalition for Juvenile Justice, Jill Ward from the Children's Defense Fund, and John Gorsik and John Perry at the Vermont Department of Corrections. Without their help, I would not be able to introduce this bill today.

In conclusion, let me say that Congress must act to ensure that minimum standards are created in as many States as possible to ameliorate the problems resulting from sentencing juveniles as adults. I think this bipartisan bill accomplishes that goal, and I urge the Senate to give its full consideration, and its approval, to this proposal.

By Mr. VOINOVICH (for himself and Mr. CARPER):

S. 1176. A bill to strengthen research conducted by the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation with my friend and colleague, Senator CARPER, which will strengthen the use of science at the Environmental Protection Agency. By improving science at the Agency, we will be improving the framework of our regulatory decisions. It is important that these regulations be effective, not onerous and inefficient. To make government regulations efficient, they must be based on a solid foundation of scientific understanding and data.

Last year, the National Research Council released a report, "Strengthening Science at the U.S. Environmental Protection Agency: Research Management and Peer Review Practices" which outlined current practices at the EPA and made recommendations for improving science within the agency. The bill we are introducing today, the "Environmental Research Enhancement Act," builds on the NRC report.

When the Environmental Protection Agency was created in 1970 by President Nixon, its mission was set to protect human health and safeguard the environment. In the 1960s, it had become increasingly clear that "we needed to know more about the total environment—land, water, and air." The EPA was part of President Nixon's reorganizational efforts to effectively ensure the protection, development and enhancement of the total environment.

For the EPA to reach this mission, establishing rules and priorities for clean land, air and water require a fundamental understanding of the science behind the real and potential threats to public health and the environment. Unfortunately, many institutions, citizens and groups believe that science has not always played a significant role in the decision-making process at the EPA.

In NRC's report last year, it was concluded that, while the use of sound science is one of the Environmental Protection Agency's goals, the EPA needs to change its current structure to allow science to play a more significant role in decisions made by the Administrator.

The legislation we are introducing today looks to address those shortcomings at the EPA by implementing portions of the report that require congressional authorization.

Under our bill, a new position, Deputy Administrator for Science and Technology will be established at the EPA. This individual will oversee the Office of Research and Development; the Environmental Information Agency; the Science Advisory board; the Science Policy Council; and the scientific and technical activities in the regulatory program at the EPA. This new position is equal in rank to the current Deputy Administrator and would report directly to the Administrator. The new Deputy would be responsible for coordinating scientific research and application between the scientific and regulatory arms of the Agency. This will ensure that sound science is the basis for regulatory decisions. The new Deputy's focus on science could also change how environmental decisions are made.

Additionally, the Assistant Administrator for Research and Development, currently the top science job at the EPA, will be appointed for 6 years versus the current 4 years political appointment. Historically, this position is recognized to be one of the EPA's weakest and most transient administrative positions according to NRC's report, even though in my view, the position addresses some of the Agency's more important topics. By lengthening the term of this Assistant Administrator position and removing it from the realm of politics, I believe there will be more continuity in the scientific work of the Agency across administrations and allow the Assistant Administrator to focus on science conducted at the Agency.

In 1997, we learned the problems that can arise when sound science is not used in making regulatory decisions. Following EPA's ozone and particulate matter regulations there was great uncertainty on the scientific side.

When initially releasing the Ozone/PM regulations, the EPA greatly over estimated the impacts for both ozone and PM, and they had to publicly change their figures later on. Additionally, they selectively applied some study results while ignoring others in their calculations. For example, the majority of the health benefits for ozone are based on one PM study by a Dr. Moogarkar, even though the Agency ignored the PM results of that study because it contradicted their position on PM.

The legislation that Senator CARPER and I are introducing will ensure that science no longer takes a "back seat" at the Environmental Protection Agency in terms of policy making. I call on my colleagues to join us in cosponsoring this bill, and I urge speedy consideration of this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Research Enhancement Act of 2001".

SEC. 2. ENVIRONMENTAL PROTECTION AGENCY RESEARCH ACTIVITIES.

(a) IN GENERAL.—Section 6 of the Environmental Research, Development, and Demonstration Authorization Act of 1979 (42 U.S.C. 4361c) is amended by adding at the end the following:

"(e) DEPUTY ADMINISTRATOR FOR SCIENCE AND TECHNOLOGY.—

"(1) ESTABLISHMENT.—There is established in the Environmental Protection Agency (referred to in this section as the 'Agency') the position of Deputy Administrator for Science and Technology.

"(2) APPOINTMENT.—

"(A) IN GENERAL.—The Deputy Administrator for Science and Technology shall be appointed by the President, by and with the advice and consent of the Senate.

"(B) CONSIDERATION OF RECOMMENDATIONS.—In making an appointment under subparagraph (A), the President shall consider recommendations submitted by—

"(i) the National Academy of Sciences;

"(ii) the National Academy of Engineering; and

"(iii) the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365).

"(3) RESPONSIBILITIES.—

"(A) OVERSIGHT.—The Deputy Administrator for Science and Technology shall coordinate and oversee—

"(i) the Office of Research and Development of the Agency (referred to in this section as the 'Office');

"(ii) the Office of Environmental Information of the Agency;

"(iii) the Science Advisory Board;

"(iv) the Science Policy Council of the Agency; and

"(v) scientific and technical activities in the regulatory program and regional offices of the Agency.

"(B) OTHER RESPONSIBILITIES.—The Deputy Administrator for Science and Technology shall—

"(i) ensure that the most important scientific issues facing the Agency are identified and defined, including those issues embedded in major policy or regulatory proposals;

"(ii) develop and oversee an Agency-wide strategy to acquire and disseminate necessary scientific information through intramural efforts or through extramural programs involving academia, other government agencies, and the private sector in the United States and in foreign countries;

"(iii) ensure that the complex scientific outreach and communication needs of the Agency are met, including the needs—

"(I) to reach throughout the Agency for credible science in support of regulatory office, regional office, and Agency-wide policy deliberations; and

"(II) to reach out to the broader United States and international scientific community for scientific knowledge that is relevant to Agency policy or regulatory issues;

"(iv) coordinate and oversee scientific quality-assurance and peer-review activities throughout the Agency, including activities in support of the regulatory and regional offices;

"(v) develop processes to ensure that appropriate scientific information is used in decisionmaking at all levels in the Agency; and

"(vi) ensure, and certify to the Administrator of the Agency, that the scientific and technical information used in each Agency regulatory decision and policy is—

"(I) valid;

"(II) appropriately characterized in terms of scientific uncertainty and cross-media issues; and

"(III) appropriately applied.

"(f) ASSISTANT ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT.—

"(1) TERM OF APPOINTMENT.—Notwithstanding any other provision of law, the Assistant Administrator for Research and Development of the Agency shall be appointed for a term of 6 years.

"(2) APPLICABILITY.—Paragraph (1) applies to each appointment that is made on or after the date of enactment of this subsection.

"(g) SENIOR RESEARCH APPOINTMENTS IN OFFICE OF RESEARCH AND DEVELOPMENT LABORATORIES.—

"(1) ESTABLISHMENT.—The head of the Office, in consultation with the Science Advisory Board and the Board of Scientific Counselors of the Office, shall establish a program to recruit and appoint to the laboratories of the Office senior researchers who have made distinguished achievements in environmental research.

"(2) AWARDS.—

"(A) IN GENERAL.—The head of the Office shall make awards to the senior researchers appointed under paragraph (1)—

"(i) to support research in areas that are rapidly advancing and are related to the mission of the Agency; and

"(ii) to train junior researchers who demonstrate exceptional promise to conduct research in such areas.

"(B) SELECTION PROCEDURES.—The head of the Office shall establish procedures for the selection of the recipients of awards under this paragraph, including procedures for consultation with the Science Advisory Board and the Board of Scientific Counselors of the Office.

"(C) DURATION OF AWARDS.—Awards under this paragraph shall be made for a 5-year period and may be renewed.

"(3) PLACEMENT OF RESEARCHERS.—Each laboratory of the Office shall have not fewer than 1 senior researcher appointed under the program established under paragraph (1).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

"(h) OTHER ACTIVITIES OF OFFICE OF RESEARCH AND DEVELOPMENT.—

"(1) ACTIVITIES OF THE OFFICE.—The Office shall—

"(A) make a concerted effort to give research managers of the Office a high degree of flexibility and accountability, including empowering the research managers to make decisions at the lowest appropriate management level consistent with the policy of the Agency and the strategic goals and budget priorities of the Office;

"(B) maintain approximately an even balance between core research and problem-driven research;

"(C) develop and implement a structured strategy for encouraging, and acquiring and applying the results of, research conducted or sponsored by other Federal and State agencies, universities, and industry, both in the United States and in foreign countries; and

"(D) substantially improve the documentation and transparency of the decisionmaking processes of the Office for—

"(i) establishing research and technical-assistance priorities;

"(ii) making intramural and extramural assignments; and

"(iii) allocating funds.

"(2) ACTIVITIES OF THE ADMINISTRATOR.—The Administrator of the Agency shall—

"(A) substantially increase the efforts of the Agency—

"(i) to disseminate actively the research products and ongoing projects of the Office;

"(ii) to explain the significance of the research products and projects; and

"(iii) to assist other persons and entities inside and outside the Agency in applying the results of the research products and projects;

"(B)(i) direct the Deputy Administrator for Science and Technology to expand on the science inventory of the Agency by conducting, documenting, and publishing a more comprehensive and detailed inventory of all scientific activities conducted by Agency units outside the Office, which inventory should include information such as—

"(I) project goals, milestones, and schedules;

"(II) principal investigators and project managers; and

"(III) allocations of staff and financial resources; and

"(ii) use the results of the inventory to ensure that activities described in clause (i) are properly coordinated through the Agency-wide science planning and budgeting process and are appropriately peer reviewed; and

"(C) change the peer-review policy of the Agency to more strictly separate the management of the development of a work product from the management of the peer review of that work product, thereby ensuring greater independence of peer reviews from the control of program managers, or the potential appearance of control by program managers, throughout the Agency.".

(b) DEPUTY ADMINISTRATOR FOR POLICY AND MANAGEMENT.—

(1) IN GENERAL.—The position of Deputy Administrator of the Environmental Protection Agency is redesignated as the position of "Deputy Administrator for Policy and Management of the Environmental Protection Agency".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Deputy Administrator of the Environmental Protection Agency shall be deemed to be a reference to the Deputy Administrator for Policy and Management of the Environmental Protection Agency.

(c) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking the item relating to the Deputy Administrator of the Environmental Protection Agency and inserting the following:

"Deputy Administrator for Policy and Management of the Environmental Protection Agency.

"Deputy Administrator for Science and Technology of the Environmental Protection Agency.".

By Ms. SNOWE (for herself, Ms. COLLINS, Mr. JEFFORDS, and Mr. LEAHY):

S. 1177. A bill to amend title XI of the Social Security Act to clarify that the Secretary of Health and Human Services has the authority to treat certain State payments made in an approved demonstration project as medical assistance under the Medicaid program for purposes of a rebate agreement under section 1927 of the Social Security Act, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce a bill along with Senator COLLINS, JEFFORDS and LEAHY to provide the states of Maine and Vermont continued authority to expand access to discounted prescription drugs under Medicaid.

Maine has instituted an innovative demonstration program called the "Healthy Maine Prescriptions" program that is leading the way in providing affordable prescription drugs for qualifying Maine residents. This was made possible because Maine is one of two States, along with Vermont, to have received approval from the Secretary of the Department of Health and Human Services for demonstration projects to expand access to prescription drugs under Medicaid. Thousands of individuals with no other prescription drug insurance benefits are enrolled in those programs.

The sad truth is, many low-income individuals cannot afford to purchase the drugs prescribed by their doctors. The result is that these individuals either split the doses to make them last longer—in violation of doctors' orders; they cut back on other necessities like food or clothing; or they simply decide not to fill the prescription at all—surely a prescription for medical disaster.

Not only does the inability to pay for medications have an adverse and potentially dangerous effect on individuals, it is also a detriment to the health care system in general when you consider the number and expense of ailments that could have been prevented with the proper prescription drug.

The reason why we are introducing this legislation is that, unfortunately, last month, a three-judge panel of the U.S. Court of Appeals for the District of Columbia ruled against the Vermont program, finding that Vermont "lacked the authority to offer the same prescription rebates offered under federal Medicaid insurance" because Congress "imposed rebate requirements to reduce the cost of Medicaid." More recently, because of that ruling, a complaint has been brought by PHARMA against the Secretary of Health and Human Services to provide injunctive relief in the case of Maine's program.

This bill sets forth findings that support the need and legitimacy of the Maine and Vermont programs and provides, in statute, specific authority for these prescription drug discounts for states whose waivers were approved before January 31, 2001.

Specifically, the bill amends Section 1115 of the Social Security Act—the portion of the act granting the Secretary of Health and Human Services the authority to approve demonstration projections. It makes clear that any expenditures the state may make under the demonstration project will be treated as payments made under the state plan under Medicaid for covered outpatient drugs for purposes of a rebate agreement, regardless of whether these expenditures by the state are offset or reimbursed, in whole or in part, by rebates received under such an agreement.

It also makes clear that these projects are entirely consistent with the objectives of the Medicaid program. Finally, it states that the regular cost-sharing requirements under Medicaid do not have to apply in the instance of these programs.

One of the objectives of the Medicaid program is "to enable each State, as far as practicable under the conditions in such State, to provide medical assistance on behalf of families with dependent children and of aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services." As part of carrying out this objective, every state has elected the option of providing prescription drugs as a benefit under the Medicaid program, thereby providing an important means of increasing the access of low-income individuals to drugs prescribed by their doctors.

Furthermore, Section 1115 of the Social Security Act provides the Secretary of Health and Human Services with broad authority to approve demonstration projects that are likely to assist in promoting the objectives of the Medicaid program, and waive compliance with any of the state plan requirements of the Medicaid program. The fact of the matter is, Medicaid demonstration projects help promote the objectives of the Medicaid program, including obtaining information about options for increasing access to prescription drugs for low-income individuals.

If indeed the States are truly laboratories of democracy—and I believe they are—these demonstration projects deserve the chance to work, to be examined, and to assist those that they are designed to assist. And there is no question of the need—in Maine, 50,000 people signed up within the first three weeks of the program.

Under the "Healthy Maine Prescriptions Program," Maine provides prescription drug discounts of up to 25 percent for all adults with incomes of up to 300 percent of the Federal Poverty Level. A second benefit offering discounts of 80 percent of the cost of prescription drugs is available for disabled citizens, and low-income adults over the age of 62 who have an income of up to 185 percent of the Federal Poverty Level.

During this time when virtually everyone agrees that something must be done to increase access to affordable prescription drugs, we ought to be encouraging innovative programs like those in Maine and Vermont. Terminating Medicaid demonstration projects prior to their planned expiration dates may result in significant waste of public funds and may be detrimental to those who have come to rely on such projects.

We ought to be doing all we can to provide relief to low-income Americans, and at the same time give ourselves the opportunity to evaluate what works and what doesn't. Maine and Vermont are to be commended for their efforts, not punished—they are entirely in keeping with the spirit and intent of Medicaid and I hope my colleagues will recognize the value of these demonstration projects.

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from Maine, Senator SNOWE, and my colleagues from Vermont, Senators JEFFORDS and LEAHY, in introducing legislation to ensure that States like Maine and Vermont, which have taken the initiative in developing innovative programs to make prescription drugs more affordable for their citizens, can proceed with these efforts.

The last 20 years have witnessed dramatic pharmaceutical breakthroughs that have helped reduce deaths and disability from heart disease, cancer, diabetes, and many other diseases. As a consequence, millions of people around the world are leading longer, healthier, and more productive lives. These new medical miracles, however, often come with hefty price tags, and many people—particularly lower Americans without prescription drug coverage—are simply priced our of the market.

As so often happens, the States have been the laboratories for reform in this area and have come up with some creative ways to address this problem. In January of this year, the Department of Health and Human Services granted Maine a waiver under the Medicaid program through which States can offer drug discounts of up to 25 percent for individuals with incomes up to three times the Federal poverty level. Our new Healthy Maine Prescriptions Program includes both this new discount prescription drug benefit and a separate benefit, financed entirely with State funds, that offers discounts of up to 80 percent for low-income elderly and the disabled. Maine began providing benefits under the Healthy Maine Prescription Program on June 1st of this year, and by June 26th the Department of Human Services had enrolled 50,460 individuals into the program. Ultimately, it is estimated that 225,000 Mainers qualify for the program.

Unfortunately, however, this important new program has run into a stumbling block. Last month, in a case brought by the Pharmaceutical Research and Manufacturers of America (PhRMA), a three-judge appeals panel ruled that a similar program developed by Vermont "lacked the authority to offer the same prescription rebates offered under federal Medicaid insurance" because Congress "imposed rebate requirements to reduce the cost of Medicaid." The pharmaceutical trade group has subsequently sued the Department of Health and Human Services to block the Maine waiver, and the State of Maine has become a party to that case.

The Maine program is different enough from Vermont's to provide a different result in court. However, we believe that innovative programs like these, which meet such a clear human need, should be able to proceed without having to fight endless legal battles. That is why we are introducing legislation today to give the Department of Health and Human Services clear authority to grant States these kinds of waivers, which will allow them to pursue innovative uses of Medicaid, such as the Health Maine Prescription program. Secretary of Health and Human Services Tommy Thompson made creative use of these kinds of Medicaid waivers when he was Governor of Wisconsin. We believe that he should be able to continue to do so in his new role as Secretary without the chilling effect brought by lawsuits like PhRMA's.

The legislation we are introducing today will allow States like Maine to proceed with the innovative programs they have developed to meet the prescription drug needs of their citizens, and I urge all of my colleagues to join us in cosponsoring the legislation.

SENATE RESOLUTION 129—ELECTING JERI THOMSON AS SECRETARY OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 129

Resolved, That Jeri Thomson be, and she is hereby, elected Secretary of the Senate, effective July 12, 2001.

SENATE RESOLUTION 130—NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A SECRETARY OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 130

Resolved, That the House of Representatives be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

SENATE RESOLUTION 131—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A SECRETARY OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 131

Resolved, That the President of the United States be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

SENATE RESOLUTION 132—RECOGNIZING THE SOCIAL PROBLEM OF CHILD ABUSE AND NEGLECT, AND SUPPORTING EFFORTS TO ENHANCE PUBLIC AWARENESS OF IT

Mr. CAMPBELL (for himself, Mr. KOHL, Mr. INHOFE, Mr. COCHRAN, Mrs. LINCOLN, Mr. WARNER, Mr. ENSIGN, Mr. DORGAN, Mr. DEWINE, Mr. AKAKA, Ms. LANDRIEU, Ms. STABENOW, Mr. DODD, Mr. SMITH of Oregon, Mr. ENZI, Mr. LOTT, Mr. HELMS, Mr. HAGEL, Mr. DOMENICI, and Mr. MILLER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 132

Whereas more than 3,000,000 American children are reported as suspected victims of child abuse and neglect annually;

Whereas more than 500,000 American children are unable to live safely with their families and are placed in foster homes and institutions;

Whereas it is estimated that more than 1,000 children, 78 percent under the age of 5 and 38 percent under the age of 1, lose their lives as a direct result of abuse and neglect every year in America;

Whereas this tragic social problem results in human and economic costs due to its relationship to crime and delinquency, drug and alcohol abuse, domestic violence, and welfare dependency; and

Whereas Childhelp USA has initiated a "Day of Hope" to be observed on Wednesday, April 3, 2002, during Child Abuse Prevention Month, to focus public awareness on this social ill: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) all Americans should keep these victimized children in their thoughts and prayers;

(B) all Americans should seek to break this cycle of abuse and neglect and to give these children hope for the future; and

(C) the faith community, nonprofit organizations, and volunteers across America should recommit themselves and mobilize their resources to assist these children; and

(2) the Senate—

(A) supports the goals and ideas of the "Day of Hope"; and

(B) commends Childhelp USA for its efforts on behalf of abused and neglected children everywhere.

Mr. CAMPBELL. Mr. President, today I am submitting a Senate resolution declaring April 3, 2002, as a National Day of Hope dedicated to remembering the victims of child abuse and neglect and recognizing Childhelp USA for initiating such a day. I am pleased to be joined in this effort by my friend Senator HERB KOHL and 18 of our colleagues who are interested in enhancing public awareness of child abuse and neglect.

For far too long, our Nation has been almost silent about the needs of some of its most vulnerable families and children—those caught in the vicious cycle of child abuse. I believe we must bring all elements of society together to address this problem—the faith community, non-profit organizations and volunteers, as well as government—if our efforts are to be successful.

Though I am encouraged by the statistics that show a continuing decline in the number of children who are maltreated, I believe we must do more to make sure that all children live in safe and loving homes.

I urge my colleagues to act quickly on this resolution so we can move closer to erasing the horror of child abuse from our Nation's history.

SENATE RESOLUTION 133—EXPRESSING THE SENSE OF THE SENATE THAT INFORMATION PERTAINING TO NAZI WAR CRIMINALS SHOULD BE BROUGHT TO LIGHT SO THAT FUTURE GENERATIONS CAN LEARN FROM HOLOCAUST, AND FOR OTHER PURPOSES

Mr. CORZINE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 133

Whereas in the 1930s and 1940s, the German National Socialist Party, the Nazi Party, methodically orchestrated acts of genocide resulting in the deaths of 6,000,000 Jews and 5,000,000 Gypsies, Poles, Jehovah's Witnesses, political dissidents, physically and mentally disabled people, and homosexuals;

Whereas the term Holocaust is used to describe the systematic extermination of Jews and others by the Nazis during the period beginning on March 23, 1933, and ending on May 8, 1945;

Whereas in 1946, the International Military Tribunal at Nuremberg declared the Shutzstaffel or SS, the elite corps of the Nazi Party, to be a criminal organization guilty of persecuting and exterminating Jews; of brutalities and killings in the concentration camps; of excesses in the administration of the slave labor program; and of mistreatment and murder of prisoners of war;

Whereas Nazi war criminals include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, during the Holocaust, under the direction of, or in association with, the Nazi government of Germany;

Whereas not all of these Nazi war criminals were brought to justice as required by the Nuremberg Tribunal;

Whereas in the 1970s, information began to surface that the United States intelligence community harbored Nazi war criminals, including Klaus Barbie, a Nazi war criminal later found responsible for the torture and death of more than 26,000 people, in order to spy on the former Soviet Union and for other purposes;

Whereas in 1998, the 105th Congress passed and President Bill Clinton signed into law the "Nazi War Crimes Disclosure Act", which provided for the declassification of records relating to Nazi war criminals, Nazi persecution, Nazi war crimes, and Nazi looted assets, including those held by the Central Intelligence Agency;

Whereas the Nazi War Criminal Interagency Working Group was convened by Executive Order on January 11, 1999, to (1) locate, identify, inventory, recommend for declassification, and make available all classified Nazi war criminal records, subject to certain specified restrictions; (2) coordinate with Federal agencies and expedite the release of such classified records to the public; and (3) complete work to the greatest extent possible and report to Congress one year after passage of legislation;

Whereas the Interagency Working Group recently declassified and analyzed documents of the Office of Strategic Services (OSS), forerunner of the Central Intelligence Agency, revealing that the United States used Nazi war criminals for intelligence operations against the former Soviet Union;

Whereas the declassified documents reveal further that the OSS assisted Nazi war criminals in evading capture and prosecution and, in a few cases, facilitated their immigration and assimilation in the United States; and

Whereas it is unknown to what extent the former Soviet Union and other nations used Nazi war criminals for spy operations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Nazi War Criminal Interagency Working Group served the public interest by investigating and publicizing the extent to which the United States used Nazi war criminals for intelligence purposes following the Second World War;

(2) the Administration should work with the international intelligence community to expedite the release of information regarding the use of Nazi war criminals as intelligence operatives in the aftermath of the Second World War, especially by the former Soviet Union; and

(3) information pertaining to Nazi war criminals should be brought to light so that future generations can learn from the Holocaust.

AMENDMENTS SUBMITTED AND PROPOSED

SA 924. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 925. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 926. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

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SA 973. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 974. Mr. LEAHY (for himself, Mr. HATCH, and Mr. GRASSLEY) proposed an amendment to the bill H.R. 333, to amend title 11, United States Code, and for other purposes.

SA 975. Mrs. BOXER (for Mr. BYRD) proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

SA 976. Mr. BYRD (for himself and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra.

TEXT OF AMENDMENTS

SA 924. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "cell".

SA 925. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "generation".

SA 926. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "and".

SA 927. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 2, strike "research.".

SA 928. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 3, strike "Part".

SA 929. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 3, strike "H".

SA 930. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 3, strike "of the Title".

SA 931. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 3, strike "IV".

SA 932. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 3, strike "of the Public".

SA 933. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 3, strike "Health".

SA 934. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 3, strike "Service".

SA 935. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike "Act".

SA 936. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike "is".

SA 937. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike "amended".

SA 938. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 3, strike "section".

SA 939. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 3, strike "1.".

SA 940. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 3, strike "short".

SA 941. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 3, strike "title".

SA 942. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 4, strike "this".

SA 943. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 4, strike "Act".

SA 944. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 4, strike "may".

SA 945. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 4, strike "be".

SA 946. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 4, strike "cited".

SA 947. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 4, strike "as".

SA 948. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 4, strike "the".

SA 949. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 4, strike "Stem".

SA 950. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 4, strike "cell".

SA 951. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 4, strike "Research".

SA 952. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research, which was referred to the Committee on Health, Education Labor, and Pensions; as follows:

On page 1, line 5, strike "Act".

SA 953. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 5, strike "of".

SA 954. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 1, line 5, strike "2001". ".

SA 955. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "sec".

SA 956. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "2.".

SA 957. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "Human".

SA 958. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "embryonic".

SA 959. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike "stem".

SA 960. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike "by".

SA 961. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike "sec.".

SA 962. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike "498C.".

SA 963. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike "human".

SA 964. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike "embryonic".

SA 965. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike "stem".

SA 966. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike "cell".

SA 967. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike ":".

SA 968. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike "following".

SA 969. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike "the".

SA 970. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike "498B".

SA 971. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike "section".

SA 972. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike "after".

SA 973 Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike "inserting".

SA 974. Mr. LEAHY (for himself, Mr. HATCH, and Mr. GRASSLEY) proposed an amendment to the bill H.R. 333, to amend title 11, United States Code, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Reform Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Notice of alternatives.
Sec. 105. Debtor financial management training test program.
Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Discouraging abuse of reaffirmation practices.
Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
Sec. 205. GAO study on reaffirmation process.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against preferential transfer motions.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.

Sec. 220. Nondischargeability of certain educational benefits and loans.
Subtitle C—Other Consumer Protections
Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings in bankruptcy.
Sec. 226. Definitions.
Sec. 227. Restrictions on debt relief agencies.
Sec. 228. Disclosures.
Sec. 229. Requirements for debt relief agencies.
Sec. 230. GAO study.
Sec. 231. Protection of nonpublic personal information.
Sec. 232. Consumer privacy ombudsman.
Sec. 233. Prohibition on disclosure of identity of minor children.
TITLE III—DISCOURAGING BANKRUPTCY ABUSE
Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Domiciliary requirements for exemptions.
Sec. 308. Limitation.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Chapter 11 cases filed by individuals.
Sec. 322. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 323. Exclusive jurisdiction in matters involving bankruptcy professionals.
Sec. 324. United States trustee program filing fee increase.
Sec. 325. Sharing of compensation.
Sec. 326. Fair valuation of collateral.
Sec. 327. Defaults based on nonmonetary obligations.
Sec. 328. Nondischargeability of debts incurred through violations of laws relating to the provision of lawful goods and services.
Sec. 329. Clarification of postpetition wages and benefits.
TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS
Subtitle A—General Business Bankruptcy Provisions
Sec. 401. Adequate protection for investors.
Sec. 402. Meetings of creditors and equity security holders.
Sec. 403. Protection of refinance of security interest.
Sec. 404. Executory contracts and unexpired leases.
Sec. 405. Creditors and equity security holders committees.
Sec. 406. Amendment to section 546 of title 11, United States Code.
Sec. 407. Amendments to section 330(a) of title 11, United States Code.
Sec. 408. Postpetition disclosure and solicitation.
Sec. 409. Preferences.
Sec. 410. Venue of certain proceedings.
Sec. 411. Period for filing plan under chapter 11.
Sec. 412. Fees arising from certain ownership interests.
Sec. 413. Creditor representation at first meeting of creditors.
Sec. 414. Definition of disinterested person.
Sec. 415. Factors for compensation of professional persons.
Sec. 416. Appointment of elected trustee.
Sec. 417. Utility service.
Sec. 418. Bankruptcy fees.
Sec. 419. More complete information regarding assets of the estate.
Sec. 420. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.
Subtitle B—Small Business Bankruptcy Provisions
Sec. 431. Flexible rules for disclosure statement and plan.
Sec. 432. Definitions.
Sec. 433. Standard form disclosure statement and plan.
Sec. 434. Uniform national reporting requirements.
Sec. 435. Uniform reporting rules and forms for small business cases.
Sec. 436. Duties in small business cases.
Sec. 437. Plan filing and confirmation deadlines.
Sec. 438. Plan confirmation deadline.
Sec. 439. Duties of the United States trustee.
Sec. 440. Scheduling conferences.
Sec. 441. Serial filer provisions.
Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 444. Payment of interest.
Sec. 445. Priority for administrative expenses.
TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS
Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.
TITLE VI—BANKRUPTCY DATA
Sec. 601. Improved bankruptcy statistics.
Sec. 602. Uniform rules for the collection of bankruptcy data.
Sec. 603. Audit procedures.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.
TITLE VII—BANKRUPTCY TAX PROVISIONS
Sec. 701. Treatment of certain liens.
Sec. 702. Treatment of fuel tax claims.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Priority of tax claims.
Sec. 706. Priority property taxes incurred.
Sec. 707. No discharge of fraudulent taxes in chapter 13.
Sec. 708. No discharge of fraudulent taxes in chapter 11.
Sec. 709. Stay of tax proceedings limited to prepetition taxes.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens prohibited.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Income tax returns prepared by tax authorities.
Sec. 715. Discharge of the estate's liability for unpaid taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.
Sec. 719. Special provisions related to the treatment of State and local taxes.
Sec. 720. Dismissal for failure to timely file tax returns.
TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES
Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Other amendments to titles 11 and 28, United States Code.
TITLE IX—FINANCIAL CONTRACT PROVISIONS
Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.
Sec. 902. Authority of the Corporation with respect to failed and failing institutions.
Sec. 903. Amendments relating to transfers of qualified financial contracts.
Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 905. Clarifying amendment relating to master agreements.
Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 907. Bankruptcy Code amendments.
Sec. 907A. Securities broker/commodity broker liquidation.
Sec. 908. Recordkeeping requirements.
Sec. 909. Exemptions from contemporaneous execution requirement.
Sec. 910. Damage measure.
Sec. 911. SIPC stay.
Sec. 912. Asset-backed securitizations.
Sec. 913. Effective date; application of amendments.
Sec. 914. Savings clause.
TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN
Sec. 1001. Permanent reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Certain claims owed to governmental units.
Sec. 1004. Definition of family farmer.
Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1006. Prohibition of retroactive assessment of disposable income.
Sec. 1007. Family fishermen.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

Sec. 1101. Definitions.
Sec. 1102. Disposal of patient records.
Sec. 1103. Administrative expense claim for costs of closing a health care business and other administrative expenses.
Sec. 1104. Appointment of ombudsman to act as patient advocate.
Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
Sec. 1106. Exclusion from program participation not subject to automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

Sec. 1201. Definitions.
Sec. 1202. Adjustment of dollar amounts.
Sec. 1203. Extension of time.
Sec. 1204. Technical amendments.
Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1206. Limitation on compensation of professional persons.
Sec. 1207. Effect of conversion.
Sec. 1208. Allowance of administrative expenses.
Sec. 1209. Exceptions to discharge.
Sec. 1210. Effect of discharge.
Sec. 1211. Protection against discriminatory treatment.
Sec. 1212. Property of the estate.
Sec. 1213. Preferences.
Sec. 1214. Postpetition transactions.
Sec. 1215. Disposition of property of the estate.
Sec. 1216. General provisions.
Sec. 1217. Abandonment of railroad line.
Sec. 1218. Contents of plan.
Sec. 1219. Bankruptcy cases and proceedings.
Sec. 1220. Knowing disregard of bankruptcy law or rule.
Sec. 1221. Transfers made by nonprofit charitable corporations.
Sec. 1222. Protection of valid purchase money security interests.
Sec. 1223. Bankruptcy judgeships.
Sec. 1224. Compensating trustees.
Sec. 1225. Amendment to section 362 of title 11, United States Code.
Sec. 1226. Judicial education.
Sec. 1227. Reclamation.
Sec. 1228. Providing requested tax documents to the court.
Sec. 1229. Encouraging creditworthiness.
Sec. 1230. Property no longer subject to redemption.
Sec. 1231. Trustees.
Sec. 1232. Bankruptcy forms.
Sec. 1233. Expedited appeals of bankruptcy cases to courts of appeals.
Sec. 1234. Exemptions.
Sec. 1235. Involuntary cases.
Sec. 1236. Federal election law fines and penalties as nondischargeable debt.
Sec. 1237. No bankruptcy for insolvent political committees.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

Sec. 1301. Enhanced disclosures under an open end credit plan.
Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 1303. Disclosures related to "introductory rates".
Sec. 1304. Internet-based credit card solicitations.
Sec. 1305. Disclosures related to late payment deadlines and penalties.
Sec. 1306. Prohibition on certain actions for failure to incur finance charges.
Sec. 1307. Dual use debit card.
Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.
Sec. 1309. Clarification of clear and conspicuous.

TITLE XIV—EMERGENCY ENERGY ASSISTANCE AND CONSERVATION MEASURES

Sec. 1401. Short title.
Sec. 1402. Findings and purposes.
Sec. 1403. Increased funding for LIHEAP, weatherization and State energy grants.
Sec. 1404. Federal energy management reviews.
Sec. 1405. Cost savings from replacement facilities.
Sec. 1406. Repeal of Energy Savings Performance Contract sunset.
Sec. 1407. Energy Savings Performance Contract definitions.
Sec. 1408. Effective date.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1501. Effective date; application of amendments.

TITLE XVI—MISCELLANEOUS PROVISIONS

Sec. 1601. Reimbursement of research, development, and maintenance costs.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting "or consents to" after "requests".

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13";

and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)";

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking "but not at the request or suggestion of" and inserting "trustee, bankruptcy administrator, or";

(II) by inserting ", or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title," after "consumer debts"; and

(III) by striking "a substantial abuse" and inserting "an abuse"; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

"(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

"(I) 25 percent of the debtor's nonpriority unsecured claims in the case, or $6,000, whichever is greater; or

"(II) $10,000.

"(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act (42 U.S.C. 10408), or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

"(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case) who is not a dependent and who is unable to pay for such reasonable and necessary expenses.

"(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

"(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child under the age of 18 years up to $1,500 per year per child to attend a private or public elementary or secondary school, if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and that such expenses are not already accounted for in the Internal Revenue Service standards referred to in section 707(b)(2) of this title.

"(V) In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the International Revenue Service, based on the actual expenses for home energy costs, if the debtor provides documentation of such expenses.

"(iii) The debtor's average monthly payments on account of secured debts shall be calculated as—

"(I) the sum of—

"(aa) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

"(bb) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts; divided by

“(II) 60.

“(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as—

“(I) the total amount of debts entitled to priority; divided by

“(II) 60.

“(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

“(ii) In order to establish special circumstances, the debtor shall be required to—

“(I) itemize each additional expense or adjustment of income; and

“(II) provide—

“(aa) documentation for such expense or adjustment to income; and

“(bb) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

“(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

“(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

“(I) 25 percent of the debtor's nonpriority unsecured claims, or $6,000, whichever is greater; or

“(II) $10,000.

“(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.

“(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—

“(A) whether the debtor filed the petition in bad faith; or

“(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

“(4)(A) The court shall order the counsel for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion brought under section 707(b), including reasonable attorneys' fees, if—

“(i) a trustee appointed under section 586(a)(1) of title 28 or from a panel of private trustees maintained by the bankruptcy administrator brings a motion for dismissal or conversion under this subsection; and

“(ii) the court—

“(I) grants that motion; and

“(II) finds that the action of the counsel for the debtor in filing under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

“(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, at a minimum, the court shall order—

“(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

“(ii) the payment of the civil penalty to the trustee, the United States trustee, or the bankruptcy administrator.

“(C) In the case of a petition, pleading, or written motion, the signature of an attorney shall constitute a certification that the attorney has—

“(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

“(ii) determined that the petition, pleading, or written motion—

“(I) is well grounded in fact; and

“(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

“(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

“(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion brought by a party in interest (other than a trustee, United States trustee, or bankruptcy administrator) under this subsection if—

“(i) the court does not grant the motion; and

“(ii) the court finds that—

“(I) the position of the party that brought the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

“(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

“(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).

“(C) For purposes of this paragraph—

“(i) the term ‘small business’ means an unincorporated business, partnership, corporation, association, or organization that—

“(I) has less than 25 full-time employees as determined on the date the motion is filed; and

“(II) is engaged in commercial or business activity; and

“(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

“(I) a parent corporation; and

“(II) any other subsidiary corporation of the parent corporation.

“(6) Only the judge, United States trustee, or bankruptcy administrator may bring a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.

“(7) No judge, United States trustee, panel trustee, bankruptcy administrator or other party in interest may bring a motion under paragraph (2), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief when multiplied by 12, is equal to or less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.”.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

“(10A) ‘current monthly income’—

“(A) means the average monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether the income is taxable income, derived during the 6-month period preceding the date of determination, which shall be the date which is the last day of the calendar month immediately preceding the date of the bankruptcy filing. If the debtor is providing the debtor's current monthly income at the time of the filing and otherwise the date of determination shall be such date on which the debtor's current monthly income is determined by the court for the purposes of this Act; and

“(B) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor's spouse), on a regular basis to the household expenses of the debtor or the debtor's dependents (and, in a joint case, the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act and payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes;”.

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “The trustee shall—”; and

(2) by adding at the end the following:

“(b)(1) With respect to an individual debtor under this chapter—

“(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

“(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

“(2) The United States trustee or bankruptcy administrator shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be appropriate, if the United States trustee or bankruptcy administrator determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

"(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census.

"(3) In any case in which a motion to dismiss or convert, or a statement is required to be filed by this subsection, the United States trustee or bankruptcy administrator may decline to file a motion to dismiss or convert pursuant to section 704(b)(2) if the product of the debtor's current monthly income multiplied by 12 exceeds 100 percent, but does not exceed 150 percent of—

"(A)(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

"(ii) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; and

"(B) the product of the debtor's current monthly income, reduced by the amounts determined under section 707(b)(2)(A)(ii) (except for the amount calculated under the other necessary expenses standard issued by the Internal Revenue Service) and clauses (iii) and (iv) of section 707(b)(2)(A), multiplied by 60 is less than the lesser of—

"(i) 25 percent of the debtor's nonpriority unsecured claims in the case or $6,000, whichever is greater; or

"(ii) $10,000.".

(d) Notice.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

"(d) In an individual case under chapter 7 in which the presumption of abuse is triggered under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has been triggered.".

(e) Nonlimitation of Information.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee, bankruptcy administrator or trustee.

(f) Dismissal for Certain Crimes.—Section 707 of title 11, United States Code, as amended by this section, is amended by adding at the end the following:

"(c)(1) In this subsection—

"(A) the term 'crime of violence' has the meaning given that term in section 16 of title 18; and

"(B) the term 'drug trafficking crime' has the meaning given that term in section 924(c)(2) of title 18.

"(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victims dismiss a voluntary case filed by an individual debtor under this chapter if that individual was convicted of that crime.

"(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.".

(g) Confirmation of Plan.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(7) the action of the debtor in filing the petition was in good faith;".

(h) Applicability of Means Test to Chapter 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting "to unsecured creditors" after "to make payments"; and

(2) by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

"(A) for the maintenance or support of the debtor or a dependent of the debtor or for a domestic support obligation that first becomes payable after the date the petition is filed and for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

"(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

"(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.".

(i) Special Allowance for Health Insurance.—Section 1329(a) of title 11, United States Code, is amended by inserting the following new paragraph—

"(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor and any dependent of the debtor (if those dependents do not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

"(A) such expenses are reasonable and necessary;

"(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy, or;

"(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance and who has similar income, expenses, age, health status, and lives in the same geographic location with the same number of dependents that do not otherwise have health insurance coverage; and

"(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title.

Upon request of any party in interest the debtor shall file proof that a health insurance policy was purchased.".

(j) Clerical Amendment.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

"707. Dismissal of a case or conversion to a case under chapter 11 or 13.".

SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) Sense of Congress.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) Study.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) Recommendation.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

"(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

"(1) a brief description of—

"(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

"(B) the types of services available from credit counseling agencies; and

"(2) statements specifying that—

"(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both; and

"(B) all information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General.".

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) Development of Financial Management and Training Curriculum and Materials.—The Director of the Executive Office for United States Trustees (in this section referred to as the “Director”) shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) Test.—

(1) Selection of districts.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) Use.—For an 18-month period beginning not later than 270 days after the date of enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) Evaluation.—

(1) In general.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) Report.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

SEC. 106. CREDIT COUNSELING.

(a) Who May Be a Debtor.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

“(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 180-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.

“(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved nonprofit budget and credit counseling agencies for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from that agency by reason of the requirements of paragraph (1).

“(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling service may be disapproved by the United States trustee or bankruptcy administrator at any time.

“(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

“(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

“(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

“(iii) is satisfactory to the court.

“(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.”.

(b) Chapter 7 Discharge.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking “or” at the end;

(2) in paragraph (10), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.

“(12)(A) Paragraph (11) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of that district determines that the approved instructional courses are not adequate to service the additional individuals required to complete such instructional courses under this section.

“(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.”.

(c) Chapter 13 Discharge.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

“(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

“(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

“(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.”.

(d) Debtor's Duties.—Section 521 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “The debtor shall—”; and

(2) by adding at the end the following:

“(b) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

“(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

“(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).”.

(e) General Provisions.—

(1) In general.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“§ 111. Credit counseling services; financial management instructional courses

“(a) The clerk of each district shall maintain a publicly available list of—

“(1) credit counseling agencies that provide 1 or more programs described in section 109(h) currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable; and

“(2) instructional courses concerning personal financial management currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable.

“(b) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency or instructional course concerning personal financial management as follows:

“(1) The United States trustee or bankruptcy administrator shall have thoroughly reviewed the qualifications of the credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the programs or instructional courses which will be offered by such agency or provider, and may require an agency or provider of an instructional course which has sought approval to provide information with respect to such review.

“(2) The United States trustee or bankruptcy administrator shall have determined that the credit counseling agency or course of instruction fully satisfies the applicable standards set forth in this section.

“(3) When an agency or course of instruction is initially approved, such approval shall be for a probationary period not to exceed 6 months. An agency or course of instruction is initially approved if it did not appear on the approved list for the district under subsection (a) immediately prior to approval.

“(4) At the conclusion of the probationary period under paragraph (3), the United States trustee or bankruptcy administrator may only approve for an additional 1-year period, and for successive 1-year periods thereafter, any agency or course of instruction which has demonstrated during the probationary or subsequent period that such agency or course of instruction—

“(A) has met the standards set forth under this section during such period; and

“(B) can satisfy such standards in the future.

“(5) Not later than 30 days after any final decision under paragraph (4), that occurs either after the expiration of the initial probationary period, or after any 2-year period thereafter, an interested person may seek judicial review of such decision in the appropriate United States District Court.

"(c)(1) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters as relate to the quality, effectiveness, and financial security of such programs.

"(2) To be approved by the United States trustee or bankruptcy administrator, a credit counseling agency shall, at a minimum—

"(A) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

"(i) are not employed by the agency; and

"(ii) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

"(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

"(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

"(D) provide full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by the debtor and how such costs will be paid;

"(E) provide adequate counseling with respect to client credit problems that includes an analysis of their current situation, what brought them to that financial status, and how they can develop a plan to handle the problem without incurring negative amortization of their debts;

"(F) provide trained counselors who receive no commissions or bonuses based on the counseling session outcome, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

"(G) demonstrate adequate experience and background in providing credit counseling; and

"(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

"(d) The United States trustee or bankruptcy administrator shall only approve an instructional course concerning personal financial management—

"(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

"(A) trained personnel with adequate experience and training in providing effective instruction and services;

"(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such course of instruction;

"(C) adequate facilities situated in reasonably convenient locations at which such course of instruction is offered, except that such facilities may include the provision of such course of instruction or program by telephone or through the Internet, if the course of instruction or program is effective; and

"(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such course of instruction or program, including any evaluation of satisfaction of course of instruction or program requirements for each debtor attending such course of instruction or program, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee, bankruptcy administrator, or chief bankruptcy judge for the district in which such course of instruction or program is offered; and

"(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

"(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

"(B) is otherwise likely to increase substantially debtor understanding of personal financial management.

"(e) The District Court may, at any time, investigate the qualifications of a credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such credit counseling agencies. The District Court may, at any time, remove from the approved list under subsection (a) a credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

"(f) The United States trustee or bankruptcy administrator shall notify the clerk that a credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(g)(1) No credit counseling service may provide to a credit reporting agency information concerning whether an individual debtor has received or sought instruction concerning personal financial management from the credit counseling service.

"(2) A credit counseling service that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

"(A) any actual damages sustained by the debtor as a result of the violation; and

"(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.".

(2) Clerical amendment.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. Credit counseling services; financial management instructional courses.".

(f) Limitation.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

"(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

"(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.".

SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) Reduction of Claim.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

"(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on unsecured consumer debts by not more than 20 percent of the claim, if—

"(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency described in section 111 acting on behalf of the debtor;

"(B) the offer of the debtor under subparagraph (A)—

"(i) was made at least 60 days before the filing of the petition; and

"(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

"(C) no part of the debt under the alternative repayment schedule is nondischargeable.

"(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

"(A) the creditor unreasonably refused to consider the debtor's proposal; and

"(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).".

(b) Limitation on Avoidability.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

"(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.".

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title), unless the plan is dismissed, in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

"(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

"(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

"(2) such act is in the ordinary course of business between the creditor and the debtor; and

"(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.".

SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

“(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;”;

(2) by adding at the end the following:

“(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

“(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases ‘Before agreeing to reaffirm a debt, review these important disclosures’ and ‘Summary of Reaffirmation Agreement’ may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ must be used where indicated.

“(3) The disclosure statement required under this paragraph shall consist of the following:

“(A) The statement: ‘Part A: Before agreeing to reaffirm a debt, review these important disclosures:’;

“(B) Under the heading ‘Summary of Reaffirmation Agreement’, the statement: ‘This Summary is made pursuant to the requirements of the Bankruptcy Code’;

“(C) The ‘Amount Reaffirmed’, using that term, which shall be—

“(i) the total amount which the debtor agrees to reaffirm, and

“(ii) the total of any other fees or cost accrued as of the date of the disclosure statement.

“(D) In conjunction with the disclosure of the ‘Amount Reaffirmed’, the statements—

“(i) ‘The amount of debt you have agreed to reaffirm’; and

“(ii) ‘Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.’.

“(E) The ‘Annual Percentage Rate’, using that term, which shall be disclosed as—

“(i) if, at the time the petition is filed, the debt is open end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then—

“(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b) (5) and (6)), as applicable, as disclosed to the debtor in the most recent periodic statement prior to the agreement or, if no such periodic statement has been provided the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

“(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or

“(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II);

“(ii) if, at the time the petition is filed, the debt is closed end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then—

“(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act (15 U.S.C. 1638(a)(4)), as disclosed to the debtor in the most recent disclosure statement given the debtor prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was provided the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

“(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

“(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

“(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act (15 U.S.C. 1601 et seq.), by stating ‘The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.’.

“(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the obligations you are reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

“(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

“(i) by making the statement: ‘Your first payment in the amount of $ ____ is due on ____ but the future payment amount may be different. Consult your reaffirmation or credit agreement, as applicable.’, and stating the amount of the first payment and the due date of that payment in the places provided;

“(ii) by making the statement: ‘Your payment schedule will be:’, and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed to the extent then known by the disclosing party; or

“(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

“(I) The following statement: ‘Note: When this disclosure refers to what a creditor “may” do, it does not use the word “may” to give the creditor specific permission. The word “may” is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirmation or what the law requires, talk to the attorney who helped you negotiate this agreement. If you don't have an attorney helping you, the judge will explain the effect of your reaffirmation when the reaffirmation hearing is held.’.

“(J)(i) The following additional statements:

“ ‘Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

“ ‘1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

“ ‘2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

“ ‘3. If you were represented by an attorney during the negotiation of the reaffirmation agreement, the attorney must have signed the certification in Part C.

“ ‘4. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, you must have completed and signed Part E.

“ ‘5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

“ ‘6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

“ ‘7. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your agreement. The bankruptcy court must approve the agreement as consistent with your best interests, except that no court approval is required if the agreement is for a consumer debt secured by a mortgage, deed of trust, security deed or other lien on your real property, like your home.

“ ‘Your right to rescind a reaffirmation. You may rescind (cancel) your reaffirmation at any time before the bankruptcy court enters a discharge order or within 60 days after the agreement is filed with the court, whichever is longer. To rescind or cancel, you must notify the creditor that the agreement is canceled.

“ ‘What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy. That means that if you default on your reaffirmed debt after your bankruptcy is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of the agreement in the future under certain conditions.

"'Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

"'What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A "lien" is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.

"(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

"'6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

"(4) The form of reaffirmation agreement required under this paragraph shall consist of the following:

"'Part B: Reaffirmation Agreement. I/we agree to reaffirm the obligations arising under the credit agreement described below.

"'Brief description of credit agreement:

"'Description of any changes to the credit agreement made as part of this reaffirmation agreement:

"'Signature: Date:

"'Borrower:

"'Co-borrower, if also reaffirming:

"'Accepted by creditor:

"'Date of creditor acceptance:'.

"(5)(A) The declaration shall consist of the following:

"'Part C: Certification by Debtor's Attorney (If Any).

"'I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor(s); (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

"'Signature of Debtor's Attorney: Date:'.

"(B) In the case of reaffirmations in which a presumption of undue hardship has been established, the certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

"(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

"(6)(A) The statement in support of reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'Part D: Debtor's Statement in Support of Reaffirmation Agreement.

"'1. I believe this agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $_____, leaving $_____ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: _____.

"'2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(B) Where the debtor is represented by counsel and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(iv)), the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'I believe this agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(7) The motion, which may be used if approval of the agreement by the court is required in order for it to be effective and shall be signed and dated by the moving party, shall consist of the following:

"'Part E: Motion for Court Approval (To be completed only where debtor is not represented by an attorney.). I (we), the debtor, affirm the following to be true and correct:

"'I am not represented by an attorney in connection with this reaffirmation agreement.

"'I believe this agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement above, and because (provide any additional relevant reasons the court should consider):

"'Therefore, I ask the court for an order approving this reaffirmation agreement.'.

"(8) The court order, which may be used to approve a reaffirmation, shall consist of the following:

"'Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.

"(9) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

"(A) such creditor retains a security interest in real property that is the debtor's principal residence;

"(B) such act is in the ordinary course of business between the creditor and the debtor; and

"(C) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.

"(l) Notwithstanding any other provision of this title:

"(1) A creditor may accept payments from a debtor before and after the filing of a reaffirmation agreement with the court.

"(2) A creditor may accept payments from a debtor under a reaffirmation agreement which the creditor believes in good faith to be effective.

"(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

"(m)(1) Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court, after notice and hearing and for cause, orders before the expiration of such period), it shall be presumed that the reaffirmation agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of the reaffirmation agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation which identifies additional sources of funds to make the payments as agreed upon under the terms of the reaffirmation agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove the agreement. No agreement shall be disapproved without notice and hearing to the debtor and creditor and such hearing shall be concluded before the entry of the debtor's discharge.

"(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(iv)).".

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

"(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

"(b) UNITED STATES DISTRICT ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

"(1) a United States attorney for each judicial district of the United States; and

"(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3107) for each field office of the Federal Bureau of Investigation.

"(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

"(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.".

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended by adding at the end the following:

"(p) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), or any interest in a consumer credit contract as defined by the Federal Trade Commission Preservation of Claims Trade Regulation, and that interest is purchased through a sale under this section, then that person shall remain subject to all claims and defenses that are related to the consumer credit transaction or contract, to the same extent as that person would be subject to such claims and defenses of the consumer had the sale taken place other than under title 11.

SEC. 205. GAO STUDY ON REAFFIRMATION PROCESS.

(a) STUDY.—The General Accounting Office (in this section referred to as the "GAO") shall conduct a study of the reaffirmation process under title 11, United States Code, to determine the overall treatment of consumers within the context of that process, including consideration of—

(1) the policies and activities of creditors with respect to reaffirmation; and

(2) whether consumers are fully, fairly and consistently informed of their rights pursuant to this title.

(b) REPORT TO CONGRESS.—Not later than 1½ years after the date of enactment of this Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a), together with any recommendations for legislation to address any abusive or coercive tactics found within the reaffirmation process.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

"(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

"(A) owed to or recoverable by—

"(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

"(ii) a governmental unit;

"(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

"(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

"(i) a separation agreement, divorce decree, or property settlement agreement;

"(ii) an order of a court of record; or

"(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

"(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt;".

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking "First" and inserting "Second";

(4) in paragraph (3), as redesignated, by striking "Second" and inserting "Third";

(5) in paragraph (4), as redesignated—

(A) by striking "Third" and inserting "Fourth"; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as redesignated, by striking "Fourth" and inserting "Fifth";

(7) in paragraph (6), as redesignated, by striking "Fifth" and inserting "Sixth";

(8) in paragraph (7), as redesignated, by striking "Sixth" and inserting "Seventh"; and

(9) by inserting before paragraph (2), as redesignated, the following:

"(1) First:

"(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such child, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of that person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

"(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date the petition was filed are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a government unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.".

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

"(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed.";

(2) in section 1208(c)—

(A) in paragraph (8), by striking "or" at the end;

(B) in paragraph (9), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.";

(3) in section 1222(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.";

(4) in section 1222(b)—

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10) the following:

"(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;";

(5) in section 1225(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that first become payable after the date on which the petition is filed.";

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid" after "completion by the debtor of all payments under the plan";

(7) in section 1307(c)—

(A) in paragraph (9), by striking "or" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.";

(8) in section 1322(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";

(9) in section 1322(b)—

(A) in paragraph (9), by striking "; and" and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

"(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and";

(10) in section 1325(a) (as amended by this Act), by adding at the end the following:

"(8) the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first becomes payable after the date on which the petition is filed; and";

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid" after "completion by the debtor of all payments under the plan".

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) under subsection (a)—

"(A) of the commencement or continuation of a civil action or proceeding—

"(i) for the establishment of paternity;

"(ii) for the establishment or modification of an order for domestic support obligations;

"(iii) concerning child custody or visitation;

"(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

"(v) regarding domestic violence;

"(B) the collection of a domestic support obligation from property that is not property of the estate;

"(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order;

"(D) the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16));

"(E) the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));

"(F) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)) or under an analogous State law; or

"(G) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.);".

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

"(5) for a domestic support obligation;";

(B) in paragraph (15)—

(i) by inserting "to a spouse, former spouse, or child of the debtor and" before "not of the kind";

(ii) by inserting "or" after "court of record,"; and

(iii) by striking "unless—" and all that follows through the end of the paragraph and inserting a semicolon; and

(C) by striking paragraph (18); and

(2) in subsection (c), by striking "(6), or (15)" each place it appears and inserting "or (6)".

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));";

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a)(5); or"; and

(3) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

"(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;".

SEC. 218. DISPOSABLE INCOME DEFINED.

(a) CONFIRMATION OF PLAN UNDER CHAPTER 12.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting "or for a domestic support obligation that first becomes payable after the date on which the petition is filed" after "dependent of the debtor".

(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting "or for a domestic support obligation that first becomes payable after the date on which the petition is filed" after "dependent of the debtor".

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking "and" at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(10) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c); and"; and

(2) by adding at the end the following:

"(c)(1) In any case described in subsection (a)(10), the trustee shall—

"(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides for assistance in collecting child support during and after the bankruptcy procedures;

"(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

"(iii) include in the notice an explanation of the rights of the holder of the claim to payment of the claim under this chapter; and

"(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

"(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

"(iii) at such time as the debtor is granted a discharge under section 727, notify the holder of that claim and the State child support agency of the State in which that holder resides of—

"(I) the granting of the discharge;

"(II) the last recent known address of the debtor;

"(III) the last recent known name and address of the debtor's employer; and

"(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

"(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(bb) was reaffirmed by the debtor under section 524(c).

"(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.".

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(8) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In any case described in subsection (a)(7), the trustee shall—

"(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

"(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

"(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;

"(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

"(iii) at such time as the debtor is granted a discharge under section 1141, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

"(I) the granting of the discharge;

"(II) the last recent known address of the debtor;

"(III) the last recent known name and address of the debtor's employer; and

"(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

"(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or

"(bb) was reaffirmed by the debtor under section 524(c).

"(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.".

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In any case described in subsection (b)(6), the trustee shall—

"(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

"(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

"(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides), and the holder of the claim, of the claim;

"(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

"(iii) at such time as the debtor is granted a discharge under section 1228, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

"(I) the granting of the discharge;

"(II) the last recent known address of the debtor;

"(III) the last recent known name and address of the debtor's employer; and

"(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

"(aa) is not discharged under paragraph (2), (4), or (14) of section 523(a); or

"(bb) was reaffirmed by the debtor under section 524(c).

"(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.".

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (d)."; and

(2) by adding at the end the following:

"(d)(1) In any case described in subsection (b)(6), the trustee shall—

"(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

"(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

"(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

"(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

"(iii) at such time as the debtor is granted a discharge under section 1328, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

"(I) the granting of the discharge;

"(II) the last recent known address of the debtor;

"(III) the last recent known name and address of the debtor's employer; and

"(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

"(aa) is not discharged under paragraph (2), (4), or (14) of section 523(a); or

"(bb) was reaffirmed by the debtor under section 524(c).

"(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.".

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

"(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

"(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

"(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

"(B) any other educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor;".

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by striking "an attorney or an employee of an attorney" and inserting "the attorney for the debtor or an employee of such attorney under the direct supervision of such attorney";

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: "If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the preparer shall be required to—

"(A) sign the document for filing; and

"(B) print on the document the name and address of that officer, principal, responsible person or partner."; and

(B) by striking paragraph (2) and inserting the following:

"(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.

"(B) The notice under subparagraph (A)—

"(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

"(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

"(iii) shall—

"(I) be signed by—

"(aa) the debtor; and

"(bb) the bankruptcy petition preparer, under penalty of perjury; and

"(II) be filed with any document for filing.";

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) For purposes" and inserting "(2)(A) Subject to subparagraph (B), for purposes"; and

(ii) by adding at the end the following:

"(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer."; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking "(d)(1)" and inserting "(d)"; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

"(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

"(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

"(i) whether—

"(I) to file a petition under this title; or

"(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

"(ii) whether the debtor's debts will be eliminated or discharged in a case under this title;

"(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

"(iv) concerning—

"(I) the tax consequences of a case brought under this title; or

"(II) the dischargeability of tax claims;

"(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

"(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

"(vii) concerning bankruptcy procedures and rights.";

(6) in subsection (f)—

(A) by striking "(f)(1)" and inserting "(f)"; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking "(g)(1)" and inserting "(g)"; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as redesignated, the following:

"(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.";

(C) in paragraph (2), as redesignated—

(i) by striking "Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a" and inserting "A";

(ii) by inserting "by the bankruptcy petition preparer shall be filed together with the petition," after "perjury"; and

(iii) by adding at the end the following: "If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).";

(D) by striking paragraph (3), as redesignated, and inserting the following:

"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

"(i) rendered by the preparer during the 12-month period immediately preceding the date of filing of the petition; or

"(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

"(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

"(C) An individual may exempt any funds recovered under this paragraph under section 522(b)."; and

(E) in paragraph (4), as redesignated, by striking "or the United States trustee" and inserting "the United States trustee, the bankruptcy administrator, or the court, on the initiative of the court,";

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

"(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on motion of the debtor, trustee, United States trustee, or bankruptcy administrator, and after the court holds a hearing with respect to that violation or act, the court shall order the bankruptcy petition preparer to pay to the debtor—";

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking "a violation of which subjects a person to criminal penalty";

(ii) in subparagraph (B)—

(I) by striking "or has not paid a penalty" and inserting "has not paid a penalty"; and

(II) by inserting "or failed to disgorge all fees ordered by the court" after "a penalty imposed under this section,";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued upon motion of the court, the trustee, the United States trustee, or the bankruptcy administrator."; and

(11) by adding at the end the following:

"(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

"(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

"(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

"(B) advised the debtor to use a false Social Security account number;

"(C) failed to inform the debtor that the debtor was filing for relief under this title; or

"(D) prepared a document for filing in a manner that failed to disclose the identity of the preparer.

"(3) The debtor, the trustee, a creditor, the United States trustee, or the bankruptcy administrator may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

"(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

"(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.".

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (9) the following:

"(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.".

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and";

(iii) by adding at the end the following:

"(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986."; and

(iv) by striking "(2)(A) any property" and inserting:

"(3) Property listed in this paragraph is—

"(A) any property";

(B) by striking paragraph (1) and inserting:

"(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.";

(C) by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding";

(D) by striking "paragraph (2)" each place it appears and inserting "paragraph (3)";

(E) by striking "paragraph (1)" each place it appears and inserting "paragraph (2)";

(F) by striking "Such property is—"; and

(G) by adding at the end the following:

"(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

"(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of this title, those funds shall be presumed to be exempt from the estate.

"(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

"(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

"(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

"(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

"(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that direct transfer.

"(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that distribution.

"(ii) A distribution described in this clause is an amount that—

"(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

"(II) to the extent allowed by law, is deposited in such a fund or account not later than

60 days after the distribution of that amount.”; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking “subsection (b)(1)” and inserting “subsection (b)(2)”; and

(B) by adding at the end the following:

“(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.”.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking “or” at the end;

(2) in paragraph (18), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (18) the following:

“(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

“(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

“(B) in the case of a loan from a thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;”; and

(4) by adding at the end of the flush material at the end of the subsection, the following: “Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.”.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

“(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

“(B) a loan from the thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title.

Nothing in paragraph (18) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.”.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

“(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute ‘disposable income’ under section 1325.”.

(e) ASSET LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

“(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of that Code or a simple retirement account under section 408(p) of that Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 (which amount shall be adjusted as provided in section 104 of this title) in a case filed by an individual debtor, except that such amount may be increased if the interests of justice so require.”.

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “or” at the end;

(B) by redesignating paragraph (5) as paragraph (10); and

(C) by inserting after paragraph (4) the following:

“(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

“(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

“(B) only to the extent that such funds—

“(i) are not pledged or promised to any entity in connection with any extension of credit; and

“(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

“(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

“(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

“(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

“(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

“(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;”; and

(2) by adding at the end the following:

“(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.”.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).”.

SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

“(3) ‘assisted person’ means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;”;

(2) by inserting after paragraph (4) the following:

“(4A) ‘bankruptcy assistance’ means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;”; and

(3) by inserting after paragraph (12) the following:

“(12A) ‘debt relief agency’ means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

“(A) any person that is an officer, director, employee or agent of that person;

“(B) a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

“(C) a creditor of the person, to the extent that the creditor is assisting the person to restructure any debt owed by the person to the creditor;

“(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union; or

“(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.”.

(b) CONFORMING AMENDMENT.—Section 104(b)(1) of title 11, United States Code, is amended by inserting “101(3),” after “sections”.

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 526. Restrictions on debt relief agencies

"(a) A debt relief agency shall not—

"(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

"(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

"(i) the services that such agency will provide to such person; or

"(ii) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

"(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

"(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

"(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

"(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and hearing, to have—

"(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

"(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

"(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

"(A) enjoin the violation of such section; or

"(B) impose an appropriate civil penalty against such person.".

"(d) No provision of this section, section 527, or section 528 shall—

"(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

"(2) be deemed to limit or curtail the authority or ability—

"(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

"(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting before the item relating to section 527, the following:

"526. Debt relief enforcement.".

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"§ 527. Disclosures

"(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

"(1) the written notice required under section 342(b)(1) of this title; and

"(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

"(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

"(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

"(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

"(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

"(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

"'The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"'Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a "trustee" and by creditors.

"'If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

"'If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

"'If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

"'Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

"(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

"(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

"(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

"(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

"(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by this Act, is amended by inserting after the item relating to section 526 the following:

"527. Disclosures.".

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"§ 528. Requirements for debt relief agencies

"(a) A debt relief agency shall—

"(1) not later than 5 business days after the first date such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

"(A) the services such agency will provide to such assisted person; and

"(B) the fees or charges for such services, and the terms of payment;

"(2) provide the assisted person with a copy of the fully executed and completed contract;

"(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

"(4) clearly and conspicuously using the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

"(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

"(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

"(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

"(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

"(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

"(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by this Act, is amended by inserting after the item relating to section 527, the following:

"528. Debtor's bill of rights.".

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by individual debtors under such title, the names and social security numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) IN GENERAL.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:", except that if the debtor has disclosed a policy to an individual prohibiting the transfer of personally identifiable information about the individual to unaffiliated third persons, and the policy remains in effect at the time of the bankruptcy filing, the trustee may not sell or lease such personally identifiable information to any person, unless—

"(A) the sale is consistent with such prohibition; or

"(B) the court, after notice and hearing and due consideration of the facts, circumstances, and conditions of the sale or lease, approves the sale or lease.".

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

"(41A) 'personally identifiable information', if provided by the individual to the debtor in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes—

"(A) means—

"(i) the individual's first name (or initials) and last name, whether given at birth or adoption or legally changed;

"(ii) the physical address for the individual's home;

"(iii) the individual's e-mail address;

"(iv) the individual's home telephone number;

"(v) the individual's social security number; or

"(vi) the individual's credit card account number; and

"(B) means, when identified in connection with one or more of the items of information listed in subparagraph (A)—

"(i) an individual's birth date, birth certificate number, or place of birth; or

"(ii) any other information concerning an identified individual that, if disclosed, will result in the physical or electronic contacting or identification of that person;".

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) IN GENERAL.—

(1) APPOINTMENT ON REQUEST.—If the trustee intends to sell or lease personally identifiable information in a manner which requires a hearing described in section 363(b)(1)(B), the trustee shall request, and the court shall appoint, an individual to serve as ombudsman during the case not later than—

(A) on or before the expiration of 30 days after the date of the order for relief; or

(B) 5 days prior to any hearing described in section 363(b)(1)(B) of title 11, United States Code, as amended by this Act.

(2) DUTIES OF OMBUDSMAN.—It shall be the duty of the ombudsman to provide the court information to assist the court in its consideration of the facts, circumstances, and conditions of the sale or lease under section 363(b)(1)(B) of title 11, United States Code, as amended by this Act. Such information may include a presentation of the debtor's privacy policy in effect, potential losses or gains of privacy to consumers if the sale or lease is approved, potential costs or benefits to consumers if the sale or lease is approved, and potential alternatives which mitigate potential privacy losses or potential costs to consumers.

(3) NOTICE TO OMBUDSMAN.—The ombudsman shall receive notice of, and shall have a right to appear and be heard, at any hearing described in section 363b(1)(B) of title 11, United States Code, as amended by this Act.

(4) CONFIDENTIALITY.—The ombudsman shall maintain any personally identifiable information obtained by the ombudsman under this title as confidential information.

(b) APPOINTMENT.—If the court orders the appointment of an ombudsman under this section, the United States Trustee shall appoint 1 disinterested person, other than the United States trustee, to serve as the ombudsman.

(c) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting "an ombudsman appointed under section 332," before "an examiner".

SEC. 233. PROHIBITION ON DISCLOSURE OF IDENTITY OF MINOR CHILDREN.

(a) PROHIBITION.—Chapter 1 of title 11, United States Code, is amended by adding after section 111, as added by this Act, the following:

"§ 112. Prohibition on disclosure of identity of minor children

"In a case under this title, the debtor may be required to provide information regarding a minor child involved in matters under this title, but may not be required to disclose in the public records in the case the name of such minor child. Notwithstanding section 107(a), the debtor may be required to disclose the name of such minor child in a nonpublic record maintained by the court. Such nonpublic record shall be available for inspection by the judge, United States Trustee, the trustee, or an auditor under section 603 of the Bankruptcy Reform Act of 2001. Each such judge, United States Trustee, trustee, or auditor shall maintain the confidentiality of the identity of such minor child in the nonpublic record.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"112. Prohibition on disclosure of identity of minor children.".

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court",

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915", and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) if a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

"(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

"(B) upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors, if—

"(I) more than 1 previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was pending within the preceding 1-year period;

"(II) a previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

"(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

"(bb) provide adequate protection as ordered by the court; or

"(cc) perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

"(aa) if a case under chapter 7, with a discharge; or

"(bb) if a case under chapter 11 or 13, with a confirmed plan which will be fully performed; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

"(4)(A)(i) if a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

"(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

"(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

"(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

"(D) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors if—

"(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.".

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after the date of entry of such order by the court, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (19), as added by this Act, the following:

"(20) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

"(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

"(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

"(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case;".

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a) (as so designated by this Act)—

(A) in paragraph (4), by striking ", and" at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

"(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722 of this title.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee brought before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee."; and

(2) in section 722, by inserting "in full at the time of redemption" before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362—

(A) in subsection (c), by striking "(e), and (f)" and inserting "(e), (f), and (h)";

(B) by redesignating subsection (h) as subsection (k); and

(C) by inserting after subsection (g) the following:

"(h)(1) In an individual case under chapter 7, 11, or 13, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) of this title—

"(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; and

"(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

"(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the proceeding on the motion."; and

(2) in section 521—

(A) in subsection (a)(2), as so designated by this Act, by striking "consumer";

(B) in subsection (a)(2)(B), as so designated by this Act—

(i) by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a) of this title"; and

(ii) by striking "forty-five day" and inserting "30-day";

(C) in subsection (a)(2)(C), as so designated by this Act, by inserting ", except as provided in section 362(h) of this title" before the semicolon; and

(D) by adding at the end the following:

"(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549 of this title, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.".

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

"(i) the plan provides that—

"(I) the holder of such claim retain the lien securing such claim until the earlier of—

"(aa) the payment of the underlying debt determined under nonbankruptcy law; or

"(bb) discharge under section 1328; and

"(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and".

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following flush sentence:

"For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 3-year period preceding the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.".

(c) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by this Act, is amended—

(1) by inserting after paragraph (13) the following:

"(13A) 'debtor's principal residence'—

"(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

"(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;"; and

(2) by inserting after paragraph (27), the following:

"(27A) 'incidental property' means, with respect to a debtor's principal residence—

"(A) property commonly conveyed with a principal residence in the area where the real estate is located;

"(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

"(C) all replacements or additions;".

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3)(A) of title 11, United States Code, as so designated by this Act, is amended—

(1) by striking "180 days" and inserting "730 days"; and

(2) by striking ", or for a longer portion of such 180-day period than in any other place" and inserting "or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place".

SEC. 308. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting "subject to subsection (o)," before "any property"; and

(2) by adding at the end the following new subsection:

"(o)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds, in the aggregate, $125,000 in value in—

"(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(C) a burial plot for the debtor or a dependent of the debtor.

"(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer.".

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) with respect to cases converted from chapter 13—

"(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding; and

"(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.".

(b) Giving Debtors the Ability To Keep Leased Personal Property by Assumption.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

"(2)(A) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

"(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

"(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

"(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.".

(c) Adequate Protection of Lessors and Purchase Money Secured Creditors.—

(1) Confirmation of plan.—Section 1325(a)(5)(B) of title 11, United States Code, is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(iii) if—

"(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

"(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or".

(2) Payments.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

"(A) proposed by the plan to the trustee;

"(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

"(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

"(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

"(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

"(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.".

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

"(C)(i) for purposes of subparagraph (A)—

"(I) consumer debts owed to a single creditor and aggregating more than $750 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

"(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

"(ii) for purposes of this subparagraph—

"(I) the term 'extension of credit under an open end credit plan' means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);

"(II) the term 'open end credit plan' has the meaning given that term under section 103 of the Consumer Credit Protection Act (15 U.S.C. 1602); and

"(III) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.".

SEC. 311. AUTOMATIC STAY.

(a) In General.—Section 362(b) of title 11, United States Code, is amended—

(1) by inserting after paragraph (21), as added by this Act, the following:

"(23) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property—

"(A) on which the debtor resides as a tenant; and

"(B) with respect to which—

"(i) the debtor fails to make a rental payment that first becomes due under the unexpired specific term of a rental agreement or lease or under a tenancy under applicable State or local rent control law, after the date of filing of the petition or during the 10-day period preceding the date of filing of the petition, if the lessor files with the court a certification that the debtor has not made a payment for rent and serves a copy of the certification upon the debtor; or

"(ii) the debtor has a month to month tenancy (or one of shorter term) other than under applicable State or local rent control law where timely payments are made pursuant to clause (i) if the lessor files with the court a certification that the requirements of this clause have been met and serves a copy of the certification upon the debtor.

"(24) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property, if during the 2-year period preceding the date of filing of the petition, the debtor or another occupant of the leased premises—

"(A) commenced another case under this title; and

"(B) failed to make any rental payment that first became due under applicable nonbankruptcy law after the date of filing of the petition for that other case;

"(25) under subsection (a)(3), of an eviction action, to the extent that it seeks possession based on endangerment of property or the illegal use of controlled substances on the property, if the lessor files with the court a certification that such an eviction has been filed or the debtor has endangered property or illegally used or allowed to be used a controlled substance on the property during the 30-day period preceding the date of filing of the certification, and serves a copy of the certification upon the debtor;";

(2) by adding at the end of the flush material at the end of the subsection the following: "With respect to the applicability of paragraph (23) or (25) to a debtor with respect to the commencement or continuation of a proceeding described in any such paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor meets the filing and notification requirements under any such paragraph, unless—

"(A) the debtor files a certification with the court and serves a copy of that certification upon the lessor on or before that 15th day, that—

"(i) contests the truth or legal sufficiency of the lessor's certification; or

"(ii) states that the tenant has taken such action as may be necessary to remedy the subject of the certification under paragraph (23)(B)(i), except that no tenant may take advantage of such remedy more than once under this title; or

"(B) the court orders that the exception to the automatic stay shall not become effective, or provides for a later date of applicability."; and

(3) by adding at the end of the flush material added by paragraph (2), the following: "Where a debtor makes a certification under subparagraph (A), the clerk of the court shall set a hearing on a date no later than 10 days after the date of the filing of the certification of the debtor and provide written notice thereof. If the debtor can demonstrate to the satisfaction of the court that the rent payment due post-petition or 10 days prior to the petition was made prior to the filing of the debtor's certification under subparagraph (A), or that the situation giving rise to the exception in paragraph (25) does not exist or has been remedied to the court's satisfaction, then a stay under subsection (a) shall be in effect until the termination of the stay under this section. If the debtor cannot make this demonstration to the satisfaction

of the court, the court shall order the stay under subsection (a) lifted forthwith. Where a debtor does not file a certification under subparagraph (A), the stay under subsection (a) shall be lifted by operation of law and the clerk of the court shall certify a copy of the bankruptcy docket as sufficient evidence that the automatic stay of subsection (a) is lifted.".

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking "six" and inserting "8"; and

(2) in section 1328, by inserting after subsection (e) the following:

"(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502, if the debtor has received a discharge—

"(1) in a case filed under chapter 7, 11, or 12 of this title during the three-year period preceding the date of the order for relief under this chapter, or

"(2) in a case filed under chapter 13 of this title during the two-year period preceding the date of such order, except that if the debtor demonstrates extreme hardship requiring that a chapter 13 case be filed, the court may shorten the two-year period.".

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

"(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

"(i) clothing;

"(ii) furniture;

"(iii) appliances;

"(iv) 1 radio;

"(v) 1 television;

"(vi) 1 VCR;

"(vii) linens;

"(viii) china;

"(ix) crockery;

"(x) kitchenware;

"(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only 1 personal computer only if used primarily for the education or entertainment of such minor children;

"(xii) medical equipment and supplies;

"(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor; and

"(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor.

"(B) The term 'household goods' does not include—

"(i) works of art (unless by or of the debtor or the dependents of the debtor);

"(ii) electronic entertainment equipment (except 1 television, 1 radio, and 1 VCR);

"(iii) items acquired as antiques;

"(iv) jewelry (except wedding rings); and

"(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.".

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by this section, with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact that section 522(f)(4) of that title, as added by this section, has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to section 522(f)(4) of title 11, United States Code, consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

"(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);".

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

"(1) provided for under section 1322(b)(5);

"(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

"(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

"(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.".

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by striking ", but the failure of such notice to contain such information shall not invalidate the legal effect of such notice"; and

(C) by adding at the end the following:

"(2) If, within the 90 days prior to the date of the filing of a petition in a voluntary case, the creditor supplied the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number. In the event the creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if the creditor supplied the debtor in the last 2 communications with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number."; and

(2) by adding at the end the following:

"(e) At any time, a creditor, in a case of an individual debtor under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

"(f) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (e) with respect to a particular case.

"(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices received by the creditor are to be delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

"(2) No sanction under section 362(k) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (a), as so designated by this Act, by striking paragraph (1) and inserting the following:

"(1) file—

"(A) a list of creditors; and

"(B) unless the court orders otherwise—

"(i) a schedule of assets and liabilities;

"(ii) a schedule of current income and current expenditures;

"(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

"(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

"(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

"(iv) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days before the filing of the petition;

"(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

"(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;"; and

(2) by adding at the end the following:

"(e)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case, and the court shall make those documents available to the creditor who requests those documents.

"(2)(A) The debtor shall provide either a tax return or transcript at the election of the debtor, for the latest taxable period prior to filing for which a tax return has been or should have been filed, to the trustee, not later than 7 days before the date first set for the first meeting of creditors, or the case shall be dismissed, unless the debtor demonstrates that the failure to file a return as required is due to circumstances beyond the control of the debtor.

"(B) If a creditor has requested a tax return or transcript referred to in subparagraph (A), the debtor shall provide such tax return or transcript to the requesting creditor at the time the debtor provides the tax return or transcript to the trustee, or the case shall be dismissed, unless the debtor demonstrates that the debtor is unable to provide such information due to circumstances beyond the control of the debtor.

“(3)(A) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

“(B) The court shall make such plan available to the creditor who requests such plan—

“(i) at a reasonable cost; and

“(ii) not later than 5 days after such request.

“(f) An individual debtor in a case under chapter 7, 11, or 13 shall file with the court at the request of the judge, United States trustee, or any party in interest—

“(1) at the time filed with the taxing authority, the Federal tax returns or transcript thereof required under applicable law, with respect to the period from the commencement of the case until such time as the case is closed;

“(2) at the time filed with the taxing authority, the Federal tax returns or transcript thereof required under applicable law, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order of relief;

“(3) any amendments to any of the Federal tax returns or transcripts thereof, described in paragraph (1) or (2); and

“(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

“(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

“(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

“(g)(1) A statement referred to in subsection (f)(4) shall disclose—

“(A) the amount and sources of income of the debtor;

“(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

“(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

“(2) The tax returns, amendments, and statement of income and expenditures described in subsection (e)(2)(A) and subsection (f) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (h).

“(h)(1) Not later than 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

“(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

“(3) Not later than 1 year and 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, the Director of the Administrative Office of the United States Courts shall prepare and submit to Congress a report that—

“(A) assesses the effectiveness of the procedures under paragraph (1); and

“(B) if appropriate, includes proposed legislation to—

“(i) further protect the confidentiality of tax information; and

“(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

“(i) If requested by the United States trustee or a trustee serving in the case, the debtor shall provide—

“(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; and

“(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.”.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(j)(1) Notwithstanding section 707(a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

“(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

“(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.”.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking “After” and inserting the following:

“(a) Except as provided in subsection (b) and after”; and

(2) by adding at the end the following:

“(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a).”.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

“(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

“(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.”;

(2) in section 1325(b)(1)(B), by striking “three-year period” and inserting “applicable commitment period”; and

(3) in section 1325(b), as amended by this Act, by adding at the end the following:

“(4) For purposes of this subsection, the ‘applicable commitment period’—

“(A) subject to subparagraph (B), shall be—

“(i) 3 years; or

“(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

“(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

“(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

“(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4; and

“(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period.”; and

(4) in section 1329(c), by striking “three years” and inserting “the applicable commitment period under section 1325(b)(1)(B)”.

SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

"(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

"(B) that 60-day period is extended—

"(i) by agreement of all parties in interest; or

"(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.".

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"§ 1115. Property of the estate

"(a) In a case concerning an individual debtor, property of the estate includes, in addition to the property specified in section 541—

"(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

"(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.".

"(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

"1115. Property of the estate.".

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) in a case concerning an individual, provide for the payment to creditors through the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.".

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

"(15) In a case concerning an individual in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

"(A) the value of the property to be distributed under the plan on account of such claim is, as of the effective date of the plan, not less than the amount of such claim; or

"(B) the value of the property to be distributed under the plan is not less than the debtor's projected disposable income (as that term is defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the term of the plan, whichever is longer.".

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: ", except that in a case concerning an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14)".

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "The confirmation of a plan does not discharge an individual debtor" and inserting "A discharge under this chapter does not discharge an individual debtor"; and

(2) by adding at the end the following:

"(5) In a case concerning an individual—

"(A) except as otherwise ordered for cause shown, the discharge is not effective until completion of all payments under the plan; and

"(B) at any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

"(i) for each allowed unsecured claim, the value, as of the effective date of the plan, of property actually distributed under the plan on account of that claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

"(ii) modification of the plan under 1127 of this title is not practicable.".

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a case concerning an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

"(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

"(2) extend or reduce the time period for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

"(f)(1) Sections 1121 through 1128 of this title and the requirements of section 1129 of this title apply to any modification under subsection (a).

"(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125, as the court may direct, notice and a hearing, and such modification is approved.".

SEC. 322. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

(a) IN GENERAL.—Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (6), as added by this Act, the following:

"(7) any amount—

"(A) withheld by an employer from the wages of employees for payment as contributions to—

"(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that amount shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

"(ii) a health insurance plan regulated by State law whether or not subject to such title; or

"(B) received by the employer from employees for payment as contributions to—

"(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that amount shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

"(ii) a health insurance plan regulated by State law whether or not subject to such title;".

(b) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to cases commenced under title 11, United States Code, before the expiration of the 180-day period beginning on the date of enactment of this Act.

SEC. 323. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) IN GENERAL.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking "Notwithstanding" and inserting "Except as provided in subsection (e)(2), and notwithstanding"; and

(2) by striking subsection (e) and inserting the following:

"(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

"(1) of all the property, wherever located, of the debtor as of the date of commencement of such case, and of property of the estate; and

"(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.".

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 324. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) For a case commenced—

"(A) under chapter 7 of title 11, $160; or

"(B) under chapter 13 of title 11, $150.".

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

"(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;";

(2) in paragraph (2), by striking "one-half" and inserting "three-fourths"; and

(3) in paragraph (4), by striking "one-half" and inserting "100 percent".

(c) Collection and Deposit of Miscellaneous Bankruptcy Fees.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking "pursuant to 28 U.S.C. section 1930(b) and 30.76 per centum of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931" and inserting "under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title".

SEC. 325. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

"(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.".

SEC. 326. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) In the case of an individual debtor under chapters 7 and 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.".

SEC. 327. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) Executory Contracts and Unexpired Leases.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: "other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of paragraph (b)(1);"; and

(B) in paragraph (2)(D), by striking "penalty rate or provision" and inserting "penalty rate or penalty provision";

(2) in subsection (c)—

(A) in paragraph (2), by inserting "or" at the end;

(B) in paragraph (3), by striking "; or" at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking "; except that" and all that follows through the end of the paragraph and inserting a period.

(b) Impairment of Claims or Interests.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting "or of a kind that section 365(b)(2) of this title expressly does not require to be cured" before the semicolon at the end;

(2) in subparagraph (C), by striking "and" at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

"(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and".

SEC. 328. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF LAWS RELATING TO THE PROVISION OF LAWFUL GOODS AND SERVICES.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18), as added by section 224 of this Act, by striking the period at the end of subparagraph (B) and inserting "; or";

(3) by adding at the end of the flush material immediately following that paragraph (18), as added by section 224 of this Act, the following: "Nothing in paragraph (19) shall be construed to affect any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first amendment to the Constitution of the United States."; and

(4) by inserting before the flush material following that paragraph (18), the following:

"(19) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any court-ordered damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

"(A) an action alleging the violation of any Federal, State, or local statutory law, including but not limited to violations of sections 247 and 248 of title 18, that results from the debtor's—

"(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against, any person—

"(I) because that person provides or has provided lawful goods or services;

"(II) because that person is or has been obtaining lawful goods or services; or

"(III) to deter that person, any other person, or a class of persons from obtaining or providing lawful goods or services; or

"(ii) damage or destruction of property of a facility providing lawful goods or services; or

"(B) a violation of a court order or injunction that protects access to a facility that provides lawful goods or services or the provision of lawful goods or services.".

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

"(A) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case, and wages and benefits awarded pursuant to an action brought in a court of law or the National Labor Relations Board as back pay attributable to any period of time after commencement of the case as a result of the debtor's violation of Federal or State law, without regard to when the original unlawful act occurred or to whether any services were rendered if the court determines that the award will not substantially increase the probability of layoff or termination of current employees or of nonpayment of domestic support obligations during the case;".

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) Definition.—Section 101 of title 11, United States Code, as amended by this Act, is amended by inserting after paragraph (48) the following:

"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);".

(b) Automatic Stay.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (24), as added by this Act, the following:

"(25) under subsection (a), of—

"(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

"(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or

"(C) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;".

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".

SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking "10" each place it appears and inserting "30".

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

"(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

"(i) the date that is 120 days after the date of the order for relief; or

"(ii) the date of the entry of an order confirming a plan.

"(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days upon motion of the trustee or lessor for cause.

"(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.".

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking "subsection" the first place it appears and inserting "subsections (b) and".

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

"(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1))), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.".

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) A committee appointed under subsection (a) shall—

"(A) provide access to information for creditors who—

"(i) hold claims of the kind represented by that committee; and

"(ii) are not appointed to the committee;

"(B) solicit and receive comments from the creditors described in subparagraph (A); and

"(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).".

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i);

(2) in subsection (i), as so redesignated, by inserting "and subject to the prior rights of holders of security interests in such goods or the proceeds thereof," after "consent of a creditor,"; and

(3) by adding at the end the following:

"(j)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

"(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any applicable State statute that is similar to section 7–209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Reform Act of 2001, or any successor thereto.".

SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(A) In" and inserting "In"; and

(B) by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded"; and

(2) by adding at the end the following:

"(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326 of this title.".

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (8), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.".

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a nonconsumer debt against a noninsider of less than $10,000," after "$5,000".

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following:

"(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "such period" and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: "Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) 'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

"(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;".

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, as amended by this Act, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and".

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

"(B) Upon the filing of a report under subparagraph (A)—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and "(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(C) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.".

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

"(i) a cash deposit;

"(ii) a letter of credit;

"(iii) a certificate of deposit;

"(iv) a surety bond;

"(v) a prepayment of utility consumption; or

"(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

"(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

"(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

"(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

"(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

"(i) the absence of security before the date of filing of the petition;

"(ii) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or

"(iii) the availability of an administrative expense priority.

"(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court.".

SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking "Notwithstanding section 1915 of this title, the" and inserting "The"; and

(2) by adding at the end the following:

"(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such debtor has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term "filing fee" means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

"(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

"(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.".

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) In General.—

(1) Disclosure.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) Information.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) Purpose.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

SEC. 420. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) In General.—Section 521(a) of title 11, United States Code, as so designated by section 106(d) of this Act, is amended-

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) unless a trustee is serving in the case, if at the time of filing, the debtor, served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator.".

(b) Duties of Trustees.—Section 704(a) of title 11, United States Code, as so designated and otherwise amended by this Act, is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(12) where, at the time of the time of the commencement of the case, the debtor served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator;".

(c) Conforming Amendment.—Section 1106(a) of title 11, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), (11), and (12) of section 704;".

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon "and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information"; and

(2) by striking subsection (f), and inserting the following:

"(f) Notwithstanding subsection (b), in a small business case—

"(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

"(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

"(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 20 days before the date of the hearing on confirmation of the plan; and

"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".

SEC. 432. DEFINITIONS.

(a) Definitions.—Section 101 of title 11, United States Code, as amended by this Act, is amended by striking paragraph (51C) and inserting the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

"(51D) 'small business debtor'—

"(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $3,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $3,000,000 (excluding debt owed to 1 or more affiliates or insiders);".

(b) Conforming Amendment.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other

parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

“§ 308. Debtor reporting requirements

“(a) For purposes of this section, the term ‘profitability’ means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

“(b) A small business debtor shall file periodic financial and other reports containing information including—

“(1) the debtor’s profitability;

“(2) reasonable approximations of the debtor’s projected cash receipts and cash disbursements over a reasonable period;

“(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

“(4)(A) whether the debtor is—

“(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

“(ii) timely filing tax returns and other required government filings and paying taxes and other administrative claims when due;

“(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

“(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

“308. Debtor reporting requirements.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor’s profitability;

(2) the debtor’s cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor’s interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor’s financial condition and plan the small business debtor’s future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“§ 1116. Duties of trustee or debtor in possession in small business cases

“In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

“(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

“(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

“(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

“(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

“(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

“(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

“(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

“(6)(A) timely file tax returns and other required government filings; and

“(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

“(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor’s business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

“1116. Duties of trustee or debtor in possession in small business cases.”.

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

“(e) In a small business case—

“(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

“(A) extended as provided by this subsection, after notice and hearing; or

“(B) the court, for cause, orders otherwise;

“(2) the plan, and any necessary disclosure statement, shall be filed not later than 300 days after the date of the order for relief; and

“(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e), within which the plan shall be confirmed, may be extended only if—

“(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

“(B) a new deadline is imposed at the time the extension is granted; and

“(C) the order extending time is signed before the existing deadline has expired.”.

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

“(e)(1) In a small business case, the plan shall be confirmed not later than 45 days after the date that a plan is filed with the court as provided in section 1121(e).

“(2) The 45-day period referred to in paragraph (1) may be extended only if—

“(A) the debtor, after notice and hearing, demonstrates that it is more likely than not that the court will confirm a plan within a reasonable period of time;

“(B) a new deadline is imposed at the time at which the extension is granted; and

“(C) the order extending time is signed before the existing deadline has expired.”.

SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking “and” at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

“(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and”;

(2) in paragraph (5), by striking “and” at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(7) in each of such small business cases—

“(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

“(i) begin to investigate the debtor’s viability;

“(ii) inquire about the debtor’s business plan;

“(iii) explain the debtor’s obligations to file monthly operating reports and other required reports;

“(iv) attempt to develop an agreed scheduling order; and

“(v) inform the debtor of other obligations;

“(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor’s books and records and verify that the debtor has filed its tax returns; and

“(C) review and monitor diligently the debtor’s activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

“(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.".

SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ", may"; and

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by this Act is amended—

(1) in subsection (k), as redesignated by this Act—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages."; and

(2) by adding at the end the following:

"(l)(1) Except as provided in paragraph (2) of this subsection, the provisions of subsection (a) do not apply in a case in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C).

"(2) This subsection does not apply—

"(A) to an involuntary case involving no collusion by the debtor with creditors; or

"(B) to the filing of a petition if—

"(i) the debtor proves by a preponderance of the evidence that the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

"(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes that—

"(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, as amended, or in cases in which these sections do not apply, within a reasonable period of time; and

"(B) the grounds include an act or omission of the debtor—

"(i) for which there exists a reasonable justification for the act or omission; and

"(ii) that will be cured within a reasonable period of time fixed by the court.

"(3) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

"(4) For purposes of this subsection, the term 'cause' includes—

"(A) substantial or continuing loss to or diminution of the estate;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

"(D) unauthorized use of cash collateral harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) repeated failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee or the bankruptcy administrator;

"(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan;

"(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.

"(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.".

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.".

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) the debtor has commenced monthly payments that—

"(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

"(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or".

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);".

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding section 301(b)" before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "A voluntary"; and

(2) by striking the last sentence and inserting the following:

"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting "555, 556," after "553,"; and

(2) by inserting "559, 560, 561, 562" after "557,".

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"§ 159. Bankruptcy statistics

"(a) The clerk of each district shall collect statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be on a standardized form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

"(b) The Director shall—

"(1) compile the statistics referred to in subsection (a);

"(2) make the statistics available to the public; and

"(3) not later than October 31, 2002, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning—

"(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

"(B) the current monthly income, average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

"(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

"(D) the average period of time between the filing of the petition and the closing of the case;

"(E) for the reporting period—

"(i) the number of cases in which a reaffirmation was filed; and

"(ii)(I) the total number of reaffirmations filed;

"(II) of those cases in which a reaffirmation was filed, the number of cases in which the debtor was not represented by an attorney; and

"(III) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court;

"(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

"(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

"(II) the number of final orders determining the value of property securing a claim issued;

"(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

"(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

"(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

"(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel or damages awarded under such Rule.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"159. Bankruptcy statistics.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"§ 589b. Bankruptcy data

"(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

"(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

"(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

"(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

"(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

"(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

"(3) appropriate privacy concerns and safeguards.

"(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

"(1) information about the length of time the case was pending;

"(2) assets abandoned;

"(3) assets exempted;

"(4) receipts and disbursements of the estate;

"(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

"(6) claims asserted;

"(7) claims allowed; and

"(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

"(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

"(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(2) length of time the case has been pending;

"(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

"(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Reform Act of 2001; and"; and

(2) by adding at the end the following:

"(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Reform Act of 2001.

"(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

"(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

"(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

"(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.".

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by this Act, is amended in each of paragraphs (3) and (4) by inserting "or an auditor appointed under section 586(f) of title 28" after "serving in the case".

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) the debtor has failed to explain satisfactorily—

"(A) a material misstatement in an audit referred to in section 585(f) of title 28; or

"(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";

(2) in subsection (b)(2), by inserting "(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)" after "507(a)(1)"; and

(3) by adding at the end the following:

"(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

"(1) exhaust the unencumbered assets of the estate; and

"(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

"(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

"(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

"(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).".

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.".

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

"(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement and, if so filed, shall be allowed as a single claim.".

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting "at the address and in the manner designated in paragraph (1)" after "determination of such tax";

(2) by striking "(1) upon payment" and inserting "(A) upon payment";

(3) by striking "(A) such governmental unit" and inserting "(i) such governmental unit";

(4) by striking "(B) such governmental unit" and inserting "(ii) such governmental unit";

(5) by striking "(2) upon payment" and inserting "(B) upon payment";

(6) by striking "(3) upon payment" and inserting "(C) upon payment";

(7) by striking "(b)" and inserting "(2)"; and

(8) by inserting before paragraph (2), as so designated, the following:

"(b)(1)(A) The clerk of each district shall maintain a listing under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

"(i) designate an address for service of requests under this subsection; and

"(ii) describe where further information concerning additional requirements for filing such requests may be found.

"(B) If a governmental unit referred to in subparagraph (A) does not designate an address and provide that address to the clerk under that subparagraph, any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of that governmental unit.".

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 511. Rate of interest on tax claims

"(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

"(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.".

(b) Clerical Amendment.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

"511. Rate of interest on tax claims.".

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting "for a taxable year ending on or before the date of filing of the petition" after "gross receipts";

(B) in clause (i), by striking "for a taxable year ending on or before the date of filing of the petition"; and

(C) by striking clause (ii) and inserting the following:

"(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

"(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

"(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 90 days."; and

(2) by adding at the end the following:

"An otherwise applicable time period specified in this paragraph shall be suspended for (i) any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus (ii) any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.".

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking "assessed" and inserting "incurred".

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314 of this Act, is amended by striking "paragraph" and inserting "section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),".

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt described in subparagraph (A) or (B) of section 523(a)(2) that is owed to a domestic governmental unit or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31, United States Code, or any similar State statute, or for a tax or customs duty with respect to which the debtor—

"(A) made a fraudulent return; or

"(B) willfully attempted in any manner to evade or defeat that tax or duty.".

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking "the debtor" and inserting "a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning an individual debtor's tax liability for a taxable period ending before the order for relief under this title".

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "deferred cash payments," and all that follows through the end of the subparagraph, and inserting "regular installment payments in cash—

"(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

"(ii) over a period ending not later than 5 years after the date of the entry of the order for relief under section 301, 302, or 303; and

"(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for in the plan (other than cash payments made to a class of creditors under section 1122(b)); and"; and

(3) by adding at the end the following:

"(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).".

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law".

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) Payment of Taxes Required.—Section 960 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

"(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches by the trustee of a bankruptcy estate under section 554 of title 11; or

"(2) payment of the tax is excused under a specific provision of title 11.

"(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

"(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

"(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.".

(b) Payment of Ad Valorem Taxes Required.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting "whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both," before "except".

(c) Request for Payment of Administrative Expense Taxes Eliminated.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by adding "and" at the end; and

(3) by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;".

(d) Payment of Taxes and Fees as Secured Claims.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting "or State statute" after "agreement"; and

(2) in subsection (c), by inserting ", including the payment of all ad valorem property taxes with respect to the property" before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the trustee commences distribution under this section;" and inserting the following: "on or before the earlier of—

"(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

"(B) the date on which the trustee commences final distribution under this section;".

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by this Act, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting "or equivalent report or notice," after "a return,";

(B) in clause (i), by inserting "or given" after "filed"; and

(C) in clause (ii)—

(i) by inserting "or given" after "filed"; and

(ii) by inserting ", report, or notice" after "return"; and

(2) by adding at the end the following:

"For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.".

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by this Act, is amended by inserting "the estate," after "misrepresentation,".

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) Filing of Prepetition Tax Returns Required for Plan Confirmation.—Section 1325(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.".

(b) Additional Time Permitted for Filing Tax Returns.—

(1) In general.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"§ 1308. Filing of prepetition tax returns

"(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

"(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

"(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

"(B) for any return that is not past due as of the date of the filing of the petition, the later of—

"(i) the date that is 120 days after the date of that meeting; or

"(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

"(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

"(A) a period of not more than 30 days for returns described in paragraph (1); and

"(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

"(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

"1308. Filing of prepetition tax returns.".

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.".

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: ", and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required".

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting "including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case," after "records"; and

(2) by striking "a hypothetical reasonable investor typical of holders of claims or interests" and inserting "such a hypothetical investor".

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (25), as added by this Act, the following:

"(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, upon motion of the trustee and after notice and hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of that authority in the setoff under section 506(a);".

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—Section 346 of title 11, United States Code, is amended to read as follows:

"§ 346. Special provisions related to the treatment of State and local taxes

"(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

"(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

"(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

"(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

"(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

"(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

"(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

"(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

"(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

"(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

"(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the order for relief under this title to the extent that—

"(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

"(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

"(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

"(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

"(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

"(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.".

(b) CONFORMING AMENDMENTS.—

(1) Section 728 of title 11, United States Code, is repealed.

(2) Section 1146 of title 11, United States Code, is amended—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(3) Section 1231 of title 11, United States Code, is amended—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(k)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

"(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.".

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.
"1501. Purpose and scope of application.

"SUBCHAPTER I—GENERAL PROVISIONS

"1502. Definitions.
"1503. International obligations of the United States.
"1504. Commencement of ancillary case.
"1505. Authorization to act in a foreign country.
"1506. Public policy exception.
"1507. Additional assistance.
"1508. Interpretation.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"1509. Right of direct access.
"1510. Limited jurisdiction.
"1511. Commencement of case under section 301 or 303.
"1512. Participation of a foreign representative in a case under this title.
"1513. Access of foreign creditors to a case under this title.
"1514. Notification to foreign creditors concerning a case under this title.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"1515. Application for recognition.
"1516. Presumptions concerning recognition.
"1517. Order granting recognition.
"1518. Subsequent information.
"1519. Relief that may be granted upon filing petition for recognition.
"1520. Effects of recognition of a foreign main proceeding.
"1521. Relief that may be granted upon recognition.
"1522. Protection of creditors and other interested persons.
"1523. Actions to avoid acts detrimental to creditors.
"1524. Intervention by a foreign representative.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
"1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
"1527. Forms of cooperation.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"1528. Commencement of a case under this title after recognition of a foreign main proceeding.
"1529. Coordination of a case under this title and a foreign proceeding.
"1530. Coordination of more than 1 foreign proceeding.
"1531. Presumption of insolvency based on recognition of a foreign main proceeding.
"1532. Rule of payment in concurrent proceedings.

"§ 1501. Purpose and scope of application

"(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

"(1) cooperation between—

"(A) United States courts, United States trustees, trustees, examiners, debtors, and debtors in possession; and

"(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

"(2) greater legal certainty for trade and investment;

"(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

"(4) protection and maximization of the value of the debtor's assets; and

"(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

"(b) This chapter applies where—

"(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

"(2) assistance is sought in a foreign country in connection with a case under this title;

"(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

"(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

"(c) This chapter does not apply to—

"(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

"(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

"(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

"(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 1502. Definitions

"For the purposes of this chapter, the term—

"(1) 'debtor' means an entity that is the subject of a foreign proceeding;

"(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

"(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

"(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

"(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

"(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

"(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

"(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

"§1503. International obligations of the United States

"To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

"§1504. Commencement of ancillary case

"A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

"§1505. Authorization to act in a foreign country

"A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

"§1506. Public policy exception

"Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

"§1507. Additional assistance

"(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

"(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

"(1) just treatment of all holders of claims against or interests in the debtor's property;

"(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

"(3) prevention of preferential or fraudulent dispositions of property of the debtor;

"(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

"(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§1508. Interpretation

"In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"§1509. Right of direct access

"(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

"(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

"(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

"(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

"(3) a court in the United States shall grant comity or cooperation to the foreign representative.

"(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

"(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

"(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

"(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

"§1510. Limited jurisdiction

"The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

"§1511. Commencement of case under section 301 or 303

"(a) Upon recognition, a foreign representative may commence—

"(1) an involuntary case under section 303; or

"(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

"(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

"§1512. Participation of a foreign representative in a case under this title

"Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

"§1513. Access of foreign creditors to a case under this title

"(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

"(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

"(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

"(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

"§1514. Notification to foreign creditors concerning a case under this title

"(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

"(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

"(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

"(1) indicate the time period for filing proofs of claim and specify the place for their filing;

"(2) indicate whether secured creditors need to file their proofs of claim; and

"(3) contain any other information required to be included in such a notification to creditors under this title and the orders of the court.

"(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"§1515. Application for recognition

"(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

"(b) A petition for recognition shall be accompanied by—

"(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

"(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

"(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

"(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

"(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

"§1516. Presumptions concerning recognition

"(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding (as defined in section 101) and that the person or body is a foreign representative (as defined in section 101), the court is entitled to so presume.

"(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

"(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

"§ 1517. Order granting recognition

"(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

"(1) the foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

"(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

"(3) the petition meets the requirements of section 1515.

"(b) The foreign proceeding shall be recognized—

"(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

"(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

"(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

"(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. The case under this chapter may be closed in the manner prescribed under section 350.

"§ 1518. Subsequent information

"From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

"(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

"(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

"§ 1519. Relief that may be granted upon filing petition for recognition

"(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

"(1) staying execution against the debtor's assets;

"(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

"(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

"(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

"(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

"(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

"§ 1520. Effects of recognition of a foreign main proceeding

"(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

"(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

"(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

"(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

"(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

"(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

"(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

"§ 1521. Relief that may be granted upon recognition

"(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

"(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

"(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

"(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

"(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

"(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

"(6) extending relief granted under section 1519(a); and

"(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

"(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

"(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

"(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

"§ 1522. Protection of creditors and other interested persons

"(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

"(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

"(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

"(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

"§ 1523. Actions to avoid acts detrimental to creditors

"(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

"(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

"§ 1524. Intervention by a foreign representative

"Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"§1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

"(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

"(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

"§1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

"(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

"(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

"§1527. Forms of cooperation

"Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

"(1) appointment of a person or body, including an examiner, to act at the direction of the court;

"(2) communication of information by any means considered appropriate by the court;

"(3) coordination of the administration and supervision of the debtor's assets and affairs;

"(4) approval or implementation of agreements concerning the coordination of proceedings; and

"(5) coordination of concurrent proceedings regarding the same debtor.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"§1528. Commencement of a case under this title after recognition of a foreign main proceeding

"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

"§1529. Coordination of a case under this title and a foreign proceeding

"If a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) If the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

"(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

"(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

"(2) If a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

"(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

"(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

"(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

"§1530. Coordination of more than 1 foreign proceeding

"In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

"(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

"(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

"§1531. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

"§1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"15. Ancillary and Other Cross-Border Cases .... 1501".

SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ", and this chapter, sections 307, 362(l), 555 through 557, and 559 through 562 apply in a case under chapter 15"; and

(2) by adding at the end the following:

"(j) Chapter 15 applies only in a case under such chapter, except that—

"(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

"(2) section 1509 applies whether or not a case under this title is pending.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking "and" at the end;

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.".

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 15 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking "or 13" and inserting "13, or 15,".

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

"§1410. Venue of cases ancillary to foreign proceedings

"A case under chapter 15 of title 11 may be commenced in the district court for the district—

"(1) in which the debtor has its principal place of business or principal assets in the United States;

"(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

"(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.".

(d) OTHER SECTIONS OF TITLE 11.—

(1) Section 109(b)(3) of title 11, United States Code, is amended to read as follows:

“(3)(A) a foreign insurance company, engaged in such business in the United States; or

“(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101) in the United States.”.

(2) Section 303(k) of title 11, United States Code, is repealed.

(3)(A) Section 304 of title 11, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 3 of title 11, United States Code, is amended by striking the item relating to section 304.

(C) Section 306 of title 11, United States Code, is amended by striking “, 304,” each place it appears.

(4) Section 305(a)(2) of title 11, United States Code, is amended to read as follows:

“(2)(A) a petition under section 1515 of this title for recognition of a foreign proceeding has been granted; and

“(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.”.

(5) Section 508 of title 11, United States Code, is amended—

(A) by striking subsection (a); and

(B) in subsection (b), by striking “(b)”.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) Definition of Qualified Financial Contract.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting “, resolution, or order” after “any similar agreement that the Corporation determines by regulation”.

(b) Definition of Securities Contract.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

“(ii) Securities contract.—The term ‘securities contract’—

“(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

“(III) means any option entered into on a national securities exchange relating to foreign currencies;

“(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(V) means any margin loan;

“(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

“(VII) means any combination of the agreements or transactions referred to in this clause;

“(VIII) means any option to enter into any agreement or transaction referred to in this clause;

“(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

“(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.”.

(c) Definition of Commodity Contract.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

“(iii) Commodity contract.—The term ‘commodity contract’ means—

“(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

“(II) with respect to a foreign futures commission merchant, a foreign future;

“(III) with respect to a leverage transaction merchant, a leverage transaction;

“(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

“(V) with respect to a commodity options dealer, a commodity option;

“(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

“(VII) any combination of the agreements or transactions referred to in this clause;

“(VIII) any option to enter into any agreement or transaction referred to in this clause;

“(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

“(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.”.

(d) Definition of Forward Contract.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

“(iv) Forward contract.—The term ‘forward contract’ means—

“(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

“(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

“(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

“(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

“(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV) including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.”.

(e) Definition of Repurchase Agreement.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

“(v) Repurchase agreement.—The term ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)—

“(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V) including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V) including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(B) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(C) by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States (12 U.S.C. 91) or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(2) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by including at the end of section 11(e) the following new paragraph:

"(17) SAVINGS CLAUSE.—The meaning of terms used in this subsection (e) are applicable for purposes of this subsection (e) only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities law (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon ", or is exempt from such registration by order of the Securities and Exchange Commission"; and

(B) in subparagraph (B), by inserting before the period ", that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)";

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;"; and

(C) by amending subparagraph (C) (as redesignated) to read as follows:

"(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;";

(3) in paragraph (11), by inserting before the period "and any other clearing organization with which such clearing organization has a netting contract";

(4) by amending paragraph (14)(A)(i) to read as follows:

"(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or closeout values relating to such obligations or entitlements) among the parties to the agreement; and"; and

(5) by adding at the end the following new paragraph:

"(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.".

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

"SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

"(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

"(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

"(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

"(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

"(c) REGULATORY AUTHORITY.—

"(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

"(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that their regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

"(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.".

SEC. 907. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;"; and

(iii) by adding at the end the following:

"(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

"(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D) including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;";

(B) in paragraph (46), by striking "on any day during the period beginning 90 days before the date of" and inserting "at any time before";

(C) by amending paragraph (47) to read as follows:

"(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(A) means—

“(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

“(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

“(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

“(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

“(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv) including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

“(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;”;

(D) in paragraph (48), by inserting “, or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission,” after “1934”; and

(E) by amending paragraph (53B) to read as follows:

“(53B) ‘swap agreement’—

“(A) means—

“(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

“(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

“(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

“(III) a currency swap, option, future, or forward agreement;

“(IV) an equity index or equity swap, option, future, or forward agreement;

“(V) a debt index or debt swap, option, future, or forward agreement;

“(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

“(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

“(VIII) a weather swap, weather derivative, or weather option;

“(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

“(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

“(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

“(iii) any combination of agreements or transactions referred to in this subparagraph;

“(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

“(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

“(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v) including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

“(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.”;

(2) in section 741(7), by striking paragraph (7) and inserting the following:

“(7) ‘securities contract’—

“(A) means—

“(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(ii) any option entered into on a national securities exchange relating to foreign currencies;

“(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(iv) any margin loan;

“(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

“(vi) any combination of the agreements or transactions referred to in this subparagraph;

“(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

“(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

“(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

“(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan.”; and

(3) in section 761(4)—

(A) by striking “or” at the end of subparagraph (D); and

(B) by adding at the end the following:

“(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

“(G) any combination of the agreements or transactions referred to in this paragraph;

“(H) any option to enter into an agreement or transaction referred to in this paragraph;

“(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

"(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;".

(b) Definitions of Financial Institution, Financial Participant, and Forward Contract Merchant.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

"(22) 'financial institution' means—

"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741, such customer; or

"(B) in connection with a securities contract, as defined in section 741, an investment company registered under the Investment Company Act of 1940;";

(2) by inserting after paragraph (22) the following:

"(22A) 'financial participant' means—

"(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

"(B) a clearing organization (as that term is defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);"; and

(3) by striking paragraph (26) and inserting the following:

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity, as defined in section 761 or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;".

(c) Definition of Master Netting Agreement and Master Netting Agreement Participant.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

"(38B) 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) Swap Agreements, Securities Contracts, Commodity Contracts, Forward Contracts, Repurchase Agreements, and Master Netting Agreements Under the Automatic-Stay.—

(1) In general.—Section 362(b) of title 11, United States Code, as amended by this Act, is amended—

(A) in paragraph (6), by inserting ", pledged to and under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to and under the control of," after "held by";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to and under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;"; and

(D) by inserting after paragraph (26), as added by this Act, the following new paragraph:

"(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to and under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; or".

(2) Limitation.—Section 362 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(m) Limitation.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.".

(e) Limitation of Avoidance Powers Under Master Netting Agreement.—Section 546 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking "under a swap agreement";

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement"; and

(C) by inserting "or financial participant" after "swap participant" each place that term appears; and

(2) by adding at the end the following:

"(k) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.".

(f) Fraudulent Transfers of Master Netting Agreements.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) Termination or Acceleration of Securities Contracts.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract";

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) Termination or Acceleration of Commodities or Forward Contracts.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract";

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement

Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,”.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

“§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement”;

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration”; and

(3) in the third sentence, by striking “As used” and all that follows through “right,” and inserting “As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,”.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

“§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement”;

(2) in the first sentence, by striking “termination of a swap agreement” and inserting “liquidation, termination, or acceleration of one or more swap agreements”;

(3) by striking “in connection with any swap agreement” and inserting “in connection with the termination, liquidation, or acceleration of one or more swap agreements”; and

(4) in the second sentence, by striking “As used” and all that follows through “right,” and inserting “As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,”.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

“§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

“(a) IN GENERAL.—Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

“(1) securities contracts, as defined in section 741(7);

“(2) commodity contracts, as defined in section 761(4);

“(3) forward contracts;

“(4) repurchase agreements;

“(5) swap agreements; or

“(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

“(b) EXCEPTION.—

“(1) IN GENERAL.—A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

“(2) COMMODITY BROKERS.—If a debtor is a commodity broker subject to subchapter IV of chapter 7—

“(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under that subchapter IV; and

“(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

“(3) CONSTRUCTION.—No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

“(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

“(B) any other netting agreement between a clearing organization, as defined in section 761, and another entity that has been approved by the Commodity Futures Trading Commission.

“(c) DEFINITION.—As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

“(d) CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15 of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.”.

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

“§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

“Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.”.

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

“§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

“Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.”.

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: “(except for a setoff of a kind described in section

362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)”;

(2) in subsection (a)(3)(C), by inserting before the period the following: “(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561 of this title)”; and

(3) in subsection (b)(1), by striking “362(b)(14),” and inserting “362(b)(17), 362(b)(27), 555, 556, 559, 560, 561”.

(o) Securities Contracts, Commodity Contracts, and Forward Contracts.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking “financial institutions,” each place such term appears and inserting “financial institution, financial participant,”;

(2) in sections 362(b)(7) and 546(f), by inserting “or financial participant” after “repo participant” each place that term appears;

(3) in section 546(e), by inserting “financial participant,” after “financial institution,”;

(4) in section 548(d)(2)(B), by inserting “financial participant,” after “financial institution,”;

(5) in section 548(d)(2)(C), by inserting “or financial participant” after “repo participant”;

(6) in section 548(d)(2)(D), by inserting “or financial participant” after “swap participant”;

(7) in section 555—

(A) by inserting “financial participant,” after “financial institution,”; and

(B) by striking the second sentence and inserting the following: “As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice”;

(8) in section 556, by inserting “, financial participant,” after “commodity broker”;

(9) in section 559, by inserting “or financial participant” after “repo participant” each place that term appears; and

(10) in section 560, by inserting “or financial participant” after “swap participant”.

(p) Conforming Amendments.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

“555. Contractual right to liquidate, terminate, or accelerate a securities contract.

“556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.”;

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agreement.”;

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

“767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”;

and

(B) by inserting after the item relating to section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”.

SEC. 907A. SECURITIES BROKER/COMMODITY BROKER LIQUIDATION.

The Securities and Exchange Commission and the Commodity Futures Trading Commission may consult with each other with respect to whether, under what circumstances, and the extent to which security futures products will be treated as commodity contracts or securities in a liquidation of a person that is both a securities broker and a commodity broker, and with respect to the treatment in such a liquidation of accounts in which both commodity contracts and securities are carried.

SEC. 908. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

“(H) Recordkeeping requirements.—The Corporation, in consultation with the appropriate Federal banking agencies, may by regulation require more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to 12 U.S.C. 1831i).”;

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

“(2) Exemptions from contemporaneous execution requirement.—An agreement to provide for the lawful collateralization of—

“(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

“(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

“(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

“(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.”.

SEC. 910. DAMAGE MEASURE.

(a) In General.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by this Act, the following:

“§ 562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements

“If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

“(1) the date of such rejection; or

“(2) the date of such liquidation, termination, or acceleration.”; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by this Act) the following:

“562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.”.

(b) Claims Arising From Rejection.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(g)”; and

(2) by adding at the end the following:

“(2) A claim for damages calculated in accordance with section 562 of this title shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.”.

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

“(C) Exception from stay.—

“(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

“(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

“(iii) As used in this subparagraph, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

SEC. 912. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting after paragraph (7), as added by this Act, the following:

"(8) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a);"; and

(2) by adding at the end the following new subsection:

"(f) For purposes of this section—

"(1) the term 'asset-backed securitization' means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, including, without limitation, all securities issued by governmental units, at least one class or tranche of which was rated investment grade by one or more nationally recognized securities rating organizations, when the securities were initially issued by an issuer;

"(2) the term 'eligible asset' means—

"(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, whether or not the same are in existence as of the date of the transfer, including residential and commercial mortgage loans, consumer receivables, trade receivables, assets of governmental units, including payment obligations relating to taxes, receipts, fines, tickets, and other sources of revenue, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any residual interest in property subject to receivables included in such financial assets plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

"(B) cash; and

"(C) securities, including without limitation, all securities issued by governmental units;

"(3) the term 'eligible entity' means—

"(A) an issuer; or

"(B) a trust, corporation, partnership, governmental unit, limited liability company (including a single member limited liability company), or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto;

"(4) the term 'issuer' means a trust, corporation, partnership, governmental unit, limited liability company (including a single member limited liability company), or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto; and

"(5) the term 'transferred' means the debtor, under a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(8) (whether or not reference is made to this title or any section hereof), irrespective and without limitation of—

"(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any securities issued by the issuer;

"(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

"(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.".

SEC. 913. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law on or after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

SEC. 914. SAVINGS CLAUSE.

The meaning of terms used in this title are applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277, 112 Stat. 2681-610), and amended by this Act, is reenacted.

(2) EFFECTIVE DATE.—Subsection (a) shall be deemed to have taken effect on July 1, 2000.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

(a) IN GENERAL.—Section 104(b) of title 11, United States Code, is amended by adding at the end the following:

"(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection.".

(b) EFFECTIVE DATE.—The first adjustment required by section 104(b)(4) of title 11, United States Code, as added by subsection (a) of this section, shall occur on the later of—

(1) April 1, 2001; or

(2) 60 days after the date of enactment of this Act.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;".

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by this Act, is amended by striking "a State or local governmental unit" and inserting "any governmental unit".

SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "$1,500,000" and inserting "$3,000,000"; and

(B) by striking "80" and inserting "50"; and

(2) in subparagraph (B)(ii)—

(A) by striking "$1,500,000" and inserting "$3,000,000"; and

(B) by striking "80" and inserting "50".

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking "the taxable year preceding the taxable year" and inserting "at least 1 of the 3 calendar years preceding the year".

SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) IN GENERAL.—Section 1225(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) If the plan provides for specific amounts of property to be distributed on account of allowed unsecured claims as required by paragraph (1)(B), those amounts equal or exceed the debtor's projected disposable income for that period, and the plan meets the requirements for confirmation other than those of this subsection, the plan shall be confirmed.".

(b) MODIFICATION.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

"(d)(1) A modification of the plan under this section may not increase the amount of payments that were due prior to the date of the order modifying the plan.

"(2) A modification of the plan under this section to increase payments based on an increase in the debtor's disposable income may not require payments to unsecured creditors in any particular month greater than the debtor's disposable income for that month, unless the debtor proposes such a modification.

"(3) A modification of the plan in the last year of the plan shall not require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed, unless the debtor proposes such a modification.".

SEC. 1007. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

"(7A) 'commercial fishing operation' includes—

"(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products;

"(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A); and

"(C) the transporting by vessel of a passenger for hire (as defined in section 2101 of title 46) who is engaged in recreational fishing;

"(7B) 'commercial fishing vessel' means a vessel used by a fisherman to carry out a commercial fishing operation;";

(2) by inserting after paragraph (19) the following:

"(19A) 'family fisherman' means—

"(A) an individual or individual and spouse engaged in a commercial fishing operation (including aquaculture for purposes of chapter 12)—

"(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

"(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

"(B) a corporation or partnership—

"(i) in which more than 50 percent of the outstanding stock or equity is held by—

"(I) 1 family that conducts the commercial fishing operation; or

"(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

"(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

"(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

"(III) if such corporation issues stock, such stock is not publicly traded;"; and

(3) by inserting after paragraph (19A) the following:

"(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;".

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting "or family fisherman" after "family farmer".

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting "**OR FISHERMAN**" after "**FAMILY FARMER**";

(2) in section 1201, by adding at the end the following:

"(e)(1) Notwithstanding any other provision of law, for purposes of this subsection, a guarantor of a claim of a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.

"(2) For purposes of a claim that arises from the ownership or operation of a commercial fishing operation, a co-maker of a loan made by a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.";

(3) in section 1203, by inserting "or commercial fishing operation" after "farm";

(4) in section 1206, by striking "if the property is farmland or farm equipment" and inserting "if the property is farmland, farm equipment, or property of a commercial fishing operation (including a commercial fishing vessel)"; and

(5) by adding at the end the following:

"§ 1232. Additional provisions relating to family fishermen

"(a)(1) Notwithstanding any other provision of law, except as provided in subsection (c), with respect to any commercial fishing vessel of a family fisherman, the debts of that family fisherman shall be treated in the manner prescribed in paragraph (2).

"(2)(A) For purposes of this chapter, a claim for a lien described in subsection (b) for a commercial fishing vessel of a family fisherman that could, but for this subsection, be subject to a lien under otherwise applicable maritime law, shall be treated as an unsecured claim.

"(B) Subparagraph (A) applies to a claim for a lien resulting from a debt of a family fisherman incurred on or after the date of enactment of this chapter.

"(b) A lien described in this subsection is—

"(1) a maritime lien under subchapter III of chapter 313 of title 46 without regard to whether that lien is recorded under section 31343 of title 46; or

"(2) a lien under applicable State law (or the law of a political subdivision thereof).

"(c) Subsection (a) shall not apply to—

"(1) a claim made by a member of a crew or a seaman including a claim made for—

"(A) wages, maintenance, or cure; or

"(B) personal injury; or

"(2) a preferred ship mortgage that has been perfected under subchapter II of chapter 313 of title 46.

"(d) For purposes of this chapter, a mortgage described in subsection (c)(2) shall be treated as a secured claim.".

(d) CLERICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

"12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income .... 1201".

(2) TABLE OF SECTIONS.—The table of sections for chapter 12 of title 11, United States Code, is amended by adding at the end the following new item:

"1232. Additional provisions relating to family fishermen.".

(e) Applicability.—

Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (27A), as added by this Act, as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

"(27A) 'health care business'—

"(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

"(i) the diagnosis or treatment of injury, deformity, or disease; and

"(ii) surgical, drug treatment, psychiatric, or obstetric care; and

"(B) includes—

"(i) any—

"(I) general or specialized hospital;

"(II) ancillary ambulatory, emergency, or surgical treatment facility;

"(III) hospice;

"(IV) home health agency; and

"(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

"(ii) any long-term care facility, including any—

"(I) skilled nursing facility;

"(II) intermediate care facility;

"(III) assisted living facility;

"(IV) home for the aged;

"(V) domiciliary care facility; and

"(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;".

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

"(40A) 'patient' means any person who obtains or receives services from a health care business;

"(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;".

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"§ 351. Disposal of patient records

"If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

"(1) The trustee shall—

"(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

"(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the last known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

"(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

"(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

"(A) if the records are written, shredding or burning the records; or

"(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 350 the following:

"351. Disposal of patient records.".

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as that term is defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

"(A) in disposing of patient records in accordance with section 351; or

"(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business;

"(9) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or related to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6); and".

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) IN GENERAL.—

(1) APPOINTMENT OF OMBUDSMAN.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:

"§ 332. Appointment of ombudsman

"(a) IN GENERAL.—

"(1) AUTHORITY TO APPOINT.—Not later than 30 days after a case is commenced by a health care business under chapter 7, 9, or 11, the court shall order the appointment of an ombudsman to monitor the quality of patient care to represent the interests of the patients of the health care business, unless the court finds that the appointment of the ombudsman is not necessary for the protection of patients under the specific facts of the case.

"(2) QUALIFICATIONS.—If the court orders the appointment of an ombudsman, the United States trustee shall appoint 1 disinterested person, other than the United States trustee, to serve as an ombudsman. If the health care business is a long-term care facility, the trustee may appoint a person who is serving as a State Long-Term Care Ombudsman appointed under title III or VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.).

In the event that the trustee does not appoint the State Long-Term Care Ombudsman to monitor the quality of patient care in a long-term care facility, the court shall notify the individual who serves as the State Long-Term Care Ombudsman of the name and address of the individual who is appointed.

"(b) DUTIES.—An ombudsman appointed under subsection (a) shall—

"(1) monitor the quality of patient care, to the extent necessary under the circumstances, including interviewing patients and physicians;

"(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business involved; and

"(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court by motion or written report, with notice to appropriate parties in interest, immediately upon making that determination

"(c) CONFIDENTIALITY.—An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. The ombudsman may not review confidential patient records, unless the court provides prior approval, with restrictions on the ombudsman to protect the confidentiality of patient records. If the individual appointed as ombudsman is a person who is also serving as a State Long-Term Care Ombudsman appointed under title III or title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.), that person shall have access to patient records, consistent with authority spelled out in the Older Americans Act and State laws governing the State Long-Term Care Ombudsman program.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:

"332. Appointment of ombudsman.".

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceeding subparagraph (A), by inserting "an ombudsman appointed under section 331, or" before "a professional person"; and

(2) in subparagraph (A), by inserting "ombudsman," before "professional person".

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(11) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

"(A) is in the vicinity of the health care business that is closing;

"(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

"(C) maintains a reasonable quality of care.".

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended by striking "sections 704(2), 704(5), 704(7), 704(8), and 704(9)" and inserting "paragraphs (2), (5), (7), (8), (9), and (11) of section 704(a)".

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as added by this Act, the following:

"(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)) pursuant to title XI of such Act (42 U.S.C. 1301 et seq.) or title XVIII of such Act (42 U.S.C. 1395 et seq.).".

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is amended—

(1) by striking "In this title—" and inserting "In this title, the following definitions shall apply:";

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A) and (38), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph;

(6) by striking paragraph (54) and inserting the following:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property."; and

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, as amended by section 308 of this Act, is amended by inserting "522(f)(3)," after "522(d)," each place it appears.

SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking "subsection (c) or (d) of"; and

(2) in section 552(b)(1), by striking "product" each place it appears and inserting "products".

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so designated by this Act, is amended by striking "attorney's" and inserting "attorneys'".

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

SEC. 1207. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by this Act, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14);

(2) in subsection (a)(9), by striking "motor vehicle" and inserting "motor vehicle, vessel, or aircraft"; and

(3) in subsection (e), by striking "a insured" and inserting "an insured".

SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1), or that".

SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

SEC. 1213. PREFERENCES.

(a) In General.—Section 547 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (i)"; and

(2) by adding at the end the following:

"(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.".

(b) Applicability.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of" each place it appears;

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by this Act, is amended by inserting "1123(d)," after "1123(b),".

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before "'bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before "'document"; and

(B) by striking "this title" and inserting "title 11".

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) Sale of Property of Estate.—Section 363(d) of title 11, United States Code, is amended by striking "only" and all that follows through the end of the subsection and inserting "only—

"(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

"(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.".

(b) Confirmation of Plan for Reorganization.—Section 1129(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.".

(c) Transfer of Property.—Section 541 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(g) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.".

(d) Applicability.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) Rule of Construction.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "20" and inserting "30".

SEC. 1223. BANKRUPTCY JUDGESHIPS.

(a) Short Title.—This section may be cited as the "Bankruptcy Judgeship Act of 2001".

(b) Temporary Judgeships.—

(1) Appointments.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the district of Delaware.

(D) Two additional bankruptcy judgeships for the southern district of Florida.

(E) One additional bankruptcy judgeship for the southern district of Georgia.

(F) Three additional bankruptcy judgeships for the district of Maryland.

(G) One additional bankruptcy judgeship for the eastern district of Michigan.

(H) One additional bankruptcy judgeship for the southern district of Mississippi.

(I) One additional bankruptcy judgeship for the district of New Jersey.

(J) One additional bankruptcy judgeship for the eastern district of New York.

(K) One additional bankruptcy judgeship for the northern district of New York.

(L) One additional bankruptcy judgeship for the southern district of New York.

(M) One additional bankruptcy judgeship for the eastern district of North Carolina.

(N) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(O) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(P) One additional bankruptcy judgeship for the district of Puerto Rico.

(Q) One additional bankruptcy judgeship for the western district of Tennessee.

(R) One additional bankruptcy judgeship for the eastern district of Virginia.

(S) One additional bankruptcy judgeship for the district of South Carolina.

(T) One additional bankruptcy judgeship for the district of Nevada, and one for the district of Delaware.

(2) Vacancies.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) shall not be filled if the vacancy—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1).

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 11 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 13 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 11 years or more after August 29, 1994, with respect to the district of Puerto Rico; and

(D) 11 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to temporary judgeship positions referred to in this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: "Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the United States court of appeals for the circuit in which such district is located."; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking "2" and inserting "3"; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . 1".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

"(A) by prorating such amount over the remaining duration of the plan; and

"(B) by monthly payments not to exceed the greater of—

"(i) $25; or

"(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan."; and

(2) by adding at the end the following:

"(d) Notwithstanding any other provision of this title—

"(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior proceeding under this title; and

"(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).".

SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

"(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition;".

SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test and reaffirmations under section 707(b) of title 11, United States Code, as amended by this Act.

SEC. 1227. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

"(c)(1) Except as provided in subsection (d) of this section and subsection (c) of section 507, and subject to the prior rights of holders of security interests in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, not later than 45 days prior to the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

"(A) not later than 45 days after the date of receipt of such goods by the debtor; or

"(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

"(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(7).".

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(10) the value of any goods received by the debtor not later than 20 days prior to the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.".

SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual seeking bankruptcy under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a bankruptcy case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (8), as added by this Act, the following:

"(9) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

"(A) the tangible personal property is in the possession of the pledgee or transferee;

"(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

"(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b) of this title; or".

SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the

United States district court for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the United States district court for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.".

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.".

SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

"The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.".

SEC. 1233. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking "Subject to subsection (b)," and inserting "Subject to subsections (b) and (d)(2),"; and

(2) in subsection (d)—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end the following:

"(2)(A) A court of appeals that would have jurisdiction of a subsequent appeal under paragraph (1) or other law may authorize an immediate appeal of an order or decree, not otherwise appealable, that is entered in a case or proceeding pending under section 157 or is entered by the district court or bankruptcy appellate panel exercising jurisdiction under subsection (a) or (b), if the bankruptcy court, district court, bankruptcy appellate panel, or the parties acting jointly certify that—

"(i) the order or decree involves—

"(I) a substantial question of law;

"(II) a question of law requiring resolution of conflicting decisions; or

"(III) a matter of public importance; and

"(ii) an immediate appeal from the order or decree may materially advance the progress of the case or proceeding.

"(B) An appeal under this paragraph does not stay proceedings in the court from which the order or decree originated, unless the originating court or the court of appeals orders such a stay.".

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, as added by subsection (a) of this section, until a rule of practice and procedure relating to such provision and appeal is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, bankruptcy court, or bankruptcy appellate panel may enter a certification as described in section 158(d)(2) of title 28, United States Code, during proceedings pending before that court or panel.

(3) PROCEDURE.—Subject to the other provisions of this subsection, an appeal by permission under section 158(d)(2) of title 28, United States Code, shall be taken in the manner prescribed in rule 5 of the Federal Rules of Appellate Procedure.

(4) FILING PETITION.—When permission to appeal is requested on the basis of a certification of the parties, a district court, bankruptcy court, or bankruptcy appellate panel, the petition shall be filed within 10 days after the certification is entered or filed.

(5) ATTACHMENT.—When permission to appeal is requested on the basis of a certification of a district court, bankruptcy court, or bankruptcy appellate panel, a copy of the certification shall be attached to the petition.

(6) PANEL AND CLERK.—In a case pending before a bankruptcy appellate panel in which permission to appeal is requested, the terms "district court" and "district clerk", as used in rule 5 of the Federal Rules of Appellate Procedure, mean "bankruptcy appellate panel" and "clerk of the bankruptcy appellate panel", respectively.

(7) APPLICATION OF RULES.—In a case pending before a district court, bankruptcy court, or bankruptcy appellate panel in which a court of appeals grants permission to appeal, the Federal Rules of Appellate Procedure apply to the proceedings in the court of appeals, to the extent relevant, as if the appeal were taken from a final judgment, order, or decree of a district court, bankruptcy court, or bankruptcy appellate panel exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1234. EXEMPTIONS.

Section 522(g)(2) of title 11, United States Code, is amended by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

SEC. 1235. INVOLUNTARY CASES.

Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting "as to liability or amount" after "bona fide dispute"; and

(B) striking "if such claims" and inserting "if such undisputed claims"; and

(2) in subsection (h)(1), by inserting before the semicolon the following: "as to liability or amount".

SEC. 1236. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14A) (as added by this Act) the following:

"(14B) incurred to pay fines or penalties imposed under Federal election law;".

SEC. 1237. NO BANKRUPTCY FOR INSOLVENT POLITICAL COMMITTEES.

Section 105 of title 11, United States Code, is amended by adding at the end the following:

"(e) A political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws may not file for bankruptcy under this title.".

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: __________.' (the blank space to be filled in by the creditor).

"(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: __________.' (the blank space to be filled in by the creditor).

"(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: __________.' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

"(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

"(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

"(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

"(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Reform Act of 2001, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

"(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

"(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

"(H) The Board shall—

"(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

"(ii) establish the table required under clause (i) by assuming—

"(I) a significant number of different annual percentage rates;

"(II) a significant number of different account balances;

"(III) a significant number of different minimum payment amounts; and

"(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

"(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

"(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

"(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

"(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: ______.' (the blank space to be filled in by the creditor).".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the "Board") shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking "CONSULTATION OF TAX ADVISER.—A statement that the" and inserting the following: "TAX DEDUCTIBILITY.—A statement that—

"(A) the"; and

(B) by striking the period at the end and inserting the following: "; and

"(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.".

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking "If any" and inserting the following:

"(1) IN GENERAL.—If any"; and

(B) by adding at the end the following:

"(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

"(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.”; and

(B) in subsection (b), by adding at the end the following:

“(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.”.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

“(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

“(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.”.

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO “INTRODUCTORY RATES”.

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

“(6) ADDITIONAL NOTICE CONCERNING ‘INTRODUCTORY RATES’.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

“(i) use the term ‘introductory’ in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

“(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

“(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

“(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

“(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

“(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

“(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

“(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

“(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

“(D) DEFINITIONS.—In this paragraph—

“(i) the terms ‘temporary annual percentage rate of interest’ and ‘temporary annual percentage rate’ mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

“(ii) the term ‘introductory period’ means the maximum time period for which the temporary annual percentage rate may be applicable.

“(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.”.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

“(7) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—

“(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

“(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

“(ii) the information described in paragraph (6).

“(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

“(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

“(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

“(C) DEFINITIONS.—For purposes of this paragraph—

“(i) the term ‘Internet’ means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

“(ii) the term ‘interactive computer service’ means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.”.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

“(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

“(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

“(B) The amount of the late payment fee to be imposed if payment is made after such date.”.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

“(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.

(b) Regulatory Implementation.—

(1) In general.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) Effective date.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) Report.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) Considerations.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) Study.—

(1) In general.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.

(2) Extension of credit.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) Regulations.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term ''clear and conspicuous'', as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) Examples.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) Standards.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—EMERGENCY ENERGY ASSISTANCE AND CONSERVATION MEASURES

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Energy Emergency Response Act of 2001''.

SEC. 1402. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) high energy costs are causing hardship for families;

(2) restructured energy markets have increased the need for a higher and more consistent level of funding for low-income energy assistance programs;

(3) conservation programs implemented by the States and the low-income weatherization program reduce costs and need for additional energy supplies;

(4) energy conservation is a cornerstone of national energy security policy;

(5) the Federal Government is the largest consumer of energy in the economy of the United States; and

(6) many opportunities exist for significant energy cost savings within the Federal Government.

(b) Purposes.—The purposes of this title are to provide assistance to those individuals most affected by high energy prices and to promote and accelerate energy conservation investments in private and Federal facilities.

SEC. 1403. INCREASED FUNDING FOR LIHEAP, WEATHERIZATION AND STATE ENERGY GRANTS.

(a) LIHEAP.—(1) Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: ''There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A), $3,400,000,000 for each of fiscal years 2001 through 2005.''.

(2) Section 2605(b)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)) is amended by adding at the end the following: ''and except that during fiscal year 2001, a State may make payments under this title to households with incomes up to and including 200 percent of the poverty level for such State''.

(b) Weatherization Assistance.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking ''For fiscal years 1999 through 2003 such sums as may be necessary'' and inserting: ''$310,000,000 for fiscal years 2001 and 2002, $325,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005.''.

(c) State Energy Conservation Grants.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting: ''$75,000,000 for each of fiscal years 2001 through 2005''.

SEC. 1404. FEDERAL ENERGY MANAGEMENT REVIEWS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

''(e) Priority Response Reviews.—Each agency shall—

''(1) not later than October 1, 2001, undertake a comprehensive review of all practicable measures for—

''(A) increasing energy and water conservation; and

''(B) using renewable energy sources; and

''(2) not later than 180 days after completing the review, implement measures to achieve not less than 50 percent of the potential efficiency and renewable savings identified in the review.''.

SEC. 1405. COST SAVINGS FROM REPLACEMENT FACILITIES.

Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following:

''(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

''(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in subparagraph (A).''.

SEC. 1406. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT SUNSET.

Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

SEC. 1407. ENERGY SAVINGS PERFORMANCE CONTRACT DEFINITIONS.

(a) Energy Savings.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means a reduction in the cost of energy, water, or wastewater treatment from a base cost established through a methodology set forth in the contract, used by either—

''(A) an existing federally owned building or buildings or other federally owned facilities as a result of—

''(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(ii) more efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

''(iii) more efficient use of water at an existing federally owned building or buildings, in either interior or exterior applications; or

''(B) a replacement facility under section 801(a)(3).''.

(b) Energy Savings Contract.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for—

"(A) the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy, water conservation, or wastewater treatment measure or series of measures at one or more locations; or

"(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.".

(c) Energy or Water Conservation Measure.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read a follows:

"(4) The term 'energy or water conservation measure' means—

"(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

"(B) a water conservation measure that improves the efficiency of water use, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not affecting the power generating operations at a federally owned hydroelectric dam.".

SEC. 1408. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect upon the date of enactment of this title.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) Effective Date.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) Application of Amendments.—Except as otherwise provided in this Act, the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

TITLE XVI—MISCELLANEOUS PROVISIONS

SEC. 1601. REIMBURSEMENT OF RESEARCH, DEVELOPMENT, AND MAINTENANCE COSTS.

(a) In General.—Not later August 1, 2001, the Federal Crop Insurance Corporation shall promulgate final regulations to carry out section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 522(b)), without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(b) Congressional Review of Agency Rulemaking.—In carrying out this section, the Corporation shall use the authority provided under section 808 of title 5, United States Code.

(c) Effective Date.—The final regulations promulgated under subsection (a) shall take effect on the date of publication of the final regulations.

SA 975. Mrs. BOXER (for Mr. Byrd) proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM.

(a) In General.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106–51; 15 U.S.C. 1841 note) is amended as follows:

(1) Requirements for loan guarantees.—

(A) In general.—Subsection (g) is amended in the matter preceding paragraph (1), by striking "a private bank or investment company" and inserting "an institution".

(B) Conforming amendment.—Subsection (f)(1) is amended by striking "private banking and investment".

(2) Terms and conditions.—Subsection (h) is amended—

(A) in paragraph (1), by striking "2005" and inserting "2015"; and

(B) by amending paragraph (4) to read as follows:

"(4) Guarantee level.—

"(A) In general.—Except as provided in subparagraph (B), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

"(B) Increased level.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

"(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $500,000,000; and

"(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $100,000,000.".

(3) Reports to congress.—Subsection (i) is amended by striking "of fiscal years 1999 and 2000, and annually thereafter," and inserting "fiscal year".

(4) Termination of guarantee authority.—Subsection (k) is amended by striking "2001" and inserting "2003".

(5) Monitoring, reporting, and foreclosure procedures.—Subsection (l) is amended by adding at the end the following: "All monitoring, reporting, and foreclosure procedures (and other matters addressed in the guarantee agreement) established with respect to loan guarantees provided under this section shall be consistent with customary practices in the commercial banking industry. Minor or inadvertent reporting violations shall not cause termination of any guarantee provided under this section.".

(6) Definition of steel companies.—Subsection (c)(3)(B) is amended to read as follows:

"(B) is engaged in—

"(i) the production or manufacture of a product identified by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod;

"(ii) the production or manufacture of coke used in the production of steel; or

"(iii) the mining of iron ore; and".

(b) Conforming Amendment.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 is further amended by striking subsection (m).

(c) Applicability.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

SA 976. Mr. BYRD (for himself and Mr. Burns) submitted 'an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows;

On page 195, line 3, strike "Act" and insert "Act, of which $1,000,000 shall be available for the Tumbledown/Mount Blue conservation project, Maine, and of which $4,000,000 shall be for the purchase of a conservation easement on the Connecticut Lakes Tract, located in northern New Hampshire and owned by International Paper Co., and of which $500,000 shall be for the purchase of a conservation easement on the Range Creek Headwaters tract in Utah."

At the end of Title I, add the following:

"Sec. . (a) The National Park Service shall make further evaluations of national significance, suitability and feasibility for the Glenwood locality and each of the twelve Special Landscape Areas (including combinations of such areas) as identified by the National Park Service in the course of undertaking the Special Resource Study of the Loess Hills Landform Region of Western Iowa.

"(b) The National Park Service shall provide the results of these evaluations no later than January 15, 2002, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives."

At the end of Title I, insert the following new General Provision:

Sec. . From within available funds the National Park Service shall conduct an Environmental Impact Statement on vessel entries into such park taking into account possible impacts on whale populations; Provided, That none of the funds available under this Act shall be used to reduce or increase the number of permits and vessel entries into the Park below or above the levels established by the National Park Service effective for the 2001 season until the Environmental Impact Statement required by law is completed notwithstanding any other provision of law; Provided further, That nothing in this section shall preclude the Secretary from adjusting the number of permits or vessel entries if the Secretary determines that it is necessary to protect park resources.

On page 183, line 11, after "offshore", insert "preleasing,".

On page 202, line 5, after 205 insert "of which, $244,000 is to be provided for the design of historic office renovations of the Bearlodge Ranger District Work Center (Old Stoney) in Sundance, Wyoming, and".

On page 145, line 9, before the period at the end, insert the following: ", of which $500,000 shall be available to acquire land for the Don Edwards National Wildlife Refuge, California".

On page 149, strike all text appearing between the ":" on line 4 and the ":" on line 12, and insert the following in lieu thereof: "(A) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and, (B) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States: *Provided further*, That the amounts apportioned under this paragraph shall be adjusted equitably so that no State shall be apportioned a sum which is less than 1 percent of the amount available for apportion under this paragraph for any fiscal year or more than 5 percent of such amount".

On page 132, line 8, immediately following the word "expended," insert "of which $700,000 is for riparian management projects in the Rio Puerco watershed, New Mexico, and".

Under United States Fish and Wildlife Service—Resource Management, on page 143, starting in line 5, strike "$845,714,000, to remain available until September 30, 2003, except as otherwise provided herein," and insert in lieu thereof, "$845,814,000 to remain available until September 30, 2003, except as otherwise provided herein, of which $100,000 is for the University of Idaho for developing research mechanisms in support of salmon and trout recovery in the Columbia and Snake River basins and their tributaries, and".

On page 134, line 2, immediately following the ":" strike the word "*Provided*," and insert the following: "*Provided*, That not less than $111,255,000 of the funds available for hazardous fuels reduction under this heading shall be for alleviating immediate emergency threats to urban wildland interface areas as defined by the Secretary of the Interior: *Provided further*,"

On page 197, line 19 immediately following the ":" insert the following: "*Provided further*, That the Forest Service shall expend not less than $125,000,000 of funds provided under this heading for hazardous fules reduction activities for alleviating immediate emergency threats to urban wildland interface areas as defined by the Secretary of Agriculture:"

On page 198, line 23, immediately following the ":" insert the following: "*Provided further*, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriation, up to $15,000,000 may be used on adjacent non-federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: *Provided further*, That the Forest Service shall analyze the impact of restrictions on mechanical fuel treatments and forest access in the upcoming Chugach National Forest Land and Resource Management Plan, on the level of prescribed burning on the Chugach National Forest, and on the implementation of the National Fire Plan: *Provided further*, That this analysis shall be completed before the release of the Chugach Forest Plan and shall be included in the plan: *Provided further*, That included in funding for hazardous fuel reduction is $5,000,000 for implementing the Community Forest Restoration Act, P.L. 106–393, Title VI, and any portion of such funds shall be available for use on non-federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry Appropriation: *Provided further*, That of the amounts provided under this heading $2,838,000 is for the Ecological Restoration Institute, of which $338,000 is for ongoing activities on Mt. Trumbull:"

On page 225, line 15, insert before the period the following: ":*Provided further*, That $2,333,000 shall be made available for the Sisseton Wahpeton Sioux Tribe Indian Health Services clinic in Sisseton, South Dakota, and $9,167,000 shall be made available for the small ambulatory facilities program".

On page 143, line 7, after "herein." insert "of which $140,000 shall be made available for the preparation of, and not later than July 31, 2002, submission to Congress of a report on, a feasibility study and situational appraisal of the Hackensack Meadowlands, New Jersey, to identify management objectives and address strategies for preservation efforts, and".

On page 153, line 22, delete "$65,886,000." and insert "66,287,000, of which $300,000 in heritage partnership funds are for the Erie Canal Way National Heritage Corridor.".

On page 153, line 22, insert the following before the period: ", and of which $101,000 in statutory or contractual aid is for the Brown Foundation for Educational Equity".

On page 153, line 22, insert the following before the period: ", of which $250,000 is for a cultural program grant to the Underground Railroad Coalition of Delaware".

At the end of Title I, add the following:

"Sec. . No funds contained in this Act shall be used to approve the transfer of lands on South Fox Island, Michigan until Congress has authorized such transfer.

At the end of title I, add the following:

Sec. ____. (a) Findings.—Congress makes the following findings:

(1) The land described in subsection (b) is—

(A) the site of cultural, ceremonial, spiritual, archaeological, and traditional gathering sites of significance to the Pechanga Band of Luiseno Mission Indians;

(B) the site of what is considered to be the oldest living coastal live oak; and

(C) the site of the historic Erle Stanley Gardner Ranch.

(2) Based on the finding described in paragraph (1), local and county officials have expressed their support for the efforts of the Pechanga Band of Luiseno Mission Indians to have the land described in subsection (b) held in trust by the United States for purposes of preservation.

(b) Declaration of Land Held in Trust.—Notwithstanding any other provision of law, the land held in fee by the Pechanga Band of Luiseno Mission Indians, as described in Document No. 211130 of the Riverside County, California Office of the Recorder and recorded on May 15, 2001, located within the boundaries of the county of Riverside within the State of California, is hereby declared to be held by the United States in trust for the benefit of the Pechanga Band of Luiseno Mission Indians and shall be part of the Pechanga Indian Reservation.

On page 145, line 9, before the period, insert the following:", of which not more than $500,000 shall be used for acquisition of 1,750 acres for the Red River National Wildlife Refuge, and of which $3,000,000 shall be for the acquisition of lands in the Cahaba River National Wildlife Refuge, and of which $1,500,000 shall be for emergencies and hardships, and of which $1,500,000 shall be for inholdings.

On page 194, between lines 9 and 10, insert the following:

SEC. 1___. SENSE OF CONGRESS CONCERNING COASTAL IMPACT ASSISTANCE.

(a) Findings.—Congress finds that—

(1) the United States continues to be reliant on fossil fuels (including crude oil and natural gas) as a source of most of the energy consumed in the country;

(2) this reliance is likely to continue for the foreseeable future;

(3) about 65 percent of the energy needs of the United States are supplied by oil and natural gas;

(4) the United States is becoming increasingly reliant on clean-burning natural gas for electricity generation, home heating and air conditioning, agricultural needs, and essential chemical processes;

(5) a large portion of the remaining crude oil and natural gas resources of the country are on Federal land located in the western United States, in Alaska, and off the coastline of the United States;

(6) the Gulf of Mexico has proven to be a significant source of oil and natural gas and is predicted to remain a significant source in the immediate future;

(7) many States and counties oppose the development of Federal crude oil and natural gas resources within or near the coastline, which opposition results in congressional, Executive, State, or local policies to prevent the development of those resources;

(8) actions that prevent the development of certain Federal crude oil and natural gas resources do not lessen the energy needs of the United States or of those States and counties that object to exploration and development for fossil fuels;

(9) actions to prevent the development of certain Federal crude oil and natural gas resources focus development pressure on the remaining areas of Federal crude oil and natural gas resources, such as onshore and offshore Alaska, certain onshore areas in the western United States, and the central Gulf of Mexico off the coasts of Alabama, Alaska, Louisiana, Mississippi, and Texas;

(10) the development of Federal crude oil and natural gas resources is accompanied by adverse effects on the infrastructure services, public services, and the environment of States, counties, and local communities that host the development of those Federal resources;

(11) States, counties, and local communities do not have the power to tax adequately the development of Federal crude oil and natural gas resources, particularly when those development activities occur off the coastline of States that serve as platforms for that development, such as Alabama, Alaska, Louisiana, Mississippi, and Texas;

(12) the Mineral Leasing Act (30 U.S.C. 181 et seq.), which governs the development of Federal crude oil and natural gas resources located onshore, provides, outside the budget and appropriations processes of the Federal Government, payments to States in which Federal crude oil and natural gas resources are located in the amount of 50 percent of the direct revenues received from the Federal Government for those resources; and

(13) there is no permanent provision in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), which governs the development of Federal crude oil and natural gas resources located offshore, that authorizes the sharing of a portion of the annual revenues generated from Federal offshore crude oil and natural gas resources with adjacent coastal States that—

(A) serve as the platform for that development; and

(B) suffer adverse effects on the environment and infrastructure of the States.

(b) Sense of Congress.—It is the sense of Congress that Congress should provide a significant portion of the Federal offshore mineral revenues to coastal States that permit the development of Federal mineral resources off the coastline, including the States of Alabama, Alaska, Louisiana, Mississippi, and Texas.

On page 144, line 15, strike "analyses" and insert "analyses: *Provided further*, That $1,100,000 shall be made available to the National Fish and Wildlife Foundation to carry out a competitively awarded grant program for State, local, or other organizations in Maine to fund on-the-ground projects to further Atlantic salmon conservation and restoration efforts, at least $550,000 of which shall be awarded to projects that will also assist industries in Maine affected by the listing of Atlantic salmon under the Endangered Species Act."

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LIEBERMAN. Mr. President, I announce that the Committee on Governmental Affairs will meet on Tuesday, July 17, 2001, at 2:30 p.m. for a hearing to examine "Expanding Flexible Personnel Systems Governmentwide."

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, the Subcommittee on National Parks of the Committee on Energy and Natural Resources has previously announced a hearing on Tuesday, July 17, 2001, on several national park and memorial measures pending before the subcommittee.

I would like to announce for the information of the Senate and the public that in addition to considering the measures previously announced, the subcommittee will receive testimony on H.R. 1668, to authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy.

The hearing will begin at 2:30 p.m., in room 366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224–9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, July 12, 2001. The purpose of this hearing will be to consider nominations for positions with the United States Department of Agriculture, and to discuss the next Federal farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 12, 2001 at 9:30 a.m., in open session to receive testimony on Ballistic Missile Defense Programs and Policies in Review of the Defense Authorization request for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 12, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 12 for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:15 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 12 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 12, 2001 at 4:00 p.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on July 12, 2001, at 10:00 a.m. in room 485 Russell Senate Building to conduct a Hearing to receive testimony on the goals and priorities of the member tribes of the Montana Wyoming Tribal Leaders Council for the 107th session of the Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 12, 2001 at 10:00 a.m. in SD226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 12, 2001, at 2:00 P.M., in open session to receive testimony on Cooperative Threat Reduction, Chemical Weapons demilitarization, defense threat reduction agency, Nonproliferation Research and Engineering, and Related Programs, in review of the defense authorization request for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. WELLSTONE. I ask unanimous consent that an intern, Archie Ingersoll, be allowed to be on the floor during the deliberations today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent a fellow in Senator BINGAMAN'S office, Geri Rivers, be given floor privileges during consideration of H.R. 2217, the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO FILE FIRST-DEGREE AMENDMENTS TO THE BANKRUPTCY REFORM BILL

Mr. REID. Mr. President, I ask unanimous consent that Senators have until 3 p.m. Monday, July 16, to file first-degree amendments to the substitute amendment to the Bankruptcy Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 2311

Mr. REID. Mr. President, I ask unanimous consent that H.R. 2311 be discharged from the Appropriations Committee and the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 2311

Mr. REID. Mr. President, I ask unanimous consent that on Monday, July 16, at 2 p.m., the Senate proceed to the consideration of H.R. 2311, the energy and water appropriations bill; that on Monday, there be debate only on the bill, except that it be in order for the chairman and ranking member to offer the text of the committee-reported bill, S. 1171, as an amendment; that no other amendments be in order during Monday's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JULY 16, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m., Monday, July 16. I further ask unanimous consent that on Monday, immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate begin consideration of the energy and water appropriations bill for debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, the Senate will not be in session tomorrow. On Monday, the Senate will convene at 2 p.m. and begin consideration of the energy and water appropriations act for debate only during Monday's session. There will be no rollcall votes on Monday.

We have a lot of activity expected on the energy and water appropriations bill. We hope that Members will be thinking about whatever amendments they want to offer because it is the intent of the leaders and the two managers of the bill, Senator DOMENICI and myself, that we will ask sometime Monday for a finite list of amendments to be filed, so people should be thinking about amendments.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, I ask unanimous consent that the senior Senator from West Virginia be recognized to speak as in morning business, and that following his statement the Senate stand in adjournment under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

EMERGENCY STEEL LOAN GUARANTEE PROGRAM

Mr. BYRD. Mr. President, roughly 2 years ago, we passed legislation to create the Emergency Steel Loan Guarantee Program, Public Law 106–51. The President signed the legislation on August 17, 1999. At that time, we were alarmed by a growing crisis in the steel industry. Therefore, Congress found that the U.S. steel industry had been severely harmed by a record surge of more than 40 million tons of steel imports in 1998. In addition, we found that the surge had resulted in the loss of more than 10,000 steelworker jobs in 1998 and was the proximate cause of bankruptcy for three steel companies; that the imports had damaged the financial viability of the American steel industry and had affected the willingness of private lenders to make loans to the industry; that all of these developments were having serious negative effects on communities across the country; and that: a strong steel industry is necessary to the adequate defense preparedness of the United States in order to have sufficient steel available to build the ships, tanks, planes, and armaments necessary for the national defense.

In response to this growing crisis, I offered an amendment during an appropriations conference to create a loan guarantee fund for domestic steel companies that have experienced layoffs, production losses, or financial losses since the beginning of the steel import crisis. The program was intended to provide guarantees of up to 85 percent of the principal amount of loans to qualified domestic steel companies for whom credit is not otherwise available at reasonable rates, provided there is reasonable assurance of repayment. The legislation provided budget authority of $140 million to support $1 billion in guaranteed loans.

Since we took that action, the import crisis has deepened. During the last 6 months, the number of steelworkers who have lost their jobs as a result of the crisis has reached 23,500. The number of companies filing for bankruptcy has reached 18. Current import levels remain well above pre-crisis levels. Moreover, prices for finished steel products have fallen below the levels that prevailed during the depths of the 1998 crisis.

The U.S. industry has been driven into this state of crisis by foreign producers who are generally less efficient and less productive, and who in many cases could not compete in the U.S. market or even survive without Government support. Since 1980, steel producers outside of North America have received well over $100 billion in direct Government subsidies. This does not include the costs incurred by communist governments in the former Soviet Union, Eastern Europe, and China in establishing steel industries that would not have existed without government involvement. Enormous market distortions abroad have led to the creation and retention for over a quarter of a century of massive foreign overcapacity—an estimated 275 million tons of excess crude steel capacity, or more than twice the annual steel consumption of the United States. The U.S. steel industry, on the other hand, restructured itself in the 1980s and early 1990s, emerging by the mid-1990s as the most productive in the world in terms of man-hours expended per ton of steel produced.

Unfortunately, the emergency steel loan guarantee program has not been able to fulfill its mission. By February 28, 2000, the governing board of the program had received 13 loan guarantee applications. Of that number, three were rejected for failure to comply with statutory or regulatory requirements and three others were rejected because the board did not find that there was a reasonable assurance of repayment. The board approved the other seven applications, totaling $550,525,500 and issued offers of guarantee to the applicant lenders during Fiscal Year 2000. Nevertheless, no guaranteed loans were closed and funded during Fiscal Year 2000, and only one guaranteed steel loan—$110 million to Geneva Steel Company of Vineyard, UT—has closed this year.

So, it is time to consider whether we can make changes to the program that will increase its effectiveness without imposing significant additional costs on the Federal Government. I have offered an amendment that has three key features:

No. 1, for $100 million worth of guarantee authority, the amendment increases the federal guarantee from 85 percent of principal to as much as 95 percent of principal, provided that no steel company gets more than $50 million of these more favorable guarantees. Similarly, for another $100 million worth of guarantee authority, the amendment increases the federal guarantee from 85 percent to as much as 90 percent, with a $50 million limit for any single company.

No. 2, loans approved after the effective date of the amendment could be structured so that repayment is not completed until 2015—extended from 2005 under current law.

No. 3, the Emergency Steel Loan Guarantee Board would have guarantee authority until December 31, 2003—extended from December 31, 2001, under current law.

The current balance of budget authority is $127.2 million for $890 million of unused guarantee authority. The Office of Management and Budget has estimated that the existing $127.2 million budget authority balance will be adequate to support the more generous terms and conditions contained in my amendment. The amendment, therefore, does not need to provide any additional budget authority.

If we do not take every action we can to support this vital industry, I am afraid the wave of bankruptcies will continue. By the end of the year, we may not have much of a steel industry to speak of. What will we then say to those who question our defense preparedness? What will we say to the steelworkers of America, to their families, and to the communities and consuming industries that depend upon a vital American steel industry? What will we say to the industries that are next on the hit lists of foreign predators? Let us stand up for steel in its time of need, as the industry has stood up for us in times of war and times of peace. Let us not allow imports to eviscerate this efficient and productive industry, an industry that has provided quality jobs to generations of hard-working Americans.

I would like to thank several Senators who helped in crafting this amendment. Senators GRAMM of Texas and NICKLES of Oklahoma, as well as Senators VOINOVICH of Ohio and SPECTER of Pennsylvania, all of whom demonstrated their creativity and flexibility—as well as good humor—in coming to agreement. I also wish to thank our distinguished majority whip for his very considerable help and encouragement to all of us.

I urge my colleagues to support this amendment to the Emergency Steel Loan Guarantee Program.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the nominations reported earlier today by the Banking Committee as follows: Angela Antonelli to be Chief Financial Officer for the Department of Housing and Urban Development; Donald E. Powell to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; Donald E. Powell to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation; Ronald Rosenfeld to be President of the Government National Mortgage Association; And Jennifer L. Dorn to be Federal Transit Administrator; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Angela Antonelli, of Virginia, to be Chief Financial Officer, Department of Housing and Urban Development.

FEDERAL DEPOSIT INSURANCE CORPORATION

Donald E. Powell, of Texas, to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation for a term of five years.

Donald E. Powell, of Texas, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Ronald Rosenfeld, of Maryland, to be President, Government National Mortgage Association.

DEPARTMENT OF TRANSPORTATION

Jennifer L. Dorn, of Nebraska, to be Federal Transit Administrator.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

ADJOURNMENT UNTIL 2 P.M. MONDAY, JULY 16, 2001

The PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until the hour of 2 o'clock p.m. on Monday next, July 16, this year of our Lord, 2001.

Thereupon, the Senate, at 8:30 p.m., adjourned until Monday, July 16, 2001, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate July 12, 2001:

DEPARTMENT OF AGRICULTURE

ERIC M. BOST, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE SHIRLEY ROBINSON WATKINS, RESIGNED.

THOMAS C. DORR, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE JILL L. LONG, RESIGNED.

WILLIAM T. HAWKS, OF MISSISSIPPI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE MICHAEL V. DUNN, RESIGNED.

JOSEPH J. JEN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE KEITH C. KELLY, RESIGNED.

JAMES R. MOSELEY, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE RICHARD E. ROMINGER, RESIGNED.

J.B. PENN, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE AUGUST SCHUMACHER, JR., RESIGNED.

MARK EDWARD REY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE KARL N. STAUBER.

DEPARTMENT OF DEFENSE

JOHN P. STENBIT, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE ARTHUR L. MONEY.

MICHAEL L. DOMINGUEZ, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE RUBY BUTLER DEMESME.

NELSON F. GIBBS, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE KEITH R. HALL.

MARIO P. FIORI, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE MAHLON APGAR, IV.

RONALD M. SEGA, OF COLORADO, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING, VICE HANS MARK, RESIGNED.

DEPARTMENT OF COMMERCE

OTTO WOLFF, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE LINDA J. BILMES, RESIGNED.

OTTO WOLFF, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF COMMERCE, VICE LINDA J. BILMES, RESIGNED.

DEPARTMENT OF STATE

HANS H. HERTELL, OF PUERTO RICO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DOMINICAN REPUBLIC.

CRAIG ROBERTS STAPLETON, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC.

ROBERT GEERS LOFTIS, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF LESOTHO.

DEPARTMENT OF JUSTICE

MAURICIO J. TAMARGO, OF FLORIDA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2003, VICE JOHN R. LACEY.

DEPARTMENT OF STATE

OTTO J. REICH, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (WESTERN HEMISPHERE AFFAIRS), VICE PETER F. ROMERO.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD E. BROWN III, 8999

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BURWELL B. BELL III, 7158

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN S. CALDWELL JR., 8372

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES L. CAMPBELL, 9858

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. MICHAEL L. DODSON, 5712

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. LARRY R. ELLIS, 0750

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID D. MCKIERNAN, 8864

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DENNIS E. PLATT, 7100
R. KENT POLLARD, 2702
SIDNEY F. RICKS JR., 5267
LAWRENCE C. SELLIN, 7926

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

GEORGE J. CARLUCCI, 1126
JUSTINE B. EMERSON, 5687
KENNETH G. GALE, 5111
TIMOTHY F. JOOST, 2313
HAROLD E. KERKHOFF JR., 6059
MARTIN A. LEPPERT, 6513
ANGEL M. ORTIZRODRIGUEZ, 3977
DAVID C. PETERSEN, 8438
CHARLES P. SHEEHAN, 9202

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAIN AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

BYUNG H * AHN, 2565 CH
GEOFFREY L * ALLEYNE, 9141 CH
DAVID E * COOPER, 9352 CH
ADOLPH G * DUBOSE JR., 5752 CH
DOUGLAS W * DUERKSEN, 3395 CH
JONATHAN J * ETTERBEEK, 0267 CH
FREDRICK W * GARCIA, 8833 CH
SCOTT A * HAMMOND, 1529 CH
JUDITH A * HAMRICK, 6128 CH
KENNETH J * HANCOCK, 1329 CH
BILLY N * HAWKINS JR., 6914 CH
ROBERT J * HEARN, 4403 CH
WALTER G * HOSKINS, 2662 CH
NORMAN W * JONES, 5458 CH
SCOTT F * JONES, 4247 CH
JOHN L * KALLERSON, 3544 CH
KLON K * KITCHEN JR., 9695 CH
ROBERT P * LASLEY, 4996 CH
KEVIN M * LEIDERITZ, 3529 CH
WILLIAM G * LEWIS, 3485 CH
TIMOTHY S * MALLARD, 0787 CH
PEDRO R * MARTINEZ, 3782 CH
MARK A * MITERA, 8752 CH
LEO * MORA JR., 5551 CH
ABDUL R * MUHAMMAD, 6560 CH
BRENT A * NELSON, 9075 CH
ROBERT E * PHILLIPS, 4473 CH
ALLEN L * PUNDT, 5774 CH
KENNETH S * RASICO, 5783 CH
JOEL L * RUSSELL, 3426 CH
JERZY * RZASOWSKI, 4888 CH
CLYDE E * SCOTT, 7266 CH
WILLIAM E * SHEFFIELD, 8592 CH
DAVID G * SNYDER, 0844 CH
MICHAEL R * THOMPSON, 8930 CH
GREGORY O * TYREE, 8342 CH
GREGORY B * WALKER, 3189 CH
TERRENCE M * WALSH, 9292 CH
ROBERT E * WICHMAN, 9172 CH
LONNIE P * WILLIAMS, 4109 CH
ROBERT H * WILLIAMS, 9459 CH
DAVID L * WINKLE, 7598 CH
MICHAEL D * WOOD, 3603 CH
ELIZABETH S * YOUNGBERG, 9693 CH

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR ORIGINAL REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS TO THE GRADE INDICATED IN UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

To be captain

DONALD L. ALBERT, 9960
SAMSON P. AVENETTI, 7266
FRANCIS P. BABEU, 3387
CARL BAILEY JR., 2082
PETER M. BARACK JR., 2266
WILLIAM H. BARLOW, 5006
DWIGHT D. BELIN, 4204
JAYSON A. BRAYALL, 7587
MATTHEW J. CAFFREY, 7221
DAVID T. CLARK, 7946
GUY E. COOLEY, 7571
STEVEN R. DANIELSON, 1537
LEONARD R. DOMITROVITS, 9677
TIMOTHY L. COLLINS, 2116
STEVEN M. DOTSON, 4479
FRANK A. FARROW, 5480
ISRAEL GARCIA, 4916
ANDREW E. GEPP, 4718
GREGORY M. GOODRICH, 5193
KEVIN T. GRAESSLE, 2094
CHARLES A. GRAYBEAL, 2851
JOHN K. GRAYVOLD, 6565
PRISCILLA A. GUNN, 0290
JAY F. HALEY, 0054
JONN R. HARRIS, 0599
KURT J. HASTINGS, 8489
RAYMOND J. HORN, 3790
CEDRIC M. INGRAM, 1177
MARK A. IVY, 4426
SCOTT A. JOHNSON, 4307
DEAN L. JONES, 1614
RODNEY E. JORDAN, 6837
DEAN R. KECK, 8279
STEVEN J. LENGUIST, 2981
MICHEAL A. LUJAN, 4326
WINDRED W. LUSTER, 5209
MARIA L. MARTINEZ, 9071
RALPH D. MCNEAL JR., 8980
EDWARD M. MUDD, 5836
CARL D. NEAL, 5029
KEVIN A. OGRADY, 2510
MICHAEL R. OLDHAM JR., 8420
BARRY ONEAL, 7312
LAYNE T. PAGE, 9740
PATRICK B. RABBITT, 1827
JAY A. ROGERS, 3984
WILLIAM E. ROSCHE, 5726
ROBERT W. SAJEWSKI, 9772
VICTOR J. SCHLOTTERER JR., 1762
LOWELL W. SCHWEICKART JR., 8226
TIMOTHY D. SECHREST, 5445
CALVIN W. SMITH, 8132
STEVEN E. SPROUT, 2883
KENNETH N. STEINKE, 5808
MICHAEL A. SYMES, 6153
PETER M. TAVARES, 3723
WILLIAM R. TIFFANY, 2058
KENNETH L. VANZANDT, 3442
VIEVES G. VILLASENOR, 5977
WILLIAM J. WADLEY, 6104
TIMOTHY W. WALDRON, 6400

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

LEIGH P ACKART, 1927
WILLIAM D AGERTON, 0239
BRIAN A ALEXANDER, 8051
RAOUL ALLEN, 3928
ROBERT P ALLEN, 4637
WILLIAM J ALLISON, 3139
DEAN L AMSDEN, 7901
EROL S APAYDIN, 9133
ROBERT L ARBEENE, 7697
WILLIAM E BAILEY II, 3415
THOMAS A BALCOM, 3009
ROBERT E BALLENGER, 0789
MARIA E BALOLONG, 3344
JAMES B BALZ, 1001
DARIUS BANAJI, 7698
STEVEN L BANKS, 5264
DALE P BARRETTE, 4466
JOHN A BARTELS, 1778
TIMOTHY G BATTRELL, 2769
JAN R BEAUJON III, 3911
BRUCE A BECKER, 7686
GREGORY P BELANGER, 6899
KARENA M BELIN, 8859
JUDITH D BELLAS, 1961
STUART W BELT, 4700
BRADLEY A BERGAN, 6436
SCOTT A BERNOTAS, 8939
ROBERT J BESTERCY, 8733
LOUIS M BIENVENU, 8383
CHARLES D BISSELL, 5692
KENT A BLADE, 9217
NANCY D BLUNT, 4312
MICHAEL B BOHN, 9211
JULIA E BOND, 1893
ROBERT A BOUFFARD, 6452
PATRICK H BOWERS, 1083
LESTER S BOWLING, 2548
PATRICK K BOYLE, 3823
MICHAEL R BRANTLEY, 3943
BRUCE R BRETH, 9376
ELIZABETH A BREZA, 8047
JANE M BRILL, 7555
NANCY M BROWN, 7125
RONDALL BROWN, 8536
STEVEN W BRUCH, 8415
ROBERT L BRUNSON JR., 7745
CRAIG L BURTON, 6846
MARK P BUSINGER, 9795
EDWARD S BYE, 3030
RAFAEL A CABRERA, 6328
ALICE A CAGNINA, 6070
ELLEN B CALLAHAN, 6696
BRENT J CALLEGARI, 5711
RICHARD P CAMPBELL, 3282
ROBERT CAMPBELL, 2494
MATTHEW A CARLBERG, 4068
DENNIS L CARLSON, 9665
TED F CARRELL, 4712
DEBRA P CARTER, 0384
JOHN J CARTY, 3534
KATHLEEN M CASEY, 8477
KIM M CAULK, 8281
STEVEN G CHALLEEN, 4832
LINDA C C CHAN, 6051
GAIL D CHAPMAN, 2551
DAVID M CLABORN, 5545
BRENDA A CLARK, 3052
DWAYNE C CLARK, 7930
MICHAEL E CLARK, 6600
LLOYD S CLEMENTS, 2700
EDA P CLEMONS, 3395
JEANNETTE M CLEMONS, 6566
KENNETH A COLE, 9606
GILDA M COLLAZO, 6014
GRISELL F COLLAZO, 5828
BOBBI L COLLINS, 1789
TIMOTHY W COLYER, 9707
THOMAS L COPENHAVER, 1381
JOHN CORONADO, 3297
JOSEPH COSENTINO JR., 8445
CHRISTOPHER J COSTIGAN, 8815
PIERRE C COULOMBE, 3248
JOHN F COUTURE, 1085
WILLIAM D CRAIG, 9019
DWIN C CROW, 0880
DAVID F CRUZ, 9917
KEVIN J DAMANDA, 6496
DAVID J DAMSTRA, 3007
ADRIAN M DANCHENKO, 8056
THOMAS P DAVIS, 2666
MARK R DEIBERT, 2588
RICHARD A DELACRUZ, 0534
EUGENE M DELARA, 1296
ROBERT D DELIS, 7980
JANET A DELOREYLYTLE, 1515
ERIC J DENFELD, 1457
GREGORY L DENISON, 2338
GERALD D DENTON, 0735
PAUL M DESIMONE, 4307
GEORGE DEVRIES, 8609
STEVEN E DICHIARA, 2745
PATRICIA DIGGS, 7235
ROBERT W DILL, 4061
MICHAEL J DOLAN, 1258
MICHAEL E DORY, 7245
BARRY J DOWELL, 8528
BRIAN T DRAPP, 4702
LAWRENCE J DUANE, 8607
RODNEY E DUGGINS, 7389
JAMES R DUNNE, 1943
WILLIAM E DUNNING, 3091
DENNIS L DUREN, 2465
CATALINO DUREZA, 4650
EDDY L ECHOLS, 6223
KENNETH L EISENBERG, 4948
CHIDIEBERE EKENNAKALU, 3454
CHARLES L ELLIS, 6505
IRVING A ELSON, 2952
JUDITH E EPSTEIN, 1839
BENJAMIN D ERNST, 8464
JAMES M ERSKINE, 4089
CONSTANCE J EVANS, 6338
JOHN S EVERED, 7436
PHILIP A FAHRINGER, 0566
RICK A FAIR, 6717
DEANNA L FALLS, 1794
GERALD W FELDER, 3808
MARSHA G FINK, 3805
ALLAN M FINLEY, 3285
MARK A FONTANA, 3160
MATTHEW P FORD, 4599
NOREEN H FORD, 0419
DAVID N FOWLER, 6474
JAMES P FOWLER, 3575
RICHARD P FRANCO, 9557
LORI S FRANK, 5936
JOHN V FRANKLIN, 7297
DANIEL A FREILICH, 4676
TONIANNE FRENCH, 5141
CRAIG A FULTON, 9025
SCHLEURIOUS L GAITER, 2161
COLLEEN K GALLAGHER, 3965
SUSAN J GALLOWAY, 8105
ROBERT A GANTT, 7224
GREGORY A GARCIA, 9585
JAIME A GARCIA, 1997
THOMAS G GAYLORD, 7502
BRENDON L GELFORD, 4942
LAURIE GENTENE, 9910
BETH W GERING, 1563
DAVE E GIBSON, 2172
STEPHEN M GILL, 0737
MARTHA K GIRZ, 8980
ERIC L GLASER, 8001
BRENDAN K GLENNON, 7850
GARY S GLUCK, 8976
BARRY J GOEHLER, 4329
ELISE T GORDON, 1930
BRIAN J GRADY, 0641
BRADLEY S GRAHAM, 9472
ROBERT A GRASSO JR., 4355
MARY L GREBENC, 3190
KRISTIN L GREEN, 5556
BRUCE E GREENLAND, 4097
JEFFREY K GRIMES, 2031
RICKY D GROSS, 6605
PAUL W HAGEN, 3778
GREGORY A HAJZAK, 0458
BRADEN R HALE, 4494
REGINA HALL, 3475
ALAN F HAMAMURA, 7745
JERRY W HAMLIN, 9750
JOHN G HANNINK, 2823
ERIC T HANSEN, 9188
AMIR E HARARI, 7102
SCOTT L HAWKINS, 8193
STEVEN L HAYCOCK, 8330
WILLIAM R HAYES, 5685
ROBERT D HECK, 3242
WANDA P HEISLER, 2807
SCOTT W HELMERS, 4627
STEVEN B HEMMRICH, 5686
DAVID K HENDERSON, 2839
WILLIAM J HESS III, 3826
SCOTT K HIGGINS, 8258
FREDERICK A HILDER JR., 3389
DEBORAH A HINKLEY, 7708
SCOTT HINTON, 6042
MELINDA J HOFF, 6288
LORI J HOFFMANN, 7745
PAIGE K HOFFMANN, 5129
GARY L HOOK, 3879
TAMARA J HOOVER, 7541
JOHN H HORNBROOK III, 4521
BETH A HOWELL, 9182
ROBERT E HOWELL, 0611
JOAN E HOWLEY, 3883
DAVID R HOYT, 9127
RODERICK R HUBBARD, 8516
WILLIAM B HUEY, 3727
JOHN D HUGHES, 3326
CHARLOTTE E HUNTER, 5735
MARK T HUNZEKER, 1782
RANDALL N HYER, 3104
MICHAEL A ILLOVSKY, 2611
LISA INOUYE, 7373
BETH R JAKLIC, 1429
CHRISTOPHER J JANKOSKY, 9015
EDUARDO JARAMILLO, 0531
ANDREW S JOHNSON, 7068
MICHAEL H JOHNSON, 8670
CYNTHIA R JOYNER, 3474
CHRISTOPHER D JUNG, 9410

JOHN J S KANE, 3779
JOHN L KANE III, 2141
PAUL D KANE, 7858
MAURICE S KAPROW, 7685
CHAND B KATHURIA, 2462
KAREN S KATO, 4541
KEITH C KEALEY, 5963
ROBERT L KEANE, 2293
KENNETH W KEARLY, 3345
STEVEN L KEENER, 5661
JOSEPH A KELLY, 9116
GAYLE S KENNERLY, 6976
ROBERT J KILPATRICK JR., 4482
JAMES J KING, 6081
ANDERS C KINSEY, 7061
STEVEN W KINSKIE, 0760
PATRICIA A KISNER, 4660
DAVID R KLESS, 2800
JACQUELINE KOVACS, 6149
ANNE M KREKELBERG, 4854
ERIC J KUNCIR, 6730
REMEDIOS J LABRADOR, 4474
SCOTT M LANG, 7309
VINCENT C LAPOINTE, 3934
LORI A LARAWAY, 1318
TRACY A LARCHER, 0224
DAVID M LARSON, 8781
KENNETH A LAUBE, 9528
MICHAEL L LAVIGNA, 8327
FRANCISCO R LEAL, 4766
ANNE M LEAR, 8817
LAWRENCE L LECLAIR, 5525
TAE H LEE, 4238
WENDY LEE, 9157
DEAN W LEECH, 2902
WILLIAM J LEONARD JR., 8410
IVAN K LESNIK, 4833
DAVID R LESSER, 8175
LISA E LESSLEY, 8086
JOHN F LEUNG, 1216
EDGAR M LEVINE, 5311
BRIAN J LEWIS, 2105
MICHAEL C LIBBY, 9355
SUSAN E LICHTENSTEIN, 7448
STEVEN E LINNVILLE, 7650
ELIZABETH A LIOTTA, 8952
MARK J LOGID, 4784
KIMBERLY A LONGMIRE, 8343
KAREN M LYNCH, 6608
STEVEN D MACDONALD, 3965
BRIAN H MALLADY, 6659
KIERAN G MANDATO, 2338
CAREY M A MANHERTZ, 1690
GAIL H J MANOS, 2021
PIETRO D MARGHELLA, 1949
ROBERT W MARTIN, 0943
MICHAEL A MAZZILLI, 3290
KALAS K MCALEXANDER, 4065
PATRICK M MCCARTHY, 9513
RITA L MCCARTHY, 0283
PAULA H MCCLURE, 1675
LINDA S V MCCORD, 6788
PATRICK J MCCORMICK, 8120
EDISON P MCDANIELS, 4745
MICHAEL J MCDERMOTT, 8913
ELIZABETH G MCDONALD, 4980
PATRICIA MCDONALD, 6796
LARRY A MCFARLAND, 4439
TERENCE M MCGEE, 0207
ELIZABETH A G MCGUIGAN, 8531
SUSAN P MCKEEFREY, 0576
RONALD N MCLEAN, 8012
GEORGE F MCMAHON, 9028
JAMIN T MCMAHON, 8356
JOANNE T MCMAHON, 0086
TERRIE C MCSWEEN, 0917
JOY MEADE, 0978
DISMAS E MEEHAN, 5861
SHAWN A MENEFEE, 1165
REGINA K MERCADO, 7860
DAVID S MEZEBISH, 0276
JULIE L MIAVEZ, 0193
PAMELA M MILLER, 2754
CAROLA A MINER, 7684
THOMAS E MIRO, 2062
PETER B MISHKY, 3513
CLAYTON O MITCHELL JR., 4781
MELANIE W MITCHELL, 4858
ROBERT H MITTON, 4313
LUIS M MOLINA, 8981
MARK C MONAHAN, 5453
MONA M MOOREMEAUX, 2151
STEVEN A MORGAN, 6869
KATHY L MORRIS, 8453
BEVERLY A MORSE, 0752
THOMAS MOSZKOWICZ, 5171
VICTORIA L MUNDT, 9970
LINDA J NAILE, 7122
NALAN NARINE, 5924
LINDA L NASH, 9664
TAMMY M NATHAN, 6267
JOHN T NEFF, 3530
PHILLIP L NELSON, 0329
JOHN J NESIUS, 9795
DOUGLAS C NEWELL, 5637
MATTHEW E NEWTON, 9082
JOHN C NICHOLSON, 6345
DANIEL F NOLTKAMPER, 2430
GERALD W NORBUT, 1808
JOHN S NORTON, 4653
CHRISTOPHER W NORWOOD, 8419
TIMOTHY J OBRIEN, 5602
OTTO W OHM II, 2250
PETER H OLSON, 5034
KEVIN C OMALLEY, 3598
LOUIS D OROSZ, 2148
MARGARET K OROURKE, 2666
JOSEPH O OSAZUWA, 9422
CARY A OSTERGAARD, 6123
KEVIN J OTTE, 3535
JOHN P OUANO, 9092
JUDITH M OWENS, 0130
VIOLETA O PADORA, 1165
ERIC L PAGENKOPF, 7859
MICHAEL J PARISI, 1344
VIVIENNE A PARODI, 6057
MICHAEL P PATTEN, 5500
JOSEPH D PAULDING, 9897
BARBARA E PAULY, 7442
JOHN M PEARSON, 5378
NANCY L PEARSON, 9844
DAVID PEDRAZA, 7177
KERRI S PEGG, 6979
JAMES J PELLACK, 6040
MICHAEL J PETEE, 3769
THOMAS J PETRILAK, 3879
BILLY J PHILLIPS, 8244
INGRID A PHILLIPS, 4453
LARRY L PICARD, 5404
JACK S PIERCE, 3086
EDWARD S PISKURA JR., 8224
LAURA E PISTEY, 4194
JAMES M POLO, 9210
JOHN P POLOWCZYK, 8582
KEVIN W POORT, 3362
DOUGLAS P PORTER, 9100
CINDY L POTTER, 2159
WILLIAM C POWER, 8530
ALONSO M POZO, 8597
CHRISTOPHER J PRATT, 3741
ERIC C PRICE, 3223
JAMES L PROCTOR JR., 7141
FRANK D QUADRINI, 2394
JOHN J RAGAN, 5797
ERIC RASMUSSEN, 3992
CHRISTOPHER J RAY JR., 9191
KEVIN D REDMAN, 8449
JAMES M REICH, 8186
ROBERT A REICHART, 2485
CHRISTIAN L REISMEIER, 1305
LEISA R RICHARDSON, 8547
SCOTT K RINEER, 7480
MARK F ROBACK, 3432
REGINA L ROBERTS, 8490
JOYCELIN ROBINSON, 7031
WANDA I RODRIGUEZ, 8106
MICHAEL J ROPIAK, 9652
MICHAEL B ROTH, 2386
JAMES H ROTHSTEIN, 6471
WALTER P RUGGLES, 0191
ROBERT T RULAND, 8788
KEVIN L RUSSELL, 0193
JACQUELINE D RYCHNOVSKY, 8229
RONALD A SABINS, 6611
DONALD R SALLEE, 7247
ROBERT A SANDERS, 0871
DAVID J SASEK, 6581
JEAN T SCHERRER, 7483
MICHAEL S SCHLEGEL, 7785
ROBBIE H SCOTT JR., 5757
MARK E SEMMLER, 9676
JOSEPH T SERMARINI JR., 6000
STOCKTON K M SEYB, 7703
CARON L SHAKE, 2805
JOSEPH M SHAUGHNESSY, 6923
NEIL A SHEEHAN, 6443
ANDREA L SHORTER, 6230
CAREY M SILL, 7457
EDWARD D SIMMER, 6096
STEPHANIE M SIMON, 2278
MICHELLE C SKUBIC, 2448
BARRY R SMITH, 5070
BRADLEY H SMITH, 9855
DENISE L SMITH, 3765
ERIC P SMITH, 4223
PHILIP A SMITH, 8202
STEWART D SMITH, 5984
MICHAEL A SOKOLOWSKI, 2870
TERRENCE L SOLDO, 1768
GARY W SOUTHERLAND, 4764
REBECCA V SPARKS, 2070
GINA M SPLEEN, 2175
CHARLES K SPRINGLE, 4296
RANDOLPH R STANTON, 8204
MARK G STEINER, 3903
MICHAEL A STEINLE, 8531
TREVERN A STERLING, 7754
TERRY K STEVENSON, 2873
SUSAN C STEWART, 5697
JONATHAN F STINSON, 2708
PETER B STMARTIN, 7917
THOMAS S STONUM, 4787
ALLAN M STRATMAN, 3283
RONALD C STURGIS, 1373
BRETT A STURKEN, 1558
DAVID R SUTTON, 8605
ADRIAN B SZWEC, 6276
ROBERT P TAISHOFF, 3999
SUSAN A TALWAR, 6342
ANIL TANEJA, 0381
DAVID J TANZER, 3957
CONRAD A TARGONSKI, 7602
NANCY B TAYLOR, 7830
MARK A TERRILL, 2734
SANDRA L THOMASROGERS, 6242
JOHN S THURBER, 1413
TAMMY P TIDESWELL, 0966
JOHN D TITUS JR., 0681
CHARLES B TONER, 9719
PATRICIA A TORDIK, 0296
JOHN C TORRIS, 0213
ROBERT B TOWLE, 0791
NGOC N TRAN, 1684
DANIEL J VALAIK, 0706
JONATHAN G I VANDERMARK, 8811
MARY K VANN, 5592
JENNIFER L VEDRALBARON, 5260
ESTEBAN C VILLAROS JR., 3756
ROLAND G WADGE, 1373
CLARK W WALKER, 0339
BOBBY J WARFIELD, 2201
ANTOINE P WASHINGTON, 0438
KEVIN D WASKOW, 2351
BRENT T WATSON, 2014
KURT E WAYMIRE, 8269
PAUL F WEBB, 3366
STEVEN M WECHSLER, 0978
GARY P WEEDEN, 0753
PETER J WEIS, 7199
JAMES J WEISER, 9669
CARL F WEISS, 3941
DAVID K WEISS, 2405
DOUGLAS E WELCH, 0319
KIRK M WELKER, 2086
GARY D WERTZ, 9930
LOYD A WEST, 1577
SILVA P D WESTERBECK, 9797
MARY K WHITCOMB, 0755
FRED K WILKERSON, 8540
CAREY C WILLIAMS, 0498
DEBORAH G WILLIAMS, 1021
BRIAN S WILSON, 2688
STEVEN J WINTER, 9338
THOMAS L WOOD, 1462
VICTORIA M WOODEN, 4503
STEVEN J WYRSCH, 0271
HELEN K YOUNG, 7517
STEPHANIE T YOUNG, 7191
KEVIN E ZAWACKI, 2404
LISA A ZIEMKE, 9016
HUMBERTO ZUNIGA JR., 2996

CONFIRMATIONS

Executive Nominations Confirmed by the Senate July 12, 2001:

DEPARTMENT OF THE INTERIOR

J. STEVEN GRILES, OF VIRGINIA, TO BE DEPUTY SECRETARY OF THE INTERIOR.

DEPARTMENT OF DEFENSE

DOUGLAS JAY FEITH, OF MARYLAND, TO BE UNDER SECRETARY OF DEFENSE FOR POLICY.

DEPARTMENT OF ENERGY

JESSIE HILL ROBERSON, OF ALABAMA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL MANAGEMENT).

DEPARTMENT OF DEFENSE

PETER W. RODMAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THOMAS P. CHRISTIE, OF VIRGINIA, TO BE DIRECTOR OF OPERATIONAL TEST AND EVALUATION, DEPARTMENT OF DEFENSE.

DIANE K. MORALES, OF TEXAS, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR LOGISTICS AND MATERIEL READINESS.

STEVEN JOHN MORELLO, SR., OF MICHIGAN, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE ARMY.

WILLIAM A. NAVAS, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

MICHAEL MONTELONGO, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE.

REGINALD JUDE BROWN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

JOHN J. YOUNG, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

MICHAEL W. WYNNE, OF FLORIDA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

DIONEL M. AVILES, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

DEPARTMENT OF THE INTERIOR

PATRICIA LYNN SCARLETT, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

WILLIAM GERRY MYERS III, OF IDAHO, TO BE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR.

BENNETT WILLIAM RALEY, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

DEPARTMENT OF ENERGY

VICKY A. BAILEY, OF INDIANA, TO BE AN ASSISTANT SECRETARY OF ENERGY (INTERNATIONAL AFFAIRS AND DOMESTIC POLICY).

DEPARTMENT OF THE INTERIOR

FRANCES P. MAINELLA, OF FLORIDA, TO BE DIRECTOR OF THE NATIONAL PARK SERVICE.

JOHN W. KEYS, III, OF UTAH, TO BE COMMISSIONER OF RECLAMATION.

DEPARTMENT OF AGRICULTURE

JOSEPH J. JEN, OF CALIFORNIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.

JAMES R. MOSELEY, OF INDIANA, TO BE DEPUTY SECRETARY OF AGRICULTURE.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ANGELA ANTONELLI, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

FEDERAL DEPOSIT INSURANCE CORPORATION

DONALD E. POWELL, OF TEXAS, TO BE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF FIVE YEARS.

DONALD E. POWELL, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF SIX YEARS.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RONALD ROSENFELD, OF MARYLAND, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

DEPARTMENT OF TRANSPORTATION

JENNIFER L. DORN, OF NEBRASKA, TO BE FEDERAL TRANSIT ADMINISTRATOR.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

LORI A. FORMAN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

DEPARTMENT OF STATE

AUBREY HOOKS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF THE CONGO.

DONALD J. MCCONNELL, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF ERITREA.

PETER R. CHAVEAS, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SIERRA LEONE.

NANCY J. POWELL, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

GEORGE MCDADE STAPLES, OF KENTUCKY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMEROON, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EQUATORIAL GUINEA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF EDUCATION

GROVER J. WHITEHURST, OF NEW YORK, TO BE ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION.

SUSAN B. NEUMAN, OF MICHIGAN, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

REBECCA O. CAMPOVERDE, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ROBERT S. MARTIN, OF TEXAS, TO BE DIRECTOR OF THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

EXTENSIONS OF REMARKS

TRIBUTE TO ASHLEY PERCY OF CAMDEN, MI, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Ashley Percy, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Ashley is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Ashley is an exceptional student at Camden-Frontier High School and possesses an impressive high school record. She is involved in the National Honor Society, as well as volleyball, basketball and softball. She has received numerous awards for her excellence in academics as well as her involvement in athletics. Ashley also served as a Congressional Page for the United States House of Representatives.

THEREFORE, I am proud to join with her many admirers in extending my highest praise and congratulations to Ashley Percy for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

* * *

RECOGNIZING SAM SPECTOR AND THE OSS–101 ASSOCIATION, ROME, GEORGIA

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. BARR of Georgia. Mr. Speaker, the OSS–101 Association Inc. represents the men of World War II Detachment 101 of the Office of Strategic Services (predecessor to today's CIA), who served in guerrilla warfare behind the Japanese lines in Burma. Mr. Sam Spector, of Rome, Georgia, is President of this association. He and the other fighting men of "Merrill's Marauders" have remained extremely grateful to the Kachin people of Burma, for the crucial help provided by them during the war.

By 1942 the Japanese were well experienced in jungle fighting. Burma was one of the world's most hostile environments. It was also the home of a very special group of people—the Kachins. They lived in the northern-most state of Burma, and they cherished their freedom as do we. Though the Japanese occupied most of Burma in 1942, they were unable to secure the Kachin State. The Kachins took a stand, and became what was known as Detachment 101 of the U.S. Office of Strategic Services, also known as the American-Kachin Rangers. This was the first United States unit to form an intelligence screen and employ a large guerrilla army deep in enemy territory. General Dwight D. Eisenhower commended Detachment 101 of its exemplary performance.

After the war, members of Detachment 101 distinguished themselves in all services and in private life. An association was formed to join ex-101ers, fraternally, as well as to maintain ties with the Kachins, in Burma (now Myanmar). This friendship has been maintained in spite of the distances and years.

In 1995, 18 Americans, including 12 American veterans of 101, decided to spend their 50th Anniversary in Burma with their Kachin friends. There was a celebration of the American-Kachin Rangers. Among those attending were 3800 Kachins and more than 250 WW II Kachin veterans. Since that time, the Association has printed and distributed thousands of translated grade school readers, a book on Kachin history, and a first aid book; and is active in teaching agriculture.

During March 2001 the group visited the air strip captured by Merrill's Marauders to place a wreath. At that time they noted the Japanese had erected a memorial to their dead, and the group decided it would like to place a memorial to the Americans (Merrill's Marauders, Mars Task Force, the 19th Air Force, and Detachment 101 USA Kachin Rangers). There are no memorials to our veterans in Southeast Asia, although there are many in Europe, and one in the Philippines that honors those Americans and Philippines who died.

I urge all my colleagues, and Americans everywhere to join me in saluting these brave Americans and Kachin heroes, for their sacrifices that were so vital in our victory in the Asian theatre in World War II. I especially salute Rome, Georgia's Sam Spector, who is a leader in this effort.

TRIBUTE TO REAR ADMIRAL GWILYM H. JENKINS, JR.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. SKELTON. Mr. Speaker, let me take this opportunity to inform my colleagues on the upcoming retirement of Rear Admiral Gwilym H. Jenkins, Jr., Deputy for Acquisition and Business Management for the Assistant Secretary of the Navy. In the very near future, Admiral Jenkins will retire after over 30 years in the U.S. Navy. He has distinguished himself, the Navy, and our nation with dedicated service.

Admiral Jenkins began his service in the military in 1966, when he enlisted in the Naval Reserve. Throughout his career, Admiral Jenkins has continued his formal education. He received a bachelors degree in Electrical Engineering from Pennsylvania State University. He received masters degrees from the Naval Post Graduate School and is a graduate of the University of Southern California Program for Executives.

Admiral Jenkins has held many command assignments and honorably served the American people throughout the world. Admiral Jenkins has served on the U.S.S. *Savannah,* U.S.S. *Raleigh,* and U.S.S. *Puget Sound.* He has also served as Supply Officer and Comptroller, Ship Repair Facility, Subic Bay, Republic of the Philippines; Procuring Contracting Officer for the A06E TRAM and Business and Financial Manager of the CH–46 and CH–53 Marine helicopters, Naval Air Systems Command, Washington, D.C.

As Director of Contracts at Navy Supply Center, Jacksonville, Florida, and while working at the Aviation Supply Office, Philadelphia, Pennsylvania, he championed the use of electronic bulletin boards in contracting. Admiral Jenkins also served as Executive Director for Procurement at the Defense Logistics Agency, Fort Belvoir, Virginia, where he was responsible for the implementation of the electric commerce mall on the World Wide Web, significantly reducing unnecessary Department of Defense logistics infrastructure.

Through his work in Navy acquisition, Admiral Jenkins has consistently reached out to communities and to small business owners throughout the United States and has helped bridge the gap between military and civilian America. Admiral Jenkins, through his unique and amiable style, has worked to make this intimidating process easier for Americans to understand. I am especially grateful to Admiral Jenkins for traveling to Warrensburg, Missouri, to take part in my annual Federal Procurement Conference held each year at Central Missouri State University. I know the residents of Missouri's Fourth Congressional District join me in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sending their appreciation for Admiral Jenkins's contribution to Missouri's small businesses.

Mr. Speaker, Admiral Jenkins has had an impressive career in the military and has established great relationships among the civilian community. I know that the Members of the House will join me in paying tribute to this fine sailor as he enjoys his retirement with his wife, Nell, and their four daughters Ellen, Caitlan, Andrea, and Kagan.

TRIBUTE TO AMANDA PARKER OF QUINCY, MI—LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I rise to salute Amanda Parker, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional scholarship, Amanda is honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Amanda Parker is an exceptional student at Quincy High School and possesses an impressive high school record. Amanda has received numerous awards for her academic achievement and her success as a young athlete. She is active in student government, as well as volunteering her time to various community service projects, such as helping to collect donations for a food drive to provide area families with a traditional Thanksgiving Day dinner.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Amanda Parker. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

HONORING THE ACHIEVEMENTS OF MASTER POLICE OFFICER JOSH BROWN

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. TOM DAVIS of Virginia. Mr. Speaker: I rise today to honor a gentleman who has devoted a great deal of his time and energy to Fairfax County, Virginia.

Master Police Officer Josh Brown will retire Friday, July, 13, 2001 after 23 years of service with the Mason District Station of the Fairfax County Police Department. He also gave 17 years to the Crime Prevention and Crime Prevention Through Environmental Design (CPTED).

With his prominent role as an officer of the law, MPO Brown has been able to bring many topics to the attention of his community. He has given many lectures on the importance of school security, as well as a variety of other safety lectures, including: lighting, commercial security, risk assessments, violence in the workplace, and community crime prevention. He has spoken at state, national, and international conferences on community crime prevention, lighting, and Crime Prevention Through Environmental Design (CPTED).

MPO Brown specializes in risk assessments of schools, businesses and communities. The Virginia Department of Criminal Justice Services and the International Society of Crime Prevention practitioners have certified him as a Crime Prevention Specialist. He has also been awarded the Meritorious Service Award by the Fairfax County Police and was named Officer of the Year by Police and Citizens Together, a division of the Metropolitan Washington Council of Governments.

His knowledge of crime and its prevention has enabled him to write brochures on commercial robbery prevention, substance abuse, and trail safety. He has also produced literature on rape and assault prevention, as well as Neighborhood Watch training guides. His dedication to keeping his community as safe as possible is extremely admirable, and I am proud of his achievements.

MPO Brown has many interests outside the department. He is married with three children, who take up much of his space time. In years past he has given his time to being a Scoutmaster, coach, and fundraiser for children's school groups.

Mr. Speaker, in closing, I am glad to pay tribute to MPO Josh Brown who has given so many years to the police department as well as being a devoted father and member of the community. I hope my colleagues join me in saluting such a remarkable individual.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 216, on agreeing to the amendment. Had I been present I would have voted "no." Mr. Speaker, I was unavoidably detained for rollcall No. 217, on agreeing to the amendment. Had I been present I would have voted "yea." Mr. Speaker, I was unavoidably detained for rollcall No. 218, on agreeing to the amendment. Had I been present I would have voted "no."

INTRODUCING THE TROPICAL CYCLONE INLAND FORECASTING IMPROVEMENT AND WARNING SYSTEM DEVELOPMENT ACT

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. ETHERIDGE. Mr. Speaker, I rise today to introduce legislation to improve the forecasting of inland flooding associated with tropical storms and to develop an inland flood warning system to alert residents of dangerous flooding.

The people of North Carolina are all too familiar with the death and devastation that can come from the heavy rains that hurricanes and tropical storms often bring to our state. In 1999, Hurricane Floyd killed forth-eight people and caused nearly $3 billion worth of property damage, primarily through flooding in inland communities. Recently, Tropical Storm Allison cut a path across the nation, killing more than 50 people.

If Floyd and Allison taught us anything, it was that we have been more successful preparing coastal communities for these types of storms than in preparing inland communities. Too many folks think of hurricanes or tropical storms as something that affects only the coast and beach cottages. These storms hit us where we live.

Floyd and Allison demonstrated all too clearly that the greatest threat posed by these storms are the torrential rains that often do the most damage hundreds of miles inland. A new study by Ed Rappaport of the Tropical Prediction Center shows that since 1970, freshwater flooding caused 59 percent of storm deaths in the United States, whereas only one percent lost their lives in coastal storms surges.

Inland residents need a warning system that raises the awareness of the destructiveness of these storms so they can protect their families and their property.

Currently, technology exists to help track and prepare coastal communities for the wind, rain, and storm surge damage associated with tropical cyclones. But, now we must move forward with efforts to improve inland flood forecasting and warnings. This bill will provide the funds and the road map to get us there. Ultimately, we can save lives.

This legislation builds on work being done by National Weather Service (NWS), emergency management officials, meteorologists and others to reduce the risks of injury due to inland flooding. The bill authorizes $5.75 million over five years for the National Weather Service to improve its ability to forecast inland flooding associated with tropical storms and hurricanes and to develop and deploy an inland flood warning index or system—such as one similar to the Saffir-Simpson scale for wind speed familiar to coastal residents.

Joe Allbaugh, Director of the Federal Emergency Management Administration, recently expressed a too prevalent view about storm damage when he said, "I don't think that we can fault the forecasters. No one can predict 36 inches of rain."

We must do better than that. It's time to develop the tools so forecasters can warn the public and emergency management officials of the potential for flooding associated with tropical cyclones. We are in the middle of hurricane season, and a deadly storm could occur any day now. I am pleased that my bill has the support of so many Science Committee members including Chairman BOEHLERT and ranking member HALL. I hope we can see action on this life-saving bill soon.

TRIBUTE TO ASHLEY TUREK OF ADRIAN, MI—LeGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Ashley Turek, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Ashley is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Ashley is an exceptional student at Adrian High School and possesses an impressive high school record. Ashley is President of her Senior Class and has served as Captain of her Tennis and Track teams. She has received numerous awards for her excellence in academics as well as her involvement in tennis, gymnastics, and track. Outside of school, Ashley is an active volunteer in various community organizations such as the Lenawee County Youth Council.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Ashley Turek. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

HONORING PATRICIA HALSEY LAVERDURE

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Ms. LEE. Mr. Speaker, I rise today to honor and salute Patricia Halsey Laverdure for her faithful service to the United States Military.

Colonel Laverdure has dedicated her life to providing legal counsel to military members and their families. When she joined the U.S. Marine Corps, she was interested in criminal law, and became a very successful judge advocate. However, Colonel Laverdure was drawn to family law because she knows the burdens that military families face, such as long periods of separation, spousal abuse and low pay. She saw the need for family services so she began to practice family law. Colonel Laverdure established the first spousal abuse programs for the U.S. Marine Corps Family Service Centers.

Colonel Laverdure later became the Chief of the Legal Assistance Branch of the Maintenance and Logistics Command Pacific for the U.S. Coast Guard in Alameda, California. At a time when the military was downsizing, Colonel Laverdure was overwhelmed with huge caseloads. Despite the large amounts of casework, she enlisted the aid of military attorneys from the Navy Reserve and, together with other Coast Guard Attorneys, completed their cases and increased the number of clientele.

Colonel Laverdure has won numerous awards such as the Meritorious Achievement Award, the ABA LAMP Distinguished Award and the Coast Guard Meritorious Award. It is only natural that Congress should recognize Colonel Laverdure for her patriotism, her service to the United States military service and her human compassion for her others.

I proudly join Colonel Laverdure's family and friends to pay tribute to Colonel Patricia Halsey Laverdure.

TRIBUTE TO ANGELA PITTS OF LITCHFIELD, MI—LeGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Angela Pitts, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Angela is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Angela Pitts is an exceptional student at Litchfield High School and possesses an impressive high school record. Angela has received numerous awards for her academic achievement and her success as a young athlete. She is active in student government, as well as the high school and jazz bands. Angela volunteers her time to various organizations, such as her community's youth group, and coaches young children in basketball.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Angela Pitts for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes:

Mr. TANCREDO. Mr. Chairman, I rise in opposition to H.R. 2330, the Agriculture Appropriations Act, a bill considered on the floor today which makes appropriations for the Department of Agriculture and related agencies. But more specifically, I rise in strong opposition to the increase provided in the bill for the Food and Drug Administration (FDA) and would like to call the House's attention to a problem that one of my constituents has been having with the agency and one that I believe deserves careful consideration by the oversight committees in this chamber.

Recently, the FDA gave final approval of my constituent's Pre-Market Application for both total and partial joint implants after an exhaustive and blatantly biased two year review, but not before costing his company over $8 million in legal fees, lost wages and profits.

In April 1999, I received a phone call and letter from TMJ Implants, a company located in Golden, Colorado, in my district, which had been having problems with the review of its Premarket Approval Application of the TMJ Total and Fossa-Eminence Prosthesis. Up until last year, the company was the premier market supplier of temporomandibular joint prosthesis.

Over the last two years, I have taken an active interest and an active role in monitoring the progress of TMJ Implants' application, which was finally approved in February. On numerous occasions, I met with Dr. Bob Christensen, President of TMJ Implants, to find out information about the approval of the Partial and Total Joint, and personally talked to FDA Commissioner Jane Henney and to members of the Agency about the status of the company's applications. I was also, and continue to be, in contact with the House Commerce Subcommittee on Oversight, which has sole jurisdiction over the FDA and issues relating to abuse and the internal operations of the agency.

Specifically, I closely followed this case since my office's first contact with Dr. Christensen and TMJ Implants in early May 1999, after a meeting of the FDA's Dental Products Panel of the Medical Devices Advisory Committee was held to review the company's PMA and recommended approval of the PMA by a 9–0 vote. From this point onward, the FDA engaged in an obvious pattern of delay and deception and even went as far as to remove TMJ Implants' Fossa-Eminence Prosthesis from the market, which had been available for almost 40 years. This had done nothing more than to cause harm to patients and cost the company millions of dollars.

This was done at the same time that the application for TMJ Concepts, a competitor of TMJ Implants, sailed through the process. Several allegations have come to light over the last two years detailing the fact that several Agency employees have worked under the direction of TMJ Concepts' associates.

The agency went so far as to reconvene a new Medical Devices Advisory Committee late last year, with a clear majority of its members lacking the required expertise, which denied the company's application.

It was not until Mr. Bernard Statland, the new Director of the Office of Device Evaluation (ODE) was brought in that the logjam was broken the PMA was quickly approved.

As the above demonstrates, several concerns remain about the process that has taken place over the last two years. It is no secret that everyone involved in this case believes that there have been significant questions raised about the process—the sluggish pace of the review of the engineering data for both the total and partial joint and, more importantly, the constant "moving of the goal posts" during the review of both PMAs.

Over the last two years, my office has received numerous letters from physicians all across the country—from the Mayo Clinic to the University of Maryland—each describing the benefit of the partial joint and the fact that the partial and total joint results in immediate and dramatic decrease in pain, an increase in range of motion and increased function.

While I am, of course, pleased that the application has been approved by the FDA after much delay, the circumstances of the last two years calls into question the integrity of the agency and, it is for this reason that I bring it to the House's attention.

Dr. Christensen is a true professional and a pioneer in his field and holder of the first patents. His implants are widely accepted as effective and safe throughout the dental and surgery community—indeed, several of my constituents have literally had their lives changed by the procedure. I am convinced that the work of TMJ is and always has been based on solid, scientific principles and the removal of the implants from the market had been erroneous, contrary to the Agency's earlier findings and the statutory standard that should be applied. This was devastating to thousands in the general public and devastating to the financial status of the company.

Later this year, the House of Representatives will consider legislation reauthorizing the Food and Drug Administration and I would like to urge the House Commerce Committee to hold hearings on the TMJ Implant case and to conduct a thorough investigation into the FDA's review of the Premarket Approval Application of the TMJ Fossa-Eminence Prosthesis.

I would like to take this opportunity to submit into the record two articles from FDAWebview which shed light on the TMJ Implant case.

HOSPITAL INVESTMENT ACT OF 2001

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KLECZKA. Mr. Speaker, today Mr. Stark from California and I are introducing the Hospital Investment Act of 2001, which aims to address concerns regarding potential conflicts of interest raised by the advent of free-standing specialty or "boutique" hospitals with joint investor-physician ownership arrangements.

Over the past several years, we have seen a growing expansion of these "boutique" hospitals. Each of these hospitals specializes in one particular area of inpatient procedures—such as heart, orthopedic, or maternity—which is high-volume, high-cost, and high-profit to these new for-profit institutions.

Among the many problems associated with these boutique hospitals is the issue of self-referrals, where physicians refer their patients to a hospital in which they have a preferential ownership stake.

Under current federal law, a doctor may not refer his patients to a health care facility in which he has a financial interest. This includes clinical laboratory services, physical therapy, speech pathology, radiology services (such as MRIs, CAT scans, and ultrasound) and other auxiliary health services. Before these laws, commonly referred to as Stark I and Stark II, were passed in 1989 and 1993 respectively, the HHS Inspector General had discovered that Medicare patients received 45 percent more laboratory services when the doctor owned the lab than when the doctor did not.

One exception to the Stark laws allows a physician to refer patients to a hospital in which he or she has a financial interest, as long as that interest is in the whole hospital and not just a particular department or clinic within. With the proliferation of specialty hospitals, this exception has become a loophole by which physicians can legally refer patients to a boutique hospital in which they have a direct personal financial interest.

This preferential ownership provides physicians with increased financial incentives to engage in the very type of overutilization of medical services that the HHS Office of the Inspector General disclosed in its 1989 report, which invariably leads to increased federal Medicare and Medicaid spending without increased quality of patient care. This, as we all know, is the scenario that the Stark laws were designed to prevent in the first place.

The bill we are introducing today, the Hospital Investment Act of 2001, would address this problem by tightening the current law to prohibit preferential hospital ownership terms for physicians who wish to be able to refer patients to the facility. Under this legislation, physicians would be allowed to refer patients to a hospital in which they had an ownership interest, but only if the interest was purchased on terms also available to the general public.

Physicians and facilities that violate this new law would be subject to a civil monetary penalty of up to $15,000 per referral plus twice the amount billed for the referred service. In cases where there was an arrangement or scheme to refer patients to facilities owned by the physician, penalties could be as high as $100,000 and twice the amount billed for referred services. Also, the physician and specialty hospital would be denied participation in the Medicare program.

Mr. Speaker, it is imperative that Congress closes the hospital ownership loophole in the Medicare physician self-referral laws to ensure our nation's health care system is not compromised and to protect the viability of our nation's Medicare and Medicaid programs. I urge my colleagues to cosponsor and support this important legislation.

HISPANIC RECOGNITION AWARDS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. FRANK. Mr. Speaker, I was delighted to be given a chance to send my congratulations to the winners of the Hispanic Recognition Awards which are going to be held on August 3 in North Dartmouth, Massachusetts. The Hispanic Recognition Awards Committee has assembled a very diverse and valuable group of individuals and institutions to receive well merited recognition for their work in helping preserve Latino culture and values in the framework of our national unity. I am delighted to have a chance to share with my colleagues the work of this important organization and I ask that the names of the award winners be printed here so that they may get the recognition to which they are entitled.

MEDICARE PHYSICIAN SELF-REFERRAL—A BILL TO KEEP SPECIALTY HOSPITALS FROM SKIRTING THE INTENT OF THE LAW

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. STARK. Mr. Speaker, Rep. KLECZKA—who represents Milwaukee and serves with me on the Ways and Means Health Subcommittee—brought to my attention a report by the Milwaukee Journal Sentinel on Monday, June 25, 2001, that two Milwaukee hospital groups are planning to open free-standing heart hospitals. Both of these specialty hospitals will be jointly owned by the hospitals and the groups of physicians who will be referring patients to the facilities. The newspaper article pointed out the potential conflict-of-interest, and the resulting ethical concern, for physicians who refer patients to facilities in which they have an ownership interest. These joint ventures may induce investor physicians to base their treatment decisions on profits generated by the facility rather than on the clinical needs of their patients.

Mr. Speaker, the situation in Milwaukee is similar to other reports that hospitals and physicians are engaging in such clinical joint ventures, including both freestanding specialty hospitals (e.g., heart, orthopedic, or maternity hospitals), and arrangements in which a high revenue generating unit or service (e.g., cardiology or cardiac surgery) of an existing hospital is restructured and legally incorporated as a separate hospital.

Typically, these point ventures are marketed only to physicians in a position to refer patients to the facility, and they are structured to take advantage of a loophole in the Medicare physician self referral law permitting physician investments in "whole hospitals".

Mr. Speaker, the development of specialty hospitals is of great concern because they deprive full-scale hospitals of their most profitable business, leaving those existing hospitals much worse off financially. The investors in these joint ventures and specialty hospitals skim the profits of full-scale hospitals, leaving them to struggle financially. Then the hospitals must look to Medicare and to their local communities to help them financially—and all because these joint ventures are skimming high profits for their investors, including physicians.

Mr. Speaker, these situations not only harm hospitals, they violate the spirit of Medicare self-referral laws. Lawyers have found a loophole in the self-referral laws, and physicians are taking advantage of it.

Today, Rep. KLECZKA and I are joining together to introduce the Hospital Investment Act of 2001 to close the loophole. Our bill would continue to permit physician ownership in these joint ventures and specialty hospitals only if the ownership or investment interest is purchased on terms that are generally available to the public at the time. This amendment would not prohibit physicians from purchasing shares to stock, but it would make sure that such stock purchases are not the result of a sweetheart deal available only to physicians, but set up in a way to skirt the law. My amendment would make it harder for hospitals and physicians to skim profits from hospitals leaving the hospitals worse off financially.

Mr. Speaker, it is time to close this loophole in the Medicare physician self-referral laws, and I urge my colleagues to support it.

TRIBUTE TO 2001 LeGRAND SMITH SCHOLARSHIP FINALISTS

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is a sincere pleasure to recognize the finalists of the 2001 LeGrand Smith Scholarship Program. This special honor is an appropriate tribute to the academic accomplishment, demonstration of leadership and responsibility, and commitment to social involvement displayed by these remarkable young adults. We all have reason to celebrate their success, for it is in their promising and capable hands that our future rests:

Nicole Albain of Deerfield, Michigan
Laura Banks of Adrian, Michigan
Zoe Bliss of Jackson, Michigan
Jonathan Chapman of East Leroy, Michigan
Bethany Decker of Adrian, Michigan
Elizabeth Flack of Jackson, Michigan
Benjamin Green of Morenci, Michigan
RaeAnn Herman of Manitou, Michigan
Alexander Kennedy of Adrian, Michigan
Chelsey McConn of Bronson, Michigan
Ingrid Meye of Pittsford, Michigan
Martin Muntz of Manchester, Michigan
Rebekah Preston of Quincy, Michigan
Lisa Sellers of Battle Creek, Michigan
Kristen Taddonio of Manchester, Michigan
Bethany Wheeler of Morenci, Michigan

The finalists of the LeGrand Smith Congressional Scholarship Program are being honored for showing that same generosity of spirit, depth of intelligence, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan. They are young men and women of character, ambition, and initiative, who have already learned well the value of hard work, discipline, and commitment.

These exceptional students have consistently displayed their dedication, intelligence, and concern throughout their high school experience. They are people who stand out among their peers due to their many achievements and the disciplined manner in which they meet challenges. While they have already accomplished a great deal, these young people possess unlimited potential, for they have learned the keys to success in any endeavor. I am proud to join with their many admirers in extending our highest praise and congratulations to the finalists of the 2001 LeGrand Smith Congressional Scholarship Program.

SPEECH BY AHMET ERTEGUN

HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. WEXLER. Mr. Speaker, I would like to place in the CONGRESSIONAL RECORD the following speech given by Ahmet Ertegun, Chief Executive Officer of Atlantic Records, on May 18, 2001, after receiving the Prestigious Federation of Turkish American Associations (FTAA) Cultural Lifetime Achievement award during the FTAA's Turkish Cultural Week.

As co-founder of the House Caucus on U.S.-Turkish Relations and Turkish-Americans, I believe there is no individual more deserving of the FTAA Cultural Achievement Award than Ahmet Ertegun who is a leading voice in the Turkish-American community and an extraordinary humanitarian.

It would be an understatement to say that Mr. Ertegun is the epitome of the American dream. As a successful businessman and self-starter, he co-founded one of the most successful international recording studios, Atlantic Records. Mr. Ertegun has also been deeply involved in many worthwhile philanthropic activities. Thousands of individuals in the United States and throughout the world have benefited from his commitment and involvement in charities and civic organizations.

The Turkish-American community should be extremely proud to have Mr. Ertegun as a leading spokesman to promote Turkish culture and history in the United States. He, along with the Federation of Turkish American Associations, are the heart and soul of a dynamic Turkish-American community. Finally, I want to thank Mr. Ertegun and the FTAA for their commitment to strengthening the relationship between the United State and Turkey. Like Mr. Ertegun and the FTAA, I believe that the friendship and strategic partnership between America and Turkey are essential to both countries and will grow even more important throughout the 21st century.

Again, I join the Federation of Turkish American Associations and the Turkish-American community in celebrating Mr. Ertegan's extraordinary achievements and congratulate him on receiving the FTAA Cultural Lifetime Achievement award.

Thank you.

Your excellencies, ladies and gentlemen:

It is a great honor for me to be recognized by the Federation of Turkish American Associations.

I deem it a great honor to have been introduced by my dear friend, Arif Mardin.

Arif, as our musical director, has made the key monumental record hits that have been the highlights of Atlantic's history: "Respect" by Aretha Franklin, the Saturday Night Fever album by the Bee Gees, and "Wind Beneath My Wings" by Bette Midler just to name a few.

I was recently invited to a white-tie gala banquet in Nashville to get a music citation. This was a period when I was using crutches to walk.

As they called my name and I started to walk up to the podium to receive the award, this southern lady turned to me and said: "You must be mahty proud. This is the first time we've given this award to a foreign cripple."

But to be serious, it is wonderful to see such a large group of Turkish Americans. Each and every one of you is an important part of what has become the beginnings of a group which could have some political influence in the near future, both here in America and also in Turkey, through our family and friends.

It is most important that we, as Turkish Americans, champion the causes of freedom and justice, both here and in Turkey.

As you all must know, Turkey is now going through a terrible time because of economic mismanagement. We are all aware of the rumors and accusations in the Turkish press, of chaos and corruption, in both the public and the private sector.

But what has been the savior of Turkey has been the selfless and honest dedication of so many of its citizens, and the ever-present vigil of the Turkish Army, to protect the legacy of Mustafa Kemal Ataturk. They have been our saviors through the many difficulties since the formation of the Republic in 1923.

With the coming of the current crisis and the devaluation of the Turkish lira, President Bulent Ecevit sent for a top economist from the World Bank, Mr. Kemal Dervis, to establish reforms and to encourage economic help from our friends in America and in Europe.

He has been promised over 16 billion dollars, but with stringent conditions, which require drastic changes in the economic and political systems initiated by Ataturk at the beginning of the Republic.

Ataturk's dream was to bring his country and its people into the modern world's mainstream, and shortly before he died, he left this important message and I quote:

"I am leaving no sermon, no dogma, nor am I leaving as my legacy any commandment that is frozen in time or cast in stone.

Concepts of well-being for countries, for peoples, and for individuals are changing in time. In such a world, to argue for rules that never change would be to deny the reality found in scientific knowledge and rational judgement".

It is my fervent hope that all of you support Mr. Kemal Dervis' mission and support President Ecevit in this critical moment. It is an important moment in Turkish history which will disengage the economic system from the political, which will bring about transparency and accountability in government, and help Turkey reach its destiny as an important member of the modern democratic world.

May the army and the Turkish people persevere in their pursuit of Ataturk's dream.

IN HONOR OF MR. DONALD FREJOSKY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor Mr. Donald R. Frejosky. During the more than 60 years that Mr. Frejosky resided in Garfield Heights, he was an exemplar of altruism, kindness, and service—not only to his own dear family, but also to the larger family of Garfield Heights as well.

Mr. Frejosky was a proud and loving husband, father, grandfather, and brother. Not only did Mr. Frejosky embody the principle of selflessness to his own family, but his example also sets a beautiful precedent for us all to achieve. Mr. Frejosky served his Cleveland community in numerous ways: he was employed as a service and parts manager for White Motor, Richfield Truck, and G&M Towing Co., and as a musical instrument repair artist for more than 35 years, at the diligent service of the Cleveland area.

Not only did Mr. Frejosky bestow upon us his service in these simple and selfless ways, but he also served as a Councilman to Ward 5 in Garfield Heights, and until his last days was serving on the Civil Service Board of the city. Mr. Frejosky worked tirelessly, even up until his last breath, to improve the quality of life for others. It is because of his beneficence, integrity, and diligence that Mr. Frejosky can never be effaced from Garfield Heights' memory, and it is also why we are honoring him today.

Garfield Heights' loss of Mr. Frejosky is not only a loss of a husband, father, and brother, but is also a loss of one of its shining examples of sincerity and service. Today, we honor Mr. Frejosky's past, and honor his indelible imprint on our present and future.

PERSONAL EXPLANATION

HON. JOHNNY ISAKSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. ISAKSON. Mr. Speaker, I was absent for rollcall votes 148 and 149. Had I been present, I would have voted "yea" on both.

INTRODUCTION OF THE THE LAW ENFORCEMENT OFFICERS' TRAINING ACT

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. MCKEON. Mr. Speaker, today I am introducing the Law Enforcement Officers' Training Act, a bill to establish a program within the Department of Labor to provide grants for training of law enforcement officers.

Nearly every major study of police and law enforcement agencies conducted over the last forty years, from the Kerner Commission report in 1968 through the recent scandals in Los Angeles, has identified individual training as an essential element of police reform.

My proposal takes advantage of the Department of Labor's expertise in designing, implementing and administering effective programs to improve skills and to promote professional development of our workforce. While the Justice Department makes grants available to governmental entities for projects to fight crime and improve public safety, there has been a failure to focus on individual professional development as a factor in improving the delivery of law enforcement and public safety services.

My bill directs the Labor Department to focus on training and development in six specific areas: community policing, development of policing skills in a multi-cultural environment, officer survival and defense, the application of technology in law enforcement, supervision and mid-level management skills and techniques, and identification and management of officer fatigue and sleep deprivation.

These grants could be awarded to training institutions, educational institutions, and classrooms of law enforcement officers. Funds could be used for seminars, classes, workshops, conferences or other training sessions in accordance with guidelines developed by the Department of Labor.

The Law Enforcement Officers' Training Act will result in better relationships between police officers and the public, improved public safety, more efficient delivery of protective services, and enhanced sensitivity to our multi-cultural environment.

In developing this legislation I have had the opportunity to work with the leadership of the International Union of Police Associations, AFL–CIO. I sincerely appreciate their efforts on this proposal.

I urge my colleagues to join me in sponsoring this legislation which will improve the security of all of our constituents.

EDUCATION FIGHTS UNDERAGE DRINKING

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Ms. ROS-LEHTINEN. Underage drinking and all kinds of distracted driving are in our headlines once again with various legal solutions being discussed both here and in our state capitols. One organization know as The Century Council, a national non-for-profit organization, funded by America's leading distillers, has dedicated itself to fighting drunk driving and underage drinking. What remains clear is that education is a vital component of our efforts to thwart impaired driving and underage alcohol consumption.

Parents, teachers, caregivers, and the community as a whole must initiate a dialogue with young people—as early as elementary or middle school—so that positive values are formed. Teens will realize the potential consequences that result from reckless alcohol consumption and, should young people chose to drink when they are adults, they will do so responsibly and in moderation.

Our former colleague, Susan Molinari, has become Chairman of the Council, working closely with Ralph Blackman, its President and CEO. Robin Carle, former Clerk of the House of Representatives is its Government Affairs Director and Steven Naclerio, an attorney for the Bacardi companies, has worked with the Council since its inception. They all would be happy to have your help and support

With education we stand a real chance of diminishing some of the persistent national problems caused by underage drinking.

IN HONOR OF THE CASE WESTERN UNIVERSITY UPWARD BOUND PROGRAM

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the 35th anniversary of the Case Western Reserve University Upward Bound Program, which has been graciously serving the East Cleveland and Cleveland Public High School Districts from 1966–2001.

Throughout its 35 years, The Upward Bound pre-college program has worked assiduously to prepare and realize the full potential of low-income and first-generation college-bound high school students towards post-secondary studies geared towards professional health careers. The Upward Bound Program serves the low-income population, a sector which is all too often ignored. The Program nurtures and makes manifest the talents and capabilities of Cleveland's underprivileged youth. The year-round program imbues in our precious youngsters the skills to prepare them for successful professional health careers by readying them with a well-rounded curriculum in the humanities and sciences during their summer recesses. In addition to this, Upward Bound offers a Saturday Enrichment Program, weekly tutorials, and discussion sessions, which are all geared towards encouraging the amazing personal and spiritual qualities of our youth.

The Upward Bound Program has set an unsurpassed precedent in providing much needed, personal and individual care for our grossly underestimated low-income youth. For the past 35 years, the Program has carried the torch for unveiling and realizing the vast potential and gifts of today's low-income youth.

I ask my colleagues to join me in commemorating the 35th Anniversary of The Case Western University Upward Bound Program.

TRIBUTE TO ARCADIA UNIVERSITY

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize and congratulate Arcadia University on officially changing its name. Formerly known as Beaver College, Arcadia University is located in Glenside, Pennsylvania and for almost 150 years has provided students with a first rate education.

Founded in 1853, Arcadia University originally began as the Beaver Female Seminary in Beaver County, Pennsylvania located northwest of Pittsburgh. It was one of the first institutions to offer a curriculum for women only. The school became co-educational in 1872, and in 1907 adopted the name of Beaver College. The college had outgrown its campus space and moved east in 1925 to Jenkinstown, Pennsylvania. This new location provided a larger campus, as well as development opportunities. Owing to the success of the school more land was needed, and a second campus was opened in nearby Glenside.

Today, Arcadia University has an enrollment of more than 2,800 students and boasts a student to faculty ratio of 12 to 1. 88% of the faculty hold doctoral or terminal degrees. There are over 30 undergraduate degrees offered and 11 masters degree programs. The university also operates a continuing education program with evening and weekend classes. The study abroad program is nationally recognized and offers students the opportunity to study in a foreign land. U.S. News and World Report has ranked Arcadia in the top twenty regional universities in the North. The school attained university status in 2000 after completing requirements to attain the new name.

Arcadia University has been a premier institution in Pennsylvania for many years. Our community is very fortunate to have such an outstanding educational presence in our area. I am honored to celebrate this special day with Arcadia University.

TRIBUTE TO WILLIAM E. LEONARD, OF CALIFORNIA

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. BACA. Mr. Speaker, I rise to honor William E. Leonard, of the Inland Empire of California, on the occasion of the dedication of the William E. Leonard Interchange (the Interchange of the 210 and I–15). Mr. Leonard was instrumental in the design and funding of this freeway (extension of the Foothill Freeway).

William has a long history of involvement in California transportation issues. He served as a member of the California State Highway Commission from 1973 to 1977 and on the California Transportation Commission from 1985 to 1993. He served as Chairman of the California Transportation Commission in 1990 and 1991. He also currently serves on the state's High-Speed Rail Authority.

William received a Bachelor of Science degree in Business Administration from the University of California at Berkeley.

He served his country during World War II in the Philippines and Japan with the First and Seventh Cavalry Divisions, achieving the rank of First Lieutenant.

William's productive career includes founding and operating the Leonard Realty and Building Company since 1946, as well as developing, owning, and operating various city auto parks, apartment complexes, land subdivisions, and the San Bernardino public golf course.

William also has served his community and state as a member and chairman of the San Bernardino Valley College Foundation; a trustee of the St. Bernadine's Hospital Foundation; and member and past chairman of the San Bernardino Valley College Foundation; a member of the board of the Water Commission of the City of San Bernardino; a member and past director of the San Bernardino Chamber of Commerce; a member and past director of the San Bernardino Valley Board of Realtors; a past director, president, and chairman of the Board of Governors of the National Orange Show; a founding member and president of Inland Action; a member and president of the San Bernardino Host Lions; a member of the Bank of America Inland Division Advisory Board; a member and past chairman of the Security Pacific Bank Inland Division Advisory Board; and a member, treasurer, and elder of the First Presbyterian Church of San Bernardino.

William was honored by the Valley Group with its Excellence in Infrastructure Award; by the East Inland Empire Association of Realtors with its President's Exceptional Service Award; by the Boy Scouts of America's California Inland Empire Council with its Distinguished Citizen's Award; and by the Historical and Pioneer Society with its Citizen of the Year Award.

As the California State Legislature noted, as a result of his tireless hard work and unwavering commitment to the State of California and to his local community in San Bernardino County and the Inland Empire, William E. Leonard has succeeded in compiling an impressive record of personal and civic achievement, a record that has earned for him the admiration and respect of those persons who have the privilege of associating with him.

It is a pleasure to salute William and to join with his family in offering congratulations and good wishes on this happy occasion. This interchange dedication is something that William has earned over a lifetime of achievement, distinction, and public service.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes:

Ms. SOLIS. Mr. Chairman, I rise in support of the Olver/Gilchrest amendment to strike the provision prohibiting funds from being spent to implement the Kyoto treaty on global warming.

The Bush Administration's stance on the Kyoto treaty has called the United States' credibility into jeopardy. Because of this Administration's denial of the Kyoto treaty, the U.S. has become the laughing stock of the world and—more importantly—we have seriously put into question our leadership role on global warming and environmental issues.

This amendment would allow for the U.S. to stay involved in negotiations and send a strong message to the world that—although the President has given up on this important agreement—this nation and its other leaders have not.

I encourage my colleagues to support his amendment and commend Mr. Olver and Mr. Gilchrest for their important amendment, which will help to ensure the United States' environmental leadership position.

THE PILOT RANGE WILDERNESS ACT

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. HANSEN. Mr. Speaker, I am pleased today to introduce the Pilot Range Wilderness Act which designates lands within the Pilot Peak range as wilderness.

My home state of Utah is blessed with some of the most beautiful scenery this country has to offer. While we often disagree on the best way to preserve these lands for future generations, sometimes those disagreements are used by outside groups to infer that there is only one way to protect these lands and that is wilderness designation. I have often disagreed with those that take this position, and on occasion with great fervor. I believe all of us agree that preservation is, indeed, a noble goal. Many of my friends from the east come to Utah, see the wonders of nature we have there, and want so much to protect it that they advocate placing a good deal in not all of its into wilderness.

Wilderness designation taken to the extreme would severely harm the local economies and restrict the ability of land managers and local governments to best manage these lands. However, there are certain areas where wilderness is the best way to assure the preservation of the land's natural beauty and the unique historical and geological nature of these lands. One of those areas in Utah is the Pilot Range in the west desert of Box Elder County. With that in mind, I am proud to introduce a bill which would classify certain areas in the Pilot Range as wilderness.

Mr. Speaker, when one hears the great conservationists of our day speak of the natural treasures of this nation, one could very well be hearing a description of the Pilot Range. The top of the range provides a majestic view of the sun rising over the Rocky Mountains and Great Salt Lake in the East as well as the spectacular view of sunsets across the flats of Nevada. Elk and deer roam the valleys and canyons of the range, and threatened cutthroat trout makes its home in the Bettridge Creek, the largest in the range.

This is land rugged enough to test the mettle of any hearty adventurer. These mountains served as a guide to the Donner Party as they crossed the great salt flats of the Great Basin. Its streams and springs provided refreshment and a place of refuge for weary travelers. When standing on these peaks, as I have done many times, one can sense the solitude that very few places in this country can match. As wilderness, this land will continue to offer those willing to challenge its rugged terrain a breathtaking view of nature's glory, as well as multiple recreational opportunities, such as hiking, camping and horseback riding.

Given the fact that these lands are adjacent to the Utah Test and Training Range, we have gone to great lengths to ensure that wilderness designation and the role and mission of the UTTR remains compatible. We have worked to ensure that valid existing rights and the traditional and historical use of these lands is protected while removing any remaining obstacles to wilderness designation.

I was proud to introduce the Utah Wilderness Act in 1984. In my 21 years in Congress, I have had the opportunity to designate and protect more wilderness across the country than almost any other member of Congress. I believe strongly in wilderness designation when it is compatible, when the lands fit the criteria according to the definitions of the 1964 Act and wilderness the highest and best use of the public lands. The bill I am introducing today reflects my belief that wilderness designation is the best way to protect the Pilot Range and I hope my colleagues will support me in that effort.

THE 75TH ANNIVERSARY OF OLMSTED FALLS BOY SCOUT TROOP 201

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor and recognize a fine organization that has shaped and molded young men since 1926, the Olmsted Falls Boy Scout Troop 201, on their 75th Anniversary.

Boy Scout Troop 201 has a long and distinguished history of molding young men in Olmsted Falls into productive individuals in our society. The troop chartered in 1926 and consisted of 12 scouts that met regularly and attended summer camps together. Over the years the troop grew and flourished, gaining respect both in the International Scouting Association and the local Cleveland community.

As years turned into decades, Troop 201 began graduating Eagle Scouts, scouting's highest honor. Less than 2 percent of all Scouters attain this highest honor. Not only are scouts required to fulfill a minimum leadership requirement to attain the coveted Eagle Scout, but every young man must plan, develop, and implement an extensive community service project. Over the years Troop 201 has dedicated a great deal of time and energy to serving in the community, and scouters have selflessly given of their time and effort. The rank of Eagle is an achievement that requires years of dedication to self-improvement, hard work, and the community. Since 1926, Troops 201 has seen over 70 Eagle Scouts.

Olmsted Falls Troop 201 has always stood tall for the causes of righteousness and equity in our society. The original purpose of the Boy Scouts of America, chartered by Congress in 1916, is to provide an educational program for boys and young adults, to build character, to train in the responsibilities of participating citizenship, and to develop personal fitness. The International Scouting Association strives to instill values to develop leadership in young men, and teach them the benefits of a strong character. Scouts are taught to follow and uphold the 12 pillars of the Scout Law in their daily life and treat all people with respect and dignity. At the start of every meeting, scouts hold high their right hand and recite the scout oath, a pledge to remain physically strong, mentally awake, and morally straight. These three guiding principles instill strong values in young leaders and teach them of respect, dignity, and equality for all.

Mr. Speaker, please join me in honoring and celebrating Boy Scout Troop 201 on their 75th Anniversary. This special Diamond Anniversary marks a milestone in this troop's distinguished career and celebrates the countless young men affected by this organization. Troop 201 has continually strived to develop young leaders in the Olmsted Falls community, and has earned the respect and admiration of the entire Olmsted Falls community.

HONORING JESSICA L. WRIGHT UPON PROMOTION TO GENERAL

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. GEKAS. Mr. Speaker, a wise person once said, "All glory comes from daring to begin." This is certainly true of the person I rise today to honor. Jessica Wright is a constituent from my district who has just recently achieved the rank of Brigadier General.

This is an honor and a first. For you see, the newly appointed general is the first woman to achieve this rank in the Pennsylvania National Guard. This achievement is the result of twenty-six years of dedication and duty.

General Wright has been a pioneer of sorts. Throughout her career in the National Guard she was daring enough to be the first to blaze trails where there were none. She was the first female aviator in the Army National Guard when she completed the officer's rotary wing aviator course at Fort Rucker in Alabama.

General Wright was also the first female to become a combat commander in the rank of colonel in the Army. She achieved this prestigious honor when she took command of the 28th Infantry Division stationed at Fort Indiantown Gap in Lebanon County, Pennsylvania.

Mr. Speaker and Members of the House, General Wright has served her country with distinction. I ask that you join me in honoring this fine soldier for her service to the United States and the Commonwealth of Pennsylvania.

EFFORTS TO ASSIST THE HOMELESS AND HUNGRY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. LANTOS. Mr. Speaker, on June 1st, at the annual awards ceremony of the St. Albans School, 17 year old James Fisher was recognized and honored for his innovative project to feed the homeless of Washington, D.C. I am pleased to share his story, with the hopes that his example might inspire other teenagers throughout the nation.

Homelessness is one of America's most complicated and important social issues. In an effort to combat this complex problem, Congress continues to appropriate funds each year to the Stewart B. McKinney Homeless Act which provides funds to the Department of Housing and Urban Development to administer programs which assist homeless children and adults. In addition, there are also countless acts of compassion each day among private citizens in their communities to help stem hopelessness and hunger among our homeless population. James Fisher's is but one story among thousands in which Americans across the nation are working to help the homeless.

After noticing that the breakfast period at a neighborhood McDonald's was the slowest period of the day for sales one morning, James Fisher approached the owner, Mrs. Neva Van Valkenburg, with an idea. Mr. Fisher proposed arranging for students at St. Albans School and its sister school, the National Cathedral School, to have breakfast at the McDonald's every day for one week. In return for this increased business, Mr. Fisher asked for 15% of each morning's sales, in the form of a food credit, to be set aside for low-income and homeless children. This credit would then be used to purchase meals provided by Martha's Table in the District of Columbia. Mrs. Van Valkenburg agreed with James' idea and the program became a stellar success. James Fisher's arrangement with Mrs. Van Valkenburg provided for 250 additional meals for the homeless children who are fed at Martha's Table. Mr. Speaker, I commend James, Mrs. Van Valkenburg and the students who participated in this program to help homeless children in their community.

Mr. Speaker, I would also like to recognize the many organizations and individuals in my own Congressional district who assist the homeless and the hungry. These services range from mental and physical health programs, help desks, meals and shelter, job training programs, health care, transitional housing and residential rehabilitation. These organizations are fighting the battle against homelessness and hunger everyday. Some of the organizations I would like to recognize for their work include the Daly City Community Services Center, the North Peninsula Dining Center in Daly City, the Grace Covenant Church in South San Francisco, the South San Francisco Food Pantry in South San Francisco, the North Peninsula Neighborhood Services Center in South San Francisco, the St. Vincent de Paul Society Cafe, the St. Vincent Homeless Help Desk in South San Francisco, the San Mateo Pacifica Resource Center, CALL -Primrose Center in Burlingame, the Samaritan Family Kitchen in San Mateo, and many, many others.

All of these groups help to provide necessary services for the homeless of San Francisco and San Mateo Counties and I would like to pay tribute to the individuals who work and volunteer their time to help the homeless and the hungry in our community.

Mr. Speaker, James Fisher's experience and the efforts of many other organizations, including those on the Peninsula and in the City of San Francisco, should serve as an example to all of us on how each one of us can help our communities work to alleviate hunger and homelessness.

IN HONOR OF THE REOPENING OF THE LESBIAN, GAY, BISEXUAL AND TRANSGENDER COMMUNITY CENTER OF NEW YORK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mrs. MALONEY of New York. Mr. Speaker, today the Lesbian, Gay, Bisexual and Transgender Community Center of New York will reopen after a two-year renovation. The Center is housed in a historic former high school in Greenwich Village. The Food and Maritime Trades High School was built in 1844 and became the spiritual home of the Gay and Lesbian community of New York in 1983.

Since its founding, the Center has served as a meeting place for those committed to improving the lives and assuring the rights of those who suffer because of their actual or perceived sexual orientation. The Center is an inclusive organization that recently changed its name to demonstrate a commitment to serving the Bisexual and Transgender community.

Newcomers to New York have always joined together in fraternal and social groups. Just as some organizations help immigrants adjust to life in the City, so too, the Center helps newcomers from the gay community as they adjust to a new life in New York. Quarterly orientations and regular support groups for young people are some of the Center's most important programs.

The Center is the "heart" of the Gay, Lesbian, Bisexual, and Transgender community in New York City. Each week, more than 5,000 people visit the center to take advantage of the numerous services and programs it offers. It has also become a social center for many people in the community. The monthly schedule at the Center includes more than 100 political and social groups. The AA program alone provides counseling and support for several hundred people in recovery. The Center Library is a valuable resource for both the gay and straight community.

The Center's real contributions can be seen in the lives of those who have been transformed by the Center. The HIV positive patient who is strengthened through the AIDS support group, the counseled teen who is empowered to stand up to taunts, and the participant in a 12-step program who can face the future with friends from the Center, have all improved their quality of life through Center programs.

I am honored to salute the many people who work so hard at the Lesbian, Gay, Bisexual, and Transgender Community Center of New York. The reopening of the Center is indeed a cause for celebration.

CITIZENSHIP IMPORTANT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. BEREUTER. Mr. Speaker, this Member wishes to commend to his colleagues the July 4, 2001, editorial from the Omaha World-Herald entitled "Americans All." It ran exactly 225 years after America's forefathers declared independence from England. At that time, no one could have envisioned how the ideals expressed in the Declaration of Independence would continue to attract immigrants from around the world.

Mr. Speaker, immigrants who legally traverse the U.S. immigration system should be highly lauded. Indeed, they have made incredible sacrifices to attain freedom and the chance to pursue their dreams. Therefore, it is incumbent upon this body to continue to support legal immigration and the efforts of immigrants to become U.S. citizens for only through citizenship can immigrants, who contribute so much to other aspects of American society, fully participate in our unique political process.

[From the Omaha World-Herald, July 4, 2001]

AMERICANS ALL

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights that among these are Life, Liberty, and the Pursuit of Happiness.—Declaration of Independence

As Midlanders celebrate the 225th anniversary of America's decision to end its status as a collection of colonies, it is instructive and heartening to note that this region is in a real sense a showcase for the degree to which the Declaration remains a living document.

Nebraska and Iowa in particular are increasingly becoming a focus not just of immigration but of immigrants who take the important and self-affirming step of becoming U.S. citizens. Those who do so are immersing themselves in the old, yet ever young, quest for life, liberty and the pursuit of happiness, which often were not available in their native lands.

The numbers are not yet huge, but the math involved is impressive. Naturalizations—mostly of people from Latin America but also from Lithuania and Asia and points all over—have grown impressively in the last decade. Many come for jobs, often in this region's meatpacking plants.

But it is noteworthy that increasingly they are coming here, rather than to more traditional venues like California, Texas and the East Coast. Many believe that economic prospects are brighter in this part of the country, and for the most part they find easy acceptance. Last year, 4,245 people became U.S. citizens in Iowa and Nebraska. Contrast that with the figure of 897 as recently as 1992—almost a fourfold increase. (this Friday, at least 250 new citizens will be sworn at Lexington, Neb.)

He has endeavored to prevent the Population of these States; for that Purpose obstructing the Laws for naturalization of Foreigners; refusing to pass others to encourage their Migrations hither. . . .

It is worth remembering that one of the complaints the authors of the Declaration fielded against England's King George III was that his policies sharply restricted immigration. George correctly saw burgeoning population as a threat to his hold on the colonies. And while he could do nothing about population growth in America due to the natural margin of births over deaths, he could and did try to strangle further influx.

Today, although immigration and naturalization still present some roadblocks, the picture is much brighter. Among those who want to plant their futures here, for the most part they do better if they become citizens. They then have more of a stake, more of a say. And, to their credit, the process requires work. It's not like signing up for a supermarket discount card or acquiring a driver's license.

The procedure usually takes about a year. There's a standard $250 processing fee, and along the way there's an FBI background check, an interview and a civics test. So it's not easy, but at least it's achievable and the process is regularized and fair. Completing it is, and ought to be, a source of pride.

Nor have we been wanting in Attentions to our British Brethren. . . . We have reminded them of the Circumstances of our Emigration and Settlement here. . . .

As has been often noted, this is a nation of immigrants. In the Midlands, that immigration has to a great degree meant Germans and Irish, and in lesser numbers Poles, English, Scandinavians, Czechs and the descendants of freed slaves. Today, Latinos and, to a lesser degrees, those of Asian origins are changing the face of society here—figuratively and literally.

It is, we believe, incumbent on those who got here first to extend a welcome to those who are making their own trips and taking up citizenship as the 20th century fades into the 21st. For the most part, this is happening seamlessly. For the most part, this is happening seamlessly. The newest arrivals are being assimilated and recognized for their strengths. To be candid, Iowa and Nebraska would have difficulty sustaining population growth without them. The process feeds on itself. Newcomers who become citizens (or legal residents) are in turn entitled to serve as sponsors for relatives' applications.

And so it goes. The faces change somewhat. The goals and dreams do not.

Nearly everyone who comes here and becomes a part of the American matrix is seeking essentially the same things the Founders were taking about 225 years ago. Americans are all in this together. They draw strength for new blood, new ideas. That's the indisputable past, and it is the inevitable future.

IN MEMORY OF STANLEY KRAMER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of an exceptional film maker, Stanley Kramer.

During his lifetime, Stanley Kramer produced dozens of films. They included such classics as Guess Who's Coming to Dinner, Judgment at Nuremberg and Inherit the Wind.

Stanley Earl Kramer was born and raised in New York City's Hell's Kitchen neighborhood, where he later attended New York University. Before he left for the military service in World War II, he established himself in the movie industry as a researcher, editor and writer. His first film, So This is New York, was released in 1948.

Working in the 1950s and 60s, Kramer stood for things in which he believed and intertwined them into his works. For example, he highlighted issues such as race in Guess Who's Coming to Dinner and The Defiant Ones, Nazi war crimes in Judgment at Nuremberg, fundamentalism vs. modern science in Inherit the Wind and nuclear holocaust in On the Beach. He also depicted his courageous demeanor in his films, not even realizing it, by creating characters who fought against fear while others stayed behind.

Even though Kramer was known as a "message director", his friends and beloved ones knew him as much more. Steven Spielberg once said that Kramer was one of the greatest film makers due to the impact he made on the ethical world, and not solely based on the art and passion he conveyed on screen.

Eighty of his films were nominated for Oscars, 16 of them which won and six were nominated for Best Picture. Three of his finest films made the American Film Institute's list of 100 Best Movies of All Time. Kramer himself was nominated as Best Director three times, and in 1962, he was presented the prestigious Irving B. Thalberg Memorial Award for Outstanding Work. He also received the Producers Guild of America's David O. Selznick Life Achievement Award.

My fellow colleagues, please join me in honoring the memory of Stanley Kramer for all of his achievements in the movie industry. His love and dedication in portraying significant films has touched the hearts of all.

DISTRIBUTED POWER HYBRID ENERGY ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing the Distributed Power Hybrid Energy Act. This bill would direct the Secretary of Energy to develop and implement a strategy for research, development, demonstration, and commercial application of distributed power hybrid energy systems.

Distributed power is modular electric generation or storage located close to the point of use, well suited for the use of renewable energy technologies such as wind turbines and photovoltaics, and also of clean, efficient, fossil-fuel technologies such as gas turbines and fuel cells.

Distributed power avoids the need for and cost of additional transmission lines and pipelines, reduces associated delivery losses, and increases energy efficiency. In addition, distributed power can provide insurance against energy disruptions and expand the available energy service choices for consumers.

By their very nature, renewable resources are distributed. Our ability to cost-effectively take advantage of our renewable, indigenous resources can be greatly advanced through systems that minimize the intermittency of these resources. Distributed power hybrid systems can help accomplish this.

"Hybridizing" distributed power systems—combining two renewable sources or a renewable and a fossil source—enables us to offset the weaknesses of one technology with the strengths of another. For example, in a hybrid system, the intermittency of wind power can be offset by the reliability and affordability of power generated by a microturbine.

My bill would direct the Secretary of Energy to develop a distributed power hybrid systems strategy identifying opportunities for and barriers to such systems, technology gaps that need to be closed, and system integration tools that are necessary to plan, design, build and operate such systems.

Mr. Speaker, distributed generation represents the most significant technological change in the electric industry in decades. Knowing this, it makes sense to focus our R&D priorities on distributed power hybrid systems that can both help improve power reliability and affordability and bring more efficiency and cleaner energy resources into the mix. My bill would help us do this. I look forward to working with Members of the House to move forward with this important initiative.

IN RECOGNITION OF DR. JESUS CARREON

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mrs. NAPOLITANO. Mr. Speaker, I rise today to recognize Dr. Jesus Carreon for his unfailing leadership and his dedication to the Southern California community. Dr. Jesus "Jess" Carreon, current President of Rio Hondo College, will be leaving the district to assume a new position as President of Portland Community College in Portland, Oregon.

Dr. Carreon has been an active contributor to the Southern California community for quite some time. After spending his childhood in the San Diego area, he pursued his Bachelor's Degree from the University of San Diego. He later earned his Master's of Science Degree from the University of California, Irvine, and his Doctorate in Education from the University of Southern California.

After completing his own education, Dr. Carreon immediately became a teacher. Since then, he has been involved in the educational process at nearly every level. He served as Assistant Dean of Instruction at Laney College in Oakland and as Assistant Dean of Vocational Education at San Bernardino Valley College. Dr. Carreon later served as Vice President of Instruction at El Camino Community College and, most recently, as President of Ventura College.

Jess has made immense strides during his tenure as President of Rio Hondo Community College. In addition to greatly improving the school's image, Dr. Carreon has worked tirelessly to increase Rio Hondo's involvement in the community. Under his leadership, members of the school's management team were awarded seats on Chambers of Commerce in each of Rio Hondo's sending districts. In addition, Dr. Carreon pioneered the creation of the school's first satellite campuses in the towns of El Monte and Santa Fe Springs.

Still, Dr. Carreon's involvement reaches far beyond the classroom. When not teaching, he serves on local community boards and acts as an advocate for economic development. He sits on the Board of Directors for both the American Association of Community Colleges and the Presbyterian Intercommunity Hospital. Dr. Carreon is an active member of Whittier and San Gabriel economic councils and, in 1999, was named President of the National Community College Hispanic Council.

Dr. Carreon's expansive knowledge and considerable expertise have made him a popular speaker at the regional, state and national levels. He lectures frequently on a host of topics, including economic development, workforce preparation, and leadership.

Dr. Carreon has devoted his life to improving education throughout Southern California and the 34th Congressional District. He is a model citizen, active throughout the community. I want to personally congratulate Jess for all his contributions and wish him success in his new position.

IN STRONG SUPPORT OF THE FISCAL YEAR 2002 AGRICULTURE APPROPRIATIONS LEGISLATION

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. BENTSEN. Mr. Speaker, I rise to express my strong support for the Fiscal Year

(FY) 2002 Agriculture Appropriations legislation (H.R. 2330) that would provide $74.6 billion in funds for the U.S. Department of Agriculture, the Food and Drug Administration, and other related agencies. I believe we must support our nation's agriculture programs and am very pleased that this year's bill including sufficient federal funding for nutrition research programs.

I am particularly pleased that this legislation includes $75 million in additional federal funding for the Agriculture Research Service (ARS), a division of the U.S. Department of Agriculture. The ARS conducts and funds a variety of research projects, including nutrition research. The ARS provides funding for six human nutrition research centers, including the Children's Nutrition Research Center (CNRC) at Baylor College of Medicine in Houston, Texas. The CNRC is the only human nutrition research center which focuses primarily on pediatric nutrition and helps to make recommendations about childhood diets.

As the representatives for the CNRC, I applaud the innovative pediatric nutrition research which the CNRC conducts each year. I am also pleased that this bill includes an additional $500,000 for the CNRC so they can expand their pediatric nutrition research next year. I believe that this investment will not only save lives but also reduce health care costs as we learn more about what is the best, most nutritional food for our children to eat. This additional funding will fund valuable research which will help families to provide nutritional food for their children so that these children will live longer, healthier lives.

There are many examples of CNRC's research which will have a direct impact on our lives. For instance, CNRC researchers are currently examining the metabolic, hormonal and dietary factors that affect the body's absorption and utilization of essential mineral nutrients such as calcium and zinc. Lack of adequate calcium intake in childhood can predispose children, especially females to fractures and osteoporosis. By understanding how our bodies process calcium and other nutrients, the CNRC will be able to make important recommendations on how to help children to prevent osteoporosis. Another CNRC study is working to identify the factors that influence children's eating habits and how best to help children and families to adopt healthier habits to avoid the long-term health problems linked to poor nutrition, such as obesity, diabetes, stroke, and osteoporosis. The CRNC is also doing research on the nutrition of mothers and their infants during pregnancy and lactation. These studies will examine the optimal dietary calorie, protein, and mineral requirements for maternal health during pregnancy and lactation. With this study, mothers and their infants will learn more about the necessary nutrients they need to maintain optimal health during pregnancy and lactation.

I will continue to work with the House Appropriations Committee to ensure that the CNRC gets sufficient federal funding to conduct pediatric nutritional research. I urge my colleagues to support this legislation which provides necessary funding for agriculture and nutrition research programs.

COMMENDING BEN AFFLECK

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. HALL of Ohio. Mr. Speaker, I rise to honor a very special person, Ben Affleck, who came to town yesterday to host a fund-raiser on behalf of the A–T Children's Project. A–T (Ataxia-Telangectasia) is a genetic disease that attacks children. How Ben became involved is noteworthy.

Ben met Joe Kindregan, then 10, three years ago while Ben was filming a segment of his hit film, Forces of Nature, at Dulles Airport. Joe had just started using his power wheelchair and was given the opportunity to meet Ben on the set during filming. Ben and Joe immediately hit it off and their friendship has grown since then. Ben and Joe meet occasionally and keep in touch by e-mail. Recently, Ben invited Joe and his family to the première of his new movie, Pearl Harbor, in Hawaii. Over the last few years, Ben has been able to witness first-hand the toll A–T has taken on Joe, and Joe's increasing dependence on his family, just to get through the day. Ben's devotion to Joe—and the Kindregan family's work with the A–T Children's Project and families—has made a tremendous difference in their lives and has given them additional hope that, with the help of people like Ben, a cure is possible.

Ben is a gifted young actor, popular, and hitting all the right high spots that a demanding career in Hollywood requires. He has gone beyond acting and has journeyed into the entrepreneurial world of producing shows as well. He has many developing interests in his life; takes the time to stay close to his mother; and seems to truly strive to make a real difference in this world.

Ben has taken the time to learn about the disease and the various research projects that are focusing on finding a cure. He appeared before the Senate yesterday as a compassionate and informed witness to talk about this dreadful disease, and the remarkable progress this small foundation has made in so short a period of time in its search for a cure. He requested that Congress provide increased funding to NIH for A–T research. He also joined many Members of Congress and friends last night to do push-ups and shoot hoops at an event to raise money and awareness about A–T.

I believe that Ben Affleck is an exceptional person. In his work with A–T, he has demonstrated a deep compassion and interest in his fellow man, which is particularly notable when coming from someone in the midst of achieving enormous fame and fortune. Ben has been a true hero to the A–T kids, and I extend my personal thanks to him.

IN HONOR OF MR. CARROLL O'CONNOR

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to recognize Mr. Carroll O'Connor, a truly remarkable man, who has influenced the lives of many people throughout his acting career, most notably known for his character of Archie Bunker in "All in the Family".

Mr. O'Connor was very enthusiastic about "All in the Family" which began in 1971 and lasted eight seasons. Mr. O'Connor portrayed a cranky, ignorant, and even caustic man whose wholesomeness and honesty won over the sympathy of audiences. He stated about the show, "Right from the start I loved the idea of this show. It was frank and refreshing, a lot more true to life than anything on the air. Everybody was talking about creating shows that were relevant, but nobody wanted to touch the real thing."

As the television show grew, Mr. O'Connor's popularity soared to unbelievable heights. He was not just the character that he was known for, but he was a lovable man who truly cared for all. The show's other cast members spoke of the cast as a family. After the death of his son he spent a significant amount of his time working against drug abuse. Mr. O'Connor was dedicated to the cause and traveled the country promoting laws in the state legislatures that would allow victims of drug abuse to sue drug dealers for monetary damages.

Let us honor the memory of Carroll O'Connor for his remarkable contributions to the people through his life of service, most notably playing the role of "Archie Bunker."

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of the Gilchrest/Olver amendment. The amendment would strike the language that was inserted in the bill to ensure that the Kyoto Protocol is not implemented prior to its ratification in the Senate.

This language has been added over the past several years ago to numerous appropriations bills. As I understand it, the reason what that some were concerned that President Clinton was moving too fast to address global warming.

It's important to note that the Inspector Generals of the EPA, the Department of Energy, and the Department of State all agreed that the Clinton Administration was not trying to prematurely implement the Kyoto Protocol.

But that's all beside the point now.

We have a new President who has made it clear that he intends to do nothing about global warming, except study it. He has pronounced the Kyoto Protocol fundamentally flawed and "dead," and he has reversed his campaign promise to regulate carbon dioxide.

As it stands, this bill seems to say we still need to restrain any federal efforts to address global warming. But if there is ever a time NOT to send cautionary messages about acting too fast to address global warming, it's now. The danger we face today is in acting far too slowly.

Last year, efforts on the floor to amend the Kyoto language were successful. I urge my colleagues to send the same good message that we sent last year—this anti-Kyoto language wasn't necessary in past years, and it's not necessary now. There is now a scientific consensus that global warming is real, and it is time for Congress to confront it.

IN RECOGNITION OF MR. HOWARD L. HOGAN

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mrs. NAPOLITANO. Mr. Speaker, I rise today to pay tribute to an extraordinary man, Mr. Howard L. Hogan, who is retiring after 36 years of dedicated service to the El Rancho Unified School District.

A native of California's 34th Congressional District, Mr. Hogan was born and raised in the town of Whittier. After graduating from Whittier High School in 1958, Howard attended California State University at Long Beach, where he received his Bachelor of the Arts Degree in 1962.

Upon completing his undergraduate education, Mr. Hogan immediately began his teaching career. He taught one year with the Santa Ana School District before serving his country in the United States Army. After his service, Howard rejoined the workforce as a teacher with the El Rancho Unified School District in 1965.

Since that day, over 36 years ago, Mr. Hogan has involved himself in all levels of the educational process. He has been a teacher of the industrial arts, a high school dean, a high school counselor, and an assistant principal. In 1986, he became Principal of the El Rancho Adult School, a position he has held ever since. In the last 15 years, he has brought significant change to the District, working constantly to elicit excellence from students.

Throughout the years, Howard has been a fervent advocate of adult study, emphasizing the importance of life-long education. As Principal of the El Rancho Adult School, he supported and directed the creation of a new site for the program. This school, designed to serve the needs of Southern California's adult community, is something that Mr. Hogan and the entire neighborhood take great pride in.

After 36 years of unwavering service, Howard's retirement is greatly deserved. He plans to devote his retirement to personal business matters, volunteer activities, and, most importantly, his wife, Jo Anne.

Howard Hogan is an ideal citizen who has shown enthusiasm and commitment to the students of El Rancho Unified School District. In his 36 years as a teacher, he has made limitless contributions to both faculty and students alike. I know my colleagues will join me in congratulating Howard for all his accomplishments and wishing him the best of luck in his retirement.

"HONORING A FALLEN HERO, YASBEL 'MAC' ARREDONO ORTIZ"

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Ms. SOLIS. Mr. Speaker, I rise today to recognize Ysabel "Mac" Arrendondo Ortiz, who proudly served his country in Korea. Although he was listed as Missing In Action on Dec. 2, 1950, his family never gave up hope that he would return home. In January of 1954 his mother, Concha, received notice that Corporal Ysabel A. Ortiz had been awarded the Purple Heart Award posthumously for making the supreme sacrifice for his country.

Cpl. Ysabel was born and raised in the 31st Congressional District city of El Monte, California. He was a third generation El Montean. His grandfather, Longino Ortiz, came to America in 1915 to look for a better life for his family and escape the troubles of the Mexican Revolution. He arrived in El Monte and sent for the rest of the family from Leon, Guanajuato, Mexico.

Ysabel A. Ortiz, or Mac as his friends and family knew him, attended school in El Monte at a time when Mexican-American children were segregated from white school children. Mac attended school up to grade 5 at Lexington School and then Columbia school from grade 6 through 8. He attended El Monte High School and then enlisted in the U.S. Army at age 18.

Mac's service to his country has not gone unrecognized. His name appears on a bronze plaque honoring our nation's war dead at the El Monte Historical Museum. Mac's photo also hangs in the La Historia Society Museum/Museo de Los Barrios Veterans Exhibit, which is also in El Monte. To this day, Cpl. Ysabel "Mac" A. Ortiz's Purple Heart is proudly displayed by his sister Chata.

Mac Ortiz was survived by his mother, Concha Ortiz (now deceased); his father, Ysabel M. Ortiz, Sr. of West Covina, CA; his brothers Harold Ortiz (now deceased) and Jose Lucio Ortiz, of Oklahoma; his sisters Esmeralda "Chata" Ortiz Ureno of Covina and Jennie Sanchez of Whittier; his step-brothers Manuel Ortiz of El Monte and Rudy Ortiz of Bakersfield; and his step-sisters Rose Soto of West Covina and Ana Sanchez of Arcadia.

Mac Ortiz's loving memory lives in the hearts of Chata and the entire Ortiz family. I ask my colleagues to join me in recognizing Mac Ortiz's contributions to our great nation.

THE KIDNAPPING OF THREE ISRAELI SOLDIERS

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KIRK. Mr. Speaker, on October 7th of last year Hezbollah terrorists crossed the Israel-Lebanon border and perpetrated the cowardly kidnapping of three Israeli soldiers. In the last nine months Hezbollah has repeatedly refused to provide any information on the fate of these young men, leaving their families and friends in a state of torturous limbo.

Last week it was revealed that the United Nations is in possession of a video tape that was made of the scene of this crime the day after it occurred. The Israeli government investigators believe that this tape may contain material evidence that will help them identify the terrorists who committed this act.

U.N. peacekeepers should be expected to keep the peace. This includes assisting in the apprehension of those who violate international borders to commit war crimes.

I have introduced a House Resolution that calls for the United Nations to immediately provide Israeli investigators with an unedited copy of the crime scene video tape and any other material evidence that would help bring these terrorists to justice and to end this nightmare for the families of Adi Avitan, Binyamin Avraham, and Omar Souad.

I urge my colleagues to join me to show our strong support for the rule of law, for the sovereignty of our ally Israel, and for these men held in captivity by terrorists.

RECOGNIZING MR. PAUL MARKLOFF

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. GREENWOOD. Mr. Speaker, I rise today to recognize Mr. Paul Markloff, whose honesty and character have made him a hero to an elderly woman in the wake of Hurricane Allison. Mr. Markloff is a nineteen-year employee of Nationwide Insurance and a resident of Sellersville, Pennsylvania. On June 19 he was assigned to the case of a woman whose apartment had been flooded and then burned when the water caused a natural gas explosion in the building. She had no family to help her recover from the damage. Her apartment was devastated by the fire and she told Mr. Markloff that she had lost everything. She mentioned that she had $8,000 in cash inside her apartment. When Mr. Markloff and a maintenance worker went in and searched the charred furniture, they found a total of $420,000 cash in a dresser. Despite the fact that the woman had not mentioned this much money—she said, in fact, that she didn't even know she had that much—Mr. Markloff gathered the money together and drove her immediately to her bank. He made sure that all the cash was carefully deposited in a special account and then took her to dinner and found her a room for the night.

Mr. Markloff's actions in assisting this woman in a time of crisis would have been commendable even had they not also included such an impressive display of honesty. Had he only helped her find housing, he would have earned our praise. By returning her savings, about which she herself was unaware, he has shown himself to be a man of high moral and ethical standards. It is always inspiring to know that there are people like Mr. Markloff, who are generous enough to do the right thing without thought of personal gain. Mr. Markloff told a local newspaper that he didn't expect any reward for his actions because he was "just doing his Job." Perhaps he was not rewarded monetarily, but he certainly deserves our recognition and thanks. His actions remind us how much good is in all of us and I am honored to pay tribute to him today.

IN HONOR OF ST. JOHN WEST SHORE HOSPITAL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor St. John West Shore Hospital in commemoration of its 20th anniversary. Since its establishment in 1981, the hospital has been faithfully serving the needs of western Cuyahoga and eastern Lorian county residents.

Since its induction as a fledgling medical facility on March 1, 1981, St. John West Shore Hospital has subsequently expanded and broadened its services, making it a bastion of service and charity for the Westlake community. The hospital's initial years were filled with uncertainty, but its current success renders the institution an emblem of triumph and progress for us all to admire. The Westlake community welcomed and supported the hospital since its induction as a medical facility, forging the reciprocal relationship that has been so integral to the hospital's survival and growth. A testament to this mutual support and rapport was the monumental opening of Medical Buildings 2 and 3.

In 1989, the Sisters of Charity of St. Augustine became the sole sponsors of the hospital, setting the framework for the hospital's establishment as an institution dedicated to the well-being of the community. However, the hospital does not qualify it services to solely the physical needs of the Westlake residents, but also nurtures their spiritual needs as witnessed by its induction of the annual Festival of the Arts in 1992. In line with its commitment to serving the public, the facility pays arduous attention to the needs of each individual. To expedite the fulfillment of each patient's particular and unique needs, the hospital became part of a not-for-profit juncture in 1999, under the auspices of University Hospitals Health System and the Sisters of Charity of St. Augustine Health System. This Joint effort further compounded the hospitals' steadfast dedication and mission as a health care advocate at the service of its people.

I laud St. John West Shore Hospital on its 20th anniversary in sincere awe and reverence for its magnanimous and unrelenting efforts in the service of the residents of Westlake.

HONORING ROBERT F. PAILTHORPE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KILDEE. Mr. Speaker, it is a great honor to rise before you today to recognize the accomplishments of Chief Navy Journalist Robert F. Pailthorpe, who will be retiring September 28, after 20 years of loyal service to our country.

Born in Swartz Creek, Michigan in 1963, Robert Pailthorpe graduated from Swartz Creek High School, where he served as editor of the student newspaper, after founding a community newspaper at the age of 15. He joined the United States Navy in August 1981, and after graduation from basic training, reported to Naval Technical Training Center in Meridian, MS, where he graduated in the top 10 percent of his class, qualifying him for accelerated advancement to Petty Officer-Third Class. After a stint on the USS Saratoga, Chief Pailthorpe attended the Defense Information School at Fort Benjamin Harrison, and returned to the Saratoga as Petty Officer—Second Class. During this time, Chief Pailthorpe coordinated international media response to the American bombing of Libya after the Achille Lauro ocean liner hijacking.

Chief Pailthorpe went on to serve as Public Affairs Officer and Department Head for the Navy second largest recruiting district in Chicago. His success there resulted in two nominations as Sailor of the Year and three selections as Support Person of the Quarter. While in Chicago, Chief Pailthorpe reenrolled in the Defense Information School, where he became Commanding Officer of his class, and he was advanced to Journalist-First Class.

After completing a tour on the USS Forrestal, Chief Pailthorpe next assignment was as Assistant Public Affairs Officer and Assistant Department Head of the Navy's Blue Angels. He oversaw the public affairs mission requirements for over 120 air shows and many other special projects during the team's 50 the Anniversary. He was nominated as Blue Angel of the Year, and selected as Blue Angel of the Quarter for his efforts.

In October 1996, Chief Pailthorpe reported to his current post, Strategic Communications Wing One as Assistant Public Affairs Officer and Administrative Department Leading Chief Petty Officer. In May 1999, he coordinated national media response in the wake of one of Oklahoma's most powerful and destructive tornadoes.

Chief Pailthorpe has been recognized many times for his service. He has received three Navy Commendation Medals, three Navy Achievement Medals, and four Good Conduct Medals, among many other awards. In addition, he has always strived to be an important figure in his community. He has been an active member of the Boy Scouts, the Sea Cadet Corps, was editor of Chicago's American Red Cross newspaper, and was adviser and newspaper editor for the Oklahoma State Chapter to Prevent Child Abuse.

Mr. Speaker, as the father of two sons who have served in our nation's military, I know very well that it takes a special person to serve our country in the service of the military. I am grateful for Chief Robert Pailthorpe's dedication and commitment to justice, and I ask my colleagues to please join me in congratulating him on his retirement.

TRIBUTE TO THE CITY OF FAYETTEVILLE

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. MCINTYRE. Mr. Speaker, it is with great pleasure that I rise today to congratulate the City of Fayetteville on its recent selection as an All-America City for 2001. This is quite an honor, and indeed one that is well-deserved.

In particular, I would like to pay special tribute to those individuals who served on the Fayetteville All-America City Award Committee for their tremendous efforts to bring due recognition to this fine city located in the Seventh Congressional District of North Carolina.

Under this committee's exemplary leadership, Fayetteville has been recognized as a model for all cities across the nation to emulate. By encouraging community-wide involvement to help address and solve local issues, the residents of Fayetteville have shown that they truly have what it takes to be All-America citizens.

They are to be commended for their efforts to implement three innovative programs known as Operation Inasmuch, MetroVisions, and Study Circles. By fostering an atmosphere of commitment, cooperation, and community, these programs have served to make Fayetteville an even better place to call home.

The City of Fayetteville is indeed privileged to have such dedicated citizens working tirelessly to promote all that this community has to offer. With hard work and dedication, the residents of Fayetteville have what it takes to make a real difference. I am confident that whatever challenges Fayetteville may have—now or in the future—the citizens of this fine city will overcome them and go forward with inspiration, imagination, and innovation.

My fellow colleagues, please join me in saluting Fayetteville for this distinguished honor of being named an All-America City for 2001.

TRIBUTE TO HEINZ PRECHTER

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. LEVIN. Mr. Speaker, I rise to pay tribute to a remarkable citizen of Michigan, of our nation, indeed of the world, Heinz Prechter.

Like so many, many others, I was deeply saddened and shocked at his death on July 6.

I did not know Heinz Prechter well enough to know about his inner self. I did not know that he had been fighting the illness of depression for many years. I did know him well enough to have seen firsthand his immense vitality, his grit, his supreme intelligence and his unique curiosity.

It was only a few weeks ago that he dropped by the office in D.C. for a chat. He was very tanned, I thought perhaps from playing golf with one or more of the endless luminaries with whom his life was intertwined. But our discussion was very down to earth, which was the hallmark of Heinz Prechter.

The day before he had been elected the new Chairman of the U.S. Automotive Parts Advisory Committee. He had agreed to take this post, even though he knew that he had already overcrowded his schedule with a wide variety of other endeavors such as the Global Automotive Institute, work on the board of the Henry Ford Museum and Greenfield Village, various projects in the Downriver communities, all in addition, of course, to his day to day business dealings. With enthusiasm he discussed how he intended to pick up the pace on efforts to win for American businesses and workers more equal access to the markets of other nations. On this subject, as was true for so many others in his life, there was no barrier because he was an active Republican talking with a Democratic member of Congress. For him, life was a web of different pursuits with changing alliances. He felt that he had the best chance to get things moving again, using his impeccable credentials in the automotive world and his relationships within the political party to which he was dedicated.

When he was leaving, we put our arms around each others shoulders; the last thought in my mind at the time was that I would never see again that ball of fire, that bundle of energy.

His life is an example for all—his dedication to human endeavors and relationships.

May his death serve not only for us to remember him well, as he so richly deserves, but also to tackle with the kind of energy he possessed the illness, depression, that cost him his life and cost us an invaluable citizen and friend. My condolences reach out to the entire Prechter family.

HONORING DR. OLIVE JACK FOR HER EXTRAORDINARY SERVICE TO THE NAPA COMMUNITY

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Dr. Olive Jack's tremendous commitment to the health and well being of the citizens of the Napa community. Dr. Jack has served admirably in many health care roles and has been a tremendous success in every one.

We can all look to Dr. Jack as a true role model for serving the public selflessly and tirelessly. Currently, Dr. Jack is serving on the Napa County Commission on Aging, the Napa-Solano Area Agency on Aging, and is membership chair of the Napa Association of Retarded Citizens Board. She is also a member of the Board and Executive Committee of ALDEA, an agency that operates residential treatment programs for disturbed teenagers.

Dr. Jack began her long career in public service in the Napa area when she started as the School Physician for Napa County Superintendent of Schools and as a consultant to Napa County Health Department, in charge of Child Health Conferences. Following her success working with the school district, Dr. Jack served five years as Director of Health Services for the County of Napa.

Previous to her career in public service, Dr. Jack served her internship and residency at the Children's Hospital in San Francisco. Following this, she practiced pediatric medicine privately in Napa as a Licentiate of the American Board of Pediatrics.

The California Medical Association, the Napa County Medical Society, and the Northern California chapter of Academy of Pediatrics are all privileged to have Dr. Jack a professional member. She holds a Bachelor of Science degree from University of Nebraska, Lincoln, a Master of Public Health from University of California, Berkeley, and has her M.D. from Temple University School of Medicine.

Mr. Speaker, it is a pleasure to honor Dr. Olive Jack on the occasion of the Napa-Solano Area Agency on Aging's tribute to her outstanding career of public service. Please join me in recognizing Dr. Jack's unparalleled work towards improving the health care of the citizens of Napa.

IN HONOR OF REV. HENRY JEZESKI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor the deceased Reverend Henry Jezeski, a man who will forever remain in our memories as an exemplar of virtue, integrity, and altruism.

Rev. Jezeski's death at the age of 75 marks the end of a life characterized by compassion and selflessness. Born and raised in the Cleveland area, Rev. Jezeski set a compelling example for us, his neighbors, and moreover for all of humanity. Ordained to priesthood in 1951, Rev. Jezeski tirelessly and unrelentingly offered his services as a pastor up until his death. His dedication to people is reflected in his numerous assignments as assistant pastor to a litany of churches in the Cleveland area.

In 1982, Rev. Jezeski was transferred to Our Lady of Czestochowa in Southeast Cleveland, where he served for 14 years until his retirement. It was at Our Lady of Czestochowa where Rev. Jezeski's imprints on his community are most palpable. The attendees of Our Lady of Czestochowa can most attest to this fine human being's tireless sacrifice of his time and energy in order to ameliorate the lives of others. Rev. Jezeski was also a prominent leader of the Polish community, exemplified by his position as Chaplain of the Alliance of Poles, where he worked diligently to promote understanding and rapport between the Polish and larger Cleveland communities.

Rev. Henry Jezeski led a life to make Cleveland proud and honored to have such a precious human being as its leader and counsel. Rev. Jezeski will be sorely missed by us all.

PERSONAL EXPLANATION

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mrs. CLAYTON. Mr. Speaker, on Thursday morning July 12, 2001, I was unavoidably detained and as a result missed one rollcall vote.

Had I been present, I would have voted "yea" on rollcall No. 222, on approval to the House Journal.

HOUSE OF REPRESENTATIVES—*Monday, July 16, 2001*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. MILLER of Florida).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 16, 2001.

I hereby appoint the Honorable DAN MILLER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Praise the Lord, as servants of the Lord, let us praise the name of the Lord together.

From the rising of the Sun in the east to its setting in the west may praise of the Lord for blessings be heard from coast to coast. Our God, who is above all the nations of the Earth does not overlook the most lowly or the most unfortunate in this world.

The Lord's greatness does not distance the Lord from His people. Our God is to be found always in their midst.

None is like the Lord in love and concern. That is why the Lord is the model and the guide of the Members of this House and all public servants everywhere.

The Lord lifts up the weak to confront the proud-hearted and raises the poor to equal status with the powerful.

The Lord is mindful always that parents are the most powerful on Earth over their children, yet all are one in His sight.

For all the great deeds of mercy, let us praise the name of the Lord now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2217. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2217) "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. LEAHY, Mr. HOLLINGS, Mr. REID, Mr. DORGAN, Mrs. FEINSTEIN, Mrs. MURRAY, Mr. INOUYE, Mr. BURNS, Mr. STEVENS, Mr. COCHRAN, Mr. DOMENICI, Mr. BENNETT, Mr. GREGG, and Mr. CAMPBELL to be the conferees on the part of the Senate.

ANNOUNCEMENT OF OFFICIAL OBJECTORS FOR THE PRIVATE CALENDAR FOR THE 107TH CONGRESS

The SPEAKER pro tempore. On behalf of the majority and minority leaderships, the Chair announces that the official objectors for the Private Calendar for the 107th Congress are as follows:

For the majority:
Mr. COBLE, North Carolina;
Mr. BARR, Georgia;
Mr. CHABOT, Ohio.
For the minority:
Mr. BOUCHER, Virginia;
Ms. DELAURO, Connecticut.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the House will stand in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 5 minutes p.m.) the House stood in recess subject to the call of the Chair.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GOSS) at 7 o'clock and 6 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2500, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–141) on the resolution (H. Res. 192) providing for consideration of the bill (H.R. 2500) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, which was referred to the House Calendar and ordered to be printed.

ADJOURNMENT

Mr. LINDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 7 minutes p.m.), under its previous order, the House adjourned until tomorrow, July 17, 2001, at 9 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2894. A letter from the Deputy Secretary of Defense, Department of Defense, transmitting the Department's Assessment of Fiscal Year 1998 Sexual Harassment Complaints and Sexual Misconduct; to the Committee on Armed Services.

2895. A letter from the Chief, Division of General and International Law, Department of Transportation, transmitting the Department's final rule—Service Obligation Reporting Requirements for United States Merchant Marine Academy and State Maritime School Graduates [Docket No. MARAD–2000–xxxx] received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2896. A communication from the President of the United States, transmitting a report on United States military personnel and United States civilians retained as contractors in Colombia in support of Plan Colombia; to the Committee on Armed Services.

2897. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the annual report of the Office of Juvenile Justice and Delinquency Prevention for Fiscal Year 2000, pursuant to 42 U.S.C. 5617; to the Committee on Education and the Workforce.

2898. A letter from the Principal Deputy Associate Administrator, Environmental

Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans: Alabama: Nitrogen Oxides Budget and Allowance Trading Program [AL–057–200116; FRL–7012–1] received July 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2899. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Regulation of Fuel and Fuel Additives: Reformulated Gasoline Adjustment [FRL–7011–2] (RIN: 2060–AI98) received July 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2900. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan for Texas: Transportation Control Measures Rule [TX–57–1–7183a; FRL–7010–9] received July 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2901. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Texas; Houston/Galveston Volatile Organic Compound Reasonably Available Control Technology Revision [TX–133–1–7493a; FRL–7011–6] received July 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2902. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills [AD–FRL–6997–8] (RIN: 2060–AI34) received July 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2903. A letter from the Clerk, United States Court of Appeals, transmitting an opinion of the court; to the Committee on Energy and Commerce.

2904. A communication from the President of the United States, transmitting notification that the national emergency declared with respect to the Taliban, is to continue in effect beyond July 4, 2001, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 107–99); to the Committee on International Relations and ordered to be printed.

2905. A communication from the President of the United States, transmitting a 6-month periodic report on the national emergency with respect to the Taliban in Afghanistan that was declared in Executive Order 13129 of July 4, 1999, pursuant to 50 U.S.C. 1703(c); (H. Doc. No. 107–100); to the Committee on International Relations and ordered to be printed.

2906. A communication from the President of the United States, transmitting a 6-month periodic report on the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986, pursuant to 50 U.S.C. 1641(c); (H. Doc. No. 107–101); to the Committee on International Relations and ordered to be printed.

2907. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting the Department of the Navy's proposed lease of defense articles to Turkey (Transmittal No. 07–01), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

2908. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Singapore for defense articles and services (Transmittal No. 01–21), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2909. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Turkey for defense articles and services (Transmittal No. 01–13), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2910. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Technical Assistance Agreement with France [Transmittal No. DTC 071–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2911. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–78, "New York Avenue Metro Special Assessment Authorization Temporary Act of 2001" received July 13, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2912. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–79, "Consecutive Term Limitation Amendment Act of 2001" received July 13, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

2913. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–87, "Ward Redistricting Amendment Act of 2001" received July 13, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2914. A letter from the Auditor, District of Columbia, transmitting a report entitled, "Comparative Analysis of Actual Cash Collections to Revenue Estimates for the 2nd Quarter of Fiscal Year 2001"; to the Committee on Government Reform.

2915. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2916. A letter from the Clerk, United States Court of Appeals, transmitting an opinion of the court; to the Committee on Resources.

2917. A letter from the Director, National Legislative Commission, The American Legion, transmitting a copy of the Legion's financial statements as of December 31, 2000, pursuant to 36 U.S.C. 1101(4) and 1103; to the Committee on the Judiciary.

2918. A letter from the Secretary, Department of Transportation, transmitting the Department's annual report entitled, "Report to Congress on Transportation Security" for Calendar Year 1999, pursuant to Public Law 101–604, section 102(a) (104 Stat. 3068); to the Committee on Transportation and Infrastructure.

2919. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes [Docket No. 2001–NM–190–AD; Amendment 39–12295; AD 2001–13–14] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2920. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145 Series Airplanes [Docket No. 2000–NM–319–AD; Amendment 39–12268; AD 2001–12–13] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2921. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–300, 737–400, 737–500, 737–600, 737–700, 737–800, 757–200, 757–200PF, 757–200CB, and 757–300 Series Airplanes [Docket No. 2000–NM–308–AD; Amendment 39–12287; AD 2001–13–07] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2922. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–100, –200, –300, and 747SP Series Airplanes [Docket No. 2000–NM–250–AD; Amendment 39–12286; AD 2001–13–06] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2923. A communication from the President of the United States, transmitting notification concerning a waiver of Jackson-Vanik Amendment for the Republic of Belarus, pursuant to 19 U.S.C. 2432(c) and (d); (H. Doc. No. 107–97); to the Committee on Ways and Means and ordered to be printed.

2924. A communication from the President of the United States, transmitting an updated report concerning the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan, pursuant to 19 U.S.C. 2432(b); (H. Doc. No. 107–98); to the Committee on Ways and Means and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on July 12, 2001 the following report was filed on July 13, 2001]

Mr. WOLF: Committee on Appropriations. H.R. 2500. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–139). Referred to the Committee of the Whole House on the State of the Union.

[Submitted July 16, 2001]

Mr. THOMAS: Committee on Ways and Means. H.R. 1954. A bill to extend the authorities of the Iran and Libya Sanctions Act of 1996 until 2006; with amendments (Rept. 107–107 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on Ways and Means. H.R. 7. A bill to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets; with an amendment (Rept. 107–138 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 617. A bill to express the policy of the United States regarding the United States' relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; with an amendment (Rept. 107–140). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 192. Resolution providing for consideration of the bill (H.R. 2500) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–141). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committees on Financial Services and Government Reform discharged from further consideration. H.R. 1954 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

[The following action occurred on July 13, 2001]

H.R. 1954. Referral to the Committees on Financial Services, Ways and Means, and Government Reform extended for a period ending not later than July 16, 2001.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of July 12, 2001]

By Mr. SKELTON (for himself, Mr. BRADY of Pennsylvania, Mr. MCINTYRE, Mr. UNDERWOOD, Mr. LANGEVIN, Mr. REYES, Mr. ANDREWS, Mr. ANDREWS, Mr. TURNER, Mr. EVANS, Mr. TAYLOR of Mississippi, Mr. ORTIZ, Mr. SNYDER, Mrs. TAUSCHER, Mr. SMITH of Washington, Mr. ABERCROMBIE, and Mr. MALONEY of Connecticut):

H.R. 2494. A bill to provide an additional 2.3 percent increase in the rates of military basic pay for members of the uniformed services above the pay increase proposed by the Department of Defense so as to ensure at least a minimum pay increase of 7.3 percent for each member; to the Committee on Armed Services.

[Submitted July 16, 2001]

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. LATOURETTE, and Mr. COSTELLO):

H.R. 2501. A bill to reauthorize the Appalachian Regional Development Act of 1965; to the Committee on Transportation and Infrastructure.

By Mr. HORN (for himself, Mr. WATKINS, Mr. PETERSON of Pennsylvania, Mr. WATTS of Oklahoma, Mr. DOOLITTLE, Mr. DOOLEY of California, Mr. INSLEE, Mr. DICKS, Mr. MCINNIS, and Mr. ENGLISH):

H.R. 2502. A bill to amend the Internal Revenue Code of 1986 to assist small business refiners in complying with Environmental Protection Agency sulfur regulations; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 2503. A bill to provide for nuclear disarmament and economic conversion in accordance with District of Columbia Initiative Measure Number 37 of 1992; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRABACHER (for himself, Ms. HARMAN, and Mr. CALVERT):

H.R. 2504. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for investing in companies involved in space-related activities; to the Committee on Ways and Means.

By Mr. WELDON of Florida (for himself, Mr. STUPAK, Mr. KERNS, and Mr. KUCINICH):

H.R. 2505. A bill to amend title 18, United States Code, to prohibit human cloning; to the Committee on the Judiciary.

By Mr. AKIN (for himself, Mr. BLAGOJEVICH, Mr. DIAZ-BALART, Mr. GONZALEZ, Mr. KUCINICH, Mrs. LOWEY, Mrs. MEEK of Florida, Mr. NADLER, Ms. ROS-LEHTINEN, and Ms. ROYBAL-ALLARD):

H. Con. Res. 185. Concurrent resolution expressing deep regret for the refusal of the United States to provide political asylum to the Jewish refugees aboard the S.S. ST. LOUIS in May and June of 1939; to the Committee on the Judiciary.

By Ms. KAPTUR:

H. Con. Res. 186. Concurrent resolution expressing the sense of Congress regarding the establishment of a Parents Week to recognize and support parents who actively participate in the lives of their children; to the Committee on Government Reform.

By Mr. STUPAK (for himself, Mr. WELDON of Pennsylvania, Mr. HOEFFEL, Mr. WU, Mr. GILMAN, Mrs. CAPPS, Mrs. MCCARTHY of New York, Mr. HOLDEN, Mr. DOYLE, Mr. STRICKLAND, Mr. ETHERIDGE, Mr. MCNULTY, Mr. WAXMAN, Mr. GREEN of Texas, Mr. KING, Mr. WAMP, Mr. WYNN, Mr. LARGENT, Mr. MALONEY of Connecticut, Mr. CAPUANO, Mr. FROST, Ms. KAPTUR, Mr. PASCRELL, Mr. LUTHER, Mr. GREENWOOD, Mr. DELAHUNT, Mr. SMITH of Washington, Mr. CROWLEY, Mr. FARR of California, Mr. MCINTYRE, Mr. HOYER, Mr. RAMSTAD, Mr. QUINN, Mrs. NAPOLITANO, Mr. BRADY of Pennsylvania, Mr. ANDREWS, Mrs. TAUSCHER, Ms. JACKSON-LEE of Texas, Mr. BROWN of Ohio, Mr. SUNUNU, Mr. KANJORSKI, Mr. DEUTSCH, Mr. BARRETT, Mr. BALDACCI, Mr. PETRI, Mr. FILNER, Mr. BOEHLERT, Ms. ESHOO, Mr. HORN, Mr. OWENS, Mr. BONIOR, Mr. OXLEY, Mr. COSTELLO, Ms. SOLIS, Mr. GONZALEZ, Mr. LANTOS, Mr. TERRY, Mr. ROTHMAN, Ms. CARSON of Indiana, and Ms. ROYBAL-ALLARD):

H. Res. 193. A resolution requesting that the President focus appropriate attention on the issues of neighborhood crime prevention, community policing, and reduction of school crime by delivering speeches, convening meetings, and directing his Administration to make reducing crime an important priority, and for other purposes; to the Committee on the Judiciary.

By Mr. WYNN (for himself, Ms. JACKSON-LEE of Texas, Mr. LEWIS of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TOWNS, Mr. CAPUANO, Mr. CLAY, Ms. WATERS, Mr. THOMPSON of Mississippi, Mr. MEEKS of New York, Ms. MCKINNEY, Mr. FILNER, and Mr. KUCINICH):

H. Res. 194. A resolution concerning the establishment of a permanent United Nations security force; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

148. The SPEAKER presented a memorial of the General Assembly of the State of Vermont, relative to Joint Senate Resolution No. 157 memorializing the United States Congress to increase federal special education funding immediately to 40 percent, the level to which Congress previously committed the federal government; to the Committee on Education and the Workforce.

149. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Resolution No. 128 memorializing the United States Congress and the President to institute and enforce legislation and diplomatic action toward the eradication of child slavery internationally; to the Committee on International Relations.

150. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 116 memorializing the United States Congress to enact the Detroit River International Wildlife Refuge Establishment Act; to the Committee on Resources.

151. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Resolution No. 149 memorializing the United States Congress to direct the Mineral Management Service to develop a plan for impact mitigation relative to the OSC oil and gas lease sales in the Gulf of Mexico; to the Committee on Resources.

152. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Resolution No. 114 memorializing the United States Congress to express its desire to the National Marine Fisheries Service that the pending charter boat moratorium in the Gulf of Mexico not be implemented; to the Committee on Resources.

153. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 198 memorializing the United States Congress to support, with funding, the expeditious implementation of the proposed Bayou Lafourche restoration and diversion project from the Mississippi River; to the Committee on Transportation and Infrastructure.

154. Also, a memorial of the Legislature of the State of Texas, relative to Senate Concurrent Resolution No. 54 memorializing the United States Congress to consider the removal of trade, financial, and travel restrictions relating to Cuba; jointly to the Committees on International Relations and Ways and Means.

155. Also, a memorial of the Legislature of the State of Texas, relative to Senate Concurrent Resolution No. 25 memorializing the United States Congress and the President, in light of the proposed change in federal policy that will further open the border areas to Mexican truck travel, to recognize the unique planning, capacity, and infrastructure needs of Texas' border ports of entry

and the high-priority transportation corridors; jointly to the Committees on Transportation and Infrastructure and the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. SHOWS, Mr. LATHAM, and Mr. CAMP.

H.R. 17: Ms. NORTON.

H.R. 510: Mrs. CAPPS and Mr. HONDA.

H.R. 612: Mr. ROGERS of Kentucky.

H.R. 663: Mr. EVANS.

H.R. 1163: Mr. SOUDER and Mr. PENCE.

H.R. 1164: Mr. HONDA.

H.R. 1202: Mr. NADLER, Mr. OXLEY, Mr. BLAGOJEVICH, and Mr. PALLONE.

H.R. 1216: Ms. CARSON of Indiana, Mr. FILNER, Mr. GONZALEZ, Mr. MEEKS of New York, Ms. MCKINNEY, Mr. SERRANO, Ms. VELÁZQUEZ, Mr. BALDACCI, Ms. JACKSON-LEE of Texas, Mr. MCGOVERN, Mr. FROST, and Mr. ORTIZ.

H.R. 1294: Mr. BRADY of Texas, Mr. GUTIERREZ, and Mr. SIMMONS.

H.R. 1425: Mr. ABERCROMBIE, Mr. ACEVEDO-VILA, Mr. BALDACCI, Mr. BRADY of Pennsylvania, Mrs. CLAYTON, Mr. DAVIS of Illinois, Mr. FARR of California, Mr. FORD, Mr. HOYER, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. MCKINNEY, Mrs. MINK of Hawaii, Mrs. MORELLA, Mr. OSE, Mr. PAYNE. Mr. REYES, Mr. RUSH, and Mr. TOWNS.

H.R. 1434: Mr. BOSWELL.

H.R. 1460: Mr. BACA, Mr. WAMP, Mr. STENHOLM, Mr. WELDON of Florida, and Mr. BURTON of Indiana.

H.R. 1488: Ms. DELAURO.

H.R. 1517: Mr. BLAGOJEVICH, Mr. SMITH of New Jersey, Mr. BONIOR, Mr. RILEY, Mr. CRAMER, Ms. RIVERS, Mr. LEVIN, and Mr. HILLIARD.

H.R. 1602: Mr. PENCE.

H.R. 1745: Mr. MORAN of Virginia.

H.R. 1804: Mr. KILDEE.

H.R. 1891: Mr. ETHERIDGE and Mr. PICKERING.

H.R. 1896: Mr. MCGOVERN.

H.R. 1911: Mr. SESSIONS.

H.R. 1927: Mr. KILDEE.

H.R. 1975: Mr. NETHERCUTT.

H.R. 1983: Mrs. WILSON and Mr. REHBERG.

H.R. 1990: Mr. FILNER, Mr. MALONEY of Connecticut, Mrs. MINK of Hawaii, Mr. BLAGOJEVICH, Mr. CONYERS, and Ms. WOOLSEY.

H.R. 2099: Mr. MCDERMOTT and Mr. BLUMENAUER.

H.R. 2108: Mrs. CHRISTENSEN.

H.R. 2149: Mr. LEACH.

H.R. 2175: Mr. CUNNINGHAM, Mr. STENHOLM, and Mr. BARR of Georgia.

H.R. 2219: Mr. MEEKS of New York and Mr. HINCHEY.

H.R. 2221: Mr. LANTOS.

H.R. 2310: Mr. VISCLOSKY, Mr. MCGOVERN, Ms. MCKINNEY, Mr. KUCINICH, Mr. PASTOR, Ms. KAPTUR, Mr. PRICE of North Carolina, Ms. NORTON, and Ms. SOLIS.

H.R. 2343: Ms. SOLIS.

H.R. 2358: Mr. OSE.

H.R. 2365: Mr. JOHNSON of Illinois.

H.R. 2387: Mr. BECERRA, Ms. ROYBAL-ALLARD, Mr. BERMAN, Mr. MATSUI, Mr. SCHIFF, Mr. GALLEGLY, Mr. THOMAS, Mr. FARR of California, Mr. CALVERT, Mrs. NAPOLITANO, Mrs. EMERSON, Mr. DOOLEY of California, and Mr. BACA.

H.R. 2392: Ms. WOOLSEY.

H.R. 2413: Mr. PASTOR.

H.R. 2442: Mr. FROST.

H. Con. Res. 17: Mrs. DAVIS of California.

H. Con. Res. 152: Mr. KILDEE and Mr. ENGLISH.

H. Con. Res. 162: Mrs. RIVERS and Mr. HINCHEY.

H. Con. Res. 178: Mr. HOEFFEL.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 7

OFFERED BY: MR. SENSENBRENNER

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Community Solutions Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CHARITABLE GIVING INCENTIVES PACKAGE

Sec. 101. Deduction for portion of charitable contributions to be allowed to individuals who do not itemize deductions.

Sec. 102. Tax-free distributions from individual retirement accounts for charitable purposes.

Sec. 103. Increase in cap on corporate charitable contributions.

Sec. 104. Charitable deduction for contributions of food inventory.

Sec. 105. Reform of excise tax on net investment income of private foundations.

Sec. 106. Excise tax on unrelated business taxable income of charitable remainder trusts.

Sec. 107. Expansion of charitable contribution allowed for scientific property used for research and for computer technology and equipment used for educational purposes.

Sec. 108. Adjustment to basis of S corporation stock for certain charitable contributions.

TITLE II—EXPANSION OF CHARITABLE CHOICE

Sec. 201. Provision of assistance under government programs by religious and community organizations.

TITLE III—INDIVIDUAL DEVELOPMENT ACCOUNTS

Sec. 301. Additional qualified entities eligible to conduct projects under the Assets for Independence Act.

Sec. 302. Increase in limitation on net worth.

Sec. 303. Change in limitation on deposits for an individual.

Sec. 304. Elimination of limitation on deposits for a household.

Sec. 305. Extension of program.

Sec. 306. Conforming amendments.

Sec. 307. Applicability.

TITLE IV—CHARITABLE DONATIONS LIABILITY REFORM FOR IN-KIND CORPORATE CONTRIBUTIONS

Sec. 401. Charitable donations liability reform for in-kind corporate contributions.

TITLE I—CHARITABLE GIVING INCENTIVES PACKAGE

SEC. 101. DEDUCTION FOR PORTION OF CHARITABLE CONTRIBUTIONS TO BE ALLOWED TO INDIVIDUALS WHO DO NOT ITEMIZE DEDUCTIONS.

(a) IN GENERAL.—Section 170 of the Internal Revenue Code of 1986 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—

"(1) IN GENERAL.—In the case of an individual who does not itemize his deductions for the taxable year, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the lesser of—

"(A) the amount allowable under subsection (a) for the taxable year for cash contributions, or

"(B) the applicable amount.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount shall be determined as follows:

"For taxable years beginning in:	**The applicable amount is:**
2002 and 2003	$25
2004, 2005, 2006	$50
2007, 2008, 2009	$75
2010 and thereafter	$100.

In the case of a joint return, the applicable amount is twice the applicable amount determined under the preceding table.".

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 of such Code is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(3) the direct charitable deduction.".

(2) DEFINITION.—Section 63 of such Code is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(m).".

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 of such Code is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(3) the direct charitable deduction.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 102. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subsection (d) of section 408 of the Internal Revenue Code of 1986 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

"(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

"(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

"(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement account—

"(i) which is made on or after the date that the individual for whose benefit the account is maintained has attained age 70½, and

"(ii) which is made directly by the trustee—

"(I) to an organization described in section 170(c), or

"(II) to a split-interest entity.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such account is maintained, the spouse of such individual, or any organization described in section 170(c).

"(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph—

"(i) DIRECT CONTRIBUTIONS.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

"(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

"(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would be so includible if all amounts were distributed from all individual retirement accounts otherwise taken into account in determining the inclusion on such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

"(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

"(i) CHARITABLE REMAINDER TRUSTS.—Distributions made from an individual retirement account to a trust described in subparagraph (G)(ii)(I) shall be treated as income described in section 664(b)(1) except to the extent that the beneficiary of the individual retirement account notifies the trustee of the trust of the amount which is not allocable to income under subparagraph (D).

"(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)(II)) by reason of a qualified charitable distribution to such fund.

"(iii) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

"(F) DENIAL OF DEDUCTION.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

"(G) SPLIT-INTEREST ENTITY DEFINED.—For purposes of this paragraph, the term 'split-interest entity' means—

"(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)),

"(ii) a pooled income fund (as defined in section 642(c)(5)), and

"(iii) a charitable gift annuity (as defined in section 501(m)(5)).".

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

(1) RETURNS.—Section 6034 of such Code (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

"SEC. 6034. RETURNS BY TRUSTS DESCRIBED IN SECTION 4947(a)(2) OR CLAIMING CHARITABLE DEDUCTIONS UNDER SECTION 642(c).

"(a) TRUSTS DESCRIBED IN SECTION 4947(a)(2).—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

"(b) TRUSTS CLAIMING A CHARITABLE DEDUCTION UNDER SECTION 642(c).—

"(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a charitable, etc., deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including:

"(A) the amount of the charitable, etc., deduction taken under section 642(c) within such year,

"(B) the amount paid out within such year which represents amounts for which charitable, etc., deductions under section 642(c) have been taken in prior years,

"(C) the amount for which charitable, etc., deductions have been taken in prior years but which has not been paid out at the beginning of such year,

"(D) the amount paid out of principal in the current and prior years for charitable, etc., purposes,

"(E) the total income of the trust within such year and the expenses attributable thereto, and

"(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply in the case of a taxable year if all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries. Paragraph (1) shall not apply in the case of a trust described in section 4947(a)(1).".

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) of such Code (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

"(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

"(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

"(iii) the third sentence of paragraph (1)(A) shall be disregarded.

If the person required to file such return knowingly fails to file the return, such person shall be personally liable for the penalty imposed pursuant to this subparagraph.".

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 of such Code (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: "In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2001.

SEC. 103. INCREASE IN CAP ON CORPORATE CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Paragraph (2) of section 170(b) of the Internal Revenue Code of 1986 (relating to corporations) is amended by striking "10 percent" and inserting "the applicable percentage".

(b) APPLICABLE PERCENTAGE.—Subsection (b) of section 170 of such Code is amended by adding at the end the following new paragraph:

"(3) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (2), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2002 through 2007	11
2008	12
2009	13
2010 and thereafter	15.".

(c) CONFORMING AMENDMENTS.—

(1) Sections 512(b)(10) and 805(b)(2)(A) of such Code are each amended by striking "10 percent" each place it occurs and inserting "the applicable percentage (determined under section 170(b)(3))".

(2) Sections 545(b)(2) and 556(b)(2) of such Code are each amended by striking "10-percent limitation" and inserting "applicable percentage limitation".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 104. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Paragraph (3) of section 170(e) of the Internal Revenue Code of 1986 (relating to special rule for certain contributions of inventory and other property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

"(i) GENERAL RULE.—In the case of a charitable contribution of food, this paragraph shall be applied—

"(I) without regard to whether the contribution is made by a C corporation, and

"(II) only for food that is apparently wholesome food.

"(ii) DETERMINATION OF FAIR MARKET VALUE.—In the case of a qualified contribution of apparently wholesome food to which this paragraph applies and which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such food shall be determined by taking into account the price at which the same or similar food items are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

“(iii) Apparently wholesome food.—For purposes of this subparagraph, the term ‘apparently wholesome food’ shall have the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 105. REFORM OF EXCISE TAX ON NET INVESTMENT INCOME OF PRIVATE FOUNDATIONS.

(a) In General.—Subsection (a) of section 4940 of the Internal Revenue Code of 1986 (relating to excise tax based on investment income) is amended by striking “2 percent” and inserting “1 percent”.

(b) Repeal of Reduction In Tax Where Private Foundation Meets Certain Distribution Requirements.—Section 4940 of such Code is amended by striking subsection (e).

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 106. EXCISE TAX ON UNRELATED BUSINESS TAXABLE INCOME OF CHARITABLE REMAINDER TRUSTS.

(a) In General.—Subsection (c) of section 664 of the Internal Revenue Code of 1986 (relating to exemption from income taxes) is amended to read as follows:

“(c) Taxation of Trusts.—

“(1) Income tax.—A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle.

“(2) Excise tax.—

“(A) In general.—In the case of a charitable remainder annuity trust or a charitable remainder unitrust that has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust) for a taxable year, there is hereby imposed on such trust or unitrust an excise tax equal to the amount of such unrelated business taxable income.

“(B) Certain rules to apply.—The tax imposed by subparagraph (A) shall be treated as imposed by chapter 42 for purposes of this title other than subchapter E of chapter 42.

“(C) Character of distributions and coordination with distribution requirements.—The amounts taken into account in determining unrelated business taxable income (as defined in subparagraph (A)) shall not be taken into account for purposes of—

“(i) subsection (b),

“(ii) determining the value of trust assets under subsection (d)(2), and

“(iii) determining income under subsection (d)(3).

“(D) Tax court proceedings.—For purposes of this paragraph, the references in section 6212(c)(1) to section 4940 shall be deemed to include references to this paragraph.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 107. EXPANSION OF CHARITABLE CONTRIBUTION ALLOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.

(a) Scientific Property Used for Research.—Clause (ii) of section 170(e)(4)(B) of the Internal Revenue Code of 1986 (defining qualified research contributions) is amended by inserting “or assembled” after “constructed”.

(b) Computer Technology and Equipment for Educational Purposes.—Clause (ii) of section 170(e)(6)(B) of such Code is amended by inserting “or assembled” after “constructed” and “or assembling” after “construction”.

(c) Conforming Amendment.—Subparagraph (D) of section 170(e)(6) of such Code is amended by inserting “or assembled” after “constructed” and “or assembling” after “construction”.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 108. ADJUSTMENT TO BASIS OF S CORPORATION STOCK FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) In General.—Paragraph (1) of section 1367(a) of such Code (relating to adjustments to basis of stock of shareholders, etc.) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following new subparagraph:

“(D) the excess of the amount of the shareholder's deduction for any charitable contribution made by the S corporation over the shareholder's proportionate share of the adjusted basis of the property contributed.”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE II—EXPANSION OF CHARITABLE CHOICE

SEC. 201. PROVISION OF ASSISTANCE UNDER GOVERNMENT PROGRAMS BY RELIGIOUS AND COMMUNITY ORGANIZATIONS.

Title XXIV of the Revised Statutes of the United States is amended by inserting after section 1990 (42 U.S.C. 1994) the following:

“SEC. 1991. CHARITABLE CHOICE.

“(a) Short Title.—This section may be cited as the ‘Charitable Choice Act of 2001’.

“(b) Purposes.—The purposes of this section are—

“(1) to enable assistance to be provided to individuals and families in need in the most effective and efficient manner;

“(2) to supplement the Nation's social service capacity by facilitating the entry of new, and the expansion of existing, efforts by religious and other community organizations in the administration and distribution of government assistance under the government programs described in subsection (c)(4);

“(3) to prohibit discrimination against religious organizations on the basis of religion in the administration and distribution of government assistance under such programs;

“(4) to allow religious organizations to participate in the administration and distribution of such assistance without impairing the religious character and autonomy of such organizations; and

“(5) to protect the religious freedom of individuals and families in need who are eligible for government assistance, including expanding the possibility of their being able to choose to receive services from a religious organization providing such assistance.

“(c) Religious Organizations Included as Providers; Disclaimers.—

“(1) In general.—

“(A) Inclusion.—For any program described in paragraph (4) that is carried out by the Federal Government, or by a State or local government with Federal funds, the government shall consider, on the same basis as other nongovernmental organizations, religious organizations to provide the assistance under the program, and the program shall be implemented in a manner that is consistent with the establishment clause and the free exercise clause of the first amendment to the Constitution.

“(B) Discrimination prohibited.—Neither the Federal Government, nor a State or local government receiving funds under a program described in paragraph (4), shall discriminate against an organization that provides assistance under, or applies to provide assistance under, such program on the basis that the organization is religious or has a religious character.

“(2) Funds not aid to religion.—Federal, State, or local government funds or other assistance that is received by a religious organization for the provision of services under this section constitutes aid to individuals and families in need, the ultimate beneficiaries of such services, and not support for religion or the organization's religious beliefs or practices. Notwithstanding the provisions in this paragraph, title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.) shall apply to organizations receiving assistance funded under any program described in subsection (c)(4).

“(3) Funds not endorsement of religion.—The receipt by a religious organization of Federal, State, or local government funds or other assistance under this section is not an endorsement by the government of religion or of the organization's religious beliefs or practices.

“(4) Programs.—For purposes of this section, a program is described in this paragraph—

“(A) if it involves activities carried out using Federal funds—

“(i) related to the prevention and treatment of juvenile delinquency and the improvement of the juvenile justice system, including programs funded under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.);

“(ii) related to the prevention of crime and assistance to crime victims and offenders' families, including programs funded under title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.);

“(iii) related to the provision of assistance under Federal housing statutes, including the Community Development Block Grant Program established under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.);

“(iv) under subtitle B or D of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

“(v) under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

“(vi) related to the intervention in and prevention of domestic violence, including programs under the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);

“(vii) related to hunger relief activities; or

“(viii) under the Job Access and Reverse Commute grant program established under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note); or

“(B)(i) if it involves activities to assist students in obtaining the recognized equivalents of secondary school diplomas and activities relating to nonschool hours programs, including programs under—

“(I) chapter 3 of subtitle A of title II of the Workforce Investment Act of 1998 (Public Law 105–220); or

"(II) part I of title X of the Elementary and Secondary Education Act (20 U.S.C. 6301 et seq.); and

"(ii) except as provided in subparagraph (A) and clause (i), does not include activities carried out under Federal programs providing education to children eligible to attend elementary schools or secondary schools, as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(d) Organizational Character and Autonomy.—

"(1) In general.—A religious organization that provides assistance under a program described in subsection (c)(4) shall have the right to retain its autonomy from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

"(2) Additional safeguards.—Neither the Federal Government, nor a State or local government with Federal funds, shall require a religious organization, in order to be eligible to provide assistance under a program described in subsection (c)(4), to—

"(A) alter its form of internal governance or provisions in its charter documents; or

"(B) remove religious art, icons, scripture, or other symbols, or to change its name, because such symbols or names are of a religious character.

"(e) Employment Practices.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (c)(4), and any provision in such programs that is inconsistent with or would diminish the exercise of an organization's autonomy recognized in section 702 or in this section shall have no effect. Nothing in this section alters the duty of a religious organization to comply with the nondiscrimination provisions of title VII of the Civil Rights Act of 1964 in the use of funds from programs described in subsection (c)(4).

"(f) Effect on Other Laws.—Nothing in this section shall alter the duty of a religious organization receiving assistance or providing services under any program described in subsection (c)(4) to comply with the nondiscrimination provisions in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (prohibiting discrimination on the basis of race, color, and national origin), title IX of the Education Amendments of 1972 (20 U.S.C. 1681–1688) (prohibiting discrimination in education programs or activities on the basis of sex and visual impairment), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (prohibiting discrimination against otherwise qualified disabled individuals), and the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) (prohibiting discrimination on the basis of age).

"(g) Rights of Beneficiaries of Assistance.—

"(1) In general.—If an individual described in paragraph (3) has an objection to the religious character of the organization from which the individual receives, or would receive, assistance funded under any program described in subsection (c)(4), the appropriate Federal, State, or local governmental entity shall provide to such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection, assistance that—

"(A) is an alternative that is accessible to the individual and unobjectionable to the individual on religious grounds; and

"(B) has a value that is not less than the value of the assistance that the individual would have received from such organization.

"(2) Notice.—The appropriate Federal, State, or local governmental entity shall guarantee that notice is provided to the individuals described in paragraph (3) of the rights of such individuals under this section.

"(3) Individual described.—An individual described in this paragraph is an individual who receives or applies for assistance under a program described in subsection (c)(4).

"(h) Nondiscrimination Against Beneficiaries.—

"(1) Grants and cooperative agreements.—A religious organization providing assistance through a grant or cooperative agreement under a program described in subsection (c)(4) shall not discriminate in carrying out the program against an individual described in subsection (g)(3) on the basis of religion, a religious belief, or a refusal to hold a religious belief.

"(2) Indirect forms of assistance.—A religious organization providing assistance through a voucher, certificate, or other form of indirect assistance under a program described in subsection (c)(4) shall not deny an individual described in subsection (g)(3) admission into such program on the basis of religion, a religious belief, or a refusal to hold a religious belief.

"(i) Accountability.—

"(1) In general.—Except as provided in paragraphs (2) and (3), a religious organization providing assistance under any program described in subsection (c)(4) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds and its performance of such programs.

"(2) Limited audit.—

"(A) Grants and cooperative agreements.—A religious organization providing assistance through a grant or cooperative agreement under a program described in subsection (c)(4) shall segregate government funds provided under such program into a separate account or accounts. Only the separate accounts consisting of funds from the government shall be subject to audit by the government.

"(B) Indirect forms of assistance.—A religious organization providing assistance through a voucher, certificate, or other form of indirect assistance under a program described in subsection (c)(4) may segregate government funds provided under such program into a separate account or accounts. If such funds are so segregated, then only the separate accounts consisting of funds from the government shall be subject to audit by the government.

"(3) Self audit.—A religious organization providing services under any program described in subsection (c)(4) shall conduct annually a self audit for compliance with its duties under this section and submit a copy of the self audit to the appropriate Federal, State, or local government agency, along with a plan to timely correct variances, if any, identified in the self audit.

"(j) Limitations on Use of Funds; Voluntariness.—No funds provided through a grant or cooperative agreement to a religious organization to provide assistance under any program described in subsection (c)(4) shall be expended for sectarian instruction, worship, or proselytization. If the religious organization offers such an activity, it shall be voluntary for the individuals receiving services and offered separate from the program funded under subsection (c)(4). A certificate shall be separately signed by religious organizations, and filed with the government agency that disburses the funds, certifying that the organization is aware of and will comply with this subsection.

"(k) Effect on State and Local Funds.—If a State or local government contributes State or local funds to carry out a program described in subsection (c)(4), the State or local government may segregate the State or local funds from the Federal funds provided to carry out the program or may commingle the State or local funds with the Federal funds. If the State or local government commingles the State or local funds, the provisions of this section shall apply to the commingled funds in the same manner, and to the same extent, as the provisions apply to the Federal funds.

"(l) Indirect Assistance.—When consistent with the purpose of a program described in subsection (c)(4), the Secretary of the department administering the program may direct the disbursement of some or all of the funds, if determined by the Secretary to be feasible and efficient, in the form of indirect assistance. For purposes of this section, 'indirect assistance' constitutes assistance in which an organization receiving funds through a voucher, certificate, or other form of disbursement under this section receives such funding only as a result of the private choices of individual beneficiaries and no government endorsement of any particular religion, or of religion generally, occurs.

"(m) Treatment of Intermediate Grantors.—If a nongovernmental organization (referred to in this subsection as an 'intermediate grantor'), acting under a grant or other agreement with the Federal Government, or a State or local government with Federal funds, is given the authority under the agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (c)(4), the intermediate grantor shall have the same duties under this section as the government when selecting or otherwise dealing with subgrantors, but the intermediate grantor, if it is a religious organization, shall retain all other rights of a religious organization under this section.

"(n) Compliance.—A party alleging that the rights of the party under this section have been violated by a State or local government may bring a civil action for injunctive relief pursuant to section 1979 against the State official or local government agency that has allegedly committed such violation. A party alleging that the rights of the party under this section have been violated by the Federal Government may bring a civil action for injunctive relief in Federal district court against the official or government agency that has allegedly committed such violation.

"(o) Training and Technical Assistance for Small Nongovernmental Organizations.—

"(1) In general.—From amounts made available to carry out the purposes of the Office of Justice Programs (including any component or unit thereof, including the Office of Community Oriented Policing Services), funds are authorized to provide training and technical assistance, directly or through grants or other arrangements, in procedures relating to potential application and participation in programs identified in subsection (c)(4) to small nongovernmental organizations, as determined by the Attorney General, including religious organizations, in an amount not to exceed $50 million annually.

"(2) Types of assistance.—Such assistance may include—

"(A) assistance and information relative to creating an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 to operate identified programs;

"(B) granting writing assistance which may include workshops and reasonable guidance;

"(C) information and referrals to other nongovernmental organizations that provide expertise in accounting, legal issues, tax issues, program development, and a variety of other organizational areas; and

"(D) information and guidance on how to comply with Federal nondiscrimination provisions including, but not limited to, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Fair Housing Act, as amended (42 U.S.C. 3601 et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681–1688), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 694), and the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107).

"(3) Reservation of funds.—An amount of no less than $5,000,000 shall be reserved under this section. Small nongovernmental organizations may apply for these funds to be used for assistance in providing full and equal integrated access to individuals with disabilities in programs under this title.

"(4) Priority.—In giving out the assistance described in this subsection, priority shall be given to small nongovernmental organizations serving urban and rural communities.".

TITLE III—INDIVIDUAL DEVELOPMENT ACCOUNTS

SEC. 301. ADDITIONAL QUALIFIED ENTITIES ELIGIBLE TO CONDUCT PROJECTS UNDER THE ASSETS FOR INDEPENDENCE ACT.

Section 404(7)(A)(iii)(I)(aa) of the Assets for Independence Act (42 U.S.C. 604 note) is amended to read as follows:

"(aa) a federally insured credit union; or".

SEC. 302. INCREASE IN LIMITATION ON NET WORTH.

Section 408(a)(2)(A) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "$10,000" and inserting "$20,000".

SEC. 303. CHANGE IN LIMITATION ON DEPOSITS FOR AN INDIVIDUAL.

Section 410(b) of the Assets for Independence Act (42 U.S.C. 604 note) is amended to read as follows:

"(b) Limitation on Deposits for an Individual.—Not more than $500 from a grant made under section 406(b) shall be provided per year to any one individual during the project.".

SEC. 304. ELIMINATION OF LIMITATION ON DEPOSITS FOR A HOUSEHOLD.

Section 410 of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 305. EXTENSION OF PROGRAM.

Section 416 of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "2001, 2002, and 2003" and inserting "and 2001, and $50,000,000 for each of fiscal years 2002 through 2008".

SEC. 306. CONFORMING AMENDMENTS.

(a) Amendments to Text.—The text of each of the following provisions of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "demonstration" each place it appears:

(1) Section 403.

(2) Section 404(2).

(3) Section 405(a).

(4) Section 405(b).

(5) Section 405(c).

(6) Section 405(d).

(7) Section 405(e).

(8) Section 405(g).

(9) Section 406(a).

(10) Section 406(b).

(11) Section 407(b)(1)(A).

(12) Section 407(c)(1)(A).

(13) Section 407(c)(1)(B).

(14) Section 407(c)(1)(C).

(15) Section 407(c)(1)(D).

(16) Section 407(d).

(17) Section 408(a).

(18) Section 408(b).

(19) Section 409.

(20) Section 410(e).

(21) Section 411.

(22) Section 412(a).

(23) Section 412(b)(2).

(24) Section 412(c).

(25) Section 413(a).

(26) Section 413(b).

(27) Section 414(a).

(28) Section 414(b).

(29) Section 414(c).

(30) Section 414(d)(1).

(31) Section 414(d)(2).

(b) Amendments to Subsection Headings.—The heading of each of the following provisions of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "Demonstration":

(1) Section 405(a).

(2) Section 406(a).

(3) Section 413(a).

(c) Amendments to Section Headings.—The headings of sections 406 and 411 of the Assets for Independence Act (42 U.S.C. 604 note) are amended by striking "**DEMONSTRATION**".

SEC. 307. APPLICABILITY.

(a) In General.—The amendments made by this title shall apply to funds provided before, on or after the date of the enactment of this Act.

(b) Prior Amendments.—The amendments made by title VI of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554) shall apply to funds provided before, on or after the date of the enactment of such Act.

TITLE IV—CHARITABLE DONATIONS LIABILITY REFORM FOR IN-KIND CORPORATE CONTRIBUTIONS

SEC. 401. CHARITABLE DONATIONS LIABILITY REFORM FOR IN-KIND CORPORATE CONTRIBUTIONS.

(a) Definitions.—For purposes of this section:

(1) Aircraft.—The term "aircraft" has the meaning provided that term in section 40102(6) of title 49, United States Code.

(2) Business entity.—The term "business entity" means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(3) Equipment.—The term "equipment" includes mechanical equipment, electronic equipment, and office equipment.

(4) Facility.—The term "facility" means any real property, including any building, improvement, or appurtenance.

(5) Gross negligence.—The term "gross negligence" means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(6) Intentional misconduct.—The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(7) Motor vehicle.—The term "motor vehicle" has the meaning provided that term in section 30102(6) of title 49, United States Code.

(8) Nonprofit organization.—The term "nonprofit organization" means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(9) State.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(b) Liability.—

(1) Liability of business entities that donate equipment to nonprofit organizations.—

(A) In general.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death that results from the use of equipment donated by a business entity to a nonprofit organization.

(B) Application.—This paragraph shall apply with respect to civil liability under Federal and State law.

(2) Liability of business entities providing use of facilities to nonprofit organizations.—

(A) In general.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death occurring at a facility of the business entity in connection with a use of such facility by a nonprofit organization, if—

(i) the use occurs outside of the scope of business of the business entity;

(ii) such injury or death occurs during a period that such facility is used by the nonprofit organization; and

(iii) the business entity authorized the use of such facility by the nonprofit organization.

(B) Application.—This paragraph shall apply—

(i) with respect to civil liability under Federal and State law; and

(ii) regardless of whether a nonprofit organization pays for the use of a facility.

(3) Liability of business entities providing use of a motor vehicle or aircraft.—

(A) In general.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death occurring as a result of the operation of aircraft or a motor vehicle of a business entity loaned to a nonprofit organization for use outside of the scope of business of the business entity, if—

(i) such injury or death occurs during a period that such motor vehicle or aircraft is used by a nonprofit organization; and

(ii) the business entity authorized the use by the nonprofit organization of motor vehicle or aircraft that resulted in the injury or death.

(B) Application.—This paragraph shall apply—

(i) with respect to civil liability under Federal and State law; and

(ii) regardless of whether a nonprofit organization pays for the use of the aircraft or motor vehicle.

(c) Exceptions.—Subsection (b) shall not apply to an injury or death that results from an act or omission of a business entity that constitutes gross negligence or intentional misconduct.

(d) Superseding Provision.—

(1) In general.—Subject to paragraph (2) and subsection (e), this title preempts the laws of any State to the extent that such laws are inconsistent with this title, except that this title shall not preempt any State law that provides additional protection for a business entity for an injury or death described in a paragraph of subsection (b) with respect to which the conditions specified in such paragraph apply.

(2) Limitation.—Nothing in this title shall be construed to supersede any Federal or State health or safety law.

(e) Election of State Regarding Nonapplicability.—A provision of this title shall not apply to any civil action in a State court against a business entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this section;

(2) declaring the election of such State that such provision shall not apply to such civil action in the State; and

(3) containing no other provisions.

(f) Effective Date.—This section shall apply to injuries (and deaths resulting therefrom) occurring on or after the date of the enactment of this Act.

H.R. 2500

Offered By: Mr. Herger

Amendment No. 1: Page 63, after line 9, insert the following:

TITLE IIA—DEPARTMENT OF JUSTICE

Klamath Project Water Rights Compensation

For just compensation for private property taken for public use, as required by the 5th Amendment to the Constitution of the United States, for payment by the Attorney General to the water users of the Klamath Project for the Federal taking of water rights pursuant to the Klamath Reclamation Project 2001 Annual Operations Plan, which provides for the delivery of no water to most of the lands served by the Klamath Reclamation Project, and instead implements an alternative plan developed pursuant to the Endangered Species Act of 1973; and the amount otherwise provided in this Act for "National Oceanic And Atmospheric Administration—Operations, Research, and Facilities" (and the amounts specified under such heading for direct obligations, appropriation from the General Fund, and the National Marine Fisheries Service) are hereby reduced by; $200,000,000.

H.R. 2500

Offered By: Mr. Hinchey

Amendment No. 2: In title I, in the item relating to "Federal Prison System—buildings and facilities", after the aggregate dollar amount, insert the following: "(reduced by $73,000,000)".

In title II, in the item relating to "Economic Development Administration—economic development assistance programs", after the aggregate dollar amount, insert the following: "(increased by $73,000,000)".

H.R. 2500

Offered By: Mr. Hinchey

Amendment No. 3: At the end of the bill (before the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds made available in this Act to the Department of Justice may be used to prevent the States of Alaska, Arizona, California, Colorado, Hawaii, Maine, Nevada, Oregon, or Washington from implementing State laws authorizing the use of medical marijuana in those States.

H.R. 2500

Offered By: Mr. Kerns

Amendment No. 4: At the end of the bill, insert after the last section (preceding the short title) the following new title:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds made available in this Act may be used in connection with any system to conduct background checks on persons purchasing a firearm that does not provide for the immediate destruction of all information submitted under the system by, or on behalf of, each person determined under such system not to be prohibited from receiving a firearm.

H.R. 2500

Offered By: Mr. Manzullo

Amendment No. 5: Page 96, line 10, strike "$4,100,000,000" and insert the following:

the levels established by section 20(h)(1)(C) of the Small Business Act (15 U.S.C. 631 note)

H.R. 2500

Offered By: Mr. Paul

Amendment No. 6: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds appropriated in this Act may be used for any United States contribution to the United Nations or any affiliated agency of the United Nations.

H.R. 2500

Offered By: Mr. Paul

Amendment No. 7: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds appropriated in this Act may be used for any United States contribution for United Nations peacekeeping operations.

H.R. 2500

Offered By: Mr. Roemer

Amendment No. 8: Page 70, after line 7, insert the following:

Sec. 305. (a) The Federal building located at 10th Street and Constitution Avenue, NW, in Washington, DC, and known as the Department of Justice Building, shall be designated and known as the "Robert F. Kennedy Department of Justice Building".

(b) Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Robert F. Kennedy Department of Justice Building".

H.R. 2500

Offered By: Mr. Walden of Oregon

Amendment No. 9: Page 108, after line 22, insert the following new title:

TITLE VIII—LIMITATION ON USE OF FUNDS

Sec. 801. None of the funds made available in this Act may be used to implement or to plan to implement any of the recommendations in the Phase I Report or the Phase II Report on the study that was commissioned by the United States and led by Dr. Thomas Hardy on the relationship between the Klamath River flow levels and the health of salmon and steelhead in that river.

H.R. 2500

Offered By: Ms. Waters

Amendment No. 10: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds appropriated in this Act under the heading "Office of the United States Trade Representative—salaries and expenses" may be used to initiate a proceeding in the World Trade Organization (WTO) challenging any law or policy of a developing country that promotes access to HIV/AIDS pharmaceuticals or medical technologies to the population of the country.

(b) In this section, the term "developing country" means a country that has a per capita income which does not exceed that of an upper middle income country, as defined in the World Development Report published by the International Bank for Reconstruction and Development.

H.R. 2500

Offered By: Ms. Waters

Amendment No. 11: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds appropriated in this Act under the heading "Office of the United States Trade Representative—salaries and expenses" may be used to initiate a proceeding in the World Trade Organization (WTO) pursuant to any provision of the Agreement on Trade-Related Aspects of Intellectual Property Rights (as described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15))) challenging any law of a country that is not a member of the Organization for Economic Cooperation and Development (OECD) relating to HIV/AIDS pharmaceuticals.

H.R. 2500

Offered By: Ms. Waters

Amendment No. 12: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds appropriated in this Act under the heading "Office of the United States Trade Representative—salaries and expenses" may be used to initiate a proceeding in the World Trade Organization (WTO) pursuant to any provision of the Agreement on Trade-Related Aspects of Intellectual Property Rights (as described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15))) challenging any law of a country that is not a member of the Organization for Economic Cooperation and Development (OECD).

H.R. 2500

Offered By: Ms. Waters

Amendment No. 13: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds appropriated in this Act under the heading "Office of the United States Trade Representative—salaries and expenses" may be used to initiate a proceeding in the World Trade Organization (WTO) pursuant to any provision of the Agreement on Trade-Related Aspects of Intellectual Property Rights (as described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15))).

SENATE—*Monday, July 16, 2001*

The Senate met at 2 p.m. and was called to order by the Presiding Officer, the Honorable JON KYL, a Senator from the State of Arizona.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, thank You for this moment of prayer in which we can affirm Your call to seek unity in the midst of differences in the parties and politics. So often we focus on what separates us rather than the bond of unity that binds us together. We are one in our calling to serve You and our Nation and in the belief that You are the ultimate and only sovereign. You are the magnetic and majestic Lord of all who draws us out of pride and self-serving attitudes to work together for You. We find each other as we join our hearts in gratitude for the privilege of leading our Nation. Keep us so close to You and so open to one another that this will be a week of great progress. Help us to work expeditiously and with excellence for Your glory and our Nation's good. Through our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON KYL led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 16, 2001.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON KYL, a Senator from the State of Arizona, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. KYL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now proceed to the consideration of H.R. 2311, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. As has been announced by the Chair, the Senate will begin consideration of the energy and water appropriations bill. Today will be for debate only. There will be no rollcall votes today. The next vote is expected tomorrow at approximately 12 noon on cloture on the substitute amendment to the Bankruptcy Reform Act. I am to remind everyone that there is a 3 p.m. filing deadline for first-degree amendments to the bankruptcy reform substitute amendment.

We hope to complete action on the energy and water appropriations bill, the transportation appropriations bill, and/or the legislative branch appropriations bill before the end of this week.

I would say to all those listening, it is going to be extremely difficult to do that, but we can do it. There are only a few issues on the energy and water appropriations bill. We hope to resolve those so it does not take a lot of time. And then, of course, the appropriations bill dealing with transportation has in the last few years gone quite rapidly, and we hope it will again this year.

We are not in a position at this time, Senator DOMENICI and I, to offer a unanimous consent agreement as to when the amendments to the energy and water appropriations bill should be filed, but we are going to work on that. Senator DOMENICI is indisposed for the next hour and a half or so. But we expect him to be here at 3:30 today, at which time we will begin opening statements on the energy and water appropriations bill.

MORNING BUSINESS

Mr. REID. I see my friend from Iowa here. Does he wish to speak on the bill or as if in morning business?

Mr. GRASSLEY. Morning business.

Mr. REID. Certainly I would have no problem asking unanimous consent. As I said, Senator DOMENICI is indisposed now for the next hour or so. So what time does the Senator from Iowa expect to use?

Mr. GRASSLEY. I would expect to be done by 2:30.

Mr. REID. Fine. I ask unanimous consent, Mr. President, the Senator from Iowa be recognized for 30 minutes to speak in morning business. When he completes his work, we will return to the energy and water appropriations bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Iowa is recognized.

TAX CUT ACHIEVEMENT

Mr. GRASSLEY. Mr. President, I want to visit with my colleagues and our constituents about the issues of the tax relief bill that was recently passed by the Congress of the United States and signed by the President on June 7 and will be the reason that tax rebate checks will go out, distributing $65 billion of overtaxation to the American people—back to the American people so they can spend it, so it will do more economic good than if it is politically distributed here in Washington, DC.

That bill not only has the $65 billion of tax refunds that will start going out next week and be out by September 30, but it already has reductions for other rates. The tax rebates come from the new 10-percent rate that is going into effect retroactive to January 1. It is my understanding there will be about 90 million Americans who will be getting rebates of up to $300 if they are single, $500 if they are a single parent, and also then up to $600 if they are married.

Also, remember that this is not a one-shot rate reduction, or tax rebate; that these rebates, even though they will never be received in a check again, will continue on into the future as permanent reductions in taxation for people in the 10-percent bracket. And also remember that everybody who pays taxes would pay some of that 10-percent bracket so that it does affect all taxpayers. But checks are going out for those up to the amount of $12,000 of taxable income.

I think this tax bill is going to make real changes in the lives of folks across our country. The changes I am going to discuss today result in the greatest tax relief provided in a generation—tax relief, I might add, powerfully brought about in a bipartisan consensus.

Some might ask, Why talk about something we have already done? The answer is that the legislation is quite comprehensive and to do it justice we really need to take a thorough and methodical look at it—not look at it just from the standpoint of the rebate checks that are going out, which are getting all the attention, but all the other aspects of the bill as well.

It is true there have been a lot of press reports on this legislation. Again, most of those have been related to the rebate checks going out starting next week. None of these reports, however, I believe, in the press has really tied the specific benefits of the bill back to its bipartisan purpose.

Also, the press reports have tended to analyze the bill in terms of its impact on certain types of taxpayers. At the same time, many press reports have focused exclusively on the budget angle of the tax legislation; in other words, people nervous, tearing out their hair because there is going to be less money coming into the Federal Treasury as a result of our letting the people keep their tax overpayment.

These reports that tend to be very pessimistic often echo the sentiments of the harshest congressional critics of the legislation. These reports, like the congressional critics of this bill—and probably for the most part those who voted against it—tend to ignore the benefits of the bill. Tax relief legislation is just not more money in the taxpayers' pockets in some selfish way that you let the taxpayers keep more of their money. There is great economic good that comes from the distribution of goods and services in this economy based upon an individual making that decision as opposed to a political leader in Washington, DC, making that decision through the Federal budget.

Now, of course, all of this criticism is fair play in the arena of politics. However, in recent weeks it seems to me these arguments have not been answered with the same vigor by the strong bipartisan majority of us who supported the legislation. So today I take the floor to set the record straight. Tax relief is absolutely necessary. Tax relief legislation is an important vehicle in response to our short-term and long-term economic situations. And that is basically a flat economy—1 to 1.5-percent growth instead of the 2-percent growth we projected a year ago, 1 to 1.5-percent economic growth under the last two quarters of the Clinton administration, and carrying through to the first two quarters of President Bush's administration.

That is a situation where we have these checks going out, a short-term stimulus, which, if we had not done it, would have had 100 Senators sitting around this body scratching their heads and deploring the fact that we had a flat economy. So what can we do about it?

Congress has passed tax reduction in the past to stimulate the economy but often taking effect after the economy turned around. It tended not to be as beneficial as it would have been if it had been done at the right time.

I do not want to take credit for having been a leader in the tax rebates, knowing that they were going to be needed now as a stimulus. I confess not to have thought that way last March and April when we started working on tax relief. But we ended up with tax rebates—$65 billion—and most economists are saying they could not have come at a more opportune time for an economy that is flat and in need of some stimulus.

There are three reasons for this bipartisan tax relief package. One is that it is necessary, when the Federal Government overtaxes people, to reduce taxes so that there is not overtaxation.

No. 2, it is necessary to respond to the current and long-term economic problems. I talked about the short-term stimulus, but there are long-term economic benefits from this bill that are going to enhance the economy.

Third, there is sufficient surplus outside Social Security and Medicare that is still available to accomplish a tax cut that addresses certain inequities in the Tax Code, such as the marriage penalty.

I will start with reason No. 1, that the tax cut corrected overtaxation. Before the tax cut, the Federal Government was collecting too much tax. The Federal Government was on a path to accumulate over $3.1 trillion in excess tax collections over the next 10 years. Federal tax receipts were at their highest level in our Nation's history.

The bulk of these excess collections came from the individual income-tax payer. Individual income tax collections were near an all-time high, even higher than some levels imposed by World War II.

The chart I have in the Chamber demonstrates this better than I can, how, since 1960, we have seen very high income taxation. In this particular case, we are seeing taxes, as a whole, collected by the Federal Government, not just the income taxes but everything at the highest level by the year 2000 at 20.6 percent of gross national product.

This chart shows total tax receipts as a percentage of gross domestic product over 40 years. Tax receipts have naturally fluctuated frequently since 1960, but most shockingly they spike up since the tax bill of 1993.

The January 2001 Congressional Budget Office report to Congress shows that in 1992, total tax receipts were around 17 percent of gross domestic product. As I said, by the year 2000, they were at 20.6 percent. The significance of this percentage can only be appreciated in the historical comparisons to which I have already referred. But I want to be more specific.

In 1944, at the height of World War II, taxes, as a percentage of gross domestic product, were 20.9 percent—only .5 percent higher than they are today. By 1945, those taxes had dropped to 20.4 percent of GDP, which is actually lower than the collection level today.

It is unbelievable that in a time of unprecedented peace and prosperity, which defines the last decade, the Federal Government would rake in taxes at a wartime level. The sorriest part of this whole story is that this huge increase in taxes has been borne almost exclusively by the American people who pay the individual Federal income tax.

I have another chart which shows tax collection levels for payroll taxes, corporate taxes, and all other taxes over the past decade. It shows they have been relatively stable. Corporate taxes, during the past 10 years, have increased from 1.6 percent of GDP to 2.1 percent of GDP. Estate taxes have remained relatively stable over that period of time.

However, collection of individual income taxes by the Federal Government has soared. There was a 50-percent increase during that period of time: 7.7 percent of gross domestic product in 1992 to 10.2 percent of gross domestic product as of the year 2000.

Individual income taxes now take up the largest share of GDP in the history of the individual income tax. And that dates back to 1916, except for the Civil War when there was one that the courts declared unconstitutional.

Even during World War II collections from individuals were 9.4 percent. So you see it was a full percentage point below what they are today in peacetime. As you can see, the source of current and future surpluses is from a huge runup in individual income tax collections, and not in runups in any other form of taxes and levies that the Federal Government makes on the taxpayers of this country or the businesses of this country.

Part of this is because the 1993 Clinton tax increase overshot its mark. These excess collections are attributable to that enactment, in August 1993, of the largest tax increase in the history of the world.

Since 1992, total personal income has grown an average of 5.6 percent. Federal income tax collections, however, have grown an average of 9.1 percent a year, outstripping the rate of personal income growth by 64 percent.

The Joint Committee on Taxation, at the request of the Joint Economic Committee of the Congress, estimated that just repealing the revenue-raising provisions of President Clinton's 1993 biggest-in-the-world tax hike would yield tax relief of more than $1 trillion over 10 years.

We ought to take a closer look at that 1993 world's biggest tax increase. The 39.6-percent top bracket reflected a

10-percent surcharge on the basic 36-percent rate. The itemized deductions you can subtract from your taxable income, known as the Pease Rule, and the phaseout of personal exemptions, which we refer to as PEP, the personal exemption phaseout, were temporary bipartisan deficit reduction provisions that were made permanent under the 1993 tax hike.

So remember, you had a top marginal tax rate of 36. That was meant to be permanent. But you had a temporary 10 percent put on top of that, bringing that to 36.9 percent. Yet for higher brackets they wanted to camouflage it. We had a phaseout of exemptions so that higher income people did not get the full advantage of the personal exemption, as an example, which ought to tell you that in a time of budget surpluses, which we are in right now, anybody who was intellectually honest about putting a 10-percent surtax on the basic 36-percent rate just to get rid of the annual budget deficit ought to take that 10-percent rate off. But, no, it was never done by those who proposed it and those who did it. We did it through the gradual reduction of the rates that were in the bill signed by the President June 7.

The chairman of the Finance Committee at the time of the 1993 Clinton tax increase actually called this what I have already referred to as—"a world record tax hike." Obviously, with income tax collections as high as they have ever been in the history of the country, we know that to be a fact.

The rationale for the tax increases was deficit reduction. It is reasonable to think that if deficit reduction was a reason for raising taxes to record levels, then in the era of surpluses we are in now, those tax overcharges, those tax overpayments, should be left with the taxpayers of America, not run through the Federal budget anymore, for two reasons: No. 1, because they are not needed, once you balance the budget; and, No. 2, if I distribute that income of the hard-working men and women in America, it doesn't turn over in the economy as much as if they keep it and spend it or invest it.

That is what creates jobs; they create wealth. We in the Federal Government don't create wealth; we only expend the wealth created by others.

This year, on a bipartisan basis, Congress did just that through the tax bill signed by President Bush on June 7. We are going to let you keep your money because we believe it does more economic good, it creates more wealth if you have it than if we have it.

Congress then agreed to return a portion of the record level of taxes back to the taxpayers and, in a sense, Congress, on party-line vote in 1993—and it was a party-line vote—raised taxes too much. And this year, on a bipartisan basis—not a party-line vote but on a bipartisan basis—we corrected that overtaxation and that temporary taxation that was put in place in 1993.

Democrats and Republicans, led by President Bush, started with the fact that the 1993 tax hike took too much from the American taxpayers and the American economy. President Bush offered to reduce individual tax rates across all rate brackets and to reduce the number of brackets.

Congress changed aspects of the President's plan and, from my point of view, improved the President's plan as it made its way through Congress. The bill the President signed did contain relief for taxpayers in all tax brackets. This benefits all taxpayers across America.

There is much wringing of hands and gnashing of teeth over the fiscal impact of that tax relief package. We hear it daily from the leadership on the other side and from many in the media. What you don't hear about is how close everyone in the Senate was on the size of the tax cut. In other words, for those who voted against the tax cut, there was just a little bit of difference between what Republicans and a bipartisan group of Members of this body thought ought to be cut at a higher level versus what everybody else, on mostly a partisan basis, thought we ought to cut taxes—just a little bit of difference.

For the record, everyone on the other side of the aisle who opposed the bipartisan tax relief package had already voted for over $1.25 trillion of tax relief. Some of those people who voted that way are the very same ones who are saying we cut taxes too much. I hope you remember that on the debate on the tax bill, everyone on the other side, including every Member of the Democratic leadership, including the present chairman of the Budget Committee, the Senator from North Dakota, voted for $1.25 trillion in tax relief. Yet they are now saying we shouldn't have this tax cut.

For instance, we had a vote on what was called the Carnahan-Daschle Democratic substitute. That amendment, if it had passed, would have represented tax cuts of that $1.25 trillion I cited.

I raise this point for two reasons: One, to make the record clear on the votes on the tax cut bill; and two, to make an even more fundamental point. That fundamental point is, despite all the rhetoric, there was widespread support for significant across-the-board relief even among the most critical of the final tax package.

Let me repeat reason No. 1 for this tax cut before I go on to reason No. 2. The American people are overtaxed. The American people have paid a tax surplus into the Federal Treasury. The goal is to let the taxpayers distribute those goods and services as opposed to having 100 Senators distribute that money.

Now reason No. 2: The tax cut is needed to reverse slow growth in the economy, not only slow growth long term but I have already referred to the slow growth that has happened right now over the last four quarters, 1- to 1.5-percent growth instead of 2.5-percent as we had projected.

I provided you with the first reason, to correct overtaxation. Now for the second one.

It is our responsibility to help the folks back home who are facing a slower economy to create jobs, to expand the economy. There has been a slowdown since the latter half of the year 2000. I will expand on the point that the economic slowdown did start in the latter part of 2000.

We have two charts. The first chart shows that economic growth has slowed considerably since the middle of last year. In the last two quarters of the Clinton administration, it started to slow. Compared to the average 4-percent growth rate since 1998, the economy grew only a little over 1 percent.

Several factors have contributed to the economic slowdown. For the two previous years, we had a tighter monetary policy by the Federal Reserve. We had Chairman Greenspan throw out of the window his very comprehensive program of liquidity from 1988 until 1995, and then he started worrying about inflation. Worrying about inflation so much, he tightened up money so that we didn't have enough liquidity. When he gets back on the kick of worrying about liquidity, not worrying about inflation, the monetary policy will turn it around. But a tighter monetary policy has brought about this slowdown. We have also had the rising energy rates, a decline in the stock market, and we have had rising tax burdens.

The economic slowdown has real impact on working Americans, as evidenced by this second chart we have here, as you have seen the unemployment rate go up. It shows that the unemployment rate had fallen steadily, but since the slowdown began last year, the unemployment rate has risen. It is now at 4½ percent, the same level it was in October 1998.

Although there is still considerable uncertainty about the economy, a number of factors seem to point in the right direction, and one is there is some reversal of the Federal Reserve on its monetary policy. We have had energy prices stabilize. For instance, a week ago last weekend, I bought gas in Cedar Falls, IA, at $1.19 a gallon.

Given the continued pessimism on Wall Street, however, the economy remains vulnerable to potential shocks. So we should continue to monitor signs of potential trouble ahead and be prepared to take additional steps should they become necessary. Republicans and Democrats have a responsibility to address this problem.

There is some speculation by some on my side of the aisle that those on the other side are hoping the recession comes about for political reasons. I disagree with that speculation. I believe everyone here wants to get the economy on a steady path. Everyone knows that the worst thing you can do in an economic downturn is to raise taxes. On the other hand, a tax cut is a stimulus to economic activity. So if your goal were to further slow down the economy, one sure way to do it would be to raise taxes. On the other hand, if you see a slowdown coming, a tax cut would be a wise response to get the economy growing again.

In other words, if we had not cut taxes, not had these rebate checks going out, we would be nervously trying to cut taxes to stimulate the economy. A tax cut stimulates economic growth in two ways. First is to the extent the tax cut currently provides more money for consumers to spend, it creates more demands for goods and services. Secondly, and most importantly, the tax cut stimulates the economy through changes in expectations for workers, investors, and businesses. In other words, a lower tax bite means that workers, investors, and businesses can expect to retain more of the income generated by their activities. That expectation will change what workers and investors and businesses do right now. That does more economic good than if we have a political decision to distribute the goods and services.

Chairman Alan Greenspan and others have alluded to a new form of "bracket creep" brought about by high tax rates. In a sense, through this new form of bracket creep, the Federal Government was getting a windfall from workers, investors, and businesses.

With the lower marginal tax rates, some of the damaging bracket creep has been eliminated over the long term. That change should free up more income to flow through the marketplace and stimulate the economy.

So it was pretty clear some action needed to be taken to stimulate the economy. Action was taken and now, hopefully, for the folks back home, the economy will start to grow significantly.

Now if I can go to the third and last reason why the tax bill needed to be passed—the issue of fairness. We heard during the debate, and even recently, a hue and cry from some on the other side of the aisle that not all taxpayers should receive a rate reduction. They said the bipartisan tax relief bill that was signed by the President disproportionately benefits upper income taxpayers and does not provide enough relief at the lower income scale.

Well, we have news for that group of people. None of those allegations is true, and the charts that I have will show that. But we first need to understand the current distribution of tax burdens in America. We already have a highly progressive income tax system. According to the Congressional Budget Office, the top 20 percent of income taxpayers pay over 75 percent of all the income taxes coming into the Federal Government. By contrast, households in the bottom three-fifths of the income distribution pay 7 percent of all individual taxes.

Sometimes I get the feeling around here that when it comes to progressivity, the only way it is going to satisfy anybody here is if the richest man in America is supporting the Federal Government totally. But for those who are worried about this tax bill not being progressive enough, it not only preserves an already progressive system; it actually makes it more progressive. Those who don't like progressive income tax systems don't like to hear me say that. But for those who say our tax bill has made it less progressive, I hope it causes them to keep their mouths shut.

So to all who are critical of the bipartisan tax relief package as a tax cut for the rich, I invite them to pay special attention to data prepared by a neutral source, the Joint Committee on Taxation. These professionals work for both sides of the aisle, Republicans and Democrats, and for both the House and the Senate. As the Joint Committee on Taxation says, the marginal tax rate reductions in our bill, as signed by the President, combined with the increase in the child credit, and its added refundability, the marriage penalty, the education provisions, and the individual retirement accounts and pension provisions—all these aspects of this bill provide the greatest reduction in tax burden for the lower income taxpayer.

I ask unanimous consent that the tables prepared by the Joint Committee on Taxation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836[1]

[Prepared by the staff of the Conference Agreement for H.R. 1836, May 26, 2001]

Income category[2]	Change in Federal taxes[3]		Federal taxes[3] under present law		Federal taxes[3] under proposal		Effective Tax Rate[4]	
	Millions	Percent	Billions	Percent	Billions	Percent	Present Law (percent)	Proposal (percent)
Less than $10,000	−$75	−1.0	$7	0.4	$7	0.4	8.7	8.6
10,000 to 20,000	−2989	−11.5	26	1.5	23	1.4	7.5	6.7
20,000 to 30,000	−5,790	−9.4	62	3.5	56	3.3	13.4	12.2
30,000 to 40,000	−5,674	−6.4	89	5.1	83	4.9	16.1	15.1
40,000 to 50,000	−5,490	−5.4	102	5.9	97	5.7	17.4	16.4
50,000 to 75,000	−11,546	−4.5	256	14.6	244	14.4	19.1	18.3
75,000 to 100,000	−8,488	−3.5	244	13.9	235	13.9	21.7	21.0
100,000 to 200,000	−10,488	−2.6	408	23.3	397	23.5	24.2	23.6
2000, and over	−6,997	−1.3	555	31.7	548	32.4	27.8	27.4
Total, All Taxpayers	−57,536	−3.3	1,748	100.0	1,690	100.0	21.4	20.7
CALENDAR YEAR 2002								
Less than $10,000	−75	−1.0	7	0.4	7	0.4	9.2	9.1
10,000 to 20,000	−3,596	−13.3	27	1.5	23	1.3	7.6	6.6
20,000 to 30,000	−7,124	−11.3	63	3.4	56	3.2	13.5	12.0
30,000 to 40,000	−6,849	−7.6	91	4.9	84	4.8	16.1	14.8
40,000 to 50,000	−6,198	−5.8	106	5.8	100	5.7	17.5	16.5
50,000 to 75,000	−13,251	−5.0	267	14.5	254	14.4	19.0	18.0
75,000 to 100,000	−10,227	−4.0	255	13.9	245	13.9	21.7	20.8
100,000 to 200,000	−14,416	−3.3	442	24.1	427	24.3	24.2	23.4
200,000 and over	−16,557	−2.9	578	31.5	562	32.0	27.9	27.1
Total, All taxpayers	−78,294	−4.3	1,836	100.0	1,758	100.0	21.5	20.6
CALENDAR YEAR 2003								
Less than $10,000	−83	−1.1	8	0.4	8	0.4	9.7	9.6
10,000 to 20,000	−3,516	−12.9	27	1.4	24	1.3	7.6	6.6
20,000 to 30,000	−7,135	−11.0	65	3.3	58	3.1	13.6	12.1
30,000 to 40,000	−6,946	−7.5	93	4.8	86	4.6	16.0	14.8
40,000 to 50,000	−6,155	−5.7	108	5.6	101	5.5	17.4	16.4
50,000 to 75,000	−13,554	−4.9	279	14.4	266	14.3	18.9	18.0
75,000 to 100,000	−10,553	−4.0	265	13.7	255	13.8	21.7	20.8
100,000 to 200,000	−15,487	−3.2	479	24.8	464	25.1	24.2	23.4
200,000 and over	−17,453	−2.9	609	31.5	591	31.9	28.1	27.3

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836[1]—Continued

[Prepared by the staff of the Conference Agreement for H.R. 1836, May 26, 2001]

Income category[2]	Change in Federal taxes[3]		Federal taxes[3] under present law		Federal taxes[3] under proposal		Effective Tax Rate[4]	
	Millions	Percent	Billions	Percent	Billions	Percent	Present Law (percent)	Proposal (percent)
Total, All Taxpayers	−80,882	−4.2	1,933	100.0	1,852	100.0	21.5	20.6
CALENDAR YEAR 2004								
Less than $10,000	−69	−0.9	8	0.4	8	0.4	10.0	9.9
10,000 to 20,000	−3,429	−12.6	27	1.3	24	1.2	7.6	6.6
20,000 to 30,000	−7,121	−10.8	66	3.3	59	3.1	13.6	12.2
30,000 to 40,000	−6,964	−7.3	96	4.7	89	4.6	16.0	14.8
40,000 to 50,000	−6,320	−5.8	110	5.4	103	5.3	17.4	16.4
50,000 to 75,000	−15,049	−5.2	288	14.2	273	14.2	18.7	17.8
75,000 to 100,000	−12,913	−4.6	279	13.8	266	13.8	21.5	20.5
100,000 to 200,000	−22,095	−4.3	512	25.2	490	25.3	24.1	23.0
200,000 and over	−21.671	−3.4	642	31.6	620	32.1	28.2	27.3
Total, All Taxpayers	−95,630	−4.7	2,028	100.0	1,932	100.0	21.6	20.6
CALENDAR YEAR 2005								
Less than $10,000	−76	−1.0	8	0.4	8	0.4	10.1	10.0
10,000 to 20,000	−3,867	−14.0	28	1.3	24	1.2	7.6	6.5
20,000 to 30,000	−7,937	−11.6	68	3.2	60	3.0	13.7	12.1
30,000 to 40,000	−7,720	−7.9	98	4.6	90	4.4	16.0	14.7
40,000 to 50,000	−6,945	−6.2	112	5.3	105	5.2	17.2	16.2
50,000 to 75,000	−16,630	−5.5	303	14.2	286	14.1	18.7	17.6
75,000 to 100,000	−14,709	−5.1	287	13.5	273	13.5	21.4	20.3
100,000 to 200,000	−24,654	−4.5	547	25.7	522	25.8	24.0	22.9
200,000 and over	−21,182	−3.1	678	31.9	657	32.4	28.3	27.4
Total, All Taxpayers	−103,720	−4.9	2,129	100.0	2,025	100.0	21.6	20.6
CALENDAR YEAR 2006								
Less than $10,000	−76	−0.9	8	0.4	8	0.4	10.4	10.3
10,000 to 20,000	−3,789	−13.6	28	1.2	24	1.1	7.6	6.6
20,000 to 30,000	−7,853	−11.4	69	3.1	61	2.9	13.7	12.2
30,000 to 40,000	−7,839	−7.9	99	4.4	91	4.4	16.0	14.7
40,000 to 50,000	−7,570	−6.5	116	5.2	108	5.2	17.2	16.0
50,000 to 75,000	−18,755	−6.0	313	14.0	294	14.0	18.6	17.5
75,000 to 100,000	−17,212	−5.8	297	13.3	280	13.3	21.3	20.0
100,000 to 200,000	−30,208	−5.1	588	26.3	558	26.6	23.9	22.7
200,000 and over	−44,177	−6.1	719	32.1	675	32.1	28.3	26.6
Total, All Taxpayers	−137,476	−6.1	2,238	100.0	2,100	100.0	21.7	20.3

[1] Includes provisions affecting the child credit, individual marginal rates, a 10% bracket, limitation of itemized deductions, the personal exemption phaseout, the standard deduction, 15% bracket and EIC for married couples, deductible IRAs, and the AMT.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus; [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels.

[3] Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.

[4] The effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

Mr. GRASSLEY. Mr. President, I will go to a couple of the charts I referred to prepared by Joint Tax. Look at the levels of reduction in tax burden shown on this chart. You can see that the lowest income brackets receive the highest reduction.

Now, for the year 2006—and I say for the year 2006 because that is when the individual tax provisions or rates are implemented—taxpayers with over $100,000 of income receive a tax cut of between 5 and 6 percent. Taxpayers earning between $10,000 and $50,000 get a tax cut of between 6.5 percent and 13.6 percent, with those at the lower income levels getting the biggest percentage of reduction. Even those with incomes below $10,000, who, by and large, don't pay income and payroll taxes, receive a tax cut under the bipartisan tax relief package.

Under the tax relief, 6 million Americans will be taken off the income tax rolls. Those are lower bracket people. Just tell 6 million people who are never going to be paying income tax in the future that they aren't getting a benefit from this greater than higher income people who are going to be paying income taxes the rest of their lives. A four-person family earning $35,000 a year will no longer have any income tax burden.

As the Joint Tax data also shows, a large reduction of the tax burden is targeted toward taxpayers between the $30,000 and $75,000 income brackets. These taxpayers will enjoy significant effective tax relief.

I also said that the bipartisan tax relief actually makes our tax system more progressive. The Joint Tax Committee again provides the proof. As the Joint Tax tables demonstrate, under the bipartisan tax relief package, the overall burden goes down for taxpayers earning below $100,000. For taxpayers making $100,000 or more, however, their share of the Federal tax burden will actually increase under the bipartisan tax relief legislation. For example, for taxpayers earning between $100,000 and $200,000 a year, their share of the burden will increase by three-tenths of a percent. This is not the case for taxpayers earning between $10,000 and $30,000. Their share of the overall burden will decrease by three-tenths of a percentage point.

So the bipartisan tax relief legislation not only retains the progressivity of the tax system, but that progressivity is enhanced.

Now, it is clear that distribution tables aren't the only way to define tax fairness. There were other categories of tax relief that carried bipartisan priority in terms of fairness. First, on a bipartisan basis, there is concern about the added burden for couples who decide to marry. This important social objective was impaired by the marriage penalty. The bipartisan tax relief legislation provided marriage tax relief.

Second, on a bipartisan basis, there was concern about the Tax Code's failure to recognize the cost of raising children. The bipartisan tax relief legislation provides tax relief for millions of families with children, including those who pay no income tax at all. In addition, the dependent care tax credit was enhanced for families with children in day care.

Third, on a bipartisan basis, there was concern about helping families with the rising cost of education. As a response, the bipartisan tax relief legislation includes a package of educational tax relief measures.

Fourth, on a bipartisan basis, there was concern about declining savings rates and the need for more secure retirement plan benefits for more workers to help baby boomers who are saving less. As a response, the bipartisan tax relief legislation included significant enhancements to individual retirement accounts and retirement plans. This package was then perhaps the greatest improvement in our individual IRAs and retirement plans in a generation.

Finally, there was a bipartisan concern about the confiscatory impact of the death tax, especially for family farmers and small businesses. As a response, the bipartisan tax relief legislation includes death tax relief, including repeal.

Today I have talked about the three most important reasons from my perspective why we were able to pass the largest bipartisan tax relief measure in a generation.

The first reason is to correct the policy of overtaxation that stemmed from the heavy tax hike of 1993.

The second is to respond with an economic stimulus against the current economic slowdown.

The third is there are sufficient budgetary resources to address tax fairness problems.

It is important to realize that the major tax legislation just enacted rests on a very sound foundation. It should not be dismissed, it should not be obfuscated, and it should not otherwise be distorted by budgetary demagoguery. Let us not forget that revenue is not an abstract notion. Revenue reflects the sum total payments to Washington by hard-working men and women. It is not abstract when paid and should not be treated as an entitlement by those of us fortunate enough to be sent here to make policy decisions to represent the folks back home.

We have a very good tax bill. Our challenge is to make sure that those in Congress who want to spend more money and do not like giving the people back their money—we are intent upon keeping this reduction of revenue coming into the Federal Treasury, not because we are concerned about the taxpayers, but because if those taxpayers spend that money, it is going to do more economic good and turn over the economy, create more jobs and more wealth than if I spend it as a Member of the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for approximately 20 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONTROLLING THE PROLIFERATION OF SMALL ARMS AND LIGHT WEAPONS

Mrs. FEINSTEIN. Mr. President, I rise today to speak about the proliferation of small arms around the world and, specifically, the remarks made by John Bolton, the Under Secretary of State for Arms Control and International Security Affairs before the United Nations this past July 9 at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects.

I begin by saying what I sincerely believe: I think it is right and necessary to limit the illicit sale of small arms and light weapons on a worldwide basis. In order to do that, however, one also has to address transparency and legal transfers of small arms and light weapons because so much of the illicit proliferation problem has its roots in legal sales. I was therefore very surprised that Under Secretary Bolton said the United States may well be opposed to measures being considered by the conference that are aimed at curbing the international proliferation of small arms and light weapons.

Before I address Mr. Bolton's speech, and the question it raises about the direction of the administration's policy in this area, I would like to briefly sketch out the scope and scale of this problem:

The worldwide proliferation of small arms—this includes shoulder-mounted missiles, assault weapons, grenade launchers, and high-powered sniper rifles—is a staggering problem today. Right now there are an estimated 500 million illicit small arms and light weapons in circulation around the globe.

In the past decade alone, an estimated 4 million people have been killed in civil war and bloody fighting, many of them with these same small arms.

As a matter of fact, 9 out of 10 of these deaths are attributed to small arms and light weapons. According to the International Committee of the Red Cross, more than 50 percent of the 4 million people killed—that is 2 million people—are believed to be civilians. The sheer volume of available weaponry has been a major factor in the devastation witnessed in recent conflicts in Angola, Cambodia, Liberia, Mozambique, Rwanda, Sierra Leone, Somalia, Sri Lanka, and Afghanistan, as well as the sort of violence endemic to narcotrafficking in Colombia and Mexico. These conflicts undermine the regional stability, and they endanger the spread of democracy and free markets around the world.

The United Nations and the Red Cross estimate that more than 10 million small arms and light weapons, ranging from pistols to AK-47's to hand grenades to shoulder-launched missiles, are today in circulation in Afghanistan where the terrorist organization of Osama bin Laden is based.

The United Nations estimates that over 650,000 weapons disappeared from government depots in Albania in the 3 years leading up to the outbreak of violence in the Balkans, including 20,000 tons of explosives.

NATO peacekeepers and U.S. soldiers in the region are under threat and in danger from these weapons. In fact, the increased access by terrorists, guerrilla groups, criminals, and others to small arms and light weapons poses a real threat to all U.S. participants in peacekeeping operations and U.S. forces based overseas.

Clearly, this is a substantial problem, and it has profound implications for U.S. security interests. It is because of the scope and scale of the problem that the United Nations conference on the illicit trade in small arms and light weapons, I believe, is so important.

Unfortunately, as the Washington Post editorial on July 10 put it, Mr. Bolton's opening address "appeared designed to cater to the most extreme domestic opponents of gun control". Although I do not disagree with all that Mr. Bolton said, I want to ask that we examine more closely the implications of some of his statements, and how they conflict with both settled Supreme Court precedent and the goals of stemming the tide of illicit arms into the hands of terrorists, drug cartels, and violent rebellions.

First, Mr. Bolton stated that "The United States will not join consensus on a final document that contains measures contrary to our constitutional right to keep and bear arms."

As the Post's editorial points out, "No such measures appear in the draft documents before the conference." Why, exactly, did he do that?

I believe not only is Mr. Bolton wrong in his assertion about the connection between the Second Amendment and the work of conference, but in any case Mr. Bolton's position on the Second Amendment is in direct contradiction to decades of Supreme Court precedent.

Not one single gun control law has ever been overturned by the Court on Second Amendment grounds.

Contrary to the constant claims of the NRA, the meaning of the Second Amendment has been well-settled for more than 60 years—ever since the 1939 U.S. Supreme Court ruling in United States v. Miller. In that case, the defendant was charged with transporting an unregistered sawed-off shotgun across state lines.

In rejecting a motion to dismiss the case on Second Amendment grounds, the Court held that the "obvious purpose" of the Second Amendment was "to assure the continuation and render possible the effectiveness" of the "state Militia." Because a sawed-off shotgun was not a weapon that would be used by a "state Militia", like the

National Guard, the Second Amendment was in no way applicable to that case, said the Court.

If a sawed-off shotgun is not protected by the Second Amendment, why does the Administration seem to be taking the position that the Second Amendment protects the international trafficking of shoulder-launched missiles?

If an American citizen cannot freely transport a sawed-off shotgun across state lines, why can't we work to stop the international transportation of grenade launchers and high powered, military sniper rifles?

This second amendment argument simply makes no sense, and has no place in this debate.

Second, Mr. Bolton's opening statement attacked language that calls on governments to "seriously consider" curtailing "unrestricted sales and ownership" of arms specifically designed for military purposes.

So Mr. Bolton essentially objected to even considering merely curtailing the "unrestricted sales and ownership" of military weapons.

In point of fact the United States already curtails the sale and ownership of many of these guns.

The National Firearms Act, for instance, places severe restrictions on the manufacture and possession of machine guns, sawed-off shotguns, grenades, bombs, rockets, missiles, and mines.

We also passed the 1994 assault weapons ban, which stopped the production of semi-automatic, military-style assault weapons.

These firearms have no sporting purpose, and our laws recognize that fact. Yet these guns contribute enormously to terrorist threats, drug cartel violence, and civil strife throughout the world.

Congress has already recognized that curtailing the use of military-style weapons is reasonable, appropriate, and even life-saving. To now object to a clause that would call upon other governments around the world to do the same is nonsensical at best, and undermines U.S. security interests—and the lives of U.S. military personnel—at worst.

Next, Mr. Bolton stated that the United States would "not support measures that would constrain legal trade and legal manufacturing of small arms and light weapons." That may be legitimate read on its face. People can understand that.

Although it is my belief that the United States is not the biggest contributor to the problem of the global proliferation of small arms and light weapons—the United Nations has found that almost 300 companies in 50 countries now manufacture small arms and related equipment—in 1999 the U.S. licensed for export more than $470 million in light military weapons.

With the average price of $100-$300 per weapon, this represents a huge volume of weapons.

The problem is that in addressing the issue of the international proliferation of small arms and light weapons one cannot simply address the illicit side of the equation without also looking at the interactions between the legal trade and the illegal trade.

In fact, there is good evidence of an increased incidence of U.S. manufactured weapons—legally manufactured and legally traded or transferred—flowing into the international black market.

In April, 1998, for example, The New York Times reported that the United States had to rescind pending licenses for sale of U.S. firearms to the United Kingdom based on the European Union practice allowing retransfer of guns between EU members without review or oversight.

In 1999 the State Department stopped issuing licenses from the U.S. to dealers in Venezuela because of concern that many of the guns—legally exported and sold—were in fact ending up in the hands of narco-traffickers and guerrillas in Colombia.

In 2000 and to date in 2001, the ATF has processed more than 19,000 trace requests from foreign countries for firearms used in crimes: 8,000 of these guns were sold legally in the United States. So they are sold legally and they get into the black market and they become part of a crime.

In 1994, Mexico reported 3,376 illegally acquired U.S.-origin firearms. Many of these weapons were originally sold legally to legitimate buyers but then transferred illegally, to many Mexican drug cartels. Between 1989 and 1993, the State Department approved 108 licenses for the export of $34 million in small arms to Mexico, but it performed only three follow-up inspections to ensure that the weapons were delivered to and stayed in the hands of the intended users.

According to the South African Institute for Security Studies, an estimated 30,000 stolen firearms—again, firearms originally manufactured and traded, sold or transferred in a legal manner—enter the illegal marketplace annually in South Africa.

Given this undeniable connection between legal sales and illicit trade, the approach suggested by Mr. Bolton to the Conference—that it should only address one part of the equation while ignoring the other, appears to me to be untenable.

I would also suggest that certain measures which may be seen by some as constraints on legal manufacture and trade—such as international agreements for the marking and tracing small arms and light weapons, or seeing that there are international regulations governing the activities of arms brokers—are in fact wise policy.

Mr. Bolton also stated:

> Neither will we, at this time, commit to begin negotiations and reach agreements on legally binding instruments, the feasibility and necessity of which may be in question and in need of review over time.

Yet, as Mr. Bolton himself points out in his statement, the United States has some of the best laws and regulations on the books regarding the sale and transfers of light weapons.

In my view it is clearly in the U.S. interest to see that those standards are replicated by the world community.

Mr. Bolton's statement is fulsome in its praise of U.S. brokering regulations. Why do we not want to see others rise to the same standards?

Mr. Bolton's statement cites U.S. regulations governing the transfer of military articles of U.S. origin and U.S. exports of small arms and light weapons.

Instead of going it alone—with limited success even when it comes to some of our closest allies, like the United Kingdom, as the example I cited above indicates—shouldn't we be working to see to it that the rest of the international community adopts similar standards? I think so.

In approaching the United Nations Conference, the U.S. government should negotiate and support making the trafficking of small arms traceable, strengthen international regulations of transfers, bolster rules governing arms brokers, and eliminate the secrecy that permits thousands of weapons to fuel crime and war without anyone's knowledge of their source.

We should be taking the lead on this issue based on our foreign policy and national security interests, not taking the NRA line based on domestic political considerations.

And U.S. leadership should ensure that the Conference is the first step, not the last, in the international community's efforts to control the spread of small arms and light weapons.

The problem is you cannot look at the illicit trade of small arms and light weapons, which is killing millions upon millions of people, 50 percent of them innocent civilians, without increasing the transparency of the legal market because so many of these weapons go from the legal market into the black market—the illicit market.

I yield the floor.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Arizona.

Mr. KYL. Mr. President, I ask consent to speak in morning business for 5 minutes, and following my remarks, the Senator from Washington speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I first thank the Senator from Washington State for her kindness letting me speak next. I hope to make an appointment in my office. I will cut my remarks short and give a summary and put the remainder in the RECORD. I appreciate her generosity and that of the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Arizona.

CONFIRMATION OF NOMINEES

Mr. KYL. We started this session of Congress, I think, on a fairly high note of bipartisanship. While there have been some recent events that may have detracted from that, I think most of us would like to proceed with as much bipartisanship as possible. Part of this, of course, concerns relationships between the Congress and the President.

Since the majority in the Senate and the President are of different parties, that may be a little more difficult, but I have a suggestion today which I hope will enable us to move in that direction.

The President has a number of nominees, executive branch nominees, there are a few legislative branch nominees that require our actions, and then there are some judicial nominees. I hope in a real spirit of bipartisanship we can get those nominees cleared; that is to say, the Senate can confirm the President's nominations and the personnel that he needs in the executive branch to get his work done, and that we can confirm the judges the courts need. These are people who need to be put into place so our country can move forward for all of the American people.

Up until last week, unfortunately, the Senate had been acting at a relatively slow pace. I might also add the change from the majority to the minority, and vice verse, undoubtedly complicated this, but we were not making very good progress.

Last week, I note that 54 nominees were confirmed by the Senate. In fact, 36 were confirmed just last Thursday. So we are finally beginning to make some progress. I urge my colleagues to continue this progress because, by my count, there are 93 executive branch nominees pending as of today. Only 26 have had hearings. But as we know, it does not take too much for the committee work to follow shortly after a hearing so the nominees can actually come to the Senate for full debate and confirmation by the full Senate.

As of today, according to the administration's figures, approximately 347 nominees have come to the Senate, and only 187 have been confirmed. So we still have a fair amount of work to do.

In terms of judicial nominees, my understanding is that there are 29 nominations pending, 3 of which have had hearings. Of those, 20 are circuit court nominees, 9 are district court nominees. The bottom line with regard to the courts is that as of today, no circuit or district court judges have been confirmed this year. We are, of course, now past the midway point of this year.

We are going to have to get going. Again, I do not want to point any fingers in the spirit of bipartisanship which I am invoking here today. I am hoping Republicans and Democrats in the Senate and the administration can work very closely together.

What I would like to do, and I will do at the end of my remarks, is submit for the RECORD the names of the nominees who are pending. I was going to read the names of the people who are currently pending, but I do not need to do that. I will submit those for the RECORD. But I would note some of these have been pending going back to the month of April. Clearly the Senate can act on those nominees who have been before us for a long period of time, and we should expedite those who have come before us, even fairly recently. It should be our goal that by the time we conclude our work in July and return to our States for the August recess, that all of the nominees who have come to the Senate, except maybe in the last couple of days before that period of time, will have been cleared; that is to say, they will have had their hearings, come out of committee, and been acted upon by the full Senate. Very few of them are controversial, as I go down the list.

I do note in a couple of cases nominees are being held up by Senators—actually in four or five cases. A couple of those are being held up by Republicans, and a few more are being held up by Democrats. I am going to urge my Republican colleagues to cooperate so the concerns they have expressed can be dealt with and the nominees can move forward. I hope my Democratic colleagues will do the same on their side of the aisle. I think it is important that while a Member of the Senate may put a technical hold on a nomination, we all appreciate all that means is that they have requested to be notified if the majority leader is going to call that nominee up for a full Senate consideration so that Senator will then have an opportunity to object. Obviously, we do not want to put Members in that position, but I do think it is important for the full Senate to be able to work its will on these nominees. That is why I am going to ask both Republicans and Democrats, where they have a problem with somebody, to try to work that out with the administration so we can proceed.

Finally, last week I worked with the distinguished majority leader and the assistant majority leader in ensuring we could both bring the appropriations bills that we have to deal with to the Senate floor and to get these nominees done at the same time. There is nothing to prevent us from bringing an appropriations bill to the floor and then toward the end of the day, for those nominees that do not require debate and rollcall vote, having them considered in the wrap-up.

I will continue to do that because it is my expectation that we will not have to use the rules of parliamentary procedure that we all have available to us to hold up business of the Senate in order to get these nominees done since they are the top priority; that we can actually do both at the same time.

That is my request of the majority leader and of the assistant majority leader—to continue to work in that spirit moving forward both with the appropriations bill and with the nominees. I will have more to say about this later.

I ask unanimous consent that the names of the nominees who are currently pending be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUSH ADMINISTRATION NOMINEES PENDING SENATE ACTION

AGRICULTURE

Thomas C. Dorr, Undersecretary for Rural Development.

Hilda Gay Legg, Administrator, Rural Utilities Services.

Mark Edward Rey, Undersecretary for Natural Resources and Environment.

COMMERCE

Samuel W. Bodman, Deputy Secretary of Commerce.

David Sampson, Assistant Secretary for Economic Development.

Michael J. Garcia, Assistant Secretary for Export Enforcement.

William Henry Lash III, Assistant Secretary for Market Access and Compliance.

James Edward Rogan, Undersecretary for Intellectual Property and Director of the United States Patent and Trademark Office.

DEFENSE

Jack Dyer Crouch II, Assistant Secretary for International Security.

Stephen A. Cambone, Principal Deputy Undersecretary for Policy.

Susan Morrisey Linvingstone, Undersecretary of the Navy.

Alberto Jose Mora, General Counsel, Navy.

Michael Parker, Assistant Secretary for Civil Works, Army.

John Stenbit, Assistant Secretary for Command, Control, Communications & Intelligence.

Ronald M. Sega, Director, Defense Research and Engineering.

Joseph E. Schmitz, Inspector General.

Michael L. Dominguez, Assistant Secretary (Air Force) for Manpower, Reserve Affairs.

Nelson F. Gibbs, Assistant Secretary (Air Force) for Installations & Environment.

H.T. Johnson, Assistant Secretary (Navy) for Installations & Environment.

Mario P. Fiori, Assistant Secretary (Army) for Installations & Environment.

EDUCATION

Carol D'Amico, Assistant Secretary for Vocational and Adult Education.

Brian Jones, General Counsel.

Laurie Rich, Assistant Secretary for Intergovernmental and Interagency Affairs.

Robert Pasternack, Assistant Secretary for Special Education and Rehabilitative Services.

Joanne M. Wilson, Commissioner, Rehabilitation Services Administration.

ENERGY

Dan R. Brouillette, Assistant Secretary for Congressional and Intergovernmental Affairs.

Theresa Alvillar-Speake, Director, of Minority Economic Impact.

HEALTH AND HUMAN SERVICES

Wade F. Horn, Assistant Secretary for Family Support.

Kevin Keane, Assistant Secretary for Public Affairs.

Janet Hale, Assistant Secretary for Management and Budget.

Alex Azar, III, General Counsel.

Janet Rehnquist, Inspector General.

Josefina Carbonell,Assistant Secretary for Aging.

Joan E. Ohl, Commissioner, Administration for Children, Youth and Families.

HOUSING AND URBAN DEVELOPMENT

Michael Minoru Fawn Liu, Assistant Secretary for Public and Indian Housing.

Melody H. Fennel, Assistant Secretary for Congressional and Intergovernmental Affairs.

JUSTICE

Ralph F. Boyd, Jr., Assistant Attorney General for Civil Rights.

Deborah J. Daniels, Assistant Attorney General for the Office of Justice.

Thomas L. Sansonetti, Assistant Attorney General for Environment & Natural Resources.

Robert D. McCallum, Jr., Assistant Attorney General for the Civil Division.

Eileen J. O'Connor, Assistant Attorney General for Tax Division.

Sarah V. Hart, Director, National Institute of Justice.

Richard R. Nedelkoff, Director of the Bureau of Justice Assistance.

J. Robert Flores, Administrator, Office of Juvenile Justice and Delinquency Prevention.

James W. Ziglar, Commissioner, Immigration and Naturalization Service.

John W. Gillis, Director, Office for Victims of Crime.

Asa Hutchinson, Administrator, Drug Enforcement Agency.

Sharee M. Freeman, Director, Community Relations Service.

Mauricio J. Tamargo, Chairman, Foreign Claims Settlement Commission.

LABOR

Eugene Scalia, Solicitor of Labor.

John Lester Henshaw, Assistant Secretary, Occupational Safety and Health.

Emily Stover DeRocco, Assistant Secretary for Employment Training Administration.

STATE

John D. Negroponte, Representative to the United Nations.

Otto J. Reich, Assistant Secretary for Western Hemisphere Affairs.

Charlotte L. Beers, Undersecretary for Public Diplomacy.

Clark Kevin Ervin, Inspector General.

Dennis L. Schornack, Commissioner, International Joint Commission.

William A. Eaton, Assistant Secretary for Administration.

TRANSPORTATION

Allan Rutter, Administrator, Federal Railroad Administration.

Kirk Van Tine, General Counsel.

Ellen G. Engleman, Administrator, Research and Special Programs.

Jeffrey William Runge, Administrator, National Highway Traffic Safety Administration.

TREASURY

Michele Davis, Assistant Secretary for Public Affairs.

Kenneth Dam, Deputy Secretary of the Treasury.

Peter R. Fisher, Undersecretary for Domestic Finance.

Jimmy Gurule, Undersecretary for Enforcement.

Rosario Marin, Treasurer of the United States.

Brian Carlton Roseboro, Assistant for Financial Markets.

Henrietta Holsman Fore, Director, U.S. Mint.

Robert C. Bonner, Commissioner of Customs.

Sheila C. Bair, Assistant Secretary for Financial Institutions.

VETERANS AFFAIRS

Gordon H. Mansfield, Assistant Secretary for Congressional Affairs.

Claude Kicklighter, Assistant Secretary for Policy and Planning.

EXECUTIVE BRANCH

John D. Graham, Administrator of the Office of Information and Regulatory Affairs.

Jon M. Huntsman, Deputy USTR.

Mark B. McClellan, Member, Council of Economic Advisors.

Allen Frederick Johnson, Chief Agricultural Negotiator, USTR.

John Walters, Director, Office of Drug Control Policy.

AGENCIES

Robert E. Fabricant, General Counsel, EPA.

Hector Baretto, Administrator, Small Business Administration.

Roger Walton Ferguson, Governor, Federal Reserve System.

Jeffrey R. Holmstead, Assistant Administrator for Air and Radiation, EPA.

George Tracey Megan, III, Assistant Administrator for Water, EPA.

Eduardo Aguirre, Jr., First Vice President & Vice Chair, Export-Import Administration.

Cari Dominguez, Chairwoman, Equal Employment Opportunity Commission.

Harvey L. Pitt, Chairman, Securities and Exchange Commission.

Ross J. Connelly, Executive Vice President, OPIC.

Carole L. Brookins, US Executive Director of the International Bank for Reconstruction.

Judith Elizabeth Ayres, Assistant Administrator for International Activities.

Daniel R. Levinson, Inspector General, GSA.

Marion Blakey, Chairman, National Transportation Safety Board.

John Arthur Hammerschmidt, Member, National Transportation Safety Board.

Donald Schregardus, Assistant Administrator for Enforcement.

JUDICIARY

John G. Roberts, Jr., U.S. Circuit Court, District of Columbia.

Miguel A. Estrada, U.S. Circuit Court, District of Columbia.

Edith Brown Clement, U.S. Circuit Court, Fifth Circuit.

Priscilla Richman Owen, U.S. Circuit Court, Fifth Circuit.

Dennis W. Shedd, U.S. Circuit Court, Fourth Circuit.

Roger L. Gregory, U.S. Circuit Court, Fourth Circuit.

Terrence W. Boyle, U.S. Circuit Court, Fourth Circuit.

Barrington D. Parker, U.S. Circuit Court, Second Circuit.

Deborah L. Cook, U.S. Circuit Court, Sixth Circuit.

Jeffrey S. Sutton, U.S. Circuit Court, Sixth Circuit.

Michael E. McConnell, U.S. Circuit Court, Tenth Circuit.

Sharon Prost, U.S. Circuit Court, Federal Circuit.

Lavenski R. Smith, U.S. Circuit Court, Eighth Circuit.

William J. Riley, U.S. Circuit Court, Eighth Circuit.

Charles W. Pickering, Sr., U.S. Circuit Court, Fifth Circuit.

Timothy M. Tymkovich, U.S. Circuit Court, Tenth Circuit.

Harris L. Hartz, U.S. Circuit Court, Tenth Circuit.

Carolyn B. Kuhl, U.S. Circuit Court, Ninth Circuit.

Richard R. Clifton, U.S. Circuit Court, Ninth Circuit.

Michael J. Melloy, U.S. Circuit Court, Eighth Circuit.

Richard F. Cebull, U.S. District Court, District of Montana.

Sam E. Haddon, U.S. District Court, District of Montana.

Terry L. Wooten, U.S. District Court, District of South Carolina.

Laurie Smith Camp, U.S. District Court, District of Nebraska.

Paul G. Cassell, U.S. District Court, District of Utah.

John D. Bates, U.S. District Court, District of the District of Columbia.

Reggie B. Walton, U.S. District Court, District of the District of Columbia.

Michael P. Mills, U.S. District Court, Northern District of Mississippi.

James E. Gritzner, U.S. District Court, Southern District of Iowa.

Mr. KYL. Mr. President, I will continue to work with the majority and minority leaders to ensure that we can consider these nominees.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Thank you, Mr. President.

REGULATION OF ENERGY MARKETS

Ms. CANTWELL. Mr. President, I rise today to address an issue of extraordinary importance to the State of Washington, the Pacific Northwest, and the entire west coast. That is the role of the Federal Energy Regulatory Commission in regulating our Nation's energy markets and righting the wrongs that have been visited upon ratepayers in the West by runaway energy prices over the last year.

We are now 22 days into an expedited review process by the Federal Energy Regulatory Commission, designed to determine refunds for the unjust and unreasonable rates paid by Western consumers.

At the urging of my colleagues from the Northwest, Senators MURRAY, WYDEN, SMITH, and myself, FERC finally recognized the realities of the energy markets in the West when they allowed Pacific Northwest utilities to participate in these proceedings and the expedited review process. But my main concern is that in the haste of putting the California debacle behind it, FERC will again overlook the Northwest and consumers who have been impacted by as much as 50-percent rate increases.

I am afraid my suspicions were borne out last week when the administrative law judge charged with overseeing this refund matter issued his recommendations to FERC, again paying little attention to the Northwest problem. It is now up to FERC to determine what to do with the judge's recommendation.

I believe the Commission should not—and cannot—in the interest of fairness ignore the Northwest in its refund calculation. While many of my colleagues are well aware of the toll this crisis has taken on California, we—and FERC—cannot disregard the impact that it has had on Northwest citizens, businesses, and communities of Washington State.

Equitable treatment in this refund proceeding requires that the Commission recognize a certain fundamental truth: That Northwest consumers have been harmed, and they have been harmed by unjust and unreasonable prices that have prevailed in all energy markets throughout the West—inside and outside California, and in spot, forward, and long-term power markets.

There are differences between how California and Northwest utilities manage their obligations to serve consumers. Thus, FERC should not come up with a one-size-fits-all solution for a refund methodology. The basic litmus test should be this: Did power rates meet the commonsense test of reasonableness? If the answer is no, then the Commission must order refunds. This determination should not depend on whether the utilities bought energy on the spot market or made their purchases under long-term contracts.

The Northwest has been hurt by California's dysfunctional marketplace, and yet we now also risk being hurt because we in the Pacific Northwest do not operate the same way as the California ISO, when it comes to the issue of refunds. We run the risk of being penalized twice.

Western consumers have been impacted by the havoc unleashed by California's unstable energy markets and the apparent gamesmanship of a few who have taken advantage of this broken power market.

This topic is of particular concern to the Northwest because, as the crisis has evolved, FERC has been slow to respond to the situation in California, and slower to respond in the Northwest. In the refund proceeding, focusing solely on California's spot markets would significantly harm the utilities of my State and ignore the residual damage that California has caused in all of the energy markets throughout the West.

What are some of those impacts? Make no mistake. The pain inflicted by this crisis has been real on the people of Washington State. Over the last year skyrocketing energy prices have caused retail electricity rates to rise in all corners of my State: 20 percent in Clark County, 30 percent in Cowlitz, Skamania, and Okanogan counties, 35 percent in Snohomish County, and 50 percent in the cities of Tacoma and Seattle. Even as these utilities have passed on rate increases to consumers, some have been forced to issue hundreds of millions of dollars' worth of bonds to cover the cost. Seattle, for example, normally spends $100 million per year on purchasing power. This year the city spent over $450 million to keep the lights on—and that is just in the first 6 months of the year.

While the utility in its first 98 years of history issued a total of only about $1 billion in bonds, it is having to issue $700 million in debt this year alone to pay for its purchased power bills. A number of Northwest utilities have even had their bond ratings downgraded as a result of this crisis.

Indeed, the economic impacts on Washington have already begun to take root. Energy-intensive industries such as aluminum smelting and pulp and paper industries have been driven to the brink of collapse, and layoffs already number in the tens of thousands. There are innumerable other businesses that are on the brink as well.

For example, Georgia-Pacific has shut down its pulp and paper mill in Bellingham, WA, laying off 420 workers. Another pulp and paper mill in Steilacom, WA, has had to idle its workforce due to escalating power prices.

Washington's aluminum industry, which provides my State with between 7,000 to 8,000 family-wage jobs, has curtailed a large part of its production anywhere from 6 months to 2 years. And it is unclear whether those companies will ever resume production at their current levels given this agreement to shut down.

These companies, which produce a large portion of the Nation's aluminum, have given up more than 75 percent of their power in order to minimize the rate increase for the entire region.

Due to drought conditions and the cost of purchasing power for irrigation, many farmers in the State of Washington have also been hurt. They have chosen to forego the planting this summer.

Because agriculture is already one of the most stressed industries in Washington, the impacts of the current energy situation are particularly devastating. Many of our irrigators have been paid not to farm based on energy savings compared to the their previous year's usage. When irrigators can't farm, that has ramifications for entire communities and related businesses such as cold storage, food processing, and transportation. So the agricultural impact is being felt broadly in our State.

The effect on small businesses have been equally harrowing. At a Small Business Committee field hearing that was held in Seattle by the chairman, Senator KERRY, I heard from the president of a steel foundry based in Tacoma, which has been in operation since 1899—a company that employs over 350 people. In the face of this crisis, this plant, with a very aggressive approach, reduced its power consumption by over 20 percent. At the same time, the foundry has increased its efficiency and will actually produce more steel this year. But despite this extraordinary effort to reducing energy consumption, the company's power bills are 60 percent over what it was the year before, virtually eliminating any profits and already forcing a handful of layoffs. In the words of the company's president, any further rate increase will mean that the foundry will have to close its doors.

This crisis has a very human face. The LIHEAP caseload in the State of Washington is expected to grow 50 percent this year. I have heard from many senior citizens who can't afford to light their homes at night and will be making hard choices later this fall and winter about heating their homes and buying food. I have visited children who are worried that their parents, in some of those industries I mentioned, will lose their jobs. And those children are concerned they will then lose their homes when their mothers and fathers do not have the work to pay their bills.

Our schools have also had to cut corners. The Central Valley School District near Spokane, for example, has had to divert over $200,000, that would otherwise be used to purchase textbooks, to pay its energy bills.

What is more startling is the gravity of these impacts, and the number of Washington residents suffering from this crisis, is going to continue to grow. I say that because the Bonneville Power Administration, which provides Washington with 70 percent of its power, will be forced to raise its rates another 46 percent this October.

It is clear that FERC has an obligation to help these people I have just mentioned, and to help the State of Washington overcome the economic impacts caused by the California market and by a serious drought. FERC must not only stabilize our market and ensure fair rates in the future, but must also address past wrongs and the harm that has impacted consumers.

FERC took its first serious step in its June 19 price mitigation order. Given the economic casualties in my State, I believe this action was long overdue. But it was a positive first step.

The effectiveness of FERC's price mitigation plan will remain of vital concern to all of us from the West. We need to remain mindful of what the effects of this California-focused mechanism on supply in the Northwest, as our region's peak winter heating season approaches.

But let me address specifically the issue of refunds and where we are today in the process. Of particular concern to me is the fact that, as part of the June 19 order, FERC established a 15-day settlement conference for participants in California energy markets, and others in the West, to reach agreement on potential refunds for overcharges and settlement of California's unpaid accounts.

As has been the case throughout this crisis, the order was initially silent on the issue of relief for the Pacific Northwest. It was only after the intervention of a bipartisan group of Northwest Senators that FERC amended its order clarifying that Northwest parties would also participate in those discussions.

But the 15-day settlement window has now closed and no agreement has been reached—for consumers in either Washington State or California. As I have mentioned, the administrative law judge made his recommendation last week on how to proceed. He was mostly silent on the issue of relief for the Pacific Northwest. It should also be noted that, to the extent the recommendations did comment on our concerns, it was not factually correct.

While the recommendations said Pacific Northwest parties "did not have data on what they were owed, nor an amount of refunds due them," it is a matter of public record that a group of Northwest utilities—net purchasers in the West's dysfunctional power markets—submitted a claim for $680 million, as well as documentation and a proposed methodology for calculating those refunds.

That notwithstanding, this is a silence the Commission itself cannot, in the interest of fairness, sustain. FERC must seek an equitable solution for the Northwest. In order to do that I believe it is critical that FERC recognize some fundamental differences between the Northwest and California energy markets—and that fundamental fairness requires that refunds go to customers in California and the Northwest.

First, FERC needs to recognize that most Northwest participants in the California markets are load-serving utilities. These load-serving utilities are responsible for a very small percentage of the power sold into the California market—certainly no more than 4 percent—and they are clearly not the parties that broke the market. Further, many in the Northwest, especially the Bonneville Power Administration, have been partners in helping solve the California problem by keeping the lights on during emergencies, at costs to the Northwest that cannot necessarily easily be quantified—particularly when one takes into account the Northwest's endangered species and salmon issues, and the delicate balance we work hard to achieve. Every time we generate power, it is quite a delicate balance.

Unlike power marketers or merchant generators, Northwest utilities operate under a statutory obligation to meet all their customers' electricity needs. Further, our region's power supply is essentially based on hydropower. A full 78 percent of Washington state's generation comes from hydropower. As has been made painfully clear by this year's drought—which has amounted to the second worst year of drought on record in the history of our State—the vagaries of hydroelectric production require that our utilities make other wholesale power purchases to meed load. In keeping with reasonable utility planning practices, these companies buy a portfolio of products of varying duration.

This points to a second, fundamental difference between the Northwest and California markets: Whereas California utilities were forced, under the State's restructuring law, to make all of their purchases in a centralized hour-ahead or day-ahead market, we have no such centralized market in the Northwest. While we do have very short-term bilateral markets, our utilities have traditionally only used these to balance the difference between forecasted and actual loads, streamflows, weather conditions, and other similar factors.

Unlike the California ISO market, the Northwest utilities rely heavily on "forward" or long-term contracts that last for periods varying from a month ahead to a quarter or two or even longer.

But these contracts have been closely affected by the skyrocketing spot market prices in California. It is thus absolutely crucial, for the purposes of its refund proceeding, that the FERC recognize that power prices throughout the West—and not just in spot markets, but in these forward contracts as well—are unjust and unreasonable. Washington State's prices have moved in lockstep with the spot market prices.

In its June 19 order, the Commission itself commented on this, stating that there is a "critical interdependence among prices in the ISO's organized spot markets, the prices in the bilateral spot markets in California and the rest of the West, and the prices in forward markets."

So the Commission itself has recognized the relationship between these prices. Indeed, when one compares forward contract prices in the Northwest with spot market rates both within the region and in California over the last year, they show a correlation of more than 80 percent on a monthly average basis; that is, forward prices in the Northwest have moved in tandem with California's prices, which the Commission has deemed unjust and unreasonable. It is these forward prices that have largely driven the rate increases in the Northwest.

It is clear, then, that any FERC refund order that seeks to treat all Western participants fairly, as the Power Act says it must, must recognize the relationship between spot markets and forward markets.

Simply put, any refund policy must not disadvantage the utilities in the Northwest because of the contractual mechanism they have used to acquire power.

Let me just touch on the case of BPA because I mentioned it earlier. Throughout this crisis, BPA has responded to the California ISO's urgent calls for power supply when the State was teetering on the edge of rolling blackouts. In fact, on three separate occasions, the Department of Energy issued emergency orders directing Bonneville to sell power into the State of California. It should also be noted, however, that California entities have yet to repay BPA for about $100 million of these transactions.

As one of these entities has entered into bankruptcy, it remains questionable how the Northwest will ever receive this $100 million repayment. Meanwhile, BPA has at times drawn down its reservoirs, arguably compromising the reliability of Northwest power system to aid California. So while BPA has sold into the California spot market, it has actually been a net purchaser during the crisis, when one takes into account its forward contracts. And when faced with the volatile energy prices throughout the West, Bonneville earlier this year made the difficult decision to pay consumers to curtail their loads rather than to venture into the market.

I mentioned various of those efforts earlier in my remarks about the aluminum industry. Bonneville and the Northwest customers it serves have been victims of the power crisis touched off by this experimentation in partial deregulation, which has created this dysfunctional market.

In conclusion, it is important that the Commission act fairly and that my State's utilities not be penalized for sales into California when they have been forced to purchase power at a similar unjust and unreasonable rate.

It is very important that the Commission work toward a solution that gives the Northwest refunds, just as it is promising to do in California. FERC must work towards a comprehensive settlement that addresses the claims of both California and the Northwest. In order to reach an equitable solution, it must acknowledge the fundamental differences in the two markets. I believe a fair outcome requires FERC to take a few simple steps.

First, FERC must recognize an inescapable commonsense conclusion: that all Western power markets have been dysfunctional for quite some time. The Commission's duty under the Federal Power Act is to ensure just and reasonable rates in all markets at all times. I urge the Commission to act in accordance with section 309 of the Power Act in doing this.

Second, power prices have been unjust regardless of the type of market which the Northwest operates in. The fact is, we in the Northwest have a different market than California, and FERC simply cannot use the same formula when calculating refunds for our consumers. It must take into account both forward and long-term contracts. Those utilities that can, using this methodology, demonstrate a legitimate complaint should receive refunds.

Third, FERC must not leave the Northwest behind. Northwest utilities must be allowed to plead their case during the upcoming evidentiary hearing.

Finally, repayments of amounts due to the Northwest for sales into California must be an integral part of any refund calculation.

I call on the FERC Commissioners to incorporate these principles into a refund policy for the Northwest. It is indisputable that the Northwest has been harmed. Now it is up to FERC to take the action to mitigate those damages and to repay the consumers in Washington State.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

THE GREAT COMPROMISE

Mr. BYRD. Mr. President, 214 years ago today, on July 16, 1787, the members of the Constitutional Convention agreed to what is known as the Great Compromise. Edmund Randolph, on May 29, 1787, had introduced the "Virginia Plan", drafted by James Madison, which provided for a Senate and a House of Representatives and would replace the unicameral legislature under the Articles of Confederation. Randolph had described the plan as designed to promote "peace, harmony, happiness, and liberty." Under the Virginia plan, both Houses of Congress would be apportioned by population, an arrangement that would favor larger states like Virginia, the State of Pennsylvania, the State of Massachusetts.

On June 15, William Patterson had countered with the "New Jersey" plan, which was really a series of amendments designed to strengthen rather than replace the Articles of Confederation. Its supporters, representing the smaller States, worried that the Virginia Plan went too far in creating a central government and that it would diminish the power of the individual States. However, the Delegates rejected the New Jersey Plan and committed themselves to the creation of a new form of government.

The smaller States had lost the first battle, but they had enough votes to keep the Convention from succeeding, unless it was agreed that the new government would firmly protect their rights, the rights of the smaller States. They demanded the same equality of the States that had existed under the Articles of Confederation. On July 1, the Convention split 5 to 5 on the issue. The Georgia Delegates were split and did not vote. This tie represented a deadlock between the conflicting demands of the larger and smaller States.

When the Convention recessed to celebrate the Fourth of July, the Delegates appointed a special Committee to solve the dispute. Elbridge Gerry of Massachusetts chaired the Committee which devised a compromise that apportioned the House by population and gave the states equality in the Senate. Inasmuch as the idea for the special Committee had been proposed by Roger Sherman, a Connecticut Delegate, the "Great Compromise" is also known as the "Connecticut Compromise." In promoting the plan, William Samuel Johnson of Connecticut explained that under this arrangement the two Houses of Congress would be "halves of a unique whole."

The Great Compromise is one of the more momentous events in our country's history. Most people are probably unaware of it or have forgotten their high school days during which they should have learned about it. But for the Great Compromise, the course of our country's history might have been forever altered.

Fortunately for us, the men who attended the Philadelphia Convention were some of the ablest and brightest leaders of the time, in fact, of any time. What a gathering that was. Never before, since the Last Supper at which our Lord sat and broke bread with those about the table, was there a gathering like ths one in Philadelphia, 214 years ago today.

What a gathering that was! Never before had there been such an abundance of wisdom and learning, grace and dignity—not since the Roman Senate had gathered and been observed by Cineas, the Ambassador of Pyrrhus, King of Epirus, who visited the Roman Senate at the behest of Pyrrhus.

Cineas, the philosopher, was charged by Pyrrhus to present a peace proposal to the Roman Senate. Cineas had brought with him bribes for Roman Senators. He had brought with him rich robes for the wives of Senators. But he had found no takers—none. Cineas was impressed. The sight of this great city, the city of Rome of the seven hills, its austere manner, and its patriotic zeal, struck Cineas with admiration. When he had heard the deliberations of the Roman Senate and he had observed its men, he reported to Pyrrhus that here was no mere gathering of venal politicians, here was no haphazard council of mediocre minds, but, in dignity and statesmanship, veritably "an assemblage of kings."

How fortunate to have been one of the members of the Constitutional Convention. Never before or after, since conclaves on Mount Olympus, attended by the "gods of Greece" in Rome, has there been a gathering like it. From Virginia alone, there were George Washington, James Madison, George Mason, Edmund Randolph. From Massachusetts, there were Elbridge Gerry and Rufus King. From Pennsylvania, there were James Wilson, Benjamin Franklin, and the man with the peg leg, Gouverneur Morris. And from New York, there was the great Alexander Hamilton—small in stature but large in wisdom. Here was a constitutional "dream team" for the ages. Fifty-five men, in all, presented their credentials at the Convention, representing every State, save one—Rhode Island. And with passion and gusto, they had set about devising a plan that would create a new nation.

In our own time, in these sometimes disgustingly partisan days, many of us are prone to overlook the tremendous physical and mental effort expended in drafting the Constitution. In reading this short document—here it is, the Constitution of the United States. I hold it in my hand. In reading this short document with its precise and careful phrases, it is easy to forget the toil, the sweat, the prayers, the concerns, the frustrations, the shouting, and the argumentation and the thinking and the pleading and the speeches that went into its creation during that hot Philadelphia summer.

Progress was so slow that upon one occasion, we will remember that Benjamin Franklin, the oldest man in the gathering, stood to his feet and addressed the chair in which sat Gen. George Washington. He said:

> Sir, I have lived a long time, and the longer I live the more convincing proof I see that God still governs in the affairs of men. And if a sparrow cannot fall to the ground without our Father's notice, is it possible that we can build an empire without our Father's aid?

The greatest sticking point, and the most threatening that was encountered in framing the Constitution, according to Madison, was the question of whether States should be represented in Congress equally or on the basis of population. The question was far from academic. The small States feared that they would be swallowed up in a more centralized union; The Constitution must be acceptable to the small States, as well as to the large States. The large States of Virginia, Massachusetts, and Pennsylvania were looked upon by the smaller States with fear and distress. The small States feared that a Congress based on population would be dominated by the large States. Virginia would have 16 times as many votes as would Delaware. And this fact led New Jersey's Delegates to declare that they would not be safe to allow Virginia to have such power. They rejected the Virginia Plan, which had been presented by Gov. Edmund Randolph, and they proposed a Congress with a single legislative chamber in which the States had an equal vote, as had been the case with the Congress under the Articles of Confederation.

The Continental Congress had been a single chamber. It was followed by the Congress under the Articles of Confederation in 1781, again a unilateral legislative branch. It was the legislative, it was the executive, and to a degree it was the judicial—all in one. There was no chief executive, no president, no king, in the form of an individual. Congress was the executive under the Confederation.

There had been days and weeks of prolonged and acrimonious debate, but the issue had not been resolved. There were suggestions that the State boundaries should be redrawn so that the States would all be of roughly the same size. Connecticut advanced a proposal, initially made by Roger Sherman, calling for equal representation of States in the Senate. This had failed to win support, with James Madison, surprisingly, labeling it as unjust.

Can you hear the rafters ring? The doors were closed. Sentries were at the door. Nobody outside knew what was going on. Rufus King of Massachusetts had angrily announced that he would not listen to any talk of equal representation in the Senate. James Wilson of Pennsylvania maintained that the small States had nothing to fear from the larger States. Whereupon, Gunning Bedford of Delaware retorted, "I do not, gentlemen, trust you." And he warned his colleagues that the small States might form a confederation among themselves, or even find "some foreign ally of more honor and good faith who will take them by the hand and do them justice."

Can't you sense the tense feeling of the moment? Of course, Bedford was roundly rebuked for his words, but the threat of foreign alliances hovered above the Convention in the stale and sticky summer air. There was no air-conditioning, much like it was in this Chamber until 1929. That was the year of the great stock market crash—1929. That same year, though, air-conditioning came to the Senate Chamber. Ah, how great it is—air-conditioning. Efforts to resolve this question, this nettlesome question "nearly terminated in a dissolution of the Convention"—it came just that close. Washington, who kept his thoughts mostly to himself, confided to Alexander Hamilton in July that he "almost despaired" of success. Roger Sherman of Connecticut lamented that "it seems we have got to a point that we cannot move one way or another."

But the Delegates finally did settle the question on Monday, July 16, 1787—there it was—Monday, just as today—on Monday, July 16, some 2 months after the Convention began. The matter was finally resolved.

It may have been a fear of failure that led the delegates to settle the matter, because they knew that the country's future was in their hands. Exhaustion may have played a part, for the members had already spent many long days and nights in heated debate in this vert heated, small Chamber. It may have been because of the heat that had tormented them for so long. Or perhaps the open exchange of opinions in that wrenching but vital process of debating and questioning and argumentation. Franklin had described the Convention as "groping . . . in the dark to find political truth"; perhaps they had at last stumbled upon it. In any event, on that great day, 214 years ago, the Delegates agreed that Congress would be composed of a Senate with equal representation for each state and a House based on proportional representation. This was the Great Compromise. That is what it was called then, and that is what it has been called ever since—the Great Compromise.

Thank God for the Great Compromise. The Senator from New Mexico, who is now presiding over this Senate, would not be here were it not for the Great Compromise. The people who sit at the bar, the officers of the Senate, the pages of the Senate, the galleries of the Senate, the Democratic whip, Senator REID of Nevada, would not be here were it not for the Great Compromise. I would not be here. None of us would be here. Think of that.

The outcome of the Convention had for so many days held by a single thread. At the very first session of the Convention, when the Delegates presented their credentials, it had been noted that the members from Delaware were prohibited from changing the Article in the Confederation which declared that "in determining questions in the United States in Congress assembled, each state shall have one vote." Delegates from the small states had declared that "no modification whatever could reconcile the smaller States to the least diminution of their equal sovereignty." They would have left Philadelphia without accomplishing their goal.

After weeks of anxious debate, it had been voted that the "rule of suffrage in the first branch ought not to be according to that established in the Articles of Confederation". In other words, the Delegates from the large states succeeded in defeating equal representation in the lower branch—Ellsworth moved that "the rule of suffrage in the second branch be the same with that established by the Articles of Confederation." In supporting this motion he declared that he was "not sorry on the whole that the vote just passed, had determined against this rule in the first branch. He hoped it would become a ground of compromise with regard to the second branch."

Ellsworth later said: "We were partly national; partly federal. The proportional representation in the first branch was conformable to the national principle and would secure the large states against the small. An equality of votes was conformable to the federal principle and was necessary to secure the small States against the large."

This conciliatory proposal formed the basis of the most important compromise in the history of this Republic—the Great Compromise, probably the greatest single compromise ever reached in the history of the human race. The Great Compromise.

Its acceptance was not easily attained. Wilson feared minority rule when one-third of the population in seven States might dominate two-thirds in six States. Ellsworth insisted that this fear of minority rule was groundless—groundless. Madison had considered suggesting that representation in one branch should be computed according to the number of free inhabitants only and in the other branch according to the whole number, counting the slaves as if free.

When Ellsworth's motion for allowing each State an equal vote in the second branch was brought to a vote, it was lost by a tie. This deadlock gave rise to tense debate. Can you imagine the tension in that Chamber? We have seen tensions in this Chamber during the great debate, the great civil rights debate, the Civil Rights Act of 1964—tension—the North and the South pitted against each other, and the great tensions during the Panama Canal debates.

The result was the adoption of a proposal that a special committee consisting of one member from each State should be appointed to devise and report some compromise. Three days later, on July 5, the committee presented two recommendations "on the condition that both shall be generally adopted."

The first recommendation, in effect, provided that in the first branch of the legislature each state would have one Representative for every 40,000 inhabitants, counting three-fifths of the slaves; and that all bills for raising or appropriating money should originate in the lower branch and not be altered or amended by the second branch; and that no money should be drawn from the public treasury but in pursuance of appropriations to be originated in the first branch. According to the second recommendation, each State was to have an equal vote in the second branch.

This compromise proposal was under debate for 10 days. And you know what? Madison hoped for its rejection. But on the morning of July 16, today, 214 years ago, God be thanked for the rising of the sun that morning 214 years ago—the whole compromise was adopted.

But the vote was close. Five states—Connecticut, New Jersey, Delaware, Maryland, and North Carolina—had voted "aye"; four states—Pennsylvania, Virginia, South Carolina, and Georgia—had voted "no"; while Massachusetts' four votes were equally divided. Thus, this momentous question had been decided by one vote!

Without the Great Compromise, it is hard to see how the Federal Convention could have proceeded; since the beginning it had been cause for battle. The effort to resolve it, Luther Martin had written later, "nearly terminated in a dissolution of the Convention." Swords stacked upon swords and shields upon shields.

The small states were jubilant over the compromise; the large states, alarmed, tried to reorganize, recover their position. The rules of the Convention would have let them reconsider the subject, but it was hopeless. The large states knew that they were beaten, and, after July 17, they let the question die. From then on, matters moved more easily, the little states were more ready to meet the big states and were willing to yield on many questions. They felt safe, and they were no longer threatened by Virginia, Pennsylvania, Massachusetts, to them, the towering bullies. Caleb Strong told his colleagues in Boston that the federal Convention had been "nigh breaking up," but for the compromise. Luther Martin declared in Annapolis that even Dr. Franklin had only conceded to equality in the Senate when he found that no other terms would be accepted.

Catherine Drinker Bowen, in her book, "Miracle at Philadelphia," states that Madison "in his old age sat down a clear testimony in letters to his friends. The threatened contest in the federal Convention, he said, had not turned, as most men supposed, on the degree of power to be granted to the central government but rather on 'the rule by which the states should be represented and vote in the government'. They questioned 'the most threatening that was encountered in framing the Constitution.'" Those were Madison's words.

Mr. President, we should thank Providence for this miraculous document. Let me hold it again in my hand. There it is, the Constitution of the United States. We should thank Providence because Providence had to smile upon this gathering of illustrious men. Never had such a gathering of men, a gathering of superior minds, taken place anywhere in the world. We should thank Providence for this document.

One thing is clear: Without the Great Compromise, the Senate of the United States would not exist, for this body was conceived on that day 214 years ago. In Philadelphia, when the Framers agreed to an upper house of Congress in which each State—small, like West Virginia, which did not exist then but very surely exists now—would have an equal number of votes, each State would have equal representation.

The Senate is the forum that was born on that day. But for the Great Compromise, this beloved institution—the Senate—to which so many of us have dedicated our lives and our hopes and our reputations, our strength and our talents and our visions—might never have seen the light of day, let alone played an often pivotal and dramatic role in our national history over the course of more than two centuries.

The Chamber in which we sit today owes its existence to that remarkable instance of compromise and conciliation.

But for that Compromise, no Senator could wear the great title of Senator.

It recalls to my mind Majorian, who, in the year 457 A.D. when he was made emperor of the west, said he was "A prince who still glories in the name of 'Senator.'" None of us would be here today—the pages who are here, the Presiding Officer, the officers of the Senate—none of us would be here today. Thank God for the United States Senate. Thank God for the Great Compromise that was reached by the Framers on that day so long ago in Philadelphia.

The Romans spoke of the SPQR—Senatus Populusque Romanus: The Senate and the Roman people. Let us today, looking back on that great victory of our Framers 214 years ago, think in those Roman terms about our own Republic—Senatus Populusque Americanus.

Mr. REID. Before the Senator from West Virginia leaves the floor, I would like to say to him I watched most everything from my office and came to watch the finish.

I remind the Senator, when you were the Democratic leader, you allowed this young freshman Senator to go to the 200th anniversary of the Great Compromise in Philadelphia. We took a train over there. I had just come from the House of Representatives. It was 1987, as I recall. It was a wonderful experience to do the reenactment. You brought back many memories.

I say to my friend, the distinguished Senator from West Virginia, presently many people in America are thinking about the Founding Fathers. The reason they are doing that is because of the great work David McCullough has written about John Adams, the forgotten President. It is on the best seller list. It is a straight history book, very well written. I still have about 70 or 80 pages to go. But as I said, he is a man to whom we have not, until now, paid much attention. He was the first Vice President, the person who became our second President. He was involved from the very beginning with the very difficult decisions made by this country. He spent 7 years of his life in Europe. He had never traveled at all. He traveled to Europe, trying to work out things during the Revolutionary War. It is a wonderful story.

Truth is stranger than fiction. As the Senator from West Virginia has so well portrayed here today, every day we should be thankful, in whatever private time we have. We should think about how fortunate we are to be able to be part of this Government and especially to be part of this Senate, which was the Great Compromise.

I extend my appreciation to my friend for reminding us of how fortunate, how blessed we are to be able to be part of this Senate and to represent the people from the various States we represent. To think, as a result of this Great Compromise, we have developed a country that is certainly imperfect but, based on this tiny little document—which, by the way, is signed by Robert C. Byrd—even though imperfect, is the finest set of standards, the finest country in the history of the world to rule the affairs of men and women.

Again I express my deep appreciation to the Senator from West Virginia for tearing at my heart a little bit, recognizing what a real patriot is. The Senator from West Virginia exemplifies that.

Mr. BYRD. Mr. President, I thank my friend for his observations.

He might well have sat in that gallery of men who debated, who disagreed, who compromised, who agreed, and who wrote that document. He cherishes it. He carries it in his pocket.

Yes, I very well remember that occasion when we went to Philadelphia. Our friend, Senator DOMENICI, the Senator from New Mexico, was there that same day.

Mr. DOMENICI. Yes, sir.

Mr. BYRD. Yes, I remember that day. I am glad we three were blessed, among others, in our being able to attend that celebration in the City of Brotherly Love, on that august occasion.

The Senator's reference to David McCullough reminds me of what a great part women have played in the creation of this country. Senator REID has mentioned John Adams. John Adams' best friend, his most trusted confident—and that is the way it should have been—was his wife, Abigail. Walt Whitman said:

> A man is a great thing upon the earth, and through eternity—but every jot of the greatness of man is unfolded out of woman.

I am reading the book also. I have had three copies given to me, three copies of this new book by David McCullough, the book titled "John Adams."

He is, to a very considerable extent, in the shadows. Some years ago I read his "Thoughts On Government." He distributed these writings to the Framers at the convention in those critical days, and the Framers, I think, were wise in reading the words by Adams and I think their work, their work product, reflected the thoughts of John Adams.

One of the great books I have read in my lifetime was "The Path Between The Seas" by David McCullough, about the Panama Canal. David McCullough was kind enough to send me a copy of the book. The Senator who delivered it to me also autographed it. That Senator was Ted Kennedy. So I prize that book. But I thank the distinguished Senator from Nevada.

Mr. REID. Will the Senator yield.

I am glad you mentioned Abigail Adams for the wonderful letters the two of them wrote for each other. Here he was going to become President of the United States—he thought. He wasn't quite sure, you will find, as you get through the book. He wound up winning that election by three votes over Thomas Jefferson.

The letters from the very beginning, from Abigail to John, are wonderful. I mean, you could put those letters together—I am sure we have only seen a few of them that David McCullough selected. But they were love letters. These two people were madly in love with each other from the time they started writing, when he went away to do his government stuff, clear across the ocean. They would wait months, sometimes, to get answers to letters they had written. But I was terribly struck by the letter she wrote to John Adams when he learned he was going to be President of the United States. In this letter she expressed her love for this man that she couldn't bear to be away from, and that they would be together soon.

So you are absolutely right. John Adams could not have made it but for Abigail.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. DOMENICI. Will the Senator yield?

Mr. BYRD. Yes, I am happy to yield.

Mr. DOMENICI. I was present indeed at your invitation for that wonderful event. The reason I rise is to express to you what a great institution the Senate is, but the reason I say it to you is that over time you have, more than anyone else here, continually reminded people such as me what a great institution the Senate is. And you know, if you are not steeped in history, like I wasn't, or if you really didn't spend a lot of time other than in normal schooling on the constitutional framework, then you don't know about the heroes of the Senate. You may only know that the Senate is over there in Washington. But, essentially, when the Senator from West Virginia and the Senator from New Mexico, about 6 or 7 weeks ago got up on the floor and debated—I think the Senator from West Virginia wanted 3 hours and got 3 hours—on the issue of whether the Budget Act of the United States, a statute, in this instance, changed the basic Jeffersonian rules of the Senate or not, which the Senate voted with this Senator saying it did—50-49 is my recollection—I recall how passionate you were about reminding everyone what the rules of the Senate meant to the rights of the American people, to have their issues debated as long as the Senator, under the rules, could get them debated.

Who would have thought that was an important thing, until you figure out what they really had in mind for the Senate.

We are a very different institution than the House. Sometimes we get into arguments and deride each other—the House does this, the Senate does that, the upper and the lower, whatever the people say. But the truth is we are tied inextricably to the notion of there being sovereign States that make up America.

As a Senator, you find a way to tie that into the Senate and what we do; to the fact that the States have a tremendous amount of authority and autonomy in the United States. That is the way it is and should be. You represent your State and I represent mine. In a very real sense, we are permitted to do that because of what our Founding Fathers sacrificed to put the Senate into this basic governance approach.

Remind us, once again, of our origins and how important the Senate is, how much it was debated, of the great concern there was, and then to bring it current, as you do frequently, reminding us of what we are and who we are. I think it requires that somebody from way off in New Mexico congratulate you for how you do that.

What you had to say about the Senate, not just today but over these years, will be for however long we exist and clearly will never be forgotten as part of our fabric.

I am very pleased to be here as that fabric is woven by the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, a long time ago, I was a boy in the coal fields of southern West Virginia. My coal miner dad bought a fiddle for me. There was a lad in that coal mining community named Emanuel Manchini. I remember that little boy and his family. In those coal camps were Hungarian families, Czechoslovakians, Germans, Scotch, Italians, and Greeks. This little boy, Emanuel Manchini, also had a fiddle. We took lessons together at the high school.

So I have often listened to and looked at my friend here—this man of Roman stock. My, what a heritage he has. I don't know where his forbears may have originated—whether it was in the Apennines Mountains, or along the shore of the Tyrrhenian Sea, or the Adriatic or the Po Valleys, or on the boot of Italy. But there were stalwart people in that Roman Senate. I often speak to Senator DOMENICI about the Roman Senate; what a great Senate.

Again, I refer to Majorian, the Emperor of the West in 457 A.D. As he was being made Emperor, he said he was "a prince who still glories in the name of 'Senator'."

I thank the Senator for his reminiscing time. I also thank the Senator from Nevada. I have been blessed by serving with both of these Senators.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, what is the matter now pending before the Senate?

The PRESIDING OFFICER. H.R. 2311.

AMENDMENT NO. 980

Mr. REID. Mr. President, I ask unanimous consent that the substitute amendment be agreed to, the bill, as amended, be considered original text for the purpose of further amendment, and that no points of order be waived by this request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

> The Senator from Nevada [Mr. REID] for Mr. BYRD and Mr. STEVENS, proposes an amendment numbered 980.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 980) was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, this afternoon we begin consideration for the Fiscal Year 2002 Energy and Water Development Appropriations Act. The legislation we take up today was reported unanimously from the full Committee on Appropriations last Thursday.

Before I begin my description of the contents of this bill, I want to share one strongly felt opinion with my colleagues. It is my opinion, I believe—I have a real suspicion that Senator

DOMENICI, the ranking member of the subcommittee, will agree—that this subcommittee has always been among the most bipartisan in the Senate.

As I look back over the time that my role was filled by Bennett Johnston, I know he and Senator DOMENICI had an outstanding relationship. They worked very closely together. This bill was always one of the first to come up. This bill is the second to come up this appropriations cycle. I have tried—and I have no doubt, based on my experience with Senator DOMENICI, that he has tried—to be as bipartisan as possible on this bill. Despite the unusual circumstances this year with the shift in power of the Senate, this tradition has continued unabated.

My friend, the senior Senator from New Mexico, and I have, with the tireless efforts of our very professional and good staff, produced a bill that we acknowledge is not perfect. But it addresses the important issues facing our Nation. There are many important issues we are dealing with in this legislation.

We received 300 more requests than last year on this bill. It is certainly fair to say that there have been over 1,000. Most requests were to enhance new funding for water projects within the Corps of Engineers, an organization the administration cut by 14 percent in its budget request this year. We have done in this bill as much as we can on a bipartisan basis to enhance the funding for these water projects.

Mr. President, you are a new member in the Senate. I think a lot of people who are new to the Senate and people outside the Senate would question water projects. Why do we need water projects? Are these things you throw to a House Member in his district to make him or her feel good? These water projects are essential to the country. There is criticism given to the water projects. We have added $400 million to the budget of the Corps of Engineers, $64 million to the Bureau of Reclamation.

I wish we could give three times that much to each organization. But with these additional funds, we have tried to accommodate as many requests and priorities as possible.

Let me give you a few examples of these water projects and why they are important. For the examples that I give, I will be very succinct. There are hundreds and hundreds of projects in this country that are life-and-death projects.

One is in the State of Nevada: Flood control. There are people who write all over the country: REID got pork for Las Vegas; flood control. People think: It never rains in Las Vegas. It rains 4 inches a year in Las Vegas—4 inches a year. You can get that much rain in other parts of the country in an hour, certainly in a day. But we get 4 inches a year in Las Vegas. Yet when it rains, it can be devastating because we have what we call cloudbursts.

Now we have 1.5 million, 1.6 million people in that valley. When that rain comes, it is very difficult. I can remember as a lieutenant governor, we were told by the Park Service that we were going to have to close a little facility on the Colorado River, Nelson's Landing. It has been there well over 100 years. We were going to have to close it. The Governor assigned me to look at that and the complaints we were getting. We prevailed on the Park Service not to close it. They said we were going to have a 100-year flood. I went and talked to people and they said they had never known that much rain coming down that canyon: The Federal Government, they don't know what they are talking about.

Mr. President, it rained. This isn't something I am proud of, but it is something that is a fact. It rained. It rained in a very small area. It rained very hard. But all of that water dumped down this canyon, and people looked up and they saw a wall of water 100 feet high coming at them. It washed cars away. It killed seven people. We never found the cars and mobile homes that washed away.

In southern Nevada, again Nelson's Landing—but in Las Vegas we have had floods that have been just as devastating. We have not lost at one time seven lives but we have lost lives.

Caesar's Palace, this great resort—I can remember rains that washed away everything in the parking lot. It was just washed away as if they were toothpicks.

The Tropicana-Flamingo Wash in Nevada is the fastest growing community in the Nation. We have been able to save lives and huge amounts of property by virtue of the fact we have flood control projects going on there as we speak. It has cost a lot of money, but we have saved a lot of lives; and that is for what the Federal Government has an obligation, to assist local governments. There has been local money put in it, too.

The Everglades: I have seen the Everglades. I really do not understand them because I understand the desert. I understand aridity. I understand when it does not rain much. I understand out of my little home in Searchlight I have creosote bushes that are not very tall that are 100 years old. They do not grow very much. So I do not really understand the Everglades. I am fascinated by them. But it is water intensive. It is as water intensive as the desert is not water intensive.

We have worked hard with the Senators from Florida on a project-by-project basis to take care of that. It is now a huge priority not only of the Congress, as it has been in the past, but of the administration. I think part of that could be that Jeb Bush is Governor. It does not matter. It is an important project that the Federal Government should be involved in—and we are. There is a lot of money in this bill for the Everglades.

Not far from where we stand is the Chesapeake Bay. Books have been written about the Chesapeake Bay. It is a wonder of nature. But because of the growth that is occurring in this area, the Chesapeake Bay has been threatened. The health of that great body of water has been threatened. It affects Maryland and Virginia very much. The bay is threatened as a natural resource.

Senators MIKULSKI, SARBANES, WARNER, and ALLEN have aggressively sought money to restore that waterway to what it used to be so oysters can be harvested there and not make people sick. The oyster industry in Maryland and Virginia is huge, but it has not been as huge recently because of the condition of that bay. The restoration of the beds at relatively low cost, we believe, will ultimately generate hundreds of millions of dollars in economic benefit and jobs. This is a water project.

The Port of Los Angeles: We move from the Chesapeake Bay 3,000 miles to the Port of Los Angeles. The administration had made a decision to stretch this out. The problem we have found with these promises is that even though it sounds OK, you stretch it out and it winds up costing much more money. You are better off doing less projects and doing them well. Congress has funded this project very aggressively and has saved the Federal Government 25 percent of the total project cost and has accelerated the economic benefits to California.

So these are just four examples of water projects. But there are many more. I am happy we have worked together with our members, our Senators, and, of course, many requests from people in the House, to do what we could with these projects.

Even with the additional funding the committee has added, we are still hundreds of millions of dollars shy of current year levels. We are also shy of the House mark. The other body was able to artificially raise their numbers for the Foreign Bureau by moving defense dollars in these nondefense accounts. We cannot do that. Under Senate rules, we cannot do that. In my opinion, not only the budget resolution but common sense does not allow us and should not allow us to move these funds back and forth.

But I will say to everyone who is listening, in the past, the water numbers have always gotten better for everyone as we have moved along the process; that is, we hope we can do a better job when we get to conference. There is no guarantee of that, but we will work on that.

Our bill provides about $25 billion in budget authority and approximately

$24.7 billion in outlays. When you work with Senator DOMENICI, you always have to make sure the outlays are smaller than the budget authority. This bill exceeds the President's total request by $2.6 billion.

Let's talk about a few of the areas. The Army Corps of Engineers: The Senate bill provides $4.3 billion, which is $405 million above the President's request but $236 million below the current year level. Due to the funding constraints, this bill contains no new construction starts and no new environmental infrastructure projects.

The intent in drafting the bill was to continue to focus on ongoing construction and operations and maintenance projects at appropriate levels. The committee is eager to avoid stretching out schedules and costs on projects that are already underway. Any new construction starts will have to be considered in conference. We will do what we can at that time.

A lot of people are very concerned about things they want to do. I have a lot of familiarity with the Bureau of Reclamation because they have had such a big presence in the State of Nevada. The very first project in the history of the Bureau of Reclamation was called the New Lands Project in 1902. It took place in Nevada. It is still there. The Senate's bill provides $884 million, which is $64 million above the President's request and $67 million above the current year level.

This funding for the Bureau is higher than it has been for many years. It is higher because of CALFED. This is a big project in California. It is a reclamation project. The State of California has spent billions of dollars on it already. The House put nothing in the bill for that. Senator DOMENICI and I put $40 million in this bill for the CALFED and CALFED-related projects. The subcommittee has funded CALFED-related projects using existing authorizations under other accounts. Senators FEINSTEIN and BOXER have both been very tireless advocates for the Bay-Delta Program. Senator DOMENICI and I are both delighted to provide substantial funding.

The Department of Energy: We in Nevada have great familiarity with the Department of Energy. Nevada has been the place for 50 years where almost 1,000 nuclear devices have been set off in the desert—most of them underground but not all of them. I know about the Department of Energy. This bill contains over $20 billion for the Department of Energy. This is $2.1 billion over the level of the President's request and $1.9 billion over last year's level. Most of this additional funding is being used to provide adequate funding for the National Nuclear Security Administration, to enhance funding for the Environmental Management Program, and to add funding for the renewable energy program.

Senator DOMENICI and I have received a letter signed by nearly two-thirds of our colleagues calling for more money for renewable energy programs. Our bill takes care of that. Our bill provides $435 million, or $160 million above the President's request and $60 million above the current year level. In a year when our Nation has struggled with energy production and distribution issues, I am pleased to be able to enhance funding levels for these important research and development issues.

Consistent with the budget resolution, this bill provides $6.1 billion to the National Nuclear Security Administration for stockpile stewardship activities. This funding is $705 million over the President's request and $1.05 billion over the current year level. I am only going to speak a little while about the National Nuclear Security Administration, known as NNSA. I defer to Senator DOMENICI on this subject. Senator DOMENICI was the primary congressional architect of the creation of the National Nuclear Security Administration. He worked tirelessly to get it authorized and has been dogged in his pursuit of funding to make sure that this important organization gets the resources it needs to succeed. To his credit, he convinced his colleagues on the Budget Committee that the safeguarding and rehabilitation of the Nation's nuclear weapons was a critical issue that has been underadressed and underfunded in recent years. Senators BYRD and STEVENS followed up with appropriation resources designed to support the levels in the budget resolution.

This morning I spoke to the interns for Senators LINCOLN and HUTCHINSON of Arkansas. I don't know how many interns there were—maybe 50—a lot of young men and women. One of the young people asked me: What do you think is the most important problem facing the world? I thought for a minute. I said: Nuclear weapons. I really do believe that with the deteriorating condition of the former Soviet Union, Russia's nuclear stockpile, and the responsibilities we have, that is a very important issue. I can't think of anything more important for my grandchildren than to make sure they live in a safe world.

One of these weapons that we control and certainly one that the Soviet Union controls could accidentally go off. It would be devastating. It would make Chernobyl look like nothing. Chernobyl was just a nuclear reactor gone bad. We are talking about a nuclear weapon gone bad. I believe that is the No. 1 problem facing the world. We have a number of different ways of addressing it. We have to spend more money on terrorism. There are efforts being made for a nuclear shield for this country. But what we are talking about in this bill is doing what we can to make our nuclear stockpile safe and reliable. Our bill spends some money, maybe not enough, to work on the Russians to see if we can help them.

I have to admit, I was a skeptic when Senator DOMENICI and others approached me about the creation of this autonomous organization several years ago. I thought it was a partisan ploy to maybe embarrass the administration. But as it turned out, it is working very well. I have come to believe Senator DOMENICI was right.

One of the people who has done a good job of convincing me of that is the person running that agency. We as a country, as a world, are so fortunate that a retired general would take charge of this operation. He believes in it. He is a very competent, dedicated, patriotic American. With him heading this office, we should all go to sleep at night resting well that everything possible is being done to make sure we do have a safe and reliable nuclear stockpile. I am going to do everything I can to give him the resources he needs to do his job. He has a job that is very difficult.

I am also, of course, holding him accountable for getting the job done. I have been a long-time critic of cost overruns and management incompetence within the weapons complex. I know General Gordon will take these enhanced resources and use them to get some fresh blood and fresh thinking going on within the Department of Energy.

I am not going to go into more detail. I know Senator DOMENICI will speak about this, since this is his so-called baby. It has grown up and is about to become a teenager. It is something to which the Senator can speak with more authority than I.

Finally, I am very pleased to report that the committee has made great strides in restoring and enhancing the devastating cuts made in the Environmental Management Program at DOE. This Senate bill provides $7.23 billion, $900 million above the President's request and $450 million above the current level. The biggest beneficiaries of these additional clean-up dollars are the Hanford, Washington site, hundreds of millions of dollars; Savannah River site, almost $200 million, that is in South Carolina; Idaho, over $150 million; Ohio and Kentucky, tens of millions of dollars.

As with water programs, I realize there are never enough resources we can spend to clean up the legacy of the cold war and other activities, but we have done our best.

These are some of the highlights, from my perspective, of this bill. It is a bill I have learned to like. It is a bill I have grown to understand. I have grown to acknowledge the importance it has to our country. I hope my colleagues will realize how hard we have worked on this legislation.

Senator DOMENICI and I would like to have a cutoff time for the filing of amendments. We tried tomorrow at 11 and 12, and we have received objections to that. We are here. If somebody wants to offer amendments, they can certainly do that. They have to have offsets or figure out some way to fund them because we are down to the nubs. We have no more money. If people don't like the way we have worked the bill, it is their privilege to come forward with amendments.

I do think it would be in everyone's interest to have a finite list of amendments filed at an appropriate time. If anyone has any suggestions when that should be, Senator DOMENICI and I are open for discussion.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me first acknowledge the wonderful cooperation that exists between the chairman and this Senator as ranking member. I believe under the circumstances and considering the variety of things this subcommittee has to fund, we have done a pretty good job. I couldn't ask for more understanding than I have received from the distinguished Senator, the chairman of this subcommittee.

I believe our staff has worked together, and I hope I have been equally considerate and concerned about issues of importance to the good Senator from Nevada.

As a result of this effort, we are together in trying to get this bill passed and get it off to conference and getting these issues resolved as soon as possible.

Let me say to my good friend, he was talking about a flood that occurred in the State of Nevada in one of those dry rivers where for most of the year no water runs. But then you have a little cloudburst up in the mountains and these dry rivers turn into flooded, huge water resources plowing down the hills right into housing. In our State we call these dry rivers a Spanish name, "arroyos."

In my home city of Albuquerque, I was pleased to serve 4 years as the city councilman, sort of chairman of the commission, which made me the closest thing to a mayor as you could have. I remember one Sunday afternoon in the year 1968. I was very young. I had just been on this council as chairman for awhile. It started raining Sunday afternoon. I called up one of my good friends on the city council who knew more about the details of the streets and everything else than anybody in the city.

I called him up and said, "Harry, this rain is coming down in the wrong places; something is going to happen." He said, "Where are you?" He picked me up and we rode around. Rain kept coming down harder and harder, and these dry rivers started to show a little trickle. Four hours later, we were riding the streets of Albuquerque and big manhole covers over the tunnels that carried water underground to avoid floods were standing or dancing on the water. The water raised those manholes up 4 or 5 feet and stood them up while the place got flooded. We saw more and more of them. I told my friend, "This is a real problem." He said, "No, things will be all right." Finally, 2 hours later, we got a call from the police chief. He said that in one whole piece of our city, maybe as many as 10,000 homes were under water. They had water in the kitchens, close to the tops of the stoves. It was a gigantic flow of water that came down these dry arroyos.

I remember coming here with a group of Albuquerqueans. I was city councilman then. We appeared before the Public Works Committee, which had to authorize the project after which it went on to get appropriated. We came up to ask if the Federal Government would expand a program that was about to run out so we could build these rivers so they would be safe. Now if one flies over Albuquerque, as you approach the airport you see two giant cement waterways that are around the edges of the town—huge. They catch the water in these dry rivers up by the mountain and run them down these no longer dry rivers, but they are cement-lined ditches, big ones. Water comes down, and now you can be riding around and your commissioner friend Harry can say, "It is raining hard, Mr. Chairman," and you can say, "It might hurt something else, but it won't flood anymore."

That is the kind of thing we pay for in this bill for hundreds of places across America. We hope we get them before they flood, but sometimes we don't. Sometimes we pay for them after they flood. But to make sure we are not building white elephants, we require a very substantial match. The community has to come up with money. That is the way we finally decide it must be important, because they are not just asking us to have a construction project, they are going to pay for part of it.

My good friend, the chairman, outlined water issues. Clearly, there is no end to the requests in our country for this. But we have the rule: We don't fund them unless they have been authorized. The committee has to work on them and have hearings. That bothers a lot of our Senators because there is such a backlog of existing authorized programs that we don't catch up very often. We have many billions backlogged that we can't pay for. But we will keep working on it.

Overall, the proposed fiscal year 2002 energy and water bill is a very fair and balanced bill that makes important investments in our national security, our energy security, our economic prosperity, and in the health of our environment. This bill is an important step in implementing the President's National Energy Policy.

The Senate bill in total provides $25 billion in budget authority and approximately $24.7 billion in outlays. The bill exceeds the President's request by $2.6 billion, and exceeds the House bill by $1.4 billion. Without going into detail about all of the many great things in this bill, I would like to focus my remarks on two broad areas: (1) What this bill does for our energy security, and (2) What this bill does for our national security.

For our nation's energy security, this bill represents a major step in fulfilling the President's commitment to a balanced and diversified energy policy—particularly in the area of expanding the supply of clean energy from renewable sources and nuclear power.

But before If focus specifically on what this bill does in those two areas, I want to take this opportunity to dispel two persistent myths that have been unfairly associated with the President's National Energy Policy. First, that the policy focuses only on supply and ignores conservation and efficiency. And second, that the policy fails to address the possible threat of global warming.

The policy is so clear on the first point that those who argue simply haven't read it. There are more policy recommendations impacting conservation and efficiency than supply. Over $6 billion in proposed tax reductions are targeted at conservation and efficiency.

Furthermore, the whole policy is based on substantial gains from improvements in conservation and efficiency. If we maintained the current ratio between energy demand and the gross domestic product (GDP), we would need 77 percent more energy in 2020 than we are producing today—77 percent more. The National Energy Policy recommends conservation and efficiency measures that would reduce the required increase by over half—resulting in us only needing to produce 29 percent more energy by 2020. That is a substantial but necessary commitment to conversation and efficiency.

Let me turn to that second myth, that the policy doesn't address the possible threat of global warming. Once again, those who have read the policy shouldn't make that statement. The policy has strong support for clean energy sources.

Renewable sources are encouraged in many ways, including tax credits for wind, biomass, solar, and the purchase of clean fuel vehicles. The policy supports a major research program in clean-coal technologies, advocates increased funding for renewable energy R&D and recognizes nuclear energy for its very positive environmental benefits.

It is in these last two areas, renewable energy and nuclear energy, that the energy and water bill takes a major step in implementing the President's national energy policy.

The renewable energy programs are funded in this bill at $435 million. That's $60 million and 16 percent above the current year level. There's no question that renewable sources can and should play a larger role in our energy supply, and this budget will accelerate progress towards that vision.

Within that renewable budget, several programs are slated for major increases. Just to give a few examples:

Research on hydrogen-based technologies is up almost 30 percent over last year. That research may lead to decreased use of petroleum products in transportation, certainly a critical goal.

Research on high temperature superconductivity is boosted by almost 20 percent. That's a technology that may enable dramatic reduction of losses we now experience in electric transmission lines and motors.

Geothermal research is 20 percent above last year and wind systems are up more than 10 percent.

Nuclear energy received significant increases as well in this bill. I strongly agree with the President's National Energy Policy in its recommendation supporting the expansion of nuclear energy in the United States. Nuclear plants offer emission-free power sources, help maintain diversity of fuel supply, enhance energy security, meet growing electricity demand, and protect consumers against volatility in the electricity and natural gas markets.

This bill pushes nuclear power forward with a number of important initiatives:

The bill includes $19 million for university research reactor support—an increase of $7 million over current year—to make sure our country has the educational resources necessary for an economy that continues to rely substantially on nuclear power.

The bill includes $9 million—an increase of $4 million over current year—to expand a program to improve the reliability and productivity of our 103 existing nuclear power plants.

The bill continues the highly successful Nuclear Energy Research Initiative (NERI) at $38 million—$3 million more than current year.

The bill provides $14 million—an increase of $7 million—to continue work begun last year on advanced reactor development, including research on generation IV reactors—reactors that will be passively safe, produce less waste, and reduce any proliferation concerns.

The bill provides $10 million for the Nuclear Regulatory Commission to prepare to license new nuclear power plants.

The bill continues an R&D program we started two years ago on ways to reduce the quantity and toxicity of spent nuclear fuel—called "transmutation". This technology, which was recently highlighted in the President's National Energy Policy, will be continued at $70 million in 2002.

Let me emphasize that I used the phrase "spent fuel" rather than "waste" to refer to the materials coming out of our reactors. Right now our national policy calls for disposing of those materials as waste in a future repository. But we need to remember that these materials still contain 95 percent of their initial energy content.

I've been concerned for years that it is highly debatable for us to decide that future generations will have no need for this rich energy source. With improved management strategies, possibly involving reprocessing and transmutation, we can recycle that material for possible later use, recover far more of the energy, and dramatically reduce the toxicity and volume of the materials that are finally declared to be waste.

As a final thought on energy security, Mr. President, I want to share with my Senate colleagues a vision, which is encompassed in this bill and which I've shared with President Bush.

We need to reach beyond the debate over Kyoto with a blueprint that provides the tools to combat global warming.

I'm convinced that we can have growth and prosperity in America without global warming.

And I'm equally convinced that we can help provide those same benefits for the world.

I propose that we provide worldwide leadership to eliminate the threat of global warming by a commitment to prosperity and growth through clean energy.

And I further propose that we accomplish this goal through partnerships with our friends and allies, especially those in developing countries.

I've specifically urged the President to lead this new initiative, to accelerate our own research and build international partnerships for joint development of all the clean sources of energy—renewables, clean fossil fuels, nuclear energy, and hydrogen-based fuels. Then as we transition to improved technologies in the future, our partner nations will also be building up their energy infrastructure with the latest and cleanest technologies.

Last year's energy and water development bill called for improvements in the federal government's role in international development, demonstration, and deployment of advanced clean energy technologies.

With this new bill and the President's policy, our nation is developing a suite of energy supplies that will provide us with clean, reliable, economic energy far into the future. But I continue to believe that we should be looking beyond our own borders.

I submit that we should be seizing every opportunity to help the developing nations around the world achieve much higher standards of living. They simply can't do that without reliable electricity supplies.

Each nation will make their own choices for fuel sources, exploiting their own strengths. We have abundant natural gas—and it will make a huge contribution to a cleaner future for our country. But every nation needs diverse energy supplies, not a singular reliance on one source. Other nations may be well positioned to exploit their solar or wind resources—through this program these nations can make the choices best for their needs.

The leadership shown by Senator BYRD on clean coal technologies matches this vision very well. Some other nation's have immense coal resources, through this vision they can benefit by Senator BYRD's efforts to advance clean coal technologies.

We can leave the poorest countries to their own resources to develop whatever energy they can, or we can offer substantial help to partner with these nations to help them develop sources that are not only reliable and reasonably priced, but also clean.

It's strongly in our self interest to do this. After all, we all share the same air. And in addition, countries with strong economies are our best choice for trading partners

Mr. President, let me state again how proud I am to have worked on this bill with Senator REID. With this bill, we'll be making real progress on the technologies to fuel our, and perhaps the world's economies of the future.

For our nation's national security, this bill makes a major investment in solving serious problems in the nuclear weapons complex. With the leadership and resources included in this bill, many of those problems are going to get fixed.

The bill includes $6.05 billion for the nuclear weapons (stockpile stewardship) activities of the NNSA, that is $705 million over the President's request, $925 million over the House level, and $1.05 billion over the current year level.

I want to again commend Senator REID, and our full committee chairman, first Senator STEVENS and Now Senator BYRD, for recognizing the serious problems in the nuclear weapons complex and providing the resources to fix those problems.

This bill makes three major improvements on the President's budget request for nuclear weapons.

First, infrastructure. We know from the subcommittee's hearing on infrastructure earlier this year, that our nuclear weapons facilities have degraded to the point that it will take billions of dollars to modernize for the future.

The average age of the facilities where we do nuclear weapons work is over 40 years.

We will need to spend an additional $300-$500 million a year for the next 17 years over currently planned levels to refurbish the weapons complex to perform its basic mission. These expenditures will be required even if the nuclear stockpile is dramatically smaller.

If we do not take action on these infrastructure problems immediately, we will not be able to meet the Department of Defense schedules for refurbishing three main weapons systems representing over 50 percent of our stockpile. We will not have the scientific facilities required to certify weapons. Our technicians and scientists will continue to work in unsafe facilities-increasing health risks and the number of safety related shutdowns.

Although the work must begin immediately, the budget request included no funds to begin such an initiative. Therefore, the bill before the Senate includes $300 million to begin a major facilities improvement program in fiscal year 2002 at facilities in South Carolina, Tennessee, Missouri, Texas, New Mexico, Nevada, and California.

The second major improvement on the administration's budget request is that the bill provides additional funding to rebuild current weapons.

The average age of weapons in the stockpile is now approaching 18 years—most were designed for a life of no more than 20 years. Many weapons components degrade substantially over time and have to be replaced. The Joint Department of Defense/NNSA Nuclear Weapons Council has recognized the fact that most of our weapons will have to be rebuilt, but funds were not requested to do so.

Therefore, the bill includes an additional $295 million in fiscal year 2002 to get the NNSA on track to rebuild weapons on the schedule required by the Department of Defense.

The third major improvement on the President's request is that this bill fully funds pit production on the required schedule.

We must soon have the capability to produce plutonium pits for weapons, a capability we lost when Rocky Flats was closed down in 1989. Plutonium pits are the "triggers" for nuclear weapons, that occasionally must be replaced. Today, we are the only nuclear power without the ability to produce them. The budget request puts off indefinitely our ability to deliver a certified pit to the military, but this bill adds $110 million to get the program back on track.

Finally, there are a series of programs at NNSA that may be just as important to eliminating or controlling the global nuclear danger—these programs are to reduce the threat of nuclear weapon proliferation around the world.

The administration proposed deep cuts in this area for fiscal year 2002, even though a blue-ribbon review led by Senator Howard Baker and Lloyd Cutler recently concluded . . .

> The most urgent unmet national security threat to the United States today is the danger that weapons of mass destruction or weapon-usable material in Russia could be stolen and sold to terrorists or hostile nation states and used against American troops abroad or citizens at home.

The report also concluded that . . .

> Current nonproliferation programs of the DOE . . . have achieved impressive results thus far, but their limited mandate and funding fall short of what is required to address adequately the threat.

I am pleased that this bill adds over $100 million to the important nonproliferation work the NNSA carries out in Russia and other countries of the former Soviet Union. These programs to control the material and expertise necessary to make weapons of mass destruction address problems identified as "the most urgent unmet national security threat to the United States today."

Once again, Senator REID, I want to commend you for a balanced bill. I do not agree with every aspect of the bill, but I cannot urgue with the fair manner in which you have put it together.

I strongly support the bill, and urge all Members of the Senate to do likewise.

Let me proceed as quickly as I can to summarize this bill. First, I am very pleased to join with Chairman REID in considering this fiscal year 2002 Energy and Water bill. I note that in the chair is a new Senator. I would think that he might wonder what in the world is an appropriation bill called Energy and Water. Well, my good friend, the new Senator from New Jersey, will never sit down and rationally decide what is in this bill. What is in it has been decided between the House and Senate as one of the 13 subcommittees of appropriation, and there is no rationale to it. In it we fund water development projects, flood protection projects, the harbors and rivers that need the Federal Government to help. But on the other end, believe it or not, the entire nuclear weapons development, preservation, and research for nuclear weapons is also funded in this bill. It doesn't come under the rubric of energy. Why is it here? It is here because that kind of activity was brought to the Energy Department when the Energy Department was created. This subcommittee pays for that.

So, overall, this is a very balanced bill. It covers what I have alluded to. I have great detail with me about what has concerned us and why we have had to fund the part of this that is for nuclear weaponry at a higher level than the President. I am very hopeful that the staff at the White House and the staff at OMB, who have looked at this since putting their budget out, will understand that some of this new money we had to put into the part of this bill that concerns itself with a safe and reliable nuclear stockpile. And remember, Mr. President, every time you say that, you can put a parenthesis in and you can say, without underground testing, because we have voted not to test underground. If you test, it makes it much easier to determine safety, to determine reliability. But we have determined we are not going to do that, and still we are going to spend money and put the finest resources in America to work on the science and physics and computerization part of maintaining this very, very serious and almost unbelievable thing called the American nuclear weapons stockpile.

My good friend, Senator REID, has been a marvelous student of this. We have all had to learn together. I have more of a genuine parochial reason, because two of the three laboratories frequently called the nuclear laboratories—not exactly the right name—are in my State. There is Los Alamos. Everybody knows that is where we did our first nuclear weaponry work—atomic weapon work. It was a mountain, but there is a city there now. In Albuquerque is Sandia Labs, an engineering laboratory, which is part of this. The third one is in the State of California. The three of them do much in addition to the work on nuclear. There are great researchers who are on the cutting edge of much of the science of the future in terms of energy needs and the like. So that is in this bill.

And then, obviously, since it is an energy bill, it has an awful lot in it about the energy research and development that is occurring in the Department of Energy. First, let me quickly say that part of this is the implementation of energy policy.

While we are still waiting around to debate and pass judgment on whether we are going to have some tax incentives that the President asked for in terms of developing new and different kinds of energy called "renewables," or whether or not we are going to decide to open up more of the public domain to the development of gas and oil; in this bill, we get along with getting some of these things paid for and done, which everybody knows we should be doing. But it is most interesting—and this is an opportunity to speak for a moment about the President's energy policy in one regard. There is a lot said about: what about conservation, and what about saving our energy? I am reminded that in preparation for this activity, in marking up this bill, I chose to read the President's policy in its entirety. I want to cite one piece, because there is a lot said about there not being enough conservation in this policy, not enough things that push us to conserve and save. Well, I have come to the following conclusion, and if I am wrong, anybody that would like to read the policy and discuss it, I would be glad to do so.

As this energy policy tells us what we need in the future, up to the year 2020, it says that we could have to produce 77 percent more to meet our needs over this next 20 years—just for reasonable needs. But would you believe that a huge portion of that possible need is projected to come from conservation and saving energy, such that, of the 77 percent, only 29 percent is from new production? So if you do the arithmetic and subtract them, it is pretty obvious that there is a very large amount that is expected by way of either legislation or conduct in our country to save and conserve energy, along with increasing production of various types of energy.

Let me talk about one. I am very pleased that both Senator REID and I and our staffs worked very hard on what's called renewable energy programs. Because of the Senator's dedication and us working together on this, we are funding the renewable energy programs at $435 million in this bill. That is 16 percent higher than this year. There is no question that renewable resources can and should play a larger role in our energy supply, and we push that or accelerate that in this bill. Within this renewable budget, several programs are slated for major increases, and I am going to tick some of them off.

Hydrogen-based technology is up 30 percent over last year. Some people think this whole area of hydrogen-originated energy sources is one of our real solutions to clean and healthy production of energy without having any adverse impact on global warming. The research may lead to a decrease in the use of petroleum products in transportation.

We also have superconductivity and geothermal, both have 20-percent increases. All of these can have an incremental positive impact on helping us meet our energy needs without having a major impact on global warming in the future.

Incidentally, the President has suggested we should move ahead with nuclear and not abandon it. Nuclear energy has received a significant increase in this bill. I strongly agree with the President's national energy policy and his recommendations supporting the expansion of nuclear energy in the United States.

I will state once—and if I have a chance I will do it a number of times—nuclear power in its current form and future generations, new generations, of nuclear powerplants do not contribute to global warming. In other words, the future is protected from the global warming pollution that comes from many of our traditional energy sources so that the evolution, development, and research in the areas of nuclear power can move us ahead in such a way as to provide energy for growth, development, and prosperity for America and for our industrial friends in the world and, yes, indeed, for those countries which do not yet have much of an economic base.

We can produce clean energy for the future. With renewables, nuclear, and other forms of energy joining together, we can say to the world: You can grow and prosper. The poor countries will have an equal opportunity to do that, and we will not have to reduce growth, we will not have to put on caps, we will just have to use our ingenuity and science better.

There are a number of things we did to let America take a good, solid look at what the next generation of nuclear powerplants or even the next one after that might look like and how it will help.

I want to share with my friend, Senator REID, and those who are paying attention to what we are doing today, a portion of my comments today which I choose to call "Reaching Beyond Kyoto." I, frankly, believe the President of the United States has a rare opportunity to lead the world beyond Kyoto.

I say to my fellow Senators, I have talked to the President about this very issue. I have suggested it is a rare opportunity for him to lead the world in reaching beyond Kyoto, and I will talk about that for a minute.

This is a vision, and part of it is in this bill because this is what we do in this bill. It says that we need to reach beyond the debate over Kyoto with a blueprint that provides tools to combat global warming. Further, we should ask the world to join as our partners and move ahead,

I am convinced we can have growth and prosperity in America without global warming. I am equally convinced we can help provide these same benefits for the world. I propose we provide worldwide leadership to eliminate the threat of global warming by a commitment to prosperity and growth through clean energy, and I further propose we accomplish this goal through partnerships with our friends and allies, especially those in developing countries.

I have specifically urged the President to lead this new initiative to accelerate our research and build international partnerships for joint development of all clean sources of energy—renewables, clean fossil fuels which our distinguished chairman of the Appropriations Committee, Senator BYRD, alludes to frequently as it relates to coal—nuclear energy, and hydrogen-based fuels.

As we transition to improved technologies in the future, our partner nations will also be building up their energy infrastructure with the latest and cleanest technologies. And, yes, there is no question, then, that we can send a message that the poor countries in the world can grow and prosper. As a matter of fact, they, too, can participate in this abundance of growth and prosperity for their people without adversely affecting global warming.

Last year's energy and water development bill called for improvements in the Federal Government's role in international development, demonstration, and advanced clean energy technologies.

With this new bill which is before the Senate, and the President's policy, our Nation is developing a suite of energy supplies that will provide us with clean, reliable, economic energy for the future.

I continue to believe we should be looking beyond our own borders. I submit that we should be seizing every opportunity to help the developing nations around the world achieve much higher standards of living. They simply cannot do that without reliable electrical supplies. I believe we can help them with this global approach of partnerships around the world to develop this technology and produce the next generation of nuclear powerplants. But we should not start on that path unless we set the goals for achievement of what they will look like, what they will do, and what they will not do.

It is the same with clean coal technology: Set the goals and then let's achieve them in this world so we can all grow and prosper. We all know we have an abundance of energy supplies in our country. We have natural gas. And it will make a huge contribution for our country. But every nation needs diverse energy supplies, not a singular reliance on a single source.

Leadership has been shown by Senator BYRD with clean coal technologies that match this vision very well. Some other nations have immense coal resources. Through this vision, they can benefit by Senator BYRD's efforts to advance clean coal technologies. Through this bill, we can fund renewables and ask our President to join worldwide with efforts to push renewables even more and to greater ends. And it is the same with all of those energies that have no effect, no impact on global warming.

I can say, it may very well be, within a very short period of time, a nuclear powerplant will be developed. It will be a small little plant instead of a thousand megawatts. It might be 50 or 100 megawatts. It will be a module. It will be self-contained. It will have no chance of having a meltdown. Just by the physical facts about its evolution and development it cannot, it will not. We might not have to touch it for 25 or 30 years.

Those are things we can work on as a criteria for development and growth and then set our great scientists in the private and public sector, with others in the world, to achieve this goal. What a great opportunity in the midst of a world that is frightened about whether we can grow, whether poor people can get rich, where the poor countries have to remain undeveloped because they cannot contribute to global warming. We will say we can all grow and prosper. America hasn't stopped growing and prospering, but we can do it without affecting global warming if we just say let's take a lead, let's do this, let's ask our greatest companies, our best laboratories, our greatest scientists, led by America, let's put some money in each year in a consortium-type arrangement to get this done.

If I sound like I am excited about something, obviously for some of you I have not even yet reached anything like an excited pitch, but in any event, I am because I believe it is a rare opportunity to take the genius of science—and I might say, I have a bias and prejudice but I think it will work. I think we have nuclear power for a reason. I don't think we have developed nuclear power to throw it away. I believe we can develop another generation of nuclear power plants that can help this entire world prosper and put global warming behind us.

Then we can ask, what is next? What have to be next are growth and opportunities, and not just for us. We say to the world, let's be free. But, we don't want people to think we are for them being free and poor. We are for them being free and affluent, to grow and have what we have. It cannot be done without better sources of clean energy.

I believe this bill has things in it which, if put together by the President in a partnership arrangement, I think we could see real daylight and perhaps might be able to set some goals.

My last comments will be very brief and have to do with national security. As I said when I started, what a peculiar bill, energy and water. Who would guess that sandwiched between those two words, energy and water, are the U.S. national security interests in nuclear weapons.

We have a national policy, voted on this Senate floor on an amendment by the distinguished Senator Hatfield from Oregon. We don't test our nuclear weapons underground nor do we test them at all. We don't do that anymore. That used to be the easy way. I say that because today it looks easy. That is the way we used to determine reliability and safety. We don't do that anymore. We don't test underground. We have something to take its place. We have a whole body of science and computerization that we put together. It is now in the Department of Energy, and it has reached major nuclear laboratories. We fund a program called science-based stockpile stewardship. Stockpile is the nuclear weapons stockpile. We fund a part of the Department of Energy that is called the NNSA. My good friend, Senator REID, alluded to it when he spoke of creating this new institution within the Department. The current leader is four-star General Gordon. He's doing a great job of pulling together and making sure there is one spokesman worried about the nuclear weapons aspects of the Department of Energy, reporting only to the Secretary. In a very real way he's making sure we do a better job with what we spend on this stockpile. Nonetheless, we have to spend money on it. The biggest difference between our budget and the President's budget is what to do with replenishing some of the physical facilities that are now old and broken down that are part of this NNSA.

This bill says, let's get started in multiyear repair and replenishing of some of the facilities that are nearly 50 years old in which we ask the world's greatest scientists to work to help keep this program and do this very difficult job. It will take many years to replenish these physical facilities, these laboratories.

In addition, there are specific items such as major improvements in the funding of pit production. You simply must soon have the capability to produce plutonium pits for weapons, a capability we lost when Rocky Flats was closed in 1989. We had to put extra money in this bill, in order to keep that program on the calendar on which it is expected to be. We have put these funds in because we know they are needed. Add it all up and we have a very well rounded bill covering mundane things as well as the complex and difficult.

In closing, let me say, that as part of this Department of Energy, we have developed some great research laboratories and not just those created and involved in nuclear work. There are many others that work on various aspects of research in America, most in the fields of energy, but not all, where some of the very best scientists in the world and some of the very best basic science research activities take place.

In summary, we think we have a bill that takes care of, as well as possible, water resource needs of our country. It takes care of the basic energy needs we can promote through the Energy Department in moving ahead with another generation of nuclear reactors. And it encourages more progress on renewables. Through this bill and another dealing with cleaning up our coal so we can use it cleanly, we can have a prosperous future without having a negative impact on global warming and the future of our country and the world's people. We think we have done that fairly well.

We have spent more than the President asked. We hope we will be able to explain to the White House and OMB why and how that was done. We will have time after the bill is debated to do that. In the meantime, as the amendments come forward, perhaps the White House will have some suggestions. I hope they don't ask us to change our vision. I think the vision in this bill is to move ahead with new sources of energy beyond Kyoto so we can say we are going to do it in a way that everyone will grow and prosper, so the poor can get rich in the world.

I yield the floor.

Mr. REID. We are on the energy and water bill. I know the Senator from Arizona wishes to speak.

Mr. KYL. I want to take 30 seconds to compliment the Senator from New Mexico, and then I will ask unanimous consent to speak no more than 5 minutes in morning business.

Mr. REID. My friend from Oregon also wishes to speak for 20 minutes in morning business. I ask that the Senator from Arizona be recognized to speak for up to 10 minutes in morning business and the Senator from Oregon be recognized for up to 20 minutes.

Mr. DOMENICI. Reserving the right to object, Mr. President, what are you thinking in terms of the bill?

Mr. REID. I will visit with you now.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I will not take the full 10 minutes.

I take 30 seconds to simply say, Senator DOMENICI each year has a significant responsibility, as well as the other Members of the subcommittee on which he sits, to put together a bill for energy and water. As he pointed out, a great deal of the jurisdiction of that subcommittee deals with our nuclear weapons program. Senator DOMENICI does not simply put together what he has been told is a good idea. He has taken a career to learn from these laboratories—a couple of which he represents, and the people in those laboratories—what is best in our national interests and what needs to done. It is not glorious work and there is no big political payoff. Very few people have the knowledge he does. He relies on people such as his staff, Clay Sell and Dr. Peter Lyons, a nuclear physicist from Los Alamos Laboratory, to assist him in developing the kind of plans that the Senate then needs to act upon, particularly with the comments about the development of nuclear energy that will be safe and that we need to promote for this country.

I think he is absolutely right on the mark. I plan to join him in his efforts to promote that in the coming months.

Mr. DOMENICI. Will the Senator yield?

Mr. KYL. I am happy to yield.

Mr. DOMENICI. I should have mentioned in my remarks, one of the Senators who has helped me in the many months that we engaged in trying to make the Department of Energy more focused with reference to our nuclear weapons problems was the distinguished Senator from Arizona. I thank him for that help. We are not over that hurdle yet. Indeed, General Gordon and that semiautonomous agency have not been totally formulated. They are not grown up yet and are still walking along, maybe comparing it to high school and the eighth grade. They still have to get the diploma. This bill should enhance it or give them some of the tools they claim they need.

In the meantime, I thank the Senator for observations and comments regarding a world beyond Kyoto. Clearly, if we do this right, we can have an abundance of energy and there need be no atmospheric pollution; we can do it another way. Clearly, we can get it done.

I thank the Senator for his observation.

Mr. REID. Will the Senator yield?

Mr. KYL. I yield.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Nevada.

Mr. REID. The Senator from Arizona missed my brief statement today about how I had become a late believer in the work that he and Senator DOMENICI had done on the National Nuclear Security Administration. As you may recall, last year I fought that initially. As I said to Senator DOMENICI, I thought it was being done, initially, for reasons other than what it turned out to be. I commend the Senator from Arizona—I have already done that to Senator DOMENICI—for the great work being done by General Gordon and the people working with him. It certainly has been a step in the right direction.

With the deep concern I have with the nuclear arsenal, I think there is not anything we could be more devoted to than making sure General Gordon has enough money and general resources to do what he has to do which is so important.

ECONOMIC GROWTH

Mr. LOTT. Madam President, we have seen for the past year a reduction in the growth rate of our economy. The world is experiencing a global economic slowdown. The tax cut signed into law in June contained compromises to make the tax cuts in the lowest bracket retroactive to January 1. We are also going to begin to see the tax reduction checks in the American people's hands by the end of this month. Perhaps there has never been a better-timed tax cut. The dollars we are returning to the taxpayers and the rate cuts that will allow them to keep a little more of their own hard earned salaries will provide some stimulus to keep the economy from falling further behind.

I reject the advice of those who say that now is the time for the government to retreat and try and take more money out of the American workers' pay envelopes. Nothing could be worse for a weakening economy. In fact, I believe that now is the time to find more ways to encourage economic growth. The tax cut provides some immediate stimulus and in the long-term some ways to keep the economy growing. But we need to look at ways to kick-start the supply side of the economy. One possibility is to cut the capital gains tax rates. I will be pursuing this effort in the coming weeks and months. Nothing is more important than to get our economy moving again at full speed.

My friend Jack Kemp authored a most interesting and compelling article a couple of weeks ago in the Wall Street Journal. Thirty years ago when I came to Congress I first met Jack. He was then and continues to be a person who is not afraid to challenge the common norms of economic thought. In the 70's Jack led the charge for tax rate cuts to get the economy moving. We have too easily forgotten the hopelessness that many Americans felt in the late 1970's facing stagflation with no idea of how to turn the flagging U.S. economy around. Now we face a problem of a global slowdown. Jack suggests an answer. Many will try and dismiss his proposal. This is a debate that needs to continue.

We need to get the American economy running at full speed. The tax bill was the first step. Getting the economy back to full growth will be my primary focus.

I ask unanimous consent that the article by Mr. Kemp be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 28, 2001]

OUR ECONOMY NEEDS A GOLDEN ANCHOR

(By Jack Kemp)

How many more dashed hopes and false recoveries must we experience before politicians and monetary authorities accept the fact that our inability to manage fiat currencies is causing the global economic slowdown? They keep waiting for interest-rate reductions to kick in, yet more than six months after the Fed began lowering rates the economy continues to weaken. Waiting for the recently enacted tax cuts to provide "stimulus" will prove futile as well. The economy does not suffer a lack of consumer demand, and more money in people's pockets will not revive the supply side of the economy.

UNPRECEDENTED EXPERIMENT

Ronald Reagan once said he knew of no great nation in history that went off the gold standard and remained great. Since Aug. 15, 1971, when the U.S. ceased to redeem dollars held by foreign governments for gold, we have put that thesis to the test. For the first time in human history, not a single major currency in the world was linked to a commodity. Economist Milton Friedman called the situation "unprecedented" and said it is "not a long-term viable alternative." "The world," he said, "needs a long-term anchor of some kind."

In the short term, at least, he was vindicated. In creating a world monetary system of floating fiat currencies with the stroke of a pen, President Nixon touched off a worldwide inflation that lasted through the '70s and early '80s.

Yet America recovered to preside over the demise of world communism, and overcame the rising inflation and unemployment of "stagflation" to enjoy an unparalleled 18-year economic expansion. Today, the U.S is at the pinnacle of its power and enjoying its greatest prosperity ever.

Were Messrs. Reagan and Friedman wrong? I don't think so. If the U.S. has so far come out on top in this experiment, it is only because other countries' economies have suffered even more from floating currencies.

Once the U.S. government ceased redeeming gold at $35 an ounce, its price quadrupled on world markets to $140 to reflect the dollar's diminished value. By breaking the gold link, the Nixon economic team forced the unwanted liquidity pouring out of the Fed—which had thus far built up in the Eurodollar market and the portfolios of foreign central banks—to remain inside the U.S. economy where it would manifest itself in price inflation. Robert Mundell was the first to predict, in January 1972, there would soon be a dramatic rise in the price of oil, with general inflation to follow.

Where the rest of the economics profession blamed the Arab oil-producing states for quadrupling the oil price in 1973, Mr. Mundell and those supply-siders who followed his intellectual lead knew that gold's quadrupling had led the way. Tax rates rose through "bracket creep," capital formation stopped in its tracks, and it soon took two workers to produce the same income that one had brought home before the experiment. The stagflation that had its roots in leaving the gold standard was compounded when Congress and three different presidents tried to fight it with wage and price controls and high marginal tax rates.

But discretionary monetary policy is Janus-faced, and instead of too much liquidity in the world economy we now have too little. Deflation began in 1996 when the Fed tightened monetary policy to combat some inflation it had created attempting to offset the economic drag of the Clinton tax hikes. A rising dollar then caused the dollar pegs of emerging economies to snap, set off the Asian, Brazilian and Russian economic meltdowns, and caused the price of oil and other commodities to collapse. Oil producers took a two-year holiday from drilling, which in turn created an oil shortage and drove energy prices sky high.

Now, the energy-price hikes are working their way through the economy and are misconstrued by the Fed as inflation. Once again, central bank errors in the discretionary management of floating fiat currencies have put the entire world economy at risk.

The Fed has cut interest rates 275 basis points since the start of the year, but the price of gold is still down to about $272 from $385 in 1996, having fallen $5 yesterday alone on the Fed's announcement that it was lowering the fed funds rate another 25 basis points. Commodity prices are near their lowest levels in 15 years, and the foreign-exchange value of the dollar has risen against all major currencies since the Fed began its interest rate-easing cycle.

Without a gold standard, the Fed has no means of determining how much liquidity markets demand, and all it does by targeting interest rates is guess how much liquidity to inject or withdraw to counteract mistakes it made earlier. The Fed may be on its way to mimicking the mistakes the Bank of Japan made when it lowered interest rates to zero, all the while prolonging and deepening Japan's monetary deflation.

This is no way to manage a currency. It's obvious that we have accumulated a long series of small deflationary errors by the Fed that are dragging down the U.S. economy and helping depress world commerce. It's time to restore a golden anchor to the dollar before our luck runs out and we suffer a real economic calamity.

The Fed may yet get lucky with its rate cuts, although the Bank of Japan never did. The only certain way to end this deflation is to have the Fed stop targeting interest rates and begin targeting gold directly—not by "fixing" the price of gold by administrative fiat as some people mistakenly characterize it, but rather by calibrating the level of liquidity in the economy, over which the Fed has exclusive and precise control, to keep the market price of gold stable within a narrow band closer to $325 than $275.

There is nothing mysterious about how gold could be used as a reference point or how a new monetary standard for a new millennium would work. It would simply mean the Fed would stop guessing how much liquidity is good for the economy and allow the market to make that decision for it. With the dollar defined in terms of gold and with American citizens free to buy and sell gold at will, the Fed would forget about raising or lowering interest rates and simply add liquidity (buy bonds) when the price of gold tries to fall and subtract liquidity (sell bonds) when it tries to rise. Markets would determine interest rates.

The paper dollar would once again be as good as gold—no more, no less. There would be no need for the U.S. government to maintain a large stock of gold or to redeem gold and dollars on demand since people would be free to do so on their own in the marketplace. As long as the Fed calibrated its infusions and withdrawals of liquidity by the market price of gold, the world would be free of monetary inflations and deflations caused by the whims and errors of central bank governors, as was the case for more than 200 years when the private Bank of England managed the pound sterling in exactly that way.

NOTHING SIMPLER

The good news is that this could all be done easily, if President Bush and Treasury Secretary Paul O'Neill could work out an accord with Alan Greenspan. That accomplished, I believe Britain would soon follow to make the pound as good as gold and avoid having to adopt a sinking euro.

There is nothing simpler than a gold standard, as Alexander Hamilton pointed out when he persuaded the first Congress to adopt one. Just as President Nixon took us off with an executive order, President Bush can put us back on with the stroke of a pen. It would be politically popular, as ordinary people benefit most. At Camp David in 1971, as President Nixon signed the papers, he is reported to have said: "I don't know why I'm doing this. William Jennings Bryan ran against gold three times and he lost three times."

NAZI WAR CRIMINALS RESOLUTION

Mr. CORZINE. Madam President, last week I introduced a resolution that addresses the United States' use of Nazi war criminals after World War II. The resolution acknowledges the role of the United States in harboring Nazi fugitives, commends the Nazi War Criminal Interagency Working Group for serving the public interest by disclosing information about the Nazis, and calls on other governments to release information pertaining to the assistance these governments provided to Nazis in the postwar period.

On July 14, 1934, the Reichstag declared the Nazi Party the only legitimate political party in Germany. In one fell swoop, political dissent in Germany was quashed and a tragic series of events was set into motion—a series of events that led to the genocide of six million Jews and five million Gypsies, Poles, Jehovah's Witnesses, political dissidents, physically and mentally disabled people, and homosexuals. After World War II, the international community attempted to come to terms with what, by any measure, was a horrific episode in world history.

In October 1945, a tribunal was convened in Nuremberg, Germany, to exact justice against the most nefarious Nazi War Criminals, people who knowingly and methodically orchestrated the murder of countless innocent people. Some infamous Nazi war criminals were tried and convicted elsewhere, including the infamous Adolph Eichmann, who was found guilty by an Israeli court. Still, many of the perpetrators—war criminals who heeded the call of the Nazi juggernaut—escaped justice. Some of those who evaded capture did so with the help of various world governments, including the United States.

It is natural to ask why the United States would help known Nazi war criminals avoid punishment. The United States had just spent four years fighting the Nazis at the cost of thousands of young, courageous American soldiers. We had just liberated the Nazi death camps, witnessing firsthand the carnage and degradation exacted by the Nazis on Jews and others. Despite it all, the United States felt compelled to hide the very Nazis they had defeated and grant them refuge in the United States and abroad.

The sad fact is that although we had just finished fighting a war of enormous proportions, we were entering another war—a cold war that would last for some 50 years. In fighting this war, the United States enlisted Nazi fugitives to spy on the Soviet Union.

The extent to which the United States used Nazi war criminals for intelligence purposes in the postwar years is still being studied. In January 1999, the President charged the Nazi War Criminal Records Interagency Working Group with the difficult task of locating, identifying, cataloguing, and recommending for declassification thousands of formerly classified documents pertaining to the United States' association with Nazi war criminals. In addition to an interim report completed October 1999, in late April 2001, the IWG announced the release of CIA name files referring to specific Nazi War Criminals. While there is still work to be done, one thing is clear from these documents: the United States knowingly utilized Nazi war criminals for intelligence purposes and, in some cases, helped them escape justice.

The American people deserve a full accounting of the decisions that led to the acceptance of Nazi war criminals as employees of the United States government. It also is important that the United States work with other countries to expedite the release of information regarding the use of Nazi war criminals as intelligence operatives. We need to learn more about the Holocaust and its aftermath. The international community must learn the lessons of history, so that never again will we face this type of evil.

SMITHSONIAN BOARD OF REGENTS

Mr. COCHRAN. Madam President, last week I introduced two resolutions appointing citizen regents of the Board of Regents of the Smithsonian Institution. It is an honor to serve on the Board of Regents as one of the three United States Senators privileged to do so. My fellow Regents, Senators FRIST and LEAHY join me as cosponsors of both resolutions.

At its May 7, 2001 meeting, the Board of Regents voted to nominate Ms. Anne d'Harnoncourt for a second term and Mr. Roger W. Sant to fill the vacancy caused by the resignation of the Honorable Howard H. Baker, Jr.

For the information of the Senate, I ask unanimous consent that the curriculum vitae of Ms. d'Harnoncourt and the biographical sketch of Mr. Sant be printed in the RECORD, following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CURRICULUM VITAE OF ANNE D'HARNONCOURT (MRS. JOSEPH J. RISHEL)

Born September 7, 1943, Washington, DC.

Present Position: The George D. Widener Director and Chief Executive Officer Philadelphia Museum of Art.

Education: The Brearley School, New York City, 1949–1961.

Radcliffe College, Cambridge, MA, 1960–1965: Majored in History and Literature of Europe and England since 1740, with additional course work in the history of architecture. B.A. thesis on comparative aspects of the poetry of Shelley and Holderlin. B.A. magna cum laude, June 1965.

Courtauld Institute of Art, London University, 1965–1967: First year course: Seminar in European art since 1830. Second year: specialized research on the period 1900–1915 in Italy, France and Germany, M.A. thesis on moral subject matter in mid-19th century British painting, with emphasis on the Pre-Raphaelites. M.A. with distinction, June 1967.

Honors: Elected to Phi Beta Kappa in 1964; Captain Jonathan Fay Prize, Radcliffe College, 1965; Chevalier dans l'Ordre des Arts et des Lettres, Republic of France, 1995; Philadelphia Award, 1997.

Museum Experience:

1966–1967—Tate Gallery, London. Six months of work as part of Courtauld M.A. thesis, preparing full catalogue entries on 30 Pre-Raphaelite paintings and drawings in the Tate collection.

1967–1969—Philadelphia Museum of Art, Curatorial Assistant, Department of Painting and Sculpture.

1969–1971—The Art Institute of Chicago, Assistant Curator of Twentieth-Century Art.

1972–1982—Philadelphia Museum of Art, Curator of Twentieth-Century Art.

1982–1996—Philadelphia Museum of Art, The George D. Widener Director.

1997—Philadelphia Museum of Art, The George D. Widener Director and Chief Executive Officer.

BIOGRAPHICAL SUMMARY

Curator of Twentieth-Century Art. For a decade between 1972 and 1982, Miss d'Harnoncourt served as Curator of 20th Century Art at the Philadelphia Museum of Art. A specialist in the art of Marcel Duchamp, she co-organized a major retrospective exhibition in 1973–74, which originated in Philadelphia and traveled to The Museum of Modern Art, New York and The Art Institute of Chicago. Other exhibitions organized or co-organized by Miss d'Harnoncourt include Futurism and the International Avant-Garde (1980), Violet Oaklev (1979), Eight Artists (1978) and John Cage: Score & Prints (1982). During her tenure as curator, she reinstalled the permanent galleries in the wing of the Museum devoted to 20th-century art, creating rooms specifically dedicated to the work of Duchamp and the sculpture of Brancusi. During her curatorship the Museum made the commitment to building a substantial contemporary collection, acquiring works by Ellsworth Kelly, Dan Flavin, Brice Marden, Agnes Martin, Claes Oldenburg, Katherine Anne Porter, Dorothea Rockburne, James Rosenquist, and Frank Stella, among others.

Director: Projects undertaken by the Museum during Miss d'Harnoncourt's directorship to date include a sequence of major exhibitions originated by Museum curators, such as: Sir Edwin Landseer (1982), The Pennsylvania Germans: A Celebration of Their Arts (1983), Masters of 17th-Century Dutch Genre Painting (1984), Federal Philadelphia (1987), Anselm Kiefer (1988), Workers: The Photographs of Sebastiano Salgado (1993), Japanese Design (1994) major retrospectives of Brancusi (1995) and Cézanne (1996), The Splendor of 18th-Century Rome (2000), Hon'ami Kōōetsu (2000) and Van Gogh: Face to Face (2000). She encouraged a series of scholarly publications devoted to the permanent collections: British Paintings (1986), Oriental Carpets (1988), Northern European Paintings (1990), Paintings from Europe and the Americas: A Concise Catalogue (1994), a new Handbook (1995), and a Handbook to the Museum's textile collections (1998).

Between 1992 and 1995, in a massive building project undertaken to reinstall all of the Museum's European collections, over 90 galleries were renovated and relit, while thousands of works of art were examined, conserved and placed in fresh contexts. During her tenure as director, appointments to the professional staff include senior curators of Prints, Drawings and Photographs and European Decorative Arts, curators of Indian Art, Prints and Twentieth-Century Art, as well as a Senior Curator of Education, a new Librarian and conservators in the fields of decorative arts, furniture, painting and works on paper. Most recently, following her assumption of additional responsibilities in 1997 upon the retirement of Robert Montgomery Scott as President of the Museum, Miss d'Harnoncourt and the newly appointed Chief Operating Officer led the institution through a long-range planning process with a view to celebrating the Museum's 125th anniversary in the year 2001 with a number of new initiatives.

In the year 2000, the Museum acquired a landmark building across the street and embarked upon a comprehensive masterplan for its use and the additional steps necessary to meet the Museum's 25-year requirements for new or renovated space. Twenty galleries for modern and contemporary art were renovated and reopened in the fall of 2000. A capital campaign with a goal of $200 million was formally launched in December 2000, and $100 million was raised by March of 2001.

Institutional Boards (Current): Regent of the Smithsonian Institution, Washington, D.C.; Visiting Committee, J. Paul Getty Museum, Malibu, CA; Academic Trustee for the School of Historical Studies, Institute for Advanced Study, Princeton, NJ; Board of Directors, The Henry Luce Foundation, Inc., New York, NY; Board of Trustees, Fairmount Park Art Association of Philadelphia, Philadelphia, PA; Board of Overseers, Graduate School of Fine Arts, University of Pennsylvania, Philadelphia, PA; Board of Trustees, Fairmount Park Art Association of Philadelphia, Philadelphia, PA; Board of Overseers, Graduate School of Fine Arts, University of Pennsylvania, Philadelphia, PA; Board of Directors, The Georgia O'Keeffe Foundation, Abiquiu, NM.

Memberships (Current): Trustee, Association of Art Museum Directors: Advisory Committee, The Fabric Workshop, Philadelphia, PA; Member, American Philosophical Society, Philadelphia, PA; Advisory Board, Foundation for French Museums Inc.; Fellow of the American Academy of Arts and Sciences, Cambridge, MA.

Institutional Memberships (Past): Museum Panel, National Endowment for the Arts, 1976–78; Visual Arts Panel, National Endowment for the Arts, 1978–80; Board of Trustees, Hirshhorn Museum and Sculpture Garden, Washington, D.C., 1974–86; Museum Program Overview Panel, National Endowment for the Arts, 1986–87; Indo/U.S. Subcommission on Education and Culture, 1983–87; National Endowment for the Arts, Indemnity Panel, 1985–88; Harvard University Art Museums Visiting Committee, 1983–88; Board of Advisors, Center for Advanced Study in the Visual Arts (CASVA), National Gallery of Art, 1987–89; Pennsylvania Council on the Arts, 1992–99.

Exhibitions Organized:

Marcel Duchamp. The Philadelphia Museum of Art, The Museum of Modern Art, The Art Institute of Chicago, 1973–74. (Collaboration with Kynaston McShine, The Museum of Modern Art).

Philadelphia: Three Centuries of American Art. Philadelphia Museum of Art, 1976. (One of several collaborators under the direction of Darrel Sewell. Curator of American Art, Philadelphia Museum of Art).

Eight Artists. Philadelphia Museum of Art, 1978.

Violet Oakley. Philadelphia Museum of Art, 1979. (Collaboration with Ann Percy, Philadelphia Museum of Art).

Futurism and the International Avant-Garde. Philadelphia Museum of Art, 1980.

John Cage: Scores and Prints. Whitney Museum of American Art, Albright-Knox Museum, Philadelphia Museum of Art, 1982. (Collaboration with Patterson Sims, Whitney Museum).

Publications:

"Etant Donnés . . . Reflections on a New Work by Marcel Duchamp." Philadelphia Museum of Art Bulletin (double issue April/June and July/September 1969). Co-author with Walter Hopps.

Introduction to exhibition catalogue for Marcel Duchamp, 1973. Chronology and catalogue entries prepared jointly with Kynaston McShine of The Museum of Modern Art.

"A. E. Gallatin and the Arensbergs: Pioneer Collectors of 20th-Century Art," Apollo, July 1974 (special issue devoted to Philadelphia Museum of Art collections).

132 biographies and catalogue entries in "Philadelphia: Three Centuries of American Art", 1976.

"The Cubist Cockatoo: Preliminary Exploration of Joseph Cornell's Hommages to Juan Gris," Philadelphia Museum of Art Bulletin, June 1978.

"The Fist of Boccioni meets Miss FlicFlic ChiapChiap," Art News, November 1980.

Introductory essay to exhibition catalogue for Futurism and the International Avant-Garde (Philadelphia Museum of Art, 1980).

"We have eyes as well as ears," essay for publication accompanying exhibition "John Cage: Scores and Prints", 1982.

"Duchamp, 1911–1915," in the exhibition catalogue Marcel Duchamp (Tokyo, The Seibu Museum of Art). Reprinted as "Before the Glass: Reflections on Marcel Duchamp before 1915" in the exhibition catalogue Duchamp (Barcelona: Fundacio Joan Miro, 1984).

Preface to "Marcel Duchamp, Notes", arranged and translated by Paul Matisse (Boston: G. K. Hall & Company, 1983).

Preface to "Marcel Duchamp, Manual of Instructions for Etant Donnés . . ." (Philadelphia Museum of Art, 1987).

"Paying Attention," in the exhibition catalogue Rolywholyover/A Circus/John Cage (Los Angeles: Museum of Contemporary Art, 1983).

Biographical Sketch of Roger W. Sant

Mr. Sant is Chairman of the Board of the AES Corporation, which he co-founded in 1981. AES is a leading global power company comprised of competitive generation, distribution and retail supply businesses in 27 countries. The company's generating assets include interests in one hundred and sixty-six facilities totaling over 58 gigawatts of capacity. AES's electricity distribution network has over 920,000 km of conductor and associated rights of way and sells over 126,000 gigawatt hours per year to over 17 million end-use customers. In addition, through its various retail electricity supply businesses, the company sells electricity to over 154,000 end-use customers. AES is dedicated to providing electricity worldwide in a socially responsible way.

Mr. Sant chairs the Board of The Summit Foundation, and is a Board Member of Marriott International, WWF-International, Resources for the Future, The Energy Foundation, and The National Symphony. He recently stepped down as Chairman of the World Wildlife Fund-US after six years in that capacity and now serves on the National Council.

Prior to funding AES, Mr. Sant was Director of the Mellon Institute's Energy Productivity Center. During this period he became widely known as the author of "The Least Cost Energy Strategy"—where it was shown that the cost of conserving energy is usually much less than producing more fuel.

Mr. Sant earlier served as a political appointee in the Ford administration and was a key participant in developing early initiatives to fashion an energy policy in the US. Before entering government service, he was active in the management or founding of several businesses, and taught corporate finance at the Stanford University Graduate School of Business. He received a B.S. from Brigham Young University and an MBA with Distinction from the Harvard Graduate School of Business Administration.

He is a co-author "Creating Abundance—America's Least-Cost Energy Strategy" by McGraw Hill and numerous articles and publications on energy conservation.

BIRTHDAY TRIBUTE TO PRESIDENT GERALD R. FORD

Mr. LUGAR. Madam President, former Congressman, Vice President and President Gerald R. Ford turned 88 on July 14. A birthday tribute to our 38th President was written by White House correspondent Trude B. Feldman for the New York Times Syndicate; and it includes reflections by former Presidents Richard Nixon and Ronald Reagan, given to Ms. Feldman for Gerald Ford's 80th birthday. I ask unanimous consent that the article be printed in the RECORD.

President Ford was a healing force at a time of much greater political upheaval than we have today. The lessons to us today are that: disagreements should not become divisive; and political revenge is a vicious cycle without winners.

Most important, as President Ford reiterates in this interview, is that "truth is the glue that holds government together—not only our government, but civilization itself."

He tells Ms. Feldman, who has also written numerous articles on Mr. Ford and his family for McCall's Magazine, that his main ambition was to become Speaker of the House of Representatives "because the legislative process interested me and was the kind of challenge I enjoyed . . ."

Gerald Ford concluded this interview—which I recommend to my colleagues and our staff—with his beliefs that during his 29 months as President, he had steered the U.S. out of a period of turmoil, making it possible to move from despair to a renewed national unity of purpose and progress. "I also reestablished a working relationship between the White House and Congress, one that had been ruptured," he notes. "All that made an important difference. I consider that to be my greatest accomplishment as President."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times]

GERALD R. FORD AT 88: A BIRTHDAY TRIBUTE

(By Trude B. Feldman)

On July 14, Gerald R. Ford will celebrate his 88th birthday. Having fully recovered from a stroke last August, the former president says he is now in excellent health—alert, active and keeping up with world affairs.

Asked—in a birthday interview—how he feels about turning 88, he says: "Age doesn't bother me. I'm not as mobile as I was 25 years ago, but I feel fortunate to still have my zest for life. I have more enthusiasm now because of the care I take of myself. I follow a good diet, I don't smoke or drink, and I keep busy."

In association with the American Enterprise Institute, one of Washington, D.C.'s leading think tanks, Mr. Ford established—in 1982—the AEI World Forum which he hosts annually in Beaver Creek, Colorado.

The forum is a gathering of former and current international world leaders, business and financial executives and government officials who discuss political and economic issues.

This year—in late June—the participants included Valery Giscard d'Estaing, former President of France; former Vice President and Premier of the Republic of China, Chan Lien; and Richard Cheney, Vice President of the United States, who was a former Chief of Staff to President Ford and Secretary of Defense in the first Bush administration.

On May 21st, at the John F. Kennedy Library and Museum in Boston, Mass., Mr. Ford was the recipient of the John F. Kennedy Profile In Courage Award. Presented by the former President's daughter, Caroline, and his brother, Senator Edward M. Kennedy (D-Mass.), the award cites President Ford's courage in making the controversial decision of conscience to pardon former President Richard M. Nixon.

Twenty seven years ago on August 9, 1974, Richard Nixon resigned the presidency of the U.S. and Vice President Ford became the 38th president. A month later (September 8), President Ford granted a "full, free and absolute pardon" to Nixon "for all offenses against the U.S. which he . . . has committed or may have committed or taken part in" while he was president.

Today, Mr. Ford concedes that he did not expect such a "hostile" reaction. "That was one of the greatest disappointments of my presidency," he told me. "Everyone focused on the individual instead of on the problems the nation faced. I thought people would consider Richard Nixon's resignation sufficient punishment, even shame. I expected more forgiveness."

In accepting the Profile In Courage Award, Mr. Ford told members of the Kennedy family and some 250 guests: "No doubt, arguments over the Nixon pardon will continue for as long as historians relive those tumultuous days. But I'd be less than human if I didn't tell you how profoundly grateful I am for this recognition. The Award Committee has displayed its own brand of courage . . . But here, courage is contagious.

"To know John Kennedy, as I did, was to understand the true meaning of the word. He understood that courage is not something to be gauged in a poll or located in a focus group. No adviser can spin it. No historian can back date it. For, in the age old contest between popularity and principle, only those willing to lose for their convictions are deserving of posterity's approval."

Caroline Kennedy Schlossberg said the award was inspired by her father's Pulitzer Prize winning book, Profiles In Courage (first published in 1955 by Harper & Row) and was "instituted to celebrate his life and belief that political courage must be valued and honored. And that Gerald Ford had proved that politics can be a noble profession. . . ."

Sen. Kennedy said President Ford had "withstood the heat of controversy and persevered in his beliefs about what was in our country's best interest. History has proved him right.

"At a time of national turmoil, our nation was fortunate that he was prepared to take over the helm of the storm-tossed ship of state. He recognized that the nation had to get on with its business and could not, if there was a continuing effort to prosecute former President Nixon. So President Ford made a tough decision and pardoned him.

"I was one of those who spoke out against his action. But time has a way of clarifying things, and now we see that President Ford was right."

General Alexander M. Haig Jr., Mr. Nixon's White House Chief of Staff, concurs. "The passage of time has once again favored the truth and Gerald Ford has rightfully emerged as one of our nation's most courageous leaders," he told me in an interview, adding:

"Despite the risks, President Ford performed a singular and selfless act of courage. Almost 30 years have passed since "Watergate" and the scurrilous accusation that then Vice President Ford had made or considered a secret deal with President Nixon—through me—which traded the presidency of the U.S. for the pardon of Richard Nixon.

Gen. Haig, also one of Ronald Reagan's Secretaries of State, went on to say that the source of this accusation came from individuals who claimed to be acting in the best interests of President Ford, but, that, actually, it was well recognized at the time that the politics surrounding "Watergate" would lead to either the impeachment or the resignation of President Nixon.

"Those who fed the rumors of a deal were actually damaging the reputation, if not the judgment, of our nation's first non-elected president," General Haig recalls. "Having personally informed Vice President Ford of President Nixon's intention to resign, I knew then, and now, that rumors of a deal were wrong-headed or worse. If believed, they would have the consequence of belittling what I have since referred to as a Cincinnatian act of moral courage by President Ford.

"Years later, the Nixon pardon must rank with the most courageous acts of a sitting president. President Ford, almost alone, notwithstanding the advice of some of his most intimate advisors, recognized that the nation could not risk further prolongation of the 'Watergate' controversy and that the very effectiveness of his presidency was at stake."

Jack Anderson, long-time columnist for United Features and Washington Editor of Parade Magazine, remembers Gerald Ford from his days in Congress. "He was never pumped up with self importance," Mr. Anderson says. "Even after he became President, I was able to telephone him, leave a message, and he would return my calls, without a secretary."

Jack Anderson adds: "Even though I was number one on Richard Nixon's 'enemies list,' I agreed with President Ford's pardon of Mr. Nixon because I had learned that he was then in poor psychological condition. . . . It took great political courage to grant the pardon—against public will. So President Ford did what was best for Mr. Nixon and our country rather than what was best for himself. . . ."

Cong. Henry A. Waxman, (D. Calif—29th district), ranking Democrat on the Governmental Reform and Oversight Committee and on the Energy and Commerce Committee, remembers that when he first came to Congress in Jan., 1975, Gerald Ford was President of the U.S.

"At the time, I was critical of his pardon of Richard Nixon," Rep. Waxman told me. "But, looking back now, President Ford took the right action for our country, and I believe history will show him as a president who helped bring the country together."

As a freshman Congressman, Gerald Ford was presented with the American Political Science Association's Distinguished Public Service Award by Ambassador Max M. Kampelman, who today recalls Mr. Ford's rise to the top—"where he well served America at a time of crisis . . . and the 'Profile In Courage' Award is a late, but well-deserved recognition."

Ambassador Kampelman, currently at the Georgetown University Institute for Study of Diplomacy, was the head of the American delegation to the Conference on Security and Cooperation in Europe (1980–3).

During our interview at Washington, D.C.'s Willard Inter-Continental Hotel, Mr. Ford was in an expansive mood while reviewing his life's journey. He evaluated his achievements and assessed the setbacks of his time in the Oval Office, and he reflected on the highs and lows of his 53 years in political life.

What does Gerald Ford most regret as he looks back over a long and distinguished career?

"Well, I wish I were a better public speaker," he allows. "I would have liked to be able to communicate more effectively. That is so very important."

He also regrets not having fulfilled his ambition of becoming Speaker of the House of Representatives. "I lost five times," he laments. "There were not, then, enough Republicans in the House. I wanted to be Speaker because the legislative process interested me, and was the kind of challenge I enjoyed. I was never as enthusiastic about being in the executive branch. I even turned down the chance to run for governor of Michigan."

In fact, he had made plans to retire from Congress in January, 1977. But in 1973, Vice President Spiro T. Agnew's legal and campaign finance problems surfaced; and when he was forced to resign, Rep. Ford was selected as vice president.

Two years ago at the White House, President William Jefferson Clinton presented Gerald Ford with the Presidential Medal of Freedom (America's highest civilian award) for his legacy of healing and restored hope. "From his days as a student and athlete, Gerald Ford was destined for leadership," Mr. Clinton noted. "He was an outstanding player on the Michigan football team in a segregated era, and his horror at the discrimination to which one of his teammates was subjected, spawned in him a life-long commitment to equal rights for all people. He represents what is best in public service and what is best about America.

". . .When steady, trustworthy Gerald Ford left the White House after 895 days, America was stronger, calmer, and more confident . . . more like President Ford himself."

Two months later, (October 1999) in a U.S. Capitol Rotunda ceremony, both Gerald Ford and his wife, Betty, were presented with the Congressional Gold Medal, Congress's highest civilian honor. (He became the first former president to be so honored during his lifetime, and the event marked the first time a president and first lady were honored together.)

Cong. Vernon J. Ehlers (R. Mich), who introduced the legislation to award the medals, said they are a token of appreciation from Congress for the former First Couple's years of sacrifice and contributions . . . "They are living examples of truly great Americans. . . ."

Another speaker was President Clinton, who, after lauding Gerald Ford for his achievements, turned to him and revealed: "When you made your healing decision, you made the Democrats and Liberals angry one day, and you made the Conservatives angry the next day. . . . I was then a young politician trying to get elected to Congress. It was easy for us to criticize you because we were caught up in the moment. You didn't get caught up in the moment . . . and you were right . . . You were right about the controversial decisions you made to keep the country together and I thank you for that."

Donald H. Rumsfeld, U.S. Ambassador to NATO (1973) and one of Mr. Ford's White House Chiefs of Staff and Defense Secretary (1975–1977), who is now again Secretary of Defense, told me that Gerald Ford's basic human decency "helped to replenish the reservoir of trust for our country and I'm delighted that the enormous contributions he made are being recognized."

After a taste of the presidency, Mr. Ford still does not hide his disappointment at losing the 1976 election to Jimmy Carter. "As you well know," Mr. Ford notes, "I tried very hard to win that election. That would have given me a chance to expand individual freedom from mass government, mass industry, mass labor, and mass education."

Despite that election, former Presidents Ford and Carter are close friends and cosponsors of various conferences on world affairs at the Carter Center in Atlanta. And, on the occasion of Gerald Ford's 88th birthday, Jimmy Carter today reflects:

"The recent Profile In Courage Award and the Presidential Medal of Freedom are long overdue recognition of Gerald Ford's importance to our nation. He was a strong leader during a time of great challenge, and his just and noble decisions may well have cost him the election. In the years since then, he and I have worked together on a number of issues. Each time we do so, I am reminded anew of our country's good fortune to have been led by a man of such principled convictions. Not only do we share the special bonds of the presidency, but I am also proud to claim Gerald Ford as my friend."

Eight years ago, for my feature on Gerald Ford's 80th birthday, another former president, Ronald Reagan, who narrowly lost the 1976 presidential nomination to him, told me: "First, I can tell Jerry that turning 80 doesn't hurt at all. Kidding aside, Jerry is an independent thinker and down to earth. He is not impressed with his own importance. That humility has stood him in good stead.

"He climbed to the top of his profession without wavering from his principles. When respect for government officials had begun to wane, he was, and still is, held in high regard."

For that same birthday tribute, former President Nixon told me that he had met Representative Ford in 1949 when he was sworn in to Congress. "I was then a representative from California, and for all these years, we remained good friends," Mr. Nixon said. "In an illustrious career, he became an eminent statesman, and as my vice president, he was an asset.

"Because he understood members of Congress, he was able to encourage them, to appeal to their best qualities and to unite them for the common good. He was admired for his decency and his respect for each individual's rights. And so this milestone gives me the chance to express my gratitude to Jerry Ford for all the good he has done for our nation . . ."

When Gerald Ford became president, he was faced with an overwhelmingly Democratic Congress. He recalls that he "struggled repeatedly" over such issues as government spending, presidential war powers and oversight of the intelligence community. He also advocated reducing the size and role of the federal government through cuts in taxes and spending, paperwork reduction and government deregulation.

In foreign affairs, he recalls, his administration emphasized stronger relationships with American allies, encouraged detente with the Soviet Union, and made progress in negotiating with the Soviets on nuclear weapons. With French President Valery Giscard d'Estaing, he initiated annual international economic summits of the major developed economic nations. In the face of bitter opposition, President Ford signed the Helsinki Final Act, for the first time giving the issue of human rights a real "bite" inside the Soviet bloc, which eventually led directly to Eastern Europe throwing off the shackles of communism. His administration initiated the second Sinai disengagement agreement, further separating Israeli and Egyptian forces and reducing tensions in the Middle East. It also directed the final withdrawal of Americans and refugees from Indochina at the end of the Vietnam War.

President Ford recalls that the saddest day of his presidency was April 30, 1975, "when we had to pull our troops out of Saigon and withdraw from South Vietnam, which soon surrendered to the North Vietnamese."

Asked whether foreign affairs is more pressing today than during his White House tenure, he says, "I don't think it is any more important than when we were faced daily with the nuclear challenge from another superpower—the Soviet Union. Those were tense days.

"Yes, we have problems today in Europe, the Mideast and elsewhere. But they are no more serious than the Cold War days—with all the challenges that then existed."

Mr. Ford points out that President Nixon's skillful maneuvering in the Mideast will go down in the annals of great diplomacy. "In foreign policy," he says, "Richard Nixon is unequaled by any other American president in this century."

How was the presidency evolved since Gerald Ford left the White House 24½ years ago? "The office changes with each president," he says. "Each occupant defines the role and his responsibilities. In my case, I tried to make a difference in my leadership."

He went on to say that he learned about leadership and making decisions while serving as an officer in the US Navy during World War II. "I think," he adds, "I was a better vice president and president because of that military service."

He notes that there is "a majesty" to the presidency that inhibits even close friends and heads of state from telling the chief executive what is actually on their minds—especially in the Oval Office.

"You can ask for blunt truth, but the guarded response never varies," he says. "To keep perspective, any president needs to hear straight talk. And he should, at times, come down from the pedestal the office provides.

"I'm still convinced that truth is the glue that holds government together—not only our government, but civilization itself."

From his experiences, he cautions future presidents about general abuse of power and the dangers of over-reliance on staff.

At the outset of President Bill Clinton's first term, there was criticism of his staff and operation of his White House. Mr. Ford then expressed sympathy for a president undergoing periods of anxiety and disarray, even turmoil.

He noted that he, too, had problems with staff mismanagement. Today, he is still concerned about the image of the presidency, and still concerned that a solution has not been found about overzealous White House employees who are not instructed, from the outset, that they work for the president and for the people—and not the other way around.

He maintains that staff assistants are not elected by the people, and that the president himself needs to determine how much trust to invest in his aides. "Otherwise," he emphasizes, "the ramifications and the consequences of their arrogance and abuse of power—particularly by secondary and lower staff—can be dangerous."

Mr. Ford concurs with one of President Lyndon B. Johnson's press secretaries, George E. Reedy, who wrote in his book, "The Twilight of the Presidency": "Presidents should not hire any assistants under 40 years old who had not suffered any major disappointments in life. When young amateurs find themselves in the West Wing or East Wing of the White House, they begin to think they are little tin gods . . ."

In his autobiography, "A Time to Heal," Mr. Ford wrote: "Reedy had left the White House staff several years before, but he was predicting the climate that had led to 'Watergate.' And that is disturbing."

Born in 1913 in Omaha, Nebraska, to Dorothy Gardner and Leslie Lynch King Jr., Gerald Ford was christened Leslie L. King Jr. His parents divorced when he was two years old. He moved with his mother to Grand Rapids, Mich., where she married Gerald Rudolph Ford, who later adopted the child and gave him his name, Gerald Rudolph Ford Jr.

If he were able to relive his 88 years, what would he do differently?

"I would make no significant changes," he says. "I've been lucky, both in my personal life and professionally. Along the way I tried to improve myself by learning something new in each of the jobs I held. I've witnessed more than my share of miracles . . . I've witnessed the defeat of Nazi tyranny and the destruction of hateful walls that once divided free men from those enslaved.

". . . It has been a grand adventure and I have been blessed every step by a loving wife and supportive family."

He says he will never forget one of the family's worst days in the White House . . . six weeks after they moved in, "Betty received a diagnosis of breast cancer," he recalls. "But her courage in going public with her condition . . . and her candor about her mastectomy increased awareness of the need of examination for early detection, saving countless women's lives."

Six years later (1980), former President and Mrs. Ford dedicated The Betty Ford Diagnostic and Comprehensive Breast Center, in Washington, D.C. (part of Columbia Hospital for Women). The Center's former director, Dr. Katherine Alley, a renowned breast cancer surgeon, says today: "As one of the first women of note to go public with her cancer diagnosis and treatment, Betty Ford helped women to face the disease more openly and with less fear."

Turning to his philosophy of life, Mr. Ford says: "I've always been an optimist and still am. Yes, I suffered a few disappointments and defeats, but I tried to forget about those, and keep a positive attitude. When I was in sports and lost a game by error, or in the political arena, when I lost by a narrow margin, no amount of groaning would do any good. So I don't dwell on the past. I learned to move on and look ahead."

Much as he had yearned to be elected president in his own right in 1976, Gerald Ford is confident that history will record that he "healed America at a very difficult time."

He believes that his presidential leadership for 29 months had steered the U.S. out of that period of turmoil, making it possible to move from despair to a renewed national unity of purpose and progress.

"I also re-established a working relationship between the White House and Congress, one that had been ruptured," he concludes. "All that made an important difference. I consider that to be my greatest accomplishment as president, and I hope historians will record that as my legacy."

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred November 3, 1991 in Houston, TX. Phillip W. Smith was shot to death outside a gay bar in Montrose. Johnny Bryant Darrington III, 20, was charged with murder and aggravated robbery. He told police he hated homosexuals.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Madam President, at the close of business Friday, July 13, 2001, the Federal debt stood at $5,705,050,480,267.56, five trillion, seven hundred five billion, fifty million, four hundred eighty thousand, two hundred sixty-seven dollars and fifty-six cents.

One year ago, July 13, 2000, the Federal debt stood at $5,666,740,000,000, five trillion, six hundred sixty-six billion, seven hundred forty million.

Twenty-five years ago, July 13, 1976, the Federal debt stood at $617,642,000,000, six hundred seventeen billion, six hundred forty-two million, which reflects a debt increase of more than $5 trillion, $5,087,408,480,267.56, five trillion, eighty-seven billion, four hundred eight million, four hundred eighty thousand, two hundred sixty-seven dollars and fifty-six cents during the past 25 years.

ADDITIONAL STATEMENTS

TRIBUTE TO JAMES A. TURNER

• Mr. SHELBY. Madam President, I rise today to pay tribute to a dear friend, James A. Turner of Tuscaloosa, Alabama. Jim Turner was a man of great courage, intelligence and character. We were friends for more than 40 years. I believe America has lost a great patriot with the recent death of James A. Turner.

Born in 1925, Jim grew up on a farm just outside of Tuscaloosa, Alabama. As World War II began, Jim left high school to serve his country. He enlisted in the Marine Corps and served with honor. Indeed, he earned and received the Purple Heart in 1945 on Iwo Jima when a machine gun blinded him during battle.

Jim returned to Alabama and in spite of his blindness earned his undergraduate degree in 1949. He received his juris doctorate from the University of Alabama in 1952. Jim always credited his wife and classmate, Louise, for his success in school. Louise read Jim's textbooks to him so he could keep up with his studies.

Following graduation, Louise joined Jim at their law firm, Turner and Turner. Today, their son, Don, and their grandson, Brian, also work at Turner and Turner. The family law firm has spanned five decades and continues to thrive in Tuscaloosa.

Together, Jim and Louise raised three wonderful sons, Don, Rick and Glenn, who have brought them great joy in life. Their grandchildren, Brian, Lindsay and Brittany; and great-granddaughter Farris, are sources of considerable pride.

Jim was active in his community. He was an active member of the Tuscaloosa Bar Association and also served as President of the Tuscaloosa Bar Association. His family worshiped at United Methodist Church in Alberta.

We have in recent years heard reference to "the Greatest Generation." Many of us have friends and relatives who have served our country and earned the right to wear that mantle. However, I know of few men who lived every day of their lives with the valor, courage, and love of country with which Jim Turner lived his entire life.

Our country has lost a good man and great lawyer, a devoted husband and father, a proud Marine and a loyal American. Words cannot express the respect I have for Jim Turner, nor can they express the sorrow my family and our community feels since this loss.•

TRIBUTE TO MORTIMER CAPLIN

• Mr. WARNER. Madam President, I rise today to honor a man whose lifetime record of achievement and service is the embodiment of the best of America. My friend, Mortimer Caplin, has for 6½ decades honorably served his Nation, his community, and our beloved University of Virginia, amassing an exemplary record of accomplishment of the highest order. I ask unanimous consent that the following remarks made by Robert E. Scott, Dean of the University of Virginia Law School, be printed in the RECORD. These remarks are part of a speech Dean Scott made during the presentation to Mr. Caplin of The Thomas Jefferson Foundation Medal in Law, the University of Virginia's highest honor.

REMARKS OF DEAN ROBERT E. SCOTT UPON THE PRESENTATION OF THE THOMAS JEFFERSON FOUNDATION MEDAL IN LAW TO MORTIMER M. CAPLIN, APRIL 12, 2001

MR. PRESIDENT, MR. RECTOR, AND DISTINGUISHED GUESTS: Today is the 10th, and last time I will stand in this glorious space and introduce a recipient of the Jefferson Medal in Law. None of the prior occasions have given me as much joy and pleasure as the duty I discharge today. It is my great honor to present Mortimer M. Caplin, the 2001 recipient of the Thomas Jefferson Foundation Medal in Law. Mortimer Caplin represents the very best of the University's aspirations for its own. Some people gain distinction by happenstance, by being in the right place at the right time and then rising to the occasion. Mortimer Caplin's reputation rests on a lifetime of achievement. Throughout the nearly seven decades that he has been associated with the University, he has exemplified a singular constancy of excellence. At every step of the way he has shown how talent, courage, persistence and a commitment to service can combine to inspire and transform us. These are exactly the qualities that Mr. Jefferson exemplified in his own life and wanted his University to embody.

Mortimer Caplin was born in New York in 1916. He came to Charlottesville in 1933, graduating from the college in 1937 and the Law School in 1940. As an undergraduate, he not only earned the highest academic honors but excelled at what the University then regarded as the most estimable athletic endeavor its students could undertake, intercollegiate boxing. At the Law School, he displayed the same pattern of remarkable success. He was elected editor-in-chief of the Law Review and went on to serve as law clerk for Judge Armistead Dobie, a former Dean of the Law School who by tradition chose the most outstanding graduate of each class as his assistant.

Mort had barely begun his career as a New York lawyer when World War II broke out. In anticipation of the conflict, he already had enlisted in the Navy and took up his commission shortly after Pearl Harbor. Eager for active duty, he requested a transfer out of the stateside intelligence work that was his first assignment. The Navy responded by making him a beachmaster on Omaha Beach during the Normandy invasion. Facing enemy fire, Mort had to make hard choices quickly to ensure that supplies and reinforcements kept coming. When the occasion required it, he used creativity and imagination to cut through bureaucratic impediments to achieving his essential mission. Thus, when a ship's captain refused to beach his vessel at a time when the ammunition it carried was in short supply along the front and no other method of delivering its cargo presented itself, Mort invented a two-star general whose imaginary order got the job done.

Mort Caplin returned from the war to New York, but not many years later heard the University's call and answered, joining the Law faculty in 1950. For over a decade he taught federal taxation and constitutional law. During this time he produced important scholarship and excelled in the classroom. Perhaps equally important was the leadership role Mortimer Caplin played at the University and in the Charlottesville community. In 1950 Mort led the Law faculty in its unanimous decision to admit Gregory Swanson to the Law School, the first African-American to enroll at the University. Subsequently, Mort was a central figure in organizing the efforts of the Charlottesville community to circumvent the "massive resistance" campaign that Virginia's political leaders had launched at the Supreme Court's desegregation mandate. Mort, along with other law faculty and their spouses worked unceasingly to ensure that neither children nor civil rights suffered during this dark time in Virginia's history.

A brilliant and popular professor, Mort Caplin dazzled his students. One who was especially impressed was Robert F. Kennedy, the younger brother of a rising star in the Democratic Party. Several years later, after that rising star had become the President of the United States, John F. Kennedy appointed his brother's former tax professor as United States Commissioner of Internal Revenue. Mort accepted this challenge with his characteristic energy and good judgment. He led that critically important if sometimes unpopular agency for three years, at a time of significant changes in the United States economy and the tax system. At the end of his term, the Treasury Department granted him the Alexander Hamilton award, the highest possible honor that institution can bestow.

Having traveled to Washington, Mort chose to stay. He recognized the need for a first-rate law firm specializing in tax practice and, with Douglas Drysdale, another Virginia alumnus, founded Caplin & Drysdale.

Shortly after establishing his law firm, Mort resumed his teaching at the Law School. For more than twenty years he taught advanced courses emphasizing the interplay of tax law and practice. For many students at Virginia, tax law with Mortimer Caplin became a springboard for a career both as public servants and as practitioners in the nation's elite law firms. Mort consistently emphasized the importance of a lawyer's independence and judgment, and preached the central obligation of advancing the public interest while serving one's clients. He sought to lead his students to a life in law that would ennoble and dignify the person living it.

During this time of building a prestigious law firm and extending a teaching career, Mort Caplin still found time for significant service to the bar and the general public. He served as President of the Indigent Civil Litigation Fund and on the executive committee of the Washington Lawyers Committee for Civil Rights under Law, on numerous significant committees of the American Bar Association, and various charitable organizations. His service as a trustee of the Law School foundation in particular provided great vision and support during a period of change and growth. In recognition of this service, Mort collected a remarkable number of awards and distinctions, honorary degrees and other testimonials to his generosity and accomplishments.

In 1988, at the age of 72, Mort Caplin became a Professor Emeritus of the University. This simply opened a new phase in his astonishing career of service and dedication to this University and to the profession. Still to come was a five-year term on the University's Board of Visitors and exemplary service to the Law School as chair of the executive committee of our recently concluded capital campaign. When we began the Law School campaign in July 1992, the first person I went to see was Mortimer Caplin. When I asked whether he would lead what would become an eight-year fundraising effort. Mort replied simply, "I'll do it." True to his word, he did. By dint of his example and leadership, the Law School recently concluded the most successful campaign in the history of American legal education.

Mort Caplin remains to this day a central figure in the governance of the Law School and its guidance into the twenty-first century. He has been a driving force behind the Law School's commitment to a broad public vision, as reflected in our decision to dedicate our Public Service Center in his honor. He, in turn, has honored, elevated, and enriched us along every possible dimension.

Mr. President, Mortimer Caplin comes to us today as the embodiment of what Mr. Jefferson envisioned as the best that we Americans have within us. He has lived a life in law as a high calling, one dedicated to advancement of knowledge, service to the nation, husbanding the great resources with which we have been endowed and ensuring that all Americans can take part in our great national banquet and enjoy the opportunities that life in America presents. On behalf of the School of Law and the selection committee, it is my privilege to introduce Mortimer M. Caplin as the 2001 recipient of the Thomas Jefferson Foundation Medal in Law.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2802. A communication from the Director of the Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Disclosure and Amendment of Records Pertaining to Individuals Under the Privacy Act" received on June 26, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2803. A communication from the Director of the Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on June 26, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2804. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Congressional and Intergovernmental Affairs, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2805. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Policy, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2806. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for Administration and Management, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2807. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Chief Financial Officer, EX–IV, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2808. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy in the position of Wage Hour Administrator, EX–V, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2809. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for PWBA, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2810. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary for Congressional and Intergovernmental Affairs, EX–IV, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2811. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary for Policy, EX–IV, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2812. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for VETS, EX–IV, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2813. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy in the position of Director of the Women's Bureau, SL–8, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2814. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Employment and Training Administration, received on June 27 , 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2815. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Solicitor of Labor, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2816. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Secretary of Labor, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2817. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Assistant Secretary, Occupational Safety and Health Administration, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2818. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Assistant Secretary, Employment Standards Administration, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2819. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Deputy Secretary of Labor, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2820. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Solicitor of Labor, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2821. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Director of the Women's Bureau, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2822. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for Mine Safety and Health, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2823. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for Pension and Welfare Benefits Administration, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2824. A communication from the Secretary of Health and Human Services, transmitting, a report entitled "Protections for Children in Research"; to the Committee on Health, Education, Labor, and Pensions.

EC–2825. A communication from the Director of Regulations Policy and Management, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Secondary Direct Food Additives Permitted in Food for Human Consumption" (Doc. No. 00F–1488) received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2826. A communication from the Associate Solicitor for Legislation and Legal Counsel, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Occupational Safety and Health Administration, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2827. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Secretary of Labor, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2828. A communication from the Associate Solicitor for Legislation and Legal Counsel, Department of Labor, transmitting, pursuant to law, the report of the designation of acting officer for the position of Assistant Secretary for Public Affairs, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2829. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the designation of acting officer for the position of Solicitor of Labor, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2830. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Solicitor of Labor, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2831. A communication from the Acting Assistant General Counsel for Regulations, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program" received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2832. A communication from the Director of Regulations Policy and Management, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Requirements for Testing Human Blood Donors for Evidence of Infection Due to Communicable Disease Agents" (Doc. No. 98N–0581) received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2833. A communication from the Director of Regulations Policy and Management, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "General Requirements for Blood, Blood Components, and Blood Derivatives; Donor Notification" (Doc. No. 98N–0607) received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2834. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Tobacco Control Activities in the United States, 1994–1999"; to the Committee on Health, Education, Labor, and Pensions.

EC–2835. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Secretary of Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2836. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Secretary of Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2837. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2838. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Chief Financial Officer, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2839. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Intergovernmental and Interagency Affairs, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2840. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office for Civil Rights, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2841. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Elementary and Secondary Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2842. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Legislation and Congressional Affairs, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2843. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of General Counsel, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2844. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Special Education and Rehabilitative Services, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2845. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Commissioner of Rehabilitative Services Administration, Office of Special Education and Rehabilitative Services, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2846. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Postsecondary Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2847. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Office of Educational Research and Improvement, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2848. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Commissioner of Education Statistics, Office of Educational Research and Improvement, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2849. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Vocational and Adult Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2850. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Management, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2851. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Secretary of Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2852. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Deputy Secretary of Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2853. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Under Secretary, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2854. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Office of Intergovernmental and Interagency Affairs, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2855. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Office of Elementary and Secondary Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2856. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Office of Legislation and Congressional Affairs, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2857. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of General Counsel, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2858. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Office of Educational Research and Improvement, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2859. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination confirmed for the position of Secretary of Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2860. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Secretary of Education , received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2861. A communication from the Acting Director of the United States Office of Personnel Management, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Director, received on June 28, 2001; to the Committee on Governmental Affairs.

EC–2862. A communication from the Acting Director of the United States Office of Personnel Management, transmitting, pursuant to law, the report of a nomination for the position of Director, received on June 28, 2001; to the Committee on Governmental Affairs.

EC–2863. A communication from the Chairman of the Board of Directors of the Corporation for Public Broadcasting, transmitting, pursuant to law, the report of the Office of the Inspector General for the period beginning October 1, 2000 through March 31, 2001; to the Committee on Governmental Affairs.

EC–2864. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the procurement list, received on June 28, 2001; to the Committee on Governmental Affairs.

EC–2865. A communication from the Acting Commissioner of Social Security, transmitting, pursuant to law, the report of the Office of the Inspector General for the period beginning October 1, 2000 through March 31, 2001; to the Committee on Governmental Affairs.

EC–2866. A communication from the Inspector General of the Federal Housing Finance Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period beginning October 1 , 2000 through March 31, 2001; to the Committee on Governmental Affairs.

EC–2867. A communication from the Chairman of the United States Merit Systems Protection Board, transmitting, pursuant to law, the Annual Report for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–2868. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities and National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities" (FRL6997–9) received on June 21, 2001; to the Committee on Environment and Public Works.

EC–2869. A communication from the Principal Deputy Associate Administrator of the

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste" (FRL7001-8) received on June 21, 2001; to the Committee on Environment and Public Works.

EC-2870. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; New Source Review Revision" (FRL6999-6) received on June 27, 2001; to the Committee on Environment and Public Works.

EC-2871. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(1) Authority for Hazardous Air Pollutants; Chemical Accident Prevention; Risk Management Plans; New Jersey Department of Environmental Protection" (FRL6996-7) received on June 27, 2001; to the Committee on Environment and Public Works.

EC-2872. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approvals Under the Paperwork Reduction Act; Technical Amendment" (FRL6771-7) received on June 27, 2001; to the Committee on Environment and Public Works.

EC-2873. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Colorado; Long-Term Strategy of State Implementation Plan for Class I Visibility Protection: Craig Station Requirements" (FRL7005-8) received on June 28, 2001; to the Committee on Environment and Public Works.

EC-2874. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report relative to the Commonwealth of Massachusetts; to the Committee on Environment and Public Works.

EC-2875. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-2876. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Attorney General, Antitrust Division, received on July 9, 2001; to the Committee on the Judiciary.

EC-2877. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Director, Federal Bureau of Investigations, received on July 9, 2001; to the Committee on the Judiciary.

EC-2878. A communication from the Director of the Office of Regulations Management, Board of Veterans' Appeals, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Board of Veterans' Appeals: Rules of Practice—Effect of Procedural Defects in Motions for Revision of Decisions on the Grounds of Clear and Unmistakable Error" (RIN2900-AK74) received on June 11, 2001; to the Committee on Veterans' Affairs.

EC-2879. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice 2001-43" (OGI-124010-01) received on July 2, 2001; to the Committee on Finance.

EC-2880. A communication from the Director of Regulations Policy and Management, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Secondary Direct Food Additives Permitted in Food for Human Consumption" (Doc. No. 00F-1482) received on July 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-2881. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Gypsy Moth Generally Infested Areas" (Doc. No. 01-049-1) received on July 5, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2882. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Extension of Tolerances for Emergency Exemptions (Multiple Chemicals)" (FRL6793-8) received on July 11, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2883. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "National Flood Insurance Program; Clarification of Letter of Map Amendment Determinations" (RIN3067-AD19) received on July 5, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-2884. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Doc. No. FEMA-B-7415) received on July 5, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-2885. A communication from the Assistant Secretary for Export Administration, Bureau of Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Exports of Agricultural Commodities, Medicines and Medical Devices" (RIN0694-AC37) received on July 10, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-2886. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the District of Columbia Budget for Fiscal Year 2002 and the Financial Plans for Fiscal Years 2002-2005; to the Committee on Governmental Affairs.

EC-2887. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Comparative Analysis of Actual Cash Collections to Revenue Estimates for the 2nd Quarter of Fiscal Year 2001"; to the Committee on Governmental Affairs.

EC-2888. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Disaster Assistance Debris Removal" (RIN3067-AD08) received on July 5, 2001; to the Committee on Environment and Public Works.

EC-2889. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution District" (FRL6995-7) received on July 5, 2001; to the Committee on Environment and Public Works.

EC-2890. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the California State Implementation Plan, Bay Area Air Quality Management District, El Dorado County Air Pollution Control District" (FRL7005-1) received on July 5, 2001; to the Committee on Environment and Public Works.

EC-2891. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plan for Texas: Transportation Control Measures Rule" (FRL7010-9) received on July 10, 2001; to the Committee on Environment and Public Works.

EC-2892. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans: Alabama: Nitrogen Oxides Budget and Allowance Trading Program" (FRL7012-1) received on July 10, 2001; to the Committee on Environment and Public Works.

EC-2893. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Houston/Galveston Volatile Organic Compound Reasonably Available Control Technology Revision" (FRL7001-6) received on July 10, 2001; to the Committee on Environment and Public Works.

EC-2894. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills" (FRL6997-8) received on July 10, 2001; to the Committee on Environment and Public Works.

EC-2895. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Regulation of Fuel and Fuel Additives: Reformulated Gasoline Adjustment" (FRL7011-2) received on July 10, 2001; to the Committee on Environment and Public Works.

EC-2896. A communication from the Principal Deputy Associate Administrator or the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Indiana" (FRL7004-1) received on July 13, 2001; to the Committee on Environment and Public Works.

EC-2897. A communication from the Principal Deputy Associate Administrator of the

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Request for Reproposals: For the Operation of the Intergrated Atmospheric Deposition Network (IADN)" received on July 13, 2001; to the Committee on Environment and Public Works.

EC–2898. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "SOLICITATION: To Promote the Use of Market Based Mechanisms to Address Environmental Issues—Financial Component" received on July 13, 2001; to the Committee on Environment and Public Works.

EC–2899. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Process for Exempting Quarantine and Preshipment Applications of Methyl Bromide" (FRL7014–5) received on July 13, 2001; to the Committee on Environment and Public Works.

EC–2900. A communication from the Director of the Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary of Indian Affairs, received on July 11, 2001; to the Committee on Indian Affairs.

EC–2901. A communication from the Deputy Assistant Secretary of Indian Affairs (Management), Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "25 CFR Part 11, Law and Order on Indian Reservations" (RIN1076–AE19) received on July 13, 2001; to the Committee on Indian Affairs.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of January 3, 2001, the following reports of committees were submitted on July 13, 2001:

By Mrs. MURRAY, from the Committee on Appropriations, without amendment:

S. 1178: An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes (Rept. No. 107–38).

By Mr. REID, from the Committee on Appropriations:

Report to accompany S. 1171, An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes (Rept. No. 107–39).

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2002." (Rept. No. 107–40).

The following reports of committees were submitted on July 16, 2001:

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 180: A bill to facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

S. 494: A bill to provide for a transition to democracy and to promote economic recovery in Zimbabwe.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated, on July 13, 2001:

By Mrs. MURRAY:

S. 1178. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated, today:

By Mr. JOHNSON (for himself and Mr. CRAIG):

S. 1179. A bill to amend the Richard B. Russell National School Lunch Act to ensure an adequate level of commodity purchases under the school lunch program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. EDWARDS:

S. 1180. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating the International Civil Rights Center and Museum in the State of North Carolina as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LUGAR (for himself and Mr. BAYH):

S. 1181. A bill to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes "Bud" Hillis Post Office Building"; to the Committee on Governmental Affairs.

By Mr. HOLLINGS:

S. 1182. A bill to direct the Secretary of the Army to lease land at the Richard B. Russell Dam and Lake Project, South Carolina, to the South Carolina Department of Commerce, and for other purposes; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 1183. A bill to authorize the modification of a pump station intake structure and discharge line of the Fort Fairfield, Maine, flood control project at full Federal expense; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROCKEFELLER (for himself and Mr. BYRD):

S. Res. 134. A resolution authorizing that the Senate office of Senator John D. Rockefeller IV be used to collect donations of clothing from July 13, 2001, until July 20, 2001, from concerned Members of Congress and staff to assist the West Virginia families suffering from the recent disaster of flooding and storms; considered and agreed to.

ADDITIONAL COSPONSORS,

S. 29

At the request of Mr. BOND, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 124

At the request of Mr. BROWNBACK, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 124, a bill to exempt agreements relating to voluntary guidelines governing telecast material, movies, video games, Internet content, and music lyrics from the applicability of the antitrust laws, and for other purposes.

S. 127

At the request of Mr. MCCAIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

S. 180

At the request of Mr. FRIST, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Kentucky (Mr. BUNNING), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 180, a bill to facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

S. 258

At the request of Mrs. LINCOLN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 258, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of annual screening pap smear and screening pelvic exams.

S. 388

At the request of Mr. MURKOWSKI, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 388, a bill to protect the energy and security of the United States and decrease America's dependency on foreign oil sources to 50% by the year 2011 by enhancing the use of renewable energy resources conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies; improve environmental quality by reducing emissions of air pollutants and greenhouse gases; mitigate the effect of increases in energy prices on the American consumer, including the poor and the elderly; and for other purposes.

S. 389

At the request of Mr. MURKOWSKI, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Mississippi (Mr. COCHRAN), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 389, a bill to protect the energy and security of the United States and decrease America's dependency on foreign oil sources to 50% by the year 2011 by enhancing the use of renewable energy resources conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies; improve environmental quality by reducing emissions of air pollutants and greenhouse gases; mitigate the effect of increases in energy prices on the American consumer, including the poor and the elderly; and for other purposes.

S. 454

At the request of Mr. BINGAMAN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 472

At the request of Mr. DOMENICI, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 472, a bill to ensure that nuclear energy continues to contribute to the supply of electricity in the United States.

S. 486

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

At the request of Mr. DOMENICI, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 543, supra.

S. 550

At the request of Mr. DASCHLE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 550, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 661

At the request of Mr. THOMPSON, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. 661, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 701

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to provide special rules for the charitable deduction for conservation contributions of land by eligible farmers and ranchers, and for other purposes.

S. 778

At the request of Mr. HAGEL, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

S. 781

At the request of Mr. AKAKA, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 781, a bill to amend section 3702 of title 38, United States Code, to extend the authority for housing loans for members of the Selected Reserve.

S. 808

At the request of Mr. BAUCUS, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 808, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 829

At the request of Mr. BROWNBACK, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Minnesota (Mr. WELLSTONE), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 829, a bill to establish the National Museum of African American History and Culture within the Smithsonian Institution.

S. 847

At the request of Mr. DAYTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 860

At the request of Mr. GRASSLEY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 871

At the request of Mr. CLELAND, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 871, a bill to amend chapter 83 of title 5, United States Code, to provide for the computation of annuities for air traffic controllers in a similar manner as the computation of annuities for law enforcement officers and firefighters.

S. 913

At the request of Ms. SNOWE, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 937

At the request of Mr. CLELAND, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 937, a bill to amend title 38, United States Code, to permit the transfer of entitlement to educational assistance under the Montgomery GI Bill by members of the Armed Forces, and for other purposes.

S. 942

At the request of Mr. GRAHAM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 942, a bill to authorize the supplemental grant for population increases in certain states under the temporary assistance to needy families program for fiscal year 2002.

S. 1005

At the request of Mr. JEFFORDS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1005, a bill to provide assistance to mobilize and support United States communities in carrying out community-based youth development programs that assure that all youth have access to programs and services that build the competencies and character development needed to fully prepare the youth to become adults and effective citizens, and for other purposes.

S. RES. 71

At the request of Mr. HARKIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. RES. 119

At the request of Mr. BAYH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 119, a resolution combating the Global AIDS pandemic.

S. RES. 121

At the request of Mr. KERRY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 121, a resolution expressing the sense of the Senate regarding the policy of the United States at the 53rd Annual Meeting of the International Whaling Commission.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 45

At the request of Mr. FITZGERALD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

S. CON. RES. 53

At the request of Mr. HAGEL, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Iowa (Mr. GRASSLEY), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

S. CON. RES. 59

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. Con. Res. 59, a concurrent resolution expressing the sense of Congress that there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (for himself and Mr. BAYH):

S. 1181. A bill to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes "Bud" Hillis Post Office Building"; to the Committee on Governmental Affairs.

Mr. LUGAR. Madam President, I would like to take this opportunity to pay tribute to a distinguished Hoosier and tireless public servant, former Congressman Bud Hillis.

My colleague, Mr. BAYH, and I are introducing legislation to honor Congressman Hillis by naming the Post Office in Kokomo, Indiana the Elwood Haynes "Bud" Hillis Post Office.

Congressman Hillis honorably served the people of Indiana's 5th District in the House of Representatives from 1971 to 1986. Congressman Hillis was a fair and reasonable voice on national security, trade, and veterans' issues. A graduate of Indiana's Culver Military Academy, he enlisted in the Army at the age of 18 and fought in the World War II European Theater as an infantryman for 27 months. After leaving active duty as a first lieutenant, Bud Hillis attended Indiana University and the Indiana University School of Law. He went on to practice law in Howard County, Indiana, and served as Chairman of the county bar association.

Before being elected to Congress in 1970, Congressman Hillis served two terms in the Indiana House of Representatives.

The 1970s and early 1980's were difficult times for many in Indiana's 5th District. A downturn in the auto industry during the recession brought unemployment in some of the district's more highly industrialized communities to over 15 percent. He founded the Congressional Auto Task Force and he helped to round up votes in 1979 to pass legislation that I had sponsored here in the Senate to guarantee loans to the struggling Chrysler Corporation, an employer of more than 60,000 Hoosiers at the time. In 1983, he worked to protect the auto industry from Japanese imports by extending a voluntary restraint agreement. He was a strong force on the Congressional Steel Caucus and served as Vice President of the executive committee.

As a member of the Armed Services Committee, Congressman Hillis was a dependable ally of the Reagan military build-up that helped to bring an end to the Cold War. He supported American service men by backing enlistment bonuses for military personnel and was a proponent of reinstating draft registration, which had ended with the Vietnam War. Further, he was instrumental in development and deployment of the M–1 tank and the preservation of Grissom Air Force Reserve Base in Peru, Indiana.

Congressman Hillis also took a personal interest with the veterans of our Nation. As a member of the Veterans' Affairs Committee, he was a leader in improving health care for veterans and was instrumental in the construction of the community-based outpatient clinic in Crown Point, IN.

Congressman Bud Hillis has a distinguished record of service to his country and to the people of Indiana. The dedication of the post office in Kokomo, Indiana, a city that continues to be involved deeply with the American auto industry that Congressman Hillis supported so strongly, would be a fitting tribute for such an honorable statesman.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ELWOOD HAYNES "BUD" HILLIS POST OFFICE BUILDING.

(a) IN GENERAL.—The facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, shall be known and designated as the "Elwood Haynes 'Bud' Hillis Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Elwood Haynes "Bud" Hillis Post Office Building.

By Mr. HOLLINGS:

S. 1182. A bill to direct the Secretary of the Army to lease land at the Richard B. Russell Dam and Lake Project, South Carolina, to the South Carolina Department of Commerce, and for other purposes; to the Committee on Environment and Public Works.

Mr. HOLLINGS. Madam President, I rise today to introduce legislation that will provide economic stimulation to one of the poorest counties in South Carolina. This legislation will allow the South Carolina Department of Commerce, SCDOC, to proceed with a project that began almost a decade ago. Well, actually the project began long before that, way back when the Army Corps of Engineers built Lake Richard B. Russell in 1984.

Lake Russell is a 26,000-acre freshwater lake on the South Carolina-Georgia border and was very controversial when originally proposed by the Army Corps of Engineers. Enhancement of economic development in the region was a main selling point of the Corps to overcome State, local and environmental objections to the lake. Yet, to date, virtually no development has occurred despite efforts from South Carolina's Department of Commerce. Today, there is not a single room for rent by the public within sight of, or within reasonable walking distance of, the lake. There is only one gas pump on the entire lake and that is at a State park.

Following the completion of Lake Russell in 1984, the Department of Commerce and Abbeville County began a plan for the development of a lakefront golf and vacation resort. The Department contracted with a development company in 1997 to develop the project, but in 1998, due to financial difficulties, construction was suspended and the developer defaulted on its Development Agreement with SCDOC. As a result of this default, the Commerce Department terminated the agreement and the property was returned to the State.

In January 1999, in an attempt to complete this project, SCDOC solicited proposals from various qualified developers. After consideration of several proposals, a developer was selected that had a history of successful developments throughout the State of South Carolina. However, in order for the project to be successful, changes to the current lease have to be made. These changes are reflected by the proposed legislation.

When drafting this legislation, I wanted to address several points that may cause concern. First, I wanted to make sure the public had an opportunity to be involved throughout the process. Second, I wanted to make sure any additional land that was included in the project would be mitigated by providing lands with similar ecological values and habitat. And third, I wanted to ensure that this project would be economically viable. I believe the legislation does this.

Like I said, the legislation is simple and will bring economic development to a county that has longed for it. By completing this project, Abbeville County will be able to take advantage of the economic stimulation created by vacationers and tourism from the surrounding major cities, which include Atlanta, Macon, Columbia, Greenville, and Augusta. This economic development was promised when the lake was built in 1984 and I believe we should honor our commitment.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 134—AUTHORIZING THAT THE SENATE OFFICE OF SENATOR JOHN D. ROCKEFELLER IV BE USED TO COLLECT DONATIONS OF CLOTHING FROM JULY 13, 2001, UNTIL JULY 20, 2001, FROM CONCERNED MEMBERS OF CONGRESS AND STAFF TO ASSIST THE WEST VIRGINIA FAMILIES SUFFERING FROM THE RECENT DISASTER OF FLOODING AND STORMS

Mr. ROCKEFELLER (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 134

Whereas southern West Virginia has been devastated by recent flash flooding;

Whereas 2 West Virginians tragically lost their lives in the recent flooding;

Whereas thousands of West Virginians have been left homeless, and many more have severe damage to their homes and personal property, and many do not have safe drinking water or electric power because of the flooding; and

Whereas on July 5, 2001, President Bush amended the Federal Disaster Declaration to cover 18 West Virginia counties, including Boone, Cabell, Calhoun, Clay, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Preston, Putnam, Raleigh, Roane, Summers, Wayne, and Wyoming: Now, therefore, be it

Resolved, That the Senate office of Senator John D. Rockefeller IV is authorized to collect donations of clothing from July 13, 2001, until July 20, 2001, from concerned Members and staff to assist the West Virginia families suffering from the recent disaster of flooding and storms.

AMENDMENTS SUBMITTED AND PROPOSED

SA 977. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 974 submitted by Mr. LEAHY and intended to be proposed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes; which was ordered to lie on the table.

SA 978. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 333, supra; which was ordered to lie on the table.

SA 979. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 974 submitted by Mr. LEAHY and intended to be proposed to the bill (H.R. 333) supra; which was ordered to lie on the table.

SA 980. Mr. REID (for Mr. BYRD (for himself and Mr. STEVENS)) proposed an amendment to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

TEXT OF AMENDMENTS

SA 977. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 974 submitted by Mr. LEAHY and intended to be proposed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STUDY OF THE EFFECT OF THE BANKRUPTCY REFORM ACT OF 2001.

(a) STUDY.—The General Accounting Office (in this section referred to as the "GAO") shall conduct a study to determine—

(1) the impact of this Act and the amendments made by this Act on—

(A) the number of filings under chapter 7 and chapter 13 of title 11, United States Code;

(B) the number of plan confirmations under chapter 13 of title 11, United States Code, and the number of such plans that are successfully completed; and

(C) the cost of filing for bankruptcy under chapter 7 and chapter 13 of title 11, United States Code, in each State;

(2) the effect of the enactment of this Act on—

(A) the availability and marketing of credit; and

(B) the price and terms of credit for consumers; and

(3) the extent to which this Act and the amendments made by this Act impact the ability of debtors below median income to obtain bankruptcy relief.

(b) REPORT TO CONGRESS.—Not later than 2 years after the effective date of this Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a).

(c) DATA COLLECTION BY UNITED STATES TRUSTEES.—

(1) IN GENERAL.—The Director of the Executive Office for United States Trustees shall collect data on the number of reaffirmations by debtors under title 11, United States Code, the identity of the creditors in such reaffirmations, and the type of debt that is reaffirmed.

(2) AVAILABILITY.—Periodically, but not less than annually, the Director shall make available to the public the data described in paragraph (1) in such manner as the Director may determine.

SA 978. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 333, to amend title 11, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 313, relating to the definition of household goods and antiques.

SA 979. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 974 submitted by Mr. LEAHY and intended to be proposed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 313, relating to the definition of household goods and antiques.

SA 980. Mr. REID (for Mr. BYRD (for himself and Mr. STEVENS)) proposed an amendment to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $152,402,000, to remain available until expended.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,570,798,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104–303; and of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 12, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock and Dam 3, Mississippi River, Minnesota; and London Locks and Dam, and Kanawha River, West Virginia, projects; and of which funds are provided for the following projects in the amounts specified:

Red River Emergency Bank Protection, AR, $4,500,000;

Indianapolis Central Waterfront, Indiana, $5,000,000;

Southern and Eastern Kentucky, Kentucky, $2,500,000:

Provided, That using $200,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct, at full Federal expense, technical studies of individual ditch systems identified by the State of Hawaii, and to assist the State in diversification by helping to define the cost of repairing and maintaining selected ditch systems: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,300,000 of the funds appropriated herein to continue construction of the navigation project at Kaumalapau Harbor, Hawaii: *Provided further*, That with $800,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Brunswick County Beaches, North Carolina-Ocean Isle Beach portion in accordance with the General Reevaluation Report approved by the Chief of Engineers on May 15, 1998: *Provided further*, That $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 to undertake the Bowie County Levee Project, which is defined as Alternative B Local Sponsor Option, in the Corps of Engineers document entitled Bowie County Local Flood Protection, Red River, Texas, Project Design Memorandum No. 1, Bowie County Levee, dated April 1997: *Provided further*, That the Secretary of the Army is directed to use $4,000,000 of the funds provided herein for Dam safety and Seepage/Stability Correction Program to continue construction of seepage control features at Waterbury Dam, Vermont: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $41,100,000 of the funds appropriated herein to proceed with planning, engineering, design or construction of the following elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project:

$4,500,000 for the Clover Fork, Kentucky, element of the project;

$1,000,000 for the City of Cumberland, Kentucky, element of the project;

$1,650,000 for the town of Martin, Kentucky, element of the project;

$2,100,000 for the Pike County, Kentucky, element of the project, including $1,100,000 for additional studies along the tributaries of the Tug Fork and continuation of a Detailed Project Report for the Levisa Fork;

$3,850,000 for the Martin County, Kentucky, element of the project;

$950,000 for the Floyd County, Kentucky, element of the project;

$600,000 for the Harlan County element of the project;

$800,000 for additional studies along tributaries of the Cumberland River in Bell County, Kentucky;

$18,600,000 to continue work on the Grundy, Virginia, element of the project;

$450,000 to complete the Buchanan County, Virginia, Detailed Project Report;

$700,000 to continue the Dickenson County, Detailed Project Report;

$1,500,000 for the Lower Mingo County, West Virginia, element of the project;

$600,000 for the Upper Mingo County, West Virginia, element of the project;

$600,000 for the Wayne County, West Virginia, element of the project;

$3,200,000 for the McDowell County element of the project:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the Dickenson County Detailed Project Report as generally defined in Plan 4 of the Huntington District Engineer's Draft Supplement to the Section 202 General Plan for Flood Damage Reduction dated April 1997, including all Russell Fork tributary streams within the County and special considerations as may be appropriate to address the unique relocations and resettlement needs for the flood prone communities within the County.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a and 702g–1), $328,011,000, to remain available until expended.

Operation and Maintenance, General

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,833,263,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that Fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601), may be derived from that account for construction, operation, and maintenance of outdoor recreation facilities: *Provided*, That of funds appropriated herein, for the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Secretary of the Army, acting through the Chief of Engineers, is directed to reimburse the State of Delaware for normal operation and maintenance costs incurred by the State of Delaware for the SR1 Bridge from station 58+00 to station 293+00 between May 12, 1997 and September 30, 2002. Reimbursement costs shall not exceed $1,277,000: *Provided*, That the Secretary of the Army is directed to use $2,000,000 of funds appropriated herein to remove and reinstall the docks and causeway, in kind, at Astoria East Boat Basin, Oregon: *Provided further*, That $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to dredge a channel from the mouth of Wheeling Creek to Tunnel Green Park in Wheeling, West Virginia.

Regulatory Program

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $128,000,000, to remain available until expended.

Formerly Utilized Sites Remedial Action Program

For expenses necessary to clean up contamination from sites throughout the United States resulting from work performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended.

General Expenses

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Water Resources Support Center, and headquarters support functions at the USACE Finance Center, $153,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices.

Administrative Provisions

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

Corps of Engineers—Civil

SEC. 101. Agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the Rivers and Harbor Act of 1915, Public Law 64–291; section 11 of the River and Harbor Act of 1925, Public Law 68–585; the Civil Functions Appropriations Act, 1936, Public Law 75–208; section 215 of the Flood Control Act of 1968, as amended, Public Law 90–483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended (Public Law 99–662); section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102–580; section 211 of the Water Resources Development Act of 1996, Public Law 104–303, and any other specific project authority, shall be limited to credits and reimbursements per project not to exceed $10,000,000 in each fiscal year, and total credits and reimbursements for all applicable projects not to exceed $50,000,000 in each fiscal year.

SEC. 102. ST. GEORGES BRIDGE, DELAWARE. None of the funds made available in this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, including a hearing or any other activity relating to preparation of an environmental impact statement concerning the closure or removal.

SEC. 103. The Secretary may not expend funds to accelerate the schedule to finalize the Record of Decision for the revision of the Missouri River Master Water Control Manual and any associated changes to the Missouri River Annual Operating Plan.

TITLE II

DEPARTMENT OF THE INTERIOR

Central Utah Project

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, $34,918,000, to remain available until expended, of which $10,749,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account of the Central Utah Project Completion Act and shall be available to carry out activities authorized under that Act.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,310,000, to remain available until expended.

Bureau of Reclamation

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $732,496,000, to remain available until expended, of which $14,649,000 shall be available for transfer to the Upper Colorado River Basin Fund and $31,442,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which $8,000,000 shall be for on-reservation water development, feasibility studies, and related administrative costs under Public Law 106–163; of which not more than 25 percent of the amount provided for drought emergency assistance may be used for financial assistance for the preparation of cooperative drought contingency plans under title II of Public Law 102–250; and of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601–6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: *Provided further*, That section 301 of Public Law 102–250, Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting "2001, and 2002" in lieu of "and 2001": *Provided further*, That the amount authorized for Indian municipal, rural, and industrial water features by section 10 of Public Law 89–108, as amended by section 8 of Public Law 99–294, section 1701(b) of Public Law 102–575, Public Law 105–245, and Public Law 106–60 is increased by $2,000,000 (October 1998 prices).

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $7,215,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–4221): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $26,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $280,000, to remain available until expended: *Provided*, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $55,039,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102–575.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $52,968,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed four passenger motor vehicles for replacement only.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106–60.

SEC. 202. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: *Provided*, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

SEC. 203. The Secretary of the Interior is authorized and directed to use not to exceed $1,000,000 of the funds appropriated under title II to refund amounts received by the United States as payments for charges assessed by the Secretary prior to January 1, 1994 for failure to file certain certification or reporting forms prior to the receipt of irrigation water, pursuant to sections 206 and 224(c) of the Reclamation Reform Act of 1982 (96 Stat. 1226, 1272; 43 U.S.C. 390ff, 390ww(c)), including the amount of associated interest assessed by the Secretary and paid to the United States pursuant to section 224(i) of the Reclamation Reform Act of 1982 (101 Stat. 1330–268; 43 U.S.C. 390ww(i)).

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for energy supply, and uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 17 passenger motor vehicles for replacement only, $736,139,000 to remain available until expended.

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion, $228,553,000, to remain available until expended.

URANIUM FACILITIES MAINTENANCE AND REMEDIATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to maintain, decontaminate, decommission, and otherwise remediate uranium processing facilities, $408,725,000, of which $287,941,000 shall be derived from the Uranium Enrichment Decontamination and Decommissioning Fund, all of which shall remain available until expended.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 25 passenger motor vehicles for replacement only, $3,268,816,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $25,000,000, to remain available until expended and to be derived from the Nuclear Waste Fund: *Provided*, That $2,500,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended: *Provided further*, That $6,000,000 shall be provided to affected units of local governments, as defined in Public Law 97–425, to conduct appropriate activities pursuant to the Act: *Provided further*, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by Public Law 97–425 and this Act. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That all proceeds and recoveries by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982 in Public Law 97–425, as amended, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $208,948,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $137,810,000 in fiscal year 2002 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation from the General Fund estimated at not more than $71,138,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 11 for replacement only), $6,062,891,000, to remain available until expended.

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, Defense Nuclear Nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $880,500,000, to remain available until expended: *Provided*, That not to exceed $7,000 may be used for official reception and representation expenses for national security and nonproliferation (including transparency) activities in fiscal year 2002.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, $688,045,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator of the National Nuclear Security Administration, including official reception and representation expenses (not to exceed $15,000), $15,000,000, to remain available until expended.

OTHER DEFENSE RELATED ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of 30 passenger motor vehicles, of which 27 shall be for replacement only, $5,389,868,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, $1,080,538,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), $157,537,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $564,168,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $250,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $1,500. For the purposes of appropriating funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration up to $2,000,000,000 in borrowing authority is authorized to be appropriated, subject to subsequent annual appropriations, to remain outstanding at any given time: *Provided*, That the obligation of such borrowing authority shall not exceed $0 in fiscal year 2002 and that the Bonneville Power Administration shall not obligate more than $374,500,000 of its permanent borrowing in fiscal year 2002.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $4,891,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, up to $8,000,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $28,038,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $5,200,000 in reimbursements, to remain available until expended: *Provided*, That up to $1,512,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $169,465,000, to remain available until expended, of which $163,951,000 shall be derived from the Department of the Interior

Reclamation Fund: *Provided*, That of the amount herein appropriated, $6,091,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That up to $152,624,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $2,663,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $181,155,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $181,155,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2002 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation from the General Fund estimated at not more than $0.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. (a) None of the funds appropriated by this Act may be used to award a management and operating contract unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 302. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy,

under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 303. None of the funds appropriated by this Act may be used to augment the $20,000,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request subject to approval by the appropriate Congressional committees.

SEC. 304. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 306. Of the funds in this Act or any other Act provided to government-owned, contractor-operated laboratories, not to exceed 6 percent shall be available to be used for Laboratory Directed Research and Development.

SEC. 307. None of the funds in this Act may be used to dispose of transuranic waste in the Waste Isolation Pilot Plant which contains concentrations of plutonium in excess of 20 percent by weight for the aggregate of any material category on the date of enactment of this Act, or is generated after such date. For the purposes of this section, the material categories of transuranic waste at the Rocky Flats Environmental Technology Site include: (1) ash residues; (2) salt residues; (3) wet residues; (4) direct repackage residues; and (5) scrub alloy as referenced in the "Final Environmental Impact Statement on Management of Certain Plutonium Residues and Scrub Alloy Stored at the Rocky Flats Environmental Technology Site".

SEC. 308. The Administrator of the National Nuclear Security Administration may authorize the plant manager of a covered nuclear weapons production plant to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such plant in order to maintain and enhance such capabilities at such plant: *Provided*, That of the amount allocated to a covered nuclear weapons production plant each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: *Provided further*, That for purposes of this section, the term "covered nuclear weapons production plant" means the following:

(1) The Kansas City Plant, Kansas City, Missouri.

(2) The Y–12 Plant, Oak Ridge, Tennessee.

(3) The Pantex Plant, Amarillo, Texas.

(4) The Savannah River Plant, South Carolina.

SEC. 309. Notwithstanding any other law, and without fiscal year limitation, each Federal Power Marketing Administration is authorized to engage in activities and solicit, undertake and review studies and proposals relating to the formation and operation of a regional transmission organization.

SEC. 310. The Administrator of the National Nuclear Security Administration may authorize the manager of the Nevada Operations Office to engage in research, development, and demonstration activities with respect to the development, test, and evaluation capabilities necessary for operations and readiness of the Nevada Test Site: *Provided*, That of the amount allocated to the Nevada Operations Office each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs at the Nevada Test Site, not more than an amount equal to 2 percent of such amount may be used for these activities.

SEC. 311. DEPLETED URANIUM HEXAFLUORIDE. Section 1 of Public Law 105–204 is amended in subsection (b)—

(1) by inserting "except as provided in subsection (c)," after "1321–349),"; and

(2) by striking "fiscal year 2002" and inserting "fiscal year 2005".

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $66,290,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $18,500,000, to remain available until expended.

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, $20,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, $40,000,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $15,000), and purchase of promotional items for use in the recruitment of individuals for employment, $516,900,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $23,650,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $468,248,000 in fiscal year 2002 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That, $700,000 of the funds herein appropriated for regulatory reviews and other assistance to Federal agencies and States shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at not more than $43,652,000: *Provided further*, That, notwithstanding any other provision of law, no funds made available under this or any other Act may be expended by the Commission to implement or enforce 10 C.F.R. Part 35, as adopted by the Commission on October 23, 2000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $5,500,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at $5,432,000 in fiscal year 2002 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at not more than $68,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $3,500,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of title 18, United States Code.

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

This Act may be cited as the "Energy and Water Development Appropriations Act, 2002".

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee has scheduled a hearing to consider the nomination of Dan R. Brouillette to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

The hearing will take place on Wednesday, July 18, at 9 a.m. in room 366 of the Dirksen Senate Office Building.

Those wishing to submit written statements on the nominations should address them to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510. For further information, please contact Sam Fowler at 202/224–7571.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Space of the Committee on Commerce, Science, and Transportation be authorized to meet on "Holes in the Net: Security Risks and the Consumer," on Monday, July 16, 2001, at 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Roger Cockrell and James Crum, Appropriations Committee detailees from the U.S. Corps of Engineers, Camille Anderson of the committee staff, and Dr. Pete Lyons from Senator DOMENICI's staff be granted privileges of the floor for the duration of the consideration of the bill now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

On July 12, 2001, the Senate amended and passed H.R. 2217, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2217) entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $775,962,000, to remain available until expended, of which $700,000 is for riparian management projects in the Rio Puerco watershed, New Mexico, and of which $1,000,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E)(xii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act; of which $4,000,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487 (16 U.S.C. 3150); and of which not to exceed $1,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–6a(i)); and of which $3,000,000 shall be available in fiscal year 2002 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation, to such Foundation for cost-shared projects supporting conservation of Bureau lands and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred; in addition, $32,298,000 for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $775,962,000, and $2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities: Provided, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors: Provided further, That of the amount provided, $28,000,000 is for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided further, That balances in the Federal Infrastructure Improvement account shall be transferred to and merged with this appropriation, and shall remain available until expended.

WILDLAND FIRE MANAGEMENT

For necessary expenses for fire preparedness, suppression operations, fire science and research, emergency rehabilitation, hazardous fuels reduction, and rural fire assistance by the Department of the Interior, $589,421,000, to remain available until expended, of which not to exceed $19,774,000 shall be for the renovation or construction of fire facilities: Provided, That not less than $111,255,000 of the funds available for hazardous fuels reduction under this heading shall be for alleviating immediate emergency threats to urban wildland interface areas as defined by the Secretary of the Interior: Provided further, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: Provided further, That unobligated balances of amounts previously appropriated to the "Fire Protection" and "Emergency Department of the Interior

Firefighting Fund" may be transferred and merged with this appropriation: Provided further, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: Provided further, That notwithstanding 42 U.S.C. 1856d, sums received by a bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., protection of United States property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without fiscal year limitation: Provided further, That using the amounts designated under this title of this Act, the Secretary of the Interior may enter into procurement contracts, grants, or cooperative agreements, for hazardous fuels reduction activities, and for training and monitoring associated with such hazardous fuels reduction activities, on Federal land, or on adjacent non-Federal land for activities that benefit resources on Federal land: Provided further, That the costs of implementing any cooperative agreement between the Federal government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: Provided further, That in entering into such grants or cooperative agreements, the Secretary may consider the enhancement of local and small business employment opportunities for rural communities, and that in entering into procurement contracts under this section on a best value basis, the Secretary may take into account the ability of an entity to enhance local and small business employment opportunities in rural communities, and that the Secretary may award procurement contracts, grants, or cooperative agreements under this section to entities that include local non-profit entities, Youth Conservation Corps or related partnerships, or small or disadvantaged businesses: Provided further, That funds appropriated under this head may be used to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act in connection with wildland fire management activities.

For an additional amount to cover necessary expenses for burned areas rehabilitation and fire suppression by the Department of the Interior, $70,000,000, to remain available until expended, of which $50,000,000 is for wildfire suppression and $20,000,000 is for burned areas rehabilitation: Provided, That the entire amount appropriated in this paragraph is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That these funds shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), $9,978,000, to remain available until expended: Provided, That notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account to be available until expended without further appropriation: Provided further, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $12,976,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–6907), $220,000,000, of which not to exceed $400,000 shall be available for administrative expenses and of which $50,000,000 is for the conservation activities defined in section 250(c)(4)(E)(xiii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than $100.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579, including administrative expenses and acquisition of lands or waters, or interests therein, $45,686,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $106,061,000, to remain available until expended: Provided, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEMS HEALTH AND RECOVERY FUND

(REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102–381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, and monitoring salvage timber sales and forest ecosystem health and recovery activities such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181–1 et seq., and Public Law 103–66) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,000,000, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: Provided, That notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: Provided further, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on her certificate, not to exceed $10,000: Provided, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards: Provided further, That section 28f(a) of title 30, United States Code, is amended:

(1) In section 28f(a), by striking the first sentence and inserting, "The holder of each

unpatented mining claim, mill, or tunnel site, located pursuant to the mining laws of the United States, whether located before, on or after the enactment of this Act, shall pay to the Secretary of the Interior, on or before September 1 of each year for years 2002 through 2006, a claim maintenance fee of $100 per claim or site''; and

(2) In section 28g, by striking ''and before September 30, 2001'' and inserting in lieu thereof ''and before September 30, 2006''.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, $845,814,000 to remain available until September 30, 2003, except as otherwise provided herein, of which $100,000 is for the University of Idaho for developing research mechanisms in support of salmon and trout recovery in the Columbia and Snake River basins and their tributaries, of which $140,000 shall be made available for the preparation of, and not later than July 31, 2002, submission to Congress of a report on, a feasibility study and situational appraisal of the Hackensack Meadowlands, New Jersey, to identify management objectives and address strategies for preservation efforts, and of which $31,000,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That balances in the Federal Infrastructure Improvement account shall be transferred to and merged with this appropriation, and shall remain available until expended: Provided further, That not less than $2,000,000 shall be provided to local governments in southern California for planning associated with the Natural Communities Conservation Planning (NCCP) program and shall remain available until expended: Provided further, That not less than $2,000,000 for high priority projects which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E)(xii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided further, That not to exceed $9,000,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)): Provided further, That of the amount available for law enforcement, up to $400,000 to remain available until expended, may at the discretion of the Secretary, be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on her certificate: Provided further, That of the amount provided for environmental contaminants, up to $1,000,000 may remain available until expended for contaminant sample analyses: Provided further, That $1,100,000 shall be made available to the National Fish and Wildlife Foundation to carry out a competitively awarded grant program for State, local, or other organizations in Maine to fund on-the-ground projects to further Atlantic salmon conservation and restoration efforts, at least $550,000 of which shall be awarded to projects that will also assist industries in Maine affected by the listing of Atlantic salmon under the Endangered Species Act.

CONSTRUCTION

For construction, improvement, acquisition, or removal of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $55,526,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $108,401,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, of which $500,000 shall be available to acquire land for the Don Edwards National Wildlife Refuge, California, of which not more than $500,000 shall be used for acquisition of 1,750 acres for the Red River National Wildlife Refuge, and of which $3,000,000 shall be for the acquisition of lands in the Cahaba River National Wildlife Refuge, and of which $1,500,000 shall be for emergencies and hardships, and of which $1,500,000 shall be for inholdings.

LANDOWNER INCENTIVE PROGRAM

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $50,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: Provided, That the amount provided herein is for a Landowner Incentive Program established by the Secretary that provides matching, competitively awarded grants to States, the District of Columbia, Tribes, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, and American Samoa, to establish, or supplement existing, landowner incentive programs that provide technical and financial assistance, including habitat protection and restoration, to private landowners for the protection and management of habitat to benefit federally listed, proposed, or candidate species, or other at-risk species on private lands.

STEWARDSHIP GRANTS

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $10,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: Provided, That the amount provided herein is for the Secretary to establish a Private Stewardship Grants Program to provide grants and other assistance to individuals and groups engaged in private conservation efforts that benefit federally listed, proposed, or candidate species, or other at-risk species.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended, $91,000,000, to be derived from the Cooperative Endangered Species Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(v) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $14,414,000.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, $42,000,000, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E)(vi) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4261–4266), the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301–5306), and the Great Ape Conservation Act of 2000 (16 U.S.C. 6301), $4,000,000, to remain available until expended: Provided, That funds made available under this Act, Public Law 106–291, and Public Law 106–554 and hereafter in annual appropriations acts for rhinoceros, tiger, Asian elephant, and great ape conservation programs are exempt from any sanctions imposed against any country under section 102 of the Arms Export Control Act (22 U.S.C. 2799aa–1).

STATE WILDLIFE GRANTS

(INCLUDING RESCISSION)

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and American Samoa, under the provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, $100,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That the Secretary shall, after deducting administrative expenses, apportion the amount provided herein in the following manner: (A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof: and (B) to Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: Provided further, That the Secretary shall apportion the remaining amount in the following manner: (A) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and (B) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States: Provided further, That the amounts apportioned under this paragraph shall be adjusted equitably so that no State shall be apportioned a sum which is less than 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount: Provided further, That *the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 50 percent of the total costs of such projects: Provided further, That the non-Federal share of such projects may not be derived from Federal grant programs: Provided further, That no State, territory, or other jurisdiction shall receive a grant unless it has developed, or committed to develop by October 1, 2005, a comprehensive wildlife conservation plan, consistent with criteria established by the Secretary of the Interior, that considers the broad range of the State, territory, or other jurisdiction's wildlife and associated habitats, with appropriate priority placed on those species with the greatest conservation need and taking into consideration the relative level of funding available for the conservation of those species: Provided further, That any amount apportioned in 2002 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2003, shall be reapportioned, together with funds appropriated in 2004, in the manner provided herein.*

Of the amounts appropriated in title VIII of Public Law 106–291, $49,890,000 for State Wildlife Grants are rescinded.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 74 passenger motor vehicles, of which 69 are for replacement only (including 32 for police-type use); repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management and investigation of fish and wildlife resources: Provided, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: Provided further, That the Service may accept donated aircraft as replacements for existing aircraft: Provided further, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in Senate Report 105–56.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, $1,473,128,000, of which $10,881,000 for research, planning and interagency coordination in support of land acquisition for Everglades restoration shall remain available until expended; and of which $72,640,000, to remain available until September 30, 2003, is for maintenance repair or rehabilitation projects for constructed assets, operation of the National Park Service automated facility management software system, and comprehensive facility condition assessments; and of which $2,000,000 is for the Youth Conservation Corps, defined in section 250(c)(4)(E)(xii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, for high priority projects: Provided, That the only funds in this account which may be made available to support United States Park Police are those funds approved for emergency law and order incidents pursuant to established National Park Service procedures, those funds needed to maintain and repair United States Park Police administrative facilities, and those funds necessary to reimburse the United States Park Police account for the unbudgeted overtime and travel costs associated with special events for an amount not to exceed $10,000 per event subject to the review and concurrence of the Washington headquarters office.

UNITED STATES PARK POLICE

For expenses necessary to carry out the programs of the United States Park Police, $66,106,000.

CONTRIBUTION FOR ANNUITY BENEFITS

For reimbursement (not heretofore made), pursuant to provisions of Public Law 85–157, to the District of Columbia on a monthly basis for benefit payments by the District of Columbia to United States Park Police annuitants under the provisions of the Policeman and Fireman's Retirement and Disability Act (Act), to the extent those payments exceed contributions made by active Park Police members covered under the Act, such amounts as hereafter may be necessary: Provided, That hereafter the appropriations made to the National Park Service shall not be available for this purpose.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $66,287,000, of which $300,000 in heritage partnership funds are for the Erie Canalway National Heritage Corridor, of which $101,000 in statutory or contractual aid is for the Brown Foundation for Educational Equity, and of which $250,000 is for a cultural program grant to the Underground Railroad Coalition of Delaware.

URBAN PARK AND RECREATION FUND

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.), $20,000,000, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E)(x) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333), $74,000,000, to be derived from the Historic Preservation Fund, to remain available until September 30, 2003, and to be for the conservation activities defined in section 250(c)(4)(E)(xi) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That of the amount provided $30,000,000 shall be for Save America's Treasures for priority preservation projects, including preservation of intellectual and cultural artifacts, preservation of historic structures and sites, and buildings to house cultural and historic resources and to provide educational opportunities: Provided further, That any individual Save America's Treasures grant shall be matched by non-Federal funds: Provided furtner, That individual projects shall only be eligible for one grant, and all projects to be funded shall be approved by the House and Senate Committees on Appropriations prior to the commitment of grant funds: Provided further, That Save America's Treasures funds allocated for Federal projects shall be available by transfer to appropriate accounts of individual agencies, after approval of such projects by the Secretary of the Interior: Provided further, That none of the funds provided for Save America's Treasures may be used for administrative expenses, and staffing for the program shall be available from the existing staffing levels in the National Park Service.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, $338,585,000, to remain available until expended, of which $60,000,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 2002 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, $287,036,000, to be derived from the Land and Water Conservation Fund, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E)(iii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, of which $164,000,000 is for the State assistance program including $4,000,000 to administer the State assistance program, and of which $11,000,000 shall be for grants, not covering more than 50 percent of the total cost of any acquisition to be made with such funds, to States and local communities for purposes of acquiring lands or interests in lands to preserve and protect Civil War battlefield sites identified in the July 1993 Report on the Nation's Civil War Battlefields prepared by the Civil War Sites Advisory Commission: Provided, That lands or interests in land acquired with Civil War battlefield grants shall be subject to the requirements of paragraph 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(f)(3)): Provided further, That of the amounts provided under this heading, $15,000,000 may be for Federal grants to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under terms and conditions deemed necessary by the Secretary to improve and restore the hydrological function of the Everglades watershed; and $16,000,000 may be for project modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act: Provided further, That funds provided under this heading for assistance to the State of Florida to acquire lands within the Everglades watershed are contingent upon new matching non-Federal funds by the State and shall be *subject to an agreement that the lands to be acquired will be managed in perpetuity for the restoration of the Everglades: Provided further, That none of the funds provided for the State Assistance program may be used to establish a contingency fund.*

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 315 passenger motor vehicles, of which 256 shall be for replacement only, including not to exceed 237 for police-type use, 11 buses, and 8 ambulances: Provided, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided further, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage employees receiving workers' compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; $892,474,000, of which $64,318,000 shall be available only for cooperation with States or municipalities for water resources investigations; and of which $16,400,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which $8,000,000 shall remain available until expended for satellite operations; and of which $23,226,000 shall be available until September 30, 2003 for the operation and maintenance of facilities and deferred maintenance; and of which $164,424,000 shall be available until September 30, 2003 for the biological research activity and the operation of the Cooperative Research Units: Provided, That none of these funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: Provided further, That of the amount provided herein, $25,000,000 is for the conservation activities defined in section 250(c)(4)(E)(viii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided further, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase of not to exceed 53 passenger motor vehicles, of which 48 are for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: Provided, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only, $151,933,000, of which $84,021,000, shall be available for royalty management activities; and an amount not to exceed $102,730,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993: Provided, That to the extent $102,730,000 in additions to receipts are not realized from the sources of receipts stated above, the amount needed to reach $102,730,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993: Provided further, That $3,000,000 for computer acquisitions shall remain available until September 30, 2003: Provided further, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721(b) and (d): Provided further, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: Provided further, That notwithstanding any other provision of law, $15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service (MMS) concurred with the claimed refund due, to pay amounts owed to Indian allottees or tribes, or to correct prior unrecoverable erroneous payments: Provided further, That MMS may under the royalty-in-kind pilot program use a portion of the revenues from royalty-in-kind sales, without regard to fiscal year limitation, to pay for transportation to wholesale market centers or upstream pooling points, and to process or otherwise dispose of royalty production taken in kind: Provided further, That MMS shall analyze and document the expected return in advance of any royalty-in-kind sales to assure to the maximum extent practicable that royalty income under the pilot program is equal to or greater than royalty income recognized under a comparable royalty-in-value program.

OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,118,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; $102,144,000: Provided, That the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected in fiscal year 2002 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, $203,171,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to $10,000,000, to be derived from the Federal Expenses Share of the Fund, shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines, and for associated activities, through the Appalachian Clean Streams Initiative: Provided, That grants to minimum program States will be $1,600,000 per State in fiscal year 2002: Provided further, That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 percent shall be used for emergency reclamation projects in any one State and funds for federally administered emergency reclamation projects under this proviso shall not exceed $11,000,000: Provided further, That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 percent limitation per State and may be used without fiscal year limitation for emergency projects: Provided further, That pursuant to Public Law 97–365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That funds made available under title IV of Public Law 95–87 may be used for any required non-Federal share of the cost of projects funded *by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: Provided further, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: Provided further, That the State of Maryland may set aside the greater of $1,000,000 or 10 percent of the total of the grants made available to the State under title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1231 et seq.), if the amount set aside is deposited in an acid mine drainage abatement and treatment fund established under a State law, pursuant to which law the amount (together with all interest earned on the amount) is expended by the State to undertake acid mine drainage abatement and treatment projects, except that before any amounts greater than 10 percent of its title IV grants are deposited in an acid mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects.*

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, $1,804,322,000, to remain available until September 30, 2003 except as otherwise provided herein, of which not to exceed $89,864,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed $130,209,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2002, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; and up to $3,000,000 shall be for the Indian Self-Determination Fund which shall be available for the transitional cost of initial or expanded tribal contracts, grants, compacts or cooperative agreements with the Bureau under such Act; and of which not to exceed $436,427,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2002, and shall remain available until September 30, 2003; and of which not to exceed $58,540,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: Provided, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed $43,065,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with the operation of Bureau-funded schools: Provided further, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2003, may be transferred during fiscal year 2004 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: Provided further, That any such unobligated balances not so transferred shall expire on September 30, 2004.

CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87–483, $360,132,000, to remain available until expended: Provided, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: Provided further, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: Provided further, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: Provided further, That for fiscal year 2002, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: Provided further, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: Provided further, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: Provided further, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): Provided further, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $60,949,000, to remain available until expended; of which $24,870,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 101–618 and 102–575, and for implementation of other enacted water rights settlements; of which $7,950,000 shall be available for future water supplies facilities under Public Law 106–163; of which $21,875,000 shall be available pursuant to Public Laws 99–264, 100–580, 106–263, 106–425, 106–554, and 106–568; and of which $6,254,000 shall be available for the consent decree entered by the U.S. District Court, Western District of Michigan in United States v. Michigan, Case No. 2:73 CV 26.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans, $4,500,000, as authorized by the Indian Financing Act of 1974, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $75,000,000.

In addition, for administrative expenses to carry out the guaranteed loan programs, $486,000.

ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 229 passenger motor vehicles, of which not to exceed 187 shall be for replacement only.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations, pooled overhead general administration (except facilities operations and maintenance), or provided to implement the recommendations of the National Academy of Public Administration's August 1999 report shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act").

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $76,450,000, of which: (1)

$71,922,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $4,528,000 shall be available for salaries and expenses of the Office of Insular Affairs: Provided, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: Provided further, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104–134: Provided further, That of the amounts provided for technical assistance, not to exceed $2,000,000 shall be made available for transfer to the Disaster Assistance Direct Loan Financing Account of the Federal Emergency Management Agency for the purpose of covering the cost of forgiving the repayment obligation of the Government of the Virgin Islands on Community Disaster Loan 841, as required by section 504 of the Congressional Budget Act of 1974, as amended (2 U.S.C. 661c): Provided further, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: Provided further, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): Provided further, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $23,245,000, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $67,541,000, of which not to exceed $8,500 may be for official reception and representation expenses, and of which up to $1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $44,074,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $34,302,000, of which $3,812,000 shall be for procurement by contract of independent auditing services to audit the consolidated Department of the Interior annual financial statement and the annual financial statement of the Department of the Interior bureaus and offices funded in this Act.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $99,224,000, to remain available until expended: Provided, That funds for trust management improvements may be transferred, as needed, to the Bureau of Indian Affairs "Operation of Indian Programs" account and to the Departmental Management "Salaries and Expenses" account: Provided further, That funds made available to Tribes and Tribal organizations through contracts or grants obligated during fiscal year 2002, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: Provided further, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss: Provided further, That notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of $1.00 or less: Provided further, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder.

INDIAN LAND CONSOLIDATION

For consolidation of fractional interests in Indian lands and expenses associated with redetermining and redistributing escheated interests in allotted lands, and for necessary expenses to carry out the Indian Land Consolidation Act of 1983, as amended, by direct expenditure or cooperative agreement, $10,980,000, to remain available until expended and which may be transferred to the Bureau of Indian Affairs and Departmental Management.

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (Public Law 101–380) (33 U.S.C. 2701 et seq.), and Public Law 101–337, as amended (16 U.S.C. 19jj et seq.), $5,872,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: Provided, That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: Provided further, That no programs funded with appropriated funds in the "Departmental Management", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That for wildland fire operations, no funds *shall be made available under this authority until the Secretary determines that funds appropriated for "wildland fire operations" shall be exhausted within thirty days: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.*

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: Provided, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Annual appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of 12 months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore preleasing, leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore oil and natural gas preleasing, leasing, and related activities, on lands within the North Aleutian Basin planning area.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 111. Advance payments made under this title to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) may be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

(1) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or

(2) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

SEC. 112. Appropriations made in this Act under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any available unobligated balances from prior appropriations Acts made under the same headings, shall be available for expenditure or transfer for Indian trust management activities pursuant to the Trust Management Improvement Project High Level Implementation Plan.

SEC. 113. A grazing permit or lease that expires (or is transferred) during fiscal year 2002 shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752) or if applicable, section 510 of the California Desert Protection Act (16 U.S.C. 410aaa–50). The terms and conditions contained in the expiring permit or lease shall continue in effect under the new permit or lease until such time as the Secretary of the Interior completes processing of such permit or lease in compliance with all applicable laws and regulations, at which time such permit or lease may be canceled, suspended or modified, in whole or in part, to meet the requirements of such applicable laws and regulations. Nothing in this section shall be deemed to alter the Secretary's statutory authority.

SEC. 114. Notwithstanding any other provision of law, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior, the hearing requirements of chapter 10 of title 25, United States Code, are deemed satisfied by a proceeding conducted by an Indian probate judge, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service, for such period of time as the Secretary determines necessary: Provided, That the basic pay of an Indian probate judge so appointed may be fixed by the Secretary without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, governing the classification and pay of General Schedule employees, except that no such Indian probate judge may be paid at a level which exceeds the maximum rate payable for the highest grade of the General Schedule, including locality pay.

SEC. 115. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to redistribute any Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring funds to address identified, unmet needs, dual enrollment, overlapping service areas or inaccurate distribution methodologies. No tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2002. Under circumstances of dual enrollment, overlapping service areas or inaccurate distribution methodologies, the 10 percent limitation does not apply.

SEC. 116. Funds appropriated for the Bureau of Indian Affairs for postsecondary schools for fiscal year 2002 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Postsecondary Funding Formula adopted by the Office of Indian Education Programs.

SEC. 117. (a) The Secretary of the Interior shall take such action as may be necessary to ensure that the lands comprising the Huron Cemetery in Kansas City, Kansas (as described in section 123 of Public Law 106–291) are used only in accordance with this section.

(b) The lands of the Huron Cemetery shall be used only (1) for religious and cultural uses that are compatible with the use of the lands as a cemetery, and (2) as a burial ground.

SEC. 118. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104–134, as amended by Public Law 104–208, the Secretary may accept and retain land and other forms of reimbursement: Provided, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by Public Law 100–696; 16 U.S.C. 460zz.

SEC. 119. Section 412(b) of the National Parks Omnibus Management Act of 1998, as amended (16 U.S.C. 5961) is amended by striking "2001" and inserting "2002".

SEC. 120. Notwithstanding other provisions of law, the National Park Service may authorize, through cooperative agreement, the Golden Gate National Parks Association to provide fee-based education, interpretive and visitor service functions within the Crissy Field and Fort Point areas of the Presidio.

SEC. 121. Notwithstanding 31 U.S.C. 3302(b), sums received by the Bureau of Land Management for the sale of seeds or seedlings including those collected in fiscal year 2001, may be credited to the appropriation from which funds were expended to acquire or grow the seeds or seedlings and are available without fiscal year limitation.

SEC. 122. TRIBAL SCHOOL CONSTRUCTION DEMONSTRATION PROGRAM. (a) DEFINITIONS.—In this section:

(1) CONSTRUCTION.—The term "construction", with respect to a tribally controlled school, includes the construction or renovation of that school.

(2) INDIAN TRIBE.—The term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(3) SECRETARY.—The term "secretary" means the Secretary of the Interior.

(4) TRIBALLY CONTROLLED SCHOOL.—The term "tribally controlled school" has the meaning given that term in section 5212 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2511).

(5) DEPARTMENT.—The term "Department" means the Department of the Interior.

(6) DEMONSTRATION PROGRAM.—The term "demonstration program" means the Tribal School Construction Demonstration Program.

(b) IN GENERAL.—The Secretary shall carry out a demonstration program to provide grants to Indian tribes for the construction of tribally controlled schools.

(1) IN GENERAL.—Subject to the availability of appropriations, in carrying out the demonstration program under subsection (b), the Secretary shall award a grant to each Indian tribe that submits an application that is approved by the Secretary under paragraph (2). The Secretary shall ensure that an eligible Indian tribe currently on the Department's priority list for constructing of replacement educational facilities receives the highest priority for a grant under this section.

(2) GRANT APPLICATIONS.—An application for a grant under the section shall—

(A) include a proposal for the construction of a tribally controlled school of the Indian tribe that submits the application; and

(B) be in such form as the Secretary determines appropriate.

(3) GRANT AGREEMENT.—As a condition to receiving a grant under this section, the Indian tribe shall enter into an agreement with the Secretary that specifies—

(A) the costs of construction under the grant;

(B) that the Indian tribe shall be required to contribute towards the cost of the construction a tribal share equal to 50 percent of the costs; and

(C) any other term or condition that the Secretary determines to be appropriate.

(4) ELIGIBILITY.—Grants awarded under the demonstration program shall only be for construction on replacement tribally controlled schools.

(c) EFFECT OF GRANT.—A grant received under this section shall be in addition to any other funds received by an Indian tribe under any other provision of law. The receipt of a grant under this section shall not affect the eligibility of an Indian tribe receiving funding, or the amount of funding received by the Indian tribe, under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) or the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

SEC. 123. WHITE RIVER OIL SHALE MINE, UTAH. (a) SALE.—The Administrator of General Services (referred to in this section as the "Administrator") shall sell all right, title, and interest of the United States in and to the improvements and equipment described in subsection (b) that are situated on the land described in subsection (c) (referred to in this section as the "Mine").

(b) DESCRIPTION OF IMPROVEMENTS AND EQUIPMENT.— The improvements and equipment referred to in subsection (a) are the following improvements and equipment associated with the Mine:

(1) Mine Service Building.

(2) Sewage Treatment Building.

(3) Electrical Switchgear Building.

(4) Water Treatment Building/Plant.

(5) Ventilation/Fan Building.

(6) Water Storage Tanks.

(7) Mine Hoist Cage and Headframe.

(8) Miscellaneous Mine-related equipment.

(c) DESCRIPTION OF LAND.—The land referred to in subsection (a) is the land located in Uintah County, Utah, known as the "White River Oil Shale Mine" and described as follows:

(1) T. 10 S., R 24 E., Salt Lake Meridian, sections 12 through 14, 19 through 30, 33, and 34.

(2) T. 10 S., R. 25 E., Salt Lake Meridian, sections 18 and 19.

(d) USE OF PROCEEDS.—The proceeds of the sale under subsection (a)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) shall be available until expended, without further Act of appropriation—

(A) first, to reimburse the Administrator for the direct costs of the sale; and

(B) second, to reimburse the Bureau of Land Management Utah State Office for the costs of closing and rehabilitating the Mine.

(e) MINE CLOSURE AND REHABILITATION.—The closing and rehabilitation of the Mine (including closing of the mine shafts, site grading, and surface revegetation) shall be conducted in accordance with—

(1) the regulatory requirements of the State of Utah, the Mine Safety and Health Administration, and the Occupational Safety and Health Administration; and

(2) other applicable law.

SEC. 124. The Secretary of the Interior may use or contract for the use of helicopters or motor vehicles on the Sheldon and Hart National Wildlife Refuges for the purpose of capturing and transporting horses and burros. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

SEC. 125. Upon application of the Governor of a State, the Secretary of the Interior shall (1) transfer not to exceed 25 percent of that State's formula allocation under the heading "National Park Service, Land Acquisition and State Assistance" to increase the State's allocation under the heading "United States Fish and Wildlife Service, State Wildlife Grants" or (2) transfer not to exceed 25 percent of the State's formula allocation under the heading "United States Fish and Wildlife Service, State Wildlife Grants" to increase the State's formula allocation under the heading "National Park Service, Land Acquisition and State Assistance".

SEC. 126. Section 819 of Public Law 106–568 is hereby repealed.

SEC. 127. Moore's Landing at the Cape Romain National Wildlife Refuge in South Carolina is hereby named for George Garris and shall hereafter be referred to in any law, document, or records of the United States as "Garris Landing".

SEC. 128. PRELEASING, LEASING, AND RELATED ACTIVITIES. None of the funds made available by this Act shall be used to conduct any preleasing, leasing, or other related activity under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundary (in effect as of January 20, 2001) of a national monument established under the Act of June 8, 1906 (16 U.S.C. 431 et seq.), except to the extent that such a preleasing, leasing, or other related activity is allowed under the Presidential proclamation establishing the monument.

SEC. 129. (a) The National Park Service shall make further evaluations of national significance, suitability and feasibility for the Glenwood locality and each of the twelve Special Landscape Areas (including combinations of such areas) as identified by the National Park Service in the course of undertaking the Special Resource Study of the Loess Hills Landform Region of Western Iowa.

(b) The National Park Service shall provide the results of these evaluations no later than January 15, 2002, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives.

SEC. 130. From within available funds the National Park Service shall conduct an Environmental Impact Statement on vessel entries into such park taking into account possible impacts on whale populations: Provided, That none of the funds available under this Act shall be used to reduce or increase the number of permits and vessel entries into the park below or above the levels established by the National Park Service effective for the 2001 season until the Environmental Impact Statement required by law is completed notwithstanding any other provision of law: Provided further, That nothing in this section shall preclude the Secretary from adjusting the number of permits or vessel entries if the Secretary determines that it is necessary to protect park resources.

SEC. 131. No funds contained in this Act shall be used to approve the transfer of lands on South Fox Island, Michigan until Congress has authorized such transfer.

SEC. 132. (a) FINDINGS.—Congress makes the following findings:

(1) The land described in subsection (b) is—

(A) the site of cultural, ceremonial, spiritual, archaeological, and traditional gathering sites of significance to the Pechanga Band of Luiseno Mission Indians;

(B) the site of what is considered to be the oldest living coastal live oak; and

(C) the site of the historic Erle Stanley Gardner Ranch.

(2) Based on the finding described in paragraph (1), local and county officials have expressed their support for the efforts of the Pechanga Band of Luiseno Mission Indians to have the land described in subsection (b) held in trust by the United States for purposes of preservation.

(b) DECLARATION OF LAND HELD IN TRUST.—Notwithstanding any other provision of law, the land held in fee by the Pechanga Band of Luiseno Mission Indians, as described in Document No. 211130 of the Riverside County, California Office of the Recorder and recorded on May 15, 2001, located within the boundaries of the county of Riverside within the State of California, is hereby declared to be held by the United States in trust for the benefit of the Pechanga Band of Luiseno Mission Indians and shall be part of the Pechanga Indian Reservation.

SEC. 133. SENSE OF CONGRESS CONCERNING COASTAL IMPACT ASSISTANCE. (a) FINDINGS.—Congress finds that—

(1) the United States continues to be reliant on fossil fuels (including crude oil and natural gas) as a source of most of the energy consumed in the country;

(2) this reliance is likely to continue for the foreseeable future;

(3) about 65 percent of the energy needs of the United States are supplied by oil and natural gas;

(4) the United States is becoming increasingly reliant on clean-burning natural gas for electricity generation, home heating and air conditioning, agricultural needs, and essential chemical processes;

(5) a large portion of the remaining crude oil and natural gas resources of the country are on Federal land located in the western United States, in Alaska, and off the coastline of the United States;

(6) the Gulf of Mexico has proven to be a significant source of oil and natural gas and is predicted to remain a significant source in the immediate future;

(7) many States and counties oppose the development of Federal crude oil and natural gas resources within or near the coastline, which opposition results in congressional, Executive, State, or local policies to prevent the development of those resources;

(8) actions that prevent the development of certain Federal crude oil and natural gas resources do not lessen the energy needs of the United States or of those States and counties that object to exploration and development for fossil fuels;

(9) actions to prevent the development of certain Federal crude oil and natural gas resources focus development pressure on the remaining areas of Federal crude oil and natural gas resources, such as onshore and offshore Alaska, certain onshore areas in the western United States, and the central Gulf of Mexico off the coasts of Alabama, Alaska, Louisiana, Mississippi, and Texas;

(10) the development of Federal crude oil and natural gas resources is accompanied by adverse effects on the infrastructure services, public services, and the environment of States, counties, and local communities that host the development of those Federal resources;

(11) States, counties, and local communities do not have the power to tax adequately the development of Federal crude oil and natural gas resources, particularly when those development

activities occur off the coastline of States that serve as platforms for that development, such as Alabama, Alaska, Louisiana, Mississippi, and Texas;

(12) the Mineral Leasing Act (30 U.S.C. 181 et seq.), which governs the development of Federal crude oil and natural gas resources located onshore, provides, outside the budget and appropriations processes of the Federal Government, payments to States in which Federal crude oil and natural gas resources are located in the amount of 50 percent of the direct revenues received from the Federal Government for those resources; and

(13) there is no permanent provision in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), which governs the development of Federal crude oil and natural gas resources located offshore, that authorizes the sharing of a portion of the annual revenues generated from Federal offshore crude oil and natural gas resources with adjacent coastal States that—

(A) serve as the platform for that development; and

(B) suffer adverse effects on the environment and infrastructure of the States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should provide a significant portion of the Federal offshore mineral revenues to coastal States that permit the development of Federal mineral resources off the coastline, including the States of Alabama, Alaska, Louisiana, Mississippi, and Texas.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, $242,822,000, to remain available until expended.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, $287,331,000, to remain available until expended, as authorized by law, of which $101,000,000 is for Forest Legacy and Urban and Community Forestry, defined in section 250(c)(4)(E)(ix) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, of which $1,000,000 shall be available for the Tumbledown/Mount Blue conservation project, Maine, and of which $4,000,000 shall be for the purchase of a conservation easement on the Connecticut Lakes Tract, located in northern New Hampshire and owned by International Paper Co., and of which $500,000 shall be for the purchase of a conservation easement on the Range Creek Headwaters tract in Utah: Provided, That none of the funds provided under this heading for the acquisition of lands or interests in lands shall be available until the House Committee on Appropriations and the Senate Committee on Appropriations provide to the Secretary, in writing, a list of specific acquisitions to be undertaken with such funds: Provided further, That notwithstanding any other provision of law, of the funds provided under this heading, $5,000,000 shall be made available to Kake Tribal Corporation as an advanced direct lump sum payment to implement the Kake Tribal Corporation Land Transfer Act (Public Law 106–283).

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, $1,324,491,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): Provided, That unobligated balances available at the start of fiscal year 2002 shall be displayed by extended budget line item in the fiscal year 2003 budget justification: Provided further, That of the amount available for vegetation and watershed management, the Secretary may authorize the expenditure or transfer of such sums as necessary to the Department of the Interior, Bureau of Land Management for removal, preparation, and adoption of excess wild horses and burros from National Forest System lands: Provided further, That of the funds provided under this heading for Forest Products, $5,000,000 shall be allocated to the Alaska Region, in addition to its normal allocation for the purposes of preparing additional timber for sale, to establish a 3-year timber supply and such funds may be transferred to other appropriations accounts as necessary to maximize accomplishment: Provided further, That of the funds provided for Wildlife and Fish Habitat Management, $600,000 shall be provided to the State of Alaska for wildlife monitoring activities.

WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, and for emergency rehabilitation of burned-over National Forest System lands and water, $1,115,594,000, to remain available until expended: Provided, That such funds including unobligated balances under this head, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: Provided further, That not less than 50 percent of any unobligated balances remaining (exclusive of amounts for hazardous fuels reduction) at the end of fiscal year 2001 shall be transferred, as repayment for past advances that have not been repaid, to the fund established pursuant to section 3 of Public Law 71–319 (16 U.S.C. 576 et seq.): Provided further, That notwithstanding any other provision of law, $4,000,000 of funds appropriated under this appropriation shall be used for Fire Science Research in support of the Joint Fire Science Program: Provided further, That all authorities for the use of funds, including the use of contracts, grants, and cooperative agreements, available to execute the Forest and Rangeland Research appropriation, are also available in the utilization of these funds for Fire Science Research: Provided further, That funds provided shall be available for emergency rehabilitation and restoration, hazard reduction activities in the urban-wildland interface, support to federal emergency response, and wildfire suppression activities of the Forest Service: Provided further, That the Forest Service shall expend not less than $125,000,000 of funds provided under this heading for hazardous fuels reduction activities for alleviating immediate emergency threats to urban wildland interface areas as defined by the Secretary of Agriculture: Provided further, That amounts under this heading may be transferred as specified in the report accompanying this Act to the "State and Private Forestry", "National Forest System", "Forest and Rangeland Research", and "Capital Improvement and Maintenance" accounts to fund state fire assistance, volunteer fire assistance, and forest health management, vegetation and watershed management, heritage site rehabilitation, wildlife and fish habitat management, trails and facilities maintenance and restoration: Provided further, That transfers of any amounts in excess of those specified shall require approval of the House and Senate Committees on Appropriations in compliance with reprogramming procedures contained in House Report No. 105–163: Provided further, That the costs of implementing any cooperative agreement between the Federal government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: Provided further, That in entering into such grants or cooperative agreements, the Secretary may consider the enhancement of local and small business employment opportunities for rural communities, and that in entering into procurement contracts under this section on a best value basis, the Secretary may take into account the ability of an entity to enhance local and small business employment opportunities in rural communities, and that the Secretary may award procurement contracts, grants, or cooperative agreements under this section to entities that include local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or disadvantaged businesses: Provided further, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriation, up to $15,000,000 may be used on adjacent non-Federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: Provided further, That the Forest Service shall analyze the impact of restrictions on mechanical fuel treatments and forest access in the upcoming Chugach National Forest Land and Resource Management Plan, on the level of prescribed burning on the Chugach National Forest, and on the implementation of the National Fire Plan: Provided further, That this analysis shall be completed before the release of the Chugach Forest Plan and shall be included in the plan: Provided further, That included in funding for hazardous fuel reduction is $5,000,000 for implementing the Community Forest Restoration Act, Public Law 106–393, title VI, and any portion of such funds shall be available for use on non-Federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry Appropriation: Provided further, That of the amounts provided under this heading $2,838,000 is for the Ecological Restoration Institute, of which $338,000 is for ongoing activities on Mt. Trumbull: Provided further, That:

(1) In expending the funds provided with respect to this Act for hazardous fuels reduction, the Secretary of the Interior and the Secretary of Agriculture may conduct fuel reduction treatments on Federal lands using all contracting and hiring authorities available to the Secretaries applicable to hazardous fuel reduction activities under the wildland fire management accounts. Notwithstanding Federal government procurement and contracting laws, the Secretaries may conduct fuel reduction treatments on Federal lands using grants and cooperative agreements. Notwithstanding Federal government procurement and contracting laws, in order to provide employment and training opportunities to people in rural communities, the Secretaries may award contracts, including contracts for monitoring activities, to—

(A) local private, nonprofit, or cooperative entities;

(B) Youth Conservation Corps crews or related partnerships, with State, local and nonprofit youth groups;

(C) small or micro-businesses; or

(D) other entities that will hire or train a significant percentage of local people to complete such contracts. The authorities described above relating to contracts, grants, and cooperative agreements are available until all funds provided in this title for hazardous fuels reduction activities in the urban wildland interface are obligated.

(2)(A) The Secretary of Agriculture may transfer or reimburse funds to the United States Fish and Wildlife Service of the Department of the Interior, or the National Marine Fisheries Service of the Department of Commerce, for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference as required by section 7 of such Act in connection with wildland fire management activities in fiscal years 2001 and 2002.

(B) Only those funds appropriated for fiscal years 2001 and 2002 to Forest Service (USDA) for wildland fire management are available to the Secretary of Agriculture for such transfer or reimbursement.

(C) The amount of the transfer or reimbursement shall be as mutually agreed by the Secretary of Agriculture and the Secretary of the Interior or Secretary of Commerce, as applicable, or their designees. The amount shall in no case exceed the actual costs of consultation and conferencing in connection with wildland fire management activities affecting National Forest System lands.

For an additional amount to cover necessary expenses for emergency rehabilitation, wildfire suppression and other fire operations of the Forest Service, $165,000,000, to remain available until expended, of which $100,000,000 is for emergency rehabilitation and wildfire suppression, and $65,000,000 is for other fire operations: Provided, That the entire amount appropriated in this paragraph is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That these funds shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

For an additional amount, to liquidate obligations previously incurred, $274,147,000.

CAPITAL IMPROVEMENT AND MAINTENANCE

For necessary expenses of the Forest Service, not otherwise provided for, $541,286,000, to remain available until expended for construction, reconstruction, maintenance and acquisition of buildings and other facilities, and for construction, reconstruction, repair and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205, of which, $244,000 is to be provided for the design of historic office renovations of the Bearlodge Ranger District Work Center (Old Stoney) in Sundance, Wyoming, and of which $61,000,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That fiscal year 2001 balances in the Federal Infrastructure Improvement account for the Forest Service shall be transferred to and merged with this appropriation and shall remain available until expended: Provided further, That up to $15,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: Provided further, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project: Provided further, That the Forest Service shall transfer $300,000, appropriated in Public Law 106–291 within the Capital Improvement and Maintenance appropriation, to the State and Private Forestry appropriation, and shall provide these funds in an advance direct lump sum payment to Purdue University for planning and construction of a hardwood tree improvement and generation facility.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $128,877,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(iv) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

For necessary expenses of the Forest Service to manage federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487), $5,488,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of not to exceed 132 passenger motor vehicles of which eight will be used primarily for law enforcement purposes and of which 130 shall be for replacement; acquisition of 25 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed seven for replacement only, and acquisition of sufficient aircraft from excess sources to maintain the operable fleet at 195 aircraft for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein, including the Oscoda-Wurtsmith land exchange in Michigan, pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901–5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to abolish any region, to move or close any regional office for National Forest System administration of the Forest Service, Department of Agriculture without the consent of the House and Senate Committees on Appropriations.

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions if and only if all previously appropriated emergency contingent funds under the heading "Wildland Fire Management" have been released by the President and apportioned.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report No. 105–163.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in House Report No. 105–163.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Funds available to the Forest Service shall be available to conduct a program of not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E)(xii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

Of the funds available to the Forest Service, $2,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, up to $2,250,000 may be advanced in a lump sum as Federal financial assistance to the National Forest Foundation, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: Provided, That of the Federal funds made available to the Foundation, no more than $400,000 shall be available for *administrative expenses: Provided further, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: Provided further, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: Provided further, That hereafter, the National Forest Foundation may hold Federal funds made available but not immediately disbursed and may use any interest or other investment income earned (before, on, or after the date of the enactment of this Act) on Federal funds to carry out the purposes of Public Law 101–593: Provided further, That such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.*

Pursuant to section 2(b)(2) of Public Law 98–244, up to $2,650,000 of the funds available to the Forest Service shall be available for matching funds to the National Fish and Wildlife Foundation, as authorized by 16 U.S.C. 3701–3709, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefitting National Forest System lands or related to Forest Service programs: Provided, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds advanced by the Forest Service: Provided further, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, 80 percent of the funds appropriated to the Forest Service in the "National Forest System" and "Capital Improvement and Maintenance" accounts and planned to be allocated to activities under the "Jobs in the Woods" program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to sections 14(c)(1) and (2), and section 16(a)(2) of Public Law 99–663.

The Secretary of Agriculture is authorized to enter into grants, contracts, and cooperative agreements as appropriate with the Pinchot Institute for Conservation, as well as with public and other private agencies, organizations, institutions, and individuals, to provide for the development, administration, maintenance, or restoration of land, facilities, or Forest Service programs, at the Grey Towers National Historic Landmark: Provided, That, subject to such terms and conditions as the Secretary of Agriculture may prescribe, any such public or private agency, organization, institution, or individual may solicit, accept, and administer private gifts of money and real or personal property for the benefit of, or in connection with, the activities and services at the Grey Towers National Historic Landmark: Provided further, That such gifts may be accepted notwithstanding the fact that a donor conducts business with the Department of Agriculture in any capacity.

Funds appropriated to the Forest Service shall be available, as determined by the Secretary, for payments to Del Norte County, California, pursuant to sections 13(e) and 14 of the Smith River National Recreation Area Act (Public Law 101–612).

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service not to exceed $500,000 may be used to reimburse the Office of the General Counsel (OGC), Department of Agriculture, for travel and related expenses incurred as a result of OGC assistance or participation requested by the Forest Service at meetings, training sessions, management reviews, land purchase negotiations and similar non-litigation related matters. Future budget justifications for both the Forest Service and the Department of Agriculture should clearly display the sums previously transferred and the requested funding transfers.

The Forest Service shall fund indirect expenses, that is expenses not directly related to specific programs or to the accomplishment of specific work on-the-ground, from any funds available to the Forest Service: Provided, That the Forest Service shall implement and adhere to the definitions of indirect expenditures established pursuant to Public Law 105–277 on a nationwide basis without flexibility for modification by any organizational level except the Washington Office, and when changed by the Washington Office, such changes in definition shall be reported in budget requests submitted by the Forest Service: Provided further, That the Forest Service shall provide in all future budget justifications, planned indirect expenditures in accordance with the definitions, summarized and displayed to the Regional, Station, Area, and detached unit office level. The justification shall display the estimated source and amount of indirect expenditures, by expanded budget line item, of funds in the agency's annual budget justification. The display shall include appropriated funds and the Knutson-Vandenberg, Brush Disposal, Cooperative Work-Other, and Salvage Sale funds. Changes between estimated and actual indirect expenditures shall be reported in subsequent budget justifications: Provided, That during fiscal year 2002 the Secretary shall limit total annual indirect obligations from the Brush Disposal, Knutson-Vandenberg, Reforestation, Salvage Sale, and Roads and Trails funds to 20 percent of the total obligations from each fund. Obligations in excess of 20 percent which would otherwise be charged to the above funds may be charged to appropriated funds available to the Forest Service subject to notification of the Committees on Appropriations of the House and Senate.

Any appropriations or funds available to the Forest Service may be used for necessary expenses in the event of law enforcement emergencies as necessary to protect natural resources and public or employee safety: Provided, That such amounts shall not exceed $750,000.

The Secretary of Agriculture may authorize the sale of excess buildings, facilities, and other properties owned by the Forest Service and located on the Green Mountain National Forest, the revenues of which shall be retained by the Forest Service and available to the Secretary without further appropriation and until expended for maintenance and rehabilitation activities on the Green Mountain National Forest.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), $604,090,000, to remain available until expended, of which $11,000,000 is to begin construction, renovation, acquisition of furnishings, and demolition or removal of buildings at National Energy Technology Laboratory facilities in Morgantown, West Virginia and Pittsburgh, Pennsylvania, and of which $33,700,000 shall be derived by transfer from funds appropriated in prior years under the heading "Clean Coal Technology", and of which $150,000,000 is to be made available, after coordination with the private sector, for a request for proposals for a Clean Coal Power Initiative providing for competitively-awarded demonstrations of commercial scale technologies to reduce the barriers to continued and expanded coal use: Provided, That the request for proposals shall be issued no later than one hundred and twenty days following enactment of this Act, proposals shall be submitted no later than ninety days after the issuance of the request for proposals, and the Department of Energy shall make project selections no later than one hundred and sixty days after the receipt of proposals: Provided further, That funds shall be expended in accordance with the provisions governing the use of funds contained under the heading "Clean Coal Technology" in prior appropriations: Provided further, That the Department may include provisions for repayment of Government contributions to individual projects in an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department including repayments from sale and licensing of technologies from both domestic and foreign transactions: Provided further, That such repayments shall be retained by the Department for future coal-related research, development and demonstration projects: Provided further, That any technology selected under this program shall be considered a Clean Coal Technology, and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. § 7651n, and Chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: Provided further, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: Provided further, That up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this account.

ALTERNATIVE FUELS PRODUCTION

(RESCISSION)

Of the unobligated balances under this heading, $2,000,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, $17,371,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

ELK HILLS SCHOOL LANDS FUND

For necessary expenses in fulfilling installment payments under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104–106, $36,000,000, to become available on October 1, *2002 for payment to the State of California for the State Teachers' Retirement Fund from the Elk Hills School Lands Fund.*

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $870,805,000, to remain available until expended: Provided, That $251,000,000 shall be for use in energy conservation grant programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507): Provided further, That notwithstanding section 3003(d)(2) of Public Law 99–509, such sums shall be allocated to the eligible programs as follows: $213,000,000 for weatherization assistance grants and $38,000,000 for State energy conservation grants.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, $1,996,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $169,009,000, to remain available until expended, of which $8,000,000 shall be available for maintenance of a Northeast Home Heating Oil Reserve.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $75,499,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private or foreign: Provided, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: Provided further, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: Provided further, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

In addition to other authorities set forth in this Act, the Secretary may accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State or private agencies or concerns.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $2,388,614,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: Provided, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: Provided further, That $430,776,000 for contract medical care shall remain available for obligation until September 30, 2003: Provided further, That of the funds provided, up to $22,000,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: Provided further, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): Provided further, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 2003: Provided further, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: Provided further, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed $288,234,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2002, of which up to $40,000,000 may be used for such costs associated with the Navajo Nation's new and expanded contracts, grants, self-governance compacts or annual funding agreements: Provided further, That funds available for the Indian Health Care Improvement Fund may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $362,854,000, to remain available until expended: Provided, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: Provided further, That from the funds appropriated herein, $5,000,000 shall be designated by the Indian Health Service as a contribution to the Yukon-Kuskokwim Health Corporation (YKHC) to continue a priority project for the acquisition of land, planning, design and construction of 79 staff quarters at Bethel, Alaska, pursuant to the negotiated project agreement between the YKHC and the Indian Health Service: Provided further, That this project shall not be subject to the construction provisions of the Indian Self-Determination and Education Assistance Act and shall be removed from the Indian Health Service priority list upon completion: Provided further, That the Federal Government shall not be liable for any property damages or other construction claims that may arise from YKHC undertaking this project: Provided further, That the land shall be owned or leased by the YKHC and title to quarters shall remain vested with the YKHC: Provided further, That $5,000,000 shall remain available until expended for the purpose of funding joint venture health care facility projects authorized under the Indian Health Care Improvement Act, as amended: Provided further, That priority, by rank order, shall be given to tribes with outpatient projects on the existing Indian Health Services priority list that have Service-approved planning documents, and can demonstrate by March 1, 2002, the financial capability necessary to provide an appropriate facility: Provided further, That joint venture funds unallocated after March 1, 2002, shall be made available for joint venture projects on a competitive basis giving priority to tribes that currently have no existing Federally-owned health care facility, have planning documents meeting Indian Health Service requirements prepared for approval by the Service and can demonstrate the financial capability needed to provide an appropriate facility: Provided further, That the Indian Health Service shall request additional staffing, operation and maintenance funds for these facilities in future budget requests: Provided further, That not to exceed $500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: Provided further, That not to exceed $500,000 shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: Provided further, That not to exceed $500,000 shall be placed in a Demolition

Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings: Provided further, That notwithstanding the provisions of title III, section 306, of the Indian Health Care Improvement Act (Public Law 94–437, as amended), construction contracts authorized under title I of the Indian Self-Determination and Education Assistance Act of 1975, as amended, may be used rather than grants to fund small ambulatory facility construction projects: Provided further, That if a contract is used, the IHS is authorized to improve municipal, private, or tribal lands, and that at no time, during construction or after completion of the project will the Federal Government have any rights or title to any real or personal property acquired as a part of the contract: Provided further, That $2,333,000 shall be made available for the Sisseton Wahpeton Sioux Tribe Indian Health Services clinic in Sisseton, South Dakota, and $9,167,000 shall be made available for the small ambulatory facilities program.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefore as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title III of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title III of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

Funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act. With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment, and the reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding, said amounts to remain available until expended. Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance. The appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $15,148,000, to remain available until expended: Provided, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: Provided further, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: Provided further, That no relocatee will be provided with more than one new or replacement home: Provided further, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56 part A), $4,490,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, $401,192,000, of which not to exceed $43,713,000 for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain available until expended, and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: Provided further, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: Provided further, That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: Provided further, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.

REPAIR, RESTORATION AND ALTERATION OF FACILITIES

For necessary expenses of maintenance, repair, restoration, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $67,900,000, to remain available until expended, of which $10,000,000 is provided for maintenance, repair, rehabilitation and alteration of facilities at the National Zoological Park: Provided, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $25,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used for the Holt House located at the National Zoological Park in Washington, D.C., unless identified as repairs to minimize water damage, monitor structure movement, or provide interim structural support.

None of the funds in this or any other Act may be used to make any changes to the existing Smithsonian science programs, including closure of facilities, relocation of staff or redirection of functions and programs, without approval by the Board of Regents of recommendations received from the Science Commission.

None of the funds available to the Smithsonian may be reprogrammed without the advance written approval of the House and Senate Committees on Appropriations in accordance with *the procedures contained in House Report No. 105–163.*

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $68,967,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $14,220,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $15,000,000.

CONSTRUCTION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $19,000,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $7,796,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $98,234,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, for program support, and for administering the functions of the Act, to remain available until expended.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $109,882,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $15,622,000, to remain available until expended, of which $11,622,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out subtitle C of the Museum and Library Services Act of 1996, as amended, $26,899,000, to remain available until expended.

CHALLENGE AMERICA ARTS FUND

CHALLENGE AMERICA GRANTS

For necessary expenses as authorized by Public Law 89–209, as amended, $17,000,000 for support for arts education and public outreach activities to be administered by the National Endowment for the Arts, to remain available until expended.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: Provided further, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $1,174,000: Provided, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956(a)), as amended, $7,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), $3,310,000: Provided, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $7,253,000: Provided, That all appointed members of the Commission will be compensated at a rate not to exceed the daily equivalent of the annual rate of pay for positions at level IV of the Executive Schedule for each day such member is engaged in the actual performance of duties.

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

HOLOCAUST MEMORIAL MUSEUM

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106–292 (36 U.S.C. 2301–2310), $36,028,000, of which $1,900,000 for the museum's repair and rehabilitation program and $1,264,000 for the museum's exhibitions program shall remain available until expended.

PRESIDIO TRUST

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, $23,125,000 shall be available to the Presidio Trust, to remain available until expended.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: Provided, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless advance notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 307. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2001.

SEC. 308. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 309. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when such pedestrian use is consistent with generally accepted safety standards.

SEC. 310. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2002, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 311. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103–138, 103–332, 104–134, 104–208, 105–83, 105–277, 106–113, and 106–291 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2001 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 312. Notwithstanding any other provision of law, for fiscal year 2002 the Secretaries of Agriculture and the Interior are authorized to limit competition for watershed restoration project contracts as part of the "Jobs in the Woods" Program established in Region 10 of the Forest Service to individuals and entities in historically timber-dependent areas in the States of Washington, Oregon, northern California and Alaska that have been affected by reduced timber harvesting on Federal lands. The Secretaries shall consider the benefits to the local economy. in evaluating bids and designing procurements which create economic opportunities for local contractors.

SEC. 313. None of the funds collected under the Recreational Fee Demonstration program may be used to plan, design, or construct a visitor center or any other permanent structure without prior approval of the House and the Senate Committees on Appropriations if the estimated total cost of the facility exceeds $500,000.

SEC. 314. None of the funds made available in this or any other Act for any fiscal year may be used to designate, or to post any sign designating, any portion of Canaveral National Seashore in Brevard County, Florida, as a clothing-optional area or as an area in which public nudity is permitted, if such designation would be contrary to county ordinance.

SEC. 315. Of the funds provided to the National Endowment for the Arts—

(1) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(2) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(3) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 316. The National Endowment for the Arts and the National Endowment for the Humanities are authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

SEC. 317. (a) In providing services or awarding financial assistance under the National Foundation on the Arts and the Humanities Act of 1965 from funds appropriated under this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) In this section:

(1) The term "underserved population" means a population of individuals, including urban minorities, who have historically been outside the purview of arts and humanities programs due to factors such as a high incidence of income below the poverty line or to geographic isolation.

(2) The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1);

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act; and

(4) the Chairperson shall encourage the use of grants to improve and support community-based music performance and education.

SEC. 318. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the 5-year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 319. None of the funds in this Act may be used to support Government-wide administrative functions unless such functions are justified in the budget process and funding is approved by the House and Senate Committees on Appropriations.

SEC. 320. None of the funds in this Act may be used for planning, design or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the House and Senate Committees on Appropriations.

SEC. 321. Amounts deposited during fiscal year 2001 in the roads and trails fund provided for in the fourteenth paragraph under the heading "FOREST SERVICE" of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.

SEC. 322. Other than in emergency situations, none of the funds in this Act may be used to operate telephone answering machines during core business hours unless such answering machines include an option that enables callers to reach promptly an individual on-duty with the agency being contacted.

SEC. 323. No timber sale in Region 10 shall be advertised if the indicated rate is deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar: Provided, That sales which are deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar may be advertised upon receipt of a written request by a prospective, informed bidder, who has the opportunity to review the Forest Service's cruise and harvest cost estimate for that timber. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 2002, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar, all of the western red cedar timber from those sales which *is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in fiscal year 2002, less than the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western red cedar, the volume of western red cedar timber available to domestic processors at prevailing domestic prices in the contiguous 48 United States shall be that volume: (i) which is surplus to the needs of domestic processors in Alaska; and (ii) is that percent of the surplus western red cedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a "rolling basis" shall mean that the determination of how much western red cedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western red cedar shall be deemed "surplus to the needs of domestic processors in Alaska" when the timber sale holder has presented to the Forest Service documentation of the inability to sell western red cedar logs from a given sale to domestic Alaska processors at price equal to or greater than the log selling value stated in the contract. All additional western red cedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.*

SEC. 324. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

SEC. 325. The Forest Service, in consultation with the Department of Labor, shall review Forest Service campground concessions policy to determine if modifications can be made to Forest Service contracts for campgrounds so that such concessions fall within the regulatory exemption of 29 CFR 4.122(b). The Forest Service shall offer in fiscal year 2002 such concession prospectuses under the regulatory exemption, except that, any prospectus that does not meet the requirements of the regulatory exemption shall be offered as a service contract in accordance with the requirements of 41 U.S.C. 351–358.

SEC. 326. A project undertaken by the Forest Service under the Recreation Fee Demonstration Program as authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1996, as amended, shall not result in—

(1) displacement of the holder of an authorization to provide commercial recreation services on Federal lands. Prior to initiating any project, the Secretary shall consult with potentially affected holders to determine what impacts the project may have on the holders. Any modifications to the authorization shall be made within the terms and conditions of the authorization and authorities of the impacted agency.

(2) the return of a commercial recreation service to the Secretary for operation when such services have been provided in the past by a private sector provider, except when—

(A) the private sector provider fails to bid on such opportunities;

(B) the private sector provider terminates its relationship with the agency; or

(C) the agency revokes the permit for noncompliance with the terms and conditions of the authorization.

In such cases, the agency may use the Recreation Fee Demonstration Program to provide for operations until a subsequent operator can be found through the offering of a new prospectus.

SEC. 327. The authority to enter into stewardship and end result contracts provided to the Forest Service in accordance with section 347 of title III of section 101(e) of division A of Public Law 105–277 is hereby expanded to authorize the Forest Service to enter into an additional 28 contracts subject to the same terms and conditions as provided in that section: Provided, That of the additional contracts authorized by this section at least 9 shall be allocated to Region 1 and at least 3 to Region 6.

SEC. 328. Any regulations or policies promulgated or adopted by the Departments of Agriculture or the Interior regarding recovery of costs for processing authorizations to occupy and use Federal lands under their control shall adhere to and incorporate the following principle arising from Office of Management and Budget Circular, A–25; no charge should be made for a service when the identification of the specific beneficiary is obscure, and the service can be considered primarily as benefiting broadly the general public.

SEC. 329. Notwithstanding any other provision of law, for fiscal year 2002, the Secretary of Agriculture is authorized to limit competition for fire and fuel treatment and watershed restoration contracts in the Giant Sequoia National Monument and the Sequoia National Forest. Preference for employment shall be given to dislocated and displaced workers in Tulare, Kern and Fresno Counties, California, for work associated with the establishment of the Giant Sequoia National Monument.

SEC. 330. The Secretary of Agriculture, acting through the Chief of the Forest Service shall:

(1) extend the special use permit for the Sioux Charlie Cabin in the Absaroka Beartooth Wilderness Area, Montana, held by Montana State University—Billings for a period of 50 years; and

(2) solicit public comments at the end of the 50 year period to determine whether another extension should be granted.

SEC. 331. Section 323 of the Department of the Interior and Related Agencies Appropriations Act, 1999, as included in Public Law 105–277, Division A, section 101(e), is amended by striking "and 2001," and inserting ", 2001 and 2002,".

SEC. 332. Section 551(c) of the Land Between the Lakes Protection Act of 1998 (16 U.S.C. 460lll–61(c)) is amended by striking "2002" and inserting "2004".

SEC. 333. LOCAL EXEMPTIONS FROM FOREST SERVICE DEMONSTRATION PROGRAM FEES. Section 6906 of Title 31, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "Necessary"; and

(2) by adding at the end the following:

"(b) LOCAL EXEMPTIONS FROM DEMONSTRATION PROGRAM FEES.—

"(1) IN GENERAL.—Each unit of general local government that lies in whole or in part within the White Mountain National Forest and persons residing within the boundaries of that unit of general local government shall be exempt during that fiscal year from any requirement to pay a Demonstration Program Fee (parking permit or passport) imposed by the Secretary of Agriculture for access to the Forest.

"(2) ADMINISTRATION.—The Secretary of Agriculture shall establish a method of identifying persons who are exempt from paying user fees under paragraph (1). This method may include valid form of identification including a drivers license.".

SEC. 334. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM. (a) IN GENERAL.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106–51; 15 U.S.C. 1841 note) is amended as follows:

(1) TERMS AND CONDITIONS.—Subsection (h) is amended—

(A) in paragraph (1), by striking "2005" and inserting "2015"; and

(B) by amending paragraph (4) to read as follows:

"(4) GUARANTEE LEVEL.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

"(B) INCREASED LEVEL ONE.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 90 percent, of the amount of principal of the loan, if—

"(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $100,000,000; and

"(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $50,000,000.

"(C) INCREASED LEVEL TWO.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

"(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $100,000,000; and

"(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $50,000,000.".

(2) TERMINATION OF GUARANTEE AUTHORITY.—Subsection (k) is amended by striking "2001" and inserting "2003".

(b) APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 2002".

AUTHORIZING SENATE OFFICE OF SENATOR JOHN D. ROCKEFELLER IV BE USED TO COLLECT DONATIONS OF CLOTHING

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of S. Res. 134, submitted earlier today by Senators ROCKEFELLER and BYRD.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 134) authorizing that the Senate office of Senator John D. Rockefeller IV be used to collect donations of clothing from July 13, 2001, until July 20, 2001, from concerned Members of Congress and staff to assist the West Virginia families suffering from the recent disaster of flooding and storms.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROCKEFELLER. Madam President, as you may know, my state of

West Virginia was ravaged last week by its worst flooding in years. Homes were destroyed, businesses and infrastructure were shut down and, most tragically, lives were lost. The outpouring of support thus far has been truly heartwarming; however, much is still needed in order to rebuild our communities. That is why I am asking my colleagues, our staffs, and our friends to support this resolution and to participate in a clothing drive that will give aid to the victims of this tragedy. I am proud to be joined by our distinguished senior Senator, ROBERT C. BYRD, in our effort to help West Virginians. Our drive can only be successful if the resolution before us is passed, and if we each give what we can.

Immediately following the floods, I visited some of the areas hardest hit. Although I have seen this type of devastation before, I was still taken aback by dissolved roads, collapsed homes, and splintered bridges. Fortunately, the clean-up process is already underway as federal disaster relief pours in. Organizations such as the American Red Cross and the Salvation Army have provided for residents' most immediate needs, while agencies such as the Federal Emergency Management Agency, FEMA, begin processing damage claims. Governor Wise and state agencies are working hard to reach out to communities struggling to cope with the aftermath of the flooding. Working together, federal, state, and local officials can begin the crucial work to rebuild our communities.

Yet, much remains to be done. Today, Sharon and I will visit more of the state. With us, we will take the prayers and well-wishes we have been given. We will also present generous donations from corporations such as the Pepsi Cola Company. While I am in the state, my staff will organize a clothing drive to replace some of the items lost in the floods. Clothing of all kinds is needed as residents rebuild their homes and their lives. Many have lost everything and, as they return to work and school, will need the basic items we all take for granted. Moreover, as the winter months approach and the season brings rugged weather, victims will also find themselves in need of cold-weather clothing and shoes. Once the clothing is collected on Capitol Hill, United Airlines will transport all of the donations to West Virginia and the National Guard will help distribute the clothing to families in need. These are just two examples of the generosity displayed by companies and by individuals who wish to help. Each of them has my deep gratitude.

Of course, in the rush to move on and rebuild, we cannot forget about those lost. I am enormously sorry for the loss of Bonnie Shumate and Bradley Jenkins, and my heart goes out to their families and friends. Though rebuilding will serve as a challenge for the average West Virginian, grieving will, of course, prove far more difficult for the Shumates and the Jenkins.

It has been said that there is light at the end of every tunnel. Considering the awesome amount of support provided to date for the flood victims in West Virginia, I would have to agree. Let us continue this support by committing to and participating in a clothing drive for the people affected by the flood. On behalf of the Mountain State, thank you.

Mr. REID. Madam President, I ask consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements and supporting documents be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 134) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is located in today's RECORD under "Submitted Resolutions.")

ORDERS FOR TUESDAY, JULY 17, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9 a.m. tomorrow, July 17.

I further ask consent that on Tuesday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Bankruptcy Reform Act; further, that the Senate recess from 12:30 to 2:15 for the weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, therefore, on Tuesday the Senate will convene at 9 a.m. and resume consideration of the Bankruptcy Reform Act under a previous order. There will be 3 hours of debate on cloture on the Bankruptcy Reform Act, which will cause us to vote around 12 noon. We expect to return to the Energy and Water Appropriations Act on Tuesday, with rollcall votes expected into the evening.

In the morning I am going to renew my request that there be a time certain for filing amendments. The reason this is so important is we are not going to be on this bill tomorrow. That will give staff time to work on the amendments that people think are important. Some certainly are important. So I am going to renew that request tomorrow morning, and I hope Senators on both sides of the aisle will allow us to go forward.

ORDER FOR ADJOURNMENT

Mr. REID. I ask unanimous consent that the Senate stand in adjournment following the remarks of the Senator from Arizona and the Senator from Oregon, as previously outlined in the unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS

Mr. KYL. Madam President, let me say I appreciate what the Senator from Nevada said about the reforms that Senators DOMENICI, MURKOWSKI, and I effectuated with respect to the Department of Energy. It was a time of some confusion, and reasonable people could differ about what we did there. But I think it is working out well. I appreciate that the Senator from Nevada is now very much in support of that. Earlier I when spoke, I did no use the name of the Senator from Nevada but I did thank the Democratic leadership for moving nominations with such alacrity last week. I think there were 54 nominations and I think I mentioned that I hoped we could continue with that progress during the next couple of weeks. I wanted the Senator from Nevada to know I paid him a compliment today as well.

Mr. REID. I say to my colleague, if he will yield, I watched his statement from my office, and I appreciate that very much. I say to my friend from Arizona, it is important we move these nominations. There are a few that cause problems, but very few. And you will know about those. The rest of them we need to move forward to have better government.

I think it is very unfair that the system has become so complicated, so burdensome, that we are having trouble getting good people to take these jobs. It is amazing to me the quality of the people who served in the Clinton administration and those who are now willing to serve the Bush administration with all they have to go through.

I look forward to working with my friend from Arizona to move as many of these as quickly as we can. As I told my friend on Friday, we had one person with a little problem and we just went around that, took care of everybody else. Even those we have problems with, they deserve their day in court, so to speak. So I appreciate the comments of the Senator from Arizona. I appreciate his cooperation in allowing us to have this bill on the floor.

Mr. KYL. I thank the Senator from Nevada.

Madam President, will the Chair advise me when I have gone 5 minutes. I do not want to impinge anymore on the time of the Senator from Oregon.

UNITED STATES-CHINA RELATIONS

Mr. KYL. Madam President, I wanted to speak briefly about the decision made last Friday to hold the next Olympics in Beijing, the 2008 games. Our Government was not involved in that. It is not a government-to-government kind of decision. But I am hopeful the fact that the United States did not, as a nation, weigh in on that decision—I am hopeful that did not send a signal to the leaders in Beijing that the U.S. Government either supports what that Chinese Government leadership does or does not object to many of the things which are done by that Government that violate human rights and in other ways suggest the country of China is not yet willing to join the family of nations.

I wanted to note a few of the activities of this recent Chinese Government that suggest to me the United States needs to take a very firm position with respect to China. That is why I say I am hopeful this decision that the Olympics go to China not be mistaken for U.S. support for what China has done.

As illustrated in recent press reports, China's bid for that honor has been the subject of much international attention. For example, the European Union Parliament recently passed a resolution declaring that China's bid is "inappropriate" and that it is "unsuitable" for the Games due to its "disastrous record on human rights."

The American government, however, chose to remain neutral on China's bid—a decision that I hope will not convey to China's leaders a signal that the United States is willing to blindly tolerate that country's continuing failure to abide by internationally-recognized norms of behavior. Consider just a few events of recent months:

The collision of our reconnaissance plane with a Chinese fighter jet—the result of a Chinese pilot's aggressive flying.

China's detention and interrogation of our plane's crew for nearly two weeks, and submission of a $1 million bill to the United States.

China's detention and arrest of American citizens and permanent residents without clear evidence of wrongdoing or illegal activity—including Gao Zhan, Wu Jianmin, Li Shaomin, and Tan Guangguang. Li Shaomin was convicted of espionage on July 14 and reportedly will be expelled from China in the near future.

China's systematic torture and murder of hundreds of members of the Falun Gong—including the recent deaths of approximately fourteen peaceful adherents in a Chinese labor camp.

China's hardening of its crackdown on this group—including a new legal directive issued by Chinese judicial authorities on June 10 authorizing courts to prosecute Falun Gong practitioners for intentional wounding or murder, or for organizing, encouraging or helping other followers commit suicide or injure themselves. Additionally, it states that followers can be prosecuted if they produce or distribute anti-government materials.

China's execution of at least 1,781 persons during the past *three months*—more than the total number of executions worldwide over the past *three years*

A former Chinese doctor's testimony on June 27 to the House International Relations Committee that his job required him "to remove skin and corneas from the corpses of over one hundred executed prisoners, and, on a couple of occasions, victims of intentionally botched executions."

The Chinese military's ongoing large-scale military exercises in the South China Sea aimed at preparing that country for an invasion of Taiwan.

China's shipments to Cuba of arms and explosives, the latest of which reportedly occurred in December.

China's continuing assistance and provision of military technology to rogue regimes, including the case involving the Chinese firm that helped Iraq outfit its air defenses with fiberoptic equipment.

China's continuing purchases from Russia of conventional weapons, including plans to purchase two additional Sovremenny destroyers armed with Sunburn anti-ship cruise missiles.

There is no doubt that dealing with China will continue to be a challenge.

Whatever we do, we have to make sure that we don't send signals to China that we approve of these kinds of actions. Not standing in the way of their getting the Olympic games I hope will not send that kind of a signal.

And there is no alternative. It is the world's most populous nation (and biggest potential market); it has the world's largest armed forces; and it is a permanent member of the U.N. Security Council. Its economic and military strength has grown a great deal in recent years, and is projected to continue to grow significantly in the coming decades.

There are many areas of potential disagreement with other nations, such as trade policy and human rights violations. But the one source of potentially catastrophic consequences is China's insistence that, by *negotiation* or force, Taiwan must be reunited with the mainland, and that conflict with the United States is inevitable as long as we stand in the way of that objective. We cannot ignore this very real and potentially dangerous situation. How we deal with it will dictate the course of history.

The United States must develop a more comprehensive and realistic policy toward China, one which promotes good relations while not ignoring unpleasant exigencies.

In March, two days prior to the collision over the South China Sea, I spoke on the Senate floor about the challenge of dealing with China's growing military strength. I discussed in detail China's threatening rhetoric aimed at the United States and Taiwan, and warned of that country's rapid military modernization and buildup. And most importantly, I asked the question: what if China's leaders mean what they say? To assume they do not, particularly in light of the prevalence of highly threatening public statements and military writings could mean leaving ourselves deliberately vulnerable to potential Chinese aggression, (or impotent to deal with Chinese aggression against others).

China, unfortunately, has not been a very cooperative member of the international community. Several years ago, at a New Atlantic Initiative conference in Prague, I discussed America's role in that community and our vision for a world in which the United States could work side-by-side with other democracies, stating,

> If I had to sum up in one sentence the U.S. national interest in the world, I would say that it is promoting the security, well-being, and expansion of the community of nations that respect the democratic rights of their peoples.

China cannot become a member of this trusted family until there is a serious change in the attitude of its leadership. Indeed, China's leaders systematically violate the most fundamental rights of the Chinese people. Moreover, they increasingly lack respect for the democratic rights of individuals visiting China, including U.S. citizens. The Chinese government seeks to maintain absolute control over all domestic political matters. It remains resistant to what it considers interference in its internal affairs, threatening the use of force, if necessary, to achieve its objectives, including reunification with Taiwan. And China actively pursues foreign policies that risk destabilizing the South China Sea.

In the long-term, our goal must be to live in peace and prosperity with the Chinese people; however, to do so requires that we reconcile the different aspirations of our governments. It is clear that many of the Chinese government's goals conflict with American values, and it is important that we do not to compromise these values in dealing with the communist regime. We should, instead, encourage China to adopt a less aggressive and less threatening attitude through firm and principled interactions with that country's leaders.

Since the formal establishment of the People's Republic of China in 1949, the United States has purposely remained ambiguous about the degree to which we recognize the governments in Beijing and Taipei. Our "One-China" policy, dating back to the Shanghai Communique of 1972, has served U.S. strategic and economic interests, allowing the United States to peacefully retain ties with China and Taiwan.

On one subject, however, there should be no ambiguity—U.S. policy in the event China should ever attack democratic Taiwan. That is why I am pleased that President Bush made very clear to China that the United States will actively resist any such aggression. Yet even those measures ostensibly intended to eliminate any doubt of our commitment to Taiwan have not been so concrete. While we presented Taiwan with an arms package that will help that island build its defensive forces, the United States cannot ensure that Taiwan will ever receive the diesel submarines that were included since we do not build them and it remains unclear as to whether another country would be willing to provide a design for them.

Additionally, President Bush chose not to include Aegis destroyers in this arms package, though he reserves the right to sell them in the future should China continue or increase its belligerent behavior toward Taiwan. In light of China's military exercises in the South China Sea, perhaps now is the time to seriously consider this option.

We must be very clear in our own minds about our strategic intentions and just as clear in signaling these intentions to China. The object is to avoid a situation in which China's leaders miscalculate and are tempted to use force against Taiwan in the mistaken belief that they won't meet resistence from the United States.

History is replete with examples of ambiguity fostering aggression. Perceptions of American ambivalence contributed to North Korea's invasion of South Korea and Iraq's invasion of Kuwait, for example.

We have also observed instances where conflict never occurred because of the resoluteness of our stance. Our unambiguous commitment to contain Soviet expansion and defend our Western European allies during the Cold War enabled Western Europe to escape the grip of communism. And it led to one of the greatest accomplishments in history: the West's victory without war over the Soviet Empire.

There is an old saying that, "There is nothing wrong with making mistakes. Just don't respond with encores." Let us not repeat the mistake—failing to signal our commitment to defend our friends and our interests—that has many times led the United States to military conflict. China should be certain that we will help Taiwan resist any aggression against it.

We should make every effort to work with China, trade with China and seek greater understanding of our mutual cultures—while, at the same time, appropriately dealing with all aspects of China's troubling behavior. This offers our greatest hope for maintaining a balanced relationship near-term and helping to bring about change in the communist regime in the longer term.

While reconciling our two very different views about the relationship of a nation's people to its government requires patience, and even some short-term compromise, the United States cannot remain true to its fundamental belief in the natural rights of man without promoting respect for human rights, the rule of law, and the embrace of democracy by all governments, including the government of China.

There are five specific aspects of China's behavior that require a straightforward, firm response from United States: China's proliferation of ballistic missiles and weapons of mass destruction; its threats and corresponding military buildup opposite Taiwan; its threatening rhetoric and missile buildup aimed at the United States; its human rights abuses; and its history of refusing to play by economic rules.

China is perhaps the world's worst proliferator of the technology used to develop and produce ballistic missiles and weapons of mass destruction. Beijing has sold ballistic missile technology to Iran, North Korea, Syria, Libya, and Pakistan. It has also sold nuclear technology to Iran and Pakistan. It has aided Iran's chemical weapons program and sold that nation advanced cruise missiles. And it has sold Iraq fiber-optic cables, and assisted with their installation between anti-aircraft batteries, radar stations, and command centers.

Chinese assistance has been vital to the missile and weapons of mass destruction programs in these countries. And because of this assistance, the American people and our forces and friends abroad now face a much greater threat.

The United States needs to impose sanctions on Chinese organizations and government entities for their proliferation activities, as required by U.S. laws. Sanctions need not be the first or only tool used in the fight against proliferation. Nor, however, should this tool grow rusty from disuse. As the Washington Post noted in an editorial on July 14, 2000, "China's continuing assistance to Pakistan's weapons program in the face of so many U.S. efforts to talk Beijing out of it shows the limits of a nonconfrontational approach." We must back our frequent expressions of concern with actions if our words are to be perceived as credible.

Unfortunately, the United States has all too often sent a signal to Beijing that its irresponsible behavior will be tolerated by failing to enforce U.S. laws requiring sanctions, or doing so in ways deliberately calculated to undermine the intent of the sanctions. For example, China transferred M-11 missiles and production technology to Pakistan in violation of the Missile Technology Control Regime, despite promising to adhere to that agreement. U.S. law requires sanctions to be imposed on nations that transfer technology regulated by the MTCR. In 1993, the Clinton Administration imposed sanctions on China's Ministry of Defense and eleven Chinese defense and aerospace entities for violations of Category 2 of the MTCR—despite the fact that the M-11 transfers were Category 1 violations—thereby imposing the mildest form of sanctions possible. Then, in return for a Chinese promise in October 1994 not to export "ground-to-ground missiles" covered by the MTCR, the Clinton Administration waived the sanctions.

After the waiver, despite a steady stream of press reports, Congressional testimony, and unclassified reports by the intelligence community that described China's continued missile assistance to Pakistan, the Clinton Administration did not impose sanctions as required by law. Assistant Secretary of State for Nonproliferation Robert Einhorn said in Senate testimony in 1997 that sanctions had not been invoked on China for the sale of M-11s to Pakistan because the Administration's ". . . level of confidence [was] not sufficient to take a decision that [had] very far-reaching consequences." The Clinton Administration appeared to have purposely set a standard of evidence so high that it was unattainable.

Madam President, China has promised six times during the past two decades not to transfer missiles and missile technology—in 1988, 1989, 1991, 1992, 1994, and 2000—and six times has broken its promises without any consequences. It is no wonder that China does not take seriously its obligations.

I recently joined several of my colleagues in sending a letter to President Bush expressing concern about Beijing's continuing proliferation activities. The letter states:

> The PRC's most recent missile nonproliferation promise was made on November 21, 2000. China promised not to assist, in any way, any country in the development of ballistic missiles that can be used to deliver nuclear weapons, and to abide by the MTCR. The PRC further pledged to issue export regulations covering dual-use technologies. However, no regulations have been promulgated, and we are concerned that China has continued to transfer missile equipment and technology in contravention of both the MTCR and its November pledge.

In return for China's November 2000 pledge, the previous administration "swept the decks clean," sanctioning numerous Chinese entities for their activities and subsequently waiving those sanctions. And again it appears as though China may be continuing to transfer missile equipment and technology. We do not need more empty promises from China—we need action. It is important that the Bush Administration signal to China by imposing sanctions required by U.S. nonproliferation statutes and making them stick that the United States will no longer tolerate that country's irresponsible proliferation activities.

In addition to enforcing nonproliferation laws, we should also resist efforts to weaken controls on the export of dual-use technologies, which China can use to further modernize its military, as well as transfer to other countries. In particular, I am concerned that the Export Administration Act of 2001 would reduce the ability of the U.S. government to maintain effective export controls on such items.

An Asian Wall Street Journal op-ed published on March 19 by two researchers at the Wisconsin Project on Nuclear Arms Control described how the Chinese firm that helped Iraq outfit its air defenses with fiber-optic equipment has purchased a significant amount of technology from U.S. firms and is seeking to import more. For example, the op-ed indicated that one such firm has applied for an export license to teach this Chinese company how to build high-speed switching and routing equipment that will allow communications to be shuttled quickly across multiple transmission lines. The U.S. government should have the ability to deny exports of dual-use technology to a company such as the Chinese firm in this case.

The second of five areas of concern is China's belligerent behavior toward Taiwan. China is intent on gaining control over that island—by force if necessary—and is taking the necessary military preparations that would enable it to do so. According to an article published in the Washington Post on April 27, Wu Xinbo, a professor at Fudan University's Center for American Studies in Shanghai, stated:

> At this moment it's very difficult to argue that there's still a high prospect for a peaceful solution of the Taiwan issue . . . From a Chinese perspective there has to be a solution to Taiwan either way, peacefully or with the use of force. Given [the] change in U.S. policy . . . you have to give more weight to the second option."

The "change" to which he was referring was the U.S. commitment to come to Taiwan's defense articulated by President Bush.

China's threats have been backed by rapid efforts to modernize its military. The immediate focus of the modernization is to build a military force capable of subduing Taiwan swiftly enough to prevent American intervention. According to the Department of Defense's Annual Report on the Military Power of the People's Republic of China, released in June 2000, "A cross-strait conflict between China and Taiwan involving the United States has emerged as the dominant scenario guiding [the Chinese Army's] force planning, military training, and war preparation."

To solidify its ability to launch an attack against Taiwan, China is increasing its force of short-range ballistic missiles opposite the island. According to an article in the Wall Street Journal on April 23, U.S. defense officials estimate that China currently has 300 such missiles aimed at the island, and is increasing this number at a rate of 50 per year.

China is also in the process of modernizing its air force and navy. The Defense Department's June 2000 report predicted that after 2005, ". . . if projected trends continue, the balance of air power across the Taiwan Strait could begin to shift in China's favor." The same report warned, "China's submarine fleet could constitute a substantial force capable of controlling sea lanes and mining approaches around Taiwan, as well as a growing threat to submarines in the East and South China Seas."

In response to the growing threat and Taiwan's increasing vulnerability to an attack, President Bush approved the sale to Taiwan of some much-needed defensive military equipment. As noted, however, the sales are limited in practical effect and, in any event, must be accompanied by proper training and coordination with the U.S. military in order to be useful in conflict.

In addition to the Chinese military's investment in hardware, Beijing has increasingly focused on advanced training methods, demonstrating joint-service war-fighting skills in its military exercises that are steadily altering the balance of power across the Taiwan Strait. Over the past several years, these exercises have shifted from an intimidation tactic to a more serious effort intended to prepare China for an invasion of Taiwan.

Beijing's amphibious exercises at Dongshan Island in the Taiwan Strait have illustrated this increasing level of sophistication in war-fighting tactics and interoperability. A Chinese state-owned newspaper, Hong Kong Ming Pao, reported on June 1 that China's Central Military Commission proposed that these exercises be held near Taiwan "in order to warn the United States and the Taiwan authorities not to play with fire over the Taiwan issue." Furthermore, according to the same article, "the main aim of this exercise will be to attack and occupy Taiwan's offshore islands and to counterattack U.S. military intervention." Another article in the state-owned Hong Kong Wen Wei Po on June 4 stated that the purpose of the exercise "not only includes capture of [the islands around Taiwan], but also how to tenaciously defend these islands and turn them into wedges for driving into the heart of the enemy."

According to an article in the New York Times on July 11, the official Chinese publication, International Outlook Magazine, described in detail these recent "war games". The games reportedly occurred in three stages. The first, information warfare, was intended to paralyze enemy communications and command systems electronically. The second involved a joint navy, infantry, and air force landing on Dongshan Island. And the third, according to the Chinese publication, simulated a "counterattack against an enemy fleet attempting to intervene in the war." It was also reported that this final stage incorporated Russian-bought SU–27 fighter aircraft. Thus far, military experts state that China has had difficulty incorporating these aircraft into its arsenal, and its ability to do so indicates a significant improvement in its ability to integrate military operations.

Taiwan's war-fighting skills are not nearly as advanced. For over twenty years, the United States has cut Taiwan off from the intellectual capital that should accompany the hardware we sell, thus reducing the readiness of that island's forces. Our defense officials and military personnel need to be able work with their Taiwanese counterparts to ensure that they know how to use the equipment and they will be capable of operating alongside U.S. forces. Increased interaction would better prepare Taiwan's military to defend itself in the event of a Chinese attack, reduce the possibility that the United States would need to become involved in such a conflict, and inevitably save lives.

This leads directly to the third area of concern—China's actions that directly threaten America. China's harsh rhetoric aimed at the United States is accompanied by Beijing's build-up of long-range missiles targeted at our cities, acquisition of anti-ship cruise missiles to counter U.S. carrier battle groups, and development of cyberwarfare and anti-satellite capabilities. China also understands the importance of aggressive intelligence operations against the United States.

In February 2000, the People's Liberation Army Daily, a state-owned newspaper, warned the United States against intervening in a conflict in the Taiwan Strait, stating,

> On the Taiwan issue, it is very likely that the United States will walk to the point where it injures others while ruining itself . . . China is neither Iraq or Yugoslavia . . . it is a country that has certain abilities of launching a strategic counterattack and the capacity of launching a long-distance strike. Probably it is not a wise move to be at war with a country such as China, a point which U.S. policymakers know fairly well also."

China is, in fact, continuing to increase its capacity to launch a long-distance strike against the United States. The Defense Department's report, Proliferation: Threat and Response, states:

> China currently has over 100 nuclear warheads. . . While the ultimate extent of China's strategic modernization is unknown, it is clear that the number, reliability, survivability, and accuracy of Chinese strategic missiles capable of hitting the United States will increase during the next two decades.

China currently has about 20 CSS–4 ICBMs with a range of over 13,000 kilometers, which

> can reach the United States. Some of its ongoing missile modernization programs likely will increase the number of Chinese warheads aimed at the United States. For example, Beijing is developing two new road-mobile solid-propellant ICBMs. China has conducted successful flight tests of the DF-31 ICBM in 1999 and 2000; this missile is estimated to have a range of about 8,000 kilometers. Another longer-range mobile ICBM also is under development and likely will be tested within the next several years. It will be targeted primarily against the United States.''

China's military has also taken steps to improve its capability to counter U.S. carrier battle groups, in response to its encounter with the U.S. Navy in 1996. It has acquired two Sovremenny destroyers from Russia armed with Sunburn anti-ship cruise missiles, and according to an article in the Washington Times on May 4, plans to purchase two more. These weapons were designed to attack U.S. carriers and Aegis ships during the Cold War and are a significant improvement to the Chinese Navy's capabilities in this area.

In addition to its buildup of conventional and nuclear weapons, China's military is also placing an emphasis on information warfare, including computer network attacks and anti-satellite operations. In September 2000, the U.S. Navy identified China, among several others, as having an acknowledged policy of preparing for cyberwarfare and as rapidly developing its capabilities. In fact, an article in the People's Liberation Army Daily in 1999 stated that the Chinese military planned to elevate information warfare to a separate service on par with its army, navy and air force.

Also of great concern is the Chinese military's development of a broad range of counterspace measures, including an anti-satellite (ASAT) capability. According to China's Strategic Modernization: Implications for the United States, written by Mark Stokes, "Chinese strategists and engineers perceive U.S. reliance on communications, reconnaissance, and navigation satellites as a potential Achilles' heel." The Defense Department's June 2000 report warned that China may already possess the capability to damage optical sensors on satellites and furthermore, that it may have acquired high-energy laser equipment and technical assistance that could be used in the development of ground-based ASAT weapons.

An article in Jane's Missiles and Rockets on May 1 confirmed the Defense Department's warning, stating that China's state-run press reports indicate that country is, in fact, developing an ASAT capability. It is currently in the ground-testing phase and will start flight testing in 2002.

In light of China's threatening rhetoric and its efforts to acquire the capabilities that could allow it to carry out those threats, we must begin to implement a broad range of measures that will safeguard our national security.

First, we need to develop and deploy a missile defense system to protect ourselves and our allies from an accidental or deliberate missile launch and to eliminate the possibility of blackmail by hostile powers. As President Bush recently stated in a speech to the National Defense University,

> We must seek security based on more than the grim premise that we can destroy those who seek to destroy us. . . . We need a new framework that allows us to build missile defenses to counter the different threats of today's world. To do so, we must move beyond the constraints of the 30 year old ABM Treaty. This treaty does not recognize the present, or point us in the future. It enshrines the past. No treaty that prevents us from pursuing promising technology to defend ourselves, our friends and our allies is in our interests or in the interests of world peace.

Second, the United States needs to develop better anti-ship cruise missile defenses. Systems to counter the cruise missile threat have lagged behind the level of that threat, despite the fact that, according to the U.S. Navy, over 75 nations possess more than 90 different types of anti-ship cruise missiles.

We must also prepare for China's potential use of information warfare. It is important that we find ways to protect our computer networks from hacking, to eliminate future lapses in security, as most recently occurred at Sandia National Laboratory in Mexico. According to an article in the Washington Times on March 16, this attack has been partially attributed to hackers with links to the Chinese government.

The United States should also develop defenses against China's ASAT weapons. As the Commission to Assess United States National Security, Space Management and Organization recently concluded:

> The present extent of U.S. dependence on space, the rapid pace at which this dependence is increasing and the vulnerabilities it creates, all demand that U.S. national security space interests be recognized as a top national priority.

With this goal in mind, Secretary Rumsfeld recently announced a reorganization of our Nation's space programs. Moreover, President Bush, recognizing U.S. reliance on our network of satellites for civilian and military uses, has stressed the need for "great effort and new spending" to protect our satellites from attack.

Of course, our ability to defend against China's increasing military capabilities is largely dependent on our knowledge of their development. We must do a better job of ascertaining Chinese government plans and intentions (and proliferation activities) and improve our counterintelligence vis-a-vis China.

The fourth area of concern is the Chinese government's deplorable human rights record that, according to the State Department's Country Reports on Human Rights Practices, has continued to deteriorate over the past year. The report states:

> The [Chinese] Government continued to commit widespread and well-documented human rights abuses in violation of internationally accepted norms. These abuses stemmed from the authorities' extremely limited tolerance of public dissent aimed at the Government, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms . . . Abuses included instances of extrajudicial killings, the use of torture, forced confessions, arbitrary arrest and detention, the mistreatment of prisoners, lengthy incommunicado detention, and denial of due process.

According to an Amnesty International report on June 7, China has executed at least 1,781 persons during the past 3 months—more than the total number of executions worldwide over the past 3 years. Moreover, the report indicates that 2,960 people have been sentenced to death in China during this brief time period.

What is the significance to the United States of such abuses? First, they are not only directed at Chinese citizens; they are also directed at Americans. Second, if China is to become a reliable member of the international community, it must begin to adhere to accepted norms of behavior. In this regard, China's leaders seem to be oblivious to the understanding that all people deserve certain basic freedoms and that violation of such fundamental rights is an appropriate concern of the United States and the world at large. For example, when questioned by the Washington Post about China's detention of several Americans, Chinese President Jiang Zemin stated, ". . . the United States is the most developed country in the world in terms of its economy and it high-tech; its military is also very strong. You have a lot of things to occupy yourself with . . . why do you frequently take special interest in cases such as this?''

Jiang Zemin's perplexity speaks volumes. Until the Chinese leadership understands why Americans and most of the rest of the world make such "a big deal" over denial of the rule of law, it will be hard to reach a reconciliation of our mutual aspirations. For example, the Chinese government's continued detention of two American citizens and two U.S. permanent residents—Gao Zhan, Wu Jianmin, Li Shaomin, and Tan Guangguang—is unacceptable, and should be much more the focus of official U.S. government attention. One of these individuals, Li Shaomin was convicted of espionage on July 14 and is expected to be deported from China. With regard to the others, China has failed to present evidence of wrongdoing or illegal activity, or indicate when their cases might begin to move forward.

President Bush addressed China's detention of Americans in a phone conversation with Chinese President Jiang Zemin on July 6, making clear that they should be "treated fairly and returned promptly." These words need to be reinforced with actions. While the State Department issued a travel advisory in March to American citizens and permanent residents of Chinese descent traveling to China who have connections to Taiwan or have openly criticized the Chinese government, we can also deny visas to Chinese officials, seek international sanctions, and continue to link an improvement in human rights to other policies, as we did with the Soviet Union and Eastern Europe.

As I mentioned earlier, I am concerned that our government's neutrality on Beijing's ultimately successful bid to host the 2008 Olympic Games may send a signal of U.S. tolerance of China's inappropriate behavior. With the Secretary of State visiting China to help prepare for the President's trip this fall, there is an opportunity to reinforce our opposition to the repressive behavior of China's leaders. While some hope otherwise, it seems unlikely that the International Olympic Committee's choice of Beijing will bring about positive change in the communist regime. In fact, I fear that the decision could serve to strengthen the standing of China's communist leaders in the world, as the 1936 Games glorified and emboldened Nazi Germany.

The only hope for a positive result of China hosting the games is a concerted effort by our government, Europeans (and others) and human rights groups using the occasion to push China's leaders. The multitude of media covering the games can also help.

During the 1980's President Reagan was a champion for human rights, standing up for freedom, democracy, and civil society. He passionately spoke of American values and universally-recognized rights, and more importantly, backed his words with action. In his 1982 "Evil Empire" speech before the British House of Commons, President Reagan stated:

> While we must be cautious about forcing the pace of change, we must not hesitate to declare our ultimate objectives and to take concrete actions to move toward them. We must be staunch in our conviction that freedom is not the sole prerogative of a lucky few but the inalienable and universal right of all human beings.

This is the course we must chart in the coming years. China must understand that a friendly, productive relationship with the United States can only be based upon mutually shared values. Beijing's human rights abuses are anathema to the American people, and relations cannot reach their full potential as long as the communist government continues to violate the most fundamental rights of worship, peaceful assembly, and open discourse. A failure to reconcile this most basic attitude will result in continued strained relations.

The final area of concern is that, in addition to its violation of other international norms, China has a history of failing to play by accepted economic rules, placing an extensive set of requirements on companies that wish to do business in China and imposing an array of trade barriers on imports that compete directly with products made by domestic Chinese firms. Such barriers make it difficult for U.S. companies to penetrate China's market. The result is a surging U.S. trade deficit between us, reaching $85 billion in 2000.

On June 1, President Bush submitted to Congress a determination extending normal trade relations status to China for another year, allowing that country's WTO (World Trade Organization) negotiations to continue. Not until these negotiations are completed and China has acceded to the WTO will the permanent normal trade status approved by the 106th Congress take effect.

In June, China took a significant step toward WTO accession by completing its bilateral WTO agreement with the United States. That country must now complete bilateral negotiations with Mexico and resolve several outstanding issues related to its multilateral agreement before its accession package proceeds to the WTO's Working Party, and then to the WTO's General Council, for approval.

As a member of the WTO, China will be required to play by the same rules as all other members. China's membership in this organization has the potential to improve our trading relationship, benefitting many American businesses and consumers, as long as China holds to its agreements.

Finally, we expect that China's accession to the WTO will be immediately followed by Taiwan's accession to this organization. Last September, I received a letter from President Clinton that responded to a letter I sent him in July 2000 (along with 30 other Senators), that sought assurances that his Administration remained committed to Taiwan's entry to the WTO under terms acceptable to Taiwan. In the letter the former President stated that, "My administration remains firmly committed to the goal of WTO General Council approval of the accession packages for China and Taiwan at the same session." The letter went on to say that "China has made clear on many occasions, and at high levels, that it will not oppose Taiwan's accession to the WTO." However, the President acknowledged that, "China did submit proposed language to their working party stating that Taiwan is a separate customs territory of China," but went on to say that it had "advised the Chinese that such language is inappropriate and irrelevant to the work of the working party and that we will not accept it."

Further, in a September 2000 letter to Senators LOTT and DASCHLE, President Clinton stated:

> . . . I am confident we have a common understanding that both China and Taiwan will be invited to accede to the WTO under the language agreed to in 1992, namely as the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (referred to as "Chinese Taipei"). The United States will not accept any other outcome.

We must continue to make clear to China that it would be unacceptable to the United States for China to fail to live up to its commitments not to block Taiwan's entry to the WTO as a separate customs territory, Chinese Taipei, not a customs territory of China.

Mr. President, let me briefly recap the concerns I have raised today regarding China's proliferation of ballistic missiles and weapons of mass destruction, its threats and military buildup opposite Taiwan and the United States, it human rights abuses, and its history of failing to play by accepted economic rules.

I believe our policy toward China should be one of strength and firmness, with friendly intentions, but never compromising U.S. principles. In the long-term, our goal must be to live in peace and prosperity with the Chinese people; however, to do so requires that China's leaders begin to alter their behavior. As Robert Kagan and William Kristol wrote on April 16 in the Weekly Standard, with regard to China's handling of the collision of our reconnaissance plane and China's fighter jet, "China hands both inside and outside the government will argue that this crisis needs to be put behind us so that the U.S.-China relationship can return to normal. It is past time for everyone to wake up to the fact that the Chinese behavior we have seen is normal." To conduct business as usual with a communist regime that mistreats its people and threatens the security of Americans and our allies would be a dereliction of our duty as a world leader. We have no higher obligation than the protection of Americans, and the support of our friends and allies, including Taiwan, which stands to lose the freedoms it has worked so hard to sustain in face of resistance from China's communist regime.

During his "Sinews of Peace" address in 1946, Winston Churchill stated,

> Our difficulties and dangers will not be removed by closing our eyes to them. They will not be removed by mere waiting to see what happens; nor will they be removed by a policy of appeasement.

As it has so often been said, those who ignore history are condemned to repeat it. In the face of obvious belligerency and determination to impose a different set of rules by China's leadership, the United States must not repeat the mistakes of the past. We cannot stand idle or look away in the face of the Chinese behavior and rhetoric I have discussed.

There is no doubt that China will play a larger role on the world stage in the coming years. Our goal must be to ensure that China's leaders do not assume that this heightened stature grants them the right to attack Taiwan or be a force for belligerency and instability in the world.

Dealing with China will be a challenge, but America does not fear challenge. Our greatest hope for change remains, as it has always been, to stand firmly as a force for peace and progress, and to champion no less for the people of other countries what we guarantee for our own citizens. I am confident that, if we make clear our friendly intentions to China and follow through with actions that reinforce our words, Beijing will, in time, respond positively, Taiwan will continue to flourish, and China can be welcomed as a peaceful and productive member to the community of nations.

I express the hope that by holding those games in Beijing, the media, human rights organizations, and others will work to hold the Chinese leadership accountable for what goes on in that nation.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, before he leaves the floor, I want to express my thanks to the Senator from Arizona. Because of his thoughtfulness, I am able to speak now. I want him to know I very much appreciate that.

PRESCRIPTION DRUGS

Mr. WYDEN. Madam President, tomorrow I intend to introduce bipartisan prescription drug legislation with the senior Republican on the Senate Finance Committee's Subcommittee on Health, Ms. OLYMPIA SNOWE of Maine. For more than 3 years, Senator SNOWE and I have teamed up in an effort to address this prescription drug issue, of which the Presiding Officer is acutely aware. It is one of the most vexing and contentious of all issues. We have been trying to address it in a bipartisan fashion. Perhaps no issue in the last political campaign generated more controversy, more attack ads on both sides, and more bitterness rather than thoughtful discussion than the question of prescription drugs for seniors.

The reason Senator SNOWE and I are moving now with the introduction of our bipartisan legislation tomorrow is that we are hopeful that when the Senate Finance Committee takes up the prescription drug legislation issue at this month, the legislation we have put together can serve as a template, a beginning, for a bipartisan effort to address this issue.

Our legislation marries what I think are the core principles that Democratic Members of this body have advocated with certain key principles that Republicans have felt very strongly about as well. I want to discuss briefly tonight how our legislation does that.

The legislation that I drafted with Senator SNOWE, for example, has a defined benefit, which is absolutely key for the Nation's senior citizens. The alternative is what is known as a defined contribution—a sort of a voucher which you hand an older person, or a family with sort of a wish and a hope that maybe they will get meaningful benefits.

What Senator SNOWE and I have done—which has been extraordinarily important to Senator DASCHLE, and correctly so, in my view—is to make sure that under our legislation every senior would get these defined benefits.

Second, our legislation ensures that the program is inside the Medicare Program. It is a part of the Medicare Program because, as the Presiding Officer of the Senate knows, the alternative is to in effect begin the privatization of Medicare and the prescription drug benefit. It is essential that this program be an integral part of Medicare. That is something that Senator SNOWE and I have felt very strongly about.

The third part of the legislation ensures that older people will have bargaining power to help make prescription drugs in this country more affordable. Older people today are in effect hit by a double whammy. Prescription drugs are not covered by the Medicare Program, of course, and they haven't been since the program began in 1965.

When an older person isn't able to afford prescription drugs and has no private coverage, when they go to a pharmacy—in effect that senior citizen is subsidizing the person who gets their prescription drugs through a group plan. An individual who is fortunate enough to have bargaining power because they have insurance coverage, in effect is subsidized by the older person who has no coverage at all.

Our legislation ensures that older people would have an opportunity to have real bargaining power. This is key for the millions of older people who spend well over a third of their income on prescription drugs.

Finally, our legislation is voluntary. We want to make sure that the message goes out far and wide that any older person who is comfortable with their prescription drug coverage today can just keep it and in no way would be required or coerced to alter the prescription drug coverage with which they are comfortable. If they have a retirement package, or in some way get this assistance, our legislation would not in any way alter what they are receiving.

Having had the privilege of working with the Presiding Officer on health care legislation over the years, I am pleased that I have a chance tonight to describe our bipartisan bill with you in the Chair.

I think we all understand that there is no one who has studied the health care system today—not a Democrat or a Republican—if they were redesigning Medicare, who wouldn't include a prescription drug benefit.

A physician in Washington County in my home State of Oregon wrote me not long ago saying that he put a senior citizen in the hospital for 6 weeks because that person couldn't afford their medicine on an outpatient basis. Medicare Part A, of course—the hospital portion of the Medicare Program—covers prescription drugs. If the older person goes into the hospital, Medicare Part A will write out that check, no questions asked. Medicare Part B, of course, has no outpatient prescription drug benefit.

What happened in Washington County, in my home State of Oregon, recently is that the Medicare Program probably paid out $50,000 or $60,000 for the costs associated with hospitalizing a patient to get prescription drug coverage rather than making this benefit available on an outpatient basis the way I and Senator SNOWE and the Presiding Officer have sought to do for so many years.

Very often, when I am out around the country, people come up to me. They say: RON, can this country afford prescription drug coverage? We are going to have this demographic sunami. Are we going to be able to afford to cover all of these older people?

I think what we have learned here is that very clearly this country can't afford not to cover prescription drugs. We can't afford to allow the repetition of what happened in Washington County in Oregon and across this country where so many older people could have, with modest prescription drug assistance, prevented much more serious illnesses. And I could cite one drug after another tonight.

Strokes are a very important health concern for older people. The cost of caring for a person who has had a stroke can be $125,000 or $150,000. But we have many drugs available that help prevent strokes that cost $800 or $1,000 a year.

So the hour is late, and I am not going to go through one example after another. But I would say, what Senator SNOWE and I are trying to do is break the gridlock on this issue. I have been at it for more than 3 years now with Senator SNOWE. We got a majority of the Senate, in the last Congress, to vote for funding a prescription drug program that, frankly, is much broader than what we are talking about now. Senator SNOWE and I were able to get over 50 Members of the Senate to vote for a tobacco tax to cover a prescription drug program.

We are not talking about that at all here. In the budget resolution we have

$300 billion to start a prescription drug program. I believe a properly designed prescription drug program would cause future Congresses to make available additional funds to meet this pressing need. The challenge today is to look at some of the sensible ideas that Senator DASCHLE, the majority leader, has advocated, such as a defined benefit, ensuring that the program is inside Medicare, providing bargaining power for older people, and marrying the sensible ideas Senator DASCHLE has talked about with some of the Republican ideas that promote choice and competition.

As I have said to my colleagues on other occasions, we have a precedent for doing that. One of the accomplishments of which I am proudest is to have been the sponsor, when I was in the House of Representatives, of the Medigap legislation which really drained the swamp of so many questionable private insurers selling senior citizens policies that really were not worth the paper on which they were written.

I remember back in the days when I was Co-director of the Oregon Gray Panthers, we would visit seniors and they would have a shoe box full of these policies. They would have seven or eight private policies. They, in effect, were wasting money on junk that could have been used to meet their heating bills or their other health needs. We drained that swamp, and we did it through a Medigap law, by ensuring that seniors had meaningful choices and strong consumer protections.

So we have an example of how you can create choice and alternatives and promote competition, and do it in the context of the Medicare Program. You do not have to go out and privatize this program that has been a lifeline for millions of older people in order to create choice and competition. You can do it within the Medicare Program, which is what I am seeking to do with the senior Senator from Maine, the ranking Republican on the Finance Subcommittee on Health Care, Ms. OLYMPIA SNOWE.

Our hope is that when the Senate Finance Committee gets together this month, on a bipartisan basis, they will look at our legislation, along with the other very good bills that have been introduced. The senior Senator from Florida, Mr. GRAHAM, for example, has talked at length with me about this issue and has a fine bill. I think there are a variety of ways the Senate Finance Committee, under the leadership of Senator BAUCUS, can take these bills and bring the Finance Committee Democrats and Republicans together and break this gridlock on a vital issue.

I know of few issues that are more important at this point to American families than prescription drugs. I think we all understand that with a well crafted prescription drug program, this country can take a significant step forward towards meaningful Medicare reform.

I say to the Presiding Officer, the hour is late, and you have been gracious to allow me, along with the Democratic leader, this extra time. I intend to keep coming back to this Chamber again and again and again throughout this Congress to, in effect, proselytize—I use that word deliberately—with my colleague from Maine, Senator SNOWE, for a bipartisan effort on this issue. It has dragged on too long. There has been too much partisan bickering and squabbling surrounding this issue.

I would like to see just a tiny fraction of the millions of dollars that were spent on attack ads during the last political campaign on this issue spent on trying to bring Democrats and Republicans—Members of Congress across the political spectrum—together on this issue. That is what older people deserve.

Every month that this issue drags on is a month where older people—who are walking an economic tightrope, having to balance their fuel needs against their medical needs—have to worry about how they are going to pay for their essentials. The Presiding Officer understands that very well. I look forward to working with her and all of our colleagues on a bipartisan basis.

With that, Madam President, I yield the floor.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9 a.m. tomorrow.

Thereupon, the Senate, at 5:45 p.m., adjourned until Tuesday, July 17, 2001, at 9 a.m.

EXTENSIONS OF REMARKS

TRIBUTE TO 2001 LEGRAND SMITH SCHOLARSHIP FINALISTS

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is a sincere pleasure to recognize the finalists of the 2001 LeGrand Smith Scholarship Program. This special honor is an appropriate tribute to the academic accomplishment, demonstration of leadership and responsibility, and commitment to social involvement displayed by these remarkable young adults. We all have reason to celebrate their success, for it is in their promising and capable hands that our future rests:

Jonathan Andert of Battle Creek, Michigan.

Jared Bignell of Reading, Michigan.

Rachel Carpenter of Eaton Rapids, Michigan.

Leslie DeBacker of Pittsford, Michigan.

Jeremy Fielder of Blissfield, Michigan.

Andrew Grasley of Deerfield, Michigan.

Nicole Hephner of Hillsdale, Michigan.

Lindsay Karthen of Lansing, Michigan.

Gabriel Lopez-Betanzos of Lansing, Michigan.

Alison McMullin of Battle Creek, Michigan.

Timothy Miller of Quincy, Michigan.

Julie Porter of Addison, Michigan.

Josh Richardson of Brooklyn, Michigan.

Meghan Sifuentes of Charlotte, Michigan.

Anna Watkins of Coldwater, Michigan.

Janine Woods of Marshall, Michigan.

The finalists of the LeGrand Smith Congressional Scholarship Program are being honored for showing that same generosity of spirit, depth of intelligence, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan. They are young men and women of character, ambition, and initiative, who have already learned well the value of hard work, discipline, and commitment.

These exceptional students have consistently displayed their dedication, intelligence, and concern throughout their high school experience. They are people who stand out among their peers due to their many achievements and the disciplined manner in which they meet challenges. While they have already accomplished a great deal, these young people possess unlimited potential, for they have learned the keys to success in any endeavor. I am proud to join with their many admirers in extending our highest praise and congratulations to the finalists of the 2001 LeGrand Smith Congressional Scholarship Program.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. SAXBY CHAMBLISS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes:

Mr. CHAMBLISS. Mr. Chairman, I fully support H.R. 2330, because it provides funding for programs that will help assure the vitality of agriculture in America and particularly in Georgia. This bill allocates funding for essential programs, which allow further development and progress in food production. In addition, H.R. 2330 provides financial support for agricultural research that is crucial for finding solutions that will allow and promote more cost-effective production methods and higher quality results.

By allocating funding for research, this bill will help resolve problems inhibiting productivity and development. More specifically, research in pest and disease control, such as nematode and tomato spotted wilt disease research will enhance strategies used to combat crop yield losses. Also, funding is included for the development of more efficient agricultural water usage that is critical to locations in south Georgia where agricultural water usage comprises 50% of all water consumed. Furthermore, the bill includes funding for the improvement of cotton fiber quality. Funding is necessary for purchasing equipment that would be used in developing a research cotton micro gin for evaluation of cotton fiber in Georgia. Also, funding for pecan scab research is important to explore diseases that limit and inhibit pecan production.

Support for these research efforts, coupled with funding for promotional and marketing efforts, will help enable farmers to practice more efficient methods and minimize the devastating losses with which they have become all too familiar. I urge my colleagues to vote for this bill and support American Agriculture.

TRIBUTE TO RUTH HYMAN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. PALLONE. Mr. Speaker, I would like to call the attention of Congress to an event on Thursday, August 16 in New Jersey. The Jewish Family and Children's Service of Greater Monmouth County is holding a dinner and tribute at Temple Beth El of Oakhurst to honor Ruth Hyman. Ruth will have the distinction of receiving an Ad Journal for her work as a philanthropist and her support of Jewish causes in the area, as well as in Israel.

Ruth, close friend of mine, was born in my hometown of Long Branch, New Jersey into a family of four boys and four girls. She says that her parents' direction and teachings of tzedakah, menschlichkeit, and the Torah guided her to be the person that she is today.

Ruth's teachings as a child can well be seen in her community involvement. She is a life member of Daughters of Miriam, charter and life member of the Central Jersey Jewish Home for the Aged, founder and past chairperson of the Federation Women's Business and Professional Division, benefactor and board member of the Jewish Community Center, and an active member of B'nai Brith, AMIT, and Congregation Brothers of Israel. For the past twenty-five years Ms. Hyman has been the Chairperson of the Women's Division of Israel Bonds, and for the past twenty-six years she has been the president of the Long Branch Hadassah.

This is not the first time that Ruth will be honored for her service to the community. Ruth has received the Service Award from the Jewish Federation Women's Campaign, Woman of Valor of the Long Branch chapter of Hadassah, Israel Bonds Golda Meir Award and the Ben Gurion Award, Lay Leader of the Year by the Jewish Federation, and the Hadassah National Leadership Award. The community cannot express the debt that we owe to my friend Ruth who has shown us all that selflessness will never go unrecognized.

I want to personally thank Ruth Hyman for being a leader of the Jewish community and an excellent role model for our youth.

CONGRATULATIONS TO SERGEANT HAROLD F. ADKISON CHAPTER OF THE KOREAN WAR VETERANS ASSOCIATION UPON RECEIVING THEIR FORMAL CHARTER

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. GRAHAM. Mr. Speaker, I rise today to congratulate the Sergeant Harold F. Adkison Chapter of the Korean War Veterans Association for recently receiving their formal charter. On June 25, 2001, as a result of their tireless efforts, this chapter was officially established.

This chapter had fifty charter members before its petition for a charter was submitted, an unprecedented show of commitment. For this, the Sergeant Harold F. Adkison Chapter should certainly be commended.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

America's Armed Forces are exceptional, because unlike other nations our military not only defends the homeland and our people, but we protect the freedom of all men. In World War I, World War II, Korea, Vietnam, and in the Desert Storm our men and women have gone to fight for freedom.

The Korean War, regrettably, has often been referred to as the "forgotten war" because it came so quickly after World War II and was overshadowed on the homefront by the Vietnam War and its associated protests. At the outbreak of hostilities, many feared that this tiny peninsula would be the setting for the eruption of World War III as the United Nations joined with the United States and the Republic of South Korea to stop the invasion of the North Koreans backed by both the Soviet Union and the People's Republic of China.

The great sacrifice to the world made by the members of this newly established chapter of the Korean War Veterans Association, and their more than 54,000 peers, was a huge gift to the cause of freedom. As the Korean War Veterans Memorial on the Mall reads: "Our nation honors her sons and daughters who answered the call to defend a country they never knew and a people they never met."

The charter members of this new chapter should be proud of their sacrifices to defend freedom. Many of them lost friends to the horrors of combat. Their lives were changed in ways that no one can imagine, but they also changed the world in ways that we all can clearly see.

I ask my colleagues to join me in congratulating these veterans on the establishment of the Sergeant Harold F. Adkison Chapter and in thanking them for their outstanding service to our nation. We owe them a tremendous debt of gratitude, one that we can never repay.

TRIBUTE TO TRACY EGNATUK OF ALBION, MI, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Tracy Egnatuk, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Tracy is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Tracy is an exceptional student at Albion High School and possesses an impressive high school record. Tracy has received numerous awards for her excellence in academics, as well as her involvement in swimming and track. Outside of school, Tracy is a tutor for the HOSTS Program and a church volunteer.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Tracy Egnatuk for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

PAYING TRIBUTE TO SENATOR HUGH GILLIS, SR.

HON. SAXBY CHAMBLISS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. CHAMBLISS. Mr. Speaker, I rise today to pay tribute to Senator Hugh Marion Gillis, Sr. for his dedicated service to his country and to the state of Georgia. This year Senator Gillis his attained a distinction achieved by no other member of the Georgia House or the Senate and only one other state legislator in the nation by completing 50 years of service in the Georgia General Assembly.

Senator Gillis comes from a proud family tradition of public service. Without opposition he won the Senate seat that his father left and was then elected President Pro Tem, a seat his father too held. Senator Gillis served 12 years as a member of the House of Representatives from 1941–44, and again from 1949–56, and he first served in the Senate from the 16th District in 1957–58 and returned as the Senator from the 20th in 1963, where he has served with dedication and diligence for 38 consecutive years.

Gillis was born in Soperton where he graduated from Soperton High School and then went on to study at Georgia Military College and earn a B.S. degree in agriculture from the University of Georgia.

It has been said that "Nearly all men can stand adversity, but if you want to test a man's character, give him power."

Senator Gillis has stood up to the challenge of leadership and power with wisdom and humility to be one of the most respected politicians of Georgia.

He has served in the General Assembly longer than any other Senator currently in office. Senator Gillis is by all accounts the nation's longest-serving legislator. His combined Senate and House terms exceed 50 years. In his years of service, Senator Gillis has served as the Chairman of the Senate Natural Resources Committee and a member of the influential Appropriations Committee. Other committees Senator Gillis has served on are the Reapportionment Committee and the Finance and Public Utilities Committee as well as the Economic Development, Tourism and Cultural Affairs Committee. He has also served for six years as the Senate President Pro-Tempore, the highest-ranking Senate official next to the Lieutenant Governor.

Senator Gillis is known for his legislative work and also for his civic volunteering and community service. Senator Gillis has received numerous awards for his civic work, such as the title of Treutlen County Citizen of the year. Senator Gillis has served on the boards of Private Colleges, The Georgia Poultry Federation, Georgia Forestry Association, and Future Farmers of America.

Senator Gillis is also a deacon at Soperton First Baptist Church and a member of the Lion's Club. He has served as chairman of the Treutlen County Hospital Authority for 22 years.

Senator Gillis, a widower is the father of two sons, Hugh Jr. and Donald; and a daughter, Jean Marie. By profession, he is a farmer and timber grower.

Mr. Speaker, I am pleased to call to the attention of the House of Representatives the many accomplishments that have followed in the path of Senator Gillis' career. I am privileged to know such a dedicated and upstanding citizen and to call him my good friend. I thank him for his efforts to improve the lives of so many others across Georgia.

TRIBUTE TO MAJOR GENERAL ROBERT L. NABORS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. PALLONE. Mr. Speaker, I rise today in honor of Major General Robert L. Nabors, as he relinquishes his command of CECOM and Fort Monmouth in New Jersey.

Major General Nabors 35 years of military accomplishments will be honored at the retirement and change of command ceremony on Friday July 20, 2001. This decorated officer has been a valuable member of the armed forces. He has helped spearhead the development of advanced command, control, communications and electronic welfare technologies essential for transforming the Army. His military awards include the Defense Superior Service Medal, Legion of Merit with four Oak Leaf Clusters, the Bronze Star medal and many more.

Major General Nabors grew up in Lackawanna, N.Y. He received a Bachelor of Science in systems Engineering from the University of Arizona and is a graduate of the Senior officials in National Security Program at Harvard University.

Major General Robert L. Nabors has done this country a great service. He has been a leader for this community and for those he has commanded over the past 35 years. I would like to personally thank Major General Nabors for his dedication and service to our nation and community. I ask my colleagues to join me in recognizing this great man.

TRIBUTE TO CALIFORNIA'S SENIOR SUPREME COURT JUSTICE, THE LATE STANLEY MOSK

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to California's Senior Supreme Court Justice, the late Stanley Mosk.

For the past 37 years, Mosk served as the court's independent voice and moral compass. His trailblazing decisions brought sweeping changes to California law long before such decisions were addressed at the national level. A vigorous advocate of individual liberties, Mosk lead state courts across the country to use their own constitutions to establish individual rights beyond those required under the federal constitution. In 1976, Mosk wrote the opinion that bars the use of improperly obtained confessions arguing that such confessions could not be used to challenge the truthfulness of a defendant who later testifies. While the U.S. Supreme Court allowed for such use, Mosk invoked the state Constitution and did not approve the practice. His always careful, thoughtful and considerate opinions, totaling 1,688 over the span of his career, were widely regarded and highly acclaimed.

Mosk, the longest-serving member in the court's 151–year history and only Democrat, was known for his shrewd political acumen and often criticized by his adversaries for his focused attention of the states shifting political climate. Nevertheless, Mosk remained dedicated to his role as a public servant and vigilant in his undertaking of civil and criminal law.

A native of San Antonio, Mosk's career as a giant in the court began by serving 15 years on the Superior Court and six years as the State Attorney General. For a time, he served as the Democratic national committeeman from California but became weary of the fundraising component attached to political life and returned to the judicial branch as a member of the state Supreme Court.

While Mosk's independent liberal voice will be missed, the legacy that he has left will continue to serve the people of California.

TRIBUTE TO 1107TH AVIATION CLASSIFICATION AND REPAIR ACTIVITIES DEPOT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. SKELTON. Mr. Speaker, let me take this means to praise the Missouri National Guard for the integral role that they are playing in keeping the Army's Apache helicopters in the air. The 1107th Aviation Classification and Repair Activities Depot, or the MO–AVCRAD, has been the only National Guard group selected to help with this mission.

Recently, an AH–64 Apache lost a tail rotor blade and then the entire tail rotor hub assembly. The good news is the skilled pilots were able to land the helicopter, the bad news is that the cause of the accident is not know. When these accidents happen, several agencies attempt to find out what happened and why. As a precautionary measure a Safety of Flight is issued, mandating that all tail rotor blades be inspected.

This inspection is crucial to ensure that our soldiers are as safe as possible and the MO-AVCRAD is making that happen. The MO–AVCRAD is helping to inspect every tail rotor blade, including those in storage bins.

Mr. Speaker, the soldiers responsible for this critical work deserve to be recognized. I know the Members of the House will join me in extending a big thank you to the soldiers of the 1107th Aviation Classification and Repair Activities Depot.

TRIBUTE TO TRAVIS EBEL OF BATTLE CREEK, MI, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence he has compiled in academics, leadership and community service, that I am proud to salute Travis Ebel, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Travis is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Travis Ebel is an exceptional student at Lakeview High School and possesses an impressive high school record. Travis's involvement in both the Lakeview High School and the Battle Creek Math and Science Center curriculum is truly outstanding. He participates in high school athletics, as well as being a member of the Board of Directors for the Battle Creek Art Center. Travis is also an active volunteer in Calhoun County, dedicating more than 800 hours to community service.

Therefore, I am proud to join with his many admirers in extending my highest praise and congratulations to Travis Ebel for his selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to his success. To this remarkable young man, I extend my most heartfelt good wishes for all his future endeavors.

PAYING TRIBUTE TO SHERIFF CULLEN TALTON

HON. SAXBY CHAMBLISS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. CHAMBLISS. Mr. Speaker, I rise today to pay tribute to Sheriff Cullen Talton of Houston County. His dedication to the people of his county is deserving of the utmost recognition.

Sheriff Talton being one of the most respected sheriffs in the state, became a recipient of the Liberty Bell Award on June 11, 2001. This esteemed award is given by Bar Associations across the United States to recognize special people in their communities. The award praises the achievements of contributions that exceed the work of the common man. The Houston County Bar Association presents the Liberty Bell Award each year to celebrate the work of someone who has contributed to our legal system beyond the significant call of duty. The recipient of this award is generally someone who has dedicated his life's work to better the legal system in hopes of making his community a better place for those who are to follow.

Sheriff Cullen Talton has lived in Bonaire, Georgia, his whole life. Sheriff Talton has served 29 years as Sheriff of Houston County and 6 years as County Commissioner. While serving his community as a law enforcement officer he has also maintained a personal life that deems recognition as well. Sheriff Talton married his high school sweetheart, Peggy Sears and they have been married for 51 years. Together they have raised four children, Carline, Pattie, Cully and Neal. There are also four grandchildren and one great-grandchild. Keeping his faith as the focal point of his life he has been a life long member of Bonaire United Methodist Church.

Sheriff Talton is a member of many civic organizations and has received an abundance of awards for his civic work over the past 35 years. Sheriff Talton is a member of the Georgia Sheriffs Association and the National Sheriff's Association. His pet project is serving on the Board of the Georgia Sheriffs Boy's Ranch in Hahira. This Boy's Ranch is a place where underprivileged children can have a home. Sheriff Talton has been honored as Georgia's Sheriff of the Year and has received the Warner Robins/Houston County Chamber of Commerce Good Government Service Award. He serves as a board member of the State of Georgia Department of Corrections and is Chairman of the Board of Security Bank in Houston County.

Sheriff Talton is a successful leader because he believes that the way to take care of the people is to know the people. He has maintained a respected Sheriff's Department because he maintains his open door policy to the citizens. This keeps him close to the community making him aware of its problems as well as its victories. The Liberty Bell Award speak volumes for the work that Sheriff Talton has done. He is greatly appreciated. If it were not for the dedication of people like Sheriff Cullen Talton our counties, states and country could not march forward.

Mr. Speaker, Sheriff Cullen Talton has devoted his life to better serving his community. He spends tireless energy towards bettering his community and for that Sheriff Cullen Talton deserves our recognition and gratitude today.

IN HONOR OF WILLIAM J. GIRGASH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of William J. Girgash, a loving father and grandfather, who served his community in various ways throughout his lifetime. He was dearly loved, not only by his family, but by countless members of the Cleveland Community.

Mr. Girgash served as Board President of the Broadway School of Music and the Arts in 1996 and 1997 after many years as a board member. He also served as editor and chief writer for the school's "Ensemble" quarterly newsletter. Those who knew him could always find him attending one of the many music recitals of the students, whom he cared about most dearly.

Mr. Girgash retired as Vice President of APCOA and served our country in the Navy during the Second World War. Friends, I'm sure that you will agree that there are few honors greater than service to our country and the education of children.

My colleagues, please join me today in celebrating the life of this remarkable man. He was a gentleman of honorable intentions and thankless acts of service to the community.

CELEBRATING THE RETIREMENT OF LIEUTENANT GENERAL HENRY T. GLISSON

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. MORAN of Virginia. Mr. Speaker, I rise today to honor a distinguished constituent of mine, Lieutenant General Henry T. Glisson, who will be retiring from the United States Army on August 31, 2001, after 35 years of outstanding service in the Armed Forces. In addition to his retirement, Lieutenant General Glisson will also step down as Director of the Defense Logistics Agency in July.

Lieutenant General Glisson was commissioned a Second Lieutenant, Quartermaster Corps, through the Reserve Officer Training Corps program at North Georgia College, where he also earned his Bachelor of Science Degree in Psychology. He received his Masters's Degree in Education from Pepperdine University in California. His military educational background includes the Quartermaster Officer Basic and Advanced Courses, the Command and General Staff College, and the Army War College.

Lieutenant General Glisson was selected as a Regular Army Officer in 1967, and detailed to the Infantry for 18 months, where his early years included assignments as a Platoon Leader for the 549th Quartermaster Company, and Aide-de-Camp for the Commanding General, U.S. Army, Japan. He was an advisor in the U.S. Military Assistance Command in Vietnam, and S4 (Logistics) and Commander, Headquarters Company, 2nd Battalion, 5th Infantry. He was also the Commander, Company C, 425th Support Battalion and Commander, 25th Supply and Transport Battalion. In addition, he served as the Executive Officer/S3, 25th Supply and Transport Battalion and the Assistant Chief of Staff, G4 (Supply), 25th Infantry Division, Hawaii.

From 1974 to 1977, Lieutenant General Glisson was the Officer-in-Charge of the Cadet Mess, United States Military Academy, West Point, New York. From 1978 to 1982, he served as the S3, Division Support Command; Executive Officer, 701st Maintenance Battalion, and Commander, Material Management Center, 1st Infantry Division, Fort Riley, Kansas. His next assignment was Commander, 87th Maintenance Battalion, 7th Support Group, United States Army, Europe. He served as Chief, Quartermaster Branch, United States Army Military Personnel Command in Alexandria, Virginia, from 1985 to 1987.

He was assigned to the Pentagon from 1987 to 1989 where he served first as Chief, Readiness Team, and then Chief, Troop Support Division, Office of the Deputy Chief of Staff for Logistics, Washington, District of Columbia. In 1989 he became Commander, Division Support Command, 4th Infantry Division, Fort Carson, Colorado. He returned to the Pentagon in 1991, serving as the Executive Officer and Special Assistant to the Deputy Chief of Staff for Logistics; and then as Deputy Director, Directorate Plans and Operations, Office of the Deputy Chief of Staff for Logistics. In 1993, Lieutenant General Glisson was promoted to Brigadier General and has served in four consecutive command assignments: Commander, Defense Personnel Support Center, Defense Logistics Agency; Commander, U.S. Army Soldier Systems Command, U.S. Army Materiel Command; and 44th Quartermaster General/Commandant, U.S. Army Quartermaster Center and School, U.S. Army Training and Doctrine Command, where he served until assuming his current position as the 13th Director of the Defense Logistic Agency.

His decorations include the Defense Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit with 5 Oak Leaf Clusters, the Bronze Star with "V" Device, the Bronze Star, the Purple Heart, the Meritorious Service Medal with 4 Oak Leaf Clusters, the Army Commendation Medal, the Air Medal, the Combat Infantryman Badge, the Parachutist Badge, the Parachute Rigger Badge and the Army Staff Identification Badge.

On behalf of my congressional colleagues, it is my honor to thank Lieutenant General Henry T. Glisson for his 5 years of service to his country and wish him the best in his future endeavors.

TRIBUTE TO MINDY ENGELHART OF DIMONDALE, MI, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Mindy Englehart, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Mindy is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Mindy is an exceptional student at Eaton Rapids High School and possesses an impressive high school record. Mindy has received numerous awards for her excellence in academics, as well as her involvement in 4–H, tennis and golf. Outside of school, Mindy is an active volunteer at Hayes Green Beach Hospital and the Red Cross.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Mindy Englehart for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

TRIBUTE TO HARRY LEE COE III

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. DAVIS of Florida. Mr. Speaker, today I would like to pay tribute to Harry Lee Coe III, a loving father, gifted athlete, dedicated judge and life-long public servant of the citizens of Florida. Harry passed away one year ago.

Harry was first known in Hillsborough County as a pitcher for the Tampa Tarpons, but he soon built a distinguished law career, serving as a civil lawyer, then as a juvenile court attorney and finally as a criminal court judge. Harry presided over his court for 20 years—always devoted to serving our community to the best of his ability.

On the bench, Harry was known not only for his unique wit and passion, but also for his unwavering integrity and commitment to justice. Some say Harry expected too much of those who came before his bench, but he always demanded the most of himself and worked tirelessly to do his best. While Harry became known as "Hanging Harry" for his stringent sentences and his deep conviction to protecting our community from dangerous criminals, he was equally passionate about giving our children the love and support they deserve to prevent the need for such rehabilitation.

Much can be said of Harry's dedication to his job, but volumes can be written of his persona outside the court. In all of Harry's years as an elected official he was never branded as a typical politician, for his kind and gentle demeanor with people could never be mistaken for anything other than sincerity. You could always depend on Harry to listen to what you had to say, just as much as you knew that his words were from the heart. I know Harry will be remembered for all these things.

SMALL BUSINESS REFINERS COMPLIANCE WITH THE HIGHWAY DIESEL FUEL SULFUR CONTROL REQUIREMENTS

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. HORN. Mr. Speaker, at the beginning of this year, on January 18, 2001, the Environmental Protection Agency (EPA) implemented heavy-duty engine and vehicle standards and highway diesel fuel sulfur control requirements. I strongly supported the final rule by the EPA as a necessary tool to reduce pollution. Under this new regulation, oil refiners must meet rigorous new standards to reduce the sulfur content of highway diesel fuel from its current level of 500 parts per million to 15 parts per million by June, 2006. The diesel rule goes a long way in reducing the amount of pollution in our air.

Small business refineries produce a full slate of petroleum products including everything from gasoline, diesel, and jet fuel to asphalt, lube oil, and specialty petroleum products. Today, among the 124 refineries operating in the United States, approximately 25 percent are small, independent refiners. These small business refiners contribute to the nation's energy supply by manufacturing specific products like grade 80-aviation fuel, JP–4 jet fuel, and off-road diesel fuel.

In order for oil refineries to comply with the new rule, the EPA estimated capital costs at an average of $14 million per refinery. This is a relatively small cost for major multinational oil companies, but for smaller refineries, this is a very high capital cost that is virtually impossible to undertake without substantial assistance. Small business refiners presented information in support of this position to EPA during the rulemaking process. In fact, EPA agreed that small business refiners would likely experience a significant and disproportionate financial hardship in reaching the objectives of the diesel fuel sulfur rule.

There is currently no provision that helps small business refiners meet the objectives of the rule. That is why I am introducing a tax incentive proposal that would provide the specific, targeted assistance that small refineries need to achieve better air quality and provide complete compliance with EPA's rule.

A qualified small business refiner—defined as refiners with fewer than 1,500 employees and less than a total capacity of 155,000 barrels per day—will be eligible to receive federal assistance of up to 35 percent of the costs necessary, through tax credits, to comply with the Highway Diesel Fuel Sulfur Control Requirements of the EPA.

Without such a provision, many small business refiners will be unable to comply with the EPA rule and could be forced out of the market. Individually, each small refiner represents a small share of the national petroleum marketplace. Cumulatively, however, the impact is substantial. Small business refiners produce about four percent of the nation's diesel fuel and in some regions, provide over half of the diesel fuel. Small business refiners also fill a critical national security function. For example, in 1998 and 1999, small business refiners provided almost 20 percent of the jet fuel used by U.S. military bases. Small business refiners' pricing competition pressures the larger, integrated companies to lower prices for the consuming public. Without that competitive pressure, consumers will certainly pay higher prices for the same products.

Over the past decade, approximately 25 U.S. refineries have shut down. Without assistance in complying with the EPA rule, we may loose another 25 percent of U.S. refineries.

This legislation is critical—not because small business refiners do not want to comply with the EPA rule due to differences in environmental policy—but because it will help keep small business refiners as an integral part of the industry and on their way to cleaner production and full compliance with all environmental regulations.

MEDAL OF HONOR, ED FREEMAN

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Mr. OTTER. Mr. Speaker, I rise today to honor one of Idaho's great citizens. Ed Freeman, 73, of Boise, who will be awarded the Medal of Honor today by the President for his acts of valor during the Vietnam War. The Medal of Honor is the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States.

On November 14th, 1965, Captain Freeman risked his life more than once to deliver ammunition and supplies to 450 men who had been surrounded by more than 2,000 North Vietnamese. In addition, each time he delivered supplies, he carried out wounded U.S. military personnel to safety.

On November 14th, 1965, Captain Freeman voluntarily flew his Army Helicopter on 14 missions to the Ia Dang battle zone in less than 14 hours. For each trip, he risked his life to save and supply his fellow countrymen.

Without the courage of Captain Freeman and his crew, the 450 men in the Ia Dang Valley would have been quickly overrun by the North Vietnamese. By the end of the day Captain Freeman had saved an estimated 30 soldiers.

Mr. Speaker I am pleased to salute Captain Freeman today for his act of bravery in 1965 and I congratulate him for receiving the highest military honor anyone can receive, the Medal of Honor.

NUCLEAR DISARMAMENT AND ECONOMIC CONVERSION ACT OF 2001

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 2001

Ms. NORTON. Mr. Speaker, I have introduced the Nuclear Disarmament and Economic Conversion Act every year since 1993, and I will continue to introduce this bill until the threat posed by the world's nuclear arsenals is eliminated. This issue was brought to my attention by constituents who have been vigilant to the continuing need to focus on nuclear proliferation. Moreover, today missile defense is being pressed by the Bush Administration, which has refused to acknowledge urgent domestic needs from health care to affordable housing.

Long after the end of the Cold War and the breakup of the Soviet Union, the threat of nuclear weapons remains. Today, the United States continues to hold approximately 7,295 operational nuclear warheads while Russia controls 6,094, and the other declared nuclear powers of Great Britain, France, and China are estimated to possess approximately 10,000 operational warheads. Furthermore, proliferation of nuclear weapons, especially in countries in unstable regions, is now one of the leading military threats to the national security of the United States, its allies, and the world.

The United States, as the sole remaining superpower and the leading nuclear power in the world, has an obligation to move first and take bold steps to encourage other nuclear powers to eliminate their arsenals and to prevent the proliferation of these weapons. That is why I have chosen today, the 56th anniversary of the first test of a nuclear explosive in Alamogordo, New Mexico, to reintroduce the Nuclear Disarmament and Economic Conversion Act of 2001. The bill would require the United States to disable and dismantle its nuclear weapons and to refrain from replacing them with weapons of mass destruction once foreign countries possessing nuclear weapons enact and execute similar requirements.

My bill has an important complementary provision that the resources used to sustain our nuclear weapons program be used to address human and infrastructure needs such as housing, health care, education, agriculture, and the environment. By eliminating our nuclear weapons arsenal, the United States can realize an additional "peace dividend" from which critical domestic initiatives can be funded, including new programs proposed in the Administration's FY 2002 budget.

Many courageous leaders in the United States and around the world have spoken out about the obsolescence of nuclear weapons and the need for their elimination. These leaders include retired Air Force General Lee Butler and more than 60 other retired generals and admirals from 17 nations, who, on December 5, 1996, issued a statement that "the continuing existence of nuclear weapons in the armories of nuclear powers, and the ever-present threat of acquisition of these weapons by others, constitute a peril to global peace and security and to the safety and survival of the people we are dedicated to protect" and that the "creation of a nuclear-weapons-free world [is] necessary [and] possible."

The United States and the world community must redouble their efforts to obtain commitments from the nations developing nuclear technology to refrain from actual deployment of nuclear weapons, as well as to help contain other countries that aspire to become nuclear powers, such as Iran, Iraq, and North Korea, from moving forward with their programs. The United States will be far more credible and persuasive in these efforts if we are willing to take the initiative in dismantling our own nuclear weapons program and helping arms industries to convert plants and employees to providing products and services that enhance the wealth and quality of life of citizens. I ask my colleagues to cosponsor the Nuclear Disarmament and Economic Conversion Act of 2001 and the committees with jurisdiction over the bill to mark it up quickly so that it can be considered and passed.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 17, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 18

9 a.m.

Energy and Natural Resources

To hold hearings on the nomination of Dan R. Brouillette, of Louisiana, to be Assistant Secretary of Energy for Congressional and Intergovernmental Affairs.

SD–366

9:30 a.m.

Governmental Affairs

To hold hearings on S. 1008, to amend the Energy Policy Act of 1992 to develop the United States Climate Change Response Strategy with the goal of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, while minimizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technological breakthroughs that make significant progress toward the goal of stabilization of greenhouse gas concentrations, and to establish the National Office of Climate Change Response within the Executive Office of the President.

SD–342

Commerce, Science, and Transportation

To hold hearings to examine safety of cross border trucking and bus operations and the adequacy of resources for compliance and enforcement purposes, focusing on the impact on United States communities, businesses, employees, and the environment as well as the application of U.S. laws to the operations.

SR–253

Armed Services

Personnel Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on active and reserve military and civilian personnel programs.

SR–222

Indian Affairs

To hold oversight hearings on tribal good governance practices and economic development.

SR–485

Energy and Natural Resources

To hold hearings on proposals related to energy and scientific research, development, technology deployment, education, and training, including Sections 107, 114, 115, 607, Title II, and Subtitle B of Title IV of S. 388, the National Energy Security Act of 2001; Titles VIII, XI, and Division E of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 111, 121, 122, 123, 125, 127, 204, 205, Title IV and Title V of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; S. 90, the Department of Energy Nanoscale Science and Engineering Research Act; S. 193, the Department of Energy Advanced Scientific Computing Act; S. 242, the Department of Energy University Nuclear Science and Engineering Act; S. 259, the National Laboratories Partnership Improvement Act of 2001; S. 636, a bill to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the Sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas; S. 1130, the Fusion Energy Sciences Act of 2001; and S. 1166, to establish the Next Generation Lighting Initiative at the Department of Energy.

SD–366

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine stem cell research issues.

SD–124

10 a.m.

Foreign Relations

To hold hearings to examine the Putin administration policies toward the non-Russian regions of the Russian Federation.

SD–419

Judiciary

To hold hearings to examine reforming the Federal Bureau of Investigation management reform issues.

SD–226

Health, Education, Labor, and Pensions

Employment, Safety and Training Subcommittee

To hold hearings to examine the protection of workers from ergonomic hazards.

SD–430

Aging

To resume hearings to examine long term care issues, focusing on costs and demands including state initiatives to shift Medicaid services away from institutional care and toward community based services.

SD–628

Banking, Housing, and Urban Affairs

Business meeting to markup proposed legislation authorizing funds for the U.S. Export-Import Bank, proposed legislation authorizing funds for the Iran and Libya Sanctions Act; the nomination of Mark B. McClellan, of California, to be a Member of the Council of Economic Advisers; and the nomination of Sheila C. Bair, of Kansas, to be an Assistant Secretary of the Treasury for Financial Institutions.

SD–538

Budget

To hold hearings to examine defense spending and budget outlook.

SD–608

2 p.m.

Governmental Affairs

Investigations Subcommittee

To hold hearings to examine past and current U.S. efforts to convince offshore tax havens to cooperate with U.S. efforts to stop tax evasion, the role of the Organization of Economic Cooperation and Development tax haven project in light of U.S. objectives, and the current status of U.S. support for the project, in particular for the core element requiring information exchange.

SD–628

2:30 p.m.

Intelligence

To hold closed hearings on intelligence matters.

SH–219

JULY 19

9 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

Business meeting to markup proposed legislation making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002.

S–128, Capitol

9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to removing barriers to distributed generation, renewable energy and other advanced technologies in electricity generation and transmission, including Sections 301 and Title VI of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 110, 111, 112, 710, and 711 of S. 388, the National Energy Security Act of 2001; S. 933, the Combined Heat and Power Advancement Act of 2001; hydroelectric relicensing procedures of the Federal Energy Regulatory Commission, including Title VII of S. 388, Title VII of S. 597; and S. 71, the Hydroelectric Licensing Process Improvement Act of 2001.

SD–366

Armed Services

To resume hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on ballistic missile defense policies and programs.

SH-216

Finance

To hold hearings to examine trade adjustment assistance issues.

SD-215

Small Business and Entrepreneurship

To hold hearings on the nomination of Hector V. Barreto, Jr., of California, to be Administrator of the Small Business Administration; and to hold a business meeting to mark up pending calendar business.

SR-428A

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to elicit suggestions for the nutrition title of the next federal farm bill.

SR-328A

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Harvey Pitt, of North Carolina, to be a Member of the Securities and Exchange Commission.

SD-538

Judiciary

Business meeting to consider the nomination of Ralph F. Boyd, Jr., of Massachusetts, to be Assistant Attorney General, Civil Rights Division, and the nomination of Robert D. McCallum, Jr., of Georgia, to be Assistant Attorney General, Civil Division, both of the Department of Justice; S. 407, to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions; S. 778, to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings; S. 754, to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs; S. Res. 16, designating August 16, 2001, as "National Airborne Day"; and S. Con. Res. 16, expressing the sense of Congress that the George Washington letter to Touro Synagogue in Newport, Rhode Island, which is on display at the B'nai B'rith Klutznick National Jewish Museum in Washington, D.C., is one of the most significant early statements buttressing the nascent American constitutional guarantee of religious freedom.

SD-226

1 p.m.

Veterans' Affairs

To hold hearings to examine S. 739, to amend title 38, United States Code, to improve programs for homeless veterans; and other pending health care related legislation.

SR-418

2 p.m.

Appropriations

Business meeting to markup proposed legislation making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and proposed legislation making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002.

S-128, Capitol

2:30 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 976, to provide authorization and funding for the enhancement of ecosystems, water supply, and water quality of the State of California.

SD-366

Armed Services

Airland Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on Army modernization and transformation.

SR-222

Foreign Relations

To hold hearings on the nomination of Stuart A. Bernstein, of the District of Columbia, to be Ambassador to Denmark; the nomination of Michael E. Guest, of South Carolina, to be Ambassador to Romania; the nomination of Charles A. Heimbold, Jr., of Connecticut, to be Ambassador to Sweden; the nomination of Thomas J. Miller, of Virginia, to be Ambassador to Greece; the nomination of Larry C. Napper, of Texas, to be Ambassador to the Republic of Kazakhstan; the nomination of Jim Nicholson, of Colorado, to be Ambassador to the Holy See; and the nomination of Mercer Reynolds, of Ohio, to be Ambassador to Switzerland, and to serve concurrently and without additional compensation as Ambassador to the Principality of Liechtenstein.

SD-419

JULY 20

9:30 a.m.

Finance

To continue hearings to examine trade adjustment assistance issues.

SD-215

JULY 23

2 p.m.

Governmental Affairs

International Security, Proliferation and Federal Services Subcommittee

To hold hearings to examine the role of the Federal Emergency Management Agency in managing a bioterrorist attack and the impact of public health concerns on bioterrorism preparedness.

SD-342

JULY 24

9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to global climate change and measures to mitigate greenhouse gas emissions, including S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; S. 388, the National Energy Security Act of 2001; and S. 820, the Forest Resources for the Environment and the Economy Act.

SD-106

10 a.m.

Indian Affairs

To hold hearings on S. 266, regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon.

SR-485

Governmental Affairs

To hold hearings to examine S. 159, to elevate the Environmental Protection Agency to a cabinet level department, to redesignate the Environmental Protection Agency as the Department of Environmental Protection Affairs.

SD-342

2:30 p.m.

Veterans' Affairs

To hold hearings to examine prescription drug issues in the Department of Veterans Affairs.

SR-418

JULY 25

9:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD-366

Governmental Affairs

To hold hearings to examine current entertainment ratings, focusing on evaluation and improvement.

SD-342

10 a.m.

Indian Affairs

To hold oversight hearings on the implementation of the Indian Gaming Regulatory Act.

SH-216

JULY 31

10 a.m.

Indian Affairs

To hold hearings on the implementation of the Indian Health Care Improvement Act.

SR-485

AUGUST 2

10 a.m.

Indian Affairs

To hold hearings on S. 212, to amend the Indian Health Care Improvement Act to revise and extend such Act.

SR-485

SEPTEMBER 19

2 p.m.

Judiciary

To hold hearings on S. 702, for the relief of Gao Zhan.

SD-226